

July 9, 1998
Effective October 1, 1998

In re:

Repeal of Civil Procedure Form No. 14, entitled “Presumed Child Support Amount Calculation Worksheet,” as well as the directions for completion, comments for use, and assumptions, and in lieu thereof adoption of a new Civil Procedure Form No. 14, entitled “Presumed Child Support Amount Calculation Worksheet,” as well as directions for completion, comments for use, and assumptions.

ORDER

1. It is ordered that effective October 1, 1998, Civil Procedure Form No. 14 as well as the directions for completion, comments for use, and assumptions therefor be and the same are hereby repealed and a new Civil Procedure Form No. 14 as well as directions for completion, comments for use, and assumptions therefor adopted in lieu thereof to read as follows:

**FORM NO. 14: PRESUMED CHILD SUPPORT AMOUNT
CALCULATION WORKSHEET**

Form 14 CHILD SUPPORT AMOUNT CALCULATION WORKSHEET
In re the Marriage of: _____ and _____

Petitioner		Respondent	
CHILDREN	DATE OF BIRTH	CHILDREN	DATE OF BIRTH
Child One		Child Four	
Child Two		Child Five	
Child Three		Child Six	
	Parent Receiving Support	Parent Paying Support	Combined
1. MONTHLY GROSS INCOME	\$	\$	
2. ADJUSTMENTS (per month)			
a. Other court or administratively ordered child support being paid.	(\$)	(\$)	
b. Court ordered maintenance being paid.	(\$)	(\$)	
c. Support obligation for other children in parent's primary physical custody.	(\$)	(\$)	
3. ADJUSTED MONTHLY GROSS INCOME (Line 1 minus lines 2a, 2b, and 2c).	\$	\$	
4. PROPORTIONATE SHARE OF COMBINED ADJUSTED MONTHLY GROSS INCOME (Each parent's line 3 income divided by combined line 3 income).	%	%	
5. BASIC CHILD SUPPORT AMOUNT (From support chart using combined line 3 income).			
6. ADDITIONAL CHILD-REARING COSTS (per month)	\$	\$	
a. Reasonable work-related child care costs of the parent receiving support (\$) less any child care tax credit (\$).			
b. Reasonable work-related child care costs of the parent paying support.			
c. Health insurance costs for the children who are subjects of this proceeding.	\$	\$	
d. Uninsured extraordinary medical costs. (Agreed by parents or ordered by court).	\$	\$	
e. Other extraordinary child rearing costs. (Agreed by parents or ordered by court)	\$	\$	
7. TOTAL ADDITIONAL CHILD-REARING COSTS (Sum of lines 6a, 6b, 6c, 6d and 6e).	\$	\$	\$
8. TOTAL COMBINED CHILD SUPPORT COSTS (Sum of line 5 and combined line 7).			\$
9. EACH PARENT'S SUPPORT OBLIGATION (Multiply line 8 by each parent's line 4)	\$	\$	
10. CREDIT FOR ADDITIONAL CHILD-REARING COSTS (Line 7 of parent paying support).		(\$)	
11. ADJUSTMENT FOR A PORTION OF THE AMOUNTS EXPENDED DURING PERIODS OF OVERNIGHT VISITATION OR CUSTODY. (Multiply line 5 by _____ %).		(\$)	
12. PRESUMED CHILD SUPPORT AMOUNT (Line 9 minus lines 10 and 11).		\$	
PREPARED BY:			

**DIRECTIONS, COMMENTS FOR USE AND EXAMPLES FOR COMPLETION
OF FORM NO. 14**

In General.

The parent obligated to pay support and the parent entitled to receive support shall calculate the presumed child support amount by completing the worksheet, Form No. 14:

1. All amounts entered on the worksheet shall be rounded to the nearest dollar.
(\$X.50 shall be rounded upward.)
2. "Maintenance," as used in these directions and comments, includes alimony and any other form of spousal support. "Person", as used in these directions and comments, includes both an individual party and a state agency acting for the benefit of a party.
3. Form No. 14, including the directions, comments, and assumptions, may be used prior to October 1, 1998, and shall apply to all proceedings in which the order or judgment is entered after October 1, 1998.

Line 1: Gross income.

DIRECTION: Enter one-twelfth of the parent's yearly gross income.

"Gross income" includes, but is not limited to, salaries, wages, commissions, dividends, severance pay, pensions, interest, trust income, annuities, partnership distributions, social security benefits, retirement benefits, workers' compensation benefits, unemployment compensation benefits, disability insurance benefits, veterans' disability

benefits, military allowances for subsistence and quarters, and maintenance actually received.

Overtime compensation, bonuses, earnings from secondary employment, recurring capital gains, prizes, retained earnings and significant employment-related benefits may be included, in whole or in part, in "gross income" in appropriate circumstances.

If a parent is unemployed or determined to be underemployed, "gross income" may be based on imputed income.

Excluded from "gross income" is temporary assistance for needy families payments, Medicaid benefits, supplemental security income (SSI) benefits, food stamps, general assistance benefits, other public assistance benefits having eligibility based on income, and child support received for children not the subject of this proceeding.

If a parent receives rents or royalties or is self-employed, in a sole proprietorship or business with joint ownership, "gross income" is gross receipts minus the ordinary and necessary expenses incurred to produce such receipts. Depreciation, investment tax credits and other noncash reductions of gross receipts may be excluded from such ordinary and necessary expenses.

A. *COMMENT*: "Income" for purposes of computing the presumed child support amount consists of a financial benefit or money received by a parent that could have a positive impact on the parent's ability to support the parent's children.

B. *COMMENT: Trust Income:* When determining whether to include trust income and, if so, the amount to include in a parent's "gross income," a court or administrative agency shall consider all relevant factors, including:

(1) the authority of the parent under the trust to direct payment of monies from the trust, including any authority to invade and control distribution of the trust corpus;

(2) the authority of the parent under the trust to make decisions concerning investment of the assets of the trust;

(3) the realistic expectation that the parent will continue to receive the amount of trust income received during the three years, or such time period as may be appropriate, immediately before the beginning of the proceeding and during any other relevant time periods; and

(4) the validity of the reasons of the parent in making any adjustment in trust income from that received during the three years, or such time period as may be appropriate, immediately before the beginning of the proceeding and during any other relevant time periods.

C. *COMMENT: Overtime Compensation and Secondary Employment:* When determining whether to include overtime compensation and earnings from secondary employment and, if so, the amount to include in a parent's "gross income," a court or administrative agency shall consider all relevant factors, including:

(1) the consequence of exercise by the parent of periods of temporary physical custody or visitation with the children who are the subject of this proceeding on the parent's ability to receive overtime compensation or earnings from secondary employment;

(2) the motivation of the parent in working overtime, including whether overtime was a condition of employment, or in working secondary employment during the three years, or such time period as may be appropriate, immediately before the beginning of the proceeding and during any other relevant time periods;

(3) the amount of overtime compensation and earnings from secondary employment received by the parent during the three years, or such time period as may be appropriate, immediately before the beginning of the proceeding and during any other relevant time periods;

(4) the realistic expectation that the parent will continue to receive the amount of overtime compensation and earnings from secondary employment received during the three years, or such time period as may be appropriate, immediately before the beginning of the proceeding and during any other relevant time periods; and

(5) the number of additional dependents for whom the parent is financially responsible, whether or not there is an existing court or administrative order under which the parent is paying or receiving support.

D. *COMMENT: Bonus*: When determining whether to include bonuses and, if so, the amount to include in a parent's "gross income," a court or administrative agency shall consider all relevant factors, including:

(1) the consequence of exercise by the parent of periods of temporary physical custody or visitation with the children who are the subject of this proceeding on the parent's ability to receive a bonus;

(2) the motivation of the parent in earning bonuses during the three years, or such time period as may be appropriate, immediately before the beginning of the proceeding and during any other relevant time periods;

(3) the amount of the bonuses received by the parent during the three years, or such time period as may be appropriate, immediately before the beginning of the proceeding and during any other relevant time periods;

(4) the realistic expectation that the parent will continue to receive the amount of the bonuses received during the three years, or such time period as may be appropriate, immediately before the beginning of the proceeding and during any other relevant time periods; and

(5) the number of additional dependents for whom the parent is financially responsible, whether or not there is an existing court or administrative order under which the parent is paying or receiving support.

E. *COMMENT: Capital Gains*: When determining whether to include capital gains income and, if so, the amount to include in a parent's "gross income," a court or administrative agency shall consider all relevant factors, including:

(1) the amount of capital gains income received by the parent during the three years, or such time period as may be appropriate, immediately before the beginning of the proceeding and during any other relevant time periods;

(2) the realistic expectation that the parent will continue to receive the amount of capital gains income received during the three years, or such time period as may be appropriate, immediately before the beginning of the proceeding and during any other relevant time periods;

(3) the validity of the reasons of the parent in making any adjustment in capital gains income from that received during the three years, or such time period as may be appropriate, immediately before the beginning of the proceeding and during any other relevant time periods.

F. *COMMENT: Retained Earnings*: When determining whether to include retained earnings and, if so, the amount to include in a parent's "gross income," a court or administrative agency shall consider all relevant factors, including:

(1) whether reinvestment of the business' income is an ordinary and necessary expense to allow the business to operate at a reasonable level;

(2) whether reinvestment of the business' income is intended for maintenance of the business or growth of the business;

(3) whether reinvestment of the business' income is reasonable based on sound business practices; and

(4) the validity of the reasons of the parent for reinvestment of the business' income.

G. *COMMENT*: Non-taxable income and significant employment-related benefits may be converted in appropriate circumstances to "gross income" through applicable federal and state income tax tables.

H. *COMMENT: Imputed Income*: When determining whether to include imputed income and, if so, the amount to include in a parent's "gross income," a court or administrative agency shall consider all relevant factors, including:

(1) the parent's probable earnings based on the parent's work history during the three years, or such time period as may be appropriate, immediately before the beginning of the proceeding and during any other relevant time periods;

(2) the parent's occupational qualifications;

(3) the parent's employment potential;

(4) the available job opportunities in the community; and

(5) whether the parent is custodian of a child whose condition or circumstances make it appropriate that the parent not be required to seek employment outside the home.

CAVEAT: *If income and, where appropriate, reasonable work-related child care costs are imputed in calculating the presumed child support amount to an unemployed parent entitled to receive support, then the support ordered paid by the parent obligated to pay support shall not exceed the presumed child support amount payable if no income and work-related child care costs are imputed to the parent entitled to receive support.*

I. **COMMENT: Self-Employment:** Gross income from an unincorporated business is the net profit or net loss on the schedules filed as part of the parent's federal income tax return. However, expense reimbursements or in kind payments by the business to pay for expenses of the parent that are personal in nature and not business related may be income to the parent; therefore, "gross income" of the parent for purposes of computing the presumed child support amount may differ from the net profit or net loss of the business for income tax purposes.

Line 2a: Adjustment to gross income for other ordered child support being paid.

DIRECTION: Enter the monthly amount of any other court or administrative order for child support to the extent of the amounts actually being paid toward the current support of any child not the subject of this proceeding.

An adjustment is appropriate in a proceeding to establish a child support order or to modify the support payable under an existing order. However, the adjustment available to the moving parent in an action to increase or decrease the support payable under an existing order shall be the lesser of:

(1) the adjustment to which that parent was entitled for the particular child on line 2a or 2c when the existing order was entered, or

(2) the adjustment to which that parent is entitled for the particular child on line 2a as a result of an order in another action entered after the existing order.

A. EXAMPLE: Father pays child support of \$350.00 per month under an order (Order 1) entered prior to the judgment of dissolution of his marriage to Mother.

(1) Order 1 is modified after entry of the judgment of dissolution, and, as a result, Father now pays child support of \$450.00 per month under Order 1.

(a) In Mother's action to increase Father's support obligation under the judgment of dissolution, Father is entitled to an adjustment (line 2a) of \$450.00 per month.

(b) In Father's action to decrease his support obligation under the judgment of dissolution, Father is entitled to an adjustment (line 2a) of \$350.00 per month.

(2) Order 1 is modified after entry of the judgment of dissolution, and, as a result, Father now pays child support of \$250.00 per month under Order 1.

(a) In Mother's action to increase Father's support obligation under the judgment of dissolution, Father is entitled to an adjustment (line 2a) of \$250.00 per month.

(b) In Father's action to decrease his support obligation under the judgment of dissolution, Father is entitled to an adjustment (line 2a) of \$250.00 per month.

B. EXAMPLE: Father pays child support of \$350.00 per month under an order entered prior to the judgment of dissolution of his marriage to Mother and has an

additional child support obligation of \$200.00 per month under an order entered after the judgment of dissolution of his marriage to Mother.

(1) In Mother's action to increase Father's support obligation under the judgment of dissolution, Father is entitled to an adjustment (line 2a) of \$550.00 per month.

(2) In Father's action to decrease his support obligation under the judgment of dissolution, Father is entitled to an adjustment (line 2a) of \$350.00 per month.

Line 2b: Adjustment to gross income for maintenance being paid.

DIRECTION: Enter the monthly amount of any court order for maintenance to the extent of the amounts actually being paid toward current maintenance.

An adjustment is appropriate in a proceeding to establish a child support order or to modify the support payable under an existing order. However, the adjustment available to the moving parent in an action to increase or decrease the support payable under an existing order shall be the lesser of:

(1) the adjustment to which that parent was entitled when the existing order was entered, or

(2) the adjustment to which that parent is entitled as a result of an order entered after the existing order.

A. *COMMENT:* If the court is establishing both child support and maintenance, the court shall first determine the appropriate amount of maintenance. This amount shall

be included in the gross income (line 1) of the parent receiving the maintenance and as an adjustment (line 2b) of the parent paying the maintenance.

Line 2c: Adjustment to gross income for other children in primary physical custody.

DIRECTION: Enter the monthly amount of the support obligation of the parent for any children in his or her primary physical custody and not the subject of this proceeding.

The amount of the adjustment is the amount in the schedule of basic child support obligations that represents that parent's support obligation based only on the parent's gross income and without any adjustment for other children for whom the parent is responsible.

CAVEAT: *The adjustment for a child for whom there is an existing court or administrative order shall be reduced by the amount that the parent is actually receiving in current support payments.*

An adjustment is appropriate in a proceeding to establish a child support order or to modify the support payable under an existing order. The adjustment is available for the parent's natural and adopted children but not the parent's stepchildren. However, the adjustment available to the moving parent in an action to increase or decrease the support payable under the existing order shall be the lesser of:

(1) the adjustment to which that parent was entitled for the particular child on line 2a or 2c when the existing order was entered, or

(2) the adjustment to which that parent is entitled for the particular child on line 2c as a result of an order in another action entered after the existing order.

A. *COMMENT*: Children are in a parent's "primary physical custody" though living away from the parent to attend school.

B. *EXAMPLE*: Mother, who has gross income (line 1) of \$1,832.00 per month, receives child support of \$100.00 per month under an order for a child in her primary physical custody who was born after dissolution of her marriage to Father.

(1) In Mother's action to increase Father's support obligation under the judgment of dissolution, Mother is entitled to no adjustment (line 2c).

(2) In Father's action to decrease his support obligation under the judgment of dissolution, Mother is entitled to an adjustment (line 2c) of \$248.00, which is the support obligation of Mother from the schedule of basic child support obligations (\$348.00 per month) less the amount actually received by Mother for support of the child in her primary physical custody (\$100.00 per month).

C. *EXAMPLE*: Father, who has gross income (line 1) of \$3,333.00 per month, paid child support to his former spouse of \$350.00 per month (Order 1) at the time the judgment of dissolution was entered. Order 1 was modified by Father after entry of the judgment of dissolution. As a result, Father now has primary physical custody of the child. Further, Father is no longer required to pay any child support to his former spouse and receives no support for the child from his former spouse.

(1) In Mother's action to increase Father's support obligation under the judgment of dissolution, Father is entitled to an adjustment (line 2c) of \$557.00 per month, which is the support obligation of Father from the schedule of basic child support obligations.

(2) In Father's action to decrease his support obligation under the judgment of dissolution, Father is entitled to an adjustment (line 2c) of \$350.00 per month.

Line 3: Monthly gross income.

DIRECTION: Enter the monthly amount calculated by subtracting from the parent's monthly gross income on line 1 the sum of that parent's adjustments from lines 2a, 2b and 2c. If the resulting figure is negative, enter "0".

The combined adjusted monthly gross income is calculated by adding together the adjusted monthly gross incomes of both parents.

Line 4: Proportionate share of combined adjusted monthly gross income.

DIRECTION: Enter the percentage to the nearest tenth of one percent for each parent, calculated by dividing the parent's adjusted monthly gross income from line 3 by the combined adjusted monthly gross income line 3.

Line 5: Basic child support amount.

DIRECTION: Enter the monthly amount from the schedule of basic child support obligations for the parents' combined adjusted monthly gross income from line 3, which, whenever necessary, shall be rounded to the nearest gross income amount on the schedule of basic child support obligations (\$25.00 and \$75.00 shall be rounded upward) prior to determining the amount to be entered on line 5.

Line 6a: Work-related child care costs of parent entitled to receive support.

DIRECTION: Enter the monthly amount of any reasonable work-related child care costs incurred or to be incurred for the children who are the subject of this proceeding by the parent entitled to receive support.

CAVEAT: *The reasonable work-related child care costs of the parent entitled to receive support may be included only if the gross income earned by the parent during the time period in which the parent incurs the child care costs is included in the parent's monthly gross income on line 1. If the parent's child care costs exceed the income earned during the time period in which the parent incurs the child care costs, neither the income earned nor the child care costs incurred shall be included.*

If the amount of the actual work-related child care costs for each child is not available or cannot be verified, the amount of the reasonable work-related child care costs

of the parent entitled to receive support attributable to each child who is the subject of this proceeding shall be calculated by dividing the total monthly reasonable work-related child care costs of the parent entitled to receive support by the total number of children for whom the child care costs are incurred or are to be incurred.

A. *COMMENT*: The work-related child care costs of the parent entitled to receive support, when included in the calculation of the presumed child support amount, shall take into account a child care tax credit, which is available if:

(1) the parent incurs the child care costs to enable the parent to work or seek employment, and

(2) the child for whom the child care costs are incurred is under thirteen years of age or, if not, is disabled and unable to care for himself or herself.

The child care tax credit to include on Form No. 14 is determined by multiplying the maximum monthly amount of child care costs subject to the child care tax credit by the tax credit percentage based on the monthly gross income (line 1) of the parent entitled to receive support, as determined from the child care tax credit table below.

If the parent entitled to receive support has one eligible child for whom work-related child care costs are incurred or are to be incurred, the maximum monthly amount of child care costs subject to the child care tax credit is the least of:

(1) the monthly gross income (line 1) of the parent,

(2) the monthly work-related child care costs incurred or to be incurred by the parent,

or

(3) \$200.00.

If the parent entitled to receive support has more than one eligible child for whom work-related child care costs are incurred or are to be incurred, the maximum monthly amount of child care costs subject to the child care tax credit is the least of:

(1) the monthly gross income (line 1) of the parent,

(2) the monthly work-related child care costs incurred or to be incurred by the parent,

or

(3) \$400.00.

Child Care Tax Credit Worksheet

- A. Enter the reasonable monthly work-related child care costs of the parent entitled to receive support for the eligible children who are the subject of this proceeding.....\$ _____

- B. With one eligible child, enter the *lesser* of A or \$200; with two or more eligible children, enter the *lesser* of A or \$400.....\$ _____

- C. Enter the monthly gross income of the parent entitled to receive support.....\$ _____

- D. Enter the tax credit for the monthly gross income of the parent entitled to receive support from the child care tax credit table..... _____ %

- E. Enter the monthly child care tax credit (Multiply line B by line D).....\$ _____

- F. Enter the net work-related child care costs of the parent entitled to receive support (Subtract line E from line A).....\$ _____

Child Care Tax Credit Table

Gross Monthly Income Of Parent Entitled To <u>Receive Support</u>	<u>Tax Credit %</u>	<u>Tax Credit For</u>	
		<u>One Child</u> <u>\$200.00</u>	<u>More than One Child</u> <u>\$400.00</u>
\$ 0 to 833	.30	\$60	\$120
843 to 1,000	.29	58	116
1,001 to 1,166	.28	56	112
1,167 to 1,333	.27	54	108
1,334 to 1,500	.26	52	104
1,501 to 1,666	.25	50	100
1,667 to 1,833	.24	48	96
1,834 to 2,000	.23	46	92
2,001 to 2,166	.22	44	88
2,167 to 2,333	.21	42	84
2,334 to 9,999	.20	40	80
10,000 or above	.00	0	0

B. EXAMPLE: Mother, whose monthly gross income is \$ 1,832, incurs work-related child care costs of \$650.00 per month for the two youngest children, ages 10 and 8, of her marriage to Father and no child care costs for the oldest child of the marriage, age 16.

Child Care Tax Credit Worksheet

- A. Enter the reasonable monthly work-related child care costs of the parent entitled to receive support for the eligible children who are the subject of this proceeding.....\$ 650.00

- B. With one eligible child, enter the *lesser* of A or \$200; with two or more eligible children, enter the *lesser* of A or \$400.....\$ 400.00

- C. Enter the monthly gross income of the parent entitled to receive support.....\$ 1,832.00

- D. Enter the tax credit for the monthly gross income of the parent entitled to receive support from the child care tax credit table..... 24.0 %

- E. Enter the monthly child care tax credit (Multiply line B by line D).....\$ 96.00

- F. Enter the net work-related child care costs of the parent entitled to receive support (Subtract line E from line A).....\$ 554.00

Line 6b: Work-related child care costs of parent obligated to pay support.

DIRECTION: Enter the monthly amount of any reasonable work-related child care costs incurred or to be incurred for the children who are the subject of this proceeding by the parent obligated to pay support.

CAVEAT: *The reasonable work-related child care costs of the parent obligated to pay support may be included only if the gross income earned by the parent during the time period in which the parent incurs the child care costs is included in the parent's monthly gross income on line 1. If the parent's child care costs exceed the income earned during the time period in which the parent incurs the child care costs, neither the income earned nor the child care costs incurred shall be included.*

If the amount of the actual work-related child care costs for each child is not available or cannot be verified, the amount of the reasonable work-related child care costs of the parent obligated to pay support attributable to each child who is the subject of this proceeding shall be calculated by dividing the total monthly reasonable work-related child care costs of the parent obligated to pay support by the total number of children for whom the child care costs are incurred or are to be incurred.

A. ***COMMENT:*** When determining the amount of the work-related child care costs of the parent obligated to pay support to include on Form No. 14, a court or administrative agency shall consider whether the parent entitled to receive support

remains obligated to pay his or her child care provider during periods of visitation or custody with the parent obligated to pay support. If so, the court or administrative agency shall consider the reasonableness of the parent obligated to pay support using the child care provider of the parent entitled to receive support during periods of visitation or custody.

Line 6c: Health insurance costs.

DIRECTION: Enter the monthly amount of any premium paid or to be paid by the parent or deducted or to be deducted by an employer from the parent's gross monthly income for a health insurance policy for the children who are the subject of this proceeding.

If the amount of the actual health insurance premium for the children who are the subject of this proceeding is not available or cannot be verified, the amount of the premium attributable to the children who are the subject of this proceeding shall be calculated by dividing the total monthly premium for the policy of health insurance by the total number of persons for whom the premium is paid or to be paid and then multiplying the resulting figure by the number of children insured under the policy who are the subject of this proceeding.

A. *COMMENT*: Health insurance costs for the children who are the subject of this proceeding are included in Form No.14 for coverage that is employer provided or privately

obtained. Inclusion of such costs is not intended to mandate that either parent acquire health insurance, but either parent may be required by court or administrative order to obtain health insurance in conformity with state statute.

B. EXAMPLE: Father has a health insurance policy available through his employer at no cost for himself alone and at a cost of \$200.00 per month for his family, which includes his current spouse and five children, three of whom are children of his marriage to Mother. In a proceeding to modify Father's child support obligation under the judgment of dissolution of his marriage to Mother, the monthly health insurance cost includable in Form No. 14 is calculated as follows:

<u>Total monthly premium</u>	X	Number of children	=	Health insurance
Persons for whom premium		who are the subject of		cost includable in
is paid		the proceeding		Form No. 14

$$\frac{\$200.00}{6} \times 3 = \$100.00 \text{ per month}$$

Line 6d: Uninsured extraordinary medical costs.

DIRECTION: Enter the monthly amount of any extraordinary medical costs paid or to be paid by the parent by agreement or pursuant to court order for the children who are the subject of this proceeding.

If the amount of the actual extraordinary medical costs for each child is not available or cannot be verified, the amount of the extraordinary medical costs attributable to each child who is the subject of this proceeding shall be calculated by dividing the total

monthly extraordinary medical costs by the total number of children for whom the extraordinary medical costs are paid or to be paid.

A. *COMMENT*: "Extraordinary medical costs" are reasonable and necessary medical and dental expenses, as defined by section 213 IRC, incurred for the children who are the subject of this proceeding, to the extent that the uninsured portion of such expenses, including any deductibles and co-payments, exceeds \$100.00 per year per child. "Extraordinary medical costs" are predictable and recurring, such as expenses for dental treatment, orthodontic treatment, asthma treatment and physical therapy. Medical and dental expenses incurred for single occurrence illnesses or injuries that are not covered or fully paid under any health insurance policy should be handled by separate order.

CAVEAT: *A finding by the court or administrative agency that the presumed child support amount is unjust or inappropriate is not necessary where the parent obligated to pay support is also ordered to pay **any** percentage of the unreimbursed medical or dental expenses of the children who are the subject of the proceeding.*

Line 6e: Other extraordinary child-rearing costs.

DIRECTION: Enter the monthly amount of any other extraordinary child-rearing costs paid or to be paid by the parent by agreement or pursuant to court order for the children who are the subject of this proceeding.

If the amount of the actual other extraordinary child-rearing costs for each child is not available or cannot be verified, the amount of the other extraordinary child-rearing costs attributable to each child who is the subject of this proceeding shall be calculated by dividing the total monthly other extraordinary child-rearing costs by the total number of children for whom the other extraordinary child-rearing costs are paid or to be paid.

A. *COMMENT*: Post-secondary educational expenses and private or parochial elementary, middle and high school expenses are not included in the schedule of basic child support obligations; therefore, these expenses may be included in Form No. 14 as an "other extraordinary child-rearing cost" if the parents agree or the court orders that the parents contribute to payment of these expenses.

"Other extraordinary child-rearing costs" may include, but are not limited to, the cost of tutoring sessions, special or private elementary and secondary schooling to meet the particular educational needs of a child, camps, lessons, travel or other activities intended to enhance the athletic, social or cultural development of a child.

An order may include the cost of tuition, room and board, books, fees and other reasonable and necessary expenses. In determining the amount of these expenses, scholarships, grants, stipends and other cost-reducing programs available to the child should be considered.

CAVEAT: *A finding by the court or administrative agency that the presumed child support amount is unjust or inappropriate is not necessary where the parent obligated to pay*

*support is also ordered to pay **any** percentage of the other extraordinary child-rearing costs of the children who are the subject of the proceeding.*

Line 7: Total additional child-rearing costs.

DIRECTION: Enter the monthly amount calculated by adding together the parent's additional child-rearing costs from lines 6a, 6b, 6c, 6d and 6e.

The combined additional child-rearing costs are calculated by adding together the additional child-rearing costs of both parents.

Line 8: Total combined child support costs.

DIRECTION: Enter the monthly amount calculated by adding together the basic child support amount from line 5 and the combined additional child-rearing costs from line 7.

Line 9: Each parent's support obligation.

DIRECTION: Enter the monthly amount calculated by multiplying the total combined child support costs from line 8 by each parent's proportionate share of the combined adjusted monthly gross income from line 4.

Line 10: Credit for additional child-rearing costs paid by parent obligated to pay support.

DIRECTION: Enter the monthly amount of the additional child-rearing costs paid or to be paid by the parent obligated to pay support for any children who are the subject of this proceeding from line 7.

Line 11: Adjustment for a portion of amounts expended by the parent obligated to pay support during periods of overnight visitation or custody.

DIRECTION: Enter the monthly amount of any adjustment to which the parent obligated to pay support is entitled for a portion of the amounts expended on the children who are the subject of this proceeding during that parent’s periods of overnight visitation or custody. The adjustment shall be calculated by multiplying the basic child support amount from line 5 by the applicable adjustment from the table below. This adjustment is based on the number of periods of overnight visitation or custody per year awarded to and exercised by the parent obligated to pay support under any order or judgment.

<u>% of Year</u>	<u>Number of Overnight Periods</u>	<u>Adjustment</u>
	Less than 36	0%
10% - 20%	36 - 72	6%
20% - 25%	73 - 91	9%
25% - 30%	92 - 109	10%

If the parent obligated to pay support is or has been awarded periods of overnight visitation or custody for more than 109 days per year, the adjustment for that parent may be greater than 10%.

CAVEAT: *Except as provided in the next paragraph, an adjustment on this line 11 shall not be allowed unless the adjusted monthly gross income of the parent entitled to receive support (line 3) exceeds the amounts set forth in the table below for the appropriate number of children.*

1 child	2 children	3 children	4 children	5 children	6 children
\$1,100	\$1,350	\$1,500	\$1,650	\$1,750	\$1,850

Notwithstanding the amounts set forth in the table above, an adjustment may be given if:

(1) the parent entitled to receive support is unemployed or underemployed because the expenses of that parent are paid, in whole or in part, by a person with whom that parent cohabits, or

(2) the adjusted monthly gross income of the parent obligated to pay support (line 3) less the presumed child support amount (line 12) is equal to or less than the amounts set forth in the table above for the appropriate number of children.

A. *COMMENT*: The presumed child support amount is not unjust or inappropriate if the parent obligated to pay support receives an adjustment greater than 10% if that parent is awarded periods of overnight visitation or custody of more than 109 days per year.

B. *COMMENT*: In any proceeding to establish a child support order or to modify the support payable under an existing order, the adjustment on this line 11 may be rebutted if the parent obligated to pay support:

(1) without fault of the parent entitled to receive support, does not exercise the periods of overnight visitation or custody with the children who are the subject of this proceeding awarded under any order or judgment,

(2) does not incur significant duplicated fixed expenditures as a result of periods of overnight visitation or custody, or

(3) without fault of the parent entitled to receive support, exercises the periods of overnight visitation or custody awarded under any order or judgment with some but not all the children who are the subject of this proceeding.

CAVEAT: *If the parent receiving child support under a judgment, decree or order entered before October 1, 1998, is not receiving modifiable maintenance, then no adjustment on this line 11 shall be awarded in any proceeding to modify an award of child support.*

Line 12: Presumed child support amount.

DIRECTION: Enter the monthly amount calculated by subtracting from the child support obligation of the parent obligated to pay support on line 9 that parent's:

- (1) credit for additional child-rearing costs from line 10, and
- (2) adjustment for a portion of the amounts expended during periods of overnight visitation or custody from line 11.

CAVEAT: *If the amount of the credit and adjustment for the parent obligated to pay support on lines 10 and 11, individually or in combination, is **greater than or equal to** the amount of support on line 9, determination of the presumed child support amount requires the following calculations:*

(1) if line 10 by itself is greater than or equal to line 9, enter the figure resulting from subtracting only line 10 from line 9, which may result in a negative amount;

(2) if line 11 by itself is greater than or equal to line 9, enter "\$0"; and

(3) if the sum of lines 10 and 11 is greater than or equal to line 9, enter the figure resulting from subtracting only line 10 from line 9, which may result in a negative amount.

A. **COMMENT:** As the number of children entitled to support increases, the amount payable for their support increases, but the increase per child is not at the same rate.

Therefore, when awarding support for more than one child, a court or administrative agency

should not enter an order that apportions the support per capita; instead, the order may be in a gross amount or, where appropriate, may be ordered incrementally.

When apportioning support incrementally, the court or administrative agency shall complete a separate Form No. 14 for each combination of children that is the subject of the proceeding; e.g., the initial Form No. 14 shall be prepared for all children who are the subject of the proceeding; the second Form No. 14 shall be prepared for one child less than the initial Form No. 14; the third Form No. 14 shall be prepared for one child less than the second Form No. 14; etc.

B. **EXAMPLE:** When apportioning support incrementally, the court or administrative agency may use the following language: “Father shall pay to Mother on the ___ day of each month, beginning _____, the total sum of \$ _____ per month for three children. At such time as Mother is entitled to support for only two children on the date child support is payable, Father shall pay to Mother the sum of \$ _____ per month; and, at such time as Mother is entitled to support for only one child on the date the child support is payable, Father shall pay to Mother the sum of \$ _____ per month.”

C. **COMMENT:** Split custody refers to the situation in which each parent has primary physical custody of one or more but not all of the children. In those instances, a separate Form No. 14 is completed for the number of children in the primary physical custody of each parent, using the adjusted monthly gross income (line 3) for both parents but disregarding the children in the primary physical custody of the other parent.

Only the additional child-rearing costs for the children for whom the support amount is being calculated should be included on each parent's Form No. 14. If one parent pays the total additional child-rearing cost of an item for all children, such as health insurance, the total cost should be prorated among the children on each parent's Form No. 14.

After completion of each parent's Form No. 14, subtract the smaller amount from the greater, and the difference between the two obligations shall be paid by the parent with the larger of the two obligations.

D. *COMMENT*: A deviation from the presumed child support amount may be appropriate when an award of custody, including, but not limited to, an award of joint physical custody, results in the child or children spending substantially equal time with both parents. No specific amount of time is required for a deviation to be appropriate. This arrangement should be distinguished from split custody as described in Comment C.

To determine an appropriate deviation, a court or administrative agency shall consider which parent is likely to pay expenses of the child or children that are unaffected by the amount of time spent with each parent, e.g., clothing, activity fees, school, and books. The court or administrative agency shall ensure that such expenses, as well as the expenses for which a specific adjustment is authorized on Form No. 14 (such as expenses for work-related child care, post-secondary educational expenses and health insurance coverage) are shared in proportion to the parents' incomes and not in proportion to the time spent with each parent. The court or administrative agency may consider that substantial time with both parents will not necessarily reduce certain child-rearing costs of the parent entitled to receive support.

The mere expenditure of substantial time with both parents does not by itself eliminate the need for support to be paid by one parent to the other; rather, the expenditure of substantial time with both parents is merely a factor to be considered in determining whether the presumed child support amount is unjust or inappropriate.

E. *COMMENT*: A parent's Form No. 14 is "rejected" when a court or administrative agency finds that the calculation itself is incorrect; i.e., an item is incorrectly included in the calculation, the amount of an item included in the calculation is incorrect, or the mathematical calculation is incorrect.

If a parent's Form No. 14 is "rejected," the court or administrative agency must calculate its own Form No. 14 by:

- (1) completing a Form No. 14 and including it in the record, or
- (2) articulating on the record how it calculated its Form No. 14.

A parent's Form No. 14 is "rebutted" when a court or administrative agency finds that the presumed child support amount under a correctly calculated Form No. 14 is unjust or inappropriate.

If a parent's Form No. 14 is "rebutted," the court or administrative agency need only state on the record that the presumed child support amount is unjust or inappropriate after considering all relevant factors unless a written request for findings on this issue is filed by one of the parents. (See Rule 73.01(a)(3)).

F. *COMMENT*: In a proceeding to establish a child support order or to modify the support payable under an existing order, when determining whether to deviate from the

presumed child support amount (line 12), a court or administrative agency should consider all relevant factors, including whether:

(1) a child receives income that is not based on the child's special needs;

(2) a parent has significant extraordinary medical expenses for himself or herself or for a relative by blood or marriage;

(3) the parents' combined adjusted monthly gross income (line 3) exceeds \$15,000.00 per month, or the number of children who are the subject of the proceeding exceeds six;

(4) the parent obligated to pay support incurs significant or unusual expenses in connection with transportation of himself or herself or any child who is the subject of the proceeding for exercise of any periods of overnight visitation or custody;

(5) the presumed child support amount calculated from the combined income of the parent entitled to receive support and the parent obligated to pay support is greater than the presumed child support amount calculated from only the income of the parent obligated to pay support.

ASSUMPTIONS

The relevant factors and assumptions used to calculate the child support guidelines include:

(1) There is no evidence that the expenditure patterns of parents in Missouri differ significantly from national estimates of child-rearing costs.

(2) The schedule of basic child support obligations is based on the income shares model, which seeks to apportion to the child the amount that the parents would have spent if the household were intact.¹

(3) All parental income is treated as earned income subject to federal and state withholding and FICA taxes.

¹ The schedule of basic child support obligations is based upon economic estimates of child-rearing costs as a proportion of household spending from national data compiled by the United States Bureau of Labor Statistics in the annual Consumer Expenditure Survey from 1980 to 1986.

In 1993, income data from the Consumer Expenditure Survey, which was specified in constant 1983 dollars, was updated using statistics on changes in the consumer price index. Additionally, the schedule of basic child support obligations was revised to reflect changes in the federal and Missouri personal income tax rates since 1989.

In 1993 and, again, in 1997, the self-support reserve in the schedule of basic child support obligations was updated for changes in the federal poverty guidelines caused by inflation.

(4) The schedule of basic child support obligations is prepared by converting net income to gross income using withholding tables for a single person.

(5) Net income is gross income less adjustments for federal, state and social security taxes.

(6) Conversion of net income to gross income assumes one exemption and the standard deduction.

(7) The schedule of basic child support obligations assumes that the parent entitled to receive support claims the tax exemption for the children entitled to support.

(8) The schedule of basic child support obligations incorporates a "self-support reserve" to ensure that the support obligation does not reduce the income of the parent obligated to pay support below a level necessary to maintain a minimum (poverty) standard of living.

(9) The schedule of basic child support obligations excludes parental expenditures for child care and the child's share of health insurance premiums and extraordinary medical expenses.

(10) Unreimbursed medical expenses that exceed \$100.00 per family member per year are deemed extraordinary medical expenses.

(11) The schedule of basic child support obligations does not consider the costs of the parent obligated to pay support when that parent has physical custody of the children entitled to support.

2. It is ordered that notice of this order be published in the Journal of The Missouri Bar.

3. It is ordered that this order be published in the South Western Reporter.

Day - to - Day

WILLIAM RAY PRICE, JR.
Acting Chief Justice