

# Review of Statewide Uniform Child Support Guideline 2005

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A REPORT TO  
THE CALIFORNIA LEGISLATURE

MARCH 2006



JUDICIAL COUNCIL  
OF CALIFORNIA

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Judicial Council of California  
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## Executive Summary

This report is prepared pursuant to the requirement of Family Code section 4054(a) that the Judicial Council of California periodically review the statewide uniform child support guideline to recommend to the Legislature appropriate revisions. The review must be conducted at least once every four years.

Federal regulations (45 C.F.R. § 302.56) also require each state to review its guideline every four years. The primary purpose of the federal requirement is to ensure that the guideline results in the determination of appropriate child support award amounts. The federal and state requirements specify that the review must include an assessment of the economic data on child-rearing costs and a review of case data, enabling officials to analyze the guideline's application and ensure that deviations from it are limited.

In 2005 the Judicial Council contracted with Policy Studies, Inc., to conduct the review of California's child support guideline. The review fulfilled federal and state requirements to review the guideline by completing the following activities:

- Reviewing the economic studies underlying the existing California guideline formula;
- Conducting a literature review of studies estimating child-rearing expenditures, including the most recent economic evidence, then comparing the results of these studies with the parameters of the California guideline formula;
- Examining other economic factors considered in the guideline formula (e.g., the adjustment for low-income obligors, the adjustment for shared-parenting time, and the declining percentages of net income attributable to child support);
- Collecting and analyzing case file data from a review of recently established and modified child support orders;
- Measuring how frequently the guideline is applied and deviated from, as well as the reasons for the deviations, their amount, and the upward or downward direction;
- Analyzing parents' characteristics and circumstances in which support is established or modified;
- Adding context to the statistical results of case data analysis and improving interpretation through focused discussion groups with child support commissioners;
- Comparing application of and deviation from the guideline in California with the situation in other states;
- Comparing selected provisions of the California guideline and their application with those of other states' guidelines;
- Providing an opportunity for a broad cross-section of groups involved in child support issues to recommend changes to the guideline; and
- Analyzing public comment on recommendations for changes to the California guideline.

## Background

### **The California Guideline and Federal Regulations**

The California Legislature adopted the Statewide Uniform Child Support Guideline in 1992. Federal regulations (45 C.F.R. § 302.56(a)) require states to establish one set of guidelines, by law or by judicial or administrative action, for setting and modifying child support award amounts within a state. According to 45 Code of Federal Regulations, part 302.56(f), the state guideline must also provide that there shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award that would result from the statewide guideline is the correct amount of child support to be awarded.

### **Overview of the California Guideline Formula**

The California guideline is based on the principle that both parents are responsible for the support of their children (Fam. Code, § 4053(b)). The core formula for determining the amount of the child support order under the California guideline is based on the following factors:

- Each parent's net disposable income;
- The parents' total net disposable income;
- The number of children; and
- The percentage of time that each parent has primary physical responsibility for the children.

In addition, the California guideline provides for other adjustments to income or the support order amount, including adjustments for additional support in cases involving factors such as uninsured health-related expenses, low-income obligors, and work-related child-care expenses. Finally, the California guideline sets out deviation criteria in accordance with federal requirements.

### **Proceedings for Establishing or Modifying Child Support Orders**

Child support orders are established and modified through the California superior courts. Child support orders established or modified under part D of title IV of the Social Security Act (commonly referred to as the "IV-D program") are established within the child support commissioner system in California (Fam. Code, § 4250). Title IV-D cases are those filed by a local child support agency, also referred to as a local Department of Child Support Services (DCSS), to establish parentage, to obtain and collect child support, and to enforce health insurance coverage, either when public assistance monies have been expended or at the request of a parent who is not receiving public assistance. These cases seek to promote financial self-sufficiency for families on public assistance through the establishment and collection of child support, to reimburse the government for public assistance monies expended on behalf of children, and to establish and collect child support for any parent who desires this service. Funding for the IV-D program is provided, in part, by the federal government and, in part, by states.

In California, the local DCSS files the initial complaint in IV-D program cases in the name of the county in which the support order is filed and on behalf of the child or children for whom support is sought. The attorney for the local child support agency does not represent the custodial parent; instead, once the order is established, that parent is named as a party to the order. Either parent can use the IV-D program to request a modification, including an obligor who is seeking a downward modification.

All actions filed by the local child support agency regarding child and spousal support or paternity must be referred for hearing to a child support commissioner. The commissioner's duties include taking testimony, establishing a record, evaluating evidence, making decisions or recommendations, and entering judgments or orders based on stipulated agreements. Within the commissioner system, family law facilitators are available at no cost to either parent, to assist with child support and other family law issues. For example, family law facilitators provide educational materials to parents, distribute and help complete necessary court forms, and prepare guideline calculations. However, no attorney-client relationship is created between the facilitators and the parents.

Child support orders are also established and modified outside the commissioner system (such cases are referred to in this report as "non-IV-D cases"). Several large counties have dedicated family law courts that hear cases involving child support and other family law issues (e.g., custody, dependency, and juvenile matters). The role of the courts in child support cases is to take testimony, establish a record, evaluate evidence, make decisions as to support, enter judgments or orders, and approve stipulated agreements between parties. Under Family Code section 4065, with court approval, the parties to a child support order may stipulate to an amount of support, provided that they have been informed of their rights, they were not coerced into agreeing to the stipulation, and the agreement is in the best interest of the children.

#### Previous Reviews by the Judicial Council and Guideline Changes

The 2005 review is the third review conducted by the Judicial Council.<sup>1</sup> The previous reviews also examined the most current economic evidence on child-rearing expenditures and analyzed case file data to determine how the guideline was being applied and the extent of deviation from it. The economic evidence examined in these earlier reviews suggested that the California guideline formula resulted in appropriate amounts of child support. The analyses of case file data in these earlier reviews found that the guideline was, in general, being applied and that few orders deviated from it.

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<sup>1</sup> See Judicial Council of California, *Review of Statewide Uniform Child Support Guideline 1998* and *Review of Statewide Uniform Child Support Guideline 2001*.

Prior reviews have been instrumental in helping effect changes to the statewide guideline. Specifically, the most recent review, conducted in 2001, made the following recommendations and conclusions that have been adopted:

- The low-income adjustment should be applied as a rebuttable presumption for obligors meeting the income threshold; and
- The amount at which income is presumed when an obligor's income is unknown and the order is being established by a local child support agency results in relatively high order amounts. A lesser amount of presumed income should be considered in these cases.

The 2001 review and the previous one, in 1998, both resulted in several improvements to guideline documentation and forms.

## Data and Analytical Methodology

### **Assessment of Child-Rearing Costs**

The data and analytical methodology for assessing child-rearing costs consisted of conducting a literature review of studies estimating child-rearing costs, then comparing the findings of those studies to the current California guideline formula. All studies that form the basis of state child support guidelines were reviewed. States use and have considered many different studies of child-rearing costs. The studies vary in data years, assumptions, methodologies used to separate the children's share from the adults' share of total family expenditures, and data sources, to a limited extent (although most of the studies use the same data set—the Consumers Expenditures Survey—which is conducted by the Bureau of Labor Statistics, because it is the most comprehensive and detailed survey conducted on expenditures). The current review took into account the results of these studies and others that have been considered, but not adopted, as the economic basis of state child support guidelines. In all, the literature review considered more than a dozen studies estimating child-rearing costs from 1981 to 2005. It began with 1981, because the study by Jacques van der Gaag (1981) is the earliest that forms the basis of any state child support guidelines and it influences the current California guideline formula.

In addition, other literature was reviewed: literature that suggests how the economic evidence is to be used to construct child support guidelines; literature pertinent to shared-parenting time adjustments in guidelines; and literature relating to adjustments for low-income noncustodial parents. The findings from this literature were compared to the California guideline formula.

As part of the literature review, research gaps were identified. A limited amount of original research on the treatment of family savings to address these gaps was conducted. Family savings was identified as an issue because economists and guideline developers often have to make an assumption about savings when estimating child-rearing

expenditures from actual family expenditures data or when developing a child support schedule or formula based on estimates of child-rearing expenditures. These assumptions can affect the percentage of income attributable to child-rearing expenditures among families that, on average, may spend more or less than their after-tax income. The savings issue is examined by analyzing how much families' after-tax income is spent on current consumption, using the same data set used for most studies to estimate child-rearing costs. After-tax income not spent on current consumption is assumed to be devoted to savings. The analysis considers how much of families' after-tax income is spent on current consumption across various income levels and family structures, as well as over time.

### **Case File Review**

Case files of 1,150 child support orders established or modified in calendar year 2004 were sampled from 11 California counties that ranged in both size and sociodemographic factors representative of the state's diversity. A comparable number of cases was sampled for the previous review. The study included those counties that participated in the last two guideline reviews, which allows for a comparison of the case file data over time. Most (1,102) of the sampled child support orders were appropriate for the study. The sample was almost equally divided between IV-D and non-IV-D orders. Data were collected using a data collection form similar to that used in the two earlier studies.

### Conclusions: Economic Evidence on Child-Rearing Expenditures

Assessment of the economic evidence on child-rearing expenditures resulted in nine conclusions.

***Conclusion 1:*** *Child-rearing costs are best measured as a range.* The economic evidence on child-rearing costs indicates that no single measurement best captures actual child-rearing expenditures. As a consequence, a U.S. Department of Health and Human Services report recommends that any amount between the lower and upper bound of the range in child-rearing measurements is appropriate for state guidelines.<sup>2</sup>

***Conclusion 2:*** *The economic evidence on child-rearing expenditures from more than 11 studies conducted since the inception of the California guideline shows that the percentage of total family expenditures devoted to child-rearing ranges from 22 to 33 percent for one child, 35 to 49 percent for two children, and 41 to 59 percent for three children.*

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<sup>2</sup> Lewin/ICF, *Estimates of Expenditures on Children and Child Support Guidelines*, Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement, Oct. 1990.

**Conclusion 3:** *The basic percentage of net disposable income assigned to child support under the California guideline formula falls within the current range of estimates of child-rearing expenditures for the largest income category.*

**Conclusion 4:** *The economic evidence on child-rearing expenditures is generally limited to families with one to three children.* Economists have developed equivalence scales (i.e., formulas) to adjust for larger family sizes.

**Conclusion 5:** *The adjustments for number of children in the California guideline mostly yield results within the range of the economic evidence or equivalence scales but result in percentages that are somewhat low for families with larger numbers of children.*

**Conclusion 6:** *The income threshold for applying the adjustment for low-income obligors is near the federal poverty guidelines for one person (\$798 per month).* Most state guidelines provide a downward adjustment to the guideline amount to obligors with poverty or near-poverty incomes, to enable them to meet their own subsistence needs. The California low-income adjustment is applicable when the obligor's net disposable income is less than \$1,000 per month.

**Conclusion 7:** *Little economic evidence exists to show how child-rearing expenditures are shared between parents in situations in which a child spends considerable time with both parents.*

**Conclusion 8:** *Economic evidence shows that a smaller proportion of total net disposable income is devoted to child-rearing expenditures at higher income levels.*

**Conclusion 9:** *The California guideline formula essentially assigns a smaller proportion (i.e., the K-factor) of income to child support as income increases. This approach is consistent with the economic evidence on expenditures, savings, and income in higher-income families.*

Conclusions: Findings From the Analysis of Case File Data

Conclusions 10 to 20 concern the findings from the analysis of case file data.

**Conclusion 10:** *The California guideline is being applied in the vast majority of orders. Deviations from the guideline are limited.* A deviation was noted in only 9.1 percent of the cases reviewed. This result is similar what was found in previous California guideline reviews and less than that found in a national study and many recent state studies.

**Conclusion 11:** *The adjustments to income permissible under the California guideline are applied infrequently, but their application has increased since the last review.* The California guideline provides a hardship deduction from income if the parent is financially responsible for extraordinary health expenses, incurs uninsured catastrophic

losses, or has a financial duty to support other children residing with him or her. In addition, the California guideline provides an adjustment for child support or spousal support paid in other cases. Application of these adjustments increased since the last review.

**Conclusion 12:** *The low-income adjustment is being applied more frequently.* Family Code section 4055(b)(7) provides a low-income adjustment when the obligor's income is less than \$1,000 per month. Application of this adjustment increased from 6.2 percent of entitled obligors in 2001 to 52 percent of entitled obligors in 2005. The increase resulted from a legislated change, effective August 2003, that the low-income adjustment is a rebuttable presumption.

**Conclusion 13:** *Additional child support is ordered infrequently.* Family Code section 4062 provides that additional child support must be ordered for employment-related child-care costs as well as for reasonable uninsured health-care costs of children and may also be ordered for additional education expenses, a child's special needs, or travel expenses for visitation.

**Conclusion 14:** *The majority of obligors still are fathers.* Although child support commissioners stated that they see more female obligors, the vast majority of obligors today (89.6 percent) are fathers.

**Conclusion 15:** *Income among parents ordered to pay and receive child support varies widely. No child support case involves a "typical income."* For example, in non-IV-D cases, fathers' gross income ranged from zero (\$0) to \$60,000 per month. In IV-D cases and among mothers, however, incomes covered a smaller range, but still varied widely.

**Conclusion 16:** *Most support order calculations begin with gross income rather than net disposable income, even though the California guideline formula is based on the latter.* Commissioners and frequent guideline users tend to rely on automated software to calculate a support order. Such calculators typically start with gross income so that they can accurately calculate the annual net disposable income of each parent as specified in Family Code section 4059, using federal and state tax rate formulas.

**Conclusion 17:** *Income is being imputed and presumed to parents less frequently.* Family Code section 4058(b) gives the court discretion to impute income at the earning capacity of the parent rather than the parent's actual income if such an imputation is in the best interest of the child. In addition, Family Code section 17400(d)(2) provides that if the support obligation is being established by a local child support agency and the obligor's income or income history is unknown, income is to be presumed to be minimum wage for 40 hours per week. The percentage of obligors with imputed or presumed income decreased substantially from 25.2 percent in 2001 to 9.9 percent in 2005. That decrease is attributed to the commissioner system, including family law facilitators who have made the child support process more accessible to parents, as well as to policy and cultural

changes encouraged by the state DCSS. In addition, DCSS has access to better income information through automated sources (e.g., quarterly wage data). In recent training, commissioners have also been encouraged to use actual income rather than estimates.

***Conclusion 18:*** *Fewer orders are being entered through default.* The decrease may be attributable to efforts by the courts, the commissioner system, and DCSS to make the child support process more accessible to parents, as described earlier. In addition, several counties have set targets to reduce default orders based on recent research that finds child support compliance is lower in default orders and is likely to be higher when parents become involved in the process.

***Conclusion 19:*** *There appear to be more zero (\$0) and reserved orders.* In a reserved order, the amount of the order is not set but is reserved for decision at a later time—for example, when information about the obligor’s income becomes available. Zero orders are entered when the obligor has no ability to pay support (e.g., the obligor is incarcerated or receives public assistance). Practices regarding these orders and the definition of the term “reserved” likely vary from court to court.

***Conclusion 20:*** *The 2003 guideline changes appear to have lowered the support amounts among low-income obligors.* California has been criticized in national circles for amassing billions of dollars in unpaid child support that is owed through the IV-D program. Research completed in 2002 found that one contributing factor has been high order amounts among low-income obligors. The 2003 guideline changes (i.e., making the low-income adjustment presumptive and lowering the income amount at which obligor income is presumed) were intended to alleviate some of this problem. As indicated by this case file review, these changes have been successful.

## Recommendations

Recommendations based on the key findings of the economic analysis of child-rearing expenditures and the case file review concern continued monitoring and refinement of certain adjustments, deductions, and additional support, but no changes to the basic guideline formula. In addition, improvement in case file documentation should be encouraged.

***Recommendation 1:*** *Make no changes to the basic California guideline formula.*

No abundance of compelling evidence suggests that the basic guideline formula needs to be changed. The proportion of total net disposable income assigned to support children (the K-factor) is generally in line with the economic evidence of child-rearing expenditures. Based on some (though not all) evidence, changes to certain components of the formula may be warranted—specifically, small revisions to the adjustments for six or more children and to the K-factors for higher incomes. Also, because there is a dearth of economic evidence that shows how parents in shared-parenting situations actually share

child-rearing expenditures, more research is needed on the costs of raising children in separate households.

***Recommendation 2:*** *Research the impact of support orders among low-income families in concert with efforts by the courts, DCSS, and other state entities to help low-income families.* Many of the findings concern low-income families: the low-income adjustment is being increasingly applied; income is being presumed less frequently to obligors in public assistance cases and at a lower amount; more foster care cases come into the system; and more zero and reserved orders are issued. In addition, the reduction in default orders and orders based on income presumed at the minimum basic standard of adequate care found in this review should help reduce arrears owed by low-income obligors. It would serve families to conduct more research on the impact of more-frequent application of the low-income adjustment and other practices (e.g., zero and reserved orders) before making recommendations that could result in even lower orders.

***Recommendation 3:*** *Increase or index the income threshold for applying the low-income adjustment.*

***Recommendation 4:*** *Make the treatment of a child's share of the health insurance premium similar to the way in which child-care expenses are treated.* A child's share of the health insurance premium should be treated as an add-on, similar to the way the California guideline treats child-care expenses. Treating the premium as an add-on would result in the parents' more equally sharing the burden of increasing premium costs.

***Recommendation 5:*** *Clarify the hardship deduction.* The hardship deduction for additional children is not being consistently applied across the state in cases that have similar fact patterns. While recognizing the need for judicial discretion to consider the specific circumstances of each case, clarifying circumstances in which the hardship deduction should be applied or setting out the factors to be considered in awarding the deduction would result in a more uniform application of the deduction.

***Recommendation 6:*** *Encourage better and more-detailed information in the case file.* Income information, guideline amounts in orders with deviations, and other pertinent information were missing in a notable number of case files. Future review and adjustments to an order would be facilitated by collecting better and more-detailed information in the case file, so that it provides a sufficient basis for making a guideline calculation that replicates the guideline amount in the case file.

# Chapter 1

## Introduction

### Purpose of the Study

This report is prepared pursuant to the requirement of Family Code section 4054(a) that the Judicial Council periodically review the statewide uniform child support guideline to recommend to the Legislature appropriate revisions. The review must be conducted at least once every four years.

Federal regulations (45 C.F.R. § 302.56) also require that each state reviews its guideline every four years. The primary purpose of the federal requirement is to ensure that the guideline results in the determination of appropriate child support award amounts. The federal and state requirements specify that the review must include an assessment of the economic data on child-rearing costs and a review of case data to analyze the application of the guideline and to ensure that deviations from the guideline are limited.

### The California Guideline and Federal Regulations

The California Legislature adopted the Statewide Uniform Child Support Guideline in 1992. Prior to that time, California had several county guidelines that could be applied with discretion with a statewide guideline providing for a minimum amount. The Statewide Uniform Guideline was adopted to comply with federal regulations for child support guidelines (see Fam. Code, § 4050). Federal regulations (45 C.F.R. § 302.56(a)) require states to establish one set of guidelines by law or by judicial or administrative action for setting and modifying child support award amounts within a state. According to 45 Code of Federal Regulations, part 302.56(f), a state guideline must also provide that there shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award that would result from the statewide guideline is the correct amount of child support to be awarded.

### **Requirements of a Statewide Guideline**

A federal regulation (45 C.F.R. § 302.56(c)) further specifies that a state guideline must do the following:

- Take into consideration all earnings and income of the noncustodial parent;
- Be based on specific descriptive and numeric criteria and result in a computation of the support obligation; and
- Provide for children's health-care needs, through health insurance coverage or other means.

In addition, federal regulations require each state to determine criteria that would permit the presumptive guideline to be rebutted because its application would be unjust or

inappropriate and not in the best interest of the child in a case in which one or more of these criteria were present.

### **Income Used in the California Guideline**

The California guideline considers all earnings and income not only of the noncustodial parent, but of both parents, because the premise of the California guideline is that both parents are responsible for the support of their children (Fam. Code, § 4053(b)). This obligation does not extend to the parents' new partners, however. In fact, the California guideline provides that the income of an obligor parent's subsequent spouse or nonmarital partner shall not be considered when determining or modifying child support (Fam. Code, § 4057.5(a)(1)).

### **Parameters of the Numeric Formula**

The core formula for determining the amount of the child support order under the California guideline is based on the following factors:

- Each parent's net disposable income;
- The parents' total net disposable income;
- The number of children; and
- The percentage of time that each parent has primary physical responsibility for the children.

In addition, the California guideline provides for other adjustments to income or the support order amount, including adjustments for additional support in cases involving factors such as uninsured health-related expenses, low-income obligors, and work-related child-care expenses.

### **Children's Health-Care Needs**

Children's health-care needs are provided for in several parts of the California Family Code, including Family Code section 4062, which provides for reasonable uninsured health-care costs for children, and Family Code section 3751 et seq., which establishes criteria for ordering health insurance coverage for children.

### **Guideline Deviation Criteria**

Family Code section 4057(b) provides deviation criteria in accordance with federal requirements. These criteria are listed in Chapter 3 as part of the discussion of results from case data analysis of guideline applications and deviations.

### **Proceedings for Establishing or Modifying Child Support Orders**

Child support orders are established and modified through the California superior courts. Child support orders established or modified pursuant to part D of title IV of the Social Security Act (commonly referred to as the "IV-D program") are established within the child support commissioner system in California (Fam. Code, § 4250). Title IV-D cases are those filed by a local department of child support services, also referred to as a local Department of Child Support Services (DCSS), to establish parentage, to obtain and

collect child support and enforce health insurance coverage, either when public assistance monies have been expended or on the request of a parent who is not receiving public assistance. These cases seek to promote financial self-sufficiency for families on public assistance through the establishment and collection of child support, to reimburse the government for public assistance monies expended on behalf of children, and to establish and collect child support for any parent who desires this service. Funding for the IV-D program is provided in part by the federal government and in part by states.

In California, the local DCSS files the initial complaint in IV-D program cases in the name of the county in which the support order is filed and on behalf of the child or children for whom support is sought. The attorney for the local child support agency does not represent the custodial parent; instead, the custodial parent is named as a party to the order once the order is established. Either parent can use the IV-D program to request a modification, including an obligor who is seeking a downward modification.

All actions filed by the local child support agency regarding child and spousal support or paternity must be referred for hearing to a child support commissioner. The commissioner's duties include taking testimony, establishing a record, evaluating evidence, making decisions or recommendations, and entering judgments or orders based on stipulated agreements. Within the commissioner system, family law facilitators are available at no cost to either parent to assist with child support and other family law issues. For example, family law facilitators provide educational materials to parents, distribute and help complete necessary court forms, and prepare guideline calculations. However, no attorney-client relationship is created between the facilitators and the parents.

Child support orders are also established and modified outside the commissioner system (such cases are referred to in this report as "non-IV-D cases"). Several large counties have dedicated family law courts that hear cases involving child support and other family law issues (e.g., custody, dependency, and juvenile matters). The role of the courts in child support cases is to take testimony, establish a record, evaluate evidence, make decisions as to support, enter judgments or orders, and approve stipulated agreements between parties. Under Family Code section 4065, with court approval, the parties to a child support order may stipulate to an amount of support provided that they have been informed of their rights, they were not coerced into agreeing to the stipulation, and the agreement is in the best interest of the children.

### Activities of 2005 Guideline Review

In 2005 the Judicial Council contracted with Policy Studies, Inc., to conduct the review of California's child support guideline. The review fulfilled federal and state requirements to review the guideline through the following activities:

- Reviewing the economic studies underlying the existing California guideline formula;
- Conducting a literature review of studies estimating child-rearing expenditures, including the most recent economic evidence, and comparing the results of these studies with the parameters of the California guideline formula;
- Examining other economic factors considered in the guideline formula (e.g., the adjustment for low-income obligors, the adjustment for shared parenting time, and the declining percentages of net income attributable to child support);
- Collecting and analyzing case file data from a review of recently established and modified child support orders;
- Measuring how frequently the guideline is applied and deviated from, as well as the reasons for, amount of, and upward or downward direction of deviations;
- Analyzing parents' characteristics and circumstances in which support is established or modified;
- Adding context to the statistical results of case data analysis and improving interpretation through focused discussion groups with child support commissioners;
- Comparing application of and deviations from the guideline in California with the situation in other states;
- Comparing selected provisions of the California guideline and their application with those of other states' guidelines;
- Providing opportunity for a broad cross-section of groups involved in child support issues to recommend changes to the guideline; and
- Analyzing public comment on recommendations for changes to the California guideline.

### Previous Reviews by the Judicial Council

The 2005 review is the third review conducted by the Judicial Council.<sup>3</sup> The previous reviews also examined the most current economic evidence on child-rearing expenditures and analyzed case file data to determine how the guideline was being applied and the extent of deviation from the guideline. The economic evidence examined in these earlier reviews suggested that the California guideline formula resulted in appropriate amounts of child support. The analyses of case file data in these earlier reviews found that the guideline was, in general, being applied and that few orders deviated from the guideline.

The 1998 review also contains an extensive history of the development of the California guideline, as well as early county guidelines.

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<sup>3</sup> See Judicial Council of Cal., *Review of Statewide Uniform Child Support Guideline 1998 and Review of Statewide Uniform Child Support Guideline 2001*.

## **Previous Recommendations**

Prior reviews have been instrumental in helping effect changes to the statewide guideline. Specifically, the most recent review conducted in 2001 made the following recommendations and conclusions:

- The low-income adjustment should be applied as a rebuttable presumption for obligors meeting the income threshold.
- The amount at which income is presumed when an obligor's income is unknown and the order is being established by a local child support agency results in relatively high order amounts. A lesser amount of presumed income should be considered in these cases.
- The guideline should continue to rely on disposable net income as the basis for computing child support obligations.
- The provisions for additional dependents in the guideline adequately address situations in which one or both parents have additional dependents.

The 1998 and 2001 reviews also resulted in several improvements to guideline documentation and forms.

## Significant Guideline Changes Since the 2001 Review

### **Low-Income Adjustment**

The Legislature made a change, effective in August 2003, to the low-income adjustment set out in Family Code section 4055(b)(7). As a result, the low-income adjustment for obligors with net income below \$1,000 per month became a rebuttable presumption. Previously, the statute provided that a court would rule on whether a low-income adjustment would be made, but the adjustment was not a rebuttable presumption.

### **Presumed Income**

Another change to the guideline that became effective in August 2003 pertains to the presumption of income set out in Family Code section 17400(d)(2). If an obligor's income or income history is not known to a local child support agency, a presumption is made that the obligor's income is the minimum wage for 40 hours per week. Prior to the amendment, income was presumed in an amount that resulted in a court order equal to the "minimum basic standard of adequate care." Presuming income at this level had resulted in relatively high order amounts for some low-income obligors.

## Organization of This Report

The remainder of this report consists of three chapters. The main purpose of Chapter 2 is to analyze the economic evidence on the costs of child rearing. The chapter begins with a description of the existing California guideline formula and the economic studies

considered in its development. Chapter 3 presents findings from the analysis of case file data. The purpose of the analysis is to examine how the guideline is applied by judicial officers around the state and to identify reasons that judicial officers may enter order amounts different from those that would be entered based on the guideline. The chapter presents statistics on the frequency with which child support orders deviate from the guideline, the application of permissible adjustments to income, and other case and order characteristics. Chapter 4 presents conclusions and recommendations resulting from the 2005 review process. The public comment period was from December 8, 2005, through December 23, 2005, and the comments received are compiled in Appendix F.

## Chapter 2

### The Economic Basis of the California Guideline and New Evidence on Child-Rearing Costs

The major purpose of this chapter is to comply with federal and state requirements (45 C.F.R. § 302.56(h); Fam. Code, § 4054) that economic data on the cost of raising children be considered as part of the guideline review. Most states, including California, base their guideline formulas, at least in part, on one of several economic studies estimating child-rearing expenditures. This chapter focuses on those economic studies as well as more recent economic studies relevant to the appropriateness of guideline formula parameters. (Detailed information on these studies is provided in Appendix A.) Other economic considerations involved in using evidence of child-rearing expenditures to devise a child support formula are also discussed in this chapter. These considerations include the following:

- *Adjustments for low-income obligors.* California, like most states, has a formula that adjusts support orders downward for obligors with near-poverty incomes so that the payment of child support does not further impoverish those obligors. This adjustment yields support order amounts that are less than actual child-rearing costs based on the economic evidence.
- *Adjustments for time-sharing.* When both parents share in the physical responsibility of raising a child, each parent will incur some direct child-rearing expenses when the child is residing with him or her.
- *The relationship among expenditures, savings, and income.* This relationship is important to the construction of child support formulas in at least two ways. First, most estimates measure child-rearing expenditures in relation to total family expenditures, so an assumption about the ratio of expenditures to income must be made to convert these estimates to an income-based guideline formula. Second, childless couples may save in anticipation of having children, and couples with children may save more or spend their savings to fund their children's college education or other expenses once the children become adults. (More detailed analysis about family expenditures, savings, and income is provided in Appendix B.)

Before the economic evidence is discussed, the existing California child support guideline formula is described in detail.

#### The Existing California Child Support Guideline Formula

Family Code section 4053 lists several principles on which the guideline and guideline formula are based.

- A parent's first and principal obligation is to support his or her minor children according to the parent's circumstances and station in life.
- Both parents are mutually responsible for the support of their children.
- The guideline takes into account each parent's actual income and level of responsibility for children.
- Each parent should pay for the support of children according to his or her ability.
- The guideline seeks to place the interest of children as the state's top priority.
- Children should share in the standard of living of both parents. Child support may therefore appropriately improve the standard of living of the custodial household to improve the lives of the children.
- Child support orders in cases in which both parents have high levels of responsibility for the children should reflect the increased costs of raising the children in two homes and should minimize significant disparities in the children's living standards in the two homes.
- Children's financial needs should be met through private financial resources as much as possible.
- It is presumed that a parent having primary physical responsibility for children contributes a significant portion of available resources for support of the children.
- The guideline seeks to encourage fair and efficient settlements of conflicts between parents and seeks to minimize the need for litigation.
- The guideline is intended to be presumptively correct in all cases, and only under special circumstances should child support orders fall below the child support mandated by the guideline formula.
- Child support orders must ensure that children actually receive fair, timely, and sufficient support reflecting the state's high standard of living and high costs of raising children compared to those of other states.

### **Base Guideline Formula**

Most California guideline amounts are calculated using one of several automated certified calculators. A better understanding of how the formula relates to the current estimates of child-rearing expenditures can be gained from examining the formula underlying the automated calculation, which is provided here.

The base formula of the existing California Guideline is  $CS = K[HN - (H\%)(TN)]$  where

CS = the monthly child support obligation for one child. For more than one child, CS is multiplied by a factor of

- 1.6 for 2 children;
- 2.0 for 3 children;
- 2.3 for 4 children;
- 2.5 for 5 children;
- 2.625 for 6 children;

- 2.75 for 7 children;
- 2.813 for 8 children;
- 2.844 for 9 children; and
- 2.86 for 10 children.

H% = approximate percentage of time that the high earner has or will have primary physical responsibility for the children compared to the other parent. In cases in which parents have different time-sharing arrangements for different children, H% equals the average of the approximate percentage of time the high earner parent spends with each child.

HN = high earner’s net monthly disposable income.

K = the amount of total net income allocated to child support. There are two steps to calculating K. In the first step, K equals one plus H% (if H% is less than or equal to 50 percent) multiplied by the K-fraction; or two minus H% (if H% is greater than 50 percent) times the following K-fraction:

Total net disposable income per month	K
\$0 – \$800	$0.20 + TN/16,000$
\$801 – \$6,666	0.25
\$6,667 – \$10,000	$0.10 + 1,000/TN$
Over \$10,000	$0.12 + 800/TN$

As noted in Family Code section 4055(b)(3) as clarification, “if H% equals 20 percent and total monthly net disposable income of the parents is \$1,000,  $K = (1 + 0.20) \times 0.25$ , or 0.30.”

TN = total net monthly disposable income of both parties.

**Example of California Child Support Calculation**

An example illustrates how child support is calculated using the formula. The example is based on the following case assumptions:

- One parent has monthly net disposable income of \$4,000, and the other parent has \$1,000 in monthly net income. The higher earner’s net disposable income (HN in the formula) is therefore \$4,000.
- The parents’ total combined net disposable income (TN in the formula) is \$5,000.
- The higher earner has physical custody of the child 20 percent of the time (i.e., H% in the formula = 0.20).
- There is one child being supported.

The K factor, as previously shown, is  $(1 + 0.20) (.25) = 0.30$ .

$$\begin{aligned}CS &= K[HN - (H\%)(TN)] \\CS &= .30 [4,000 - (.20)(5,000)] \\CS &= .30 [4,000 - 1,000] \\CS &= .30 [\$3,000] \\CS &= \$900\end{aligned}$$

The basic monthly child support amount that the higher earner will pay the lower earner is \$900. The final support amount could be greater than this if there are child-care expenses, monthly health-care costs for a child not covered by health insurance, or both. In addition, a court may consider increasing the basic support amount for costs related to a child's education or for other special needs of a child.

### **Summary of Key Components of the Guideline Formula**

In all, the child support obligation depends on four factors:

1. The net disposable income of the higher earner;
2. The total net disposable income of the parents;
3. The percentage of time the higher earner spends with each child; and
4. The number of children for whom support is being sought.

Increases in the first factor (the net disposable income of the higher earner) will increase the support amount. Increases in the second factor (total net disposable income per month) will also increase the support amount but at a decreasing rate, because as there is more total net disposable income, K (the percentage of income assigned to support) decreases. Increases in the third factor (the percentage of time the higher earner spends with each child) will decrease the support amount because the higher earner incurs more direct child-rearing expenditures. Increases in the fourth factor (the number of children) also increase the support amount.

### **The California Adjustment for Time-Sharing**

The California guideline is unique among state child support guidelines in that each calculation of support considers the amount of time a child spends with each parent. In other states, an adjustment for parenting time is not considered until a child's time with a noncustodial parent reaches a determined threshold, most commonly 20 to 35 percent of the year. (A comparison of the California guideline adjustment for parenting time with adjustments made by other states is provided at the end of Appendix A.)

By including the amount of time the child spends with each parent in all calculations, order amounts change gradually with incremental changes in time-sharing. Exhibit 2-1 shows the incremental decrease in the order amount as the percentage of time with the higher earner increases, using the example set out earlier of parents who have,

respectively, \$4,000 and \$1,000 in net monthly disposable income. If the higher earner does not spend any time with the child, the calculated order amount is \$1,000 per month. A small increase in the time spent with the higher earner (e.g., 5 percent) results in a slight decrease in the calculated order amount (\$984), whereas if the child spends a more substantial amount of time with the higher earner (e.g., 50 percent), the order amount decreases to \$563 per month.

<b>Exhibit 2-1</b>	
<b>Monthly Orders and Time with Higher Earner</b>	
<b>Percentage of Time with Higher Earner (H%)</b>	<b>Monthly Child Support Order Amount (CS)</b>
0%	\$1,000
5%	\$984
10%	\$963
15%	\$934
20%	\$900
25%	\$859
30%	\$813
35%	\$759
40%	\$700
45%	\$634
50%	\$563

**The California Low-Income Adjustment**

Although not part of the base formula, another key component of the California guideline is a low-income adjustment that applies to obligors with less than \$1,000 in net disposable income per month. As of August 2003, the guideline includes a rebuttable presumption that an obligor with net monthly income less than \$1,000 is entitled to a low-income adjustment. Prior to the August 2003 change to the statute, a court would rule in each case on whether or not a low-income adjustment would be made, but the adjustment was not a rebuttable presumption.

According to Family Code section 4055(b)(7), the low-income adjustment shall reduce the base support amount by no more than the following ratio:

$$\frac{(1,000 - \text{obligor's net disposable income})}{1,000}$$

For example, consider a scenario in which support is being determined for one child, the obligor has \$800 net disposable income per month, the obligee has \$500 net disposable income per month, and the child spends 20 percent of the year with the obligor. Under the basic guideline formula, the monthly order would be \$162. Applying the maximum low-income adjustment would result in an order amount of \$130 per month.

**Adjustment:**  $\$162 \times ((1000 - 800)/1000) = \$32$   
**Adjusted order:**  $\$162 - \$32 = \$130$

## Estimates of Child-Rearing Expenditures

As an introduction to this section, the history of the current California guideline is first reviewed, then the estimates of child-rearing expenditures are summarized. A detailed chronology of the estimates of child-rearing expenditures is provided in Appendix A.

### History of California Guideline

The 1998 report of the Judicial Council guideline review contains a history of the California guideline. The history suggests that two estimates of child-rearing expenditures influenced the numbers underlying the current California guideline formula. These estimates were from a 1981 study by Jacques van der Gaag and a 1984 study by Thomas J. Espenshade.<sup>4</sup> The van der Gaag study was used by Santa Clara family law attorney George Norton to develop the Santa Clara County guideline that was in effect until 1992. The Santa Clara County schedule, as well as other county guideline schedules in effect at the time, influenced the original Judicial Council guideline adopted in 1986 and, subsequently, the permanent California Statewide Uniform Guideline adopted in 1992. The Espenshade study was the study that most state guidelines were based upon at the time and was also used to shape the California guideline adopted in 1992. These two studies and others are discussed in detail in Appendix A. These studies are also discussed later in this chapter.

### Timeline

Exhibit 2-2 provides a timeline of key events in the development of the California guideline relative to the release of pertinent studies and federal requirements concerning guidelines. Following is a chronology of key events, including some not reflected in Exhibit 2-2.

- **Prior to 1980.** A few California counties had child support guidelines (e.g., Marin and Santa Clara Counties). At this time, the only state believed to have a statewide guideline was Delaware.<sup>5</sup>
- **1981.** Van der Gaag with the University of Wisconsin Institute for Research on Poverty released his article reviewing the economic literature on child-rearing costs. Van der Gaag conducted the study to assist Wisconsin with the development of a child support formula. This was the first study known to have been used as the basis of a child support guideline formula. A few other states (e.g., New York) adopted the Wisconsin formula.

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<sup>4</sup> J. van der Gaag, *On Measuring the Cost of Children*, Discussion Paper 663-81, University of Wisconsin Institute for Research on Poverty, Madison, Wisconsin (1981); T. J. Espenshade, *Investing in Children: New Estimates of Parental Expenditures* (Washington, D.C.: Urban Institute Press, 1984).

<sup>5</sup> R. Williams, "Chapter 1: An Overview of Child Support Guidelines in the United States," in *Child Support Guidelines: The Next Generation*, ed. M. Haynes, American Bar Association, U.S. Department of Health and Human Services Office of Child Support Enforcement (April 1994).

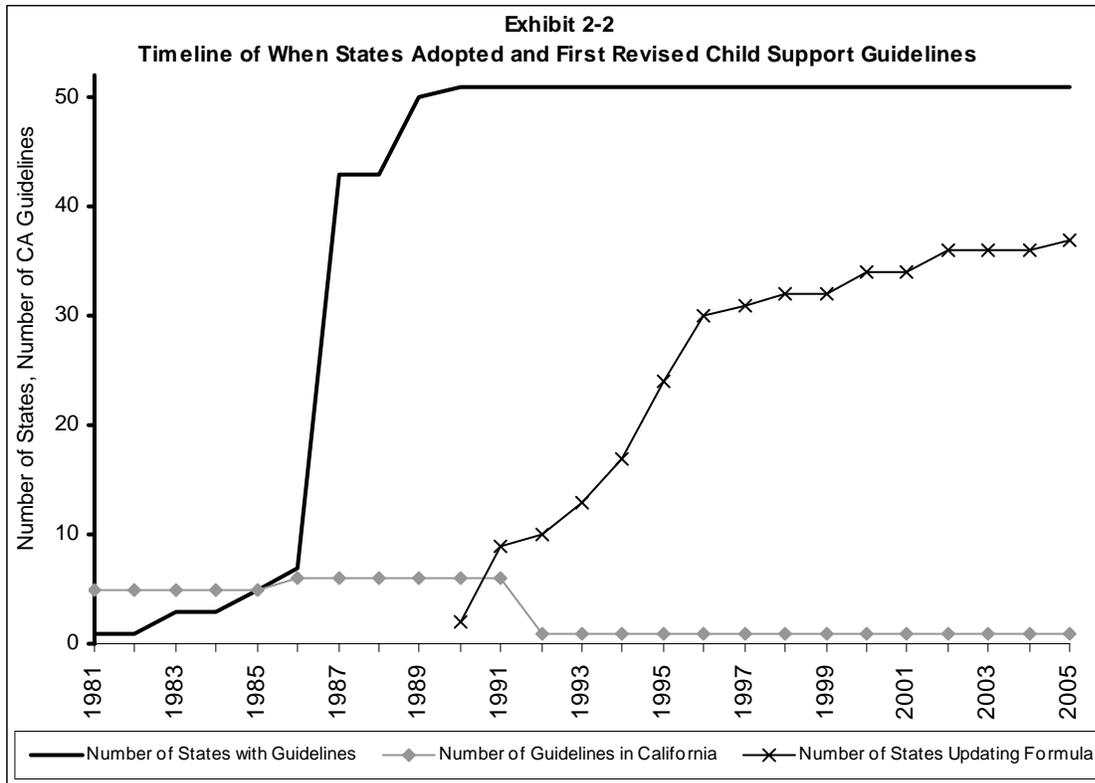
- **1984.** Espenshade published his estimates of child-rearing expenditures in 1984. National Child Support Guidelines Project staff used the Espenshade estimates to develop a prototype guidelines model called “Income Shares.”<sup>6</sup> In turn, the Income Shares model was recommended for state adoption by the National Child Support Guidelines Panel, convened by the federal Office of Child Support Enforcement at the request of Congress to assist states in the development of statewide guidelines.
- **1987.** The Child Support Amendments of 1984 (42 U.S.C. §§ 657–662) required each state to have statewide advisory child support guidelines by 1987.
- **1989.** The Family Support Act of 1988 (codified primarily at 42 U.S.C. §§ 654, 666–667) required each state to implement presumptive guidelines for use in all judicial and administrative proceedings in the state and to establish criteria for supporting a deviation from the guideline by 1989. The Family Support Act of 1988 also required states to review their guidelines at least once every four years.
- **1990.** D. Betson and Lewin/ICF released studies commissioned by the U.S. Department of Health and Human Services to assist states with their federally mandated quadrennial guidelines review.<sup>7</sup> Betson’s study estimated child-rearing expenditures using five different methodologies. The Lewin/ICF study evaluated Betson’s estimates and those from other studies as a basis for recommendations to assist states with their guidelines reviews.
- **1992.** California had at least six different guidelines (the Judicial Council guideline and several county-specific ones) that were replaced by the Uniform Statewide Guideline promulgated in 1992.
- **2001.** Betson updated his estimates of child-rearing expenditures, which formed the basis of many state child support guidelines, using the most recent household expenditures data.
- **2005.** As of early 2005, 39 states had revised their guidelines at least once since the 1988 Family Support Act imposed the requirement of quadrennial guideline reviews.

The timeline in Exhibit 2-2 shows a precipitous increase in the number of states updating their formula or schedule from about 1994 to 1997. Most of the states updating their guideline formula within this time period relied on Betson’s 1990 estimates of child-rearing expenditures.

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<sup>6</sup> National Center for State Courts, *Development of Guidelines for Child Support Orders, Final Report*, Report to U.S. Department of Health and Human Services Office of Child Support Enforcement, Williamsburg, Virginia (1987).

<sup>7</sup> D. Betson, *Alternative Estimates of the Cost of Children from the 1980–86 Consumer Expenditure Survey*, Report to U.S. Department of Health and Human Services Office of the Assistant Secretary for Planning and Evaluation, University of Wisconsin Institute for Research on Poverty, Madison, Wisconsin (1990); Lewin/ICF, *Estimates of Expenditures on Children and Child Support Guidelines*, Report to U.S. Department of Health and Human Services Office of the Assistant Secretary for Planning and Evaluation, Fairfax, Virginia (1990).



### **Economic Evidence on Child-Rearing Expenditures**

To facilitate understanding of the lengthy, complex history of the California guideline formula, a chronology of studies estimating child-rearing expenditures and other studies affecting their use in state child support guidelines is provided in Appendix A. The chronology begins with van der Gaag's 1981 study, which was used to develop the Santa Clara County guideline formula and, in part, to develop the existing statewide guideline formula. Most of these estimates measure child-rearing expenditures in intact families. This approach is consistent with the premise of most child support guidelines that a child should benefit from the same amount of expenditures he or she would have received if the parents had never divorced or separated or, in the case of never-married parents, the amount of expenditures the child would have received if the parents had lived together. No state uses the economic evidence on child-rearing expenditures in single-parent families as the basis for its guideline formula. Most states proceed on the belief that guidelines should provide children with more than a poverty level of living, and the economic data for single-parent families includes an inordinate number of families with poverty incomes.

## **The Relationship Between Estimates and Guidelines**

### *Economic Basis of the Income Shares Model*

Most state child support guidelines use the income shares guideline model, which was recommended by the 1984–1987 National Child Support Guidelines Panel for adoption by states.<sup>8</sup> In large part, the model was recommended because it considers both parents' incomes and is clearly based on the economic evidence of child-rearing expenditures. In contrast, some guideline models consider both parents' incomes but are not directly based on economic evidence. The income shares schedule is based on how much intact families spend on child rearing. The model presumes that there should be no economic detriment to a child as a result of his or her parents' decision to separate, divorce, or never marry; hence, the child should receive the same amount of expenditures he or she would have received had the parents lived together.

As a consequence, measurements of child-rearing expenditures by family size and income level form the basis of the income shares calculation. The amount expended on a child in an intact family is prorated between the parents. The nonresidential parent's share is deemed to be the support award amount. It is assumed that the residential parent's share is spent directly on the child. For instance, if support is being determined for one child and the parents' combined income is \$50,000 per year, the amount expended in one-child intact families (say, \$10,000 per year) with a family income of \$50,000 per year is the starting point. If the parents have equal incomes, then each parent would be responsible for half of the amount (\$5,000 per year).

Most income shares guidelines apply this concept as a starting point for determining the support award, then make other adjustments for shared-parenting time; child-rearing expenses that vary widely from case to case (e.g., work-related child-care expenses; the child's health insurance premium; the child's uninsured, extraordinary medical costs; the costs of private education); parents whose incomes are inadequate to maintain a subsistence level of living; and other factors.

Traditionally, the California guideline has been loosely defined as an income shares guideline because it considers both parents' incomes in the calculation of support. In all, 34 states base their guidelines on the income shares model as of 2005. The number will increase to 36 by 2007 as a result of legislation passed by Georgia and Minnesota this year.

### *The Economic Basis of Non–Income Shares Guidelines*

Many non–income shares guidelines also considered the economic evidence of the costs of raising children in the development of their support formulas, but there is less of a structural and direct relationship between the economic evidence and the guideline

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<sup>8</sup> National Center for State Courts (1987).

formula parameters. For example, the developers of the Wisconsin guideline considered the economic evidence provided by van der Gaag's 1981 study, which is discussed in greater depth in Appendix A, but arrived at different proportions. For example, whereas van der Gaag suggested that a couple with one child must have 25 percent more income to maintain the standard of living that they had before the arrival of the child, the Wisconsin guideline assigns only 17 percent of income to calculate support for one child. Some of the difference between van der Gaag's study and the Wisconsin guideline is explained because van der Gaag applies his percentage to expenditures, which he equates to income, whereas Wisconsin bases its guidelines on gross (before-tax) income. However, even when taxes are considered, the percentages do not match.

### **Summary of the Economic Evidence**

Exhibit 2-3 summarizes the findings from selected studies estimating child-rearing expenditures. The studies selected are those that form the basis of state child support guidelines or that have been seriously considered by a state as the basis of an updated formula. Exhibit 2-3 excludes poverty studies and alternative estimates of minimum needs because under the California guideline children are intended to share in the standard of living of both parents (see Fam. Code, § 4053(f)). Further, if an obligor's income is at or below poverty level, he or she would be eligible for a low-income adjustment, which is considered separately in this chapter.

Most of the estimates shown in Exhibit 2-3 are expressed as a percentage of total family expenditures. When the estimates are expressed as a dollar amount, they are expressed in 2004 dollars. Exhibit 2-3 shows that the average amount of expenditures devoted to child rearing varies by study. The ranges are as follows.

- One child: 22 to 33 percent of total family expenditures, or \$7,294 to \$12,698 per year.
- Two children: 35 to 49 percent of total family expenditures, or \$11,863 to \$20,480 per year.
- Three children: 41 to 59 percent of total family expenditures, or \$14,021 to \$28,638 per year.

Assuming total expenditures are equivalent to total net disposable income, the K-values in the California formula for the largest income range, \$801 to \$6,666, are within this range of percentages. Those K-values are also shown in Exhibit 2-3. There is more discussion about incomes below and above the \$801-to-\$6,666 range later in this chapter.

Exhibit 2-3 Average Percentage of Total Expenditures Devoted to Child Rearing or Average Annual Expenditures on Children					
♦			One Child	Two Children	Three Children
California K-values for Total Net Disposable Income of \$801–\$6,666 per month			25%	40% (1.6 × 25%)	50% (2 × 25%)
Study	Data Source and Data Years	Methodology or Estimator	Percentage of Total Family Expenditures		
van der Gaag (1981) <sup>9</sup>	range of other estimates		About 25% <sup>a</sup>	--	--
Espenshade (1984) <sup>10</sup>	1972–1973 CEX	Engel	24%	41%	51%
Betson (1990) <sup>11</sup>	1980–1986 CEX	Engel	33%	49%	59%
		Rothbarth	25%	37%	44%
Betson (2001) <sup>12</sup>	1996–1999 CEX	Engel	30%	44%	52%
		Rothbarth	25%	35%	41%
		USDA	32%	46%	58%
Florida (2004) <sup>13</sup>	1999–2000 CEX	Engel	22%	38%	53%
USDA (2005)	1990–1992 CEX	USDA	26%	42%	48%
Montana <sup>b</sup> (2002) <sup>14</sup>	2000–2001 \$ converted to 2004 \$	market basket of goods	\$10,013	\$19,477	\$28,638
Virginia <sup>c</sup> (2000) <sup>15</sup>	1997–1998 \$ converted to 2004 \$	average use	\$7,294	\$11,863	\$14,021
USDA <sup>d</sup> (2005) <sup>16</sup>	1990–1992 CEX 2004 \$	USDA	\$12,698	\$20,480	\$23,654

CEX is the Consumer Expenditure Survey conducted by the federal Bureau of Labor Statistics

<sup>a</sup> This is actually a measurement of how much more income is needed by a childless couple to maintain their standard of living when they do have a child. This measurement definition is somewhat different from the other estimates.

<sup>b</sup> Average of “Montana Average” using marginal housing from Tables IV-1 through IV-3, inflated to 2004 price levels using CPI-U.

<sup>c</sup> Average of range of monthly expenditures annualized and inflated to 2004 price levels using CPI-U.

<sup>d</sup> Average of middle income range from Table ES1.

<sup>9</sup> Van der Gaag (1981).

<sup>10</sup> Espenshade (1984).

<sup>11</sup> Betson (1990).

<sup>12</sup> D. Betson, “Chapter 5: Parental Expenditures on Children,” in Judicial Council of Cal., *Review of Statewide Uniform Child Support Guideline 2001*.

<sup>13</sup> T. McCaleb et al., *Review and Update of Florida’s Child Support Guidelines*, Report to the Florida State Legislature, Florida State University Department of Economics, Tallahassee, Florida (2004).

<sup>14</sup> J. Ellestad, A. Steffens, and P. Miller, *The Cost of Raising a Child in Montana*, Report to the Montana Department of Public Health and Human Services Child Support Enforcement Division and U.S. Department of Health and Human Services, Grant #90FD0036, Washington, D.C. (July 2002).

<sup>15</sup> Commonwealth of Virginia Joint Legislative Audit and Review Commission (2000), *Technical Report: The Costs of Raising Children*, Richmond, Virginia (2000); W.M. Rodgers III, *Determining the Level of Child Support*, Report to the Commonwealth of Virginia, Secretary’s Child Support Guideline Review Panel, Richmond, Virginia (2002).

<sup>16</sup> M. Lino, *Expenditures on Children by Families: 2004 Annual Report*, U.S. Department of Agriculture, Center for Nutrition and Policy Promotion, Miscellaneous Publication No. 1528-2004, Washington, D.C. (2005).

## **Variation of the Estimates**

The estimates vary largely due to differences in the methodologies for estimating child-rearing costs. As is discussed later, some methodologies are known to understate actual child-rearing expenditures, whereas others are known to overstate such expenditures. An economic methodology is necessary to separate the child's share from the adults' share of commonly consumed goods (e.g., the electricity used for the home, or a loaf of bread). The most common methodology is a marginal cost approach, which compares expenditures between two equally well-off families: (1) a married couple with children and (2) a married couple of child-rearing age without children. The difference in expenditures between these two families is attributed to child-rearing expenditures.

***Lower and Upper Bounds of the Estimates.*** The most common marginal cost approaches are the Rothbarth and Engel estimators, named for the economists who developed them.<sup>17</sup> They differ in how they define equally well-off households. The Engel methodology relies on food shares, whereas the Rothbarth methodology relies on expenditures for adult goods (specifically, adult clothes in the Rothbarth estimates that form the basis of state guidelines). The U.S. Department of Health and Human Services (DHHS) contracted with the Lewin/ICF group to evaluate independently the estimates of child-rearing expenditures available in 1990 with the specific purpose of providing states with information to use in their guideline reviews.<sup>18</sup> Lewin/ICF concluded that the Rothbarth estimator is the lower bound and the Engel estimator is the upper bound of the range of estimates of child-rearing expenditures. Lewin/ICF recommends that anything between these two estimates is appropriate for state guideline use.

***Data Source and Data Years.*** The years in which the data were collected also vary among studies. For example, Espenshade considered household expenditure data collected in 1972–1973, and the Florida study considered household expenditure data collected in 1999–2000. As is evident in Exhibit 2-3, most of the studies relied on national data—specifically, the Consumer Expenditure Survey (CEX), which is conducted by the Bureau of Labor Statistics (BLS).<sup>19</sup> The CEX is the most comprehensive and detailed survey conducted on expenditures. The CEX surveys more than 7,000 households quarterly on expenditures, income, and household characteristics (e.g., family size). Households remain in the survey for five consecutive quarters with households rotating in and out each quarter. Most economists use three quarters or a year of expenditure data. The BLS designed the CEX to produce a nationally representative

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<sup>17</sup> E. Engel, “Die Productions and Consumtionsverhältnisse des Konigsreichs Sachsen,” *Zeitschrift des Statisticshen Bureaus des Koniglich Sachischen Ministeriums des Innern* 3 (1987); E. Rothbarth, “Appendix 4: Notes on a Method of Determining Equivalent Income for Families of Different Composition,” in *War-Time Pattern of Spending and Saving*, ed. Charles Madge, National Institute for Economic and Social Research (Cambridge, England: Cambridge University Press, 1943).

<sup>18</sup> Lewin/ICF (1990).

<sup>19</sup> Detailed information about the CEX can be found at the BLS Web site: [www.bls.gov](http://www.bls.gov).

sample and samples representative of the four regions (Midwest, Northeast, South, and West). No state has attempted to replicate the CEX.

***Housing Expenses.*** Housing is of particular concern in California because California housing prices, on average, exceed national levels. Although housing expenses are not shown in Exhibit 2-2, several studies indicate that these expenses are the largest expenditure item. For instance, in a 2001 study based on the national data, Betson found that 41 percent of family expenditures are devoted to housing expenses. From the USDA and Montana studies, it can be deduced that housing expenses account for 33 to 37 percent of child-rearing expenditures nationally and 23 to 33 percent of such expenditures in Montana. The CEX, which is the data set used for most studies estimating child-rearing expenditures, defines housing expenses to include rent (or mortgage interest payments and property taxes), utilities, maintenance, cleaning supplies, furniture, and other expenses. The CEX does not include mortgage principal payments; the reasoning is that such payments are not part of current consumption because the home can be sold later.<sup>20</sup>

### **Specific Estimates Shown in Exhibit 2-3**

Brief summaries of the estimates of child-rearing expenditures shown in Exhibit 2-3 are provided below. More detail is provided about these and other estimates in Appendix A.

***Van der Gaag's estimates (1981).*** Van der Gaag, through the Institute for Research on Poverty at the University of Wisconsin, conducted a review of the wide range of estimates of child-rearing costs available to recommend a point estimate for Wisconsin policy makers. In turn, his study was used to develop the Wisconsin child support guidelines, which were also adopted by a few other states (e.g., New York). The architects of the Santa Clara County guideline, which heavily influenced the current California guideline, also relied on van der Gaag's estimates.

***Espenshade's estimates (1984).*** Most states relied on Espenshade's measurements when they first developed child support guidelines in the 1980s because his was the most authoritative study available at the time. It formed the basis of the prototype income shares guidelines developed by the 1984–1987 National Child Support Guidelines Project.<sup>21</sup> Espenshade found that families spend about \$58,000 to \$138,000 (in 1981 dollars, hence over twice as much in 2005 dollars) per child to raise the child to age 18. Espenshade estimated child-rearing expenditures using the Engel methodology applied to

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<sup>20</sup> Nonetheless, the BLS does track mortgage principal payments. The average is about \$2,000 to \$3,000 per year. See Table 5: Consumption of Consumer Unit: Average Annual Expenditures and Characteristics from the 2003 Consumer Expenditure Survey, which is available at [www.bls.gov/cex/2003/Standard/cucomp.pdf](http://www.bls.gov/cex/2003/Standard/cucomp.pdf).

<sup>21</sup> National Center for State Courts (1987).

1972–1973 household expenditure data. Today, a few states still rely on the Espenshade estimates. Most of these states have never updated their guideline schedule.

***Betson’s estimates (1990).*** Betson applied five different methodologies to estimate child-rearing expenditures, including the Rothbarth and Engel methodologies, to 1980–1986 CEX data. He concluded that expenditures estimated using the Rothbarth methodology were the most robust and hence recommended their use. He rejected his estimates using the Engel methodology because they approached implausible levels. Most states updating their guidelines in the mid-1990s relied on the Betson-Rothbarth estimates from this study.

***Virginia studies (2000).*** There were two Virginia studies. The first was conducted in response to a request from the Virginia legislature to examine methodologies to estimate child-rearing costs and the availability of data sets to estimate child-rearing expenditures. The second study applied the methodology used in the first study, then developed an updated child support schedule for Virginia. This schedule failed as legislation. The methodology that was developed is called the “average use” approach. It estimates expenditures for specific commodities (e.g., food, housing, transportation), then adds them together to arrive at a total. The methodology and data for each specific commodity vary.

***Betson estimates (2001).*** Betson updated his 1990 estimates based on the Rothbarth and Engel methodologies using more recent data (1996–1999). The methodologies, assumptions, and computer code were the same as in his 1990 study. Most states that have updated their guidelines in the past four years have relied on the Betson-Rothbarth estimates, which are based on more current data.

***Montana study (2002).*** Montana based its child support guidelines on the Melson formula, which comprises two steps. In the first step, the minimum needs of a child are apportioned to each parent according to that parent’s net income, less a disregarded amount to cover the minimum needs of that parent’s household. In the second step, if the obligor has any income left over after meeting his or her own minimum needs and his or her share of the child’s basic needs, an additional percentage of the obligor’s remaining income is assigned to support. The purpose of the additional support is for the child to share in the lifestyle afforded by the obligor’s income. Montana sought to estimate the cost of meeting a child’s minimum needs in Montana. Researchers extensively surveyed parents and others to determine what items were required to meet a child’s basic needs in Montana (e.g., specific clothing items), then conducted a market basket survey of these items to determine the cost. However, Montana did not use the results of this study to update its guideline formula.

***Florida studies (2002).*** Florida State University professors estimated child-rearing expenditures from 1999–2000 CEX data using the Engel methodology. They then

developed an updated child support schedule that was proposed to the Florida legislature for enactment. The schedule failed to pass.

***U.S. Department of Agriculture (USDA) estimates (2005).*** The USDA estimates child-rearing expenditures for seven expenditure categories individually (i.e., housing, food, transportation, clothing, health care, child care and education, and miscellaneous expenses). The USDA relies on different methodologies and data sources for each expenditure category; however, most of the data are from the 1990–1992 CEX and are updated annually to current price levels. According to Lewin/ICF, the USDA estimates overstate actual child-rearing expenditures because the USDA uses a per capita approach to estimate the child’s housing expenses, which is the largest expenditure item. This approach is assumed to overstate housing expenses because it would assume that the addition of two children to a two-adult household would double housing needs (requiring, e.g., two kitchens and two bathrooms). No state currently bases its guidelines formula on the USDA estimates, with the partial exception of Kansas, which bases its adjustment for age of the child on the USDA findings relating to children’s ages.

### **Adjusting for the Number of Children**

Some of the studies reviewed in Appendix A attempted to estimate the incremental costs associated with an additional child. Still other studies estimated child-rearing expenditures for one-, two-, and three-child families but had an insufficient sample of larger families to estimate expenditures for them. For these studies, the average incremental costs associated with one, two, and three children were calculated. Exhibit 2-4 summarizes the incremental costs of additional children and compares it to the K-value formula in the California guideline.

Exhibit 2-4 suggests the following:

- A second child costs 44 to 95 percent more than a first child, with most estimates falling in the 40- to 70-percent range; and
- A third child costs 16 to 47 percent more than a second child.

The California multipliers to adjust for the number of children for two and three children (60 percent and 25 percent, respectively) are about the midpoints of these ranges.

Few studies calculated the incremental costs of more than four children. The National Research Council actually does not calculate these costs but recommends an equivalence scale formula to adjust for the number of children. The National Research Council amounts shown in Exhibit 2-4 are calculated using their recommended formula.

Another factor to consider when determining whether the California multipliers for four and more children are appropriate is the amount that can be legally withheld from an obligor’s disposable income to pay child support. The Consumer Credit Protection Act

limits income withholding for child support to 50 to 65 percent.<sup>22</sup> The multipliers for a higher number of children bump up to this cap. As a result, the original guideline developers may have lowered the adjustments for 5 to 10 children to keep the order amount more in line with income withholding limits.

<b>Exhibit 2-4 Incremental Costs of Additional Children</b>						
<b>CALIFORNIA GUIDELINE</b>		<b>Second Child</b>	<b>Third Child</b>	<b>Fourth Child</b>	<b>Fifth Child</b>	<b>Sixth Child</b>
<b>Factor by which one-child K-value is multiplied</b>		<b>1.6</b>	<b>2.0</b>	<b>2.3</b>	<b>2.5</b>	<b>2.625</b>
<b>This factor converted to an increment amount</b>		60% more than one child	25% more than two children	15% more than three children	8.7% more than four children	5% more than five children
<b>Study</b>	<b>Methodology or Estimator</b>	<b>Second Child</b>	<b>Third Child</b>	<b>Fourth Child</b>	<b>Fifth Child</b>	<b>Sixth Child</b>
<b>van der Gaag (1981)</b>	range of other estimates	about half as much as one child	equal to the second child	about half as much as the second and third child		
<b>Espenshade (1984)</b>	Engel	71% more than one child	24% more than two children	not available		
<b>Betson (1990)</b>	Engel	46% more than one child	20% more than two children	not available		
	Rothbarth	48% more than one child	19% more than two children	not available		
<b>National Research Council (1995)</b>	equivalence scale	not available		about 12% more than three children	about 10% more than four children	about 9% more than five children
<b>Betson (2001)</b>	Engel	47% more than one child	18% more than two children	not available		
	Rothbarth	40% more than one child	17% more than two children	not available		
	USDA	44% more than one child	26% more than two children	not available		
<b>Montana (2002)</b>	market basket of goods	95% more than one child	47% more than two children	not available		
<b>Virginia (2000)</b>	average use	63% more than one child	18% more than two children	not available		
<b>Florida (2004)</b>	Engel	73% more than one child	40% more than two children	not available		
<b>USDA (2005)</b>	USDA	61% more than one child	16% more than two children	33% more than three children	25% more than four children	20% more than five children

### Other Economic Considerations

As was discussed earlier, the California guideline formula forms the core of the guideline calculation, but additional adjustments are made for low-income obligors and for time-sharing.

<sup>22</sup> Consumer Credit Protection Act, Pub.L. No. 90-321 (May 29, 1968) 82 Stat. 163.

### **Adjustment for Low-Income Obligor**

The California guideline provides a presumptive adjustment for obligors with net disposable income below \$1,000 per month. For the most part, as discussed in greater detail in Appendix A, adjustments in child support guidelines for low-income obligors are established as a matter of policy and do not depend on economic or empirical evidence. However, most states do relate their adjustments to the federal poverty guideline for one person. The current (2005) federal poverty guideline for one person is \$798 in net income per month.<sup>23</sup> If the policy objective is to ensure that the obligor's net income after payment of child support is never less than the poverty guideline, then the maximum order amount would be \$202 per month (\$1,000 minus \$798). Several states use this premise in establishing their low-income adjustment; yet this policy implicitly sets the basic needs of the obligor above that of the child. Family Code section 4053(a) states that a parent's first and principal obligation is to support his or her minor children according to the parent's circumstances and station in life.

### **Time-Sharing Adjustments**

The parameters of adjustments in guideline formulas for time-sharing have also been largely determined as a matter of policy rather than in response to economic evidence. There is a dearth of economic evidence on how parents in shared-parenting situations actually share child-rearing expenditures. What is known from the literature may be summarized as follows:

- *Child-rearing expenses are higher when the child is being raised in two households than they are when the child is being raised in one household.* Most studies recognize that some child-rearing costs are duplicated in both households (e.g., housing, utilities).<sup>24</sup>
- *Some specific child-rearing expenses may decrease with time-sharing, whereas others may not.* Some costs are shifted from household to household with a child (e.g., food, recreation), some costs are not tied to the child's residence or visitation (e.g., medical expenses), and other costs may be avoided as a result of time-sharing (e.g., child care). To illustrate the last point, consider a case in which one parent is able to care for a child during a time when the other parent might otherwise incur child-care costs.<sup>25</sup> Some states have identified which child-rearing expense items can be shifted from household to household and then have used economic evidence (e.g.,

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<sup>23</sup> 70 Fed.Reg. 8373–8375 (Feb. 18, 2005).

<sup>24</sup> For example, M. S. Melli and P. R. Brown, *The Economics of Shared Custody: Developing an Equitable Formula for Dual Residence*, 31 *Houston Law Review* 543 (1994); D. Betson, *Shared Parenting, Visitation, and Child Support*, Work Product of Indiana Judicial Council Review of Child Support Guidelines (2003).

<sup>25</sup> Melli and Brown (1994), 557.

USDA data) on the cost of each of these items to develop time-sharing adjustments.<sup>26</sup>

- *There are nonpecuniary benefits associated with the child.* Generally, it is assumed that both parents want as much time with the child as possible. Yet other studies note that there may be nonmonetary benefits to a custodial parent when the child spends time with the noncustodial parent (e.g., lessened burden of being the primary caretaker, increased opportunities for social activity).<sup>27</sup>
- *There is a risk that parents will bargain time for money.* Some studies suggest that a time-sharing adjustment may lead parents to bargain over time with the children based on effects on financial responsibility for the children.<sup>28</sup> Many states set a threshold for a time-sharing adjustment (e.g., 30 percent of the year). A noncustodial parent may bargain for an additional 5 to 10 days of parenting time with a child to reach that threshold in order to receive a reduction in his or her child support order. Conversely, a custodial parent may try to limit the amount of time a child spends with the noncustodial parent to prevent a reduction in the amount of child support. California’s approach has been praised by Melli and Brown and Miller<sup>29</sup> for preventing this “cliff effect” by providing an adjustment at very low levels of visitation.
- *There is a need to protect the well-being of children in a custodial parent’s household.* Melli and Brown noted that a reduction to support for parenting time should not be made if the reduction would endanger a child’s living standard in the custodial parent’s household.<sup>30</sup> Garfinkel and colleagues commented that finely calibrating all child support obligations to the amount of visitation time would set up the custodial parent with increasingly inadequate amounts of child support because visitation tends to decline over time.<sup>31</sup> As a result, custodial parents would be forced to continually pursue modifications to support orders to reflect changes in visitation patterns.

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<sup>26</sup> A detailed discussion of how shared parenting time adjustments are developed based on the assumption that some child-rearing expenses can be shifted between parents and others cannot is provided in R. Williams, D. Price, and J. Venohr, *Economic Basis for Updated Child Support Schedule*, State of Arizona, Administrative Office of the Courts (1995).

<sup>27</sup> G. P. Miller, *Being There: The Importance of the Present Father in the Design of Child Support Obligations*, Working Paper No. 22, Public Law and Legal Theory Research Paper Series, New York University School of Law (July 2000).

<sup>28</sup> Melli and Brown (1994); W. V. Fabricius and S. L. Braver, *Non-Child Support Expenditures on Children by Nonresidential Divorced Fathers: Results of a Study*, 41 *Family Court Review* 321–336 (2003); I. Garfinkel, S. McLanahan, and J. Wallerstein, *Visitation and Child Support Guidelines: A Comment on Fabricius and Braver*, 42 *Family Court Review* 342–349 (2004).

<sup>29</sup> Melli and Brown (1994); Miller (2000).

<sup>30</sup> Melli and Brown (1994).

<sup>31</sup> Garfinkel et al. (2004).

### **Savings, Current Expenditures, and Income**

Exhibit 2-3 compares the estimated percentage of total family expenditures devoted to child-rearing expenditures from a range of studies to the K-values of the California guideline formula for total net disposable monthly incomes of \$801 to \$6,666 per month. This comparison implicitly assumes that total family expenditures and total net disposable income are equal—that is, families spend no more and no less than their net disposable income. The in-depth analysis provided in Appendix B shows that this assumption is not accurate. The analysis provides evidence based on national data (specifically, the CEX, which is the data most often used to develop estimates of child-rearing expenditures) that suggests that families with real after-tax incomes below about \$35,000 per year spend more than their incomes and families with real after-tax incomes above about \$45,000 per year spend less than their incomes (see Table B-3 in Appendix B). If the policy objective in calculating support is to replicate child-rearing expenditures in intact families, the following changes would be appropriate:

- The K-values in the California guideline formula should be adjusted upward for total net disposable incomes below about \$35,000 per year (about \$3,000 per month) to account for the likelihood that more is being spent than what is earned; and
- The K-values in the California guideline formula should be adjusted downward for total net disposable incomes above \$45,000 per year (about \$3,750 per month) to account for the likelihood that less is being spent than what is earned.

Yet another policy objective comes into play for incomes below \$35,000 per year, specifically that an adjustment for low-income obligors suggests lower K-values in this income range. This policy objective negates the application of the economic evidence at lower incomes.

For total net disposable incomes above \$6,666 per month, the K-values in the California formula are actually lower. This trend is consistent with national evidence showing that a smaller proportion of real after-tax income is devoted to family expenditures at this income level.

A secondary question may be how well the decreases in the K-values in the California formula track the national evidence on the ratio of expenditures to net income. The K-value for total net disposable income per month of \$6,667 to \$10,000 per month is  $0.10 + \$1,000/TN$ , which translates into a K-value of 20 percent for \$10,000 per month in net income. Information from Appendix B (Table B-3) about the average ratio of

expenditures to net income at this range suggests that the more appropriate value may be 15 percent for \$10,000 per month in total net disposable income.<sup>32</sup>

This information suggests that an adjustment to the K-values or income ranges in the California guideline formula would be appropriate. However, there are several caveats:

- The California guideline provides that the guideline shall “ensure that children actually receive fair, timely, and sufficient support reflecting the state’s high standard of living and high costs of raising children compared to other states” (Fam. Code, § 4053 (l)). This provision could be interpreted to require California percentages to be higher than national percentages, particularly because of relatively high housing expenses in California, which may cause higher-income California families to spend more of their income than the national data indicate. (Unfortunately, there are no California data to conduct the same level of analysis found in Appendix B.) As a result, an adjustment to the K-values or income ranges is probably not appropriate.
- As is discussed in more detail in Appendix B, the regression results in Appendix B are a better adjustment for the ratio of expenditures to net income. Applying these regression results will result in somewhat different values.
- Parents’ savings (or lack of savings) for their children’s college education or for other expenditures that the parents intend to make on their children’s behalf once they become adults are not considered in the California percentages. As a consequence, it may be that no adjustment is warranted.

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<sup>32</sup> Table B-3 shows that the ratio of spending to net income averaged 59.4 percent for \$10,000 monthly net income (\$120,000 annually) in 2000 to 2003. This ratio (59.4 percent) is multiplied by 25 percent (the K-value in the California guideline formula for \$801 to \$6,666 net monthly income) to arrive at 15 percent ( $0.594 \times 25 \text{ percent} = 0.1485$ ).

## Chapter 3

### Guideline Application and Deviation: A Review of the Case Files

#### Overview

This chapter summarizes an analysis of a case file review of recently established or modified child support orders. The first section provides an overview of the sampling and data collection methodologies. A more detailed discussion of the methodology is included in Appendix C. The next section of this chapter summarizes findings from the analysis of case files reviewed. The specific topics are as follows:

- Guideline deviations;
- Application of permissible adjustments;
- Gender of the parents;
- Income of the parents;
- Presumed and imputed income;
- Newly established and modified orders;
- Defaults, stipulations, and contested hearings;
- Use of attorneys;
- Order amounts and children covered; and
- Time-sharing arrangements.

The chapter concludes with a brief discussion about limitations of the analysis.

#### Sampling and Data Collection

Sampling and data collection for purposes of the review involved several variables: the counties sampled, the methodology for selecting cases, sample size, and the methodology for collecting the data. A brief description of each of these variables is provided below.

#### **Sampled Counties**

There is no accurate statewide count, list, or central depository of recently established or modified child support orders.<sup>33</sup> However, each individual county generally keeps this information for the county in one form or another. As a consequence, county-specific records must be relied on to collect case file data for review of the child support guideline. Because there are 58 counties in California and collection of the data requires physical examination of each court case file, sampling from every California county would be an insurmountably time-consuming task. Instead, a subset of counties has been

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<sup>33</sup> A partial exception is the California Case Registry (CCR), which is explained in Appendix C.

sampled. The two previous California guideline reviews relied on the same approach. This approach is consistent with what is known as “cluster sampling” in statistics, which is limited to a few geographical regions but still captures a sample representative of a larger geographical region.

Fortunately, the same 11 counties that participated in the 2001 and 1998 case file reviews agreed to participate in the 2005 case file review. The participation of the same 11 counties makes it easier to compare the results of this case file review with those of previous case file reviews. The participating counties represent a range of large, medium, and small counties in California and a variety of sociodemographic factors underlying family conditions in California. These factors include county population, regional density (urban, suburban, or rural), geographic location, relative wealth, and total number of child support cases. Appendix C contains more information about the sociodemographic characteristics of these counties relative to the state as a whole. In Exhibit 3-1, the counties in which case files were sampled are highlighted.

### **Sampled Cases**

There are no reliable statistics on the proportion of child support cases that involve the federal/state child support enforcement program commonly known as the “IV-D program” (because of its enactment as part D to title IV of the Social Security Act) and non-IV-D cases. Therefore, the sample targeted an equal split between IV-D cases and non-IV-D cases.

In all but one county, lists of cases in which child support was an issue were generated from court calendars for the period January through December 31, 2004. Samples of cases for review were drawn randomly from these lists. In the remaining county, child support issues could not be identified in the non-IV-D family law calendar. Therefore, a comparable list of cases in which wage assignment was the identified issue was the source of cases selected for review.

The sample excluded interstate cases in which a child support order was not established by a California court, thus limiting the sample to orders subject to the California child support guideline. The sample also excluded cases in which child support was ordered as part of a family support order but the child support order portion was not identified separately. Also excluded were case files that were missing information needed to assess how the guideline was applied, such as a child support order amount.

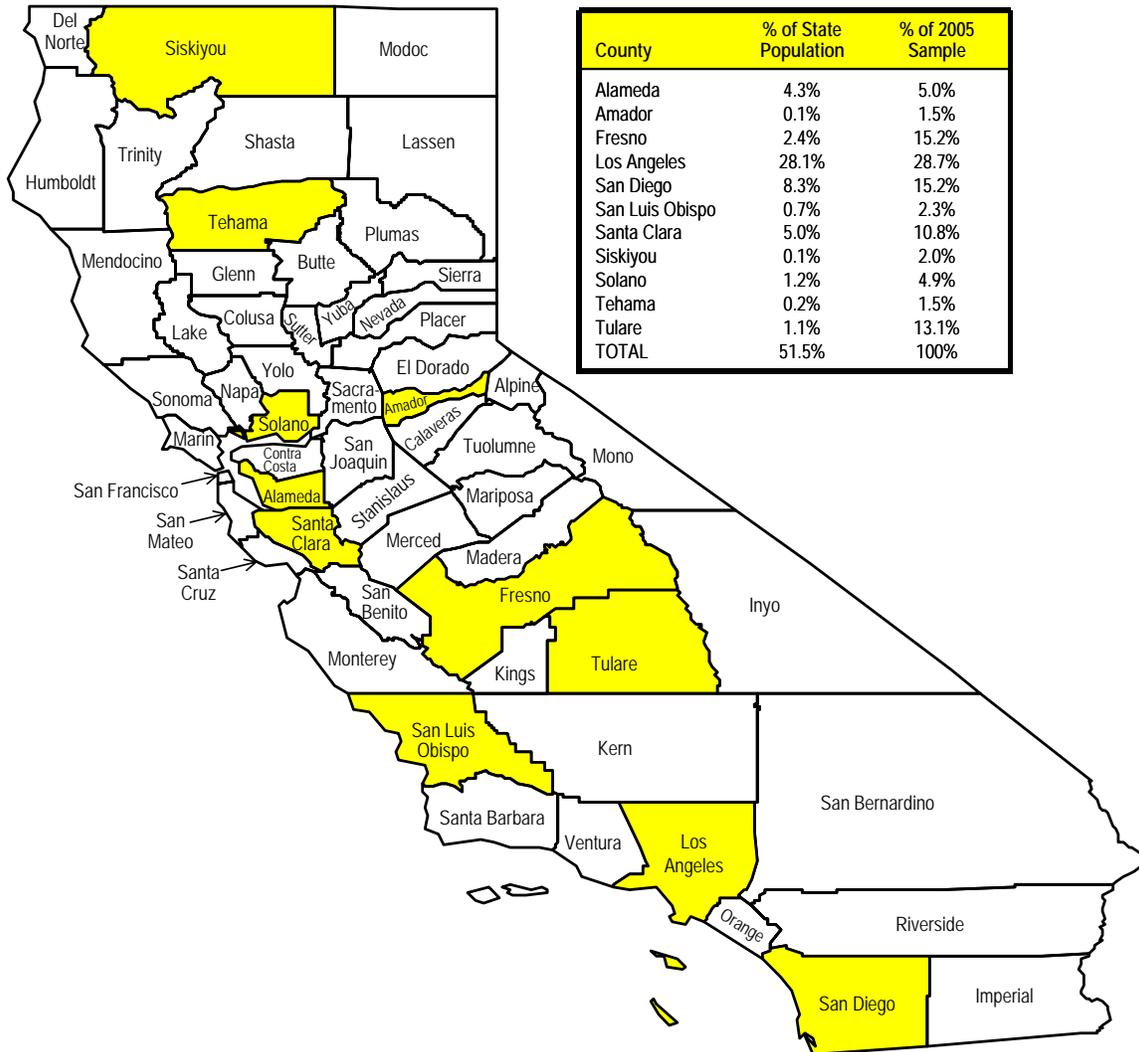
### **Sample Size**

The 2005 review targeted 1,000 cases, which is the same number targeted for the 2001 review. A sample size of 1,000 orders was selected as adequate to estimate how frequently actual child support order amounts differ from amounts that would have been

established by use of the guideline.<sup>34</sup> The targeted sample size was apportioned to each county according to each sampled county's population, with some oversampling to account for the possibility that the files of all randomly selected cases might not be available for viewing or that the order might not have been disposed.

The targeted sample size was surpassed. Collection instruments were completed for more than 1,150 orders, although some of the orders did not meet the sampling criteria. Reserved orders were generally excluded from the analysis. (The special issue of reserved orders is discussed later in this chapter.) Remaining for the analysis were 1,102 cases.

**Exhibit 3-1  
2005 Study Counties**



<sup>34</sup> At a 95 percent level of confidence, a sample size of 1,000 orders will yield estimates of the deviation rate that are within a maximum of 3.1 percent, plus or minus, of the observed rate.

### **Data Collection Methodology**

The AOC staff used substantially the same data collection instrument (included in Appendix C) used in the two previous guideline studies. Attorneys who contract with courts to provide family law facilitator services were recruited to abstract data from case files. Several family law facilitators assisted with the study. Family law facilitators are part of the California Child Support Commissioner System developed in 1997 that streamlined the child support process for IV-D cases; helped to dispose of cases more effectively and in a timely manner; and made the process more accessible to families, more uniform, and more cost-effective.<sup>35</sup> Family law facilitators contribute by providing family law information, education, and assistance in completing forms and preparing guideline calculations for unrepresented parents. The parent may be the custodial or noncustodial parent.

Family law facilitators are very familiar with documentation of legal proceedings and other information in family law case files, which can be voluminous. Case files may contain complaints, summonses, notices, documentation of service of process, financial statements, proof of income, orders for support, orders for income withholding, printouts of guidelines calculations, and other pertinent information. AOC staff trained the family law facilitators in how to use this information to complete the data collection instrument. The training was conducted individually and in a group setting.

Family law facilitators collected data in a county other than the county where they worked. Because the data collection phase of the study was short and intensive, data collection was supplemented by AOC legal staff, law student interns, and research staff when the family law facilitators were already committed to collecting data in other counties. All received the same comprehensive training in data collection as the family law facilitators had.

### **Review of Preliminary Results With Commissioners**

The preliminary results were reviewed with child support commissioners from the counties involved in the case review to help interpret and validate the results from the analysis of the case files. Project staff shared preliminary results during a focused discussion group and compared the results of this case file analysis with those of the 2001 case file analysis. Commissioners were asked to explain trends that were evident in the comparisons. Project staff also conducted telephone interviews with commissioners who could not attend the discussion group.

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<sup>35</sup> More information about family law facilitators and the child support commissioner system can be found in Judicial Council of Cal., *California's Child Support Commissioner System: An Evaluation of the First Two Years of the Program* (May 2000).

## Findings From the Case File Review

### **Guideline Deviations and Application**

One of the major reasons for conducting the case file review is to determine whether the guideline is being applied and the frequency of deviation from the guideline. Family Code section 4057 provides that the amount of child support determined by the guideline formula is presumed to be the correct amount of child support to be ordered. Family Code section 4057 also provides that the presumption may be rebutted by admissible evidence showing that the application of the guideline formula would be unjust or inappropriate because one or more of the following factors is found to be applicable by a preponderance of the evidence:

- The parties have stipulated to a different amount.<sup>36</sup>
- The sale of the family residence is deferred and the rental value of the residence where the children live exceeds mortgage, homeowner's insurance, and property tax payments on the family residence.
- The obligor has extraordinarily high income, and the formula results in an amount that exceeds the child's needs.
- One of the parties is not contributing to the children's needs at a level commensurate with the party's custodial time.
- Application of the formula would be unjust or inappropriate due to special circumstances including but not limited to the following:
  - ✓ different time-sharing arrangements for different children;
  - ✓ almost equal time-sharing, but spending by one parent of a disproportionate share of his or her income on housing relative to the other parent's housing costs; and
  - ✓ children's medical or other special needs.

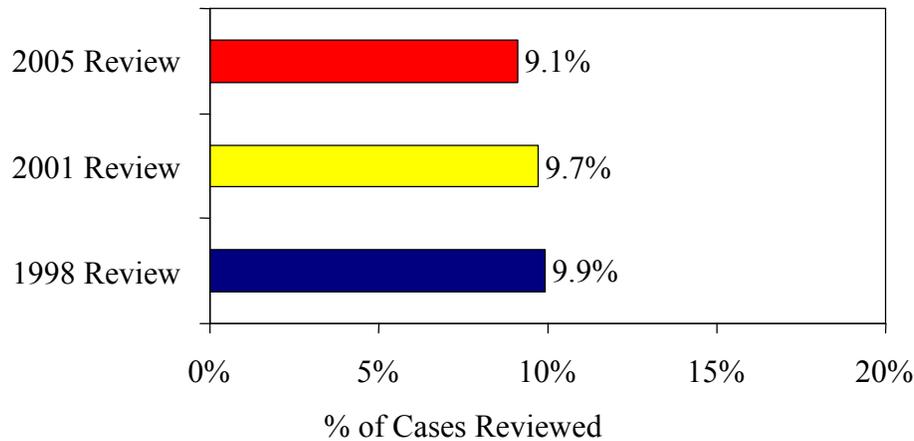
Further, Family Code sections 4056 and 4057 provide that if a court makes a finding that rebuts the guideline formula, the finding shall be stated in writing or on the record.

Exhibit 3-2 displays the percentage of reviewed cases in which a deviation was noted in the current study (9.1 percent) as well as in the previous two studies. Exhibit 3-2 shows that there has been little change in the deviation rate in California over the past several years.

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<sup>36</sup> As a matter of policy, courts encourage litigants to work out agreements in legal matters. In assessing the application of the child support guideline, this study is concerned primarily with court-ordered deviations, rather than non-guideline child support orders agreed to by the parties. Even with orders entered by stipulation, a court must find that parents have recited a waiver if the agreed amount is below the guideline formula amount. Among other things, the waiver states that the parties have been informed of the guideline amount, that they agree voluntarily to the amount in the order, and that the needs of the children will be adequately met by the agreed amount (Fam. Code, § 4065). In addition, there are limitations to stipulations in governmental cases.

**Exhibit 3-2**  
**Percentage of Orders in which a Deviation Is Noted**



The deviation rates in California from the past three reviews, which range from 9.1 to 9.9 percent, are less than the rate reported from a national study (17 percent). Moreover, California’s deviation rate is less than or close to the rate in many other states that have conducted recent studies (see Exhibit 3-3 for a comparison). It should be noted that the national study shown in Exhibit 3-3 was conducted in 1995, was limited to 21 counties spanning 11 states, and has not been updated.<sup>37</sup> The states that are shown in Exhibit 3-3 have all conducted their case file reviews in the past five years.<sup>38</sup>

<sup>37</sup> CSR, Incorporated, with American Bar Association, *Evaluation of Child Support Guidelines, Volume I: Findings and Conclusions*, Report to the Federal Office of Child Support Enforcement, Washington, D.C. (March 1996).

<sup>38</sup> State of West Virginia, Bureau of Child Support Enforcement, *Summary of Family Court Judge Compliance with Income Shares Formula* (2004); Policy Studies Inc., *Findings from Child Support Order Case File Reviews*, submitted to the State of New Jersey Administrative Office of the Courts (2004); K. Stirling, Professor of Economics, University of Puget Sound, *A Review of the Washington State Child Support Schedule*, Report to Washington State Division of Child Support (2003); Policy Studies Inc., *Pennsylvania Child Support Guidelines Review and Deviation Study*, submitted to the Pennsylvania Bureau of Child Support Enforcement (2003); Ohio Department of Job and Family Services, *Report to the Child Support Guidelines Council* (2003); Policy Studies Inc., *Preliminary Findings of a Case File Review*, submitted to the District of Columbia Office of Corporation Counsel, Child Support Enforcement Division (2003); Policy Studies Inc., *Arizona Child Support Guidelines, Findings from a Case File Review*, submitted to the Supreme Court of Arizona, Administrative Office of the Courts (2003); J. Beld, *Child Support Enforcement Division, Child Support Guidelines Review: Case Data Analysis Final Report*, prepared for the Minnesota Department of Human Services (2001).

**Exhibit 3-3**  
**Deviation Rates in Other State Case File Reviews**

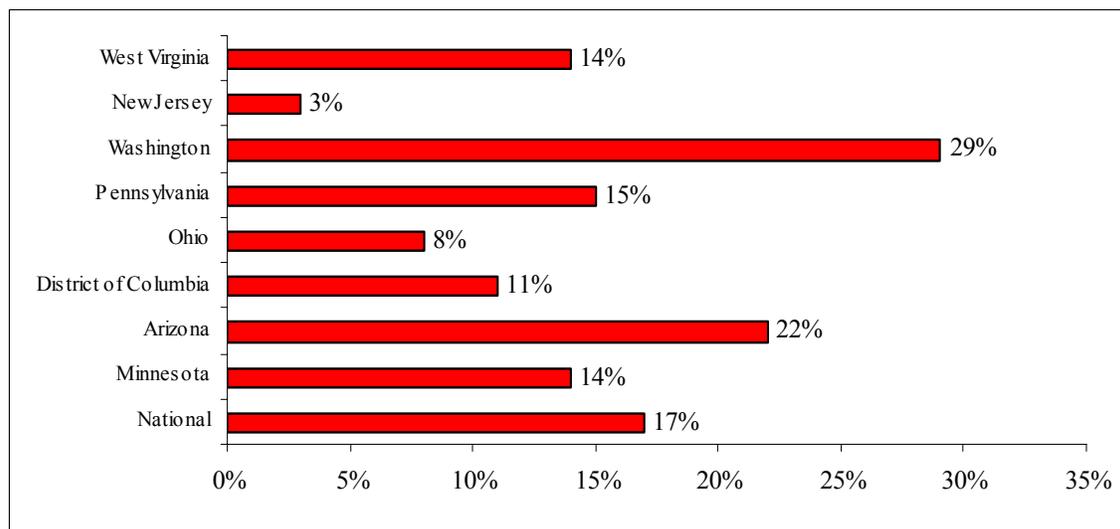
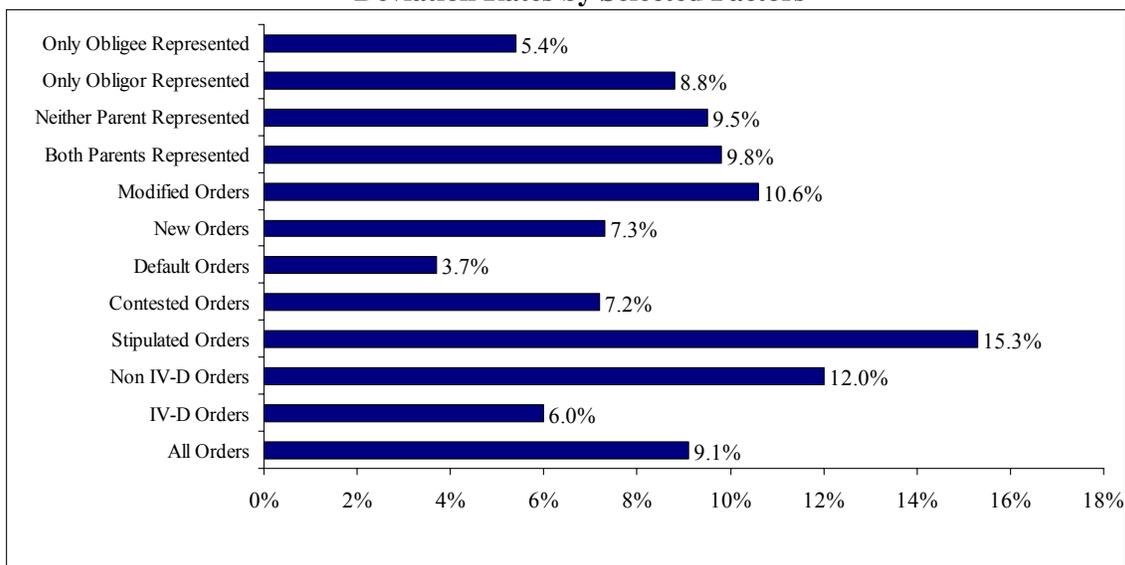


Exhibit 3-4 shows the guideline deviation rate in the 2005 review for a range of factors: representation by an attorney; the status of the order as either newly established or modified; the method used to enter the order (i.e., stipulation, default, or contested hearing); and the IV-D status of the order.

*Attorney representation.* The deviation rate did not vary significantly based on representation of the parties by an attorney. The deviation rate was the lowest (5.4 percent) when the obligee was the only attorney-represented party, and the deviation rate was the highest (9.8 percent) when both parties had attorney representation. This difference was not statistically significant. The small variation in deviation rates suggests that (1) representation has little impact on whether a deviation is entered, and (2) the guideline is usually followed, regardless of attorney representation.

*Newly established and modified orders.* The deviation rates were 7.3 and 10.6 percent for newly established and modified orders, respectively. The deviation rate for modified orders may be higher because such cases involve more experience with the current order and knowledge of why the current order is inappropriate for a particular case, but this difference is not statistically significant.

**Exhibit 3-4  
Findings from 2005 Case Files  
Deviation Rates by Selected Factors**



*Order entry method.* The deviation rate was lowest among orders entered through default (3.7 percent) and higher among orders entered through stipulation (15.3 percent) and contested hearing (7.2 percent). The difference is statistically significant. Default orders are likely to contain less information than other orders because the noncustodial parent does not provide information through a response or court appearance. This limited information is likely to be insufficient evidence to support a deviation. The higher deviation rate in stipulated orders is expected given that Family Code section 4057 provides that a deviation is permissible if the parents agree to an order amount. Yet in doing so, Family Code section 4065 requires that a stipulation below the guideline amount can be approved by a court only if the parties are fully informed of their rights and have not been coerced or placed under duress in agreeing to the stipulation; if the agreement is in the best interest of the children involved; and if the needs of the children will be met by the stipulated amount.

*IV-D status.* The deviation rate is lower among IV-D orders than it is among non-IV-D orders (6 percent and 12 percent among IV-D and non-IV-D orders, respectively). This difference is statistically significant. Deviations in IV-D orders may be lower because Family Code section 4065(c) limits stipulations in IV-D CalWORKS cases.

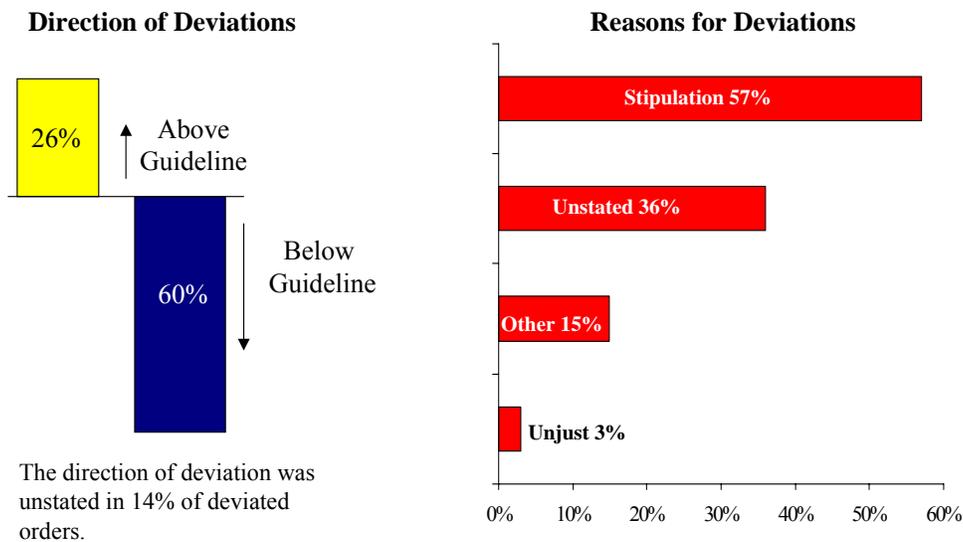
### **Direction and Reasons for Deviations**

As shown in Exhibit 3-5, the majority (60 percent) of deviations are downward—that is, the amount ordered is less than the amount calculated by the guideline. The amount of the deviation averaged 30 percent of the guideline amount in downward deviations and 34 percent of the guideline amount in upward deviations. Exhibit 3-5 also displays the reasons for deviation from the guideline. In the majority of deviations (57 percent), the

reason for deviation from the guideline was a stipulation between the parties. (Among these orders, 55 percent involved downward deviations; 26 percent involved upward deviations; and in the remaining 19 percent, the direction of the deviation was unstated.)

The reason for the deviation was unstated in the case file in 36 percent of the deviations. That the guideline amount would be unjust or inappropriate was indicated in 3 percent of deviations, and other reasons were noted in 15 percent of deviations. No specific “other” reason was noted in more than 1 percent of the cases with deviations.

**Exhibit 3-5  
Findings from 2005 Case Files  
Direction and Reasons for Deviations**



Commissioners in the study counties concurred that more deviations are downward than upward. In fact, some commissioners were hard-pressed to think of instances in which they would order support in an amount above the guideline amount. However, after contemplation, the commissioners agreed that there have been circumstances (e.g., the special needs of a child) in which they found that a deviation above the guideline was warranted. The commissioners, however, tend to hear low-income cases.

**Application of Permissible Adjustments**

Exhibit 3-6 compares the application of permissible adjustments to a parent’s income between the 2001 and 2005 reviews. Such adjustments include hardship deductions under Family Code section 4070 and adjustments to a parent’s income for child support paid in other cases for children who are not living in the parent’s home or for spousal support paid (Fam. Code, § 4059(e)).

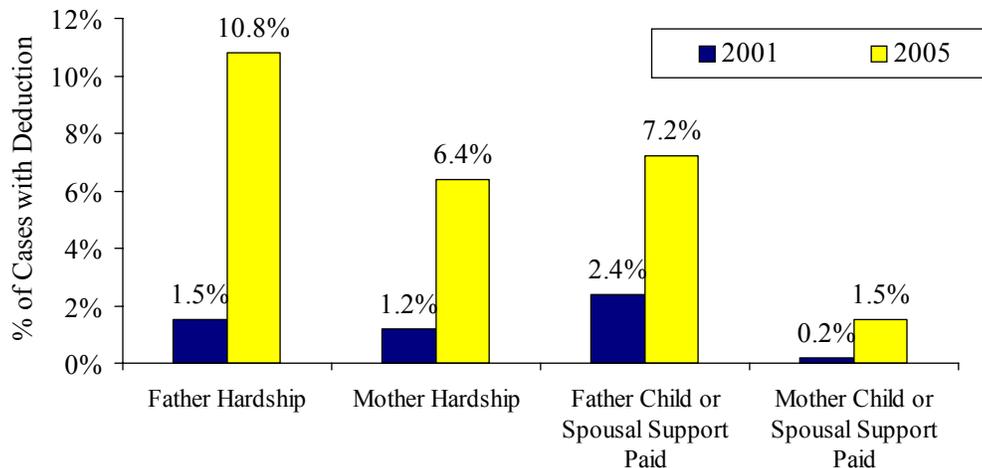
## Hardship Deductions

A deduction for financial hardship from a parent's income is permissible under Family Code section 4070. Further, Family Code section 4071 enumerates the following circumstances under which a hardship deduction may be permitted:

- Extraordinary health expenses for which the parent is financially responsible;
- Uninsured catastrophic losses; and
- The minimum basic living expenses of natural or adopted children whom the parent has the obligation to support from other marriages or relationships who reside with the parent.

As is evident in Exhibit 3-6, a hardship deduction was noted in the 2005 case files for 6.4 percent of mothers and 10.8 percent of fathers. The circumstance underlying the hardship deduction could not always be identified in the case file, but commissioners from the study counties said that they apply it more often as a result of other children's residing with the parent than as a result of the other circumstances that permit a hardship deduction (e.g., extraordinary health expenses). Also evident in Exhibit 3-6 is that the application of the hardship deduction has significantly increased from 2001 to 2005. For example, the hardship deduction was applied only to 1.5 percent of the fathers in 2001 but to 10.8 percent of the fathers in 2005. Commissioners from the study counties attribute this increase to more parents' having multiple families or at least to increased court awareness of the existence of multiple families.

**Exhibit 3-6**  
**Hardship Deductions and Deductions for**  
**Child or Spousal Support Paid**



Hardship deductions were noted more frequently in IV-D cases (8.2 percent of mothers and 18.5 percent of fathers) than in non-IV-D cases (4.6 percent of mothers and 3.5

percent of fathers). Similarly, hardship deductions were noted more often in modified orders (9.3 percent of mothers and 17.5 percent of fathers) than in newly established orders (3.6 percent of mothers and 4.3 percent of fathers).

Commissioners from the study counties suggested that a hardship deduction for additional children may not be consistently applied. One reason some commissioners gave is their belief that parents with relatively high incomes can afford additional dependents, so they do not present a “hardship” (in the literal sense) to that parent. In these cases, a commissioner may require the party to provide evidence of a hardship. Family Code section 4071 (a)(2) gives courts discretion whether or not to allow a hardship deduction for additional children.

### **Child and Spousal Support Paid**

As is illustrated in Exhibit 3-6, a deduction from income for child or spousal support paid under Family Code section 4071 was noted for 1.5 percent of mothers and 7.2 percent of fathers in 2005. These numbers are statistically greater than the percentages of mothers and fathers with deductions from income under this provision in 2001.

Data about whether the deduction was for child or spousal support paid were not systematically captured. However, where the data were recorded, the deduction was made more often for child support paid than for spousal support paid. This deduction was applied more frequently for fathers in IV-D cases (11.4 percent) than in non-IV-D cases (3.2 percent) and more frequently in modified orders than in newly established orders (10.1 percent and 4.7 percent, respectively). For mothers, the deduction was noted in about 1.5 percent of cases, regardless of IV-D status or whether the order was new or modified .

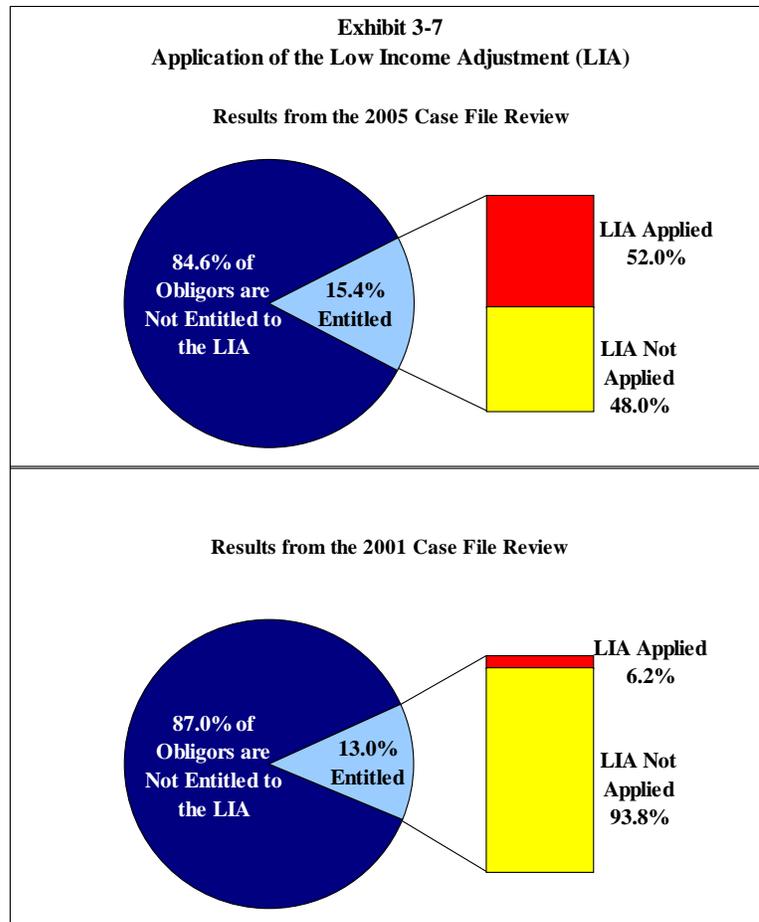
### **Low-Income Adjustment**

Exhibit 3-7 examines the application of the low-income adjustment (LIA) provided in the guideline (Fam. Code, § 4055(b)(7)). It also compares the 2001 and 2005 case file reviews as to application of the LIA. As was noted earlier, the LIA provision changed between the two reviews. Prior to a 2003 amendment, the statute provided that a court would rule whether a low-income adjustment would be made, but the adjustment was not a rebuttable presumption. The statute was amended so that it is now a rebuttable presumption that an obligor with net monthly income below \$1,000 is entitled to the LIA.

Exhibit 3-7 shows that, in 2005, according to information in the case file, 15.4 percent of the obligors with known income were eligible for the LIA. In 2001, 13.0 percent of obligors with known income information were eligible. The increase in the percentage of eligible obligors was not statistically significant.

Exhibit 3-7 also shows that the LIA was applied more often in 2005 than in 2001. It was applied among 52.0 percent of the eligible cases in 2005, as compared to 6.2 percent of

the eligible cases in the 2001 review. The increase is statistically significant. Commissioners from the study counties attribute the increase in the application of the LIA to the change in the guideline provision. They also suggested that the LIA is probably applied more often than is indicated in the case files. The guideline provides that in determining whether the presumption is rebutted a court should consider the potential impact of the LIA on the net incomes of the obligor and the obligee. Some of the commissioners acknowledged that they did not apply the LIA in a few cases in which an obligor had the ability to pay the unadjusted support amount and there was little income in the obligee household (e.g., the obligor worked, but there was evidence that he or she had no living expenses). These decisions were made in the best interest of the child.



The average order amount in cases in which the LIA was applied was \$148 per month for one child, \$208 per month for two children, and \$196 per month for three children. Most (87 percent) of the cases in which the LIA was applied covered one or two children. By comparison, the guideline amount for an obligor with \$1,000 net monthly income would be \$250 for one child, \$400 for two children, and \$500 for three children. A few commissioners from the study counties thought order amounts still exceeded what low-income obligors could reasonably pay. Even more commissioners thought that the \$1,000 threshold should be increased or at least indexed.

### **Additional Child Support**

Under Family Code section 4062, additional child support is to be ordered for employment-related child-care costs and children’s reasonable uninsured health-care costs. Further, a court may order additional support for costs related to the educational or other special needs of children as well as travel expenses for visitation.

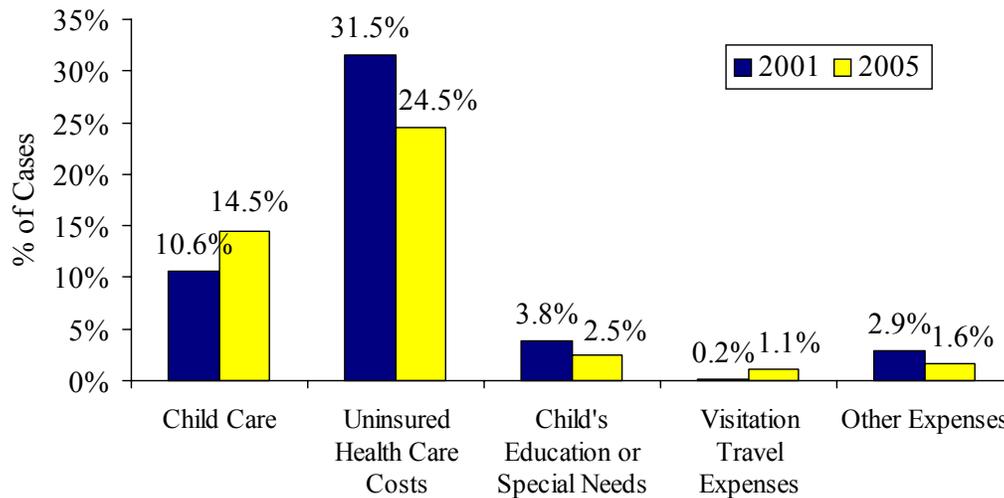
Exhibit 3-8 displays the frequency of orders for additional support. In the 2005 review, additional support was ordered for child-care expenses more frequently than in the 2001 review (14.5 percent of cases and 10.6 percent of cases, respectively). In contrast, fewer cases covered uninsured health-care expenses in the 2005 review than in the 2001 review. In the previous review, almost a third (31.5 percent) of the cases included orders for uninsured health-care expenses, whereas in 2005 about a quarter (24.5 percent) of cases covered uninsured medical expenses.

Family Code section 4061 provides that the parents are each ordered to pay one-half (50 percent) of additional support. It does not, however, specify whether the additional support is to be added to base support, whether the parent who incurred the expense is to be paid directly by the other parent, or whether the parents are to pay the provider directly. Family Code section 4061 also allows for additional support to be prorated between the parents based on each parent's share of combined income if requested by either parent and approved by the court.

In about two-thirds of the orders for additional support for child care, the order was specified as a percentage, and in all but one of these cases child care was split equally (50 percent each) between the parents. In the remaining orders for additional support for child care, the order was specified as a dollar amount. Fixed dollar-amount orders are easier to enforce because they do not require knowledge of both the percentage and the dollars actually expended for child care to determine what is due. In governmental cases, the title IV-D agency is authorized to enforce fixed dollar-amount orders only.

In only a few cases the additional support was added to base support. It was not clear whether both parents paid the provider directly or whether the parent incurring the expense received the payment from the other parent directly. Commissioners from the study counties said that they typically ordered parents to pay the parent incurring the expense. They recognized that the problem with this approach is that if the parent does not pay, the other parent may not be able to cover the expense. They also recognized that including the additional support in the order could require an order modification if child-care expenses were to change later.

**Exhibit 3-8  
Orders for Additional Support**



The percentage of orders with additional support for child-care expenses in California appears low relative to those percentages in other states. For example, in Arizona and Pennsylvania, 35 and 22 percent of support orders consider child-care expenses.<sup>39</sup> Similarly, the percentage of orders with additional support for uninsured health-care costs appears low. When the commissioners from the study counties were asked about these differences, some said that they ordered additional support for child care only if it was specified in the complaint; often no such request was made. Others suggested that because of child-care subsidies and the use of relatives for child care, fewer low-income parents incurred child-care expenses. Still other commissioners attributed the variation to the difference between newly established and modified orders. The provision may already exist in an order that is being modified and may not be addressed again in the modification of the basic obligation. Child care was ordered as additional support more frequently in new orders (16 percent) than in modified orders (11 percent). This difference is statistically significant.

Another issue of concern is different treatment of child-care expenses by the California guideline relative to treatment of those expenses by other state guidelines. There are at least two differences. First, in California (Fam. Code, § 4061(a)), each parent is responsible for one-half of child-care expenses, unless either parent requests a different apportionment. In most other states, the obligor's prorated share of child-care expenses—and the child's share of a health insurance premium—are added to the base amount of child support. If the obligor pays the provider directly, then the obligor receives a credit against the child support amount for the obligee's share of expenses. Second, Family

<sup>39</sup> Policy Studies Inc., *Pennsylvania Child Support Guidelines Review and Deviation Study* (2003); Policy Studies Inc., *Arizona Child Support Guidelines, Findings from a Case File Review* (2003).

Code section 4063 assumes that the parent who does not incur an expense (e.g., child-care expense or another permissible expense) will directly reimburse the parent or provider. In contrast, most child support guidelines adjust the base order amount to account for these additional expenses; hence, there is one lump sum for child support.

### Health Insurance Premiums

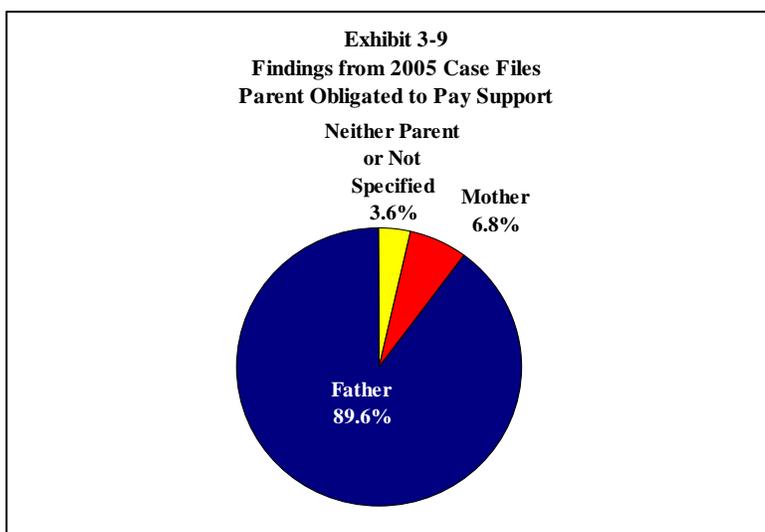
In California, a child’s health insurance premium is not considered additional support. Rather, the premium is deducted from the parent’s gross income. Specifically, Family Code section 4059(d) provides that health insurance premiums for the parent and for any children the parent has an obligation to support are deducted from that parent’s gross income. In contrast, most state guidelines prorate the child’s share of the health insurance premium between the parents and add it to base support, similarly to the way most state guidelines treat child-care expenses, as described earlier. The child’s share of the health insurance premium is typically determined by dividing the premium costs by the number of persons covered by the policy or by calculating the difference between the cost of premiums for employee-only and family coverage.

The current California approach places a greater burden on the parent paying the child’s health insurance premium when health insurance costs increase. This burden is discussed and illustrated more fully in Appendix E.

### Gender of the Parents

Under the California guideline, determining which parent is the obligor is a function of the parents’ relative incomes and the amount of time they each spend with the children. The calculation of support may result in a higher-income parent’s becoming the obligor even if that parent is the primary custodian of the children.

Exhibit 3-9 shows that the father is the parent obligated to pay support in the majority of cases (89.6 percent). The mother is the parent obligated to pay support in 6.8 percent of the cases, and in the remaining cases (3.6 percent), neither parent is obligated (i.e., support is set at \$0) or the obligated parent is not specified in the case file. National statistics indicate that 84 percent of custodial parents are mothers.<sup>40</sup>



<sup>40</sup> U.S. Census Bureau, *Custodial Mothers and Fathers and Their Child Support: 2001, Current Population Reports, P60–225* (2003).

The commissioners from the study counties also reported that they were seeing more cases in which the mother was the obligor, particularly because of an increase in foster care cases. Some of the cases in the review were foster care cases (1 percent). This proportion is likely to be understated because foster care status was not systematically collected by all the data collectors. According to the commissioners, counties vary in whether they order child support in foster care cases. Some of the variation may be specific to the circumstances of a foster care case (e.g., whether or not the plan is to reunite the children with the parent(s) and whether or not the case is a IV-E case).<sup>41</sup>

### **Income of the Parents**

The actual incomes (gross or net) of both parents were provided in 64 percent of the 2005 case files. Most of the cases in which at least one parent's income was missing were IV-D defaults or non-IV-D stipulations. The obligor's income was missing in 35 percent of IV-D default orders. In default orders, the obligor might not have provided income information; possibly, the local child support agency could not discover the obligor's income information from its sources, including the National Directory of New Hires, which tracks quarterly wage data and unemployment insurance claims from all states and quarterly wage data from several federal agencies. One or both parents' incomes were missing in 41 percent of non-IV-D stipulations.

### **Use of Gross Income in Guideline Calculation**

Although the California guideline formula is based on net income, most commissioners (and other guideline users) start with gross income in the calculation of support. This approach is consistent with Family Code section 4059, which provides for how annual net disposable income of each parent shall be computed from his or her gross income. Commissioners from the study counties generally find that starting from gross income results in a more accurate calculation and one more consistent with Family Code section 4059 than does use of after-tax income information from sources such as a parent's paycheck stub. In fact, most commissioners use an automated child support calculator that starts from gross income and then calculates the parent's annual net disposable income and the amount of child support in accordance with Family Code section 4059. There are consequences to this approach. The first consequence is that what is noted in the case file is a parent's gross income, not always the net income used to calculate the guideline amount. Inclusion of the printout generated by the automated guideline calculator in the case file would show how the net disposable income and thus the basis for the award were determined. The second consequence is that some low-income parents showed more net disposable income than gross income. For example, 18 percent of obligees with known income had more net disposable income than gross income. The average gross income among these obligees was \$1,257 per month.

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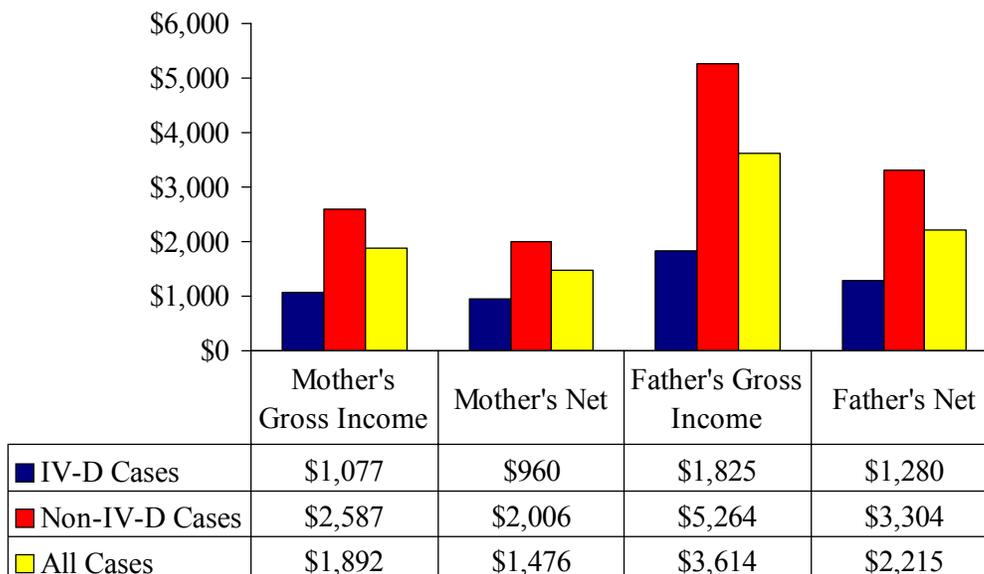
<sup>41</sup> The foster care program under part E to title IV (IV-E) of the Social Security Act is a permanent entitlement that provides federal funding to states for the costs of maintaining certain children in foster care.

Commissioners suggested that this outcome was likely because the federal earned income tax credit was applied in these cases. Interestingly, some of the commissioners also noted that an obligor might also be eligible for the earned income tax credit. However, there was only a small percentage (2 percent) of cases involving obligors with known income in which the obligor’s net disposable income was greater than the obligor’s gross income. The obligor’s gross income in these cases averaged \$1,952 per month.

**Average Income of the Parents**

Exhibit 3-10 displays the average monthly gross and net incomes of mothers and fathers for all cases and for IV-D and non-IV-D cases separately. These include incomes of \$0. They do not include imputed or presumed incomes. The percentage of mothers and fathers, respectively, with \$0 incomes was 25 and 7 percent. The percentage of parents with \$0 incomes among IV-D cases was somewhat higher (42 percent of mothers and 12 percent of fathers). Exhibit 3-10 also shows that average income was lower among parents in IV-D cases than among those in non-IV-D cases. For example, fathers’ average gross income was \$1,825 per month in IV-D cases and \$5,264 per month in non-IV-D cases. However, the difference is not statistically significant. In large part, the lack of statistical significance is a function of the wide range of incomes. In non-IV-D cases, fathers’ gross incomes ranged from \$0 to about \$60,000 per month, with 25 percent of the fathers having gross income of \$2,351 per month or less and 25 percent of the fathers having gross income of \$5,767 per month or more.

**Exhibit 3-10  
Parent's Average Monthly Gross and Net Income**

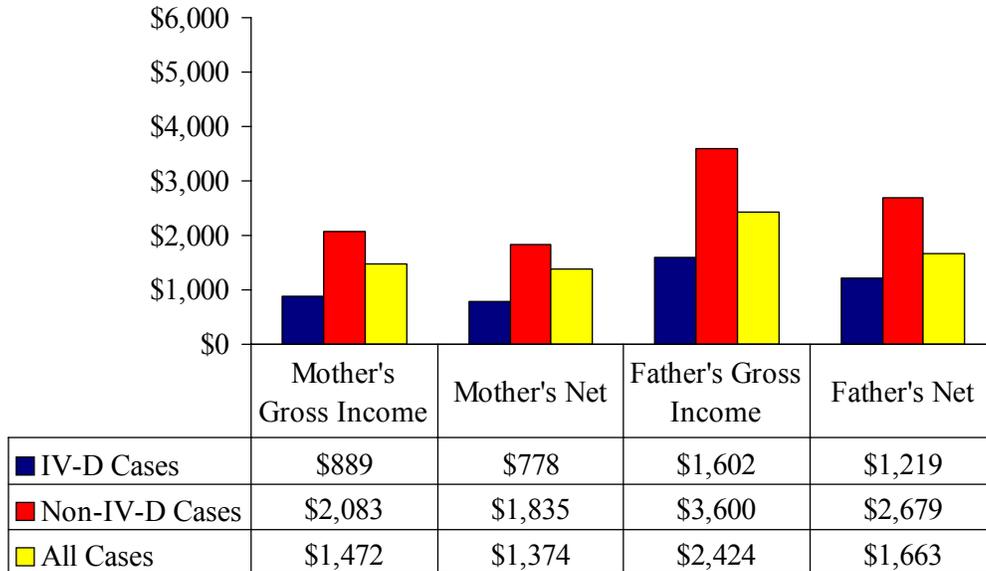


**Median Income of the Parents**

Median incomes are sometimes used instead of average incomes in statistics because a few individuals with very large incomes can inflate the average. The median income of a

group of individuals is the income level in the middle of the group; half of the individuals have incomes less than the median amount, and the other half have incomes above the median amount. Exhibit 3-11 presents the median incomes of the parents in the cases reviewed. The exhibit shows that income tended to be higher among parents in non-IV D cases than among those in IV-D cases.

**Exhibit 3-11  
Parent's Median Monthly Gross and Net Income**



**Parents’ Relative Incomes**

In Exhibit 3-12, parents’ incomes are further analyzed by examining the obligor’s income relative to the obligee’s income in cases in which data on both incomes were available. Gross income information existed for both parents in 62 percent of all the cases reviewed; in 55 percent of cases , net income data were available for both parents. Cases in which income information was available only for one parent were not included.

Exhibit 3-12 suggests that more than half of obligors fell into the following gross income ranges:

- ♦ \$1,001 to \$2,000 per month: 29.7 percent of obligors had gross incomes in this range.
- ♦ \$4,001 per month or more: 27.9 percent of obligors had gross incomes in this range.

In contrast, about half of obligees fell into the following gross income ranges:

- ♦ \$0 income: 24.3 percent of obligees had gross incomes at this level.

- \$1,001 to \$2,000 per month: 26.5 percent of obligees had gross incomes in this range.

When both parents' incomes were examined, the greatest percentage of cases fell into two gross income combination categories:

- 9.3 percent of the cases involved obligees with no income and obligors with gross incomes of \$1,001 to \$2,000 per month; and
- 9.7 percent of the cases involved obligees with gross incomes of \$1,001 to \$2,000 per month and obligors with gross incomes of \$1,001 to \$2,000 per month.

On average, when an obligee had income, the gross income was 58 percent of obligor gross income in IV-D cases and 80 percent of obligor gross income in non-IV-D cases. The median ratio of obligee to obligor income was 33 percent in IV-D cases and 61 percent in non-IV-D cases.

Exhibit 3-12 Relative Obligor and Obligee Income								
		Obligor Gross Income						Total (Obligees)
		\$0	\$1– \$1,000	\$1,001– \$2,000	\$2,001– \$3,000	\$3,000– \$4,000	\$4,001 or more	
Obligee Gross Income	\$0	(n=2) 0.3%	(n=36) 5.3%	(n=63) 9.3%	(n=21) 3.1%	(n=10) 1.5%	(n=33) 4.9%	(n=165) 24.3%
	\$1–\$1,000	(n=2) 0.3%	(n=9) 1.3%	(n=20) 2.9%	(n=4) 0.6%	(n=14) 2.1%	(n=13) 1.9%	(n=62) 9.1%
	\$1,001–\$2,000	(n=3) 0.4%	(n=9) 1.3%	(n=66) 9.7%	(n=41) 6.0%	(n=22) 3.2%	(n=39) 5.7%	(n=180) 26.5%
	\$2,001–\$3,000	(n=0) 0%	(n=3) 0.4%	(n=29) 4.3%	(n=36) 5.3%	(n=26) 3.8%	(n=38) 5.6%	(n=132) 19.4%
	\$3,001–\$4,000	(n=1) 0.1%	(n=0) 0%	(n=13) 1.9%	(n=17) 2.5%	(n=16) 2.4%	(n=22) 3.2%	(n=69) 10.1%
	\$4,001 or more	(n=1) 0.1%	(n=1) 0.1%	(n=11) 1.6%	(n=8) 1.2%	(n=6) 0.9%	(n=45) 6.6%	(n=72) 10.6%
Total (Obligors)		(n=9) 1.3%	(n=58) 8.5%	(n=202) 29.7%	(n=127) 18.7%	(n=94) 13.8%	(n=190) 27.9%	(n=680) 100%
		Obligor Net Income						Total (Obligees)
		\$0	\$1– \$1,000	\$1,001– \$2,000	\$2,001– \$3,000	\$3,000– \$4,000	\$4,001 or more	
Obligee Net Income	\$0	(n=3) 0.5%	(n=58) 9.6%	(n=64) 10.6%	(n=13) 2.1%	(n=7) 1.2%	(n=12) 2.0%	(n=157) 26.0%
	\$1–\$1,000	(n=2) 0.3%	(n=5) 0.8%	(n=17) 2.8%	(n=11) 1.8%	(n=6) 1.0%	(n=5) 0.8%	(n=46) 7.6%
	\$1,001–\$2,000	(n=1) 0.2%	(n=19) 3.1%	(n=95) 15.7%	(n=44) 7.3%	(n=18) 3.0%	(n=19) 3.1%	(n=196) 32.4%
	\$2,001–\$3,000	(n=0) 0%	(n=11) 1.8%	(n=49) 8.1%	(n=43) 7.1%	(n=20) 3.3%	(n=17) 2.8%	(n=140) 23.1%
	\$3,001–\$4,000	(n=0) 0%	(n=1) 0.2%	(n=12) 2.0%	(n=10) 1.7%	(n=10) 1.7%	(n=3) 0.5%	(n=36) 6.0%
	\$4,001 or more	(n=0) 0%	(n=0) 0%	(n=7) 1.2%	(n=5) 0.8%	(n=6) 1.0%	(n=12) 2.0%	(n=30) 5.0%
Total (Obligors)		(n=6) 1.0%	(n=94) 15.5%	(n=244) 40.3%	(n=126) 20.8%	(n=67) 11.1%	(n=68) 11.2%	(n=605) 100%

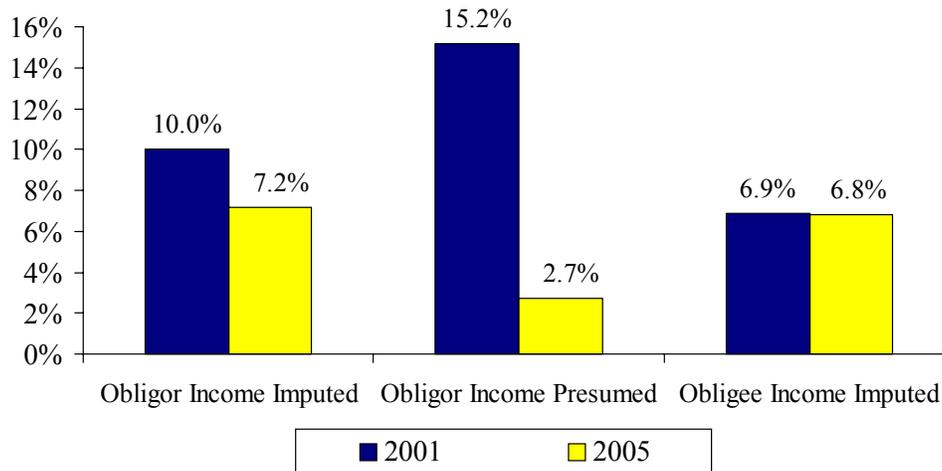
### **Presumed and Imputed Income**

Although most state guidelines provide for income attribution when a parent's income is unknown or the parent is unemployed or underemployed, California is unique because it has two types of income attribution: (1) income imputation and (2) income presumption. Income can be imputed to either parent, whereas only an obligor can be presumed to have income under specified circumstances. Income imputation is allowed in the California guideline under Family Code section 4058(b). The statute gives a court discretion to consider the earning capacity of a parent in lieu of the parent's income, consistent with the best interest of the child. Although not part of the Statewide Uniform guideline, Family Code section 17400(d)(2) also provides that if a support obligation is being established by a local child support agency and the obligor's income or income history is not known, income is presumed at minimum wage for 40 hours per week.

This income presumption provision, as discussed earlier, was amended in August 2003. Prior to that time—hence, during the time of the last guideline case file review—income was presumed at an amount that resulted in a support obligation equal to the “minimum basic standard of adequate care.” This provision resulted in obligor income being presumed at \$1,966 per month in one-child cases in fiscal year 1999–2000. Under the amended provision, obligor gross income is presumed at \$1,170 per month, which is equivalent to full-time earnings at the current California minimum wage.

As shown in Exhibit 3-13, the percentage of orders in which obligor income is imputed or presumed decreased between 2001 and 2005. In 2001, obligor income was imputed in 10.0 percent of the orders, whereas in 2005, obligor income was imputed in 7.2 percent of the orders. This decrease is statistically significant. The decrease in the percentage of orders in which obligor income was presumed is even larger. In 2001, obligor income was presumed in 15.2 percent of the orders. In 2005, obligor income was presumed in 2.7 percent of the orders. This decrease is also statistically significant.

**Exhibit 3-13  
Imputed and Presumed Income**



Commissioners from the study counties believed that the decrease in the percentage of obligors with imputed and presumed income resulted from several factors.

- ♦ Many local child support agencies are making better use of income information from automated sources, particularly the National Directory of New Hires, which includes state quarterly wage data, quarterly wage data from several federal agencies, and unemployment claims from all states.
- ♦ The child support commissioner system, which includes family law facilitators, makes the court system more accessible to parents. (During the 2001 review, this system was still in its infancy. Over time, it has matured and earned the respect and trust of litigants.) Consequently, parents are more forthcoming with actual income information.
- ♦ Although specific studies were not cited, the commissioners were cognizant of recent research showing that there was better compliance with a child support order when income was not imputed or presumed.<sup>42</sup> Both the commissioners and Department of Child Support Services (DCSS) tend to view income presumption and imputation as tools of last resort or ones to be used when other income information does not exist or is not appropriate.
- ♦ Some counties have established goals to reduce the percentage of orders entered through default. Reduction of default orders would reduce the percentage of orders in which obligor income is presumed because obligor income is unknown in most default orders.

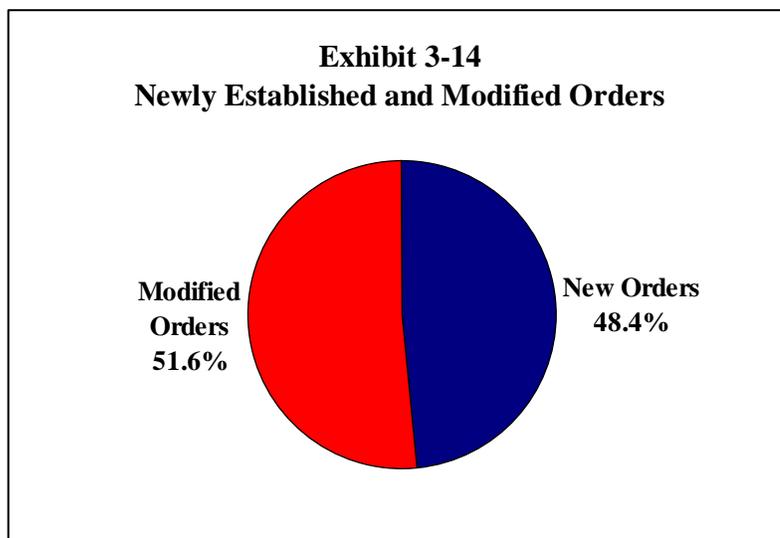
<sup>42</sup> One of the seminal studies with this finding is the Department of Health and Human Services, Office of the Inspector General, *The Establishment of Child Support Orders for Low Income Non-Custodial Parents*, OEI-05-99-00390 (July 2000).

The last two points are pertinent for efforts to better manage child support arrearages in California. Several studies link difficult-to-collect arrearages to default orders in which obligor incomes were imputed, particularly when the obligors had low incomes.<sup>43</sup> The link between arrearages and low incomes is also evident in research showing that most child support arrearages are owed by low-income parents. This was the conclusion of an Urban Institute study of California IV-D arrearages completed in 2002.<sup>44</sup> (More information about the links among order amounts, incomes, and arrearages in California is provided in Appendix D.)

**Newly Established and Modified Orders**

Exhibit 3-14 shows that the sampled cases involved 48.4 percent newly established orders and 51.6 percent modified orders. More modified orders were sampled than in the 2001 review. By comparison, a recent review in Pennsylvania found a split of 67 percent modified orders and 33 percent newly established orders.<sup>45</sup> In

Maryland’s recent review the split was 20 percent modified orders and 80 percent newly established orders.<sup>46</sup>



Commissioners from the study counties believed that there were more modified orders for several reasons. One reason is that parents are better informed and more knowledgeable about the child support system and so are requesting modifications to orders so that they better reflect the circumstances. Another reason pertains to the 2003 amendment that reduced the amount of presumed income. Orders calculated under the old and higher presumed income amount are being modified using actual income or the new presumed income amount. (In the 2005 review, 8 percent of modified orders were set using the new presumed income amount.)

<sup>43</sup> For example, see J. Peters, *Determining the Composition and Collectibility of Child Support Arrears, Volume 2: The Case Assessment*, Washington State Department of Social and Health Services (June 2003); National Women’s Law Center and Center on Fathers, Families, and Public Policy, *Dollars and Sense: Improving the Determination of Child Support Obligations for Low-Income Mothers, Fathers, and Children*, Common Ground Project (2000).

<sup>44</sup> E. Sorensen, H. Koball, K. Pomper and C. Zibman, *Examining Child Support Arrears in California: The Collectibility Study*, Report for California Department of Child Support Services (March 2003).

<sup>45</sup> Policy Studies Inc., *Pennsylvania Child Support Guidelines Review and Deviation Study* (2003).

<sup>46</sup> P. Caudill Ovwigho, C. E. Born, and C. Saunders, *Maryland Child Support Guidelines Case-Level Review*, University of Maryland School of Social Work (November 2004).

The increase in the percentage of orders that are modifications may also be the result of changes in the sampling methodology used in 2005. The 2001 case file review typically sampled from each court's case numbers starting from the first and ending with the last case number assigned over the sampling period. This method would generally exclude modifications from the sample because their case number would likely have been assigned prior to the sampling period, assuming that the order was established in an earlier year. In contrast, the 2005 case file review sampled from court calendars; such a sample is more likely to include both newly established and modified orders.

### **Defaults, Stipulations, and Contested Hearings**

The following three categories were used to classify how an order was entered.

- **Default.** The respondent/defendant did not file responsive papers and did not appear at the hearing, and there was no written stipulation or stipulation taken on record.<sup>47</sup>
- **Contested.** The respondent/defendant filed responsive papers or appeared at the hearing, and there was no written stipulation.
- **Stipulation.** There was a written stipulation or stipulation taken on record.

This classification is consistent with categories used in the last case file reviews and for other legal matters. However, as noted by commissioners from the study counties, these definitions and delineations among the categories can be indistinct. Commissioners gave the following examples that show how a hearing can combine elements of more than one category or otherwise be difficult to categorize:

- *Some hearings are uncontested.* Commissioners cited examples where respondents/defendants appeared at the hearing but did not contest the facts of the case or the order amount. These respondents simply appeared because they did not fully understand the pleadings or because they believed the process required their appearance. In these cases, many of the commissioners would still ask the parents to sign the agreement, even though a hearing took place.
- *Some hearings combine paternity and order establishment.* In these hearings, the respondent/defendant may request DNA testing. In courts that can offer immediate DNA testing and results, it is common for a respondent/defendant to agree to the support award once he learns that a DNA test indicates that he is the biological father.
- *Only one or two facts may be contested.* A few commissioners noted that the parties would agree to most facts of the case except for one or two. These commissioners made the point that whether an order was "contested" might be a matter of degree and might not be equivalent to the level of contest at a hearing for a non-child

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<sup>47</sup> As used in this review, this definition of default is a measure of litigants' lack of overall participation in the child support process, a more general definition than the legal definition of default judgment, or a ruling entered against a respondent who fails to file an answer to a complaint.

support issue. For example, one issue that is frequently disputed is the percentage of a child's time spent with each parent. Another commonly disputed issue is the amount of income of a parent who is self-employed, is seasonally employed, or does not work regularly scheduled hours.

- *There may be opportunities for a stipulation immediately before the scheduled hearing.* For example, in cases in which the parties agreed to all but one fact, some of the commissioners provided a brief window of opportunity for a stipulation prior to swearing the parties under oath. In these situations, the commissioners worked with the Department of Child Support Services (DCSS) staff who prepared the case.
- *In some counties, the respondent/defendant does not need to file responsive papers to schedule a hearing.* Instead, the respondent/defendant calls a telephone number to access an automated voice response unit to schedule a hearing. Although such a case would still be categorized as "contested" because the respondent/defendant appears at the hearing, the filing of responsive papers, which is part of the definition of "contested," would never occur in this scenario.
- *Telephone hearings.* Several commissioners noted an increase in hearings in which one party participated by telephone. These commissioners questioned whether telephone participation truly constituted "an appearance," which is part of the definition of "contested."

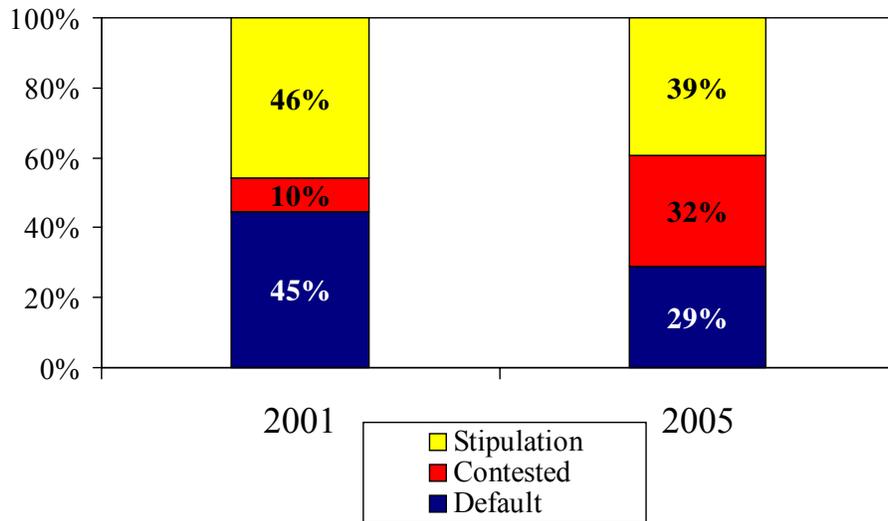
These examples show that courts may differ in interpreting precisely how an order was established, based on individual case circumstances.

Exhibit 3-15 shows the order entry method for cases in the 2005 and 2001 case file reviews. In 2005, fewer orders were entered by default and stipulation, and more orders were entered through contested hearings than in 2001. The percentage of orders entered by default decreased from 45 percent in 2001 to 29 percent in 2005. This difference is statistically significant. The decrease in defaults may be attributable, in part, to the different sampling methodology used in 2005: sampling from court calendars may have excluded some cases in jurisdictions where defaults are not entered on the court calendar.

Commissioners from the study counties believed that the reduction in default orders resulted largely from the availability in the courts of family law facilitators, who embody a culture shift in how California handles child support cases. Through a cooperative agreement between the Judicial Council and DCSS, family law facilitators provide education, information, and assistance to parents with child support issues. The facilitators provide these services to one or both parents, and no attorney-client relationship is created. The facilitators have made the court system and order establishment and modification processes more accessible and less intimidating, particularly to unrepresented parties. In addition, some commissioners suggested that litigants have become better informed simply through having more experience of their own or through learning from the experiences of others. Rather than not responding and allowing a default order to be entered, better-informed litigants want to stipulate or have their facts heard. The commissioners from the study counties believed that the increase in

the percentage of contested orders (10 percent in 2001 to 32 percent in 2005) could be attributed to the same factors. The court system and order establishment and modification processes have become more accessible and less intimidating, so a respondent/defendant is more likely to request a hearing.

**Exhibit 3-15  
Order Entry Method**



The trends of a decrease in defaults and an increase in contested orders varied little between IV-D and non-IV-D orders. The reductions in percentages of default orders were almost identical for IV-D and non-IV-D orders. The percentages of reductions in default orders between 2001 and 2005 were 51 percent among IV-D orders and 52 percent among non-IV-D orders. The percentage increase of contested hearings almost tripled among both IV-D and non-IV-D orders.

Nonetheless, based on the case file review data, it appears that IV-D orders are more likely to be entered by default and non-IV-D orders are more likely to be entered by stipulation. In 2005, almost half (45 percent) of IV-D orders were entered by default, whereas 13 percent of non-IV-D orders were entered by default. In 2005, more than half (60 percent) of non-IV-D orders were entered through stipulation, whereas only 19 percent of IV-D orders were entered through stipulation. The percentages of IV-D and non-IV-D orders entered through contested hearings are not statistically different: 36 percent and 27 percent of IV-D and non-IV-D orders, respectively, were entered through contested hearing.

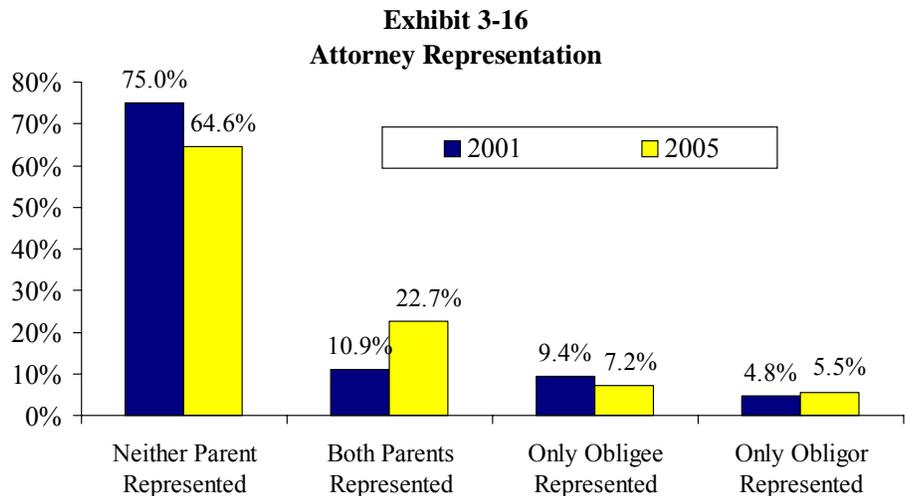
## Use of Attorneys

During the case file review, data collectors captured information about whether or not parents were represented by attorneys during the child support order process. For clarification, if a local child support agency is establishing or modifying the child support order under Family Code section 17400, the agency does not represent the custodial parent. Attorney representation is only considered as such for purposes of the case file review if the representation is provided by private counsel.

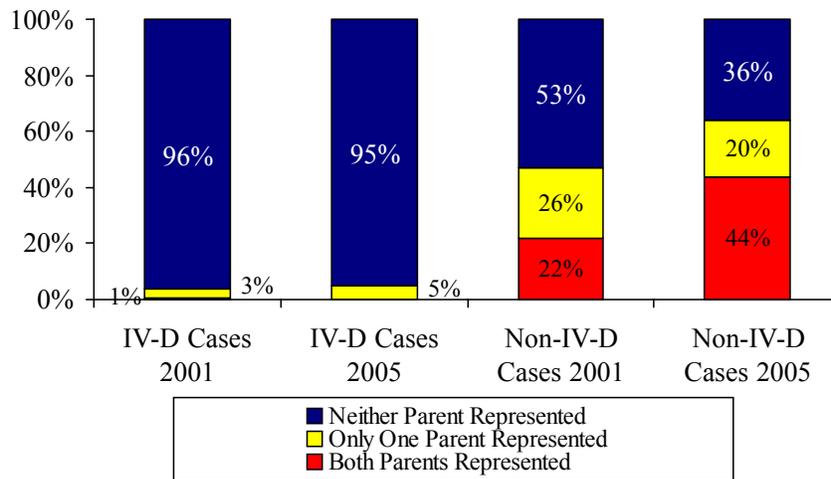
Exhibit 3-16 shows that for all cases reviewed in 2005, neither parent was represented in 64.6 percent of the cases. This percentage is less than that found in the 2001 review, in which neither parent was represented in 75.0 percent of the cases. In 2005, both parents were represented in 22.7 percent of the cases, up

from 10.9 percent of the cases reviewed in 2001. Both of these changes are statistically significant. There was also a slight decrease in the percentage of cases in which only the obligee was represented and a slight increase in cases in which only the obligor was represented. These differences are not statistically significant.

To facilitate a closer examination of the issue of attorney representation, Exhibit 3-17 displays attorney representation by IV-D status for the 2001 and 2005 reviews. As shown, there is little difference in attorney representation in IV-D cases between the two reviews. However, in non-IV-D cases, the 2005 review shows an increase in the percentage of cases in which both parents were represented (44 percent) from the 2001 review (22 percent). This difference is statistically significant.



**Exhibit 3-17**  
**Attorney Representation by Case Type**



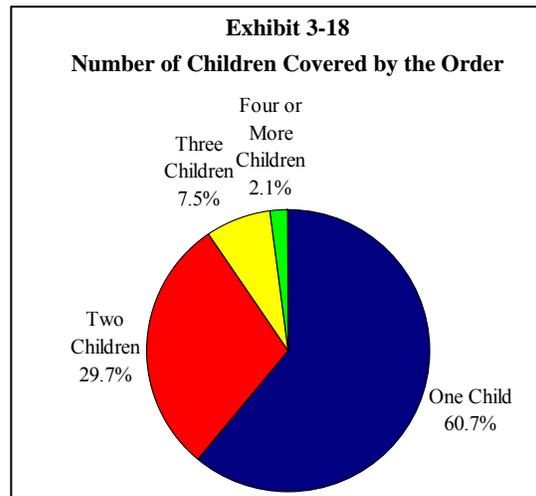
Commissioners from the study counties were asked what they believed contributed to the increase in attorney representation. They attributed the increase to several factors. Recently adopted rules (Cal. Rules of Court, rules 5.170, 5.171) expanded limited scope legal representation (also called unbundling of legal representation), effective in 2003. Unbundling allows litigants to use attorneys to draft legal documents, but they do not have to disclose attorney involvement if the attorney does not appear. Unbundling also allows an attorney to represent a party on one issue (e.g., a child support order) but not on another issue (e.g., a shared-parenting time arrangement). Unbundling effectively lowers the costs of attorney assistance, making litigants more likely to be able to afford representation. Another factor in the increase in attorney representation is that litigants are more experienced and have found that relying on an attorney is more effective than trying to navigate the system on their own. An indirect factor is the use of family law facilitators in the courts. Non-IV-D litigants have observed and are aware of the positive impact of family law facilitators, who help IV-D parents navigate the child support process. Non-IV-D litigants hire private attorneys to serve a similar function and to provide further assistance. (As clarification, family law facilitators do not represent parents; rather, they help with information, forms, use of the child support calculator, and other things.)

Note, however, that these statistics do not suggest that the overall frequency of unrepresented litigants in hearings is decreasing. In contested hearings, neither parent was represented in 64 percent of cases in 2005 and 67 percent of cases in 2001. The difference is not statistically significant. The majority of the increase in attorney representation appears to be in non-IV-D stipulations, which tend to be higher-income cases.

## Order Amounts and Children Covered

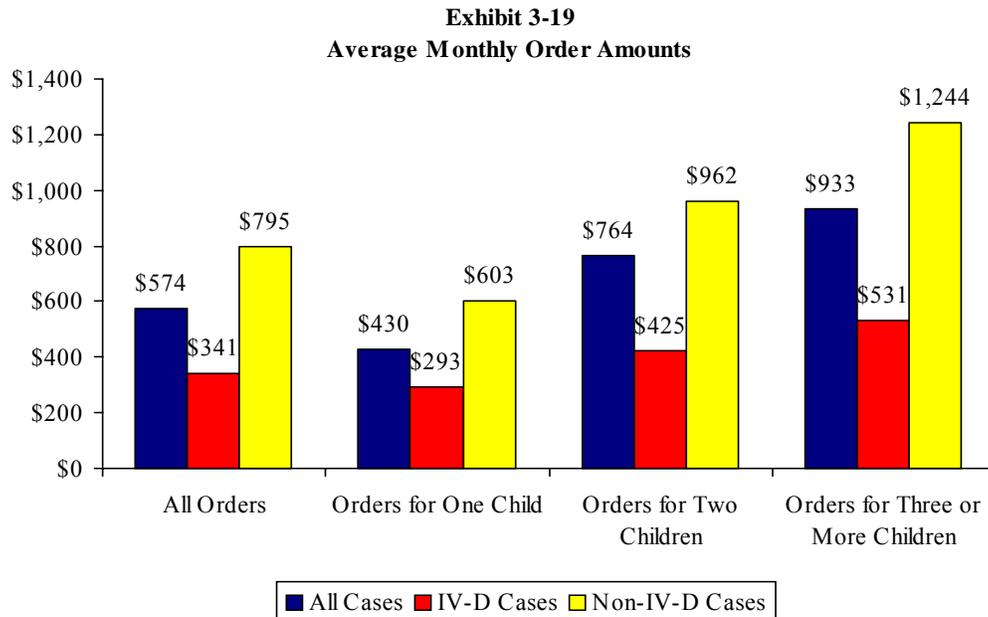
### Number of Children

As shown in Exhibit 3-18, most orders (60.7 percent) cover one child, 29.7 percent cover two children, 7.5 percent cover three children, and the remaining 2.1 percent cover four or more children. The proportions have remained relatively unchanged since the 2001 review and are consistent with national statistics that indicate that the majority of child support orders (88 percent) cover one or two children.<sup>48</sup>



### Amount of the Child Support Order

Exhibit 3-19 displays the average monthly order amounts for all cases and the average monthly order amounts by number of children and IV-D status. The average order amount in all cases was \$574 per month. By number of children, the average order amount was \$430 for one child, \$764 for two children, and \$933 for three or more children. Order amounts were higher in non-IV-D orders than in IV-D orders. The difference was statistically significant. Twenty-five percent of the orders were for \$246 or less, 50 percent of the orders were for \$400 or less, and 75 percent of the orders were for \$693 or less.



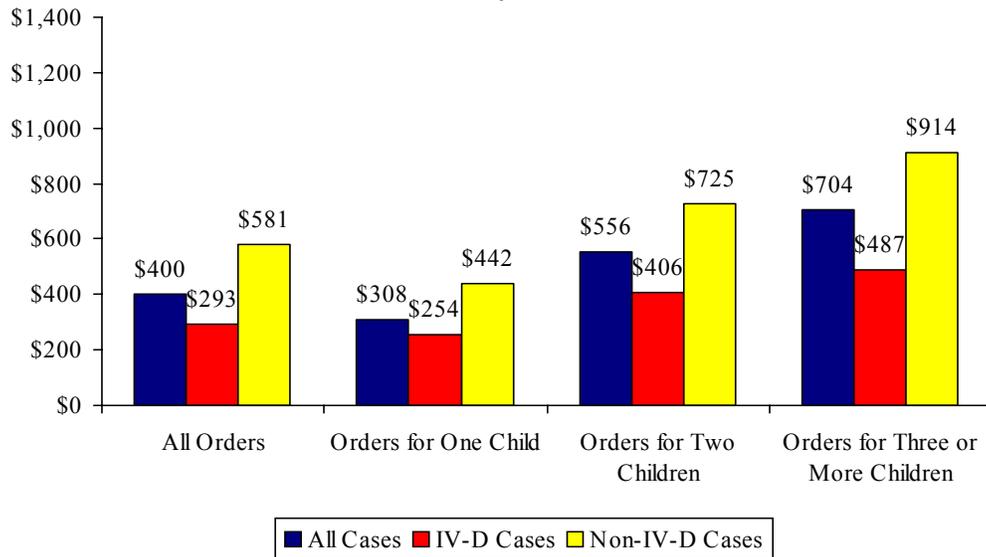
<sup>48</sup> U.S. Census (2003).

The following statistics are not represented in Exhibit 3-19.

- In IV-D cases, the average order amount was \$313 per month in newly established orders and \$352 per month in modified orders. The comparable amounts for non-IV-D cases were \$785 in newly established orders and \$850 in modified orders. The modified order amounts are slightly higher, but the differences are not statistically significant. This similarity suggests that guideline factors in newly established and modified orders do not differ substantially.
- In IV-D cases in which an obligor's actual income information was not available, the average order amount was \$284 per month. This amount is somewhat less than the average order amount of \$356 per month when income information was available in a IV-D case. The pattern was the same for non-IV-D cases as well. The average order amount was lower among non-IV-D cases with missing income information (\$605 per month) than it was among IV-D cases with income information in the file (\$859 per month). These differences are statistically significant.
- Average order amounts were \$356 in orders entered by default, \$552 in orders entered through a contested hearing, and \$726 in orders entered by stipulation. The difference between average orders in defaults and stipulations is statistically significant. The average order amount in contested cases is not statistically different from average order amounts entered by default or stipulation. Income appears to be correlated with order entry method. The average monthly obligor gross income was \$1,674 in default orders; \$3,213 in contested cases; and \$5,019 in stipulations.

Exhibit 3-20 is the counterpart to Exhibit 3-19 in that it shows median order amounts—rather than averages—by number of children and IV-D status. Recall that the median amount is in the middle: 50 percent of orders are less than the median amount, and 50 percent of orders are more than the median amount. The advantage of looking at the median amount instead of the average is that the median does not skew the representative statistic if there are a few very high order amounts.

**Exhibit 3-20  
Median Monthly Order Amounts**



**Zero (\$0) and Reserved Orders**

Exhibits 3-19 and 3-20 include orders set at \$0, which represent 7 percent of cases reviewed (the exhibits do not include reserved orders). The percentage of zero orders in the 2005 case file review is likely to underrepresent the actual percentage of support orders set at \$0. This result came about because zero orders were generally excluded from the sample but were included if some information on income, time-sharing, or other key data was found in the file. Application of the California guideline formula results in a zero order if the obligor’s income is \$0. Commissioners from the study counties said they would enter a zero order if an obligor was incarcerated, the children were in foster care and there was a plan for reunification, the obligor was receiving means-tested disability insurance (i.e., Social Security Insurance), or the obligor was receiving public assistance (e.g., CalWORKs), as well as in other situations. The commissioners also noted that in some instances they would enter a zero order if the parents’ incomes and time-sharing arrangements were similar and the calculated order amount was small.

Even though the 7 percent statistic is likely to underrepresent the actual percentage of cases with order amounts of \$0, that number is statistically more than the percentage of zero orders entered during the 2001 review (3 percent). Somewhat more than half (58 percent) of the zero orders in the 2005 review were IV-D cases. Several of these appeared to be modifications because the obligor was incarcerated and had \$0 income. Among the 42 percent of the zero orders that were non-IV-D cases, 91 percent were stipulations. In some of these situations, it appeared that the parents had nearly equal incomes and time with the child; but, generally, that information was not available in the case file.

*Reserved orders.* Reserved orders were excluded from this analysis unless there was otherwise sufficient data in the case file, such as income information, to determine

whether the guideline had been applied. Included in the case file review were 51 cases (approximately 4 percent of the cases originally pulled for analysis) in which the order was “reserved.”

The definition of the term “reserved” is by no means uniform. Reserved orders, for example, may be entered when it appears that an obligor’s income will change (or become known if unknown) in the near future. In this situation, which often arises when litigants are not represented, a court will specify an order amount but reserve jurisdiction to review and, if warranted, to modify the order based on new or more complete information. Frequently, a time is specified for the review—for example, “in 60 days.” Commissioners explained that reserving orders in such situations provided more flexibility than modification motions would and that order amounts could be amended more readily than was possible with the usual modification process, which requires a change in circumstances.<sup>49</sup> A reserved order may also mean that the court has not ruled on the issue of child support but wants to emphasize that the court retains jurisdiction to enter a support order at a future time. This approach is probably appropriate only in very limited circumstances where the complaint originally requested child support but the party later decides not to pursue the support issue. A reserved order would not be a substitute for a court’s determining that an obligated parent has no ability to pay support. In that circumstance, the court would enter a zero support order with a finding of no ability to pay support.

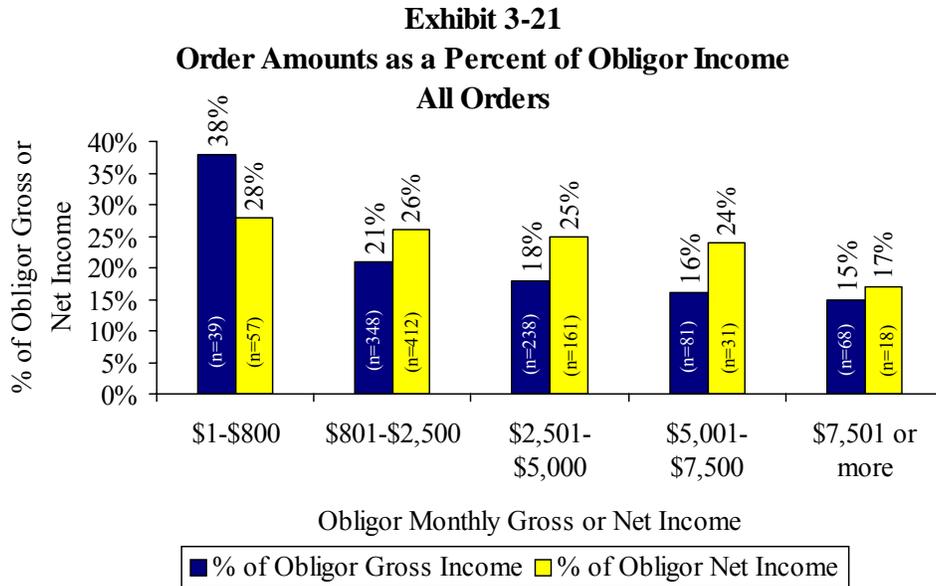
### **Order Amounts as a Percentage of Obligor Income**

Exhibit 3-21 compares order amounts as a percentage of obligor gross and net income from the 2005 case file review for all cases. Exhibit 3-22 makes the same comparison for one-child orders only. Exhibits 3-21 and 3-22 illustrate that, on average, the guidelines are being applied. As is evident in Exhibit 3-21, on average, a support award constitutes 17 to 28 percent of an obligor’s net income, regardless of family size. Exhibit 3-22 shows that, on average, a support award constitutes 20 to 23 percent of an obligor’s net income for one-child orders for all but the highest income category (in this category, the average obligor net monthly income is around \$12,000). This percentage of obligor income is consistent with the base guideline formula, which calls for an order amount of 25 percent of net disposable income of \$801 to \$6,666 per month for one child. Other factors considered in the guideline formula that would result in a percentage lower than 25

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<sup>49</sup> Unlike most states, the California guideline does not define what material change in circumstances (e.g., change in income) would be required to precipitate a modification or provide a threshold for a modification (e.g., the change in circumstances must result in at least a 15 percent difference, plus or minus, from the current order). An exception is set out in Family Code section 4065(d), which provides that a modification can be obtained without a change of circumstances if the parties stipulated to an order amount below the guideline amount. Other state guidelines typically require a change of circumstances (such as a change in the parent’s income) and define what that change is. There is, however, extensive case law in California on modifications that accomplishes what other state guidelines do by legislative definition.

percent include the application of the low-income adjustment, more obligor income, more obligee income, greater time-sharing by an obligor, or a combination of these factors. Based on the percentages shown in Exhibit 3-22, these factors are obviously at work.

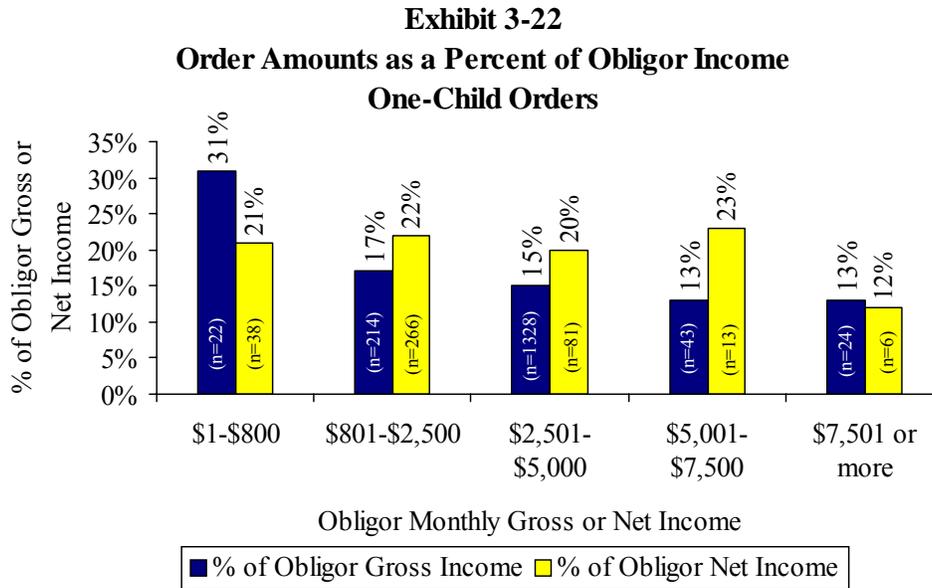


The order amount as a percentage of obligor income should be more when the obligor's net income is considered than when the obligor's gross income is considered because taxes and permissible adjustments are subtracted from gross income to calculate net disposable income. This premise is consistent with findings in Exhibits 3-21 and 3-22, with an exception for one income range: less than \$800 in gross income per year. As shown in Exhibit 3-21, the support amount for the lowest income category is 38 percent of obligor gross income and 28 percent of obligor net income. According to discussions with the commissioners in the study counties, this exception may result from low-income obligors' eligibility for the earned income tax credit (EITC), which may bump up after-tax income. An obligor who claims children as dependents may be eligible for the EITC if he or she has income below about \$30,000 to \$36,000, depending on the number of qualifying children in the home and on whether the obligor's tax filing status is head of household or married. If the obligor does not claim children as dependents, he or she may still be eligible for the EITC if his or her income is below about \$12,000 per year.

Although not shown in Exhibits 3-21 and 3-22, the median amounts also indicate that the guideline is being followed. For example, the median percentage of obligor net income assigned to support for one-child orders is as follows:

- 18 percent when obligor net income is \$1 to \$800 per month;
- 24 percent when obligor net income is \$801 to \$2,500 per month;
- 23 percent when obligor net income is \$2,501 to \$5,000 per month;

- 22 percent when obligor net income is \$5,001 to \$7,500 per month; and
- 12 percent when obligor net income is over \$7,500 per month.



### Time-Sharing Arrangements

A key component of the California guideline formula is the “approximate percentage of time that the higher earner has or will have primary physical custody of the children compared to the other parent” (Fam. Code, § 4055(c)). Overall, the average amount of a child’s time with an obligor was 14.5 percent. The median amount of a child’s time with an obligor was 10.0 percent. In just over a third (36 percent) of cases reviewed, the order amount was calculated based on a child’s spending no time with the obligor parent. Almost half (46 percent) of these orders were IV-D default orders. Family Code section 4055(b)(6) provides that, in default proceedings, if no evidence is presented on the amount of time children spend with a noncustodial parent, the percentage shall be set at 0 percent if the noncustodial parent is the higher earner or at 100 percent if the custodial parent is the higher earner. Many obligors, in contrast, spent a significant amount of time with the children. For example, among non-IV-D cases, almost a third (32 percent) of obligors spent 25 percent or more of the time with the children.

**Exhibit 3-23**  
**Average Percent of Time with Obligor Parent**  
**by Selected Factors**

(n = number of cases in which timesharing arrangement was noted in the case file)

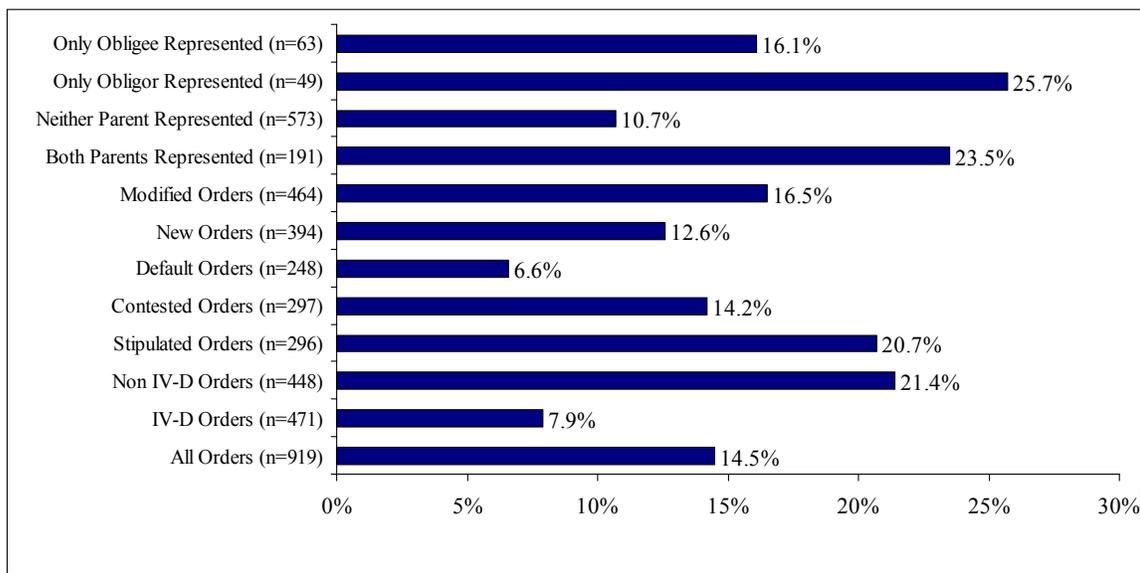


Exhibit 3-23 displays, by selected case characteristics, the average amount of time the children spent with an obligor parent, as indicated in the case file. The percentage of time with an obligor was greater in cases in which the obligor had attorney representation, the order was being modified, the order was a stipulation, and the order was not a IV-D order. Comparable information on time-sharing arrangements was not collected in the 2001 review.

**Limitations of the Data and Analysis**

The case file data were limited in several ways that were in large part also problems in previous reviews. The major limitation was seemingly incomplete information (e.g., missing income information, no specification as to guideline amount), although there have been improvements in some areas since the 2001 review. Appendix C sets out the frequency with which information was not fully documented in the case file. However, these results were drawn from written records only; additional information might have been provided in the full court record.

In the 2005 case file review, the father’s income information was missing in 14 percent of the cases, and the mother’s income information was missing in 19 percent of the cases. In contrast, the comparable percentages of cases in the 2001 review with missing information about the father’s income or the mother’s income were 47 and 50 percent, respectively. Of most concern is that many cases with a guideline deviation do not appear to be in compliance with Family Code section 4056, which requires the guideline amount, the reason for deviation, the net monthly disposable income of each parent, and other information. Only 38 percent of cases in which a deviation was noted had the

guideline amount, the reason for deviation, and the net monthly disposable income of each parent stated. Among the cases missing this information, 44 percent were non-IV-D stipulations. No other subgroup had a consistently high level of missing information.

Another issue is that few summary forms (e.g., the *Child Support Information and Order Attachment* Form FL-342) were included in the case files. Similarly, the printouts from the automated guideline calculator used to determine the final order amount were not always included in the case files. As a consequence, much of the information required for the case file review had to be pieced together from several legal documents in the case file. For example, a reviewer might need to go to one legal document to find the final order amount, another to find the parents' income information, and still another to determine the number of children for whom support was determined.

Finally, it is likely that not all deviations are identified as such in the case file. This was a problem in the national study of guidelines application and deviation and other state guidelines discussed earlier in this chapter.

In discussing missing information with the commissioners from the study counties, many thought it would be helpful to have sufficient information in the case file to identify all of the factors in the guideline calculation used to arrive at the final order amount, so that the final order amount could be replicated by recomputing the calculation based on the factors in the case file. Such information would be helpful to determine whether a modification to an order is appropriate and, if so, the proper amount of a modified order.

## Chapter 4

### Conclusions and Recommendations

This chapter presents conclusions and recommendations from the 2005 review of the California Statewide Uniform Guideline. The guideline was reviewed pursuant to state and federal requirements (Fam. Code, § 4054(a); 45 C.F.R. § 302.56). Economic evidence on child-rearing costs was assessed, and case data from recently established and modified orders were analyzed to determine how the guideline is being applied and to ensure that deviations are limited as mandated by federal requirements.

#### Economic Evidence on Child-Rearing Expenditures

Assessment of the economic evidence on child-rearing expenditures resulted in nine conclusions. They are discussed separately in the following paragraphs.

***Conclusion 1:*** *Child-rearing costs are best measured as a range.* The economic evidence on child-rearing costs indicates that no single measurement best captures actual child-rearing expenditures. As a consequence, a U.S. Department of Health and Human Services report recommends that any amount between the lower and upper bound of the range in child-rearing measurements is appropriate for state guidelines.<sup>50</sup> Much of the variation in the estimates results from the various methodologies for separating the children's share from the adults' share of expenditure items consumed by both children and adults (e.g., electricity for the home, or a loaf of bread). Economists have determined which methodologies overstate actual child-rearing expenditures and which methodologies understate actual child-rearing expenditures, but they cannot pin down the exact amount of these expenditures.

***Conclusion 2:*** *The economic evidence on child-rearing expenditures from more than 11 studies conducted since the inception of the California guideline shows that the percentage of total family expenditures devoted to child-rearing ranges from 22 to 33 percent for one child, 35 to 49 percent for two children, and 41 to 59 percent for three children.* The range is narrower in recent studies that consider expenditure data collected in 1996 or later. The ranges formed by the lower and upper bound of estimation methodologies applied to more recent data are 22 to 30 percent for one child, 35 to 44 percent for two children, and 41 to 52 percent for three children.

***Conclusion 3:*** *The basic percentage of net disposable income assigned to child support under the California guideline formula falls within the current range of estimates of child-rearing expenditures for the largest income category.* The basic percentage of net disposable income assigned to child support (also called the K-factor in the guideline

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<sup>50</sup>Lewin/ICF (1990).

formula) is 25 percent for one child in the \$801 to \$6,666 income range. This percentage is within the range of recent estimates of child-rearing expenditures: 22 to 30 percent, as listed earlier in this report.

***Conclusion 4:*** *The economic evidence on child-rearing expenditures is generally limited to families with one to three children.* Most of the studies on child-rearing expenditures develop estimates for families with three or fewer children because there are an insufficient number of families with four or more children in most data sets tracking family expenditures. Economists have developed equivalence scales (i.e., formulas) to adjust for larger family sizes.

***Conclusion 5:*** *The adjustments for number of children in the California guideline mostly yield results within the range of the economic evidence or equivalence scales but result in percentages that are somewhat low for families with larger numbers of children.* The California guideline adjusts the percentage of net disposable income assigned to child support for one child by 1.6 for two children, 2.0 for three children, 2.3 for four children, 2.5 for five children, 2.625 for six children, and in additional increments up to 2.86 for 10 children. These adjustments are generally in line with the economic evidence on child-rearing expenditure or equivalence scales except in the case of larger numbers of children.

***Conclusion 6:*** *The income threshold for applying the adjustment for low-income obligors is near the federal poverty guidelines for one person.* Most state guidelines provide a downward adjustment to the guideline amount, which is typically based on child-rearing costs, to obligors with poverty or near-poverty incomes. The rationale is that low-income obligors have a limited ability to pay child support when they can barely meet their own subsistence needs. The California low-income adjustment is applicable when the obligor's net disposable income is less than \$1,000 per month, which is slightly above the current (2005) poverty guidelines for one person (\$798 per month). The \$1,000 threshold has been in place for more than 10 years and has never been updated for changes in incomes or prices.

***Conclusion 7:*** *There is little economic evidence on how child-rearing expenditures are shared between parents in situations in which a child spends considerable time with both parents.* The literature suggests that total child-rearing expenditures are higher when a child is being raised in two households rather than one household. The literature also suggests that some child-rearing expenditure items (e.g., food) may be incurred by only one parent while the child is in that parent's care, and others (e.g., housing) may be incurred by both parents in shared-parenting situations at all times, regardless of the household in which the child is currently residing.

***Conclusion 8:*** *Economic evidence shows that a smaller proportion of total net disposable income is devoted to child-rearing expenditures at higher income levels.*

Most of the studies estimating child-rearing expenditures measure them as a proportion of total family expenditures. Some of these studies find that the percentage of family expenditures devoted to child-rearing is constant over all ranges of family expenditures, and others find that the percentage declines as total family expenditures increase, even though the dollar amount increases. For those estimates of child-rearing expenditures that are constant over all ranges, another economic consideration is the proportion of net disposable income that is spent on current consumption and the proportion that is saved. In other words, net disposable income is spent or saved. The economic evidence indicates that higher-income families do not spend all of their net disposable income. These families effectively devote a smaller proportion of their net disposable income to child-rearing expenditures, even if the ratio of child-rearing expenditures to total family expenditures is constant.

***Conclusion 9:*** *The California guideline formula essentially assigns a smaller proportion (i.e., the K-factor) of income to child support as income increases. This approach is consistent with the economic evidence on expenditures, savings, and income in higher-income families. As was just described, the economic evidence suggests that higher-income families do not spend all of their net disposable income and hence devote a smaller proportion of their income to child-rearing expenditures.*

#### Findings from the Analysis of Case File Data

The case data analysis considered 1,102 newly established or modified orders, spanning 11 California counties ranging in size and sociodemographic factors representative of the diversity of California. The case files were composed of about equal shares of IV-D and non-IV-D cases. Commissioners from the study counties reviewed preliminary findings to add context and clarity to the statistical findings of the case file review.

Conclusions 10 to 20 concern the findings from the analysis of case file data. Some of the conclusions incorporate comments from the commissioners to elaborate on the statistical findings.

***Conclusion 10:*** *The California guideline is being applied in the vast majority of orders. Deviations from the guideline are limited. A deviation was noted in only 9.1 percent of the cases reviewed. This finding is similar to those of previous California guideline reviews. The 2001 and 1998 guideline reviews found the deviation rate to be 9.7 and 9.9 percent, respectively. California's current deviation rate (9.1 percent) is less than that found in a national study (17 percent) and in many recent state studies. The 2005 California deviation rate is also lower in IV-D orders (6 percent) and higher in non-IV-D orders (12 percent).*

Most deviations (57 percent) resulted from a stipulation between the parties. Family Code section 4057 provides that a deviation is permissible if the parents agree to an order

amount. No other deviation reason explained more than 1 percent of the deviations. Many (36 percent) of the case files of orders with deviations, however, did not state a reason for the deviation. The final order amount was less than the guideline amount in 60 percent of the cases in which a deviation was noted, but the direction of the deviation was not always known.

Other evidence indicating that the guideline is being followed is that a child support order, when compared to obligor net income, is in line with the guideline formula. For example, the average order amount as a percentage of obligor income for one child is 12 to 21 percent. The average varies with income and time-sharing arrangement. The base guideline amount for one child is 25 percent but is less for high and low incomes and when the obligor has more time with the child.

***Conclusion 11:*** *The adjustments to income permissible under the California guideline are applied infrequently, but their application has increased since the last review.* The California guideline provides a hardship deduction from income if the parent is financially responsible for extraordinary health expenses, incurs uninsured catastrophic losses, or has other children residing with him or her whom he or she has a financial duty to support. In addition, the California guideline provides an adjustment for child support paid in other cases for children or for spousal support paid. Application of the hardship deduction to fathers' incomes increased from 1.5 percent of fathers in 2001 to 10.8 percent of the fathers in 2005. Fewer mothers received the hardship deduction, but the percentage receiving it also increased significantly from 2001 to 2005. Few parents had child or spousal support subtracted from their incomes (e.g., 7.2 percent of fathers); however, that percentage also increased from 2001 to 2005.

Most often, the hardship deduction is based on a financial duty to support additional children. The hardship deduction for additional children is not being applied consistently, particularly among parents with high income, because it is sometimes perceived that these parents have sufficient income so that additional children do not present a literal financial hardship. Nonetheless, a hardship will still be granted in these cases, regardless of the parent's income, if there is a preponderance of evidence presented that supports the hardship.

***Conclusion 12:*** *The low-income adjustment is being applied more frequently.* Family Code section 4055(b)(7) provides a low-income adjustment when the obligor's income is less than \$1,000 per month. Application of this adjustment increased from 6.2 percent of entitled obligors in 2001 to 52 percent of entitled obligors in 2005. The increase resulted from a legislated change providing that the low-income adjustment is a rebuttable presumption. Prior to that change, which became effective in August 2003, a court would rule on whether a low-income adjustment would be made.

**Conclusion 13:** *Additional child support is ordered infrequently.* Family Code section 4062 provides that additional child support shall be ordered for employment-related child-care costs and the reasonable uninsured health-care costs of children and may be ordered for additional education expenses, a child's special needs, or travel expenses for visitation. This additional support is typically ordered in such a way that the parent incurring the expense is reimbursed directly by the other parent. Work-related child-care expenses and a child's uninsured health-care costs were ordered in only 14.5 and 24.5 percent of the cases, respectively. Additional child support for education expenses, a child's special needs, or travel expenses was ordered even less frequently. Some of the reasons commissioners gave for not ordering child-care costs were that the parent actually did not have child-care expenses (because child care was provided by a relative or was subsidized) and that a request for such costs was not included in the complaint.

Unlike most state guidelines, the California guideline does not provide a child's health insurance premium as additional support or as an add-on to base support at the end of the support calculation. Instead, that amount, as well as the premium to cover the parent, is subtracted from a parent's income. This approach places more of the burden of increasing premium costs on the parent who provides coverage to the children.

**Conclusion 14:** *The majority of obligors are still fathers.* Although commissioners stated that they see more female obligors because of an increase in nontraditional custody arrangements and foster care cases, the majority of obligors (89.6 percent) were still fathers.

**Conclusion 15:** *Income among parents ordered to pay and receive child support varies widely. There is no typical income situation in a child support case.* In non-IV-D cases, fathers' gross income ranged from \$0 to \$60,000 per month. For all cases (IV-D and non-IV-D), 7 percent and 25 percent of fathers and mothers, respectively, had \$0 incomes. When an obligee (typically a mother) had income, it was 58 percent of the obligor's gross income, on average. That percentage was lower in IV-D cases than it was in non-IV-D cases (i.e., the median ratio of obligee to obligor income was 33 percent in IV-D cases and 61 percent in non-IV-D cases).

**Conclusion 16:** *Most support order calculations begin with gross income rather than net disposable income even though the California guideline formula is based on net disposable income.* Commissioners and frequent guideline users tend to rely on automated software to calculate a support order. The automated guideline calculators typically start with gross income so that they can accurately calculate the annual net disposable income of each parent as specified in Family Code section 4059 using federal and state tax rate formulas. Commissioners have found that, in general, the automated software is helpful because the evidence provided on net disposable income (e.g., paycheck stubs) is not the same as annualized net disposable income once actual personal income tax rates are applied in accordance with the guideline.

This use of gross income, however, results in two apparently unintended consequences. First, parents' gross incomes were noted in case files more often than their net disposable incomes, unless the printout generated by the automated guideline calculator was included in the file. Second, application of the earned income tax credit (EITC) resulted in some parents' net disposable incomes being more their actual gross incomes. This result occurred among both obligees and obligors. (Obligors may be eligible for the EITC if they have additional dependents in the home, but single individuals may also be eligible for the EITC.)

***Conclusion 17: Income is being imputed and presumed to parents less frequently.*** Family Code section 4058(b) gives the court discretion to impute income at the earning capacity of the parent rather than the parent's actual income if such an imputation is in the best interest of the child. Family Code section 17400(d)(2) also provides that if the support obligation is being established by a local child support agency and the obligor's income or income history is unknown, income is to be presumed to be minimum wage for 40 hours per week.

The percentage of obligors with imputed or presumed income decreased from 25.2 percent in 2002 to 9.9 percent in 2005. The decrease is attributed to the commissioner system, including family law facilitators who have made the child support process more accessible to parents, as well as to policy and cultural changes within the newly created Department of Child Support Services (DCSS). In addition, DCSS has access to better income information through automated sources (e.g., quarterly wage data). Commissioners have also been encouraged to use actual income through recent training.

***Conclusion 18: Fewer orders are being entered through default.*** The percentage of orders entered through default decreased from 45 percent in 2001 to 29 percent in 2005. The decrease may be attributable to efforts by the courts, the commissioner system, and DCSS to make the child support process more accessible to parents, as described earlier. In addition, several counties have set targets to reduce default orders based on recent research that finds child support compliance is lower in default orders and likely to be higher when parents are involved in the process.

***Conclusion 19: There appear to be more zero (\$0) and reserved orders.*** The percentage of zero orders has increased from 3 percent to at least 7 percent from 2001 to 2005. (Because of data collection, the 7 percent amount is known to understate the percentage of zero orders entered in 2005.) Other information suggests that reserved orders are increasing. In a reserved order, the amount of the order is not set and is reserved for decision at a later time—for example, when information about the obligor's income becomes available. Zero orders are entered when the obligor is incarcerated, the obligor receives public assistance, the case involves foster care and there is a plan for family reunification, the obligor is currently in a rehabilitation program, the obligor receives

means-tested social security disability benefits, and other circumstances in which the obligor has no ability to pay support. Practices regarding these orders and the definition of the term *reserved* may vary from court to court.

**Conclusion 20:** *The 2003 guideline changes appear to have lowered support amounts among low-income obligors.* California has been criticized in national circles for having billions of dollars in unpaid child support that is owed through the IV-D program. Research completed in 2002 found that one contributing factor has been high order amounts for low-income obligors. The 2003 guideline changes (i.e., making the low-income adjustment presumptive and lowering the amount at which obligor income is presumed) were intended to alleviate some of this problem. As indicated by this case file review, these changes have been successful. Order amounts are lower in IV-D cases, on average, particularly for obligors with net incomes of less than \$1,000 per month.

## Recommendations

**Recommendation 1:** *Make no changes to the basic California guideline formula.* No abundance of compelling evidence suggests that the basic guideline formula needs to be changed. The proportion of total net disposable income assigned to support (the K-factor) is generally in line with the economic evidence of child-rearing expenditures. Based on some (though not all) evidence, changes to certain components of the formula may be warranted—specifically, small revisions to the adjustments for six or more children and to the K-factors for higher incomes.

Some findings suggest that the adjustment for a larger number of children should be higher than what it currently is in the California guideline formula. However, economic evidence on larger families is limited because there are few large families; the sample size tends to be too small to develop statistically reliable estimates. Further, because the adjustments for larger families tend to result in a high percentage of income assigned to the support order (nearly 65 percent of net disposable income), it is a reasonable policy decision to establish a guideline formula that does not assign all of a parent's income to child support.

Some findings also suggest that the K-factor for high incomes should be lowered. The economic evidence is largely based on expenditures, savings, and income patterns from national data. It would be helpful to have California-specific data, particularly since living expenses (e.g., housing) are higher in California than in the nation as a whole. Further, one of the principles of the guideline could be interpreted as stating that the California guideline should reflect above-national average levels because California has a higher standard of living and child-rearing costs than the national average (Fam. Code, § 4053(1)). Based on this principle, the K-factors should be higher than what the national evidence on child-rearing expenditures reflects.

In short, no changes to the formula are currently recommended. However, the adjustments for larger families and percentages at higher incomes should be reexamined carefully at the next review. Also, because there is a dearth of economic evidence that shows how parents in shared-parenting situations actually share child-rearing expenditures, more research is needed on the costs of raising children in separate households.

***Recommendation 2:*** *Research the impact of support orders among low-income families in concert with efforts by the courts, DCSS, and other state entities to help low-income families.* Many of the findings concern low-income families: the low-income adjustment is being applied more; income is being presumed less frequently to obligors in public assistance cases and at a lower amount; there are more foster care cases; and there are more zero and reserved orders. In addition, the reduction in default orders and orders based on income presumed at the minimum basic standard of adequate care found in this review should help reduce arrears owed by low-income obligors. It would serve families to conduct more research on the impact of more frequent application of the low-income adjustment and other practices (e.g., zero and reserved orders) before making recommendations that could result in even lower orders. Since the low-income adjustment became presumptive only in August 2003, there is little experience with it and knowledge of its outcome, effect on payments, and overall impact on child well-being (specifically, child support received by custodial-parent families and father-child contact). Some of the questions to consider may include these: Is more child support being paid because support is lowered? Are families better off? What is the impact of zero orders on families? In addition, guideline provisions and policies pertaining to modifying and reinstating orders, particularly when income changes, should be reviewed.

***Recommendation 3:*** *Increase or index the income threshold for applying the low-income adjustment.* As discussed in Conclusion 6, the income threshold in the adjustment, currently at \$1,000 per month, has never been updated. Increases in prices and wages in California, particularly in high-cost urban areas, may make many obligors ineligible for the adjustment, even though they may be living in poverty or near-poverty. The income threshold can be adjusted, ideally by indexing the threshold to a widely used standard that is updated on a regular basis. One such standard would be the federal poverty guidelines promulgated by the U.S. Department of Health and Human Services, which are updated annually based on changes in the Consumer Price Index.<sup>51</sup> Many federal, state, and local programs use the federal poverty guidelines or, more typically, a percentage such as 133 percent or 150 percent of the federal poverty guidelines to establish income eligibility levels. The Medical Child Support Working Group recommended using 133 percent of the poverty level in determining if a parent has health insurance available through his

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<sup>51</sup>U.S. Department of Health and Human Services, “The 2005 HHS Federal Poverty Guidelines,” <<http://aspe.hhs.gov/poverty/poverty.shtml>> (accessed November 30, 2005)

employer at a reasonable cost.<sup>52</sup> Consistent with Recommendation 2 above, the effect of potential changes to the low-income adjustment on the amount of the child support award should be assessed.

***Recommendation 4:*** *Make the treatment of a child's share of the health insurance premium similar to the way in which child care expenses are treated.* A child's share of a health insurance premium should be treated as an add-on, rather than as a deduction from the parent's income for health insurance premiums for the parent and for any children the parent has an obligation to support, as is currently the law. Most state guidelines apportion the costs of the health insurance premium attributable to the child or children for whom support is being determined between the parents according to each parent's share of combined income. Such treatment would be similar to the way the California guideline treats child-care expenses. Treating the premium as an add-on would result in the parents' sharing the burden of increasing premium costs more equally.

***Recommendation 5:*** *Clarify the hardship deduction.* The hardship deduction for additional children is not being consistently applied across the state in cases that have similar fact patterns. While recognizing the need for judicial discretion to consider the specific circumstances of each case, clarifying circumstances in which the hardship deduction should be applied or setting out the factors to be considered in awarding the deduction would result in a more uniform application of the deduction.

***Recommendation 6:*** *Encourage better and more detailed information in the case file.* Income information, guideline amounts in orders with deviations, and other pertinent information was missing in a notable number of case files. Future review and adjustments to an order would be facilitated by better and more detailed information in the case file, so that it provides a sufficient basis for making a guideline calculation that replicates the guideline amount in the case file.

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<sup>52</sup> Medical Child Support Working Group, "21 Million Children's Health: Our Shared Responsibility," U.S. Department of Health and Human Services Office of Child Support Enforcement (June 2000).

## Appendix A

### Estimates of Child-Rearing Expenditures in Guidelines

The appendix includes four sections. First, it presents a summary review of studies estimating costs of child rearing. This section includes a chronology of the economic studies that form the basis of state guidelines and more current economic studies that inform an evaluation of guideline formulas today.

Second, the appendix reviews how the economic evidence is used in state guidelines. This section reviews policy papers that discuss the transformation of the economic evidence into state child support guidelines. For states based on the income shares guidelines model, the transformation is simple, because the income shares schedule assumes that a child is entitled to the same amount of expenditures the child would have received if the parents had lived together. The schedule assumes that those expenditures should be prorated between the parents, with the obligor's share being the child support award amount. As a consequence, the only transformation necessary is to take the estimate of child-rearing expenditures in an intact family and relate it to gross or net income. (Many estimates of child-rearing expenditures are expressed as a percentage of total family expenditures, rather than income.)

Third, adjustments for low-income obligors and shared-parenting time are discussed. The review considers the economic basis of guideline adjustments for shared-parenting time and nonresidential parents whose incomes are insufficient to meet their basic subsistence needs. California incorporates formulaic adjustments for both of these factors in its guideline.

Finally, the California guideline adjustment for time-sharing is compared with adjustments in other states. The appendix concludes with graphical comparisons over a range of time-sharing arrangements of obligations calculated under the California guideline formula with obligations in other states.

#### Studies Estimating Costs of Child Rearing

This section reviews economic studies that estimate the costs of child rearing. Although there are earlier estimates, a 1981 summary article by van der Gaag is listed first; this study was used in part to develop the California guideline. Summaries of subsequent studies estimating child-rearing costs follow the van der Gaag summary in chronological order. The only exception is the U.S. Department of Agriculture (USDA) study, which has been published annually for more than 20 years. Since the USDA methodology has not changed over time, only the most recent USDA study is summarized.

### **Van der Gaag (1981)**

J. van der Gaag, *On Measuring the Cost of Children*, Discussion Paper 663-81, University of Wisconsin Institute for Research on Poverty, Madison, Wisconsin (1981).

**Purpose.** The paper reviewed the economic literature of child-rearing costs to narrow the wide range of estimates and develop recommendations for improving future estimates. The research was funded by the State of Wisconsin; the targeted audience included policy makers and researchers.

**State guidelines using study.** California and Wisconsin based their guidelines in part on the van der Gaag study. Subsequently, a few other states (e.g., New York) adapted Wisconsin's guideline. Note that the California guideline is based on net income and the Wisconsin guideline is based on gross income, so the percentages are not similar.

**Economic methodology and data source.** The study reviewed estimates of child-rearing costs developed between 1950 and 1981 but did not specify the data source of each estimate. Most studies relied on a marginal cost approach to estimate child-rearing expenditures; that is, they compared expenditures between equally well-off couples with and without children and considered the difference to be the expenditures devoted to child rearing. However, definitions of equally well-off couples varied among the studies reviewed, and some of the studies used entirely different techniques to estimate child-rearing costs. The author converted all study estimates to the percentage of additional income needed to support children for comparisons.

**Major findings.** The range in estimates indicates that a childless couple whose income is \$12,000 (in 1979 dollars, which is more than \$31,000 in 2004 dollars) needs 18 to 32 percent additional income for an average nine-year-old child. Van der Gaag suggested an estimate of 25 percent. He recognized that the percentage should be higher for older children and that the percentage should be less for higher incomes. He did not provide a numeric estimate as to what the decrease should be for higher income. Based on a review of the literature, van der Gaag suggested the following adjustment factors for more than one child: the second child costs about half as much as the first, the third costs the same as the second, and subsequent children are about half as expensive as the second and third.

**Limitations and recommendations for future research.** The estimates do not consider that the costs of children may be partly offset by a couple's enjoyment from the children (in economic terminology, the parents' "utility" from the children). Also not considered is the time cost of raising children. Finally, the estimates do not consider savings. The estimates assume that all income is spent on consumption; no allowances are made for couples who save in anticipation of having children or couples with children who save for college. Van der Gaag recommended (1) applying various estimating techniques to the same data set to assess their relative merit; and (2) considering household characteristics,

such as the age of parents and children, that may affect consumption and savings behavior.

### **Espenshade (1984)**

T. J. Espenshade, *Investing in Children: New Estimates of Parental Expenditures* (Washington, D.C.: Urban Institute Press, 1984).

**Purpose.** Espenshade received a grant from the National Institute of Child Health and Human Development to estimate parents' expenditures on their children using more recent data and an improved methodology. The information was developed for parent education and public policy formation, including the determination of child support awards and reimbursement schedules for foster parents.

**State guidelines using study.** Espenshade's estimates were used by the 1983–1987 National Child Support Guidelines project to develop a prototype child support formula to be used by states. The timing of the project coincided with federal requirements that states promulgate statewide child support guidelines by 1987.<sup>53</sup> Subsequently, more than half of the states adopted guideline schedules based on Espenshade's estimates. Some of those states have never updated their guidelines, so several state guidelines are still based on Espenshade's estimates.

**Economic methodology and data source.** Like most of the studies reviewed by van der Gaag (1981), Espenshade's study also used a marginal cost approach to measure child-rearing expenditures. In other words, Espenshade compared expenditures among two equally well-off couples: one with children and the other without children. Espenshade relied on the percentage of total consumption devoted to food consumed at home to identify equally well-off families.<sup>54</sup>

Espenshade applied the methodology to the new 1972–1973 Consumer Expenditure Survey (CEX) data. Conducted by the U.S. Bureau of Labor Statistics, the CEX has the purpose of providing information on consumer buying habits and periodically using the information to review how the Consumer Price Index, the nation's indicator of inflation, is calculated. Prior to the 1972–1973 survey, the most recent CEX dates back to 1960–1961. Since 1980, however, the CEX has been conducted annually. It forms the basis of most estimates of child-rearing expenditures because it is the most comprehensive and in-depth survey of household expenditures, income, and characteristics (e.g., family size,

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<sup>53</sup> The Child Support Enforcement Amendments of 1984 (Pub. L. No. 98-378) required states to have advisory guidelines by 1987. The Family Support Act of 1988 (Pub. L. No. 100-485) required states to have presumptive guidelines by 1989.

<sup>54</sup> The economic technique relying on food shares was originally developed by Ernst Engel ("Die Productions und Consumtionsverhältnisse des Königreichs Sachsen," *Zeitschrift des Statisticshen Bureau des Königlich Sachischen Ministeriums des Innern*, 3 (1857)). It is commonly called the Engel estimator.

marital status). The CEX represents a national sample and is stratified for four regions (i.e., Midwest, Northeast, South, West). Its sampling strategy does not allow for state-specific representative samples.

**Major findings.** Espenshade measured average child-rearing expenditures among families that varied in socioeconomic status, number of children, and the mother's employment (or lack thereof) outside the home. Espenshade used socioeconomic status, which he defined by the father's highest level of education (e.g., college degree) and occupation (i.e., white-collar, blue-collar), because education and occupation are time-invariant. In contrast, family income (another way to categorize families) tends to vary widely over time, particularly with changes in the mother's employment status and earnings to accommodate child-rearing activities. Espenshade found that families spend about \$58,000 to \$138,000 in 1981 dollars (about \$120,000 to \$287,000 in 2004 dollars) per child to raise the child to age 18. The low estimate is for a family of low socioeconomic status in which the mother does not work outside the home and there are three children. The high estimate is for a family of high socioeconomic status in which the mother works full time and there is one child.

In addition, Espenshade found that families with higher incomes devote more dollars to child-rearing expenditures, but he did not examine whether the percentage devoted to child-rearing increases, decreases, or is constant with increases in income. Espenshade also found that expenditures per child decrease as the number of children increases and that expenditures differ by region. The greatest expenses of child-rearing occur when a child is a teenager, yet age-related expenditures vary somewhat depending on the socioeconomic status of the family, family size, birth order, and the mother's employment status. Espenshade did not examine child-rearing expenditures for families with more than three children.

**Limitations and recommendations for future research.** Espenshade did not explicitly offer limitations and recommendations for future research.

### **Lazear and Michael (1988)**

E. P. Lazear and R. T. Michael, *Allocation of Income within the Household* (Chicago: University of Chicago Press, 1988).

**Purpose.** Lazear and Michael received National Institute of Child Health and Human Development funding to explore how household income is allocated to individual family members. This study examined how money resources are distributed among adults and children within a household. The study used high-level economic concepts and models; however, the policy recommendations can be understood by readers without special expertise.

**State guidelines using study.** None.

**Economic methodology and data source.** Like Espenshade, Lazear and Michael used the 1972–1973 CEX. They also used the 1960–1961 CEX to allow for comparisons over time. The methodology used by Lazear and Michael differs somewhat from other studies in part because they aimed to measure relative shares of household expenditures devoted to adults and children, regardless of family size. The methodology used by Lazear and Michael is similar to the Rothbarth methodology (discussed later) in that the study assumed that any alcohol, tobacco, and adult clothing purchased for a household would not be consumed by children; instead, such items would be consumed solely by the adults. The study also assumed that the percentage of the adults’ consumption spent on alcohol, tobacco, and adult clothing is a constant percentage even if total consumption increases or decreases.

**Major findings.** Lazear and Michael found that the average household allocates about 2.5 times more income to an adult than to a typical child. Stated differently, expenditures on a child, on average, are about 38 percent of what is spent on an adult. These amounts vary according to household characteristics. More is spent on children in families in which the head of the household is highly educated, in two-parent families as opposed to single-parent families, and in families with older parents. Lazear and Michael also found evidence that implies that expenditures on additional children are less than those on the first child, that the proportion of expenditures devoted to child rearing is not consistent across incomes, and that children cost more when they are younger than when they are older. Lazear and Michael also made many findings that are beyond the scope of child support guidelines.

Lazear and Michael devoted a section of their study to examining the typical principles underlying child support guidelines (e.g., the income shares principle that a child should receive the same level of expenditures that he or she would have received if the parents had lived together; the principle that child support should equalize the income or standard of living between the two households). The study used an economic framework to examine these principles and concluded that the principle of equalizing the parents’ standard of living is the easiest principle to maintain given a variety of family situations that differ in the parents’ relative incomes and amount of custody.

**Limitations and recommendations for future research.** An indirect estimate of child-rearing expenditures is just one product of the Lazear and Michael study. The study focused on the larger issue of understanding how household income is allocated among family members; the study’s limitations and recommendations are relevant to this larger issue and to future higher-level economic research. However, the authors recognized that their research did not fully address how child-rearing costs vary by family income and number of children, incorporate a child’s welfare, consider parents’ work-family choices that may influence the number of children that they have, or consider how parent’s expenditures on children varied with parents’ earnings.

**Betson (1990)**

D. M. Betson, *Alternative Estimates of the Cost of Children from the 1980–86 Consumer Expenditure Survey*, Report to the U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, University of Wisconsin Institute for Research on Poverty, Madison, Wisconsin (1990).

**Purpose.** This study was conducted for the U.S. Department of Health and Human Services. The study fulfills a requirement of the Family Support Act of 1988 (Pub.L. No. 100-485, §128) mandating that the U.S. Department of Health and Human Services “conduct a study of the patterns of expenditures on children in two-parent families, in single-parent families following divorce or separation, and in single-parent families in which the parents were never married.” The ultimate purpose is to provide information useful to state guideline reviews.

**State guidelines using study.** Almost half of the states have based their guidelines on Betson’s research.

**Economic methodology and data source.** Like Espenshade and Lazear and Michael, Betson also relied on the Consumer Expenditure Survey (CEX) conducted by the Bureau of Labor Statistics but used the most recent survey years, 1980–1986. He applied five different economic methodologies to two-parent and one-parent households to separate children’s share from adults’ share of total family expenditures. An economic methodology is necessary because many consumption items (e.g., household electricity, a loaf of bread) are consumed by both children and adults. Betson used three methodologies that compare expenditures between two equally well-off families, one with children and one without children; the difference was presumed to be child-rearing expenditures. These three methodologies vary in what they use as a proxy of family well-being. The Engel methodology, which was also used by Espenshade, relies on the percentage of total expenditures devoted to food shares. The Rothbarth methodology relies on the percentage of total expenditures devoted to adult goods (i.e., adult clothing or a combination of adult clothing, alcohol, and tobacco). The ISO-PROP method uses expenditures on necessities (i.e., food, clothing, housing, utilities, and health care). The fourth methodology (Barten-Gorman) is rooted in consumer economic theory. Instead of comparing expenditures between equally well-off couples with and without children, this methodology factors in that the presence of children will decrease the standard of living of a couple whose income remains unchanged. The fifth methodology, the per capita approach, is the most simple. It assumes that each family member consumes an equal share. For example, if there are four family members, each family member consumes one quarter of total expenditures.

**Major findings.** The five different methodologies produce a wide range of estimates of child-rearing expenditures. When pressed to determine which estimator produced the best set of estimates, Betson concluded that the Rothbarth estimator produced the best set.

Other estimators were discounted or eliminated because they produced estimates that were obviously too high or were plagued with computation or data issues. Betson's application of the Rothbarth estimator found that the percentages of total expenditures devoted to children are 25 percent for one child, 35 percent for two children, and 40 percent for three children in a two-parent family.<sup>55</sup> The percentages are higher for one-parent families.

In addition, Betson found that additional children cost less than the first child; older children cost more than younger children for most of the estimates; and the percentage of total expenditures devoted to child-rearing is relatively constant when total expenditures are less than \$75,000 per year (in 1990 dollars, or about \$108,000 in 2004 dollars).

**Limitations and recommendations for future research.** Betson detailed several computation and data limitations that could impact the estimates. For example, the data set did not provide a sufficient sample of higher-income families to produce reliable estimates for them. Betson did not provide recommendations for future research.

#### **Panel on Poverty and Family Assistance (National Research Council)**

C. Citro and R. Michael, Eds., *Measuring Poverty: A New Approach* (Washington, D.C.: National Academy Press, 1995).

This study is somewhat tangential to child support guidelines because it explores methodologies to measure poverty. The policy of most states is that child support guidelines are to provide more than a poverty level of support; specifically, children should share in the lifestyle that parents can afford. The study is included here because several states use the equivalence scale developed in the study to expand the estimates of child-rearing expenditures for three children to four and more children. Equivalence scales allow the poverty level and other indicators of living standards to be adjusted for family size. Because most estimates of child-rearing expenditures do not consider more than three children, an equivalence scale is necessary to develop a guidelines formula for four or more children.

**Purpose.** The primary purpose of the Panel on Poverty and Family Assistance was to evaluate the U.S. measure of poverty to determine whether it was still serving its intended purpose and whether it could be improved. Dating back to the 1960s, the poverty measure is widely used for policy formation, program administration, research, and general public understanding. As part of this study, the panel reviewed the equivalence scale, which is important to constructing poverty indices to adjust for family size.

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<sup>55</sup> These percentages were derived limiting the definition of "adult goods" to adult clothing. Betson also calculated the Rothbarth estimator using alternative definitions of adult goods but found no significant variation from these estimates using the alternative definitions.

**State guidelines using study.** Several states use the National Research Council equivalence scales to extend estimates of child-rearing expenditures to four or more children. Most estimates do not consider more than three children, partly because an insufficient number of families with four or more children was included in the sample.

**Economic methodology and data source.** The National Research Council appointed a blue-ribbon panel of scholars to reexamine how poverty is measured. As part of this review, the panel conducted an exhaustive analysis of equivalence scales, which are formulas to convert the relative living costs of one family size to another family size. The panel reviewed several equivalence scales, including those used by the Organization for Economic Development, the United States Department of Agriculture, and the Bureau of Labor Statistics Family Budgets Program.

**Major findings.** The major finding of the panel concerned the U.S. measure of poverty, which the panel found to be outdated and casting an inaccurate picture of the poor population. More salient to guidelines development is the equivalence scale recommended by the panel. States applying the panel's equivalence scale assume that: four children cost 1.115 percent more than three children; five children cost 1.100 percent more than four children; and six children cost 1.088 percent more than five children.

**Limitations and recommendations for future research.** Only the limitations of the equivalence scale are considered as relevant to guidelines development. The panel recognized that some degree of arbitrariness is inherent in all scales, but the panel's recommended scale was tested against the Rothbarth procedure for plausibility and provided consistent results. Another limitation noted by the panel is that the proposed equivalence scale does not make an allowance for the effects of relative prices, location, or variations in scale values relating to the family's standard of living.

#### **Betson (2001)**

D. M. Betson, "Chapter 5: Parental Expenditures on Children," in Judicial Council of Cal., *Review of Statewide Uniform Child Support Guideline 2001*.

**Purpose.** At the time of this 2001 study, Betson's 1990 estimates of child-rearing expenditures, which were used by states more often than other estimates as the basis of child support guidelines, were out of date because they relied on family expenditures data collected in 1980–1986. Betson received a grant from the Institute for Research on Poverty at the University of Wisconsin at Madison to update his estimates using more

recent data.<sup>56</sup> His preliminary results were reviewed as part of California's last quadrennial guidelines review.

**State guidelines using study.** About a year after completing the 2001 study, Betson was able to incorporate another year of family expenditure data into the sample. The estimates based on this extended sample formed the basis of child support guidelines in eight states as of late 2005.

**Economic methodology and data source.** Betson generally repeated parts of his 1990 study but applied the estimation methodologies to more recent Consumer Expenditure Survey data (1996–1998). Specifically, he developed new Engel and Rothbarth estimates from the more recent data (these methodologies were discussed earlier). Betson also developed estimates using the U.S. Department of Agriculture methodology, which is discussed later.

**Major findings.** The estimates of child-rearing expenditures did not change significantly from Betson's 1990 estimates. Betson's new Rothbarth estimates of the percentages of total family expenditures devoted to child-rearing were 26 percent for one child, 36 percent for two children, and 41 percent for three children. Expenditures for three children have decreased over time based on the Engel estimator. However, this change was not statistically significant based on the Rothbarth estimator for three children.

Betson also found that, depending on the estimator, the second child costs 40 to 50 percent more than the first child and the third child costs 16 to 20 percent more than the second child. He found that the percentage share devoted to children declines as total spending increases based on the Rothbarth estimator but not the other estimators. He could not conclude that the costs of children varied with their age.

**Limitations and recommendations for future research.** Betson recognized that comparisons of his study's findings with earlier estimates were limited by the smaller sample size he used for the 2001 study. For the first study, he used about seven years of data; for the later study, he used about three years of data. He recommended enlarging the sample size by including more recent survey years to obtain more robust estimates.

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<sup>56</sup> During the previous California guideline review, Betson's estimates were based on the 1996–1998 data; however, he later added a year of data to increase the sample size. The estimates from the 1996–1998 data differed in a way that was statistically insignificant from estimates based on the 1996–1999 data. They are 26 percent for one child, 36 percent for two, and 42 percent for three.

### **Montana Study (2002)**

J. Ellestad, A. Steffens, and P. Miller, *The Cost of Raising a Child in Montana*, Report to the Montana Department of Public Health and Human Services Child Support Enforcement Division and U.S. Department of Health and Human Services, Grant #90FD0036, Washington, D.C. (July 2002).

**Purpose.** With funding from a federal Office of Child Support Enforcement grant, the State of Montana estimated the minimum costs of raising a child in Montana. Montana guidelines are based on the Melson formula, in which minimum costs are pertinent. The formula consists of two calculations; the first calculation, the cost of providing for the child's basic needs, is prorated between the parents. Montana-specific estimates of the minimum economic cost of raising a child provide data that can be used for determining the appropriate amount of base support in the first part of the calculation. If the noncustodial parent has surplus income after providing for his or her share of the child's basic needs and the noncustodial parent's own basic needs, an additional percentage of the surplus income is assigned to support in the second part of the calculation.

**State guidelines using study.** Montana has not changed its formula parameters based on this study.

**Economic methodology and data source.** The researchers used a market basket approach to measure the child's minimum needs; that is, they developed a list of necessary items (e.g., shoes) and collected cost information on each of these items. The researchers identified market basket items through reviewing other studies, interviewing professionals, conducting focus groups, and surveying families enrolled in the state's child support enforcement program.

**Major findings.** The researchers developed estimates of minimum child-rearing costs for two age groups and varying assumptions about the child's housing costs. The estimates for one child range from about \$8,000 to \$12,000 per year, depending on the age of the child and the cost assumptions.

**Limitations and recommendations for future research.** The researchers recognized that a major limitation of the market basket approach is that it requires subjective assumptions about what should and should not be included in the market basket.

### **Virginia Studies (2000, 2002)**

Commonwealth of Virginia Joint Legislative Audit and Review Commission, *Technical Report: The Costs of Raising Children*, Senate Document 9, Richmond, Virginia (2000).

W. M. Rodgers III, *Determining the Level of Child Support*, Report to the Commonwealth of Virginia, Secretary's Child Support Guideline Review Panel, Richmond, Virginia (November 2002).

**Purpose.** The 2000 Virginia study directed the Joint Legislative Audit and Review Commission of the Virginia General Assembly (JLARC) to examine methodologies to estimate child-rearing costs and the availability of data sets to estimate child-rearing costs. In turn, the 2002 study by Rodgers used the methodology developed by the JLARC to develop estimates of child-rearing costs and an updated child support schedule for the Commonwealth of Virginia.

**State guidelines using study.** Virginia has not promulgated the new schedule developed by Rodgers.

**Economic methodology and data source.** In reviewing economic methodologies, the JLARC developed a new methodological framework for estimating child-rearing expenditures, called the “average use” approach. This methodology closely resembles the methodology long used by the USDA to estimate child-rearing expenditures. Both the JLARC and the USDA estimate child-rearing expenditures for specific commodities (e.g., food, housing, transportation). The JLARC and the USDA apply a different approach to discern between the child's share and the adults' share of each commodity in intact families. Both studies use the same methodology to discern between children's and adults' food expenditures, but JLARC and USDA methodologies depart with respect to housing and transportation. The JLARC examined the average square footage of housing used by couples with no children, one child, two children, and so forth to calculate the increase in housing use by number of children. In turn, the percentage increase was applied to the family's total housing expenditures to determine the children's share. The JLARC used a similar approach to determine the children's share of transportation expenditures by examining the relationship between the number of vehicles and family size and between the average number of miles driven and family size.

Using the JLARC methodology as a starting point, Rodgers developed estimates of child-rearing expenditures and related them to gross income (excluding income from public assistance) and family size to develop a child support schedule. Rodgers incorporated a self-support reserve for a nonresidential parent based on 150 percent of the federal poverty guidelines for one person. He also incorporated a “separate household discount” to account for child-rearing expenses incurred by a nonresidential parent when a child is in his or her home. No economic basis for the amount of the discount is given.

The JLARC used a variety of data sources to relate family size to expenditures on a specific commodity (e.g., American Housing Survey data, National Personal Transportation Survey data); consequently, the years in which the data were collected vary widely. Rodgers selected intact families with one to three minor children from the 2000 CEX as his data set. (Incidentally, Rodgers found an insufficient number of families with four or more children to produce reliable samples.) This approach resulted in a sample size of almost 6,000 families.

**Major findings.** The JLARC estimated that monthly child-rearing expenditures are \$483 to \$558 per month for one child, \$793 to \$900 for two children, and \$930 to \$1,071 for three children, based on average use methodology. The estimates vary by income levels (\$30,000 annual income and \$60,000 annual income) and by whether the household has two parents or a single parent. These amounts appear to be in 1997–1998 dollars.

In addition, the JLARC extensively analyzed the relationship between total expenditures and gross income. Generally, it was found that expenditures on children increase as income increases, but at a decreasing rate. Although the study did not explicitly so state, this finding supports assigning a smaller percentage of income to child support as income increases.

**Limitations and recommendations for future research.** One of the striking conclusions of the JLARC report is that estimates of child-rearing expenditures alone are not sufficient to determine appropriate support award amounts. Policy decisions and adjustments to the estimates are also necessary. JLARC also concluded that (1) it is more cost-effective to use national data rather than state-specific data, and the use of national data is unlikely to yield results much different from state-specific data; and (2) there is a solid case for using estimates of child-rearing expenditures in intact families over those in single-parent families.

### **The Self-Sufficiency Standard for California 2003**

D. Pearce and J. Brooks, *The Self-Sufficiency Standard for California 2003*, Prepared for Californians for Family Economic Self-Sufficiency, a project of the National Economic Development and Law Center, Oakland, California (December 2003).

This study, which addressed the costs of meeting basic needs, is included here because it is specific to California. In general, the review included only basic needs studies that have been used in developing child support guideline formulas (e.g., the National Research Council's 1995 study) or that were conducted specifically to inform the appropriateness of guideline amounts (e.g., the 2002 Montana study).

**Purpose.** The purpose of the self-sufficiency study was to determine what wage is needed for a family of a given composition in a specific region to meet basic needs without public or private assistance given prevailing tax rates.

**State guidelines using study.** None. However, several state guideline committees have reviewed the results from their own state's self-sufficiency study.

**Economic methodology and data source.** For each county in California, the self-sufficiency standard was calculated for 70 different family types, varied by the number of adults, number of children, and children's ages. The data sources vary by cost components (e.g., housing, child care) considered in the standard.

**Major findings.** The study provided estimates for a wide variety of family situations for each of California's 58 counties. For example, for a family with one adult, one preschooler, and one school-age child in Fresno County, the self-sufficiency wage is \$29,055 per year in 2003. The researchers do not separate the child's share from the total needs of the families.

**Limitations and recommendations for future research.** The authors of this study did not offer limitations or recommendations.

#### **Florida Study (2004)**

T. S. McCaleb et al., *Review and Update of Florida's Child Support Guidelines*, Report to the Florida State Legislature, Florida State University Department of Economics, Tallahassee, Florida (March 2004).

**Purpose of study.** In 2003, the Florida State Legislature contracted with the Department of Economics at Florida State University to review the Florida Child Support Guidelines. The review had three tasks: (1) to update the existing schedule of child support obligations based on the most recent economic evidence about expenditures on children; (2) to review and make recommendations regarding treatment of low-income parents, adjustments for visitation and shared-parenting time, and adjustments for multiple families; and (3) to review alternative models for the development of child support guidelines and, if applicable, recommend an alternative model for use in Florida.

**State guidelines using study.** This study was completed in March 2004. At this time, legislation has not been introduced to update or change the guidelines based on the study findings.

**Economic methodology and data source.** The researchers developed estimates of child-rearing costs by applying the Engel estimator (which was also used by Espenshade in his 1984 study and by Betson in his 1990 and 2001 studies) to the 1999–2001 Consumer Expenditure Survey.

**Major findings.** The researchers found that the percentage of total expenditures devoted to child-rearing is 22 percent for one child, 38 percent for two children, and 53 percent

for three children. The researchers also found that total consumption increases as net income increases, but at a decreasing rate. The researchers did not address children's ages separately. They believed that their estimates differ from previous estimates using the Engel methodology because of differences in how the estimating equations were specified, not because of differences in data years.

**Limitations and recommendations for future research.** The researchers provided guideline recommendations but not recommendations for future research on estimating child-rearing expenditures.

#### **U.S. Department of Health and Human Services Poverty Guidelines (2005)**

U.S. Department of Health and Human Services, "2005 Poverty Guidelines," 70 Fed.Reg. 8373–8375 (Feb. 18, 2005).

The U.S. Department of Health and Human Services (DHHS) poverty guidelines are included for two reasons. First, many state guidelines incorporate an adjustment for low-income nonresidential parents based on the federal poverty guidelines. For example, some states will base a support award on the difference between a nonresidential parent's income and federal poverty guidelines for one person so that the support obligation does not force a nonresidential parent to live in poverty. Second, some states compare their guideline amounts to the poverty level during their guideline reviews to ensure that the guidelines are providing more than the child's subsistence level.

**Purpose.** The poverty *guidelines* issued by DHHS are a simplified version of the federal poverty *thresholds* issued annually by the Census Bureau. The guidelines are used for administrative purposes—for instance, determining financial eligibility for certain federal programs—whereas the thresholds are used to measure the population living in poverty. The reason for the difference is mainly a timing issue. Because the guidelines are used to administer programs, they must be released in advance of the Census Bureau's calculation of poverty thresholds.

**State guidelines using DHHS poverty guidelines.** Many state guidelines use the DHHS poverty guidelines as a benchmark for determining a basic subsistence level or self-support reserve amount for low-income noncustodial parents. Some states (e.g., New Jersey, New York) set the self-support reserve higher than the poverty guidelines. In many states, the self-support reserve is set at the poverty guidelines in the year the child support guidelines were last updated. As a result, the self-support reserve can erode over time.

**Economic methodology and data source.** Beginning in the early 1960s, the Social Security Administration began publishing poverty statistics based on a measure developed by a staff economist. The measure was based on thresholds for different family

types based on the cost of a minimum adequate diet multiplied by three to account for other expenses. Each year, the thresholds are updated for inflation.

**Major findings.** In 2005, the poverty guidelines for the lower 48 states and the District of Columbia were \$9,570 (\$798 per month) for one person and \$3,260 (\$272 per month) for each additional person.

**Limitations and recommendations for future research.** Many experts believe that the existing methodology and resultant poverty guidelines are outdated and may result in thresholds that are too low (e.g., Citro and Michael 1985, Pearce 2003).

#### **USDA Study (2005)**

M. Lino, *Expenditures on Children by Families: 2004 Annual Report*, U.S. Department of Agriculture, Center for Nutrition and Policy Promotion, Miscellaneous Publication No. 1528-2004, Washington, D.C. (2005). Available at [www.usda.gov/cnpp/Crc/crc2004.pdf](http://www.usda.gov/cnpp/Crc/crc2004.pdf), January 13, 2005.

**Purpose of study.** The U.S. Department of Agriculture (USDA) has been providing estimates of child-rearing expenditures since 1960 for use in developing state child support guidelines and foster care payment schedules and for family education programs.

**State guidelines using study.** The Kansas Guidelines use the USDA annual costs for the Midwest region to adjust for the age of the child. However, the Kansas schedule is not based on the USDA estimates.

**Economic methodology and data source.** The USDA provides estimates for seven expenditure categories (housing, food, transportation, clothing, health care, child care and education, and miscellaneous expenses) based on methodologies that vary according to the expenditure category. Child clothing, child care, and education are specific items in the Consumer Expenditure Survey (CEX) and so can be directly measured. Housing, transportation (adjusted for work-related transportation expenses), and miscellaneous expenses are divided among family members on a per capita basis. The USDA Food Plans are used to allocate the child's share of food expenses. The National Medical Expenditures Survey is used to allocate the child's share of medical expenses. Nonetheless, the primary data source is the 1990–1992 CEX. The USDA updates all estimates to current (2004) price levels.

**Major findings.** The USDA presents estimates of child-rearing expenditures for three different income ranges, six age categories, two-parent and single-parent families, and by region. Annual child-rearing expenditures in two-parent families range from \$7,040 to \$15,810 per year for one child in a two-child family, depending on other family characteristics. The USDA has assumed that two children cost 61 percent more than one

child and the third child costs 39 percent more than the second child. The USDA has also found that older children are more expensive than younger children.

**Limitations and recommendations for future research.** The USDA recognizes that some economists are critical of using the per capita approach to estimate a child's share of expenditures because they believe it overstates the child's share. However, the USDA finds that its estimates are generally in the midrange of estimates based on other approaches.

## Using Economic Evidence to Construct Child Support Guidelines

### **National Center for State Courts (1987)**

National Center for State Courts, *Development of Guidelines for Child Support Orders, Final Report*, Report to the U.S. Department of Health and Human Services, Office of Child Support Enforcement, Williamsburg, Virginia (March 1987).

**Background.** This report by the National Center for State Courts (NCSC) sets out findings from the 1983–1987 National Child Support Guidelines Project, which was convened by the federal Office of Child Support Enforcement at the request of Congress. The report comprises two parts. The first part sets out the recommendations of the panel overseeing the project. The panel was charged with making recommendations to states to help them meet the federal requirement to have statewide advisory guidelines by 1987 and statewide presumptive guidelines by 1989. Few states had statewide guidelines in the early 1980s.

The second part of the report covers development by National Child Support Guidelines Project staff of a prototype income shares schedule based on Espenshade's 1984 estimates of child-rearing expenditures.<sup>57</sup> The second part also details the steps taken to arrive at the schedule.

**NCSC's review of the estimates of child-rearing costs.** Project staff reviewed estimates of child-rearing costs developed by Espenshade's 1984 study and earlier studies but did not consider van der Gaag's 1981 study, which was part of the basis of the California formula. Project staff concluded that the Espenshade estimates provided the most credible economic foundation for development of child support guidelines.

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<sup>57</sup> Most income shares guidelines use a schedule instead of a formula. The schedule is a look-up table that shows the average expenditures on children by number of children and combined income. The amount from the schedule is prorated between the parents. The nonresidential parent's share forms the basis of the child support award amount.

**NCSC's recommendations.** In the first part of the report, the National Child Support Guidelines Panel recommended that states adopt either the Melson formula or the income shares model. The second part of the report sets out development of a prototype income shares schedule by project staff based on Espenshade's 1984 estimates. There are five steps in the transformation of Espenshade's estimates into an income shares schedule.

- *Transform estimates of child-rearing expenditures into percentages of gross and net income.* Espenshade did not develop estimates for specific income ranges; instead, he developed estimates of child-rearing expenditures for various socioeconomic groups and simulated their income ranges. Using the simulated income amounts and expenditure- to-income ratios from the 1972–1973 CEX (the same data set used by Espenshade to develop the estimates), the project staff converted Espenshade's estimates into percentages of gross and net income so they could be used in gross or net income schedules.
- *Update to 1986 prices.* Espenshade used 1981 dollars, which the project staff updated to 1986 prices using changes in the Consumer Price Index published by the Bureau of Labor Statistics.
- *Exclude child care and a child's uninsured, extraordinary medical expenses.* Since actual expenditures on work-related child-care costs and a child's uninsured, extraordinary medical expenses are added to base support on a case-by-case basis, these expenditures were subtracted from Espenshade's estimates using information from the 1972–1973 CEX.
- *Adjust for the number of children.* Because Espenshade did not provide estimates for families with more than three children, project staff used the Bureau of Labor Statistics Revised Equivalence Scale (1968) to extend the proportions to families with four, five, and six children.
- *Adjust for the child's age.* Using Espenshade's estimates, the proportions were adjusted downward for children under the age of 12 and upward for children age 12 to 17.

**State guidelines based on NCSC's recommendations.** Most income shares guidelines, including those of the vast majority of states, had schedules initially based on the income shares schedule developed in the NCSC report or one that was very similar. Subsequently, most income shares guidelines that have updated their schedules have applied the same transformation process outlined in the NCSC report. It does not appear that the California Statewide Guideline or any of the early California county guidelines relied on the NCSC transformation.

#### **Lewin/ICF (1990)**

Lewin/ICF, *Estimates of Expenditures on Children and Child Support Guidelines*, Report to U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, Fairfax, Virginia (October 1990).

**Background.** The Lewin/ICF report reviewed the economic evidence on child-rearing costs and compared those amounts to state child support guidelines levels. The U.S. Department of Health and Human Services funded both the Lewin/ICF study and Betson's 1990 study of estimates of child-rearing expenditures with the intent that the two studies would complement each other by providing information that could be used for the periodic review of state child support guidelines. More technical in nature, the Betson report, which was discussed earlier, developed estimates of child-rearing expenditures using various methodologies. The Lewin/ICF report took the next step of relating the estimates to child support policy.

**Lewin/ICF's review of the estimates of child-rearing costs.** The researchers reviewed the estimates developed by Betson using five different methodologies and six other studies. They found that the percentage of total family expenditures devoted to child rearing ranged from 11 to 33 percent for one child, 16 to 49 percent for two children, and 21 to 59 percent for three children. They also found that expenditures for two children were 40 to 73 percent more than expenditures on one child and that expenditures on three children were 56 to 124 percent more than expenditures on one child. In addition, the researchers found some evidence that the percentage of expenditures devoted to children decreased as total family expenditures increased.

Many of the methodologies examined in the Lewin/ICF study use a marginal cost approach, which was discussed earlier and which estimates child-rearing expenditures by comparing expenditures by two equally well-off couples, one with children and the other without. The researchers concluded that the Engel estimator, which relies on food expenditures to indicate equally well-off couples, overstates actual child-rearing expenditures, and the Rothbarth estimator, which relies on expenditures on adult goods (e.g., adult clothing, alcohol, and tobacco) to indicate equally well-off couples, understates actual child-rearing expenditures. Further, the researchers suggested that the Engel and Rothbarth estimators can be identified as the upper and lower bounds of child-rearing expenditure estimates.

Finally, the researchers compared estimates of child-rearing expenditures using the Rothbarth methodology, which they believed understated actual child-rearing expenditures, to state guideline amounts for various case scenarios. They found that eight states had guideline amounts below the Rothbarth estimates.

**Lewin/ICF's recommendations.** The researchers recommended future research and improved data collection.

- ♦ States should periodically review their guidelines in conjunction with the most recent estimates of child-rearing expenditures to ensure that guidelines generate consistent amounts and do not fall below the lower bound of estimates.

- Estimates of child-rearing expenditures should be periodically updated using the same procedures but more recent data. The estimates could then be compared with previous estimates to determine whether child-rearing expenditures change over time.
- There is a need to examine forgone earnings of parents whose care of children is carried out at the sacrifice of a career or earning advancement. Methodologies are needed to include forgone earnings in estimates of child-rearing expenditures.
- More research is needed to understand the impact of children on savings and how savings can be included in the estimates of child-rearing costs.
- It could be helpful to study how child-rearing expenditures differ in situations in which both parents have substantial shared parenting time and how the formation of second families affects child-rearing expenditures of the first family.
- It may also be useful to investigate parents' perceptions of child-rearing expenditures and adequacy of support awards.<sup>58</sup>

**State guidelines based on Lewin/ICF's recommendations.** The Lewin/ICF study did not provide specific recommendations as levels at which states should set their guidelines. The researchers recommended only that states periodically compare their guidelines to estimates of child-rearing expenditures, particularly the lower bound of the estimates, to ensure adequacy of guideline amounts. However, one of the key authors of the Lewin/ICF report made recommendations in another report.<sup>59</sup> Those recommendations included using Betson's 1990 study, which has several advantages over other studies: namely, it is based on more recent data, it is based on several years of data rather than a single year, and it uses several potential estimators. The author further noted that the Rothbarth estimator was the estimator of choice because of the limitations of other estimators, but the author cautioned that the Rothbarth estimator was considered to underestimate actual expenditures on children. Therefore, the author recommended that states consider increasing the Rothbarth figures slightly to account for that bias.

#### **Ohio Guidelines Review (1992)**

D. Price and R. Williams, *Use of the Espenshade and Rothbarth Parameters to Develop Alternative Schedules of Child Support Obligations*, Report to the Ohio Department of Human Services Office of Child Support Enforcement, Policy Studies Inc., Denver, Colorado (September 1992).

<sup>58</sup> Subsequently, Barbara Bergmann conducted research in which she asked parents about their perceptions of guideline amounts, but not child-rearing costs. See B. R. Bergmann and S. Wetchler, "Child Support Awards: State Guidelines Versus Public Opinion," Unpublished paper, American University, Washington, D.C. (August 1994).

<sup>59</sup> See Chapter 2 in U.S. Department of Health and Human Services, Office of Child Support Enforcement, *Child Support Guidelines: The Next Generation*, Washington, D.C. (April 1994).

**Background.** Ohio was the first state to consider the recommendations of Betson’s 1990 study and Lewin/ICF’s 1990 study. After developing estimates from five different methodologies, Betson (1990) concluded that the Rothbarth estimator appeared the most plausible. In contrast, the Lewin/ICF researchers implied that any amount between those of the Rothbarth estimator (what they considered to be the lower bound of estimates of child-rearing expenditures) and the Engel estimator (what they considered to be the upper bound of estimates of child-rearing expenditures) would be appropriate.

**Review of the estimates of child-rearing costs.** Ohio reviewed estimates of child-rearing expenditures by comparing two updated schedules based on estimates developed by Betson (1990) using, for one, the Rothbarth methodology and, for the other, the Engel methodology. Those schedules were compared to Ohio’s existing schedule.

**Recommendations in Ohio report.** None.

**State guidelines following Ohio’s recommendations.** Ohio eventually adopted the schedule based on the Rothbarth estimates of child-rearing expenditures. Subsequently, almost 20 states followed Ohio’s lead in adopting schedules based on the Rothbarth estimates of child-rearing expenditures.

#### **Rogers and Bieniewicz (2000)**

R. M. Rogers and D. J. Bieniewicz, *Child Cost Economics and Litigation Issues: An Introduction to Applying Cost Shares Child Support Guidelines*, Paper presented to the National Association of Forensic Economics, Southern Economic Association Annual Meeting, Alexandria, Virginia (November 12, 2000).

**Background of cost shares.** Rogers and Bieniewicz are best known for the development of the cost shares guidelines. These were originally called the Children’s Right Council guidelines; they are included as a parents’ advocacy group perspective in *Child Support Guidelines: The Next Generation*.<sup>60</sup>

**Review of the estimates of child-rearing costs.** Rogers and Bieniewicz criticized estimates of child-rearing costs underlying the predominant guideline models currently used by states. Rogers and Bieniewicz were critical of Wisconsin’s percentage-of-obligor guidelines for applying van der Gaag’s 1981 estimate of the percentage of total family expenditures devoted to child-rearing among low-income families to families with higher

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<sup>60</sup> See Chapter 11 by Bieniewicz in U.S. Department of Health and Human Services (1994). The same publication also included the perspective of custodial parent advocates (see Chapter 10 by G. Diane Dodson). This perspective was not critical of the estimates of child-rearing expenditures but reflected advocacy for a guideline based on equalization of income. See also R. M. Rogers, “Wisconsin Style and Income Shares Child Support Guidelines: Excess Burdens and Flawed Economic Foundation” (Spring 1999) 33(1) *Family Law Quarterly*, 1999 *Child Support Symposium*.

incomes. Rogers and Bieniewicz argued that it was an error to fail to consider that higher-income families face higher tax rates so that a lesser percentage of their after-tax income is available for child support.

Rogers and Bieniewicz suggested that estimates of child-rearing expenditures developed from the Rothbarth methodology, which forms the basis of most income shares guidelines, are biased upward. This conclusion is opposite to the conclusion of the Lewin/ICF report, which concluded that the Rothbarth methodology understated actual child-rearing costs.

**Recommendations of Rogers and Bieniewicz.** Rogers and Bieniewicz recommended the use of forensic economics in determining support awards.

**State guidelines following recommendations.** None.

#### **Ellman (2004)**

I. M. Ellman, *Fudging Failure: The Economic Analysis Used to Construct Child Support Guidelines*, University of California, Berkeley, Center for the Study of Law and Society Jurisprudence and Social Policy Program, Working Paper 19, Berkeley, California (2004). Available at <http://repositories.cdlib.org/csls/fwp/19>, January 13, 2005.

**Background of report.** Ellman has extensively reviewed the income shares guideline model as part of his roles as the Chief Reporter to the American Law Institute and as a member of the most recent Arizona Child Support Guidelines Review Commission.<sup>61</sup>

**Review of the Estimates of Child-Rearing Costs.** Ellman suggested that there are many biases in the Rothbarth estimates of child-rearing expenditures and states' use of them as the basis of child support guidelines. Some of these biases stem from limitations in the Consumer Expenditure Survey (CEX) data. Those limitations concern inaccurate reporting of income and clothing expenditures. Some of these biases result in savings rates that are implausible and result in lower support awards among high-income families.

**Recommendations in report.** Ellman directed most of his recommendations to child support guideline commissions. He suggested that they exercise caution in determining what economic evidence should be accepted as the basis for a schedule. He also recommended taking better account of income and savings in the conversion of the economic evidence into child support schedules.

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<sup>61</sup> The American Law Institute has developed its own guideline model. See American Law Institute, *Principles of the Law and Family Dissolution: Analysis and Recommendations*, Philadelphia, Pa. (2000).

**State guidelines following recommendations.** The Arizona Administrative Office of the Courts has formed a subcommittee to further explore some of Ellman’s criticisms.

**Rothe, Cassetty, and Boehnen (2001)**

I. Rothe, J. Cassetty, and E. Boehnen, *Estimates of Family Expenditures for Children: A Review of the Literature*, Report to the Wisconsin Department of Workforce Development, Institute for Research on Poverty, Madison, Wisconsin (April 2001).

**Background of report.** The State of Wisconsin enlisted the University of Wisconsin-Madison Institute for Research on Poverty (IRP) to investigate concerns about the fairness of the Wisconsin percentage-of-income child support guideline. In this paper, the authors reviewed existing literature on estimates of expenditures on children and identified potential implications for Wisconsin’s standard.

**Review of the estimates of child-rearing costs.** The authors reviewed Betson’s 1990 Rothbarth and Engel estimates as well as the 1995 USDA estimates. They also reviewed two prior studies by the IRP regarding Wisconsin’s standard.<sup>62</sup> The earlier IRP studies used Canadian data as well as data from the CEX to conclude that a flat percentage of gross income is appropriate because average tax rates are regressive.

Rothe, Cassetty, and Boehnen noted that a limitation of all current methodologies used to determine child-rearing expenditures is that they do not account for noncurrent consumption spending (e.g., savings) and ways that spending may benefit the child.

**Recommendations in report.** The authors found that, for all income levels, the percentages in the Wisconsin standard were lower than estimates of expenditures for children in two-parent families. However, the authors did not conclude that the Wisconsin standard needed to be amended, stating that the percentages seemed “reasonable, though perhaps erring on the low side.”

**State guidelines following recommendations.** Wisconsin has not made changes to the percentages in its child support guideline.

**Rodgers (2004)**

W. M. Rodgers III and Y. van der Meulen Rodgers, *The Pitfalls of Using a Child Support Schedule Based on Outdated Data*, National Poverty Center Working Paper Series #04-11, University of Michigan (September 2004).

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<sup>62</sup> R. A. Douthitt, *An Evaluation of Vertical Equity in Wisconsin’s Percentage-of-Income Standard for Child Support*, University of Wisconsin Institute for Research on Poverty, Special Report 47, Madison, Wisconsin (1988); R. A. Douthitt, *An Evaluation of the Relationship Between the Percentage-of-Income Standard and Family Expenditures for Children*, University of Wisconsin Institute for Research on Poverty, Discussion Paper 921-90, Madison, Wisconsin (1990).

**Background of report.** This paper provides a rationale to update Virginia’s child support schedule based on the estimates Rodgers developed in 2002.

**Review of the estimates of child-rearing costs.** In this study, Rodgers compared a schedule based on estimates he developed for Virginia to the existing Virginia schedule, which is based on the Espenshade-Engel estimates of child-rearing costs.

**Recommendations in report.** Using regression analysis, Rodgers showed that the relationship between spending on children and household income has changed over time. In addition, he noted that the Bureau of Labor Statistics has made significant improvements in data quality and comprehensiveness since the 1972–1973 CEX. Based on these findings, he recommended updating the Virginia child support schedule to include more recent data. He also recommended further research to overcome political factors that impede the process of updating child support guidelines to appropriate and realistic levels.

**State guidelines following recommendations.** According to Rodgers’ report, the proposed updated schedule based on his estimates successfully passed the Virginia Senate but did not make it out of the General Assembly’s subcommittee.

### **Other Studies**

Several other studies have reviewed child support guideline models; however, these studies do not review economic estimates of child-rearing costs.<sup>63</sup> This literature review focuses on studies that review or discuss the economic evidence underlying child support guidelines and not the choice of a guideline model.

### Economic Studies Guiding Specific Adjustments

This subsection reviews the economic literature useful in developing low-income adjustments and shared-parenting formulas. The California guideline provides a presumptive adjustment for obligors with net disposable income below \$1,000 per month. The adjustment reduces the child support amount determined by the guideline using the following formula:

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<sup>63</sup> For example, see L. W. Morgan, *Child Support Guidelines: Interpretation and Application* (New York: Aspen Publishers, 1996 & Supp.); CSR, Incorporated, with American Bar Association, *Evaluation of Child Support Guidelines, Volume 1: Findings and Conclusions*, Report to the Federal Office of Child Support Enforcement, Washington, D.C. (March 1996); J. M. Beld and L. Biernat, “Federal Intent for State Child Support Guidelines: Income Shares, Cost Shares, and the Realities of Shared Parenting” (2003) *37 Family Law Quarterly* 165–202.

Guideline amount – [guideline amount × (\$1,000 – obligor net disposable income / \$1,000)]

The presumptive application of the low-income adjustment can be rebutted by evidence illustrating that the adjustment would be unjust in a particular case. The guideline also instructs a court to consider the impact of a reduced order on the obligee's household. As discussed earlier, the core formula in the California guideline incorporates the approximate amount of time the child spends with each parent.

### **Economic Evidence Pertaining to Low-Income Adjustments and Child Support Arrearages**

For the most part, adjustments in child support guidelines for low-income nonresidential parents are made as a result of a policy decision and do not depend on economic or empirical evidence. To illustrate, this section reviews common policy premises favoring and limiting guideline adjustments for low-income nonresidential parents. This section also reviews whether and how these premises relate to economic and empirical evidence.

- ♦ *Payment of the guidelines award amount should not leave a nonresidential parent with insufficient spendable income to live at least at a subsistence level.*<sup>64</sup> Most states that adopt this premise also provide for a minimum support order if the nonresidential parent's income is below the subsistence level; even though only a token amount is required, it sets a precedent of financial responsibility. States generally consider the federal poverty guideline level for one person when determining what the subsistence level should be.
- ♦ *The child's needs must also be considered. In particular, the child should not be forced to live in poverty to allow the nonresidential parent to have a higher standard of living.*<sup>65</sup> Most states (e.g., Colorado, South Dakota) that make this consideration factor in the federal poverty guidelines for both the nonresidential parent and the family with whom the child resides.

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<sup>64</sup> See W. Primus and K. Daugirdas, *Improving Child Well-Being by Focusing on Low-Income Noncustodial Parents in Maryland*, Abell Foundation, Baltimore, Maryland (September 2000), available at [www.cbpp.org/9-25-00wel.pdf](http://www.cbpp.org/9-25-00wel.pdf); and P. Legler, *Low-Income Fathers and Child Support: Starting Off on the Right Track*, Prepared for the Annie E. Casey Foundation, Baltimore, Maryland (January 2003).

<sup>65</sup> For example, see National Women's Law Center and Center on Fathers, Families, and Public Policy, *Dollars and Sense: Improving the Determination of Child Support Obligations for Low-Income Mothers, Fathers and Children*, The Common Ground Project, Washington, D.C. (2002), available at [www.nwlc.org](http://www.nwlc.org). In addition, Washington State has recently become concerned about this trade-off. Washington State's last case file review revealed that 40 to 75 percent of IV-D custodial parent families had incomes below the poverty level even after receiving child support. K. Stirling, *The Impact of Child Support: Balancing the Economics Needs of Children and Their Noncustodial Parents*, University of Puget Sound, Tacoma, Washington (September 2002). In contrast, in 2004 the nonresidential parent was allowed to retain \$1,011 per month (130 percent of the poverty guideline for one person) in after-tax income before having to pay more than the minimum order amount of \$25 per month per child.

- *Most arrearages are owed by low-income nonresidential parents and could be prevented by setting realistic order amounts.*<sup>66</sup> Some studies find the income break points at which arrears are likely to occur and not occur.<sup>67</sup> However, a common counterargument is the finding of another study that reducing order amounts does not necessarily increase payments.<sup>68</sup> These studies are discussed in more detail in the next section.
- *The final order amount should not exceed what can be legally garnished for child support.* A few states (e.g., New Mexico, Washington) cap the percentage of income that can be assigned to child support.<sup>69</sup> However, the caps relate to legal income withholding limits. States that have decided not to adopt caps argue that support should be based on the child's needs and that some nonresidential parents can afford to pay more than the income-withholding limit.<sup>70</sup> The arguments against and favoring the cap are purely based on policy.

Three 2003 studies identified the average income breakpoint that separates nonresidential parents in arrears on child support payments and parents who were not in arrears, but these studies did not address the needs of children and whether applying an adjustment based on average payment shortchanges children of nonresidential parents who are willing and able to pay more to ensure that their children are not impoverished.

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<sup>66</sup> For example, see P. Roberts, *An Ounce of Prevention and a Pound of Cure: Developing State Policy on the Payment of Child Support Arrears by Low Income Parents*, Center for Law and Social Policy, Washington, D.C. (May 2001).

<sup>67</sup> E. Sorensen, H. Koball, K. Pomper, and C. Zibman, *Examining Child Support Arrears in California: The Collectibility Study*, Report for California Department of Child Support Services (March 2003); C. Formoso, *Determining the Composition and Collectibility of Child Support Arrearages, Volume 1: The Longitudinal Analysis*, Report to the Federal Office of Child Support Enforcement, Grant #90-FD-0027, Washington State Division of Child Support, Olympia, Washington (May 2003); J. Peters, *Determining the Composition and Collectibility of Child Support Arrears, Volume 2: The Case Assessment*, Report to the Federal Office of Child Support Enforcement, Grant #90-FD-0027, Washington State Division of Child Support, Olympia, Washington (June 2003).

<sup>68</sup> M. Hu and D. R. Meyer, *Child Support Orders and Payments: Do Lower Orders Result in Higher Payments?* University of Wisconsin Institute for Research on Poverty, Madison, Wisconsin (September 2002).

<sup>69</sup> Some states (e.g., Colorado) apply a low-income adjustment to the basic obligation before adding on costs for child care or other additional costs. After adding on the obligor's share of child-care costs, the resulting obligation can still be considerably high. One solution is to apply the low-income adjustment after adding on child-care costs. In 2001, the State of Oregon adopted a provision to apply the low-income adjustment (also referred to as an "ability to pay" calculation) after adding all additional costs to the basic obligation. The drafters of the Oregon guidelines acknowledged that the provision might result in lower orders but recognized that an obligor may be more likely to pay support if an order is within his or her means. In contrast, some states purposely adjust the base support before adding on child-care costs to ensure that the custodial parent does not bear the total burden of child-care expenses.

<sup>70</sup> A child support obligation that exceeds income-withholding limits may result from extraordinary medical needs of a child, high child-care costs, or a large family (e.g., a support obligation for six children).

**Sorensen et al. (2003)**

E. Sorensen, H. Koball, K. Pomper, and C. Zibman, *Examining Child Support Arrears in California: The Collectibility Study*, Report to the California Department of Child Support Services (March 2003).

In response to legislation enacted in 1999, California's Department of Child Support Services contracted with Dr. Elaine Sorensen of the Urban Institute to conduct extensive research on the collectibility of arrearages in the state. In 2003, Sorensen and colleagues published a collection of six reports on the findings and recommendations of that research. One finding from the study was that more than 80 percent of obligors with child support arrearages in California had recent net incomes below \$15,000 per year.<sup>71</sup> Sorensen noted that one of the primary factors contributing to the accumulation of large arrearages in the state is that orders were set too high for low-income obligors. Specifically, the study found that the median monthly obligation was \$280 for child support debtors with annual net incomes below \$5,000.<sup>72</sup>

**Washington State Studies (2003)**

C. Formoso, *Determining the Composition and Collectibility of Child Support Arrearages, Volume 1: The Longitudinal Analysis*, Report to the Federal Office of Child Support Enforcement, Grant #90-FD-0027, Washington State Division of Child Support, Olympia, Washington (May 2003).

J. Peters, *Determining the Composition and Collectibility of Child Support Arrears, Volume 2: The Case Assessment*, Report to the Federal Office of Child Support Enforcement, Grant #90-FD-0027, Washington State Division of Child Support, Olympia, Washington (June 2003).

Under a section 1115 grant from the federal Office of Child Support Enforcement, the State of Washington recently conducted a study to determine patterns of debt behavior in IV-D cases. The first part, Formoso's 2003 study, was a longitudinal analysis that began with more than 240,000 cases and tracked wages and child support program data over 15 quarters. The second part, Peters' 2003 study, analyzed a sample of noncustodial parents from the longitudinal study. However, instead of just examining the previous 15 quarters, the study analyzed the entire history of the noncustodial parent's involvement with the Division of Child Support. One of the resulting recommendations from the study was that, in a IV-D case, if a noncustodial parent's gross income was below \$1,400 per month, the order should not exceed 20 percent of that income if the policy goal is to prevent arrears accumulation. The average gross monthly income of nonresidential parents with increasing arrears was \$231 per month—well below what could be earned from full-time minimum wage employment.

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<sup>71</sup> Sorensen et al. (2003), Executive Summary p. 10.

<sup>72</sup> *Id.*, Executive Summary p. 9.

**Hu and Meyer (2002)**

M. Hu and D. R. Meyer, *Child Support Orders and Payments: Do Lower Orders Result in Higher Payments?* University of Wisconsin Institute for Research on Poverty, Madison, Wisconsin (September 2002).

Hu and Meyer's 2002 study examined automated data from two systems relating to child support orders, supplemented by unemployment insurance (UI) wage data in Wisconsin to examine the relationship between the amount due and amount paid among fathers with different income levels. The authors found that the amount of child support paid was not simply a function of what percentage of income was assigned to child support but that fathers with higher incomes tended to pay more, regardless of the level of the support obligation. This study was limited to payment behaviors in only the first year of a child support order, a time when fathers might be more involved and inclined to pay support. Other limitations of this study are that it did not look at payment behavior among noncustodial mothers and that fathers with more than one child support order (i.e., multiple families) were excluded.

**Economic Evidence Pertaining to Shared Parenting Adjustments**

The parameters of guideline formulas' adjustments for time-sharing by parents have been determined largely as a matter of policy rather than as a result of economic evidence, because there is a dearth of economic evidence to guide what the parameters should be. One reason for the lack of economic evidence is the enormous difficulty of developing economic models of shared-parenting situations, which tend to be too complex for empirical analysis.<sup>73</sup> These models try to factor in the parent's desired amount of custody subject to the parent's time and budget constraints (i.e., hours worked and the income that results from work) and child support award amounts.

Although the evidence is limited, there are some common themes, as was discussed in detail in Chapter 2 of this report:

- Child-rearing expenses are greater when a child is being raised in two households than they are when the child is being raised in one household.
- Some specific child-rearing expenses may decrease with shared parenting time, whereas others may not.
- There are non-pecuniary benefits associated with a child.

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<sup>73</sup> For example, see E. H. Peters, *Child Custody and Monetary Transfers in Divorce Negotiations: Reduced Form and Simulation Results*, Paper presented at the annual meeting of the Econometrics Society, New Orleans, Louisiana (1992); J. C. Venohr, *The Economics of Mediation and the Allocation of the Child's Time Between Divorced Parents*, Thesis submitted to the University of Colorado, Denver (1997).

- There is a risk that parents will bargain time with a child for money.
- There is a need to protect the well-being of children in the custodial parent's household.

The following section reviews three recent publications that attempt to provide economic evidence on the costs of shared parenting time and whether a nonresidential parent's costs increase when a child spends more time with that parent.

**Henman and Mitchell (2001)**

P. Henman and K. Mitchell, "Estimating the Costs of Contact for Non-Resident Parents: A Budget Standards Approach," (2001) 3 *Journal of Social Policy* 495–520.

An Australian study by Henman and Mitchell attempted to estimate the cost of care during visitation time. The study did not look at survey data of actual expenditures made by noncustodial parents during parenting time because, as the authors noted, no such representative survey data exist. Instead, the authors determined what goods and services would be necessary and appropriate during contact and estimated the cost of those goods and services for different levels of visitation. As did the authors of other studies discussed in this report, Henman and Mitchell noted that raising a child in two households costs more than raising a child in an intact family because of the costs of "infrastructure" (e.g., a bedroom, furniture). The researchers concluded that the cost of visitation is relatively high. For example, they indicated that it costs between 38 and 56 percent of the total annual cost to raise a child in an intact family when one child spends 20 percent of the year with the noncustodial parent.

**Fabricius and Braver (2003)**

W. V. Fabricius and S. L. Braver, "Non-Child Support Expenditures on Children by Nonresidential Divorced Fathers: Results of a Study" (2003) 41 *Family Court Review* 321–336.

Fabricius and Braver sought to provide preliminary evidence on expenditures by noncustodial fathers that fell outside child support obligations. The authors surveyed college students whose parents had divorced when they were younger. Survey respondents were asked to recall how much time they spent with their father during the two years following the divorce, how much time they spent with their father in subsequent years, and whether certain benchmark items (e.g., clothes, personal items, toys) were available to them in the father's household. The authors found a linear relationship between time spent with the father and amount of expenditures made by the father. As a result, the authors recommended "more generous and more continuous adjustments for visitation in child support schemes, to offset nonresidential parent's direct expenditures on children, which appear to be unexpectedly high and arise on a non-

cliff-like pattern.”<sup>74</sup> The authors noted that their study did not attempt to determine the actual dollar amount of expenditures made by noncustodial parents during parenting time but instead intended to show that noncustodial parents do make expenditures over and above the mandated child support amounts.

#### **Garfinkel et al. (2004)**

I. Garfinkel, S. McLanahan, and J. Wallerstein, “Visitation and Child Support Guidelines: A Comment on Fabricius and Braver” (2004) 42 *Family Court Review* 342–349.

Garfinkel and colleagues (2004) made several criticisms of Fabricius and Braver’s 2003 study. These include that the sample of college undergraduates was inappropriate because children of divorce are less likely to attend college. As a result, the sample was a select group of children eligible for child support. Further, by sampling a group of college students, Fabricius and Braver ultimately looked at expenditures by fathers who paid more child support, spent more time with children, and thus incurred more expenses during visitation with their children, creating a significant bias. Garfinkel and colleagues also pointed out that the study did not attempt to verify any of the recollections of the surveyed college students by contacting parents or consulting any other records of purchase. Finally, Garfinkel and colleagues noted that the presence of clothing, personal items, toys, and so on in a father’s household does not prove that the father purchased those items for the children. The items may have been purchased by either parent and kept at the father’s house. Garfinkel and colleagues concluded that making adjustments to child support obligations once parenting time exceeds normal visitation is a sound policy; in most cases, at low levels of parenting time the expenditures by noncustodial parents during visitation are not appreciable when compared to custodial parent expenditures.

#### Comparisons with Other States

In this section, the California guideline is compared graphically with obligations calculated in other large states or states bordering California. The following states’ guidelines are depicted in the graphs.

**Arizona.** Arizona uses the income shares guideline model. The Arizona child support schedule was last updated in 2005 and is based on the Betson-Rothbarth estimates of child-rearing expenditures using 1996–1999 CEX data. The schedule uses the combined gross monthly income of the parents and covers combined monthly gross income up to \$15,000. Arizona incorporates an adjustment to the basic obligation when the children spend four days per year with the obligor. The adjustment percentage gradually increases with the amount of time spent with the obligor. The Arizona time-sharing adjustment is a

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<sup>74</sup> Fabricius and Braver (2003), p. 321.

variation of a model rooted in the concept that there are three types of child-rearing expenditures: variable (e.g., food); fixed duplicated (e.g., housing); and fixed nonduplicated (e.g., the child's clothing). The concept is that at low levels of time-sharing, there should be an adjustment to the support award for variable costs only. When the time-sharing is substantial, the adjustment should consider both variable and fixed duplicated expenses because both parents incur these expenses.

**Oregon.** Oregon uses the income shares guideline model. The Oregon child support schedule was last updated in 2003 and is based on the Betson-Rothbarth estimates using 1996–1999 CEX data. The schedule uses the combined gross monthly income of the parents and covers combined monthly gross income up to \$15,000. Oregon uses a variation of the Arizona time-sharing adjustment; however, the adjustment does not apply until children spend 20 percent of their time with the obligor parent.

**Nevada.** Nevada uses a guideline model based on percentage of obligor income that is an adaptation of the Wisconsin model. The percentages apply to obligor gross income; however, there is a cap on the amount of support that can be ordered per child based on the monthly gross income of the obligor. In Nevada, the amount of time the children spend with each parent may be considered as a deviation factor.

**New York.** New York adapted Wisconsin's guideline model based on percentage of obligor income. The percentages apply to obligor gross income with Federal Insurance Contribution Act (FICA) taxes deducted. Where the income of the parents exceeds \$80,000 per year, use of the guidelines is permitted but not required. However, the child support division publishes tables to annual incomes of \$200,000. In New York, the time children spend with the obligor may be considered as a deviation factor.

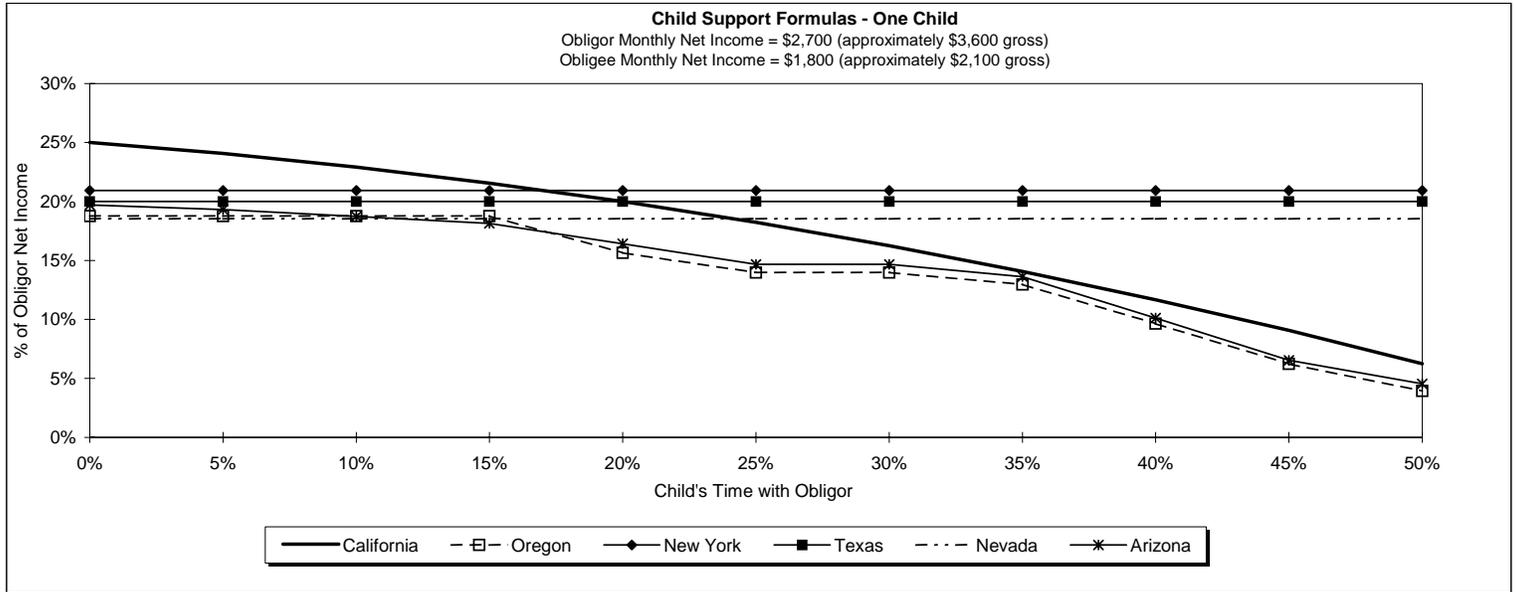
**Texas.** Texas also uses the guideline model based on percentage of obligor income. The percentages apply to obligor net income and are applied to obligor net income only up to \$6,000 per month. Above that amount, support is calculated at \$6,000 net income, and additional support may be ordered depending on the income of the parties and the proven needs of the children. In Texas, the amount of time the children spend with the obligor may be considered as a deviation factor.

The graphs depict monthly order amounts as a percentage of obligor net income over a range of time spent with the obligor. The incomes used to calculate the obligations approximate the median incomes of mothers and fathers in the 2005 case file review (see Exhibit 3-11 in Chapter 3).

As is evident from the graphs, when the children spend no time with the obligor, the California obligations are slightly higher than those of the other states depicted. As the percentage of time spent with the obligor increases, application of California's guideline formula results in a smooth, gradual decline in the monthly obligation. Nevada, New

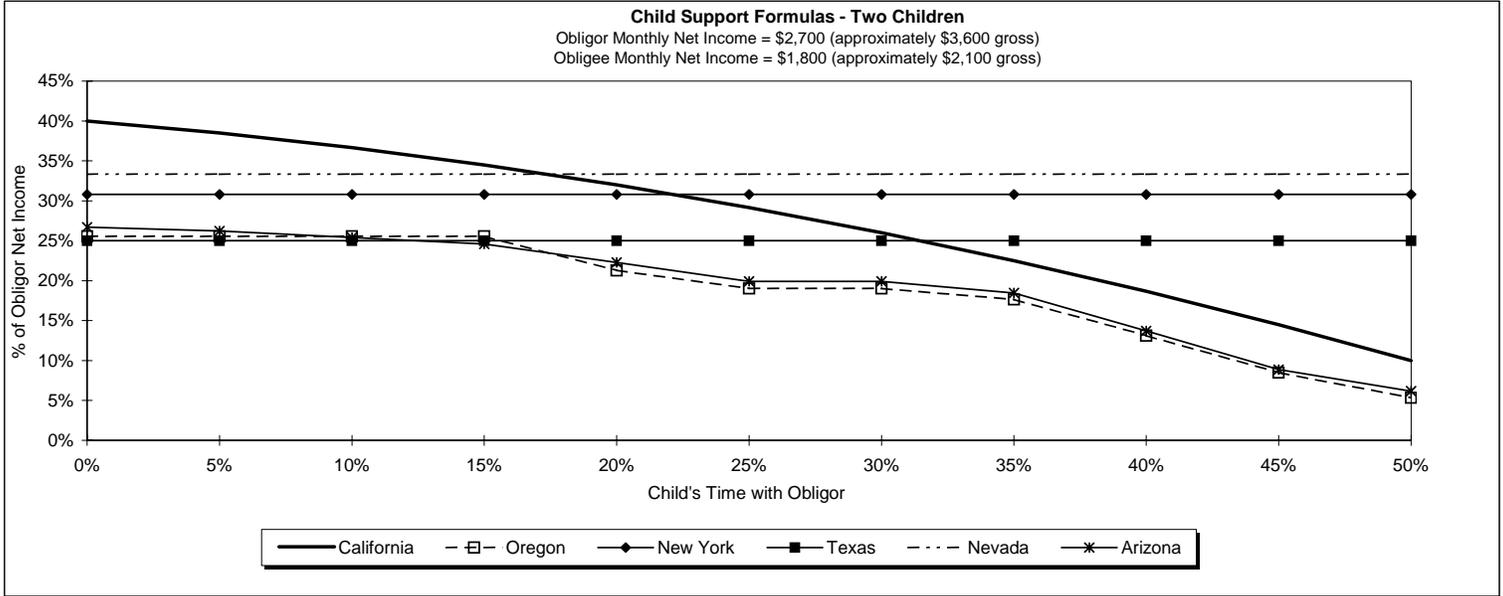
York, and Texas do not include a formula to adjust for time spent with the obligor, so the monthly obligations in these states remain constant. Since the time-sharing arrangement is a deviation factor in these states, however, actual order amounts could be adjusted on a case-by-case basis.

The Arizona and Oregon obligations also gradually decrease as time spent with the obligor increases. The adjustment method used in these states includes a table with an adjustment percentage based on the number of days spent with the obligor parent. For example, in Arizona, when the number of days spent with the obligor is 88 to 115 per year, the adjustment percentage is 16.1 percent. Because the adjustment is based on a range, obligations in Arizona and Oregon are the same whether an obligor spends 91 days (25 percent of the year) or 110 days (30 percent of the year) with the children.



**CHILD SUPPORT FORMULAS - ONE CHILD**  
 Obligor Monthly Net Income = \$2,700; Obligee Monthly Net Income = \$1,800

Support Due (\$\$ per month)							% of Obligor Net Monthly Income						
Time Spent with Father (Percent)	California	Arizona	Oregon	Nevada	New York	Texas	Time Spent with Father (Percent)	California	Arizona	Oregon	Nevada	New York	Texas
0% (0 days)	\$675	\$532	\$507	\$500	\$565	\$540	0%	25%	20%	19%	19%	21%	20%
5% (18 days)	\$650	\$522	\$507	\$500	\$565	\$540	5%	24%	19%	19%	19%	21%	20%
10% (36 days)	\$619	\$506	\$507	\$500	\$565	\$540	10%	23%	19%	19%	19%	21%	20%
15% (55 days)	\$582	\$490	\$507	\$500	\$565	\$540	15%	22%	18%	19%	19%	21%	20%
20% (73 days)	\$540	\$443	\$422	\$500	\$565	\$540	20%	20%	16%	16%	19%	21%	20%
25% (91 days)	\$492	\$396	\$377	\$500	\$565	\$540	25%	18%	15%	14%	19%	21%	20%
30% (110 days)	\$439	\$396	\$377	\$500	\$565	\$540	30%	16%	15%	14%	19%	21%	20%
35% (128 days)	\$380	\$368	\$350	\$500	\$565	\$540	35%	14%	14%	13%	19%	21%	20%
40% (146 days)	\$315	\$273	\$260	\$500	\$565	\$540	40%	12%	10%	10%	19%	21%	20%
45% (164 days)	\$245	\$176	\$168	\$500	\$565	\$540	45%	9%	7%	6%	19%	21%	20%
50% (182.5 days)	\$169	\$123	\$106	\$500	\$565	\$540	50%	6%	5%	4%	19%	21%	20%



**CHILD SUPPORT FORMULAS - TWO CHILDREN**  
 Obligor Monthly Net Income = \$2,700; Obligee Monthly Net Income = \$1,800

Support Due (\$\$ per month)							% of Obligor Net Monthly Income						
Time Spent with Father (Percent)	California	Arizona	Oregon	Nevada	New York	Texas	Time Spent with Father (Percent)	California	Arizona	Oregon	Nevada	New York	Texas
0% (0 days)	\$1,080	\$721	\$690	\$900	\$831	\$675	0%	40%	27%	26%	33%	31%	25%
5% (18 days)	\$1,040	\$708	\$690	\$900	\$831	\$675	5%	39%	26%	26%	33%	31%	25%
10% (36 days)	\$990	\$686	\$690	\$900	\$831	\$675	10%	37%	25%	26%	33%	31%	25%
15% (55 days)	\$932	\$664	\$690	\$900	\$831	\$675	15%	35%	25%	26%	33%	31%	25%
20% (73 days)	\$864	\$601	\$575	\$900	\$831	\$675	20%	32%	22%	21%	33%	31%	25%
25% (91 days)	\$788	\$537	\$514	\$900	\$831	\$675	25%	29%	20%	19%	33%	31%	25%
30% (110 days)	\$702	\$537	\$514	\$900	\$831	\$675	30%	26%	20%	19%	33%	31%	25%
35% (128 days)	\$608	\$499	\$477	\$900	\$831	\$675	35%	23%	18%	18%	33%	31%	25%
40% (146 days)	\$504	\$371	\$354	\$900	\$831	\$675	40%	19%	14%	13%	33%	31%	25%
45% (164 days)	\$392	\$239	\$229	\$900	\$831	\$675	45%	15%	9%	8%	33%	31%	25%
50% (182.5 days)	\$270	\$166	\$144	\$900	\$831	\$675	50%	10%	6%	5%	33%	31%	25%

## Appendix B

### Savings and Consumption in Families With Minor Children

#### Introduction

Economists and guideline developers often have to make an assumption about savings when estimating child-rearing expenditures from actual family expenditure data or when developing a child support schedule or formula based on estimates of child-rearing expenditures. (For purposes of this discussion, “savings” refers to after-tax income not expended on current consumption items.) Some economists circumvent the savings issue by estimating child-rearing expenditures as a percentage of total family expenditures, thus not having to address the issue that some families do not spend all their after-tax income on current consumption items. However, guideline developers must make an assumption about the relationship of total family expenditures, current consumption level, and after-tax income because child-support schedules and formulas relate to parents’ income.<sup>75</sup> Still other economists estimating child-rearing expenditures, including van der Gaag—whose 1981 estimates, in part, form the basis of the current California guideline formula—assume that total family expenditures equal after-tax income.<sup>76</sup>

Savings is also an issue as a result of the methodology underlying most estimates of child-rearing costs used in state child support guidelines. Specifically, the marginal cost methodology assumes that the difference in family expenditures between two equally well-off couples—one couple with children and another couple without children—is attributable to child-rearing expenses. As noted by Lewin/ICF in their 1990 study,<sup>77</sup> couples may save in anticipation of having a child, and married couples may save in

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<sup>75</sup> For example, the estimates of child-rearing expenditures developed by Betson relate to total family expenditures, not income (D. M. Betson, *Alternative Estimates of the Cost of Children from the 1980–86 Consumer Expenditure Survey*, Report to the U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, University of Wisconsin Institute for Research on Poverty, Madison, Wisconsin (1990); D. M. Betson, “Chapter 5: Parental Expenditures on Children,” in Judicial Council of Cal., *Review of Statewide Uniform Child Support Guideline 2001* ). Hence, most state guidelines based on Betson’s estimates convert expenditures to income using the ratio of expenditures to income among families with children estimated from the same data set Betson uses. Ellman is highly critical of this approach because he believes it assumes implausible savings rates relative to what is reported in national accounting statistics (I. M. Ellman, *Fudging Failure: The Economic Analysis Used to Construct Child Support Guidelines*, University of California, Berkeley, Center for the Study of Law and Society Jurisprudence and Social Policy Program, Working Paper 19, Berkeley, California (2004), available at <http://repositories.cdlib.org/cslls/fwp/19>).

<sup>76</sup> J. van der Gaag, *On Measuring the Cost of Children*, Discussion Paper 663-81, University of Wisconsin Institute for Research on Poverty, Madison, Wisconsin (1981).

<sup>77</sup> Lewin/ICF, *Estimates of Expenditures on Children and Child Support Guidelines*, Report to U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, Fairfax, Virginia (October 1990).

anticipation of sending their child to college or making other future expenditures on their child. If either of these scenarios occurred, the estimate of child-rearing expenditures could be biased.

This section explores these savings issues by examining how much of families' after-tax income is spent on current consumption. After-tax income not spent on current consumption is assumed to be devoted to savings. The Consumer Expenditure Survey (CEX), the major source of family expenditures data, does not specifically ask families about how much they save. As a consequence, backdoor estimates of savings are made by examining the gap between current consumption and after-tax income. The CEX focuses on capturing total expenditures by households. In fact, the U.S. Bureau of Labor Statistics (BLS) estimates that its survey captures 95 percent of all expenditures. Income data from the CEX, however, is less reliable. In fact, the BLS suspects that income is more likely to be underreported than overreported. Nonetheless, the CEX is the most comprehensive and in-depth survey tracking family income and expenditures.

This chapter examines how much of families' after-tax income is spent on current consumption across various income levels and family structures (e.g., two-parent families, one-parent families, and married couples with children), as well as how much is spent over time. To complement the chronology of the economic evidence on child-rearing expenditures in Appendix A, changes in savings, consumption, and income are similarly examined over time. Appendix B starts with savings, consumption, and income data from the 1980s, whenever data are available, because that is the decade when the majority of states initially developed their guidelines. Appendix B ends with the most current evidence, which is from 2003, using BLS data.

Before the results of the analysis are reported, the following sections provide more detailed definitions of savings and current consumption.

### Marginal Propensity to Save and Consume

Economists typically bifurcate disposable income (i.e., earned and unearned income after taxes) into two categories: (1) personal consumption and (2) savings. Economists define the "average propensity to consume" (APC) as the ratio of the family's spending or consumption to its disposable income. In turn, the "average propensity to save" (APS) is the ratio of the family's savings to its disposable income. The resulting sum of APC and APS is one—that is, 100 percent of disposable income.

Economists have devoted a good deal of energy to understanding and tracking the relationship of consumption and income over time to predict not only the level of spending in the economy but also how much saving is being done. Over the past decades, economists have become increasingly worried about the declining personal savings rate

reflected in the increasing APC as measured by the U.S. Commerce Department in assessing the overall health of the U.S. economy.

The APC also has consequences for state child support guidelines that are based on estimates of child-rearing expenditures as a percentage of total family expenditures. Assuming that those estimates were converted to income using the correct APC that existed when the guidelines were developed, then the following propositions should be true:

- If the APC has actually increased over time, guideline amounts should be increased to reflect more spending by families in general (assuming that all other factors are held constant, e.g., that estimates of child-rearing expenditures themselves have not changed).
- If the APC has actually decreased—that is, families are saving more—the guideline amounts should be decreased to reflect more saving by these families (again, assuming that all other factors are held constant).
- If the APC has not changed, the guideline amounts should not be changed to account for changes in APC, but changes may be warranted for other reasons (e.g., the estimates of child-rearing expenditures have changed).

### **Various Measures of Average Propensity to Consume**

This study considers two measures of APC. The primary source of information on the economy-wide rate of consumption is the National Income and Product Accounts (NIPA) information collected by the U.S. Commerce Department. As noted earlier, this information is used to track the overall health of the national economy. Exhibit B-1 depicts the rising APC over the past 25 years. If families continue to allocate the same percentage of their spending to their children, increases over time in the APC, as defined using NIPA data, should result in large increases in child support formulas based on estimates of child-rearing expenditures, assuming that the family's real income is constant.

However, the limitation to this extension is that the NIPA data are not on par with the data used to measure child-rearing expenditures. The Commerce Department has adopted definitions of spending and income that do not directly correspond to the definitions employed by the Bureau of Labor of Statistics in its Consumer Expenditure Survey. The CEX is the source of data for most estimates of child-rearing expenditures on which state child support guidelines are based. The CEX is an ongoing, rotating national survey of more than 7,000 households concerning expenditures, income, and household characteristics (e.g., number of residents in household, presence of children in household).

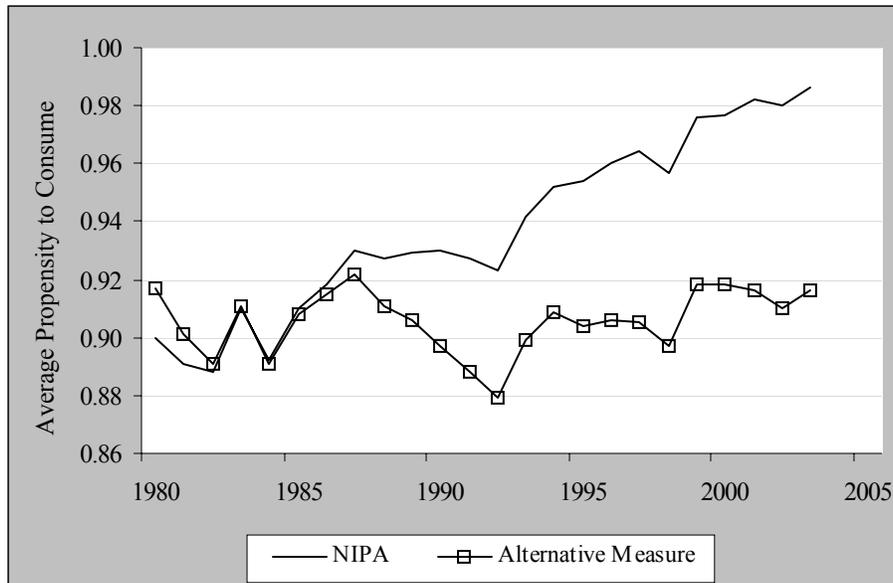
As far as income is concerned, NIPA defines it as the after-tax income of households plus the value of all fringe benefits (primarily health-care and retirement pension benefits)

provided by employers. Although inclusion of fringe benefits makes sense because such benefits substitute for current or future household consumption, the BLS does not collect this information, and states do not consider fringe benefits as a source of family income. On the spending side, NIPA includes the full market value of medical care utilized by households. In contrast, the CEX collects information only on out-of-pocket spending of the family.<sup>78</sup> Because the CEX is the database for most estimates of child-rearing expenditures, these differences create an inconsistency between the APC calculated from NIPA data and the APC required for the construction of state child support formulas from estimates of child-rearing expenditures.

### Reconciling Differences in Measuring Average Propensity to Consume

The impact of this definitional inconsistency can be examined by adjusting the NIPA APC by subtracting all of the value of medical care from personal spending and subtracting the value of fringe benefits from personal disposable income. Exhibit B-1 depicts an alternative APC reflecting these changes. Instead of an increasing APC, this time series suggests a rather constant APC over this time period. The difference between these two time series suggests that the value of fringe benefits has not been growing as fast as increases in spending on medical care since about 1987.

**Exhibit B-1**  
**Changes in Average Propensity to Consume over Time**  
 (Data source: NIPA standard and alternative measurement of APC)



Although the NIPA data provide a benchmark for comparison with estimates from other sources, the NIPA data are not appropriate for the construction of state child support formulas based on estimates of child-rearing expenditures. The NIPA data reflect the

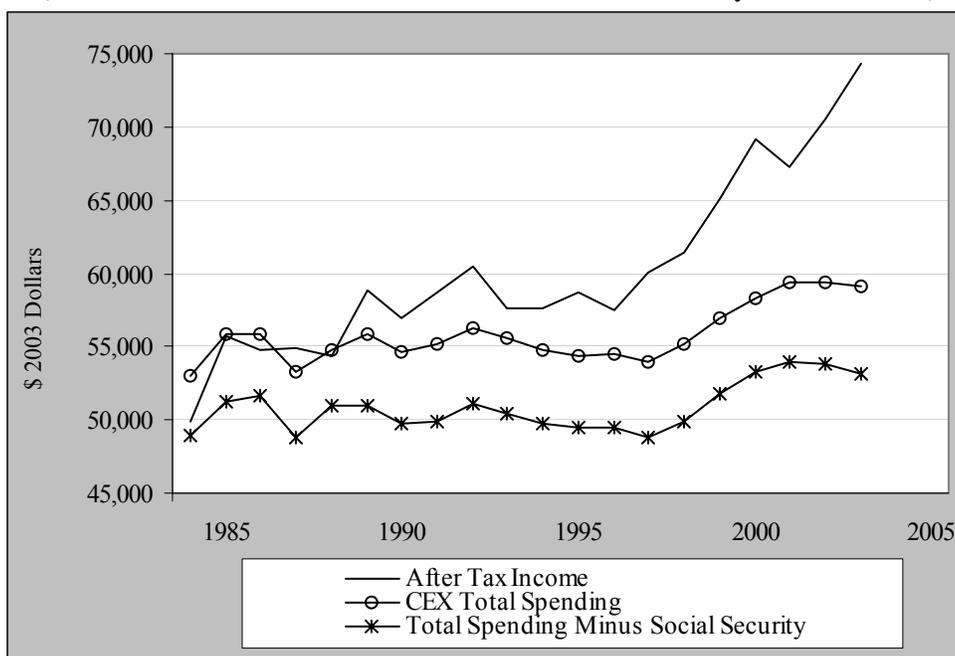
<sup>78</sup> Appendix B-1 contains a detailed list of the expenditures tracked by the CEX.

spending behavior of all households, not just intact families with children. Additionally, the NIPA data do not provide information on how APC will vary by income. Because APC would be expected to decline with a family's income, the use of a single value would understate the amount of spending in low-income families while overstating spending in high-income families.

### Changes over Time Using CEX Data

Each year, the BLS publishes tables for different subgroups of the population based on the CEX—in particular, for two-parent families in which the oldest child is between 6 and 17 years old. Exhibit B-2 presents a time series of average real after-tax income (in their published reports, the BLS subtracts income taxes but not payroll taxes), the BLS's definition of total expenditures, and the BLS's calculation of total expenditures minus social security taxes and contributions to pensions.

**Exhibit B-2**  
**Average Real Income and Total Spending**  
 (Data source: Husband-wife families with oldest child 6 to 17 years old in CEX)

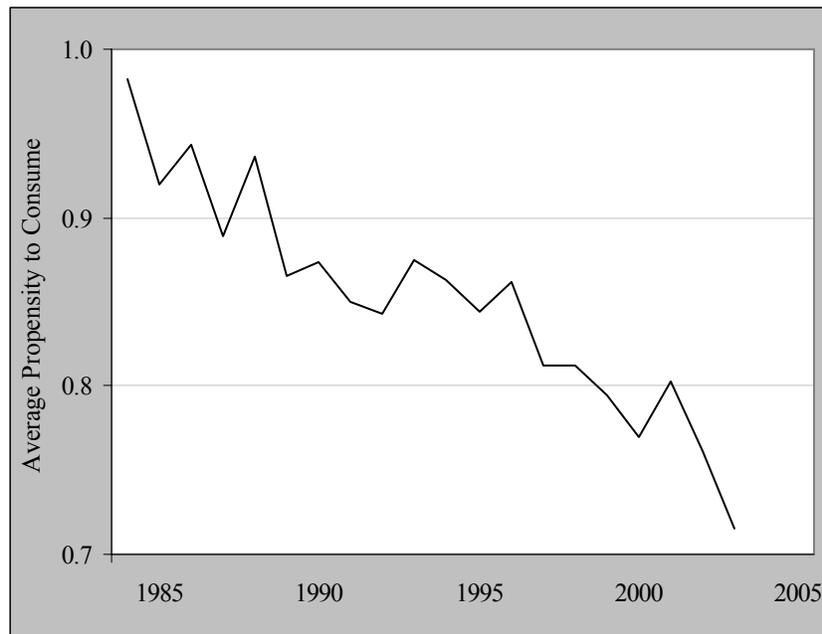


As is evident in Exhibit B-2, even though real disposable income was rising among families included in the CEX throughout this 20-year period, average real spending remained constant until 1997. Between 1997 and 2001, real spending began to grow, but in the most recent years average spending has leveled off once again.

The ratio of average real spending (BLS definition minus social security taxes) to average after-tax income—which is still another way to measure APC—is presented in Exhibit B-3. The trend exhibited in Exhibit B-3 suggests that APC is decreasing. This trend differs from the trend that appears when the APC is measured by the NIPA, as illustrated

in Exhibit B-1. Unfortunately, however, the measurements of APC in Exhibits B-1 and B-3 are not comparable because of differences between the BLS and NIPA in their treatment of social security taxes. The BLS considers social security taxes as an expenditure item, which the BLS bundles with pension contributions in its standard reports. In contrast, the NIPA considers social security taxes as a deduction from income to arrive at its measurement of disposable income.

**Exhibit B-3**  
**Ratio of Spending to After Tax Income**  
 (Data source: Husband-wife families with oldest child 6 to 17 years old in CEX)



**Comparisons of NIPA and CEX Measurements of Average Propensity to Consume**

For a more suitable comparison of the NIPA and CEX measurements of APC, a family-level data set was constructed from the public-use CEX data files for years ranging from 1987 to 2003. (Exhibits B-2 and B-3 were constructed from BLS reports summarizing CEX data, rather than the public-use data files.) Families in the data set were included in this comparison if a married couple was present with at least one child under the age of 18 years. Older children (over 18 years old) could be present in the family, but at least one younger sibling had to be present. The data were arranged into four panels of data each representing four years: 1987–1990, 1991–1994, 1996–1999, and 2000–2003. Table B-1 presents a direct comparison of the NIPA and CEX data on the APC arranged by the four time panels. Appendices B-1 and B-2 provide additional information on the CEX and the sample used in this comparison.

For the NIPA data, three variations of annual APC values are considered:

- ♦ APC utilizing the official NIPA definition;

- APC subtracting medical care from spending and all employer fringe benefits from disposable income (0 percent option); and
- APC subtracting 10 percent of medical care spending based on the assumption that 10 percent is a proxy for typical out-of-pocket medical spending by families (10 percent option).

These NIPA measurements of APC compose the first three rows of Table B-1.

The fourth through seventh rows of Table B-1 represents variations of the APC as measured from CEX data. There are two ways that APC is measured from CEX data. The first is by comparing average expenditures across families to average incomes across families. The second is by averaging the ratio of expenditures to income across families. (Appendices B-3 and B-4 extensively explore the differences between these alternative measurements.) Each method contains two alternative subdefinitions.

- APC based on the BLS definition of total expenditures minus social security taxes, pension contributions, and out-of-pocket medical expenses. This ratio was intended to reflect the 0 percent option from the NIPA data.
- APC based on the BLS definition of expenditures minus social security taxes and pension contributions but with no adjustment for out-of-pocket medical expenses. This ratio should be compared with the 10 percent option constructed from the NIPA data.

The same definition of after-tax income is employed—gross income minus income and payroll taxes—for both the NIPA and CEX data. There are at least two major differences between the estimates based on the NIPA and CEX data. First, the APC computed from the NIPA data represents the behavior of all households (i.e., families with and without children, single persons, and unrelated persons living together), whereas the APC computed from the CEX data represents families with children—the segment that states are interested in examining to construct child support formulas. The second difference concerns data collection methods: the BLS interviews and surveys families to collect data for the CEX, whereas the NIPA data is constructed from income and expense reports of firms. As a result, differential reporting behavior of families and firms could also explain differences in APC as measured from the NIPA and CEX data.

As is evident in Table B-1, the NIPA estimates show a relatively constant APC over the time period covered by the CEX data. The CEX estimates not only show a definite decline in the ratio of APC but also are significantly lower in any given year than the corresponding NIPA estimates. To resolve these conflicting results, the CEX estimates are further examined at three levels to determine whether an anomaly in the CEX can explain the difference.

- The first possible explanation is that families have a higher APC than all household types, but this seems implausible given that families, on average, have larger household sizes—and, therefore, greater expenditures— than all household types.
- The second possible explanation is that families on average have higher incomes than all household types, which in turn could cause APC to be lower among families than among all households. This explanation also seems implausible given the relatively small income gap between families and all household types.
- The third possible explanation is that expenditures are underreported more than income is in the CEX, but this explanation also seems implausible given the focus of the CEX. The CEX considers several hundred items, and the BLS estimates that it collects 95 percent of expenditures. In contrast, the CEX includes only a few questions pertaining to income. Moreover, the BLS acknowledges that there is income underreporting in the CEX and is taking measures to improve the reliability of income from the CEX. Overall, the BLS is cautious of its income data, but not its spending data.

In conclusion, none of these three explanations can be used to refute the finding that the APC, as measured by the CEX data, has decreased over time.

### **Consequences to Child Support Guidelines**

Application of APC measurements from NIPA data over time suggests that no change to state child support guidelines is necessary to accommodate changes in APC over time. Specifically, the percentage of disposable income devoted to consumption has not changed significantly over time, as indicated by APC measurements from NIPA data. However, application of APC measurements from CEX data over time suggests that downward changes to state child support guidelines may be necessary to accommodate decreases in APC, as measured from CEX data, over time. The next section explores whether the trends evidenced in APC as measured from CEX data exist for all income ranges. This information also would affect whether changes to state child support guidelines are warranted for some or all income ranges.

**Table B-1**  
**Alternative Estimates of Average Propensity to Consume**

	Panel 1 (1987–1990)	Panel 2 (1991–1994)	Panel 3 (1996–1999)	Panel 4 (2000–2003)
NIPA (all households)				
Official	.929	.936	.964	.981
Alternative ( 0% option)	.909	.894	.907	.915
Alternative (10% option)	.925	.912	.926	.936
CEX (two-parent families with children): Ratio of Average Spending to Average Income				
Without medical out-of-pocket	.821	.816	.752	.722
With medical out-of-pocket	.860	.861	.772	.742
CEX (two-parent families with children): Average APC				
Without medical out-of-pocket	.956	.981	.944	.910
With medical out-of-pocket	1.004	1.037	.969	.936

### Variations in Average Propensity to Consume by Income Range

The analysis just presented considered APC for all income ranges, but it is well established in consumer economics that APC varies with income. Moreover, variations in APC due to income are an important consideration for state child support guidelines because most guidelines contain a formula that varies with income. To illustrate the importance of this variation, the impact of progressive tax rates are first considered. For gross income–based guidelines, federal personal income tax rates increase with increases to income (i.e., the federal personal income tax rate is progressive). Therefore, accounting for taxes alone should result in assignment of a decreasing percentage of gross income to child support.

For both gross and net income–based guidelines, if the ratio of expenditures to income decreases as income increases—with higher-income families likely to have more savings and lower-income families likely to have no savings—then, the percentage of gross income assigned to child support (in gross income–based guidelines) should further decrease as gross income increases; and, in net income–based guidelines, the percentage of net income assigned to child support should decrease as income increases. (It is assumed that the guideline model used by the state aims to replicate child-rearing expenditures in intact families and is not premised on tapping into any savings the family would have likely had while intact.)

To examine how APC varies with income, average expenditure-to-income ratios were calculated for intact families with children for 20 income intervals based on net income in June 2003 dollars for four different time periods, or panels. Income was inflated to 2003 dollars using changes in the Consumer Price Index published by the BLS. (Data from intact families is used because all states basing their child support formula on estimates of

child-rearing expenditures use estimates from intact families.) In these comparisons, net income is defined as gross income minus federal, state, and local income taxes and social security payroll taxes. Spending is defined as BLS total expenditures minus social security taxes and pension contributions. Table B-2 presents the number of observations from each panel (the same four-year intervals used for previous comparisons) by the 20 income intervals. Table B-3 presents average APC by income interval. The ratio of average spending to average net income for each interval was also computed, but the two estimates differed by less than 0.1 percent.

Table B-3 shows that for the most recent time period considered, Panel 4 (2000–2003), APC steadily decreases from 2.896 for the lowest income range examined (\$15,000 or less per year) to 0.488 for highest income range examined (\$150,000 or more per year). Using the information from Table B-3 for a child support guideline formula based on the premise that a child should receive the same amount of expenditures he or she would have received if he or she had lived in an intact family would suggest that if the family had \$50,000 in net income ( $APC = .890$  for Panel 4) and the estimate of child-rearing expenditures indicated that a family devotes 26 percent of total expenditures to children, the child support formula should be 23.1 percent of net income ( $0.890 \times 0.26 = 0.2314$ ).

As is evident in Table B-3, this premise could create some unreasonable support awards among low-income families that spend more than their income—that is, incur dissaving.<sup>79</sup> For example, consider a family with annual income less than \$15,000. Panel 4 of Table B-1 indicates that this family spends 2.896 times their net income, implying that the family would be spending 75.4 percent of income on a child if 26 percent of total family expenditures is devoted to child rearing ( $75.4 \text{ percent} = 26 \text{ percent} \times 2.896$ ). Although the average APC could be the result of underreporting of income by these families, an APC greater than one is predicted by the permanent income hypothesis, which proposes that these families are experiencing temporary reductions in their income and, in an attempt to “smooth” their consumption, spend more than their income during a temporary setback in finances.<sup>80</sup> If this hypothesis is true, it may not be appropriate to inflate child-rearing expenditures by APC when it is greater than one.

Table B-3 also suggests that although families with less than \$40,000 of income tend to spend more than their income (according to Panel 4), families with more than \$150,000 of net income spend less than half of their available resources. In addition, Table B-3 suggests that the relationship between expenditures and income has been changing over time. Although there are exceptions at some income intervals, average APC, holding real

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<sup>79</sup> One reason that this level may be considered unreasonable is that it exceeds what can be legally withheld for child support under the Consumer Credit Protection Act.

<sup>80</sup> The permanent income hypothesis was popularized by Milton Friedman. It suggests that a person’s spending decisions are guided by what they think the average of their lifetime income will be. Consequently, a person will spend more in years in which their income is below average and less in years in which their income is above average.

income constant, has been declining. But the difference over time is not large until the family's income exceeds \$90,000. These families represent about 12 percent of intact families with children. At the other end of the income distribution, APC rose substantially for families with less than \$15,000 of net income. These families represent about 5 percent of intact families with children.

**Table B-2**  
**Number of Observations**  
**(All two-parent families with at least one child under 18 years old)**

Real Income (\$2003)	Panel 1 (1987–1990)	Panel 2 (1991–1994)	Panel 3 (1996–1999)	Panel 4 (2000–2003)
≤ \$15,000	167	172	158	174
\$15,001 to \$20,000	151	140	141	171
\$20,001 to \$25,000	219	184	190	196
\$25,001 to \$30,000	241	228	205	234
\$30,001 to \$35,000	254	255	226	238
\$35,001 to \$40,000	273	268	229	273
\$40,001 to \$45,000	273	291	232	290
\$45,001 to \$50,000	325	250	238	306
\$50,001 to \$55,000	245	219	223	300
\$55,001 to \$60,000	247	230	189	265
\$60,001 to \$65,000	205	194	174	271
\$65,001 to \$70,000	198	143	170	219
\$70,001 to \$75,000	128	137	125	235
\$75,001 to \$80,000	109	108	113	190
\$80,001 to \$90,000	158	161	175	314
\$90,001 to \$100,000	119	119	112	238
\$100,001 to \$110,000	76	55	100	137
\$110,001 to \$125,000	67	77	67	166
\$125,001 to \$150,000	61	54	76	144
> \$150,000	48	41	118	210

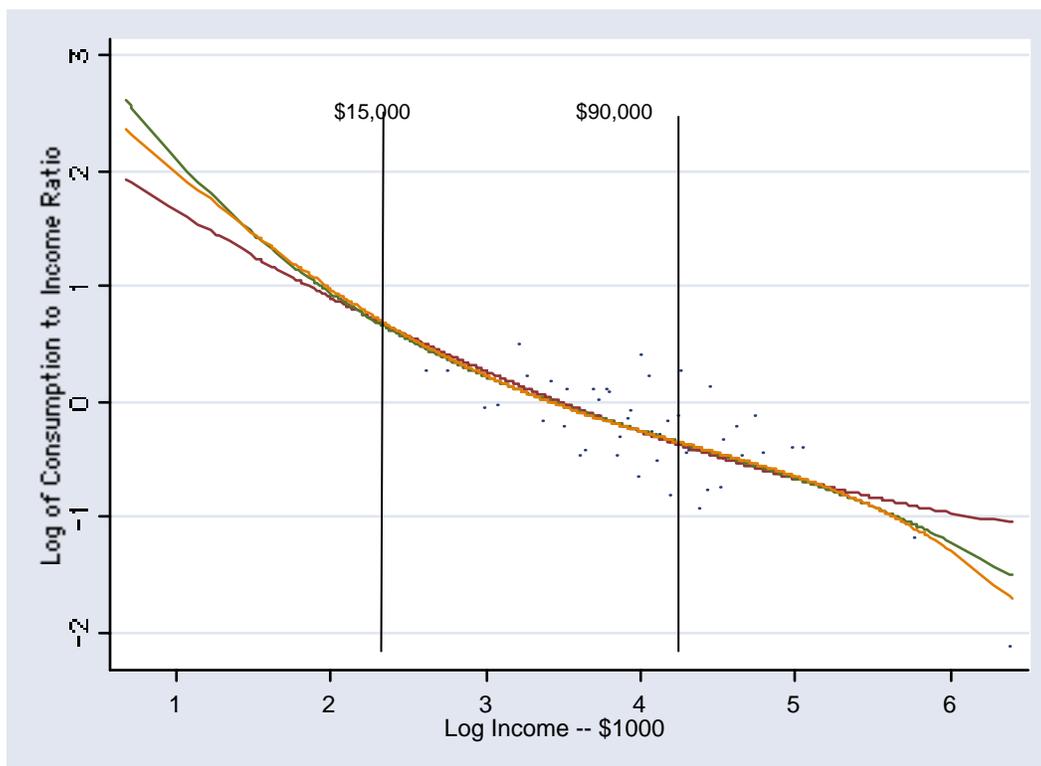
**Table B-3**  
**Average Ratio of Spending to Income by Real After-Tax Income**  
**(All families with at least one child under 18 years old)**

Real After-Tax Income	Panel 1 (1987–1990)	Panel 2 (1991–1994)	Panel 3 (1996–1999)	Panel 4 (2000–2003)
≤ \$15,000	2.310	2.591	2.649	2.896
\$15,001 to \$20,000	1.482	1.485	1.512	1.424
\$20,001 to \$25,000	1.285	1.249	1.261	1.233
\$25,001 to \$30,000	1.137	1.139	1.129	1.105
\$30,001 to \$35,000	1.030	1.100	1.021	1.067
\$35,001 to \$40,000	.983	.966	.961	1.031
\$40,001 to \$45,000	.930	.960	.876	.947
\$45,001 to \$50,000	.911	.909	.895	.890
\$50,001 to \$55,000	.844	.829	.840	.830
\$55,001 to \$60,000	.823	.803	.777	.810
\$60,001 to \$65,000	.821	.785	.766	.766
\$65,001 to \$70,000	.797	.810	.734	.795
\$70,001 to \$75,000	.764	.741	.722	.753
\$75,001 to \$80,000	.748	.749	.759	.739
\$80,001 to \$90,000	.741	.699	.688	.699
\$90,001 to \$100,000	.728	.727	.641	.660
\$100,001 to \$110,000	.714	.661	.650	.616
\$110,001 to \$125,000	.684	.749	.628	.594
\$125,001 to \$150,000	.646	.615	.553	.561
> \$150,000	.575	.571	.474	.488

**Statistical Test of Changes in Average Propensity to Consume over Time**

To provide a statistical test of whether the relationship between APC and income has changed, the relationship is examined using regression analysis. Transforming APC and the family's real net income into logged values best specifies the regression equation. Exhibit B-4 plots the fitted regression lines for three alternative specifications employing the fourth panel of data (2000 to 2003). The first specification (quadric—red line) regresses the log of the APC on the log of income and the square of the log of income. The second specification includes a cube of the log of income (green line), and the third specification adds the fourth power of the log of income term (yellow line). Exhibit B-4 also marks where the family's income is equal to \$15,000 and \$90,000 per year.

Exhibit B-4



All three specifications yield similar predictions for more than 80 percent of the sample. As shown in Exhibit B-4, most of the differences in the three specifications occur for incomes below \$15,000 and over \$90,000, but the three specifications produce similar results for incomes between \$15,000 and \$90,000 per year. This analysis validates the results for the middle income ranges. Any of the three specifications can be selected with confidence.

The following is the regression of the log of the APC on the four-order expansion of the log of income and the three dummy variables controlling for the panel (the first panel is the omitted group).

Source	SS	df	MS	Number of obs = 14722		
Model	1447.30198	7	206.757425	F( 7, 14714)	=	1471.73
Residual	2067.1118	14714	.140486054	Prob > F	=	0.0000
Total	3514.41377	14721	.238734717	R-squared	=	0.4118
				Adj R-squared	=	0.4115
				Root MSE	=	.37481

lnAPC	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
lnrinc	-.8173291	.3161225	-2.59	0.010	-1.436969	-.1976895
lnrinc2	-.2425008	.1441237	-1.68	0.092	-.5250012	.0399997
lnrinc3	.0989027	.0279889	3.53	0.000	.0440409	.1537644
lnrinc4	-.009213	.0019611	-4.70	0.000	-.013057	-.0053689
_lpanel_2	-.0064379	.0090373	-0.71	0.476	-.0241521	.0112764
_lpanel_3	-.0340606	.0090995	-3.74	0.000	-.0518968	-.0162244
_lpanel_4	-.0351609	.0084473	-4.16	0.000	-.0517187	-.0186031
_cons	2.959182	.2498623	11.84	0.000	2.46942	3.448943

The results indicate that APC, holding real income constant, is statistically different in the third and fourth panels (for the years 1996–1999 and 2000–2003, respectively) compared to the first panel (for the years 1987–1990). The average APC is roughly 3.5 percent lower in both of these most recent panels compared to the first panel. The average APC, holding income constant, in the second panel is not statistically different from the first panel while the third and fourth panels are also not statistically different. These results suggest that short lags (less than eight years) in the availability of data are unlikely to affect the use of APC over time in child support guideline formulas.<sup>81</sup>

### Effect of Number of Children and Child’s Age

Another consideration is how APC varies by the number of children in a family or the presence of older children in the family. Families with more children may consume more. Families with older children may also consume more or save more for the child’s college. Data from the most recent years (the fourth panel) is considered for this analysis. Regression analysis is used to control for the real net income of the family, the number of

<sup>81</sup> The analysis suggests that in later years there is a general decrease in the spending ratio compared to the earlier panels. In another analysis in which the log of the spending ratio was regressed on real income characterized by the 20 income categories, dummy variables for the four panels, and the complete set of interaction effects, it was found that the only significant difference across the panels occurred for the income category of real income less than \$15,000.

children (i.e., two or three or more children), and the presence of older children who are counted as adults (i.e., three or four or more adults). The regression results follow.

Source	SS	df	MS	Number of obs = 4571		
-----+-----				F( 8, 4562) = 410.17		
Model	515.700187	8	64.4625233	Prob > F = 0.0000		
Residual	716.970165	4562	.157161369	R-squared = 0.4184		
-----+-----				Adj R-squared = 0.4173		
Total	1232.67035	4570	.26973093	Root MSE = .39644		
-----+-----						
lnAPC	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
-----+-----						
lnrinc	-1.044417	.5378574	-1.94	0.052	-2.098878	.0100438
lnrinc2	-.1232788	.2424366	-0.51	0.611	-.5985719	.3520143
lnrinc3	.0729811	.0463357	1.58	0.115	-.0178593	.1638215
lnrinc4	-.0072874	.0031838	-2.29	0.022	-.0135293	-.0010455
kid2	.0489443	.0137144	3.57	0.000	.0220574	.0758312
kid3+	.0665917	.0161744	4.12	0.000	.034882	.0983015
adult3	.1025228	.0212177	4.83	0.000	.0609259	.1441197
adult4+	.0768192	.0356897	2.15	0.031	.0068502	.1467882
_cons	3.045422	.427506	7.12	0.000	2.207303	3.88354
-----+-----						

The family group that forms the basis of comparison is a two-parent family with one child under 18 years old and no older siblings present in the home. The results suggest that the presence of a second child in the family statistically increases the spending in the family by about 5 percent, holding real net income constant. The presence of three or more children does not statistically further increase the rate of spending in the family.

The regression results also find that the presence of older children in the family does have a significant impact on the rate of spending in the household, but the number of older children does not appear to be a factor. The coefficients on families with three or more adults are not statistically significantly different. However, there is a caveat. Having a child older than 18 years present in the family (starting with a family with at least one child less than 18 years old) means that an additional family member is present; it only makes sense that, holding net income constant, the family will spend more of its disposable income instead of requiring everyone to consume less on a per capita basis. The regression results indicate that an additional child under 18 years old increases spending by about 5 percent, holding income constant, whereas a child over 18 years old increases spending by about 10 percent. These results suggest that families are raising

their rate of spending more for older children (i.e., children more than 18 years old) than for younger children (i.e., children less than 18 years old).

### Comparisons to Married Couples Without Children Under 18 Years Old

Up to this point, the analysis has been restricted to two-parent families with at least one child under 18 years old. This particular analysis expands the scope to compare the relationship of consumption and income of married couples without children. To analyze this issue, married couples who had no children under 18 years old were added to the sample. The regression model just presented was employed with the addition of a variable, named “kid0,” indicating that the married couple did not have a child under 18 present in the family. The base comparison remains the same: a married couple with a single child under 18.

Source	SS	df	MS	Number of obs = 7672		
Model	936.939945	9	104.104438	F( 9, 7662)	=	613.57
Residual	1300.01773	7662	.169670808	Prob > F	=	0.0000
-----+-----				R-squared	=	0.4188
-----+-----				Adj R-squared	=	0.4182
Total	2236.95767	7671	.291612264	Root MSE	=	.41191

lnAPC	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
lnrinc	-1.062998	.4801044	-2.21	0.027	-2.004134	-.1218617
lnrinc2	-.1029154	.2117132	-0.49	0.627	-.5179311	.3121004
lnrinc3	.0650339	.0397949	1.63	0.102	-.012975	.1430428
lnrinc4	-.0064672	.0027002	-2.40	0.017	-.0117604	-.001174
kid0	-.0863525	.0127818	-6.76	0.000	-.1114082	-.0612967
kid2	.0511103	.014095	3.63	0.000	.0234803	.0787403
kid3+	.0652095	.0166079	3.93	0.000	.0326534	.0977656
adult3	.084743	.0152163	5.57	0.000	.0549149	.1145711
adult4+	.1473358	.0222053	6.64	0.000	.1038075	.1908642
_cons	3.089594	.3918436	7.88	0.000	2.321474	3.857715

Controlling for real net income, the results indicate that the spending rate will decrease by 8.64 percent when there is no child present in the household. Additional young children increase the rate of expenditures by slightly more than 5 percent. At a 10 percent level of confidence, these differences are not statistically significant. These results suggest that consumption increases at the same rate for each additional child, not at a rate that varies. Further, the regression results suggest that the age of a child added to a family

does not make a statistical difference but that the child's addition to the family does increase the family's spending rate.

### **Summary of Findings: Adjusting Average Propensity to Consume for Income**

Two methods were employed to examine how spending is related to income: the cell-based approach and the regression-based approach. The first method, the cell-based approach, computes the average ratio of spending to income for 20 income intervals. The other method regresses individual values of the ratio of spending to income on the real income of the family (as well as higher-order terms: the square of income, the cube of income, and income to the fourth power). Using the regression results, the ratio of spending to income for each family given their income can be predicted.<sup>82</sup>

Table B-4 compares the results of the two approaches applied to the fourth panel of data (2000–2003). The results are compared using the same 20 categories of real income for each income interval as used in previous tables. The second column of Table B-4 shows the average ratio of spending to income (cell-based approach), and the last column of Table B-4 shows the difference of the average prediction of the ratio of spending to income from the regression-based approach minus the estimate from the cell-based approach. As indicated by the values in the last column of Table B-4, the difference is close to zero. However, the relative magnitude of the difference varies by the level of income. The percentage differences are the greatest at both ends of the distribution of income. The largest absolute and relative differences occur in the lowest interval (roughly 8 percent). At high incomes the differences are small in absolute terms but are on the order of 5 percent. In the middle of the income distribution the differences between the two approaches are slight and would yield relatively consistent estimates.

This analysis suggests that using the results from the regression analysis is a better approach to adjusting for APC than the cell-based approach, particularly because APC varies somewhat by family size (i.e., the variation is statistically significant for two children and fewer children, but the difference between two children and more children is not statistically significant). The application of the regression equation to guideline amounts would cause a gradual decrease in the percentage of disposable income assigned to child support, with the graduation being less when there are two or more children.

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<sup>82</sup> One slight complication arises from the log model employed in the study. Because the log of the ratio of spending to income was regressed on the log of income, the predicted values from this regression will yield estimates of the log of spending ratio. By taking the exponent of the predicted value, we will obtain an estimate of the median of the spending ratio, assuming normality of the errors in the original regression. To get an estimate of the expected or average prediction of the spending ratio, one-half of the variance of the standard error of the regression is added to the predicted value from the original regression.

**Table B-4**  
**Average Ratio of Spending to Income by Real After-Tax Income and Prediction Difference**  
**(All families with at least one child under 18 years old in fourth panel)**

Real After-Tax Income	Average Spending Ratio	Prediction Difference (Regression – Cell Mean)
≤ \$15,000	2.896	-.252
\$15,001 to \$20,000	1.424	.044
\$20,001 to \$25,000	1.233	.022
\$25,001 to \$30,000	1.105	.026
\$30,001 to \$35,000	1.067	-.031
\$35,001 to \$40,000	1.031	-.058
\$40,001 to \$45,000	.947	-.026
\$45,001 to \$50,000	.890	-.010
\$50,001 to \$55,000	.830	.016
\$55,001 to \$60,000	.810	.007
\$60,001 to \$65,000	.766	.026
\$65,001 to \$70,000	.795	-.027
\$70,001 to \$75,000	.753	-.004
\$75,001 to \$80,000	.739	-.008
\$80,001 to \$90,000	.699	.009
\$90,001 to \$100,000	.660	.018
\$100,001 to \$110,000	.616	.036
\$110,001 to \$125,000	.594	.034
\$125,001 to \$150,000	.561	.027
> \$150,000	.488	-.020
All income levels	.936	-.009

## Conclusions

This appendix has examined how the ratio of total family spending to net after-tax income varies by level of income and number of children. As economic theory predicts, the ratio does fall with income. The analysis also finds that the relationship has been relatively stable over time but has shown some small decreases recently. The implication is that if a state that considers APC in its guidelines formula waits several years to update its guideline formula, the change in APC may result in larger changes to the guideline model. The caveat is that given the small sample sizes, especially at high levels of income, some caution should be used in giving much significance to differences at higher income levels. Although the changes over time may reflect real changes in behavior of families, the reasoning in Appendix B-4 suggests that increasing variability of family income due to economic uncertainty could be a factor in creating this statistical result.

The analysis in this chapter also provides some guidance for adjusting estimates of child-rearing expenditures expressed as a percentage of total household expenditures for savings if the goal is to provide a child with the same level of expenditures he or she would have received if the parents and child had lived as an intact family. The analysis finds that APC is more for two and more children than it is for one child. It also finds that APC remains constant for more than two children and does not vary with the child's age. Because of data limitations it could not be determined whether childless couples save in anticipation of having children or whether parents with children save for college. Childless couples do save more than couples with children, but the data do not track whether these couples eventually have children. If parents do save for their child's college education, such savings are overshadowed by the increased expenditures associated with children.

## Appendix B-1

### Data and Sample Selection

The data for this study are drawn from the Consumer Expenditure Survey (CEX) of the Bureau of Labor Statistics (BLS). This survey, which has been fielded since 1980, collects information on the characteristics, spending patterns, and income of American families and single consumers, or “consumer units.” After an initial interview, each consumer unit is interviewed four additional times on a quarterly basis. These interviews are denoted as Interviews 2 through 5. The survey is used by the BLS to estimate the weights employed in the construction of the Consumer Price Index; however, the survey is the primary source of data in the United States on household spending decisions. The CEX has been the primary survey used by numerous researchers examining parental spending decisions on children.

This study utilizes data on consumer units from the “Consumer Unit Characteristic and Income File (FMLY)” over the time period from the first quarter of 1987 to the first quarter of 2004. This public-use file contains the consumer unit’s responses from the interviews conducted in a specific quarter of the year. Because a consumer unit may choose not to be interviewed or the BLS may not be able to locate a unit, four completed interviews may not be present for all consumer units. The BLS, in its analysis of the data on an annual basis, chooses to treat all quarterly interviews from a consumer unit as independent. Estimates of the annual expenditures of a consumer are computed as four times the amount of expenditures reported in a quarter. Each consumer unit is represented in the estimate of the annual aggregate amount of spending by the number of times the household is interviewed in the calendar year. Although this approach is one way to address the conceptual difficulties of deriving annual estimates from quarterly interviews, the method creates statistical problems of overstating the true degree of freedom by ignoring the dependence in the data and seasonal variability in the data.

The approach favored by researchers outside the BLS is to use the quarterly data to construct a single observation for each consumer unit. This annualized observation is intended to represent a single interview in which the consumer unit provided an estimate of income and spending during the previous 12 months aggregating the unit’s quarterly interviews. This approach represents a different series of compromises and considerations. Not all consumer units provided responses to all four interviews, so what should be done with those units that had less than four interviews? For the purpose of this study, the compromise chosen was to consider only units with at least three interviews. For those with three interviews, the sum of the available three reported spending amounts was multiplied by  $4/3$  to construct an estimate of annual spending.

Although the focus of the CEX is family spending decisions, the survey also collects limited data on the unit’s sources of income during the previous 12 months. In keeping

with the ideal of constructing a single annual observation for each unit, the income amount from the last available quarterly interview was employed. Given the limited number of questions pertaining to income sources, the BLS provides some indication whether, in its opinion, the income is “complete.” If the income data from the fifth interview were either absent or incomplete, then the income data from the fourth interview were employed. If data from the fourth interview were also incomplete, then the consumer unit was not used in the analysis.

The composition and characteristics of the unit reflect information from the last available interview (fourth or fifth interview). This approach ignores the changes in the unit’s structure that occur during the 12-month period. For the purpose of this study, only consumer units whose structure did not change during the 12-month period were included in the analysis.

The primary consumer unit of interest in this study was a two-parent (husband-and-wife) family with at least one child under the age of 18 years old residing in the home. Not included in the sample were husband-and-wife units whose youngest child was over 18 years old. Husband-and-wife units without children or other adult members were included in the sample as a comparison group. Finally, only those units whose reference person was 60 years old or younger were included in the sample. These sample restrictions were patterned after those utilized by most studies on the cost of raising children.

To examine how the consumer unit’s total spending has been changing over time, four panels of data from the CEX were constructed. Each panel represents data on consumer units whose interviews fell entirely within the following time periods:

	From	To
Panel 1	1987 Q1	1990 Q4
Panel 2	1991 Q1	1994 Q4
Panel 3	1996 Q1	1999 Q4
Panel 4	2000 Q1	2004 Q1

All spending and income amounts were converted into constant June 2003 dollars through the use of the Consumer Price Index for all urban workers (all items). The items included in the CEX are shown in Exhibit B-1-1 below.

<b>Exhibit B-1-1</b>	
<b>Descriptions of Major Expenditure Categories in the CEX</b>	
Housing	Includes rent paid for dwellings, rent received as pay, parking fees, maintenance, and other expenses for rented dwellings; and interest on mortgages, interest on home equity loans and lines of credit, property taxes and insurance, refinancing and prepayment charges, ground rent, expenses for property management and security, homeowners' insurance, fire insurance and extended coverage, expenses for repairs and maintenance contracted out, and expenses of materials for owner-performed repairs and maintenance for dwellings used or maintained by the consumer unit. Also includes utilities, cleaning supplies, household textiles, furniture, major and small appliances, and other miscellaneous household equipment (tools, plants, decorative items).
Food	Includes food at home purchased at grocery or other food stores as well as meals, including tips, purchased away from home (e.g., full-service and fast-food restaurant, vending machines) and alcohol.
Transportation	Includes vehicle purchase net outlay (purchase price minus trade-in value), vehicle finance charges, gasoline and motor oil, maintenance and repairs, vehicle insurance, public transportation, leases, parking fees, and other transportation expenditures.
Entertainment	Includes admission to sporting events, movies, concerts, health clubs, recreational lessons, television/radio/sound equipment, pets, toys, hobbies, and other entertainment equipment and services.
Apparel	Includes apparel, footwear, uniforms, diapers, alterations and repairs, dry cleaning, sent-out laundry, watches, and jewelry.
Health Care	Includes health insurance, medical services, prescription and nonprescription drugs, and medical supplies (eyeglasses, bandages, canes, hearing aids).
Other	Includes personal care products, reading materials, education fees, tobacco products, banking fees, cash contributions to organizations outside the consumer unit (e.g., child support, charitable donations), life insurance and retirement, pensions and social security contributions.

The definition of spending employed in that report was a slight modification of the BLS definition of spending created by subtracting social security taxes and contributions to pension plans. This definition is identical to the definition of total family spending employed in estimates of how families allocate total family spending to their children. The definition is meant to reflect the amount of current consumption of the family.

The BLS's expenditure does not count the family's principal payment on any loan, whether it is for a home, home equity, a car, or a credit card. Only the interest payments are counted as a current expenditure. A second feature of the BLS definition of expenditures is that the net purchase price of any consumer durable is counted, even if it is purchased on credit. This spending definition does not conform to what most individuals would consider the family's spending or outlays.

## Appendix B-2 Selected Sample Statistics

The intention of the samples collected was to create four balanced panels of data in terms of the number of observations. However, because of the success of the BLS's use of computer-assisted telephone interviewing technology and efforts to retain consumer units in the samples as well as to obtain one more quarter of data, the last panel did have a significantly larger sample. The following table presents the number of observations by the type of consumer unit over the four panels.

**Table B-2-1  
Number of Observations**

	Panel 1 (1987–1990)	Panel 2 (1991–1994)	Panel 3 (1996–1999)	Panel 4 (2000–2003)
Husband and wife only	1,493	1,525	1,613	2,398
1 child < 18	983	898	862	1,232
1 child < 18 with children > 18	267	196	213	337
2 children < 18	1,355	1,366	1,290	1,811
2 children < 18 with older children	98	82	74	143
3 or more children < 18	812	747	784	999
3 or more children < 18 with older children	49	37	38	49
Total	5,057	4,851	4,874	6,969

The life cycle model suggests that age can also be an important factor in determining the amount of current income devoted to consumption, and consequently the age of the reference person could be an important determinant. On average, if the consumer unit has an older child residing at home, the reference person is older. The average age of the reference person in the units with only a husband and a wife is greater than the average age of the reference person in units with children under 18 years old.

**Table B-2-2**  
**Average Age of Reference Person**

	Panel 1 (1987–1990)	Panel 2 (1991–1994)	Panel 3 (1996–1999)	Panel 4 (2000–2003)
Husband and wife only	43.4	44.2	45.3	46.8
1 child < 18	36.6	37.8	38.3	38.8
1 child < 18 with children > 18	47.2	46.3	46.5	46.6
2 children < 18	36.1	37.0	37.6	38.0
2 children < 18 with older children	44.4	44.0	45.1	44.7
3 or more children < 18	36.7	37.0	37.5	37.0
3 or more children < 18 with older children	44.1	43.6	42.6	45.4

The following table presents the average real income (in 2003 constant dollars) for the various family types by panel. The average real income for the sample does not change between the first and second panel but does show a significant increase thereafter.

**Table B-2-3**  
**Average Real Income**  
**(2003 Constant Dollars)**

	Panel 1 (1987–1990)	Panel 2 (1991–1994)	Panel 3 (1996–1999)	Panel 4 (2000–2003)
Husband and wife only	53,931	53,940	59,702	66,416
1 child < 18	50,352	50,925	59,011	63,345
1 child < 18 with children > 18	64,640	63,246	64,498	69,095
2 children < 18	51,330	50,914	58,416	68,227
2 children < 18 with older children	57,891	49,857	57,140	72,166
3 or more children < 18	49,777	48,387	54,612	61,762
3 or more children < 18 with older children	48,987	47,141	63,233	53,826

The following table presents the average ratio of spending to income by family type over the four panels. The variation in these averages makes drawing conclusions tenuous. However, across all family types the average ratio remains roughly constant between the first and second panels but then shows a significant decline moving to the third and fourth panels. Comparing the various family types, the average ratio for units made up only of a husband and a wife is significantly lower than it is for units with children. The ratio does rise slightly when there are older children residing in the unit and when there are more children under 18 years old residing in the unit.

**Table B-2-4**

**Average Ratio of Spending to Income**

	Panel 1 (1987–1990)	Panel 2 (1991–1994)	Panel 3 (1996–1999)	Panel 4 (2000–2003)
Husband and wife only	.919	.930	.892	.823
1 child < 18	.994	1.026	.936	.904
1 child < 18 with children > 18	.965	.959	.950	1.017
2 children < 18	1.011	1.049	.941	.921
2 children < 18 with older children	1.034	1.018	.991	.947
3 or more children < 18	1.006	1.041	1.067	.964
3 or more children < 18 with older children	1.129	1.208	.924	1.258

## Appendix B-3

### Alternative Methods of Computing the Average Propensity to Consume in the Population

To compute the average propensity to consume for a group of families, one can take two approaches. The most direct approach is first to compute for each family the ratio of consumption to income ( $APC_i$ ) and then to compute the average of the individual values across all families. If there are  $N$  families, then this method of computing the average propensity to consume would equal

$$APC_1 = \sum_{i=1}^N \frac{APC_i}{N} = \frac{1}{N} \sum_{i=1}^N \frac{C_i}{Y_i}$$

where  $C_i$  and  $Y_i$  are the consumption and income of the  $i$ th family.

This approach to computing the average APC in the population is potentially sensitive to outliers, which are usually the result of overreporting of consumption or underreporting of income. To reduce the impact of this differential misreporting of consumption and income data, a second approach to estimating APC in the population is to construct the ratio of the average consumption in the population to the average income:

$$APC_2 = \frac{\frac{1}{N} \sum_i C_i}{\frac{1}{N} \sum_i Y_i} = \frac{\sum_i C_i}{\sum_i Y_i}$$

This formula can be rewritten as follows:

$$APC_2 = \sum_I \frac{C_I}{\sum_j Y_j} = \sum_I \frac{Y_I}{\sum_j Y_j} APC_I = \sum_i w_i APC_i$$

where  $w_i$  is the  $i$ th family's share of total income in the population. Whereas the first approach gives equal weight to each family, this second approach to measuring APC will give more weight to higher-income families. Because APC would be expected to fall with the income of the family, the second approach to estimating APC in the population will be less than the first:

$$APC_2 < APC_1 .$$

Note that even if there are no outliers in the data, this relationship will still hold as long as APC declines with income. A second implication is that the increase in inequality of income (an increase in the share of income going to high-income families) should reduce the value of  $APC_2$  even when the APC for every family remains the same and consequently the value of  $APC_1$  would remain the same.

## Appendix B-4

### A Statistical Model of the Average Propensity to Consume

The permanent income hypothesis developed by Milton Friedman has influenced economists' thinking about the relationship between consumption and income. The hypothesis is that people base their current expenditures on the average of their expected lifetime income. In years in which a person's income is more than their expected lifetime average, they spend less. Conversely, in years in which their income is less than their expected average, they spend more. This appendix reflects the influence of this hypothesis in interpreting the statistical relationships found in the data.

We begin with the concept of permanent income, the long run-income on which a family bases consumption decisions. We will denote the permanent income of the family as  $Y^*$ . We will assume that in the population, permanent income is distributed as a log normal:

$$\ln(Y_i^*) = \mu + \varepsilon_i \quad \text{where} \quad \varepsilon_i \sim N(0, \sigma_\varepsilon^2).$$

The median value of  $Y^*$  in the population is  $\exp(\mu)$ , whereas average or expected permanent income is equal to the following:

$$E(Y^*) = \exp\left[\mu + \frac{1}{2}\sigma_\varepsilon^2\right].$$

We will assume that average propensity to consume (the ratio of desired consumption to permanent income) declines with the level of permanent income but varies for individuals at the same level of permanent income because of many factors not represented in this simple model. In particular, we will assume that average propensity to consume ( $APC = C^*/Y^*$  where  $C^*$  is the desired level of consumption) is equal to the following:

$$\ln(APC_i) = \alpha - \beta \ln(Y_i^*) + \pi_i \quad \text{where} \quad \pi_i \sim N(0, \sigma_\pi^2)$$

The expected or average APC in the population equals the following:

$$E(APC) = \exp\left[\alpha - \beta\mu + \frac{1}{2}(\sigma_\pi^2 + \beta^2\sigma_\varepsilon^2)\right]$$

This implies that the family's desired level of consumption equals the following:

$$\ln(C_i^*) = \alpha + (1 - \beta)\ln(Y_i^*) + \pi_i$$

$$\ln(C_i^*) = \alpha - (1 - \beta)\mu + (\pi_i + (1 - \beta)\varepsilon_i)$$

Although we would expect families to base their desired levels of consumption on their permanent income, how will families change their consumption when their income ( $Y$ ) deviates from their permanent income? For simplicity, we will assume that if a family's income falls short of permanent income, the family will reduce consumption by a

constant percentage of the gap between their current and permanent income. We will assume that the individuals are symmetrical in changing their consumption in response to a situation in which their current income exceeds their permanent income by consuming only a proportion of their increased income. In particular, we will assume that current consumption equals the following:

$$\ln(C_i) = \ln(C_i^*) + \delta(\ln(Y_i) - \ln(Y_i^*))$$

We will assume that current and permanent income differs by a transitory random difference:

$$\ln(Y_i) = \ln(Y_i^*) + \tau_i \quad \text{where} \quad \tau_i \sim N(0, \sigma_\tau^2)$$

This implies that current consumption can be written as follows:

$$\ln(C_i) = \ln(C_i^*) + \delta\tau_i$$

Or in terms of current income:

$$\ln(C_i) = \alpha + (1 - \beta)\ln(Y_i) + (\pi_i + (\beta + \delta - 1)\tau_i)$$

The ratio of current consumption to current income or what could be denoted as “observed” APC (OAPC) equals

$$\ln(OAPC_i) = \alpha - \beta\ln(Y_i) + (\pi_i + (\beta + \delta - 1)\tau_i).$$

The expected or average observed APC in the population equals the following:

$$E(OAPC) = \exp\left[\alpha - \beta\mu + \frac{1}{2}(\sigma_\pi^2 + \beta^2\sigma_\varepsilon^2 + (\delta - 1)^2\sigma_\tau^2)\right]$$

$$E(OAPC) = E(APC) \times \exp\left[\frac{1}{2}(\delta - 1)^2\sigma_\varepsilon^2\right]$$

This implies that average observed APC can be expected to exceed the true average APC in the population. Instead of computing the average ratio of consumption to income in the population, we can compute the ratio of average consumption to average income. This ratio equals the following.

$$\frac{E(C)}{E(Y)} = E(APC) \times \exp\left[-2\beta\sigma_\varepsilon^2 + (\delta^2 - 1)\sigma_\tau^2\right]$$

This is less than the true average APC in the population. This demonstrates that we should expect the average observed APC and the ratio of the average consumption to average income to frame the true APC:

$$\frac{E(C)}{E(Y)} < E(APC) < E(OAPC).$$

A rise in the level of income inequality is captured by the term  $\sigma_{\xi}^2$ . Higher values of  $\sigma_{\xi}^2$  are associated with higher levels of income inequality. Note that the difference between the average observed APC and the true average is not affected by changes in the level of income inequality whereas the ratio approach is affected. Also the difference in the two estimates will increase with higher levels of income inequality, holding everything else constant.

Recalling the relationship between observed APC and current income—

$$\ln(OAPC_i) = \alpha - \beta \ln(Y_i) + (\pi_i + (\beta + \delta - 1)\tau_i) = \alpha - \beta \ln(Y_i) + \xi_i$$

—the regression of  $\ln(Y)$  on  $\ln(OAPC)$  will lead to a biased estimate of the slope coefficient. Given that the correlation of  $\ln(Y)$  and  $\xi$  is

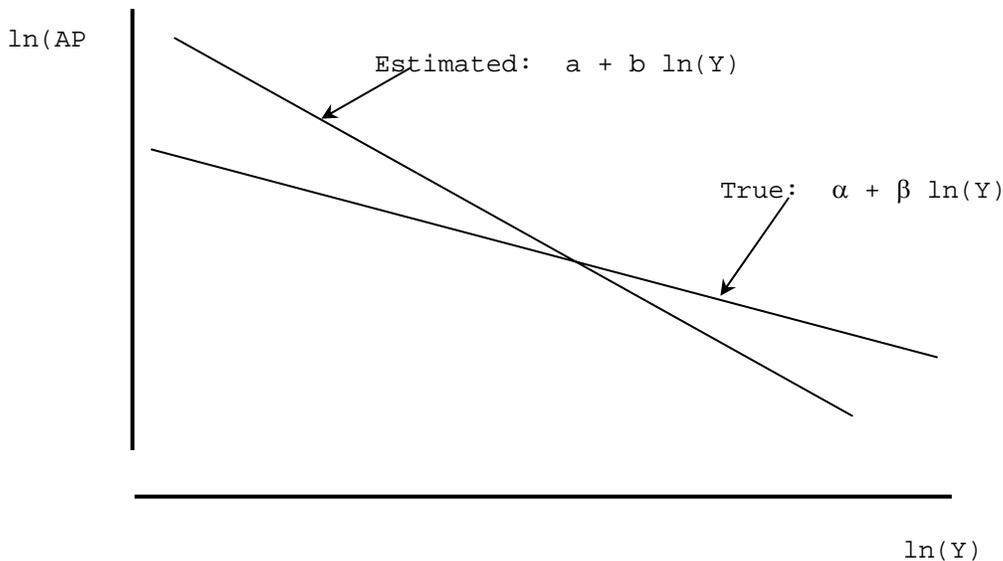
$$Cov(\ln(Y), \xi) = (\beta + \delta - 1)\sigma_{\tau}^2 < 0$$

the estimated slope coefficient (b) will be biased downward:

$$b < -\beta$$

and the estimated intercept (a) should be biased upward:

$$a > \alpha$$



The conclusion that we can draw is that for low-income families the estimated APC will overstate their true APC, whereas for high-income families the estimated APC will understate their true APC. This situation is shown in the figure above. In part, this difference results from low-income families' experiencing years in which their income is less than their expected average so that their APC is higher than normal, and high-income

families' experiencing years in which their income is more than expected, so that their APC is lower than normal.

## Appendix C

### Supplemental Materials on Sampling and Data Collection

For the case file review, lists of individual counties were used as the basis of sampling because there is no accurate statewide count, list, or central depository of recently established and modified orders.<sup>83</sup>

The remainder of this appendix consists of the following exhibits.

- ♦ *Exhibit C-1.* Exhibit C-1 compares the number of sampled cases by county in 2001 and 2004. A minimum sample of 16 cases was required for smaller counties.
- ♦ *Exhibit C-2.* Exhibit C-2 compares selected sociodemographic data from the sampled counties available in 2001 and 2005.
- ♦ *Exhibit C-3.* Exhibit C-3 consists of the case file review definitions and instructions used by data collectors in the study counties.
- ♦ *Exhibit C-4.* The data collectors used a case file review tool (i.e., Exhibit C-4) to record manually information found in the case files. To protect confidentiality, the data collection instruments did not contain any personal identifying information (e.g., names, social security numbers) from the case files. Completed data collection forms were submitted to the contractor for data entry and analysis.
- ♦ *Exhibit C-5.* The information from the case file review forms was entered into an Excel spreadsheet by research staff. Summary and descriptive statistics were derived using the SPSS statistical software application. Exhibit C-5 lists the variables used for analysis.
- ♦ *Exhibit C-6.* Exhibit C-6 displays the availability of the data elements collected from the case files. Information for a specific data element in a case may be missing

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<sup>83</sup> California has developed the California Case Registry (CCR) to comply with a federal requirement (45 C.F.R. § 307.11(e)) for states to record the names, social security numbers, and dates of birth of both parents and the children as well as the monthly order amount and to send that information to the Federal Case Registry (FCR). Like all state registries, however, the CCR is believed to undercount newly established and modified orders. For example, the Federal Office of Child Support Enforcement's *Fiscal Year 2002 Annual Statistical Report* indicated that 1,740,892 IV-D orders were in the CCR as of September 2002, but no non-IV-D orders had been recorded in the CCR at that time. Other statistics suggest that California established 136,335 orders in 2002 alone (Federal Office of Child Support Enforcement, *Fiscal Year 2002 Annual Statistical Report* (November 2003), tables 74 and 51, respectively). Most state registries underestimate newly established and modified orders because they do not have automated systems that capture non-IV-D orders. California also has the problem of not having a statewide automated IV-D system.

because a field on a worksheet is not complete or because the data collector could not locate the data element in the case file. For example, a case file might indicate that the guideline was not applied but might not include the amount that would have been ordered under the guideline. In such a case, the field for “Guideline Amount” would be missing in the data analysis.

**Exhibit C-1**  
**Cases with Orders and Sampled Number of Cases by County:**  
**2001 and 2004–2005**

County	Cases with Orders Source: California Department of Child Support Services					Sampled Cases			
	2001 Cases with Orders	2004 Cases with Orders	2001 % of Total	2004 % of Total	Percentage Change from 2001 to 2004	2001 Cases Included in Analysis	2005 Targeted Sample	2005 Cases Collected	2005 Valid Cases Included in Analysis <sup>a</sup>
Alameda	50,964	40,756	7.4%	6.0%	-1.4%	70	69	73	55
Amador	1,738	1,800	0.3%	0.3%	0%	3	16	18	16
Fresno	59,522	58,595	8.7%	8.6%	0%	172	172	172	168
Los Angeles	342,576	339,785	49.9%	50.1%	0.2%	306	307	327	316
San Diego	109,788	113,771	16.0%	16.8%	0.8%	167	168	170	167
San Luis Obispo	7,153	7,203	1.0%	1.1%	0%	22	22	25	25
Santa Clara	51,470	53,072	7.5%	7.8%	0.3%	135	135	146	119
Siskiyou	4,393	4,152	0.6%	0.6%	0%	20	20	37	22
Solano	20,744	2,0754	3.0%	3.1%	0%	49	49	54	54
Tehama	4,368	4,768	0.6%	0.7%	0.1%	10	16	16	16
Tulare	33,912	33,607	4.9%	5.0%	0%	143	143	144	144
<b>STATE OR SAMPLE TOTAL</b>	686,628 (state)	678,263 (state)	100% (state)	100% (state)	NA	1,098 (sample)	1,118 (sample)	1,182 (sample)	1,102 (sample)

<sup>a</sup> Cases were excluded if there was no income for the parents and no order amount, unless it was an order for health insurance or child care. Reserved orders were also excluded.

**Exhibit C-2**

**Selected Sociodemographic Characteristics**

<b>County</b>	<b>Information Provided in 2001 Study</b>					<b>Most Current Information</b>					
	<b>Population (1999 Estimated)</b>	<b>Population Growth (1998-1999)</b>	<b>Median Income of Joint Tax Filers (1998)</b>	<b>Median Income of All Tax Filers (1998)</b>	<b>% of Population Receiving TANF (1/2000)</b>	<b>Population (2004 Estimated)</b>	<b>Population Growth (2003-2004)</b>	<b>Median Income of Joint Tax Filers (2002)</b>	<b>Median Income of All Tax Filers (2002)</b>	<b>Income Rank*</b>	<b>% of Population Receiving TANF (1/2004)</b>
<b><i>LARGE STUDY COUNTIES</i></b>											
Alameda	1,415,582	1.3%	\$64,138	\$32,958	4.3%	1,455,235	-0.2%	\$72,293	\$38,044	\$\$-\$\$\$	2.8%
Fresno	763,069	1.1%	\$41,372	\$21,694	10.3%	866,772	1.9%	\$47,015	\$25,204	\$	8.0%
Los Angeles	9,329,989	1.2%	\$44,928	\$24,495	6.4%	9,937,739	0.8%	\$48,798	\$27,164	\$-\$	4.4%
Santa Clara	1,647,419	0.8%	\$75,128	\$38,105	2.2%	1,685,188	0.6%	\$82,150	\$43,105	\$\$\$	1.8%
San Diego	2,820,844	2.0%	\$50,331	\$27,528	3.1%	2,931,714	0.4%	\$58,583	\$31,813	\$\$	2.2%
<b><i>MEDIUM STUDY COUNTIES</i></b>											
San Luis Obispo	236,953	1.2%	\$48,147	\$26,906	1.8%	254,566	0.6%	\$56,463	\$31,122	\$\$	1.4%
Solano	385,723	♦ 2.4%	\$57,072	\$32,279	3.7%	412,970	0.3%	\$66,849	\$38,120	\$\$	2.3%
Tulare	358,470	1.4%	\$35,502	\$19,294	10.2%	401,502	2.7%	\$40,110	\$22,584	\$	8.6%
<b><i>SMALL STUDY COUNTIES</i></b>											
Amador	34,153	2.2%	\$44,532	\$28,403	2.1%	37,837	1.4%	\$52,235	\$32,930	\$\$	1.8%
Siskiyou	43,570	-1.0%	\$34,328	\$21,814	6.3%	44,891	0.6%	\$39,902	\$24,865	\$	4.6%
Tehama	54,102	0.0%	\$33,336	\$21,169	6.3%	60,075	2.0%	\$39,542	\$24,973	\$	5.0%
<b>STATE</b>	<b>33,145,121</b>	<b>1.4%</b>	<b>\$52,145</b>	<b>\$28,251</b>	<b>4.9%</b>	<b>35,893,799</b>	<b>1.2%</b>	<b>\$57,996</b>	<b>\$31,734</b>		<b>3.5%</b>

Data sources: U.S. Census, California Franchise Tax Board, and California Department of Social Services.

\* \$= below state median income; \$\$= near state median income; \$\$\$= above state median income

**Exhibit C-3**  
**CASE FILE REVIEW DEFINITIONS AND INSTRUCTIONS**

**SAMPLING AND VALID CASES**

Cases will be sampled based on the court calendar, e.g., a hearing or trial calendared within in the study time frame of January 1, 2004, through December 31, 2004.

Court contacts will be asked to pull 50 percent IV-D and 50 percent non-IV-D cases. They will be asked to pull 20 percent more than the sample quota, to allow for cases that might not be usable because of missing information.

Do not abstract UIFSA child support cases unless order is established or modified by a California court.

**DEFINITIONS**

**IV-D:** IV-D services at the time the order was entered, indicated by LCSA attorney appearance, or that it is an “in-and-out” order (FL-632 Notice Regarding Payment of Support). If an independent action is filed (FL-645 Notice to Local Child Support Agency of Intent to Take Independent Action to Enforce Support Order), it is still considered a IV-D case.

**Default:** No responsive papers filed, and no appearance by respondent/defendant, and no written stipulation or stipulation taken on record.

**Contested:** Responsive papers filed and/or appearance and no written stipulation.

**Stipulation:** Written stipulation or taken on record.

**Parent represented:** Only if represented by private counsel; LCSA is not representing parent.

Other terms follow what are in Judicial Council forms.

**REQUIRED AND MISSING INFORMATION**

The purpose of this study is to determine if the statewide child support guidelines are being followed and if not, why not. The following information **MUST** be specified, either on the mandatory forms or shown in a court-generated child support calculation printout:

Parents’ income, both gross and net;

**Exhibit C-3**

**CASE FILE REVIEW DEFINITIONS AND INSTRUCTIONS**

Amount of base child support ordered;  
Whether or not the child support ordered is the guideline amount; and  
If the child support ordered is above or below the guideline.

*Do not guess* on any of the above or make your own determination. It must be specified in the court file.

If the sampled court event is missing any of the above information, you may go back one court hearing to review documents for the required information pursuant to that establishment or modification of child support. If the case is a *new* order and there is no additional information, return that case to be refiled. Complete only Section I, Case Information, and Section IV, Missing Information. This will not be counted in your case file quota. For example, if you are required to extract data on 100 cases, and you have 10 where you could only complete Sections I and IV, then you need to collect data on 10 more cases to meet the quota.

If the sampled court event is a modification of an existing order, you may go back in the case file to try to locate a valid child support order with complete information within the study time frame (January 1 through December 31, 2004). If you cannot find a child support order within the study time frame, return the case to be refiled. As with new orders, complete only Sections I and IV, and do not count this in your case quota.

Make a reasonable effort to find missing information. Keep in mind, though, that we have estimated that it will take approximately 15 minutes to extract data for each valid case. If you find you are spending significantly more time than that to complete a valid case because you are hunting through the case file for missing information, move on.

Court contacts were asked to pull 20 percent more than your case quota. For example, if your quota of completed cases was 100, the court contact was asked to pull 120 cases for review. If you have reviewed all of the files pulled for you by the court contact and you still have not reached your quota of valid, complete cases, you will need to ask your court contact to pull more files for you. You will need to estimate how many more case files to pull for you to meet your case quota. ***You must attempt to complete 50 percent of your total quota as IV-D and 50 percent as non-IV-D cases.***

**Exhibit C-4  
CHILD SUPPORT GUIDELINE REVIEW 2005—CASE FILE REVIEW FORM**

**SECTION I: CASE INFORMATION**

**Q1. COUNTY** \_\_\_\_\_ **Q2. ORDER DATE** \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
 (MUST BE BETWEEN 1/1/04-12/31/04)

**Q3. CASE #** \_\_\_\_\_

**Q4. TYPE OF CASE (CHECK ONE)**     IV-D CASE     NON-IV-D CASE

**Q5. MODIFICATION OR NEW ORDER? (CHECK ONE)**     NEW ORDER     MODIFIED ORDER

**Q6. ORDER TYPE (CHECK ONE)**     DEFAULT     CONTESTED     STIPULATION

**SECTION II: PARENT INFORMATION**

**Q1. NUMBER OF CHILDREN SUBJECT TO THIS ORDER (CIRCLE ONE)**    1 2 3 4 5 6 7 8 9 10 OR MORE

<b>ANSWER THE FOLLOWING FOR EACH PARENT CONSIDERED IN THE ORDER CALCULATION.</b>	<b>MOTHER</b>	<b>FATHER</b>
<b>Q2. APPROXIMATE % OF CHILD'S TIME WITH PARENT</b>	%	%
<b>Q3. IS INCOME IMPUTED? (CIRCLE ONE)</b>	Y N	Y N
<b>Q4. IS INCOME PRESUMED? (CIRCLE ONE)</b>	Y N	Y N
<b>Q5. MONTHLY GROSS INCOME (IF IMPUTED, ENTER THAT AMT; IF UNKNOWN OR PRESUMED, ENTER DK; REQUIRED FIELD)</b>	\$	\$
<b>Q6. MONTHLY NET INCOME (IF IMPUTED, ENTER THAT AMT; IF UNKNOWN OR PRESUMED, ENTER DK; REQUIRED FIELD)</b>	\$	\$
<b>Q7. WAS A HARDSHIP DEDUCTION APPLIED?</b> <i>CHECK THE REASON FOR THE HARDSHIP DEDUCTION &amp; PROVIDE THE AMOUNT BY REASON.</i> a. <input type="checkbox"/> OTHER MINOR CHILDREN b. <input type="checkbox"/> EXTRAORDINARY MEDICAL EXPENSES c. <input type="checkbox"/> CATASTROPHIC LOSSES	Y N \$ \$ \$	Y N \$ \$ \$
<b>Q8. IN ARRIVING AT NET INCOME, WAS THERE A DEDUCTION FOR COURT-ORDERED CHILD SUPPORT, COURT-ORDERED SPOUSAL SUPPORT, OR VOLUNTARILY PAID CHILD SUPPORT THAT WAS NOT PART OF A HARDSHIP DEDUCTION? (IF YES, NUMBER OF CHILDREN CONSIDERED IN CHILD SUPPORT BEING SUBTRACTED.)</b>	Y N DK If YES, # OF CHILDREN = __	Y N DK If YES, # OF CHILDREN = __
<b>Q9. WHICH PARENT IS THE OBLIGOR? (CHECK ONE)</b>		
<b>Q10. DOES OBLIGOR QUALIFY FOR LOW INCOME ADJUSTMENT? TO QUALIFY, OBLIGOR NET MONTHLY INCOME MUST BE \$1,000 OR LESS.</b>	Y N	Y N
<b>Q11. WAS THE LOW INCOME ADJUSTMENT GRANTED? (COMPLETE FOR PARENT THAT IS OBLIGOR ONLY)</b> (IF YES, WHAT WAS THE MONTHLY ADJUSTMENT AMOUNT?)  (IF NO, WAS A REASON GIVEN?)	Y N \$ _____ Y N	Y N \$ _____ Y N
<b>Q12. IS THERE AN INCOME EXPENSE DECLARATION OR SIMPLIFIED FINANCIAL STATEMENT COMPLETED FOR THE PARENT?</b>	Y N	Y N
<b>Q13. IS PARENT REPRESENTED BY AN ATTORNEY?</b>	Y N	Y N

**CONTINUE ON REVERSE**

**SECTION III CHILD SUPPORT ORDER**

**Q1. AMOUNT OF BASE SUPPORT ORDERED** \$ \_\_\_\_\_ (PER) MONTH OTHER \_\_\_\_\_ OR RESERVED NOT INCLUDING ADD-ON (MUST BE SPECIFIED)

**Q2. IS THIS THE GUIDELINE AMOUNT?** YES NO \$ \_\_\_\_\_ UNSTATED  
(CIRCLE ONE; MUST BE SPECIFIED) (GUIDELINE AMT)

**Q3. IF NO TO Q2, WAS THE AMOUNT AGREED TO/ORDERED** (CIRCLE ONE; MUST BE SPECIFIED) ABOVE GUIDELINE BELOW GUIDELINE

**Q4. IF NO TO Q2, WHAT IS THE REBUTTING FACTOR?** (CHECK ALL APPLICABLE)

- |   |   |
|---|---|
| <input type="checkbox"/> (1) SALE OF FAMILY RESIDENCE IS DEFERRED                   | <input type="checkbox"/> (2) EXTRAORDINARY HIGH INCOME            |
| <input type="checkbox"/> (3) PARENT NOT CONTRIBUTING COMMENSURATE TO CUSTODIAL TIME | <input type="checkbox"/> (4i) DIFFERENT TIME-SHARING ARRANGEMENTS |
| <input type="checkbox"/> (4ii) EQUAL CUSTODY, UNEQUAL HOUSING                       | <input type="checkbox"/> (4iii) CHILD HAS SPECIAL NEEDS           |
| <input type="checkbox"/> STIPULATION  | <input type="checkbox"/> UNJUST OR INAPPROPRIATE                  |
| <input type="checkbox"/> OTHER _____ (SPECIFY)                                      | <input type="checkbox"/> UNSTATED                                 |

Q5. ADDITIONAL CHILD SUPPORT	MONTHLY AMOUNT OR %	
	MOTHER CIRCLE ONE: % \$	FATHER CIRCLE ONE: % \$
(1) WORK- OR EDUCATION-RELATED CHILD-CARE COSTS		
(2) CHILD'S UNINSURED HEALTH-CARE COSTS		
(3) CHILD'S EDUC. COSTS OR SPECIAL NEEDS		
(4) TRAVEL EXPENSES FOR VISITATION		
(5) OTHER _____		

**Q6. CHECK ALL THAT ARE APPLICABLE**

MOTHER  FATHER ... IS ORDERED TO PROVIDE HEALTH INSURANCE

MOTHER  FATHER ... DOES NOT HAVE HEALTH INSURANCE AVAILABLE AT REASONABLE COST AT THIS TIME

**SECTION VI. MISSING INFORMATION**

- NO DOCUMENTS ON RESULT OF CALENDARED CHILD SUPPORT COURT EVENT INITIALLY SAMPLED (E.G. CONTINUANCE, OFF CALENDAR)
- PARENTS' INCOME NOT SPECIFIED
- AMOUNT OF CHILD SUPPORT NOT SPECIFIED
- GUIDELINE AMOUNT NOT SPECIFIED
- ABOVE OR BELOW GUIDELINE NOT SPECIFIED

ADDITIONAL COMMENTS/REMARKS (ATTACH ADDITIONAL NOTES, IF NEEDED):

FORM COMPLETED BY: \_\_\_\_\_

**Exhibit C-5  
Data Variables**

<b>Variable Number</b>	<b>Variable Description/Question</b>	<b>Variable Type</b>	<b>Codes</b>
<b>Section I: Case Information</b>			
1	County	Text	
2	Order Date	Date	
3	Case Number	Text	
4	Type of Case	Code	1=IV-D Case 2=Non-IV-D Case
5	Modification or New Order	Code	1=New Order 2= Modified Order
6	Order Type	Code	1=Default 2=Contested 3=Stipulation
<b>Section II: Parent Information</b>			
7	Number of Children	Numeric	
8	Approximate % of child's time with mother	Numeric	
9	Approximate % of child's time with father	Numeric	
10	Is mother's income imputed?	Code	1=Yes
11	Is father's income imputed?	Code	2=No
12	Is mother's income presumed?	Code	3=Don't Know
13	Is father's income presumed?	Code	
14	Mother's monthly gross income	Numeric	
15	Father's monthly gross income	Numeric	
16	Mother's monthly net income	Numeric	
17	Father's monthly net income	Numeric	
18	Did mother receive a hardship deduction?	Code	1=Yes 2=No 3=Don't Know
19	Mother's hardship deduction for other minor children	Code	1=Box is checked
20	Amount of mother's hardship deduction for other minor children	Numeric	
21	Mother's hardship deduction for extraordinary medical expenses	Code	1=Box is checked
22	Amount of mother's hardship deduction for extraordinary medical expenses	Numeric	
23	Mother's hardship deduction for catastrophic losses	Code	1=Box is checked
24	Amount of mother's hardship deduction for catastrophic losses	Numeric	
25	Total of hardship deductions for mother	Numeric	
26	Notes for mother's hardship deduction	Text	
27	Did father receive a hardship deduction?	Code	1=Yes 2=No 3=Don't Know
28	Father's hardship deduction for other minor children	Code	1=Box is checked
29	Amount of father's hardship deduction for other minor children	Numeric	
30	Father's hardship deduction for extraordinary medical expenses	Code	1=Box is checked
31	Amount of father's hardship deduction for extraordinary medical expenses	Numeric	

**Exhibit C-5  
Data Variables**

<b>Variable Number</b>	<b>Variable Description/Question</b>	<b>Variable Type</b>	<b>Codes</b>
32	Father's hardship deduction for catastrophic losses	Code	1=Box is checked
33	Amount of father's hardship deduction for catastrophic losses	Numeric	
34	Total of hardship deductions for father	Numeric	
35	Notes for father's hardship deduction	Text	
36	Did mother receive a deduction for court-ordered child or spousal support, or voluntarily paid child support?	Code	1=Yes 2=No 3=Don't Know
37	Mother—number of children deduction covers	Numeric	
38	Mother—amount of deduction	Numeric	
39	Mother's deduction for court-ordered child or spousal support, or voluntarily paid child support notes	Text	
40	Did father receive a deduction for court-ordered child or spousal support, or voluntarily paid child support?	Code	1=Yes 2=No 3=Don't Know
41	Father—number of children deduction covers	Numeric	
42	Father—amount of deduction	Numeric	
43	Father's deduction for court-ordered child or spousal support, or voluntarily paid child support notes.	Text	
44	Which parent is the obligor?	Code	1=Mother 2=Father 3=Neither
45	Does the obligor qualify for low-income adjustment?	Code	1=Yes 2=No 3=Don't Know
46	If Variable 45 is yes, was the low-income adjustment granted?	Code	1=Yes 2=No 3=Don't Know
47	If Variable 46 is yes, what was the amount of the adjustment?	Numeric	
48	If Variable 46 is no, was a reason given?	Code	1=Yes 2=No
49	Is there an Income Expense Declaration or Simplified Financial Statement for the mother?	Code	1=Yes 2=No 3=Don't Know
50	Is there an Income Expense Declaration or Simplified Financial Statement for the father?		
51	Is mother represented by an attorney?	Code	1=Yes 2=No 3=Don't Know
52	Is father represented by an attorney?		
<b>Section III: Child Support Order</b>			
53	Amount of base support ordered (not including add-on)	Numeric	
54	Frequency of order	Code	1=Monthly 2=Other
55	Notes on frequency of order	Text	

**Exhibit C-5  
Data Variables**

<b>Variable Number</b>	<b>Variable Description/Question</b>	<b>Variable Type</b>	<b>Codes</b>
56	Is the order reserved?	Code	1=Yes 2=No
57	Is this the guideline amount?	Code	1=Yes 2=No 3=Unstated
58	If Variable 57 is no, guideline amount	Numeric	
59	If Variable 57 is no, was the amount agreed to or ordered above or below the guideline amount?	Code	1=Above 2=Below
<b><i>If Variable 57 is no, rebutting factors (more than one may apply)</i></b>			
60	Sale of family residence is deferred	Code	1=Box is checked
61	Extraordinary high income		
62	Parent not contributing commensurate to custodial time		
63	Different time-sharing arrangements		
64	Equal custody, unequal housing		
65	Child has special needs		
66	Stipulation		
67	Unjust or inappropriate		
68	Other		
69	Other rebuttal reason specified	Text	
70	Unstated	Code	1=Box is checked
<b><i>Additional child support</i></b>			
71	Work- or education-related child-care costs \$ mother	Numeric	
72	Work- or education-related child-care costs % mother	Numeric	
73	Work- or education-related child-care costs \$ father	Numeric	
74	Work- or education-related child-care costs % father	Numeric	
75	Child's uninsured health-care costs \$ mother	Numeric	
76	Child's uninsured health-care costs % mother	Numeric	
77	Child's uninsured health-care costs \$ father	Numeric	
78	Child's uninsured health-care costs % father	Numeric	
79	Child's education costs or special needs cost \$ mother	Numeric	
80	Child's education costs or special needs cost % mother	Numeric	
81	Child's education costs or special needs cost \$ father	Numeric	
82	Child's education costs or special needs cost % father	Numeric	
83	Travel expenses for visitation \$ mother	Numeric	
84	Travel expenses for visitation % mother	Numeric	
85	Travel expenses for visitation \$ father	Numeric	
86	Travel expenses for visitation % father	Numeric	
87	Other support mother specified	Text	
88	Other support \$ mother	Numeric	
89	Other support % mother	Numeric	
90	Other support father specified	Text	
91	Other support \$ father	Numeric	
92	Other support % father	Numeric	

Exhibit C-5 Data Variables			
Variable Number	Variable Description/Question	Variable Type	Codes
<i>Health Insurance</i>			
93	Mother is ordered to provide health insurance	Code	1=Box is checked
94	Father is ordered to provide health insurance		
95	Mother does not have health insurance available at a reasonable cost at this time		
96	Father does not have health insurance available at a reasonable cost at this time		
<b>Section IV: Missing Information</b>			
97	No documents on result of calendared child support court event initially sampled	Code	1=Box is checked
98	Parents' income not specified		
99	Amount of child support not specified		
100	Guideline amount not specified		
101	Above or below guideline not specified		
102	<b>Additional Comments</b>	Text	

Exhibit C-6 DATA AVAILABILITY		
Data Element	% Missing	
Q1. County	0%	
Q2. Order date	1.1%	
Q3. Case number	0.7%	
Q4. Case type	0%	
Q5. Modification or new order	7.4%	
Q6. Order type	8.1%	
Q1. Number of children	3.0%	
	% of Mother's Information Missing	% of Father's Information Missing
Q2. Percent of time with parent	15.1%	15.1%
Q3. Income imputed	18.7%	21.0%
Q4. Income presumed	19.2%	20.8%
Q5. Gross income	21.4%	16.6%
Q6. Net income	28.3%	27.1%
Q7. Hardship deduction applied	26.2%	17.0%
Q7: Reason for hardship deduction	45.7%	42.9%
Q7: Amount of hardship deduction	4.3%	6.7%
Q8. Adjustment for additional dependents	31.8%	22.7%
Q9. Which parent is obligor	1.9%	

**Exhibit C-6  
DATA AVAILABILITY**

Q10. Obligor qualifies for low-income adjustment	11.2%	
Q11. Low-income adjustment granted	11.3%	
Q11. Amount of adjustment	3.1%	
Q11. If not granted, was a reason given?	30.4%	
Q12. Income Expense Declaration or Simplified Financial Statement in file?	4.9%	4.8%
Q13. Parent represented by attorney?	4.0%	3.7%
<b>Data Element</b>	<b>% Missing</b>	
Q1. Order amount	0.3%	
Q2. Guideline applied	25.8%	
Q2. If no, guideline amount	18.0%	
Q3. If not applied, is order above or below guideline?	14.0%	
Q4. Rebutting factor	36.0%	
<b>Data Element</b>	<b>% of Cases with Add-On or Special Factor</b>	
Q5 (1) Child care	14.5%	
Q5 (2) Child's uninsured health-care costs	24.5%	
Q5 (3) Child's education	2.5%	
Q5 (4) Visitation travel expenses	1.1%	
Q5 (5) Other expenses	1.6%	
Q6. Health insurance	63.0%	
Q6. Health insurance not available	3.9%	

## Appendix D

### Guideline Application and Arrears Accumulation

In fiscal year 1999, the California child support program had a total of \$14 billion in unpaid support, referred to as child support arrears, up from \$2.5 billion nine years earlier, representing a 468 percent increase. That year, the California child support program, better known as the IV-D program, had about 900,000 cases that owed arrears, which meant that each case owed, on average, about \$15,000 in back support. Although these figures are large, they do not include arrears accumulated on child support orders outside the purview of the IV-D program. The numbers reflect only unpaid support on orders enforced by the IV-D program. This appendix reviews the likely impact of the guideline amounts on arrears accumulation in California.

#### Summary of 2003 California Collectibility Study

In 1999, the California Legislature enacted major reforms of the child support program and created a new Department of Child Support Services (DCSS). As part of this legislation, the California Legislature mandated that a study be conducted on the collectibility of child support arrears.<sup>84</sup> During the debate over the child support reforms, child support advocates pointed to the \$14 billion in arrears as evidence of a failed program, while child support administrators argued that the arrears were, to a great extent, uncollectible. The California Legislature wanted a thorough review of these arrears to resolve these disparate views.

The basic findings from the California Collectibility Study were that (1) most of the child support arrears were not collectible and (2) the main factors contributing to arrears growth were orders that were too high for low-income obligors and the assessment of interest at 10 percent per year. Below, the data used in the Collectibility Study is described and a summary of the study is given.

#### **Data Sources**

Considerable data were used to assess the collectibility of arrears held by DCSS. All data were collected at the individual level (or case level). The primary data were from DCSS and consisted of the amount of arrears owed and the amount of current support owed for each obligor who owed arrears as of March 2000. These data were matched to other data by the name and social security number of the child support debtors. The matches were conducted by the California agencies providing the data or the California Franchise Tax Board (FTB). The DCSS data were matched to the following data files: Medi-Cal

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<sup>84</sup> E. Sorensen, H. Koball, K. Pomper, and C. Zibman, *Examining Child Support Arrears in California: The Collectibility Study*, Urban Institute, Report for California Department of Child Support Services (March 2003).

recipient records, California state prison records, three years of California quarterly earnings data, four years of California income tax returns, the newly created Financial Institution Data Match (FIDM), and one year of quarterly earnings for the rest of the country from the federal Office of Child Support Enforcement. Most (85 percent) of the individuals who owed arrears were successfully matched to at least one other data set.

### **Composition of Arrears (2003 Study)**

The Collectibility Study found that the arrears held by DCSS cases were mostly owed to the government and were highly concentrated among a relatively small number of debtors who owed large sums of arrears and had little or no reported earnings. Specific results follow.

Most (70 percent) of the child support arrears held by DCSS cases were owed to the government, and 30 percent were owed to families. Arrears are owed to the government because TANF recipients must assign their right to child support to the government as a condition of receiving cash assistance. Only the first \$50 of child support collected each month on behalf of TANF recipients goes to the recipient; the remaining amount goes to the government to reimburse it for providing the family with TANF. Any arrears that accumulate while recipients receive cash assistance from TANF are owed to the government, not the individual recipients.

Most of the child support arrears were owed by obligors who owed large amounts of arrears. Just 1 percent of child support debtors owed more than \$100,000 in arrears, but collectively they owed 11 percent of the arrears held by the child support program. Just 28 percent of the debtors owed more than \$20,000 in arrears, but collectively they owed 72 percent of the arrears.

Most child support debtors had no recent reported income (25 percent) or had net reported incomes below \$10,000 a year (36 percent). Only 1 percent had net reported incomes over \$50,000 a year (see Table D-1). Yet most of the arrears were owed by debtors with little or no reported income.

### **Collectibility of Arrears (2003 Study)**

Given that most of the arrears were owed by a relatively small number of debtors who owed large sums and that most of these debtors had low or no reported incomes, it is not surprising that simulation models conducted by the Urban Institute estimated that only 26 percent of the \$14 billion in child support arrears would be collected. Furthermore, if changes were not made to policies that affect arrears growth, the simulation results suggested that child support arrears could double in 10 years.

### Reasons Behind Arrears Growth (2003 Study)

The Collectibility Study identified the following three reasons for arrears growth during the 1990s: (1) support order amounts that were too high for low-income obligors, (2) incomplete enforcement, and (3) assessment of interest on arrears.

The most relevant of these for the 2005 guideline review is the first one—that is, child support orders tended to be too high for low-income obligors. The Collectibility Study found that the median amount owed in current support among debtors with a current support order was \$300 per month. This finding means that half of the child support debtors owed less than \$300 per month; half owed more than that. The median percentage of net income that debtors with income were expected to pay toward current support was 35 percent. However, this latter figure was highly dependent on the net income of the child support debtor. For debtors with net incomes over \$50,000 a year, the median percentage of net income that was expected to go toward current support was just 10 percent. For debtors with net incomes of \$1 to \$5,000 a year, the median percentage was 211 percent.

**Table D-1**  
**Characteristics of Child Support Debtors in California in 2000,**  
**by Net Income Categories**

Annual Net Income	Number of Debtors	Percentage of Debtors	Among Debtors w/ an Order	
			Median Monthly Child Support Order	Median Order as a Percent of Net Income
<b>No net income</b>	211,310	25%	\$277	NA
<b>Has net income</b>	623,941	75%	\$305	35%
<b>\$1–\$5,000</b>	184,459	22%	\$280	211%
<b>\$5,000–\$10,000</b>	116,432	14%	\$276	44%
<b>\$10,000–\$15,000</b>	96,236	12%	\$285	27%
<b>\$15,000–\$20,000</b>	72,992	9%	\$303	21%
<b>\$20,000–\$25,000</b>	53,910	6%	\$329	18%
<b>\$25,000–\$30,000</b>	39,223	5%	\$360	16%
<b>\$30,000–\$40,000</b>	39,587	5%	\$401	14%
<b>\$40,000–\$50,000</b>	12,651	2%	\$453	12%
<b>\$50,000 or more</b>	8,451	1%	\$535	10%
<b>Total with orders</b>	509,095	64%	\$300	NA

The Collectibility Study found that several factors contributed to the relatively high orders for debtors with low and no reported income. Most relevant to the guideline

review were the following: (1) too many child support orders were established by default, and (2) default orders were set at the minimum basic standard of adequate care (MBSAC).

The Collectibility Study found that 71 percent of child support debtors had at least one child support order set by default. In general, a default order can be established if a summons and complaint is properly served on a noncustodial parent and that parent does not file an answer with the court within 30 days of being served. The concern with defaults is that when orders are set by default noncustodial parents may not be aware of the legal proceeding being brought against them or may not understand the summons and complaint that was served on them.

The Collectibility Study also found that nearly half of the debtors with a default order established in 1998 and 1999 had their order set at the MBSAC level. At that time, if no income or income history was known about the noncustodial parent, under Family Code section 17400(d)(2) income was to be presumed at a level that generated a child support order equal to the MBSAC for the number of children involved. In October 2001, the amount of income needed to generate an MBSAC order for two children in most parts of the state was \$2,200 per month or \$26,400 per year, about four times the median net income of debtors.

Finally, the Collectibility Study found that child support debtors with a default order or with income presumed at the MBSAC level were significantly less likely to pay child support and owed significantly more arrears than similarly situated debtors without a default order or presumed income. These findings suggested that default orders and presumed income were contributing to arrears.

#### Changes in the Child Support Program Since the Collectibility Study

Since the Collectibility Study, local child support agencies have had much greater access to automated employment, earnings, and other information for locating obligors. Until recently, child support workers had to submit requests for quarterly earnings information to the State Parent Locator Service. Now they have direct access to quarterly earnings information through the automated child support system. In addition, child support workers have direct access to new hire data from the state's New Employee Registry. They can also request state tax return information from the Franchise Tax Board.

In addition to greater access to information, the child support program has begun to place a greater emphasis on obtaining information up front so that the proposed order in the summons and complaint is accurate. In the past, it was commonly thought that obligors would answer the summons and complaint if the order was set too high. But, in fact, the high default rate showed that relatively few obligors contested the proposed order in the summons and complaint.

The Judicial Council has also taken steps to ensure that the case files for newly established and modified orders include the income information and guideline calculations that were used to determine the order. The Judicial Council now mandates training of judicial officers that emphasizes the importance of including this information in case files. Many courts now have the technology to generate printouts of this information right in the courtroom, making things easier for all involved.

### **Legislative Changes**

In 2003, the California Legislature passed Assembly Bill 1752 (Stats. 2003, ch. 225), which made the low-income adjustment presumptive in all cases in which the net disposable income of an obligor is less than \$1,000 per month. The law also reduced the presumed income level from the minimum basic standard of adequate care to the earnings from a full-time minimum-wage job. Other changes were also made: most notably, the law required DCSS to establish an arrears collection enhancement process to accept offers in compromise of arrears and interest owed as reimbursement for public assistance. More recently, legislation was enacted that will eliminate some filing fees.

### **Relevant Results From the 2005 Guideline Review for Arrears Growth**

The 2005 guideline review identified four major changes since the previous review was conducted in 2001 that will likely reduce arrears growth: (1) significantly more orders have income information, (2) fewer orders are being set by default, (3) fewer orders are based on presumed income, and (4) significantly more orders are based on the low-income adjustment. The following paragraphs discuss each of these changes and how the changes might impact arrears growth.

### **Availability of Income Information (Changes from 2001 to 2005)**

The guideline review found that only 20 percent of IV-D orders had income information in 2001 but that this figure increased to 76 percent in 2005, representing a 280 percent increase. During this same period, the percentage of non-IV-D orders with gross or net income information also increased from 61 percent to 75 percent, representing a 23 percent increase.<sup>85</sup> Much of this change probably reflects the increased access to income information that child support workers have and the change in the child support program's attitude regarding the importance of using actual income information when

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<sup>85</sup> The California guideline formula is based on net disposable income, but it also specifies how net disposable income is to be calculated from gross income. Because that calculation requires annualizing income and subtracting annualized taxes, which can be a cumbersome calculation, most guideline users obtain the parents' gross incomes and plug those amounts into an automated guideline calculator. The calculator converts gross to net disposable income, as provided in the California guideline, and then calculates the support amount. As a result, the case file may contain only gross or net income if a printout from the guideline calculator is not included in the case file. (The printout will have both amounts.)

determining the amount of an order. Although the Collectibility Study did not analyze this issue directly, it is reasonable to expect that increasing reliance on information about actual earnings when determining order amounts will lower arrears growth because orders should be more in line with an obligor's ability to pay.

#### **Defaults (Changes From 2001 to 2005)**

The guideline review also found that the default rate among IV-D orders fell from 68 percent in 2001 to 45 percent in 2005, while the percentage of IV-D orders entered through a contested hearing rose from 9 percent in 2001 to 36 percent in 2005. During this same period, non-IV-D cases also experienced a large increase in contested orders. As noted earlier in this report, the commissioners from the study counties believe that the reduction in default orders resulted largely from the use of family law facilitators and a culture shift in the courts and the child support system. As noted earlier, the Collectibility Study found that debtors with default orders were significantly less likely to pay support than similarly situated debtors without default orders. Therefore, according to these results, a reduction in default orders should increase order compliance and lower arrears growth.

#### **Presumed or Imputed Income (Changes From 2001 to 2005)**

The guideline review found that the percentage of orders using presumed or imputed income also fell dramatically among IV-D orders, from 47 percent in 2001 to 16 percent in 2005. Again, the use of presumed and imputed income has probably declined because child support workers have greater access to actual earnings information than they did before.

#### **Application of the Low-Income Adjustment (Changes From 2001 to 2005)**

The guideline review found that the percentage of all orders eligible for a low-income adjustment increased slightly between 2001 and 2005 but that the percentage of obligors eligible for the adjustment who actually received it increased 738 percent, from 6 percent to 52 percent. More than 75 percent of the obligors with net incomes of less than \$1,000 per month in both years were in the IV-D program. The increased use of the low-income adjustment should result in smaller orders among low-income obligors, which in turn should reduce arrears growth.

#### **Order Amounts (Changes From 2001 to 2005)**

Because the Collectibility Study found such high median order amounts and high median orders as a percentage of net income for debtors in the IV-D program, data from the guideline reviews were examined in an effort to further understand this issue. Table D-2 presents results from this examination. The table shows that, in 2001, the median amount for newly established orders in the IV-D program was \$341 per month, which is slightly higher than the median value for debtors reported in Table D-1 from the Collectibility Study (\$300). Given the differences in the underlying populations examined by these two

studies, it is not surprising that these values are different. The guideline review sampled all orders recently established or modified, whereas the Collectibility Study examined all orders regardless of their age but only for debtors. Therefore, the median order amount in the Collectibility Study could be expected to be lower than that found in the guideline review.

<b>Table D-2 Comparison of Selected Characteristics of Orders in the 2001 and 2005 Guideline Review</b>						
	<b>All Orders</b>		<b>IV-D Orders</b>		<b>Non-IV-D Orders</b>	
	<b>2001</b>	<b>2005</b>	<b>2001</b>	<b>2005</b>	<b>2001</b>	<b>2005</b>
Sample size	991	1,102	506	536	485	566
Percentage of obligors with gross or net income information	40%	76%	20%	76%	61%	75%
Percentage of orders:						
Set by default	45%	29%	68%	45%	20%	13%
Stipulated	46%	39%	23%	19%	70%	60%
Contested	10%	32%	9%	36%	10%	27%
Percentage of orders using presumed or imputed income	25%	10%	47%	16%	2%	4%
Application of low-income adjustment						
Percentage of eligible cases receiving adjustment	6%	52%	NA	55%	NA	18%
Median annual net income of obligors with net income information	\$19,860	\$19,932	\$13,302	\$14,712	\$23,478	\$32,088
Median monthly order for obligors:						
With net income information	\$444	\$421	\$349	\$315	\$500	\$618
As a percentage of net income	25%	24%	25%	25%	24%	24%
With a default order	\$347	\$294	\$344	\$254	\$400	\$444
With net income less than \$1,000	\$214	\$154	\$214	\$145	\$200	\$275
All orders in sample	\$381	\$400	\$341	\$293	\$452	\$581

The 2005 guideline review shows that the median order amount for IV-D obligors has declined since 2001, from \$341 to \$293 per month. The sample size in the guideline reviews is insufficient to further divide the IV-D obligors with net income into net income categories and to produce reliable estimates for the median order amounts within net income categories. Nonetheless, the decline in the overall median order amount as a percentage of net income suggests that the median order amount for low-income obligors has declined.

Further evidence that the median order amount has declined among low-income obligors in the IV-D program is shown by examining the median order amount of obligors with incomes less than \$1,000 per month. Table D-2 shows that the median order for these obligors declined from \$214 to \$145 between 2001 and 2005. Results from the Collectibility Study suggest that a lower median order amount for low-income obligors should help reduce arrears growth.

The median order amount among those who received a default order was also examined using data from the guideline reviews. Table D-2 shows that the median order amount for those with a default order in the IV-D program declined by nearly \$100, from \$344 to \$254 per month. This decline suggests that the legislative change in the level of presumed income, from a minimum basic standard of adequate care to what is earned full-time from a minimum-wage job, has resulted in a substantially lower median order amount for those set by default. Again, results from the Collectibility Study suggest that a reduction in the median order amount for default rates should help reduce arrears growth.

## Conclusion

In sum, data from the guideline review suggest that legislative, court, and departmental changes that have taken place since the Collectibility Study have lowered the median order amount among low-income obligors in the IV-D program, which should help reduce arrears growth.

## Appendix E

### Treatment of Health Insurance Premiums in State Guidelines

The California guideline provides for a deduction from a parent's income for health insurance premiums for the parent and for any children the parent has an obligation to support (Fam. Code, § 4059(d)). In contrast, most state guidelines apportion the costs of the health insurance premium attributable to the child or children for whom support is being determined between the parents according to each parent's share of combined income. In turn, the support award is adjusted to account for the sharing of the child's health insurance premium. As is shown at the end of this appendix, this approach has the result that any increases in health insurance premiums are equitably distributed between the parents, rather than burdening one parent more than the other. Such an unequal burdening of one parent is the unintended impact of subtracting a child's health insurance premium from the parent's income in a support award calculation.

Due to escalating health-care costs, the treatment of health insurance premiums may become more of a guideline issue in the future. Health insurance premiums rose by 11.4 percent from 2003 to 2004 in California.<sup>86</sup> Also likely to put more pressure on the treatment of children's health insurance premium are looming federal performance measures concerning health-care coverage among children in the IV-D caseload. The federal Office of Child Support Enforcement's 2005–2009 Strategic Plan includes goals to increase the number of support orders with a medical support component and to ensure that health-care coverage is actually secured for children in the IV-D system.<sup>87</sup> Efforts to reach these goals may result in more orders that consider children's health insurance premiums and more enforcement of the health-care provision.

#### Alternative Treatment of Child's Health Insurance Premium

As mentioned earlier, most state guidelines prorate the costs of a child's health insurance premium between the parents according to each parent's share of combined income. If the parent paying the child's health insurance premium is the obligor, the obligee's share of the child's health insurance premium is subtracted from the base support amount, because the obligee owes the obligor for his or her share of the child's health insurance premium. If the parent paying the child's health insurance premium is the obligee, the obligor's share of the child's health insurance premium is added to the base support award. The result is that the obligee receives an amount equal to base support plus the obligor's share of the child's health insurance premium. Moreover, the end result is one order amount that covers both the basic obligation and the child's insurance premium.

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<sup>86</sup> California Health Care Foundation, *California Health Insurance Premiums Continue Double-Digit Increases, Rising 11.4 Percent in 2004*, Press release (December 16, 2004).

<sup>87</sup> U.S. Department of Health and Human Services, Office of Child Support Enforcement, *National Child Support Enforcement Strategic Plan Fiscal Year 2005–2009*.

(As an aside, many of these states factor in work-related child-care expenses using the same method. If they are not factored together, there could be three amounts: the base support amount, the amount to offset the other parent's share of the health insurance premium, and the amount to offset the other parent's share of the work-related child care expenses. Such multiple amounts can be cumbersome, particularly when support is being paid through a centralized disbursement unit.)

### **Few State Guidelines Consider the Costs of the Parent's Insurance Premium**

In those state guidelines that treat the other parent's share of a child's health insurance premium as an addition or deduction from support (depending on which parent incurs the expense), there is typically no consideration of the premium costs associated with the parent's health-care coverage in the child support calculation. In fact, only eight state guidelines, including California, allow the parent's health insurance premium to be subtracted from income used to determine support.

### **Determining the Child's Share of the Total Insurance Premium**

Separating a child's share from the parent's share of a health insurance premium can be difficult. It can be even more difficult if the policy covers the parent's new spouse or other children for whom support is not being determined. Most state guidelines that consider only the health insurance premium of the child for whom support is being determined provide that the premium can be calculated by dividing the total health insurance premium amount by the number of individuals covered by the policy, if the actual amount is not known. Another method is to use the difference between the premium costs for an individual and family if only the parent and the child or children for whom support is being determined are covered under the family policy.

## Comparison of Approaches

Exhibit E-1 displays the obligor's share of the health insurance premium under California's current treatment and the alternative method. It considers three cases: (1) obligor income is more than obligee income; (2) the parents have equal incomes; and (3) obligor income is less than obligee income. Exhibit E-1 also considers two different scenarios for each case: (1) the obligee pays the health insurance premium; and (2) the obligor pays the health insurance premium.

In Case 2 of Exhibit E-1, the parents have equal income, and consequently each should be responsible for half of the child's health insurance premium. If the child's health insurance premium were \$150, as shown in Exhibit E-1, each parent would be responsible for \$75. Under the California guideline, when the obligee pays the \$150 health insurance premium, the support award increases by only \$9 (from \$450 to \$459 per month). In contrast, the total support award increases by \$75 (from \$450 to \$525) when the amount is prorated with an adjustment to base support.

**Exhibit E-1**  
**Alternative Treatment of Health Insurance Premiums**  
**(One Child; 20 Percent Time with Obligor)**

	Monthly Order Amount		Obligor's Share of Health Insurance Premium	
	Subtract from Income	Prorated with Adjustment to Base Support	Subtract from Income	Prorated with Adjustment to Base Support
<b>Case 1</b> Obligor monthly net income = \$2,000 Obligee monthly net income = \$1,000 <ul style="list-style-type: none"> <li>• Monthly health insurance premium = \$0</li> <li>• Obligor pays monthly health insurance premium of \$150</li> <li>• Obligee pays monthly health insurance premium of \$150</li> </ul>	\$420	\$420	NA	NA
	\$384	\$370	76%	67%
	\$429	\$520	6%	67%
<b>Case 2</b> Obligor monthly net income = \$2,500 Obligee monthly net income = \$2,500 <ul style="list-style-type: none"> <li>• Monthly health insurance premium = \$0</li> <li>• Obligor pays monthly health insurance premium of \$150</li> <li>• Obligee pays monthly health insurance premium of \$150</li> </ul>	\$450	\$450	NA	NA
	\$414	\$375	76%	50%
	\$459	\$525	6%	50%
<b>Case 3</b> Obligor monthly net income = \$2,000 Obligee monthly net income = \$4,000 <ul style="list-style-type: none"> <li>• Monthly health insurance premium = \$0</li> <li>• Obligor pays monthly health insurance premium of \$150</li> <li>• Obligee pays monthly health insurance premium of \$150</li> </ul>	\$240	\$240	NA	NA
	\$204	\$140	76%	33%
	\$249	\$290	6%	33%

APPENDIX F  
Review of Statewide Uniform Child Support Guidelines 2005  
Comments

<b>Commentator</b>	<b>Comment</b>
<p>1. Ms. Patricia A. Conroy, CFLS  Child Support Attorney (Former family law facilitator)  Siskiyou Modoc Regional Department of Child Support Services</p>	<p>1. I strongly concur that the low-income adjustment should be linked to an index, such as the Federal Poverty Level. With the current LIA threshold of \$1,000, a parent who earns minimum wage, and is single with one exemption, is not eligible for the low-income adjustment. If this parent's net income is \$1,019, and he/she is ordered to pay child support of \$255 (the typical default order for one child), the Obligor is left with spendable income of only \$764. That amount is not sufficient to provide for the basic needs of the Obligor, especially in the cities with higher costs of living. While child support should be a parent's first priority, it is difficult for a minimum wage noncustodial parent to remain productively employed, when he or she is forced into homelessness due to a child support order which takes 25 percent or more of that minimum wage income. Lack of housing, bathing facilities, and transportation can greatly impair employability.</p> <p>While the needs of children should be paramount, I would question whether it is in the best interest of children to so impoverish the non-custodial parent that he or she has absolutely no resources with which to provide for his/her basic needs, let alone to develop or maintain a relationship with the children. Often, access to the children (and the children's access to the parent) depends on the noncustodial parent's ability to provide a safe and sanitary place for visitation to take place.</p> <p>One also needs to consider that impoverishing the noncustodial parent to a degree that he or she loses the incentive to work, is counterproductive. It is difficult to enforce a child support order against an Obligor who chooses to drop out and live under the radar.</p> <p>2. I also strongly concur that health insurance should be treated as an add-on. I frequently see cases in which a guideline order is established without considering the cost of health insurance, because the Obligor is not yet eligible for coverage, due to new employment, or because the cost is unknown. In many cases, once the health insurance becomes available, and the order is enforced, the deduction for health insurance plus child support exceeds 50 percent of the Obligor's net income. Current law forces the child support agency to choose between enforcement of guideline support and enforcement of the health insurance order, or go</p>

APPENDIX F  
 Review of Statewide Uniform Child Support Guidelines 2005  
 Comments

<b>Commentator</b>	<b>Comment</b>
	<p>back to court to modify the child support order.</p> <p>Even when health insurance is considered as a deduction in calculating the guideline support, there can be inequitable results. For example, if the custodial parent provides health insurance, and is limited to receiving a guideline deduction for the amount paid, the custodial parent will rarely receive any benefit from the deduction when timeshare is zero. In the case of lower income noncustodial parents who may have high guideline orders in relation to their net income, especially the case of multiple children on the order, addition of a deduction for health insurance premiums often puts the total deduction for support at over 50 percent of net income. This again forces the agency to drop the enforcement of health insurance in favor of continued enforcement of guideline support. This often results in the children being uninsured, and a greater burden on the Medi-Cal system.</p> <p>Treating health insurance as an add-on provides a greater incentive to both parents to provide health insurance for the children, as the expense will be shared, resulting in a visible change in the support order to the benefit of the parent(s) who are providing the coverage.</p> <p>I suggest that a further modification to the guideline would be appropriate, to make the presumptive order zero, whenever an Obligor parent receives SSI/SSP as any part of his or her income. Currently, the SSI/SSP is not counted for calculation purposes, but any other income, including Social Security Disability Insurance (SSDI) income, is counted. An Obligor's SSI is reduced for every dollar of other income he or she receives from SSDI, so that an Obligor who receives a combination of SSI/SSP and SSDI has no more income or assets than an Obligor who receives SSI alone. An Obligor who receives SSI, whether alone or in combination with SSDI, must be totally disabled, and must meet the same asset test as the Obligor whose only income is SSI/SSP. The two are identically situated in terms of need. The only difference is that the person who receives the combination of SSI/SSP and SSDI, worked in the past, and actually contributed to the system. The result is that the person who never worked gets a zero order, while the person who did work and contribute to the system, but is now equally disabled and</p>

APPENDIX F  
Review of Statewide Uniform Child Support Guidelines 2005  
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<b>Commentator</b>	<b>Comment</b>
	<p>impoverished, is penalized by being required to pay child support on that portion of his/her disability income, which is paid as a result of prior earnings.</p> <p>Thank you for this opportunity to comment.</p>
<p>2. Ms. Christine Copeland  Staff Attorney  Self-Service Center  Superior Court of Santa Clara County</p>	<p>1. The guideline results in child support orders that are too high, especially for lower-functioning individuals and/or people who are at the bottom strata of society (i.e. people who are here illegally and work low-paying "side jobs" for cash). It seems unfair, or at very least, a huge disconnect, to impose the guideline on many of the Obligor in a typical IV-D caseload.</p> <p>2. The guideline allows a deduction from income for childcare expenses a parent (either obligor or obligee) pays for children of another relationship. However, at least for the DissoMaster support calculation program (which I use and prefer to any others), when one enters such expenses on the provided line (other guideline deductions), the result is that same as if one didn't enter anything—the support amount does not change.</p> <p>I don't know if this is a problem with the law not being clear enough re: how this deduction factors in, or if it is a software problem. If the former, fix it. If the latter, don't qualify the software program(s).</p>
<p>3. Mr. Ignacio Guerrero  Chair  Fatherhood Collaborative of San Mateo County</p>	<p>Dear Friends:</p> <p>The Fatherhood Collaborative of San Mateo County appreciates the Judicial Council's request for comments with regard to the <i>DRAFT 2005 Review of California's Statewide Uniform Child Support Guideline</i>. It is pursuant to that invitation that we submit these remarks.</p> <p>The Fatherhood Collaborative of San Mateo County (FC) is a policy and advocacy group whose mission is to provide a forum to address and support the importance of men and fathers taking an active role in the well-being of children and families. We believe that fathers must be involved in the lives of their children</p>

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	<p>regardless of the family’s composition or legal status.</p> <p>Fatherhood is not only a biological condition; more importantly, it is a uniquely necessary and essential bond that creates a life-long evolving relationship. It is a relationship that must be continually nurtured and cherished by fathers, their partners, families, and the community at large.</p> <p>The Collaborative is comprised of numerous community-based organizations, county agencies, and individuals, all of whom believe in raising and promoting the interests of fathers and families in San Mateo County. Our goal is to ensure that the importance of the role of fathers in their families and in the community is recognized and nurtured.</p> <p>From the long experience of the FC members, and most recently, from the responses of a focus group convened specifically to discuss the experience of fathers dealing with the court system, we’ve garnered strong indications of pervasive discontent on the part of men in the judicial system. More specifically, what fathers are telling us, and what mounting evidence suggests is true, is that in adjudicating issues of child support, the courts are unfairly prejudiced in favor of mothers.</p> <p>In the very minimal time allowed, we cannot provide the type of thoughtful and detailed response your invitation for commentary deserves. However, we are encouraged by your attempt to gather feedback and will be happy to provide a detailed analysis of your proposed guidelines should the deadline be extended.</p>
4.	<p>Ms. Nancy Ladisky</p> <p>Had trouble reading the report on computer as it was blocked by Acrobat but I did get the jist of it and would like to add some comments,</p> <p>With all the formulas and equations that have been done and everything supposedly in the best interest of the child, it really does not boil down to that statement. Nobody ever requires proof of where the money is really going when child support is paid. New cars, clothes, house—all of these things take place and nobody is watching what is going on. Everybody thinks they have done their best as long as the term “best interest of</p>

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	<p>the child is used.”</p> <p>Most of the time the mother gets the children and she bleeds the father for all sorts of cost, some which are not necessary and some that were never needed before the divorce but miraculously appear after a divorce. Some parents use their children as a pawn to get more money and nobody seems to stop this. Child support is necessary for the child not for the custodial parent to abuse and nobody is watching this abuse.</p> <p>Child support should be based on the age of the child and the requirements at that time. It should also be based on each individual family requirement not just a blanket calculation.</p> <p>Families seem to go into court constantly to change child support payments and spend most of their money on Lawyers and fees to get more money out of their spouses. This needs to be stopped.</p> <p>Also the kickbacks to Family Law Program by the Federal Government fosters the need to constantly fight over money and support as the more support one parent pays the more money goes back into the Family Law System. Nobody seems to want to stop making parents pay thru the nose and abuse the system because the system is abusive on its own.</p> <p>Somebody really needs to sit down and look at what is really necessary to raise a child like both parents and both parents sharing equal cost. You need to stop the custodial parent from bleeding the other parent dry so that they cannot afford to do anything in life but pay and pay and maybe at some point not be able to pay because they themselves have to live.</p>
5.	<p>Mr. Robert Lafer  Chief Legal Counsel  San Diego DCSS</p> <p>Comment</p> <ol style="list-style-type: none"> <li>1. Review and assess the economic data on the costs of child rearing: No comment on this section.</li> <li>2. Review case data to analyze application of the guideline; and</li> <li>3. Ensure that deviations from the guideline are limited. Since these two sections are interrelated, they are addressed together in these comments. The trends identified in the report appear consistent with our</li> </ol>

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	<p>courtroom experience.</p> <p>Report Recommendations:</p> <ol style="list-style-type: none"> <li>1. No change to basic California guideline formula. We agree.</li> <li>2. Research impact of support orders among low income families (LIA and \$0/reserved orders). We agree.</li> <li>3. Increase or index income threshold for LIA (has never been adjusted from \$1,000/month). No specific methodology or amount proposed (possibly based on percentage above US DHHS poverty guidelines—\$798 month): We agree an increase is appropriate—possibly use State minimum wage monthly income as basis for LIA.</li> <li>4. Treat child’s share of health insurance premium similar to add-ons (child care). This would distribute costs to both parents to share burden. We agree the costs of the health insurance premium should be shared, when appropriate. However, there is a concern that if health insurance premiums are ordered as a contribution from both parties, the child may not get enrolled. We suggest that one party be ordered to provide the coverage and the other party be ordered to reimburse their proportional share (based on the pro-rated amount of the current support order). Also, in certain circumstances, it does not make sense to share the expenses (for example, when the cost is nominal). Finally, this change may result in a lower number of children being covered by health insurance (due to the fact that the money paid by earnings assignment will be distributed according to Federal Law and it may not end up going to the CP due to other cases the NCP has). There are many factors to consider here and it may justify some further study on this issue.</li> <li>5. Clarify use of hardships so it is applied consistently. Create a hardship presumption for other supported children even if the NCP is considered a higher income earner (make it less discretionary for the court). We disagree. The burden of establishing the justification for a hardship should remain on those NCPs that have significantly higher earnings, rather than on a CP or LCSA. Perhaps the inconsistencies in allowing hardships could be addressed by providing some more specific direction regarding when it is or is not appropriate to grant the hardship.</li> </ol>

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	<p>6. Encourage more detailed information in the case file to perform guideline reviews (related to superior court files). We agree, specifically related to income and other guideline findings being reflected on the child support order. No other comments or suggestions regarding the guideline report; however, a recent local case highlighted a situation where a new spouse with a very, very high income, significantly reduced the NCP’s guideline amount (because of the taxes and the reduction in net disposable income). It seems unfair to allow an NCP to benefit (and a child support order to be reduced) because of the significantly increased tax burden but not take into account the additional income NCP has access to from the new spouse. This is also inconsistent with the concept identified in the report that the guideline is meant to cover child rearing costs that are based on the premise that the family remained intact (i.e. the child should not suffer because the NCP remarried someone which increased his/her joint tax liability). Remediating this situation though may mean a significant change to the guideline formula (definition of net disposable income). We currently address an egregious example of this situation by requesting a deviation from guideline.</p>
<p>6. Mr. Duane P. Livingston  Child Support Prosecutor  Department of Child Support Services of Santa Barbara County and I am a member of the CASES (Attorney) Legal Work Group</p>	<p>I believe the Chapter 4 Conclusions and Recommendations are rather well stated and appear to focus on the appropriate areas for recommended changes. However, I would suggest just one change—or, addition—to their (second)* Recommendation 4 (see the Report at p. 69) and the corresponding Conclusion 11 (see the Report at p. 64). These pertain to the Report’s concern, in short, that “the hardship deduction is not being consistently applied.” (See the Report at p. 69, second Recommendation 4.) I agree; however, I would go further.</p> <p>-----</p> <p>* There is an obvious typo on the Report: It has two recommendations entitled Recommendation 4, yet a total of six recommendations, with the last being entitled Recommendation 5. Obviously, the second Recommendation 4 should be entitled Recommendation 5, and the current Recommendation 5 should be entitled Recommendation 6.</p> <p>-----</p>

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	<p>I would suggest additional language to the J/C Report recommendation that would propose specifying—by amendment to a statute—a clarification as to what the Legislature means in Family Code section 4070 that the hardship deduction shall apply in cases only where “a parent is experiencing extreme financial hardship” (emphasis added), as that seems to be the primary reason why “the hardship deduction is not being consistently applied.” (See the Report at p. 69, second Recommendation 4.)</p> <p>As discussed below, such inconsistency seems to be due to certain litigants, judges, and commissioners not acknowledging or otherwise applying the term “extreme.”</p> <p>As stated in the Report, Family Code sections 4070 and 4071 provides for a discretionary financial hardship deduction—to either/both the obligor and the obligee—but, limited to certain specified circumstances. In short, such circumstances include (i) “[e]xtraordinary health expenses,” (ii) “uninsured catastrophic losses,” and (iii) “[t]he minimum basic living expenses of either parent’s natural or adopted children for whom the parent has the obligation to support . . . .” (See subdivs. (a)(1) and (a)(2) of Family Code section 4071.) And, as noted above, as provided by the directive of Family Code section 4070, such hardship deduction should only be applied when such financial obligations rise to the level of an “extreme financial hardship” (see Family Code section 4070), not when such a financial obligation merely presents a routine financial expenditure or other less-than-extreme financial burden. All too often, the courts allow such a hardship—i.e., in particular, the “minimum basic living expenses” category of hardship—for obligors who have substantial incomes, and that appears contrary to the clear directive of Family Code section 4070 requiring that such a hardship be an “extreme” one.</p> <p>The appellate court in <i>In re Marriage of Paulin</i> (1996) 46 Cal.App. 4th 1378 had it right. Following are several excerpts from that opinion, which highlight the issue raised here:</p> <p>“ . . . the court may allow a hardship deduction only if the parent is ‘experiencing extreme financial hardship.’ The Legislature has not defined ‘extreme financial hardship’ and no case has yet defined this term.”</p>

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	<p>“ . . . a hardship deduction is not a ‘foregone conclusion’ on the birth of new children; that the family’s income, as well as purported expenses, have to be considered in making the ‘hardship’ determination; and that [the obligor’s] responsibility as a parent ‘was not to seek to provide less for some of his children because he had others, but to provide adequately for all of them.’”</p> <p>“As [the appellant/obligee] accurately notes, section 4070 would be violated if Donald Trump, J. Paul Getty, or Bill Gates approached the court requesting a hardship deduction for the birth of new children. . . . As [the obligor’s] counsel pointed out, ‘[w]e have solid, middle-class people. The cost of living of the middle class for these people takes every penny they have.’”</p> <p><i>(In re Marriage of Paulin, 46 Cal.App. 4th 1382; emphasis added.)</i></p> <p>In sum, the <i>Paulin</i> court reasoned that the “minimum basic living expenses” category of hardship deduction typically applies to those in the middle class income range, but not to those of substantial incomes.</p> <p>CONCLUSION</p> <p>Therefore, as discussed above, the J/C Report acknowledges “the hardship deduction is not being consistently applied” (see the Report at p. 69, second Recommendation 4) and such inconsistency seems to be due to certain litigants, judges, and commissioners not acknowledging or otherwise applying the term “extreme.” Accordingly, I would suggest additional language to the J/C recommendation that would propose specifying—by amendment to a statute—a clarification as to what the Legislature means in Family Code section 4070 that the hardship deduction shall apply in cases only where “a parent is experiencing extreme financial hardship” (emphasis added).</p> <p>It is my understanding that the median income in the United States is approximately \$40,000.00; this amount</p>

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		is only slightly higher for California, at about \$48,000.00. (See U.S. Census, 2002 figures and other sources.)
7.	Mr. Bernie McCann	<p><i>[ NOTE: The following is an excerpt from a lengthier comment that was focused primarily on custody and visitation issues and the Access to Visitation program rather than on child support. The original comment was forwarded in its entirety to the appropriate program manager for review.]</i></p> <p>. . . I had brought five years worth of tax records to court for my Evidentiary Trial, in the form of printouts directly from the Internal Revenue Service, proving that I never in my life earned more than \$53,000.00 per year, but I was ordered to pay \$36,000.00 per year in child and spousal support—an amount well beyond my ability to pay.</p> <p>I now pay \$1,100.00 per month in interest alone, which I’m sure benefits the county and probably the CFCC, but not my son. . . .</p>
8.	Ms. Mary C. Molinaro, Vice-Chair Family Law Section, State Bar of California	<p>The Executive Committee of the Family Law Section of the State Bar of California (FlexCom) has reviewed Judicial Council’s recent proposals regarding the statewide uniform child support guideline. The Committee was unanimous in its comment on the recommendations as set forth on page 67 through 69 of Judicial Council’s report. That comment is set forth as follows:</p> <p>Recommendation 1: No changes to the basic California guideline formula.</p> <p>Although FlexCom agrees in general that the basic guideline formula for child support does not need to be changed in significant ways, there is an area not addressed by Judicial Council’s report, which should be considered. That is, the review of the timeshare factor in the child support calculations. This appears to be the most glaring issue in the child support guidelines and one that may create the most litigation regarding custody. Researching how much court time is involved in calculation of timeshare and whether or not timeshare factor leads to more custody disputes, appears to be a valid issue to be reviewed. In addition,</p>

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	<p>reviewing and researching whether or not there are non-uniform jumps in support for certain percentages of time-share versus others and whether or not those jumps in support are really related to costs involved in raising children would also be worthy of review. There appears to be a significant jump between 30 and 35 percent time-share versus time-share lower than that amount and the question would be if that time share actually correlates to more financial responsibility for the child. For example, if a non-custodial parent has 35 percent time-share, do they buy 35 percent of the child's clothing and shoes? Applying energy, time and resources and surveying judges might be an appropriate means of dedicating time towards such a review, if not in this review, the next review. The Family Code sets forth in Section 4053 that the guideline seeks to encourage fair and efficient settlements of conflicts between parents and seeks to minimize the need for litigation. However, the time-share factor may actually encourage the opposite effect in practice. Flexcom would recommend a review and research regarding the time-share factor.</p> <p>Recommendation 2: Research the impact of support orders among low income families in concert with efforts by the court's DCSS and other state entities to help low income families.</p> <p>Recommendation 3: Increase or index the income threshold for applying the low-income adjustment.</p> <p>These recommendations are supported and it is agreed, long overdue. Flexcom would agree using an index is a more appropriate method of addressing the low-income adjustment so that the need for ongoing review would not be needed. The guideline calculation regarding the low-income adjustment has been the same for at least ten years. Minimum wage is significantly more than it was then and not adjusting this threshold is penalizing those individuals who are barely getting by. The low-income adjustment does not even meet the current minimum wage.</p> <p>Recommendation 4: Make the treatment of the child's share of health insurance premiums similar to the way in which childcare expenses are treated and clarify the hardship deduction.</p>

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	<p>Although Flexcom supports the general idea of parents sharing equally in the cost of health insurance for a child, we suggest that there needs to be a careful analysis of the health insurance issue so as not to make the situation more complex and time-consuming and expensive for the court and the parties regarding the practical application of such a concept. For example, if health insurance were considered an add-on and treated the same way child care is treated, namely that generally the premium for health insurance would be split equally between the parents after support is calculated, would this mean the court would have to go through the business of determining which parent has the best health insurance? What if one policy is a better policy and provides more coverage, but is more expensive? How will the health insurance premium be allocated where an entire family may be covered and included in the premium amount? How will the allocation for the child at issue be made? What if there is double coverage available? How will that be addressed? What if the parties disagree with regards to these issues? Will this become a best interest question subject to mediation and further litigation? How about the pre-tax deduction allocation? How would that be addressed if the parties were sharing in the premium? While we appreciate the reasons for this recommendation, we see this recommendation as problematic if these issues are left unaddressed or for the court to address at the time of calculating the add-on and could create more problems that it would solve.</p> <p>With respect to the hardship deduction and clarifying the hardship deduction because of the inconsistency in application, it is unclear what Judicial Council means by the word “clarify”. While it is true that there are inconsistencies in the application of the hardship deduction, it is important to maintain judicial discretion on this issue because of the variety of circumstances that arise that must be considered in order to fairly consider whether or not a hardship should be applied. For example, one parent may have a natural child from another relationship, other than the one being considered regarding the support calculation, and may have a new spouse providing for that child in a significant way, while that income cannot be considered for child support purposes, the fact that that additional biological child in the household is being completely supported by another parent or income in the household should be given discretionary consideration for hardship purposes. Another example might be that the supported parent might have another child from another relationship living with them and be receiving support for that child not considered. So, in clarifying the hardship deduction,</p>

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	<p>maintaining the discretion of the court would be important.</p> <p>Recommendation 5: Encourage better and more detailed information in the case file.</p> <p>Flexcom would support and agree with this recommendation, as we believe it would assist in future reviews of the child support guidelines. We would suggest that Judicial Council create a form to be filled out by judges where when issuing child support orders it could make easier and less time-consuming for the court and essentially provide more detailed information for the file. Some counties have minute order forms that require this detailed information.</p> <p>In conclusion, the issues set forth in the recommendations by Judicial Council are related to support and are part of the practice of Family Law, often on a daily basis, and are within the special knowledge and training and experience and technical expertise of the Family Law Section of the State Bar. The above comments will assist in promoting justice and the best interest of families.</p>
9.	<p>Mr. George O. Nielsen  Supervising Attorney  Contra Costa County  Department of Child Support Services</p> <p>Conclusion 11: to avoid interpreting the last sentence in the first paragraph as a reference to actual income withholding, I suggest that the sentence read, “Few parents had child or spousal support deducted from their incomes in order to calculate child support . . . .”</p> <p>Recommendation 1: Agree</p> <p>Recommendation 2: Agree, with a comment. The last sentence in the recommendation is very important and should be emphasized. Changes to how orders are modified are needed in order to increase efficiency and the timely delivery of justice to parents and to children. Of course any change would affect more than just low-income families. You may want to consider making it a separate recommendation, since improvements in process would substantially affect how the guideline is actually implemented in the state.</p> <p>Recommendation 3: Agree</p>

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	<p>Recommendation 4: Agree, with comments. While treating the child’s share of insurance premiums as an add-on would bring California more in line with other states and could relieve some of the burden of paying increasing premium costs, there some practical considerations that would need to be dealt with in drafting any implementing legislation. These would include:</p> <p>If the obligee of the support order is paying the insurance premium, would the additional amount be included in the support order total, or would the amount be kept and accounted for separately, or would the courts have discretion to do either? This issue is important to the Local Child Support Agencies (LCSAs) and to the new Statewide Disbursement Unit (SDU). If a separate account is required, maintaining, calculating and enforcing that account would be a resource issue.</p> <p>In situations where the obligor parent pays the premium to the insurance company, would the obligee parent’s share be considered an offset against the support order that the obligor would otherwise have to pay so that the amount contained in the order would be the net amount?</p> <p>Would the premium payment under the guideline be allocated on a per child basis in cases with more than one child?</p> <p>If there is a change in the premium amount, either because the premium itself increases or decreases, or because one or more of the children no longer needs to be insured, would the support order automatically change, or would the parties have to go back to court to request a modification?</p> <p>Would the amount of the premium payment be required to be a dollar amount or would a percentage order be permissible? Orders for a percentage would not be able to be accounted for in the SDU and would not be enforceable by the LCSA’s.</p>

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		I am sure that other issues will arise when the legislature begins to consider the recommendation. I would suggest that the legislature consult with stakeholders on this issue, including the State Department of Child Support Services, representatives from the LCSA's (attorneys and others), private practitioners, advocacy groups, and the judiciary.
10.	Mr. Adryeen Neuenburg Certified Divorce Financial Analysis California Divorce Financial Analysis	<p>At a minimum the guideline should be changed as follows:</p> <ol style="list-style-type: none"> <li>1. Page 10: Children should share in the standard of living of both parents. Child support may therefore appropriately improve the standard of living of the custodial household to improve the lives of the children.</li> <li>2. Should change "the custodial" to "either parent's."</li> <li>3. The guideline is intended to be presumptively correct in all cases, and only under special circumstances should child support orders fall below the child support mandated by the guideline formula.</li> <li>4. Change to allow ACTUAL COSTS to conclusively establish the foundation of the guideline.</li> <li>5. In order for the guideline to be viewed by the public as fair it should be clear what exactly the underlying economic factors are that were used to calculate the costs estimates. It is unclear, even to me, a forensic accountant, exactly what economic data was used. In addition, it appears that in many cases, the guideline includes costs for several factors that are also included as optional add-on, giving the appearance of double dipping. The guideline does not take into consideration that food costs differ greatly between an infant and a teenager, and that clothing costs will change dramatically between a fast growing infant who wears diapers and a teenager who is mostly full grown.</li> <li>6. It would be fairer to allow each parent to present actual costs to rebut the guideline. Without that ability, that the ACTUAL cost should be ordered instead of the guideline.</li> </ol>
11.	Mr. Robert Owen Supervising Attorney Tulare County Department of Child Support	The report indicates that the courts are complying with the requirement that guideline be used. However, it does not shed any light on whether the guideline orders are being complied with by obligor parents. In other words, it is one thing for the court to make an order of support. It is quite another for the obligor parent to actually be able to comply.

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	<p>Changes to Low Income Adjustment and Presumed Income have helped in getting closer to appropriate child support orders in low-income cases. However, they fail to directly and adequately address the problem.</p> <p>We need to look at the theory that the first dollar earned should go to child support. An order for child support for one child with zero visitation at \$797 per month income (Federal poverty line for an individual) is \$129 per month after taking the Low-Income Adjustment (LIA). While the Federal Government has deemed that a minimal existence can be had at \$797, the Local Child Support Agency (LCSA) is required to get an order for \$129 per month leaving the individual with only \$668 per month to provide for food, clothing, housing and transportation.</p> <p>There is a level of income, below which an obligor parent cannot realistically exist. In order to maintain employment, the obligor must provide for his or her housing, food, clothing and transportation. The guideline as it stands, continues to create orders that cannot be paid by the obligor parent, are detrimental to the minor(s), and waste limited LCSA resources. It would appear that the guideline is a direct cause of the continuing uncollectible arrears plaguing this state. And yet, uncollectible arrears are an issue that seems to slip by.</p> <p>The report touches on this when it makes reference to the Collectability Study and to the comment of commissioners that the low-end income orders are inappropriate. However, bringing the numbers from the Collectability Study to the fore provides numerical support for change:</p> <ol style="list-style-type: none"> <li>1. In 2001 there were 17 billion dollars in arrears owed.</li> <li>2. 70 percent of those arrears were owed by people making \$833.00 per month or less (this is within \$36 of the poverty line).       <ol style="list-style-type: none"> <li>a. Over half of these people making \$833.00 per month or less owed in excess of \$20,000 each in child support arrears.</li> <li>b. A little less than half of this group actually had no recent income, with a significant number</li> </ol> </li> </ol>

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having NO prior income.

The guideline support amount for a minimum wage earner (\$1,170/month) with no visitation is as follows:

Children	Monthly support	Net disposable income
1	\$255	\$764
2	\$408	\$611
3	\$509	\$509

All of these net incomes are below the Federal poverty level.

It is unlikely that someone at this level of income could support himself/herself adequately enough to maintain employment and pay the ordered child support for one child, much less for two or three children.

On page 43 the report states the earnings breakdown between IV-D and non-IV-D cases is not statistically significant. I challenge this assertion. Even if there were no statistical difference, there is a very great difference to the obligor. While the higher income obligor pays higher child support, the higher earner also has much more disposable income after child support is paid.

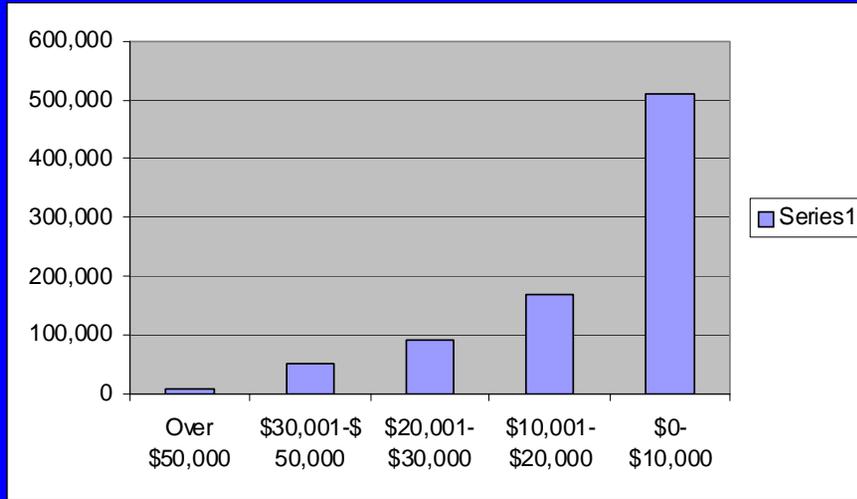
IV-D cases are typically parents who could not provide adequately for their family without government assistance. While Calworks indicates that a person earning less than \$1,009 needs government assistance, child support is telling them they should be able to live adequately off of \$764 or less a month. Furthermore, The higher earning capacity of obligors as they climb the income scale means that while they pay more child support, they also have more discretionary money in order to recover from job loss or unanticipated expenses. A review of the Arrears by income group chart gives a pictorial of the inequity that is built into the guideline as it now stands.

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## Arrears by Income Group



It is not surprising that the obligor making over \$50,000 per year owes little in the way of arrears. Even after paying the higher order of \$756 per month, the obligor has more than \$2,000 left in disposable income. When an unexpected expense or loss of income occurs, recovery is easier.

The minimum wage earner on the other hand, has an order that he/she may not be able to comply with even when fully employed and without unexpected expenses. When these do occur, the minimum wage earner is forced into a debt that seems unrecoverable.

The curved line that intersects the top of the bars (on the next page) shows that arrears are a function of

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income. Through the top three income ranges the function is a fairly consistent amount. When the slope of the line takes a sharp upwards slope, it indicates that there is a floor to income where it is impossible to comply with an order. In short, it indicates that the low end of income where child support should be charged is above where it is currently set. The steeper the slope of the line, the less collection is a function of income. The steeper the slope on the line, the less money that is recoverable.



When the court makes orders for support, it is indicating to the parties that a specified amount of support is attainable and necessary for the child(ren). In these low-income cases, when this expectation is not met, a

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	<p>wedge is driven between mother and father as a result of these false expectations. The obligor tends to NOT have interaction with the mother and child, further damaging the relationships. The obligor who might be able to emotionally support a child is driven underground in order to survive financially, moving from job to job or working “under-the-table.” The LCSA is forced to expend its limited resources in an attempt to collect uncollectible orders. It is a lose/lose/lose situation.</p> <p>The guideline should be modified to allow for a minimal standard of living for the obligor prior to obligating for support. For consistency, child support obligation should start when the obligor’s income exceeds the federal poverty level and the amount of child support ordered should not push the obligor below the federal poverty level (i.e. the monthly support amount for \$797 monthly income would be \$zero). Resetting the formula upward in this manner would directly address the issue of uncollectible arrears.</p> <p>It is in the best interest of the child(ren) that the child support ordered be paid. In order for support to be paid, the obligor must maintain at least a minimal existence.</p>
12.	<p>Mr. Ray Pearson,  Director  Coalition of Parent  Support, Los Angeles  County Chapter</p> <p>The changes still need to address the parent receiving child support being accountability that the obligators support is in fact going to the support of the child. Modify with stipulation that parents declare expenses for each child receiving support.</p>
13.	<p>Ms. Karen M. Roye  Director  San Francisco  Department of Child  Support Services</p> <p>There is a great deal of background and study information that discuss child rearing expenditures.</p> <p>Chapter 4 contains 20 conclusions and 6 recommendations. (Note there is a typo in the study: in the list of recommendations there are 2 that are numbered as #4; the last one is numbered as #5.)</p> <p>Under the 6 recommendations (beginning on page 67):</p>

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		<ol style="list-style-type: none"> <li>1. 1. No changes to the basic CA guideline formula. They do recommend adjustments for larger families and percentages at higher incomes.</li> <li>2. 2. Research the impact of support orders among low-income families in concert with efforts by the courts and DCSS to help low-income families. They want to study such questions as: Is more child support being paid because support is lowered?</li> <li>3. 3. Increase or index the income threshold for applying the low income adjustment. The income threshold of \$1,000 (to apply the low-income threshold) has never been updated. In an earlier section of this document, it was pointed out that this income threshold has never been adjusted in 10 years (!!). The recommendation is that the income threshold be adjusted, ideally by indexing it to a widely used standard such as a percentage of the federal poverty guidelines (i.e. 133 to 150 percent) to establish income eligibility levels. In California, we are already applying a similar indexing to the foster care reunification compromise of arrears program. I agree with this recommendation.</li> <li>4. Make the treatment of the child’s share of the health insurance premium similar to the way in which child care expenses are treated. In other words, the HI premium should be treated as a child support add-on, rather than as a deduction from the parent’s income. This is the way it is done in most other states. This would also result in the parents' more equally sharing the HI premium burden. We agree with this recommendation.</li> <li>5. (or second #4) Clarify the hardship deduction. According to the study, this deduction is not consistently applied.</li> <li>6. (#5) Encourage better and more detailed information in the case file. “Income information. . . and other pertinent information was missing in a notable number of case files.”</li> </ol>
14.	Mr. Albert Schafer, M.S.W. President Coalition of Parent Support	<p>I am writing with regard to the Review of Statewide Uniform Child Support Guideline 2005 in my representative capacity as the president of the Coalition of Parent Support (C.O.P.S).</p> <p>C.O.P.S. is a statewide 501(c)(3) non-profit organization that focuses on parental rights and the preservation of the parent-child relationship. In addition, our organization is also the largest, and most recognized,</p>

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Sacramento	<p>statewide organization that represents father’s rights.</p> <p>In developing its recommendations to the Legislature Family Code sections 4054(f)(1) and 4054 (f)(2) require that the Judicial Council consult with a broad cross-section of groups involved in child support issues, including custodial and noncustodial parents, and representatives of established women’s rights and father’s rights groups. This requirement provides due process to all parties affected, and allows the Judicial Council to make informed recommendation back to the Legislature. <b>However, in reviewing the Draft Report dated December 9, 2005, it appears that no members of these cases were consulted.</b> In addition, C.O.P.S. was never contacted to participate in the review.</p> <p>In 2001, C.O.P.S. organized and provided for Policy Studies, Inc. (P.S.I) to interview several of the abovementioned groups. Since then, C.O.P.S. has maintained the same contact information and has even published its desire to participate in the 2005 Review. Furthermore, officers of our organization have contacted the Judicial Council and P.S.I. directly in an effort to participate in the 2005 Review. In response, the Judicial Council referred us to P.S.I., and P.S.I. indicated that its contract did not include interviewing custodial parents, noncustodial parents, or fathers’ groups.</p> <p>Consequently, it was our hope that the Judicial Council was merely waiting for a partial report from P.S.I. to begin conducting interviews and making its own recommendations. However, the published Draft Report clearly includes recommendation (See pp. 67 – 69). Moreover, the recommendations do not include input from all the affected parties.</p> <p>The members of our organization are very concerned with this omission. Our members are intimately familiar with this issue, and have important information that should be recorded and considered before any recommendations are made to the Legislature. For example, many of our members:</p> <ol style="list-style-type: none"> <li>1. Have bankrupted on their creditors because of the Guidelines</li> <li>2. Have become impoverished because of the Guidelines</li> </ol>

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	<p>3. Have high levels of responsibility for the children, yet the Guideline requires them to pay child support at levels that create significant disparities in the children’s living standards in the two homes (i.e., they are impoverished, while the other custodial parent has a high standard of living).</p> <p>4. Have been threatened with excessive child support orders, above mutually agreed upon support, if they were to attempt to become more involved with their children.</p> <p>5. Have regularly witnessed child support payments being spent on luxury items for the receiving parent, rather than the child.</p> <p>6. Have faced increased litigation, and have even been divorced due to the pecuniary incentives created by the Guideline.</p> <p><b>Accordingly, we, in large part, do not agree with the current set recommendations.</b></p> <p>In sum, our membership has unique and relevant information, not present anywhere in the Draft Report. Our input is necessary if the Judicial Council is to make informed and balanced recommendations to the Legislature. Furthermore, our input will necessarily lead to a more refined analysis. <b>As such, we hereby request that the Judicial Council allow C.O.P.S. to participate in the 2005 Review prior to making any draft recommendation.</b></p> <p>Additionally, we are aware that Family Code section 4054(g) separately requires the Judicial Council to seek public comment in developing its recommendations. Several of our members intend to provide public comment as individuals. However, the review period the Judicial Council has provided is insufficient.</p> <p>Beside its timing and brevity (a two-week period that includes the week of Christmas), our members will need a reasonable time to distribute the report, review the reported data, and prepare a response. Considering that P.S.I., a professional organizations with specialized knowledge in the field, was provided nearly a year from the Request for Proposal, and that the Review of Statewide Uniform Child Support Guideline only occurs once every four years, no less than sixty days should be given for lay-members of the public to respond. <b>As such, we hereby request that the Judicial Council extend the period for public comment to no less than</b></p>

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		<b>sixty days.</b>
15.	Ms. Sandy Simons Director Santa Barbara DCSS	<p>Report is a remarkably well-researched and comprehensive report; it is, in fact, one of the finest research documents ever read on any issue! There is much in the Report for all of the child support attorneys concerning the background, bases, justification, etc. for the current guideline child support formula, some of which may be helpful in court at a later date.</p> <p>It was felt the Chapter 4 Conclusions and Recommendations are rather well stated and appear to focus on the appropriate areas for recommended changes. However, one change — or, addition — was suggested to their (second)* Recommendation 4 (see the Report at p. 69) and the corresponding Conclusion 11 (see the Report at p. 64). These pertain to the Report’s concern, in short, that “the hardship deduction is not being consistently applied.” (See the Report at p. 69, second Recommendation 4.) There was agreement; however, there was also the suggestion to go further.</p> <p>-----</p> <p>* There is an obvious typo on the Report: It has two recommendations entitled Recommendation 4, yet a total of six recommendations, with the last being entitled Recommendation 5. Obviously, the second Recommendation 4 should be entitled Recommendation 5, and the current Recommendation 5 should be entitled Recommendation 6.</p> <p>-----</p> <p>RECOMMENDED ADDITIONS TO THE REPORT</p> <p>It was suggested additional language to the J/C Report recommendation that would propose specifying—by amendment to a statute—a clarification as to what the Legislature means in Family Code section 4070 that the hardship deduction shall apply in cases only where “a parent is experiencing extreme financial hardship” (emphasis added), as that seems to be the primary reason why “the hardship deduction is not being consistently applied.” (See the Report at p. 69, second Recommendation 4.)</p>

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	<p>As discussed below, such inconsistency seems to be due to certain litigants, judges, and commissioners not acknowledging or otherwise applying the term “extreme.”</p> <p>As stated in the Report, Family Code sections 4070 and 4071 provides for a discretionary financial hardship deduction—to either/both the obligor and the obligee—but limited to certain specified circumstances. In short, such circumstances include (i) “[e]xtraordinary health expenses,” (ii) “uninsured catastrophic losses,” and (iii) “[t]he minimum basic living expenses of either parent’s natural or adopted children for whom the parent has the obligation to support . . . .” (See subdivs. (a)(1) and (a)(2) of Family Code section 4071.) And, as noted above, as provided by the directive of Family Code section 4070, such hardship deduction should only be applied when such financial obligations rise to the level of an “extreme financial hardship” (see Family Code section 4070), not when such a financial obligation merely presents a routine financial expenditure or other less-than-extreme financial burden. All too often, the courts allow such a hardship—i.e., in particular, the “minimum basic living expenses” category of hardship—for obligors who have substantial incomes, and that appears contrary to the clear directive of Family Code section 4070 requiring that such a hardship be an “extreme” one.</p> <p>The appellate court in <i>In re Marriage of Paulin</i> (1996) 46 Cal.App. 4th 1378 had it right. Following are several excerpts from that opinion, which highlight the issue raised here:</p> <p>“ . . . the court may allow a hardship deduction only if the parent is ‘experiencing extreme financial hardship.’ The Legislature has not defined “extreme financial hardship” and no case has yet defined this term.”</p> <p>“ . . . a hardship deduction is not a ‘foregone conclusion’ on the birth of new children; that the family’s income, as well as purported expenses, have to be considered in making the ‘hardship’ determination; and that [the obligor’s] responsibility as a parent ‘was not to seek to provide less for some of his children because he had others, but to provide adequately for all of them.’”</p>

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	<p>“As [the appellant/obligee] accurately notes, section 4070 would be violated if Donald Trump, J. Paul Getty, or Bill Gates approached the court requesting a hardship deduction for the birth of new children. . . . As [the obligor’s] counsel pointed out, ‘[w]e have solid, middle-class people. The cost of living of the middle class for these people takes every penny they have.’”</p> <p><i>(In re Marriage of Paulin, 46 Cal.App. 4th 1382; emphasis added.)</i></p> <p>In sum, the <i>Paulin</i> court reasoned that the “minimum basic living expenses” category of hardship deduction typically applies to those in the middle class income range, but not to those of substantial incomes.</p> <p>CONCLUSION</p> <p>Therefore, as discussed above, the J/C Report acknowledges “the hardship deduction is not being consistently applied” (see the Report at p. 69, second Recommendation 4) and such inconsistency seems to be due to certain litigants, judges, and commissioners not acknowledging or otherwise applying the term “extreme.” Accordingly, we would suggest additional language to the J/C recommendation that would propose specifying—by amendment to a statute—a clarification as to what the Legislature means in Family Code section 4070 that the hardship deduction shall apply in cases only where “a parent is experiencing extreme financial hardship” (emphasis added),</p> <p>It should be noted that the approximate median income in the United States is approximately \$40,000.00; this amount is only slightly higher for California, at about \$48,000.00. (See U.S. Census, 2002 figures and other sources.)</p>
16.	<p>Mr. Jose Santana Attorney Department of Child Support Services</p> <p>The only comment I have is under Family Code Section 17400 (presumed and imputed income). Although not expressly part of the Statewide Uniform guideline under Family Code Sections 4052, et al., 17400 provides that if the support obligor’s income or income history is not known, income is presumed at minimum wage at 40 hours per week.</p>

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Butte County	I believe that imputing 40 hours per week at minimum wage is not an appropriate or reasonable imputation of income for certain counties. Each county has different demographics and economic factors that may limit a person’s ability to find a 40 hour work week. Therefore, the statute should give discretion to each county to impute the number of hours (i.e. 20 hours, 30 hours, etc.) that are reasonably related to the demographics and economy of their respective county.
17. Mr. Ray Sorensen Interim Executive Officer Superior Court of California, County of San Diego	<p>The following comments were received from our Court’s executives, managers, supervisors, and/or from the San Diego family law facilitators:</p> <ol style="list-style-type: none"> <li>1. Page 2, Income Used in the California Guideline: Now reads that the guideline provides the income of an obligor parent’s subsequent spouse or nonmarital partner shall not be considered when determining or modifying child support (Fam. Code, § 4057.5(a)(1)). This language should be changed to read “. . . shall not be considered when determining or modifying child support except as provided for by Fam. Code 4057.5(a)(1) . . . .” That code section actually provides exceptions whereby 3rd party income may be considered.</li> <li>2. Page 65, Conclusion 13: States that some of the commissioners are not ordering child care costs. An additional reason for the lack of such orders may be due to the child support agency’s position that they will not seek such orders, and also that they will not enforce a request for day care arrears unless one of the family courts has previously ordered a specific monthly dollar amount to be paid for day care costs. This type of policy by the child support agencies ensures that the issue of day care expenses normally does not get to be brought before the Commissioners.</li> <li>3. On Page 68, Recommendation #1, first paragraph: Question as to whether it should be “standard of living” or “cost of living.” Certainly, the affluent have a higher standard of living because of the pleasant weather and the available recreational amenities. However, the lower middle income and low income individuals do not have a higher standard of living as they have some of the highest costs for food and especially shelter in the country. But, this change makes no difference in the over-all recommendations.</li> </ol>

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18.	Ms. Sharon Stone	We have no comments. Thank you for the opportunity.

4. Page 68, Recommendation #2: Confused as to statement that “income is being presumed less frequently to obligors in public assistance cases and at a lower amount”. Why would presumed income be lower in public assistance cases as opposed to non aid cases when the amount of presumed income is statutory? If there is evidence of any income, it would not be presumed, it would be actual. If there is evidence of an earning history, then the court would impute income, not presume it. All orders should contain language stating whether the income used for calculating guideline support is based upon (1) Actual income as shown by the evidence presented, (2) Imputed income as shown by sufficient evidence to support the imputation, or (3) Presumed income in the amount required by statute. Presumed income amounts should be the same in all cases, without regard to whether or not the custodial parent is on aid.
5. Page 68, Recommendation #3: Point very well taken—changing the threshold for applying the low-income adjustment—given the rising cost of housing, wages and cost-of-living in general. This would be an important point to review.
6. Page 69, Recommendation #4, first paragraph: [Treating the child’s share of the health insurance premium similar to the treatment of child care expenses] The cost of health care/health insurance is an issue that is becoming increasingly more important, especially to families with minor children. This is the right time for this change to be made given the rising cost of health insurance. Making an order in percentages would allow the order to continue to be relevant as premiums might change, without the necessity of a return to court. Time after time, litigants have voiced their opinions that the current treatment, subtracting from the covering parent’s gross income, is really not fair.  
  
In aid cases, would this not result in the non-custodial parent carrying the entire burden anyway despite a high timeshare?
7. Page 69, Recommendation #4, second paragraph: [Clarifying the hardship deduction] If the award of a hardship was standardized or presumptive, it would be much easier for litigants to know what to expect, or even whether to bring a motion to modify child support upon the arrival of a new child in a subsequent marriage/relationship, expecting a hardship deduction/consideration.

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	Director Butte County DCSS	
19.	Mr. Paul Stroub President Children’s Rights Council Sacramento	<p>The period for public comment is too short for a reasonable review by the public. The report is long, and requires thoughtful analysis with a view to the economic assumptions. We are well aware of errors in the economic assumptions as it was used in the past, and there are changes in the approach used in the current report. Furthermore, the review by PSI is required under law to make contact of various organizations including women's and men's organizations in order to have a balanced analysis. This report fails to reflect any contact with any organization.</p> <p>We respectfully request that the public comment period be extended from the short two week period, which was done in the middle of a holiday period, to a reasonable comment period so that many organizations can participate in comments.</p>
20.	Ms. Greta Wallace Director California Department of Child Support Services	<p>Thank you for your efforts in preparing your comprehensive review of California’s child support guideline. The report does an excellent job in reviewing the current guideline and setting an agenda for debating future changes.</p> <p>The report makes several recommendations for adjustment in the methodology for determining child support. The Department of Child Support Services will carefully review the report and its recommendations in anticipation of the discussion that the report will generate. We will give careful consideration to the merits of instituting a method for an inflation adjustment for the income threshold for the low-income adjustment.</p> <p>We are committed to working to strike the right balance between the needs of children receiving support and the ability of parents to make the support payments.</p> <p>We look forward to further discussion of your recommendations.</p>
21.	Mr. Allan	Page 2 “Children's Health Care Needs”: incorrectly states that Family Code section 4063 establishes criteria

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	Woodworth	for ordering health insurance coverage for children. The correct section is Family Code section 3751. Family Code 4063 section sets forth the criteria for the Reimbursement of uncovered health care costs.
22.	Member of the public	The child support guideline must be eliminated. Parents should work together to develop a support plan for their children. Child support as it currently stands is nothing more than privatized welfare where the custodial parents can live high on the hog and the non-custodial parent gets the shaft financially.
23.	Member of the public	<p>I am considered a high-income non-custodial father of 2 children living out-of-state and my divorce was finalized on July 1, 2005. I am very disappointed when reviewing the report since I believe you have missed some EXTREMELY IMPORTANT VARIABLES when calculating support payments.</p> <p>Overall, the child support system is to ensure that our children of divorce are provided for and that they have access to both parents until the age of 18. However, it is unfortunate that the current system is DESIGNED WITHOUT CONSIDERATION OF (1) ACCOUNT FOR THE USE SUPPORT FUNDS (2) THE NON CUSTODIAL PARENTS WHOLE FINANCIAL PICTURE AND (3) REDUCING FUTURE CONFLICT BETWEEN PARENTS.</p> <p>AS A VICTIM OF THE CURRENT SYSTEM THE FOLLOWING IS TRUE:</p> <ol style="list-style-type: none"> <li>1. There is NO account for the support monies given to the custodial parent. <ol style="list-style-type: none"> <li>A. How can I be sure my kids are getting my hard-earned money when they show up in rags and their mother drives a new car?</li> <li>B. Why does the court trust the judgment of the non-custodial parent and not both parent to ensure funds are used appropriately?</li> <li>C. Where does the support money go? Are you sure, it's being used for my kids?</li> </ol> </li> </ol>

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	<p>2. There is NO consideration of the WHOLE FINANCIAL PICTURE such as debt incurred, tax deductions such as real estate, savings, etc.</p> <p>Example: I make a six-figure salary, however, due to debt incurred because of tax status changes and attorneys and child support, I have difficulty making ends meet and maintaining my high profile career.</p> <p>A. Why doesn't the court want me to continue paying my bills?</p> <p>B. Why doesn't the court want me to be successful in my career?</p> <p>C. Why doesn't the court want me to be financially secure in order that I can support my children?</p> <p>D. Why does the court want my attorney to make SO MUCH MONEY FROM ME????</p> <p>3. Reducing future conflict between parents is not considered priority but it should be.</p> <p>A. My ex and I can barely communicate, how can you expect me to make joint student loan payments or share childcare cost with her?</p> <p>B. Why does the court want to encourage future conflict between parents?</p> <p>C. Why doesn't the court consider consolidating specific debt such as joint student loans, child-care expenses, etc and calculate into the support payment?</p> <p>Overall, I think the CA Family Court system is fundamentally a good system but you really lack any reason in dealing with the wellbeing of the parent. This is California, it's time to think out of the box here folks. I haven't seen my kids for over 3 months and there is little I can do. But the second I don't make a support payment on time, the San Diego police show up in my office. Seriously, I just want to keep my job, pay my bills, save money, see my kids and deal with my ex as little as possible.</p>

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		<p>Thank you for allowing me to communicate my frustration, ideas and opinions.</p>
24.	Member of the public	<p>Please spare us the Epenshadian voodoo economics. This guideline review is once again worse than completely inadequate. The actual marginal costs of raising children are not considered. Obviously, the reviewer's goal was to show regulators that child costs have been taking into account. We don't want any fines, and we do want those bribes—er, I mean, federal incentive payments.</p> <p>Seriously, no member of the Judicial Council would favor the current child support guideline if he knew his finances were going to be entered in the "noncustodial" side of the ledger. Go ahead and load your family's income into Dissomaster, giving yourself 20 percent custody (maybe you think that because you're a lawyer, you'd get 50-50—fat chance). Funny, you didn't realize that food and clothing for 3 little kids costs more than twice your mortgage in Brentwood! And don't forget to include those add-ons. Picture your children visiting you on alternate weekends. It'll be fun “camping out with Daddy” in the back seat of the Lexus.</p> <p>Everyone affected by this law knows that the Income Shares guideline is politically correct alimony. The Judicial Council has a duty to promote a child support guideline that is fair to everyone, not just rad-fems and the divorce industry. Now please, fire PSI and hire an unbiased economist to dismantle the atrocity that you keep approving every four years.</p>
25.	Member of the public	<p>Regarding arrearages: Your report indicates a reduction in arrears since your system is now able to access a non-custodial parent's actual income.</p> <p>What I would like to know is what can be done (for non-state owed arrears) for the poor non-custodial parent who was victim to an order based upon presumed income and a vindictive custodial parent who enjoys a six-figure income. The support order was changed but the balance and arrear amount continues to grow.</p> <p>In addition, what are your goals really? To eliminate the overall arrears owed in your system, or to persecute</p>

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	<p>those unable to pay?</p> <p>If you really wanted to eliminate arrear amounts, especially for the poor obligor, you might actually talk with him or her and review the circumstances of the case. I certainly would be willing to volunteer if it would help the cause.</p> <p>I can say, without a doubt, that children need meaningful and equal time with both of their parents more than a court ordered extortion and persecution on their absent parent.</p> <p>I understand the Government's need to recover costs from aid given to families, but in those cases where the custodial parent is not receiving state aid or welfare payments, parents should be required to go to mediation.</p> <p>If both parties can meet with an unbiased mediator regarding the monetary concerns and support needs as well as other parenting issues, I believe that your system would have far fewer delinquent accounts. I also believe that our children would benefit much more because the objective wouldn't be focused on the battles between lawyers and the confusing, intimidating hostilities of the court, but rather by two parents working together to create a parenting plan for their children. This would also hopefully eliminate the incidence of the malicious parent hoping to exact personal financial gain through terrorizing and destroying the non-custodial parent.</p> <p>The current system is a nightmare for a non-custodial parent. Because of my arrears which were calculated (using inaccurate information supplied by the less than honest self-interested and vindictive custodial parent) and ordered without my participation, knowledge, understanding, or consent; I just this month have had my income of less than \$900.00 per month, reduced to \$600.00 through garnishment or interception.</p> <p>This follows a two-year painful court battle to modify the order.</p>

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		<p>If this income assignment/interception wasn't enough to create a moderate amount of stress; the remaining amount of my meager resources; which was auto deposited into my bank account as well as the \$100.00 I had carefully saved for my daughter's week-long visit during the Christmas holiday, minus what I fortunately used to buy food, was levied and additionally incurred a \$75.00 fee.</p> <p>I now have a negative balance in my bank and I have yet to pay for utilities and rent! Happy holidays! After the initial weeping and sense of total hopelessness, I wonder what your real motives are.</p> <p>In my case, the custodial parent enjoys a mid range six-figure income. Under your current system, I feel more than victimized.</p> <p>I hope you can look at more than just one angle. 'The deadbeat dad who's just trying to get outta pay'n his share.' I would do anything for my daughter! So would most parents. It is painful and hard to not be able to give her MYSELF the things she needs because everything I have, is taken from me and redistributed to her father and the corporate/government agencies. I want to take her school shopping, or buy her new shoes. Your system cuts me out of all of it; it alienates me. Moreover, it is heartbreaking.</p>
26.	Member of the public	<p>Your graph tells the whole story. The majority of child custody goes to the female, when in fact, males make excellent guardians, as well.</p> <p>It does not really matter what the guideline says . . .judges will rule according to their own standards . . .and for some crazy reason, custody is granted to the mother. This is not justice, so it really does not matter what is in your guideline report. I am a grandmother who will never be allowed to see my grandchildren simply because the mother has and will do whatever it takes to keep me (and the children's father) out of their lives.</p>
27.	Member of the public	<p>The Review suggests that the Guideline is fine and minimal change is needed. This is not true. The Guideline results in orders that far outpace the actual cost of supporting a child.</p> <p>When I established paternity of my son, his mother used child support as payback. As a direct result, I was</p>

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	<p>forced to file bankruptcy. The SOLE reason I filed bankruptcy was because the support order was too high. Later, when my son’s mother, an engineer, was going to be ordered to pay me child support, I requested the court to set support at \$0. Had I not done that, it would have led to further litigation and a great deal of conflict my son did not need. Several years have passed since then, and although we have had some tight times, my son has benefited overall from that decision.</p> <p>Child support is a major source of conflict between parents, and is often both a tool and a motivation to push one parent away. As a child-of-divorce myself, I can attest that a child’s needs are: #1 to have access to both parents, and #2 to not have conflict between his/her parents. Financial support is a secondary concern. As a child living in poverty myself, I can further attest that poverty is NOTHING in comparison to losing access to a parent.</p> <p>The Guideline should not be based on a hypothetical “standard of living” nor should it ignore the actual living standard either. Currently, my son’s support order is still set at \$0, and I am able to provide for my son adequately. When my son is with his mother, she provides for him adequately as well. My son’s mother’s household enjoys a much higher standard of living due to the combined income of her and her new husband’s dual income. The Guideline does not consider spouses income, so when my income increases, I would be required by the Guideline to pay child support even though it will further decrease my son's standard of living while he is with me (we share joint physical custody).</p> <p>Finally, the basis of the Guideline is roughly that parents pay about 25 percent of their after-tax income to support their children. This does not reflect reality. It only cost a fraction of the parent’s income to support children. For example, the largest expense for supporting a child is generally housing. In my case, I pay \$1300/mo rent for a two-bedroom apartment. Without my son, I'd still have to pay about \$1200 for a one bedroom in the same community. Moreover, I actually save money when I purchase groceries because I buy in bulk. There is no way I spend 25 percent of my after-tax income on my son, yet he and I are doing fine.</p>

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	<p>Furthermore, if the Guideline is to be a rigid, bright-line test, it should be based on a least common denominator among parents. Otherwise, many will not fit and ultimately the fallout will come to the child. Accordingly, even though my son's mother household definitely enjoys a higher standard of living than we do, I think the peace of not dealing with child support issues far outweighs any benefit from her financial support. It is not that difficult to take care of one more person if I am already taking care of myself. As long as she provides my son with emotional support, my son will be fine.</p> <p>My recommendations are  #1 the Legislature adopt a Guideline policy of minimizing support where possible;  #2 the Legislature lower the Guideline to about 10 percent of net income;  #3 the Legislature divide support amounts in half where the parents share joint physical custody, to reflect that the parents each have to provide housing for the child;  #4 the Legislature base support on true net income rather than essentially after-tax income (i.e., recognizing long-term debts such as student loans and mortgages); and  #5 the Legislature provide the courts with safeguards that allow discretion where the Guideline will cause an undue hardship on the paying parent and/or his or her subsequent family.</p>
28. Member of the public	<p>It is very unfortunate that the ultra-short review period—slightly less than two, strikingly ill-timed weeks, which it may even be fair to call ludicrous—has not allowed me, and I suspect many if not virtually all others similarly interested, to assimilate the sometimes dense 150 page draft and formulate meaningful comments. It does contain useful material and addresses significant issues very deserving of public discussion.</p> <p>I would like to briefly second its recommendation that the practical implementation of the hardship deduction needs attention: it's currently neither well understood as it stands by parents, attorneys, and judges, nor even fully developed in statute and case law, and is very frequently irrationally applied—to the financial and emotional detriment of many children and parents.</p> <p>I was also particularly disappointed by the unconvincing and at times contradictory draft treatment of the</p>

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	economic grounds for the specific schedule for the K-factor, especially for the Family Code § 4055 (b)(3) timeshare dependent K-factor enhancement (“one plus H%” or “two minus H%”). More time will be required to adequately address that subject.
29. Member of the public	<p>1. There is no accountability for the spending of support. The provider of support should know exactly where each dollar of support is going each month. Under today’s laws, the low earning spouse can easily leverage the children for an easier life financially. When does the court insure that the parent receiving support is actually maintaining a level of living equal to that of the obligor? Many lower income parents fight for the full support amount only to arrange for a much lower standard of living such that the support alone is all they live on. This is not good for the children.</p> <p>2. There needs to be some weight given to the fact that one can live solely off the support and that the provider in that case is being abused.</p> <p>3. Indefinite spousal support for “Long-Term” marriages is unfair. The receiver of support should be expected to support himself or herself just like any other adult in the country. If they cannot for any reason, that should not be the responsibility of the former spouse. Once the children are grown and on their own, there doesn’t seem to be any good reason to continue to support the spouse.</p> <p>4. The children are the number one priority of every parent. However, if one parent is not willing to work for a living or ambitiously pursue advancement in his or her career and income, that is a reality of their life that the support provider is not responsible for. In my case, my ex wife never contributed to making a home for the family nor did she take responsible steps towards a career. Yet, I am responsible for an irresponsible adult and the children are exposed to this, learning that you can take advantage of others and get away with it; learning that you can be irresponsible as an adult and others will take responsibility for you.</p> <p>5. I believe the child support formula is a good one. However, I don’t believe enough scrutiny is put on the other side of the formula. That other side being when a spouse uses the children to their advantage. It is wrong to allow the higher earner to be used in this way.</p>

*Note: Some members of the public did not give the Judicial Council permission to use their names in this report.*

## Appendix G

### Project Staff Biographies

**David M. Betson, Ph.D., Economist.** Dr. Betson is an Associate Professor of Economics and the former Director of the Hesburgh Program in Public Service at the University of Notre Dame. He is a research associate at the Institute for Research on Poverty at the University of Wisconsin and was previously a staff economist at the U.S. Department of Health, Education, and Welfare. He has been a member of four National Academy of Science Panels. From 1990 to 1992, Dr. Betson was a member of the Panel to Evaluate Microsimulation Models for Social Welfare Programs. From 1992 to 1995, he was a member of the Panel on Poverty Measurement and Family Assistance. From 1996 to 2000, Dr. Betson served as a member of the Panel on Local Area Estimates of Poverty for the Allocation of Title One School Funding. Currently, he is the Chair of the Panel to Evaluate the National Estimates of Participants in the Women, Infant and Children (WIC) Program to ensure full funding of the program. A particular area of expertise is child support policy; he has written academic papers and consulted with numerous government entities, including the Justice Ministry of Canada and the Indiana Supreme Court, on the development of child support guidelines. He developed alternative estimates of the cost of rearing children, using data from the Consumer Expenditure Survey, for the U.S. Department of Health and Human Services in 1990, and he constructed and analyzed data files to evaluate measures and characteristics of people in poverty for the Panel on Poverty Measurement and Family Assistance. He also developed the estimates of child-rearing expenditures provided in the 2001 review of the California guideline. His doctorate is from the University of Wisconsin.

**Tracy Griffith, Research and Legal Analyst.** Under Dr. Jane Venohr's direction, Ms. Griffith has been conducting research and legal analysis on child support guidelines for the past five years. During this time, she has worked on guideline projects for more than a dozen states. She has analyzed case file data on the application of and deviation from guidelines in the District of Columbia, Pennsylvania, New Jersey, and Arizona. She has prepared gross to net income tax conversion tables for guidelines based on gross income, adjusted child-rearing cost estimates for inflation, prepared graphical and tabular comparisons of guidelines and adjustment formulas (e.g., formulas for shared parenting), and conducted legal analysis of special factors (e.g., definitions of income, treatment of second spouse income). Ms. Griffith holds a bachelor's degree in business administration and is a paralegal.

**David A. Price, Ph.D., Executive Oversight.** Dr. Price, co-founder and director of PSI's Consulting Division, began his work on child support guidelines issues in 1984 with a federally funded project entitled "Development of Guidelines for Child Support Orders." Since that time, he has provided technical assistance, consulting, and evaluation services

to federal, state, and local agencies on guidelines issues and on a wide range of other child support topics. For example, he was the project director for the national cross site evaluation of the Responsible Fatherhood Demonstration Projects, is the project director for several task order contracts through the federal Office of Child Support Enforcement, and has served as project director/senior researcher on numerous evaluations of child support demonstration projects for such issues as paternity establishment, order review and adjustment, interest on arrears, and workload. Dr. Price also has done considerable work with justice system agencies around the country, including work with the California Administrative Office of the Courts. Dr. Price holds a doctorate from the University of Denver in international studies, with an emphasis on research methods and international economics.

**Elaine Sorenson, Ph.D., Senior Researcher.** Dr. Sorenson is a labor economist and Principal Research Associate at the Urban Institute. She is nationally recognized as a leading expert on child support policy and noncustodial parents and has published widely on these and related topics. She is regularly asked to present her work to program administrators, policy makers, and the public at large through journal articles and presentations at conferences, workshops, and public hearings. She recently completed a comprehensive analysis of California's child support arrears, an analysis that has spurred greater interest in the topic at the federal level. Dr. Sorenson is currently analyzing arrears in several other states under contract with the federal Office of Child Support Enforcement. Prior to joining the Urban Institute, Dr. Sorenson was an Assistant Professor of Economics at the University of Massachusetts, Amherst. She received her Ph.D. in economics from the University of California, Berkeley, and has been at the Urban Institute since 1987.

**Jane C. Venohr, Ph.D., Project Director and Economist.** The project was led by Dr. Venohr, an economist with more than 15 years of experience working with child-rearing expenditure data and providing child support guideline review, development, and evaluation services for more than 30 states. She worked with Dr. Robert Williams on guidelines projects for about 10 years, then assumed lead responsibility for all PSI guidelines projects in 2001. Her guidelines work includes updating child support guidelines schedules and developing adjustments for (1) shared parenting time, (2) low income, (3) child-care costs, (4) medical expenses, (5) visitation time, and (6) other factors. Her guideline work also includes designing and conducting case file reviews, writing legislation, preparing briefing materials, conducting special analyses and comparisons, and providing expert testimony to legislative committees and state child support commissions. Well-grounded in statistics, she has used various sampling approaches, statistical analyses, and cost analyses for these projects. In addition to her guidelines work, Dr. Venohr consults with federal, state, and local agencies on a wide range of child support and related issues, such as order establishment, review, and adjustment; program performance and federal incentive measures; medical support; fatherhood programs; and arrears. Dr. Venohr holds a Ph.D. in economics from the

University of Colorado, where she specialized in economic demography and econometrics.

**Brenda Wagenknecht-Ivey, Ph.D., Senior Consultant and Meeting Facilitator.** Dr. Wagenknecht-Ivey, President of PRAXIS Consulting, Inc., has special expertise in organizational psychology and development, organizational behavior, organizational change and improvement, and high-performance teams. With more than 20 years of experience, she has developed keen diagnostic, intervention, facilitation, and delivery skills and has built a national reputation as a skilled change agent, facilitator, planner, consensus builder, and researcher. She is co-located and has worked with Policy Studies Inc. for more than 15 years. Dr. Wagenknecht-Ivey has worked extensively with the courts in California, including work with judges, commissioners, and court administrators. She has first-hand knowledge of and experience working in the child support enforcement program. For example, she recently worked with the California Judicial Council, Administrative Office of the Courts on its state and regional strategic and operational planning project as well as with the Orange County Superior Court and Los Angeles Superior Court on planning and organizational improvement processes. Previously, Dr. Wagenknecht-Ivey was the Director of the Child Support Judicial Education Project for the National Center for State Courts and worked in the child support enforcement program at the Michigan State Court Administrative Office and the 37th Judicial Circuit Court in Battle Creek, Michigan. Dr. Wagenknecht-Ivey holds a Ph.D. in organizational behavior/communication and a master's degree in labor and industrial relations.

## Appendix H

### Acknowledgments

This report was prepared under the direction and oversight of the Judicial Council's Family and Juvenile Law Advisory Committee. At the time the report was prepared, the committee was co-chaired by Hon. Jerilyn L. Borack and Hon. Susan D. Huguenor, and its members were Ms. Antonia Agerbek, Hon. Sue Alexander, Hon. Brian John Back, Hon. Patricia Bamattre-Manoukian, Ms. Elizabeth A. Barranco, Hon. Aviva K. Bobb, Ms. Judy Lynn Bogen, Mr. Bryan Borys, Hon. Charles W. Campbell, Jr., Mr. L. Michael Clark, Ms. Judith A. Cox, Hon. Becky Lynn Dugan, Hon. Leonard P. Edwards, Ms. Ana España, Hon. Janet M. Frangie, Ms. Keri L. Griffith, Hon. Mary Ann Grilli, Hon. David L. Haet, Ms. Frances Harrison, Hon. Margaret Henry, Hon. Vahan Hovsepian, Ms. Caroline Huffman, Ms. Sharon Kalemkarian, Ms. Miriam Krinsky, Ms. Patricia Lee, Hon. Jan G. Levine, Mr. Rick Lewkowitz, Hon. James M. Mize, Hon. Arnold D. Rosenfield, Hon. Frances Rothschild, Mr. David Sanders, Hon. Robert Alan Schnider, Hon. B. Tam Nomoto Schumann, Hon. Dean Stout, Ms. Shannan L. Wilber, and Ms. Kate Yavenditti. The committee's Judicial Council liaisons were Hon. Terry Friedman and Hon. Michael Nash, and the Office of Governmental Affairs Liaison was Ms. Tracy Kenny.

Staff from the Administrative Office of the Courts assisted in the preparation of this report: Marsha Devine (Project Manager), Michael Wright, Charlene Depner, Lee Morhar, Diane Nunn, Vickie Akers,Carolynn Castaneda, Christopher Almanzor, Rowena Rogelio, Sarah Bressler, Irene Balajadia, Carolyn McGovern, Youn Kim, Nelson Wong, Grant Walker, Charles Turner, Paula Coombs, Leah Wilson, and law student interns Ariel Sosna and Sharron Fang. The report was edited by Cathy Cabron.

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