



NEW JERSEY STATE BAR ASSOCIATION

DOMENICK CARMAGNOLA, PRESIDENT
Carmagnola & Ritardi, LLC
60 Washington Street, Suite 300
Morristown, NJ 07960-6859
973-267-4445 • FAX: 973-267-4456
dcarmagnola@cr-law.net

March 31, 2022

Honorable Glenn A. Grant, J.A.D.
Administrative Director of the Courts
Attn: Rules Comments
Hughes Justice Complex, P.O. Box 037
Trenton, NJ 08625-0037

Re: Comments on Proposed Amendments to Child Support Guidelines

Dear Judge Grant:

Thank you for the opportunity to review and provide comments on the Family Practice Committee Report containing proposed amendments to the child support guidelines. The New Jersey State Bar Association (NJSBA) honors the efforts of the committee members in undertaking this important review to ensure flexibility, efficiency and modernization in child support enforcement programs.

The NJSBA agrees with nearly all of the proposed amendments suggested by the Family Practice Committee. The Association recommends several language changes to ensure consistency and clarity throughout the proposed amendments:

1. Paragraph 12(a)

The NJSBA agrees with the proposed amendments, but recommends that the newly suggested opening phrase be revised to avoid confusion about the imputation of income and to reference statistics outside of New Jersey:

"In determining ~~whether income should be imputed to a parent and the amount of such income~~ the amount of income to be imputed to a parent, the court must take into consideration the specific circumstances of the parent for whom imputation is being considered, to the extent known, including but not limited to the following factors: . . . the U.S. Bureau of Labor Statistics if the parent works outside of New Jersey; and other relevant background factors in the case."

Removing the words “whether income should be imputed” will avoid confusion and inconsistency as the contents of 12(a) are reached only if the Court “shall” be imputing income pursuant to the paragraph preceding 12(a). In addition, the language contemplates imputation of income based upon the earnings for that occupation reported by the New Jersey Department of Labor. This could unfairly impact a situation in which a parent works outside of New Jersey, as occupational earnings vary greatly nationwide, or internationally, despite the detailed explanation of the factors in provided in this section.

2. Paragraph 12(b)

The NJSBA agrees with the proposed amendments; however, we recommend that the word “average” be removed with regard to the imputation of income from earnings data reported by the New Jersey Department of Labor, and that the U.S. Bureau of Labor Statistics be included for a wider scope of reference.

“...the court may impute income based on the parent's former income at that person's usual or former occupation or the ~~average~~ earnings for that occupation as reported by the New Jersey Department of Labor or the U.S. Bureau of Labor Statistics if the parent works outside of New Jersey ...”

Requiring an “average” removes the Court's discretion to use the high-end or low-end of the earnings statistics based upon the facts unique to the dispute at bar. In addition, as noted previously, the language contemplates imputation of income based upon the earnings for that occupation reported by the New Jersey Department of Labor. This could unfairly impact a situation in which a parent works outside of New Jersey, as occupational earnings vary greatly nationwide, or internationally.

3. Paragraph 12(c)

The NJSBA agrees with the proposed amendments, but recommends that the language about imputing income be changed to be consistent with the changes recommended in paragraph 12(a) above, and additional references to subparagraph 12(b), the case law and statutory law be added:

“When evidence of a parent's current or prior earnings and income information is unavailable or insufficient, the court may seek any available information about the specific circumstances of that parent, which may be adduced from the other parent, to determine ~~whether to impute the amount of income to impute to a parent and if so, the amount,~~ in consideration of the factors set forth in subparagraph 12(a) and (b) above, as well as the case law and statute.”

Clarifying the “imputed income” language is consistent with language changes recommended above, as the contents of this provision are reached only if the Court “shall” be imputing income. In addition, expanding the cited cross-references promotes judicial discretion and provides greater flexibility to address various different factual scenarios.

Again, the NJSBA thanks the Supreme Court for allowing it to submit comments and recommendations, and we look forward to addressing the Court at the public hearing. We commend all of the volunteers for their efforts and hope that our comments represent a meaningful contribution to their debate.

Respectfully submitted,

A handwritten signature in cursive script, reading "Domenick Carmagnola". The signature is written in dark ink and is positioned above a horizontal line.

Domenick Carmagnola
NJSBA President

cc: Jeralyn L. Lawrence, Esq., NJSBA President-Elect
Angela C. Scheck, NJSBA Executive Director