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**WISCONSIN STATE LEGISLATURE ...  
PUBLIC HEARING - COMMITTEE RECORDS**

**2003-04**

(session year)

**Assembly**

(Assembly, Senate or Joint)

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

**COMMITTEE NOTICES ...**

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

**INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

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

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



# Today's Dads

Newsletter of  
**Wisconsin Fathers for Children and Families**  
( <http://www.wisconsinfathers.org> )

August, 2003

## Legislature to hold hearing on child support reform proposals

By Bryan Holland  
*Legislation for Kids and Dads*  
Monroe, WI

At 10:00AM Thursday, August 7<sup>th</sup>, 2003, the Assembly Committee on Children and Families will hold a public hearing on two proposals that would change the method of calculating child support in Wisconsin. The two proposals are an Administrative Rule Change (CR03-22) initiated by the Department of Workforce development and AB 250, which would establish a new standard by statutes. (see text in this newsletter).

Key provisions of these proposals are:

### *Shared Placement*

Under the current child support percentage of income standard established by administrative rule DWD 40, a parent who cares for a child less than 30% of the time (110 overnights), is expected to pay the full obligation as defined by the percentage standard. The income of both parents is not considered until a parent has at least 147 overnights per year. These arbitrary thresholds create a "cliff effect" that fuels the conflict in divorce, because a change of a single day of placement can change the resultant child

support by hundreds of dollars.

Both AB 250 and the DWD proposal create the same new shared placement formula that recognize that both parents incur significant expenses during their respective placement periods. The formula considers the amount of placement and the income of both parents, when both have placement more than 25% of the time (92 overnights or equivalent care).

This is a major improvement over the current standard.

### *Higher Income Cases*

Under the current DWD40 standard, one parent is expected to pay 17, 25, 29, 31, or 34% for 1, 2, 3, 4, or 5 children respectively, regardless of his or her income, or that of the other parent. Many agree that in higher income families, the resultant amount exceeds the needs of the children and is in fact maintenance disguised as child support. This is particularly unfair if the parent who receives this excessive amount has a significant income and would otherwise not be entitled to the maintenance award.

The formula used in AB250 bases child support on

the combined gross income of both parents. When the total income of both parents is less than \$4,000 per month (\$48,000/year), the current percentages are used to define the correct child support amount. When the combined gross income of both parents is more than \$4,000 per month, child support on the income above \$4,000 is calculated at reduced percentages. Then each parent's obligation is allocated based on each parent's share of the total income.

The AB250 approach is intended to be consistent with widely accepted economic data on the cost of raising children used by most other states to define their child support awards. It should eliminate the automatic maintenance from child support, reduce the incentive for child

placement conflicts and allow the courts to deal with maintenance as a separate issue.

The DWD proposal maintains the existing percentages unless the payer only earns over \$8,500/month (\$102,000 a year), regardless of the other parent's income. The child support amount based on the income above this threshold would be calculated at a lower rate. The \$8,500/\$12,500 thresholds were reduced from the \$12,500/\$1,667/month originally proposed by DWD in the March hearings.

There is no economic justification for either the thresholds or reduced percentages proposed by DWD. They instead have been primarily chosen to make sure they would have a minimal impact

*(Continued on page 4)*

## President Bush Signs 'Keeping Children and Families Safe Act

President Bush, on June 25th, signed the Keeping Children and Families Safe Act of 2003 (S.342). The new law will help protect innocent families against overly intrusive social workers. "Over the years thousands of homeschool families have been victimized by social workers operating on nothing more than a tip from an un-

known stranger," said Mi-

*families in all 50 states will have more protection from overly aggressive social workers*

chael Farris, General Counsel  
*(Continued on page 2)*

## Fathers night out

Tuesday, August 5, 2003 and Sept 2 6-8PM

(First Tuesday of every month)

At: The Vientiane Inn Restaurant

1126 South Park St, Madison

Social function for WFCF members and friends

Contact Joe at 608-882-2412



## Do you want your children to have two parents?

Maybe you or your partner would like to emerge from court flashing a victory sign, but what about your children? If you believe that kids need both parents, I can help. I can teach you how the family law system works, how to develop a winning strategy and how to choose and direct a lawyer for maximum effectiveness.

2-hour private session (by appointment only): \$125.00

Jim Novak - (608) 753-2688

## Today's Dads

*Today's Dads*, published monthly, is a moderate voice for children whose parents aren't married. Seeking fairness, equality and justice in divorce and paternity actions. Advocating diminished use of sole custody and the preservation of family ties. Promoting shared parenting and a child's right to equal access to both parents. Reminding courts that both parents have a responsibility to provide child support. Opposing false allegations of battering or abuse to gain the upper hand in custody or visitation disputes.

*Today's Dads* is distributed to all paid members of Wisconsin Fathers for Children and Families. In addition copies of each issue are distributed, without charge, to all Wisconsin legislators, judges and court commissioners as an educational outreach.

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(Continued from page 1)

for Home School Legal Defense Association (HSLDA). Michael Farris joined President Bush along with Health and Human Services Secretary Tommy Thompson, Senator Judd Gregg, House Majority Leader Tom Delay and Representatives Boehner and Hoekstra for the signing ceremony, which was held in the Oval Office.

The Keeping Children and Families Safe Act reauthorizes and modifies the Child Abuse Prevention and Treatment Act (CAPTA) and related law. These programs generally support activities to prevent and treat child abuse and family violence. In his statement the signing President Bush said, "I commend Congress for passing the Keeping Children and Families Safe Act of 2003 and am pleased to sign it into law. The Act will allow us to strengthen state and community-based programs that prevent child abuse and family violence and treat victims."

HSLDA believes those who abuse children should be severely punished. Yet in its 20-year history, HSLDA has handled thousands of cases arising from anonymous tips made to social workers concerning the conduct of homeschooling families. These tips, often supplied by those holding a grudge against home education, are often investigated aggressively. Social workers frequently demand to inspect the bodies of homeschool children or to interview very young children outside the presence of their parents.

"Such aggressiveness, in a system which presumes guilt, can result in needless pain and anxiety for families," said Farris.

HSLDA championed three new changes in S.342. First, social workers will now be required to tell families the nature of the accusations against them at their first contact. With this information, families will be able to legally challenge the social worker and demand that a warrant be obtained before interviews or investigations are conducted. Since warrants can only issue from a judge on the basis of probable cause, overzealous cases can now be efficiently weeded out.

The second provision will require that social workers be provided with additional training in the constitutional rights of citizens. Social workers will be advised that the Constitution protects citizens against unreasonable searches and seizures. The third pertains to citizen advisory boards which can hear complaints against overly aggressive social workers.

In November 2001, HSLDA Senior Counsel, Chris Klicka, testified before the House Committee on Education and the Workforce Subcommittee on Select Education about this legislation. His testimony was influential in convincing the subcommittee to add these significant amendments to the bill.

"With these provisions clearly showing the intent of Congress, families in all 50 states will have more protection from overly aggressive social workers," said Klicka. "This is a breakthrough for parents' rights and will enable HSLDA to be better armed to defend members families."

HSLDA will be working with both the federal Health and Human Services Department and with the state legislatures to implement and codify this new language.

# NEW CHILD SUPPORT PERCENTAGE OF INCOME STANDARD

## Proposed for Wisconsin in Section 25. of AB250/SB156 (2003)

### Wis. Stat. 767.251 Calculation of child support payments.

(1) **GROSS INCOME.** For purposes of determining a parent's gross income under this section, all of the following apply:

- (a) The court shall include as income all of the following:
1. Subject to par. (b), all personal income considered gross income for federal income tax purposes.
  2. Net proceeds from worker's compensation or other personal injury awards intended to replace income.
  3. Income continuation benefits.
  4. Voluntary deferred compensation or employee contributions to a profit-sharing or pension account.
  5. Military allowances and veterans benefits.
  6. Undistributed income from a closely held corporation if all of the following apply:
    - a. The parent has a majority interest in the corporation.
    - b. The parent may exercise control over, or access the earnings of, the corporation.
  7. Tax-exempt interest.

- (b) The court shall exclude from income all of the following:
1. Onetime long-term capital gain income from the sale of individual passive investments.
  2. Onetime capital gain income from the sale of the family home.

- (c) The court shall subtract from income all of the following:
1. Any maintenance paid to the other parent or to a former spouse.
  2. If the parent is self-employed, one-half of the unemployment tax that the parent pays.
  3. Business expenses that are allowed as deductions for expenses for tax purposes.
  4. Business expenses that are not allowed as deductions for expenses for tax purposes but that the court considers necessary for the production of income.

(d) The court shall include as income wages paid by the parent to a member of the parent's household that the court determines were paid for the purpose of diverting income to avoid paying child support.

(e) If the court determines that a party has encumbered, concealed, damaged, destroyed, transferred, or otherwise disposed of property for the purpose of avoiding payment of child support, or that child support based on the gross incomes of the parties will not adequately provide for the child and that the parties have nonproductive assets, the court may impute income to one or both parents from such property or assets by multiplying the value of the property or asset by the current 6-month treasury bill interest rate and including the amount obtained in the gross income of the appropriate parent.

(f) If the court determines that a parent is able and available to work, that employment opportunities exist in the parent's community for which the parent is qualified, and that the parent is not working at least 40 hours per week, the court shall impute to the parent a gross income based on a 40-hour work week,

the parent's educational attainment and work experience, and the type of employment opportunities in the parent's community for which the parent is qualified.

### (2) AMOUNT OF PHYSICAL PLACEMENT.

(a) For the purpose of determining child support payments under sub. (4), the court shall determine the amount of court-ordered physical placement that a parent has on the basis of the number of overnights or equivalent overnights that the parent provides care for the child. The court may consider as an equivalent overnight a period of time during which a parent cares for a child that is not overnight but which requires the parent to assume support costs that are substantially equivalent to what the parent would spend to care for the child overnight.

(b) After making any adjustments necessary to ensure that the total number of overnights or equivalent overnights in a year that the parents have physical placement with the child equals 365, the court shall determine the number and percentage of the 365 overnights or equivalent overnights in a year that each parent has physical placement with the child, and shall make any adjustments necessary to ensure that the total of those percentages equals 100%.

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

- (a) If the combined gross monthly income of the 2 parents is equal to or less than \$4,000, the gross monthly child support obligation of each parent equals the following percentage of that parent's gross monthly income:
1. If there is one minor child, 17%.
  2. If there are 2 minor children, 25%.
  3. If there are 3 minor children, 29%.
  4. If there are 4 minor children, 31%.
  5. If there are 5 or more minor children, 34%.

(b) If the combined gross monthly income of the 2 parents is greater than \$4,000 but not greater than \$20,000, the gross monthly child support obligation of each parent is calculated as follows:

1. The combined gross monthly child support obligation of the 2 parents equals the following amount:
  - a. If there is one minor child, \$680 plus 8.5% of the combined gross monthly income of the 2 parents in excess of \$4,000.
  - b. If there are 2 minor children, \$1,000 plus 12.5% of the combined gross monthly income of the 2 parents in excess of \$4,000.
  - c. If there are 3 minor children, \$1,160 plus 14.5% of the combined gross monthly income of the 2 parents in excess of \$4,000.
  - d. If there are 4 minor children, \$1,240 plus 15.5% of the combined gross monthly income of the 2 parents in excess of \$4,000.

e. If there are 5 or more minor children, \$1,360 plus 17% of the combined gross monthly income of the 2 parents in excess of \$4,000.

2. The gross monthly child support obligation of each parent equals that parent's percentage of the combined gross income of the 2 parents multiplied by the applicable combined gross monthly child support obligation amount under subd. 1.

(c) If the combined gross monthly income of the 2 parents is greater than \$20,000, the gross monthly child support obligation of each parent is calculated as follows:

1. The combined gross monthly child support obligation of the 2 parents equals the following amount:

a. If there is one minor child, \$2,040 plus 4% of the combined gross monthly income of the 2 parents in excess of \$20,000.

b. If there are 2 minor children, \$3,000 plus 6% of the combined gross monthly income of the 2 parents in excess of \$20,000.

c. If there are 3 minor children, \$3,480 plus 7% of the combined gross monthly income of the 2 parents in excess of \$20,000.

d. If there are 4 minor children, \$3,720 plus 8% of the combined gross monthly income of the 2 parents in excess of \$20,000.

e. If there are 5 or more minor children, \$4,080 plus 9% of the combined gross monthly income of the 2 parents in excess of \$20,000.

2. The gross monthly child support obligation of each parent equals that parent's percentage of the combined gross income of the 2 parents multiplied by the applicable combined gross monthly child support obligation amount under subd. 1.

(d) Notwithstanding pars. (a), (b), and (c), if a parent is subject to another child support order or is otherwise legally obligated to support one or more other children, that parent's gross monthly child support obligation is the amount determined for that parent under par. (a), (b), or (c), multiplied by the following percentage:

1. If the number of other children the parent is obligated to support is one, 90%.

2. If the number of other children the parent is obligated to support is 2, 85%.

3. If the number of other children the parent is obligated to support is 3, 80%.

4. If the number of other children the parent is obligated to support is 4 or more, 75%.

**(4) AMOUNT OF PAYMENTS.** The court shall determine child support payments as follows:

(a) *In primary placement cases.* If the court grants periods of physical placement to only one parent, or if the court grants periods of physical placement to both parents but one parent has physical placement with the child for fewer than 92 overnights or equivalent overnights in a year, the parent with less or no physical placement shall pay to the other parent the gross monthly child support obligation determined for that payer parent under sub. (3).

(b) *In shared placement cases.* If the court grants periods of physical placement to both parents and each parent has

physical placement with the child for at least 92 overnights or equivalent overnights in a year, the court shall determine child support payments in the following manner:

1. Each parent's gross monthly child support obligation determined under sub. (3) shall be multiplied by 1.5 and by the other parent's percentage of physical placement determined under sub. (2) (b). The product under this subdivision for each parent is that parent's net monthly child support obligation.

2. Except as provided in subd. 3., the parent with the greater net monthly child support obligation under subd. 1. shall pay as child support, to the parent with the smaller net monthly child support obligation under subd. 1., the difference between those net monthly child support obligations.

3. If the amount of child support that a parent is obligated to pay under subd. 2. is greater than his or her gross monthly child support obligation determined under sub. (3), that parent shall pay as child support to the other parent the amount of his or her gross monthly child support obligation determined under sub. (3).

(c) *In 3rd-party placement cases.* If a child is placed outside his or her home in a residential, nonmedical facility, the child support obligation of each parent shall be his or her gross monthly child support obligation, as determined under sub. (3).

(d) *In split placement cases.* If there is more than one child, if the amount of physical placement that a parent has with one or more of the children is not the same as the amount that the parent has with one or more of the other children, and if the court determines that each parent is required to pay child support to the other parent under par. (a) or (b) 2. or 3., the court shall require only the parent who is required to pay the greater amount to pay child support, and to pay only the difference in the amounts, to the other parent.

**To define the presumed correct  
child support amount  
requires the following information:**

1. Number of children to be supported by this order.
2. Monthly gross income of each parent.
3. Number of other children each parent is supporting directly or through another child support order.
4. Number and percent of over nights or equivalent care, out of the 365 overnights per year each parent has placement of the children.

Once this is defined, calculations can be easily made by calculators such as Calculator 3 at

<http://www.dwd40calculator.com>

## In the Best Interest of the Children...

by Wendy McElroy

A new legal term is creating debate across North America: the "rebuttable presumption of joint custody." It means family courts should presume that divorcing parents will equally share the legal and physical custody of children unless there is compelling reason to rule otherwise.

Advocates say children are more likely to emerge from divorce with both a mother and a father in their lives unless, of course, one parent is shown to be unfit. Why is this idea controversial?

PC feminist organizations, like NOW, claim that the rebuttable presumption of joint custody would cripple the current standard, which is "the best interests of the child." They claim the family court system blindly turns children over to abusive fathers. Instead of joint custody, such feminists wish children to remain with "primary caregivers" -- overwhelmingly, the mothers.

The much publicized California NOW Family Court Report 2002 recommends, "Abolish the tendency to assume joint custody is always in the best interests of the child. This is a false presumption with no support in reality...Sole custody [should] default to the primary caregiver at separation."

In short, father's rights advocates want joint custody to be the default position at separation. PC feminists want sole custody for the primary

caregiver. Both situations would be rebuttable; that is, they could be revised by a court with cause.

Such feminists assume that the welfare of children conflicts with the parental rights of non-primary caregivers, who are overwhelmingly fathers. Yet both groups claim to be furthering the interests of the child in promoting their preferred form of custody.

Each side of this debate can point to specific cases in which it is clearly in the interests of a child to be in the custody of either the father or the mother, not both. But specific cases do not make for good sweeping laws. If fathers can be said to benefit children in a general manner, then men as a category should not be slighted in custody arrangements simply because some bad fathers exist. The same statement could be made of mothers.

If children need both mothers and fathers, there should be a presumption of joint custody upon separation. When exceptions to the rule arise, when a father or mother is an inappropriate parent -- for example, he or she is physically abusive -- then the custody arrangement would be "rebuttable."

In arguing for the importance of fathers, joint custody advocates point to research such as 100 studies presented and analyzed in *The Importance of Father Love: History and Contemporary Evidence*, an essay published by the American Psychological Association.

The essay concludes that

good fathering is as important a factor as good mothering in the "social, emotional, and cognitive development" of children. Father-deprived children were far more prone to drug abuse, crime, depression, and violence.

At least two aspects of child custody would be significantly impacted by a joint arrangement. Monetary: money is far from the most important value parents offer to children

*Father-deprived children were far more prone to drug abuse, crime, depression, and violence*

but it is an essential one. Joint custody may alleviate a major complaint heard from sole custody mothers: deadbeat dads who do not pay child support reliably.

The Hartford Advocate repeats a theme common to father's rights advocates, "There's an important link between the amount of contact a non-custodial parent has with a child and the willingness of that person to pay child support. In 1991, about 4.4 million non-custodial parents with visitation privileges and/or joint custody owed child support. Of that number, 79 percent paid all or part of it.

By comparison, only 56 percent of the 900,000 people with no visitation or joint custody rights paid all or part of what they owed."

Physical: at the risk of stating the obvious, parenting requires regular contact with children. Alienated parents complain vigorously about "move-aways" -- custodial parents who move the children hundreds, sometimes thousands of miles away. (Although relocation may sometimes be necessary for reasons such as medical treatment, it is most often

optional.) A study in the June 2003 issue of the *Journal of Family Psychology* examined the negative impact of moving-away on children. Father's rights advocate Glenn Sacks explains that "among 14 variables [in the study] related to a young adult's overall well-being, move-away status was correlated to significant, negative impact in 11 of them."

Joint custody would place some additional demands on separated parents, a greater demand for cooperation regarding children, for example. If so, this could be a good consequence. Moreover, there might well be less hostility in joint custody arrangements if only because power and responsibility would be legally shared.

Family law varies from state-to-state. In many states, judges will not order joint custody -- especially joint physical custody -- if one parent objects. These are "hostile parent veto states." It should take much more than an objection to strip someone of his or her rights as a parent. It should take real evidence of misconduct presented in court.

Because every time you deny a person the right to parent, you are stripping a child of a mother or father. The rebuttable presumption of joint custody is in the best interests of children.

Wendy McElroy is the editor of *ifeminists.com*. She is the author and editor of many books and articles, including her new anthology *Liberty for Women: Freedom and Feminism in the 21st Century* (Ivan R. Dee/Independent Institute, 2002).

*(Continued from page 1)*

**Child Support Reform  
Hearing  
August 7, 2003**

on an extremely small number of cases. This will continue to provide an incentive for unnecessary litigation over child placement and support in higher income families.

#### *Lower Income cases*

At the March hearings the Department was proposing reduced child support amounts for lower income payers. This proposal has been abandoned and now only includes a provision that would allow the court to impute income based on a 30hr work week for certain lower income parents.

AB 250 has no special provision for these cases.

#### *Predictability and uniformity*

The 2001 Court of Ap-

peals ruling in *Randall*, noted the special provisions must be applied presumptively. AB250 is consistent with this decision. This will assure greater predictability and similar awards in similar circumstances.

The DWD proposal continues to allow the court to arbitrarily decide if the special provisions should be used or not. This will result in significantly different outcomes in similar circumstances and will therefore promote unnecessary litigation.

Neither proposal changes the current statutory provision that allows the courts to deviate from the presumptive amount if the court finds the presumptive amount would be unfair.

#### *Get involved*

Today's Dad's readers are encouraged to offer their opinions on these proposals at this hearing. If you do not feel comfortable speaking, please show up and simply sign in. If you are unable to attend you can send your

comments to Representative Kestell, Chair of the Assembly Committee on Children and Families PO Box 8952 Madison, WI 53708 and to the Chairs of the Senate Committees listed below.

These proposals could have a significant impact on families in Wisconsin. Do you want legislators to hear opinions of those impacted by this standard or only those of Wisconsin bureaucrats and legal professionals?

#### *In the Senate*

A public hearing regarding the DWD proposal was already held on July 22, 2003 before the Committee on Health, Children, Families,

Aging and Long-Term Care. Senator Roessler is Chair of this committee. (PO Box 7882 Madison, WI 53707)

A public hearing for SB 156, the Senate companion bill to AB250, is also expected before the Senate Judiciary Committee sometime in August. You can also send your comments to Senator Zien, Chair of the Senate Judiciary Committee, PO Box 7882 Madison, WI 53707

We will let WFCF members know when a date is confirmed. More information on all of these proposals can be found at <http://www.wisconsinlkd.org>.

Questions can be mailed to [info@wisconsinlkd.org](mailto:info@wisconsinlkd.org).

**No WFCF membership  
meetings will be held until  
the fall  
Enjoy your Summer!**

## **Wisconsin Fathers for Children and Families**

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Date ??

## Comments regarding the Fiscal Estimate prepared by the DWD for AB 250

The Fiscal Estimate for this bill, prepared by Connie Chesnick on behalf of the DWD on 4/9/03, contains blatant misrepresentations of this legislative proposal and further demonstrates how the Department continues to deceive or misinform the legislature. It demonstrates why the legislature needs to take the responsibility for this standard away from the Department of Workforce Development and establish a new child support standard by statutes.

The correct facts in regard to two of the major misrepresentation in this fiscal estimate are.

**Misrepresentation 1:** "The formula is likely to lead to lower child support orders across all income levels and thereby potentially increase reliance on public assistance."

**Correct Facts:** AB 250 does not change the existing child support orders in cases where the combined income of both parents is less than \$48,000/year. This results in a minimum support of \$680 and \$1000 per month, for one and two children respectively, before any reduction in child support would begin. AB 250 also requires courts to also consider child day care expenses in all cases.

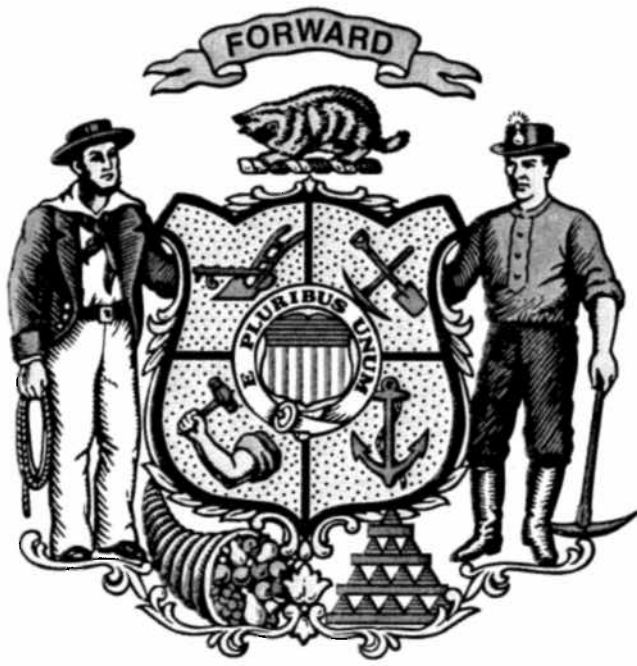
In more than half the cases and in almost all cases involving public assistance, there would be no reduction in the child support amounts.

**Misrepresentation #2.** The sentences in the second to last paragraph, which read "can result in major disparities between the standard of living in the custodial household and the non custodial household" and "The new formula is likely to decrease income available to the custodial parent and increase reliance on public assistance." is similarly a misrepresentation of this bill or an intentional attempt to mislead legislators.

**Correct Facts:** The example cited a case with two children where the custodial parent has an annual income on \$20,000, the non-custodial parent has an income of \$60,000, (\$80,000 total family income):

1. This example does not support the claim of reliance on public assistance since it represents a family with a combined income of \$80,000.
2. This example does not consider a maintenance order, which may be appropriate when the custodial parent's income is significantly less than the non-custodial parents income.

3. This example does not consider the tax-free aspect of the child support order.
4. The department again makes a deliberate attempt to mislead the legislature by suggesting that after application of the formula proposed in AB250 in a case results in the disposable income of the custodial parent being \$30,000 and the non-custodial parent being \$63,000. How can the family wind up with \$93,000 when the family's income is only \$80,000? The correct resultant gross income after child support for the custodial parent is \$32,000 and the non-custodial parent is \$48,000. This total is \$80,000. However after tax liabilities and earned income credits are considered, the NET income adjusted for child support of the custodial parent is approximately \$33,000 and the non-custodial parent \$30,000.
5. This example fails to include a balanced perspective since it does not include an example where the income of the greater placement parent is similar or higher to the lesser placement parent's. In such cases there is a significantly lower standard of living in the lesser placement parent's household resulting from the current child support standard that would be corrected under this bill.
6. AB 250 strives to make sure both parents have sufficient funds for to provide for their children during their respective placement periods.



The following 70%(mother) -30%(father) placement scenario is calculated to determine if Rolland is being penalized or rewarded for his desire to stay active in his children's lives, including their care.

**70%-30% Placement Scenario**

	<b>Existing DWD</b>	<b>Proposed DWD</b>	<b>Proposed 250</b>
Current Gross Salaries	\$1490	\$1330	\$993
Same, Expect Minus Travel Costs	\$1281	\$1110	\$861
Effective Annual Income <sup>(see notes)</sup>	\$1126	\$863	\$665

**Conclusions:**

There is a wide variation in monthly child support obligation depending on method of calculation and income consideration factors.

The proposed DWD rule uses a constant 25% factor for two child and a "two households" factor of 1.5, in combination that more than doubles Rolland's support obligation.

Both proposed rules slightly to moderately decrease child support (compared to existing) when the payer has child placement of 30%. But under a 50% placement scenario, the payer obligation more than doubles under the proposed DWD rule, and nearly doubles under the proposed AB250 bill.

Lump sum maintenance can have the effect of significantly increasing child support if not considered available income to the payee. In fact it has a doubling negative consequence for Rolland; 1) It is not treated as income for Wendy so his support goes up, and 2) a portion of his higher income should be saved to re-establish his original 50% asset amount, yet he must pay child support on that money.

The consideration of travel costs in the child support calculations has a substantial impact on the standard of living at Rolland's household. Clearly this expense results in less available household income, yet he pays child support on the expense. Under proposed DWD rule, he would be paying approximately \$1,900 in child support on that expense/money even though he must accrue the expense to achieve his earning capacity.

Under the proposed DWD rule and the Federal Earned Income Credit rules Wendy has little initiative to match Rolland's workweek though part-time employment. Thus putting more burden

on the parent that already works the most hours.

Based on the proposed DWD rule and annual salaries (no maintenance, travel, or EIC considerations), Rolland is actually being penalized for wanting to stay active in his boy's lives.

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

**From:** Boehm, Rollie [mailto:Rollie.Boehm@earthtech.com]  
**Sent:** Thursday, September 04, 2003 9:42 AM  
**To:** 'Rep.Kestell@legis.state.wi.us'  
**Subject:** RE: Child Support Rules

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

**From:** Boehm, Rollie  
**Sent:** Wednesday, September 03, 2003 1:52 PM  
**To:** 'Rep.Kestell@legis.state.wi.us'  
**Subject:** Child Support Rules

Dear Mr.. Kestell:

I wrote you an e-mail yesterday but forgot a couple of items that I believe bear consideration.

It seems that both proposed child support rules apply a 1.5 factor in cases of dual placement of the children. The factor seems extremely arbitrary and unsubstantiated. I can tell you with complete and utter confidence that my two boys do not:

eat 50% more food because they live in two homes.  
their medical cost are not 50% more,  
they do not get 50% more haircuts,  
are not involved in 50% more extra-curricular activities,  
do not wear 50% more clothes,  
do not required 50% more pocket money,  
their education costs are not 50% more,  
and they do not consume 50% more energy.

The only, and I mean the only thing that is of significant difference is housing. And obviously both parents would need a place to live whether they had placement or not.

Using a factor of 1.0 (and 25%) the supposed cost of raising my/our two boys under the DWD proposal is \$2020/month. Applying a factor of 1.5 increases it to \$3,030, that is a difference of \$1010!!!. There is no way in the world it costs me nor my x-wife \$1,515 per month each to raise our children in a "nice" fashion. I estimate it costs me \$600/month plus whatever you want to throw in there for "extra" housing needs. \$200,

\$400, but certainly not \$915 because that is more than my entire house payment.

On the other hand, my x-wife received our entire net worth and bought a house. So it really doesn't cost her one darn, little bitty extra to house our two boys part-time. It is WRONG, WRONG, WRONG to apply a 1.5 factor. If you want my opinion, if your looking to use a factor than a factor of 1.2 would be most appropriate, that should account for the inefficiencies of supporting the children in two homes. Now, I do understand that your sponsored proposal reduces the percent as a function of combined income over \$48,000. So there is at least some relief built into that component.

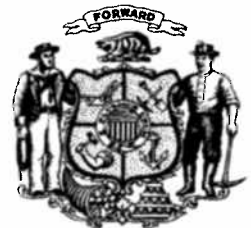
Having said that, I support your bill in a luke warm fashion because it more on target than the DWD proposed rule changes. Under the DWD proposed rule change, I would have to move into an apartment pure and simple. To show you how ludicrous the proposed DWD rule is I would owe my x-wife \$735 per month and yet be responsible for 1/2 the costs. It doesn't even costs her \$735/month to have our boys 1/2 time. I would then be working 60 hours and week to her 40 hours a week and be providing 100% of our children's support. And that is after a gave her a HUGE alimony buy-out settlement. HELPPPPPP[Boehm, Rollie] PPPP!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!

Another angle that should be considered. When my x-wife and I were together we had a combined income of \$70,000. Based on the 25% rule (for two children) we were supposedly spending \$17,500 a year or \$1,458 per month on our children (money well spent). And our two boys, as well as us, lived well (nice house, two cars, cable tv, cell phones, boys hockey, etc etc). Now that we are divorced my x-wife works full time I work more hours, so our combined income is \$97,000 per year. Under existing DWD rules we should now be spending \$2020 per month on our children, and if one used the proposed DWD rule we should be spending \$3,030. Now just sit back and imagine that two years ago (pre divorce) we were spending \$1,458 per month on our boys, and now DWD say we should be spending \$3,030 per month. Why do I even try to get ahead when "we the working people of this State" have such IDIOTS sitting in institutionalized governmental positions (e.g. DWD) whom don't know their ass from a hole in the ground.

Rolland Boehm  
Howards Grove, Wisconsin  
565-2723



# WISCONSIN STATE LEGISLATURE



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Hales Corners, WI 53130  
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JAN RAZ, P.E.

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J.raz@wi.nrcan

Don't forget to contact  
Representative Terry Musser  
before Friday 3/21/2003  
to co-sponsor

**LRB 1107/3** ←

Became  
AB 250

A bill that establishes a  
new method of calculating  
child support orders in statutes



## Comparison of formulas for calculating child support orders

### Existing DWD 40 vs. Proposed DWD 40 vs. SB-151/AB 449(2003, LRB -1107)

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

#### 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**

gross income of the payer	Number of children				
	1	2	3	4	5
All incomes	17%	25%	29%	31%	34%

##### B. Proposed DWD 40 Administrative rule change by DWD:

**monthly child support obligation of both parents**

Payer's gross annual income	Number of children				
	1	2	3	4	5
Up to \$150,000	17%	25%	29%	31%	34%
\$150-200,000	\$2,125 +14%	\$3,125 +20%	\$3,625 +23%	\$3,875 +25%	\$4,250 +27%
Over \$200,000	\$2,708 +10%	\$3,958 +15%	\$4,583 +17%	\$4,917 +19%	\$5,375 +20%

The proposed DWD 40 administrative rule also includes a reduction of child support orders for low income payers, based on the theory that low income payers can not afford to pay current levels of child support and that there are sufficient entitlement programs that will provide a safety net for needy custodial parent and the children, if they don't get sufficient child support from the payer.

##### C. SB-151/AB-449 (2003, LRB-1107): (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 annual income of the 2 parents	Number of children				
	1	2	3	4	5
Up to \$48,000	17%	25%	29%	31%	34%
\$48,000-\$240,000	\$680 + 8.5%	\$1,000 + 12.5%	\$1,160 + 14.5%	\$1,240 + 15.5%	\$1,360 + 17%
Over \$240,000	\$2,040 + 4%	\$3,000 + 6%	\$3,480 + 7%	\$3,720 + 8%	\$4,080 + 9%

## 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-SB 151 /AB449 (2003, LRB-1107)	D Indiana Based on Eco Data	E Michigan Based on Eco Data
\$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	\$109,992	\$51,600	\$31,892	\$54,924
\$1,000,000	\$250,000	\$184,992	\$81,600	\$36,727	\$96,084

- A. Existing DWD 40 Administrative rule
- B. Proposed DWD Administrative rule (Comparison assumes both parent's incomes are equal)
- C. WI-SB 151 /AB449 (2003, LRB-1107)
- D. Indiana standard based on Eco Data up to \$208,000 combined gross income, then has complex formula for higher incomes.
- E. Michigan standard based on Eco Data up to \$90,000 combined net income plus 15% of addition NET income.

*Comments:*

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

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

*SB151/AB449(2003) will make Wisconsin child support orders more consistent with established economic data on the cost of raising children, and awards in other states.*

(Last updated 2/21/03)

**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 it 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 change 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 presumptively:

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. SB-151 /AB-449(2003, LRB-1107): (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 **MUST** 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.)*

**B. Proposed DWD 40 Administrative rule by DWD:**

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

**C. SB-151/AB449 (2003, LRB-1107): (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

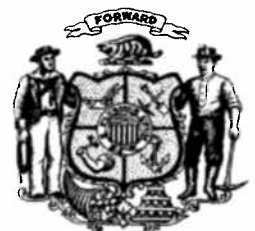
*(This will result in all children of a parent receiving a similar amount of child support, regardless of their birth order.)*

**4. OTHER PROVISIONS OF SB-151/AB449(2003, LRB-1107):**

- 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.



# WISCONSIN STATE LEGISLATURE



## 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

## 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.

## 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](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.*



**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.

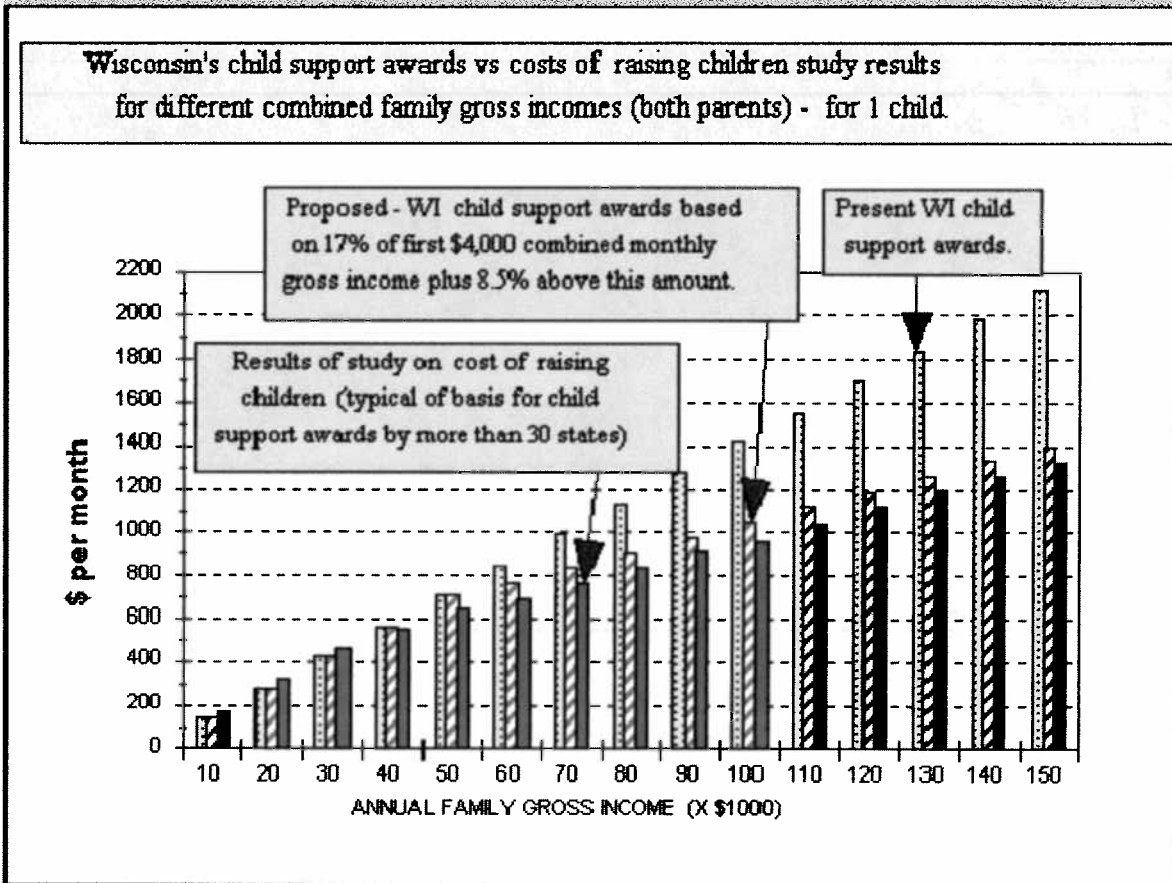
1 other child - .90, 2 other children - .85, 3 other children - .80, 4 other children - .75

*(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.

## Impact of AB250/SB156 on child support awards.



# SB 156/AB 250 A PROPOSAL TO ESTABLISH A BETTER CHILD SUPPORT STANDARD FOR WISCONSIN KIDS

Text of SB-156

■ Based on established economic data for raising KIDS.

Text of AB-250

■ Considers the incomes of both parents

The new child support standard provisions

■ Provides adequate funds to both parents to raise their KIDS.

■ Provides similar treatment of KIDS regardless of their birth order.

SB 156/AB 250 web site child support CALCULATOR

■ Eliminates unjustified economic incentives which encourage divorce and hurt KIDS.

Comparison of SB-156/AB250 v existing DWD40 v proposed DWD40

■ Treats KIDS as human beings instead of financial trophies to be won or lost in a custody and placement battle.

■ Provides a fair, clearly defined, uniform and predictable method of defining child support orders, so all Wisconsin children in similar circumstances will be treated the same.

Impact on child support awards

Shared Placement Method

## THE PRESENT STANDARD

Fairness in shared placement cases

Under current law Wisconsin courts are required to presume the child support awards, defined by the DWD 40 (Old HSS 80) Child Support Percentage of Income Standard are correct, in all cases. The court may award a different child support amount only if it finds, by the greater weight of the credible evidence, the amount defined by the standard to be unfair to the child or either party.

Impact on serial family cases

The present standard defines a child support award as a percentage of the "absent" 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.

Present DWD 40 child support standard

A **shared-time payer adjustment** reduces the child support obligation of the payer if the payer cares for the child during placement periods more than 30% of the time. Between 30-40% the obligation is reduced from 100% to 67%. Between 40 and 60% placement the amount is reduced from 67% to 0% but the payer also gets a credit for the obligation owed by the other parent.

Present WI

In **serial families** the standard deducts the first child support obligation in determining a

child support awards

obligation for the second child. It does not consider additional children that the payer may be supporting in a current family.

Impact of present shared time payer method

DWD 40 web site child support **CALCULATOR**

updated 7/2/03

### WHY A NEW CHILD SUPPORT STANDARD IS NEEDED

While the DWD 40 standard defines a child support obligation by using the same percentage of gross income for all parents regardless of their income, the established national economic data on the cost of raising children indicates the portion of gross income families spend on children decreases as a family's gross income increases. This data suggests that in **above average income families** child support awards are much greater than the paying parents share of typical costs required to care for the children in these families and much greater than child support awards in the vast majority of other states.

**Wisconsin courts** in Parrett v. Parrett (Ct. App. 1988), Huber v Huber (CT. App. 1990), and Nelson v Candee (CT. App. 1996) **have found the presumptive application of the percentage standards in high income families to be irrational, absurd, and maintenance in the guise of support.**

While custodial parents in low income families in Wisconsin are expected, under W-2, to work to support themselves and contribute an equal portion of his or her income for the support of the same children. This standard allows similar custodial parents in above average income families to escape this same expectation.

The present **shared time payer** provision does not correctly consider the economic needs 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. (A parent caring for children 30% of the time is not provided any child support funds to care for the children, while the parent caring for the children 70% of the time gets 100% of the child support funds.)

In **serial families**, later born children are provided a significantly lower child support entitlement than their earlier born brothers or sisters.

These problems exist because the **department has failed to meet the requirements of the Code of Federal Regulations Title 45, Sec. 302.56** by not correctly considering the economic data on the cost of raising children and court findings in above average income and shared placement families.

**The department has ignored the legislative directive of Wis. Stat. 49.22(9)** which 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." ( It does not consider the income of both parents even if a parent assumes as much as 40% physical placement of the child. )

Lastly the department has failed to promulgate mechanics which **achieve the fairness intent established by the legislature in Wis. Stat. 765.001(2) and directive in Wis. Stat. 765.001(3)** since in many cases it results in each parent contributing a significantly different portion of their income to support the same children. In the case of Luciani v.

Montemurro-Luciani, (1996) the Wisconsin Supreme Court noted 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."

Since **the department has not been responsive** to Wisconsin courts, legislative directives or needs of children a new standard must be established by the legislature.

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### WHY THIS NEW STANDARD IS BETTER

This bill establishes a new child support standard by statutes and will replace the existing DWD 40 standard.

The new provision maintains the same percentage of gross income method in most cases, 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 consistent with the economic needs of children and in line with awards of other states.

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

**A new shared placement adjustment** allocates the child support obligations of both parents, based on the percentage of placement each parent is awarded (i.e. a parent with 35% placement will receive 35% of the total child support funds owed by both parents.) A 1.5 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.

**A new serial family** provision assures each child of the same parent is entitled to a similar child support entitlement.

The new provisions should also act to eliminate the unjustified economic incentive for parents to fight for custody and placement of the children. It will 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 the family will then be properly left to the discretion of the courts in awards of maintenance and division of property.

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# TYPICAL "INCOME SHARES" SCHEDULE (VA)

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

A. There shall be a rebuttable presumption in any judicial or administrative proceeding for child support under this title or Title 16.1 or 63.1, including cases involving split custody or shared custody, that the amount of the award which would result from the application of the guidelines set forth in this section is the correct amount of child support to be awarded. In order to rebut the presumption, the court shall make written findings in the order as set out in § 20-108.1, which findings may be incorporated by reference, that the application of the guidelines would be unjust or inappropriate in a particular case as determined by relevant evidence pertaining to the factors set out in §§ 20-107.2 and 20-108.1. The Department of Social Services shall set child support at the amount resulting from computations using the guidelines set out in this section pursuant to the authority granted to it in Chapter 13 (§ 63.1-242 et seq.) of Title 63.1 and subject to the provisions of § 63.1-264.2.

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

### SCHEDULE OF MONTHLY BASIC CHILD SUPPORT OBLIGATIONS

COMBINED MONTHLY GROSS INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
0-599	65	65	65	65	65	65
600	110	111	113	114	115	116
650	138	140	142	143	145	146
700	163	169	170	172	174	176
750	160	197	199	202	204	206
800	168	226	228	231	233	236
850	175	254	257	260	263	266
900	182	281	286	289	292	295
950	189	292	315	318	322	325
1000	196	304	344	348	351	355
1050	203	315	373	377	381	385
1100	210	326	402	406	410	415
1150	217	337	422	435	440	445
1200	225	348	436	465	470	475
1250	232	360	451	497	502	507
1300	241	373	467	526	536	542
1350	249	386	483	545	570	576
1400	257	398	499	563	605	611
1450	265	411	515	581	633	645
1500	274	426	533	602	656	680
1550	282	436	547	617	672	714
1600	289	447	560	632	689	737
1650	295	458	573	647	705	754
1700	302	468	587	662	721	772
1750	309	479	600	676	738	789
1800	315	488	612	690	752	805
1850	321	497	623	702	766	819
1900	326	506	634	714	779	834
1950	332	514	645	727	793	848
2000	338	523	655	739	806	862
2050	343	532	666	751	819	877
2100	349	540	677	763	833	891
2150	355	549	688	776	846	905
2200	360	558	699	788	860	920
2250	366	567	710	800	873	934
2300	371	575	721	812	886	948
2350	377	584	732	825	900	963
2400	383	593	743	837	913	977
2450	388	601	754	849	927	991
2500	394	610	765	862	940	1006
2550	399	619	776	874	954	1020
2600	405	627	787	886	967	1034
2650	410	635	797	897	979	1048
2700	415	643	806	908	991	1060
2750	420	651	816	919	1003	1073
2800	425	658	826	930	1015	1085
2850	430	667	836	941	1027	1098
2900	435	675	846	953	1039	1112
2950	440	683	856	964	1052	1125
3000	445	691	866	975	1064	1138
3050	450	699	876	987	1076	1152
3100	456	707	886	998	1089	1165
3150	461	715	896	1010	1101	1178
3200	466	723	906	1021	1114	1191
3250	471	732	917	1032	1126	1205
3300	476	740	927	1044	1139	1218
3350	481	748	937	1055	1151	1231
3400	486	756	947	1067	1164	1245
3450	492	764	957	1078	1176	1258
3500	497	772	967	1089	1189	1271
3550	502	780	977	1101	1201	1285
3600	507	788	987	1112	1213	1298
3650	512	797	997	1124	1226	1311
3700	518	806	1009	1137	1240	1326
3750	524	815	1020	1150	1254	1342
3800	530	824	1032	1163	1268	1357
3850	536	834	1043	1176	1283	1372
3900	542	843	1055	1189	1297	1387
3950	547	852	1066	1202	1311	1402
4000	553	861	1078	1214	1325	1417
4050	559	871	1089	1227	1339	1432
4100	565	880	1101	1240	1353	1448
4150	571	889	1112	1253	1367	1463
4200	577	898	1124	1266	1382	1479
4250	583	907	1135	1279	1396	1493
4300	589	917	1147	1292	1410	1508
4350	594	926	1158	1305	1424	1523
4400	600	935	1170	1318	1438	1538
4450	606	944	1181	1331	1452	1553
4500	612	954	1193	1344	1467	1569
4550	618	963	1204	1357	1481	1584
4600	624	972	1216	1370	1495	1599
4650	630	981	1227	1383	1509	1614
4700	635	989	1237	1395	1522	1627
4750	641	997	1247	1406	1534	1641
4800	646	1005	1257	1417	1546	1654
4850	651	1013	1267	1428	1558	1667

4900	656	1021	1277	1439	1570	1679
4950	661	1028	1286	1450	1582	1692
5000	666	1036	1295	1460	1593	1704
5050	671	1043	1305	1471	1605	1716
5100	675	1051	1314	1481	1616	1728
5150	680	1058	1323	1492	1628	1741
5200	685	1066	1333	1502	1640	1753
5250	690	1073	1342	1513	1651	1765
5300	695	1081	1351	1524	1663	1778
5350	700	1088	1361	1534	1674	1790
5400	705	1096	1370	1545	1686	1802
5450	710	1103	1379	1555	1697	1815
5500	714	1111	1389	1566	1709	1827
5550	719	1118	1398	1576	1720	1839
5600	724	1126	1407	1587	1732	1851
5650	729	1133	1417	1598	1743	1864
5700	734	1141	1426	1608	1755	1876
5750	739	1148	1435	1619	1766	1888
5800	744	1156	1445	1629	1778	1901
5850	749	1163	1454	1640	1790	1913
5900	753	1171	1463	1650	1801	1925
5950	758	1178	1473	1661	1813	1937
6000	763	1186	1482	1672	1824	1950
6050	768	1193	1491	1682	1836	1962
6100	773	1201	1501	1693	1847	1974
6150	778	1208	1510	1703	1859	1987
6200	783	1216	1519	1714	1870	1999
6250	788	1223	1529	1724	1882	2011
6300	792	1231	1538	1735	1893	2023
6350	797	1238	1547	1745	1905	2036
6400	802	1246	1557	1756	1916	2048
6450	807	1253	1566	1767	1928	2060
6500	812	1261	1575	1777	1940	2073
6550	816	1267	1583	1786	1949	2083
6600	820	1272	1590	1794	1957	2092
6650	823	1277	1597	1801	1965	2100
6700	827	1283	1604	1809	1974	2109
6750	830	1288	1610	1817	1982	2118
6800	834	1293	1617	1824	1990	2127
6850	837	1299	1624	1832	1999	2136
6900	841	1304	1631	1839	2007	2145
6950	845	1309	1637	1847	2016	2154
7000	848	1315	1644	1855	2024	2163
7050	852	1320	1651	1862	2032	2172
7100	855	1325	1658	1870	2041	2181
7150	859	1331	1665	1878	2049	2190
7200	862	1336	1671	1885	2057	2199
7250	866	1341	1678	1893	2066	2207
7300	870	1347	1684	1900	2074	2216
7350	873	1352	1692	1908	2082	2225
7400	877	1358	1698	1916	2091	2234
7450	880	1363	1705	1923	2099	2243
7500	884	1368	1712	1931	2108	2252
7550	887	1374	1719	1938	2116	2261
7600	891	1379	1725	1946	2124	2270
7650	895	1384	1732	1954	2133	2279
7700	898	1390	1739	1961	2141	2288
7750	902	1395	1746	1969	2149	2297
7800	905	1400	1753	1977	2158	2305
7850	908	1405	1758	1983	2164	2313
7900	910	1409	1764	1989	2171	2320
7950	913	1414	1770	1995	2178	2328
8000	916	1418	1776	2001	2185	2335
8050	918	1423	1781	2007	2192	2343
8100	921	1428	1787	2014	2198	2350
8150	924	1432	1793	2020	2205	2357
8200	927	1437	1799	2026	2212	2365
8250	929	1441	1804	2032	2219	2372
8300	932	1446	1810	2038	2226	2380
8350	935	1450	1816	2045	2232	2387
8400	937	1455	1822	2051	2239	2395
8450	940	1459	1827	2057	2246	2402
8500	943	1464	1833	2063	2253	2410
8550	945	1468	1839	2069	2260	2417
8600	948	1473	1845	2076	2266	2425
8650	951	1478	1850	2082	2273	2432
8700	954	1482	1856	2088	2280	2440
8750	956	1487	1862	2094	2287	2447
8800	959	1491	1868	2100	2294	2455
8850	962	1496	1873	2107	2300	2462
8900	964	1500	1879	2113	2307	2470
8950	967	1505	1885	2119	2314	2477
9000	970	1509	1891	2125	2321	2484
9050	973	1514	1896	2131	2328	2492
9100	975	1517	1901	2137	2334	2498
9150	977	1521	1905	2141	2339	2503
9200	979	1524	1909	2146	2344	2509
9250	982	1527	1914	2151	2349	2514
9300	984	1531	1918	2156	2354	2520
9350	986	1534	1			

**III. Calculating Child Support Amounts**

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

**A. Calculating Child Support Using Table III**

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

**Table III  
Total Child Support at Various Income Levels**

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

*\$90,116 YR / NET OR APPROX \$126,000 / YR GROSS*

<sup>1</sup> 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.



**Example 2:**

Step 1: There are three children. Two are in the sole custody of Parent A, but the third is in a shared custody arrangement with 60% of the time spent with Parent B and 40% spent with Parent A. Parent B has net income of \$350 per week, and Parent A has net income of \$280 per week.

Step 2: A) Custody Arrangement #1: two children are in the sole custody of Parent A, the support amount is \$118 per week. This is recorded as +\$118 since it is the amount to be paid from Parent B to Parent A.

B) Custody Arrangement #2: one child is in a shared custody arrangement, the support amount (computed according to the procedure and formula in shared economic responsibility subsection below) would be \$20. It should be recorded as -\$20 per week as payment from Parent A to Parent B.

Step 3: Add +\$118 and -\$20 for a for a total support payment of +\$98 from Parent B to Parent A.

**B. Shared Economic Responsibility**

When children share substantial amounts of time with each parent, whether or not there is a joint physical custody order, child support must be calculated by offsetting the parties' support obligations. Substantial shared time with children translates into economic sharing beginning when the parent with the lesser amount of time with the children has the children in his/her care for a minimum of 128 overnights annually. The formula should only be used if it can be determined from the specific terms of the custody/parenting time order that the children will be with that parent for at least the 128 overnight threshold. The economic sharing formula should only be applied to support orders entered concurrent with an initial custody/parenting time determination or to modifications of custody/parenting time based upon changed circumstances. It shall not be retroactively applied to existing orders. The economic sharing formula is:

$$\frac{(P^A_d)^2 (P^B_s) - (P^B_d)^2 (P^A_s)}{(P^A_d)^2 + (P^B_d)^2} = \text{Support}$$

For the purposes of this formula:

- $P^A_d$  = The number of overnights the children spend with Parent A.
- $P^B_d$  = The number of overnights the children spend with Parent B.
- $P^A_s$  = Parent A's normal support obligation determined from the schedule. (This is accomplished by applying one parent's income along one axis and the other parent's income along the other axis on the appropriate schedule).
- $P^B_s$  = Parent B's normal support obligation determined from the schedule.

**Notes:** Parenting time abatement should never be used in conjunction with the economic sharing formula, as the economic sharing adjustment inherently reflects substantial economic sharing.

7. Employer contributions to private qualified pension plans, to the extent that such contributions are less than 5.5% of the employee's gross income.

**L. Existing Support Orders**

*Existing* support orders, which are orders for children other than those in the case specifically under consideration, require an adjustment to the parents' net incomes in order to determine the net income on which child support for the case under consideration should be based. Determine each parent's prior and subsequent support orders which are for children other than those in the case specifically under consideration and subtract that amount, dollar for dollar, from their net incomes. In determining the amount of an existing support order that should be deducted, subtract only the actual amount of the order, including court-ordered child care expenses. Payments on an arrearage should not be deducted.

If there is reliable information that the existing order has not been complied with for a significant period of time, two recommendations shall be prepared, one with and one without the existing order adjustment.

***Example:***

The noncustodial parent earns \$300 net per week and pays child support of \$61 per week for one child in another case.

$$\$300 - 61 = \$239$$

The noncustodial parent's support obligation for the case under consideration would be based on a weekly net income of \$239.

**M. Other Minor Children**

The following method should be used for determining the net incomes of parents who currently have biological or legally adopted children from other relationships living in their households.

Step 1: Determine the net weekly income of the custodial and the noncustodial parents. (For purposes of an other children adjustment only, include the other biological/adoptive child(ren) income, other than from employment, as part of the parents' income. Do not include income of the parties' stepchildren or court ordered child support).

Step 2: Determine the number of biological/legally adopted children living in the custodial and/or the noncustodial parents' households.

Step 3: Adjust each parent's net income by subtracting the dollar amount of an existing support order (if applicable). Adjust each parent's net income according to the number of biological/legally adopted children in their household by multiplying their net incomes by the appropriate percentage found in Table I.

When parents have other children, the applicable percentages are derived from the average percentages calculated by using Table III (see page 17). When there is 1 biological/legally adopted child in the custodial or the noncustodial parent's household, multiply net income by .896 (see Table I, page 12). The factor of .896 is derived by dividing the average base support percentage for 1 child (20.8%) by 2 and

then subtracting that number (10.4) from 100. When there are 2 biological/legally adopted children, multiply by .841, when there are 3 biological/legally adopted children, multiply by .798, when there are 4 biological/legally adopted children, multiply by .773, and when there are 5 biological/legally adopted children, multiply by .752.

**Step 4:** Apply each parent's income, as determined in Step 3 to the schedule with the correct number of children for whom this modification is being sought. This results in the appropriate amount of support to be paid by the noncustodial parent.

**Table I  
Percentages Applied to Net Income  
when Parents have Other Children**

Number of Children	Adjustment Percentage
1	89.6%
2	84.1%
3	79.8%
4	77.3%
5 or more	75.2%

**Example:**

The noncustodial parent earns \$400 net per week. The custodial parent, who earns \$220 net per week, requests a modification of the support order for the three children. In considering this modification request, the two biological children currently living in the noncustodial parent's household should be taken into account.

**Step 1:** Noncustodial parent earns \$400 net per week. Custodial parent earns \$220 net per week.

**Step 2:** There are two biological/legally adopted children living in the noncustodial parent's household.

**Step 3:** \$ 400 x .841 = \$336 is the net income figure used to calculate support for the noncustodial parent.

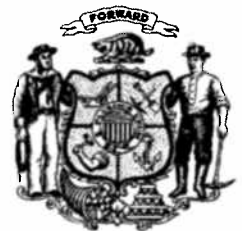
**Step 4:** Determine the amount of support for the three children from the prior marriage based on the noncustodial parent's income of \$336 and custodial parent's income of \$220.

**N. Stepchildren**

In general, stepchildren should not be considered when determining the appropriateness of a child support modification for a stepparent. In Michigan, children are the responsibility of their natural/adoptive



# WISCONSIN STATE LEGISLATURE

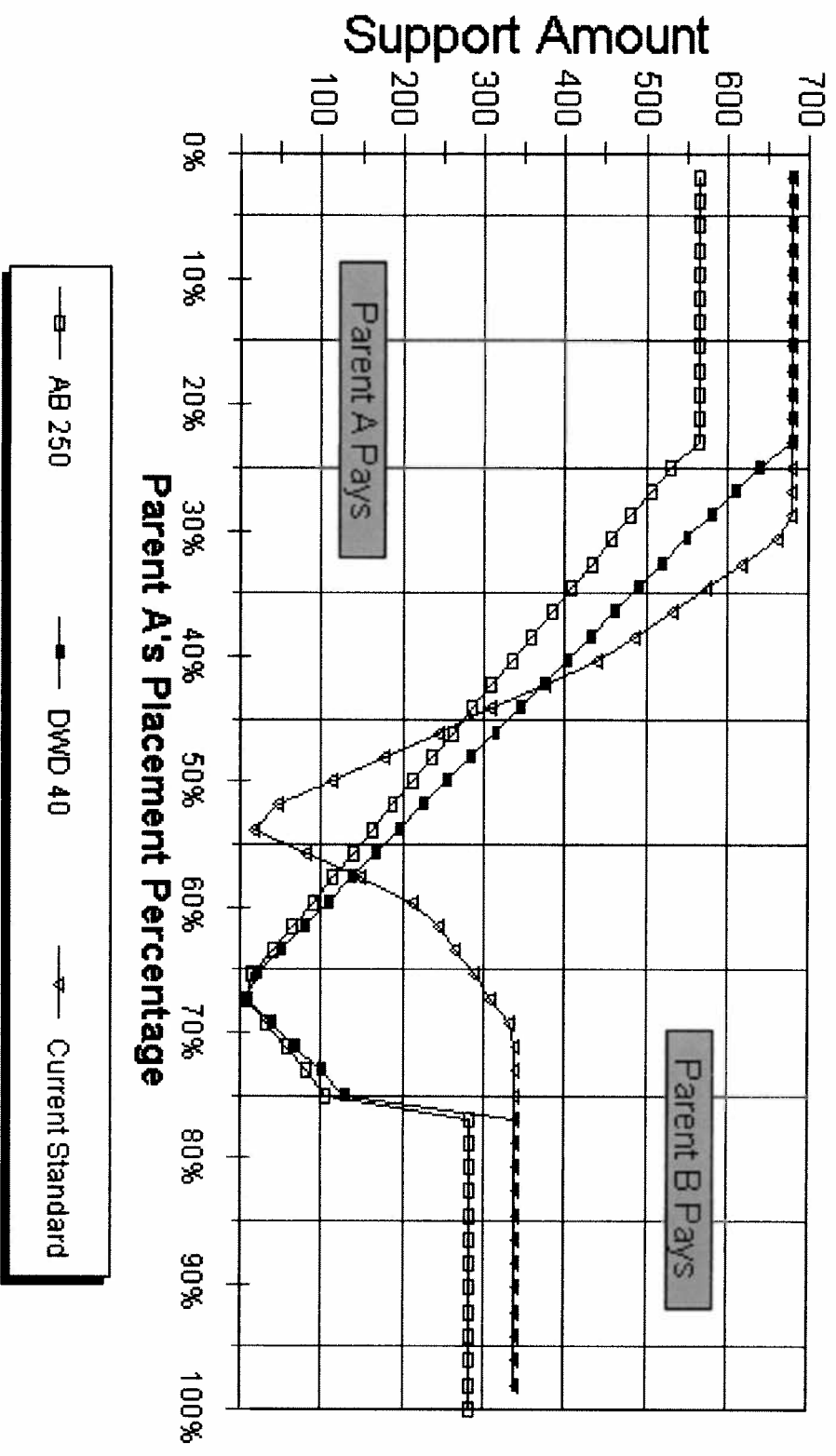


#1

Parent A: \$4,000 Monthly Income

Parent B: \$2,000 Monthly Income

# Child Support Comparison

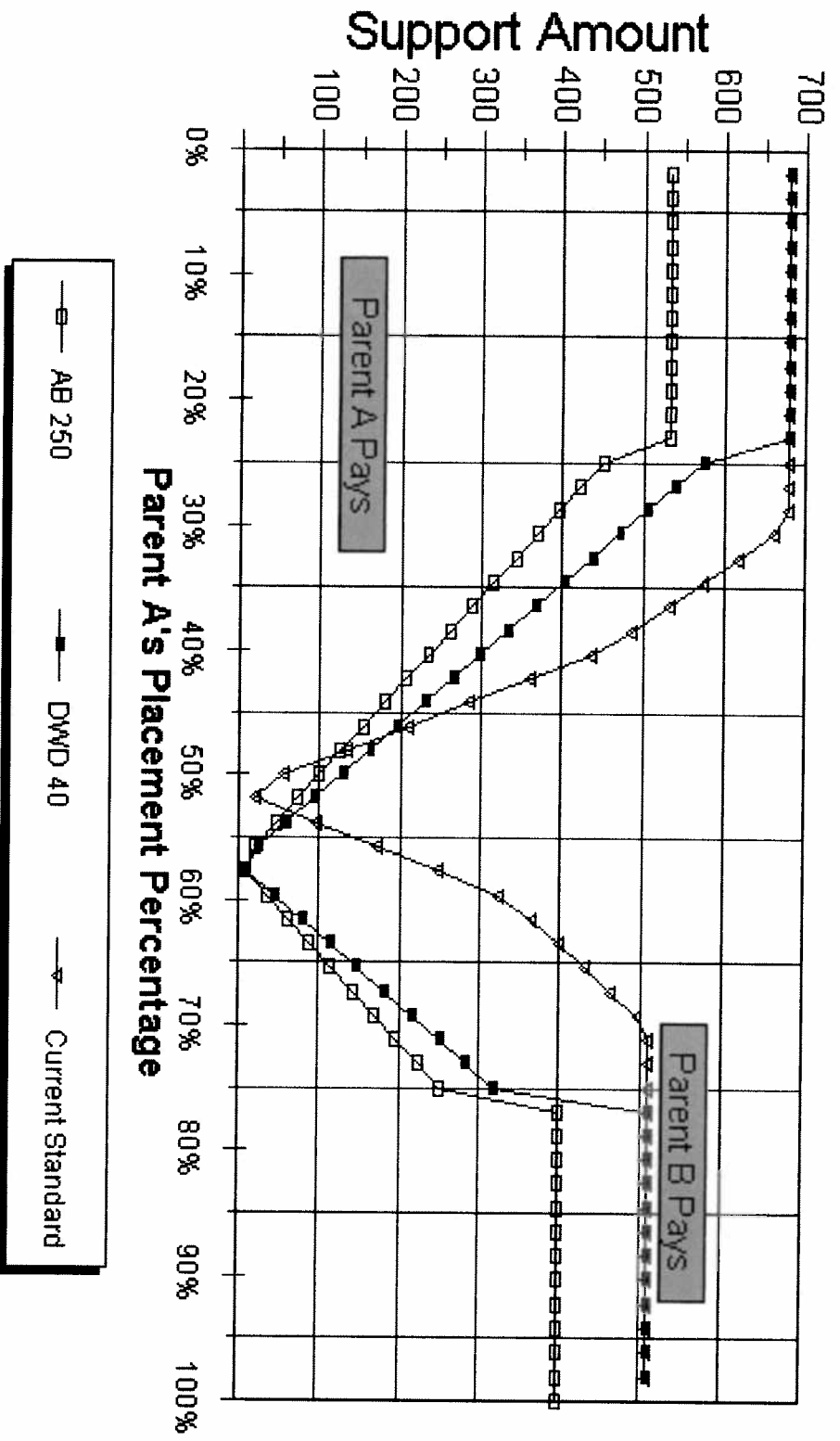


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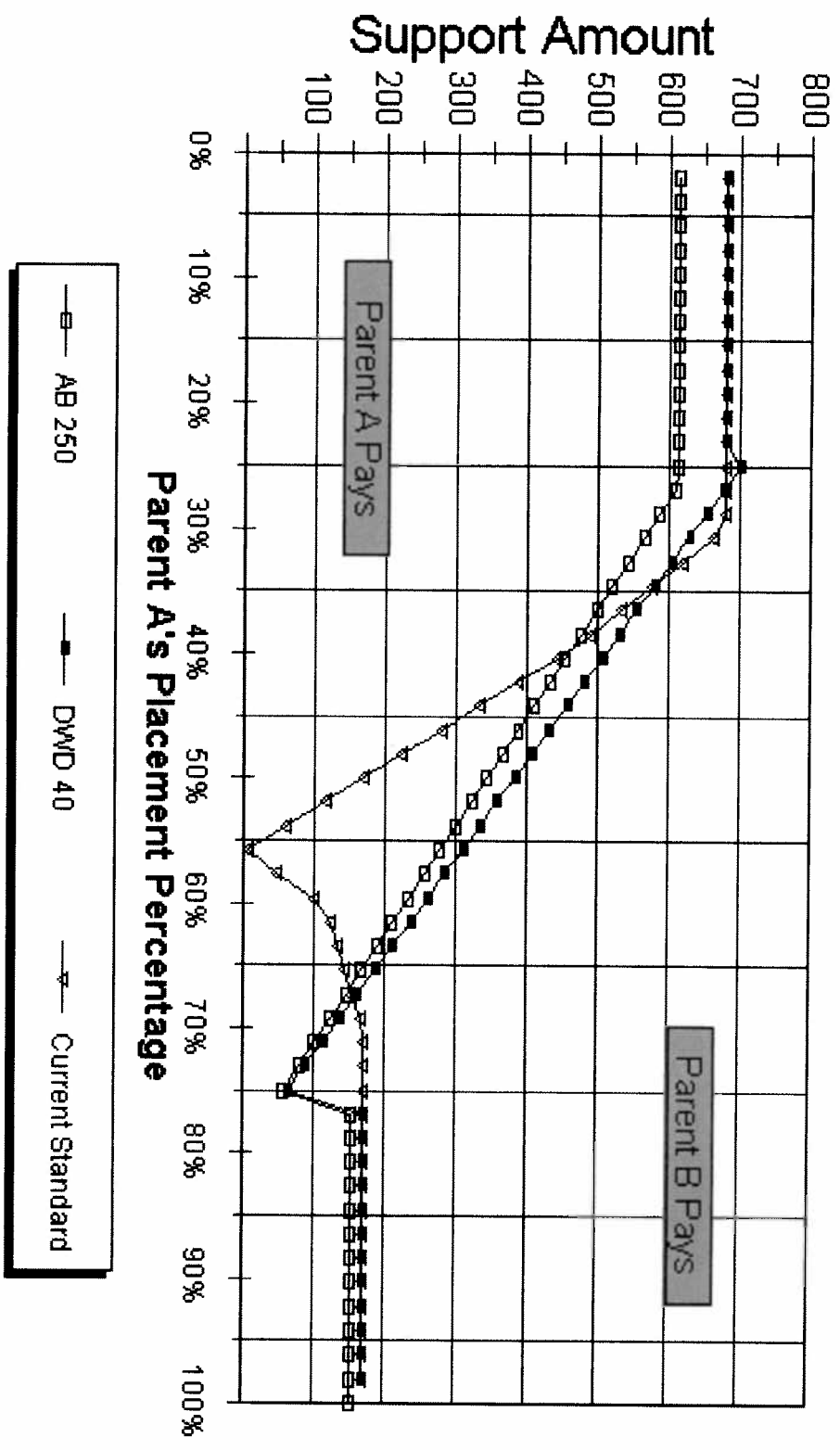
Parent A: \$4,000 Monthly Income

Parent B: \$3,000 Monthly Income

# Child Support Comparison



# Child Support Comparison

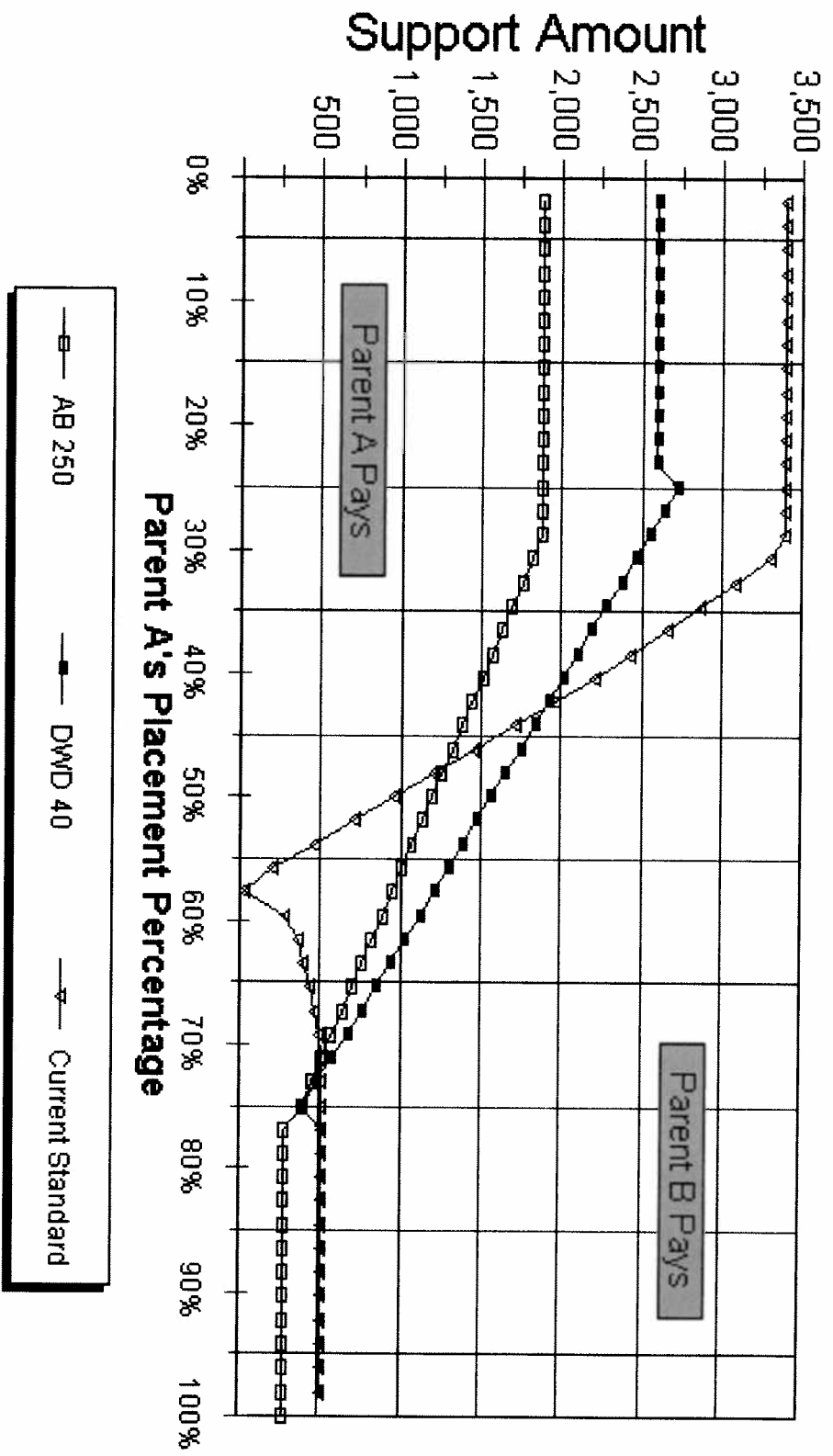


#4

Parent A: \$20,000 Monthly Income

Parent B: \$3,000 Monthly Income

# Child Support Comparison



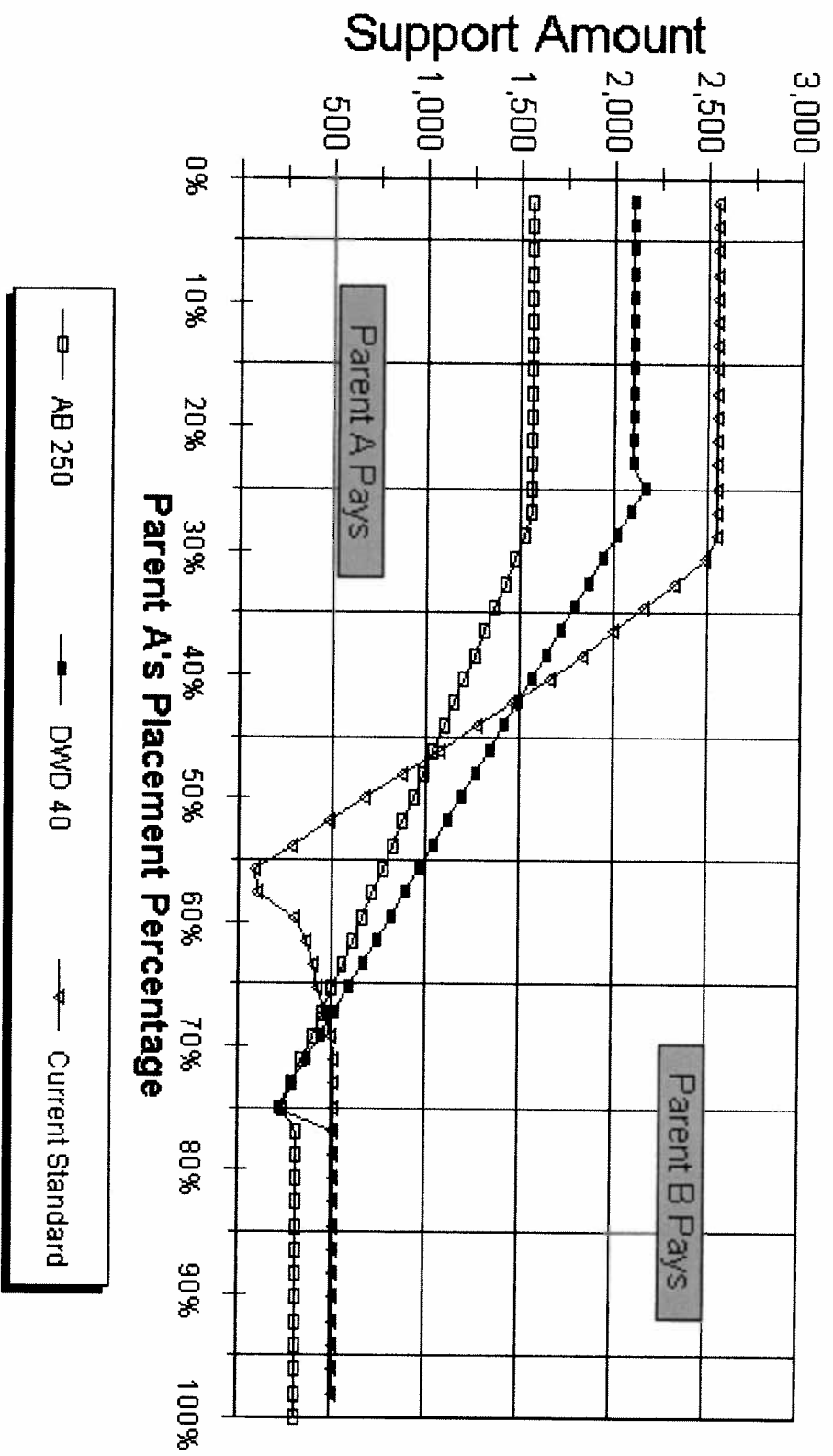


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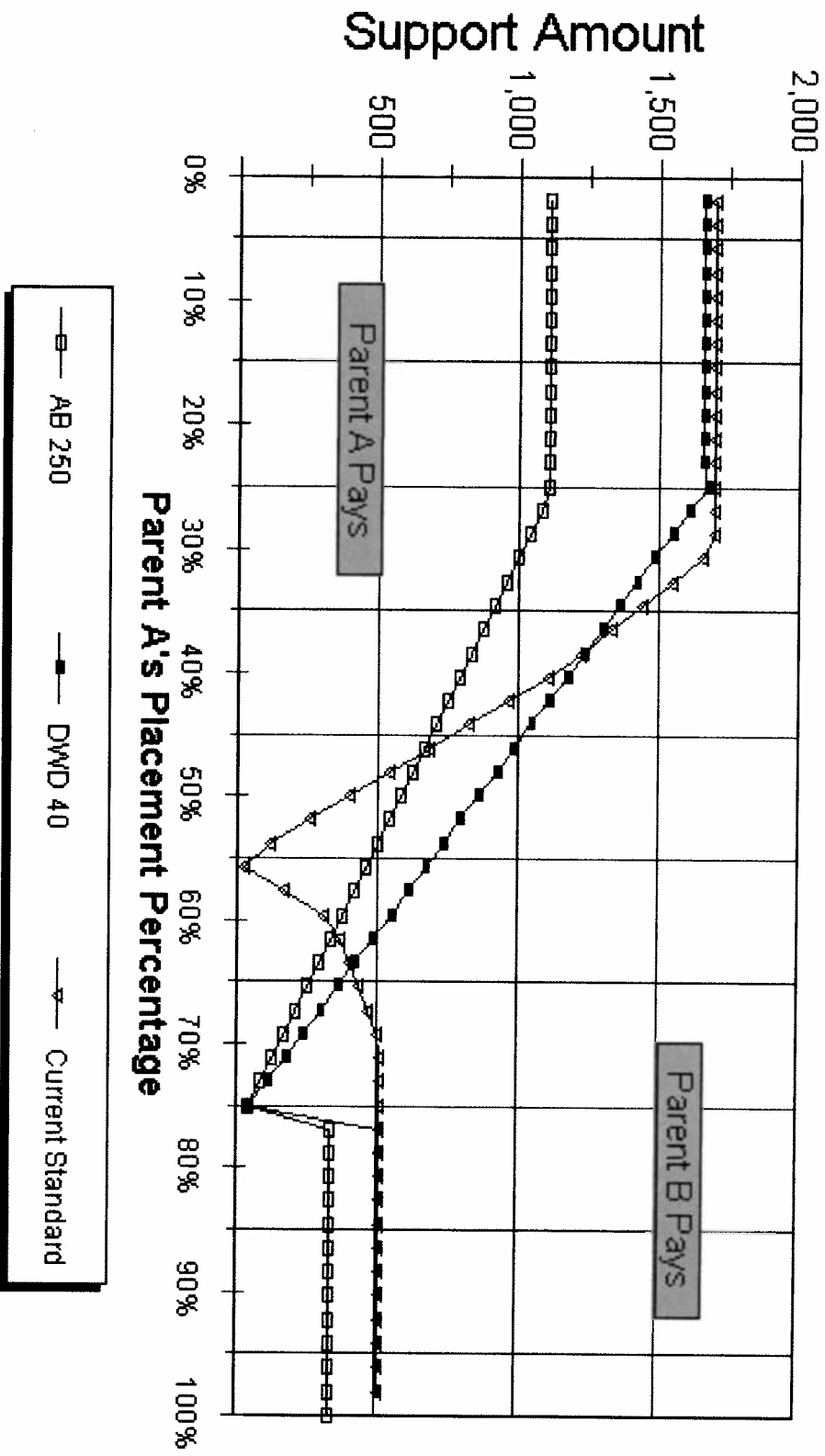
Parent A: \$15,000 Monthly Income

Parent B: \$3,000 Monthly Income

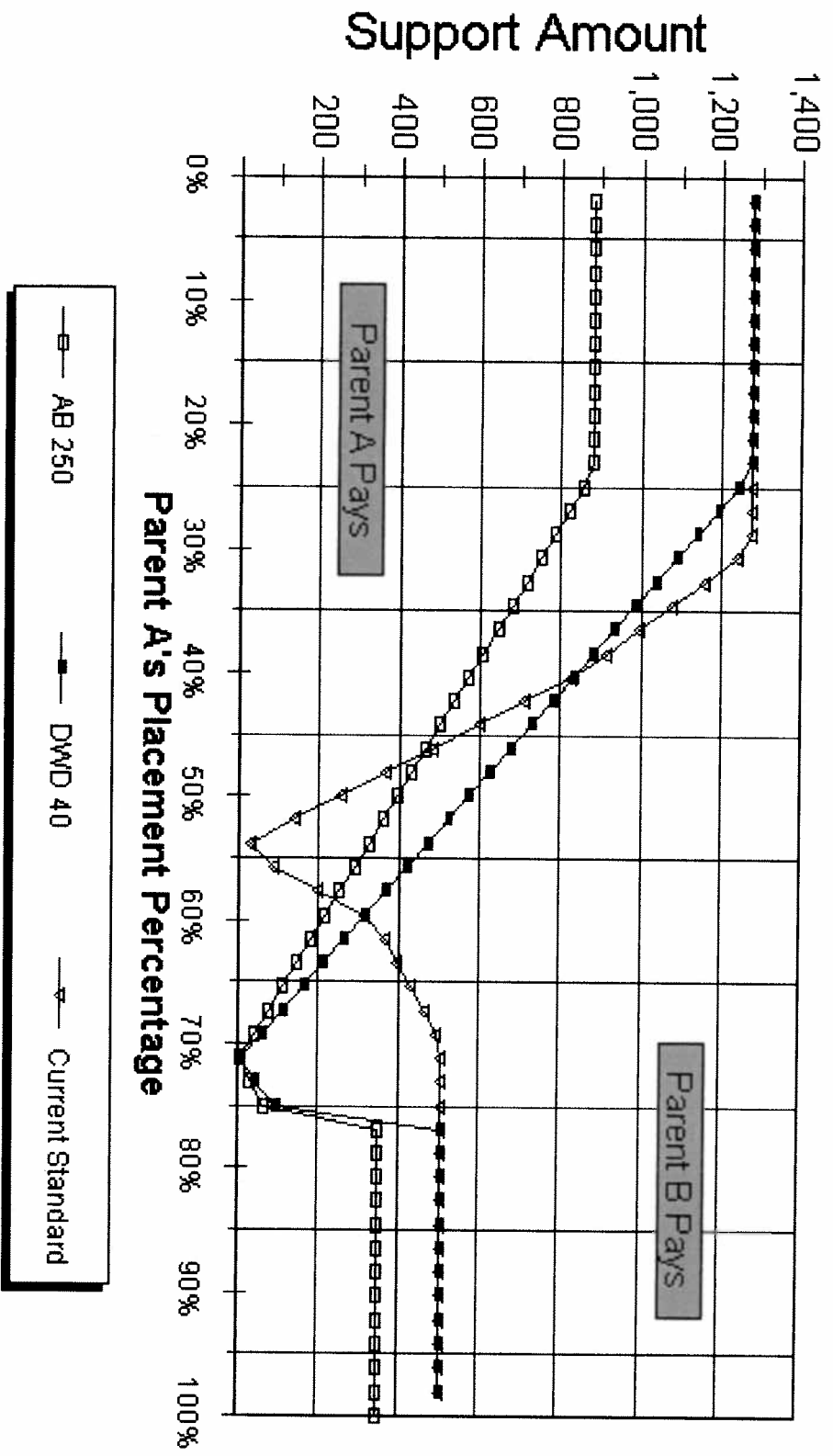
# Child Support Comparison



# Child Support Comparison



# Child Support Comparison

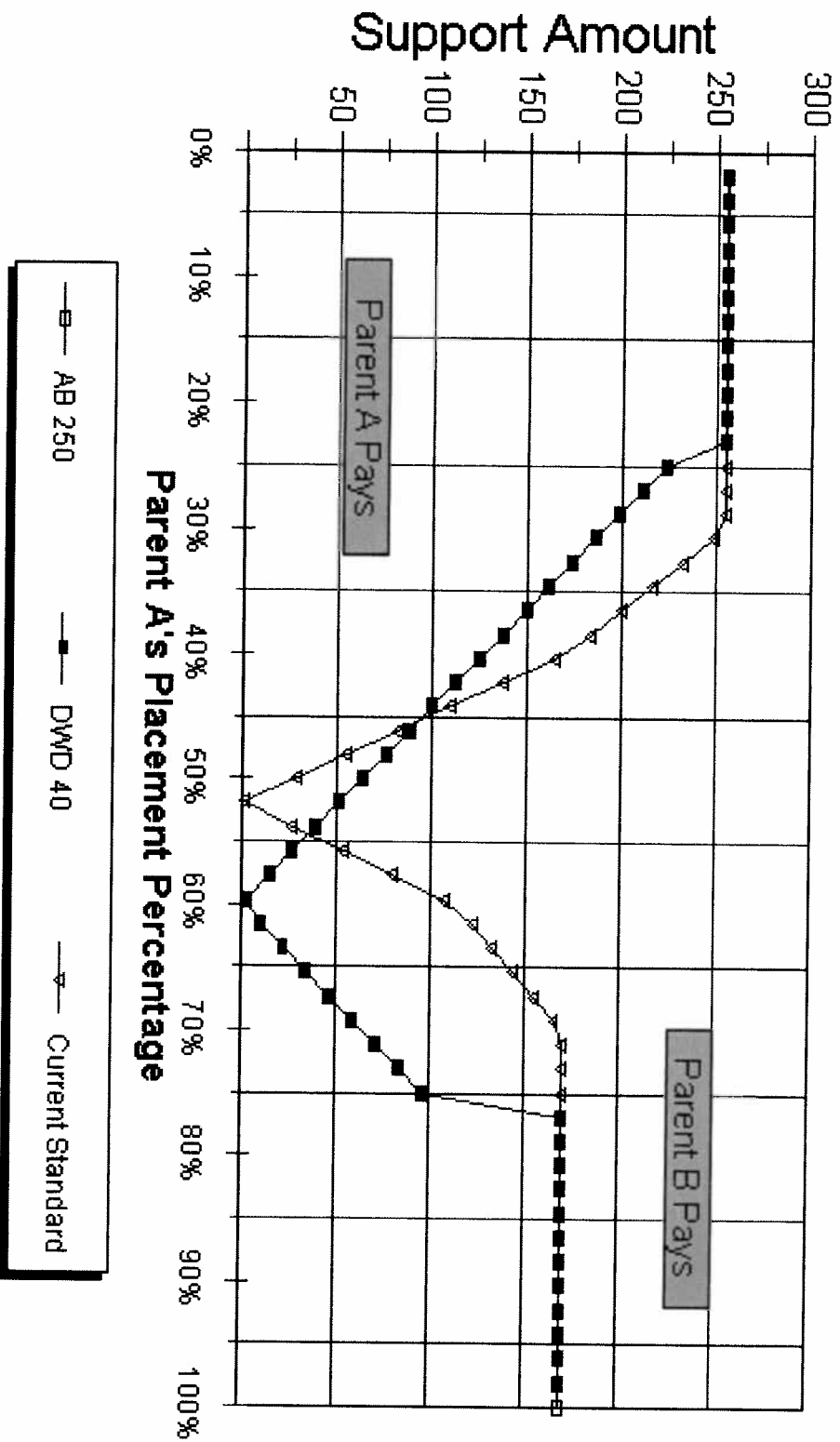


#8

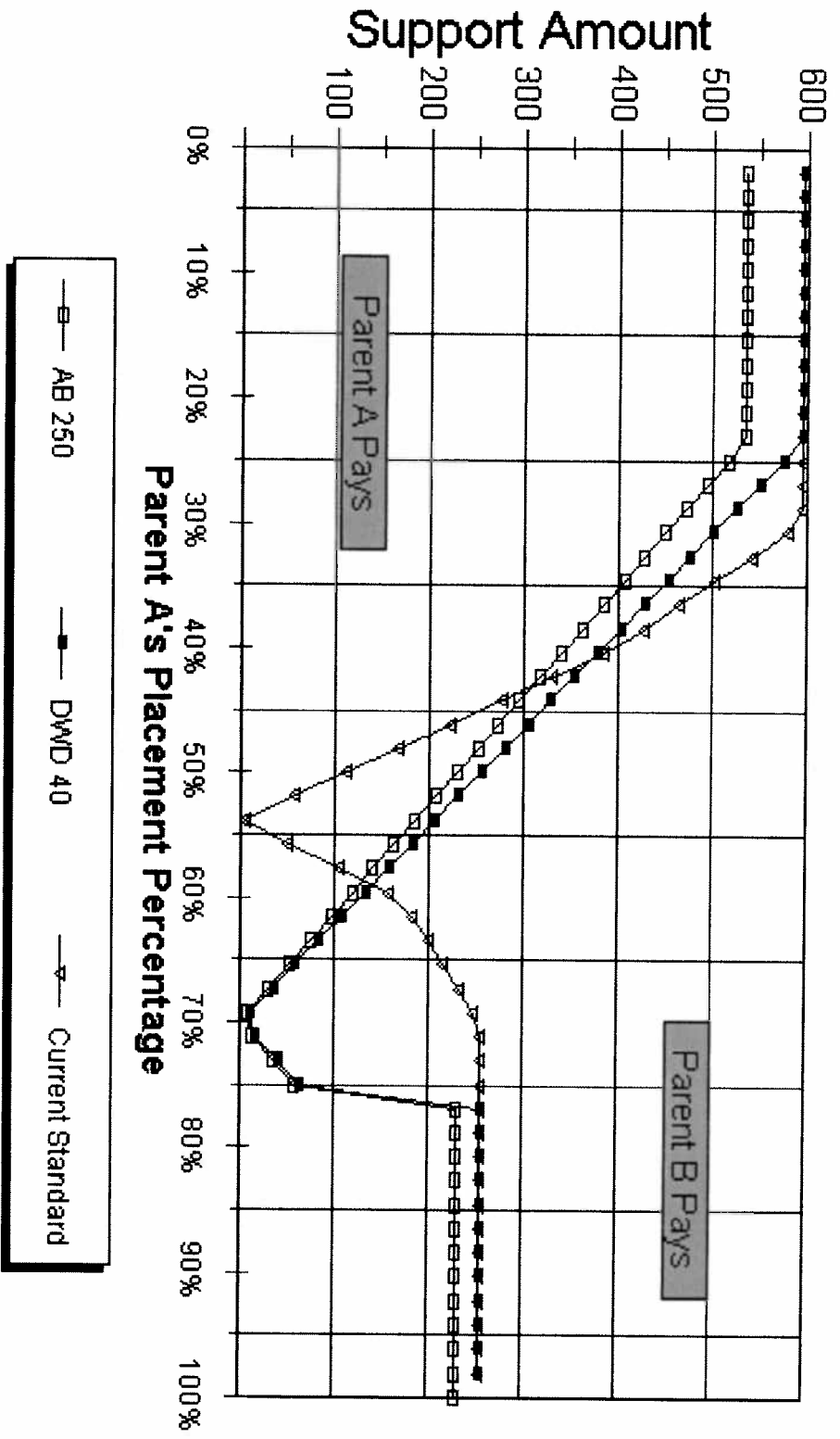
Parent A: \$1,500 Monthly Income

Parent B: \$1,000 Monthly Income

# Child Support Comparison

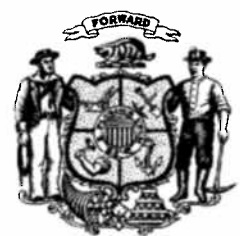


# Child Support Comparison





# WISCONSIN STATE LEGISLATURE





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SUNDAY, JUNE 29, 2003

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## Welcome legislation

There is an exciting new bill (AB 250, SB 156) that finally addresses child support guidelines for financially responsible parents who have a combined income of \$48,000 per year or more.

In this bill, for the first time, both parents are expected to earn an income and both incomes are factored into the formula.

Current guidelines do not give credit to the noncustodial parent (child support payer) for providing a home for the child. With the new bill, the more time the kids spend with the noncustodial parent, the less child support is assessed. This encourages both parents to be actively involved in their children's lives. Lastly, as combined income goes up, the percentage of child support assessed goes down. This removes the financial incentives for limiting one parent's involvement in their child's life.

The DWD (Department of Workforce Development) authored the existing guidelines and now have a new set of proposed guidelines. I recently attended a public hearing regarding their proposed child support guidelines. At this hearing, I asserted that all of Wisconsin's neighboring states and most other states have guidelines that are clearly different for this range of income. All of these States have a formula that is similar to AB 250/SB 156.

You can view the DWD's response at:  
[www.dwd.state.wi.us/dwd/Hearings/40\\_hearing\\_summary.pdf](http://www.dwd.state.wi.us/dwd/Hearings/40_hearing_summary.pdf)

As you can see, the DWD chose to ignore my comments as well as similar comments from others who testified. The DWD would like to stay with a "business as usual" approach with a "winner takes all" policy. One parent "wins" the child and the child support while no consideration whatsoever is given to the "loser" parent who loses not only the child, but also must pay for losing. The DWD's refusal to address these important issues results in giving a strong disincentive for financially responsible parents to raise their kids in Wisconsin. The DWD and Wisconsin legislators need to move into the new millennium and realize that it takes two parents to not only make a child, but also to raise a child. For more info visit:

[www.execpc.com/fairsupport](http://www.execpc.com/fairsupport)

[www.wisconsinfathers.org](http://www.wisconsinfathers.org)

[www.wisconsinlkd.org](http://www.wisconsinlkd.org)

**Malcolm Hatfield**

Franksville

**HOW MUCH  
DOES IT  
COST  
TO RAISE  
A CHILD?**

Probably more than you think. Depending on income, U.S. families can expect to spend several hundred thousand dollars or more by the time a child born in 2000 reaches 17 years old. If you have two children, your average cost per child will drop by 24%. Alas, these figures don't include college.

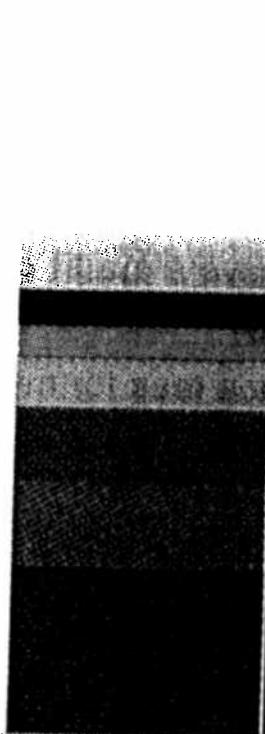
**MIDDLE-CLASS FAMILIES**

HHI average: \$50,600

**AFFLUENT FAMILIES**

HHI average: \$95,800

Miscellaneous <sup>1</sup>	\$18,510
Health Care	11,640
Clothing	10,680
Child Care & Education	16,560
Transportation	24,420
Food	28,650
Housing	55,170
<b>TOTAL</b>	<b>\$165,630</b>



\$30,090	Miscellaneous <sup>1</sup>
13,380	Health Care
13,770	Clothing
26,520	Child Care & Education
32,760	Transportation
35,670	Food
89,580	Housing
<b>\$241,770</b>	<b>TOTAL</b>

**Note:** Annual household income ranges: \$38,000 to \$64,000 for middle class; more than \$64,000 for the affluent.  
<sup>1</sup>Includes entertainment, reading materials and personal-care items. **Source:** Agriculture Department's *Expenditures on Children by Families*.



# Each Parent's Financial Responsibility:

MIDDLE-CLASS  
FAMILIES

(Combined Income  
Average: \$50,600)

\$405 / month - one child  
\$617 / month - two children

AFFLUENT  
FAMILIES

(Combined Income  
Average: \$95,800)

\$592 / month - one child  
\$900 / month - two children

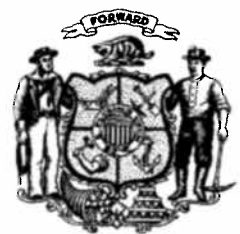
The above figures ASSUME that the support-paying parent spends ZERO time with the child(ren). Therefore, the above numbers should be reduced proportionately as the child(ren) spend(s) more time with the support-paying parent.



The Guidelines SHOULD presume 50/50 placement by default instead of the current "winner takes all" guidelines.



# WISCONSIN STATE LEGISLATURE



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<a href="#">NCSL Profile</a>	<a href="#">Policy Issues</a>	<a href="#">State Legislatures</a>	<a href="#">State-Federal Relations</a>
		<a href="#">Publications</a>	<a href="#">Meetings</a>

## Child Support Project

### States' Treatment of High Income

Compiled by NCSL 11/99

State	High Income Guideline
Alabama	The court may use its discretion in determining child support in circumstances where combined adjusted gross income is below the lowermost levels or exceeds the uppermost levels of the schedule.
Alaska	In cases where the obligor parent's income is greater than \$72,000 per year, the court should use the \$72,000 as the parent's income, and increase the support above the amount calculated using the \$72,000 per year figure only if it is just and proper.
Arizona	Child support awards based upon income of less than \$650 per month or greater than \$15,000 per month shall be based on the facts of the individual case and shall be consistent with the theory of the guidelines and the factors set forth in A.R.S. § 25-320. In no event, however, where combined income exceeds \$15,000 shall support be less than the amount indicated on the schedule for \$15,000.
Arkansas	When the payor's income exceeds that shown on the chart, the trial court shall disregard the chart and apply different percentages.
California	Where the parent being ordered to pay child support has an extraordinarily high income and the amount determined under the formula would exceed the needs of the children, the court may deviate from the formula provided. The high value of residence of children is also listed as a deviation factor.
Colorado	The judge may use his judicial discretion in cases where combined adjusted gross income exceeds the uppermost levels of the guideline. Ownership by parent of substantial non-income producing asset is also listed as a deviation factor.
Connecticut	Above \$1,750 weekly income, the court is free to fashion an

	appropriate amount of support, provided the amount of support prescribed at the \$1,750 level is presumed to be the minimum order. Financial resources available to parent, including non-income-producing assets, are also listed as a deviation factor.
Delaware	In cases of high income, a basic amount plus a particular percentage shall be applied.
District of Columbia	The guideline percentage shall not apply to a noncustodial parent with income that exceeds \$75,000. The amount available to a child in such a case shall not be less than the amount that would have been ordered if the guideline had been applied to a noncustodial parent with income of \$75,000.
Florida	For combined monthly available income greater than the amount in the chart, the obligation shall be the minimum amount of support provided by the guidelines, plus a percentage based on the number of children whose support is being determined.
Georgia	High income is listed as a deviation factor.
Hawaii	A monthly income that would result in a computation higher than the reasonable needs of the children is an exceptional circumstance warranting deviation.
Idaho	The guideline income schedules are not a limitation on the award of support for combined incomes over \$70,000. In cases where combined income exceeds \$70,000 per year, the court shall award support on a case-by-case basis.
Illinois	High income is listed as a deviation factor.
Indiana	For combined weekly adjusted income of \$4,000, a special formula is applied as a presumptive amount.
Iowa	Where the noncustodial parent's income is \$6,001 per month or higher, support is determined on a case-by-case basis, but not less than the dollar amount as provided for in the guidelines for a noncustodial parent with a monthly net income of \$6,000.
Kansas	If the combined income exceeds the highest amount shown on the schedules, the court should exercise its discretion by considering what amount of child support should be set in addition to the highest amount on the schedule. A suggested formula is provided.
Kentucky	High income is listed as a deviation factor.
Louisiana	If the combined adjusted monthly gross income of the parties exceeds the highest level specified in the schedule, the court shall use its discretion in setting the amount of the basic

	obligation in accordance with the best interest of the child and the circumstances of each parent.
Maine	When the combined annual gross income exceeds \$126,600, the child support table is inapplicable except that the basic weekly support entitlement shall not be less than that set forth in the table for a combined annual gross income of \$126,600. Available income and financial contributions of the domestic associate or spouse of each party is listed as a deviation factor.
Maryland	If the combined income exceeds the highest level in the chart, the court may use its discretion in setting the amount of support.
Massachusetts	Where the combined gross income of the parties exceeds \$100,000, or where the gross income of the noncustodial parent exceeds \$75,000, the court should award support at the \$75,000/\$100,000 level as a minimum presumptive amount.
Michigan	In high-income cases, where total family income exceeds the income categories provided, support is calculated by the application of certain percentages.
Minnesota	Guidelines stipulate that an obligor with a monthly income in excess of the income limit provided in the chart shall pay the same dollar amount as provided in the guidelines for an obligor with a monthly income equal to the limit in effect. All earnings, income, and resources of parents is listed as a deviation factor.
Mississippi	In cases where the adjusted gross income is more than \$50,000 or less than \$5,000, the court shall make a written finding in the record as to whether or not the application of the guidelines established in this section is reasonable.
Missouri	No direct statutory provision. Case law, however, provides that the trial court is to presume that the highest figure provided in the chart at the highest income level is the correct amount of support, and the court may deviate upon good cause.
Montana	The guidelines do not apply to incomes greater than \$39,500. Where income exceeds this amount, the award shall be at least the amount for income at \$39,500, and shall be supplemented on a case-by-case basis.
Nebraska	If total net income exceeds \$10,000 monthly, child support for amounts in excess of \$10,000 monthly may be more but shall not be less than the amount that would be computed using the \$10,000 monthly income unless other permissible deviations exist.
Nevada	High income is listed as a deviation factor.

New Hampshire	Significantly high or low income of the parents is a deviation factor.
New Jersey	For parents with a combined income of \$150,800, the court shall apply the guidelines up to that amount, and supplement the award with a discretionary amount based on the remaining family income. Extrapolation is expressly forbidden.
New Mexico	For gross monthly income greater than \$8,300, certain percentages shall be applied depending on the number of children.
New York	Where combined parental income exceeds the dollar amount set forth in the guidelines, the court shall determine the amount of support for the amount of the combined income in excess of such dollar amount by consideration of the factors set forth in the deviation paragraph and/or the support percentage.
North Carolina	Where combined parental income is above \$150,000, child support is determined on a case-by-case basis, provided that the amount of support awarded may not be lower than the maximum basic child support obligation shown in the schedule.
North Dakota	The chart provides support in cases of net monthly income over \$10,000. High income is a deviation factor.
Ohio	If the combined gross income of both parents is greater than \$150,000 per year, the court shall determine support on a case-by-case basis, provided that the court shall compute a basic combined obligation that is no less than the same percentage of the parents' combined income that would have been computed under the schedule for a combined income of \$150,000.
Oklahoma	In the event monthly income exceeds \$15,000, the child support shall be that amount computed for a monthly income of \$15,000 plus such additional amount as the court may determine.
Oregon	For combined adjusted gross income exceeding \$10,000 per month, the presumed basic support obligations shall be as for parents with combined adjusted gross income of \$10,000. A basic child support obligation in excess of this level may be demonstrated for those reasons set forth in the deviation criteria section.
Pennsylvania	When the parties' joint monthly net income exceeds \$10,000, the amount of support awarded is determined on a case-by-case basis. Other income in the household is listed as a deviation factor.
Rhode Island	For cases with a higher combined monthly adjusted gross income level than \$15,000 per month, child support shall be

	considered on a case-by-case basis.
South Carolina	Where the combined gross income is greater than \$150,000 per year, courts should determine child support on a case-by-case basis.
South Dakota	For a combined net income above the schedule, the child support obligation shall be established at an appropriate level, taking into account the actual needs and standard of living of the child.
Tennessee	In cases where the obligor's income exceeds \$10,000 per month, the application of the guidelines may be unjust. In such a case, the court may deviate. The court may establish a trust in such a case for the post-majority benefit of the child.
Texas	In situations where the obligor's net resources exceed \$6,000 per month, the court shall presumptively apply the percentage guidelines to the first \$6,000, and may order additional support. In no event may the obligor be required to pay more than an amount equal to 100% of the proven needs of the child.
Utah	If the combined adjusted gross income exceeds the highest level specified in the table, an appropriate and just support amount shall be ordered on a case-by-case basis, but the amount ordered may not be less than the highest level specified in the table for the number of children due support. The standard of living and situation of the parties is listed as a deviation factor.
Vermont	The court may use its discretion in determining child support in circumstances where combined available income exceeds the uppermost levels of support adopted in the guideline.
Virginia	Where combined gross monthly exceeds \$10,000 per month, a special formula shall apply to the amount over \$10,000 per month. Extraordinary capital gains is listed as a deviation factor.
Washington	When combined net income exceeds \$7,000, the court may set support at an advisory amount of support set for combined monthly net incomes between \$5,000 and \$7,000 or the court may exceed the advisory amount of support set for combined monthly net incomes of \$7,000 upon written findings of fact.
West Virginia	In the case of combined income over \$15,000, the support award shall not be less than that provided at the \$15,000 per month level, plus an amount determined by a formula applied to the excess over \$15,000.
Wisconsin	High income is listed as a deviation factor from Percentage of Income calculation.

Wyoming	Where the combined income of the parents is greater than \$5,885, a special formula applies.
Source: Morgan, Laura W., <i>Child Support Guidelines, 1998 Supplement</i> , Aspen Law & Business, New York, 1998.	

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For additional information on state child support enforcement contact the Child Support Project at 303/364-7700.

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