

**REPORT OF THE
JOINT SUBCOMMITTEE STUDYING**

Child Support Formulas

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



House Document No. 34

**COMMONWEALTH OF VIRGINIA
RICHMOND
1988**

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Final Report of the Joint Subcommittee
Studying Child Support Formulas
To
The Governor and the General Assembly of Virginia
Richmond, Virginia
January, 1988

To: Honorable Gerald L. Baliles, Governor of Virginia,
and
The General Assembly of Virginia

AUTHORITY FOR THE STUDY

House Joint Resolution No. 341, agreed to by the 1987 Session, established a joint subcommittee to study the feasibility of using child support formulas or guidelines in ordering child support administratively or judicially. The joint subcommittee was to specifically consider the feasibility of using the "income shares" approach, which attempts to provide the child with the proportion of parental income which he would have received if his parents had continued to live together. The joint subcommittee was also authorized to consider matters related to collection, accounting and disbursement of support payments. The joint subcommittee includes representatives of the House of Delegates Committee on Health, Welfare and Institutions, the Senate Committee on Rehabilitation and Social Services, the Courts of Justice Committees of both houses, and citizen members representing private organizations concerned with children's issues. (Appendix A)

BACKGROUND

Federal law has provided the initial impetus for an examination of the use of child support formulas. The federal Child Support Amendments of 1984 (P.L. 98-378) require that by October 1, 1987, each state establish guidelines by law or by judicial or administrative action for setting child support award amounts within the state (42 USC 667). The legislation does not require use of the guidelines but requires that they be distributed to all judges and other personnel with authority to set levels of support. The implementing regulations specify that the standards be quantitative rather than merely criteria for support decision-making (45 CFR 302.53) (Appendix B).

If guidelines were not in place by October 1, 1987, then a state is subject to the loss, either prospectively or retrospectively, of its federal funding for administrative costs of the child support enforcement program. The federal funds amount to 68% of these administrative costs, with states funding the remaining 32%. Virginia receives between four and

five million dollars of such federal funds per quarter. Virginia is not currently in compliance with this federal mandate. The Department of Social Services, the Commonwealth's agency designated to administer Title IV-D of the Social Security Act, has had administrative guidelines in place for eleven years for determination of support amounts for public assistance recipients. Virginia could comply by providing these guidelines to the courts and so indicate in its state plan for child and spousal support. However, federal and state support enforcement authorities point out that these guidelines may be inadequate unless they are updated to address the new higher income clientele now being served by the current support enforcement program. Other options for compliance are the enactment of new guidelines by statute or by administrative regulation.

The federal law has already encouraged state action on the issue of support guidelines. P. L. 98-378 also requires each state to create a commission on child support to examine the operation of the state's child support system to determine the extent to which it succeeds at securing support and parental involvement for children. Virginia's Governor's Commission on Child Support was created in 1985. Its membership included representatives of the Department of Social Services, the judiciary, the executive and legislative branches, child welfare and social service agencies and custodial and noncustodial parents. One of the Commission's recommendations was that Virginia develop and implement guidelines for setting and updating child support obligations using the "income shares" method, which ensures to the extent possible that children with absent parents will receive the proportion of parental income which they would have received had the family remained intact.

CHILD SUPPORT FORMULAS OR GUIDELINES GENERALLY

The United States Office of Child Support Enforcement established the Advisory Panel on Child Support Guidelines in 1984 to prepare recommendations for the development of child support guidelines. The Advisory Panel, on which Delegate Mary A. Marshall served, reported its findings in March, 1987. The Panel found that support guidelines are useful if parents, attorneys and agencies know that they will be applied in each case except in exceptional circumstances. The Panel reported that guidelines can improve the adequacy of child support awards. The Panel's research showed that in 1983 child support obligations averaged only 80% of the poverty level and 25% of the best available estimates of the actual average expenditures on children. The average court order was \$191 per month; the poverty standard was \$267 for the same number of children, and the best available economic evidence showed that it cost \$748 to support the same number of children at that time. Research funded by the United States Department of Health and Human Services indicates that in that same year total national child support obligations would have increased from \$10 billion to \$25.6 billion if support orders had been based on guidelines reflecting costs of rearing children.

Findings of other studies analyzing post-divorce standards of living have been cited to encourage the adoption of support guidelines to increase the adequacy of awards. A California study found that one year after divorce, the custodial parent's standard of living had declined by an

average of 73%, while that of the noncustodial parent rose by 42%. In Michigan, 90% of custodial parents could live above the Bureau of Labor Statistics lower budget, while only 3% of the custodial parents living on child support alone could do so. A Vermont study showed that the per capita income of noncustodial parents increased by 120% after divorce while that of the custodial parents went down 33%.

Increasing the adequacy of awards through use of guidelines may provide benefits beyond assisting the individuals to whom support is owed. New Jersey officials applied the state's new guideline to old support orders of ADC clients, finding that the guideline increased the average orders by 125%. About 26% of the ADC clients affected were no longer in need of public assistance because of the increased support received, thus saving the state about \$3 million. The project, made possible by the guidelines, returned \$26 to the state for each dollar spent.

The Advisory Panel also reported that guidelines enhance the fairness of awards by making them comparable in similar circumstances. Colorado found that, before guidelines, orders varied from 6% to 33% of obligor net income over the state. No explanation related to the child's need or the obligor's ability to pay could be discerned; the most logical explanation presented was attorneys' ability. The Virginia Department of Social Services reviewed data it collected from twenty-five Virginia juvenile and circuit courts on current levels of support awards in Virginia. The project showed that the amount of awards bore little if any relation to income. Awards ranged from 4.6% to 49.5% of gross income. The majority of awards fell below the percentage of gross income recommended by the Department, based on extensive empirical studies indicating what parents in intact families spend on their children.

Guidelines also are reported to improve the efficiency of adjudicating awards by increasing voluntary settlements and by reducing judicial time required to reach equitable determination in contested cases. The Panel recommended that maximum benefits are realized by use of either the "income shares" or Melson formula, described below.

Other studies have cited similar benefits derived from use of guidelines. They indicate that equity in awards resulting from use of guidelines may minimize resentment on the part of supporting parents and, therefore, minimize support collection problems. Clearly identifiable guidelines can be valuable in view of mobility of parents and increased interstate child support practice.

Criticisms noted of the use of formulas include problems related to the increased amount of support that usually results. It has been estimated that when one household becomes two, the total income of the two parents must rise between 10 and 25 percent for each unit to maintain the standard of living enjoyed by the previously intact family. Therefore, ordering support to maintain children at the previous standard of living will place heavy burdens on the heads of the now separate households. Relevant to this argument are the findings of analyses of the effect of the application of the formulas commonly in use in this country on post-divorce standards of living. These studies indicate that even with these increased amounts of support, the standard of living of the custodial parent and

children still drops significantly unless the custodial parent has substantial income. (Appendix C)

Concerns have also been expressed about the loss of some judicial discretion in determining support amounts. Although formulas are usually advisory or, at most, presumptive, therefore providing a means of deviating from the formula, there is also concern that judges will apply them in inappropriate cases because of the time saved over traditional methods of determining support.

Child support models currently in use are based on one or a combination of several basic approaches. These are described in detail below.

Income Shares Model

The income shares model was developed for the United States Office of Child Support Enforcement by Robert G. Williams of the National Center for State Courts. The model is designed to provide the child with the proportion of parental income which he would have received had the household remained intact. Williams analyzed studies which provided economic evidence of the proportion of net income spent on children in intact households. Particularly useful was the research of Thomas Espenshade of the Urban Institute (Investing in Children, 1984), who determined that parents with a given number of children spend a similar and predictable fraction of their income on their children no matter how high their income. The model establishes a proportion of income allotted to children based on the number of children and the combined income of the parents. The underlying philosophy is that, in an intact household, the income of both parents is usually pooled for the support of all family members. The child's portion includes spending on the child directly as well as a share of goods and services used by the entire family. Whether parents are living together or are separated, the child is entitled to that share. The approach reflects the belief that parents have a duty to care for children to the best of their resources; this duty is dependent neither upon a successful marriage nor upon which parent has custody.

Application of the model involves (i) determining combined adjusted income of parents, with some allowable deductions, and percentage contributed by each parent, (ii) determining the combined obligation of parents toward the support of their children, from the available economic evidence, less medical and child care expenses, and (iii) apportioning this amount to the parents in proportion to their income. Additional adjustments are made in some states for split, shared or joint custody arrangements. The custodial parent is presumed to spend the designated percentage on the child, and the noncustodial parent must pay the specified amount to the custodial parent. Work-related child-care expenses and extraordinary medical expenses are allocated between the parents in proportion to their net income and ordered as additional child support.

This method is used by statute in Colorado, by statutorily required agency regulation in Vermont, by statutorily required court rule in Nebraska, by court rule in Montana and New Jersey, by administrative regulation in Maine, and by Michigan. The model is being considered for use in Alabama, South Carolina, and Ohio, all by court rule, and by several other states.

The federal Advisory Panel on Child Support Guidelines recommends implementation of the income sharing model or the Melson formula, discussed below. As noted above, the Governor's Commission on Child Support recommends use of the income sharing model.

Flat-Percentage-of-Obligor-Income Formula

This method is the simplest of those in use. It establishes a percentage of the obligor's gross income to be paid based on the number of children being supported. The percentage is established based on the available economic evidence of the cost of rearing children. The method is used in Wisconsin by administrative regulation, in Illinois and Minnesota by statute, and in Texas.

Cost Sharing Model

The cost sharing model applies an "absolute needs" principle by estimating the cost of raising a child and apportioning the cost between the parents, usually on the basis of income. In its purest form, the model defines a minimal level of support required for each child and bases the award accordingly. One problem noted with this method is determination of the cost of raising a child beyond the minimum standard for basic nutritional, shelter, clothing and health requirements. The cost of raising a child is arguably a function of resources available to the parents.

Melson Formula

Delaware's Melson formula combines a cost-sharing and income sharing approach. The model, developed by Judge Elwood Melson in Delaware, has been used there statewide by family court rule for all cases since 1979. It defines the basic amount required to support a child and apportions that amount between the parents based on relative disposable incomes. The formula then adds a "standard of living adjustment," or SOLA, which each parent must pay. The SOLA is 15% of net income for the first child and 10% for each additional child. The formula is not applied to the obligor until his income is high enough to minimally support himself. A minimum support order is applied anyway, however. Once the obligor can minimally support himself, he must use all of the next increment of income for his children until the children reach the same poverty level of support. Beyond that level, the income sharing formula is used to determine the portion of the obligor's remaining income which he must contribute to his children. The formula accounts for child care and medical expenses. The model is used in Delaware and Hawaii by court rule and in Maryland.

Income Equalization Model

The income equalization model attempts to equalize the financial burden of one household becoming two by distributing a larger share of income from the noncustodial to the custodial parent in recognition of the value of custodial services and time used for child rearing. While this method may reduce the comparative economic disadvantage of women, some believe that it may in practice convert child support into a form of spousal support. The model is similar to income sharing in that it

attempts to equally share resources between two households after adjustment for family size. The model is not currently used in any state.

The formulas now in use do not account for the debt of the party. However, some formulas account for pre-existing support orders or alimony, which are deducted from income before the formula is applied. Certain debts can be incorporated into the formula or can be considered by the judge at his discretion.

The National Center for State Courts, in the process of surveying states on a number of issues regarding their implementation of support formulas, reports that the majority of states either have adopted or are working to formulate guidelines. Only a few states are not actively considering their use. The most common model for guidelines which are either in use or proposed is some form of the income shares model. There is great variation in the implementing authority, with the trend appearing to be implementation by court rule. The second most common method is by statute, with somewhat fewer states using an administrative process. About half of the states using formulas apply them as a rebuttable presumption; the remainder use them as advisory guidelines only. No state applies them conclusively.

The Department of Social Services conducted its own survey of the states, finding that about twenty states use the income shares formula, four states use the Melson formula, four states use the flat-percentage-of-income model, and thirteen states use variations of these formulas. Ten states have no guidelines which could be determined. Fifteen states apply the standards as a rebuttable presumption and sixteen states use them as advisory guidelines only. Of states with guidelines, three states have implemented them by administrative process, seven by court rule, fourteen by statute, and seven by a combination of these.

ACTIVITIES AND FINDINGS

The joint subcommittee solicited the participation of the numerous elements in the child support system in the study. These included the judiciary at the district and circuit court levels, the Department of Social Services as Virginia's child support enforcement agency under Title IV-D of the Social Security Act, custodial and noncustodial parents, child advocates and members of the bar.

A number of judges were contacted regarding their use of and opinions regarding support guidelines. Several appeared before the joint subcommittee to discuss the issue. The Honorable Fred P. Aucamp, Virginia Beach Juvenile and Domestic Relations Court judge and Chairman of the Governor's Commission on Child Support, informed the joint subcommittee that he has used a support formula in his court since September, 1985. He believes that parents are generally more satisfied with and more likely to comply with support orders when they know that the amount has been determined fairly.

The Honorable Michael Valentine of the Fairfax County Juvenile and Domestic Relations Court described the Fairfax court's guideline, developed

by the Fairfax Bar Association and in use since 1981. All the Fairfax judges favored use of a guideline, but differed in their opinions as to whether a guideline should be presumptive or advisory. Judge Valentine endorsed a rebuttable presumption that the guideline be used to ensure that its use will result in higher and more adequate awards, reduce disparity in awards among litigants, reduce litigation over amount of awards, motivate parents to pay support, and enable attorneys to better advise their clients.

The Honorable E. Preston Grissom of the Chesapeake Juvenile Court and Chairman of Virginia Council of Juvenile and Domestic Relations Court Judges shared his views with the joint subcommittee. Judge Grissom had also discussed the issue with ten other judges, four of whom used guidelines and six of whom determined support in the traditional manner, by determining need, then balancing need against an obligor's ability to pay. None of the judges consulted objected to using a guideline; they agreed that a guideline would be useful but most believed it should be advisory rather than presumptive, to avoid unnecessarily harsh results.

The Honorable Dale Harris, presiding over the Lynchburg Juvenile and Domestic Relations Court, noted that all judges use calculations in setting support awards. She believes that a guideline would be helpful to judges as an additional objective criteria for setting awards, but that it should be advisory to allow judges to depart from the formula in special cases.

The Honorable Willard H. Douglas, Jr., Judge of the Richmond Juvenile and Domestic Relations Court and member of the Governor's Commission on Child Support, informed the joint subcommittee of the importance of a guideline to promote uniformity of awards and adequacy of support levels to meet the needs of children. Judge Douglas advocated a flat-percentage-of-income formula.

The joint subcommittee solicited the participation of the state bar associations in the study. Burke F. McCahill, Chairman of the Family Law Section of the Virginia State Bar, addressed the joint subcommittee. By resolution agreed to September 21, 1987, the Section's Board of Governors agreed that any guideline or formula should be advisory only and should not be enacted in statutory form but rather disseminated in accordance with federal law to all authorities empowered to order child support. The group specified a number of issues it believed should be considered in establishing a guideline (Appendix D). While the Virginia Bar Association could present no consensus on the issue of support guidelines, its representatives appeared before the joint subcommittee.

The Department of Social Services provided invaluable assistance to the joint subcommittee throughout the study. Besides providing ongoing technical assistance to the joint subcommittee in the development of its recommendations, the Department reported the findings of its review of current levels of support awards in Virginia and of its nationwide survey of support guidelines, discussed earlier in this report. The Department also reported on the status of the support enforcement program in Virginia.

The Office of the Executive Secretary of the Supreme Court of Virginia assisted the joint subcommittee as a liaison with the court system. The

Office provided assistance on such specific issues affecting the courts as procedures in modification of awards and development and use of forms. The Office shared the comments of representatives of the judiciary regarding the Governor's Commission's work on guidelines. Specifically, the joint subcommittee learned that the judges saw a need for some guideline to provide ground rules for decision-making. They wished to maintain discretion and flexibility, however. The judges believed that guidelines should be discussed as part of judicial orientation and continuing education. They raised specific issues for consideration in developing guidelines.

The Statewide Child Support Enforcement Advisory Committee, organized by the Secretary of Human Resources to investigate child support enforcement procedures and recommend appropriate improvements, presented its report on support guidelines to the joint subcommittee. The committee recommends use of a guideline based on the income shares concept to ensure that children receive adequate support awards while still providing authorities some flexibility to meet special needs.

The joint subcommittee provided materials to and received comment from the Virginia Commission on the Status of Women and advocacy groups including the Women's Legal Defense Fund, the Virginia Poverty Law Center, the National Organization for Women, and the League of Women Voters.

Dr. Robert G. Williams, Project Director for the Child Support Guidelines Project, under contract to the National Center for State Courts, provided assistance to the joint subcommittee throughout the study. Dr. Williams addressed the joint subcommittee on the federal requirements related to guidelines, the data developed on the costs of rearing children, the current approaches to guidelines, and factors which should be considered in developing guidelines. Dr. Williams also provided ongoing assistance to the joint subcommittee as it developed its proposed guideline.

The joint subcommittee consulted with the Office of Child Support Enforcement of the U. S. Department of Health and Human Services regarding requirements of the federal law. The National Center for State Courts provided information on technical issues and on implementation efforts in other states.

The joint subcommittee reviewed the findings and recommendations of the Advisory Panel on Child Support Guidelines with the assistance of Delegate Mary A. Marshall, who served on the panel. The advisory panel was established by the United States Office of Child Support Enforcement in 1984 to prepare recommendations for the development of child support guidelines. The panel reported in March, 1987. The panel's major findings are discussed in more detail earlier in this report.

RECOMMENDATIONS

DEVELOPMENT OF SUPPORT GUIDELINE

After reviewing the information and material presented to it, the joint subcommittee agreed that a statewide child support guideline should

be developed for dissemination to all support decision-makers. The joint subcommittee recommends that the guideline be enacted by statute and structured as set forth below. Legislation implementing this recommendation may be found in Appendix G.

Conceptual Model on Which Guideline is Based

The joint subcommittee recommends that its proposed formula be based on the income shares model as developed by the Child Support Guidelines Project staff, under the direction of Robert G. Williams, for the National Center for State Courts. The model is designed to provide a child of divorcing parents with the same proportion of parental income that he would have received had his parents remained together. Child support is calculated as the share of each parent's income estimated to have been allocated to the child if the parents and child were living in an intact household, as shown from research and economic data. A basic support obligation is computed based on the combined income of the parents; the basic obligation is allocated to each parent in the same proportion which the income of each parent bears to their combined income. The amount calculated for the custodial parent is presumed to be spent directly on the child; the noncustodial parent pays the calculated amount in child support. Child-care and extraordinary medical expenses are treated separately and added to the basic support obligation. In order to account for data indicating that the proportion of net income spent on children decreases as income increases, the model assigns a decreasing percentage of income to be paid in support as parents are situated higher on the income scale. The joint subcommittee finds that the income shares formula, when compared to payment levels yielded by alternative guidelines across income levels, results neither in consistently highest nor consistently lowest award amounts. The charts found in Appendix E indicate the results of such a comparison. Neither does the income shares formula yield consistently highest award amounts when applied to specific fact patterns (Appendix F).

The model uses a schedule of monthly basic child support obligations for application of the formula. The joint subcommittee specified that the schedule be adopted as part of its proposal and that the schedule reflect the most recent figures available as they affect application of the formula.

The joint subcommittee recommends special treatment outside the guideline for noncustodial parents who live below the poverty level, in order to ensure a minimal self-support allowance for parents who are unable to pay the lowest amount specified by the guideline while still involving low-income parents in the direct support of their children.

Weight to be Given Guideline

The joint subcommittee determined that the formula should be used as an advisory guideline only rather than as a rebuttable presumption. Judges should be required to consider the results of application of the formula along with other factors requiring their consideration. The joint subcommittee believes that the guideline proposed is not detailed enough to be used as the sole basis for setting awards. Establishing it initially as an advisory standard will allow evaluation of judges' practices in applying

the guideline and provide information for refining it. The joint subcommittee agreed that the court should state in writing its reasons for deviating from the formula in setting an award. In addition to providing an explanation to the parties, this will provide insight for the legislature and other authorities into how the guideline operates.

Income Base to Which Formula is Applied

The joint subcommittee recommends applying the formula to gross rather than net income. Gross income is simpler to compute, eliminating the problem of determining which deductions should be allowed in figuring net income. It was noted that if a noncustodial parent is allowed to deduct expenses such as pension contributions, then perhaps the custodial parent should be authorized to do the same; the amount available to the child is gradually decreased. Because the joint subcommittee recommends a guideline which is advisory only, the court maintains authority to consider both parents' expenses which benefit the child and may adjust the award accordingly. Authority is also currently found in § 20-107.2 for considering debts in setting awards.

Other Children of the Obligor

The joint subcommittee agreed that, to the extent possible, the interests of each child of the obligor, from any marriage, should be weighed equally in determining support obligations. Having a second family in a later marriage is a relatively voluntary act, and parents should consider their prior support obligations before undertaking such additional responsibilities. There may also be constitutional difficulties inherent in considering prior support obligations in setting awards for later-born children, as this practice gives economic preference to obligations incurred without accounting for the obligor's financial responsibility for subsequent children. This may amount to impermissible discrimination between groups of children. Therefore, prior support obligations should not be deducted from the income of the obligor prior to applying the formula to determine the amount of the award.

Extraordinary Medical Expenses

Significant medical expenses not covered by insurance are variable and therefore cannot be practically included in the formula. Therefore, the proposed schedule of basic support obligations does not consider costs of extraordinary medical care. The joint subcommittee recommends that they be treated outside the formula by apportioning them between the parents in the same proportion as their individual incomes bear to their combined gross income and adding them to the basic support award.

Child-care Expenses

Child care expenses are variable and cannot be practically considered as an average amount in a formula. The proposed schedule of basic support obligations, therefore, does not consider costs of child care. In addition, placing the entire responsibility for child care on the custodial parent would provide a disincentive to that parent's employment. Therefore, child-care expenses which are necessary to enable the custodial

parent to work should be treated outside the formula as are extraordinary medical expenses, i.e., apportioned between the parents according to the percentage of the contribution of each to their combined gross income.

Imputing Income

The joint subcommittee determined that imputing income to unemployed and underemployed parents presents complex problems. It is difficult to determine the amount of income to be imputed. Imputing income to public assistance clients will reduce reimbursement of public assistance payments from noncustodial parents. Therefore, the joint subcommittee recommends accounting for unemployed and underemployed parents by applying current law, which requires that the earning capacity of both parents be considered in setting awards. Such cases may provide valid grounds for deviating from the formula.

Adjustment for Age of Children

Because parents' incomes generally rise as children age, the joint subcommittee determined that the increased cost of rearing older children will be accounted for in the income shares formula proposed. Making any additional allowance for age of children also further complicates the computations required by the formula. Therefore, no such additional allowance is recommended.

Modification of Awards

The joint subcommittee recommends a periodic exchange of income information between parents to provide them with information necessary for updating awards. The process should include granting the court discretion to order that the parties provide information to each other at specified intervals. In special cases, such as when there is potential for harassment or physical abuse if either parent's whereabouts are disclosed, the court may order that the information be provided to the court, which will make it available to the parties for inspection. Because of the administrative difficulties which may be posed by this latter option, however, it should only be used when good cause can be shown. The joint subcommittee also agreed that all factors considered in setting awards, including its proposed guideline, should be considered by the court when modifying support awards. A recent Court of Appeals case held that the court is not required to do so under current law.

Updating Guidelines

The joint subcommittee agreed to direct the Secretary of Human Resources to ensure that the guideline is reviewed periodically by a group representing the courts, executive branch, legislature, bar, parents and child advocates. This will allow review, at the Secretary's option, by the already established Secretary's Child Support Advisory Committee. The committee consists of circuit and district court judges, court clerks, a representative of the Supreme Court of Virginia, court services unit personnel, commonwealth's attorneys, directors of local social service departments, public assistance and non-public assistance custodial parents, noncustodial parents and advocates for custodial and noncustodial parents.

The guideline should be reviewed within two years of its enactment and periodically thereafter.

Tracking System

The joint subcommittee recommends initiating a tracking system to determine the effect of the use of guidelines on the amount of awards. The Department of Social Services and the Executive Secretary of the Supreme Court of Virginia should cooperate to develop such a system in order to utilize existing information systems to the extent possible. They should cooperate to develop compatible forms and to develop a method for collecting and analyzing data in a central location. The Department and the Executive Secretary should report their findings annually to the Governor and the General Assembly, with an initial report submitted by July 1, 1989.

CONTINUING THE STUDY

The joint subcommittee recommends that the study be continued to review the formula, if enacted, and report to the 1990 Session on its effects. The joint subcommittee may at that time suggest refinements to the formula based on the experience of support decision-makers in its use. Legislation implementing this recommendation may be found in Appendix H.

Respectfully submitted,

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* Letters of dissent are attached.

REFERENCES

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COMMONWEALTH OF VIRGINIA
SENATE

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January 20, 1988

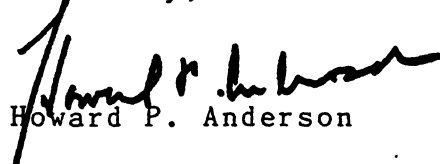
COMMITTEE ASSIGNMENTS:
AGRICULTURE, CONSERVATION AND
NATURAL RESOURCES, CHAIRMAN
COURTS OF JUSTICE
FINANCE
PRIVILEGES AND ELECTIONS
RULES

Ms. Susan Ward
Staff Attorney
Division of Legislative Services
General Assembly Building
Richmond, Virginia

Dear Ms. Ward:

I disagree with the recommendations contained in the report of the Joint Subcommittee Studying Child Support Formulas to the extent that they recommend enactment of a child support guideline by statute. I support the promulgation of such a guideline by administrative regulation rather than by statute and the application of a guideline on an advisory basis only.

Sincerely,


Howard P. Anderson

HPA/phm

DISSENT TO REPORT OF JOINT SUBCOMMITTEE
STUDYING CHILD SUPPORT FORMULAS (HJR 341)

The undersigned respectfully dissent to the Report of the Joint Subcommittee as follows:

In our opinion, the majority report has responded to an unnecessary extent to the action of Congress concerning the establishment of state guidelines for child support awards.

We feel the appropriate response would be to amend the present law (§ 20-108.1) to meet the mandate of Congress for the establishment of guidelines.

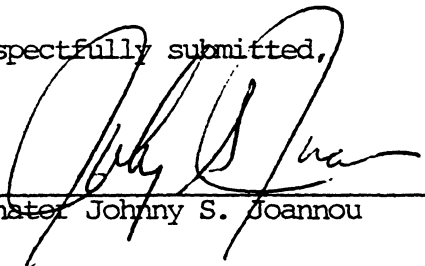
This approach will respect the existing law of the Commonwealth, the precedents previously set, and the present statutory guidelines which were enacted by the General Assembly over the last few years after a great deal of thought and study.

Accordingly, we have proposed that § 20-108.1 be amended and re-enacted in accordance with the draft bill attached hereto.

We take this approach recognizing that the support of children in the Commonwealth by those who should be primarily responsible for such support is a very important matter, and the courts should do everything within their power to place the burden of support upon those who should be responsible, taking into consideration the needs of the child or children who are in need of the support and the ability of the party or parties who should be responsible for that support to pay for the support of these children. Only in considering the totality of the situation in each individual case can the courts meet the burden of being fair and equitable to all concerned and in preserving the rights of all parties to have their individual cases considered

on the merits of each respective case. To do otherwise places too much reliance on computerized and general principles which may tend to work an extreme hardship on individuals, including children, and their rights which we are sworn to uphold.

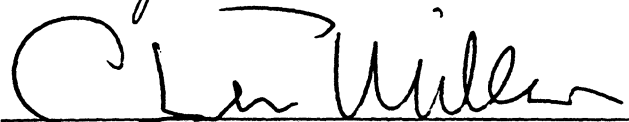
Respectfully submitted,



Senator Johnny S. Joannou



Senator Joseph B. Benedetti



Delegate Clinton Miller



Delegate W. Roscoe Reynolds

1 D 1/21/88 Brinson C 1/22/88 lc

2 SENATE BILL NO. HOUSE BILL NO.

3 A BILL to amend and reenact § 20-108.1 of the Code of Virginia,
4 relating to determination of child and spousal support.

5

6 Be it enacted by the General Assembly of Virginia:

7 1. That § 20-108.1 of the Code of Virginia is amended and reenacted
8 as follows:

9 § 20-108.1. Determination of child or spousal support.-- A. In
10 any proceeding on the issue of determining child-~~er~~-spousal support,
11 the court shall consider all evidence presented relevant to any issues
12 joined in that proceeding. The court's decision shall be rendered
13 based upon the evidence relevant to each individual case. ~~Any-use-of-~~
14 ~~a-mathematical-formula-in-the-computation-of-such-support-shall-be-~~
15 ~~restricted-to-its-use-as-a-general-guideline-only.--~~

16 B. In any proceeding on the issue of determining child support,
17 the court shall consider all evidence presented relevant to any issues
18 joined in that proceeding. The court's decision shall be rendered
19 upon the evidence relevant to each individual case and the application
20 of guidelines established under the provisions of subsection C.

21 C. The Supreme Court of Virginia shall establish guidelines for
22 child support awards within the Commonwealth. These guidelines shall
23 be based upon specific descriptive and numeric criteria and result in
24 a computation of the support obligation. The guidelines shall take
25 into consideration (i) the needs of the child or children, (ii) the

1 ability of the responsible party to pay and (iii) the provisions of §
2 20-107.2.

3 D. The guidelines established in accordance with the provisions
4 of subsection C shall be made available to all judges and other
5 officials empowered to determine child support awards within the
6 Commonwealth but shall not be binding upon such judges or other
7 officials. Any use of a mathematical formula in the computation of
8 such support shall be restricted to its use as a general guideline
9 only.

10

#

APPENDIX A

HOUSE JOINT RESOLUTION NO. 341

Requesting a joint subcommittee to study child-support formulas.

Agreed to by the House of Delegates, February 8, 1987

Agreed to by the Senate, February 19, 1987

WHEREAS, the Governor's Commission on Child Support recommended the "Virginia Income Shares Formula" as guidelines for the judicial and administrative determination of child-support obligations within the Commonwealth; and

WHEREAS, an income shares approach considers the parents' ability to pay, and is based upon that ability; and

WHEREAS, such an approach makes appropriate adjustments automatically in accordance with inflation and other changes in the economy; and

WHEREAS, many different guidelines are employed in various jurisdictions to determine amounts of child support equitable to all parties, and there is a need to standardize these guidelines; and

WHEREAS, a sound formula would make it possible for a child to receive the proportion of parental income which the child would have received if the parents had continued to live together; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee is established to study the use of, and the need for, child-support formulas or guidelines that recognize the "share the benefit" principle which provides that, to the extent either parent enjoys a higher than subsistence level standard of living, the child is entitled to share the benefit of that improved standard. The joint subcommittee may also consider related matters concerning the determination, collection, accounting and disbursement of such payments.

The membership of the joint subcommittee shall be as follows: two members of the House Committee on Health, Welfare, and Institutions, and four members of the House Committee for Courts of Justice, to be appointed by the Speaker of the House of Delegates; one member of the Senate Committee on Rehabilitation and Social Services, and three members of the Senate Committee for Courts of Justice, to be appointed by the Senate Committee on Privileges and Elections. Additionally, the Governor shall appoint three citizen members from private organizations concerned with children's issues.

The joint subcommittee shall complete its work no later than November 15, 1987.

The indirect costs of this study are estimated to be \$13,255; the direct costs of this study shall not exceed \$11,700.

FEDERAL LAW--CHILD SUPPORT GUIDELINES

42 USCA §667

§ 667. State guidelines for child support awards**(a) Establishment of guidelines; method**

Each State, as a condition for having its State plan approved under this part, must establish guidelines for child support award amounts within the State. The guidelines may be established by law or by judicial or administrative action.

(b) Availability of guidelines; binding nature

The guidelines established pursuant to subsection (a) of this section shall be made available to all judges and other officials who have the power to determine child support awards within such State, but need not be binding upon such judges or other officials.

(c) Technical assistance to States; State to furnish Secretary with copies

The Secretary shall furnish technical assistance to the States for establishing the guidelines, and each State shall furnish the Secretary with copies of its guidelines.

(Aug. 14, 1935, c. 531, Title IV, § 467, as added Aug. 16, 1984, Pub.L. 98-378, § 18(a), 98 Stat. 1321.)

Effective Date. Section 18(b) of Pub.L. 98-378 provided that: "The amendment made by subsection (a) [enacting this section] shall become effective on October 1, 1987."

Legislative History. For legislative history and purpose of Pub.L. 98-378, see 1984 U.S. Code Cong. and Adm. News, p. 2397.

45 CFR § 302.53

(10-1-86)

§ 302.56 Guidelines for setting child support awards.

(a) Effective October 1, 1987, as a condition for approval of its State plan, the State shall establish guidelines by law or by judicial or administrative action for setting child support award amounts within the State.

(b) The State shall have procedures for making the guidelines available to all persons in the State whose duty it is to set child support award amounts, but the guidelines need not be binding on those persons.

(c) The guidelines must be based on specific descriptive and numeric criteria and result in a computation of the support obligation.

(d) The State must include a copy of the guidelines in its State plan.

[50 FR 19649, May 9, 1985; 50 FR 23958, June 7, 1985]

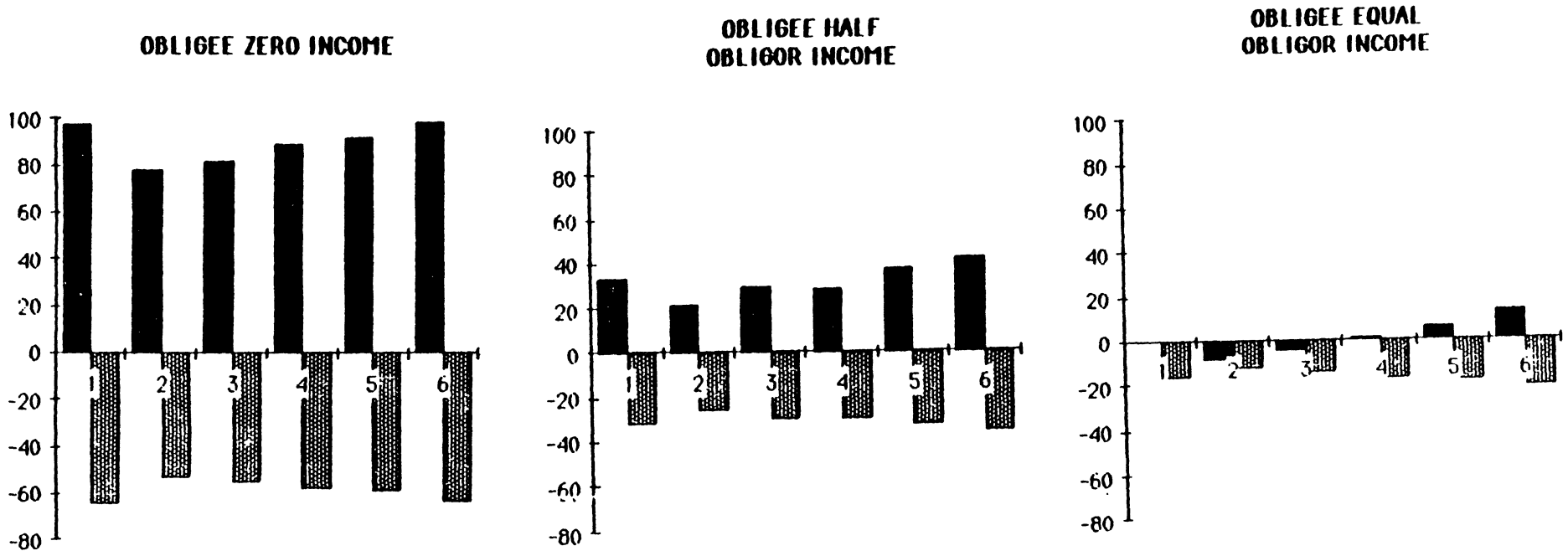
Appendix C

Smith, M.R. "Standard of Living: the Benchmark for Measuring the Adequacy of Child Support Guidelines." Essentials of Child Support Guidelines Development: Economic Issues and Policy Considerations: Proceedings of the Women's Legal Defense Fund's National Conference on the Development of Child Support Guidelines, (1986), p. 227.

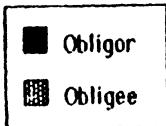
Figure 1

COMPARISON OF CHANGES IN STANDARD OF LIVING AFTER DIVORCE

INCOME SHARES FORMULA - TWO CHILDREN



LEGEND



KEY:

Vertical Axis:
 % change in standard
 of living
 0= pre-divorce standard
 of living

Horizontal Axis:
 Obligor Net Income
 1=750/mo
 2=1000/mo
 3=2000/mo
 4=3000/mo
 5=4000/mo
 6=5000/mo

Figure 4

COMPARISON OF CHANGES IN STANDARD OF LIVING AFTER DIVORCE
WISCONSIN FORMULA - TWO CHILDREN

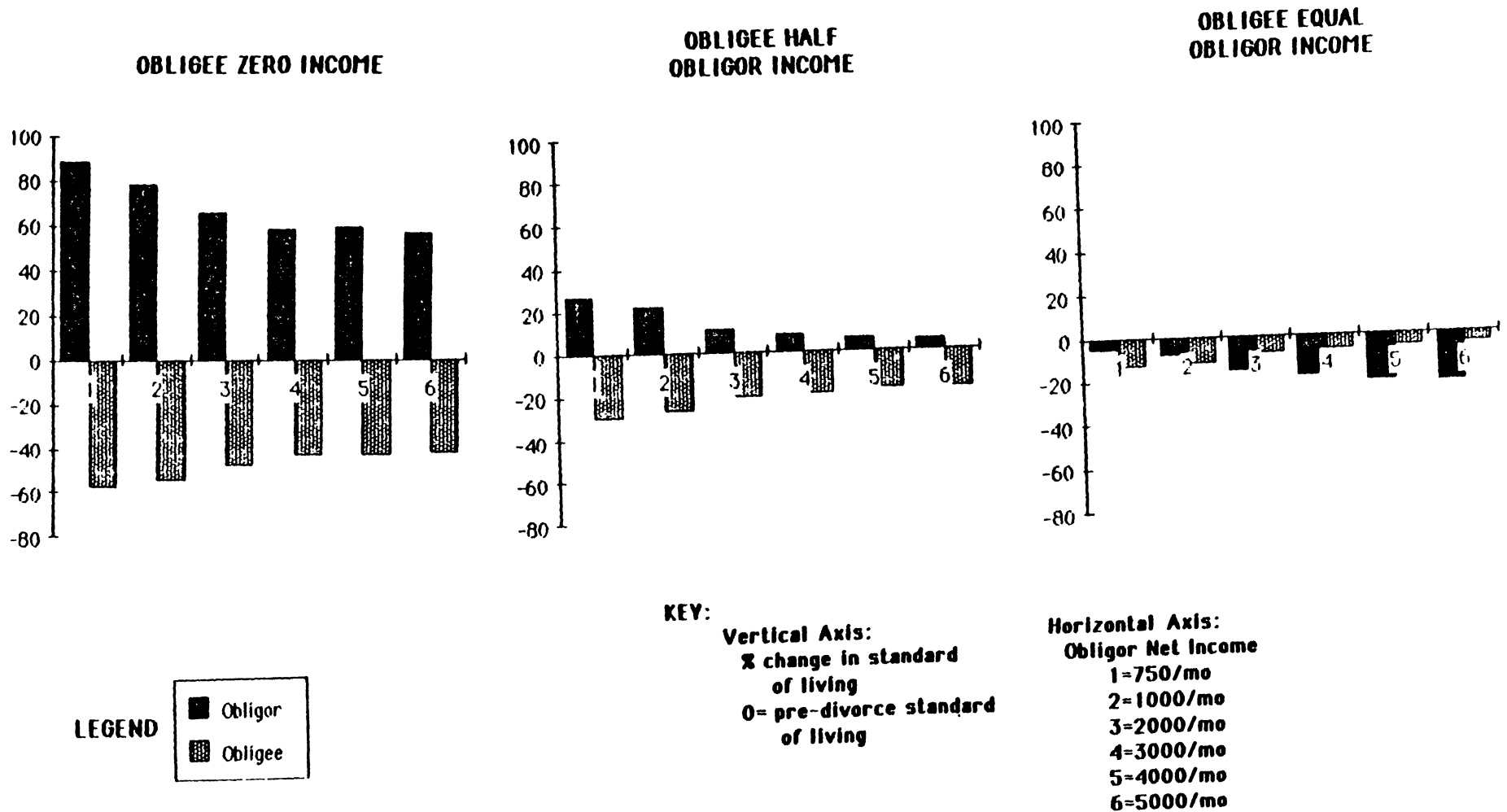
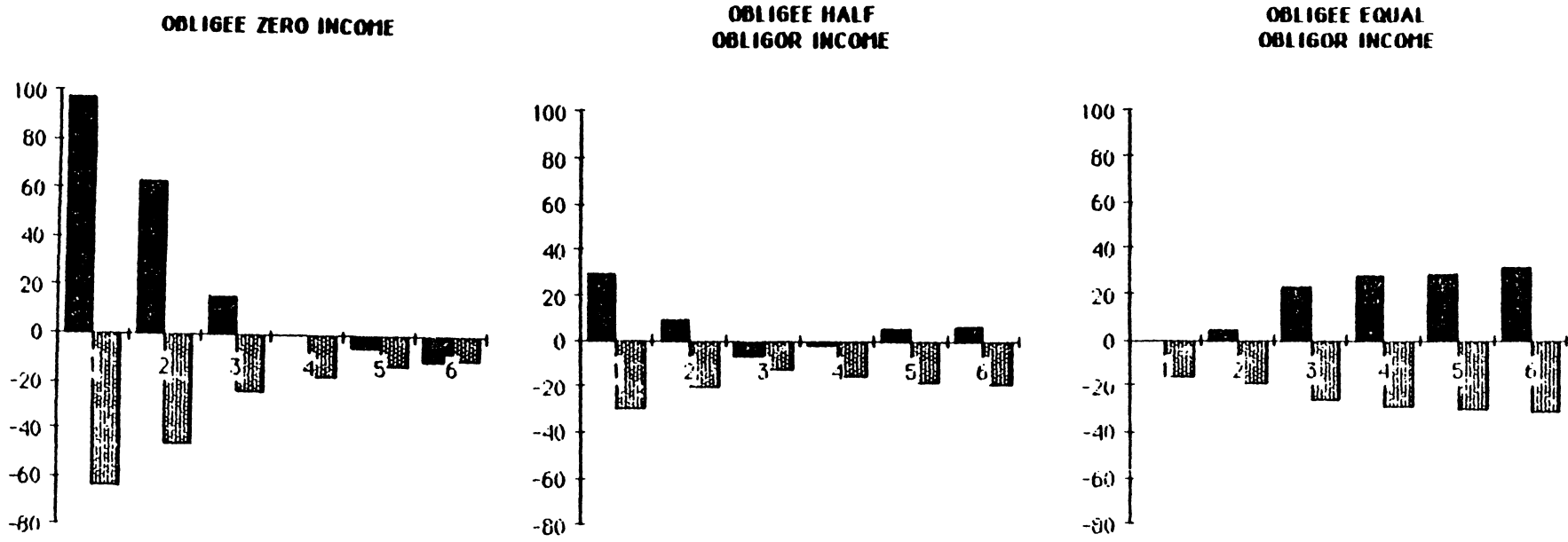
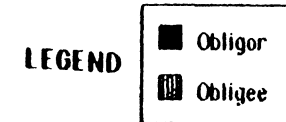


Figure 5

COMPARISON OF CHANGES IN STANDARD OF LIVING AFTER DIVORCE

CASSETTY FORMULA - TWO CHILDREN



NOTE: The figures used for this chart were taken from the work of Robert Williams, who appears to have taken them from an early version of the Cassetty formula. Under the most recent version of the Cassetty formula, which is reprinted in this book, the standards of living would be much closer in most cases.

KEY:

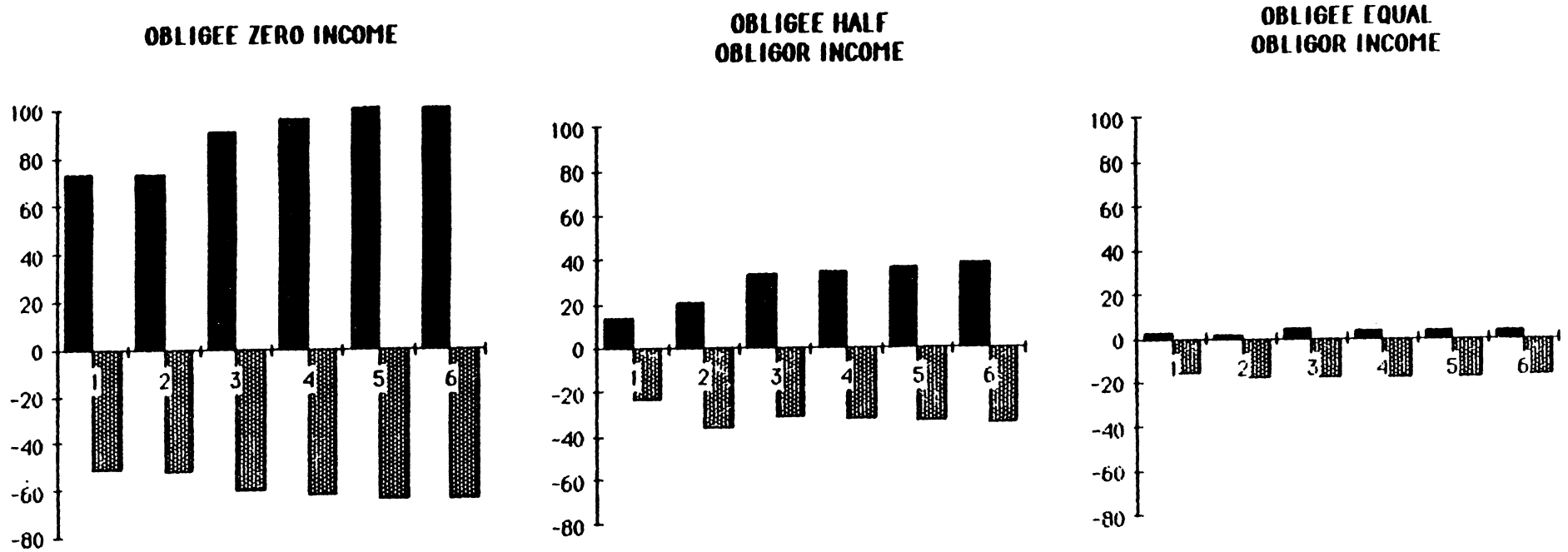
Vertical Axis:
 % change in standard of living
 0= pre-divorce standard of living

Horizontal Axis:
 Obligor Net Income
 1=750/mo
 2=1000/mo
 3=2000/mo
 4=3000/mo
 5=4000/mo
 6=5000/mo

Figure 2

COMPARISON OF CHANGES IN STANDARD OF LIVING AFTER DIVORCE

MELSON FORMULA - TWO CHILDREN



LEGEND

	Obligor
	Obligee

KEY:

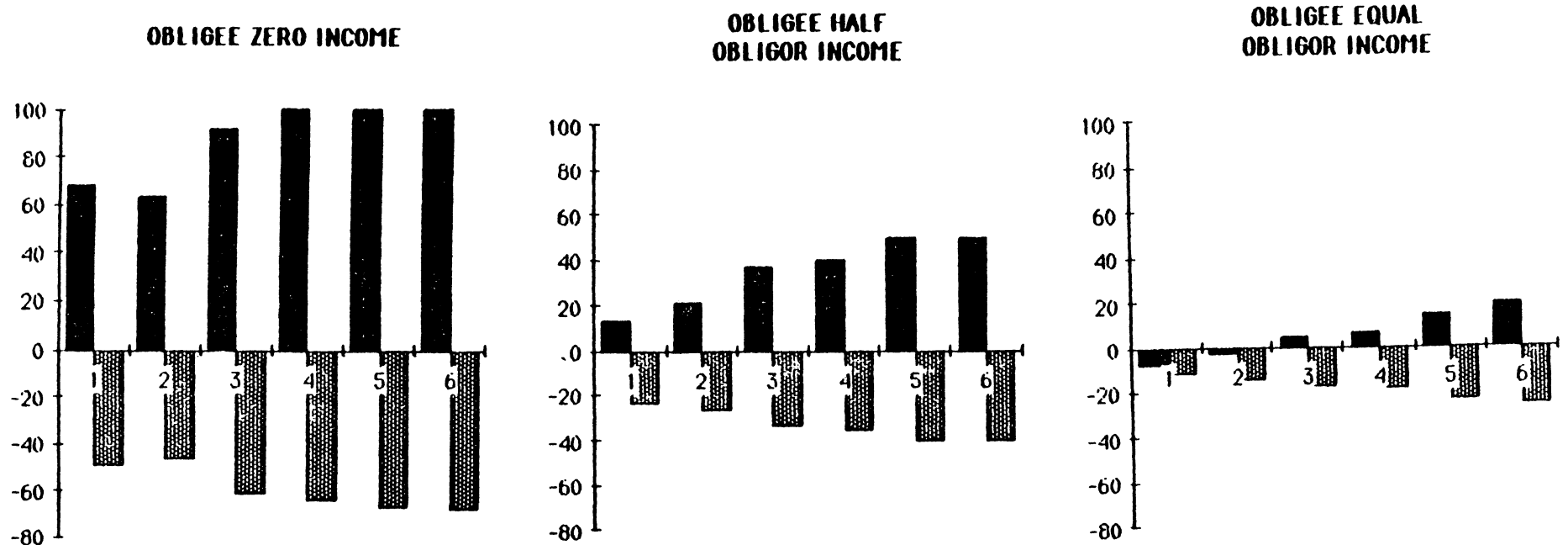
Vertical Axis:
 % change in standard of living
 0= pre-divorce standard of living

Horizontal Axis:
 Obligor Net Income
 1=750/mo
 2=1000/mo
 3=2000/mo
 4=3000/mo
 5=4000/mo
 6=5000/mo

Figure 3

COMPARISON OF CHANGES IN STANDARD OF LIVING AFTER DIVORCE

WASHINGTON FORMULA - TWO CHILDREN



LEGEND

■	Obligor
▨	Obligee

KEY:

Vertical Axis:
 % change in standard of living
 0 = pre-divorce standard of living

Horizontal Axis:
 Obligor Net Income
 1=750/mo
 2=1000/mo
 3=2000/mo
 4=3000/mo
 5=4000/mo
 6=5000/mo

Fact Pattern #1
Basic Case With Child Care Expenses

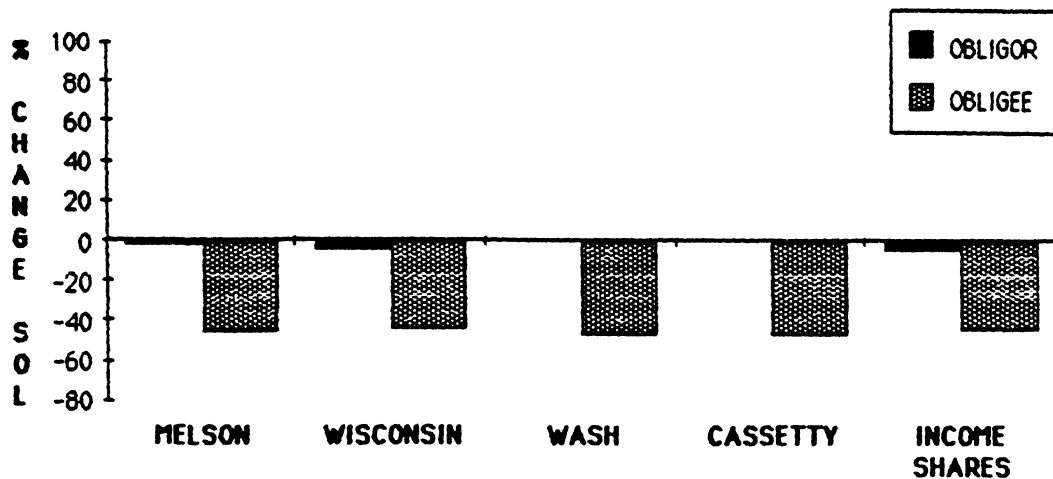
Situation. Mother and Father are divorced. Father lives alone; Mother and the parties' two children, aged three and five, live together.

Father has a gross monthly income of \$1,600 and a net monthly income of \$1,150 (based on single filing status with one exemption). Father also pays union dues of \$30 per month and provides health insurance for the children at \$25 per month.

Mother has a gross monthly income of \$1,200; monthly net of \$948. Mother incurs employment-related child care expense of \$150 per month.

Child Support Orders and Change in Standards of Living

	<u>Dollars Per Month</u>	<u>Percent Obligor's Net Income</u>
Melson	\$356.55	31.8
Wisconsin	\$400.00	35.7
Washington	\$348.31	31.1
Cassetty	\$335.25	29.9
Income Shares	\$400.14	35.7

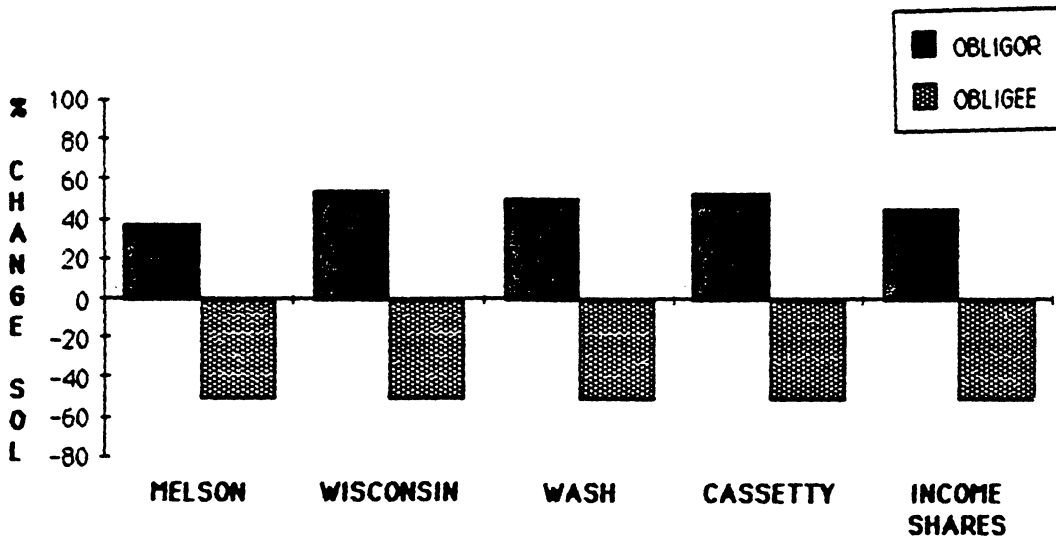


Fact Pattern #2
 Low Income Case

Situation. Father has gross monthly income of \$900, net monthly income of \$756. The two children, aged two and four, live with the mother. Mother does not work and receives an AFDC grant of \$272 for herself and the two children, plus a Food Stamp allotment of an additional \$117 per month.

Child Support Orders and Change in Standards of Living *

	<u>Dollars</u> <u>Per Month</u>	<u>Percent Obligor's</u> <u>Net Income</u>
Melson	\$306.00	40.5
Wisconsin	\$225.00	29.8
Washington	\$249.00	32.9
Casserty	\$238.88	31.6
Income Shares	\$270.64	35.8



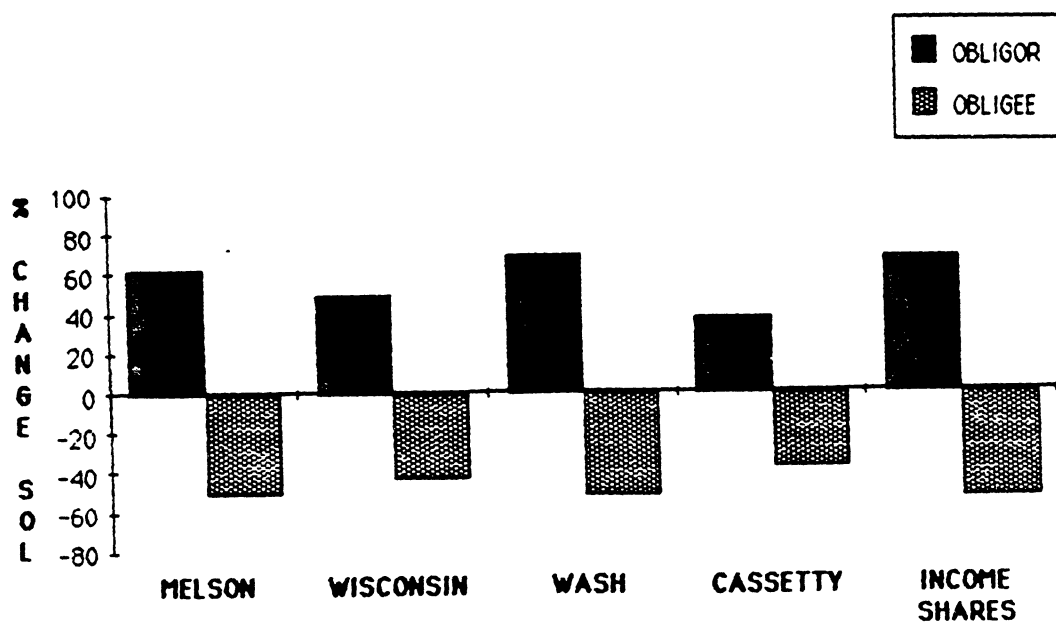
* Mother's income includes \$50 per month "pass-through" from Father's child support payment; Mother may also receive additional in-kind subsidies such as medical care, etc.

Fact Pattern #3
High Income Case

Situation. Father and Mother are divorced. Father lives alone; Mother and the parties' two children, aged 12 and 14, live together. Father has monthly gross income of \$4,583; monthly net of \$3,083. Mother has a monthly gross of \$1,500; monthly net of \$1,200. Neither party has remarried.

Child Support Orders and Change in Standards of Living

	<u>Dollars</u> <u>Per Month</u>	<u>Percent Obligor's</u> <u>Net Income</u>
Melson	\$842.53	27.3
Wisconsin	\$1,145.75	37.2
Washington	\$748.80	24.3
Cassetty	\$1,412.25	45.8
Income Shares	\$702.92	22.8



Fact Pattern #4
Joint Custody

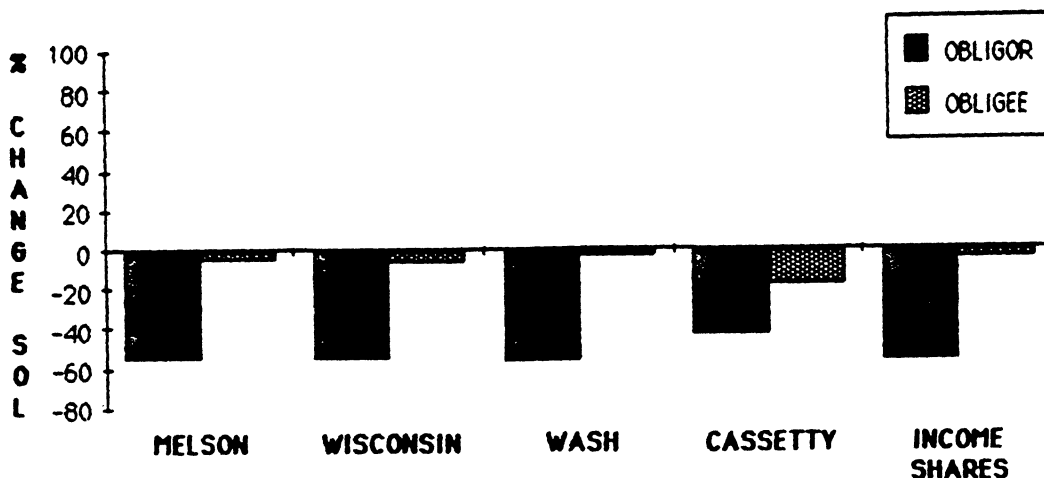
Situation. Mother and Father share joint legal custody of their 14 year old child. They also share physical custody on a fifty-fifty rotating basis. Neither parent is remarried or cohabiting with an individual in the relation of husband and wife.

Mother has monthly gross income of \$2,200; monthly net of \$1,527. (The parents have agreed that Mother will take the tax exemption for the child.) Father has monthly gross income of \$900; monthly net of \$76.

The obligee in this case is Father.

Child Support Orders and Changes in Standards of Living *

	<u>Dollars Per Month</u>	<u>Percent Obligor's Net Income</u>
Melson	\$100.22	6.5
Wisconsin	\$111.00	7.3
Washington	\$ 65.30	4.3
Cassetty	\$382.50	25.0
Income Shares	\$ 71.91	4.7



* Standard of living comparisons are for a two-person household for each parent, because of the shared physical custody arrangement.

Fact Pattern #5
Second Families

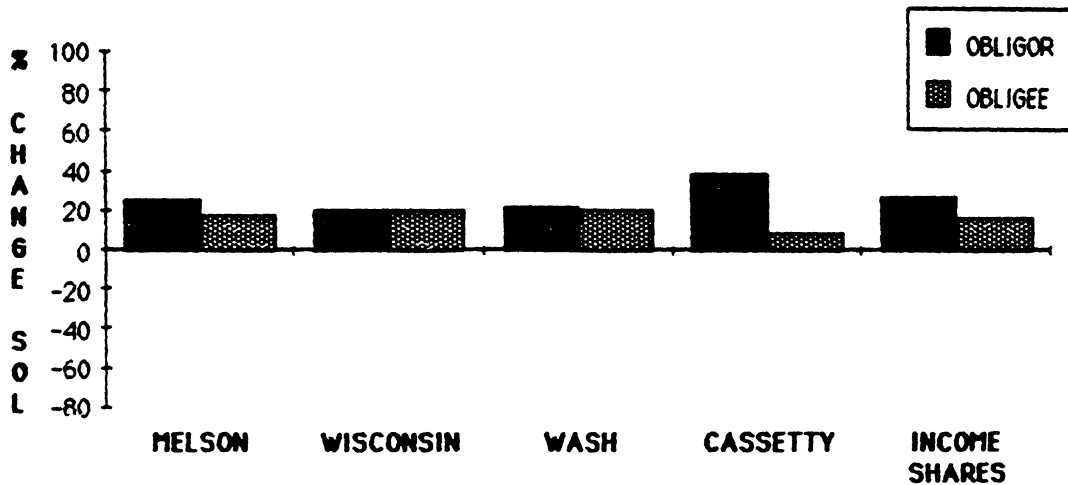
Situation. Mother and Father, now divorced, have two children from their former marriage, aged 7 and 11, who reside with Mother. Both parents are now remarried. Father has a child, age 5, by his present wife.

Father has gross monthly income of \$1,400; net monthly income of \$1,106 (based on a filing status of married with three exemptions). His wife earns \$900 per month gross, \$762 net. Father and his wife spend \$100 per month for child care so that she can work.

Mother has gross monthly income of \$800; monthly net of \$686 (based on a filing status of married with four exemptions). Her husband has a monthly gross income of \$1,500 and a net of \$1,179.

Child Support Orders and Change in Standards of Living

	<u>Dollars</u> <u>Per Month</u>	<u>Percent Obligor's</u> <u>Net Income</u>
Melson	\$290.58	26.3
Wisconsin	\$350.00	31.6
Washington	\$342.86	31.0
Cassetty	\$ 87.41	7.9
Income Shares	\$269.12	24.3



* The total household income for each parent includes incomes from second spouses (less day care expense), and standard of living comparisons include all members of the second families.

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FAMILY LAW SECTION

October 6, 1987

J. Samuel Glasscock, Chairman
Joint Subcommittee Studying Child
Support Formulas
Post Office Box 1876
Suffolk, Virginia 23434

Dear Chairman Glasscock:

I appeared before you in my personal capacity as an attorney on September 16, 1987, with respect to the Child Support Formulas being discussed by your subcommittee. Since that time the matter has been considered by the Board of Governors of the Family Law Section and I enclose a resolution of the Board of Governors of the Family Law Section of the Virginia State Bar.

Due to the shortage of time, the Board of Governors was not able to take a position with respect to the propriety of the percentages proposed and in the event you would like our position with respect to this, we would be glad to provide this. Our next meeting is scheduled for December 1987.

It was unanimously agreed that although the federal legislation is well intended, the actual implementation could cause dramatic inequities. The particular recommendation made to the Committee is fraught with problems.

Saying no to Uncle Sam does not seem to be an option, as there would be a significant loss of federal revenue. A better approach seems to be to make sure these guidelines do not become a sacred cow which judges use as a crutch to get rid of unpopular support cases without a full hearing with respect to all relevant factors. Under the law these quantitative guidelines have to be available, however, the form of the

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J. Samuel Glasscock, Chairman
October 6, 1987
Page Two

guidelines, the weight they are to be given, and the manner in which they are implemented is what really is critical. All of us would like to see more consistency and fairness for spouses who are struggling, however, these guidelines are not a panacea.

Section 20-108.1 already prohibits the use of mathematical formulas in Virginia. Formulas can only be used as a guideline currently. This represents the General Assembly's philosophy towards such formulas. Since Virginia can comply with this federal law without changing this legislative philosophy, no change in Section 20-108.1 is indicated.

Section 20-107.2 lists the factors that must be considered and it is naive to think that a mathematical formula is any substitute for judicial experience and discretion. The complaint of wide disparities experienced in awards is normally the function of the uniqueness of each factual situation presented in court. While some judges have reputations for high or low awards, the potential inequities associated with a mechanistic application of a formula far outweighs the inconsistency of the awards since the inconsistency is in fact frequently attributed to unique facts.

Formulas fail to consider a number of significant problems:

1. Joint or shared custody arrangements. If a parent has sixteen of thirty days per month it presumably means that the parent with the sixteen days is the custodial parent for the purpose of the guidelines and will receive the award of support without any consideration being given for the time that each parent actually spends with the child and each parent's needs to provide shelter, food and clothing for the child.

2. There is no consideration for income extremes. Can you imagine a father with a gross income of \$500,000 paying \$85,000 annually in child support for one child with no consideration being given for net income or actual need of the child? Is it fair to expect a contribution of this sort with no ability to require an accounting or at least input as to how the money is spent? Wouldn't this be alimony in disguise?

J. Samuel Glasscock, Chairman
October 6, 1987
Page Three

3. The effect on second families. Virginia law says the second family is entitled to little or no weight when it comes to the support of the first family. Do we brush this law aside with a stroke of the pen and allow individuals to penalize their first families by marrying and creating second families and paying support to the second families?

4. Under the proposal, a parent gets no credit for direct expenditures for unreimbursed medical expenses, private school, clothing expenditures, savings accounts for college, or transportation costs associated with visitation even if such costs were brought on by the other parent.

5. No effort is made to account for the spouse that is voluntarily unemployed or underemployed. Shouldn't income be imputed if one chooses not to work. Imagine a mother remarrying and having a second family and then quitting her job. The father has to pay a higher share of his income because of the mother's voluntary election to start a second family. No effort is made to consider the income of the second spouse who may well be providing for the needs of the children, even though under no duty to do so.

6. How often are increases to be applied to these awards. Many litigants would seek annual or semi-annual recomputations upon the slightest of income changes.

7. What effect do these guidelines have on old awards which were negotiated along with other considerations which may have included the transfer of real estate in consideration for a modest child support award. Would this interfere with the contractual rights of the parties?

8. No consideration is given for spousal support awards or tax considerations.

9. Gross income is not defined. It is very difficult at times to determine gross income especially with the self-employed who enjoy benefits such as entertainment and automobile expenses.

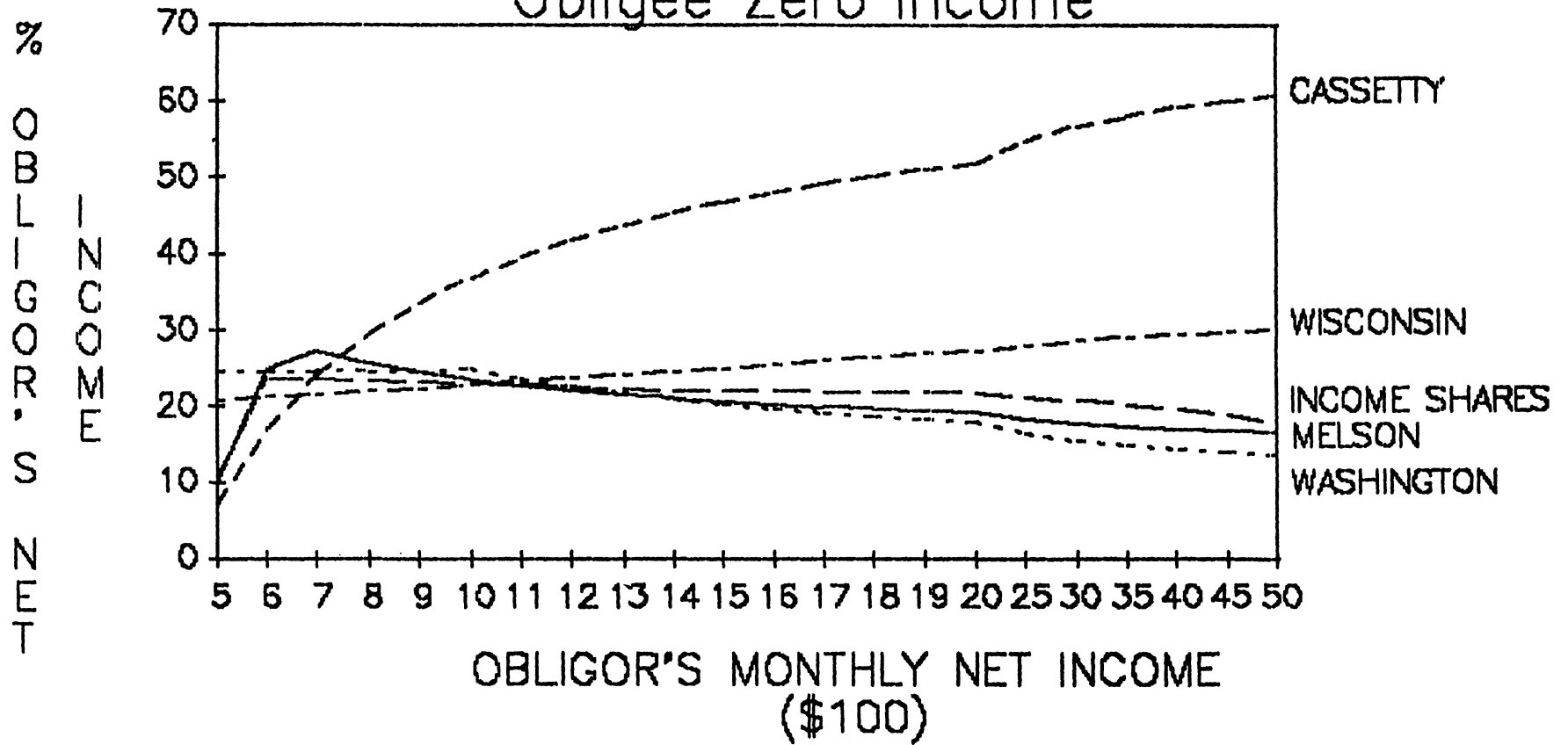
10. The debt load of each spouse is not considered.

Appendix E

Williams, R. G. Development of Guidelines for Child Support Orders: Final Report., (U. S. Department of Health and Human Services, Office of Child Support Enforcement, 1987) p. II-99.

CHILD SUPPORT FORMULAS – ONE CHILD

Obligee Zero Income



J. Samuel Glasscock, Chairman
October 6, 1987
Page Four

11. Geographical differences in living costs or special arrangements -- a spouse living with her parents voluntarily rent free, for example.

We understand that the proponents have argued that this only creates a rebuttable presumption and all of the factors mentioned herein could be used to rebut the presumption. This unfortunately fails to take a realistic view of the realities of the modern courtroom and specifically the judicial resistance and impatience with support hearings. Everyone agrees that families suffer as a result of divorce and maybe custodial parents more than non-custodial parents. The Board of Governors felt that the problem is probably more one of collection than the amount. This is where the law needs to focus. The increased role that non-custodial parents (primarily fathers) are taking with their children should not in any way be discouraged. Word that these formulas will result in higher child support awards may make the stakes for custody higher and cause increased custody battles. It is believed that the federal government should not usurp the normal parental role in deciding the standard of living for each child. We all know that judges often have to tell parents what that level of support is and it seems that the judges are selected to do just that. They are certainly more qualified than an anonymous bureaucrat in determining the appropriate level after the judges consider all the relevant evidence.

Very truly yours,



Burke F. McCahill
Chairman, Family Law Section
of the Virginia State Bar

Enclosure

cc: Members of the Board of Governors
of the Family Law Section
Members of the Joint Subcommittee
Studying Child Support Formulas

BFM:jc

RESOLUTION OF THE BOARD OF GOVERNORS
FAMILY LAW SECTION - VIRGINIA STATE BAR

Williamsburg, Virginia
September 21, 1987

By action of the Board of Governors of the Family Law Section of the Virginia State Bar at a regular meeting held September 21, 1987, it was unanimously resolved:


A. That any guide line or formula adopted for child support in the Commonwealth of Virginia through any agency be made advisory only.

B. That any guide line or formula adopted for child support in the Commonwealth of Virginia should be promulgated by appropriate administrative action.

C. That any order of support based on such guide lines for child support should not require automatic payments through any agency as opposed to direct payments by the paying spouse to the supported spouse.

D. That any guide line or formula adopted for child support in the Commonwealth of Virginia should not be encompassed as the law of this Commonwealth in statutory form but rather disseminated in accordance with federal law to all individuals empowered to make decisions pertaining to child support.

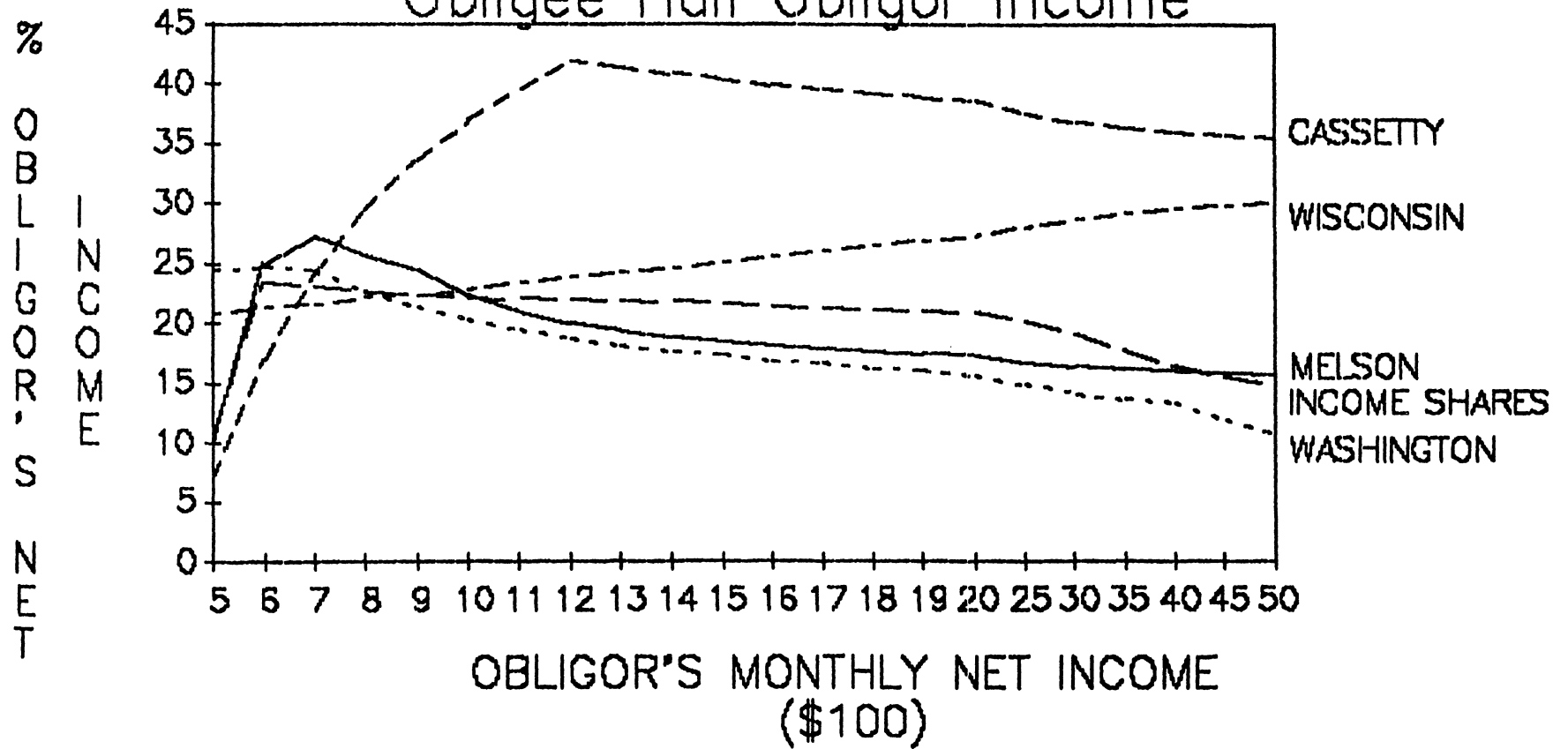
I hereby certify that this is a true copy of a Resolution of a Board of Governors of the Family Law Section, Virginia State Bar made September 21, 1987 in Williamsburg, Virginia at a meeting duly called and constituted of the Board at which a quorum was present.



James Ray Cottrell, Secretary
Board of Governors, Family Law
Section, Virginia State Bar

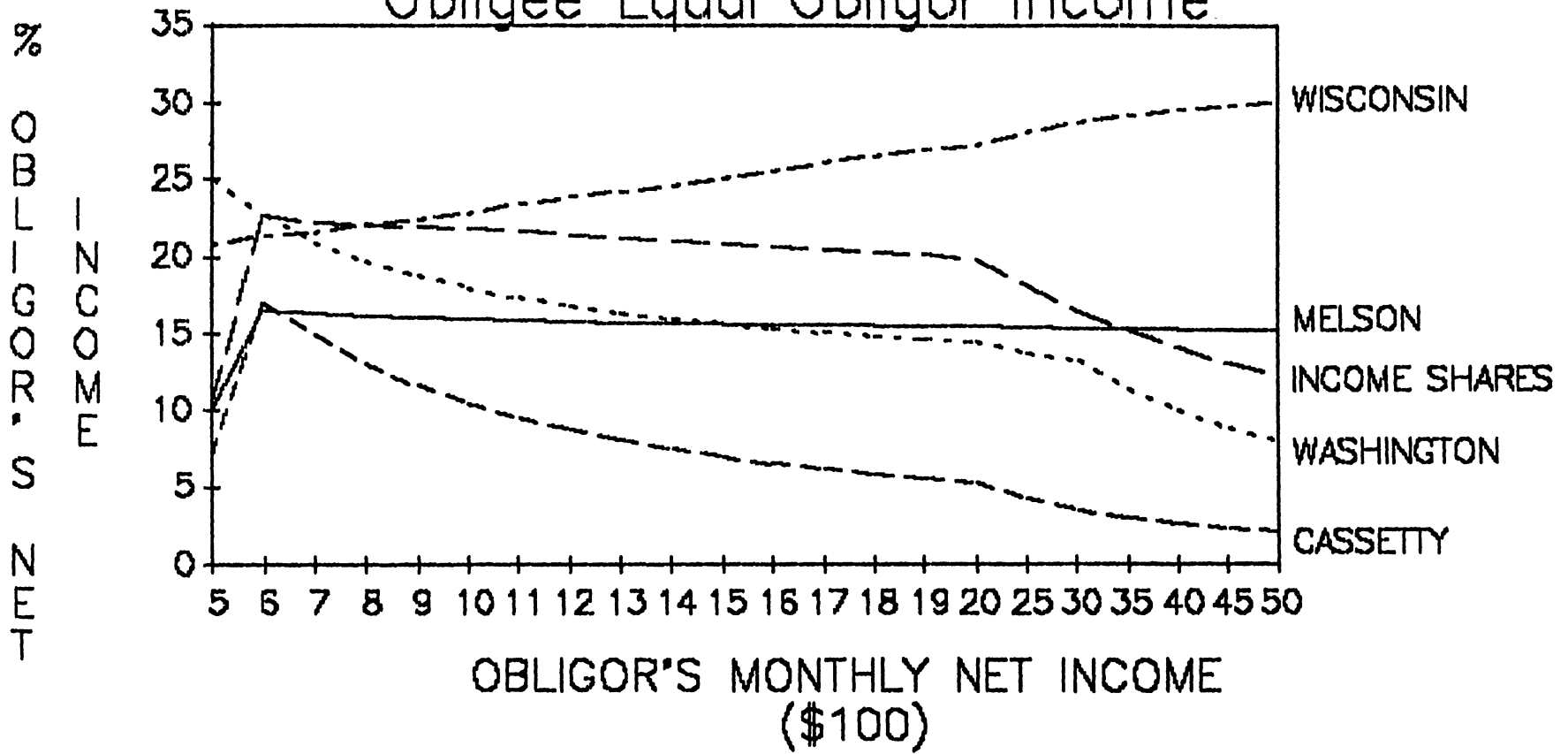
CHILD SUPPORT FORMULAS – ONE CHILD

Obligee Half Obligor Income



CHILD SUPPORT FORMULAS – ONE CHILD

Obligee Equal Obligor Income



Appendix F

Williams, R. G. Development of Guidelines for Child Support Orders: Final Report., (U. S. Department of Health and Human Services, Office of Child Support Enforcement, 1987) p. II-99.

Fact Pattern #1
Basic Case With Child Care Expenses

Situation. Mother and Father are divorced. Father lives alone; Mother and the parties' two children, aged three and five, live together.

Father has a gross monthly income of \$1,600 and a net monthly income of \$1,307 (based on single filing status with two exemptions per 1987 W-4 instructions for single adult).⁹⁷ Father also pays union dues of \$30 per month and provides health insurance for the children at \$25 per month.

Mother has a gross monthly income of \$1,200; monthly net of \$1,043. Mother incurs employment-related child care expense of \$150 per month.

Child Support Orders

	<u>Dollars</u> <u>Per Month</u>	<u>Percent Obligor's</u> <u>Net Income</u>
Income Shares	\$454.58	38.6
Delaware Melson	\$379.21	32.2
Wisconsin	\$400.00	34.0
Washington	\$374.14	29.9
Cassetty	\$362.76	30.8

Commentary. For the situation presented in this basic example, the Delaware Melson, Wisconsin, Washington and Cassetty approaches yield very similar results, with a range of only \$37 between the lowest and highest support order. The Income Shares model yields the highest order, however, which is \$55 per month higher than the next highest.

⁹⁷ The net income figures do not include deductions for state income taxes. Examples for Income Shares, Delaware Melson, and Cassetty are calculated using Delaware state taxes. Washington has no state income tax, so no state taxes were deducted from net. Wisconsin was calculated using Wisconsin's taxes.

**Fact Pattern #2
Low Income Case**

Situation. Father has gross monthly income of \$900, net monthly income of \$762 net of federal taxes. The two children, aged two and four, live with the mother. Mother does not work and receives an AFDC grant of \$272 for herself and the two children, plus a Food Stamp allotment of an additional \$117 per month.

Child Support Orders

	<u>Dollars Per Month</u>	<u>Percent Obligor's Net Income</u>
Income Shares	\$268.55	36.6
Delaware Melson	\$284.40	38.7
Wisconsin	\$225.00	30.5
Washington	\$250.70	32.9
Cassety	\$215.55	29.4

Commentary. There is a considerable difference here in the level of support ordered, particularly when evaluated as a percentage of obligor net income. The Melson formula yields the highest result because of its basic premise that any parental income above the self-support reserve should be allocated exclusively to the primary support needs of the child, before the parent is entitled to retain any for discretionary purposes. This design feature generally results in higher orders in the \$500 to \$1,000 monthly income range than are obtained from other approaches.

**Fact Pattern #3
High Income Case**

Situation. Father and Mother are divorced. Father lives alone; Mother and the parties' two children, aged 12 and 14, live together. Father has monthly gross income of \$4,583; monthly net of \$3,193 after federal taxes. Mother has a monthly gross of \$1,500; monthly net of \$1,277. Neither party has remarried.

Child Support Orders

	<u>Dollars Per Month</u>	<u>Percent Obligor's Net Income</u>
Income Shares	\$870.98	30.4
Delaware Melson	\$781.73	27.3
Wisconsin	\$1,145.75	40.0
Washington	\$773.30	24.2
Cassetty	\$1,465.17	51.2

Commentary. As is evident from this example, there are major differences in outcomes of the formulas for high income cases, with the highest award being almost double the lowest. The result obtained from the Cassetty model is not surprising since its basic objective is equalization of living standards between the two households. The Wisconsin percentage of income standard is second highest and also yields an outcome well above the other three since it does not account for income of the custodial parent. Although the Wisconsin standard is based on constant proportions of gross income, the impact of taxes causes the proportion of net income allocated under the formula to increase as income rises.

**Fact Pattern #4
Joint Custody**

Situation. Mother and Father share joint legal custody of their 14 year-old child. They also share physical custody on a fifty-fifty rotating basis. Neither parent is remarried or cohabiting with an individual in the relation of husband and wife.

Mother has monthly gross income of \$2,200; monthly net of \$1,763. (The parents have agreed that Mother will take the tax exemption for the child.) Father has monthly gross income of \$900; monthly net of \$762.

Child Support Orders

	<u>Dollars Per Month</u>	<u>Percent Obligor's Net Income</u>
Income Shares ⁹⁸	\$147.33	8.9
Delaware Melson	\$115.90	7.0
Wisconsin	\$110.50	6.7
Washington	\$ 82.31	4.7
Cassetty	\$305.67	18.5

Commentary. In all cases, the mother is the obligor and makes a payment to the father. The Cassetty model yields the highest award because of the significant gap in income between the parties, even though it does take joint custody into account in setting the award. The Melson, Washington, Income Shares, and Wisconsin approaches give results that are fairly close. The first three adjust for joint custody in a similar manner, although the Income Shares model increases the basic obligation to reflect duplicated costs. Wisconsin uses a different adjustment, but it has a similar effect relative to the unadjusted obligation in a case with a fifty-fifty split in physical custody.

⁹⁸Calculated using proposed revision to Colorado shared custody adjustment. See Chapter III.

**Fact Pattern #5
Second Families**

Situation. Mother and Father, now divorced, have two children from their former marriage, aged 7 and 11, who reside with Mother. Both parents are now remarried. Father has a child, age 5, by his present wife.

Father has gross monthly income of \$1,400; net monthly income of \$1,194 (based on a filing status of married with three exemptions). His wife earns \$900 per month gross, \$758 net. Father and his wife spend \$100 per month for child care so that she can work.

Mother has gross monthly income of \$800; monthly net of \$742 (based on a filing status of married with four exemptions). Her husband has a monthly gross income of \$1,500 and a net of \$1,225.

Child Support Orders

	<u>Dollars</u> <u>Per Month</u>	<u>Percent Obligor's</u> <u>Net Income</u>
Income Shares	\$387.53	33.9
Delaware Melson	\$355.53	31.1
Wisconsin	\$350.00	30.1
Washington ⁹⁹	\$363.65	30.4
Cassetty	\$ 62.64	5.5

Commentary. The Cassetty model is very sensitive to the income of current spouses and the presence of additional dependents. It yields the lowest result in this fact pattern because it gives the same weight to income of spouses as to income of the parents, and because it includes

⁹⁹This amount was computed based solely on income and number of children due support. The Washington guidelines state that income of new spouses may not be considered at time of divorce, but may be considered at time of subsequent modification. They also state a presumption that other dependents can reduce support obligations. Since there is no guidance on how to consider income of spouses or presence of additional dependents, this calculation did not account for these factors. The award might have been lower in an actual court decision, however, particularly since this case is clearly a modification, not an initial order.

1988 SESSION

LD0202466

HOUSE BILL NO. 442

Offered January 22, 1988

A BILL to amend and reenact §§ 16.1-279, 20-60.3, 20-103, 20-107.2, 20-108, 63.1-250.1, 63.1-251, 63.1-264 and 63.1-286 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 20-108.2 and 63.1-264.1, relating to support of minor children.

Patrons—Glasscock, Marshall, Croshaw and Copeland; Senator: Michie

Referred to the Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-279, 20-60.3, 20-103, 20-107.2, 20-108, 63.1-250.1, 63.1-251, 63.1-264 and 63.1-286 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 20-108.2 and 63.1-264.1 as follows:

§ 16.1-279. Disposition.—A. If a child is found to be abused or neglected, or is at risk of being abused or neglected by a parent or custodian who has been adjudicated as having abused or neglected another child in the care of the parent or custodian, or is abandoned by his parent or other custodian or who by reason of the absence or physical or mental incapacity of his parents is without parental care and guardianship, the juvenile court or the circuit court, as the case may be, may make any of the following orders of disposition to protect the welfare of the child:

1. Enter an order pursuant to the provisions of § 16.1-278.

2. Permit the child to remain with his or her parent, guardian, legal custodian or other person standing in loco parentis subject to such conditions and limitations as the court may order with respect to such child, and his or her parent, guardian, legal custodian, other person standing in loco parentis or other adult occupant of the same dwelling.

2a. Prohibit or limit contact as the court deems appropriate between the child and his or her parent, guardian, legal custodian, other person standing in loco parentis or other adult occupant of the same dwelling whose presence tends to endanger the child's life, health or normal development. Such prohibition may include the exclusion of any such individual from the home under such conditions as the court may prescribe for a period to be determined by the court but in no event for longer than 180 days from the date of such determination. A hearing shall be held within 150 days to determine further disposition of the matter.

3. After a finding that there is no less drastic alternative, transfer legal custody subject to the provisions of § 16.1-281 to any of the following:

a. A relative or other individual who, after study, is found by the court to be qualified to receive and care for the child.

b. A child welfare agency, private organization or facility which is licensed or otherwise authorized by law to receive and provide care for such child; however, no court shall transfer legal custody of an abused or neglected child to an agency, organization or facility out of the Commonwealth without the approval of the Commissioner of Social Services.

c. The local board of public welfare or social services of the county or city in which the court has jurisdiction or, at the discretion of the court, to the local board of the county or city in which the child has residence if other than the county or city in which the court has jurisdiction, which board shall accept such child for care and custody. However, such local board, if one other than in the county or city in which the court has jurisdiction, shall not be required to accept such child until it has been given reasonable notice of the pendency of the case and an opportunity to be heard. Nothing herein shall be construed as prohibiting the commitment of a child to any local board of public welfare or social services in the Commonwealth when such local board consents to the commitment. The board to which the child is committed shall have the final authority to determine the appropriate placement for the child. Any order authorizing removal of a child from the

1 transferring legal custody of a child to a local board of public welfare or social services as
2 provided in this subdivision shall be entered only upon a finding by the court whether
3 reasonable efforts have been made to prevent removal and that continued placement in the
4 home would be contrary to the welfare of the child, and the order shall so state.

5 4. Transfer legal custody pursuant to subdivision A 3 hereof and order the parent,
6 guardian, legal custodian or other person standing in loco parentis to participate in such
7 service and programs or to refrain from such conduct as the court may prescribe.

8 5. Terminate the rights of such parent, guardian, legal custodian or other person
9 standing in loco parentis pursuant to § 16.1-283.

10 B. Where a parent or other custodian seeks to be relieved of the care and custody of
11 any child pursuant to subdivision A 4 of § 16.1-241 or where a public or private agency
12 seeks to gain approval of an entrustment agreement pursuant to § 63.1-56 or § 63.1-204, the
13 juvenile court or the circuit court may, after compliance with § 16.1-277, make any of the
14 orders of disposition permitted in a case involving an abused or neglected child. If the
15 parent or other custodian seeks to be relieved permanently of the care and custody of any
16 child or where a public or private agency seeks to gain approval of a permanent
17 entrustment agreement entered into pursuant to § 63.1-56 or § 63.1-204, the juvenile court
18 or the circuit court may, after compliance with § 16.1-277, terminate the parental rights of
19 the parent or other custodian and appoint a local board of public welfare or social services
20 or a licensed child-placing agency as custodian of the child with the authority to place the
21 child for adoption and consent thereto. However, no order of disposition pursuant to this
22 subsection B shall be made over the objection of any party, which was not provided for or
23 requested in the entrustment agreement or in the petition's prayer for relief.

24 C. If a child is found to be in need of services, the juvenile court or the circuit court,
25 as the case may be, may make any of the following orders of disposition for the
26 supervision, care and rehabilitation of the child:

27 1. Enter an order pursuant to the provisions of § 16.1-278.

28 2. Permit the child to remain with his or her parent, guardian, legal custodian or other
29 person standing in loco parentis subject to such conditions and limitations as the court may
30 order with respect to such child and his or her parent, guardian, legal custodian or other
31 person standing in loco parentis.

32 2a. Order the parent, guardian, legal custodian or other person standing in loco parentis
33 of a child living with such person to participate in such programs, cooperate in such
34 treatment or be subject to such conditions and limitations as the court may order and as
35 are designed for the rehabilitation of the child and parent, guardian, legal custodian or
36 other person standing in loco parentis of such child.

37 3. [Repealed.]

38 4. In the case of any child, fourteen years of age or older, where the court finds that
39 the school officials have made a diligent effort to meet the child's educational needs, and
40 after study, the court further finds that the child is not able to benefit appreciably from
41 further schooling, the court may:

42 a. Excuse the child from further compliance with any legal requirement of compulsory
43 school attendance, and

44 b. Authorize the child, notwithstanding the provisions of any other law, to be employed
45 in any occupation which is not legally declared hazardous for children under the age of
46 eighteen.

47 5. Transfer legal custody to any of the following:

48 a. A relative or other individual who, after study, is found by the court to be qualified
49 to receive and care for the child.

50 b. A child welfare agency, private organization or facility which is licensed or otherwise
51 is authorized by law to receive and provide care for such child; however, no court shall
52 transfer legal custody of a child in need of services to an agency, organization or facility
53 out of the Commonwealth without the approval of the Commissioner of Social Services.

54 c. The local board of public welfare or social services of the county or city in which

1 the court has jurisdiction or, at the discretion of the court, to the local board of the county
 2 or city in which the child has residence if other than the county or city in which the court
 3 has jurisdiction, which board shall accept such child for care and custody. Such local board
 4 if one other than in the county or city in which the court has jurisdiction, shall not be
 5 required to accept such child until it has been given reasonable notice of the pendency of
 6 the case and an opportunity to be heard. Nothing herein shall be construed as prohibiting
 7 the commitment of a child to any local board of public welfare or social services in the
 8 Commonwealth when such local board consents to the commitment. The board to which the
 9 child is committed shall have the final authority to determine the appropriate placement
 10 for the child. Any order authorizing removal from the home and transferring legal custody
 11 of a child to a local board of public welfare or social services as provided in this
 12 subdivision shall be entered only upon a finding by the court whether reasonable efforts
 13 have been made to prevent removal and that continued placement in the home would be
 14 contrary to the welfare of the child, and the order shall so state.

15 6. Require the child to participate in a public service project under such conditions as
 16 the court prescribes.

17 C1. If a child is found to be in need of supervision, the court may make any of the
 18 following orders of disposition for the supervision, care and rehabilitation of the child :
 19 ~~Any order entered pursuant to this subsection shall be provided in writing to the child, his~~
 20 ~~or her parent or legal custodian and to the the child's attorney and shall contain adequate~~
 21 ~~notice of the provisions of § 16.1-292 regarding willful violation of such order. :~~

22 1. Enter any order of disposition authorized by subsection C of this section.

23 2. Place the child on probation under such conditions and limitations as the court may
 24 prescribe.

25 3. Order the child, the child's parent, guardian or legal custodian to participate in such
 26 programs, cooperate in such treatment or be subject to such conditions and limitations as
 27 the court may order and as are designed for the rehabilitation of the child.

28 4. Require the child to participate in a public service project as authorized by
 29 subdivision E 7a of this section, under such conditions as the court may prescribe.

30 *Any order presented pursuant to this subsection shall be provided in writing to the*
 31 *child, his or her parent or legal custodian and to the child's attorney and shall contain*
 32 *adequate notice of the provisions of § 16.1-292 regarding willful violation of such order.*

33 D. Unless a child found to be abused, neglected or in need of services shall also be
 34 found to be delinquent and shall be older than ten years of age, he shall not be committed
 35 to the State Board of Corrections. No juvenile court or circuit court shall order the
 36 commitment of any child jointly to the State Board of Corrections and to a local board of
 37 public welfare or social services or transfer the custody of a child jointly to a court
 38 service unit of a juvenile court and to a local board of public welfare or social services
 39 pursuant to this section.

40 E. If a child is found to be delinquent, the juvenile court or the circuit court may
 41 make any of the following orders of disposition for his supervision, care and rehabilitation:

42 1. Enter an order pursuant to the provisions of § 16.1-278.

43 2. Permit the child to remain with his or her parent, guardian, legal custodian or other
 44 person standing in loco parentis subject to such conditions and limitations as the court may
 45 order with respect to such child and his or her parent, guardian, legal custodian or other
 46 person standing in loco parentis.

47 3. Order the parent, guardian, legal custodian or other person standing in loco parentis
 48 of a child living with such person to participate in such programs, cooperate in such
 49 treatment or be subject to such conditions and limitations as the court may order and as
 50 are designed for the rehabilitation of the child and parent, guardian, legal custodian or
 51 other person standing in loco parentis of such child.

52 3a. Defer disposition for a period of time not to exceed twelve months, after which
 53 time the charge may be dismissed by the judge if the child exhibits good behavior during
 54 the period which disposition is deferred.

1 3b. Without entering a judgment of guilty and with the consent of the child and his
2 attorney, defer disposition of the delinquency charge for a period not to exceed twelve
3 months and place the child on probation under such conditions and limitations as the court
4 may prescribe. Upon fulfillment of the terms and conditions, the court shall discharge the
5 child and dismiss the proceedings against him. Discharge and dismissal under these
6 provisions shall be without adjudication of guilt.

7 3c. Order the parent of a child with whom the child does not reside to participate in
8 such programs, cooperate in such treatment or be subject to such conditions and limitations
9 as the court may order and as are designed for the rehabilitation of the child where the
10 court determines this participation to be in the best interest of the child and other parties
11 concerned and where the court determines it reasonable to expect the parent to be able to
12 comply with such order.

13 4. Place the child on probation under such conditions and limitations as the court may
14 prescribe.

15 5. Impose a fine not to exceed \$500 upon such child.

16 6. Suspend the motor vehicle and driver's license of such child.

17 7. Require the child to make restitution or reparation to the aggrieved party or parties
18 for actual damages or loss caused by the offense for which the child was found to be
19 delinquent.

20 7a. Require the child to participate in a public service project under such conditions as
21 the court prescribes. For purposes of this section a "public service project" shall mean any
22 governmental or quasi-governmental agency project or any project of a nonprofit
23 corporation or association operated exclusively for charitable or community purposes.

24 8. In case of traffic violations, impose only those penalties which are authorized to be
25 imposed on adults for such violations. However, for those violations punishable by
26 confinement if committed by an adult, confinement shall be imposed only as authorized by
27 this title.

28 9. Transfer legal custody to any of the following:

29 a. A relative or other individual who, after study, is found by the court to be qualified
30 to receive and care for the child.

31 b. A child welfare agency, private organization or facility which is licensed or otherwise
32 authorized by law to receive and provide care for such child; however, no court shall
33 transfer legal custody of a delinquent child to an agency, organization or facility outside of
34 the Commonwealth without the approval of the ~~Director~~ *Commissioner of Social Services* .

35 c. The local board of public welfare or social services of the county or city in which
36 the court has jurisdiction or, at the discretion of the court, to the local board of the county
37 or city in which the child has residence if other than the county or city in which the court
38 has jurisdiction, which board shall accept such child for care and custody. Such local
39 board, if one other than in the county or city in which the court has jurisdiction, shall not
40 be required to accept such child until it has been given reasonable notice of the pendency
41 of the case and an opportunity to be heard. Nothing herein shall be construed as
42 prohibiting the commitment of a child to any local board of public welfare or social
43 services in the Commonwealth when such local board consents to the commitment. The
44 board to which the child is committed shall have the final authority to determine the
45 appropriate placement for the child. Any order authorizing removal from the home and
46 transferring legal custody of a child to a local board of public welfare or social services as
47 provided in this subdivision shall be entered only upon a finding by the court whether
48 reasonable efforts have been made to prevent removal and that continued placement in the
49 home would be contrary to the welfare of the child, and the order shall so state.

50 10. Commit the child to the Department of Corrections; however, no child ten years of
51 age or under shall be committed to the Department.

52 11. Impose the penalty authorized by § 16.1-284.

53 12. Impose the penalty authorized by § 16.1-284.1.

54 13. Impose the penalty authorized by § 16.1-285.1.

1 F. In cases involving the custody, visitation or support of a child pursuant to subdivision
2 A 3 of § 16.1-241, the court may make any order of disposition to protect the welfare of
3 the child and family as may be made by the circuit court. *In determining the amount of*
4 *support of a child or children, the court shall consider the factors set out in subdivision 2*
5 *of § 20-107.2 of the Code.* In any case involving the custody of a child, custody may be
6 awarded upon petition to any party with a legitimate interest therein, including, but not
7 limited to, grandparents and other blood relatives and family members. The term
8 "legitimate interest" shall be broadly construed to accommodate the best interest of the
9 child. The authority of the juvenile court to consider a petition involving the custody of a
10 child shall not be proscribed or limited where the child has previously been awarded to
11 the custody of a local board of social services.

12 F1. In cases involving a child who is charged with a traffic infraction, impose only
13 those penalties which are authorized to be imposed on adults for such infractions.

14 G. In cases involving a person who is adjudged mentally ill or is ~~judicially~~ *judicially*
15 certified as eligible for admission to a treatment facility for the mentally retarded,
16 disposition shall be in accordance with the provisions of Chapters 1 (§ 37.1-1 et seq.) and 2
17 (§ 37.1-63 et seq.) of Title 37.1. No child shall be committed pursuant to this section or the
18 provisions of Title 37.1 to a maximum security unit within any state mental hospital where
19 adults determined to be criminally insane reside.

20 H. In cases involving judicial consent to the matters set out in subdivisions C and D of
21 § 16.1-241, the juvenile court or the circuit court may make any appropriate order to
22 protect the health and welfare of the child.

23 I. In cases involving charges of desertion, abandonment or failure to provide support by
24 any person in violation of law, disposition shall be made in accordance with Chapter 5 (§
25 20-61 et seq.) of Title 20.

26 J. In cases involving a child who is not able to obtain a work permit under other
27 provisions of law, the juvenile court or the circuit court may grant a special work permit
28 on forms furnished by the Department of Labor and Industry, subject to such restrictions
29 and conditions as it may deem appropriate and as may be set out in Chapter 5 (§ 40.1-78
30 et seq.) of Title 40.1.

31 K. In cases involving petitions filed by or on behalf of a child or such child's parent,
32 guardian, legal custodian or other person standing in loco parentis for the purpose of
33 obtaining treatment, rehabilitation or other services required by law to be provided for
34 such persons, the juvenile court or the circuit court, as the case may be, may enter an
35 order in accordance with § 16.1-278.

36 L. In cases involving the violation of any law, regulation or ordinance for the education,
37 protection or care of children or involving offenses committed by one spouse against
38 another, the juvenile court or the circuit court may impose a penalty prescribed by
39 applicable sections of the Code. However, in cases involving offenses committed by one
40 spouse against another, the court may impose conditions and limitations in an effort to
41 effect the reconciliation and rehabilitation of the parties, including, but not limited to, an
42 order of protection as provided in § 16.1-279.1, treatment and counseling for either or both
43 spouses and payment by the defendant spouse for crisis shelter care for the complaining
44 spouse.

45 M. In cases involving a spouse who seeks spousal support after having separated from
46 his or her spouse, the court may enter any appropriate order to protect the welfare of the
47 spouse seeking support.

48 N. In any matter properly before the court, the court may make such award of
49 attorneys' fees and costs on behalf of any party as the court may deem appropriate for
50 retained attorneys based on the relative financial ability of the parties.

51 O. Each juvenile and domestic relations district court may enter judgment for money in
52 any amount for arrears of support and maintenance of any person in cases in which (i)
53 the court has previously acquired personal jurisdiction over all necessary parties or a
54 proceeding in which such jurisdiction has been obtained has been referred or transferred

1 to the court by a circuit court or another juvenile and domestic relations district court, and
2 (ii) payment of such money has been previously ordered by the court, a circuit court, or
3 another juvenile and domestic relations district court. However, no such judgment shall be
4 entered unless the motion of a party, a probation officer, a superintendent of public
5 welfare, or the court's own motion, is duly served on the person against whom judgment is
6 sought, in accordance with the applicable provisions of law relating to notice when
7 proceedings are reopened. The motion shall contain a caption stating the name of the
8 court, the title of the action, the names of all parties and the address of the party against
9 whom judgment is sought, the amount of arrearage for which judgment is sought, and the
10 date and time when such judgment will be sought. No support order may be retroactively
11 modified, but may be modified with respect to any period during which there is a pending
12 petition for modification, but only from the date that notice of such petition has been given
13 to the responding party.

14 P. The judge or clerk of the court shall, upon written request of the obligee under a
15 judgment entered pursuant to this section, certify and deliver an abstract of that judgment
16 to the clerk of the circuit court of the same judicial district, and executions upon such
17 judgment shall be issued by the clerk of such circuit court.

18 Q. If the amount of the judgment does not exceed the jurisdictional limits of § 16.1-77
19 (1), exclusive of interest and any attorneys' fees, an abstract of any such judgment entered
20 pursuant to this section may be delivered to the clerk of the general district court of the
21 same judicial district, and executions upon such judgment shall be issued by the clerk of
22 such general district court.

23 R. Arrearages accumulated prior to July 1, 1976, shall also be subject to the provisions
24 of this section.

25 S. In cases involving (i) the custody, visitation or support of a child arising under
26 subdivision A 3 of § 16.1-241, (ii) spousal support arising under subdivision L of § 16.1-241
27 or (iii) support, maintenance, care, and custody of a child or support and maintenance of a
28 spouse transferred to the juvenile and domestic relations district court pursuant to § 20-79,
29 when the court finds that the respondent (i) has failed to perform or comply with a court
30 order concerning the custody and visitation or the support and maintenance of a child or
31 the support and maintenance of a spouse, or (ii) under existing circumstances, is under a
32 duty to render support or additional support to a child or pay the support and maintenance
33 of a spouse, the court may order a payroll deduction as provided in § 20-79.1, or the giving
34 of a recognizance as provided in § 20-114. If the court finds that the respondent has failed
35 to perform or comply with such order, the court also may order the commitment of the
36 person as provided in § 20-115 or the court may, in its discretion, impose a sentence of up
37 to twelve months in jail, notwithstanding the provisions of §§ 16.1-69.24 and 18.2-458,
38 relating to punishment for contempt. If the court finds that an employer, who is under a
39 payroll deduction order pursuant to § 20-79.1, has failed to comply with such order after
40 being given a reasonable opportunity to show cause why he failed to comply with such
41 order, then the court may proceed to impose sanctions on the employer pursuant to
42 subsection G of § 20-79.1.

43 T. In cases involving (i) the custody, visitation or support of a child arising under
44 subdivision A 3 of § 16.1-241, (ii) spousal support arising under subdivision L of § 16.1-241
45 or (iii) support, maintenance, care, and custody of a child or support and maintenance of a
46 spouse transferred to the juvenile and domestic relations district court pursuant to § 20-79,
47 the court may enter support orders in pendente lite proceedings, provided such proceedings
48 shall not be ex parte. *In determining the amount of support of a child or children in such*
49 *cases, the court shall consider the factors set out in subdivision 2 of § 20-107.2 of the*
50 *Code.*

51 § 20-60.3. Contents of support orders.—All orders directing the payment of child or
52 spousal support, including those orders confirming separation agreements, entered on or
53 after October 1, 1985, whether they are original orders or modifications of existing orders,
54 shall contain the following:

1 1. Notice that support payments in arrears may be withheld pursuant to § 20-79.1, from
2 earnings as defined in § 63.1-250, without further amendments of this order or having to
3 file an application for services with the Department of Social Services;

4 2. The names and dates of birth of each child to whom a duty of support is then owed
5 by the person responsible for support;

6 3. If known, the name, date of birth and social security number of each parent of the
7 child and, if different and if known, the name, date of birth and social security number of
8 the person responsible for support;

9 4. The amount of periodic support expressed in fixed sums, together with the payment
10 interval, the date payments are due, and the date the first payment is due;

11 5. Provision for health care coverage, as defined in § 63.1-250, for dependent children if
12 reasonable under all the circumstances and for whether and to what extent health care
13 coverage for a spouse or former spouse is required;

14 6. If support arrearages exist, (i) to whom an arrearage is owed and the amount of the
15 arrearage, (ii) the period of time for which such arrearage is calculated, (iii) the amount
16 of periodic support to be applied to current support and the amount to be applied to
17 arrearages, (iv) if support arrearages are owed to more than one entity, how the arrearage
18 payments are to be divided and in what priority the arrearages are to be ranked for
19 application of arrearage payments, and (v) a direction that all payments are to be credited
20 to current support obligations first, with any payment in excess of the current obligation
21 applied to arrearages;

22 7. If child support payments are ordered to be paid through the Department of Social
23 Services, and unless the court for good cause shown orders otherwise, the parties shall give
24 each other and the Department of Social Services at least thirty days' written notice, in
25 advance, of any proposed change of address; and

26 8. The separate amounts due to each person under the order, unless the court
27 specifically orders a unitary payment of the total amount of support due or the order
28 affirms a separation agreement containing provision for a unitary payment.

29 9. *Provision for notification of the parties or the court of income and other pertinent*
30 *financial information if such notification is ordered as authorized in § 20-107.2.*

31 § 20-103. Court may make orders pending the suit, etc.—The court in term or the judge
32 in vacation may, at any time pending the suit, in the discretion of such court or judge,
33 make any order that may be proper to compel a spouse to pay any sums necessary for the
34 maintenance and support of the petitioning spouse and to enable such spouse to carry on
35 the suit, or to prevent either spouse from imposing any restraint on the personal liberty of
36 the other spouse, or to provide for the custody and maintenance of the minor children of
37 the parties or for the exclusive use and possession of the family residence during the
38 pendency of the suit, or to preserve the estate of either spouse, so that it be forthcoming
39 to meet any decree which may be made in the suit, or to compel either spouse to give
40 security to abide such decree. *In determining the amount of support of a child or children,*
41 *the court shall consider the factors set out in subdivision 2 of § 20-107.2 of the Code.*

42 Upon a showing by a party of reasonable apprehension of physical harm to that party
43 by such party's spouse, and consistent with rules of the Supreme Court of Virginia, the
44 court may enter an order excluding that party's spouse from the jointly owned or jointly
45 rented family dwelling. In any case where an order is entered under this paragraph,
46 pursuant to an ex parte hearing, the order shall not exclude a spouse from the family
47 dwelling for a period in excess of fifteen days from the date the order is served, in
48 person, upon the spouse so excluded. The order may provide for an extension of time
49 beyond the fifteen days, to become effective automatically. The spouse served may at any
50 time file a written motion in the clerk's office requesting a hearing to dissolve or modify
51 the order. Nothing in this section shall be construed to prohibit the court from extending
52 an order entered under this paragraph for such longer period of time as is deemed
53 appropriate, after a hearing on notice to the parties.

54 § 20-107.2. Court may decree as to custody and support of minor children.—Upon

1 decreeing the dissolution of a marriage, and also upon decreeing a divorce, whether from
2 the bond of matrimony or from bed and board, and upon decreeing that neither party is
3 entitled to a divorce, the court may make such further decree as it shall deem expedient
4 concerning the custody and support of the minor children of the parties, and concerning
5 visitation rights of the parents and visitation privileges for grandparents, stepparents or
6 other family members. The court shall have no authority to decree support of children
7 payable by the estate of a deceased party.

8 1. The court, in determining custody and visitation of minor children, shall consider the
9 following:

- 10 a. The age and physical and mental condition of the child or children;
- 11 b. The age and physical and mental condition of each parent;
- 12 c. The relationship existing between each parent and each child;
- 13 d. The needs of the child or children;
- 14 e. The role which each parent has played, and will play in the future, in the upbringing
15 and care of the child or children; and
- 16 f. Such other factors as are necessary to consider the best interests of the child or
17 children.

18 In awarding the custody of the child or children to either parent, the court shall give
19 primary consideration to the welfare of the child or children, and, as between the parents,
20 there shall be no presumption or inference of law in favor of either.

21 2. The court, in determining the amount of support of a child or children to whom a
22 duty of support is owed pursuant to § 20-61, shall consider the following:

- 23 a. The age, physical and mental condition of the child or children, including
24 extraordinary medical or dental expenses, and child-care expenses;
- 25 b. The independent financial resources, if any, of the child or children;
- 26 c. The standard of living for the family established during the marriage;
- 27 d. The earning capacity, obligations and needs, and financial resources of each parent;
- 28 e. The education and training of the parties and the ability and opportunity of the
29 parties to secure such education and training;
- 30 f. The contributions, monetary and nonmonetary, of each party to the well-being of the
31 family;
- 32 g. The provisions made with regard to the marital property under § 20-107.3; and
- 33 h. Such other factors, including tax consequence to each party, as are necessary to
34 consider the equities for the parents and children.

35 *i. The amount of support resulting from computation pursuant to the guideline set out
36 in § 20-108.2.*

37 3. *In ordering support of minor children, the court may order the parties to notify
38 each other at specified intervals of current gross income as defined in § 20-108.2 and any
39 other pertinent information which may affect child support amounts. For good cause
40 shown, the court may order that such information be provided to the court and made
41 available to the parties for inspection in lieu of the parties' providing such information
42 directly to each other.*

43 § 20-108. Revision and alteration of such decrees.—The court may, from time to time
44 after decreeing as provided in § 20-107.2, on petition of either of the parents, or on its own
45 motion or upon petition of any probation officer or superintendent of public welfare, which
46 petition shall set forth the reasons for the relief sought, revise and alter such decree
47 concerning the care, custody, and maintenance of the children and make a new decree
48 concerning the same, as the circumstances of the parents and the benefit of the children
49 may require. *In modifying any support order, the court shall consider the factors set out
50 in subdivision 2 of § 20-107.2.* No support order may be retroactively modified, but may be
51 modified with respect to any period during which there is a pending petition for
52 modification, but only from the date that notice of such petition has been given to the
53 responding party.

54 § 20-108.2. *Guideline for determination of child support.—A. The results of computations*

1 using the guideline set forth in this section and other factors set forth in § 20-107.2 shall
 2 be considered by the court in determining the amount of support of a child or children as
 3 authorized by § 20-107.2 and shall be considered by the Department of Social Services in
 4 ordering child support pursuant to the authority granted to it in Chapters 13 and 14 of
 5 Title 63.1.

6 B. For purposes of application of the guideline, a basic support obligation shall be
 7 computed using the schedule set out below. For combined monthly gross income amounts
 8 falling between amounts shown in the schedule, basic child support obligation amounts
 9 shall be extrapolated. "Number of children" shall mean the number of children for whom
 10 the parents share joint legal responsibility and for whom support is being sought.
 11 Discretion shall be applied in determining a basic support obligation when the parents'
 12 combined gross income exceeds the highest income level set out in the schedule.

13 **SCHEDULE OF**

14 **MONTHLY BASIC CHILD SUPPORT OBLIGATIONS**

15	COMBINED						
16	GROSS	ONE	TWO	THREE	FOUR	FIVE	SIX
17	INCOME	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
18	0-599	65	65	65	65	65	65
19	600	110	111	113	114	115	116
20	650	138	140	142	143	145	146
21	700	153	169	170	172	174	176
22	750	160	197	199	202	204	206
23	800	168	226	228	231	233	236
24	850	175	254	257	260	263	266
25	900	182	281	286	289	292	295
26	950	189	292	315	318	322	325
27	1000	196	304	344	348	351	355
28	1050	203	315	373	377	381	385
29	1100	210	326	402	406	410	415
30	1150	217	337	422	435	440	445
31	1200	225	348	436	465	470	475
32	1250	232	360	451	497	502	507
33	1300	241	373	467	526	536	542
34	1350	249	386	483	545	570	576
35	1400	257	398	499	563	605	611
36	1450	265	411	515	581	633	645
37	1500	274	426	533	602	656	680
38	1550	282	436	547	617	672	714
39	1600	289	447	560	632	689	737
40	1650	295	458	573	647	705	754
41	1700	302	468	587	662	721	772
42	1750	309	479	600	676	738	789
43	1800	315	488	612	690	752	805
44	1850	321	497	623	702	766	819
45	1900	326	506	634	714	779	834
46	1950	332	514	645	727	793	848
47	2000	338	523	655	739	806	862
48	2050	343	532	666	751	819	877
49	2100	349	540	677	763	833	891
50	2150	355	549	688	776	846	905
51	2200	360	558	699	788	860	920
52	2250	366	567	710	800	873	934
53	2300	371	575	721	812	886	948
54	2350	377	584	732	825	900	963

1	2400	383	593	743	837	913	977
2	2450	388	601	754	849	927	991
3	2500	394	610	765	862	940	1006
4	2550	399	619	776	874	954	1020
5	2600	405	627	787	886	967	1034
6	2650	410	635	797	897	979	1048
7	2700	415	643	806	908	991	1060
8	2750	420	651	816	919	1003	1073
9	2800	425	658	826	930	1015	1085
10	2850	430	667	836	941	1027	1098
11	2900	435	675	846	953	1039	1112
12	2950	440	683	856	964	1052	1125
13	3000	445	691	866	975	1064	1138
14	3050	450	699	876	987	1076	1152
15	3100	456	707	886	998	1089	1165
16	3150	461	715	896	1010	1101	1178
17	3200	466	723	906	1021	1114	1191
18	3250	471	732	917	1032	1126	1205
19	3300	476	740	927	1044	1139	1218
20	3350	481	748	937	1055	1151	1231
21	3400	486	756	947	1067	1164	1245
22	3450	492	764	957	1078	1176	1258
23	3500	497	772	967	1089	1189	1271
24	3550	502	780	977	1101	1201	1285
25	3600	507	788	987	1112	1213	1298
26	3650	512	797	997	1124	1226	1311
27	3700	518	806	1009	1137	1240	1326
28	3750	524	815	1020	1150	1254	1342
29	3800	530	824	1032	1163	1268	1357
30	3850	536	834	1043	1176	1283	1372
31	3900	542	843	1055	1189	1297	1387
32	3950	547	852	1066	1202	1311	1402
33	4000	553	861	1078	1214	1325	1417
34	4050	559	871	1089	1227	1339	1432
35	4100	565	880	1101	1240	1353	1448
36	4150	571	889	1112	1253	1367	1463
37	4200	577	898	1124	1266	1382	1478
38	4250	583	907	1135	1279	1396	1493
39	4300	589	917	1147	1292	1410	1508
40	4350	594	926	1158	1305	1424	1523
41	4400	600	935	1170	1318	1438	1538
42	4450	606	944	1181	1331	1452	1553
43	4500	612	954	1193	1344	1467	1569
44	4550	618	963	1204	1357	1481	1584
45	4600	624	972	1216	1370	1495	1599
46	4650	630	981	1227	1383	1509	1614
47	4700	635	989	1237	1395	1522	1627
48	4750	641	997	1247	1406	1534	1641
49	4800	646	1005	1257	1417	1546	1654
50	4850	651	1013	1267	1428	1558	1667
51	4900	656	1021	1277	1439	1570	1679
52	4950	661	1028	1286	1450	1582	1692
53	5000	666	1036	1295	1460	1593	1704
54	5050	671	1043	1305	1471	1605	1716

1	5100	675	1051	1314	1481	1616	1728
2	5150	680	1058	1323	1492	1628	1741
3	5200	685	1066	1333	1502	1640	1753
4	5250	690	1073	1342	1513	1651	1765
5	5300	695	1081	1351	1524	1663	1778
6	5350	700	1088	1361	1534	1674	1790
7	5400	705	1096	1370	1545	1686	1802
8	5450	710	1103	1379	1555	1697	1815
9	5500	714	1111	1389	1566	1709	1827
10	5550	719	1118	1398	1576	1720	1839
11	5600	724	1126	1407	1587	1732	1851
12	5650	729	1133	1417	1598	1743	1864
13	5700	734	1141	1426	1608	1755	1876
14	5750	739	1148	1435	1619	1766	1888
15	5800	744	1156	1445	1629	1778	1901
16	5850	749	1163	1454	1640	1790	1913
17	5900	753	1171	1463	1650	1801	1925
18	5950	758	1178	1473	1661	1813	1937
19	6000	763	1186	1482	1672	1824	1950
20	6050	768	1193	1491	1682	1836	1962
21	6100	773	1201	1501	1693	1847	1974
22	6150	778	1208	1510	1703	1859	1987
23	6200	783	1216	1519	1714	1870	1999
24	6250	788	1223	1529	1724	1882	2011
25	6300	792	1231	1538	1735	1893	2023
26	6350	797	1238	1547	1745	1905	2036
27	6400	802	1246	1557	1756	1916	2048
28	6450	807	1253	1566	1767	1928	2060
29	6500	812	1261	1575	1777	1940	2073
30	6550	816	1267	1583	1786	1949	2083
31	6600	820	1272	1590	1794	1957	2092
32	6650	823	1277	1597	1801	1965	2100
33	6700	827	1283	1604	1809	1974	2109
34	6750	830	1288	1610	1817	1982	2118
35	6800	834	1293	1617	1824	1990	2127
36	6850	837	1299	1624	1832	1999	2136
37	6900	841	1304	1631	1839	2007	2145
38	6950	845	1309	1637	1847	2016	2154
39	7000	848	1315	1644	1855	2024	2163
40	7050	852	1320	1651	1862	2032	2172
41	7100	855	1325	1658	1870	2041	2181
42	7150	859	1331	1665	1878	2049	2190
43	7200	862	1336	1671	1885	2057	2199
44	7250	866	1341	1678	1893	2066	2207
45	7300	870	1347	1685	1900	2074	2216
46	7350	873	1352	1692	1908	2082	2225
47	7400	877	1358	1698	1916	2091	2234
48	7450	880	1363	1705	1923	2099	2243
49	7500	884	1368	1712	1931	2108	2252
50	7550	887	1374	1719	1938	2116	2261
51	7600	891	1379	1725	1946	2124	2270
52	7650	895	1384	1732	1954	2133	2279
53	7700	898	1390	1739	1961	2141	2288
54	7750	902	1395	1746	1969	2149	2297

1	7800	905	1400	1753	1977	2158	2305
2	7850	908	1405	1758	1983	2164	2313
3	7900	910	1409	1764	1989	2171	2320
4	7950	913	1414	1770	1995	2178	2328
5	8000	916	1418	1776	2001	2185	2335
6	8050	918	1423	1781	2007	2192	2343
7	8100	921	1428	1787	2014	2198	2350
8	8150	924	1432	1793	2020	2205	2357
9	8200	927	1437	1799	2026	2212	2365
10	8250	929	1441	1804	2032	2219	2372
11	8300	932	1446	1810	2038	2226	2380
12	8350	935	1450	1816	2045	2232	2387
13	8400	937	1455	1822	2051	2239	2395
14	8450	940	1459	1827	2057	2246	2402
15	8500	943	1464	1833	2063	2253	2410
16	8550	945	1468	1839	2069	2260	2417
17	8600	948	1473	1845	2076	2266	2425
18	8650	951	1478	1850	2082	2273	2432
19	8700	954	1482	1856	2088	2280	2440
20	8750	956	1487	1862	2094	2287	2447
21	8800	959	1491	1868	2100	2294	2455
22	8850	962	1496	1873	2107	2300	2462
23	8900	964	1500	1879	2113	2307	2470
24	8950	967	1505	1885	2119	2314	2477
25	9000	970	1509	1891	2125	2321	2484
26	9050	973	1514	1896	2131	2328	2492
27	9100	975	1517	1901	2137	2334	2498
28	9150	977	1521	1905	2141	2339	2503
29	9200	979	1524	1909	2146	2344	2509
30	9250	982	1527	1914	2151	2349	2514
31	9300	984	1531	1918	2156	2354	2520
32	9350	986	1534	1922	2160	2359	2525
33	9400	988	1537	1926	2165	2365	2531
34	9450	990	1541	1930	2170	2370	2536
35	9500	993	1544	1935	2175	2375	2541
36	9550	995	1547	1939	2179	2380	2547
37	9600	997	1551	1943	2184	2385	2552
38	9650	999	1554	1947	2189	2390	2558
39	9700	1001	1557	1951	2194	2396	2563
40	9750	1003	1561	1956	2198	2401	2569
41	9800	1006	1564	1960	2203	2406	2574
42	9850	1008	1567	1964	2208	2411	2580
43	9900	1010	1571	1968	2213	2416	2585
44	9950	1012	1574	1972	2218	2421	2590
45	10000	1014	1577	1977	2222	2427	2596

46 *C. For purposes of this section, "gross income" shall mean all income from all sources,*
47 *and shall include, but not be limited to, income from salaries, wages, commissions,*
48 *royalties, bonuses, dividends, severance pay, pensions, interest, trust income, annuities,*
49 *capital gains, social security benefits, workers' compensation benefits, unemployment*
50 *insurance benefits, disability insurance benefits, veterans' benefits, spousal support, rental*
51 *income, gifts, prizes or awards. Gross income shall be subject to deduction of reasonable*
52 *business expenses for persons with income from self-employment, a partnership, or a*
53 *closely held business. "Gross income" shall not include benefits from public assistance*
54 *programs as defined in § 63.1-87 or child support received.*

1 *D. Any extraordinary medical and dental expenses for treatment of the child or*
2 *children shall be added to the basic support obligation. For purposes of this section,*
3 *extraordinary medical and dental expenses are uninsured expenses in excess of \$100 for a*
4 *single illness or condition.*

5 *E. Any child-care costs incurred on behalf of the child or children due to employment*
6 *of the custodial parent shall be added to the basic child support obligation. Child-care*
7 *costs shall not exceed the amount required to provide quality care from a licensed source.*

8 *F. A total child obligation shall be established by adding (i) the basic child support*
9 *obligation, as determined from the schedule contained in subsection B of this section, (ii)*
10 *extraordinary medical expenses, and (iii) work-related child care costs. The total child*
11 *support obligation shall be divided between the parents in the same proportion as their*
12 *gross incomes bear to their combined gross income. The obligation of each parent shall be*
13 *computed by multiplying each parent's percentage of the parents' combined gross income*
14 *by the total child support obligation.*

15 *G. If the court or the Department of Social Services orders child support in an amount*
16 *that deviates significantly from that suggested by the guideline set out in this section, the*
17 *court or the Department, as applicable, shall explain the reasons for such deviation in*
18 *writing.*

19 *H. The Secretary of Human Resources shall ensure that the guideline set out in this*
20 *section is reviewed by July 1, 1990, and periodically thereafter, by a panel which includes*
21 *representatives of the courts, the executive branch, the General Assembly, the bar,*
22 *custodial and noncustodial parents and child advocates. The panel shall determine the*
23 *adequacy of the guideline for the support of children by considering current research and*
24 *data on the cost of and expenditures necessary for rearing children, the findings of the*
25 *reporting and tracking system established by subsection I of this section, and any other*
26 *resources it deems relevant to such review. The panel shall report its findings to the*
27 *General Assembly before it next convenes following such review.*

28 *I. The Department of Social Services and the Executive Secretary of the Supreme*
29 *Court shall cooperate to design and implement a system for reporting and tracking child*
30 *support orders entered in the Commonwealth to determine the effect of the use of the*
31 *guideline on the level of support awards. To facilitate such system, the Department and*
32 *the Executive Secretary shall design a form for the use of the courts and the Department*
33 *in the calculations required by subdivision F of this section and in the collection and*
34 *reporting of data essential for this analysis. The Department and the Executive Secretary*
35 *shall develop a method for collecting and analyzing the reported data in a central*
36 *location. The Department and the Executive Secretary shall report to the Governor and*
37 *the General Assembly by July 1, 1989, and annually thereafter on the findings of the*
38 *reporting and tracking system.*

39 **§ 63.1-250.1. Authority to issue certain orders.—** *A. In the absence of a court order, the*
40 *Department of Social Services shall have the authority to issue orders directing the*
41 *payment of child and spousal support and, if reasonable under all the circumstances, to*
42 *require a provision for health care coverage for dependent children of the obligor. In*
43 *ordering the payment of child support, the Department shall consider the amount resulting*
44 *from computation pursuant to the guideline set out in § 20-108.2.*

45 *B. The Department may order the obligor and payee to notify each other at specified*
46 *intervals of current gross income as defined in § 20-108.2 of the Code and any other*
47 *pertinent information which may affect child support amounts. For good cause shown, the*
48 *Department may order that such information be provided to the Department and made*
49 *available to the parties for inspection in lieu of the parties' providing such information*
50 *directly to each other.*

51 **§ 63.1-251. Payment of public assistance for child or caretaker constitutes debt to**
52 **Department by responsible persons; limitations; Department subrogated to rights.—***Any*
53 *payment of public assistance money made to or for the benefit of any dependent child or*
54 *children or their caretaker creates a debt due and owing to the Department by the person*

1 or persons who are responsible for support of such children or caretaker in an amount
2 equal to the amount of public assistance money so paid. However, where there has been a
3 court order for support, or final decree of divorce ordering support, or administrative order
4 under the provisions of Chapter 13 (§ 63.1-249 et seq.) of Title 63.1 for support the debt
5 shall be limited to the amount of such order or decree. The Commissioner, *pursuant to §*
6 *63.1-264*, shall establish the debt in an amount determined to be consistent with a
7 responsible person's ability to pay. The Department shall have the right to petition the
8 appropriate court for modification of a court order on the same grounds as either party to
9 such cause.

10 The Department shall be subrogated to the right of such child or children or caretaker
11 to prosecute or maintain any support action or execute any administrative remedy existing
12 under the laws of the Commonwealth of Virginia to obtain reimbursement of moneys thus
13 expended and may collect on behalf of any such child, children or caretaker any amount
14 contained in any court order of support or any administrative order of support regardless
15 of whether or not the amount of such orders exceeds the amount of public assistance paid.
16 Any support paid in excess of the total amount of public assistance paid shall be returned
17 to the caretaker by the Department. If a court order for support or final decree of divorce
18 ordering support enters judgment for an amount of support to be paid by such responsible
19 person, the Department shall be subrogated to the debt created by such order, and said
20 money judgment shall be deemed to be in favor of the Department.

21 Debt created by an administrative order under this section shall not be incurred by nor
22 at any time be collected from a responsible person who is the recipient of public
23 assistance moneys for the benefit of minor dependent children for the period such person
24 or persons are in such status.

25 § 63.1-264. Commissioner may set amount of debt accrued where no court order or final
26 divorce decree.—The Commissioner may at any time, consistent with the ~~scale of suggested~~
27 ~~minimum contributions established pursuant to provisions of~~ § 63.1-286, set or reset the
28 amount of the debt accrued or accruing, due and owing under this chapter in those cases
29 where there has been no court order for support or final decree of divorce ordering
30 support entered.

31 § 63.1-264.1. *Department may order exchange of financial information.—The Department*
32 *may order the obligor and payee to notify each other at specified intervals of current*
33 *gross income as defined in § 20-108.2 of the Code and any other pertinent information*
34 *which may affect child support amounts. For good cause shown, the Department may*
35 *order that such information be provided to the Department and made available to the*
36 *parties for inspection in lieu of the parties' providing such information directly to each*
37 *other.*

38 § 63.1-286. Scale of suggested minimum contributions.—The State Department of Social
39 Services shall establish a scale of suggested minimum contributions to assist localities and
40 courts in determining the amount that a responsible person should be expected to
41 contribute toward the support of his or her child and the caretaker of the child under this
42 chapter, and the Department shall use this scale to determine ~~consider the amount~~
43 ~~resulting from computation pursuant to the guideline set out in § 20-108.2 in determining~~
44 the required monthly support obligation, the amount of support obligation arrearage, if any,
45 and the amount to be paid periodically against such arrearage. The scale shall include
46 consideration of gross income, shall authorize an expense deduction for determining net
47 income, shall designate other available resources to be considered, shall consider the
48 amount of assistance which would be paid to the child and caretaker under the full
49 standard of need of the Department's plan for aid to dependent children, and shall specify
50 the circumstances which should be considered in raising or reducing such contributions
51 including, but not limited to, earnings potential, reasonable necessities, ability to borrow,
52 existence of other dependents or special hardships of the responsible person, as well as the
53 needs of the child and caretaker. The State Department of Social Services shall accept and
54 compile any pertinent and reliable information from any available source in order to

1 establish such minimum scale of suggested contributions, and copies of the scale shall be
 2 made available to courts, local offices of public welfare, Commonwealth's attorneys and,
 3 upon request, to any other state agency or officer thereof engaged in the administration or
 4 enforcement of support laws in any manner and attorneys admitted to practice in the
 5 Commonwealth of Virginia.

6 It is intended that the use of the scale formulated pursuant to this section be optional,
 7 and that no locality, court, officer or agency be required to use said scale unless they so
 8 desire.

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Official Use By Clerks	
Passed By	Passed By The Senate
The House of Delegates	
without amendment <input type="checkbox"/>	without amendment <input type="checkbox"/>
with amendment <input type="checkbox"/>	with amendment <input type="checkbox"/>
substitute <input type="checkbox"/>	substitute <input type="checkbox"/>
substitute w/amdt <input type="checkbox"/>	substitute w/amdt <input type="checkbox"/>
Date: _____	Date: _____
_____ Clerk of the House of Delegates	_____ Clerk of the Senate

1988 SESSION

LD4010466

HOUSE JOINT RESOLUTION NO. 57

Offered January 22, 1988

Continuing the Joint Subcommittee Studying Child Support Formulas.

Patrons—Glasscock, Marshall, Croshaw and Copeland; Senator: Michie

Referred to the Committee on Rules

WHEREAS, the Joint Subcommittee Studying Child Support Formulas was established by House Joint Resolution No. 341 during the 1987 Session to study the feasibility of using child support formulas in ordering child support administratively or judicially; and

WHEREAS, child support guidelines are numeric formulas which may be based on income of parents and needs of children, in addition to other factors; they are applied in all cases coming before judicial or administrative support decision-makers to ensure adequate and uniform levels of child support awards; and

WHEREAS, throughout 1987, the Joint Subcommittee examined the issues involved in establishing a child support formula or guideline to be used throughout the state, consulting with the Department of Social Services, which is authorized to order support administratively, with judges who set awards, with attorneys who represent clients resolving child support disputes, and with consultants with a national focus in this area; and

WHEREAS, the Joint Subcommittee found that federal law requires that states establish a quantitative child support guideline by October 1, 1987, and distribute this guideline to all decision-makers in the state for their discretionary use, under penalty of losing federal child support enforcement funds; and

WHEREAS, the Joint Subcommittee heard testimony from judges that many of them are now voluntarily using guidelines and most would appreciate a uniform guideline, although they do not agree as to whether the guideline should be a rebuttable presumption or merely advisory, nor do they agree on the model for such a guideline; and

WHEREAS, attorneys testified that they are generally amenable to or highly supportive of a guideline to assist them in advising clients who are litigating child support and to provide more uniform support awards across the state for parents who are similarly situated, but they specified issues which should be considered in development and application of a guideline and disagreed on whether it should be presumptive or advisory; and

WHEREAS, the Joint Subcommittee has recommended a formula for submission to the 1988 Session of the General Assembly; and

WHEREAS, this formula is advisory only and generally specifies a percentage of the income of the obligor as support, with several additional considerations; and its implementation in 1988 may save the Commonwealth federal child support funds; and

WHEREAS, the Joint Subcommittee agrees that because of the many issues affecting the operation of a child support formula or guideline and the various options available for its implementation, further study is advisable to review the effect of the formula, if enacted, on child support levels and enforcement and to consult with authorities applying the formula to determine its usefulness and applicability; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Subcommittee Studying Child Support Formulas is continued. The membership of the Joint Subcommittee shall remain the same, with any vacancy being filled in the same manner as the original appointment. The Joint Subcommittee shall complete its study and submit its findings and recommendations to the 1990 Session of the General Assembly.

The indirect costs of this study are estimated to be \$8255; the direct costs of this study shall not exceed \$7020.