

INTRODUCTORY NOTE TO ADMINISTRATIVE ORDER 2012-05
“CHILD SUPPORT FORMULA AND GUIDELINES AND THE PROCESSING,
COLLECTION AND PAYMENT OF CHILD SUPPORT ORDERS”

Consolidating:

Admin. Order 12-03; Admin. Order 11-05; Admin. Order 10-01;
Admin. Order 07-03; Admin. Order 03-06; Admin. Order 02 -03;
Admin. Order 01-04; Admin. Order 97-08; Admin. Order 97-03;
Admin. Order 95-06; Admin. Order 92-04; Admin. Order 91-01;
Admin. Order 88-08; Admin. Order 87-02; and,

Vacating:

Admin. Order 98-08; Admin. Order 98-07; Admin. Order 94-07;
Admin. Order 90-04; Admin. Order 88-05; Admin. Order 88-03;
Admin. Order 79-15.

For the convenience of the Members of the Bench and Bar as well as Self-Represented Litigants, this consolidated order, Administrative Order 2012-05, is hereby adopted. Administrative Order 2012-05 collects in this one Administrative Order the provisions of previous administrative orders which set forth a formula and provided guidelines for the calculation of child support orders as well as procedures for the processing, collection and payment of child support orders. Each of the existing orders consolidated herein remain viable. In referring to various provisions of administrative orders regarding child support, citation may be made to this or to a prior existing order on the subject.

The following administrative orders are hereby vacated:
Admin. Order 98-08; Admin. Order 98-07; Admin. Order 94-07;
Admin. Order 90-04; Admin. Order 88-05; Admin. Order 88-03; and,
Admin. Order 79-15.

This consolidated Administrative Order is effective September 28, 2012.

Date

Haiganush R. Bedrosian
Chief Judge, Rhode Island Family Court

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“CHILD SUPPORT FORMULA AND GUIDELINES AND
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PART I. CHILD SUPPORT FORMULA AND GUIDELINES¹

I. PREFACE

Chapter 374 of the Public Laws of Rhode Island of 1987 authorizes and directs the Family Court of Rhode Island “to adopt, by October 1, 1987, a child support formula and guideline which are based on the incomes of both parents and which affords the children of the parties the greatest possible support.” In addition, the public law amends §15-5-16.2 of the General Laws to read, in pertinent part, as follows: “The Court may order either or both parents owing a duty of support to a child to pay an amount based upon a formula and guidelines adopted by administrative order of the Family Court. If, after calculating support based upon established support formula and guidelines, the Court, in its discretion, finds such order would be inequitable to the child or either parent, the Court shall make

¹ Unless otherwise noted this part is a *verbatim* recitation of the language of Admin. Order 87-02, the first administrative order of the Rhode Island Family Court to promulgate “Formula Based Child Support Guidelines”. Minor capitalization and punctuation changes have been made for the sake of consistency. The front sheet of Admin. Order 87-02 states: “In accordance with Federal mandates, the Formula-Based Support Guidelines will become effective October 1, 1987. Forms and Guidelines will be available in the respective Family Court Clerks’ Offices or through the Rhode Island Bar Association.”

such findings of fact and may order either or both parents owing the duty of support to pay an amount reasonable or necessary for the child support after considering all relevant factors including, but not limited to: ...”

Accordingly, the Family Court hereby adopts the following child support formula and guidelines (hereinafter “Guidelines”).

II. METHODOLOGY

The Family Court adopts these Guidelines based on the Income Shares Model developed by the Child Support Guidelines Project of the National Center for State Courts, under a grant from the U.S. Office of Child Support Enforcement. The Income Shares Model is predicated on the concept that the child should receive the same proportion of parental income that he or she would have received if the parents lived together.

The Income Shares Model provides an objective basis for determining the average costs of children in households across a wide range of income. Because household spending on behalf of children is intertwined with spending on behalf of adults for most expenditure categories, it is difficult to determine the proportion allocated to children in individual cases, even with exhaustive financial affidavits. However, a number of authoritative economic studies provide estimates of the average

amount of household expenditures on children in intact households. These studies have found that proportion of household spending devoted to children is systematically related to the level of household income and to the number and ages of the children. Based on this economic evidence, these Guidelines calculate child support as the share of each parent's income estimated to have been spent on the child if the parents and child were living in an intact household. If one parent has custody, the amount calculated for that parent is presumed to be spent directly on the child.

III. USE OF THE GUIDELINES

These Guidelines shall apply to all child support orders established or modified by the Family Court on and after June 4, 2012², including temporary and final orders, and orders entered by agreement of the parties. The Guidelines Worksheet must be completed and filed in accordance with the Part IV Worksheet instructions³. The Guidelines must be used by the Court as the basis for reviewing the adequacy of child

² This is the effective date of the June 2012 revision to the Guidelines as set forth in Admin. Order 12-03. As there has been no substantive change to the Guidelines, there is no need to change the effective date with respect to the use of the Guidelines. The effective date of the Guidelines adopted in Admin. Order 87-02 was October 1, 1987. The administrative orders that revised the Guidelines subsequent to Admin. Order 87-02 and prior to Admin. Order 12-03 likewise set forth respective "effective dates". See Admin. Order 07-03 (effective date of November 1, 2007); Admin. Order 02-03 (effective date of October 1, 2002); Admin. Order 97-08 (effective date of December 1, 1997); Admin. Order 92-04 (effective date of October 15, 1992); Admin. Order 88-08 (effective date of June 6, 1988).

³ See *infra* at 7 to 28.

support levels in all cases, even though the child support order may deviate from the guideline amount. The Court may exercise broad discretion in deviating from the Guidelines in cases where application would be inequitable for either of the parties or to the child. In cases where the award deviates from the Guidelines, however, the Court must make findings of fact to substantiate the deviation before proceeding to establish an order based on other relevant factors provided for in §15-5-16.2 of the General Laws.⁴

The Guidelines are intended to serve as a floor or base, and not as a ceiling or cap in setting child support amounts. Accordingly, the Court is encouraged to exercise its discretion to order higher basic child support amounts than those calculated using the Guideline, and/or to order supplemental payments (e.g. educational or other expenses). Such higher

⁴ The 1997 revision of the Guidelines addresses procedures the court should follow in cases involving split custody, third party custody or extensive sharing of physical custody, among other situations. Admin. Order 97-08; *accord* Admin. Order 07-03; Admin. Order 02-03. See *infra* at 22-27. Therefore the following language of Admin. Order 87-02 has not been included in the body hereof. "Since the Guidelines do not specifically address or consider cases involving split custody, third party custody or extensive sharing of physical custody, the Court, in its discretion, may find it necessary to deviate from the Guidelines." Administrative Order 97-08 confirms the Court's discretion to deviate from the procedures first established in Admin. Order 98-08 if adherence to the procedures "would be inequitable to the child(ren) or parents in accordance with Rhode Island General Laws §15-5-16.2." *Accord* Admin. Order 07-03; Admin. Order 02-03.

or supplemental amounts may be appropriate at the upper income ranges of these guidelines.⁵

The Guidelines calculate basic child support obligation for combined adjusted gross income levels between \$800 and \$25,000 per month (\$9,600 to \$300,000 per year).⁶

For cases with higher combined monthly adjusted gross income, child support should be determined on a case-by-case basis.⁷

For obligors with a combined adjusted gross income of less than eight hundred dollars (\$800.00)⁸ per month the Guideline support obligation charts are not used, and the Guidelines provide for a case-by-case determination of child support (normally within a range of twenty dollars (\$20.00) to fifty dollars (\$50.00) monthly). In such cases, the Court

⁵ Administrative Orders 97-08, 02-03 and 07-03 expressly affirm the policy that the Guidelines are intended to serve as a floor or base in setting child support amounts.

⁶ These gross income levels are based on the gross income levels addressed in the most recent revision to the Guidelines, Admin. Order 12-03. The gross income levels addressed in the Guidelines adopted in Admin. Order 87-02 were between \$500 and \$10,000 monthly and \$6,000 and \$120,000 annually. Several of the administrative orders revising the Guidelines subsequent to Admin. Order 87-02 and prior to Admin. Order 12-03 likewise revised the "gross income levels". See Admin. Order 07-03 (\$800 to \$30,000 monthly); Admin. Order 02-03 (\$800 to \$20,000 monthly); Admin. Order 97-08 (\$800 to \$15,000 monthly); Admin. Order 92-04 (\$600 to \$15,000 monthly).

⁷ Beginning in 1997, a procedure was recommended for the determination of child support obligations where the combined annual income levels exceeded the top level in the then applicable Guidelines. Admin. Order 07-03 (monthly income in excess of \$30,000); see Admin. Order 02-03 (monthly income in excess of \$20,000); See Admin. Order 97-08 (monthly income in excess of \$15,000). The most recent procedure is set forth in Admin. Order 07-03 and is discussed in the section entitled "Worksheet Instructions", *infra* at 26-27.

⁸ See note 6, *supra*.

should carefully review the obligor's income and living expenses to determine the maximum amount of child support that can reasonably be ordered without denying the obligor the means of self support at a minimum subsistence level. A specific amount of child support should always be ordered, however, no matter how minimal, to establish the principle of that parent's obligation to provide monetary support to the child.

IV. DETERMINATION OF CHILD SUPPORT AMOUNT

A. CHILD SUPPORT GUIDELINES WORKSHEET⁹

The Child Support Guidelines Worksheet ("Worksheet") must be utilized and filed in the case record prior to or at the hearing on support, or at the time of entry of a support order without a hearing. The moving party or his/her attorney has the primary responsibility to complete the Worksheet and file it with the Court prior to or at the time of the support hearing. Because the moving party may not have knowledge of the defendant's income and Line 2 "Required Deductions" prior to the hearing, the moving party shall complete as much of the Worksheet as possible for

⁹ DR-30 (Rev. 7/07). See Admin. Order 07-03.

presentation to the Court as required above. It should be noted that the Line 3 "Optional Adjustments" are solely in the discretion of the Court and therefore will be completed by the Court, if applicable. Please note that the moving party must indicate at the top of the Worksheet the number of children for whom a support order is being sought.

B. WORKSHEET INSTRUCTIONS

1. Line 1--Monthly Gross Income¹⁰

Enter the gross monthly income of each parent. For purposes of these Guidelines, "income" is defined as actual gross income of the parent, if employed to full capacity or potential income if unemployed or underemployed. Gross income includes, but is not limited to, income from salaries, wages, commissions, bonuses, dividends, severance pay, pensions, interests, trust income, annuities, capital gains, social security benefits, worker's compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts, prizes, and alimony or

¹⁰ Beginning with Admin. Order 92-04, a Gross to Net Income Conversion Table was provided to assist judges and attorneys convert net income to gross income. See Admin. Order 12-03; Admin. Order 07-03; Admin. Order 02-03; Admin. Order 97-08 (providing revised Gross to Net Income Conversion Table). The definition of "income" contained in this section originally appeared in Admin. Order 87-02.

maintenance received, and all other forms of earned/unearned income.¹¹ Specifically excluded are benefits received from means-tested public assistance programs, including but not limited to, [Temporary Assistance to Needy Families (TANF)]¹², Supplementary Security Income (SSI), Food Stamps, and General Public Assistance.

For income from self-employment, rents, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, gross income is defined as gross receipts minus ordinary and necessary expenses required for self-employment or business operation. In general, income and expenses from self-employment or operation of a business should be carefully reviewed to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. In some instances, this amount will differ from a determination of business income for income tax purposes.

¹¹ In *Tamayo v. Arroyo* the Rhode Island Supreme Court noted that the definition of “income” in the Child Support Guidelines was expansive and provided a non-exhaustive list of types of income that must be considered. 15 A.3d 1030 (R.I. 2011).

¹² Temporary Assistance to Needy Families (TANF) was formerly known as Aid to Families with Dependent Children (AFDC).

Expense reimbursements or in-kind payments received by a parent in the course of the employment, self-employment, or operation of a business should be counted as income if they are significant and reduce personal living expenses. Such payments might include a company car, free housing or reimbursed meetings.

If a parent is voluntarily unemployed or underemployed, child support should be calculated based on a determination of potential income, except that a determination of potential income should not be made for a parent that is physically or mentally incapacitated. Determination of potential income should be made by determining employment potential and probable earnings level based on the obligor's recent work history, occupational qualifications, and prevailing job opportunities and earning levels in the community. If there is no recent work history and no higher education or vocational training, it is recommended that income be set at least at the minimum wage level.

2. **Line 2--Required Deductions**

a. **Pre-Existing Child Support Orders**

On line 2(a), enter the amount of pre-existing Court ordered child support for children other than those for whom support is being sought, but only to the extent payment is actually being made under such order(s).¹³ If payment of such order is currently being made by wage garnishment or income withholding, the amount to be entered as a deduction is the amount that is being garnished or withheld. If payment is not being made by garnishment or income withholding, the deduction is limited to the average of actual payments made during the immediately preceding twelve-month period.

¹³ The policy that pre-existing child support orders constitute a required deduction to gross income on line 2(a) of the Guidelines Worksheet, providing there is compliance with those pre-existing orders, was expressly affirmed by Admin. Order 97-08, Admin. Order 02-03 and Admin. Order 07-03.

b. Health Insurance

On line 2(b), enter an amount equal to the amount actually being paid by a parent to maintain health insurance for the child(ren) for whom support is being established provided that the parent is ordered to maintain such coverage. Please note that the cost of the parents' health coverage is not included in the deductible amount even though the parent is jointly covered with a child(ren) under a family policy. For example, the deduction from gross income is limited to the difference between the cost to provide single versus family health insurance coverage. If coverage is provided through an employer, only the employee portion actually paid should be deducted.

c. Additional Minor Dependents¹⁴

For additional minor dependents of an obligor or obligee, a deduction not to exceed 50% of the child support obligation for the additional child(ren) should be

¹⁴ A revision to the Guidelines Worksheet pursuant to Admin. Order 97-08 includes a required deduction for additional minor dependents of an obligor or obligee. See line 2(c) on Family Court DR-30. The 2 (c) required deduction was expressly cited in Admin. Order 07-03 and Admin. Order 02-03.

calculated by taking into account the combined gross income of both parents of the additional child(ren).

Where the subsequent spouse of the obligor or obligee is unable to contribute to the combined gross income of the additional family by reason of death, incapacity or incarceration, the Court may, in its discretion, deduct up to 100% of the child support obligation for the child(ren) of the subsequent relationship from the gross income of the obligor or obligee. A second Guideline Worksheet for the subsequent family need not be filed with the Court so long as the Court is satisfied that the deduction for the additional minor dependent (s) is accurate.

3. Line 3--Optional Adjustments in the Discretion of the Court¹⁵

In the discretion of the Court, one or more of the following adjustments to gross income may be made. Since these adjustments are allowable within the context of the Guidelines, findings of fact on the record are not required in

¹⁵ Admin. Order 87-02.

order to utilize one or more of the following discretionary adjustments.

a. Pension and Retirement Plans

On line 3(a), the amount actually paid by a parent to a mandatory employment-related pension or retirement plan may be entered. This adjustment may be most appropriate if the Court has or will consider an equitable assignment of pension or retirement assets.

b. Life Insurance Premiums

On line 3(b), the Court may enter the amount paid or to be paid under Court order to maintain life insurance on the life of a parent for the benefit of the child(ren).

c. Parent's Extraordinary Medical Expenses

On line 3(c), the Court may enter an appropriate monthly allowance for the payment of a parent's uninsured extraordinary medical expenses. Without specifically limiting the Court's discretion in recognizing such extraordinary medical expenses, the term

extraordinary medical expenses includes, but is not limited to, such costs as are reasonably necessary for orthodonture, dental treatment, asthma treatments, physical therapy, any chronic health problem, and professional counseling or psychiatric therapy for diagnosed mental disorders.

Although this discretionary adjustment relates to parental extraordinary medical expenses, the Court is not prohibited from considering the extraordinary medical expenses of a child(ren) and making an appropriate order against one or more of the parents to make a payment of the same. It should be noted, however, that consideration of the extraordinary medical expenses of a child(ren) should be made outside the context of these Guidelines, and the payment of same will not be directly considered within these guidelines in establishing the basic child support obligation of a parent.

d. Income Tax Exemption Adjustment

On line 3(d), the Court may consider the income tax consequences and/or benefits associated with the dependency exemption for such child(ren) and may make an appropriate adjustment (increase or decrease) to the income of the parent(s). The goal of such adjustments should be to maximize the funds available to the parties from which support payments can be made; and in no event should the adjustment reduce the total support available to the child(ren) from both parents.

e. Payments of Assigned Marital Debts

If the Court has or will assign marital debts of the parties, the Court may wish to consider the effect of the assignment of the debts on the income of either parent. On line 3(e), the Court may make an appropriate adjustment to the income of the debt paying parent. The amount of such adjustments is within the total discretion of the Court, but should be reasonable in

relation to the size, terms and repayment period of the debt.

4. **Line 4--Monthly Adjusted Gross Income**

For each parent, subtract line 2 and line 3 deductions, if applicable, from line 1 gross income and enter in the parent's column; then combine the adjusted gross income of each parent and enter the amount in the combined column.

5. **Line 5--Percentage Share of Income**

Compute and enter each parent's share of income by dividing each parent's monthly adjusted gross income from line 4 by the combined monthly adjusted gross income amount from line 4.

6. **Line 6--Basic Child Support Obligations**

Enter basic child support obligation determined by using the attached tables (Schedule of Basic Child Support Obligations). Using the line 4 combined adjusted gross income amount enter the amount from the tables corresponding to that gross income level for the number of children for whom the support order is being sought. For example, if the combined monthly adjusted gross income is \$2,000.00, and there are two (2) children to be supported, the

corresponding child support obligation amount that should be entered on this line would be \$569.00.¹⁶ Because the tables are calculated using \$50.00 increments, round the combined adjusted gross income upward to the next highest \$50.00 increment. For example, combined monthly adjusted gross income of \$1,951.00 through \$1,976.00 through \$1,999.00 should be rounded to \$2,000.00.

7. Line 7--Work Related Child Care Costs

a. Enter the child care costs incurred due to employment of either parent, net of the federal income tax credit. Such child care costs must be reasonable; that is, such costs should not exceed the level required to provide quality care for the child(ren). The value of the federal income tax credit for child care should be subtracted from actual costs to arrive at a figure for net child care costs.¹⁷

b. In all orders of child support which include child care costs, the Court shall, unless otherwise inappropriate, order that the

¹⁶ See Schedule of Basic Child Support Obligations established by Admin. Order 12-03. Under the schedule established by Admin. Order 87-02, the obligation would have been \$489.

¹⁷ The reference in Admin. Order 87-02 to the then applicable IRS Form 2441 entitled "Credit for Child and Dependent Care Expenses" has not been included in the body of this summary. Form 2441 has been revised since 1987. *Compare* IRS Form 2441 (2011) *with* IRS Form 2441 (1986).

obligee/parent shall provide reasonable immediate notice to the obligor of a reduction or termination of child care costs and the date that said reduction or termination occurs.¹⁸

If the Court determines that the obligee/parent failed to provide reasonable notice to the obligor of a reduction or termination of child care costs, the Court may exercise its discretion to impose an appropriate remedy/consequence.¹⁹

8. Line 8--Total Child Support Obligation

Add lines 6 and 7 and enter the total on line 8.

9. Line 9--Parent's Child Support Obligation

Compute each parent's share of the total child support obligation by multiplying each parent's percentage share from line 5 by the line 8 total support obligation; enter each parent's share on line 9.

10. Line 10--Recommended Child Support Order

For the non-custodial parent only, enter the amount from line 9. This is the recommended amount of support.

¹⁸ Admin. Order 12-03.

¹⁹ *Id.*

11. Line 11--Basic Support Amount Ordered

In entering an order of support, the Court may exercise its discretion to deviate from the "recommended" amount on line 10 if it makes findings of facts on the record (see "Part III- Use of the Guidelines" for further instructions regarding deviations).²⁰ Please use the reverse side of the Worksheet for comments and findings.

12. Cash Medical Orders²¹

Any child covered by health insurance through the parent's or parents' place of employment at the time the child support order is being established shall continue to be covered by said insurance. If the child is not currently covered by health insurance through the parent's or parents' place of employment, the parent or parents shall be required to obtain said insurance through their employment so

²⁰ See *infra* at 3-4 (discussing deviations).

²¹ Admin. Order 07-03 amending Admin. Order 02-03.

long as the coverage is deemed "accessible"²² and so long as the coverage is available at no cost or at a "reasonable cost".²³

Health insurance coverage shall be deemed "accessible" if the child or children who are the subject of the order live within the geographical area covered by the plan.

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

In the event that the Court determines that the health insurance is "not accessible" or the Court determines that the cost to obtain health insurance for the child is "not reasonable", the obligor

²² Administrative orders prior to Admin. Order 07-03 "did not specifically address the definition of 'Accessibility' as it relates to the obligation to provide health insurance coverage for the child when available and treatment for the calculation of Child Support Orders in excess of the combined monthly gross income of Thirty Thousand Dollars (\$30,000)." Admin. Order 07-03.

²³ Administrative Order 02-03 first addressed the definition of "reasonable cost" for purposes of determining an obligor's obligation for providing health insurance coverage for the child when such coverage is available through the obligor's place of employment; the concept of an equivalent cash contribution when such health insurance cost is deemed unreasonable; and, the consideration of Supplemental Security Income (SSI) payments received by the child. The provisions set forth therein continue to remain in full force and effect. Admin. Order 07-03 *accord* Admin. Order 12-03.

shall be required to make a five percent (5%) medical cash contribution in addition to the basic order of child support.

The Child Support Guideline Worksheet (DR-30) continues to reflect the medical cash contribution order.²⁴ The basic order of child support shall be reflected on line 11²⁵ of the Revised Child Support Guideline Worksheet (DR-30). The medical cash contribution portion of the order shall be reflected on line 12 of the Revised Child Support Guideline Worksheet (DR-30). The Total Amount Ordered (the total of lines 11 and 12) shall be reflected on Line 13 of the Revised Child Support Guideline Worksheet (DR-30).²⁶

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

If the child is covered under private insurance provided to the custodial parent through his/her place of employment (at a cost to the custodial parent), the expectation is that the custodial parent will retain the medical cash contribution up to his/her actual cost. If the

²⁴ See line 12 on DR-30 (Rev. 7/07).

²⁵ See line 11 on DR-30 (Rev. 7/07).

²⁶ See line 13 on DR-30 (Rev. 7/07).

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

Parents shall continue to receive an "above the line" deduction for any health insurance premium paid for the child on Line 2 (b) of the Revised Child Support Guideline Worksheet (DR-30). Parents shall also continue to receive an "above the line" deduction for any medical cash contribution ordered in the case under consideration or a pre-existing order on Line 2(b) of the Revised Child Support Guideline Worksheet (DR-30).²⁷

13. Split Custody Considerations²⁸

These situations can take any form of different patterns:

a) Each Party Has One Child and One Person Makes More Income than the Other

A suggested approach is as follows:

- a. Compute combined gross income of both parties;

²⁷ See Worksheet # 3 attached to Admin. Order 07-03 for an example

²⁸ See Admin. Order 97-08; *accord* Admin. Order 07-03; Admin. Order 02-03.

- b. Find the support obligation from guideline schedule for two children based on combined gross monthly incomes;
- c. Deduct 50% of (b) from each person's gross income to determine adjusted gross income;
- d. Add adjusted gross income of both parties to determine total adjusted monthly income;
- e. Find the support obligation for one child based on combined adjusted monthly income found in (d);
- f. Multiply each party's percentage of (d) x (e);
- g. Deduct lower support obligation from higher support obligation. The higher earning person pays that amount.²⁹

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

b) One Parent Has Two or More Children/Other Parent Has One Child

- a. Same as above;
- b. Find the support obligation from guideline schedule for total number of children based on combined gross monthly incomes;
- c. Calculate *pro rata* share of total number of children in placement of each party;
- d. Deduct (b + c) from each person's monthly income to determine adjusted gross monthly incomes for each party;
- e. Add adjusted gross monthly income for each party to determine total adjusted gross income;
- f. Calculate each party's percentage of (e);

²⁹ See Worksheet # 1 attached to Admin. Order 07-03 for an example.

- g. Using total adjusted monthly income found in (e), determine each party's support obligation for the number of children with each party;
- h. Multiply (f) x (g);
- i. Subtract lower support obligation found in (h) from higher support obligation. The difference is owed by the person having the higher support obligation.³⁰

14. Extended Visitation³¹

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

³⁰ See Worksheet # 2 attached to Admin. Order 07-03 for an example.

³¹ Admin. Order 97-08; *accord* Admin. Order 07-03; Admin. Order 02-03.

- a) Determine an obligor's weekly and yearly support obligation by utilizing the [current]³² schedule;
- b) Determine the number of consecutive weeks during the calendar year that an obligor will have physical custody of the child(ren);
- c) Multiply the weekly support obligation by the number of weeks that an obligor will have physical custody of the child(ren);
- d) Deduct this amount from the total annual support owed by an obligor;
- e) Divide the remaining sum by 52 weeks to obtain the pro-rated amount to be paid by an obligor.

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

15. Joint/Shared Physical Custody³³

In light of the unique nature of an individual joint or shared physical custody arrangement, the Court should exercise its discretion to determine an equitable child support obligation³⁴ in

³² The use of the language "current schedule" in the body replaces the use of "1997 schedule" in Admin. Order 97-08, "2007 schedule" in Admin. Order 07-03 and "2002 schedule" in Admin. Order 02-03.

³³ Admin. Order 97-08; *accord* Admin. Order 07-03; Admin. Order 02-03.

³⁴ In *Waters v. McGee*, the Rhode Island Supreme Court cautioned that "[i]t cannot simply be assumed that if parents are sharing physical placement on a relatively equal basis, they also are sharing the financial obligations on a similar basis." 877 A.2d 658, 666 (R.I. 2005).

accordance with the [current] Monthly Basic Child Support Obligations Schedule and Child Support Guideline Worksheet.³⁵

16. Supplemental Security Income (SSI)³⁶

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

17. Combined Monthly Income In Excess Of \$30,000³⁷

For combined annual income in excess of \$360,000, it is recommended that the Court exercise its discretion to order child support amounts above the obligation described for \$30,000 of combined gross monthly income. The Court should determine the monthly support obligation for \$30,000 per month in combined gross monthly income. The Court should then compute the ratio of total combined income to \$360,000 by dividing total income by \$360,000.

³⁵ The use of the language "current Monthly Basic Child Support Schedule and Child Support Worksheet" in the body replaces the use of "1997 Monthly Basic Child Support Schedule and Child Support Worksheet" in Admin. Order 97-08, "2007 Monthly Basic Child Support Schedule and Child Support Worksheet" in Admin. Order 07-03 and "2002 Monthly Basic Child Support Schedule and Child Support Worksheet" in Admin. Order 02-03.

³⁶ Admin. Order 02-03; *accord* Admin. Order 07-03.

³⁷ Admin. Order 07-03. The 2007 administrative order amended similar provisions in two earlier administrative orders recommending the analysis to be applied when considering child support obligations for combined monthly incomes in excess of the highest amounts scheduled in the Guidelines. *See* Admin. Order 02-03 (monthly income in excess of \$20,000); Admin. Order 97-08 (monthly income in excess of \$15,000).

The ratio percentage should be multiplied by the child support obligation set at \$30,000 per month to arrive at an appropriate upward adjustment.

For example, in a situation where combined gross income is \$400,000 with two children of the union, divide \$400,000 by \$360,000 and multiply the percentage by \$2,960, the minimum monthly support obligation for two children at \$30,000 combined monthly income (the maximum income set forth in the amended schedule). The computation would be as follows: \$400,000 divided by \$360,000 = 1.11 x \$2,960 = \$3,285.60 monthly child support obligation for a combined annual income of \$400,000.³⁸

In unique circumstances, the Court in its discretion may analyze situations with combined gross monthly income in excess of \$360,000 on a case-by-case basis to arrive at an equitable child support order predicated on the original concept discussed in Administrative Order 87-02 that a child should receive the same proportion of parental support that he/she would have received had the parents remained in the same household.

³⁸ See Worksheet #4 attached to Admin. Order 07-03.

18. Signature/Dates³⁹

The worksheet must be signed and dated by the Preparer, [Chief Judge/Associate Justice/Magistrate]⁴⁰ and Clerk, and timely filed in the Court record.

V. MODIFICATION⁴¹

The provisions of the child support order, including a support order established pursuant to these Guidelines, may be modified only if there is a substantial change of circumstances. For purposes of these Guidelines, it shall be rebuttably presumed that a substantial change of circumstances shall not have occurred if the application of these Guidelines to the changed circumstances would result in a new child support order that is less than ten percent (10%) higher or lower than the prior order of support.

³⁹ Admin. Order 87-02.

⁴⁰ The language in the original administrative order has been changed to reflect the current titles of the potential signatories.

⁴¹ Admin. Order 87-02.

PART II. PROCESSING, COLLECTION AND PAYMENT OF CHILD SUPPORT ORDERS⁴²

VI. STATE CASE REGISTRY FOR CHILD SUPPORT ORDERS⁴³

In accordance with [Rhode Island General Laws §15-5-16.2 (h)]⁴⁴, all child support orders (including temporary orders) established or modified in Rhode Island on or after October 1, 1998, shall be recorded with the Rhode Island Family Court Department of Human Services Office of Child Support Enforcement System⁴⁵ which maintains the official State Case Registry of child support orders issued by the Rhode Island Family Court. The child support order/medical order⁴⁶ shall be recorded whether or not

⁴² In Part II the following administrative orders are discussed: Admin. Order 12-03; Admin. Order 11-05; Admin. Order 10-01; Admin. Order 03-06; Admin. Order 01-04; Admin. Order 98-08; Admin. Order 98-07; Admin. Order 97-03; Admin. Order 95-06; Admin. Order 94-07; Admin. Order 91-01; Admin. Order 90-04; Admin. Order 88-05; Admin. Order 88-03; Admin. Order 79-15.

⁴³ Admin. Order 10-01. Administrative Order Admin. Order 10-01 adopted the language of Admin. Order 98-08 with minor changes including the effective date. Other changes will be indicated by footnote.

⁴⁴ The language in Admin. Order 10-01 cites the public law amending RI Gen. Laws §15-5-16.2(h). That language is not included here.

⁴⁵ Administrative Order 10-01 changed the agency charged with maintaining the official State Case Registry of child support orders from the department of Administration and Division of Taxation to the Department of Human Services Office of Child Support Enforcement System. In so doing Admin. Order 10-01 followed the mandate of RI Pub. Laws 2005, ch. 117, §3 & §4 which mandates that references to the "Tax Administrator within the Department of Administration" in certain sections of the General Laws, including §15-5-16.1, shall be construed to refer to the Director of the Department of Human Services or the Director's designee.

⁴⁶ Administrative Order 10-01 changed the language "child support order" to "child support/medical order".

services are being provided under the IV-D State plan⁴⁷ and whether or not payments are being made through the Family Court. The information provided to the State Case Registry will be furnished to Federal Case Registry of child support orders.

To effectuate the aforementioned law, each party to a child support or paternity proceeding (Domestic Relations and Reciprocal cases) shall provide complete and accurate information to the obligee's attorney or obligee, if *pro se*, in order to complete a Child Support Information and Payment Form (CSS-1, as revised).⁴⁸ The obligee's attorney or obligee, if *pro se*, shall complete and file with the Family Court the CSS-1 form⁴⁹ immediately after the Court hearing and before leaving the Court. Instructions to execute the CSS-1 form shall be followed.⁵⁰

⁴⁷ The "IV-D State plan" refers to the Rhode Island state plan for child and spousal support established in accordance with title IV, part D, §454 of the federal Social Security Act, 42 USC §654. RI Gen. Laws §15-16-2(12).

⁴⁸ Prior to October 10, 1998, a prevailing party was required to file a CSS-1 only if payment under support orders were to be made payable through the Family Court. *Compare* Admin. Order 91-01 (requiring filing of CSS-1 only where payments are ordered to be made through Family Court) *with* Admin. Order 98-08 and Admin. Order 10-01 (requiring filing of CSS-1 for all support order); *see also* Admin. Order 79-15 (requiring that certain financial information forms be completed in cases where support payments were payable through Family Court).

⁴⁹ See Admin. Order 10-01.

⁵⁰ See Admin. Order 10-01.

Thereafter, each party is required within 10 days to file an amended CSS-1 form whenever any of the information contained in the original form has changed in any way.

All Court Orders providing for the commencement, modification, or suspension of any order for child support; for a cash medical support order or provision to obtain/maintain medical insurance for a child, shall contain a certification by the Attorney for the party presenting the Order to the Court, or by the party himself/herself if *pro se*, that he/she has complied with the requirements of RIGL §15-5-16.2 (h) and filed Form CSS-1.⁵¹

Failure to file the CSS-1 form may result in sanctions being assessed.⁵²

⁵¹ The paragraph requiring certification of compliance first appeared in Admin. Order 10-01.

⁵² Administrative Order 91-01, which mandated the filing of a CSS-1 form only where support payments were to be made through the Family Court, further cautioned: "Failure to do so will result in the payee not receiving the support that is due in a timely fashion."

VII. INCOME WITHHOLDING ORDER/CENTRAL STATE COLLECTION AND DISBURSEMENT⁵³

By statute, all support orders issued, enforced or modified on or after January 1, 1994, are subject to immediate income withholding except under certain circumstances. Pursuant to [RI Gen Laws §15-16-2,

⁵³ The most recent administrative order effectuating the mandates of Chapter 5 of Title 15 of the General Laws of Rhode Island is Admin. Order 01-04 and is referred to *verbatim* in this section of the summary unless otherwise indicated in the footnotes.

Administrative Order 01-04 effectively consumes Admin. Order 98-07 and Admin. Order 94-07. Administrative Order 98-07 allowed for payment directly to an obligee under limited circumstances. Direct payment to an obligee is no longer allowed as reflected in Admin. Order 01-04. In all other aspects, the mandates of Admin. Order 01-04 and Admin. Order 98-07 are identical. Admin. Order 94-07 (which required the use of Form DR 29 for all cases involving new or modified support orders after January 1, 1994, and provided for the eventual extinction of certain forms that had been in use prior to that time but which for all practical purposes are no longer of any consequence due to the aging of the children of the obligor) is also effectively superseded by Admin. Order 01-04.

Administrative Order 88-05 was for all practical purposes rendered moot by the statutory mandate subjecting all support orders, whether issued, enforced or modified, to immediate income withholding. §15-16-5.1. Sections I, II and IV of Admin. Order 88-05 set forth a procedure for obtaining income withholding orders, docketing them and preparing orders obtained after hearing. Section V of Admin. Order 88-05, which required the filing of a CSS-1, has been consumed by subsequent administrative orders discussing Form CSS-1. See pp. 33 and 34, *infra* (discussing Form CSS-1). Section III of Admin. Order 88-05 required the filing of certain documents in the case of income withholding orders arising from a support order issued in another jurisdiction. However, a 1996 amendment to §15-16-13(d) deleted the documents listed as required in Admin. Order 88-05 and set forth another, *albeit* similar, list of required documents. Pub. Laws, 2006, ch. 129, §6. There is no Administrative Order reflecting these statutorily mandated changes.

Administrative Order 88-03 set forth procedures for appealing an "Administrative Order to Withhold Income" and a "Court Order to Withhold Income" as well as provided a "Stipulations of Appeal". RI Pub. Laws 1997, ch. 170, §6 and RI Pub. Laws 1998, ch. 442, §7 set forth procedures for appealing income withholding orders effectively mooting Admin. Order 88-03.

§15-16-5.1⁵⁴ and §15-5-24⁵⁵, an incoming withholding agent may no longer remit withheld amount of income directly to an obligee. Instead, an income withholding agent shall remit to the clerk of the Family Court, or such other remittee as directed in the national income withholding order, all amounts withheld from the income of an obligor within seven (7) days of the date the income was paid or payable to an obligor.

1. To comply with this statutory change, Domestic Relations Form DR-29 shall be utilized by all parties, exclusively with respect to new or modified child support orders issued or modified by the court on or after October 1, 1998. Utilization of this process requires the income withholding agent to remit directly to the Clerk of the Family Court.

⁵⁴ Section 15-16-5.1(a) of the General Laws allows for the immediate withholding of an obligor's income except in limited circumstances. Those limited circumstances are expressly set forth in Admin. Order 01-04. The mandates of §15-16-5.1(a) effectively mooted, to a large extent if not entirely, several earlier administrative orders addressing the procedures to be followed and forms to be used when income withholding was being sought. *See* Admin. Order 94-07 (effectively abolishing the use of several forms discussed in earlier administrative orders); Admin. Order 90-04 (relating to forms then required for wage garnishment but no longer in use).

As most of the forms discussed in Admin. Order 90-04 have been abolished by subsequent administrative orders, including Admin. Order 94-07, and the other of the forms mentioned in Admin. Order 90-04 for all practical purposes no longer having any consequence due to the aging of the children of the obligor, Admin. Order 90-04 now appears to be completely moot. *See* Admin. Order 01-04 (abolishing the use of Form DR-39); Admin. Order 94-07 (abolishing the use of Form DR-20 and DR-22 for all cases involving support orders issued or modified after September 1, 1994).

⁵⁵ The language in Admin. Order 01-04 references the public law citation which amended RI Gen. Laws §15-16-2, §15-16-5.1 and §15-5-24. That language is not included herein.

2. The use of Domestic Relations Form DR-39 (payment directly to the obligee) is hereby abolished.⁵⁶
3. In order to effectuate the aforementioned changes, with respect to all income withholding orders issued or modified by the Court on or after October 1, 1998, the obligee's attorney or obligee, if *pro se*, shall immediately complete and submit to the Family Court Reciprocal Office the required CSS-1 form⁵⁷, as amended. The CSS-1 is necessary to set up a collection account with the Family Court.
4. Instructions to execute the CSS-1 Form shall be followed in order to provide complete and accurate information.⁵⁸ Failure to complete and submit the CSS-1 form by the obligee's attorney or obligee will result in the obligee not receiving child support payments in a timely manner.

⁵⁶ Domestic Relations Form DR-39 was used when payment was allowed to be made by an income withholding agent directly to an obligee. See Admin. Order 94-07(3). Administrative Order 98-07 had allowed the use of form DR-39 and, arguably, direct payment to an obligee in limited circumstances. See Admin. Order 98-07(2), (5) and (6).

⁵⁷ Admin. Order 79-15 first instructed the filing of a form providing the necessary information needed to set up a collection account when support payments were ordered to be paid to the Family Court. Later orders, including Admin. Order 88-05, Admin. Order 98-07 and 98-08, likewise mandated the filing of CSS-1 forms for income withholding orders.

⁵⁸ The current revision of CSS-1 and Instructions to Execute the revised CSS-1 form are attached to Admin. Order 10-01. Thus the following language in Admin. Order 01-04 is not included in the body of this summary: "Instructions to execute the CSS-1 form were previously provided in Administrative Order 98-07 and have not been amended..."

5. Pursuant to Rhode Island General Laws §15-5-24, §15-16-5.1 and §15-16-10, the Family Court may order that the obligor shall not be subject to immediate income withholding:

a) if a judge or magistrate of the Family Court finds there is good cause not to require immediate income withholding; or

b) if the obligor and obligee, and the Department of Human Services Office of Child Support Enforcement System in cases subject to an assignment of support rights, enter into a written agreement or the Family Court enters an order which provides for an alternative arrangement for the timely payment of support due under the support order. In no event shall the court order wage withholding payable to the obligee directly from any wage withholding agent. All preexisting

Administrative Orders which conflict with this order are hereby revoked.⁵⁹

.VIII. STATEMENT OF INCOME, ASSETS AND LIABILITIES⁶⁰

The DR-6 [Revised October 2011] shall be filed in accordance with Administrative Order 2011-05. For example: Domestic Relations Case Flow system requires that “Motions for temporary support, custody, or counsel fees shall be accompanied by a supporting affidavit containing a statement of the applicant’s current assets, liabilities, income and expenses (DR-6 Form Revised 2011).”

The DR-6 shall be submitted on green colored paper. Failure to submit the DR-6 on green colored paper will result in the Clerk’s Office returning an improperly submitted DR-6 to the attorney of record.

⁵⁹ Administrative Order 01-04 effectively revoked or superseded Admin. Order 94-07. Administrative Order 01-04 reaffirms the bulk of Admin. Order 98-07 but expressly revokes paragraph 2 of Admin. Order 98-07 which had allowed direct remittance of withheld income to the obligee in limited circumstances. Compare Admin. Order 98-07 (2) (allowing direct remittance) with Admin. Order 01-04(5) (b) (prohibiting direct remittance under any circumstance). See note 41, *supra*. See also n.51 and n.52, *supra* (discussing the viability of A0 98-07; Admin. Order 94-07; Admin. Order 90-04).

⁶⁰ Admin. Order 11-05.

The OCSS1, which is attached to Admin. Order 12-03, may be substituted for the DR-6 only in child support actions which involve the Office of Child Support Services (OCSS) (after June 1, 2012).⁶¹

IX. COURT SEAL⁶²

For all paternity and child support cases processed by the Rhode Island Child Support Enforcement Agency, a computer facsimile of the Court seal shall be permissible on all summonses as opposed to the raised seal.

The purpose of this order is to expedite case filing and increase the number of child support cases processed.

X. AGREEMENTS BETWEEN OBLIGOR AND DEPARTMENT OF HUMAN SERVICES⁶³

A written payment Agreement between an obligor and the Department of Human Services⁶⁴ for periodic payment of past due child

⁶¹ Admin. Order 12-03.

⁶² See Admin. Order 03-06.

⁶³ This section cites *verbatim* Admin. Order 95-06 unless otherwise noted.

⁶⁴ Rhode Island Pub. Laws 2005, ch. 117 §3 & §4 mandates that all references to the "Tax Administrator within the Department of Administration" in certain sections of the General Laws, including §15-11.1-1, shall be construed to refer to the Director of the Department of Human Services or the Director's designee.

support in accordance with the provisions of RIGL §§15-11.1-1 *et seq.*⁶⁵ shall become an Order of the Family Court with the Court's approval and upon the filing and entry of the Agreement with the Clerk of the Family Court.

Once entered, a written payment Agreement Order shall be enforceable as an Order of the Family Court and shall be modified only by the Court after the filing of a Motion to Modify or upon the filing of a new Agreement in Accordance with the above procedure.

XI. ELECTRONIC FUNDS TRANSFER SYSTEM⁶⁶

Effective May 6, 1997, Department of Human Services⁶⁷ instituted a voluntary electronic funds transfer system (EFT System) for employers and withholding agents subject to an Income Withholding Order (DR-29). The EFT System is designed to be an alternate method of payment to the manual paper check method of payment of child support income withholding. As such, from May 6, 1997, henceforth, any employer or

⁶⁵ Rhode Island General Laws §15-11.1-3b(7) in pertinent part provides that an obligor who is not in compliance with a support order may restore compliance if the obligor is making current payments and has entered into a written payment agreement with the department.

⁶⁶ This section cites *verbatim* Admin. Order 97-03 unless otherwise noted.

⁶⁷ Pursuant to RI Pub. Laws 2005, ch. 117, §3 & §4 all references to the "Tax Administrator within the Department of Administration" in certain sections of the General Laws, which by implication would include the references to the Department of Taxation contained in Admin. Order 97-03, shall be construed to refer to the Director of the Department of Human Services or the Director's designee.

withholding agent who is required to withhold from an obligor's income sums sufficient to pay court-ordered child support pursuant to an Income Withholding Order (DR-29), may satisfy said obligation to withhold income by participation in the EFT System administered by the of the Department of Human Services.⁶⁸

This consolidated Administrative Order is effective September 28, 2012.

Date

Haiganush R. Bedrosian
Chief Judge, Rhode Island Family Court

Note: Copies of the administrative orders consolidated in Administrative Order 2012-05 are available for review and copying in the Domestic Relations Clerk's Office.

⁶⁸ *Id.*