

## **Proposed updates to Kansas Child Support Guidelines**

The Kansas Supreme Court is accepting public comment on proposed updates to the Kansas Child Support Guidelines. Comment can be made through an [online survey](#) until 5 p.m. Friday, April 26, 2024.

This document is for reference only. It is made available for a public comment period that ends April 26, 2024. Current, active child support guidelines are at <https://www.kscourts.org/About-the-Courts/Programs/Child-Support-Guidelines>.

1. Table of Recommendations
2. Kansas Child Support Guidelines with proposed revisions

# Attachment 1

**Child Support Guidelines Advisory Committee  
Recommendations for Revisions**

Section	Subject	Recommended Change
I.E.7	Adjustment to the basic child support obligation	<ul style="list-style-type: none"> <li>• Added language that failure to comply with an adjustment is a material change in circumstances</li> </ul>
II.C.1.c)	Bonus and other supplemental materials	<ul style="list-style-type: none"> <li>• Added reference to supplemental materials on the website</li> </ul>
IV.A	Generally	<ul style="list-style-type: none"> <li>• Added reference to child support schedules in Appendix II</li> </ul>
IV.C	Proportionate Child Support Obligation of Each Parent	<ul style="list-style-type: none"> <li>• Added reference to parenting time or shared residency adjustment</li> </ul>
IV.E	Cost of Living Differential	<ul style="list-style-type: none"> <li>• Added reference to supplemental materials on the website</li> </ul>
IV.F	Multiple family adjustment	<ul style="list-style-type: none"> <li>• Change “adjustment” to “application” to be consistent with terms</li> <li>• Remove “court” and add “child support” for clarity</li> </ul>
IV.G	Income beyond child support calculations	<ul style="list-style-type: none"> <li>• Change “tables” to “schedules” to be consistent with terms</li> </ul>
IV.H	Parenting Time Adjustment	<ul style="list-style-type: none"> <li>• Edits to section references</li> </ul>
IV.H.2	Parenting Time Formula Adjustment	<ul style="list-style-type: none"> <li>• Edit title from “Parenting Time Formula Adjustment” to “Parenting Time Adjustment Formula”</li> </ul>
IV.H.3	Extended Parenting Time Adjustment	<ul style="list-style-type: none"> <li>• Edits to child support worksheet line references</li> </ul>
IV.I	Health and Dental Insurance Premium	<ul style="list-style-type: none"> <li>• Edits to child support worksheet line references</li> </ul>
IV.J	Work-related childcare costs	<ul style="list-style-type: none"> <li>• Added reference to supplemental materials on the website</li> </ul>
IV.K	Basic Child Support Obligation	<ul style="list-style-type: none"> <li>• Change “parental” to “proportionate”</li> <li>• Add “for each parent” to language regarding the calculation</li> </ul>

**Child Support Guidelines Advisory Committee  
Recommendations for Revisions**

<b>Section</b>	<b>Subject</b>	<b>Recommended Change</b>
V.A	Adjustments – Use	<ul style="list-style-type: none"> <li>Remove “parental” for clarity</li> <li>Add “material” before “change in circumstances” to be consistent with terms</li> </ul>
V.B	Long distant parenting time costs	<ul style="list-style-type: none"> <li>Correct title from “Long Distant Parenting Time Costs” to “Long Distance Parenting Time Costs”</li> </ul>
V.C	Income Tax Considerations	<ul style="list-style-type: none"> <li>Edits to child support worksheet line references</li> </ul>
V.D	Special Needs	<ul style="list-style-type: none"> <li>Edits to child support worksheet line references</li> </ul>
V.E	Agreement Past Majority	<ul style="list-style-type: none"> <li>Change title of section from “Agreement Past Majority” to “Support Past Majority”</li> <li>Added language to clarify that the section discusses two scenarios, when there is and when there isn’t an agreement for support past majority</li> </ul>
V.F	Overall Financial Condition	<ul style="list-style-type: none"> <li>Edits to child support worksheet line references</li> </ul>
VI.B and VI.C (now VI.E and VI.F)	Shared expense and equal parenting time formula	<ul style="list-style-type: none"> <li>Switch the position of these sections so shared expense formula language is before the equal parenting time formula language</li> </ul>
VI.B (now VI.F)	Equal parenting time formula	<ul style="list-style-type: none"> <li>Change title from “Equal Parenting Time Formula” to “Direct Expense Formula”</li> </ul>
VI.B (now VI.F)	Equal parenting time formula	<ul style="list-style-type: none"> <li>Add presumption that each parent provides clothing in each house</li> <li>Remove additional calculation based on who is providing clothes</li> </ul>
VI.B.3.c.2	Less than Zero	<ul style="list-style-type: none"> <li>Remove language</li> </ul>
VI.D.1	Ability to Pay Calculation – Use	<ul style="list-style-type: none"> <li>Add “change annually” to paragraph</li> </ul>
VI.D.2	Ability to Pay Calculation – Calculation	<ul style="list-style-type: none"> <li>Edits to child support worksheet line references</li> </ul>
VI.H	Social Security Dependent Benefits	<ul style="list-style-type: none"> <li>Edits to child support worksheet line references</li> </ul>
VI.I	Enforcement Fee Allowance	<ul style="list-style-type: none"> <li>Edits to child support worksheet line references</li> </ul>
VI.F.4	Equitable Considerations	<ul style="list-style-type: none"> <li>Added new language</li> </ul>

**Child Support Guidelines Advisory Committee  
Recommendations for Revisions**

<b>Section</b>	<b>Subject</b>	<b>Recommended Change</b>
VI.J	Net child support obligation	<ul style="list-style-type: none"><li>• Change to “total” child support obligation to coincide with child support worksheet</li><li>• Reference net child support obligation to coincide with child support worksheet</li></ul>
Appendix I	Child Support Worksheet	<ul style="list-style-type: none"><li>• Edits to coincide with revised child support guidelines</li></ul>
Appendix V	Equal Parenting Time Worksheet	<ul style="list-style-type: none"><li>• Removed from guidelines</li></ul>

# Attachment 2

**KANSAS**  
**CHILD SUPPORT GUIDELINES**  
**Pursuant to Kansas Supreme Court**

**Effective ~~January 1, 2024~~ July 1, 2024**

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## I. Generally

A. **Purpose.** The purpose of child support is to provide for the needs of the child whether the child lives with a parent or a third party. The needs of the child include direct and indirect expenses related to the day-to-day care of the child. The Kansas Child Support Guidelines are the basis for establishing and reviewing all child support orders. Judges and hearing officers must follow the guidelines and must consider all relevant evidence presented in setting an amount of child support.

## B. Child Support Worksheet

1. **Generally.** The Net Parental Child Support Obligation is calculated by completing a Child Support Worksheet (Appendix I). The worksheet must contain the actual calculation of the child support based on child support income, work-related child care costs, physical health, mental health, dental, orthodontic, and vision insurance premiums, and any child support adjustments. In divided residency situations, separate child support worksheets must be prepared for each parent. If the child resides with a third party, a child support worksheet should be prepared for the parents.
2. **Rebuttable Presumption.** The calculation of the respective parental child support obligations on Line ~~D-13~~ I.2. of the worksheet is a rebuttable presumption of a reasonable child support order. If a party alleges that the Line ~~D-13~~ I.2 support amount is inappropriate, the party seeking a deviation or an adjustment has the burden of proof to show that it should apply. If the court finds the deviation or adjustment is in the best interest of the child, the court must consider Section E of the Child Support Worksheet. Any deviation must be explained in the child support order.

## C. Expenses for a Child

1. **Basic Direct Expenses.** Basic direct expenses for a child include those paid directly to a third party. Basic direct expenses include clothing, all school and school-related expenses including school lunches and extracurricular activities.
2. **Indirect Expenses.** Indirect expenses include those that benefit the child but are not paid directly for their personal needs. These include food (excluding school lunches), transportation, housing, or utilities. The indirect expenses are usually borne by the respective parents within their own household and are not shared.
3. **Other Expenses.** The parties may agree to divide other expenses. Such expenses must be agreed in advance.

#### **D. Required Documentation**

The party requesting or responding to a request for child support order or modification must file:

- a completed, signed, and dated child support worksheet; and
- a current, completed, and signed Domestic Relations Affidavit (Appendix III) or Child Support Domestic Relations Affidavit (Appendix IV).  
Every order for child support must have a corresponding child support worksheet approved by the judge and filed in the case.

#### **E. Material Change in Circumstances**

- 1. Generally.** Courts have continuing jurisdiction to modify child support orders to advance the welfare of the child when there is a material change of circumstances. Additionally, a 10% change in the basic child support obligation on Line F.1 or a change in the child's age group constitutes a material change of circumstances to warrant judicial review of existing support orders.
- 2. 10% Rule.** Change of financial circumstances of the parents or the guidelines which would increase or decrease by 10% the amount shown on Line F.1 of the worksheet, except that the non-historical income from a second job or overtime taken by the parent not having primary residency is not alone considered a material change of circumstances to warrant a modification of the parent's child support obligation. Income from bonuses not shown to be regularly paid by the employer are not considered a material change of circumstances to warrant a modification of the parent's child support obligation. Income from bonuses is discussed in Section II.C.1.c.

An increase in the gross income of the parent having primary residency is not a material change of circumstances for the purpose of increasing the child support obligation. When the court has approved either a shared residency or divided residency plan, any change in income by either parent may be used as a material change in circumstance if the change would increase or decrease by 10% the amount shown on Line F.1 of the worksheet.

- 3. Age Change.** The child is in a higher age group because of having passed the child's 6th or 12th birthday, or because the child's age places the child in the higher age group as a result of the change in the guidelines.

**4. Termination from Employment**

- a) **Generally.** The court may consider the circumstances surrounding termination from employment.
- b) **Termination from Employment for Misconduct.** Termination from employment for misconduct will not ordinarily constitute a material change of circumstances that justifies a reduction in child support.
- c) **Voluntary Termination from Employment.** Voluntary termination from employment will not ordinarily constitute a material change of circumstances that justifies a reduction in child support.

**5. Duty to Notify.** A parent must notify the other parent of any change of financial circumstances including, income, work-related child care costs, and health insurance premiums which, if changed, could constitute a material change of circumstances. If a party fails to disclose a material change of circumstances, such as the understatement, overstatement, or concealment of financial information, the court may determine the dollar value of a party's failure to disclose and assess the amount in the form of a judgment. The judgment may be paid as a credit or an addition to the child support amount for a determinate amount of time. The court may also adopt other sanctions.

**6. Request for Financial Information.** Upon receipt of a written request, a parent has thirty days to provide the requested financial information and supporting documentation to the other parent. Refusal to provide the requested information may make the non-complying parent responsible for the costs and expenses, including attorney fees, incurred to obtain the information.

**7. Adjustment to the basic child support obligation.** Failure to comply with the terms of an adjustment to the basic parental child support obligation, such as failure to exercise parenting time or not using a special needs allocation, constitutes a material change in circumstance.

**F. Residence with a Third Party.** If the child resides with a third party, the court must order each of the parents to pay their respective amounts of child support to the third party.

**G. Payment of Child Support**

**1. Kansas Payment Center.** Except for good cause shown, every order requiring payment of child support must require that the support be paid through the Kansas Payment Center.

**2. Agreement for Direct Payment.** A written agreement between the parties to make direct child support payments to the payee and not pay through the Kansas Payment Center constitutes good cause, unless the court finds the

agreement is not in the best interest of the child. The agreement must be filed with the court.

3. **Proof of Direct Payment.** The payor must maintain written evidence of the payment of the support obligation. Evidence may include cancelled checks, copies of money orders, receipts signed by the payee, or evidence of direct electronic deposit in an account designated by the payee. At least annually the payor must provide an accounting pursuant to K.S.A. 23-3004. Each court order authorizing direct payment to the payee must include language requiring the payor to comply with the above requirements. Payments not made in accordance with K.S.A. 23-3004 will be presumptively disallowed.
4. **Failure of the Payor to Maintain Records or Failure to Make Payments.** Failing to maintain records or make payments is grounds for immediate modification of the order to require payments to be made through the Kansas Payment Center.

#### **H. Unreimbursed Medical Expenses**

1. **Necessary Medical Expenses.** In all residential arrangements, including shared residency, the court must provide that all necessary medical expenses not covered by insurance, including deductibles and co-pays, be assessed to the parties in accordance with the parties' proportional share shown on Line D.2 of the worksheet. Necessary medical expenses include physical health, mental health, dental, orthodontic, or vision and/or any other medical expenses incurred for the benefit of the minor children.
2. **Indemnity.** If either party owes reimbursement to the other party for any non-covered or uninsured medical expense as described above, the owing party shall indemnify and hold the other party harmless from the owing party's respective share of the non-covered/uninsured expense, including late fees, interest, or other expenses related to collection.
3. **Notice.** Any party seeking reimbursement from the other party must, within thirty (30) days of receipt of said billing statement from provider, submit a copy of the billing statement along with (a) proof of the expenditure and (b) proof of payment of the uninsured portion of the expenditure; and, if applicable, (c) proof of having submitted the claim to the insurance provider for reimbursement and (d) proof of insurance considerations, payment or exclusion. The Court may deny any request for reimbursement that is not submitted in compliance with this section. The party receiving the request for reimbursement shall have thirty (30) days after receipt to pay the party's respective Line D.3 percentage of the amount not covered by insurance either to the requesting party or directly to the provider if payment in full has not already been made.

4. **Failure to Pay.** If the party receiving the request for payment fails to pay the amount due or fails to make satisfactory payment arrangements within the thirty (30) day period, the court may impose appropriate sanctions. Sanctions may include assessing 100% of the uninsured balance, and/or attorney's fees incurred by the paying party seeking reimbursement.
5. **Payment from Insurer.** If one party receives a reimbursement of medical expenses from the insurer, they must notify the other party. If one party has advanced the expense submitted to the insurer, that party is entitled to the insurance reimbursement check up to the amount of the advanced payment. If the obligation has not been paid in full to the healthcare provider at the time that the insurance reimbursement check is received, the check must be endorsed directly to the healthcare provider.

## **I. Termination of Child Support**

1. **Support Orders for One Child.** In child support orders for one child, child support stops pursuant to court order or pursuant to K.S.A. 23-3001, et seq. and amendments thereto.
2. **Support Orders for Two or More Children.** In child support orders for two or more children, support amounts are stated as a total amount rather than on a per child basis. Absent judicial modification of the order, when each child emancipates as defined in K.S.A. 23-3001, et seq. and amendments thereto, the legal obligation terminates, and the total obligation decreases proportionately based on the number of minor children at the time of the termination or emancipation.
3. **Modification.** Parents may request a modification of child support orders and income withholding orders when the legal obligation to pay child support terminates for any child or any child is emancipated.

**J. Review of Guidelines.** Chapter 45, Code of Federal Regulations, Section 302.56. 45 C.F.R. 302.56 requires that "[t]he state must review, and revise, if appropriate, the child support guidelines established under paragraph (a) of this section at least every four years to ensure that their application results in the determination of appropriate child support order amounts." Therefore, these Kansas guidelines must be reviewed by the Child Support Guidelines Advisory Committee as required by federal mandate.

## **II. Income Computations**

### **A. Child Support Income**

Child support income is the domestic gross income after adjustments for:

1. Child support paid in other cases;
2. Spousal maintenance paid in the present case or other cases; and
3. Spousal maintenance received in the present case or other cases.

**B. Ability to Earn Income**

1. **Imputing Income.** Income may be imputed to either parent in appropriate circumstances. If the court decides to impute income, it must take into consideration, to the extent known, the specific circumstances of the non-custodial parent and the custodial parent. Such factors include:
  - the non-custodial and the custodial parent's assets,
  - residence,
  - employment and earnings history,
  - job skills,
  - educational attainment,
  - literacy,
  - age,
  - health,
  - criminal record and other employment barriers,
  - and record of seeking work, as well as the local job market, the availability of employers willing to hire the parent,
  - prevailing earnings level in the local community, and
  - other relevant background factors in the case.
2. **Written Findings.** The court must make written findings in support of imputing income. After considering these factors, the court may find that a parent is able to earn at least the federal minimum wage and work 40 hours per week.
3. **Deliberate Unemployment or Under Employment.** If the court finds that a parent is deliberately unemployed or under employed, although capable of working it may impute income.
4. **Termination for Misconduct.** If a parent is terminated from employment for misconduct, rather than laid off, their previous wage may be imputed to an amount not less than federal minimum wage.
5. **In-Kind or Reimbursed Living Expenses.** When a parent receives significant in-kind payment or reimbursement that reduces personal living expenses because of employment, such as a company car, free housing, or reimbursed meals, the value of such in-kind payment or reimbursement should be added to gross income.
6. **Incarceration.** Incarceration by itself may not be treated as voluntary unemployment for purposes of establishing or modifying child support. However, circumstances surrounding the incarceration of the payor, along



with all other factors and circumstances related to the incarcerated payor's ability to pay support and any other equitable considerations relevant to the specific circumstances of the case, may be considered.

7. **Imputing Income to the Primary Residential Parent.** Income may be imputed to primary residential parent but should not result in a higher support obligation for the other parent.

## C. Wage Earner

### 1. Domestic Gross Income

**a.) Definition.** The domestic gross income for the wage earner is income from all sources, including that which is regularly or periodically received, excluding public assistance and child support received for other children in the residency of either parent. Income includes bonuses, commissions, incentives, overtime, shift differential, vacation pay, and other supplemental income. Income must also include additional compensation in the form of military or national guard pay, VA Disability payments, Social Security Disability Insurance (SSDI) payments, disability insurance payments, employer provided disability, or worker's compensation payments.

When a party reaches retirement age or becomes eligible to receive distribution from a retirement plan, those distributions when taken may be considered as child support income. Section A of the worksheet determines the domestic gross income for wage earners. Federal and State taxes and Social Security are already considered within the child support schedules. The amount of the domestic gross income is entered on Line A.1 and also on Line C.1

If a wage earner's income is adjusted for a salary reduction arrangement for qualified benefits offered under a cafeteria plan, the use of gross wages (total income before any salary reduction amounts) results in the simplest and fairest application of the guidelines. Therefore, the gross income of the wage earner, regardless of whether it is taxable or nontaxable, is to be used to compute child support payments.

**b.) Public Assistance.** For purposes of these guidelines, the term "public assistance" means all income, whether in cash or in-kind, which is received from public sources and for which the recipient is eligible based on financial need. It includes Supplemental Security Income (SSI), Earned Income Credit (EIC), food stamps, Temporary Assistance for Needy Families (TANF), General Assistance (GA), Medicaid, Low Income Energy Assistance Program (LIEAP), Section 8, and other forms of public housing assistance.

**c.) Bonuses and Other Supplemental Income.** In situations where a payor receives periodic bonuses and other supplemental income, the court or the parties should select a method for the inclusion and payment of additional child support from the gross bonus. Bonus income may be averaged into the monthly gross income, paid as a percentage upon receipt, or distributed in another way as decided by the court or the parties. If bonus income is averaged into the payor's monthly gross income, it must be paid through the Kansas Payment Center as part of the monthly child support obligation unless the court finds there is good cause for direct payments pursuant to K.S.A. 23-3004. More information about periodic bonus income calculations can be found in the supplemental materials on the Kansas Judicial Branch Website.

**d.) Historical Information.** It may be necessary for the court to consider historical information and the seasonal nature of employment. For example, if overtime is regularly earned by one of the parties, then a historical average of one year should be considered.

**e.) Military Employment.** In instances where one or both of the parties is employed by a branch of the armed forces or is called to active duty by a branch of the armed forces, then the court shall include the basic pay of the party plus Basic Allowance for Housing (BAH) and Basic Allowance for Subsistence (BAS) as well as any other allowances, or special pay, and other forms of compensation and benefits. The court may consider cost of living differences in determining the domestic gross income.

**f.) Gifts and Inheritance.** Generally, gifts and inheritance are not considered income for child support purposes when received.

**g.) Social Security Disability Insurance (SSDI).** Dependent/auxiliary benefits received for a child based upon the disability of the payee are not a credit toward the child support obligation of the payor. The amount of the payee's benefit is included in the income for the purpose of calculating the child support obligation. The payor's benefits shall be included in the payor's Gross Domestic Income

#### **D. Self-Employment Domestic Gross Income**

- 1. Definition.** Self-employment gross income is income minus reasonable business expenses and should be entered in Section B of the child support worksheet. All other income including that which is regularly and periodically received from any source excluding public assistance and child support

received for other children that reside with either parent should be included in Section A.

2. **Reasonable Business Expenses.** In cases of self-employed persons, reasonable business expenses are those actual expenditures reasonably necessary to produce income. Reasonable business expenses (Line B.2) will be deducted from the self-employment gross income (Line B.1). Depreciation must only be included if it is shown that it is reasonably necessary to produce income. Reasonable business expenses must include the additional self-employment tax paid over and above the Federal Insurance Contributions Act (FICA) rate. The qualified business income (QBI) deduction is not considered a reasonable business expense for child support purposes. Tax deductible expenses that qualify as deductions for federal or state income tax purposes may not necessarily be considered reasonable business expenses to be deducted from gross income for child support purposes. The resulting amount on Line B.3 is also entered on Line C.1

### III. Adjustments to Domestic Gross Income

**A. Generally.** Section C of the child support worksheet contains adjustments to domestic gross income for individuals who are wage earners or self-employed persons. Adjustments to domestic gross income may be appropriate in some circumstances.

**B. Court-Ordered Child Support Paid.** Child support obligations in other cases must be deducted to the extent that the support obligations are actually paid. These amounts are entered on Line C.2. The payment of child support arrearages must not be deducted.

#### C. Court-Ordered Spousal Maintenance Paid

1. For orders entered on or before December 31, 2018, the amount of current spousal maintenance paid pursuant to a court-approved separation agreement or a court order must be deducted to the extent that the spousal maintenance is actually paid. This amount is entered on Line C.3. Payment of spousal maintenance arrearages and property division must not be deducted.
2. For orders entered after December 31, 2018, as a result of the 2017 Tax Cuts and Jobs Act Tax Reform, the amount of spousal maintenance paid pursuant to a court-approved separation agreement or a court order must be calculated by:
  - a) taking the total maintenance awarded, increasing it by the federal and state marginal tax rate of the payor, and subtracting the total from payor's income while also taking the total maintenance awarded, increasing it by the marginal tax rate of the payee, and adding this amount to the payee's income. This amount is entered on Line C.3; or

b) if the parties agree, the amount of spousal maintenance paid may be increased by an average tax rate of 25%. This amount is entered on Line C.3. The payments of court-ordered spousal maintenance arrearages shall not be deducted.

#### **D. Court-Ordered Spousal Maintenance Received**

1. For orders entered on or before December 31, 2018, the amount of current spousal maintenance received pursuant to a court-approved separation agreement or a court order must be added on Line C.4 to the extent that the spousal maintenance is actually received. Payments of spousal maintenance arrearages must not be deducted.
2. For orders entered after December 31, 2018, as a result of the 2017 Tax Cuts and Jobs Act Tax Reform, the amount of any spousal maintenance received by a party pursuant to a court-approved separation agreement or court order, must be adjusted by:
  - a) taking the total maintenance awarded, increasing it by the federal and state marginal tax rate of the payor, and subtracting the total from payor's income while also taking the total maintenance awarded, increasing it by the marginal tax rate of the payee, and adding this amount to the payee's income. This amount is entered on Line C.4; or
  - b) if the parties agree, the amount of spousal maintenance shall be increased by an average tax rate 25%, added as income to the extent that the spousal maintenance is actually received and is not for arrearages. This amount is entered on Line C.4.

#### **IV. Child Support Computations**

**A. Generally.** The gross child support obligation is determined using the child support schedules (Appendix II). The child support schedules have three major factors: the number of children in the family, the combined child support income, and the age of each child. The child support schedule corresponding to the total number of children for whom the parents share responsibility should be used. When using the multiple family application, use the child support schedule for the number of children in this order and the number of children residing in the payor's home for whom the payor is legally responsible. If the multiple-family application is appropriate, use the child support schedule that includes the children of the parties and the total number of children the parent not having primary residency is legally obligated to support. If using the multiple-family application will result in a gross child support obligation (Line ~~D.3~~ D.4) below the poverty level shown on the second page of the applicable child support schedule, the use of the multiple-family application is discretionary.

**B. Child Support Income.** The combined child support income amount should be identified in the left-hand column of the applicable child support schedule. The amount for each child should be identified in the appropriate age column for each child. The

amounts for all of the children should be added together to arrive at the total gross child support obligation. The total gross child support obligation is entered on Line D.3. If there is divided residency as defined in Section IV.D.3 III-B.5., two child support schedules must be prepared.

**C. Proportionate Shares of Combined Income.** The proportionate child support obligation of each parent is the sum of the gross child support obligation (Line D.5 D-6), parenting time or shared residency adjustment if appropriate (Line E.4), the physical health, mental health, dental, orthodontic, and vision premiums (Line F.2 D-8), and the work-related child care costs (Line G.3 D-10). This amount is entered on Line H.1 D-11.

#### **D. Gross Child Support Obligation**

- 1. Child Support Schedules.** The child support schedules<sup>i</sup> (Appendix II) are based upon national data regarding average family expenditures for children, which vary depending upon three major factors: the parents' combined income, the number of children in the family, and the ages of the children.<sup>ii</sup> The schedules take into consideration that income deductions for social security, federal retirement, and federal and state income taxes, as well as property taxes on owner-occupied housing, are not available to the family for spending.<sup>iii</sup> Although the schedules use combined gross monthly income as an index that identifies values in the child support schedules, the entries in the schedules used to calculate the actual child support obligation are based upon either consumption spending<sup>iv</sup> or after-tax income, whichever is lower. The schedules also include a built-in reduction from average expenditures per child (the dissolution burden), because of the financial impact on the family of maintaining two households instead of one.<sup>v</sup>
- 2. Age.** In determining the age of a child, use the age on the child's nearest birthday.
- 3. More than Six Children.** If the parties share legal responsibility for more than six children, support should be based upon the established needs of the children and be greater than the amount of child support on the six child families' schedule.
- 4. Divided Residency Situations.** Divided residency is when parents have two or more children and each parent has residency of one or more of the children. For divided residency, if each parent has primary residency of one or more children, a worksheet should be prepared for each family unit using the child support schedule which corresponds with the total number of children of the parties living in each family unit. If the parties' children are covered by the same health insurance policy, the cost should be prorated based upon the number of children in each family unit. Upon completion of the two worksheets, the lower net parental child support obligation is subtracted from the higher amount. The difference is the amount of child support the party having the higher obligation will pay to the party with the lower obligation.

**5. Combination of Primary and Shared Residency.** In situations where the parties have multiple children, some of which are on a shared residency arrangement and some which are on a primary residency arrangement, two worksheets should be used. One worksheet should use the shared formula for the number of children in that arrangement and the second worksheet should use the primary formula for the number of children in the primary arrangement. The parent with the higher child support obligation will pay the parent with the lower child support obligation the difference between the two worksheets.

**E. Cost of Living Differential.** The cost of living varies among states. The "Regional Price Parities by State" as reported by the United States Department of Commerce, Bureau of Economic Analysis can be used to compute a value for the cost of living differential. The adjusted monthly income figure is entered on Line A.1, Line B.1, or Line C.5 of the child support worksheet. There is a rebuttable presumption that the adjusted pay amount reflects the variance in cost of living. The application of the cost-of-living differential is discretionary. It is not applicable in cases where a cost-of-living adjustment has already been applied to a person's wages. The child support worksheet should indicate whether the cost-of-living differential is used. The income of the parties will not be subject to a cost-of-living differential if both parties live in Kansas or reside in the same metropolitan statistical area (MSA). More information about cost-of-living differential can be found in the supplemental materials on the Kansas Judicial Branch Website.

In situations involving a payor who is in the military, the cost-of-living calculation is not being utilized, because the payor's cost of living has already been adjusted with additional BAS (subsistence) or BAH (housing).

**F. Multiple Family Application.** The multiple-family application may be used to adjust the child support obligation of the parent not having primary residency when that parent has legal financial responsibility for the support of other children who reside with that parent. The multiple-family application may be used by a parent not having primary residency when establishing an original order of child support or an increase in support is sought by the parent having primary residency. However, the court has discretion to allow use of the multiple family adjustment application regardless of who files a motion to modify child support. If using the multiple-family application will result in a gross child support obligation (Line D.3 in the Child Support Worksheet) below the poverty level as shown on the child support schedules, the use of the multiple-family application is discretionary. The multiple family adjustment must not be used for children who are already part of another ~~court~~ child support order.

For this application, use the child support schedule that includes the children of the parties and the total number of children the parent not having primary residency is legally obligated to support.

If the significant other of the parent not having primary residency or the parent not having primary residency herself is pregnant at the time of the motion to increase child

support, the court must complete two child support worksheets, one with the multiple-family application including the unborn child, and one without the unborn child. The court must then order that, until the birth of the child, the child support amount from the child support worksheet without a multiple-family application based on the new child will be utilized. Beginning with the first payment following the birth of the child, the child support amount from the child support worksheet including the new child shall be utilized.

In the instance of shared residency or divided residency, the multiple-family application is available to either party as a defense to a requested child support increase.

**G. Extended Formula for Income Beyond the Child Support Calculations.** If the combined child support income exceeds the highest amount shown on the schedules, the court should exercise its discretion by considering what amount of child support should be set in addition to the highest amount on the child support schedule. The amount of child support shown on the child support ~~tables~~ schedules are presumptive. The amounts determined by the extended formula are discretionary. For the convenience of the parties, the extended formula is contained at the end of each child support schedule (Appendix II) to compute the amount that is not set forth on the schedules.

**H. Parenting Time Adjustment.** The court may allow a parenting time adjustment in favor of the parent not having primary residency using either subsection IV.H.1 or IV.H.2 but not both. Also, the court may allow an extended parenting time adjustment pursuant to IV.H.2~~4~~3. The court may allow a non-exercise of parenting time adjustment to the parent having primary residency pursuant to IV.~~E.2.d~~H.4. The parenting time adjustment, like all other adjustments, is subject to the 10% rule pursuant to Section I.E.2. Because the adjustment is prospective and assumes that parenting time will occur, the court may consider the historical exercise or historical non-exercise of parenting time as a factor in denying, limiting, or granting an adjustment under this section. Adjustments under this section may be prorated over twelve months unless the parent having primary residency requests otherwise. If the shared expense formula or the equal parenting time formula applies in shared residency situations, no parenting time adjustment may be made under this section.

- 1. Actual Cost Adjustment.** The court may consider: 1) the fixed obligations of the parent having primary residency that are attributable to the child and any savings because of the time spent with the non-primary residency parent; and 2) the increased cost of additional parenting time to the parent having non-primary residency. The amount allowed should be entered on line E.1.b. D-5 of the child support worksheet.
- 2. Parenting Time ~~Formula~~ Adjustment Formula.** The court may consider the amount of time that the parent spends with the child. If the child spends 35% or more of the child's time with the parent not having primary residency, the court shall determine whether an adjustment in child support is appropriate. In calculating the parenting time adjustment, the child's time at

school or in day care shall not be considered. To assist the court, the following table may be used to calculate the amount of parenting time adjustment. The adjustment percentage should be averaged if there is more than one child and if the percentages are not the same for each child. The amount of the parenting time adjustment allowed should be entered on Line E.1.a. on the child support worksheet.

<u>Nonresidential Parent's Parenting Time</u>	
<u>% of Child's Time</u>	<u>Adjustment</u>
35%-39%	10%
40%-44%	20%
45%-49%	30%

3. **Extended Parenting Time Adjustment.** In situations where a child spends fourteen (14) or more consecutive days with the parent not having primary residency, or when the child spends time on a shared time schedule during the summer, the support amount of the parent not having primary residency ~~from Line F.5~~ (calculated without a parenting time adjustment) may be proportionately reduced by up to 50% of the monthly support from Line D.5 ~~F.5~~. Brief parenting time with the parent having primary residency shall not be deemed to interrupt the consecutive nature of the time. The amount allowed should be entered on the child support worksheet as a parenting time adjustment on Line E.1.c ~~D.5~~.
  
4. **Non-Exercise of Parenting Time Adjustment.** The court may make an adjustment based on the historical non-exercise of parenting time as set forth in the parenting plan. The amount allowed should be entered on the child support worksheet as an overall financial condition adjustment.

**I. Health and Dental Insurance Premium.** Costs of physical health, mental health, dental, orthodontic, and vision premiums are included in the total child support obligation, the parent or the parent's household actually making the payment is credited. The actual cost paid for the child or children is entered in the column of the parent(s) providing the payment on Line I.1.D.12. If the parties' children are covered by the same health insurance policy, the cost should be prorated based upon the number of children in each family unit.

The cost to the parent or parent's household to provide for physical health, mental health, dental, orthodontic, or vision insurance coverage for the minor child or children is to be added to the gross child support obligation. The amount to be used on Line F.1 D.7 is the actual cost for the child or children. If coverage is provided without cost to the parent or parent's household, then zero should be entered as the amount.

The court has the discretion to determine whether the proposed insurance cost is reasonable, and to make an adjustment as appropriate, taking into consideration the income and circumstances of each of the parties and the quality of the insurance



proposed. The cost of insurance coverage should be entered in the column of the parent or parent's household which is providing it, and the total is entered on Line F.1 D.7.

**J. Work-Related Child care Costs.** Actual, reasonable, and necessary child care costs paid to permit employment or job search of a parent should be added to the support obligation. "Paid" means the net amount after deducting any third party reimbursements. The court has the discretion to determine whether proposed or actual child care costs are reasonable, taking into consideration the income and circumstances of each of the parties. The monthly figure is the average annual amount, including variations for school breaks. This amount is entered on Line G.1 D.9. Projected child care expenses should be reduced by the anticipated or available tax credit for child care before an amount is entered on the worksheet. More information about work-related child care costs can be found in the supplemental materials on the Kansas Judicial Branch Website.

**K. Basic Child Support Obligation.** The basic parental child support obligation is the ~~parental~~ proportionate child support obligation for each parent (Line H.1 D.11) minus the adjustment for physical health, mental health, dental, orthodontic, and vision premiums and work-related child care costs paid by each party (Line I.1 D.12) and is entered on Line I.2 D.13. The parent having primary residency retains their portion of the net obligation. The net obligation of the parent not having primary residency becomes the rebuttable presumption amount of the support order.

## V. Adjustments

**A. Use.** Child support adjustments are additions or subtractions from the net parental child support obligation to be made if the court finds it is in the best interest of the child. Child support adjustments must be requested in writing by the requesting party prior to the hearing. If no adjustment is requested, this section does not need to be completed. All requested adjustments are discretionary with the court. The party requesting the adjustment is responsible for proving the basis for it. The court must determine if a requested adjustment should be granted in a particular case based upon the best interest of the child. If granted, the court has discretion to determine the amount allowed. The adjustment should be annualized to a monthly amount and should be entered on the appropriate line in Section E. All adjustments shall be totaled on Line J.6 E.6. Failure to comply with the terms of an adjustment to the basic ~~parental~~ child support obligation, such as failure to exercise parenting time or not using a special needs allocation, constitutes a material change in circumstance.

**B. Long ~~Distant~~ Distance Parenting Time Costs.** Any substantial and reasonable long-distance transportation or communication costs directly associated with parenting time must be considered by the court. If the parties are equally sharing the transportation of the child for long-distance parenting time, this adjustment should not be used. In making the calculation, the court should divide the total amount by two so that the noncustodial parent is only given a credit for the other parent's portion of the costs. The court is not required to use federal mileage cost in the calculation. The court may

consider the circumstances that created the long-distance situation. The amount allowed should be prorated to an annualized monthly amount and entered on Line J.1 ~~E.1~~.

**C. Income Tax Considerations.** The parties are encouraged to maximize the tax benefits of the dependency exemption and credits for a minor child and to share those actual economic benefits. If the parties do not agree to share the actual economic benefits of the dependency exemption for a minor child or, if after agreeing, the parent having primary residency refuses to execute IRS Form 8332, the court must consider the actual economic effect to both parties and may adjust the child support. The party seeking the income tax consideration adjustment has the burden of proof. The court also may consider any other income tax impacts, regardless of an agreement upon the dependency exemption and tax credit issues.

In situations where the payor lives in another state, Kansas state income tax rates should be used in the calculation of the income tax adjustments. However, the court has discretion to make adjustments on a case-by-case basis to address those differences. The amount allowed must be entered on Line J.2 ~~E.2~~.

**D. Special Needs.** Special needs of the child are items that exceed the usual and ordinary expenses incurred, such as ongoing treatment for health problems, orthodontist care, special education, or therapy costs, which are not considered elsewhere in the support order or in computations on the worksheet. The amount of the special needs expenses, reduced to a monthly average, must be entered on Line J.3 ~~E.3~~.

**E. Agreement Support Past Majority.** If the parties have a written agreement for a parent to continue to support a child beyond the age of majority, it may be considered in setting child support. If there is no written agreement, ~~the~~ fact that a parent is currently supporting a child of the parties in college (or past the age of majority) may be considered if the parent having primary residency seeks to increase the child support for the benefit of any children still under the age of eighteen. The amount allowed must be entered on Line J.4 ~~E.4~~.

**F. Overall Financial Condition.** The financial situation of the parties may be a reason to deviate from the calculated basic parental child support obligation if the court finds that the deviation is in the best interest of the child. The amount allowed should be entered on Line E.5. For example, if either party has more than one job or works overtime, the circumstances requiring the additional income should be considered. If the additional income was historically relied upon by the parties prior to the dissolution of the relationship, then all of the income should be included in the calculation of the child support obligation. However, if the additional income was secured after the dissolution of the relationship to meet additional financial responsibilities, consideration may be given to that circumstance. The court must keep in mind the best interest of the child. In such a situation, two worksheets may be prepared with one worksheet including all income and the other worksheet including only the primary income to determine the margin of deviation. The amount allowed must be entered on Line J.5 ~~E.5~~.

## VI. Deviations from Rebuttable Presumptive Amount

**A. Generally.** The court must make written findings regarding deviations to the child support guideline amount and include the reason why the deviation is in the best interest of the child.

**B. Equal Parenting Time.** A court must have decided that equal parenting time is in the best interest of the minor children. The children's time with each parent must be regular and equal rather than equal based on a non-primary residency extended parenting time basis (i.e., summer visitation, holidays, etc.).

**C. Discretionary.** Use of this section is discretionary with the court. To qualify, the parties must share the children's time on an equal basis, not based on a non-primary residency extended parenting time basis (i.e. summer visitation, holidays, etc.). Second, the parties must be sharing the basic direct expenses of the child as defined in Section I.C.1. Parents who share the children's time equally may be eligible for one of the following: the shared expense formula (Section VI.E) or the Direct Expense Formula (Section VI.G). Parents who share their children's time equally but do not want or are not able to agree to share direct expenses should consider using the Direct Expense Formula (Section VI.G).

**D. Sanctions.** Failure to share expenses pursuant to the expense sharing agreement or failure to abide by the time-sharing agreement may result in termination of the use of the shared expense formula or other appropriate sanctions.

### **E. Shared Expense Formula**

1. **Use.** Sharing expenses and using the Shared Expense Formula is a method of paying expenses related to the children. Sharing expenses and using the shared expense formula requires parents to effectively communicate and cooperate regularly. Sharing expenses and using the formula should only be attempted by parents who:

- communicate well;
- are highly cooperative co-parents;
- have the ability and willingness to keep accurate records for the period of time necessary to raise their children;
- will share the children's direct expenses in a timely manner;
- have similar values and tastes;
- have considered the current and future needs of their children carefully; and
- are willing and able to resolve minor problems without the intervention of others.

If using this agreed shared expense formula, the direct expense formula is not used.

2. **Court Approval.** No shared expense formula shall be ordered without the court having approved the following five ~~six~~ requirements:

a) **Equal Parenting Time.** A court must have decided that equal parenting time is in the best interest of the minor children. The children's time with each parent must be regular and equal rather than equal based on a non-primary residency extended parenting time basis (i.e., summer visitation, holidays, etc.).

b) **Agreed Detailed Plan.** The parties have executed a detailed written agreement to share the direct expenses of the children on an equal basis. Direct expenses include, but are not limited to, clothing and education expenses, but do not include household food, transportation, housing, or utilities.

c) **Unreimbursed Health Expenses.** Unreimbursed health expenses should continue to be shared in proportion to the parties' income. See Section IV, Specific Instruction for the Worksheet, Subsection D.4.b. and worksheet Line D.2.

d) **Direct expenses.** Direct expenses may be shared by dividing each expense or by offsetting expenses using an agreed expense sharing plan. (Appendix VI).

e) **Worksheet.** The parties must present a child support worksheet using the shared expense or equal parenting time formula.

f) **Alternative Dispute Provision.** Neither party may unilaterally modify or terminate the agreed upon shared expense plan. The parties' shared expense agreement must include an alternative dispute process for any disagreements the parents may have concerning the children's expenses.

3. **Calculation.** The support is calculated using one worksheet. The amount of the lower adjusted subtotal (Line D.5) is subtracted from the higher adjusted subtotal (Line D.5) and the difference is then divided by 2. The resulting amount is the child support the party having the higher obligation will pay to the party with the lower obligation. After calculating the enforcement fee, the fee is added to the child support obligation and this amount is entered on Line F.8 of the child support worksheet for the parent with the higher adjusted subtotal on Line F.6.b.

F. Equal Parenting Time Obligation **Direct Expense Formula**

1. **Generally.** In ~~shared residency equal parenting time~~ situations where the parents do not share the direct expenses of the minor child(ren) have an agreed shared expense plan, they may agree or the court may order the use of this Equal

~~Parenting Time the Direct Expense Formula. If using this Equal Parenting Time Direct Expense formula, the agreed shared expense formula Shared Expense Formula is not utilized-used. The parents are presumed to each provide the child's clothing in their own home. A child support worksheet must be prepared.~~

2. **Factors.** When using this formula, the parties may agree which parent is to pay the direct expenses of the minor child(ren). If the parties don't agree, the court must consider the following factors in establishing which parent shall pay the direct expenses:
  - Historical roles and familiarity of the parties with purchasing needs of the child(ren);
  - Demonstrated performance under previous equal parenting time or shared expense formula, if applicable;
  - Demonstrated payment of historical percentages of child(ren)'s medical/dental bills; and/or
  - Ability of a party to cooperate with the other party.
  
3. **Formula.** ~~The equal parenting time-Direct Expense fFormula must consist of the following steps:~~
  - a) **Step 1:** ~~The amount of the lower adjusted subtotal amount on Line F.3 D.5 shall must be subtracted from the higher adjusted subtotal amount on Line F.3 D.5. The resulting figure shall must be multiplied divided by 0.5 2 and shall constitutes the first portion of the formula. Unless otherwise ordered by the court, the parents are presumed to each provide the child's clothing in their own home. Use either Step 2.a. or 2.b. depending on whether the parents each provide clothing for the child in their own home.~~
  
  - b) **Step 2:** ~~Based on which household is providing clothing, choose one of the following: Multiply Line D.2 by the percentage set out on the table below.~~
    - ~~For parents providing clothing for the child in their own home, the Line D.3 child support obligation figure will be multiplied by one of the following percentages: 7% if total combined monthly child support income on Line D.2 is equal to or less than \$4,690;~~
    - ~~10.5% if total combined monthly child support income on Line D.2 is more than \$4,690 and less than \$8,125;~~
    - ~~15% if total combined monthly child support income on Line D.2 is equal to or greater than \$8,125, or;~~
  
    - ~~If the parents do not provide the child's clothing in their own home, the Line D.3 child support obligation amount will be multiplied by one of the following percentages:~~
      - ~~11% if total combined monthly child support income on Line D.1 is equal to or less than \$4,690;~~

- ~~14% if total combined monthly child support income on Line D.1 is more than \$4,690 and less than \$8,125;~~
- ~~18% if total combined monthly child support income on Line D.1 is equal to or greater than \$8,125.~~

c) **Step 3:** Add the amount from Step 1 and Step 2 to Line E.4 on the child support worksheet. This is the additional contribution owed by the parent not paying direct expenses.

~~Based on which parent is designated to pay the direct expenses for the child, choose one of the following:~~

- ~~If the parent with the lower adjusted subtotal from Line F.3 of the child support worksheet (the parent receiving support) is responsible for paying all direct expenses of the child, the resulting figure from Step a shall be added to the resulting figure from either Step b. This result shall be the amount the parent with the higher support obligation on Line F.3 pays to the parent with the lower support obligation on Line F.3 before the child support enforcement fee is calculated. This amount is entered on Line F.4 of the child support worksheet. The equal parenting time worksheet, or a worksheet in substantially the same form, shall be filed with the child support worksheet.~~
- ~~If the parent with the higher adjusted subtotal from Line F.3 is responsible for paying all direct expenses of the child, the resulting figure from Step b. shall be subtracted from the resulting figure from Step a. This result shall be the amount the parent with the higher support obligation on Line F.3 is credited on Line F.3 before the child support enforcement fee is calculated. This amount is entered on Line F.4 of the child support worksheet.~~

~~2. **Less than Zero.** If the result on Line 14 of the Equal Parenting Time Worksheet (Appendix V) is less than zero, the court must consider the overall financial circumstances of the parties to determine whether an adjustment should be made. The equal parenting time worksheet, or a worksheet in substantially the same form, shall be filed with the child support worksheet.~~

**3. Equitable Considerations.** If the court determines the result of the direct expense formula is unjust and is not in the best interest of the child, the court must then decide if adjustments are appropriate. In evaluating whether to apply an adjustment, the court must consider the overall financial circumstances of the parties and the presence and amount of disparity between the incomes. The court may also consider which parent is responsible for the direct expenses, health insurance, and work-related child care.

**D. — Prior Use.** In situations where the Equal Parenting Time formula has previously been established with one parent paying the direct expense portion and there is a subsequent realignment of the relative incomes, absent agreement of the parties, the Court must determine which parent should pay the direct expense portion.

**E. — Shared Expense Formula**

**1. — Use.** Sharing expenses and using the shared expense formula is an alternative method of paying expenses related to the children. Sharing expenses and using the shared expense formula requires parents to effectively communicate and cooperate regularly. Sharing expenses and using the formula should only be attempted by parents who:

- communicate well;
- are highly cooperative co-parents;
- have the ability and willingness to keep accurate records for the period of time necessary to raise their children;
- will share the children's direct expenses in a timely manner;
- have similar values and tastes;
- have considered the current and future needs of their children carefully; and
- are willing and able to resolve minor problems without the intervention of others. —

**2. — Discretionary.** Use of this section is discretionary with the court. To qualify, the parties must share the children's time on an equal basis, not based on a non-primary residency extended parenting time basis (i.e. summer visitation, holidaysetc.). Second, the parties must be sharing the direct expenses of the child as defined in Section I and II.A.1. Parents who share the children's time equally may be eligible for one of the following: the shared expense formula (see Section III.B.7.a.) or the equal parenting time formula (Section III.B.7.b.). Parents who share their children's time equally but do not want or are not able to agree to share direct expenses should consider using the equal parenting time formula (Section III.B.7.b.).

**5. — Calculation.** The support is calculated using one worksheet. The amount of the lower adjusted subtotal (Line F.6.b) is subtracted from the higher adjusted subtotal (Line F.6.b) and the difference is then multiplied by .50. The resulting amount is the child support the party having the higher obligation will pay to the party with the lower obligation. After calculating the enforcement fee, the fee is added to the child support obligation and this amount is entered on Line F.8 of the child support worksheet for the parent with the higher adjusted subtotal on Line F.6.b.

**6. — Court Approval.** No shared expense formula shall be ordered without the court having approved the following six requirements:

**Equal Parenting Time.** A court must have decided that equal parenting time is in the best interest of the minor children. The children's time with each parent must be

~~regular and equal rather than equal based on a non-primary residency extended parenting time basis (i.e., summer visitation, holidays, etc.).~~

~~**Agreed Detailed Plan.** The parties have executed a detailed written agreement to share the direct expenses of the children on an equal basis. Direct expenses include, but are not limited to, clothing and education expenses, but do not include household food, transportation, housing, or utilities.~~

~~**Unreimbursed Health Expenses.** Unreimbursed health expenses should continue to be shared in proportion to the parties' income. See Section IV, Specific Instruction for the Worksheet, Subsection D.4.b. and worksheet Line D.2.~~

~~**Direct expenses.** Direct expenses may be shared by dividing each expense or by offsetting expenses using an agreed expense sharing plan. ( Appendix VI).~~

~~**Worksheet.** The parties must present a child support worksheet using the shared expense or equal parenting time formula.~~

~~**Alternative Dispute Provision.** Neither party may unilaterally modify or terminate the agreed upon shared expense plan. The parties' shared expense agreement must include an alternative dispute process for any disagreements the parents may have concerning the children's expenses.~~

~~**Sanctions.** Failure to share expenses pursuant to the expense sharing agreement or failure to abide by the time-sharing agreement may result in termination of the use of the shared expense formula or other appropriate sanctions.~~

## **G. Ability to Pay Calculation**

- 1. Use.** The court must take into consideration the basic subsistence needs of the noncustodial parent, and at the court's discretion, the custodial parent and children. In calculating child support, the court must take into consideration the current federal poverty guidelines for a household of one. The current poverty guidelines change annually and can be found at <https://aspe.hhs.gov>.
- 2. Calculation.** To determine a parent's ability to pay, the court must subtract the current federal poverty guidelines for a household of one from the child support income (Line D.1). This amount is the income available for support. If the income available for support is greater than the child support owed by the noncustodial parent, the lesser of the two amounts ~~shown in F.5.a~~ should be entered on Line F.5.b as the amount of child support owed by the noncustodial parent. If the income available for support is less than the child support owed by the noncustodial parent, the court shall set a child support obligation based on the best interest of the child and enter it on Line F.5.b as the amount of child support owed by the noncustodial parent.



## H. Social Security Dependent Benefits

- 1. Payee Benefits.** Dependent/auxiliary benefits received by a parent or guardian, as representative payee of the child, based upon the earnings or disability of the payor shall be considered as a credit to satisfy the payor's child support obligation as follows:
  - The child's dependent auxiliary benefit must be applied as a credit to the payor's current child support obligation. The credit must be entered in Line F.6 on the child support worksheet.
  - Any portion of the benefit that exceeds the child support obligation must be considered a gratuity for the benefit of the child(ren).
  - In situations when both the payee and payor receive Social Security benefits and the child is eligible to receive dependent/auxiliary benefits, the judge must make findings as to how the dependent/auxiliary benefits will be applied to the child support obligation.
- 2. Dependent/Auxiliary Benefits.** If the child receives Social Security dependent/auxiliary benefits through the payor, the actual amount of such benefits received must be entered on Line K F-6. If the amount received is equal to or exceeds the Line K.2 F-5.b subtotal, the payor's obligation is \$0, which must be entered on Line L F-6.b. If the amount received is less than the Line K.2 F-5.b subtotal, the payor's support obligation is the difference between Line K.2 F-5.b subtotal and the benefit received, which amount must be entered on Line L F-6.b.

- I. Enforcement Fee Allowance.** In instances where the court trustee or DCF collects an enforcement fee, it should be divided equally between the parties. One half of the total monthly fee should be entered as an additional amount allowed on Line M F-7 for the parent not having primary residency. In areas where the court trustee or DCF charge a percentage of each payment, this amount is determined by multiplying the percentage fee charged by the court trustee or DCF by the figure on Line M F-3 and then multiplying by .5 ((Line F.3 x Collection Fee %) x .5). In areas where a flat fee is charged, that flat fee is multiplied by .5 to find the amount applied on Line M F-4 (Monthly Flat Fee x .5). These fees may vary and should be entered on Line N F-7.

## J. Net Total Parental Child Support Obligation

- 1. Generally.** The total net parental child support obligation is determined by adding the enforcement fee allowance (Line M F-7), if any, to the net child support obligation adjusted subtotal on Line L F-6.b. The resulting amount is entered on Line N F-8 and becomes the amount of the child support order.
- 2. Rounding.** Calculations should be rounded to the nearest tenth for percentages. Calculations should be rounded to the nearest dollar. In using the

child support schedules for income amounts not shown, income should be rounded to the nearest basic child support obligation amounts.

## II. Judgments

**A. Judgment.** Child support becomes a judgment when it is due and goes unpaid.

**B. Birth Expenses.** If a judgment for birth expenses or a judgment pursuant to K.S.A. 23-2215 is awarded, the presumed amount is the parent's proportionate share as reflected on Line D.3 ~~D.2~~ of the child support worksheet. If a parent's proportionate share of the birth expenses is more than 5% of the parent's current gross annual income projected over five years, the parent may request a deviation.

## III. Retroactive Lump Sum Payment

If the parent or guardian, as a representative payee for the child, received a lump sum payment of retroactive SSDI benefits, the amount shall be applied as a credit against the child support arrearage that accumulated during the months covered by the lump-sum payment. The payee must notify the court and all parties within 30 days of receipt of the lump sum payment. The court may issue sanctions if notice is not provided. Any portion of the lump sum payments of retroactive SSDI dependent/auxiliary benefits paid to children in excess of the child support obligation should not be credited against the child support arrearage and is considered gratuity for the benefit of the child(ren).

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<sup>i</sup> The schedules are derived from an economic model initially developed in 1987 by Dr. William Terrell.<sup>1</sup> In the fall of 1989, Dr. Ann Coulson updated the schedules,<sup>2</sup> which were then modified downward at lower income levels in 1990 at the Court's request and adjusted for current economic data in 1993.<sup>3</sup> Dr. William Terrell reviewed various studies and foundation data in 1998 and 2002. These reviews led to updated schedule proposals; however, no changes were made in 1998. His more recent statistical analyses and attendant schedule changes provide the bases for the committee's recommendations that were adopted by the Court in 2003.<sup>4</sup> Dr. Jodi Pelkowski worked with Dr. Terrell during the review period which led to the adoption of Kansas Supreme Court Administrative Order No. 180 effective January 1, 2004, and took over Dr. Terrell's work during 2005.<sup>5</sup> Her analyses of economic data in spending on children served as the basis for the committee recommendations in 2007, 2011, 2015, 2018, and 2022.

<sup>ii</sup> See Linda Henry Elrod, *Kansas Child Support Guidelines: An Elusive Search for Fairness in Support Orders*, 27 WASHBURN. L. J. 104, 120-25 (1987). Expenditures per child are assumed to increase with increases in parents' combined income, decrease per child as the total number of children in the family increases, and increase as the child grows older.

<sup>iii</sup> See Terrell, *supra* note 3, at 7; Letter from Dr. Ann Coulson to Hon. Herbert Walton, February 21, 1990, *supra* note 4, at 2.

<sup>iv</sup> Consumption spending means household outlays for consumer goods and services as opposed to the purchase of assets or savings accounts.

<sup>v</sup> This reduction involves subtracting the age 16-18 child's share of a total family burden at two points on the equation that relates average spending per the age 16-18 child to gross family income. Once the two lower points

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are determined, then the entire equation is reduced in order to compute the support schedules. For example, the one child aged 16-18 family calls for a reduction of \$228 at the poverty level income of \$1,650. Hence, the poverty level average spending of \$579 becomes the schedule entry of \$351. Similarly, at an income of \$15,500 per month, average spending of \$2,580 per child declines by \$324 to the support amount of \$2,256. The tabled values derive from an equation that passes through these two diminished values.