



Wisconsin's Child Support Guidelines

Historical Perspective

Federal Child Support Legislation

- 1950 First Federal Child Support legislation
 - Response to AFDC program established by the Social Security Act in 1935
- 1975 Child Support Enforcement Program created (Title IV-D of the Social Security Act)
- 1984 Child Support Enforcement Amendments
 - Mandated States to develop mathematical formulas
- 1988 Family Support Act
 - Mandated Income Withholding
- 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA)
 - Requires Review and Adjust every 3 years
- 2016 Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs
 - Child Support orders must be based on earnings, income, or other evidence of ability to pay
 - Guidelines must incorporate a low-income adjustment
 - Requires states to meet evidentiary standards for establishing orders and imputing income

Wisconsin Legislation

- The Early Years
 - Wis. Stat. §247.25 (1973):
 - . . . and the court may further grant such allowance to be paid by either or both parties for the support, maintenance and education of the minor children committed to the other party's care and custody as it deems just and reasonable.
 - Supreme Court interpreted statute as requiring court to consider needs of the children and NCP's ability to pay:
 - "These needs are ordinarily established by a consideration of the wife's assets and income, her special needs, the age and health of both the wife and children and their customary station in life. The ability of the husband to pay is usually determined by his income, assets, and debts as well as his age and health," *Anderson v Anderson*, 72 Wis. 2d 632, 642-43, 242 N.W.2d 165 (1976)

Child Support at the start of the IV-D Era

- Wis. Stat. §247.25(1) created the following factors to be considered by the court in setting support:
 - The financial resources of the child;
 - The financial resources of both parents as determined under §247.255;
 - **The standard of living the child would have enjoyed had the marriage not ended in annulment, divorce or legal separation;**
 - The desirability that the custodian remain in the home as a full-time parent;
 - The cost of day care if the custodial parent works outside the home, or the value of custodial services performed by the custodian if the custodian remains in the home;
 - The physical and emotional health needs of the child;
 - The child's educational needs;
 - The tax consequences to each party;
 - Such other factors as the court may, in each individual case, determine to be relevant.
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The Basic Approach

- Cost Sharing:
 - Base for beginning calculations is budget of the resident parent.
 - Court then examines NCP's living costs and income to determine ability to pay.
- Income Sharing:
 - Method focuses on NCP's income
 - Based on the principle that the two most important features determining a child support award are the NCP's income and the number of children to be supported.

The Percentage of Income Standard

1983 Wis. Act 27 Wis. Stat. §767.395(3): The department shall adopt a standard for determining a child support obligation based upon a percentage of the gross income and assets of either or both parents. (renumbered 46.25(9)(a))

Shift to Uniform Standards based on problems with existing system:

- Low orders/failure to update
- Judicial discretion leading to inequity in orders
- Public interest in tax dollars providing financial support to children

1985 Wis Act 29. §3029 Nonstatutory provisions: (7) ...the department of health and social services may engage in the rule-making process with respect to the percentage standard under section 46.25(9)(a) of the statutes...When the department of health and social services adopts rules relating to the percentage standard, it shall include in these rules all of the following:

- (a) A definition of “income” which considers adjusted gross income under certain circumstances.
- (b) The percentages used to compute payments.
- (c) The method of applying the percentage of income standard when:
 - (1) a payer is self-employed or is unemployed but may be employed in the future.
 - (2) child support is paid to children in 2 or more families.

July 1, 1987 HHS 80, the Percentage of Income Standard becomes the presumptive method of setting support in Wisconsin.

Deviations from the Percentage Standard

767.511(1m) Deviation from standard: factors. Upon request by a party, the court may modify the amount of child support...if after considering the following factors, the court finds by the greater weight of the credible evidence that use of the percentage standard is unfair to the child or to any of the parties:

- (a) The financial resources of the child.
 - (b) The financial resources of both parents
 - (bj) Maintenance received by either party.
 - (bp) The needs of each party in order to support himself or herself at a level equal to or greater than that established under 42 USC 9902(2).
 - (bz) The needs of any person, other than the child, whom either party is legally obligated to support.
 - (c) If the parties were married, the standard of living the child would have enjoyed had the marriage not ended in annulment, divorce or legal separation.
 - (d) The desirability that the custodian remain in the home as a full-time parent.
 - (e) (e) The cost of child care if the custodian works outside the home, or the value of custodial services performed by the custodian if the custodian remains in the home.
 - (ej) The award of substantial periods of physical placement to both parents.
 - (em) Extraordinary travel expenses incurred in exercising the right to periods of physical placement under s.67.41.
 - (f) The physical, mental, and emotional health needs of the child, including any costs for health insurance as provided for under s.767.513
 - (g) The child's educational needs.
 - (h) The tax consequences to each party.
 - (hm) The best interests of the child.
 - (hs) The earning capacity of each parent, based on each parent's education, training and work experience and the availability of work in or near the parent's community.
 - (i) Any other factors which the court in each case determines are relevant.
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Special Circumstances

- Shared Placement: Presumptive application *Randall v Randall*, 235 Wis. 2d 1, 612 N.W.2d 737 (Ct. App. 2000)
- Serial Families: Adjusted Gross Income
- Split Placement
- Extreme Income
- Medical Support

Child Support Models and the Perception of Fairness

Background: Three State Models (as of December 2011)

Percentage of Income	Income Shares	Melson Formula
Alaska	District of Columbia	Delaware
Arkansas	All other 38 states	Hawaii
Illinois		Montana
Mississippi		
Nevada		
New Hampshire*		
North Dakota		
Texas		
Wisconsin		

* Traditionally considered an Income Shares model; recent guidelines review classified it as a Percentage Income model.

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Child Support Models

Percentage of Income	Income Shares	Melson Formula
<p>Applies a pre-determined, flat percentage to NCP income dependent on the number of children s/he has with the CP</p>	<p>Adds together both parents' income</p> <p>Compares the combined income to a schedule that sets the child support amount for this level of income and number of children</p> <p>Prorates this amount between the parents based on their share of their combined income</p>	<p>Calculates primary support needs amount based on a pre-determined percentage applied to combined parental income after allowing for parental self-support reserves</p> <p>Prorates this amount as under Income Shares</p> <p>Adds to this amount a standard of living allowance that is a fixed percentage of each parent's remaining income</p>

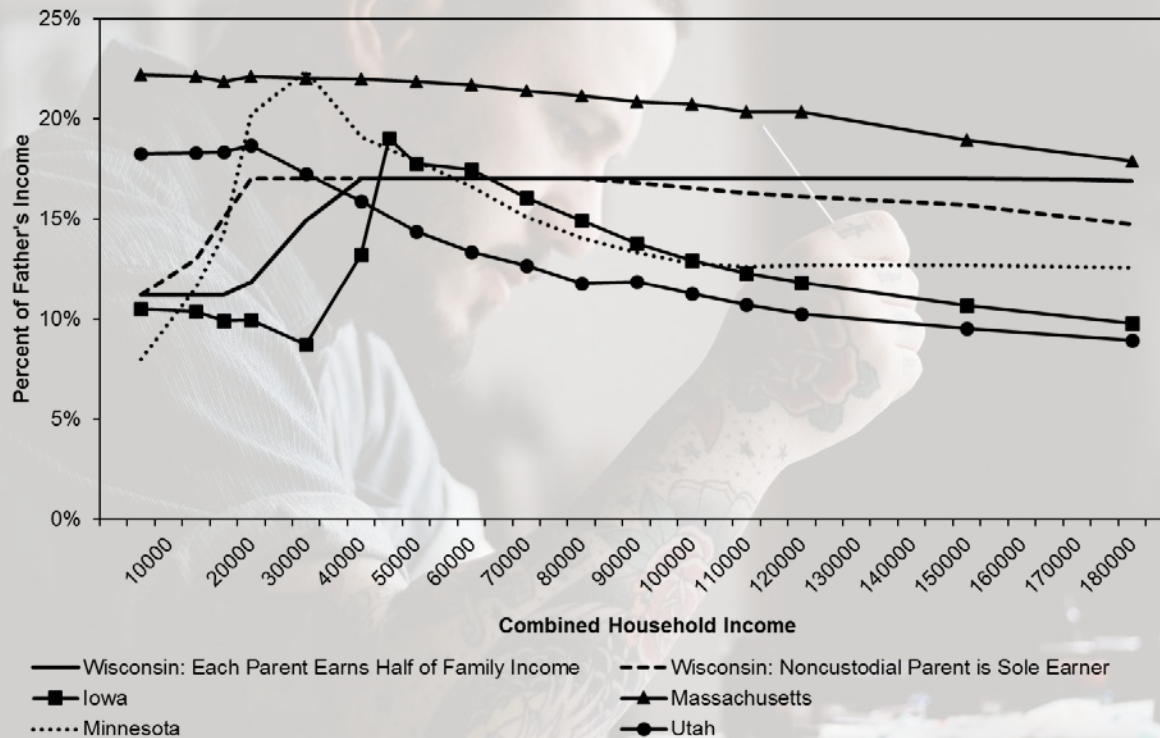
Child Support Models

Perceptions of Fairness: Factors Associated with Fairness Across Models

Attribute	Percentage of Income	Income Shares	Melson Formula
Simplicity			
Consideration of both parents' income	Implicit	Explicit	Explicit
Custodial parent contribution	Assumed	Calculated	Calculated
Child support determination	For NCP only		
Order outcomes	Increase as income rises but remain constant as a percentage of income	Increase as income rises but typically decline as a percentage of income	Minimum at low incomes; flatten out at high incomes

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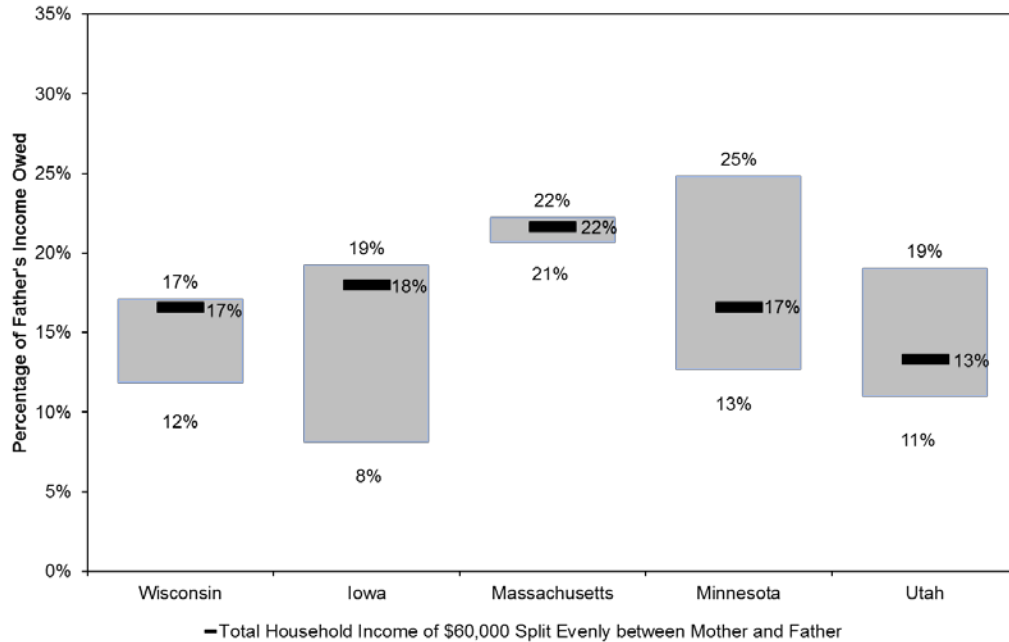
Share of Income Required Guidelines



Note: For calculating low-income guidelines in Wisconsin when assuming equal income for mother and father, we keep low-income guidelines in place until father and mother income=\$18,000, and combined income=\$36,000 and high-income guidelines start at combined income = \$168,000

Range of Percentage of Father's Income Owed:

Father Income \$10,000-\$50,000 & Household Income \$20,000-\$100,00

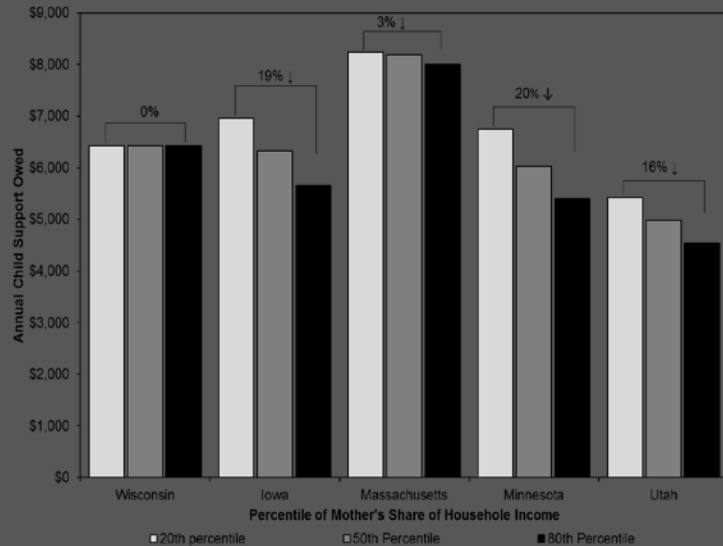


Note: Father income range selected to roughly represent 20th-80th percentiles of paternal income range in analytic sample.

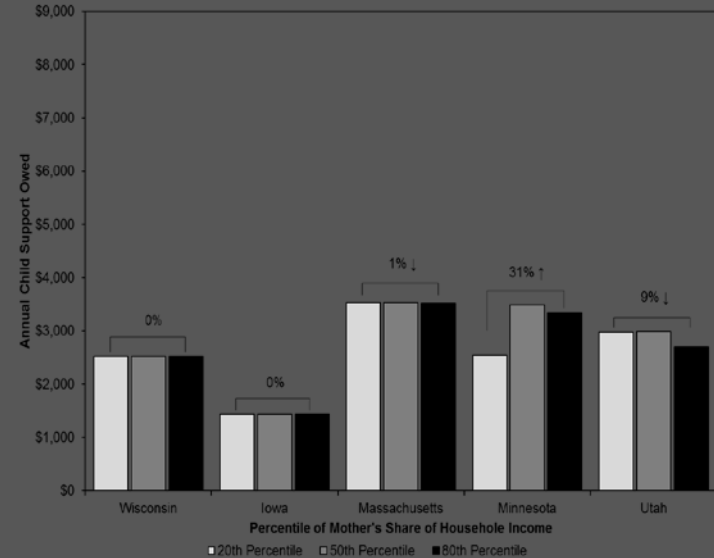
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Annual Child Support Owed by Fathers with Median Income by Mother's Income

A. Divorce Cases



B. Paternity Cases



Note: For divorce cases, the 20th/50th/80th percentiles of mother's proportion of income for the median father's income are 25%, 41%, and 52%, respectively, as detailed in Table 1. For nonmarital cases, the 20th/50th/80th percentiles of mother's proportion of income are 0%, 25%, and 53%, respectively.