

District of Columbia

Division II. JUDICIARY AND JUDICIAL PROCEDURE

Title 16. PARTICULAR ACTIONS, PROCEEDINGS AND MATTERS

Chapter 9. DIVORCE, ANNULMENT, SEPARATION, SUPPORT, ETC

Current through L20-137

§ 16-916.01. Child Support Guideline

(a)

In any case that involves the establishment of child support, or in any case that seeks to modify an existing support order, if the judicial officer finds that there is an existing duty of child support, the judicial officer shall conduct a hearing on child support, make a finding, and enter a judgment in accordance with the child support guideline ("guideline") established in this section.

(b)

In every action for divorce or custody, and in every proceeding for protection involving an intrafamily offense, instituted pursuant to Chapter 10 of Title 16, where a party has a legal duty to pay support to another party, the judicial officer shall inquire into the parties' child support arrangements. If the party entitled to child support has not requested support, or if the parties have agreed against the entry of a support order, the judicial officer shall advise the parties, regardless of whether they are represented by counsel, of the parties' entitlement to receive and obligation to pay child support under the guideline.

(c)

The guideline shall be based on the following principles:

(1)

The guideline shall set forth an equitable approach to child support in which both parents share legal responsibility for the support of the child.

(2)

The subsistence needs of each parent shall be taken into account in the determination of child support.

(3)

A parent has the responsibility to meet the child's basic

needs, as well as to provide additional child support above the basic needs level.

(4)

Application of the guideline shall be gender neutral.

(5)

The guideline shall be applied consistently regardless of whether either parent is a Temporary Assistance for Needy Families, Program on Work, Employment, and Responsibility, or General Assistance for Children recipient, or a recipient of benefits under any substantially similar means-tested public assistance program.

(6)

The guideline shall be applied presumptively.

(d)

(1)

For the purposes of this section, the term "gross income" means income from any source, including:

(A)

Salary or wages, including overtime, tips, or income from self-employment;

(B)

Commissions;

(C)

Severance pay;

(D)

Royalties;

(E)

Bonuses;

(F)

Interest or dividends;

(G)

Income derived from a business or partnership after deduction of reasonable and necessary business expenses, but not depreciation;

(H)

Social Security;

(I)

Veteran's benefits;

(J)

Insurance benefits;

(K)

Worker's compensation;

(L)

Unemployment compensation;

(M)

Pension;

(N)

Annuity;

(O)

Income from a trust;

(P)

Capital gains from a real or personal property transaction, if the capital gains represent a regular source of income;

(Q)

A contract that results in regular income;

(R)

A perquisite or in-kind compensation if the perquisite or in-kind compensation is significant and represents a regular source of income or reduces living expenses, such as use of a company car or reimbursed meals;

(S)

Income from life insurance or an endowment contract;

(T)

Regular income from an interest in an estate, directly or through a trust;

(U)

Lottery or gambling winnings that are received in a lump sum or in an annuity;

(V)

Prize or award;

(W)

Net rental income after deduction of reasonable and necessary operating costs, but not depreciation; or

(X)

Taxes paid on a party's income by an employer or, if the income is nontaxable, the amount of taxes that would be paid if the income were taxable.

(2)

For a parent subject to self-employment tax, 1/2 of Social Security and Medicare taxes due and payable on current income shall be deducted from the parent's gross income before the child support obligation is computed.

(3)

Alimony paid by either parent to the other parent subject to the support order shall be deducted from the gross income of the parent paying the alimony before the child support obligation is computed. Alimony received from any person, including alimony received from the other parent subject to the support order, shall be added to the gross income of the parent receiving the alimony before the child support obligation is computed. Deductions and additions for alimony shall be made regardless of whether the alimony is court ordered or paid pursuant to an agreement.

(4)

A support order that is being paid by either parent shall be deducted from the parent's gross income before the child support obligation is computed.

(5)

Each parent shall receive a deduction from gross income for each child living in the parent's home for whom the parent owes a legal duty to pay support, if the child is not subject to the support order. The amount of the deduction shall be calculated by determining the basic child support obligation for the additional child in the parent's home pursuant to subsection (f)(2) of this section, using only the income of the parent entitled to the deduction. This figure shall be multiplied by 75%, and the resulting amount subtracted from the parent's gross income before the child support obligation is computed.

(6)

Gross income shall not include benefits received from means-tested public assistance programs, such as Temporary Assistance for Needy Families, Program on Work, Employment, and Responsibility, General Assistance for Children, Supplemental Security Income,

or Food Stamps.

(7)

Gross income shall not include income received by or on behalf of a child in the household of a parent or third-party custodian, including foster care and guardianship payments, if the income is for a child who is not subject to the support order.

(8)

If a child subject to the support order is in the care of a third party, both parents may be required to pay child support. The income of the third party shall not be considered in the calculation of child support.

(9)

If a child subject to the support order receives Social Security Disability Insurance ("SSDI") derivative benefits through either parent, the amount of the derivative benefit paid to the child shall be included in the gross income of the parent from whom the benefit derives.

(10)

If the judicial officer finds that a parent is voluntarily unemployed or underemployed as a result of the parent's bad faith or deliberate effort to suppress income, to avoid or minimize the parent's child support obligation, or to maximize the other parent's obligation, the judicial officer may impute income to this parent and calculate the child support obligation based on the imputed income. The judicial officer shall not impute income to a parent who is physically or mentally unable to work or who is receiving means-tested public assistance benefits. The judicial officer shall issue written factual findings stating the reasons for imputing income at the specified amount.

(11)

The judicial officer shall determine the adjusted gross income of each parent based on evidence, including pay stubs, tax returns, employer statements, affidavits, and oral testimony provided under oath.

(e)

The judicial officer shall determine each parent's adjusted gross income by making the additions to and deductions from gross income specified in subsection (d) of this section.

(f)

(1)

Except in cases of shared physical custody as described in subsection (q) of this section, the child support obligation shall be calculated according to the following

procedure:

(A)

Determine each parent's adjusted gross income according to subsection (e) of this section.

(B)

Using the parents' combined adjusted gross income, locate the basic child support obligation from the Schedule of Basic Child Support Obligations referenced in subsection (w) of this section. If the parents' combined adjusted gross income falls between the amounts shown in the schedule, the basic child support obligation shall be rounded up to the next higher amount.

(C)

Calculate each parent's percentage share of combined adjusted gross income by dividing each parent's adjusted gross income by the combined adjusted gross income.

(D)

Multiply the basic child support obligation from paragraph (2) of this subsection by each parent's percentage share of combined adjusted gross income from paragraph (3) of this subsection to determine each parent's share of the basic child support obligation. When the parents do not have shared physical custody as defined in subsection (q) of this section, the parent with whom the child does not primarily reside shall be the parent with a legal duty to pay support. The parent with a legal duty to pay support shall pay that parent's share of the basic child support obligation to the parent with whom the child primarily resides. Adjustments for health insurance premiums, extraordinary medical expenses, child care expenses, and SSDI derivative benefits shall be made to this amount according to subsections (i) through (1) of this section. The parent with whom the child primarily resides shall be presumed to spend that parent's own share of child support directly on the child.

(2)

Worksheet A in Appendix II may be used to calculate the child support obligation under this subsection.

(g)

(1)

(A)

A parent with a legal duty to pay support may maintain a self-support reserve as provided in this subsection. The self-support reserve shall be calculated at 133% of the United States Department of Health and Human Services poverty guideline per year for a single individual. The self-support reserve shall be updated by the Mayor every 2 years with the updated amount to be published in the

District of Columbia Register and made effective as of April 1.

(B)

As of April 1, 2007, the self-support reserve shall be \$ 12,382.

(C)

As of April 1, 2009, the self-support reserve shall be \$ 14,404. The Child Support Services Division of the Office of the Attorney General shall act promptly to ensure that all child support orders entered into on or after April 1, 2009 are modified, as appropriate and as permitted under applicable law, to incorporate the April 1, 2009 adjustment.

(2)

A parent with a legal duty to pay support, but with adjusted gross income below the self-support reserve, shall be considered unable to contribute the amount determined under subsection (f) of this section. The judicial officer shall treat a parent at this level of income on an individual basis, and shall order the parent to pay only the amount that the judicial officer determines the parent is able to pay, while meeting personal subsistence needs.

(3)

Where the judicial officer finds that a parent with adjusted gross income below the self-support reserve has the ability to pay child support under paragraph (2) of this subsection, there shall be a presumption that the parent can pay a minimum amount of \$ 50 per month, while meeting personal subsistence needs. The presumption may be rebutted downward to \$ 0 or upward above \$ 50 per month by evidence of resources or circumstances affecting the parent's ability to pay, including age, employability, disability, homelessness, incarceration, inpatient substance abuse treatment, other inpatient treatment, or other appropriate circumstances. The judicial officer shall issue written factual findings stating the reasons for the entry of a minimum order below or above \$ 50 per month.

(h)

The guideline shall not apply presumptively in cases where the parents' combined adjusted gross income exceeds \$ 240,000 per year. In these cases, the child support obligation shall not be less than the amount that the parent with a legal duty to pay support would have been ordered to pay if the guideline had been applied to combined adjusted gross income of \$ 240,000. The judicial officer may exercise discretion to order more child support, after determining the reasonable needs of the child based on actual family experience. The judicial officer shall issue written factual findings stating the

reasons for an award of additional child support.

(i)

(1)

All orders shall contain terms providing for the payment of medical expenses for the child in accordance with section 16-916 .

(2)

Amounts paid by either parent for health insurance premiums for a child subject to the support order shall be divided between the parents in proportion to their respective adjusted gross incomes and added to the parents' respective shares of the basic child support obligation.

(3)

A parent shall present proof of the increase in a health insurance premium incurred as a result of the addition of the child to the health insurance policy. The proof provided shall identify clearly that the source of the increase of the health insurance premium is the child subject to the support order. The cost to add the child shall be reasonable.

(4)

If a parent has family health insurance coverage in the parent's health insurance plan for a second family, the addition of the child who is subject to the support order need not result in an additional cost of health insurance coverage to the parent. The parent shall provide proof that the child has been added to the health insurance coverage. An adjustment shall not be made if there is no additional cost of health insurance coverage to the parent.

(5)

Health insurance coverage shall be considered reasonable in cost if the cost to the obligated parent of providing coverage for the children subject to the support order pursuant to § 16-916.01(i)(3) does not exceed 5% of the parent's gross income.

(j)

(1)

Extraordinary medical expenses are uninsured or unreimbursed medical expenses in excess of \$ 250 per year, per child subject to the support order. These expenses include co-payments, deductibles, and contributions associated with public and private health insurance coverage, and costs that are reasonably necessary for orthodontia, dental treatment, asthma treatments, physical therapy, vision care, or the diagnosis or treatment of a health condition.

(2)

Extraordinary medical expenses shall be divided between the parents in proportion to their respective adjusted gross incomes.

(3)

If extraordinary medical expenses are recurring and the judicial officer can reasonably determine future expenses when the support order is established or modified, the judicial officer shall add each parent's proportionate share of the expenses to the parent's share of the basic child support obligation. The parents shall pay other extraordinary medical expenses in proportion to their adjusted gross incomes when these expenses are incurred. If either parent advances payment for these expenses to a provider of services, the other parent shall reimburse that parent for the other parent's proportionate share of the expense within 30 days of receiving written proof of the expense and payment.

(k)

Reasonable child care expenses incurred for a child subject to the support order due to the employment or education of either parent shall be divided between the parents in proportion to their adjusted gross incomes and added to their respective shares of the basic child support obligation. Child care expenses shall be determined by actual family experience, unless the judicial officer determines that the actual family experience is not in the best interest of the child. If there is no actual family experience, or if the actual family experience is not in the best interest of the child, the judicial officer shall determine a reasonable child care expense based on the cost of child care from a licensed source. If the primary residential parent chooses child care with an actual cost that is less than the level required to provide child care from a licensed source, the judicial officer shall use the actual child care expense to calculate the child support obligation.

(l)

If a child subject to the support order receives SSDI derivative benefits from the parent with a legal duty to pay support, the following adjustment to the child support obligation shall be made:

(1)

After the child support obligation is calculated pursuant to subsections (f) through (k) of this section, the amount of the SSDI derivative benefit paid to the child shall be subtracted from the child support obligation. If the SSDI derivative benefit is less than the child support obligation, the order shall be set at the difference between the child support obligation and the SSDI derivative benefit. If the SSDI derivative benefit is greater than the child support

obligation, the order shall be set at zero.

(2)

If the judicial officer finds that SSDI derivative benefits were paid to a child subject to the support order prior to the filing of the petition to establish or motion to modify child support, these benefits shall be credited toward any retroactive child support or accumulated arrears owed pursuant to the support order.

(m)

As the last calculation in the determination of child support, the judicial officer shall calculate a low-income adjustment to ensure that the parent with a legal duty to pay support is able to satisfy personal subsistence needs after the payment of child support. The judicial officer shall apply this low-income adjustment after additions to and deductions from the parent's share of the basic child support obligation have been made pursuant to subsections (i) through (1) of this section. The low-income adjustment shall be calculated as follows:

(1)

Calculate a child support obligation for the parent with a legal duty to pay support according to subsections (f) and (i) through (1) of this section.

(2)

Determine the parent's maximum ability to pay child support by subtracting the self-support reserve from the parent's adjusted gross income. If the remainder is negative or less than \$ 600 per year, apply subsection (g) of this section to determine the parent's child support obligation.

(3)

If the parent's maximum ability to pay child support calculated under paragraph (2) of this subsection is greater than or equal to \$ 600 per year, compare the parent's maximum ability to pay child support to the child support obligation calculated in paragraph (1) of this subsection. The parent's child support obligation shall be the lesser of these 2 amounts.

(n)

The child support obligation, including additions for health insurance premiums, extraordinary medical expenses, and child care expenses, shall not exceed 35% of the adjusted gross income of the parent with a legal duty to pay support.

(o)

(1)

If the parties present a consent order, an agreement that

is to become an order, or a written agreement that is to be merged in an order, the judicial officer shall examine the child support provisions of the agreement, and compare the child support provisions to the guideline. If the amount of child support agreed upon is different from the amount of child support that would be ordered presumptively upon application of the guideline, the judicial officer shall determine if the agreed-upon level of child support is fair and just. If the parties are represented by counsel, the judicial officer shall inquire whether the attorneys informed the clients of the guideline. If the clients have not been informed of the guideline, the judicial officer shall advise the attorneys to do so. If a party is not represented by an attorney, the judicial officer shall ensure that the party is aware of the child support amount that the court would order presumptively pursuant to the guideline.

(2)

The propriety of a departure from the guideline based on the consent of the parties shall be justified in writing with a statement of the factors that form the basis for the judicial officer's finding that the departure is fair and just. A transcript filed in the jacket shall suffice as a writing.

(p)

Application of the guideline shall be presumptive. The guideline shall be applied unless its application would be unjust or inappropriate in the circumstances of the particular case. The propriety of any departure from the guideline under this subsection shall be justified in writing with a statement of the factors that form the basis for the judicial officer's finding that the guideline amount is unjust or inappropriate. A transcript filed in the jacket shall suffice as a writing. The factors that may be considered to overcome the presumption are:

(1)

The needs of the child are exceptional and require more than average expenditures;

(2)

The gross income of the parent with a legal duty to pay support is substantially less than that of the parent to whom support is owed;

(3)

A property settlement provides resources readily available for the support of the child in an amount at least equivalent to the guideline amount;

(4)

Either parent supports a dependent other than a child subject to the support order, including a biological or adoptive child, a step-child, or an elderly relative, and

application of the guideline would result in extraordinary hardship;

(5)

The parent with a legal duty to pay support needs a temporary period of reduced child support payments to permit the repayment of a debt or rearrangement of the parent's financial obligations; a temporary reduction may be included in a support order if:

(A)

The debt or obligation is for a necessary expenditure of reasonable cost in light of the parent's family responsibilities;

(B)

The time of the reduction does not exceed 12 months; and

(C)

The support order includes the amount that is to be paid at the end of the reduction period and the date that the higher payments are to commence;

(6)

The parent to whom support is owed receives child support for a child living in this parent's home, other than the child subject to the support order, and the resulting gross income of the household to which support is owed causes the standard of living of that household to be greater than that of the household of the parent with a legal duty to pay support. For the purposes of this paragraph, the standard of living of a household shall be measured by dividing the gross income available to the household from all sources by the federal poverty guideline, as reported by the United States Department of Health and Human Services, for the number of adults contributing to the household, plus the number of children;

(7)

A child subject to the support order has regular and substantial income that can be used for the care of the child without impairment of the child's current or future education;

(8)

The parent with a legal duty to pay support has special needs that increase the costs of the parent's subsistence;

(9)

The parent with a legal duty to pay support pays for certain expensive necessities for the child, such as tuition;

(10)

The parent with a legal duty to pay support is 18 years old or younger and a full-time student;

(11)

The child is a respondent in a neglect proceeding and has been placed outside the home with a goal of reunification with the parent; or

(12)

Any other exceptional circumstance that would yield a patently unfair result.

(q)

(1)

Where a child spends 35% or more of the time during the year with each parent, there shall be a presumption that the parents have shared physical custody of the child. The child support obligation shall be calculated according to the following procedure:

(A)

Determine the adjusted basic child support obligation by calculating the basic child support obligation pursuant to subsection (f)(2) of this section and multiplying it by 1.5.

(B)

Determine each parent's proportionate share of the adjusted basic child support obligation based on each parent's share of combined adjusted gross income.

(C)

Determine the amount of child support to be retained by each parent by multiplying each parent's share of the adjusted basic child support obligation by the percentage of time the child spends with the relevant parent.

(D)

Subtract the amount of child support to be retained by each parent from the relevant parent's share of the adjusted basic child support obligation to determine the amount of each parent's child support obligation.

(E)

The parent owing the greater amount under subparagraph (D) of this paragraph shall be the parent with a legal duty to pay support, and shall pay the difference between the 2 amounts to the other parent.

(F)

Additions to and deductions from the parents' respective shares of the adjusted basic child support obligation

determined under subparagraph (D) of this paragraph, shall be made as specified in subsections (i) through (l) of this section.

(G)

A child support obligation calculated based on shared physical custody shall not exceed the amount that the parent with a legal duty to pay support would pay if this parent's child support obligation were calculated based on the other parent's sole custody pursuant to subsection (f) of this section.

(2)

Where the presumption of shared physical custody does not apply because the child does not spend 35% or more of the time during the year with each parent, the judicial officer shall presumptively calculate the child support obligation based on sole physical custody pursuant to subsection (f) of this section.

(3)

If the presumption of shared physical custody applies pursuant to paragraph (1) of this subsection, either parent may rebut this presumption by proving that the method of calculating the child support obligation based on shared physical custody would be unjust or inappropriate because of the parents' particular arrangements for the custody of the child. If a parent rebuts this presumption, the judicial officer shall calculate the child support obligation based on sole physical custody pursuant to subsection (f) of this section.

(4)

If the presumption of shared physical custody does not apply pursuant to paragraph (1) of this subsection, either parent may rebut the presumption that the support obligation should be calculated based on sole physical custody pursuant to subsection (f) of this section by proving that use of that method would be unjust or inappropriate based on the parents' particular arrangements for the custody of the child and that a calculation based on shared physical custody would yield a fair and just result. If a parent rebuts the presumption that the child support obligation should be calculated based on sole physical custody under this paragraph, the judicial officer shall calculate the child support obligation based on shared physical custody pursuant to paragraph (1) of this subsection.

(5)

Where a parent has challenged the applicability of either method for calculating the child support obligation under this subsection, the judicial officer shall issue written factual findings stating the reason for using either the shared custody or sole custody method of calculation.

(6)

Worksheet (B) in Appendix III may be used to calculate the child support obligation under this subsection.

(r)

A support order issued under this section or section 46-204 , shall be subject to modification by application of the guideline subject to the following conditions or limitations:

(1)

The parents in a child support proceeding shall exchange relevant information on finances or dependents every 3 years and shall be encouraged to update a support order voluntarily using the updated information and the guideline. Relevant information is any information that is used to compute child support pursuant to the guideline.

(2)

Every 3 years, in cases being enforced under title IV, part D of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C. § 651 et seq.), the IV-D agency shall notify both parents of the right to a review, and, if appropriate, a modification of the support order under the guideline. The IV-D agency shall conduct the review in all cases where there is an assignment of support rights pursuant to § 4-205.19 , and at the request of either parent in all other cases. If the IV-D agency conducts a review, the IV-D agency shall inform both parents if a modification is warranted under the guideline, and shall petition for a modification of the support order when there is an assignment of support rights or if requested by a parent.

(3)

If a support order does not provide for the payment of medical expenses for each child subject to the support order, at the request of a party or the IV-D agency, the court shall modify the support order to provide for the payment of such expenses in accordance with section 16-916 .

(4)

(A)

There shall be a presumption that there has been a substantial and material change of circumstances that warrants a modification of a support order if application of the guideline to the current circumstances of the parents results in an amount of child support that varies from the amount of the existing support order by 15% or more. The presumption is rebutted by:

(i)

Proof of special circumstances, such as a circumstance

that would justify a departure from the guideline; or

(ii)

Proof of substantial reliance on the original support order issued prior to the adoption of or revision to the guideline, and that application of the guideline would yield a patently unjust result.

(B)

If a change to the guideline results in a support order that differs from the current support order by 15% or more, the presumption stated in subparagraph (A) of this paragraph shall apply, and the current order may be modified without any additional showing of a change in circumstances.

(C)

Nothing in this paragraph shall be construed to limit the ability of a parent to seek a modification of a support order upon a showing of a material and substantial change in the needs of the child or the ability of the parent with a legal duty to pay support to pay, regardless of whether this change results in a support order that differs by 15% or more from the current order.

(5)

In cases being enforced under title IV, part D of the Social Security Act, approved January 4, 1975 (88 Stat. 2371; 42 U.S.C. § 651 et seq.), upon receipt of notice and documentation establishing that a parent is incarcerated in a specific facility (except where the parent is incarcerated for contempt for failure to pay child support pursuant to section 46-225.02), the IV-D agency shall review the circumstances of both parents and determine if a modification of the support order is appropriate under the guideline. If the IV-D agency determines that a parent's incarceration has resulted in a change in financial circumstances warranting a modification of the support order, the IV-D agency may request the court to suspend or modify the support order pursuant to this subsection. Upon receipt of such a request, the court shall modify the support order in accordance with the guideline. The court may modify the support order from the date on which the IV-D agency received notice under this paragraph of the parent's incarceration.

(6)

The basic child support obligation, as adjusted by additions and deletions made pursuant to subsections (i) through (1) of this section, shall be used to compute the amount of child support the guideline would yield for modification and to apply the test for the presumption.

(7)

If a support order is issued after September 27, 1987, and

the amount of the support order differs from the guideline, by order of the court or by a merged agreement of the parties, the presumption shall not apply within one year of the issuance of the support order.

(8)

If a motion to modify a support order pursuant to this section is accompanied by an affidavit that sets forth sufficient facts and guideline calculations, and is accompanied by proof of service upon the respondent, the judicial officer may enter an order modifying the support order in accordance with the guideline unless a party requests a hearing within 30 days of service of the motion for modification. No support order shall be modified without a hearing if a hearing is timely requested.

(9)

Notwithstanding paragraphs (3) through (6) of this subsection, a party may submit a praecipe with a certification of waiver and supporting documentation, as prescribed by the court, to modify the child support amount by agreement of the parties at any time. This agreement shall be reviewed by a judicial officer for issuance of a revised support order in the same manner as an original agreement of the parties is reviewed.

(10)

The judicial officer shall justify any departure from the guideline in writing with a statement of the factors that form the basis for the finding that the guideline amount is unjust or inappropriate. A transcript filed in the jacket shall suffice as a writing.

(11)

Notwithstanding paragraph (4)(B) of this subsection, if a new child is born to the parents, the guideline shall be applied to the entire family and one order shall be issued for all the children in the family. If possible, the 2 cases shall be consolidated if child support for the last child is petitioned as a separate case.

(12)

Nothing in this subsection shall preclude a party from moving to modify a support order at any other time.

(s)

A support order shall not be deemed invalid on the sole basis that the support order was issued pursuant to the Superior Court of the District of Columbia Child Support Guideline and prior to the effective date of the Child Support Guideline Amendment Emergency Act of 1989, effective December 21, 1989 (D.C. Act 8-127; 37 DCR 3).

(t)

Upon the occurrence of a substantial and material change in circumstances sufficient to warrant the modification of a child support obligation pursuant to the guideline, the judicial officer may modify any provision of an agreement or settlement relating to child support, without regard to whether the agreement or settlement is entered as a consent order or is incorporated or merged in a court order.

(u)

If an order or agreement providing for child support does not set forth a date on which the child support commences, the child support shall be deemed to commence on the date the order was entered or the date the agreement was executed.

(v)

(1)

When a case is brought to establish child support, the judicial officer may award retroactive child support for a period not to exceed the 24 months preceding the filing of the petition or request for child support, unless the parent to whom support is owed proves that the parent with a legal duty to pay support has acted in bad faith or there are other extraordinary circumstances warranting an award of retroactive child support beyond the 24-month period. Upon this showing, the judicial officer may award retroactive child support for a period that exceeds the 24 months prior to the filing of the petition or request for child support. The judicial officer shall issue written factual findings stating the reason for awarding retroactive child support beyond the 24 month period.

(2)

Retroactive child support shall be determined by calculating the guideline using the parents' incomes during the retroactive period and by considering the current ability to pay of the parent with a legal duty to pay support according to subsections (g) and (m) of this section.

(3)

If the parent with a legal duty to pay support made voluntary payments or contributions to the child's expenses during the retroactive period, and proves these payments or contributions, the judicial officer shall credit the payments or contributions against an award of retroactive child support.

(w)

The Schedule of Basic Child Support Obligations contained in Appendix I shall be used to determine child support under the guideline.

(x)

The worksheets contained in Appendices II and III may be used to calculate child support obligations under the guideline. Refer to Worksheet B in Appendix III to calculate child support in cases involving shared physical custody pursuant to subsection (q) of this section. Refer to Worksheet A in Appendix II to calculate child support in all other cases.

(y)

The Mayor shall recommend to the Council every 4 years whether the dollar values in subsections (g)(3), (h), (j)(1), (m)(2), and (m)(3) of this section should be adjusted for inflation.

Cite as D.C. Code § 16-916.01

History.

July 25, 1990, D.C. Law 8-150, § 2(b), 37 DCR 3720; Sept. 26, 1990, D.C. Law 8-165, § 3, 37 DCR 4827; Mar. 16, 1995, D.C. Law 10-217, § 3, 41 DCR 8040; Apr. 9, 1997, D.C. Law 11-255, § 18(e), 44 DCR 1271; Mar. 24, 1998, D.C. Law 12-81, § 10(g), 45 DCR 745; Apr. 20, 1999, D.C. Law 12-241, § 12, 46 DCR 905; Apr. 3, 2001, D.C. Law 13-269, § 106(h), 48 DCR 1270; Jan. 8, 2002, Pub. L. 107-114, § 2(d)(1), 115 Stat. 2106; Oct. 19, 2002, D.C. Law 14-207, § 2(k), 49 DCR 7827; Mar. 30, 2004, D.C. Law 15-130, § 202(c), 51 DCR 1615; May 24, 2005, D.C. Law 15-357, § 104, 52 DCR 1999; May 12, 2006, D.C. Law 16-100, § 2(h), 53 DCR 1886; June 22, 2006, D.C. Law 16-138, § 2(a), 53 DCR 3650; Mar. 20, 2008, D.C. Law 17-128, § 2(d), 55 DCR 1525; Dec. 10, 2009, D.C. Law 18-88, § 403, 56 DCR 7413.

Editor's Note:

Section 28(b)(2) of D.C. Law 15-354 provided that the section designation of § 16-916.1 of the District of Columbia Official Code is redesignated as § 16-916.01.

Applicability: Section 4 of D.C. Law 16-138 provided: "This act shall apply as of April 1, 2007."