

Committee Name:
Senate Committee –
Judiciary, Corrections and Privacy
(SC–JCP)

Appointments

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Committee Hearings

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TO: Senate Committee on Judiciary, Corrections, and Privacy

FROM: Bob Andersen 

RE: SB 156, Relating to calculating child support and creating committees to review the method of calculating child support

DATE: August 26, 2003

Legal Action of Wisconsin, Inc. (LAW) is a nonprofit organization funded by the federal Legal Services Corporation, Inc., to provide legal services for low income people in 39 counties in Wisconsin. LAW provides representation for low income people across a territory that extends from the very populous southeastern corner of the state up through Brown County in the east and La Crosse County in the west. Family law is one of the three principal areas in which LAW provides services (housing and public benefits are the other two). As a result, LAW is extensively involved in child support issues, on behalf of both payees and payers.

A representative of LAW served on the Child Support Guidelines Review Advisory Committee established by DWD, which resulted in Clearinghouse Rule 03-022.

We are opposed to SB 156 because DWD's proposed administrative rule, Clearinghouse Rule 03-022, contains the same most significant change in the law offered by the bill and the administrative rule can take effect immediately, because the bill does not reduce child support orders for low income payers as does the proposed administrative rule, and because the administrative rule makes substantial reductions of child support orders in appropriate cases.

The reality is that, the biggest change in child support calculation is made in the same way by both AB 250 and the proposed administrative rule. Under both proposals, the incomes of both parents are considered in setting support when they each have physical placement at least 25% of the time.

Under current law, the income of both parents is not considered until both parents have physical placement at least 40% of the time. As a result, the change that is proposed by Assembly Clearinghouse Rule 03-022 is responsive to the greatest concern that has been raised by proponents of AB 250 – which is to allow for the consideration of both parents incomes. The proposed administrative rule (and the bill) draw the line at 25% physical placement, in determining whether to consider both parents income. Physical placement that falls below that level is not considered to be significant enough to warrant reducing child support by taking into

account the other parent's income. The expenses that a parent has are not that great, if the parent has physical placement below 25% of the time. Above that level, expenses rise because of the need to provide more for the child, especially in living accommodations.

This is a very significant change in the law that is being proposed by Assembly Clearinghouse Rule 03-022. It will have a dramatic effect on child support orders, including cases where income is imputed for mothers with children who have been unemployed or underemployed because of child care responsibilities. It will also have a dramatic effect on the number of people who will be going back to court to increase their periods of physical placement to 25% of the time, in order to benefit from the new law. This should resolve many of the complaints that have been made by child support payers over the years.

As far as low income payers are concerned, the problem with current law is that, for persons with incomes that are below their earning capacity, current administrative rules allow for the imputation of their income by either (a) evaluating their earning capacity or (b) setting an order at 40 times the federal minimum wage. ***Because it is simpler, unfortunately, most jurisdictions impute income by simply setting orders at 40 times the federal minimum wage.*** The result is that unrealistic orders are set that payers can never reach, result in huge arrearages being accumulated, result in incarceration, and result in a people losing their jobs.

This problem was exacerbated when the federal government required the state to discontinue the use of percentage expressed orders in most cases. Under the percentage expressed orders, child support orders could be expressed in terms of a percentage that could be applied to whatever real income the payer had. Unfortunately, the federal government disfavored such orders because it made it difficult to track how much money was actually being paid.

SB 156 does not resolve this problem, by providing that the court shall impute to the parent a gross income based on a 40 hour work week if the parent is able and available for work and employment opportunities exist in the community.

The problems with current law have been attested to by obligors. They say the result of such policies is that low income payers suffer a never ending cycle of incarceration and joblessness that feed off of each other. Inmates in county jails, some with Huber law privileges, give anecdotal reports of the failure of the current system, including –

- high child support orders that are imposed against them even though they have no ability to get the jobs that would be necessary to abide by the orders;
- losing jobs that helped them make some payments because they are arrested on child support warrants;
- child support orders that do not commence until they are incarcerated after having been removed from their families on some other violations;
- contempt orders for nonpayment of child support that are entered against them for failing to appear in court while they are incarcerated;

- arrearages that snowball against them that make it impossible for them ever to catch up on their orders;
- the uneven enforcement of orders among the counties, resulting in automatic incarceration in places like Dane County, while other counties do not have a policy of automatic incarceration.

The kind of process that Wisconsin uses has recently come under sharp criticism at the federal level. The federal *Office of Inspector General of the Department of Health and Human Services* filed a report in July, 2000, that contained some remarkable conclusions:

- "the policies reviewed do not usually generate child support payments by low income non custodial parents."
- "the greater the length of time for which non-custodial parents are charged retroactive support, the less likely they are to make any payments on their child support order, once established
- ***"In order to increase payments, States must exercise every possible means to base awards on actual, rather than imputed income"*** [emphasis added]

As a result, the federal *Office of Child Support Enforcement (OCSE)* produced a publication – Policy Interpretation Question, PIQ-00-03 – outlining several options for the states, in the wake of the OIG report –

- arrearages may be reduced by participation in fatherhood or employment programs, may be excused by amnesty programs, or may be postponed.
- ***the imputation of income should be limited to cases in which the noncustodial parent has the ability to pay, but is uncooperative.***
- states are encouraged to respond appropriately to modifications of child support where circumstances change significantly, particularly in cases of incarceration, in order to ensure that the orders are based on a current ability to pay.
- states may choose not to establish retroactive child support for low income obligors in public assistance cases.

Our initial reaction to these recommendations was to recommend that Wisconsin also not impute income unless the payer is being uncooperative. This was the law in the state not long ago. However, because we did not feel it appropriate for mothers who are not represented by child support agencies to have the burden of proving *shirking*, we decided instead on a recommendation for changing the law on the imputation of income and a recommendation for a reduced child support calculation for low income payers.

We support the changes to current law that are made by Clearinghouse Rule 03-022, in requiring a more realistic assessment of a person's earning capacity in imputing income. Under the proposed rule, courts are required to exercise due diligence to ascertain a person's real earning capacity. The rule also changes the number of hours that a person's income is to be imputed per week at the minimum wage to 35 hours per week, instead of 40, making the rule consistent with the definition of full time employment established by DWD for Unemployment Insurance cases.

In addition, the proposed rule will contain an alternative chart with reduced child support orders for payers with incomes between 75% and 125% of the federal poverty level. Under the chart, for example, the child support order for one child will be \$65 for a person whose income is 75% of poverty (approximately \$575 per month for one person). This amounts to about 11% of the person's income. The child support level will gradually rise as income goes up to 125% of poverty, where the percentage will be the standard percentage of 17% of income. The same gradual scale will apply to situations where there is more than one child.

As for parents with higher incomes, on pages 17-19, SB 156 proposes two different schedules for reducing child support payments for parents whose combined gross monthly income falls between \$4,000 and \$20,000 and for parents whose gross monthly income exceeds \$20,000 per month. The bill starts reducing child support orders from the standard percentages where the combined gross income is \$48,000 per year.

Clearinghouse Rule 03-022 is preferable to SB 156, because it maintains the standard percentage until a payer's income reaches \$102,000 per year and above \$150,000 per year. In these cases, child support orders are reduced to reflect the reality that intact families with incomes at this level pay a lesser percentage of their income toward child support. Consequently, the proposed administrative rule reduces child support by 20% for incomes above \$102,000 per year and 40% for incomes above \$150,000 per year.

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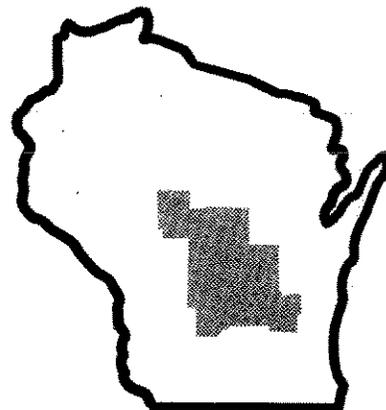
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August 26, 2003

Senator David Zien
Committee on Judiciary, Corrections, and Privacy
Box 7882
Madison, WI 53707

RE: SB 156, AB 250, DWD Rule 40

Dear Sen. Zien:

I am writing to you on behalf of the Committee of Chief Judges regarding SB 156 and AB 250, relating to calculation of child support, and DWD Rule 40, the related administrative rule.

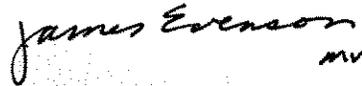
We do not believe that the administrative rule should be repealed in favor of an entirely new method of child support calculation. The proposed DWD rule has undergone extensive public review and revision, and appears to be a balanced approach to the many kinds of cases that present themselves. We believe this rule should be allowed to go into effect and given a chance to work. We find the proposed rule much preferable to SB 156, which creates unnecessary distinctions between case types and reduces the level of support available to children in middle and upper income families.

With respect to low-income families, we believe that the minimum payment needs to be set at a level high enough to make a realistic contribution to the child's support. Low support orders favor the noncustodial parent over the child and the custodial parent. A low-income custodial parent with children to support must find a way to do it somehow, often by working two or three jobs, in addition to paying child care costs and bearing the responsibility of raising the children. If the low-income standard must be lowered, the amounts chosen should reflect these considerations. We are not opposed to a reasonable compromise figure if the rule stays generally intact.

We believe that whatever standards are adopted should encourage adherence to the current percentage standards while leaving room for judicial discretion to deviate in appropriate circumstances. Judges should be able to deviate after taking into account local economic circumstances and the individual characteristics of the payer, such as physical and mental health and employability.

We hope that the Legislature will approve standards that reflect a meaningful contribution to the child's welfare, balance the burden of support fairly between the custodial and noncustodial parents, and give the judge flexibility to respond to unusual circumstances

Sincerely,

A handwritten signature in cursive script that reads "James Evenson" with a small "mv" written below the end of the name.

James Evenson
Chief Judge, Sixth Judicial District
Chair, Chief Judges Subcommittee on Child Support

JE/jl

cc: Senator Carol Roessler
Representative Steve Kestell

August 26, 2003
Public Hearings on SB156
Bryan Holland, Monroe WI
on behalf of Legislation for Kids and Dads
work phone: 608-329-4300
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I am a custodial parent with placement greater than 90% of the time. I was offered child support by the court, and turned it down. This is because of my personal belief that child support should only be used in those cases where it is absolutely necessary to provide for child related costs. I am not a wealthy parent. I don't make \$100,000/yr, or even \$50,000/yr. But, I live within my means. I accept responsibility for the decisions I have made in life. I make sacrifices in my personal life, so that my daughter's needs are met. However, it was only a few years ago, when I was fighting a difficult court battle, and it was very clear to me that the family court system did not care whether or not I remained an involved parent, but only what I had in my wallet. The child support burden that I had, meant that I could barely cover fixed expenses, and could not provide any direct support for my daughter. I am here speaking in favor of SB 156 because I believe our child support laws should be based on the real economic needs of children. Child support awards should be fair and reasonable. It should not provide an economic incentive for divorce, nor should they force the non-custodial parent into poverty. The best way to accomplish this is by considering the income of both parents as is done in SB 156. The formula proposed in this bill would have no impact on child support when the **combined** income is below \$4000 per month. This eliminates those families that are receiving public assistance, as child support awards will be exactly the same as with the existing DWD 40 formula. For families just over this threshold, the difference is only a dollar or two per month. It is only in the very high income cases where we would see an impact. As an example, if we calculate support awards with the existing percentages, at

\$150K/yr income under the current formula, child support would be \$37,500 a year (**tax free**) for two children. This is a pretty comfortable wage for not working. Child support should be a supplement to existing income, not a replacement of income. There are those that argue, that this amount is needed to compensate the parent for the extra work in caring for children. This is contrary to the very reason we become parents. When we make a choice to become a parent, we accept that with the rewards of parent hood there is also a sacrifice to our personal lives. I doubt that there is anyone in this room that became a parent for the financial rewards.

When we look at the child support formula, we should also ask ourselves what is child support for, and what is the role of government in setting child support awards. The purpose of child support is simply to avoid public assistance. We can take this a step farther, and say that the child is entitled to a certain standard of living; however, that is the obligation of **both parents**. By equalizing income at even middle income levels; government is denying the non-custodial parent the right to make choices for their child.

In shared placement cases, SB 156 proposes a new formula that would be used in cases where both parents care for their child at least 25% of the time. This recognizes that both parents incur expenses when both parents care for the child. This formula, which by the way is the exact same formula that the department is proposing in CR03-22, will result in much fairer awards that allow both parent to provide for their children. Hopefully, everyone understands that it takes two parents to make a child. Two people are equally responsible for the decision to make that child. So, it stands to reason, that **both parents** should assume responsibility if they chose not to be together.

Child support awards that are in excess of the costs to care for a child creates a **financial incentive** to destroy families. Children in two parent homes, even if those homes are less than perfect, do better in every area of measurement, by a **huge margin** over children from single parent homes. When we offer huge financial incentives to be

a single parent, we devalue two parent families, and encourage family separation. The custodial parent gets all the benefits of marriage, without the **responsibility** of marriage. Furthermore, by giving all of the financial resources of the family to one person, there is no guarantee that the child's needs will be met. The problem is that **child support that is above the necessary costs to care for that child does not benefit the child, so much as it benefits the custodial parent.** There is no guarantee that money that goes to the custodial parent will enhance the child's lifestyle. Even if that money directly benefits the child in one home, the child still loses, because they don't see the benefit in both homes. If we can only remove the financial incentives, then and only then will we look out for the real needs of children, which is to be loved and cared for.



August 28, 2003

Senator David A. Zien
Room 15 South
State Capitol
P.O. Box 7882
Madison 53707-7882

Dear Senator Zien:

As requested by Senator Gary George, the Center on Fathers, Families, and Public Policy is submitting this written copy of our testimony on the proposed changes to the child support guidelines. We request that you send a copy of this testimony and this cover letter to each Senator on the Committee on Judiciary, Corrections and Privacy. If any Senator on this committee has any questions about our position or child support policy as it relates to low-income families, we would be more than happy to discuss these matters.

Sincerely,

A handwritten signature in cursive script that reads "Scott Sussman".

Scott Sussman
Attorney at Law

Cc Senators on the Committee on Judiciary, Corrections and Privacy and Connie Chesnik,
Attorney Office of Legal Counsel for the Department of Workforce Development



August 19, 2003

My name is Scott Sussman legal analyst for the Center on Fathers, Families, and Public Policy (Center). As requested by Senator Gary George, I am providing written testimony of my prepared remarks regarding possible changes to the child support guidelines. As requested, I will provide this to each Senator on the Committee on Judiciary, Corrections and Privacy and to Connie Chesnik, Attorney Office of Legal Counsel for the Department of Workforce Development.

The Center is a policy organization that focuses on the impact of national and state welfare and child support policy on never-married, low-income parents and their children. Our center was created, in part, to provide public education and information on the plight of very poor families who are attempting to negotiate these systems. Because of the inadequacy of legal advocacy or policy analysis of these issues from the perspective of very low-income and unemployed poor fathers, our mission has been to concentrate on that perspective.

Our organization was represented on the Department of Workforce Development's Child Support Guidelines Advisory Committee which after a series of productive and educational meetings provided the Department with a report which suggested changes in Wisconsin's current guideline structure for low-income families.

From conversations and focus groups with low-income mothers and fathers in Wisconsin, our experience is that for these parents current guidelines, enforcement tools (such as incarceration), and interest and reimbursement policies can be impossible to withstand. They are counterproductive to low-income non-custodial parents' efforts to



sustain their ability to pay bills owed to the state as reimbursement, support their children, and maintain themselves so that they can work.

There are families in poverty all over the state of Wisconsin. However, eight counties in southeastern Wisconsin, including Milwaukee county and Dane County, have over 88% of the total state TANF (W2) caseload;¹ in 6 of the counties, over 20% of the population earned less than 200% of the federal poverty level in 1999;² 65 of the 72 school districts in the state that failed to meet Federal Leave No Child Behind requirements in 2003 are in this region;³ the state has the highest poverty rate for Asian-American children and the second highest rate for African-American children in the country⁴, and the region includes 95% of the total African-American population in the state⁵; the region includes 5 of the 6 cities in the state with the largest population of homeless children and youth.⁶

Residents of the region are among the most disadvantaged of the state, and what is especially germane to this hearing today is that in 7 of the 8 counties, over 20% of births in 1999 were to single mothers, and in Milwaukee the figure is close to 50%.⁷ All of these statistics reflect the serious poverty and disadvantage of men, women, and children in Wisconsin.

We are in complete agreement that mothers need financial support to supplement their very best effort at providing for their children. However, we do not believe that for the individual child and her parents—who live in poverty in the communities described

¹ WI Department of Workforce Development (figures from May 2003 total caseloads)

² WI 2000 census

³ Wisconsin State Journal 7/14/03

⁴ WisKids Count 2001

⁵ Oliver & Yocom 2003

⁶ Milwaukee Journal Sentinel, December 2002

⁷ WisKids Count 2001



above—the existence of a higher child support order will change the reality of the life in those communities. Ordering (or even wishing) that a non-custodial parent command an adequate income to keep themselves alive, and their children out of poverty, will not make it so.

Moreover, to make an informed decision about the mathematical formula for the calculation of the amount necessary for them responsibly care for their children, legislators and the people of this state should at the very least be advised (or reminded) that for some poor parents the amount of the current support order and the amount the child support enforcement agency and the state of Wisconsin expect them to pay can be completely different.

We believe that it is important to be mindful of the difference between the money custodial parents need to provide for the food, clothing, shelter, and other essential needs of their children, and the amount of the monthly child support bill.

We attended the Guidelines committee meetings with a particular concern about the burdens of the extras; mounting arrears and interest, fees, birth costs, (and about incarceration) for families in this area in particular. These concerns were voiced in the committee meetings, however, we were reminded that the purpose of those meetings was to address ourselves to the guidelines for setting current child support orders. I will take the opportunity today to suggest that some research, some counting some knowing on the part of those of us who are interested in making sure kids are taken care of, about the actual amounts of money expected of very low-income parents is vital.



As to the matter at hand, of course, lower, more reasonable child support orders which are reflective of a parent's actual ability to pay would, at the very least, decrease the rate at which arrears and interest charges build, and would, therefore, reduce the overall burden on low-income parents.

We understand that individuals and representatives of various groups and agencies in the state strongly disagree with a policy reform that—in their perception—reduces a father's obligation to provide support for his children and unfairly discounts the overwhelming burden and effort of mothers to provide support. However, given the charge to use our expertise to provide advice on guidelines for current support amounts, the committee recommended a reduction in the guideline amounts for low-income non-custodial parents.

It is also important to point out here that non-custodial parents (or shared placement parents) in Wisconsin are both mothers and fathers. The burden of imputing income against a parent who has extraordinary difficulty (because of lack of skills, substandard education, felony record, or discrimination) securing that income will weigh heavily on mothers as well as fathers in Wisconsin.

We understand that for some children, a reduction of their non-custodial parent's child support obligation will result in less money than there would have been with a higher order. We also understand and share in the concern for those children. We would, however, suggest that the most positive child support policy outcome at this point would be a reduction of the guideline amounts for low-income parents. This is generally, the most responsive to the needs of low-income children and their parents because it acknowledges the realities of life for some of the very poorest, most disconnected



families in Wisconsin. To accomplish this goal, the Center, the Wisconsin Council on Children and Families, and other advocates have been in discussion with the Department of Workforce Development and hope that a reasonable compromise can be worked out.

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)

1. 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.

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

Comparison of Wisconsin's child support standard to economic data which defines what percentage of a typical family's gross income is used to raise TWO children.

Combined gross annual family income (both parents)	IRP*/Jacque Gaag (WI Cost of raising children study) 1982?	US DHSS (Develop. of guide-lines/ Cost of raising children study) *** 1987	IRP*/ R. Douthit (Cost of raising children study) 1990	IRP*/Pitrog - Good (Study of mean awards by all states in 1991) 1993	US Dept of Agric. (Cost of raising children study) **** 1999	Arizona (Cost of raising children study)*** Typical for 30+states 1999	Indiana (Cost of raising children tables) *** Typical for 30+states	Wisconsin proposed SB 15b/ <i>AB250 (2003)</i>	Wisconsin DWD 40 Standard 1987-2001
\$ 14,400		28.8%		28.1%		30.0%	33.6%	25%	25%
\$ 20,066	27%**	26.9%	46%			27.8%	30.3%	25%	25%
\$ 23,000		26.0%			52%	27.6%	28.5%	25%	25%
\$ 30,000		23.9%		26.8%		26.8%	26.5%	25%	25%
\$ 41,446		21.6%	29%			24.6%	23.7%	25%	25%
\$ 48,900		21.0%			34%	23.2%	23.2%	24.6%	25%
\$ 52,800		20.8%		23.3%		22.4%	22.7%	23.9%	25%
\$ 92,700		17.4%			26%	17.3%	20.5%	19.0%	25%
\$126,000		15.2%		18.0%		16.1%	17.7%	17.3%	25%
\$180,000						14.2%	13.7%	15.8%	25%
\$208,000							12.4%	15.4%	25%

* IRP = Institute of Research on Poverty - UW Madison

** The 1982 income of \$16,500.

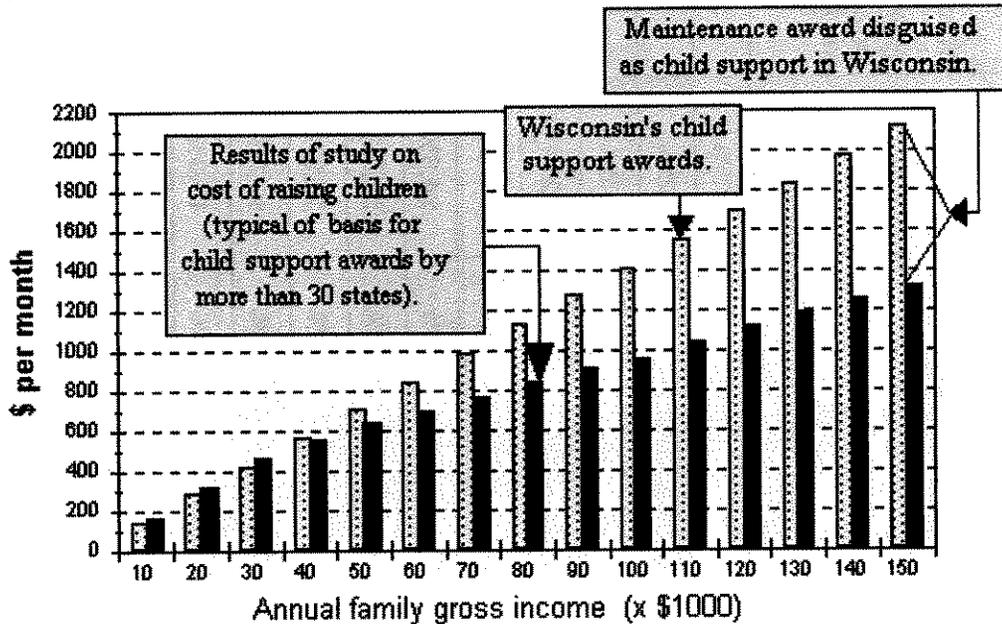
*** Based on marginal expenditures for children, does not include health care and child care expenses.

**** Based on per capita expenditures for children, includes health care and child care expenses.

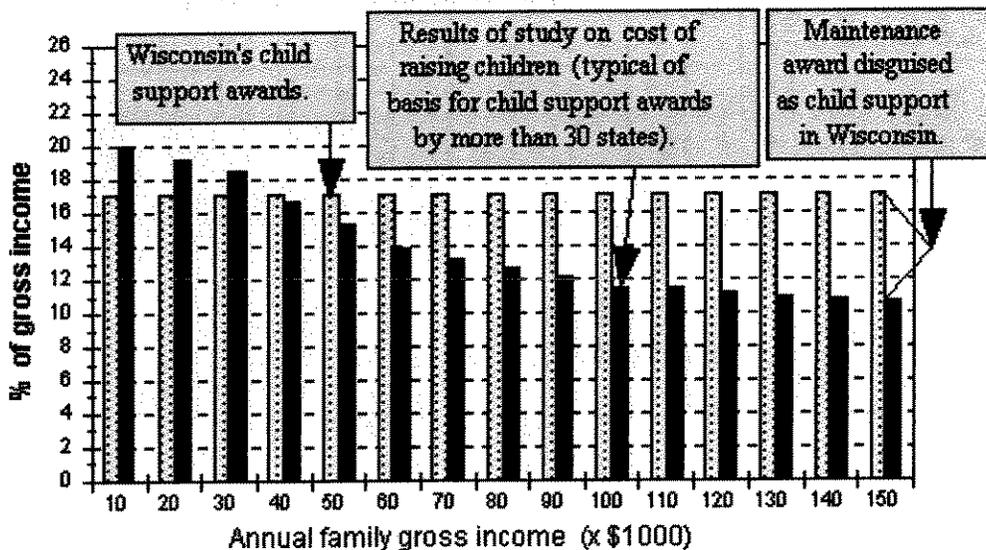
Raz
 PROVIDED TO DWD COMMITTEE
 5/17/01



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



Wisconsin's child support awards vs costs of raising children study results
as a % of combined family gross income (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:

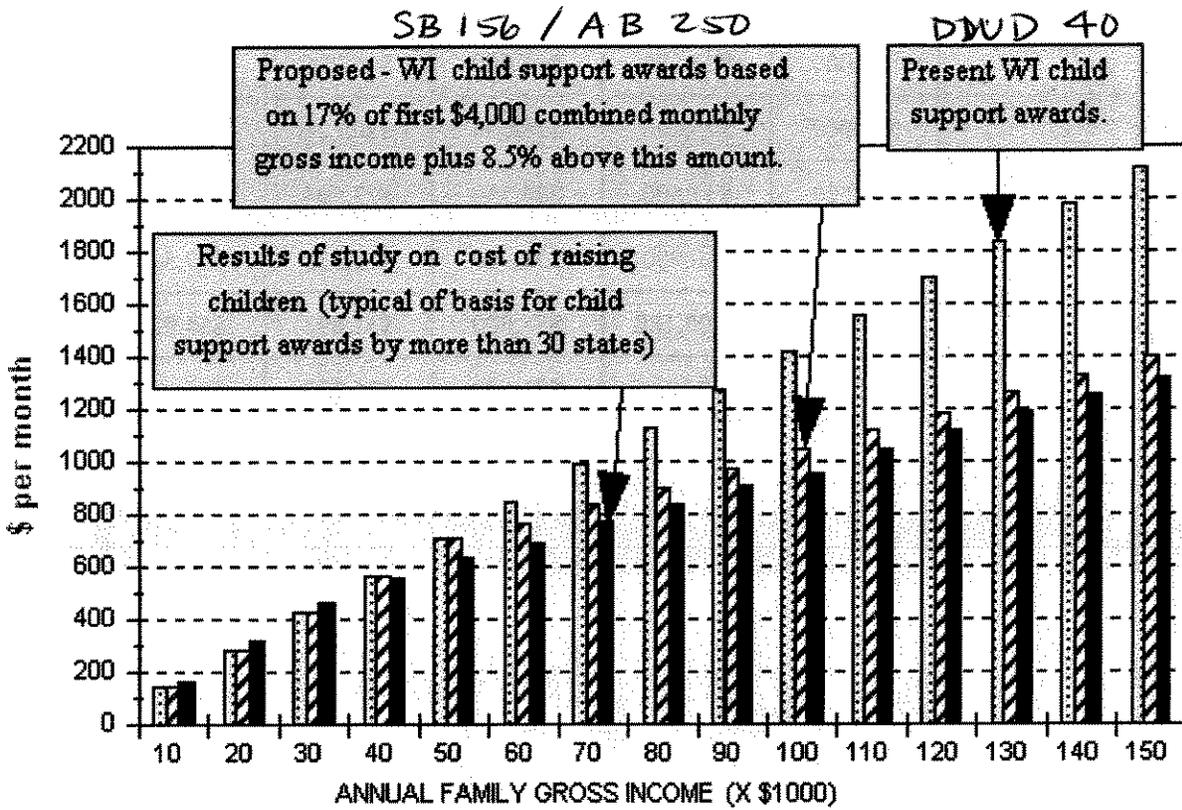
The current and proposed DWD 40 formula, when applied in above average income families, is not based on any economic data related to these families.

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.

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.



SB 156

①

(+) Bob Anderson SB 156 Not address low income

Low Income - Orders (\$) are so high, that compliance is low

CHR will try to address this

Favors CRule

- Carpenter - Health Care - Rpt Δ 's

(-) Connie Chesnik

close to complete A-Rules modifications
to Low Income, etc.

Will send Rule to Parser this week

- Sen 156 has not had scrutiny as Ch

Step - fathers not getting enough say

in DWD's negotiating

Connie - 156 not address low income level

(-) Seger - WIA DV:olence - has testimony

(+) Raz

3 of 14 members on Cate were Men.

many of 14 were taught by DWD,

and worked for DWD, & wasn't Δ

the rules.

(+) Keith Trout - was milky cows - Thorp. ~~at~~

pulled up 6:30 am.

trans custody of Dtr does not make Ex pay child

SB 156

(-) John Short - Sped CHR = product of
consensus

Yes DWD 40 must be Δ'ed.
but SB 156 not way to go.

(-) Scott Jassman - will provide
Sp for San George testimony.

(-) Janet Nelson

↳ San George Doyle Veto should be a good
reason to pass SB 156

Janet: Low Income needs
improvement.

George - may avoid