

CHILD SUPPORT

The Family Court has the duty and authority to set child support for children in divorce and paternity cases. New Mexico law requires that the amount of child support be determined by Child Support Guidelines. These Guidelines state a simple formula which takes into consideration the parents' incomes, the needs of the children and how the parents are sharing time with the children.

INCOME

“Income” means actual gross income of a parent if employed to full capacity or potential income if unemployed or underemployed. Income of a parent does not include the income of a subsequent spouse, even if it is community property.

Income means wages, salary, tips, commissions, bonuses, dividends --- income from almost any source, even social security benefits, unemployment benefits and disability insurance benefits; it does not include welfare payments. As well, the law allows deductions from income for alimony or child support [for prior children, not later children] which is actually paid per court order.

To prove income, you will be asked to provide recent state and federal tax returns, and your three (3) most recent pay stubs. If self-employed, then you must produce your most recent profit and loss statement and CRS-1 forms and similar financial data. Additionally, you may be asked for your checking and savings account statements for the past six (6) months and an itemization of all your monthly fixed expenses.

The Children's Needs

All children require the basics -- food, shelter and clothing --- but sometimes, there are other additional needs which the parents must meet, including medical, dental or counseling expenses, extraordinary education expenses [special education or tutors], day care for young children and even transportation or communication expenses for long-distance visitation or time-sharing. However, sports, music classes or other extra activities, including equipment and clothes, are not normally “additional” expenses.

The Child Support Guidelines and the appropriate Worksheets will assist you in figuring in these extra expenses.

Time-Sharing

New Mexico law recognizes two time-sharing arrangements -- “Basic Visitation” and “Shared Responsibility” and the arrangement you choose has a direct impact on the amount of child support.

Basic Visitation means a custody arrangement where one parent has physical custody and the other parent has visitation with the children of the parties less than 35% of the time. To calculate child support for Basic Visitation, use Worksheet A.

Shared Responsibility means a custody arrangement whereby each parent provides a suitable home for the children, when the children spend at least 35% of the year in each home and the parents significant share the duties, responsibilities and expenses of parenting. To calculate child support for Shared Responsibility, use Worksheet B.

The Worksheets and the Guideline

There are two Worksheets authorized by the New Mexico Child Support Guidelines -- one for parents in Basic Visitation arrangements and one for parents in Shared Responsibility arrangements.

By law, a Worksheet must be completed, signed by both parties and filed with any court order setting or modifying child support, including a final decree. There are no exceptions to this rule.

If the Guideline support amount is “unjust or inappropriate” under the circumstances, a deviation from the Guideline amount is permitted so long as the reasons for the deviation are clearly stated in the child support order or decree. But, even where the parents agree on the appropriate child support amount, the Worksheet must be completed, signed by both parties and filed with the court order setting or modifying child support.

The Guideline amounts are attached, indicating the appropriate amount of child support based on the combined income of the parents and the number of children.

Some Useful Telephone Numbers:

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| ▶ | NM Child Support Enforcement Division | 827-1900 |
| ▶ | Judge James Hall, Family Court | 827-5044 |
| ▶ | Judge Carol Vigil, Family Court | 827-5083 |
| ▶ | Catherine Aguilar, Child Support Hearing Office | 827-5050 |