

61.30 Child support guidelines; retroactive child support.

—(1)(a)The child support guideline amount as determined by this section presumptively establishes the amount the trier of fact shall order as child support in an initial proceeding for such support or in a proceeding for modification of an existing order for such support, whether the proceeding arises under this or another chapter. The trier of fact may order payment of child support which varies, plus or minus 5 percent, from the guideline amount, after considering all relevant factors, including the needs of the child or children, age, station in life, standard of living, and the financial status and ability of each parent. The trier of fact may order payment of child support in an amount which varies more than 5 percent from such guideline amount only upon a written finding explaining why ordering payment of such guideline amount would be unjust or inappropriate. Notwithstanding the variance limitations of this section, the trier of fact shall order payment of child support which varies from the guideline amount as provided in paragraph (11)(b) whenever any of the children are required by court order or mediation agreement to spend a substantial amount of time with either parent. This requirement applies to any living arrangement, whether temporary or permanent.

(b)The guidelines may provide the basis for proving a substantial change in circumstances upon which a modification of an existing order may be granted. However, the difference between the existing monthly obligation and the amount provided for under the guidelines shall be at least 15 percent or \$50, whichever amount is greater, before the court may find that the guidelines provide a substantial change in circumstances.

(c)For each support order reviewed by the department as required by s. 409.2564(11), if the amount of the child support award under the order differs by at least 10 percent but not less than \$25 from the amount that would be awarded under s. 61.30, the department shall seek to have the order modified and any modification shall be made without a requirement for proof or showing of a change in circumstances.

(2)Income shall be determined on a monthly basis for each parent as follows:

(a)Gross income shall include, but is not limited to, the following:

1.Salary or wages.

2.Bonuses, commissions, allowances, overtime, tips, and other similar payments.

3.Business income from sources such as self-employment, partnership, close corporations, and independent contracts. "Business income" means gross receipts minus ordinary and necessary expenses required to produce income.

4.Disability benefits.

5.All workers' compensation benefits and settlements.

6.Unemployment compensation.

7.Pension, retirement, or annuity payments.

8.Social security benefits.

9.Spousal support received from a previous marriage or court ordered in the marriage before the court.

10.Interest and dividends.

11.Rental income, which is gross receipts minus ordinary and necessary expenses required to produce the income.

12.Income from royalties, trusts, or estates.

13.Reimbursed expenses or in kind payments to the extent that they reduce living expenses.

14.Gains derived from dealings in property, unless the gain is nonrecurring.

(b)Monthly income shall be imputed to an unemployed or underemployed parent if such unemployment or underemployment is found by the court to be voluntary on that parent's part, absent a finding of fact by the court of physical or mental incapacity or other circumstances over which the parent has no control. In the event of such voluntary unemployment or underemployment, the employment potential and probable earnings level of the parent shall be determined based upon his or her recent work history, occupational qualifications, and prevailing earnings level in the community if such information is available. If the information concerning a parent's income is unavailable, a parent fails to participate in a child support proceeding, or a parent fails to supply adequate financial information in a child support proceeding, income shall be automatically imputed to the parent and there is a rebuttable presumption that the parent has income equivalent to the median income of year-round full-time workers as derived from current population reports or replacement reports published by the United States Bureau of the Census. However, the court may refuse to impute income to a parent if the court finds it necessary for that parent to stay home with the child who is the subject of a child support calculation or as set forth below:

1.In order for the court to impute income at an amount other than the median income of year-round full-time workers as derived from current population reports or replacement reports published by the United States Bureau of the Census, the court must make specific findings of fact consistent with the requirements of this paragraph. The party seeking to impute income has the burden to present competent, substantial evidence that:

a.The unemployment or underemployment is voluntary; and

b.Identifies the amount and source of the imputed income, through evidence of income from available employment for which the party is suitably qualified by education, experience, current licensure, or geographic location, with due consideration being given to the parties' time-sharing schedule and their historical exercise of the time-sharing provided in the parenting plan or relevant order.

2. Except as set forth in subparagraph 1., income may not be imputed based upon:

a. Income records that are more than 5 years old at the time of the hearing or trial at which imputation is sought; or

b. Income at a level that a party has never earned in the past, unless recently degreed, licensed, certified, relicensed, or recertified and thus qualified for, subject to geographic location, with due consideration of the parties' existing time-sharing schedule and their historical exercise of the time-sharing provided in the parenting plan or relevant order.

(c) Public assistance as defined in s. 409.2554 shall be excluded from gross income.

(3) Net income is obtained by subtracting allowable deductions from gross income. Allowable deductions shall include:

(a) Federal, state, and local income tax deductions, adjusted for actual filing status and allowable dependents and income tax liabilities.

(b) Federal insurance contributions or self-employment tax.

(c) Mandatory union dues.

(d) Mandatory retirement payments.

(e) Health insurance payments, excluding payments for coverage of the minor child.

(f) Court-ordered support for other children which is actually paid.

(g) Spousal support paid pursuant to a court order from a previous marriage or the marriage before the court.

(4) Net income for each parent shall be computed by subtracting allowable deductions from gross income.

(5) Net income for each parent shall be added together for a combined net income.

(6) The following guidelines schedule shall be applied to the combined net income to determine the minimum child support need:

Combined

Monthly Net
Child or Children

Income
One

Two
Three
Four
Five
Six

800.00

190
211
213
216
218
220

850.00

202
257
259
262
265
268

900.00

213
302
305
309
312
315

950.00

224
347
351
355
359
363

1000.00

235
365
397
402
406
410

1050.00

246
382
443
448
453
458

1100.00

258
400
489
495
500
505

1150.00

269
417
522
541
547
553

1200.00

280
435
544
588
594
600

1250.00

290
451
565
634
641
648

1300.00

300
467
584
659
688

695

1350.00

310

482

603

681

735

743

1400.00

320

498

623

702

765

790

1450.00

330

513

642

724

789

838

1500.00

340

529

662

746

813

869

1550.00

350

544

681

768

836

895

1600.00

360

560

701

790
860
920

1650.00
370
575
720
812
884
945

1700.00
380
591
740
833
907
971

1750.00
390
606
759
855
931
996

1800.00
400
622
779
877
955
1022

1850.00
410
638
798
900
979
1048

1900.00
421

654
818
923
1004
1074

1950.00
431
670
839
946
1029
1101

2000.00
442
686
859
968
1054
1128

2050.00
452
702
879
991
1079
1154

2100.00
463
718
899
1014
1104
1181

2150.00
473
734
919
1037
1129
1207

2200.00

484

751

940

1060

1154

1234

2250.00

494

767

960

1082

1179

1261

2300.00

505

783

980

1105

1204

1287

2350.00

515

799

1000

1128

1229

1314

2400.00

526

815

1020

1151

1254

1340

2450.00

536

831

1041

1174

1279

1367

2500.00

547

847

1061

1196

1304

1394

2550.00

557

864

1081

1219

1329

1420

2600.00

568

880

1101

1242

1354

1447

2650.00

578

896

1121

1265

1379

1473

2700.00

588

912

1141

1287

1403

1500

2750.00

597

927

1160

1308
1426
1524

2800.00
607
941
1178
1328
1448
1549

2850.00
616
956
1197
1349
1471
1573

2900.00
626
971
1215
1370
1494
1598

2950.00
635
986
1234
1391
1517
1622

3000.00
644
1001
1252
1412
1540
1647

3050.00
654

1016
1271
1433
1563
1671

3100.00

663
1031
1289
1453
1586
1695

3150.00

673
1045
1308
1474
1608
1720

3200.00

682
1060
1327
1495
1631
1744

3250.00

691
1075
1345
1516
1654
1769

3300.00

701
1090
1364
1537
1677
1793

3350.00

710
1105
1382
1558
1700
1818

3400.00

720
1120
1401
1579
1723
1842

3450.00

729
1135
1419
1599
1745
1867

3500.00

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1149
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1768
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3550.00

748
1164
1456
1641
1791
1915

3600.00

757
1179
1475
1662
1814

1940

3650.00

767
1194
1493
1683
1837
1964

3700.00

776
1208
1503
1702
1857
1987

3750.00

784
1221
1520
1721
1878
2009

3800.00

793
1234
1536
1740
1899
2031

3850.00

802
1248
1553
1759
1920
2053

3900.00

811
1261
1570

1778
1940
2075

3950.00
819
1275
1587
1797
1961
2097

4000.00
828
1288
1603
1816
1982
2119

4050.00
837
1302
1620
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2002
2141

4100.00
846
1315
1637
1854
2023
2163

4150.00
854
1329
1654
1873
2044
2185

4200.00
863

1342
1670
1892
2064
2207

4250.00
872
1355
1687
1911
2085
2229

4300.00
881
1369
1704
1930
2106
2251

4350.00
889
1382
1721
1949
2127
2273

4400.00
898
1396
1737
1968
2147
2295

4450.00
907
1409
1754
1987
2168
2317

4500.00

916
1423
1771
2006
2189
2339

4550.00

924
1436
1788
2024
2209
2361

4600.00

933
1450
1804
2043
2230
2384

4650.00

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1821
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951
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3367

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2574
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3159
3376

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8550.00
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3187
3406

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2076
2604
2929
3196
3415

8650.00
1341
2082
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2938
3205
3425

8700.00
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2088
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8750.00
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3233
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3242
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8900.00
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2111
2649
2981
3252
3474

8950.00
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2989
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3307
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9300.00

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3326
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2165
2717
3058
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3562

9400.00

1399

2171

2725

3066

3344

3571

9450.00

1403

2177

2732

3075

3353

3581

9500.00

1407

2183

2740

3083

3363

3591

9550.00

1411

2189

2748

3092

3372

3601

9600.00

1415

2195

2755

3100

3381

3610

9650.00

1419

2201

2763

3109
3390
3620

9700.00
1422
2206
2767
3115
3396
3628

9750.00
1425
2210
2772
3121
3402
3634

9800.00
1427
2213
2776
3126
3408
3641

9850.00
1430
2217
2781
3132
3414
3647

9900.00
1432
2221
2786
3137
3420
3653

9950.00
1435

2225
2791
3143
3426
3659

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2228
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3148
3432
3666

(a) If the obligor parent's net income is less than the amount in the guidelines schedule:

1. The parent should be ordered to pay a child support amount, determined on a case-by-case basis, to establish the principle of payment and lay the basis for increased support orders should the parent's income increase.

2. The obligor parent's child support payment shall be the lesser of the obligor parent's actual dollar share of the total minimum child support amount, as determined in subparagraph 1., and 90 percent of the difference between the obligor parent's monthly net income and the current poverty guidelines as periodically updated in the Federal Register by the United States Department of Health and Human Services pursuant to 42 U.S.C. s. 9902(2) for a single individual living alone.

(b) For combined monthly net income greater than the amount in the guidelines schedule, the obligation is the minimum amount of support provided by the guidelines schedule plus the following percentages multiplied by the amount of income over \$10,000:

Child or Children

One
Two
Three
Four
Five
Six

5.0%
7.5%
9.5%
11.0%
12.0%
12.5%

(7)Child care costs incurred due to employment, job search, or education calculated to result in employment or to enhance income of current employment of either parent shall be added to the basic obligation. After the child care costs are added, any moneys prepaid by a parent for child care costs for the child or children of this action shall be deducted from that parent's child support obligation for that child or those children. Child care costs may not exceed the level required to provide quality care from a licensed source.

(8)Health insurance costs resulting from coverage ordered pursuant to s. 61.13(1)(b), and any noncovered medical, dental, and prescription medication expenses of the child, shall be added to the basic obligation unless these expenses have been ordered to be separately paid on a percentage basis. After the health insurance costs are added to the basic obligation, any moneys prepaid by a parent for health-related costs for the child or children of this action shall be deducted from that parent's child support obligation for that child or those children.

(9)Each parent's percentage share of the child support need shall be determined by dividing each parent's net monthly income by the combined net monthly income.

(10)Each parent's actual dollar share of the total minimum child support need shall be determined by multiplying the minimum child support need by each parent's percentage share of the combined monthly net income.

(11)(a)The court may adjust the total minimum child support award, or either or both parents' share of the total minimum child support award, based upon the following deviation factors:

- 1.Extraordinary medical, psychological, educational, or dental expenses.
- 2.Independent income of the child, not to include moneys received by a child from supplemental security income.
- 3.The payment of support for a parent which has been regularly paid and for which there is a demonstrated need.
- 4.Seasonal variations in one or both parents' incomes or expenses.
- 5.The age of the child, taking into account the greater needs of older children.
- 6.Special needs, such as costs that may be associated with the disability of a child, that have traditionally been met within the family budget even though fulfilling those needs will cause the support to exceed the presumptive amount established by the guidelines.
- 7.Total available assets of the obligee, obligor, and the child.
- 8.The impact of the Internal Revenue Service Child & Dependent Care Tax Credit, Earned Income Tax Credit, and dependency exemption and waiver of that exemption. The court may

order a parent to execute a waiver of the Internal Revenue Service dependency exemption if the paying parent is current in support payments.

9. An application of the child support guidelines schedule that requires a person to pay another person more than 55 percent of his or her gross income for a child support obligation for current support resulting from a single support order.

10. The particular parenting plan, such as where the child spends a significant amount of time, but less than 20 percent of the overnights, with one parent, thereby reducing the financial expenditures incurred by the other parent; or the refusal of a parent to become involved in the activities of the child.

11. Any other adjustment that is needed to achieve an equitable result which may include, but not be limited to, a reasonable and necessary existing expense or debt. Such expense or debt may include, but is not limited to, a reasonable and necessary expense or debt that the parties jointly incurred during the marriage.

(b) Whenever a particular parenting plan provides that each child spend a substantial amount of time with each parent, the court shall adjust any award of child support, as follows:

1. In accordance with subsections (9) and (10), calculate the amount of support obligation apportioned to each parent without including day care and health insurance costs in the calculation and multiply the amount by 1.5.

2. Calculate the percentage of overnight stays the child spends with each parent.

3. Multiply each parent's support obligation as calculated in subparagraph 1. by the percentage of the other parent's overnight stays with the child as calculated in subparagraph 2.

4. The difference between the amounts calculated in subparagraph 3. shall be the monetary transfer necessary between the parents for the care of the child, subject to an adjustment for day care and health insurance expenses.

5. Pursuant to subsections (7) and (8), calculate the net amounts owed by each parent for the expenses incurred for day care and health insurance coverage for the child.

6. Adjust the support obligation owed by each parent pursuant to subparagraph 4. by crediting or debiting the amount calculated in subparagraph 5. This amount represents the child support which must be exchanged between the parents.

7. The court may deviate from the child support amount calculated pursuant to subparagraph 6. based upon the deviation factors in paragraph (a), as well as the obligee parent's low income and ability to maintain the basic necessities of the home for the child, the likelihood that either parent will actually exercise the time-sharing schedule set forth in the parenting plan granted by the court, and whether all of the children are exercising the same time-sharing schedule.

8. For purposes of adjusting any award of child support under this paragraph, "substantial amount of time" means that a parent exercises time-sharing at least 20 percent of the overnights of the year.

(c) A parent's failure to regularly exercise the court-ordered or agreed time-sharing schedule not caused by the other parent which resulted in the adjustment of the amount of child support pursuant to subparagraph (a)10. or paragraph (b) shall be deemed a substantial change of circumstances for purposes of modifying the child support award. A modification pursuant to this paragraph is retroactive to the date the noncustodial parent first failed to regularly exercise the court-ordered or agreed time-sharing schedule.

(12)(a) A parent with a support obligation may have other children living with him or her who were born or adopted after the support obligation arose. If such subsequent children exist, the court, when considering an upward modification of an existing award, may disregard the income from secondary employment obtained in addition to the parent's primary employment if the court determines that the employment was obtained primarily to support the subsequent children.

(b) Except as provided in paragraph (a), the existence of such subsequent children should not as a general rule be considered by the court as a basis for disregarding the amount provided in the guidelines schedule. The parent with a support obligation for subsequent children may raise the existence of such subsequent children as a justification for deviation from the guidelines schedule. However, if the existence of such subsequent children is raised, the income of the other parent of the subsequent children shall be considered by the court in determining whether or not there is a basis for deviation from the guideline amount.

(c) The issue of subsequent children under paragraph (a) or paragraph (b) may only be raised in a proceeding for an upward modification of an existing award and may not be applied to justify a decrease in an existing award.

(13) If the recurring income is not sufficient to meet the needs of the child, the court may order child support to be paid from nonrecurring income or assets.

(14) Every petition for child support or for modification of child support shall be accompanied by an affidavit which shows the party's income, allowable deductions, and net income computed in accordance with this section. The affidavit shall be served at the same time that the petition is served. The respondent, whether or not a stipulation is entered, shall make an affidavit which shows the party's income, allowable deductions, and net income computed in accordance with this section. The respondent shall include his or her affidavit with the answer to the petition or as soon thereafter as is practicable, but in any case at least 72 hours prior to any hearing on the finances of either party.

(15) For purposes of establishing an obligation for support in accordance with this section, if a person who is receiving public assistance is found to be noncooperative as defined in s. 409.2572, the department may submit to the court an affidavit or written declaration signed under penalty of perjury as specified in s. 92.525(2) attesting to the income of that parent based upon information available to the department.

(16)The Legislature shall review the guidelines schedule established in this section at least every 4 years beginning in 1997.

(17)In an initial determination of child support, whether in a paternity action, dissolution of marriage action, or petition for support during the marriage, the court has discretion to award child support retroactive to the date when the parents did not reside together in the same household with the child, not to exceed a period of 24 months preceding the filing of the petition, regardless of whether that date precedes the filing of the petition. In determining the retroactive award in such cases, the court shall consider the following:

(a)The court shall apply the guidelines schedule in effect at the time of the hearing subject to the obligor's demonstration of his or her actual income, as defined by subsection (2), during the retroactive period. Failure of the obligor to so demonstrate shall result in the court using the obligor's income at the time of the hearing in computing child support for the retroactive period.

(b)All actual payments made by a parent to the other parent or the child or third parties for the benefit of the child throughout the proposed retroactive period.

(c)The court should consider an installment payment plan for the payment of retroactive child support.

History.—s. 3, ch. 87-95; s. 5, ch. 89-183; s. 5, ch. 91-246; s. 11, ch. 92-138; s. 5, ch. 93-208; s. 2, ch. 94-204; s. 2, ch. 94-318; s. 1366, ch. 95-147; s. 53, ch. 96-175; s. 3, ch. 96-305; s. 11, ch. 97-170; s. 11, ch. 98-397; s. 1, ch. 99-359; s. 2, ch. 2001-91; ss. 15, 16, ch. 2001-158; s. 7, ch. 2002-173; s. 11, ch. 2005-39; s. 16, ch. 2008-61; ss. 2, 17, ch. 2010-187; s. 5, ch. 2010-199.