

Report to the General Assembly
Ohio's Child Support Guidelines



Presented by:
Jacqueline Romer-Sensky, Director
Ohio Department of Job and Family Services

Respectfully Submitted to:

The Honorable Richard H. Finan
President, Ohio Senate

and

The Honorable Larry Householder
Speaker, Ohio House of Representatives

March, 2001

Bob Taft
Governor



Jacqueline Romer-Sensky
Director

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March 1, 2001

*The Honorable Richard H. Finan
President, Ohio Senate
Statehouse, Room #201
Columbus, Ohio 43215*

*The Honorable Larry Householder
Speaker, Ohio House of Representatives
77 South High Street, 14th Floor
Columbus, Ohio 43266-0603*

Dear President Finan and Speaker Householder:

I am presenting this report to you which contains recommendations resulting from the third quadrennial review of the Ohio Child Support Guidelines.

This report reflects the efforts of the third Ohio Child Support Guideline Advisory Council, which the Ohio Department of Job and Family Services is required to establish pursuant to Section 3113.215(G) of the Ohio Revised Code for the purpose of determining whether child support orders issued in accordance with the Guidelines Schedule and Worksheet adequately provide for the needs of children subject to the orders.

In submitting this report, I wish to extend my personal thanks to the members of the Guidelines Council for their many months of review, discussion and compromise. The members unfailingly put the interests of children above all other concerns. I commend them for their dedication and professionalism.

A report by Policy Studies, Inc. which details the effect of Ohio's economy on the Guidelines Income Tables, will be provided to you under separate cover later this month. I will also be happy to provide copies of this report for all members of the Ohio General Assembly later this month.

Sincerely,


Jacqueline Romer-Sensky, Director

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II. CHILD SUPPORT GUIDELINES HISTORY

Federal

- *The Federal Child Support Guidelines requirement, 42 U.S.C. 667, originated with Public Law 98-378. States were required, as a condition of State Plan approval, to establish Guidelines for Child Support award amounts effective October 1, 1987. This could be by law or by administrative rule.*
- *Effective October 1, 1989, the Federal Family Support Act, Public Law 100-485, required all States' Guidelines to be applied as a rebuttable presumption of the amount that should be paid. The Family Support Act also required the Guidelines to be used by all support setting entities. The same law established the requirement for State review of the Guidelines every four years. This legislation also established the requirement to review individual orders every 3 years.*

Ohio

- *Ohio's first Guidelines were issued as a rule (no. 75) of the Ohio Supreme Court on October 1, 1987.*
- *House Bill 591, 1990 118th General Assembly, enacted the Guidelines into law by creating Section 3113.215 of the Revised Code.*
- *The first Guidelines Council was convened in February 1991. Their work concluded with the required report to the General Assembly on March 1993. The recommendations were enacted in Senate Bill 115, which became effective October 13, 1993, 120th General Assembly.*
- *The second Guidelines Council met throughout 1996 into early 1997 and submitted its mandated report to the General Assembly on March 1, 1997. The recommendations were proposed in SB 216, sponsored by Senator Merle Kearns, which did not pass before the General Assembly adjourned in 1998. Senator Kearns introduced a new bill, Senate Bill 180, on August 31, 1999. Senate Bill 180 was passed by the General Assembly in December 2000,*

Child Support Guidelines History
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signed by Governor Taft on December 21, 2000, and will be effective March 22, 2001.

- *The third Guidelines Council held its first meeting in October 1999. The Council met every month and occasionally several times a month throughout 1999 and 2000. The final Council meeting was held in January 2001, at which time the Council adopted its recommendations.*

III. PURPOSE AND RESPONSIBILITIES OF THE CHILD SUPPORT GUIDELINE ADVISORY COUNCIL

The purpose and responsibilities of the Child Support Guidelines Advisory Council are prescribed in federal regulation, 45 CFR 302.56 and in Ohio Revised Code, Section 3113.215(G).

The federal regulation in 45 CFR 302.56(e), requires states to review and revise, if appropriate, the State's Child Support Guidelines at least once every four years to ensure that their application results in the determination of appropriate child support award amounts. Ohio's specific requirements, at section 3113.215(G) of the Ohio Revised Code, require the Ohio Department of Job and Family Services to review the basic Child Support Schedule at least once every four years to determine whether support orders issued in accordance with the Schedule and the Worksheet adequately provide for the needs of children who are the subject of the orders. For each review, the Department is directed to establish a Child Support Guideline Advisory Council to assist in the completion of its reviews and reports.

The federal regulation also requires that the Guidelines must at a minimum: take into consideration all earnings and income of the absent parent; be based on specific descriptive and numeric criteria; and provide for the child(ren)'s health insurance coverage or other means. The regulation further requires that the review consider economic data on the cost of raising children and an analysis gathered through sampling or other methods, on the application of, and deviations from the Guidelines to assure that such deviations are limited.

The Ohio Revised Code requires the Department to prepare a report of its review, and submit a copy of the report to both houses of the General Assembly on or before the first day of March of every fourth year after 1993.

IV. THE THIRD CHILD SUPPORT GUIDELINES COUNCIL

Selection

As required by statute, the Department requested that the General Assembly appoint three members of the Ohio Senate and three members of the Ohio House of Representatives participate on the Council. Selection of the other Council members followed statutory direction and appointments from organizations represented a direct interest and involvement in child support issues.

The membership directory can be found in Appendix A. Of the participants, twenty two were voting members. Department staff served as non-voting members. The voting members consisted of six legislators; three judges; one magistrate; two university professors; a representative from each of the following organizations : The Ohio State Bar Association, Legal Aid, Child and Parent's Rights Association, Association for Children's Rights Council, Association for Children for the Enforcement of Support and Ohio Empowerment Coalition; two members from county child support enforcement agencies; and two from county departments of job and family services.

Work Plan

The Council agreed on a work plan, and on objectives and resources needed to fulfill the plan at the initial meeting. While some revisions were made over the course of the Council's existence, the basic issues identified at the initial meeting remained. The identified issues included the Guidelines Model, Guidelines Worksheet, economic information on the cost of raising children, health insurance, deviations and parenting time adjustments. Upon removal from Senate Bill 180 of provisions revising judicial review of administrative orders, the Council was requested by Senator Merle Kearns to review this subject as well.

Resources

The Council heard from a number of subject matter expert guest speakers and analyzed a vast array of resources before arriving at the recommendations included in this report.

▶ Guest Speakers

- ▶ *Teresa Myers, Senior Policy Specialist, National Conference of State Legislatures, who presented information about state selection of Child Support Guideline Models.*
- ▶ *Mark Lino, Senior Economist, United States Department of Agriculture, discussed the premise of statistics included in the publication “Expenditures on Children by Families.”*
- ▶ *Sanford Braver, Ph. D., Professor, Arizona State University and author of the book “Divorced Dads - Shattering the Myths.”*
- ▶ *Marigold Melli, retired law professor, University of Wisconsin-Madison, who authored the American Bar Association Family Law Quarterly (Spring 1999) article “Guidelines Review: Child Support Time Sharing by Parents.”*
- ▶ *Robert Williams, Ph.D., Policy Studies, Inc., a national expert on the economics of Child Support Guidelines income tables,*
- ▶ *Stephanie Walton, National Conference of State Legislatures, who provided a perspective on how other states address the parenting time adjustment issue,*
- ▶ *Kathy Clark, Director of the Task Force on Family Law and Children that was created by Senate Bill 112 of the 122nd General Assembly in 1998, who to addressed the issue of parenting time.*

▶ Written resources

- ▶ *Caselow analysis prepared by the Ohio Department of Job and Family Services, Office of Legal Services.*

- ▶ *A summary of State Studies on Deviations from support Guidelines by Margaret Campbell Haynes, J.D., Director, State and Local Government Service Design.*
- ▶ *Evaluation of Child Support Guidelines, a report commissioned by the Office of Child Support Enforcement with CSR, Incorporated and the American Bar Association.*
- ▶ *1996 Deviations Case Sampling Report - Prepared for the second Ohio Child Support Guidelines Advisory Commission by the (former) Ohio Department of Human Services.*
- ▶ *Monograph “Reducing Child Support for Extended Visitation “by Stephanie Walton, National Conference of State Legislatures.*
- ▶ *Monograph “Issue Brief,” Child Support and Parenting Time Adjustments” by Stephanie Walton, National Conference of State Legislatures.*
- ▶ *Family Law Quarterly (American Bar Association Periodical) Volume 33, No. 1, Spring 1999.*
- ▶ *Medical Child Support Workgroup Report.*
- ▶ *Policy Studies Inc., - Sets of Income Tables*
 - ▶ *With Self Support Reserve*
 - ▶ *Without Self Support Reserve*
 - ▶ *Including USDA estimates of child expenditures*
- ▶ *Ohio Child Support Deviations Study April 1996 to August 2000*
- ▶ *USDA “Expenditures on Children by Families”*
- ▶ *American Bar Association Deviation Report*
- ▶ *Federal Poverty Guidelines for 2000*

Written resources (Continued)

- ▶ *Compendium of Child Support Laws and Rules of Other States/Guidelines, compiled from the website "Support Guidelines.com" by Laura Wish Morgan.*

Meeting Schedule

The third Child Support Guideline Advisory Council met at least once every month from October 1999 through February 2001. In addition, several sub-committee meetings were held to make recommendations on specific topics for provision to the full Council.

Public Input

- ▶ *Correspondence: The council received and responded to 57 letters from the general public concerning guideline issues.*
- ▶ *Internet Announcement: The recommendations of the Council will be available on the Internet for public viewing and comment.*
- ▶ *Newspaper Announcement: A notice informing the public about the Council's recommendations and soliciting comment will be placed in Ohio's six major newspapers (Canton Repository, Cincinnati Enquirer, Cleveland Plain Dealer, Columbus Dispatch, Dayton Daily News, and the Toledo Blade).*

V. A. CHILD SUPPORT GUIDELINES MODEL

In adopting Guidelines, states have used one of three general models (1) income shares model, (2) percentage of income models, and (3) Melson formula.

Income Shares Model is used in 37 states. The national trend is toward the Income Shares Model. This model operates by computing a basic child support obligation based on the combined income of the parents using a table in the guidelines. Amounts in the table are derived from economic data on household expenditures on children.

*Percentage of Income Model. This model is used in 13 states, plus the District of Columbia and Massachusetts where hybrid models are used. The basic precepts are: It sets support as a percentage of only noncustodial parent's income; custodial parents income is **not** considered; the standard assumes that each parent will expend the designated proportion of income on the child, with the custodial parent's spent directly.*

Two variations; Flat Percentage Model: percentage of income devoted to child support remains constant at all incomes. It doesn't weight heavier on low income people are high income, the percentage is the same.

Varying Percentage Model: percentage of income devoted to child support varies according to level of income. The higher the income the lower the percentage is. Design to more in line of what it might actually cost to raise the child.

States using this model generally do not consider adjustments for child care, extraordinary medical expenses, shared or split custody, serial family development, or very high or very low custodial parent income.

Melson formula. This formula is used in three states and was developed by Judge Elwood F. Melson of Delaware Family Court. The model is a more complicated version of the income shares model; It recognizes that "support of others is impossible until one's own basic support needs are met"; further enhancements of the parents' own economic states should not be allowed until the parents jointly, in proportion to their income, meet the basic poverty level needs of their children; and Parents should share their additional incomes with their children, improving their

V. A. CHILD SUPPORT GUIDELINES MODEL (Continued)

children's standard of living as their own standard of living improves. It achieves this goal through the inclusion of a standard of living allowance.

Giving consideration to presentations by Teresa Meyers from the National Conference of State Legislators and Dr. Robert Williams from Policy Studies, Inc., the Council voted to retain the current Income Shares Guidelines Model. (Recommendation 2).

2.

Vote: Yes - 13; Against- 0; Abstain - 1;



Child Support Project

Guideline Models by State

There are roughly three child support guideline models used by the states:

The **Income Shares Model** is based on the concept that the child should receive the same proportion of parental income that he or she would have received if the parents lived together. In an intact household, the income of both parents is generally pooled and spent for the benefit of all household members, including any children.

The **Percentage of Income Model** sets support as a percentage of only the noncustodial parent's income; the custodial parent's income is not considered. This model has two variations: the Flat Percentage Model and the Varying Percentage Model.

The **Melson Formula** is a more complicated version of the Income Shares Model, which incorporates several public policy judgments designed to insure that each parent's basic needs are met in addition to the children's. The Melson Formula was developed by a Delaware Family Court judge and fully explained in *Dalton v. Clanton*, 559 A.2d 1197 (Del. 1989).

All of the guideline models have certain aspects in common. First, most of the guidelines incorporate a "self-support" reserve for the obligor. Second, all the guidelines have a provision relating to imputed income. Third, by federal regulation, all the guidelines take into consideration the health care expenses for the children, by insurance or other means. Lastly, most of the guidelines have incorporated into the presumptive child support formula special additions for child care expenses, special formulas for shared custody, split custody, and extraordinary visitation, and special deductions for the support of previous and subsequent children.

| Guideline Models by State | | | |
|---------------------------------------|----------------------|----------------|-----------------------|
| Percentage of Obligor's Income | Income Shares | | Melson Formula |
| Alaska | Alabama | New Jersey | Delaware |
| Arkansas | Arizona | New Mexico | Hawaii |
| District of Columbia | California | New York | Montana |
| Georgia | Colorado | North Carolina | |
| Illinois | Connecticut | Ohio | |
| Massachusetts | Florida | Oklahoma | |
| Minnesota | Guam | Oregon | |
| Mississippi | Idaho | Pennsylvania | |
| Nevada | Indiana | Rhode Island | |
| North Dakota | Iowa | South Carolina | |
| Tennessee | Kansas | South Dakota | |
| Texas | Kentucky | Utah | |
| Wisconsin | Louisiana | Vermont | |
| | Maine | Virgin Islands | |
| | Maryland | Virginia | |
| | Michigan | Washington | |
| | Missouri | West Virginia | |
| | Nebraska | Wyoming | |
| | New Hampshire | | |

NOTE: Puerto Rico did not specify which guidelines it follows.

Source: Morgan, Laura. *Child Support Guidelines*, 1998.

For additional information on state child support enforcement contact the Child Support Project at 303/830-2200.

| | | |
|---|--------------------------|---|
| National Conference of State Legislatures | Denver Office: | Washington Office: |
| INFO@NCSL.ORG (autoresponse directory) | 1560 Broadway, Suite 700 | 444 North Capitol Street, N.W., Suite 515 |
| | Denver, CO 80202 | Washington, D.C. 20001 |
| | Tel: 303-830-2200 | Tel: 202-624-5400 |
| | Fax: 303-863-8003 | Fax: 202-737-1069 |

V. B. ECONOMIC THEORY - INCOME TABLES

The Council's resources on this subject included presentations by Mark Lino, United States Department of Agriculture, whose office prepares the annual report "Expenditures on Children by Families"; and Dr. Robert Williams, Policy Studies, Inc., whose firm has developed Ohio's Guidelines since their inception. The Council reviewed laws and rules of other states and Ohio Guidelines Caselaw.

In order to evaluate a variety of approaches to determining a method for establishing the cost of raising children, the council requested Policy Studies, Inc. to prepare different sets of income tables including: a table with self support reserve, a table without self support reserve; and a table of using USDA estimates of child expenditures rather than Betson-Rothbarth.

One of the issues the Council addressed was whether to continue to use Betson-Rothbarth estimation theory or to change the Consumer Expenditures Survey prepared by the United States Department of Agriculture. While the USDA data is child specific for clothing, child care, and education, the Council believed the information had some drawbacks that eliminated it from consideration. Chiefly the Council's concern was that the USDA estimates are only developed for three income groups - bottom, middle, and upper third of income. The Guideline tables require significantly more detail. The income table range from \$0 to \$240,000 per year arrayed in \$600 intervals. The Council voted to continue use of the Betson-Rothbarth method to calculate support.

7.

*Vote: Yes - 14; Against - 2; Abstain - 0; **

V. B. Economic Theory - Income Tables (Continued)

The council also decided to continue the Self Support Reserve in the income tables and to adjust it for changes in the Federal Poverty guidelines.

3.
*Vote: For - 14; Against - 0; Abstain - 0; **

5.
*Vote: For - 14; Against - 0; Abstain - 1 **

The Council voted to recommend on amendment to Ohio Revised Code Section 3113.215(B)(2) to add a new subsection (d) set forth below relative to the Self Support Reserve and to also include the definition of Self Support Reserve set forth below for purposes of clarification. The council's reason for recommending the proposed subsection is to protect low income obligors from increases in child support if their income continues to be in the Self Support reserve income range. The reason for the definition is to clarify that a minimum Child Support amount is to be calculated for obligors with income below \$8350 (current federal poverty level for a family of one).

Proposed Revised Code Revisions:

- ▶ *“Except as set forth in Revised Code Section 3113.215(B)(7) (a) the obligor shall not be required to pay an amount of child support which would diminish the obligors self support reserve.” (This section becomes 3119.06 when SenateBill 180 becomes effective on March 22, 2001).*

V. B. Economic Theory - Income Tables (Continued)

- ▶ *Amend Ohio Revised Code Section 3113.215 (B) (2) to add a new subsection that says “Self Support Reserve is the highest annual income figure subject to the minimum child support order as presently reflected in the guidelines tables as \$8350.00.” (This section becomes 3119.04 when substitute Senate Bill 180 becomes effective on March 22, 2001).*

4.

Vote: For - 13; Against - 0; Abstain - 1; *

After significant research and discussion, the Council voted to accept the proposed income tables that are based on the Betson-Rothbart estimation method, and that are updated by cost of living adjustment, self-support reserve updates to the most current federal poverty level guidelines and taxes. The vote was rendered in recognition that the Council did not consider some items, such as filing status, and tax consequences between the obligee and obligor.

12.

Vote: For - 10; Against - 3; Abstain -0 *

Amend Ohio Revised Code Section 3113.215(B)(5)(c) to remove the words. . .” less child support received for them for the year. . . “from the last sentence. (This section becomes 3119.05(c) when Senate Bill 180 becomes effective on March 22, 2001).

21.

Vote: Yes - 11; Against - 0 ; Abstain - 3*

V. B. Economic Theory - Income Tables (Continued)

As part of the parenting time adjustment recommendation (refer to section V.E below.), a 25% downward adjustment will be included in the income tables to reflect the exercise of parenting time at standard order levels (generally about 25% of the year).

The Tables and PSI report describing changes in economic conditions respectively can be found at Appendix B and Appendix C.

** Refer to Exhibit G Voting Record for the detailed language of the recommendations discussed in this section.*

V. C. DEVIATION STUDY

The Ohio Child Support Guidelines Deviation Study (required by 45CFR302.56 and Ohio Revised Code Sections 3113.215(G)), was conducted by John Guidubaldi, D. Ed., LP, LPCC, Professor, John Carroll University in association with Kent State University. The purpose of the study is to assure that either the Child Support Guidelines are applied as a rebuttable presumption; or that a court has determined to deviate from the Guidelines through a journalized court finding.

The Deviation Study begins where the study conducted by the second Child Support Guidelines Advisory Council ended. The current study is a review of cases with orders for the period April 1996 through July 2000. The study used objective data gatherers from several of Ohio's state universities. The data gatherers reviewed data from the local child support enforcement agencies, juvenile courts, and domestic relations courts. A stratified sample of 1000 cases was drawn to represent the population size of each of the Department's ten regions (refer to map). A further stratification was done within each region by classification of rural, suburban, and urban.

Federal regulations require that deviations be limited, although the term "limited" is not defined. A 1995 study on the subject by the American Bar Association indicates that most states have a deviation rate of 25% or less. Ohio's recent study indicates that this state compares well in its limited use of deviations. The report identifies a deviation rate of 10.4% for 2000, well under the 25% national rate. Additionally, this rate has increased only slightly since the 1996 report, from 10.2% to 10.4%.

The 1996 Ohio Deviations Report included notation that Guideline Worksheets were found in only 51.35 % of case records. Significant improvement is shown in the 2000 report, because 84% of worksheets were located.

Details relative to frequency of deviations, reasons for deviations, and dollar amounts of deviations are contained in Appendix F.

ODHS 10 Regions and 5 District Offices

Toledo District Office (Reg 2, 3, 6)

Telephone: 419-245-2800

Toll Free: 800-686-1572

TTY/TDD: 419-245-2773

Allen, Ashland, Auglaize, Crawford,
Defiance, Erie, Fulton, Hancock, Hardin,
Henry, Huron, Knox, Lucas, Marion,
Mercer, Morrow, Ottawa, Paulding, Putnam,
Richland, Sandusky, Seneca, Van Wert,
Williams, Wood, Wyandot

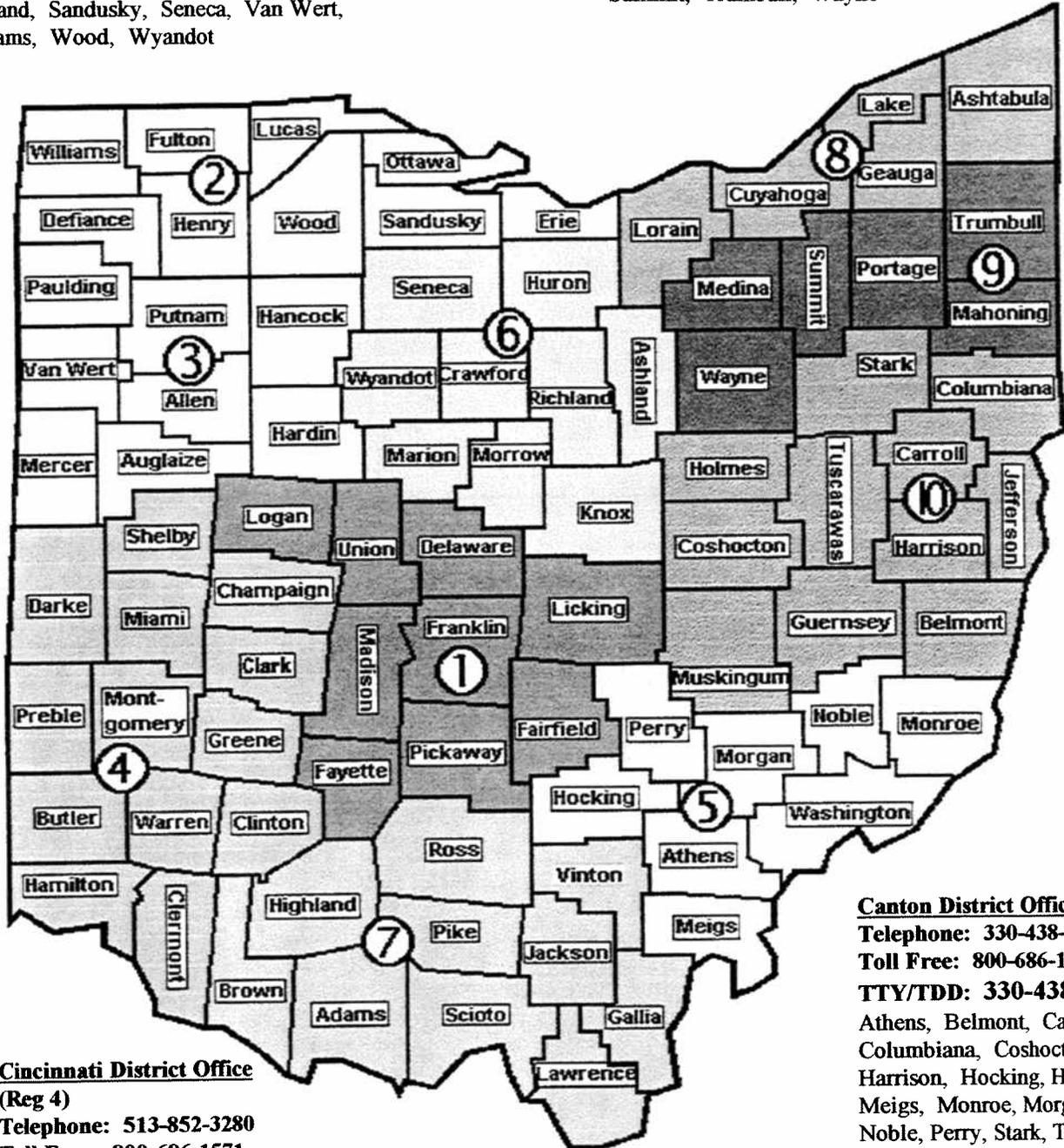
Cleveland District Office (Reg 8 & 9)

Telephone: 216-787-3400

Toll Free: 800-686-1551

TTY/TDD: 216-787-3614

Ashtabula, Cuyahoga, Geauga, Lake,
Lorain, Mahoning, Medina, Portage,
Summit, Trumbull, Wayne



Cincinnati District Office (Reg 4)

Telephone: 513-852-3280

Toll Free: 800-686-1571

TTY/TDD: 513-621-8005

Butler, Champaign, Clark,
Clermont, Clinton, Darke,
Greene, Hamilton, Miami,
Montgomery, Preble,
Shelby, Warren

Columbus District Office (Reg 1 & 7)

Telephone: 614-644-9000

Toll Free: 800-686-1568

TTY/TDD: 614-728-8442

Adams, Brown, Delaware, Fairfield, Fayette,
Franklin, Gallia, Highland, Jackson, Lawrence,
Licking, Logan, Madison, Pickaway, Pike, Ross,
Scioto, Union, Vinton

Canton District Office (Reg 5 & 10)

Telephone: 330-438-0600

Toll Free: 800-686-1569

TTY/TDD: 330-438-0691

Athens, Belmont, Carroll,
Columbiana, Coshocton, Guernsey,
Harrison, Hocking, Holmes, Jefferson,
Meigs, Monroe, Morgan, Muskingum,
Noble, Perry, Stark, Tuscarawas,
Washington

V. D. REVIEW OF FEDERAL MEDICAL CHILD SUPPORT WORKGROUP RECOMMENDATIONS (Continued)

Subsequent to the vote to delay action on recommendations of the Medical Child Support Working Group until the recommendations were formalized in federal law or regulation, the Federal Register issued final regulations on one recommendation. Specifically, the Federal Register of December 27, 2000 includes a requirement to incorporate the federal mandate to use the National Medical Support Notice in Ohio law by January 1, 2003. The Council recommends that all Ohio Revised Code changes be made as necessary to comply with the federal regulations.

24.

Vote: For - 11; Against - 0; Abstain - 1; *

* *Refer to Exhibit G for the detailed language of the recommendations discussed in this section.*

V. D. REVIEW OF FEDERAL MEDICAL CHILD SUPPORT WORKGROUP RECOMMENDATIONS

The Child Support Performance and Incentive Act, which was enacted by Congress in 1998, included a number of medical support provisions. The relevant provisions for the current child support Guidelines Advisory Council were the establishment of a Federal Medical Child Support Working Group to:

- ▶ *identify barriers to medical support enforcement*
- ▶ *assess the new medical support notice system*
- ▶ *improve coordination among Title IV-D medical support, Medicaid, and the Children's Health Insurance Program.*
- ▶ *evaluate cost allocation for non-covered medical expenses.*
- ▶ *propose priorities among child support collections: current, arrearages, and medical support.*

The Federal Medical Child Support Working Group included members from the United States Department of Labor, the U.S. Department of Health and Human Services, State IV-D (child support) directors, state Medicaid directors, health plan administrators and sponsors, child advocacy organizations, and organizations representing state child support programs. The working group recommendations were finalized in summer 2000.

The Child Support Guidelines Advisory Council spent an entire day reviewing the segment of the recommendations relative to Child Support Guidelines. A Council motion to use the recommendations as a set of best practice guidelines for the use of county child support enforcement agencies was defeated. The Council's rationale was that the recommendations had not yet been formalized as federal law or regulation, as applicable. The Council believed it was judicious to wait for this step before making any recommendations of its own.

9.

Vote: For - 4; Against - 7; Abstain - 7; *

V. E. PARENTING TIME AND PARENTING TIME ADJUSTMENT

The Council heard a great deal of expert and public testimony on this issue, described below. The group also reviewed legislation from states with parenting time adjustments (Arizona, Colorado, and New Jersey).

- ▶ *Dr. Robert Williams March 2000 address to the Council included a detailed explanation of the formula used in Colorado. Essentially, that formula calculates support according to the applicable (income shares) income percentage, adjusts the noncustodial parent's income by a 50% multiplier to reflect the increase in costs when a child spends substantial time with both parents, the final step applies a percentage that reflects the amount of visitation ordered for each parent to the adjusted income. To ensure that the custodial parent receives a sufficient amount of support to cover fixed cost of raising children, many states have implemented a multiplier of the support award.*
- ▶ *Marigold Melli, Professor of Law Emeritus, University of Wisconsin-Madison addressed the group in May 2000 relative to the parenting time adjustment experience in Wisconsin. Wisconsin starts at a 30% visitation threshold before providing any adjustments. The use of a formula for adjustments has reduced litigation for visitation. Mediation is becoming more prevalent in resolving visitation concerns.*
- ▶ *In June 2000 Dr. Sanford Braver of Arizona State University addressed the group. Dr. Braver had conducted an eight year research project funded by the federal government on experiences of divorced fathers. Dr. Braver believes Arizona has a successful visitation program. They have found that parent education classes increase visitation among non-custodial parents.*
- ▶ *In November 2000, Council members were provided with copies of Arizona, Colorado, and New Jersey parenting time statutes in preparation for discussion at the next meeting.*

V. E. PARENTING TIME AND PARENTING TIME ADJUSTMENT (Continued)

From this research, the Council compiled a list of key elements to be considered when determining a parenting time adjustment formula, which include:

- ▶ *the starting point of the adjustment*
- ▶ *the definition of parenting time*
- ▶ *whether or not to use an income multiplier before applying a formula adjustment*
- ▶ *custodial parent's poverty level*
- ▶ *how to address non-compliance with parenting time*
- ▶ *developing the formula*
- ▶ *keeping the formula simple and general*
- ▶ *limit CSEA authority to rebuttable presumptions.*

*It is important to note this terminology as it relates to the recommendations. The term **parenting time adjustment** refers only to a court deviation for exercise of parenting time in excess of 129 days. The Child Support Guideline tables have been adjusted to include recognition of a standard parenting time order (approximately 92 days).*

The Council recommends adoption of the following formula as a fair and equitable adjustment for the time that a non-custodial parent spends with the child(ren).

- (A) *Adopt a 25% downward adjustment in the Child Support Guideline amount to reflect exercise of parenting time at standard order levels.*
- (B) *Build a parenting time adjustment for exercise of parenting time in excess of 129 days. The PTA is to be structured in 10 increments. ***

V.E. Parenting Time and Parenting Time Adjustment (Continued)

(C) *Judicial discretion can be applied with stated reasons, both upward and downward.*

14.

Vote: For - 12; Against - 0; Abstain - 0; *

The Council voted on a formula for the 10 increments described in item B of the previous vote. It can be found at Appendix C.

17.

Vote: For - 11; Against - 2; Abstain - 1; *

*The Council agreed that a non-residential parent's child support obligation shall increase by **one third** if the non-residential parent does not exercise parenting time or has no ordered parenting time provision, unless the court makes and journalizes a finding that doing so would be unjust, inappropriate, and not in the best interests of the child, obligee, or obligor.*

*The council agreed that a non-residential parent's child support obligation shall increase by **twenty percent** if the non-residential parent exercises visitation significantly below the standard visitation schedule or has a parenting time order that is significantly below the standard visitation schedule, unless the court makes and journalizes a finding that doing so would be unjust, inappropriate, and not in the best interest of the child, obligee, or obligor. Any overnights of less than 52 days per year shall be considered to be significantly below the standard schedule.*

V.E. Parenting Time and Parenting Time Adjustment (Continued)

The Council agreed that a non-residential parent's child support obligation may increase by twenty percent for parenting times other than those significantly below the standard. When the court exercises this discretion, it shall journalize its determination and findings.

18.

Vote: For - 13; Against No - 0; Abstain - 1; *

The Council agreed that a parenting time adjustment over 130 days will not apply if the obligee's income plus child support falls below the federal poverty level income for one (\$8,350).

19.

Vote: For - 13; Against - 1; Abstain - 0; *

The Council recommends enactment of an Ohio Revised Code requirement for a rebuttable presumption that non-compliance occurs if the obligor has failed to exercise twenty-five percent or more of the awarded parenting time order over the previous six months.

20.

Vote: For - 14; Against - 0; Abstain - 0; *

V.E. Parenting Time and Parenting Time Adjustment (Continued)

The Council recommends enactment of an Ohio Revised Code requirement that an obligor will receive reconsideration of a cancelled or adjusted parenting time adjustment subject to court establishment that the obligor has exercised seventy-five percent of the awarded parenting time order over the preceding six months.

22.

*Vote: For - 13; Against - 0; Abstain - 0; **

The Council recommends enactment of Ohio Revised Code language that permits an obligor to request reinstatement of the appropriate Guideline amount under certain conditions when the court or designee had awarded an upward deviation of support because the obligor's exercise of parenting time was below the court's standard schedule. The conditions for reinstatement must include a showing that the obligor has exercised seventy-five percent or more of the court's standard visitation schedule for the preceding six month period.

23.

*Vote: For - 13; Against - 0; Abstain - 0; **

* *Refer to Exhibit G Voting Record for the detailed language of the recommendations discussed in this section.*

** *The Parenting Time Adjustment formula chart can be found at Exhibit C.*

V. F. JUDICIAL REVIEW OF ADMINISTRATIVE ORDERS

A provision of Senate Bill 180 of the 123rd General Assembly to appeal administrative orders and actions was removed in response to concerns raised by the Ohio Judiciary. Concurrent with its removal, the bill's sponsor, Senator Merle Kearns, requested that the Council review the matter and recommend an alternate method for judicial review of administrative orders/actions.

The Council recommends that Ohio Department of Job and Family Services establish an administrative/judicial workgroup including members of the judiciary, CSEAs, the public, and other interested parties. The purpose of the group is to study judicial review of administrative orders.

13.

Vote: For - 14; Against - 0; Abstain - 0;

V.G. GUIDELINES WORKSHEET

The council reviewed the version of the Guideline Worksheet contained in current statute and in Senate Bill 180 at several meetings. At the final meeting, the approved recommendations were reviewed to determine if any impacted the Worksheet. While none of the recommendations would require revisions to the Worksheet, the following suggestions were made.

The council recommends that a computerized short form replication of the Worksheet can be substituted for the statutory long form so long as each line item is represented.

25.

Vote: For - 12; Against - 0; Abstain - 0; *

The council recommends that where a third party has custody of a child or children, a separate Worksheet designating each parent as mother - obligor and father - obligor be developed.

26.

Vote: For - 12; Against - 0; Abstain - 0; *