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# Economic Review of the Massachusetts Child Support Guidelines 2020–2021

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## NOTICE

This report was prepared for the Commonwealth of Massachusetts Executive Office of the Trial Court and the 2020–2021 Child Support Guidelines Task Force. All data, statements, and results are the responsibility of the authors and do not represent the opinions of The Brattle Group or its clients.

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# I. Executive Summary

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The Commonwealth of Massachusetts Executive Office of the Trial Court asked us to provide analysis and professional advice to the 2020–2021 Massachusetts Child Support Guidelines Task Force on: current economic data and information on child costs, economic concepts and principles relating to the Massachusetts child support guidelines, and potential revisions to the guidelines the Task Force considered as part of its review. Our role in the Task Force’s review process was to provide objective information and advice to the Task Force on economic issues. However, economic considerations are only a part of what the Task Force considered in its review. The Task Force’s ultimate recommendations reflect considerations broader than just economic factors, and its recommendations are its own, not those of the Brattle team.

As a matter of economics, it is important for child support guidelines to yield a level of financial support for children that is both efficient and equitable. The guidelines amounts are presumptively correct, so there should be a clear relationship between them and the economics of child costs, both in principle and in practice.

Appropriately, the Massachusetts child support guidelines are not based on a single economic study or source of data on child costs. In fact, the most widely used studies do not actually measure direct spending on children and are based on national, not state-specific, data. The data on child costs have known, inherent limitations. Most child costs are not directly observable because they are for things shared by adults and children in a household, such as housing and food. Therefore, most economic data on child costs are estimates, not actual expenditures. The data are important to consider and are informative, but they are not flawless or determinative in a policy context.

During the Task Force’s year-long review process, we presented economic information and data on the full range of issues the Task Force considered. This included the economic approaches used to estimate child costs, the most current estimates from economic studies and data sources, and data on incomes, labor market conditions, and actual spending in Massachusetts. It also included a review of case-specific outcomes under the current Massachusetts guidelines as they are being applied by the Court, including deviations from the guidelines, as well as the resulting actual payments actually being made on child support orders in cases with different characteristics.

Our review of IV-D cases where the Massachusetts Department of Revenue (“DOR”) provides a full range of child support services (including establishing paternity and establishing, modifying, and enforcing orders for child and medical support) finds child support payments are made in full in most cases, regardless of location or case type. The average child support payment in Massachusetts IV-D cases under the current guidelines ranges from \$118 per week (in Hampden County) to \$217 per week (in Dukes County), with a statewide average of \$152 per week. The IV-D case data show relatively consistent rates of compliance with child support orders: 71% of those orders, on average, are fully paid across the Commonwealth. Only a relatively small percentage of IV-D cases (10%) have no payments. This overall trend reflects favorably on the guidelines and on the Court’s use of its discretion in setting appropriate child support orders. Consistent with our prior reviews, we observe Massachusetts Probate and Family Court judges deviating from the current guidelines, imputing or attributing income, or entering default orders in only 10.6% of cases. In most of those cases (94%), the judges are deviating from the guidelines. The Court ordered some amount of child support to be paid in 41% of deviation cases, but at amounts 30% lower than the guidelines amounts, on average. The Court entered zero orders in 34% of deviation cases. It deviated upward in 19% of cases, and by 58% on average. This pattern suggests the Court is deviating in relatively few cases and in expected ways. That is similar to our findings in prior guidelines reviews, and it suggests the Massachusetts guidelines are working well overall. The guidelines seem to be the rule in most cases, and deviations are an exception.

We discussed with the Task Force each of its recommendations, which include five primary changes to the guidelines worksheet:

1. *Lower minimum order amounts for low-income payors.* The \$25 per week minimum order in the current guidelines is insufficient to cover child costs, but is also high relative to the 2021 federal poverty guidelines (\$248 per week) and minimum orders in neighboring states (typically \$12 per week). The Task Force recommended lowering the minimum order in the revised guidelines to \$12 per week for a payor with income up to \$210 per week. For a payor with income above \$210 per week but still roughly at the federal poverty guidelines level (up to \$249 per week of income), the revised guidelines amount is \$20 per week. The impact of this change will be lower child support amounts for families where the payor’s income is below \$250 per week. The child support amounts for payors just above that cut-off will be a step higher, but at the same percentage of income as in the current guidelines (22%), so there are no changes due to this recommendation.



2. *Higher maximum income level.* The Task Force recommended increasing the maximum level of combined available income to which the revised guidelines apply from \$250,000 per year (\$4,808 per week) to \$400,000 per year (\$7,692 per week). The current income maximum was introduced in 2009 and has not been increased in 12 years, though both incomes and costs have increased significantly in that time. Increasing the income maximum to \$400,000 per year ensures that the revised guidelines apply to all available income in almost all cases in the Commonwealth, since \$400,000 per year is roughly five times the level of median household income. The impact of this change will be higher guidelines amounts for families where the parents have combined available income above the prior cut-off of \$250,000. The amount of this increase allocated to the payor depends on the parents' relative shares of combined available income. If the Court decides to order any child support on income above the new maximum level, the percentage applied to that additional income typically should be less than the marginal percentage applied up to \$400,000 per year under the revised guidelines, which is 10%. Simply re-running the guidelines worksheet on income above \$400,000 is objectively incorrect from an economic perspective.
3. *Changes to Table A for one child.* The Task Force updated Table A of the guidelines worksheet to accommodate additional amounts of combined available income up to the new \$400,000 per year income maximum. Specifically, it recommended changing the income thresholds and marginal percentages in the six income levels (tranches) in Table A above the two initial tranches for payors with low incomes. The revised tranches include more income in the lower tranches and successively wider income ranges in the higher tranches, effectively stretching the percentages in Table A to cover the wider range of income under the revised guidelines. As a result, two of the marginal percentages in the upper tranches were changed from 15% and 12% to 14% and 11%, respectively. While those percentages decrease, the corresponding guidelines amounts increase slightly, since more income has already been re-allocated to the lower tranches at higher marginal percentages. The impact of this change is minimal by design. The guidelines amounts do not materially change, except for families above the prior \$250,000 income maximum discussed above.
4. *Changes to Table B for more than one child.* The Task Force recommended changes to the adjustment factors listed in Table B of the guidelines worksheet used to account for multiple children. The increases for additional children in the current guidelines (25%, 10%, 5%, and 2%) are lower than any benchmark estimate; they are roughly half of each increase observed in the benchmark data, or less, on average.

The Task Force recommended increases in the revised guidelines of 40%, 20%, 10%, and 5% for a second, third, fourth, and fifth child, respectively. The corresponding adjustment factors in the revised Table B are 1.40, 1.68, 1.85, and 1.94. The impact of this change will be to materially increase child support amounts for families with more than one child.

5. *Changes to how parents share child care and health care costs under the guidelines.*

The Task Force recommended removing the 15% cap on the credit for child care costs, and instead explicitly credit the parent who pays those costs in proportion to the parents' relative shares of combined available income, up to a benchmark average cost of \$355 per week per child. Since child care costs will be proportionally shared, they are no longer deducted from gross income at the top of the guidelines worksheet. The Task Force recommended continuing to deduct health care costs from available income, but no longer crediting them later in the worksheet. It makes good economic sense for parents to share the child costs in proportion to their relative incomes. Capping the cost sharing does not make the underlying costs go away; it simply imposes a disproportionate share of the costs on the parent who pays them. The revised guidelines treat child care costs and health care costs differently because child care is an observable, direct cost for a child and is typically more costly than a child's portion of family health care coverage, which is not always observable. This is a significant change to the guidelines with potentially large impacts, since child care costs are higher than child support amounts in many cases. Its impact will be to increase child support, possibly significantly, for families where a recipient pays for child care, and to decrease child support for families where a payor pays for child care. Given the potential size of this impact in some cases, the Task Force recommended adding a flag at the bottom of the guidelines worksheet to highlight instances where the guidelines amount is 40% or more of a payor's available income and possibly a substantial hardship, in some cases justifying a deviation from the guidelines.

We discussed with the Task Force how the structure of the Massachusetts guidelines and the resulting dollar amounts compare to current data from three benchmark indicators of child costs: (1) the latest economic study by Dr. David Betson, (2) current estimates of child costs published by the US Department of Agriculture ("USDA"), and (3) guidelines amounts in the five states neighboring Massachusetts (Connecticut, New Hampshire, New York, Rhode Island, and Vermont) and four other similarly high-cost jurisdictions (California, Maryland, New Jersey, and Washington, DC). We discussed each source and presented comparative results of child support amounts for a vast number of specific case scenarios. This report summarizes the results of

comparing child support amounts under the Massachusetts guidelines, as revised per the Task Force's recommendations, to each of the benchmarks for cases with one, two, and three children. Overall, the revised guidelines amounts for one child are lower than the benchmarks in cases with very low income and are higher than the benchmarks, to varying degrees, as income increases. The guidelines amounts for two or more children are also higher than the economic estimates of child cost at middle- and high-income levels, but by less than the higher differentials for one child. They are also roughly consistent with, and sometimes lower than, the guidelines amounts in neighboring and high-cost states in some cases.

At lower income levels, the revised guidelines amounts are lower than Dr. Betson's estimates. As income increases, the revised guidelines amounts are higher than his estimates. Likewise, the revised guidelines amounts are lower than the USDA national estimates at low-income levels, but are increasingly higher at middle- and high-income levels. The comparison to the USDA Northeast estimates reflects the same relative results. However, because the USDA estimates are higher for the Northeast than for the overall US, the differences are larger for low incomes and smaller at middle and high incomes.

In addition to the comparisons to economic estimates of child costs, we presented to the Task Force comparisons of the revised guidelines amounts to the guidelines amounts in the five neighboring states and four high-cost jurisdictions. For all nine benchmark states, we calculated and discussed with the Task Force the results of 81 unique combinations of relative incomes (low, middle, and high), costs (no cost, split cost, and recipient cost), and number of children (one, two, and three) scenarios. Across all 81 unique combinations of those factors, the Massachusetts revised guidelines amounts for one child are either in line with, or slightly higher than, guidelines amounts in the neighboring states in most cases, and are more consistent with guidelines amounts in high-cost states, though still lower in some cases. For families with more than one child, the Massachusetts revised guidelines amounts are higher than the benchmark states in most, but not all, no-cost scenarios. They are also higher in most scenarios with child care and health care costs.

The higher child support amounts we observe in these comparisons may partly reflect the relatively high cost of living in Massachusetts. If overall costs are above average, child costs are likely above average as well. Costs in Massachusetts are certainly higher for many important components of household spending. The average cost of home ownership in Massachusetts is over \$2,200 per month, or 40% higher than in the US overall. Average rent is nearly \$1,300 per month, or 21% higher than the national average. Child care costs in Massachusetts are the highest in the nation, at approximately \$300 per week (for all age groups), or 69% above the national average and 47% above the average cost in neighboring states. Health care costs in

Massachusetts are among the nation's highest as well, with annual total health care spending at almost \$21,000 per resident, or 44% above the national average and 18% above the average of the neighboring states.

Median household income in Massachusetts also is higher (\$81,215 per year, or 29% higher than in the US overall), but with a wide disparity in income levels. So the high cost of living is disproportionately high relative to income for some households. Whether the above-average income and cost of living in Massachusetts means child support guidelines amounts also should be higher is a complex, open question discussed in more detail below, and worthy of further research beyond the immediate scope of this report.

## II. Introduction

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The Massachusetts Trial Court selected The Brattle Group (“Brattle”) as the economic consultant to the 2020–2021 Child Support Guidelines Task Force (“Task Force”) in its quadrennial review of the Massachusetts Child Support Guidelines (“guidelines”), pursuant to a request for proposals issued in May 2020. The Brattle team on this project was led by Mark Sarro, Christine Polek, and Shastri Sandy.<sup>1</sup> Their profiles are included at the end of this report.

### A. Role of the Brattle Team

The Task Force started its review process in June 2020. Brattle’s work with the Task Force started in August 2020 and continued through the completion of this report in July 2021. In that time, members of the Brattle team:

- Attended all three public forums and reviewed all written comments
- Participated in all Task Force meetings
- Responded to requests by members of the Task Force and the Trial Court
- Summarized the economic approaches used to estimate child costs
- Researched and developed child cost estimates from economic studies and data sources
- Analyzed available economic data on child costs and on income and household expenditures in Massachusetts relative to other states, including housing costs, child care costs, and health care costs
- Compared components and results of the Massachusetts guidelines to other states’ guidelines structures and amounts, including the five states neighboring Massachusetts and other relatively high-income states

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<sup>1</sup> Tessie McGough also led parts of our analysis during the Task Force review process.

- Advised the Task Force on the potential impacts of proposed changes to the guidelines and on the implementation of those changes in the guidelines worksheet and chart
- Assisted the Trial Court in developing the interactive guidelines worksheet posted on the Trial Court’s website

To be clear, the role of the Brattle team was to assist the Task Force by providing objective information and advice on the economic issues the Task Force considered during the course of its review. We advised the Task Force on economic issues relating to the guidelines and presented current economic data on the cost of raising a child in Massachusetts. As part of the Task Force’s year-long review, we calculated child support amounts for thousands of hypothetical fact patterns under the current (2018) guidelines, alternative formulas and percentage tables, and the final 2021 guidelines. But the economics are not entirely determinative in a child support context. The economic data and analyses we presented to the Task Force were only a part of the information it considered. Ultimately, the Task Force’s recommendations were based on economic information in combination with a range of legal, policy, and practical considerations. In the end, based on its holistic review, the Task Force – not the Brattle team – decided on the changes it proposed to the Trial Court.

This report summarizes the information and analysis we presented to the Task Force in the course of our economic review of the guidelines formula, the impacts of the Task Force’s proposed changes, and the resulting child support amounts relative to economic estimates of child costs and child support in other states.

## B. Role of the Task Force

Federal law and regulations require that each state review and possibly revise its child support guidelines at least every four years to assure their application results in appropriate child support amounts.<sup>2</sup> The current Massachusetts guidelines became effective on September 15, 2017, and were amended on June 15, 2018 following a comprehensive review process in 2016 and 2017. The Task Force’s review of the current Massachusetts guidelines was completed within the required four-year window. While the Brattle team provided the economic information and analysis for this review, deciding whether and how to revise the guidelines was the Task Force’s role.

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<sup>2</sup> 42 USC 667; 45 CFR 302.56 (e).

As we noted in our report at the conclusion of the 2016–2017 Task Force review process, regularly reviewing child support guidelines is an important feature of getting both the process and the numbers “right.” This is challenging because the guidelines establish a “one-size-fits-all” formula for calculating child support in any case throughout the Commonwealth. Despite this difficulty, it is imperative to regularly re-evaluate whether child support amounts under the guidelines are appropriate since the resulting child support amounts are “presumptive” in the absence of specific findings explaining why they would be inappropriate in a particular case.<sup>3</sup> In other words, the guidelines amounts are assumed to be the right amounts in a given case unless the Court explicitly finds otherwise. Of course, there is no objectively “right” amount of child support in any case. Spending on children varies widely even in different households with similar economic characteristics. The guidelines formula is designed to be flexible enough to yield appropriate amounts in most cases by taking into account the relevant economic factors leading to different levels of spending on children, and to guide the Court in deviating from the formulaic amount of child support by exception, as appropriate.

As a matter of economics, an important goal of the guidelines is to yield an appropriate level of financial support for a child from both parents in an economically efficient and equitable proportion. Several of the principles listed upfront in the guidelines reflect this goal. A primary purpose of the Task Force’s review process is to evaluate how well the guidelines meet this goal. Doing so requires analyzing both the structure of the guidelines worksheet and the resulting child support amounts relative to the best available indicators of current child costs in Massachusetts. Since the guidelines amounts are presumed to be appropriate, there should be a clear relationship between the resulting amounts and the basis for them, including economic data and specific policy considerations. To be valid, an economic presumption must have a sound theoretical and empirical basis that can be tested and put into practice. This is why, for more than 30 years, federal law has required each state to have a single set of guidelines for calculating a numeric child support amount – in any case – that accounts for all of the payor’s income, provides health care coverage for the children, and can be rebutted and deviated from based on specific criteria.<sup>4</sup>

In December 2016, the federal law was expanded to include additional requirements for each state’s guidelines and review process. Broadly, the new requirements relate to a payor’s ability to pay child support under the guidelines. Specifically, they require the guidelines to include a low-income adjustment so payors can cover their own basic costs as well as paying child support. In addition, they require the Task Force’s review to consider data on local labor market

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<sup>3</sup> 45 CFR 302.56 (f) and (g).

<sup>4</sup> 45 CFR 302.56 (a) through (g).

conditions and the guidelines' impact on parents with relatively low incomes. The review also had to include analysis of case data on payments of, and deviations from, the guidelines amounts in different types of cases to ensure the guidelines amounts are appropriate in most cases and deviations from the guidelines are limited.<sup>5</sup>

This report summarizes these analyses as well as the analyses noted in the bullet points above, which informed the Task Force's review and its recommendations to the Trial Court. Rather than only reporting the analyses of the 2018 guidelines ("current guidelines") presented to the Task Force during its deliberations, this report also summarizes the changes the Task Force ultimately recommended and the Trial Court implemented in the 2021 guidelines ("revised guidelines").

### III. Massachusetts Current (2017) Guidelines

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The current guidelines originally took effect on September 15, 2017 after a prior task force review. The guidelines were later amended on June 15, 2018, after the Trial Court modified the approach used to calculate the adjustment percentages in Table C of the current guidelines worksheet for children 18 years or older.<sup>6</sup> The prior task force considered but did not recommend any changes to Table A or Table B of the guidelines worksheet. However, the current guidelines reflect four other revisions to the 2013 guidelines:

- An increase in the minimum order from \$18 per week to \$25 per week for one child
- A sharing of child care costs and health care costs in proportion to each parent's share of combined available income, up to 15% of the pre-credit child support amount
- A 25% nominal reduction in child support for children age 18 or older<sup>7</sup>
- A cap on a parent's court-ordered contribution to college costs at 50% of the undergraduate, in-state resident cost of UMass Amherst

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<sup>5</sup> 45 CFR 302.56 (h).

<sup>6</sup> See <https://www.mass.gov/doc/memo-regarding-amendments-to-child-support-guidelines/download>.

<sup>7</sup> We say "nominal" reduction because the effective reductions in cases in which there are also children under age 18 are far lower than 25%. The effective percentages range from 1% to 9%, depending on the number and ages of the children. See Table C of the guidelines worksheet.



These changes in the current guidelines neither uniformly increased nor decreased the corresponding guidelines amounts. The higher minimum order unambiguously increased child support in those cases. But each of the other changes could increase or decrease child support, depending on case-specific circumstances. For example, introducing the child care and health care cost credits increased child support (by up to 15%) in cases where a recipient pays more of those costs. Alternatively, the same credits decreased child support in cases where a payor pays more of those costs. Similarly, the cap on court-ordered college costs could increase or decrease a payor's share of those costs, depending on how they were shared previously. Even the reduction for children ages 18 or older, which would typically decrease child support by 1% to 9%, would increase the net child support amount in split parenting (Line 1b Box 3) cases where the child aged 18 or older lives with a payor.

Having consulted with the prior (2016–2017) task force in its review, we can say with certainty these changes were made based on economic and policy considerations to incrementally improve the guidelines, not to increase or decrease guidelines amounts across the board. A universal directional impact was not the intent of the changes the prior task force recommended, nor was it their actual impact.

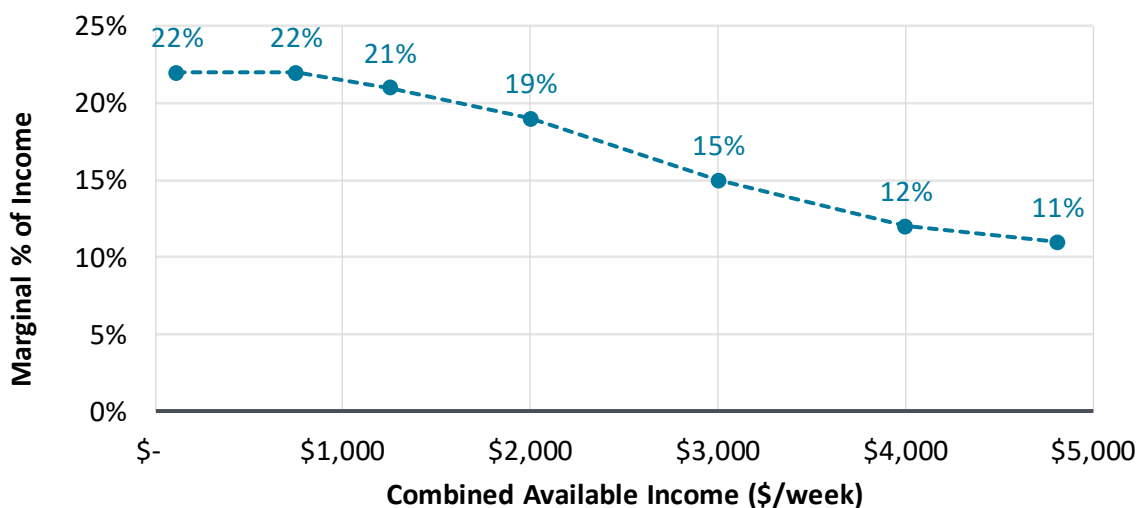
## A. Child Support as a Percentage of Income

Table A in the current guidelines worksheet lists the marginal percentages of available income used to determine the amount of child support for one child as the combined income of a payor and recipient increases up to the \$250,000 per year (\$4,808 per week) income maximum under the current guidelines. Each marginal percentage represents the share of incremental combined available income used to calculate the total child support amount for one child. The resulting child support amount reflects the income-weighted average of the series of marginal percentages up to the level of combined available income in a particular case. The marginal percentages in the current guidelines start at 22% of the lowest combined income levels (from \$151 per week up to \$750 per week) and steadily decline to 11% at the highest combined income levels (above \$4,000 per week). These marginal percentages are unchanged from the 2013 guidelines. The resulting guidelines amounts for one child (beyond minimum orders) range from effective percentages of 16% to 22% of a given level of combined available income, based on movement through the various income levels (tranches) in Table A.

**FIGURE 1** depicts the marginal percentages in Table A of the current guidelines for one child. The downward-sloping curve reflects the economic reality of covering child costs subject to a budget constraint combined with a declining propensity to spend as income rises. Child costs

account for a higher percentage of parents' available income at relatively low income levels and are an increasingly smaller share of income at higher income levels. At the lowest income levels, most household spending covers fixed costs shared by children and adults, such as housing and utilities. At higher income levels, more money is available to cover child-specific costs, such as children's clothing and sports equipment. As income continues to increase, spending on child-specific items represents a smaller and smaller share of overall income.<sup>8</sup>

**FIGURE 1: CURRENT GUIDELINES MARGINAL INCOME PERCENTAGES (1 CHILD)**



Source: Table A of current guidelines

The percentages in Table A of the current guidelines start at combined available income of \$151 per week, or just \$7,852 per year. This is well below the current (2021) federal poverty guidelines amount of \$12,880 per year (\$248 per week) for one person.<sup>9</sup> While the guidelines yield relatively low child support in dollars at that income level (between \$25 and \$33 per week for one child), it may still be difficult or infeasible for the payor to pay. For combined available incomes of \$150 per week or less, the \$25 minimum order is an even higher percentage of income. The current minimum order establishes a presumptive lower bound on the amount of financial support earmarked to cover child costs. Realistically, however, at such low income levels, there simply is not enough income to cover all costs. The emphasis in the new federal rules regarding payors' ability to support themselves as well as pay child support suggests \$25 per week may be a substantial hardship, justifying a deviation from the guidelines.

<sup>8</sup> Economic estimates of child costs show the proportion of income spent on children decreasing as income increases. This relationship reflects the economic principle of the decreasing marginal propensity to consume out of additional income at middle and high income levels.

<sup>9</sup> See <https://aspe.hhs.gov/2021-poverty-guidelines>.

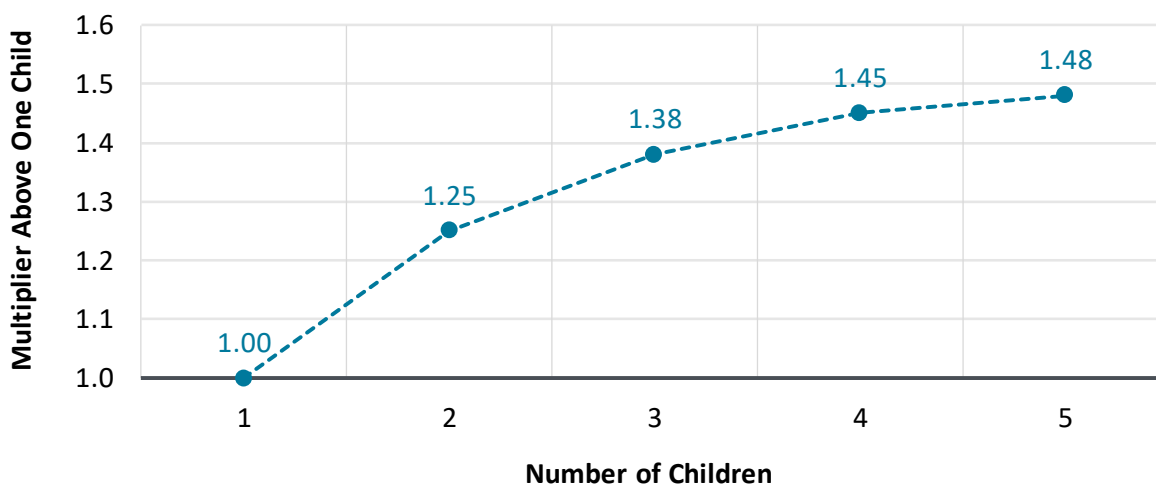
## B. Adjustment for the Number of Children

Table B in the guidelines worksheet takes the child support amounts for one child in Table A and adjusts them upward for more children. Table B lists five adjustment factors to be applied to the Table A amounts for one, two, three, four, or five children covered by an order, respectively. This adjustment factor is applied by multiplying it by the amount from Table A for the level of combined available income in a given case. Since the child support amounts in Table A are already for one child, the adjustment factor in Table B for one child is simply 1.00, leaving the amount from Table A unchanged. The adjustment factors for more than one child are greater than 1.00, so multiplying them by the amount from Table A yields more child support for more children.

The adjustment factors in Table B of the current guidelines are 1.25 for two children, 1.38 for three children, 1.45 for four children, and 1.48 for five children. The adjustment factor for two children represents a 25% increase in child support to cover the cost of a second child (that is, 1.25 is 25% higher than 1.00). The adjustment factors for more than two children represent increases of 10% for a third child (1.38 relative to 1.25), 5% for a fourth child (1.45 relative to 1.38), and 2% for a fifth child (1.48 relative to 1.45). The adjustment factors in the current guidelines are unchanged from the 2013 guidelines.

**FIGURE 2** shows the shape of the adjustment factors for one to five children under the current guidelines.

**FIGURE 2: ADJUSTMENT FACTORS FOR ADDITIONAL CHILDREN**



Source: Table B of current guidelines

## C. Adjustment for the Ages of Children

As a matter of law in Massachusetts, children may be covered under the guidelines – even after they have graduated from high school – until age 23. Including children ages 18 or over in the guidelines is not unusual. Only five states (Hawaii, Pennsylvania, Tennessee, Texas, and Utah) explicitly limit child support to children under age 18. In all other states, child support may be awarded for a child over age 18 subject to certain conditions, usually when the child is still in school. **TABLE 1** summarizes the maximum age under the child support guidelines in all 50 states and Washington, DC, with shading to highlight variations in the data.

**TABLE 1: MAXIMUM AGE FOR CHILD SUPPORT, NUMBER OF STATES**

Standard Child Age	Maximum Child Age (Conditional)						Total
	18	19	20	21	22	23	
18	5	23	7	4	1	3	43
19	0	3	0	1	0	1	5
20	0	0	0	0	0	0	0
21	0	0	0	3	0	0	3
<b>Total</b>	<b>5</b> 10%	<b>26</b> 51%	<b>7</b> 14%	<b>8</b> 16%	<b>1</b> 2%	<b>4</b> 8%	<b>51</b> 100%

Source: State Child Support Guidelines

The child support guidelines in a majority of states (26) may be conditionally applied up to age 19.<sup>10</sup> Guidelines in seven other states (Georgia, Michigan, Minnesota, North Carolina, Oklahoma, West Virginia, and Wyoming) can apply up to age 20. Eight guidelines can apply up to age 21 (Colorado, Mississippi, Missouri, New Hampshire, New York, Oregon, Vermont, and Washington, DC). Louisiana's guidelines can apply to age 22. Guidelines in three states other than Massachusetts (Connecticut, New Jersey, and Washington) can also apply up to age 23.

The economic data on how child costs vary by age is limited and mixed. The prior task force decided, as a policy matter, to recommend a 25% reduction in child support for children ages 18 or over because it added a specific provision to the current guidelines on parents sharing college costs and based on its view that children no longer in school can work to help cover their own costs.

<sup>10</sup> These 26 states are Alabama, Alaska, Arizona, Arkansas, California, Delaware, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Rhode Island, South Carolina, South Dakota, Virginia, and Wisconsin.

Table C of the guidelines worksheet implements the 25% reduction that the prior task force recommended. It lists a range of adjustment percentages (reductions) to apply to the guidelines amounts resulting from Tables A and B of the worksheet and based on combined available income as well as the number of children, respectively. **TABLE 2** below shows these percentages under the current guidelines.

**TABLE 2: TABLE C OF CURRENT GUIDELINES WORKSHEET**

**TABLE C:  
ADJUSTMENT FOR CHILDREN 18 YEARS OR OLDER**

CHILDREN UNDER 18	CHILDREN 18 OR OLDER					
	0	1	2	3	4	5
0	0%	25%	25%	25%	25%	25%
1	0%	5%	8%	9%	9%	
2	0%	3%	4%	4%		
3	0%	1%	2%			
4	0%	1%				
5	0%					

The specific percentage from Table C to apply in a given case depends on the number of children under age 18 and the number of children age 18 or older. In cases with no children age 18 or older, there is no reduction to the guidelines amount. This is represented by the zero percentages in the first column of Table C. Alternatively, in cases with all children age 18 or older, the reduction is the full 25% specified in the guidelines. This is the first row of Table C. The percentages in the other cells of Table C are the reductions corresponding to different combinations of children under age 18 and age 18 or older. These percentages range from 1% to 9% (well below the nominal 25% specified in the guidelines), since only the guidelines amounts for the children age 18 or older are reduced – not the total guidelines amount in cases with younger children.

Table C was added to the guidelines as amended in 2018 to change the way the adjustment percentages were originally calculated in the 2017 guidelines.<sup>11</sup> The percentages in Table C are a combination of the 25% nominal reduction to the guidelines amount for a child age 18 or over and the incremental increases for the number of children in Table B. To preserve the full child support amount for children under age 18, the nominal 25% reduction for older children is

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<sup>11</sup> This 2018 memo explains the rationale and mechanics for changing the calculation of the percentages in Table C in the current guidelines: <https://www.mass.gov/doc/memo-regarding-amendments-to-child-support-guidelines/download>

applied only after calculating the guidelines amount for all younger children in a given case. For example, in a case with one child under age 18 and one child age 18 or older, the reduction in Table C is 5%. This represents the percentage change between the adjustment factor of 1.25 listed in Table B for two children under age 18 and the corresponding adjustment factor of 1.19 for one child under age 18 and one child age 18 or older.<sup>12</sup> That is, 1.19 is 5% less than 1.25. For cases with more children age 18 or older, the percentages in Table C are calculated in the same way. Because the 25% reduction for an older child is applied only to the incremental increases for additional children from Table B, the adjustments in Table C are smaller in cases with more younger children and are larger in cases with more older children.

## D. Analysis of Case Data

Pursuant to the requirements of federal law noted above, the 2020–2021 guidelines review included analysis of case data on child support payments under the current guidelines over a range of cases with different characteristics. For that analysis, we used anonymized case data from the Child Support Enforcement Division of the Massachusetts Department of Revenue (“DOR”) for cases where the orders were established or modified under the current guidelines, from their effective date of June 15, 2018 through June 30, 2021. We also analyzed data from a sample of Probate and Family Court cases with written findings and deviations from the guidelines for the period between June 15, 2018, and December 31, 2020. In this section of our report, we summarize our analysis of payments, findings, and deviations overall, for each of the 14 divisions of the Court, and by case characteristics.

### 1. Case Data on Payments

DOR is the single state agency designated as the IV-D agency pursuant to Title IV, Part D of the Social Security Act (42 USC §§ 651, et seq.) G.L.c. 119A, § 1. As the IV-D agency, DOR is responsible for the administration of the Commonwealth’s child support program. In IV-D cases, DOR provides a full range of child support services, including assisting parents in establishing, enforcing, and modifying child and medical support orders. There are three subsets of IV-D cases: (1) public assistance cases, where DOR receives referrals from the Department of Transitional Assistance (“DTA”), MassHealth, and the Department of Children and Families (“DCF”) when parents receive assistance on behalf of their children from these agencies; (2) former assistance cases, where parents continue to receive DOR services when

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<sup>12</sup> For one child under age 18 and one child age 18 or older, the adjustment factor is 1.00 for the younger child from Table B multiplied by the 25% increase in Table B for a second child reduced by 25% because the second child is age 18 or over. So,  $1.00 \times (0.25 \times (1 - 0.25)) = 1.19$ .

their public assistance cases close; (3) never-assistance cases, where custodial parents and noncustodial parents who never received public assistance apply for DOR services to help establish, modify, or enforce child support orders.

DOR provided us with case data for IV-D cases where a child support order was established or modified between June 15, 2018 (the effective date of the current guidelines) and June 30, 2021. These IV-D cases use the Massachusetts guidelines to establish child support orders by mandate absent a deviation at the discretion of the Court. **TABLE 3** summarizes the actual child support payments made by payors in the 22,435 cases for which we received DOR data. It lists the data for each of the 14 divisions of the Court, sorted from most cases to fewest.

**TABLE 3: IV-D CHILD SUPPORT PAYMENTS BY DIVISION, JUNE 2018–JUNE 30, 2021**

County	Count	Average Payment (\$/week)	Percent of Child Support Order Actually Paid		Percent of Cases With No Payments Average
			Average	Median	
Worcester	3,410	\$150	70%	85%	9%
Middlesex	3,052	\$175	71%	87%	10%
Essex	2,915	\$154	69%	84%	12%
Bristol	2,799	\$151	72%	88%	9%
Hampden	2,591	\$118	67%	81%	11%
Suffolk	2,270	\$140	68%	82%	12%
Plymouth	2,040	\$166	74%	89%	9%
Norfolk	1,394	\$184	74%	90%	8%
Barnstable	821	\$151	75%	90%	9%
Berkshire	510	\$131	73%	89%	8%
Hampshire	341	\$147	74%	89%	9%
Franklin	228	\$124	77%	90%	8%
Dukes	41	\$217	77%	91%	12%
Nantucket	21	\$203	63%	63%	19%
Unknown	2	\$175	98%	98%	0%
<b>Overall</b>	<b>22,435</b>	<b>\$152</b>	<b>71%</b>	<b>86%</b>	<b>10%</b>

The highest number of cases are in Worcester, Middlesex, and Essex Counties, each with approximately 3,000 or more cases. Four other counties have between 2,000 and 2,800 cases (Bristol, Hampden, and Suffolk Counties). Norfolk County has 1,394 cases. All other counties

have far fewer cases. The average child support payments range from \$118 per week (in Hampden County) to \$217 per week (in Dukes County). Across all counties, the average payment is \$152 per week. Despite the variation in the number of cases and payment amounts, the data show relatively consistent rates of compliance in paying child support orders. Overall, 63–98% of orders are fully paid, with 71% fully paid on average. The median compliance rate statewide is higher, with 86% of child support orders being paid in full. Only a relatively small percentage of cases in most counties have no payments – less than 10% in 8 of the 14 counties, and less than 12% in all but one county (Nantucket County, which has very few cases).

**TABLE 4** summarizes the compliance rates for each of the five types of IV-D cases, specifically:

- IV-A (IV-D/TANF): Cases where the children have been determined to be eligible for Temporary Assistance for Needy Families (“TANF”) under Title IV-A of the Social Security Act, and their support rights have been assigned to the Commonwealth and referred to DOR by DTA
- IV-E (IV-D/Foster Care): Cases where the children are entitled to foster care maintenance payments under Title IV-E of the Social Security Act and have been referred to DOR by DCF
- XIX (Title XIX): Cases where the children are receiving medical support through the MassHealth program, and their support rights have been assigned to the Commonwealth and referred to DOR by MassHealth
- FTF (IV-D/Former TANF): Cases where the children formerly received Title IV-A (AFDC or TANF) or Title IV-E foster care services
- NPA (IV-D/NPA): Cases where the children are receiving services under the Title IV-D program but are not currently determined to be eligible for, and have not previously received, assistance under Titles IV-A or IV-E of the Social Security Act



**TABLE 4: IV-D CHILD SUPPORT PAYMENTS BY CASE TYPE, JUNE 2018–JUNE 30, 2021**

Case Type	Count	Average Payment (\$/week)	Percent of Child Support Order Actually Paid		Percent of Cases With No Payments Average
			Average	Median	
NPA	12,714	\$184	78%	93%	6%
FORMER TANF	6,617	\$120	66%	79%	11%
TANF	2,804	\$83	49%	51%	26%
TITLE XIX	294	\$165	75%	89%	9%
FOSTER CARE	6	\$70	68%	69%	0%
<b>Overall</b>	<b>22,435</b>	<b>\$152</b>	<b>71%</b>	<b>86%</b>	<b>10%</b>

Most of the 22,435 cases for which we reviewed child support payments involve children who currently do not receive public assistance. A majority are NPA cases where the children have never received public assistance (12,714 cases, or 57%), and another 29% are former TANF cases (6,617 cases). Only 14% are current TANF, Title XIX, or foster care cases (3,104 cases). The average child support payment is the same as reported in Table [3] above (\$152 per week), but with a wider range across the five case types. Payments are lowest, on average, in foster care and TANF cases (\$70 per week and \$83 per week, respectively). Payments are highest in cases where the children have never received public assistance (\$184 per week). The compliance rates also reflect more variation around the average and median rates statewide. Not surprisingly, compliance is lowest in TANF cases, with child support orders being fully paid in approximately just 50% of cases. Compliance rates are highest in cases where the children have never received public assistance, with full payment in 78% of cases, on average. Only a small percentage of case types other than TANF have no payments, on average (11% or less). However, 26% of TANF cases on average have no payments.

Overall, our review of the data on actual child support payments under the current guidelines confirms that payors are making their child support payments in full in most cases, regardless of location or case type. Moreover, cases with no child support payments being made are relatively rare. Those results reflect favorably on the guidelines and on the Court’s effective exercise of its discretion in setting child support orders under the guidelines, or deviating as appropriate. The exceptions seem to be in families with recipient incomes low enough to qualify for TANF. Our analysis of written findings and deviations summarized in the next section

indicates the Court is applying its discretion in cases where the child support amount under the guidelines may be a substantial hardship for a payor, justifying a deviation from the guidelines.

## 2. Case Data on Findings and Deviations

In addition to the DOR data on actual payments under the current guidelines, we analyzed case data on the application of the guidelines. Specifically, we analyzed data collected by the Massachusetts Probate and Family Court from its MassCourts database for all domestic relations and paternity cases filed, disposed, and with findings in each of the Court's 14 divisions for cases filed between June 15, 2018, and December 31, 2020. The Court issues written findings when a judge deviates from the guidelines or imputes or attributes income to a parent.

Deviations may occur as a result of a variety of circumstances. For example, a payor and recipient may voluntarily agree to a child support amount different from the guidelines amount. In such a case, the Court is not bound to approve an alternative amount of support just because the parties request it, but the Court may deviate from the guidelines in consideration of such a request. The Court also may deviate in cases where the parties have not agreed on a child support amount but where the judge finds an alternative amount is in the best interest of the child. That said, frequent deviations from the presumptive orders under the guidelines may indicate a need to revise the guidelines so they yield appropriate child support amounts more broadly. Courts should deviate from the guidelines in exceptional circumstances. But if the guidelines are well-constructed, deviations will be just that— exceptions, and the guidelines will be the rule.

In addition to deviating from the results of applying the guidelines, the Court may impute or attribute income to one or both of the parents in running the guidelines worksheet. The Court may impute income when “a parent has, in whole or in part, undocumented or unreported income,” whereas “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.”<sup>13</sup> Imputed or attributed income are findings made by the Court, but are not, themselves, deviations from the guidelines. Rather, imputed or attributed income findings are instances where the guidelines are used based on the Court's assumptions about income.

Default orders are issued because the payor did not appear at the conference or court hearing, or failed to provide income information.

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<sup>13</sup> See <https://www.mass.gov/info-details/2018-child-support-guidelines-section-i-income-definition#d.-imputation-of-income->.

The raw data the Court collected show the total number of such cases in each division and the number of cases with findings. **TABLE 5** shows the total number of domestic relations and paternity cases sorted by the percent of those cases with findings between June 2018 and December 2020, and shaded to highlight the Court divisions with the highest rates of findings.

**TABLE 5: DISPOSITIONS AND FINDINGS BY COUNTY, JUNE 15, 2018– DECEMBER 31, 2020**

County	Dispositions	Findings	% Dispositions with Findings
1 Hampshire	924	272	29.4%
2 Franklin	557	124	22.3%
3 Hampden	4,229	886	21.0%
4 Berkshire	945	190	20.1%
5 Bristol	4,224	598	14.2%
6 Plymouth	3,667	483	13.2%
7 Essex	6,224	653	10.5%
8 Middlesex	8,435	695	8.2%
9 Worcester	6,267	415	6.6%
10 Suffolk	5,342	303	5.7%
11 Norfolk	2,999	165	5.5%
12 Barnstable	1,857	100	5.4%
13 Nantucket	163	7	4.3%
14 Dukes	181	2	1.1%
<b>Overall</b>	<b>46,014</b>	<b>4,893</b>	<b>10.6%</b>

Source: Data from the Massachusetts Probate and Family Court.

Consistent with the prior review, the most cases were in the most populous counties (Middlesex, Worcester, and Essex), while the highest proportion of cases with findings were in counties with smaller caseloads. The four counties with the highest proportion of findings (between 20% and 30%) were in western Massachusetts (Berkshire, Franklin, Hampden, and Hampshire).<sup>14</sup> On average, Massachusetts Probate and Family Court judges deviated from the current guidelines, imputed or attributed income, or entered an order by default in 10.6% of

<sup>14</sup> The higher deviation rates in western Massachusetts counties likely reflect the local case mix and relatively small caseloads.

cases filed between June 15, 2018, and December 31, 2020. The median deviation rate (the middle rate, eliminating the effect of high and low outliers) was 9.4%.

Thus, the data on the number of cases with findings, in isolation, did not indicate a need to significantly revise the current guidelines. Importantly, however, a judge not issuing written findings does not necessarily mean findings would not have been economically appropriate or were not overlooked. The findings form was newly introduced since the last guidelines review and it is unclear to us based on the available data from the MassCourts database whether it is used consistently within or across different divisions of the Court.

### 3. Overview of Written Findings

In addition to noting how many cases under the new guidelines had written findings, we applied a sampling methodology to profile measurable trends in the findings. We obtained a random sample of 278 new cases or modifications filed between June 15, 2018, and December 31, 2020, with written findings.<sup>15</sup> We randomly selected the sample cases from each of the Court's 14 divisions based on a power analysis to calculate the sample size for each division.<sup>16</sup> For each case we randomly identified, the Court pulled from the MassCourts database case files the guidelines worksheet, financial statements, support orders, judgments, stipulations, and separation agreements. We then extracted and structured the data from the sample case files. Below, we describe the findings, trends in incomes and costs, and reasons, direction, and amounts of deviations we observed in the MassCourts sample.

#### a. Findings Overview

**TABLE 6** below reports the number of sample cases with written findings reflecting defaults, attributed or imputed income, and deviations. Most (94%) of the cases with written findings were deviations. A majority of those cases (55%) were from 2019. This is unsurprising. First, our sample reflects only half of 2018, starting from the June 15 effective date of the current guidelines. Second, the number and nature of cases observed in 2020 were impacted (downward) by the COVID-19 pandemic. In addition to the 94% of sample cases with deviations, relatively few sample cases reflect attributed or imputed income or defaults. We observe attributed or imputed income in only 4% of cases, and defaults in 3% of cases.

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<sup>15</sup> This sample is approximately 6% of all cases with findings, and 0.6% of case dispositions in each of the Court's 14 divisions.

<sup>16</sup> Power analysis indicates the required sample size to detect changes in deviations. We determined sample sizes for each division based on a formula to assure the statistical validity of the deviation and non-deviation cases we review. We then randomly selected the specific case numbers to pull. The Court provided us with case data for the deviation cases.

**TABLE 6: SAMPLE OF FINDINGS BY TYPE AND YEAR**

	Deviations	Defaults	Imputed Income	Total Findings	
				#	%
2018	82	3	5	87	32%
2019	144	2	5	149	55%
2020	34	2	1	35	13%
<b>Total (#)</b>	<b>260</b>	<b>7</b>	<b>11</b>	<b>271</b>	<b>100%</b>
	%	96%	3%	4%	100%

Source: Brattle Case File Review.

Note: Imputed income includes attributed income, and either may be in conjunction with default.

The low incidence of income attribution/imputation and default cases may reflect well on the guidelines, but also likely reflects inconsistent use of the findings forms by the Court and, in turn, incomplete information in the written findings form available from MassCourts. Under the current guidelines, the Court was instructed to use the findings form to record any instance of default, attribution/imputation, or deviation. However, both the form itself and this practice were new. Prior to the current guidelines, written findings were recorded only in deviation cases. Since virtually all of the sample cases with written findings were deviations, we presume that prior practice has continued under the current guidelines. If so, the actual number of defaults and cases with attributed/imputed income may be higher than the number of cases with written findings forms filed in the MassCourts system. Since the findings forms are the only source of these data, we cannot know the extent of any unobserved case findings.

## b. Deviations Overview

**TABLE 7** below profiles the proportion of cases with deviations in our sample by Court division, as well as the percent of cases by number of children and parenting plan. The table is sorted by the divisions with the highest proportion of deviations. Roughly half (48%) of all cases with deviations are for one child, 38% are for two children, and 13% are for three children. The children primarily live with the recipient (Box 2 in line 1b of the guidelines worksheet) in two-thirds (67%) of deviation cases, and parents share financial responsibilities and parenting time approximately equally (Box 1 in the worksheet) in 22% of deviation cases.

TABLE 7: CASE FILE OVERVIEW

County	% Findings	Number of Children			Worksheet Type		
		% One	% Two	% > Two	Box 1	Box 2	Box 3
1 Hampshire	32%	41%	41%	18%	29%	53%	0%
2 Berkshire	20%	60%	30%	10%	30%	55%	10%
3 Franklin	19%	40%	35%	25%	20%	65%	5%
4 Hampden	17%	61%	28%	11%	11%	83%	6%
5 Plymouth	13%	43%	57%	0%	30%	65%	0%
6 Bristol	13%	33%	48%	19%	19%	76%	0%
7 Essex	10%	45%	41%	14%	9%	91%	0%
8 Middlesex	7%	52%	43%	5%	29%	67%	0%
9 Nantucket	7%	50%	50%	0%	17%	83%	0%
10 Worcester	6%	52%	30%	17%	35%	43%	4%
11 Barnstable	5%	55%	41%	5%	14%	77%	5%
12 Suffolk	5%	50%	33%	17%	13%	79%	0%
13 Norfolk	4%	43%	30%	26%	30%	43%	0%
14 Dukes	1%	N/A	N/A	N/A	N/A	N/A	N/A
Overall	11%	48%	38%	13%	22%	67%	2%

TABLE 8 shows that in a large majority (75%) of deviation cases, the orders deviated downward from the guidelines amounts.

TABLE 8: SUMMARY OF SAMPLE DEVIATIONS<sup>17</sup>

Deviation Type	Total		Average			Deviation/ Guideline
	#	%	Deviation	Guideline	Income	
No Support Ordered	87	34%	\$0	\$144	\$2,438	-100%
Decrease	106	41%	\$182	\$251	\$1,974	-30%
Increase	49	19%	\$332	\$271	\$2,811	58%
Unclear	16	6%	\$164	N/A	N/A	N/A
Any	258	100%	\$149	\$217	\$2,306	-37%

Source: Brattle Case File Review.

Income is Combined Gross Income (Parent A + Parent B).

The Court ordered some amount of child support to be paid in 41% of cases, but at amounts 30% lower than the guidelines amounts on average. The Court entered zero orders in 34% of

<sup>17</sup> Two cases reported findings that only temporarily deviated from guidelines.

deviation cases. It deviated upward in 19% of cases, and by 58% on average. The average combined gross income was lowest in cases with downward deviations to non-zero support amounts (\$1,974 per week) and was highest among orders with upward deviations (\$2,811 per week). These relative results suggest the Court is deviating in relatively few cases (see [TABLE 5](#) above) and in expected ways: entering zero orders in cases with low-income payors paired with relatively high-income recipients, deviating downward in cases with lower combined incomes, and deviating upward in cases with relatively high combined incomes where the ability to pay child support is greatest.

**TABLE 9** summarizes the reasons for deviation reported in the findings form, “Findings and Determinations for Child Support and Post-Secondary Education,” which must be filled out and signed by the judge upon deviating from the guidelines. The form provides a list from which to mark “[t]he specific circumstance of the case which justify departure from the guidelines.” Based on our review, and interpretation of written justifications noted in the “other” category of the form, we grouped the deviation rationale into twelve separate categories.

**TABLE 9: DEVIATION RATIONALE**

Reason (Checked or Written)	Frequency	%
NO REASON	148	57%
OTHER	33	13%
AGREED-NEGOTIATED	29	11%
SELF SUPPORT	14	5%
UNJUST	7	3%
CHILD CARE	6	2%
DISPARITY	6	2%
>\$250,000	4	2%
COVID	4	2%
UNEMPLOYED	4	2%
EXTRAORDINARY EXPENSE	3	1%
PARENTING TIME	2	1%
<b>Total</b>	<b>260</b>	<b>100%</b>

**TABLE 9** shows that in a majority (57%) of deviation cases, the Court did not explicitly record a reason for deviating. Where written findings were made, COVID-19, unemployment and other

economic hardships, and extraordinary expenses (child care or other) were some of the reasons cited for deviating downward. Agreement between the parties (“AGREED-NEGOTIATED” was cited in approximately 11% of deviation cases. Collectively, the payor’s ability to self-support (“SELF SUPPORT”), unjust guidelines amounts (“UNJUST”), and gross disparity in standard of living between the parents (“DISPARITY”) were cited in 10% of deviation cases (5%, 3%, and 2%, respectively).

### c. Income and Costs Overview

The sample of MassCourts case files with written findings also allowed us to profile parents’ incomes, child care costs, and health care costs reported in the guidelines worksheet. **TABLE 10** below provides a preliminary analysis, reporting average weekly combined gross income as well as child care and health care costs for case files reporting these costs, and sorted by the Court divisions with the highest reported weekly combined incomes.

**TABLE 10: WEEKLY INCOME, CHILD CARE COSTS, AND HEALTH CARE COSTS**

County	Average		
	Income	Child Care	Health Care
1 Middlesex	\$3,438	\$222	\$124
2 Norfolk	\$3,414	\$230	\$121
3 Hampshire	\$3,018	\$412	\$121
4 Essex	\$2,262	\$234	\$85
5 Barnstable	\$2,222	\$166	\$143
6 Nantucket	\$2,187	\$210	\$134
7 Worcester	\$2,137	\$66	\$104
8 Berkshire	\$2,134	\$223	\$247
9 Plymouth	\$2,075	\$183	\$120
10 Bristol	\$1,927	\$74	\$64
11 Suffolk	\$1,863	\$163	\$87
12 Hampden	\$1,664	\$140	\$93
13 Franklin	\$1,541	\$230	\$73
14 Dukes	N/A	N/A	N/A
Overall	\$2,306	\$195	\$115

This table shows that, on average, combined weekly gross incomes in cases with written findings were highest in Middlesex (\$3,438 per week) and were lowest in Franklin (\$1,541 per



week). Average child care costs were \$195 per week, ranging from \$412 per week in Hampshire County to \$66 per week in Worcester County. Average health care costs (for family coverage) were \$115 per week, ranging from \$247 per week in Berkshire County to \$64 per week in Bristol County.

#### d. Summary of Case File Review

Based on the case files we received from the MassCourts database, we observed relatively few defaults or cases with attributed or imputed income. This is an encouraging result, if the case files accurately reflect the universe of cases with findings. Existing studies analyzing payment patterns, default rates, and imputed income indicate child support payments are less likely to be paid when income is imputed to the payor.<sup>18</sup> However, it is unclear whether the case files we reviewed are truly representative of all cases of defaults and attributed/imputed income, or whether the new findings from the Court introduced to track these outcomes under the guidelines is being used in all cases with findings, rather than primarily in deviation cases still. Improved case tracking and the recording of case data in an automated system – instead of only scanned documents in case files – would allow for a broader and more conclusive review of these issues in future guidelines reviews.

Even with the known limitations of the case data available for this analysis, our results suggest the rates of default, income attribution or imputation, and deviation under the Massachusetts guidelines continue to be low and appropriately reflect the types of characteristics we would expect in such cases. This result is similar to our analyses of deviation patterns in prior guidelines reviews, and it suggests the guidelines are working well overall. In Massachusetts, the guidelines amounts seem to be the rule in most cases, with written findings and deviations required only by relatively rare exception.

## IV. Massachusetts Revised (2021) Guidelines

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Over the course of the 2020–2021 guidelines review, we discussed with the Task Force the public comments it received; economic approaches used to estimate child costs; current child cost estimates from economic studies; and economic data on labor market conditions,

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<sup>18</sup> US Department of Health and Human Services Office of Inspector General. (July 2000.) The Establishment of Child Support Orders for Low Income Non-custodial Parents. P. 16. Retrieved from The Establishment of Child Support Orders for Low Income Non-Custodial Parents (OEI-05-99-00390; 7/00) (hhs.gov).

household income, and household expenditures for housing, child care, and health care in Massachusetts relative to other states. We also discussed the structure of the current guidelines and the corresponding guidelines amounts relative to economic principles and to other states' guidelines, including the five states neighboring Massachusetts and other relatively high-income states. We reported to the Task Force on the potential impacts of proposed changes to the guidelines and on their implementation in the guidelines worksheet and chart.

This section of our report discusses the nature and impact of changes to the guidelines worksheet that the Task Force ultimately recommended and the Trial Court implemented in the revised (2021) guidelines. Subsequent sections of this report summarize the underlying economic concepts and comparisons of the child support amounts under the revised guidelines with current child cost estimates and guidelines amounts in other states.

## A. Child Support as a Percentage of Income

As part of its 2020–2021 guidelines review, the Task Force considered changes to the income levels and marginal percentages in Table A of the guidelines worksheet used to determine the guidelines amounts for one child. We discussed the current guidelines amounts with the Task Force relative to available benchmarks, including estimates of child costs from economic studies and guidelines amounts in other states. Those data and comparisons are discussed later in this report. To summarize our findings, the Massachusetts current guidelines amounts are lower than economic estimates of child costs for parents with low incomes and are increasingly higher than the estimates at middle- and high-income levels for one or more children. The Massachusetts guidelines amounts are also higher than amounts in the five neighboring states and other high-cost states in almost all scenarios with one child and – in most cases – with multiple children, before considering child care and health care costs. In cases with child care and health care costs, the result flips: the Massachusetts current guidelines amounts are usually lower than the amounts in other states due to the 15% cost sharing cap in the Massachusetts current guidelines relative to cost sharing with no cap in other states. [SECTION E.2](#) of this report discusses these comparisons in detail.

We had an ongoing conversation with the Task Force throughout its review about the income thresholds and percentages in Table A of the worksheet and the resulting child support amounts for one child. This conversation focused on three elements of Table A: the minimum order at low incomes, the maximum income level to which the guidelines should apply, and the income tranches and marginal percentages in between those endpoints.

# 1. Minimum Orders and Payor Self-Support

As mentioned above, federal law explicitly requires state child support guidelines to account for a payor's ability to pay in some way that:

“Takes into consideration the basic subsistence needs of the noncustodial parent (and at the State's discretion, the custodial parent and children) who has a limited ability to pay by incorporating a low-income adjustment, such as a self-support reserve or some other method determined by the State....”<sup>19</sup>

This is an especially difficult economic problem to solve since, by design, this requirement presents competing objectives with too little resources to fully meet them. In low-income cases, there is simply not enough money to cover the basic costs of both the children and the parents, especially in a relatively high-cost state like Massachusetts. So, assuring a payor's ability to pay for both their own basic costs and child support creates a trade-off for the too few dollars a low-income payor has to cover both costs.

The \$25 per week minimum order in the current guidelines was increased from \$18 per week as a result of the prior (2016–2017) guidelines review. The prior task force recommended this increase since the \$18 per week minimum order had been in place for 15 years (since 2002) while the cost of living in the Commonwealth – including child costs – had increased significantly over the same time period. The prior task force recommended increasing the minimum order to the inflation-adjusted equivalent of \$18 per week back in 2002, which was \$25.<sup>20</sup> The prior task force also noted that Massachusetts' guidelines amounts were lower than other states' amounts at low incomes. However, given the structure of Table A in the current guidelines, increasing the presumptive minimum order for all payors with low incomes captured both payors whose incomes are above and below the federal poverty guidelines. The minimum order in the current Table A applies in all cases with combined available income up to \$115 per week, which is more than 50% below the 2021 federal poverty guidelines of \$248 per week noted above. The guidelines amounts for payors with incomes between \$115 and \$248 per week pay even more than the \$25 per week minimum order – up to \$55 per week. Child

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<sup>19</sup> 45 CFR 302.56 (c)(ii).

<sup>20</sup> Between March 2002 and May 2017, the Consumer Price Index (“CPI”) for Massachusetts (US Federal Reserve Bank Series CUURA103SA0, <https://fred.stlouisfed.org>) increased by 36.8%. So, the \$18 per week minimum order set back in 2002 was equivalent to \$18 per week multiplied by 1.368, or \$25 per week in 2017.

support payments of this amount are still less than actual child costs in most cases, so the prior task force recommended the higher minimum order in the current guidelines, knowing the Court can deviate if it finds a lower amount would be more appropriate.

However, increasing child support orders for payors below the poverty line and relying on the Court to deviate seems inconsistent with the emphasis of the new federal requirement for the guidelines to ensure payors can cover their own basic costs. It is also out of step with the practice in all five neighboring states' guidelines for payors with income below the federal poverty guideline. In each of those states, the minimum orders for payors in poverty are less than half of the \$25 per week Massachusetts minimum order. **TABLE 11** shows the minimum orders in the neighboring states relative to the 2021 federal poverty guidelines for one person. The minimum order under the current guidelines is more than twice the amount in any other state and tops out at less than half of the federal poverty guidelines income level. The minimum order in each of the neighboring states is \$12 per week or less for a payor with income at, or even just above, the federal poverty guidelines amount.

**TABLE 11: MINIMUM ORDERS BY STATE**

	Income		CSG min order	
	\$/year	% FPG	\$/month	\$/week
<b>Federal Poverty Guidelines</b>	<b>\$12,880</b>	1.00		
<b>Massachusetts</b>	<b>\$5,980</b>	<b>0.46</b>	\$108	<b>\$25</b>
<b>New York</b>	<b>\$17,226</b>	1.34	<b>\$25</b>	\$6
<b>Vermont</b>	<b>\$15,312</b>	1.19	<b>\$50</b>	\$12
<b>New Hampshire</b>	<b>\$14,676</b>	1.14	<b>\$50</b>	\$12
<b>Rhode Island</b>	<b>\$12,060</b>	0.94	<b>\$50</b>	\$12

In consideration of minimum orders in the neighboring states and the new federal requirements emphasizing a payor's ability to pay, the Task Force recommended rolling back the increase from the prior review and setting the minimum order in the Massachusetts revised guidelines at \$12 per week for a payor with income up to \$210 per week. For a payor with income above \$210 per week but still below the federal poverty guidelines, the revised guidelines amount for one child is \$12 per week plus 20% of the payor's available income between \$210 and \$249 per week. For example, the revised guidelines amount is \$20 per week for a payor with \$249 per week of income.<sup>21</sup>

<sup>21</sup> That is,  $\$12 + 20\% \times (\$249 - \$210) = \$20$ .

This recommendation changes two elements of Table A in the revised guidelines. First, it introduces a second tranche (row) at the top of the table, rather than having only one row for low-income cases. Second, it is based on a payor's income only, whereas all of the other tranches of Table A are applied to the combined available income of both parents. This means the guidelines amount for one child will be \$12 for a payor with income of \$210 per week or less and will be between \$12 and \$20 per week for a payor with income of \$211 to \$249 per week, regardless of the recipient's income. Even when a recipient also has a relatively low income, the guidelines amounts for one child remain between \$12 and \$20 per week to help ensure payors have the ability to cover their own basic costs and pay child support. The Task Force extensively considered the economic impact of these lower revised guidelines amounts on low-income recipients. Ultimately, it decided the limited available income has a higher marginal benefit in the payor's household since recipients with very low incomes are eligible to receive public assistance that would limit the amount of child support they actually receive. For example, a recipient receiving TANF benefits only actually receives the first \$50 per month of any child support payments (\$12 per week), with the rest going to the state enforcement agency.<sup>22</sup> Therefore, the \$12 per week revised minimum order amount effectively maximizes the value of the limited dollars available across both parents' households in such a case.

The guidelines amounts for payors with incomes just above the low-income threshold of \$249 per week in the revised guidelines will be a clear step higher than the amounts for payors with incomes below the federal poverty guidelines and therefore within the low-income adjustment range. For example, the maximum guidelines amount for a payor at the top of the new low-income range at \$249 per week of available income (before any cost sharing for child care costs) is \$20 per week for one child. The corresponding guidelines amount for a payor with an additional \$1 of available income (\$250 per week) and therefore not within the low-income range could be as high as \$55 per week (calculated as 22% of \$250).<sup>23</sup> While the lower guidelines amounts within the revised low-income range create this wide gap for payors with available incomes just above that range, those payors will not experience any change relative to the current guidelines amounts. The Task Force did not change the percentage in Table A of the guidelines worksheet at that income level. The first tranche of Table A in the revised worksheet just beyond the shaded area for payors with incomes below the federal poverty guidelines remains 22% of combined available income up to \$750 per week. Therefore, a payor with incomes just beyond the poverty line will pay more child support than a payor below the

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<sup>22</sup> Under 106 CMR 203.700-203.710, TANF recipients assign to the Commonwealth their right to child support and spousal support, and the Department of Revenue collects their support. The Department of Transitional Assistance sends recipients the first \$50 per month of support DOR collects as a "pass through."

<sup>23</sup> This assumes the recipient has \$0 of available income.

poverty line, but will not pay more under the revised guidelines due to the change in minimum orders than they already pay under the current guidelines. That said, the other changes to the revised guidelines discussed below may affect their ultimate child support obligations.

## 2. Maximum Income Level

The Task Force also extensively discussed the maximum level of combined available income to which the revised guidelines should apply. This income maximum is implemented in the guidelines worksheet as the highest income level listed in the last tranche in Table A. The current income maximum of \$250,000 per year (\$4,808 per week) was first introduced in the 2009 guidelines and has not been increased in the 12 years between then and now. Of course, over that time, both incomes and costs have increased in Massachusetts. For example, real median household income in Massachusetts has increased 23.7% since January 2009.<sup>24</sup> So, \$250,000 per year at that time is equivalent to more than \$309,000 per year (\$5,942 per week) now. Similarly, the Bureau of Labor Statistics' Consumer Price Index (CPI) for Massachusetts has increased 26.4% since January 2009, so \$250,000 per year then is equivalent to \$316,000 per year (\$6,077 per week) now.<sup>25</sup> Given the length of time the \$250,000 income maximum has been in place and the significant increases in Massachusetts incomes and costs during that time (see also the data on the key components of household expenditures presented later in this report), the Task Force decided to increase the income maximum in the revised guidelines.

To help inform the new maximum income level, the Task Force considered both the observed increases in incomes and costs in Massachusetts, as well as the maximum income levels in other states' child support guidelines. **FIGURE 3** shows the distribution of maximum income levels specified in other states' guidelines, stated in dollars per year. They vary widely, from as low as \$50,000 per year (in Mississippi) to as high as \$1.2 million per year (in Utah). In addition, two states' guidelines (California and Montana) do not have any limit on the income to which their guidelines apply. The current \$250,000 per year income maximum places Massachusetts squarely in the middle of the distribution of states. It is literally the median (middle) state in the distribution, but is below the average of \$284,058 per year. The maximum income levels are higher in three of the five neighboring states (New Hampshire, Rhode Island, and Vermont), ranging from \$360,000 to \$420,000 per year. They are lower in two neighboring states

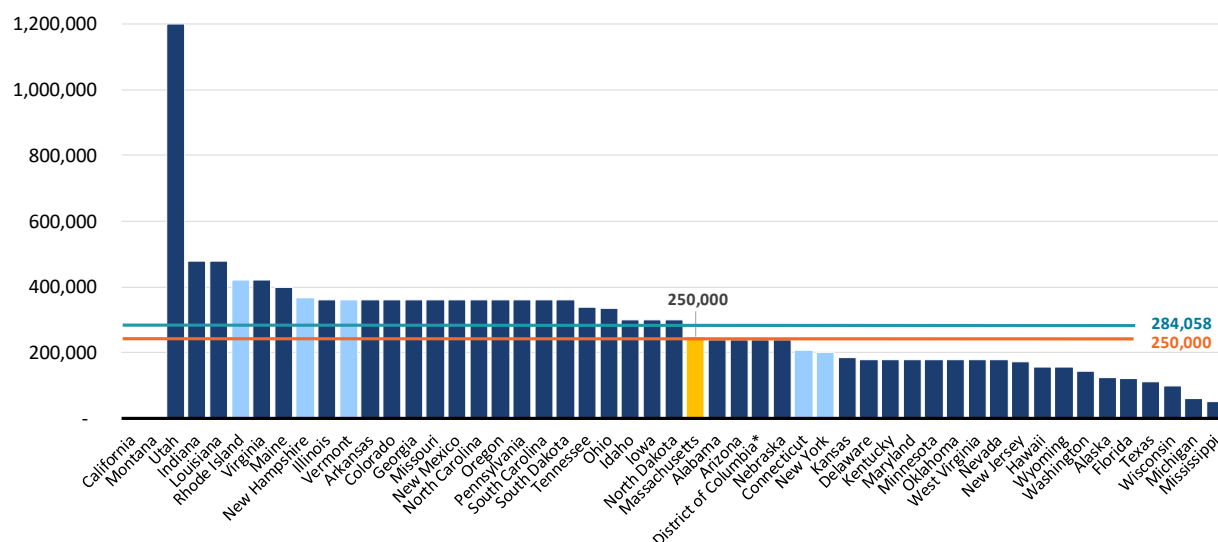
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<sup>24</sup> This increase is based on the change in US Federal Reserve Bank Series MEHOINUSMAA672N, (<https://fred.stlouisfed.org/series/MEHOINUSMAA672N>) between 2009 and 2019 (the most recent year reported).

<sup>25</sup> This increase is based on the change in the CPI (US Federal Reserve Bank Series CUURA103SA0, <https://fred.stlouisfed.org>) between January 2009 and May 2021.

(Connecticut and New York) at around \$200,000 per year. The most common income maximum is \$360,000 per year, which is specified in 12 economically and geographically diverse states.

**FIGURE 3: MAXIMUM INCOME LEVELS BY STATE**



Based on this range of information, and understanding that future incomes and costs are expected to continue to increase, the Task Force recommended increasing the income maximum in the revised guidelines to \$400,000 of combined available income per year. This is an increase of \$150,000, or 60%. It ensures that the Massachusetts revised guidelines apply to all available income in almost all cases in the Commonwealth, since \$400,000 per year is roughly five times the level of median household income and is double the highest income level reported by the US Census Bureau for the income distribution in Massachusetts.<sup>26</sup> The impact of this change to Table A of the guidelines will be to increase the guidelines amounts in cases where the parents have combined available income above \$250,000. Based on the percentages the Task Force recommended for the revised Table A (see below), this increase will be 10% or 11% of the income above \$250,000. So overall, the revised guidelines amount will be \$15,080 per year (\$290 per week) higher than the current guidelines amount in a case with \$400,000 per year of combined available income.<sup>27</sup> The guidelines amount will increase by less in cases with less income above the current \$250,000 per year limit. The amount of this overall increase

<sup>26</sup> According to the US Census Bureau, the median household income in Massachusetts was \$81,215 per year in 2019, and 87% of all households have incomes below \$200,000 per year. (2019 ACS 5-Year Estimates Data Profiles, Table DP03, <https://data.census.gov/cedsci/table?tid=ACSDP5Y2019.DP03&g=0400000US25>).

<sup>27</sup> In such a case, the additional child support on the first \$192 per week of income above \$4,808 (that is, \$5,000 - \$4,808) under the revised Table A (see below) is 11%, or \$21 per week. The additional child support on the remaining \$2,692 per week of income above \$5,000 is 10%, or \$269 per week. So, the total additional child support on income above the current \$4,808 per week maximum is \$21 + \$269, or \$290 per week.

a particular payor ends up paying depends on both the payor's and recipient's relative shares of combined available income.

The economic data are scant on child costs as a percentage of higher and higher levels of income. Clearly, the share of income required to cover child costs at very high income levels is lower than at lower levels of income. Basic child costs account for the highest share of available income in households with the least income, and are a smaller share of available income as income increases. At middle-income levels, households may spend more on children in absolute dollars as the children share in their parents' higher standard of living. But child costs still account for a lower share of household income as it increases. This is the reason the marginal percentages in Table A take the shape illustrated in **FIGURE 1** above and **FIGURE 8** below. Child costs as a percentage of income are highest at low incomes, decrease at an increasing rate at middle and high incomes, and decrease more slowly at very high incomes because, by then, they already account for a relatively low share of income. In recommending an increase in the income maximum under the revised guidelines, the Task Force discussed a range of economic, legal, and policy considerations regarding what amount of child support is appropriate after covering a child's basic costs. Its recommendation ultimately underscores the first two principles stated in the current guidelines of "1. promoting parental financial responsibility for children; [and] 2. meeting the child's survival needs in the first instance, but, to the extent either parent enjoys a higher standard of living, allowing the child to enjoy that higher standard."<sup>28</sup>

### **3. Income Tranches and Nominal Percentages**

Having decided to recommend changes to both the minimum order and maximum income level in Table A of the guidelines worksheet, the Task Force considered how to adjust the income tranches and marginal percentages in the rest of the table. Throughout its review, we presented to the Task Force and revisited economic data on child costs, comparisons to guidelines amounts in neighboring and high-cost states, and the results of running hundreds of hypothetical scenarios using the revised guidelines. To help inform its deliberations on Table A, we also translated each of the five neighboring states' guidelines amounts, and the economic estimates of child costs from two studies, into percentages we could compare to the percentages at each tranche of combined available income in Table A of Massachusetts' current

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<sup>28</sup> 2021 Massachusetts Guidelines, "Principles."



guidelines.<sup>29</sup> **TABLE 12** shows the percentages in the current guidelines and in the benchmarks. Some benchmark percentages are higher than the Massachusetts percentages at some income levels while others are lower at the same income levels. In general, the percentages tend to be lower in the neighboring states and higher in the high-cost states.

**TABLE 12: COMPARISON OF GUIDELINES PERCENTAGES BY INCOME TRANCHE**

INCOME FROM LINE 2(g)		CHILD SUPPORT AMOUNT (1 CHILD)													Child Cost Estimates	
Min	Max	MA	Neighboring States						High-Cost States					B-R	USDA	
			CT	NH	RI	NY	VT	Avg.	CA	DC	NJ	MD	Avg.			
\$ -	\$ 115	22%	10%	4%	4%	3%	21%	8%	11%	26%	28%	13%	19%	23%		
\$ 116 -	\$ 319	22%	18%	23%	7%	3%	21%	14%	23%	26%	28%	15%	23%	21%		
\$ 320 -	\$ 750	22%	25%	22%	19%	15%	22%	21%	25%	22%	27%	19%	23%	19%		
\$ 751 -	\$ 1,250	21%	23%	19%	18%	17%	21%	20%	25%	18%	23%	18%	21%	18%	29%	
\$ 1,251 -	\$ 2,000	19%	18%	17%	15%	17%	17%	17%	24%	17%	19%	15%	19%	14%	16%	
\$ 2,001 -	\$ 3,000	15%	15%	15%	13%	17%	15%	15%	21%	15%	16%	13%	16%	12%		
\$ 3,001 -	\$ 4,000	12%	13%	14%	11%	17%	13%	14%	18%	15%	15%	13%	15%	11%		
\$ 4,001 -	\$ 4,808	11%		14%	10%		12%	12%	17%	14%			15%	10%	10%	
\$ 4,809 -	\$ 5,000			14%	10%		11%	12%	16%							
\$ 5,001 -	\$ 6,000			13%	9%		11%	11%	16%							
\$ 6,001 -	\$ 8,000			13%	9%		11%	11%	15%							
\$ 8,001 -	\$ 8,077				8%				14%							

The Task Force ultimately decided to change the income thresholds and marginal percentages in the six income tranches in Table A above the two initial tranches for payors with low incomes to allocate some of the additional \$150,000 per year (\$2,885 per week) into the lower tranches of the table. Its objective was to change both the income thresholds and marginal percentages together to minimize any resulting change to the corresponding guidelines amounts due to the re-tranching. In effect, the Task Force wanted to replicate the curve of the percentages shown in **FIGURE 1** above, but extend it to include the higher income levels now included under the revised guidelines up to the new \$400,000 per year (\$7,692 per week) income maximum. Where the re-tranching would necessarily result in small changes in the guidelines amounts, the Task Force wanted those changes to be upward not downward, so the re-tranching itself did not decrease child support amounts at any income level.

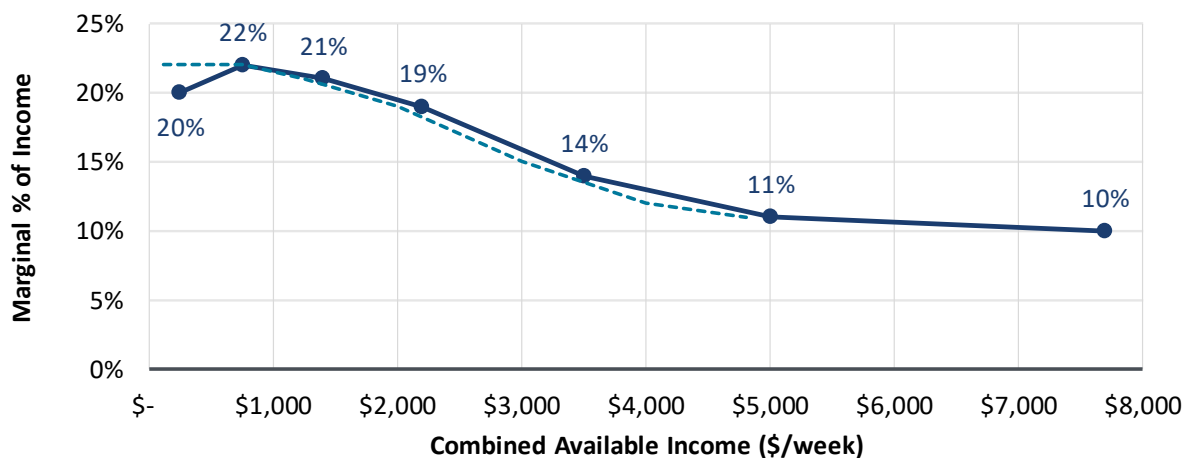
This was done by increasing the income thresholds in all but the first income tranche beyond the tranches for payors with low incomes. The revised tranches include more income in the lower tranches and successively wider income ranges in the higher tranches. This effectively stretches the percentages in Table A of the current guidelines to higher levels of income. To

<sup>29</sup> The two studies are child cost estimates developed by Notre Dame professor David Betson (“Betson”) and estimates of expenditures on children published by the US Department of Agriculture (“USDA”). Each is discussed in more detail in Section V.C below.

avoid material changes in the guidelines amounts from this re-tranching, two of the marginal percentages in the upper tranches were changed from 15% and 12% to 14% and 11%, respectively. While those percentages decrease by one percentage point each, the corresponding guidelines amounts increase slightly, since more income has already been re-allocated to the lower tranches at higher marginal percentages. The guidelines amounts do not materially change due to the re-tranching. In most cases, they change by 1% or less (a few dollars per week), and at most by 3% (\$10 per week or less at relatively high incomes). In addition, the percentage applied to the last tranche in the revised Table A, covering combined available income up to \$400,000 per year (\$7,692 per week), is 10%.

**FIGURE 4** shows the resulting curve reflecting the revised guidelines percentages, and **TABLE 13** shows the revised Table A on which it is based.

**FIGURE 4: REVISED GUIDELINES MARGINAL INCOME PERCENTAGES (1 CHILD)**



**TABLE 13: TABLE A OF REVISED GUIDELINES**

All dollar amounts are weekly and rounded to the nearest dollar

INCOME FROM WORKSHEET		CHILD SUPPORT AMOUNT (1 CHILD)					
Minimum	Maximum						
\$ -	→ \$ 210	\$ 12	unless the court deviates				
\$ 211	→ \$ 249	\$ 12	+	20%	above	\$ 210	
\$ 250	→ \$ 750			22%			
\$ 751	→ \$ 1,400	\$ 165	+	21%	above	\$ 750	
\$ 1,401	→ \$ 2,200	\$ 302	+	19%	above	\$ 1,400	
\$ 2,201	→ \$ 3,500	\$ 454	+	14%	above	\$ 2,200	
\$ 3,501	→ \$ 5,000	\$ 636	+	11%	above	\$ 3,500	
\$ 5,001	→ \$ 7,692	\$ 801	+	10%	above	\$ 5,000	

Line 8(a) of the revised guidelines worksheet continues to calculate the amount by which each parent's available income exceeds the new \$400,000 per year (\$7,692 per week) income maximum, in case the Court decides to order additional child support on that additional income. Where combined available income exceeds the \$400,000 limit, Section II.C.2 of the revised guidelines states: "...the Court should consider the award of support at the \$400,000 level as the minimum presumptive order. The child support obligation for the portion of combined available income that exceeds \$400,000 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%)."

The last sentence of this statement is new and important. If the Court decides to order any child support on income above the maximum level, the appropriate percentage is ultimately at the Court's discretion. But from an economic perspective, that percentage typically should be less than the marginal percentage applied to the highest income tranche in Table A. Simply re-running the guidelines worksheet on income above the \$400,000 income maximum is objectively incorrect because that would apply the higher percentages in the lower income tranches of Table A to higher income amounts that are literally off the chart. As a matter of economics, any percentage applied to income above the maximum level, as listed in Line 8b of the revised guidelines worksheet, should be below the 10% applied to the highest income level listed in the revised Table A.

Again, the downward-sloping curve of the percentages in Table A reflects the economic reality of covering child costs subject to a budget constraint combined with a declining propensity to spend as income rises in most cases. Child costs account for a higher percentage of available income at relatively low income levels and an increasingly smaller share of income at higher income levels. As income increases, all else equal, child costs represent a smaller share of overall income. Given the structure of Table A, any marginal percentage the Court decides to apply to available income beyond the \$7,692 weekly maximum should be less than the marginal percentage at that income level absent specific reasons to do differently. In the revised guidelines, that marginal percentage is 11%. In most cases, the marginal percentage applied to higher income levels should start below that level and continue to decline at some rate, essentially extending the curve in **FIGURE 4** above to even higher income levels beyond the guidelines maximum level. Absent specific reasons, applying higher marginal percentages than this to higher levels of income is inconsistent with the economic principles underlying the guidelines.

## B. Adjustment for the Number of Children

The Task Force also considered changes to the adjustment factors listed in Table B of the guidelines worksheet used to adjust upward the guidelines amounts for one child from Table A in cases with more children. Again, these adjustment factors are applied by multiplying the factor for the number of children in a particular case by the child support amount from Table A for the parents' combined available incomes. We discussed the adjustment factors in the current guidelines with the Task Force, relative to available benchmarks from economic studies and guidelines of the five neighboring states and high-income states.

As discussed above, the incremental increase in the guidelines amount for a second child is 25% (1.25 relative to 1.00). For additional children, the current guidelines increase the child support amounts by 10% for a third child (1.38 relative to 1.25), 5% for a fourth child (1.45 relative to 1.38), and 2% for a fifth child (1.48 relative to 1.45). In theory, these increases reflect the incremental cost of adding another child to a household. However, in practice and as we have reported in prior guidelines reviews, they are lower than expected on their face, and indeed lower than all of the benchmark estimates of how costs increase with the number of children. They were not changed in prior reviews because the Massachusetts guidelines amounts for one child from Table A were higher than the benchmarks, except at low income levels. But given the prevalence and high cost of child care, as well as the 15% cap on sharing child care costs in the current guidelines, the Massachusetts guidelines amounts for one child are lower in cases with those costs. Considering this, also having low adjustment factors for additional children is no longer economically appropriate.

Estimates of the incremental cost of additional children are available in the Betson and USDA studies discussed in more detail below. The guidelines in neighboring and high-cost states also provide useful benchmarks for how to adjust the Massachusetts guidelines amounts from Table A to account for more children. We compiled the adjustments for additional children from the guidelines cost tables for the five neighboring states (Connecticut, New Hampshire, New York, Rhode Island, and Vermont) and for four high-cost states (California, Maryland, New Jersey, and Washington, DC). **TABLE 14** summarizes the marginal increases to account for the number of children based on each benchmark.

**TABLE 14: BENCHMARK INCREASES FOR ADDITIONAL CHILDREN**

Benchmark	Number of Children				
	2	3	4	5	6
<b>Child Cost Estimates</b>					
Betson	54%	22%			
USDA (US)	57%	14%	12%	10%	
<b>Neighboring States</b>					
Connecticut	45%	17%	11%	10%	8%
New Hampshire	37%	20%	8%	8%	8%
New York	47%	16%	7%	13%	13%
Rhode Island	50%	19%	12%	9%	8%
Vermont	51%	20%	12%	10%	9%
Average	46%	18%	10%	10%	9%
<b>High-Cost States</b>					
California	60%	25%	15%	9%	5%
Washington, DC	36%	13%	12%	12%	12%
New Jersey	9%	24%	11%	11%	11%
Maryland	44%	17%	11%	9%	8%
Average	37%	20%	12%	10%	9%
<b>All Benchmarks</b>					
Min	9%	13%	7%	8%	8%
Max	57%	24%	12%	13%	13%
Median	46%	18%	11%	10%	9%
Average	43%	18%	11%	10%	10%
MA guidelines	25%	10%	5%	2%	

Source: Betson (2020), USDA (2017), and state guidelines

The Betson study estimates spending on children as a percent of total spending by intact households with one, two, or three children. (Dr. Betson does not report estimates for more than three children. For states relying on his studies for child cost tables, the relative cost of four or more children is derived from a separate, but commonly relied upon, study.)<sup>30</sup> According to Dr. Betson's estimates, child costs account for roughly 25% of overall spending for the first child, 38% for two children, and 46% for three children.<sup>31</sup> These estimates imply incremental increases in child costs of 54% for a second child (37.9% relative to 24.6%) and 22% for a third child (46.4% relative to 37.9%). This means child costs increase with each additional child, but at a decreasing rate.

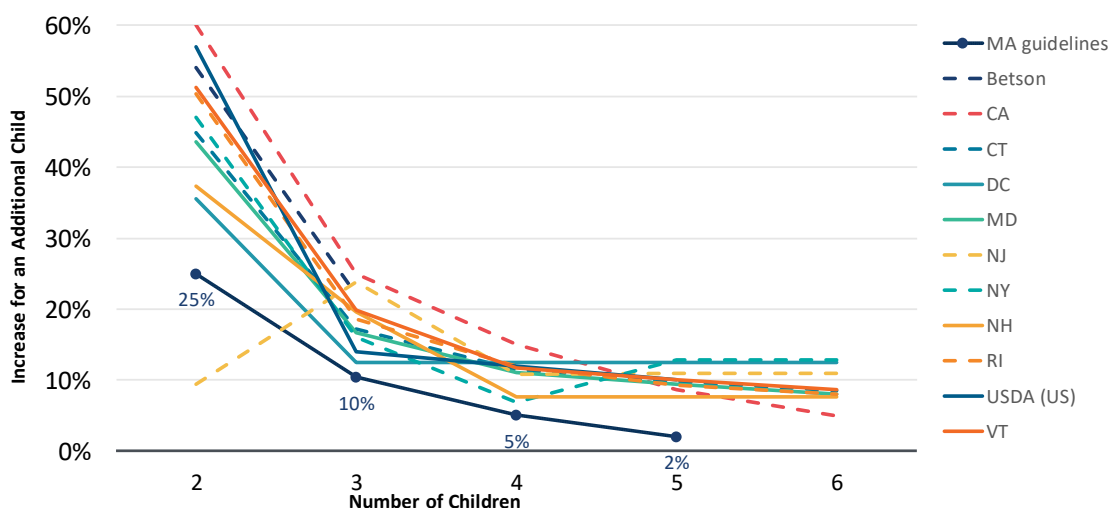
<sup>30</sup> See Constance F. Citro and Robert T. Michael, Editors. *Measuring Poverty: A New Approach*, National Academy Press, Washington, DC (1995).

<sup>31</sup> See **TABLE 25** below.

The USDA estimates are slightly higher than Dr. Betson’s estimates, but exhibit the same pattern. The USDA directly estimates child costs for the younger child in a two-child household, but provides adjustment factors to estimate costs for one or more children. According to the USDA estimates for the Northeast US, child costs – excluding child care, education, and health care costs – as a percentage of overall household spending are 21% for the first child, 33% for two children, 37% for three children, 42% for four children, and 46% for five children.<sup>32</sup> These estimates imply incremental increases in costs for each additional child of 57%, 14%, 12%, and 10%, respectively.

The incremental increases for additional children in the guidelines of the neighboring states and high-cost states are consistent with the estimates in the Betson and USDA studies.<sup>33</sup> The increases are lower than the studies for the second child, ranging from 37% in New Hampshire to 50% or more in Rhode Island and Vermont. On average, the guidelines amounts in the neighboring states increase by 46% for a second child, 18% for a third child, and 10% for a fourth or fifth child. The increases in the high-cost states are similar. **FIGURE 5** shows the adjustment factors for additional children in the current Massachusetts guidelines relative to the benchmarks. The shapes of all of the curves reflect child costs increasing with an additional child, but at a decreasing rate and leveling off substantially by the addition of a fourth or fifth child. The benchmark curves overlap significantly, with the Massachusetts guidelines adjustment factors taking the same basic shape but at lower percentage increases.

**FIGURE 5: BENCHMARK ADJUSTMENT FACTORS FOR ADDITIONAL CHILDREN**



Source: **TABLE 14**

<sup>32</sup> See **TABLE 30** below. USDA reports costs for one, two and three children. Estimated costs for a fourth or fifth child are imputed based on scaling ratios in Citro et al. (1995).

<sup>33</sup> This is not surprising and reflects some circularity, since the guidelines in most states are explicitly, or at least loosely, based on the Betson and USDA estimates.

As **FIGURE 5** shows, the adjustment factors for additional children in Table B of the current guidelines (25%, 10%, 5%, and 2%) are lower than all of the benchmark estimates. The increases for each additional child under the guidelines are only roughly half of each increase observed in the benchmark data, on average, for a second, third, and fourth child: 43%, 18%, and 11%, respectively. The average benchmark increase for a fifth child (10%) is five times higher than the increase under the guidelines (2%). This result is not new. But because these adjustment factors are applied to guidelines amounts for one child from Table A that are higher than observed benchmarks in the absence of costs like child care and health care, the prior task force did not recommend changing them.

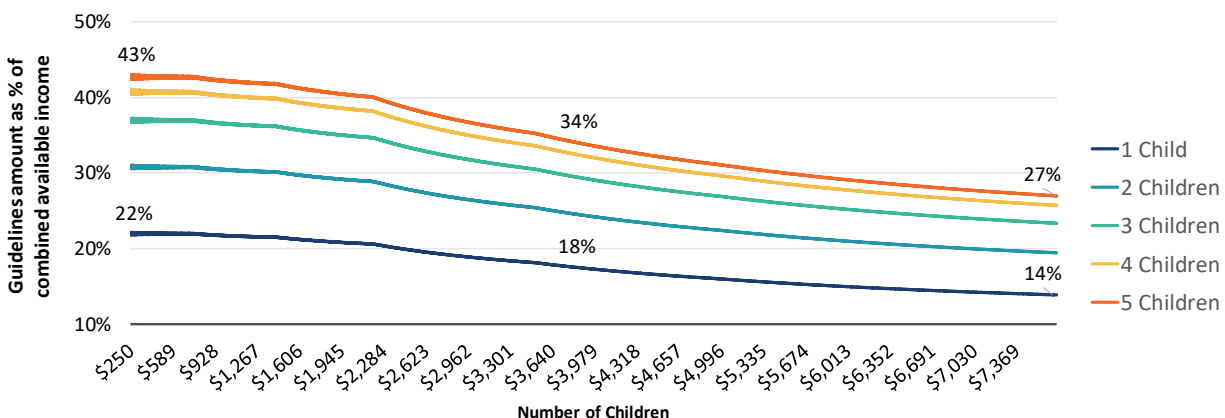
In this review, however, our analysis of the economic estimates of child costs, especially child care costs, indicated the Massachusetts guidelines amounts for one child are lower than both these costs and other states' guidelines amounts in most cases with such costs. As a result, it would be economically appropriate to increase the adjustment factors in Table B to be more consistent with the benchmarks. The Task Force agreed. Specifically, it recommended increases in the revised guidelines amounts for one child of 40%, 20%, 10%, and 5% for a second, third, fourth, and fifth child, respectively. The corresponding adjustment factors in the revised Table B are 1.40, 1.68, 1.85, and 1.94. **TABLE 15** shows the revised Table B.

**TABLE 15: TABLE B OF REVISED GUIDELINES**

TABLE B: ADJUSTMENT FOR NUMBER OF CHILDREN	
NUMBER	ADJUSTMENT
0	0.00
1	1.00
2	1.40
3	1.68
4	1.85
5	1.94

Combining the one-child income percentages listed in Table A of the revised guidelines worksheet with the adjustment factors for more than one child listed in the revised Table B results in the range of effective percentages of child support relative to combined income, based on movement through the income tranches in Table A. **FIGURE 6** shows the effective percentages under the current guidelines.

**FIGURE 6: REVISED GUIDELINES AS A PERCENT OF COMBINED AVAILABLE INCOME**



Source: Tables A and B of revised guidelines

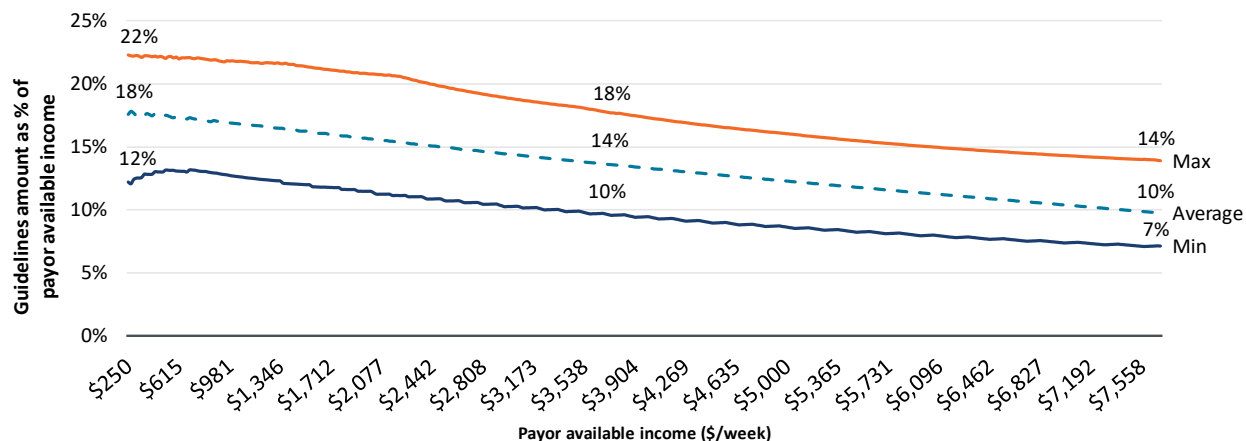
The revised guidelines amounts above the federal poverty guidelines range from effective percentages of 14% to 22% of combined available income, and 18% on average, for one child. (This is the bottom line in **FIGURE 6**.) Child support represents a higher share of income at lower income levels. The effective percentage curves for more than one child take the same shape since they reflect the same marginal percentages in Table A for the first child. But the effective percentages in the curves for each additional child are successively higher due to the higher adjustment factors in Table B for more children. With the higher adjustments in Table B for additional children, the revised guidelines amounts range from 19% to 31% of combined available income for two children; 23% to 37% of income for three children; 26% to 41% for four children; and 27% to 43% for five children.

The effective percentages shown in **FIGURE 6** are relative to the combined available income of both a payor and a recipient. Another way to visualize the revised guidelines amounts is to show the range of effective percentages relative to a payor's income only. Because the guidelines amount in a given case is based on combined available income, the percentage of a payor's income it accounts for depends on the income levels of both the payor and recipient. So there is a range of percentages for a given level of a payor's income, depending on the recipient's income. To generate the full range, we ran the revised guidelines successively for a given level of payor income and allowed recipient income to vary over the full range of combined available income under the revised guidelines (up to \$7,692 per week). **FIGURE 7** shows the resulting range of child support amounts for one child stated as a percentage of each level of payor income.



**FIGURE 7: REVISED GUIDELINES AS A PERCENT OF PAYOR AVAILABLE INCOME**

(Over the Full Range of Recipient Income; 1 Child)



Source: Tables A and B of revised guidelines

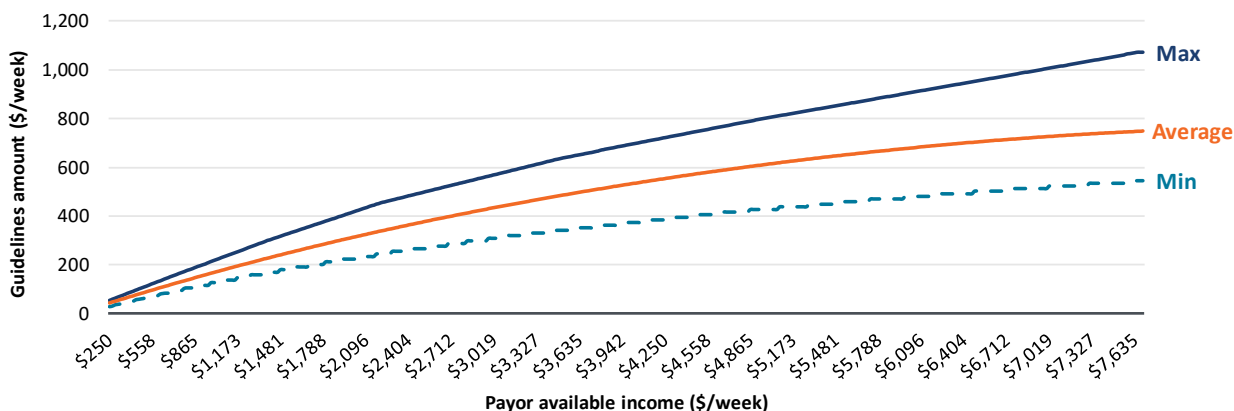
The revised guidelines amounts for one child beyond the low-income tranches of Table A range from 22% of a payor’s available income to 7%, depending on the recipient’s income. On average, the revised guidelines will be 10% to 18% of a payor’s income. (This is the middle line in **FIGURE 7**.) The average percentages decrease for a given level of payor income as payor income increases, reflecting the declining percentages in Table A. The span of the range is wider than for the current guidelines due to the increase in the income maximum from \$250,000 per year to \$400,000 per year, with the highest tranche of the revised Table A at 10% of last increment of income. As with the current guidelines, there is considerable range around the average in the revised guidelines, depending on the recipient’s income. For example, for payors with available income of approximately \$3,800 per week (in the middle of the income range on **FIGURE 7**), the guidelines amount is 14% of their available income on average. At that income level, however, the guidelines amount can be as low as 10% of a payor’s income if the recipient has high income, or as much as 18% of a payor’s income if the recipient has low income.<sup>34</sup>

**FIGURE 8** shows the same weekly support amounts for one child in dollars, rather than in percentages, over the range of a payor’s available income. In dollars, the percentages in **FIGURE 8** correspond to guidelines amounts beyond the low-income tranches of Table A, ranging from \$44 per week to \$749 per week, on average. Again, the range around this average for a given level of payor income depends on the recipient’s income. For example, the revised guidelines amount for payors with available income of \$3,800 per week is \$514 per week on average. At that income level, however, the guidelines amount can vary from \$364 per week if

<sup>34</sup> The percentages shown in **FIGURE 7** are for one child. The same curves for more than one child would take the same shape, but at higher effective percentages due to the multipliers in Table B for more children. The payor’s ultimate child support obligation also depends on the adjustments in the worksheet to the basic guidelines amount, such as the child care cost credit.

the recipient has a high income, to as much as \$671 per week if the recipient has a low income. This range is narrower at lower levels of payor income than at higher levels of income since a relatively low-income payor will be allocated a smaller share of the guidelines amount.

**FIGURE 8: REVISED GUIDELINES AMOUNTS**  
(Over the Full Range of Recipient Income; 1 Child)



Source: Tables A and B of revised guidelines

## C. Adjustment for the Ages of Children

The Task Force did not recommend any explicit revisions to the nature or structure of Table C of the guidelines worksheet. It discussed and affirmatively decided not to change the 25% nominal reduction in the guidelines amount for a child age 18 or over in the current guidelines. The increases the Task Force recommended to the adjustment factors in Table B, however, resulted in increases by default to the effective percentage reductions for children age 18 or over in Table C of the revised guidelines.

As we explained above, the percentages in Table C are a combination of the 25% nominal reduction to the guidelines amount for a child age 18 or over and the incremental increases for the number of children in Table B. The percentage reductions represent the percentage change between the adjustment factors in Table B for children under age 18 and the corresponding adjustment factors discounted by 25% for children age 18 or older. Because the 25% reduction for older children is applied only to the incremental increases for additional children from Table B, the adjustments in Table C are smaller in cases with more younger children and are larger in cases with more older children.

**TABLE 16** shows the resulting adjustment percentages in the revised Table C. The differences between the revised Table C and the table in the current guidelines purely reflects the

differences in Table B. The approach used to calculate the adjustment percentages in the revised Table C is the same as it is in the current guidelines.

**TABLE 16: TABLE C OF REVISED GUIDELINES**

**TABLE C:**  
**ADJUSTMENT FOR CHILDREN 18 YEARS OR OLDER**

CHILDREN UNDER 18	CHILDREN 18 OR OLDER					
	0	1	2	3	4	5
0	0%	25%	25%	25%	25%	25%
1	0%	7%	11%	13%	14%	
2	0%	4%	6%	7%		
3	0%	2%	3%			
4	0%	1%				
5	0%					

## D. College Costs

As part of the discussion of child costs for children over age 18, the Task Force also discussed economic considerations and data on college costs. Like the prior task force, the Task Force recognized that the cost of post-secondary education is frequently the most significant cost for a child. While there are fewer costs in the parent’s household associated with a child who is living at college, the overall cost of college typically overwhelms any such cost savings.

Under Massachusetts law, the Court can require parents to cover college costs as part of a child support order. This is an exception to how college costs are handled in most states. Two states (Alaska and Pennsylvania) explicitly disallow child support for college costs. Most states seem to have no statute or case law on the issue and thus do not allow child support for college costs except by agreement. Approximately 16 states explicitly allow child support for college costs up to the age of majority. A few other states allow child support for college costs beyond the age of majority, with conditions. Those states typically establish guidance for when such support may be ordered, but specific numeric standards – such as a specific percentage of college costs to be covered – are rare. Two of the five states neighboring Massachusetts allow child support for college costs: Connecticut (up to age 23) and New York (up to age 21). New Hampshire, Rhode Island, and Vermont do not allow child support for college costs, except by agreement.

The Massachusetts guidelines include the cost of post-secondary education as a factor the Court must consider in deciding whether to order child support for a child over age 18.<sup>35</sup> When

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<sup>35</sup> Current guidelines, Section F, “Age of the Children.”

the prior task force recommended the percentage reductions in Table C for children age 18 or over, it also added a new section of the guidelines (Section G) to specify factors the Court must consider in deciding whether and how parents should share college costs. This section caps the amount a parent can be ordered to pay at 50% of undergraduate, in-state resident costs of the University of Massachusetts-Amherst (“UMass Amherst”) as a cost benchmark, unless the Court finds the ability to pay more.

To help inform the Task Force’s discussion of college costs, we presented data on the range of 2020 tuition, fees, and living costs for all four-year colleges in Massachusetts, including UMass Amherst.<sup>36</sup> The total in-state cost over all Massachusetts colleges ranges from approximately \$25,000 to \$77,000, and is \$54,900 on average. The cost at each of the four UMass campuses is in the lowest quintile (one-fifth) of all colleges, ranging from approximately \$30,000 at Amherst, Dartmouth, and Lowell to \$35,000 at Boston. The benchmark cost for UMass Amherst specified in the Massachusetts guidelines is “mandatory fees, tuition, and room and board for the University of Massachusetts-Amherst, as set out in the ‘Published Annual College Costs Before Financial Aid’ in the College Board’s Annual Survey of Colleges.” **FIGURE 9** is a screenshot of the most recent (Fall 2020) figure reported on the College Board website.<sup>37</sup>

**FIGURE 9: COLLEGE COST BENCHMARK IN THE REVISED GUIDELINES**

**Published Annual College Costs Before Financial Aid**  
(Fall 2020 (Projected) First Year Students )

	In-State Costs	Out-Of-State Costs	
	On Campus	Off Campus	At Home
Tuition and fees	\$16,439	\$16,439	\$16,439
Room and board	\$13,432	\$13,004	\$1,800
Books and supplies	\$1,000	\$1,000	\$1,000
Estimated personal expenses	\$1,000	\$1,000	\$1,000
Transportation expenses	\$400	\$400	\$600
<b>Estimated Total</b>	<b>\$32,271</b>	<b>\$31,843</b>	<b>\$20,839</b>

The prices listed above are probably not what you and your family will pay. Most college students receive financial aid, which reduces the amount the family actually pays. For U.S. colleges, use the college's net price calculator to get the best estimate of what your family will pay.

<sup>36</sup> Based on data reported by <http://www.collegetuitioncompare.com>. The data are gross costs, not necessarily the actual cost paid net of reductions from scholarships and financial aid.

<sup>37</sup> See <https://bigfuture.collegeboard.org/college-university-search/university-of-massachusetts-amherst>, accessed on July 4, 2021.

Based on the first two rows of data in this figure, the total cost of mandatory fees, tuition, and room and board on campus at UMass Amherst as of Fall 2020 was \$29,871 (\$16,439 plus \$13,432). Using \$29,871 as a benchmark, the amount of college cost the Court can order under the guidelines absent findings is up to 50% of \$29,871, or approximately \$15,000 per year.

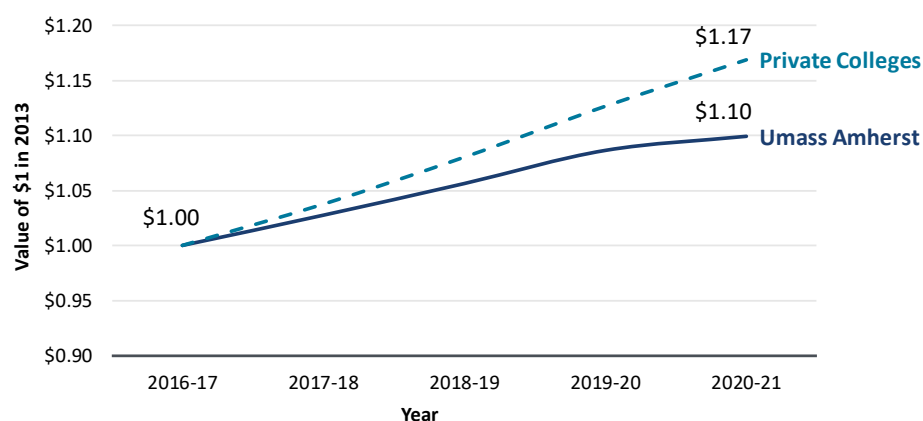
This cost benchmark is just over half (54%) of the analogous \$54,900 average cost over all Massachusetts four-year colleges. **TABLE 17** and **FIGURE 9** summarize how the cost of attending UMass Amherst compares to the average Massachusetts college cost in the four years since the Trial Court’s prior review of the guidelines in 2016–2017.<sup>38</sup>

**TABLE 17: MASSACHUSETTS COLLEGE COST TRENDS, 2017–2021**

Year	Cost	% Increase Annual	Overall	Cost	% Increase Annual	Overall
	U Mass Amherst			MA Private (Non-Profit) 4-Year Colleges		
2016-17	\$29,268			\$52,877		
2017-18	\$30,069	2.7%	2.7%	\$54,866	3.8%	3.8%
2018-19	\$30,913	2.8%	5.6%	\$57,126	4.1%	8.0%
2019-20	\$31,793	2.8%	8.6%	\$59,581	4.3%	12.7%
2020-21	<b>\$32,168</b>	1.2%	<b>9.9%</b>	<b>\$61,816</b>	3.8%	<b>16.9%</b>

Source: CollegeTuitionCompare.com, accessed on July 4, 2021

**FIGURE 10: MASSACHUSETTS COLLEGE COSTS (INDEXED TO \$1 IN 2017)**



Source: **TABLE 17**

<sup>38</sup> The UMass Amherst cost in **TABLE 17** and **FIGURE 9** differs slightly from the official benchmark cost under the guidelines because it is from a different source that publishes data over time and includes other cost components, such as books and supplies.

In the last four years, the cost of UMass Amherst has increased by 9.9%, from approximately \$29,000 per year in 2017 to \$32,000 per year now. The UMass Amherst cost increased by 2.4% per year on average over this period. This increase is less than the growth in the cost of private colleges in Massachusetts – which increased by 4.0% per year on average and 16.9% overall in the same period – from approximately \$53,000 per year to \$62,000 per year. While future changes in college costs may differ, the trend suggests that the college cost benchmark in the guidelines can be expected to continue to increase by approximately 2% to 4% per year between now and the next guidelines review in 2025. If so, the benchmark cost under the guidelines will be between \$35,000 and \$38,000 per year by that time.

## **E. Child Care and Health Care Costs**

We discussed with the Task Force current economic data on the costs of child care and health care in Massachusetts, how the current guidelines handle these costs, and whether the nature and magnitude of these costs suggest a change to the guidelines. Under the current guidelines, reasonable child care and health care costs incurred by either parent are deducted from gross income at the top of the worksheet as part of the calculation of income available for child support. The child care cost deduction is limited to cost for children covered by the order. The health care deduction includes the cost of individual or family health insurance coverage, with Court discretion to adjust the deduction if coverage for someone other than a child covered by the order unreasonably reduces the resulting child support amount. These deductions reflect the economic reality of covering child costs subject to a budget constraint; a parent with a given level of gross income who is covering child care or health care costs has less income available to spend on other things, including other child costs.

As in our prior review of the guidelines, we noted the outsized cost of child care and health care in Massachusetts relative to other costs and recommended adjusting the current guidelines amounts when either parent is paying these costs. This section of this report summarizes current economic data on child care and health care costs and describes the change to the current guidelines the Task Force ultimately proposed to account for them.

### **1. Child Care Costs**

Massachusetts does not include child care costs in the guidelines amounts in Table A of the worksheet because not all households incur child care costs. For those that do, the costs are

often significant.<sup>39</sup> Studies based on national census data report that the share of income spent on paid child care for young children nationwide is 8.8% on average for all families, 11.3% for previously-married families, and 13.1% for never-married families.<sup>40</sup> The USDA reports that for families that have child care expenses, these child costs are, on average, 16% of total child-rearing costs.<sup>41</sup>

Data from multiple sources report the relatively high cost of child care in Massachusetts:

*MIT Living Wage Calculator:* Massachusetts Institute of Technology's (MIT's) Living Wage Calculator provides an annual estimate of the cost of living for low-wage families, considered as a "minimum cost threshold" for living in different communities in the US.<sup>42</sup> Using data from the USDA, the National Association of Child Care Resource and Referral Agencies, the US Department of Housing and Urban Development (HUD) Fair Market Rents, and the US Census Bureau's Consumer Expenditure Survey, the living wage calculator reports expenditure data by family size, composition, and location.<sup>43</sup> **FIGURE 11** below shows the MIT estimate of the average weekly child care costs for one child by state.<sup>44</sup> Massachusetts, at \$242 per week, is higher than every other state.

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<sup>39</sup> The decision to have a parent exit the labor force to be a primary caregiver is widely attributed to the high costs of child care. See for example, VerBruggen, Robert, and Wendy Wang. "The real housewives of America: dad's income and mom's work." Institute for Family Studies 23 (2019), and Lisa Corcoran and Katrina Steinley, "Early Childhood Program Participation, Results from the National Household Education Surveys Program of 2016" (Washington: National Center for Education Statistics, 2017), available at <https://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2017101>.

<sup>40</sup> Mattingly, Marybeth J., Andrew P. Schaefer, and Jessica A. Carson. "Child care costs exceed 10 Percent of family income for one in four families." (2016). Available at <https://scholars.unh.edu/cgi/viewcontent.cgi?article=1287&context=carsey>. These figures are also consistent with other studies, including a 2019 recent national study and Massachusetts specific expenditure data. A national study by the Center for American Progress reports that working families with children under the age of 5 spend nearly 10% of income on child care. Malik, Rasheed. "Working Families Are Spending Big Money on Child Care." Center for American Progress (June 2019). MIT's Living Wage calculator, which is updated annually and discussed in greater detail in this report, indicates that child care for one child accounts for 14% of a single parent's average expenditure on average in the US, and for 19% in Massachusetts. Retrieved from <https://livingwage.mit.edu>.

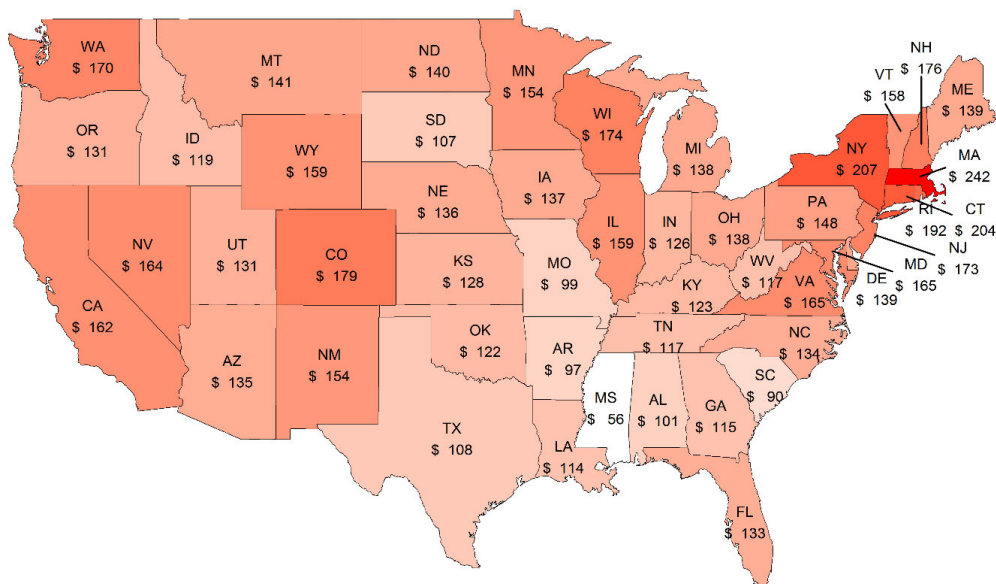
<sup>41</sup> Lino, P. (2020, February 18). The Cost of Raising a Child. USDA. <https://www.usda.gov/media/blog/2017/01/13/cost-raising-child>.

<sup>42</sup> Glasmeier, A. K. (2020) The Living Wage Calculator. Massachusetts Institute of Technology. Retrieved from <https://livingwage.mit.edu>.

<sup>43</sup> Glasmeier, A. K. (2020). The Living Wage Calculator: User's Guide/Technical Notes. Retrieved from <https://livingwage.mit.edu/resources/Living-Wage-Users-Guide-Technical-Documentation-2021-05-21.pdf>

<sup>44</sup> The median estimates of childcare center costs were used where available. If median costs were not reported, the mean was used instead. The cheapest childcare option was identified. Glasmeier, A. K. (2020). The Living Wage Calculator: User's Guide/Technical Notes. Retrieved from <https://livingwage.mit.edu/resources/Living-Wage-Users-Guide-Technical-Documentation-2021-05-21.pdf>

**FIGURE 11: MIT LIVING WAGE ESTIMATE OF WEEKLY CHILD CARE COSTS**



Source: MIT Living Wage Calculator

*Child Care Aware (CCA)*: CCA, a non-profit organization, reports on child care costs by state and by age.<sup>45</sup> **TABLE 18** shows the estimated child care costs from the CCA 2020 Report, stated in dollars per week for the US overall, Massachusetts, and each of the five neighboring states. CCA estimates the average weekly cost in Massachusetts to be \$300 per week on average, and shows that child care costs typically vary by age. CCA reports an average of \$409 per week for an infant, \$377 per week for a toddler, \$303 per week for a 4 year old, and \$110 per week for a school-aged child’s before/after care. Massachusetts costs exceed costs faced in the US overall and in neighboring states across every age group. On average, Massachusetts child care costs are approximately 47% higher than neighboring states.

<sup>45</sup> Child Care Aware of America, “Picking Up the Pieces: Building a Better Child Care System Post COVID-19,” Fall 2020 (“CCA 2020 Report”), Appendix 1. <https://www.childcareaware.org/picking-up-the-pieces/>.



TABLE 18: CCA ESTIMATES OF WEEKLY CHILD CARE COSTS

State	Infant		Toddler		4-year-old Age		Before/After School Age		Average	
Massachusetts	\$ 409		\$ 377		\$ 303		\$ 110		\$ 300	
United States	\$ 224	182%	\$ 205	184%	\$ 184	165%	\$ 96	115%	\$ 177	169%
Connecticut	\$ 312		\$ 308		\$ 250		\$ 74		\$ 236	
New Hampshire	\$ 257		\$ 239		\$ 210		\$ 69		\$ 194	
New York	\$ 258		\$ 238		\$ 215		NR		\$ 237	
Rhode Island	\$ 214		\$ 210		\$ 192		\$ 101		\$ 179	
Vermont	\$ 268		\$ 263		\$ 247		\$ 86		\$ 216	
Neighboring States	\$ 262	156%	\$ 252	150%	\$ 223	136%	\$ 82	133%	\$ 205	147%

Source: Child Care Aware

*Economic Policy Institute (EPI):* A separate study of child care costs also published in 2020 by non-profit organization EPI reports similar cost estimates by age. EPI ranks Massachusetts as the highest child cost state at \$402 per week for full-time child care for an infant, and \$290 per week for a 4-year-old.

TABLE 19: EPI CHILD CARE COST ESTIMATES

State	Infant		4-year-old Age	
Massachusetts	\$ 402		\$ 290	
United States	\$ 220	183%	\$ 176	165%
Connecticut	\$ 298		\$ 245	
New Hampshire	\$ 246		\$ 199	
New York	\$ 258		\$ 238	
Rhode Island	\$ 263		\$ 206	
Vermont	\$ 246		\$ 225	
Neighboring States	\$ 270	149%	\$ 222	130%

Source: Economic Policy Institute

The estimates of child care costs reported here reflect a significant increase since the last guidelines review, which reported an average child care cost across all ages in Massachusetts to be \$213 per week.<sup>46</sup> This growth in costs observed in Massachusetts is consistent with national

<sup>46</sup> The Massachusetts Budget and Policy Center reports that “[n]ot surprisingly, as many families struggle to access care, Massachusetts [Early Childhood and Education (ECE)] costs have skyrocketed. For example, in 2019, Massachusetts ranked last among the 50 states in the affordability of infant care, with costs reaching nearly \$21,000 per year, an unaffordable rate for 95% of families. At this price, infant care consumes over 80% of a minimum wage salary in Massachusetts and ECE costs now exceed public college tuition.” Jones, C. (2021,

trends. For example, the Bureau of Labor Statistics' Consumer Price Index (CPI) real (inflation-adjusted) price of child care increased by nearly 49% from 1993 to 2018.<sup>47</sup>

In sum, the cost of work-related child care is an observable, typically significant cost of raising children. Often necessary to allow for a parent to work, have potential for income growth, and economic opportunity, child care costs can be a particularly difficult burden, especially for lower-income families.<sup>48</sup> According to the US Department of Health and Human Services (HHS), child care is considered affordable if it costs families no more than 7% of their income.<sup>49</sup> Yet, on average, poor families spend 19.8% of their income on child care. Recognizing that sharing in child care costs: (1) is consistent with the income shares model assumption that parents share in the fixed, variable, and controlled costs related to child rearing; (2) encourages workforce participation; and (3) may not be affordable to either or both parties, the Task Force asked us to provide a benchmark by which to reference the level of child care costs.

Massachusetts Department of Early Education (DOEE), a state-run agency, provides a market rate survey of child care costs every three years.<sup>50</sup> Its most recent survey ("Massachusetts Survey"), published in June 2018, reports child care costs for both center-based and family child care providers across Massachusetts, including some metrics at the regional level (for six different regions). **TABLE 20** below shows the reported overall weekly child care costs.

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May 3). Care for Our Commonwealth: The Cost of Universal, Affordable, High-Quality Early Care & Education Across Massachusetts. Mass. Budget and Policy Center. <https://massbudget.org/2021/04/28/care-for-our-commonwealth-the-cost-of-universal-affordable-high-quality-early-care-education-across-massachusetts/>.

<sup>47</sup> Family Budget Burdens Squeezing Housing: Child Care Costs. Freddie Mac. (n.d.). [http://www.freddiemac.com/research/insight/20200107\\_family\\_budget\\_burdens.page](http://www.freddiemac.com/research/insight/20200107_family_budget_burdens.page).

<sup>48</sup> The high cost of child care and burden on families is in part motivation for President Biden's proposed "The American Families Plan." The White House's April 2021 "Fact Sheet: American Families Plan" reports that "[t]he high cost of child care continues to make it hard for parents – especially women – to work outside the home and provide for their families. Difficulty in finding high-quality, affordable child care leads some parents to drop out of the labor force entirely, some to reduce their work hours, and others to turn down a promotion. When a parent drops out of the workforce, reduces hours, or takes a lower-paying job early in their careers – even temporarily – there are lifetime consequences on earnings, savings, and retirement." The United States Government. (2021, May 4). FACT SHEET: The American Jobs Plan. The White House. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/31/fact-sheet-the-american-jobs-plan/>.

<sup>49</sup> Malik, R. (n.d.). Working Families Are Spending Big Money on Child Care. Center for American Progress. <https://www.americanprogress.org/issues/early-childhood/reports/2019/06/20/471141/working-families-spending-big-money-child-care/>.

<sup>50</sup> Available at: <https://www.mass.gov/lists/departments-of-early-education-and-care-general-reports#market-rate-survey-reports>. The 2018 report notes that "[t]he purpose of the mandated survey is to gather information to allow states to set their child care assistance programs subsidy reimbursement rates at a level that are sufficient to ensure equal access of child care services for children eligible for subsidy that is comparable to services available to children not eligible for subsidy. Federal guidance establishes the 75th percentile (of market rates) as the benchmark for providing equal access."

**TABLE 20: COST OF FULL-DAY CARE**  
(Weekly, Center-Based Child Care)<sup>51</sup>

Age	n	Min	Max	Median	Mean
Infant	333	\$40	\$640	<b>\$345</b>	<b>\$355</b>
Toddler	393	\$38	\$595	\$315	\$322
Preschool	466	\$35	\$577	\$250	\$257

Source: 2018 Massachusetts Survey, Appendix B. Amounts rounded to the nearest dollar.

Consistent with estimates presented earlier, the Massachusetts DOEE data show child care costs are highest for infants and lowest for older children. For reference, we have bolded the median and mean cost for infant care, at \$345 per week (median) and \$355 per week (average). These figures are based on reporting on the entire state of Massachusetts for subsidy purposes, higher than the MIT low-income estimates, yet lower than reported by EPI or CCA. In actuality, the benchmark may reasonably be higher or lower than child care costs incurred. (The reported median of \$345 indicates that 50% of the population experiencing child care costs for an infant will exceed \$345 per month, while 50% of the population experiencing child care costs for an infant will fall below \$345).

## 2. Health Care Costs

Federal regulations require state child support guidelines to address how a child's health care needs will be met through private or public health care coverage and/or through cash medical support.<sup>52</sup> Courts and child support agencies in administrative hearings must address health care coverage in both private cases and child support agency cases. Most states directly account for health care premiums in their guidelines formulas, typically as a deduction from available income or as a proportional credit against the guidelines amount. The current guidelines in Massachusetts, as well as four of the five neighboring states (all but New York),

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<sup>51</sup> The 2018 Massachusetts Report surveyed all 8,651 licensed providers (FCC and Center-Based providers). Note that "[c]hild care centers are usually located in commercial buildings. Centers are larger and care for more children than family child care providers. All states have regulations for licensed centers, but not all child care centers are licensed. The question of whether a child care center is required to be licensed or is license exempt depends on the requirements in your state. Licensed centers are required to follow a set of basic health and safety requirements, and they are monitored to make sure they are following the requirements." <https://www.childcare.gov/index.php/consumer-education/child-care-centers>.

<sup>52</sup> 45 CFR 302.56(c)(2).

deduct health insurance costs from income.<sup>53</sup> Under the Massachusetts guidelines, the Court is also required to determine whether health care coverage for children is available at reasonable cost and accessible, and, if so, may order either parent to obtain and maintain such coverage.<sup>54</sup>

A key point in ordering medical support is the affordability of health care coverage. Federal regulations require establishing a definition of affordability, and offer guidance at 5% of the gross income of the parent paying for coverage.<sup>55</sup> Each state may create its own definition of affordability. However, federal regulations require the definition of affordability to be numeric and based on income. The definition of affordability in the current guidelines reflects current Massachusetts law, but is neither income-based nor numeric.<sup>56</sup>

### a. Per-Capita Health Care Costs

Health care costs in Massachusetts are relatively high compared to neighboring states and the US average. **TABLE 21** shows per capita health care spending in the US overall, in Massachusetts, and in each of the five neighboring states. The last year for which data are available is 2014.<sup>57</sup> We use the US Consumer Price Index for Medical Care Services, as reported by the Bureau of Labor Statistics (BLS), to estimate the health care costs from 2016–2020. Per capita spending in Massachusetts is consistently higher than both the US average and spending in each of the neighboring states. Spending in the neighboring states is also consistently above the US average, but below the spending levels in Massachusetts.

In 2020, per capita health care spending in Massachusetts was estimated to be \$21,030, or 44% more than the national average of \$14,617. Massachusetts also spends more per capita than any of the five neighboring states. On average, the neighboring states spent \$17,794 per capita on health care in 2020. This is 22% higher than the national average, but 15% lower than in Massachusetts.

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<sup>53</sup> Instead, for New York, the cost of providing health insurance benefits shall be prorated between the parties in the same proportion as each parent's income is to the combined parental income. If the custodial parent is ordered to provide such benefits, the non-custodial parent's pro rata share of such costs shall be added to the basic support obligation. If the non-custodial parent is ordered to provide such benefits, the custodial parent's pro rata share of such costs shall be deducted from the basic support obligation.

<sup>54</sup> Current guidelines Section H, *Health Care Coverage*. Under changes to the law in 2019, either parent may be ordered to pay health care costs.

<sup>55</sup> CFR § 303.31(a).

<sup>56</sup> Under current guidelines, Section H, *Health Care Coverage*, “Before requiring a payor to obtain health care coverage, the Court must determine that such coverage is available at reasonable cost.”

<sup>57</sup> The Centers for Medicare and Medicaid Services (CMS), “Health Expenditures by State of Residence” at <http://www.kff.org/state-category/health-costs-budgets/health-expenditures-by-state-of-residence/>.

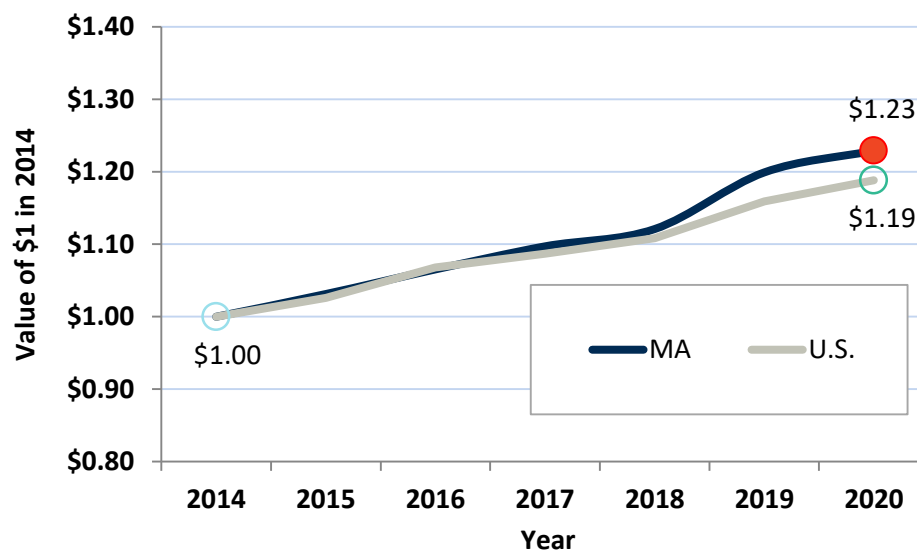
**TABLE 21: PER-CAPITA HEALTH CARE COSTS**

Location	2016	2017	2018	2019	2020	5-Year Change
<b>Massachusetts</b>	<b>\$ 11,599</b>	<b>\$ 12,726</b>	<b>\$ 14,266</b>	<b>\$ 17,107</b>	<b>\$ 21,030</b>	<b>81.3%</b>
<b>U.S.</b>	<b>\$ 8,811</b>	<b>\$ 9,574</b>	<b>\$ 10,612</b>	<b>\$ 12,301</b>	<b>\$ 14,617</b>	<b>144% 65.9%</b>
Connecticut	\$ 10,797	\$ 11,732	\$ 13,005	\$ 15,074	\$ 17,913	
New Hampshire	\$ 10,502	\$ 11,411	\$ 12,649	\$ 14,661	\$ 17,422	
New York	\$ 10,709	\$ 11,636	\$ 12,898	\$ 14,950	\$ 17,766	
Rhode Island	\$ 10,460	\$ 11,366	\$ 12,598	\$ 14,603	\$ 17,353	
Vermont	\$ 11,160	\$ 12,126	\$ 13,441	\$ 15,580	\$ 18,514	
<b>Neighboring States</b>	<b>\$ 10,725</b>	<b>\$ 11,654</b>	<b>\$ 12,918</b>	<b>\$ 14,974</b>	<b>\$ 17,794</b>	<b>118% 65.9%</b>

Source: CMS, “Health Expenditures by State of Residence,” The Henry J. Kaiser Family Foundation; US CPI and Northeast Region CPI for Medical Care Services as reported by the BLS (Series CUUR0000SAM and Series CUUR0000SAM2).

While per capita health care spending is higher in Massachusetts, it is increasing at a faster rate here than in the US overall and in the neighboring states. Over the five years listed in [TABLE 21](#), Massachusetts spending increased by 81%. Average spending growth in both the US overall and in the neighboring states was 66% over the same period. [FIGURE 12](#) illustrates these relative trends, showing a widening gap between the rate of growth in per capita health care spending in Massachusetts and the lower rates of growth elsewhere.

**FIGURE 12: PER-CAPITA HEALTH CARE COSTS (INDEXED TO \$1 IN 2014)**



Source: US CPI and Northeast Region CPI for Medical Care Services as reported by the BLS (Series CUUR0000SAM and Series CUUR0000SAM2).

With health care costs growing faster than in other states, the high cost of health care is increasingly unaffordable for some Massachusetts residents. The latest report of the Massachusetts Health Policy Commission highlights the fact that “health care affordability is also a significant and growing challenge.”<sup>58</sup>

## b. Health Insurance Costs

Insurance premiums for health care coverage in Massachusetts are higher than health insurance premiums elsewhere for single coverage and family coverage. **TABLE 22** shows the most recent data for average single and family premiums for employer-based health insurance in the US overall, in Massachusetts, and in each of the five neighboring states.

**TABLE 22: COST OF HEALTH CARE COVERAGE**

Location	Single Premium			Family Premium				
	Employee Contribution	Employer Contribution	Total	Employee Contribution	Employer Contribution	Total		
Massachusetts	\$1,903	\$7,443	\$9,346	\$5,693	\$21,801	\$27,494		
\$/week	\$37	\$143	\$180	\$109	\$419	\$529		
United States	\$1,427	133%	\$6,715	\$8,142	\$5,431	105%	\$19,565	\$24,996
Connecticut	\$1,672		\$7,264	\$8,936	\$5,352		\$20,735	\$26,087
New Hampshire	\$1,618		\$7,405	\$9,023	\$5,535		\$20,538	\$26,073
New York	\$1,578		\$7,741	\$9,319	\$5,006		\$21,904	\$26,910
Rhode Island	\$1,807		\$7,018	\$8,825	\$5,493		\$18,623	\$24,116
Vermont	\$1,456		\$6,919	\$8,375	\$5,334		\$20,129	\$25,463
Neighboring States	\$1,626	117%	\$7,269	\$8,896	\$5,344	107%	\$20,386	\$25,730

Source: Agency for Healthcare Research and Quality, Center for Financing, Access and Cost Trends, Medical Expenditure Panel Survey (MEPS), Insurance Component, as published by the Henry J. Kaiser Family Foundation

The 2019 Cost Trends Report notes that the average annual health insurance premium in Massachusetts was \$9,346 for single coverage and \$27,494 for family coverage.<sup>59</sup> Employers cover approximately 80% of these costs, leaving Massachusetts employees to pay \$1,903 per year (\$37 per week) for single coverage and \$5,693 per year (\$109 per week) for family coverage. The employee’s share of health care premiums in Massachusetts is higher for single coverage by 33% relative to the US average and by 17% over the average of the five neighboring states. The employee share of premiums for family coverage in Massachusetts is 5% higher than the national average and 7% higher than the average in neighboring states.

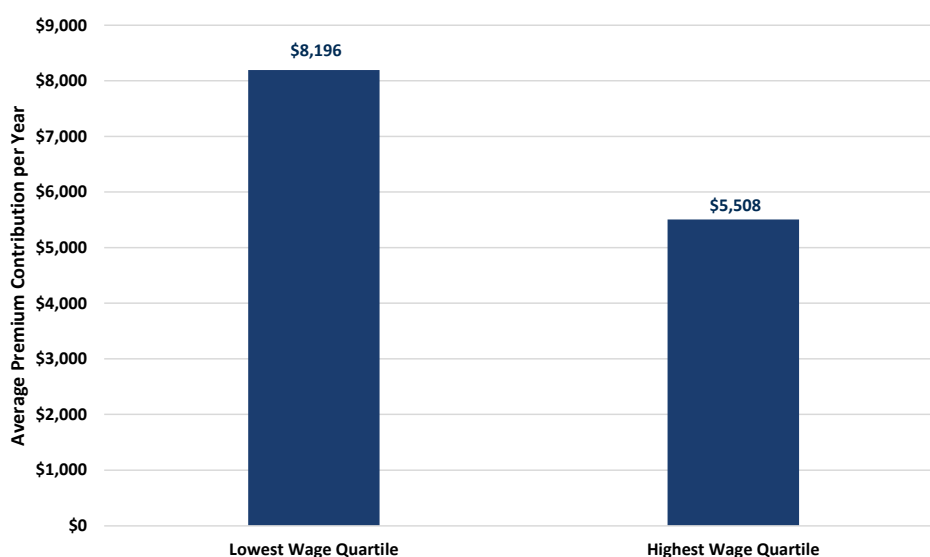
<sup>58</sup> Massachusetts Health Policy Commission, “Annual Health Care Cost Trends Report 2019” (“2019 Cost Trends Report”), February 2020, p. 4 <https://www.mass.gov/doc/2019-health-care-cost-trends-report/download>.

<sup>59</sup> Agency for Healthcare Research and Quality, Center for Financing, Access and Cost Trends, Medical Expenditure Panel Survey (MEPS), Insurance Component, as published by the Henry J. Kaiser Family Foundation.

Consistent with Massachusetts being one of the highest cost of health coverage states, it also has a significant growth in cost of insurance. The 2019 Cost Trends Report notes that the cost for family coverage has grown nearly six times more than the consumer price index, with employee contribution growing faster – eight times more than the consumer price index.<sup>60</sup>

The 2019 Cost Trends Report points out that the cost of health care coverage is higher for low-income Massachusetts residents. **FIGURE 13**, reproduced from the 2019 Cost Trends Report, illustrates the average annual family premiums and employee contributions by wage quartile of employers in Massachusetts.

**FIGURE 13: FAMILY PREMIUMS AND EMPLOYEE CONTRIBUTIONS, BY WAGE QUARTILE**



Source: 2019 Cost Trends Report, p. 15

Average employee contributions to premiums for employer-based family coverage in Massachusetts were higher for employees in the lowest-wage firms than for employees in firms with the highest wages: \$8,196 per year compared to \$5,508 per year.

The fact that low-wage earners in Massachusetts seem to be paying more in absolute dollars for a lower-cost plan implies that they are paying even more on a quality-adjusted basis.<sup>61</sup> Paying more in absolute dollars for health insurance also means they are spending a significantly higher share of their income for health care coverage, crowding out spending on other household costs, including child costs. Again, the economic reality is that a certain level of

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<sup>60</sup> 2019 Cost Trends Report, p. 5.

<sup>61</sup> This is consistent with the report finding, “persistent disparities in health outcomes remain among low-income communities.” 2019 Cost Trends Report, p. 4.

household income can be allocated to only so many costs. If spending on one cost category increases, spending in other cost categories generally must decrease.

### **3. Child Care and Health Care Cost Credits**

As we noted in the prior guidelines review, child care costs and health care costs are a significant share of overall costs for parents in Massachusetts who pay them. Again, the Massachusetts median household income level is \$81,215.<sup>62</sup> The average child care cost of \$300 to \$400 per week is between \$16,000 and \$21,000 per year per child. This means child care for one child alone accounts for roughly 20–25% of total income in a median household, and a higher budget share in households with less income. Similarly, the average cost of family health care coverage, at \$109 per week, is nearly \$6,000 per year – or roughly 7% of median household income – and is even higher both in relative terms and absolute dollars in households with lower incomes and less generous employer benefits. Given the importance and relative magnitude of both child care and health care costs, it is an economic imperative for the guidelines to highlight these costs and handle them explicitly to ensure they are covered for children and are appropriately allocated between parents.

As a result of the prior review, a credit was added to the current guidelines worksheet to cover a portion of child care and health care costs paid by each parent. This credit treats reasonable child care costs and health care costs paid by either parent in the same way. First, both types of costs are deducted from each parent’s gross income at the top of the guidelines worksheet to calculate each parent’s respective available income to cover other child costs. Second, the parents share these costs by reimbursing each other for all or part of the child care and health care costs they pay.

If the payor’s share of the recipient’s costs exceeds the recipient’s share of the payor’s costs, the difference is a net credit to the recipient, increasing the child support amount. If the recipient’s share of the payor’s costs exceeds the payor’s share of the recipient’s costs, the difference is a net credit to the payor, decreasing the child support amount. The degree to which a parent’s actual costs are shared or not through this credit depends on the amount of costs they pay and their share of combined available income relative to a cap limiting the impact of the cost sharing to, at most, 15% of the guidelines amount before applying the credit. Up to the amount of the 15% cap, the credit is entirely symmetric – it treats both parents and both types of cost in exactly the same way. For example, if two parents have the same incomes and the same, or no, child care or health care costs, the net amount of the credit is zero and the

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<sup>62</sup> See <https://www.census.gov/quickfacts/fact/table/MA/INC110219>.



guidelines amount calculated for the payor in the worksheet is unchanged. But when the parents' incomes or spending on child care or health care are different, the credit results in each parent covering a share of those costs in proportion to their share of combined available income up to the cap.

Including an explicit credit in the guidelines so parents share these costs in proportion to their ability to pay them (that is, in proportion to their relative available incomes) was a significant step forward in the prior guidelines review. However, because child care and health care costs can be quite high and the credit was newly added, the prior task force included the cap to limit its impact on overall orders, to avoid any immediate wide swings in orders as a result of the credit. Specifying the cap as a percent of the order assured a predictably limited impact less than or equal to the amount of the cap. The prior task force knew the 15% cap meant parents, in many cases, may not fully share all child care and health care costs in proportion to their incomes, since the amount of the capped credit would be less than the actual cost of child care and health care in most cases. But, introducing the credit with the cap was an important, and economically appropriate, improvement to the guidelines at the time.

The Task Force in this review spent considerable time deliberating the credit and the cap based on four years of experience using them in the guidelines, public comments, cost data, and economic and policy considerations regarding appropriate cost sharing. Other states' guidelines do not cap child care cost sharing; only Massachusetts' guidelines do that. [TABLE 23](#) summarizes how other states' guidelines handle child care costs. In most states, child care costs are proportionally shared without a cap.

It makes good economic sense for the parents to share the child costs in proportion to their relative incomes. Indeed, this is the economic foundation for the whole calculation of child support in the guidelines worksheet. But capping the credit at 15% of the order effectively undoes a full sharing of reasonable costs without an economic rationale for why they should not be fully shared. Capping the cost sharing does not make the underlying costs go away; it simply imposes a disproportionate share of the costs on the parent who pays them – whether that is the payor or the recipient. It is still an out-of-pocket expense for a child's care, only out of view of the guidelines. That is why other states' guidelines tend not to cap this credit.

**TABLE 23: FAMILY PREMIUMS AND EMPLOYEE CONTRIBUTIONS, BY WAGE QUARTILE**

Income Share States				Non-Income Shares States
Proportional - Uncapped		Proportional - Capped	Not Proportional	
Alabama	New Jersey	Massachusetts	California (split 50/50)	Alaska
Arizona	New Mexico		Iowa	Delaware
Arkansas	New York		Kentucky	Hawaii
Colorado	North Carolina		Nebraska <sup>1</sup>	Mississippi
Connecticut	Ohio <sup>1</sup>		New Hampshire	Montana
Florida	Oklahoma		South Dakota	Nevada
Georgia	Oregon <sup>1</sup>		Utah	North Dakota
Idaho	Pennsylvania		Wyoming	Texas
Illinois	Rhode Island			Wisconsin
Indiana	South Carolina			
Kansas	Tennessee			
Louisiana	Vermont			
Maine	Virginia			
Maryland	Washington			
Michigan	West Virginia			
Minnesota	Washington DC			
Missouri	Guam			

Notes:

Benchmark states highlighted blue; high-cost states highlighted red

<sup>1</sup> Some states limit proportional cost sharing for low-income payors, for example:

Ohio includes the table "Maximum Allowable Child Care Costs" by age per child

Oregon includes the table "Maximum Allowable Child Care Costs by Provider Location" by age per child

Nebraska guidelines state, "care expenses for the child for whom the support is being set, which are due to employment of either parent or to allow the parent to obtain training or education necessary to obtain a job or enhance earning potential, shall be allocated to the obligor parent as determined by the court, but shall not exceed the [income share] proportion of the obligor's parental contribution."

As **TABLE 23** shows, four of the five neighboring states (Connecticut, New York, Rhode Island, and Vermont) have no cap, nor do three of the other four high-income jurisdictions (Maryland, New Jersey, and Washington, DC) we included in comparisons presented to the Task Force. Therefore, removing the cap on this credit would make Massachusetts' guidelines more consistent with the approach and amounts in the benchmark states in cases with such costs. The cap in the current guidelines was a stopgap in an incremental step toward proportional cost sharing. The credit seems to work well in the guidelines, which is not surprising since it reflects the same income shares approach as in the rest of the worksheet. As a result, the economic benefits of proportionally sharing reasonable costs outweigh the original policy rationale for the cap, and the Task Force recommended removing it from the revised guidelines.

Specifically, the Task Force removed the cap on the credit for child care costs. Since lines 6a and 6b of the revised guidelines explicitly and fully credit whichever parent actually pays for child care, that cost is no longer deducted from the parent's gross income at the top of the

worksheet. The revised guidelines treat health care costs differently. Health care costs continue to be deducted from gross income at the top of the worksheet to determine each parent's available income, but these costs are no longer part of the credit in lines 6a and 6b – only child care costs are explicitly credited.

The revised guidelines treat child care costs and health care costs differently for two reasons. First, child care cost is an observable direct cost for a child. It is not a shared cost like housing or food – or family health care coverage – in which a child's part of the household's overall cost can be estimated but is not separately observed. Child care is a pure child cost whose benefits are shared by children and both parents when it allows a primary parent to build skills and earnings capacity over time. Second, the cost of child care is more significant than a child's part of the cost of family health care coverage. Child care, at an average cost of \$300 to \$400 per week per child, is three to four times the average employee's cost of health care coverage for an entire family including, but not specifically only for, the child.

While the Task Force recommended removing the prior 15% cap on the impact of the credit on the guidelines amount, it wanted to ensure the child care costs proportionally shared by the parents in lines 6a and 6b of the revised guidelines worksheet are reasonable relative to some explicit cost benchmark. To inform the Task Force's selection of an appropriate benchmark, we presented the range of child care cost data summarized above, which indicates Massachusetts has the highest child care cost in the US. The three sources listed above report average child care costs of \$409 (CCA), \$402 (EPI), and \$355 (Massachusetts Survey) per week per (infant) child. Of course, by definition, actual child care costs in a given case will typically be higher or lower than these averages. Actual child care costs from case to case are distributed around the average – some lower and some higher. Setting a more conservative benchmark than the average cost would capture more of the variation in actual child care costs across specific cases. For example, the 75th percentile child care costs reported in the Massachusetts Survey are highest in the "Metro" region (the suburbs surrounding Boston) at \$446 per week per child. Similarly, the child care cost at one standard deviation above the \$355 average cost is \$453 per week. The Task Force understood that an above-average cost benchmark would capture more of the actual child care costs incurred in more cases. It also means the benchmark would bind in fewer cases. Whether to recommend a benchmark at all and, if so, whether it should be lower or higher than average were policy decisions made by the Task Force by weighing economic considerations and other factors.

After considering the range of economic data on child care costs in Massachusetts and extensive deliberation, the Task Force chose to rely on the average cost of center-based infant care in the Massachusetts Survey. That cost is currently \$355 per week per child. The Survey is

updated every three years, so it can provide a basis for benchmarking future child care costs as well. The Task Force understood that the benchmark will limit the amount of the credit in some cases. This is one reason it chose the cost of infant care, the highest cost category. Parents whose child care costs are less than the benchmark would fully share that lower actual cost in proportion to their incomes. In cases of paid child care for more than one child, the revised guidelines worksheet grosses up the benchmark by multiplying it by the appropriate number of children.

The impact of the change in how child care costs and health care costs are treated in the revised guidelines will be significant in cases with those costs. All else being equal, no longer crediting health care costs (but retaining the deduction at the top of the guidelines worksheet) means the parent who actually pays those costs will bear a larger share of them. No longer deducting child care costs at the top of the worksheet means the parent who pays them will be attributed a higher share of combined available income and child costs. Removing the 15% cap relative to the size of an order opens the door to allowing much wider swings in child support orders to cover child care costs. In many cases, the cost of child care exceeds the amount of child support before applying the child care credit. In cases with child care and health care costs, the size and direction of changes in the resulting child support amounts will not be uniform. They will depend on the amount of the costs, which parent pays them, and the parents' relative incomes. In general, child support amounts will increase when the recipient pays these costs, and they will decrease when the payor pays them, especially in cases where the other parent has a larger share of the combined available income (used to allocate costs). Since only child care costs are explicitly credited in the revised worksheet, which parent pays for child care will have the biggest impact on the size and direction of changes in the resulting revised child support amounts. Child support amounts will increase for recipients who pay for child care, and they will decrease for payors who pay for child care, all else being equal.

While these impacts may be material relative to current guidelines amounts, the revised guidelines note that the Court should continue to deviate from the guidelines as appropriate. This is especially so when the overall current child support order is more than 40% of the payor's available income, as indicated in the new line 7e of the revised guidelines worksheet, which was recommended by the Task Force as a flag for the Court of when the child support amount calculated in the worksheet may be a substantial hardship for the payor and therefore may justify a deviation from the guidelines. Importantly, this flag does not operate as a cap in the revised guidelines worksheet. The worksheet itself does not make any adjustment to a final child support obligation above 40% of the payor's available income. It just calls out such cases to the parents and the Court for consideration. Typically, these will be cases where a payor with

relatively low income is sharing child care costs and/or paying child support for multiple children.

Some other states' guidelines also include flags for child support above a threshold percentage of a payor's income. For example, New Mexico flags obligations of 40% or more of payor gross income with a rebuttable presumption of substantial hardship justifying a deviation.<sup>63</sup>

Pennsylvania flags 50% of payor net income as a threshold for adding health care costs and setting child support of payors with multiple families.<sup>64</sup> The guidelines in Indiana and Washington go further: they specify limits on child support at 50% of payor available income and 45% of payor net income, respectively, to ensure payors have sufficient income to both pay child support and support themselves.<sup>65</sup> Given the emphasis in the federal rules on the ability of low-income payors to actually pay child support, as well as the decision to remove the 15% cap on sharing child care costs in the Massachusetts revised guidelines worksheet, the Task Force thought it is important to at least flag situations where it may be a substantial hardship for a payor to pay the resulting child support amount. In the next guidelines review, that task force can evaluate how often the new 40% flag in the revised guidelines is invoked and what its impact is on final child support obligations, based on whether and how parents and the Court use this information to inform deviations over the next four years.

## F. Income Definitions

### 1. Interaction of Alimony and Child Support

Economically, alimony (also referred to as spousal support) can be understood as compensation for the opportunity costs a spouse incurs by entering and investing in the marriage.<sup>66</sup>

Massachusetts, like other states, includes in its definition of income "spousal support received from a person not a party to this order," and similarly excludes from income "the amount actually paid by a parent pursuant to a pre-existing support order for a child or spouse not in the case under consideration shall be deducted from the gross income of that parent where that parent provides sufficient proof of the order and payments made."<sup>67</sup>

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<sup>63</sup> 2018 New Mexico Statutes 40-4-11.1 (J).

<sup>64</sup> Pennsylvania Rule 1910.16-6 (b)(3)(i) and Rule 1910.16-7 (b).

<sup>65</sup> Indiana Child Support Guideline 2, and Revised Code of Washington 26.19.065 (1).

<sup>66</sup> Landes, Elisabeth M. "Economics of alimony." *The Journal of Legal Studies* 7.1 (1978): 35-63.

<sup>67</sup> See <https://code.dccouncil.us/dc/council/code/sections/16-916.01.html>.

As a matter of economics, it would be appropriate to include any alimony from any person, including a parent subject to the child support order, as income under the guidelines. The distinction is not inconsequential. Accounting for the distribution of post-alimony income between parents could have a significant impact on some child support orders. Furthermore, while Massachusetts statutes do not mandate the calculation of alimony before child support, the child support amount is derived based on the relative incomes in each household. Alimony, while no longer deductible or reportable for federal income tax purposes,<sup>68</sup> is not fundamentally different: it is not determined by a formulaic estimate of costs and, from an economic perspective, is a form of income. Therefore, in order to determine economically appropriate child support amounts, alimony from pre-existing and present spousal support orders should be considered in determining the gross income available to each parent for child support. However, we understand that there may be some alimony that would not be considered as set forth in recent case law in Massachusetts.

In Massachusetts, by statute, income for determining alimony excludes gross income, which the Court has already considered for setting a child support order. From General Laws, Chapter 208, Section 52(b):

Except for reimbursement alimony or circumstances warranting deviation for other forms of alimony, the amount of alimony should generally not exceed the recipient's need or 30 to 35 per cent of the difference between the parties' gross incomes established at the time of the order being issued. Subject to subsection (c), income shall be defined as set forth in the Massachusetts child support guidelines.

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<sup>68</sup> This change was implemented as part of the Tax Cuts & Jobs Act of 2017, and applies only to divorce agreements executed after December 31, 2018. The IRS provides clarification regarding this change: “This article clarifies information provided on page 10 of IRS Publication 5307, Tax Reform Basics for Individuals and Families for the repeal of deduction for alimony payments under the Tax Cuts & Jobs Act of 2017. Alimony or separation payments paid to a spouse or former spouse under a divorce or separation agreement, such as a divorce decree, a separate maintenance decree, or a written separation agreement, may be alimony for federal tax purposes. Alimony or separation payments are deductible if the taxpayer is the payer spouse. Receiving spouses must include the alimony or separation payments in their income. Beginning Jan. 1, 2019, alimony or separate maintenance payments are not deductible from the income of the payer spouse, or includable in the income of the receiving spouse, if made under a divorce or separation agreement executed after Dec. 31, 2018.” Available at <https://www.irs.gov/forms-pubs/clarification-changes-to-deduction-for-certain-alimony-payments-effective-in-2019#:~:text=Beginning%20Jan.,31%2C%202018>.

Also, from General Laws, Chapter 208, Section 52(c):

When issuing an order for alimony, the court shall exclude from its income calculation... (2) gross income which the court has already considered for setting a child support order.

Our research into the interaction of alimony and child support in other states did not identify any other states that exclude income already considered for child support in determining alimony.

Additionally, the guidelines do not specify whether alimony or child support should be calculated first, advising that “[t]he parties may consider preparing alternate calculations of alimony and child support to determine the most equitable result for the children and the parties.” Since child support guidelines amounts are determined by reference to income and the alimony determination excludes income considered for setting a child support order, outcomes can vary considerably, based not on the facts of the case but on the order of alimony and child support calculation. For example, if alimony is calculated first, the custodial parent can receive both alimony and child support. In the same case, however, if child support is calculated first and all of the parents’ income is used to calculate the child support amount, the custodial parent will not receive alimony, and the child support amount will be the same as when the custodial parent receives alimony but that income is not included in calculating child support. The disparate impact on child support orders can be significant. The Task Force considered these factors and ultimately determined to include alimony as income, as limited by recent case law.

## **2. Social Security Disability Benefits**

The Task Force also recommended edits to the revised guidelines text to clarify the types of Social Security payments that are considered income when calculating child support. Specifically, the definition of income includes payments received by either parent for Social Security retirement and Social Security disability insurance payments, excluding any benefits due to a child’s own disability. This is not a substantive change to the guidelines income definition. It just clarifies the distinction already in the guidelines between means-tested benefits received by a parent due to financial need (which are not included in the income definition) and other types of benefits received due to a parent’s age or disability (which are included in the income definition). In addition, the Task Force recommended a change to the revised guidelines worksheet to help calculate the appropriate adjustment to a payor’s final



child support obligation in cases with income derived from Social Security dependency benefits. This change to the worksheet is also not introducing anything new per se, but rather clarifying how the calculation is already supposed to be done and simply revising the worksheet to implement it.

A dependent child may be eligible to receive Social Security benefits if a parent receiving Social Security payments retires, becomes disabled, or dies. This benefit is assigned to the child in addition to the parent's Social Security payments, and can be up to half of the amount of the parent's Social Security retirement or disability payments.<sup>69</sup> Under Massachusetts case law cited in the guidelines,<sup>70</sup> how the dependency benefit impacts the child support calculation depends on which parent's retirement or disability is generating the benefit and which parent actually receives the check from Social Security on the child's behalf. A dependency benefit due to the retirement or disability of a recipient with whom the child primarily lives does not impact the payor's child support obligation. But, a dependency benefit due to the payor's retirement or disability may impact the child support amount. For example, the check for the dependency benefit due to a payor's retirement or disability may be sent directly to a recipient with whom the child primarily lives. In such a case, the amount of the dependency benefit is part of the payor's available income under the guidelines and should be subtracted from the final child support obligation since those funds were already sent directly to the recipient. If the amount of the dependency benefit is less than the child support obligation, the payor pays the difference; if it exceeds the child support amount, the payor's obligation is fulfilled and no additional amount is paid.

To implement this adjustment depending on the circumstances of a given case, the Task Force recommended adding two lines at the top of the worksheet to explicitly account for dependency benefits. In the revised guidelines worksheet, any Social Security retirement or Social Security disability insurance either parent receives for themselves should be included in gross income in line 2a of the worksheet. If the children also receive a dependency benefit as a result of the parent's Social Security income, the amount of the dependency benefit should not be included in line 2a, but instead should be entered in the new lines 2b and 2c. In cases where the children live primarily with one parent (Box 2 cases in the guidelines worksheet), this amount will be included in the available income of either parent whose retirement or disability generated the dependency benefit. It will also be credited back to the payor in the new line 7c if the benefit derived from the payor's retirement or disability was already paid directly to the recipient with whom the children primarily live. In shared parenting and split parenting cases

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<sup>69</sup> See <https://www.ssa.gov/pubs/EN-05-10085.pdf>.

<sup>70</sup> *Rosenberg v. Merida*, 428 Mass. 182 (1998) and *Schmidt v. McCulloch-Schmidt*, 86 Mass. App. Ct. 902 (2014).



(Box 1 and Box 3 cases in the guidelines worksheet, respectively) where the retired or disabled parent is the recipient, rather than the payor, only the amount of the dependency benefit Social Security sends directly to that parent (as indicated in line 2c of the revised worksheet) is included as part of that parent's available income in line 2b. A new checkbox in line 6b indicates whether or not this is the case. Separately listing dependency benefits at the top of the revised guidelines worksheet and incorporating any appropriate adjustment at the bottom of the worksheet should help clarify how dependency benefits should be handled in accordance with the current case law in Massachusetts.

## V. Economic Estimates of Child Costs

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Since federal law requires the guidelines to be reviewed every four years and for that review to consider economic data on child costs, the resulting guidelines in most states are based, to varying degrees, on specific economic studies. This section of our report summarizes the economic principles, approaches, and current estimates we discussed with the Task Force in the course of its review.

### A. Caveats

This section reiterates some caveats we have noted in our reports for prior Massachusetts guidelines reviews. Most importantly, no economic study precisely measures actual child costs. All rely on assumptions, none is state-specific, and, therefore, none is definitive. First, the studies use national data. Second, none of the economic data currently available reflect actual spending on children. They are estimates of child costs with estimation error and various theoretical and practical limitations.

Some limitations are methodological while others are data driven. Two significant practical limitations are that most child costs are not directly observable, nor are they uniform across households – even households with otherwise similar economic and demographic characteristics. Costs, such as housing and food, are “indirect costs” shared by adults and children in a household. These costs cannot be directly attributed to a particular adult or child in a household because specific data are not available on each person's actual share of the overall cost. Economists deal with this practical limitation by making certain assumptions to

estimate child costs. This section of our report discusses the most common assumptions underlying the economic models most states use to benchmark child costs.

There is wide variation, both across and within income groups, in what households typically spend on children. This reality notwithstanding, the economic research is based on average expenditures on children across households for a given level of household income and number of children. That means child cost estimates resulting from economic research, even if they are right on average, may or may not reflect an appropriate level of spending on children in any particular case. However, child support guidelines are presumptively correct in every case absent specific findings otherwise. So, the guidelines amounts are presumed to reasonably reflect typical child costs over the full range of relevant income (from \$0 to \$400,000 per year under the revised Massachusetts guidelines) using a uniform, administratively simple formula. In reality, actual child costs over the range of cases subject to the guidelines are not uniform or simple; they are quite complex. Without clearly identifying the economic data and estimation approaches on which guidelines amounts are based, it is difficult to rebut the presumption that they are appropriate when the facts of a given case differ from the facts and assumptions in the economic estimates underlying them.

The practical reality is that no simple child support guidelines formula, while presumptively correct as a policy matter, can be economically correct in all cases. A uniform formula based on credible but imperfect estimates of actual child costs simply cannot generate the precisely or objectively correct child support amount in every case. While the Task Force in this review and in prior reviews considered many factors and sources of economic data on child costs, there simply is not a definitive body of economic evidence to know with certainty whether the guidelines amounts will be appropriate in a given case. This is why presumptive awards are rebuttable based on case-specific facts that diverge from presumptive facts. The rest of this report summarizes the economic principles, approaches, and most current data we presented to the Task Force in its review of the current guidelines.

## B. Economic Approaches

Since guidelines are presumptive, they should reflect economically sound principles and amounts while still being rebuttable in a given case. Federal law does not specify the nature or structure of a state's child support guidelines, so child support guidelines differ across states to varying degrees. Currently, all state guidelines use one of three approaches: (1) Income Shares, (2) Percent of Payor Income, or (3) the Melson formula. [TABLE 24](#) lists the guidelines approach currently used in each state and Washington, DC.

**TABLE 24: GUIDELINES APPROACHES BY STATE**

Income Shares				Percent of Payor Income	Melson Formula
Alabama	Iowa	New Hampshire	South Dakota	Alaska	Delaware
Arizona	Kansas	New Jersey	Tennessee	Mississippi	Hawaii
Arkansas	Kentucky	New Mexico	Utah	Nevada	Montana
California	Louisiana	New York	Vermont	North Dakota	
Colorado	Maine	North Carolina	Virginia	Texas	
Connecticut	Maryland	Ohio	Washington	Wisconsin	
Florida	Massachusetts	Oklahoma	Washington DC		
Georgia	Michigan	Oregon	West Virginia		
Idaho	Minnesota	Pennsylvania	Wyoming		
Illinois	Missouri	Rhode Island			
Indiana	Nebraska	South Carolina			
All States		42 82%		6 12%	3 6%
Neighboring & High-Cost States				0	0

Source: Review of current guidelines by state

The guidelines in Massachusetts and in most other states at least nominally use an “income shares” approach.<sup>71</sup> Guidelines in 42 states and Washington, DC (82%) rely, at least in part, on the income shares estimates of child costs discussed below. Six states (12%) use the percent of payor income approach,<sup>72</sup> and the remaining three states use the Melson formula. Like Massachusetts, all five neighboring states and all four of the high-cost states we discussed with the Task Force have income shares guidelines.

## 1. Income Shares

Income shares guidelines are based on indirect estimates of a child’s share of parents’ combined income. The term “income shares” refers to the share of household income required to cover child-related costs in a household (not how parents share those costs). However, since most household spending is for goods shared in some proportion by all members of the household, a child’s actual income share is not directly observable. This is important because,

<sup>71</sup> Massachusetts guidelines were originally based on an economic study by Thomas Espenshade discussed below. The October 1985 committee report states, “The Committee decided that Espenshade’s work was the most comprehensive, up-to-date, reliable and in a form most usable for the Committee’s purposes.” But, the guidelines amounts were not strictly consistent with Espenshade’s estimates.

<sup>72</sup> Prior to the 2009 guidelines, Massachusetts used a hybrid approach, starting as a percent of payor income model until the recipient’s income reached a disregard of \$20,000 per year net of child care costs, and then applying combined income to the cost table, in part, based on income shares estimates.

to be clear, it means the income shares approach is not based on actual child costs that are directly observed or measured. Instead, the approach yields estimates of child costs by applying a specific model to what economic data are available.

Since most actual child costs are not directly observed, the crux of the income shares approach is to compare equivalent households with and without children in order to back into the amount of household income spent on children. Specifically, the approach is to estimate the marginal cost of an additional child by comparing households with the same standard of living but different numbers of children. This comparison requires a measure to proxy for a household's standard of living. Initially, the income shares approach was applied to two different measures, only one of which is still used today. Both measures pre-date child support guidelines calculations and were originally developed for other reasons. The income shares approach simply applies these methodologies with the goal of estimating child costs.

The income shares approach was initially introduced in a child support context by public policy expert Dr. Robert Williams, coincident with the federal requirement to establish presumptive guidelines in order to retain certain federal funding.<sup>73</sup> The initial income shares cost table Dr. Williams developed was based on prior research by Princeton sociologist Thomas Espenshade,<sup>74</sup> which in turn was based on a standard of living proxy developed by economist Ernst Engel in the late 19th century.<sup>75</sup> The Engel approach defines a household's standard of living by the proportion of its spending on food. Since food is a necessity, this approach assumes a household that spends proportionately less on food is better off (because it is spending proportionately more money on other things) than a household for which food is a larger component of spending. The Engel approach assumes households with the same proportional expenditure on food are equally well off, regardless of family size. Using this proxy, the income shares approach estimates child costs based on the difference in total spending between households with the same food shares (as a proportion of income) but different numbers of children.

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<sup>73</sup> Robert G. Williams, *Development of Guidelines for Child Support Orders: Advisory Panel Recommendations and Final Report*, Parts II and III, Policy Studies, Inc., Denver, Colorado, under a grant to the National Center for State Courts, Williamsburg, Virginia, submitted to US Department of Health and Human Services, Washington, DC, September 1987.

<sup>74</sup> *Ibid.*, pp. II-19 through II-20. See, Thomas J. Espenshade, *Investing in Children: New Estimates of Parental Expenditures*, The Urban Institute Press, Washington, DC (1984).

<sup>75</sup> Ernst Engel, "Consumption and Production in the Kingdom of Saxony," *Journal of the Statistical Bureau of the Ministry of the Interior* (1857).

Income shares states originally implemented variations of the original Engel-based cost table, but some economists view the Engel-based cost tables as unreasonably high.<sup>76</sup> In response, University of Notre Dame professor David Betson applied the income shares approach to a different proxy for a household's standard of living. The new proxy was based on research done in the 1940s by statistician Erwin Rothbarth.<sup>77</sup> The Rothbarth approach defines a household's standard of living by its spending on adult clothing. It assumes a household that spends more on adult clothing is better off than a household that spends less, so households with the same amount of spending on adult clothing are equally well off, regardless of family size. Under this approach, child costs are estimated by the difference in total spending between households that spend the same amount on adult clothing but have different numbers of children. Dr. Betson most recently updated his Rothbarth estimates in 2020.<sup>78</sup> Below, we discuss Dr. Betson's estimates adapted to Massachusetts, as well as estimates published in 2017 by the USDA, and updated to this year using a slightly different income shares methodology.<sup>79</sup>

## 2. Percent of Payor Income

This approach was developed initially by economist Jacques van der Gaag at the University of Wisconsin at Madison.<sup>80</sup> As the name suggests, child support guidelines using this approach consider only the payor's income, not the relative incomes or combined income of both the payor and the recipient. Typically, percent of payor income guidelines establish child support as a fixed percentage of a payor's income at all income levels. That is, child support as a percentage of income does not vary by income level. In most states, the resulting guideline amounts are simply a flat percentage of the payor's income. North Dakota and Texas use a varying percentage model. Initially, the percent of payor income approach was intended to be used only in extremely low-income cases, and the percentage reflected child costs only at low-income levels. The initial study assumed the recipient had no income but full parenting responsibility.

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<sup>76</sup> See, e.g., David M. Betson, "Alternative Estimates of the Cost of Children from the 1980-86 Consumer Expenditure Survey," September 1990, pp. 55-56, stating, "...given the high estimates that result from this methodology, even when compared to the per capita method, the estimates from the Engel method should be discounted."

<sup>77</sup> Erwin Rothbarth, "Notes on a method of determining equivalent income for families of different composition," in C. Madge (Ed.), *War-Time Pattern of Spending and Saving*, Cambridge University Press, Cambridge MA (1943).

<sup>78</sup> Betson (2020), *op. cit.*

<sup>79</sup> Lino, *et al.* (2017), *op. cit.*

<sup>80</sup> Jacques van der Gaag, "On Measuring the Cost of Children," Child Support: Technical Papers, Vol. III, SR32C, Institute for Research on Poverty, Special Report Series, University of Wisconsin, 1982.

### 3. Melson Formula

The Melson formula was developed by Delaware Family Court Judge Elwood Melson.<sup>81</sup> It incorporates several public policy assumptions designed to provide a self-support reserve for each parent in addition to providing for their children. Beyond self-support, the formula establishes a standard of living adjustment (as a percentage of income), which automatically enables a child to share in any increases in household income. The formula adds to a baseline support amount (called “primary support”) covering both child care costs and extraordinary medical expenses. It calculates an ultimate child support amount based on each parent’s relative share of total net income, while also accounting for the standard of living adjustment. This is an income sharing approach which, by design, does not reflect any child cost studies for incomes above the poverty level.

### 4. Limitations of Economic Approaches

The income shares approach is the most common of these three basic economic approaches and is most consistent with economic principles in estimating child costs. But, the income shares approach has many known limitations. As noted above, income shares cost tables reflect indirect estimates of child costs, not actual spending on children. Income shares estimates may be the best available indicator of child costs, but they do not reflect specific itemized spending on children. They rely on indirect and narrow proxies for a household’s standard of living (such as adult clothing) to compare spending across households with different numbers of children.

Income shares estimates, such as the Betson-Rothbarth amounts, also rely on data from intact households but are used to inform policy decisions for households that are not intact. This implicitly assumes economic decisions are made in the same way for separate households as for single households, when, in fact, the economic trade-offs are typically very different. One obvious difference is the additional overhead cost required by two separate households relative to the cost of a single household.

Finally, as a practical matter, income shares estimates are only as good as the data on which they are based. The Betson (2020) and USDA (2017) studies use data from the Consumer Expenditure Survey (“CE”) conducted by the US Census Bureau on characteristics, income, and expenditures for individual households.<sup>82</sup> The Betson study uses only data from intact families, while the USDA study uses data for both intact families and single-parent households. However,

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<sup>81</sup> See *Dalton v. Clanton*, 559 A.2d 1197 (Del. 1989).

<sup>82</sup> For more information on the Consumer Expenditure Survey, see [www.bls.gov/cex](http://www.bls.gov/cex).

the single-parent data are not considered to be statistically reliable for a full range of incomes for child cost schedules.<sup>83</sup> Overall, the USDA report says of the CE data:

“CE data are the most comprehensive source of information on household expenditures available at the national level, containing expenditure data for housing, food, transportation, clothing, health care, child care and education, and miscellaneous goods and services.”<sup>84</sup>

However, the CE data are not without their known limitations.<sup>85</sup> The CE data show expenditures in excess of reported income for a significant number of respondents, typically in the lower half of reported income ranges. For these lower-income groups, Dr. Betson adjusts his estimates by simply capping the ratio of expenses to income at one. This has the effect of decreasing the corresponding child cost estimates. At higher incomes, the CE data exhibit a similar problem. Savings reported for high-income households seem unreasonably high, suggesting that expenditures may be underreported. As with the lower income groups, there is no basis for making an economically sound adjustment in using the data to estimate child costs.

With these limitations in mind, the available economic data on child costs are informative and, along with other economic data and principles, provided a credible basis for the Task Force to evaluate the appropriateness of the current guidelines amounts, as well as to consider possible revisions to the guidelines.

## C. Current Studies

In determining whether to update the current guidelines, the 2020–2021 Task Force considered current economic estimates of child costs, most notably from Dr. Betson’s last income shares study in 2020 (applying the Rothbarth methodology to CE data for 2013–2019), the 2017 USDA report on expenditures on children (based on CE data from 2011–2015), and the MIT Living Wage Calculator.<sup>86</sup> In the prior review, the 2016–2017 Task Force also relied on the Betson-Rothbarth and USDA estimates. As in the prior review, this Task Force noted that the Betson-Rothbarth estimates: (1) consistent with general economic theory, show expenditures on children accounting for a decreasing percentage of household spending as income increases and (2) show no significant differences in expenditures by age for children under 18.

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<sup>83</sup> Lino, et al. (2017), *op. cit.*, p. 5 notes that only 17% of single-parent households had before-tax income of \$59,200 and over.

<sup>84</sup> Lino, et al. (2017), *op. cit.*, p. 2.

<sup>85</sup> See, e.g., Ira Mark Ellman, “Fudging Failure: The Economic Analysis Used to Construct Child Support Guidelines,” The University of Chicago Legal Forum (2004), p. 23.

<sup>86</sup> MIT Living Wage Calculator is discussed in more detail in Section IV.E.1.

Between the prior review and this 2020–2021 review, Dr. Betson updated his estimates in 2020, but there was no update to the USDA report. We adjusted the 2017 USDA estimates to the present. We discuss those adjustments below. This section of our report briefly describes each of these two sources of current child cost estimates.

## **1. Betson (2020)**

Dr. Betson updated, in 2020, his Rothbarth estimates of child costs as part of a review of the Alabama and Pennsylvania guidelines. Dr. Betson’s estimates measure child costs as a percentage of total family expenditures across a range of income levels. We presented the 2020 Betson-Rothbarth estimates to the Task Force in this year’s review.

Dr. Betson’s 2020 study, and his prior study in 2010, reflect two changes in the CE data used to derive his child cost estimates. First, in response to low-income families spending more than their income on average, the Bureau of Labor Statistics changed how it measured income. This change, combined with the Betson cap of expenditures at income, could understate child costs at low incomes. Second, Dr. Betson switched from using CE data on household “expenditures” to using CE data on “outlays,” which include finance charges and mortgage principal payments rather than treating them as changes in net liabilities. All else being equal, this likely increases estimated child costs at higher incomes, but generates more realistic estimates. Dr. Betson’s estimates of child costs as percentage of income has increased from his prior 2010 study to his current 2020 study. These increases in child costs occur across all income levels and for both one and two children. We discuss these estimates in more detail below.

## **2. USDA (2017)**

Since 1960, the USDA has estimated expenditures on children through age 17 for both married and single-parent households. The latest USDA report was initially released in January 2017 for 2015 data and a revised version of the report was released in March 2017. The 2017 USDA report is based on CE data from 2011–2015, with all years updated to 2015 dollars using the overall CPI. We, in turn, updated the USDA estimates to 2021 dollars also using CPI. The report provides child cost estimates for each of seven expenditure categories (housing, food, transportation, clothing, child care and education, health care, and miscellaneous expenses) by child age, household income, and region. For example, the 2017 USDA report estimates child costs of between \$12,680 and \$13,900 per year for the younger child in a two-child, married



household in the middle-income group.<sup>87</sup> The report also provides estimated adjustment factors for the number of children.

Like the Betson studies, the USDA uses CE data to derive its child cost estimates. But the USDA applies a different analytic approach to the data. Dr. Betson indirectly estimates child costs using what economists call an income equivalence approach, basically analyzing how much income is needed to restore the parents' standard of living to pre-child status. This restoration amount of income is defined as overall child costs, with no separate estimates of its individual components. The USDA instead separately estimates child costs by major components. This approach has its own drawbacks. The CE contains overall household expenditure data for some budget components (housing, food, transportation, health care, and miscellaneous goods and services) and child-specific expenditure data for other components (children's clothing, child care, and education). So, to estimate costs specific to a child, the household-level expenditures (in which adult and child expenditures are co-mingled) must be allocated among family members. The allocation formulas often are per capita estimates rather than marginal costs.<sup>88</sup> Per capita estimates simply reflect average costs. In the case of child costs, for some categories, per capita allocation could overstate actual child costs, attributing to children some amounts that are actually spent on adults.

As a result, the USDA discarded that approach for housing expenditures in its most recent reports. It now estimates housing expenditures on children based on the average cost of an additional bedroom. Implicit in this approach is the assumption that the same household without children would live in a similar dwelling but with fewer bedrooms. That assumption may be correct in some cases, but not always. The USDA continues to simply prorate other expenses, such as food, transportation, and miscellaneous costs, by a pre-determined factor related to the number of people in the household. For example, the USDA essentially assumes a child's haircut costs the same as an adult's. Finally, the USDA recently added mortgage principal payments as part of its cost calculations. Other methodologies exclude principal payments, considering them to be an investment rather than a cost. These factors lead some economists to view the USDA methodology as possibly overstating child costs.

The USDA report does note that, in some cases, its estimates could be understating child costs. The US Census Bureau reports higher child care expenses, as the USDA report considers only regularly occurring expenses and excludes sporadic expenses. The report also highlights that

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<sup>87</sup> Lino, et al. (2017), *op. cit.*, p. 12.

<sup>88</sup> Per capita estimates simply divide a total expenditure by the number of people in the household, thus allocating the same share of cost to each person.

marginal cost approaches used in other studies could understate child costs due to substitution effects to the extent households decrease discretionary spending as the number of children increase.

## D. Current Child Cost Estimates

As part of this guidelines review, we presented the Task Force with comparisons of the current guidelines amounts to economic estimates of child costs from three primary sources: Dr. Betson's 2020 estimates, the USDA 2017 study, and current guidelines amounts in neighboring states. Comparing the Betson-Rothbarth and USDA estimates of child costs to the Massachusetts revised guidelines amounts first requires various calculations to put the published estimates and guidelines amounts on the same basis. We first compare the amounts for one child. We then compare the amounts for more than one child.

### 1. Betson-Rothbarth Estimates

Dr. Betson's Rothbarth estimates reflect spending on children as a percent of total expenditures and current consumption as a percent of a household's net income (not gross income) at various income levels and numbers of children, based on a national sample of intact households from the CE data. The resulting estimates reflect child costs excluding child care costs and out-of-pocket health care costs (but including the children's share of health insurance premiums), since these expenses either do not always occur (such as child care) or are treated separately (such as health insurance premiums and out-of-pocket health care costs). **TABLE 25** shows the standard Betson-Rothbarth table as reported in Betson's 2020 report. On average, Dr. Betson estimates households spend 84% of their income, with child costs accounting for 25% of total spending in households with one child, 38% for two children, and 46% for three children.

**TABLE 25: BETSON (2020) CHILD COSTS AS A SHARE OF SPENDING**

Net Income (2020 \$/year)		Spending as a % of Net Income	Child Cost as % Spending		
			1 Child	2 Children	3 Children
Less than	\$19,999	100%	22.4%	34.7%	42.5%
	\$29,999	100%	23.7%	36.6%	44.9%
	\$34,999	100%	24.1%	37.1%	45.5%
	\$39,999	100%	24.2%	37.4%	45.8%
	\$44,999	100%	24.4%	37.6%	46.0%
	\$49,999	97%	24.5%	37.7%	46.2%
	\$54,999	93%	24.5%	37.8%	46.3%
	\$59,999	91%	24.6%	37.9%	46.4%
	\$64,999	86%	24.6%	37.9%	46.4%
	\$69,999	84%	24.7%	38.0%	46.5%
	\$74,999	83%	24.7%	38.1%	46.6%
	\$84,999	83%	24.8%	38.2%	46.8%
	\$89,999	79%	24.9%	38.3%	46.9%
	\$99,999	76%	24.9%	38.4%	47.0%
	\$109,999	75%	25.0%	38.5%	47.1%
	\$119,999	73%	25.1%	38.6%	47.2%
	\$139,999	72%	25.1%	38.7%	47.4%
	\$159,999	71%	25.3%	38.9%	47.6%
	\$199,999	63%	25.3%	39.0%	47.7%
More than	\$200,000	58%	25.6%	39.4%	48.1%
Maximum		100%	25.6%	39.4%	48.1%
Minimum		58%	22.4%	34.7%	42.5%
Average (Mean)		84%	24.6%	37.9%	46.4%

Source: Betson (2020)

Importantly, again, Dr. Betson estimates child costs as a share of total spending, not total income. Therefore, we transformed his estimates into income shares. Also, spending is capped at 100% of net income. **TABLE 25** above reports child costs as a percent of household spending and spending as a percent of household net income. Multiplying those percentages together yields child costs as a percent of net income. **TABLE 26** shows the corresponding child cost percentages: 21%, on average, in households with one child, 32% for two children, and 39% for three children.

**TABLE 26: BETSON (2020) CHILD COSTS AS A SHARE OF NET INCOME**

	Net Income (2020 \$/year)	Child Cost as % Net Income		
		1 Child	2 Children	3 Children
Less than	\$19,999	22.4%	34.7%	42.5%
	\$29,999	23.7%	36.6%	44.9%
	\$34,999	24.1%	37.1%	45.5%
	\$39,999	24.2%	37.4%	45.8%
	\$44,999	24.4%	37.6%	46.0%
	\$49,999	23.8%	36.6%	44.9%
	\$54,999	22.7%	35.0%	42.9%
	\$59,999	22.3%	34.3%	42.0%
	\$64,999	21.2%	32.7%	40.0%
	\$69,999	20.7%	31.9%	39.1%
	\$74,999	20.4%	31.5%	38.6%
	\$84,999	20.5%	31.6%	38.7%
	\$89,999	19.6%	30.1%	36.9%
	\$99,999	19.0%	29.3%	35.8%
	\$109,999	18.9%	29.1%	35.6%
	\$119,999	18.3%	28.2%	34.5%
	\$139,999	18.0%	27.8%	34.0%
	\$159,999	17.9%	27.5%	33.6%
	\$199,999	15.9%	24.5%	29.9%
More than	\$200,000	14.9%	23.0%	28.1%
Maximum		24.4%	37.6%	46.0%
Minimum		14.9%	23.0%	28.1%
Average (Mean)		20.6%	31.8%	39.0%

Source: **TABLE 25**

Comparing these child cost percentages and implied dollar amounts to the revised guidelines requires two adjustments. First, we converted the annual income figures to weekly amounts, since the guidelines chart is based on weekly income. Second, we calculated the net income equivalents of gross weekly income amounts for Massachusetts, since the guidelines use gross income and Dr. Betson's study uses net income. We made this adjustment using state-specific income withholding tables for Massachusetts and standard withholding for Social Security and

Medicare.<sup>89</sup> This effectively restates the gross income amounts in the guidelines chart as net income, specifically for Massachusetts, for comparison to the Betson-Rothbarth estimates.<sup>90</sup>

We used Dr. Betson’s estimates of spending as a percent of net income to estimate total spending at each income level in the guidelines chart, and his percentages of child spending as a percent of total spending to calculate child costs for one to three children. Since the guidelines apply to up to five children, we used the same approach to estimate child costs for four and five children by applying published estimates of scaling ratios for four and five children to Dr. Betson’s cost estimates for three children. The result of these calculations is a set of estimated child costs based on the Betson-Rothbarth estimates, but specific to Massachusetts and for the full range of incomes and number of children covered by the Guidelines.

**TABLE 27** summarizes the resulting child cost estimates (excluding child care and extraordinary health care costs) over the range of incomes up to \$400,000 per year, both in dollars per week and as a percent of gross income. The values show the minimum and maximum Betson-Rothbarth child estimates for a given number of children over the full range of combined available income covered in the revised guidelines chart, and at the median household income level in Massachusetts (\$81,215 per year).<sup>91</sup>

**TABLE 27: BETSON (2020) CHILD COSTS FOR MASSACHUSETTS**

Child Cost	Number of Children		
	1	2	3
\$ / week			
Minimum	\$ 52	\$ 81	\$ 100
Maximum	\$ 619	\$ 903	\$ 1,043
<b>MA household median</b>	<b>\$ 222</b>	<b>\$ 332</b>	<b>\$ 393</b>
% Gross Income			
Minimum	8%	12%	14%
Maximum	21%	32%	40%
<b>MA household median</b>	<b>14%</b>	<b>21%</b>	<b>25%</b>

Source: Betson (2020), adjusted for Massachusetts

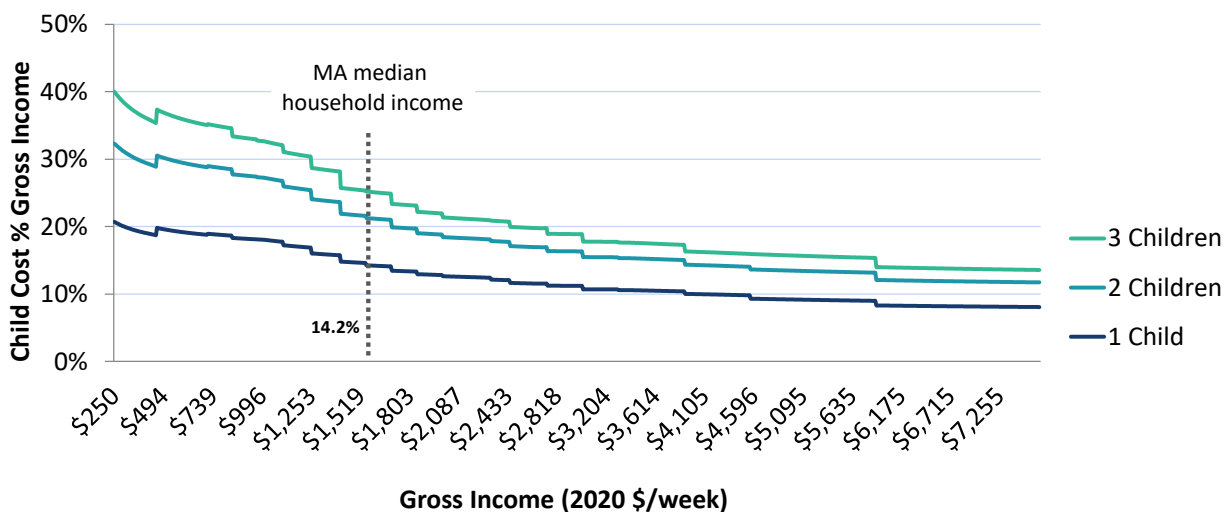
<sup>89</sup> For Massachusetts income withholding tables, see Massachusetts Circular M, effective January 1, 2020. The standard Social Security withholding is 6.2% up to \$137,700 of income. The standard withholding rate for Medicare is 1.45% of income. Under the Affordable Healthcare Act, there also is an additional Medicare tax of 0.9%, starting at \$200,000 per year.

<sup>90</sup> Applying the Massachusetts income withholding tables to the Betson-Rothbarth estimates results in estimates specific to Massachusetts. So, these estimates are different from, but consistent with, Betson-Rothbarth estimates developed for other states for purposes of guidelines review.

<sup>91</sup> US Census Bureau, Massachusetts 2019 median income.

**FIGURE 14** shows the child cost estimates underlying **TABLE 27** as a percent of gross income over the income ranges of \$13,000 up to \$400,000 per year, for one to three children. For one child, the percentages range from 8% of gross income at the highest income levels to 21% at the lowest incomes. Child costs range from 12% to 32% of gross income for two children, and higher percentages for more children. At the current median level of household income in Massachusetts (\$81,215 per year, or \$1,562 per week),<sup>92</sup> child costs account for 14% to 25% of gross income, depending on the number of children.

**FIGURE 14: BETSON (2020) CHILD COSTS AS A PERCENT OF GROSS INCOME**



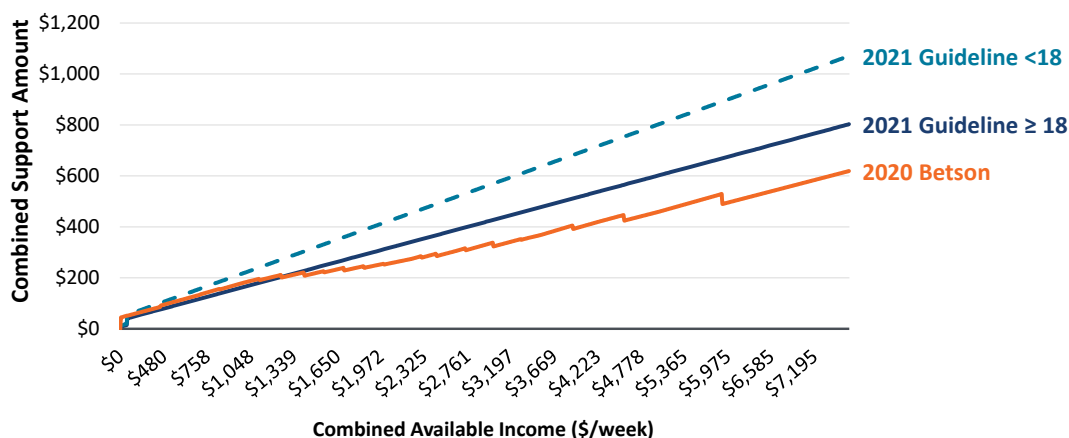
Source: Betson (2020), adjusted for Massachusetts

In dollars, the Betson-Rothbarth estimate for one child ranges from \$52 per week at the lowest income level fully outside of the revised guidelines low-income adjustment tranches (\$250 per week) to \$619 at the highest income levels (\$7,692 per week), and is \$222 per week for one child at the current Massachusetts median income level. By comparison, for the same income ranges, the revised guidelines amount in the 2021 Child Support Guidelines Chart for one child under age 18 ranges from \$55 per week to \$1,070 per week, and is \$333 per week at the median income level. The guidelines amounts are lower than the Betson-Rothbarth estimates at low-income adjustment tranches (up to \$249 per week), but are higher otherwise. For one child age 18 or older, they are 25% lower, so they are lower up to approximately \$1,300 per week and are higher otherwise. As the number of children increases, the income at which the guidelines amounts become larger than the Betson-Rothbarth estimates increases. For five children under age 18, guidelines amounts are lower than the Betson-Rothbarth estimates at income levels up to \$830 per week, but higher otherwise. For five children age 18 or older, the cross-over income is approximately \$1,550 per week.

<sup>92</sup> US Census Bureau, 2019 American Community Survey, *op. cit.*

**FIGURE 15** illustrates the differences between the Betson-Rothbarth estimates and the Massachusetts revised guidelines amounts for one child up to \$400,000 per year.<sup>93</sup> For a child under 18, at lower income levels, the guidelines amounts are lower than the Betson-Rothbarth estimates. As Dr. Betson caps expenses for lower-income groups, this difference is underestimated. As income increases, the revised guideline amounts are higher than the Betson-Rothbarth estimates. For a child age 18 or older, a similar pattern holds: Betson-Rothbarth estimates are higher than the revised guidelines at lower income levels, but the Massachusetts guidelines amounts are increasingly higher at higher incomes. The cross-over point between Betson-Rothbarth estimates and guidelines amounts is higher for children age 18 or older (\$1,300 per week) than for children under age 18 (\$249 per week).

**FIGURE 15: MASSACHUSETTS REVISED GUIDELINES V. BETSON (2020) (1 CHILD)**



Source: Betson (2020), adjusted for Massachusetts

The guidelines amounts in **FIGURE 15** represent combined child support amounts, so they are not necessarily the amounts a payor will pay in any specific case. How much of the total guidelines amount is allocated to a payor or to a recipient depends on their relative share of combined available income. Only when a recipient has no income will a payor pay the full guidelines amount shown in **FIGURE 15**.

## 2. USDA Estimates

The USDA estimates child costs at the national level for married and single-headed households, as well as for married households in the Northeast US. We presented to the Task Force the Massachusetts guidelines amounts compared to both the USDA national and Northeast

<sup>93</sup> The jagged pattern in the Betson-Rothbarth curve is due to shifts from one tax bracket to the next for income taxes and payroll taxes as income increases.

estimates of child costs. For consistency with the Betson-Rothbarth estimates, we considered both sets of USDA estimates excluding child care costs and health care costs.<sup>94</sup>

Directly comparing the Massachusetts guidelines amounts to the USDA estimates requires some adjustments to the reported estimates. The USDA estimates spending on seven components (housing, food, transportation, clothing, child care and education, health care, and miscellaneous expenses) for the younger child in a household with two children both under age 18. As we noted earlier, the economic evidence on whether child costs vary systematically by age is mixed. Dr. Betson has previously reported no significant differences in child costs by the age of the child using the Rothbarth approach,<sup>95</sup> and his latest (2020) estimates are not reported separately by age. Overall, the USDA estimates increase with age, but not uniformly, and they vary by cost component between married and single-headed households and across income groups.

The USDA reports estimated child costs for each of five income groups: three for married households (low, middle, and high incomes) and two for single-headed households (low and high). Estimates for each group are reported for both the US overall and by census region, including the Northeast Census Region (consisting of Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont). The USDA report lists the range of incomes and the average income for each group.

Like the Massachusetts guidelines amounts, the USDA estimates are based on gross income. However, we had to make four adjustments to the USDA estimates in order to compare them to the guidelines amounts: we updated the USDA estimates to 2021 dollars using Consumer Price Index for All Urban Consumers (“CPI-U”) and the CPI-U for the Northeast Region from the Bureau of Labor Statistics; we converted annual amounts to weekly amounts; we applied adjustment factors listed in the USDA report to convert the reported estimates (for the younger child in a two-child household) into estimates for one, two, and three children; and we applied published estimates of scaling ratios to obtain estimates for four and five children. The adjustment factors differ slightly for married and single-headed households since the income ranges and reported estimates differ. To derive the cost for two children, the 2017 USDA report says to multiply the reported estimates by 2 for married households and by 1.96 for single-headed households.<sup>96</sup> This reflects roughly the same spending on the second child in married

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<sup>94</sup> USDA classifies household expenditures into seven categories. We exclude two of the categories: i. health care expenses and ii. child care and education expenses. Lino, et al. (2017), *op. cit.*, p. 3.

<sup>95</sup> See, e.g., David M. Betson, “Chapter 5: Parental Expenditures on Children,” in *Judicial Council of California, Review of Statewide Uniform Child Support Guidelines*, San Francisco, California (2001).

<sup>96</sup> USDA (2017), *op. cit.*, Tables 1 and 7.



households and slightly less spending on the second child in single-headed households. The adjustment factors in the USDA report also differ for other numbers of children: 1.27 and 1.26 for one child, respectively, for married and single-headed households, and 0.76 and 0.78 for each of three or more children, respectively.

## a. USDA National Estimates

**TABLE 28** shows the resulting USDA estimates for the overall US by income group for both married and single-headed households. The dollar values at the top of the table are the average estimates within each group, stated in dollars per week.

The percentages in the middle of the table report those dollar values relative to the average income level for each group. The percentages at the bottom of the table report the incremental cost of an additional child, calculated as the percentage change in estimated cost for going from one child to two children, two to three, and so on, within each group. **TABLE 28** reports the USDA estimates both for all costs, and excluding child care, education, and health care costs, since different states' guidelines formulas handle those costs differently.

**TABLE 28: USDA (2021 \$) CHILD COSTS (OVERALL US)**

\$ /week	All Costs						Excluding Child Care, Education, and Health Care					
	Married			Single			Married			Single		
	Income Group						Income Group					
	Low	Mid	High	Low	High		Low	Mid	High	Low	High	
Children	\$845	\$1,902	\$4,315	\$568	\$2,304	Average	\$845	\$1,902	\$4,315	\$568	\$2,304	Average
Total												
1	\$270	\$361	\$575	\$264	\$489	\$392	\$229	\$297	\$460	\$222	\$395	\$321
2	\$425	\$568	\$905	\$410	\$760	\$614	\$361	\$467	\$724	\$346	\$615	\$503
3	\$484	\$648	\$1,032	\$490	\$908	\$712	\$412	\$533	\$826	\$413	\$734	\$583
4	\$541	\$723	\$1,152	\$547	\$1,014	\$795	\$460	\$595	\$922	\$461	\$820	\$651
5	\$595	\$796	\$1,267	\$602	\$1,115	\$875	\$506	\$654	\$1,014	\$508	\$902	\$717
As % Income												
1	32%	19%	13%	46%	21%	26%	27%	16%	11%	39%	17%	22%
2	50%	30%	21%	72%	33%	41%	43%	25%	17%	61%	27%	34%
3	57%	34%	24%	86%	39%	48%	49%	28%	19%	73%	32%	40%
4	64%	38%	27%	96%	44%	54%	54%	31%	21%	81%	36%	45%
5	70%	42%	29%	106%	48%	59%	60%	34%	23%	89%	39%	49%
Marginal Cost of Additional Child												
1												
2	57%	57%	57%	56%	56%	56%	57%	57%	57%	56%	56%	56%
3	14%	14%	14%	19%	19%	17%	14%	14%	14%	19%	19%	17%
4	12%	12%	12%	12%	12%	12%	12%	12%	12%	12%	12%	12%
5	10%	10%	10%	10%	10%	10%	10%	10%	10%	10%	10%	10%

Source: USDA (2017), Tables 1 and 7

The average USDA estimates in **TABLE 28** for one child range from \$270 per week for low-income married households to \$575 per week for high-income married households. The estimated range for single-headed households is \$264 to \$489 per week. Over all households, the average estimated cost for one child is \$392 per week. The corresponding costs, excluding child care and health care costs, range from \$229 to \$460 per week for married households, and from \$222 to \$395 per week for single-headed households, averaging \$321 per week. By comparison, for the same combined incomes, child support amounts in the revised guidelines for one child under age 18, with no net credit for child care and health care costs, would range from \$125 per week to \$726 per week, and average at \$380 per week.

For a more targeted comparison to the USDA national child cost estimates, **TABLE 29** reports the revised guidelines amounts for one child under age 18 split into the same income groups as in the 2017 USDA report, but in 2021 dollars: less than \$1,378 per week (low income), \$1,378 to \$2,500 per week (middle income), and above \$2,500 per week (high income) for married households, and below/above \$1,378 per week for single-headed households. The average income level within each group is different under the revised guidelines than for the households in the USDA report, so **TABLE 29** reports the guidelines amounts both: (1) within each income group, on average, and (2) at the average level of income reported by the USDA for each group. The USDA cost estimates exclude health care, child care, and education expenses.

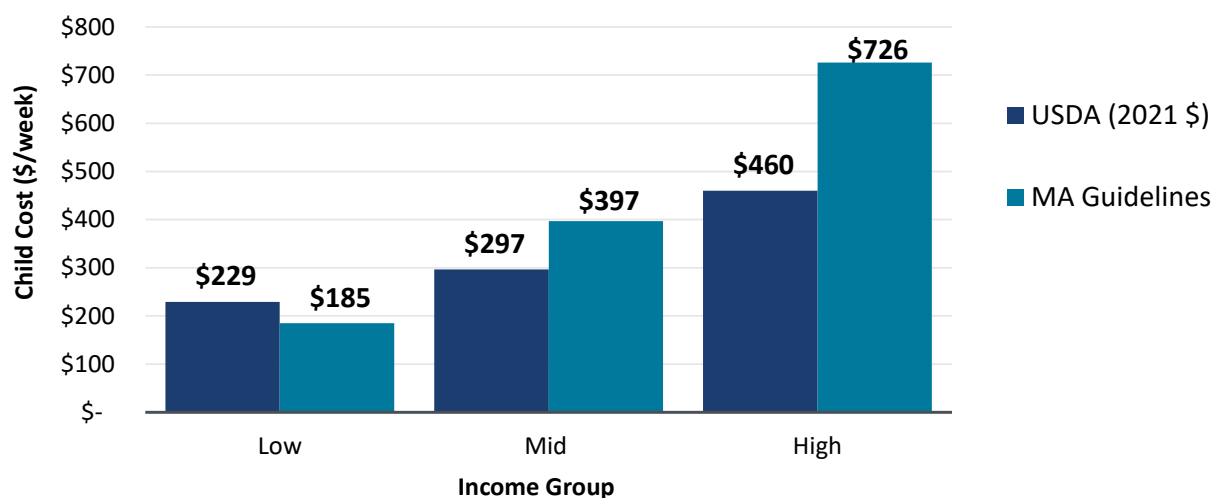
**TABLE 29: REVISED GUIDELINES AMOUNTS BY USDA INCOME GROUP (OVERALL US)**  
(\$/Week; 1 Child Under Age 18; No Child Care/Health Care Costs)

		Income Group									
		Low		Mid		High					
Average Available Income		\$	689	\$	1,939	\$	5,096				
Average Guidelines Amount		\$	147	\$	402	\$	802				
Guidelines Amount as % Income			21%		21%		16%				
		Married				Single					
		Income Group									
		Low		Mid		High					
USDA USA Average Income		\$	845	\$	1,902	\$	4,315	\$	568	\$	2,304
Guidelines Amount		\$	185	\$	397	\$	726	\$	125	\$	469
USDA USA Average Costs		\$	229	\$	297	\$	460	\$	222	\$	395
Difference (\$)		\$	(44)	\$	100	\$	266	\$	(97)	\$	74
(%)			-19%		34%		58%		-44%		19%
Guidelines Amount as % Income			22%		21%		17%		22%		20%

Source: USDA (2017) and revised guidelines

**FIGURE 16** illustrates the comparison for the amounts listed in **TABLE 29**.

**FIGURE 16: REVISED GUIDELINES V. USDA ESTIMATES (OVERALL US)**



Source: **TABLE 29**

The revised guidelines amounts in **TABLE 29** are lower than the USDA national estimates in **TABLE 28** at low-income levels, but are increasingly higher at middle- and high-income levels. For example, the average USDA estimate for married households in the low-income group is \$229 per week, compared to \$185 per week on average for the same income in the revised guidelines. At the USDA average income level for that group (\$845 per week, which is well above the low-income tranches of Table A in the revised guidelines), the guidelines amount of \$185 per week is 19% below the USDA national estimate. Over the middle- and high-income ranges, the revised guidelines amounts are higher than the USDA national estimates by 34% and 58%, respectively. This result is similar to the comparison of the revised guidelines amounts to the Betson (2020) estimates – the guidelines amounts are less at the low-income level and increasingly higher than child cost estimates at the middle and upper levels for Betson.

For single-headed households at low-income levels, the revised guidelines amount is 44% less than the USDA estimate and, at high-income ranges, the guidelines amount is higher than the USDA cost estimate by 19%.

## **b. USDA Northeast Estimates**

The 2017 USDA report also includes estimates for intact households in each of the same three income groups in the Northeast US. **TABLE 30** reports the USDA estimates of all child costs excluding child care, education, and health care for both the Northeast and the overall US, side by side. The cost estimates for the Northeast are 13% higher, on average, than the national

estimates across income groups. For example, the estimated cost of one child in a low-income household in the Northeast is \$268 per week, compared to \$229 per week for the same income group nationally. In the middle-income group, the average cost for one child is \$337 per week in the Northeast, compared to \$297 nationally. In the high-income group, the costs are \$509 per week and \$460 per week, respectively.

**TABLE 30: USDA (2021 \$) CHILD COSTS (US V. NORTHEAST)**

All Costs (Married Households) Excluding Child Care, Education, and Health Care												
\$/week	U.S.				Northeast				% Difference			
	Income Group				Income Group				Income Group			
	Low	Mid	High	Avg.	Low	Mid	High	Avg.	Low	Mid	High	Avg.
Children	\$845	\$1,902	\$4,315		\$818	\$1,885	\$4,350		-3.2%	-0.9%	0.8%	
Total												
1	\$229	\$297	\$460	<b>\$329</b>	\$268	\$337	\$509	<b>\$371</b>	17%	14%	11%	<b>13%</b>
2	\$361	\$467	\$724	<b>\$517</b>	\$421	\$530	\$802	<b>\$585</b>	17%	14%	11%	<b>13%</b>
3	\$412	\$533	\$826	<b>\$590</b>	\$480	\$605	\$914	<b>\$666</b>	17%	14%	11%	<b>13%</b>
4	\$460	\$595	\$922	<b>\$659</b>	\$537	\$675	\$1,021	<b>\$744</b>	17%	14%	11%	<b>13%</b>
5	\$506	\$654	\$1,014	<b>\$725</b>	\$590	\$743	\$1,123	<b>\$819</b>	17%	14%	11%	<b>13%</b>
As % Income												
1	27%	16%	11%	<b>18%</b>	33%	18%	12%	<b>21%</b>	21%	15%	10%	<b>17%</b>
2	43%	25%	17%	<b>28%</b>	52%	28%	18%	<b>33%</b>	21%	15%	10%	<b>17%</b>
3	49%	28%	19%	<b>32%</b>	59%	32%	21%	<b>37%</b>	21%	15%	10%	<b>17%</b>
4	54%	31%	21%	<b>36%</b>	66%	36%	23%	<b>42%</b>	21%	15%	10%	<b>17%</b>
5	60%	34%	23%	<b>39%</b>	72%	39%	26%	<b>46%</b>	21%	15%	10%	<b>17%</b>

Source: USDA (2017), Tables 1 and 7

For comparison to the USDA Northeast child cost estimates, **TABLE 31** reports the revised guidelines amounts split into the same income groups. As with the national estimates (in **TABLE 18**), the average income level within each group is different under the revised guidelines than for the households in the USDA report, so **TABLE 31** reports the guidelines amounts both: (1) within each income group, on average, and (2) at the average level of income reported by the USDA.

**TABLE 31: REVISED GUIDELINES AMOUNTS BY USDA INCOME GROUP (NORTHEAST)**  
(\$/week; 1 Child Under Age 18; No Child Care/Health Care Costs)

	Income Group					
	Low		Mid		High	
Average Available Income	\$	672	\$	1,892	\$	5,066
Average Guidelines Amount	\$	144	\$	394	\$	798
Guidelines Amount as % Income	21%		21%		16%	

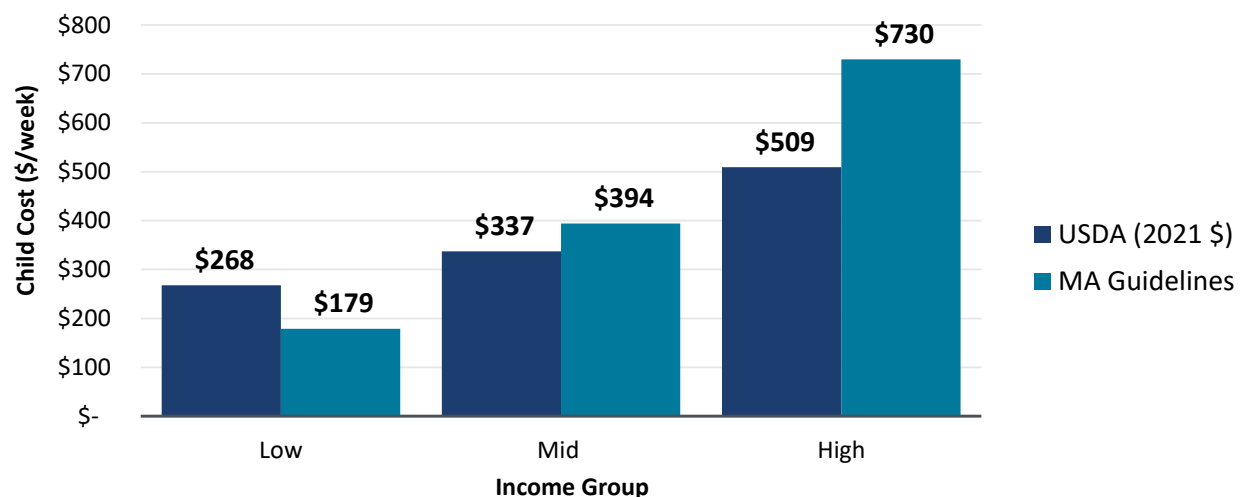
  

	Married			Single	
	Income Group				
	Low	Mid	High	Low	High
USDA NE Average Income	\$ 818	\$ 1,885	\$ 4,350	NA	
Guidelines Amount	\$ 179	\$ 394	\$ 730		
USDA Northeast Average Costs	\$ 268	\$ 337	\$ 509		
Difference (\$)	\$ (89)	\$ 57	\$ 221	NA	
(%)	-33%	17%	43%		
Guidelines Amount as % Income	22%	21%	17%		

Source: USDA (2017) and revised guidelines

**FIGURE 17** illustrates the comparison for the amounts listed in **TABLE 31**.

**FIGURE 17: REVISED GUIDELINES V. USDA ESTIMATES (NORTHEAST)**



Source: **TABLE 31**

The comparison to the USDA Northeast estimates reflects the same result as for the national estimates: the revised guidelines amounts for one child are below the USDA estimates at relatively low incomes and are increasingly higher at middle and high incomes. However,

because the USDA estimates are higher for the Northeast than for the overall US, the differences are larger for low incomes and smaller at middle and high incomes. At the low- (middle-) income level, for example, the difference is 33% (17%), on average, rather than 19% (34%) at the national level, with the USDA estimating child costs of \$268 (\$337) per week relative to the revised guidelines amount of \$179 (\$394) per week.

### 3. Guidelines in Neighboring and High-Cost States<sup>97</sup>

In addition to the comparisons to the Betson (2020) and USDA studies, we presented to the Task Force comparisons of the revised guidelines amounts to the guidelines amounts in the five neighboring states: Connecticut, New Hampshire, New York, Rhode Island, and Vermont. Two of Massachusetts' neighbors (New York and Connecticut) are economically similar to Massachusetts as relatively high-cost states. We also presented comparisons of the revised guidelines amounts to guidelines in four other high-cost jurisdictions: California, Maryland, New Jersey, and Washington, DC.

#### a. Assumptions Used for Comparisons

Comparing guidelines amounts across states requires assumptions about items such as taxes, child care costs, and health care costs, since different states' guidelines handle them differently. **TABLE 32** below summarizes the differences for each of the nine benchmark states and Massachusetts. For example, the table shows the guidelines in Massachusetts and five of the nine benchmark states (Maryland, New Hampshire, New York, Rhode Island, and Washington, DC) are based on gross income.<sup>98</sup> Guidelines in California, Connecticut, New Jersey, and Vermont are based on net income. When comparing to the net income states, we calculated approximate net income equivalents of the various gross income numbers we used for Massachusetts and the other gross income states.<sup>99</sup>

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<sup>97</sup> Based on MIT Living Wage Calculator cost of living estimates.

<sup>98</sup> New York's guidelines are also based on gross income up to a combined income of \$154,000, but include a deduction for Medicare, FICA, and local NYC taxes.

<sup>99</sup> A more detailed adjustment from gross income to net income, or actual net income figures in a given case, will yield slightly different results from running the guidelines in the net income states.

**TABLE 32: NEIGHBORING AND HIGH COST STATES GUIDELINES OVERVIEW**

State	Last Updated	Income Measure	Low-Income Threshold (\$/year)	High Income Threshold	Child Care (CC) & Health Care (HC) Costs	
					Income Deduction	Proportional Credit
Massachusetts	2021	Gross	\$12,948	\$400,000	HC only	CC only <sup>1</sup>
California	2020	Net	NA	NA	HC only	No
Connecticut	2015	Net	NA	\$208,000	HC only	CC only
Maryland	2020	Gross	NA	\$180,000	No	Yes
New Hampshire	2020	Gross <sup>2</sup>	\$14,676	\$367,428	Yes	No
New Jersey	2020	Net	\$13,416	\$187,200	No	Yes <sup>3</sup>
New York	2020	Gross <sup>4</sup>	\$17,226	\$154,000	No	Yes
Rhode Island	2017	Gross	\$12,060	\$420,000	Yes	Yes
Vermont	2020	Net	\$15,312	\$300,300	HC only	CC only
Washington, DC	2013	Gross	\$16,040	\$240,000	No	Yes

Notes:

<sup>1</sup> Child care costs are shared up to a market benchmark of \$355 per week per child.

<sup>2</sup> Net of state income tax, which is usually zero since NH has no income tax.

<sup>3</sup> Payor's costs are fully reimbursed. Recipient's costs are prorated.

<sup>4</sup> Net of Medicare, FICA, and local (NYC) taxes.

The table also shows Massachusetts' revised guidelines deduct health care costs (but no longer child care costs) from each parent's available income and cover child care costs paid by whichever parent is allocated the greater net proportional cost, up to the market average benchmark cost discussed above. Each of the other states' guidelines make slightly different adjustments:

- California, Connecticut, and Vermont's guidelines deduct the cost of health insurance from available income, but not out-of-pocket health care costs or child care costs. In California, out-of-pocket health care and child care costs are typically split 50-50. In Connecticut, both out-of-pocket health care and child care costs are credited in proportion to relative income. In Vermont, only child care costs are credited in proportion to relative income.
- Maryland, New Jersey, New York, and Washington, DC do not deduct either child care costs or health care costs from available income. Health care and child care costs are prorated in proportion to income. In New Jersey, the payor's costs are fully reimbursed, and the recipient's costs are prorated.
- New Hampshire and Rhode Island's guidelines deduct both child care costs and health care costs from available income. However, in New Hampshire, only the child's portion of health care costs is deducted. There are no cost credits.

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## PAYOR AND RECIPIENT AVAILABLE INCOMES

For all nine benchmark states and for Massachusetts, we calculated and discussed with the Task Force presumptive child support amounts for households with: (1) varying income amounts; (2) one, two, and three children; and (3) varying child care and health care costs. In this section of our report, we summarize some of those scenarios as illustrative examples. In particular, we report comparisons for nine different income scenarios, representing all possible combinations of three levels of available income (low, middle, and high) for each of a hypothetical payor and recipient. The corresponding available income levels for each parent in these comparisons are \$24,000, \$50,000, and \$100,000 per year. **TABLE 33** shows these annual income levels and their weekly equivalents.

**TABLE 33: INCOME LEVELS USED FOR BENCHMARK COMPARISONS**

Level	\$/year	\$/week
Low	\$24,000	\$462
Middle	\$50,000	\$962
High	\$100,000	\$1,923

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## NUMBER OF CHILDREN

We report the results of comparing the Massachusetts revised guidelines relative to neighboring and high-cost states for scenarios with one, two, and three children. In all scenarios, we assume the children primarily live with the recipient for approximately two-thirds of the time, so we run the scenarios as “Box 2” cases in line 1b of the revised guidelines worksheet.

As we have already noted above, the Massachusetts (current and revised) guidelines amounts for one child are high relative to the latest Betson-Rothbarth child cost estimates, USDA estimates, and guidelines amounts in other states, especially at middle and high incomes. However, the comparisons for one child reflect only the percentages in Table A of the guidelines worksheet. They do not reflect cases with child care costs, health care costs, or more than one child. To see how the revised guidelines compare to economic benchmarks for more than one child requires also applying the new adjustment factors in the revised Table B of the guidelines worksheet.



Conceptually, the adjustment factors for more than one child in Table B of the worksheet reflect the incremental cost of adding one more child to a household. Consistent with sound economic principles, the adjustments increase at a decreasing rate, as do the adjustment factors in the economic studies and benchmark states.<sup>100</sup> The new adjustment factors in the revised Table C also account for whether a child in a household is age 18 or older. However, to reduce the overall number of scenarios summarized in this report, all of the benchmark comparisons in this section assume all of the children are under age 18.

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## CHILD CARE AND HEALTH CARE COSTS

A payor's final child support amount under the guidelines can differ significantly depending on whether there are health care costs to deduct from gross income to determine available income, and whether there are child care costs to credit between the parents in proportion to their respective available incomes (up to the \$355 per week benchmark cost). To capture this variation in our comparisons to other states' guidelines, we report the results for three different cost profile scenarios:

1. No child care or health care costs (an income-only comparison): an income-only comparison avoids complexities about different treatment of child care and health care costs in different states' guidelines. However, it still indicates how a payor's basic child support obligation (before, or in the absence of, such costs) compares across states as absolute and relative incomes vary from case to case. The no-cost scenarios result in the lowest child support amounts for the payor for a given income level and number of children in the scenarios we report here, because the other scenarios we report assume the recipient pays some or all of the child care costs and health care costs.
2. Split child care and health care costs: Specifically, in this section we report the results for scenarios where a recipient pays all of the child care costs and a payor pays all of the health care costs. The split-cost scenarios result in higher child support amounts than the no-cost scenarios for the payor for a given income level and number of children, because the child care costs paid by, and at least partially credited back to, the recipient are greater than the health care costs paid by, and deducted from the available income of, the payor.

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<sup>100</sup> See **FIGURE 5** and the related discussion in this report.

3. Recipient pays both child care costs and health care costs: These scenarios result in the highest child support amounts we report in this section, since the recipient is covering all of both costs before the child support is determined.

To determine the level of costs we used in a given scenario, we relied on the MIT Living Wage Calculator estimates of average weekly costs for child care costs and health care costs in Massachusetts households with one, two, and three children. **TABLE 34** lists the amounts we used for each type of cost, stated on an annual and weekly basis.

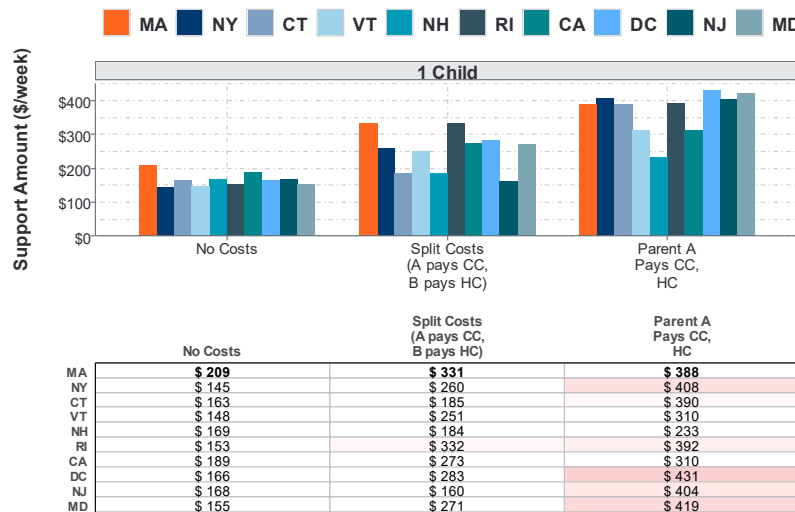
**TABLE 34: CHILD CARE COSTS AND HEALTH CARE COSTS USED FOR BENCHMARK COMPARISONS**

Children	Child Care		Health Care	
	\$/year	\$/week	\$/year	\$/week
1	\$12,577	\$242	\$7,686	\$148
2	\$16,041	\$308	\$7,398	\$142
3	\$19,506	\$375	\$7,518	\$145

## b. Results

The Massachusetts revised guidelines amounts for one child, two children, and three children under age 18 are similar to the guidelines amounts in the neighboring states and high-cost states for some income combinations and are different for others. This is due to differences in both the structure of, and income percentages in, each state's guidelines. **FIGURE 18** below shows how the Massachusetts revised guidelines amounts for one child compare to the benchmark states. Specifically, it reports a payor's (Parent B) final child support obligation in each state for a case where the child primarily lives with the recipient (Parent A) – a Box 2 case in the Massachusetts guidelines worksheet. The comparison assumes a middle-income payor (\$50,000 per year, or \$962 per week) and a low-income recipient (\$24,000 per year, or \$462 per week). It reports results for each of the three cost scenarios described above: (1) no child care costs or health care costs, (2) split costs (recipient pays child care costs (CC)); payor pays health care costs (HC), and (3) recipient pays all costs. The costs are as reported in **TABLE 34** above, \$242 per week for child care and \$148 per week for health care.

**FIGURE 18: BENCHMARK COMPARISONS: LOW-INCOME RECIPIENT, MIDDLE-INCOME PAYOR (1 CHILD)**



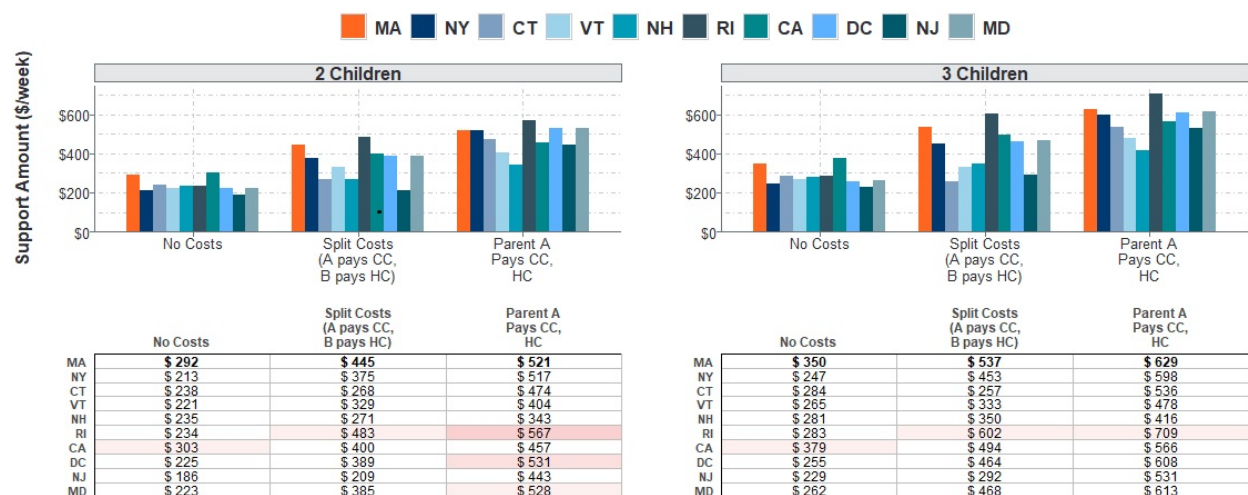
As we reported in [TABLE 12](#), the percentages in Table A of the Massachusetts guidelines worksheet (equivalent to the no-cost scenario in [FIGURE 18](#)) are higher than the benchmark percentages – especially in the neighboring states – at certain income tranches. This is true of the revised guidelines percentages in [TABLE 13](#) as well. [FIGURE 18](#) reflects such a case. With combined available income of \$1,424 per week, this case is in the fifth income tranche in Massachusetts’ revised Table A (\$1,401 to \$2,200 per week). The revised guidelines amount for this income combination is \$209 per week, which is higher than the corresponding no-cost amount in any of the benchmark states.

However, this result shifts when we add child care costs and health care costs. When the recipient pays for child care and the payor pays for health care for the child in the amounts noted above, the child support amount under the revised guidelines increases to \$331 per week, mostly due to the payor covering 64% of the \$242 per week in child care costs in proportion to his or her share of the combined available income. This child support amount is still higher than all but one of the benchmarks (Rhode Island, which is only \$1 per week higher), yet only slightly higher than the amounts in the other high-cost states. This result shifts even more in the same direction if the recipient pays all of the child care costs and health care costs. In that scenario, the Massachusetts child support amount increases to \$388 per week, as the payor covers a larger share (75%) of the child care cost, since shifting the health care cost deduction to the recipient increases the payor’s share of combined available income. In this scenario, the Massachusetts child support amount is lower than the amounts in all but three of the benchmark states (California, New Hampshire, and Vermont). Taken together, these comparisons suggest the Massachusetts revised guidelines amounts are generally higher in

cases without child care or health care costs, but are comparable or lower in cases where the recipient pays part or all of those costs.

The results are similar for comparisons to the benchmark states in cases with more than one child. **FIGURE 19** below shows the results for a payor and a recipient with the same incomes as in the prior comparisons, but with two and three children, respectively.

**FIGURE 19: BENCHMARK COMPARISONS: LOW-INCOME RECIPIENT, MIDDLE-INCOME PAYOR (2 & 3 CHILDREN)**



In the case with two children and no child care or health care costs, the revised guidelines amount of \$292 per week is higher than all of the benchmark states except California. This is the same result we observed in the case with one child. The increased adjustment factor for a second child in Table B of the revised guidelines is now more consistent with the increases in the benchmark states, so the Massachusetts guidelines amounts in this scenario scale upward roughly in step with the benchmarks. When the recipient pays for child care and the payor pays for health care for the child in the amounts noted above for two children, the child support amount under the revised guidelines increases to \$445 per week. In that scenario, the payor again covers a proportional 64% share of the child care cost of \$308 per week. As in the one-child case, this child support amount is higher than all states except Rhode Island, and is closest to the amounts in the other high-cost states. If the recipient pays all of the child care costs and health care cost, the Massachusetts child support amount increases to \$521 per week, as the payor again covers a proportional 75% share of the child care costs. In this scenario, the Massachusetts child support amount is lower than the amounts in three benchmark states (Maryland, Rhode Island, and Washington, DC) and is roughly the same as in New York. It is higher than the amount in the other five benchmark states. The impact of the higher

adjustment factor in Table B of the revised guidelines is evident in these results. The combination of mostly no change to Table A at higher percentages than many benchmarks plus the incremental increase to the percentage in Table B from 25% to 40% for a second child results in child support amounts that are more consistent with other high-cost states, but are also higher than many of the benchmarks much of the time.

Adding a third child to this hypothetical case further illustrates this trend. In that case, the Massachusetts revised guidelines amount increases to \$350 per week, \$537 per week, and \$629 per week in the scenarios with no child care and health care costs, split costs, or costs paid by the recipient, respectively. In each scenario, those amounts are higher than the child support amounts in all but one of the benchmark states (California in the no-cost scenario and Rhode Island in each of the two cases with costs). They are higher than all of the other neighboring states and are higher than, but generally more consistent with, the high-cost states. The comparisons in the nine scenarios summarized in the two figures above (three cost scenarios for each of three family sizes) are illustrative of only one income scenario (low-income recipient and middle-income payor).

However, we calculated and discussed with the Task Force the results of all 81 unique combinations of relative incomes (low, middle, and high), costs (no cost, split cost, and recipient cost), and number of children (one, two, and three) scenarios. The results in the other scenarios varied similarly to the examples summarized above. Broadly, the Massachusetts revised guidelines amounts for families with one child are:

- Higher than the other states in almost all scenarios without child care and health care costs
- Higher than the other states in most scenarios with split costs
- Lower than New York and Washington, DC when the recipient pays for child care and health care for the child
- Lower than California and Connecticut in a few cases

For families with more than one child, the Massachusetts revised guidelines amounts are higher than the benchmark states in most, but not all, no-cost scenarios. They are also higher in most scenarios with child care and health care costs, with the exception of New York and Washington, DC – when the recipient pays all costs – and California, Connecticut, and Maryland in a few cases.

Across all 81 comparisons, our analysis suggests that the revised Massachusetts guidelines are either in line with, or slightly higher than, guidelines amounts in the neighboring states in most cases, and are more consistent with guidelines amounts in high-cost states, though still lower in some cases.

## VI. Other Economic Considerations

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In addition to the economic approaches, studies, and child cost estimates we have already covered, we also discussed a few other economic considerations with the Task Force during its review: the relatively high cost of living in Massachusetts and its implications for child costs; current labor market conditions, especially for individuals at relatively low incomes; and the practical importance of tax considerations in determining economically appropriate child support amounts.

### A. Cost of Living

Both household income and expenses in Massachusetts are above the national average. The combination of higher incomes and higher costs manifests itself differently for different households. Not all households in Massachusetts have similarly higher incomes relative to the national average. However, all households – regardless of income – face the higher cost of living in the Commonwealth. This means household costs in Massachusetts may be disproportionately higher than income for some households. There are competing economic ideas on the impact of above-average household costs on child costs. Higher adult “overhead” (such as housing and utilities) may reduce income available for spending on children. Alternatively, parents may choose to spend relatively more on their children and less on other things. Different families react to a binding budget constraint differently.

**FIGURE 20** lists the seven separate components of child costs estimated by the USDA in its 2017 report for married households with one child in each of the three income groups.

FIGURE 20: ESTIMATED CHILD COST SHARES BY COMPONENT



Source: USDA (2017), Table 1 averages by expenditure category

According to the USDA estimates, housing is the largest component of child costs (33%), then food (20%), transportation (14%), and child care and education (12%). Health care costs, clothing, and all else are each less than 10% of overall child costs. As we have already discussed, income and all of these cost components are higher in Massachusetts than in the US overall.<sup>101</sup>

TABLE 35 summarizes household income and housing costs for the US and Massachusetts based on the US Census Bureau's 2019 American Community Survey. Color shading indicates extreme values within a data series.

TABLE 35: INCOME AND HOUSING COSTS, MASSACHUSETTS V. US

	Population	% Total	HH Income		Gross Rent			Owner Costs		
			\$/year	+/- US	\$/month	% Income	+/- US	\$/month	% Income	+/- US
U.S.	328.24 MM		\$ 62,843		\$ 1,062	20.3%		\$ 1,595	30.5%	
MA	6,892,503	2.1%	\$ 81,215	29.2%	\$ 1,282	18.9%	-6.6%	\$ 2,225	32.9%	7.9%
Difference			\$ 18,372		\$ 220			\$ 630		
Barnstable	212,990	3.1%	\$ 74,336	18.3%	\$ 1,311	21.2%	4.4%	\$ 1,978	31.9%	4.8%
Berkshire	124,944	1.8%	\$ 59,230	-5.7%	\$ 872	17.7%	-12.9%	\$ 1,496	30.3%	-0.5%
Bristol	565,217	8.2%	\$ 69,095	9.9%	\$ 901	15.6%	-22.8%	\$ 1,962	34.1%	11.9%
Dukes	17,332	0.3%	\$ 71,811	14.3%	\$ 1,459	24.4%	20.2%	\$ 2,414	40.3%	32.4%
Essex	789,034	11.4%	\$ 79,263	26.1%	\$ 1,241	18.8%	-7.4%	\$ 2,342	35.5%	16.4%
Franklin	70,180	1.0%	\$ 60,950	-3.0%	\$ 976	19.2%	-5.2%	\$ 1,592	31.3%	2.9%
Hampden	466,372	6.8%	\$ 55,429	-11.8%	\$ 906	19.6%	-3.3%	\$ 1,608	34.8%	14.3%
Hampshire	160,830	2.3%	\$ 70,876	12.8%	\$ 1,119	18.9%	-6.6%	\$ 1,826	30.9%	1.5%
Middlesex	1,611,699	23.4%	\$ 102,603	63.3%	\$ 1,636	19.1%	-5.6%	\$ 2,609	30.5%	0.2%
Nantucket	11,399	0.2%	\$ 107,717	71.4%	\$ 1,764	19.7%	-3.1%	\$ 3,316	36.9%	21.3%
Norfolk	706,775	10.3%	\$ 103,291	64.4%	\$ 1,589	18.5%	-9.0%	\$ 2,573	29.9%	-1.9%
Plymouth	521,202	7.6%	\$ 89,489	42.4%	\$ 1,279	17.2%	-15.4%	\$ 2,271	30.5%	0.0%
Suffolk	803,907	11.7%	\$ 69,669	10.9%	\$ 1,590	27.4%	35.0%	\$ 2,420	41.7%	36.9%
Worcester	830,622	12.1%	\$ 74,679	18.8%	\$ 1,060	17.0%	-16.0%	\$ 1,929	31.0%	1.8%

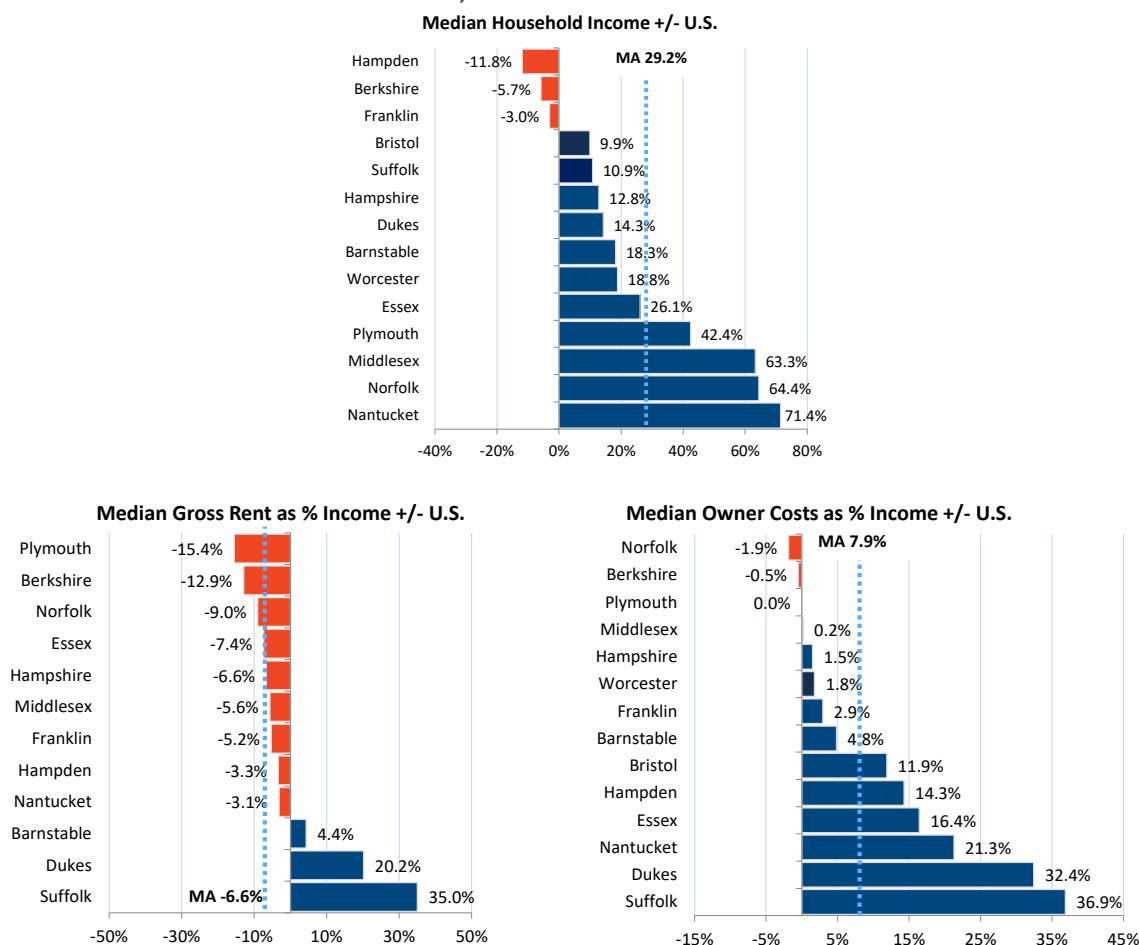
Source: US Census Bureau, 2019 American Community Survey.

<sup>101</sup> These findings are consistent with the cost of living items and expenditures reported by MIT's Living Wage Calculator and were discussed with the Task Force during its review.

Median household income in Massachusetts (\$81,215 per year in 2019) is 29.2% higher than in the US overall. Gross rent is higher in Massachusetts in dollar terms, but is 6.6% below the national average as a percent of income. Rent relative to income is higher than the national average in just three Massachusetts counties, most notably in Suffolk County. But owning a home in Massachusetts is more expensive than the national average by almost 10% statewide, and by double-digits in six counties (Suffolk, Dukes, Nantucket, Essex, Hampden, and Bristol).<sup>102</sup>

**FIGURE 21** illustrates the disparity across counties in the data in **TABLE 35**. Household incomes are highest in Nantucket, Norfolk, Middlesex, and Plymouth Counties. Suffolk County has below-average household income but, by far, the highest housing costs both as a percent of household income and relative to the national average costs of renting or owning a home.

**FIGURE 21: INCOME AND HOUSING COSTS, MASSACHUSETTS V. US**



Source: **TABLE 35: Income and Housing Costs, Massachusetts v. US**

<sup>102</sup> The Census Bureau data includes in owner costs all forms of debt where the property is pledged as security for repayment of the debt, including mortgages, home equity loans, deeds of trust, and land contracts. It also includes cost of property insurance, utilities, real estate taxes, etc.



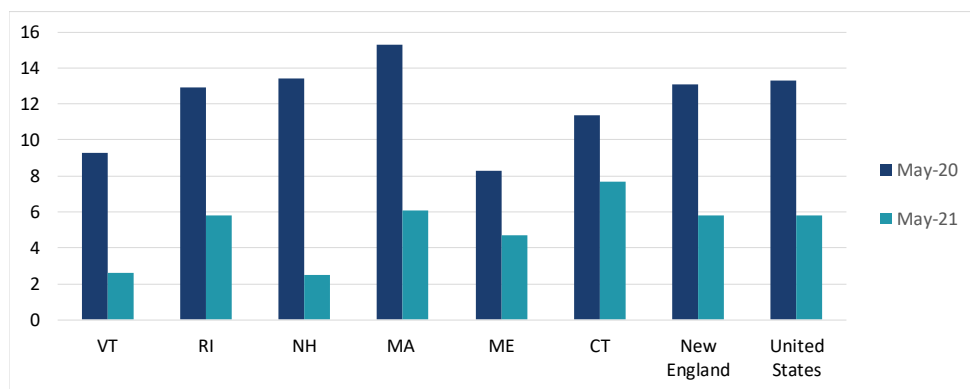
## B. Labor Market Conditions

In accordance with the new federal regulation since the prior Massachusetts guidelines review, we discussed with the Task Force local labor market data, including on the rates of employment and unemployment, hours worked, and earnings by occupation and skill level, as well as factors that may influence payors' employment rates and ability to pay child support under the guidelines.

Notably, labor market conditions throughout the US have been significantly impacted since early 2020 by the COVID-19 pandemic. The Bureau of Labor Statistics reports, "the coronavirus disease 2019 (COVID-19) pandemic's impact on the US labor market is unprecedented."<sup>103</sup> The Congressional Research Service reported COVID-19 had a "significant effect on labor market metrics for every state, economic sector, and major demographic group in the United States," noting that "no state was immune from economic damage early in the pandemic."<sup>104</sup>

At the time of the writing of this report in mid-2021, economic conditions have been improving. A recent report from the Federal Reserve Bank of Boston shows the national unemployment rate coming down from early-pandemic levels of 13% to 5.8%. However, the rates of unemployment in Massachusetts and other New England states remain at or above the national average.<sup>105</sup> **FIGURE 22** below is based on that report. It shows the unemployment rates in New England overall and state by state from last year (the lighter bars) to this year (the darker bars).

**FIGURE 22: UNEMPLOYMENT RATES IN THE US AND NEW ENGLAND STATES, 2020 AND 2021**



<sup>103</sup> "Employment recovery in the wake of the COVID-19 pandemic," December 2020, US Bureau of Labor Statistics, available at <https://www.bls.gov/opub/mlr/2020/article/employment-recovery.htm>.

<sup>104</sup> Falk, Gene et al., Unemployment Rates During the COVID-19 Pandemic, Congressional Research Service, 2021. Available at <https://fas.org/sfp/crs/misc/R46554.pdf>.

<sup>105</sup> Federal Reserve Bank of Boston. (2021, July 7). Q2 2021: Snapshot of the New England Economy through June 28, 2021. Federal Reserve Bank of Boston. <https://www.bostonfed.org/publications/new-england-economic-indicators/2021/quarter-2.aspx>.

As of May 2020, Massachusetts had, by far, the highest unemployment rate in the region, at over 15%. A year later, Connecticut and Massachusetts have the highest unemployment rates in New England, but at significantly lower levels (7.7% and 6.1%, respectively). Still, those levels are above the current national average rate of just under 6%. Employment in the leisure and hospitality sector is reported to have been impacted most by the pandemic, with employment in that sector in Massachusetts down by 26.6% relative to pre-pandemic levels.

A local non-profit organization, Boston Indicators, analyzed categories of workers to determine which groups were impacted most by the pandemic's impact on the local labor market. They analyzed federal and state labor market data with a focus on industry, demographic, and geographic impacts. They report:

- Women experienced higher rates of unemployment than men
- Black and Latinx workers experienced higher rates of unemployment than White and Asian workers
- Workers making less than \$400 per week, or \$400 to \$699 per week, make up the largest share of unemployment claimants in Massachusetts<sup>106</sup>

They also report higher unemployment rates in urban areas with higher proportions of lower-income and Black and Latinx workers. For example, unemployment rates in cities such as Lawrence, Revere, and Brockton are 20%, 16%, and 15%, while unemployment rates in suburbs such as Hingham and Weston are significantly lower at 6.8% and 5.9%, respectively.

In **SECTION VI.A** above, we note the relatively high cost of living in Massachusetts. It is both one of the highest income-earning states in the US and one of the 30 states, plus Washington, DC, with minimum wage rates above the federal minimum wage in 2021. Over the past several years, the minimum wage in Massachusetts has increased from \$8.00 per hour to \$13.50 per hour. Recent legislation has mandated further increases up to \$15.00 per hour by 2023, intended to have a beneficial impact on the lowest-wage workers in the Commonwealth.<sup>107</sup>

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<sup>106</sup> A Profile of Unemployed Workers in Massachusetts. Boston Indicators. (n.d.). [https://www.bostonindicators.org/reports/report-website-pages/covid\\_indicators-x2/2020/october/unemployment-deep-dive](https://www.bostonindicators.org/reports/report-website-pages/covid_indicators-x2/2020/october/unemployment-deep-dive).

<sup>107</sup> Bradley, David H. "State minimum wages: An overview." (2020).

## C. Tax Impacts

In addition to the cost categories discussed so far, taxes are another significant cost with important implications for how much money a household has available to spend on children. This guidelines review included frequent discussion of the tax impacts and after-tax outcomes of child support guidelines. In the course of its review, the Task Force discussed several specific tax considerations, including the child tax credit, the child care tax credit, and tax aspects of the interaction of alimony and child support.

Massachusetts' guidelines consider the gross available income of each parent, not their net incomes after taxes and tax-related child benefits. A majority of the 42 states listed in [TABLE 24](#) whose guidelines are based on the income shares model – including Massachusetts – base child support amounts on gross income. That said, the distinction between gross and net income in this context is not clear-cut, as the underlying tax assumptions and formulas vary widely. For example, the Betson-Rothbarth estimates on which many income shares guidelines are based relate child costs to net income. (To use those estimates as a benchmark for this review, we converted the net income amounts in the Betson study into gross income equivalents.)

Using gross income in the guidelines is appealing for its simplicity. By considering only gross income, the guidelines worksheet does not have to incorporate information about the payor or recipient's tax filing status, the amount of income taxes each pays, or the relative financial impact of various deductions and credits. This minimizes reporting requirements and analytical burdens for all. From an economic perspective, however, it does set aside a material cost and an important economic consideration in household decision-making. As a result, gross income may not best reflect the amount of income actually available to a payor or recipient to spend on a child, or the best way to maximize the amount of combined available income across the parents' households for the benefit of their children.

Gross income also does not reflect the availability or dollar value of child-related tax benefits, including head of household standard deduction, child tax credits, the earned income credit, and the child care tax credit. The availability and dollar-value of such tax benefits determine the relative incomes actually available to payors and recipients to cover child costs. Therefore, as completed in our report in the prior Massachusetts guidelines review, we briefly list the current amounts of these tax benefits as a reference point for future guidelines reviews.

- The Internal Revenue Service (IRS) generally attributes child-related tax benefits to the parent with whom the child primarily resides. The custodial parent is entitled to head of household status while the non-custodial parent typically has single tax payer status. For

2021, the standard deduction is \$12,550 for a single person (a noncustodial parent) and \$18,800 for a head of household taxpayer (a custodial parent). This is a tax benefit of \$6,250 in deductions for the custodial parent.<sup>108</sup>

- The marginal tax rate increases for head of household taxpayers (custodial parents) begin at higher income threshold levels than for single filers (noncustodial parents). This difference is seen in Schedule X and Schedule Z of the 2021 Form 1040:

**TABLE 36: MARGINAL TAX RATES FOR SINGLE FILERS AND HEADS OF HOUSEHOLDS**

<b>2021 Tax Rate Schedules</b>									
<b>Schedule X—Use if your 2021 filing status is Single</b>					<b>Schedule Z—Use if your 2021 filing status is Head of household</b>				
<b>If line 3 is:</b>					<b>If line 3 is:</b>				
<b>The tax is:</b>					<b>The tax is:</b>				
<i>Over—</i>	<i>But not over—</i>			<i>of the amount over—</i>	<i>Over—</i>	<i>But not over—</i>			<i>of the amount over—</i>
\$0	\$9,950	-----	+ 10%	\$0	\$0	\$14,200	-----	+ 10%	\$0
9,950	40,525	\$995.00	+ 12%	9,950	14,200	54,200	\$1,420.00	+ 12%	14,200
40,525	86,375	4,664.00	+ 22%	40,525	54,200	86,350	6,220.00	+ 22%	54,200
86,375	164,925	14,751.00	+ 24%	86,375	86,350	164,900	13,293.00	+ 24%	86,350
164,925	209,425	33,603.00	+ 32%	164,925	164,900	209,400	32,145.00	+ 32%	164,900
209,425	523,600	47,843.00	+ 35%	209,425	209,400	523,600	46,385.00	+ 35%	209,400
523,600	-----	157,804.25	+ 37%	523,600	523,600	-----	156,355.00	+ 37%	523,600

- The 2021 value of the child tax credit increased from \$2,000 per child in 2020 to \$3,600 per child age 5 and younger and \$3,000 per child ages 6 through 17.<sup>109</sup>
- In response to the COVID-19 pandemic, the federal government significantly increased the Child and Dependent Care tax credit for qualifying child care costs for a child age 12 or younger. For tax year 2021, qualifying child care costs increased from \$3,000 to \$8,000 for one child and from \$6,000 to \$16,000 for two or more children; the percentage of qualifying expenses eligible for the credit increased from 35% to 50%; and the income at which the credit starts to be reduced increased from \$15,000 per year to \$125,000 per year of adjusted gross income.<sup>110</sup>
- For low-income and moderately-low-income working parents, custodial parents receive more favorable treatment than noncustodial parents in the size of earned income credits under federal income tax law. In 2021, for a noncustodial parent with no

<sup>108</sup> See <https://www.irs.gov/newsroom/irs-provides-tax-inflation-adjustments-for-tax-year-2021>.

<sup>109</sup> See <https://www.irs.gov/credits-deductions/2021-child-tax-credit-and-advance-child-tax-credit-payments-topic-c-calculation-of-the-2021-child-tax-credit>.

<sup>110</sup> See <https://turbotax.intuit.com/tax-tips/family/the-ins-and-outs-of-the-child-and-dependent-care-tax-credit/L2H7rzUWc>.

qualifying children the earned income credit is up to \$543. For a custodial parent, the credit is \$3,618 for one qualifying child, \$5,980 for two qualifying children, and \$6,728 for three or more qualifying children.<sup>111</sup>

- There are also differences in child-related tax benefits between custodial and noncustodial parents at the state level.

Overall, the decision of whether it is more appropriate to use gross income or net income to determine child support amounts should be informed by an understanding of whether and how to share child-related tax benefits that are a cost offset for the custodial parent unless they are already shared in the child support amount. While a cost table can be based on net income, with the custodial parent's net income including child-related tax benefits, those benefits are shared only to the extent of the marginal percentages in the cost schedule, such as Table A of the Massachusetts guidelines. The appropriate marginal percentage is applied to a recipient's higher net income, but that parent keeps the rest of the child-related tax benefits. To fully share the cost offsets from child-related tax benefits requires more than simply including them in a net income calculation. It requires a separate analysis that we have not performed as part of this review. For example, some states use gross income for the cost schedule and then proportionally share the dependency exemption(s), which implicitly includes child tax credits available to the parent who claims each dependency exemption.

These and other tax-related issues are challenging to deal with in a child support context, but should continue to be considered in future guidelines reviews.

## VII. Conclusion

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Based on our discussion of economic concepts with the Task Force in the course of its review, and our analysis of current economic data and information, including the latest economic estimates of child costs and guidelines amounts in neighboring and high-cost states, we find the Massachusetts revised guidelines amounts to be higher than available child cost benchmarks before considering child care and health care costs, but more comparable when accounting for those costs, especially relative to high-cost states. This relative outcome seems consistent with the clear empirical evidence that the overall cost of living in Massachusetts is higher than in the

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<sup>111</sup> See <https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit/earned-income-and-earned-income-tax-credit-eitc-tables>.

nation as a whole and in neighboring states, and is more similar to high-cost states. Many of these costs, such as housing, child care, and health care costs, are primary components of child costs and therefore are reflected in economically appropriate child support amounts.

The recommended increase in the maximum income level to \$400,000 per year in Table A of the revised guidelines worksheet, the higher adjustment factors for more than one child in Table B, and sharing child care costs in proportion to relative incomes up to \$355 per week per child are likely to lead to higher guidelines amounts in many cases relative to current child support guidelines amounts. However, the flag for instances where the child support obligation is 40% or more of a payor's income should help the Court identify where it may be appropriate to deviate from the guidelines.

Ultimately, the directional impact of revisions to the guidelines is an important practical matter. It is also important for the Massachusetts guidelines to have their foundation in fundamentally sound economic principles and actual data on child costs. By having a strong economic foundation, the guidelines can better establish the appropriate amount of support for a child and create positive economic incentives for both payors and recipients. The economic principles, facts, and comparisons in this report provided the Task Force with current information and data to help inform its recommendations with that objective in mind. In the end, the Task Force's recommendations are policy decisions. In deliberating them, it gave careful consideration to, and placed strong weight on, the underlying economic factors. As a result, its recommended changes to the revised guidelines are broadly economically sound in principle, have predictable and reasonable expected impacts, and should improve the appropriateness and effectiveness of the Massachusetts guidelines in practice.

Respectfully submitted,

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The Brattle Group

July 23, 2021

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## AUTHORS



**Dr. Mark Sarro** is a Principal and Director in Brattle’s Boston office. He was a member of the 2006–2008 Massachusetts Child Support Guidelines Task Force and has been the economic consultant to Massachusetts in its 2012–2013 and 2016–2017 guidelines reviews. His experience includes child costs, state child support guidelines, and the significance of financial and non-financial factors in household economic decision-making. Dr. Sarro specializes in financial models and statistical analyses in cases involving financial matters, incentives, and value. Virtually all of his projects involve financial allocations among counterparties. Much of his work is as a consulting expert to the US Department of Justice and federal regulatory agencies. Dr. Sarro holds a PhD in Economics from Boston College, with specializations in Public Finance and Monetary Economics. He has been married for 24 years and has two grown children.



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**Dr. Shastri Sandy** is a Senior Associate in Brattle’s Chicago office. He works with clients, including government agencies and regulators, on matters involving protection of the general public. Dr. Sandy has experience calculating financial remediation owed to affected parties, as well as examining various forms of compensation including salaries and pensions. He was an assistant professor in Finance at the University of Missouri. His research has been presented at national and international conferences, and featured by organizations including the Harvard Law School Forum on Corporate Governance and Financial Regulation and MarketWatch. Dr. Sandy holds a PhD in Finance and an MBA from The University of Chicago Booth School of Business, and a Master of Engineering in Electrical Engineering and Computer Science and two Bachelor of Science degrees from the Massachusetts Institute of Technology.