

The New Indiana Child Support Guidelines

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I. INTRODUCTION

The Child Support Enforcement Amendments of 1984¹ require all states to adopt formulas for child support awards by October 1, 1987. Guidelines are to be available to all judges and other officials with the authority to establish child support awards but are not necessarily binding upon them.² The implementation of these guidelines is expected to improve both the adequacy and the equity of court orders relating to child support. Guidelines based upon sound economic evidence allow child support to reflect realistically the actual cost of raising children.

Child support guidelines have the force of law in some states but not in others. Indiana falls in the latter category.³ Different methods used to implement state guidelines include statutory enactments,⁴ court rules,⁵

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1. Pub. L. No. 98-378, 98 Stat. 1305, 1321-22 (*codified at* 42 U.S.C. § 667).

2. 42 U.S.C. § 667(b) (Supp. III 1986), 45 C.F.R. § 302.56(b) (1987). The choice of the word "Guidelines" reflects an intent to establish a formula or a quantitative standard for setting child support rather than criteria.

3. JUDICIAL REFORM COMM., JUDICIAL CONFERENCE OF INDIANA, CHILD SUPPORT GUIDELINES 2 (2d ed. 1988). [hereinafter *Child Support Guidelines*]. In June of 1985, the Judicial Reform Committee of the Indiana Judicial Conference assumed the responsibility for the development of the child support guidelines. This committee was comprised of judges from various counties throughout Indiana. The first draft, completed on July 24, 1987, was presented to the Indiana Judicial Conference Board of Directors on September 15, 1987. The Board of Directors adopted the draft guidelines to be placed in use by October 1, 1987, pursuant to the Child Support Enforcement Amendments of 1984, 42 U.S.C. § 667 (Supp. III 1986). On June 24th, the second edition of the Indiana Guidelines was approved by the Board of Directors of the Indiana Judicial Conference. The final copy was distributed at the Annual Meeting of the Indiana Judicial Conference on September 14, 1988. Copies of the Child Support Guidelines are available from the Indiana Judicial Center, 1800 N. Meridian Street, Suite 404, Indianapolis, Indiana 46202 by mailing an advance payment of \$5.55 to the Indiana Judicial Center and requesting a copy of these guidelines.

4. See, e.g., COLO. REV. STAT. § 14-10-115 (1987); ILL. ANN. STAT. Ch. 40 para. 505 (Smith-Hurd Supp. 1988); MINN. STAT. ANN. § 518.551 (West Supp. 1988).

5. New Jersey adopted guidelines by means of a Supreme Court Rule. See N.J. R. GOVERNING PRACTICE, CHANCERY DIVISION, FAMILY PART R. 5:6A & App. XI (1986). Delaware implemented the Melson Formula by means of a family court rule. See *infra* note 25 and accompanying text.

and administrative regulations.⁶

II. THE CONCEPT OF GUIDELINES

A. *The Need for the Guidelines*

Few states used child support guidelines before Congress enacted the Child Support Enforcement Amendments of 1984.⁷ The purpose of this congressional mandate was an effort to address deficiencies in the traditional case-by-case method of setting child support orders. Congress perceived that the deficiencies in child support orders generally fell into the following three categories: "(1) a shortfall in the adequacy of the orders, when compared with the true costs of rearing children as measured by economic studies; (2) inconsistent orders causing inequitable treatment of parties in similarly situated cases; and (3) inefficient adjudication of child support amounts in the absence of uniform standards."⁸

A 1985 study by the United States Office of Child Support Enforcement estimated that \$26.6 billion in child support would have been due in the calendar year of 1984 if child support had been set by either the "Delaware Melson Formula" or the "Wisconsin Percentage of Income Standard."⁹ A Census Bureau study found that \$10.1 billion in child support was reported due during a similar period of time in 1983 but only \$7.1 billion actually was collected.¹⁰ There was not only a compliance gap of three billion dollars, but also an adequacy gap of over fifteen billion dollars.¹¹

6. Missouri and Utah are among the states which have implemented guidelines by administrative rule. Williams, *Guidelines for Setting Levels of Child Support Orders*, 21 FAM. L.Q. 281, 311 (1987).

7. *Id.* at 282. Marion County, Indiana had child support guidelines in place for approximately seven years prior to the 1984 child support enforcement legislation.

8. *Id.*

9. R. Haskins, *Estimates of National Child Support Collections Potential and the Income Security of Female-Headed Families*, REPORT TO OFFICE OF CHILD SUPPORT ENFORCEMENT, BUSH INSTITUTE FOR CHILD AND FAMILY POLICY, UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL (1985) [hereinafter *Haskins Report*]. See *infra* note 25 and accompanying text (for discussion of the Delaware model); Williams, *supra* note 6, at 290-91 (for discussion of the Wisconsin model).

10. BUREAU OF THE CENSUS, U.S. DEPARTMENT OF COMMERCE, CHILD SUPPORT AND ALIMONY: 1983, CURRENT POPULATION REPORTS, SPECIAL STUDIES, Series P-23, No. 141 (1985) [hereinafter CENSUS BUREAU].

11. *Haskins Report*, *supra* note 9. Estimated child support collections increase approximately at the rate of inflation. The total amount due in 1983 would have been \$25.5 billion under the Delaware or Wisconsin formulas, compared with the Haskins estimate of \$26.6 billion in 1984. The estimated "adequacy gap" of \$15.5 billion is determined by comparing the \$25.5 billion estimate with the Census Bureau figure of \$10 billion.

The mean court-ordered child support obligation in effect in 1983 was approximately \$191 per month for 1.7 children.¹² According to an authoritative study by Thomas Espenshade, an order of \$191 is equivalent to only twenty-five percent of the average expenditures on 1.7 children in middle income households.¹³ Assuming that child support should be shared by the parents based upon their ability to generate income, court-ordered support in 1983 should have been 2.5 times higher in order to provide an adequate amount of child support, based upon the income available for the support of those children.¹⁴ Court-ordered child support in 1983 also fell short of minimal standards for the cost of raising children. Based upon the 1983 United States Poverty Guidelines,¹⁵ the average court-ordered child support obligation in 1983 provided only eighty percent of the poverty level.

Two problems contribute to this dramatic gap in adequate child support. The first is inadequate initial orders. A study of initial child support awards conducted by the Denver District Court of Colorado identified various factors which significantly affected the amount of the award, such as the presence of an attorney, the ability of the attorney, whether an award was contested, and the season of the year.¹⁶ Obviously, none of these pertains to the needs of the children or the abilities of the parties to support their children. The second problem is the failure to update child support orders on a regular basis. An order that is more than a few years old is, in all probability, seriously inadequate even if the initial order was reasonable.

Statewide guidelines not only promote the interests of children, but they also may increase the number of voluntary settlements and reduce the time that it takes for a court to adjudicate and resolve cases that are disputed. In addition, guidelines provide a framework within which attorneys can present, and judges can evaluate, the issues in a reasonable fashion.

12. CENSUS BUREAU, *supra* note 10.

13. T. ESPENSHADE, *INVESTING IN CHILDREN: NEW ESTIMATES OF PARENTAL EXPENDITURES* (1984).

14. CENSUS BUREAU, *supra* note 10. The Census Bureau reported that the mean income of all women due child support in 1983, not including child support actually received, was \$10,226. The income of men owing child support was not known but the mean income of all men was \$18,110. The Espenshade study estimated that \$749 per month was necessary for the support of 1.7 children. T. ESPENSHADE, *supra* note 13. If this is divided in proportion to income, the obligor's share would be \$479 per month or 2.5 times the average court-ordered amount of \$191 in 1983.

15. 48 Fed. Reg. 7010-11 (1983).

16. Yee, *What Really Happens in Child Support Cases: An Imperical Study of Establishment and Enforcement of Child Support Orders in the Denver District Court*, 57 DEN. L.J. 21, 28-37 (1979).

B. *How to Establish a Guideline*

Child support guidelines must take into account various economic factors which relate to the cost of raising children. A preliminary question concerns minimum child-rearing costs based upon the needs of children at a mere subsistence level. Guideline drafters may use the United States Poverty Guideline for a standard to "specify the minimum income that could support an average family of given composition at the lowest level consistent with the standards of living prevailing in the country."¹⁷ In 1987, this minimum income was \$458 per month for one household member and \$158 for each additional household member.¹⁸ It can be assumed, therefore, that the cost of raising a child at the poverty level is \$158 per month. Most parents represented by a private lawyer have a greater ability to provide for their children than this Poverty Guideline implies.¹⁹

The second inquiry concerns child-rearing costs above the minimum needed for subsistence. Studies of household expenditure patterns make it clear that when people have higher income, they spend more of it on their children.²⁰ The Espenshade study uses data from 8,547 households surveyed in the 1972 and 1973 Consumer Expenditure Survey.²¹ Espenshade estimated average expenditures on children during that period of time, based upon the socio-economic status of the family and the number of children present, and updated the results to 1986 price levels. For a middle socio-economic status household, the average expenditure on children from birth through age eighteen was \$589 per month for one child, \$914 per month for two children and \$1,145 for three children.²² Spending on children can be described validly as proportions of household income although the proportions decline as the household income in-

17. M. Orshansky, *Measuring Poverty*, in THE SOCIAL WELFARE FORUM (1965).

18. *Annual Update of the Poverty Income Guidelines*, 52 Fed. Reg. 5340-41 (1987).

19. Orshansky, *supra* note 17.

20. Williams, *supra* note 6, at 288. The most commonly cited figures on costs of children have been published by the U.S. Department of Agriculture. See C.S. EDWARDS, USDA ESTIMATES OF THE COST OF RAISING A CHILD: A GUIDE TO THEIR USE AND INTERPRETATION, PUB. NO. 1411, U.S. DEPARTMENT OF AGRICULTURE (1981). The best available evidence of child-rearing expenses in the "above poverty level" household is found in the Espenshade study. Espenshade's figures are more appropriate than the U.S.D.A. figures even though the U.S.D.A. figures provide a useful basis for comparison. The U.S.D.A. figures are estimates and are based on data from the 1960/61 Survey of Consumer Expenditures. This is now more than 25 years old. In addition, Espenshade's marginal cost methodology is more valid for determining appropriate levels of child support. See T. ESPENSHADE, *supra* note 13, at 44-59.

21. T. ESPENSHADE, *supra* note 13, at 44-59.

22. T. ESPENSHADE, *supra* note 13, at Table 3. The figures used are for a household with a wife employed part-time on a year round basis.

creases. Thus a household with more income spends proportionately less on its children as its income increases.

A third question relevant to determining levels of child support is to ascertain how spending on the children is affected by the number of children in the family. Expenditures on children as a proportionate share of current family consumption are estimated at 26.2% for one child, 40.7% for two children, 51.0% for three children and 57.5% for four children.²³ When children are added to a household, therefore, spending does not increase in direct proportion to the number of children added. There is a common misconception that these declining increments primarily reflect economies of scale in raising children. To the contrary, these figures seem to indicate a decreasing level of expenditures for each child as family size increases. Equal amounts are not spent on each child, but rather the spending level for each represents only about three-quarters of the amount that would have been spent on one child alone.

C. *Types of Guidelines*

There are several types of child support guidelines. One is a "flat percentage" guideline, which simply sets child support at a percentage of the obligor's income depending upon the number of children.²⁴ A second type of guideline follows the Delaware Melson Child Support Formula adopted by the Delaware Family Court for statewide use in January 1979.²⁵ Under the "Melson formula," the available income of each parent is determined by deducting a self-support reserve from the parent's income. Then, each dependent's primary support need, including child care and extraordinary medical expenses, is computed, and the total primary support amount is prorated between the parents' available net incomes. The Melson formula also allocates a percentage of the remaining available income to pay additional child support. This "standard of living allowance" thus allows children to benefit from their parents' higher living standard. If a parent has dependents other than the child for whom support is being sought, and these other dependents are not covered by a prior court order, the primary support amounts

23. DEPARTMENT OF LABOR, REVISED EQUIVALENT SCALE FOR ESTIMATING EQUIVALENT INCOMES OR BUDGET COSTS BY FAMILY TYPE, Bulletin No. 1570-2.

24. See, e.g., ILL. ANN. STAT. ch. 40, para. 505 (Smith-Hurd 1987). Minnesota, Illinois, Texas and Wisconsin have adopted guidelines based upon variations of this concept. See Williams, *supra* note 6, at 290-91.

25. Family Courts of the State of Delaware, *The Delaware Child Support Formula: Study and Evaluation*, REPORT TO THE 132ND GENERAL ASSEMBLY (1984). See also DELAWARE CHILD SUPPORT (MELSON) FORMULA, FAMILY COURT OF THE STATE OF DELAWARE (revised 1984) (available from the Office of Child Support Enforcement Reference Center, Room 2525, 330 C Street, S.W. Washington, D.C. 20201); Williams, *supra* note 6, at 295-301.

for⁴ them are deducted from the obligor's remaining available income before computing the standard of living allowance. Thus, a noncustodial parent who has two other natural or adopted children living in his or her household is allowed to reduce his or her standard of living allowance by a primary support amount for these two children.

A third type of guideline is the Income Equalization or "Cassetty" model, which attempts to insure that the children of divorced parents suffer the least possible economic hardship and continue to enjoy as nearly as possible the family's pre-divorce standard of living.²⁶ The Cassetty model exempts from net income the poverty level of support for each member of both households. The total net income of each household is used, not just the income of the parents. Thus, a current spouse of either parent is counted for purposes of applying the poverty level exclusion. The balance of both households' income is allocated between them in proportion to the number of persons in each family unit. There is no separate consideration of child care expenses or medical costs.

A fourth type of guideline is the "income shares" model which was developed by the Institute of Court Management for the National Center for State Courts under the Child Support Guideline Project.²⁷ The income shares model attempts to provide the child with the same portion of parental income that the child would have received if the parents had continued to live together. This concept was particularly appealing to Indiana's Judicial Reform Committee because it was in compliance with Indiana Code section 31-1-11.5-12.²⁸ Under Indiana law, consideration must be given not only to the income of the noncustodial parent but to the following four factors:

- (1) the financial resources of the custodial parent;

26. Cassetty and Douthitt, *The Economics of Setting Adequate and Equitable Child Support Payment Awards*, 12 TEX. ST. B. SEC. REP., FAM., SPECIAL SUPPORT AND VISITATION ISSUE (1984). See also Williams, *supra* note 6, at 302-03.

27. R. Williams, *Development of Guidelines for Child Support Orders*, in REPORT TO THE U.S. OFFICE OF CHILD SUPPORT ENFORCEMENT, NATIONAL CENTER FOR STATE COURTS (1987). This report can be obtained from the Reference Center, U.S. Office of Child Support Enforcement, Switzer Building, Room 2525, 330 C Street, S.W., Washington, D.C. 20201. The report was developed with support from the U.S. Office of Child Support Enforcement under grant number 18-P-20003-3-01. The income shares model is based upon economic evidence of child-rearing expenditures and principles relied upon by the Advisory Panel for the Child Support Guideline Project. This model has been adopted in Colorado, Maine, Michigan, Montana, Nebraska, New Jersey, Vermont and now Indiana. See Williams, *supra* note 6, at 291-95.

28. IND. CODE § 31-1-11.5-12 (1988). See *Child Support Guidelines*, *supra* note 3, at 2-3.

- (2) the standard of living the child would have enjoyed had the marriage not been dissolved or had the separation not been ordered;
- (3) the physical or mental condition of the child and the child's educational needs; and
- (4) the financial resources and needs of the noncustodial parent.²⁹

The computation of child support under the income shares model is a three-step process. First, the parents' combined income is determined. Second, this combined income is used to compute a basic child support obligation. This obligation represents the amount which would have been spent on the children if the household had remained intact. Actual work-related child care expenditures and extraordinary medical expenses are added to the basic obligation to arrive at a total child support obligation. Finally, the total obligation is prorated between the parents based upon their proportionate shares of the total income. The noncustodial parent then pays the custodial parent the prorated amount.³⁰

This procedure purportedly simulates spending patterns in an intact household where total family income is allocated to the children proportionately. Adjustments can be made under the income shares model for nontraditional custody arrangements such as shared physical custody and split custody. Indiana has not yet adopted or addressed the shared physical and split custody calculations, but income shares models adopted in certain other states include provisions for these calculations. In a shared physical custody arrangement, each parent has physical custody for at least twenty-five to thirty percent of the time.³¹ The exact threshold varies from state to state. A total support obligation is calculated separately for each parent. The expenses born directly by each parent under the shared physical custody arrangement are determined, and a theoretical payover amount is calculated for each parent. The net obligor pays the difference between these amounts.³² A zero child support obligation would result only where both parties earn the same amount of money and share physical custody equally. In split custody situations, each parent has physical custody of at least one child. The calculations are made by computing a theoretical support obligation for the children in the physical custody of each parent. The amounts owed by each parent are

29. IND. CODE § 31-1-11.5-12(a) (1988). See also *Lepper v. Lepper*, 509 N.E.2d 818, 820 (Ind. 1987); *Hunter v. Hunter*, 498 N.E.2d 1278, 1288 (Ind. Ct. App. 1986); *Tucker v. Tucker*, 406 N.E.2d 321, 323 (Ind. Ct. App. 1980). But see *In re Marriage of Ferguson*, 519 N.E.2d 735, 739 (Ind. Ct. App. 1988).

30. Williams, *supra* note 6, at 293. The figures for the basic obligation are derived from economic data on household expenditures on children.

31. *Id.* at 293-94.

32. *Id.* at 294.

offset, and the parent owing the larger amount is liable for the difference.

D. Use of Child Support Guidelines

No guideline, regardless of how carefully developed, can anticipate the unique circumstances in every case. Consequently, states generally have implemented their guidelines either as rebuttable presumptions or advisory standards. No state has made a guideline mandatory. Indiana has chosen the advisory approach and, therefore, the new guidelines are merely proposed standards. If Indiana ever does adopt the guidelines as a rebuttable presumption, they would be applied in all support determinations unless one party demonstrates, or the court or administrative agency determines, that an inequity would result. In either case, a departure from the guidelines would have to be accompanied by specific findings which establish the reasons for the deviation.

1. Applying Guidelines to Modifications.—As years pass and circumstances change, child support orders which were adequate initially must be updated.³³ Three factors erode the value of child support orders: inflation, income increases and the higher cost of supporting older children. Inflation has caused the real value of an original child support award of \$500 per month in 1976 to decline to \$261 by 1986.³⁴ In addition, parents with children who are in need of child support are typically at an age when their income increases most rapidly (ages twenty-one to forty-five).³⁵ Children are entitled to the economic benefits of this increased income. Finally, children's expenses increase as they get older. Espenshade calculated that expenditures are twenty-three percent higher for children in the twelve to seventeen age group than for younger children.³⁶ In Indiana, the only ground for modifying child support awards is evidence of a substantial and continuing change of circumstances sufficient to warrant a modification.³⁷ This change must be more than slight. Indiana case law is replete with decisions holding that either the income of the parties or the needs of the children must have changed substantially since the last order was entered.³⁸

Procedures for updating child support orders vary from state to state. Minnesota has enacted a process by which each order for child support "shall provide for the biennial adjustment in the amount to be

33. *Id.* at 314.

34. *Id.*

35. *Id.*

36. T. ESPENSHADE, *supra* note 13, at 30-31.

37. IND. CODE § 31-1-11.5-17 (1988).

38. See, e.g., *Halum v. Halum*, 492 N.E.2d 30 (Ind. Ct. App. 1986); *McCallister v. McCallister*, 488 N.E.2d 1147 (Ind. Ct. App. 1986).

paid based on a change in the cost of living."³⁹ The Minnesota statute thus provides for the automatic updating of child support orders. Another proposal would increase child support based either upon the cost of living or inflation rate. These standards are unacceptable in Indiana because they do not reflect the statutory provisions that support be based upon the child's needs and the parents' incomes.⁴⁰ A better method of updating child support orders would be to apply the same standards that were used for setting the initial support awards. The experience of other states with guidelines would indicate that availability of a guideline tends to encourage the parties to implement their own updating provisions by exchanging tax returns or other information relevant to income and then to apply the new guidelines voluntarily to adjust the amount of child support.⁴¹

The adoption of Indiana's new guidelines shifts the focus of child support determinations away from the expenses of the child toward an income-based process. This approach appears to be a fairer way of dealing with child support because it balances the needs of the child against the needs of the parents. Much litigation over child support centers on the necessity of certain expenses claimed by each parent either for their own daily living expenses or the child's living expenses. The major drawback in basing child support on living expenses is that expenses are always within the control of the parties, can be manipulated easily, and almost always exceed income initially because the parties have not yet adjusted to losing the benefit of combined incomes in an intact household. With child support guidelines, the income of the parties becomes paramount and expenses tend to be ignored except for special considerations. Guidelines should not be adopted, however, without also adopting standards for reporting and verifying income because income also can be manipulated. Ideally, guidelines should require a party to submit income and asset statements and support those statements with

39. MINN. STAT. § 518.641 (1986).

40. See IND. CODE § 31-1-11.5-12 (1988).

41. Williams & Campbell, *Review of Selected State Practices in Establishing & Updating Child Support Awards*, REPORT TO U.S. OFFICE OF CHILD SUPPORT ENFORCEMENT, NATIONAL INSTITUTE FOR SOCIO-ECONOMICS RESEARCH, 23 (1984). See also Williams & Campbell, *Review of Literature and Statutory Provisions Relating to the Establishment and Updating of Child Support Awards*, in REPORT TO U.S. OFFICE OF CHILD SUPPORT ENFORCEMENT, NATIONAL INSTITUTE FOR SOCIO-ECONOMIC RESEARCH, 1-3 (1984). Williams and Campbell reported that in Delaware many agreements developed by attorneys made a provision for the annual exchange of information and a reapplication of the formula to arrive at a new child support amount. In this same report, it was stated that stipulated agreements in Wisconsin often have similar provisos. The most recent Colorado statutory provisions for determining child support also encouraged the use of guidelines in a voluntary updating process. See COLO. REV. STAT. § 14-10-115 (1986).

documentation such as pay records for the previous twelve to eighteen months.

2. *Allocating Ordinary and Extraordinary Child Care, Medical and Educational Expenses.*—Although there has been no reported litigation in Indiana addressing the difference between extraordinary and ordinary expenses, courts in other jurisdictions have considered various criteria to distinguish between extraordinary and ordinary expenses. One commentator suggests that a portion of any child-related expense, including medical and educational expenses, can properly be considered ordinary if the amounts involved are relatively small, predictable and fairly consistent in families of the same size and income level.⁴²

Ordinary child care expenses include babysitting in order to permit a parent to shop, see a physician, attend social obligations, and engage in similar activities.⁴³ Minor ordinary medical expenses would be those included in deductibles for insurance purposes.⁴⁴ Ordinary educational expenses might include the cost of school supplies and field trips.⁴⁵

In comparison, extraordinary child care expenses include those expenses necessary for full-time or substantial part-time child care in order to allow a parent to work.⁴⁶ Extraordinary major medical bills may be any medical expense that is necessary, out-of-pocket, and not usual or ordinary.⁴⁷ Extraordinary educational expenses include the costs of college, graduate school or a private elementary or secondary school education.⁴⁸ An "extraordinary" expense, therefore, could be defined as "any large, discrete, legitimate child-rearing expense that varies greatly from family to family or from child to child."⁴⁹

Extraordinary expenses have received varying treatment in determining child support obligations. One approach is simply to include the extraordinary expense as basic child support,⁵⁰ while another method makes no specific provision for extraordinary expenses at all.⁵¹ Other methods include deducting extraordinary expenses from the income of the parent paying such expenses before calculating the child support

42. Goldfarb, *Child Support Guidelines: A Model for Fair Allocation of Child Care, Medical and Educational Expenses*, 21 FAM. L.Q. 325, 330 (1987).

43. *Id.* at 337-38.

44. *Id.* at 342.

45. *Id.* at 343.

46. *Id.* at 338.

47. *Id.* at 342-43.

48. *Id.* at 343-44.

49. *Id.* at 331.

50. See WOLFE, CHILD SUPPORT GUIDELINES PROJECT: STATE BY STATE SUMMARY, NOW Legal Defense and Education Fund (1986).

51. *Id.*

award,⁵² and granting a bonus not directly tied to the amount of the expense to the parent who is paying the extraordinary expense.⁵³ Some states do not apply the guidelines to cases which involve extraordinary expenses and decide those matters on a case-by-case basis.⁵⁴ Finally, extraordinary expenses may be prorated in proportion to the parents' incomes and the prorated amount added to the basic child support award.⁵⁵

The new Indiana guidelines follow this last approach and prorate extraordinary expenses according to the parents' relative incomes.⁵⁶ The primary advantage of this technique is that it realistically addresses the actual cost incurred by the custodial parent. A disadvantage is that, even though these child care, medical and education expenses may vary greatly from year to year, the amount added by court order to the non-custodial parent's support obligation would not change from one year to the next to accommodate the variations. Furthermore, in the event that courts use "reasonable" or "reasonable and necessary" language to define extraordinary expenses, the door would be open to second-guessing by the parties and to litigation regarding what is reasonable and necessary. Nonetheless, the interests of all the parties are served by an approach which takes into account the financial situation of each parent in addition to the nature of each expense.

Any provision addressing extraordinary medical expenses must encompass all types of medical, dental and related professional care. Obviously, the level of expense that rises to a catastrophic level may not be easily addressed by any guideline. The custodial, the noncustodial parent, or both may deduct a medical expense on their tax returns if they actually incurred the expense.⁵⁷ For tax purposes, therefore, the parent with the lower adjusted gross income, who can maximize the medical deduction, should be the party who writes the checks for as many of the medical bills as possible.

Educational expenses such as school supplies and field trips usually do not rise to the level of an extraordinary expense. Extraordinary educational expenses generally relate to the cost of college, graduate or professional school, private school, extra lessons, enrichment, or special educational needs for a disabled child. Traditionally, divorced fathers, including those with high incomes and high educational attainments of their own, do not contribute voluntarily to their children's college ed-

52. *Id.*

53. *Id.*

54. *Id.*

55. *Id.*

56. *Child Support Guidelines, supra* note 3, at 17-18.

57. *See* I.R.C. § 213(d)(5) (1986).

ucation.⁵⁸ Some divorced fathers may be even less inclined to assist their daughters with higher education needs than their sons.⁵⁹ Unfortunately, providers of financial aid consider all of the income supposedly available to the child. Consequently, the noncustodial parent's financial resources may result in the child being refused financial aid. This is the basis of Symer and Cooney's theory that children of divorce are more likely to defer college attendance until they can accumulate savings through their own earnings.⁶⁰

Indiana law comprehensively sets forth the rights and obligations of children who wish to attend college. Courts may consider several factors in deciding whether parents should provide a college education for their children. These factors include the parents' educational levels, the child's career goals, the resources and abilities of the parents and the child to pay for the education, the child's educational accomplishments, the emphasis that has been placed on education in the home, and the educational traditions of the family measured by the educational achievements of other children in the family.⁶¹

Extraordinary educational needs other than college may include private school, lessons, enrichment, and educational needs of disabled children. Inclusion of expenses for private schooling should be supported by evidence that such schooling is affordable to the family and that the parents likely would have incurred that expense had they remained married. Lessons in enrichment should be treated as ordinary expenses unless they are extremely costly or unusual. Expenses for items such as music lessons, camps, sports equipment, and religious instruction should be deemed ordinary because they commonly are provided by parents and are of a modest cost. The educational needs of a disabled child, to the extent that the parties can meet them, should be allocated between the parties based upon their incomes.

III. THE INDIANA CHILD SUPPORT GUIDELINES

A. *Commentary of the Judicial Reform Committee*

Previous sections of this Article have outlined many factors which must be considered when child support guidelines are established. The

58. Wallerstein & Corbin, *Father-Child Relationships After Divorce: Child Support and Educational Opportunity*, 20 FAM. L.Q. 109, 119 (1986).

59. *Id.* at 121.

60. Symer & Cooney, *Family Relations Across Adulthood: Implications for Alimony and Support Divisions 10-11*, American Bar Association National Symposium on Alimony and Child Support (Apr. 24-25, 1987).

61. IND. CODE § 31-1-11.5-12 (1988). *See also* Thiele v. Thiele, 479 N.E.2d 1324 (Ind. Ct. App. 1985); Gower v. Gower, 427 N.E.2d 703 (Ind. Ct. App. 1981).

Judicial Reform Committee of the Judicial Conference of Indiana was assigned the task of developing the guidelines for the State of Indiana. After this process was completed and a framework for the guidelines was established, the task of these judges was to explain the meaning of the terms used. Anytime a guideline is established, it is beneficial for all the parties who will be using that guideline to understand with reasonable certainty the terminology and parameters covered. If this basis is clearly established, then application of the guidelines becomes a simple matter.

Every family is different and the needs of every child are different. Therefore, the application of guidelines without considering all of the issues is inappropriate. To assist all persons in understanding and interpreting Indiana's Guidelines, the Judicial Reform Committee developed a Commentary that is incorporated into the Guidelines. With the permission of the Judicial Reform Committee, the authors have reprinted for your benefit much of the Commentary from the Guidelines.⁶² The following excerpts were written by Judge Bruce Embry, a member of the Judicial Reform Committee:

1. *Lower Limits of the Guidelines*

The Guidelines schedules for weekly support payments do not provide an amount of support for couples with combined weekly available income of less than \$100.00. Consequently, the Guidelines do not establish a minimum support obligation. Instead, the facts of each individual case must be examined and support set in such a manner that the obligor is not denied a means of self-support at a subsistence level. It is, however, recommended that a specific amount of support be set. Even in situations where the non-custodial parent has no income, courts have routinely established a child support obligation at some minimum level. While an obligor cannot be held in contempt for failure to pay support when he does not have the means to pay, the obligation accrues and serves as a reimbursement to the custodial parent or, more likely, to the welfare department when he later acquires the ability to meet his obligation.⁶³

2. *Upper Limits of the Guidelines*

The Guidelines schedules for weekly support payments provide calculations for the basic support obligation to a combined weekly

62. Because the Commentary to the Guidelines are not generally available in any widely circulated, published form the remainder of this Article is devoted to reprinting much of the Commentary—*Ed.*

63. *Child Support Guidelines*, *supra* note 3, at 7.

available income of \$2,000.00, or annual available income of \$104,000.00. It is indeed a rare case where a higher figure will be needed. It is not intended, however, that the obligation for support be capped at that level. It is instead anticipated that parties with income in excess of that amount would negotiate a support figure, or that the court, in the alternative, would use the mathematical progressions of the Guideline to arrive at a support obligation.⁶⁴

3. *Temporary Maintenance*

It is . . . recommended that temporary maintenance awards not exceed 35% (thirty-five percent) of the obligor's weekly available income. The maximum award should be reserved for those instances where the custodial spouse has no income or no means of support, taking into consideration that spouse's present living arrangement (i.e., whether or not they are living with someone who shares or bears the majority of the living expense; whether they are living in the marital residence with little or no expense; whether they live in military housing, etc.).

It is further recommended that the total of temporary maintenance and child support should not exceed 60% (sixty percent) of the obligor's weekly available income. In computing temporary maintenance, in-kind payments, such as the payment of utilities, house payments, rent, etc., should also be included in calculating the percentage limitations.

It should also be emphasized that the recommendations concerning maintenance apply only to *temporary maintenance*, not spousal maintenance in the final decree. An award of spousal maintenance in the final decree must, of course, be made in accordance with I.C. 31-1-11.5-11(e). These Guidelines do not alter those requirements. Theoretically, when setting temporary maintenance, child support should come first. That is, if child support is set at 40% of the obligor's weekly available income, only a maximum of 20% (twenty percent) of that income would be available for maintenance. That distinction, however, makes little practical difference.

The worksheet provides a deduction for spousal maintenance paid as a result of the former marriage (line 1D.) Caution should be taken to assure that any credit taken is for maintenance and not for periodic payments as the result of a property settlement pursuant to I.C. 31-1-11.5-11(b)(2). No such deduction is given

64. *Id.*

for amounts paid by an obligor as the result of a property settlement resulting from a former marriage, although that is a factor the court may wish to consider in determining the obligor's ability to pay the scheduled amount of support at the present time. Again, flexibility was intended throughout the Guidelines and they were not intended to place the obligor in a position where he or she loses all incentive to comply with the orders of the court. If an obligor is burdened by support, maintenance and periodic payments from a former marriage, it is possible to surpass the point where the obligor cannot subsist. Studies indicate that when the combined payments exceed 60% (sixty percent) of income, a level of resistance is reached where an obligor is likely to simply give up.⁶⁵

4. *When Guidelines are Applicable*

It is recommended that the Indiana Child Support Guidelines be applied in every instance in which child support is established, including, but not limited to, dissolutions of marriage and paternity actions.⁶⁶

B. Determination of Child Support Obligations

Weekly gross income, potential income, weekly available income and basic child support obligation are terms that presently are foreign to Indiana lawyers, but they soon will resound throughout the courtrooms of the state. An understanding of these new terms is necessary before child support obligations can be calculated under the new guidelines.

1. *Weekly Gross Income.*—Weekly gross income⁶⁷ is the starting point in determining the child support obligation. It must be calculated

65. *Id.* at 8. For the worksheet referred to above, see "Worksheet—Child Support Obligation" *infra* p. 227, reproduced as an appendix to this Article with the permission of the Indiana Judicial Conference [hereinafter *Worksheet*].

66. Child Support Guidelines, *supra* note 3, at 9.

67. See *Worksheet*, *supra* note 65, at line 1. "Weekly Gross Income" is "actual weekly gross income of the parent if employed to full capacity, potential income if unemployed or underemployed, and imputed income based on 'in-kind' benefits." *Child Support Guidelines*, *supra* note 3, at 9. This includes income from any source except for specific exclusions and includes but is not limited to "income from salaries, wages, commissions, bonuses, dividends, severance pay pensions, interest, trust income, annuities, capital gains, social security benefits, workmen's compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts, prizes, and alimony or maintenance received from other marriages." *Id.* Means-tested public assistance programs are specifically excluded.

Weekly Gross Income from self-employment, operation of a business, rent, and

for both parents. If one or both parents have no income, potential income should be calculated and used as weekly gross income. Likewise, imputed income may be substituted for, or added to, other income in arriving at weekly gross income. Imputed income includes such items as free housing, a company car that may be used for personal travel, reimbursed meals, and other items received by the obligor that reduce his or her living expenses.

The Commentary suggests beginning with total income from all sources.⁶⁸ Actual business expenses are deducted from that total figure but not losses which do not result in actual out-of-pocket expenditures. It was not the drafters' intent to recognize tax shelters otherwise permitted by federal tax laws. In addition, public assistance programs based on income⁶⁹ are excluded from the computation of weekly gross income, but other government payments such as Social Security benefits and veterans pensions are included.

Calculating weekly gross income for the self-employed or for those who receive rent or royalty income presents unique problems and requires a careful review of expenses. Actual expenses are excluded, but benefits that reduce living expenses, such as company cars, free lodging and reimbursed meals are included in whole or in part. Although income tax returns may be helpful in arriving at weekly gross income for a self-employed person, the deductions allowed by the guidelines differ significantly from those allowed for tax purposes.

Potential income must be determined if a parent has no income, or only means-tested income, and is capable of earning income or capable

royalties is defined as gross receipts minus ordinary and necessary expenses. Specifically excluded from ordinary and necessary expenses for the purposes of these Guidelines are depreciation, investment tax credits, or any other business expense determined by the Court to be inappropriate for determining weekly gross income for the purposes of calculating child support. . . . Expense reimbursement or in-kind payments received by a parent in the course of an employment, self-employment, or operation of a business should be counted as income.

Id. Potential income is calculated for parents who are voluntarily unemployed or underemployed. It is determined by establishing the

employment potential, and probable earnings level based on the obligor's work history, occupational qualifications, prevailing job opportunities, and earning levels in the community. If there is no work history and no higher education or vocational training, it is suggested that weekly gross income be at least at the minimum wage.

Id. at 10.

68. This figure may not be the same as gross income for tax purposes. See I.R.C. § 61 (1986); *Child Support Guidelines*, *supra* note 3, at 10.

69. Such means-tested programs include Aid to Families with Dependent Children, Supplemental Security Income, Food Stamps, and General Assistance. *Child Support Guidelines*, *supra* note 3, at 9.

of earning more than he or she presently earns. Obviously, this determination requires a great deal of discretion. One purpose of the potential-income factor is to discourage a parent from taking a lower paying job to avoid the payment of significant support. Another purpose is to allocate the support obligation fairly when one parent remarries and, because of the income of the new spouse, chooses not to be employed. Attributing potential income to a parent undoubtedly will cause much stimulating debate.⁷⁰

One situation that must be considered is that of the mother with one or more young children at home. It was not the intention of the Judicial Reform Committee to force all custodial parents into the work force. Therefore, discretion must be exercised on an individual case basis to determine if it is fair under the circumstances to impute income to a particular nonworking or under-employed custodial parent. Consideration should be given to the needs of the child or children as well as the earning potential of the parent. A custodial parent without a high school education, with no significant skills and with three small children may not be capable of entering the work force and earning enough even to cover the cost of day care. This will be a fact-sensitive issue which must be decided on a case-by-case basis.

2. *Income Verification*.—The income verification requirement is not a change in the law but merely a suggestion to judges that they take care in determining the income of each parent. Some forms of documentation, such as a single pay stub, can be very misleading. This is particularly true for salesmen, professionals, and others who receive commissions or bonuses, or who have the ability to distort the true picture of their income in the short-term by deferring payments. When in doubt, income tax returns for the last several years should be reviewed.⁷¹

3. *Computation of Weekly Available Income*.—After weekly gross income is determined, weekly available income must be computed.⁷² Certain deductions from weekly gross income are allowed in arriving at weekly available income. For example, an obligor is entitled to deduct child support for children of other marriages if he or she actually is paying that support. For purposes of this deduction, the Judicial Reform Committee recommends a first in time, first in right rule which considers the children in the order in which they were born. Thus the computation of support based on the income that would have been available to the second family, had it remained intact, allows for a deduction for support

70. *Id.* at 11.

71. *Id.* at 12.

72. *Id.* at 13. See also *Worksheet*, *supra* note 65, at line 2.

of children from previous relationships. This rationale is in compliance with Indiana Code section 31-1-11.5-12(a)(2),⁷³ and therefore prevails over the argument that the second family has just as much right to the income of the obligor as the first family.

When considering a petition to modify support arising out of a first marriage, however, no deduction is allowed for support ordered as the result of a second or subsequent marriage. A support order for a subsequent family does not constitute a change in circumstances with respect to the support of children of the first marriage.⁷⁴ Likewise, if support is being established or modified for a child born out of wedlock, the date of birth of the child would determine whether or not a deduction is allowed in arriving at weekly available income. If the child was born before the marriage, no deduction for children of the marriage would be allowed. If the child was born after a marriage from which an obligation for support arose, a deduction would be allowed.⁷⁵

Although deductions are allowed only for support actually being paid, some discretion is necessary. If there is a valid court order or obligation for support which the obligor has not been paying, but for which enforcement proceedings are imminent, a denial of the deduction likely would lead to further court proceedings in the form of a petition to modify.⁷⁶

Deductions also are allowed for funds actually expended on behalf of children toward whom the obligor has a legal duty of support, even if that obligation has not been reduced to a court order. Children born out of wedlock are the obvious example, but this provision covers other situations as well. A custodial parent who is not receiving support should be permitted to deduct his or her portion of the support obligation for the children in the home from the first marriage. For example, in computing support for the second dissolution, the custodial parent of two children from a prior marriage who receives no support from that former spouse, should be permitted to deduct the support he or she would be paying if custody of these children had been placed with the noncustodial spouse. The second dissolution therefore will require a computation of the support obligation allocated to each spouse for children of the prior marriage.⁷⁷

The cost of health insurance for the children also is deducted from weekly gross income in arriving at weekly available income. Computing the allowable deduction is no problem if a separate policy of insurance

73. IND. CODE § 31-1-11.5-12(a)(2) (1988). *See supra* text accompanying note 29.

74. *Child Support Guidelines*, *supra* note 3, at 13.

75. *Id.*

76. *Id.*

77. *Id.* at 14.

is purchased for the children. In most situations, however, employer group plans provide coverage for the children. No deduction is allowed if the employer pays the entire cost of coverage. If the employee pays part of the premium, it may be necessary to obtain from his or her employer appropriate documentation of the additional cost for the children's coverage in order to compute the deduction for purposes of determining the child support obligation.⁷⁸

Another allowable deduction from weekly gross income is alimony or spousal maintenance arising from a prior marriage. These amounts are allowable only if they arise as the result of a court order and actually are being paid, or if enforcement of the obligation appears imminent. This deduction is intended *only* for spousal maintenance, not for periodic payments pursuant to a property settlement under Indiana Code section 31-1-11.5-12(b)(2).⁷⁹ The result after subtracting allowable deductions will be a figure representing the weekly available income of each parent.

4. *Basic Child Support Obligation.*—The next step is to determine the recommended basic support obligation for the combined incomes of both parents on the chart in the Guideline schedules for weekly support payments.⁸⁰ It should be remembered that the number of children in the chart refers only to the number of children of the marriage being dissolved for whom support is being computed. Furthermore, the Guidelines do not contain figures for combined weekly available income of less than \$100 or more than \$2,000.⁸¹

5. *Adjustments to the Basic Child Support Obligation.*—Certain adjustments are applied to the basic child support obligation in arriving at the total child support obligation. The following items have been and will continue to be the basis of heated battles between parents. Consequently, the court or the parties may deal with these matters as separate and distinct issues apart from child support in appropriate situations.

Reasonable child care costs that are incurred by either parent due to employment, or an attempt to find employment, typically are added to the basic child support obligation in arriving at the total child support obligation. Both parents should bear the responsibility for such costs. If this expense is not included in computing the child support obligation, the custodial parent may find that it is not economically feasible to be employed because, after the payment of child care and transportation expenses, the household income is little more than if that parent had remained unemployed.⁸²

78. *Id.*

79. IND. CODE § 31-1-11.5-12(b)(2) (1988). See *Child Support Guidelines, supra* note 3, at 14.

80. *Child Support Guidelines, supra* note 3, at 15.

81. *Id.* See *supra* notes 63-64 and accompanying text.

82. *Child Support Guidelines, supra* note 3, at 17.

Extraordinary uninsured health care expenses for a child's chronic or long-term condition also may be added to the basic child support obligation. Orthodontia, dental treatment, asthma treatment, physical therapy, counseling, and psychiatric therapy are illustrative but not an exhaustive list of maladies for which adjustments may be made. The emphasis is on *long-term* to avoid frequent modifications of the support order.⁸³ For example, if the cost of extensive orthodontia will be spread over a three-year period, there is a reasonable basis for including it in the computation of support. If the condition for which an additional contribution of support is sought will be shorter in duration, such as six months of physical therapy following an accident, the better practice may be to consider the cost in a separate order which apportions the obligation between the parents.

Many courts routinely apportion between the parties, usually on an equal basis, the medical, dental and optical expenses that exceed insurance. The Guideline Schedules were based on data which included a component for ordinary medical expenses; six percent of the recommended support amount is for health care expense.⁸⁴ If an apportionment is made for extraordinary health care expenses, therefore, the custodial parent should absorb a certain portion of the cost for each illness or injury before the noncustodial parent is required to contribute. The balance of these health care expenses then could be apportioned according to the income share percentages set forth in the tables in the Guidelines.

Extraordinary educational expenses for elementary, secondary or higher education also may be added to the basic child support obligation, but they should be limited to expenses which are reasonable and necessary for attending private or special schools or institutions of higher learning, or necessary to meet the particular educational needs of the child. Regardless of the level of schooling involved, questions of educational expense are likely to be fact-sensitive and cannot be reduced to a specific formula.⁸⁵ If the expenses sought to be included are for elementary or secondary education, the court may consider whether the expense is the result of a personal preference of one parent or both parents concur, whether the expense was incurred while the family was intact, and whether education of the same or higher quality is available at less cost. If the additional expense is for higher education, the court should consider the availability of scholarships, grants, student loans, summer and school-year employment, and other cost-reducing programs available to the student. The student is expected to apply for available aid, and a failure

83. *Id.*

84. *Id.* at 18.

85. *Id.*

to do so should be a factor in establishing the parents' obligation for educational expenses.⁸⁶

These expenses may be covered in a separate order, as for short-term health care expenses, or included in the child support order. If they are part of the child support order, it should be remembered that there is already an allowance for some living expense. The basic child support obligation, however, does not allow for all the expenses of separate housing while a student is attending college. If support for higher education is established in a separate order, support paid to the custodial parent should be reduced for the period of time that the student is away from the household and at school.⁸⁷

The addition of work-related child care costs, extraordinary health care expenses and extraordinary educational expenses to the basic child support obligation produces the total child support obligation of both parents. This total obligation approximates the cost of supporting the same children if the marriage had remained intact.

6. *Computation of Child Support.*—After the total child support obligation is determined, it is apportioned between the parents. First, the weekly available income of each parent is divided by the total available income to determine each parent's share of weekly income. The child support obligation of each parent is the same percentage share of the total child support obligation. The noncustodial parent is ordered to pay his or her proportionate share of support to the custodial parent. Support orders are not entered against custodial parents because they are presumed to meet their obligations by direct expenditures on behalf of their children.⁸⁸

C. *Modification*

To modify a child support order, Indiana requires a showing of a substantial and continuing change in circumstances that makes the present order unreasonable.⁸⁹ The Guidelines suggest that if the new total support obligation is significantly higher than the present obligation, a new order may be warranted. The increase may result from a change in the income of either parent or from changes in the child-rearing expenses which are covered specifically in the Guidelines. If the new support obligation is significantly higher than the prior obligation and requires a drastic reduction in the obligor's standard of living, the additional support

86. *Id.*

87. *Id.*

88. *Id.* at 19.

89. IND. CODE § 31-1-11.5-17 (1988).

required under the Guidelines should be phased in.⁹⁰ This approach would allow the obligor time to make adjustments in his or her standard of living. It was not the drafters' intent to drive obligors into noncompliance by reducing their spendable income below subsistence level.

D. *Additional Considerations*

1. *Shared or Joint Custody*.—The Indiana Guidelines do not confront the problem of establishing a support order in situations of shared or joint custody. This type of determination is left to the sound discretion of the trial court on a case-by-case basis because of the infinite variations in the amount of time a child may spend in the custody of each parent and other considerations such as the cost of travel between parents.⁹¹

2. *Split Custody*.—In those situations where each parent has physical custody of one or more children, support could be computed under the Guidelines in the following manner. First, the support which the husband would pay the wife for the children in her custody should be computed as if they were the only children of the marriage. The support which the wife would pay to the husband for the children in his custody then should be computed as if they were the only children of the marriage. The lesser amount should be subtracted from the greater amount, and the spouse who owes the greater amount of support will pay the difference. This method of computation takes into account the fact that the first child in each home is always the most expensive to support.⁹²

3. *Abatement of Support During Extended Visitation*.—Many of the same problems encountered in establishing support in shared and joint custody arrangements exist in determining whether, or how much, to abate support during periods of extended visitation. Factors which should be considered include travel costs, length of stay, savings to the custodial parent, the respective incomes of the parents, and ongoing expenses of the custodial parent while the children are with the noncustodial parent.⁹³ If the support obligation of the noncustodial parent is minimal, the custodial parent may not be able to meet the ongoing expenses arising from custody of the children if support is abated completely during extended visits. Total abatement of support rarely would be equitable to the custodial parent. Nonetheless, if a complete abatement of support is ordered during visitation, the court should consider increasing the support obligation slightly above the recommended amount during the remainder of the year so that the average support over the entire year

90. *Child Support Guidelines*, *supra* note 3, at 20.

91. *Id.* at 21. See also IND. CODE § 31-1-11.5-21(f) and (g) (1988).

92. *Child Support Guidelines*, *supra* note 3, at 21.

93. *Id.*

allows the custodial parent to meet the fixed expenses of the children.⁹⁴

4. *Blended-Rate Schedules for Weekly Support Payments.*—The rates of support shown in the Guideline schedules for weekly support payments do not relate directly to the age of the child. Other jurisdictions have adopted schedules based either on the ages of all the children in the family, or on the age of the oldest child.⁹⁵ Typically, the age groupings are birth to six years of age, six to twelve years, and twelve years and over. Indiana's Judicial Reform Committee reviewed extensive economic data and concluded that the most significant change in the cost of child-rearing comes when a child enters school. The Committee therefore adopted a schedule that was not based on age, but which allows for the increased ordinary expenses of school-age children.⁹⁶ A blended rate was devised which averages the different ordinary expenditures incurred from birth to the age of eighteen. This blended rate may result in a slight bonus to custodial parents with children under the age of six, but this advantage was deemed preferable to the complex problems in applying age-based rates.⁹⁷ It can be said, therefore, that children's ages are taken into consideration in the Guidelines, even though the support computation does not specifically account for age.

5. *Tax Consequences.*—It is not necessary to compute or to be concerned with tax consequences when using the Guidelines because these considerations were factored into the rates in the Guideline schedule for weekly support payments. Future changes in the tax laws should be monitored for impact on the Guidelines, and rates will have to be adjusted accordingly.

6. *Gradual Implementation.*—Some courts may prefer to implement orders made under the new Guidelines gradually, especially when the support computed under the Guidelines is considerably higher than the amount that was being paid, or was anticipated, under the former system for establishing support in a particular jurisdiction.

IV. CONCLUSION

The adoption of the Child Support Guidelines could be one of the most significant developments in Indiana law for women and children. Basing support on the actual cost of raising children will improve the economic status of children of a dissolved marriage. The recognition by lawyers and judges that families with greater incomes spend more on their children also will enhance the standard of living for all socio-

94. *Id.*

95. *Id.* at 22.

96. *Id.*

97. *Id.*

economic groups involved in the dissolution of marriage and the establishment of child support.

The "income shares model" approach adopted by Indiana provides a fair and reasonable approach to providing support for children by both parents. In the past, Indiana law has provided a subjective "need-based" test for establishing child support. The removal of this subjective test enhances fairness and equitable treatment of litigants in determining child support obligations.

Courts previously have not had a system or method for dealing with extraordinary medical and educational expenses. The new Guidelines spread these unusual costs between the parents, based upon the parties' abilities to pay. The guideline method of establishing child support is a more predictable means of determining the funds available for the support of children, the types of income, and the extraordinary needs of children, so that even though the mother and father may be divorcing, the children of our society will not suffer.

APPENDIX

IN RE:			
FATHER			
MOTHER			
WORKSHEET — CHILD SUPPORT OBLIGATION			
Children	DOB	Children	DOB
1. WEEKLY GROSS INCOME	FATHER	MOTHER	COMBINED
A. Minus Child Support — Court Order			
B. Minus Child Support — Legal Duty			
C. Minus Health Ins. Prem. for Child Only			
D. Minus Maintenance Paid			
2. WEEKLY AVAILABLE INCOME			
3. PERCENTAGE SHARE OF INCOME (Line 2, Each Parent's Weekly Available Income divided by Combined Weekly Available Income)	%	%	
4. BASIC CHILD SUPPORT OBLIGATION (Apply Line 2 to Child Support Schedule)			
A. Plus Work-Related Child Care Costs			+
B. Plus Extraordinary Healthcare Expenses (Uninsured only)			+
C. Plus Extraordinary Education Expense (Agreed or ordered by Court)			+
5. TOTAL CHILD SUPPORT OBLIGATION (Add Line 4, plus 4 A, B, and C)			
6. EACH PARENT'S CHILD SUPPORT OBLIGATION (Multiply Line 3 times Line 5 for each parent) (State exceptions and attach supporting documents to reverse of page)			
7. ENTER RECOMMENDED CHILD SUPPORT ORDER			
Comments, calculations, or rebuttals to schedule:			
PREPARED BY:		DATE:	

