

**JANE DOES WELL
PUBLIC COMMENTS AND RECOMMENDATIONS TO THE
2020-2021 MASSACHUSETTS CHILD SUPPORT
GUIDELINES TASK FORCE**

DECEMBER 14, 2020



EXECUTIVE SUMMARY

Jane Does Well, a nonprofit organization established to support Massachusetts divorcing and divorced women, created an awareness committee this past summer in response to the realities disclosed from our members regarding the many difficulties created by the decade-long trend of reducing child support under the Guidelines, most recently those guidelines published in 2017. In response to the Task Force request for public comments as part of its review process, Jane Does Well submits our Awareness Committee's findings in the following Public Comments Submission document to the 2020-2021 Massachusetts Child Support Guidelines Task Force.

Our findings illustrate that the 2017-2018 Guidelines and the economic report upon which they are based are problematic for several reasons, not least of which is that the standard of living for Massachusetts children is being sacrificed to an implicit desire to lower child support payments. The Guidelines are getting further away from the stated public policy of the Massachusetts commission initiating the establishment of child support guidelines. In this brief, Jane Does Well advocates for the adoption of its outlined recommendations to fully reflect the principles that child support is based upon. Jane Does Well respectfully requests that the Task Force function as arbiters of evidence and fact when reviewing the Child Support Guidelines and correct for anything that does not serve the best interest of Massachusetts children.

Basis of Massachusetts Child Support: Income Shares Model

Massachusetts child support, like most other states, is based on the Income Shares Model. The principal theory of this model is that children are entitled to the same level of expenditures that the child would have received had the parents lived together and combined financial resources. Children of disrupted families, regardless of the reason for the disruption, should be given the same financial opportunities as children of intact families with similar incomes to the extent possible given the greater expenses of maintaining two households. Another major foundation of the Income Shares Model is that both parents are financially responsible for their children, and that parents' financial contributions should be proportional to their share of total parental income.

As with all child support models, the basis of the income shares model is a measurement of how much families, and Massachusetts families in particular, spend on child rearing. The Task Force selects economic consultants ("consultants") to provide them with this data, as well as with any other current relevant economic data and information on how other states address issues in order to model best practices. The consultant's role is to provide the decision makers with an unbiased, accurate and comprehensive analysis so that the Task Force can make the most informed and thoughtful policy decisions that will better serve Massachusetts children and parents.

It is important to keep in mind the difference between academic theory and practical reality when implementing child support guidelines. Child Support is not an academic exercise whereby consultants can provide the “right answer” based on the statistical data of an average survey group. It is a policy decision made by the Task Force that affects the real women, men and children of Massachusetts. As pointed out in “[Fudging Failure: The Economic Analysis Used to Construct Child Support Guidelines](#)” by Ira Mark Ellman p. 168 (2004):

Child support guidelines are thus an example of a troubling phenomenon that may arise in other lawmaking areas as well: the displacement of policy analysis by “expert consultants” who convert the rulemaking task into a technical exercise that conceals the policy implications of their methodological choices from those responsible for choosing the policy”

The 2016-2017 Economic Review advocates lower support without clear economic evidence

Our committee conducted a thorough evaluation of the [2016-2017 Economic Review of the Massachusetts Child Support Guidelines](#). We question several conclusions that resulted from this review and are concerned not only by the lack of economic rigor and supporting data behind implemented changes to current Massachusetts child support guidelines, but also with the biased perspective of the consultants that wrote the previous economic reviews.

The consultants who have authored the last 2 reviews failed to supply reliable data to support their conclusion to lower non-custodial parents’ child support obligations. Specifically, the unsubstantiated conclusions include placing a 15% cap on childcare and healthcare reimbursements, automatically reducing child support by 25% when a child turns 18, retaining the extremely low adjustments to child support amounts for multiple children, and keeping child support percentages unchanged since 2013 (after a significant decrease). We urge the Task Force to adopt the following recommendations, which we will go into further detail in subsequent sections of the brief:

Eliminate 15% cap on childcare and healthcare expenses

In 2017, a 15% cap on childcare and healthcare expenses was added to the Massachusetts child support worksheet. This cap places an extremely onerous burden on custodial parents, violates the income shares concept and is also inconsistent with almost every other states’ child support guidelines. The task force should remove the 15% cap from the worksheet. These expenses should be included as additions to basic child support obligations and divided between the parents based on their respective income.

Remove the 25% reduction in child support at age 18

The arbitrary 25% decrease in child support at age 18, based on unsupported “anecdotal” evidence, is harming custodial parents and children. The task force should eliminate this

discriminatory decrease. Any change in child support should be based on facts and should not be automatic and presumptive.

Increase adjustments for multiple children

The previous reports argued that standardized child support amounts for single children in Massachusetts were too high (based on comparisons with other states) and used these comparisons to justify the state's extremely low multipliers to account for second, third, and other additional children. We disagree with their reasoning on both of these issues. The task force should increase the adjustment factors used to calculate support for multiple children to benchmark levels.

Increase child support amounts at all income levels

Stipulated levels of child support obligations have not been updated since 2013. The update in 2013, resulting from the economic analysis provided to the Task Force, substantially **decreased** the percentages of income non-custodial parents are required to pay. Most of the decrease occurred at higher income levels, where percentages of income decreased from 15% to 11% - a reduction of almost 30%. The Task Force should increase child support amounts at all income levels in order to keep up with rising costs that have occurred since 2013.

Raise the current maximum cap of \$250,000

Currently, child support amounts are calculated up to a maximum combined annual gross income of \$250,000. The Task Force should increase this amount to \$400,000 to set a minimum presumptive order, and include language providing the use of all available income to calculate child support to set a maximum presumptive order.

Incorporate spousal support in guidelines

The Task Force has long deferred the issue of how to address cases where both child support and spousal support (alimony) are applicable. The Task Force's lack of action seriously harms custodial parents and their children by precluding custodial parents from seeking both spousal and child support. Therefore, analyzing other states for best practices and adopting their language regarding spousal support in the child support guidelines will ensure that spouses who qualify are able to receive **both** spousal support and child support.

Incorporate sharing of all expenses on a pro rata basis

Custodial parents that have much lower incomes than the non-custodial parents are being forced to pay either all additional children's expenses or at least 50% of additional expenses. A parent's financial contribution should be proportional to their share of total parental income. The Task Force should incorporate language in the guidelines to ensure all children's expenses,

including any extracurricular expenses and college, if applicable, in addition to child support are allocated on a pro rata basis.

Recognize consultant bias and stated predisposition for lower child support

Previous research and statements by the consultants that have been hired for the last three quadrennial reviews reflect a perspective contrary to the principles of child support and indicate they are predisposed to recommend reductions in the child support obligations of non-custodial parents. The task force should recognize that their obligation is to the children of Massachusetts and resolve to send out future economic analysis RFPs to Public Policy Universities or academic institutions in Massachusetts or to non-profit research institutions with expertise in child support analysis.

Simplify and improve the Child Support Worksheet

Due to the need for accessibility for all individuals using the child support worksheet, it should be as simple and straightforward as possible. Therefore, we recommend that instead of formulas, child support tables or charts should be provided, like the majority of other states. These tables are easier for parents to understand, and they are easier for the task force to adjust.

In addition, we believe that all participants in the child support process, including lawyers and the courts, should understand how the outcomes of average child support obligations affect both custodial and non-custodial parents. In order to show the impact of rulings and child support amounts the Task Force should include a section in the worksheet that shows the total annual income of both the custodial parent and non-custodial parent after child support. To further illustrate the sufficiency of this after-support income, the worksheet should include a section comparing this income to self-sufficiency standards, based on family composition, specific to Massachusetts. This comparison will show how the results of payments affect both custodial and non-custodial parents and their children.

If the proposed recommendations are adopted by the court, we believe this would correct the inherent financial disparities produced by the current mandates of the Child Support Guidelines, and result in better outcomes for children and custodial parents in Massachusetts.

BEST INTERESTS OF THE CHILD

In August 1984, Congress unanimously passed the Child Support Enforcement Amendments, which radically changed the way states viewed child support orders. The 1984 Amendments required each state to adopt statewide advisory child support guidelines by October 1, 1987. Massachusetts created a Committee on Child Support Guidelines in 1985 that advised the Chief Administrative Justice of the Massachusetts Trial Court on development of the Massachusetts Child Support Guidelines. The way in which this original commission operated sets the best example of how the court should conduct quadrennial child support reviews.

The following section summarizes excerpts from "[Who Speaketh for the Child?](#)" written by Ruth-Arlene W. Howe, Associate Professor of Law, Boston College Law School, and member of the 1985 Child Support Guidelines Committee. Howe begins her report by quoting Principle 2 from the United Nations Declaration of the Rights of the Child:

The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity, in the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration.

Howe stated that "those who participated in and spearheaded the more than three-year process of developing the new child support guidelines for Massachusetts...are to be commended for their adherence to the above stated Principle 2 of the 1959 United Nations' Declaration of the Rights of the Child. They have endeavored to speak assertively for the children of the Commonwealth. In the future when one inquires, "Is it well with the child?" the response should be strongly affirmative for more Massachusetts children than ever in the past".

Howe emphasized that "the criteria set forth (for the creation of the child support guidelines) were derived from the policy objectives adopted by the Massachusetts Child Support Commission and stated:

The committee shall be guided by the following principles: to minimize the economic impact on the child of family breakup; to encourage joint parental responsibility for child support, in proportion to or as a percentage of income; to provide the standards of living the child would have enjoyed had the family been intact; to meet a child's survival needs in the first instance, but to the extent either parent enjoys a higher standard of living to entitle the child to share in that higher standard; to protect a subsistence level of income of parents at the low end of the income range whether or not they are on public assistance; to take into account the non-monetary contributions of the custodial

and non-custodial parent; to minimize problems of proof for the parties and of administration for the courts; and to allow for orders and wage assignments that can be adjusted as income increases or decreases.

“The Massachusetts child support guidelines are the result of a carefully designed and executed social policy planning process. Review of this process reveals an exciting case study - a model, worthy of replication, of how policy changes and new legal responses can result from diverse lay and professional citizen input and dynamic interaction between the executive, legislative and judicial branches of state government.”

Since all sessions were open to the public, there were always as many or more interested observers than committee members at meetings. Announcements of the meetings appeared in Massachusetts Lawyers Weekly and various bar association newsletters. Various family law sections and committees of the state, city and county bar groups set up study committees to review and critique the Report of the Child Support Guidelines Committee to the Governor's Child Support Commission. Interested practitioners both in their individual capacity and as representatives of state, city and county bar groups attended meetings and submitted written concerns and suggestions. In the late fall of 1987, the Office of the Chief Administrative Justice prepared and circulated seven hundred questionnaires to lawyers, judges, probation officers and child support workers, inviting comments on how the guidelines were working and asking for suggestions how the guidelines might be improved.

In his overview of the Massachusetts child support guidelines, William R. Ryan, Jr., speaks of the letters received from parents and domestic relations practitioners, replete with criticism that under the guidelines "she will get this" or "he will get that." He flatly asserts that "[t]hose letters totally miss the intent of the guidelines." Furthermore,

[t]he interests of the children should not be used as bargaining chips in the conflict of family breakups. Although we will never be able to protect families from the emotional trauma of divorce and separation, the guidelines contain a strong statement that this Commonwealth intends to protect from impoverishment and to nurture its most important resource, its children. Children are our future and these guidelines are a significant public policy investment in that future.

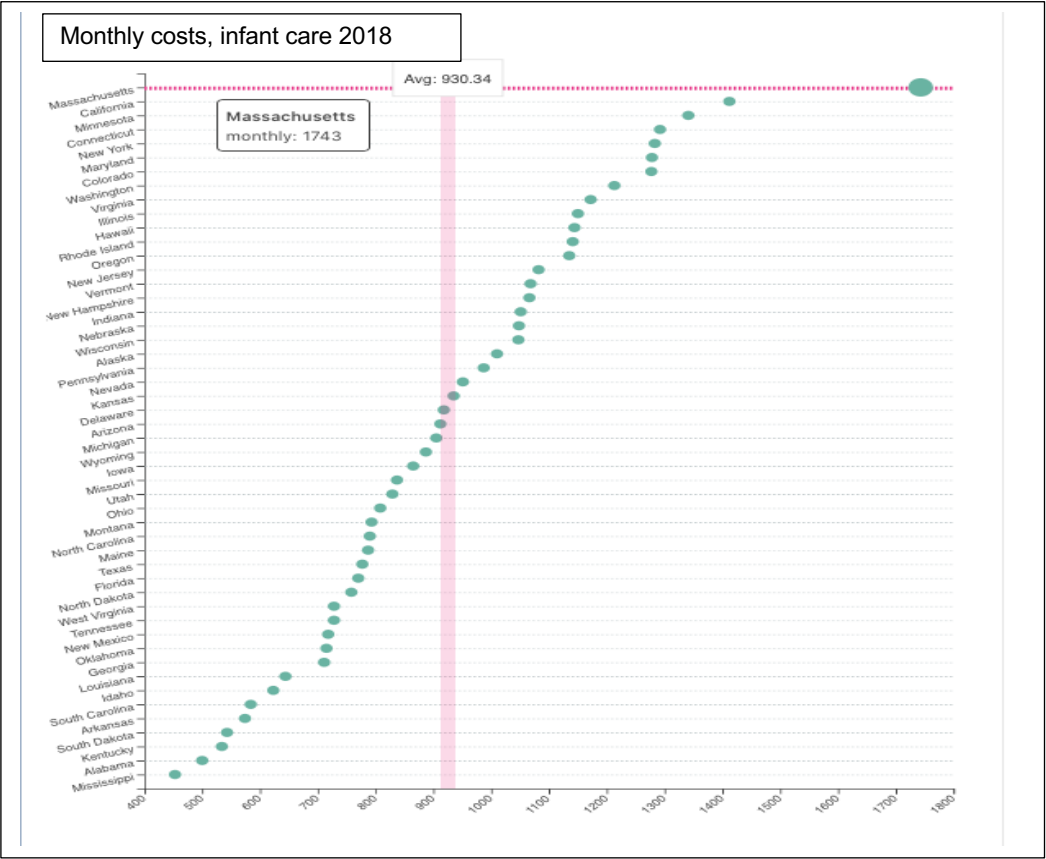
We believe the task force should return to the commission's original intent. We believe all participants in the process deserve input, not just non-custodial parents or Father's Rights Groups. **Child support is a public policy issue about the future of Massachusetts children.** It must not be a minimum cost exercise.

1. ELIMINATE THE 15% CAP ON CHILDCARE AND HEALTHCARE EXPENSES

In 2017, the Task Force implemented a 15% cap on the child support amount for reimbursement of childcare and healthcare expenses. As explained in the economic review, “a \$100 per week child support order with a 15% cap can increase or decrease by only \$15 or less, **regardless of the actual (likely much higher) dollar value of the childcare and healthcare costs**” (p. 35 [2016-2017 Economic Review](#)). Because childcare and healthcare costs are exceedingly expensive, capping the amount that a parent can be reimbursed for these costs is transferring a huge financial burden to the parent paying for these costs while also violating the Income Shares concept that Massachusetts child support is based upon. Therefore, we recommend eliminating the current cap, adding these expenses to the basic child support obligation and dividing the costs between the parents based on percentage of income.

Childcare costs

MA is ranked 1st out of 50 states for the most expensive childcare. According to [ChildCare Aware of America 2018 estimates](#) (below) the average monthly cost of infant care in Massachusetts is \$1,743 per month or \$20,916 a year. As shown below, this is 87% higher than the US average. Childcare for a school-aged child costs an average of \$1,258 a month or \$15,095 a year. Childcare for two children – an infant and a school-aged child – can cost an average of \$36,008 a year.



High childcare costs effect families with young children

Many parents with young children must make a choice between spending a significant portion of their income on childcare or leaving the workforce altogether to become full-time caregivers. Childcare challenges have become a barrier to work, especially for mothers, who disproportionately take on unpaid caregiving responsibilities when their family cannot find or afford childcare. A study by the [National Institute of Health \(2015\)](#) found that rearing children tends to interfere with women's, but not men's labor supply and investment in their human capital. Mothers are much more likely than fathers to drop out of the labor force, cut back to part-time employment, take less-demanding jobs, choose occupations that are more family-friendly, or pass up promotions – all of which affect their wage trajectories.

The Center for American Progress report entitled "[Calculating the Hidden Cost of Interrupting a Career for Child Care](#)" (Michael Madowitz, Alex Rowell, and Katie Hamm June 21, 2016) proved that the decision of a parent to stay home for a period of time comes with a huge cost. The parent that stays home lowers their lifetime earnings, reduces the amount saved in their 401(k) plan and pauses contributions to social security. The longer a person is out of the work force, the more severe the long-term effects on their earnings will be. The study estimates that a 26-year-old woman who is earning \$30,000 and takes off 5 years to provide unpaid childcare for her family is losing \$467,000 over the course of her career – a 19% reduction in her lifetime earnings.

High childcare costs effect custodial parents

High childcare costs create a vicious circle for custodial parents. The high cost forces many parents to quit their job to take care of their children. When one parent accepts the unpaid childcare responsibility for the children, even for a few years, that parent is burdened with a lifetime of financial disadvantages. The cost to that caretaking parent will ultimately exceed what was spent paid on childcare. If the parents then separate or divorce, and the parent who assumed care-taking responsibility for the children enters back into the work force, they face almost insurmountable obstacles. First, they are unable to re-enter the job market on the same wage trajectory. Second, they experience a lifelong loss of income due to time out of the workforce. These two factors together produce a detrimental outcome for the custodial parent, resulting in a much-reduced level of income for themselves and their children.

The overwhelming majority - over 80% - of our nation's custodial parents are women. These women represent about two-thirds of the total low-wage workforce. Since single mothers are often both the primary earner and caregiver in their households, childcare access is necessary for these mothers to remain employed. Women raising older children have childcare difficulties as well, as the typical American school schedule disrupts the productivity of working mothers and places a disproportionate burden on their ability to work and advance in a career. Under Massachusetts Student Learning Time regulations, schools are required to schedule an academic year that includes 185 days at school ([Massachusetts Department of Education](#)). There are 76 weekdays in the year where parents are expected to work and the children are not in school. This does not include illness, injury, or other unforeseen issues that can arise on any given day with children.

Massachusetts child support guidelines should specifically recognize the necessity of work-related childcare for the custodial parent. Where childcare costs occur, they generally represent a large proportion of total child expenditures. Due to the high and variable costs associated with childcare, treating them equitably in the child support guidelines is paramount. Treating childcare costs as add-ons and dividing these costs in proportion to both parents' incomes is the national standard because it maximizes the custodial parent's ability to work, minimizes the economic impact of work-related childcare on the custodial parent, and actively encourages participation in the workforce.

Currently, the Massachusetts child support worksheet allows the custodial parent to deduct the cost of childcare from gross income on the current child support worksheet. This deduction lowers the custodial parent's income, which typically requires the noncustodial parent to pay a higher child support amount. However, in a pure income shares model, the resulting increase in support is usually nominal and often insufficient in relation to the actual cost of childcare. Therefore, **most states address childcare and healthcare in their guidelines as an add-on to the basic support obligation**

As noted in a [report from the Washington State Department of Social and Health Services](#), **41 states utilize this national standard by adding childcare costs to the basic support obligation and dividing expenses based on a pro rata percentage of income:**

Alabama, Arkansas, Arizona, California, Colorado, Connecticut ^(a), Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, New Jersey, New Mexico, New York, North Carolina, Ohio ^(b), Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, West Virginia.

- (a) CT has a cap of 20% childcare costs attributed to non-custodial parent ONLY if the NCP's total income is below \$15,000 per year
- (b) Ohio has a cap based on the highest total amount of annual childcare cost available

The following example illustrates how the 15% cap works in the current Massachusetts child support worksheet. The scenario below assumes that Parent A (Custodial parent/recipient) and Parent B (Non-custodial parent/payor) both make \$769/week. Assuming NO childcare, the payor pays the recipient \$163/week in child support. If the custodial parent then must pay \$192/week for childcare, the payor pays \$189/week in childcare: **AN INCREASE OF ONLY \$26/WEEK DUE TO THE 15% CAP**. This results in the payor reimbursing the recipient only 13% of the childcare amount. If the guidelines instead incorporated the childcare as an addition to the basic child support amount, the payor would pay the recipient \$259/week in child support. The cap is forcing the custodial parent to pay for 87% of the total childcare cost.

Case Name _____	Docket No. _____
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		Parent A		Parent B
		Petitioner A		Petitioner B
5. PROPORTIONAL SUPPORT AMOUNTS				
a. Minus each parent's share of support <i>2(h) x 4(c)</i>	-	\$124	-	\$0
b. Other parent's share of support <i>4(c) - 5(a)</i>	=	\$164	=	\$0
c. Support as % of each parent's available income <small><i>If you checked Box 2 in 1(b), enter N/A if you checked Box 1 or Box 3 in 1(b), enter 5(b) ÷ 2(f) (If 2(f) = \$0, enter 100%)</i></small>		N/A		N/A
d. Other parent's adjusted share of support <small><i>If 5(c) is N/A, enter 5(b) or \$25, whichever is more, for Parent A and \$0 for Parent B If 5(c) is >= 10%, enter 5(b) or \$25, whichever is more If 5(c) is < 10%, enter 5(b) or ((5(c) + 10%) x 2(f)), whichever is less, but not less than \$25</i></small>		\$164		\$0
e. Recipient and Payor <small><i>Enter "Recipient" in the column where 5(d) is higher and "Payor" in the other column If 5(d) is the same in both columns, enter "Recipient" in either column and "Payor" in the other</i></small>		Recipient		Payor
f. Payor's net share of support <i>Recipient 5(d) - Payor 5(d)</i>				\$164
6. ADJUSTMENT FOR CHILD CARE AND HEALTH CARE COSTS				
a. Child care and health care cost paid <i>2(b) + 2(c) + 2(d)</i>				\$192
b. Payor's share of Recipient's cost <i>Payor 2(h) x Recipient 6(a)</i>		\$109		
c. Minus Recipient's share of Payor's cost <i>Recipient 2(h) x Payor 6(a)</i>	-	\$0		
d. Payor's net cost <i>6(b) - 6(c)</i>	=	\$109		
e. Maximum adjustment amount <small><i>If 6(a) = \$0 for both parents, enter \$0; otherwise enter 5(f) x 0.15 Adjustment applied to this order</i></small>	+/-	\$25		
f. <small><i>If 6(d) < \$0, enter \$0; otherwise enter 6(d) or 6(e), whichever is less</i></small>	+	\$25		
g. <small><i>If 6(d) >= \$0, enter \$0; otherwise enter the positive value of 6(d) or 6(e), whichever is less</i></small>	-	\$0		
h. Payor's adjusted net share of support <i>5(f) + 6(f) - 6(g)</i>	=			\$189
7. PAYOR'S NET SUPPORT OBLIGATION				
a. Support as % of Recipient's available income <small><i>If you checked Box 1 or Box 3 in 1(b), enter N/A If you checked Box 2 in 1(b), enter 6(h) ÷ Recipient 2(f) (If Recipient 2(f) = 0, enter 100%)</i></small>				33%
b. Payor's final support obligation <small><i>If 7(a) is N/A, enter 6(h) If 7(a) >= 10%, enter 6(h) or \$25, whichever is more If 7(a) < 10%, enter 6(h) or ((7(a) + 10%) x Payor 2(f)), whichever is less, but not less than \$25</i></small>				\$189 <i>Payor pays Recipient</i>

Note here: Payor's share of childcare should be \$109, if divided proportionately, YET IT IS CAPPED AT \$25!

Using other income scenarios, and assuming the same \$192/week in childcare costs paid by the custodial parent, the custodial parent (CP) pays:

- **90% of total childcare** if total income is \$60,000 and CP income is \$30,000
- **87% of total childcare** if total income at \$60,000 and CP income is \$20,000
- **87% of total childcare** if total income at \$80,000 and CP income is \$40,000
- **79% of total childcare** if total income at \$100,000 and CP income is \$33,000

Healthcare costs

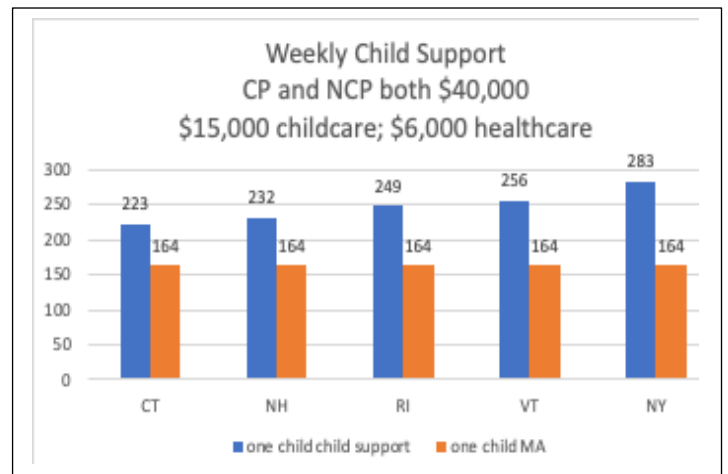
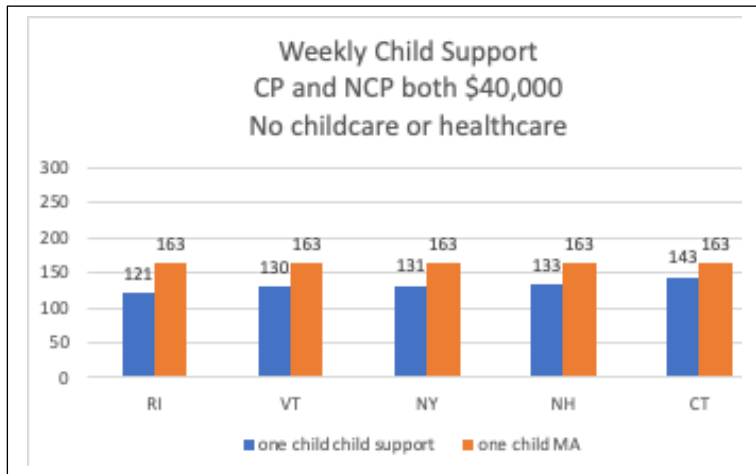
Healthcare costs are treated the same as childcare costs in the Massachusetts worksheet. Like childcare, healthcare costs are very expensive and parents spend a significant portion of total income on these costs. In Massachusetts, premium costs for workers with insurance through their employers grew from \$3,363 to \$5,571 from 2008 to 2017 – an increase of 66%. In the same time period, the median salary grew just 6.4%. In addition, between 2008 and 2017, the average annual deductible grew 114% to \$2,747 for a family plan. Plans with high deductibles are becoming ever-more prevalent, which is driving up medical costs for Massachusetts families. ([Medical Expenditures Panel Survey, U.S. Census Bureau](#)).

In the current Massachusetts child support guidelines, Health Care expenses are treated with the same arbitrary 15% cap as childcare expenses. The following is an excerpt from the [2018 Child Support Guidelines p. 11](#) regarding health care coverage:

1. Each parent may deduct from gross income the reasonable cost of individual or family health care coverage actually paid by that parent.
2. ***The guidelines worksheet makes an adjustment so that the parents share the burden of the cost proportionately.*** The adjustment involves a two-step calculation. First, a parent who is paying the health care deducts the out-of-pocket cost from his or her gross income. Second, the parties share the total health care costs for both parents in proportion to their income available for support. ***The combined adjustment for childcare and health care costs is capped at fifteen percent of the child support order.***

The statements in italics are contradictory. The parents do not share the burden of the cost proportionately, if the reimbursement is capped at 15%. The statement that the parents share the burden proportionately is false and misleading.

All of our neighboring states (RI, VT, NY, NH, and CT) calculate a basic child support and then add childcare and healthcare expenses to the basic child support amount proportionally based on income. When child support amounts are calculated using the specific worksheet for each particular state and **including** childcare and healthcare, you will see how **Massachusetts child support amounts are significantly lower than our neighboring states when these expenses are included.**



Note: Connecticut was based on 2015 data. CT data updated for 12% increase in CPI 2015-2020. CT also based on net income; therefore, typical tax rates estimated. NH childcare expenses are currently defined as deviations. These expenses are included as additions to the basic support order.

In the chart on the left, which assumes no childcare and healthcare, the child support payment in Massachusetts is \$163/week. The chart on the right, which assumes the custodial parent pays \$15,000 in annual childcare and the non-custodial parent pays \$6,000 in annual health insurance, results in a child support payment in Massachusetts of \$164/week. Clearly, this is unjust and results in an inequitable burden to custodial parents, consequently harming these parents and their children.

Massachusetts is the only state that caps childcare costs for the non-custodial parent at 15%. In fact, the non-custodial parent in Massachusetts is given a unique privilege of GREATER relief from financial responsibility for childcare costs compared to all other 49 states in the nation. The consultants appear to justify their recommendation of a 15% cap by noting that all households face budget constraints. This is true, but the cap effectively shifts costs onto custodial parents who typically face budget constraints even more binding than non-custodial parents.

Massachusetts public policy should encourage both parents to be employed and to share in child-rearing expenses. Massachusetts needs to address the current policy of placing a disproportionate burden of childcare (and healthcare) expenses on the custodial parent. **In reality, the custodial parent provides childcare for the non-custodial parent whether the custodial parent works or not.** If the entire child support guidelines system is premised upon

an income shares concept that assumes work-related childcare is not a luxury but rather a necessity whose costs should be shared proportionately, then **Massachusetts guidelines are currently failing miserably.**

Recommendation:

- **Eliminate the 15% cap on childcare and healthcare costs**
- **Remove all childcare and healthcare deductions from income**
- **Compute child support using the following national standard:**
 1. **The income of the parents (gross or net) is determined and added together.**
 2. **A "basic child support obligation" is computed based on the total income of the parents.**
 3. **A "presumptive child support obligation" is then computed by adding expenditures for work-related childcare expenses, healthcare premiums and uninsured medical expenses to the basic child support obligation.**
 4. **The presumptive child support obligation is prorated between each parent based on his or her proportionate share of total income. The payor's obligation is payable as child support.**

2. REMOVE THE 25% REDUCTION IN CHILD SUPPORT AT AGE 18

In 2017, the Task Force adopted an automatic twenty-five percent reduction when a child turns 18. This automatic decrease should be eliminated and replaced with the already-established requirement that any party seeking modification must prove facts sufficient to support that modification. **Evidence by way of facts should always be provided when a child support obligation is adjusted.**

The guidelines state “for dependent children between 18 and 21, child support may be ordered if the dependent child is domiciled with a parent and is principally dependent on that parent. For dependent children between 21 and 23, child support may be ordered if the dependent child is domiciled with a parent and is principally dependent on that parent due to enrollment in an educational program, as long as the program is not beyond an undergraduate degree.”(p. 15)

In explaining their decision, the Task Force cited several factors for the 18-23 age group that **may** decrease household costs, such as that a child “**may** be living away at school thereby reducing some of the household expenses for the recipient or the child **may** be living at home and is not enrolled in a post-secondary educational program and **should be** working and contributing to the household expenses”. ([2018 Child Support Guidelines](#) (p. 16)).

In 2018-19, 72.2% (49,223) of the 68,233 total high school graduates in Massachusetts attended college after graduation. Of these 49,233 students, 37.2% went to private four-year universities, 22.6% attended public two-year public institutions, 40% are at public four-year colleges and 21.8% went to one of the 15 community colleges in Massachusetts. Within these categories, the percentage of students attending one of the 7 State Universities in Massachusetts is 11.7% and those students attending University of Massachusetts is 17.2%. ([MA Department of Education 2018-2019](#))

Massachusetts child support guidelines very clearly state that a child does not have to be enrolled in college before age 21. Regarding this 18-21 age group, Massachusetts has a vast number of children that fit this criterion based on the high school graduate data above. The guidelines state that the child only has to be primarily residing with the custodial parent and be principally dependent on that parent for support, meaning these children are not financially self-supporting. The task force decreased child support for this group based on absolutely **no economic evidence**, other than their personal view that these children “should be working”.

The second group, aged 21-23, are children who are dependent upon a parent due to the enrollment in an educational program. The evidence to support the 25% decrease provided by the economists and relied on by the task force is stated below:

“Anecdotally, many children who are over 18 and out of high school are living away at college for as many as nine months of the year, reducing their share of costs such as food and utilities”. (2016-2017 Economic Review, P. 20)

The reality is that costs increase, not decrease, for the 18-23-year-old age group, whether these children live at home or reside temporarily away at college. Fundamental expenses for children in this age group such as food, clothing, transportation, and general grooming all increase as these children continue to grow and develop. Unlike in younger age groups, increased expenses within this age group also include expenses for cell phones; computers, computer software and technology; car expenses including insurance, tax and gas; entertainment; and additional clothing for special occasions.

Further, overall expenses increase, not decrease, even when children leave the household temporarily to reside at college. According to the Economic Review, there is a reduction of costs with regard to food and utilities (p. 20). This reduction of these costs is minimal and surpassed by many more increases in other expenses.

First, those students who do reside at college have other increased costs, including:

- Year-to-year moving expenses to/from school
- Year-to-year transportation to/from school during breaks
- Housing and cleaning supplies (e.g., linens; furniture; appliances; detergents)
- Numerous school fees not included in tuition
- Athletic team equipment/fraternity or sorority fees
- Extra food outside traditional room/board

Second, contrary to the report’s 9-month calculated child absence, the traditional college student attends school for only 7 months a year. This accounts for approximately 5 months of institutional scheduled breaks including a 3-month summer break, a 1-month minimum winter break, and a 1-month combination fall break, Thanksgiving and spring break.

Lastly, depending on the college location, the college student may also return home on weekends, a factor which the consultants did not acknowledge. Also not contemplated are the other factors that may cause a student to return home during the school calendar year such as: illness or medical condition (mono, and other communicable illnesses); anxiety or other mental health diagnoses; loneliness/homesick; academic strain; inability to acclimate; disciplinary reasons; injury; family crisis (illness, death); loss of financial resources (scholarships, grants) or support; and now in 2020, pandemic or other reasons for school closures.

As evidence, an automatic reduction for the 18-23 age group residing at college has already been rejected in other jurisdictions. In deciding this very question, the New Jersey Appeals Court held that **“reducing child support just based on age is erroneous because child support for a college student must be set in light of the financial circumstances of the parties and the**

children” [*Jacoby v Jacoby*, 427 NJ Super 109 \(App. Div 2012\)](#). As seen below, the Court found that a presumption that college-bound students require lesser funding is inherently unfair. Confirming Jane Does Well’s position, this court concluded that in many cases, college-bound students actually faced increased costs.

We are asked to review whether child support should be reduced when a child resides on campus while attending college. We confirm the child's attendance at college is a change in circumstance warranting review of the child support amount. However, there is no presumption that a child's required financial support lessens because he or she attends college. As each case must turn on its own facts, courts faced with the question of setting child support for college students living away from home must assess all applicable facts and circumstances. We hold that the personal facts and circumstances faced by each child who is to attend college, as well as the financial circumstances of the child's parents, reflect fluid circumstances obviating the rote application of a static formula.

*The payment of college costs differs from the payment of child support for a college student. See Hudson v. Hudson, 315 N.J. Super. 577, 584, 719 A.2d 211 (App.Div.1998) (“Child support and contribution to college expenses are two discrete yet related obligations imposed on parents.”). The typical expenses associated with college attendance include tuition, registration fees, lab costs, housing, board, books, and computer costs. Although the child support needs lessened in certain areas such as room and board, which falls within college costs, arguably other necessary expenses may increase when a child goes to college. See Dunne v. Dunne, 209 N.J. Super. 559, 570, 508 A.2d 273 (App.Div.1986) (“Common sense dictates that a college student requires more for support than a student in high school.”); see also Madeline Marzano–Lesnevich & Scott Adam Laterra, *Child Support and College: What is the Correct Result?* 22 J. Am. Acad. Matrimonial Law. 335, 373–79 (2009) (arguing the myriad of college costs should be provided in addition to the amount of child support allowed in the Guidelines).*

This court has previously acknowledged the possible continued need to maintain a local residence for a child who returns home from college during school breaks and vacations. Hudson, supra, 315 N.J. Super. at 585, 719 A.2d 211. Further, we conceive some child support expenses remain even when a child heads to college, including: transportation (possible automobile maintenance or payments, gasoline, parking, or alternate travel expenses); furniture (such as lamps, shelves, or dorm set-up and small appliances); clothing; linens and bedding; luggage; haircuts; telephone; supplies (like paper, pens, markers or calculators); sundries (such as cleaning supplies, laundry detergent); toiletries (soap, shampoo and other personal hygiene necessities); insurance (automobile, health and personal property); entertainment for college events and organizations; and spending money. Some of these expenses may be incurred once, others may vary in need or amount year to year, while the remainder are constant.” [*Jacoby v Jacoby*, 427 NJ Super 109 \(App. Div 2012\)](#)

When child support is decreased without evidence, yet child's expenses remain the same or increase, **the custodial parent is forced to pay for these expenses, even if their income is far below the non-custodial parents' income.** The arbitrary reduction of child support at age 18 is harming custodial parents and the children of Massachusetts.

The current guidelines state on p. 17 that "nothing in this section limits the ability of the Court to deviate from the presumptive order where appropriate". The task force should not implement an unwarranted and groundless decrease in child support, and then force the custodial parent to request a deviation to argue against this arbitrary decision. As data showed in the [2016-2017 economic review](#), the deviation rate in MA is extremely low. **The low deviation rate should not be taken as a sign of agreement, assent or success of the current guidelines.** The comment that a parent "can always argue for a deviation" is an argument of affluence and privilege. Many parents do not request deviations because the transaction costs are very high. Pro se parents or parents with limited means can't afford these high transaction costs of engaging counsel to make their claim and are further burdened by work inflexibility or childcare demands.

The Task Force should be the arbiter of evidence and facts, especially when relating to supporting Massachusetts children. Implementing a blanket reduction to child support, affecting all children over 18, with "anecdotal" evidence and no qualifying information as to the actual consumption of the child is negligent.

Recommendation:

- **Eliminate the 25% reduction when a child turns 18 and replace with the already-established requirement that any party seeking modification must prove facts sufficient to support that modification.**

3. INCREASE ADJUSTMENTS FOR MULTIPLE CHILDREN

Total expenses increase considerably as additional children are added to the family. To compensate for these increased costs, multipliers or adjustments are added to calculated child support based on the number of children. For example, if child support in Massachusetts amounted to \$100 a week for one child, an additional \$25/week would be added for the second child (1.25 multiplier) and an additional \$13/week would be added for a third child (1.38 multiplier). The current adjustments for the number of children used to calculate child support for additional children in Massachusetts are significantly lower – **almost 50% lower** - than national averages and adjoining state benchmarks. See table from p. 16 [2016-2017 Economic Review](#):

**Table 3:
Benchmark Increases for Additional Children**

Benchmark	Number of Children				
	2	3	4	5	6
Child Cost Estimates					
Betson (2010)	55%	23%			
USDA (2017)	56%	17%	12%	10%	
Neighboring States					
Connecticut (2015)	45%	17%	11%	10%	8%
New Hampshire (2016)	37%	20%	8%	8%	8%
New York (2015)	47%	16%	7%	13%	13%
Rhode Island (2012)	50%	19%	11%	9%	8%
Vermont (2016)	51%	20%	12%	10%	9%
Average	46%	18%	10%	10%	9%
Summary of Benchmarks					
Min	37%	11%	7%	9%	8%
Max	56%	23%	21%	21%	21%
Median	50%	19%	11%	10%	9%
Average	49%	19%	10%	10%	9%
MA guidelines	25%	10%	5%	2%	

Source: Betson (2010), USDA (2017), and state guidelines

The following tables show how Massachusetts current extremely low multipliers (1.25 and 1.38) compare to benchmark multipliers (1.45 and 1.71) and illustrate how these current multipliers used for calculating child support for multiple children in Massachusetts are harming custodial parents and their children. As the table shows, at a total income of \$100,000 custodial parents that earn \$40,000 are incurring a \$2,484 annual “loss” of child support for 2 children due to the low multiplier, and a total “loss” of over \$4,000 in annual child support if they have 3 children. As the non-custodial parent increases, so does the “loss” for the custodial parent. When the total income is \$250,000, custodial parents are “losing” \$6,744 in annual child support for 2 children and over \$11,000 in annual child support for 3 children because the multipliers are fixed way below standard benchmark levels.

Income			one child NCP % annual child support	From one child to 2 children			From 2 children to 3 children			Total Loss to CP for low multiple 1 to 3 child
Custodial Parent	Non-custodial Parent	Total		Incremental Increase for 2nd child	Incremental Increase for 2nd child	Loss to CP for low multiple	Incremental Increase for 3rd child	Incremental Increase for 3rd child	Loss to CP for low multiple	
				Multiple			Multiple			
				1.25	1.45		1.38	1.71		
\$40,000	\$25,000	\$65,000	\$5,400	\$1,350	\$2,430	(\$1,080)	\$702	\$1,404	(\$702)	(\$1,782)
\$40,000	\$40,000	\$80,000	\$8,450	\$2,113	\$3,803	(\$1,690)	\$1,099	\$2,197	(\$1,099)	(\$2,789)
\$40,000	\$60,000	\$100,000	\$12,418	\$3,104	\$5,588	(\$2,484)	\$1,614	\$3,229	(\$1,614)	(\$4,098)
\$40,000	\$80,000	\$120,000	\$15,912	\$3,978	\$7,160	(\$3,182)	\$2,069	\$4,137	(\$2,069)	(\$5,251)
\$40,000	\$100,000	\$140,000	\$19,203	\$4,801	\$8,641	(\$3,841)	\$2,496	\$4,993	(\$2,496)	(\$6,337)
\$40,000	\$120,000	\$160,000	\$22,308	\$5,577	\$10,039	(\$4,462)	\$2,900	\$5,800	(\$2,900)	(\$7,362)
\$40,000	\$140,000	\$180,000	\$24,995	\$6,249	\$11,248	(\$4,999)	\$3,249	\$6,499	(\$3,249)	(\$8,248)
\$40,000	\$160,000	\$200,000	\$27,622	\$6,906	\$12,430	(\$5,524)	\$3,591	\$7,182	(\$3,591)	(\$9,115)
\$40,000	\$180,000	\$220,000	\$30,122	\$7,531	\$13,555	(\$6,024)	\$3,916	\$7,832	(\$3,916)	(\$9,940)
\$40,000	\$200,000	\$240,000	\$32,543	\$8,136	\$14,645	(\$6,509)	\$4,231	\$8,461	(\$4,231)	(\$10,739)
\$40,000	\$210,000	\$250,000	\$33,721	\$8,430	\$15,174	(\$6,744)	\$4,384	\$8,767	(\$4,384)	(\$11,128)

By not adjusting the custodial parents support for multiple children to benchmark levels, the current child support guidelines are hurting custodial parents with multiple children and not providing them with enough income to support their children. The Task Force should increase the multipliers to be more in line with national benchmarks.

	Number of Children			
	2	3	4	5
	Child Cost Estimates			
Average Betson & USDA	56%	20%	12%	10%
Average Neighboring States	46%	18%	10%	10%
Current MA Guidelines	25%	10%	5%	2%
Current MA Guidelines Multiplier	1.25	1.38	1.45	1.48
Recommended Multiplier	1.45	1.71	1.88	2.06
Recommended MA Guidelines	45%	18%	10%	10%

The argument against increasing the multipliers to average benchmark levels is based on the consultant's claim that the average child support amounts in Massachusetts are "high" relative to other states. However, there is a good reason that amounts are relatively high in Massachusetts – the cost of raising children is higher here because of the high average level of rents and many other costs of living not entirely offset by corresponding higher income levels.

The consultants decided that "increasing the adjustment factors in Table B to bring them closer to the benchmarks, without also decreasing the guidelines amount for one child in Table A, would simply extend to cases with multiple children **the current disparity between the guidelines and the benchmarks in cases with one child**" (p. 18 2016-2017 [Economic Review](#))

They reached the conclusion that there was a disparity between the guidelines and the benchmarks for one child by comparing Massachusetts child support amounts to average national benchmarks without adjusting these lower national benchmarks for the specific high cost of housing and other costs in Massachusetts. They did not provide the task force with an accurate comparison, and therefore their conclusions are based on flawed economic reasoning.

In analyzing a particular state's child support against national benchmarks, economic consultants must first adjust the national benchmarks to more accurately reflect the economies of the particular state they are reviewing. Therefore, an important part of the economic analysis for Massachusetts is to show how current support levels in Massachusetts compare to national benchmarks adjusted for Massachusetts specific factors. Because the consultants in 2016-2017 did not make any adjustments in the national averages for the higher cost of rents and other costs of living in Massachusetts, they erroneously concluded that Massachusetts child support levels were inordinately high compared to national averages. We disagree with their methodology and believe that they presented questionable conclusions to the task force.

Since the children's expenditure measurements are based on a nationally representative sample of households, these measurements must be adjusted for a higher cost of living in Massachusetts. The following adjustment should be implemented based on [Colorado](#) and [Maryland](#) examples:

- Colorado housing costs are 20.7% above the national average. Therefore, consultants in Colorado's economic review increased benchmark expenditures by 7.9% to reflect that 38% of expenditures are devoted to housing and Colorado housing prices are 20.7% higher than the national average ($38\% \times 20.7\% = 7.9\%$)
- The Maryland housing adjustment adds a uniform 10% to the benchmark consumption percentage of each household, regardless of income. Maryland gross rents are 25% more than the national average. This is multiplied by the percent of expenditures devoted to housing (about 38%) to arrive at a 10% increase to the national amounts to reflect Maryland housing prices. That is, if for a given income bracket a household consumes 73 percent of net income (0.73), this percentage is increased to 83 percent (0.83). The adjustment "is made in this step because it is assumed that Maryland families tap into what would be "savings" or "other spending" to pay for Maryland's higher housing costs."

Housing is one of the biggest components of total cost of living. Massachusetts average fair market rent for a 2-bedroom apartment is \$1,847 ([national low-income housing corporation](#)). The national fair market average is \$1,246 a month. Massachusetts rents are **50% greater** than National averages. (In Suffolk County, the fair market rent is \$2,880, which is **131% higher** than the national average ([HUD](#))) The average home price in Massachusetts is \$366,800, while the national average is \$204,900. Massachusetts home prices are **79% higher** than National averages. (data from 2014-2018 [US Census Bureau](#)). To compare, Massachusetts median income in 2019 was \$85,843, 30% higher than the US average of \$65,712. ([Census ACS](#))

If the consultants were to increase the national benchmark to reflect the higher costs housing in MA, these benchmark amounts used to compare with Massachusetts would better reflect Massachusetts specific benchmarks. Similar to how other states adjust national benchmarks, the national benchmarks used to compare against Massachusetts child support amounts should be increased by at least 20% (50-80% higher rents and home prices x 38% total expenditures for housing). This adjustment makes current Massachusetts guideline amount comparable to national amounts. Without this adjustment, and any adjustment for any cost differentials from national data, the consultants are making flawed benchmark comparisons.

In addition, the consultants reported that child support in Massachusetts was higher compared to most of our neighboring states (RI, CT, VT, NH, NY). The consultants did not analyze the vast differences in these states compared to Massachusetts. Drawing a conclusion that MA child support is higher than our neighboring states without analyzing the differences and similarities in these states is misleading. The results need to be taken into context. For an example, see attached Appendix I from the [Alabama Child Support Economic review September 2020](#)). All of these are important factors and must be evaluated when comparing child support.

The current child support guidelines are hurting custodial parents with multiple children and not providing them with enough income to support their children. The economic reasoning used by the consultants to justify not increasing the multipliers is flawed and inaccurate. Therefore, the Task Force should increase the multipliers to be more in line with national benchmarks.

Recommendation:

- **We recommend that Massachusetts adopt, at a minimum, the average percentage multipliers used in neighboring states.**

	Number of Children			
	2	3	4	5
Recommended Multiplier	1.45	1.71	1.88	2.06
Recommended MA Guidelines	45%	18%	10%	10%

4. INCREASE CHILD SUPPORT AMOUNTS AT ALL INCOME LEVELS

When child support obligations are insufficient to meet the needs of children, custodial parents are faced with a difficult choice. They resort to taking on loans or a second or third job, transferring to lower-cost housing, depleting assets or retirement savings or sacrificing basic needs. The harm to children and their custodial parents is far reaching; declining economic opportunity, poverty and debt can have generational effects on families.

The Child Support formulas have not been updated since 2013. **The update in 2013 decreased child support amounts substantially** – from 12 to 16% across all income levels. Most of the decrease occurred at higher income levels, where percentages of income decreased from 15% to 11% - an almost 30% reduction.

Combined Available Income	2009 Percentage	2013 Percentage	Decrease in % of income
\$0 to \$1,250	25%	21%	-16%
\$1,250 to \$2,000	22%	19%	-14%
\$2,000 to \$3,000	19%	15%	-21%
\$3,000 to \$4,000	17%	12%	-29%
\$4,000 to \$4,808	15%	11%	-27%

Combined Income	2009 Support		2013 Support		Total annual decrease	Percentage decrease
	One child	Annual	One child	Annual		
\$750	\$187	\$9,698	\$165	\$8,559	(\$1,139)	-12%
\$1,250	\$304	\$15,808	\$270	\$14,040	(\$1,768)	-11%
\$2,000	\$449	\$23,348	\$413	\$21,450	(\$1,898)	-8%
\$3,000	\$634	\$32,968	\$563	\$29,276	(\$3,692)	-11%
\$4,000	\$794	\$41,288	\$683	\$35,516	(\$5,772)	-14%

(Note that the 2017 tables did not change, therefore 2013 applies to both 2013 and 2017 tables)

In the [2016-2017 Economic Review](#), the consultants state on p. vii that Massachusetts child support amounts are higher compared to benchmark amounts, and that “the higher child support amounts we observe in these comparisons (to other states and average benchmarks) may partly reflect the relatively **high cost of living in Massachusetts**. **If overall costs are above average, child costs are likely above average as well. Costs in Massachusetts are certainly higher for any important components of household spending.**”

The consultants then proceed to list how much higher average costs in Massachusetts are versus the US average for homes, average rent, childcare, and health care. After listing all of these higher costs, the consultants then reach the conclusion:

“the high cost of living is disproportionately high relative to income ...Whether the above-average income and cost of living in Massachusetts means the guidelines amounts also should be higher is a complex, open question requiring further research...”

Perplexingly, the consultants do not cite any further research to address this “complex question”. We do not find the issue complex. Massachusetts costs across the board are significantly higher than US averages. These costs are disproportionately higher than income levels. This is very straightforward:

Rents:	50% higher than national average
Housing:	79% higher than national average
Childcare:	87% higher than national average
Income:	30% higher than national average

To further establish that the higher costs in Massachusetts are not keeping up with higher income levels, the growth in these costs since 2008 should be analyzed. The Consumer Price Index for all Urban Consumers ([CPI-U](#)) increased 23% from 2008 to date (232 to 285). In the same period, median income for Massachusetts grew from \$77,849 in 2008 to \$85,843 in 2019 – an increase of 10%. ([Census ACS](#)) Clearly, income is not keeping up with higher costs.

Recommendation:

- **Increase child support across all income levels by 10% cost of living adjustment**

5. RAISE THE CURRENT CAP OF \$250,000

Currently, child support amounts are calculated up to a maximum combined annual gross income of \$250,000. This maximum amount has not been increased since 2013. In cases where income exceeds this limit, the Court considers support at the \$250,000 level as the minimum presumptive order. The child support obligation for combined available income greater than \$250,000 is at the discretion of the Court.

Table A, shown below, illustrates the current income levels and percentages used to calculate child support in Massachusetts.

COMBINED AVAILABLE INCOME FROM LINE 1(g)		CHILD SUPPORT AMOUNT (1 CHILD)			
Minimum	Maximum	At court discretion, but not less than \$80/month			
\$-	→ \$150				
\$151	→ \$319	22%			
\$320	→ \$750	\$70	+	22%	above \$319
\$751	→ \$1250	\$165	+	21%	above \$750
\$1251	→ \$2,000	\$270	+	19%	above \$1250
\$2,001	→ \$3,000	\$413	+	15%	above \$2,000
\$3,001	→ \$4,000	\$563	+	12%	above \$3,000
\$4,001	→ \$4,808	\$683	+	11%	above \$4,000

We recommend that the Task Force increase the maximum level from \$4,808 to \$7,692 a week (\$400,000 a year) and use the same 11% to calculate the presumptive minimum child support obligation for all income above \$4,000. In addition, child support should be calculated on **all income available** to provide the ceiling, or maximum presumptive child support obligation.

When we consider the purpose of Child Support, the central question to contemplate is whether the parents' resources are being adequately and equitably spent on the needs of the child. The needs of the child will differ based on the economic ability of both parents to provide for them. When the ability is greater, the children shall benefit also. Child Support was never intended to be a "minimum cost exercise". The intent, as the original child support principles affirm, is to meet a child's survival needs in the first instance, but to the extent either parent enjoys a higher standard of living to entitle the child to share in that higher standard.

Many parents earning in excess of \$250,000 and high-income earning non-custodial parents in Massachusetts are attempting to argue that child support "ends" at a set income level, and in no relation to the actual needs of the child or the ability of the parties to provide for their

children. We disagree and want to make sure that adequate resources are being distributed to the child in order for that child to benefit from the best standard of living available to the parties.

Two neighboring states, Connecticut and New York, provide best practices for Massachusetts to model regarding high income child support.

Connecticut addresses high income cases by stating that “the minimum presumptive support amount shall be the support amount at the net weekly income cap. The **maximum presumptive support shall be determined by multiplying the parent’s net weekly income by the applicable percentage shown at the net weekly income cap.** The minimum and maximum presumptive amounts may be rebutted by application of the deviation and or statutory criteria.”

In New York, The Child Support Standards Act in New York Family Court Act FCT § 413 sets forth the method for determining the basic child support obligation. The Child Support Standards Act provides that for combined gross income over the current cap, child support shall be calculated using either the “paragraph (f) factors” listed in Domestic Relations Law 2401b(f) **and/or** by a specified percentage based upon the number of children in the household (for example 17% for one child). The noncustodial parent is ordered to pay a pro rata share of the basic child support obligation, unless it finds that amount to be “unjust or inappropriate” based on a consideration of the paragraph (f) factors, which include the financial resources of the parents and the child, the standard of living the child would have had if the marriage had not ended, nonmonetary contributions of the parents toward the child, extraordinary expenses incurred in exercising visitation and any other factors the court determines are relevant.

According to [**Child Support Guidelines: Closing the “Cap” Trap**](#) By Robert Z. Dobrish (NYSBA Family Law Review | Fall 2018 | Vol. 50 | No. 2):

*“The key to obtaining high child support must be established at the trial level through a demonstration of needs and an ability to meet those needs. The recipient must present evidence to show a standard of living or evidence of real needs. **The payor, who has sufficient income to pay what is requested, must present evidence that the child(ren) do not need what is being requested.** It is immaterial whether the number selected is achieved through a cap on income or a determination of needs. The result proves to be the same. **If needs are demonstrated and availability to meet those needs is clear, there is, in fact, no cap.** Lawyers often negotiate their settlements by arguing whether a court would “cap” say at \$300,000 or \$400,000, without regard to the particular circumstances and the available evidence. Such reasoning does not comport with the purpose and intention of the statute”.*

By using the Massachusetts child support worksheet to calculate child support on all incomes, without regard to a “cap”, the principles that Massachusetts guidelines are based on will work as intended. **The real issues of payors ability to pay and reasonable needs of the children will**

be explicitly shown. However, the burden will be placed on non-custodial parents to argue **against** providing their children the benefit from their income and standard of living, rather than the custodial parent forced to argue **for** a higher and more equitable share of the parties' income for the benefit of their children.

Recommendation:

- **Increase the current cap of \$250,000 to \$400,000 to set the minimum presumptive order**
- **Maintain child support percentage of income at 11% for incomes greater than \$250,000**
- **Calculate child support on all income available as maximum presumptive amount; compare to needs and standard of living of child**

6. INCORPORATE SPOUSAL SUPPORT IN GUIDELINES

Currently in Massachusetts, spouses eligible for spousal support are being denied their right to the support intended to maintain a living and instead given support designed purely for the sustenance of their child or children. **Massachusetts is the only state in the nation** that as a policy can and does revoke a party's right to spousal maintenance because they have children when the parties' total income is below the current \$250,000 child support cap. **In essence, these spouses are receiving less support for having children than they would have received if they were childless and just receiving spousal support. They are, in effect hit with a "child tax" or "child penalty".** Custodial parents should receive **both** spousal support and child support – they each exist to achieve a distinctly different means.

The Task Force should incorporate language in the child support guidelines to ensure that spouses who qualify for spousal support receive it **in addition to, and not instead of**, child support. The task force must recognize that the spouse receiving spousal support should not have to use the spousal support for child support. If applicable, spousal support should be calculated first. Then this amount can be used to increase the custodial parent income and decrease the non-custodial parent income used to calculate child support.

Spousal support is specifically designed **for the spouse**. The purpose of this support is to provide economic resources to a non-wage-earning or lower-wage-earning spouse to maintain a standard of living after divorce. Spousal support is limited in that it is based on "need" rather than what is equitable. Spousal support is not designed to be "child support on steroids", nor is it designed to cover the children's expenses.

Child support is specifically designed **for the child** and is meant to pay for the child's needs including food, shelter, transportation, clothing, and certain educational costs. The amount of child support is based on both parent's income and is divided by the parents on a pro rata basis.

In our research of other state's child support and alimony guidelines, we found that Massachusetts is in the distinct minority of states that do not address situations when these supports are concurrent. Currently, the Massachusetts child support guidelines recommend issuing "unallocated support", which has, by interpretation of the courts, been capped by the alimony cap of 30-35% of the difference in the parties' incomes (or the after-tax equivalent). Just granting "unallocated support" based on the alimony cap leaves custodial parents qualifying for alimony in a disadvantageous position. Either they receive child support and don't receive alimony, or they receive "unallocated support" and have to use this support for both themselves and to pay for their children. This current use of unallocated support, which is in effect limiting a spouse's alimony and child support by the alimony cap, is wrong and is harming custodial parents and children.

Other states can provide best practices for Massachusetts. When calculating spousal support, some states calculate child support first, and then deduct the child support **payment** from

income to calculate alimony. Most states calculate alimony first, and then use the alimony payment to increase the recipient's income and decrease the payor's income when calculating child support. The support, whether it is child support or alimony, is just another addition or deduction to income. **No other state disallows the entire income amount for this calculation.**

Below we provide a brief summary of how some other states address alimony and child support:

California:

Spousal support calculations are arrived at after **deducting child support payments from *income***, if there is child support being provided in that same case.

"If there is child support, spousal or partner support is calculated on net income not allocated to child support and/or child related expenses".

New Hampshire:

For calculation of alimony, gross income is first adjusted by child support amounts **paid**. Child support paid is deducted from the gross income of the person who pays it and added to the person who receives it.

Rhode Island:

Spousal support is calculated first; then child support is calculated with income adjusted for spousal support. Pursuant to Family Court Administrative Order 87-2, IV.B.1, when calculating child support gross income includes "alimony or maintenance received". Alimony is deducted from gross income if paid.

Vermont:

Spousal support is calculated first; then child support is calculated with income adjusted for spousal support. According to 15 V.S.A. § 653, available income means gross income less the amount of spousal support paid. Gross income includes spousal support actually received.

Colorado:

Pursuant to the CO child support statute, alimony counts as income for child support purposes to the child support recipient. Conversely, alimony paid by the party also paying child support is deducted from his or her income. Thus, the more alimony a person pays, the lower the amount of child support he or she owes. Once alimony stops, the income of the child support recipient goes down. For the payor, it goes up. If the change in incomes triggers a 10% or more change in the bottom line in the child support calculation, then the child support figure becomes modifiable.

New York:

If one of the parents is paying alimony to the other parent, this amount will be deducted from the payor parent's income and added to the receiving parent's income for child support calculations.

New Jersey:

Alimony, spousal support, or separate maintenance payments received from a spouse or former spouse in accordance with a court order are considered income to the recipient. If child support and alimony, spousal support, or separate maintenance are being determined simultaneously (for the same family), the court should set the alimony, spousal support, or separate maintenance first and include that amount in the recipient's income before applying the child support guidelines. Alimony, spousal support, or maintenance payments that are being paid to former spouses or will be paid in the future (to the spouse in the current action) are deducted from the payor's income.

Recommendation

- **Include language in child support guidelines similar to New Jersey or New York guidelines, thereby first calculating spousal support, then calculating child support using spousal support as an addition to income for the custodial parent and a deduction from income for the non-custodial parent.**
- **Current MA Guidelines (1) *Income Definition Section A* lists sources of income. #19 on this list is “spousal support received from a person not a party to this order”. Change the language to include spousal support from current order.**

7. INCLUDE LANGUAGE THAT STATES ALL EXPENSES SHOULD BE SHARED ON A PRO RATA BASIS

Child support does not include all expenses incident to raising a child. Extra-curricular activities, childcare, tutoring, college preparation testing, unreimbursed medical expenses and other incidental expenses are not included in the child support calculations. The Task Force should implement language in the guidelines that explicitly states that all expenses, including college, will be shared by the parents based on their pro rata share of income.

Many non-custodial parents, including parents earning in excess of \$250,000, expect that the economic investment in their children be shared equally rather than in proportion to their respective incomes. This scenario places an unfair burden on the lower-resourced parent, and in doing so harms their children. Typically, the payment of these expenses is allocated between the parties equally, pursuant to a settlement or final divorce judgement case. This theory is counter to the income shares model that Massachusetts guidelines are built upon that states **all children's expenses should be shared on a pro rata basis**. This discriminatory practice of splitting expenses equally when a disparity of income exists should be eliminated.

RECOMMENDATION:

- **Include language in the guidelines stating all additional children's expenses, including college, will be divided by parents based on their proportionate amount of total income**

8. RECOGNIZE CONSULTANT BIAS AND STATED PREDISPOSITION FOR LOWER CHILD SUPPORT

Previous research by the consultants hired by the Task Force for the last 3 quadrennial reviews suggests they are predisposed to recommend reductions in the child support responsibilities of non-custodial parents.

Mark Sarro and Mark Rogers, along with [William Comanor](#) (who is now a consultant with the Brattle Group), published [“The Monetary Cost of Raising Children”](#) in 2015. In this publication, the authors define their method of calculating children’s expenditures and actively market their approach to child support guidelines task forces around the country. In the introduction of the report the author’s state: *“our purpose here is to compare presumptive child support awards provided in typical state Guidelines with the actual monetary costs of raising children. We review and reject current methods for determining child costs: both from income equivalence methods and those offered in annual government surveys; and provide quite different results despite using the same data employed by others”*. In their conclusion the authors state: **“Our findings leave little doubt but that current estimates of the cost of raising children, along with the child support awards that rest on them, are substantially overstated”**.

Jane Venohr, an economist at the Center for Policy Research who has authored about 30 states’ economic analysis, is highly critical of the Comanor method. She states:

- “One of the co-authors to the 2015 study has often served as an expert witness to obligated parents in high-income cases and has advocated for an alternative guidelines model that would significantly reduce guidelines amounts.” (Jane Venohr, [Ohio Economic Review February 2017](#) p. 9 Appendix A). She is referring to Mark Rogers.
- “although the authors believe their methodology reflects child-rearing expenditures across all income ranges...it finds implausibly low amounts (i.e., food costs below what the federal government measures as the minimum amount needed to sustain and uses as the basis for SNAP)” ([Alabama Economic Review](#), p. 9 September 2020)
- “most states believe that the child support guidelines should provide for more than a basic needs amount if the obligated parent can afford a higher standard of living. In other words, if the obligated parent has sufficient income to enjoy a higher standard of living, the child should share in that higher standard of living. For these reasons, states often dismiss the Comanor study” ([Alabama Economic Review](#), p. 9 September 2020)

The child support amounts that result from their study results in significantly below basic needs amounts:

- They estimate that food costs \$8 to \$14 per week for one child, which is essentially the cost of a gallon of milk, a dozen eggs and two loaves of bread.
- They recommended housing amounts that are about half of the amounts required under Basic Needs and Fair Market Rent definitions
- For middle incomes, they report total annual child-rearing costs of \$4,749 per year, which is lower than poverty levels.

- A quote they use in their report as evidence to back up their results is from a journalist who allegedly states: *"The biggest expense on the USDA list is housing, which I think is kind of silly in my case because my husband and I would probably live in the same size house regardless of whether we had a son or not...my son isn't really adding to our housing costs"*.

The consultants that the Task Force hires to provide the economic analysis should be completely objective. We do not believe that economic consultants promoting their own child support method that results in child support obligations significantly below poverty level can be objective in analyzing Massachusetts child support guidelines. Their involvement in the Massachusetts child support guidelines analysis represents a clear conflict of interest.

Mark Sarro co-authored the [Minority Report](#) with Ned Holstein in 2008

Mark Sarro was on the Massachusetts Guidelines Task Force in 2008, and **wrote a Minority Report together with Ned Holstein**, the founder of Fathers and Families (a father's rights group, now "National Parent's Organization") disagreeing with many of the Task Force's recommendations, and instead proposing their own recommendations:

- Overall, the proposed child support amounts should be decreased for poor, middle class, and "near wealthy" families, with due regard to the needs of the child. **Dr. Sarro concurs for some cases.** For wealthy families, there needs to be a reasonable cap on the dollar amount of child support, a cap that could be exceeded if there were a finding of special needs or if the parents agreed.
- Guidelines should further encourage shared parenting in those cases where the total income of the parties is sufficient to allow it. **Dr. Sarro concurs.** The child support order should be prorated according to parenting time.
- The Guidelines should encourage the equal treatment of all children. This often will mean decreases in child support orders to first families when there are second families.
- Child support should be de minimus after high school, unless special needs exist.
 - Note that the 2016-2017 Economic Review of the MA Child Support Guidelines, prepared by Mark Sarro and Mark Rogers, recommended reducing the child support amounts for children over 18 by 25%
- Any child support order on behalf of a child for whom an order exists to pay for higher education should be de minimus unless the child is still living in the home during the academic year.
- Married parents do not have a legal duty to provide for the postsecondary education of their children. Therefore, principles of nondiscrimination suggest that any such amounts under the Guidelines should be limited. **Dr. Sarro concurs.** For instance, the order could be limited to the cost of in-state tuition at the University of Massachusetts.
 - Note that the 2016-2017 Economic Review of the MA Child Support Guidelines, prepared by Mark Sarro and Mark Rogers, recommended a cap on a parent's court-ordered contribution to college costs at 50% of the undergraduate, in-state resident cost of UMass Amherst.

Mark Rogers: a vocal proponent of lowering child support

One of the previous authors of both the 2013 and the 2016-2017 Massachusetts Economic Reviews, R. Mark Rogers, is aligned with Father's Rights groups. He has presented at Father's Rights conferences and lists [Father's rights links](#) and [articles critical of child support](#) on his website (The link he provides for [Child Support: The View from Mars](#) by Karen Selick is especially appalling). In addition, Mark Rogers markets himself as a Child Support expert for non-custodial parents to hire in high income divorce cases because:

- "child support laws are biased toward custodial parents" and
- "child support guidelines typically do overstate the amount of money that should be transferred to the custodial parent household from the non-custodial parent"

(From "[Why Might a Custodial Parent Hire a Child Support Expert?](#)" publication by Rogers Economics, Inc.)

Mark Rogers openly criticizes the Income Shares Model and states:

- "One could argue that the use of an intact family standard results in the payment of alimony by the noncustodial parent to the custodial in the guise of child support. This is unjust and inappropriate." (p. 11 Child Support Cost Tables: [The Case for Second Household Adjustment](#))
- "Using a joint income standard for an intact household to establish basic child support imposes a greater burden on the NCP [non-custodial parent] than the CP [custodial parent]. As a result, the CP is provided a level of support for an intact family as opposed to a one parent household, thereby giving the CP an economic windfall." ([ibid p. 5](#))
- "The definition of child cost used in Income Shares guidelines is not generally accepted by the academic economics community and leads to upwardly biased estimates of child costs" ([Fathers and Families Conference](#), 2015)
 - **This is a false statement.** The Income shares model is currently implemented by 39 states and is the generally accepted method in most child support guidelines. The measurements that provide the basis of ALL current child supports models have been vetted by several economic studies throughout the last 25 years and have been deemed as the best measures by an overwhelmingly majority of these studies. However, Rogers cost shares method, that he authored with Sarro and Comanor, has been REJECTED as a valid method to calculate child support by all states that have examined it.

William Comanor: a new addition to Brattle Economics Consulting Group

The most alarming factor for us is the inclusion of [William Comanor](#) to the Child Support Economic Review process in Massachusetts. He has been a vocal enemy of child support beginning with his 2004 publication [The Law and Economics of Child Support Payments](#). He is quoted widely on [Father's Rights Groups web sites](#) and appears at conferences throughout the

United States to [voice his view](#) on lowering child support. At the [Divorce Corp Conference in 2014](#), William Comanor was a featured speaker, *as was Ned Holstein and Stephen Hitner*.

Based on Sarro, Comanor and Roger's publicized comments regarding their predisposition to lower child support, it is difficult for us to believe that previous guidelines reviews were not influenced by their opinions, nor that the current guidelines review will not be influenced by their opinions. The Task Force needs to recognize that there is an inherent bias with the current consultants hired to advise them.

In our view, hiring Sarro, Comanor and Rogers to analyze Massachusetts child support guidelines is analogous to hiring oil industry consultants to analyze climate change.

Recommendation:

- **Expand RFP distribution to include public policy universities and non-profit consulting firms**
- **Improve transparency in the Guidelines Review process by providing progress updates, documents and meeting minutes accessible to the public, similar to other states**
- **Promote public input by notifying the Boston Bar Association, MA Lawyers Weekly and other publications regarding submission requests and deadlines**
- **Increase time available for the public to comment**

MASSACHUSETTS POVERTY AND SELF-SUFFICIENCY STANDARDS

Task force members should recognize and consider the effects of financial rulings on both custodial parents and non-custodial parents. Historically, the focus has been on making sure the non-custodial parent has enough income to live on after paying child support, and in setting support levels to ensure that non-custodial parents do not just “quit” their jobs and therefore terminate child support payments. The non-custodial parent has the ability to quit their job. The custodial parent does not have this same freedom. The custodial parent, usually a mother, has no choice but to work to support the children that are living with her.

In order to analyze both custodial parents and non-custodial parents’ sufficiency of income, we recommend examining how payments affect both parents by comparing income after child support to self-sufficiency wages specific to Massachusetts. These comparisons will better show the impact of child support on the parents by taking the actual composition of the household into account.

Child support is an important source of income to many families. Over 25% of all children under 21 years of age have one of their parents living outside of their household. When this occurs, it is often the legal obligation of the noncustodial parent to provide financial support to help pay for the costs associated with raising their children. Unfortunately for many custodial parents, this financial support is simply not enough.

The poverty rate in 2017 of all custodial-parent families with children under 21 years of age was 24.1%, 10.5% higher than the poverty rate of all families with children under 21 years old. Approximately 6.6 million (30.1 percent) of all children in custodial-parent families lived below the poverty line in 2017. Custodial parents with more children had a greater likelihood to be living below poverty. About 80% of the 12.9 million custodial parents in 2018 were mothers. Among custodial mothers with one child who had a parent living outside their household, 18.7 percent were in poverty. **The poverty rate increased to 29.2% for those with two children and 50.8% for custodial mothers with three or more children in their custodial family.** (Data from [Custodial Mothers and Fathers and Their Child Support](#), 2017 census.gov)

As defined in “[The Self-Sufficiency Standard for Massachusetts](#)” (Diana Pearce PhD, The University of Washington 2006) The self-sufficiency standard is the amount of income required to meet basic needs in the regular “marketplace” without public subsidies (public housing, food stamps, Medicaid or childcare) or private subsidies (free baby-sitting, food provided by local food banks, or shared housing). In essence, the self-sufficiency standard estimates the earnings necessary for a given family composition in a given geographic location to be independent of welfare and/or other public and private subsidies.

The self-sufficiency standard calculates the cost of each basic need: food, housing, childcare, food, public and private transportation (including cost of owning one car for a single-parent family), health care, and miscellaneous expenses. The miscellaneous expense category

consists of all other essentials including clothing, shoes, paper products, diapers, nonprescription medicines, cleaning products, household items, personal hygiene items, and telephone service. The standard does not include costs for recreation, entertainment, savings, or debt repayment. All adults are assumed to work full-time. The measure includes all major costs (transportation, taxes, and childcare when needed) associated with employment, and also includes the net effect of federal and state taxes and tax credits, as well as any local taxes and tax credits.

How does the self-sufficiency standard differ from the Federal Poverty Level?

The Federal Poverty Level (FPL) was developed over 40 years ago and is based on USDA food budgets that meet minimal nutritional standards. Although the FPL varies by family size and it is updated for inflation, it does not account for family composition, children’s ages or the geographic location of the family.

Massachusetts 2020 Self Sufficiency Standards:

	Self Sufficiency Standard for Adult and One child					2 Adults
	Adult	Adult infant	Adult preschooler	Adult school-age	Adult teenager	
average SSS	\$34,012	\$69,989	\$66,367	\$62,228	\$46,424	\$48,366
Minimum	\$24,390	\$54,983	\$51,450	\$48,399	\$32,715	\$38,196
Maximum	\$48,449	\$96,835	\$92,510	\$82,860	\$63,125	\$63,310

	Self Sufficiency Standard for Adult and Two child									
	Adult infant	Adult infant	Adult infant	Adult infant	Adult preschooler	Adult preschooler	Adult preschooler	Adult school-age	Adult school-age	Adult teenager
	infant	preschooler	school-age	teenager	preschooler	school-age	teenager	school-age	teenager	teenager
average SSS	\$97,983	\$93,955	\$89,402	\$71,646	\$89,998	\$85,517	\$68,012	\$81,092	\$63,792	\$47,917
Minimum	\$75,730	\$71,740	\$68,630	\$55,953	\$68,200	\$65,090	\$52,413	\$61,979	\$49,330	\$32,106
Maximum	\$136,395	\$131,924	\$121,887	\$98,774	\$127,453	\$117,416	\$94,440	\$107,378	\$84,710	\$65,826

[Massachusetts 2020 Self Sufficiency Table](#)

Comparing after-support income alone does not provide a complete picture of the outcomes of child support amounts. **These outcomes MUST be compared to benchmarks which take into account the household composition.** When outcomes of child support amounts are taken into context, there is overwhelming evidence that custodial parents and children are at a serious disadvantage when compared to the non-custodial parent, and this disadvantage is magnified as non-custodial parent income increases and additional children are included.

To compare income after child support payments to self-sufficiency standards for both custodial and non-custodial parents, we ran three different scenarios as shown in the Exhibits 1 and 2. In each scenario, the custodial parent's income is \$40,000/year, childcare is \$15,000 annually and health insurance is \$6,000 annually. The non-custodial parent's income varied from \$60,000/year to \$120,000/year.

The first scenario in Exhibit 1 most accurately reflects the median incomes of single female headed households at \$40,000/year and single male headed households at \$60,000/year. At this level of income, a **custodial parent with one child has a deficit compared to the self-sufficiency standard of between \$16,868 to \$9,107** depending on the age of the child. The parent's income plus child support cannot meet the parent and the child's basic needs. **The non-custodial parent, on the other hand, has a surplus of \$12,867** compared to the self-sufficiency standard. Of course, the deficit is amplified as the number of children increases. With two children, the custodial parent's deficit compared to the self-sufficiency standard is between \$37,564 and \$7,401, depending on the ages of the children. The non-custodial parent still retains a surplus of \$9,597. In analyzing these results, it is easy to see how so many female-headed households with multiple children end up in poverty.

In almost every single scenario, the custodial parent's income after child support is below the self-sufficiency standard. In the same scenarios, the non-custodial parent's income after child support NEVER results in income below the self-sufficiency standard.

In addition, indirect costs involved in child rearing are not included in the estimates. A study by Nancy Folbre, in her book *Valuing Children* (2008), found the imputed value of parental time spent on children exceeded the direct cash expenditures on them. **The time involved in rearing children is considerable and has a cost attached to it.** Although these costs are typically more difficult to measure than direct expenditures, they can be substantial.

Recommendation:

- **Include a section in the worksheet that shows the total annual income of both the custodial parent and non-custodial parent after child support. Compare this income to Massachusetts self-sufficiency standards, based on family composition.**

Exhibit 1: One child

Scenario 1: Custodial Parent: \$40,000; Non-custodial Parent: \$60,000 CP pays for childcare \$15,000; NCP pays for healthcare \$6,000

	Custodial Spouse		
	no childcare; no healthcare	Includes childcare and healthcare	
		MA Calc	CT calc
Gross Income	\$40,000	\$40,000	\$40,000
Child Support	\$12,418	\$13,121	\$18,057
Total Income after Child Support	\$52,418	\$53,121	\$58,057

	Non custodial Spouse		
	no childcare; no healthcare	Includes childcare and healthcare	
		MA Calc	CT calc
Gross Income	\$60,000	\$60,000	\$60,000
Child Support	(\$12,418)	(\$13,121)	(\$18,057)
Total Income after Child Support	\$47,582	\$46,879	\$41,943

Self Sufficiency Standard			
Adult + infant	\$69,989	\$69,989	\$69,989
Multiple of SSS	75%	76%	83%
Adult + Preschool	\$66,367	\$66,367	\$66,367
Multiple of SSS	79%	80%	87%
Adult + school age	\$62,228	\$62,228	\$62,228
Multiple of SSS	84%	85%	93%
Adult + teenage	\$46,424		
Multiple of SSS	113%		

Self Sufficiency Standard			
Adult	\$34,012	\$34,012	\$34,012
Multiple of SSS	140%	138%	123%

Deficit for the custodial spouse of \$16,868 if adult with infant, \$9,107 if with school aged child. Non-custodial spouse surplus of \$12,867

Scenario 2: Custodial Parent: \$40,000; Non-custodial Parent: \$80,000 CP pays for childcare \$15,000; NCP pays for healthcare \$6,000

	Custodial Spouse		
	no childcare; no healthcare	Includes childcare and healthcare	
		MA Calc	CT calc
Gross Income	\$40,000	\$40,000	\$40,000
Child Support	\$15,912	\$17,611	\$22,693
Total Income after Child Support	\$55,912	\$57,611	\$62,693

	Non custodial Spouse		
	no childcare; no healthcare	Includes childcare and healthcare	
		MA Calc	CT calc
Gross Income	\$80,000	\$80,000	\$80,000
Child Support	(\$15,912)	(\$17,611)	(\$22,693)
Total Income after Child Support	\$64,088	\$62,389	\$57,307

Self Sufficiency Standard			
Adult + infant	\$69,989	\$69,989	\$69,989
Multiple of SSS	80%	82%	90%
Adult + Preschool	\$66,367	\$66,367	\$66,367
Multiple of SSS	84%	87%	94%
Adult + school age	\$62,228	\$62,228	\$62,228
Multiple of SSS	90%	93%	101%
Adult + teenage	\$46,424		
Multiple of SSS	120%		

Self Sufficiency Standard			
Adult	\$34,012	\$34,012	\$34,012
Multiple of SSS	188%	183%	168%

Scenario 3: Custodial Parent: \$40,000; Non-custodial Parent: \$120,000 CP pays for childcare \$15,000; NCP pays for healthcare \$6,000

	Custodial Spouse		
	no childcare; no healthcare	Includes childcare and healthcare	
		MA Calc	CT calc
Gross Income	\$40,000	\$40,000	\$40,000
Child Support	\$22,308	\$25,209	\$30,456
Total Income after Child Support	\$62,308	\$65,209	\$70,456

	Non custodial Spouse		
	no childcare; no healthcare	Includes childcare and healthcare	
		MA Calc	CT calc
Gross Income	\$120,000	\$120,000	\$120,000
Child Support	(\$22,308)	(\$25,209)	(\$30,456)
Total Income after Child Support	\$97,692	\$94,791	\$89,544

Self Sufficiency Standard			
Adult + infant	\$69,989	\$69,989	\$69,989
Multiple of SSS	89%	93%	101%
Adult + Preschool	\$66,367	\$66,367	\$66,367
Multiple of SSS	94%	98%	106%
Adult + school age	\$62,228	\$62,228	\$62,228
Multiple of SSS	100%	105%	113%
Adult + teenage	\$46,424		
Multiple of SSS	134%		

Self Sufficiency Standard			
Adult	\$34,012	\$34,012	\$34,012
Multiple of SSS	287%	279%	263%

The column entitled "CT Calc" shows the result of using Massachusetts child support percentages for the basic support obligation, but instead of using the MA worksheet which caps the NCP contribution to the CP, the total support is based on the CT worksheet, which adds childcare and healthcare as pro rata additions to the basic support obligation.

Exhibit 2: Two Children

Scenario 1: Custodial Parent: \$40,000; Non-custodial Parent: \$60,000 CP pays for childcare \$15,000; NCP pays for healthcare \$6,000

	Custodial Spouse		
	no childcare; no healthcare	Includes childcare and healthcare	
		MA Calc	CT calc
Gross Income	\$40,000	\$40,000	\$40,000
Child Support	\$15,538	\$16,391	\$20,417
Total Income after Child Support	\$55,538	\$56,391	\$60,417

	Non custodial Spouse		
	no childcare; no healthcare	Includes childcare and healthcare	
		MA Calc	CT calc
Gross Income	\$60,000	\$60,000	\$60,000
Child Support	(\$15,538)	(\$16,391)	(\$20,417)
Total Income after Child Support	\$44,462	\$43,609	\$39,583

Self Sufficiency Standard			
Adult + infant + Preschool	\$93,955	\$93,955	\$93,955
Multiple of SSS	59%	60%	64%
Adult + Preschool + School Age	\$85,517	\$85,517	\$85,517
Multiple of SSS	65%	66%	71%
Adult + school age + Teen	\$63,792	\$63,792	\$63,792
Multiple of SSS	87%	88%	95%
Adult + 2 teenage	\$47,917		
Multiple of SSS	116%	Assumes 1 car per adult	

Self Sufficiency Standard			
Adult	\$34,012	\$34,012	\$34,012
Multiple of SSS	131%	128%	116%

Deficit for the custodial spouse of \$37,564 if adult with infant and preschool child; \$29,126 if with preschool and school aged child; \$7,401 if with school aged child and teen. Non-custodial spouse surplus of \$9,597

Scenario 2: Custodial Parent: \$40,000; Non-custodial Parent: \$80,000 CP pays for childcare \$15,000; NCP pays for healthcare \$6,000

	Custodial Spouse		
	no childcare; no healthcare	Includes childcare and healthcare	
		MA Calc	CT calc
Gross Income	\$40,000	\$40,000	\$40,000
Child Support	\$19,899	\$22,037	\$25,947
Total Income after Child Support	\$59,899	\$62,037	\$65,947

	Non custodial Spouse		
	no childcare; no healthcare	Includes childcare and healthcare	
		MA Calc	CT calc
Gross Income	\$80,000	\$80,000	\$80,000
Child Support	(\$19,899)	(\$22,037)	(\$25,947)
Total Income after Child Support	\$60,101	\$57,963	\$54,053

Self Sufficiency Standard			
Adult + infant + Preschool	\$93,955	\$93,955	\$93,955
Multiple of SSS	64%	66%	70%
Adult + Preschool + School Age	\$85,517	\$85,517	\$85,517
Multiple of SSS	70%	73%	77%
Adult + school age + Teen	\$63,792	\$63,792	\$63,792
Multiple of SSS	94%	97%	103%
Adult + 2 teenage	\$47,917		
Multiple of SSS	125%	Assumes 1 car per adult	

Self Sufficiency Standard			
Adult	\$34,012	\$34,012	\$34,012
Multiple of SSS	177%	170%	159%

Scenario 3: Custodial Parent: \$40,000; Non-custodial Parent: \$120,000 CP pays for childcare \$15,000; NCP pays for healthcare \$6,000

	Custodial Spouse		
	no childcare; no healthcare	Includes childcare and healthcare	
		MA Calc	CT calc
Gross Income	\$40,000	\$40,000	\$40,000
Child Support	\$27,885	\$31,536	\$35,286
Total Income after Child Support	\$67,885	\$71,536	\$75,286

	Non custodial Spouse		
	no childcare; no healthcare	Includes childcare and healthcare	
		MA Calc	CT calc
Gross Income	\$120,000	\$120,000	\$120,000
Child Support	(\$27,885)	(\$31,536)	(\$35,286)
Total Income after Child Support	\$92,115	\$88,464	\$84,714

Self Sufficiency Standard			
Adult + infant + Preschool	\$93,955	\$93,955	\$93,955
Multiple of SSS	72%	76%	80%
Adult + Preschool + School Age	\$85,517	\$85,517	\$85,517
Multiple of SSS	79%	84%	88%
Adult + school age + Teen	\$63,792	\$63,792	\$63,792
Multiple of SSS	106%	112%	118%
Adult + 2 teenage	\$47,917		
Multiple of SSS	142%	Assumes 1 car per adult	

Self Sufficiency Standard			
Adult	\$34,012	\$34,012	\$34,012
Multiple of SSS	271%	260%	249%

CONCLUSION

In conclusion, we return to the original principles of the 1985 child support commission and specifically to William R. Ryan's comment:

Although we will never be able to protect families from the emotional trauma of divorce and separation, the guidelines contain a strong statement that this Commonwealth intends to protect from impoverishment and to nurture its most important resource, its children. Children are our future and these guidelines are a significant public policy investment in that future.

Using this principle as our guideline, we recommend the Task Force implement the following changes and additions to the current child support guidelines:

1. Remove the 15% childcare and healthcare cap from the worksheet
2. Remove the deductions for health insurance and other medical expenses and childcare before calculating the basic child support order, and instead include both childcare and health insurance and medical expenses as additions to basic child support obligations based on pro rata income
3. Eliminate the 25% decrease in child support when child turns 18.
4. Increase the adjustment factors used to calculate support for multiple children to benchmark levels.
5. Increase child support percentages at all income levels in order to keep up with rising costs.
6. Incorporate language regarding spousal support in the child support guidelines to ensure that spouses who qualify are able to receive both spousal support and child support
7. Increase child support cap from \$250,000 to \$400,000
8. Incorporate language that explicitly states that all expenses should be split on a pro rata basis.
9. Send future RFPs to public policy universities or non-profits
10. Use a different consultant for future reviews
11. Provide greater transparency throughout the whole child support review process

When one inquires, "Is it well with the child?" the response should be strongly affirmative for more Massachusetts children than ever in the past.

Appendix I: Exhibit from Alabama Economic Review – specific state information

	US	AI	AR	FL	GA	KY ⁱ	LA	MO	MS	NC	TN	VA	WV
Income Base	N.A.	Gross	Gross	Net	Gross	Gross	Gross	Gross	Net	Gross	Gross	Gross	Gross
Guidelines Model	N.A.	Income shares	Income Shares	Income shares	Income shares	Income shares	Income shares	Income shares	% of obligor income	Income shares	Income shares	Income shares	Income shares
Economic Study and Price Levels	N.A.	BR2 (2007) adjusted for AL incomes	BR4 (2019) adjusted for AR price parity	Espen-shade (1991)	Average of BR2 & Betsion-Engel (2006)	Espen-shade (1989)	BR4 (2019)	BR3 (2016)	Unknown	BR4 (2018)	BR2 (2003)	BR4 (2014)	BR1 (1999) adjusted for WV lower incomes
2018 Median Income of families with minor children													
• 2 parents	\$100,115	\$88,346	\$81,343	\$85,704	\$95,509	\$85,799	\$94,900	\$92,441	\$81,016	\$91,966	\$85,328	\$115,169	\$80,265
• Female householder	\$29,240	\$21,536	\$23,297	\$29,782	\$27,655	\$21,799	\$22,597	\$27,869	\$20,418	\$26,381	\$25,278	\$32,805	\$21,168
Female householders with children ⁱⁱ													
• Number	7,642,966	127,392	81,400	472,311	292,052	110,314	152,503	146,341	95,882	281,503	170,940	186,581	39,334
• % of all households	24%	28%	27%	27%	27%	24%	33%	23%	34%	26%	25%	22%	24%
• % living in poverty	36%	45%	40%	32%	35%	44%	49%	37%	48%	39%	37%	33%	47%
2019 Median Gross Rent	\$1,097	\$807	\$742	\$1,238	\$1,049	\$773	\$866	\$634	\$777	\$931	\$861	\$1,254	\$727
Minimum Hourly Wage ⁱⁱⁱ	\$7.25	\$7.25	\$10.00	\$8.56	\$7.25	\$7.25	\$7.25	\$9.45	\$7.25	\$7.25	\$7.25	\$7.25	\$8.75
Median hourly wage of food preparation worker (May 2019) ^{iv}	\$11.92	\$9.23	\$10.60	\$11.51	\$10.27	\$10.65	\$8.93	\$10.64	\$8.97	\$10.95	\$9.20	\$11.00	\$10.28
Unemployment Rate													
• July 2020*	10.2%	7.9%	7.1%	11.3%	7.6%	4.5%	9.4%	6.9%	10.8%	8.5%	9.5%	7	
• July 2019	3.7%	3.3%	4.9%	3.3%	3.6%	4.3%	4.3%	3.2%	5.1%	3.9%	3.5%		
Average child support (2019)													
• Order	\$312	\$337	\$265	\$346	\$301	\$217	\$251	\$297	\$202	\$247	\$309	\$333	\$234
• % Paid	66.1%	54.5%	66.6%	63.7%	60.4%	58.6%	54.7%	61.0%	54.2%	68.3%	56.8%	65.1%	69.2%
Price Parity	100.0	86.4	85.3	100.6	93.0	87.8	89.1	88.8	86.0	91.8	89.9	102.0	87.8

ⁱ KY has proposed legislation to update its schedule and update its low income adjustment.

ⁱⁱ Includes all children regardless of age.

ⁱⁱⁱ U.S. Department of Labor. (n.d.). *State Minimum Wage Laws*. Retrieved from <https://www.dol.gov/agencies/whd/minimum-wage/state>.

^{iv} U.S. Bureau of Labor Statistics. (n.d.). *May 2019 National Occupational Employment and Wage Estimates*

United States. Retrieved from https://www.bls.gov/oes/current/oes_nat.htm#35-0000.

^v U.S. Bureau of Labor Statistics. (n.d.). Retrieved from <https://data.bls.gov/search/query/results?cx=013738036195919377644%3A6ih0hfrgl50&q=state-unemployment-rate>.

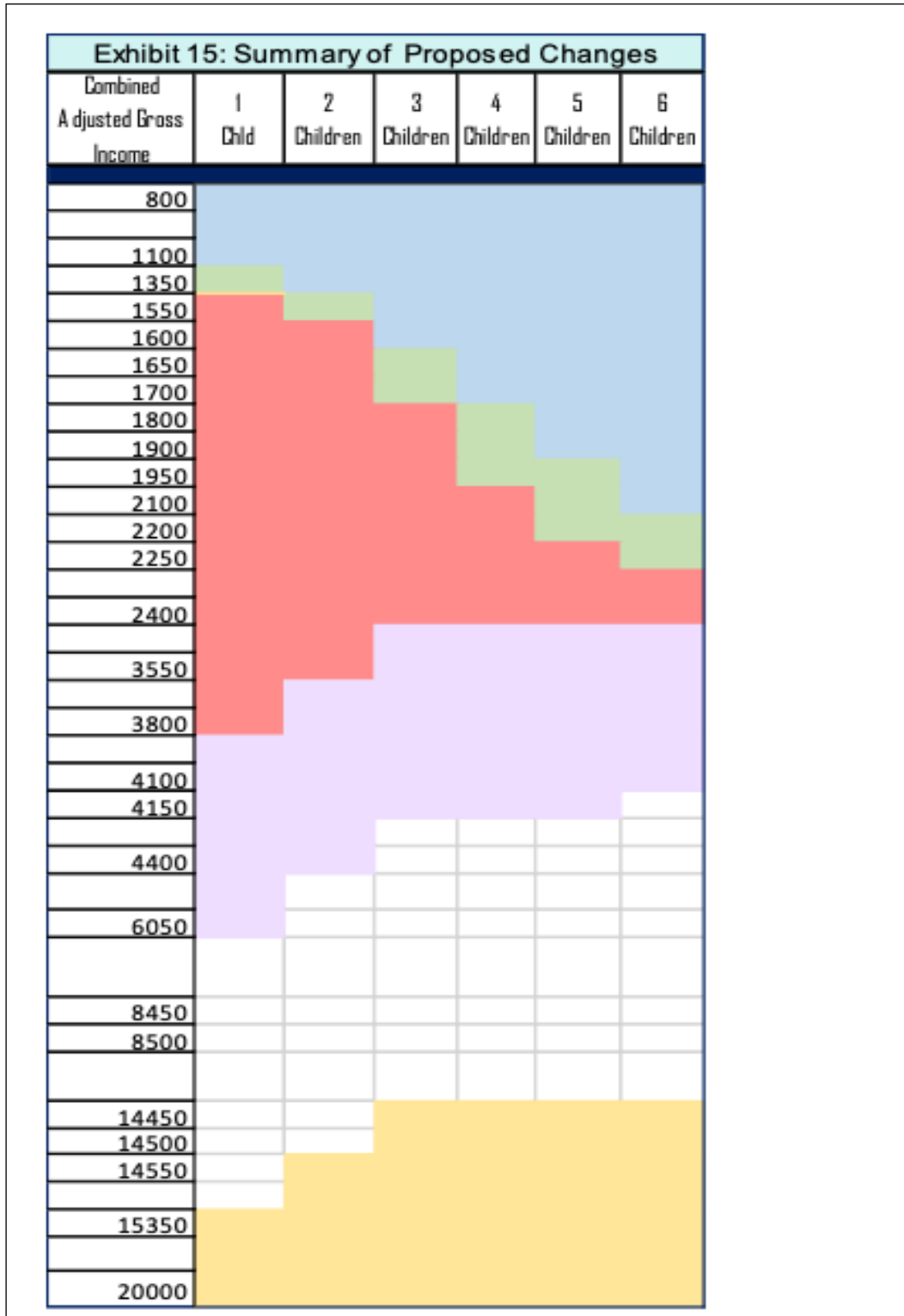
Appendix II

The task force should consider implementing a child support table to replace the Table A formulas on the worksheet. This table would reflect the formula results, but in an easier to read format. Also, it is simpler for the task force to make targeted changes in a table format. Alabama’s child support chart is pictured below (Appendix B)

APPENDIX B: PROPOSED, UPDATED SCHEDULE						
Alabama						
Proposed Updated Schedule of Basic Support Obligations						
Combined Adjusted Gross Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
800	50	50	50	50	50	50
850	50	50	50	50	50	50
900	50	50	50	50	50	50
950	50	50	50	50	50	50
1000	50	50	50	50	50	50
1050	50	50	50	50	50	50
1100	50	51	51	52	52	53
1150	85	86	87	88	89	90
1200	120	122	123	124	126	127
1250	155	157	159	160	162	164
1300	190	192	195	197	199	201
1350	225	228	230	233	235	238
1400	240	263	266	269	272	275
1450	248	299	302	305	309	312
1500	256	334	338	341	345	349
1550	264	370	374	378	382	386
1600	271	405	409	414	418	423
1650	279	425	445	450	455	460
1700	287	437	481	486	491	497
1750	295	449	517	522	528	534
1800	302	461	552	558	564	570
1850	310	472	571	594	601	607
1900	318	484	585	630	637	643
1950	325	495	599	665	672	679
2000	333	507	613	684	708	715
2050	340	518	626	700	743	751
2100	348	530	640	715	779	787
2150	355	541	654	731	804	823
2200	363	553	668	746	821	859
2250	370	564	682	762	838	895
2300	378	576	696	777	855	929

Appendix III

If Massachusetts created a chart, certain income ranges could be adjusted as needed. As the chart on below shows, Alabama was able to decrease support in the red areas, keep the white areas unchanged and increase support in the yellow areas.



References to hyperlinks

Page 2

Jane Does Well

<https://www.janedoeswell.org/>

Principles

<https://www.mass.gov/doc/2018-child-support-guidelines/download>

Page 3

“Fudging Failure: The Economic Analysis Used to Construct Child Support Guidelines”

<https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1354&context=uclf>

2016-2017 Economic Review of the Massachusetts Child Support Guidelines

<https://www.mass.gov/doc/economic-review-of-the-massachusetts-child-support-guidelines-2016-2017/download>

Page 6

“Who Speaketh for the Child?”

<https://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=1687&context=lsfp>

Page 8

2016-2017 Economic Review

<https://www.mass.gov/doc/economic-review-of-the-massachusetts-child-support-guidelines-2016-2017/download>

ChildCare America 2018 estimates

[https://info.childcareaware.org/hubfs/2019 Price of Care State Sheets/Massachusetts.pdf?utm_campaign=2019%20Cost%20of%20Care&utm_source=2019%20COC%20-%20MA](https://info.childcareaware.org/hubfs/2019%20Price%20of%20Care%20State%20Sheets/Massachusetts.pdf?utm_campaign=2019%20Cost%20of%20Care&utm_source=2019%20COC%20-%20MA)

Page 9

National Institute of Health

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4584401/>

“Calculating the Hidden Cost of Interrupting a Career for Child Care”

<https://www.americanprogress.org/issues/earlychildhood/reports/2016/06/21/139731/calculating-the-hidden-cost-of-interrupting-a-career-for-child-care/>

Massachusetts Department of Education

<https://www.doe.mass.edu/lawsregs/603cmr27.html?section=all>

page 10

report from the Washington State Department of Social and Health Services

<https://www.dshs.wa.gov/sites/default/files/ESA/dcs/documents/childcaremedicalmatrix.pdf>

Page 12

Medical Expenditures Panel Survey, U.S. Census Bureau

<https://lexington.wickedlocal.com/news/20190514/massachusetts-workers-pay-more-for-health-insurance-but-coverage-lacking>

2018 Child Support Guidelines

<https://www.mass.gov/doc/2018-child-support-guidelines/download>

Page 15

2018 Child Support Guidelines

<https://www.mass.gov/doc/2018-child-support-guidelines/download>

MA Department of Education 2018-2019

https://profiles.doe.mass.edu/nsc/gradsattendingcollege_dist.aspx?orgcode=00000000&orgtypecode=5&TYPE=DISTRICT&fycode=2019

Page 16

2016-2017 Economic Review

<https://www.mass.gov/doc/economic-review-of-the-massachusetts-child-support-guidelines-2016-2017/download>

Page 17

Jacoby v Jacoby 427 NJ Super 109 (App. Div 2012)

<https://caselaw.findlaw.com/nj-superior-court-appellate-division/1605805.html>

Page 18

Jacoby v Jacoby 427 NJ Super 109 (App. Div 2012)

<https://caselaw.findlaw.com/nj-superior-court-appellate-division/1605805.html>

2016-2017 Economic Review

<https://www.mass.gov/doc/economic-review-of-the-massachusetts-child-support-guidelines-2016-2017/download>

Page 19

2016-2017 Economic Review

<https://www.mass.gov/doc/economic-review-of-the-massachusetts-child-support-guidelines-2016-2017/download>

Page 21

2016-2017 Economic Review

<https://www.mass.gov/doc/economic-review-of-the-massachusetts-child-support-guidelines-2016-2017/download>

Colorado

<https://childsupport.state.co.us/sites/default/files/2019-08/DCSS Commission FINAL PRINT DOCUMENT 6-17-19-smaller file %281%29 %281%29.pdf>

Maryland

<http://dhr.md.gov/blog/wp-content/uploads/2014/01/Maryland-Child-Support-Guidelines-Review.pdf>

Page 22

National low-income housing corporation

<https://reports.nlihc.org/oor/massachusetts>

\$1,246

<https://reports.nlihc.org/oor/about>

HUD

https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2020_code/2020summary.odn

US Census Bureau

<https://www.census.gov/quickfacts/fact/table/MA,US/HSG860218>

Census ACS

<https://www.deptofnumbers.com/income/massachusetts/>

Alabama Child Support Economic Review September 2020

https://www.alacourt.gov/docs/AL_reportSept30tosend.pdf

Page 23

2016-2017 Economic Review

<https://www.mass.gov/doc/economic-review-of-the-massachusetts-child-support-guidelines-2016-2017/download>

Page 24

CPI-U

https://www.bls.gov/regions/new-england/news-release/consumerpriceindex_boston.htm

Census ACS

<https://www.deptofnumbers.com/income/massachusetts/>

Page 26

Child Support Guidelines: Closing the “Cap” Trap

[https://nysba.org/NYSBA/Publications/Section Publications/Family/Article-FamilyLawReview-Fall18-2.pdf](https://nysba.org/NYSBA/Publications/Section%20Publications/Family/Article-FamilyLawReview-Fall18-2.pdf)

Page 32

William Comanor

<https://www.brattle.com/childcosts>

“The Monetary Cost of Raising Children”

https://brattlefiles.blob.core.windows.net/files/17508_the_monetary_cost_of_raising_children.pdf

Ohio Economic Review February 2017

<https://jfs.ohio.gov/Ocs/pdf/2017CSGuidelinesRev.stm>

Alabama Economic Review

https://www.alacourt.gov/docs/AL_reportSept30tosend.pdf

Page 33

Minority Report

<https://www.mass.gov/doc/minority-report/download>

Page 34

Father's rights links

http://www.guidelineconomics.com/links/state_groups.html

Articles critical of child support

<http://www.guidelineconomics.com/analysis/index.html>

Child Support: The View from Mars

<https://www.karsenelick.com/CL9607.html>

“Why Might a Custodial Parent Hire a Child Support Expert?”

[http://www.guidelineconomics.com/files/Why Might a Custodial Parent Hire a Child Support Expert.pdf](http://www.guidelineconomics.com/files/Why_Might_a_Custodial_Parent_Hire_a_Child_Support_Expert.pdf)

The Case for Second Household Adjustment

<https://rogerseconomics.com/wp-content/uploads/2019/03/ChildSupportCost.pdf>

Fathers and Families Conference

http://www.guidelineconomics.com/files/faf_presentation.pdf

William Comanor

<https://www.brattle.com/childcosts>

The Law and Economics of Child Support Payments

<https://www.e-elgar.com/shop/usd/the-law-and-economics-of-child-support-payments-9781843761211.html>

Father's Rights Groups web sites

<http://americanfathersliberationarmy.blogspot.com/2016/03/child-support-calculated.html>

Page 35

Voice his view

http://www.divorcecorp.com/wp-content/uploads/2014/11/The-Economic-Cost-of-Raising-Children_William-Comanor.pdf

Divorce Corp Conference in 2014

<https://www.divorcecorp.com/reform-conference-program/>

Page 36

Custodial Mothers and Fathers and their Child Support

<https://www.census.gov/content/dam/Census/library/publications/2020/demo/p60-262.pdf>

The Self Sufficiency Standard for Massachusetts

http://selfsufficiencystandard.org/sites/default/files/selfsuff/docs/MA2006_methodology.pdf

Page 37

Massachusetts 2020 Self Sufficiency Table

http://www.selfsufficiencystandard.org/sites/default/files/selfsuff/docs/MA2020_SSS.xlsm