WEST VIRGINIA CODE

CHAPTER 48. DOMESTIC RELATIONS.
ARTICLE 13. GUIDELINES FOR CHILD SUPPORT AWARDS.

PART 1. GENERAL PROVISIONS.

§48-13-101. Guidelines to ensure uniformity and increase predictability; presumption of correctness.

This article establishes guidelines for child support award amounts so as to ensure greater uniformity by those persons who make child support recommendations and enter child support orders and to increase predictability for parents, children and other persons who are directly affected by child support orders. There is a rebuttable presumption, in any proceeding before a court for the award of child support, that the amount of the award which would result from the application of these guidelines is the correct amount of child support to be awarded.

§48-13-102. Right of children to share in parents' level of living.

The Legislature recognizes that children have a right to share in their natural parents' level of living. Expenditures in families are not made in accordance with subsistence level standards, but are made in proportion to household income, and as parental incomes increase or decrease, the actual dollar expenditures for children also increase or decrease correspondingly. In order to ensure that children properly share in their parents' resources, regardless of family structure, these guidelines are structured so as to provide that after a consideration of respective parental incomes, child support will be related, to the extent practicable, to the standard of living that children would enjoy if they were living in a household with both parents present.

§48-13-103. Financial contributions of both parents to be considered.

The guidelines promulgated under the provisions of this article take into consideration the financial contributions of both parents. The Legislature recognizes that expenditures in households are made in aggregate form and that total family income is pooled to determine the level at which the family can live. These guidelines consider the financial contributions of both parents in relationship to total income, so as to establish and equitably apportion the child support obligation.

PART 2. CALCULATION OF CHILD SUPPORT ORDER.

§48-13-201. Use of both parents' income in determining child support.

A child support order is determined by dividing the total child support obligation between the parents in proportion to their income. Both parents' adjusted gross income is used to determine the amount of child support.

PART 2. CALCULATION OF CHILD SUPPORT ORDER.

§48-13-202. Application of expenses and credits in determining child support.

In determining the total child support obligation, the court shall:

(1) Add to the basic child support obligation any unreimbursed child health care expenses, work-related child care expenses and any other extraordinary expenses agreed to by the parents or ordered by the court; and

(2) Subtract any extraordinary credits agreed to by the parents or ordered by the court.

§48-13-203. Amount determined by guidelines presumed to be correct.

The amount of support resulting from the application of the guidelines is presumed to be the correct amount, unless the court, in a written finding or a specific finding on the record, disregards the guidelines or adjusts the award as provided for in section 13-702.

§48-13-204. Use of worksheets.

The calculation of the amount awarded by the support order requires the use of one of two worksheets which must be completed for each case. Worksheet A is used for a basic shared parenting arrangement. Worksheet B is used for an extended shared parenting arrangement.

§48-13-205. Present income as monthly amounts.

To the extent practicable, all information relating to income shall be presented to the court based on monthly amounts. For example, when a party is paid wages weekly, the pay should be multiplied by fifty-two and divided by twelve to arrive at a correct monthly amount. If the court deems appropriate, such information may be presented in such other forms as the court directs.

PART 3. BASIC CHILD SUPPORT ORDER.

§48-13-301. Determining the basic child support obligation.

The basic child support obligation is determined from the following table of monthly basic child support obligations:

West Virginia

Monthly Basic Child Support Obligations

(Adjusted for West Virginia's Income Relative to U.S. Averages)

COMBINED GROSS MONTHLY INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
550	127	185	219	242	263	281
600	137	200	237	262	284	304
650	147	214	253	280	303	325
700	156	227	268	296	321	344
750	163	238	282	311	337	361
800	171	249	295	326	353	378
850	179	261	309	341	370	395
900	188	273	323	357	387	414
950	197	286	338	374	405	433
1000	205	299	353	390	423	452
1050	214	311	368	406	440	471
1100	223	324	382	423	458	490
1150	231	336	397	439	476	509
1200	240	349	412	455	493	528
1250	248	361	426	471	511	547
1300	257	373	441	487	528	565
1350	265	386	456	503	546	584
1400	274	398	470	519	563	602

1450	282	410	484	534	579	620
1500	291	422	498	550	596	638
1550	299	434	512	565	613	656
1600	307	446	526	581	630	674
1650	316	458	540	596	646	692
1700	324	470	554	612	663	709
1750	332	482	568	627	680	727
1800	341	494	581	643	697	745
1850	349	506	595	658	713	763
1900	357	517	609	673	730	781
1950	366	529	623	689	747	799
2000	373	540	636	703	762	816
2050	381	551	649	717	778	832
2100	388	562	662	731	793	848
2150	395	573	674	745	808	864
2200	403	583	687	759	823	881
2250	410	594	700	773	838	897
2300	417	605	712	787	853	913
2350	425	616	725	801	869	929
2400	432	626	738	815	884	946
2450	440	637	750	829	899	962
2500	447	648	763	843	914	978
2550	454	658	776	857	929	994
2600	460	667	786	868	941	1007
2650	465	674	794	877	951	1018
2700	471	682	803	887	962	1029
2750	475	688	810	895	970	1038
2800	479	694	816	902	978	1046
2850	484	700	823	909	986	1055
2900	488	705	830	917	994	1063
2950	492	711	836	924	1002	1072
3000	496	717	843	931	1010	1080

4650	624	898	1052	1162	1260	1348
4700	628	904	1059	1170	1269	1357
4750	633	911	1066	1178	1277	1367
4800	637	917	1074	1186	1286	1376
4850	642	924	1082	1195	1296	1386
4900	647	931	1090	1204	1305	1397
4950	651	938	1098	1213	1315	1407
5000	656	945	1106	1222	1325	1418
5050	661	951	1114	1231	1335	1428
5100	666	958	1123	1240	1345	1439
5150	670	965	1131	1249	1354	1449
5200	675	972	1139	1259	1364	1460
5250	680	979	1147	1268	1374	1470
5300	685	986	1155	1277	1384	1481
5350	689	993	1163	1285	1393	1491
5400	694	999	1171	1294	1403	1501
5450	698	1006	1179	1302	1412	1511
5500	703	1012	1186	1311	1421	1521
5550	707	1019	1194	1319	1430	1530
5600	712	1025	1201	1328	1439	1540
5650	716	1031	1208	1335	1447	1548
5700	719	1036	1214	1341	1454	1556
5750	723	1042	1220	1348	1462	1564
5800	727	1047	1226	1355	1469	1572
5850	731	1052	1233	1362	1477	1580
5900	735	1058	1239	1369	1484	1588
5950	739	1063	1245	1376	1492	1596
6000	743	1069	1251	1383	1499	1604
6050	747	1074	1258	1390	1506	1612
6100	751	1080	1265	1397	1515	1621
6150	755	1086	1272	1405	1523	1630
6200	760	1093	1279	1413	1531	1639

7850	895	1289	1510	1669	1809	1935
7900	899	1295	1517	1676	1817	1944
7950	903	1300	1524	1684	1826	1954
8000	907	1306	1531	1692	1834	1963
8050	911	1312	1538	1700	1843	1972
8100	915	1318	1545	1708	1851	1981
8150	919	1324	1553	1716	1860	1990
8200	923	1330	1560	1723	1868	1999
8250	927	1336	1567	1731	1877	2008
8300	931	1342	1574	1739	1885	2017
8350	935	1348	1581	1747	1894	2026
8400	939	1353	1588	1755	1902	2035
8450	943	1359	1595	1763	1911	2044
8500	947	1365	1602	1770	1919	2053
8550	951	1371	1609	1778	1928	2062
8600	954	1377	1616	1786	1936	2072
8650	958	1383	1623	1794	1944	2081
8700	962	1389	1630	1802	1953	2090
8750	966	1395	1638	1809	1961	2099
8800	970	1401	1645	1817	1970	2108
8850	974	1406	1652	1825	1978	2117
8900	978	1412	1659	1833	1987	2126
8950	982	1418	1666	1840	1995	2135
9000	985	1423	1672	1847	2002	2142
9050	989	1428	1678	1854	2010	2150
9100	992	1433	1684	1861	2017	2158
9150	996	1438	1690	1867	2024	2166
9200	999	1443	1696	1874	2032	2174
9250	1003	1448	1702	1881	2039	2182
9300	1006	1453	1708	1888	2046	2189
9350	1010	1458	1714	1894	2053	2197
9400	1013	1463	1720	1901	2061	2205

9450	1016	1469	1727	1908	2068	2213
9500	1020	1474	1733	1915	2075	2221
9550	1023	1479	1739	1921	2083	2228
9600	1027	1484	1745	1928	2090	2236
9650	1030	1489	1751	1935	2097	2244
9700	1034	1494	1757	1942	2105	2252
9750	1037	1499	1763	1948	2112	2260
9800	1041	1504	1769	1955	2119	2268
9850	1044	1509	1775	1962	2127	2275
9900	1047	1514	1781	1969	2134	2283
9950	1051	1519	1788	1975	2141	2291
10000	1054	1524	1794	1982	2148	2299
10050	1058	1529	1800	1989	2156	2307
10100	1061	1534	1806	1995	2163	2315
10150	1065	1539	1812	2002	2170	2322
10200	1068	1545	1818	2009	2178	2330
10250	1072	1550	1824	2016	2185	2338
10300	1075	1555	1830	2022	2192	2346
10350	1078	1560	1836	2029	2200	2354
10400	1082	1565	1842	2036	2207	2361
10450	1086	1570	1849	2043	2215	2370
10500	1089	1576	1855	2050	2222	2378
10550	1093	1581	1861	2057	2230	2386
10600	1097	1586	1868	2064	2237	2394
10650	1101	1592	1874	2071	2245	2402
10700	1104	1597	1880	2078	2252	2410
10750	1108	1602	1887	2085	2260	2418
10800	1112	1608	1893	2092	2268	2426
10850	1115	1613	1899	2099	2275	2434
10900	1119	1619	1906	2106	2283	2443
10950	1123	1624	1912	2113	2290	2451
11000	1127	1629	1918	2120	2298	2459

11050	1130	1635	1925	2127	2306	2467
11100	1134	1640	1931	2134	2313	2475
11150	1138	1645	1937	2141	2321	2483
11200	1142	1651	1944	2148	2328	2491
11250	1145	1656	1950	2155	2336	2499
11300	1149	1662	1956	2162	2343	2507
11350	1153	1667	1963	2169	2351	2516
11400	1156	1672	1969	2176	2359	2524
11450	1160	1678	1975	2183	2366	2532
11500	1163	1682	1981	2189	2373	2539
11550	1167	1687	1987	2196	2380	2547
11600	1170	1692	1993	2202	2387	2554
11650	1174	1697	1999	2208	2394	2561
11700	1177	1702	2004	2215	2401	2569
11750	1180	1707	2010	2221	2408	2576
11800	1184	1712	2016	2228	2415	2584
11850	1187	1717	2022	2234	2422	2591
11900	1191	1722	2027	2240	2428	2598
11950	1193	1725	2031	2245	2433	2604
12000	1195	1729	2035	2249	2438	2609
12050	1198	1732	2039	2254	2443	2614
12100	1200	1735	2043	2258	2448	2619
12150	1202	1739	2047	2262	2452	2624
12200	1205	1742	2051	2267	2457	2629
12250	1207	1746	2055	2271	2462	2634
12300	1210	1749	2059	2276	2467	2640
12350	1212	1752	2063	2280	2472	2645
12400	1214	1756	2067	2285	2476	2650
12450	1217	1759	2071	2289	2481	2655
12500	1219	1763	2075	2293	2486	2660
12550	1221	1766	2079	2298	2491	2665
12600	1224	1770	2083	2302	2496	2670

12650	1226	1773	2088	2307	2500	2675
12700	1228	1776	2092	2311	2505	2681
12750	1231	1780	2096	2316	2510	2686
12800	1233	1783	2100	2320	2515	2691
12850	1236	1787	2104	2324	2520	2696
12900	1238	1790	2108	2329	2524	2701
12950	1240	1793	2112	2333	2529	2706
13000	1243	1797	2116	2338	2534	2711
13050	1245	1800	2120	2342	2539	2717
13100	1247	1804	2124	2347	2544	2722
13150	1250	1807	2128	2351	2548	2727
13200	1252	1811	2132	2355	2553	2732
13250	1255	1814	2136	2360	2558	2737
13300	1257	1817	2140	2364	2563	2742
13350	1259	1821	2144	2369	2568	2747
13400	1262	1824	2148	2373	2572	2753
13450	1264	1828	2152	2378	2577	2758
13500	1266	1831	2156	2382	2582	2763
13550	1269	1834	2160	2386	2587	2768
13600	1271	1838	2164	2391	2592	2773
13650	1274	1841	2168	2395	2596	2778
13700	1276	1845	2172	2400	2601	2783
13750	1278	1848	2176	2404	2606	2789
13800	1281	1852	2180	2409	2611	2794
13850	1283	1855	2184	2413	2616	2799
13900	1285	1858	2188	2417	2620	2804
13950	1288	1862	2192	2422	2625	2809
14000	1290	1865	2196	2426	2630	2814
14050	1292	1869	2200	2431	2635	2819
14100	1295	1872	2204	2435	2640	2824
14150	1297	1875	2208	2440	2645	2830
14200	1300	1879	2212	2444	2649	2835

14250	1302	1882	2216	2448	2654	2840
14300	1304	1886	2220	2453	2659	2845
14350	1307	1889	2224	2457	2664	2850
14400	1309	1893	2228	2462	2669	2855
14450	1311	1896	2232	2466	2673	2860
14500	1314	1899	2236	2471	2678	2866
14550	1316	1903	2240	2475	2683	2871
14600	1319	1906	2244	2479	2688	2876
14650	1321	1910	2248	2484	2693	2881
14700	1323	1913	2252	2488	2697	2886
14750	1326	1916	2256	2493	2702	2891
14800	1328	1920	2260	2497	2707	2896
14850	1330	1923	2264	2502	2712	2902
14900	1333	1927	2268	2506	2717	2907
14950	1335	1930	2272	2510	2721	2912
15000	1338	1934	2276	2515	2726	2917

§48-13-302. Incomes below the table for determining basic child support obligations.
If combined adjusted gross income is below five hundred fifty dollars per month, which is the lowest amount of income considered in the table of monthly basic child support obligations set forth in subsection (a) of this section, the basic child support obligation shall be set at fifty dollars per month or a discretionary amount determined by the court based on the resources and living expenses of the parents and the number of children due support.

§48-13-303. Incomes above the table for determining basic child support obligations.
If combined adjusted gross income is above fifteen thousand dollars per month, which is the highest amount of income considered in the table of monthly basic child support obligations set forth in subsection (a) of this section, the basic child support obligation shall not be less than it would be based on a combined adjusted gross income of fifteen thousand dollars. The court may also compute the basic child support obligation for combined adjusted gross incomes above fifteen thousand dollars by the following:

(1) One child -- $1,338 + 0.088 x combined adjusted gross income above fifteen thousand dollars per month;

(2) Two children -- $1,934 + 0.129 x combined adjusted gross income above fifteen thousand dollars per month;

(3) Three children -- $2,276 + 0.153 x combined adjusted gross income above fifteen thousand dollars per month;

(4) Four children -- $2,515 + 0.169 x combined adjusted gross income above fifteen thousand dollars per month;

(5) Five children -- $2,726 + 0.183 x combined adjusted gross income above fifteen thousand dollars per month; and

(6) Six children -- $2,917 + 0.196 x combined adjusted gross income above fifteen thousand dollars per month.

PART 4. SUPPORT IN BASIC SHARED PARENTING CASES.
§48-13-401. Basic child support obligation in basic shared parenting.
For basic shared parenting cases, the total child support obligation consists of the basic child support obligation plus the

child's share of any unreimbursed health care expenses, work-related child care expenses and any other extraordinary expenses agreed to by the parents or ordered by the court less any extraordinary credits agreed to by the parents or ordered by the court.

§48-13-402. Division of basic child support obligation in basic shared parenting.
For basic shared parenting cases, the total basic child support obligation is divided between the parents in proportion to their income. From this amount is subtracted the payor's direct expenditures of any items which were added to the basic child support obligation to arrive at the total child support obligation.

§48-13-403. Worksheet for calculating basic child support obligation in basic shared parenting cases.
Child support for basic shared parenting cases shall be calculated using the following worksheet:

Worksheet A: BASIC SHARED PARENTING
IN THE FAMILY COURT OF _____ COUNTY, WEST VIRGINIA

CASE NO._____

Mother: _____ SS No.: _____ Primary Custodial parent? ? Yes ? No

Father: _____ SS No.: _____ Primary Custodial parent? ? Yes ? No

Children	SSN	Date of Birth	Children	SSN	Date of Birth

PART I. CHILD SUPPORT ORDER	Mother	Father	Combin ed
1. MONTHLY GROSS INCOME (Exclusive of overtime compensation)	$	$	
a. Minus preexisting child support payment	-	-	
b. Minus maintenance paid	-	-	
c. Plus overtime compensation, if not excluded, and not to exceed 50%, pursuant to W. Va. Code §48-1-228 (b)(6) d. Additional dependents deduction	+	+	
2. MONTHLY ADJUSTED GROSS INCOME	$	$	$
3. PERCENTAGE SHARE OF INCOME (Each parent's income from line 2 divided by Combined Income)	%	%	100%
4. BASIC OBLIGATION (Use Line 2 combined to find amount from schedule.)			$
5. ADJUSTMENTS (Expenses paid directly by each parent) a. Work-Related Child Care Costs Adjusted for Federal Tax Credit (0.75 x actual	$	$	

work-related child care costs.)			
b. Extraordinary Medical Expenses (Uninsured only) and Children's Portion of Health Insurance Premium Costs.	$	$	
c. Extraordinary Expenses (Agreed to by parents or by order of the court.)	$	$	
d. Minus Extraordinary Adjustments (Agreed to by parents or by order of court.)			
e. Total Adjustments (For each column, add 5a, 5b, and 5c. Subtract Line 5d. Add the parent's totals together for Combined amount.)	$	$	$
6. TOTAL SUPPORT OBLIGATION (Add line 4 and line 5e Combined.)			$
7. EACH PARENT'S SHARE OF THE TOTAL CHILD SUPPORT OBLIGATION (Line 3 x line 6 for each parent.)	$	$	
8. PAYOR PARENT ADJUSTMENT (Enter payor parent's line 5e.)	$	$	
9. RECOMMENDED CHILD SUPPORT ORDER (Subtract line 8 from line 7 for the payor parent only. Leave payee parent column blank.)	$	$	
PART II. ABILITY TO PAY CALCULATION (Complete if the payor parent's adjusted monthly gross income is below $1,550.)			
10. Spendable Income (0.80 x line 2 for payor parent only.)			
11. Self Support Reserve	$500	$500	
12. Income Available for Support (Line 10 - line 11. If less than $50, then $50)			
13. Adjusted Child Support Order (Lessor of Line 9 and Line 12.)			
Comments, calculations, or rebuttals to schedule or adjustments if payor parent directly pays extraordinary expenses.			
PREPARED BY:		Date:	

§48-13-404. Additional calculation to be made in basic shared parenting cases.

In cases where the payor parent's adjusted gross income is below one thousand five hundred fifty dollars per month, an additional calculation in Worksheet A, Part II shall be made. This additional calculation sets the child support order at whichever is lower.

(1) Child support at the amount determined in Part I; or

(2) The difference between eighty percent of the payor parent's adjusted gross income and five hundred dollars, or fifty dollars, whichever is more.

PART 5. SUPPORT IN EXTENDED SHARED PARENTING
OR SPLIT PHYSICAL CUSTODY CASES.

§48-13-501. Extended shared parenting adjustment.

Child support for cases with extended shared parenting is calculated using Worksheet B. The following method is used only for extended shared parenting: That is, in cases where each parent has the child for more than one hundred twenty-seven days per year (thirty-five percent).

(1) The basic child support obligation is multiplied by 1.5 to arrive at a shared parenting basic child support obligation. The shared parenting basic child support obligation is apportioned to each parent according to his or her income. In turn, a child support obligation is computed for each parent by multiplying that parent's portion of the shared parenting child support obligation by the percentage of time the child spends with the other parent. The respective basic child support obligations are then offset, with the parent owing more basic child support paying the difference between the two amounts. The transfer for the basic obligation for the parent owing less basic child support shall be set at zero dollars.

(2) Adjustments for each parent's additional direct expenses on the child are made by apportioning the sum of the parent's direct expenditures on the child's share of any unreimbursed child health care expenses, work-related child care expenses and any other extraordinary expenses agreed to by the parents or ordered by the court less any extraordinary credits agreed to by the parents or ordered by the court to each parent according to their income share. In turn each parent's net share of additional direct expenses is determined by subtracting the parent's actual direct expenses on the child's share of any unreimbursed child health care expenses, work-related child care expenses and any other extraordinary expenses agreed to by the parents or by the court less any extraordinary credits agreed to by the parents or ordered by the court from their share. The parent with a positive net share of additional direct expenses owes the other parent the amount of his or her net share of additional direct expenses. The parent with zero or a negative net share of additional direct expenses owes zero dollars for additional direct expenses.

(3) The final amount of the child support order is determined by summing what each parent owes for the basic support obligation and additional direct expenses as defined in subdivisions (1) and (2) of this section. The respective sums are then offset, with the parent owing more paying the other parent the difference between the two amounts.

§48-13-502. Extended shared parenting worksheet.

Child support for extended shared parenting cases shall be calculated using the following worksheet:

Worksheet B: extended shared parenting

IN THE FAMILY COURT OF _____ COUNTY, WEST VIRGINIA

CASE NO. _____

Mother: _____ SS No.: _____

Father: _____ SS No.: _____

Children	SSN	Date of Birth	Children	SSN	Date of Birth

PART I. BASIC OBLIGATION	Mothe r	Father	Combine d

1. MONTHLY GROSS INCOME (Exclusive of overtime compensation)	$	$	
a. Minus preexisting child support payment	-	-	
b. Minus maintenance paid	-	-	
c. Plus overtime compensation, if not excluded, and not to exceed 50%, pursuant to W. Va. Code §48-1-228(b)(6) d. Additional dependent deduction	+	+	
2. MONTHLY ADJUSTED GROSS INCOME	$	$	$
3. PERCENTAGE SHARE OF INCOME (Each parent's income from line 2 divided by Combined Income)	%	%	100%
4. BASIC OBLIGATION (Use line 2 Combined to find amount from Child Support Schedule.)			$
PART II. SHARED PARENTING ADJUSTMENT			
5. Shared Parenting Basic Obligation (line 4 x 1.50)			$
6. Each Parent's Share (Line 5 x each parent's line 3)	$	$	
7. Overnights with Each Parent (must total 365)			365
8. Percentage with Each Parent (Line 7 divided by 365)	%	%	100%
9. Amount Retained (Line 6 x line 8 for each parent)	$	$	
10. Each Parent's Obligation (Line 6 - line 9)	$	$	
11. AMOUNT TRANSFERRED FOR BASIC OBLIGATION (Subtract smaller amount on line 10 from larger amount on line 10. Parent with larger amount on line 10 owes the other parent the difference. Enter $0 for other parent.	$	$	
PART III. ADJUSTMENTS FOR ADDITIONAL EXPENSES (Expenses paid directly by each parent.)			
12a. Work-Related Child Care Costs Adjusted for Federal Tax Credit (0.75 x actual work-related child care costs.)	$	$	
12b. Extraordinary Medical Expenses (Uninsured only) and Children's Portion of Health Insurance Premium Costs.	$	$	
12c. Extraordinary Additional Expenses (Agreed to by	$	$	

parents or by order of the court.)			
12d. Minus Extraordinary Adjustments (Agreed to by parents or by order of the court.)	$	$	
12e. Total Adjustments (For each column, add 11a, 11b, and 11c. Subtract line 11d. Add the parent's totals together for Combined amount.)	$	$	$
13. Each Parent's Share of Additional Expenses (Line 3 x line 12e Combined.)	$	$	
14. Each Parent's Net Share of Additional Direct Expenses (Each parent's line 13-line 12e. If negative number, enter $0)	$	$	
15. AMOUNT TRANSFERRED FOR ADDITIONAL EXPENSES (Subtract smaller amount on line 14 from larger amount on line 14. Parent with larger amount on line 14 owes the other parent the difference. Enter $0 for other parent.)	$	$	
PART IV. RECOMMENDED CHILD SUPPORT ORDER			
16. TOTAL AMOUNT TRANSFERRED (Line 11 + line 15)	$	$	
17. RECOMMENDED CHILD SUPPORT ORDER (Subtract smaller amount on line 16 from larger amount on line 16. Parent with larger amount on line 16 owes the other parent the difference.)	$	$	
Comments, calculations, or rebuttals to schedule or adjustments			
PREPARED BY:		Date:	

§48-13-503. Split physical custody adjustment.

In cases with split physical custody, the court shall use Worksheet A as set forth in section 13-403 to calculate a separate child support order for each parent based on the number of children in that parent's custody. Instead of transferring the calculated orders between parents, the two orders are offset. The difference of the two orders is the child support order to be paid by the parent with the higher sole-parenting order.

PART 6. ADJUSTMENT OF SHARES OF SUPPORT OBLIGATIONS.

§48-13-601. Adjustment for child care tax credit.

(a) The amount of the federal tax credit for child care expenses that can be realized by the custodial parent shall be approximated by deducting twenty-five percent from work-related child care costs, except that no such deduction shall be made for custodial parents with monthly gross incomes below the following amounts:

(1) One child--$1,150;

(2) Two children--$1,550;

(3) Three children--$1,750;

(4) Four children--$1,950;

(5) Five children--$2,150; and

(6) Six or more children--$2,350.

(b) Work-related child care costs net of any adjustment for the child care tax credit shall be added to the basic child support obligation and shall be divided between the parents in proportion to their adjusted gross income.

§48-13-602. Adjustment for child health care.
(a) A child support order shall provide for the child's current and future medical needs by providing relief in accordance with the provisions of article 12-101, et seq., of this chapter.

(b) The payment of a premium to provide health insurance coverage on behalf of the children subject to the order is added to the basic child support obligation and divided between the parents in proportion to their adjusted gross income. The amount added to the basic child support obligation is the actual amount of the total insurance premium that is attributable to the number of children due support. If this amount is not available or cannot be verified, the total cost of the premium should be divided by the total number of persons covered by the policy. The cost per person derived from this calculation is multiplied by the number of children who are the subject of the order and who are covered under the policy.

(c) After the total child support obligation is calculated and divided between the parents in proportion to their adjusted gross income, the amount of the health insurance premium added to the basic child support obligation is deducted from the support obligor's share of the total child support obligation if the support obligor is actually paying the premium.

(d) Extraordinary medical expenses shall be added to the basic child support obligation and shall be divided between the parents in proportion to their adjusted gross income.

§48-13-603. Adjustment for obligor's social security benefits sent directly to the child; receipt by child of supplemental security income.
(a) If a proportion of the obligor's social security benefit is paid directly to the custodian of his or her dependents who are the subject of the child support order, the following adjustment shall be made. The total amount of the social security benefit which includes the amounts paid to the obligor and the obligee shall be counted as gross income to the obligor. In turn, the child support order will be calculated as described in sections 13-401 through 13-404. To arrive at the final child support amount, however, the amount of the social security benefits sent directly to the child's household will be subtracted from the child support order. If the child support order amount results in a negative amount it shall be set at zero.

(b) If a child is a recipient of disability payments as supplemental security income for aged, blind and disabled, under the provisions of 42 U.S.C. §1382, et seq., and if support furnished by an obligor would be considered unearned income that renders the child ineligible for disability payments or medical benefits, no child support order shall be entered for that child. If a support order is entered for the child's siblings or other persons in the household, the child shall be excluded from the calculation of support, and the amount of support for the child shall be set at zero.

PART 7. APPLICATION OF CHILD SUPPORT GUIDELINES.

§48-13-701. Rebuttable presumption that child support award is correct.

The guidelines in child support awards apply as a rebuttable presumption to all child support orders established or modified in West Virginia. The guidelines must be applied to all actions in which child support is being determined including temporary orders, interstate (URESA and UIFSA), domestic violence, foster care, divorce, nondissolution, public assistance, nonpublic assistance and support decrees arising despite nonmarriage of the parties. The guidelines must be used by the court as the basis for reviewing adequacy of child support levels in uncontested cases as well as contested hearings.

§48-13-702. Disregard of formula.
(a) If the court finds that the guidelines are inappropriate in a specific case, the court may either disregard the guidelines or adjust the guidelines-based award to accommodate the needs of the child or children or the circumstances of the parent or parents. In either case, the reason for the deviation and the amount of the calculated guidelines award must be stated on the record (preferably in writing on the worksheet or in the order). Such findings clarify the basis of the order if appealed or modified in the future.

the date, time and place of a hearing before a family court judge and does not enter an appearance or file a response, the family court judge shall prepare a default order for entry establishing the defaulting party's child support obligation consistent with the child support guidelines contained in this article.

(1) When applying the child support guidelines, the court may accept financial information from the other party as accurate, pursuant to rule 13(b) of the Rules of Practice and Procedure for Family Court; or

(2) If financial information is not available, the court may attribute income to the party based upon either:

(i) The party's work history;

(ii) Minimum wage, if appropriate; or

(iii) At a minimum, enter a child support order in a nominal amount unless, in the court's discretion, a zero support order should be entered.

(b) All orders shall provide for automatic withholding from income of the obligor pursuant to part 4, article fourteen of this chapter.

§48-13-901.
Repealed.

Acts, 2002 Reg. Sess., Ch. 18. **§48-13-902.**
Repealed.

Acts, 2002 Reg. Sess., Ch. 18.
Note: Code updated with legislation passed through the 2009 4th Extraordinary Session