

The Use of Child Support Guidelines in Wisconsin: 1996 to 2007

Steven T. Cook
Patricia Brown
Institute for Research on Poverty
University of Wisconsin–Madison

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I. INTRODUCTION

As required by federal law, the state of Wisconsin has established guidelines to be used by courts and administrative officials when determining child support obligations. These guidelines are subject to periodic review, based in part on analysis of the actual application of these guidelines in a sample of cases.¹ This report presents such an analysis; we compare the amounts of actual child support orders with the expected amounts calculated from the guidelines, and, in those cases where the guidelines appear not to be used, we examine court records for any explicit statements about reasons for deviating from those guidelines.

This report is the latest in a series of reports on guideline usage in Wisconsin conducted by Institute for Research on Poverty (IRP) researchers over the last 20 years. Most previous reports in this series have considered the application of child support guidelines over relatively short time periods or for specific types of cases.² We build on this earlier work, analyzing cases entering court in more recent periods, including both divorce and paternity court cases, and different types of placement arrangements. Combining newer cases with those covered in previous reports allows us to also examine trends in guideline usage over a longer time period; from 1996 to 2007.

To follow trends in guideline usage over time, we need to make sure to apply the guidelines that were in effect at the time each order was set. Wisconsin's guidelines have changed since they were first

¹In the Child Support Enforcement Amendments of 1984 (Pub. L. 98-378, 98 Stat. 1305) and the Family Support Act of 1988 (Pub. L. 100-485, 102 Stat. 2343), the federal government instituted requirements for states to issue guidelines to be used by courts and administrative officials in determining the proper amounts of child support. Current law (42 US §667) declares these guidelines should be considered presumptively correct, although this presumption is rebuttable, and that states should review these guidelines every four years. According to federal regulations (45CFR302.56) these guidelines must take into account the income and earnings of the noncustodial parent, and should be based on specific numeric criteria and result in a computation of the support obligation. 45CFR302.56(h) also requires that state's reviews of their guidelines include an analysis of "case data, gathered through sampling or other methods, on the application of, and deviations from, the guidelines."

²Brown and Cancian, 2007; Rothe, et. al, 2007; Caspar, Rothe and Yom-Tov, 2006; Cook, 2002; Rothe and Hu, 2002; Rothe, Hu and Wimer, 2000a and 2000b, Meyer and Hu, 1996; Melli and McCall, 1993; Melli and Bartfeld, 1991.

established in 1987. The basic principle of the guidelines is that non-custodial parents should pay a particular percentage of their income depending on the number of children (17 percent for one child, 25 percent for two children, 29 percent for three, 31 percent for four, and 34 percent for five or more), but there are separate calculations that apply when children live with both parents (shared placement), when separate children live with different parents (split placement), when a parent has other child support obligations (serial obligor), and when a parent has especially low or high income.³ The exact formulas for calculating guideline amounts have changed over time; most notably in 2004 with a change in the treatment of shared placement cases and the addition of the low- and high-income provisions. In our calculations of guideline usage, we will use the guidelines that were in place at the time of the order.

It should be noted that while guideline calculations are considered presumptively correct under federal and state law, they are not mandatory. The guidelines permit courts to modify the order amount if they find that the guidelines calculation results in an order that is “unfair to the children or to any of the parties.” In that case, though, the court is required by state law (Wis. Stats. 767.25(1n)) to state “in writing or on the record” the order calculated from the guidelines, the amount of the modification, and the reasons for finding the modification necessary. Therefore, we also examine the compliance of the courts with this requirement to give explicit reasons for deviating from the guidelines.

II. DATA AND METHODS

As in previous IRP reports on Wisconsin’s child support guidelines, we use data from the Wisconsin Court Record Data (CRD), a sample of child support-related cases coming to court in 21 Wisconsin counties (Brown, Roan and Marshall, 1997).⁴ Waves of data collection have been conducted since 1980; in the present paper we examine cohorts 17 to 27, which cover cases coming to court from

³Wisconsin’s guidelines are issued as Chapter DCF 150 of the Wisconsin Administrative Code.

⁴Calumet, Clark, Dane, Dodge, Dunn, Green, Jefferson, Juneau, Kewaunee, Marathon, Milwaukee, Monroe, Oneida, Ozaukee, Price, Racine, Richland, St. Croix, Sheboygan, Waukesha, and Winnebago.

1996 to 2007, in eight annual waves.⁵ Cases are selected for the CRD only if they have the potential for child support payments for at least one year. All results are then weighted to reflect the sampling differences between large and small counties.

Our total sample consists of 12,973 cases collected over the eight cohorts. In cohorts 17 and 18, approximately 1,200 cases were collected for each cohort; in the subsequent cohorts, the samples increased to between 1,500 and 1,700 cases. From this total sample of 12,973, we have removed a total of 1,064 cases. We eliminated 454 cases in which the parents reconciled or are living together at the time of the final judgment (although in later years they do separate and thereafter have a child support obligation), because child support was not relevant at the time of the final judgment; we removed 106 cases in which there had yet to be a final judgment because these were only provisional arrangements; we do not include 127 cases in which there was no physical placement order because we are uncertain of the appropriate guideline; we have excluded 177 cases in which the children were placed with a third party; and we have excluded 200 cases in which the parents had split placement of the children (often with a split of sole placement of one child, and shared placement of another child—such that we are not sure of the appropriate child support guideline).

To calculate the appropriate guidelines-based order, we determine the placement arrangements ordered for the case (based on the number of nights per year with each parent) to determine whether the shared-placement formula should be used.⁶ We then used the income of the parents, the number of children, and the placement arrangement to calculate the expected order amount based on the appropriate formula. Significant changes were made to the child support guidelines in 2004: change in the time-share threshold which distinguished sole placement and shared placement, change in the guidelines formula

⁵Data for each cohort was collected for cases with a petition date between July 1 and June 30 of the following year: Cohort 17 in 1996–97, Cohort 18 in 1997–98, Cohort 21 in 2000–01, Cohort 23 in 2002–03, Cohort 24 in 2003–04, Cohort 25 in 2004–05, Cohort 26 in 2005–06, Cohort 27 in 2006–07. Data collection did not occur in all years; no data was collected for cohorts 19, 20, or 22.

⁶See Brown and Cook (2011) for a full report on placement arrangements ordered in Wisconsin for this sample.

appropriate in shared placement cases, and the introduction of low-income and high-income adjustments. Cases collected in cohorts 23 and 24 (cases coming to court from mid-2002 through mid-2004) could therefore have been subject to either pre-2004 or post-2004 guidelines, depending upon the date of the court hearing under consideration. For paternity cases, we considered the first hearing in the case, with a handful of exceptions;⁷ for divorce cases, we considered the final divorce judgment.⁸ Our figures for Cohorts 23 and 24, therefore, contain a mix of pre- and post-2004 guideline cases.

There are several types of cases in which the guideline-specified amount is not completely clear; a brief discussion of the treatment of the most common of these cases follows. Under Chapter 150.03.3, courts can set an order based on imputed income, rather than actual income, in some circumstances. We base our calculation of orders consistent with the guideline only on the actual income amount recorded in the CRD, if available. Under Chapter 150.05.1(b), the court “may incorporate responsibility for a contribution to the cost of private health insurance as an upward or downward adjustment to a payor’s child support obligation.” For example, if the payee is paying for insurance, the payor may be asked to share in this cost, increasing the order. We have not based our guideline consistency measure on this adjustment, although we do show percentages of mother-sole and equal-shared placement cases where a deviation from the guidelines has been noted by the judge due to these expenses. Another example of a difficult case is a “multi-part” order—some orders are for different amounts in different types of circumstances (for example, the order amount may change after a house has been sold); in these cases we determine consistency with the guidelines based on the circumstance in effect at the time of final judgment. “No order” cases in which the noncustodial parent has no income present a special problem in

⁷In 269 sole mother placement paternity cases, with no child support order at the first (paternity adjudication) hearing, there was a child support order at a subsequent hearing, within 6 months. In these 269 cases, it is this child support order, from the second hearing, that we have examined for consistency with the child support guidelines.

⁸In 2008 the low-income guidelines were adjusted to account for changes in the poverty level. A handful of cohort 27 cases had a court hearing dated after January 1, 2008, and are therefore considered according to the 2008 low-income guideline adjustment.

that having no order can be seen as consistent with the guidelines; we have therefore classified these cases as “consistent,” rather than “no order” cases.

Some cases did not provide enough information for the guideline amount to be calculated (2,707 or 24.9 percent). In sole placement cases, the missing information was generally the income of the payor; in shared placement cases, the missing information could be either the income of one or both parents, or the percentage of time accorded to each parent.

We should note that different formulas or provisions of formulas require different types of information in order to calculate appropriate use of the guidelines. Prior to 2000, percentage-expressed child support orders were common; thus in sole placement cases during that time period, it is not necessary to know the incomes of the parties in order to calculate the appropriateness of the order. The only required pieces of information were the number of children involved in the order, and the fact of sole placement. With the near-elimination of percentage-expressed orders, it becomes necessary to know the income of the payor in sole-placement cases. Another change is that in unequal-shared placement cases, it was not necessary to know the income of the greater-time parent prior to 2004. With the 2004 guidelines, however, the incomes of both parents, as well as the number of children, and the exact timeshare, are necessary in order to calculate the appropriate order amount.

After we calculate the guidelines-prescribed order amount for the case, we transform both it and the actual order amount into a percentage of the payor’s income. If the calculated guidelines percentage is within one percentage point of the actual percentage, then we consider that order consistent with the guidelines (for example, if the order should be 17 percent of the payor’s income, we consider actual orders between 16 and 18 percent of the payor’s income to be consistent with the guidelines). With some slight changes made in consultation with BCS staff,⁹ this corresponds with the methods used to define consistency in previous IRP reports.

⁹The methods to define consistency have varied across the previous IRP reports from different authors. Changes from the most recent previous report (Brown and Cancian, 2007) include the addition of serial family cases in our calculations; the consideration of child support orders that occur within 6 months of the paternity hearing, the

III. RESULTS

Table 1a shows the overall use of guidelines across the eight cohorts. The first thing we note is that a large percentage of cases do not have a child support order at all. This percentage has increased from a low of 12.6 percent in cohort 17, to about 21 percent in the last four cohorts, with an overall average of 17.3 percent across all cohorts. In most situations, cases with no order can be considered to be clearly below the guidelines, but since there are some legitimate circumstances where the guidelines formula would result in a zero dollar order we distinguish between several types of “no order” cases: (1) in situations where the noncustodial parent in a sole placement case has no income we consider “no order” as consistent with the guidelines (since 17% of \$0 = \$0), and we have coded this category of cases as “consistent with guidelines” on Table 1a; (2) in sole-placement cases where the non-custodial parent’s low income would result in an order under \$50 per month (or a monthly income of less than \$325/month, N=11) we consider “no order” as consistent with the guidelines; (3) in equal-shared placement cases where both parents’ incomes are so similar that the order would have been less than \$50/month, we define “no order” as “consistent” (N=268); (4) in unequal shared placement cases where the balance between time-share and incomes, according to the formula, calculates an appropriate child support order as less than \$50/month (N=20), we also categorize “no order” as “consistent.” Additionally, in multi-part complex child support orders where the part of the order which is currently in effect is “pending,” or amounts to zero dollars, we code this order as “below the guidelines,” rather than “no order” (since child support will be due at some future date). The “no order” category on Table 1a consists of all remaining “no order” cases, which we presume are not consistent with the guidelines.

An overall average of about 20 percent of the nearly 12,000 relevant cases have a child support order, but lack information on income or exact time-share, so that we are unable to calculate the guidelines consistency. The proportion of cases in which we cannot determine guideline use has not

categorization of cases where payor has no income and no order as consistent, the categorization of shared placement cases as consistent in which the appropriate order would have been less than \$50, and the categorization of orders as consistent if they used any or none of the permissible guidelines adjustments (such as low, high, serial).

Table 1a
Compliance with Guidelines: IVD and Non-IVD

	Cohort & Petition Dates								All Cases
	17 1996–97	18 1997–98	21 2000–01	23 2002–03	24 2003–04	25 2004–05	26 2005–06	27 2006–07	
All Cases									
N	1,184	1,156	1,687	1,609	1,579	1,572	1,561	1,561	11,909
Inconsistent No Child Support Order^a	12.6%	13.9%	11.8%	15.9%	20.1%	21.3%	20.9%	21.5%	17.3%
An Order: Consistency Not Known	21.0%	20.5%	24.4%	13.9%	21.0%	20.3%	20.0%	18.9%	20.0%
An Order: Consistency Known:	66.4%	65.6%	63.8%	70.2%	58.9%	58.4%	59.1%	59.5%	62.7%
Order Lower Than Guidelines ^b	23.0%	22.0%	23.5%	15.5%	20.1%	25.6%	23.1%	19.4%	21.5%
Consistent with Guidelines (1%)^c	65.4%	66.5%	58.9%	65.3%	57.2%	55.3%	58.3%	60.0%	60.9%
Order Higher Than Guidelines	11.6%	11.5%	17.6%	19.2%	22.6%	19.1%	18.6%	20.6%	17.6%
Paternity Cases									
N	430	425	821	845	835	810	803	792	5,761
Inconsistent No Child Support Order^a	9.8%	13.4%	8.0%	12.5%	18.9%	20.1%	18.2%	16.6%	14.8%
An Order: Consistency Not Known	33.0%	31.0%	36.4%	19.6%	30.6%	26.8%	27.2%	28.9%	29.0%
An Order: Consistency Known:	57.2%	55.6%	55.6%	67.9%	50.5%	53.1%	54.6%	54.5%	56.2%
Order Lower Than Guidelines ^b	29.2%	23.8%	21.4%	12.9%	17.1%	25.8%	19.5%	14.8%	20.1%
Consistent with Guidelines (1%)^c	67.1%	68.8%	68.5%	74.7%	68.3%	64.3%	69.5%	72.8%	69.5%
Order Higher Than Guidelines	3.7%	7.4%	10.1%	12.4%	14.6%	9.9%	11.0%	12.4%	10.4%
Divorce Cases									
N	754	731	866	764	744	762	758	769	6,148
Inconsistent No Child Support Order^a	15.4%	14.3%	17.3%	21.0%	21.9%	23.0%	24.8%	27.6%	20.5%
An Order: Consistency Not Known	9.1%	9.7%	6.8%	5.3%	7.1%	10.7%	9.6%	6.7%	8.1%
An Order: Consistency Known:	75.5%	76.0%	75.9%	73.7%	71.1%	66.3%	65.6%	65.7%	71.3%
Order Lower Than Guidelines ^b	18.3%	20.6%	25.8%	19.1%	23.3%	25.3%	27.4%	24.2%	22.9%
Consistent with Guidelines (1%)^c	64.2%	64.7%	48.6%	52.3%	45.8%	44.5%	44.6%	46.9%	52.0%
Order Higher Than Guidelines	17.5%	14.7%	25.6%	28.6%	30.9%	30.2%	28.0%	28.9%	25.1%

Notes: All percentages weighted to reflect sampling differences in large and small counties.

^aThis category excludes some “no order” cases which are consistent with one or another of the available guidelines. If a zero order or “no order” can be considered consistent, this case is included in the “consistent with guidelines” category. See text for a list of these types of cases.

^bIncludes some two-part orders where the current part is for zero dollars, but the future order is for a positive dollar amount.

^cIncludes some “no order” cases in which an award of zero dollars would be consistent with one or another of the guidelines.

changed much over time. In the earlier cohorts, percentage-expressed orders allowed us to calculate appropriate use of the guidelines, even when the income of the payor was missing. In the more recent cohorts, we find a higher rate of reporting parents' incomes in the court record which allows us to evaluate appropriate use of the guidelines in current years when percentage-expressed orders are rare. For example, income for fathers was recorded as missing in about 52 percent of cases in cohort 17, compared to less than 34 percent in cohort 27 cases (data not shown on table).

We then examine the consistency of guidelines use among the remaining cases where we find a child support order, and we have enough information to calculate the appropriate order amount. The guidelines that we have considered in sole placement cases are: the percentage standard, serial family guidelines, and as of 2004, low income and high income guidelines. We allow consistency with any one of these four guidelines to allow classification of the case to be "consistent under the guidelines" in sole placement situations. For shared placement cases, we consider the threshold for considering shared placement, and the pre-2004 and post-2004 shared guidelines. The definition of a shared placement case, and the order in all cases, was compared to the guideline in place in the month and year in which cases were heard.¹⁰ We defined all cases as falling within one of three categories: order below the guidelines amount, order consistent with guidelines (within 1 percentage point), or order above the guideline amount.

Overall, where we find an order, and we can evaluate consistency, guideline-appropriate cases comprise about 61 percent of the cases. The proportion of consistent cases was slightly higher in cohorts 17 and 18, when percentage-expressed orders were in use. The proportion of consistent cases has not

¹⁰It is possible that courts may have started using new 2004 guidelines in advance of the actual implementation date of January 1, 2004; or may have considered agreements using the pre-2004 guidelines negotiated in 2003 but finalized in 2004 to fall within the spirit of the law. In practice these possibilities would affect only a small number of cases. For example, there are only 8 cases in cohorts 23 and 24 with unequal time shared placement between 25% and 30%, who petitioned prior to January, 2004, and who had an order in 2004 that was too high to be consistent with the revised shared income formula for unequal shared cases. And there were only 9 low income cases (and no high income cases) in cohorts 23 and 24 which petitioned prior to January, 2004 but were finalized in 2004 and were given standard orders, but could have been considered consistent if the income adjustment had been used.

varied much over the 8 cohorts (where there is an order, and we have enough information to determine consistency), varying between 58 and 66 percent.

The second and third panels on Table 1a distinguish between paternity cases (adjudicated and voluntary acknowledgment) and divorce cases. The patterns are different between the two types of cases. Both have experienced an increase in “no order” cases, although the percentage of such cases is higher in divorce cases. Neither divorce nor paternity cases have experienced much change in the percentage of cases where we cannot determine the use of the guidelines, although paternity cases have a much larger share of such cases (due to missing incomes). When there is an order, and we can calculate the consistency of the order, we find higher levels of consistency within the paternity caseload, compared to divorces. Not only do paternity cases show higher compliance with the guidelines, but divorce cases also show a decline in the percentage of cases that are consistent (down from 64 percent in cohort 17 to 44–52 percent in later cohorts).

Overall, we conclude that usage of the child support guidelines is not particularly high, especially when we count the “no order” cases as below and inconsistent with any of the guidelines. And we see substantial differences between paternity and divorce cases, with paternity cases having more consistent child support orders. This distinction between types of cases leads us to consider that this difference may be associated with the direct involvement of a child support agency. To examine this possibility we show on Table 1b the same breakdown of child support order consistency, between cohorts and case types, restricted to cases under IV-D enforcement (57 percent of all cases) at the time of the court hearing.

An overall average of 81 percent (not shown on table) of paternity cases were IVD cases at the time of the hearing in which child support was addressed. Only 26 percent of the divorce cases were IVD at the time of the divorce final judgment. Given the high rate of IVD involvement in paternity cases, it is not surprising that the higher compliance of paternity cases shown in Table 1a is repeated in Table 1b—the percentages are virtually unchanged. Since far fewer divorce cases have IVD involvement at the time of divorce, the IVD divorce cases look different than the overall divorce caseload, and look more

Table 1b
Compliance with Guidelines: IVD Cases Only

	Cohort & Petition Dates								All Cases
	17 1996–97	18 1997–98	21 2000–01	23 2002–03	24 2003–04	25 2004–05	26 2005–06	27 2006–07	
All Cases									
N	401	443	756	824	907	947	954	1,018	6,250
Inconsistent No Child Support Order^a	8.1%	10.8%	7.4%	10.9%	17.7%	18.6%	15.9%	16.2%	13.8%
An Order: Consistency Not Known	26.4%	31.4%	33.9%	17.6%	28.4%	24.8%	25.5%	25.0%	26.4%
An Order: Consistency Known:	65.5%	57.8%	58.7%	71.5%	53.9%	56.6%	58.6%	58.8%	59.8%
Order Lower Than Guidelines ^b	25.2%	24.4%	22.6%	13.0%	17.0%	26.2%	22.2%	15.6%	20.3%
Consistent with Guidelines (1%)^c	67.2%	66.7%	62.6%	72.1%	63.7%	59.2%	62.2%	67.5%	65.0%
Order Higher Than Guidelines	7.6%	8.9%	14.8%	14.9%	19.3%	14.6%	15.6%	16.9%	14.7%
Paternity Cases									
N	225	275	565	629	665	700	707	758	4,524
Inconsistent No Child Support Order^a	9.5%	12.4%	7.0%	11.2%	19.1%	20.3%	17.2%	15.7%	14.6%
An Order: Consistency Not Known	31.5%	35.4%	38.3%	19.2%	32.0%	26.8%	28.3%	29.2%	29.7%
An Order: Consistency Known:	59.0%	52.2%	54.6%	69.6%	48.9%	52.9%	54.5%	55.1%	55.7%
Order Lower Than Guidelines ^b	32.5%	27.7%	22.9%	12.7%	15.6%	26.5%	20.1%	15.1%	20.4%
Consistent with Guidelines (1%)^c	62.3%	64.2%	64.5%	74.1%	70.1%	63.7%	68.6%	72.8%	68.3%
Order Higher Than Guidelines	5.2%	8.1%	12.6%	13.2%	14.3%	9.8%	11.3%	12.1%	11.4%
Divorce Cases									
N	176	168	191	195	242	247	247	260	1,726
Inconsistent No Child Support Order^a	4.4%	4.7%	9.3%	9.6%	12.1%	11.0%	10.1%	18.1%	10.5%
An Order: Consistency Not Known	12.5%	15.3%	11.5%	9.4%	14.4%	15.8%	13.4%	9.1%	12.7%
An Order: Consistency Known:	83.1%	80.0%	79.2%	81.0%	73.5%	73.2%	76.5%	72.8%	76.8%
Order Lower Than Guidelines ^b	11.1%	16.0%	21.9%	14.2%	20.7%	25.3%	28.8%	17.0%	19.9%
Consistent with Guidelines (1%)^c	76.6%	73.1%	55.7%	63.2%	46.6%	45.0%	42.1%	52.5%	55.2%
Order Higher Than Guidelines	12.3%	10.9%	22.4%	22.6%	32.7%	29.7%	29.1%	30.5%	24.9%

Notes: All percentages weighted to reflect sampling differences in large and small counties.

^aThis category excludes some “no order” cases which are consistent with one or another of the available guidelines. If a zero order or “no order” can be considered consistent, this case is included in the “consistent with guidelines” category. See text for a list of these types of cases.

^bIncludes some two-part orders where the current part is for zero dollars, but the future order is for a positive dollar amount.

^cIncludes some “no order” cases in which an award of zero dollars would be consistent with one or another of the guidelines.

compliant with appropriate guideline use. The biggest difference between IVD divorce cases and all divorce cases is the smaller proportion of “no order” IVD cases (the percentage is 10.5 percent “no order” among IVD cases, compared to 20.5 percent for divorce cases overall). For IVD divorce cases where we can calculate the guidelines, adherence to the guidelines is slightly higher than for divorce cases overall.

Some would argue that no-order cases might be a preferred outcome in equal-shared placement cases, with the courts deciding that since the parents are sharing in the direct child-rearing duties, that there is no need to order payments from one parent to another. (The guidelines do call for orders in these cases). We can see this directly in Table 2, where we compare guidelines consistency in the divorce cases across different placement arrangements.¹¹ Overall, equal-share cases are much more likely to have no child support order, but increases in the proportion of no-order cases have occurred in all three types of placement arrangements. We can conclude that the increase in no-order cases is not explained just by the increase in equal-shared placement arrangements, as declines in child support orders have occurred in all placement situations in divorce cases. This issue is explored more fully in Meyer, Cancian, Han, Brown, Cook and Chen (2012).

Equal- and unequal-shared placement cases are especially complicated, because when the children are spending substantial time with each parent, under the guidelines the court calculates a child support amount that each parent owes to the other. Since under the guidelines those order amounts can nearly offset each other, the guidelines calculation can call for quite small order amounts. Faced with small order amounts, judges may determine that any benefit derived from those resources are outweighed by the burdens of complying and enforcing those orders, and thus instead call for no-order determinations. Therefore, “no order” cases in which the appropriate guideline would call for a child support order of less than \$50 per month have been categorized on all tables as “consistent with the

¹¹We focus our comparison of the most common placement arrangement types of divorce cases. Since over 90 percent of paternity cases are assigned to mother-sole placement, there are not sufficient paternity cases with other placement arrangements to draw reliable conclusions.

Table 2
Consistency with Guidelines, Divorce Cases by Placement Arrangements

	Cohort								All Cases
	17	18	21	23	24	25	26	27	
Mother Sole Placement:									
N	496	448	441	416	388	373	367	358	3,287
Inconsistent No Child Support Order^a	5.4%	4.8%	6.1%	8.1%	8.3%	10.2%	9.8%	12.9%	7.9%
An Order: Consistency Not Known	8.7%	8.5%	9.0%	6.6%	9.6%	15.3%	11.4%	10.2%	9.7%
An Order: Consistency Known:	85.9%	86.7%	84.9%	85.3%	82.1%	74.5%	78.8%	76.9%	82.4%
Order Lower Than Guidelines ^b	19.1%	21.0%	29.1%	23.4%	25.2%	26.9%	30.0%	20.8%	24.2%
Consistent with Guidelines (1%)^c	66.6%	68.9%	50.8%	51.9%	51.0%	45.9%	49.7%	53.9%	55.9%
Order Higher Than Guidelines	14.3%	10.1%	20.1%	24.7%	23.8%	27.2%	20.3%	25.3%	19.9%
Equal Shared Physical Placement:									
N	119	132	258	199	190	225	216	244	1,583
Inconsistent No Child Support Order^a	39.8%	31.6%	38.9%	39.6%	45.8%	46.2%	43.7%	44.1%	41.9%
An Order: Consistency Not Known	11.8%	18.3%	3.4%	3.0%	2.9%	5.8%	6.8%	4.5%	6.3%
An Order: Consistency Known:	48.4%	50.1%	57.7%	57.4%	51.3%	48.0%	49.5%	51.4%	51.8%
Order Lower Than Guidelines ^b	2.0%	9.5%	3.7%	4.5%	20.4%	15.0%	25.0%	21.7%	13.6%
Consistent with Guidelines (1%)^d	63.1%	48.1%	61.0%	66.1%	52.2%	53.5%	34.6%	40.4%	51.7%
Order Higher Than Guidelines	34.9%	42.4%	35.3%	29.4%	27.4%	31.5%	40.4%	37.9%	34.7%
Unequal Shared Placement, Mother Primary:									
N	63	70	91	82	111	98	85	96	696
Inconsistent No Child Support Order^a	13.7%	1.5%	11.2%	24.3%	14.4%	11.4%	20.8%	19.7%	14.6%
An Order: Consistency Not Known	12.4%	11.3%	4.7%	5.1%	6.3%	6.4%	9.4%	1.5%	6.9%
An Order: Consistency Known:	73.9%	87.2%	84.1%	70.6%	79.3%	82.2%	69.8%	78.8%	78.5%
Order Lower Than Guidelines ^b	10.7%	16.7%	27.4%	17.9%	16.9%	29.5%	25.7%	38.5%	23.6%
Consistent with Guidelines (1%)^d	57.8%	59.6%	20.2%	20.5%	19.2%	24.2%	27.2%	27.7%	31.2%
Order Higher Than Guidelines	31.5%	23.7%	52.4%	61.6%	63.9%	46.3%	47.1%	33.8%	45.2%

Notes: All percentages weighted to reflect sampling differences in large and small counties.

^aThis category excludes some “no order” cases which are consistent with one or another of the available guidelines. If a zero order or “no order” can be considered consistent, this case is included in the “consistent with guidelines” category. See text for a list of these types of cases.

^bIncludes some two-part orders where the current part is for zero dollars, but the future order is for a positive dollar amount.

^cIncludes some “no order” cases in which an award of zero dollars would be consistent with one or another of the guidelines.

^dIncludes some “no order” cases in which an award of less than \$50 dollars would be consistent with the shared placement guidelines.

guidelines.” So would-be orders of these amounts do not explain the large percentage of “no order” cases. It may be that parents are making other adjustments in expenditures in equal shared cases where the incomes are not similar. We note that there does appear to be a marked change between the pre- and post-2004 change in shared custody guidelines in equal-shared cases. Post-2004 divorces show higher rates of “no orders,” and lower rates of guideline noncompliance when there is an order.

Unequal shared placement cases, where the mother is the primary parent, shows even more marked declines in guideline usage, pre- and post-2004. There has been a growth to nearly 20 percent of cases with no child support order, and a significant decline (from 58–60 percent in cohorts 17 and 18, down to 27 percent in cohorts 26 and 27) in guideline use. One of the reason for the lack of orders may be that parents are disinclined to have the primary (greater-time) parent paying child support to the non-primary parent (which can be the outcome of the post-2004 shared placement formula, if the primary parent is the higher earner, depending on the balance of time and the income discrepancies). There is only one mother-payor among the post-2004 unequal shared-mother primary cases, but in over 20 percent of the “no order” post-2004 unequal shared-mother primary cases in which we can determine who should be the payor, the guideline indicates that the mother should be paying child support. There are also a handful of mother primary cases where it is the father that is the payor, even though the guideline would call for the reverse, given that the mother appears to be the higher earner.

Differences in consistency with the guidelines across placement arrangements may be related to different characteristics in the cases using those placement arrangements; in Table 3 we examine how consistency varies by the socioeconomic and demographic characteristics of the family in the case, comparing consistency before and after the 2004 changes to the guidelines.¹² On Table 3 we can see, as in Tables 1 and 2, a slight decline in orders consistent with the guidelines; from 64 percent in the cohorts entering court before 2004, to 57 percent in the cohorts entering in 2004 and later (note that these

¹²The relationships between case characteristics and guideline consistency depicted in Table 3 are strictly descriptive, not causal. A full multivariate analysis of the interrelationships between all these characteristics and consistent orders is not presented here.

Table 3
Consistency with Guidelines, by Case Characteristics

	Time Period									
	1996–2003					2004–Current				
	N	Consistency with Guidelines Can be Determined				N	Consistency with Guidelines Can be Determined			
No Order, if Inconsistent		Below Guidelines	Consistent With Guidelines**	Above Guidelines	No Order, if Inconsistent		Below Guidelines	Consistent With Guidelines**	Above Guidelines	
All Cases	5,675	13.6	20.9	64.3	14.8	6,234	20.9	22.1	57.2	20.7
Case Type										
Voluntary paternity	646	11.1	17.3	72.2	10.5	956	18.1	18.5	72.5	9.0
Adjudicated paternity	2,066	11.2	21.1	69.9	9.0	2,093	18.7	20.0	67.2	12.8
Divorce	2,963	16.9	21.2	57.9	20.9	3,185	24.0	24.6	45.7	29.7
County										
Milwaukee	1,207	12.6	24.0	61.9	14.1	1,537	21.4	25.9	56.8	17.3
Other urban counties	2,982	14.3	18.2	65.1	16.7	3,070	20.4	18.1	57.3	24.6
Rural	1,486	15.3	19.4	70.2	10.4	1,627	21.2	24.9	57.7	17.4
Number of Children										
1	3,446	12.4	17.9	70.8	11.3	3,701	19.9	18.7	65.5	15.8
2	1,548	16.7	24.9	54.5	20.6	1,763	22.6	27.9	45.1	27.0
3 or more	681	13.5	28.2	50.4	21.4	770	22.7	24.7	46.1	29.2
Age of Youngest Child										
0–2	2,975	10.8	18.1	69.2	12.7	3,388	18.4	20.0	64.7	15.3
3–5	1,075	15.1	22.8	60.5	16.7	1,075	20.9	25.5	47.0	27.5
6–10	972	17.9	24.9	56.1	19.0	999	25.0	24.7	47.3	28.0
11–18	651	19.1	25.4	58.5	16.1	771	29.0	23.5	50.0	26.5
Parent's Combined Total Income*										
No earnings	195	14.4	5.0	78.6	16.4	259	24.1	1.7	78.0	20.3
\$1–\$25,000	1,544	11.3	13.3	76.0	10.7	1,781	19.8	13.3	69.1	17.6
\$25,000–\$50,000	1,447	12.3	21.5	66.2	12.3	1,517	17.4	24.0	58.3	17.7
\$50,000–\$75,000	1,130	14.0	27.4	57.5	15.1	1,157	19.7	25.1	54.9	20.0
\$75,000–\$100,000	753	15.2	26.3	55.2	18.5	788	23.9	29.5	47.8	22.7
\$100,000 or more	606	21.7	24.0	50.3	25.7	732	28.9	29.4	38.5	32.1

(table continues)

Table 3, continued

	Time Period									
	1996–2003					2004–Current				
	N	Consistency with Guidelines Can be Determined				N	Consistency with Guidelines Can be Determined			
No Order, if Inconsistent		Below Guidelines	Consistent with Guidelines**	Above Guidelines	No Order, if Inconsistent		Below Guidelines	Consistent with Guidelines**	Above Guidelines	
Mother's Proportion of Total Income*										
None (mother no earnings)	639	12.9	17.0	73.4	9.6	714	23.2	15.0	67.7	17.3
1–20%	835	9.3	23.2	62.4	14.4	847	19.2	26.3	56.1	17.6
21–40%	1,446	14.4	25.1	57.2	17.7	1,555	17.1	28.5	53.9	17.6
41–60%	1,421	13.6	24.1	64.3	11.6	1,539	22.5	25.4	51.2	23.4
61–80%	495	20.0	20.0	57.2	22.8	540	25.2	23.8	52.2	24.0
81–99%	256	13.1	8.5	75.6	15.9	346	19.3	4.9	63.5	31.6
All (father no earnings)	583	13.1	6.9	77.9	15.2	693	21.9	0.6	76.2	23.2
Parent's Legal Representation at Court										
Both	1,537	15.8	19.1	59.1	21.8	1,497	22.3	24.5	45.5	30.0
Father only	306	32.6	22.1	59.0	18.9	332	38.5	25.7	45.2	29.1
Mother only	2,969	10.6	20.7	68.4	10.9	3,432	17.8	20.0	65.5	14.5
Neither	863	16.9	24.4	58.5	17.1	973	27.9	25.9	45.4	28.7
Child Support Order Decision:										
By Stipulation	3,140	18.3	22.3	58.0	19.7	3,173	25.4	23.2	49.5	27.3
By Judge/FCC	2,533	10.0	19.5	70.0	10.5	3,061	17.7	21.3	63.5	15.2

Notes: All percentages are weighted to reflect sampling differences in large and small counties.

The percentage with “no order” is the percentage of no order cases out of all cases.

The percentages of ‘below’, ‘consistent’, and ‘above’ the guidelines total to 100 percent of all cases where we can determine the appropriate guideline.

Child support orders where the guidelines amount cannot be determined are excluded from this table.

*If a parent's income is missing from the CRD, we substitute with UI wages in the four quarters prior to the court hearing. If both CRD and UI wage income are missing, we code income as \$0.

**Includes some “no order” cases, where a zero dollar order could be considered “consistent.”

percentages are the percentages of cases where there is an order, and we have enough information to measure guideline consistency). This decline occurs mainly in divorce cases, from about 58 percent pre-2004 to about 46 percent in the later time period. Voluntary paternity cases show the highest consistency in both time periods. Differences by county groups appear to have decreased over time, to the point where all county groupings (Milwaukee, all other urban, and all rural) appear very similar: about 57 percent guideline consistency for each of the county groups, as well as the level of “no orders,” at 20–21 for all county groups.

More variation appears in consistency of orders with children’s demographics. One-child families have higher consistency in use of the guidelines in both time periods. (This is true in both paternity as well as divorce cases, although this breakdown is not shown on Table 3). Families with a very young child also show more consistent use of the guidelines, although this finding is more true for paternity cases than for divorce cases in both time periods (data not shown). Overall, eighteen percent of cases with a very young child have no order in the post-2004 time period, while in cases where the youngest child is aged 11 to 18, 25–29 percent of cases have no order.

Consistency also varies by parents’ overall economic status (as measured by supplementing court-reported income with earnings records from the Unemployment Insurance program, and combining the parents’ incomes). In both time periods, parents with no income or lower income (under \$25,000 per year) are more likely to have consistent orders, when there is an order. (This is true in both paternity and divorce cases, data not shown). Consistency is low, and the level of “no order” cases is higher when mother’s incomes are 61–80 percent of the total of both parents’ incomes. In those cases, however, where mothers have a higher share of total earnings (typically with fathers who have low levels of reported income), the direction of inconsistency is toward child support orders which are higher than that called for by the guidelines.

We also compare consistency by the legal representation of parents during the court case. When mothers only are represented by an attorney in the court hearing, these cases show the lowest rate of “no orders,” and among those with orders in which we can determine guideline consistency, they have the

highest rate of consistency. In contrast, when fathers only are represented, there is a very high rate of “no orders.” When we break down the cases by who is the decision-maker for child support, the parents through stipulation, compared to a judge or FCC, stipulated orders show more “no orders” and less adherence to the guidelines.

IV. USE OF SPECIAL CASE PROVISIONS IN THE GUIDELINES

As stated above, Wisconsin’s child support guidelines contain special provisions which are options available to adjust the basic percentage-of-income standard in certain types of cases. These include adjustments for serial family payors, and adjustments for low- and high-income payors on sole placement cases. The court record includes information in each case about whether those specific provisions in the guidelines formulas were used, or if specific factors were considered when establishing the order. By comparing case characteristics with reported usage of those specific provisions, we have another way of looking at courts’ compliance with guidelines.

Table 4 shows the use of these provisions in paternity and divorce mother sole placement cases. Father-sole placement cases are not shown, as the numbers are too small to report. The sample for this table is broader than that of Table 1 and 2 in that we include some cases in which we cannot ascertain whether the guideline was used (missing income cases). For this analysis, we also consider earnings data from the Unemployment Insurance records, so that we should have fewer missing income cases. We observe that a high percentage of paternity cases have either no income listed in the court record or the UI records, or have listed income that is low enough such that the low-income provision would be appropriate (first row of panel 1). However, few cases have an indication in the court record that the father’s low income was considered in the calculation of child support (row 2), and even fewer (less than 2 percent) have explicitly stated that the low-income provision was used (row 3).

A second special provision in the guidelines is for serial payors, defined as situations in which the payor owes child support for other minor children. The court record identifies cases in which the noncustodial parent has other minor children, but we are not always able to discern whether this is a

Table 4
Special Case Provisions, by Case Type and Placement Arrangement

		Cohort								All Cases
		17	18	21	23	24	25	26	27	
Paternity Cases (Mother-Sole Placement)	N=	415	403	767	774	758	737	713	685	5,252
Father meets low income definition*		na	na	na	19.6%	20.1%	20.9%	20.2%	21.4%	20.6%
Low Income of FA considered in CS		1.2%	1.3%	0.1%	1.0%	4.7%	2.9%	7.3%	4.8%	2.9%
Low income formula used		na	na	na	0.0%	1.5%	1.4%	1.7%	1.0%	1.4%
Father has other minor children		18.6%	19.0%	31.1%	31.8%	28.8%	32.0%	32.3%	34.0%	29.0%
Other Children of FA considered in CS		6.0%	9.3%	19.8%	25.7%	18.8%	28.0%	28.0%	32.0%	21.5%
Serial Family formula used		3.6%	3.2%	5.1%	9.7%	9.1%	8.6%	9.7%	11.8%	7.7%
Divorce Cases (Mother-Sole Placement)	N=	496	448	441	416	388	373	367	358	3,287
Father meets low income definition*		na	na	na	11.3%	11.1%	10.7%	11.7%	12.2%	11.4%
Low Income of FA considered in CS		1.2%	0.5%	1.5%	2.7%	1.9%	1.1%	1.2%	2.0%	1.5%
Low income formula used		na	na	na	0.6%	0.4%	0.5%	0.6%	0.4%	0.5%
Father meets high income definition**		na	na	na	2.7%	5.2%	5.2%	6.2%	4.4%	5.1%
High Income of FA considered in CS		1.0%	0.3%	1.6%	2.7%	2.5%	2.2%	3.6%	3.8%	2.1%
High income formula used		na	na	na	0.0%	1.2%	0.9%	2.4%	1.5%	1.4%
Father has other minor children		8.6%	9.3%	5.9%	11.8%	6.3%	7.0%	11.1%	8.8%	8.6%
Other Children of FA considered in CS		5.0%	4.0%	3.1%	8.6%	6.1%	5.1%	6.8%	5.7%	5.4%
Serial Family formula used		2.4%	2.0%	.4%	4.9%	2.3%	1.6%	2.1%	2.5%	2.2%

Notes: Many cases in Cohort 23 came to court prior to the change in guidelines on January 1, 2004, and those cases are not considered in calculating percentages.

*The low income definition in effect varies by the time of court action. From January 1, 2004 to December 31, 2008, "low income" was less than or equal to \$925 per month.

After January 1, 2008 low income was defined as less than or equal to \$1,025 per month.

Missing income from both the CRD and the UI wage record in the year prior to the court action was considered to be low (zero) income.

**High income is defined as \$7,000 or more per month.

All percentages are weighted to reflect sampling differences in large and small counties.

nonresident child for whom the father owes support. In about a third of paternity cases with mother-sole placement, the noncustodial father has other minor children (34 percent in cohort 27), and in most of these cases, it appears that the court considered these other children when setting support (noted in the court record as reasons for deviation from the standard guideline). However, in only about a third of those cases was the specific serial family formula applied in calculating the child support order.

Underuse of these guideline provisions appears to be even greater in divorce cases. A much smaller percentage (11–12 percent) of fathers in divorce cases with mother-sole placement meet the low-income (or missing-income) definition than among paternity cases. However, a divorcing father's low income is rarely considered in setting the child support order, and less than one percent of cases show specific use of the low income formula. About five percent of fathers in mother-sole placement divorce cases met the high-income qualification test (incomes over \$7,000 per month). Similar to our other results, few of these had indications that the high income formula was used in the calculation of the support order. Given the low use of these alternative formula options, there can be little surprise that many resulting child support orders appear to be inconsistent with the guidelines.

V. EXPLICIT DEVIATIONS

Laws enacting the use of child support guidelines allow for courts to deviate from the dollar amounts derived from the guidelines formula, if evidence indicates that the calculated amount would result in an unfair order for the child or parents. But guideline rules also require that courts explicitly indicate the reasons for, and amount of, the deviation in the court record. In Table 5, we present a summary of the explicit deviations or considerations listed in the court records of the two largest placement types where child support would be expected: mother-sole placement and equal-shared placement cases. We distinguish between cases dated before 2004 and those dated January 1, 2004 and later, in order to guarantee large enough comparison groups. We present the data for five categories of cases: (a) those with no child support order; (b) those with an order lower than what the guidelines would call for; (c) those with an order within (plus or minus) one percentage point of the payor's income; (d)

Table 5
Reasons for Deviation from Child Support Guidelines

	Time Period										
	1996–2003					2004–Current					
	Guidelines Can Be Determined				Guidelines Cannot Be Determined	Guidelines Can Be Determined				Guidelines Cannot Be Determined	
	No Order, if Inconsistent	Below Guidelines	Consistent With Guidelines**	Above Guidelines		No Order, if Inconsistent	Below Guidelines	Consistent With Guidelines**	Above Guidelines		
Mother Sole Placement:											
Paternity Cases (Adjudicated and VPA)N =	238	301	1,217	143	633	368	234	1,166	159	793	
No Written Explicit Deviation or Consideration	82.6%	85.7%	94.7%	90.8%	95.9%	72.5%	79.3%	80.4%	88.5%	92.6%	
Written Explicit Deviation or Consideration	17.4%	14.3%	5.3%	9.2%	4.1%	27.5%	20.7%	19.6%	11.5%	7.4%	
<i>Earnings/employment of father/mother</i>	1.8%	1.5%	2.7%	3.8%	1.3%	4.5%	3.8%	8.4%	2.0%	2.9%	
<i>HH-Child costs/medical payments of fa/mo</i>	2.4%	6.1%	1.4%	3.0%	1.4%	2.1%	10.4%	9.4%	4.6%	3.1%	
Medical Insurance, Medical Costs/Payments	0.4%	1.5%	0.1%	1.4%	0.1%	0.3%	2.9%	0.8%	1.3%	0.2%	
Child Care Costs/Payments	1.2%	0.3%	0.1%	2.0%	0.0%	0.4%	0.3%	0.3%	0.7%	0.1%	
Mother Sole Placement:											
Divorce Cases N =	94	342	881	212	187	151	324	611	292	193	
No Written Explicit Deviation or Consideration	57.9%	78.0%	97.1%	89.3%	90.3%	57.2%	74.0%	89.3%	82.8%	89.9%	
Written Explicit Deviation or Consideration	42.1%	22.0%	2.9%	10.7%	9.7%	42.8%	26.0%	10.7%	17.2%	10.1%	
<i>Earnings/employment of father/mother</i>	23.2%	2.7%	2.4%	5.7%	4.6%	16.2%	6.5%	6.8%	8.8%	6.2%	
<i>HH-Child costs/medical payments of fa/mo</i>	25.6%	17.4%	0.7%	4.3%	4.5%	28.0%	15.7%	4.4%	8.5%	1.9%	
Medical Insurance, Medical Costs/Payments	0.6%	5.2%	0.3%	0.0%	0.2%	5.3%	4.5%	1.6%	5.6%	1.0%	
Child Care Costs/Payments	0.7%	2.1%	0.1%	2.8%	0.9%	1.4%	2.1%	0.1%	4.4%	0.5%	
Equal Shared Placement Cases:											
Divorce Cases	N =	268	14	224	114	59	405	98	206	144	51
No Written Explicit Deviation or Consideration		53.1%	94.9%	68.4%	82.9%	88.9%	32.5%	66.4%	59.1%	70.1%	73.8%
Written Explicit Deviation or Consideration		46.9%	5.1%	31.6%	17.1%	11.1%	67.5%	33.6%	40.9%	29.9%	26.2%
<i>Earnings/employment of father/mother</i>		16.8%	0.0%	14.4%	9.6%	1.6%	25.3%	8.0%	18.3%	6.6%	3.4%
<i>HH-Child costs/medical payments of fa/mo</i>		44.5%	3.7%	26.5%	6.9%	6.8%	57.9%	23.5%	37.0%	20.7%	23.0%
Medical Insurance, Medical Costs/Payments		5.1%	1.4%	2.3%	1.9%	1.1%	7.0%	12.6%	8.1%	7.1%	3.3%
Child Care Costs/Payments		3.3%	0.0%	1.3%	0.6%	1.1%	6.2%	2.2%	2.8%	2.2%	1.4%

Notes: All percentages are weighted to reflect sampling differences in large and small counties.

Categories of deviation types are not mutually exclusive, as the judge in the case can note more than one reason for deviation.

**Includes some “no order” cases, where a zero dollar order could be considered “consistent.”

those with an order higher than called for by the guidelines; and (e) those with an order but without enough information to calculate consistency with the guidelines.

The main thing to note about Table 5 is that in the majority of cases, there is no explicit reason for deviation given in the court record. We note, however, that the guideline rules do not state that the explicit reason for deviation be included in the written court record; the rule may be satisfied by a verbal statement in court. We have not reviewed court transcripts to assess whether such verbal statement may account for the low levels of explicit deviations seen in the written record, so these low levels should not be seen as evidence that judges are not complying with the rules.

For those cases with a written explicit reason for deviation, we have categorized the reasons given into two general groups: (1) reasons for deviation having to do with the earnings or the employment capability of either the father or mother—this could be high earnings, sporadic earnings, or low earnings, unemployment, or issues with employability (such as that a parent is a minor, a student, or has a temporary or permanent disability); and, (2) reasons for deviation having to do with household costs or payments—this could include costs to the household of either the father or mother, payments made to one parent's household by the other parent, continued payment of the mortgage until the house is sold, child care costs, or medical/insurance costs. From the household cost and payment category we have also broken out the two most common sub-categories: medical insurance payments or medical costs, and child care costs. The percentages given for all of these categories are not mutually exclusive, as there are often multiple reasons given for a deviation.

In mother-sole placements in paternity cases, the level of written reasons for deviation appears to be particularly low, although the percentage of cases with such explanations is higher in the post-2004 cohorts. In mother sole placements generally, the highest rate of deviation explanations are for cases with no order, followed by those with an order which is lower than what the guidelines would call for. In mother sole placements among divorce cases, the household/child care/medical cost category is cited particularly often for no- and low-order cases, and it may well be that the division of property or a

pending sale of the family home at this stage of the divorce may be the reason for these no- and low-order cases.

In the equal-shared placement divorce cases, reasons for no orders are given for a majority (67 percent) of cases in the post-2004 cohorts. And in 58 percent of cases, it is household costs, or child care/medical costs that are cited as the reasons for no orders. Medical costs, specifically, (in more than 12 percent of cases) are cited as reasons for lower-than-appropriate child support orders in post-2004 equal shared divorce cases. We note that there are cases where the judge has given a reason for “deviation,” even though we consider the order to be consistent with the guidelines. This is particularly true in equal shared cases and it may be that judges are considering the use of the shared placement formula as “a deviation” from the percentage standard guideline.¹³

VI. CONCLUSION

The findings in this report confirm conclusions in earlier IRP reports on child support guideline usage: that guideline usage has been generally declining since reaching its high point in the late 1990s. While this report has expanded on the analysis of previous IRP reports by comparing trends in guideline usage over a fairly long period of time, firm conclusions are difficult because of changes in the composition of the child support caseload. The decline in guidelines consistency, along with an increase in no orders, has been largest among divorce cases; a trend that remains even when we examine only those divorce cases subject to Title IV-D enforcement. The increasing use of shared placement arrangements, especially in divorce cases, may mean that changes in guideline use are the result of more situations where the fairest order outcome is less clear; it is certainly true that guideline usage is lower in shared placement arrangements, and much lower in equal-shared placement arrangements. However, when we examine trends in guideline usage within the most common placement arrangement situations,

¹³It may also be that since our definition of consistency is quite generous, especially in situations when no order is given even though the guidelines may result in an order up to \$50, that judges are considering these “consistent” situations as deviations.

we still find that there were declines in guideline-consistent orders in mother-sole placement arrangements since the late 1990s, but that decline has stabilized, and the most recent cohort shows an uptick in guidelines-compliant orders, amongst those cases with orders, although the rate of “no order” cases is higher than any other cohort.

Consistent use of the guidelines in shared placement cases is lower in the post-2004 cohorts, particularly in unequal shared cases. There are higher percentages of cases with “no order” in shared placement cases than in mother-sole placement cases and the percentage is higher in more recent cohorts; equal shared placement cases are most likely to not have an order.

Comparisons of consistency by case characteristics, while not controlling for the interrelationships between all characteristics, show lower levels of consistent orders for divorce cases, for higher-income parents, when parents have more than one child, and those children are older. Divorce cases, cases where children are teenagers, and cases where parents have combined incomes over \$100,000 are more likely to receive no order. Cases in which only the mother has legal representation have the highest rates of consistency, while cases where only the father is represented are most likely to have no order given. Finally, stipulated orders are more likely to result in no child support, while orders that are not stipulated are much more likely to be consistent with the guidelines

It seems clear that the new special case provisions to the child support guidelines (as occurred in 2004 with the low- and high-income guidelines) have not been widely accepted by the courts. We have found that high- and low-income guidelines are recorded as used for only a very small proportion of the parents who apparently qualify for them. Even in cases where courts report considering the high- or low-income formulas, there is no specific record of their use (although courts may be calculating the special provision guidelines without noting that fact in the record). As child support staff and courts consider these special provisions to be optional, we have categorized orders as consistent when they order conforms with either the standard guideline or the applicable special provision, but the proliferation of provisions makes the consistency calculation that more challenging.

Even as courts do not appear to be using the special provisions to any great extent, we speculate that the increase in the number of special provisions in the guidelines may instill a sense in court officials that child support orders should be tailored for each individual case, regardless of whether that tailoring exactly matches the prescription set forth in the regulation, or the increase in special provisions may just make the guidelines process harder for courts and parents to understand and follow. There is a balance to be found between guidelines that are so simple that they ignore the obvious differences in individual situations, and those that become difficult to use because of their detailed specificity.

Finally, regarding explicit statements for courts' reasons for deviation, we have found that there has been an increase in written explicit deviations in court records, mostly when the court determines that no order is appropriate. But even in the recent period (since 2004), the large majority of cases that receive orders which are not consistent with the guidelines formula do not have an explicit written reason for deviating from the guidelines, although, as noted, judges may be fulfilling this requirement by making verbal statements in court. The hypothesis that apparently inconsistent orders are due to adjustments for expenses incurred by the nonresident parent for medical or child care costs is not borne out by our analysis of the written explicit deviation reasons; these rationales account for only a small subset of written reasons provided, and reasons are listed in only a small subset of cases.

In summary, we conclude that consistency with the guidelines has declined over this time period, and this decline is only partially explained by changes in placement arrangements and in the composition of cases coming to court. Cases that are eligible for special provisions in the guidelines (serial cases, low- and high-income cases, shared placement cases) are less likely to receive consistent orders. Given that compliance with state law requiring explanations for deviating from the guidelines appears to be low in the written records available to us (although it has improved), furthering our understanding of the reasons courts have not implemented the guidelines may require more direct contact with court officials involved in setting orders.

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