

Commonwealth of Massachusetts
Massachusetts Trial Court
Executive Office of the Trial Court
Boston, Massachusetts

Child Support Guidelines

These Child Support Guidelines supersede
any previous Guidelines and are effective
December 1, 2025.



Heidi E. Brieger
Chief Justice of the Trial Court

October 30, 2025



Preamble

These child support guidelines shall take effect on December 1, 2025, and shall be applied to all child support orders and judgments entered as of December 1, 2025. In recognition of the priority of the interests of the children of the Commonwealth, these guidelines are formulated to be used by all of the justices of the Trial Court.

There shall be a rebuttable presumption that these guidelines apply in all cases establishing or modifying a child support order, regardless of whether the parents of the child are married or unmarried, the order is temporary or final, or the Court is deciding whether to approve an agreement for child support. There shall also be a rebuttable presumption that the amount of the child support order calculated under these guidelines is the appropriate amount of child support to be ordered.

These guidelines are based on various considerations, including, but not limited to, each parent's earnings, income, and other evidence of ability to pay. These guidelines are intended to be of assistance to attorneys and to parties in determining what level of payment would be expected given the relative income levels of the parties.

In all cases where an order for child support may be established or modified, a guidelines worksheet must be filled out and submitted, regardless of the income of the parties. The Findings and Determinations for Child Support and Post-Secondary Education form (CJ-D 305) must also be filled out and submitted whenever a deviation from these guidelines is agreed to or requested, and/or when any other section of the Findings and Determinations for Child Support and Post-Secondary Education form may apply to a case.

Commentary 2025 – Preamble

The Child Support Guidelines Task Force for the 2024-2025 review ("Task Force") was convened by Chief Justice of the Trial Court Heidi E. Brieger in the summer of 2024 to undertake the quadrennial review of the Massachusetts Child Support Guidelines ("guidelines") as required by federal regulations. See 45 C.F.R. § 302.56. An economic consultant, The Brattle Group, was selected after the Trial Court published a Request for Proposals through the Commonwealth's official online procurement record site, COMMBUYS. The economic consultant provided information and research to the Task Force. The Task Force's comprehensive review included assessing each section of the guidelines, line by line, as a whole and in subcommittees.

Throughout its review, the Task Force was cognizant that child support in Massachusetts seeks to reflect the incremental cost of raising a child, separate and distinct from expenses of other household members.

The Task Force's role was limited to reviewing the guidelines and making recommendations to Chief Justice Brieger. The Task Force heard testimony at three public forums and reviewed the written submissions of members of the public, attorneys, judges, and court staff. A number of the submitted comments addressed topics and issues beyond the scope of the Task Force, most notably the statutory provisions allowing for child support up to age 23. The Task Force notes that changes to laws may only be made by the Legislature.

Throughout the guidelines, changes have been made to reflect the amendments to G. L. c. 209C which specifically allow for a child to have more than two legal parents. The Task Force also added language to emphasize the requirement to submit a Findings and Determinations for Child Support and Post-Secondary Education form when applicable.

Commentary 2023 – Preamble

After review of the Massachusetts Child Support Guidelines (“guidelines”) by the federal Office of Child Support Enforcement, the guidelines were clarified in July 2023 to specifically “[p]rovide that incarceration may not be treated as voluntary unemployment in establishing or modifying child support orders.” 45 C.F.R. § 302.56 (c) (3).

Commentary 2021 – Preamble

The Child Support Guidelines Task Force for the 2020-2021 review (“Task Force”) was convened by Chief Justice of the Trial Court Paula M. Carey in the summer of 2020 to undertake the quadrennial review of the Massachusetts Child Support Guidelines (“guidelines”) as required by federal regulations. See 45 C.F.R. § 302.56. An economic consultant, The Brattle Group, was selected after the Trial Court published a Request for Proposals through the Commonwealth’s official online procurement record site, COMMBUYS. The economic consultant provided information and research to the Task Force. The Task Force’s comprehensive review included assessing each section of the guidelines, line by line, as a whole and in subcommittees.

Throughout its review, the Task Force was cognizant that child support in Massachusetts seeks to reflect the incremental cost of raising a child, separate and distinct from expenses of other household members.

The Task Force’s role was limited to reviewing the guidelines and making recommendations to Chief Justice Carey. The Task Force heard testimony and reviewed the submissions of members of the public, attorneys, judges, and court staff. A number of the submitted comments addressed topics and issues beyond the scope of the Task Force, such as the statutory provisions relating to custody determinations, child support for children between the ages of 18 and 23, and the interplay between alimony and child support. The Task Force recognizes and agrees that these are important issues, however, the remedy for making statutory changes to address these issues is with the Legislature and not with the Task Force.

In formulating its recommendations, the Task Force considered public comments, written testimony, legal and economic research, information from the economic consultant, and the comments and experience of Task Force members. The Task Force recommended edits to simplify and clarify portions of the guidelines, as well as for policy considerations.

These guidelines include commentary to indicate the reasoning and intent behind the recommendations of the Task Force. Trial Court departments, parties, and attorneys may use the commentary to resolve questions of interpretation or application of the guidelines.

The Task Force recommended eliminating the word “litigant” from the Preamble and instead inserting “parties”, recognizing that not all cases involve litigation.

Commentary 2018 – Preamble

After the promulgation of the Child Support Guidelines in September 2017, the Trial Court reviewed two issues on which it received questions: the application of the adjustment factors for children 18 years of age or older, and the adjustment for child care, health care coverage, and dental/vision insurance costs when parents share financial responsibility and parenting time approximately equally. In the June 2018 amendments, the Trial Court revised the age adjustment factors in the worksheet to eliminate counterintuitive outcomes in support orders for four or five children, at least one being 18 years of age or older. The Trial Court also redesigned the worksheet so that one worksheet can be used regardless of whether the parenting plan is shared, split, or approximately 2/3 and 1/3. It is no longer necessary to use multiple worksheets to determine the child support amount where there is shared or split parenting plans. The June 2018 amendments do not address the 2018/2019 changes to the federal tax code with regard to alimony and dependency exemptions.

Commentary 2017 – Preamble

The Child Support Guidelines Task Force for the 2016-2017 review (“Task Force”) was convened by Chief Justice of the Trial Court Paula M. Carey in the spring of 2016 to undertake the quadrennial review of the Massachusetts

child support guidelines (“guidelines”) as required by federal regulations. See 45 C.F.R. § 302.56. In January 2017, amendments to § 302.56 became effective. The Task Force for this quadrennial review was not required to implement the January 2017 amendments, and thus did not do so in this review. However, where appropriate and constructive, the Task Force considered the policies underlying the 2017 amendments when making its recommendations.

The comprehensive review of the Task Force included reviewing each section of the guidelines, line by line, as a whole and in subcommittees. In formulating its recommendations, the Task Force considered public comments, relevant research, information from economic consultants, and the comments and experience of Task Force members. The Task Force was cognizant that child support in Massachusetts seeks to reflect the incremental cost of raising a child, separate and distinct from expenses of other household members. The Task Force recommended edits for simplification, clarification, and policy considerations. These guidelines include commentary to indicate the reasoning and intent behind the recommendations of the Task Force. Trial Court departments, litigants and attorneys may use the commentary to resolve questions of interpretation or application of the guidelines.

The changes made in the Preamble reflect that the guidelines apply to child support orders entered as of September 15, 2017. The fifth sentence of the Preamble was added for clarification and is consistent with the January 2017 changes to 45 C.F.R. § 302.56 (c). The Task Force further clarified that the guidelines worksheet must be completed in all cases where a child support order may be established or modified. A guidelines worksheet is necessary for the Court to determine whether there is a deviation from the presumptive child support order such that findings must be completed. See Section IV.

Principles

In establishing these guidelines, due consideration has been given to the following principles:

1. promoting parental financial responsibility for children;
2. meeting the child’s needs in the first instance, and, to the extent a parent enjoys a higher standard of living, allowing the child to enjoy that higher standard;
3. minimizing negative changes to the child’s standard of living;
4. protecting a basic subsistence level of income of parents;
5. recognizing that deviations should be used when appropriate to tailor a child support order to the unique circumstances of a particular family;
6. recognizing that parents should bear any additional expenses resulting from the maintenance of separate households;
7. recognizing the non-monetary contributions and involvement of parents;
8. recognizing the monetary and/or in-kind contributions of parents in addition to the child support order;
9. recognizing the importance, availability, and cost of health care coverage for the child;
10. promoting simplicity and consistency in establishing and modifying child support orders;
11. recognizing that in certain situations it is appropriate to require proof of relevant issues and to clarify who is responsible for providing it; and

12. providing guidance regarding the amount of child support the Court would presumptively order to promote resolution of matters prior to trial and reduce conflict.

Commentary 2025 – Principles

The Task Force reviewed each principle and recommended changes to Principles 2, 6, 7, 8 and 11 and the addition of Principle 12. Principles 2, 6, 7, and 8 were updated to reflect certain changes to G. L. c. 209C. Principle 11 was changed to reflect that clarifying issues of proof can be necessary for more reasons than just streamlining administration. Principle 12 was added to acknowledge that by providing information about the amount of support the Court would presumptively order, the guidelines play a role in promoting resolution of matters by agreement and reducing conflict, which is beneficial for all involved, especially the children whose support is at issue.

Commentary 2021 – Principles

The Task Force considered and discussed each of the principles in this section. The Task Force noted that the principles reflect a wide range of considerations in setting appropriate child support orders. Ultimately, the Task Force did not recommend any changes to this section.

Commentary 2017 – Principles

The Task Force refined and reorganized the Principles section for clarification. The Task Force included Principle 5 regarding deviation to highlight that, where appropriate, the Court should deviate from the presumptive child support order amount and that attorneys and litigants should offer reasons as to why a deviation may be warranted. In making this change, the Task Force acknowledged the sentiments expressed by attorneys and litigants that there may be hesitation by the Court to deviate from the presumptive child support order. The Principles section has also been revised to reflect the January 2017 changes to 45 C.F.R. § 302.56 (c) by adding “basic” in Principle 4 of the Principles and changing “health insurance coverage” to “health care coverage” in Principle 9 of the Principles.

I. INCOME DEFINITION

A. Sources of Income

For purposes of these guidelines, income is defined as gross income from whatever source, regardless of whether that income is recognized by the Internal Revenue Code or reported to the Internal Revenue Service or state Department of Revenue or other taxing authority. However, income derived from a public assistance program or benefit that is based on the person’s financial circumstances (for example: TAFDC, SNAP, certain veterans’ benefits and supplemental security income (SSI) benefits) shall not be counted as income for that person.

Sources of income include, but are not limited to, the following:

1. salaries, wages, overtime and tips;
2. income from self-employment;
3. commissions;
4. severance pay;
5. royalties;

6. bonuses;
7. interest and dividends;
8. income derived from businesses/partnerships;
9. social security retirement and social security disability insurance (SSDI), excluding any benefit due to a child's own disability¹;
10. veterans' benefits that are not based on a person's financial circumstances;
11. military pay and allowances, before allotments are deducted;
12. insurance benefits, including those received for disability and personal injury, but excluding reimbursements for property losses;
13. workers' compensation;
14. unemployment compensation;
15. pensions;
16. annuities;
17. distributions and income from trusts;
18. capital gains in real and personal property transactions to the extent that they represent a regular source of income;
19. spousal support received from a person not a party to this order;
20. contractual agreements;
21. perquisites or in-kind compensation to the extent that they represent a regular source of income;

¹ If a parent receives social security retirement or SSDI benefits and the children of the parties receive a dependency benefit derived from that parent's benefit, the amount of the dependency benefit shall be added to the gross income of that parent. See Rosenberg v. Merida, 428 Mass. 182 (1998); Schmidt v. McCulloch-Schmidt, 86 Mass. App. Ct. 902 (2014). This combined amount is that parent's gross income for purposes of the child support calculation. However, in cases where parents share or split parenting time according to Section II. D. 2. and the retired or disabled parent is also the child support recipient, only the dependency benefit sent directly to the retired or disabled parent by the Social Security Administration should be added to the income of that parent. The guidelines worksheet automatically recognizes this situation and makes the appropriate adjustment.

If the retired or disabled parent is the payor and the amount of the dependency benefit that the Social Security Administration sends to the recipient exceeds the child support obligation calculated under the guidelines, then the payor shall not have responsibility for payment of current child support in excess of the dependency benefit. However, if the guidelines are higher than the dependency benefit that derives from the payor's benefit, the payor must pay the difference between the dependency benefit and the weekly child support amount under the guidelines. See Rosenberg v. Merida, 428 Mass. 182 (1998).

22. unearned income of children, in the Court's discretion;
23. income from life insurance or endowment contracts;
24. income from interest in an estate, either directly or through a trust;
25. lottery or gambling winnings received either in a lump sum or in the form of an annuity;
26. prizes or awards;
27. net rental income;
28. funds received from earned income credit;
29. income derived from stock options and similar incentives, excluding any income from the coverture portion allocated at the time of the divorce of the parties subject to this child support order; and
30. any other form of income or compensation not specifically itemized above, including, but not limited to, alimony consistent with Calvin C. v. Amelia A., 99 Mass. App. Ct. 714 (2021) and Cavanagh v. Cavanagh, 490 Mass. 398 (2022).

B. Overtime and Secondary Jobs

1. The Court may consider none, some, or all overtime income or income from a secondary job. In determining whether to disregard none, some or all income from overtime or a secondary job, due consideration must be given to the history of the income, the expectation that the income will continue to be available, the economic needs of the parties and the children, the impact of the overtime or secondary job on the parenting plan, and whether the overtime work is a requirement of the job.
2. If after a child support order is entered, a payor or recipient begins to work overtime or obtains a secondary job, neither of which was worked prior to the entry of the order, there shall be a presumption that the overtime or secondary job income should not be considered in a future child support order.

C. Self-Employment and Other Business Income

Income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely-held corporation is defined as gross receipts minus ordinary and necessary expenses required to produce income. In general, income and expenses from self-employment or operation of a business should be carefully reviewed to determine the appropriate level of gross income available to the parent to satisfy a child support obligation. In many cases, this amount will differ from a determination of business income for tax purposes.

D. Imputation of Income

1. When the Court finds that a parent has, in whole or in part, undocumented or unreported income, the Court may reasonably impute income to the parent based on all the evidence submitted, including, but not limited to, evidence of the parent's ownership and maintenance of assets, and the parent's lifestyle, expenses and spending patterns.
2. Expense reimbursements, in-kind payments or benefits received by a parent, personal use of business property, and payment of personal expenses by a business in the course of employment, self-employment, or operation of a business may be included as income if such payments are significant and reduce personal living expenses.
3. In circumstances where the Court finds that a parent has unreported income, the Court may adjust the amount of income upward by a reasonable percentage to take into account the absence of income taxes that normally would be due and payable on the unreported income.

E. Attribution of Income

1. Income may be attributed where a finding has been made that a parent is capable of working and is unemployed or underemployed. Incarceration may not be treated as voluntary unemployment in establishing or modifying child support orders.
2. If the Court makes a determination that a parent is earning less than they could earn through reasonable effort, the Court should consider potential earning capacity rather than actual earnings in making its child support order.
3. The Court shall consider the age, number, needs and care of the children covered by the child support order. The Court shall also consider the specific circumstances of the parent, to the extent known and presented to the Court, including, but not limited to, the assets, residence, education, training, job skills, literacy, criminal record and other employment barriers, age, health, past employment and earnings history, as well as the parent's record of seeking work, and the availability of employment at the attributed income level, the availability of employers willing to hire the parent, and the relevant prevailing earnings level in the local community.

F. Non-Parent Guardian

The income of a non-parent guardian shall not be considered for purposes of calculating a child support obligation.

Commentary 2025 – Section I. – Income Definition

A. Sources of Income

Section I. A. 30. is a catch-all provision to capture any other form of income or compensation that is not specifically itemized in the other categories of income listed in Section I. A. This income may be explicitly identified by case

law and/or emerging form(s) of income (e.g., income from digital assets). Given the broad definition of income for the purposes of the guidelines, the Task Force encourages both payors and recipients to provide information to the Court to support any claims about the income of any party.

The Task Force considered and discussed Section I. B., C., D., E., and F. and did not recommend any substantive changes.

Commentary 2023 – Section I. – Income Definition

E. Attribution of Income

The guidelines now specifically “[p]rovide that incarceration may not be treated as voluntary unemployment in establishing or modifying child support orders.” 45 C.F.R. § 302.56 (c) (3).

Commentary 2021 – Section I. – Income Definition

A. Sources of Income

For clarification purposes, the Task Force recommended eliminating the phrase “means-tested” in Section I and instead inserting phrases that define and explain what is meant by “means-tested”, i.e., based on a person’s financial circumstances. The agency or organization managing the program or benefit sets the financial criteria/circumstances for eligibility. Only those people who are determined to be eligible receive the benefits based on the person’s financial circumstances.

In Section I. A. 9., the Task Force recommended clarifying the types of social security payments that are considered income for child support purposes, as there is much confusion regarding the differences between SSI, SSDI, and social security retirement. The guidelines worksheet requires the input of information regarding social security dependency benefits received in Line 2b and Line 2c and, if applicable, the guidelines worksheet adjusts that amount in Line 7c when calculating the child support amount, consistent with Rosenberg v. Merida, 428 Mass. 182 (1998) and Schmidt v. McCulloch-Schmidt, 86 Mass. App. Ct. 902 (2014).

However, the Task Force identified that in some cases – those where parents share or split parenting time according to Section II. D. 2. (box 1 or box 3 on the guidelines worksheet), and the retired or disabled parent is also the child support recipient, and the Social Security Administration is directly sending a dependency benefit to the payor – including the dependency benefit as income to the retired or disabled parent was inconsistent with the legal underpinnings of Rosenberg v. Merida, 428 Mass. 182 (1998). Accordingly, the Task Force recommended that in these situations only a dependency benefit sent directly to the retired or disabled parent by the Social Security Administration should be added to the income of the retired or disabled parent.

In Section I. A. 11., the Task Force clarified that military allotments are debits from income, rather than income itself. Military base pay, other forms of military pay, and military allowances, such as the Basic Housing Allowance, are sources of income.

The Task Force recommended adding Section I. A. 29. to highlight a type of income that is becoming a more common method of compensating employees. This recommendation does not change substantive law, but emphasizes that, under existing law, a person cannot avoid a child support obligation by choosing to be compensated with stock options or by otherwise reclassifying his or her income. See Ludwig v. Lamee-Ludwig, 91 Mass. App. Ct. 36 (2017); Wooters v. Wooters, 74 Mass. App. Ct. 839 (2009).

On June 10, 2021, the Appeals Court issued a decision that addressed whether certain alimony amounts should be included as income by the recipient and deducted by the payor when calculating child support. The Appeals Court noted that where one spouse is the sole payor of both alimony and child support, and alimony is calculated first, it is usually necessary to “us[e] the parties’ adjusted, postalimony incomes when calculating child support to avoid running afoul of G. L. c. 208, § 53 (c) (2)” Calvin C. v. Amelia A., 99 Mass. App. Ct. 714, 721 (2021). This approach would not be utilized where the parties are “subject to reciprocal orders, i.e., each party is both a payor and

a recipient of support” or where alimony is not calculated first. Id. Reference to this income is included in Section I. A. 30.

B. Overtime and Secondary Jobs

The Task Force recommended striking the word “first” as it appeared in prior guidelines to clarify that all of the factors must be considered.

The Task Force considered and discussed Section I. C., D., E., and F., and did not recommend any changes.

Commentary 2017 – Section I. – Income Definition

A. Sources of Income

Although the Task Force did not recommend any substantive changes to Section I. A., Sources of Income, it considered whether to do so in light of emerging areas of income-producing activities such as transportation networking companies, crowd funding, domain site flipping, and inconsistent, short-term home rentals. The Task Force determined that these income-producing activities were encompassed by the existing list of sources of income.

The Task Force received public comment regarding means-tested and non means-tested veterans’ benefits and, in response, clarified that means-tested veterans’ benefits are a type of income that is not included as income for child support calculation purposes. Due to the complexity of determining whether a veteran’s benefit is means-tested, the Task Force strongly recommended that the Court should inquire regarding the benefit.

If the Court determines that there has been misrepresentation of income to a taxing authority or on a court-filed financial statement and/or guidelines worksheet, the Court may be required to report the information to the appropriate authority. See Rule 2.15(B) of SJC Rule 3:09: Code of Judicial Conduct.

B. Overtime and Secondary Jobs

The Task Force recommended continuation of the presumptive exclusion of certain overtime and secondary job income from the calculation of gross income for child support purposes. The Task Force rewrote and moved for clarification the sentence that previously read, “The Court may consider none, some, or all overtime income even if overtime was earned prior to the entry of the order.” The Task Force also determined that the language in this section applies to payors and recipients since the income of both parents is considered in setting a child support order.

C. Self-Employment and Other Business Income

The Task Force renamed, reorganized and refined this section to focus on issues related to self-employment and the operation of a business. The Task Force moved the language regarding imputing income to the newly created Section I. D. entitled, “Imputation of Income”. Because the Task Force felt it was redundant, it deleted from the guidelines the sentence, “The calculation of income for purposes of this section may increase gross income by certain deductions or other adjustments taken for income tax purposes.”. The Appeals Court noted in Whelan v. Whelan, 74 Mass. App. Ct. 616, 626-27 (2009), “in determining income from self-employment, a judge must determine whether claimed business deductions are reasonable and necessary to the production of income, without regard to whether those deductions may be claimed for Federal or State income tax purposes.” As further direction, the Appeals Court noted in an unpublished decision, Zoffreo v. Zoffreo, 76 Mass. App. Ct. 1105 (2010), “[t]he fact that [a parent] is permitted under the tax laws to deduct an amount for depreciation does not mean that those funds, which are not out of pocket expenses, are not available to pay child support.”

For additional decisional guidance regarding calculating gross income, the Supreme Judicial Court held “that a determination whether and to what extent the undistributed earnings of an S corporation should be deemed available income to meet a child support obligation must be made based on the particular circumstances presented in each case.” J.S. v. C.C., 454 Mass. 652, 662-63 (2009). The Supreme Judicial Court included a non-exhaustive list of relevant factors to consider when making this determination, such as “a shareholder’s level of control over corporate

distributions”, “the legitimate business interests justifying corporate earnings”, the “affirmative evidence of an attempt to shield income by means of retained earnings”, and “the allocation of burden of proof in relation to the treatment of an S corporation’s undistributed earnings for purposes of determining income available for child support[.]” J.S. v. C.C., 454 Mass. 652, 662-65 (2009).

In Fehrm-Cappuccino v. Cappuccino, 90 Mass. App. Ct. 525 (2016), the Appeals Court addressed the appropriateness of including rental income when determining income for child support purposes. The decision notes that “there is no risk of double counting, where ‘neither the value of [the father’s interest in [the asset]] nor the [father’s] ability to earn income is diminished by treating the [father’s interest in [the asset]] as a marital asset as well as a source of income by which [the father] can meet his support obligations.’” Fehrm-Cappuccino v. Cappuccino, 90 Mass. App. Ct. 525, 528 (2016) (quoting Champion v. Champion, 54 Mass. App. Ct. 215, 221 (2002)).

D. Imputation of Income

The Task Force renamed, reorganized and refined the section previously entitled, “Unreported Income” to focus on issues related to the imputation of income. Income may be imputed when there are actual resources available to the parent that are not reported for tax purposes.

In general terms, undocumented income is income that does not result in the issuance of a tax reporting form. Unreported income is any income that is received and required to be reported that the taxpayer does not report on his or her taxes.

The Appeals Court decision in Crowe v. Fong, 45 Mass. App. Ct. 673 (1988) is instructional regarding Section I. D. 2. In Crowe, the payor earned \$275 per week working at a business owned by his mother, lived rent-free in a home owned by his father, and had use of a vehicle. The Appeals Court upheld the trial judge’s “characterization of [the payor’s] free use of the home as ‘perquisite or in-kind income’ for purposes of calculating his support obligation under the guidelines[.]” Crowe v. Fong, 45 Mass. App. Ct. 673, 680-81 (1988).

E. Attribution of Income

The Task Force reorganized and refined this section for clarification and to distinguish attributed income from imputed income. Income is attributed to a parent when the Court determines a parent is capable of earning more than is currently being earned and assigns a hypothetical amount of income to the parent. The Task Force, in consideration of the January 2017 changes to 45 C.F.R. § 302.56 (c) (2017), revised the factors to be considered when attributing income to a parent.

In P.F. v. Department of Revenue, 90 Mass. App. Ct. 707 (2016), the Appeals Court addressed attribution of income where the payor is incarcerated. “‘Income may be attributed where a finding has been made that [the payor] is capable of working and is unemployed or underemployed,’ . . . or where the payor owns ‘substantial assets.’” P.F. v. Department of Revenue, 90 Mass. App. Ct. 707, 710 (2016) (quoting Wasson v. Wasson, 81 Mass. App. Ct. 574, 581 (2012), quoting from Flaherty v. Flaherty, 40 Mass. App. Ct. 289, 291 (1996)). However, where there is “no income or assets from which to pay child support”, the Court may not attribute income to the payor based on the payor’s prior earning capacity, even if the payor is incarcerated due to committing a crime against the child for whom child support is being paid. P.F. v. Department of Revenue, 90 Mass. App. Ct. 707, 710-11 (2016).

F. Non-Parent Guardian

The Task Force did not recommend any changes to this section.

II. FACTORS TO BE CONSIDERED IN SETTING THE CHILD SUPPORT ORDER

A. Relationship to Alimony or Separate Maintenance Payments

1. These guidelines were developed with the understanding that alimony is for the support of a spouse, while child support is for the support of children.
2. These guidelines were developed with the understanding that child support is non-deductible by the payor and non-taxable to the recipient. These guidelines do not preclude the Court from deciding that any support order be designated in whole or in part as alimony or unallocated support without it being deemed a deviation, provided that the tax consequences are considered in determining the support order and the after-tax support received by the recipient is not diminished. The parties have the responsibility to present to the Court the tax consequences of proposed orders.
3. The Supreme Judicial Court determined in Cavanagh v. Cavanagh, 490 Mass. 398 (2022) that G. L. c. 208, §§ 53 (a), (c) (2), and (g) should be read together and require a judge to:

“consider, under the statutory factors set forth in § 53 (a), the equities surrounding an award where alimony is calculated first and where child support is calculated first.

Thus, pursuant to the act, in cases where child support is contemplated, before a judge properly may exercise her discretion to decide whether and in what format and amount to award alimony, the judge must do the following:

 - (1) Calculate alimony first, in light of the statutory factors enumerated in § 53 (a) and the principle that, with the exception of reimbursement alimony, the amount of alimony should be determined with reference to the recipient spouse’s need for support to allow the spouse to maintain the lifestyle enjoyed prior to the termination of the parties’ marriage. Then calculate child support using the parties’ postalimony incomes.
 - (2) Calculate child support first. Then calculate alimony, considering, to the extent possible, the statutory factors enumerated in § 53 (a). We acknowledge that in the overwhelming majority of cases, the calculation of child support first will preclude any alimony being calculated in this step.
 - (3) Compare the base award and tax consequences of the order that would result from the calculations in step (1) with those of the order that would result from the calculations in step (2), above. The judge should then fashion an order which would be the most equitable for the family before the court, considering the mandatory statutory factors set forth in G. L. c. 208, § 53 (a), and the public policy that children be supported as completely as possible by their parents’ resources, G. L. c. 208, § 28, and then fashion the order such that it reflects, or alternatively is responsive to, those considerations. Where the judge chooses to issue an order that does not include any award of alimony, the judge must articulate why such an order is warranted in light of the statutory factors set forth in § 53 (a).” Cavanagh v. Cavanagh, 490 Mass. 398, 409-411 (2022).

B. Claims of Personal Exemptions for Child Dependents

In setting a support order, the Court and the parties shall consider the allocation of personal exemptions for child dependents between the parties to the extent permitted by law.

C. Minimum and Maximum Levels

1. These guidelines are intended to balance the need to protect a minimum subsistence level for those parents obligated to pay child support and the obligation of all parents to contribute to the support of their children. To that end, for those parents obligated to pay child support whose gross income is \$301 per week or less, an order of no more than \$15 per week should enter. For parents obligated to pay child support whose gross income is between \$302 and \$391 per week, an order of no more than \$33 per week should enter. There is no limitation on the Court's ability to set a higher or lower order amount, including setting a child support order at \$0, should circumstances warrant, as a deviation from the guidelines. See Section IV.

2. These guidelines are calculated up to a maximum combined available annual gross income of the parties of \$450,000. In cases where combined available income is over \$450,000, the guidelines should be applied on the first \$450,000 in the same proportion as the recipient's and payor's actual income as provided on Line 3c of the guidelines worksheet. In cases where income exceeds this limit, the Court should consider the award of support at the \$450,000 level as the minimum presumptive order. The child support obligation for the portion of combined available income that exceeds \$450,000 shall be at the discretion of the Court. However, any percentage applied to the payor's income above the maximum level, as listed in Line 8b of the guidelines worksheet, should be below the percentage applied to the maximum level in Table A (10%), appropriately adjusted for the number and ages of the children.

D. Parenting Time

1. These guidelines recognize that children should enjoy parenting time with their parents to the greatest extent possible consistent with the children's best interests. The basic calculations under these guidelines are based upon the children having a primary residence with one parent and spending approximately one-third of the time with another parent.

2. These guidelines apply to all types of parenting plan schedules. Information regarding whether the parents share financial responsibility and parenting time for the children approximately equally (shared), whether the children reside primarily with one parent for approximately 2/3 of the time, and whether, in a family with more than one child covered by the order, each parent provides a primary residence for at least one child (split) is entered directly into the guidelines worksheet. The guidelines worksheet will calculate the presumptive child support order based on the information entered into the guidelines worksheet.

3. Where parenting time is substantially less than one-third for the parent who is not the residential parent, the Court may consider deviation by an upward adjustment to the amount calculated under the guidelines worksheet. See Section IV. B. 8.
4. Where parenting time is substantially more than one-third but less than one-half for the parent who is not the residential parent, the Court may consider deviation by an adjustment to the amount calculated under the guidelines worksheet. See Section IV. B. 9.
5. Where children have more than two legal parents, the Court shall consider the financial circumstances and parenting time of the legal parents to determine the most equitable result for the children and the legal parents. See Section IV. B. 10.

E. Child Care Costs

1. Reasonable out-of-pocket child care costs actually paid after any discounts or subsidies of up to \$430 per week, per child for the children covered by the child support order necessary for the gainful employment of a parent are shared by the parents in proportion to their share of combined available income. To determine the amount of child care costs to be shared by the parents, the guidelines worksheet requires the input of information regarding the number of children for whom child care is being paid and the total cost of the child care paid per week.
2. In appropriate circumstances, child care costs may include those child care costs incurred due to training or education reasonably necessary to obtain gainful employment or enhance earning capacity. The Court may consider a deviation where the child care cost is extraordinary. See Section IV. B. 7.
3. When determining if a summer camp or other activity qualifies as child care versus an extracurricular or enrichment camp or activity, factors to consider include, but are not limited to, the need for and purposes of the services provided by the camp or activity, including whether the camp or activity is necessary to provide the child with supervision so the parent claiming those costs may work, attend school, or participate in job training, the age and maturity of the children participating, the time during which the services are provided, and the nature of services provided.
4. The parent claiming the child care cost is responsible for providing reasonable evidence of the out-of-pocket expense actually paid after any discounts or subsidies, upon request.

F. Child Support for Children Between the Ages of 18 and 23

1. By statute, the Court has discretion either to order or to decline to order child support for children age 18 or older. If the Court exercises its discretion to order child support for children age 18 or older, the guidelines formula reduces the amount of child support in accordance with Table C of the guidelines worksheet. For the guidelines calculation to account for families with

children both under age 18 and age 18 or older, the guidelines worksheet requires the input of information regarding the number of children age 18 or older and under age 18.

2. A child age 18 or older who is enrolled in and attending high school shall be deemed to be under age 18 for purposes of the guidelines and Table C, absent deviation.

3. In determining whether to order child support for a child age 18 or older, the Court shall consider the reason for the child's continued residence with and principal dependence on the recipient, the child's academic circumstances, the child's living situation, the available resources of each parent, and each parent's contribution to the costs of post-secondary education for the child and/or other children of the family. The Court may also consider any other relevant factors.

G. Contribution to Post-secondary Educational Expenses

1. By statute, the Court has discretion either to order or to decline to order a parent to contribute to post-secondary educational expenses in addition to or instead of child support for a child age 18 or older. Contribution to post-secondary educational expenses is not presumptive. Post-secondary educational expenses shall include mandatory fees, tuition, on/off campus housing, meal plan, and books.

2. In determining whether to order contribution to post-secondary educational expenses, either alone or in addition to child support, the Court shall consider the cost of the post-secondary education, the child's aptitudes, where the child lives while contribution is being ordered, the available resources of all parents and the child, affordability, including whether parents must use assets and/or finance a loan to contribute, and the availability of financial aid. The Court may also consider any other relevant factors.

3. No parent shall be ordered to pay an amount in excess of fifty percent of the undergraduate, in-state resident costs of the University of Massachusetts-Amherst, unless the Court enters written findings that a parent has the ability to pay a higher amount. Costs for this purpose are defined as mandatory fees, tuition, housing, meal plan, and books for the [University of Massachusetts-Amherst](#). This section applies to all orders requiring parental contribution to post-secondary educational expenses, regardless of where the child resides or attends school.

4. If exercising its discretion to order both child support for a child over age 18 and contribution to the child's post-secondary educational expenses, the Court shall consider the combined amount of the child support order and the contribution to post-secondary educational expenses.

H. Health Care Coverage

1. Each parent may deduct from gross income the reasonable cost of the individual or family health care premium/enrollment actually paid by that parent. If there is an additional cost

to insure a person not covered by this order, and the Court determines that such additional cost would unreasonably impact the amount of child support, then some or all of such additional cost shall not be deducted.

2. When the Court makes an order for child support, the order shall include a provision for health care coverage for the child in accordance with the following:

a. The Court shall enter an order that requires either parent to provide health care coverage if such coverage is available at reasonable cost and accessible to the child. If the Court determines that an order for health care coverage is not in the best interest of the child or creates an undue hardship for either parent, then the Court shall enter written findings.

b. If a parent has enrolled a child in MassHealth, or an equivalent program in another state that is substantially similar to the program established in G. L. c. 118E, the Court shall order that parent to maintain such coverage as long as the child remains eligible; provided, however, that the Court may also order the other parent to enroll the child in private health insurance if: (i) private health insurance is available to that parent at reasonable cost and accessible to the child; (ii) enrollment in the insurance is in the best interest of the child; and (iii) enrollment in the insurance will not create an undue hardship for either parent.

c. For the purposes of this section: (i) health care coverage shall be deemed reasonable in cost if the cost to the party ordered to provide health care coverage does not exceed 5 percent of the gross income of the party; (ii) health care coverage shall be deemed accessible to the child if covered services are available within 15 miles of the child's primary residence; (iii) health care coverage includes private health insurance available through employment, union affiliation or otherwise, and public health coverage administered by the Title XIX agency; and (iv) private health insurance shall be deemed not available at reasonable cost to a parent whose gross income does not exceed 150 per cent of the federal poverty guidelines for the family size or who receives MassHealth on behalf of themselves or the child.

d. If health care coverage pursuant to this section is not available to either parent at the time the order is entered, the Court shall order the parties to notify the IV-D agency if such coverage becomes available.

I. Dental/Vision Insurance

1. Each parent may deduct from gross income the reasonable cost actually paid by that parent of dental/vision insurance insuring the children covered by this order.

2. If there is an additional cost to insure a person not covered by this child support order, and the Court determines such additional cost would unreasonably impact the amount of child support, then some or all of such additional cost shall not be deducted from gross income.

3. The cost of dental/vision insurance insuring the children covered by this order is included on the guidelines worksheet in the combined child care and health care costs adjustment.

J. Routine Out-of-Pocket and Uninsured Medical and Dental/Vision Expenses and Extraordinary Out-of-Pocket and Uninsured Medical and Dental/Vision Expenses

1. The recipient shall be responsible for payment of the first \$250 each year in combined routine out-of-pocket and uninsured medical and dental/vision expenses for all the children covered by this child support order. For amounts above that limit, at the time of entry of an order establishing or modifying the child support order, the Court shall enter an order allocating expenses between the parties without adjustment to the child support order. In ordering this allocation of expenses, the Court may consider the percentages of each party's share of combined available income to support the child set forth in Line 3c of the guidelines worksheet.

2. The payment of extraordinary out-of-pocket and uninsured medical and dental/vision expenses incurred for the children, absent agreement of the parties, shall be treated on a case-by-case basis (for example: orthodontia, psychological/psychiatric counseling, etc.). Where the Court makes a determination that such medical and dental/vision services are necessary and are in the best interests of the children, the Court shall allocate such expenses between the parties.

K. Existing Support Obligations and Responsibility for Children Not in the Case under Consideration

1. When an initial order or a modification of an existing order is sought for a child covered by the order in the case under consideration, the amount actually paid by any parent who is fulfilling a pre-existing support order for a child or spouse not in the case under consideration shall be entitled to a deduction from the gross income of that parent where the parent provides sufficient proof of the order and payments made. Payments on arrearages shall not be deducted from gross income.

2. When an initial order or a modification of an existing order is sought for a child covered by the order in the case under consideration, the amount of voluntary payments actually paid to support a child not in the case under consideration and with whom the parent does not reside shall be deducted from the gross income of that parent, but only to the extent the Court determines the payments to be reasonable. The parent who seeks the deduction must provide sufficient proof of the legal obligation to support the child and of actual payments made to the other parent or guardian.

3. When an initial order or a modification of an existing order is sought for a child covered by the order in the case under consideration, a hypothetical amount of child support for a child with whom the parent resides but for whom no child support order exists shall be deducted from the gross income of the parent. The parent seeking the deduction must provide sufficient proof of the legal obligation to support the child and of the gross income of that child's other parent. The hypothetical child support amount shall be calculated according to the guidelines worksheet using the gross incomes of both parents of the child for whom the hypothetical child support amount is being calculated. If the child lives with the parent seeking the deduction and another

parent, the hypothetical child support order shall be calculated using box 1 in Line 1b of the guidelines worksheet based on shared parenting time and financial responsibility. Otherwise, the hypothetical child support order shall be calculated based on the actual parenting time. If the hypothetical order results in unintended consequences or the parent receives no credit at all, the Court may deviate to provide the parent with an appropriate deduction for supporting that child.

4. Obligations to a subsequent family may be used as a defense to a request to modify an order seeking an increase in the existing order, but such obligations should not be considered a reason to decrease an existing order.

L. Families with More than One Child

The guidelines formula applies to families with one to five children. For more than five children, the order should be at least the amount ordered for five children. Table B of the guidelines worksheet includes the child support adjustment for more than one child.

M. Contribution to Other Child-Related Expenses

Ordering the payment of other child-related expenses is discretionary and determined on a case-by-case basis. The Court shall consider whether the expenses are affordable by the parties and in the best interest of the child. Other child-related expenses may include extra-curricular activities and costs associated therewith, private school, or summer camps that do not qualify as child care.

Commentary 2025 – Section II. – Factors To Be Considered In Setting The Child Support Order

A. Relationship to Alimony or Separate Maintenance Payments

The Task Force amended Section II. A. 3. to reflect the Supreme Judicial Court's decision in Cavanagh v. Cavanagh, 490 Mass. 398 (2022). The Task Force extensively discussed the Cavanagh decision and its three-step process when both child support and alimony may be ordered in a case. The Task Force concluded that while the decision addressed some of the questions that surrounded the interplay of child support and alimony, specifically those surrounding the language of G. L. c. 208, § 53 (c) (2) relating to concurrent child support and alimony orders, the decision did not resolve all the possible issues related to cases that may involve child support and alimony.

For example, the phrase "parties' post-alimony incomes" in Step 1 of Cavanagh is not defined in the decision. In addition, the order described in Step 3 of the Cavanagh decision is not identified as an unallocated support order, thus not requiring a deviation from the guidelines, nor is it clear how a modification of a Step 3 order would be handled. This Task Force recommends that the next task force examine these issues in light of subsequent case law.

The Task Force continues to emphasize that, under Fechtor v. Fechter, 26 Mass. App. Ct. 859 (1989), it is the responsibility of the parties to bring evidence of the tax implications of a support order to the attention of the Court. See also Smith v. Smith, 105 Mass. App. Ct. 505, 512 (2025).

C. Minimum and Maximum Levels

The Task Force reviewed and considered the current economic conditions in Massachusetts, the 2025 U.S. Federal Poverty Guidelines, the needs of payors, recipients, and children, the minimum subsistence level of income, the corresponding minimum order amount, and the maximum income level to which the guidelines apply.

The Task Force recommended that the income thresholds in the first two tranches of Table A be increased to \$301 and \$391 per week, from \$210 and \$249 per week. These adjusted amounts are 100% and 130% of the poverty guideline for a household of one, which are consistent with the median thresholds in the benchmark states that tie their subsistence income levels to the U.S. Federal Poverty Guidelines. Adjusting the tranches to reflect the 2025 U.S. Federal Poverty Guidelines results in a significant decrease to the presumptive child support order amount in cases with payors who earn between \$211 and \$391 per week. In addition, the Task Force recommended increasing the minimum order to \$15 per week which reflects the prior minimum order of \$12 adjusted for inflation. The Task Force revised the language in Section II. C. 1. to reflect that regardless of which box is checked in Line 1b of the guidelines worksheet, the minimum presumptive order amount may be between \$0 and \$33.

The Task Force was aware that in limited circumstances in box 1 and box 3 cases, the presumptive child support order amount may significantly increase and, therefore, payment of the presumptive child support amount may reduce the payor's income below the minimum subsistence level of \$391 per week. In these cases, the Court may consider a deviation. See Section IV. B. 12. and 13.

The Task Force recommended increasing the maximum income level to \$450,000 after considering the maximum income levels in other states' guidelines and the increased levels of income and costs in Massachusetts since the prior guidelines.

The Task Force observed that calculating a child support obligation for the portion of combined available income that exceeds \$450,000 is discretionary. This Task Force adopts the 2021 Commentary on this topic, noting that the Court should also appropriately account for the number and ages of the children.

D. Parenting Time

The Task Force added Section II. D. 4. to emphasize and clarify that the Court has the ability to deviate in situations where parenting time does not fit into the boxes in Line 1b of the guidelines worksheet. The Task Force recommended this addition in light of public comments received, which suggested to the Task Force that litigants believe that the Court only has the ability to consider the parenting time represented in the boxes in Line 1b of the guidelines worksheet. See Section IV. B. 9.

The Task Force considered the recent amendments to G. L. c. 209C, which allow for children to have more than two legal parents. The addition of Section II. D. 5. provides for deviation in situations where a child or children have more than two legal parents. The Task Force did not recommend creating a new guidelines worksheet with additional parenting time options and/or with more than two legal parents at this time. The Task Force recommends that the next task force review this issue. See Section IV. B. 10.

E. Child Care Costs

The Task Force addressed child care costs, including whether there should continue to be any benchmark, whether there should be more than one benchmark, and finally, what benchmark to use. After thoughtful discussion, review of economic data, and consideration of public comments on the topic, the Task Force recommended keeping one benchmark, updating it to reflect increased child care costs since 2021, and clarifying what constitutes child care costs.

Section II. E. 1. now allows for reasonable out-of-pocket child care costs up to \$430 per week, per child, based on data on the average cost of infant care in Massachusetts. The economist provided data on child care costs from a range of sources, including Child Care Aware, the Massachusetts Department of Early Education and Care's Market Rate Survey and Narrow Cost Analysis Final Report, the Department of Labor's National Database of Childcare Prices, and the MIT Living Wage Database. While consideration was given for scaling the benchmark based on age,

the Task Force kept a single, center-based infant care level after data showed most families already choose lower cost options as they become available.

The Task Force did not recommend any changes to Section II. E. 2.

The Task Force added Section II. E. 3. to provide guidance relating to the wide range of care arrangements made by parents who work or attend school or job training when their children are not in school during summer or school vacations. This section lists factors that may indicate whether a camp or activity represents child care costs versus an extracurricular activity or something else. When these costs are reasonable, necessary, and identified as such, they may be annualized and included in the child care expense when calculating child support.

Section II. E. 4. clarifies that a parent receives credit for the amount actually paid by that parent for child care. The credit does not include costs covered by subsidies or discounts or the fair market value of care provided by family or friends. The parent is responsible for providing reasonable evidence of the cost upon request. Reasonable evidence may include a parent's credible testimony.

The Task Force recognizes that parents may agree to share child care costs differently than the guidelines' presumptive proportional allocation. To avoid orders inconsistent with their agreement, the parties should not enter child care costs into the guidelines worksheet and instead address the costs separately. In these situations, the Court should be made aware whenever the payor's combined obligation for child support and child care costs is 40% or more of payor's income, which presumptively qualifies as a substantial hardship justifying a deviation.

F. Child Support for Children Between the Ages of 18 and 23

In Section II. F. 3., the Task Force considered inserting "financial" between "principal" and "dependence" in the phrase, "the Court shall consider the reason for the child's continued residence with and principal dependence on the recipient". The Task Force believes that financial dependence is an important consideration when determining if a child age 18 or older is principally dependent on a parent for maintenance. The Task Force did not ultimately recommend inserting "financial" as the language in existing statutes do not include that qualifier. See G. L. c. 208, § 28, G. L. c. 209C, § 9.

G. Contribution to Post-secondary Educational Expenses

In Section II. G. 1., the Task Force recommended adding language to emphasize that the Court may award both child support and contribution to post-secondary educational expenses or only child support or only contribution to post-secondary educational expenses. The Task Force further recommended clarifying what is included in post-secondary educational expenses.

The Task Force noted the rising costs of post-secondary educational expenses and the difficulty of finding affordable options. The Task Force recommended that the language in Section II. G. 2. be amended to include that the Court will consider affordability and whether parties must use assets or obtain loans to contribute to post-secondary educational expenses.

In Section II. G. 3., the Task Force recommended retaining the University of Massachusetts – Amherst as the benchmark for determining the parental share of post-secondary educational expenses. Although not the most expensive Massachusetts state college when these guidelines become effective, the University of Massachusetts – Amherst remains the flagship state college in Massachusetts. The Task Force included a link to the [Undergraduate Costs : UMass Amherst](https://www.umass.edu/financialaid/undergraduate/undergraduate-costs). To determine the costs, the "Instate On/Off Campus" "Estimated Direct Cost" and the cost for books are combined for a total. For example, as of June 30, 2025, for 2025-2026, the cost is \$35,815 plus \$1,200 for a total of \$37,015. (<https://www.umass.edu/financialaid/undergraduate/undergraduate-costs> as of June 30, 2025)

In Section II. G. 4., the Task Force amended the language to clarify that the Court shall consider the child support order and the order for contribution to post-secondary educational expenses if both are being ordered.

I. Dental/Vision Insurance

The Task Force changed “reduce” to “impact” in Section II. I. 2. to clarify that the Court should make this determination if the child supported would be unreasonably reduced or increased. The use of “impact” is consistent with the language in Section II. H. 1.

J. Routine Out-of-Pocket and Uninsured Medical and Dental/Vision Expenses and Extraordinary Out-of-Pocket and Uninsured Medical and Dental/Vision Expenses

The Task Force recognized the growing number of employer-based and marketplace health plans shifting towards high deductible/high co-insurance plans, resulting in much higher out-of-pocket medical and dental/vision costs for families. Like child care, necessary uninsured medical costs for a particular child are a direct cost of raising that child. While the guidelines do not establish any presumptive allocation of these costs, the Court may consider allocating these costs among the parties in proportion to their percentage share of the combined available income, rather than defaulting to sharing the costs equally.

The Task Force did not recommend any changes Section II. J. 2.

K. Existing Support Obligations and Responsibility for Children Not in the Case under Consideration

The Task Force revised Section II. K. 1. to more closely reflect the statutory language regarding fulfilling the existing support order. See G. L. c. 208, § 28; G. L. c. 209C, § 9 (f).

The Task Force did not recommend any changes to Section II. K. 2.

The Task Force revised Section II. K. 3. to address several public comments requesting more guidance on calculating the hypothetical child support order. In most circumstances where there is no court order or voluntary payments are being made, the child resides in the same household as the parent seeking the deduction and another parent. In these circumstances, the hypothetical order should be calculated as shared custody. However, where the parents of the child being supported do not live together, the calculation should reflect the actual parenting arrangement.

M. Contribution to Other Child-Related Expenses

The Task Force reorganized the language in Section II. M. to emphasize the discretionary nature of ordering a parent to pay for other child-related expenses that are both affordable and in the best interest of the child. The Task Force considered that a parent may be responsible for child support, health care coverage including uninsured medical expenses, and contributions towards post-secondary education, in addition to this category of “other child-related expenses”. In reorganizing the language, the Task Force encourages a broad look at affordability considering the percentage of child support, the type of health insurance coverage, the division of uninsured medical expenses, and if there is any contribution towards post-secondary education.

The Task Force considered and discussed Section II. B., H., and L., and did not recommend any changes.

Commentary 2021 – Section II. – Factors To Be Considered In Setting The Child Support Order

A. Relationship to Alimony or Separate Maintenance Payments

The Task Force extensively discussed the continuing challenges with G. L. c. 208, § 53 (c) (2). Many of the public comments that the Task Force received addressed this issue. The Task Force discussed the practical concerns with the language of G. L. c. 208, § 53 (c) (2) – in some circumstances, a spouse with no children could receive more support than a spouse with children. The Task Force affirmed, after much thought and consideration, that alimony may be run first or second, depending on the facts of the case. The Task Force strongly urges the Court and parties to proactively run different support scenarios to determine what support order is appropriate for the family – specifically whether determining alimony first and then child support provides the appropriate support. The Task Force emphasized that, although an unallocated order does not currently have the same tax benefit as it did before the Tax Cuts and Jobs Act of 2017, an unallocated order that blends alimony and child support may be appropriate.

B. Claims of Personal Exemptions for Child Dependents

The Task Force did not recommend any changes to this section.

C. Minimum and Maximum Levels

The Task Force examined the minimum and maximum levels. The Task Force recognized that the prior minimum order of \$25 per week resulted in some payors not having sufficient funds to support themselves. To address this concern, the Task Force created two tranches at the minimum level in Table A of the guidelines worksheet for payors with income up to \$249 per week, to include all payors with income below the 2021 U.S. Federal Poverty Guidelines. For payors with gross income up to \$210 per week, the minimum weekly order is \$12. For payors with gross income between \$211 and \$249 per week, the minimum weekly order is \$12 plus 20% above \$210 which calculates to between \$12 and \$20 per week.

The Task Force recommended increasing the maximum level to \$400,000 of combined available income, as the maximum level has not been increased since 2009. The maximum level of \$400,000 was recommended after considering the maximum income levels in other states' guidelines and the higher levels of income and costs in Massachusetts relative to other states. There are now six tranches between \$250 and \$7,692 in weekly combined available income. The eight tranches can be seen in Table A of the guidelines worksheet.

The guidelines worksheet calculates the amount by which each parent's available income exceeds the maximum level. The Task Force discussed wide ranging examples of how income exceeding the maximum level is then used in calculating the child support order amount. The economic consultant observed that, from an economic perspective, simply rerunning the guidelines worksheet on the amounts above the maximum level is objectively incorrect because that approach applies the higher percentages in Table A of the guidelines worksheet for lower income levels. Any percentage applied to the payor's income above the maximum level, as listed in Line 8b of the guidelines worksheet, should be below the 10% applied to the highest income level listed in Table A of the guidelines worksheet.

D. Parenting Time

The Task Force did not recommend any substantive changes to this section. However, the Task Force observed that in Luce v. Folino-Inadoli, an unpublished memorandum and decision pursuant to Rule 23 of the Appeals Court, a judge's decision to adopt a hybrid approach to calculating a child support order when the parties' parenting plan did not fall precisely into any of the three parenting plans provided for in the guidelines worksheet was upheld. See Luce v. Folino-Inadoli, 99 Mass. App. Ct. 1103 (December 17, 2020). The judge ran the guidelines under box 1 and under box 2 on the guidelines worksheet. The judge entered an order that did not adopt the child support amount from either calculation and instead "required the father to pay a reduced child support order of one hundred dollars per week to the mother. This hybrid approach reflects a deviation that is grounded in the circumstances of the parties and the best interests of the children. On this record, the judge did not abuse his discretion. See L.L. v. Commonwealth, 470 Mass. 169, 185 n.27 (2014)."

E. Child Care Costs

The Task Force extensively discussed child care costs and how these costs should be apportioned between parents, while also understanding that child care costs in Massachusetts are very expensive. The Task Force recommended eliminating both the deduction of child care costs paid from the parent's gross income and the 15% cap on the child care credit from the 2017/2018 guidelines. The Task Force felt that parents should be sharing the actual costs of child care paid in proportion to their income, up to the benchmark amount of \$355 per child, per week. The benchmark represents the average cost of center-based infant care in Massachusetts as reported by the Massachusetts Department of Early Education's Market Rate Survey of Child Care Costs. Although the benchmark is set at the average cost for center-based infant care, parents with older children are only responsible for proportionally sharing the actual amount spent on child care up to this benchmark. The benchmark amount does not mandate that parents spend \$355 on child care per child, per week; it simply establishes the limit on the amount of child care costs per child, per week that is eligible to be shared between parents in proportion to their respective incomes. To account for

situations where more than one child receives child care, the guidelines worksheet multiplies the benchmark amount by the number of children receiving child care. In making its recommendations, the Task Force acknowledged that these changes may significantly increase child support orders. Judges should continue to consider deviation where appropriate, especially where the overall current child support order is more than 40% of the payor's available income as listed in Line 3a of the guidelines worksheet. See Section IV. C. Line 7e of the guidelines worksheet indicates whether the overall support order is more than 40% of the payor's available income.

F. Child Support for Children Between the Ages of 18 and 23

The Task Force recommended changing “the available resources of the parents” to “the available resources of each parent” to emphasize that each parent's resources, including, but not limited to, savings, should be considered separately. The Task Force noted that the increase in the adjustment factors for more than one child in Table B of the guidelines worksheet impacts the adjustment percentages for children between the ages of 18 and 23 in Table C. This is because the percentages in Table C are based on the combination of the 25% reduction for children between the ages of 18 and 23 and the adjustments for the number of children. As a result, the higher adjustment factors in Table B result in higher adjustment factors in Table C for families with children both under age 18 and age 18 and over.

G. Contribution to Post-secondary Educational Expenses

In Section II. G. 2., the Task Force recommended changing “the available resources of the parents” to “the available resources of each parent” to emphasize that each parent's resources, including, but not limited to, savings, should be considered separately. The Task Force felt that it was important to emphasize that the Court should consider whether one parent had saved for post-secondary education expenses, while the other parent did not save, but had had the ability to do so. There should not be a penalty for saving for post-secondary educational expenses.

The Task Force considered whether Section II. G. 2. needed revisions in light of the COVID-19 pandemic and determined that the language as written was sufficient to address any temporary changes in post-secondary education that might have occurred because of the pandemic.

In Section II. G. 3., the Task Force retained the University of Massachusetts - Amherst as the benchmark for determining the parental share of post-secondary educational expenses. Although not the most expensive Massachusetts state college when these guidelines became effective, the University of Massachusetts – Amherst remains the flagship state college in Massachusetts.

In Section II. G. 4., the Task Force recommended language to clarify that ordering both child support for a child over age 18 and post-secondary education expenses is discretionary, but, if both are ordered, then the combined amount of the orders must be considered.

H. Health Care Coverage

The Task Force discussed and recommended eliminating the 15% cap on the health care credit that was included in the 2017/2018 guidelines. Although parties will not receive a credit for health care costs paid, parties will still be allowed to deduct certain health care costs actually paid. However, as noted in the guidelines, “If there is an additional cost to insure a person not covered by this order, and the Court determines that such additional cost would unreasonably impact the amount of child support, then some or all of such additional cost shall not be deducted.” The Task Force deleted the word “coverage” and replaced it with “premium/enrollment” to clarify what can be deducted on the guidelines worksheet.

This section was also amended to reflect the many statutory changes that occurred in July 2019. See G. L. c. 119, § 28; c. 119A, § 12; c. 208, § 28; c. 209, §§ 32, 37; c. 209C, § 9.

I. Dental/Vision Insurance

The Task Force considered and discussed this section and did not recommend any changes.

J. Routine Out-of-Pocket and Uninsured Medical and Dental/Vision Expenses and Extraordinary Out-of-Pocket and Uninsured Medical and Dental/Vision Expenses

This section was amended to clarify what these costs entail. Routine out-of-pocket expenses refer to expenses paid when there is medical/dental/vision coverage, but the coverage does not cover all expenses, such as co-payments and deductibles. Uninsured medical/dental/vision expenses refer to expenses paid where there is no medical/dental/vision coverage.

K. Existing Support Obligations and Responsibility for Children Not in the Case under Consideration

The Task Force considered and discussed this section and did not recommend any changes.

L. Families with More Than One Child

The Task Force renamed the section previously entitled, “Families with More Than Five Children”. Table B of the guidelines worksheet sets the adjustment factors used to calculate child support when the child support order is for more than one child. The Task Force discussed whether the adjustment factors should be increased and recommended that they should be. Based on a combination of economic data and policy considerations, the incremental cost for each additional child was increased to 40% for two children, 20% for three children, 10% for four children, and 5% for five children. As a result of the increases to the incremental cost for each additional child, the adjustment factors in Table B of the guidelines worksheet were changed to: 1.4 for two children, 1.68 for three children, 1.85 for four children, and 1.94 for five children. The previous adjustment factors were: 1.25 for two children, 1.38 for three children, 1.45 for four children, and 1.48 for five children.

M. Contribution to Other Child-Related Expenses

The Task Force did not recommend any changes to this section.

Commentary 2018 – Section II. – Factors To Be Considered In Setting The Child Support Order

D. Parenting Time

This section was amended to eliminate the directions on how the guidelines should be calculated based on the type of parenting plan. The directions are no longer necessary because of the newly-designed worksheet effective on June 15, 2018. This section now reflects that one worksheet is used to calculate the presumptive child support order for shared, split and approximately 2/3 and 1/3 parenting plans.

F. Child Support for Children Between the Ages of 18 and 23

This section was amended to reflect the changes in Table B and Table C in the June 2018 amendments. In the June 2018 amendments, the September 2017 Table B was split into two separate tables. Table B now lists the adjustment factors for the number of children, and Table C lists the adjustment percentages for children’s ages.

The application of the adjustment percentages in this section was revised by the Trial Court to eliminate counterintuitive outcomes in support orders for four or five children, at least one being 18 years of age or older. The age adjustments in the September 2017 Table B were based on applying the 25 percent discount listed in the guidelines in equal proportion to the number of children 18 years of age or older. The age adjustment percentages in the June 2018 Table C are based on applying the 25 percent discount to the oldest children last. That is, the 25 percent discount is applied only to the increases in child support for additional children, rather than to the overall amount of support. The children 18 years of age or older are accounted for last in this calculation to fully preserve the increases in child support for additional younger children.

Commentary 2017 – Section II. – Factors To Be Considered In Setting The Child Support Order

A. Relationship to Alimony or Separate Maintenance Payments

The Task Force discussed the challenges related to the tax consequences of unallocated support. The Task Force recommended that the Court, especially in cases involving parties with disparate levels of income, consider an unallocated support order. By designating some, or all, of a payor's support obligation as tax-deductible to the payor and a taxable payment to the recipient, a significant tax benefit may be achieved.

Under Fechtor v. Fechter, 26 Mass. App. Ct. 859 (1989), it is the responsibility of the parties to bring the tax implications of a support order to the attention of the Court. Parties and attorneys should familiarize themselves with the applicable provisions of I.R.C. § 71, which provides specific rules that must be followed in order to fashion support orders that will be deemed tax-deductible under the Internal Revenue Code.

The relationship between alimony and child support remained an issue during this review as it was during the 2012 review. When issuing an alimony order, "the court shall exclude from its income calculation gross income which the court has already considered for setting a child support order." G. L. c. 208, § 53 (c) (2). However, the converse is not stated in the statute.

Since the 2012 review and report, the Massachusetts appellate courts have not issued any decisions on point, nor has there been a statutory change. The Task Force discussed this conundrum and determined that, despite the desire to provide more instruction, no changes to this section were recommended at this time. The Task Force recommended that this issue be reviewed again during the next quadrennial review.

B. Claims of Personal Exemptions for Child Dependents

The Task Force refined this section to emphasize the importance of considering the allocation of the dependency exemptions.

C. Minimum and Maximum Levels

The Task Force considered whether the minimum support order required adjustment. The minimum support order has not changed since 2002 when it was established at \$18.46 per week. After discussion, the Task Force recommended that the minimum support order be increased to \$25 per week. This increase is consistent with economic data on the increase in the overall cost of living in Massachusetts since 2002. The guidelines chart has been adjusted to reflect that the minimum support order applies to combined available income up to \$115 per week.

For informational assistance with regard to child support when the parents' combined gross income is over \$250,000, section 6 of the guidelines worksheet calculates the amount by which each parent's available income exceeds \$250,000. Child support based on income above \$250,000 is discretionary. The excess income information in section 6 of the guidelines worksheet may be considered on a case-by-case basis.

D. Parenting Time

The Task Force discussed at length the consequences of the changes that were incorporated by the 2012 Task Force with regard to when parenting time is more than one-third but less than fifty percent. The Task Force agreed that the provision relating to these circumstances needed to be eliminated. The Task Force considered public comment, attorney and judicial experience, the 2008 Report of the Child Support Guidelines Task Force, and the Final Report of the 2012 Task Force when making this determination. The 2012 change increased litigation and acrimony between parents, shifted the focus from a parenting plan that is in the best interests of the children to a contest about a parenting plan that attempts to reduce a child support order, and failed to create the consistency in child support orders that it sought to create.

The Task Force suggested that the first step in determining a child support order is actually creating a parenting plan that is best for the children, recognizing that children should enjoy parenting time with both parents to the greatest extent possible consistent with the children's best interests. Child support should not be driving the parenting plan. Once the parenting plan is established, then calculations may occur. It is important to note again here that the Task Force specifically created a principle regarding the appropriate use of a deviation where the circumstances of a family require one. See Principles, Principle 5.

The Task Force recommended deleting the provisions inserted in the 2009 guidelines that limited the deduction of other support orders from gross income when making certain calculations related to parenting time. This Task Force was unable to determine why the provisions were included, and thus determined that equity required their deletion.

E. Child Care Costs

The Task Force discussed at length how to address the concerns raised by many people regarding the significant costs of child care. The Task Force recommended a proportional adjustment to the child support order based on child care and health care costs. The proportional adjustment for the costs is not dollar-for-dollar because the significant costs of child care and health care coverage could unfairly skew a child support order. Instead, the adjustment is capped, either up or down, at fifteen percent of the child support order.

F. Child Support for Children Between the Ages of 18 and 23

The Task Force renamed and restructured the section previously entitled, “Age of the Children”. The Task Force clarified that these guidelines apply in all cases where a child support order is established or modified and not just in cases involving children under age 18. See 45 C.F.R. § 302.56 (a) (2017). That Massachusetts by statute allows for, but does not require, child support until age 23 does not negate the federal requirement that the guidelines must apply in all cases. However, the C.F.R. does not mandate that the guidelines be identical for children of all ages. For dependent children between 18 and 21, child support may be ordered if the dependent child is domiciled with a parent and is principally dependent on that parent. See G. L. c. 208, § 28, G. L. c. 209C, § 9 and G. L. c. 209, § 37.

For dependent children between 21 and 23, child support may be ordered if the dependent child is domiciled with a parent and is principally dependent on that parent due to enrollment in an educational program, as long as the program is not beyond an undergraduate degree. See *id.* Although the Task Force received public comment suggesting that child support end at age 18, the Task Force did not amend the provision retaining discretion in entering child support orders for children between the ages of 18 and 23 because this discretion is statutory. The Task Force strongly recommended that, until or unless the Massachusetts Legislature amends the child support statutes to clarify that child support is mandatory through graduation of high school, the Court consider child support orders for those children who have turned 18 but are still in high school as mandatory rather than permissive.

Because these guidelines apply to all child support orders, including those for children up to age 23, the Task Force discussed whether the application of the guidelines through the guidelines worksheet should result in a reduction in the base amount of child support for children who are age 18 or older and not attending high school, but nevertheless eligible for child support pursuant to Massachusetts law. The Task Force agreed that a twenty-five percent reduction is appropriate as it takes into consideration factors typical of this age group. For example, the child may be living away at school thereby reducing some of the household expenses for the recipient or the child may be living at home and is not enrolled in a post-secondary educational program and should be working and contributing to the household expenses. The reduction balances the requirement imposed by federal regulation that all child support orders are the product of a formula established by guidelines, while also considering important factors unique to children between the ages of 18 and 23. See *M.C. v. T.K.*, 463 Mass. 226, 231 (2012) (“The Chief Justice of the Trial Court is authorized to promulgate guidelines establishing presumptive child support awards, based on articulated principles and calculated according to specified mathematical formulas.”) Nothing in this section limits the ability of the Court to deviate from the presumptive order where appropriate. For example, the child may be living at home and commuting to a post-secondary educational program.

This section shall not be construed to change the rule set forth in *Feinberg v. Diamant*, 378 Mass. 131 (1979) allowing the Court to require a financially able parent to “contribute to the support of an adult child who by reason of mental or physical infirmity incurs expenses that he or she is unable to meet.” *Feinberg v. Diamant*, 378 Mass. 131, 134 (1979). These matters are addressed in equity actions.

G. Contribution to Post-secondary Educational Expenses

The Task Force created a new section to address the complexity of contributions to post-secondary educational expenses. Post-secondary educational expenses have increased exponentially since 1976 when the Massachusetts Legislature amended statutes to permit the Court to order parents to pay for educational expenses. Overall, both public and private four-year college expenses for fees, tuition, room and board, have increased approximately 250%, as adjusted for inflation. See College Board, Annual Survey of Colleges, 2017. The Task Force shared the pervasive concern that many parents cannot pay post-secondary educational expenses from their income, while meeting other expense obligations. The Task Force intended to discourage orders requiring parents to incur liability for loans in excess of state university costs unless the parents agree to accept such liabilities. The Task Force also intended an expense limitation to provide general uniformity in court-ordered, post-secondary educational expenses contributions.

The limitation on post-secondary educational expenses orders is recommended for most cases, but it is not mandatory. The Task Force does not intend the limitation to apply to children already enrolled in post-secondary education before the effective date of these guidelines or to parents who are financially able to pay educational expenses using assets or other resources.

The University of Massachusetts-Amherst was designated as the benchmark for maximum orders because it was the flagship, and most expensive, Massachusetts state college when these guidelines became effective.

H. Health Care Coverage

The Task Force renamed, reorganized, and revised this section. The phrase “health care coverage” was changed from “health insurance” to reflect recent changes in federal law, which now references both private and public health care coverage. Under federal regulations, child support guidelines must “[a]ddress how the parents will provide for the child’s health care needs through private *or public health care* coverage and/or through cash medical support.” 45 C.F.R. § 302.56 (c) (2) (2017) (emphasis added). Under 45 C.F.R. § 303.31 (a) (3), “[c]ash medical support or the cost of health insurance is considered reasonable in cost if the cost to the parent responsible for providing medical support does not exceed five percent of his or her gross income or, at State option, a reasonable alternative income-based numeric standard defined in State law, regulations or court rule having the force of law or State child support guidelines adopted in accordance with § 302.56(c) of [Chapter 45].” The Massachusetts Legislature has not amended G. L. c. 119A to reflect the federal definition of reasonableness or to grant the authority to order cash medical support. Nor does G. L. c. 119A allow the Court to order either parent to provide health care coverage. See G. L. c. 119A, § 12 (b) (5). The Task Force strongly recommended that the Massachusetts Legislature amend G. L. c. 119A to be consistent with the federal regulations.

The Task Force also made revisions that more clearly reflect the statutory requirements relating to orders for health care coverage. Before requiring a payor to obtain health care coverage, the Court must determine that such coverage is available at reasonable cost, “provided that the cost of such coverage does not create an undue hardship upon the [payor].” G. L. c. 119A, § 12 (b) (5). Because “undue hardship” is not defined by statute or case law, factors relating to determining whether an order of health care coverage creates an undue hardship on the payor are included in these guidelines. There are circumstances where the combined child support order and the cost to the payor for obtaining and maintaining health care coverage exceed the amount allowed under law to be ordered withheld from a payor’s income. If health care coverage is ordered in these circumstances, and the costs for the health care coverage are deducted from the payor’s income before the child support order is paid, the child support order is not paid in full and the payor accrues child support arrears. For purposes of this section, an undue hardship may occur if the combined health care coverage and child support order exceeds statutory garnishment limits. The Task Force determined that it was appropriate to adopt the percentage of poverty level that MassHealth’s Children’s Health Insurance Program (CHIP) uses for eligibility screening. See <http://children.massbudget.org/masshealth>. The Court retains the discretion to consider other relevant factors in making the determination regarding undue hardship.

If health care coverage is not currently available at a reasonable cost or the payment of health care coverage causes an undue hardship, the Task Force removed the requirement that the Court enter an order requiring the payor to obtain and maintain health care coverage for the child if and when the parent has access to such coverage. Instead, the Task Force added a provision that requires the payor to notify the IV-D agency or the recipient if health care

coverage becomes available. If health care coverage becomes available, a modification of the child support order may be appropriate to reflect the cost of such coverage, as well as to determine whether there is any undue hardship.

In addition to child care costs, the Task Force also discussed at length how to address the concerns raised by many people regarding the significant costs of health care coverage. The Task Force recommended a proportional adjustment to the child support order based on child care and health care costs. The proportional adjustment for the costs is not dollar-for-dollar because the significant costs of child care and health care coverage could unfairly skew a child support order. Instead, the adjustment is capped, either up or down, at fifteen percent of the child support order.

The Task Force recommended that, where appropriate, the Court should examine whether the parent who seeks to deduct the total amount of health care coverage is including in that total amount the cost for covering persons not covered by the order under consideration. In that circumstance, the Court may determine that some or all of the additional cost should not be deducted from gross income on the guidelines worksheet.

I. Dental/Vision Insurance

The Task Force reorganized this section. The Task Force determined that the costs of the dental and vision insurance covering children under this order shall be included as a component of the child care and health care adjustment.

J. Routine Uninsured Medical and Dental/Vision Expenses and Extraordinary Uninsured Medical and Dental/Vision Expenses

The Task Force reorganized the sections previously entitled, “Routine Uninsured Medical and Dental Expenses” and “Uninsured Extraordinary Medical and Dental Expenses” into one section without any substantive changes.

K. Existing Support Obligations and Responsibility for Children Not in the Case under Consideration

The Task Force recommended changes to this section to clarify the different circumstances that may result in a deduction from gross income when a parent has a legal responsibility to support a child not part of the case currently being considered. The Task Force clarified that where applicable either parent may seek the deductions from gross income and that sufficient proof must be provided. The Task Force reviewed language from the New Jersey, North Carolina, Ohio, and Tennessee child support guidelines to assist in drafting the clarifications.

In Department of Revenue v. Mason M., the Supreme Judicial Court endorsed the use of deducting a hypothetical support order from a parent’s gross income where that parent had multiple children to support. Department of Revenue v. Mason M., 439 Mass. 665, 671-72 (2003). However, to calculate a hypothetical amount of child support, the gross incomes of both parents of that child must be used. This calculation can be difficult to compute because the Court does not have the non-party parent’s gross income. The burden is on the parent who seeks to deduct a hypothetical amount to provide to the Court the information necessary for calculating the hypothetical amount, including the non-party parent’s gross income.

L. Families with More than Five Children

The Task Force did not recommend any substantive changes to this section.

M. Contribution to Other Child-Related Expenses

The Task Force renamed this section for consistency. “Post-secondary education” was deleted from this section only because the Task Force created a new section that addresses contribution to post-secondary educational expenses. See Section II. G.

III. MODIFICATION

- A. A child support order may be modified if any of the circumstances listed below exist.
 - 1. There is an inconsistency between the amount of the existing order and the amount that would result from the application of the guidelines.
 - 2. Previously ordered health care coverage is no longer available.
 - 3. Previously ordered health care coverage is still available but no longer at a reasonable cost or without an undue hardship.
 - 4. Access to health care coverage not previously available to a parent has become available.
 - 5. Any other material and substantial change in circumstances has occurred.

- B. Upon a request for modification of an order that deviated from the guidelines at the time it was entered, the Court shall apply the existing deviation to the modification action if:
 - 1. the facts that gave rise to deviation still exist; and
 - 2. deviation continues to be in the child's best interest; and
 - 3. the guidelines amount would be unjust or inappropriate under the circumstances.

- C. Section III. B. does not preclude deviations based on other grounds set forth in Section IV. or grounds for modification as set forth in Section III. A.

Commentary 2025 – Section III. – Modification

The Task Force considered and discussed this section and did not recommend any changes.

Commentary 2021 – Section III. – Modification

The Task Force considered and discussed this section and did not recommend any changes.

Commentary 2017 – Section III. – Modification

The Task Force deleted Paragraph B of the 2013 guidelines because it was premised on the assumption that Massachusetts law provides for a separate standard to be used by the Court when the Department of Revenue is providing IV-D services in a case where the order is less than three years old. While the Department of Revenue is not required to use the inconsistency standard when determining whether to provide IV-D services to seek a modification of an order that is less than three years old, the Court must apply the inconsistency standard once any complaint for modification is filed and is before the Court. See 57 Fed. Reg. 61559, 61577 (1992). See also G. L. c. 208, § 28, G. L. c. 209C, § 20 and G. L. c. 209, § 37.

The Department of Revenue's review process does not prohibit an individual from filing a complaint for modification on his or her own, regardless of whether the case is receiving IV-D services.

The Task Force refined the language to clarify that if circumstances that resulted in a deviation are still in existence during a modification action, those circumstances shall be considered to remain even though it may be appropriate to modify the existing order. For example, a child may have a medical condition that results in ongoing, extraordinary medical expenses and the existing child support order deviates from the guidelines amount. The recipient is now unemployed and files a complaint for modification. The underlying circumstances for the existing deviation remains; however, the Court also considers the additional circumstances.

IV. DEVIATION

A. The Court, or the parties by agreement approved by the Court, may deviate from these guidelines and overcome the presumptive application of these guidelines, provided the Court enters specific written findings stating:

1. the amount of the order that would result from application of the guidelines;
2. that the guidelines amount would be unjust or inappropriate under the circumstances;
3. the specific facts of the case which justify departure from the guidelines; and
4. that such departure is consistent with the best interests of the child.

B. Circumstances which may support deviating, above or below the presumptive guidelines amount, including setting a child support order at \$0, are as follows:

1. the parties agree and the Court determines the agreement to be fair and reasonable and approves their agreement;
2. a child has ongoing special needs or aptitudes with financial consequences;
3. a child has ongoing extraordinary mental, physical, or developmental needs with financial consequences;
4. a parent has ongoing extraordinary mental, physical, or developmental needs with financial consequences;
5. a parent has extraordinary expenses for health care coverage;
6. a parent has extraordinary travel or other expenses related to parenting time;
7. a parent has extraordinary child care costs for the children covered by this order;
8. a parent provides substantially less than one-third of the parenting time for a child or children;
9. a parent provides substantially more than one-third and less than one-half of the parenting time for a child or children;
10. the child or children have more than two legal parents;

11. the payor is incarcerated and has insufficient financial resources to pay support;
12. application of the guidelines, particularly in low income cases, leaves a parent without the ability to self support;
13. application of the guidelines would result in a gross disparity in the standard of living between the two households such that one household is left with an unreasonably low percentage of the combined available income;
14. application of the guidelines may adversely impact reunification of a parent and child where the child has been temporarily removed from the household in accordance with G. L. c. 119; and
15. absent deviation, application of the guidelines would lead to an order that is unjust, inappropriate or not in the best interests of the child, considering the Principles of these guidelines.

C. Whenever application of the guidelines requires a payor to pay a recipient 40% or more of the payor's available income in Line 3a of the guidelines worksheet for a current child support order, there shall be a rebuttable presumption of a substantial hardship, justifying a deviation from the guidelines.

Commentary 2025 – Section IV. – Deviation

The Task Force did not recommend any changes to Section IV. A.

The Task Force added Section IV. B. 9. to emphasize and clarify the ability to deviate when parenting time does not fit precisely into the boxes in Line 1b of the guidelines worksheet. See Section II. D. 4.

The Task Force added Section IV. B. 10. to reflect the amendments to G. L. c. 209C which allow for a child to have more than two legal parents. See Section II. D. 5.

In Section IV. C., the Task Force clarified that the rebuttable presumption of a substantial hardship is triggered upon reaching 40% of the payor's available income. This language is consistent with the calculation in the guidelines worksheet.

Commentary 2021 – Section IV. – Deviation

The Task Force again emphasized here that in certain circumstances setting a child support order at \$0 may be appropriate. The Task Force recommended inserting "time" at the end of Section IV. B. 6. to clarify that the expenses listed were related to parenting time with minor children. The Task Force also recommended amending Section IV. B. 7. to clarify that a deviation may be appropriate where child care costs for the children covered by the child support order are extraordinary.

The Task Force recommended adding Section IV. C. to include a rebuttable presumption of a substantial hardship justifying a deviation where the overall current child support order is more than 40% of the payor's available income in Line 3a of the guidelines worksheet. In setting this percentage, the Task Force considered the range of marginal percentages in Table A of the guidelines, the amounts resulting from the application of the guidelines across the full

range of income combinations, and economic estimates of child costs relative to income levels. A threshold of 40% falls between economic estimates of child costs for one child and two children reported by the Betson-Rothbarth, USDA, and MIT Living Wage studies. The Task Force's recommendation recognized the need for additional protection in certain limited cases where the child support order would exceed this percentage. The guidelines worksheet in Line 7e indicates whether the current child support order is more than 40% of the payor's available income.

Commentary 2017 – Section IV. – Deviation

The Task Force refined and clarified the circumstances where deviation may be appropriate. The Task Force reordered this section for clarification purposes only and not to prioritize any one factor over another. The Task Force emphasized that a deviation may be appropriate for a family and encourages the Court to deviate where circumstances require it.

The Task Force clarified in the first phrase of Section IV. B. that it is permissible to deviate to an amount below the presumptive guidelines amount. Because the deviation circumstances affect an ongoing child support award, rather than a one-time or occasional allocation, the Task Force emphasized that certain circumstances must be ongoing and with financial consequences for them to be considered appropriate for a deviation. In Section IV. B. 8., the Task Force added "substantially" to emphasize as it did in Section II. D. that a parenting plan that is in the best interest of the child is the first step in determining a child support order. The inclusion of "substantially" provides a parameter with the goal of reducing acrimony and litigation between parents regarding the interaction of the parenting plan and the amount of the child support order.