

**Iowa Supreme Court  
Committee to Review Child Support Guidelines  
Final Report\*  
May 2004**

**A. Introduction**

Pursuant to the Federal Family Support Act of 1988, each state must maintain uniform child support guidelines and criteria, and review the guidelines and criteria at least once every four years. In Iowa, the Iowa General Assembly has entrusted the Iowa Supreme Court with this enormous responsibility (see Iowa Code section 598.21(4)).

In October 2003, the court established this committee, composed of judges and attorneys with expertise in the field of family law, to assist with the latest scheduled review of Iowa's child support guidelines. The committee included:

Court of Appeals Judge Anuradha Vaitheswaran, co-chair,  
Court of Appeals Judge Larry Eisenhauer, co-chair,  
Attorney Eric Borseth,  
Attorney Diane Dentlinger,  
Assistant Attorney General Patricia Hemphill,  
Attorney Deborah Hughes,  
Assistant Attorney General Kevin Kaufman,  
Attorney Steven Lytle,  
Attorney Evelyn Ocheltree,  
District Court Judge Eliza Ovrom, and  
Senior Judge Richard Vipond.

Mary Loven, CSRU Management Analyst, and Rebecca Colton, Assistant to the Chief Justice, served as staff. Policy Studies Inc., Denver, Colorado, served as technical consultant for the review.

When conducting this review, federal regulations require the consideration of economic data on the cost of raising children, as well as analysis of data concerning application of, and deviation from, the guidelines. In addition, Iowa Code section 598.21(4) requires that the guidelines review "emphasize the ability of a court to apply the guidelines in a just and appropriate manner based upon the individual facts of a judgment or case; and in determining monthly child support payments, consider other children for whom either parent is legally responsible for support and other child support obligations actually paid by either party

pursuant to a court or administrative order.” The committee fulfilled these requirements, and more.

Over the course of four months, we reviewed information about the number of deviations from the Iowa guidelines, studied current economic measures and health insurance data, and compared Iowa’s guidelines to the latest child-rearing measures and to the guidelines of other states. We also considered perceived strengths and weaknesses of the current guidelines, and carefully evaluated a number of proposals for improvement.

We received substantial assistance from economist Jane Venohr, with Policy Studies Inc. (PSI), Denver, Colorado. PSI, nationally recognized for its expertise on child support guidelines, has assisted many states, including Iowa, with guideline reviews. Ms. Venohr was involved in Iowa’s 2000 guidelines review. We are grateful to Ms. Venohr for her knowledge, hard work, and abundance of patience. She is an invaluable resource.

We are pleased to submit to the court the following report outlining our study, describing our findings, and presenting our recommendations for strengthening Iowa’s child support guidelines.

## **B. History of Iowa’s Child Support Guidelines**

We began our study by reviewing the history of Iowa’s child support guidelines, a useful exercise that gave us a clear understanding of the values guiding the formation and development of Iowa’s guidelines.

Iowa’s use of child support guidelines began with the courts in the early 1980s. From the beginning, the Iowa Supreme Court has implicitly recognized two fundamental principles: (1) the duty of both parents to provide adequate support for their children in proportion to their respective incomes, and (2) this shared obligation should be tied to the cost of raising a child. These principles serve as the foundation of Iowa’s guidelines. Guided by these principles, the court has adapted and refined the guidelines over time to address the increasingly complex economic and societal issues facing families.

In 1984, the Iowa Supreme Court, upon the recommendation of the Judicial Council, adopted guidelines for temporary support. In adopting the first guidelines the court hoped to promote uniformity in temporary support orders, advance judicial economy, and reduce the cost of litigation. The early guidelines were simple tables that factored in both parents’ net incomes and the number of minor children involved.

In 1987, the court adopted new temporary guidelines on the advice of the Judicial Council. They were arranged in simple charts depending on the number of children involved, using the net monthly income of both parents ranging from \$0 to \$1001 in increments of \$100. The charts included a percentage that, when multiplied against the non-custodial parent's net monthly income, would determine the monthly child support obligation. These guidelines set the standard for future guidelines.

In 1988, soon after Congress passed the Federal Family Support Act, members of the Iowa General Assembly approached the Supreme Court about assuming the responsibility of promulgating permanent guidelines for Iowa. The legislators favored the court's involvement because the process of adopting court rules is much easier and less politically charged than the process for approving administrative rules and statutes. The court agreed to take on the duty, and the General Assembly codified the court's new responsibility.

In 1989, the court adopted the guidelines previously used for setting temporary support as Iowa's first permanent uniform guidelines. Since this initial action, the court has reviewed and revised the guidelines three times—in 1990, 1995, and 2000.

In 1990, after months of study and an opportunity for public comment, the court approved a more complex set of permanent guidelines. The 1990 guidelines included several more items as deductions for determining net income, addressed the issue of medical support, and revised the charts to include new percentages and special instructions for cases involving parents in low income (\$500/month and under) and high income (\$3000/month and above) brackets.

The court revised the guidelines again in 1995, after receiving recommendations from its advisory committee. The 1995 amendments included: extending the schedule to cover net income up to \$6000/month, adjusting the schedules for persons with income under \$500/month, adopting a fixed deduction as a multi-family adjustment (QADD), and adopting a uniform support computation form.

Major innovations to the guidelines followed the 2000 review. Based upon the recommendations of its advisory committee the court amended the guidelines to include a credit for noncustodial parents for extraordinary amounts of visitation, allowed parties to deduct the total health insurance premium costs paid by each parent when the child is covered by the plan and a limited amount of unreimbursed medical expenses for purposes of calculating net income, and added a provision

outlining the respective obligations of both parents with regard to medical expenses not covered by insurance.

### **C. Fact Finding**

After taking time to reflect on the past, we turned our attention to the present—we examined the guidelines within the context of today's realities. Our fact finding covered a broad scope of information, including child support guidelines used by other states, economic data on child-rearing costs and health insurance premium costs, and deviations from the guidelines.

The committee learned about a number of measures of child-rearing costs, including Espenshade, USDA, Rothbarth, Betson, and Engel, and summarized each. According to Ms. Venohr, the USDA and Engel methods tend to overstate child-rearing expenses, while Rothbarth is slightly low. Betson is considered to be the most accurate measurement. Twenty-one states, including Iowa, use the Betson-Rothbarth method as the basis for their guidelines.

Ms. Venohr indicated that Iowa's present child support guidelines track very closely with the Betson-Rothbarth child-rearing expenditures and, therefore, need not be adjusted with one exception—when the custodial parent has no income, the schedule for families with three or more children is too high relative to both the order amounts from other states and the current measures of child-rearing costs.

Although Iowa's guidelines are considered to be an income shares model, the format is unique. For instance, Iowa uses percentages of the non-custodial parent's net income in its schedule, while most income shares states use dollar amounts that are apportioned between both parents. Also, Iowa does not use marginal proportions between income brackets, which results in "notches" in the Iowa guidelines. Ms. Venohr strongly recommended Iowa adopt a pure income shares model. Switching to a pure income shares model would eliminate the notch effect and provide other advantages.

Ms. Venohr distributed charts illustrating how Iowa's guidelines, applied in different scenarios, compare to guidelines of bordering states, including Illinois, Minnesota, Missouri, Nebraska, and Wisconsin. Although Iowa's guidelines are near the high end of the group of states, they are right in line with the 2003 income shares prototype model and current child-rearing costs, with the exception noted above.

The committee reviewed the latest case data concerning the number of, and reasons for, child support orders that deviate from the guidelines. The data, generated by the Child Support Recovery Unit (CSRU), indicate that in Iowa, deviations from the guidelines are rare. The data was based on IV-D cases (cases enforced by CSRU).

#### **D. Public Outreach**

In addition to gathering empirical data, the committee sought the views of other Iowans. Because restrictions of time and money did not allow for any scientific surveys, the committee relied on a public outreach process to assess the strengths and weaknesses of the current guidelines.

As in the previous guideline reviews, the committee received public comment through the Child Support Advisory Committee established pursuant to Iowa Code section 252B.18. In February 2003, this committee sponsored public meetings in three locations—Fort Dodge, Tipton, and Des Moines—to gather public comment. The committee also received and accepted written comment. In July 2003, the committee submitted a summary of the public comment, along with its recommendations, to the State Court Administrator who later provided the information to our committee.

In addition, one of our committee members, District Court Judge Ovrom, surveyed Iowa's district court judges about their views of the extraordinary visitation credit. Nineteen judges responded. For the most part, the judges' collective view of the credit was neutral.

We also received comment from members of the Iowa State Bar Association. Committee members communicated with members of the Family Law section of the Bar Association and relayed the information to our committee.

#### **E. Identifying Issues for Improvements**

Aided by information gathered from these outreach efforts, we assessed the strengths and weaknesses of the current guidelines and identified the following issues to study in addition to the mandatory aspects of our review:

- Tax filing status for calculating net income.
- Adjustments for recipients of SSI.
- Extraordinary visitation.
- Shared physical care.

- QADD.
- Health insurance premium costs.
- Expansion of top income brackets.
- Custodial parents with high income when non-custodial parent has low income.

Our committee discussed the provision for allocating uncovered medical expenses adopted in 2000. There was a consensus among committee members that this provision has been highly effective in equitably allocating expenses and reducing conflicts between parents. For these reasons, we did not review the issue beyond this initial discussion or recommend any changes to the rule.

At least three conclusions emerged from our review of the guidelines. First, we confirmed that Iowa's guidelines generally provide for a just and appropriate level of support based upon the individual facts of each case. Second, the exercise reminded us that it would be virtually impossible to design child support guidelines perfectly suited to address the unique circumstances of every family. And finally, we concluded that while Iowa's guidelines are for the most part in line with current child-rearing costs, they can be improved somewhat.

The recommendations that follow are our strategies for improvement. We believe that, if adopted, these proposals will clarify certain provisions, enhance others, and further promote the best interests of children and families in Iowa.

## **F. Recommendations for Improvements**

### **1. Calculating Net Income**

There appears to be widespread confusion over tax filing status. Judges and lawyers suggest the guidelines specify the appropriate filing statuses to be used when calculating the federal and state tax deductions for purposes of the guidelines.

During its discussion of this issue, the committee explored a number of related issues including situations when a married parent's new spouse has no income, the earned income credit, standard vs. itemized deductions, exemptions for dependents, the alternate method of computing taxes followed by CSRU pursuant to Iowa Code section 252B.7A, and cases in which actual taxes paid by a party differ substantially from the amount of the deduction allowed by the guidelines.

With regard to the earned income credit, the committee decided the credit should not be considered as income. Many states do not include the credit as income because it is considered a form of public assistance and is “means-tested.”

After giving careful consideration to a wide range of tax-related issues, and analyzing the impact various proposals would have on the calculation of support, the committee approved a number of proposals concerning the calculation of net income. Committee members agreed that these recommendations would apply only for the purposes of calculating child support and would have no bearing on matters outside the guidelines.

***Recommendation:*** *We recommend for purposes of computing the taxes to be deducted from a parent’s gross income, the court adopt the following uniform rules:*

- *An unmarried parent shall be assigned either single or head of household filing status. Head of household filing status shall be assigned if a parent is the custodial parent of one or more of the mutual children of the parents.*
- *A married parent shall be assigned married filing separate status.*
- *The standard deduction applicable to the parent’s filing status as determined above shall be used.*
- *Each parent shall be assigned one personal exemption for the parent. The custodial parent shall be assigned one additional dependent exemption for each mutual child of the parents, unless a parent provides information that the noncustodial parent has been allocated the dependent exemption for such child.*
- *If the amount of federal and/or state income tax actually being paid by the parent differs substantially from the amount(s) determined by the guideline method of computing taxes, the court may consider whether the difference is sufficient reason to adjust the child support under the criteria in Rule 9.11. This rule does not preclude alternate methods of computation by the Child Support Recovery Unit as authorized by Iowa Code section 252B.7A.*

*In addition, the committee recommends that gross monthly income not include the earned income tax credit.*

## **2. Extraordinary Visitation Credits**

Committee members raised concerns about the extraordinary visitation credit. Some members believe the credits are too high and result in parties using the credit as leverage for obtaining lower support

obligations or as a reason for resisting increased visitation time because of the resultant decrease in child support. However, some committee members saw the credits as serving valid purposes—promoting more visitation and recognizing the contributions of noncustodial parents. After careful consideration of these issues, the committee agreed to preserve the credits but reduce the amounts in order to reduce its value as a bargaining chip. The committee studied different scenarios applying the credit at different rates. In addition, the committee considered, but decided against, a proposal to lower the threshold for credit from 127 days to 120.

***Recommendation:*** *We recommend the court reduce the amounts of the extraordinary visitation credit from 25%, 30%, and 35%, to 15%, 20%, and 25%.*

### **3. Shared Physical Care or Split Care for Multiple Children**

In 2001, at the request of the Supreme Court, the 2000 advisory committee reconvened to discuss the impact of the extraordinary visitation credit on shared physical care arrangements. The committee recommended that the 2004 review committee consider the method of calculating support in shared physical care arrangements.

The current guidelines do not address how to calculate support for shared physical care arrangements in which a child lives with each parent 50% of the year. Many lawyers and judges use a method referred to as an “offset” for purposes of determining the appropriate support in these cases. The offset method involves calculating the support obligation of each parent as if each was the noncustodial parent. The parent with the higher support obligation pays the other parent the difference between the two amounts. The offset is intended to cover each parent’s obligation for providing routine expenses such as housing, food, and transportation. The offset method is the subject of case law.

Ms. Venohr reviewed the methods other states use for support in shared-parenting arrangements: the cross-credit approach (21 states), the Indiana approach or variations (5 states), and other formulas. In most methods, the support amount includes basic expenses such as food and housing, and parents work out other expenses such as music lessons and child care costs. Most states set a threshold amount of time that a child spends with a parent for triggering the shared parenting formula. Typically, most states use 20% to 35% shared time as the threshold because this is the amount of time at which the custodial parent’s costs are significantly reduced.

Most committee members favored the offset method commonly used in Iowa. They believe it is the most equitable method for determining support in shared care cases. However, a few members questioned whether the subject needed to be included in the guidelines given the existence of case law. Shared physical care is growing in popularity and becoming more common. Providing a specific rule for support in these situations would eliminate uncertainty and promote uniformity in orders.

The committee discussed whether or not an amendment to the guidelines adopting the offset method should also include specific instructions about allocating expenses. Committee members familiar with shared physical care arrangements indicated that parents who are open to these arrangements are generally those who work well with each other on matters affecting their children. With this in mind, the committee agreed not to address allocation of expenses in the proposed rule, but to let parties work out the details themselves.

***Recommendation:*** *We recommend the court amend the guidelines to clarify the Extraordinary Visitation Credit is not applicable when the court orders equally shared physical care for a child. We also recommend the court amend the guidelines to include specific direction about using the offset method for calculating support in court-ordered shared physical care arrangements in which the parents equally share physical care of a child. We further recommend a similar provision when there is more than one child and the court orders split or divided physical care.*

#### **4. Health Insurance Premiums**

No topic consumed the committee's time and energy more than the topic of health insurance premium costs. The committee conducted an extensive study of this complicated issue.

Currently, for purposes of calculating net monthly income, the child support guidelines allow both parents to deduct the total cost of health insurance paid by the parent if the child is covered by the plan, actual medical support paid pursuant to court or administrative order, and up to \$25 per month for the parent's unreimbursed medical expenses. In addition, current Iowa law allows the court to consider the premium cost of a health insurance plan as a reason for varying from the child support guidelines (Iowa Code section 598.21(4)(a)). Although these provisions have worked well, they may not provide sufficient adjustments for skyrocketing health insurance premiums. For this reason, the committee closely examined health insurance costs and their impact on support.

The committee asked PSI to provide detailed information about health insurance premium costs and methods used by other states for allocating these costs, and to analyze a variety of options for addressing premium costs, including examples of their application within a range of income levels.

In addition, Ms. Venohr provided abundant information on health care costs, including information about children's insurance status in Iowa and nationally, the average annual cost of family coverage for employment-based health insurance plans, and the treatment of health insurance costs in other income shares states. The Consumer Expenditure Survey includes the average amounts of all out-of-pocket expenses, and does not separate medical expenses. Average health care costs in the 1991-1993 survey ranged from \$1,000-\$1900 a year. However, health care costs have increased substantially in recent years. According to the Kaiser Family Foundation, average monthly health insurance costs in the Midwest region are \$155 for family coverage, and \$38 for single coverage.

Most states that use the income shares model for child support guidelines include the cost of ordinary medical expenses in their support schedule. In addition, these states also pro rate the cost of insurance premiums and extraordinary medical expenses between parents. Most income shares states do not deduct medical expenses or health insurance premium costs from income as Iowa does.

Most states use the actual cost of covering a child under a health care plan. If this information is not available, these states pro rate the premium by the total number of people covered by the policy. Alabama includes the difference between the cost of a single policy and the cost of a family policy, but is considering changing to the pro rating method used by most states. Nebraska treats health insurance costs as a separate consideration distinct from support. Pennsylvania includes the actual cost of covering the parent and the child if this information is available and if it is not, Pennsylvania pro rates the cost among the total number of people covered by the plan.

According to PSI, the upper brackets of Iowa's current schedule (\$3000 to \$6000/net income per month) include the average cost of all routine medical expenses because these brackets, which were developed by PSI, were derived from the Betson-Rothbarth measurements of child rearing costs. PSI does not have information about the \$801-2000 portion of Iowa's schedule, which appears to be based upon a number of sources.

The committee considered a number of different options for treating health insurance premium costs, including treating the cost as an uncovered medical expense with and without a cap on the expenses with no deduction of the cost from income. Other options included pro rating the cost of the child's share of insurance above one percent of combined income, or deducting the entire premium cost from income and pro rating the child's share between the parents. The committee reviewed numerous examples of the impact of each option on each parent at different income levels.

The committee carefully evaluated each option according to the following goals: (1) an outcome that is fair to both parties, (2) simple to apply, and (3) in line with economic values. The committee reviewed numerous examples of the impact of each option on each parent at different income levels. After an exhaustive analysis, the committee found no compelling solution to the issue because no option provided an equitable solution in all of the scenarios. The committee believes that this problem is related to Iowa's variant form of the income shares model. Consequently, the committee does not recommend any changes with respect to health insurance premiums at present, but suggests an interim study committee to consider whether adoption of a pure income shares model would better address health insurance.

***No Recommendation.***

**5. Extending Top Income Brackets of Schedule**

The top income levels of the schedule, from \$3000 to \$6000, were added in 1995. The committee agreed it was time for another extension so that the schedules track rising incomes. The committee directed PSI to develop a proposal extending the top brackets from \$6000 to \$10,000 in increments of \$1000, with support amounts in line with the current schedule and child-rearing costs, which include a factor for routine medical costs.

***Recommendation:*** *For the reasons stated above, we recommend the court extend the guideline schedules from \$6000 to \$10,000 according to the percentages devised by PSI at the committee's direction. The committee further recommends inclusion of a double asterisk consistent with the current footnote for income in excess of the maximums on the schedule, and replacing certain percentages with an asterisk designated for minimum amount orders in the low income end of the schedule.*

## **6. Adjustments for Recipients of SSI**

Federal law prohibits attachments of Supplemental Security Income (SSI) payments received pursuant to 42 U.S.C. section 1381a. SSI is a federal welfare payment to provide a subsistence allowance for needy aged, blind or disabled individuals. Unlike other benefits, SSI benefits are not intended to support the recipient's dependents. A majority of courts have held that federal law preempts state law from treating SSI as income available for child support calculations or upon which support can be based. Therefore, the child support recovery unit (CSRU) does not ask the court to order child support when a noncustodial parent's only income is SSI. For these reasons, the committee suggests amending the Iowa guidelines to make an exception from the minimum support requirement for noncustodial parents whose sole income is derived from SSI.

**Recommendation:** *We recommend the court add the following statement to the footnotes in the guideline schedules: "However, the appropriate figure is zero if the non-custodial parent's only income is from Supplemental Security Income (SSI) paid pursuant to 42 U.S.C. section 1381."*

## **7. QADD**

Some committee members wanted to revisit the QADD provision with the possibility of raising the amounts of the deductions. However, the committee decided against recommending any change to the QADD as it may be unnecessary in light of the recommendation to change the method for calculating the deductions for taxes.

**No Recommendation.**

## **8. Custodial Parent Income**

An anomaly in the guidelines results in disparities in application of the guidelines when custodial parents earn much more than noncustodial parents. This inequity would be addressed if Iowa adopted the pure income shares model as recommended by PSI. The committee agreed that this issue should either be studied during the 2008 review or by an interim committee.

**No Recommendation.**

## **9. Interim Study of Pure Income Shares Model**

One idea resurfaced time and time again during the committee's discussions—replacing Iowa's present guidelines with a pure income shares model. A pure income shares model has many advantages. It is easy to understand and apply. It would help address the problem of sharing rising medical expenses and health insurance costs. A pure

income shares model would eliminate the “notch effect” in Iowa’s current guidelines. And it would reduce the inequities discussed above with regard to custodial parents who earn more than noncustodial parents.

***Recommendation:*** *We urge the court to establish an interim committee to study whether Iowa should adopt a pure income shares model.*

*(See an example of a [model](#) developed by PSI).*

## **10. Worksheets**

***Recommendation:*** *We recommend adjustments to the worksheets consistent with our other recommendations.*

*\* This copy of the report has been slightly modified for the purpose of posting it on the Web.*