

## CAO FL INSTRUCTION 2 QUESTIONS & ANSWERS ABOUT CHILD SUPPORT IN IDAHO

This information is not a substitute for legal advice. Laws and court rules are complex, and this general information does not advise you of rights and options specific to your case. We always recommend you talk to a lawyer about your questions. Even if you do not hire a lawyer to represent you, a lawyer can look over your paperwork and give you legal advice. The Idaho State Bar Lawyer Referral Service (208-334-4500) can give you the name of an attorney in your area who will provide a one-half hour consultation for \$35. There are limited free legal services available to low income people. Contact the Court Assistance Office for information about resources for low income people, or visit the Idaho Supreme Court's Self-Help Center at <http://www.courtsselfhelp.idaho.gov/>.

### How is a child support amount determined in Idaho?

In Idaho, child support is set according to the Idaho Child Support Guidelines (ICSG). You can find the Guidelines in Rule 126 of the Idaho Rules of Family Law Procedure. A complete copy is available online at <http://www.isc.idaho.gov/irflp>. You can also get a copy from a Court Assistance Office.

### Do the Guidelines apply in my case?

The Idaho Child Support Guidelines apply to court cases that involve the care and support of minor children. The Guidelines are used in divorces, custody cases and modifications of custody, divorce, or child support orders.

Section (B) of the Guidelines explains: "The Guidelines apply to determinations of child support obligations between parents in all judicial proceedings that address the issue of child support for children under the age of eighteen years or children pursuing high school education up to the age of nineteen years."

### What is the purpose of the Guidelines?

The Guidelines provide a way to calculate child support so that a minor child is supported based on the income of both parents. The Guidelines state principles (see box) that are supposed to guide parents, lawyers and courts.

#### Section (D). Basic Guideline Principles.

These Child Support Guidelines are premised upon the following basic principles to guide parents, lawyers, and courts in arriving at child support obligations:

- a) Both parents share legal responsibility for supporting their child. That legal responsibility should be divided in proportion to their Guidelines Income, whether they be separated, divorced, remarried, or never married.
- b) In any proceeding where child support is under consideration, child support shall be given priority over the needs of the parents or creditors in allocating family resources. Only after careful scrutiny should the court delay implementation of the Guidelines amount because of debt assumption.
- c) Support shall be determined without regard to the gender of the custodial parent.
- d) Rarely should the child support obligation be set at zero. If the monthly income of the paying parent is below \$800.00, the Court should carefully review the incomes and living expenses to determine the maximum amount of support that can reasonably be ordered without denying a parent the means for self-support at a minimum subsistence level. There shall be a rebuttable presumption that a minimum amount of support is at least \$50.00 per month per child.

Source: I.R.F.L.P. Rule 126(D). Child Support Guidelines, adopted by the Supreme Court pursuant to Section 32-706A, Idaho Code

### **What if we agree on an amount, or we agree that no one will pay support?**

If a party asks the court to order a child support amount that is different from the Guidelines amount, the party must provide evidence that shows why the Guidelines amount is not appropriate. The judge must make a specific finding that ordering an amount different from the Guidelines is acceptable in your case. If you want to ask for a child support amount different from the Guidelines amount, be sure to read Section (C) of the ICSG. There are no standard forms that address deviation from the Guidelines.

Even if you want to deviate from the Guidelines, you still complete all of the child support documents. Section (I) of the Guidelines states “In all cases (contested, uncontested, or stipulated), the Affidavit Verifying Income and the Child Support Worksheet shall be provided to the court by the Petitioner or moving party.”

If you need information about how the Guidelines and the laws apply to your case, and you want help deciding what to do, you should talk to an attorney.

### **I don't understand the forms for figuring out child support. Which child support worksheet should I use?**

There are three standard child support forms that may be filed with the court. Everyone must file an Affidavit Verifying Income. In addition, to calculate Child Support according to the Guidelines, a party files either a Standard Child Support Worksheet or a Shared, Split, Mixed Custody Worksheet. You do not need to use both. A basic description of the forms follows:

Affidavit Verifying Income—This document is filed with the court. It is a sworn statement that must be signed by one of the parties. It is used to inform the court of both parents' income for the purposes of determining child support. If you have questions about what types of income count, and what adjustments are allowed, read Sections (F) and (G) of the Guidelines.

Standard Child Support Worksheet—The Standard Child Support Worksheet may be used if all the children are living with the same parent. In addition, the Standard Worksheet is appropriate when child/ren **do not** spend more than 25% of the overnights with both parents.

Shared, Split, or Mixed Custody Worksheet—The Shared, Split, Mixed Custody Worksheet may be used when each parent will have at least one child living in the home (split), or when the child/ren spend more than 25% of the overnights with each parent (shared). The form is also used if the parents are proposing different custody arrangements for each child (mixed).

### **What if I don't know the other parent's income?**

The Affidavit Verifying Income is a sworn statement that includes the income of both parents. The amount you state in the Affidavit may be based on current, actual income, or your knowledge of annual income reported in the past, or “potential income”. Potential income is explained in Section F(3) of the Idaho Child Support Guidelines.

If you have absolutely no idea what the other parent's income may be you can contact the local job service office to find out the prevailing wage for the other parent's job and use that information. Add an asterisk (\*) and an explanation of the source of the information.

## **Do the Guidelines take into consideration the Child Support I am already paying for another child?**

Section (G) of the Idaho Child Support Guidelines explains adjustments allowed to gross income. Examples of commonly used adjustments include an adjustment for child support paid and an adjustment for support of children of another relationship who live with one of the parents.

However, the Guidelines state that any children who were born or adopted after the existing order will not be considered.

## **Does the child support payment have to go through the state?**

Yes. Child support payments are made to Child Support Receipting of the Department of Health and Welfare. In addition, the forms provide notice that the court orders income withholding in all Child Support Orders. Income withholding may be enforced by a Withholding Order issued to the paying parent's employer without additional notice to the parent. Because the Department has authority to maintain an accurate record of payments and to enforce child support orders, the Department's services benefit both parties.

## **How do I ask for a change in the amount of child support that is ordered?**

To ask for a change in the amount of support ordered, one of the parties must file for a modification. If the child support order or decree was entered in Idaho, there are two helpful instructions, *Filing for Modification* and *Agreed Modification*, available on the website at <http://www.courtselfhelp.idaho.gov/> or at Court Assistance Offices.

## **If my order or decree is from another state, how do I get it changed?**

If the support order was entered in another state, you usually need to file a motion to modify in that state. Many states have court self-help resources and forms. For online resources from other states, see [http://www.ajs.org/prose/pro\\_links.asp](http://www.ajs.org/prose/pro_links.asp). The Federal Administration for Children and Families has helpful information at <http://www.acf.hhs.gov>. You may also call the court or county where the order was entered to find out what self-help resources are available.

## **I am not getting to see my child; do I still have to pay child support?**

A child support obligation is a separate legal matter from an order for custody or visitation. If you have been ordered by a court to pay child support, you must pay that support regardless of whether you have visitation with the child. However, if you have an order or decree that provided a custody or visitation schedule, you may have options to enforce the order in court.

If only a child support order has been entered, and a court has never entered an order regarding custody or visitation, you may ask the court for an order that addresses visitation and custody. You may find help from the Court Assistance Office *instruction Filing for Custody, Visitation or Support*.