

2019 HOUSE HUMAN SERVICES

HCR 3050

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HCR 3050
2/27/2019
32955

- Subcommittee
 Conference Committee

Committee Clerk: Nicole Klamann

Explanation or reason for introduction of bill/resolution:

A concurrent resolution directing the Legislative Management to consider studying the issues of fairness and equity as they relate to child support guidelines and obligor model.

Minutes:

1-3

Representative Steve Vetter: Introduced bill. Handed out letter from Kevin Ferguson a North Dakota father wanting change in current child support laws. **(Attachment 1)**.
(0:05:04)

Representative Todd Porter When was share parenting on the ballot?

Rep. Vetter: 2-3 sessions ago.

Andy Hendrickson, citizen: In support, see **(Attachment 2)**.
(0:11:45)

Shawn Cassen, attorney: In support recently divorced and realized the work this area needs. Why are we not looking at both parents' income? Or incorporate the cost of raising a child.
(0:17:09)

Representative Karen Rohr: How many states have changed their models based on the study?

Shawn Cassen: I'm uncertain.

Beau Koffler, citizen: In support, written testimony not provided: Ordered to pay \$3200.00 in child support, recently lost job with the company he helped build. Impossible for the paying party to get ahead in life. Should be based on what it costs to raise a child. There is nothing in place to insure the money is spent on child. It's nothing more than a blank check. Not trying to get out of father responsibility, but it needs to be regulated and fair. One party is always held down by the other which creates animosity which in turn makes co-parenting impossible.
(0:25:51)

Bobby Brown, citizen: In support, written testimony not provided. Has 2 children and divorced, trying to grow his business. But there's no incentive to working hard when you fall into the child support system. Ex was granted the right to move children 4 hours to better her business which provides an income that is not considered.
(0:31:06)

Gentleman who got the measure on the ballot: In support, written testimony not received. How do we get things so that the children are getting the same from each parent? Make child more equitable to both parents.

John Hanson, citizen, Fargo: Child support is turned into a blank check. Often times there are new families, new kids. The money should be provided and set aside beyond an amount for monthly bills.

Jim Fleming, Director of the Child Support Division of North Dakota Department of Human Services: Neutral, written testimony, see (**Attachment 3**). There is not an epidemic of high child support orders in ND. We know how the story ends here. The average order size is 534.63 a month. ND has 1 of 7 obligor model, it is not out of date. If we gather income data from parents it's going to double the time to do a review, that will increase to 10 FTE. This is not a small feat. Perception VS. Reality. Back to the 700.00 child care bill, it would take a net income of 3700.00. It's essentially is a 19 multiplier.

Rep. Rohr: I feel like you intellectualizing. What are the other 43 states doing? What can we do to help other than looking at a chart and remember there are people. Spousal VS. Child support?

Jim Fleming: The law and orders make a clear break between spousal support and child support. Much of the time the obligation they are paying comes to half if not less than raising the child.

Representative Kathy Skroch: You talked about why things are good per the status quo. Do you have any suggestion to fix some of the problems that we heard today.

Jim Fleming: Our drive as a collection agency is to try to get smaller commitments rather than larger. We continue to adjust the guidelines, discount received after 100 nights instead of 160. We are collecting 76% every month of what is wrote. In an income shares model, you will not get a discount for a second family.

Rep. Skroch: Are people notified regarding the changes?

Jim Fleming: Yes

Chairman Weisz: Closed the meeting.

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HCR 3050
3/5/2019
33217

- Subcommittee
 Conference Committee

Committee Clerk:

Explanation or reason for introduction of bill/resolution:

A concurrent resolution directing the Legislative Management to consider studying the issues of fairness and equity as they relate to child support guidelines and obligor model.

Minutes:

Chairman Weisz: Opened the hearing on HCR 3050.

Vice Chairman Rohr: I move a Do pass on HCR 3050.

Rep. M. Ruby: Seconded.

Chairman Weisz: Any discussion?

Rep. Devlin: I will vote against the motion because we have studied this too much already. Some of us have been on the child support guidelines committees and looked at this through legislation almost every session I have been here. We studied this in Legislative Management in 2009 or 2010. I do understand the frustration have with child support in North Dakota but I don't think we would learn anything new with this study.

Chairman Weisz: In the last two terms I have also sat on that guidelines committee and I have to agree with Rep. Devlin. We have made a lot of changes and done a lot of good. The income shares model will not change anything. You will end up paying the same unless the spread between incomes becomes extremely high.

Rep. Porter: From a committee standpoint that the particular verbiage in SB2115 in section 4 of that bill, does way more than a complete study of this system again. We are at the point where we understand the system we are in and some of the short comings of that system. You don't need to study that when you can actually work inside of the existing law and make those changes. The entire bill may need some changing but I think SB2115 is a much better response to some of the changes than the study.

Chairman Weisz: The guidelines committee did spend quite a bit of time this last meeting on the 50-50. We did change the days down to 100 days and allowed a greater adjustment on the Child support to help address that issue.

Rep. M. Ruby: I hope we can pass this out, we can find some changes we could make. In the SB 2115 where it said in the case where you want 50-50 or no child support the default is to put something in place rather than not. That is the opposite of what a lot of people want. This hasn't been looked at in a decade. That seems like a long time. I think it is worth taking a look at again. I had a lot of calls this summer on shared parenting bills this summer looking for some change. I am hoping we can look at this.

Chairman Weisz: Any further discussion? Seeing none the clerk will call the roll for a Do Pass on HCR 3050.

Roll Call vote: Yes 2 No 11 Absent 1. Motion Failed on a Do Pass on HCR 3050.

Rep. Porter: I move a Do Not Pass on HCR 3050.

Rep. Dobervich: Seconded.

Roll Call vote: Yes 11 No 2 Absent 1. Motion carries for a Do Not Pass on HCR 3050.

Rep. Dobervich: Will carry the bill.

Hearing closed.

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HCR 3050**

House Human Services Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Vice Chairman Rohr Seconded By Rep. M. Ruby

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman		X	Gretchen Dobervich		X
Karen M. Rohr – Vice Chairman	X		Mary Schneider		X
Dick Anderson		X			
Chuck Damschen		X			
Bill Devlin		X			
Clayton Fegley		X			
Dwight Kiefert		X			
Todd Porter		X			
Matthew Ruby	X				
Bill Tveit	A				
Greg Westlind		X			
Kathy Skroch		X			

Total (Yes) 2 No 11

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Motion failed.

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HCR 3050**

House Human Services Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Porter Seconded By Rep. Dobervich

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	X		Gretchen Dobervich	X	
Karen M. Rohr – Vice Chairman		X	Mary Schneider	X	
Dick Anderson	X				
Chuck Damschen	X				
Bill Devlin	X				
Clayton Fegley	X				
Dwight Kiefert	X				
Todd Porter	X				
Matthew Ruby		X			
Bill Tveit	A				
Greg Westlind	X				
Kathy Skroch	X				

Total (Yes) 11 No 2

Absent 1

Floor Assignment Rep. Dobervich

If the vote is on an amendment, briefly indicate intent:

Motion Carried.

REPORT OF STANDING COMMITTEE

HCR 3050: Human Services Committee (Rep. Weisz, Chairman) recommends **DO NOT PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HCR 3050 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

HCR 3050

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Dear Mr. Vetter,

My name is Kevin Ferguson and I am writing this letter in an effort to help change the current child support laws and to try and swing the pendulum of fathers' rights to a far more neutral spectrum. I will try and keep this fairly brief...

"The first step in solving a problem is recognizing that there is one" and I believe that North Dakota has a 2 headed issue, child support and custody...one obviously goes with the other. I believe that the first step is to apply our legal motto of "innocent until proven guilty" and start with a 50/50 parenting time basis in every case. If one party wishes to pursue a larger portion of the parenting time, then it is up to that party to take that on in the courts. This one single move would shift the power onto a much more equal playing field for both parties, and empower more fathers to stand up for themselves. Once you are on equal ground, then you can start to divide up the costs of raising the kids, which should never be based simply on the salaries of the parents. One's salary does not accurately reflect the cost of raising a child. A \$20.00 can of formula does not suddenly cost \$25.00 if one parent makes more than the other parent. To calculate the cost of raising the kids, the common costs between both households should be eliminated...for example. Both parents have rent/mortgage to pay, clothing, food, utilities, laundry, etc.... Both parties should pay equally for things such as child care, health insurance, school costs, after school activities, sports, health costs and things that. Again, all too often the non-custodial parent is required to carry health insurance if it does not exceed 50% of their disposable income but the custodial parent is only required to carry it if it is available at no or a nominal fee. How is this fair? How is this equal? Both parties have the child for the same amount of time, yet the non-custodial parent has to pay extra for health insurance, plus pay an additional amount dictated by state for child support, plus split any other costs...and this is supposed to be equal?

I believe that the second step to fixing the inequalities is to have child support be decided AFTER custody is established. How can you accurately or honestly assign child support BEFORE custody is established? Last I checked, it is not child support that has jurisdiction over custody issues but the Courts instead. Also, I firmly believe that the definition of Child Support needs to be either defined or redefined in order to make accurate assessments. There are many things that go into supporting a child that have nothing to do with money!!

So, to summarize what I think are some major starting points for giving fathers more rights...

1. Start all custody discussions with an even 50/50 parenting time share, prove that it should be different
2. Establish the actual costs of raising the children.
 - a. Common costs like rent, food, utilities, clothing don't count as both parties have these costs
 - b. Split the costs of daycare, insurance, health bills, sports, etc. equally.
3. If you have to base child support on salaries alone, then incorporate the parenting time percentage into the equation.
4. Child support is calculated AFTER custody is established instead of before.

I would like to thank you for taking the time to read what I had to say, and I will end this email with some of my experiences/opinions. If you care to read them please do, if not...I understand. Thank you again for your time.

In both of the cases that I have been involved in, the mothers applied for assistance and asked for help in receiving child support benefits. Upon receiving the paperwork from Child Support, the verbiage reads as if the custody has already been assumed in the favor of the mother and absolutely nothing has been done in my favor. I am then given a time period to accept or deny this claim and fight it. How is possible that one can assign or even attempt to assign child support before custody has been established? This seems to give the mother a legal edge since child support has a legal team that will fight for support rights, especially since they now have a vested interest in collecting money, but there is no legal assistants for me as the father unless I pay out of pocket. I had my children with me full time for 11 months in Grand Forks with very little contact from their mother and absolutely no support...and I was fine with it because I had my kids. When visitations finally started happening, my ex decided to just keep the kids from me. I called the police in West Fargo, where she was living, and told them that I wanted to have the police assist me in getting my kids back. I was asked if there was any custody established which there was not at the time. That is when the police told me that the mother has as much right to the children as I did. I then told the officer that I would just keep the kids at my next visit then and was told by the police to not do that because the kids would be used to their new environment and it could be harmful to the kids. I told the office to tell that to her as they have been with me for 11 months and with her for 3 days...I then figured I could get them back Monday, since they were registered in a public school and it would be illegal for them to be taken from the school without permission. Monday morning I call the principal at Viking Elementary school and told her that the kids were not going to be in school that day because their mother had taken them from me and that I was going to need her assistance in pursuing this

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legally. That is when the principal told me that she already knew that they kids were not going to be there as their mother had already asked for a copy of the transcripts to be sent to another school in West Fargo. I got understandably upset and asked the principal why she had not come to me when the transfer request came through? The school was well aware of the situation with my kids, the school was providing counseling for them and helping me with anything I needed...but to not question such an odd request that didn't come from me?! I asked the principal if she would have done the same thing if the roles were reversed and it was the father asking for a transfer without the mother confirming it...and the silence I received answered it for me. The sexual discrimination that I feel is allowed when it comes to fathers' rights is borderline criminal and definitely needs addressed.

The method that child support is figured I believe is also heavily flawed as it is simply based on money and nothing else. While I understand that there has to be a basis of some sort, but I believe there is a LOT of room for improvement. There are a lot of factors that I believe need to be added into the equation to make it fairer for both parties as it takes a lot more than money to support a child. The salary of the parent has absolutely nothing to do with the cost of raising the child as both parties have expenses for housing, clothing, utilities, food etc. so I think it is unfair to simply base the calculations on salaries and the one that makes less gets the balance. Also, as the non-custodial parent may make improvements on their station in life, the custodial parent can have the case re-evaluated at given intervals and reap all of the benefits of the other parents efforts and sacrifices with none of the efforts...How does an increase in one's salary justify an increase in the cost of raising the child(ren). Being able to reassess the amount of child support should bear a very significant amount of proof and scrutiny in order to be approved.

Also, parenting time absolutely needs to be a factor in the figuring of support. How is it possibly fair if both parents have the child (ren) the same amount of time that one parent owes more money to the other parent? If one parent is carrying 90% of the load then they should certainly have some help in carrying that load, and I don't think you will find many parents that will deny that. This idea also reaffirms my idea that child support should be calculated only after custody is established; to do otherwise is simply prejudicial. Parenting time is another large issue that I feel needs addressed with a great deal of care. Far too many times it is assumed that the mother gets custody in a separation, 1 in 7, I believe, nationwide and even less in North Dakota. It has been proven that having both parents involved in a child's life has incredible benefits for the child(ren). To start off a custody case anything other than an even 50/50 split of visitation time is simply sexually discriminatory. How can one assume one parent is deserving of more time than the other without any sort

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of proof? I just went through this situation with my now ex fiancé. After 13 years, I ended our relationship in October 2016 and moved out of the house. I paid all of the bills in the house for that month, paid for the moving expenses and helped with the moving, and paid for the first 3 months of rent in her new apartment. I picked my then 7 yr. old daughter up for school every day, and picked her up from school most days. I took her for supper regularly and spent any extra time with her I could as she would not stay the night away from her mother. Around April of 2017 I received paperwork from child support stating that the mother had applied for assistance in collecting child support and that if I disagreed I had so much time to write a letter of dispute and submit it to the courts. In that calculation it said that I had 3 months of arrearages already...how is that possible when the case had not even made it to court yet? It was back dated to the beginning of January when the mother had first applied for assistance. How is it my fault that it took child support 3 months to contact me? Is it fair that I am behind before it even started? Anyway...in my anger and frustration I simply ignored it until that last minute and hand typed a letter and mailed it to the child support lawyer. Then next day I received a phone call from the lawyer and he told me that I was supposed to send it to the clerk of court instead of him, but a default judgement had already been issued anyway so it didn't matter. I said that wasn't fair, he had my dispute in his hand and that he could have called the clerk instead of me and informed them...I called the clerk of courts and asked if I could have an extension or still submit a dispute and I was told that I was procedurally incorrect and it was already done, but if I wanted to hire a lawyer and fight it I could.

I will start with my issues with the calculations...I am a self-employed property manager in Grand Forks, ND. The calculations are based on the average across the entire state of North Dakota, which also included the grossly over-inflated prices of the oilfield property which put the salary at about \$70,000 per year for an experienced manager. I had just taken over my business 2 years prior to this calculation. If you removed the oilfield from the calculation and used the beginning or novice manager it brought it down to about \$53,000. Being self-employed, the state assigned around 65% of the average salary to be a number to use to calculate which would have put me at about \$35,000 a year. I submitted my tax returns to child support and it showed that I was only making about \$25-\$30,000 a year and that I was underemployed...so they went ahead and used their own calculations on what I considered made up numbers. I use my tax returns as proof of income for everything I do in my business and it is accepted as is with no issues for everything else I do, but child support did not accept it because it did not fit within their parameters. How is that fair? Then, quite some time later, I had saved up enough money to hire a lawyer to help me establish custody and to correct child support.

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When my ex fiancé failed to reply to the original summons in time and to the correct office, my lawyer filed for a default judgment similar to what child support had done...and I was denied. The courts decided to allow more time for her to request for an extension to try and secure counsel. The deadline for the extension came, and passed by and my lawyer again requested a default judgement...and was again denied. The response from my ex was 17 days late and still accepted by the courts. I was NEVER offered any extra time, any extra anything in any proceedings with the courts in either of the cases I have been in...in fact had a default judgment the day after a deadline against me with child support instead because I was procedurally incorrect. Yet, the mother is ALSO procedurally incorrect, misses her original deadline when she asked for an extension, ALSO missed the extension deadline that she had requested and I get denied twice for a default judgment. Fair and equal under the eyes of the law?!

Civil Rights have made such huge advances over the last decades, isn't it time that North Dakota is no longer behind the times in parental rights? We preach that sex has no bearing on the ability of a person to perform the duties of a job, and to judge otherwise is discriminatory but yet better than 90% of custody is given to one sex over the other in the state of North Dakota. Please help in making this more equal!!!

Sincerely yours,

Kevin Ferguson

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From: Vetter, Steve M. smvetter@nd.gov
Subject: Chairman Weisz and Members of the Human Services committee,
my name...
Date: Feb 27, 2019 at 10:20:01 AM
To: Vetter, Steve M. smvetter@nd.gov

Chairman Weisz and Members of the Human Services committee, my name is Steve Vetter, I represent district 18, which is a small chunk of South Grand Forks, downtown, half of North Grand Forks and a small rural area extending to the Grand Forks Air Force Base.

I bring before you a study on the ND child support system. Is the child support system doing what we expect it to do. In full disclosure, I have no children so I have no personal experience with the child support system. After getting involved in the shared parenting discussion last and after several complaints from constituents, I decided to look into and do some research into our child support system.

There are 3 main categories of child support systems. Income shares model, percentage of income model and the Melson model. ND uses the percentage of income model and is one of 3 states that use a varying percentages model. It is sometimes referred to as the obligor model. Unfortunately, it uses a dated philosophy in which the non-custodial parent is obligated to give a percentage of their income to the custodial parent. However, in today's society their are more mixed family units that when the system was created. What I mean by a mixed family unit is that many times the non custodial parent has a new family with new children. Is the care of the new children less of a concern than care of the older first children? In ND system, the custodial parent's income is not taken into account unless it is 3 times the amount of the non custodial parent.

Should there be a cap on how much a child costs to raise? It seems to me that the child support system has become more of an alimony payment than

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a child support payment. If someone makes a million dollars a year does it take \$250,000 to raise a child? The answer I hear is the child should get the same lifestyle if the family were together. I think the child should stay with the other parent if they want that lifestyle. What about the new children? Should they get less of a lifestyle because there were kids with another parent before them? Child support should be about support for a child not another form of alimony or used as a weapon between competing parents.

What about a 2nd job? If child support is being paid and a person decides to get a 2nd job, why is the same percentage taken from a 2nd job. Why does the payment remain the same when taking care of the kids in the summer time?

These are a few of the concerns brought to me by citizens of ND. I will stand for questions, however, the time may be more wisely spent talking to the people after me who deal with the system personally.

CHILD SUPPORT GUIDELINE MODELS BY STATE

2/20/2019



States generally use one of three models to determine the base child support amount due:

The **Income Shares Model** is based on the concept that the child should receive the same proportion of parental income that he or she would have received if the parents lived together. In an intact household, the income of both parents is generally pooled and spent for the benefit

of all household members, including any children. Forty states, Guam and the Virgin Islands use the income shares model: Alabama, Arizona, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wyoming, Guam, Virgin Islands.

The **Percentage of Income Model** sets support as a percentage of only the noncustodial parent's income; the custodial parent's income is not considered. This model has two variations: the Flat Percentage Model and the Varying Percentage Model. Seven states (Alaska, Arkansas, Mississippi, Nevada, North Dakota, Texas, Wisconsin) use the percentage of income model. Four states (Alaska, Mississippi, Nevada and Wisconsin) use the flat



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You Have To Know
The Rules
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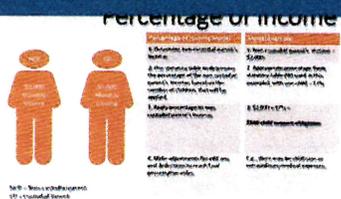
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The **Melson Formula** is a more complicated version of the Income Shares Model, which incorporates several public policy judgments designed to ensure that each parent's basic needs are met in addition to the children's. The Melson Formula was developed by a Delaware Family Court judge and fully explained in *Dalton v. Clanton*, 559 A.2d 1197 (Del. 1989). Only three states (Delaware, Hawaii and Montana) use the Melson Formula.



The District of Columbia uses a hybrid model that starts as a varying percentage of income model and is then reduced by a formula based on the custodial parent's income. Use the links in the chart below to view these guidelines.

All of the guideline models have certain aspects in common. First, most of the guidelines incorporate a "self-support" reserve for the obligor. Second, all the guidelines have a provision relating to imputed income. Third, by federal regulation, all the guidelines take into consideration the health care expenses for the children, by insurance or other means. Lastly, most of the guidelines have incorporated into the presumptive child support formula special additions for child care expenses, special formulas for shared custody, split custody, and extraordinary visitation, and special deductions for the support of previous and subsequent children.

GUIDELINE MODELS BY STATE

State/ Territory	Guideline Type	Link to Guidelines
Alabama	Income Shares	Ala. R. Jud. Admin. R. 32
Alaska	Percentage of Obligor's Income	Alaska Civ. R. 90.3
Arizona	Income Shares	Arizona Child Support Guidelines
Arkansas	Percentage of Obligor's Income	Ark. Admin. Order of the Supreme Court, Rule 10
California	Income Shares	California Fam. Code §§ 4050-4076
Colorado	Income Shares	Colo. Rev. Stat. §§ 14-10-115 et seq.
Connecticut	Income Shares	Child Support and Arrearages Guidelines
Delaware	Melson Formula	Delaware Child Support Guidelines
District of Columbia	Hybrid Model	D.C. Code Ann. § 16-916.01
Florida	Income Shares	Fla. Stat. Ann. § 61.30
Georgia	Income Shares	Ga. Code Ann. § 19-6-15
Guam	Income Shares	Guam Child Support Guidelines
Hawaii	Melson Formula	Hawaii Child Support Guidelines
Idaho	Income Shares	Idaho R. Civ. Pro. 6(c)(6)
Illinois	Income Shares	Ill. Rev. Stat. ch. 750, § 5/505 through Ill. Rev. Stat. ch. 750, §5/510
Indiana	Income Shares	Indiana Child Support Rules and Guidelines

- Human Services
 - Child Support and Family Law
 - Child Welfare
 - Early Care and Education
 - Hunger and Nutrition
 - Same Sex Marriage
 - Welfare and Poverty
- Immigration
- International
- Labor and Employment
- Military and Veterans Affairs
- Redistricting
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- Telecommunications and Information Technology
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Iowa	Income Shares	Iowa Child Support Guidelines
Kansas	Income Shares	Updated Jan. 1, 2016; Kansas Admin. Order No. 261
Kentucky	Income Shares	Ky. Rev. Stat. § 403.212
Louisiana	Income Shares	La. Rev. Stat. 9:315.1 et seq.
Maine	Income Shares	Me. Rev. Stat. Ann. tit. 19-A, §§ 2001-2012
Maryland	Income Shares	Md. Fam. Law Code Ann. §§ 12-201 et seq.
Massachusetts	Income Shares	Massachusetts Child Support Guidelines
Michigan	Income Shares	Michigan Child Support Formula Manual; Mich. Comp. Laws § 552.605 et seq.
Minnesota	Income Shares	Minn. Stat. Ann. §§ 518A.35 et seq.
Mississippi	Percentage of Obligor's Income	Miss. Code §§ 43-19-101 et seq.
Missouri	Income Shares	Mo. Rev. Stat. § 452.340 Civil Procedure Form 14
Montana	Melson Formula	Admin. R. Mont. 37.62.101 et seq.
Nebraska	Income Shares	Nebraska Court Rules §§ 4-201 to 4-220
Nevada	Percentage of Obligor's Income	Nev. Rev. Stat. §§ 125B.070 to -.085
New Hampshire	Income Shares	N.H. Rev. Stat. §§ 458-C:1 to -.7
New Jersey	Income Shares	N.J. Rules of Court, Rule 5:6A, Appendix IX
New Mexico	Income Shares	N.M. Stat. §§ 40-4-11.1 to -11.6
New York	Income Shares	N.Y. Dom. Rel. Law. § 240(1-b)
North Carolina	Income Shares	North Carolina Child Support Guidelines
North Dakota	Percentage of Obligor's Income	N.D. Admin. Code §§ 75-02-04.1-01 to 13; 14.09.09.7
Ohio	Income Shares	Ohio Rev. Code §§ 3119.01 et seq.
Oklahoma	Income Shares	Okla. Stat. tit. 43, §§ 118 to 120
Oregon	Income Shares	Or. Admin. Reg. 137-50-320 to -490
Pennsylvania	Income Shares	Pa. R. Civ. Pro. 1910.16-1 to -5
Rhode Island	Income Shares	R.I. C.S.G. Administrative Order
South Carolina	Income Shares	S.C. Soc. Serv. Reg. 114-4710 to -4750
South Dakota	Income Shares	S.D. Codified Laws §§ 25-7-6.1 et seq.
Tennessee	Income Shares	Tenn. Comp. R. & Regs. Dep't Human Services 1240-2-4-.01 to -.057
Texas	Percentage of Obligor's Income	Tex. Fam. Code §§ 154.001 et seq.
Utah	Income Shares	Utah Code §§ 78B-12 et seq.
Vermont	Income Shares	Vt. Stat. title 15, §§ 653-657
Virginia	Income Shares	Va. Code §§ 20-108.1, 20-108.2
Washington	Income Shares	Wash. Rev. Code §§ 26.19.001 et seq.
West Virginia	Income Shares	W. Va. Code Ann. §§ 48-13-101 to -803
Wisconsin	Percentage of Obligor's Income	Wis. Admin. Code DCF 150.01 to .05
Wyoming	Income Shares	Wyo. Stat. §§ 20-2-301 to -315

As you can see in the chart above, child support guidelines are implemented in different ways. Twenty-four states and D.C. implement the guidelines in statute, eighteen states use court rules or decisions and the remaining eight states have implemented the guidelines through administrative regulation. See the breakdown here:

MODEL OF IMPLEMENTATION

Statute	California, Colorado, District of Columbia, Florida, Georgia, Illinois, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Nevada, New Hampshire, New Mexico, New York, Ohio, Oklahoma, South Dakota, Texas, Utah, Virginia, Washington, West Virginia, Wyoming
Administrative Regulation	Connecticut, Montana, North Dakota, Oregon, South Carolina, Tennessee, Vermont, Wisconsin
Court Rule or Decision	Alabama, Alaska, Arizona, Arkansas, Delaware, Hawaii, Idaho, Indiana, Iowa, Kansas, Massachusetts, Missouri, Nebraska, New Jersey, North Carolina, Pennsylvania, Rhode Island

About This NCSL Project

NCSL staff in D.C. and Denver can provide comprehensive, thorough, and timely information on critical child support policy issues. We provide services to legislators and staff working to improve state policies affecting children and their families. NCSL's online clearinghouse for state legislators includes resources on child support policy, financing, laws, research and promising practices. **Technical assistance visits to states are available to any state legislature that would like training or assistance related to this topic.**

The Denver-based child support project staff focuses on state policy, tracking legislation and providing research and policy analysis, consultation, and technical assistance specifically geared to the legislative audience. Denver staff can

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To the members of the Human Services Committee:

My name is Andy Hendrickson from Thompson, ND and I'm in support of HCR 3050 for having the ND Child Support system updated and I'm here to share my account and answer any questions if needed.

When my ex wife decided she did not want to be married anymore we both agreed on an equal split of parenting time and no child support. When in front of the judge he did not agree to not imputing child support, even with the large amount of spousal support I had to pay and my ex-wife saying she was getting a job. With both of us having the children the same amount of time it made no sense to me to even have child support. Even with me providing health, dental, and vision insurance and paying for 50% or more of school lunches and extra curricular activities. Now with the judge imputing child support I not only had to support and provide for myself and children when they are with me I had to support my exes home too. Please don't get me wrong in that I'm complaining about providing for my children, I am happy to provide for my children. I did not ask for the divorce and I did nothing wrong to cause a divorce, one day she simply said she was done with me and wanted to find her soul mate.

I took the time that my children were not with me to work more hours and harder than I had before to try and make this painful situation less painful for my children (as I too was a child of a split home). With all of this work it started to pay off as I was making more money. The children were with me half the time and had the same lifestyle that they had before the divorce except for the obvious of living in two different homes. I did the best I could to keep the same routines on the weeks I had the girls so they wouldn't "feel" like things were different.

In 2016 I got remarried, had another child, bought a home a block away from my kids school and other than not having my girls all the time life was good. My ex was very upset and jealous about all of these things and made life very difficult. She was not happy with her choice anymore and felt that since I was more successful she "deserves" more money, so she had my income reviewed. Not because the children all of a sudden costed more to raise but because she could. I will remind you in the beginning we had both agreed to no child support and the judge imposed it and left this door wide open. Now she has access to income that she had no part in helping me obtain or allowed me to make when we were together. So now I'm making more, have more family to take care of and a review can just be requested and everything that I have been working for is fair game. Mind you the kids are still with me the same amount of time they are with her and have food, clothes, and a roof over their heads. Everything they need is provided at my house. Now I'm paying for my growing family 100% and ordered to give my ex a large portion of my wages she did nothing to assist in me earning and it isn't costing anymore to raise the children as we split all expenses 50/50 except for the health, dental and vision insurance.

I was also not aware that if you make a change of employment for whatever reason you can still be forced to pay a higher child support amount because you have the potential to make more. Doesn't everyone have that same potential? To place all of that on one party, usually the father is ridiculous. In my case I did change employment to better myself professionally and personally, changing from pure commission based to a salaried position. It didn't matter that I was still making more than what our current tables say that my position/title should make I'm still being forced to pay a child support amount based on an income that I no longer make, putting me into financial hardship. All because she lied to the courts and said I only took the job to lower my child support obligation. She had no proof and even

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though I had proof that I was being approached about the job before the review process finalized the judge thought it was too much of a coincidence and gave her the highest amount possible as well as having to backpay for several months. Which when the paperwork finally went through put me \$12,000.00 in the arrears automatically, I have never been in arrears on anything and this disturbs me greatly.

I feel that ND does not give any consideration to the amount of parenting time or what the actual cost of a child is, its all about income. No amount of money you take from one home and put into another will make the two homes the same. Child support calculations and payments should not be such that the receiving party doesn't have to work, then we are not supporting the child we are supporting the recipient completely. It should be based on an actual cost for a child and their needs not what a parent makes or decides to not make. Also a realistic credit for other children that are currently in your home and are reliant on you should be looked at as, currently in ND it is roughly a \$100-150 credit but a child that is with me 50% of the time calculates to roughly \$1,000 a month.

Everyone is use to a certain lifestyle and that is what alimony or spousal support is for, not using the children. A lot of animosity and difficulties in co-parenting could be resolved if child support was calculated fairly and accurately. Its time for the laws and information used to calculate child support to change with the times. If you have your children the same amount of time and would have roughly the same expenses, except one parent would have the cost for health, vision and dental insurance, why should there even be child support? If you have them more than the other parent then use that time along with actual costs as your starting point for child support. And not allow it to change unless it is to go down, just because a parent makes more doesn't mean that the child costs more or is "entitled" to a new lifestyle they may or may not get. Its not the job of one party to have to be financially responsible for two homes, it is both of their jobs to support their children.

-50/50 custody why even have child support?

-Find the average cost of a child and use that number as the basis. With additional costs that come up split them per your parenting time percent.

-There is no credit currently for the amount of parenting time that a parent has, it is only income driven. The current laws are based on when a single family income was normal, that is no longer the case as both parents are working.

-ND doesn't give much thought to new formed families when doing these calculations

-Current system tries to make both homes financially equal but that will never make two houses the same. There are many differences that's why there was a divorce.

-Get rid of custodial and non-custodial titles

-The payor does not get any tax credit for the amount of money they pay and the recipient doesn't have to claim it on their taxes even though it is income to them. This is wrong on so many levels.

-There is no incentive to better yourself if as soon as you do something better you have to pay it to your ex for no other reason than they "deserve" it. That only creates animosity.

-Having your income allowed to be reviewed every 18 months makes for a very insecure lifestyle.

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Department of Human Services
House Human Services Committee
Representative Robin Weisz, Chairman

February 27, 2019

Chairman Weisz and members of the Human Services Committee, I am Jim Fleming, Director of the Child Support Division of the Department of Human Services (Department). I am here to provide information on House Concurrent Resolution 3050 and an income shares model for child support.

The Department agrees with several statements in HCR 3050, particularly that parents have a mutual duty to support their children. However, there is an unfortunate misconception that an obligor model of child support guidelines only requires support from the obligor. In reality, an obligor's liability for child support is limited by the child support guidelines, with the remainder of a child's actual needs being borne by the obligee.

Income shares has been considered by the North Dakota Legislature many times, as recently as 2015 in this very committee (HR 1308). Attached to this testimony are my remarks from 2015. Basing obligations on a proportionate share of both parents' income will lead to the same or higher obligation for the obligor in most cases. In the only category of cases where an obligor's child support would be reduced (when obligee's income is significantly higher than the obligor's income), this Committee proposed and adopted a deviation criteria in 2007 from the current guidelines.

The Department conducts thousands of child support calculations each year. This amount has significantly increased in the last year as the Department began reviewing obligations every 18 months instead of the federal-minimum period of 36 months. Applying an income shares model will require the Department to obtain and review income information from both parents rather than just the obligor. This will nearly double the work required to gather the needed information, even though the

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ultimate obligation will not change or will frequently increase. In 2015, the estimated fiscal impact of changing to an income shares model was 10 new positions and at least \$150,000 in computer reprogramming expenses. With the shortening of the periodic review cycle, this estimate today would be closer to 15 new positions. Rolling back to a 36-month review cycle in order to reduce the number of new positions back to 10 would have a negative impact for many obligors whose income has decreased. In short, we encourage the Committee to consider carefully whether to endorse the study in HCR 3050 because of the inevitable fiscal impact of changing to an income shares model for no ultimate change in the amounts owed by most obligors.

HCR 3050 states there are concerns that child support obligations are too high and subsidize the living expenses of the obligee. In our experience, these concerns are rare, and frequently involve an obligor with a low or average obligation and a lack of familiarity with the total costs of raising a child. Attached is a breakdown of child support obligations, which indicates that the average child support obligation in North Dakota is \$534.63 per month for an average of 1.41 children.

A person only needs to look at the parking lot of the nearest high school to confirm that the amount of support provided by parents for their children varies widely by income and personal choices. The current obligor model emulates this fact by computing the obligor's monthly obligation as a percentage of the obligor's income. For some parents, this may lead to a higher obligation than others, but it is based on a difference in income. The amounts in the current guidelines are based on United States Department of Agriculture data on the costs of raising a child in single-parent families, which also rises as the income of the parent goes higher.

This concludes my testimony, and I am happy to answer any questions you may have.

Testimony
House Bill 1308 – Department Of Human Services
House Human Services Committee
Representative Weisz, Chairman
January 21, 2015

Chairman Weisz, members of the House Human Services Committee, I am Jim Fleming, Director of the Child Support Division of the Department of Human Services (Child Support). I am here to testify on House Bill 1308 and provide information on an income shares model for child support.

House Bill 1308 requires Child Support to study and develop a plan for converting North Dakota's child support guidelines from an obligor model to an income shares model.

Under an income shares model, a basic child support obligation is computed based on the combined income of both parents. This basic obligation is then prorated in proportion to each parent's income and adjusted to account for work-related child care costs and often any extraordinary medical expenses. A child support order is then entered with respect to the obligor's share of the basic child support obligation and child care costs.

Impacts of changing to an income shares model:

In order for income shares to lead to a reduction in an obligor's support amount, the obligor must earn substantially less income than the parent with primary residential responsibility. Even though the child support guidelines provide the presumptively correct amount of support, the presumption may be rebutted for certain reasons listed in the guidelines. In 2007, North Dakota law was changed, through an amendment

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proposed by this committee, to require the child support guidelines to include a rebuttal criteria "based on the proportionate net income of the obligor and the obligee when the net income of the obligee is at least three times higher than the net income of the obligor." In essence, North Dakota already uses an income shares model in this circumstance when use of that model results in a reduced child support obligation.

There are additional provisions in the current guidelines that are designed to promote fairness and responsiveness to obligors. The guidelines also include a deduction for when an obligor is authorized by the court to have extended periods of parenting time, and take into account when an obligor owes support to multiple families. These provisions would no longer exist if North Dakota changed to an income shares model.

One of the challenges in an income shares model is how to account for the contribution of the parent with primary residential responsibility in caring for the child a greater portion of the time, particularly overnight. Although this is a responsibility that most parents gladly bear, it has undeniable value. In addition, in an income shares model, child care costs are often added proportionately to each parent's obligation. This is not information that Child Support currently gathers from either parent.

Under the current guidelines, when the parents share equal or split residential responsibility, the income of each parent is considered and an obligation is determined for each parent. This results in an outcome that closely resembles an income shares model.

Establishing child support orders in the amount provided by the child support guidelines using an income shares model, and periodically

reviewing those obligations using current income information, would increase administrative costs for Child Support. The Department's fiscal note for an income shares model bill in 2005 estimated that changing to an income shares model would require an additional ten full-time equivalent positions (FTE), along with at least \$150,000 in computer programming costs (which is in 2005 dollars and would be higher today) and the operating costs associated with additional staff and mailings to parents. The need for additional staff is the result of the time required to review income information from both parents, rather than only the obligor, and to take the necessary actions to obtain such information from unwilling or unresponsive parents with primary residential responsibility. If the study called for in House Bill 1308 results in legislation to implement an income shares model, additional funding (FTE and operating expenses) would be needed in the 2017-2019 biennium.

House Bill 1308 will also require considerable analysis and report preparation time by a contractor who is familiar with income shares models in other states. The contractor will need to work with existing Child Support staff and enter into a subcontract with a private attorney who practices in North Dakota. The fiscal note on this bill reflects an estimate Child Support received from the leading national consultant on child support guidelines to conduct the study proposed in House Bill 1308.

When the income shares model was proposed in 2005, Child Support offered a substitute amendment listing the targeted circumstances under which a review of the obligor's obligation would occur outside the normal three-year review cycle. At the time, I informed the committee that I had asked our customer service manager, who has been handling customer calls daily for many years, what she thought was the cause of

more obligor complaints: the fact that the obligation was determined without regard to the custodial parent's income, or that the obligor had changes in his or her income but could not obtain help from us in changing the ongoing child support obligation outside the three-year review cycle. She told me that without a doubt, the much more common complaint was that the obligor lost a job or experienced some other change in income that made it hard to afford the current child support obligation.

In response to House Bill 1308, I posed the same question to our customer service manager, and the response above is still accurate.

In May 2006, Child Support voluntarily began reviewing obligations outside the three-year review cycle in certain circumstances. Please see the attached list of exceptions to the three-year review cycle (Attachment 1). The House of Representatives recently voted (House Bill 1111) to streamline the review and adjustment process with a goal of allowing Child Support to review obligations on a two-year cycle rather than the federal minimum of three years. Although these accelerated reviews are not mandated by the federal or state government, we believe providing these reviews upon request promotes a comparable perception of greater fairness as an income shares model, but in a much more tangible way.

The accelerated review process is only one example of the enhanced services offered by Child Support to promote fairness to obligors. Others include:

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- Suppression of judgment interest for as long as the obligor honors a payment plan to retain a driver or hunting license and pay down the total arrearage.
- PRIDE – a parental employment project, often initiated as part of the contempt of court process, that connects obligors with Job Service North Dakota to improve job skills and find employment.
- Filing motions to stop the current support from accruing when the obligor is now taking care of the child, rather than waiting for one of the parents to file the motion.
- A new web-based child support calculator which allows courts, attorneys, and parents to complete their own guideline calculations and prepare appropriate court documents showing how the guideline amount was calculated.

In addition, a significant body of case law has developed on the meaning of the current guidelines, and the number of appeals regarding the guidelines has dropped to only one or two per year. The value of that case law would be completely lost with a new guidelines model, and the calculator above will be rendered obsolete just a few short years after it was created.

Compliance and Monthly Support

For the last federal fiscal year, 74.2 percent of the current support that accrued was collected on time, which is the second highest compliance rate in the country. This level of compliance is directly related to the proactive customer service described earlier in my testimony, and suggests that the perception of fairness is not as much of a concern today as it perhaps once was.

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The average monthly amount of child support per child that is due in North Dakota is \$338.

Chairman Weisz and members of the committee, this concludes my testimony on House Bill 1308, and I would be glad to answer any questions the committee may have.

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15.9

Current Monthly Child Support Obligations

Based on Orders in Effect as of January 2, 2019

Current Monthly Child Support*	IV-D Only			NonIV-D Only			IV-D and NonIV-D		
	Number of Obligations	% of Total	Cumulative	Number of Obligations	% of Total	Cumulative	Number of Obligations	% of Total	Cumulative
Up to \$50	213	1.1%	1.1%	170	2.4%	2.4%	383	1.5%	1.5%
\$51 - \$100	403	2.1%	3.2%	57	0.8%	3.2%	460	1.7%	3.2%
\$101 - \$150	808	4.2%	7.4%	140	2.0%	5.2%	948	3.6%	6.8%
\$151 - \$200	1,506	7.8%	15.2%	268	3.8%	9.0%	1,774	6.7%	13.5%
\$201 - \$300	4,403	22.8%	38.0%	1,053	14.9%	23.9%	5,456	20.7%	34.2%
\$301 - \$400	2,991	15.5%	53.5%	799	11.3%	35.2%	3,790	14.4%	48.6%
\$401 - \$500	2,470	12.8%	66.3%	804	11.4%	46.6%	3,274	12.4%	61.0%
\$501 - \$750	3,641	18.9%	85.1%	1,545	21.9%	68.4%	5,186	19.7%	80.7%
\$751 - \$1000	1,478	7.7%	92.8%	935	13.2%	81.6%	2,413	9.2%	89.8%
\$1001 - \$2000	1,195	6.2%	99.0%	1,060	15.0%	96.6%	2,255	8.6%	98.4%
\$2001 - \$3000	147	0.8%	99.8%	158	2.2%	98.9%	305	1.2%	99.5%
\$3001 - \$4000	33	0.2%	99.9%	53	0.7%	99.6%	86	0.3%	99.8%
More than \$4,000	14	0.1%	100.0%	26	0.4%	100.0%	40	0.2%	100.0%
Total	19,302			7,068			26,370		
Mean	\$478.88		89.6%	\$686.88		128.5%	\$534.63		100.0%
Median	\$384.00		92.3%	\$533.00		128.1%	\$416.00		100.0%

* Current monthly support obligation may cover one or more children. If the order frequency was other than monthly, the amount was converted to a monthly amount (example: \$50/week was converted: $\$50 \times 52$ divided by $12 = \$216.67$). If support was ordered as a "per child" amount, the "per child" amount was multiplied by the number of active children to calculate the monthly amount.

Average number of children per order for IV-D is 1.36 and NonIV-D is 1.53, with an overall average of 1.41.