

CHILD SUPPORT GUIDELINES

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INTRODUCTION

Background

The Family Support Act of 1988 required all states to adopt guidelines to be used for establishing and modifying child support awards. Before there were guidelines, child support orders often differed greatly from county to county even when families' economic circumstances were similar. The purpose of guidelines is to ensure that support awards are calculated fairly and equitably throughout the state.

The guidelines must be made available to all persons responsible for determining child support awards; they must take into account, at a minimum, all earnings and income of the noncustodial parent; they must be based on specific descriptive and numeric criteria which result in a computation of the support obligation; and they must provide for the child(ren)'s health care needs through health insurance coverage or other means. 45 C.F.R. § 302.56

The guideline amount is to be considered the amount of the child support obligation unless the court finds that the amount would be unjust or inappropriate and rebuts that amount with a written finding of fact. There are specific criteria which allow the court to adjust the guideline amount, such as the financial resources of the child or either of the parents, the physical and emotional condition and educational needs of the child, etc. 15 V.S.A. § 659

In 1985, Vermont adopted laws to implement what is called the "Income-Shares Model" of guidelines. This model of guidelines presumes that both parents contribute to the financial support of the child, thus both parents' incomes are used in determining the child support amount.

The income shares model reflects the public policy of Vermont: "The legislature further finds and declares as public policy that parents have the responsibility to provide child support and that child support orders should reflect the true costs of raising children and approximate insofar as possible the standard of living the child would have enjoyed had the marriage not been dissolved." 15 V.S.A. § 650

The law further clarifies that the guidelines must reflect "the percent of combined available income which parents living in the same household in Vermont ordinarily spend on their children," and is to be based on the concept that children should receive the same proportion of parental income as they would if their parents lived together in one household. 15 V.S.A. § 654

Overview

This packet contains all the necessary worksheets, instructions, and tables for calculating the guidelines for three different custody arrangements: (1) sole custody, (2) split custody and (3) shared custody. These materials are:

- A) Tax Conversion Table for Sole and Split Custody Cases (yellow table);
- B) Tax Conversion Table for Shared Custody Cases (pink table) and the Partial Shared Costs Table (the last pink page);
- C) Table of Intact Family Expenditures ("Guideline Table;" blue table);
- D) Self-Employment and/or Spousal Support Worksheet (green worksheet); and
- E) Reference Sheet (last green page) including:
 - 1. Self-Support Reserve
 - 2. Regular FICA rate
 - 3. Maximum self-employment adjustment
 - 4. Maximum FICA covered wages or self-employment income
 - 5. Presumed Income (150% of most recently available annual average covered wage for all employment as calculated by the Department of Employment and Training).

Process

The process to determine the support obligation involves several steps which vary somewhat depending on the custody situation.

In all cases, both parents must disclose all their income, assets and expenses using the Affidavit of Income and Assets (Form 813). Each parent's gross income is determined from this disclosure.

The first step in calculating the child support obligation is to convert each parent's gross income to "**available income.**" The law provides a standardized formula for the tax considerations in this conversion to minimize the variations due to an individual's particular tax status. The standard tax calculations to convert gross to available income for each income level are contained in the two "**Tax Conversion Tables.**" One table is for sole and split custody cases and one for shared custody cases because the definition of available income gives the custodial parent credit for the head of household exemption and an exemption for each of the child(ren). When custody is shared, these exemptions are split between the parents. 15 V.S.A. § 653

In addition to the tax adjustments to gross income, the law includes certain other adjustments. These are for self-employment, spousal support, existing child support actually paid, health insurance premiums for the children, additional dependents from a subsequent family, and if the child is in the custody of the Department of Social and Rehabilitation Services, additional housing and out of pocket expenses.

The second step is to add the parents' available incomes together to produce a combined family income. This amount is then applied to the "**Table of Intact Family Expenditures on Children**" to determine the amount the family would spend on the child if the family were living together. This is the "**basic support obligation.**" Adjustments for child care and extraordinary medical and educational expenses are added to this amount to arrive at the "**combined family expenditure.**"

The combined family expenditure is then split between the parents in proportion to the amount of income each contributed to the combined total to give the "**parental support obligation.**" The noncustodial parent pays his or her proportion to the custodial parent, and the law presumes that the custodial parent spends his or her share directly on the child(ren). 15 V.S.A. § 656 (a)

The final step is to calculate the obligated parent's **ability to pay**. If that parent's available income is less than the self-support reserve or less than the obligated amount, or if paying the obligated amount would reduce the noncustodial parent's income below the self-support reserve, the court may deviate from the obligated amount. 15 V.S.A. § 656

In sole custody cases, determining the support amount is relatively straightforward. In split custody cases it's exactly the same as in sole custody, except that it's done twice in order to figure a theoretical amount for each parent as custodial parent for the child(ren) in their custody. In shared custody cases, additional adjustments are made to reflect the additional costs of maintaining two households. 15 V.S.A. § 657

SOLE AND SPLIT CUSTODY Child Support Worksheet Instructions

When one parent has physical custody (determined by the number of nights the child spends with the parent) of the child(ren) for over 75% of the time, they exercise sole custody. 15 V.S.A. § 657 (a), (d).

If each parent has physical custody of at least one of the children, it is considered split custody, and a theoretical support payment must be determined for each parent for the children in the custody of the other. The obligation must be prorated among all the children in the household. The parent with the larger obligation is required to pay the difference between the two amounts to the other parent.

15 V.S.A. § 657 (e).

I: Calculating Monthly Available Income For Custodial And Noncustodial Parents

Part I of the child support worksheet involves the process of deriving the monthly available income by making the necessary adjustments to an individual's monthly gross income. Broadly defined, available income is gross income less: (1) state, federal and FICA taxes; (2) pre-existing child or spousal support paid; and (3) the actual cost of providing adequate health insurance for the children.

LINE 1 - Monthly Gross Income

Enter the total Monthly Gross Income for each parent under the Custodial and Noncustodial column. This includes income from any source, including but not limited to, income from salaries, wages, commissions, royalties, bonuses, dividends, severance pay pensions, interest, trust income, annuities, capital gains, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts, prizes, and spousal support actually received. (Spousal support includes alimony and spousal maintenance.)

Income at the current rate for long-term United States Treasury Bills shall be imputed to non-income producing assets with an aggregate fair market value of \$10,000 or more, other than a primary residence and not more than \$15,000.00 of the value of a motor vehicle. Gross income also includes potential income of a parent who is voluntarily unemployed or underemployed unless the parent is physically or mentally incapacitated; or the parent is attending a vocational education program related to current employment; or the unemployment or underemployment of the parent is in the best interest of the child.

Self-employed parties or parties who derive income from the proprietorship of a business, joint ownership of a partnership or a closely held business operation calculate gross income with gross receipts minus ordinary and necessary expenses. Additionally, gross income includes rents minus ordinary and necessary expenses. In determining ordinary and necessary expenses, the court may exclude amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses.

Gross income does not include the amount of money received from means tested public assistance programs, including but not limited to, Aid to Needy Families with Children (ANFC), SSI, food stamps and general assistance (GA).

15 V.S.A. § 653(5).

LINE 1a - Self-Employment and/or Spousal Support Adjustment

Because federal, state and FICA taxes are not withheld from income derived from self-employment, parents who are self-employed must make an additional adjustment to their gross income. A separate (green) worksheet is provided to calculate this adjustment, as well as the adjustment for court-ordered spousal support which a parent pays.

If you do not have self-employment income and you do not pay spousal support, enter zero on LINE 1a and go on to LINE 2.

If all or part of your income is from self-employment and/or you pay spousal support, you must complete the Self-Employment and/or Spousal Support Adjustment Worksheet (the green colored pages). Enter the amount from Section Three, LINE C of the Self-Employment and/or Spousal Support Adjustment Worksheet.

LINE 2 - Monthly Adjusted Gross Income

Subtract the Self-Employment and/or Spousal Support Adjustment on LINE 1a from the Monthly Gross Income amount on LINE 1. Enter this amount on LINE 2. This figure represents the amount of income you will use to determine Monthly After Tax Income from the Tax Conversion Table for Sole and Split Custody Cases (the yellow table). Custodial: (LINE 1) - (LINE 1a). Noncustodial: (LINE 1) - (LINE 1a).

LINE 3 - Monthly After Tax Income

Take the Monthly Adjusted Gross Income amount from LINE 2 of the Child Support Worksheet and find that amount on the Tax Conversion Table for Sole and Split Custody Cases (the yellow table) in the column marked Monthly Adjusted Gross Income Range. Enter the amount of After Tax Income found in the appropriate column for each parent.

NOTE: The custodial parent will enter the amount found under the applicable number of children. The noncustodial parent will enter the amount found IN THE FAR RIGHT HAND COLUMN ("Noncustodial Parent After Tax Income").

LINE 3a - Pre-existing Child Support

Enter the amount of monthly pre-existing Child Support actually paid. 15 V.S.A. § 653(1)(A)

LINE 3b - Health Insurance Premiums for the Children

Enter the amount of monthly health insurance premiums actually paid for the benefit of the child(ren) who are the subject of this support calculation. 15 V.S.A. § 653(1)(B).

LINE 3c - Additional Self-employment and/or Spousal Support Adjustment

If you do not have self-employment income and you do not pay spousal support, enter zero on LINE 3c and go on to LINE 4.

If all or part of your income is from self-employment and/or you pay spousal support, enter the amount from Section Four, LINE C of the Self-Employment and/or Spousal Support Adjustment Worksheet (the green pages).

LINE 4 - Monthly Unadjusted Available Income

Subtract from each parent's Monthly After Tax Income each parent's payments for Pre-existing Child Support, Health Insurance Premiums, and the Additional Self-Employment and/or Spousal Support Adjustment. Custodial: (LINE 3) - (LINE 3a) - (LINE 3b) - (LINE 3c). Noncustodial: (LINE 3) - (LINE 3a) - (LINE 3b) - (LINE 3c).

LINE 4a - Additional Dependent Adjustment

This adjustment applies only to parties who have additional dependents. Additional dependents means any natural, adopted, and/or stepchild(ren) whom the parent has a duty to support and who are not the subject of this support order. The adjustment is made by calculating a hypothetical support obligation for those dependent(s). Take the amount on LINE 4 and find this figure in the Monthly Combined Available Income column of the Intact Family Expenditures Table (the blue colored table). On this row, find the Table amount under the column which represents the appropriate number of additional dependents. Enter this amount. 15 V.S.A. § 656a.

LINE 5 - Monthly Available Income

Enter each parent's total Monthly Available Income after subtracting the Additional Dependent Adjustment, if any, from the total Monthly Unadjusted Available Income. Custodial: (LINE 4) - (LINE 4a). Noncustodial: (LINE 4) - (LINE 4a).

Enter the sum of the Custodial Parent's and Noncustodial Parent's Monthly Available Income under the "Combined" column in LINE 5. Custodial (LINE 5) + Noncustodial (LINE 5). 15 V.S.A. § 653(1).

For cases where a child is in the custody of the department of Social and Rehabilitation Services, both additional housing costs necessary for the child's return when SRS plans for reunification, and out-of-pocket expenses mandated by the family court or SRS are also subtracted from gross income as part of calculating available income. 15 V.S.A. § 653 (1)(E)

II. CALCULATING THE CHILD SUPPORT OBLIGATION

LINE 6 - Proportional Share of Income

Divide each parent's individual Monthly Available Income by the Combined Monthly Available Income and enter this amount. Custodial: (LINE 5) divided by Combined (LINE 5). Noncustodial: (LINE 5) divided by Combined (LINE 5). 15 V.S.A. § 656(a)

LINE 7 - Child Support Guideline Amount

Take the amount of Combined Monthly Available Income (in LINE 5 under the combined column) and find this figure on the Intact Family Expenditures Table (the blue colored table). Enter the amount under the column indicating the appropriate number of children. 15 V.S.A. § 654.

LINE 7a - Qualified Child Care Costs

Enter the monthly amount of work-related or education-related child care costs. Monthly child care shall be calculated on an annualized basis (yearly amount of child care divided by 12). Child care costs do not include child care subsidies or child care tax credits. 15 V.S.A. § 653(2)

LINE 7b - Extraordinary Medical Expenses

Enter the monthly Extraordinary Medical Expenses incurred on behalf of the involved children. Extraordinary medical expenses include, but are not limited to, uninsured monthly medical expenses in excess of \$16.00. 15 V.S.A. § 653(4)

LINE 7c - Extraordinary Educational Expenses

Enter the monthly Extraordinary Educational Expenses incurred on behalf of the involved children. 15 V.S.A. § 653(4).

LINE 8 - Combined Family Expenditures for Children

Sum lines 7, 7a, 7b, 7c [(LINE 7) + (LINE 7a) + (LINE 7b) + (LINE 7c)]. 15 V.S.A. § 653(9)

LINE 9 - Parental Support Obligations

For each parent, multiply that parent's Proportional Share of Income (LINE 6) by the Combined Family Expenditures (LINE 8) and include this amount in LINE 9 for that parent. Custodial: (LINE 6) X (LINE 8). Noncustodial: (LINE 6) X (LINE 8).

III. ABILITY TO PAY CALCULATION

LINE 10 - Self-Support Reserve

Enter the monthly Self-Support Reserve for the Noncustodial Parent. This amount is updated annually, and is found on the Reference Sheet (the last green colored page.) 15 V.S.A. § 653(7).

LINE 11 - Income Available for Support

Subtract LINE 10 from LINE 4 for the Noncustodial Parent. 15 V.S.A. § 656(c).

LINE 12 - Monthly Support Payable

Enter the smaller of LINE 9 or LINE 11.

LINE 13 - Monthly Income

Indicate each parent's Monthly Income after the payment of support. Custodial: (LINE 4) + (LINE 12). Noncustodial: (LINE 4) - (LINE 12).

LINE 14 - Maintenance Supplement

A maintenance supplement may be included in addition to the parental support obligation to be paid to the custodial parent while the support obligation exists. This amount, if any, shall take into account the respective financial circumstances of the parties, including gross income, assets, liabilities, including tax liabilities, and the obligation to pay child support. The payment of a maintenance supplement to the custodial parent should correct any financial disparity in the financial circumstances of the parties if the disparity will result in a lower standard of living for the child. 15 V.S.A. § 661.

SPLIT CUSTODY

In cases where each of the parents have sole custody of one or more of the children, the law requires calculating a theoretical support obligation for each parent based on the number of children in the other household and offsetting the smaller obligation against the larger one. The parent with the larger obligation pays the difference. To accomplish this, you must complete two Sole and Split Custody (yellow) worksheets (which are attached). 15 V.S.A. § 657(e).

For example, Parent A and Parent B have 3 children. Parent A has sole custody of 2 of the children, and Parent B has sole custody of the third child. Complete a Sole and Split Custody (yellow) worksheet with Parent A as the custodial parent of 2 children and Parent B the noncustodial parent. Follow the instructions on the Sole and Split Custody (yellow) worksheet. **NO ADDITIONAL DEPENDENT ADJUSTMENT MAY BE MADE FOR ANY CHILD WHO IS THE SUBJECT OF THIS SUPPORT CALCULATION.**

Then complete another Sole and Split Custody (yellow) worksheet with Parent B as the custodial parent of the remaining child, and Parent A as the noncustodial parent. Again, no additional dependent adjustment may be made for the other two children who live with Parent A.

After both worksheets are finished, complete the following:

1. The larger obligation is \$ _____, to be paid by _____.
(Name of Parent)
2. The smaller obligation is \$ _____, to be paid by _____.
(Name of Parent)

[subtract (2) from (1)] \$ _____ Amount to be paid by the Parent with the larger obligation.