



Child Support Division

Child Support Guidelines Fact Sheet – Amended Guidelines September 1, 2015

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 convened a drafting advisory committee in 2014. 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 proposed several changes to the guidelines and initiated a rulemaking project according to state law. The rulemaking project included a public hearing as well as an opportunity for the public to submit written comments. The rulemaking project has been completed and amendments to the guidelines will take effect on September 1, 2015.

The amendments are summarized below. The amendments include several clarifications as well as some substantive changes. Some changes were prompted by judicial interpretations of the guidelines. Except as indicated below, several significant areas of the guidelines have been left unchanged.

Summary of Amendments

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 documented 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 less any actual mileage reimbursement from the employer.

Clarifications

- The deductions for employee expenses for special equipment or clothing and for lodging are changed to clarify that these expenses must be unreimbursed and must be documented.
- 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, including, when applicable, needs that arose from activities in which the child participated while the family was intact.

- 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.
- Changes are made to clarify that "statewide average earnings" means North Dakota's statewide average earnings.

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.