

**User Name:** Timothy Murdoch

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## Documents (8)

1. [Section I. Authority and scope.](#)

**Client/Matter:** -None-

**Search Terms:** Administrative Order No. 10

**Search Type:** Natural Language

**Narrowed by:**

**Content Type**  
Statutes and Legislation

**Narrowed by**  
Content Type: Court Rules; Chapters: ADMINISTRATIVE  
ORDER NUMBER 10 -- CHILD SUPPORT GUIDELINES

2. [Section II. Definition of income.](#)

**Client/Matter:** -None-

**Search Terms:** Administrative Order No. 10

**Search Type:** Natural Language

**Narrowed by:**

**Content Type**  
Statutes and Legislation

**Narrowed by**  
Content Type: Court Rules; Chapters: ADMINISTRATIVE  
ORDER NUMBER 10 -- CHILD SUPPORT GUIDELINES

3. [Section III. Calculation of support.](#)

**Client/Matter:** -None-

**Search Terms:** Administrative Order No. 10

**Search Type:** Natural Language

**Narrowed by:**

**Content Type**  
Statutes and Legislation

**Narrowed by**  
Content Type: Court Rules; Chapters: ADMINISTRATIVE  
ORDER NUMBER 10 -- CHILD SUPPORT GUIDELINES

4. [Section IV. Affidavit of financial means.](#)

**Client/Matter:** -None-

**Search Terms:** Administrative Order No. 10

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**Content Type**  
Statutes and Legislation

**Narrowed by**  
Content Type: Court Rules; Chapters: ADMINISTRATIVE  
ORDER NUMBER 10 -- CHILD SUPPORT GUIDELINES

5. [Section V. Deviation considerations.](#)

**Client/Matter:** -None-

**Search Terms:** Administrative Order No. 10

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**Content Type**

Statutes and Legislation

**Narrowed by**

Content Type: Court Rules; Chapters: ADMINISTRATIVE  
ORDER NUMBER 10 -- CHILD SUPPORT GUIDELINES

6. [Section VI. Abatement of support during extended visitation.](#)

**Client/Matter:** -None-

**Search Terms:** Administrative Order No. 10

**Search Type:** Natural Language

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**Content Type**

Statutes and Legislation

**Narrowed by**

Content Type: Court Rules; Chapters: ADMINISTRATIVE  
ORDER NUMBER 10 -- CHILD SUPPORT GUIDELINES

7. [Section VII. Provisions for payment.](#)

**Client/Matter:** -None-

**Search Terms:** Administrative Order No. 10

**Search Type:** Natural Language

**Narrowed by:**

**Content Type**

Statutes and Legislation

**Narrowed by**

Content Type: Court Rules; Chapters: ADMINISTRATIVE  
ORDER NUMBER 10 -- CHILD SUPPORT GUIDELINES

8. [AR Sup. Ct. Adm. Order No. Notes](#)

**Client/Matter:** -None-

**Search Terms:** Administrative Order No. 10

**Search Type:** Natural Language

**Narrowed by:**

**Content Type**

Statutes and Legislation

**Narrowed by**

Content Type: Court Rules; Chapters: ADMINISTRATIVE  
ORDER NUMBER 10 -- CHILD SUPPORT GUIDELINES

## [AR Sup. Ct. Adm. Order No. 10 § 1](#)

Rules current through August 15, 2019 by the Arkansas Supreme Court and Arkansas Court of Appeals

***AR - Arkansas State & Federal Court Rules > ADMINISTRATIVE ORDERS OF THE SUPREME COURT > ADMINISTRATIVE ORDER NUMBER 10 -- CHILD SUPPORT GUIDELINES***

### **Section I. Authority and scope.**

Pursuant to Act 948 of 1989, as amended, codified at *Ark. Code Ann. § 9-12-312(a)* and the Family Support Act of 1988, Pub. L. No. 100-485 (1988), the Court adopts and publishes Administrative Order Number 10 -- Child Support Guidelines. This Administrative Order includes and incorporates by reference the attached weekly, biweekly, semimonthly, and monthly family support charts and the attached Affidavit of Financial Means.

It is a rebuttable presumption that the amount of child support calculated pursuant to the most recent revision of the Family Support Chart is the amount of child support to be awarded in any judicial proceeding for divorce, separation, paternity, or child support. The court may grant less or more support if the evidence shows that the needs of the dependents require a different level of support.

All orders granting or modifying child support (including agreed orders) shall contain the court's determination of the payor's income, recite the amount of support required under the guidelines, and recite whether the court deviated from the Family Support Chart. If the order varies from the guidelines, it shall include a justification of why the order varies as may be permitted under Section V hereinafter. It shall be sufficient in a particular case to rebut the presumption that the amount of child support calculated pursuant to the Family Support Chart is correct, if the court enters in the case a specific written finding within the Order that the amount so calculated, after consideration of all relevant factors, including the best interests of the child, is unjust or inappropriate.

### **History**

Amended April 26, 2007, effective May 3, 2007; republished with revisions June 14, 2007

Annotations

### **Case Notes**

ALLOWANCE.  
DEVIATION FROM GUIDELINES.  
FACTORS CONSIDERED.  
FLUCTUATING INCOME.  
MODIFICATION.

NET-WORTH METHOD.  
ORDER DEFICIENT.  
QUARTERLY ACCOUNTING.  
SELF-EMPLOYED PAYORS.

### **ALLOWANCE.**

Trial court did not abuse its discretion in deviating from the child support chart provided by this section and by disallowing a mother's request for a \$3,000 allowance per month so that she could work part-time or not at all because considering the child support chart, evidence, testimony, and exhibits, the trial court determined that the increase to \$10,317 per month was reasonable and allowed both homes to provide for the children in like manner; the trial court found that the presumptive amount of monthly support provided by the family support chart was rebutted based on credible evidence, the testimony, the exhibits, and the needs of the children. [\*Gilbow v. Travis\*, 2010 Ark. 9, 372 S.W.3d 319 \(2010\).](#)

### **DEVIATION FROM GUIDELINES.**

Trial court erred because it did not follow the child support guidelines in awarding retroactive child support and it did not take into account the child's best interests when it deviated from the chart amount in awarding prospective child support; in addition, the trial court failed to reference the child-support guidelines in either its letter opinion or in its judgment and failed to apply the deviation factors in this section. [\*Akins v. Mofield\*, 355 Ark. 215, 132 S.W.3d 760 \(2003\).](#)

Trial court erred in reducing appellee mother's child support obligation to \$24 per week without considering estimates of her income for the first quarter of 2003; the evidence showed that appellee had from \$7,167.32 to \$8,441.32 per month in income during the first quarter of 2003 and, at that level, child support should have been set at \$250.02 weekly. [\*Huey v. Huey\*, 90 Ark. App. 98, 204 S.W.3d 92 \(2005\).](#)

Father was allowed to claim the youngest child as a dependent and receive a tax exemption where the circuit court determined that the mother had not been employed since the birth of the last child and that the support of \$4,653.00 per month for the child in the mother's custody was more than 50% of the support required to maintain the child in her lifestyle. [\*Hill v. Kelly\*, 368 Ark. 200, 243 S.W.3d 886 \(2006\).](#)

Husband stipulated to the amount of his income, and the court set child support based upon the chart, and the payment of counseling was a factor for a court to consider when determining whether to deviate from the chart amount; because there was no deviation from the chart amount, the trial court was not required to make any written findings and the husband's income was such that he could readily afford to bear the expense of the children's counseling. [\*Rudder v. Hurst\*, 2009 Ark. App. 577, 337 S.W.3d 565 \(2009\).](#)

### **FACTORS CONSIDERED.**

Circuit court, in figuring father's income, properly ruled that the child support modifications were set on February 6, 2003, the effective date of the filing of the motion to modify; the circuit court's order contained substantial calculations of the father's income based upon previous tax returns that showed a material change in circumstances to justify a modification of child support. [Hill v. Kelly, 368 Ark. 200, 243 S.W.3d 886 \(2006\).](#)

Circuit court properly imputed to mother a minimum-wage income for child support for two older children in the amount of \$6,694 where the father did not present evidence as to the mother's lifestyle or earning capacity. [Hill v. Kelly, 368 Ark. 200, 243 S.W.3d 886 \(2006\).](#)

Where the father's income of \$540,217.00 exceeded that shown on the chart, he was directed to pay child support under § III(b) of this order in the amount of twenty-one percent of his income; upon a loss of \$63,078.00 in income, the trial court erred by reducing his child support obligation from \$8,333.00 to \$7,607.75 as the award was a deviation downward from the family support chart. [Morehouse v. Lawson, 94 Ark. App. 374, 231 S.W.3d 86 \(2006\).](#)

Where the husband was ordered to pay 21 percent of his net income of \$476,171.00 in monthly child support, he failed to rebut the presumption that the chart amount was proper; considering the factors set forth in this section, the court found that the husband lived extravagantly and had sufficient assets to buy a \$70,000.00 ring for his fiancée and donate \$4,000.00 per month to charity. [Morehouse v. Lawson, 94 Ark. App. 374, 231 S.W.3d 86 \(2006\).](#)

Benefits received by children from social security are properly considered for purposes of a downward deviation under this order; however, a father was not entitled to a full credit for the amount that his children received from social security. [Lee v. Lee, 95 Ark. App. 69, 233 S.W.3d 698 \(2006\).](#)

In a divorce action, a trial court did not err when it relied on a former husband's total net income and averaged the husband's salary to determine income for child support payments, which were presumptively proper under the guidelines and family support chart of Ark. Code Ann. § 9-12-312(a)(2) and this order. [Taylor v. Taylor, 369 Ark. 31, 250 S.W.3d 232 \(2007\).](#)

Circuit court did not clearly err in finding that the husband's income for child-support purposes was that reflected on his tax returns; it was clear that the husband's ownership in the limited partnership was a significant portion of his net worth; thus, that ownership interest would be a proper consideration. [Brown v. Brown, 373 Ark. 333, 284 S.W.3d 17 \(2008\).](#) overruled in part, [Moore v. Moore, 2016 Ark. 105, 486 S.W.3d 766 \(2016\).](#)

Circuit court erred in ordering a father to pay child support and child support arrearage because the circuit court's order did not contain a determination of the father's income, did not refer to the guidelines pursuant to § 9-12-312(a)(2) or the support amount required thereunder, and did not recite whether it deviated from the family-support chart as required under this order; under this section, the circuit court's order shall (1) contain the circuit court's determination of the payor's income, (2) recite the amount of support required under the guidelines, and (3) recite whether the circuit court deviated from the family support chart. [Bradford v. Johnson, 2010 Ark. App. 492 \(2010\).](#)

## FLUCTUATING INCOME.

Because the trial court was required to consult Administrative Order No. 10 for guidance, and there is no provision that requires an averaging method of calculating support when a payor's income fluctuates, the trial court did not err as a matter of law in not using the father's tax returns to average his income over a three- or four-year period; the only portion of Admin. Order No. 10 that directs the trial court to utilize a payor's tax returns to calculate support is the section involving self-employed payors, a finding not made with respect to the father in this case. [\*Fischer \(Jaskiewicz\) v. Fischer, 2018 Ark. App. 519, 563 S.W.3d 601 \(2018\).\*](#)

## MODIFICATION.

Where the father was awarded child custody and the mother was ordered to pay child support based on the child-support chart rate set forth in this order, she was not entitled to a reduction in child support based on allegations that she could not make ends meet while the father was placing some of the child support funds into his savings account. The mother did not show a change of circumstances, nor did she rebut the presumption that the amount of child support awarded under the family-support chart was reasonable. [\*Hubanks v. Baughman, 2009 Ark. App. 585 \(2009\).\*](#)

## NET-WORTH METHOD.

Where father's tax returns were unreliable due to discrepancies in his testimony, a trial court did not err by using the net-worth method to determine his obligation since such was authorized under this rule; however, the order should have been made retroactive under § 9-14-107(d) to when the petition was filed. [\*Tucker v. Tucker, 96 Ark. App. 194, 239 S.W.3d 532 \(2006\).\*](#)

Increase in the father's child support was proper as the circuit court first considered the father's tax returns and it was only after finding the tax returns unreliable that the circuit court proceeded to the net-worth approach; the reviewing court could not say that the circuit court's use of the net-worth approach in determining the father's disposable income was clearly erroneous. [\*Tucker v. Office of Child Support Enforcement, 368 Ark. 481, 247 S.W.3d 485 \(2007\).\*](#)

## ORDER DEFICIENT.

Trial court erred by awarding back child support to be paid by the legal father of a child because the order did not contain a determination of the father's income, did not refer to the guidelines or the support amount required thereunder, and did not recite whether there was a deviation from the family support chart. [\*Madison v. Osburn, 2012 Ark. App. 212, 396 S.W.3d 264 \(2012\),\*](#) overruled in part, [\*Furr v. James, 2013 Ark. App. 181, 427 S.W.3d 94 \(2013\).\*](#)

Where a child support order lacked a determination of a former husband's income, reference to the guidelines, and a recitation of whether the trial court deviated from the family support chart, it was insufficient. [\*Ryburn v. Ryburn, 2014 Ark. App. 108, 432 S.W.3d 102 \(2014\).\*](#)

Trial court clearly erred in failing to award the mother child-support arrearages for the period between the date when the father stopped providing voluntary support for the child to the date the father filed his petition to establish paternity as the father had never disputed his paternity and had paid child support or shared expenses previously. [Henderson v. Johnston, 2017 Ark. App. 620, 534 S.W.3d 196 \(2017\).](#)

#### **QUARTERLY ACCOUNTING.**

Trial court did not err in dismissing husband's petition for a quarterly accounting of child support payments where he failed to demonstrate an accounting was warranted; husband paid \$570 per month, and wife paid \$250 per month for medical insurance alone, leaving her with a little over \$300 per month to provide the son with shelter, food, clothes, and any other day-to-day necessity. [Schueller v. Schueller, 86 Ark. App. 347, 185 S.W.3d 107 \(2004\).](#)

#### **SELF-EMPLOYED PAYORS.**

Trial court erred in calculating husband's child support obligation because it did not follow the child support guidelines in calculating his income; this rule requires that child support for self-employed payors be calculated based on the last two years' federal and state income tax returns, but husband's income was calculated solely on one year's tax returns. [Cole v. Cole, 89 Ark. App. 134, 201 S.W.3d 21 \(2005\).](#)

For self-employed payors, the circuit court should first consider the last two years' federal and state income tax returns and the quarterly estimates for the current year, including contributions made to retirement plans, alimony paid, self-employed insurance paid, depreciation to the extent that it reflects the actual decrease in value of an asset and, if the circuit court determines that the tax returns are unreliable, then it shall make specific findings explaining the basis of its determination; the circuit court shall then proceed using the net-worth method, and the circuit court shall establish a beginning net worth at the start of the relevant period and an ending net worth at the end of the period, considering living expenses and allowable deductions for the same period. [Tucker v. Office of Child Support Enforcement, 368 Ark. 481, 247 S.W.3d 485 \(2007\).](#)

In a child support case, a trial court did not err by imputing minimum wage earnings to an unemployed father; Ark. Sup. Ct. Admin. Order No. 10(c) was not used because the father was not self-employed. [Norman v. Cooper, 101 Ark. App. 446, 278 S.W.3d 569 \(2008\).](#)

#### **CITED:**

[McDougal v. McDougal, 2011 Ark. App. 13, 378 S.W.3d 813 \(2011\).](#)

## [AR Sup. Ct. Adm. Order No. 10 § 2](#)

Rules current through August 15, 2019 by the Arkansas Supreme Court and Arkansas Court of Appeals

**AR - Arkansas State & Federal Court Rules > ADMINISTRATIVE ORDERS OF THE SUPREME COURT > ADMINISTRATIVE ORDER NUMBER 10 -- CHILD SUPPORT GUIDELINES**

### **Section II. Definition of income.**

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**a.**Income means any form of payment, periodic or otherwise, due to an individual, regardless of source, including wages, salaries, commissions, bonuses, workers' compensation, disability, payments pursuant to a pension or retirement program, and interest less proper deductions for:

- 1.Federal and state income tax;
- 2.Withholding for Social Security (FICA), Medicare, and railroad retirement;
- 3.Medical insurance paid for dependent children; and
- 4.Presently paid support for other dependents by court order, regardless of the date of entry of the order or orders.

Cases reflect that the definition of "income" is "intentionally broad and designed to encompass the widest range of sources consistent with this State's policy to interpret 'income' broadly for the benefit of the child." [Evans v. Tillery, 361 Ark. 63, 204 S.W.3d 547 \(2005\)](#); [Ford v. Ford, 347 Ark. 485, 65 S.W.3d 432 \(2002\)](#); [McWhorter v. McWhorter, 346 Ark. 475, 58 S.W.3d 840 \(2001\)](#); and [Davis v. Office of Child Support Enforcement, 341 Ark. 349, 20 S.W.3d 273 \(2000\)](#).

**b.**In order to further this State's policy to interpret "income" broadly for the benefit of the child, a support order may include as its basis a percentage of a bonus to be received in the future. This child-support obligation shall terminate when the underlying child-support obligation terminates. When a payor's income includes a bonus amount, use the following percentages of the payor's net bonus to set and establish the amount of support:

- One dependent: 15%
- Two dependents: 21%
- Three dependents: 25%
- Four dependents: 28%
- Five dependents: 30%
- Six dependents: 32%

The child support attributable to a bonus amount shall be in addition to the periodic child-support obligation. Defining income to include a percentage of a bonus changes

Arkansas case law. The effect is specifically to overrule the result reached in [Kelly v. Kelly, 341 Ark. 596, 19 S.W.3d 1 \(2000\)](#).

## History

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Amended April 26, 2007, effective May 3, 2007; republished with revisions June 14, 2007; amended February 3, 2011, effective March 1, 2011

Annotations

## Case Notes

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DEDUCTIONS.  
INCOME.

### DEDUCTIONS.

Father could not deduct the child support of his two daughters because they were his children with the mother. [Johnson v. Young, 2017 Ark. App. 132, 515 S.W.3d 159 \(2017\)](#).

### INCOME.

The term income, as defined by this section, includes Social Security Disability benefits paid directly to a noncustodial parent's children as a result of that parent's disability. [Ark. Office of Child Support Enforcement v. Hearst, 2009 Ark. 599, 357 S.W.3d 450 \(2009\)](#).

It was error for the court to calculate the husband's income based on his tax returns after determining that the tax returns were not credible, because the court found that the husband was earning more than his reported \$40,000 salary and questioned him regarding his underemployment. [John v. Bolinder, 2013 Ark. App. 224 \(2013\)](#).

It was error for a trial court to deny a mother's child support modification motion based on an inability to determine if income a father concealed was regular or a one-time payment because "income," for child support purposes, was broadly defined to include nonperiodic payments. [Hall v. Hall, 2013 Ark. 330, 429 S.W.3d 219 \(2013\)](#).

Considering that the definition of income is intentionally broad and designed to encompass the widest range of sources for the support of minor children, the trial court abused its discretion in failing to include either certain bonus amounts and employer contributions in the father's income calculation or explain why these amounts should not be included. [Riddick v. Harris, 2016 Ark. App. 426, 501 S.W.3d 859 \(2016\)](#).

Self-employed father proved no material change in circumstances warranting a child support reduction because income calculations did not properly account for the retained earnings of the

father's subchapter S corporation or for other available income. [Troutman v. Troutman, 2017 Ark. 139, 516 S.W.3d 733 \(2017\).](#)

On the record before it, the appellate court could not conclude that the circuit court erred by declining to include the increase in value of the father's stock portfolio as income in calculating child support, as the record was insufficient to establish that the portfolio activity constituted income as defined in Administrative Order Number 10. [Dare v. Frost, 2018 Ark. 83, 540 S.W.3d 281 \(2018\).](#)

Under the broad definition of income in Administrative Order 10 and under the specific facts of the case, the Court of Appeals could not say that the circuit's court treatment of the father's tax refunds as income constituted reversible error; the divorce decree permitted the father to claim one child as a dependent each year. [Morgan v. Morgan, 2018 Ark. App. 316, 552 S.W.3d 10 \(2018\).](#)

Trial court did not clearly err or abuse its discretion in finding that the husband's average weekly net income for child-support purposes was \$2,000, nor in finding that the difference in the wife's and husband's incomes justified ordering the husband to pay for the other needs of the child. [Steeland v. Steeland, 2018 Ark. App. 551, 562 S.W.3d 269 \(2018\).](#)

Requiring the wife to make a one-time payment of \$1.25 million in child support to the husband per a provision in the divorce decree was error where the assets of the wife's inheritance did not constitute income under Admin. Order No. 10, § II, and there was no evidence of the children's needs. None of the assets that were part of the \$5 million inheritance had been liquidated and the parties had joint custody. [Grimsley v. Drewyor, 2019 Ark. App. 218 \(2019\).](#)

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## [AR Sup. Ct. Adm. Order No. 10 § 3](#)

Rules current through August 15, 2019 by the Arkansas Supreme Court and Arkansas Court of Appeals

**AR - Arkansas State & Federal Court Rules > ADMINISTRATIVE ORDERS OF THE SUPREME COURT > ADMINISTRATIVE ORDER NUMBER 10 -- CHILD SUPPORT GUIDELINES**

### **Section III. Calculation of support.**

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**a. Basic Considerations.** --The most recent revision of the family support charts is based on the weekly, biweekly, semimonthly and monthly income of the payor parent as defined in Section II.

For purposes of computing child support payments, a month consists of 4.334 weeks. Biweekly means a payor is paid once every two weeks or 26 times during a calendar year. Semimonthly means a payor is paid twice a month or 24 times during a calendar year.

Use the lower figure on the chart for income to determine support. Do not interpolate (i.e., use the \$ 200.00 amount for all income pay between \$ 200.00 and \$ 210.00 per week.)

The amount paid to the Clerk of the Court or to the Arkansas Clearinghouse for administrative costs pursuant to *Ark. Code Ann. § 9-12-312(e)(1)(A)*, [§ 9-10-109\(b\)\(1\)\(A\)](#), and [§ 9-14-804\(b\)](#) is not to be included as support.

**b. Income Which Exceeds Chart.** --When the payor's income exceeds that shown on the chart, use the following percentages of the payor's weekly, biweekly, semimonthly or monthly income as defined in SECTION II to set and establish a sum certain dollar amount of support:

One dependent: 15%

Two dependents: 21%

Three dependents: 25%

Four dependents: 28%

Five dependents: 30%

Six dependents: 32%

To compute child support when income exceeds the chart, add together the maximum weekly, biweekly, semimonthly, or monthly chart amount, and the percentage of the dollar amount that exceeds that figure, using the percentage above based upon the number of dependents. *Example:* The maximum on the weekly chart is \$ 1,000 a week. If a payor's net weekly income is \$ 1,200 and support will be computed for one child-add \$ 149 (the chart amount of support for one child when payor's net weekly income is \$ 1,000) and \$ 30 (15% of \$ 200, the amount exceeding the maximum chart amount), for total child support of \$ 179. [Hill v. Kelly, 368 Ark. 200, 243 S.W.3d 886 \(2006\)](#) (case decided before the Administrative Order was amended to include this computation and example).

**c. Nonsalaried Payors.** --For Social Security Disability recipients, the court should consider the amount of any separate awards made to the disability recipient's spouse and children on account of the payor's disability. SSI benefits shall not be considered as income.

For Veteran's Administration disability recipients, Workers' Compensation disability recipients, and Unemployment Compensation recipients, the court shall consider those benefits as income.

For military personnel, see the latest military pay allocation chart and benefits. Basic Allowance for Housing (BAH) and Basic Allowance for Subsistence (BAS) should be added to other income to reach total income. Military personnel are entitled to draw BAH at a "with dependents" rate if they are providing support pursuant to a court order. However, there may be circumstances in which the payor is unable to draw BAH or may draw BAH only at the "without dependents" rate. Use the BAH for which the payor is actually eligible. In some areas, military personnel receive a variable allowance. It may not be appropriate to include this allowance in calculation of income since it is awarded to offset living expenses which exceed those normally incurred.

For commission workers, support shall be calculated based on minimum draw plus additional commissions.

For self-employed payors, support shall be calculated based on the last two years' federal and state income tax returns and the quarterly estimates for the current year. A self-employed payor's income should include contributions made to retirement plans, alimony paid, and self-employed health insurance paid; this figure appears on line 22 of the current federal income tax form. Depreciation should be allowed as a deduction only to the extent that it reflects actual decrease in value of an asset. Also, the court shall consider the amount the payor is capable of earning or a net worth approach based on property, life-style, etc. For "clarification of the procedure for determining child support by using the net-worth method," see [\*Tucker v. Office of Child Support Enforcement, 368 Ark. 481, 247 S.W.3d 485 \(2007\)\*](#).

**d. Imputed Income.** --If a payor is unemployed or working below full earning capacity, the court may consider the reasons therefor. If earnings are reduced as a matter of choice and not for reasonable cause, the court may attribute income to a payor up to his or her earning capacity, including consideration of the payor's life-style. Income of at least minimum wage shall be attributed to a payor ordered to pay child support.

**e. Spousal Support.** --The chart assumes that the custodian of dependent children is employed and is not a dependent. For the purposes of calculating temporary support only, a dependent custodian may be awarded 20% of the net take-home pay for his or her support in addition to any child support awarded. For final hearings, the court should consider all relevant factors, including the chart, in determining the amount of any spousal support to be paid.

**f. Allocation of Dependents for Tax Purposes.** --Allocation of dependents for tax purposes belongs to the custodial parent pursuant to the Internal Revenue Code. However, the Court shall have the discretion to grant dependency allocation, or any part of it, to the noncustodial parent if the benefit of the allocation to the noncustodial parent substantially outweighs the benefit to the custodial parent.

**g. Health Insurance.** --In addition to the award of child support, the court order shall provide for the child's health care needs, which normally would include health insurance if available to either parent at a reasonable cost. Health insurance coverage shall be considered reasonable if the cost of dependent coverage does not exceed 5% of the net income of the parent who is to provide such coverage. In applying the 5% standard for the cost of health insurance, the cost of dependent coverage is the difference between self-only and self with dependents or family coverage or the cost of adding the child(ren) to existing coverage.

## History

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Amended April 26, 2007, effective May 3, 2007; republished with revisions June 14, 2007; amended October 22, 2015

Annotations

## Case Notes

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CALCULATION.  
IMPUTED INCOME.  
INCOME.  
SOCIAL SECURITY PAYMENTS.

### CALCULATION.

Under subsection (c) of this rule, the trial court erred in the methodology that it used in calculating the husband's income for purposes of setting child support. Although he had been a self-employed payor in the past, his employment status changed to a direct employee on January 1, 2008, and had remained such since that time; thus, the trial court erred in treating him as a self-employed payor. [\*Boudreaux v. Boudreaux\*, 2009 Ark. App. 685, 373 S.W.3d 329 \(2009\)](#).

It was error for the court to calculate the husband's income based on his tax returns after determining that the tax returns were not credible, because the court found that the husband was earning more than his reported \$40,000 salary and questioned him regarding his underemployment. [\*John v. Bolinder\*, 2013 Ark. App. 224 \(2013\)](#).

There was no rebuttal of the father's testimony regarding his income and the disability income received by his new wife and daughter that helped cover household expenses, and the trial court relied on the father's tax returns in determining his income, which was not clearly erroneous, and the court affirmed the reduction, but modified the retroactive application to a different date. [\*Browning v. Browning\*, 2015 Ark. App. 104, 455 S.W.3d 863 \(2015\)](#).

Circuit court did not use the correct method to calculate the father's income; it was unclear how the circuit court arrived at the father's "true income" of \$3,300 a month, when his tax returns reflected something much larger. The circuit court made no findings that tax returns were

unreliable and did not attempt to proceed to the next step concerning the net-worth approach, and remand was required. [Johnson v. Young, 2017 Ark. App. 132, 515 S.W.3d 159 \(2017\)](#).

## **IMPUTED INCOME.**

Court did not abuse its discretion in imputing income to the father and reducing his monthly child support obligation by twenty percent, because while the father testified that his underemployment was reasonable, that he had aggressively searched for better employment and that he had a hard time finding a job due to his lack of education and mental issues, he offered no evidence to support his statements; the father introduced no evidence that he had applied for any jobs at all, in spite of the State's and the court's repeated requests for such information. [Byrd v. Byrd, 2012 Ark. App. 589 \(2012\)](#).

Determining whether the father was to be imputed any income at all, and if so, in what amount, was a matter left to the discretion of the trial court; the trial court is given discretion to determine appropriate child support income in a fact-intensive inquiry. [Metz v. Langston, 2015 Ark. App. 319, 463 S.W.3d 305 \(2015\)](#).

Issue was whether the trial court was justified in using a lower imputed income due to the father's health and unemployment condition when applying the Family Support Chart, and this was a matter of the trial court weighing the evidence, and the trial court did not abuse its discretion in calculating the imputed income; there was no requirement to explain a deviation from the Family Support Chart because no deviation took place. [Metz v. Langston, 2015 Ark. App. 319, 463 S.W.3d 305 \(2015\)](#).

Because the father was unemployed, there existed a rebuttable presumption that the child support should be based on his zero income as applied to the support chart; the trial court could have rebutted that presumption by making written findings that the application of the support chart would be unjust or inappropriate, but the trial court did not make such findings and consequently erred in its calculation of child support. The trial court has the discretion to impute income, however, and the child support award was reversed and remanded for reassessment. [Fox v. Fox, 2015 Ark. App. 367, 465 S.W.3d 18 \(2015\)](#).

Finding a material change in circumstances warranting a reduction in the husband's child support obligation was not clear error where the circuit court found the husband's testimony as to why he left his job and the amount he would have made had he stayed credible and constituted reasonable cause for the departure. [Langston v. Brown, 2016 Ark. App. 535, 506 S.W.3d 261 \(2016\)](#).

Circuit court properly imputed income to a father, who was a self-employed farmer, and ordered the father to pay child support based on that imputed figure because the best evidence that the circuit court had was the father's bank records, and the court considered the relevant two years' worth of information in those records, as well as the factors set forth in Administrative Order No. 10, to discern a realistic assessment of the father's income. [Boyd v. Crocker, 2017 Ark. App. 108, 513 S.W.3d 302 \(2017\)](#).

Circuit court did not err by declining to impute income to a father based on his lifestyle because the record contained no evidence to indicate that the father was working below his full earning capacity. [Dare v. Frost, 2018 Ark. 83, 540 S.W.3d 281 \(2018\).](#)

Circuit court did not err in imputing income to the husband for purposes of calculating his child support obligation where personal benefits were paid by his corporation, including, but not limited to, payments for a truck, a boat, utilities, and satellite television, he lived in a house that the corporation owned, and although a boat had been repossessed and sold to another individual, the husband continued to use it exclusively. [Wyatt v. Wyatt, 2018 Ark. App. 177, 545 S.W.3d 796 \(2018\).](#)

## **INCOME.**

The term income, as defined by Section II of this Administrative Order, includes Social Security Disability benefits paid directly to a noncustodial parent's children as a result of that parent's disability. [Ark. Office of Child Support Enforcement v. Hearst, 2009 Ark. 599, 357 S.W.3d 450 \(2009\).](#)

Because the father's income was significantly lower than when the child-support amount was originally set and he did not commit criminal offenses to reduce his child-support obligation, the reduction in his income was not a matter of choice under subsection d of this section, and the reduction of his child-support obligation was not an abuse of discretion. [Bendinelli v. Bendinelli, 2012 Ark. App. 127 \(2012\).](#)

Circuit court, in calculating child support under this order, erred as a matter of law where it failed to follow the appropriate procedure for determining the father's net worth and to consider the factors required for determining child support. [Colley v. Colley, 2014 Ark. App. 698, 450 S.W.3d 274 \(2014\).](#)

At the time of the hearing, the father had not filed his 2014 tax returns and he did not introduce 2014 quarterly estimates, and thus the trial court used the only tax records presented to determine his farm income, and this was not an abuse of discretion. [Riddick v. Harris, 2016 Ark. App. 426, 501 S.W.3d 859 \(2016\).](#)

Self-employed father proved no material change in circumstances warranting a child support reduction because income calculations did not properly account for the retained earnings of the father's subchapter S corporation or for other available income. [Troutman v. Troutman, 2017 Ark. 139, 516 S.W.3d 733 \(2017\).](#)

## **SOCIAL SECURITY PAYMENTS.**

Under subsection (c) of this order, a father was not entitled to discharge his child-support arrears based on his son's receipt of a \$15,835 lump-sum payment from the Social Security Administration. The payment did not relieve the inequities borne by the mother and caused by the father's failure to honor his child-support obligation; the mother testified at length regarding

her difficulty accumulating sufficient income to cover her expenses. [Grays v. State Office of Child Support Enforcement, 375 Ark. 38, 289 S.W.3d 12 \(2008\).](#)

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## [AR Sup. Ct. Adm. Order No. 10 § 4](#)

Rules current through August 15, 2019 by the Arkansas Supreme Court and Arkansas Court of Appeals

***AR - Arkansas State & Federal Court Rules > ADMINISTRATIVE ORDERS OF THE SUPREME COURT > ADMINISTRATIVE ORDER NUMBER 10 -- CHILD SUPPORT GUIDELINES***

### **Section IV. Affidavit of financial means.**

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The Affidavit of Financial Means shall be used in all family support matters. The trial court shall require each party to complete and exchange the Affidavit of Financial Means prior to a hearing to establish or modify a support order.

### **History**

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Amended April 26, 2007, effective May 3, 2007; republished with revisions June 14, 2007

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## [AR Sup. Ct. Adm. Order No. 10 § 5](#)

Rules current through August 15, 2019 by the Arkansas Supreme Court and Arkansas Court of Appeals

**AR - Arkansas State & Federal Court Rules > ADMINISTRATIVE ORDERS OF THE SUPREME COURT > ADMINISTRATIVE ORDER NUMBER 10 -- CHILD SUPPORT GUIDELINES**

### **Section V. Deviation considerations.**

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**a. Relevant Factors.** --Relevant factors to be considered by the court in determining appropriate amounts of child support shall include:

1. Food;
2. Shelter and utilities;
3. Clothing;
4. Medical expenses;
5. Educational expenses;
6. Dental expenses;
7. Child care (includes nursery, baby sitting, daycare or other expenses for supervision of children necessary for the custodial parent to work);
8. Accustomed standard of living;
9. Recreation;
10. Insurance;
11. Transportation expenses; and
12. Other income or assets available to support the child from whatever source, including the income of the custodial parent.

**b. Additional Factors.** --Additional factors may warrant adjustments to the child support obligations and shall include:

1. The procurement and maintenance of life insurance, health insurance, dental insurance for the children's benefit;
2. The provision or payment of necessary medical, dental, optical, psychological or counseling expenses of the children (e.g., orthopedic shoes, glasses, braces, etc.);
3. The creation or maintenance of a trust fund for the children;
4. The provision or payment of special education needs or expenses of the child;
5. The provision or payment of day care for a child;

6. The extraordinary time spent with the noncustodial parent, or shared or joint custody arrangements;

7. The support required and given by a payor for dependent children, even in the absence of a court order; and

8. Where the amount of child support indicated by the chart is less than the normal costs of child care, the court shall consider whether a deviation is appropriate.

**c. Application of Deviation Factors.** --These deviation factors may be considered for both the custodial and the noncustodial parents.

## History

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Amended April 26, 2007, effective May 3, 2007; republished with revisions June 14, 2007

Annotations

## Case Notes

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AMOUNTS RECEIVED FROM GOVERNMENT.  
DEVIATION FROM GUIDELINES.  
HEALTH INSURANCE.

### **AMOUNTS RECEIVED FROM GOVERNMENT.**

Trial court erred in awarding a mother \$150 per month for her two special needs children, almost 80 percent less than the amount specified in this administrative order, without explaining why the chart amount was inappropriate. Amounts the mother received as an adoption subsidy and Social Security benefits could be considered, but these amounts were not earned by the father and were meant to benefit the children. [\*Bass v. Bass\*, 2011 Ark. App. 753, 387 S.W.3d 218 \(2011\)](#).

### **DEVIATION FROM GUIDELINES.**

Trial court erred because it did not follow the child support guidelines in awarding retroactive child support and it did not take into account the child's best interests when it deviated from the chart amount in awarding prospective child support; in addition, the trial court failed to reference the child-support guidelines in either its letter opinion or in its judgment and failed to apply the deviation factors in this section. [\*Akins v. Mofield\*, 355 Ark. 215, 132 S.W.3d 760 \(2003\)](#).

Circuit court, which awarded child support and reimbursement of medical expenses to an ex-husband, abused its discretion in granting the ex-husband's objection to the ex-wife's discovery request. Income from the ex-husband was relevant for determining whether a deviation from the child-support chart should be allowed. [\*Hill v. Kelly\*, 2014 Ark. 34 \(2014\)](#).

Trial court lacked jurisdiction to modify payments for parochial school education because the parties' agreement on that subject was an independent contract separate from child support; tuition payments in this case did not support or care for the children where they were in addition to a support payment, and there was no deviation based on the tuition. An independent property-settlement agreement, if approved by a court and incorporated into a divorce decree, could not have been subsequently modified. [\*Fischer v. Fischer\*, 2015 Ark. App. 116, 456 S.W.3d 779 \(2015\).](#)

Trial court had not abused its discretion in reducing a father's child support obligation where there was an undisputed reduction in the father's income, and the 50-50 custody arrangement and expenses the father paid for the children justified a substantial deviation from the chart amount. [\*Guin v. McWhorter\*, 2017 Ark. App. 463, 528 S.W.3d 326 \(2017\).](#)

## **HEALTH INSURANCE.**

Allowing a reduction of income for child support purposes based on the practice of splitting the cost of the health insurance premium when there was no additional cost to the ex-husband was not error. [\*Langston v. Brown\*, 2016 Ark. App. 535, 506 S.W.3d 261 \(2016\).](#)

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## [AR Sup. Ct. Adm. Order No. 10 § 6](#)

Rules current through August 15, 2019 by the Arkansas Supreme Court and Arkansas Court of Appeals

**AR - Arkansas State & Federal Court Rules > ADMINISTRATIVE ORDERS OF THE SUPREME COURT > ADMINISTRATIVE ORDER NUMBER 10 -- CHILD SUPPORT GUIDELINES**

### **Section VI. Abatement of support during extended visitation.**

The guidelines assume that the noncustodial parent will have visitation every other weekend and for several weeks during the summer. Excluding weekend visitation with the custodial parent, in those situations in which a child spends in excess of 14 consecutive days with the noncustodial parent, the court should consider whether an adjustment in child support is appropriate, giving consideration to the fixed obligations of the custodial parent which are attributable to the child, to the increased costs of the noncustodial parent associated with the child's visit, and to the relative incomes of both parents. Any partial abatement or reduction of child support should not exceed 50% of the child support obligation during the extended visitation period of more than 14 consecutive days.

In situations in which the noncustodial parent has been granted annual visitation in excess of 14 consecutive days, the court may prorate annually the reduction in order to maintain the same amount of monthly child support payments. However, if the noncustodial parent does not exercise said extended visitations during a particular year, the noncustodial parent shall be required to pay the abated amount of child support to the custodial parent.

### **History**

Amended April 26, 2007, effective May 3, 2007; republished with revisions June 14, 2007

Annotations

### **Case Notes**

#### **ABATEMENT IMPROPER.**

Trial court clearly erred in abating the father's child-support obligation for the period the mother and child were living in another country as the obligation for child support did not depend on the father's relationship or visitation with the child. [Henderson v. Johnston, 2017 Ark. App. 620, 534 S.W.3d 196 \(2017\).](#)

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End of Document

## [AR Sup. Ct. Adm. Order No. 10 § 7](#)

Rules current through August 15, 2019 by the Arkansas Supreme Court and Arkansas Court of Appeals

**AR - Arkansas State & Federal Court Rules > ADMINISTRATIVE ORDERS OF THE SUPREME COURT > ADMINISTRATIVE ORDER NUMBER 10 -- CHILD SUPPORT GUIDELINES**

### **Section VII. Provisions for payment.**

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All orders of child support shall fix the dates on which payments shall be made. All support orders issued shall include a provision for immediate implementation of income withholding, absent a finding of good cause not to require immediate income withholding or a written agreement of the parties incorporated in the order setting forth an alternative agreement as required by [Ark. Code Ann. § 9-14-218\(a\)](#). All income withholding forms shall be made a part of the court file by the payee or his or her attorney. Payment shall be made through the Arkansas Clearinghouse pursuant to [Ark. Code Ann. § 9-14-805](#). Times for payment should ordinarily coincide with the payor's receipt of salary, wages, or other income.

### **History**

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Adopted September 25, 1997; amended January 2, 1998; amended May 24, 2001, effective July 1, 2001; amended January 31, 2002, effective February 11, 2002; amended April 26, 2007, effective May 3, 2007; republished with revisions June 14, 2007

Annotations

### **Case Notes**

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#### **INCOME OR ASSETS.**

Two large judgments received by father constituted "income" under this rule and, thus, the trial court did not err by ordering the father to pay a percentage of the judgments as a one-time child support obligation; it was irrelevant to the modification proceeding that the father had agreed to repay discharged bankruptcy debts, and the father's monthly obligation was not increased due to the judgments. [Evans v. Tillery, 361 Ark. 63, 204 S.W.3d 547 \(2005\)](#).

Denial of mother's motion for an increase in child support was reversed as the trial court erred in ignoring the withholding tables and simply accepting father's assertion he was over withholding taxes to avoid having to pay additional money in taxes as the father obscured the amount of income available for support. [Williams v. Nesbitt, 95 Ark. App. 79, 234 S.W.3d 343 \(2006\)](#).

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## [AR Sup. Ct. Adm. Order No. Notes](#)

Rules current through August 15, 2019 by the Arkansas Supreme Court and Arkansas Court of Appeals

**AR - Arkansas State & Federal Court Rules > ADMINISTRATIVE ORDERS OF THE SUPREME COURT > ADMINISTRATIVE ORDER NUMBER 10 -- CHILD SUPPORT GUIDELINES**

### **AR Sup. Ct. Adm. Order No. Notes**

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FORMS

Annotations

### **Notes**

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PUBLISHER'S NOTES. By Per Curiam dated Sept. 25, 1997, the Supreme Court provided: "On February 5, 1990, this Court first adopted guidelines for child support in response to P.L. 100-485 and *Ark. Code Ann. § 9-12-312(a)*. Effective October, 1989, P.L. 100-485 required that all states adopt guidelines for setting child support; that it be a rebuttable presumption that the amount of support calculated from the child-support chart is correct; and that each state's guidelines be reviewed and revised, as necessary, at least every four years. In response to the federal law, the Arkansas General Assembly enacted *Ark. Code Ann. § 9-12-312* which included the federal provisions and authorized the Arkansas Supreme Court to develop guidelines based on recommendations submitted to the Court by a committee appointed by the Chief Justice.

"The Committee on Child Support initially made recommendations to the Court which formed the substance of the 1990 Per Curiam Order. On May 13, 1991, pursuant to the Committee's recommendations, the Court issued a new Per Curiam Order which supplemented the original. Then, in compliance with the four-year requirement of P.L. 100-485, the Committee again submitted recommendations to the Court in October, 1993, and the Court issued the most recent Per Curiam Order on October 23, 1993, adopting the guidelines which are published in the Court Rules Volume of the Arkansas Code Annotated.

"In the ensuing four years, the Committee continued to study the existing guidelines pursuant to federal and state law and has once again submitted its recommendations.

"Having carefully considered these most recent recommendations, the Court adopts and publishes Administrative Order Number 10 -- Arkansas Child Support Guidelines, effective October 1, 1997. This Administrative Order includes and incorporates by reference the weekly and monthly family support charts and the Affidavit of Financial Means which are attached to Administrative Order Number 10.

"The Court thanks the Committee for its service, and as it has done in the past, directs the Committee and the Chief Justice, as its liaison, to continue its charge pursuant to law and the rules of this Court.

"Newbern, J. dissents. I dissent for the reasons stated in the dissenting opinion of Hickman, J., when the per curiam order adopting the guidelines was issued. In re: [Guidelines for Child Support Enforcement, 301 Ark. 627, 784 S.W.2d 589 \(1990\)](#)."

By Per Curiam dated Jan. 22, 1998, the Supreme Court provided: "On September 25, 1997, based on recommendations received from the Supreme Court Committee on Child Support pursuant to P.L. 100-485 and *Ark. Code Ann. § 9-12-312(a)*, this Court published Administrative Order Number 10, adopting the most recent version of the child-support guidelines including the weekly and monthly family support charts and the Affidavit of Financial Means. The Order became effective October 1, 1997, and certain corrections were made to the charts before the Order reached the printer.

"The Committee has now apprised the Court of an unintended omission on the Affidavit of Financial Means. On page one of the Affidavit, Number 10 should include "(h) child care." This item is not a new consideration, having been included on the Affidavit of Financial Means since the Court first adopted it for use in 1991.

"THEREFORE, effective immediately, the Court republishes Administrative Order Number 10: Arkansas: Arkansas Child Support Guidelines in its entirety including the corrected weekly and monthly family support charts and the corrected Affidavit of Financial Means.

"Newbern, J. dissents. I dissent for the reasons stated in the dissenting opinion of Hickman, J., when the per curiam order adopting the guidelines was issued. In re: [Guidelines for Child Support Enforcement, 301 Ark. 627, 784 S.W.2d 589 \(1990\)](#)."

CROSS REFERENCES. For other provisions and annotations regarding child support, see § 9-12-312.

## Case Notes

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CONSTRUCTION.  
 PURPOSE.  
 APPLICABILITY.  
 ABILITY TO PAY.  
 CHART REFERENCE MANDATORY.  
 DEVIATION FROM GUIDELINES.  
 EXCLUSIVITY.  
 INCOME OR ASSETS.  
 RETROACTIVE PAYMENTS UPHELD.  
 SUBCHAPTER "S" CORPORATION.  
 UNDUE HARDSHIP.

### CONSTRUCTION.

The family-support chart is, in essence, a rule promulgated by the Arkansas Supreme Court, and is construed using the same means, including canons of construction, that are used to interpret statutes. [Anderson v. Anderson, 60 Ark. App. 221, 963 S.W.2d 604 \(1998\)](#).

An interpretation of the provisions of this chart that would permit deduction of income-tax payments from the income that a child-support payor has available to pay child support is contrary to the purpose of the family-support chart. [Anderson v. Anderson, 60 Ark. App. 221, 963 S.W.2d 604 \(1998\).](#)

Definition of income for child support purposes was intentionally broad to encompass the widest range of sources consistent with the state's policy to interpret "income" broadly for the benefit of the child. [Ford v. Ford, 347 Ark. 485, 65 S.W.3d 432 \(2002\).](#)

## **PURPOSE.**

The family-support chart was established to ensure the proper enforcement of child-support awards in this state. [Anderson v. Anderson, 60 Ark. App. 221, 963 S.W.2d 604 \(1998\).](#)

It is wholly inconsistent with the purpose of the family-support chart to interpret it in such a way as to encourage child-support payors to minimize their child-support income. [Anderson v. Anderson, 60 Ark. App. 221, 963 S.W.2d 604 \(1998\).](#)

## **APPLICABILITY.**

The Per Curiam Order guidelines of the Arkansas Supreme Court in effect at the time of the hearing on the request for modification of child support is the applicable law pertaining to the modification. [Heflin v. Bell, 52 Ark. App. 201, 916 S.W.2d 769 \(1996\).](#)

The child support guidelines Per Curiam Order of 1993 is very similar to the child support guidelines Per Curiam Order of 1991, but the paragraph governing the trial court's continuing jurisdiction to modify support orders is omitted and, therefore, not applicable to child support matters decided after the 1993 Per Curiam Order was issued. [Heflin v. Bell, 52 Ark. App. 201, 916 S.W.2d 769 \(1996\).](#)

## **ABILITY TO PAY.**

The child support chart specifically takes into account payments made under court order to support other children, and allows these payments to be deducted from weekly take home pay. The chart does not refer to support of children not under court order, but a payor spouse's ability to pay can be considered and necessarily includes other children the parent is legally obligated to support. [Stewart v. Winfrey, 308 Ark. 277, 824 S.W.2d 373 \(1992\).](#)

Trial court did not err when it ordered incarcerated father to pay \$25 per week in child support; while that exact issue had never been determined in Arkansas, this rule provided that income could be imputed to an unemployed payor of child support and the *Reid* decision upheld the trial court's refusal to totally abate child support due to the father's incarceration. [Allen v. Allen, 82 Ark. App. 42, 110 S.W.3d 772 \(2003\).](#)

Given the evidence of the father's affluence, exceptional generosity to his girlfriend and sisters, and extravagant lifestyle, the trial judge did not abuse his discretion in setting child support in the divorce proceeding in accordance with the presumptive amount derived from the family support chart. [Williams v. Williams, 82 Ark. App. 294, 108 S.W.3d 629 \(2003\).](#)

### **CHART REFERENCE MANDATORY.**

Courts are required to refer to chart but are not bound to set support payments in accordance with exact terms thereof; degree of dependence upon chart is left to sound discretion of the chancellor. [Thurston v. Pinkstaff, 292 Ark. 385, 730 S.W.2d 239 \(1987\)](#) (decision prior to amendment to § 9-12-312 by Acts 1989, No. 948).

Reference to the Family Support Chart is mandatory, and the chart itself establishes a rebuttable presumption of the appropriate amount which can only be explained away by written findings stating why the chart amount is unjust or inappropriate. [Black v. Black, 306 Ark. 209, 812 S.W.2d 480 \(1991\).](#)

Where the chancellor's order failed to indicate whether he indeed referred to the chart in making his decision, he projected a support chart amount premised on the defendant's monthly income, and he presumed that amount to be correct, the case was remanded for the chart to be considered. [Black v. Black, 306 Ark. 209, 812 S.W.2d 480 \(1991\).](#)

Provisions of property settlement agreement with regard to child support did not compel chancery court to deviate from presumptive amount set out in the child support guidelines to be used in arriving at a fair determination of support. [Alfano v. Alfano, 77 Ark. App. 62, 72 S.W.3d 104 \(2002\).](#)

### **DEVIATION FROM GUIDELINES.**

Where chancellor made specific findings on the record spelling out why the support chart was inappropriate, considering all relevant factors, it was sufficient to rebut the presumption that the amount of child support calculated pursuant to the family support chart was correct. [Scroggins v. Scroggins, 302 Ark. 362, 790 S.W.2d 157 \(1990\).](#)

While there is a rebuttable presumption that the amount of support according to the chart is correct, the chancellor in his discretion is not entirely precluded from adjusting the amount as deemed warranted under the facts of a particular case. However, when deviating from the chart, the chancellor must explain his or her reasoning by the entry of a written finding or by making a specific finding on the record. [Waldon v. Waldon, 34 Ark. App. 118, 806 S.W.2d 387 \(1991\).](#)

Where the end result reached by the chancellor represented only a slight deviation from the chart amount, the findings made by the chancellor on the record were sufficient to rebut the presumption that the amount of support according to the chart was correct. [Waldon v. Waldon, 34 Ark. App. 118, 806 S.W.2d 387 \(1991\).](#)

The child support chart and the criteria used for deviating from it are not mandatory, but there is a rebuttable presumption that the amount specified in the chart is the appropriate amount. Other matters may have a bearing upon the amount of support reference to the chart is mandatory, but applying the specific chart amounts is not mandatory if it would be unjust or inequitable, and if written findings are made to that effect. [Stewart v. Winfrey, 308 Ark. 277, 824 S.W.2d 373 \(1992\).](#)

Given the presumption that the chart amount is reasonable, it is incumbent on the trial courts to give a fuller explanation of their reasons for rejecting the chart; it was not sufficient to state merely that the amount was "unreasonable." [Cochran v. Cochran, 309 Ark. 604, 832 S.W.2d 252 \(1992\).](#)

Trial court erred in awarding to the mother, the noncustodial parent, the right to claim a child for tax exemption purposes without providing the requisite written or specific findings to support the decision; an award of a tax exemption to a noncustodial parent resulted in a deviation from the child support chart. [Dumas v. Tucker, 82 Ark. App. 173, 119 S.W.3d 516 \(2003\).](#)

#### **EXCLUSIVITY.**

The list of factors set out in *In re: [Child Support Enforcement Guidelines, 301 Ark. 627, 784 S.W.2d 589 \(1990\).](#)* for determining whether an amount specified by the chart is unjust or inappropriate is not exclusive. [Stewart v. Winfrey, 308 Ark. 277, 824 S.W.2d 373 \(1992\).](#)

#### **INCOME OR ASSETS.**

Where there was no evidence regarding defendant's weekly take home pay during the relevant time period, the support was set at the minimum level required of an unemployed person. [Barnes v. Barnes, 311 Ark. 287, 843 S.W.2d 835 \(1992\).](#)

The language "other income or assets available to support the child from whatever source" is intended to expand, not restrict, the sources of funds to be considered in setting child support. [Belue v. Belue, 38 Ark. App. 81, 828 S.W.2d 855 \(1992\).](#)

The chancellor correctly based the amount of child support ordered on a monthly income which included noncustodial Veterans' Administration disability benefits. [Belue v. Belue, 38 Ark. App. 81, 828 S.W.2d 855 \(1992\).](#)

Gambling proceeds were properly included as income for purposes of calculating child support, but the true income could only be arrived at by crediting gambling losses against the winnings. [McWhorter v. McWhorter, 346 Ark. 475, 58 S.W.3d 840 \(2001\).](#)

Mandatory Tier II withholdings from the father, a railroad employee, did not form part of disposable income for child support purposes; Tier II withholdings were part of railroad retirement deductions. [Montgomery v. Bolton, 349 Ark. 460, 79 S.W.3d 354 \(2002\).](#)

Even if father was considered an employee, rather than self-employed, his income was properly calculated based on an average over a period of time, given the variable nature of his earnings; thus, the trial court did not abuse its discretion by employing an averaging method in determining father's income for child support purposes. [Johnson v. Cotton-Johnson, 88 Ark. App. 67, 194 S.W.3d 806 \(2004\).](#)

### **RETROACTIVE PAYMENTS UPHELD.**

Where custody petition was filed in 1992, the hearing was held in 1994, and the chancellor made a finding of the father's income as of January 1, 1993, there was no abuse of discretion in the chancellor's ordering support payments retroactive to January 1993. [Heflin v. Bell, 52 Ark. App. 201, 916 S.W.2d 769 \(1996\).](#)

### **SUBCHAPTER "S" CORPORATION.**

This chart does not permit a child-support payor/subchapter S corporation shareholder to deduct from his child-support income the amount of his shareholder earnings retained by the corporation; to interpret the chart to allow this would be to allow the payor to reduce his child-support income by the entire amount of income taxes that he pays on his corporate earnings, whether distributed to him or retained by the corporation. [Anderson v. Anderson, 60 Ark. App. 221, 963 S.W.2d 604 \(1998\).](#)

### **UNDUE HARDSHIP.**

Where the chancellor found that the chart called for \$51.00 per week child support, which would quadruple the noncustodial parent's payments, and, considering his expenses, it would be devastating to increase by four times the amount of his support payments, an increase of the weekly payment to \$30.00 instead of \$51.00 followed the requirements, and applied the rules set out in the supreme court's per curiams by avoiding a modification that would work undue hardship on that party. [Howard v. Wisemon, 38 Ark. App. 27, 826 S.W.2d 314 \(1992\).](#)