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New child support guidelines expected to make practice more equitable

Editor's note: This is an updated version of an article that originally ran June 5.

On Saturday, Illinois joined 39 other states in adopting the "income shares" model for calculating child support. Public Act 99-764

amends Sections 505 and 510 of the Illinois Marriage and Dissolution of Marriage Act in an effort to modernize the existing formula used to determine child support.

According to Cook County Circuit Judge Pamela Loza, presiding judge in the Domestic Relations Division, Illinois is about to experience "a paradigm shift in the way everyone thinks about child support." Loza firmly believes that while there will be a transition period for most attorneys, this shift will ultimately make our lives easier.

Under the old act, a percentage guideline formula was used to calculate child support based on the obligor's net income and the number of children. Some say this model was outdated as it failed to take into consideration the actual costs of a raising a child and what those costs were prior to separation.

Loza stated the old formula was often "perceived as a one-parent-payor system [and] often causes discord between the parents and distrust in the child-support system."

By contrast, the new income-shares model is designed to reduce discord by attempting to better reflect the actual costs of raising a child and holds both parents accountable for those expenses.

Additionally, expenses such as health insurance, uncovered medical expenses, child care and extracurricular expenses can be allocated between the parents.

This shift is intended to result in fair, equitable and reliable financial outcomes, ideally to foster cordiality between parents.

The new model considers the time each parent spends with the children. Unfortunately, this means parties and attorneys will be counting the number of overnights each parent has with the children.

Application

The new income-shares model can be applied in a few short steps. First, the net monthly income of each parent must be calculated. This entails subtracting either the standardized tax amount or the individualized tax amount from the gross income of both parents.

Loza stated, "Standardized is the default. Attorneys must bring tax calculations to the court's attention if they wish to avoid having the court use the gross to net income conversion table."

The individualized tax amount is more likely to reflect the actual net income of parents because it uses information from their financial affidavits, tax returns and other documents. This amount may be used by agreement between parents, a court order or when either party sets forth financial statements after full disclosure.

Once the net monthly income of each parent is calculated, both incomes are added together for a combined net monthly income.

The basic child support obligation is derived from the Department of Healthcare and Family Service's schedule which lists basic child cost expenditure amounts at corresponding net monthly incomes. The schedule was developed by the department using child-rearing financial data provided in part by the Bureau of Labor Statistics. You can view the report at bit.ly/2rwd7LN.

The third step in determining child support involves finding the parent's combined net monthly income and corresponding basic child support amount from the schedule. The schedule will not be listed in the IMDMA but will be updated periodically by the state.

The current schedule is posted on the state's website at bit.ly/2rLxmZ5.

Subsequently, each parent's percentage share of the designated basic child support obligation is calculated. In calculating the percentage of income shares between the parents for child support purposes, any existing maintenance obligation



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must be subtracted from the obligor's income and included in the recipient's income.

Support for other children in the household and certain governmental benefits such as temporary assistance to needy families, supplement nutrition assistance program, and supplemental security income are not considered income.

The following scenario illustrates the components of the new income shares model: The wife has a net monthly income of \$2,500 and the husband has a net monthly income of \$7,500. Their combined net monthly income is \$10,000 with the wife earning 25 percent and the husband earning 75 percent of the total.

The basic child support obligation currently listed on the schedule for \$10,000 is \$1,445. The wife is responsible for 25 percent of that basic child support obligation and the husband is responsible for 75 percent of that basic child support amount.

Therefore, the husband's obligation is \$1,083.75, which will be paid to the wife, and the wife retains her \$361.25 presumptively for the children's expenses (\$1,083.75 + \$361.25 = \$1,445).

Impact of amount of parent-impact time

If each parent exercises 146 or more overnights per year with the child, the income-shares model provides an enhanced formula for calculating child support. The basic child support obligation selected from the schedule is multiplied by 1.5.

The reason behind increasing the basic child support obligation is to account for the additional costs of maintaining two households participating in a shared parenting plan.

Using the abovementioned example, \$1,445 is multiplied by 1.5 increasing the support obligation to \$2,167.50. Afterwards, the percentages of the parents' income shares are cross-multiplied by the percentages of time the child spends with the other parent and setoff by subtracting the lesser support obligation from the greater.

Accordingly, if the wife has 60 percent of parenting time (\$2,167.50 x 25 percent x 40 percent = \$216.74) and the husband has 40 percent of parenting time (\$2,167.50 x 75 percent x 60 percent = \$975.37), the husband's child support obligation is \$758.63. (\$975.37 - \$216.74 = \$758.63).

Further, separate from any child support obligation, if the court deems it necessary, each parent could be ordered to contribute to additional school, medical or extracurricular expenses or initiate health insurance coverage for a child.

Besides extracurricular activity costs, any additional child care costs are added together and prorated based on each parent's percentage of contribution to their combined net monthly income.

Modifications

Pursuant to the new statute, enactment of Public Act 99-764 does not constitute a substantial change in circumstances warranting a modification.

According to Loza, this provision was included to prevent petitions for modification from being filed based solely on the new legislation.

The new model is intended to be prospective and will only be considered on pending cases without a finalized support determination and cases filed on or after July 1.

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