

## Glitches found in worksheet for child support guidelines

Fixes said to be on the way

By: Kris Olson October 19, 2017

Case Name: \_\_\_\_\_ Date Prepared: \_\_\_\_\_  
Docket Number: \_\_\_\_\_ Name of Preparer: \_\_\_\_\_

**CHILD SUPPORT GUIDELINES WORKSHEET**  
All dollar amounts are weekly. Round all numbers to the nearest whole dollar or percentage.

**1. NUMBER AND AGES OF CHILDREN**

a. Number of children under age 18: \_\_\_\_\_  
b. Number of children 18 years or older who may be eligible to be covered by this order: \_\_\_\_\_  
c. Total number of children to be covered by this order: \_\_\_\_\_

**2. INCOME**

	Recipient	Payer
a. Gross weekly income	\$ _____	\$ _____
b. Minus Child care cost paid	\$ ( _____ )	\$ ( _____ )
c. Minus Health care cost paid	\$ ( _____ )	\$ ( _____ )
d. Minus Dental/Vision insurance cost paid	\$ ( _____ )	\$ ( _____ )
e. Minus Other support obligations paid	\$ ( _____ )	\$ ( _____ )
f. Available income	2(a) - Sum of 2(b) through 2(e) = \$ _____	\$ _____
g. Combined available income	2(a) - Sum of 2(b) through 2(e) + Payer 2(f) = \$ _____	\$ _____

The Sept. 1 release of the Child Support Guidelines Worksheet spawned a number of blog posts highlighting what lawyers believe are errors.

While stressing that two of the issues that were flagged are “not errors per se,” an economist who worked with the Child Support Guidelines Task Force is currently reviewing glitches that set the family bar blogosphere aflame in recent weeks, confirmed the task force’s project manager.

The potential problems were first detected after an electronically fillable worksheet went live on the Trial Court’s website on Sept. 1.

Perhaps the most disputed and potentially far-reaching issue that has been raised involves a table in the new guidelines themselves, which seeks to account for a change that applies a

25-percent discount to the amount of child support attributed to children over the age of 18.

As University of Massachusetts professor Benjamin Bailey explained on the website of family law practitioner Julia Y. Rueschemeyer, who is Bailey’s spouse, the table works fine when all of a couple’s children are either over 18 or under 18. A problem arises when there is a mix of ages, according to Bailey.

Bailey demonstrated that, counterintuitively, in a family with three children under 18, a child support order would actually go down as one child over 18 is added to the calculation. It would go down again if a second child over 18 is added.

The issue is right there in the table itself, Bailey wrote. As one scans across the rows for two or more children under 18, the support adjustment factors — which he thinks should increase as the number of children over 18 goes up — actually decrease.

Bailey calculated what he thinks the table should look like and posted that to his wife’s website as well.

“This is a math error,” he wrote. “It was not the intention of the Task Force.”

Au contraire, according to Denise M. Fitzgerald, the Probate & Family Court’s manager of legal research services who served as task force project manager.

Fitzgerald acknowledged that the table “creates counterintuitive results in a few circumstances” in which there are four or five children eligible for child support and at least one of those children is over 18.

But Fitzgerald essentially echoed the message Bailey received when he reached out to Mark Sarro and R. Mark Rogers, the economic consultants with whom the task force worked.

### Child Support Guidelines Task Force composition

#### Members

Probate & Family Court Chief Justice Angela M. Ordoñez, chair  
Rachel B. Biscardi  
Jennifer Clapp  
Judge Kevin R. Connelly  
Rep. Shawn Dooley, R-Norfolk  
Jonathan E. Fields  
Fern Frolin  
Ruth J. Liberman  
Linda Medonis  
Dolores E. O’Neill  
Arron Pridgeon  
James J. Richards  
Michelle A. Yee

#### Supporters

Denise M. Fitzgerald, project manager  
Christine Yurgelun  
Robert Dunphy Jr.

#### Economic consultants

Mark Sarro, Ph.D., The Brattle Group

In an email reply that Bailey shared with Lawyers Weekly, Rogers also acknowledged that the pattern in the table “is not completely intuitive.”

R. Mark Rogers, Rogers Economics

Yet he maintained that, essentially, “the table values make sense after getting one layer deeper into the numbers.”

Bailey tried once more to get Rogers to see things his way, but the economist reiterated that “there do not appear to be any calculation errors on our end” and suggested that Bailey take up the matter with the court.

## Other issues

The other issue that Fitzgerald said is not a mistake “per se” is a “double-counting error”

described on the blog of Hingham attorney Jason V. Owens.

That error reportedly occurs anytime one seeks to use the prescribed method to account for health-care and child-care expenses for a couple with shared (50-50) custody, as provided for under the new guidelines.

What would seem to be an easy fix — just cut the credit in half — is anything but, Owens said, because the new guidelines cap the adjustment for health-care and child-care expenses at 15 percent of the child support order, complicating the calculation especially when the two parents have widely divergent incomes.

Owens walked through a four-step process for resolving the calculation error. Once they are familiarized with the fix, Owens suggested that practitioners and judges will be fine. But he worried that self-represented parties may be befuddled.

Fitzgerald agreed that “the directions on shared parenting could be clearer” and would be part of the court’s current review.

### ‘Coding glitch’

The third issue, blogged about by Quincy attorney Gabriel Cheong, “involves a coding glitch on the worksheet that needs to be fixed and it is being worked on,” Fitzgerald reported.

The error Cheong highlighted, which results in the rare instance when two numbers that “net to zero,” like positive-56 and negative-56, are inserted into two lines on the worksheet that interact with one another.

What the worksheet is supposed to do is carry forward the “positive value” from one of those two lines, “whichever is less” — 56, using the numbers above. Instead, it is inserting a zero, which throws the final calculation of weekly child support off by whatever number should have appeared on the line.

Cheong discovered the error while updating the smartphone app he and his firm, Infinity Law Group, first developed to perform calculations related to the 2013 guidelines.

### Transparency questioned

Fitzgerald said the Probate & Family Court apprised its judges of the issues by email and “has been open and transparent” about them at trainings, including at the Massachusetts Bar Association Family Law Conference on Oct. 13, a recent Massachusetts Council on Family Mediation training, and a Barnstable bench/bar meeting.

Owens noted on his blog that Plymouth Probate Court Judge Kevin R. Connelly, a member of the task force, conveyed a similar message to a gathering of Plymouth County attorneys on Oct. 5. Connelly advised attorneys to

Table B: Adjustment for Number and Ages of Children

Children Under 18	Children 18 or Older					
	0	1	2	3	4	5
0		.75	.94	1.04	1.09	1.11
1	1.00	1.19	1.28	1.32	1.34	
2	1.25	1.34	1.39	1.42		
3	1.38	1.43	1.45			
4	1.45	1.47				
5	1.48					

This is what UMass professor Benjamin Bailey believes Table B should look like. Unlike in the court’s version, support payments universally increase as the number of children goes up.

Table B: Adjustment for Number and Ages of Children

Children Under 18	Children 18 or Older					
	0	1	2	3	4	5
0		.75	.94	1.04	1.09	1.11
1	1.00	1.09	1.15	1.18	1.18	
2	1.25	1.27	1.27	1.26		
3	1.38	1.36	1.33			
4	1.45	1.41				
5	1.48					

UMass professor Benjamin Bailey and court officials disagree as to whether the math is correct in the court’s version of Table B, which applies a 25-percent discount to support payments for children 18 and older.

“check their math by hand” in the meantime, according to Owens’ blog post.

But Owens also noted that, in his view, “transparency” has not exactly been a hallmark of the process to revise the child support guidelines. Back in July — on the “eve” of the planned Aug. 1 release of the guidelines — Owens wrote about a seeming lack of awareness that the new guidelines were imminent.

The composition of the Child Support Guidelines Task Force and the means by which members had been selected were also shrouded in mystery, he claimed. Owens was able to do a bit of “internet sleuthing” to discover the identities of a few of the members but noted that nothing seemed to have been published to the state website about the task force beyond a spring 2016 press release inviting public comment.

“The lack of information about the 2017 Guidelines appears to reflect the state’s preference for secrecy for a process that would likely result in fierce controversy — if real public debate was allowed,” he wrote.

Fitzgerald rejected that characterization, saying the task force “worked diligently to make important changes to the guidelines — in response to public comments that the group received during five public forums and during a public comment period in 2016 — and strove to have guidelines that are fairly balanced,” she wrote in an email to Lawyers Weekly.

**Quick fix urged**

While the issues with the guidelines may be ironed out, Cheong said he remains worried about all the pro se litigants who largely will be left to their own devices to perform calculations and wade through language that has even vexed his app developers.

He also pointed to the fact that four years ago more than a few attorneys downloaded an early, flawed iteration of the automated child support worksheet to their computer desktops and continued to use it for four years, oblivious to the fact that the form had been corrected and updated.

Cheong said he fears the same will happen this time around and suggested that time — along with communication — is of the essence in ironing out the kinks in the 2017 worksheet.

Fitzgerald pledged that both the fixes and the communication are coming.

“Once the review of these issues is complete, the Trial Court will announce any changes,” she said.

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