CHAPTER 75-02-04.1
CHILD SUPPORT GUIDELINES

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75-02-04.1-01. Definitions.

1. "Child" means any child, by birth or adoption, to whom a parent owes a duty of support.

2. "Child living with the obligor" means the obligor's child who lives with the obligor most of the year.

3. "Children's benefits" means a payment, to or on behalf of a child of the person whose income is being determined, made by a government, insurance company, trust, pension fund, or similar entity, derivative of the parent's benefits or a result of the relationship of parent and child between such person and such child. Children's benefits do not mean benefits received from means tested public assistance programs.

4. "Custodial parent" means a parent who acts as the primary caregiver on a regular basis for a proportion of time greater than the obligor, regardless of custody descriptions such as "shared" or "joint" custody given in relevant judgments, decrees, or orders.

5. a. "Gross income" means income from any source, in any form, but does not mean:

(1) Benefits received from means tested public assistance programs such as temporary assistance for needy families, supplemental security income, and food stamps;

(2) Employee benefits over which the employee does not have significant influence or control over the nature or amount unless:

(a) That benefit may be liquidated; and

(b) Liquidation of that benefit does not result in the employee incurring an income tax penalty; or

(3) Child support payments.

b. Examples of gross income include salaries, wages, overtime wages, commissions, bonuses, employee benefits, currently deferred income, dividends, severance pay, pensions, interest, trust income, annuities income, gains, social security benefits, workers' compensation benefits, unemployment insurance benefits, distributions of retirement benefits, receipt of previously deferred income to the extent not previously considered in determining a child support obligation for the child whose support is under consideration, veterans' benefits (including gratuitous benefits), gifts and prizes to the extent they annually exceed one thousand dollars in value, spousal support payments received, refundable tax credits, value of in-kind income received on a regular basis, children's benefits, income imputed based upon earning capacity, military subsistence payments, and net income from self-employment.

c. For purposes of this subsection, income tax due or paid is not an income tax penalty.

6. "In-kind income" means the receipt from employment or income-producing activity of any valuable right, property or property interest, other than money or money's worth, including forgiveness of debt (other than through bankruptcy), use of property, including living quarters at no charge or less than the customary charge, and the use of consumable property or services at no charge or less than the customary charge.

7. "Net income" means total gross annual income less:

a. A hypothetical federal income tax obligation based on the obligor's gross income, reduced by that part of the obligor's gross income that is not subject to federal income tax and reduced by deductions allowed in arriving at adjusted gross income under the Internal Revenue Code, and applying:

(1) The standard deduction for the tax filing status of single;

(2) One exemption for the obligor;

(3) (a) One additional exemption for each child, as defined in this section, that the obligor is allowed to claim pursuant to a court order unless the obligor and obligee alternate claiming the exemption for the child pursuant to the court order, in which case, an amount equal to one-half of the exemption; or

(b) If there is no court order allocating the exemption, or if it is unknown whether there is such a court order, then one additional exemption for each child, as defined in this section, actually claimed on a disclosed tax return or one additional exemption for each child, as defined in this section, if a tax return is not disclosed; and

(4) Tax tables for a single individual for the most recent year published by the internal revenue service, reduced by one child tax credit for each child's exemption considered under paragraph 3, provided such child is a qualifying child for purposes of the child tax credit;

b. A hypothetical state income tax obligation equal to fourteen percent of the amount determined under subdivision a without reduction for child tax credits;

c. A hypothetical obligation for Federal Insurance Contributions Act (FICA), Railroad Retirement Tax Act (RRTA) tier I and tier II, medicare, and self-employment tax obligations based on that part of the obligor's gross income that is subject to FICA, RRTA, medicare, or self-employment tax under the Internal Revenue Code;

d. A portion of premium payments, made by the person whose income is being determined, for health insurance policies or health service contracts, intended to afford coverage for the child or children for whom support is being sought, determined by:

(1) If the cost of single coverage for the obligor and the number of persons associated with the premium payment are known:

(a) Reducing the premium payment by the cost for single coverage for the obligor;

(b) Dividing the difference by the total number of persons, exclusive of the obligor, associated with the premium payment; and

(c) Multiplying the result times the number of insured children for whom support is being sought; or

(2) If the cost of single coverage for the obligor is not known:

(a) Dividing the payment by the total number of persons covered; and

(b) Multiplying the result times the number of insured children for whom support is being sought;

e. Payments made on actual medical expenses of the child or children for whom support is sought to the extent it is reasonably likely similar expenses will continue;

f. Union dues and occupational license fees if required as a condition of employment;

g. Employee retirement contributions, deducted from the employee's compensation and not otherwise deducted under this subsection, to the extent required as a condition of employment;

h. Employee expenses for special equipment or clothing required as a condition of employment or for lodging expenses incurred when engaged in travel required as a condition of employment (limited to thirty dollars per night); and

i. Employer reimbursed out-of-pocket expenses of employment, if included in gross income, but excluded from adjusted gross income on the obligor's federal income tax return.

8. "Obligee" includes, for purposes of this chapter, an obligee as defined in North Dakota Century Code section 14-09-09.10 and a person who is alleged to be owed a duty of support.

9. "Obligor" includes, for purposes of this chapter, an obligor as defined in North Dakota Century Code section 14-09-09.10 and a person who is alleged to owe a duty of support.

10. "Self-employment" means employment that results in an obligor earning income from any business organization or entity which the obligor is, to a significant extent, able to directly or indirectly control. For purposes of this chapter, it also includes any activity that generates income from rental property, royalties, business gains, partnerships, trusts, corporations, and any other organization or entity regardless of form and regardless of whether such activity would be considered self-employment activity under the Internal Revenue Code.

11. "Split custody" means a situation where the parents have more than one child in common, and where each parent has custody of at least one child.

History: Effective February 1, 1991; amended effective January 1, 1995; August 1, 1999; August 1, 2003.
General Authority: NDCC 50-06-16, 50-09-25
Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667

75-02-04.1-02. Determination of support amount - General instructions.

1. Except as provided in section 75-02-04.1-08.2, calculations of child support obligations provided for under this chapter consider and assume that one parent acts as a primary caregiver and the other parent contributes a payment of child support to the child's care.

2. Calculations assume that the care given to the child during temporary periods when the child resides with the obligor or the obligor's relatives do not substitute for the child support obligation.

3. Net income received by an obligor from all sources must be considered in the determination of available money for child support.

4. The result of all calculations which determine a monetary amount ending in fifty cents or more must be rounded up to the nearest whole dollar, and must otherwise be rounded down to the nearest whole dollar.

5. In applying the child support guidelines, an obligor's monthly net income amount ending in fifty dollars or more must be rounded up to the nearest one hundred dollars, and must otherwise be rounded down to the nearest one hundred dollars.

6. The annual total of all income considered in determining a child support obligation must be determined and then divided by twelve in order to determine the obligor's monthly net income.

7. Income must be sufficiently documented through the use of tax returns, current wage statements, and other information to fully apprise the court of all gross income. Where gross income is subject to fluctuation, particularly in instances involving self-employment, information reflecting and covering a period of time sufficient to reveal the likely extent of fluctuations must be provided.

8. Calculations made under this chapter are ordinarily based upon recent past circumstances because past circumstances are typically a reliable indicator of future circumstances, particularly circumstances concerning income. If circumstances that materially affect the child

support obligation are very likely to change in the near future, consideration may be given to the likely future circumstances.

9. Determination of a child support obligation is appropriate in any matter where the child and both of the child's parents do not reside together.

10. Each child support order must include a statement of the net income of the obligor used to determine the child support obligation, and how that net income was determined.

11. A payment of children's benefits made to or on behalf of a child who is not living with the obligor must be credited as a payment toward the obligor's child support obligation in the month (or other period) the payment is intended to cover, but may not be credited as a payment toward the child support obligation for any other month or period.

12. No amount may be deducted to determine net income unless that amount is included in gross income.

History: Effective February 1, 1991; amended effective January 1, 1995; August 1, 1999; August 1, 2003.
General Authority: NDCC 50-06-16, 50-09-25
Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667

75-02-04.1-03. Determination of child support obligation - Split custody. A child support obligation must be determined for the child or children in each parent's custody. The lesser obligation is then subtracted from the greater. The difference is the child support amount owed by the parent with the greater obligation.

History: Effective February 1, 1991; amended effective August 1, 2003.
General Authority: NDCC 50-06-16, 50-09-25
Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667

75-02-04.1-04. Minimum support level. A support obligation should be established in each case where the obligor has any income. Even though the obligor's payment is far from sufficient to meet the child's needs, considerations of policy require that all parents understand the parental duty to support children to the extent of the parent's ability. Equally important considerations of policy require the fostering of relationships between parents and children which may arise out of the recognition of parental duty.

History: Effective February 1, 1991.
General Authority: NDCC 50-06-16, 50-09-25
Law Implemented: NDCC 14-09-09.7, 50-09-02(12); 42 USC 667

75-02-04.1-05. Determination of net income from self-employment.

1. Net income from self-employment means total income, for internal revenue service purposes, of the obligor:

   a. Reduced by that amount, if any, of:

      (1) That total income that is not the obligor's income or that is otherwise included in gross income; and

      (2) With respect to a partnership or a small business corporation for which an election under 26 U.S.C. section 1362(a) is in effect and over which the obligor is not able to exercise direct or indirect control to a significant extent, that income of the partnership or small business corporation which is not available, and has not yet been distributed, to the obligor; and

   b. Increased by that amount, if any, for:

      (1) Business expenses attributable to the obligor or a member of the obligor's household for employee's or proprietor's benefits, pensions, and profit-sharing plans;

      (2) Payments made from the obligor's self-employment activity to a member of the obligor's household, other than the obligor, to the extent the payment exceeds the fair market value of the service furnished by the household member; and

      (3) With respect to a corporation that pays its own tax over which the obligor is able to exercise direct or indirect control to a significant extent, the taxable income of the corporation, less the corporation's federal income tax, multiplied by seventy percent of the obligor's ownership interest in the corporation.

2. "Member of the obligor's household" includes any individual who shares the obligor's home a substantial part of the time, without regard to whether that individual maintains another home.

3. If the tax returns are not available or do not reasonably reflect the income from self-employment, profit and loss statements which more accurately reflect the current status must be used.

4. Self-employment activities may experience significant changes in production and income over time. To the extent that information is reasonably available, the average of the most recent five years of each self-employment activity, if undertaken on a substantially similar scale, must be used to determine self-employment income. When

self-employment activity has not been operated on a substantially similar scale for five years, a shorter period may be used.

5. When averaging self-employment income pursuant to subsection 4, no amount may be included in income for one year that was previously included in income for any other year during the period being averaged.

6. When less than three years were averaged under subsection 4, a loss resulting from the averaging may be used to reduce income that is not related to self-employment only if the loss is not related to a hobby activity and monthly gross income, reduced by one-twelfth of the average annual self-employment loss, equals or exceeds the greatest of:

   a. A monthly amount equal to one hundred sixty-seven times the hourly federal minimum wage;

   b. An amount equal to six-tenths of prevailing gross earnings of persons with similar work history and occupational qualifications who work in any place within one hundred miles [160.93 kilometers] of the obligor's actual place of residence; or

   c. An amount equal to eighty percent of the obligor's greatest average gross monthly earnings, calculated without using self-employment losses, in any twelve consecutive months beginning on or after thirty-six months before commencement of the proceeding before the court.

7. When three or more years were averaged under subsection 4, a loss resulting from the averaging may be used to reduce income that is not related to self-employment only if the loss is not related to a hobby activity, losses were calculated for no more than forty percent of the years averaged, and monthly gross income, reduced by one-twelfth of the average annual self-employment loss, equals or exceeds the greatest of:

   a. A monthly amount equal to one hundred sixty-seven times the hourly federal minimum wage;

   b. An amount equal to six-tenths of prevailing gross earnings of persons with similar work history and occupational qualifications who work in any place within one hundred miles [160.93 kilometers] of the obligor's actual place of residence; or

   c. An amount equal to ninety percent of the obligor's greatest average gross monthly earnings, calculated without using self-employment losses, in any twelve consecutive months beginning on or after thirty-six months before commencement of the proceeding before the court.

8. For purposes of subsections 6 and 7, an activity is presumed to be a hobby activity if the result from averaging is a loss. The presumption may be rebutted if the obligor shows that the activity is not done primarily for enjoyment purposes, is a vocation and not an avocation and, in the context of the child support obligation, there is a reasonable expectation that the children will receive long-term benefits.

History: Effective February 1, 1991; amended effective January 1, 1995; August 1, 1999; August 1, 2003.
General Authority: NDCC 50-06-16, 50-09-25
Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667

75-02-04.1-06. Determining the cost of supporting a child living with the obligor. The cost of supporting a child living with the obligor, who is not also a child of the obligee, may be deducted from net income under subsection 4 of section 75-02-04.1-06.1 and is determined by applying the obligor's net income and the total number of children living with the obligor, who are not also children of the obligee, to whom the obligor owes a duty of support, to section 75-02-04.1-10.

History: Effective February 1, 1991; amended effective January 1, 1995; August 1, 1999; August 1, 2003.
General Authority: NDCC 50-06-16, 50-09-25
Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667

75-02-04.1-06.1. Determination of support amount in multiple-family cases.

1. This section must be used to determine the child support amount presumed to be the correct amount of child support in all cases involving an obligor who:

   a. Owes duties of support payable to two or more obligees; or

   b. Owes a duty of support to at least one obligee and also owes a duty of support to a child living with the obligor who is not also the child of that obligee.

2. If a court consolidates proceedings involving an obligor and two or more obligees, the court must determine all obligations that may be determined in the consolidated proceeding without regard to whom the initial moving party may be.

3. A hypothetical amount that reflects the cost of supporting children living with the obligor, as determined under section 75-02-04.1-06, and a hypothetical amount due to each obligee under this chapter must first be determined for the children living with the obligor and each obligee, whether or not the obligee is a party to the proceeding, assuming for purposes of that determination:

a. The obligor has no support obligations except to the obligee in question;

b. The guidelines amount is not rebutted; and

c. The obligor does not have extended visitation.

4. A hypothetical amount due to each obligee under this chapter must next be determined for each obligee who is a party to the proceeding, assuming for purposes of that determination:

   a. The obligor's net income is reduced by:

      (1) The amount of child support due to all other obligees, as determined under subsection 3; and

      (2) The cost of supporting a child living with the obligor, who is not also the child of that obligee, as determined under section 75-02-04.1-06;

   b. The guidelines amount is not rebutted;

   c. Any support amount otherwise determined to be less than one dollar is determined to be one dollar; and

   d. The obligor does not have extended visitation.

5. a. Except as provided in subdivision b, for each obligee before the court, the support obligation presumed to be the correct amount of child support is equal to one-half of the total of the two amounts determined, with respect to that obligee, under subsections 3 and 4.

   b. Any necessary determination under this section must be made before an adjustment for extended visitation appropriate under section 75-02-04.1-08.1. The "amount otherwise due under this chapter", for purposes of section 75-02-04.1-08.1, is equal to one-half of the total of the two amounts determined, with respect to that obligation, under subsections 3 and 4.

6. The fact, if it is a fact, that the obligor is required to pay, or pays, a different amount than the hypothetical amounts determined under subsections 3 and 4 is not a basis for deviation from the procedure described in this section.

7. When determining a support amount under paragraph 1 of subdivision a of subsection 4, consider only children to whom an obligor owes a current monthly support obligation pursuant to a support order and

other children under the age of eighteen to whom an obligor owes a duty of support.

History: Effective January 1, 1995; amended effective August 1, 1999; August 1, 2003.
General Authority: NDCC 50-06-16, 50-09-25
Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667

75-02-04.1-07. Imputing income based on earning capacity.

1. For purposes of this section:

   a. "Community" includes any place within one hundred miles [160.93 kilometers] of the obligor's actual place of residence; and

   b. An obligor is "underemployed" if the obligor's gross income from earnings is significantly less than prevailing amounts earned in the community by persons with similar work history and occupational qualifications.

2. An obligor is presumed to be underemployed if the obligor's gross income from earnings is less than:

   a. Six-tenths of prevailing amounts earned in the community by persons with similar work history and occupational qualifications; or

   b. A monthly amount equal to one hundred sixty-seven times the federal hourly minimum wage.

3. Except as provided in subsections 4, 5, and 9, gross income based on earning capacity equal to the greatest of subdivisions a through c, less actual gross earnings, must be imputed to an obligor who is unemployed or underemployed.

   a. A monthly amount equal to one hundred sixty-seven times the hourly federal minimum wage.

   b. An amount equal to six-tenths of prevailing gross earnings in the community of persons with similar work history and occupational qualifications.

   c. An amount equal to ninety percent of the obligor's greatest average gross monthly earnings, in any twelve consecutive months beginning on or after thirty-six months before commencement of the proceeding before the court, for which reliable evidence is provided.

4. Monthly gross income based on earning capacity may be imputed in an amount less than would be imputed under subsection 3 if the obligor shows:

   a. The reasonable cost of child care equals or exceeds seventy percent of the income which would otherwise be imputed where the care is for the obligor's child:

      (1) Who is in the physical custody of the obligor;

      (2) Who is under the age of fourteen; and

      (3) For whom there is no other adult caretaker in the parent's home available to meet the child's needs during absence due to employment.

   b. The obligor suffers from a disability sufficient in severity to reasonably preclude the obligor from gainful employment that produces average monthly gross earnings equal to one hundred sixty-seven times the hourly federal minimum wage.

   c. The unusual emotional or physical needs of a minor child of the obligor require the obligor's presence in the home for a proportion of the time so great as to preclude the obligor from gainful employment that produces average monthly gross earnings equal to one hundred sixty-seven times the hourly federal minimum wage.

5. Gross income based on earning capacity may not be imputed if the obligor shows that the obligor has average monthly gross earnings equal to or greater than one hundred sixty-seven times the hourly federal minimum wage and is not underemployed.

6. If an unemployed or underemployed obligor shows that employment opportunities, which would provide earnings at least equal to the lesser of the amounts determined under subdivision b or c of subsection 3, are unavailable in the community, income must be imputed based on earning capacity equal to the amount determined under subdivision a of subsection 3, less actual gross earnings.

7. If the obligor fails, upon reasonable request made in any proceeding to establish a child support obligation, to furnish reliable information concerning the obligor's gross income from earnings, income based on earning capacity equal to the greatest of subdivisions a through c of subsection 3 must be imputed.

8. If the obligor fails, upon reasonable request made in any proceeding to review a child support obligation, to furnish reliable information

concerning the obligor's gross income from earnings, income must be imputed based on the greatest of:

a. Subdivisions a through c of subsection 3; or

b. The obligor's net income, at the time the child support order was entered or last modified, increased at the rate of ten percent per year.

9. Notwithstanding subsections 4, 5, and 6, if an obligor makes a voluntary change in employment resulting in reduction of income, monthly gross income equal to one hundred percent of the obligor's greatest average monthly earnings, in any twelve consecutive months beginning on or after thirty-six months before commencement of the proceeding before the court, for which reliable evidence is provided, less actual monthly gross earnings, may be imputed without a showing that the obligor is unemployed or underemployed.

History: Effective February 1, 1991; amended effective January 1, 1995; August 1, 1999; August 1, 2003.
General Authority: NDCC 50-06-16, 50-09-25
Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667

75-02-04.1-08. Income of spouse. The income and financial circumstances of the spouse of an obligor should not be considered as income for child support purposes unless the spouse's income and financial circumstances are, to a significant extent, subject to control by the obligor as where the obligor is a principal in a business employing the spouse.

History: Effective February 1, 1991; amended effective January 1, 1995.
General Authority: NDCC 50-06-16, 50-09-25
Law Implemented: NDCC 14-09-09.7, 50-09-02(12); 42 USC 667

75-02-04.1-08.1. Adjustment for extended visitation.

1. For purposes of this section, "extended visitation" means visitation between an obligor and a child living with an obligee scheduled by court order to exceed sixty of ninety consecutive nights or an annual total of one hundred sixty-four nights.

2. Notwithstanding any other provision of this chapter, if a court order provides for extended visitation between an obligor and a child living with an obligee, the support obligation presumed to be the correct child support amount due on behalf of all children of the obligor living with the obligee must be determined under this subsection.

   a. Determine the amount otherwise due under this chapter from the obligor for those children.

b. Divide the amount determined under subdivision a by the number of those children.

c. For each child, multiply the number of that child's visitation nights times .32 and subtract the resulting amount from three hundred sixty-five.

d. Divide the result determined under subdivision c by three hundred sixty-five.

e. Multiply the amount determined under subdivision b times each decimal fraction determined under subdivision d.

f. Total all amounts determined under subdivision e.

History: Effective August 1, 1999.
General Authority: NDCC 50-06-16, 50-09-25
Law Implemented: NDCC 14-09-09.7, 50-09-02(12); 42 USC 667

75-02-04.1-08.2. Equal physical custody - Determination of child support obligation. A child support obligation must be determined as described in this section in all cases in which a court orders each parent to have equal physical custody of their child or children. Equal physical custody means each parent has physical custody of the child, or if there are multiple children, all of the children, exactly fifty percent of the time. A child support obligation for each parent must be calculated under this chapter assuming the other parent is the custodial parent of the child or children subject to the equal physical custody order. The lesser obligation is then subtracted from the greater. The difference is the child support amount owed by the parent with the greater obligation. Each parent is an obligee to the extent of the other parent's calculated obligation. Each parent is an obligor to the extent of that parent's calculated obligation.

History: Effective August 1, 2003.
General Authority: NDCC 50-06-16, 50-09-25
Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667

75-02-04.1-09. Criteria for rebuttal of guideline amount.

1. The child support amount provided for under this chapter, except for subsection 2, is presumed to be the correct amount of child support. No rebuttal of the guidelines may be based upon evidence of factors described or applied in this chapter, except in subsection 2, or upon:

   a. The subsistence needs, work expenses, and daily living expenses of the obligor; or

   b. Except as provided for in subdivision m of subsection 2, the income of the obligee, which is reflected in a substantial monetary and

nonmonetary contribution to the child's basic care and needs by virtue of being a custodial parent.

2. The presumption that the amount of child support that would result from the application of this chapter, except for this subsection, is the correct amount of child support is rebutted only if a preponderance of the evidence establishes that a deviation from the guidelines is in the best interest of the supported children and:

   a. The increased need if support for more than six children is sought in the matter before the court;

   b. The increased ability of an obligor, with a monthly net income which exceeds twelve thousand five hundred dollars, to provide child support;

   c. The increased need if educational costs have been voluntarily incurred, at private schools, with the prior written concurrence of the obligor;

   d. The increased needs of children with disabling conditions or chronic illness;

   e. The increased needs of children age twelve and older;

   f. The increased needs of children related to the cost of child care, purchased by the obligee, for reasonable purposes related to employment, job search, education, or training;

   g. The increased ability of an obligor, who is able to secure additional income from assets, to provide child support;

   h. The increased ability of an obligor, who has engaged in an asset transaction for the purpose of reducing the obligor's income available for payment of child support, to provide child support;

   i. The reduced ability of the obligor to provide support due to travel expenses incurred predominantly for the purpose of visiting a child who is the subject of the order taking into consideration the amount of court-ordered visitation and, when such history is available, actual expenses and practices of the parties;

   j. The reduced ability of the obligor to pay child support due to a situation, over which the obligor has little or no control, which requires the obligor to incur a continued or fixed expense for other than subsistence needs, work expenses, or daily living expenses, and which is not otherwise described in this subsection;

k. The reduced ability of the obligor to provide support due to the obligor's health care needs, to the extent that the costs of meeting those health care needs:

(1) Exceed ten percent of the obligor's gross income;

(2) Have been incurred and are reasonably certain to continue to be incurred by the obligor;

(3) Are not subject to payment or reimbursement from any source except the obligor's income; and

(4) Are necessary to prevent or delay the death of the obligor or to avoid a significant loss of income to the obligor;

l. The reduced ability of the obligor to provide support when calculation of the obligation otherwise reflects consideration of atypical overtime wages or nonrecurring bonuses over which the obligor does not have significant influence or control; or

m. The reduced needs of the child to support from the obligor in situations where the net income of the obligee is at least three times higher than the net income of the obligor.

3. Assets may not be considered under subdivisions g and h of subsection 2, to the extent they:

a. Are exempt under North Dakota Century Code section 47-18-01;

b. Consist of necessary household goods and furnishings; or

c. Include one motor vehicle in which the obligor owns an equity not in excess of twenty thousand dollars.

4. For purposes of subdivision h of subsection 2, a transaction is presumed to have been made for the purpose of reducing the obligor's income available for the payment of child support if:

a. The transaction occurred after the birth of a child entitled to support;

b. The transaction occurred no more than twenty-four months before the commencement of the proceeding that initially established the support order; and

c. The obligor's income is less than it likely would have been if the transaction had not taken place.

5. For purposes of subdivision j of subsection 2, a situation over which the obligor has little or no control does not exist if the situation arises out of spousal support payments, discretionary purchases, or illegal activity.

6. For purposes of subdivisions a through f of subsection 2, any adjustment shall be made to the child support amount resulting from application of this chapter.

7. For purposes of subdivisions g through l of subsection 2, any adjustment shall be made to the obligor's net income.

8. For purposes of subdivision m of subsection 2, any adjustment shall be made to the child support amount resulting from application of this chapter after taking into consideration the proportion by which the obligee's net income exceeds the obligor's net income.

History: Effective February 1, 1991; amended effective January 1, 1995; August 1, 1999; August 1, 2003; July 1, 2008.
General Authority: NDCC 50-06-16, 50-09-25
Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667

75-02-04.1-10. Child support amount. The amount of child support payable by the obligor is determined by the application of the following schedule to the obligor's monthly net income and the number of children for whom support is being sought in the matter before the court.

Obligor's Monthly Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six or More Children
100 or less	14	17	20	22	24	26
200	28	34	40	44	48	52
300	42	51	60	66	72	78
400	56	68	80	88	96	104
500	75	90	105	120	130	140
600	102	126	144	162	174	192
700	133	161	189	210	231	252
800	168	200	232	264	288	320
900	207	252	288	324	360	387
1000	250	300	350	390	430	470
1100	266	328	384	428	470	511
1200	282	356	418	465	510	553
1300	298	385	452	503	550	594

1400	314	412	486	540	590	635
1500	330	441	520	578	630	677
1600	346	469	554	616	669	718
1700	362	497	588	653	709	759
1800	378	526	622	691	749	800
1900	394	554	656	728	789	842
2000	411	582	690	766	829	883
2100	427	610	724	804	869	924
2200	443	638	758	841	909	966
2300	459	667	792	879	949	1007
2400	475	695	826	916	989	1048
2500	492	723	860	954	1029	1090
2600	508	751	893	992	1068	1131
2700	524	779	927	1029	1108	1172
2800	540	808	961	1067	1148	1213
2900	556	836	995	1104	1188	1255
3000	572	864	1029	1142	1228	1296
3100	588	892	1063	1180	1268	1337
3200	604	920	1097	1217	1308	1379
3300	620	949	1131	1255	1348	1420
3400	636	977	1165	1292	1388	1461
3500	653	1005	1199	1330	1428	1503
3600	669	1033	1232	1368	1467	1544
3700	685	1061	1266	1405	1507	1585
3800	701	1090	1300	1443	1547	1626
3900	717	1118	1334	1480	1587	1668
4000	733	1146	1368	1518	1627	1709
4100	749	1174	1402	1556	1667	1750
4200	765	1202	1436	1593	1707	1792
4300	781	1231	1470	1631	1747	1833
4400	797	1259	1504	1668	1787	1874
4500	814	1287	1538	1706	1827	1916
4600	830	1315	1571	1744	1866	1957
4700	846	1343	1605	1781	1906	1998
4800	862	1372	1639	1819	1946	2039
4900	878	1400	1673	1856	1986	2081

5000	894	1428	1707	1894	2026	2122
5100	910	1456	1741	1932	2066	2163
5200	926	1484	1775	1969	2106	2205
5300	942	1513	1809	2007	2146	2246
5400	958	1541	1843	2044	2186	2287
5500	975	1569	1877	2082	2226	2329
5600	991	1597	1910	2120	2265	2370
5700	1007	1625	1944	2157	2305	2411
5800	1023	1654	1978	2195	2345	2453
5900	1039	1682	2012	2232	2385	2494
6000	1055	1710	2046	2270	2425	2535
6100	1071	1738	2080	2308	2465	2576
6200	1087	1766	2114	2345	2505	2618
6300	1103	1795	2148	2383	2545	2659
6400	1119	1823	2182	2420	2585	2700
6500	1136	1851	2216	2458	2625	2742
6600	1152	1879	2249	2496	2664	2783
6700	1168	1907	2283	2533	2704	2824
6800	1184	1936	2317	2571	2744	2865
6900	1200	1964	2351	2608	2784	2907
7000	1216	1992	2385	2646	2824	2948
7100	1232	2020	2419	2684	2864	2989
7200	1248	2048	2453	2721	2904	3031
7300	1264	2077	2487	2759	2944	3072
7400	1280	2105	2521	2796	2984	3113
7500	1297	2133	2555	2834	3024	3155
7600	1313	2161	2588	2872	3063	3196
7700	1329	2189	2622	2909	3103	3237
7800	1345	2218	2656	2947	3143	3278
7900	1361	2246	2690	2984	3183	3320
8000	1377	2274	2724	3022	3223	3361
8100	1393	2302	2758	3060	3263	3402
8200	1409	2330	2792	3097	3303	3444
8300	1425	2359	2826	3135	3343	3485
8400	1441	2387	2860	3172	3383	3526
8500	1458	2415	2894	3210	3423	3568

8600	1474	2443	2927	3248	3462	3609
8700	1490	2471	2961	3285	3502	3650
8800	1506	2500	2995	3323	3542	3691
8900	1522	2528	3029	3360	3582	3733
9000	1538	2556	3063	3398	3622	3774
9100	1554	2584	3097	3436	3662	3815
9200	1570	2612	3131	3473	3702	3857
9300	1586	2641	3165	3511	3742	3898
9400	1602	2669	3199	3548	3782	3939
9500	1619	2697	3233	3586	3822	3981
9600	1635	2725	3266	3624	3861	4022
9700	1651	2753	3300	3661	3901	4063
9800	1667	2782	3334	3699	3941	4104
9900	1683	2809	3368	3736	3981	4146
10000	1699	2838	3402	3774	4021	4187
10100	1715	2866	3436	3812	4061	4228
10200	1731	2894	3470	3849	4101	4270
10300	1747	2923	3504	3887	4141	4311
10400	1763	2951	3538	3924	4181	4352
10500	1780	2979	3572	3962	4221	4394
10600	1796	3007	3605	4000	4260	4435
10700	1812	3035	3639	4037	4300	4476
10800	1828	3064	3673	4075	4340	4517
10900	1844	3092	3707	4112	4380	4559
11000	1860	3120	3741	4150	4420	4600
11100	1876	3148	3775	4188	4460	4641
11200	1892	3176	3809	4225	4500	4683
11300	1908	3205	3843	4263	4540	4724
11400	1924	3233	3877	4300	4580	4765
11500	1941	3261	3911	4338	4620	4807
11600	1957	3289	3945	4376	4659	4848
11700	1973	3317	3978	4413	4699	4889
11800	1989	3346	4012	4451	4739	4930
11900	2005	3374	4046	4488	4779	4972
12000	2021	3402	4080	4526	4819	5013
12100	2037	3430	4114	4564	4859	5054

12200	2053	3458	4148	4601	4899	5096
12300	2069	3487	4182	4639	4939	5137
12400	2085	3515	4216	4676	4979	5178
12500 or more	2102	3543	4250	4714	5019	5220

History: Effective February 1, 1991; amended effective January 1, 1995; August 1, 2003.
General Authority: NDCC 50-06-16, 50-09-25
Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667

75-02-04.1-11. Parental responsibility for children in foster care or guardianship care. It is important that parents maintain a tie to and responsibility for their child when that child is in foster care. Financial responsibility for the support of that child is one component of the maintenance of the relationship of parent and child. Parents of a child subject to a guardianship order under North Dakota Century Code chapter 27-20 or 30.1-27 remain financially responsible for the support of that child.

1. In order to determine monthly net income, it is first necessary to identify the parent or parents who have financial responsibility for any child entering foster care or guardianship care, and to determine the net income of those financially responsible parents. If the parents of a child in foster care or guardianship care reside together, and neither parent has a duty to support any child who does not either reside with the parents or receive foster care or guardianship care, the income of the parents must be combined and treated as the income of the obligor. In all other cases, each parent is treated as an obligor, and each parent's support obligation must be separately determined.

2. Unless subsection 3 applies to the obligor, the net income and the total number of children are applied to section 75-02-04.1-10 to determine the child support amount. That child support amount is then divided by the total number of children to determine the child support obligation for each child in foster care or guardianship care. For purposes of this subsection, the "total number of children" means:

   a. If a child entering foster care or guardianship care resides in the obligor's home, the total number of children residing in the obligor's home to whom the obligor owes a duty of support, including the child or children entering foster care or guardianship care, plus any other full siblings of the child or children entering foster care or guardianship care to whom the obligor owes a duty of support who are not residing in the obligor's home; or

   b. If no child entering foster care or guardianship care resides in the obligor's home, the child or children entering foster care or guardianship care plus the full siblings of the child or children

entering foster care or guardianship care to whom the obligor owes a duty of support.

3. If an obligor owes a duty of support to any child other than the child or children described in subdivision a or b of subsection 2, as applicable to that obligor, the support obligation must be determined through application of section 75-02-04.1-06.1 such that:

   a. The total number of children, as described in subdivision a or b of subsection 2, as applicable to that obligor, are treated as one obligee; and

   b. The amount resulting from the application of section 75-02-04.1-06.1 for the children described in subdivision a or b of subsection 2, as applicable to that obligor, is divided by the total number of such children to determine the child support obligation for each child in foster care or guardianship care.

4. For purposes of subsection 2, a full sibling of the child or children entering foster care or guardianship care is a brother or sister who has both parents in common with the child or children entering foster care or guardianship care.

History: Effective February 1, 1991; amended effective January 1, 1995; August 1, 1999; August 1, 2003.
General Authority: NDCC 50-06-16, 50-09-25
Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667

75-02-04.1-12. Uncontested proceedings. In a proceeding where the obligor appears, but does not resist the child support amount sought by the obligee, and in proceedings where the parties agree or stipulate to a child support amount, credible evidence describing the obligor's income and financial circumstances, which demonstrates that the uncontested or agreed amount of child support conforms to the requirements of this chapter, must be presented.

History: Effective February 1, 1991.
General Authority: NDCC 50-06-16, 50-09-25
Law Implemented: NDCC 14-09-09.7, 50-09-02(12); 42 USC 667

75-02-04.1-13. Application. The child support guideline schedule amount is rebuttedly presumed to be the correct amount of child support in all child support determinations, including both temporary and permanent determinations, and including determinations necessitated by actions for the support of children of married persons, actions seeking domestic violence protection orders, actions arriving out of divorce, actions arising out of paternity determinations, actions based upon a claim for necessaries, actions arising out of juvenile court proceedings, interstate actions for the support of children in which a court of this state has the authority to establish or modify a support order, and actions to modify orders for the support of children. The fact that two or more such actions may be consolidated

for trial or otherwise joined for convenient consideration of facts does not prevent the application of this chapter to those actions.

History: Effective February 1, 1991; amended effective January 1, 1995.
General Authority: NDCC 50-06-16, 50-09-25
Law Implemented: NDCC 14-09-09.7, 50-09-02(12); 42 USC 667