



## ***Child Support Division***

### ***Child Support Guidelines Fact Sheet – Proposed Changes August 1, 2014***

The child support amount a person is required to pay in North Dakota is set by a court using child support guidelines. The guidelines are adopted by the Department of Human Services through administrative rule. State and federal laws require the Department to review the guidelines every four years to ensure that their application results in appropriate child support amounts being ordered.

As part of the review process, the Department recently convened a drafting advisory committee. The members of the committee included two legislators, a district court judge, a judicial referee, an attorney in private practice, and a paralegal who is also a parent who receives child support.

Based on the recommendations of the advisory committee, the Department is proposing several changes to the guidelines. The proposed changes are summarized below, and can be found on the Department's website at <http://www.nd.gov/dhs/services/childsupport/progserv/guidelines/guidelines.html>. The proposed changes include several clarifications as well as some substantive changes. Some proposed changes are prompted by judicial interpretations of the current guidelines. Except as indicated below, several significant areas of the guidelines have been left unchanged.

A public hearing on the proposed changes will be held on Thursday, September 18, 2014. Written comments will be accepted until 5:00 p.m. on Monday, September 29, 2014. If you would like to request notice of the time and location of the public hearing, or if you would like to provide written comments on the proposed rules, please send the request or comments to: Rules Administrator, North Dakota Department of Human Services, State Capitol – Judicial Wing, 600 E. Boulevard Ave., Dept. 325, Bismarck, ND 58505-0250.

## ***Summary of Proposed Changes***

### **Substantive Changes**

- The schedule of amounts is expanded to include monthly increments up to \$25,000.
- A methodology is created for calculating child support obligations when parents have equal residential responsibility for some, but not all, of their children.

- In calculating the hypothetical deduction for the federal income tax obligation, an amount equal to one-half of the child tax credit must be considered for each qualifying child for whom there is one-half of a tax exemption.
- In situations where the obligor incurs a loss from a self-employment activity, conditions are set forth specifying when the loss may be used to reduce self-employment income from a different activity.
- Nonrecurring capital gains realized by an obligor are excluded from gross income.
- In situations where income is imputed based on the obligor's earning capacity:
  - The look-back period for imputing income based on prior earnings is changed to include the current calendar year and the two previous calendar years.
  - A hierarchy is established for imputing income when an obligor is both a minor and has a disability or is both incarcerated and has a disability.
  - The methodology for imputing income to an obligor who fails to provide financial information needed to establish a child support obligation is changed to potentially allow for imputing income based on 100 percent of statewide average earnings for persons with similar work history and occupational qualifications.
- Certain overseas housing-related allowances for an obligor who is in the military are excluded from the obligor's gross income.
- A new rebuttal reason is created for situations in which an obligor's ability to pay is reduced because the obligor is on a temporary duty assignment for the military and must maintain two households as a result of the assignment.
- The deduction for lodging expenses incurred as a condition of employment is increased from \$63 to \$83 per night.
- A deduction from gross income is created for unreimbursed non-commuting mileage incurred by an obligor who must drive a personal vehicle between work locations. The deduction is computed at the rate of \$0.56 per documented mile.

### **Clarifications**

- The deductions for employee expenses for special equipment or clothing and for lodging are changed to clarify that these expenses must be unreimbursed.
- The deduction for health insurance premiums is changed to clarify that it includes premiums for dental and vision care.
- The adjustment for extended parenting time is changed to clarify that it is not authorized when the parents have equal residential responsibility for their children.
- The deviation for high-income obligors is changed to clarify that it must be based on demonstrated needs of the child.
- Changes are made to clarify that when there is an upward deviation in a case involving split or equal residential responsibility, the deviation must be added to the presumptively correct child support amount before offsetting the parents' obligations.

### **Areas Where No Changes Are Proposed**

- General instructions.
- Split residential responsibility.
- Multiple-family calculations.
- Extended parenting time (except for the clarification noted above).
- Foster care or guardianship care.

**For more information:** Contact Paulette Oberst, Assistant Director for Policy and Lead Attorney, at 701-328-3582 or by email at [poberst@nd.gov](mailto:poberst@nd.gov).