

1999 DRAFTING REQUEST

Bill

Received: **02/09/2000**

Received By: **kahlepj**

Wanted: **Soon**

Identical to LRB:

For: **Gary George (608) 266-2500**

By/Representing: **Dan Rossmiller**

This file may be shown to any legislator: **NO**

Drafter: **kahlepj**

May Contact:

Alt. Drafters:

Subject: **Dom. Rel. - child support**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Method of calculating child support

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/1			hhagen 02/15/2000	_____	lrb_docadmin 02/15/2000	lrb_docadmin 03/16/2000	

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3/29/00

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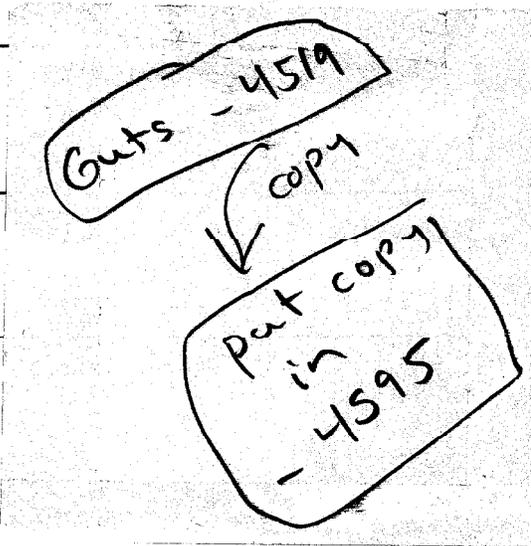
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for
senate
per
PJK

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FE Sent For:		2/10		<END>			

2-9-00

Don Rossmiller - Sen. George

6-2500

~~Don~~ request chief support bill

LRB-2022 FN

their office -

incorporate the final 2 changes

requested by Jan Paz.

1999 DRAFTING REQUEST

Bill

Received: 01/26/1999

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Wanted: As time permits

Identical to LRB:

For: Mary Lazich (608) 266-5400

By/Representing: Jim Emerson

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/P2	kahlepj 09/28/1999	chanaman 09/28/1999	kfollet 09/29/1999	_____	lrb_docadmin 09/29/1999		
/P3	kahlepj 11/09/1999	chanaman 11/11/1999	mclark 11/12/1999	_____	lrb_docadmin 11/12/1999		
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/P4	kahlepj	chanaman	mclark	_____	lrb_pa		

Handwritten notes:
 1/1 cmh 12/13
 mh 12/16
 mh/BF 12/17

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/P3	kahlepj 11/09/1999	chanaman 11/11/1999	mclark 11/12/1999	_____	lrb_docadmin 11/12/1999		

Handwritten notes:
 /P1 cm # 11/19
 MKC mrc/jf 11/19

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<END>

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/P1			lpaasch 03/25/1999	_____	lrb_docadmin 03/25/1999		
/P2	kahlepj 09/28/1999	chanaman 09/28/1999	kfollet 09/29/1999	_____	lrb_docadmin 09/29/1999		

FE Sent For:

MRC
11/10
MRC/JF
11/11
<END>

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Received By: kahlepj

Wanted: As time permits

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By/Representing: Jim Emerson

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FE Sent For:			Kjf 9/29	Kjf/hmh 9/29			

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1/?	kahlepj	CMM 1/1 3/23	3-25 LP.	3-25 LP CH	DO submit P's		

FE Sent For:

<END>

MEMO

TO: Pam Kahler

FR: Jim Emerson, Senator Lazich's Office

RE: Proposed legislation for constituent

October 20, 1998

You may recall working with our office and a constituent of ours, Jan Raz, about the possibility of adding an amendment to Assembly Bill 193. The bill never was brought up for executive decision, so we did not attach a finished copy of the amendment.

In the upcoming legislative session, Jan Raz would like us to try again and get legislation passed in the area of child support. To that end, Jan has drawn up this proposal of statutory changes. Could you please look over Jan's draft and indicate what suggestions and or changes need to be made to the proposal, and whether it is statutorily correct. If you have any questions, please contact me at 266-5400. Thank you.

Are
HSS
80

Proposal for a more equitable Child Support Standard

The following is being proposed to establish a more equitable child support standard, by statutes, for the State of Wisconsin.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

49.22 (9) of the statutes is amended to read: *rules re?*

49.22 (9) The department shall promulgate forms, tables, computer software and publications for use by the courts to facilitate easy and efficient application of the method of calculating child support under s. 767.25(1j).

767.25 (1j) of the statutes is amended to read:

767.25 (1j) Except as provided in sub. (1m), the court shall determine child support payments by using method of calculating child support in this section.

(a) The child support obligation of each parent, in families where the combined gross income of both parents is less than \$4,000 per month, is determined by multiplying the gross income of each parent by the following percentage, based on the number of minor children to be supported. 1-17%, 2-25%, 3-29%, 4-31%, 5-34%.

As how's this paid? each parent with the other regardless of prop.

(b) The child support obligation of each parent in families where the combined gross income of both parents is more than \$4,000 per month, is determined by defining the total child support obligation of both parents and allocating the obligation between the parents based on each parent's percentage of total gross income.

?
?

(1) The total child support obligation in families where the combined gross income of both parents is between \$4,001 and \$20,000 per month, is determined by multiplying the gross income of the family above \$4000 per month by the following percentage and adding it to the total obligation for a family with a combined income of \$4000 per month, as defined in (a), based on the number of minor children 1- 8.5%, 2- 12.5%, 3- 14.5%, 4- 15.5%, 5- 17%.

(2) The total child support obligation in families where the combined gross income of both parents is above \$20,000 per month, based on the number of minor children is: 1-\$2,040, 2-\$3,000, 3-\$3,480, 4-\$3,720 5-\$4,080. The court may apply the following percentage based on the number of minor children 1- 4%, 2- 6%, 3- 7%, 4- 8%, 5- 9%, to some or all of the additional combined family gross income above \$20,000 per month if, after reviewing actual cost related to raising the child, the greater weight of the credible evidence indicates additional child support is appropriate for the support of the child. (Impact of this method on Wisconsin's child support awards.)

meaningless w/ "some or all"

(c) Except as provided in (2), gross income of each parent shall include:

(1) All income considered as income for federal income tax purposes, except as listed in (2) below, and shall include: net income from worker's compensation or other personal injury awards intended to replace income, maintenance received from the other parent, unemployment compensation, income

have to assess fed law

continuation benefits, voluntary deferred compensation or employee contribution to any profit sharing or pension account, military allowances and veterans benefits, tax free income, the parent's portion of undistributed income from a closely-held corporation in which the parent has a sufficient interest to exercise control or access the earnings of the business, unjustified wages paid to household members and other income the court may find is being diverted for the purpose on avoiding payment of child support.

no all of these defined?

(2) Gross income of each parent shall not include: maintenance paid to the other parent or other ex spouse, one half of the parent's unemployment tax for self employed parents, business expenses necessary for the production of income but not allowed for deduction as expenses for tax purposes, one time capital gain income from the sale of individual passive investments and the sale of the family home.

household income?

(3) In the event the court determines either parent is underemployed, the court shall impute a gross income for that parent based on the parent's education level, work experience, and availability of work in the parent's community. In a case where the total economic circumstances of the child's household warrant it, the court may impute the primary placement parent's income to be one half of the combined income of the family or common law family. In shared placement families, the court may impute this income for both custodial parents.

parent has remained?

no such thing

(4) In the event the court determines assets have been diverted for the purpose of avoiding payment of child support, or the child support award based on the above income is not sufficient to adequately provide for the children, the court may impute income form the diverted or non productive assets of a parent by multiplying the asset value by the current six month treasury bill rate and include this amount in the gross income calculation of the parent. More details, including discussion of income clarified from present standard.

(d) If the court grants **periods of physical placement of the child to both parents** and both parent assume physical placement of the child at least 15% of the time or 55 overnights or equivalent overnights, the court shall determine child support payments in the following manner:

up doesn't address a different situation

1. The gross child support obligation of each parent shall be defined under s. (a) or (b).
2. Each parent's percentage of the physical placement shall be calculated based on the portion of the 365 overnights or equivalent overnights each parent provides care for the child. The court may consider a portions of the non-sleeping, non-school time a parent assumes care for the child during the day, but does not actually provide overnight care, as a portion of an equivalent overnight and adjust the overnights for each parent so the total equals 365.
3. Each parent's gross child support obligation defined under subd. 1. shall be multiplied by 1.40 and by that parent's percentage of physical placement defined under subd. 2.. The product under this sub division for each parent is that parent's net child support obligation.
4. Except as provided in subd. 5., the parent with the greater net child support obligation under subd. 3., shall pay as child support, to the other parent with the smaller net child support obligation under subd. 3., the difference between those net child support obligations.
5. If the amount of child support that the parent is obligated to pay under subd. 4. is greater than his or her gross child support obligation under subd. 1., that parent shall pay as child support the amount of his or her gross child support obligation under subd. 1.

same problems as before - what doesn't it?

6. If requested to do so by a party, the court may allocate the responsibility for the payment of a child related expense, which is paid for by one parent but benefits the child during placement periods with both parents, to one parent and adjust the child support award for this expense in a manner consistent with each parent's allocation of the total child support funds. (ie a parent who is allocated 30% of the total child support funds is responsible for 30% of this expense.) Proposed allocation of child support funds between parents in a SHARED PLACEMENT families.

(e) In the case where a payer has an existing court ordered child support obligation to a child from a previous family or is supporting children in a marital family, or by directly assuming custody and placement of a child, the court shall determine the child support obligation to each family based on the provisions of section (a) or (b). The court shall then multiply this amount by the following factors, based on the number of additional children this parent is supporting: .90, .85, .80, .75 for 1,2,3, or 4 additional children respectively. The resulting amount defines the child support order for this child. Impact on children in SERIAL families.

he doesn't explain order - each of the situations he poses is different.

what order?

can keep

(f) In the case where a parent has two or more children and has placement of one or more but not all of the children, the court shall perform a separate calculation for each child or children with the same placement schedule based on (a) to (e) above. The court shall award a child support award based on the net difference of the separate calculations.

Other provisions to consider:

Enactment of this provision and the passage of 24 months from the date of the last order, constitutes a substantial change of circumstances sufficient to justify revision of a judgement or order with respect to an amount of child or family support.

The court may not revise a judgement or order with respect to child support unless the revised amount would differ, on a monthly basis, from the existing amount by at least \$50 or 15% of the existing amount, whichever is greater.

767.32

same problem - could req ct hearings for nothing in some cases

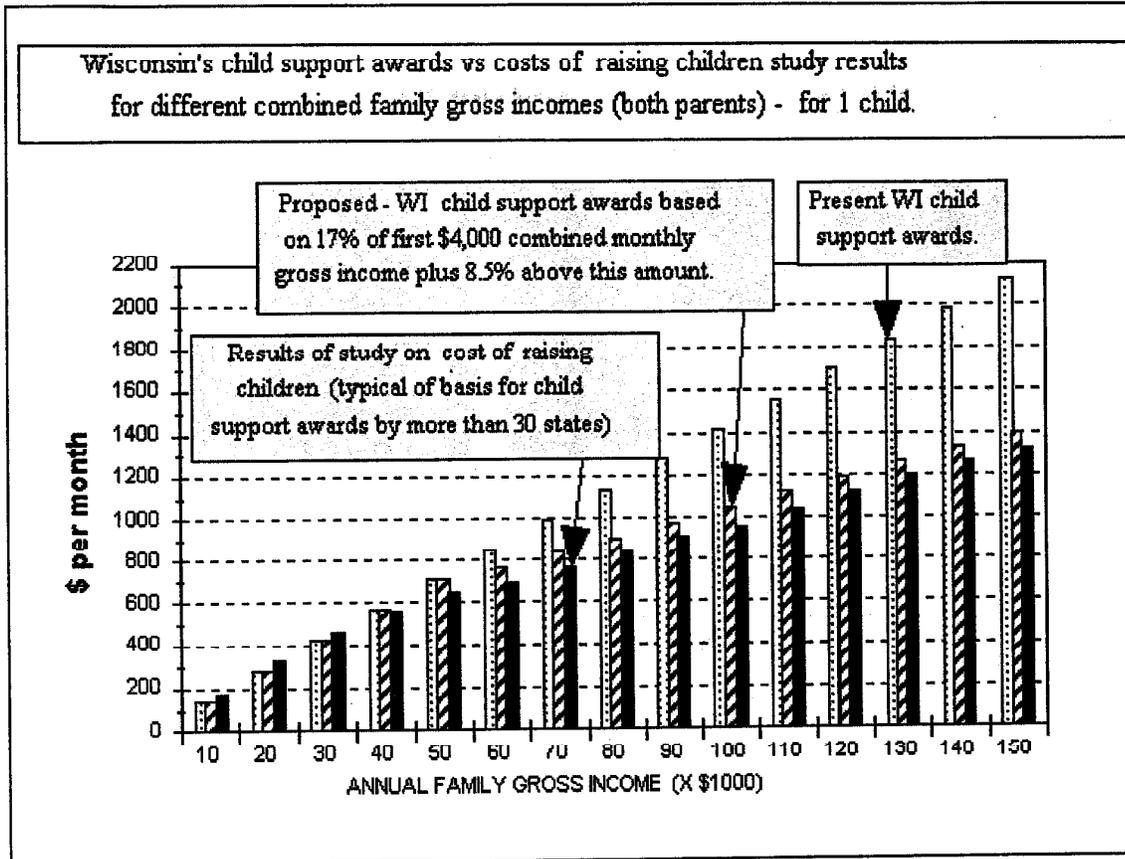
Legislative summary of this proposal

(END)

LAST UPDATED: 6/14/98

Return to WCFCSS home page.

Impact of recommended proposal on child support awards.



This method will result in defining child support awards which are more consistent with cost of raising children data and awards defined in other states.

It will more correctly result in requiring both parents to contribute a equal percentage of their gross income to support their children as intended by the preface of the HSS 80 standard, Wis Stat. 49.90(1m), Wis Stat. 765.001(2) and (3) and the equal protection provision of the 14th amendment of the United States Constitution.

Last Updated 10/15/97

[Return to: Proposal for a more equitable Child Support Standard](#)

PJK
2

Jan Raz

10120 West Forest Home Avenue
Hales Corners, WI 53130
Telephone: (414) 425-4866
Fax: (414) 425-8405
e mail jraz@execpc.com

January 24, 1999

Jim Emerson
C/O Senator Mary Lazich
Wisconsin State Capitol
P.O. Box 7882
Madison, WI 53707-7782
Fax 608 267-6790

Re: Child Support Standard Bill

Dear Jim:

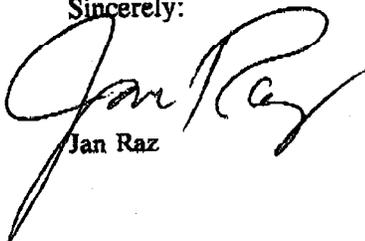
In preparation for our meeting with Pam Kahler, I have reviewed and revised the proposed language for this bill in light of the comments you brought to my attention after your last discussion with Pam Kahler.

Also attached is a updated summary of this bill.

You may wish to fax a copy of these to her before our meeting on Tuesday.

Thanks again for your continued effort on this issue.

Sincerely:


Jan Raz

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The following is being proposed to establish a more equitable child support standard, by statutes, for the State of Wisconsin.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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(b) The child support obligation of each parent, in families where the combined gross income of both parents is more than \$4,000 per month, is determined by defining the total child support obligation of both parents and allocating the obligation between the parents based on each parent's percentage of total gross income.

(1) The total child support obligation in families where the combined gross income of both parents is between \$4,001 and \$20,000 per month, is determined by multiplying the gross income of the family above \$4000 per month by the following percentage based on the number of minor children 1- 8.5%, 2- 12.5%, 3- 14.5%, 4- 15.5%, 5- 17% and adding ^{the product} ~~this amount~~ to the total obligation for a family with a combined income of \$4000 per month, as defined in (a), (1-\$680, 2-\$1,000, 3-\$1,160, 4-\$1240, or 5-\$1360).

(2) The total child support obligation in families where the combined gross income of both parents is above \$20,000 per month, based on the number of minor children is; 1-\$2,040, 2-\$3,000, 3-\$3,480, 4-\$3,720 5-\$4,080. The court may apply the following percentage based on the number of minor children 1- 4%, 2- 6%, 3- 7%, 4- 8%, 5- 9%; to some or all of the additional combined family gross income above \$20,000 per month if, after reviewing actual cost related to raising the child, the greater weight of the credible evidence indicates additional child support is appropriate for the support of the child. (Impact of this method on Wisconsin's child support awards.)

(c) Except as provided in (2), gross income of each parent shall include:

(1) All income considered as income for federal income tax purposes, except as listed in (2) below, and shall include: net income from worker's compensation or other personal injury awards intended to

by that parent's percentage of physical placement defined under subd. d.. The product under this sub division for each parent is that parent's net child support obligation.

3) Except as provided in subd. 4.) the parent with the greater net child support obligation under subd. 3., shall pay as child support, to the other parent with the smaller net child support obligation under subd. 3., the difference between those net child support obligations.

4) If the amount of child support that the parent is obligated to pay under subd. 3) Is greater than his or her gross child support obligation under subd. 1., that parent shall pay as child support the amount of his or her gross child support obligation under subd. 1.

5) If requested to do so by a party, the court may allocate the responsibility for the payment of a child related expense, which is paid for by one parent but benefits the child during placement periods with both parents, to one parent and adjust the child support award for this expense in a manner consistent with each parent's allocation of the total child support funds. (ie a parent who is allocated 30% of the total child support funds is responsible for 30% of this expense.) Proposed allocation of child support funds between parents in a SHARED PLACEMENT families.

D-note

g) In the case where a payer has an existing court ordered child support obligation to a child from a previous family or is supporting children in a marital family, or by directly assuming custody and placement of a child, the court shall determine the child support obligation to each family based on the provisions of section (a) or (b). The court shall then multiply this amount by the following factors, based on the number of additional children this parent is supporting: .90, .85, .80, .75 for 1,2,3, or 4 additional children respectively. The resulting amount defines the child support order for this child. Impact on children in SERIAL families.

? what child?

D-note

← when this calculation done? multiply by net or difference?

h) In the case where a parent has two or more children and has placement of one or more but not all of the children, the court shall perform a separate calculation for each child or children with the same placement schedule based on (a) to (e) above. The court shall award a child support award based on the net difference of the separate calculations. *ie, if each would owe the other \$*

Other provisions to consider:

Enactment of this provision and the passage of 24 months from the date of the last order, constitutes a substantial change of circumstances sufficient to justify revision of a judgement or order with respect to an amount of child or family support.

The court may not revise a judgement or order with respect to child support unless the revised amount would differ, on a monthly basis, from the existing amount by at least \$50 or 15% of the existing amount, Whichever is greater.

Legislative summary of this proposal

(END)

LAST UPDATED: 1/22/99

Return to WCFCSS home page.

<http://www.execpc.com/fairsupport/legsum.htm>

Page 1 of 2

Summary of Proposed Child Support Standard Bill

Under current law, in an action affecting the family in which child support is ordered, the courts are required to presume the child support obligation defined by the HSS 80 Child Support Percentage of Income Standard is correct in all cases. The present method defines a parent's child support obligation as a percentage of the parent's gross income regardless of the income level of the family. These percentages are 17, 25, 29, 31, 34% for 1, 2, 3, 4, 5 children respectively. Only after a showing by a requesting party of unfairness, by the greater weight of the credible evidence, the court may award a amount that is different from that defined by the standard.

Recent economic studies have found the application of the present standard, in **above average income families**, results in a child support award which is much higher than the typical costs required to care for the children in these families and significantly higher than awards defined by other states.

In court cases of *Parrett v. Parrett* (Cl. App. 1988) and *Huber v Hubert* (Cl. App. 1990), *Nelson v Candee* (Cl. App. 1996) the courts have found the presumptive application of the percentage standards in high income families to be irrational, absurd, maintenance in the guise of support. **The department has failed to meet the requirements of the Code of Federal Regulations Title 45, Sec. 302.56** by not considering the economic data on the cost of raising children and court findings in above average income families in the review completed in August 11, 1993, and by again not reviewing and revising the guideline within the four year limit since the completion of the last review.

As a result the child support award in these cases includes a maintenance award disguised as child support, and allows the primary placement parent to escape his or her equal fundamental obligation to contribute to the support of the same child. **This violates the fairness intent defined in Wisc Stats 765.001(2) and directive in Wisc 765.001(3)** since it results in each parent contributing a different portion of their income to support the same children. While primary placement parents in low income families in Wisconsin are expected, under W-2, to work and contribute for the support of their children, similar parents in above average income families are allowed to escape this same expectation.

Since this last review, the Department of Health and Social Services promulgated a new **shared-time payer adjustment**. This adjustment reduces the child support obligation of the payer if the payer is awarded placement periods above 30%. Between 30-40% the obligation is reduced from 100% to 67%. Between 40 and 60% placement this is reduced from 67% to 0% however the payer also gets a credit for the obligation owed by the other parent. Despite the concerns raised by many legislators, the State Bar, and the public at the hearings, the new adjustment went into effect in March 1, 1995.

The new provision fails to meet the directive of Wis. Stat. 49.22(9) states "The rules shall provide for consideration of the income of each parent and the amount of physical placement with each parent in determining a child support obligation in cases in which a child has substantial periods of physical placement with each parent." since it does not consider the income of both parents even if both a parent assumes as much as 40% physical placement of the child. In many cases where it does consider the incomes of both parents it does do in a irrational manner, since this provision does not correctly consider the the economic need of children during the placement times with both parents. In many cases, this method results in a great disparity in the amount each parent is allocated and does not allow each parent to provide, for the same children, a similar standard of living, as allowed by these funds. (As an example, based on the present adjustment, a parent who cares for a child 10 days per month may be allocated \$11 per day, while the parent who cares for the child 20 days per month is allocated \$61 per day to provide similar care for the same child.)

<http://www.execpc.com/fairsupport/legsum.htm>

Page 2 of 2

Since the courts are required to presume that the results of this standard are correct in all cases, one parent is required to overcome an unfair burden of proof just to achieve the fair treatment intended by the legislature and the equal protection provision of the Constitution. This unnecessarily increase the level of conflict between parents which in turn may hurt the very children this support standard is supposed to help.

In the case of *Luciani v. Montemurro-Luciani*, (1995) the District II Court of Appeals unanimous expressed dissatisfaction with the mechanics of this standard. The Wisconsin Supreme Court, however, ruled in its March 7, 1996 decision in this case that " Future revisions to the mechanics of the support statutes and the shared-time payer formula in high-income cases is properly left to the province of the legislature."

THIS BILL is designed to correct the problems noted by the more current economic data and the courts and establish a method for determining child support awards, by statutes, which defines realistic child support awards for all families and allocates these awards between the parents in a more equitable manner. These provisions will replace the Department's HSS 80 standard.

The new provision maintains the **same percentage of gross income method**, but provides a reduced scale for the incremental income above the combined gross income of both parents of \$4,000 per month. This will act to define child support awards for **above average income families** which are more consistant with the economic needs of children in these cases.

The **gross income** of the parents, to be used for defining child support awards, is clarified.

A **new shared-time payer adjustment** will allocate the child support obligations of both parents, based on the percentage of placement each parent is awarded (ie a parent with 35% placement will receive 35% of the total child support funds owed by both parents.). A 1.4 factor is included in this calculation to consider the duplication of expenses in a dual household shared placement family. This method will more correctly allocate child support funds between the parents by providing each parent the same per diem child support amount to provide care for the children. This will act to maintain a sufficient child support award to parents with a significantly lower income and allow responsible parents who consistently share in the day to day effort of raising their children to provide, for the children, a similar standard of living during placement periods with each parent.

The **serial family** provision has been revised to assure each child of the same parent is entitled to the same child support entitlement.

Provisions for **split families** remain basically the same as per the present standard.

The new provisions should also act to eliminate the unjustified economic incentive for parents to fight for custody and placement of the children and allow parents to make placement decisions based on what is in the best interest of their children without being motivated by the potential excessive child support awards they may presently receive or be obligated to pay. Any additional economic needs of families will then be properly left to the discretion of the courts in awards of maintenance and division of property.

Last Updated 1/18/99

[Return to: Proposal for a more equitable Child Support Standard](#)

DEVELOPMENT OF GUIDELINES
FOR CHILD SUPPORT ORDERS:
ADVISORY PANEL RECOMMENDATIONS
AND FINAL REPORT

Part I: Advisory Panel Recommendations
Part II: Final Project Report
Part III: Implementation Materials

September 1987

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The Advisory Panel recommendations and project report were developed with support from the Office of Child Support Enforcement, U.S. Department of Health and Human Services under Grant No. 18-P-20003. Any opinions expressed herein are those of the Advisory Panel on Child Support Guidelines or the author of the report and do not necessarily represent the views of the Office of Child Support Enforcement.

RECOMMENDATION #5: SELECTION OF GUIDELINES

The Advisory Panel recommends that states use either the Income Shares model or Delaware Melson formula as the basis for their child support guidelines.

The Income Shares Model was developed by the Child Support Guidelines project staff as an approach that is consistent with the best available economic evidence on child-rearing expenditures.⁶ It is also designed to be consistent with the basic principles for child support guidelines specified by this Advisory Panel.⁷ It is based on the precept that the child should receive the same proportion of parental income that he or she would have received if the parents lived together.

The Delaware Melson Formula was developed by Judge Elwood F. Melson, Jr. and is used statewide in Delaware under rule of the Family Court. The Melson Formula defines levels of basic, or subsistence, needs for the parents and children. It provides that parents are entitled to support themselves at a basic level before having the formula applied. Any additional income beyond the basic level for parents must be applied first in the form of child support to meet any of the children's basic needs. Included in the children's basic needs are child care costs and extraordinary medical expenses. Where income is sufficient to cover the basic needs of the parents and all dependents, a portion of remaining parental income is allocated to additional child support (15 percent for the first child, 10 percent for each of the second and third, 5 percent for the fourth, fifth, and sixth).⁸

There are several factors that the Advisory Panel has taken into account in making the recommendation that states base their guidelines on the Income Shares model or Melson formula. First, both approaches ultimately base child support obligations on the parents' ability to pay, which ensures that the child shares in both the parents' standard of living. To the extent that either parent has a higher than subsistence level of

⁶Final Report, pp. 12-33.

⁷Final Report, pp. 6-7.

⁸For a description of the Income Shares Model and the Melson Formula, see the Final Report pp. 55-69 and pp. 70-76 respectively. See also the Delaware (Melson) Formula: the Colorado Child Support Commission, Colorado Child Support Guideline, September, 1986; and the New Jersey Supreme Court, New Jersey Child Support Guidelines, all reprinted in Appendix I. The latter two publications are operational versions of Income Shares guidelines, with the Colorado guidelines based on gross income and the New Jersey Guideline based on net income.

overall decline in living standards (in the absence of increased income), the child shares in that decline. In addition, living standards in the two households are not likely to be equivalent since the child support allocation, without reference to spousal maintenance, does not equalize the relative incomes of the two households. However, the Income Shares approach helps ensure that a child benefits from the living standards of both parents. It also considerably mitigates the impact of the household dissolution or non-formation by reserving the proportions of parental income for that child that would have been spent in the intact unit.

The Income Shares model has been specified in both net income and gross income versions. The percentages underlying the net income model are shown in Table 12. Net income is defined as gross income minus federal and state taxes, FICA, and union dues. The figures in this table are derived directly from the economic data discussed in Chapter II. Specifically, Table 12 is developed using the economic data on average expenditures for children by net income shown in Table 6, except that average amounts for child care expenditures and extraordinary medical expenditures have been deducted from the Table 12 amounts (see Appendix I for details of these adjustments and other calculations). In addition, since Espenshade estimates expenditures only for one to three children, the formula amounts for four children have been calculated using an equivalency ratio from the BLS Revised Equivalence Scale. Figures for five and six children have been derived using ratios extrapolated from the BLS Revised Equivalence Scale. From these percentages, a table is constructed showing the amount of a basic child support obligation determined by the number of children and the combined income of the parents.⁸⁰

An Income Shares schedule of basic child support obligations for monthly gross income is shown in Table 13. The schedule reflects three modifications to the percentages in Table 12. First, this schedule converts to gross income percentages by using the net income percentages in Table 12 as a base and adjusting for withholdings for federal and state income taxes and FICA. In this way, the obligor can be expected to pay the same proportion of net income for child support as he or she would have been estimated to spend if the household were intact.⁸¹ This table is

⁸⁰ This version has been derived from the gross income model using figures on average federal and state taxes and union dues drawn from the 1972-73 CES, Table 5. We recommend that states considering a net income version of the Income Shares model start with the gross income version shown in Table 11 and apply a state-specific tax schedule along with figures on federal taxes and other eligible mandatory deductions (if available).

⁸¹ This conversion assumes that the obligor will have standard withholdings based on a single person in the household and a standard deduction. For a high proportion of obligors, this is likely to be an accurate

Table 13

CHILD SUPPORT GUIDELINE
SCHEDULE OF MONTHLY BASIC CHILD SUPPORT OBLIGATIONS

COMBINED GROSS INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
	\$20 - \$75 PER MONTH, BASED ON RESOURCES AND LIVING EXPENSES OF OBLIGOR AND NUMBER OF CHILDREN DUE SUPPORT					
100						
200						
300						
400						
500						
600	97	98	99	100	101	102
700	153	156	158	159	161	163
800	167	214	216	219	221	223
900	181	269	272	275	278	281
1000	195	303	329	333	337	340
1100	209	324	384	388	392	397
1200	223	346	433	446	451	456
1300	237	367	460	504	510	515
1400	253	392	491	554	576	582
1500	269	417	522	588	642	650
1600	282	437	548	618	674	717
1700	296	458	574	647	706	755
1800	308	478	599	675	736	788
1900	319	495	620	699	763	816
2000	330	512	642	723	789	844
2100	341	529	663	747	815	872
2200	352	546	684	771	841	900
2300	363	563	706	795	868	928
2400	374	580	727	819	894	956
2500	385	597	749	843	920	984
2600	396	614	770	867	946	1012
2700	406	630	790	889	970	1038
2800	416	646	809	911	994	1064
2900	426	662	829	934	1019	1090
3000	436	677	849	956	1043	1116
3100	446	693	868	978	1067	1142
3200	456	709	888	1001	1092	1168
3300	466	725	908	1023	1116	1194
3400	477	741	928	1045	1140	1220
3500	487	757	947	1067	1164	1246
3600	497	773	967	1090	1189	1272
3700	507	790	988	1113	1215	1299
3800	519	808	1011	1139	1243	1329
3900	530	826	1033	1164	1270	1359
4000	542	844	1056	1190	1298	1388
4100	553	862	1078	1215	1326	1418
4200	565	880	1101	1240	1353	1448
4300	576	898	1123	1266	1381	1477
4400	588	916	1146	1291	1409	1507
4500	599	933	1161	1316	1435	1535
4600	609	949	1181	1338	1459	1561
4700	620	964	1200	1360	1483	1586
4800	630	980	1220	1381	1507	1612
4900	640	995	1239	1403	1531	1637

Table 13 (cont.)

CHILD SUPPORT GUIDELINE
SCHEDULE OF MONTHLY BASIC CHILD SUPPORT OBLIGATIONS

COMBINED GROSS INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
5000	649	1010	1257	1424	1554	1661
5100	659	1025	1275	1444	1576	1685
5200	668	1039	1294	1465	1599	1709
5300	678	1054	1312	1486	1621	1733
5400	687	1069	1330	1506	1644	1757
5500	697	1083	1348	1527	1666	1781
5600	706	1098	1367	1548	1689	1805
5700	716	1113	1385	1568	1712	1829
5800	726	1127	1403	1589	1734	1853
5900	735	1142	1421	1610	1757	1877
6000	745	1157	1440	1630	1779	1901
6100	754	1171	1458	1651	1802	1926
6200	764	1186	1476	1672	1824	1950
6300	772	1198	1498	1690	1844	1970
6400	779	1209	1511	1705	1860	1988
6500	786	1219	1524	1720	1876	2005
6600	793	1230	1538	1735	1893	2023
6700	800	1240	1551	1750	1909	2040
6800	807	1251	1564	1764	1925	2058
6900	814	1261	1577	1779	1942	2075
7000	821	1272	1591	1794	1958	2093
7100	828	1282	1604	1809	1975	2110
7200	835	1293	1617	1824	1991	2127
7300	842	1303	1630	1839	2007	2145
7400	849	1313	1644	1854	2024	2162
7500	855	1324	1657	1869	2040	2179
7600	861	1333	1668	1881	2053	2194
7700	866	1342	1679	1893	2066	2208
7800	871	1350	1691	1905	2079	2223
7900	877	1359	1702	1917	2093	2238
8000	882	1368	1713	1929	2106	2252
8100	887	1377	1724	1941	2119	2267
8200	892	1386	1736	1953	2133	2281
8300	898	1395	1747	1965	2146	2296
8400	903	1404	1758	1977	2159	2311
8500	908	1413	1769	1989	2173	2325
8600	914	1421	1780	2002	2186	2340
8700	919	1430	1792	2014	2199	2354
8800	924	1437	1800	2024	2210	2366
8900	928	1444	1809	2033	2220	2376
9000	932	1450	1817	2042	2230	2387
9100	936	1457	1825	2052	2241	2398
9200	941	1463	1833	2061	2251	2408
9300	945	1470	1842	2070	2261	2419
9400	949	1476	1850	2079	2271	2430
9500	953	1483	1858	2089	2281	2440
9600	958	1489	1866	2098	2291	2451
9700	962	1496	1874	2107	2301	2461
9800	966	1502	1883	2117	2311	2472
9900	970	1508	1891	2126	2321	2483
10000	975	1515	1899	2135	2331	2493

uses "total obligation" & "in families"
aren't we talking about the obligation of each?

1) 4000 or under \rightarrow use % standard ~~standard~~?

2) between 4000 and 20,000 ~~standard~~
cumulative? \rightarrow use % for first 4,000, then multiply %
by amt over 4000?

3) over 20,000 \rightarrow flat amt?
combined income, what if one has
2,000 & the other has 18,000 -
actual use flat amt for each?

(d) addresses a certain broad placement
what about other situations -
he does not address who pays
what

for combined under \$4000 (is this only at time of hearing -
 * so have to keep coming back if goes above the below ???)

(a) each parent
 → is less than \$4000

(b) is more than 4000 *
 which one gets exactly 2000?

(a) → figure out each parent's support obligation

(b) → figure out determine total obligation & apportion based on each parent's % of total

(b) figure out support for each
 ? by using % standard, add the 2 out?
 for amt above \$4000, multiply it by % based on # kids

then for amt above 20,000,
 are those also cumulative?

* (c) (3) does not make sense → very problematic if person
 is forced to pay child support for a child that is not their own

(d) what if not? no child support paid?

can figure out obligation — not consistent
 undefined terms

1997 AB193

20900
20688

(a) is obligation of each

(1) → add the amt ($\% \times$ amt over 4000/mo)
to total obligation

So, do you find obligation of each as under (a) and
add them together?

who pays what?

unworkable as written

does (d) supersede both (a) + (b)? — $d = (a) + (b)$
now, regardless of income? — $d = (a) + (b)$

← see if it is especially
(e) really, really complicated matters

Slappj = all cases in which child support is required

define method of calculating by statute (replace rules) ^{intent:}
are there any rules that you followed (authenticity)

different for rules: maintenance received/paid

for small families → would have to proper
~~order~~ any previous
orders

even if a person is in an intact marriage
could petition ct to modify
first order

ct would use "rules" re. first order (a)
unless ct deviates on basis of factors
specified in stats.

AUG 09 1999

Jan Raz

10120 West Forest Home Avenue
Halcs Corners, WI 53130
Telephone: (414) 425-4866
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May 26, 1999

Senator Mary Lazich
4405 South 129th Street
New Berlin, WI 53151

Re: LRB - 2022 - New Child Support Standard

Dear Mary:

Following up on our conversation Tuesday night, attached is a response to the drafter's comments.

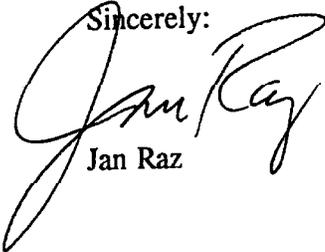
Since the formula may appear to be extremely complicated to Ms. Kahler, I am attaching copies of the Idaho and Michigan method, which use a similar multi-step method. They have a lot more steps and have been in use for some time. The new provision for 49.22(9) should facilitate the forms which Ms. Kahler thinks may be better.

49.22 (9) of the statutes is amended to read: 49.22 (9) The department shall promulgate forms, tables, computer software and publications for use by the courts to facilitate easy and efficient application of the method of calculating child support under s. 767.25(1j).

The approach of this bill is to keep the gross calculations the same as existing in most lower and middle income families. Only in above average income families does the method get more complicated. This is necessary to more correctly model the child support award to be consistent with the cost of raising children in these families as other states have done.(see attachment)

If you or Ms. Kahler has any questions regarding the marked up comments please don't hesitate to contact me.

Sincerely:


Jan Raz

8/30/99
LEFT NOTE
FOR HER TO
CALL ME

FROM THE
LEGISLATIVE REFERENCE BUREAU

March 25, 1999

THE CALCULATION OF THE NEW GROSS OBLIGATION IS MORE COMPLICATED, BUT SIMPLER TIME FORMULA IS LESS COMPLICATED THAN EXISTING METHOD. BY DEFINING THIS METHOD WITH THIS FORMULA, IT WILL BE VERY EASY TO PROMULGATE SOFTWARE FOR CALCULATING THE RESULTS WITH A COMPUTER. THE MODIFICATION TO 49.22(9), FACILITATES PROMULGATION OF TOOLS TO MAKE THIS METHOD EASY TO USE.

1. This preliminary version of the draft includes only the formula that would be used to determine child support payments. It does not include reconciliations that will be required, definitions or any of the provisions related to serial families, underemployment, etc. I wanted you to take a look at the formula for accuracy before I drafted anything else. As you can see, the formula is extremely complicated. In my opinion, a table would be more understandable. THIS IS AN EXAGGERATION

2. It may not be possible to simply get rid of the percentage standard. There are numerous provisions that require calculation of child support by use of the percentage standard that do not involve parents who are no longer together, such as child support to be paid by parents when a child is placed in foster care or another out-of-home placement. You will need to look at each section to determine whether you want to keep the percentage standard or use another method for determining child support in those sections. The formula in this version of the draft may not work in all, or even any, of the cases. In some of these provisions, you may want to simply delete the language related to the percentage standard. Please review the following sections and let me know how you want to address the use of the percentage standard:

THERE IS AN EASY WAY TO DEAL WITH THIS

- (a) Section 46.10 (14)
- (b) Section 48.30 (6)
- (c) Section 48.31 (7)
- (d) Section 48.33 (4m)
- (e) Section 48.357 (5m)
- (f) Section 48.363 (1)
- (g) Section 301.12 (14)
- (h) Section 938.30 (6)
- (i) Section 938.31 (7)
- (j) Section 938.33 (4m)
- (k) Section 938.357 (5m)
- (l) Section 938.363 (1)
- (m) Section 948.22 (7) (bm)

everywhere where the statutes refer to "the percentage standard established by the department under s. 49.22(9)." replace this by "the method of calculating child support under s. 767.25(1)"

THIS BILL DEFINES THE OBLIGATION OF BOTH PARENTS. WE MAY NEED TO ADD A PROVISION UNDER "AMOUNT OF PAYMENTS" FOR PAYMENTS TO A THIRD PARTY. (FOSTER PARENTS, STATE DEPARTMENT?)

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: Pam.Kahler@legis.state.wi.us



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT to amend 767.25 (1j) and 767.25 (1m) (intro.); and to create 767.251 of
2 the statutes; relating to: calculating child support.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 767.25 (1j) of the statutes is amended to read:

4 767.25 (1j) Except as provided in sub. (1m), the court shall determine child
5 support payments by using the ~~percentage standard established by the department~~
6 ~~under s. 49.22 (9) method~~ under s. 767.251.

7 SECTION 2. 767.25 (1m) (intro.) of the statutes is amended to read:

8 767.25 (1m) (intro.) Upon request by a party, the court may modify the amount
9 of child support payments determined under ~~sub. (1j) s. 767.251~~ if, after considering
10 the following factors, the court finds by the greater weight of the credible evidence

1 that use of the ~~percentage standard method~~ under s. 767.251 is unfair to the child
2 or to any of the parties:

3 SECTION 3. 767.251 of the statutes is created to read:

4 **767.251 Calculation of child support payments. (1) GROSS MONTHLY CHILD**
5 **SUPPORT OBLIGATIONS.** For the purpose of determining child support payments under
6 sub. (3), the court shall determine each parent's gross monthly child support
7 obligation as follows:

8 (a) If the combined gross monthly income of the parents is equal to or less than
9 \$4,000, the gross monthly child support obligation of each parent equals the
10 following percentage of that parent's gross monthly income:

- 11 1. If there is one minor child, 17%.
- 12 2. If there are 2 minor children, 25%.
- 13 3. If there are 3 minor children, 29%.
- 14 4. If there are 4 minor children, 31%.
- 15 5. If there are 5 or more minor children, 34%.

16 (b) If the combined gross monthly income of the parents is greater than \$4,000
17 but not greater than \$20,000, the gross monthly child support obligation of each
18 parent is calculated as follows:

- 19 1. ~~The parents' combined gross monthly child support obligation for the first~~
20 ~~\$4,000 of their combined gross monthly income equals the following amount:~~
- 21 a. ~~If there is one minor child, \$680.~~
 - 22 b. ~~If there are 2 minor children, \$1,000.~~
 - 23 c. ~~If there are 3 minor children, \$1,160.~~
 - 24 d. ~~If there are 4 minor children, \$1,240.~~
 - 25 e. ~~If there are 5 or more minor children, \$1,360.~~

1 | 2. The parents' combined gross monthly child support obligation ^{OF BOTH PARENTS} for the amount
 2 | ~~of their combined gross monthly income that exceeds \$4,000~~ equals the following
 3 | ~~dollar amount plus the respective~~ percentage of the difference ^{OF BOTH PARENT} between the parents' combined gross monthly income
 4 | ~~above~~ and \$4,000:

- 5 | a. If there is one minor child, 8.5%. \$680 PLUS
 6 | b. If there are 2 minor children, 12.5%. \$1000 PLUS
 7 | c. If there are 3 minor children, 14.5%. \$1160 PLUS
 8 | d. If there are 4 minor children, 15.5%. \$1240 PLUS
 9 | e. If there are 5 or more minor children, 17%. \$1360 PLUS

10 | 3. Determine each parent's percentage of their combined gross monthly income
 11 | by dividing that parent's gross ~~monthly~~ income by the parents' combined gross
 12 | ~~monthly~~ income. *of both parents.* (PARTIES COULD USE ANNUAL INCOMES FOR THIS PARA.)

13 | 4. The gross monthly child support obligation of each parent equals the
 14 | percentage determined under subd. 3. for that parent multiplied by the sum of the
 15 | applicable amounts under subds. 1. and 2.

16 | (c) If the combined gross monthly income of the parents is greater than \$20,000,
 17 | the gross monthly child support obligation of each parent is calculated as follows:

18 | 1. The parents' combined gross monthly child support obligation equals the
 19 | following amount:

- 20 | a. If there is one minor child, \$2,040.
 21 | b. If there are 2 minor children, \$3,000.
 22 | c. If there are 3 minor children, \$3,480.
 23 | d. If there are 4 minor children, \$3,720.
 24 | e. If there are 5 or more minor children, \$4,080.

1 2. Determine each parent's percentage of their combined gross monthly income
2 by dividing that parent's gross ~~monthly~~ income by the parents' combined gross
3 ~~monthly~~ income. of both parents

4 3. The gross monthly child support obligation of each parent equals the
5 percentage determined under subd. 2. for that parent multiplied by the applicable
6 amount under subd. 1.

7 (d) Notwithstanding par. (c), if the court determines by the greater weight of
8 the credible evidence that a greater amount of support than the applicable amount
9 under par. (c) 1. is appropriate under the circumstances of the case, the court may
10 increase the amount under par. (c) 1. by an amount that does not exceed the following

11 percentage of the ~~difference between the parents' combined gross monthly income~~
12 ~~percentage of the difference between the parents' combined gross monthly income~~
13 ~~percentage of the difference between the parents' combined gross monthly income~~
14 ~~percentage of the difference between the parents' combined gross monthly income~~
15 ~~percentage of the difference between the parents' combined gross monthly income~~
16 ~~percentage of the difference between the parents' combined gross monthly income~~
17 ~~percentage of the difference between the parents' combined gross monthly income~~
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21 ~~percentage of the difference between the parents' combined gross monthly income~~
22 ~~percentage of the difference between the parents' combined gross monthly income~~
23 ~~percentage of the difference between the parents' combined gross monthly income~~
24 ~~percentage of the difference between the parents' combined gross monthly income~~
25 ~~percentage of the difference between the parents' combined gross monthly income~~

ABOVE
and \$20,000:

- do we need "some or all"?
1. If there is one minor child, 4%.
 2. If there are 2 minor children, 6%.
 3. If there are 3 minor children, 7%.
 4. If there are 4 minor children, 8%.
 5. If there are 5 or more minor children, 9%.

18 (2) AMOUNT OF PHYSICAL PLACEMENT. (a) For the purpose of determining child
19 support payments under sub. (3), the court shall determine the amount of physical
20 placement that a parent has on the basis of the number of nights, out of a total of 365
21 nights a year, that the parent provides overnight care for the child. In determining
22 the number of overnight stays under this paragraph, the court may count as
23 equivalent to an overnight stay a period of physical placement during which the child
24 does not actually stay overnight with the parent but that the court determines
25 requires a comparable amount of care. If the court counts a period of physical

1 placement as equivalent to an overnight stay with a parent, the court must make a
 2 corresponding reduction in the other parent's number of overnight stays so that the
 3 total number of overnight stays in a year for both parents in the aggregate equals
 4 365. IF THE ACTUAL PLACEMENT THAT A PARENT ASSUMES DIFFERS FROM THE COURT ORDERED PLACEMENT PERIODS, THE COURT
 5 SHALL BASE THIS CALCULATION BASED ON THE ACTUAL PLACEMENT
 6 (b) If each parent has physical placement of the child for at least 55 overnight
 7 stays or the equivalent a year, the court shall determine each parent's percentage of
 8 physical placement by dividing the number of overnight stays or the equivalent
 9 determined for that parent under par. (a) by 365. The total of the percentages
 10 calculated under this paragraph for both parents in the aggregate shall equal 100%.

problem
 A PARENT ASSUMES

11 (3) AMOUNT OF PAYMENTS. The court shall determine child support payments
 12 as follows:

13 (a) If the court grants periods of physical placement to only one parent, or if the
 14 court grants periods of physical placement to both parents but one parent has
 15 physical placement of the child for fewer than 55 overnight stays or the equivalent
 16 a year, the parent with less or no physical placement shall pay to the other parent
 17 the gross monthly child support obligation determined for that payer parent under
 18 sub. (1).

19 (b) If the court grants periods of physical placement to both parents and each
 20 parent has physical placement of the child for at least 55 overnight stays or the
 21 equivalent a year, the court shall determine child support payments in the following
 22 manner:

23 1. Each parent's gross monthly child support obligation determined under sub.
 24 (1) shall be multiplied by 1.4 and by ~~that~~ ^{the other} parent's percentage of physical placement
 25 determined under sub. (2) (b). The product under this subdivision for each parent
 is that parent's net monthly child support obligation. to the other parent.

MY MISTAKE ON ORIGINAL DATA

(b) If the court grants periods of physical placement to a third party, both parents shall have an obligation for the children as defined under sub. (1).

no - not necessary in light of 2.

% OF GROSS

IDAHO

One (1) Child	Per Month	Per Year
.7% of the 1st \$10,000 of combined Guideline income	142	1,700
15% of the next \$20,000 of combined Guideline income	250	3,000
13% of the next \$20,000 of combined Guideline income	217	2,600
10% of the next \$20,000 of combined Guideline income	167	2,000
7% of the next \$20,000 of combined Guideline income	117	1,400
4% of the next \$20,000 of combined Guideline income	67	800
3% of the next \$20,000 of combined Guideline income	50	600
3% of the next \$20,000 of combined Guideline income	50	600
	1,060	12,700

Two (2) Children	Per Month	Per Year
25% of the 1st \$10,000 of combined Guideline income	208	2,500
23% of the next \$20,000 of combined Guideline income	383	4,600
20% of the next \$20,000 of combined Guideline income	333	4,000
15% of the next \$20,000 of combined Guideline income	250	3,000
10% of the next \$20,000 of combined Guideline income	167	2,000
7% of the next \$20,000 of combined Guideline income	117	1,400
6% of the next \$20,000 of combined Guideline income	100	1,200
6% of the next \$20,000 of combined Guideline income	100	1,200
	1,658	19,900

% OF NET

MICHIGAN

III. Calculating Child Support Amounts

This section outlines two ways of calculating support. One is by using various percentages of total family income and calculating support based on a ratio of incomes. The other describes a method using 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
(2-1-95)

Total Child Support at Various Income Levels

ONE CHILD		
Total Net Family Income Per Week	Percentage Allocated for One Child ¹	Base Support + Marginal Percentage
\$185	25.5	\$47 + 23.2% over \$185
\$297	25.0	\$74 + 16.8% over \$297
\$405	23.0	\$93 + 16.2% over \$405
\$520	21.6	\$112 + 14.2% over \$520
\$675	20.0	\$135 + 13.7% over \$675
\$959	18.2	\$175 + 11.7% over \$959
\$1181	17.1	\$202 + 10.9% over \$1181
\$1485	15.9	\$236 + 10.0% of anything over \$1485

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.

How do Wisconsin's child support obligations compare to those of other Midwestern States?

State	Amount presumed by the state's child support guideline to be needed to raise one child in families with the following combined incomes of both parents			
	gross -> approx net -> \$1,000/mo \$ 900/mo	\$3,000/mo \$2,200/mo	\$5,000/mo \$3,400/mo	\$10,000/mo \$ 6,500/mo
IL	\$180	\$440	\$680	\$1,310
IN	\$230	\$498	\$732	\$1,217
ID	\$167	\$457	\$692	\$ 983
KS	\$165	\$423	\$657	\$1,242
MI	\$230	\$470	\$680	\$1,030
MN	\$216	\$550	\$680	court discr.
MO	\$172	\$519	\$670	\$1,100
NE	\$189	\$523	\$800	\$1,209
OH	\$203	\$514	\$667	\$1,082
Average of above % of gross income	\$195 19.5%	\$488 16.3%	\$695 13.9%	\$1,146 11.5%
WI % of gross income	\$170 17%	\$510 17%	\$850 17%	\$1,700 17%
Difference	-13%	+5%	+22%	+48%
WI - proposed LRB 2022	\$170 \$200 min?	\$510	\$765	\$1,190

All states are required by federal regulation 45 CFR 302.56 to base their presumptive child support guidelines on economic data on the cost of raising children and case data. Is there a great disparity between the cost of raising children in Wisconsin vs all other Midwestern states? Is the cost of raising a child in Wisconsin so significantly different or **are Wisconsin's child support administrators negligent** in failing to establish a proper basis for our child support standard as required by this federal requirement? Why does Wisconsin's child support standard **continue to punish responsible dads in above average income families** by forcing them to pay child support orders which exceeds their share of the children's economic needs?

When responsible dads spend time with their children and spend money directly on their behalf, why does Wisconsin's DWD 40 (Old HSS 80) Child support standard **continue to punish them** by not crediting their child support obligation for the money they spend directly on behalf of their children?

The Governor's **Wisconsin Fatherhood Initiative** is supposed to eliminate financial disincentives which discourage responsible fathers from caring for their children?