

RHODE ISLAND FAMILY COURT

ADMINISTRATIVE ORDER 2002-03
(Amending Administrative Order 97-8)

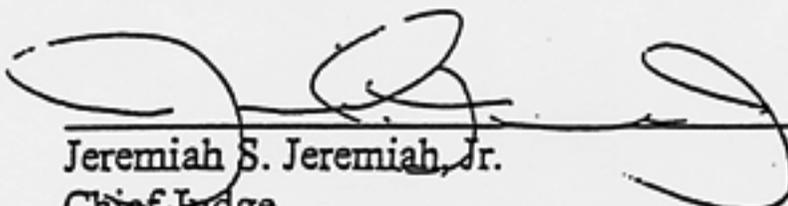
RE: RHODE ISLAND FAMILY COURT CHILD SUPPORT FORMULA
AND GUIDELINES

The Monthly Basic Child Support Obligations Schedule set forth in
Administrative Order 97-8 has been amended.

The amended schedule is attached hereto and becomes effective on October 1,
2002. Please refer to the attached Note for an explanation of the new schedule, amended
Child Support Guideline Worksheet, and the revised Gross to Net Income Conversion
Table.

Date

7/30/02


Jeremiah S. Jeremiah, Jr.
Chief Judge

Note Re:

Administrative Order 2002-03

Rhode Island Family Court
Child Support Formula and Guidelines

In accordance with federal requirements, the Rhode Island Family Court conducted a review of the 1997 Child Support Guidelines for the payment of child support. In 2001, a Task Force on Revision of the Child Support Guidelines reviewed updated data on the cost of raising a child as well as analyzed case information on the application of and deviation from the 1997 guidelines. The revised tables and data were provided by Policy Studies, Inc. of Denver, Colorado, the company which had previously supplied the 1992 and 1996 economic data.

The Task Force completed its work in June of 2002. The Task Force submitted a final report along with a proposed 2002 Monthly Basic Child Support Obligations Schedule, a proposed 2002 Gross to Net Income Conversion Table and a proposed revised Family Court Child Support Guideline Worksheet. The Task Force also furnished suggested approaches to such issues as defining "Reasonable Cost" for an obligor to obtain health coverage, a cash contribution for obligors who cannot provide health coverage at a reasonable cost, the manner in which Supplemental Security Income (SSI) payments received by a child is treated and Child Support Orders in cases where the combined monthly gross income exceeds Twenty Thousand Dollars (\$20,000).

Consequently, the Rhode Island Child Support Guideline Schedule of Basic Child Support Obligations, promulgated in Administrative Order 97-8, has been amended. The amended Monthly Basic Child Support Obligations Schedule is attached hereto and becomes effective on October 1, 2002.

The revised schedule incorporates economic changes which have occurred since 1997 in federal tax rates, federal poverty guidelines, inflation and price levels. The federal self-support reserve has been increased to correspond with increases in the poverty level since the last revision in 1997. The inclusion of a self-support reserve insures that obligors have sufficient income to maintain a minimum standard of living. The 2002 federal poverty guideline (self-support reserve) for one person is \$804 gross income per month. However, absent a deviation, the recommended minimum support order set forth in the schedule is Fifty Dollars (\$50) per month to establish an obligor's duty to support his or her children.

The policy contained within Administrative Order 97-8, which provides that the custodial parent is entitled to claim the federal tax exemption for children due child support will remain in full force and effect. Therefore, if the non-custodial parent has been assigned the tax exemption, the basic child support obligation should be adjusted above the minimum set forth in the schedule to account for the added tax benefit to the

non-custodial parent. Additionally, the policy that the schedule is intended to serve as a floor or base, and not as a ceiling or cap in setting child support obligations is affirmed. Accordingly, the Court should order basic child support orders, in certain circumstances, in amounts higher than delineated in the basic support obligation schedule, or in its discretion, order supplemental payments (for education or other expenses related to the child).

The Income Shares Model adopted previously by the Family Court remains the methodology upon which the amended schedule is grounded. See Family Court Administrative Order 87-2. The amended schedule continues to calculate child support as a shared obligation wherein each parent's income is considered as if the child continues to reside in an intact household.

The new schedule shall apply to all child support orders established or modified by the Family Court on and after October 1, 2002, including temporary and final orders, and orders entered into by agreement of the parties.

Use of the 2002 Revised Schedule and Worksheet

The instructions for the use of the Guideline Worksheet set forth in prior Administrative Order 87-2 should continue to be followed. All other Administrative Order provisions not inconsistent with this Administrative Order shall remain in full force and effect. Prior Administrative Orders did not specifically address the definition of "Reasonable Cost" for purposes of determining an obligor's obligation for providing health insurance coverage for the child when such coverage is available through the obligor's place of employment, the concept of an equivalent cash contribution when such health insurance cost is deemed unreasonable, consideration of Supplemental Security Income (SSI) payments received by the child and treatment for the calculation of Child Support Orders in excess of the combined monthly gross income of Twenty Thousand Dollars (\$20,000). Therefore, the following procedures should be adhered to unless the Court, in its discretion, finds such application would be inequitable to the child(ren) or parents in accordance with Rhode Island General Laws § 15-5-16.2.

1. Additional Minor Dependents

The Child Support Guideline Worksheet includes a required deduction for the additional minor dependents of an obligor or obligee (See line 2 (c) on Family Court form DR-30).

For additional minor dependents of an obligor or obligee, a deduction not to exceed 50% of the child support obligation for the additional child(ren) should be calculated by taking into account the combined gross income of both parents of the additional child(ren). Where the subsequent spouse of the obligor or obligee is unable to contribute to the combined gross income of the additional family by reason of death, incapacity or incarceration, the Court may, in its discretion, deduct up to 100% of the child support obligation for the child(ren) of the subsequent relationship from the gross

income of the obligor or obligee. A second Guideline Worksheet for the subsequent family need not be filed with the Court so long as the Court is satisfied that the deduction for the additional minor dependent(s) is accurate.

2. Priority of Support Cases

Pre-existing child support orders constitute a required deduction to gross income (line 2 (a) on the worksheet). This policy shall continue so long as compliance with the previous order is demonstrated by an obligor. In situations where no child support order has been entered for child(ren) of a prior relationship, a deduction may be allowed by the Court only if a subsequent child support order is entered for the child(ren) of the previous relationship. As such, the amount ordered in the later order may be treated as a deduction to the gross income of the obligor. The Court should, therefore, consider each child support obligation in the order in which each case is considered by the Court.

3. Split Custody Situations

These situations can take any form of different patterns:

Each party has one child and one person makes more income than the other. A suggested approach is as follows:

- a. Compute combined gross income of both parties;
- b. Find the support obligation from guideline schedule for two children based on combined gross monthly incomes;
- c. Deduct 50% of (b) from each person's gross income to determine adjusted gross income;
- d. Add adjusted gross income of both parties to determine total adjusted monthly income;
- e. Find the support obligation for one child based on combined adjusted monthly income found in (d);
- f. Multiply each party's percentage of (d) times (e);
- g. Deduct lower support obligation from higher support obligation. The higher earning person pays that amount.

(Please see attached Guideline Worksheet #1 for an example of above). =

This approach provides both children with support based on the total income available to the parties, and attempts to equalize the situation where one child lives with a parent with less income.

One parent has two or more children/other parent has one child:

- a. Same as above;
- b. Find the support obligation from guideline schedule for total number of children based on combined gross monthly incomes;

- c. Calculate pro rata share of total number of children in placement of each party;
- d. Deduct (b + c) from each person's monthly income to determine adjusted gross monthly incomes for each party;
- e. Add adjusted gross monthly income for each party to determine total adjusted gross income;
- f. Calculate each party's percentage of (e);
- g. Using total adjusted monthly income found in (e), determine each party's support obligation for number of children with each party;
- h. Multiply (f) x (g);
- i. Subtract lower support obligation found in (h) from higher support obligation. The difference is owed by the person having the higher support obligation.

(Please see attached Guideline Worksheet #2 for an example of above).

4. Extended Visitation

No deduction from a basic child support obligation should be allowed by the Court predicated on cumulative daily, weekly or monthly visitation by the obligor with his or her child(ren). If allowed, this procedure would engender costly and time-consuming litigation over relatively de minimus adjustments. However, in the discretion of the Court, the Court on a case-by-case basis may consider the following approach in situations where an obligor can satisfactorily demonstrate that a support obligation would be inequitable under RIGL Section 15-5-16.2 by reason of significant consecutive weeks or months of physical custody of a child(ren), such as custody during summer vacations:

- a. Determine an obligor's weekly and yearly support obligation by utilizing the 2002 schedule;
- b. Determine the number of consecutive weeks during the calendar year that an obligor will have physical custody of the child(ren);
- c. Multiply the weekly support obligation by the number of weeks that an obligor will have physical custody of the child(ren);
- d. Deduct this amount from the total annual support owed by an obligor;
- e. Divide the remaining sum by 52 weeks to obtain the prorated total amount to be paid by an obligor.

Please note that if the aforementioned approach is utilized, it becomes the burden of the obligee to move to modify the prorated child support order when extended visitation does not occur as anticipated. Consequently, this approach should be used cautiously.

5. Joint/Shared Physical Custody

In light of the unique nature of an individual joint or shared physical custody arrangement, the Court should exercise its discretion to determine an equitable child

support obligation in accordance with the 2002 Monthly Basic Child Support Obligations Schedule and Child Support Guideline Worksheet.

6. "Reasonable Cost" for Obtaining Health Insurance

Any child covered by health insurance through the parent or parent's place of employment at the time the child support order is being established shall continue to be covered by said insurance. If the child is not currently covered by health insurance through the parent or parents' place of employment, the parent or parents shall be required to obtain said insurance through their employment so long as it is available at no cost or at a "reasonable cost."

"Reasonable cost" shall be defined as being five percent (5%) or less of the gross income of the parent. The Court, in its discretion, shall continue to retain the right to order a parent to obtain health insurance coverage even if the cost exceeds five percent (5%), if the cost is still deemed "reasonable" under all the circumstances. In multiple order cases "reasonable cost" is deemed 5% for the first order; 2.5% for the second order; 0% for all subsequent orders.

In the event that the Court determines that the cost to obtain health insurance for the child is "not reasonable", the obligor shall be required to make a five percent (5%) medical cash contribution in addition to the basic order of child support.

The Child Support Guideline Worksheet (DR-30) has been revised to reflect the medical cash contribution order. The basic order of child support shall be reflected on line 11 of the Revised Child Support Guideline Worksheet (DR-30). The medical cash contribution portion of the order shall be reflected on line 12 of the Revised Child Support Guideline Worksheet (DR-30). The Total Amount Ordered (the total of lines 11 and 12) shall be reflected on Line 13 of the Revised Child Support Guideline Worksheet (DR-30).

If the child is on Rite Care, Rite Share, or its equivalent, the expectation is the State of Rhode Island will retain the medical cash contribution.

If the child is covered under private insurance provided to the custodial parent through his/her place of employment (at a cost to the custodial parent), the expectation is that the custodial parent will retain the medical cash contribution up to his/her actual cost. If the child is covered under private insurance provided to the custodial parent through employment (at no cost or at a cost of less than five percent (5%) of the non-custodial parent's gross income) then the obligor's medical cash contribution shall not exceed the actual premium cost to the custodial parent.

In multiple order cases "reasonable cost" is deemed 5% for the first order; 2.5% for the second order; 0% for all subsequent orders.

Parents shall continue to receive an "above the line" deduction for any health insurance premium paid for the child on Line 2 (b) of the Revised Child Support Guideline Worksheet (DR-30). Parents shall now also receive an "above the line" deduction for any medical cash contribution ordered in the case under consideration or a pre-existing order on Line 2 (b) of the Revised Child Support Guideline Worksheet (DR-30).

(Please see attached Guideline Worksheet #3 for an example of above).

7. Supplemental Security Income (SSI)

If a child is the recipient of SSI payments, said payments are not to be treated as a resource of the child for purposes of modification or calculation of child support.

8. Combined Monthly Income in Excess of \$20,000

For combined annual income in excess of \$240,000, it is recommended that the Court exercise its discretion to order child support amounts above the obligation described for \$20,000 of combined gross monthly income. The Court should determine the monthly support obligation for \$20,000 per month in combined gross monthly income. The Court should then compute the ratio of total combined income to \$240,000 by dividing total income by \$240,000. The ratio percentage should be multiplied by the child support obligation set at \$20,000 per month to arrive at an appropriate upward adjustment.

For example, in a situation where combined gross income is \$300,000 with two children of the union, divide \$300,000 by \$240,000 and multiply the percentage by \$2,767, the minimum monthly support obligation for two children at \$20,000 combined monthly income (the maximum income set forth in the amended schedule). The computation would be as follows: $\$300,000 \div \$240,000 = 1.25 \times \$2,767 = \$3,458.75$ monthly child support obligation for a combined annual income of \$300,000.

(Please see attached Guideline Worksheet #4 for an example of above).

In unique circumstances, the Court in its discretion may analyze situations with combined gross monthly income in excess of \$240,000 on a case-by-case basis to arrive at an equitable child support order predicated on the original concept discussed in Administrative Order 87-2 that a child should receive the same proportion of parental support that he/she would have received had the parents remained in the same household.

In all other respects, not inconsistent herewith, the procedures set forth in Administrative Orders 87-2 and 97-8 should be followed.

Date

7/30/02


Jeremiah S. Jeremiah, Jr.
Chief Judge