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Family Law: Ohio's New Child Support Guidelines: Amended Substitute House Bill Number 591, 1990 Ohio Legis. Serv. 5-546 (Baldwin)

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LEGISLATIVE NOTES

FAMILY LAW: OHIO'S NEW CHILD SUPPORT GUIDELINES: AMENDED SUBSTITUTE HOUSE BILL NUMBER 591, 1990 Ohio Legis. Serv. 5-546 (Baldwin).

I. INTRODUCTION

One of the most serious problems facing the United States is the increasing impoverishment of its children.¹ Empirical evidence demonstrates that the monetary consequences of divorce disproportionately affect women and children.² In an attempt to curb these effects, Congress passed three pieces of legislation: Title IV-D of the Social Security Act;³ the Child Support Enforcement Amendments of 1984;⁴ and the Family Support Act of 1988.⁵ The collective purpose of these acts was to compel the states to unify child support enforcement mechanisms and to provide for more equitable child support orders.⁶ Specifically, Congress mandated that the states legislate guidelines in an effort to standardize child support orders.⁷ Duly promulgated state guidelines receive the benefit of a rebuttable presumption that the amount specified is proper.⁸ To conform with the federal mandate, the Ohio General Assembly enacted, on April 12, 1990, Amended Substitute House Bill 591 (H.B. 591).⁹

First, this note sets forth the factual background that preceded the federal legislation pertaining to child support.¹⁰ Next, it describes

1. Comment, *Child Support Guidelines: Formulas to Protect our Children from Poverty and the Economic Hardships of Divorce*, 23 CREIGHTON L. REV. 835, 835 (1990).

2. *Id.*

3. Child Support Enforcement Act, Pub. L. No. 93-647, 88 Stat. 2351 (1975) (codified at 42 U.S.C. §§ 651-655 (1986)).

4. Pub. L. No. 98-378, 98 Stat. 1305 (codified at 42 U.S.C. §§ 651-667 (Supp. 1989)).

5. Pub. L. No. 100-485, 102 Stat. 2343 (codified at 42 U.S.C. §§ 666-669 (Supp. 1989)).

6. Comment, *supra* note 1, at 840.

7. 42 U.S.C. § 667(a) (1988).

8. *Id.* § 667(B). See *infra* notes 63-64 and accompanying text.

9. 1990 Ohio Legis. Serv. 5-546 (Baldwin) [hereinafter H.B. 591].

10. See *infra* notes 13-101 and accompanying text.

Ohio's child support guidelines which are based upon the income shares model.¹¹ Finally, it presents an analysis of H.B. 591.¹²

II. BACKGROUND

"Ninety percent of the 8.4 million single-parent families in the United States are headed by women."¹³ A household that is headed by a single female is six times as likely to live below the poverty level as one headed by a married couple.¹⁴ One reason for the recent relative impoverishment of women and children is that child support awards have not kept pace with the cost of rearing children.¹⁵ For example, in 1985, court-ordered child support awards averaged \$199 per month, which reflected only 25% of the average child-rearing expenses in a middle income household.¹⁶ A California study found that, after divorce, the standard of living for mothers and children decreased 73%, while that of fathers increased 42%.¹⁷ Another author concluded that 67% of noncustodial fathers pay more per month for a car than they do for child support.¹⁸

Judges and referees have historically enjoyed a wide degree of discretion in setting the support amount.¹⁹ One commentator has suggested that this discretion is partially responsible for insufficient child support awards.²⁰ Traditionally, two considerations have guided judges and referees: the child's needs and the father's ability to pay.²¹ The power of judges and referees to set child support awards has contributed to a wide variation in the amount of support ordered—both among state courts of differing jurisdictions and courts of the same jurisdiction.²² Indeed, a Denver-area study concluded that fathers were ordered to pay between 6% and 33% of their income for one child and

11. See *infra* notes 102-205 and accompanying text.

12. See *infra* notes 206-234 and accompanying text.

13. Comment, *Child Support Guidelines in Texas: A Step in the Right Direction*, 20 TEX. TECH. L. REV. 861, 861 (1989).

14. Goldfarb, *Working with Child Support Guidelines*, TRIAL, Apr. 1989, at 43, 47.

15. Comment, *supra* note 1, at 836.

16. Brackney, *Battling Inconsistency and Inadequacy: Child Support Guidelines in the States*, 11 HARV. WOMEN'S L.J. 197, 199 (1988).

17. L. WEITZMAN, *THE DIVORCE REVOLUTION* 339 (1985); see also Elrod, *Kansas Child Support Guidelines: An Elusive Search for Fairness in Support Orders*, 27 WASHBURN L.J. 104, 108 (1987).

18. Yee, *What Really Happens in Child Support Cases: An Empirical Study of Establishment and Enforcement of Child Support Orders in the Denver District Court*, 57 DEN. L.J. 21, 36 (1979).

19. Brackney, *supra* note 16, at 199-200.

20. Goldfarb, *supra* note 14, at 43.

21. Elrod, *supra* note 17, at 107.

22. Comment, *supra* note 1, at 837.

between 5.6% and 40% for two children.²³ This statistical variance accounts for one reason why some fathers, ordered to pay a relatively higher amount of child support, would not comply with the order.²⁴

Further, children of single-parent households are becoming increasingly impoverished because the lack of systematic updating of orders is decreasing the real value of child support awards.²⁵ Three factors which contribute to this phenomenon are inflation, an increase of noncustodial parental income without a corresponding adjustment of the support order, and the relatively higher cost of rearing older children.²⁶ To illustrate, a \$500 child support award set in 1981 would have decreased in real value to \$417 by 1986.²⁷ In other words, if a court issued a \$500 award in 1981, it would have to increase this award by \$99 in 1986 to account for inflation.²⁸ Further, while parents often experience a relatively rapid increase in earnings while their children mature, child support awards often do not increase concomitantly.²⁹ A child support order which has not been updated may understate the noncustodial parent's ability to pay as well as the amount necessary to support a child.³⁰ A final factor which contributes to the relative decline of static child support awards is the higher cost of rearing older children.³¹ One study found that expenditures for twelve- to seventeen-year-olds were 23% higher than expenditures for younger children.³² In short, inadequate child support awards, a wide degree of judicial discretion, and a lack of systematic updating have contributed to the "pauperization of women and children"³³ and the "feminization and cradilization of poverty."³⁴

In order to alleviate financial pressures on single-mother households,³⁵ Congress enacted three pieces of legislation to enhance the award, collection, and review of child support.³⁶ Congress originally en-

23. Yee, *supra* note 18, at 27.

24. Comment, *supra* note 1, at 838.

25. Williams, *Guidelines for Setting Levels of Child Support Orders*, 21 FAM. L.Q. 281, 284 (1988); Comment, *supra* note 1, at 838.

26. Phelps & Miller, *The New Indiana Child Support Guidelines*, 22 IND. L. REV. 203, 210 (1989).

27. Williams, *supra* note 25, at 314.

28. *Id.*

29. *Id.*

30. *Id.*

31. *Id.*

32. T. ESPENSHADE, INVESTING IN CHILDREN: NEW ESTIMATES OF PARENTAL EXPENDITURES 30-31 (1984).

33. Elrod, *supra* note 17, at 106.

34. Brackney, *supra* note 16, at 199.

35. See *supra* notes 13-18 and accompanying text.

36. Child Support Enforcement Act, Pub. L. No. 93-647, 88 Stat. 2351 (1975) (codified as amended by 42 U.S.C. §§ 650-655 (1988)); Child Support Enforcement Amendments of 1984,

acted Title IV-D as a method to reduce Aid to Families with Dependent Children (AFDC) payments.³⁷ In order to achieve equitable support orders and to theoretically reduce AFDC payments, Congress passed the 1984 Amendments³⁸ and commanded the states to develop child support guidelines by October 1, 1987.³⁹ The Family Support Act of 1988 amplified the 1984 Amendments by creating a rebuttable presumption that the guideline obligation is the proper amount of child support.⁴⁰

A. Title IV-D of the Social Security Act

Traditionally, state courts have decided family law issues.⁴¹ Diverse state laws governed matters such as divorce, paternity, and support obligations.⁴² Due in part to the rising tide of divorces and out-of-wedlock births, single women have now become the primary source of financial support for their children.⁴³ Congress passed Title IV-D believing that the increasing number of female-headed households was proximately related to an increase of AFDC recipients.⁴⁴

Title IV-D originally decreed that every state that received AFDC funds must establish a child support enforcement system.⁴⁵ Congress crafted the statute to implement the following objectives: (1) to establish paternity when necessary; (2) to institute child support awards if none existed; (3) to enforce delinquent awards; and (4) to collect and distribute child support awards.⁴⁶

Initially, Title IV-D did not operate effectively.⁴⁷ The statute did not cover all families,⁴⁸ and mothers who were eligible for aid often went unassisted.⁴⁹ Many times state officials prosecuted easy cases

Pub. L. No. 98-378, 98 Stat. 1305 (1984) (codified as amended at 42 U.S.C. §§ 651-667 (1988)); Family Support Act of 1988, Pub. L. No. 100-485, 102 Stat. 2343 (codified at 42 U.S.C. §§ 666-669); see Comment, *supra* note 1, at 839.

37. Comment, *supra* note 1, at 839.

38. Pub. L. No. 98-378, 98 Stat. 1305 (1984) (codified as amended at 42 U.S.C. §§ 651-667 (1988)); see also Roberts, *Child Support and Beyond: Mapping a Future for America's Low-Income Children*, 22 CLEARINGHOUSE REV. 594, 595 (1988); Comment, *supra* note 1, at 839.

39. Comment, *supra* note 1, at 839.

40. 42 U.S.C. § 667(b)(2) (1988).

41. Comment, *supra* note 1, at 839.

42. *Id.*; see also Roberts, *supra* note 38, at 595.

43. Comment, *supra* note 1, at 839.

44. *Id.*; see also 118 CONG. REC. 8291 (1975) (remarks of Senator Long).

45. Comment, *supra* note 1, at 839; Pub. L. No. 98-378, § 454 (9)-(13), 88 Stat. 2351, 2355 (1975).

46. Comment, *supra* note 1, at 839; see also Roberts, *supra* note 38, at 595.

47. Comment, *supra* note 1, at 839.

48. Title IV-D covered only those families who qualified for AFDC monies. Pub. L. No. 98-378, § 454 (6), 88 Stat. 2351, 2355 (1975); see Comment, *supra* note 1, at 839 n.61.

49. Comment, *supra* note 1, at 840.

solely to recover federal AFDC grants.⁵⁰ Moreover, because the statute set no objective standards, courts set unreasonably high support obligations for many fathers, and when those fathers could not pay, they were sometimes harassed or jailed.⁵¹ Additionally, some states cheated mothers and their children out of their support payments by retaining those payments rather than disbursing them.⁵²

B. The 1984 Amendments

In order to facilitate more objective child support orders, the 1984 Amendments reiterated the states' obligations to collect and enforce child support awards, and commanded the states to create child support guidelines by October 1, 1987.⁵³ The amendments permitted states to formulate support guidelines by statute, judicial action, or administrative regulation.⁵⁴ Further, the state guidelines were to apply to all support orders, not merely AFDC cases.⁵⁵ The guidelines were not mandatory; rather, they were to serve as a starting point for determining a realistic level of child support.⁵⁶ Additionally, the 1984 Amendments compelled states to incorporate "expedited" administrative or judicial processes to establish and enforce child support orders.⁵⁷ States

50. *Id.*; see also GENERAL ACCOUNTING OFFICE, CHILD SUPPORT: NEED TO IMPROVE EFFORTS TO IDENTIFY FATHERS AND OBTAIN SUPPORT ORDERS 22-33 (1987).

51. Comment, *supra* note 1, at 840; see, e.g., *Young v. Whitworth*, 522 F. Supp. 759 (S.D. Ohio 1981) (indigent and unrepresented ordered to jail for failure to pay \$75 weekly support award).

52. Comment, *supra* note 1, at 840; see, e.g., *Bennett v. White*, 671 F. Supp. 343, 344 (E.D. Pa. 1987) (Pennsylvania Department of Public Welfare payments which "constituted the only means of support for the children").

53. Pub. L. No. 98-378, § 18(a), 98 Stat. 1305, 1321 (1984) (codified as amended at 42 U.S.C. § 667 (1988)); see also Comment, *supra* note 1, at 840. With respect to the enforcement provisions, the 1984 Amendments compelled the states to adopt procedures to withhold from income overdue child support payments. 42 U.S.C. § 666(b). Ohio went one step further and mandated that all support orders, unless otherwise agreed by the parties, contain mandatory withholding provisions. OHIO REV. CODE ANN. § 3113.21(D) (Anderson Supp. 1990).

54. 42 U.S.C. § 667 (a). The statute mandates that: "Each State, as a condition for having its State plan approved under this part, must establish guidelines for child support award amounts within the State. The guidelines may be established by law or by judicial or administrative action. . . ." *Id.*

At least two states have held that judicial establishment of child support guidelines is unconstitutional because it removes substantive policy making decisions from the legislative domain. *Williams*, *supra* note 25, at 287. On the other hand, Ohio's child support guidelines, which were initially judicially-crafted, have withstood constitutional challenge. See *Christie v. Christie*, No. CA-8052 (Ohio Ct. App. Sept. 4, 1990) (LEXIS, States library, Ohio file) (constitutional challenge "is specious on its face"); *Malinowski v. Malinowski*, No. CA-7601, slip op. at 4 (Ohio Ct. App. Apr. 10, 1989) (LEXIS, States library, Ohio file) (plaintiff offered "no authority for overruling this rule adopted by the Supreme Court").

55. Comment, *supra* note 1, at 840; see also 42 U.S.C. § 667(b).

56. Comment, *supra* note 1, at 840-41.

could delegate, to referees or hearing officers, the power to determine awards because such determinations ostensibly would fall within a predictable range based on the guidelines.⁵⁸ Finally, Congress expected the state guidelines to uniformly increase the level of child support commensurate with the actual monetary needs of the child.⁵⁹

As a secondary benefit of the guidelines, Congress expected the number of voluntary settlements to increase.⁶⁰ Parties to a divorce or dissolution action could ascertain an approximate support award based on the guidelines, and the relative predictability of awards would provide the starting point for negotiations.⁶¹ Indeed, Congress hoped that the guidelines would induce parties to settle out of court and therefore reduce court time and costs.⁶²

C. *The Family Support Act of 1988*

The Family Support Act of 1988 was the third and final piece of federal legislation seeking to set, upgrade, enforce, and collect child support awards.⁶³ Its most distinctive and operative feature was that it required the states, by January 1, 1990, to incorporate into the guidelines a rebuttable presumption that the figure calculated by the guidelines is correct.⁶⁴

D. *The Income Shares Model*

Although the 1984 Amendments commanded the states to implement child support guidelines, they did not dictate which model to adopt.⁶⁵ Ohio adopted the income shares model,⁶⁶ which is derived from the work of Dr. Robert G. Williams of the Institute for Court Management of the National Center for State Courts.⁶⁷ The model incorporates the most recent economic assumptions pertaining to child-

58. *Id.*; Williams, *supra* note 25, at 286; Comment, *supra* note 1, at 841.

59. Williams, *supra* note 25, at 286.

60. *Id.*

61. *Id.*

62. *Id.*

63. Pub. L. No. 100-485, 102 Stat. 2343 (1988) (codified at 42 U.S.C. §§ 652-661 (1988)).

64. 42 U.S.C. § 667(b)(2) (1988); see also *The Impact of the Family Support Act of 1988 on Family Law Practice*, 22 CLEARINGHOUSE REV. 1098, 1098 (1989).

65. See 42 U.S.C. § 667(a).

66. OHIO C.P. SUPERINTENDENCE R. 75, Preface, at n.1 (Anderson Supp. 1989) (repealed 1990).

67. Elrod, *supra* note 17, at 291. The income shares model is one of four guideline models utilized today. The other models are the flat percentage guideline, the income equalization (Cassettey) model, and the Delaware-Melson formula. For a comparison of the four models, see Williams, *supra* note 25, at 290-309; see also Comment, *supra* note 1, at 842-50.

The percentage of parental income is relatively constant within one's socioeconomic status. Elrod, *supra* note 17, at 120. However, the percentage of parental income varies noticeably with

rearing expenditures in order to fashion a realistic child support schedule.⁶⁸ The fundamental precept of the income shares model is that a child should receive the same proportional share of parental income that he or she would have received had the family unit remained intact.⁶⁹ In other words, the income shares model attempts to bridge the family's past spending patterns with current resources in order to ensure that the child's financial well-being is unaffected by the family's break-up.⁷⁰ One commentator has argued that the child should not be punished for the parents' inability to live together.⁷¹ Thus, the court calculates the child support award as though the parents still resided in the family home.⁷²

The income shares model has a number of distinguishing characteristics: (1) flexibility in design; (2) provisions for shared and split custody; and (3) flexibility in defining and ascertaining income.⁷³ A state legislature can tailor the income shares model to comport with a state's child support goals.⁷⁴ The model employs a worksheet approach to craft a support award.⁷⁵ To compute a child support award using the income shares model, one must follow three steps: (1) ascertain combined parental income; (2) determine the basic support obligation from the aggregate parental income; and (3) pro-rate the obligation between the parents based on their proportionate share of total income.⁷⁶ Because

68. Williams, *supra* note 25, at 291. This economic evidence derives largely from the works of Thomas Espenshade. See T. ESPENSHADE, *supra* note 32. Espenshade's research was published in 1984. *Id.*

69. Williams, *supra* note 25, at 292.

70. Elrod, *supra* note 17, at 114. The preface to Ohio's judicially-established child support guidelines contained the following paragraph:

The Income Shares Model provides an *objective basis* for determining the average costs of children in households across a wide range of incomes. Because household spending on behalf of children is intertwined with spending on behalf of adults for most expenditure categories, it is difficult to determine the proportion allocated to children in individual cases, even with exhaustive financial affidavits. However, a number of authoritative economic studies provide estimates of the average amount of household expenditures on children in intact households. These studies have found that the proportion of household spending devoted to children is systematically related to the level of household income and to the number and ages of children.

OHIO C.P. SUPERINTENDENCE R. 75, Preface (Anderson Supp. 1989) (repealed 1990) (emphasis added).

71. Elrod, *supra* note 17, at 114-15.

72. Williams, *supra* note 25, at 292.

73. *Id.* at 292-94.

74. *Id.* at 292. For example, a state can use either gross or net income to compute the child support award. *Id.*

75. Elrod, *supra* note 17, at 115. The worksheet approach is similar to the legal principles articulated in the Uniform Marriage and Divorce Act, which itself contemplates the relative financial resources of both parents and their predivorce standard of living. *Id.*; see UNIF. MARRIAGE AND DIVORCE ACT § 309, 9A U.L.A. § 400 (1987).

76. Elrod, *supra* note 17, at 846. The worksheet figure approximates the theoretical

the model presumes that the custodial parent spends her entire calculated support obligation on the child,⁷⁷ the support award is therefore equal to the noncustodial parent's support obligation.⁷⁸ To illustrate, assume the custodial parent earns \$24,000 yearly, while the noncustodial parent earns \$36,000 yearly. Adding the gross incomes of the parents (\$60,000), one can ascertain from the support schedule found in Exhibit A that the total obligation for one child is \$7,440.⁷⁹ Because the mother earns \$24,000 per year, her yearly obligation is \$2,976.⁸⁰ Because the father earns \$36,000 per year, his annual support obligation is \$4,464.⁸¹ As previously stated, the model presumes that the mother spends her support obligation on the child.⁸² Therefore, the yearly support order, namely the amount the father must pay for child support, is \$4,464.

As noted above, the income shares model is flexible and can be adjusted to reflect the variability of custodial arrangements.⁸³ One example is joint, or shared, custody. Joint custody refers to a situation in which each parent has custody at least 30% of the time.⁸⁴ With respect to joint custody, the income shares model presumes that expenses are 50% higher during the time that a parent enjoys custody of the child.⁸⁵ Under assumptions of joint custody in the income shares model, the court computes the child support obligation separately for each parent.⁸⁶ After ascertaining the proportionate share of each parent's expenses, one subtracts the difference, which becomes the net support obligation.⁸⁷ As will be explained later, however, Ohio did not adopt the income shares model of joint custody child support obligations.⁸⁸

Another variation of the income shares model involves split custody arrangements.⁸⁹ Split custody occurs when each parent has physi-

amount of money the parents would have spent on the child had the family remained intact. *Id.* This theoretical amount is derived from economic data on household spending patterns. *Id.*

77. Williams, *supra* note 25, at 293. The model assumes that the mother incorporates her support obligation into her regular expenses such as housing, food, and clothing. *Id.*

78. *Id.* This formula, however, is not applied if the noncustodial parent does not earn enough income to surpass the poverty level. Comment, *supra* note 1, at 846. In such a case, courts establish support awards on a case-by-case basis. *Id.*

79. See Appendix A. Appendix A is a representation of the Basic Child Support Schedule found in OHIO REV. CODE ANN. § 3113.21.5(D) (Anderson Supp. 1990).

80. *Id.*

81. *Id.*

82. See *supra* note 77 and accompanying text.

83. See *supra* note 74 and accompanying text.

84. Williams, *supra* note 25, at 293-94.

85. *Id.*

86. *Id.* at 294.

87. *Id.*

88. See *infra* notes 153-74 and accompanying text.

cal custody of at least one of two or more children.⁹⁰ In the income shares model, the judge, referee or administrative employee calculates the net support award by first computing the support obligation for each child,⁹¹ and then calculates the difference between the two support obligations.⁹² The parent who owes the larger support obligation must pay the other parent the difference.⁹³ However, Ohio has modified the income shares method for ascertaining support obligations in split custody situations.⁹⁴

The final distinguishing characteristic of the income shares model is its flexible definition of income used to calculate support awards.⁹⁵ Some states, including Ohio, use gross income,⁹⁶ while others prefer net income.⁹⁷ Gross income includes wages, salaries, and commissions.⁹⁸ Also included is income from self-employment, and the value of in-kind benefits, such as a company car⁹⁹ or reimbursement for meals.¹⁰⁰ Finally, irrespective of whether the income is gross or net, the income shares model permits income to be imputed to a parent who is voluntarily unemployed or underemployed.¹⁰¹

III. OHIO'S CHILD SUPPORT GUIDELINES

A. Ohio Supreme Court Rules of Superintendence

Pursuant to the Child Support Enforcement Amendments of 1984, which mandated that each state adopt guidelines by October 1, 1987, Ohio established its child support guidelines.¹⁰² In Ohio, the judiciary first established the child support obligations.¹⁰³ In response to the federal legislation, Ohio Supreme Court Chief Justice Frank Celebrezze appointed the Advisory Committee on Child Support Enforcement and directed the committee to develop child support guidelines that could be adopted by the court.¹⁰⁴ Upon taking office in January, 1987, Chief

90. *Id.*

91. *Id.*

92. *Id.*

93. *Id.*

94. See *infra* notes 153-74 and accompanying text.

95. Williams, *supra* note 25, at 292.

96. E.g., OHIO REV. CODE ANN. § 3113.21.5(A)(2) (Anderson Supp. 1990); COLO. REV. STAT. § 14-10-115(7) (1986). Gross income is before-tax income. Williams, *supra* note 25, at 290.

97. E.g., N.J. REV. STAT. § 2A:34 (1986); See also Comment, *supra* note 1, at 851. Net income is after-tax income. Williams, *supra* note 25, at 290.

98. Williams, *supra* note 25, at 292.

99. *Id.*

100. Elrod, *supra* note 17, at 128; see also *infra* note 134 and accompanying text.

101. Williams, *supra* note 25, at 292; see also *infra* note 138 and accompanying text.

102. See 42 U.S.C. § 667 (1988); see also *supra* notes 53-62 and accompanying text.

103. OHIO C.P. SUPERINTENDENCE R. 75, Preface (Anderson Supp. 1989) (repealed 1990).

104. *Id.* Chaired by the Hon. John Leskovyonsky, of Mahoning County Domestic Relations

Justice Thomas J. Moyer directed the committee to continue work on the guidelines.¹⁰⁵ On August 3, 1987, the court accepted the committee's draft, to become effective October 1, 1987.¹⁰⁶

Because of possible constitutional problems with the judicially-created guidelines,¹⁰⁷ in early 1989, the committee recommended that responsibility for the guidelines be shifted to the Ohio General Assembly.¹⁰⁸ On June 28, 1989, after considering the committee's proposal, the court accepted the committee's recommendation and repealed Superintendence Rule 75, effective on October 13, 1989.¹⁰⁹ The court also asked the General Assembly to codify the guidelines "because of the obvious need for ongoing revisions involving substantial policy matters, and a belief that the General Assembly is the more appropriate forum in which to consider these revisions."¹¹⁰ In response to the court's request, the Ohio General Assembly enacted H.B. 591, effective on April 13, 1990.

B. House Bill 591

Based on the income shares model,¹¹¹ the Ohio child support guidelines manifest an attempt by the General Assembly to ensure objectively established child support orders.¹¹² In response to federal mandate, H.B. 591 invokes nine changes in Ohio's law pertaining to child support.¹¹³ First, it incorporates into the guidelines a rebuttable presumption that the amount of child support derived from the guidelines is the proper amount.¹¹⁴ Second, it adds statutory factors for courts to

Court, the Advisory Committee met periodically to evaluate the main support guideline models. Interview with Judith A. King, Chief Referee for the Montgomery County Domestic Relations Court (Aug. 30, 1990) [hereinafter First Interview with Referee King]. The Advisory Committee elected the income shares model because of its objectivity and relatively simple computations. *Id.* Referee King was a member of the Advisory Committee.

105. *Ohio's Child Support Guidelines: Hearings on H.B. 591 Before the House Children & Youth Committee* (1989) [hereinafter *Testimony of the Ohio Supreme Court*].

106. *Id.*

107. Prior to the enactment of H.B. 591, litigants challenged the constitutionality of the judicially-created guidelines. The Ohio courts, however struck down these challenges on grounds that the guidelines represented rules of superintendence announced by the Ohio Supreme Court. *Brown v. Tibolla*, No. 88-CA-201 (Ohio Ct. App. Mar. 29, 1990) (LEXIS, States library, Ohio file); *Lynch v. Lynch*, No. 88AP-699, slip op. at 5 (Ohio Ct. App. Dec. 5, 1989) (LEXIS, States library, Ohio file).

108. *Testimony of the Ohio Supreme Court*, *supra* note 105.

109. OHIO C.P. SUPERINTENDENCE R. 75, Part IX (Anderson Supp. 1989) (repealed 1990).

110. *Testimony of the Ohio Supreme Court*, *supra* note 105.

111. *See supra* notes 65-101 and accompanying text.

112. *Testimony of the Ohio Supreme Court*, *supra* note 105.

113. H.B. 591, 1990 Ohio Legis. Serv. 5-546 (Baldwin) (codified in scattered sections of Title 31 of the Ohio Revised Code).

114. OHIO REV. CODE ANN. § 3113.21.5(B)(1) (Anderson Supp. 1990); *see infra* notes 123-

consider in deviating from the guideline-derived amount.¹¹⁵ Third, the bill provides a framework to determine whether modification of an existing support order is warranted.¹¹⁶ Fourth, H.B. 591 incorporates child care costs into the basic child support award.¹¹⁷ Fifth, it covers split and joint custody situations.¹¹⁸ Sixth, the bill alters the relationship between child support and visitation.¹¹⁹ Seventh, it incorporates changes in health insurance and medical coverage for children benefiting from support orders.¹²⁰ Eighth, it provides a heightened role for administrative agencies in the determination of child support awards.¹²¹ Finally, H.B. 591 mandates ongoing review of the implementation and application of the child support guidelines.¹²²

1. The Rebuttable Presumption

Although Ohio's statutory guidelines are virtually identical to their judicial predecessors, they do reflect one change. The court presumes that the amount of child support calculated under the statutory guidelines to be the correct amount.¹²³ The prior standard, Superintendence Rule 75, made clear that the guidelines were to function primarily as a "starting point" to assist the court in determining an appropriate child support award.¹²⁴ As such, Superintendence Rule 75 produced diver-

115. OHIO REV. CODE ANN. § 3113.21.5(B)(3); *see infra* notes 127-40 and accompanying text.

116. OHIO REV. CODE ANN. § 3113.21.5(B)(4); *see infra* notes 141-147 and accompanying text.

117. OHIO REV. CODE ANN. § 3113.21.5(E)-(F); *see infra* notes 148-52 and accompanying text.

118. OHIO REV. CODE ANN. § 3113.21.5(F); *see infra* notes 153-74 and accompanying text.

119. OHIO REV. CODE ANN. § 3109.04(B)(1); *see infra* notes 175-78 and accompanying text.

120. OHIO REV. CODE ANN. § 3113.21.7; *see infra* notes 179-94 and accompanying text.

121. OHIO REV. CODE ANN. § 3113.21.6; *see infra* notes 195-201 and accompanying text.

122. OHIO REV. CODE ANN. § 3113.21.5(G); *see infra* notes 202-205 and accompanying text.

123. OHIO REV. CODE ANN. § 3113.21.5(B)(1). The rebuttable presumption was included pursuant to the dictates of Congress. 42 U.S.C. § 667(B)(2) (1988).

124. OHIO C.P. SUPERINTENDENCE R. 75, Preface (Anderson Supp. 1989) (repealed 1990). The relevant part reads as follows:

The Guidelines are designed for proper application to a broad range of cases and shall be used as a *starting point* and considered in conjunction with the appropriate statutory provisions for the establishment or modification of child support irrespective of the form of the action in which the issue arises. In cases where the award deviates from the Guidelines, the Court shall provide a *brief statement* to substantiate the deviation.

Id. (emphasis added).

The difference between Rule 75 and H.B. 591 is illustrated by the court in *Wilson v. Wilson*, No. C-890690 (Ohio Ct. App. Oct. 24, 1990) (LEXIS, States library, Ohio file). The *Wilson* court pointed out that, as compared to Rule 75, H.B. 591 "requires a more stringent articulation by the trial court for any deviation from the support schedule and worksheet by journalization of findings of fact supporting that determination." *Id.* at n.3.

gent judicial results.¹²⁵ In contrast, the language of H.B. 591 commands that the court can only alter an award calculated by the guidelines if that "amount would be unjust or inappropriate and would not be in the best interest of the child, and findings of fact support that determination."¹²⁶

The presumptive mechanism of H.B. 591 also provides for adjustments to the basic support amount.¹²⁷ These adjustments are found on lines seven through ten of the child support computation worksheet and they reflect child support paid for other children, support for children born to either parent and another person, alimony, and health insurance.¹²⁸ In addition to adjustments included in the presumptive support award, H.B. 591 affords ample grounds for deviating from the guidelines, provided that one party rebuts the presumption.¹²⁹

2. Grounds for Deviating from the Guidelines

Even though the heart of H.B. 591 is a rebuttable presumption that the support obligation calculated pursuant to the guidelines is the proper amount, H.B. 591 also provides several statutory factors which can be considered by a court in fashioning a support award.¹³⁰ These factors include:

- (1) Obligations for minor or handicapped children, other than step-children, who are children of only one of the parents;¹³¹
- (2) "Benefits that either parent receives from remarriage or sharing living expenses with another person;"¹³²
- (3) Amount of federal, state, and local taxes paid by the parents;¹³³
- (4) In-kind contributions such as lessons, sports equipment, and clothing;¹³⁴

125. See *supra* notes 19-24 and accompanying text; see also *Hurdelbrink v. Hurdelbrink*, 45 Ohio App. 3d 5, 5, 544 N.E.2d 700, 702 (1989) (holding that trial court is vested with considerable discretion in fashioning an equitable child support award). One court, in fact, was chastised for refusing to deviate from the guidelines. *Oyer v. Oyer*, No. CA88-03-007, slip op. at 5 (Ohio Ct. App. Sept. 19, 1988) (LEXIS, States library, Ohio file) (holding that guidelines are a "starting point" and are not confined within a "mathematical strait jacket").

126. OHIO REV. CODE ANN. § 3113.21.5(B)(1)(b).

127. *Id.* § 3113.21.5(D) & (E); see also Appendices B & C.

128. OHIO REV. CODE ANN. § 3113.21.5(D) & (E); see also Appendices B & C.

129. See *infra* notes 130-140 and accompanying text.

130. OHIO REV. CODE ANN. § 3113.21.5(B).

131. *Id.* § 3113.21.5(B)(3).

132. *Id.* § 3113.21.5(B)(3)(g). For a case that predates H.B. 591, see *Snyder v. Snyder*, 27 Ohio App. 3d 1, 3, 499 N.E.2d 320, 323 (1985) (remarriage of custodial parent is a factor to be considered in assessing child support).

133. OHIO REV. CODE ANN. § 3113.21.5(B)(3)(h).

- (5) Financial resources and earning ability of the child;¹³⁵
- (6) Standard of living the child would have enjoyed had the parents remained together;¹³⁶
- (7) Needs and capacity of the child for an education;¹³⁷
- (8) Earning ability of each parent;¹³⁸ and
- (9) Age of the child.¹³⁹

Once the derivations, if any, are made, the basic child support order is set, and the order may be changed only through the modification process.¹⁴⁰

3. Modification of Child Support Awards

The Ohio guidelines expressly provide for the modification of a child support award using a two-part test.¹⁴¹ This test determines: (1) whether a "change of circumstances" has occurred; and if so, (2) the proper amount of child support.¹⁴² H.B. 591 requires a court considering a change of circumstances to apply what is called the 10% Variance Rule.¹⁴³ This rule is activated when the court, upon motion or sua sponte, recalculates the existing child support award and concludes that a new award would vary at least 10% from the current one.¹⁴⁴ Once a party demonstrates a 10% variance, "it is incumbent upon the parties to show how all relevant facts surrounding their situations should affect the amount of child support obligation."¹⁴⁵ A number of factors can

135. *Id.* § 3109.05(A)(1)(a); see also *Kimber v. Kimber*, No. 57436, slip op. at 5 (Ohio Ct. App. Sept. 6, 1990) (LEXIS, States library, Ohio file) (daughter earned \$70 per week).

136. OHIO REV. CODE ANN. § 3109.05(A)(1)(c).

137. *Id.* § 3109.05(A)(1)(f).

138. *Id.* § 3109.05(A)(1)(g); see also *Wheeland v. Waddle*, No. C.A.1884, slip op. at 4 (Ohio Ct. App. July 25, 1990) (LEXIS, States library, Ohio file) (holding that referee abused discretion by ordering \$100 dollar monthly child support payments when father's only source of income was \$368 monthly disability payments).

This statutory factor also serves as a conduit for imputing income to a parent. See *supra* note 101 and accompanying text. Analogously, at least two Ohio courts have held that voluntary relocation to an area with a higher standard of living is similar to a voluntary reduction in income. *Swartout v. Swartout*, No. 2665, slip op. at 2 (Ohio Ct. App. Aug. 30, 1990) (LEXIS, States library, Ohio file) (the father moved to Long Beach, California, which has a cost of living 22.9% above the United States average, whereas the mother remained in Dayton, Ohio, which is 16.1% below average); *Booth v. Booth*, 44 Ohio St. 3d 142, 145, 541 N.E.2d 1028, 1031 (1989) (father moved to New York City).

139. OHIO REV. CODE ANN. § 3109.05(A)(1)(h); see also *Christie v. Christie*, No. CA-8052 (Ohio Ct. App. Sept. 4, 1990) (LEXIS, States library, Ohio file) (father admitted that an increase in child support may be warranted "to meet the needs of a teenage daughter soon to enter high school.").

140. See *infra* notes 141-47 and accompanying text.

141. OHIO REV. CODE ANN. § 3113.21.5(B)(4).

142. *Rohrbach v. Rohrbach*, 40 Ohio App. 3d 92, 93, 531 N.E.2d 773, 774 (1988).

143. *Id.*

144. *Id.*

145. *Id.* (court upheld a 54% upward modification because neither side offered any evi-

cause a 10% variance, including a change in salary, inflation, extraordinary medical expenses, or other circumstance.¹⁴⁶ Finally, the court derives the proper support amount by applying the statutory factors for deviation.¹⁴⁷

4. Child Care

The Ohio Supreme Court has recognized the high cost associated with child-rearing.¹⁴⁸ Full time child care, because it is a large component of child-rearing, constitutes an extraordinary expense which both parents should bear—not merely the custodial parent.¹⁴⁹ Although H.B. 591 rarely mentions child care, the bill incorporates it into every relevant child support computation.¹⁵⁰ Line sixteen of the child support computation worksheet states that annual child care, less the annual income tax credit for child care, should be added to the rebuttable award.¹⁵¹ The statute also declares that child care is an “extraordinary factor” to be considered when deviating from the support award calculated pursuant to joint custody.¹⁵²

5. Split, Joint, and Third-Party Custody

H.B. 591 anticipates a wide variety of custodial arrangements, including split, joint, and third-party custody, and it provides direction in computing support awards under each.¹⁵³ Split custody refers to a situation in which at least one child is in the sole custody of each parent.¹⁵⁴ In a split custody situation under the income shares model, the court must calculate a child support award for each child and offset the difference of the support obligations.¹⁵⁵ The net difference then becomes the child support order.¹⁵⁶ In Ohio, the referee or court must determine the father’s support obligation for the child residing with the mother.¹⁵⁷ The referee or court then computes the mother’s support obligation for

dence to deviate from the guidelines).

146. OHIO REV. CODE ANN. § 3113.21.5(B)(4) (Anderson Supp. 1990).

147. *Id.*; see also *Provost v. Provost*, No. CA89-07-015, slip op. at 5 (Ohio Ct. App. June 25, 1990) (LEXIS, States library, Ohio file).

148. *Bobo v. Jewell*, 38 Ohio St. 3d 330, 332, 528 N.E.2d 180, 183 (1988).

149. Goldfarb, *Child Support Guidelines: A Model for Fair Allocation of Child Care, Medical, and Educational Expenses*, 21 FAM. L.Q. 325, 338 (1987). One commentator noted that child support guidelines do not include non-monetary costs, such as child-related housework or child-rearing. Dodson, *A Guide to the Guidelines*, 10 FAM. ADVOCATE 4, 8 (1988).

150. OHIO REV. CODE ANN. § 3113.21.5(E)-(F).

151. *Id.*; see also Appendices B & C; *infra* notes 217-18 and accompanying text.

152. OHIO REV. CODE ANN. § 3113.21.5(B)(6), (E).

153. *Id.* § 3113.21.5(E)-(F).

154. See *supra* text accompanying note 90.

155. Williams, *supra* note 25, at 294.

156. *Id.*

157. OHIO REV. CODE ANN. § 3113.21.5(F) (at Line 17(a)); see also Appendix C.

the child residing with the father.¹⁵⁸ After factoring the percentage of total income for each parent, the referee or court subtracts the difference, and that amount constitutes the net child support order.¹⁵⁹

To illustrate, suppose the mother earns \$24,000 per year and has custody of two children, while the father earns \$36,000 per year and has custody of one child. The total parental income is, therefore, \$60,000. By referring to the basic child support schedule, one can ascertain that the combined child support obligation for the child living with the father is \$7,440.¹⁶⁰ Similarly, the combined child support obligation for the two children living with the mother is \$11,508.¹⁶¹ To compute the father's obligation for children living with the mother, \$11,508 is multiplied by the father's percentage of total family income (60%), making the father's obligation \$6,904.80.¹⁶² Correspondingly, the mother's obligation is \$2,976 (\$7,440 x 40%).¹⁶³ The difference between the father's obligation (\$6,905) and the mother's obligation (\$2,976) becomes the net yearly child support award (\$3,929, or \$164 per month per child) for the two children residing with the mother.¹⁶⁴

Prior to the adoption of H.B. 591, Ohio did not have a support schedule for joint custody. Instead, Superintendence Rule 75 suggested that the court should "consider the philosophy" of the guidelines when approving joint custody plans.¹⁶⁵ H.B. 591 states that the court should compute the award using the guidelines and then consider the statutory factors to avoid an inequitable result.¹⁶⁶ Ohio's joint custody guidelines differ from that of the income shares model. Recall that joint custody refers to a situation in which the child spends at least 30% of the time with the noncustodial parent.¹⁶⁷ Under sole custody, where the noncustodial parent has a standard order of visitation, if fully exercised, or a liberal order of visitation, the noncustodial parent has the child up to 29% of the time.¹⁶⁸ Thus, under the income shares model, a court

158. OHIO REV. CODE ANN. § 3113.21.5(F) (at Line 17(b)); *see also* Appendix C.

159. OHIO REV. CODE ANN. § 3113.21.5(F) (at Line 19).

160. *Id.* § 3113.21.5(D); *see also* Appendix A.

161. OHIO REV. CODE ANN. § 3113.21.5(D).

162. *Id.* § 3113.21.5(F) (at Line 17(a)); *see also* Appendix C.

163. OHIO REV. CODE ANN. § 3113.21.5(F) (at Line 17(b)).

164. *Id.* (at Line 18).

165. OHIO R. CIV. P. SUPER. 75, Part VII (Anderson Supp. 1989). The rationale for not imposing guidelines on joint custody arrangements was that joint custody was available only by agreement of the parents. *Id.*; *see also* *Stalker v. Stalker*, No. C.A. 14564, slip op. at 3 (Ohio Ct. App. Aug. 29, 1990) (LEXIS, States library, Ohio file).

166. OHIO REV. CODE ANN. § 3113.21.5(B)(3). Such factors include the amount of time spent with each parent, the ability of each parent to maintain sufficient housing, and each parent's expenses. *Id.*

167. *See supra* notes 83-88 and accompanying text.

168. Interview with Judith A. King, Chief Referee, Domestic Relations Court, Montgomery

would decrease the noncustodial parent's obligation by 30% in a joint custody arrangement, while, in a sole custody arrangement, a noncustodial parent with nearly the same percentage of care for a child would receive no reduction.¹⁶⁹ The Advisory Committee on Child Support Enforcement rejected the income shares approach because of the possibility of producing the inequitable result of a reduction in an obligor's contribution just because the custodial arrangement was called joint custody.¹⁷⁰ H.B. 591, therefore, computes child support for joint custody on the same worksheet as sole custody.¹⁷¹ However, the court can consider the amount of time spent with the noncustodial parent as a factor for deviating from the guidelines.¹⁷²

In addition to split custody, H.B. 591 provides for situations involving third-party custody.¹⁷³ After computing a total support award pursuant to a sole custody arrangement, the court must direct each parent to pay his and her child support obligation to the third-party custodian.¹⁷⁴

6. Visitation

Prior to the enactment of H.B. 591, the relationship between visitation rights and support payments under Ohio's statutory law varied.¹⁷⁵ Courts differed on the question of whether a noncustodial parent could escrow or withhold support payments as a sanction for a refusal of visitation rights.¹⁷⁶ H.B. 591, however, dictates that a non-

County, Ohio, Nov. 26, 1990. [hereinafter Second Interview with Referee King].

169. *Id.*

170. *Id.*

171. OHIO REV. CODE ANN. § 3113.21.5(E) (Anderson Supp. 1990); *see also* Appendix. B.

172. OHIO REV. CODE ANN. § 3113.21.5(B)(6), (E).

173. *Id.* An example of a third-party custodian is a grandparent.

174. *Id.*

175. OHIO R. CIV. P. SUPER. 75 (VIII) (Anderson Supp. 1989). The provision read in its entirety:

It is recognized that the issue of visitation is of equal importance and should be dealt with in an equally vigorous manner. Every court order establishing child support should contain specific language for regular, holiday, vacation and special visitation consistent with Ohio statutes.

Id.

176. Prior to the enactment of H.B. 591, Ohio courts split on the question whether a trial court could modify child support payments as a sanction for contempt of a visitation order. *Compare* *Andrulis v. Andrulis*, 26 Ohio App. 3d 164, 166, 498 N.E.2d 1380, 1382 (1985) (holding that the trial court must conduct hearing before issuing such an order) *with* *Flynn v. Flynn*, 15 Ohio App. 3d 34, 37, 472 N.E.2d 388, 391 (1984) (holding that the aggrieved parent should not refuse to pay child support; instead, parent should file a motion for contempt or motion to reduce support obligation).

In a case handed down about a year prior to the promulgation of H.B. 591, one court construed language from Ohio's visitation statute to mean that a trial court may modify a support order if the custodial parent refuses visitation rights. *Maxwell v. Maxwell*, No. 11065, slip. op. at

custodial parent cannot escrow or withhold child support payments because of the custodial parent's denial or interference with the right of visitation.¹⁷⁷ The rationale is that a child should not be punished for the custodial parent's decision to refuse visitation to the noncustodial parent. If a custodial parent willfully and continuously denies visitation rights, then the noncustodial parent may petition for a change of custody.¹⁷⁸

7. Health Insurance and Medical Coverage

Before the enactment of H.B. 591, Ohio courts had the power to direct either one or both parents to provide for the health care needs of the child.¹⁷⁹ However, the statute did not specify the method for securing health care.¹⁸⁰ H.B. 591 facilitated the establishment of health care provisions in child support orders.¹⁸¹ In compliance with federal regulations,¹⁸² H.B. 591 requires the local child support enforcement agency (CSEA) to ascertain whether either parent possesses sufficient medical coverage for the child.¹⁸³ Further, the bill allows either parent to petition the court to modify the child support order and to direct the other parent to obtain health insurance for that child.¹⁸⁴ In response to such a motion, the court must direct the CSEA to investigate and determine whether the child is sufficiently covered by either parent's health insurance.¹⁸⁵ If the court agrees with the CSEA that the coverage is insufficient, the court must order either one or both parents to secure health insurance for the child.¹⁸⁶ In formulating the order, the court must abide by the following guidelines:

3, (Ohio Ct. App. Jan. 23, 1989) (LEXIS, States library, Ohio file) ("[d]ropping the condition that a violation be continuous or repeated may have actually expanded the authority and discretion of the trial court").

177. OHIO REV. CODE ANN. § 3109.04(B)(1) (Anderson Supp. 1990).

178. *Id.* § 3109.04(B)(3).

179. *Id.* § 3109.05.

180. SENATE JUDICIARY COMMITTEE OF OHIO, COMMITTEE REPORT TO THE GEN. ASSEMBLY OF 1990, at 16 (1990) [hereinafter SENATE JUDICIARY COMMITTEE REPORT].

181. OHIO REV. CODE ANN. § 3113.21.7 (Anderson Supp. 1990).

182. 45 C.F.R. § 306.51 (1989). Federal regulations require state Title IV-D agencies to petition the court to incorporate in new or modified child support orders health insurance coverage for children if coverage is available to the obligor at "reasonable cost." *Id.*

183. OHIO REV. CODE ANN. § 3113.21.7(B). To date, no case has considered what factors contribute to "sufficient" health care.

184. OHIO REV. CODE ANN. § 3113.21(B)(8).

185. *Id.* § 3113.21(B)(9)(a).

186. *Id.*; see also Maurer v. Maurer, No. CA-410, slip op. at 3-4, (Ohio Ct. App. July 17, 1990) (LEXIS, States library, Ohio file) (holding that father's duty to pay medical expenses for diabetic child is not excused by mother's failure to submit medical bills within 48 hours of child's treatment).

(1) The parent who can obtain health insurance at the "more reasonable cost" must do so.¹⁸⁷

(2) If the court orders the obligor to obtain health insurance for the child, then the obligor must furnish the obligee with insurance documents and must notify the health insurance company to reimburse the obligee for pre-payment of insurance costs.¹⁸⁸

(3) If the obligor does not adhere to (1) and (2), then the court must order the obligor's employer to enroll the obligor in a company health insurance program and must deduct the attendant costs from the obligor's wages.¹⁸⁹

(4) If neither parent can secure insurance coverage through employment, then the court must order the parents to share liability for providing for the health care needs of the child.¹⁹⁰

The court may subject any parent who refuses to comply with a health insurance order to sanctions, including those arising from contempt of court,¹⁹¹ and may require that parent to reimburse medical expenses paid by the other parent.¹⁹² The court can likewise find an employer in contempt of court if it fails to obey an order issued under H.B. 591.¹⁹³ Finally, the court can punish with contempt charges any insurance company which ignores a health insurance order.¹⁹⁴

8. Increased Administrative Actions

With the passage of H.B. 591, administrative agencies now play a proactive role in the review, collection, and enforcement of child support orders.¹⁹⁵ The bill requires the CSEA to initiate procedures for

187. OHIO REV. CODE ANN. § 3113.21.7(C)(1)-(3). The SENATE JUDICIARY COMMITTEE REPORT noted:

Federal law appears to favor requiring the obligor to obtain health insurance for the children who are the subject of the child support order if the obligor can obtain employment-related health insurance or some other group health insurance. Under such circumstances in Title IV-D cases, the CSEA apparently is required by federal law to petition the court for the inclusion of a requirement that the obligor obtain such health insurance for the children.

SENATE JUDICIARY COMMITTEE REPORT, *supra* note 180, at 30.

188. OHIO REV. CODE ANN. § 3113.21.7(C)(2).

189. *Id.* § 3113.21.7(C)(7).

190. *Id.* § 3113.21.7(C)(6) (directing the court to establish an "equitable formula"); see also *Yanok v. Yanok*, No. 9-89-28, slip op. at 12 (Ohio Ct. App. Aug. 22, 1990) (LEXIS, States library, Ohio file) (appellate court approved trial court's order, which "created an economic incentive to guarantee the child's insurance coverage by making the parties jointly liable for any uninsured amounts in excess of \$400").

191. OHIO REV. CODE ANN. § 3113.21.7(J).

192. *Id.* § 3113.21.7(I).

193. *Id.* § 3113.21.7 (F), (J).

194. *Id.* § 3113.21.7 (G), (J).

195. See, e.g., *id.* §§ 3113.21, 3113.21.6. Provisions for the inclusion of administrative agencies in the child support arena stem from federal legislation. 42 U.S.C. § 666(a)(10). Also pursuant to federal mandate, on October 13, 1990, the Department of Human Services (DHS) estab-

periodically reviewing child support orders¹⁹⁶ and to set procedures for notifying parents of their right to request a review of an existing support award.¹⁹⁷

If the CSEA, whether by parental request or *sua sponte*, questions the sufficiency of an existing support award, it can compel the parents to attend an administrative hearing.¹⁹⁸ At the hearing, the agency must calculate a revised amount of support pursuant to the child support guidelines.¹⁹⁹ Even if the CSEA does not *sua sponte* mandate an administrative hearing on the appropriateness of the proposed amount of child support, the agency must at least inform the parents of their right to such a hearing.²⁰⁰ If neither parent requests an administrative hearing, then the matter proceeds to court where the judge or referee will conduct a hearing or enter a revised order in the amount calculated by the CSEA.²⁰¹

9. Implementation of House Bill 591

The Child Support Guidelines Oversight Committee (CSGOC) monitors the implementation and effectuation of H.B. 591.²⁰² H.B. 591 requires the CSGOC to file an interim report on its activities with leaders of both parties in the Senate and House by July 1, 1991.²⁰³ By March 1, 1993, the CSGOC must file another report of its activities including recommended statutory changes to the child support guidelines.²⁰⁴ The statute requires the CSGOC to be dissolved on April 12, 1994; on that date it must present a final report of its activities, find-

lished procedures for determining when existing child support orders should be reviewed to determine if a change in the award is warranted. *Id.*; see also OHIO REV. CODE ANN. § 3113.21.6(B).

196. OHIO REV. CODE ANN. § 3113.21.6(B)(3).

197. *Id.* § 3113.21.6(B)(4). For an analysis of this section, see *infra* notes 234-249 and accompanying text.

198. OHIO REV. CODE ANN. § 3113.21.6(C). Prior to the enactment of H.B. 591, the DHS had no authority to file a motion *sua sponte* to increase child support. *DeLong v. Stark County Dep't of Human Serv.*, 36 Ohio App. 3d 103, 105, 521 N.E.2d 463, 466 (1986) ("state's interest in such cases [is] especially excessive when the custodial parent does not seek modification of child support"); see also *infra* notes 219-33 and accompanying text.

199. OHIO REV. CODE ANN. § 3113.21.6(C)(3)(a).

200. *Id.* § 3113.21.6(C)(3)(b).

201. *Id.* § 3113.21.6(D). The court would then be guided by the considerations for modification of existing child support orders propounded in H.B. 591. See *supra* notes 141-47 and accompanying text.

202. H.B. 591, 1990 Ohio Legis. Serv. 5-576 (Baldwin) (codified in scattered sections of Title 31 of the Ohio Revised Code). The CSGOC consists of three members each from the House and Senate (including members of both political parties) plus the Director of the Department of Human Services (DHS). *Id.*

203. *Id.*

ings, and recommended statutory changes to the specified legislative leaders.²⁰⁵

IV. ANALYSIS

H.B. 591, the codification of Superintendence Rule 75,²⁰⁶ should result in a uniform increase in the amount of support awarded to custodial parents. The inclusion of a rebuttable presumption should remove subjective deviations from the guideline amount, thereby protecting children's interests.²⁰⁷ Moreover, the statute represents a proper balance between standardized orders and fairness to parents and children.²⁰⁸ Despite its overwhelmingly positive aspects, H.B. 591 creates an increased administrative role in setting and modifying child support.²⁰⁹ This greater role may hinder the updating of child support orders and present further governmental intrusion into private lives.²¹⁰

A. *The Good: Increased yet Equitable Support Orders*

Pursuant to the Family Support Act of 1988, H.B. 591 presumes that the amount of child support calculated under the guidelines, including statutory adjustments,²¹¹ is the proper amount.²¹² Prior to the enactment of H.B. 591, the guidelines were merely advisory.²¹³ To date, no Ohio court has defined what is necessary to overcome the rebuttable presumption. The Congressional directive that in order to overcome the presumption, the judge or referee must inscribe a "written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case,"²¹⁴ provides little insight into the proper factors. In comparing Superintendence Rule 75 to H.B. 591, one Ohio court stated that the latter requires a "more stringent articulation" by the judge or referee to justify a deviation from the guidelines.²¹⁵

205. *Id.*

206. *Id.*

207. *See infra* notes 211-33 and accompanying text.

208. *Id.*

209. H.B. 591, 1990 Ohio Legis. Serv. at 5-576.

210. *See infra* notes 234-49 and accompanying text.

211. *See supra* notes 128-39 and accompanying text.

212. OHIO REV. CODE ANN. § 3113.21.5 (Anderson Supp. 1990).

213. OHIO C.P. SUPERINTENDENCE R. 75 (Anderson Supp. 1989); *Gandee v. Gandee*, No. 89Ap-928, slip op. at 4 (Ohio Ct. App. Aug. 9, 1990) (LEXIS, States library, Ohio file). "As merely a 'starting point,' the guidelines were obviously intended to be applied in a discretionary, not mandatory fashion." *Id.*

214. 42 U.S.C. § 667(b)(2) (1988).

215. *Wilson v. Wilson*, No. C-890690 (Ohio Ct. App. Oct. 24, 1990) (LEXIS, States library, Ohio file). "Nothing in the record explains the reason for deviating from the worksheet

A party seeking to persuade the court to deviate from the guidelines bears the burden of proving that a strict application of the guidelines would yield an unjust result.²¹⁶ Mere assertions of unfairness will not rebut the presumption; rather, the challenging party must offer affirmative evidence that he or she, or the child, would be injured by a rigid application of the guidelines.²¹⁷ This stringent articulation is necessary, for if a party could rebut the presumption easily, courts again would be in the position of assessing a support obligation on a case-by-case basis—the very “mischief” which the guidelines were intended to cure.²¹⁸

Presumably, H.B. 591 will not change the abuse of discretion standard applicable to appellate court review of a trial court's support award.²¹⁹ Any deviation by the trial court from the guidelines probably would be upheld on appeal if the appellate court finds no abuse of discretion.²²⁰

While H.B. 591 will induce standardization of child support orders, it will not reduce judges and referees to legal technocrats.²²¹ Even with the rebuttable presumption, a trial court or referee retains a considerable degree of discretion to deviate from the guidelines in order to

216. Ginsburg, *Judging the New Support Guidelines*, 10 FAM. ADVOC. 29, 37 (1988); see also Comment, *supra* note 1, at 841-42.

217. Smith, *Grounds for Deviation*, 10 FAM. ADVOC. 22, 22 (1988).

218. *Id.*; see also OHIO C.P. SUPERINTENDENCE R. 75, comments (Anderson Supp. 1989). One appellate court, quoting the trial court, has stated that “[t]he low level of child support obligations was one of the main reasons the [Ohio] Supreme Court adopted the family economic shares model as a basis for the guidelines and the computations thereunder.” *Vannatta v. Miller*, No. CA-414, slip op. at 3 (Ohio Ct. App. July 17, 1990) (LEXIS, States library, Ohio file).

219. See H.B. 591, 1990 Ohio Legis. Serv. 5-576.

220. *Booth v. Booth*, 44 Ohio St. 3d 142, 143, 541 N.E.2d 1028, 1030 (1989)). A trial court abuses its discretion if its decision was “unreasonable, arbitrary, or unconscionable.” *Blakemore v. Blakemore*, 5 Ohio St. 3d 217, 219, 450 N.E.2d 1140, 1142 (1983). A trial court also may abuse its discretion if its decision was “so palpably and grossly violative of fact and logic that it evidences . . . not the exercise of reason but rather of passion or bias.” *Huffman v. Hair Surgeon, Inc.*, 19 Ohio St. 3d 83, 87, 482 N.E.2d 1248, 1252 (1985) (*quoting* *State v. Jenkins*, 15 Ohio St. 3d 164, 222, 473 N.E.2d 264, 313, *cert. denied*, 472 U.S. 1032 (1985)).

In *Booth*, the Ohio Supreme Court noted the following:

In general, when reviewing the propriety of a trial court's determination in a domestic relations case, this court has always applied the ‘abuse of discretion’ standard. . . . Since it is axiomatic that a trial court must have discretion to do what is equitable upon the facts and circumstances of each case, . . . it necessarily follows that a trial court's decision in domestic relations matters should not be disturbed on appeal unless the decision involves more than error of judgment. Upon a review of the statute governing child support, R.C. 3109.05, as well as the Child Support Guidelines set forth in C.P. Sup. R. 75, we believe that common sense and fundamental fairness compel the application of the ‘abuse of discretion’ standard in reviewing matters concerning child support and visitation rights.

44 Ohio St. 3d at 144, 541 N.E.2d at 1030 (citations omitted).

221. Administrative employees, however, may end up serving in a technocratic capacity. See

achieve equitable results.²²² Because this area of the law is highly fact-sensitive, a party can seek a deviation from the guidelines as long as affirmative evidence supports that party's contentions.²²³ Indeed, one member of the bench has noted that a judge is a "human being, not a calculator" and, therefore, should deviate from the guidelines in order to avoid injustice.²²⁴

Courts may deviate from the guidelines in a myriad of situations in order to fashion an equitable child support order.²²⁵ For example, the guidelines expressly allow a court to impute income to a parent who is voluntarily unemployed or underemployed.²²⁶ Although the 10% Variance Rule forms a rebuttable presumption of a change of circumstances warranting a new support order, courts are not required to strictly follow the guidelines.²²⁷ Thus, even though H.B. 591 appears at first glance to remove judicial discretion from the award-setting pro-

222. *Simmons v. Simmons*, No. L-89-064 (Ohio Ct. App. June 22, 1990) (LEXIS, States library, Ohio file) (citing *Hurdelbrink v. Hurdelbrink*, 45 Ohio App. 3d. 9, 544 N.E.2d 700 (1989)).

223. OHIO REV. CODE ANN. §§ 3109.05, 3113.21.5 (Anderson Supp. 1990); *see also* Goldfarb, *supra* note 14, at 45-46.

224. Ginsburg, *supra* note 217, at 37.

225. *See supra* notes 128-39 and accompanying text.

226. OHIO REV. CODE ANN. § 3113.21.5(A)(5)(a); *see also* *Hucke v. Hucke*, No. 11882 (Ohio Ct. App. Aug. 31, 1990) (LEXIS, States library, Ohio file) (holding that a trial court retains broad discretion to impute to custodial parent income of "other persons with whom she resides"); *Matticks v. Matticks*, No. CA89-10-016, slip op. at 6 (Ohio Ct. App. July 23, 1990) (LEXIS, States library, Ohio file) (court imputed yearly income of \$45,000 to corporate attorney living in Texas); *Hoover v. Hoover*, No. CM-82-1431, slip op. at 2 (Ohio Dom. Rel. Ct. May 2, 1990) (referee imputed income to father who left \$40,000 per year sales position to work for new spouse at a Sears catalog store for a salary of \$9,000 per year).

227. *Provost v. Provost*, No. CA89-07-015, slip op. at 4 (Ohio Ct. App. June 25, 1990) (LEXIS, States library, Ohio file). This area may be summarized by the following language from the *Provost* opinion:

The Child Support Guidelines . . . establish a rebuttable presumption whereby a ten percent or greater variance between the guideline formula and the prior order of the court, constitutes a change of circumstances. However, the court is given discretion in determining whether all changes of circumstances are substantial enough to require a modification of child support. In addition, even if a court finds that a modification of support is warranted, such modification is not required to conform to the guidelines.

Id. Note that judges and referees are not required to deviate from the guidelines every time evidence suggests such. One appellate court commended the referee and trial court for exercising restraint:

The referee and the trial court considered these positions in determining that 'these factors were all considered in not deviating from the present guidelines.' Accordingly, the trial court has not shown a slavish adherence to the child support guidelines, but rather a carefully considered application of the same in light of the evidence presented.

Colley v. Colley, No. 14589 (Ohio Ct. App. Oct. 3, 1990) (LEXIS, States library, Ohio file) (where custodial mother moved into smaller house to reduce mortgage payments while noncustodial father financed larger house and two cars)

cess, the statute provides numerous provisions that allow a court to deviate from the guidelines.²²⁸

Another beneficial aspect of H.B. 591 is its implicit recognition that child care is the mutual obligation of both parents. Prior to the promulgation of H.B. 591, child care was often a cost borne solely by the custodial parent.²²⁹ Because the cost of child care is included in computing the support amount under the guidelines, courts are less apt to set widely varying and diminutive child support awards.²³⁰

In addition to increasing support obligations, H.B. 591 should increase the number of voluntary settlements.²³¹ Writing after the promulgation of Superintendence Rule 75 but before the enactment of H.B. 591, Judge Lillian Kern found that the relative predictability of guidelines caused many cases to settle out of court.²³² Judge Kern noted this phenomenon occurred in spite of a rise in the number of applications for increased child support.²³³ With the incorporation of the rebuttable presumption, one may presume that this trend will continue.

B. The Bad: Increased Administrative Activity

Even though the administrative features of H.B. 591 were enacted pursuant to federal mandate,²³⁴ a caveat is warranted. The increased administrative activity necessitated by H.B. 591 may not lead to the efficient modification of child support awards.²³⁵ A parent does not need to be represented by counsel in an administrative hearing held to consider modification of a support award.²³⁶ Because parties do not need to pay for an attorney, they may attempt to alter any support award.²³⁷ In other words, the lack of costs associated with hiring an attorney may induce parties to litigate when they otherwise would not.²³⁸ Moreover, inclusion of an administrative agency in the award-

228. See generally Goldfarb, *supra* note 14.

229. Second Interview with Referee King, *supra* note 168.

230. Comment, *supra* note 1, at 854.

231. Kern, *Ohio's Child Support Guidelines Revisited*, OHIO LAW., Jan./Feb. 1989, at 12, 13.

232. *Id.* Judge Kern added that the "Guidelines provide a framework in which lawyers and their clients can develop reasonable expectancies for child support awards." *Id.*

233. *Id.* Other states have witnessed, as a result of child support guidelines, a rise in the number of voluntary settlements. Billings, *From Guesswork to Guidelines—The Adoption of Uniform Child Support Guidelines in Utah*, 1989 UTAH L. REV. 859, 871-72 (1989).

234. See *supra* note 102 and accompanying text.

235. First Interview with Judith A. King, *supra* note 104.

236. OHIO REV. CODE ANN. § 3113.21.6(B) (Anderson Supp. 1990).

237. First Interview with Referee King, *supra* note 104.

238. *Id.*

setting process may delay the time for a ruling on needy modification requests.²³⁹

Another, perhaps more serious, result is the prospect of heightened administrative activity arising from the power of an agency to determine *sua sponte* whether an existing support obligation meets the agency's qualifications.²⁴⁰ This power is ill-advised and ought to be exercised sparingly because it represents an additional intrusion of the state into the private lives of its citizens.²⁴¹ Notwithstanding the state's valid interest in ensuring that support obligations adequately provide for a child's welfare, parties have numerous opportunities to seek a modification of a support award.²⁴² The most obvious solution is for a dissatisfied parent to file a motion for modification.²⁴³

In *DeLong v. Stark County Dept. of Human Services*,²⁴⁴ which was decided before the enactment of H.B. 591, the Stark County Court of Appeals cautioned that "[t]o allow the [government's] nose to protrude further under the tent of domestic relations law is to adopt the state's 'Big Brother' attitude toward families in our society."²⁴⁵ The *DeLong* court added that the state's interest in such cases is "especially excessive" when the custodial parent does not file a motion for modification.²⁴⁶ The court concluded that the state need not "expand its already pervasive influence into our private lives."²⁴⁷

The rationale of the *DeLong* court is persuasive. It is illogical for the state to intervene in child support matters when neither parent pursues a modification.²⁴⁸ In the absence of a motion to modify support, the state may assume that the parties are satisfied with the existing conditions. Indeed, governmental intervention may upset parents who are content with the existing arrangements.²⁴⁹ It is one thing for the CSEA to schedule a hearing upon motion; it is another to *sua sponte* determine that an existing award is "insufficient," especially when neither party expresses dissatisfaction. Thus, although the administra-

239. *Id.*

240. OHIO REV. CODE ANN. § 3113.21.6(B).

241. *DeLong v. Stark County Dep't of Human Serv.*, 36 Ohio App. 3d 103, 105, 521 N.E.2d 463, 465-66 (1986) (state unsuccessfully sought to intervene to file a motion to increase support payments). Although *DeLong* predated H.B. 591, its rationale is applicable here.

242. *Id.*

243. OHIO REV. CODE ANN. § 3113.21.5(B)(4).

244. 36 Ohio App. 3d 103, 521 N.E.2d 463 (1986).

245. *Id.* at 105, 521 N.E.2d at 465.

246. *Id.*

247. *Id.*

248. First Interview with Referee King, *supra* note 104.

249. *Id.* Additionally, if an award is modified at the behest of the DHS, then the non-custodial parent may well seek to alter existing custody or visitation arrangements. This invites

tive agency has the power to sua sponte modify support awards, it should exercise that power rarely.

V. CONCLUSION

The economic well-being of the nation's children is deteriorating as a result of increases in divorce and child-rearing without the benefit of marriage. Children in single-parent households, particularly those households headed by women, are especially vulnerable to a significant decrease in their standard of living. In an attempt to ameliorate this dilemma, Congress passed legislation which compels the states to establish child support guidelines.

The child support guidelines promulgated in Ohio should produce a more objective and predictable level of child support than the traditional case-by-case method. By employing the income shares model, Ohio has attempted to improve the collective lot of its children. H.B. 591, enacted pursuant to federal mandate, establishes a rebuttable presumption that the amount of child support calculated by the guidelines is the correct amount. In addition to the rebuttable presumption of correctness, H.B. 591 affords referees and judges ample opportunity to deviate from the guidelines in order to produce an equitable support order.

H.B. 591 additionally ushers in significant changes in Ohio's domestic relations law. By mandating health insurance coverage for each child subject to a support order, H.B. 591 attempts to safeguard a child's physical and financial well-being. Moreover, by incorporating child care costs into the rebuttable support obligation, the bill recognizes the mutual obligation of parents to secure sufficient child care.

H.B. 591, however, is not perfect. The substantial increase in administrative activity necessitated under federal mandate may well prolong litigation and upset child support settlements. Nevertheless, while H.B. 591 manifests some weaknesses, the continuing surveillance of the Child Support Guidelines Oversight Committee should correct deficiencies and effectuate the overriding purposes of H.B. 591—the uniform improvement in a child's physical, emotional, and financial well-being.

Martin A. Beyer

Appendix A
Basic Child Support Schedule
Number of Children

Combined Gross Income	One	Two	Three	Four	Five	Six
6000	240	372	468	528	576	612
7200	1068	1308	1428	1608	1656	1692
8400	1884	2244	2388	2688	2736	2784
9600	2052	3180	3348	3768	3816	3876
10800	2208	3432	4308	4848	4896	4968
12000	2376	3684	4620	5208	5676	6060
13200	2520	3924	4920	5556	6048	6456
14400	2676	4152	5208	5880	6408	6840
15600	2820	4392	5508	6204	6756	7224
16800	2976	4620	5796	6528	7116	7608
18000	3120	4848	6072	6840	7464	7980
19200	3252	5064	6336	7140	7788	8352
20400	3384	5280	6600	7440	8112	8688
21600	3516	5484	6864	7740	8448	9036
22800	3660	5700	7140	8052	8772	9384
24000	3816	5928	7428	8376	9132	9768
25200	3960	6156	7704	8700	9480	10140
26400	4116	6372	7992	9024	9828	10512
27600	4260	6600	8280	9348	10188	10884
28800	4416	6828	8568	9672	10536	11268
30000	4560	7056	8856	9996	10896	11640
31200	4704	7272	9132	10308	11232	12012
32400	4848	7500	9408	10620	11580	12036
33600	4980	7728	9696	10932	11928	12744
34800	5124	7944	9972	11244	12276	13104
36000	5268	8172	10260	11568	12624	13476
37200	5412	8400	10536	11880	12960	13848
38400	5556	8616	10812	12192	13308	14208
39600	5688	8844	11100	12504	13658	14580
40800	5832	9072	11376	12816	14004	14940
42000	5976	9300	11664	13140	14352	15312
43200	6096	9480	11880	13380	14616	15612
44400	6192	9624	12060	13584	14844	15840
45600	6288	9768	12240	13788	15060	16080
46800	6384	9912	12420	13992	15288	16320
48000	6480	10056	12600	14196	15504	16560
49200	6576	10200	12780	14412	15720	16788
50400	6672	10344	12960	14616	15948	17028
51600	6768	10500	13152	14820	16164	17268
52800	6864	10644	13332	15024	16392	17496
54000	6960	10788	13512	15228	16608	17736
55200	7056	10932	13692	15432	16824	17976
56400	7152	11076	13872	15636	17052	18204
57600	7248	11220	14052	15840	17268	18444
58800	7344	11364	14232	16044	17496	18684
60000	7440	11508	14412	16248	17712	18924
61200	7536	11652	14592	16464	17928	19152
62400	7632	11796	14772	16668	18156	19392

Appendix A Continued
Basic Child Support Schedule
Number of Children

Combined Gross Income	One	Two	Three	Four	Five	Six
63600	7728	11952	14964	16872	18372	19632
64800	7824	12096	15144	17076	18600	19860
66000	7920	12240	15324	17280	18816	20100
67200	8016	12384	15504	17484	19032	20340
68400	8112	12528	15684	17688	19260	20568
69600	8208	12672	15864	17892	19476	20808
70800	8304	12816	16044	18096	19704	21048
72000	8400	12960	16224	18300	19920	21288
73200	8484	13104	16392	18516	20124	21516
74400	8556	13212	16536	18672	20304	21696
75600	8628	13320	16668	18828	20472	21888
76800	8688	13428	16812	18984	20652	22068
78000	8760	13536	16956	19140	20820	22248
79200	8820	13644	17088	19296	21000	22428
80400	8892	13752	17232	19452	21168	22608
81600	8964	13860	17364	19608	21348	22800
82800	9024	13968	17508	19764	21516	22980
84000	9096	14076	17652	19920	21696	23160
85200	9156	14184	17784	20076	21864	23340
86400	9228	14292	17928	20232	22044	23520
87600	9300	14400	18060	20388	22212	23712
88800	9360	14508	18204	20544	22392	23892
90000	9432	14616	18348	20700	22560	24072
91200	9492	14724	18480	20856	22740	24252
92400	9564	14832	18624	21012	22908	24432
93600	9636	14940	18756	21168	23088	24624
94800	9696	15048	18900	21324	23256	24804
96000	9768	15156	19044	21480	23436	24984
97200	9828	15264	19176	21636	23604	25164
98400	9900	15372	19320	21792	23784	25344
99600	9972	15480	19452	21948	23952	25536
100800	10080	15624	19656	22176	24096	25800
102000	10200	15816	19896	22440	24384	26112
103200	10320	15996	20124	22704	24660	26424
104400	10440	16188	20364	22968	24948	26724
105600	10560	16368	20592	23232	25236	27036
106800	10680	16560	20832	23496	25524	27336
108000	10800	16740	21060	23760	25812	27648
109200	10920	16932	21300	24024	26100	27960
110400	11040	17112	21528	24288	26388	28260
111600	11160	17304	21768	24552	26676	28572
112800	11280	17484	21996	24816	26964	28872
114000	11400	17676	22236	25080	27252	29184
115200	11520	17856	22464	25344	27528	29496
116400	11640	18048	22704	25608	27816	29796
117600	11760	18228	22932	25872	28104	30108
118800	11880	28420	23172	26136	28392	30408
120000	12000	18600	23400	26400	28680	30720

Appendix B

"Worksheet

_____ County Domestic Relations Court
 Child Support Computation
 Sole Residential Parent or
 Shared Parenting Order

Name of parties _____

Case No. _____

Number of minor children _____. The following parent was designated as the residential parent and legal custodian (disregard if shared parenting order):

_____ mother; _____ father.

Father has _____ pay periods annually; mother has _____ pay periods annually.

	Column I Father	Column II Mother	Column III Combined
1a. Annual gross income from employment (exclude over-time and bonuses) _____	\$ _____	\$ _____	
b. Amount of overtime and bonuses			
Father		Mother	
Yr. 3 \$ _____		\$ _____	
Yr. 2 \$ _____		\$ _____	
Yr. 1 \$ _____		\$ _____	
Average: \$ _____		\$ _____	
(Include in Column I and/or Column II the average or the year 1 amount, whichever is less) _____	\$ _____	\$ _____	
2. Annual income from interest and dividends (whether or not taxable) _____	\$ _____	\$ _____	
3. Annual income from unemployment compensation _____	\$ _____	\$ _____	
4. Annual income from workers' compensation or disability insurance benefits _____	\$ _____	\$ _____	
5. Other annual income (identify) _____	\$ _____	\$ _____	
6. Total annual gross income (add lines 1-5) _____	\$ _____	\$ _____	
7. Annual court-ordered support paid for other children _____	\$ _____	\$ _____	
8. Adjustment for minor children born to either parent and another parent, which children are living with this parent (number of children times federal income tax exemption less child support received for the year, not to exceed the federal tax exemption) _____	\$ _____	\$ _____	
9. Annual court-ordered spousal support paid to a former spouse _____	\$ _____	\$ _____	
10. Annual health insurance premium paid if child(ren) covered _____	\$ _____	\$ _____	
11. Total gross income adjustments (add lines 7-10) _____	\$ _____	\$ _____	
12. Adjusted annual gross income (subtract line 11 from line 6) _____	\$ _____	\$ _____	
13. Combined annual income which is basis for child support order (add line 12, Col. I and Col. II) _____			\$ _____
14. Percentage parent's income to total income			
a. Father (divide line 12, Col. I by line 13, Col. III) _____ %			
b. Mother (divide line 12, Col. II by line 13, Col. III) _____ + _____ % = 100%			

	Column I Father	Column II Mother	Column III Combined
15. Basic combined child support obligation (Refer to basic child support schedule in division (D) of section 3113.215 [3113.21.5] of the Revised Code; in the first column of the schedule, locate the sum that is nearest to the combined annual income listed in line 13, Col. III of this worksheet, then refer to the column of the schedule that corresponds to the number of children in this family. If the income of the parents is more than one sum, and less than another sum, in the first column of the schedule, you may calculate the basic combined child support obligation based upon the obligation for those two sums.)_____			\$_____
16. Annual work-related child care (deduct tax credit from annual cost)_____			\$_____
17. Total annual child support obligation for this family (add lines 15 and 16)_____			\$_____
18. Annual support obligation/parent			
a. Father (multiply line 17, Col. III, by line 14a)_____	\$_____		
b. Mother (multiply line 17, Col. III, by line 14b)_____		\$_____	
19. Gross household income per party after exchange of child support (add lines 12 and 18a or 18b for residential parent or, in the case of shared parenting order, the parent to whom child support will be paid; subtract lines 18a or 18b from line 12 for parent who is not the residential parent or, in the case of shared parenting order, the parent who will pay child support)_____	\$_____	\$_____	
20. Comments, rebuttal, or adjustments to correct figures in lines 18a and 18b if they would be unjust or inappropriate and would not be in best interest of the child or children (specific facts to support adjustments must be included)_____	\$_____	\$_____	

(Addendum sheet may be attached)

- 21. Final figure (this amount reflects final annual child support obligation)_____ \$_____ father/mother obligor
- 22. For decree: child support per child per week or per month (divide obligor's annual share, line 21, by 12 or 52 and by number of children)_____ \$_____
- 23. For deduction order: child support per pay period (calculate support per pay period from figure on line 22 plus appropriate poundage)_____ \$_____

Calculations have been reviewed.

Signatures _____

Father

I do/do not consent.

Sworn to before me and subscribed in my presence, this _____ day of _____, 19____

Notary Public

Mother

I do/do not consent.

Sworn to before me and subscribed in my presence, this _____ day of _____, 19____

Notary Public

Attorney for father

Attorney for mother"

Appendix C

"Worksheet

County Domestic Relations Court
Child Support Computation
Split Parental Rights and Responsibilities

Name of parties

Case No.

Number of minor children. The following parent was designated residential parent and legal custodian:

mother; father.

Father has pay periods annually; mother has pay periods annually.

Table with 3 columns: Column I (Father), Column II (Mother), Column III (Combined). Rows include: 1a. Annual gross income from employment, 1b. Amount of overtime and bonuses (with sub-rows for Yr. 3, 2, 1, and Average for both Father and Mother), 2. Annual income from interest and dividends, 3. Annual income from unemployment compensation, 4. Annual income from workers' compensation or disability insurance benefits, 5. Other annual income, 6. Total annual gross income, 7. Annual court-ordered support paid for other children, 8. Adjustment for minor children born to either parent, 9. Annual court-ordered spousal support, 10. Annual health insurance premium, 11. Total gross income adjustments, 12. Adjusted annual gross income, 13. Combined annual income, 14. Percentage parent's income to total income.

Column I	Column II	Column III
Father	Mother	Combined

15. Basic combined child support obligation/household
 - a. For children for whom the father is the residential parent and legal custodian (Refer to basic child support schedule in division (D) of section 3113.215 [3113.21.5] of the Revised Code; in the first column of the schedule, locate the sum that is nearest to the combined annual income listed in line 13, Col. III of this worksheet, then refer to the column of the schedule that corresponds to the number of children for whom the father is the residential parent and legal custodian. If the income of the parents is more than one sum, and less than another sum, in the first column of the schedule, you may calculate the basic combined child support obligation based upon the obligation for those two sums.) _____ \$ _____
 - b. For children for whom the mother is the residential parent and the legal custodian. (Refer to basic child support schedule in division (D) of section 3113.215 [3113.21.5] of the Revised Code; in the first column of the schedule, locate the sum that is nearest to the combined annual income listed in line 13, Col. III of this worksheet, then refer to the column of the schedule that corresponds to the number of children for whom the mother is the residential parent and the legal custodian. If the income of the parents is more than one sum, and less than another sum, in the first column of the schedule, you may calculate the basic combined child support obligation based upon the obligation for those two sums.) _____ \$ _____
16. Annual work-related child care/household (deduct tax credit from annual cost)
 - a. Child(ren) for whom the father is the residential parent and legal custodian _____ \$ _____
 - b. Child(ren) for whom the mother is the residential parent and legal custodian _____ \$ _____
17. Total annual child support obligation
 - a. Of father for child(ren) for whom the mother is the residential parent and legal custodian (add lines 15b and 16b and multiply by 14a) _____ \$ _____
 - b. Of mother for child(ren) for whom the father is the residential parent and legal custodian (add lines 15a and 16a and multiply by 14b) _____ \$ _____
18. Net child support payable (greater amount on line 17a or 17b minus lesser amount on line 17a or 17b) _____ \$ _____ or \$ _____
19. Gross household income per party after exchange of child support _____ \$ _____ \$ _____
(add line 12 and line 18 for the parent receiving a child support payment; subtract line 18 from line 12 for the parent making a child support payment)
20. Comments, rebuttal, or adjustments to correct figures in lines 17a and 17b if they would be unjust or inappropriate and would not be in best interest of the children (specific facts to support adjustments must be included) _____ \$ _____ \$ _____

(Addendum sheet may be attached)

21. Final figure (this amount reflects final annual child support obligation) _____ \$ _____ father/mother obligor

Column I	Column II	Column III
Father	Mother	Combined

22. For decree: child support per child per week or per month (divide noncustodial obligor's annual share, line 21, by 12 or 52 and by number of children)_____ \$_____

23. For deduction order: child support per pay period (calculate support per pay period from figure on line 22) plus appropriate poundage_____ \$_____

Calculations have been reviewed.

Signatures _____

Father

I do/do not consent.

Sworn to before me and subscribed in my presence, this _____ day of _____, 19____

Notary Public

Mother

I do/do not consent.

Sworn to before me and subscribed in my presence, this _____ day of _____, 19____

Notary Public

Attorney for father

Attorney for mother"

