

New Child Support Guidelines for 2009

By Francine Traiger Poor

In Massachusetts, the child support guidelines are used by the Probate Court to calculate child support whenever the parents of a child are no longer living together. This applies whether the parents of the children are married or unmarried, and in all temporary, permanent or final orders for current child support. In all orders where an order for child support is requested, a guideline worksheet must be filled out, regardless of the income of the parties.

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On January 1, 2009, the guidelines will change. Although the amount of child support payed to the custodial parent will be different under the new guidelines, existing child support orders cannot be modified for three years unless there is a change in health insurance or a material change in circumstances.

There are, however, circumstances where the new guidelines will not apply. If any of the following circumstances exist, the court will be allowed to deviate from the guidelines: If,

- parties agree and court approves it
- child has special needs or aptitudes
- child has extraordinary medical or other expenses
- application of guidelines leaves a party without the ability to self support
- payor is incarcerated, is likely to remain so for 3 years and has no assets
- application of guidelines would lead to gross disparity in income
- parent has extraordinary medical expenses
- parent has extraordinary travel or other expenses related to parenting
- application of guidelines may adversely impact re-unification of parent and child
- application is not in the best interest of the child.

There are many changes in the child support guidelines. The new guidelines specify how military pay, Social Security

Disability Income and self-employment income should be accounted for. The new guidelines also recognize Massachusetts's health insurance mandate and provide a larger benefit for health insurance premiums. The amount the non-custodial parent pays, in most cases, will be higher, but the custodial parent is no longer given a \$20,000 credit. Below is a side-by-side comparison of the major changes in the new support guidelines.

For the full guideline text and worksheet go to: <http://www.mass.gov/courts/childsupport/index.html>

and for a video presentation of the Legal Ease show on the guidelines, click on Legal Ease above on this website and select the Guidelines show.

Old

New

Application

Gross
income is greater than \$135,000
Gross income is greater than
\$250,000

Based on
“traditional custody and visitation arrangement”
Primary
residence with one parent and one-third of time with the other.

Did not
apply in shared custody arrangement

Specify how child support should
be calculated in a shared custody arrangement

Income

A second
job or overtime obtained after the child support order is issued is
considered income for future child support orders
A second job or overtime
obtained after the child support order is issued doesn’t count in future
child support orders

Any
income, including part-time jobs and overtime, is considered income for the
purpose of calculating support. The
courts look to whether part-time jobs or overtime constituted a regular
source of income when the family was intact
Court
looks at the history of the income, expectation that the income will continue
to be available, economic needs of the parties and children, impact of the
overtime of parenting plan and whether extra work is a requirement.

Adjustments

Increased

child support once child reached 13 years old
Provides no adjustment for children over 13

Support

for children over 18 is at the court's discretion
Does not apply to children over 18

Spousal

and child support should be deducted from the payor's gross income
Spousal and child support are deducted, along with voluntary payments to support a child (as long as they are reasonable) and a hypothetical amount of child support for a child that resides with the payor

Payor

is credited for one-half of health insurance if covering the child(ren)

Entire

cost of health insurance is deducted from the salary of Payor or recipient, regardless of who is covering the child(ren).

Custodial

parent's income automatically reduced by \$20,000

Both parties' incomes are

treated equally

Other

The

custodial parent is responsible for the first \$100 per child per year of

uninsured medicals and anything above that was on a case-by-case basis.

The recipient is responsible for

the first \$250 of uninsured medical/dental/vision expenses combined for all children covered under the order and the court shall allocate any amount above that

Attribution

of income does not apply to a custodial parent with children who are under the age of 6 living at home

Attribution of income can apply

to either party if unemployed or underemployed

