

## **Arizona's Child Support Guidelines What Every Parent Should Know**

By: [Mitchell Reichman](#)

Arizona law requires custodial and non-custodial parents to provide “reasonable support” for their minor children. A.R.S. § 25-501(A). This obligation is not avoidable. In the midst of a divorce, the right to receive this support and the amount owed by each parent can be overlooked. To ensure that parents prioritize their obligations to their children, Arizona courts impose the “best interests” of the child standard during every step of a divorce or paternity proceeding. In fact, the court will give a parent’s child support obligation priority **over all other financial obligations** of the parent. A.R.S. § 25-501(C).

This aspect of family law is so important that determination of the amount of child support to be paid by each parent is not left to unrestricted judicial discretion. Instead, the Arizona Supreme Court has adopted a set of guidelines, which provide a formula for calculating the amount of monthly support owed by each parent. Appropriately titled the “Arizona Child Support Guidelines” this document and schedule is available online (<http://www.azcourts.gov/Portals/31/Child%20Support/CSG2004.pdf>) (the “Guidelines”). However, the detailed explanation available on the court’s website can leave parents with more questions than answers. To help you understand these issues, we have outlined some of the important points embedded in the Guidelines. Unfortunately, when emotions are high and interests are not aligned with each other, it may be necessary to seek legal advice to ensure a fair outcome.

### ***What Are the Guidelines?***

Essentially, the Guidelines approximate the amount the parents would spend on the children if the parents remained living together. Their purpose is to provide consistent standards of support and ultimately a reasonable financial plan that is consistent with the parents’ ability to pay. With respect to child support, there is also an institutional goal of resolving this issue as quickly and efficiently as possible. The Guidelines promote these goals by providing standards for determining child support.

### ***How Child Support is Calculated and What Factors Are Considered***

While the Guidelines provide a method for calculating the amount of child support, there are circumstances that can make it more difficult to apply them. For example, it may be difficult to determine the support amount when a parent is self-employed. Often, a self-employed individual receives not only a traditional salary but also benefits from having the business pay certain expenses that benefit the self-employed parent. The Guidelines address this situation by providing that for purposes of calculating the gross income of a self-employed parent, the court must determine the gross receipts of the business and subtract only the ordinary and necessary expenses which are required to produce income. AZ CSG (5)(C). Additionally, self-employed spouses may be required to prepay an amount of child support equal to six months of support as security for payment. A.R.S. § 25-503.1(A).

Included within the Guidelines is an amount that economists determined was appropriate as the “basic” amount of child support, depending on the number of children and the total monthly gross income of the parents. However, the Guidelines also include a presumptive limit of \$20,000 a month on the amount of the combined gross income of the parents that will be used to determine the “Basic Child Support Obligation.” AZ CSG (8). This limit creates issues in high income households where the amount of monthly gross income exceeds \$20,000. The Guidelines provide an opportunity for those individuals to seek an amount of child support in excess of what the Guidelines provide.

Finally, there are additional factors considered by the court. These factors include, for example, adjustments for other children not common to the parties, for older children, low-income adjustment, costs of healthcare and child care, and costs associated with parenting time. It is important to include each of these adjustments when the child support calculation is made; failure to do so may result in one parent shouldering a significantly unfair financial obligation.

### ***Do the Courts Deviate From the Guidelines?***

Deviations are carefully scrutinized. Less than a decade ago, deviations from the Guidelines occurred in less than one quarter of the cases presented in Arizona. However, the courts have established certain criteria for situations when deviation is warranted. These criteria include written determinations that applying the guidelines would be unjust and that it is in the best interests of the child to depart from the Guidelines support calculation. Ultimately, deviations are not easily obtainable so it is essential to account for every plausible factor prior to presenting your position to the court.

### ***Can the Amount of a Child Support Order be Modified?***

After the court enters a child support order, it generally does not terminate until the child reaches the age of 18 or, if still in high school at 18, until the child reaches age 19. A.R.S. § 25-501(A). However, in today's economic climate, with incomes fluctuating unexpectedly, modification of child support payments may be necessary to not only ensure continued payment, but also protect against the financial destruction of one or both parents. The law allows for modification of child support upon a showing of "changed circumstances that is substantial and continuing," A.R.S. § 25-503(E). Although this language is broad, it does not allow a parent to voluntarily leave a higher paying job with hopes of decreasing payment obligations. Rather, circumstances such as disability, termination from employment, significant pay decrease, and changes in health insurance may amount to substantial and continuing changes warranting child support modification.

When such changes occur, a parent should not fail to comply with a court ordered child support obligation. One party must file a petition with the court and obtain a court order modifying the existing support obligation. Without a new court order in place, the existing support order remains in effect. The modification, if granted, will only be retroactive to the first day of the month following notice of the petition for modification or termination under most circumstances but not earlier than the date of filing the petition for modification. A.R.S. § 25-327(A).

### ***Is a Court Order Really Necessary?***

Although parents are not legally obligated to obtain a child support order, the absence of one carries significant consequences. If there has been no child support order issued and one parent petitions the court to establish a child support amount and issue an order, the court can retroactively enforce child support obligations. Basically, this allows the court to force a parent to pay the past due amount of child support which, if the parties lived apart before the date of the filing for dissolution or child support, can be made retroactive to the date of the physical separation of the parties but not more than three years before the date of the filing for dissolution of marriage, legal separation, or child support. While the court will take into account any amount of temporary or voluntary support that has been paid, if repayments are not being made pursuant to court order, there may be questions about how any payments that have been made by a parent are to be characterized, specifically, whether such payments will be given credit as child support.

This is an incentive for both parents to seek an order for child support at the earliest possible opportunity. Waiting to obtain that order is only likely to create a situation where an arrearage accumulates and often payment of that arrearage is problematic for the parent who is obligated to do so.

### **Conclusion**

In Arizona, every person has the duty to provide reasonable support for that person's natural and adopted minor, unemancipated children, regardless of the presence or residence of the child. Arizona has adopted Child Support Guidelines which are to be used to determine the ability to pay child support and the amount of the payments. The obligation to pay child support is primary and all other financial obligations are secondary. When parents of a child or children began living separate and apart, each should immediately consider the propriety of obtaining a support order as soon as possible to avoid the accumulation of a significant and problematic arrearage. While application of the Child Support Guidelines may appear to be simple, there are a number of circumstances and factors that can make it more difficult to apply them. There are also special circumstances where deviations from the Guidelines are appropriate. Once a child support order is entered, it can be modified based upon a showing of changed circumstances that are substantial and continuing. However, modifications do not occur automatically and without a new court order modifying the existing order, the existing support order remains in effect and needs to be complied with to avoid accumulating an arrearage.

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