

**(YOUR LOVE KEEPS LIFTING ME) HIGHER AND HIGHER:
ALTERNATIVES TO STATUTORY CHILD SUPPORT GUIDELINES**

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CHAPTER 36

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State Bar of Texas, Family Law Section

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Member, Pattern Jury Charges - Vol. V Committee, State Bar of Texas, 1994, 1995

Family Practice Manual Revision Committee, 1990-1994

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American Bar Association, Family Law Section

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Sports Financial Advisors Association – Board of Directors 2010- 2014

State Bar of Texas, Sports Law Section

Dallas County Bar Association, Sports Law Section

Admitted to Practice before the United States Supreme Court, 1985

PROFESSIONAL ACTIVITIES AND AWARDS

Sam Emison Award Recipient 2014 – Texas Academy of Family Law Specialists

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State Bar of Texas – 50th Anniversary Commemorative Oral History of Family Law
Section Video Interviews

Course Director, State Bar of Texas – New Frontiers in Marital Property Law, 2017

Co-Course Director, American Academy of Matrimonial Lawyers - Advanced
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Course Director, 2017 Texas Chapter of American Academy of Matrimonial
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Course Director, American Academy of Matrimonial Lawyers - Advanced Mediation Training 2015

Course Director, Sports Financial Advisors Association 6th Annual Conference, November, 2010

Course Director, Sports Financial Advisors Association 5th Annual Conference, November, 2009

Course Director, State Bar of Texas - 33rd Annual Advanced Family Law Course, August, 2007

Course Director, Marriage Dissolution Course, State Bar of Texas, 1997

Course Director, Texas Academy of Family Law Specialists - 11th Annual Trial Institute, 1997

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PUBLICATIONS AND SPEECHES

"Do You See What I See? Do You Hear What I hear?" 43rd Annual Advanced Family Law Course, State Bar of Texas, San Antonio, Texas, August 8, 2017

"Surprise! Your New Client is a Professional Athlete: What's Next?" American Society of Appraisers, DFW Chapter, Dallas, September 13, 2016

"Pursue and Defend a Child Support Case," 42nd Advanced Family Law Course, State Bar of Texas, San Antonio, Texas, July 31, 2016

"Unique Property Issues," 41st Annual Advanced Family Law Course, State Bar of Texas, San Antonio, Texas, August 5, 2015

"Addictive Behaviors" 2015 Innovations – Breaking Boundaries in Custody Litigation, June 4, 2015, Ft. Worth, Texas (with Brian Cuban, Edgar P. Nace and Sol R. Rappaport)

"One Flew Over the Cuckoo's Nest and into my Office," American Academy of

Matrimonial Lawyers 2014 Annual National Meeting, November 6, 2014, Chicago, Illinois (with Sol Rappaport, Jonathan Gould and Susan Meyer)

"Advanced Negotiation and Alternatives to Trial," 40th Annual Advanced Family Law Course, State Bar of Texas, San Antonio, Texas, August 7, 2014 (with Coye Conner, Janet Brumley, J. Steven King, Kathryn J. Murphy and Ike Vanden Eykel)

"Rocky Mountain High – Substance Abuse and Other Addictions," 2014 Innovations – Breaking Boundaries in Custody Litigation, June 12-13, 2014, Dallas, Texas (with Benjamin J. Albritton, Kevin R. Fuller and Harold C. Urschel III)

"Alienation, Protection or Manipulation?" 2013 Innovations – Breaking Boundaries in Custody Litigation, January 24-25, 2013, Austin, Texas (with Sol Rappaport, Ph.D., G. Thomas Vick, Jr. and Hon. Judy L. Warne)

"Child Custody Evaluations," 39th Annual Advanced Family Law Course, State Bar of Texas, San Antonio, Texas, August 8, 2013 (with Lynn Kamin)

"Evolution of Texas Property Law," 38th Annual Advanced Family Law Course, State Bar of Texas, Houston, Texas, August 2012

"Attachment Issues/Visitation Under Three," 35th Annual Marriage Dissolution Institute, April 26-27, 2012 (with Hon. Judy Warne and Jonathan Gould, Ph.D.)

"The Not-So-Nuclear Family," Innovations – Breaking Boundaries in Custody Litigation, University of Texas School of Law at Austin, Texas and American Academy of Matrimonial Lawyers – Texas Chapter, January 19-20, 2012 (with panelists Arnold Shienvold, Ph.D, Angelina L. Bain, Kevin Fuller and Edward Silverman, Ph.D.)

"Paternity Fraud in Texas," Dallas Bar Association Headnotes, September 2011 (with Holly Friedman)

"Property Division and Enforcement – How to Get What You Got," 37th Annual Advanced Family Law Course, State Bar of Texas, San Antonio, Texas, August 2011

"Paternity Fraud," 2011 Family Law on the Front Lines, University of Texas School of Law, Austin, Texas (with Holly Friedman), June, 2011.

"Challenges of Representing Athletes and High Profile People," Denton County Bench Bar Conference, Pottsboro, Texas, May 2011

"Pre- and Post-Marital Agreements," 34th Annual Marriage Dissolution Institute, April

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Panelist, "Past-Presidents Panel – Advice for Family Lawyers of all Ages," Texas Academy of Family Law Specialists 27th Annual Trial Institute, February 2011

"Family Law Trial Skills from the Experts," ABA Direct and Cross-Examination in a Family Law Trial Teleseminar, February 9, 2011

"Take a Chance on Me – How to Get Drafted," Sports Financial Advisors Association 6th Annual Conference, November 2010 (with panelists Rashard Cook, Stephen Howard and Laurence DePlaza)

"The Future of Premarital, Post-marital and Cohabitation Agreements," New Frontiers in Marital Property Law, Scottsdale, Arizona, October 2010 (with panelists Diana Friedman, Lynn Kamin, Jimmy Vaught and Thomas Greenwald)

"Cohabitation and Domestic Partnership Agreements," 36th Annual Advanced Family Law Course, State Bar of Texas, San Antonio, Texas, August 2010

"Cohabitation, Domestic Partnership, Premarital & Post-Marital Property Agreements," 35th Annual Advanced Family Law Course, State Bar of Texas, Dallas, Texas, August 2009

"Mechanics of Effective Cross Examination," 34th Annual Advanced Family Law Course, State Bar of Texas, Dallas, Texas, August 2009 (with panelists J. Steven King, Kristy D. Piazza and Hon. Frank Sullivan)

"Preparing Your Client for Social Studies and Psychological Evaluations," 2009 State Bar of Texas Annual Meeting: Family Law Section CLE, June 2009

"Guaranteed Pay, What a Deal, or is It?" Characterization of Unusual Employment Contracts, Family Law on the Front Lines, The University of Texas School of Law, San Antonio, Texas, June 2009

LexisNexis Texas Annotated Family Code, Annotations for Chapter Four – "Premarital and Marital Property Agreements" 2006 – 2009 (co-authored with Jonathan J. Bates)

American Journal of Family Law, Valuing Professional Practices & Licenses: A Guide for the Matrimonial Practitioner, 2005 - 2014 Supplement, "Celebrity Divorce – Representing Big Hitters" (co-authored with Jonathan J. Bates)

"How to Get and Keep Athletes as Clients," Sports Financial Advisors Association 5th Annual Conference, November 2009 (with panelists Rashard Cook and Shawna Coleman)

"Exploring Employment Plans and Benefits," New Frontiers in Marital Property Law, Napa Valley, California, October 2008

"As God is My Witness, I'll Never be Hungry Again: Premarital & Marital Property Agreements," State Bar of Texas, 34th Annual Advanced Family Law Course, August 2008

"Evidence Without Witnesses," Collin County Bench Bar Conference, League City, Texas, May 2008

"Predicates, Making and Meeting Objections," State Bar of Texas - The Trial of a Family Law Jury Case, January 2008

"Words From the Wise" - 7th Annual Family Law on the Front Lines, June 2007

"Guaranteed Pay: What a Deal, or Is It? - Characterization of Unusual Employment Contracts", LEI Conference, Snowmass, Colorado, January 2007

"Persuasive Skills," 2006 Fall CLE Conference, Santa Fe, New Mexico, October 2006

"Family Law and The Entertainment Arena - Print, Television, Film and Beyond," 16th Annual Entertainment Law Institute, October 2006

"Guaranteed Pay: What a Deal, or Is It?" - Characterization of Unusual Employment Contracts," New Frontiers in Marital Property Law, San Francisco, October 2006

"Guaranteed Pay: What a Deal, or Is It? - Characterization of Unusual Employment Contracts," Advanced Family Law Course, August 2006

"Litigating the Case - The Trial", Texas Academy of Family Law Specialists 20th Annual Trial Institute, January 2006

"Sports and Entertainment - Representing Big Hitters," ABA Family Law Section, Fall CLE Conference, September 2005

"Representing Big Hitters - They Have The Glory, But What About the Guts?" Collin County Bench Bar, April 2005

"Representing Big Hitters" – Legal Education Institute, Colorado Bar Association, January 2005

"Show Me the \$\$" - State Bar of Texas, Advanced Family Law Course, August 2004

"Sports: Players, Success and The Law" - State Bar of Texas, Entertainment and Sports Law Sections, March 2004

"Drafting Pretrial Motions in High-Stakes Family Law Cases" – Advanced Family Law Drafting and Advocacy: Art and Form, December 2003

"Keeping Private Stuff Private" – Advanced Family Law Course, August 2003

"Marital Agreements and Pre-Divorce Planning," State Bar of Texas - Advanced Family Law Drafting Course, December 2002

"Sports & Entertainment – Representing Big Hitters," State Bar of Texas - Advanced Family Law Course, August 2002

"Valuation of Law Practice in Divorce," American Academy of Matrimonial Lawyers, Spring Meeting 2002

"Common Law Marriage and Rights of Putative Spouses," State Bar of Texas - Advanced Family Law Course, August 2001

"Jury Trials: What You Can And Can't Do," State Bar of Texas - Ultimate Trial Notebook: Family Law Course, December 2000

"Evidence for Judges," State Bar of Texas - Advanced Family Law Course, August 2000

"Representing the Professional Athlete," State Bar of Texas - Advanced Family Law Course, August 2000

"Common Law Marriage," State Bar of Texas Advanced Family Law Course, 1999

"The Athletes - Dating Games How Wheel of Fortune Becomes Jeopardy," Dallas Chapter, Texas Society of Certified Public Accountants, September 1998

"Use of Trial Aids in Opening and Closing Arguments," State Bar of Texas Advanced Family Law Course 1998

"Peculiar Marital Property Characterization Issues Involving Athletes and Entertainers," Texas Entertainment and Sports Law Journal, Spring 1998

"Challenging Characterization Issues (including Sports and Entertainment Law)," State Bar of Texas--Advanced Family Law Course 1997

"Family Law Issues Impacting the Professional Athlete," Sports Lawyers Association 23rd Annual Conference, May 1997

"Evidence without Witnesses," Advanced College of Judicial Studies 1997

"Domicile Restrictions," State Bar of Texas--Advanced Family Law Course 1996

"Relocation Litigation - A Live Demonstration," State Bar of Texas--Advanced Family Law Course 1996

"The Battered Wife Syndrome - The Lawyer's Role as Attorney and Counselor," State Bar of Texas Marriage Dissolution Course 1996

"Identification and Allocation of Stock Options," American Academy of Matrimonial Lawyers--Spring Meeting 1996

"Characterization," State Bar of Texas--Texas Family Law Practice for Paralegals, 1996

"Significant Family Law Cases," Texas Center for the Judiciary, State Judicial Conference 1995

"Where Do We Go From Here? No More Gender-Based Preemptory Challenges in Custody Trials," State Bar of Texas--Marriage Dissolution Course 1995

"Organizing the Huge Property Case," Texas Family Law Practice for Paralegals 1995

"Evidence without Witnesses," University of Houston Law Center, 1995 - 1997

"Pretrial and Trial Tactics - Characterization," State Bar of Texas --Advanced Family Law Course 1994

"The Use of Expert and Lay Witnesses," State Bar of Texas--Marriage Dissolution Course 1994

"Pre- and Post-Nuptial Agreements", State Bar of Texas--Advanced Family Law Course 1993

"Enforcement", State Bar of Texas--Marriage Dissolution Course 1993

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- ABA Family Law Trial Advocacy (2018-present)
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Texas Academy of Family Law Specialists

- Board member (2019-present)
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- Membership & Member Services Committee (2016-present)
- Publications Committee (2016-present)
- Historical Committee (2016-present)
- Annual Dinner, Co-Chair (2019)
- 2021 Trial Institute, Course Director

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- Bill Review Committee (2016-present)
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State Bar of Texas, Family Law Section

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Collin County Bar Association, Family Law Section

Tarrant County Family Law Bar Association

“Rising Star” 2014-2020, by Thomson Reuters Service printed in *Texas Monthly*

- “Up-And-Coming 50 Women,” 2019 & 2020

EDUCATION

BS (Political Science, *magna cum laude*), Texas Christian University, 2002

BBA (Accounting & Finance, *magna cum laude*), Texas Christian University, 2002

JD, Baylor University School of Law, 2007

PUBLICATIONS AND PRESENTATIONS

Author: “Equal Parenting vs. Best Interest: The 50-50 Debate,” American Academy of Matrimonial Lawyers Mid-Year Meeting, March 2020

Author/Presenter: “Every Breath You Take (I’ll Be Watching You): CPS & Divorce,” Marriage Dissolution, April 25, 2019

Presenter: “Procedure and Evidence Tips,” State Bar of Texas Family Law Section Pro Bono Seminar – Cleburne, April 5, 2019

Author/Presenter: “Assisting with Child Custody and Visitation Issues,” Texas Family Law Practice for Paralegals Seminar, February 14, 2019

Presenter: “Calling Audibles – The Legislative Process and 2019 Update,” Dallas Bar Association Family Law Section Bench Bar Conference, February 8, 2019

Panelist: “Trial of a Custody Case,” Innovations: Breaking Boundaries in Custody Litigation, January 25, 2019

Presenter: “Expert Assistance – Business Valuation vs. Jenson Claim,” American Society of Appraisers, October 9, 2018

Presenter: “Legislative Update,” Texas Advanced Paralegal Seminar, September 27, 2018

Presenter: “Understanding Retirement Benefits,” State Bar of Texas Family Law Section Pro Bono Seminar – Corpus Christi, May 11, 2018

Trial Participant: Texas Academy of Family Law Specialists 33rd Annual Trial Institute, February 16, 2018

Presenter: “Enforcing the Property Division,” Tarrant County Family Law Bar Association, November 2, 2017

Presenter: “Pursue and Defend a Child Support Case – The Basics,” Texas Advanced Paralegal Seminar, October 4, 2017

Author/Panelist: “Enforcing the Property Division,” Advanced Family Law 2017, August 9, 2017

Presenter: “Legislative Update 2017,” Dallas Bar Association Family Law Section, July 12, 2017

Panelist: "Preparing for the Board Certification Exam," Advanced Family Law 2016, August 2, 2016
Author: "Pursue and Defend a Child Support Case," Family Law 101 Course, July 31, 2016

Presenter: "Family Law Practice," UNT Dallas College of Law, February 26, 2016

Author: "Drafting the Jury Charge," Advanced Family Law Drafting, December 11, 2015

Presenter: "Men: Child Support, Spousal Support, and Fighting for Custody," Fort Worth Paralegal Association, June 25, 2015

Panelist: "Taking and Passing the Board Certification Exam," Tarrant County Family Law Bar Association, Spring 2015

Presenter: "CPS Litigation 101," CASA of Trinity Valley, 2009

EDUCATION

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Law Office of Emily T. Ross, PLLC, May 2013 - Present

- *Owner/Attorney*, Divorce and Family Law Litigation

Judd & Jacks, PLLC, May 2012 - May 2013

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- *Associate Attorney*, Divorce, Family Law, and Family Law Appellate Litigation

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- State Bar of Texas - No. 24066002
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 - Membership Committee, 2017 - Present
 - Bill Review Committee – 2017 Legislative Session - Present
 - Auction Committee – 2016 - Present
- Montgomery County Bar Association, Family Law Section
- Houston Bar Association
- Burta Rhoads Raborn Family Law American Inn of Court
- Texas Rising Star honoree, 2020 (by Thomson Reuters Service printed in Texas Super Lawyers and Texas Monthly)

PUBLICATIONS AND PRESENTATIONS

- Co-Author, Speaker, *Therapists in Litigation are No Child's Play: Cross-Examining the Treating Therapist and Avoiding Common Traps*, Burta Rhoads Raborn Family Law American Inn of Court, April 2019 (Team Leader and Winner, Best Presentation 2018-2019)
- Author and Speaker, *Preparing Pleadings and Assisting with Motion Practice*, Texas Family Law Practice for Paralegals, February 2019
- Co-Author and Speaker, *Lo-Tech, Hi-Tech & Beyond: Using Technology to Effectively Present Your Case*, Burta Rhoads Raborn Family Law American Inn of Court, March 2017
- Author, *Temporary Orders in a Divorce and SAPCR: Preparing Pleadings and Assisting with Motion Practice*, Texas Family Law Practice for Paralegals, January 2016
- Co-Author, *Iffy Inventories: Ethical Dilemmas with Inventories*, Burta Rhoads Raborn Family Law American Inn of Court, January 2015
- Co-Author and Speaker, *After DOMA: A Look Ahead for Texas*, Burta Rhoads Raborn Family Law American Inn of Court, February 2014

REPORTED OPINIONS

- *In the Interest of N.W.*, No. 02-12-00057-CV, 2013 Tex. App. LEXIS 11862, 2013 WL 5302716 (Tex. App.—Fort Worth, Sept. 19, 2013, no pet.).

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(YOUR LOVE KEEPS LIFTING ME) HIGHER AND HIGHER: ALTERNATIVES TO STATUTORY CHILD SUPPORT GUIDELINES

Child support – a seemingly simple yet often thorny part of family law that can bring out the worst in clients.

- “She doesn’t need the money.”
- “But I’m the mother. Mothers don’t pay support.”
- “The money isn’t going to my kids.”
- “I can’t even pay for child care on what I’m getting.”

We’ve all heard these complaints at some point or another in our careers. And I’m willing to bet most, if not all of us, have responded with something to the effect of “There is a formula, and the judge will follow it.” Period. End of sentence.

Chapter 154 of the Texas Family Code outlines the formula for child support in this State. *See* Tex. Fam. Code §§ 154.001–.309. The resulting amount is presumed to be reasonable and presumed to be in a child’s best interest. Tex. Fam. Code § 154.122. Our guideline formula is not the norm for the country, though. Of all 50 states, only 3 others align with our presumptive scheme to consider only the paying parent’s income. *See* Appendix 1. The overwhelming majority of states utilize the “Income Shares” model for calculating guideline support which takes into account the income of both parents. *Id.*

Chapter 154 does provide an avenue for seeking support above the guideline calculation; however, our statute leaves a wide gap on what that above guideline support can/should look like. *See* Tex. Fam. Code §§ 154.123, 154.126. Trial courts can impose support above the guideline amount after consideration of certain factors. *Id.* How the additional support is determined and the manner of payment (direct or indirect) is where ingenuity has opportunity.

The purpose of this article is to provide an overview of our current code in comparison to the rest of the country, provide insight into how our calculations would/will look if we are brought in line with the rest of the country, and outline creative options for getting above guidelines support.

Author’s Note - The use of the male pronoun to describe an obligor in this article is meant in the “midwestern gender neutral sense.” (Shout out to Professor Brian Serr.) Females can and do pay child support, and nothing herein is intended to ignore that reality.

I. TEXAS’ CURRENT FORMULA

A. Determine “Resources”

The starting place for any Texas child support suit is determining the obligor’s “resources”. Tex. Fam. Code § 154.062(a). “Resources” is a legal term of art that includes all wage and salary income, self-employment income, and all other income actually received. *Id.* § 154.062(b). It is important to consider the wide range of income permitted by statute in calculating an obligor’s resources. An obligor’s “duty to pay support is not limited to his ability to pay from current earnings, but also extends to his ability to pay from any and all sources that might be available.” *In re J.D.D.*, 242 S.W.3d 916, 922 (Tex. App.—Dallas 2008, pet. denied). Cash physically received is just one source. *See* Tex. Fam. Code §§ 154.066, 154.067.

Texas Family Code Section 154.062(b) lists the types of income that constitute “resources” for child support purposes. They are –

- (1) 100 percent of all wage and salary income and other compensation for personal services (including commissions, overtime pay, tips, and bonuses);
- (2) interest, dividends, and royalty income;
- (3) self-employment income;
- (4) net rental income (defined as rent after deducting operating expenses and mortgage payments, but not including noncash items such as depreciation); and
- (5) all other income actually being received, including severance pay, retirement benefits, pensions, trust income, annuities, capital gains, social security benefits other than supplemental security income, unemployment benefits, disability and workers' compensation benefits, interest income from notes regardless of the source, gifts and prizes, spousal maintenance, and alimony.

Tex. Fam. Code § 154.062(b). The last category is meant as a catchall provision, not an all-inclusive list. *In re P.C.S.*, 320 S.W.3d 525, 537 (Tex. App.—Dallas 2010, pet. denied). Over the years, courts have been asked to decide what types of income constitute “resources” under this catchall category. Some specific income examples that have been approved for inclusion are inheritance, gifts, scholarships, financial assistance, and annuities.

B. Determine “Net Resources”

Guideline support is calculated by applying the appropriate percentage to the obligor’s net monthly resources. Tex. Fam. Code § 154.125, 154.126. “Net resources” means total “resources” less mandatory deductions. Tex. Fam. Code § 154.062(d). Accordingly, after determining the total amount of an

obligor’s resources, the next step is to calculate his “net resources.”

The mandatory items that must be subtracted from an obligor’s resources before application of the guidelines are listed in Texas Family Code Section 154.062(d). They are as follows –

- (1) social security taxes;
- (2) federal income taxes based on the tax rate for a single person claiming one personal exemption and the standard deduction;
- (3) state income taxes (where applicable);
- (4) union dues;
- (5) the portion of health and dental insurance premiums attributable to each child involved in the suit;
- (6) the amount of cash medical support ordered by the court if the child’s health and/or dental insurance premiums are not covered by the obligor; and
- (7) nondiscretionary retirement plan contributions if the obligor does not pay social security taxes (example – railroad employees). *Id.*

C. Apply Guideline Percentage

If the obligor’s monthly net resources are not more than the existing cap, the Family Code dictates that the court **shall** apply the following schedule in determining the amount of child support:

1 child	20%	of	Obligor's	Net
2 children	25%	of	Obligor's	Net
3 children	30%	of	Obligor's	Net
4 children	35%	of	Obligor's	Net
5 children	40%	of	Obligor's	Net
6+ children	Not less than 40%			

Tex. Fam. Code § 154.125(b). If an obligor has children in more than one household, Section 154.128 provides additional calculations that must be performed when determining guideline support. Alternatively, Section 154.129 authorizes the use of special percentages, which lead to the same result as Section 154.128’s formula. *See Appendix 2.*

II. THE OTHER 46 STATES

As mentioned in the introduction, Texas is in a very small minority of states that utilize only the obligor’s income in its guideline child support calculation. The other states in our country utilize either the Income Shares model or the Melson Formula model.

A. Income Shares Model

The Income Shares model is the predominant formula used throughout the country for calculating guideline child support. *See Appendix 1.* It was first promulgated in 1987 and is based on the idea that a child should receive the same proportion of parental income that he/she would if the parents lived together. R. Williams, *Development of Guidelines for Child Support Orders: Advisory Panel Recommendations and Final Report* (U.S. Dept’ of Health and Human Services, Office of Child Support Enforcement, 1987). The name “income *shares*” is intended to suggest that children have a right to shares of parental income similar to owning shares of stock in a company. *Id.* at II-67, n.77.

Under this model, a “basic child support obligation” is computed by multiplying the combined income of the parents by pre-determined percentages that decrease as income increases. Linda Henry Elrod, *The Federalization of Child Support Guidelines*, 6 J. AM. ACAD. MATRIM. LAW. 120 (1990). The percentages are state-specific and derived from economic data on household expenditures on children. *See Laura Wish Morgan, Child Support Guidelines: Interpretation and Application* § 1.08[B] (2nd ed, 2020).

From there, a “presumptive child support obligation” is computed by adding expenditures for work-related child care, extraordinary medical expenses and any other permissible add-ons (or deductions) to the basic obligation previously calculated. *Id.*

Lastly, the presumptive obligation is prorated between the parents based their respective proportionate shares of total income. *Id.* “The obligor's obligation is payable as child support, while the obligee's obligation is retained and presumed to be spent directly on the child.” *Id.*

B. Melson Formula Model

The Melson Formula was named after Judge Elwood F. Melson of Delaware and is laid out in *Dalton v. Clanton*, 559 A.2d 1197 (Del. 1989). *Id.* at § 1.08[D]. It is a more complicated version of the Income Shares model as it incorporates several public policy judgments designed to ensure that each parent's basic needs are met in addition to the needs of the children. *Id.* Only three states – Delaware, Hawaii and Montana – use the Melson Formula. *See Appendix 1.*

The Melson Formula is as follows –

1. Calculate the parents’ combined total net income.

Gross income less taxes less each parent’s “self support reserve.”

2. Calculate the “basic child support obligation.”

Combined total net income (Step 1) x percentage from the applicable state’s chart.

3. Calculate the “primary support obligation.”

Basic child support obligation (Step 2) + work-related child care expenses + extraordinary medical expenses of the children.

4. Determine a Standard of Living Allowance (SOLA) obligation.

Combined total net income (Step 1) - primary support obligation (Step 3). Multiply the result by SOLA percentage from state’s chart.

5. Determine total support obligation.

Primary support obligation (Step 3) + SOLA obligation (Step 4).

6. Allocate the total support obligation between the parents according to each parent’s proportion of the total combined net income. Id.

III. IF TEXAS WERE TO SHIFT...

Proposed legislation regarding child support reform happens every legislative session. Some of the proposals are good. Some of the proposals are not so good. While the rest of the nation has shifted to using the Income Shares model, guidelines reform has yet to occur in the Lone Star State. Should that change ever come our way, though, it would be helpful for us all to know what impact (if any) that would have on clients. Accordingly, the following hypotheticals are being included herein.

Assumed Facts:

- Mother is primary.
- Only 1 minor child.
- Insurance = \$300.00/month.
- Child care = \$400.00/month.
- Connecticut basic support percentages apply.
- Obligation for health insurance premiums is addressed outside Income Shares support calculation.

Hypothetical #1

Mom = \$50,000 annual gross
\$3,489.18 monthly net

Dad = \$45,000 annual gross
\$2,853.58 monthly net

<i>Texas formula:</i>	<i>Income Shares formula:</i>
\$ 2,853.58	\$ 2,853.58
<u>x 20% + \$ 3,489.18</u>	<u>\$ 570.72 \$ 6,432.76</u>
	x 10%
	\$ 643.28
	<u>+ \$ 400.00</u>
	\$ 1,043.28

<i>Dad’s %</i>	\$ 2,853.58
	<u>÷ \$ 6,432.76</u>
	44.36%

<i>Mom’s %</i>	\$ 3,489.18
	<u>÷ \$ 6,432.76</u>
	54.24%

Dad’s support obligation =

\$ 1,043.28
<u>x 44.36%</u>
\$ 462.80

Difference in obligations = \$ 107.92

Hypothetical #2

Mom = \$75,000 annual gross
\$4,975.04 monthly net

Dad = \$70,000 annual gross
\$4,381.68 monthly net

<i>Texas formula:</i>	<i>Income Shares formula:</i>
\$ 4,381.68	\$ 4,381.68
<u>x 20% + \$ 4,975.04</u>	<u>\$ 876.34 \$ 9,356.72</u>
	x 14.32%
	\$ 1,339.88
	<u>+ \$ 400.00</u>
	\$ 1,739.88

<i>Dad’s %</i>	\$ 4,381.68
	<u>÷ \$ 9,356.72</u>
	46.83%

<i>Mom’s %</i>	\$ 4,975.04
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$$\begin{array}{r} \div \ \$9,356.72 \\ 53.17\% \\ \hline \end{array}$$

Dad's support obligation =

$$\begin{array}{r} \$1,739.88 \\ \times \ 46.83\% \\ \hline \$814.79 \end{array}$$

Difference in obligations = \$ 61.55

<i>Texas formula:</i>	<i>Income Shares formula:</i>
\$ 9,200.00	\$ 16,808.55
<u>x 20% + \$ 769.58</u>	
\$ 1,840.00	\$ 17,578.13
<u>x 25.41%</u>	
\$ 4,466.60	
<u>+ \$ 400.00</u>	
\$ 4,866.60	

Dad's %	\$ 16,808.55
	<u>÷ \$ 17,578.13</u>
	95.62%

Mom's %	\$ 769.58
	<u>÷ \$ 17,758.13</u>
	4.38%

Dad's support obligation =

$$\begin{array}{r} \$4,866.60 \\ \times \ 95.62\% \\ \hline \$4,653.44 \end{array}$$

Difference in obligations = \$ 2,813.44

Hypothetical #3

Mom = \$120,000 annual gross
\$7,576.37 monthly net

Dad = \$120,000 annual gross
\$7,576.37 monthly net

<i>Texas formula:</i>	<i>Income Shares formula:</i>
\$ 7,576.37	\$ 7,576.37
<u>x 20% + \$ 7,576.37</u>	
\$ 1,515.27	\$ 15,152.74
<u>x 25.47%</u>	
\$ 3,859.40	
<u>+ \$ 400.00</u>	
\$ 4,259.40	

Hypothetical #3 (cont.)

Dad's %	\$ 7,576.37
	<u>÷ \$ 15,152.74</u>
	50%

Mom's %	\$ 7,576.37
	<u>÷ \$ 15,152.74</u>
	50%

Dad's support obligation =

$$\begin{array}{r} \$4,259.40 \\ \times \ 50\% \\ \hline \$2,129.70 \end{array}$$

Difference in obligations = \$ 614.43

Hypothetical #5

Mom = \$120,000 annual gross
\$7,576.37 monthly net

Dad = \$500,000 annual gross
\$27,929.37 monthly net

*Additional assumptions:
Private school = \$3,000 per month
Tutoring = \$500 per month

<i>Texas formula:</i>	<i>Income Shares formula:</i>
\$ 9,200.00	\$ 27,929.37
<u>x 20% + \$ 7,576.37</u>	
\$ 1,840.00	\$ 35,505.74
<u>x 24.29%</u>	
\$ 8,624.34	
<u>+ \$ 400.00</u>	
\$ 9,024.34	

Dad's %	\$ 27,929.37
	<u>÷ \$ 35,505.74</u>
	78.66%

Mom's %	\$ 7,576.37
	<u>÷ \$ 35,505.74</u>
	21.34%

Dad's support obligation =

$$\begin{array}{r} \$9,024.34 \\ \times \ 78.66\% \\ \hline \end{array}$$

Hypothetical #4

Mom = \$10,000 annual gross
\$769.58 monthly net

Dad = \$290,000 annual gross
\$16,808.55 monthly net

\$ 7,098.55

*Difference in obligations = \$ 5,258.55**

* *Court has the ability to order \$ 3,500.00 per month be paid directly to school/tutor with remainder paid directly to Mom.*

IV. HOW TO GET MORE

Whether Texas remains unchanged in our guideline formula or shifts to an Income Shares or a hybrid model, family law practitioners will assuredly still come across cases where above-guideline support is warranted (or at least at issue). When you find yourself in such a scenario, how you plead and prove that upward deviation is proper will depend on how net resources relate to the statutory cap. See Tex. Fam. Code §§ 154.123(b), 154.126.

A. Net Resources Below Cap

When net resources are *at or below* the cap, the evidence must show that “application of the guidelines would be unjust or inappropriate under the circumstances” to justify variance from the guideline amount. *Id.* § 154.122(b). The court has broad discretion when making this determination but must consider “all relevant factors.” *Id.* §§ 153.122(b), 154.123(b).

A non-exclusive list of factors to consider is contained in Section 154.123(b) –

- (1) the age and needs of the child;
- (2) the ability of the parents to contribute to the support of the child;
- (3) any financial resources available for the support of the child;
- (4) the amount of time of possession of and access to the child;
- (5) the amount of the obligee's net resources, including earning potential (if the obligee is intentionally unemployed or underemployed) and deemed income;
- (6) child care expenses incurred by either party in order to maintain gainful employment;
- (7) whether either party has the managing conservatorship or actual physical custody of another child;
- (8) the amount of alimony or spousal maintenance actually and currently being paid or received by a party;
- (9) the expenses for a child for education beyond secondary school;
- (10) whether the obligor or obligee has an automobile, housing, or other benefits furnished by his or her employer, another person, or a business entity;

- (11) the amount of other deductions from the wage or salary income and from other compensation for personal services of the parties;
- (12) provision for health care insurance and payment of uninsured medical expenses;
- (13) special or extraordinary educational, health care, or other expenses of the parties or of the child;
- (14) the cost of travel in order to exercise possession of and access to a child;
- (15) positive or negative cash flow from any real and personal property and assets, including a business and investments;
- (16) debts or debt service assumed by either party; and
- (17) any other reason consistent with the best interest of the child, taking into consideration the circumstances of the parents.

Tex. Fam. Code § 154.123(b), *see also Sanchez v. Sanchez*, 915 S.W.2d 99, 103 (Tex. App.—San Antonio 1996, no writ).

These factors provide a basis for variance from the child support guidelines, but they only apply to an upward variance for net resources below cap. *Rodriguez v. Rodriguez*, 860 S.W.2d 414, 417 (Tex. 1993) (applying the former statutes). For an upward variance based on net resources over the cap, you must look to Section 154.126.

B. Net Resources Above Cap

If the obligor's net resources exceed the statutory cap, the court may order additional amounts of child support beyond the guidelines, but the relevant factors to consider are limited to (1) the income of the parties and (2) the proven needs of the child. Tex. Fam. Code § 154.126; *Nordstrom v. Nordstrom*, 965 S.W.2d 575, 579 n.4 (Tex. App.—Houston [1st Dist.] 1997, pet. denied). If the child's needs are greater than the presumptive amount, the excess expenses are allocated between the parties based on their respective circumstances. *Id.*

1. Needs of the Child

What constitutes “needs” of the child has not been defined by statute or by case law. See *Rodriguez*, 860 S.W.2d at 417 n. 3. In evaluating the needs of the child, courts should be guided by the paramount principle in child support decisions: the best interest of the child. *Id.* The Texas Supreme Court has concluded that the “needs of the child include more than the bare necessities of life.” *Id.*

a. Categories to Consider

The “bare necessities of life” are generally understood to be food, clothing, shelter, health care, education, and transportation. When evaluating needs, these are the *minimum* essentials that should be

reviewed. Many other regular expenses should also be considered in calculating a child's needs, such as –

- **Housing:** mortgage or rent; property taxes; homeowner's association dues; insurance; utilities; cable television or satellite; cellular service, internet; household maintenance including pest control, lawn care, house cleaning; repairs; alarm system.
- **Health care:** uninsured medical costs for doctors (pediatrician, dermatologist, allergist, psychiatrist, etc.); dentist; orthodontist; eye doctors; glasses; prescription drugs; over-the-counter medication; emergency room visits; hospitalization; mental health or other counseling.
- **Food:** groceries and household items; meals eaten out; school lunches.
- **Clothing:** including special occasions like homecoming and prom.
- **Personal grooming:** haircuts, grooming products, make-up, etc.
- **Education:** private school tuition; books; supplies, including school project costs; teacher gifts; computer with printer and supplies; college preparation classes and tests; college application fees; college visits.
- **Extracurricular activities:** private lessons or tutoring; music lessons; gymnastics; dance classes; cheerleading camps; sports camps; school trips; school photos and yearbooks; Girl and Boy Scouts; school fundraising activities; sports equipment and uniforms or other special clothing; team snacks on game day and practice; team parties.
- **Insurance:** medical, dental, vision, auto, life insurance.
- **Transportation:** child's car, including gas and maintenance; driver's education course; child related travel expenses.
- **Entertainment:** money for dates; movies; sporting events; birthday parties; video games and other electronics, including cell phone and data minutes.
- **Child care:** nanny, babysitters, daycare, after school care.
- **Summer activities:** summer camp; vacation or other travel.
- **Pets:** veterinarian expenses; pet food; boarding and grooming expenses.
- **Allowance:** including money for birthday and holiday gifts for friends and relatives.

b. Segregation from Obligee's Expenses

The child's needs should be segregated from those of the parent. *Lide*, 116 S.W.3d at 158. Specifically, the obligee's living expenses must be deleted from the calculation of the needs of the child. *Id.*

In *Lide*, the trial court awarded above-guidelines support, but Mother never itemized or explained the children's needs as segregated from her own. *Id.* Had Father's net resources exceeded the net resources cap in effect at that time, the trial court's support award would have been erroneous. *Id.*

c. Future Expenses

Estimates and projections of future expenses may be considered as needs when awarding above-guidelines child support. *Zajac v. Penkova*, 924 S.W.2d 405, 409 (Tex. App.—San Antonio 1996, no writ). For example, in *Zajac*, Mother testified about the children's need for private school, extracurricular activities, and other expenses that would accrue in the future. *Id.* at 408. The trial court awarded above-guidelines child support partially based on these future needs, and on appeal Father argued against inclusion of the estimated expenses. *Id.* at 409. The appellate court expressly held "that estimates and projections of future expenses and needs of the children are as relevant and probative as past and current expenses and needs." *Id.*

2. Allocation of Expenses Between the Parties

Once the trial court has determined the needs of the child, the court must then allocate responsibility to meet these needs between the parents. Tex. Fam. Code § 154.126(b). The first step in this allocation is to subtract the entire amount of the presumptive award from the total proven needs. *Id.* Next, the court shall allocate the remaining needs between the parties "according to the circumstances of the parties." *Id.* In no event may the obligor be ordered to pay more than guideline maximum or 100 percent of the child's proven needs, whichever is greater. *Id.* Practically speaking, this limitation means an obligor with net resources below the cap can be required to pay support in excess of the child's needs but an obligor with net resources greater than the cap cannot. *Lide v. Lide*, 116 S.W.3d 147, 156-57 (Tex. App.—El Paso 2003, no pet.).

When needs are beyond the presumptive award of support, both parties' net resources will be considered so each party's ability to satisfy the remaining needs can be assessed. *See* Tex. Fam. Code § 154.126(b). Thus, in a case where the obligor's net resources exceed \$9,200, the party *seeking* additional child support must be prepared to reveal his or her own net resources.

The court is not required to specifically allocate the dollar amount of each need to a parent, but instead may divide the total cost into lump sum assignments. *In re Pecht*, 874 S.W.2d 797, 802–03 (Tex. App.—Texarkana 1994, no writ). For instance, in *Pecht*, the appellate court affirmed a flat monthly child support payment above the guideline amount based on Mother's testimony of the needs of the children. *Id.* The trial court did not allocate any exact amounts for the needs of the children, which included special health care, a special

school, various forms of therapy, a special summer camp, special child care needs, and special and extraordinary educational needs. *Id.* The Texarkana court upheld the trial court's allocation, holding that a monthly lump sum award was appropriate under the circumstances. *Id.* at 803.

C. Best Interest

In determining whether the court should deviate from the guidelines, the underlying concern will always be the best interest of the child. *Rodriguez*, 860 S.W.2d at 417. There is no bright-line rule for determining what is in a child's best interest; each case must be determined on its unique set of facts. *See Lenz v. Lenz*, 79 S.W.3d 10, 19 (Tex. 2002). Suits affecting the parent-child relationship are intensely fact driven and evaluation of the best interest of a child requires a court to consider and balance numerous factors. *Id.*

D. Evidence Ideas

Most of us already use financial information statements (whether by choice or by local rule) to identify a party or family's household expenses. When you have limited time to present your case, spreadsheets and summaries are your friend as these documents convey detailed information in an organized and efficient manner. Additional time saving, easily digestible evidence ideas are listed below.

1. Child's Financial Information Statement

Because you should segregate a child's expenses from your client's expenses, prepare alongside your client's master financial information statement a separate column or spreadsheet identifying the amount of each expense attributable to the child (either as 100% if a child only expense or as a percentage of the family's expense). If you represent the obligor, consider making your own child financial information statement to dispute the obligee's expenses. As with all financial information statements, it is wise to have the supporting financial documentation organized and indexed with you at the hearing as well.

2. Breakdown of High Dollar Costs

Any high dollar expense that is incurred over time or is easier to justify if itemized should be summarized on a separate spreadsheet for ease in reference and explanation to the Court (i.e. expenses for "school" vs. "tuition, books, uniforms, activity fee, etc."). For example, if the child is involved in a special activity that requires a lot of travel (for example – select league athletics), consider including in your evidence a separate summary of the custodial parent's travel costs. Likewise, if you represent the obligor who flies or travels long distances to exercise visitation, prepare a travel cost summary to show how much money your

client is already paying due to travel to dispute the obligee's claim for more support.

3. Visitation Calendars

Make a visual aid for the Court of how much time your client has with the child as compared to the SPO or the other parent. There are plenty of editable calendar options available online that you can prepare beforehand with text and bright colors to use at the hearing as either an exhibit or demonstrative aid.

4. List of Historical and Anticipated Activities

For divorce cases, if the child was able to participate in certain activities pre-divorce that are now unaffordable by the custodial parent, consider presenting the Court with a list of the child's historical activities, the length the child has participated therein, and the average monthly cost. Identify expenses that you anticipate will change in the future based on historical data (i.e. the cost of an extracurricular activity has increased 2% every year since the child began the activity).

5. National and Regional Cost Estimates

The US Department of Agriculture Center for Nutrition Policy and Promotion publishes the Expenditures on Children by Families report that provides estimates of the cost of raising children from birth through age 17 based on various components such as age of the child, family makeup and income, and location. The report evaluates and allocates expenses like food, housing, transportation, health care, clothing, child care, and education. The most recent report was published in 2017 and is based on data from 2011-2015. This report may be used as a resource to identify untapped expenses, bolster or dispute the credibility of a party's stated expense, or serve as a guideline by which to compare or contrast either party's expenses. The report may be accessed at <https://www.fns.usda.gov/resource/2015-expenditures-children-families>.

E. Bargaining Tips

"To promote the amicable settlement of disputes between the parties to a suit, the parties may enter into a written agreement containing provisions for support of the child and for modification of the agreement, including variations from the child support guidelines..."

Tex. Fam. Code § 154.124(a). This provision indicates that payment of a specific expense in lieu of traditional child support may be enforceable as child support if identified to be paid "as child support" and properly drafted in clear, enforceable language. *Id.* It is also an open invitation to practitioners to advise and encourage clients to get creative in settlement negotiations.

When considering an agreement, always begin with identifying your client's needs and goals. By understanding your client's objectives, you can tailor the discussion (and the final agreement) to better suit your client's circumstances. Alternatives and supplemental avenues to obtain unconventional support through agreement include –

- **Contributing to 529 Plan** – Perhaps both parties earn sufficient income and your client's primary concern is paying for college. If the parties agree that contributions shall be made to a 529 plan, make sure to include provisions identifying the specific accounts; who has control, access, and the right to withdraw from the account; the dates and amounts of deposit or procedure by which to determine the amount and date of deposit; that the funds are to be used for "qualified higher education expenses, including tuition, room and board, mandatory fees, books, supplies, computers, and software"; what happens with the funds/account upon graduation or death; and the execution of any required documentation to accomplish your objectives. You may also want to include conditions on the child, such as maintaining a minimum hour course load and grade point average.
- **Sharing Extracurricular Expenses** – The parties may agree to share in the cost of extracurricular activities. If agreeing to split the cost, identify the specific activity or the number of activities within a particular time frame; payment allocation; to whom the money is to be paid, the date, and the manner of payment; and reimbursement provisions.
- **Offer proportional sharing** – When seeking additional support for a big ticket item, consider offering up front that your client pay a share of the expense in proportion to his/her net resources to demonstrate that your client is reasonable. For example, if the obligor has four times the net resources of the obligee, the obligee could offer to pay $\frac{1}{4}$ of the cost of a prestigious private school or other expense.
- **Less Now for More Later** – In cases where the obligor is in school or in a similar situation such that there is a reasonable anticipation he will make more money upon completion of a specific occurrence (i.e. graduation), an obligee may agree to accept a smaller payment for a period of time with an automatic increase upon the triggering of the future event. The parties may also agree to further conditions like an agreement to not seek a modification during the time period covered by the agreement. While Courts are unable to make such an order, the parties are free to agree as long as the

agreement is in the best interest of the child. *See In re D.S.*, 76 S.W.3d 512, 518-519 (Tex. App.—Houston [14th Dist.] 2002, no pet.).

Be sure to advise your client that if the parties agree to a child support or alternative financial arrangement that is different than what would be ordered according to the child support guidelines, the Court may only modify the order pursuant to a "material and substantial change" and *not* the 3 year rule. Tex. Fam. Code § 156.401(a-1).

V. CONCLUSION

Child support is an inevitable part of family law litigation and a prime target for complaints from clients. It does not, however, have to be a nuisance for practitioners. Remember that guideline support is based solely on the current legislatively mandated presumptive formula and statutory cap. It is a starting point, not a finish line. Get creative and, like your client's affection for you, the number may keep climbing higher and higher.

APPENDIX 1

Guideline Models by State

**Data originally collected by National Conference of State Legislature*

State	Guideline Type	Link to Guidelines
Alabama	Income Shares	<i>Ala. R. Jud. Admin. R. 32</i>
Alaska	Hybrid Model	<i><u>Alaska Civ. R. 90.3</u></i>
Arizona	Income Shares	<i>Arizona Child Support Guidelines</i>
Arkansas	% of Obligor's Income	<i><u>Ark. Admin. Order of the Supreme Court, Rule 10</u></i>
California	Income Shares	<i>California Fam. Code §§ 4050-4076</i>
Colorado	Income Shares	<i>Colo. Rev. Stat. §§ 14-10-115 et seq.</i>
Connecticut	Income Shares	<i><u>Child Support and Arrearages Guidelines</u></i>
Delaware	Melson Formula	<i>Delaware Child Support Guidelines</i>
Florida	Income Shares	<i>Fla. Stat. Ann. § 61.30</i>
Georgia	Income Shares	<i>Ga. Code Ann. § 19-6-15</i>
Hawaii	Melson Formula	<i>Hawaii Child Support Guidelines</i>
Idaho	Income Shares	<i><u>Idaho R. Civ. Pro. 6(c)(6)</u></i>
Illinois	Income Shares	<i>Ill. Rev. Stat. ch. 750, § 5/505 through Ill. Rev. Stat. ch. 750, §5/510</i>
Indiana	Income Shares	<i>Indiana Child Support Rules and Guidelines</i>
Iowa	Income Shares	<i><u>Iowa Child Support Guidelines</u></i>
Kansas	Income Shares	<i>Updated Jan. 1, 2016: Kansas Admin. Order No. 261</i>
Kentucky	Income Shares	<i>Ky. Rev. Stat. § 403.212</i>
Louisiana	Income Shares	<i>La. Rev. Stat. 9:315.1 et seq.</i>
Maine	Income Shares	<i><u>Me. Rev. Stat. Ann. tit. 19-A, §§ 2001-2012</u></i>
Maryland	Income Shares	<i>Md. Fam. Law Code Ann. §§ 12-201 et seq.</i>
Massachusetts	Income Shares	<i>Massachusetts Child Support Guidelines</i>
Michigan	Income Shares	<i>Mich. Child Support Formula Manual; Mich. Comp. Laws § 552.605 et seq.</i>
Minnesota	Income Shares	<i><u>Minn. Stat. Ann. §§ 518A.35 et seq.</u></i>
Mississippi	% of Obligor's Income	<i>Miss. Code §§ 43-19-101 et seq.</i>
Missouri	Income Shares	<i>Mo. Rev. Stat. § 452.340 Civil Procedure Form 14</i>
Montana	Melson Formula	<i><u>Admin. R. Mont. 37.62.101 et seq.</u></i>
Nebraska	Income Shares	<i>Nebraska Court Rules §§ 4-201 to 4-220</i>
Nevada	Hybrid Model	<i>Nev. Rev. Stat. §§ 125B.070 to -.085</i>
New Hampshire	Income Shares	<i>N.H. Rev. Stat. §§ 458-C:1 to -:7</i>
New Jersey	Income Shares	<i>N.J. Rules of Court, Rule 5:6A, Appendix IX</i>
New Mexico	Income Shares	<i><u>N.M. Stat. §§ 40-4-11.1 to -11.6</u></i>
New York	Income Shares	<i>N.Y. Dom. Rel. Law. § 240(1-b)</i>
North Carolina	Income Shares	<i><u>North Carolina Child Support Guidelines</u></i>

North Dakota	% of Obligor's Income	<i>N.D. Admin. Code §§ 75-02-04.1-01 to 13; 14.09.09.7</i>
Ohio	Income Shares	<i>Ohio Rev. Code §§ 3119.01 et seq.</i>
Oklahoma	Income Shares	<i>Okla. Stat. tit. 43, §§ 118 to 120</i>
Oregon	Income Shares	<i>Or. Admin. Reg. 137-50-320 to -490</i>
Pennsylvania	Income Shares	<i>Pa. R. Civ. Pro. 1910.16-1 to -5</i>
Rhode Island	Income Shares	<i>R.I. C.S.G. Administrative Order</i>
South Carolina	Income Shares	<i>S.C. Soc. Serv. Reg. 114-4710 to -4750</i>
South Dakota	Income Shares	<i>S.D. Codified Laws §§ 25-7-6.1 et seq.</i>
Tennessee	Income Shares	<i>Tenn. Comp. R. & Regs. Dep't Human Services 1240-2-4-.01 to -.057</i>
Texas	% of Obligor's Income	<i>Tex. Fam. Code §§ 154.001 et seq.</i>
Utah	Income Shares	<i>Utah Code §§ 78B-12 et seq.</i>
Vermont	Income Shares	<i>Vt. Stat. title 15, §§ 653-657</i>
Virginia	Income Shares	<i>Va. Code §§ 20-108.1, 20-108.2</i>
Washington	Income Shares	<i>Wash. Rev. Code §§ 26.19.001 et seq.</i>
West Virginia	Income Shares	<i>W. Va. Code Ann. §§ 48-13-101 to -803</i>
Wisconsin	Hybrid Model	<i>Wis. Admin. Code DCF 150.01 to .05</i>
Wyoming	Income Shares	<i>Wyo. Stat. §§ 20-2-301 to -315</i>

APPENDIX 2

**Texas Family Code 154.129
Multiple Family Adjusted Guidelines
(% of Net Resources)**

		# of children before the court						
		1	2	3	4	5	6	7
# of other children obligor must support	0	20.00	25.00	30.00	35.00	40.00	40.00	40.00
	1	17.50	22.50	27.38	32.20	37.33	37.71	38.00
	2	16.00	20.63	25.20	30.33	35.43	36.00	36.44
	3	14.75	19.00	24.00	29.00	34.00	34.67	35.20
	4	13.60	18.33	23.14	28.00	32.89	33.60	34.18
	5	13.33	17.86	22.50	27.22	32.00	32.73	33.33
	6	13.14	17.50	22.00	26.60	31.27	32.00	32.62
	7	13.00	17.22	21.60	26.09	30.67	31.38	32.00

