

Superseded 5/4/2022

78B-12-210 Application of guidelines -- Use of ordered child support.

- (1) The guidelines in this chapter apply to any judicial or administrative order establishing or modifying an award of child support entered on or after July 1, 1989.
- (2)
 - (a) The guidelines shall be applied as a rebuttable presumption in establishing or modifying the amount of temporary or permanent child support.
 - (b) The rebuttable presumption means the provisions and considerations required by the guidelines, the award amounts resulting from the application of the guidelines, and the use of worksheets consistent with these guidelines are presumed to be correct, unless rebutted under the provisions of this section.
- (3) A written finding or specific finding on the record supporting the conclusion that complying with a provision of the guidelines or ordering an award amount resulting from use of the guidelines would be unjust, inappropriate, or not in the best interest of a child in a particular case is sufficient to rebut the presumption in that case. If an order rebuts the presumption through findings, it is considered a deviated order.
- (4) The following shall be considered deviations from the guidelines, if:
 - (a) the order includes a written finding that it is a deviation from the guidelines;
 - (b) the guidelines worksheet has:
 - (i) the box checked for a deviation; and
 - (ii) an explanation as to the reason; or
 - (c) the deviation is made because there were more children than provided for in the guidelines table.
- (5) If the amount in the order and the amount on the guidelines worksheet differ by \$10 or more:
 - (a) the order is considered deviated; and
 - (b) the incomes listed on the worksheet may not be used in adjusting support for emancipation.
- (6)
 - (a) Natural or adoptive children of either parent who live in the home of that parent and are not children in common to both parties may at the option of either party be taken into account under the guidelines in setting a child support award, as provided in Subsection (7).
 - (b) Additional worksheets shall be prepared that compute the base child support award of the respective parents for the additional children. The base child support award shall then be subtracted from the appropriate parent's income before determining the award in the instant case.
- (7) In a proceeding to adjust or modify an existing award, consideration of natural or adoptive children born after entry of the order and who are not in common to both parties may be applied to mitigate an increase in the award but may not be applied:
 - (a) for the benefit of the obligee if the credit would increase the support obligation of the obligor from the most recent order; or
 - (b) for the benefit of the obligor if the amount of support received by the obligee would be decreased from the most recent order.
- (8)
 - (a) If a child support order has not been issued or modified within the previous three years, a parent, legal guardian, or the office may move the court to adjust the amount of a child support order.
 - (b) Upon receiving a motion under Subsection (8)(a), the court shall, taking into account the best interests of the child:

- (i) determine whether there is a difference between the payor's ordered support amount and the payor's support amount that would be required under the guidelines; and
 - (ii) if there is a difference as described in Subsection (8)(b)(i), adjust the payor's ordered support amount to the payor's support amount provided in the guidelines if:
 - (A) the difference is 10% or more;
 - (B) the difference is not of a temporary nature; and
 - (C) the order adjusting the payor's ordered support amount does not deviate from the guidelines.
 - (c) A showing of a substantial change in circumstances is not necessary for an adjustment under this Subsection (8).
- (9)
 - (a) A parent, legal guardian, or the office may at any time petition the court to adjust the amount of a child support order if there has been a substantial change in circumstances. A change in the base combined child support obligation table set forth in Section 78B-12-301 is not a substantial change in circumstances for the purposes of this Subsection (9).
 - (b) For purposes of this Subsection (9), a substantial change in circumstances may include:
 - (i) material changes in custody;
 - (ii) material changes in the relative wealth or assets of the parties;
 - (iii) material changes of 30% or more in the income of a parent;
 - (iv) material changes in the employment potential and ability of a parent to earn;
 - (v) material changes in the medical needs of the child; or
 - (vi) material changes in the legal responsibilities of either parent for the support of others.
 - (c) Upon receiving a petition under Subsection (9)(a), the court shall, taking into account the best interests of the child:
 - (i) determine whether a substantial change has occurred;
 - (ii) if a substantial change has occurred, determine whether the change results in a difference of 15% or more between the payor's ordered support amount and the payor's support amount that would be required under the guidelines; and
 - (iii) adjust the payor's ordered support amount to that which is provided for in the guidelines if:
 - (A) there is a difference of 15% or more; and
 - (B) the difference is not of a temporary nature.
- (10) Notice of the opportunity to adjust a support order under Subsections (8) and (9) shall be included in each child support order.