

Rulemaking Hearing Rules
of
The Tennessee Department of Human Services
Child Support Services Division

1240-2-4
Child Support Guidelines

Repeals

Chapters 1240-2-4-.01, 1240-2-4-.02, 1240-2-4-.03, 1240-2-4-.04, 1240-2-4-.05, 1240-2-4-.06, 1240-2-4-.07, and 1240-2-4-.08, Child Support Guidelines, are repealed.

Authority: T.C.A. §§ 4-5-202; 36-5-101(e); 71-1-105(12), (15); 71-1-132; 42 U.S.C. § 667; 45 C.F.R. § 302.56.

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Chapter 1240-2-4

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Rules

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1240-2-4-.01	Legal Basis, Scope, and Purpose.
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- (1) Federal and State Legal Requirements for the Establishment and Application of Child Support Guidelines.
 - (a) Title IV-D of the Social Security Act (42 U.S.C. §§ 651-669), specifically 42 U.S.C. § 667 and 45 C.F.R. § 302.56, requires that states establish guidelines for setting and modifying child support award amounts in each state. Tennessee Code Annotated §§ 36-5-101(e), 71-1-105(15), and 71-1-132 implement these requirements and direct the Tennessee Department of Human Services to establish those guidelines to enforce the provisions of federal law.
 - (b) The Tennessee Department of Human Services is the authorized state agency for the enforcement of the child support program in the State of Tennessee under Title IV-D of the Social Security Act. The Department of Human Services will comply with federal and state requirements to promulgate Child Support Guidelines to be used in setting awards of child support.
 - (c) Pursuant to 42 U.S.C. § 667 and 45 C.F.R. § 302.56, the Child Support Guidelines must be made available to all persons in the state whose duty it is to set or modify child support award amounts in all child support cases.
 - (d) Pursuant to federal laws and regulations, the Child Support Guidelines established by a state must, at a minimum:
 1. Be applied by all judicial or administrative tribunals and other officials of the state who have power to determine child support awards in the state as a rebuttable presumption as to the amount of child support to be awarded in child support cases and result in a presumptively correct child support award;
 2. Take into consideration all earnings and income of the alternate residential parent;
 3. Be based on specific descriptive and numeric criteria and result in the computation of the child support obligation; and

4. Provide for the child's health care needs through health insurance coverage or other means.
- (e) Federal law and regulations further provide that the amount of child support mandated by the Guidelines may be rebutted if the tribunal setting or modifying support includes, in writing, in the order:
1. The reasons the tribunal deviated from the presumptive amount of child support that would have been paid pursuant to the Guidelines;
 2. The amount of child support that would have been required under the Guidelines if the presumptive amount had not been rebutted; and
 3. A finding by the tribunal that states how, in its determination,
 - (i) Application of the Guidelines would be unjust or inappropriate in the particular case before the tribunal; and
 - (ii) The best interests of the child or children who are subject to the support award determination are served by deviation from the presumptive guideline amount.
- (2) Effective Date and Applicability.
- (a) The Child Support Guidelines established by this Chapter shall be applicable in every judicial or administrative action to establish, modify, or enforce child support, whether temporary or permanent, whether the action is filed before or after the effective date of these rules, where a hearing which results in an order establishing, modifying, or enforcing support is held after the effective date of these rules.
- (b) The Child Support Guidelines shall be applied to all of the following cases involving the establishment, modification, or enforcement of child support:
1. Divorce or separate maintenance actions of married persons who are living separately, who have children of the marriage, including those actions in which a marital dissolution agreement or parenting plan is executed.
 - (i) If the parties stipulate to the child support to be paid for the support of the parties' children, the stipulations, whether in a marital dissolution agreement, parenting plan, or in any other document establishing the amounts to be paid for the support of the parties' children, shall be reviewed by the tribunal before approval.
 - (ii) No hearing shall be required as to the amount of child support awarded in such cases. However, the tribunal shall use the Guidelines in reviewing the adequacy of child support obligations negotiated by the parties, including provisions for medical care, and, if the negotiated agreement does not comply with the Guidelines or contain the findings of fact necessary to support a deviation, the tribunal shall reject the agreement.
 - (iii) In such stipulations, the order approving the agreement or parenting plan or other document:
 - (I) Shall establish a specific numerical dollar figure for support to be paid at specified intervals (weekly, bi-weekly, semi-monthly,

monthly). The final child support order shall not be expressed as a percentage of the parent's income.

(II) If the agreement does not state the amount of support calculated under the Guidelines, the order of the tribunal approving the agreement shall state the amount of support proposed in the agreement and the guideline amount and shall provide in writing:

I. The reasons the tribunal deviated from the presumptive amount of child support that would have been paid pursuant to the Guidelines;

II. The amount of child support that would have been required under the Guidelines if the presumptive amount had not been rebutted; and

III. A finding by the tribunal that states how, in its determination,

A. Application of the Guidelines would be unjust or inappropriate in the particular case before the tribunal; and

B. The best interests of the child or children who are subject to the support award determination are served by deviation from the presumptive guideline amount.

2. Paternity determinations;

3. Actions involving orders for custody of a child, whether in state trial or juvenile tribunals, including actions where the State is seeking, or is given, custody of a child due to abuse, dependency, delinquency or unruliness of the child, or in any case in which legal or physical custody of the child is transferred to a private or public agency or to any entity for any other reason;

4. Domestic violence orders of protection;

5. Any other actions in which the provision of support for children is established by law; and

6. Actions seeking interstate enforcement of support orders for any of the reasons in parts 1-5 above.

(c) Pursuant to 42 U.S.C. § 654(6)(A) and 45 C.F.R § 302.56(f), these Child Support Guidelines apply whether the order sought to be established, modified or enforced is for a period preceding October 13, 1989, which was the effective date of the mandatory Child Support Guidelines initially established by federal and state law, or subsequent to such date.

1. The order of the judicial or administrative tribunal must comply with the criteria established by these rules.

2. The order must state a specific dollar amount of support that is to be paid by the responsible party on a weekly, bi-weekly, semi-monthly or monthly basis. The final child support order shall not be expressed as a percentage of the parent's income.

- (3) The major goals in the development and application of these Guidelines are, to the extent possible, to:
 - (a) Decrease the number of impoverished children living in single parent families;
 - (b) Make child support awards more equitable by ensuring more consistent treatment of persons in similar circumstances while ensuring that the best interests of the child in the case before the tribunal are taken into consideration;
 - (c) Improve the efficiency of the tribunal process by promoting settlements and by giving tribunals and parties guidance in establishing appropriate levels of support awards;
 - (d) Encourage parents paying support to maintain contact with their child;
 - (e) Ensure that, when parents live separately, the economic impact on the child is minimized, and, to the extent that either parent enjoys a higher standard of living, the child shares in that higher standard;
 - (f) Ensure that a minimum amount of child support is set for parents with a low income in order to maintain a bond between the parent and the child, to establish patterns of regular payment, and to enable the child support enforcement agency and party receiving support to maintain contact with the parent paying support; and
 - (g) Allocate a parent's financial child support responsibility from the parent's income among all of the parent's children for whom the parent is legally responsible in a manner that gives equitable consideration, as defined by the Department's Guidelines, to children for whom support is being set in the case before the tribunal and to other children for whom the parent is legally responsible and supporting.
- (4) These Guidelines are a minimum base for determining child support obligations. The presumptive child support order may be increased according to the best interest of the child for whom support is being considered, the circumstances of the parties, and the rules of this chapter.

Authority: T.C.A. §§ 4-5-202; 36-5-101(e); 37-1-151; 71-1-105(12), (15); 71-1-132; 42 U.S.C. §§ 654, 667; 45 C.F.R. § 302.56.

1240-2-4-.02 Definitions.

- (1) "Adjusted Gross Income" — The Adjusted Gross Income (AGI) is the net determination of a parent's income, calculated by modifying the parent's gross income as follows:
 - (a) Adding to the parent's gross income any social security benefit paid to the child on the parent's account;
 - (b) Deducting from gross income any applicable self-employment taxes being paid by the parent; and
 - (c) Deducting from gross income any credits as set forth in these Rules for the individual parent's other children for whom the parent is legally responsible and is actually supporting.
- (2) "Adjusted Support Obligation" — The adjusted support obligation (ASO) is the Basic Child Support Obligation (BCSO) from the Child Support Schedule (CS Schedule), adjusted for parenting time as set forth in these Rules, health care insurance, work-related childcare expenses, and recurring uninsured medical expenses.

- (3) “Adjustments for Additional Expenses” — The additional expenses associated with the cost of health care insurance for the child, work-related childcare, and recurring uninsured medical expenses are not included in the Basic Child Support Obligation (BCSO) and must be added to the BCSO to determine the Adjusted Support Obligation (ASO).
- (4) “Alternate Residential Parent (ARP)” — The “alternate residential parent” (ARP) is the parent with whom the child resides less than fifty percent (50%) of the time.
- (5) “Basic Child Support Obligation” — The Basic Child Support Obligation (BCSO) is the amount of support displayed on the Child Support Schedule (CS Schedule) which corresponds to the combined Adjusted Gross Income (AGI) of both parents and the number of children for whom support is being determined. This amount is rebuttably presumed to be the appropriate amount of basic child support to be provided by both parents in the case immediately under consideration, prior to consideration of any adjustments for parenting time and/or additional expenses.
- (6) “Caretaker” — The person or entity providing primary care and supervision of a child. The caretaker is the child’s Primary Residential Parent. The caretaker may be a parent of the child, a non-parent person or agency who voluntarily or, pursuant to tribunal order or other legal arrangement, is providing care and supervision of the child (for example, the child’s grandparent). A caretaker may be a private or public agency or person not related to the child providing custodial care and supervision for the child through voluntary or involuntary placement by the child’s parent, non-parent relative, or other designated caretaker, or by court order or other legal arrangement (for example, a foster parent). In these rules, the designation “non-parent caretaker” refers to a private or public agency, a non-parent person who may or may not be related to the child, or another designated caretaker who provides the primary care and supervision for the child.
- (7) “Child” — “Child” includes the plural “children,” and “children” includes the singular “child,” where the context requires. For purposes of this chapter, “child” means:
 - (a) A person, not otherwise emancipated, who is less than eighteen (18) years of age or a person who reaches eighteen (18) years while in high school until the person graduates from high school or until the class of which the person is a member when the person attains eighteen (18) years of age graduates, whichever occurs last; or
 - (b) A person who is disabled pursuant to Tennessee Code Annotated § 36-5-101(k).
- (8) “Child Support Schedule” — The Child Support Schedule (CS Schedule or Schedule) is a chart which displays the dollar amount of the basic child support obligation (BCSO) corresponding to various levels of combined Adjusted Gross Income of the children’s parents and the number of children for whom a child support order is being established or modified. The Schedule shall be used to calculate the basic child support obligation (BCSO), according to the rules in this chapter. Deviations from the Schedule shall comply with the requirements of 1240-2-4-.07.
- (9) “Combined Adjusted Gross Income” — The amount of Adjusted Gross Income calculated by adding together the AGI of both parents. This amount is then used to determine the BCSO for both parents for the number of children for whom support is being calculated in the case immediately under consideration.
- (10) “Days” — For purposes of this chapter, a “day” of parenting time occurs when the child spends more than twelve (12) consecutive hours in a twenty-four (24) hour period under the care, control or direct supervision of one parent or caretaker. The twenty-four (24) hour period need not be the same as a twenty-four (24) hour calendar day. Accordingly, a “day” of parenting time may encompass either an overnight period or a daytime period, or a combination thereof.

- (11) “Department” — The Tennessee Department of Human Services.
- (12) “Fifty-fifty Parenting/Equal Parenting” — For purposes of this chapter, parenting is fifty-fifty (50-50) or equal when the parents of the child each spend fifty percent (50%) of the parenting time with that child. On the Child Support Worksheet, each parent will be designated as having one hundred eighty-two point five (182.5) days with the child. For purposes of calculating the support obligation, fifty-fifty/equal parenting is a form of standard parenting.
- (13) “Final Child Support Order” — The presumptive child support order (PCSO) adjusted by any deviations ordered by the tribunal.
- (14) “Legally Responsible for a Child” — For purposes of this chapter, a person is “legally responsible for a child” or legally obligated for a child or children when the child is or has been:
 - (a) Born of the parent’s body;
 - (b) Born of the parents’ marriage if the child is born during the marriage or within three hundred (300) days after termination of the marriage by death, annulment, declaration of invalidity, or divorce;
 - (c) Legally adopted by the parent;
 - (d) Voluntarily acknowledged by the parent as the parent’s child pursuant to Tennessee Code Annotated § 24-7-113 or pursuant to the voluntary acknowledgement procedure of any other state or territory that comports with Title IV-D of the Social Security Act; or
 - (e) Determined to be the child of the parent by any tribunal of this State, any other state or territory, or a foreign country pursuant to a reciprocal agreement or treaty.
- (15) “Obligee” — The parent or caretaker that receives payment of the child support obligation from the Obligor. The Obligee can be either the PRP, the ARP, or the non-parent caretaker of the child(ren).
- (16) “Obligor” — The parent that is responsible for payment of the child support obligation to the Obligee. The Obligor can be either the PRP or ARP of the child(ren), but in no case shall the Obligor be a child’s non-parent caretaker.
- (17) “Parent” — For purposes of this chapter, “parent” means a person who:
 - (a) Gave birth to the child;
 - (b) Was married to the mother of the child at the time of the birth of the child or within three hundred (300) days after termination of the marriage by death, annulment, declaration of invalidity, or divorce;
 - (c) Legally adopted the child;
 - (d) Voluntarily acknowledged the child pursuant to Tennessee Code Annotated § 24-7-113 or pursuant to the voluntary acknowledgement procedure of any other state or territory of the United States that comports with Title IV-D of the Social Security Act; or
 - (e) Has been determined to be a parent of the child by any tribunal of this State, any other state or territory, or a foreign country pursuant to a reciprocal agreement or treaty.
- (18) “Parenting Time Adjustment” — Adjustment to the BCSO based upon parenting time.

- (19) “Percentage of Income” — The Percentage of Income (PI) for each parent is obtained by dividing each parent’s Adjusted Gross Income [see paragraph (1) above] by the combined total of both parents’ AGI. The PI is used to determine each parent’s pro rata share of the Basic Child Support Obligation (BCSO), as well as each parent’s share of the amount of additional expense for health insurance, work-related childcare, and recurring uninsured medical expenses. [Also see paragraph 22 below – “pro rata”]
- (20) “Presumptive Child Support Order.”
- (a) The “Presumptive Child Support Order” (PCSO) is the amount of support to be paid for the child derived from the parent’s proportional share of the basic child support obligation, adjusted for parenting time, plus the parent’s proportional share of any additional expenses.
- (b) This amount is rebuttably presumed to be the appropriate child support order.
- (21) “Primary Residential Parent (PRP).”
- (a) The “primary residential parent” (PRP) is the parent with whom the child resides more than fifty percent (50%) of the time. The PRP also refers to the parent designated as such by Tennessee Code Annotated § 36-6-402 and, if not determined by these rules, the parent designated as such by the tribunal.
- (b) A non-parent caretaker that has physical custody of the child is the child’s PRP for the purposes of these rules. See: Tennessee Code Annotated §§ 36-5-101(b); 71-3-124(a)(6)
- (c) If a primary residential parent has not been otherwise designated, the primary residential parent will be determined consistent with the criteria of subparagraphs (a) and (b) above.
- (22) “Pro rata.”
- (a) For the purposes of this chapter, “pro rata” refers to the proportion of one parent’s Adjusted Gross Income to both parents’ combined Adjusted Gross Income, or to the proportion of one parent’s support obligation to the whole support obligation. [Also see paragraph 19 above – “percentage of income”]
- (b) A parent’s pro rata share of income is calculated by combining both parents’ Adjusted Gross Income and dividing each parent’s separate Adjusted Gross Income by the combined Adjusted Gross Income.
- (c) A parent’s pro rata share of the basic support obligation is calculated by multiplying the basic child support obligation obtained from the Child Support Schedule by each parent’s pro rata percentage of the combined Adjusted Gross Income.
- (23) “Split Parenting”— For purposes of this chapter, “split parenting” can only occur in a child support case if there are two (2) or more children of the same parents, where one (1) parent is PRP for at least one (1) child of the parents, and the other parent is PRP for at least one (1) other child of the parents. In a split parenting case, each parent is the PRP of any child spending more than fifty percent (50%) of the time with that parent and is the ARP of any child spending more than fifty percent (50%) of the time with the other parent. A split parenting situation will have two (2) PRPs and two (2) ARPs, but no child will have more than one (1) PRP or ARP.
- (24) “Standard Parenting” — For purposes of this chapter, “standard parenting” refers to a child support case in which all of the children supported under the order spend more than fifty percent (50%) of the time with the same PRP. There is only one (1) PRP and one (1) ARP in a standard parenting case.

- (25) “Theoretical Support Order” or “Theoretical Order” — A theoretical support order is a hypothetical order which allows the finder of fact to determine the amount of a child support obligation if an order existed. In these rules, a theoretical order is used to determine the amount of credit allowed as a deduction from a parent’s gross income for a parent’s qualified other children who are receiving support from that parent, whether or not the support is provided pursuant to a child support order.
- (26) “Tribunal” — A judicial or administrative body or agency granted legal authority to determine disputed issues within its jurisdiction including, but not limited to, the establishment, modification, or enforcement of child support and paternity issues.
- (27) “Uninsured Medical Expenses” — For the purposes of this chapter, the child’s uninsured medical expenses include, but are not limited to, health insurance co-payments, deductibles, and such other costs as are reasonably necessary for orthodontia, dental treatment, asthma treatments, physical therapy, vision care, and any acute or chronic medical/health problem, or mental health illness, including counseling and other medical or mental health expenses, that are not covered by insurance.
- (28) “Variable Multiplier.”

A mathematical formula based upon the number of days the ARP spends with the child and the amount of the BCSO which is used in the calculation of a parenting time adjustment in parenting situations where the ARP spends ninety-two (92) or more days per calendar year with a child, or an average of ninety-two (92) days with all applicable children.

- (29) “Work-Related Childcare Costs.”
 - (a) For the purposes of this chapter, work-related childcare costs mean expenses for the care of the child for whom support is being determined which are due to employment of either parent or non-parent caretaker.
 - (b) In an appropriate case, the tribunal may consider the childcare costs associated with a parent’s job search or the training or education of either parent necessary to obtain a job or enhance earning potential, not to exceed a reasonable time as determined by the tribunal, if the parent proves by a preponderance of the evidence that the job search, job training, or education will benefit the children being supported.
 - (c) Childcare costs shall be projected for the next consecutive twelve (12) months and averaged to obtain a monthly amount.

Authority: T.C.A. §§ 4-5-202; 36-5-101(e); 71-1-105(12), (15); 71-1-132; 42 U.S.C. § 667; 45 C.F.R. § 302.56.

1240-2-4-.03 The Income Shares Model.

- (1) General Basis.
 - (a) The Tennessee Child Support Guidelines are based on an Income Shares Model. This model presumes that both parents contribute to the financial support of the child in pro rata proportion to the actual income available to each parent.
 - (b) The Income Shares model differs from the Department’s prior Flat Percentage model, established in 1989, which calculated the amount of the child support award based upon the net income of the non-custodial or alternate residential parent and which assumed an equivalent amount of financial or in-kind support was being supplied to the child by the

custodial or primary residential parent. Although federal law requires consideration of only the income of the alternate residential parent, under the Income Shares model, both parents' actual income and actual additional expenses of rearing the child are considered and made part of the support order.

- (2) The Income Shares model for determining the amount of child support is predicated on the concept that the child should receive support at the same level that the child would receive if the parents were living together. While expenditures of two-household divorced, separated, or single parent families are different from intact family households, it is very important that the children of this State, to the extent possible, not be forced to live in poverty because of family disruption, and that they be afforded the same opportunities available to children in intact families consisting of parents with similar financial means to those of their own parents.
- (3) A number of authoritative economic studies measuring average child-rearing expenditures among families indicate that, although the average dollar amount devoted to child-rearing expenditures increases as the parents' incomes increase, the average percentage of parents' income devoted to child-rearing expenditures decreases as the parents' incomes increase. These studies also indicate that child-rearing expenditures in families are generally greater than what is minimally necessary to provide for the child's basic survival needs but, instead, are made in proportion to household income. These studies measure total, average child-rearing expenditures while also recognizing that household spending on behalf of children is intertwined with spending on adults for most large expenditure categories (e.g., housing, transportation) and that these expenditures cannot be disentangled, even with exhaustive financial affidavits from the parties.
- (4) The Income Shares model, which is used by over thirty (30) other states, is generally based on economic studies of child-rearing costs, including those of David Betson, Erwin Rothbarth, and Ernst Engel, and studies conducted by the United States Department of Agriculture and the United States Department of Labor's Bureau of Labor Statistics involving expenditures for the care of children.
- (5) The Child Support Guidelines established by this chapter were developed based upon:
 - (a) Studies of child-rearing costs conducted by David Betson, Erwin Rothbarth, and Ernst Engel which utilized information on child-rearing costs conducted by the United States Department of Agriculture and the United States Department of Labor's Bureau of Labor Statistics;
 - (b) Comments on these Guidelines by advocacy groups, judges, child support referees, attorneys, legislators, Title IV-D child support contractors and staff of the Tennessee Department of Human Services, and oral and written comments resulting from public hearings;
 - (c) The work and input of the Tennessee Department of Human Services' Child Support Guidelines Task Force established in 2002. The Task Force was established to assist the Department in reviewing and considering changes to the existing Child Support Guidelines that were originally adopted in 1989 and based upon the Flat Percentage Model;
 - (d) Review of the child support guidelines of other states;
 - (e) Recommendations made to states generally by the United States Office of Child Support Enforcement regarding measurements of child-rearing costs and their use in establishing child support guidelines; and
 - (f) The Income Shares Advisory Committee established in 2005 pursuant to 2005 Tenn. Pub.

Acts 403.

(6) Assumptions and Methodology Used in the Income Shares Model.

(a) Determination of the Basic Child Support Obligation.

1. The Income Shares Model incorporates a numerical schedule, designated in these Guidelines as the Child Support Schedule (CS Schedule or Schedule), found in Rule 1240-2-4-.09, that establishes the dollar amount of child support obligations corresponding to various levels of parents' combined Adjusted Gross Income and the number of children for whom the child support order is being established or modified.
2. The Schedule is used to determine the basic child support obligation (BCSO), according to the rules in this chapter.
3. Each parent's share of the BCSO is determined by prorating the child support obligation between the parents in the same ratios as each parent's individual Adjusted Gross Income is to the combined Adjusted Gross Income.
4. The minimum BCSO upon which a child support obligation may be established is one hundred dollars (\$100) per month. The tribunal may deviate below this minimum BCSO in appropriate situations. See Rule 1240-2-4-.07(2)(f)6.
5. If custody or guardianship of a child is awarded to a person or entity other than a parent of the child as defined in 1240-2-4-.02(15), the child support obligation shall be calculated on the Worksheet according to the rules for standard parenting, and each parent will be responsible for paying his/her share of the final obligation to the non-parent caretaker of the child. If only one parent is available, then that parent's income alone is considered in establishing the child support award. The income of a non-parent caretaker is not considered. If the tribunal is able to order both parents to pay support for the children, the tribunal shall assign each parent a pro rata share of the additional expenses.

(b) Child Support Schedule Assumptions.

1. The Child Support Schedule is based on the combined Adjusted Gross Income of both parties.
2. Taxation Assumptions.
 - (i) All income is earned income subject to federal withholding and the Federal Insurance Contributions Act (FICA/Social Security).
 - (ii) The alternate residential parent will file as a single wage earner claiming one withholding allowance, and the primary residential parent claims the tax exemptions for the child.
 - (iii) The Schedule's combined obligation includes the tax adjustments for federal withholding and the Federal Insurance Contributions Act (FICA/Social Security).
3. The Schedule is based upon the 1996-1999 Consumer Expenditures Survey, conducted by the U.S. Bureau of Labor Statistics, and updated to 2003 levels by adjusting for the rise in the Consumer Price Index since 1996.

4. Basic Expenses.

- (i) The Schedule assumes that all families incur certain child-rearing expenses and includes in the basic child support obligation (BCSO) an average amount to cover these expenses for various levels of the parents' combined income and number of children. The bulk of these child-rearing expenses is comprised of housing, food, and transportation. The share of total expenditures devoted to clothing and entertainment is also included in the BCSO, but is relatively small compared to the other three items.
- (ii) Basic educational expenses associated with the academic curriculum for a public school education, such as fees, books, and local field trips, are also included in the BCSO as determined by the CS Schedule.
- (iii) The BCSO does not include the child's health insurance premium, work-related childcare costs, the child's uninsured medical expenses, special expenses, or extraordinary educational expenses because of the highly variable nature of these expenses among different families.

5. Extraordinary Education Expenses.

- (i) Extraordinary education expenses including, but not limited to, tuition, room and board, fees, books, and other reasonable and necessary expenses associated with special needs education or private elementary and secondary schooling are not included in the basic child support schedule.
- (ii) Extraordinary educational expenses may be added to the presumptive child support order as a deviation.

6. Special Expenses.

- (i) Special expenses include, but are not limited to, summer camp, music or art lessons, travel, school-sponsored extra-curricular activities, such as band, clubs, and athletics, and other activities intended to enhance the athletic, social or cultural development of a child that do not otherwise qualify as mandated expenses like health insurance premiums and work-related childcare costs.
 - (ii) Special expenses incurred for child rearing which are quantified shall be considered and may be added by the tribunal to the PCSO as a deviation when this category of expenses exceeds seven percent (7%) of the monthly Basic Child Support Obligation (BCSO).
- (c) In the Income Shares model, it is presumed that the primary residential parent (PRP) spends his or her share of the child support obligation directly on the child and that the alternate residential parent's (ARP) share is only one component of the total child support obligation.
- (d) Adjustments to the BCSO.
- 1. In addition to basic support set forth in the Schedule, the child support award shall include adjustments that account for each parent's pro rata share of the child's health insurance premium costs, uninsured medical expenses, and work-related childcare costs, as provided in 1240-2-4-.04(8). These costs are not included in the Child Support Schedule because they are highly variable among cases.

2. The BCSO shall also be adjusted based upon the parenting time of the ARP.

(7) Revisions to the Child Support Schedule.

- (a) The CS Schedule will be reviewed every four (4) years by the Department, as required by Federal law, and revised, if necessary, to account for changes in the Basic Support Obligation due to tax changes and/or to account for changes in child rearing costs as reported by the Consumer Expenditures Survey conducted by the U.S. Bureau of Labor Statistics and to reflect authoritative economic studies of child rearing costs. If significant changes in tax laws and child rearing costs warrant, the Department may review and revise the CS Schedule prior to the regular four (4) year review.
- (b) Any revised CS Schedule published subsequent to the first Schedule appearing in Rule 1240-2-4-.09 will be incorporated by rule amendment, provided to the Administrative Office of the Courts for distribution to all Tennessee judicial tribunals, distributed by the Department to its Title IV-D Offices, and posted for use by the public on the Department's website at <http://www.state.tn.us/humanserv/> in the Department's Child Support Division link.

Authority: T.C.A. §§ 4-5-202; 36-5-101(e); 71-1-105(12),(15); 71-1-132; 42 U.S.C. § 667; 45 C.F.R. § 302.56.

1240-2-4-.04 Determination of Child Support.

(1) Required Forms.

- (a) These rules contain a Child Support Worksheet, a Credit Worksheet, Instructions for both Worksheets, and the Child Support Schedule which shall be required to implement the child support order determination.
- (b) The use of the Worksheets promulgated by the Department is mandatory in order to ensure uniformity in the calculation of child support awards pursuant to the rules.
- (c) In the event that the language contained in the Worksheets, Instructions, or Schedule conflicts in any way with the language of subchapters 1240-2-4-.01 – .07, the language of those subchapters is controlling.
- (d) The Credit Worksheet shall be used for listing information regarding a parent's qualified other children and/or for calculating the appropriate credit for support provided to a parent's other qualified children.
- (e) The completed Worksheets must be maintained as part of the official record either by filing them as exhibits in the tribunal's file or as attachments to the order.
- (f) Any child support obligation determined by calculations made using the Department Worksheets shall also be reflected in the tribunal's order, together with a description of any additional expenses the parent is to pay as part of the child's support as well as any deviations from the presumptive child support order.
- (g) Worksheets, Instructions, and the Child Support Schedule, as promulgated by the Department, may be produced by the Department with different formatting and additional highlights for use by the courts, the bar, the public, Department personnel, and the Department's contractors.

- (2) In all cases, the top of the Child Support Worksheet shall be completed with the applicable case identifying information, including the names and dates of birth of the child for whom support is being determined in the case.
- (3) Gross income.
 - (a) Determination of Gross Income.
 1. Gross income of each parent shall be determined in the process of setting the presumptive child support order and shall include all income from any source (before deductions for taxes and other deductions such as credits for other qualified children), whether earned or unearned, and includes, but is not limited to, the following:
 - (i) Wages;
 - (ii) Salaries;
 - (iii) Commissions, fees, and tips;
 - (iv) Income from self-employment;
 - (v) Bonuses;
 - (vi) Overtime payments;
 - (vii) Severance pay;
 - (viii) Pensions or retirement plans including, but not limited to, Social Security, Veteran's Administration, Railroad Retirement Board, Keoughs, and Individual Retirement Accounts (IRAs);
 - (ix) Interest income;
 - (x) Dividend income;
 - (xi) Trust income;
 - (xii) Annuities;
 - (xiii) Capital gains;
 - (xiv) Disability or retirement benefits that are received from the Social Security Administration pursuant to Title II of the Social Security Act, whether paid to the parent or to the child based upon the parent's account;
 - (xv) Workers compensation benefits, whether temporary or permanent;
 - (xvi) Unemployment insurance benefits;
 - (xvii) Judgments recovered for personal injuries and awards from other civil actions;
 - (xviii) Gifts that consist of cash or other liquid instruments, or which can be converted to cash;

- (xix) Prizes;
- (xx) Lottery winnings; and
- (xxi) Alimony or maintenance received from persons other than parties to the proceeding before the tribunal.

2. Imputed Income.

- (i) Imputing additional gross income to a parent is appropriate in the following situations:
 - (I) If a parent has been determined by a tribunal to be willfully and/or voluntarily underemployed or unemployed; or
 - (II) When there is no reliable evidence of income; or
 - (III) When the parent owns substantial non-income producing assets, the court may impute income based upon a reasonable rate of return upon the assets.
- (ii) Determination of Willful and/or Voluntary Underemployment or Unemployment.

The Guidelines do not presume that any parent is willfully and/or voluntarily under or unemployed. The purpose of the determination is to ascertain the reasons for the parent's occupational choices, and to assess the reasonableness of these choices in light of the parent's obligation to support his or her child(ren) and to determine whether such choices benefit the children.

- (I) A determination of willful and/or voluntary under or unemployment is not limited to occupational choices motivated only by an intent to avoid or reduce the payment of child support. The determination may be based on any intentional choice or act that affects a parent's income.
 - (II) Once a parent that has been found to be willfully and/or voluntarily under or unemployed, additional income can be allocated to that parent to increase the parent's gross income to an amount which reflects the parent's income potential or earning capacity, and the increased amount shall be used for child support calculation purposes. The additional income allocated to the parent shall be determined using the following criteria:
 - I. The parent's past and present employment; and
 - II. The parent's education and training.
 - (III) A determination of willful and voluntary unemployment or underemployment shall not be made when an individual enlists, is drafted, or is activated from a Reserve or National Guard unit, for full-time service in the Armed Forces of the United States.
- (iii) Factors to be Considered When Determining Willful and Voluntary Unemployment or Underemployment.

The following factors may be considered by a tribunal when making a determination of willful and voluntary underemployment or unemployment:

- (I) The parent's past and present employment;
 - (II) The parent's education, training, and ability to work;
 - (III) The State of Tennessee recognizes the role of a stay-at-home parent as an important and valuable factor in a child's life. In considering whether there should be any imputation of income to a stay-at-home parent, the tribunal shall consider:
 - I. Whether the parent acted in the role of full-time caretaker while the parents were living in the same household;
 - II. The length of time the parent staying at home has remained out of the workforce for this purpose; and
 - III. The age of the minor children.
 - (IV) A parent's extravagant lifestyle, including ownership of valuable assets and resources (such as an expensive home or automobile), that appears inappropriate or unreasonable for the income claimed by the parent;
 - (V) The parent's role as caretaker of a handicapped or seriously ill child of that parent, or any other handicapped or seriously ill relative for whom that parent has assumed the role of caretaker which eliminates or substantially reduces the parent's ability to work outside the home, and the need of that parent to continue in that role in the future;
 - (VI) Whether unemployment or underemployment for the purpose of pursuing additional training or education is reasonable in light of the parent's obligation to support his/her children and, to this end, whether the training or education will ultimately benefit the child in the case immediately under consideration by increasing the parent's level of support for that child in the future;
 - (VII) Any additional factors deemed relevant to the particular circumstances of the case.
- (iv) Imputing Income When There is No Reliable Evidence of Income.
- (I) When Establishing an Initial Order.
 - I. If a parent fails to produce reliable evidence of income (such as tax returns for prior years, check stubs, or other information for determining current ability to support or ability to support in prior years for calculating retroactive support); and
 - II. The tribunal has no reliable evidence of the parent's income or income potential;
 - III. Then, in such cases, gross income for the current and prior years shall be determined by imputing annual gross income of thirty-

six thousand three hundred sixty-nine dollars (\$36,369) for male parents and twenty-six thousand nine hundred eighty-nine dollars (\$26,989) for female parents. These figures represent the full time, year round workers' median gross income, for the Tennessee population only, from the American Community Survey of 2004 from the U.S. Census Bureau.

(II) When Modifying an Existing Order

- I. If a parent fails to produce reliable evidence of income (such as tax returns for prior years, check stubs, or other information for determining current ability to support); and
- II. The tribunal has no reliable evidence of that parent's income or income potential;
- III. After increasing the gross income of the parent failing or refusing to produce evidence of income by an increment not to exceed ten percent (10%) per year for each year since the support order was entered or last modified, the tribunal shall calculate the basic child support obligation using the increased income amount as that parent's gross income.
- IV. If the order to be modified is not an income shares order, and the parent who fails or refuses to provide reliable evidence of income was not required to produce evidence of income under the prior order, the tribunal shall determine that parent's income under the directions of subpart (iv)(I) above.

(III) In either circumstance in subpart (iv)(I) or (II) above, upon motion to the tribunal served upon all interested parties pursuant to the Tennessee Rules of Civil Procedure, the parent may provide the reliable evidence necessary to determine the appropriate amount of support based upon this reliable evidence. Under this circumstance, the parent is not required to demonstrate the existence of a significant variance otherwise required for modification of an order under 1240-2-4-.05. In ruling on a proper motion, the tribunal may modify the amount of current support prospectively.

(IV) Arrearages accrued or retroactive amounts due under an order based upon imputed income shall not be forgiven or modified under this section.

3. Self-Employment Income.

- (i) Income from self-employment includes income from, but not limited to, business operations, work as an independent contractor or consultant, sales of goods or services, and rental properties, etc., less ordinary and reasonable expenses necessary to produce such income.
- (ii) Ordinary and Reasonable Expenses of Self-Employment Necessary to Produce Income.
 - (I) Excessive promotional, excessive travel, excessive car expenses or excessive personal expenses, or depreciation on equipment, the cost

of operation of home offices, etc., shall not be considered reasonable expenses.

- (II) Amounts allowed by the Internal Revenue Service for accelerated depreciation or investment tax credits shall not be considered reasonable expenses.

4. Fringe Benefits.

- (i) Fringe benefits for inclusion as income or “in-kind” remuneration received by a parent in the course of employment, or operation of a trade or business, shall be counted as income if they reduce personal living expenses.
- (ii) Such fringe benefits might include, but are not limited to, company car, housing, or room and board.
- (iii) Basic Allowance for Housing (BAH), Basic Allowance for Subsistence (BAS), and Variable Housing Allowances (VHA) for service members are considered income for the purposes of determining child support.
- (iv) Fringe benefits do not include employee benefits that are typically added to the salary, wage, or other compensation that a parent may receive as a standard added benefit (e.g., employer-paid portions of health insurance premiums or employer contributions to a retirement or pension plan).

5. Social Security Title II Benefits.

- (i) Social Security Title II benefits received by a child shall be included as income to the parent on whose account the child’s benefit is drawn and applied against the support obligation ordered to be paid by that parent. The child’s benefit is only considered when it springs from the parent’s account. For example, if a child is drawing benefits from the Mother’s Social Security account, the amount of the child’s benefit is added to the Mother’s income, and the amount of the child’s benefit is subtracted from the Mother’s child support obligation. If the child’s benefit is drawn from the child’s own disability, the child’s benefit is not added to either parent’s income and not deducted from either parent’s obligation.

- (ii) Child Support Greater Than Social Security Benefit.

If after calculating the parent’s gross income as defined in 1240-2-4-.04(3), including the countable Social Security benefits in subpart 5(i) above, and after calculating the amount of the child support obligation using the Child Support Worksheet, the amount of the child support award due from the parent on whose account the child is receiving benefits is greater than the Social Security benefits paid on behalf of the child on that parent’s account, then that parent shall be required to pay the amount exceeding the Social Security benefit as part of the child support award in the case.

- (iii) Child Support Equal to or Less Than Social Security Benefits.

- (I) If after calculating the parent’s gross income as defined in 1240-2-4-.04(3), including the countable Social Security benefits paid for the child, referred to in part 5(i) above, and after calculating the amount of the child support obligation using the Child Support Worksheet, the amount of the child support award due from the parent on whose

account the child is receiving benefits is less than or equal to the Social Security benefits paid to the caretaker on behalf of the child on that parent's account, the child support obligation of that parent is met and no additional child support amount must be paid by that parent.

- (II) Any Social Security Title II benefit amounts as determined by the Social Security Administration and sent to the caretaker by the Social Security Administration for the child's benefit which are greater than the support ordered by the tribunal shall be retained by the caretaker for the child's benefit and shall not be used as a reason for decreasing the child support order or reducing arrearages.
- (iv) The tribunal shall make a written finding in the support order regarding the use of the Social Security benefits in the calculation of the child support obligation.
- (b) Variable income such as commissions, bonuses, overtime pay, dividends, etc. shall be averaged over a reasonable period of time consistent with the circumstances of the case and added to a parent's fixed salary or wages to determine gross income.
- (c) Excluded from gross income are the following:
 - 1. Child support payments received by either parent for the benefit of children of another relationship; or
 - 2. Benefits received from means-tested public assistance programs such as, but not limited to:
 - (i) Families First, Temporary Assistance for Needy Families (TANF), or similar programs in other states or territories under Title IV-A of the Social Security Act;
 - (ii) Food Stamps or the value of food assistance provided by way of electronic benefits transfer procedures by the Food Stamp agency;
 - (iii) Supplemental Security Income (SSI) received under Title XVI of the Social Security Act;
 - (iv) Benefits received under Section 402(d) of the Social Security Act for disabled adult children of deceased disabled workers; and
 - (v) Low Income Heating and Energy Assistance Program (LIHEAP) payments.
 - 3. The child's income from any source, including, but not limited to, trust income and Social Security benefits drawn on the child's disability.
 - 4. Adoption Assistance subsidy under Tennessee's Interstate Compact on Adoption Assistance, found at Tennessee Code Annotated § 36-1-201 *et seq.* or another state's adoption assistance subsidy which is based on the Adoption Assistance and Child Welfare Act (42 USC 670 *et seq.*).
- (4) Adjustments to Gross Income for Self-Employed Parents.
 - (a) The Child Support Schedule includes deductions from a parent's gross income for the employee's share of the contributions for the first six and two-tenths percent (6.2%) in

Federal Insurance Contributions Act (FICA) and one and forty-five hundredths (1.45%) in Medicare taxes. The full tax rate, fifteen and three-tenths percent (15.3%), is a total of twelve and four-tenths percent (12.4%) for social security (old-age, survivors, and disability insurance) and two and nine-tenths percent (2.9%) for Medicare (hospital insurance). All net earnings of at least four hundred dollars (\$400) are subject to the Medicare part. Employers pay one-half of an employee's FICA and Medicare taxes.

- (b) For a self-employed parent who is paying self-employment tax, an amount for FICA — six and two-tenths percent (6.2%) Social Security plus one and forty-five hundredths percent (1.45%) Medicare as of 1991, or any amount subsequently set by federal law as FICA tax — shall be deducted from that parent's gross income earned from self-employment, up to the amounts allowed under federal law, and actually paid by the parent.
 - (c) Social Security tax withholding (FICA) for high-income persons may vary during the year. Six and two-tenths percent (6.2%) is withheld on the first ninety thousand dollars (\$90,000) of gross earnings (for wage earners in 2005). After the maximum five thousand five hundred eighty dollars (\$5,580) is withheld, no additional FICA taxes are withheld.
 - (d) Self-employed persons are required by law to pay the full FICA tax of twelve and four tenths percent (12.4%) up to the ninety thousand dollars (\$90,000) gross earnings limit and the full Medicare tax rate of two and nine tenths percent (2.9%) on all earned income. One half of each amount is already accounted for in the BCSO amounts on the Schedule.
 - (e) Any self-employment tax paid up to one-half of the maximum amounts due in a year shall be deducted from gross income as part of the calculation of a parent's Adjusted Gross Income, as indicated in Part II of the CS Worksheet.
 - (f) When calculating credits for other qualified children under paragraph (5) below, any self-employment tax paid shall also be deducted on the Credit Worksheet from a parent's gross income for the purposes of calculating a theoretical child support order.
 - (g) The percentages and dollar amounts established or referenced in this paragraph (4) with respect to the payment of self-employment taxes shall be adjusted by the Department or by the tribunal, as necessary, as relevant changes occur in the federal tax laws.
- (5) Adjustments to Gross Income for Qualified Other Children.
- (a) In addition to the adjustments to gross income for self-employment tax provided in 1240-2-4-.04(4) above, credits for either parent's other children, who are qualified under this subparagraph, shall be considered by the tribunal for the purpose of reducing the parent's gross income. Adjustments are available for a child:
 - 1. For whom the parent is legally responsible; and
 - 2. The parent is actually supporting; and
 - 3. Who is not before the tribunal to set, modify, or enforce support in the case immediately under consideration.
 - (b) Children for whom support is being determined in the case under consideration, step-children, and other minors in the home that the parent has no legal obligation to support shall not be considered in the calculation of this credit.
 - (c) To consider a parent's qualified other children for credit, a parent must present documentary evidence of the parent-child relationship to the tribunal. By way of

example, and not by limitation, documentary evidence could include a birth certificate showing the child's name and the parent's name, or a court order establishing the parent-child relationship.

(d) Use of Credits.

1. Credits against income are available for all of the parent's other children who meet the qualifications in subparagraph (a) above including, but not limited to: a child being supported in the parent's home; a child being supported by the parent under a child support order in another case; and/or a child who does not live in the parent's home and is receiving support from the parent, but not pursuant to a court order.
2. Credits against income for other qualified children are calculated and recorded on the Credit Worksheet and then entered on the Child Support Worksheet for the purpose of reducing the parent's gross income on the Child Support Worksheet. However, the credit amounts are not subtracted from the parent's gross income on the Credit Worksheet when calculating a theoretical child support under this paragraph (5).

(e) Calculation of Credit for Qualified Other Children.

1. "In-Home" Children.

- (i) To receive a credit against gross income for qualified other children whose primary residence is with the parent seeking credit, but who are not part of the case being determined, the parent must establish a legal duty of support and that the child resides with the parent fifty percent (50%) or more of the time.
 - (I) By way of example, and not by limitation, documents that may be used to establish that the parent and child share the same residence include the child's school or medical records showing the child's address and the parent's utility bills mailed to the same address, court orders reflecting the parent is the primary residential parent or that the parent shares the parenting time of the child 50% of the time.
 - (II) Children may be deemed to be living in the parent's household though living away from the parent to attend private school [Kindergarten through grade 12].
- (ii) The available credit against gross income for either parent's qualified "in-home" children is seventy-five percent (75%) of a theoretical support order calculated according to these Guidelines, using the Credit Worksheet, the parent's gross income less any self-employment taxes paid, the total number of qualified other children living in the parent's home, and the Schedule.

2. "Not-In-Home" Children.

- (i) To receive a credit against gross income for child support provided for qualified other children whose primary residence is not in the home of the parent seeking credit, that is, the child resides with this parent less than fifty percent (50%) of the time, the parent must establish the legal duty of support and provide documented proof of support paid for the other child consistently over a reasonable and extended period of time prior to the initiation of the proceeding that is immediately under consideration by the

tribunal, but in any event, such time period shall not be less than twelve (12) months.

(ii) “Documented Proof of Support” includes:

(I) Physical evidence of monetary payments to the child’s caretaker, such as canceled checks or money orders.

(II) Evidence of payment of child support under another child support order, such as a payment history from a tribunal clerk or child support office or from the Department’s internet child support payment history.

(III) Evidence of “in kind” remuneration such as food, clothing, diapers or formula which has been reduced to a monetary amount approved by the court in the qualified other child’s case or affirmed by the receiving parent in the other case.

(iii) The available credit against gross income for either parent’s qualified “not-in-home” children is the actual documented monetary support of the qualified other children, averaged to a monthly amount of support paid over the most recent twelve (12) month period up to a maximum of seventy-five percent (75%) of a theoretical support order calculated according to these Guidelines, using the Credit Worksheet, the parent’s gross income less any self-employment taxes paid, the total number of qualified other children living less than fifty percent (50%) of the time in the parent’s home, and the Schedule.

3. The credits allowed pursuant to this subparagraph shall be calculated according to the instructions in this chapter alone, using the Credit Worksheet.

4. The amount of a theoretical order allowed as a credit against gross income under part 1 or 2 above is subject to the limitation of 1240-2-4-.07(2)(g).

5. An order may be modified to reflect a change in the number of children for whom a parent is legally responsible only upon compliance with the significant variance requirement of 1240-2-4-.05.

(6) The Schedule of Basic Child Support Obligations.

(a) Rule 1240-2-4-.09 contains the Schedule of Basic Child Support Obligations (BCSO). The Schedule of Basic Child Support Obligations (the “Child Support Schedule” or “CS Schedule”) shall be used to determine the combined obligation of both parents for the support of their children based upon their monthly combined Adjusted Gross Income and the number of children who are the subject of the child support determination. The CS Schedule, in chart form, displays the amount of the BCSO prior to adjustments for parenting time and additional expenses and is presumed correct for the combined income of the parents and the number of children for whom support is being determined.

(b) Rounding Rule for Determination of BCSO.

When the combined Adjusted Gross Income falls between amounts shown in the Schedule, round up to the next amount of combined Adjusted Gross Income. The rounded-up number shall be used to determine the BCSO from the CS Schedule for the number of children for whom support is being determined.

(7) Adjustment for Parenting Time.

- (a) These Guidelines presume that, in Tennessee, when parents live separately, the children will typically reside primarily with one parent, the PRP, and stay with the other parent, the ARP, a minimum of every other weekend from Friday to Sunday, two (2) weeks in the summer, and two (2) weeks during holidays throughout the year, for a total of eighty (80) days per year. The Guidelines also recognize that some families may have different parenting situations and, thus, allow for an adjustment in the child support obligation, as appropriate, in compliance with the criteria specified below.
- (b) Parenting Time.
1. Except as applied to fifty-fifty/equal parenting situations, the adjustment is based upon the ARP's number of days of parenting time with the children in the case under consideration.
 2. In fifty-fifty/equal parenting situations, the adjustment is based upon each parent exercising one hundred eighty-two and one-half (182.5) days of parenting time.
 3. No more than one (1) day of credit for parenting time can be taken in any twenty-four (24) hour period, i.e., only one parent can take credit for parenting time in one twenty-four (24) hour period. Except in extraordinary circumstances, as determined by the tribunal, partial days of parenting time that are not consistent with this definition shall not be considered a "day" under these Guidelines. An example of extraordinary circumstances would include a parenting situation where the ARP is scheduled to pick up the child after school three (3) or more days a week and keep the child until eight (8) o'clock p.m. This three (3) day period of routinely incurred parenting time of shorter duration may be cumulated as a single day for parenting time purposes.
 4. Average Parenting Time.
 - (i) If there are multiple children for whom support is being calculated, and the ARP is spending a different amount of time with each child, then an annual average of parenting time with all of the children shall be calculated. For example, if the ARP has sixty-seven (67) days of parenting time per year with Child A, eighty-four (84) days of parenting time per year with Child B, and one hundred thirty-two (132) days of parenting time per year with Child C, then the parenting time adjustment would be calculated based upon ninety-four (94) days of parenting time $[67 + 84 + 132 = 283 / 3 = 94]$. For this purpose, standard rounding rules apply.
 - (ii) A parenting time average calculated as indicated above shall not include the parenting time of any child residing with each parent fifty percent (50%) of the time. The parenting time adjustment shall be calculated separately for any such fifty-fifty/equal children.
- (c) In cases of split parenting, both parents are eligible for a parenting time adjustment for the child(ren) for whom the parent is the ARP.
- (d) Parenting Time Adjustments are not mandatory, but presumptive. The presumption may be rebutted in a case where the circumstances indicate the adjustment is not in the best interest of the child.
- (e) Due to the method for calculation of the adjustment, it is anticipated, in a case where the PRP has greater income than the ARP and the ARP has a high level of parenting time

with the child, that support may be due from the PRP to the ARP to assist with the expenses of the children during the times spent with the ARP. In this circumstance, a support payment from the PRP to the ARP is allowed

- (f) The automated child support worksheet provided by the Department will automatically calculate all parenting time adjustments when the user enters the requested information. No manual calculation is required, however, instructions for manual calculation are provided in these rules. See: Rule 1240-2-4-.08(2)(c)5.
- (g) Reduction in Child Support Obligation for Additional Parenting Time.
 - 1. If the ARP spends ninety-two (92) or more days per calendar year with a child, or an average of ninety-two (92) days with all applicable children, an assumption is made that the ARP is making greater expenditures on the child during his/her parenting time for transferred costs such as food and/or is making greater expenditures for child-rearing expenses for items that are duplicated between the two (2) households (e.g., housing or clothing). A reduction to the ARP's child support obligation may be made to account for these transferred and duplicated expenses, as set forth in this chapter. The amount of the additional expenses is determined by using a mathematical formula that changes according to the number of days the ARP spends with the child and the amount of the BCSO. The mathematical formula is called a "variable multiplier."
 - 2. Upon reaching the threshold of ninety-two (92) days, the variable multiplier shall be applied to the BCSO, which will increase the amount of the BCSO in relation to the ARP's parenting time, in order to account for the child-rearing expenses incurred by the ARP during parenting time. These additional expenses are divided between the parents according to each parent's PI. The PRP's share of these additional expenses represents an amount owed by the PRP to the ARP and is applied as a credit against the ARP's obligation to the PRP.
 - 3. The presumption that more parenting time by the ARP results in greater expenditures which should result in a reduction to the ARP's support obligation may be rebutted by evidence.
 - 4. Fifty-fifty (50-50)/Equal Parenting Situations.
 - (i) As between two parents, there is no PRP and/or ARP designation based upon parenting time. Accordingly, the BCSO will be assigned to the Mother as the PRP, and the parenting time credit to the Father as the ARP. This PRP/ARP designation is for the sole purpose of calculating the parenting time adjustment. A non-parent caretaker in a fifty-fifty/equal parenting situation with a parent will always be the PRP to whom the BCSO is allocated.
 - (ii) If a support obligation is being calculated for a fifty-fifty/equal parenting situation in conjunction with a standard parenting situation, the BCSO for the fifty-fifty/equal parenting situation shall be assigned to the parent who is the PRP for the other children subject to the child support order. The parenting time adjustment shall be assigned to the ARP and shall be calculated on a BCSO that has been pro-rated based upon the number of child(ren) included in the standard parenting situation and the number of child(ren) included in the fifty-fifty/equal parenting situation.
 - (iii) If a support obligation is being calculated for a fifty-fifty/equal parenting situation in conjunction with a split parenting situation, the BCSO for the

fifty-fifty/equal parenting situation shall be assigned to the Mother and the parenting time adjustment to the Father. Father's parenting time adjustment will be calculated on a BCSO that has been pro-rated based upon the number of child(ren) living primarily with the Mother and the number of child(ren) included in the fifty-fifty/equal parenting situation.

5. Calculation of the Parenting Time Credit.

- (i) First, the variable multiplier is determined by multiplying a standard per diem of .0109589 [$2 / 182.5$] by the ARP's parenting time determined pursuant to paragraph (7)(b) above. For example, the 94 days of parenting time calculated in the example from paragraph (7)(b)4(i) is multiplied by .0109589, resulting in a variable multiplier of 1.0301366 [$94 \times .0109589$].
 - (ii) Second, the variable multiplier calculated in subpart (i) above is applied to the amount of the parties' total BCSO, which results in an adjusted BCSO. For example, application of the variable multiplier determined above for ninety-four (94) days of parenting time to a BCSO of one thousand dollars (\$1000) would result in an adjusted BCSO of one thousand thirty dollars and fourteen cents (\$1030.14) [$\1000×1.0301366].
 - (iii) Third, the amount of the BCSO is subtracted from the adjusted BCSO. The difference is the child-rearing expenses associated with the ARP's additional parenting time. In the example above, the additional child-rearing expenses associated with the ninety-four (94) days of parenting time would be thirty dollars and fourteen cents (\$30.14) [$\$1030.14 - \1000].
 - (iv) The additional child-rearing expenses determined in subpart (iii) above are pro-rated between the parents according to each parent's percentage of income (PI). The PRP's share of these additional expenses is applied as an adjustment against the ARP's pro-rata share of the original BCSO. For instance, if the PRP's PI is forty percent (40%), the PRP's share of the additional expenses in the example above would be twelve dollars and six cents (\$12.06) [$\$30.14 \times 40\%$]. The twelve dollars and six cents (\$12.06) is applied as a credit against the ARP's share of the BCSO, resulting in a child support obligation for the ARP of five hundred eighty-seven dollars and ninety-four cents (\$587.94) [$\$1000 \times 60\% = \$600 - \12.06].
- (h) Increase in Child Support Obligation for Less Parenting Time.
1. If the ARP spends sixty-eight (68) or fewer days per calendar year with the child(ren) in the case, the ARP's child support obligation may be increased for the lack of parenting time. The first step in calculating the increase is to determine the number of days fewer than sixty-nine (69) the ARP spends with the child and then divide this number of days by three hundred sixty-five (365). For example, if the ARP has sixty-eight (68) days of parenting time, the percentage of days is 0.002739726 [$69 - 68 = 1; 1/365$].
 2. The second step is to multiply the percentage of days by the ARP's share of the BCSO. For example, if the ARP's share of the BCSO is one thousand two hundred dollars (\$1,200), and the parenting time is sixty-eight (68) days, the increased share of support is three dollars and twenty-nine cents (\$3.29) [$0.002739726 \times \$1,200 = \3.29].
 3. The increased share of support is added to the ARP's share of the BCSO resulting in the adjusted BCSO. Continuing the example from above, the ARP's increased

BCSO is one thousand two hundred three dollars and twenty-nine cents (\$1,203.29). [\$1,200 + \$3.29]

4. The presumption that less parenting time by the ARP should result in an increase to the ARP's support obligation may be rebutted by evidence.
 - (i) In an action to modify an existing child support order to reflect a change in parenting time, the parent seeking the credit must prove a significant variance pursuant to 1240-2-4-.05 when comparing the current order to the proposed order with application of the parenting time adjustment.
- (8) Adjustments for Additional Expenses.
- (a) The CS Schedule does not include the cost of the child's health insurance premium, uninsured medical expenses, or work-related childcare costs.
 1. The additional expenses for the child's health/dental insurance premium, recurring uninsured medical expenses, and work-related childcare shall be included in the calculations to determine child support.
 2. The amount of the cost for the child's health insurance premium, recurring uninsured medical expenses, and work-related childcare shall be determined as indicated below in subparagraphs (b), (c), and (d) and added to the BCSO as "Additional Expenses" or "add-ons," whether paid directly by the parent or through a payroll deduction.
 3. The total amount of the cost for the child's health insurance premium, recurring uninsured medical expenses, and work-related childcare shall be divided between the parents pro rata based upon the PI of each parent to determine the total Presumptive Child Support Order and shall be included in the written order of the tribunal together with the amount of the BCSO.
 4. If the health insurance premium is being paid by the ARP and/or the work-related child care is being paid by the ARP through payroll deduction, the payment shall be reflected in the child support order to identify the amount and nature of the obligation, but shall not be included in the ARP's income assignment. The order shall require that these expenses continue to be paid by the ARP in the same manner as they were being paid prior to the instant action.
 5. Amounts paid by a non-parent caretaker, whether directly or through payroll deduction, shall be included in the calculation for payment by the parents.
 6. Amounts paid by a step-parent shall not be considered in the calculation.
 - (b) Health Insurance Premiums.
 1. If health and/or dental insurance that provides for the health care needs of the child can be obtained by a parent at reasonable cost, then an amount to cover the cost of the premium shall be added to the BCSO as indicated above in subparagraph (a).
 2. In determining the amount to be added to the order for this cost, only the amount of the insurance cost attributable to the children who are the subject of the support order shall be included.
 3. If coverage is applicable to other persons and the amount of the health insurance premium attributable to the child who is the subject of the current action for

support is not available to be verified, the total cost to the parent paying the premium shall be pro rated by the number of persons covered so that only the cost attributable to the children who are the subject of the order under consideration is included. Enter the monthly cost on the Child Support Worksheet in the column of the parent paying the premium. If health insurance coverage is provided for the children at issue at no additional cost to the parent, no amount for this expense should be included on the Worksheet.

4. Eligibility for or enrollment of the child in TennCare or Medicaid shall not satisfy the requirement that the child support order provide for the child's health care needs.

(c) Work-Related Childcare Expenses.

1. Childcare expenses necessary for either parent's employment, education, or vocational training that are determined by the tribunal to be appropriate, and that are appropriate to the parents' financial abilities and to the lifestyle of the child if the parents and child were living together, shall be averaged for a monthly amount and entered on the Worksheet in the column of the parent initially paying the expense.
2. If a childcare subsidy is being provided pursuant to a means-tested public assistance program, only the amount of the childcare expense actually paid by either parent or the non-parent caretaker shall be included in the calculation.
3. If either parent or the non-parent caretaker is the provider of childcare services to the child for whom support is being determined, the value of those services shall not be added to the basic child support obligation when calculating the support award.
4. Any childcare expense not paid through payroll deduction shall be paid to the provider by a child's primary residential parent. In fifty-fifty/equal or split parenting situations, either or both parents can assume responsibility for payment of a non-payroll deducted childcare expense. In either situation, the other parent's pro rata share of the expense shall be included in the calculation that results in the child support order.

(d) Uninsured Medical Expenses.

1. The child's uninsured medical expenses including, but not limited to, deductibles, co-pays, dental, orthodontic, counseling, psychiatric, vision, hearing and other medical needs not covered by insurance are not included in the basic child support schedule and shall be the financial responsibility of both parents.
2. If uninsured medical expenses are routinely incurred so that a specific monthly amount can be reasonably established, a specific dollar amount shall be added to the basic child support obligation to cover those established expenses. These expenses shall be pro-rated between the parents according to each parent's percentage of income.
3. If uninsured medical expenses are not routinely incurred so that a specific monthly amount cannot be reasonably established, a specific dollar amount shall not be added to the basic child support obligation but the court order shall specify that these expenses shall be paid by the parents as incurred according to each parent's percentage of income unless some other division is specifically ordered by the tribunal.

4. If a parent fails to pay his/her pro rata share of the child's uninsured medical expenses, as specified in the child support order, within a reasonable time after receipt of evidence documenting the uninsured portion of the expense, the other parent, the non-parent caretaker, the State, or its IV-D contractors may enforce payment of the expense by any legal action permitted by law.
 5. Every child support order shall specify how the parents are to pay both known and unknown medical expenses as they are incurred.
- (e) Calculations for Additional Expenses.
1. The amounts paid by each parent and by a non-parent caretaker where applicable, whether directly or through payroll deduction, for the child's health insurance premium, recurring uninsured medical expenses, and/or work-related childcare costs shall be entered on the Child Support Worksheet to be used in calculating the total additional expenses.
 2. Each parent's pro-rata share of all additional expenses paid by the other parent and/or non-parent caretaker shall be calculated using each parent's PI.
- (9) Adjusted Support Obligation (ASO).
- (a) In standard parenting situations, the ASO is the parent's share of the BCSO owed to the other parent or non-parent caretaker plus the parent's share of any additional expense paid by the other parent and/or non-parent caretaker for the child's health insurance premium, recurring uninsured medical expenses, and work-related childcare; or
 - (b) In split parenting situations, the ASO is each parent's BCSO for the children in the other parent's primary care plus each parent's share of any additional expense paid by the other parent for the children's health insurance premium, recurring uninsured medical expenses, and work-related childcare.
 - (c) If a parenting time adjustment has been calculated in any case, that parent's share of the BCSO is adjusted as specified in 1240-2-4-.04(7), then each parent's ASO is calculated as indicated above in either subparagraph (a) or (b).
 - (d) In standard parenting situations, after consideration of additional expenses, the PRP's ASO may exceed the ARP's ASO. In such circumstances, it is permissible for a child support obligation to be paid by the PRP to the ARP. [See also 1240-2-4-.04(7)(g)]
- (10) No adjustment to gross income shall be made in the calculation of a child support obligation which seriously impairs the ability of the PRP in the case under consideration to maintain minimally adequate housing, food, and clothing for the children being supported by the order and/or to provide other basic necessities, as determined by the court.
- (11) Presumptive Child Support Order.
- (a) The Presumptive Child Support Order (PCSO) is the result of the calculations under these Guidelines, rounded to the nearest whole dollar, and is the amount of support for which the obligor is responsible prior to consideration of any deviations.
 - (b) Deviations from this amount must be supported by written findings in the support order, as required by 1240-2-4-.07(1).

- (c) The completed Worksheet(s) must be maintained as part of the official record either by filing them as exhibits in the tribunal's file or as attachments to the order.
- (d) Payments of child support shall be ordered to be paid in a specific dollar amount on a weekly, biweekly (every two weeks), semi-monthly, or monthly basis.

Authority: T.C.A. §§ 4-5-202; 36-5-101(a); 36-5-101(e); 71-1-105(12),(15); 71-1-132; 42 U.S.C. §§ 652; 667; 45 C.F.R. §§ 302.56; 303.31.

1240-2-4-.05 Modification of Child Support Orders.

- (1) Beginning on the effective date of these rules, all modifications shall be calculated under the Income Shares Guidelines, whether the action was pending before the effective date or filed after the effective date, where a hearing which results in an order modifying support is held after the effective date of these rules.
- (2) Significant Variance Required for Modification of Order.
 - (a) Unless a significant variance exists, as defined in this section, a child support order is not eligible for modification; provided, however, the necessity of providing for the child's health care needs shall be a basis for modification regardless of whether a modification in the amount of child support is warranted by other criteria.
 - (b) For all orders that were established or modified before January 18, 2005, under the flat percentage guidelines, and are being modified under the income shares provisions for the first time, a significant variance is defined as:
 - 1. At least a fifteen percent (15%) change in the gross income of the ARP; and/or
 - 2. A change in the number of children for whom the ARP is legally responsible and actually supporting; and/or
 - 3. A child supported by this order becoming disabled; and/or
 - 4. The parties voluntarily entering into an agreed order to modify support in compliance with these Rules, and submitting completed worksheets with the agreed order; and
 - 5. At least a fifteen percent (15%) change between the amount of the current support order and the proposed amount of the obligor parent's pro rata share of the BCSO if the current support is one hundred dollars (\$100) or greater per month and at least fifteen dollars (\$15) if the current support is less than one hundred dollars (\$100) per month; or
 - 6. At least a seven and one-half percent (7.5% or 0.075) change between the amount of the current support order and the amount of the obligor parent's pro rata share of the BCSO if the tribunal determines that the Adjusted Gross Income of the parent seeking modification qualifies that parent as a low-income provider.
 - (c) For all orders that were established or modified January 18, 2005 or after, under the income shares guidelines, a significant variance is defined as at least a fifteen percent (15%) change between the amount of the current support order (not including any deviation amount) and the amount of the proposed presumptive support order or, if the tribunal determines that the Adjusted Gross Income of the parent seeking modification qualifies that parent as a low-income provider, at least a seven and one-half percent

(7.5% or 0.075) change between the amount of the current support order (not including any deviation amount) and the amount of the proposed presumptive support order.

(d) Low Income Provider.

For purposes of modification of orders, a low income provider is a person who:

1. Is not willfully and voluntarily unemployed or underemployed when working at his/her full capacity according to his/her education and experience; and
 2. Has an Adjusted Gross Income at or below the federal poverty level for a single adult.
 - (i) As of the effective date of the rules, the federal poverty level for a single adult is nine thousand six hundred forty-five dollars (\$9645) annual gross income, which shall remain in effect until updated by the Department.
 - (ii) Updated information regarding the federal poverty standards will be available on the Department's website at www.state.tn.us/humanserv.
- (3) To determine if a modification is possible, a child support order shall first be calculated on the Child Support Worksheet using current evidence of the parties' circumstances. If the current child support order was calculated using the flat percentage guidelines, compare the existing ordered amount of current child support to the proposed amount of the ARP's pro-rata share of the basic child support obligation. If the current child support order was calculated using the income shares guidelines, compare the presumptive child support order amounts in the current and proposed orders. Do not include the amount of any previously ordered deviations or proposed deviations in the comparison. If a significant variance exists between the two amounts, such a variance would justify the modification of a child support order unless, in situations where a downward modification is sought, the obligor is willfully and voluntarily unemployed or underemployed, or except as otherwise restricted by paragraph (5) below or 1240-2-4-.04(10) above.
- (4) The tribunal shall not refuse to consider modification of a current support order relating to the payment of prospective support on the basis that the party requesting modification has accumulated an arrears balance, unless the arrearage is the result of the intentional actions by the party.
- (5) Upon a demonstration of a significant variance, the tribunal shall increase or decrease the support order as appropriate in accordance with these Guidelines unless the significant variance only exists due to a previous decision of the tribunal to deviate from the Guidelines and the circumstances that caused the deviation have not changed. If the circumstances that resulted in the deviation have not changed, but there exist other circumstances, such as an increase or decrease in income, that would lead to a significant variance between the amount of the current order, excluding the deviation, and the amount of the proposed order, then the order may be modified.
- (6) An order may be modified to reflect a change in the number of children for whom a parent is legally responsible, a parenting time adjustment, and work-related childcare only upon compliance with the significant variance requirement specified in 1240-2-4-.05.
- (7) Modification of Orders in Split Parenting Cases and Cases Where Parenting Time is Divided on a 50/50/Equal Basis.
- (a) If an order was established or modified under the Income Shares guidelines between January 18, 2005 and April 1, 2005, in a case with split parenting or a case in which

parenting time is divided on a 50/50/equal basis, the order may be modified without compliance with the significant variance requirement only for the purpose of correcting a calculation error resulting from application of the rules implemented on January 18, 2005.

- (b) Any arrears which may have accumulated under any such order as originally established or modified under the Income Shares guidelines may be recalculated consistent with the amount of the child support obligation as modified pursuant to this part.

Authority: T.C.A. §§ 4-5-202; 36-5-101(a)(1) and (e); 36-5-103(f); 71-1-105(12),(15); 71-1-132; 42 U.S.C. § 667; 45 C.F.R. §§ 302.56, 303.8.

1240-2-4-.06 Retroactive Support.

- (1) Unless the rebuttal provisions of Tennessee Code Annotated §§ 36-2-311(a)(11) or 36-5-101(e) have been established by clear and convincing evidence provided to the tribunal, then, in cases in which initial support is being set, a judgment must be entered to include an amount of monthly support due up to the date that an order for current support is entered:
 - (a) From the date of the child's birth:
 - 1. In paternity cases; or,
 - 2. Where the child has been voluntarily acknowledged by the child's putative father as provided in Tennessee Code Annotated § 24-7-113, or pursuant to the voluntary acknowledgement procedure of any other state or territory of the United States that comports with Title IV-D of the Social Security Act, or, as applicable;
 - (b) From the date:
 - 1. Of separation of the parties in a divorce or in an annulment; or
 - 2. Of abandonment of the child and the remaining spouse by the other parent in such cases; or
 - 3. Of physical custody of the child by a parent or non-parent caretaker.
- (2) Deviations from the presumption that a judgment for retroactive support shall be awarded back to the date of birth of the child, the date of the separation of the parties, or the date of abandonment of the child shall be supported by written findings in the tribunal's order that include:
 - (a) The reasons the tribunal, pursuant to Tennessee Code Annotated §§ 36-2-311(a)(11)(A) or 36-5-101(e)(1)(C), deviated from the presumptive amount of child support that would have been paid pursuant to the Guidelines; and
 - (b) The amount of child support that would have been required under the Guidelines if the presumptive amount had not been rebutted; and
 - (c) A written finding by the tribunal that states how, in its determination,
 - 1. Application of the Guidelines would be unjust or inappropriate in the particular case before the tribunal; and
 - 2. The best interests of the child or children who are subject to the support award determination are served by deviation from the presumptive guideline amount.

- (3) The retroactive support amount shall be calculated as follows:
- (a) For the monthly BCSO, apply the Guidelines in effect at the time of the order, using the Child Support Worksheet. Use the average monthly income of both parents over the past two (2) years as the amount to be entered for “monthly gross income,” unless the tribunal finds that there is adequate evidence to support a different period of time for use in the calculation and makes such a finding in its order. Do not include any current additional expenses on the retroactive worksheet. Complete the worksheet for the retroactive monthly amount, and multiply the amount shown on the worksheet as the “Final Child Support Order” times the number of months the tribunal has determined to be the appropriate period for retroactive support.
 - (b) An additional amount may be added onto the judgment for retroactive support calculated above in subparagraph (a) to account for the ARP’s share of amounts paid by the primary residential parent for childcare, the child’s health insurance premium, and uninsured medical expenses over the retroactive period under consideration, and other expenses allowed under Tennessee Code Annotated § 36-2-311.
 - (c) Add the total amount from subparagraph (a) above to the amount from subparagraph (b) for the total retroactive support due. The retroactive support amount as calculated in subparagraphs (a) and (b) above is presumed to be correct unless rebutted by either party.
- (4) A periodic payment amount shall be included in the support order, in addition to any prospective amount of current support, to eliminate the retroactive judgment for support within a reasonable time. Payment of the monthly amount as ordered shall be considered compliance with the retroactive order, however, the department may use additional means of collection to reduce this judgment without regard to the timeliness of the periodic payment.

Authority: T.C.A. §§ 4-5-202; 36-2-311; 36-5-101(a); 36-5-101(e); 71-1-105(12),(15); 71-1-132; 42 U.S.C. § 667; 45 C.F.R. § 302.56.

1240-2-4-.07 Deviations from the Child Support Guidelines.

- (1) Consideration of the Child’s Best Interests; Written Findings to Support the Deviation.
- (a) The amounts of support established by these Guidelines are rebuttable.
 - (b) The tribunal may order as a deviation an amount of support different from the amount of the presumptive child support order if the deviation complies with the requirements of this paragraph (1) and with this chapter. The amount or method of such deviation is within the discretion of the tribunal provided, however, the tribunal must state in its order the basis for the deviation and the amount the child support order would have been without the deviation. In deviating from the Guidelines, primary consideration must be given to the best interest of the child for whom support under these Guidelines is being determined.
 - (c) When ordering a deviation from the presumptive amount of child support established by the Guidelines, the tribunal’s order shall contain written findings of fact stating:
 - 1. The reasons for the change or deviation from the presumptive amount of child support that would have been paid pursuant to the Guidelines; and
 - 2. The amount of child support that would have been required under the Guidelines if the presumptive amount had not been rebutted; and
 - 3. How, in its determination,

- (i) Application of the Guidelines would be unjust or inappropriate in the particular case before the tribunal; and
 - (ii) The best interests of the child for whom support is being determined will be served by deviation from the presumptive guideline amount.
 - (d) No deviation in the amount of the child support obligation shall be made which seriously impairs the ability of the PRP in the case under consideration to maintain minimally adequate housing, food, and clothing for the children being supported by the order and/or to provide other basic necessities, as determined by the court.
- (2) Deviation from the Guidelines may be appropriate for reasons in addition to those previously established in 1240-2-4-.01 – .06 when the tribunal finds it is in the best interest of the child, in accordance with the requirements of paragraph (1) above and the following procedures:
- (a) Consideration of Needs of the Children and Income and Expenses of the Parents for Purposes of Deviation.
 - 1. In making its determination regarding a request for deviation pursuant to this chapter, the tribunal shall consider all available income of the parents as defined by this chapter and shall make a written finding that an amount of child support other than the amount calculated under the Guidelines is reasonably necessary to provide for the needs of the minor child or children for whom support is being determined in the case immediately under consideration.
 - 2. If the circumstances that supported the deviation cease to exist, the child support order may be modified to eliminate the deviation irrespective of compliance with the significant variance requirement of 1240-2-4-.05.
 - (b) In cases where the child is in the legal custody of the Department of Children’s Services, the child protection or foster care agency of another state or territory, or any other child-caring entity, public or private, the tribunal may consider a deviation from the presumptive child support order if the deviation will assist in accomplishing a permanency plan or foster care plan for the child that has a goal of returning the child to the parent(s), and the parent’s need to establish an adequate household or to otherwise adequately prepare herself or himself for the return of the child clearly justifies a deviation for this purpose.
 - (c) If parenting time-related travel expenses are substantial due to the distance between the parents, the tribunal may order the allocation of such costs by deviation from the PCSO, taking into consideration the circumstances of the respective parties as well as which parent moved and the reason that the move was made.
 - (d) Extraordinary Expenses.

The Schedule includes average child rearing expenditures for families based upon the parents’ monthly combined income and number of children. Extraordinary expenses are in excess of these average amounts and are highly variable among families. For these reasons, extraordinary expenses are considered on a case-by-case basis in the calculation of support and are added to the basic support award as a deviation so that the actual amount of the expense is considered in the calculation of the final child support order for only those families actually incurring the expense. These expenses may be, but are not required to be, divided between the parents according to each parent’s PI.

1. Extraordinary Educational Expenses.

- (i) Extraordinary educational expenses may be added to the presumptive child support as a deviation. Extraordinary educational expenses include, but are not limited to, tuition, room and board, lab fees, books, fees, and other reasonable and necessary expenses associated with special needs education or private elementary and/or secondary schooling that are appropriate to the parents' financial abilities and to the lifestyle of the child if the parents and child were living together.
- (ii) In determining the amount of deviation for extraordinary educational expenses, scholarships, grants, stipends, and other cost-reducing programs received by or on behalf of the child shall be considered.
- (iii) If a deviation is allowed for extraordinary educational expenses, a monthly average of these expenses shall be based on evidence of prior or anticipated expenses and entered on the Worksheet in the deviation section.

2. Special Expenses.

- (i) Special expenses incurred for child rearing which can be quantified may be added to the child support obligation as a deviation from the PCSO. Such expenses include, but are not limited to, summer camp, music or art lessons, travel, school-sponsored extra-curricular activities, such as band, clubs, and athletics, and other activities intended to enhance the athletic, social or cultural development of a child, but that are not otherwise required to be used in calculating the child support order as are health insurance premiums and work-related childcare costs.
 - (ii) A portion of the basic child support obligation is intended to cover average amounts of these special expenses incurred in the rearing of a child. When this category of expenses exceeds seven percent (7%) of the monthly BCSO, then the tribunal shall consider additional amounts of support as a deviation to cover the full amount of these special expenses.
- (e) In instances of extreme economic hardship, such as in cases involving extraordinary medical needs not covered by insurance or other extraordinary special needs for the child of a parent's current family [child living in the home with the parent for whom the parent is legally responsible], deviation from the Guidelines may be considered when the tribunal finds the deviation supported by the criteria of 1240-2-4-.07(1). In such cases, the tribunal must consider all resources available for meeting such needs, including those available from agencies and other adults.
- (f) Deviation from Guidelines Amount for Low-Income Persons.
- 1. The tribunal may consider the low income of the primary residential parent or the alternate residential parent as a basis for deviation from the guideline amounts.
 - 2. The tribunal shall consider all non-exempt sources of income available to each party and all expenses actually paid by each party.
 - 3. The party seeking a low-income deviation must present to the tribunal documentation of all his/her income and expenses or provide sworn statements of all his/her income and expenses in support of the requested deviation.

4. The tribunal shall make a written finding in its order that the deviation from the Guidelines based upon the low income and reasonable expenses of a party is clearly justified and shall make the necessary written findings pursuant to paragraph (1) above.
 5. For purposes of this subparagraph, a parent is considered to be a low-income person if his/her annual gross income is at or below the federal poverty level for a single person as established in 1240-2-4-.05(2)(d).
 6. Under no circumstance shall the tribunal fail to order a basic support obligation if the parent has non-exempt gross income. See Rule 1240-2-4-.03(6)(a)4.
- (g) Statutory Limitation on the Child Support Obligation – Rebuttal and Deviation.

1. When the presumptive child support order exceeds the amount found by multiplying a net income of ten thousand dollars (\$10,000) by the percentages set out below, pursuant to Tennessee Code Annotated § 36-5-101(e)(1)(B), a PRP seeking support in excess of the amount provided by the applicable percentage must prove by a preponderance of the evidence that more than this amount is reasonably necessary to provide for the needs of the child.

The percentages are:

- (i) One child = Twenty-one percent (21%), [or two thousand one hundred dollars (\$2100)];
 - (ii) Two children = Thirty-two percent (32%), [or three thousand two hundred dollars (\$3200)];
 - (iii) Three children = Forty-one percent (41%), [or four thousand one hundred dollars (\$4100)];
 - (iv) Four children = Forty-six percent (46%), [or four thousand six hundred dollars (\$4600)]; and
 - (v) Five or more children = Fifty percent (50%), [or five thousand dollars (\$5000)]
2. Application of Statutory Threshold to Child Support Determination.
 - (i) If the PCSO calculated under these rules exceeds the amount specified above for the number of children for whom support is being calculated, then the amount of the PCSO shall be limited to the amount specified above for the number of children for whom support is being calculated, absent the rebuttal provided for in part 1.
 - (ii) If the PRP proves the need for support in excess of the amount provided for in part 1, the tribunal shall add an appropriate amount to the PCSO of the ARP as a deviation.
 - (iii) The court may require that sums paid pursuant to this subparagraph be placed in an educational or other trust fund for the benefit of the child.

(h) Hardship Provisions Due to Modification of Order.

1. Any time following the effective date of these Rules when a tribunal is considering modification of an order initially established under Tennessee's Flat Percentage Guidelines, and the tribunal finds a significant variance between the amount of the existing child support order and the amount of the proposed child support order calculated under this chapter, which change results from the application of the guidelines rather than from the change in the income and/or circumstances of the parties, then the tribunal may modify the current child support order up to the full amount of the variance or may apply a hardship deviation as described below in parts 2-4.
2. For orders being modified as described in part 1 immediately above, the tribunal may deviate from the amount of child support required by the Income Shares Model and limit the amount of the upward or downward modification if:
 - (i) A deviation is supported in writing in the order by the criteria in 1240-2-4-.07(1); and
 - (ii) The tribunal finds that the change in the amount of child support caused by the transition to Income Shares will create a hardship either to:
 - (I) The recipient of the support who will have a substantial decrease of previously ordered support; or
 - (II) The payor who will have a substantial increase of previously ordered support.
3. It is not the intent or purpose of these guidelines to reduce the lifestyle the child(ren) enjoyed under the previous guidelines merely by the application of the income shares guidelines. Rather, the intent is to appropriately allocate the financial responsibilities of the parties with regard to the child(ren) while considering the status quo of the parties. Accordingly, the tribunal shall consider the following factors in determining whether a hardship will be created by the application of the income shares guidelines:
 - (i) Whether the significant variance is created solely by the application of the income shares guidelines or whether it also includes a significant change in the income of either or both of the parents
 - (ii) Whether the parent has incurred fixed expenses based on the amount of support previously ordered, including but not limited to mortgage payments, automobile payments, and other long-term financial obligations;
 - (iii) The standard of living the child(ren) enjoyed as a result of receiving the current level of support. In making this determination the tribunal shall consider the amount actually incurred by the PRP for basic expenses comparing the actual basic expenses incurred with the BCSO set forth by the guidelines. If the tribunal finds that the actual amount incurred for basic expenses exceeds the presumed BCSO and that the actual amount incurred is reasonable considering the relative incomes of the parents the tribunal may use the actual expenses as the BCSO.
 - (iv) If the child(ren) incurred Extraordinary Educational Expenses or Special Expenses that were previously included in the support amount determined under the prior guidelines, the tribunal may consider those expenses if the

application of the guidelines does not adequately take said expenses into account. The tribunal may also make an equitable division of these expenses so as to maintain the status quo with regard to the financial obligations of each party.

- (v) If the current order for support includes provisions for allocating the cost of medical and / or dental insurance and uninsured medical expenses, the tribunal may compare the allocation of said expenses under the application of the guidelines with the allocation under the order.
- 4. The hardship deviation, if allowed, cannot be utilized in a later action to create a significant variance.
- 5. No modification under this hardship provision shall be made to the extent that it would seriously impair the ability of the PRP in the case under consideration to maintain minimally adequate housing, food, and clothing for the children being supported by the order and/or to provide other basic necessities, as determined by the court.

Authority: T.C.A. §§ 4-5-202; 36-5-101(e); 71-1-105(12),(15); 71-1-132; 42 U.S.C. § 667; 45 C.F.R. § 302.56.

1240-2-4-.08 Worksheets and Instructions.

(1) General Instructions.

- (a) The Child Support Worksheet and Credit Worksheet provided by the Department are mandatory for use in calculating the appropriate child support obligation under these Guidelines. The completed Worksheet(s) must be maintained as part of the official record either by filing them as exhibits in the tribunal's file or as attachments to the order.
- (b) The Child Support Worksheet, Credit Worksheet, Instructions for Worksheets, and Child Support Schedule are part of the Tennessee Child Support Guidelines. In the event that the language contained in the Worksheets, Instructions or CS Schedule conflicts in any way with the language of subchapters 1240-2-4-.01 – .07, the language of those subchapters is controlling.
- (c) The designations in the Instructions correspond to the designations on the Worksheet, including parts and line numbers, to allow simple correlation of the Instructions to the Worksheets. The headings for each part are only for ease of identification of the various parts on the Worksheet.
- (d) Use of Columns on the Worksheets.
 - 1. Column A shall be used for the Mother's information.
 - 2. Column B shall be used for the Father's information.
 - 3. Column C shall be used for the non-parent Caretaker's information.

(2) Instructions for Child Support Worksheet.

- (a) Part I – Identification.
 - 1. In Part I of the Child Support Worksheet, enter the case specific information on the top section of the form: name of mother and father (and/or non-parent caretaker

where applicable), each parent designated as either PRP, ARP, or split (if split, both parents shall be designated as such), the docket number, court name, and TCSES case number (if applicable), name and date of birth of each child for whom support is being determined, and the number of days each child spends with each parent and/or non-parent caretaker.

2. If the parents spend an equal amount of time with any child, enter one hundred eighty-two point five (182.5) days for each parent with that child.
3. If calculating support owed by both parents to a non-parent caretaker, enter both TCSES numbers and both docket numbers on the same line, separated by a forward slash (/).

(b) Part II – Adjusted Gross Income.

1. Monthly Gross Income. [Rule 1240-2-4-.04]

- (i) Line 1 – Enter each parent’s monthly gross income in the appropriate column. Do not include child support payments received on behalf of other children or benefits received from means-tested public assistance programs.
- (ii) Line 1a – Social Security Benefit for Child – Enter in the parent’s column the amount of any social security benefit paid to a child on the account of that parent.
- (iii) Line 1b – Self-Employment Tax. [Rule 1240-2-4-.04(4)]

Enter on Line 1b of this Worksheet the average monthly amount of any self-employment tax paid by the parent.

- (iv) Line 1c – To the amount on Line 1, add the amount on Line 1a and subtract the amount on Line 1b. Enter the result on Line 1c.

2. Line 1d / 1e – Adjustments Against Gross Income for Qualified Other Children. [Rule 1240-2-4-.04(5)]

Adjustments shall be considered for either parent for qualified other children who are receiving support from the parent. A parent seeking credit for qualified other children must enter all pertinent information on the Credit Worksheet in order to calculate the correct amount of the credit. Instructions for the Credit Worksheet are below in Rule 1240-2-4-.08(3)].

- (i) Line 1d - For qualified other children living in the home of the parent fifty percent (50%) or more of the time, enter in the appropriate column on Line 1d the amount of the credit from Line 5 of the Credit Worksheet.
- (ii) Line 1e - For qualified other children living in the home of the parent less than fifty percent (50%) of the time, enter in the appropriate column on Line 1e the amount of the credit from Line 10b of the Credit Worksheet.

3. Line 2 – Adjusted Gross Income (AGI). [Rule 1240-2-4-.02(1)].

Subtract any amounts on Lines 1d and 1e from Line 1c. Enter the remainder as each individual parent’s AGI in the appropriate column of Line 2.

4. Line 2a – Combined Adjusted Gross Income (AGI). [Rule 1240-2-4-.02(1)].

Add together the amounts on Line 2, Columns A and B, to arrive at the combined AGI and enter this amount in the space provided on Line 2a.

5. Line 3 – Percentage Share of Income (PI). [Rule 1240-2-4-.02(19) and .04]

Calculate the individual parent's percentage share (PI) of the combined Adjusted Gross Income by dividing each parent's Line 2 by the combined figure on Line 2a. Enter the resulting percentages on Line 3 in Column A and B as appropriate. The sum of Line 3, Column A and Column B, must equal one hundred percent (100%).

(i) For this purpose, standard rounding rules apply.

(ii) If application of standard rounding rules should cause the total of both parent's PI to exceed 100%, the lower PI should be rounded down and the higher PI should be rounded up.

(c) Part III – Each Parent's Share of the BCSO.

1. Line 4 – Basic Child Support Obligation (BCSO). [Rule 1240-2-4-.02(5), .04(6) and .09]

(i) Standard Parenting.

(I) Determine the "Basic Child Support Obligation" from the CS Schedule based upon the combined Adjusted Gross Income of the parents from Line 2a and the number of children for whom support is being determined. Enter the amount on Line 4 in the column of the PRP.

(II) An amount will be entered in only one column on Line 4.

(ii) Split Parenting.

(I) A BCSO shall be calculated for each parent based upon the combined Adjusted Gross Income of the parents from Line 2a and the number of children living more than 50% of the time in the household of that parent.

(II) An amount shall appear in each parent's column on Line 4.

(iii) Fifty-fifty/Equal Parenting.

(I) Except as provided below in item (iii)(II) and subpart (iv), the Mother assumes the role of PRP for all children in fifty-fifty/equal parenting situations for purposes of calculating the BCSO, therefore, the BCSO for these children shall be entered in the Mother's column.

(II) When calculating support in a fifty-fifty/equal parenting situation in conjunction with a standard parenting situation, the BCSO for the child(ren) in the fifty-fifty/equal parenting situation will be assigned to the Father in situations where he is the PRP for all other children in the case under consideration.

- (iv) Non-parent Caretaker Situations.
 - (I) If only one parent is available, a BCSO shall be calculated based upon the Adjusted Gross Income of that parent.
 - (II) If both parents are available, a BCSO shall be calculated based upon the combined Adjusted Gross Income of both parents.
 - (III) The amount calculated pursuant to item (I) or (II) above shall be entered in the column of the non-parent caretaker on Line 4.
 - (v) When the combined Adjusted Gross Income falls between two amounts on the Schedule, round up to the next higher amount. Use the rounded-up number to determine the BCSO on the CS Schedule for the number of children for whom support is being determined. [Rule 1240-2-4-.04(6)(b)]
2. Line 4a – Share of BCSO Owed. [Rule 1240-2-4-.02(19), (22) and .04]
- (i) Standard Parenting.
 - (I) The ARP's share of the BCSO owed to the PRP shall be calculated by multiplying the BCSO in the column of the PRP on Line 4 by the ARP's PI from Line 3. The result shall be placed in the ARP's column on Line 4a.
 - (II) No amount shall be calculated for the PRP. A zero (\$0.00) amount shall be entered in the PRP's column.
 - (ii) Split Parenting.
 - (I) Each parent's share of the BCSO entered on Line 4 in the column of the other parent shall be calculated by multiplying the BCSO by the parent's PI from Line 3.
 - I. Mother's child support obligation for the children for whom the Father is the PRP is calculated by multiplying the BCSO entered in Father's column on Line 4 by the Mother's PI from Line 3.
 - II. Father's child support obligation for the children for whom the Mother is the PRP is calculated by multiplying the BCSO entered in Mother's column on Line 4 by the Father's PI from Line 3.
 - (II) An amount shall be calculated for each parent and entered in the appropriate column on Line 4a.
 - (iii) Fifty-fifty/Equal Parenting.
 - (I) When calculating support in fifty-fifty/equal parenting situations, whether alone or in conjunction with a split parenting situation, the Father will owe his pro-rata share of the BCSO entered for the Mother on Line 4. The amount shall be entered in the Father's column on Line 4a. See Rule 1240-2-4-.08(2)(c)1(iii) and (c)5(iv) for exception.

- (II) When calculating support in a fifty-fifty/equal parenting situation in conjunction with a standard parenting situation, the ARP will owe his/her share of the BCSO entered for the PRP on Line 4. The amount shall be entered in the ARP's column on Line 4a.
- (iv) Non-parent Caretaker Situations.
 - (I) If only one parent is available, one hundred percent (100%) of the BCSO entered on Line 4 shall be transferred to the parent's column on Line 4a.
 - (II) If both parents are available, each parent's pro-rata share of the BCSO from Line 4 shall be calculated and entered in the appropriate column on Line 4a.
3. Line 5 – Each Parent's Average Parenting Time. [Rule 1240-2-4-.04(7)(b)]
- (i) If there are multiple children in the case under consideration and each child has the same amount of parenting time, then this amount shall be used for purposes of calculating the parenting time adjustment.
 - (ii) If there are multiple children in the case under consideration and each child has a different amount of parenting time, then an average amount of parenting time is used for calculating the parenting time adjustment.
 - (I) Calculate the average number of days of parenting time for the ARP by adding together the number of days for the children with whom the ARP spends less than one hundred eighty-two and one-half (182.5) days and dividing the total by the number of such children. For instance, if the ARP spends 140 days with Child A, 150 days with Child B, and 182.5 days with Child C, the ARP's average parenting time to be entered on Line 5 is one hundred forty-five (145) days [$140 + 150 = 290 / 2 = 145$].
 - (II) For split parenting, a separate average will be calculate for each parent as an ARP, including only the days for the children with whom the parent spends less than one hundred eighty-two and one-half (182.5) days. For instance, if the Father spends 200 days with Child A, 182.5 days with Child B, 140 days with Child C, and 86 days with Child D, Father's average parenting time is one hundred thirteen (113) days [$140 + 86 = 226 / 2 = 113$].
 - (iii) Enter the amount of each parent's parenting time, or average parenting time, in the appropriate column on Line 5.
4. Line 5a – Fifty-fifty/Equal Parenting Time.
- If a fifty-fifty/equal parenting situation is included in the child support calculation, whether alone or in conjunction with a standard or split parenting situation, one hundred eighty two and one-half (182.5) days of parenting time shall be entered on Line 5a in the column of the parent eligible for the parenting time adjustment.
5. Line 6 – Parenting Time Adjustment. [Rule 1240-2-4-.02(18) and .04(7)]
- (i) Parenting time adjustments may be used to reduce or to increase the BCSO of the ARP.

- (ii) In split parenting situations, the adjustment may be applicable to the BCSO of either or both parents in the role as ARP.
- (iii) Except as otherwise provided in subpart (iv) below, when calculating a parenting time adjustment for a fifty-fifty/equal parenting situation, the Father assumes the role of the ARP for the child in the fifty-fifty/equal parenting situation and, as such, the adjustment for the child in the fifty-fifty/equal parenting situation shall be assigned to the Father. If calculating a parenting time adjustment for a fifty-fifty/equal parenting situation in conjunction with either a standard or split parenting situation, the BCSO allocated to the Mother's household shall be pro-rated between the child in the fifty-fifty/equal situation and the child living primarily with the Mother, and two separate parenting time adjustments shall be calculated for the Father. For instance, if a \$1200 BCSO has been allocated to Mother's household for 3 children, one of whom spends 182.5 days with each parent, \$400 would be allocated to the child in the fifty-fifty/equal parenting situation, and \$800 would be allocated to the other two children living primarily with the Mother. A parenting time adjustment for 182.5 days would be calculated for a BCSO of \$400. A separate parenting time adjustment would be calculated for the remaining \$800 based upon the Father's average parenting time with the other two children.
- (iv) When calculating a parenting time adjustment in a fifty-fifty/equal parenting situation in conjunction with a standard parenting situation in which the Father has primary custody of all children who are not in the fifty-fifty/equal parenting situation, the adjustment for the children in the fifty-fifty/equal parenting situation will, instead, be assigned to the Mother.
- (v) Calculation of the Parenting Time Credit.
 - (I) First, the variable multiplier is determined by multiplying .0109589 $[2 / 182.5]$ by the ARP's parenting time entered on Line 5. For example, the 145 days of parenting time calculated in the example from item 3(ii)(I) above is multiplied by .0109589, resulting in a variable multiplier of 1.5890405 $[145 \times .0109589]$.
 - (II) Second, the variable multiplier calculated in subpart (v)(I) above is applied to the amount of the parties' combined BCSO, which results in an adjusted BCSO. For example, application of the variable multiplier determined above for 145 days of parenting time to a BCSO of one thousand dollars (\$1000) would result in an adjusted BCSO of one thousand five hundred eighty-nine dollars and four cents (\$1589.04).
 - (III) Third, the amount of the BCSO is subtracted from the adjusted BCSO. The difference is the child-rearing expenses associated with the ARP's additional parenting time. In the example above, the additional child-rearing expenses associated with the 145 days of parenting time would be five hundred eighty-nine dollars and four cents (\$589.04). $[\$1589.04 - \$1000]$.
 - (IV) The additional child-rearing expenses determined in subpart (v)(III) above are pro-rated between the parents according to each parent's percentage of income (PI). The PRP's share of these additional expenses is applied as an adjustment against the ARP's share of the

BCSO. For instance, if the PRP's PI is forty percent (40%), the PRP's share of the additional expenses in the example above would be two hundred thirty-five dollars and sixty-two cents (\$235.62) [$\$589.04 \times 40\%$]. The two hundred thirty-five dollars and sixty-two cents (\$235.62) is applied as a credit against the ARP's share of the BCSO, resulting in a child support obligation for the ARP of three hundred sixty-four dollars and thirty-eight cents (\$364.38) [$\$1000 \times 60\% = \$600 - \235.62].

(V) The amount calculated in subpart (v)(IV) above shall be entered on Line 6, and will be used to decrease the BCSO.

(vi) Calculating Increase for Lack of Parenting Time.

(I) The ARP's child support obligation may be increased for the lack of the ARP's parenting time. The first step in calculating the increase is to determine the number of days fewer than sixty-nine the ARP spends with the child, then divide this number by three hundred sixty-five. For example, if the ARP has (68) days of parenting time, the multiplier is 0.002739726. [$69 - 68 = 1; 1/365$]

(II) The second step is to multiply the percentage of days calculated in subpart (vi)(I) above by the ARP's share of the BCSO. For example, if the ARP's share of the BCSO is one thousand two hundred dollars (\$1,200), and the parenting time is sixty-eight (68) days, the increased share of support is three dollars and twenty-nine cents (\$3.29). [$0.002739726 \times \$1,200 = 3.29$]

(III) The increased share of support is added to the ARP's share of the BCSO to find the adjusted BCSO. Continuing the example, the ARP's increased BCSO is one thousand two hundred three dollars and twenty-nine cents (\$1,203.29). [$\$1,200 + \3.29]

(IV) The amount calculated in subpart (vi)(III) above shall be entered on Line 6 and will be used to increase the BCSO.

(vii) From Line 4a, add or subtract, as appropriate, the amount from Line 6 and enter the result on Line 7 as each parent's adjusted BCSO.

(viii) Any negative amount in a parent's column resulting from the calculation required by subpart 5(v) shall be entered on Line 7 as a positive amount in the column of the other parent.

(d) Part IV – Adjustments for Additional Expenses. [Rule 1240-2-4-.04(8)]

1. General Instructions.

(i) This Part includes only health insurance premiums, recurring uninsured medical expenses, and work-related childcare expenses.

(ii) If expenses are not incurred regularly, a monthly amount shall be calculated by averaging the expense over a twelve (12) month period.

(iii) Only amounts actually paid are included in the calculation. Payments that are made by a parent's employer, but not deducted from the parent's wages, shall not be included.

- (iv) Only the portion of the health insurance premium actually attributable to the children for whom support is being determined and actually paid by the parent is included. If the actual amount of the health insurance premium that is attributable to the child who is the subject of the current action for support is not available or cannot be verified, the total cost of the premium shall be divided by the number of persons covered by the policy to determine a per person cost. This amount is then multiplied by the number of children who are the subject of this action and are covered by the policy.

$$\begin{array}{cccccc} \$ & \frac{\quad}{\quad} & \div & \frac{\quad}{\quad} & = & \$ \frac{\quad}{\quad} \times \frac{\quad}{\quad} = \frac{\quad}{\quad} \\ \text{Total} & & & \text{No. of Persons} & & \text{Per Person} & \text{X} & \text{No. of Children} & & \text{Child's Portion} \\ \text{Premium} & & & \text{Covered by Policy} & & \text{Cost} & & \text{Subject to Order} & & \text{of Premium} \end{array}$$

- (v) Additional expenses of a non-parent caretaker shall be included in calculating the amount of these expenses.

2. Line 8a – Children’s Portion of Health Insurance Premium. [Rule 1240-2-4-.04(8)(b)]

Enter on Line 8a in the column of the parent, or non-parent caretaker, responsible for payment the amount that is, or will be, paid by a parent either directly or through payroll deduction for health insurance for the children for whom support is being determined.

3. Line 8b – Recurring Uninsured Medical Expenses. [Rule 1240-2-4-.04(8)(d)]

- (i) If uninsured medical expenses are routinely incurred so that a specific monthly amount can be reasonably established, enter that amount on Line 8b in the column of the parent, or non-parent caretaker, responsible for payment. These known expenses shall be divided between the parents pro rata.
- (ii) If uninsured medical expenses are not routinely incurred so that a specific monthly amount cannot be reasonably established, no amount should be entered on Line 8b. Every child support order shall specify that these unknown expenses shall be paid by the parents as they are incurred, to be divided pro-rata unless otherwise ordered by the tribunal.

4. Line 8c – Work-related Childcare Expenses – Payroll Deducted. [Rule 1240-2-4-.04(8)(c)]

On Line 8c, enter in the column of the parent, or non-parent caretaker, responsible for payment the amount of any work-related childcare expense paid through payroll deduction for the child for whom support is being determined.

5. Line 8d – Work-related Childcare Expenses – Non-Payroll Deducted. [Rule 1240-2-4-.04(8)(c)]

On Line 8d, enter in the column of the parent, or non-parent caretaker, currently responsible for payment of any work related childcare expense paid directly, but not any amounts paid by payroll deduction. The PRP will assume responsibility for paying the expenses on this line, except in fifty-fifty/equal and split parenting situations when either parent may continue to pay their own work-related child care provider directly.

6. Line 9 – Total Additional Expenses. [Rule 1240-2-4-.04(8)]

Total the amounts on Lines 8a, 8b, 8c, and 8d, Columns A, B, and C and enter the results for each column on Line 9, representing the total amount of additional expenses paid by each parent and/or non-parent caretaker.

7. Line 10 – Each Parent’s Share of Additional Expenses. [Rule 1240-2-4-.04(8)]

(i) Two Parents.

Calculate each parent’s share of the total additional expenses paid by the other parent by multiplying each parent’s percentage of income (PI) from Line 3 times the other parent’s total additional expenses from Line 9. Enter the results on Line 10. [Line 3, Column A, times Line 9, Column B for the Mother’s share of additional expense paid by Father; Line 3, Column B times Line 9, Column A for the Father’s share of additional expenses paid by Mother.]

(ii) Two Parents With a Non-Parent Caretaker on Same Docket.

(I) Expenses Paid by Non-parent Caretaker.

Calculate each parent’s share of the total additional expenses paid by the non-parent caretaker by multiplying each parent’s percentage of income (PI) from Line 3 times the total additional expenses of the non-parent caretaker from Line 9. [Line 3, Column A, times Line 9, Column C for the Mother’s share of additional expenses paid by the non-parent caretaker; Line 3, Column B times Line 9, Column C for the Father’s share of additional expenses paid by the non-parent caretaker.]

(II) Expenses Paid by a Parent.

Calculate each parent’s share of the total additional expenses paid by the other parent as indicated above in subpart (i).

(III) Subtract the larger obligation calculated in subpart (ii)(II) above from the smaller. In the column with the larger amount, add the difference to any amount calculated in subpart (ii)(I) above. In the column with the smaller amount, subtract the difference to any amount calculated in subpart (ii)(I) above. Enter results on Line 10 in Columns A and B.

(iii) One Parent With a Non-parent Caretaker.

The full amount of any additional expenses paid by a non-parent caretaker is owed by the parent and shall be placed in the parent’s column on Line 10.

8. Line 11 – Adjusted Support Obligation – BCSO Plus Parent’s Share of Additional Expenses. [Rule 1240-2-4-.02(2) & .04(9)]

To calculate each parent’s total obligation to the other parent for the parent’s pro-rata share of the BCSO and the parent’s pro-rata share of additional expenses paid by the other parent, add the amount on Line 7 in each column to

the amount on Line 10 in each column. The result is each parent's adjusted support obligation and shall be entered on Line 11.

(e) Part V – Presumptive Child Support Order / Modification of Current Support.

1. Line 12 – Presumptive Child Support Order. [Rule 1240-2-4-.02(20) & .04(11)]

(i) The PCSO to be entered on Line 12 is the difference between the larger ASO on Line 11 and the smaller ASO on Line 11. The parent with the larger ASO on Line 11 is the obligor, and the PCSO shall be entered in that parent's column on Line 12.

(ii) Standard Parenting.

If the amount of the PCSO exceeds the amount specified in 1240-2-4-.07(2)(g)1 for the number of children for whom support is being calculated, then the amount of the PCSO entered on Line 12 shall be limited to the amount specified in 1240-2-4-.07(2)(g)1 for the number of children for whom support is being calculated. An opportunity to rebut this limitation is provided in 1240-2-4-.07(2)(g)2.

(iii) Split Parenting.

If the ASO on Line 11 for either parent exceeds the amount specified in 1240-2-4-.07(2)(g)1 for the number of children for whom support is being calculated, then that amount shall be limited to the amount specified in 1240-2-4-.07(2)(g)1 for the number of children for whom support is being calculated prior to making the calculation required in subpart (i) above. An opportunity to rebut this limitation is provided under subparagraph (f) below.

2. Line 13a – For Modification of Current Child Support Order. [Rule 1240-2-4-.05]

(i) To determine if a modification is possible, first calculate an order on Lines 1-12 of the Child Support Worksheet using current evidence of the parties' circumstances.

(ii) Indicate whether the significant variance percentage is fifteen percent (15% or .15) (for most cases) or seven and one-half percent (7.5% or .075) (for low income cases).

(iii) Indicate whether the order to be modified is an order most recently established or modified under the flat percentage guidelines or under the income shares guidelines.

(iv) On Line 13a, enter the amount of the current child support order in the case under consideration. If the order is calculated under the flat percentage guidelines, use the current support amount. If the order is calculated under income shares, use the presumptive child support order (PCSO).

3. Line 13b – Amount Required for Variance to Exist.

To determine the amount needed to comply with the significant variance requirement, multiply the amount from Line 13a by the percentage required in part 2(ii) above. Enter the result on Line 13b.

4. Line 13c – Significant Variance Amount. [Rule 1240-2-4-.05]
 - (i) For flat percentage orders, from the column of the obligor parent, subtract the lesser of Lines 4a and 13a from the greater and enter the result on Line 13c. If Line 13c is equal to or greater than Line 13b, the significant variance requirement has been met and the child support obligation may be modified to the presumptive amount entered on Line 12.
 - (ii) For income shares orders, subtract the lesser of Lines 12 and 13a from the greater and enter result on Line 13c. If Line 13c is equal to or greater than Line 13b, the significant variance requirement has been met and the child support obligation may be modified to the presumptive amount entered on Line 12.
- (f) Part VI – Deviations and Final Child Support Obligation.
 1. Line 14 – Deviations. [Rule 1240-2-4-.07]
 - (i) Specify the reason for the deviation and enter on Line 14 the amount that will be added to or subtracted from the Presumptive Support Order.
 - (ii) The order must include written findings supporting the deviation as outlined in 1240-2-4-.07(1).
 2. Line 15 – Final Child Support Order. [Rule 1240-2-4-.02(13)]

To the Presumptive Support Order amount on Line 12, add/subtract as appropriate any amount on Line 14 and enter the result on Line 15 as the Final Child Support Order.
 3. Line 16 – Social Security Benefits.

If a child to be supported under the order receives social security benefits on the account of the parent who will pay support under this order, and such benefit was added to that parent's gross income on Line 1a according to rule 1240-2-4-.04(3)(a)5, then enter the amount of that child's benefit entered on Line 1a and subtract that amount from that parent's obligation. The parent is relieved from directly making that portion of the obligation so long as the benefit is being paid by social security.
 4. The completed Worksheet must be maintained as part of the official record either by filing it as an exhibit in the tribunal's file or as an attachment to the order. Payments of child support shall be ordered to be paid in a specific dollar amount on a weekly, biweekly (every two weeks), semi-monthly (twice a month), or monthly basis.
- (3) Instructions for Credit Worksheet.
 - (a) The Credit Worksheet is to be utilized to calculate the available credit against the parent's gross income for qualified other children. The amount of any credit calculated on the Credit Worksheet shall be transferred to the appropriate line on the Child Support Worksheet.

(b) Part I – Identification.

In Part I of the Credit Worksheet, enter the case specific information: name of mother and father (and/or non-parent caretaker where applicable), each parent designated as either PRP, ARP, or split (if split, both parents shall be designated as such), the docket number, court name, and TCSES case number (if applicable).

(c) Part II – Calculation of Credit for Qualified Other Children.

1. A child is qualified for the credit available in this Part II if the parent is legally responsible for the child's support, the parent is actually supporting the child, and the child is not before the tribunal to set, modify, or enforce support in the case immediately under consideration.

2. Line 1 – Applicable Gross Income from Child Support Worksheet. [Rule 1240-2-4-.04(3)]

From the Child Support Worksheet, subtract the amount on Line 1b from the amount on Line 1 and enter the result on Line 1 of the Credit Worksheet.

3. Line 2 – Identify Qualified Other Children Living 50% or More of the Time in the Home of the Parent Seeking the Credit. [Rule 1240-2-4-.04(5)]

In the spaces provided, enter the names and dates of birth of the qualified other children living fifty percent (50%) or more of the time in the home of the parent seeking the credit. Do not consider children for whom support is being calculated in the case for which credit is being considered, step-children, or other minors in the home that the parent has no legal obligation to support. If more space is needed, use the Additional Credit Worksheet promulgated by the Department.

4. Line 3 – Number of Qualified Other Children in the Parent's Home.

Enter on Line 3 of the Credit Worksheet the number of qualified other children from Line 2 living fifty percent (50%) or more of the time in the parent's home. If there are no qualified other children, skip to Line 6.

5. Line 4 – Calculate Theoretical Order.

- (i) Using the gross income of the parent from Line 1 and the number of qualified other children from Line 3, find the amount of child support on the CS Schedule that the parent would pay for the qualified other children living fifty percent (50%) or more of the time in the parent's home if a theoretical order were issued for those children. Enter this amount on Line 4 of the Credit Worksheet.

- (ii) If the amount of the theoretical order exceeds the amount specified in 1240-2-4-.07(2)(g)1 for the number of children for whom support is being calculated, then the amount of the theoretical order entered on Line 4 shall be limited to the amount specified in 1240-2-4-.07(2)(g)1 for the number of children for whom support is being calculated.

6. Line 5 – Calculate Credit Amount.

Multiply the theoretical order amount from Line 4 by seventy-five percent (75% or 0.75). Enter the result on Line 5 of the Credit Worksheet and on Line 1d of the Child Support Worksheet.

7. Line 6 – Identify Qualified Other Children Living Less Than 50% of the Time in the Home of the Parent Seeking the Adjustment. [Rule 1240-2-4-.04(5)]

In the spaces provided, enter the names and dates of birth of the qualified other children living in the parent's home less than fifty percent (50%) of the time. Do not consider children for whom support is being calculated in the case for which credit is being considered, step-children or other minors for whom the parent has no legal obligation. If more space is needed, attach an additional sheet to this Worksheet.

8. Line 7 – Number of Qualified Other Children Living in the Parent's Home Less Than 50% of the Time.

Enter on Line 7 the number of qualified other children from Line 6 who reside less than fifty percent (50%) of the time in the home of the parent claiming the credit.

9. Line 8 – Determine Actual Support. [Rule 1240-2-4-.04(5)(e)2(ii)]

Determine the dollar amount of documented monetary support actually provided by the parent to the caretaker, such as canceled checks or money orders, over the most recent twelve (12) month period, expressed as a monthly average. Documented monetary support can include evidence of payment of child support under another child support order. Determine the monthly average by dividing the annual amount of support provided by twelve (12). Enter the result on Line 8 of the Credit Worksheet.

10. Line 9 – Calculate Theoretical Order.

(i) Using the income for this parent from Line 1 and the number of qualified other children from Line 7, use the CS Schedule to find the amount of child support the parent would pay for the qualified other children living in the parent's home less than fifty percent (50%) of the time if a theoretical order were issued for those children. Enter the amount on Line 9.

(ii) If the amount of the theoretical order exceeds the amount specified in 1240-2-4-.07(2)(g)1 for the number of children for whom support is being calculated, then the amount of the theoretical order entered on Line 9 shall be limited to the amount specified in 1240-2-4-.07(2)(g)1 for the number of children for whom support is being calculated.

11. Lines 10a and 10b – Calculate Maximum Amount.

(i) Line 10a – Multiply the theoretical order amount from Line 9 by seventy-five percent (75% or 0.75) and enter the result on Line 10a.

(ii) Line 10b – Compare the results from Line 8 and Line 10a and enter the lesser amount for the credit on Line 10b of the Credit Worksheet and on Line 1e of the Child Support Worksheet. Do not exceed the lesser of the actual support or seventy-five percent (75%) of the theoretical order.

(4) Child Support Worksheet.

State of Tennessee – Child Support Worksheet

Part I. Identification

Indicate the status of each parent or caretaker by placing an "X" in the appropriate column

Name of Mother:	_____	PRP	ARP	SPLIT
Name of Father:	_____			
Name of non-parent Caretaker:	_____			
TCSES case #:	_____			
Docket #:	_____			
Court name:	_____			

Name(s) of Child(ren)	Date of Birth	Days with Mother	Days with Father	Days with Caretaker
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Part II. Adjusted Gross Income

Use Credit Worksheet to calculate line items 1d and 1e.

- 1 Monthly Gross Income
- 1a Social Security benefit for child
- 1b Self-employment tax paid
- 1c Subtotal
- 1d Credit for In Home Children
- 1e Credit for Not In Home Children
- 2 Adjusted Gross Income (AGI)
- 2a Combined Adjusted Gross Income
- 3 Percentage Share of Income (PI)

Mother / Column A	Father / Column B	Non-parent Caretaker / Column C
\$	\$	
+	+	
-	-	
\$	\$	
-	-	
-	-	
\$	\$	
\$	\$	
	%	%

Part III. Parents' Share of BCSO

- 4 BCSO allotted to primary parent's household
- 4a Share of BCSO owed to primary parent
- 5 Each parent's average parenting time
- 5a Average parenting time for Equal
- 6 Parenting time adjustment
- 7 Adjusted BCSO

\$	\$	\$
\$	\$	
\$	\$	
\$	\$	

State of Tennessee – Child Support Worksheet

Part IV. Additional Expenses

	Mother / Column A	Father / Column B	Non-parent Caretaker / Column C
8a Children's portion of health insurance premium	\$	\$	\$
8b Recurring Uninsured Medical Expenses	\$	\$	\$
8c Work-related childcare (payroll-deducted)	\$	\$	\$
8d Work-related childcare (non-payroll-deducted)	\$	\$	\$
9 Total expenses	\$	\$	\$
10 Share of additional expenses owed	\$	\$	
11 Adjusted Support Obligation (ASO)	\$	\$	

** Reminder – Line 8d expenses are to be paid by the child's PRP or either parent in a 50-50 situation.

Part V. Presumptive Child Support / Modification of Current Support

		Obligation Column		
12	Presumptive Child Support Order (PCSO)	\$	\$	
* Enter the difference between the greater and smaller numbers from Line 11.				
	Low Income? _____ (N = 15% Y = 7.5%)			
	Current Order Flat % _____ (N / Y)			
Modification of Current Child Support Order	13a Current child support order amount for the obligor parent	\$	\$	
	13b Amount required for significant variance to exist	\$	\$	
	13c Actual variance between current order and PCSO / BCSO	\$	\$	

Part VI. Deviations and Final Child Support Order

Deviations must be substantiated by written findings in the Child Support Order	14 Deviations (Specify):	\$	\$	

	15 Final Child Support Order (FCSO)	\$	\$	
	16 FCSO adjusted for SS benefit, Line 1a, Obligor's column	\$	\$	

Comments, Calculations, or Rebuttals to Schedule

Preparer's Use Only

Name: _____ Date: _____

Title: _____

IV-D Use Only

17a Child Support Obligation	\$	\$	
17b Medical Support Obligation	\$	\$	

(5) Credit Worksheet.

State of Tennessee – Credit Worksheet

Part I. Identification

Indicate the status of each parent or caretaker by placing an "X" in the appropriate column	Name of Mother:	_____	PRP	ARP	SPLIT
	Name of Father:	_____			
	Name of non-parent Caretaker:	_____			
	TCSES case #:	_____			
	Docket #:	_____			
	Court name:	_____			

Part II. Other Children

		Column A	Column B
Parent Income Information	1	Applicable gross income from CS worksheet	
		\$ _____	\$ _____
In-Home Children	2	Below, list qualified children living in the parent's home (if none, skip to line 6):	
		Name(s) of Child(ren) for PRP	Date of Birth
		Name(s) of Child(ren) for ARP	Date of Birth
		_____	_____
		_____	_____
		_____	_____
	3	Number of qualified children living in the parent's home	# _____
	4	Theoretical child support order (this parent's income on CS Schedule for number of children from line 3)	\$ _____
	5	75% of theoretical child support order from line 4	\$ _____
Not-In-Home Children	6	Below, list qualified children not living in the parent's home:	
		Name(s) of Child(ren) for PRP	Date of Birth
		Name(s) of Child(ren) for ARP	Date of Birth
		_____	_____
		_____	_____
		_____	_____
	7	Number of qualified children not living in the parent's home	# _____
	8	Average monthly amount of documented monetary support	\$ _____
	9	Theoretical child support order (this parent's income on CS Schedule for number of children from line 7)	\$ _____
	10a	75% of theoretical child support order from line 9	\$ _____
	10b	Allowable credit for not-in-home children	\$ _____

Authority: T.C.A. §§ 4-5-202; 36-5-101(e); 71-1-105(12),(15); 71-1-132; 42 U.S.C. § 667; 45 C.F.R. § 302.56.

Legal Contact or Party who will approve final copy:

Barbara Broersma
Assistant General Counsel
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Nashville, Tennessee 37248-0006
(615) 313-4731

Contact for disk acquisition:

Conswella Wilkes
Legal Assistant
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Nashville, Tennessee 37248-0006
(615) 313-4731

Signature of the agency officer or officers directly responsible for proposing and/or drafting these Rules:

Bill Duffey, Director, Child Support Policy
Child Support Services
Tennessee Department of Human Services

Mike Adams, Assistant Commissioner
Child Support Services
Tennessee Department of Human Services

Virginia T. Lodge, Commissioner
Tennessee Department of Human Services

I certify that this is an accurate and complete copy of Rulemaking Hearing Rules, lawfully promulgated and adopted by the Department of Human Services on the ____ day of _____, 2006.

Further, I certify that the provisions of T.C.A. § 4-5-222 have been fully complied with, that these Rules are properly presented for filing, a notice of rulemaking hearing was filed in the Department of State on the 30th day of November, 2005 and such notice of rulemaking hearing having been published in the December 15, 2005 issue of the Tennessee Administrative Register, and such rulemaking hearings having been conducted pursuant thereto on the 17th, 18th, 19th, 23rd 24th, 25th, 26th, 30th and 31st of January 2006.

Barbara L. Broersma
Assistant General Counsel
Tennessee Department of Human Services

Subscribed and sworn to before me this the ____ day of _____, _____.

Notary Public

My commission expires on the ____ day of _____, _____.

All Rulemaking Hearing Rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Paul G. Summers
Attorney General and Reporter

The Rulemaking Hearing Rules set out herein were properly filed in the Department of State on the 6th day of April, 2006 and will become effective on the 20th day of June, 2006.

Notice
of
Stay of Effective Date of Rules

Tennessee Department of Human Services
Child Support Services Division

1240-2-4
Child Support Guidelines

The Tennessee Department of Human Services hereby gives notice pursuant to T.C.A. § 4-5-215(a) that the seventy-five (75) day period for Chapter 1240-2-4, Child Support Guidelines, filed with the Department of State on the 6th day of April, 2006, to have become effective on the 20th day of June, 2006, is hereby stayed for six (6) days. Period of time not to exceed sixty (60) days.

Barbara L. Broersma
Assistant General Counsel

Sworn to and subscribed before me this the ___ day of _____,
2006.

Notary Public

My Commission Expires on the ____ day of _____, ____.

The notice of stay set out herein was properly filed in the Department of State on the 19th day of April, 2006, and will be effective from the date of filing for a period of 6 days. The stay of the effective date of rules will remain in effect through the 25th day of April, 2006, unless properly withdrawn by the agency. (Specify the number of days not to exceed sixty (60) days.) New effective date of rules is June 26, 2006.