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## **The Use of Child Support Guidelines in Wisconsin: 2010 and 2013**

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## The Use of Child Support Guidelines in Wisconsin: 2010 and 2013

### I. INTRODUCTION

Wisconsin, like all states, has established presumptive guidelines to be used by courts and administrative officials when setting child support obligations.<sup>1</sup> In this report, we use data on a sample of court cases in Wisconsin to assess the extent to which these guidelines are followed in divorce and paternity cases entering the courts during the 2010 to 2013 period. Additionally, we examine court records for any explicit statements about reasons for deviating from those guidelines, and we examine the characteristics of cases in which child support orders do not appear to be consistent with the state's guidelines.

This report continues an ongoing series of reports prepared by the Institute for Research on Poverty which have examined the use of child support guidelines in the state over the last few decades.<sup>2</sup> Most recently, Bartfeld, Cook, and Han (2015) examined guidelines usages from 2007 to 2009. Prior to that, Cook and Brown (2013) conducted a comprehensive examination of guidelines usage from 1996 through 2006. Both reports found declines in guidelines use over time and growth in the share of cases without orders. Both also highlighted differences in guidelines usage between paternity and divorce cases, as well as differences across cases with varying placement arrangements—themes we continue to examine here. The current report updates past work and provides new information about cases with imputed income orders (orders

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<sup>1</sup>Wisconsin's guidelines are issued as Chapter DCF 150 of the Wisconsin Administrative Code.

<sup>2</sup>Earlier guidelines reports include Brown and Cancian 2007; Rothe et al 2007; Caspar, Rothe, and Yom-Tov 2006; Cook 2002; Rothe and Hu 2002; Rothe, Hu and Wimer 2000a and 2000b; Meyer and Hu 1996; Melli and McCall 1993; Melli and Bartfeld 1991.

determined based on the potential income of the payor) and default orders (orders where the payor on the case was not present and not represented in court).

Although we discuss guidelines usage overall, there are in fact a series of guidelines intended to handle a range of circumstances spanning shared placement, high and low income payers, serial families, and split placement. In our calculations of guidelines usage, we consider the guideline or guidelines that appear to be applicable to the circumstances of each case. It should be noted that while guideline calculations are considered presumptively correct under federal and state law, they are not mandatory. Courts are permitted to modify the order amount if they find that the guidelines calculation results in an order that is “unfair to the children or to any of the parties” (Wis. Stats. 767.511 (1m)). In such cases, the court is required by state law to state “in writing or on the record” the order calculated from the guidelines, the amount of the modification, and the reasons for finding the modification necessary (Wis. Stats. 767.25(1n)). For example, the courts may modify the order amount for reasons such as “the financial resources of the child,” “the financial resources of both parents,” “the award of substantial periods of physical placement to both parents,” or “any other factors which the court in each case determines are relevant” (Wis. Stats. 767.511 (1m)). Thus, inconsistency with the numeric guidelines should not necessarily be interpreted as noncompliance with the underlying law, in that deviations are permitted as described above. We examine the extent to which such deviations are found in the written record (such as court findings, orders, or minutes), recognizing that our data do not necessarily contain all statements considered part of the record.

## **II. DATA AND METHODS**

To assess guidelines usage, we follow the example of previous IRP reports on child support guidelines and use data from the Wisconsin Court Record Data (CRD), a sample of child

support-related cases filed in 21 Wisconsin counties (Brown, Roan and Marshall, 1997).<sup>3</sup> We focus on the most recent data in the CRD: cohorts 30 and 33, which comprise cases filed with the courts from July 2009 to August 2010 (cohort 30) and in 2013 (cohort 33). All cases selected for inclusion in the CRD have the potential for child support payments for at least one year. Our analyses are weighted to adjust for sampling differences between large and small counties.

One consideration in this report is a change in data collection methods starting with cohort 33. In previous cohorts court records were collected through on-site visits to county court houses with selected court documents scanned by IRP data collectors. By 2013 some counties in Wisconsin had adopted electronic court files which involved the scanning of records by court officials; for these counties in cohort 33 scanned court documents were accessed by IRP data collection staff electronically. Discussions with IRP data collection staff indicate that accessing electronic case records may improve the quality of the data collection process, but seems unlikely to substantively change guidelines conclusions in one direction or the other.<sup>4</sup>

Our total sample consists of 3,241 cases roughly evenly divided between the two cohorts. We examine the initial child support order established in the case at the time of final judgment. We eliminate cases in which the parents are known to be reconciled or are known to be living together at the time of the final judgment (n=283); cases in which there has yet to be a final judgment (n=8); cases in which there was no physical placement order (n=133); cases in which the children were placed with a third party (n=51); and cases in which the parents have split

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<sup>3</sup>The 21 CRD counties are: Calumet, Clark, Dane, Dodge, Dunn, Green, Jefferson, Juneau, Kewaunee, Marathon, Milwaukee, Monroe, Oneida, Ozaukee, Price, Racine, Richland, St. Croix, Sheboygan, Waukesha, and Winnebago.

<sup>4</sup>A comparison of results between counties in which scanned court documents for cohort 33 data collection were accessed by IRP staff electronically and counties where court documents were collected through on-site visits by IRP staff did not reveal any evidence of any differences associated with changes in the data collection method.

placement of the children (often with a split of sole placement of one child, and shared placement of another child—such that the appropriate child support guideline is undetermined) (n=16); and cases with other types of missing information (n=34).

To calculate the appropriate guidelines-based order, we identify the placement arrangements ordered for the case (based on the number of nights per year with each parent) to determine whether the shared placement formula should be used.<sup>5</sup> We then used the income of the parents, the number of children, and the placement arrangement to calculate the expected order amount based on the appropriate formula.

There are several types of cases in which the guideline-specified amount is not completely clear; a brief discussion of the treatment of the most common of these cases follows (following the same treatment used in Bartfeld, Cook, and Han, 2015 and Cook and Brown, 2013). Under Chapter 150.03.3, courts are permitted, under certain circumstances, to set an order based on imputed income, rather than actual income. We base our calculation of orders consistent with the guideline only on data available in the CRD; the actual income amount recorded in the CRD, if available, or on the percentage of income ordered in the CRD,<sup>6</sup> when actual income is not available. Under Chapter 150.05.1(b), the court “may incorporate responsibility for a contribution to the cost of private health insurance as an upward or downward adjustment to a payor’s child support obligation.” For example, if the payee is paying for insurance, the payor may be asked to share in this cost, increasing the order; if the payor is

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<sup>5</sup>See Brown and Cook (2011) for a full report on placement arrangements ordered in Wisconsin for previous CRD cohorts.

<sup>6</sup>In the CRD, all orders in cohorts 30 and 33 are expressed as fixed dollar amounts (as opposed to percentage-expressed), but for some cases the CRD also records the percentage of income that the order uses, so when income amount is unknown, but the percentage-of-income is recorded, we use the percentage-of-income in our calculation of guidelines consistency.

paying for insurance, the order might be adjusted downward. We have not attempted to incorporate potential adjustments that might reflect health insurance payments, although we do show percentages of mother-sole and equal-shared placement cases where judges have referenced such expenses in justifying a deviation from the guidelines. Another example of a difficult case is a “multipart” order—some orders are for different amounts in different types of circumstances (for example, the order amount may change after a house has been sold); in these cases we determine consistency with the guidelines based on the circumstance in effect at the time of final judgment if we could determine this.

Yet another example is a case in which the noncustodial parent has no income (\$0 income) or their income is unknown. If the noncustodial parent has no income and there is no order on the case, this can be seen as consistent with the guidelines; we have therefore classified cases with no income and no order as “consistent,” despite the absence of an order. These cases are distinct from cases in which the noncustodial parent’s income is missing from the court record. When the noncustodial parents’ income is missing from the court record but the court has indicated a percentage of income ordered we use that percentage to determine consistency. If that percentage is within 1 percentage point of the expected percentage of income according to the relevant guidelines and the number of children on the case, we have classified the cases as consistent with the guidelines.

Some cases did not include enough information for the guideline amount or consistency to be calculated. In sole placement cases when the income of the payor and the percentage of income ordered were missing we were unable to determine consistency. In shared placement cases, when the income of either parent, or the percentage of placement time accorded to each parent, was missing then we were unable to determine consistency.

After we calculate the guidelines-prescribed order amount for the case, we transform both it and the actual order amount into a percentage of the payor's income. We consider orders consistent with the guideline if they are within 1 percentage point above or below the requisite percentage (for example, 16–18 percent of income in a standard one-child case), or within \$50 of the guidelines-specified amount. In cases where more than one guideline could potentially apply, we consider a case to be consistent if it conforms to any guideline that is potentially relevant in the particular case, including the percentage standard, the serial family guideline, the low-income or high-income guideline, and the shared placement guideline.

### **III. RESULTS**

#### **A. Use of Guidelines**

We begin by showing the disposition of all cases in our sample with regards to guidelines use (Table 1a). We differentiate between three broad groups: cases with no orders which lack evidence of consistency with any relevant guideline (referred to as “No Child Support Order”); cases with orders, but insufficient evidence to determine whether the orders are consistent with guidelines (referred to as “Consistency Not Known”); and cases that have sufficient information to determine whether they are consistent with relevant guidelines (referred to as “Consistency Known”). Within the third group, per the criteria described earlier, we further differentiate cases into those that are consistent with guidelines (including no-order cases, if warranted by the guidelines); those with above-guidelines orders; and those with below-guidelines orders.

**Table 1a. Consistency with Guidelines: IV-D and Non-IV-D Cases, filed 2009/2010 and 2013**

	(A) Percentage of All Cases	(B) Percentage of Classifiable Cases
<b>All Cases</b>		
<i>N</i>	3,241	1,994
No child support order <sup>a</sup>	27.8%	
Consistency not known	14.2	
Consistency known	58.0	
Order lower than guidelines	11.9	20.5%
Consistent with Guidelines <sup>b</sup>	37.4	64.5
Order higher than guidelines	8.7	15.0
<b>Paternity Cases</b>		
<i>N</i>	1,796	1,077
No child support order <sup>a</sup>	28.6%	
Consistency not known	17.6	
Consistency known	53.8	
Order lower than guidelines	10.0	18.7%
Consistent with Guidelines <sup>b</sup>	38.5	71.6
Order higher than guidelines	5.2	9.7
<b>Divorce Cases</b>		
<i>N</i>	1,445	917
No child support order <sup>a</sup>	26.6%	
Consistency not known	8.6	
Consistency known	64.8	
Order lower than guidelines	14.9	23.0%
Consistent with Guidelines <sup>b</sup>	35.6	54.9
Order higher than guidelines	14.4	22.2

**Notes:** Data are from cohorts 30 and 33 of the WCRD. All percentages weighted to reflect sampling differences in large and small counties. Orders that are within 1 percentage point of the applicable guidelines percentage of income or within \$50 of the applicable guidelines amount are considered “consistent with guidelines.”

<sup>a</sup>Includes no-order cases that appear to be inconsistent with the guidelines and those for who consistency could not be determined. Excludes no-order cases which are consistent with guidelines. As noted below, such cases are included in the “consistent with guidelines” category.

<sup>b</sup>Includes some no-order cases in which an award of zero dollars would be consistent with the guidelines.



Column A shows the disposition of all cases in our sample, including those with and without orders as well as with and without sufficient information to assess guidelines consistency. Across the two cohorts, more than one-quarter of the cases (28 percent) lack support orders, yet have no evidence in the record that this lack of orders is consistent with any relevant guidelines. An additional 14 percent of all cases have an order in which consistency with the guidelines is unknown due to missing information. The remaining 58 percent have sufficient information to assess consistency (we refer to these orders in our discussion as “classifiable orders”), including those no-order cases where the lack of an order is consistent with the guidelines. Thirty-seven percent of the total sample of cases have orders that are consistent with the guidelines, 12 percent have orders below guidelines-specified amounts, and 9 percent have orders that exceed guidelines-specified amounts. Column B looks only at the subset of cases with classifiable orders; among this subset, we find that 65 percent of cases are consistent, 21 percent are too low, and 15 percent are too high, relative to what we calculate under the guidelines. Among those that are too low, 38 percent are within \$100; among those that are too high, 43 percent are within \$100 of the guidelines amount (not shown).

These patterns differ somewhat between paternity and divorce cases. Paternity cases are twice as likely as divorce cases to have orders of unknown consistency with guidelines—18 percent, as compared to 9 percent of divorce cases. Over half of paternity cases have classifiable orders (54 percent), as do more than two-thirds (65 percent) of divorce cases. Focusing specifically on the classifiable orders (column B), the orders in paternity cases are more likely to be consistent with guidelines—72 percent as compared to 55 percent of divorce cases. They are less likely to be below guidelines (19 percent compared to 23 percent) and to exceed guidelines (10 percent compared to 22 percent). Among paternity cases that are too low, 54 percent were

within \$100 of the guidelines amount, whereas among divorce cases that are too low, only 18 percent were within \$100 of the guidelines amount (not shown). Among paternity cases that are too high, 67 percent were within \$100 of the guidelines amount, whereas among divorce cases that were too high, only 29 percent were within \$100 of the guidelines amount (not shown).

Overall, it appears that consistency with the guidelines is modest. This is particularly true when one considers that more than one-quarter of cases lack orders yet have no information suggesting an order should not be in effect. Divorce cases appear to have less consistency with the guidelines than paternity cases.

The difference between paternity and divorce cases may reflect, in part, the higher involvement of child support agencies in the former. We thus present a similar analysis in Table 1b, limited to the subset of cases that have IV-D involvement at the time of the court hearing. There is very little difference in the paternity sample when compared to our initial analysis of all paternity cases—which is to be expected as a large majority of paternity cases are in the IV-D subsample. On the other hand, only a minority of divorce cases are in the IV-D subsample. When limited to IV-D cases, divorce cases are less likely to lack an order (20 percent compared to 29 percent for paternity cases). Among those with classifiable orders, however, paternity cases continue to have guidelines-consistent orders at a substantially higher rate than divorce cases (72 percent versus 58 percent), while divorce cases are far more likely to have orders that exceed guidelines (22 percent compared to 10 percent for paternity cases).

**Table 1b. Consistency with Guidelines: IV-D Cases Only**

	(A) Percentage of All Cases	(B) Percentage of Classifiable Cases
<b>All Cases</b>		
<i>N</i>	2,374	1,493
No child support order <sup>a</sup>	26.7%	
Consistency not known	16.1	
Consistency known	57.2	
Order lower than guidelines	10.9	19.0%
Consistent with Guidelines <sup>b</sup>	39.0	68.2
Order higher than guidelines	7.3	12.8
<b>Paternity Cases</b>		
<i>N</i>	1,749	1,059
No child support order <sup>a</sup>	28.5%	
Consistency not known	17.5	
Consistency known	54.0	
Order lower than guidelines	10.0	18.6%
Consistent with Guidelines <sup>b</sup>	38.7	71.7
Order higher than guidelines	5.2	9.7
<b>Divorce Cases</b>		
<i>N</i>	625	434
No child support order <sup>a</sup>	19.8%	
Consistency not known	10.7	
Consistency known	69.6	
Order lower than guidelines	14.2	20.4%
Consistent with Guidelines <sup>b</sup>	40.2	57.7
Order higher than guidelines	15.2	21.9

**Notes:** Data are from cohorts 30 and 33 of the WCRD. All percentages weighted to reflect sampling differences in large and small counties. Orders that are within 1 percentage point of the applicable guidelines percentage of income or within \$50 of the applicable guidelines amount are considered “consistent with guidelines.”

<sup>a</sup>Includes no-order cases that appear to be inconsistent with the guidelines and those for who consistency could not be determined. Excludes no-order cases which are consistent with guidelines. As noted below, such cases are included in the “consistent with guidelines” category.

<sup>b</sup>Includes some no-order cases in which an award of zero dollars would be consistent with the guidelines.

**B. Use of Guidelines by Placement Type and Other Characteristics**

A common finding in past analyses of guidelines consistency has been differential use of the guidelines in sole placement as compared to shared placement cases. We examine this in Table 2, limiting our analysis to divorce cases and looking separately at the three most-frequent placement categories: mother-sole placement, mother-primary placement (defined as 51–75 percent of time with the mother and 25–49 percent of time with the father), and equal-shared placement. (These three placement categories account for 1,330 of 1,445 cases, or over 90 percent of the divorce cases in our analysis sample.) As with the previous tables, column A shows the full sample, while column B shows the subset with classifiable orders.

There are notable differences among groups, consistent with the findings in past guidelines reports. These involve differences in the prevalence of orders and, when orders are classifiable, differences in the extent of guidelines consistency. Among the placement groups, sole-mother placement cases are most likely to have classifiable orders (78 percent) and least likely to lack an order altogether (12 percent). Among cases with classifiable orders, sole-mother placement cases are much more likely than mother-primary or equal-shared cases to have orders that are consistent with guidelines (64 percent versus 30 and 49 percent respectively). In contrast, 42 percent of equal-shared placement cases lack an order (with no evidence that this is consistent with the guidelines).

**Table 2. Consistency with Guidelines, Divorce Cases by Placement Arrangements**

	(A) Percentage of All Cases	(B) Percentage of Classifiable Cases
<b>Mother Sole Placement:</b>		
<i>N</i>	626	486
No child support order <sup>a</sup>	12.2%	
Consistency not known	10.3	
Consistency known	77.6	
Order lower than guidelines	15.8	21.0%
Consistent with guidelines <sup>b</sup>	49.8	64.4
Order higher than guidelines	11.9	14.6
<b>Unequal Shared Placement, Mother Primary:</b>		
<i>N</i>	172	129
No child support order <sup>a</sup>	16.4%	
Consistency not known	7.0	
Consistency known	76.7	
Order lower than guidelines	18.4	24.1%
Consistent with guidelines <sup>c</sup>	23.0	30.1
Order higher than guidelines	35.2	45.9
<b>Equal Shared Physical Placement:</b>		
<i>N</i>	532	260
No child support order <sup>a</sup>	42.4%	
Consistency not known	7.9	
Consistency known	49.7	
Order lower than guidelines	13.4	27.0%
Consistent with guidelines <sup>c</sup>	24.3	48.9
Order higher than guidelines	12.0	24.2

**Notes:** Data are from cohorts 30 and 33 of the WCRD. All percentages weighted to reflect sampling differences in large and small counties. Orders that are within 1 percentage point of the applicable guidelines percentage of income or within \$50 of the applicable guidelines amount are considered “consistent with guidelines.”

<sup>a</sup>Includes no-order cases that appear to be inconsistent with the guidelines and those for who consistency could not be determined. Excludes no-order cases which are consistent with guidelines. As noted below, such cases are included in the “consistent with guidelines” category.

<sup>b</sup>Includes some no-order cases in which an award of zero dollars would be consistent with the guidelines.

<sup>c</sup>Includes some no-order cases in which an award of \$50 or less would be consistent with the shared placement guidelines.

Note that these low rates of guideline consistency are not merely capturing the very low orders that result from application of guidelines in equal-shared cases with similar incomes. When guidelines-based orders would be \$50 or less per month, we consider the case to have a guidelines-consistent order, and such cases are thus not included in the 42 percent of no-order cases. In addition to a high no-order rate, half of classifiable orders in equal-shared cases are consistent with guidelines, while about one-quarter are too low and another quarter are too high. In the case of mother-primary shared placement, most notable is the very low share of guidelines-consistent orders when classifiable orders are present: only 30 percent of such orders are consistent with guidelines, another quarter are too low, and nearly half are too high. These different patterns across groups suggest that guidelines-based orders may be perceived very differently by key decision makers depending on the placement arrangements, and thus the relevant guidelines, that are in place.

We also examine differences in guidelines use by case characteristics (Table 3). Here, column A shows the share of cases without orders (unless such lack of order is consistent with guidelines); columns B and C show the share of cases with orders of unknown and known guidelines consistency, respectively; and columns D through F show, among the cases with classifiable orders, the extent to which those orders are low, consistent, or high. We classify cases by location, number of children, age of youngest child, combined parental income, legal representation of parents during the court case, and source of child support decision (i.e., by stipulation versus by judge or Family Court Commissioner). It is important to keep in mind that we only look at one case dimension at a time, so this analysis does not control for multiple ways in which cases differ. In this discussion, we simply highlight some of the notable patterns.

**Table 3. Consistency with Guidelines by Case Characteristics 2010 and 2013**

	N	(A)	(B)	(C)	(D)	(E)		(F)
		No Order <sup>a</sup>	Consistency Not Known	Consistency Known	Below Guidelines	Classifiable Cases		
						Consistent with Guideline <sup>b</sup>	Above Guidelines	
All Cases	3,241	27.8%	14.2%	58.8%	20.49	64.54	14.97	
Cohort								
Cohort 30	1,509	25.2%	17.0%	57.8%	19.4%	65.1%	15.5%	
Cohort 33	1,732	30.7	11.2	58.1	21.7	63.9	14.4	
Case Type								
Voluntary paternity	626	29.9%	13.8%	56.2%	25.4%	64.5%	10.2%	
Adjudicated paternity	1,170	28.1	19.1	52.9	16.0	74.5	9.5	
Divorce	1,445	26.6	8.6	64.8	23.0	54.9	22.2	
County								
Milwaukee	795	30.2%	20.7%	49.1%	25.6%	58.9%	15.5%	
Other urban counties	1,650	25.2	8.2	66.6	16.5	68.7	14.8	
Rural	796	27.4	7.9	64.7	18.5	67.4	14.1	
Number of Children								
1	1,970	28.4%	13.6%	57.9%	16.9%	70.1%	13.1%	
2	885	26.8	15.7	57.5	26.3	55.7	18.0	
3 or More	386	26.9	13.9	59.2	26.2	55.8	18.0	
Age of Youngest Child								
0–2	1,863	26.7%	17.5%	55.7%	20.3%	68.2%	11.5%	
3–5	529	30.1	9.5	60.5	21.7	60.6	17.7	
6–10	502	28.4	8.5	63.1	22.8	58.4	18.8	
11–18	346	30.5	8.4	61.1	16.5	58.1	25.4	
Parents' Combined Total Income (from CRD or UI) <sup>c</sup>								
No Income/Missing	342	37.3%	29.2%	33.5%	2.9%	89.8%	7.3%	
\$1–\$25,000	1,071	30.4	19.8	49.8	13.5	73.9	12.7	
\$25,000–\$50,000	741	23.2	8.3	68.5	24.3	62.4	13.4	
\$50,000–\$75,000	474	22.2	7.2	70.6	25.0	56.9	18.1	
\$75,000–\$100,000	275	26.5	7.5	66.1	26.5	50.1	23.5	
\$100,000 or more	338	27.1	4.3	68.6	30.2	50.9	18.9	
Parents' Legal Representation at Court								
Both	621	22.1%	8.4%	69.5%	22.4%	51.3%	26.3%	
Father only	133	37.3	13.8	48.9	30.1	45.6	24.3	
Mother only	1,865	27.6	17.5	55.0	19.7	70.2	10.1	
Neither	622	33.2	7.1	59.7	19.4	62.8	17.8	
Child Support Order Decision								
By stipulation	977	30.0%	7.8%	62.2%	22.4%	57.5%	20.1%	
By Judge/Family Court Commissioner	1,017	26.4	18.5	55.1	19.0	69.8	11.1	

**Notes:** Data are from cohorts 30 and 33 of the WCRD. All percentages are weighted to reflect sampling differences in large and small counties. Orders that are within 1 percentage point of the applicable guidelines percentage of income or within \$50 of the applicable guidelines amount are considered “consistent with guidelines.”

<sup>a</sup>Includes no-order cases that appear to be inconsistent with the guidelines and those for who consistency could not be determined. Excludes no-order cases which are consistent with guidelines. As noted below, such cases are included in the “consistent with guidelines” category.

<sup>b</sup>Includes some no-order cases in which an award of zero dollars would be consistent with the guidelines.

<sup>c</sup>For assessment of guidelines use, we use only CRD-reported income; for parents' combined total income, we use UI wage records for the four quarters prior to the final judgement or the CRD-reported income, whichever is greater.

Differences by location are modest, with somewhat lower guidelines consistency in Milwaukee than elsewhere, and a larger share of below-guideline orders. Consistency with guidelines is lower for cases with two or more children compared to one child; consistency also decreases as the age of the youngest child on the case increases. Cases are less likely to be consistent where the father only, or both parents are represented at court, while higher consistency with guidelines is seen in cases where only the mother or neither parent is represented at court. Stipulated cases are less likely to be consistent with guidelines than are cases settled by a judge or Family Court Commissioner.

Most notable in these results are the income patterns. When the parents have no income (including \$0 income and missing income), the share of cases with no order is 37 percent, compared to 30 percent of cases with no order for parents with a combined income of \$1 to \$25,000. Similarly, the share of cases with an order where consistency is not known is much higher among cases where the parents' combined income is less than \$25,000 than among cases where parents' combined income is greater than \$25,000. More pronounced is the decline in consistency with the guidelines among classifiable orders as income grows, declining from 90 percent of cases with no income to around 50 percent of orders in the highest income groups. For the most part, below-guideline and above-guideline orders also increase over this range.

Note that the differential use of guidelines in higher income cases is not a reflection of different child support guidelines, as we treat orders as guidelines-consistent if they meet either the regular or (when relevant) the alternative high- or low-income guidelines. However, shared placement cases are more widespread among higher-income cases, and the lower use of guidelines in higher-income cases is consistent with the lower use in shared-placement cases.



### **C. Imputed Income Orders and Default Orders**

New to this report, we examine differences in guidelines use for cases with imputed income orders (orders determined by the potential income of the payor) and cases with default orders (orders set when the case notes indicate that the payor on the case was not present and not represented in court) (Table 4). There is interest in knowing the prevalence of imputed income orders in Wisconsin given new requirements for states' child support guidelines following The Flexibility, Efficiency, and Modernization in Child Support Programs final rule of December 2016. The new ruling requires that if a state's guidelines allow for income imputation, the order must take into consideration "the specific circumstances of the noncustodial parent . . . to the extent known, ..." [45 C.F.R. § 302.56(c)(iii)], and includes a long list of factors that should be considered. Additionally, we expect that when the payor on the case is not present and not represented in court, information about the income of the payor is likely to be missing or unknown. Therefore, we also examine how often orders are set by default and how often orders set by default are based on imputed income.

**Table 4. Imputed Income or Default Orders, 2010 and 2013**

	<i>N</i>	<i>%</i>	(A)	(B)	(C)	(D)	(E)	(F)
			No Order <sup>a</sup>	Consistency Not Known	Consistency Known	Classifiable Cases		
						Below Guidelines	Consistent with Guidelines <sup>b</sup>	Above Guidelines
All Imputed Income Orders	469	15.9%	14.4%	31.5%	54.1%	6.9%	72.9%	20.2%
Neither parent has income		20.2	10.6	40.9	48.5	1.8	86.3	12.0
Mother has no income		12.6	13.9	37.7	48.4	3.6	81.0	15.4
Father has no income		33.9	22.3	33.9	43.8	8.0	78.9	13.1
Both parents have income		33.4	8.9	21.0	70.2	9.3	61.3	29.4
Default Orders	157	7.8%	36.9%	20.6%	42.5%	9.3%	83.8%	6.9%
Neither parent has income		26.6	42.9	20.9	36.3	0.0	88.6	11.4
Mother has no Income		9.3	31.2	24.6	44.2	21.3	78.8	0.0
Father has no income		33.7	34.6	25.1	40.3	9.3	84.3	6.4
Both parents have income		30.4	36.1	14.1	49.8	12.0	81.7	6.3
Default and Imputed Income Orders	55	2.4%	22.4%	38.2%	39.4%	10.5%	79.8%	9.7%

**Notes:** Data are from cohorts 30 and 33 of the WCRD. All percentages weighted to reflect sampling differences in large and small counties. Orders that are within 1 percentage point of the applicable guidelines percentage of income or within \$50 of the applicable guidelines amount are considered “consistent with guidelines.”

<sup>a</sup>Includes no-order cases that appear to be inconsistent with the guidelines and those for whom consistency could not be determined. Excludes no-order cases which are consistent with guidelines. As noted below, such cases are included in the "consistent with guideline" category.

<sup>b</sup>Includes some no-order cases in which an order of zero dollars would be consistent with the guidelines.

We identify cases with imputed income orders if the court record indicates that the type of support order is a “fixed dollar order, based on a percentage of potential income” or if there is a record of a deviation from the guidelines related to the potential earnings of the payor.<sup>7</sup> We find that 16 percent of cases for cohorts 30 and 33 were imputed income order cases (N=469). This percentage is consistent with rates of imputed orders in other states. In a recent review of New Mexico child support guidelines, Jane Venohr (2018) reports that 13 percent of current support orders were based on income imputed at full-time minimum wage earnings (p. 29).

We determined consistency with guidelines for imputed-income order cases using the same criteria that we used for all other cases. As a result, for more than half of cases with imputed income orders, we were able to determine consistency with guidelines using the record of the percentage of income for support ordered on the case. In essence, we compare the percentage of income that we would calculate based on the number of children on the case to the percentage of income for support ordered indicated on the court record. Another 14 percent had no orders and the remaining 31 percent had orders but did not have enough information to determine consistency. For cases where we could determine whether orders based on the imputed income of the noncustodial parent were consistent, 73 percent were within 1 percentage point of the relevant guidelines percentage, 20 percent were higher than the guidelines percentage, and 7 percent were lower than the guidelines percentage.

The courts may impute noncustodial parent income when income information is not available. The courts may also impute income when observed income is lower than a standard

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<sup>7</sup>Data collectors identify three categories of deviations related to potential earnings of the payor: potential earnings of the payor (general), potential earnings of the payor based on full-time federal minimum wage, and potential earnings of the payor based on part-time federal minimum wage.

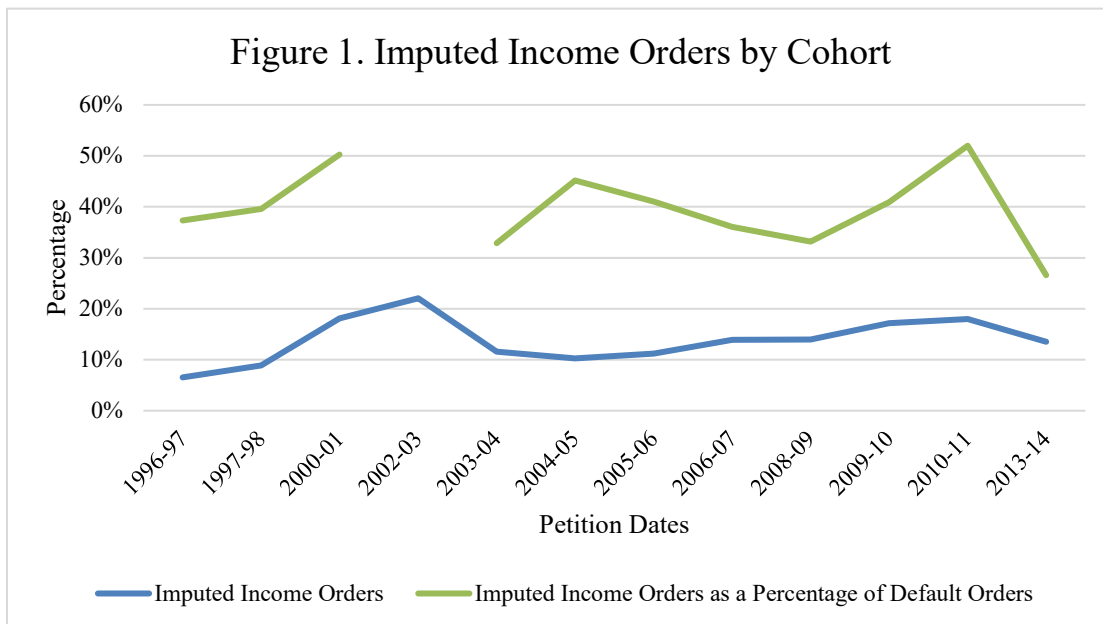
minimum, such as fulltime employment at the federal minimum wage. We examine consistency with guidelines for imputed orders by parental income, and we find that when both parents have income, we observe less consistency with guidelines and more cases where orders were higher than the guidelines. When both parents have no income, we find that more than 86 percent of imputed income cases are consistent with guidelines. For this comparison, it is important to note that we are using income information from the court record and earnings records from the UI wage data to construct categories of parental income, whereas we use only income recorded in the court record data to calculate guidelines consistency.

We identify cases as having default orders if the court record indicates that the support order was determined by a “default method of arriving at a support amount when payor fails to appear in court” (Wisconsin Court Record Data, 2019). We find that the noncustodial parent was not present or represented in court for 8 percent of cases (N=157). As one might expect, a relatively high percentage of these cases (37 percent) had no order, and consistency could not be determined for another 21 percent with orders due to missing information. Of the 42 percent of cases where consistency with orders could be determined, 84 percent were consistent with guidelines, 9 percent were lower than the specified guidelines amount, and 7 percent were higher. When we examine default orders by parental income, we find that in 27 percent of cases both parents on the case had no income and in 34 percent of cases the father had no income. When both parents had no income a high proportion of default order cases (43 percent) had no order.

Finally, because we expect that when a noncustodial parent is not present, the court may not have information about noncustodial parent income, we examine overlap between default order cases and imputed-income order cases. Although default order cases that are also imputed

income order cases make up less than 3 percent of our total caseload, imputed income was used to determine the support order amount in 31 percent of default order cases (not shown). It is possible that the percentage of default order cases that are also imputed income is lower than what might be expected because the court may have income information for the payor from the National Directory of New Hires or other sources even when the payor does not appear in court.

It is also possible that rates of income imputation are sensitive to economic conditions, i.e., that income imputation occurs more often during periods of high unemployment. When we examine rates of imputed orders by cohort (Figure 1), we see that during recessionary periods (2000 to 2002 and 2009 to 2011), imputed income orders increase, both as a percentage of all orders and as a percentage of default orders.



#### **D. Explicit Deviations from Guidelines**

Although use of guidelines is presumptive, the courts are also permitted to deviate from the guidelines-based amounts as described previously, if evidence indicates that the use of the guidelines would result in an unfair order. Thus, inconsistency with the guidelines does not

necessarily imply nonconformance with the relevant law. However, in cases where the guidelines are not used because they are deemed to be unfair in a particular case, the law does require that the reasons for the deviation be included in the court record. Note that this may include reasons in the written record (such as court orders, findings or minutes)—which we have access to in our data—as well as reasons stated in court but not necessarily in the written record. Because we do not review court transcripts, we are not able to capture such statements that may have occurred; we thus report only on written reasons for deviations that are included in the filed court record.

In Table 5, we present a summary of the explicit deviations or considerations listed in the court records, looking at three of the most common placement situations: paternity cases with sole-mother placement; divorce cases with sole-mother placement; and divorce cases with equal-shared placement. Within each group, we look separately at five categories of cases, analogous to the categories used in earlier tables: (A) those with no child support order; (B) those with an order but without enough information to calculate consistency with the guidelines; (C) those with an order lower than what the guidelines would call for; (D) those with an order consistent with the guidelines; and (E) those with an order higher than called for by the guidelines. For those cases with an explicit written reason for deviation, we have categorized the reasons given into two general groups: reasons involving the earnings or employment capability of one or both parents—including, for instance, reasons such as high earnings, sporadic earnings, low earnings, unemployment, or issues with employability (such as that a parent is a minor, a student, or has a temporary or permanent disability); and reasons having to do with household costs or payments for one or both parents, which could include (for example) payments made to one parent's household by the other parent, continued payment of the mortgage until the house is sold, payment of childcare costs, or payment of medical or health insurance costs.

**Table 5. Reasons for Deviation from Child Support Guidelines, 2007-2009**

	(A)	(B)	(C)	(D)	(E)
	No Order <sup>a</sup>	Consistency Not Known	Below Guidelines	Classifiable Cases	
				Consistent with Guidelines <sup>b</sup>	Above Guidelines
<b>Mother Sole Placement:</b>					
Paternity Cases (Adjudicated and Voluntary Paternity Acknowledgment)					
<i>N</i>	329	205	127	794	68
No written reason for deviation	70.4%	95.9%	87.3%	86.7%	89.0%
Written reason for deviation	29.6	4.1	12.7	13.3	11.0
Deviation reason:					
<i>Parental earnings or employment</i>	8.0%	2.8%	1.1%	8.2%	0.8%
Potential earnings of payor	0.0	0.9	0.7	0.8	0.8
<i>Household costs</i>	3.3	0.1	7.0	3.9	1.8
Medical or health insurance costs	0.9	0.0	5.2	0.9	1.6
Childcare costs	0.0	0.0	0.9	0.4	0.0
Divorce Cases					
<i>N</i>	76	64	102	313	71
No written reason for deviation	42.5%	93.6%	64.1%	82.8%	71.4%
Written reason for deviation	57.5	6.4	35.9	17.2	28.6
Deviation reason:					
<i>Parental earnings or employment</i>	19.9%	2.2%	4.7%	7.6%	8.9%
Potential earnings of payor	0.0	0.0	0.0	0.9	3.1
<i>Household costs</i>	19.7	0.0	22.9	8.5	19.4
Medical or health insurance costs	0.3	0.0	16.7	5.3	16.4
Childcare costs	3.4	0.0	1.2	0.3	1.6
<b>Equal Shared Placement Divorce Cases</b>					
<i>N</i>	227	45	68	132	60
No written reason for deviation	43.7%	76.7%	70.6%	70.1%	67.9%
Written reason for deviation	56.3	23.3	29.4	29.9	32.1
Deviation reason:					
<i>Parental earnings or employment</i>	20.3%	8.0%	4.8%	14.0%	5.6%
Potential earnings of payor	0.3	0.0	0.0	0.0	0.0
<i>Household Costs</i>	39.7	14.2	23.9	25.0	19.3
Medical or health insurance costs	10.2	9.2	21.5	10.8	15.9
Childcare costs	1.3	0.0	1.2	1.5	2.2

**Notes:** Data are from cohorts 30 and 33 of the WCRD. All percentages are weighted to reflect sampling differences in large and small counties. Orders that are within 1 percentage point of the applicable guidelines percentage of income or within \$50 of the applicable guidelines amount are considered “consistent with guidelines.” Categories of deviation types are not mutually exclusive, as the judge in the case can note more than one reason for deviation.

<sup>a</sup>Includes no-order cases that appear to be inconsistent with the guidelines and those for who consistency could not be determined. Excludes “no order” cases which are consistent with guidelines. As noted below, such cases are included in the “consistent with guidelines” category.

<sup>b</sup>Includes some no-order cases in which an award of zero dollars would be consistent with the guidelines.

From the parental earnings or employment category, we have broken out cases where the court explicitly indicates that a deviation from the guidelines is due to income imputation (the potential earnings of the payor). From the household cost and payment category we have also broken out the two most common subcategories: medical or health insurance costs and childcare costs. Note that there may be multiple reasons given for a deviation in a given case, and not all of the written reasons for deviations were able to be categorized using available data.

We note several patterns in these data. First, across most types of cases, the majority of cases have no written reasons for deviations—even among those cases in which the guidelines do not appear to have been used. Second, written reasons for deviations are observed most frequently in cases with no order.

Third, the prevalence of written reasons for deviations appears somewhat more common in divorce than paternity cases. Looking only at the mother sole placement cases, 30 percent of paternity cases without orders contain a written reason (this is a considerable increase from prior reports that found written reasons for deviations in about 15 percent of paternity cases). Still, no-order paternity cases are half as likely as no-order divorce cases to have written reasons for deviations. When orders in these groups are present but below guidelines-based amounts, written reasons are provided in 13 percent of paternity cases compared to 36 percent of divorce cases.

Fourth, for the most part, written reasons for deviations are more common among divorce cases with equal-shared placement than those with sole placement. This is true for cases where consistency is not known (23 percent versus 6 percent respectively); for above-guidelines cases (32 percent versus 29 percent); and, surprisingly, even for cases that are consistent with guidelines (30 percent versus 17 percent).



We also note that written reasons for deviations are provided even for some cases that appear to have child support orders consistent with the guidelines; because we use a fairly generous definition of guidelines consistency, these may be cases that we classify as consistent but that the judge considers inconsistent and hence provides a justification.

#### **E. Composition of Inconsistent Cases**

The above analyses have focused on the extent of guidelines consistency, overall and among subgroups. Here, we shift our focus and look at a related question: What are the predominant characteristics of cases with inconsistent orders? To examine this, we look at the composition of cases in which the guidelines do not appear to have been used (Table 6). While the information in Table 3 allows us to identify the types of cases with greater likelihood of guidelines usage, this perspective may be useful for policymakers interested in targeting cases where orders are not consistent with guidelines.

We look only at cases with inconsistent orders, rather than at cases where consistency cannot be determined. Our interest here is in those cases where an actual order was issued, yet where that order differed from what the guidelines would indicate. We show the composition of all cases with inconsistent orders, and also show separate breakdowns for high and low orders relative to guidelines. More than half of the inconsistent orders are in divorce cases (54 percent), while slightly less than one-third are in adjudicated paternities and 17 percent are in voluntary paternities. Divorce cases are more common among inconsistent orders that exceed the guidelines (63 percent) than among those that fall below guidelines (47 percent).

**Table 6. Composition of Inconsistent Cases**

	Inconsistent Cases		
	All	Below Guidelines	Above Guidelines
<i>N</i>	634	353	281
Case Type			
Voluntary paternity	16.7%	20.6%	11.3%
Adjudicated paternity	29.4	31.9	26.0
Divorce	53.9	47.5	62.6
Placement Type			
Mother sole	63.6%	71.5%	52.7%
Mother primary	19.0	16.7	22.3
50-50 shared	2.0	2.6	1.2
Father primary	14.6	8.7	22.7
Father sole	0.8	0.6	1.1
Parent's Combined Total Income (from CRD or UI) <sup>a</sup>			
No income/missing	1.7%	0.9%	2.9%
\$1–\$25,000	23.6	21.1	27.1
\$25,000–\$50,000	28.5	31.8	24.0
\$50,000–\$75,000	18.5	18.5	18.4
\$75,000–\$100,000	11.8	10.8	13.1
\$100,000 or more	15.9	17.0	14.5
Parents' Legal Representation at Court			
Both	27.8%	22.2%	35.6%
Father only	4.0	3.8	4.2
Mother only	51.3	58.8	41.0
Neither	17.0	15.3	19.2
Child Support Order Decision			
By stipulation	51.5%	47.1%	57.6%
By Judge/Family Court Commissioner	48.5	52.9	42.4
Child Support Enforcement Type			
Non-IV-D cases	31.8%	29.3%	35.2%
IV-D cases	68.2	70.7	64.8

**Notes:** Data are from cohorts 30 and 33 of the WCRD. All percentages are weighted to reflect sampling differences in large and small counties. Orders that are within 1 percentage point of the applicable guidelines percentage of income or within \$50 of the applicable guidelines amount are considered “consistent with guidelines.” <sup>a</sup>For assessment of guidelines use, we use only CRD-reported income; for parents' combined total income, we use UI wage records for the four quarters prior to the final judgement or the CRD-reported income, whichever is greater.

Almost two-thirds of all inconsistent orders are in mother-sole placement cases, while about one-third are in shared placement cases. Below-guidelines orders have a larger share of sole-mother placement cases than do above-guidelines orders—72 percent versus 53 percent. Conversely, 46 percent of the above-guidelines orders involve shared placement (equal or one-parent primary), a larger share than the 28 percent of below-guidelines orders involving shared placement.

In terms of income distribution, inconsistent orders are quite variable and patterns are broadly similar across income groups for both below-guidelines and above-guidelines orders. Notably, less than 1 percent of below guidelines orders were for parents with no income, compared to 3 percent of above guidelines orders. For more than half of all inconsistent orders and 59 percent of those that were below the guidelines amount, only the mother was represented at court. Inconsistent orders are roughly as likely to have been reached by stipulation as to have been issued by a judge or Family Court Commissioner (52 percent versus 48 percent). Below-guidelines orders are more likely than above-guidelines orders to be issued by a judge (53 percent), while above-guidelines orders are more likely than their below- guidelines counterparts to be reached by stipulation (58 percent). Finally, more than two-thirds (68 percent) of cases with inconsistent orders are in the IV-D system, including 71 percent of below-guidelines orders and 65 percent of above-guidelines orders.

#### **IV. COMPARISONS TO PRIOR STUDIES**

In this section we compare our results to the results from prior guidelines reports. Compared to prior cohorts, the use of guidelines appears to have increased with the most recent cohorts. Looking only at the subset of classifiable cases, 65 percent of cases were consistent with guidelines in the most recent cohorts, compared to 58 percent in cohorts 28 and 29 and 61

percent in cohorts 17 through 27 (as noted in Table 7 and Appendix Table 1).<sup>8</sup> Correspondingly, our comparison shows slight decreases in the percentage of cases above and below guidelines amounts for the current cohorts compared with the prior cohorts. We also observe a decrease in the percentage of cases with orders where consistency with guidelines could not be determined, from 20 percent in the earliest cohorts to 14 percent in the most recent cohorts. On the other hand, we find a fairly large increase in the percentage of cases with no child support order (where “no order” appears to be inconsistent with guidelines or where consistency could not be determined), from 17 percent in the earliest cohorts to 28 percent in the most recent cohorts.

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<sup>8</sup>It could be that changes in consistency over time are related to the number of cases that use the low-income, high-income, or serial-family formulas. While there have been increases in the use of these formula types, especially in the two most recent cohorts, when we consider the use of these formulas in paternity and divorce mother sole placement cases by cohort (see Appendix Table 2) it does not appear that that the time trends in consistency are being driven by time trends in the number of cases that could use these special case provisions.

**Table 7. Consistency with Guidelines: Comparing Current Cohorts with Prior Cohorts**

	(A) Cohorts 17–27 (1996–2007)	(B) Cohorts 28 and 29 (2007–2009)	(C) Cohorts 30 and 33 (2009–2010, 2013)
<b>All Cases</b>			
<i>N</i>	11,909	3,008	3,241
No child support order <sup>a</sup>	17.3%	23.3%	27.8%
Consistency not known	20.0	19.3	14.2
Consistency known	62.7	57.4	58.0
<i>Among classifiable cases:</i>			
Order lower than guidelines	21.5	24.1	20.5
Consistent with guidelines <sup>b</sup>	60.9	58.3	64.5
Order higher than guidelines	17.6	17.6	15.0
<b>Paternity Cases</b>			
<i>N</i>	5,761	1,533	1,796
No child support order <sup>a</sup>	14.8%	19.8%	28.6%
Consistency not known	29.0	27.9	17.6
Consistency known	56.2	52.3	53.8
<i>Among classifiable cases:</i>			
Order lower than guidelines	20.1	24.1	18.7
Consistent with guidelines <sup>b</sup>	69.5	66.3	71.6
Order higher than guidelines	10.4	9.6	9.7
<b>Divorce Cases</b>			
<i>N</i>	6,148	1,475	1,445
No child support order <sup>a</sup>	20.5%	27.9%	26.6%
Consistency not known	8.1	7.9	8.6
Consistency known	71.3	64.2	64.8
<i>Among classifiable cases:</i>			
Order lower than guidelines	22.9	24.0	23.0
Consistent with guidelines <sup>b</sup>	52.0	49.6	54.9
Order higher than guidelines	25.1	26.4	22.2

**Sources:** Reproduced using Wisconsin Court Records data. As reported in Bartfeld, Cook, and Han. 2015. The Use of Child Support Guidelines in Wisconsin: 2007 – 2009. Report to the Wisconsin Department of Children and Families. Madison, WI: Institute for Research on Poverty; and Cook, Steven T. and Patricia Brown. 2013. The Use of Child Support Guidelines in Wisconsin: 1996–2007. Report to the Wisconsin Department of Children and Families. Madison, WI: Institute for Research on Poverty.

**Notes:** Data are from cohorts 30 and 33 of the WCRD. All percentages weighted to reflect sampling differences in large and small counties. Orders that are within 1 percentage point of the applicable guidelines percentage of income or within \$50 of the applicable guidelines amount are considered “consistent with guidelines.”

<sup>a</sup>Includes no-order cases that appear to be inconsistent with the guidelines and those for who consistency could not be determined. Excludes no-order cases which are consistent with guidelines. As noted below, such cases are included in the “consistent with guidelines” category.

<sup>b</sup>Includes some no-order cases in which an award of zero dollars would be consistent with the guidelines.

Additionally, findings from the current and prior cohorts show persistent differences in guidelines usage between paternity and divorce cases. In the current cohorts, the percentage of classifiable cases was higher in divorce cases than in paternity cases (65% compared to 54%). This pattern was largely mirrored in prior cohorts, with 64 percent classifiable in divorce cases and 52 percent classifiable in paternity cases for cohorts 28 and 29 and 71 percent classifiable in divorce cases and 56 percent classifiable in paternity cases for cohorts 17 through 27. On the other hand, considering only classifiable cases, the percentage of cases consistent with guidelines was typically higher in paternity cases than in divorce cases (72 percent compared to 55 percent for cohorts 30 and 33, 66 percent compared to 50 percent for cohorts 28 and 29, and 70 percent compared to 52 percent from cohorts 17 through 27). Like the current report, the prior reports also found that consistency within divorce cases varied by placement arrangement, with the percentage of classifiable cases higher in mother-sole-placement divorce cases and mother-primary-placement divorce cases than in equal-shared placement divorce cases: 76 percent and 73 percent versus 49 percent for cohorts 28 and 29 and 56 percent and 82 percent and 79 percent versus 42 percent for cohorts 17 through 27 (not shown; see Bartfeld, Cook, and Han, 2015 and Cook and Brown, 2013).

## **V. CONCLUSION**

This report, part of an ongoing series, documents the extent to which guidelines were used in divorce and paternity cases in Wisconsin during 2010 and 2013, and the extent to which written reasons for deviating from guidelines were evident in the written court records. It also provides a profile of inconsistent cases. Compared to prior cohorts, the use of guidelines appeared to have increased with the most recent cohorts. However, consistent with prior cohorts,

the use of child support guidelines and consistency with guidelines-specified amounts was modest.

Our report focused on consistency with the guidelines, not on compliance with the underlying legislation—an important distinction, in that judges are explicitly afforded the discretion to deviate from formula-based guidelines in certain circumstances so long as reasons are provided as part of the record. Overall, the relatively low guidelines use does suggest that in a nontrivial share of cases, the amounts indicated by the numeric guidelines are not consistent with what the courts consider appropriate.

Of all cases in our sample, 37 percent were consistent with guidelines, while 12 percent had orders that appeared too low and 9 percent had orders that appeared too high. Another 14 percent had orders for which we could not assess consistency due to insufficient information about income or placement, and the remaining 28 percent lacked orders with no evidence in the record suggesting that the lack of order was consistent with guidelines on the basis of income or placement arrangements.

Looking only at the subset of classifiable cases, 65 percent of were consistent with guidelines—an increase from prior cohorts (as noted in Table 7 and Appendix Table 1). Additionally, consistency with guidelines varied across case characteristics. Guidelines consistency was less common in divorce relative to paternity cases, as evidenced by the lower rate of consistency when orders were in place (These differences persisted even when we limited the sample to cases in the IV-D system).

Among divorce cases, consistency with guidelines appeared to be much less likely in shared placement cases as compared to mother-sole placement cases. Among classifiable cases, inconsistent orders in unequal shared placement cases were more likely to be too high than too

low. Furthermore, inconsistent divorce cases were more likely to have a written court record to justify deviations from guidelines than inconsistent paternity cases. Among inconsistent sole-placement cases, written reasons for deviations were more common when orders were too low compared to guidelines than when orders were too high. On the other hand, for inconsistent shared placement cases, written reasons were more common when orders were too high compared to guidelines than when orders were too low.

Overall, we found the greatest deviation from guidelines in shared placement cases, as evidenced by actual patterns of guidelines use and as evidence by explicit statements of reasons for deviations. However, given that a substantial majority of cases are sole-mother placement cases rather than shared-placement cases, an effort to strengthen the use of guidelines would need to target both sole-placement cases, which make up the largest overall share of cases, and shared placement cases, where non-usage of guidelines is higher.

When compared to the prior reports, this report tells a fairly unchanging story of limited guidelines use, with unfortunately little information about why courts are deviating from guidelines at the rates documented. Our analysis of the characteristics of inconsistent cases reveals that such cases include sizable shares of both divorce and non-marital cases; cases in and out of the IV-D system; cases with varying placement arrangements; and cases across the income distribution. Because the majority of inconsistent cases do not have a reason stated in the written record, a more nuanced understanding of what decision processes underlie use and non-use of guidelines is warranted.

We understand that the Bureau of Child Support has undertaken an initiative to expand the collection of information about income, placement, and deviations in KIDS. We are hopeful



that having this information recorded in a centralized and consistent way will improve the ability of the Bureau to estimate guidelines consistency in the future.

**Appendix Table 1. Consistency with Guidelines by Cohort**

	Cohort & Petition Dates												All Cohorts (17–33)
	17 1996–1997	18 1997–1998	21 2000–2001	23 2002–2003	24 2003–2004	25 2004–2005	26 2005–2006	27 2006–2007	28 2007–2008	29 2009–2010	30 2010–2011	33 2013	
<b>All Cases</b>													
<i>N</i>	1,184	1,156	1,687	1,609	1,579	1,572	1,561	1,561	1,496	1,512	1,509	1,732	18,158
No child support order <sup>a</sup>	12.6%	13.9%	11.8%	15.9%	20.1%	21.3%	20.9%	21.5%	22.72%	23.8%	25.2%	30.7%	20.0%
Consistency not known	21.0	20.5	24.4	13.9	21.0	20.3	20.0	18.9	19.25	19.4	17.0	11.2	19.0
Consistency known	66.4	65.6	63.8	70.2	58.9	58.4	59.1	59.5	58.04	56.8	57.8	58.1	61.1
<i>Among classifiable cases:</i>													
Order lower than guidelines	23.0	22.0	23.5	15.5	20.1	25.6	23.1	19.4	22.76	25.3	19.4	21.7	21.7
Consistent with guidelines <sup>b,c</sup>	65.4	66.5	58.9	65.3	57.2	55.3	58.3	60.0	58.53	58.1	65.1	63.9	61.1
Order higher than guidelines	11.6	11.5	17.6	19.2	22.6	19.1	18.6	20.6	18.72	16.6	15.5	14.4	17.2
<b>Paternity Cases</b>													
<i>N</i>	430	425	821	845	835	810	803	792	736	797	809	987	9,090
No child support order <sup>a</sup>	9.8%	13.4%	8.0%	12.5%	18.9%	20.1%	18.2%	16.6%	19.0%	20.5%	24.9%	32.3%	18.1%
Consistency not known	33.0	31.0	36.4	19.6	30.6	26.8	27.2	28.9	28.1	27.6	21.4	13.9	26.8
Consistency known	57.2	55.6	55.6	67.9	50.5	53.1	54.6	54.5	52.8	51.9	53.8	53.8	55.1
<i>Among classifiable cases:</i>													
Order lower than guidelines	29.2	23.8	21.4	12.9	17.1	25.8	19.5	14.8	23.0	25.1	17.0	20.3	20.5
Consistent with guidelines <sup>b,c</sup>	67.1	68.8	68.5	74.7	68.3	64.3	69.5	72.8	66.1	66.6	73.4	69.8	69.4
Order higher than guidelines	3.7	7.4	10.1	12.4	14.6	9.9	11.0	12.4	10.9	8.4	9.5	9.9	10.2
<b>Divorce Cases</b>													
<i>N</i>	754	731	866	764	744	762	758	769	760	715	700	745	9,068
No child support order <sup>a</sup>	15.4%	14.3%	17.3%	21.0%	21.9%	23.0%	24.8%	27.6%	27.3%	28.5%	25.7%	27.8%	22.7%
Consistency not known	9.1	9.7	6.8	5.3	7.1	10.7	9.6	6.7	8.2	7.6	10.6	6.1	8.2
Consistency known	75.5	76.0	75.9	73.7	71.1	66.3	65.6	65.7	64.5	64.0	63.7	66.2	69.2
<i>Among classifiable cases:</i>													
Order lower than guidelines	18.3	20.6	25.8	19.1	23.3	25.3	27.4	24.2	22.5	25.6	22.3	23.8	23.1
Consistent with guidelines <sup>b,c</sup>	64.2	64.7	48.6	52.3	45.8	44.5	44.6	46.9	50.9	48.2	54.9	54.9	52.0
Order higher than guidelines	17.5	14.7	25.6	28.6	30.9	30.2	28.0	28.9	26.7	26.1	22.8	21.3	24.9

**Sources:** Reproduced using Wisconsin Court Records data. As reported in Bartfeld, Cook, and Han. 2015. *The Use of Child Support Guidelines in Wisconsin: 2007–2009*. Report to the Wisconsin Department of Children and Families. Madison, WI: Institute for Research on Poverty; and Cook, Steven T. and Patricia Brown. 2013. *The Use of Child Support Guidelines in Wisconsin: 1996–2007*. Report to the Wisconsin Department of Children and Families. Madison, WI: Institute for Research on Poverty.

**Notes:** All percentages weighted to reflect sampling differences in large and small counties. Orders that are within 1 percentage point of the applicable guidelines percentage of income or within \$50 of the applicable guidelines amount are considered “consistent with guidelines.”

<sup>a</sup>This category excludes some “no order” cases which are consistent with one or another of the available guidelines. If a zero order or “no order” can be considered consistent, this case is included in the “consistent with guidelines” category. See text for a list of these types of cases.

<sup>b</sup>Includes some two-part orders where the current part is for zero dollars, but the future order is for a positive dollar amount.

<sup>c</sup>Includes some “no order” cases in which an award of zero dollars would be consistent with one or another of the guidelines.

**Appendix Table 2. Special Case Provisions, by Case Type and Placement Arrangement**

	Cohort												All Cases
	17	18	21	23	24	25	26	27	28	29	30	33	
<b>Paternity Cases (Mother-Sole Placement) N=</b>	415	403	767	774	758	737	713	685	639	686	695	831	8,103
Father meets low income definition	n/a	n/a	n/a	19.6%	20.1%	20.9%	20.2%	21.4%	25.5%	22.1%	22.8%	23.7%	22.1%
Low Income of FA considered in CS	1.2%	1.3%	0.1%	1.0%	4.7%	2.9%	7.3%	4.8%	1.3%	1.0%	3.5%	5.5%	2.9%
Low income formula used	n/a	n/a	n/a	0.0%	1.2%	1.4%	1.7%	1.0%	2.4%	1.4%	2.7%	4.9%	1.4%
Father has other minor children	18.6%	19.0%	31.1%	31.8%	28.8%	32.0%	32.3%	34.0%	36.1%	36.9%	34.2%	33.3%	31.0%
Other Children of FA considered in CS	6.0%	9.3%	19.8%	25.7%	18.8%	28.0%	28.0%	31.9%	32.4%	34.8%	27.4%	30.3%	24.6%
Serial Family Formula Used	3.7%	3.2%	5.1%	9.7%	9.1%	8.5%	9.7%	11.5%	10.6%	6.0%	11.6%	14.6%	8.6%
<b>Divorce Cases (Mother-Sole Placement) N=</b>	496	448	441	416	388	373	367	358	325	325	313	321	4,571
Father meets low income definition	n/a	n/a	n/a	11.3%	11.1%	10.7%	11.7%	12.2%	16.3%	14.2%	13.0%	14.1%	12.7%
Low Income of FA considered in CS	1.2%	0.5%	1.5%	2.7%	1.9%	1.1%	1.2%	2.0%	0.9%	0.6%	2.3%	5.4%	1.7%
Low income formula used	n/a	n/a	n/a	0.3%	0.4%	0.5%	0.6%	0.4%	1.0%	0.4%	1.1%	1.4%	0.4%
Father meets high income definition	n/a	n/a	n/a	2.7%	5.2%	5.2%	6.2%	4.4%	3.6%	10.6%	5.5%	9.0%	6.0%
High Income of FA considered in CS	1.0%	0.3%	1.6%	2.7%	2.5%	2.2%	3.6%	3.8%	2.8%	6.5%	4.6%	6.0%	2.8%
High Income Formula Used	n/a	n/a	n/a	0.2%	1.1%	0.9%	2.4%	1.5%	1.3%	4.0%	2.9%	7.2%	1.5%
Father has other minor children	8.6%	9.3%	5.9%	11.8%	6.3%	7.0%	11.1%	8.8%	10.1%	9.0%	13.0%	6.5%	8.9%
Other Children of FA considered in CS	5.0%	4.0%	3.1%	8.6%	6.1%	5.1%	6.8%	5.7%	6.4%	9.3%	11.1%	5.1%	6.2%
Serial Family Formula Used	2.4%	2.0%	0.4%	4.8%	2.3%	1.6%	2.1%	2.5%	3.0%	2.0%	4.5%	3.1%	2.5%

**Sources:** Reproduced using Wisconsin Court Records data. As reported in Bartfeld, Cook, and Han. 2015. The Use of Child Support Guidelines in Wisconsin: 2007–2009. Report to the Wisconsin Department of Children and Families. Madison, WI: Institute for Research on Poverty; and Cook, Steven T. and Patricia Brown. 2013. The Use of Child Support Guidelines in Wisconsin: 1996–2007. Report to the Wisconsin Department of Children and Families. Madison, WI: Institute for Research on Poverty.

**Notes:** Data are from cohorts 30 and 33 of the WCRD.

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