2025-07-28

SUBMISSION TO SOUTH DAKOTA CHILD SUPPORT COMMISSION

BY

NATIONAL PARENTS ORGANIZATION- SOUTH DAKOTA CHAPTER

National Parents Organization (NPO) hereby submits its response to the public comment period.

NPO's mission is "To improve the lives of children & strengthen society by protecting every child's right to the love & care of both parents when divorced or separated" operating at national and state levels. Our focus in on promoting shared parenting following divorce/separation together with equitable child support guidelines.

We submit the following recommendations for consideration by the Commission:

1. Revise Parenting Time Adjustment (PTA) to span 0% to 100% Parenting Time
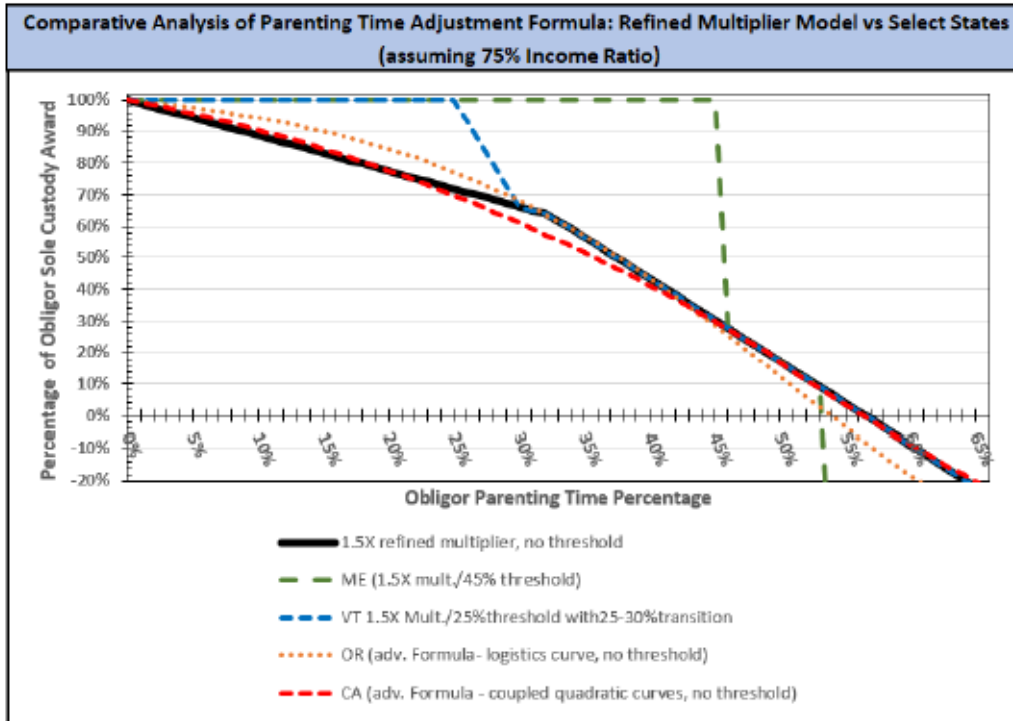
South Dakota (SD) utilizes separate worksheets for sole custody and shared parenting. The latter is based on an extraordinarily and unjustifiably high threshold of 180 days which lacks economic rationale, produces a large cliff-effect and promotes legal conflict. South Dakota has been ranked among the highest underperforming states for PTA reasonableness. SD also provides for a discretionary abatement option (i.e. deviation) of 38%-66% starting at 6 overnights a month. Previous Commissions have found the abatement process to be confusing and inconsistently applied.

Recommendation 1*: It is recommended that South Dakota update its Parenting Time Adjustment (PTA) to span the entire spectrum from 0% to 100% parenting time with smooth adjustments.*

As SD already uses a 1.5x Multiplier Model (with a 180-day threshold) within its Income Shares model, NPO proposes that SD adopt a refined version of the multiplier model that will accommodate any parenting time combination with minimal implementation effort. We have provided an illustrative calculation in the enclosed worksheet (Lines 8-10) (Technical Document available upon request).

The graph below provides a comparative analysis of select state PTA adjustments against the proposed Refined Multiplier Model (RMM). SD PTA is a close but more extreme version of the Maine PTA in the graph. As shown, the RMM provides a smooth PTA adjustment without cliff-effects or the need of thresholds. As parenting time increases, the RMM dovetails into the standard Multiplier Model. Oregon and California and generally considered to have among the best PTA models. Adoption of the RMM via a simple technical adjustment will place SD in the 'best of breed' league.

Additionally, as the PTA works for both sole custody and shared parenting, this will allow SD to standardize on a single worksheet while eliminating the need for the confusing and inconsistent abatement deviation without impacting judicial discretion.

Comparative Analysis of Parenting Time Adjustment Formula: Refined Multiplier Model vs Select States (assuming 75% Income Ratio)

Legend:
- 1.5X refined multiplier, no threshold
- ME (1.5X mult./45% threshold)
- VT 1.5X Mult./25%threshold with25-30%transition
- OR (adv. Formula- logistics curve, no threshold)
- CA (adv. Formula - coupled quadratic curves, no threshold)

2. Increase the Self-Support Reserve (SSR) Level

The decision by the previous Commission elected to retain the $871/month SSR set at the 2016 federal Poverty Level adjusted for SD Price Parity Level has unfortunately put the current Commission in an uncomfortable situation of making a large adjustment in the interests of equity to bridge the inflationary gap. We support the Commission's stated consideration of increasing the Self-Support Reserve to $1,148 based on the federal poverty level adjusted for South Dakota prices.

Recommendations 2a: NPO supports increasing the SSR to $ 1,148 based on the federal poverty level (FPL) adjusted by the Regional Price Parity (RPP).

Recommendation 2b: It is recommended that the SSR value be adjusted annually.

Recommendation 2c: It is recommended that the Commission define the desired target multiple of FPL as the end goal and define a multi-year transition schedule in legislation to achieve it.

3. Provide a Robust Ability-to-Pay Mechanism

Although SD is facially compliant with OCSS federal requirement to consider ability-to-pay issues by virtue of publishing the SSR (as noted by the previous Commission), the SSR represents a minimalist approach, all the more so as it only applies to the Cost Schedule but excludes Additional Costs which often rival and exceed Basic Child Costs.

Several states have adopted a "SSR Test" as a robust mechanism to ensure the obligor has sufficient net income, NI, to meet the SSR after provision for child costs consisting of obligation paid, Q, and direct child expenditures, C. This can be expressed mathematically as:

$NI - (Q+C) \geq SSR$

Rearranging and solving for the obligation limit, QLIMIT, yields:

$0 \leq QLIMIT \leq NI - SSR - C$

Thus, the calculated order amount using the Income Shares model cannot exceed the upper limit, QLIMIT, which would otherwise place the obligor below the SSR subsistence level. An illustrative SSR Test calculation is provided in the included worksheet (Line 21 and Line 22)

Recommendation 3: *It is recommended that SD include a "SSR Test" as an ability-to-pay check consistent with federal requirements to ensure the payer has sufficient income to meet subsistence requirements.*

4. Reserve Minimum Order (MO) Considerations as Part of Judicial Discretion

We note that the Commission is currently "is considering requiring that in all cases obligations may not be less than the base obligation amount established in the schedule". In essence, this provision would strip the judges of their current discretion regarding MO. We note that Recommendation 3 already calculates the maximum affordable order amount without the payer falling under the subsistence level.

Mandatory MO overriding SSR levels not only push the payer into poverty, but extensive data shows that they are often not paid resulting in arrears and taxpayer costs to pursue often uncollectable amounts. It has been well known since 2007 that 70% of arrears are owed by obligors below the poverty line, and that 80%-85% of arrears are deemed uncollectable. Indeed, these statistics were the primary motivation behind the 2016 OCSS Final Rule centered on ability-to-pay considerations. Additionally, in many cases the MO amount is counteracted by withholding limits under CCPA (Consumer Credit Protection Act) or state alternatives, leading to arrears accumulation and cost-ineffective enforcement sanctions.

Recommendation 4: *It is recommended that Minimum Order (MO) amounts be reserved for judicial discretion.*

5. Include Child Tax Credit (CTC) in Guideline Calculations

Parental expenditures for children in intact or nonintact households are offset by child-related tax benefits (Child Care Dependant Tax Credit (CCDTC), EITC, CTC and Additional CTC). Inclusion of child-related tax benefits allows a more accurate calculation of child costs directly borne by parents. SD recognizes this principle by offsetting childcare costs with tax credits.

Recommendation 5*: It is recommended that SD include annually adjusted Child Tax Credit as the next step in incorporating child-related tax benefits in Guideline calculations.*

We propose that the CTC be calculated as an offset against base child costs. An illustrative calculation is provided in the enclosed worksheet (Line 10b).

6. Improve Data Collection for Quadrennial Reviews

Recommendation 6: In order to improve policymaking and guide Child Support Commission quadrennial reviews, it is recommended that SD Department of Social Services augment its data collection and tracking to include:

- *Licence suspensions*
- *Incarcerations (number, duration)*

Thank you for the opportunity to make this submission. We would be pleased to meet with Commission to expand on our recommendations. Additionally, a spreadsheet version of the enclosed worksheet is available upon request.

Yours truly,

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(see worksheet below)

		A Mother	B Father	C Combined	COMMENT
	South Dakota Child Support Sole & Shared Custody Worksheet				
1	MONTHLY GROSS INCOME	1833	1500	3333	
	a. Minus Fed Income Tax	58	26	84	
	b1. Minus Social Security	114	93	207	
	b2. Minus Medicare(.0145)	27	22	48	Note: .0145 rate used, not 0.0765 shown in current shared parenting worksheet
	c. Minus Retirement Contributions			0	
	d. Minus Other Support Order Payments			0	
	e. Plus/Minus Spousal Support Payments			0	
	f. Plus/Minus Other			0	
2	Monthly Net Income (Result of lines 1a thru 1f)	1634	1359	2994	
3	Percentage Share of Net Income (Line 2 divided by Line 2C for each parent)	55%	45%	100%	
4	Number of Children to be Supported in this Action			1	
5	Basic Combined Obligation (2C Amt. from schedule)			735	Derived from current calculator
6	~~Shared Responsibility Combined Obligation (5C x 1.5)~~				
7	~~Each Parent's Share (Line 6C x each parent's Line 3)~~				
8	Nights With Each Parent (must total 365)	273	92	365	
9	a.Fraction With Each Parent (Line 8 divided by 365)	0.75	0.25	100%	PTF calculates the fraction of sole custody costs for the specified parenting time. Based on refined 1.5x multiplier model which elinates need for threshold and resulting cliff effects.Combined value reflects duplicated fixed cost for second household increasing from 0.0 to 0.50 at 33% parenting time.
	b.Parenting Time Factor (Multiply line 9 for each parent by 1.5.If greater than 1, enter 1.0)	1.00	0.38	1.38	
10	a. Each Parent's Basic Obligation (Multiply Line 9b for each parent by Line 5)	735	278	1013	
	b. Child Tax Credit	167		167	Manually input, but can be calculated in full operational model.
11	Base Shared Responsibility Obligation (Subtract Line 10b from Line 10a)	568	278	846	
12	Additional Costs Paid by Each Parent				
	a. Work/Job Search/Training/Education Related Child Care Costs Minus Federal Tax Credit			0	
	b. Health Insurance Costs (Children's Portion)		68	68	
	The reasonable cost of insurance attributable to the child(ren) is equal to or less than 8% of the monthly net income, after proportionate medical support credit is applied, of parent ordered to maintain insurance. Mother's 8% Limit $ (8% x 2a) Father's 8% Limit $ (8% x 2b)				
	c. Other Add-ons/Deducts	5	20	25	Sample arbitrary numbers chosen for illustrative purposes
13	Total Additional Costs to Apportion (Line 12a+b+c)	5	88	93	
14	~~Each Parent's Share of Apportioned Costs (Line 13C x Line 3 for each parent)~~				
15	~~Each Parent's Net Share of Additional Expenses (Line 14 minus Line 13, if negative amount enter $0)~~				
16	~~Amount Transferred for Additional Expenses (Subtract smaller amount on Line 15 from the larger amount. Parent with the larger amount owes the other parent the difference)~~				
17	a. Total Child Costs (Base plus Additional) (Line 11 + Line 13 for each parent)	573	366	939	
	b. Each parent's share of total costs (Multiply Line 3 for each parent by Line 17c)	513	426	939	
18	Guidelines Child Support Order (Subtract Line 17a from Line 17b) **Parent with positive amount pays the other parent**)	-60	60	0	Standard Income Shares calculation but simplified approach from current SD worksheet. Calculation reflects that amount paid must be the amount received.
19	Deviations: Amount +/- for each parent **For paying parent only** Reasons:	0	0	0	Note: Applying deviations after calculation inherently destroys proportional contribution principle of Income Shares methodology. Like SD, all states apply deviations after calculation.
20	**RECOMMENDED CHILD SUPPORT ORDER** (Line 18+Line 19 **for paying parent only**)	N/A	**60**		
		Receiving Parent	Paying Parent		
21	Ability to Pay Check **(For Paying Parent only)**				This is a full single-sided SSR Test
	a. Self-Support Reserve (SSR)			871	Based on current SSR value. NPO recommends higher SSR.Unlike current SD SSR which only applies to base costs, the proposed model factors in both base and additional costs for the SSR Test.
	b. Ability to Pay Limit (Line 2 -Line 21c-Line 17. If negative enter 0)	N/A	122		Limit= Payer Net Income less SSR less direct payer child expenditures. Note: Most states exclude direct child expenditures in the 'partial' SSR Test. We propose a 'full' SSR Test.
22	**ADJUSTED RECOMMENDED CHILD SUPPORT ORDER** (Minimum value of Line 20 or Line 22b for Paying Parent)	**N/A**	**60**		
23	Child Expenditure Ratio Calculation				This is optional section to worksheet
	a. Out-of-Pocket Child Costs				
	a1.Direct child Expenditures (Line 17)	573	366	939	
	a2.Child Support Order Paid/Received (from Line 22)	-60	60	0	
	a3.Out-of-Pocket Costs (Line 23a1 +Line 23a2)	513	426	939	
	a.4 Child Expenditure Ratio (Line 23a3/Line 2) (Note: Ratios will be equal unless ability-to-pay limit exceeded)	31.4%	31.4%	31.4%	For Income Shares methodology, child expenditure rations must be equal for both parents, unless overriden by ability-to-pay constraint.
24	Child Support Burden Rate (paying parent only) (Line 22/Line 1) (Note: Empirical data indicates burden rate exceeding 19% results in compliance drop-off)	N/A	4%		Analysis by OCSS and states indicates that compliance rate starts to decrease after 19%, although some reports suggests the roll-off may occur in the 25%-3-% range.