



P.A.C.E.

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Child Support Guidelines and Standard Visitation: Presumptions in Conflict

The state of Ohio has a procedure for determining *presumptive* (guideline) levels of child support for divorced or never-married parents. Ohio counties also have standard visitation rules which function as a sort of guideline concerning parenting time for custodial and non-custodial parents. It might seem natural to assume that the two presumptions are coordinated—that the presumptive child support levels are based on the guideline parenting schedule. Indeed, such an approach seems so natural that courts routinely make this assumption with complete assurance. A long-time domestic relations judge and former President of the Ohio Association of Domestic Relations Judges just last year asserted with absolute confidence that this assumption was true.

Nevertheless, reflection on the matter quickly shows that the assumption couldn't be true. There are no *state* visitation guidelines. Rather, standard visitation is based on local (county) rules. There are 88 Ohio counties—many have somewhat different standard visitation rules. These various standard visitation rules could not result in a single, statewide guideline child support table.

Robert G. Williams, Ph.D., who constructed the support tables used in the Ohio Revised Code, has recently clarified the assumptions made in the

calculations on which the tables are based. “Because the Schedule is based on expenditures for children in intact households, *there is no assumption made concerning visitation costs.*” “*No...adjustments* have been made to reflect changes to estimated child-rearing costs based on the amount of visitation exercised by non-custodial parents” (correspondence with Barbara Saunders, ODHS, 12/16/1996). This means that the guideline amounts are made as if the child(ren) receive *no* direct support from the non-custodial parent. Non-custodial parents who provide direct support (housing, food, clothing, entertainment, and so forth) for their children are, then, shouldering an excessive share of their children's expenses. Those who contribute in this way should receive a downward adjustment in their child support levels.

The Eleventh Appellate District Court of Ohio has reached the same conclusion:

We agree that nothing in the structure of the Child Support Worksheet set forth in R.C. 3113.215(E), or in the terms of R.C. 3113.215 “presume” a standard, two-month visitation order. In fact, the opposite is true. ... [T]he Worksheet makes no implied allowances for a standard, two-month visitation order. (*Vliek v. Millykowski*, (Dec. 11, 1998), 1998 Ohio App. LEXIS 6000, Lake App. No. 97-I-300)

Recently, the Ohio Association of Domestic Relations Judges has come to recognize that the long and widely held



assumption that visitation and support presumptions “meshed” was incorrect. Earlier this year, Judge Russell Steiner wrote, “the executive committee of the Ohio Association of Domestic Relations Judges recognizes the apparent unfairness of Ohio's existing child support guidelines in that no financial consideration is given to the obligor for those times where the child is with the non-residential parent” (correspondence, April 28, 1999).

P.A.C.E. agrees that the unfairness is, indeed, now apparent. It is time to stop the unfairness. Non-residential parents who have significant time parenting their children should be granted a deviation from current guideline child support levels.

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—Don Hubin

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