

GEORGIA'S NEW INCOME SHARES  
CHILD SUPPORT GUIDELINES

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*January 10, 2007*

The new child support guidelines became effective January 1, 2007 and apply to all pending civil actions on or after January 1, 2007. Under the new guidelines, there are several steps that are used to arrive at the child support obligation. First, the gross income of both the mother and the father is determined. This income includes amount from all non-exempt sources and includes: salary, wages, commissions, self-employed income, bonuses, overtime pay, severance pay, pension and retirement income, interest income, dividend income, trust income annuity income, capital gains, social security disability payments, worker's compensation benefits, unemployment benefits, judgments from personal injury claims or other civil cases, gifts, prizes, alimony from persons not in the subject case, assets which are used for support of family, fringe benefits that significantly reduce living expenses and any other income including imputed income. Variable income such as commissions or bonuses must be averaged over a reasonable period of time.

After the gross income of both the mother and father is determined, the income may be adjusted in three ways. If there is self employed income, there is a reduction for one-half of the self-employed taxes being paid. Secondly, if either parent is paying child support under a preexisting child support order, the monthly gross income of such parent is reduced by the amount of monthly support such parent has been actually paying. Finally, if either parent is supporting his or her own children living in the home but who are not the subject of this child support determination, the court in its discretion may reduce the gross income after calculating a theoretical child support order. This final adjustment will be difficult to obtain since the court must find the failure to do so would cause a financial hardship on the parent and that such adjustment is in the best interest of the child in the current case.

After the adjustments, if any, are made, the incomes are combined to arrive at the combined adjusted income. With the combined adjusted income, one can look at the Child Support Obligation Table and determine the amount of the Basic Child Support Obligation. The pro rata share of the Basic Child Support Obligation corresponds to each parents' percentage of the adjusted gross income. If the wife's adjusted gross income is \$60,000 and the husband's adjusted gross is \$40,000, pro rata share of the wife and husband would be 60% and 40% respectively.

Next, if there is health insurance premiums attributable to the children for whom support is being calculated or work related child care costs, these costs are pro rated between the parties

based on the pro rata share determined previously. The pro rated Basic Child Support Obligation with any adjustment for health insurance premiums and work related child care costs is the Presumptive Amount of Child Support. If there are no deviations, the noncustodial parent owes the custodial parent the Presumptive Amount of Child Support.

There are specific deviations that may be applicable in some cases. These include low income, high income, parenting time, other health related insurance, life insurance, child and dependent care tax, visitation related travel expenses, alimony paid, mortgage (if noncustodial parent is providing cost of home where child resides), and permanency plan or foster care plan. Additionally, there is a catch-all (non-specific) deviation that allows any deviation the court or jury finds may be appropriate and in the best interest of the child.

The new statute provides that generally to obtain a modification of a preexisting child support award there must be a significant change in the parent's financial status or the needs of the child. With a few exceptions, there can be no modification sought by a parent within two years from the date of the final order on a previous modification by the same parent. If a modification is based upon an involuntary income loss of 25% or more, the portion of the child support attributable to the lost income will not accrue from the date of service of the petition for modification. If the new guidelines result in a big change (greater than 15%) from the award prior to January 1, 2007, there may be a phase in of such changes. In cases with established orders in which a modification is sought and no reliable evidence of income or other information for determining current ability to pay or reliable evidence of income potential is produced, the court may increase the child support by an increment of at least 10 percent per year for each year since the Final Child Support Order was entered or last modified.

A jury trial is permitted on the issues of gross income and deviations. The statute provides for imputing income if a parent fails to produce reliable evidence of income. The court may also determine whether a parent is willfully or voluntarily unemployed or underemployed. The factors to consider when determining willful or voluntary unemployment or under employment include: 1. Past and present employment; 2. Education and training; 3. Whether unemployment or underemployment for purposes of additional training or education may ultimately benefit the child; 4. Parent's ownership of valuable assets; 5. Parent's health and ability to work; and 6. Parent's role as caretaker of a child of that parent, a disabled or seriously ill child of that parent, or any other disabled or seriously ill relative.

The duration of child support is required to continue until the child reaches the age of majority, dies, marries, or becomes emancipated. The court, generally, may extend the support when the child is attending a secondary school until age 20. Awards of child support shall accrue interest at the rate of 7 percent per annum. The court has discretion in applying or waiving past due interest.

The Georgia Child Support Commission has developed a calculator on Microsoft Excel

software downloadable at <https://services.georgia.gov/dhr/cspp/do/public/SupportCalcDownload>. The web-based version is not yet ready for release. The above link to the Child Support Services' Downloadable Calculator gives instructions on downloading the Excel Offline Child Support Calculator.