

Memo

To: Penny Davis
From: Gillian Richard and James Walters
Date: April 5, 2016
Re: State Provisions in Child Support Guidelines Concerning Joint Custody Cases

INTRODUCTION

The Alabama Supreme Court's Rule 32 Committee requested research on how other states handle child support in joint custody cases. To accommodate this request, this memo provides information on the various child support guidelines in each state. In this memo, the first section summarizes the main child support model types used by the states. The second section lists the general approaches to joint custody and a more detailed summary of how each state handles the issue. In addition to this memo, a chart comparing the various models and approaches used by each state is attached.

DISCUSSION

A. Child Support Model Types

All states adopt some form of child support guidelines. Despite the variation in calculating child support amounts, all states generally fall into one of three categories. First, some states use an income share model. Second, other states use a percentage of income model. Finally, a few states use the Melson Formula.

1. Income Share

The income share model calculates the amount of child support by determining the proportion of parental income of both parents. This model attempts to set the support near the amount that the child would have received if the parents had not divorced.

2. Percentage of Income

The percentage of income model calculates the amount of child support by determining the percentage of the noncustodial parent's income. This model does not calculate the custodial parent's income. States using this model apply either a flat percentage or a varying percentage.

3. Melson Formula

The Melson Formula calculates the amount of child support based on several public policy judgments. For example, the formula recognizes that supporting others requires one's own basic support be met and that the calculation of support should incorporate a Standard of Living Adjustment. Based on the consideration of public policy factors, this formula can vary among the states that use it.

B. Treatment of Joint Custody by States

Recognizing shared physical custody¹ as a special factor in the calculation of child support, most states change the amount based on the fact that the parent paying support will likely be contributing directly to the needs and expenses of the child. The approaches used by the state are often distinguishable from the child support model. While all states provide some method for addressing shared physical custody cases, these methods normally fall under one three categories.

First, some states use an **equal custody formula**. This approach requires the child to share substantially equal amount of time with each parent. What consists of "substantially equal time" varies from state to state. If substantially equal time is shown, then the court applies a specific calculation or guideline to determine the amount of child support owed by the parents.

Second, some states use a **sliding scale method**. Under this approach, the state's guidelines set a threshold amount of time spent with the child, visitation, or custody. Once the threshold is met, which can vary among states, the court will adjust the support on a sliding scale to reflect the amount of time that the parent spends with the child.

Finally, other states use a **deviation factor**. In contrast to the other approaches, this method uses no special formula or guideline for calculating support. Instead, the court applies the ordinary child support model and deviates if the court finds the support unfair or inappropriate. Generally, states using this method rely on the facts in each case.

1. Alabama

Alabama follows the income share model for child support. Alabama does not currently have a specific treatment for shared/joint custody, but does permit courts to consider shared

¹ Shared physical custody is also called "shared custody," "physical custody," "joint custody," and "joint physical custody."

custody as a deviation factor from the presumptive guidelines. Shewbart v. Shewbart, 19 So. 3d 223 (Ala. Civ. App. 2009). This deviation is on a case-by-case basis made by the trial court judge or through an agreement between the parties. The deviation may be given in a short-term custody change situation, but the reason for deviation must be explained. Knight v. Knight, 739 So. 2d 507 (Ala. Civ. App. 1999). It is also proper for a trial court to refuse to grant child support when the parents share custody. Bonner v. Bonner, 170 So. 3d 697 (Ala. Civ. App. 2015).

2. Alaska

Alaska uses the percentage of income model to calculate child support awards. Alaska defines shared physical custody as the situation where the child stays with a parent between 30-70 percent of the year, which should include overnight visits. Alaska Civ. R. 90.3. Alaska also recognizes hybrid physical custody, where parents have shared custody of one child and split custody of another. Id. To determine shared custody child support amounts, Alaska first calculates the reciprocal support amounts for the time each parent will have custody based on the income of the other parent. Id. The parent with the larger figure is the obligor parent and the amount of child support is the difference in the two figures multiplied by 1.5. Id. In cases of equal custody when one parent's income is higher than the other's, the higher-paid parent can be required to pay support to the other. O'Neal v. Campbell, 300 P.3d 15 (Alaska 2013). Alaska is unlike some of the other percentage of income states in that it has a separate calculation for shared custody (See sections on Arkansas, Illinois and Mississippi for examples).

3. Arizona

Arizona uses the income share model. Arizona does not calculate child support where both parents have equal custody and income. Arizona Child Support Guidelines. Where income is not equal, the total amount is divided proportionally, and the parent who owes the greater amount pays the necessary amount to equalize the two households. Id. The following example, found in the guidelines, is instructive: "After making all applicable adjustments under Sections 9 and 13, the remaining child support obligation is \$1500. The parents' proportionate shares of the obligation are \$1000 and \$500. To equalize the child support available in both households, deduct the lower amount from the higher amount ($\$1000 - \$500 = \$500$), then divide the balance in half ($\$500 \div 2 = \250). The resulting amount, \$250, is paid to the parent with the lower obligation." Id.

4. Arkansas

Arkansas is a varying percentage of income state. While Arkansas law provides for an abatement for support during extended visitation, joint custody is only considered as a deviation factor from the guidelines. AR. Sup. Ct. Adm. Order No.10 § 5.

5. California

California is an income share state and employs a formula in the calculation of child support. While courts may choose not to apply the formula based on time-sharing arrangements, the basic child support obligation takes into consideration the amount of time that the higher-earner parent will have custody of the child. CAL. FAM. CODE §§ 4055, 4057. The formula, and its components, are as follows:

$$CS = K[HN - (H\%)(TN)].$$

(A) CS = child support amount.

(B) K = amount of both parents' income to be allocated for child support as set forth in paragraph (3).

(C) HN = high earner's net monthly disposable income.

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

(E) TN = total net monthly disposable income of both parties.

CAL. FAM. CODE §§ 4055.

6. Colorado

Colorado is an income share model state, and uses a formula to calculate support in shared custody cases. The formula for shared custody only comes into play if both parents keep the child in excess of 25 percent of the time and contribute to the expenses of the child. In re Redford, 776 P.2d 1149 (Colo. App. 1989). After calculating the normal child support obligation, the amount is multiplied by 1.50 in recognition of the fact that certain expenses will be duplicated. COLO. REV. STAT. §§ 14-10-115. The adjusted obligation is divided proportionately, then multiplied by the amount of time the child will reside with the other parent. Id. The calculation is then adjusted based on each parent's child care costs and various other factors. The parent with the greater figure at the end of the calculating will owe the difference to the other parent. Id. This is true even if the custodial parent will have to pay the noncustodial parent. In re Antuna, 8 P.3d 589 (Colo. App. 2000).

7. Connecticut

In Connecticut, an income share state, the presumptive current support order in shared custody situations is the amount calculated for the parent with the higher weekly income under state guidelines. Child Support and Arrearages Guidelines, <https://www.jud.ct.gov/Publications/ChildSupport/CSguidelines.pdf>. The shared custody situation is considered to be a deviation factor.

8. Delaware

Delaware is one of just a handful of states that use the Melson Formula. Under the Melson Formula, the amount of time a child spends with a noncustodial parent is not a variable

in the formula, although it may contribute to a court's finding that applying the formula is inequitable. Del. Family Ct. Civ. R. 52. When a court finds the Melson formula's application to be inequitable, substantial visitation time that amounts to a shared custody agreement can be considered to decrease a support amount. Dcse v. Howard, 1996 Del. Fam. Ct. LEXIS 37 (reduction denied on other grounds).

9. District of Columbia

D.C. uses a hybrid method to calculate basic child support obligations, and uses a percentage of time spent with the parents to determine if parents have shared custody. D.C. CODE ANN. § 16-916.01. If the child spends more than 35 percent of the year with each parent, the basic support obligation is divided proportionately based on income. Id. That amount is then multiplied by the amount of time that the child will spend with the parent, then subtracted from the basic support obligation. Id. The parent owing the greater amount must then pay the difference to the other parent. Id.

10. Florida

Florida is an income share state. Its guidelines refer to shared custody as time-sharing agreements. FLA. STAT. ANN. § 61.30. Florida also uses a formula to calculate obligations in a shared custody situation. One of the multiplicative factors in the formula is the percentage of the other parent's overnight stays with the child. Id. The amount may be adjusted for daycare and health insurance coverage. Id. The court may choose to deviate from the formula in the case of an indigent parent, or based on the likelihood that either parent will actually adhere to the time-sharing schedule. Smith v. Smith, 45 So. 3d 928 (Fla. 2nd DCA 2010).

11. Georgia

Georgia is an income share state. Georgia's guidelines recognize parenting time as a deviation for the noncustodial parent when the noncustodial parent's court-ordered visitation is either extended or in the case of true shared custody. GA. CODE ANN. § 19-6-15. This deviation is treated as a deduction from the presumptive child support obligation. Id.

12. Hawaii

Hawaii applies the Melson Formula to calculate child support. Where parents have children for six months each, they are considered to have equal time-sharing. Hawaii Child Support Guidelines. In that situation, a separate calculation is in order, which includes calculating the amount of support owed to each parent if the other parent was the noncustodial parent and determining which parent's obligation is higher. Id. Hawaii has an additional, separate calculation for extensive, but not equal time-sharing. This situation arises when a parent has more than 143, but less than 183, overnight visits per year. Id.

13. Idaho

Idaho, an income share state, finds shared physical custody when a child spends more than 25 percent of overnights with each parent. I.R.F.L.P. Rule 126. To compute the adjustment based on shared custody, the basic obligation is multiplied by 1.5. Id. The amount is then multiplied by each parent's percentage of income. The resulting amounts are then multiplied by the percentage of time the child spends with the other parent. The respective child support obligations are then offset, with the parent owing more child support paying the difference between the two amounts. Id. Idaho also has an abatement calculation when a child spends 14 consecutive days or more with the noncustodial parent, and the court may reduce the amount of child support by 50 percent for the duration of the extended visitation. Id.

14. Illinois

Illinois is a percentage of income state, and therefore does not discuss a separate calculation for shared custody. 750 ILL. COMP. STAT. ANN. 5/505. While the statute provides a list of deviation factors, custody is not a specified factor, though the statute does say that the list is not all-inclusive. Id. See In re Marriage of Smith, 981 N.E.2d 1163, (Ill. App. Ct. 2d Dist. 2012) (holding that trial court erred in awarding the husband child support equal to 20 percent of the wife's net monthly income because the parties shared custody of their child). See also In re Marriage of Reppen-Sonneson, 701 N.E.2d 1159 (Ill. App. Ct. 2d Dist. 1998) (holding that where the parties agreed to share in the legal and physical custody of their 3 children, the court was not obligated to rely on the statutory guidelines and, therefore, an order that the father pay \$75 per week in child support was not an abuse of discretion).

15. Indiana

Indiana is an income share state, and uses a parenting time credit to compensate noncustodial parents for the number of overnights they spend with their children. See Order Amending Ind. Child Support Rules & Guidelines, 2009 Ind. LEXIS 1695. This credit is based on the amount of duplicated expenses incurred by the noncustodial parent and the number of overnights. Id. The credit is proportional; the more overnight visits exercised, the larger the amount of the credit will be, up until the parents have equal parenting time. Id. The credit is not automatic and can be reduced or withdrawn based on noncompliance with the visitation schedule or if the credit would impact the parent's ability to support the children. Id.

16. Iowa

Iowa is an income share state. Iowa recognizes joint physical care when it is court-ordered, instead of based on a percentage of time spent with each parent. Iowa Ct. R. 9.14. The calculation method is based on the difference in the respective parent's obligations as calculated under the guidelines. Id. The payment is the difference in the amounts once the amounts have offset each other. Id.

17. Kansas

Kansas is an income share model state, and only discretionally grants a special treatment for joint custody. Kansas Sup. Ct. Admin. Order No. 284. If the parties equally share time with the child throughout the year and share in the direct expenses of the child, the court may choose to apply the shared expense formula or the equal parenting time formula to calculate the child support obligation. Id. To apply the equal parenting time formula, parties must agree not to use the shared expense formula, the formula must not result in a parent's inability to meet a child's direct needs, and the use of the formula must be in the child's best interest. Id. To apply the shared expense formula, there must be equal parenting time, an agreed detailed plan between the parties, and unreimbursed health expenses. Id.

18. Kentucky

Kentucky is an income share state. The Kentucky child support guideline statute addresses split custody, but not shared. KY. REV. STAT. ANN. § 403.212. See Downey v. Rogers, 847 S.W.2d 63 (Ky. Ct. App. 1993) (holding that child support may be ordered where the parties have equal physical possession of the children).

19. Louisiana

Louisiana is an income share state. The state defines shared custody as each parent having custody for an approximately equal amount of time, which is not defined solely by a number of days. Janney v. Janney, 943 So. 2d 396 (La.App.2006). In determining the amount of child support owed, the court first multiplies the basic amount by 1.5 in order to compensate for the increased expenses associated with shared custody. LA. REV. STAT. ANN. § 9:315:9. Once that amount is divided proportionately between the parties, the amounts are cross-multiplied by the amount of time spent with the other party. Id. Costs from work-related daycare are added to that amount, while net child care costs, health insurance premiums, and other extraordinary expenses are subtracted. Id. The parent with the higher figure owes the parent with the lower figure the difference in the two amounts. Id.

20. Maine

Maine is an income share state. Where parties have equal custody and equal gross income, no child support payment is calculated. ME. REV. STAT. ANN. tit. 19-A §§ 2001-2012. Equal custody is defined by substantially equal participation in the child's residential, educational, recreational, child care and health care costs. Id. Maine calculates shared custody between parents with unequal incomes based on the party with the higher income's obligation. The party with a higher annual income must pay the other parent the difference between their parental support obligations and the amount calculated under the guidelines if s/he was the noncustodial parent. Id. The statute also specifies that the parents are to split child care, health insurance premiums, and uninsured medical expenses in proportion to their incomes. Id.

21. Maryland

Maryland is an income share state. It calculates shared physical custody based on the percentage of overnight visits exercised by each parent; if each parent keeps the child for 35 percent of overnights in the year and the parents share in expenses, they have shared physical custody. MD. FAM. LAW CODE ANN. §§ 12-201. Maryland utilizes the same formula as several of the other states, where it first splits the basic child support obligation between the parents then multiplies that by the percentage of time spent with the respective parent, then obligates the parent with the higher amount to pay the difference in the two. Id. Maryland differs from other states in that it does not first use a multiplier to increase the basic child support obligation. Id.

22. Massachusetts

Massachusetts utilizes a hybrid method for calculating basic child support obligations. If parents share equally in time and expense, the presumptive guidelines should be calculated for each party, then the parent with the higher obligation will pay the difference to the other parent. Massachusetts Child Support Guidelines.

23. Michigan

Michigan is an income share state. In recognition of the cost shifting and savings associated with joint custody, Michigan applies the Parental Time Offset Equation to basic child support obligations. Michigan Child Support Formula Manual. The formula and its components are as follows:

$$(A)(B) - (B) \times (A)(A) + (B)$$

A= approximate number of overnights child will likely spend with parent A

B= approximate number of overnights child will likely spend with parent B

A= parent A's base support obligation

B= parent B's base support obligation

A negative result means that parent A pays and a positive result means parent B pays. Id. The manual provides guidelines for determining the amount of parenting time. See Ewald v. Ewald, 292 Mich. App. 706 (2011) (vacating trial court's application of the formula based on parenting time).

24. Minnesota

Minnesota is an income share state and follows the states that do not allow for a child support obligation between parents with equal incomes and parenting time. MINN. STAT. ANN. §§ 518A.36. Minnesota uses the same basic formula as Maryland, but uses a multiplier of 0.75 to increase the initial support obligation. Id. Minnesota is different than most states in that it does not base parenting time only on overnight visits, but also includes school days and holidays. In re Marriage of Braun, 2015 Minn. App. Unpub. LEXIS 549 (Minn. Ct. App. 2015).

25. Mississippi

Mississippi is a percentage of income state. The presumption that the amount calculated under a percentage of income is correct may be rebutted by a judicial or administrative finding that the application of the guidelines would be inappropriate based on, among other things, the particular shared parenting agreement that the parties have agreed to. MISS. CODE ANN. §§ 43-19-103.

26. Missouri

Missouri is an income share state. The courts in Missouri may award an amount of child support that provides up to a fifty percent adjustment of the basic child support obligation for joint custody. MO. ANN. STAT. § 452.340. Joint custody is based on equal or substantially equal time with both parents. Id. When calculating the correct amount for a joint custody situation, courts should consider the financial resources of both parties, the payment of medical expenses, and child care expenses. Gatton v. Gatton, 35 S.W.3d 930 (Mo. Ct. App. 2001).

27. Montana

Montana uses the Melson Formula in its calculation of child support. Montana, however, provides an adjustment to the formula for joint custody. If a child spends more than 110 days with both parents, the basic support obligation will be reallocated based on the needs of the child, with offsetting transfer payments between the parents. Mont. Admin. R. 37.62.138.

28. Nebraska

Under Nebraska statutes, if there is joint physical custody and each parent's time with the child exceeds 142 days per year, there is a rebuttable presumption that child support is calculated by a joint physical custody worksheet. Neb Ct. R. § 4-212. Additionally, the court has the discretion to use this worksheet if a parent's time with the child is between 109 and 142 days per year. Id. The joint physical custody worksheet calculates the support owed by using the percentage of time to adjust support. Neb Ct. R. Worksheet 3. Finally, if support is not calculated under the joint physical custody worksheet, the court may adjust the support when certain excess visitation requirements are met. Neb Ct. R. § 4-210.

29. Nevada

In joint physical custody cases, Nevada courts calculate child support based on each parent's timeshare in such custody. Under Nevada law, each parent must have physical custody at least 40 percent of the time to constitute joint physical custody. Rivero v. Rivero, 216 P.3d 213, 223-24 (Nev. 2009). If the time requirement is met, the court uses the "Wright formula." Id. at 231-32. Under this formula, the court calculates the percentage of income that each parent is obligated to pay and subtracts the difference between the two. Wright v. Osburn, 970 P.2d 1071, 1072 (Nev. 1998); Rivero, 216 P.3d at 232. The parent with the higher income pays the parent with the lower income the difference, and the court may adjust the support using the statutory

factors. Id. If time requirement is not met but one parent has primary physical custody and the other has visitation rights, then the court may adjust child support using the statutory factors. Rivero, 216 P.3d at 231. These statutory factors include the relative incomes of both parents and the amount of time the child spends with each parent. NEV. REV. STAT. ANN. § 125B.080.

30. New Hampshire

New Hampshire is an income share state. Although there is a general presumption that child support calculated by the guidelines is correct, the court may rebut this presumption by a finding that the application of the guidelines would be unjust or inappropriate. N.H. REV. STAT. ANN. § 458-C:4. New Hampshire courts may make adjustments in the application of the guidelines under certain circumstances. N.H. REV. STAT. ANN. § 458-C:5. These circumstances include the income level of a parent and the parenting schedule. Id. However, equal or approximately equal parenting residential responsibilities by itself do not constitute ground for adjustment. Id. In joint custody cases, New Hampshire courts must also consider other factors, such as the whether such custody reduces the fixed costs of a child, before adjustments can be made. Id.

31. New Jersey

New Jersey uses the income share model when calculating child support. The New Jersey Court Rules establish that guidelines are to be applied in child support cases. N.J. Ct. R. 5:6A. In shared custody cases, the rules provide a different guideline for calculating support. N.J. R. Prac. App. 9-A(14). These appendixes distinguish sole custody from shared custody by setting forth specific instructions and a specific worksheet. See N.J. R. Prac. App. 9-B; N.J. R. Prac. App. 9-D.

32. New Mexico

New Mexico uses an income state model. To establish child support, New Mexico courts must apply the guidelines provided by statute. N.M. STAT. ANN. § 40-4-11.1. For a custody arrangement to qualify as shared custody, each parent must provide a suitable home for the child, the child must spend thirty-five percent of the time with each parent, and both parents share duties and expenses. Id. If a case involves shared custody, the court uses the basic child support schedule but applies a different worksheet to calculate the amount. Id.

33. New York

New York is an income share state. New York courts determine the basic amount of the child support obligation by applying the statutory formula. N.Y. DOM. REL. LAW § 240 (McKinney).² While the statute is silent on the formula's application in shared custody cases, the New York Court of Appeals found that the formula still applies to shared custody cases. Bast v. Rossoff, 697 N.E.2d 1009, 1010-11 (N.Y. 1998). The court found that trial courts could

² The provisions related to child support are known as the Child Support Standard Act (CSSA).

determine which parent was the custodial parent, by determine the parent with physical custody the majority of the time, when using the formula. Id. at 1011-12. If the formula produces an unjust or inappropriate amount in a shared custody case, the trial court, based on certain factors, may adjust the amount. Id. at 1012. See also N.Y. DOM. REL. LAW § 240 (McKinney). However, if both parents share physical custody equally, New York courts may look to which parent has the higher pro rata share of the child support obligation. Baraby v. Baraby, 681 N.Y.S.2d 826, 827 (N.Y. App. Div. 1998).

34. North Carolina

North Carolina is an income share state. The Conference of Chief District Judges promulgates the child support guidelines for North Carolina. N.C. GEN. STAT. ANN. § 50-13.4. The guidelines must set forth procedures for joint or shared custody cases. Id. The procedures for determining child support in shared custody cases applies when both parents have custody of the child for at least 123 nights per year (not months or weeks) and when both parents share expenses. North Carolina Child Support Guidelines. If the shared custody provisions apply, the parents' combined basic support is increased by fifty percent and allocated between the parents based on their respective incomes and the amount of time the children lived with the other parent. Id.

35. North Dakota

North Dakota uses the percentage of obligor's income model when calculating child support. In North Dakota, the department of human services promulgates the child support guidelines. N.D. CENT. CODE ANN. § 14-09-09.7. Under these promulgated rules, if the court orders "extended parenting time," which means the obligor parent has physical custody of a child for over sixty of ninety consecutive nights or an annual total of one hundred sixty-four nights, the court must adjust the amount of child support. N.D. ADMIN. CODE 75-02-04.1-08.1. The court calculates this adjustment based on the number of nights the parent has custody. Id. However, if the parents have equal residential responsibility, in which both parents have residential responsibility for an equal amount of time determined by the court, the court uses a different method to calculate child support. N.D. ADMIN. CODE 75-02-04.1-08.2. Under this method, the obligation for each parent is calculated, the lesser obligation is subtracted from the greater, and the difference is owed by the parent with the greater obligation. Id.

36. Ohio

Ohio is an income shares state. Under Ohio statutes, the courts calculate child support for shared custody cases in similar manner to sole custody cases. OHIO REV. CODE ANN. § 3119.24; see also OHIO REV. CODE ANN. § 3119.22. However, under certain conditions, the courts may deviate from the amount calculated by the guideline if the amount would be unjust or inappropriate. OHIO REV. CODE ANN. § 3119.24. Factors that may be considered include the

extended parenting time or extraordinary costs associated with parenting time or the disparity in income between the parties. OHIO REV. CODE ANN. § 3119.23.

37. Oklahoma

Oklahoma uses the income shares model when calculating child support. Under Oklahoma statutes, the courts initially calculate child support regardless of whether there is sole custody or shared custody. OKL. STAT. ANN. tit. 43, § 118D. However, if the noncustodial parent is granted at least one hundred twenty-one overnights of parenting time per twelve-month period, the courts may consider “parenting time adjustment.” OKL. STAT. ANN. tit. 43, § 118E. Oklahoma statute defines parenting time adjustment as an adjustment to the base child support amount based upon parenting time. OKL. STAT. ANN. tit. 43, § 118A. The number of overnights granted to the noncustodial parent determines the deviation from the initial amount. OKL. STAT. ANN. tit. 43, § 118E.

38. Oregon

Oregon is an income shares state. Generally, Oregon courts calculate the child support amount using the formula provided in the Administrative Rules. OR. ADMIN. R. 137-050-0710. However, in calculating the amount, the courts credit each parent’s obligation for parenting time. Id. The credit is determined by the number of overnight stays during two consecutive years or some other method if the parents have an alternative parenting time schedule. OR. ADMIN. R. 137-050-0730.

39. Pennsylvania

Pennsylvania is an income shares state. If the obligor has physical custody of a child for forty percent or more time in a year, the Pennsylvania courts apply a different formula to calculate child support. Pa. R. Civ. Pro. 1910.16-4. In this formula, the time spent by the obligor determines the amount calculated. Id. However, if the child spends equal time with both parents, the formula cannot be applied unless the obligor is the parent with the higher income. Id. In this situation, the courts may deviate under certain conditions. Pa. R. Civ. Pro. 1910.16-5.

40. Rhode Island

Rhode Island uses an income shares model to calculate child support. Under the applicable statute, Rhode Island courts calculate child support according to the formula and guidelines adopted by an administrative order of the family court. R.I. GEN. LAWS § 15-5-16.2. The most recent administrative order discourages deductions based on extended visitations unless the obligor demonstrates that such visitation would make the obligation inequitable. See Rhode Island Family Court, “Administrative Order 2007–03: Rhode Island Family Court Child Support Formula and Guidelines” (2007), available at <http://www.mtlhlaw.com/Page-9.pdf>, p. 4 (last visited April 1, 2016). Likewise, for shared physical custody, the order encourages the

courts to exercise discretion to determine an equitable amount. Id. at p. 5. If the amount required by the guidelines is inequitable, the court may adjust the amount. R.I. GEN. LAWS § 15-5-16.2.

41. South Carolina

South Carolina is an income shares state. When calculating child support, the South Carolina courts use the Child Support Guidelines Schedule and worksheets which are obtained from the State Department of Social Services and local clerks of court offices. S.C. CODE ANN. REGS. 114-4710; see also S.C. CODE ANN. REGS. 114-4750. If the cases involves shared custody arrangements, the courts use a worksheet that adjusts the amount of child support based on the time a parent spends with the child. S.C. CODE ANN. REGS. 114-4730. To qualify for this adjustment, a parent must have court-ordered visitation with the child overnight for more than 109 overnights each year, or thirty percent, and both parents contribute to the expenses of the child. Id.

42. South Dakota

South Dakota uses the income shares model when calculating child support. Under South Dakota statutes, courts may grant an abatement between thirty-eight percent and sixty-six percent of the basic child support obligation if the child resides with the obligor ten or more nights. S.D. CODIFIED LAWS § 25-7-6.14. If the obligor has primary physical custody of the child for more than four consecutive months, the court may credit the obligor for child support arrearages which accumulated during that period. S.D. CODIFIED LAWS § 25-7-6.19. If a custody order contains a shared parenting plan in which the child will reside no less than one hundred eighty nights per year in each parent's home and the parents will share expenses, the court may grant a cross credit on the child support obligation based on the number of nights the child resides with each parent. S.D. CODIFIED LAWS § 25-7-6.27.

43. Tennessee

Tennessee is an income shares state. The Tennessee Department of Human Services promulgates the regulations for the child support guidelines. Under these regulations, there is a presumption that parenting time adjustments are applicable. Tenn. Comp. R. & Reg. 1240-02-04-.04. If the alternative residential parent spends more than ninety-two days or more per year with the child, then a reduction of child support may be made according to the number of days spent. Id.

44. Texas

Texas uses the percentage of income model when calculating child support. Texas may determine if the application of the child support guidelines would be unjust or inappropriate under the circumstances. TEX. FAM. CODE ANN. § 154.122. These circumstances include the amount of time a parent has custody of the child. TEX. FAM. CODE ANN. § 154.123.

45. Utah

Utah is an income shares state. If the child is with the noncustodial parent for at least 25 of any 30 consecutive days of extended parent-time, the child support award shall be reduced by fifty percent. UTAH CODE ANN. § 78-45-7.11. If the child is with the noncustodial parent for at least 12 of any 30 consecutive days of extended parent-time, the child support award shall be reduced by twenty-five percent. Id. However, normal parent-time and holiday visits shall not be considered extended parent-time. Id. Additionally, in cases of joint physical custody, if the obligor's time with the children exceeds 110 overnights, the obligation shall be adjusted based on the number overnights spent with the child. UTAH CODE ANN. § 78B-12-208. The amount of reduction in the child support depends on whether the time spent is between 110 and 131 overnights or is 131 overnights or more. Id. Joint physical custody means the child stays with each parent overnight for more than 30% of the year and the parents share expenses. UTAH CODE ANN. § 78B-12-102.

46. Vermont

Vermont is an income shares state. In shared physical custody cases, the child support obligation is increased by fifty percent. VT. STAT. ANN. tit. 15, § 657. The courts determine each parent's child support obligation by adjusting the amount in proportion to the amount of time each parent exercises physical custody and in proportion to each parent's respective income. Id. The parent owing the larger amount will be required to pay the difference in the two amounts. Id. This provision applies when each parent exercises physical custody for thirty percent or more of a year. Id. If one parent exercises physical custody for twenty-five percent or more but less than thirty percent of a year, each parent's respective obligation shall be determined by a shared costs table adopted by the agency of human services. Id.

47. Virginia

Virginia is an income shares state. When the case involves shared custody or visitation of more than 90 days of a year, the child support amount is to be based on the ratio in which the parents share the custody and visitation. VA. CODE ANN. § 20-108.2. However, the amount cannot reduce a support obligation to an amount which seriously impairs the custodial parent's ability to maintain minimal adequate housing and provide other basic necessities for the child. Id.

48. Washington

Washington uses the income shares model when calculating child support. The Washington child support statutes permit the courts to deviate from the standard child support calculations based on the time that the child spends with the obligor. WASH. REV. CODE ANN. § 26.19.075. However, if the deviation will result in insufficient funds for the household to meet the basic needs of the child or if the child is receiving temporary assistance for needy families, the court may not deviate. Id. When deviating, the court shall consider the increased expenses to

a parent paying support resulting from time spent with the child and shall consider decreased expenses to the party receiving support resulting from the time spent with the child. Id.

49. West Virginia

West Virginia is an income shares state. If the case involves shared custody, in which each parent has the child for more than one hundred twenty-seven days per year or thirty-five percent, child support is calculated using the shared parenting worksheet. W. VA. CODE ANN. § 48-13-501. This worksheet uses a calculation that is different from the sole custody worksheet and that factors the time spent with each parent. Id.; see also W. VA. CODE ANN. § 48-13-502.

50. Wisconsin

Wisconsin is a percentage of the income state. The Wisconsin Department of Children and Families promulgates the child support guidelines and rules. WIS. STAT. ANN. § 49.22. When a court calculates shared-placement child support, both parents must have court-ordered periods of placement of at least twenty-five percent or ninety-two days and each parent must assume the child's basic support in proportion to the time that the parent has placement of the child. WIS. ADMIN. CODE DCF §150.04. If these conditions are met, the court determines child support based on the proportion of the time that the child spends with each parent. Id.

51. Wyoming

Wyoming is an income shares state. If each parent keeps a child for more than forty percent of the year and both parents contribute to the expenses of the child in addition to the child support, the court determines child support under a joint presumptive support obligation. WYO. STAT. ANN. § 20-2-304. Under this provision, the court calculates the proportionate share of the total obligation and determines the obligation of each parent by multiplying the percentage of time spent with the child. Id. Additionally, child support shall be abated, unless otherwise ordered by the court, by one-half of the daily support obligation for each day the noncustodial parent has physical custody of the child, so long as the parent has physical custody for fifteen or more days. WYO. STAT. ANN. § 20-2-305.