

### **3119.01 Calculation of child support obligation definitions.**

(C) As used in this chapter:

(1) "Cash medical support" means an amount ordered to be paid in a child support order toward the ordinary medical expenses incurred during a calendar year.

(2) "Child care cost" means annual out-of-pocket costs for the care and supervision of a child or children subject to the order that is related to work or employment training.

(3) "Court child support order" means any order issued by a court for the support of a child pursuant to Chapter 3115. of the Revised Code, section [2151.23](#), [2151.231](#), [2151.232](#), [2151.33](#), [2151.36](#), [2151.361](#), [2151.49](#), [3105.21](#), [3109.05](#), [3109.19](#), [3111.13](#), [3113.04](#), [3113.07](#), [3113.31](#), [3119.65](#), or [3119.70](#) of the Revised Code, or division (B) of former section 3113.21 of the Revised Code.

(4) "Court-ordered parenting time" means the amount of parenting time a parent is to have under a parenting time order or the amount of time the children are to be in the physical custody of a parent under a shared parenting order.

(5) "Court support order" means either a court child support order or an order for the support of a spouse or former spouse issued pursuant to Chapter 3115. of the Revised Code, section [3105.18](#), [3105.65](#), or [3113.31](#) of the Revised Code, or division (B) of former section 3113.21 of the Revised Code.

(6) "CPI-U" means the consumer price index for all urban consumers, published by the United States department of labor, bureau of labor statistics.

(7) "Extraordinary medical expenses" means any uninsured medical expenses incurred for a child during a calendar year that exceed the total cash medical support amount owed by the parents during that year.

(8) "Federal poverty level" has the same meaning as in section [5121.30](#) of the Revised Code.

(9) "Income" means either of the following:

(a) For a parent who is employed to full capacity, the gross income of the parent;

(b) For a parent who is unemployed or underemployed, the sum of the gross income of the parent and any potential income of the parent.

(10) "Income share" means the percentage derived from a comparison of each parent's annual income after allowable deductions and credits as indicated on the worksheet to the total annual income of both parents.

(11) "Insurer" means any person authorized under Title XXXIX of the Revised Code to engage in the business of insurance in this state, any health insuring corporation, and any legal entity that is self-insured and provides benefits to its employees or members.

(12) "Gross income" means, except as excluded in division (C)(12) of this section, the total of all earned and unearned income from all sources during a calendar year, whether or not the income is taxable, and includes income from salaries, wages, overtime pay, and bonuses to the extent described in division (D) of section [3119.05](#) of the Revised Code; commissions; royalties; tips; rents; dividends; severance pay; pensions; interest; trust income; annuities; social security benefits, including retirement, disability, and survivor benefits that are not means-tested; workers' compensation benefits; unemployment insurance benefits; disability insurance benefits; benefits that are not means-tested and that are received by and in the possession of the veteran who is the beneficiary for any service-connected disability under a program

or law administered by the United States department of veterans' affairs or veterans' administration; spousal support actually received; and all other sources of income. "Gross income" includes income of members of any branch of the United States armed services or national guard, including, amounts representing base pay, basic allowance for quarters, basic allowance for subsistence, supplemental subsistence allowance, cost of living adjustment, specialty pay, variable housing allowance, and pay for training or other types of required drills; self-generated income; and potential cash flow from any source.

"Gross income" does not include any of the following:

(a) Benefits received from means-tested government administered programs, including Ohio works first; prevention, retention, and contingency; means-tested veterans' benefits; supplemental security income; supplemental nutrition assistance program; disability financial assistance; or other assistance for which eligibility is determined on the basis of income or assets;

(b) Benefits for any service-connected disability under a program or law administered by the United States department of veterans' affairs or veterans' administration that are not means-tested, that have not been distributed to the veteran who is the beneficiary of the benefits, and that are in the possession of the United States department of veterans' affairs or veterans' administration;

(c) Child support amounts received for children who are not included in the current calculation;

(d) Amounts paid for mandatory deductions from wages such as union dues but not taxes, social security, or retirement in lieu of social security;

(e) Nonrecurring or unsustainable income or cash flow items;

(f) Adoption assistance and foster care maintenance payments made pursuant to Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670 (1980), as amended.

(13) "Nonrecurring or unsustainable income or cash flow item" means an income or cash flow item the parent receives in any year or for any number of years not to exceed three years that the parent does not expect to continue to receive on a regular basis. "Nonrecurring or unsustainable income or cash flow item" does not include a lottery prize award that is not paid in a lump sum or any other item of income or cash flow that the parent receives or expects to receive for each year for a period of more than three years or that the parent receives and invests or otherwise uses to produce income or cash flow for a period of more than three years.

(14) "Ordinary medical expenses" includes copayments and deductibles, and uninsured medical-related costs for the children of the order.

(15) (a) "Ordinary and necessary expenses incurred in generating gross receipts" means actual cash items expended by the parent or the parent's business and includes depreciation expenses of business equipment as shown on the books of a business entity.

(b) Except as specifically included in "ordinary and necessary expenses incurred in generating gross receipts" by division (C)(15)(a) of this section, "ordinary and necessary expenses incurred in generating gross receipts" does not include depreciation expenses and other noncash items that are allowed as deductions on any federal tax return of the parent or the parent's business.

(16) "Personal earnings" means compensation paid or payable for personal services, however denominated, and includes wages, salary, commissions, bonuses, draws against commissions, profit sharing, vacation pay, or any other compensation.

(17) "Potential income" means both of the following for a parent who the court pursuant to a court support order, or a child support enforcement agency pursuant to an administrative child support order, determines is voluntarily unemployed or voluntarily underemployed:

(a) Imputed income that the court or agency determines the parent would have earned if fully employed as determined from the following criteria:

(i) The parent's prior employment experience;

(ii) The parent's education;

(iii) The parent's physical and mental disabilities, if any;

(iv) The availability of employment in the geographic area in which the parent resides;

(v) The prevailing wage and salary levels in the geographic area in which the parent resides;

(vi) The parent's special skills and training;

(vii) Whether there is evidence that the parent has the ability to earn the imputed income;

(viii) The age and special needs of the child for whom child support is being calculated under this section;

(ix) The parent's increased earning capacity because of experience;

(x) The parent's decreased earning capacity because of a felony conviction;

(xi) Any other relevant factor.

(b) Imputed income from any nonincome-producing assets of a parent, as determined from the local passbook savings rate or another appropriate rate as determined by the court or agency, not to exceed the rate of interest specified in division (A) of section [1343.03](#) of the Revised Code, if the income is significant.

(19) "Self-generated income" means gross receipts received by a parent from self-employment, proprietorship of a business, joint ownership of a partnership or closely held corporation, and rents minus ordinary and necessary expenses incurred by the parent in generating the gross receipts. "Self-generated income" includes expense reimbursements or in-kind payments received by a parent from self-employment, the operation of a business, or rents, including company cars, free housing, reimbursed meals, and other benefits, if the reimbursements are significant and reduce personal living expenses.

(20) "Self-sufficiency reserve" means the minimal amount necessary for an obligor to adequately subsist upon, as determined under section [3119.021](#) of the Revised Code.

(21) "Split parental rights and responsibilities" means a situation in which there is more than one child who is the subject of an allocation of parental rights and responsibilities and each parent is the residential parent and legal custodian of at least one of those children.

### **3119.05 Other computing and calculating guidelines.**

(A) The parents' current and past income and personal earnings **shall be verified by electronic means or with suitable documents**, including, but not limited to, paystubs, employer statements, receipts and

expense vouchers related to self-generated income, tax returns, and all supporting documentation and schedules for the tax returns. (emphasis added)

(D) When the court or agency calculates the annual income of a parent, it shall include the lesser of the following as income from overtime and bonuses:

(1) The yearly average of all overtime, commissions, and bonuses received during the three years immediately prior to the time when the person's child support obligation is being computed;

(2) The total overtime, commissions, and bonuses received during the year immediately prior to the time when the person's child support obligation is being computed.

**3119.051 Reduction in cases where parenting time order equals or exceeds ninety overnights per year.**

(A) Except as otherwise provided in this section, a court or child support enforcement agency calculating the amount to be paid under a child support order shall reduce by ten per cent the amount of the annual individual support obligation for the parent or parents when a court has issued or is issuing a court-ordered parenting time order that equals or exceeds ninety overnights per year. This reduction may be in addition to the other deviations and reductions.

(B) At the request of the obligee, a court may eliminate a previously granted adjustment established under division (A) of this section if the obligor, without just cause, has failed to exercise court-ordered parenting time.

**3119.22 Deviating from schedule or worksheet.**

The court may order an amount of child support that deviates from the amount of child support that would otherwise result from the use of the basic child support schedule and the applicable worksheet if, after considering the factors and criteria set forth in section [3119.23](#) of the Revised Code, the court determines that the amount calculated pursuant to the basic child support schedule and the applicable worksheet would be unjust or inappropriate and therefore not be in the best interest of the child.

If it deviates, the court must enter in the journal the amount of child support calculated pursuant to the basic child support schedule and the applicable worksheet, its determination that the amount would be unjust or inappropriate and therefore not in the best interest of the child, and findings of fact supporting that determination.

**3119.23 Factors to be considered in granting a deviation.**

The court may consider any of the following factors in determining whether to grant a deviation pursuant to section [3119.22](#) of the Revised Code:

(A) Special and unusual needs of the child or children, including needs arising from the physical or psychological condition of the child or children;

(B) Other court-ordered payments;

(C) Extended parenting time or extraordinary costs associated with parenting time, including extraordinary travel expenses when exchanging the child or children for parenting time;

(D) The financial resources and the earning ability of the child or children;

- (E) The relative financial resources, including the disparity in income between parties or households, other assets, and the needs of each parent;
- (F) The obligee's income, if the obligee's annual income is equal to or less than one hundred per cent of the federal poverty level;
- (G) Benefits that either parent receives from remarriage or sharing living expenses with another person;
- (H) The amount of federal, state, and local taxes actually paid or estimated to be paid by a parent or both of the parents;
- (I) Significant in-kind contributions from a parent, including, but not limited to, direct payment for lessons, sports equipment, schooling, or clothing;
- (J) Extraordinary work-related expenses incurred by either parent;
- (K) The standard of living and circumstances of each parent and the standard of living the child would have enjoyed had the marriage continued or had the parents been married;
- (L) The educational opportunities that would have been available to the child had the circumstances requiring a child support order not arisen;
- (M) The responsibility of each parent for the support of others, including support of a child or children with disabilities who are not subject to the support order;
- (N) Post-secondary educational expenses paid for by a parent for the parent's own child or children, regardless of whether the child or children are emancipated;
- (O) Costs incurred or reasonably anticipated to be incurred by the parents in compliance with court-ordered reunification efforts in child abuse, neglect, or dependency cases;
- (P) Extraordinary child care costs required for the child or children that exceed the maximum state-wide average cost estimate as described in division (P)(1)(d) of section [3119.05](#) of the Revised Code, including extraordinary costs associated with caring for a child or children with specialized physical, psychological, or educational needs;
- (Q) Any other relevant factor.

If the court grants a deviation based on division (Q) of this section, it shall specifically state in the order the facts that are the basis for the deviation.

**3119.231 Deviation where court-ordered parenting time exceeds ninety overnights per year.**

(A) If court-ordered parenting time exceeds ninety overnights per year, the court shall consider whether to grant a deviation pursuant to section [3119.22](#) of the Revised Code for the reason set forth in division (C) of section [3119.23](#) of the Revised Code. This deviation is in addition to any adjustments provided under division (A) of section 3119.051 of the Revised Code.

(B) If court-ordered parenting time is equal to or exceeds one hundred forty-seven overnights per year, and the court does not grant a deviation under division (A) of this section, it shall specify in the order the facts that are the basis for the court's decision.