



Child Support Guidelines History in Kentucky

A SHORT HISTORY OF THE COMMISSION AND LEGISLATION

Before the Guidelines



- All Child Support determinations were made by local Judges.
- Very inconsistent results.

Family Support Act of 1988 (Pub. L. 100-485)

- Amended Title IV of the Social Security Act
- Made Child Support awards under guidelines binding.
- Created presumption that State guidelines established in compliance with federal law is proper.
- Established systems to review guidelines on a quadrennial basis.

Possible Consequences Under 45 CFR Chapter III

- Loss of incentive increases in grants and penalties for poor collections of up to a 5% decrease of TANF funds for multiple year failures (~\$9,034,450.00 based on 2017 numbers)
- Denial of the state plan and complete loss of grant funds for noncompliance

KRS 403.213 Commission Established in 1990

- Sets standards for child support and reviews guidelines every four years
- Makes recommendations to KY General Assembly to ensure child support guidelines table results in a determination of appropriate support amounts

KRS 403.212 KY Child Support Guidelines

- Enacted in **1990**
- Based on data from 1987

1994 Change to Guidelines



- Extended schedule to families with monthly incomes between \$10,000 and \$15,000.
- Set minimum obligation at \$60.
- Provided deductions for maintenance and support to other children.
- No other changes to the schedule amounts.

2000 Activity Related to the Guidelines

- Split Custody Arrangement calculation language added to KRS 403.212
- Policy Studies, Inc. published a study of the Guidelines
 - Their recommendations were not implemented

2006 – HB 356

Sponsors – Sens. Stein and Webb

- New amounts in child support guidelines table and revision of schedule.

Result:

Floor amendment filed by J. Vincent.

Didn't pass out of the House.

2007



No legislation proposed.

2008

No legislation proposed.

Remember 1990?

18 years and many meetings later...

Troske's 2008 Report

➤ \$50,000 Study

➤ University of Kentucky Comprehensive Study

Troske's Recommendations

- Strongly urged an update of the Guidelines using an estimation method to keep up with changing price levels and decrease the need for future adjustments and overhauls.
- Recommended future research into child cost expenditures for single-parent/nonintact families rather than two-parent/intact families, upon which the Guidelines and then-current estimations were based.

2009



No legislation proposed.

2010 – HB 559

Sponsors – Reps. Palumbo and Marzian

- New amounts in child support guidelines table and revision of schedule
- Shared parenting adjustment

Result:

Died in the House Judiciary Committee

2011 – HB 218

Sponsors – Reps. Palumbo and Montell

- New amounts in child support guidelines table and revision of schedule
- Shared parenting adjustment

Result:

Died in the House Judiciary Committee

2012



No legislation proposed.

2013 – SB 87

Sponsors – Sens. Stein and Webb

- New amounts in child support guidelines table and revision of schedule
- Shared parenting adjustment

Result:

Died in the Senate Judiciary Committee

2013 – HB 169

Sponsors – Reps. Marzian and Jenkins

- New amounts in child support guidelines table and revision of schedule
- Shared parenting adjustment

Result:

Passed 96-0 in the House

Died in the Senate Judiciary Committee

2014 – SB 190

Sponsor – Sen. Westerfield

- New amounts in child support guidelines table and revision of schedule
- Shared parenting adjustment

Result:

Died in the Senate Judiciary Committee

2015 – SB 98

Sponsor – Sen. Westerfield

- New amounts in child support guidelines table and revision of schedule

Result:

Died in the Senate Judiciary Committee

2016 – SB 153

Sponsor – Sen. Westerfield

- New amounts in child support guidelines table and revision of schedule

Result:

Passed Senate Consent Docket on 3/3/2016

Passed House Consent Docket on 3/28/2016

Vetoed by the Governor on 4/9/2016

2017



No legislation proposed.

2018 – HB 499

Sponsors – Reps. Sims and Richards

- New amounts in child support guidelines table and revision of schedule

Result:

Introduced in House on 2/26/2018

Introduced to House Judiciary Committee
on 2/28/18

Died somewhere

2018 Presumption of Joint Custody and Equal Timesharing



- KRS 403.270 as of July 2018 provides a rebuttable presumption of joint custody and equal timesharing.
- No provision for parenting time adjustment for child support.

2019 – HB 415

Sponsor – Rep. Prunty

- Increase fee charged by Cabinet under KRS 205.721 to \$35
- Require notice of Income Withholding for Support Form to be sent to employers
- Administratively determined arrearage amounts under KRS 405.467
- New amounts in child support guidelines table and revision of schedule (removed before passage)
- Shared parenting adjustment (removed before passage)

Result:

Signed by the Governor (administrative changes only)

What are Judges Doing?

More and more cases are requiring deviation from the Guidelines with no judicial consensus on what to do. Some results include:

- Multiple day hearings for only a determination of child support
- Not deviating from Guidelines at all
- Awards based on different calculations:
 - Split Custody Arrangement Calculation
 - Commission Formula Calculation
 - Mathematical projections of Guidelines (found to be an abuse of discretion with “absence of sufficient findings in *Downing v. Downing*, 45 S.W.3d 449, 451 (Ky. Ct. App 2016))
- No award of support at all

45 CFR § 302.56 as of December 2016

- States receiving funding MUST establish child support guidelines that are reviewed and revised, if appropriate, at least every 4 years
- States MUST analyze case data on applications of the Guidelines and MUST consider:
 - Economic data;
 - Labor market data;
 - Family incomes below 200% of the poverty level; and
 - Factors that influence noncustodial parent employment rates
- To promote consistency, States MUST provide that the Guidelines are a rebuttable presumption, which may only be overcome by written or specific findings along with justification of deviation.

What Do We Do Now?

- Comply with 2016 change to 45 CFR § 302.56
- New study in progress