



**NEW JERSEY COMMISSION
ON
CHILD SUPPORT**

FINDINGS AND RECOMMENDATIONS

**Presented to
GOVERNOR THOMAS H. KEAN
September 26, 1985**

**THOMAS P. ZAMPINO, ESQ.
CHAIRPERSON**

STATE OF NEW JERSEY

COMMISSION ON CHILD SUPPORT

CN-716

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September 26, 1985

Honorable Thomas H. Kean
Governor, State of New Jersey
State House
Trenton, New Jersey 08625

Dear Governor Kean:

We are pleased to transmit to you the report of the New Jersey Commission on Child Support. In accordance with the mandate of Executive Order No. 90 issued by you on January 28, 1985, this Report sets forth the Commissions' findings and recommendations to improve the effectiveness of the present child support system.

In comparing New Jersey's system with other systems throughout the country, our success in support collections and the operation of our Family Court has made New Jersey a model for other states.

The members of the Commission, having heard testimony at public hearings throughout the state, worked hard to present a strong foundation for building an even better and more effective child support system in New Jersey.

I am appreciative of their willingness to reach consensus on many difficult issues. The Commission's primary concern was the best interests of the child and the responsibility of both parents in providing for the needs of their children, even after the family unit no longer remains intact.

On behalf of the Commission, I wish to thank you for your commitment to the needs of children. We hope that our efforts will benefit the children of the State of New Jersey. We also look forward to the implementation of our recommendations to strengthen the initiatives already taken during your administration.

You have our continued commitment to serve.

Sincerely,

Thomas P. Zampino _{TH}

Thomas P. Zampino
Chairperson

PREFACE

This report is respectfully submitted to Governor Thomas H. Kean by the Commission on Child Support as directed in Executive Order 90 in accordance with the federal Child Support Enforcement Amendments of 1984.

Thomas P. Zampino, Chairperson

Alma Saravia, Vice Chairperson

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Thomas Blatner	Gundrun Brygida
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Thomas Tull	(Replaced George J. Albanese
James Ware	on July 1, 1985)
Assemblyman John S. Watson	Harry W. Wiggins
	Joan M. Wright

ACKNOWLEDGMENTS

In June 1985, the Commission on Child Support undertook an extensive study of New Jersey's Child Support System. As part of the program review, five public hearings were conducted throughout the state. The Commission is grateful for the testimony received from over fifty members of the public. The Commission also appreciates the efforts of the Department of Human Services and the Administrative Office of the Courts in the development of background material and staff support, and the contributions of those persons who assisted in the preparation of this document. Finally, a special thanks to:

Thomas DePippo and Michael Kail, Federal Office of Child Support Enforcement, for their technical assistance and a federal perspective on child support.

Doris Scott, Grace Manno and Donna Warchol, Administrative Support

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David Hains, Assistant Chief, New Jersey Bureau of Child Support and Paternity Programs

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Pamela Copeland Kaufelt, Attorney, Women's Rights Section of the
New Jersey Bar Association

Raymond Civatella, Child Support Coordinator, Camden County
Welfare Agency

Thomas P. Zampino
September 26, 1985

COMMISSION ON CHILD SUPPORT

Appointees:

THOMAS P. ZAMPINO, ESQ. - of Belleville, is a partner in the firm of Jackson and Zampino. He is a member of the American Academy of Matrimonial Lawyers and the New Jersey Supreme Court Family Practice Committee. He is past Chair of the Family Law Section of the New Jersey Bar Association.

ALMA L. SARAVIA - of Florence, is Executive Director of the New Jersey Commission on Sex Discrimination in the Statutes.

GEORGE J. ALBANESE - of Scotch Plains, is the former Commissioner of the Department of Human Services, who was replaced by Geoffrey S. Perselay on July 1, 1985.

JOSEPH ASSUMPTION BARBIER, D.C. - of Mendham, is a Chiropractor. He is a founder of the National Congress for Men and a member of various other father's rights groups.

THOMAS H. BLATNER - of Trenton, is Director of the Management Team of the Division of Youth and Family Services. He is responsible for the administration of the state's primary social service and child welfare agency.

Designee:

EDWARD REISTETTER - of Bellmawr, is Chief, Bureau of Revenue Development, Division of Youth and Family Services, Department of Human Services.

GUDRUN BRYGIDA - of Lakehurst, represents custodial parents. She is a leader in advocating adequate support standards and the enforcement of those standards.

JOAN CAPUTO - of West Orange, is Director of the Essex County Office of Child Support Enforcement.

LEONARD T. CONNORS, JR. - of Surf City, is a State Senator representing the Ninth District in Burlington and Ocean Counties.

DOROTHY DONNELLY - of Delran, is a Deputy Attorney General and provides legal advise to the Division of Public Welfare.

MARLENE LYNCH FORD - of Point Pleasant, is an Assemblywoman representing the Tenth District in Ocean County. She is the senior partner in the law firm of Ford and Berkowitz, and a member of Ocean County Advisory Commission on the Status of Women.

Designee:

GAIL M. SAXER - of Pine Beach, is Aide to Assemblywoman Ford.

SUSAN GOLDRING - of Monmouth Beach, is an attorney in private practice. She is immediate past Chair of the Women's Rights Section of the New Jersey Bar Association and is present Chair of the Family Law Committee of the Monmouth County Bar Association.

AUDREY HARRIS - of Newark, is Director of the Division of Public Welfare of the Department of Human Services. She serves a dual role as the State Child Support Director.

MARGARET E. L. HOWARD - of North Plainfield, is Cabinet Secretary to Governor Thomas H. Kean. She was formerly Executive Director of the Community Action Programs Executive Director's Association. Over the years she has been active in anti-hunger and anti-poverty efforts.

RAYMOND J. LESNIAK - of Elizabeth, is a State Senator representing the Twentieth District in Middlesex and Union Counties.

ROBERT D. LIPSCHER - of Lawrence, is Administrative Director of the Courts. He is responsible to the Chief Justice for the administration of New Jersey's court system.

Designee:

RAYMOND R. RAINVILLE - of Red Bank, is Chief of Child Support Enforcement Services for the states courts.

LARRY J. LOCKHART - of Plainfield, is Deputy Commissioner for agencies of the New Jersey Department of Human Services. He has direct responsibility for the Divisions of Medical Assistance and Health Services, Public Welfare, Youth and Family Services and the Commission for the Blind and Visually Impaired.

BILL MATHESIUS - of Hopewell Township, is serving his second term as Mercer County Executive. He is Chairman of the Delaware Valley Regional Planning Commission and President of the National Council of Elected County Executives.

Designee:

GARY MALINOSKI - of Hamilton Square, is an Analyst in the Mercer County Budget Office.

J. EDWARD PAGLIONE - of Burlington Township, is Vicinage Chief Probation Officer for Burlington County. He has served as Chief since 1976.

GEOFFREY S. PERSELAY - of Westfield, is the Acting Commissioner of the Department of Human Services. He is responsible for the administration of a \$3.6 billion budget and oversees the operation of 23,000 employees in the largest Department in State government.

CIRO SCALERA - of Berkley Heights is Executive Director of the New Jersey Association for Children.

THOMAS J. TULL - of Westmont, is Director of the Camden County Board of Social Services. He has been active in the social service area for twenty-nine years and has particular interest in child support enforcement.

JAMES A. WARE - of South Plainfield, is Director of the Division of Unemployment and Disability Insurance in the New Jersey Department of Labor. He was formerly Regional Administrator of the United States Department of Labor, Employment and Training Administration.

JOHN S. WATSON - of Trenton, is a State Assemblyman representing the Fifteenth District in Mercer County.

HARRY W. WIGGINS - of Medford Lakes, is Chief of the Bureau of Child Support and Paternity Programs of the Division of Public Welfare, Department of Human Services.

JOAN M. WRIGHT - of Woodcliff Lakes, is Director of the Division on Women of the Department of Community Affairs. She is a former member of the State Legislature.

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INTRODUCTION

On January 28, 1985, Governor Kean signed Executive Order No. 90, creating a State Commission on Child Support. The Child Support Commission was directed to examine, investigate and study the operations of the state's child support system to determine whether the system has been successful in securing support and parental involvement, both for children who are eligible for aid under a state plan approved under Part A of Title IV of the Social Security Act and for children who are not eligible for such aid.

In addition, the Commission was directed to examine related problems, such as visitation rights, standards of support and interstate obligations.

The mandate of the Commission included the review of all program facets to determine the effectiveness of the child support enforcement system. It was decided that a program review should include the gathering of data about the system, via public hearings. Meanwhile, the Commission appointed the following three subcommittees: Custody and Visitation, Interstate Enforcement of Child/Spousal Support and Methods of Child/Spousal Support Enforcement. The subcommittees were charged with the responsibility for developing recommendations, for improvement of the child support enforcement system.

Five public hearings were held in Newark, Trenton, Hackensack, Vineland and Red Bank which proved to be very beneficial in hearing the concerns and criticisms of those persons using the system and related agencies. Testimony was taken from over fifty individuals. The issues most often addressed were collection of support arrears, custody, visitation and enforcement, including the timely processing of cases. In addition, the Commission reviewed legislation, statistical reports, program procedures and the results of various studies. Experts in the field were available to answer questions and provide policy clarifications. As a result of the above, the Commission developed twenty-two specific recommendations which

cover a wide variety of issues. The diversity of the members' backgrounds proved to be an advantage to the Commission, because they viewed the program from a broad perspective, which is reflected in new and sometimes different concerns. Transcripts of the public hearings are being submitted as part of the report.

New Jersey has enacted law, bringing New Jersey into compliance with P.L. 98-378, and has even imposed stricter time limits for enforcement. Additionally, through two Supreme Court Committees, new court rules have been proposed for judicial child support guidelines and expedited process of child support matters. Even though the federal legislation does not require child support guidelines until October 1, 1987, New Jersey expects to implement these guidelines by December 31, 1985. These actions fulfill all requirements of the federal law.

This report represents the findings and conclusions drawn from those hearings and deliberations. Certain areas of concern were identified as requiring further study. Therefore, it is recommended that the Commission be continued until such time as all critical issues have been further studied and additional recommendations can be offered to benefit the child.

POLICY STATEMENT

NEW JERSEY COMMISSION ON CHILD SUPPORT

I. Policy Statement

The goal of New Jersey's Child Support Program is to ensure that parents assume responsibility for the economic (food, shelter, clothing), social, emotional, medical, and educational needs of each of their children. The Commission affirms that both parents have equal rights and share responsibility for meeting their children's needs. The child support programs should assist, support, encourage and enforce parental responsibility through a variety of services. The Commission recognizes that, at times, some parents may need assistance in fulfilling their parental responsibilities; however, the needs of the children must be the first consideration.

In today's society, more and more children are living in single-parent families. In New Jersey, 22% of all households with one or more members under the age of 18 are headed by a single parent, of which 90% are female headed.(1) Most likely, there will be periods (some times years) in which no child support is received from the parent who lives elsewhere.(2) Almost nine out of every ten children who are receiving welfare through Aid to Families with Dependent Children (AFDC) have a living parent absent from the home.(3) In New Jersey, more than 252,000 children rely on AFDC to meet their basic needs.(4) Of the \$44 million paid monthly in AFDC payments, only about 10% is recouped through child support payments.(5) The problems of out-of-wedlock births, desertion and marital disruption have contributed to increases in the number of children receiving AFDC.

The Commission recognizes that, during and after parental separation or divorce, children may be at risk of having their basic needs neglected. Within this framework, the State's goal of fostering family integrity and supporting family preservation should include programs that focus on economic and social stability. Family counseling and mediation should be

readily available in each county for families in crisis. At the time a party files for divorce, the parties should attend at least one mandatory session on the continuing economic and social parental responsibilities and the changes in parent-child relationships. The court should attempt to ensure that the child is maintained at a comparable standard of living that existed prior to the dissolution of the marriage. The child's primary right to have both parents actively involved with his/her life should be ensured.

The economic needs of the parents should be recognized. The Commission recognizes that the economically disadvantaged parent may need programs such as employment assistance/job training to help him or her assume financial responsibility for the child. Female-headed families should not be forced to live in poverty as a result of divorce and/or separation.

II. Extended Life of Commission

As a result of testimony received at the public hearings, and after the Commission's extensive deliberation, the Commission recommends that Executive Order No. 90, which creates the Commission on Child Support, be extended one more year. In so doing, the State's child support system can be more thoroughly examined, investigated and studied. The Commission could also review the implementation and effectiveness of the Child Support Amendments of 1985.(6) Further to better integrate the public process of participation, the Commission respectfully requests that membership be expanded to include more public members such as a family counselor representative, members of the Family Part of the judiciary and federal legislative representatives.

III. Future Directions of the Commission

Consistent with the Child Support Program goal of ensuring that parents assume responsibility for the economic, social, emotional, medical, and educational needs of each of their children, the Commission recommends that the child support system and its structure should be changed to be more integrated with other services.

A suggested approach is to develop a structure that is properly funded and staffed with adequate resources to work with the complete family. The Commission believes that if adequate preventive services are provided to families at the onset of their problem, there would be savings in the time devoted to working with families on child support problems.

An option to consider is the evolving role of the Family Court. This new structure is already integrated with county social services and has expanding levels of citizen participation through Human Services Advisory Councils and Youth Service Commissions. The crisis intervention model used by Family Court Intake units should be studied to determine its applicability for a new court unit. This type of unit would provide more timely response to the problems of child support payments, visitation, custody, etc., and would also monitor compliance with child support court orders.

New and improved court-related services directed at helping families could avoid lengthy litigation that often places their children at risk. Mechanisms and systems need to be developed wherein all custodial parents have easy access to filing for and receiving economic support. These include computerization of the child support system; the reorganization of child support court staff to be more efficient and cost effective, as well as the review of the qualifications, compensation and workloads of court staff.

The State should continue to address the critical need that parents have for safe and affordable child care, including employer-sponsored or employer-supported child care services.

It appears that the present federal requirements to minimize costs of the child support enforcement program adversely affects the services afforded to the public.

The Commission acknowledges the need for an aggressive approach to change this federal policy.

Footnotes:

- 1 N.J. Department of Labor, Division of Planning and Research Office of Demographic and Economic Analysis, New Jersey 1980 Census of Population and Housing, County Profiles, Volume II: Characteristics of Households and Families, 1982.
- 2 Cassetty, Judith H., Changing Social Trends and Their Impact in Royce, Carolyn K. and Deborah E.S. Bennington, A Legislator's Guide to Child Support Enforcement (National Conference of State Legislators, April 1980) p2.
- 3 Adams, Chester H., Cooper, Dennis C. with Athena M. Kay, ed., A Guide for Judges in Child Support Enforcement, (Chevy Chase, MD: National Institute for Child Support Enforcement, 1983), pl.
- 4 N.J. Department of Human Services, Division of Public Welfare, Bureau of Management Services, A.F.D.C. Statistics as of March 1985, August 1985.
- 5 N.J. Department of Human Services, Division of Public Welfare, Bureau of Child Support and Paternity, March 1985.
- 6 N.J. Statutes Annotated 2A:17-56.26 et seq.

RECOMMENDATIONS

I. Recommendation: Governor's/Chief Justice's Conference

The Commission recommends that a Governor's/Chief Justice's Statewide Conference be held to educate public officials on the Child Support Program, requirements, impact, computer phase-in and finance.

Statement

County executives, freeholders, legislators and other ranking officials responsible for the child support program are for the most part unfamiliar with the total scope of this program and its impact as well as the benefit it may have in the reduction of AFDC costs to the state and counties. The state Bureau of Child Support and Paternity Programs in the Department of Human Services, in conjunction with the Administrative Office of the Courts, has sponsored a special statewide conference for staff on child support enforcement. County executives, freeholders, legislators and other ranking officials are the authorities to whom program administrators must direct requests for the approval of staffing and operational budgets. It is imperative they be educated on the current mandates and operation of the program as well as the proposed initiatives of the program.

Implementation

This recommendation requires state administrative action.

Funding

This recommendation requires funding.

II. Recommendation: Funding Services with Child Support Collections

The Commission recommends that a portion of the state share of child support collections be used to provide additional resources for services to families who require assistance under the child support program.

Statement

Expanded program requirements and improved quality of existing services require additional sources of funding. This funding should be used to ensure rapid establishment of court orders, and strict enforcement of the orders. Furthermore, expanded resources should be funded to provide adequate services to work with the complete family unit before and after dissolution.

Implementation

This recommendation requires the enactment of legislation.

Funding

This recommendation requires funding.

III. Recommendation: Family Support Education

The Commission recommends that the Commissioner of the Department of Education develop a family support module which includes positive child support enforcement information to be included in the existing Family Life Curriculum.

Statement

Education has always been a way of reaching a specific group of individuals and informing them of the consequences of a situation whether they be positive or negative. The education of young adults on the difficulty of raising a child as a single parent and the responsibility of both parents for the welfare of the child may be a beginning in the establishment of positive child support enforcement. Individuals should be educated as to the fact that although a marriage ends in divorce, a child is born out-of-wedlock, or the parents of the child are under 18 years of age, the parents' responsibility to support and care for that child still exists. They should also be made aware of the consequences they may face if they default on a court order and the means available to family support enforcement.

Implementation

This recommendation requires administrative action by the Department of Education.

Funding

This requirement may require funding.

IV.

Recommendation: Pro Se Motions (Self-Representation)

The Commission recommends that informational packages on pro se motions (self-representation) regarding support enforcement or modification, and visitation be developed and made available on a county-by-county basis. Each county should specifically designate an agency or administrator responsible for the development of such a package and should publicize its availability to the litigants. This package should explain the enforcement processes that may be utilized and provide information concerning the procedures necessary to initiate the enforcement process without the assistance of an attorney. The state should, for the future, consider the establishment of uniform procedures for each county to follow when a pro se motion is initiated.

Statement

Many circumstances have developed in which a custodial parent may need to return to court to appeal an established child support order, modify a current support order or verify an arrearage amount. The custodial parent may not have the available finances necessary to hire an attorney for these proceedings. Likewise, many non-custodial parents do not have sufficient finances to enforce their rights of visitation or to request modification of support orders. These parents may be advised to file a pro se motion to return to court. Although they are informed as to where to obtain the pro se application, they are is not given any information concerning the methods for completing this application. Anyone who is unfamiliar with the legal process may find that completing and filing a pro se motion can become quite difficult. In fact, many parents will not continue in their pursuit to resolve their cases, since they cannot complete the pro se application.

Implementation

This recommendation requires administrative action by the Judiciary.

Funding

This recommendation does not require funding.

W. Recommendation: Vested Support Payments

The Commission recommends that support payments be vested as of the date due. Written notice to the collecting agency on the obligor's inability to pay should toll the vesting of arrears, but not toll the responsibility to pay. If good cause be shown, the judge should have discretion to modify the arrears.

Statement

The Commission heard testimony from many obligees of support payments who stated that courts not infrequently reduced or eliminated support arrears without notice to the obligee.

Implementation

This recommendation requires State legislation.

Funding

This recommendation does not require funding.

VI. Recommendation: Interagency Information Sharing

The Commission recommends that the Director of the Division of Public Welfare be directed to take a lead role in convening meetings of appropriate public and private agencies for the purpose of discussing and recommending improvements in the collection and intercept process for child support.

Statement

Automated enforcement systems for child support collections work primarily through federal, state tax and unemployment benefit intercepts. Responsible agencies should meet quarterly with the child support program staff to discuss their progress in the collection and intercept process and develop innovations and methodology for collections, to include computer cross-matching with the obligor parent's assets.

Implementation

This recommendation requires state administrative action.

Funding

This recommendation does not require funding.

VII. Recommendation: Re: Joint Custody

The Commission recommends that although joint custody may be appropriate in some cases, joint custody should not be a legal presumption because too many critical issues must be considered. The court should make a decision based on the facts and circumstances surrounding each individual child.

Statement

Joint custody requires both parents to agree on all major decisions affecting the child. Many issues require input by both parents and agreement on actions to be taken. Joint custody may not be appropriate when parents are unable to agree because there is the potential for ongoing opposition between them creating an antagonistic atmosphere, which adversely affects the child's growth and development.

It is vital that the court consider all aspects of the child's needs prior to making a determination on custody. The present standard, of the best interests of the child, should be continued.

Implementation

This recommendation follows existing case law and statutes.

Funding

This recommendation does not require funding.

VIII. Recommendation: Enforcement of Visitation

The Commission recommends that the court system ensure immediate access for enforcement of adjudicated visitation rights through the Family Court Intake Unit. If the Family Court Intake Unit cannot resolve the complaint, a hearing must be held within 10 days of notification to the court.

Statement

Many court orders contain provisions for visitation between the parent and child. When the parent is denied visitation, there is no readily accessible enforcement agency. A parent must file a motion concerning visitation denial and await a court hearing. Since no one monitors visitation or enforces it on behalf of either parent, there should be a central agency or person for the intake of visitation complaints, so that a parent is able to contact the court to fix a hearing.

Implementation

This recommendation requires judicial administrative action.

Funding

This recommendation requires funding.

IX. Recommendation: Counseling Relative to Contested Custody/Visitation

The Commission recommends that all contested custody and visitation matters should be referred by the court to a mandatory counseling or mediation session. Ongoing participation in this service would be discretionary to the parties. The court may order continued participation if deemed appropriate in each individual case.

Statement

Historically, custody litigation revolves around who would make a better custodial parent, or why visitation should be limited or curtailed. The adversarial approach to custody resolution often requires the parties to belittle each other's parenting skills causing negative feelings towards each other at a time when the child needs both parents.

The decision of the court as to custody or visitation will have a lasting impact on the child. The court should avail itself of as much pertinent information as possible. A custody/visitation assessment by a counselor or mediator is vital to an appropriate disposition. The counselor or mediator should be a mental health practitioner.

Implementation

This recommendation requires the adoption of a court rule.

Funding

This recommendation requires funding.

X. Recommendation: Family Counseling

The Commission recommends that a mechanism providing counseling as an initial step in the process of divorce and as an ongoing service be available after dissolution of the family unit. These services shall be made available through the Family Part of the Court. The decision to participate in counseling services would be left to the parties.

Statement

In recent years, the divorce rate has accelerated to the point where one out of two marriages now ends in divorce. We are living in a society in which single-parent households are commonplace. Certainly no single action will eliminate the problems associated with divorce; however, positive steps must be taken to attempt to reduce them whenever possible.

Although private and public counseling services are available to parties seeking divorce, persons often are unaware of the availability of these services which are intended to take the parties away from an adversarial system.

In addition, for those families in which divorce occurs, many new problems will develop. Single-headed households encounter problematic circumstances in routine functioning. For the custodial parent, child care is a major concern. New Jersey should act to increase visibility of counseling services and make those services an integral part of the dissolution process. For those families in divorce, counseling may be the only factor preventing total deterioration of the family unit. Understanding responsibilities and how to cope with them is important and counseling can also provide understanding of parental responsibilities after dissolution of the family unit.

Implementation

This recommendation requires administrative action.

Funding

This recommendation requires funding.

XI. Recommendation: Guardian ad litem to Represent Child

The Commission recommends more active use of the provisions authorized by the court on the appointment of a guardian ad litem.

Statement

In the midst of disputes over ownership, distribution, income levels, etc. the interests of the child may become overshadowed. Each child should be assured a prominent status during the dissolution of the marriage. The appointment of a guardian ad litem, where determined appropriate by the court, ensures that the interests of the children are represented fully.

Implementation

This recommendation follows existing court rule and case law.

Funding

This recommendation requires funding.

XII. Recommendation: Expansion of Night and Saturday Hours for Courts and Probation Departments

The Commission recommends expansion of hours for the courts and probation departments, to include Saturday and night hours, to accommodate working parents with the anticipation that this would improve payment patterns.

Statement

Support orders in New Jersey are payable through and supervised by the county probation department of the county in which the working parent resides. The case is assigned to an investigator within the department who is responsible for ensuring the obligation is met and for initiating any enforcement action warranted.

Some probation departments have established limited night hours for working parents to meet with their investigators; however, rarely are the courts in session. As a result, all court hearings and/or consent conferences are scheduled during normal working hours which requires the working parent to take off from his/her employment.

Implementation

This recommendation requires administrative action by the Judiciary.

Funding

This recommendation requires funding.

XIII. Recommendation: Mandatory Incarceration

The Commission recommends that after the second finding by the court of willful withholding of support, within a two-year period, there will be a mandatory incarceration of at least 48 hours. A determination by the court of a continuing ability to pay and a refusal to pay support be required prior to incarceration.

Statement

The Commission acknowledges that there is overcrowding in the county jails and realizes the possible impact. It has been extensively documented that when individuals realize that they will be ordered to jail for non-payment of support, support payments dramatically increase. It is hoped that this will have a positive affect on the payment pattern of some individuals.

Implementation

This recommendation requires the enactment of legislation.

Funding

This recommendation requires funding.

XIV. Recommendation: Bench Warrants

The Commission recommends that a separate domestic relations warrant section be instituted in each county, and that any time restrictions on the hours in which a bench warrant may be issued be eliminated. The Commission further recommends that following a 90-day period of "no service", a monthly status report be issued by probation to the issuing judge. The report should include the sheriff's report to probation on the number of service attempts made, noting the time and place of the attempts.

Statement

Bench warrants are issued in cases where an absent parent fails to appear for court and service has been made and documented. In most counties, the warrants are referred to the sheriff's department for service. Because of lack of service, a warrant may be outstanding for as long as one year. These warrants are usually given a low priority. The hours of sheriffs' officers empowered to make service of a bench warrant are usually 9:00 a.m. to 5:00 p.m., Monday through Friday. As most individuals are working during these hours, service for the most part is very unlikely.

Implementation

This recommendation requires state and county administrative action.

Funding

This recommendation requires funding.

XV. Recommendation: Employment and Training for Support Obligors

The Commission recommends that the State Employment Service in the Department of Labor provide higher priority than at present for job registration, testing, counseling, job search assistance, job referral and placement for unemployed and underemployed support obligors.

Statement

The nonpayment of child support payments by unemployed and underemployed workers is attributable in many cases to their inability to become fully employed due to their minimum skill level or their need for training or employment assistance. Especially for low-income workers, a judge should have available a viable alternative for referral to the New Jersey State Employment Service or the Job Training Partnership Act program for employment or training activities in the county.

Implementation

This recommendation requires administrative action and legislation.

Funding

This recommendation requires funding.

XVI. Recommendation: Accounting of Support Utilization

The Commission recommends that accounting on the use of support monies should be required only in those cases in which there is a specific finding by the court that children are suffering from the improper utilization of the support ordered.

Statement

After an order for child support is entered, the obligor may be directed to make payments to the county probation department where he/she resides. The probation department, in turn, forwards that payment to the recipient. Some obligors feel child support payments are not properly utilized by the obligee parent. It is the feeling of the Commission that the majority of parents receiving support properly utilize the support payments they receive for the children.

Implementation

This recommendation follows existing case law and statutes.

Funding

This recommendation does not require funding.

XVII. Recommendation: Professional/Occupational Licenses Issuance and
Renewal

The Commission recommends the issuance of professional and occupational licenses and their renewals should be contingent upon current support payments.

Statement

The enactment of the 1985 statute provides the county probation departments with the ability to initiate income withholding from obligors 14 days in arrears as opposed to the previous 25 days. The law also has provisions for imposing liens and the posting of bonds upon self-employed individuals. However, it is felt that this is not the complete answer to the problem of enforcing orders on self-employed and professional individuals, who may conceal assets by placing them in the name of other individuals or corporations.

Implementation

This recommendation requires legislation.

Funding

This recommendation does not require funding.

KVIII. Recommendation: Inclusion of Social Security Number on Drivers'
License

The Commission recommends that state and federal legislation be amended to require the mandatory disclosure of social security numbers on all state drivers' licenses in order to track the residences of delinquent support obligors. This information should be utilized only for collection purposes and should not be disseminated to any other credit agency or private individual.

Statement

Most courts require proof of service on an individual who has been scheduled for a court appearance and the obligor's correct address is necessary. Many individuals use as their mailing addresses post office boxes or relatives with whom they do not actually reside. In these instances, personal service is extremely difficult, if not impossible.

Implementation

This recommendation requires the enactment of federal and state legislation.

Funding

This recommendation does not require funding.

XIX. Recommendation: Payment By Credit Cards/Electronic Funds Transfer

The Commission recommends that alternate methods of paying support be explored in order to facilitate payment by the obligor.

Statement

Since personal checks are difficult for probation departments to handle and money orders/cashier checks, while preferred by the agency, are more difficult for the obligor to obtain, the feasibility of using techniques such as electronic funds transfer should be explored. Additionally, the possibility of utilizing credit cards for support payments should be explored. This would entail that service fees charged to the collection department be charged to the obligor.

Implementation

This recommendation requires state legislation and administration action.

Funding

This recommendation does not require funding.

XX.

Recommendation: Enforcement of Interstate Support Orders

The Commission recommends strict enforcement of initiating orders without modification by the responding state. The Commission further recommends that modification emanate only from the initiating state from information provided by the enforcing/responding state.

Statement

The Uniform Reciprocal Enforcement of Support Act (U.R.E.S.A.) provides for the initiation and enforcement of child support orders across state lines. The custodial parent initiates this process by filing a U.R.E.S.A. petition through a local court clerk's office (initiating state). The petition is forwarded to the state in which the non-custodial parent resides (responding state). The responding state schedules a court hearing for the non-custodial parent and establishes a child support order. As presently administered, the U.R.E.S.A. system does not give full faith and credit to existing orders from the initiating state. The responding state often modifies previously established child support orders received from the initiating state. The initiating state and the custodial parent are generally unaware of the modification action until after the court hearing which modified the order.

Implementation

This recommendation requires federal legislation.

Funding

This recommendation does not require funding.

Recommendations: Vesting of Arrears and Forms Standardization in
Interstate Matters

The Commission recommends the vesting of arrears on support orders for those cases involving interstate enforcement be applied so that judges in other states, besides not being able to modify the order, cannot vacate or change arrears. It is also recommended that New Jersey take a lead role in implementing this recommendation. At present, when a Uniform Reciprocal Enforcement of Support Act (U.R.E.S.A.) petition is forwarded to the responding state, the initiating state is generally not notified of any action taken on a case until after an order for support is established or a modification on a current support order is entered. Many times, the responding state will return an order to the initiating state without addressing an arrearage amount or having vacated the arrearages entirely. Any explanation as to why the arrearages were vacated is generally not provided.

The Commission further recommends utilization of standardized forms, petitions and information for U.R.E.S.A. applications in all 54 states and jurisdictions.

Statement

A Uniform Reciprocal Enforcement of Support Act (U.R.E.S.A.) petition forwarded to the responding state shall include information concerning a previously established court order within the jurisdiction of the initiating state or from another out-of-state jurisdiction. This information shall contain an arrearage amount owed for child support from previously established support orders.

Although U.R.E.S.A. petitions utilized by the 21 counties in New Jersey contain similar information, each county

uses a different format containing information relevant to the absent parent, custodial parent and previously established child support orders. In addition, there is no uniformity to out-of-state U.R.E.S.A. petitions.

Implementation

This recommendation requires enactment of federal and state legislation.

Funding

This recommendation does not require funding.

XXII. Recommendation: Costs for Blood Testing in Interstate Paternity Cases

The Commission recommends that the initiating state pay for the cost of blood tests, and that the responding state recover the fee from the obligor on behalf of the initiating state.

Statement

Federal policy requires that the responding state is responsible for the cost of blood testing when parenthood is at issue. Experience has shown that this policy is not effective. If parenthood is established by the court, the responding state will recover the cost of the blood test from the obligor.

Implementation

This recommendation requires federal administrative action.

Funding

This recommendation does not require funding.

OVERVIEW OF PRESENT
CHILD SUPPORT PROGRAM

OVERVIEW OF PRESENT CHILD SUPPORT PROGRAM

The Child Support and Paternity Program was established in 1975 as a new Part D of Title IV of the Social Security Act. The Child Support Enforcement Program is an intergovernmental operation involving federal, state and local jurisdictions. Its purpose is to enforce support obligations owed by parents to their children, to locate absent parents, to establish paternity and to obtain child and spousal support. Services to individuals and families are carried out by the 21 counties in New Jersey, acting under the direction of the state. On the county level, several agencies are involved in the child support program. These agencies include the county welfare agency, county probation department, county law department and the family court intake unit.

The child support program provides for the use of a number of collection techniques. When a parent becomes delinquent in child support payments, amounts may be withheld from his or her wages, salaries, retirement benefits, federal and state income tax returns, homestead rebates, unemployment compensation benefits and military benefits.

Location

In order to obtain a child support order and to enforce that order, the child support agency must know where the parent resides and/or is employed. This is also necessary for establishing paternity. Location services are available through the county welfare agencies' child support and paternity units and the county probation departments. Information concerning an absent parent's whereabouts is entered into the State Wage Reporting System, the State Parent Locator System and the Federal Parent Locator System. The county probation departments also utilize these locator mechanisms when an absent parent is unable to be located to enforce a support order.

In 1983, a search caseload of 61,928 cases submitted to the State Wage Reporting System. Of that number, employer and wage data information was obtained in 2,504 cases. In 1984, this information was obtained in 5,858 of 73,104 cases submitted. Projections for 1985 include a search caseload of 83,168 cases and an expected success rate of 9,980.

The State Parent Locator System received 61,928 cases in 1983. Successful locations were obtained for 21,982. In 1984, a total search caseload of 73,104 cases was entered into the system, out of which 23,967 cases obtained a successful location. It is estimated in 1985 that 83,168 cases will be entered into the system and 29,250 successful locations will be realized.

Establishing Paternity

No support order can be established until a putative father either admits paternity or paternity can be proven, often though the results of bloodtests can exclude approximately 95% of wrongly accused parents and also can indicate the likelihood of paternity. In New Jersey, the average cost per three-person family for the bloodtest is \$327.00.

During state fiscal year 1983, 10,361 paternitys were established; 8,277 of which were public assistance cases. In state fiscal year 1984, 12,031 cases resulted in the establishment of paternity. Only 2,378 of those cases were not receiving public assistance. It is estimated during state fiscal year 1985, paternity will be established in 13,790 cases.

Establishing the Support Order: Obligation

A legal order for child support stating the amount of the obligation and how it is to be paid is required for enforcement. Whether the case is welfare or non-welfare, a petition for support payments is filed with the county

Family Court Clerk's Office. That office schedules a consent hearing or court hearing date to establish an order. After the order is established by a judge, referee or hearing officer, it is forwarded to the county probation department for enforcement.

Enforcement

Once a support order is entered, the county probation departments must enforce it to collect the amount owed. These collections are distributed to either the county welfare agencies or to the custodial parent depending upon the AFDC or non-AFDC status of the case.

The following summary includes current collection techniques utilized by county probation departments to enforce child support orders.

I. Income Withholding

In August 1985, Governor Kean signed into law the New Jersey Support Enforcement Act of 1985 enabling county probation departments to enter an income withholding order, if the payor is determined to be delinquent in an amount of support equal to 14 days. The payor is notified of the income withholding and has the ability to contest only on the basis of mistake of fact, meaning that there is a mistake in identity or that the obligor is not in payment arrears.

If contested, a hearing must be scheduled. If not, or it is determined that it should go into effect, the source of income will be notified of the withholding and the amount of support payable through the county probation department. Beginning in October 1985, income withholding will be entered on all delinquent support orders and will be binding on all sources of income, regardless of jurisdiction.

II. Unemployment Compensation Intercept

The Omnibus Budget Reconciliation Act of 1981 contained several amendments to the Social Security Act including unemployment compensation intercept. Support enforcement agencies are required to determine whether any individuals receiving unemployment compensation or trade adjustment assistance benefits owe support. If so, the state's Department of Labor, Division of Unemployment Disability Insurance, is required to withhold a portion of unemployment compensation benefits in order to pay to the child support agency any outstanding support obligation.

III. Federal and State Income Tax Offset

When an absent parent fails to make court ordered child support payments and the support is due a governmental agency for child support, the agency may submit the obligor's name to the Internal Revenue Service for offset of the absent parent's federal income tax return. At present, this offset is only utilized if a debt is due a governmental agency for child support. Beginning with tax year 1985, non-welfare cases with arrears of \$500 or more, may be submitted to the federal income tax refund offset process at the request of the custodial parent. A small fee for these services will be applied.

If a taxpayer or homeowner is entitled to a state tax refund or a homestead rebate and that taxpayer is indebted to any agency of state government for child support, the Department of the Treasury may apply the refund and/or rebate towards the indebtedness. The New Jersey Support Enforcement Act of 1985 alters this policy by incorporating the offset of a delinquent obligor's income tax return or homestead rebate to include indebtedness to non-AFDC families upon request by the custodial parent. Non-AFDC families may apply for these services beginning with tax year 1985.

IV. The Uniform Reciprocal Enforcement of Support Act (U.R.E.S.A.)

The Uniform Reciprocal Enforcement of Support Act is the primary legal tool for interstate enforcement. U.R.E.S.A. is a two-state lawsuit in which an enforcement agency or court from one state files a petition with the enforcement agency or court from another state. State enforcement agencies must cooperate with each other in handling each other's requests for assistance. If U.R.E.S.A. provisions between two states are compatible, the law can be used to establish paternity, locate an absent parent, establish, modify and/or enforce a support order.

The Child Support Enforcement Amendments of 1984 will assist the states in their ability to enforce interstate cases by providing uniformity among state laws and requiring states to use proven enforcement techniques which will apply across state lines. States are also given financial incentives for improving their efficiency on processing enforcement cases, including interstate cases.

State Financial Data

The child support program offers the counties an opportunity to generate revenues with a 70 percent reimbursement for administrative expenditures. For families receiving AFDC, support collections are used to reimburse public assistance.

Since counties contribute 12½ percent of the assistance grant, each county recovers 12½ percent of each dollar collected on behalf of an AFDC family. In addition, the federal government provides a 12 percent incentive to the jurisdiction enforcing and collecting support. This incentive may be applied to the county's administrative costs. The more money collected on behalf of AFDC families, the greater the monetary returns.

The child support program avoids costs to the state through non-public assistance collections which prevent these families from requiring assistance payments. Welfare costs are further decreased by collections which are sufficient to remove families from welfare.

An indication of growth in the program is the continuous increase in both AFDC and non-AFDC collections. AFDC collections totalled \$44 million in state FY 1984, an increase of over \$10.8 million from the amount collected in state FY 1983. For state FY 1984, non-AFDC collections totalled \$126 million, increasing state FY 1983 non-AFDC collections by \$25.9 million.

In an effort to evaluate the effectiveness of the child support program, the Federal Office of Child Support Enforcement has developed measurements used to evaluate the program. The cost benefit ratio is one measurement which compares the amount of money collected to the amount of money expended to determine the cost benefit of the program to the state:

$$\frac{\text{AFDC Collections}}{\text{Total Expenditures}} = \text{AFDC Cost/Benefit Ratio}$$

Automated Child Support Enforcement System (ACSES)

The New Jersey Bureau of Child Support and Paternity Programs received approval for 90% federal funding from the Federal Office of Child Support Enforcement to implement an Automated Child Support Enforcement System. Federal funds are expected to be received over a three-year period. The automated system will provide for a better flow of information between the Department of Human Services, the Administrative Office of the Courts and the twenty-one county welfare agencies and probation departments.

New Jersey currently operates on a manual basis, with all 21 counties operating as single and separate organizations. Due to this, the child support program suffers severely from a lack of available information as to delinquency, distribution and general case management. The Automated Child Support Enforcement System will provide a statewide on-line inquiry,

providing case management and case activity information to the state and local agencies, delinquency exception reporting access to the wage reporting system and access to inactive case data. ACSES will standardize statewide child support processes and automate the distribution of collections.

This will enable delinquent obligors to be quickly identified and bring prompt collection of arrears through the income withholding process so that children will not be without support.

EXECUTIVE ORDER 90

APPENDIX A

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

EXECUTIVE ORDER NO. 30

WHEREAS, an effective and efficient Child Support Enforcement Program will help assure the proper financial support of children and may be instrumental in decreasing welfare costs through increased support collections; and

WHEREAS, the existing New Jersey Child Support Program may benefit from an objective overview and data collection, reflecting program operations and the development of a statewide awareness of program needs may serve to consolidate program efforts; and

WHEREAS, the child support amendments of 1984 (P.L. 98-378) which amend Title IV-D of the Social Security Act require, as a condition of a state's eligibility for federal payments under the Act, that the Governor of each state, on or before December 1, 1984, appoint a State Commission on Child Support to examine, investigate and study the State's child support system; and

WHEREAS, a New Jersey Commission on Child Support was established by letter to the Secretary of State on November 27, 1984; and

WHEREAS, the adoption and reaffirmation of this Commission by Executive Order is appropriate in order to set forth the composition and organization of the Commission, its powers and duties.

NOW, THEREFORE, I, THOMAS H. KILAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER AND DIRECT:

1. There is hereby created a State Commission on Child Support (hereinafter referred to as the Commission).
 - a. The Commission shall consist of 29 members appointed by the Governor. The members of the Commission shall be one custodial and one non-custodial parent, five representatives of the State IT-0 agency, one representative for the State Judiciary, five members from the Executive branch, two State Senators and two Assemblymen, four representatives of child welfare and social

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

2

- services agencies, two members from the Family Law and two members from the Women's Rights Section of the New Jersey State Bar Association and a maximum of four public members representing diversified aspects of the State child support system.
- b. Commission vacancies shall be filled by appointment by the Governor.
 - c. The Governor shall designate the Chairperson of the Commission from among the members of the Commission, who shall serve at the pleasure of the Governor. The Commission members shall choose a Vice Chairperson from among their membership.
 - d. The Commission may organize itself as it deems appropriate to carry out its responsibilities.
2. The Commission shall meet regularly during the life of the Commission.
 3. The Commission shall examine, investigate and study the operations of the State's child support system to determine:
 - a. The extent to which the State's system has been successful in securing support and parental involvement both for children who are eligible for aid under a State plan approved under Part A of Title IV of the Social Security Act and for children who are not eligible for such aid.
 - b. The problems pertaining to visitation rights, appropriate objective standards of support, the enforcement of interstate obligations and the availability, cost and effectiveness of services both to children who are eligible for aid under a State IV-A or D plan and those who are not.
 - c. The need for legislation at the federal and State level to obtain support for all children.
 4. The Commission shall submit to the Governor and make available to the public, no later than October 1, 1985, a full and complete report of its findings and recommendations resulting from the examination, investigation and study of the State's child support system.
 5. The Department of Human Services is directed to cooperate with the Commission, to the extent not inconsistent with the Law, to furnish such staff, office space and supplies as necessary for the Commission

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

to carry out this Order. The Commission is also authorized to consult with any other department, office, division or agency of the state for data, program reports and any other information deemed necessary to satisfy this Order. Each such department, office, agency or division is authorized, and hereby directed, to the extent not inconsistent with the Law, to cooperate with the Commission, as necessary, for the fulfillment of this Order.

6. This Order shall take effect immediately.

GIVEN, under my hand and seal,
this 28th day of January,
in the Year of Our Lord, one
thousand nine hundred and eighty-
five, of the Independence of the
United States, two hundred
and ninety

/s/ Thomas H. Kean
GOVERNOR

{seal}

ATTEST:

/s/ B. Cary Edwards
Chief Counsel

APPENDIX B

SUMMARY OF THE FEDERAL CHILD SUPPORT
AMENDMENTS OF 1984 (P.L. 98-378)

CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1984

P.L. 98-378

SUMMARY

The legislation's key provisions make critical improvements to State and local programs in four major areas:

- o Child support enforcement services must be available equally to welfare and non-welfare families;
- o State Child Support Enforcement programs must use proven enforcement techniques;
- o Federal financing of State program operations and the focus of Federal auditing are tied more closely to program effectiveness and efficiency; and
- o There is a strengthened and focused effort to improve enforcement where the custodial parent and children live in one State, and the parent obligated for support lives in another.

The many provisions of the Amendments are categorized below into these cross-cutting themes, so that the same provision may be referenced more than once.

I. EQUAL ENFORCEMENT SERVICES FOR WELFARE AND NON-WELFARE FAMILIES

A State's child support enforcement services—establishing paternity, locating absent parents, establishing and enforcing support orders—must be available to all families who apply for them. The new legislation enhances equal treatment through:

Wage Withholding

- o Effective October 1, 1985, States must provide for wage withholding when the amount due is equal to one month's support, less if State law permits or absent parent requests; applies to current support and arrearages;
- o Order is issued automatically upon default, the employer and absent parent must be notified, there is no return to court;
- o After October 1, 1985, all support orders initiated by the State include provision for wage withholding;
- o At it's option, the State may apply withholding from sources of income other than wages.

Offset of State and Federal Income Tax Refunds

- o For both welfare and non-welfare families, the State must offset State income tax refunds for overdue child support, in appropriate cases;
- o The State can request offset of Federal income tax refunds payable in 1986 through 1990 for non-welfare families; due process requirements and joint return protections included.

Program Improvement Incentives

- o Incentive payments are made to States based on cost-effective program operation and collections made on behalf of both welfare and non-welfare families.

Other Enhancements

- o Families who leave the welfare rolls must be transferred automatically to non-welfare status for continuation of support enforcement services, with no application or fee required;
- o State enforcement agencies must collect child support on behalf of children receiving foster care;
- o States must collect spousal support when it is also collecting support for the child with whom the former spouse is living;
- o States can use the Federal Parent Locator Service for non-welfare families before exhausting State and local locate sources;
- o States must regularly publicize the availability of enforcement services;
- o Annual notice of support collected for welfare families.

II. STATE AGENCIES MUST USE PROVEN ENFORCEMENT TECHNIQUES

Wage/Income Withholding

- o Results in regular and full payment of both current and overdue support.

Expedited Legal Processes

- o States must use administrative or expedited judicial process for establishing and enforcing support orders, and can use them for establishing paternity.

State and Federal Income Tax Refund Offsets

- o States must offset State income tax refunds for welfare and non-welfare families. Monies collected on behalf of welfare families go

toward reimbursing AFDC payments; non-welfare collections go to family;

- o States can request offset of Federal income tax refunds for both welfare and non-welfare families: monies similarly disbursed as under State tax offset.

Liens

- o States must be able to impose liens against real and personal property, where appropriate.

Security or Bonds

- o States must be able to require, where there is a pattern of non-payment, or late payment, bonds or security to be deposited with the court from which support payments can be taken where appropriate.

Reports to Credit Bureaus

- o Upon request from a credit bureau, and after notice to the absent parent, the child support agency must report on overdue support amounts over \$1,000, and can report lesser amounts.

Statute of Limitations

- o States must be able to establish paternity until a child's 18th birthday.

III. IMPROVED PROGRAM PERFORMANCE

Federal Financial Participation (FFP)

- o Encourages greater reliance on performance-based incentives by reducing FFP for State administrative costs by 2% starting in FY 1988 (to 68% of costs) and by another 2% in FY 1990 and after (66%).

Incentive Payment Structure

- o Replaces the old fixed rate of 12% of collections for welfare families, effective FY 1986;
- o Pays a minimum of 6% of collections for both welfare and non-welfare families, with additional payments on a sliding scale up to 10% of collections based on the respective ratios of welfare and non-welfare collections to total administrative costs;
- o States must share incentive payments with local child support enforcement programs, where they have participated in the costs of the program;
- o Each State's incentive payments for non-AFDC collections are limited to 100% of the AFDC collection incentive for FY 1986 and 1987, 105% for FY 1988, 110% for FY 1989, and 115% for FY 1990 and after;

- o In calculating incentive payments for FY 1985, the \$50 disregard of child support income (required by Deficit Reduction Act of 1984) will be included.

Program Audit Requirements

- o Replaces annual audit with requirement for audit at least once every three years; audits are comprehensive and performance-based;
- o Replaces current penalty (5% of Federal AFDC funds) with graduated penalties and provides for suspension of penalties based on corrective action plans.

Other

- o Present 90% Federal matching funds are explicitly made available for the development and installation of automated systems to improve required procedures; 90% matching newly extended to computer hardware purchased;
- o Governors must appoint broad-based Commissions on Child Support, with certain exceptions;
- o States are to formulate guidelines for child support awards for judges and other officials who make support determinations;
- o At their option, States may monitor support payments at the request of either parent;
- o The Federal Parent Locator Service and Internal Revenue Service must, upon request, disclose social security numbers to State enforcement agencies;
- o Revised reporting requirements for annual report to the Congress.

IV. IMPROVED ENFORCEMENT OF INTERSTATE CASES

Proven Enforcement Techniques

- o State must have procedures for interstate enforcement of wage withholding, regardless of where the custodial parent and child and the absent parent live;
- o Expedited legal processes and other techniques are applicable to interstate as well as intrastate cases.

Incentive Payments

- o Interstate collections will be credited to both the initiating and the responding State for calculating incentives.

Federal Income Tax Refund Offset on Behalf of Non-Welfare Families

Demonstration Grants

- o Legislation authorizes \$7 million in FY 1985, \$12 million in FY 1986 and \$15 million in FY 1987 for special demonstration projects testing innovative methods of interstate enforcement and collection;
- o Demonstration authority including waivers of program requirements extended to child support program.

Program Audit Focus on Program Performance, Including Interstate Cooperation

V. OTHER PROVISIONS OF THE AMENDMENTS

Fees

- o States must charge non-AFDC families an application fee of not more than \$25; fee can be charged to the custodial or absent parent, or be paid by the State based on individual's ability to pay;
- o States may charge, in welfare and non-welfare cases, a late-payment fee to the obligated parent of between 3 and 6% of the arrearages.

Wisconsin Child Support Initiative

Medicaid Benefits

- o Until FY 1989, families that become ineligible for AFDC due to collection of child support, will retain Medicaid benefits for 4 months.

Medical Support

- o States must include medical support as part of child support orders when private health insurance is available to the non-custodial parent at reasonable cost.

APPENDIX C

SECTION ANALYSIS OF THE NEW JERSEY
SUPPORT ENFORCEMENT ACT OF 1985
(P.L. 1985, c. 278)

SECTION-BY-SECTION ANALYSIS
P.L. 1985, c. 278

Sec. 1 This Act is known as the "Child Support Enforcement Act of 1985."

Sec. 2 This section makes income withholding mandatory in all case where support orders are issued. This provision applies to all orders issued before or after the effective date of the Act. It applies to all income, including unemployment compensation.

(Under the old law: withholding was optional. It "may" occur if the court ordered it.)

Sec. 3 The withholding occurs when the obligor is 14 days late in making payments. There is no need to return to court to get an order for the withholding to begin.

The amount withheld must not exceed the maximum amount permitted under Section 303(b) of the federal Consumer Credit Protection Act. The Administrative Office of the Courts shall establish procedures for promptly terminating the withholding when necessary and for refunding amounts improperly withheld.

(Under the old law when a support payment was 25 days late, the payee or the IV-D agency could apply to the probation department for an income execution. This withholding was not mandatory.)

Sec. 4 a. The probation department must inform the obligor by certified or registered mail of the withholding. The obligor may contest the withholding only on the basis of mistake of fact.

If the obligor contests, the probation department must hold a hearing within 20 days. If it is determined at the hearing that the withholding is to occur, the obligor shall be so informed within five days.

(Under the old law withholding began 20 days after the obligor received notice. The obligor could contest the amount and schedule of payment, as well as whether the withholding should occur at all. The hearing was to take place within 30 days of the protest.)

b. On any order modifying child support, the withheld amount shall also be modified. Withholding for child support shall have priority over any other withholding without regard to the dates of any other income withholdings.

There is no change from the old law.

c. The withholding shall continue until a court order is entered upon the liquidation of all arrearages.

(Under the old law withholding could be stopped upon a showing of "good cause.")

- d. If there is more than one support order against an obligor, the payor shall withhold income to fully comply with all the orders on a pro rata basis. The amount withheld shall not exceed the limits of the Consumer Credit Protection Act.

(There is no change from the old law.)

- Sec. 5 Income withholding shall be binding upon the payor 14 days after service upon the payor by the probation department of a copy of the income withholding.

The payor shall pay the amount withheld to the probation department at the same time the obligor is paid. Payor shall begin withholding no later than the first pay period that occurs 14 days after the notice was postmarked.

For each payment, the payor may receive \$1.00 which shall be deducted from the obligor's income.

(Under the old law the payor (employer) was to begin withholding one week after receiving personal service of the order to begin withholding.)

- Sec. 6 The payor may not use income withholding as a basis for discharge or discipline of the obligor. A payor who does so is a disorderly person. An obligor who feels that the payor has discharged or disciplines them wrongfully may bring suit in Superior Court for reinstatement and damages.

The prevailing party may be awarded reasonable attorney's fees. No fees shall be awarded to the respondent (employer) unless there is a determination that the obligor brought suit in bad faith.

The payor may be liable for two-fold compensatory damages. If the payor fails to withhold, the payor is liable for amounts up to the accumulated amount that should have been withheld.

(Under the old law there was provision for suit by the obligor, or for collection of attorney's fees.)

- Sec. 7 Payment shall be made through the probation department of the county in which the obligor resides. If the obligor changes jobs or residences, the obligor shall inform the probation department of the new employment or the new address. Failure to provide this information shall be considered a violation of this order.

New: Service at the address of record of the obligor shall be effective for all purposes. When an obligor changes employment, the probation department shall notify the new payor that the withholding is binding on the new payor.

(The old law did not contain provision providing that the address of record was the address for affective service. This allowed obligors to escape service by changing their address.)

- Sec. 8 An obligee who does not receive payments through the probation department shall file an affidavit with the department when payments are 14 days late. The department will administer the withholding, or establish alternate procedures for the withholding to occur. The department shall charge an annual fee of \$25 for payments made through its office. This payment shall be assessed against the person requesting that payment be made through the department.

(Under the old law persons in the IV-D program also had to apply for an affidavit when payments were 25 days late in order for the department to begin withholding.)

- Sec. 9 If an obligor spouse abandons or separates from the obligee spouse, and refuses or neglects to provide for the obligee and the children, the court may order such support. If the obligor fails to comply with this order, the court may impose a lien against the real or personal property of the obligor. Such lien shall have priority over any other claim.

If circumstances indicate that it is necessary, the court may compel the obligor to give security, or post a bond in the amount of the arrearage. Bonds may also be ordered for future support payments.

(The old law did not contain provision for liens or bonds to be posted. There was no way to ensure payment of arrearages or future payments.)

- Sec. 10 If the existence of a father and child relationship is declared, or acknowledged or adjudicated, the obligation of the father may be enforced by the mother, the child, the public agency that may or has furnished the expenses of pregnancy, postpartum disability, education, support, medical expenses, or burial; or by any other person, including a private agency.

Willfull failure to comply is civil contempt of court.

(Old law: No change.)

- Sec. 12 If the obligor is in arrears of child support payments and is entitled to a New Jersey Gross Income Tax refund, and/or to a homestead rebate, the amount of support due may be withheld from the refund. Child support indebtedness shall take precedence over all other indebtedness.

(Under the old law there was no provisions for a tax refund intercept or a Homestead Rebate intercept.)

- Sec. 13 (New) The Administrative Office of the Courts shall promulgate rules and regulations necessary to effectuate the tax set-off.
- Sec. 14 (New) Defines terms
- Sec. 15 (New) If an obligor has a support order from another state and has income derived in New Jersey, the probation department shall comply with all the provisions of this Act as if the order had been issued in New Jersey.
- If the obligor terminates employment in the State, the probation department shall notify the state where the order was entered of the termination and of the obligor's new address, if known.
- Sec. 16 (New) If the withholding provision of this Act has been triggered, and the obligor derives income from another state, the order shall be forwarded to the appropriate child support agency in the payor's state.
- Sec. 17 (New) Notwithstanding any other provisions to the contrary, the State IV-D agency (Division of Public Welfare) shall have the authority to assess interest or late payments on any support order not paid within 30 days.
- Sec. 18 If the obligor is \$1,000 in arrears, the State IV-D agency shall make this information available to consumer reporting agencies at their request. The obligor shall receive written notice that such information will be given to consumer reporting agencies. The obligor shall have an opportunity to contest the accuracy of the information.
- If the obligor is less than \$1,000 in arrears, the IV-D agency may make this information available at its option.
- Sec. 19 (New) The IV-D agency shall have the authority to charge an application fee.
- Sec. 20 (New) The Department of Human Services shall promulgate rules and regulations necessary to effectuate the purposes of this Act.
- (Old law: Sections 23-20 are new additions to the old law; there are no comparable provisions in the old law.)
- Sec. 21 Repeals Sections 12 of P.L. 1982 c. 417.
- Sec. 22 Effective date of the Act. (October 1, 1985)

APPENDIX D

PROPOSED COURT RULE: Child Support Guidelines with Report

DRAFT

**REPORT OF THE SUBCOMMITTEE
ON CHILD SUPPORT GUIDELINES**

SEPTEMBER 1985

Prepared for:

**Family Part Practice Committee
of the New Jersey Supreme Court**

REPORT OF THE SUBCOMMITTEE ON CHILD SUPPORT GUIDELINES

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I. Introduction

In 1983, a Subcommittee of the Family Court Planning Committee of the New Jersey Supreme Court was formed to examine the concept and need for child support guidelines in New Jersey. Additionally, if time permitted, the Subcommittee was to draft model guidelines. The result of the Subcommittee was Issue Paper No. 9 which was submitted to the 1983 Judicial Conference on the Family Court. The Subcommittee, in its issue paper, recommended that support guidelines be developed for New Jersey and described various elements that should be incorporated in a guideline.

In the aftermath of Issue Paper No. 9, the newly formed Family Practice Committee decided to continue to study and draft a child support guideline for New Jersey. A new Subcommittee was established in the Spring of 1984 whose membership included: the Honorable Stephen J. Schaeffer, Presiding Judge, Family Part, Hudson County (chairperson), the Honorable Theodore T. Tams Jr., Presiding Judge, Family Part, Mercer County, Richard A. Russell, Esq., Richard J. Bennett, Esq., and Thomas P. Zampino, Esq. Other individuals who contributed to the development of the proposed child support guideline: Barbara Ulrichsen, Esq.; Family Law Section, New Jersey State Bar Association (NJSBA); Alma Saravia, Executive Director, Commission on Sex Discrimination in the Statutes; John Finnerty, Esq., Legislative Liaison, NJSBA; Alan Grosman, Esq., Chair, Alimony, Maintenance and Child Support Committee, ABA Family Law Section; Harry Wiggins, Chief, Bureau of Child Support and Paternity, Division of Public Welfare; Raymond R. Rainville, Chief, Child Support Enforcement Services, Administrative Office of the Courts; Nancy Kupfer, Research Intern, Commission on Sex Discrimination in the Statutes.

This Report describes the work of the Subcommittee in its development of child support guidelines for New Jersey. It discusses the need for guidelines, reviews the economic evidence and compares the various conceptual formats which the Subcommittee examined. Finally, the Subcommittee presents a proposed rule on child support guidelines.

II. The Need for Child Support Guidelines

A. Adequacy of Child Support Awards

Because of the impact of the divorce rate and the steadily increasing number of children born out of wedlock in New Jersey (1) and in the United States, there has been a growing concern among the public, social agencies, and government officials concerning the responsibility of parents to provide an adequate level of support to their children.

Single parent families currently constitute approximately 25% of all families with children. During the last decade, the

(1) The N.J. Administrative Office of the Courts 1984 Judiciary Annual Report shows 87,821 non-dissolution and 30,325 dissolution cases added. An increase of 10.3% and 22.0% respectively over 1980 cases added.

number of single parent families has increased by approximately 50%. The U.S. Bureau of the Census reports that as of Spring 1982, 8.4 million women were living with a child under 21 years of age whose father was not living in the household.(2) If the current trend continues, by the 1990's about one third of all children will live with a divorced parent before they reach age eighteen.(3)

With the growing number of single parents raising children, the courts have taken on a significant role in determining the standard of living and economic future of these families through the setting of support orders.

Even though many single parent households are awarded support orders for their children, such orders are usually insufficient to raise the children. According to a 1982 U.S. Bureau of the Census report, if the five million women who were awarded child support had received the full amount due them, the mean court-ordered amount in 1981 would have been only \$2,050 annually, or \$171 per month (this order covered an average of one and three-fourths children in a middle income family). That average court order would have supported one and three-fourths children at only about 70 percent of the poverty level in 1981.(4) Child support experts have stated that support orders are often less than one half the amount needed to provide a child with even a low cost standard of living ; placing the majority of the financial responsibility of child rearing on the custodial parent.(5) Often, as a last resort the custodial parent is forced to turn to public welfare agencies to provide them with financial assistance to raise their children. According to the Office of Child Support Enforcement, approximately 90% of current beneficiaries in the Aid to Families with Dependent Children (AFDC) program are mothers and children with a living absent father.(6) The AFDC program continues to be the major source of public financial support for low income, female headed households.

In addition to the economic ramifications for single parent families and the taxpayer, society must be concerned with the growing number of children spending their early lives in poverty which often leads to less productive occupational pursuits as adults. Equitable support awards can be an important factor in potentially reversing these social effects of poverty.

(2) U.S. Bureau of the Census, Child Support and Alimony: 1981, Current Population Reports, Series P-23, No. 140 (Feb. 1985).

(3) Isabel V. Sawhill, "Developing Normative Standards for Child Support Payments", in The Parental Child Support Obligation, Judith Casseccy, Ed.(Lexington/D.C. Heath and Co.: Lexington, MA 1983) pp. 79-114.

(4) U.S. Bureau of the Census, op. cit., p.1

(5) Carol S. Bruch, "Developing Standards for Child Support Payments: A Critique of Current Practices.", Univ. of Cal.-Davis Law Review, Vol. 16, No. 1, (Fall 1982), pp. 49-64.

(6) Office of Child Support Enforcement. Child Support Enforcement: 7th Annual Report to Congress for the Period Ending September 30, 1982.

B. Consistency in Establishing Child Support Orders

Many courts presently determine support awards through a case by case review based on the ability of the absent parent to pay and the needs of the family. This method of establishing child support awards leads many litigants and child support experts to the conclusion that the result is inequity between families with similar circumstances. This inequity may often encourage disrespect for the establishment process and may lead to future noncompliance by obligors.

Studies have shown that when looking at an aggregate of child support orders, there is a great deal of inconsistency especially as to which case variables are significant in establishing a level of support. These studies reveal that the traditional methods of setting child support, on a case-by-case review of circumstances, can lead to markedly different support orders for obligors even if they have the same number of children and identical incomes.(7)

During 1985, the New Jersey Administrative Office of the Courts, at the request of the Subcommittee on Support Guidelines, conducted a survey of child support orders established during a three month period in five counties.(8) The objective of that study was to examine the variability of support orders entered during that period. The results showed a high variability of support awards for obligors in the same income range. A summary of the survey results are shown in Table 1.

Judges and attorneys often struggle with an array of financial figures and claims of need/ability to pay without the assistance of objective data as to what it really costs to live and raise children in today's society. With the increase in dissolution and non-dissolution support cases being brought before the court, judges and attorneys often have a limited amount of time in which to analyze the facts of each case before determining an appropriate amount of support in addition to resolving other collateral issues such as custody, visitation, and property distribution.

In recent years, court decisions in states such as Oregon, Smith vs. Smith, 290 OR. 675 (1981), North Carolina, Hamilton v. Hamilton, 290 S.E. 2d 780 (1982), and Pennsylvania, Melser vs. Witsberger, 463 A.2d. 28 (1983) have attested to the need for guidelines to establish equitable and consistent support awards.

(7) See Kenneth R. White and R. Thomas Stone, Jr., "A Study of Alimony and Child Support Rulings with Some Recommendations", Family Law Quarterly, Vol. 8, No. 1, Spring 1976, pp. 75-91; Lucy Marsh Yee, "What Really Happens in Child Support Cases: An Empirical Study of Establishment and Enforcement of Child Support Orders in the Denver District Court", Denver Law Journal, Vol. 57-1, 1979, pp. 21-89; and Title IV-D Unit, N.J. Administrative Office of the Courts, Support Guidelines Study, An Analysis of Responses, December 1982

(8) Results were based on a 10% sample of dissolution and non-dissolution orders established between August 1, 1984 and October 31, 1984 in Atlantic, Bergen, Burlington, Camden, and Middlesex counties.

In response to this need, these courts have established methodology to calculate child support orders. Legislative action, such as the recently passed Illinois House Bill 3068 and the proposed New Jersey Senate Bill 3544, have similarly recognized the need for consistency in the establishment of support awards.

C. The Child Support Amendments of 1984 (P.L. 98-378)

In response to the public concern regarding the child support system as it presently exists, Congress in August 1984 promulgated and passed the Child Support Amendments of 1984 (P.L. 98-378). The new federal law amends Title IV-D of the Social Security Act of 1975 (P.L. 93-647) and provides states with the initiative to improve their current child support programs.

Included in the new federal law is a provision that each state must, as a condition for having its state plan approved under Title IV-D of the Social Security Act and to receive federal funding, establish guidelines for child support awards within the State. Such guidelines may be established by law or by administrative or judicial action. Furthermore, the guidelines must be made available to all judges and other officials who have the power to determine child support awards within the state, however, the guidelines need not be binding on those individuals. Child support guidelines, as required under the new law, must be in effect by October 1, 1987.

The Department of Health and Human Services, Office of Child Support Enforcement, has issued regulations (45 CFR 302.56) which implement the child support guideline provision of P.L. 98-378. According to the regulations, the guidelines must be "based upon specific descriptive and numeric criteria and result in the computation of the support obligation". This means that the guidelines must be quantitative rather than just listing factors that should be considered.

III. History and Development of the New Jersey Child Support Guideline

Because of the Subcommittee's awareness of the inconsistency and inadequacy of support orders and the recent federal legislation, it recognized that the traditional methods of setting child support was clearly in need of objective support guidelines. The Subcommittee believes that such guidelines would not divest the court of its authority or discretion to consider individual circumstances in each case, but rather provide it with a framework and current economic evidence to aid it in the decision making process.

A. The Institute for Court Management Child Support Models Project

The Subcommittee communicated with the Institute for Court Management [ICM] of the National Center for State Courts in determining the availability of technical assistance in developing a support guideline that would meet the specific needs of New

Jersey. The Institute was the recipient of a grant (through October 1985) from the Federal Office of Child Support Enforcement [OCSE], U.S. Department of Health and Human Services to establish a project to develop national models for the establishment and updating of child support awards. The objectives of the project were to develop one or more alternative schedules for establishing child support; develop mechanisms to update current support orders taking into account inflation and changed circumstances; develop information on the effects of alternative models on collections and litigants; and to provide technical assistance to child support agencies.

The ICM Child Support Models Project, headed by Robert G. Williams, Ph.D., began in October 1983. Dr. Williams and his staff conducted an extensive analysis of child support guidelines and economic evidence of child rearing expenditures. Dr. Williams has produced several reports on child support guidelines and their development; the most notable being a comprehensive report submitted to OCSE in June 1985 entitled "Development of Formulas for Establishing and Updating Child Support Orders, Interim Report". (9)

Dr. Williams began assisting the Subcommittee in mid-1985. He provided the Subcommittee with an overview of current economic data on the cost of raising children (family expenditures); discussed, in detail, conceptual models for child support guidelines/formulas; and reviewed factors to be considered in developing a guideline. Dr. Williams also set forth the policy decisions to be addressed by the Subcommittee before developing a guideline such as: gross versus net income as a starting point, income levels to which a guideline would apply, and the treatment of other dependents.

B. Conceptual Models for Child Support Guidelines

A brief synopsis of the conceptual models for child support guidelines which were examined by the Subcommittee are as follows:

Income Sharing - Under this approach, a proportion of parental income is allocated to the child. The specific proportion varies with the number of children and the level of parental income. It is based on the principle that both parents have a shared duty to support their children based on their contribution to the combined family income. It is also based on the premise that a child should receive the same proportion of parental income which would have received if the parents lived together in an intact household. Income sharing models incorporate economies of scale into their calculations and by doing so takes into account the custodial parent's presence in the home. Examples of this conceptual

(9) Dr. Williams, along with co-author Stephen G. Campbell, has produced two other support guidelines reports entitled Review of Literature and Statutory Provisions Relating to the Establishment and Updating of Child Support Awards and Review of Selected State Practices in Establishing and Updating Child Support Awards, both submitted to the Office of Child Support Enforcement, U.S. Dept. of Health and Human Services (Nat'l Inst. for Socioeconomic Research: Denver, 1984). Copies of all Williams' reports are available from the N.J. Administrative Office of the Courts.

guideline are the Washington Uniform Child Support Guidelines, Wisconsin Percentage of Income Standard and the ICM Income Shares Model.

Cost Sharing - In this conceptual approach, the needs or cost of the children are specified first, based on a minimum standard of living or on a review of actual household expenditures. The dollar amount is apportioned between the parents based on their respective incomes. This approach assumes that there are measurable costs associated with raising children and that both parents have income. However, because the cost of a child is dependent on the resources of the parents, objectively estimating costs is difficult and can lead to inequitable orders. There is no absolute cost sharing model in use within a state. However, the Delaware Melson Formula is a composite of cost sharing and income sharing approaches.

Income Equalization - Under this approach, the burden of household dissolution or non-formation is distributed equally between the parents. It attempts to equalize the financial burden of household dissolution so that all family members experience the same proportional reduction in lifestyle due to the formation of two households. To equalize the standard of living, the income of each parent is allocated between the households based on the number of each. This approach typically leads to higher child support orders than either of the other concepts as it takes into account support for the custodial parent when distributing the family income between the households. Examples of proposed guidelines using the income equalization approach are the Cassetty Model and the Sawhill Model (Urban Institute). Neither of these models has been implemented to date.

Subsequent to their examination of the various conceptual models and guidelines developed from each concept, the Subcommittee selected the income shares approach and specifically the model as developed by the ICM Child Support Models Project.

C. The Income Shares Model

1. Basis for Selection

The support percentages used in the ICM Income Shares Model are based on the most recent economic analysis of family expenditure data. The model apportions the support order between both parents based on their proportionate contribution to the total combined family income. The custodial parent's share of the support obligation is considered to be spent directly on the child. The obligated parent's share would represent the amount of the child support order to be paid to the custodial parent for the benefit of the child(ren). The Income Shares Model simulates spending in an intact household, where the proportion of income allocated to the children depends on total family income.

This model also permits the obligated spouse to retain a portion of his/her available income to maintain a minimum adequate standard of

living. This minimum standard of living is the poverty level(10) [currently \$438.00 per month] as set forth and updated annually by the Department of Health and Human Services.(11) Not allowing for a "self-support reserve" could possibly deprive the obligated parent of the motivation to remain employed.

Another factor in the Subcommittee's selection of the Income Shares Model was that it was not affected by geographical cost differentials since it is based on the proportion of income that is spent in raising children. Additionally, ICM points out that although living costs are a function of location, income levels often reflect the geographic cost of living. Furthermore, the ICM Development of Formulas Interim Report states that "...except for jurisdictions considering cost sharing approaches, geographic adjustments can normally be ignored without creating serious inequities".

Finally, this model is very flexible allowing individual states the opportunity to develop the operational details (i.e., treatment of income base, joint custody, extraordinary expenses, etc.) based on underlying philosophies and laws of the state.

Research Underlying the Model

In developing the Income Shares Model, ICM reviewed the many economic studies(12) that have been conducted on the cost of raising a child; more specifically, studies on parental expenditures for child rearing. Most studies only estimate the "cost" of raising a child through parental expenditures since money spent on behalf of the children is pooled with the expenses for the parents (expenditures made for the family in common). This pooling of monies for the family's consumption, the sharing of household goods and the principle of economies of scale are three of the more pronounced reasons for the difficulty of setting child support awards and determining actual child rearing costs on a case by case basis. Furthermore, these studies have determined the "cost" of raising a child by comparing spending patterns of families in similar economic and social situations but having a different number of family members. The "cost" of an additional child can then be estimated through the incremental spending.

The principles derived from these economic studies as they relate to the development of child support guidelines are:

(10) The poverty level attempts to "specify the minimum money income that could support an average family of given composition at the lowest level consistent with the standard of living prevailing in this country. It is based on the amount needed by families to purchase a nutritionally adequate diet on the assumption that no more than a third of the family's income is used for food." Mollie Orshansky, "Measuring Poverty", The Social Welfare Forum, 1965.

(11) Federal Register, Vol. 50, No 46 (3/8/85), pp. 9517-9518.

(12) For an overview of these economic studies see Robert G. Williams, Development of Formulas for Establishing and Updating Child Support Orders: Interim Report, submitted to the Office of Child Support Enforcement, U.S. Dept. of Health and Human Services (Inst. for Court Mgt: June 1985) pp. 3-30.

1. The minimum cost of raising a child can be specified. Subsistence level expenditure is keyed to a basic diet that meets minimum nutrition needs as specified by the United States Department of Agriculture. Other minimum expenditures are estimated in relationship to the diet;
2. Above a minimum level of subsistence, there is no absolute "cost" of raising a child. Expenditures on children are based on total household expenditures. As household income rises, additional income is allotted to the children as well as the adults;
3. The proportion of family consumption devoted to a child declines very little as household consumption rises. Therefore, the cost of a child can be accurately calculated as a proportion of family income consumption;
4. As the number of children increases, spending on children as a proportion of family income increases. However, as children are added to the household, the proportion of family income spent on each child decreases. Therefore, a family spends less on a second child than was spent on the first and still maintains a equivalent standard of living. This is due to economies of scale and sharing of goods by household members;
5. Expenditures on children vary with their ages. There is a substantial increase in expenditures for ages 12 and above in relation to the earlier ages.

Following a comprehensive review of the work of economists and governmental agencies in estimating child rearing expenditures, ICM focused on Thomas Espenshade's analysis (13) of the 1972-73 Consumer Expenditure Survey [CES] (14) as a reference point to determine child support as a proportion of family income. Espenshade's work was selected as the most suitable for the development of child support guideline because [1] it is the most recent analysis of the 1972-73 CES, [2] his marginal cost estimation methodology has been found to be most appropriate for guideline development, and [3] Espenshade bases his estimates on the proportion of income devoted to food consumed at home. Other researchers base their estimates on more volatile and often underreported consumption of adult goods including adult clothing, alcohol, and tobacco.

Since CES data is collected on a household level and some expenditures are not easily separated since they are purchased for the family unit, Espenshade developed an index of a family's material standard of living and then compared it to the living

(13) Thomas J. Espenshade, Investing in Children: New Estimates of Parental Expenditures, (Urban Institute Press: Washington, 1984)

(14) The 1972-73 CES was conducted by the U.S. Bureau of the Census for the U.S. Bureau of Labor Statistics. The data is based on a national survey of actual family spending patterns. It provides estimates on the costs of raising urban, rural-nonfarm, and farm children at three cost levels (economy, moderate, and low) in various regions of the United States. These estimates are the most recent on family expenditures and income related to socioeconomic levels.

standards of families that differed substantially in income, consumption, size and composition. The material standard of living used by Espenshade was the total current consumption expenditure devoted to food consumed at home. Using this base, Espenshade applied a number of calculations to determine family expenditures on children as a proportion of total family income and to disaggregate those expenditures among children(15). He then used the Consumer Price Index [CPI] (16) to update the 1972-73 figures into 1981 dollars.

Espenshade then recalculated the Bureau of Labor Statistics Revised Equivalency Scale to show the expenditures on children as a proportion of household consumption budgets

Using Espenshade's analysis of the 1972-73 CES, ICM recalculated many of his findings to establish the percentage of net income that is spent on children of dissolved or non-formed families and to determine incremental expenditures for each child.

Because Espenshade's findings were based on socioeconomic groupings and not income levels, it was then necessary for ICM to develop estimates of the proportion of income spent on children in varying income levels. To accomplish this, they used the finding that expenditures on children as a proportion of family consumption are invariant over socioeconomic groups. They also assumed that consumption as a proportion of income is a function of a household's place in the income distribution. With these concepts in mind, they used Espenshade's estimates of expenditures as a proportion of consumption and applied them to the 72-73 CES calculations of consumption as a proportion of income to determine the proportion of income spent on children by income level. The results revealed that spending on children as a proportion of income declines as income increases.

The child support percentages derived from the ICM calculations were operationalized through a series of calculations which were graded them throughout the income ranges. This was done to avoid inequities that would result in child support orders when going from one income range to another. Without grading the percentages, obligors in two different income ranges may be ordered to pay similar support amounts since child support as a proportion of income declines with increasing income. The lower income levels were also modified to include the self-support reserve described previously. The graded percentages were fully phased into the support amount chart once the total net income was above the poverty level.

IV. A Proposed New Jersey Family Part Court Rule on Child Support Guidelines

After selecting the Income Shares Model, the Subcommittee,

(15) For a detailed explanation of Espenshade's methodology see Espenshade, Investing in Children, op. cit., pp. 87-108.

(16) The CPI is a measure of the average change in prices of a fixed basket of goods and services. It is based on a survey of tenants, housing units, and retail establishments for goods and services in 85 urban areas across the country.

through a series of meetings, made the necessary policy decisions to further develop and operationalize a child support guideline to meet the specific needs of New Jersey. The result was the formulation of a proposed court rule (see Attachment) with supplementary child support tables, worksheets, and instructions for use in calculating support awards. The proposed Rule was developed for use in all child support matters including dissolution, non-dissolution, and interstate (URESAs). It attempts to encompass a broad range of family circumstances in setting child support awards. However, because special circumstances may exist where the rigid application of the guideline could lead to an unjust result, the Rule is established as a rebuttable presumption by including in its language "where good cause is shown".

A. Limiting Factors of the Guidelines

The Subcommittee modified the Income Shares Model schedule of support amounts by applying to it a plus and minus five percent range to allow some flexibility in considering individual case circumstances (e.g., an older child may require a greater amount of support than a younger child, hence amounts in the upper part of the range may be more appropriate). It should be noted that the Subcommittee was advised by ICM that the application of a range to the support percentages would not affect their validity. The child support percentages and the corresponding ranges of support amounts can be seen in Appendix A-2 and A-3 of the Attachment.

Notwithstanding the range provided, the Subcommittee has allowed for "considerations" that would make the guidelines inapplicable. Examples of such considerations are delineated in the "Considerations in the Use of Child Support Guidelines" section (Appendix A-1) of the proposed rule. It should be noted that this list of considerations is not exclusive; the Court may take into account other significant factors which may cause the child support guidelines to be inapplicable. Further discussion of several considerations is as follows:

Self-Support Reserve

To insure the obligor with a self-support reserve as discussed previously, the table of child support amounts phases in the support percentages only after the poverty level has been exceeded. However, the Subcommittee included a caveat that obligor's with income below the poverty level should be subject to a minimum support order based on individual case review in order to establish the principle of payment and to lay the basis for increased orders if the obligor's income should increase in the future.

Upper Limit of Application

Experience in other states have revealed that support percentages become ineffective above certain income levels due to the progressive effect of taxes, economic and property trade-offs of divorce settlements and other variables of high socioeconomic

status families.(17) Because of this fact, the Subcommittee selected the combined family net income of \$42,000 as the upper limit to which the child support guidelines would apply.

Custody and Visitation

The Subcommittee structured the child support guidelines on traditional custody and visitation arrangements (where one parent has sole legal and physical custody and the other has limited visitation rights). Non-traditional custody and/or visitation is listed as a consideration which would cause the guideline to be inapplicable or require an adjustment of the guideline amount. In realizing the prominence of joint physical custody in today's society(18), the Subcommittee suggests that in the event joint custody becomes more common in New Jersey, a worksheet could be developed to adjust the base child support amount each parent owes by the proportion of time the child spends with the other parent

B. Criteria in Determining Available Income

The effects of the income shares approach on parents and their children is greatly dependent on the method by which available income is calculated prior to obtaining the support amount from the child support tables. The Subcommittee has determined that the following factors are most appropriate for determining available income.

Income Base - The Subcommittee selected net income as a starting point for the application of a guideline. Although more complex to apply than gross income because of the calculations necessary to arrive at a net figure, it represents ability to pay more closely. Net income constitutes the actual amount of parental income available for payment of goods and services (available income).

Specification of Net Income - The Subcommittee decided that net income would be calculated in the following manner. First, the earned and unearned gross income of the parent is determined using the Internal Revenue Service [IRS] definition.(19) It should be noted that cases involving other income sources such as unreported cash, underemployment, income derived by other household members and/or in-kind income make these child support guidelines inapplicable. Cases involving these types of income should be subject to child support orders based on an individual case review. To assure that the "average" weekly income is obtained, the Subcommittee established a system of annualizing the income based on IRS/W-2 statements and/or other documented income sources of the parents. The methodology for determining weekly gross income is delineated in the Child Support Guidelines Worksheet Instructions (Appendix A-5). Once the weekly gross income is obtained, certain "mandatory" deductions are subtracted from the gross income. The

(17) Williams, Development of Formulas, op. cit. p.6

(18) At least 28 states have joint custody statutes. Doris Freed and Henry Foster, "Family Law in the Fifty States", Family Law Quarterly, Vol. XVI, No. 1 (Winter 1983), pp. 289-383.

(19) I.R.C. Section 61. See Attachment at Appendix A-5, B-1(a)

mandatory deductions are: Federal, State, and local income taxes, F.I.C.A. tax, mandatory union dues, and mandatory retirement.

Medical/Dental Insurance - The Subcommittee decided that it would be equitable for parents to receive a credit for medical and/or dental insurance premiums which provide a direct benefit for the child for whom support is being sought. Such credit is limited to that amount which was not reimbursed or paid by the employer. This credit, known as a allowable exemption, is to be deducted from the net income figure in the calculation of available income.

Prior Child Support and Alimony Obligations - The Subcommittee looked at several possible methods by which to address this area. The primary issue was whether support obligations of a prior relationship had priority over persons currently seeking support. Taking into account the principle of equal protection, a proposed solution was to reallocate the obligor's available income to all persons in both households as a "combined family". Although this solution would be equitable to both families, the Subcommittee realized that many jurisdictional and logistical problems would be incurred with its implementation. Therefore, the Subcommittee, decided that a more feasible method of taking prior court-ordered support orders into account would be to subtract such orders from the net income figure as an allowable exemption. This would give priority to prior court-ordered support orders as they were established without taking into account the parent's financial responsibility for subsequent children or spouses. For verified non-court ordered support obligations, the Subcommittee decided that the guidelines would be inapplicable since the circumstances/needs of other dependents would have to be considered on a case-by case basis before apportioning the obligor's income.

Work-Related Child Care Expenses - The Subcommittee decided to treat work-related child care expenses as a supplement to the basic child support amount. Because child care costs may represent a large variable expenditure to the working custodial parent(20) and may be temporary in nature, the Subcommittee felt it would be equitable to divide such expenses between the parents based on their percent contribution to the total combined income. Therefore, when these expenses are present, the court should enter an order, in addition to the basic child support amount, for each parent to share the cost of child care based on the percentages derived in the basic calculation for child support. This treatment maximizes the economic benefit of the custodial parent's entry into the labor force and equitably distributes the expense between both parents. Treating such expenses as a deduction to obligee's gross income, would only marginally increase the obligor's support order but not sufficiently to cover the actual expense of the child care.

Unreimbursed Extraordinary Medical/Dental Expenses - Because these expenses, like those related to child care, may be variable in their amounts and duration, the Subcommittee also treated them as a supplement to the basic child support amount. Therefore, in

(20) The USDA estimates that single employed parents spend approximately eight percent of their total household expenditures on day care (1980 prices).

addition to the basic child support amount, the percent contribution of each parent to the combined income is to be used when ordering the each parent's share of the extraordinary medical and dental expenses. This treatment eliminates the difficulty and inaccuracy that would exist in estimating current and future unreimbursed medical/dental expenses into a weekly amount. The Subcommittee defines extraordinary medical/dental expenses subject to the supplemental distributive sharing as those incurred on behalf of the children which exceed insurance reimbursement by \$100 per incident or illness. These expenses may include, but are not limited to, orthodontic treatment, psychiatric therapy, asthma treatment, or extended physical therapy. The alternative treatment of extraordinary medical and dental expenses as an allowable deduction for the obligee would only increase the obligor's support marginally and, consequently, place the burden of such expenses custodial parent.

V. Closing Remarks

The Subcommittee proposes this child support guideline in the form of a court rule in an attempt to make child support awards more equitable and consistent throughout the State. The proposed Rule also brings the State into compliance with the federal Child Support Amendments of 1984 (P.L. 98-378). The guideline is based on the most recent and most widely recognized economic data on parental expenditures for child rearing. The Subcommittee has attempted to design a guideline which is simple to use yet complete in its treatment of family economic variables. These guidelines should be used to establish initial child support awards unless it is shown that their application would lead to an unjust result. Additionally, they may be used to examine the appropriateness of negotiated agreements and in the updating of support awards to ensure that support amounts are in the best interest of a child. It should be noted that the guidelines do not purport to be a substitute for a judge's individual discretion but, at a minimum, can serve as an aid in the judicial determination of child support orders.

A key concern of the Subcommittee was the ability to update the child support percentages and tables based on the rate of inflation and changes in the cost of living. The Subcommittee felt that for the guidelines to maintain their credibility in providing for appropriate child support orders, the support percentages would require annual review and, if necessary, modification to reflect such changing economic factors. Additionally, since the poverty level is modified annually by the U.S. Department of Health and Human Services, such modification must also be reflected in the self-support reserve component of the guidelines. The Subcommittee was advised by Dr. Williams that updating the percentages using current household income data is not difficult and can be accomplished by the State.

Finally, the Subcommittee recommends that a study be undertaken by the Administrative Office of the Courts one year from the effective date of this Rule to evaluate the effectiveness of these child support guidelines in producing equitable and consistent child support orders. Such a study should contain both objective and subjective criteria concerning the use and appropriateness of these child support guidelines.

THE FOLLOWING FAMILY PART COURT RULE IS A DRAFT AND HAS NOT BEEN APPROVED FOR PUBLICATION OR DISTRIBUTION BY THE FAMILY PRACTICE COMMITTEE OF THE NEW JERSEY SUPREME COURT OR THE NEW JERSEY ADMINISTRATIVE OFFICE OF THE COURTS.

PROPOSED FAMILY PART RULE REGARDING
CHILD SUPPORT GUIDELINES

THE GUIDELINES SET FORTH IN THE APPENDIX OF THIS RULE SHALL BE UTILIZED WHEN AWARDING CHILD SUPPORT IN EITHER DISSOLUTION OR NON-DISSOLUTION CASES UNLESS GOOD CAUSE IS SHOWN.

COMMENTS

1. These support guidelines were developed based upon an income shares concept(1) which allocates the proportion of disposable income that would normally have been spent on the child(ren) of an intact family. These guidelines assure that the child(ren) will benefit from the living standards of both parents who each have a shared obligation to support their child(ren). These guidelines are to be used in determining child support obligations only and do not relate to spousal support or maintenance.

2. The percentages used to develop the Support Guidelines Chart were derived from economic studies on the proportion of household expenditures which relate to raising a child. Such expenditures include: spending for goods used only by the child, such as clothing, and also a share of goods used in common by the family, such as housing, food, household furnishings, and recreation.

3. The data base used to develop the child support guidelines appended to this Rule will be reviewed by the Administrative Office of the Courts annually from the effective date of the adoption of this Rule to determine if modification of the guidelines is necessary.

(1) For a detailed discussion of support guidelines and supporting data see Williams, Robt. G., Development of Formulas for Establishing and Updating Child Support Orders: Interim Report, report submitted to the Office of Child Support Enforcement, U.S. Department of Health and Human Services (Institute for Court Management of the National Center for State Courts, June 1985).

APPENDIX A

- A-1 Considerations in the Use of Support Guidelines
- A-2 Percentages Used in Developing Support Guidelines
- A-3 Child Support Guidelines Chart
- A-4 Child Support Guidelines Worksheet
- A-5 Child Support Guidelines Worksheet Instructions

APPENDIX A-1

CONSIDERATIONS IN THE USE OF CHILD SUPPORT GUIDELINES

The guidelines set forth in this Rule shall be applied by first determining the available family income using the Child Support Guidelines Worksheet (Appendix A-4) and then determining the amount of the child support obligation from the Child Support Guidelines Chart (Appendix A-3). The child support obligation is then divided proportionately between the parents based upon their contribution to the family income. If necessary, an order shall be entered to supplement the calculated child support amount to include each parent's share of work-related child care expenses and extraordinary medical/dental expenses for the child. Such expenses will be distributed based on the percent contribution of each parent to the combined income.

These child support guidelines assume that the custodial parent is spending his/her calculated share directly on the child. For the non-custodial parent, the calculated share establishes the child support order.

Considerations which may make these child support guidelines inapplicable are:

1. These tables and procedures are not generally intended to apply to parents with a combined net income which is below the poverty level (as set forth in the Federal Register) or in excess of \$42,000 per year. Parents at these extreme income levels should be subject to child support orders based upon individual case review. However, obligor parents earning less than the poverty level shall be ordered to pay a nominal child support amount to establish the principle of payment and lay the basis for increased orders if income increases in the future (See Appendices A-2 and A-3).
2. These child support guidelines are based upon traditional custody and visitation arrangements.
3. These child support guidelines do not take into account the economic impact of the following factors:
 - (a) spousal support;
 - (b) equitable distribution of property;
 - (c) tax consequences;
 - (d) fixed direct payments;
 - (e) unreimbursed extraordinary medical/dental expenses for the obligor parent;
 - (f) educational expenses for the child(ren) or the spouse (i.e., those incurred for private, parochial, or trade schools, other secondary schools, or post-secondary education where there is tuition or other costs beyond state/local tax contributions);
 - (g) verified non-court ordered support needs of children from other relationships;
 - (h) families having more than six [6] children.

APPENDIX A-1 (cont'd)

4. In determining gross income, these guidelines do not take into account the following factors:

- (a) unreported cash income;
- (b) underemployment;
- (c) income derived by other household members; and/or
- (d) in-kind income.

The above enumerated considerations should not limit the Court from taking into account other significant factors which may cause these child support guidelines to be inapplicable.

APPENDIX A-2

WEEKLY INCOME SHARE FORMULA
CHILD SUPPORT AWARDS AS A PERCENT OF TOTAL WEEKLY NET INCOME

TOTAL NET INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
116*	12.4%	12.4%	12.4%	12.4%	12.4%	12.4%
140	23.3%	27.0%	27.0%	27.0%	27.0%	27.0%
163	23.3%	36.0%	37.4%	37.4%	37.4%	37.4%
186	23.1%	35.9%	44.9%	45.3%	45.3%	45.3%
209	22.9%	35.4%	46.3%	50.0%	51.3%	51.3%
233	22.2%	34.5%	43.2%	48.7%	53.1%	56.2%
256	21.7%	33.7%	42.3%	47.6%	52.0%	55.5%
279	21.3%	33.1%	41.5%	46.8%	51.0%	54.5%
302	20.6%	32.0%	40.2%	45.3%	49.4%	52.8%
326	20.0%	31.1%	39.1%	44.0%	48.0%	51.3%
349	19.5%	30.3%	38.1%	42.9%	46.8%	50.1%
372	19.3%	30.0%	37.6%	42.4%	46.3%	49.4%
395	19.1%	29.8%	37.3%	42.1%	45.8%	49.0%
419	19.0%	29.6%	37.0%	41.7%	45.5%	48.6%
442	18.9%	29.4%	36.7%	41.4%	45.2%	48.3%
465	18.8%	29.2%	36.5%	41.2%	44.9%	48.0%
488	18.6%	28.9%	36.1%	40.8%	44.4%	47.5%
512	18.4%	28.6%	35.8%	40.4%	44.0%	47.0%
535	18.3%	28.3%	35.5%	40.0%	43.6%	46.6%
558	18.1%	28.1%	35.2%	39.7%	43.3%	46.2%
581	18.0%	27.9%	34.9%	39.4%	42.9%	45.9%
605	17.8%	27.7%	34.7%	39.0%	42.6%	45.5%
628	17.7%	27.5%	34.4%	38.8%	42.3%	45.2%
651	17.6%	27.3%	34.2%	38.5%	42.0%	44.9%
674	17.4%	27.0%	33.8%	38.0%	41.5%	44.4%
698	17.2%	26.6%	33.4%	37.6%	41.0%	43.8%
721	17.0%	26.3%	32.9%	37.1%	40.5%	43.3%
744	16.8%	26.0%	32.6%	36.7%	40.0%	42.8%
767	16.6%	25.7%	32.2%	36.3%	39.6%	42.3%
791	16.4%	25.4%	31.9%	35.9%	39.2%	41.9%
814	16.2%	25.2%	31.5%	35.5%	38.8%	41.5%

*For total weekly net incomes less than this amount, the obligor parent should be ordered to pay a nominal child support amount to establish the principle of payment and lay the basis for increased orders should obligor income increase in the future.

APPENDIX A-3

WEEKLY INCOME SHARE FORMULA (MONTHLY SALARY/4.3)
WEEKLY-BASE--5%

TOTAL NET INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
116*	14- 15	14- 15	14- 15	14- 15	14- 15	14- 15
140	31- 34	36- 40	36- 40	36- 40	36- 40	36- 40
163	36- 40	56- 62	58- 64	58- 64	58- 64	58- 64
186	41- 45	63- 70	79- 88	80- 88	80- 88	80- 88
209	46- 50	70- 78	88- 97	99-110	102-113	102-113
233	49- 54	76- 84	95-105	108-119	147-130	124-137
256	53- 58	82- 91	103-114	116-128	126-140	135-149
279	56- 62	88- 97	110-122	124-137	135-149	144-160
302	59- 65	92-102	115-127	130-144	142-157	152-168
326	62- 68	96-106	121-134	136-150	148-164	159-175
349	65- 72	101-111	126-139	142-157	155-171	166-183
372	68- 75	106-117	133-147	150-166	167-181	175-193
395	72- 79	112-124	140-155	158-175	172-190	184-203
419	76- 84	118-130	147-163	166-183	181-200	193-214
442	79- 88	123-136	154-170	174-192	190-210	203-224
465	83- 92	129-143	161-178	182-201	198-219	212-234
488	86- 95	134-148	168-185	189-209	206-228	220-243
512	89- 99	139-154	174-192	196-217	214-236	229-253
535	93-103	144-159	180-199	203-225	222-245	237-262
558	96-106	149-165	186-206	210-232	229-253	245-271
581	99-110	154-170	193-213	217-240	237-262	253-280
605	103-113	159-176	199-220	224-248	245-270	262-289
628	106-117	164-181	205-227	231-256	252-279	270-298
651	109-120	169-187	212-234	238-263	260-287	278-307
674	111-123	173-191	217-239	244-269	266-294	284-314
698	114-126	177-195	221-244	249-275	272-300	290-321
721	116-128	180-199	226-249	254-281	277-306	296-328
744	118-131	184-203	230-254	259-287	283-313	302-334
767	121-134	187-207	235-260	264-292	289-319	308-341
791	123-136	191-211	239-265	270-298	294-325	315-348
814	125-139	195-215	244-270	275-304	300-332	321-354

*For total weekly net incomes less than this amount, the obligor parent should be ordered to pay a nominal child support amount to establish the principle of payment and lay the basis for increased orders should obligor income increase in the future.

APPENDIX A-4

CHILD SUPPORT GUIDELINES WORKSHEET

	<u>Mother</u>	<u>Father</u>
1. Weekly Earned and Unearned Gross Income From All Sources	_____	_____
2. Weekly Mandatory Deductions		
a. Federal, State, and Local Income Taxes	_____	_____
b. FICA (Social Security)	_____	_____
c. Mandatory Union Dues	_____	_____
d. Mandatory Retirement	_____	_____
e. TOTAL MANDATORY DEDUCTIONS	_____	_____
3. Weekly Net Income (Line 1 minus Line 2e)	_____	_____
4. Weekly Allowable Exemptions		
a. Medical/Dental Insurance for Family (unreimbursed premium)	_____	_____
b. Prior Child Support and/or Alimony Orders	_____	_____
c. TOTAL ALLOWABLE EXEMPTIONS	_____	_____
5. Weekly Available Income (Line 3 minus Line 4c)	_____	_____
6. COMBINED TOTAL WEEKLY AVAILABLE INCOME		[]
7. Percent Contribution of Each Parent (Line 5, each parent, divided by line 6)	_____ %	_____ %
8. WEEKLY CHILD SUPPORT AMOUNT (From Chart)		[]
9. TOTAL WEEKLY CHILD SUPPORT AMOUNT EACH PARENT (percent line 7 each parent, times line 8)	[]	[]
10. Percent Contribution of Each Parent Toward Extraordinary Medical/Dental Expenses for Child(ren) and Work Related Child Care Expenses (from line 7)	_____ %	_____ %

APPENDIX A-5

INSTRUCTIONS TO CHILD SUPPORT GUIDELINES WORKSHEET

A. General

- (1) A child support guidelines worksheet should be completed and made part of the permanent case file for each child support order which is established by expedited or judicial process using the guidelines set forth in the Rule.
- (2) All income information presented on the worksheet should be based upon weekly amounts. For persons paid monthly, the pay should be divided by 4.3. For persons with an annual salary figure, divide by 52.

B. Completion of the Worksheet

- (1) Enter on Line 1, for each parent, the weekly earned or unearned gross income from all sources.
 - (a) Gross income(2) means all income from whatever source derived, including (but not limited to) the following items: [1] Compensation for services, including wages, fees, commissions, and similar items, [2] Gross income derived from business, [3] Gains derived from dealings in property, [4] Interests, [5] Rents, [6] Royalties, [7] Dividends, [8] Alimony and separate maintenance payments, [9] Annuities, [10] Income from life insurance and endowment contracts, [11] Income from discharge of indebtedness, [12] Pensions, [13] Income in respect of a decedent, and [14] Income from an interest in an estate or trust.
 - (b) Prior to June 30 of the current year, use the IRS/State income tax return or W-2 statement(s) of the preceding year to obtain each parent's gross income (Line 1). If tax documentation is unavailable, use any other available evidence to determine gross income. Divide the annual gross income by 52 to obtain the weekly gross income.

After June 30, use the year-to-date income figure from all documented sources (i.e. check stubs). Divide the total gross income from all sources by the number of elapsed weeks to calculate the weekly gross income.
- (2) For each parent, enter all mandatory payroll deductions as itemized on Lines 2a-d. Enter the sum of the mandatory deduction on Line 2e.

(2) See Internal Revenue Code at Section 61-1

APPENDIX A-5 (cont'd)

- (a) Weekly deductions for taxes should be based upon the weekly gross income (Line 1) and the number of exemptions provided by law. Care should be taken to recognize any possible change in filing status or right to tax exemptions pursuant to a pending dissolution or property settlement.
- (b) Once the weekly gross income is calculated, determine the Federal income tax withholding from the Single Persons Weekly Wage Bracket Withholding Table.

The general rule in determining the number of dependency deductions, for use with the wage bracket withholding table is that the non-custodial parent may claim the exemption only if the custodial parent waives his or her right to the exemption on a written declaration that must be attached to the non-custodial parent's tax return each year that the non-custodial parent claims the exemption. However, a decree of divorce or separate maintenance or a written agreement executed prior to 1985 that grants the non-custodial parent the exemption is to be given effect if the non-custodial parent provides at least \$600 for the support of the dependent child during the calendar year and the child received more than one half of his/her support from both parents during the calendar year. (3)

Calculate the State income tax by multiplying the weekly gross income by the current State tax rate (2.0% up to \$20,000; 2.5% from \$20,000 to \$50,000).

Determine any local income tax by dividing the total year-to-date local tax by the number elapsed weeks.

- (c) For W-2 wage earners, determine the FICA tax (Line 2b) by multiplying the gross income by 7.05% (the employee's contribution for 1985). For self-employed individuals, multiply the gross income by 11.8% (1985 self-employment tax). The maximum taxable amount in 1985 for both categories is \$39,600.
 - (d) Determine mandatory union dues and retirement by dividing the year-to-date contributions by the number of elapsed weeks.
- (3) Calculate the "Weekly Net Income" (Line 3) for each parent by subtracting "Total Deductions" (Line 2e) from "Earned and Unearned Income From All Sources" (Line 1).
 - (4) List the "Weekly Allowable Exemptions" as itemized on Lines 4a and 4b. Enter the sum of the weekly allowable exemptions on Line 4c.

(3) See Internal Revenue Code Sections 151 and 152(e), as amended by the Tax Reform Act of 1984, Section 423

APPENDIX A-5 (cont'd)

- (a) Enter on Line 4a the parent's share of the unreimbursed premium which they must contribute for their family's medical or dental insurance.
- (b) Enter on Line 4b the weekly amount of all court-ordered child support or alimony payments for any other child(ren) or spouse(s).
- (5) Calculate the "Weekly Available Income" (Line 5) for each parent by subtracting the "Total Allowable Exemptions" (Line 4c) from the "Weekly Net Income" (Line 3).
- (6) Add the "Weekly Available Income" (Line 5) of both parents and enter the sum at "Combined Total Weekly Available Income" (Line 6).
- (7) Calculate the "Percent Contribution of Each Parent" (Line 7) by dividing each parent's "Weekly Available Income" (Line 5) by the "Combined Total Weekly Available Income" (Line 6).
- (8) Using the "Combined Total Weekly Available Income" (Line 6), determine the appropriate "Weekly Child Support Amount" (Line 8) from the Child Support Guidelines Chart (Appendix A-3).
- (9) Calculate the "Total Weekly Child Support Amount Each Parent" (Line 9) by multiplying the "Weekly Child Support Amount" (Line 8) by the "Percent Contribution of Each Parent" (Line 7).
- (10) If there are work-related child care or extraordinary medical/dental expenses for the children, an order should be entered to supplement the base child support amount. Each parent should to share in those expenses based on their proportionate contribution to the family income found on Line 10 (This figure is the same as the "Percent Contribution of Each Parent" found on Line 7).
 - (a) Extraordinary medical/dental expenses are those which are incurred on behalf of the child(ren) which exceed insurance reimbursement by \$100. These may include (but are not limited to): orthodontic treatment, psychiatric therapy, asthma treatments, or extended physical therapy.

APPENDIX E

PROPOSED COURT RULE: Child Support Hearing Officers

5:25-3. Child Support Hearing Officers

(a) Appointment. There shall be established within the Family Part of the Chancery Division an Office of the Child Support Hearing Officer. The Office of the Child Support Hearing Officer shall consist of a Chief Child Support Hearing Officer, and as many other Child Support Hearing Officers as may be determined appropriate by the Administrative Director of the Courts. The Chief Child Support Hearing Officer and other Child Support Hearing Officers shall be appointed by the Chief Justice and be responsible to the Administrative Director of the Courts. They shall be under the direct supervision of the Family Part Presiding Judge of the county in which the Child Support Hearing Officer is assigned.

(b) Jurisdiction. The Child Support Hearing Officer shall hear and make recommendations that the court enter orders based thereon in all Title IV-D cases concerning:

(1) Establishment of Paternity or the Parent/Child relationship only when the matter is uncontested. When the issue of paternity is contested, the Child Support Hearing Officer shall refer the paternity issue to the court;

(2) Establishment of the obligation and amount of child support;

(3) Establishment of any other financial obligation regarding the care and maintenance of children as well as an obligation to provide medical coverage;

(4) Modification of the obligation of child support;

(5) Enforcement of the obligation of child support or any other child support order;

(6) The establishment, modification and enforcement of support pursuant to N.J.S.A. 2A4-30.21 et seq., the Uniform Reciprocal Enforcement of Support Act.

(c) Duties, Powers and Responsibilities. The Child Support Hearing Officer shall be responsible to the Presiding Judge in the establishment, modification, and enforcement of all child support actions. Such Child Support Hearing Officers shall serve at the pleasure of the Chief Justice and his/her powers and duties shall be prescribed in the order appointing him/her or in the Rules of Procedure of the Family Part. Such Child Support Hearing Officers shall:

(1) Regulate all proceedings before him/her;

(2) Take testimony and establish a record;

(3) Do all acts and take all measures necessary or proper for the efficient performance of his/her duties;

(4) Recommend that the court order the production before him/her of books, papers, vouchers, documents and writings;

(5) Rule upon the admissibility of evidence;

(6) Recommend the issuance of summonses or subpoenas for the appearance of parties or witnesses, administer oaths, examine parties and witnesses under oath;

(7) Accept voluntary acknowledgment of support liability and stipulations or agreements setting the amount of child support to be paid and/or admitting paternity;

(8) Evaluate evidence and make recommendations as to the establishment and enforcement of child support orders;

(9) Recommend entry of default judgments in appropriate cases;

(10) In appropriate cases and with the immediate view by the court, the Child Support Hearing Officer shall make findings of fact and conclusions of law and based thereon may:

(A) Recommend that the court adjudicate a person in contempt, and may recommend incarceration for failure to appear in response to a summons or refusal to answer questions or produce evidence or for behavior disrupting a proceeding;

(B) Recommend that the court adjudicate that a person has failed to comply with an order, and may recommend incarceration for failure to comply with an order of the court that provides for the payment of child support or the performance of any other act in connection therewith;

(C) The Child Support Hearing Officer may request that a witness or party be brought directly before the court for a judicial hearing.

(11) The Child Support Hearing Officer may recommend that the court issue a warrant upon the failure of a party or a witness to appear after having been properly served, and may recommend an amount to be fixed for bail, bond or cash payment to satisfy arrears and the warrant.

(d) Review by Presiding Judge or Designee; Appeal; Time; Record.

(1) The Presiding Judge of the Family Part or a Judge designated by the Presiding Judge shall immediately review all recommendations of Child Support Hearing Officer. Appropriate recommendations shall be signed and ratified by said Judge.

(2) A party not accepting a recommendation entered by the Child Support Hearing Officer shall be entitled to an immediate appeal of the recommendation to the Presiding Judge of the Family Part or a Judge designated by the Presiding Judge who shall conduct a hearing forthwith. Such appeal may be made by either party, and shall be heard de novo not on the record below.

(3) Orders of the Family Part entered in proceedings to review a Child Support Hearing Officer's recommendation shall be recognized as a final order of the Superior Court. Copies of the orders shall be provided to the parties or their attorneys. Orders may be appealed to the Appellate Division of the Superior Court within the time and according to the procedures prescribed by the Rules for appeals to the Appellate Division.

(e) Service. All rules concerning service of notice and due process rights applicable to the Family Part shall be applicable to the Child Support Hearing Officer hearings.

(f) Standards and Guidelines. The Child Support Hearing Officer shall use any support setting guidelines which may be approved by the Supreme Court.

(g) Qualifications and Compensation. The qualifications and compensation for the Chief Child Support Hearing Officer and other Child Support Hearing Officers shall be established by the Administrative Director of the Courts.