

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

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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%
\$8,500-12,500	\$1,450 +14%	\$2,125 +20%	\$2,465 +23%	\$2,635 +25%	\$2,890 +27%
Over \$12,500	\$2,010 +10%	\$2,925 +15%	\$3,385 +17%	\$3,635 +19%	\$3,970 +20%

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

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

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

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

Combined gross monthly child support obligation of both parents

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

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

2. CALCULATING CHILD SUPPORT IN SHARED PLACEMENT CASES

A. Existing DWD 40 administrative rule:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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.

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

3. FACTORS FOR SUPPORTING OTHER CHILDREN

A. Existing DWD 40 administrative rule:

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

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

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

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

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

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

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

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

4. OTHER PROVISIONS OF AB 250/SB156:

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

SUMMARY OF KEY DIFFERENCES

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

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

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

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

* IRP = Institute of Research on Poverty - UW Madison

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

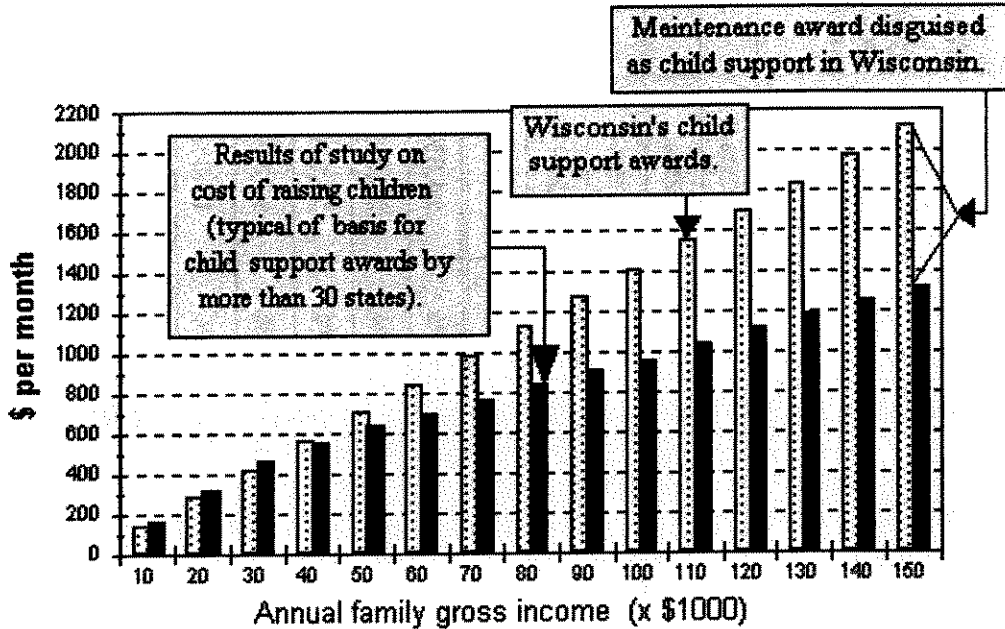
*** Based on marginal expenditures for children, does not include health care and child care expenses.

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

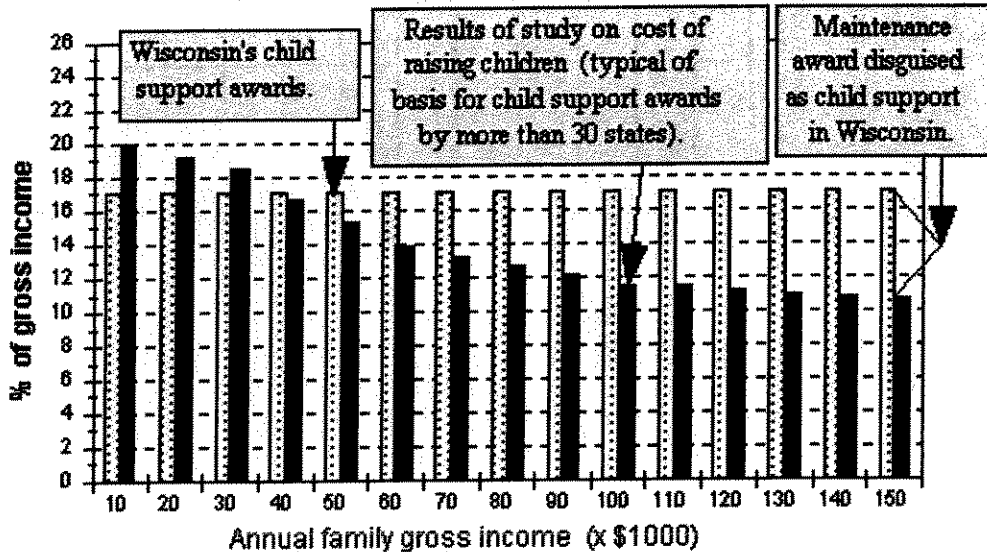
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Wisconsin's child support awards vs cost of raising children study results in \$ for combined family gross incomes (both parents) - for 1 child.



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



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

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

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

Comments:

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

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

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

IMPACT OF AB250/SB156 ON CHILD SUPPORT ORDERS

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

