ARKANSAS JUDICIARY
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Order 10. Child Support Guidelines

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Section I. **Authority and scope.**

Pursuant to Act 948 of 1989, as amended, codified at Ark. Code Ann. § 9-12-312(a) and the Family Support Act of 1988, Pub. L. No. 100-485 (1988), the Court adopts and publishes Administrative Order Number 10 ? Child Support Guidelines. This Administrative Order includes and incorporates by reference the attached weekly, biweekly, semimonthly, and monthly family support charts and the attached Affidavit of Financial Means (see below for charts and affidavit).

It is a rebuttable presumption that the amount of child support calculated pursuant to the most recent revision of the Family Support Chart is the amount of child support to be awarded in any judicial proceeding for divorce, separation, paternity, or child support. The court may grant less or more support if the evidence shows that the needs of the dependents require a different level of support.

All orders granting or modifying child support (including agreed orders) shall contain the court's determination of the payor's income, recite the amount of support required under the guidelines, and recite whether the court deviated from the Family Support Chart. If the order varies from the guidelines, it shall include a justification of why the order varies as may be permitted under Section V hereinafter. It shall be sufficient in a particular case to rebut the presumption that the amount of child support calculated pursuant to the Family Support Chart is correct, if the court enters in the case a specific written finding within the Order that the amount so calculated, after consideration of all relevant factors, including the best interests of the child, is unjust or inappropriate.

Section II. **Definition of income.**

(a) Income means any form of payment, periodic or otherwise, due to an individual, regardless of source, including wages, salaries, commissions, bonuses, workers' compensation, disability, payments pursuant to a pension or retirement program, and interest less proper deductions for:

1. Federal and state income tax;
2. Withholding for Social Security (FICA), Medicare, and railroad retirement;
3. Medical insurance paid for dependent children; and
4. Presently paid support for other dependents by court order, regardless of the date of entry of the order or orders.

Cases reflect that the definition of ?income? is ?intentionally broad and designed to encompass the widest range of sources consistent with this State?s policy to interpret ?income? broadly for the benefit of the child.? *Evans v. Tillery*, 361 Ark. 63, 204 S.W.3d 547(2005); *Ford v. Ford*, 347 Ark. 485, 65 S.W.3d 432 (2002); *McWhorter v. McWhorter*, 346 Ark. 475, 58 S.W.3d 840 (2001); and *Davis v. Office of Child Support Enforcement*

, 341 Ark. 349, 20 S.W.3d 273 (2000).

(b) In order to further this State's policy to interpret "income" broadly for the benefit of the child, a support order may include as its basis a percentage of a bonus to be received in the future. This child-support obligation shall terminate when the underlying child-support obligation terminates. When a payor's income includes a bonus amount, use the following percentages of the payor's net bonus to set and establish the amount of support:

One dependent: 15%
Two dependents: 21%
Three dependents: 25%
Four dependents: 28%
Five dependents: 30%
Six dependents: 32%

The child-support attributable to a bonus amount shall be in addition to the periodic child-support obligation. Defining income to include a percentage of a bonus changes Arkansas case law. The effect is specifically to overrule the result reached in *Kelly v. Kelly*, 341 Ark. 596, 19 S.W.3d 1 (2000).

Section III. **Calculation of support.**

a. *Basic Considerations*. The most recent revision of the family support charts is based on the weekly, biweekly, semimonthly and monthly income of the payor parent as defined in Section II.

For purposes of computing child support payments, a month consists of 4.334 weeks. Biweekly means a payor is paid once every two weeks or 26 times during a calendar year. Semimonthly means a payor is paid twice a month or 24 times during a calendar year.

Use the lower figure on the chart for income to determine support. Do not interpolate (i.e., use the $200.00 amount for all income pay between $200.00 and $210.00 per week.)

The amount paid to the Clerk of the Court or to the Arkansas Clearinghouse for administrative costs pursuant to Ark. Code Ann. § 9-12-312(e)(1)(A), § 9-10-109(b)(1)(A), and § 9-14-804(b) is not to be included as support.

b. *Income Which Exceeds Chart*. When the payor's income exceeds that shown on the chart, use the following percentages of the payor's weekly, biweekly, semimonthly or monthly income as defined in SECTION II to set and establish a sum certain dollar amount of support:

One dependent: 15%
Two dependents: 21%
Three dependents: 25%
Four dependents: 28%
Five dependents: 30%
Six dependents: 32%

To compute child support when income exceeds the chart, add together the maximum weekly, biweekly, semimonthly, or monthly chart amount, and the percentage of the dollar amount that exceeds that figure,

using the percentage above based upon the number of dependents. *Example:* The maximum on the weekly chart is $1,000 a week. If a payor?s net weekly income is $1,200 and support will be computed for one child?add $149 (the chart amount of support for one child when payor?s net weekly income is $1,000) and $30 (15% of $200, the amount exceeding the maximum chart amount), for total child support of $179. *Hill v. Kelly*, 368 Ark.200, 243 S.W.3d 886 (2006) (case decided before the Administrative Order was amended to include this computation and example).

c. *Nonsalaried Payors*. For Social Security Disability recipients, the court should consider the amount of any separate awards made to the disability recipient's spouse and children on account of the payor's disability. SSI benefits shall not be considered as income.

For Veteran's Administration disability recipients, Workers' Compensation disability recipients, and Unemployment Compensation recipients, the court shall consider those benefits as income.

For military personnel, see the latest military pay allocation chart and benefits. Basic Allowance for Housing (BAH) and Basic Allowance for Subsistence (BAS) should be added to other income to reach total income. Military personnel are entitled to draw BAH at a "with dependents" rate if they are providing support pursuant to a court order. However, there may be circumstances in which the payor is unable to draw BAH or may draw BAH only at the "without dependents" rate. Use the BAH for which the payor is actually eligible. In some areas, military personnel receive a variable allowance. It may not be appropriate to include this allowance in calculation of income since it is awarded to offset living expenses which exceed those normally incurred.

For commission workers, support shall be calculated based on minimum draw plus additional commissions.

For self-employed payors, support shall be calculated based on the last two years' federal and state income tax returns and the quarterly estimates for the current year. A self-employed payor's income should include contributions made to retirement plans, alimony paid, and self-employed health insurance paid; this figure appears on line 22 of the current federal income tax form. Depreciation should be allowed as a deduction only to the extent that it reflects actual decrease in value of an asset. Also, the court shall consider the amount the payor is capable of earning or a net worth approach based on property, life-style, etc. For ?clarification of the procedure for determining child support by using the net-worth method,? see *Tucker v. Office of Child Support Enforcement*, 368 Ark.481, 247 S.W.3d 485 (2007).

d. *Imputed Income.* If a payor is unemployed or working below full earning capacity, the court may consider the reasons therefor. If earnings are reduced as a matter of choice and not for reasonable cause, the court may attribute income to a payor up to his or her earning capacity, including consideration of the payor's life-style. Income of at least minimum wage shall be attributed to a payor ordered to pay child support.

e. *Spousal Support*. The chart assumes that the custodian of dependent children is employed and is not a dependent. For the purposes of calculating temporary support only, a dependent custodian may be awarded 20% of the net take-home pay for his or her support in addition to any child support awarded. For final hearings, the court should consider all relevant factors, including the chart, in determining the amount of any spousal support to be paid.

f. *Allocation of Dependents for Tax Purposes.* Allocation of dependents for tax purposes belongs to the custodial parent pursuant to the Internal Revenue Code. However, the Court shall have the discretion to grant dependency allocation, or any part of it, to the noncustodial parent if the benefit of the allocation to the noncustodial parent substantially outweighs the benefit to the custodial parent.

g. *Health Insurance*. In addition to the award of child support, the court order shall provide for the child's health care needs, which normally would include health insurance if available to either parent at a reasonable cost. Health insurance coverage shall be considered reasonable if the cost of dependent coverage does not exceed 5% of the net income of the parent who is to provide such coverage. In applying the 5% standard for the cost of health insurance, the cost of dependent coverage is the

difference between self-only and self with dependents or family coverage or the cost of adding the child(ren) to existing coverage.

Section IV. **Affidavit of financial means.**

The Affidavit of Financial Means shall be used in all family support matters. The trial court shall require each party to complete and exchange the Affidavit of Financial Means prior to a hearing to establish or modify a support order.

Section V. **Deviation considerations.**

a. *Relevant Factors.* Relevant factors to be considered by the court in determining appropriate amounts of child support shall include:

1. Food;
2. Shelter and utilities;
3. Clothing;
4. Medical expenses;
5. Educational expenses;
6. Dental expenses;
7. Child care (includes nursery, baby sitting, daycare or other expenses for supervision of children necessary for the custodial parent to work);
8. Accustomed standard of living;
9. Recreation;
10. Insurance;
11. Transportation expenses; and
12. Other income or assets available to support the child from whatever source, including the income of the custodial parent.

b. *Additional Factors.* Additional factors may warrant adjustments to the child support obligations and shall include:

1. The procurement and maintenance of life insurance, health insurance, dental insurance for the children's benefit;
2. The provision or payment of necessary medical, dental, optical, psychological or counseling expenses of the children (e.g., orthopedic shoes, glasses, braces, etc.);
3. The creation or maintenance of a trust fund for the children;
4. The provision or payment of special education needs or expenses of the child;
5. The provision or payment of day care for a child;
6. The extraordinary time spent with the noncustodial parent, or shared or joint custody arrangements;
7. The support required and given by a payor for dependent children, even in the absence of a court order; and
8. Where the amount of child support indicated by the chart is less than the normal costs of child care, the court shall consider whether a deviation is appropriate.

c. Application of deviation factors. These deviation factors may be considered for both the custodial and the noncustodial parents.

Section VI. **Abatement of support during extended visitation.**

The guidelines assume that the noncustodial parent will have visitation every other weekend and for several weeks during the summer. Excluding weekend visitation with the custodial parent, in those situations in which a child spends in excess of 14 consecutive days with the noncustodial parent, the court should consider whether an adjustment in child support is appropriate, giving consideration to the fixed obligations of the custodial parent which are attributable to the child, to the increased costs of the noncustodial parent associated with the child's visit, and to the relative incomes of both parents. Any partial abatement or reduction of child support should not exceed 50% of the child support obligation during the extended visitation period of more than 14 consecutive days.

In situations in which the noncustodial parent has been granted annual visitation in excess of 14 consecutive days, the court may prorate annually the reduction in order to maintain the same amount of monthly child support payments. However, if the noncustodial parent does not exercise said extended visitations during a particular year, the noncustodial parent shall be required to pay the abated amount of child support to the custodial parent.

Section VII. **Provisions for payment.**

All orders of child support shall fix the dates on which payments shall be made. All support orders issued shall include a provision for immediate implementation of income withholding, absent a finding of good cause not to require immediate income withholding or a written agreement of the parties incorporated in the order setting forth an alternative agreement as required by Ark. Code Ann. § 9-14-218(a). All income withholding forms shall be made a part of the court file by the payee or his or her attorney. Payment shall be made through the Arkansas Clearinghouse pursuant to Ark. Code Ann. § 9-14-805. Times for payment should ordinarily coincide with the payor's receipt of salary, wages, or other income.

Comment Text:

Click here for family support charts and affidavit of income [PDF] [1]

History Text:

History: Amendment to section (II) by per curiam order February 3, 2011 adding subsection (b); amendment to section (III) by per curiam order October 22, 2015.

Associated Court Rules:

Administrative Orders

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