



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT relating to:** calculating the child support obligation.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

2 **SECTION 1.** Chapter DCF 150 (title) of the administrative code is amended to
3 read:

CHAPTER DCF 150

CHILD SUPPORT PERCENTAGE OF

INCOME STANDARD

7 **SECTION 2.** DCF 150.02 (9m) of the administrative code is created to read:

8 DCF 150.02 (**9m**) "Designated percentage" means the applicable percentages
9 of a parent's monthly income available for child support or adjusted monthly income
10 available for child support under s. DCF 150.035 (2), 150.04, or 150.05.

1 **SECTION 3.** DCF 150.02 (19) of the administrative code is amended to read:

2 DCF 150.02 **(19)** “Low-income payer” means a payer for whom the court uses
3 the monthly support amount provided in the schedule in Appendix C based on the
4 court’s determination that the payer’s total economic circumstances limit his or her
5 ability to pay support at the level provided under s. DCF ~~150.03 (1)~~ 150.035 and the
6 payer’s income available for child support is at a level set forth in the schedule in
7 Appendix C.

8 **SECTION 4.** DCF 150.02 (26) of the administrative code is amended to read:

9 DCF 150.02 **(26)** “Shared-placement payer” means the shared-placement
10 parent who is determined to owe a greater support amount than the other parent
11 under the calculation in s. DCF ~~150.04 (2) (b)~~ 150.035 (1).

12 **SECTION 5.** DCF 150.02 (28) of the administrative code is repealed.

13 **SECTION 6.** DCF 150.02 (28) Note of the administrative code is renumbered
14 DCF 150.02 (9m) Note.

15 **SECTION 7.** DCF 150.03 (1) (intro) of the administrative code is renumbered
16 DCF 150.03 (1) and amended to read:

17 DCF 150.03 **(1)** ~~DETERMINING INCOME AVAILABLE FOR CHILD SUPPORT USING THE~~
18 ~~PERCENTAGE STANDARD.~~ The court shall determine a parent’s monthly income
19 available for child support by adding together the parent’s annual gross income or,
20 if applicable, the parent’s annual income modified for business expenses; the parent’s
21 annual income imputed based on earning capacity; and the parent’s annual income
22 imputed from assets, and dividing that total by 12. This may be done by completing
23 the worksheet in Appendix B, although use of the worksheet for this purpose is not
24 required. ~~Except as provided in s. DCF 150.04 (4) and (5), the percentage of the~~

1 ~~parent's monthly income available for child support or adjusted monthly income~~
2 ~~available for child support that constitutes the child support obligation shall be:~~

3 **SECTION 8.** DCF 150.03 (1) (a) to (e) of the administrative code are renumbered
4 DCF 150.035 (2) (a) to (e).

5 **SECTION 9.** DCF 150.03 (1) (e) Note of the administrative code is renumbered
6 DCF 150.035 (2) (e) Note.

7 **SECTION 10.** DCF 150.03 (5) (a) of the administrative code is amended to read:

8 DCF 150.03 (5) (a) The court may consider a child's benefit under 42 USC 402
9 (d) based on a parent's entitlement to federal disability or old-age insurance benefits
10 under 42 USC 401 to 433 and adjust a payer's child support obligation by subtracting
11 the amount of the child's benefit received by the payee. In no case may this
12 adjustment require the payee to reimburse the payer for any portion of the child's
13 benefit. If the payer is receiving the child's benefit, the support amount is either the
14 designated percentage standard applied to the payer's income or the amount of the
15 child's benefit, whichever is greater.

16 **SECTION 11.** DCF 150.03 (5) (b) (intro.), 2. and 7. of the administrative code are
17 amended to read:

18 DCF 150.03 (5) (b) (intro.) If the shared-placement guidelines under s. DCF
19 ~~150.04 (2)~~ 150.035 (1) apply, the child's benefit is split between the parents in
20 proportion to the amount of time the child spends with each parent. Add the
21 proportion of the child's benefit that represents the proportion of time the child
22 spends with the parent not receiving the benefit to the support obligation of the
23 parent who is receiving the child's benefit. Support shall be determined as follows:

24 2. Multiply each parent's monthly income available for child support by the
25 appropriate designated percentage standard under s. DCF ~~150.03 (1)~~.

1 7. Offset the resulting amounts against each other. The parent with the greater
2 child support obligation is the shared-placement payer. The shared-placement
3 payer shall pay either the greater of the amount determined in this subsection or the
4 amount determined using the ~~appropriate designated percentage standard under s.~~
5 ~~DCF 150.03 (1)~~.

6 **SECTION 12.** DCF 150.03 (5m) (intro.), (a), (b) and (g) of the administrative code
7 are amended to read:

8 DCF 150.03 (**5m**) (intro.) ADJUSTMENT FOR ADOPTION ASSISTANCE. The court may
9 consider adoption assistance received by either parent under s. 48.975 (3) (a), Stats.
10 If the shared placement guidelines under s. ~~DCF 150.04 (2)~~ 150.035 (1) apply, the
11 adoption assistance should be split between the parents in proportion to the amount
12 of time the child spends with each parent. Add the proportion of the adoption
13 assistance that represents the proportion of time the child spends with the parent
14 not receiving the adoption assistance to the support obligation of the parent who is
15 receiving the adoption assistance. Support shall be determined as follows:

16 (a) Determine each parent's monthly income available for child support under
17 s. DCF 150.03 (1) (~~intro.~~). If a parent has one or more previous child support
18 obligations, determine the parent's monthly income available for child support
19 adjusted for the previous obligations as provided in s. DCF 150.04 (1). Do not include
20 the adoption assistance under s. 48.975 (3) (a), Stats., in either parent's income.

21 (b) Multiply each parent's monthly income available for child support by the
22 ~~appropriate designated percentage standard under s. DCF 150.03 (1)~~.

23 (g) Offset the resulting amounts against each other. The parent with the
24 greater child support obligation is the shared-placement payer. The
25 shared-placement payer shall pay the lesser of the amount determined in this

1 subsection or the amount determined using the appropriate designated percentage
2 standard under s. DCF 150.03 (1).

3 **SECTION 13.** DCF 150.03 (7) of the administrative code is amended to read:

4 DCF 150.03 (7) CALCULATION OF FAMILY SUPPORT. When the ~~standard under sub.~~
5 ~~(1)~~ designated percentage is used to calculate support under s. 767.531, Stats., the
6 amount determined shall be increased by the amount necessary to provide a net
7 family support payment, after state and federal income taxes are paid, of at least the
8 amount of a child support payment under the standard.

9 **SECTION 14.** DCF 150.03 (11) of the administrative code is renumbered DCF
10 150.035 (3) and amended to read:

11 DCF 150.035 (3) DEVIATION FROM THE PERCENTAGE STANDARD. (a) Upon request
12 by a party, the court may modify the amount of child support payments determined
13 under sub. ~~(1)~~ (2) if, after considering the factors in s. 767.511 (1m), Stats., as
14 applicable, the court finds by the greater weight of the credible evidence that use of
15 the designated percentage standard is unfair to the child or to any of the parties.

16 (b) If the court under par. (a) modifies the amount of child support payment
17 determined under sub. ~~(1)~~ (2), the court shall state in writing or on the record the
18 amount of support that would be required by using the designated percentage
19 ~~standard under sub. (1)~~, the amount by which the court's order deviates from that
20 amount, its reasons for finding that use of the designated percentage standard is
21 unfair to the child or the party, its reasons for the amount of the modification and the
22 basis for the modification as provided under s. 767.511 (1n), Stats.

23 **SECTION 15.** DCF 150.035 (title) and (2) of the administrative code are created
24 to read:

25 **DCF 150.035 (title) Determining the child support obligation.**

1 **(2)** DETERMINING THE CHILD SUPPORT OBLIGATION OF NONSHARED PLACEMENT
2 PARENTS. If the conditions under sub. (1) (a) are not met, the child support obligation
3 is one of the following percentages of the parent's monthly income available for child
4 support or adjusted monthly income available for child support, except as provided
5 under s. DCF 150.04 (4) or (5):

6 **SECTION 16.** DCF 150.04 (1) (b) 1. and 3. a. and b. of the administrative code
7 are amended to read:

8 DCF 150.04 **(1)** (b) 1. Determine the parent's monthly income available for
9 child support under s. DCF 150.03 (1) (~~intro.~~).

10 3. a. If the parent is subject to an existing support order for that legal obligation,
11 except a shared-placement order under s. DCF ~~150.04 (2)~~ 150.035 (1), the support
12 for that obligation is the monthly amount of that order.

13 b. If the parent is in an intact family or is subject to a shared-placement order
14 under s. DCF ~~150.04 (2)~~ 150.035 (1), the support is determined by multiplying the
15 appropriate designated percentage under s. DCF ~~150.03 (1)~~ for that number of
16 children by the parent's monthly income available for child support or, if applicable,
17 determine support under sub. ~~(2)~~, (3), (4), or (5) or s. DCF 150.035 (1).

18 **SECTION 17.** DCF 150.04 (1) (b) 5. a. and b. of the administrative code are
19 amended to read:

20 150.04 **(1)** (b) 5. a. If the parent is subject to an existing support order for that
21 legal obligation, except a shared-placement order under s. DCF ~~150.04 (2)~~ 150.035
22 (1), the support for that obligation is the monthly amount of that order.

23 b. If the parent is in an intact family or is subject to a shared-placement order
24 under s. DCF ~~150.04 (2)~~ 150.035 (1), the support is determined by multiplying the
25 appropriate designated percentage under s. DCF ~~150.03 (1)~~ for that number of

1 children by the parent's monthly income available for child support or, if applicable,
2 determine support under sub. (2), (3), (4), or (5) or s. DCF 150.035 (1).

3 **SECTION 18.** DCF 150.04 (1) (b) 8. of the administrative code is amended to read:

4 DCF 150.04 (1) (b) 8. Multiply the appropriate designated percentage under
5 ~~s. DCF 150.03 (1)~~ for the number of children subject to the new order by the final
6 adjusted monthly income available for child support determined in either subd. 6. or
7 7. to determine the new child support obligation or if applicable, determine the new
8 child support obligation under sub. (2), (3), (4), or (5) or s. DCF 150.035 (1). If
9 multiple child support obligations reduce a serial-family parent's income to a level
10 set forth in the schedule in ch. DCF 150 Appendix C, the court may combine the
11 provisions of this subsection with the provisions for determining the support
12 obligation of a low-income payer under s. DCF 150.04 (4).

13 **SECTION 19.** DCF 150.04 (2) of the administrative code is renumbered DCF
14 150.035 (1), and DCF 150.035 (1) (b) 1., 2. and 5., as renumbered, are amended to
15 read:

16 DCF 150.035 (1) (b) 1. Determine each parent's monthly income available for
17 child support under s. DCF 150.03 (1). In determining whether to impute income
18 based on earning capacity for an unemployed parent or a parent employed less than
19 full time under s. DCF 150.03 (3), the court shall consider benefits to the child of
20 having a parent remain in the home during periods of placement and the additional
21 variable day care costs that would be incurred if the parent worked more. If a parent
22 has one or more previous child support obligations, determine the parent's monthly
23 income available for child support adjusted for the previous obligations as provided
24 in ~~sub. s. DCF 150.04~~ (1).

1 2. Multiply each parent's monthly income available for child support by the
2 appropriate designated percentage standard under s. DCF 150.03 (1).

3 5. Offset resulting amounts under subd. 4. against each other. The parent with
4 a greater child support obligation is the shared-placement payer. The
5 shared-placement payer shall pay the lesser of the amount determined under this
6 ~~subd.~~ subdivision or the amount determined using the appropriate designated
7 percentage standard under s. DCF 150.03 (1). If the shared-placement payer is also
8 a low-income or high-income payer, the court may combine the provisions of either
9 ~~sub. s. DCF 150.04~~ (4) or (5) with the provisions of this section.

10 **SECTION 20.** DCF 150.04 (3) (b) of the administrative code is amended to read:

11 DCF 150.04 (3) (b) Multiply the amount determined in par. (a) by the pro rata
12 percentage standard for the number of children in split placement who are placed
13 with the other parent. The pro rata percentage standard for the number of children
14 in split placement who are placed with the other parent is calculated by determining
15 the appropriate designated percentage standard under s. DCF 150.03 (1) for the total
16 number of children, dividing by the total number of children, and adding together the
17 percentages for the children in split-placement who are placed with the other
18 parent.

19 **SECTION 21.** DCF 150.04 (4) (a) of the administrative code is amended to read:

20 DCF 150.04 (4) (a) The court may use the monthly support amount provided
21 in the schedule in Appendix C as the support amount for a payer with a monthly
22 income available for child support at a level set forth in the schedule if the payer's
23 total economic circumstances limit his or her ability to pay support at the level
24 determined under s. DCF ~~150.03 (1)~~ 150.035. If a payer's monthly income available
25 for child support is below the lowest income level in Appendix C, the court may set

1 an order at an amount appropriate for the payer's total economic circumstances.

2 This amount may be lower than the lowest support amount in Appendix C.

3 **SECTION 22.** DCF 150.04 (5) (b) of the administrative code is amended to read:

4 DCF 150.04 (5) (b) The court shall apply the percentages in s. ~~DCF 150.03 (1)~~
5 150.035 (2) to a payer's monthly income available for child support that is less than
6 \$7,000.

7 **SECTION 23.** DCF 150.04 (6) (b) 1. and 4. of the administrative code are
8 amended to read:

9 DCF 150.04 (6) (b) 1. Determine the pro rata percentage standard for the total
10 number of children for whom support is being established. The pro rata percentage
11 standard for the total number of children for whom support is being established is
12 calculated by determining the appropriate designated percentage standard under s.
13 ~~DCF 150.03 (1)~~ for the total number of children and dividing by the total number of
14 children.

15 4. Add or offset the child support obligation for children placed with the other
16 parent full-time under subd. 2. with the child support obligation for children in
17 shared-placement under subd. 3. e. The parent with a greater child support
18 obligation is the payer. The payer shall pay the lesser of the amount determined
19 under this subdivision or the amount determined using the appropriate designated
20 percentage standard under s. ~~DCF 150.03 (1)~~. If the payer under this subdivision is
21 also a low-income payer, the child support obligation may be the lesser of the amount
22 determined under this subdivision or under sub. (4).

23 **SECTION 24.** DCF 150.04 (6) (c) 1. b. and 3. of the administrative code are
24 amended to read:

