

This article focuses on Ohio law as that is where this author practices.

Support is calculated according to the rules in Chapter XXXI of the Ohio Rev. Code. The formula presumes that roughly 20% of the combined income of the mother and father would normally be spent on a child. Thus, the total income is added together and multiplied by .2, for the couples support calculation. Next the support calculation figures out what percentage each parent contributes to the total and that percentage is applied to the support calculation for the couple (that is if mom makes 20K and dad makes 30k the total income is 50k and the total the couple would typically spend would be 10k moms share is 2/5ths [40%] of that 10K or 4k and dad's is 3/5ths [60%] or 6K)

The party the child is living with is presumed to be naturally spending money on the child and the non residential parent is given a guideline amount to pay of their percentage share (Thus, for this hypothetical if mom were non residential she would pay four thousand a year and conversely dad would pay six thousand).

R.C. § 3119.03 states that the guideline calculated amount of child support is rebuttably presumed to be the amount of child support which is due. Meaning that one who disagrees with the guideline calculation has the burden of proving it is incorrect.

Ohio Rev. Code § 3119.22, permits the Court to deviate from the presumed amount calculated by the guidelines but must:

1. Enter the presumed amount
2. Find that such amount is both:
  - a. Unjust or inappropriate; and
  - b. Not in the best interest of the child; and
3. Enter findings supporting the determination of unjust/inappropriate and not in best interest of the child.

To deviate, the court must consider the factors listed in § 3119.23

See statute for full description of factors:

1. Special needs of child;
2. Extraordinary obligations/handicapped children;
3. Other court ordered payments;
4. Extended parenting time;
5. Second job (additional employment);
6. Resources and earning ability of child;
7. Disparity in incomes of parties or households;
8. Benefits of remarriage/sharing living expenses;
9. Taxes;
10. In-kind contributions;
11. Relative resources;
12. Standard of living;
13. Physical/emotional condition/needs of child;
14. Educational opportunities;
15. Parents' responsibility for support of others; and

16. Any other relevant factor.

Note: If the court uses 16. (any other factor), court must specifically state basis for the deviation.

The effect of these nuances on individual courts can vary widely. This author recommends that one seeking a deviation consult a local attorney. Attorney Kotler may be reached at 330-777-0065 or [TBKotler@SBCGlobal.net](mailto:TBKotler@SBCGlobal.net)