

Child Support Guidelines

Presented By:

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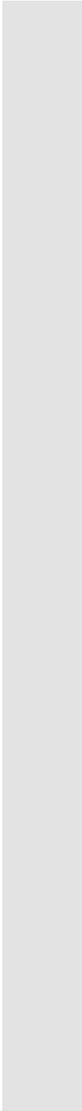
Kansas Child Support Guidelines

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Basic Information

Things to know about the committee

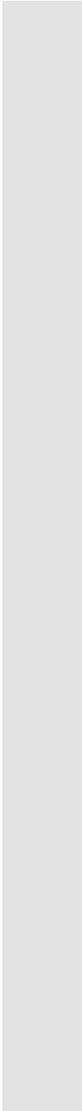
- Established in 1989
- Comprised of 13 members: judges, attorneys, DCF, parents
- Meets for 12-18 months every four years to review the guidelines
- Authority: 45 CFR §302.56 and K.S.A. 20-165
- The committee submits a report to the Supreme Court in which it makes recommendations regarding the guidelines
- The Supreme Court reviews the report and decides whether to adopt the committee's recommendations

Things to remember when entering a child support order.

- KSA 23-3002(a) “In determining the amount to be paid for child support, **the court shall follow the Kansas child support guidelines adopted by the supreme court...**”
- KSA 23-3002(b) “any person who files a motion requesting a child support order or modification order shall include in such filing a completed domestic relations affidavit and proposed child support worksheet.”
- Supreme Court Rule 139: if child support is at issue, a child support worksheet must be filed with the domestic relations affidavit
- The right to child support belongs to the child. Parents cannot reduced or terminate support by agreement. [*In re Marriage of Schoby*, 269 Kan. 114, Syl. ¶ 1, 4 P.3d 604 \(2000\).](#)
- If the court deviates from the recommended amounts in the guidelines, the court must determine that the deviation is in the best interests of the children. [*In re Marriage of Aubuchon*, 22 Kan.App.2d 181, 182, 913 P.2d 221 \(1996\).](#)

Things to remember when entering a child support order.

- A worksheet must accompany every child support order
- The worksheet is necessary to confirm the amount in the journal entry and establish a baseline for future change in circumstances
- Any order that deviates from the child support guidelines must have a finding that such deviation is in the best interest of the child.
- Shared residency does not automatically result in a \$0 child support order.
- If the parties are sharing residency and not using the equal parenting time formula, a shared expense plan must be ordered.



Changes to the Kansas Child Support Guidelines

Overview of changes

- Updates to the child support schedules
- Updates to all tax rates
- References to “obligor” and “obligee” changed to “payor” and “payee”
- Added form for Agreed Shared Parenting Plan
- New criteria for imputing income
- New criteria for calculating a non-custodial parent’s ability to pay
- All appendices, with the exception of the child support schedules and blank forms, moved to the Kansas Judicial Branch website

Income Tax

- The Tax Cuts and Job Act Reform of 2017 lowered the value of the personal exemption to \$0 until 2025. (Income Tax Considerations, Appendix V)
- Section II.E.2: added language stating the qualified business income (QBI) deduction is not a reasonable business expense for purposes of child support
- Section IV.C.3: Spousal Maintenance
 - For orders entered before 12/31/18, spousal maintenance paid is deducted to the extent paid; spousal maintenance received is added to the extent paid
 - The Tax Cuts and Job Act Reform made changes to how spousal maintenance is treated. For orders entered after 12/31/18, spousal maintenance income for child support purposes may be calculated using the federal and state marginal tax rate or using the average tax rate of 25%

Child Support Schedules

- Kansas uses the the income shares model to calculate child support. This model
 - uses national consumer expenditures survey, national level data, and estimates based on household size;
 - looks at before and after tax information; and
 - uses the lower of consumption amount vs. after tax.
- To calculate the schedules, the economist estimates the spending for one child aged 12-18 as a function of the gross monthly income in families with one, two, and three children. The three-child per capita results are then extended to larger families.
- To calculate the schedules for children in the 0-5 and 6-11 age brackets, the economist estimates a percentage of the expenditures for the older children. The current guidelines use 80% of the oldest age expenditure for children age 0-5 and 92% for children 6-11. The proposed schedules increase to 84% and 94%.
- The change will result in larger increases for the two younger age groups at lower income levels and, at the same time, smaller reductions for middle to high income ranges.

Ability to Earn Income II.F.

- The court must now take certain factors, to the extent known, into consideration before imputing income.
- Such factors include:
 - the non-custodial and the custodial parent's assets,
 - residence,
 - employment and earnings history,
 - job skills,
 - educational attainment,
 - literacy,
 - age,
 - health,
 - criminal record and other employment barriers,
 - and record of seeking work, as well as the local job market, the availability of employers willing to hire the parent,
 - prevailing earnings level in the local community, and
 - other relevant background factors in the case.
- The court must make written findings in support of imputing income.
- The court may impute minimum wage after all factors are considered.

Incarcerated Parents

II.F.1.a

II.F.1.f

V.B.5

- Incarceration considered by itself, may not be treated as voluntary unemployment for purposes of establishing a new order of support, preventing someone from filing a motion to modify a child support order or denying a motion to modify.
- However, circumstances surrounding the incarceration of the obligor may be considered with all other factors and circumstances related to the payor's ability to pay support.

Ability to Pay Calculation

- The court must now take into consideration the basis subsistence needs of the noncustodial, and at the court's discretion, the custodial parent.
- The court must compare the federal poverty guidelines for a household of one with the noncustodial parent's gross income. The difference between these amounts is the income available for support.
- After completing the child support worksheet, if the income available for support is greater than the child support amount, the lesser of the two amounts becomes the child support obligation.
- If the income available for support is less than the child support amount, the court "shall set a child support obligation based on the best interest of the child."

Ability to Pay Calculation: Example 1

- Noncustodial Parent's Gross Income = \$2500
- Federal Poverty Guidelines for a household of one = \$1050
- Income available for support: \$1450
- Child support as calculated on the child support worksheet: \$500
- Child support obligation: \$500

Ability to Pay Calculation: Example 2

- Noncustodial Parent's Gross Income = \$751
- Federal Poverty Guidelines for a household of one = \$1050
- Income available for support: -\$299
- Child support as calculated on the child support worksheet: \$150
- Child support obligation: the court shall set an amount that is in the best interest of the child

II.I. Effect of Social Security Disability Insurance (SSDI) Benefits or Retirement Benefits

- Adds language to the guidelines consistent with the holding in *Andler v. Andler*, 217 Kan. 538 (1975): when a payor who has been ordered to make child support payments becomes totally and permanently disabled, and Social Security payments for the benefit of the minor children are paid to the payee, the payor is entitled to credit up to the extent of his obligation for monthly payments of child support, but not exceeding it.
- Adds language consistent with the holding in *In the Matter of the Marriage of Hohmann*, 47 Kan.App. 2d 117 (2012): the lump-sum social security disability benefits received by mother on behalf of her minor children because of father's disability were to be credited towards father's child support arrearage that accumulated during the months covered by the lump-sum payments. Any excess benefit goes to the child as a gift and is not credited for arrears that accrued prior to the disability award date (in line with how *Andler* treats current support and dependent benefits).

Equal Parenting Time III.B.7

- Removed all references to “nearly equal time”—this caused confusion amongst practitioners and judges
- Added language to clarify who shall pay direct expenses: If the equal parenting time formula is utilized, the parent receiving the equal parenting time child support amount shall be responsible for the payment of the reasonable direct expenses listed in Section II.A.1.
- Increased the Parenting Time Formula Adjustment from 5%, 10%, and 15% to 10%, 20%, and 30% in an attempt to minimize the “cliff”

Interstate Pay Differential

III.B.9

- Currently, the guidelines use an income based adjustment
- Economist recommended the committee adopt a cost of living based adjustment using data from the Bureau of Economic Analysis which uses regional price parities
- The income based adjustment could depend on industry or the education levels in a state (noisy indicators)
- Cost of living is a more accurate measure using a better data source

Unreimbursed Medical Expenses

IV.D.4.b

- The “bag of receipts” scenario: a party seeks reimbursement of medical expenses months, or sometimes years, after the expense was incurred.
- The guidelines were amended to:
 - Require a party seeking reimbursement to do so within 30 days of receiving the billing statement. The request must include proof of expenditure, proof of payment, proof of submission to the insurance company, and proof of insurance payment or exclusions.
 - Allow the court to deny a request for reimbursement if these steps are not followed.
 - Require a party receiving the request for reimbursement to pay within 30 days
 - Allow the court to impose sanctions, which could include assessing 100% of the uninsured balance and/or attorney’s fees, if the party fails to pay

Long Distance Parenting Time Costs IV.E.1

- Clarification on calculating these costs
- Revised language:
 - If the parties are equally sharing the transportation of the child for long-distance parenting time, this adjustment should not be used. In making the calculation, the court should divide the total amount by 2 so that the noncustodial parent is only given a credit for the other parent's portion of the costs. The court is not required to use federal mileage cost in the calculation. The court may consider the circumstances that created the long-distance situation. The amount allowed should be prorated to an annualized monthly amount.

Child Support Adjustments

- The net child support obligations is a rebuttable presumption of a reasonable child support order.
- If the court finds that it is in the best interest of the child to make an adjustment, the court may make the following adjustments:
 - Long Distance Parenting Time
 - Parenting Time
 - Income Tax Adjustment
 - Special Needs
 - Support of Children Past Majority
 - Overall Financial Condition
- Child support adjustments apply only when requested by a party. All requested adjustments are discretionary with the court.
- The party requesting the adjustment is responsible for proving the basis for the adjustment and has the burden of proof to show that an adjustment should apply.
- The court determines if a requested adjustment should be granted based upon the best interests of the child.
- New Language:
 - The request for the adjustment must be made in writing by the requesting party prior to the hearing.
 - The Court must make written findings regarding deviations to the child support guideline amount and include a justification of why the deviation is in the best interest of the child.

Short Form Domestic Relations Affidavit (DRA) Appendix III

- Form was expanded to include information necessary to calculate support and to assist the court in making findings regarding income.
- Previously, the Short Form DRA is used for post-decree motions to modify child support.
- Now, this form can be used for paternity actions, child support actions, and post-judgment motions to establish or modify child support.

Appendices and Examples

- The Court adopted the committee's recommendation to remove several of the appendices and post that information separately on the website.
- Items included in the guidelines:
 - Child Support Schedules
 - Child Support Worksheet
 - Domestic Relations Affidavit
 - Short-Form Domestic Relations Affidavit
 - Agreed Shared Expense Plan
- Items to be posted separately
 - Sample child support worksheets
 - Sample equal parenting time worksheets
 - Calculation examples (interstate pay differential, income tax consideration)
 - Tax rates

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Kansas Child Support Guidelines

Kansas Child Support Guidelines are rules judges and hearing officers follow to decide how much child support each parent is to pay toward raising their children. At the most basic level, they guide parents to create a fair and balanced distribution of resources essential to raising children: time and money.

Federal law requires every state's child support guidelines be reviewed every four years, and it takes about two years to conduct the review. The [Kansas Child Support Guidelines Advisory Committee](#) oversees this work.

Updated guidelines take effect January 1, 2020

Kansas Child Support Guidelines that take effect January 1, 2020, were adopted through Supreme Court Administrative Order 307. The new guidelines do not impact existing child support orders based on guidelines that took effect September 1, 2016, or earlier. Child support orders change only when a judge issues a new order. Until a judge issues a new order, existing orders remain in effect.

[Kansas Child Support Guidelines that take effect January 1, 2020 \(without markup\)](#)



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