
CHILD CUSTODY AND SUPPORT GUIDELINES

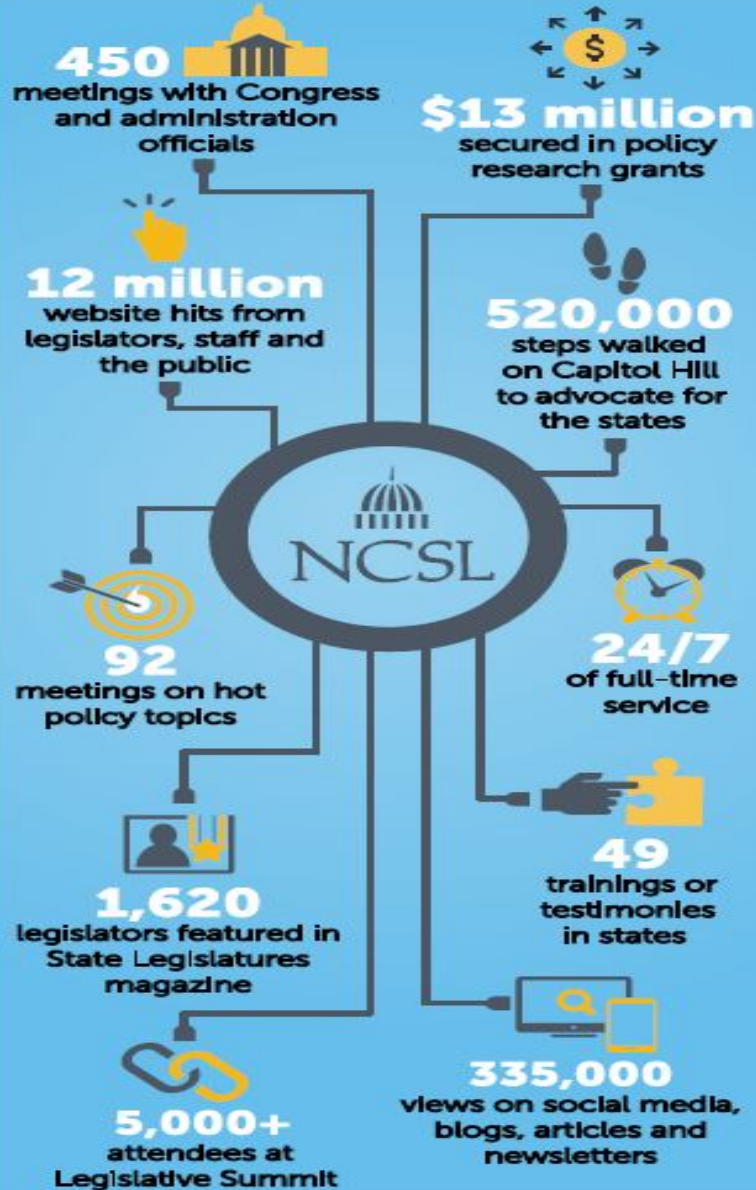
MEGHAN MCCANN, J.D.

AUGUST 28, 2018



NCSL Works for You

In one year...



WHO IS NCSL?

- Bipartisan organization serving legislators and staff in all 50 states and territories
 - Provide state legislatures a strong, cohesive voice at the federal level
 - Improve the quality and effectiveness of state legislatures
 - Promote policy innovation and communication among state legislatures

NCSL'S WORK ON CHILD SUPPORT POLICY

- Contract with OCSE to create clearinghouse of policy resources
- Track 50-state legislation on child support
- Connect legislators and child support directors
- Prepare policy briefs, 50-state comparisons, child support 101, quarterly newsletter
- Convene meetings, testify before state legislative committees
- Highlight state innovations

The screenshot shows the NCSL website header with the logo and navigation menu. The main content area is titled "CHILD SUPPORT AND FAMILY LAW LEGISLATION DATABASE" and includes a date "6/12/2018". A "Search" button is highlighted on a keyboard image. The page contains a welcome message, a search filter description, and a list of topics. On the right, there is a "TABLE OF CONTENTS 2017 ENACTMENTS OVERVIEW" section with a "Searchable Database" link, a bar chart, and a "2017 Enacted Bills by Topic Map". At the bottom, there are filters for "TOPICS" and "STATES", and a search form with fields for "KEYWORD", "STATUS", "BILL NUMBER", "YEAR", and "AUTHOR".

CHILD SUPPORT AND FAMILY LAW LEGISLATION DATABASE
6/12/2018

Welcome to the Child Support and Family Law Legislation Database including filed bills pertaining to child support and family law!

Search passed, pending and failed legislation from 2012 - 2018 by state, year, topic, keyword, status, and/or primary sponsor. Topics relate to custody and visitation, grandparent custody and visitation, custody and visitation issues affecting military parents, economic stability, child support enforcement, family violence collaboration, father engagement, child support guidelines, health care coverage, parentage, prevention, healthy family relationships, implementation, and other related issues.

Bill information for the current year is updated each Tuesday. New measures are added as they are introduced or identified by NCSL staff.

Bills may appear twice in [carry over states](#). In these states, please check the last date of action to ensure the status of the bill reflects the appropriate year.

For faster performance, please use the fields below to filter your results. If nothing is picked, the default search is to include all topics and states in current session year. The full text of bills is available by clicking on the bill number. This feature is available for bills from 2015 and later.

TABLE OF CONTENTS 2017 ENACTMENTS OVERVIEW

[Searchable Database](#)

2017 Introduced and Enacted Legislation Comparison

2017 Enacted Bills by Topic Map

[Additional Resources](#)

[NCSL 50-State Databases](#)

CONTACT
Meghan McCann

TOPICS

- All Topics
- Child Support Prevention
- Custody and Visitation
- Custody and Visitation - Grandparents
- Custody and Visitation - Military Parents
- Economic Stability
- Enforcement
- Enforcement - Intercepts, Asset Seizure
- Enforcement - Licenses

STATES

- All States
- Alabama
- Alaska
- Arizona
- Arkansas
- California
- Colorado
- Connecticut
- Delaware

KEYWORD **STATUS** **BILL NUMBER** **YEAR** **AUTHOR**

_____ All _____ 2018 _____

OUTLINE

- Who is NCSL?
- NCSL's Work on Child Support Policy
- Child Support Guidelines Overview
- Child Custody Overview
- Joint/Shared Custody Trends
- Guideline Adjustments for Parenting Time
- Child Support and Incarceration
- NCSL Resources
- Contact Information

CHILD SUPPORT 101

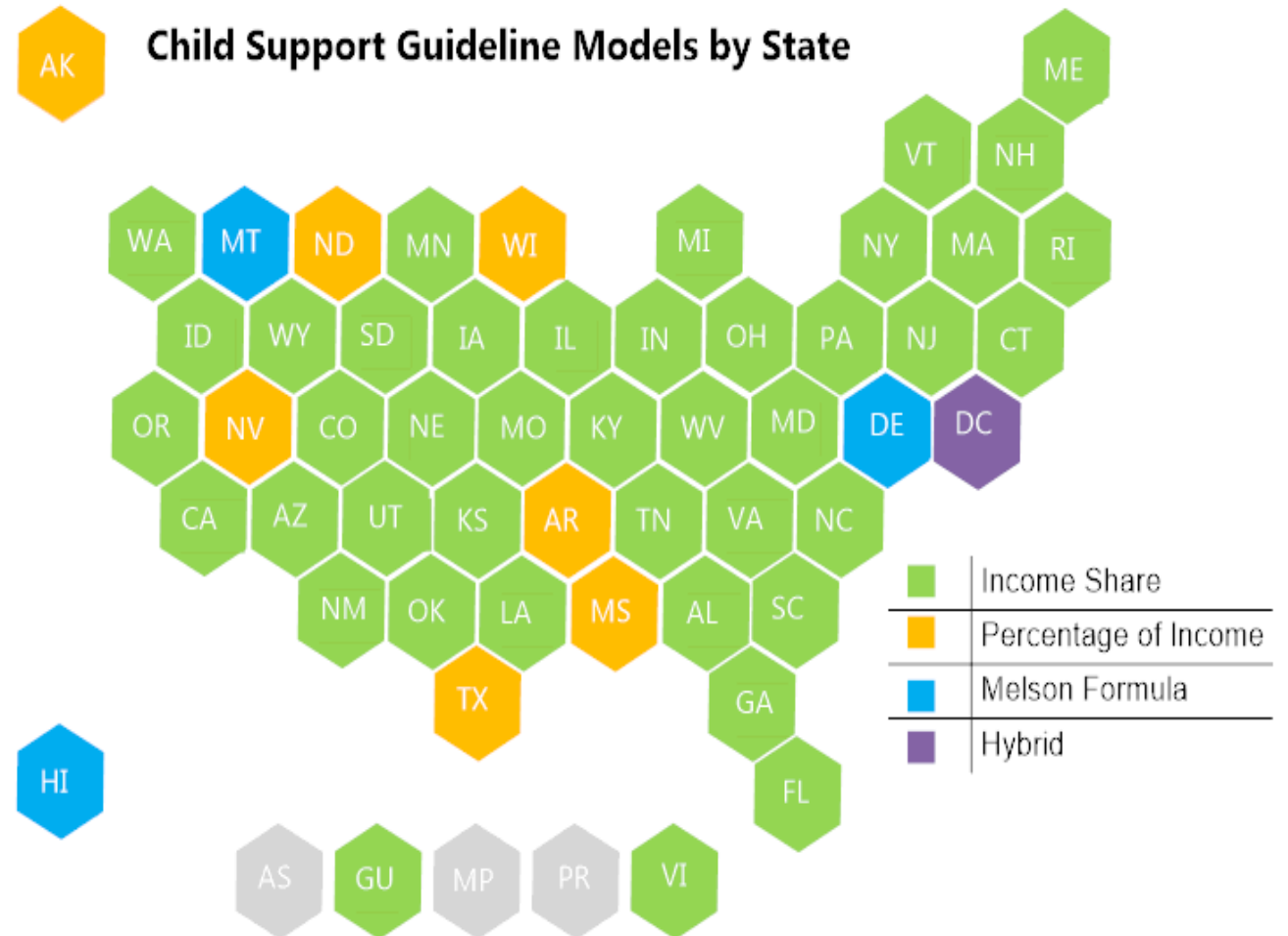
- Location of Noncustodial Parent
- Paternity Establishment
- Establishment of Child Support Orders
- Establishment and Enforcement of Medical Support
- Review or Modification of Child Support
- Collection of Child Support Payments
- Distribution of Child Support Payments

CHILD SUPPORT 101: WHY CHILD SUPPORT?

- Cost Effective
 - High in 2016 of \$5.33 for every \$1 spent on the program
 - Wisconsin is higher than national average at \$5.56 in 2017
 - Cost effective for states: 66% federal match of state funds spent
- Poverty Reduction Potential
 - Lifted approx. 1 million people out of poverty in 2012
- Reduced Reliance on Public Assistance
 - Child support may represent up to 40% of income for poor custodial families who receive it
- Increased Family Engagement
 - Parents who spend time with their children are more likely to pay full child support
 - Parents who pay child support are more likely to visit and engage with their children

CHILD SUPPORT GUIDELINES OVERVIEW

- 40 states, Guam and the Virgin Islands use the Income Shares Model
- 7 states use the Percentage of Income Model
- 3 states use the Melson Model
- D.C. uses a Income Shares/Percentage of Income Hybrid
- There are variations in the way these models are implemented.

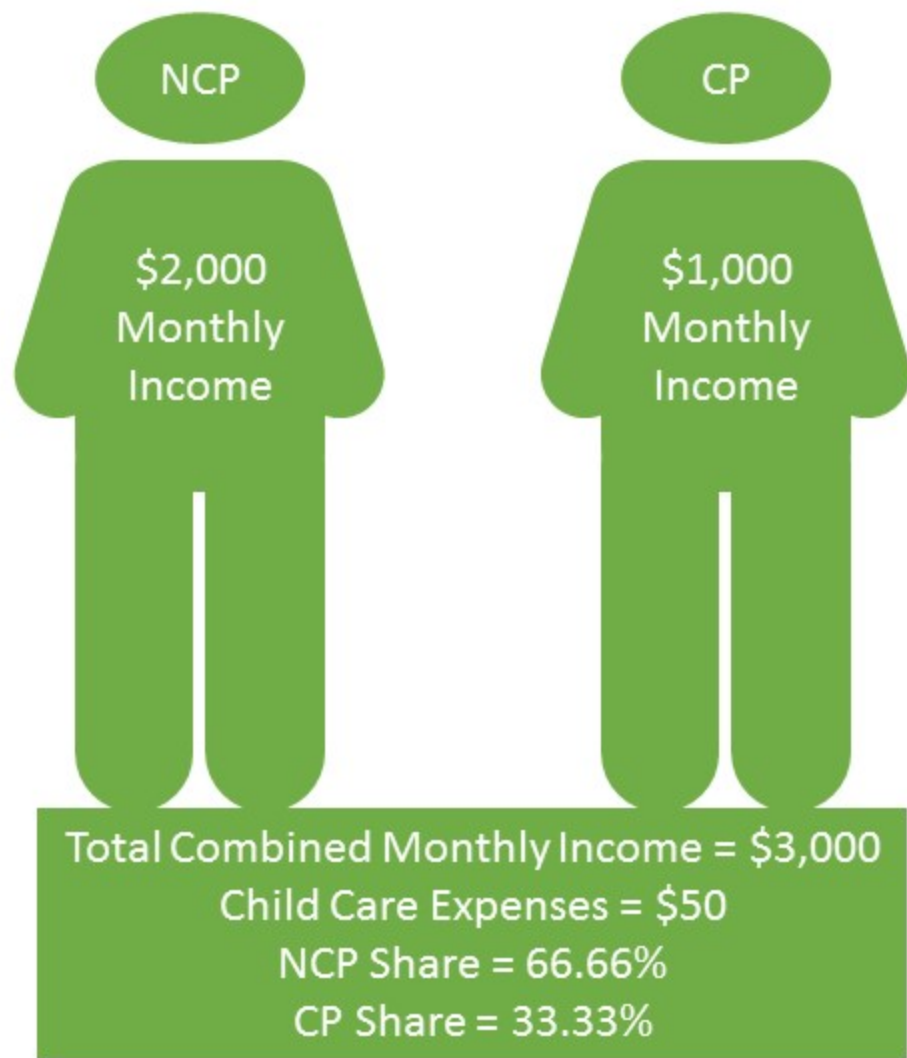


INCOME SHARES

- Based on the concept that the child should receive the same proportion of parental income that he or she would have received if the parents lived together.
- Forty states, Guam and the Virgin Islands use the income shares model
- Illinois was the most recent state to adopt this model in 2015, began implementation in 2017.



Income Shares



Income Shares Model

1. The income of both parents is determined and combined.
2. A basic child support obligation is determined based on a statutory table or schedule.
3. A presumptive child support obligation is determined by adding other expenses such as child care and extraordinary medical expenses to the basic child support obligation.
4. The presumptive child support obligation is prorated between the parents based on their percentage of the combined income.

Model Example

1. \$3,000 total monthly income
2. \$500 basic child support obligation based on statutory table
3. \$500 basic child support obligation + \$50 child care expenses = \$550 presumptive child support obligation
4. \$550 presumptive child support obligation X 66.66% =
\$366.30 child support obligation

NCP = Non-custodial parent

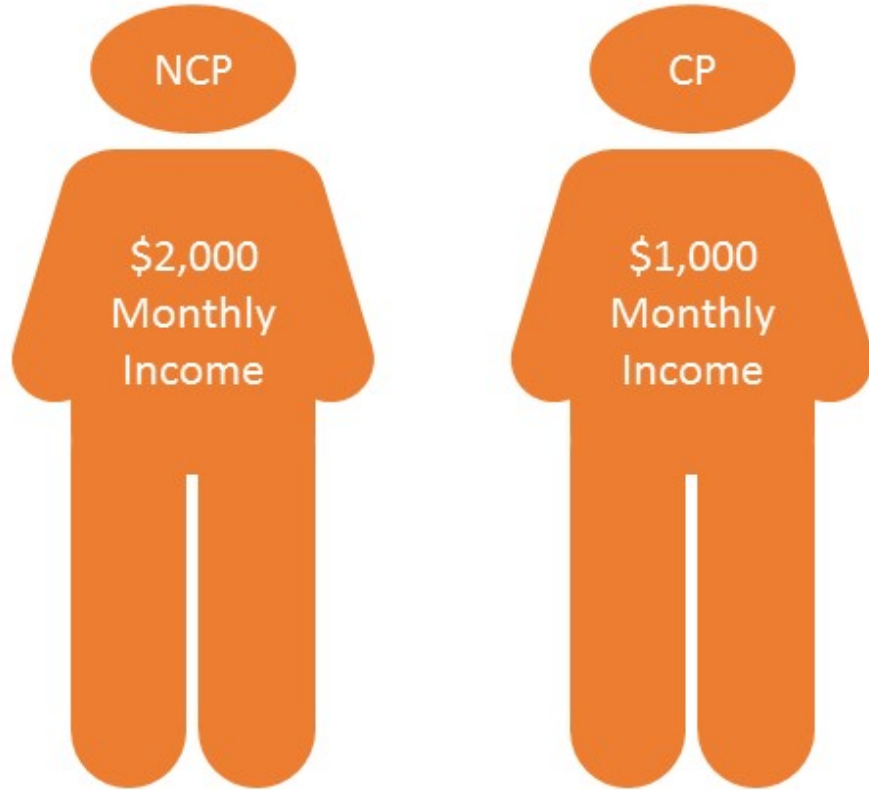
CP = Custodial Parent

PERCENTAGE OF INCOME

- Sets support as a percentage of only the noncustodial parent's income; the custodial parent's income is not considered.
- This model has two variations:
 - Flat Percentage Model (Alaska, Mississippi, Nevada and Wisconsin)
 - Varying Percentage Model (Arkansas, North Dakota and Texas)



Percentage of Income



NCP = Non-custodial parent
CP = Custodial Parent

Percentage of Income Model

1. Determine non-custodial parent's Income.
2. Use statutory table to determine the percentage of the non-custodial parent's income, based on the number of children, that will be applied.
3. Apply percentage to non-custodial parent's income.
4. Make adjustments for add-ons and deductions to reach final presumptive order.

Model Example

1. Non-custodial parent's income = \$2,000
 2. Appropriate percentage from statutory table (WI used in this example), with one child = 17%
 3. $\$2,000 \times 17\% =$
\$340 child support obligation
- E.g., there may be child care or extraordinary medical expenses.

MELSON FORMULA & HYBRID MODEL

Melson Formula

- More complicated version of the Income Shares Model, which incorporates several public policy judgments designed to ensure that each parent's basic needs are met in addition to the children's.
- The Melson Formula was developed by a Delaware Family Court judge and fully explained in *Dalton v. Clanton*, 559 A.2d 1197 (Del. 1989).
- Only three states (Delaware, Hawaii and Montana) use the Melson Formula.

D.C. Hybrid Model

- Starts as a varying percentage of income model and is then reduced by a formula based on the custodial parent's income.



Melson



NCP = Non-custodial parent
CP = Custodial Parent

Melson Formula Model	Model Example
1. Determine each parent's minimal self-support reserve	1. Statutory Self-Support Reserve = \$550
2. Determine net income of parents	2. Net income = monthly income – taxes and self-support need NCP: \$2,000 - \$550 and applicable taxes = \$950 CP: \$1,000 - \$550 and applicable taxes = \$230 Combined Net Income = \$1180
3. Determine basic child support obligation	3. From statutory chart: \$220 basic child support obligation based on combined net income and only one child
4. Determine primary support obligation by adding the basic support obligation to the additional expenses such as child care	4. \$220 basic child support obligation + \$50 child care expenses = \$270 primary support obligation
5. Determine Standard of Living Allowance by (a) subtracting the primary support obligation from the combined net income, (b) determining the statutory standard of living adjustment and (c) multiplying that % by the amount in (a).	5. Three steps (a) \$1,180 combined net income - \$270 primary support obligation = \$910 (b) Statutory standard of living adjustment in this example = 18% (c) \$910 x 18% = 163.80
6. Add primary support obligation to standard of living allowance to get the total support obligation	6. \$270 primary support obligation + standard of living allowance = \$433.80 total support obligation
7. Allocate the support between the parents according to each parent's percentage of total net income	7. \$433.80 total support obligation x 80% NCP percentage of total net income = \$347.04 Child Support Obligation

CHILD SUPPORT GUIDELINES LEGISLATION 2018

- General Guideline Legislation
 - 35 states introduced 83 bills related to child support guidelines
 - Guideline commissions, income schedules, definitions of income, modification
- Termination of Child Support – Age of Majority and Exceptions
 - 13 states introduced 23 bills looking at when child support may be terminated
- Guideline Adjustments
 - 8 states introduced 12 bills
 - Child care, income adjustments, visitation/parenting time.
 - Illinois and Wyoming introduced legislation to adjust for parenting time.

CHILD CUSTODY OVERVIEW

- 43 states introduced more than 200 bills in 2018
- Procedure, factors for custody
- Military Parent Custody and Visitation
 - 8 states introduced 14 bills to provide for custody and visitation when a parent is in the military and/or deployed.
 - Florida enacted the Uniform Deployed Parents Custody and Visitation Act
- Grandparent Custody and Visitation
 - 24 states introduced 49 bills to provide, prohibit, or detail the procedure for grandparents to obtain custody and visitation rights with their grandchildren
- Joint/Shared Custody

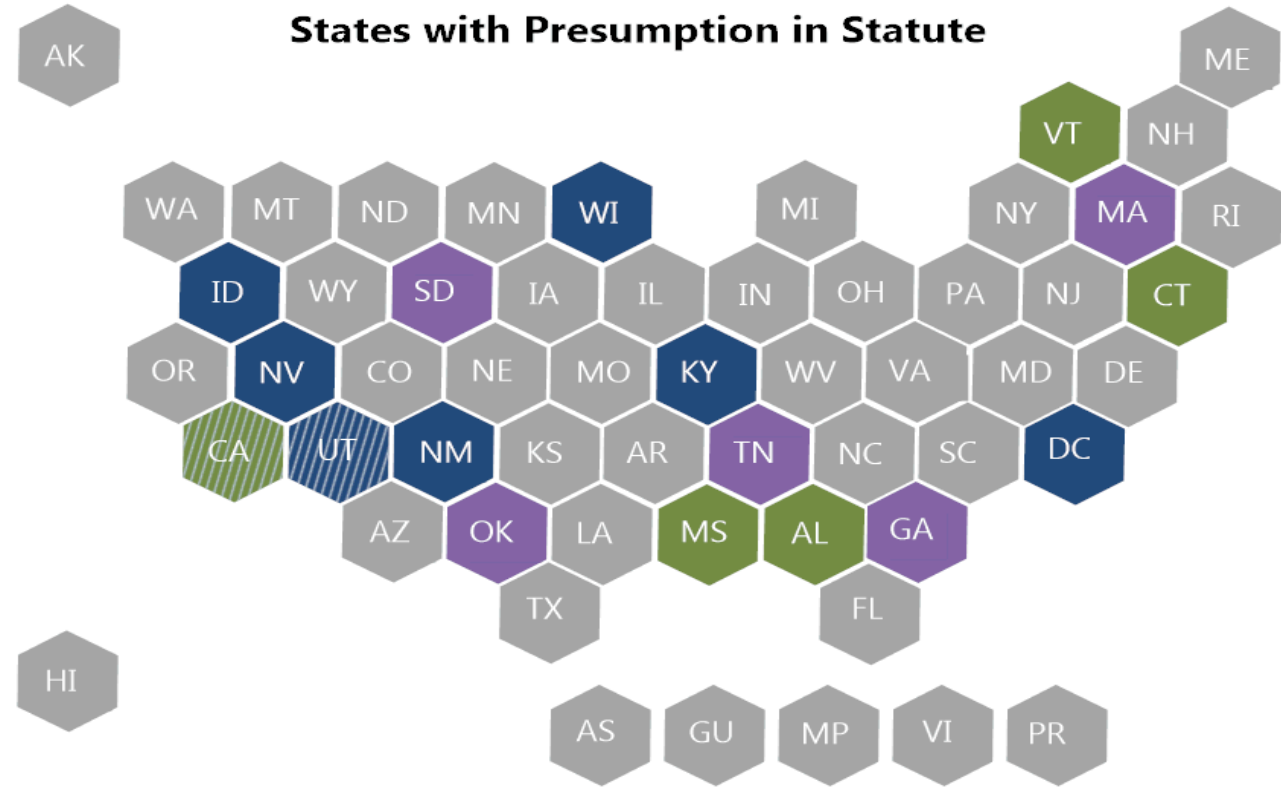
JOINT/SHARED CUSTODY TRENDS

- Joint/Shared/Equal Custody Presumptions
- 38 states and Puerto Rico have introduced legislation since 2012 to create a presumption, or otherwise address joint/shared/equal custody



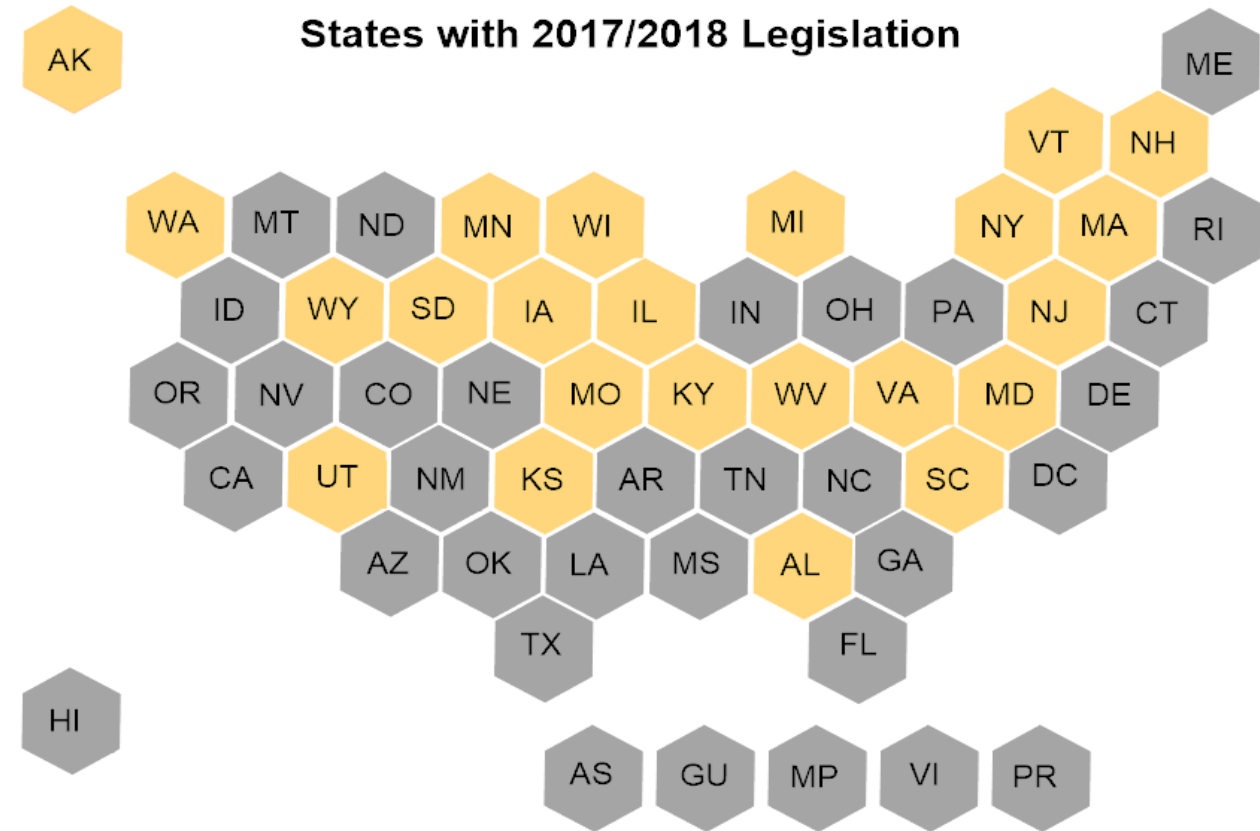
JOINT CUSTODY: STATE STATUTES

- 16 states and D.C. have a statute addressing joint/shared/equal custody (both legal and/or physical)
 - 6 states and D.C. have an existing presumption in favor of joint custody
 - 5 states have a presumption when the parents agree to joint custody
 - 7 states specifically state that there is no presumption, though a handful do state a preference for joint custody



STATE LEGISLATION

- 2017/2018 Legislation
 - 23 states considered 47 bills over the 2017/2018 biennium



LEGEND

- States with 2017/2018 Shared Parenting Legislation
- States without 2017/2018 Shared Parenting Legislation

2017/2018 LEGISLATION BREAKDOWN

- Rebuttable Presumption in Favor of Joint Custody (28 bills):
 - KY H 528 (Enacted): there shall be a presumption, rebuttable by a preponderance of evidence, that joint custody and equally shared parenting time is in the best interest of the child. If a deviation from equal parenting time is warranted, the court shall construct a parenting time schedule which maximizes the time each parent or de facto custodian has with the child and is consistent with ensuring the child's welfare.
- No Presumption in Favor or Against (4 bills):
 - WY S 20 (Enacted): In determining custody a court shall not favor or disfavor any form of custody. Custody shall be crafted to promote the best interests of the children, and may include any combination of joint, shared or sole custody.
- Requires Joint Custody (4 bills)
 - IA S 190 (Failed-Adjourned): This bill directs that the court shall, rather than may as under current law, award joint custody to both parties unless direct physical harm or significant emotional harm to the child, other children, or a parent is likely to result from such contact with one parent.
- Other Legislation Addressing Shared Custody

GUIDELINE ADJUSTMENTS FOR PARENTING TIME

- States vary, even among guideline models, based on:
 - Definitions of shared custody
 - The percentage of time or the number of overnights spent with each parent
 - Whether parenting time is part of the guidelines calculation, or a deviation factor
- Guideline Calculation for Shared Custody
 - New Formula for Equal Custody (6 states)
 - Sliding scale based on % time with each parent (19 states and D.C.)
 - Deviation Factor (26 states)

CHILD SUPPORT AND INCARCERATION

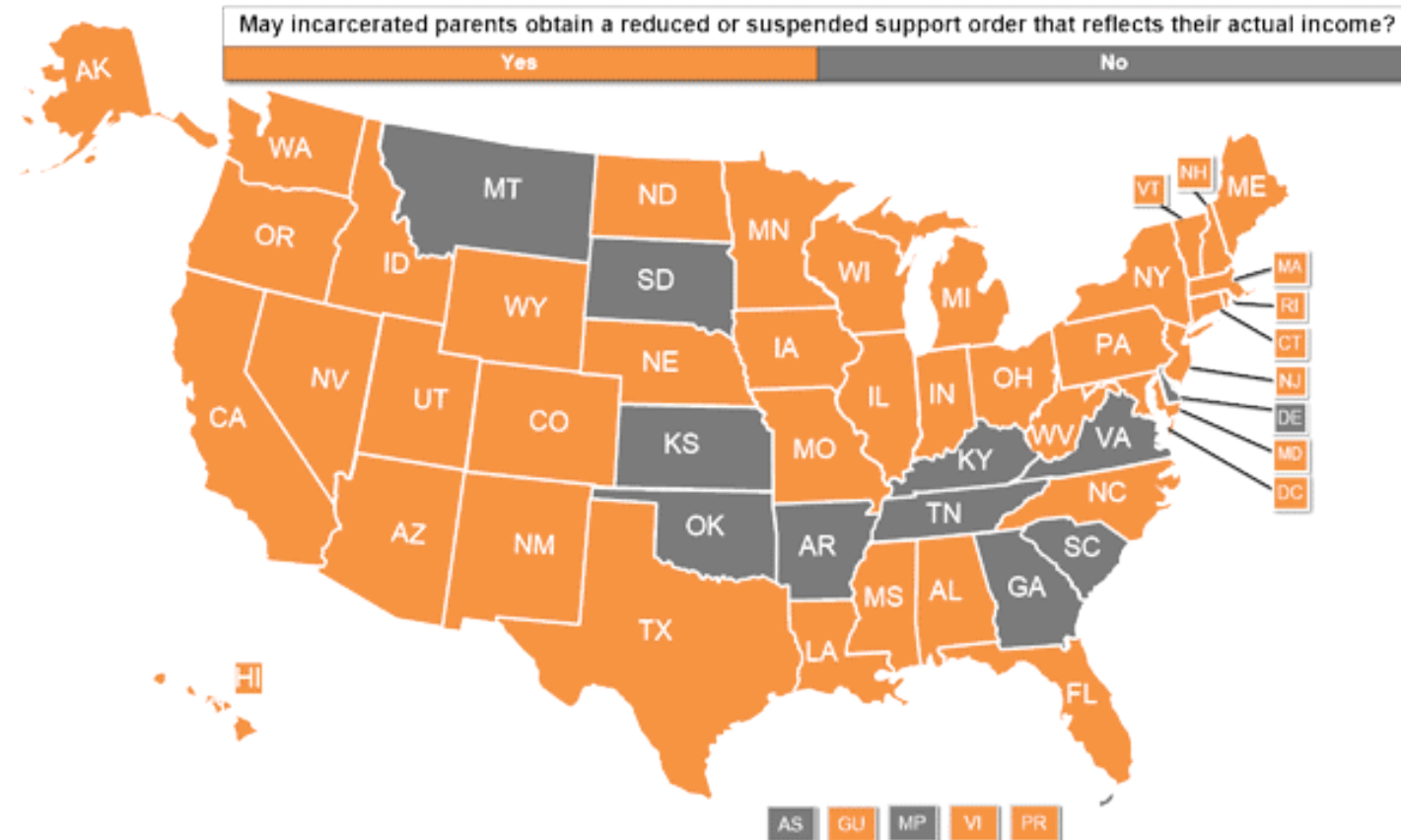
2016 Federal Rule made two major changes:

1. Civil contempt
2. Incarceration treated as involuntary unemployment

Currently, at least 39 states allow incarcerated parents to obtain a reduced or suspended child support order during periods of incarceration.

This has been a major area of legislation during the 2017-2018 legislation sessions.

- Nearly 50 bills have been considered over the last couple of years.
- Primarily addresses the rule changes.



NCSL RESOURCES

- [Child Support and Family Law Legislation Database](#)
- [Child Support Guideline Models by State](#)
- [Child Support and Parenting Time Orders](#)
- [Child Support Homepage](#)

QUESTIONS?

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NATIONAL CONFERENCE OF STATE LEGISLATURES