

03hr_AC-CF_CRule_03-022_pt04



(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2003-04

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on ... Children and Families (AC-CF)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (May 2012)

2:25 p.m.
8-28-03

Jim Doyle
Governor

Roberta Gassman
Secretary



State of Wisconsin

OFFICE OF THE SECRETARY
201 East Washington Avenue
P.O. Box 7946
Madison, WI 53707-7946
Telephone: (608) 266-7552
Fax: (608) 266-1784
<http://www.dwd.state.wi.us/>

Sept. 12
- Fri -
↑
10-day
period
end

Department of Workforce Development

August 28, 2003

Senator Carol A. Roessler, Chair
Senate Committee on Health, Children, Families, Aging and Long Term Care
Room 8 South
State Capitol
P.O. Box 7882
Madison 53707-7882

Re: CR 03-022/DWD 40, relating to the child support guidelines

Dear Senator Roessler and Members of the Committee:

As you know, on July 22, 2003, the Senate Committee on Health, Children, Families, Aging and Long Term Care requested that the department modify the proposed child support rule to provide for a realistic payment amount for low-income payers and review the high-income section of the proposed rule to determine if the level of support required is justified. The department agreed to make modifications to the low-income provision and a new proposal has been developed in cooperation with low-income advocates. The department reviewed the high-income provision and concluded that the proposed rule as submitted to the legislature does accurately reflect research on the cost of raising children.

Modification affecting low-income payers. The new proposal provides a schedule with reduced percentage rates to be used to determine the child support obligation for payers with an income below approximately 125% of the federal poverty guidelines if the court determines that the payer's total economic circumstances limit his or her ability to pay support at the level determined using the full percentage rates. If a payer's monthly income is below approximately 75% of the federal poverty guidelines, the court may set an order at an amount appropriate for the payer's total economic circumstances. This amount may be lower than the lowest support amount in the schedule. For income between approximately 75% and 125% of the federal poverty guidelines, the percentage rates in the schedule gradually increase as income increases. The full percentages rates apply to payers with income greater than or equal to approximately 125% of the federal poverty guidelines.

The modified proposed rule also provides that when income is imputed based on earning capacity the court shall consider a parent's history of child care responsibilities as the parent with primary placement, along with the other factors of the parent's education, training and work experience, earnings during previous periods, physical and mental health, and the availability of work in or near the parent's community.

In addition, if the court is imputing income at minimum wage because information on the parent's actual income or ability to earn is unavailable, the court may impute to the parent the income that a person would earn by working 35 hours per week for the federal minimum hourly wage, rather than 40 hours per week.

The modified proposed rule language is as follows:

SECTION 10. DWD 40.02 (14) is created to read:

DWD 40.02 (14) "Income imputed based on earning capacity" means the amount of income that exceeds the parent's actual income and represents the parent's ability to earn, based on the parent's education, training and work experience, earnings during previous periods, physical and mental health, history of child care responsibilities as the parent with primary physical placement, and the availability of work in or near the parent's community.

SECTION 14. DWD 40.02 (19) is created to read:

DWD 40.02 (19) "Low-income payer" means a payer for whom the court orders a monthly support amount at or below the amount provided in the schedule in Appendix C based on the court's determination that the payer's total economic circumstances limit his or her ability to pay support at the level provided under s. DWD 40.03 (1) and the payer's income available for child support is at or below a level set forth in Appendix C.

SECTION 22. DWD 40.03 (1)(intro.) is repealed and recreated to read:

DWD 40.03 (1)(intro.) DETERMINING CHILD SUPPORT USING THE PERCENTAGE STANDARD. The court shall determine a parent's monthly income available for child support by adding together the parent's annual gross income or, if applicable, the parent's annual income modified for business expenses; the parent's annual income imputed based on earning capacity; and the parent's annual income imputed from assets, and dividing that total by 12. This may be done by completing the worksheet in Appendix B, although use of the worksheet for this purpose is not required. Except as provided in s. DWD 40.04 (4) and (5), the percentage of the parent's monthly income available for child support or adjusted monthly income available for child support that constitutes the child support obligation shall be:

SECTION 23. DWD 40.03 (2) and (3) are repealed and recreated to read:

DWD 40.03 (2) DETERMINING INCOME MODIFIED FOR BUSINESS EXPENSES. In determining a parent's monthly income available for child support under sub. (1), the court may adjust a parent's gross income as follows:

- (a) Adding wages paid to dependent household members.
- (b) Adding undistributed income that meets the criteria in s. DWD 40.02 (13)(a)9. and that the court determines is not reasonably necessary for the growth of the business. The parent shall have the burden of proof to show that any undistributed income is reasonably necessary for the growth of the business.
- (c) Reducing gross income by the business expenses that the court determines are reasonably necessary for the production of that income or operation of the business and that may differ from the determination of allowable business expenses for tax purposes.

DWD 40.03 (3) DETERMINING INCOME IMPUTED BASED ON EARNING CAPACITY. In situations where the income of a parent is less than the parent's earning capacity or is unknown, the court may impute income to the parent at an amount that represents the parent's ability to earn, based on the parent's education, training and work experience, earnings during previous periods, physical and mental health, history of child care responsibilities as the parent with primary physical placement, and the availability of work in or near the parent's community. If evidence is presented that due diligence has been exercised to ascertain information on the parent's actual income or ability to earn and that information is unavailable, the court may impute to the parent the income that a person would earn by working 35 hours per week for the federal minimum hourly wage under 29 USC 206 (a)(1). If a parent has gross income or income modified for business expenses below his or her earning capacity, the income imputed based on earning capacity shall be the difference between the parent's earning capacity and the parent's gross income or income modified for business expenses.

SECTION 31. DWD 40.04 (4) is created to read:

DWD 40.04 (4) DETERMINING THE CHILD SUPPORT OBLIGATION OF A LOW-INCOME PAYER. (a) The court may use the monthly support amount provided in the schedule in Appendix C as the support amount for a payer with monthly income available for child support at a level set forth in the schedule if the payer's total economic circumstances limit his or her ability to pay support at the level determined under s. DWD 40.03 (1). If a payer's monthly income available for child support is below the lowest income level in Appendix C, the court may order an amount appropriate for the payer's total economic circumstances. This amount may be lower than the lowest support amount in Appendix C.

(b) The department shall revise the schedule in Appendix C at least once every four years. The revision shall be based on changes in the federal poverty guidelines since the schedule was last revised. The department shall publish revisions to the schedule in the Wisconsin Administrative Register.

Note: The schedule in Appendix C provides reduced percentage rates that may be used to determine the child support obligation for payers with a monthly income available for child support below approximately 125% of the federal poverty guidelines. If a payer's monthly income available for child support is below approximately 75% of the federal poverty guidelines, the court may order an amount appropriate for the payer's total economic circumstances. For monthly income available for child support between approximately 75% and 125% of the federal poverty guidelines, the percentage rates in the schedule gradually increase as income increases. The percentages rates used in s. DWD 40.03 (1) apply to payers with monthly income available for child support greater than or equal to approximately 125% of the federal poverty guidelines.

SECTION 36. DWD 40 Appendix C is created to read as attached in Appendix C.

Department response to committee on high-income payers. The Committee requested that the department review its proposal for high income payers in light of the comments made at the hearing by a representative of Wisconsin Fathers for Children and Families. This representative indicated that the proposed guidelines for high income parents were out of line with the actual cost of raising children.

In 2001, the department asked the UW-Madison Institute for Research on Poverty (IRP) to review literature on the cost of raising children, with particular attention to the issue of expenditures on children in high-income families. Wisconsin's child support rule is based on the principle that a child's standard of living, should, to the degree possible, not be adversely affected because his or her parents are not living together. Therefore, the IRP looked at estimates of expenditures on children in intact families.

In reviewing the basic research, the IRP found that higher income families spend between 23 and 33% of their income on two children. Further, the IRP noted that the studies take into account only current consumption and exclude such items as savings for future education and accumulation of home equity that can later be borrowed against.

The attached two charts comparing the proposed guidelines to research on the cost of raising two children for families with incomes of \$120,000 and \$156,000 provide a visual demonstration that the department's proposal is in line with the best known studies. As the charts demonstrate, these studies indicate that a family with an annual income of \$120,000 would spend between \$26,830 and \$40,000 annually on two children (not including savings). The department's proposal would require \$29,100 in support from a payer with an income of \$120,000. A family with an annual income of \$156,000 would spend between \$26,830 and \$51,480 annually on two children, and the department's proposal would require \$36,300 in support.

The department has reviewed the information provided by a representative of Wisconsin Fathers for Children and Families. The information does not contain any citation to what study the figures on the cost of raising children are based on. The department's charts contain figures from the best known studies on this issue. Also, the amounts indicated as "Wisconsin child support awards" in the charts provided by Wisconsin Fathers for Children and Families are based on the current child support guidelines and not the proposal submitted to the legislature. The department can provide a detailed explanation of our analysis on request.

In light of this information, the department believes that the high income adjustment in its proposed rule is appropriate. For the portion of annual gross income exceeding \$102,000, a lower percentage will be applied, with a further reduction at \$150,000. This proposal is consistent with both the IRP research and appellate case law and will increase the perception of fairness without compromising the principle that children are entitled to a standard of living based upon the incomes of both of their parents.

Respectfully submitted,



Jo Anna Richard
Executive Assistant

Attachments:

DWD 40, Appendix C

Chart entitled "Proposed Child Support Guideline Compared to Research on Cost of Raising Two Children at Income of \$120,000"

Chart entitled "Proposed Child Support Guideline Compared to Research on Cost of Raising Two Children at Income of \$156,000"

Copy: Representative Kestell, Chair, Assembly Committee on Children and Families

References

Lino, Mark. *Expenditures on Children by Families, 2002*. U.S. Department of Agriculture, May 2003.

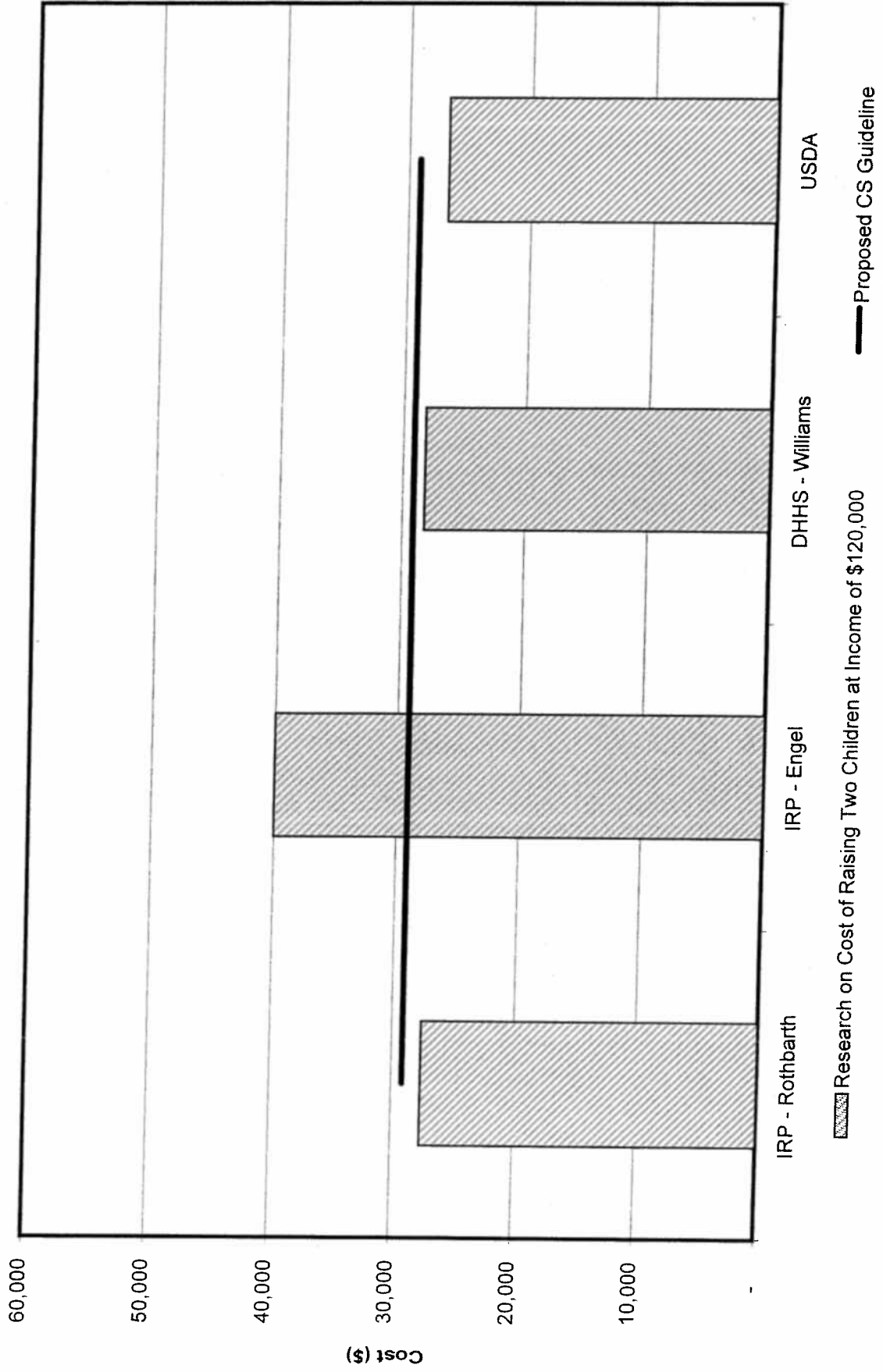
Rothe Ingrid, Judith Cessetty, and Elisabeth Boehnen. *Estimates of Family Expenditures for Children: A Review of the Literature*. Institute for Research on Poverty, University of Wisconsin-Madison, 2001.

Williams, Robert G. *Development of Guidelines for Child Support Orders*. U.S. Department of Health and Human Services, 1987.

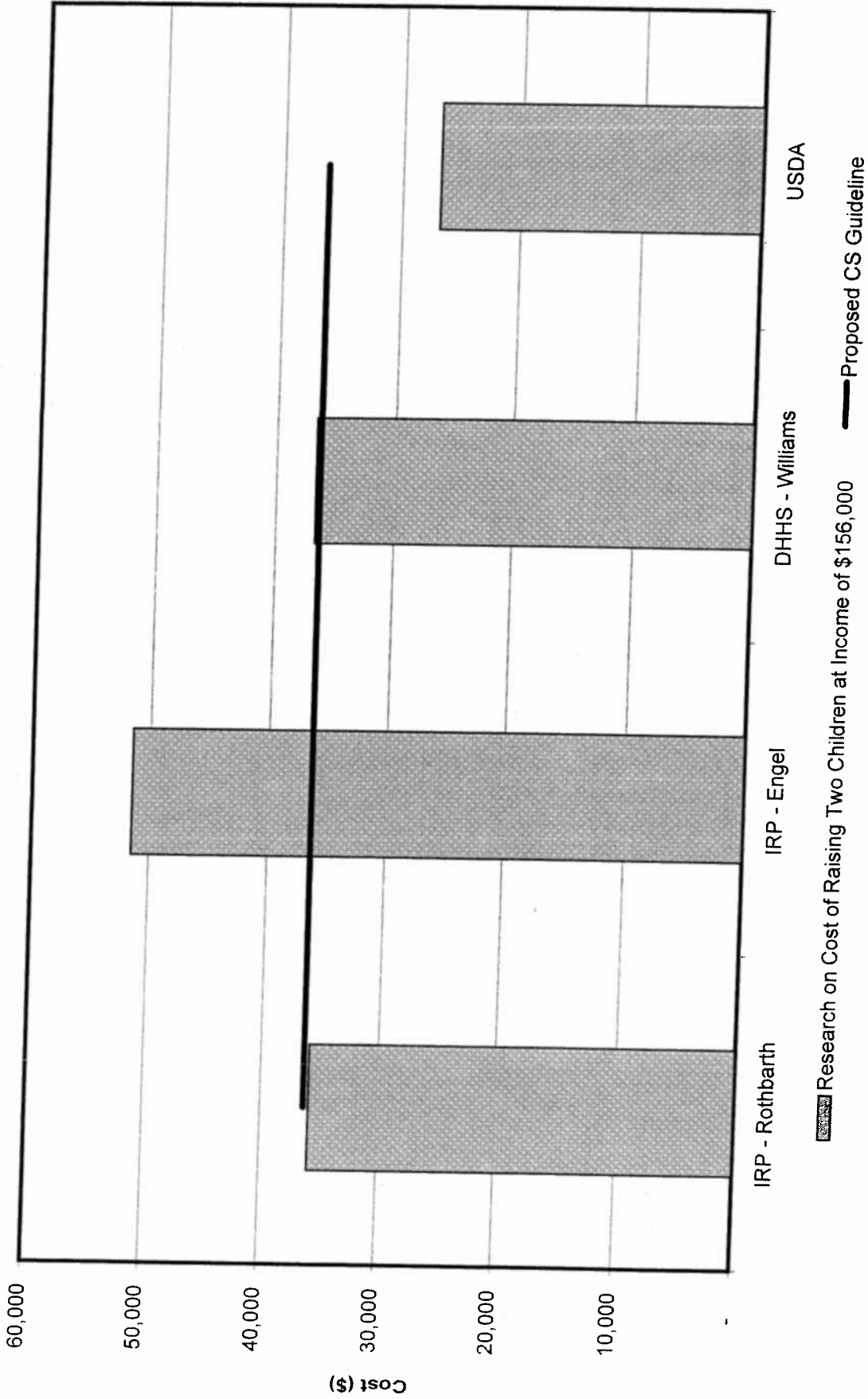
Chapter DWD 40
Appendix C
Child Support Obligation of Low-Income Payers

Monthly Income Up To	One Child		Two Children		Three Children		Four Children		Five Children	
	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount
575	11.13%	\$64	16.36%	\$94	18.99%	\$109	20.27%	\$17	22.23%	\$128
600	11.52%	\$69	16.94%	\$102	19.65%	\$118	20.99%	\$126	23.01%	\$138
625	11.91%	\$74	17.51%	\$109	20.32%	\$127	21.70%	\$136	23.80%	\$149
650	12.30%	\$80	18.09%	\$118	20.99%	\$136	22.42%	\$146	24.58%	\$160
675	12.70%	\$86	18.66%	\$126	21.66%	\$146	23.13%	\$156	25.37%	\$171
700	13.09%	\$92	19.24%	\$135	22.32%	\$156	23.85%	\$167	26.15%	\$183
725	13.48%	\$98	19.82%	\$144	22.99%	\$167	24.56%	\$178	26.94%	\$195
750	13.87%	\$104	20.39%	\$153	23.66%	\$177	25.28%	\$190	27.72%	\$208
775	14.26%	\$111	20.97%	\$163	24.32%	\$189	25.99%	\$201	28.51%	\$221
800	14.65%	\$117	21.54%	\$172	24.99%	\$200	26.71%	\$214	29.29%	\$234
825	15.04%	\$124	22.12%	\$182	25.66%	\$212	27.42%	\$226	30.08%	\$248
850	15.43%	\$131	22.70%	\$193	26.33%	\$224	28.14%	\$239	30.86%	\$262
875	15.83%	\$138	23.27%	\$204	26.99%	\$236	28.85%	\$252	31.65%	\$277
900	16.22%	\$146	23.85%	\$215	27.66%	\$249	29.57%	\$266	32.43%	\$292
925	16.61%	\$154	24.42%	\$226	28.33%	\$262	30.28%	\$280	33.21%	\$307
950	17%	\$162	25%	\$238	29%	\$276	31%	\$295	34%	\$323

Proposed Child Support Guideline Compared to Research on Cost of Raising Two Children at Income of \$120,000



**Proposed Child Support Guideline Compared to Research on
Cost of Raising Two Children at Income of \$156,000**







STATE REPRESENTATIVE

STEVE KESTELL

27TH ASSEMBLY DISTRICT

September 10, 2003

Secretary Roberta Gassman
Department of Workforce Development
201 East Washington Avenue, Rm 400 X
Madison, WI 53707

Dear Secretary Gassman,

I am writing to inform you of the recent action taken by the Assembly Committee on Children and Families regarding Clearinghouse Rule 03-022, relating to child support guidelines.

As you know, the Committee held a public hearing on Clearinghouse Rule 03-022 on August 7, 2003. During the executive session held today, the Committee voted 5-2 to request the Department of Workforce Development to consider modifications to Clearinghouse Rule 03-022.

The modifications requested by the Committee for the Department to consider are as follows:

- To lower the income threshold at which a payer may be subject to the high-income payer percentage standard.
- To require courts use the percentage standard for high-income payers when a parent is found to be a high-income payer.
- To address concerns that, when current child support obligations are modified using the standards created in the proposed rule, payers who have substantially equal periods of physical placement with the payee will be ordered to pay a significantly increased amount of child support.
- To require courts to consider a parent's recent education, training and work experience, and earnings; the parent's current physical and mental health; the parent's history of child care responsibilities as the parent with primary placement or during the marriage, if applicable; and the availability of work in or near the parent's community when imputing income.

The Committee requests the Department to respond to these considerations by October 23, 2003.

Sincerely,

A handwritten signature in cursive script that reads "Steve Kestell".

Steve Kestell, Chair
Assembly Committee on Children and Families

consider the ~~BA~~ by OCT. 23rd

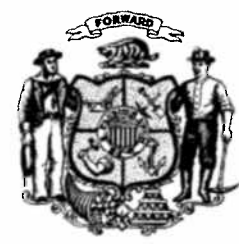
The Assembly Committee on Children and Families ~~moves~~ that the Department of Workforce Development modify CR 03-022 as follows:

- To lower the income threshold at which a payer may be subject to the high-income payer percentage standard.
- To require courts to use the percentage standard for high-income payers when a parent is found to be a high-income payer.
- To address concerns that, when current child support obligations are modified using the standards created in the proposed rule, payers who have substantially equal periods of physical placement with the payee will be ordered to pay a significantly increased amount of child support.
- To require courts to consider a parent's *recent* education, training and work experience, and earnings; the parent's *current* physical and mental health; the parent's history of child care responsibilities as the parent with primary placement or during the marriage, if applicable; and the availability of work in or near the parent's community when imputing income.

Ludwig 30 days



WISCONSIN STATE LEGISLATURE



Matzen, David

From: Kestell, Steve
Sent: Monday, September 15, 2003 11:15 AM
To: Matzen, David
Subject: FW: CR 03-022/AB 250

-----Original Message-----

From: sunflower [mailto:sunflower@shadowfire.org]
Sent: Friday, September 12, 2003 11:26 AM
To: rep.kestell@legis.state.wi.us
Subject: CR 03-022/AB 250

I would appreciate if you would forward my comments to the Assembly Committee on Children and Families.

I was quite dismayed when I read this letter.

It is a conflict of interest to allow DWD to make Administrative Rule Changes. The people who work for DWD DIRECTLY benefit from keeping child support percentages as high as possible. They receive performance based percentages of the total amount of child support collected in federal incentives monies. These monies are used to support the child support enforcement program in a state. That equates to salaries of DWD employees. If the total amount of child support collected goes down, the federal incentive monies would decrease and there would be less money available for salaries of DWD employees.

The decreases in percentages offered in CR 03-022's high income bracket will affect less than 1% of the noncustodial parents in this state. Thousands of middle/high income payors will continue to pay alimony in guise of child support.

Allowing CR 03-022 will allow the situation where noncustodial parents who do not get to keep enough of their salary to exercise visitation to continue. Thousands of middle income noncustodial parents pay so much of their salary in child support that they cannot provide adequate housing or food for their children during visitation. Numerous studies have proved that children who do not have both parents in their lives have a significantly higher rate of involvement in crime, drug abuse, etc. These children are the future of our country. Shouldn't we all be doing everything in our power to protect them.

Considering the fact that 33 states now utilize the income shares formula and only 3 states use the Wisconsin model, I would say that the 33 states utilizing income shares have found a significant number of studies supporting the fact that the Wisconsin model exceeds the costs of raising children. DWD is using Van der Gaag's far outdated study from years ago to justify the high percentages that currently exist. Numerous economists and experts in child support have stated that the Wisconsin model far exceeds the cost of raising children. The expert that DWD brought in for committee hearings (Robert Williams) stated that current child support percentages in Wisconsin far exceeded the cost of raising children. Mr. Williams' testimony was ignored by the committee.

AB 250 would provide monies to allow both parents support of their children.

Thank You
Daniel and Andrea Laack
1169B Burr Oak Blvd
Waukesha, WI 53189
262-650-7753

Wisconsin Fathers for Children and Families
<http://www.wisconsinfathers.org>

Wisconsin Women for Equality in Family Law

<http://www.fairlaw.net>

September 10, 2003

Secretary Roberta Gassman
Department of Workforce Development
201 East Washington Avenue, Rm 400 X
Madison, WI 53707

Dear Secretary Gassman,

I am writing to inform you of the recent action taken by the Assembly Committee on Children and Families regarding Clearinghouse Rule 03-022, relating to child support guidelines.

As you know, the Committee held a public hearing on Clearinghouse Rule 03-022 on August 7, 2003. During the executive session held today, the Committee voted 5-2 to request the Department of Workforce Development to consider modifications to Clearinghouse Rule 03-022.

The modifications requested by the Committee for the Department to consider are as follows:

To lower the income threshold at which a payer may be subject to the high-income payer percentage standard.

To require courts use the percentage standard for high-income payers when a parent is found to be a high-income payer.

To address concerns that, when current child support obligations are modified using the standards created in the proposed rule, payers who have substantially equal periods of physical placement with the payee will be ordered to pay a significantly increased amount of child support.

To require courts to consider a parent's recent education, training and work experience, and earnings; the parent's current physical and mental health; the parent's history of child care responsibilities as the parent with primary placement or during the marriage, if applicable; and the availability of work in or near the parent's community when imputing income.

The Committee requests the Department to respond to these considerations by October 23, 2003.

Sincerely,

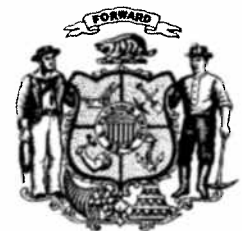
Steve Kestell, Chair
Assembly Committee on Children and Families

--

Andrea Laack
sunflower@shadowfire.org



WISCONSIN STATE LEGISLATURE



Jim Doyle
Governor

Roberta Gassman
Secretary

Larry Studesville
Division Administrator



State of Wisconsin
Department of Workforce Development

ADMINISTRATIVE SERVICES
201 East Washington Avenue
P.O. Box 7946
Madison, WI 53707-7946
<http://www.dwd.state.wi.us/>
e-mail: dwdasd@dwd.state.wi.us

September 23, 2003

Representative Steve Kestell, Chair
Assembly Committee on Children and Families
Room 17 West
State Capitol
P.O. Box 8952
Madison, WI 53708-8952

Re: CR 03-022/DWD 40, relating to the child support guidelines

Dear Representative Kestell and Members of the Committee:

On September 10, 2003, the Assembly Committee on Children and Families requested that the Department consider the following issues regarding CR 03-022/DWD 40, relating to the child support guidelines.

Reduction of high-income payer threshold. The Committee requested that the Department consider lowering the threshold at which a payer may be subject to the high-income payer formula. The Department agrees to a reduction in the initial threshold from \$102,000 to \$84,000. A payer will be eligible for a 20% reduction in the amount of support owed under the full percentage standards for the income greater than or equal to \$84,000 and below \$150,000. A payer will be eligible for a 40% reduction in support owed for the income greater than or equal to \$150,000. The \$84,000 threshold is a compromise that keeps the child support amount within the range of the research on the cost of raising children. The modified proposed rule language is as follows:

SECTION 32. DWD 40.04 (5) is created to read:

DWD 40.04 (5) DETERMINING THE CHILD SUPPORT OBLIGATION OF A HIGH-INCOME PAYER.

(a) The payer's full monthly income available for child support shall be considered in determining the payer's child support obligation. The court may apply the reduced percentages under pars. (c) and (d) to income at the indicated levels.

(b) The court shall apply the percentages in s. DWD 40.03 (1) to a payer's monthly income available for child support that is less than \$7,000.

Note: A monthly income of \$7,000 is an annual income of \$84,000.

(c) The court may apply the following percentages to the portion of a payer's monthly income available for child support that is greater than or equal to \$7,000 and less than or equal to \$12,500:

1. 14% for one child.
2. 20% for 2 children.
3. 23% for 3 children.
4. 25% for 4 children.
5. 27% for 5 or more children.

Note: A monthly income of \$7,000 is an annual income of \$84,000 and a monthly income of \$12,500 is an annual income of \$150,000. The percentages that apply to income between \$84,000 and \$150,000 are approximately 80% of the full percentage standards.

(d) The court may apply the following percentages to the portion of a payer's monthly income available for child support that is greater than \$12,500:

1. 10% for one child.
2. 15% for 2 children.
3. 17% for 3 children.
4. 19% for 4 children.
5. 20% for 5 or more children.

Note: A monthly income of \$12,500 is an annual income of \$150,000. The standards that apply to income over \$150,000 are approximately 60% of the full percentage standards.

Mandatory application of high-income formula. The Committee also requested that the Department consider requiring courts to apply the high-income formula to payers whose income is at an eligible level. Currently, application of all of the special circumstance provisions is discretionary to allow the court to consider the unique circumstances of each case. There are current and proposed special circumstance provisions affecting serial family payers, shared-placement payers, split-placement payers, high-income payers, and low income payers. There has been general support for retaining the discretionary nature of the special circumstance provisions. It would be inequitable to create a mandatory or presumptive formula for high-income payers and a permissive formula for other payers who may be eligible for application of a special circumstance provision. The Department has concluded that the discretionary application of the high-income formula is the most appropriate means of ensuring that each case will be looked at on its merits.

Application of the new rules to existing cases. The Committee requested that the Department address concerns that under the application of the proposed shared-placement provision, payers who have substantially equal periods of physical placement with the payee and considerably more income than the payee will be ordered to pay a significantly increased amount of child support compared to amounts ordered under current law. This may occur in limited situations because the current guidelines for shared-placement cases provide for a steep drop in support starting at 40% placement and result in support reductions that often far exceed the percentage of placement a parent may have. The purpose of the proposed changes to the shared-placement provision is to provide for a more equitable reduction in support that reflects the percentage of placement exercised by each parent.

Overall, there is consensus that this proposed rule change is good public policy. This change was supported by the Guidelines Advisory Committee, many advocates, and the State Bar. The new policy provides for a more equitable division of income between households, which is in line with the basic principle a child's standard of living should, to the degree possible, not be adversely affected because his or her parents are not living together. Although it is true that the new guidelines affecting shared-placement parents may lead to significant differences in support ordered as compared to amounts ordered under current law, this is also true for the new guidelines affecting high- and low-income payers. It would be inequitable to "grandfather in" payers who may be affected by the new shared-placement provision without also doing so for payers who may be affected by the new high- and low-income provisions. In individual cases, the court will have the discretion to maintain an order at the current level or apply the new guidelines based on the unique circumstances of each case.

Modifications affecting income imputed based on earning capacity. The Committee requested that the Department consider language changes to the section on imputing income based on earning capacity that would require courts to consider a payer's *recent* education,

training and work experience and *current* physical and mental health. The Department agrees to these changes but believes that the word "recent" is more appropriately placed before the reference to "work experience." The modified proposed rule language is as follows:

SECTION 10. DWD 40.02 (14) is created to read:

DWD 40.02 (14) "Income imputed based on earning capacity" means the amount of income that exceed the parent's actual income and represents the parent's ability to earn, based on the parent's education, training and recent work experience, earnings during previous periods, current physical and mental health, history of child care responsibilities as the parent with primary physical placement, and the availability of work in or near the parent's community.

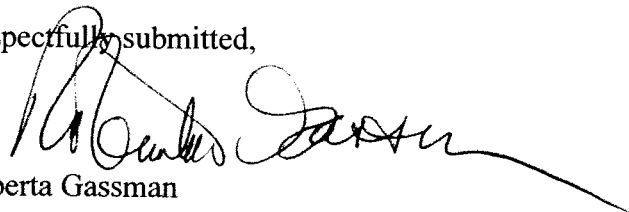
SECTION 23. DWD 40.03 (2) and (3) are repealed and recreated to read:

DWD 40.03 (2) DETERMINING INCOME MODIFIED FOR BUSINESS EXPENSES. In determining a parent's monthly income available for child support under sub. (1), the court may adjust a parent's gross income as follows:

- (a) Adding wages paid to dependent household members.
- (b) Adding undistributed income that meets the criteria in s. DWD 40.02 (13)(a)9. and that the court determines is not reasonably necessary for the growth of the business. The parent shall have the burden of proof to show that any undistributed income is reasonably necessary for the growth of the business.
- (c) Reducing gross income by the business expenses that the court determines are reasonably necessary for the production of that income or operation of the business and that may differ from the determination of allowable business expenses for tax purposes.
- (d) **DETERMINING INCOME IMPUTED BASED ON EARNING CAPACITY.** In situations where the income of a parent is less than the parent's earning capacity or is unknown, the court may impute income to the parent at an amount that represents the parent's ability to earn, based on the parent's education, training and recent work experience, earnings during previous periods, current physical and mental health, history of child care responsibilities as the parent with primary physical placement, and the availability of work in or near the parent's community. If evidence is presented that due diligence has been exercised to ascertain information on the parent's actual income or ability to earn and that information is unavailable, the court may impute to the parent the income that a person would earn b working 35 hours per week for the federal minimum hourly wage under 29 USC 206(a)(1). If a parent has gross income or income modified for business expenses below his or her earning capacity, the income imputed based on earning capacity shall be the difference between the parent's earning capacity and the parent's gross income or income modified for business expenses.

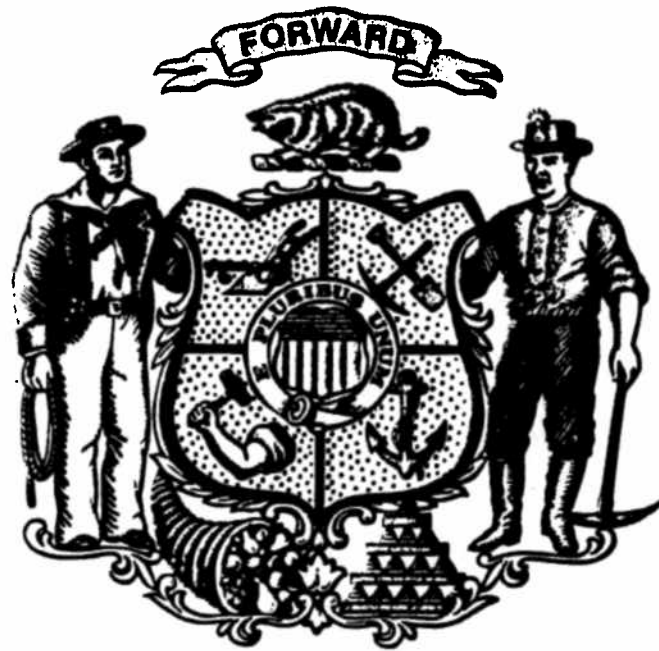
The Department appreciates your willingness to work with us to address your Committee's concerns within the context of the administrative rule. The Department is committed to making the administrative rule change process collaborative and flexible so that all constituencies have had a voice in framing this important public policy issue. We look forward to continuing a positive working relationship with your Committee.

Respectfully submitted,



Roberta Gassman
Secretary

Copy: Senator Roessler, Chair
Senate Committee on Health, Children, Families, Aging and Long Term Care



Jim Doyle
Governor

Roberta Gassman
Secretary



State of Wisconsin

Department of Workforce Development

Date??

OFFICE OF THE SECRETARY
201 East Washington Avenue
P.O. Box 7946
Madison, WI 53707-7946
Telephone: (608) 266-3131
Fax: (608) 266-1784
<http://www.dwd.state.wi.us/>
e-mail: dwdsec@dwd.state.wi.us

Good morning, Representative Kestell and members of the Committee. My name is Connie Chesnik and I am an attorney for the Wisconsin Department of Workforce Development. I am here today to testify on behalf of the Department in support of Clearinghouse Rule 03-022, the Department's administrative rule on the child support guidelines.

In April of 2001, the Department convened an advisory committee to review our administrative rules related to the Percentage of Income Standard and make recommendations to the Department. The committee included representation from many groups that have an interest in children's issues, among them, the State Bar Family Law Section, the Judiciary, the Family Court Commissioners, The Wisconsin Women's Council, Legal Action, the Wisconsin Women's Network, the Wisconsin Coalition Against Domestic Violence, the Center for Fathers, Families and Public Policy, the Wisconsin Council on Children and Families, the Wisconsin Fathers for Children and Families, and Wisconsin Legislation for Kids and Dads. Because this issue affects hundreds of thousands of families in Wisconsin, the Department was committed to ensuring that any changes to our guidelines received a thorough review and analysis by affected parties and policy makers.

The advisory committee met over the course of a year, reviewed hundreds of pages of material, and heard presentations from researchers with extensive experience in the area of child support guidelines. Their recommendations were presented to the Department in February of 2002. Since that time, rule changes were drafted and public hearings held around the state. In response to testimony presented at those hearings, some additional changes were made to the rules and I am here today to testify in support of the final product, which is before you.

The committee identified three key areas for review. Those areas include the establishment of support orders in cases involving either high or low-income parties and cases where both parties share physical placement of the children. These are critical issues that affect many families in Wisconsin. The Department appreciates the thorough review of these issues given by the committee.

The shared time formula recommended by the committee and contained in Clearinghouse Rule 03-022 recognizes the increasing trend of parents sharing placement of their children. The proposed rule change eliminates the incentive for parents to litigate over levels of placement solely for the purpose of reducing their child support obligation. The proposed rule lowers the threshold for eligibility of the shared time formula to 25% and considers the incomes of both parents at that point. Although this does result in a reduction of the amount of support owed at the 25% threshold, this reduction would occur at any threshold that was established. We believe that a formula that recognizes the duplicated costs of raising children in two households and takes both parents incomes into consideration provides a more realistic and equitable basis for setting child support.

The proposed rule changes also contain new provisions addressing the support obligations of high-income payers. The committee reviewed economic data showing that, as income rises above certain high-income levels, families spend a lower percentage of their gross income on their children. However, the Institute for Research on Poverty has also found that the proportion of gross income that households spend for children significantly exceeds the percentages established by the Wisconsin standard at all measurable levels of household income. Recognizing that children from high-income families are accustomed to a higher standard of living, the committee recommended that the percentage standard should still apply in most cases, but provided for exceptions when the income of the payer exceeded \$150,000 per year. In response to hearing testimony, the Department has lowered that threshold to \$100,000.

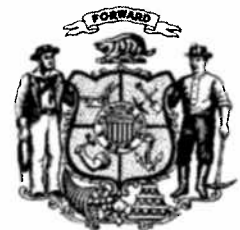
The United States Department of Agriculture estimates that in the urban Midwest in 2002, a high income family with an average income of \$100,000 spends approximately \$1375 monthly on one child. Under the proposed revisions to the high income formula in DWD 40, an obligor with a \$100,000 income would pay \$1360 in support for one child.

The proposed rule changes also address the obligations of low-income payers. It was the committee's hope that lower support levels for low-income payers may encourage or enable those payers to comply with their orders. However, the proposal recommended by the committee received a great deal of opposition at the public hearings conducted by the department. The low-income language in the rule before you today has been modified to reflect that testimony. The revised language permits the court to impute income to a low-income payer based on 30 hours per week at minimum wage if evidence is presented that the parent's ability to earn is limited due to education, lack of skills and availability of work in or near their community. The Senate Committee on Children, Health, Aging and Families has sent the rule back to the Department in response to testimony on the low income formula and the Department is working with interested groups on possible changes to the rule.

There are a number of other smaller areas that have been addressed as a part of these proposed rule changes. They are highlighted as a part of the analysis prepared by the Department at the beginning of the rule. I won't take your time going over them all now; however, I would be happy to answer any questions you may have on them or any of the changes I have addressed in my testimony. Thank you for your time and attention.



WISCONSIN STATE LEGISLATURE



TYPICAL "INCOME SHARES" SCHEDULE (VA)

CRule 03-022

§ 20-108.2. Guideline for determination of child support.

A. There shall be a rebuttable presumption in any judicial or administrative proceeding for child support under this title or Title 16.1 or 63.1, including cases involving split custody or shared custody, that the amount of the award which would result from the application of the guidelines set forth in this section is the correct amount of child support to be awarded. In order to rebut the presumption, the court shall make written findings in the order as set out in § 20-108.1, which findings may be incorporated by reference, that the application of the guidelines would be unjust or inappropriate in a particular case as determined by relevant evidence pertaining to the factors set out in §§ 20-107.2 and 20-108.1. The Department of Social Services shall set child support at the amount resulting from computations using the guidelines set out in this section pursuant to the authority granted to it in Chapter 13 (§ 63.1-249 et seq.) of Title 63.1 and subject to the provisions of § 63.1-254.2.

B. For purposes of application of the guideline, a basic child support obligation shall be computed using the schedule set out below. For combined monthly gross income amounts falling between amounts shown in the schedule, basic child support obligation amounts shall be extrapolated. However, unless one of the following exemptions applies where the sole custody child support obligation as computed pursuant to subdivision G 1 is less than \$65 per month, there shall be a presumptive minimum child support obligation of \$65 per month payable by the payor parent. Exemptions from this presumptive minimum monthly child support obligation shall include: parents unable to pay child support because they lack sufficient assets from which to pay child support and who, in addition, are institutionalized and a psychiatric facility, are imprisoned with no chance of parole, are medically verified to be totally and permanently disabled with no evidence of potential for paying child support, including recipients of Supplemental Security Income (SSI); or are otherwise involuntarily unable to produce income. "Number of children" means the number of children for whom the parents share joint legal responsibility and for whom support is being sought.

SCHEDULE OF MONTHLY BASIC CHILD SUPPORT OBLIGATIONS

Table with columns: COMBINED MONTHLY GROSS INCOME, ONE CHILD, TWO CHILDREN, THREE CHILDREN, FOUR CHILDREN, FIVE CHILDREN, SIX CHILDREN. Rows range from 0-599 to 4850.

Table with columns: 4900, 656, 1021, 1277, 1439, 1570, 1679. Rows range from 4900 to 10000.

For gross monthly income between \$10,000 and \$20,000, add the amount of child support for \$10,000 to the following percentages of gross income above \$10,000:

Table with columns: ONE CHILD (3.1%), TWO CHILDREN (5.1%), THREE CHILDREN (6.8%), FOUR CHILDREN (7.8%), FIVE CHILDREN (8.8%), SIX CHILDREN (9.5%).

For gross monthly income between \$20,000 and \$50,000, add the amount of child support for \$20,000 to the following percentages of gross income above \$20,000:

Table with columns: ONE CHILD (2%), TWO CHILDREN (3.5%), THREE CHILDREN (5%), FOUR CHILDREN (6%), FIVE CHILDREN (6.9%), SIX CHILDREN (7.8%).

For gross monthly income over \$50,000, add the amount of child support for \$50,000 to the following percentages of gross income above \$50,000:

Table with columns: ONE CHILD, TWO CHILDREN, THREE CHILDREN, FOUR CHILDREN, FIVE CHILDREN, SIX CHILDREN.

CRule
03-022

2001 MICHIGAN CHILD SUPPORT FORMULA MANUAL

III. Calculating Child Support Amounts

This section describes the methods of calculating support. One is by using various percentages of total family income and calculating support based on a ratio of incomes. In cases where parties have no or low income, a poverty level or low income calculation method is used. Another method is to use the child support schedules.

A. Calculating Child Support Using Table III

Various percentages of net income are used to determine child support in this formula. The percentages are based on the number of children and the level of total net family income. The percentages are displayed in Table III shown below. The total net family income levels against which the percentages are applied are adjusted on an annual basis, using the Consumer Price Index for Metropolitan Detroit, with December, 1985 as the base.

Table III
Total Child Support at Various Income Levels

Table III		ONE CHILD			
Weekly Family Net Income	Percentage Allocated ¹	Base Support	+	Marginal Percentage	over Income Level
\$216	25.5%	\$55.08	+	24.18%	over \$216
\$347	25.0%	\$86.75	+	17.49%	over \$347
\$473	23.0%	\$108.79	+	16.66%	over \$473
\$607	21.6%	\$131.11	+	14.64%	over \$607
\$788	20.0%	\$157.60	+	13.92%	over \$788
\$1,119	18.2%	\$203.66	+	12.37%	over \$1,119
\$1,379	17.1%	\$235.81	+	11.23%	over \$1,379
\$1,733	15.9%	\$275.55	+	10.00%	over \$1,733

\$90,15/YR NET INC / APPROX \$26,000 GROSS

¹ NOTE: Due to the Low/No Income adjustment, these figures may not be applied if a parent earns a minimal income. See Item C in this section.

SUMMARY OF KEY DIFFERENCES

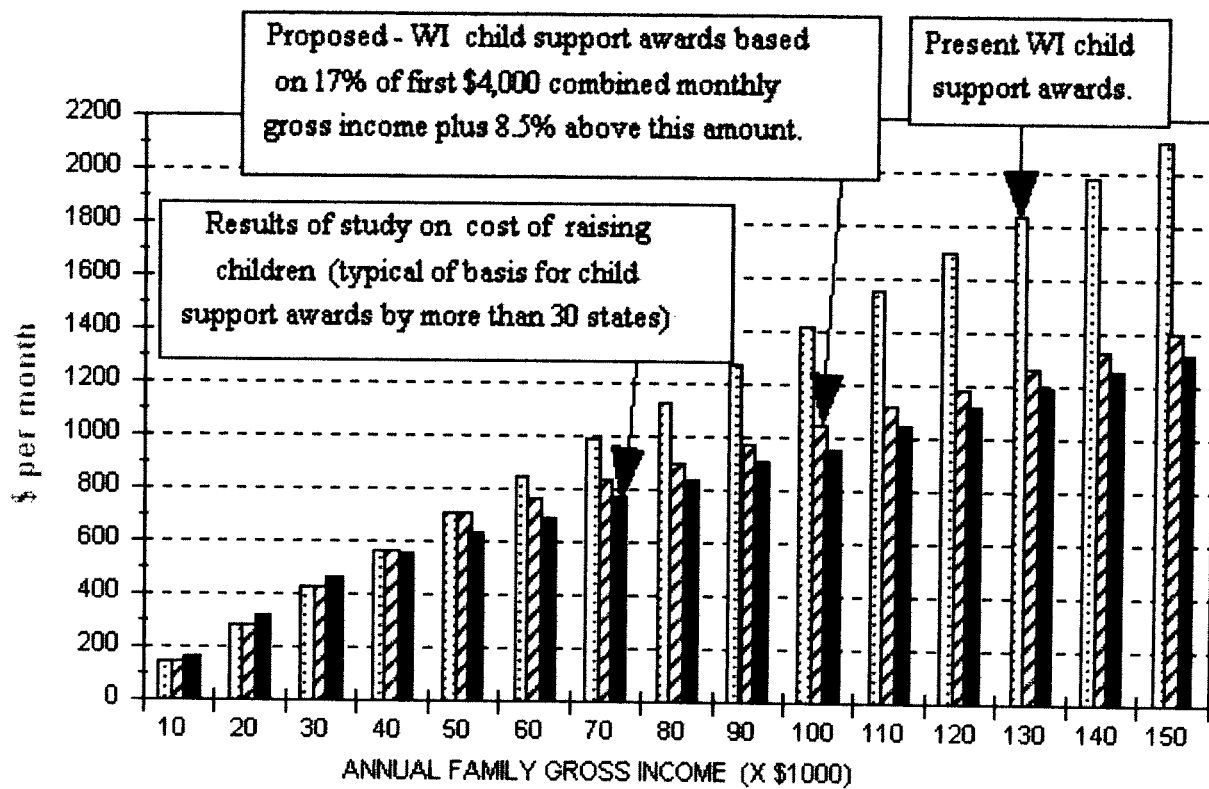
Issue		Proposed DWD 40 standard CR 03-022 by DWD	AB250/SB156
Basic formula	Low income families	Considers only income of one parent. Based on economic data* Allows court to impute income based on a 30hr work week.	Considers income of both parents. Based on economic data* No special provision for lower income families.
	Average income families	Considers only income of one parent. Based on economic data*	Considers income of both parents. Based on economic data*
	Above average income families	Considers only income of one parent. NOT Based on economic data. Thresholds and percentages are arbitrary and discretionary.	Considers income of both parents. Thresholds and percentages are intended to be consistent with widely accepted economic data.*
Definition of gross income available for child support		Considers all income from all sources, except entitlement programs. Maintenance income is INCONISTANT with IRS definition.	Considers all income for tax purposes. Excludes non-recurring income from capital gains and sale of family home. Maintenance is CONSISTANT with IRS definition.
Shared Placement formula		92overnigh threshold, 1.5 multiplier. offset formula. Same as AB 250/SB156 but discretionary. Considers income of both parents.	92overnigh threshold, 1.5 multiplier. offset formula. Same as Proposed DWD 40 standard but presumptive. Considers income of both parents.
Serial family formula		Provides earlier born children a greater child support entitlement.	Provides children a similar support entitlement, regardless of birth order.
Predictability and uniformity		Poor. Allows arbitrary court discretion, which could yield significantly different results in similar cases. This will promote litigation over custody, placement and support issues.	Excellent. Defines one presumed correct amount for all similar cases.
Ability to deviate from presumed correct amount		Court retains current discretion per 767.25(1m) to deviate after making a finding that the presumed amount is unfair.	Court retains current discretion per 767.25(1m) to deviate after making a finding that the presumed amount is unfair.
Ability to modify existing orders		Poor. Maintains current ambiguous substantial change of circumstances criteria and specifically prohibits the new formula from meeting this requirement.	Good. Allows change if new amount is more than 20% from existing order, after a period of 33 months from the date of the last order.

*Is based on economic data used by most other states to define the presumed correct amount of child support

6/24/03

IMPACT OF AB250/SB156 ON CHILD SUPPORT ORDERS

Wisconsin's child support awards vs costs of raising children study results for different combined family gross incomes (both parents) - for 1 child.



Comparison of annual child support entitlement of TWO children, from both parents

Combined gross annual income of the 2 parents	A WI-Existing DWD 40	B WI- Proposed DWD 40	C WI-Proposed AB250/SB156	D Indiana CS standard	E Michigan CS standard
\$40,000	\$12,000	\$12,000	\$12,000	\$9,776	\$ 10,284
\$60,000	\$15,000	\$15,000	\$13,500	\$13,208	\$13,464
\$80,000	\$20,000	\$20,000	\$16,000	\$16,796	\$16,380
\$100,000	\$25,000	\$25,000	\$18,500	\$20,228	\$18,768
\$150,000	\$37,500	\$37,500	\$24,750	\$23,504	\$23,460
\$200,000	\$50,000	\$50,000	\$31,000	\$25,532	\$29,544
\$500,000	\$125,000	\$100,188	\$51,600	\$31,892	\$54,924
\$1,000,000	\$250,000	\$175,176	\$81,600	\$36,727	\$96,084

- A. Existing DWD 40 administrative rule
- B. Proposed DWD 40 administrative rule changes CR 03-022 , by DWD: (Comparison assumes both parent's incomes are equal)
- C. AB 250/SB156
- D. Indiana CS standard is based on Eco Data up to \$208,000 combined gross income, then has complex formula for higher incomes. (See http://www.in.gov/judiciary/rules/child_support/child_support.pdf)
- E. Michigan CS standard is based on Eco Data up to \$90,000 combined net income plus 15% of addition NET income. (See <http://courts.michigan.gov/scao/resources/publications/manuals/focb/formula01.pdf>)

Comments:

The current and proposed DWD 40 formula, when applied in above average income families, is not based on any economic data related to these families.

Indiana and Michigan formulas as well as those of the vast majority of other states are based on economic data used by vast majority of states up to \$200,000 combined gross income.

AB250 will make Wisconsin child support orders more consistent with established economic data on the cost of raising children, and awards in other states.

**Comparison of formulas for calculating child support orders
Existing DWD 40 vs. Proposed DWD 40 vs. AB 250/SB156**

(See <http://www.dwd40calculator.com>)

(updated 6/24/03)

I. CALCULATING CHILD SUPPORT OBLIGATION IN SOLE PLACEMENT CASES

A. Existing DWD 40 administrative rule:

Child support amount = (percentage from table) x (the gross income of a parent)
monthly child support obligation of both parents

Payer's gross monthly income	Number of children				
	1	2	3	4	5
All incomes	17%	25%	29%	31%	34%

B. Proposed DWD 40 administrative rule changes CR 03-022 , by DWD:

monthly child support obligation of both parents

Payer's gross monthly income	Number of children				
	1	2	3	4	5
Up to \$8,500	17%	25%	29%	31%	34%
\$8,500-12,5000	\$1,450 +14%	\$2,125 +20%	\$2,465 +23%	\$2,635 +25%	\$2,890 +27%
Over \$12,500	\$2,010 +10%	\$2,925 +15%	\$3,385 +17%	\$3,635 +19%	\$3,970 +20%

The lower percentages for incomes above \$8,500 may be used.

C. AB-250/SB156: (New Statute Section 767.251(3))

1. No change to existing formula for families with a combined gross income **up to \$4,000/month**.
2. For families with a combined gross income **greater than \$4,000/month**.

The gross monthly child support obligation of a parent = (that parent's percentage of the combined gross income of the 2 parents) x (the combined gross monthly child support obligation of both parents)

Combined gross monthly child support obligation of both parents

Combined gross monthly income of the 2 parents	Number of children				
	1	2	3	4	5
Up to \$4,000	17%	25%	29%	31%	34%
\$4,000-\$20,000	\$680 + 8.5%	\$1,000 + 12.5%	\$1,160 + 14.5%	\$1,240 + 15.5%	\$1,360 + 17%
Over \$20,000	\$2,040 + 4%	\$3,000 + 6%	\$3,480 + 7%	\$3,720 + 8%	\$4,080 + 9%

The lower percentages for incomes above \$4,000 must be used.

2. CALCULATING CHILD SUPPORT IN SHARED PLACEMENT CASES

A. Existing DWD 40 administrative rule:

When both parents care for a child more than 109.5 over-nights per year, the following adjustments may be used. A 2001 court of appeals decision (Randall), ruled this method must be used presumptively.

1. If parent has placement more than 30% but less than 40%:

Parent's obligation = (parent's gross obligation) x (factor from table)

%PL	30%	31%	32%	33%	34%	35%	36%	37%	38%	39%	40%
Mult. by	100%	96.67%	93.34%	90.01%	86.68%	83.35%	80.02%	76.69%	73.36%	70.03%	66.70%

2. If both parents have placement more than 40%:

Dad's net obligation to Mom=(Dad's gross obligation) x (factor defined in table)

Mom's net obligation to Dad=(Mom's gross obligation) x (factor defined in table)

The parent with the higher net obligation will owe the difference between the amount this parent owes less the amount this parent is due, as child support to the other parent.

%PL	41%	42%	43%	44%	45%	46%	47%	48%	49%	50%
Mult. by	63.37%	60.04%	56.71%	53.38%	50.05%	46.72%	43.39%	40.06%	36.73%	33.40%
%PL	51%	52%	53%	54%	55%	56%	57%	58%	59%	60%
Mult. by	30.07%	26.74%	23.41%	20.08%	16.75%	13.42%	10.09%	6.76%	3.43%	0%

(A parent caring for the children 30% of the time is paying 30% of the variable expenses as well as significant fixed expenses for the children. This parent is allowed to keep 0% of the combined child support funds to care for the children 30% of the time. In this case and many others, this does not provide sufficient funds to one of the parents to provide for the children's expenses.)

B. Proposed DWD 40 administrative rule changes CR 03-022 , by DWD:

When both parents care for a child more than 92 over-nights or equivalent care per year, the following formula **MAY** be used:

Dad's net obligation to Mom=(Dad's gross obligation) x (1.5) x (%Placement with Mom)

Mom's net obligation to Dad=(Mom's gross obligation) x (1.5) x (%Placement with Dad)

The parent with the higher net obligation will owe the difference between the amount this parent owes less the amount this parent is due, as child support to the other parent.

(A parent caring for the children is allowed to keep 30% of the combined child support funds to care for the children 30% of the time. To account for the duplication of expenses in a dual-household, shared-placement family, this formula expects both parents to contribute 50% more of their income to support their children. By allocating the total obligation of both parents to each parent in proportion to each parent's placement time, this method will more correctly provide sufficient funds to each parent to provide for the children's expenses during his or her respective periods of placement.

*Since this DWD is proposing to allow but not require the courts to use this formula the court could come up with two possible values, which could be drastically different. Thus by **using MAY instead of SHALL**, the court may arbitrarily use this formula or the basic percentages. This will make it difficult to use administratively and may*

result in unnecessary litigation over this issue.)

C. AB-250/SB156: (New Statute Section 767.251(4)(b))

When both parents care for a child more than 92 over-nights or equivalent care per year, the following formula **SHALL** be used presumptively:

$$\begin{aligned} \text{Dad's net obligation to Mom} &= (\text{Dad's gross obligation}) \times (1.5) \times (\% \text{Placement with Mom}) \\ \text{Mom's net obligation to Dad} &= (\text{Mom's gross obligation}) \times (1.5) \times (\% \text{Placement with Dad}) \end{aligned}$$

The parent with the higher net obligation will owe the difference between the amount this parent owes less the amount this parent is due, as child support to the other parent.

*(This is the same formula as proposed for DWD 40 except it **MUST** be used. Since this method will yield one value, which the court must presume is correct, it lends itself to be easily used administratively and should reduce litigation over this issue. The court, however, will continue to have the authority to deviate from this value if it finds this amount is unfair.)*

3. FACTORS FOR SUPPORTING OTHER CHILDREN

A. Existing DWD 40 administrative rule:

A previous child support obligation is deducted from the parent's gross income in calculating a new child support obligation. It makes no adjustment for other children the payer is supporting directly.

(This provides earlier born children a greater child support entitlement than later-born children. A similar provision has been found to be unconstitutional in TN.)

B. Proposed DWD 40 administrative rule changes CR 03-022 , by DWD:

There are no new provisions for changing the existing method to account for other children.

C. AB 250/SB156: (New Statute Section 767.251(3)(d))

Any child support obligation of a payer is multiplied by the following factors, based on the number of other children the payer is supporting by a child support order or directly.

1 other child - .90, 2 other children - .85, 3 other children - .80, 4 other children - .75

(This will result in all children of a parent receiving a similar amount of child support, regardless of their birth order.)

4. OTHER PROVISIONS OF AB 250/SB156:

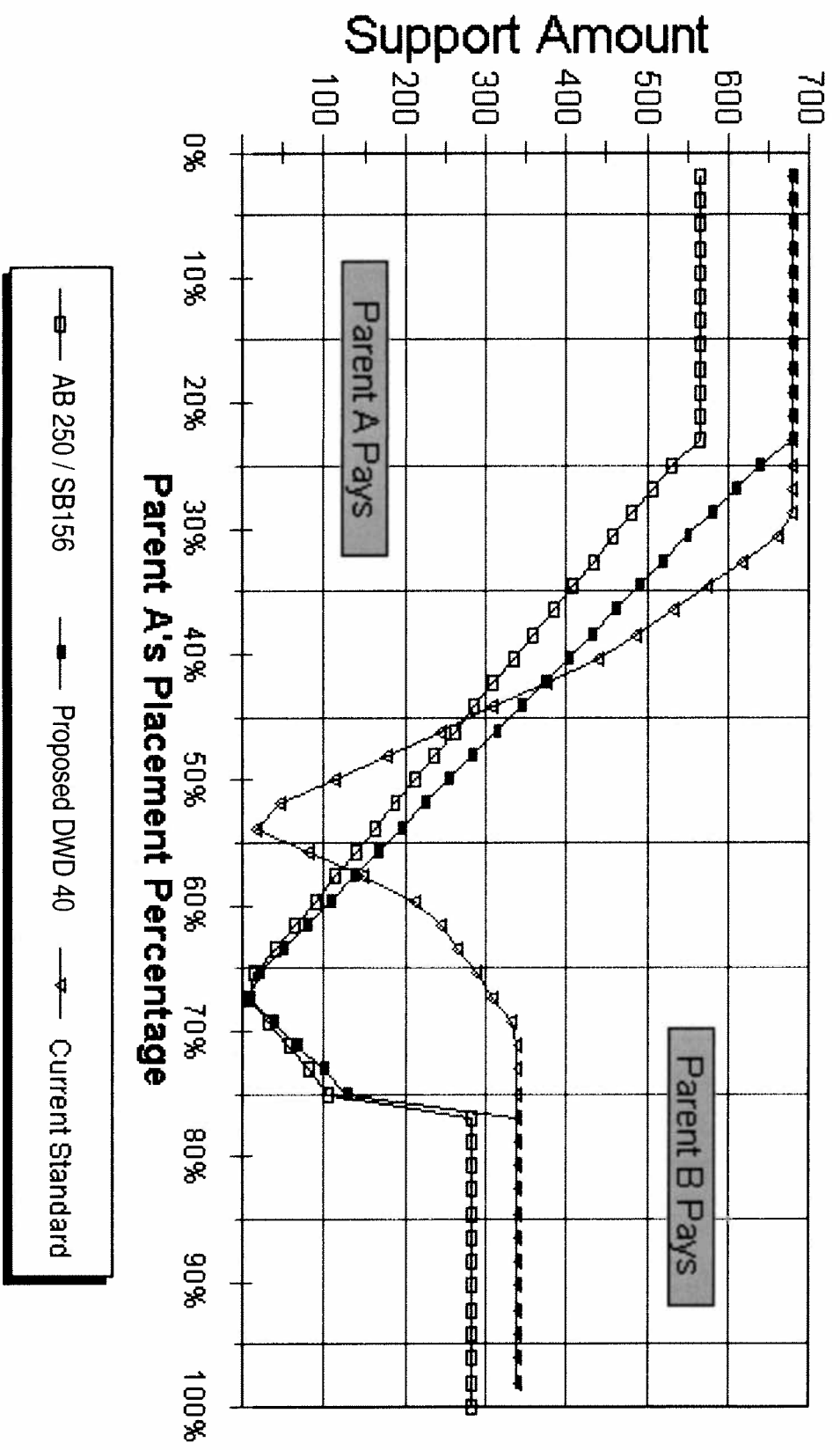
- A. Establishes the child support formula in new statutes section 767.251, not administrative rule.
- B. Requires the DWD to prepare forms, tables, software and instructions to make it easier for the courts and child support agencies to apply this new formula. (Section 10)
- C. Requires the Joint Legislative Council to establish a legislative child support review committee to perform the federally required review every four years. (Section 11)
- D. Defines substantial change of circumstances as sufficient to modify an existing child support order as 33 months and 20%, or at least \$60 per month, change from existing order. (Section 25)
- E. Clarifies what income should be used for calculating child support.



CRule 03-022
Folder

#1 Parent A: \$4,000 Monthly Income Parent B: \$2,000 Monthly Income

Child Support Comparison

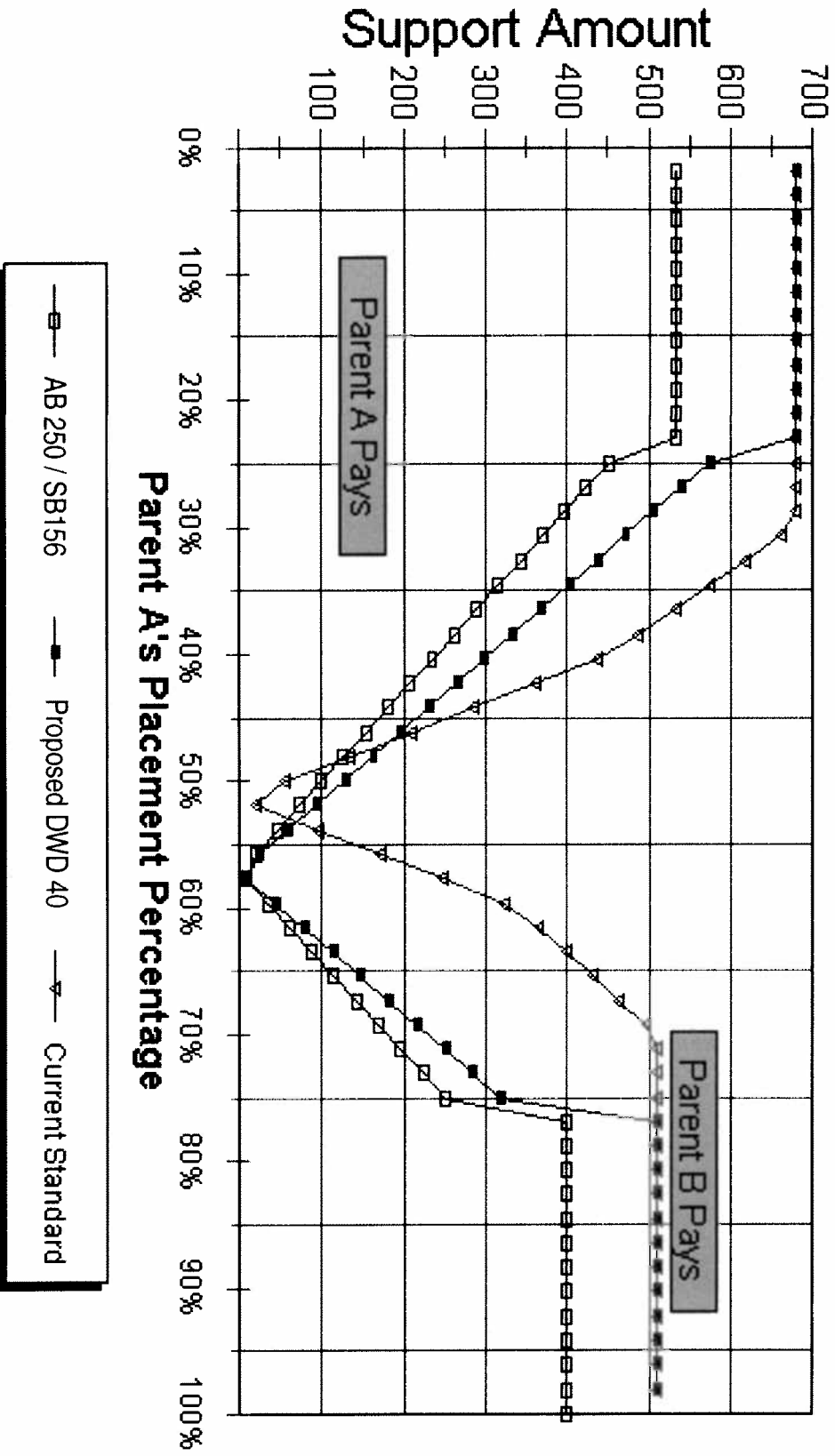


#2

Parent A: \$4,000 Monthly Income

Parent B: \$3,000 Monthly Income

Child Support Comparison

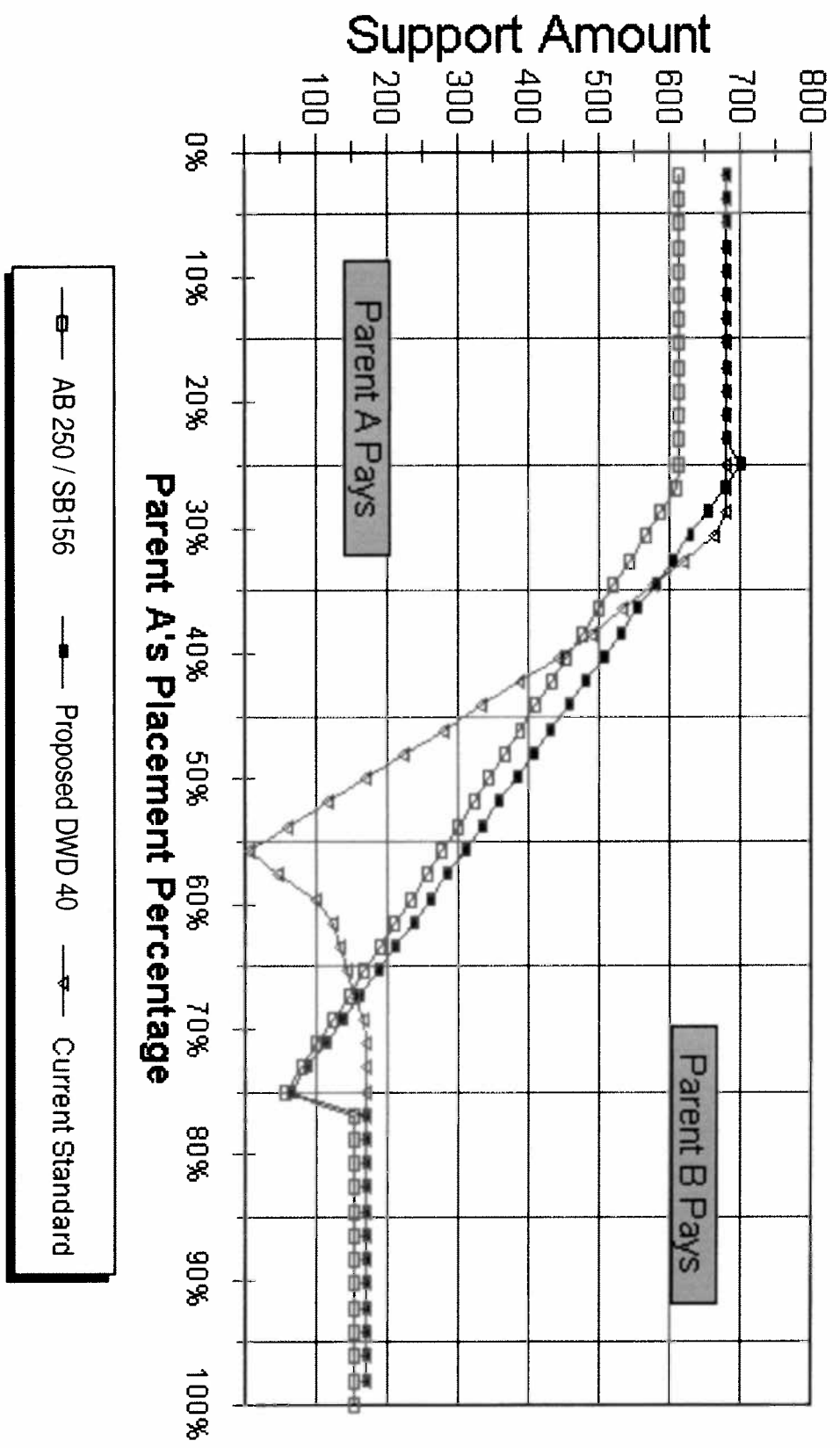


#3

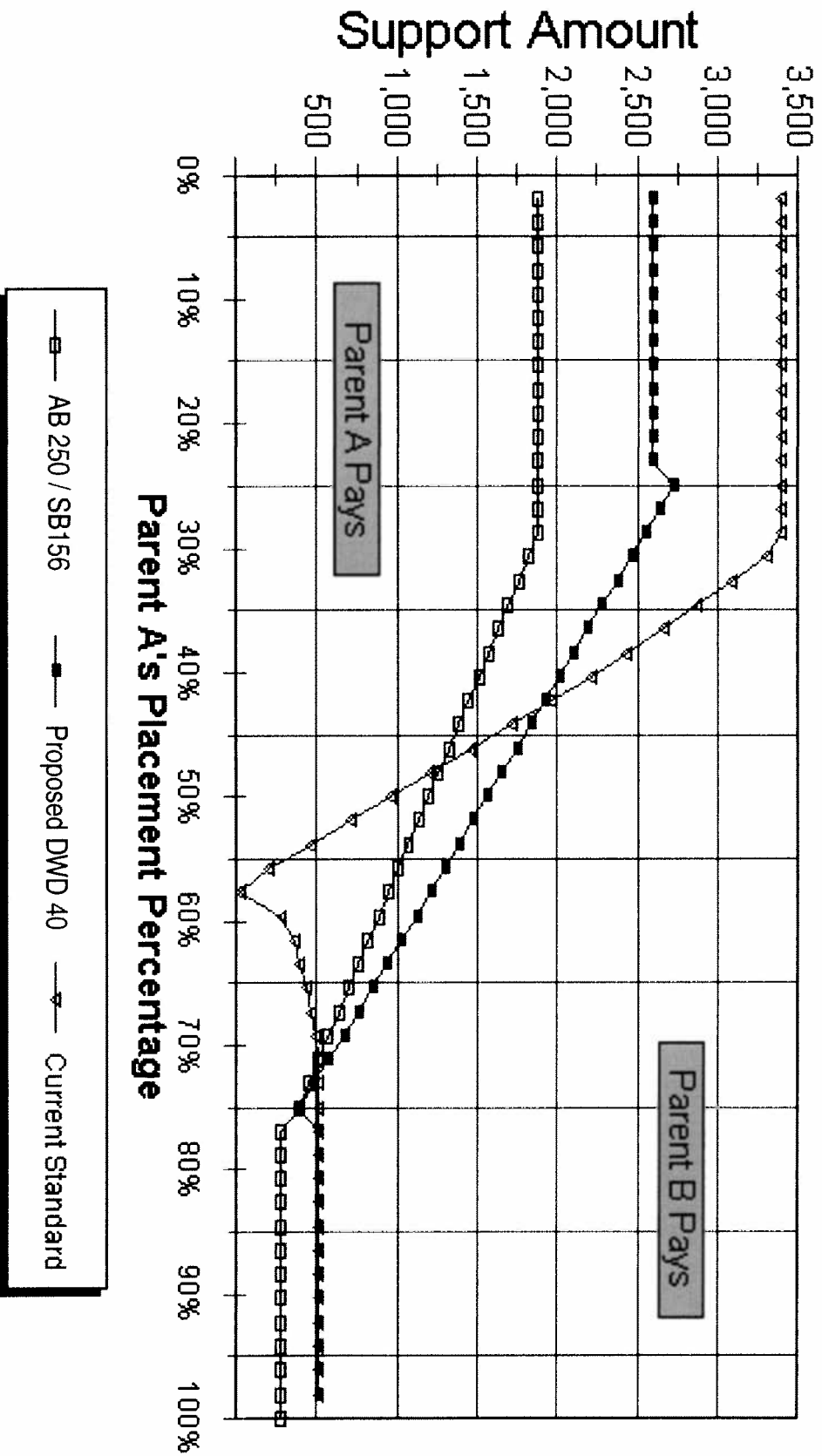
Parent A: \$4,000 Monthly Income

Parent B: \$1,000 Monthly Income

Child Support Comparison



Child Support Comparison

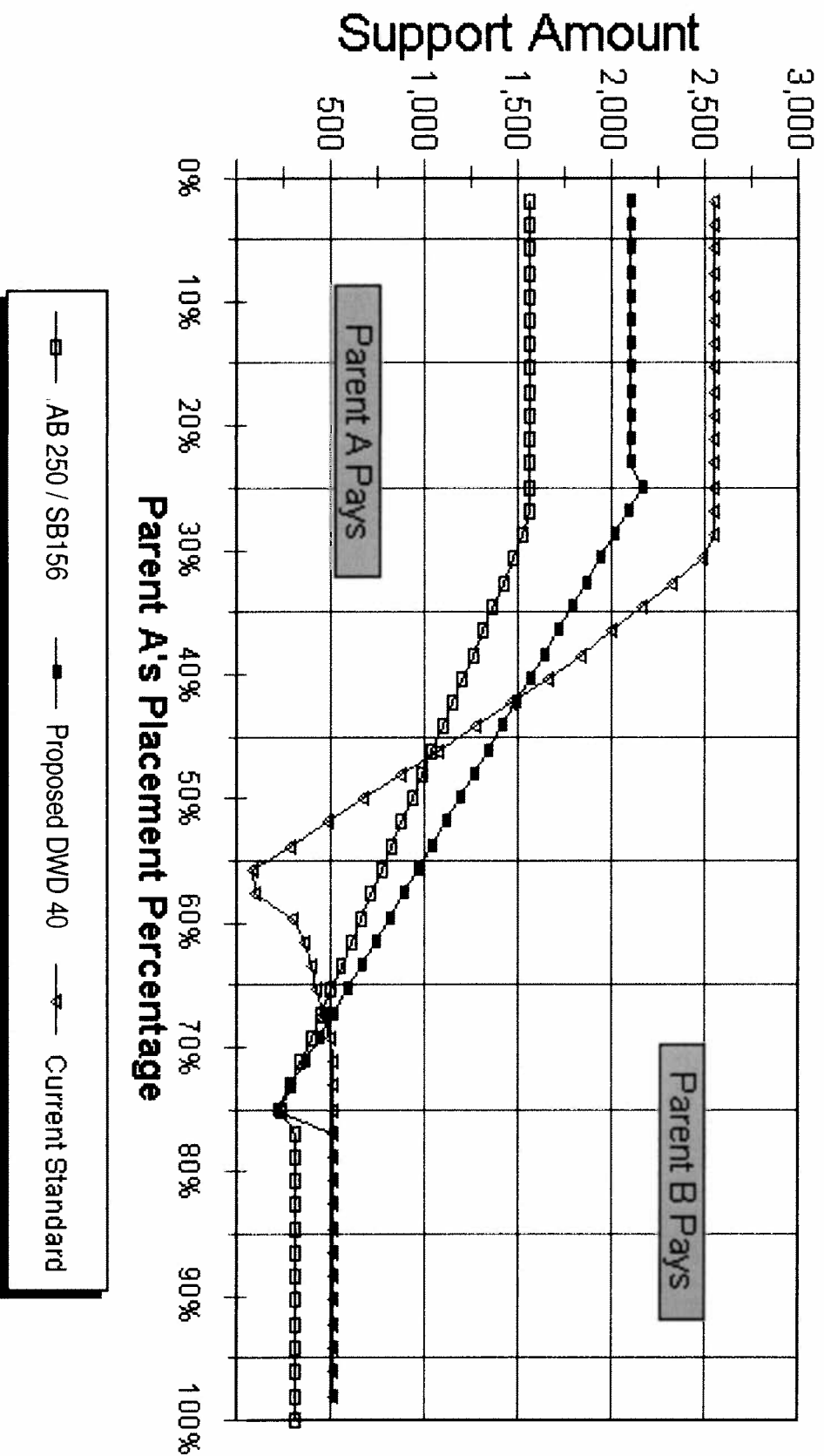


#5

Parent A: \$15,000 Monthly Income

Parent B: \$3,000 Monthly Income

Child Support Comparison

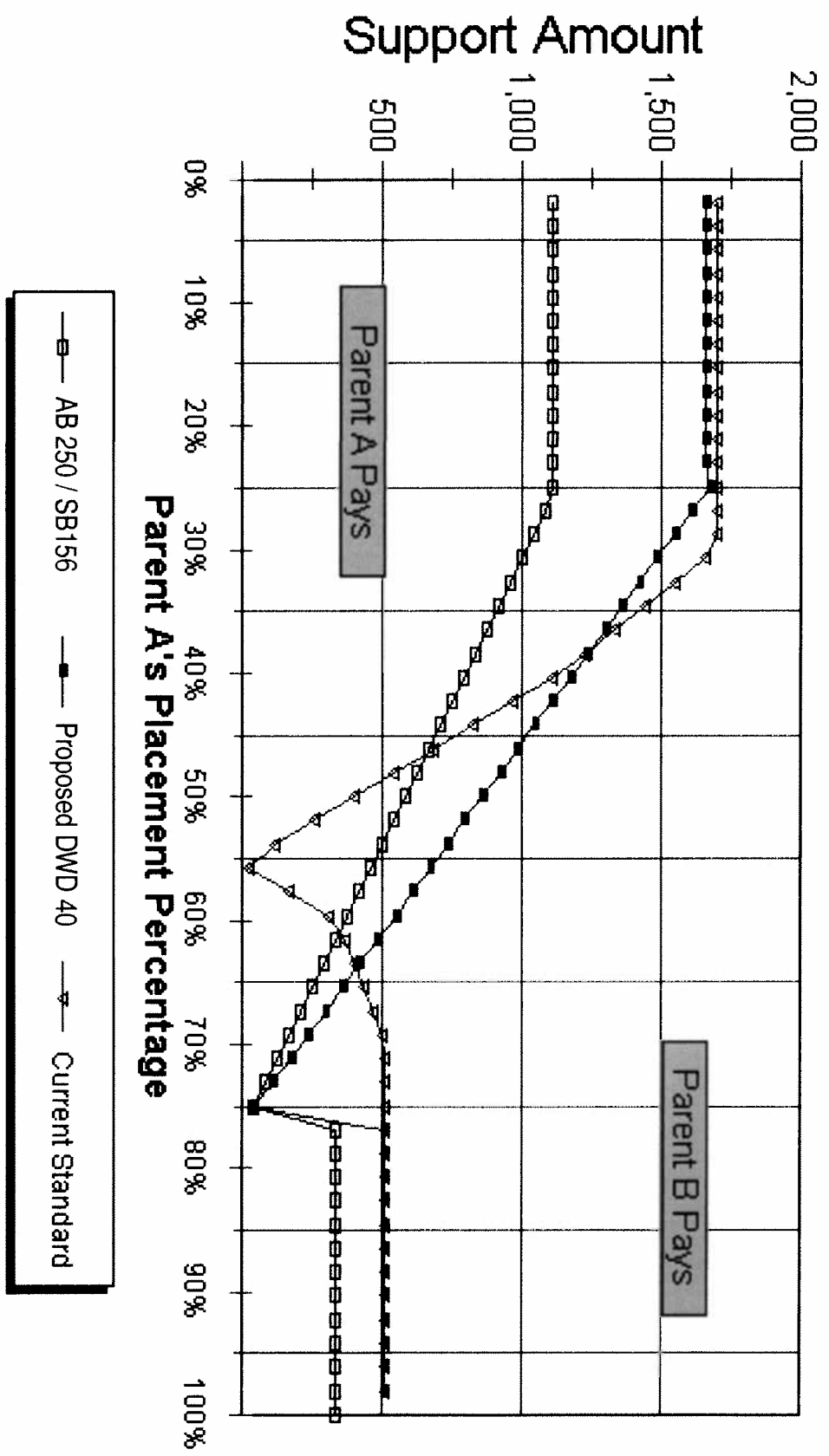


#6

Parent A: \$10,000 Monthly Income

Parent B: \$3,000 Monthly Income

Child Support Comparison

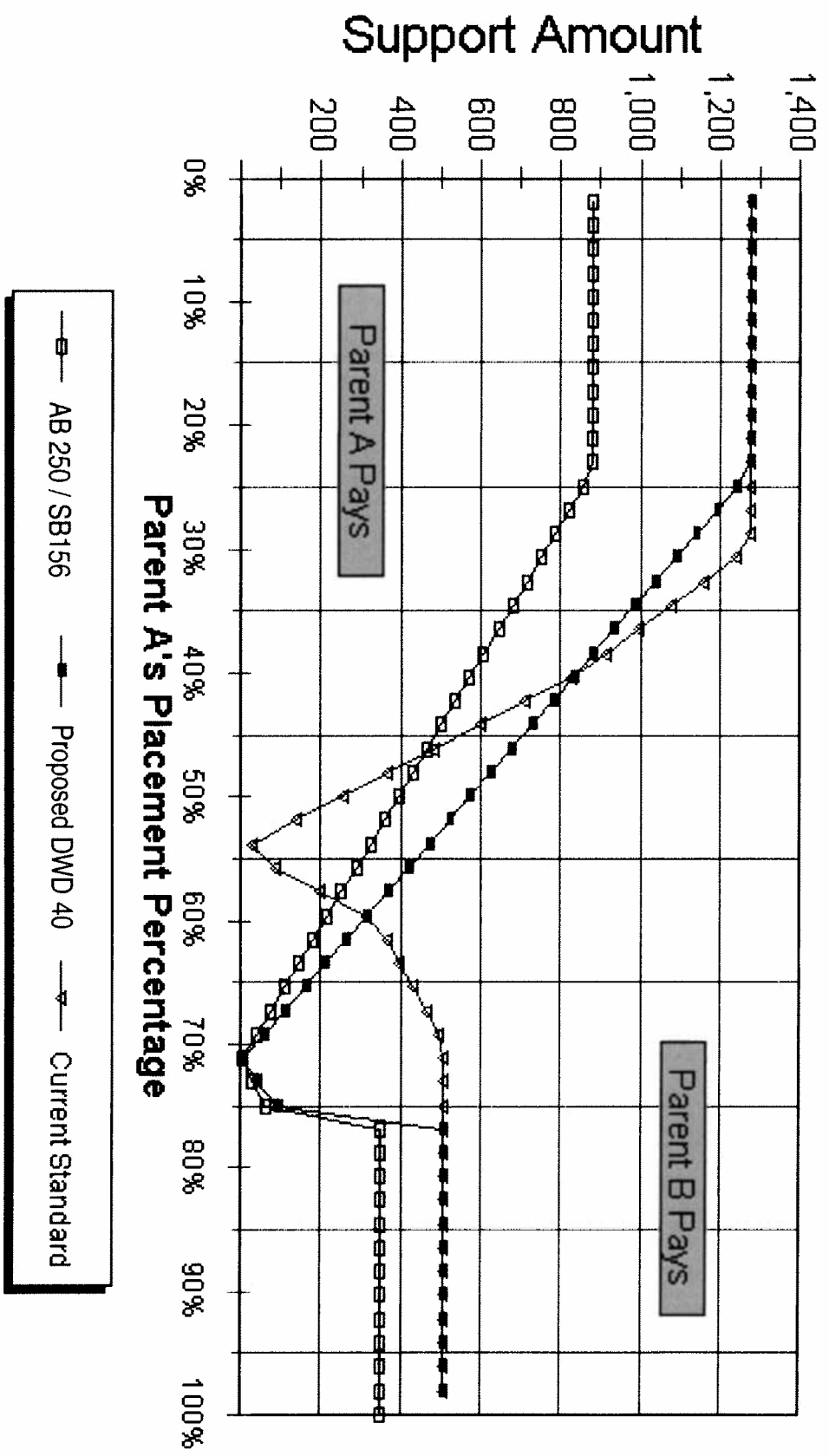


#7

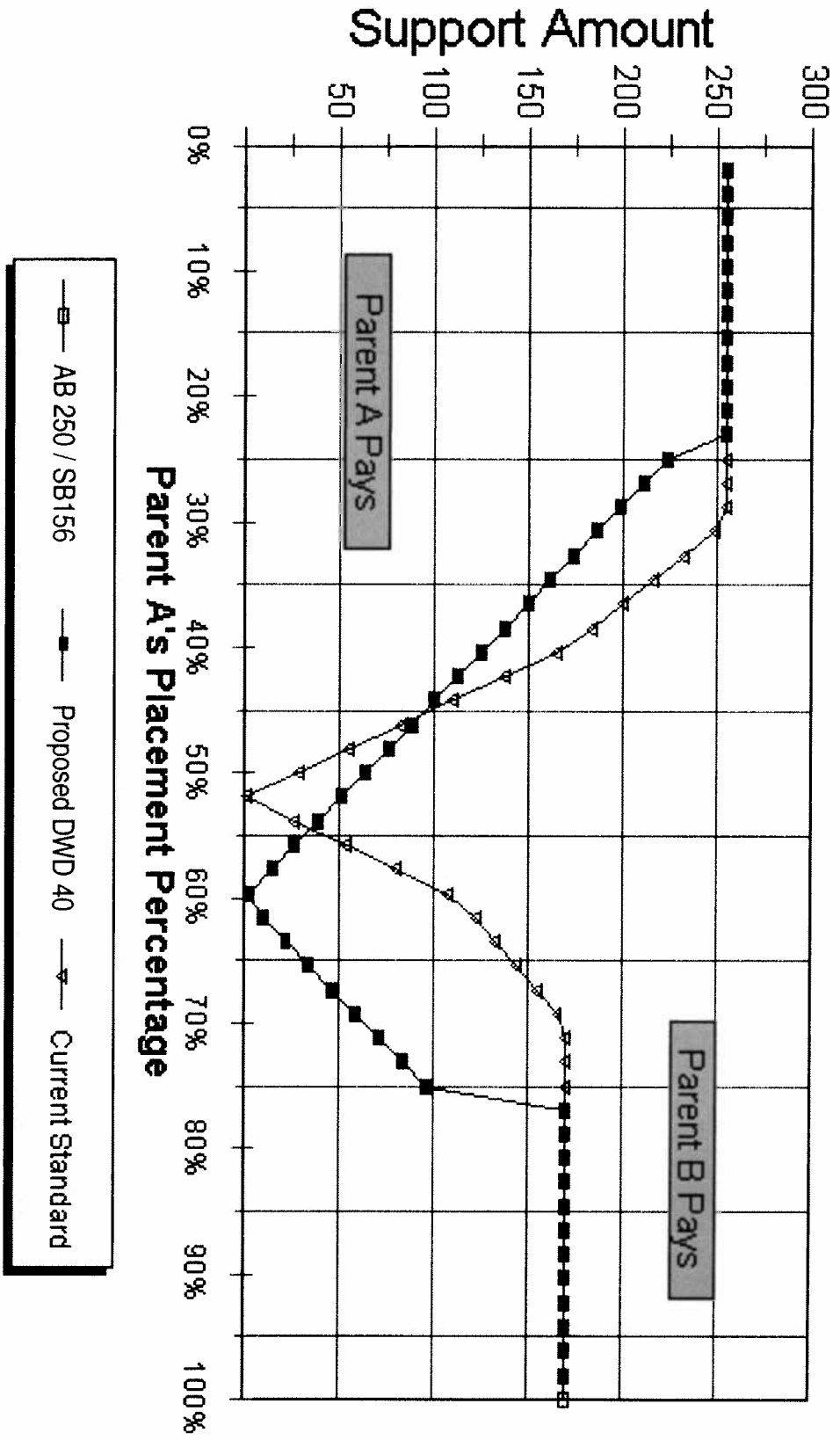
Parent A: \$7,500 Monthly Income

Parent B: \$3,000 Monthly Income

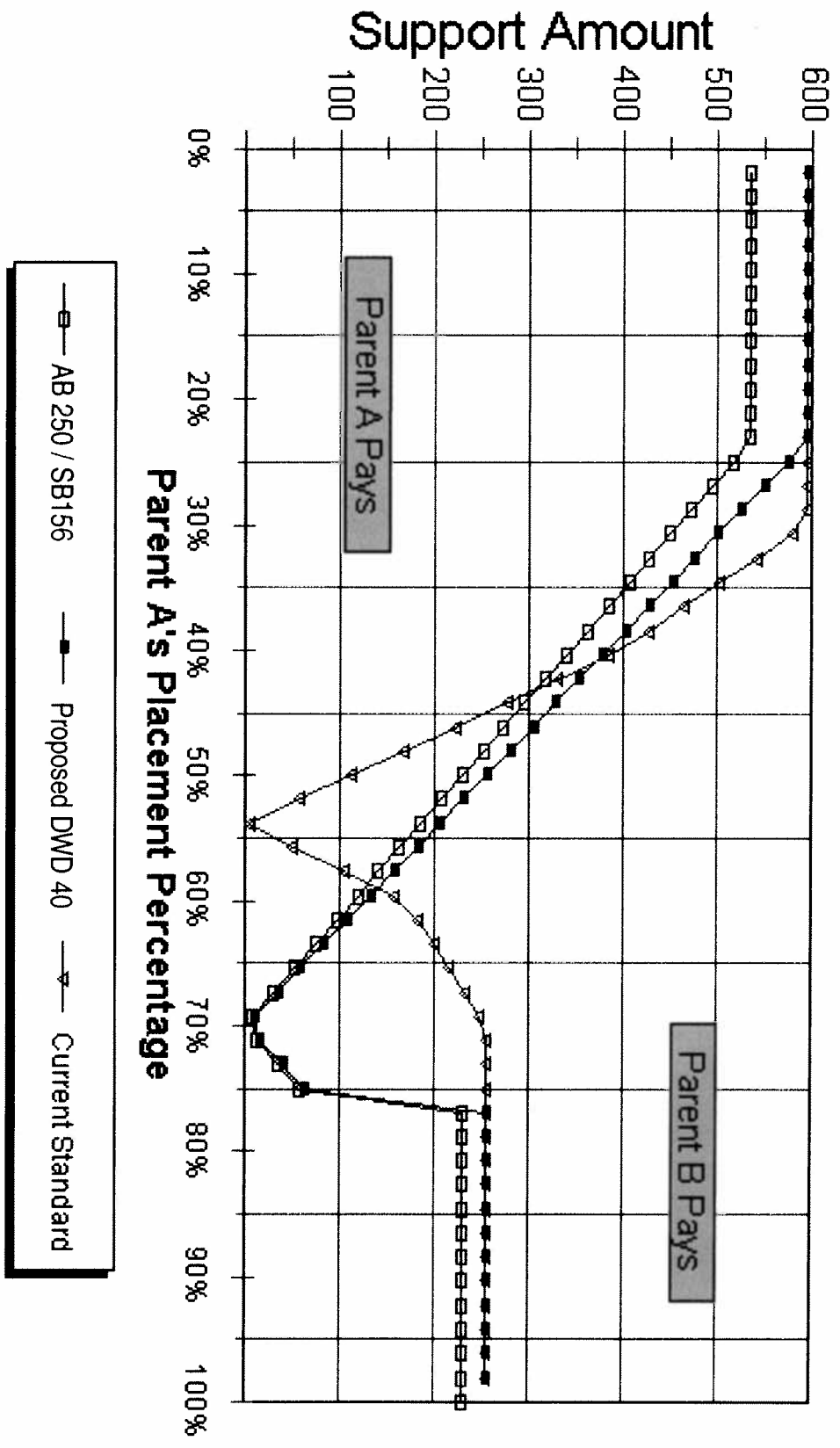
Child Support Comparison



Child Support Comparison

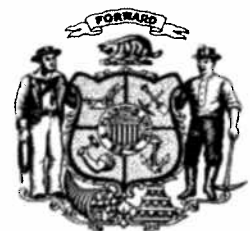


Child Support Comparison





WISCONSIN STATE LEGISLATURE



CRule
03-022

AMENDMENTS TO PROPOSED DWD 40

1. Amend DWD 40.03 (3) as follows:

DWD 40.03 (3) DETERMINING INCOME IMPUTED BASED ON EARNING CAPACITY. In situations where the income of a parent is less than the parent=s earning capacity or is unknown, the court may impute income to the parent at an amount that represents the parent=s ability to earn, based on the parent=s education, training and work experience, earnings during previous periods, physical and mental health, and the availability of work in or near the parent=s community. If evidence is presented that due diligence has been exercised to ascertain information on the parent=s actual income or ability to earn and that information is unavailable, the court may impute to the parent the income that a person would earn by working 40 35 hours per week for the federal minimum hourly wage under 29 USC 206 (a)(1). If a parent has gross income or income modified for business expenses below his or her earning capacity, the income imputed based on earning capacity shall be the difference between the parent=s earning capacity and the parent=s gross income or income modified for businesses expenses.

2. Delete proposed DWD 40.04 (4) and substitute the alternative below:

DWD 40.04 (4). Is created to read:

DWD 40.04 (4). ALTERNATIVE SUPPORT ORDER FOR LOW INCOME PAYERS.

(a) As an alternative for the calculation of the support amount for a parent whose income is below 150% of the federal poverty guidelines, the court may use the monthly support amount provided in the schedule in Appendix C as the support amount for a payer with a monthly income available for child support at a level indicated in the schedule. The court may use this schedule in Appendix C where the parent has a limited ability to pay support based on income level, employment history, education level, or history of child care responsibilities as the person with primary physical placement.

(b) The department shall revise the schedule in Appendix C at least once every four years. The revision shall be based on changes in the federal poverty level since the schedule was last revised. The department shall publish revisions to the schedule in the Wisconsin Administrative Register.

Note: The schedule in Appendix C provides a minimum monthly support amount that may be used for payers who have a limited ability to pay support based on income level, employment history, education level or history of child care responsibilities as the person with primary physical placement. The schedule may be used for payers with a monthly income available for child support below approximately 70% of the federal poverty level. For payers with a monthly income available for child support between approximately 70% and 150% of the federal poverty level, the schedule provides graduated percentage rates that result in a child support obligation that is between the minimum monthly support amounts and the child support obligation determined by applying the percentage standards under s. DWD 40.03 (1). The percentage standards in s. DWD 40.03 (1) apply to payers with a monthly income available for child support above the levels listed in the Schedule in Appendix C.

Appendix C
Low Income Payers

For Monthly Income Up To	One Child			Two Children			Three Children			Four Children			Five or More Children		
	Current %	Proposed %	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount
500	17	4.250%	\$21	25	6.250%	\$31	29	7.250%	36	31	7.750%	\$39	34	8.500%	\$43
505	17	4.362%	\$22	25	6.413%	\$32	29	7.439%	38	31	7.952%	\$40	34	8.722%	\$44
510	17	4.473%	\$23	25	6.576%	\$34	29	7.628%	39	31	8.154%	\$42	34	8.944%	\$46
515	17	4.585%	\$24	25	6.739%	\$35	29	7.817%	40	31	8.356%	\$43	34	9.166%	\$47
520	17	4.697%	\$24	25	6.902%	\$36	29	8.006%	42	31	8.558%	\$45	34	9.388%	\$49
525	17	4.808%	\$25	25	7.065%	\$37	29	8.195%	43	31	8.760%	\$46	34	9.610%	\$50
530	17	4.919%	\$26	25	7.228%	\$38	29	8.384%	44	31	8.962%	\$47	34	9.832%	\$52
535	17	5.030%	\$27	25	7.391%	\$40	29	8.573%	46	31	9.164%	\$49	34	10.054%	\$54
540	17	5.141%	\$28	25	7.554%	\$41	29	8.762%	47	31	9.366%	\$51	34	10.276%	\$55
545	17	5.252%	\$29	25	7.717%	\$42	29	8.951%	49	31	9.568%	\$52	34	10.498%	\$57
550	17	5.363%	\$29	25	7.880%	\$43	29	9.140%	50	31	9.770%	\$54	34	10.720%	\$59
555	17	5.474%	\$30	25	8.043%	\$45	29	9.329%	52	31	9.972%	\$55	34	10.942%	\$61
560	17	5.585%	\$31	25	8.206%	\$46	29	9.518%	53	31	10.174%	\$57	34	11.164%	\$63
565	17	5.696%	\$32	25	8.369%	\$47	29	9.707%	55	31	10.376%	\$59	34	11.386%	\$64
570	17	5.807%	\$33	25	8.532%	\$49	29	9.896%	56	31	10.578%	\$60	34	11.608%	\$66
575	17	5.918%	\$34	25	8.695%	\$50	29	10.085%	58	31	10.780%	\$62	34	11.830%	\$68
580	17	6.029%	\$35	25	8.858%	\$51	29	10.274%	60	31	10.982%	\$64	34	12.052%	\$70
585	17	6.140%	\$36	25	9.021%	\$53	29	10.463%	61	31	11.184%	\$65	34	12.274%	\$72
590	17	6.251%	\$37	25	9.184%	\$54	29	10.652%	63	31	11.386%	\$67	34	12.496%	\$74
595	17	6.362%	\$38	25	9.347%	\$56	29	10.841%	65	31	11.588%	\$69	34	12.718%	\$76
600	17	6.473%	\$39	25	9.510%	\$57	29	11.030%	66	31	11.790%	\$71	34	12.940%	\$78
605	17	6.584%	\$40	25	9.673%	\$59	29	11.219%	68	31	11.992%	\$73	34	13.162%	\$80
610	17	6.695%	\$41	25	9.836%	\$60	29	11.408%	70	31	12.194%	\$74	34	13.384%	\$82
615	17	6.806%	\$42	25	9.999%	\$61	29	11.597%	71	31	12.396%	\$76	34	13.606%	\$84
620	17	6.917%	\$43	25	10.162%	\$63	29	11.786%	73	31	12.598%	\$78	34	13.828%	\$86
625	17	7.028%	\$44	25	10.325%	\$65	29	11.975%	75	31	12.800%	\$80	34	14.050%	\$88
630	17	7.139%	\$45	25	10.488%	\$66	29	12.164%	77	31	13.002%	\$82	34	14.272%	\$90
635	17	7.250%	\$46	25	10.651%	\$68	29	12.353%	78	31	13.204%	\$84	34	14.494%	\$92
640	17	7.361%	\$47	25	10.814%	\$69	29	12.542%	80	31	13.406%	\$86	34	14.716%	\$94

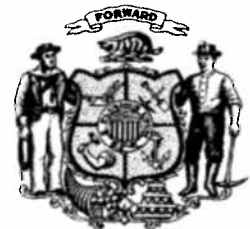
For Monthly Income Up To	One Child			Two Children			Three Children			Four Children			Five or More Children		
	Current %	Proposed %	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount
645	17	7.472%	\$48	25	10.977%	\$71	29	12.731%	82	31	13.608%	\$88	34	14.938%	\$96
650	17	7.583%	\$49	25	11.140%	\$72	29	12.920%	84	31	13.810%	\$90	34	15.160%	\$99
655	17	7.694%	\$50	25	11.303%	\$74	29	13.109%	86	31	14.012%	\$92	34	15.382%	\$101
660	17	7.805%	\$52	25	11.466%	\$76	29	13.298%	88	31	14.214%	\$94	34	15.604%	\$103
665	17	7.916%	\$53	25	11.629%	\$77	29	13.487%	90	31	14.416%	\$96	34	15.826%	\$105
670	17	8.027%	\$54	25	11.792%	\$79	29	13.676%	92	31	14.618%	\$98	34	16.048%	\$108
675	17	8.138%	\$55	25	11.955%	\$81	29	13.865%	94	31	14.820%	\$100	34	16.270%	\$110
680	17	8.249%	\$56	25	12.118%	\$82	29	14.054%	96	31	15.022%	\$102	34	16.492%	\$112
685	17	8.360%	\$57	25	12.281%	\$84	29	14.243%	98	31	15.224%	\$104	34	16.714%	\$114
690	17	8.471%	\$58	25	12.444%	\$86	29	14.432%	100	31	15.426%	\$106	34	16.936%	\$117
695	17	8.582%	\$60	25	12.607%	\$88	29	14.621%	102	31	15.628%	\$109	34	17.158%	\$119
700	17	8.693%	\$61	25	12.770%	\$89	29	14.810%	104	31	15.830%	\$111	34	17.380%	\$122
705	17	8.804%	\$62	25	12.933%	\$91	29	14.999%	106	31	16.032%	\$113	34	17.602%	\$124
710	17	8.915%	\$63	25	13.096%	\$93	29	15.188%	108	31	16.234%	\$115	34	17.824%	\$127
715	17	9.026%	\$65	25	13.259%	\$95	29	15.377%	110	31	16.436%	\$118	34	18.046%	\$129
720	17	9.137%	\$66	25	13.422%	\$97	29	15.566%	112	31	16.638%	\$120	34	18.268%	\$132
725	17	9.248%	\$67	25	13.585%	\$98	29	15.755%	114	31	16.840%	\$122	34	18.490%	\$134
730	17	9.359%	\$68	25	13.748%	\$100	29	15.944%	116	31	17.042%	\$124	34	18.712%	\$137
735	17	9.470%	\$70	25	13.911%	\$102	29	16.133%	119	31	17.244%	\$127	34	18.934%	\$139
740	17	9.581%	\$71	25	14.074%	\$104	29	16.322%	121	31	17.446%	\$129	34	19.156%	\$142
745	17	9.692%	\$72	25	14.237%	\$106	29	16.511%	123	31	17.648%	\$131	34	19.378%	\$144
750	17	9.803%	\$74	25	14.400%	\$108	29	16.700%	125	31	17.850%	\$134	34	19.600%	\$147
755	17	9.914%	\$75	25	14.563%	\$110	29	16.889%	128	31	18.052%	\$136	34	19.822%	\$150
760	17	10.025%	\$75	25	14.726%	\$112	29	17.078%	130	31	18.254%	\$139	34	20.044%	\$152
765	17	10.136%	\$78	25	14.889%	\$114	29	17.267%	132	31	18.456%	\$141	34	20.266%	\$155
770	17	10.247%	\$79	25	15.052%	\$116	29	17.456%	134	31	18.658%	\$144	34	20.488%	\$158
775	17	10.358%	\$80	25	15.215%	\$118	29	17.645%	137	31	18.860%	\$146	34	20.710%	\$161
780	17	10.469%	\$82	25	15.378%	\$120	29	17.834%	139	31	19.062%	\$149	34	20.932%	\$163
785	17	10.580%	\$83	25	15.541%	\$122	29	18.023%	141	31	19.264%	\$151	34	21.154%	\$166
790	17	10.691%	\$84	25	15.704%	\$124	29	18.212%	144	31	19.466%	\$154	34	21.376%	\$169
795	17	10.802%	\$85	25	15.867%	\$126	29	18.401%	146	31	19.668%	\$156	34	21.598%	\$172
800	17	10.913%	\$87	25	16.030%	\$128	29	18.590%	149	31	19.870%	\$159	34	21.820%	\$175
805	17	11.024%	\$89	25	16.193%	\$130	29	18.779%	151	31	20.072%	\$162	34	22.042%	\$177
810	17	11.135%	\$90	25	16.356%	\$132	29	18.968%	154	31	20.274%	\$164	34	22.264%	\$180

For Monthly Income Up To	One Child			Two Children			Three Children			Four Children			Five or More Children		
	Current %	Proposed %	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount
815	17	11.246%	\$92	25	16.519%	\$135	29	19.157%	156	31	20.476%	\$167	34	22.486%	\$183
820	17	11.357%	\$93	25	16.682%	\$137	29	19.346%	159	31	20.678%	\$170	34	22.708%	\$186
825	17	11.468%	\$95	25	16.845%	\$139	29	19.535%	161	31	20.860%	\$172	34	22.930%	\$189
830	17	11.579%	\$96	25	17.008%	\$141	29	19.724%	164	31	21.082%	\$175	34	23.152%	\$192
835	17	11.690%	\$98	25	17.171%	\$143	29	19.913%	166	31	21.284%	\$178	34	23.374%	\$195
840	17	11.801%	\$99	25	17.334%	\$146	29	20.102%	169	31	21.486%	\$180	34	23.596%	\$198
845	17	11.912%	\$101	25	17.497%	\$148	29	20.291%	171	31	21.688%	\$183	34	23.818%	\$201
850	17	12.023%	\$102	25	17.660%	\$150	29	20.480%	174	31	21.890%	\$186	34	24.040%	\$204
855	17	12.134%	\$104	25	17.823%	\$152	29	20.669%	177	31	22.092%	\$189	34	24.262%	\$207
860	17	12.245%	\$105	25	17.986%	\$155	29	20.858%	179	31	22.294%	\$192	34	24.484%	\$211
865	17	12.356%	\$107	25	18.149%	\$157	29	21.047%	182	31	22.496%	\$195	34	24.706%	\$214
870	17	12.467%	\$108	25	18.312%	\$159	29	21.236%	185	31	22.698%	\$197	34	24.928%	\$217
875	17	12.578%	\$110	25	18.475%	\$162	29	21.425%	187	31	22.900%	\$200	34	25.150%	\$220
880	17	12.689%	\$112	25	18.638%	\$164	29	21.614%	190	31	23.102%	\$203	34	25.372%	\$223
885	17	12.800%	\$113	25	18.801%	\$166	29	21.803%	193	31	23.304%	\$206	34	25.594%	\$227
890	17	12.911%	\$115	25	18.964%	\$169	29	21.992%	196	31	23.506%	\$209	34	25.816%	\$230
895	17	13.022%	\$117	25	19.127%	\$171	29	22.181%	199	31	23.708%	\$212	34	26.038%	\$233
900	17	13.133%	\$118	25	19.290%	\$174	29	22.370%	201	31	23.910%	\$215	34	26.260%	\$236
905	17	13.244%	\$120	25	19.453%	\$176	29	22.559%	204	31	24.112%	\$218	34	26.482%	\$240
910	17	13.355%	\$122	25	19.616%	\$179	29	22.748%	207	31	24.314%	\$221	34	26.704%	\$243
915	17	13.466%	\$123	25	19.779%	\$181	29	22.937%	210	31	24.516%	\$224	34	26.926%	\$246
920	17	13.577%	\$125	25	19.942%	\$183	29	23.126%	213	31	24.718%	\$227	34	27.148%	\$250
925	17	13.688%	\$127	25	20.105%	\$186	29	23.315%	216	31	24.920%	\$231	34	27.370%	\$253
930	17	13.799%	\$128	25	20.268%	\$188	29	23.504%	219	31	25.122%	\$234	34	27.592%	\$257
935	17	13.910%	\$130	25	20.431%	\$191	29	23.693%	222	31	25.324%	\$237	34	27.814%	\$260
940	17	14.021%	\$132	25	20.594%	\$194	29	23.882%	224	31	25.526%	\$240	34	28.036%	\$264
945	17	14.132%	\$134	25	20.757%	\$196	29	24.071%	227	31	25.728%	\$243	34	28.258%	\$267
950	17	14.243%	\$135	25	20.920%	\$199	29	24.260%	230	31	25.930%	\$246	34	28.480%	\$271
955	17	14.354%	\$137	25	21.083%	\$201	29	24.449%	233	31	26.132%	\$250	34	28.702%	\$274
960	17	14.465%	\$139	25	21.246%	\$204	29	24.638%	237	31	26.334%	\$253	34	28.924%	\$278
965	17	14.576%	\$141	25	21.409%	\$207	29	24.827%	240	31	26.536%	\$256	34	29.146%	\$281
970	17	14.687%	\$142	25	21.572%	\$209	29	25.016%	243	31	26.738%	\$259	34	29.368%	\$285
975	17	14.798%	\$144	25	21.735%	\$212	29	25.205%	246	31	26.940%	\$263	34	29.590%	\$289
980	17	14.909%	\$146	25	21.898%	\$215	29	25.394%	249	31	27.142%	\$266	34	29.812%	\$292

For Monthly Income Up To	One Child			Two Children			Three Children			Four Children			Five or More Children		
	Current %	Proposed %	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount
985	17	15.020%	\$148	25	22.061%	\$217	29	25.583%	252	31	27.344%	\$269	34	30.034%	\$296
990	17	15.131%	\$150	25	22.224%	\$220	29	25.772%	255	31	27.546%	\$273	34	30.256%	\$300
995	17	15.242%	\$152	25	22.387%	\$223	29	25.961%	258	31	27.748%	\$276	34	30.478%	\$303
1000	17	15.353%	\$154	25	22.550%	\$226	29	26.150%	262	31	27.950%	\$280	34	30.700%	\$307
1005	17	15.464%	\$155	25	22.713%	\$228	29	26.339%	265	31	28.152%	\$283	34	30.922%	\$311
1010	17	15.575%	\$157	25	22.876%	\$231	29	26.528%	268	31	28.354%	\$286	34	31.144%	\$315
1015	17	15.686%	\$159	25	23.039%	\$234	29	26.717%	271	31	28.556%	\$290	34	31.366%	\$318
1020	17	15.797%	\$161	25	23.202%	\$237	29	26.906%	274	31	28.758%	\$293	34	31.588%	\$322
1025	17	15.908%	\$163	25	23.365%	\$239	29	27.095%	278	31	28.960%	\$297	34	31.810%	\$326
1030	17	16.019%	\$165	25	23.528%	\$242	29	27.284%	281	31	29.162%	\$300	34	32.032%	\$330
1035	17	16.130%	\$167	25	23.691%	\$245	29	27.473%	284	31	29.364%	\$304	34	32.254%	\$334
1040	17	16.241%	\$169	25	23.854%	\$248	29	27.662%	288	31	29.566%	\$307	34	32.476%	\$338
1045	17	16.352%	\$171	25	24.017%	\$251	29	27.851%	291	31	29.768%	\$311	34	32.698%	\$342
1050	17	16.463%	\$173	25	24.180%	\$254	29	28.040%	294	31	29.970%	\$315	34	32.920%	\$346
1055	17	16.574%	\$175	25	24.343%	\$257	29	28.229%	298	31	30.172%	\$318	34	33.142%	\$350
1060	17	16.685%	\$177	25	24.506%	\$260	29	28.418%	301	31	30.374%	\$322	34	33.364%	\$354
1065	17	16.796%	\$179	25	24.669%	\$263	29	28.607%	305	31	30.576%	\$326	34	33.586%	\$358
1070	17	16.907%	\$181	25	24.832%	\$266	29	28.796%	308	31	30.778%	\$329	34	33.808%	\$362
1075	17	17.000%	\$183	25	25.000%	\$269	29	29.000%	312	31	31.000%	\$333	34	34.000%	\$366



WISCONSIN STATE LEGISLATURE



Date??

The Assembly Committee on Children and Families moves that the Department of Workforce Development modify CR 03-022 as follows:

- To lower the income threshold at which a payer may be subject to the high-income payer percentage standard.
- To require courts to use the percentage standard for high-income payers when a parent is found to be a high-income payer.
- To address concerns that, when current child support obligations are modified using the standards created in the proposed rule, payers who have substantially equal periods of physical placement with the payee will be ordered to pay a significantly increased amount of child support.
- To require courts to consider a parent's *recent* education, training and work experience, and earnings; the parent's *current* physical and mental health; the parent's history of child care responsibilities as the parent with primary placement or during the marriage, if applicable; and the availability of work in or near the parent's community when imputing income.