

Chapter 5

CHILD SUPPORT, VISITATION, SHARED CUSTODY AND SPLIT CUSTODY

by

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I. INTRODUCTION

In most states, it is axiomatic that child support and visitation are independent obligations.¹ The reader deserves an explanation, therefore, about why more needs to be said about child support and visitation. In other words, why is this chapter here?

The first reason is that, despite the axiom, child support is not fully disconnected from visitation. In most states, the disconnection is full only with respect to punitive uses and counteruses of child support and visitation. That is, in most states, nonpayment of child support does not legally justify denial of visitation, nor does denial of visitation legally justify nonpayment of child support. In most states, child support and visitation remain fully intertwined, however, with respect to calculating how much child support is to be paid. The interconnections occur two ways.

The first interconnection is that the basic amount of child support which will be ordered in most states is intended to cover only the time the child is in the household of the custodial parent, not all of the child's time. For the purposes of this calculation, the child is assumed to spend some percentage of time, usually about 20 percent, with the noncustodial or visiting parent. Two further assumptions are that the visiting parent incurs expenses for the child during visits and that the custodial parent is relieved of expenses attributable to the child during visits. The result of the visitation assumptions is that the basic child support award is a discounted amount, less than what would be deemed necessary were the child always in the custodial household.

The second interconnection is that, in many states, the basic child support obligation is adjusted when parents are to share physical custody of the child. The amount to be paid to the primary custodial parent's

household is reduced and the amount to be attributed to the secondary custodial parent's household is increased. Some states have decided that adjusting child support to accommodate shared physical custody is inappropriate, and these arguments will be reviewed here. In addition, this chapter will address the different situations in which the downward adjustment is permitted and some of the many ways it is calculated.

Although shared physical custody is different in name from traditional visitation, the two can be seen as different points along the same continuum. Some children will spend 100 percent of their time with one parent, and none of their time with the other. Others will spend 80 percent of their time with one parent (called the custodial parent), and 20 percent of their time with the other (called the visiting parent). Other children will spend more evenly divided time between their parents. Usually, these parents are called joint physical custodians. The parent with whom the child spends more time is called the primary custodian and the other one is called the secondary custodian.

Not every state draws the line distinguishing visitation from shared physical custody at the same place. As will be discussed, in those states where a joint physical custody adjustment is possible, the place where the line is drawn between "visitation" and "shared physical custody" has significant consequences for the calculation of child support.

The third topic of this chapter is split custody, which differs from both visitation and shared physical custody. Split custody occurs when parents have more than one child, and each parent has custody of at least one child. Modification of basic child support may be needed in a split custody situation to ensure that both households have sufficient resources for the child or children living in them.

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II. CHILD SUPPORT AND VISITATION

A. The Visitation Assumption

With the exception of California, child support guidelines in every state assume that the child will be spending most of his or her time in the household of the custodial parent and some period of time in the household of the visiting parent.² With this assumption in mind, the basic child support amount is calculated to cover the child's financial needs in the custodial household for approximately 80 percent of the time. Thus, for example, if a child's needs are assumed to be \$100 a month, the child support will be less, approximately \$80 a month. The remaining \$20 will be spent on the child, it is assumed, during the time that the child spends with the visiting parent.

The 80 percent figure was determined by looking at traditional visitation orders, under which the child would be with the visiting parent for roughly 20 percent of the time, consisting of alternative weekends (52 days a year), alternative holidays (three to four days a year), and two weeks in the summer (14 days) for a total of 70 days out of 365. The typical child support guideline assumes a traditional arrangement, and, therefore, assumes that the child's needs for support in the custodial parent's household are limited to 80 percent of the child's time. Thus, the basic child support amount is discounted 20 percent, on the assumption that the child will be spending 20 percent of his or her time with the visiting parent.

The visitation assumption, however, is false in many cases. For as many as half of the children whose parents do not live together, the noncustodial parent never or rarely sees the child.³ Even among those who see the child regularly, few nonresidential parents have the child in his or her household overnight.⁴ Because of the visitation assumption, an unvisited child suffers a double detriment: no contact with the visiting parent and a custodial household deprived of a portion of the financial support needed by the child.

Upward modification of child support is a possible response to nonvisitation. In Tennessee, for example, upward modifications are possible where the visiting parent fails to visit at least twice a month. Another possible response is to abolish the visitation assumption, as California has done. In California, child support is calculated based on how much time the child is expected to spend with each parent across the entire spectrum from 0 percent to 100 percent. Thus, if a parent is expected to spend no time with a child, the child support is calculated based on the child's needs in the custodial household for 100 percent of the time.

B. Expenses of Visitation

In addition to the discount in child support attributed to the visitation assumption, states often permit downward adjustments to child support to accommodate unusual or extraordinary expenses associated with visitation. For example, if a child's parents live far apart and transportation is a significant expense, many states will permit the child support to be adjusted to allocate the transportation expense between the custodial and the visiting parent.

C. Drawing the Line between Child Support and Shared Physical Custody

In some states, a downward adjustment to child support will be made where the parents share physical custody of a child or children, and no adjustment will be made when one parent is the custodial parent and the other a visiting parent. States are not uniform in drawing the line between visitation and shared physical custody. In Colorado, for example, the line is drawn at 75 percent/25 percent. According to the Colorado statute, a child is in shared physical custody when he or she spends fewer than 75 percent of overnights per year with one parent (273) and more than 25 percent of overnights per year with the other parent (92). Child support with respect to this child may be subject to a downward adjustment. If the same child were to spend 76 percent of overnights per year with one parent and 26 percent with the other, he or she would be within the definition of visitation, and no child support adjustment would occur.

In Maryland, a downward adjustment of child support for shared physical custody is permitted where the child is expected to spend 35 percent or more of his or her overnights with the visiting parent. Less than 35 percent of the time (128 overnights) is considered within the range of normal visitation, and no adjustment to child support is provided. In the District of Columbia, normal visitation is considered to include up to 40 percent of the child's time. A downward adjustment of child support is permitted where the child spends more than 40 percent of his or her time with the secondary custodian.⁵ In Hawaii, a visitation adjustment of child support is possible where the child spends more than 100 days with the visiting parent (27 percent), but a shared physical custody adjustment may not be considered until the child spends equal time in each parent's household.

Many states do not establish a bright line between visitation and shared physical custody. Instead, these states authorize the court or administrative agency to

adjust support as necessary where parents are to share physical custody.⁶

III. SHARED PHYSICAL CUSTODY

A. Instituting a Shared Physical Custody Adjustment

In most states, parents can agree or be ordered to share physical custody of a child. More than half the states provide for a downward adjustment in child support for cases of shared physical custody. The major argument in favor of a shared physical custody adjustment is that it is better for a child to have a close relationship with both parents. It is also believed that the expenses of the primary custodial household are less than those of a traditional sole custodial household when the child spends more time in the secondary custodial household and that, conversely, the expenses of the secondary custodial household are greater than those of a traditional visiting parent's household.⁷ The reduction in child support for shared physical custody is intended to allocate child support consistent with these assumptions about the expenses associated with the child.

A number of states have declined to provide for a child support adjustment in the case of shared physical custody or have provided for an adjustment only in limited circumstances. The reasons are many.

First, states may want to avoid creating an incentive for parents to try to create two households for the child to occupy when in fact they can afford only one. Allocating inadequate resources to two households may jeopardize the child's financial security in the primary custodial household. In one study, for example, it was found that

[A]pplication of the adjustment led to a significant decline in the standard of living of the primary custodial home, without creating an equivalent decline in the standard of living within the secondary custodial home. Since, in hypotheticals based upon income norms, the primary custodial homes were already generally at the lower standard of living, they could little afford the additional drop. In some lower-middle income cases, the adjustment even reduced the custodial family's standard of living to below poverty level.⁸

Financial stability is an important element in a child's positive adjustment to divorce.⁹ Some states have elected, therefore, not to reduce the child support payable to the child's primary custodial household even when the child spends substantial time in the secondary custodial household.

Second, studies do not uniformly support the proposition that every child benefits from continuing and

extensive contact with both parents.¹⁰ For example, the National Survey of Children found that, in general, children who had close ties to their noncustodial fathers were "neither more nor less successful" than those who did not have close ties or relationships.¹¹ Particularly where the parents are in severe conflict, the child's adjustment to divorce may be worse when the child is in shared physical custody than when the child is in the sole custody of one of the parents.¹² It has been argued, therefore, that parents should not be given a financial incentive to enter into a shared physical custody arrangement when evidence supporting its benefit for all children is not firm, and where the economic cost to the child's primary custodial household can be substantial.

Third, there is a concern that financial recognition of shared caregiving may encourage insincere negotiating about custodial arrangements designed to reduce child support outlay. Thus, if a shared physical custody adjustment will reduce by 15 percent the child support to be paid by a secondary custodial parent, that parent may fight harder for a custodial arrangement placing the children with him or her for an extra month during the year.¹³ The demand may be insincere in situations where that parent previously has spent little time with the children. At the same time, a primary custodial parent may fight hardest against sharing physical custody because of the consequent reduction in child support. That parent's resistance may be inappropriate if the child would benefit from spending a larger amount of time with the secondary custodial parent.

A fourth argument against the shared custody adjustment is that it leads to more litigation and administrative complexity in the administration of child support, which is unacceptable when a child's financial security may be threatened by the nonpayment or delay of child support. For example, if a downward adjustment in child support has been awarded but the secondary custodial parent fails to provide care for the child according to the planned schedule, the primary custodial parent may be forced back to court to obtain a modification of both the custody order and the child support order.¹⁴ In the meantime, the child's household is receiving an amount of child support that is too low to support the child adequately in the primary custodial household because it was calculated in the belief that the child would be spending more time in the household of the secondary custodial parent. Or, a state may provide that a shared physical custody adjustment is calculated outside the guidelines, and litigation may ensue over how much money the adjustment will affect.¹⁵

B. Calculating a Shared Physical Custody Adjustment

Once a state decides to permit a downward adjustment of child support in cases of shared physical cus-

tody, it must decide how the adjustment will be calculated. The first question is whether the adjustment should be made a part of the child support formula or whether it should be defined as a circumstance in which the formula does not apply and thereby entrusted to the discretion of the decision-maker. While many states have opted for the discretionary approach, a large number have attempted to include the adjustment within the scope of the child support guidelines.¹⁶

1. Simple Formula

The simplest guidelines approach to shared physical custody is to allocate the child support obligation in direct proportion to the amount of time the child is expected to spend with each parent. Thus, where a child is to spend 70 percent of his or her time with parent A, and 30 percent of his or her time with parent B, parent A is entitled to 70 percent of the amount of basic child support deemed necessary for the child, while parent B is entitled to 30 percent. The two obligations are offset against each other to determine the net amount that one parent pays the other.

Take for example the situation of a child for whom the basic child support award would be \$100 a month. The child is to spend 20 days a month in the primary custodial household and 10 days a month in the secondary custodial household. The primary custodian is deemed to need \$66 ($\$100 \times 2/3$) a month for the support of the child, while the secondary custodian is deemed to need \$34 ($\$100 \times 1/3$). The net child support payable to the primary custodian is \$32 ($\$66 - \34). In the absence of a shared custody adjustment, the child support payable to the primary custodian would be \$100.

2. Financial Consequences

a. Increased Costs of Shared Physical Custody

Some states are dissatisfied with the simplest formula approach because it assumes that no additional costs are associated with providing duplicate homes for the child. This assumption ignores the fact that the costs of raising a child who lives in two households are greater than the costs of raising a child who lives in one. The assumption also ignores the fact that, although the secondary custodial household will experience an increase in costs attributable to the child's presence, the child's primary custodial household does not experience significant savings attributable to the child's absence.

It has been estimated that it costs 50 percent more to provide two households for a child than to provide one.¹⁷ Thus, if the child needed \$100 a month for food, shelter, clothing, and other necessities, it would cost \$150 a month to provide the same standard of living in

two separate households. The increase is attributable to the duplication required: two bedrooms, two beds, certain duplicate toys, etc. The simplest formula, however, would take the basic \$100 child support and allocate it to the two households without taking into account the increased costs associated with providing the child with duplicate households.

The second assumption behind the simplest formula is that expenses attributable to a child are directly proportional to the number of days spent in each household. Thus, it is assumed, it would cost 40 percent of the basic child support to support the child in the primary custodial household if the child were there 40 percent of the time. However, most of the expenses attributable to the child are ongoing, whether the child is present or not. The cost of shelter, of utilities, of owning and insuring a car, etc., do not change significantly depending on the presence or absence of a child for a few days each week. The savings experienced by the primary custodial household will occur only with respect to certain small categories of expenditures, such as food or entertainment.¹⁸

One alternative to the simplest formula is to increase the basic support amount deemed necessary in shared physical custody cases to take into account the increased costs and minimal savings associated with shared physical custody. A number of states have adopted a "multiplier" which increases the basic support amount by 50 percent in cases of shared physical custody. Thus, a \$100 basic child support award in a sole custody arrangement would become \$150 in a shared physical custody arrangement. The \$150 would then be allocated to the two parents according to the percentage of the month that the child is to spend in each household. Going back to the original example, the child support deemed necessary for the primary custodial household after the multiplier is applied would be \$100 ($\$150 \times 2/3$), rather than \$66, while the secondary custodial household would be deemed to need \$50 ($\$150 \times 1/3$), rather than \$34. The net child support payable to the primary custodial household would be \$50 ($\$100 - \50). In the absence of a shared custody adjustment, the child support payable to the primary custodial household would be \$100. Even with the multiplier, therefore, the child support paid to the primary custodial household is less than it would be without the shared physical adjustment. The multiplier reduces the difference, however, since the net child support paid to the primary custodial household is \$50 rather than \$32.

The multiplier reduces the possibility that an inadequate basic amount of child support will be subject to an allocation between two households. It also clarifies that the costs of maintaining duplicate households are

high, so it may discourage some people who lack sufficient economic resources from undertaking shared physical custody. Nonetheless, it does not solve the problems entirely. One issue is that the economic evidence supporting 50 percent as the correct figure for a multiplier is speculative. It is not based on diary records or other primary sources, nor was the estimate developed from a study directly on point.¹⁹ In the absence of direct evidence, it is unknown whether an appropriate multiplier should be 50 percent, 60 percent or 30 percent. Second, even if a 50 percent multiplier is appropriate and adequate, the standard of living of a child in a primary custodial household has still been shown to decline where a shared physical custody adjustment is awarded (as compared to the standard of living of a child in a sole custody household), even though it declines less than it would in a state that lacked a multiplier.²⁰ This occurs because expenses attributable to the child do not increase or decrease exactly proportionally to the number of days that the child spends in a household.

b. Visitation Assumption Discount

The simplest formula also may be criticized because it does not take into account the fact that the basic child support amount awarded under most child support guidelines is already discounted as the result of the visitation assumption. Thus, as discussed earlier, basic child support is assumed to meet the needs of a child who is in the home of the primary parent only about 80 percent of the time, not all of the time. When one divides that amount proportionally to the number of days the child actually is to spend in each household, one is dividing an already discounted figure. The result is to depress the standard of living of the child in his or her primary custodial household.

Returning to the first example, the basic child support amount of \$100 has been discounted 20 percent because of the visitation assumption, under which the child is assumed to be spending 20 percent of his or her time in the household of the visiting parent. In other words, if the child were in the primary custodial household all the time, the basic child support amount should be not \$100, but \$120. When the child is in the home of the visiting parent for 20 percent of the time, the figure should be reduced to \$100, and it should be reduced to \$90 when the child is in the home of the secondary custodian for 30 percent of the time. Under the simplest formula, however, when the child is in the home of the secondary custodian for 30 percent of the time, the figure is not reduced to \$90; it is reduced to \$32 because the visitation assumption discount is not added back in before the allocation between the households is made.²¹

Alternatives to the problem caused by the visitation assumption discount are possible. For example, the adjustment could cover only that portion of time that exceeds the percentage of time included within the assumption, whether that is 20 percent, 30 percent or 50 percent.²² Or, the visitation assumption could be eliminated from the calculation of the basic child support amount for all purposes. This would simplify all child support calculations, including those in the situation where the visiting parent spends little or no time with the child.

3. Modification of Living Arrangements

Another source of dissatisfaction with the simplest formula is that it does not take into account the fact that most shared physical custody arrangements do not remain static. Further, the most common change that occurs is for the child to spend more time with the primary custodial parent and less time with the secondary custodial parent.²³

Adjusting the child support award to reflect the changes in residential caregiving can be complex and burdensome. If it is not adjusted, however, the child will be living in a household that lacks sufficient financial resources. Going back to the original example, where the basic child support award was \$100 before a simple formula shared custody adjustment, the child's primary custodial household is receiving a net award of \$32 because the parents agreed to or were ordered into a shared physical custody arrangement. At the end of the first year, assume that the child is spending most weekdays with the primary custodial parent and seeing the secondary custodial parent two weekends a month, many holidays, and for a vacation in the summer. The overnights amount to approximately 20 percent of the child's time. According to the standard of need which supports the basic child support award of \$100 a month, this child's primary custodial household requires \$68 a month more than it is receiving in order to maintain an appropriate standard of living for the child. In most states, for the child support amount to be changed from \$32 to \$100, the child's primary custodial parent must return to court to seek a modification of both the custody and the child support orders, a process which may take many months and consume many dollars. In the meantime, the child's primary custodial household is receiving less than a third of the money deemed necessary.

A number of alternatives are possible that may be less costly and more feasible. For example, states might provide that a downward adjustment of child support can be awarded only where shared physical custody is firmly established. That is, the child's residential patterns could be examined on an annual or

biennial basis and, if the criteria for shared physical custody have been met, the child support for the next year or two could be adjusted downward in the expectation that shared physical custody will continue. The historical proposal does not eliminate the risk that the child's living arrangements may change from shared physical custody to sole custody, but it diminishes the cost by requiring evidence of success before reducing the support available to the child's primary household and by placing the burden for seeking the child support adjustment on the secondary custodial parent.²⁴

A second alternative is prospective in part and retrospective in part. Under this proposal, a decisionmaker would calculate child support based on both sole custody and shared physical custody at the time of the initial award, and enter an order based on the type of custody the decisionmaker predicts will occur. The other amount remains on the record as a "fallback" award. If within 90 days the decisionmaker's prediction has proven wrong and the child has moved into the opposite arrangement, the parent who is burdened with paying too much support or who is receiving too little can petition the court or agency by affidavit for a change in the support award. No hearing need be held unless the other parent contests the request for a change to the fallback award.²⁵

4. *Difficulty of Administration and the Cliff*

An additional objection to the simple formula is that it is hard to administer because it allows for calibration across the entire continuum. This means that a child support award will vary depending on the precise amount of time that a child is to spend in a secondary custodial household. Going back to the original example, a 35 percent/65 percent arrangement will produce a net child support payment of \$30,²⁶ while a 45 percent/55 percent arrangement will produce a net child support payment of \$10.²⁷

Many states respond to this critique by providing for only one adjustment that occurs only when the planned custody arrangement calls for the child to spend a predetermined threshold amount of time with the secondary custodian. This adjustment approach has been named the "cliff" approach. That is, no adjustment is made unless the cliff is climbed, and no further adjustment is made, no matter how high the climber continues to go.

The cliff approach has been criticized from two different perspectives. First, it does not take into account the many variations in time and resultant costs that occur between the cliff time and a fully equal sharing arrangement, where the child resides in each household 50 percent of the time. Thus, a secondary custodian who cares for the child 30 percent of the time may have

very different financial circumstances from one who cares for the child 49 percent of the time.

Second, the cliff approach can encourage bargaining based on meeting the threshold rather than on parents candidly assessing their parental histories and abilities with respect to caregiving. The financial impact of reaching the cliff can be considerable, up to an 80 percent reduction of child support in some circumstances, so the incentives are substantial.²⁸

IV. SPLIT CUSTODY

In some families, custody of children is split: at least one child is placed with one parent, while at least one child is placed with the other parent.²⁹ Child support guidelines may be designed to take split custody into account in a formulaic manner,³⁰ or split custody may be treated as a deviation from the guidelines and thereby entrusted to the discretion of the decisionmaker.³¹

The most common formulaic approach is to calculate the child support award that would be entered with respect to each child's separate custody situation, then offset the one award against the other. For example, if child support for the child in the mother's custody would be \$100, while the child support for the child in the father's custody would be \$80, the mother is ordered to pay the father \$20.³²

While split custody cases are not difficult in theory, in practice they can be quite complex because issues affecting all child support awards, such as the relative economic resources of the parents or the appropriateness of imputing income, affect split custody cases as well.³³

V. CONCLUSION

Despite the axiom that child support and visitation are independent obligations, the interconnections between them remain many and complex. Most child support guidelines award less than the amount deemed necessary to support a child all the time, because of visitation assumptions: that a child is in the care or custody of one parent most of the time and in the care of a visiting parent the rest of the time; and that the costs associated with the child increase in the visiting parent's household and decrease in the custodial parent's household concomitantly with the child's movement between the households. Child support awards in situations of shared physical custody add additional complications for policymakers, beginning with the question of whether child support awards should be calculated in such a way as to encourage, discourage

or be neutral with respect to shared physical custody. Where policymakers decide to encourage shared physical custody by providing for a downward adjustment of child support, important policy questions remain about the most advantageous method for calculating the adjustment consistent with the needs of the child, the parents and the state for financial security, fairness and predictability.

Split custody adds few complications for policymakers, since the choices about how to calculate the awards are few and may be handled within a guidelines approach. In operation, however, split custody can present complex questions of fact similar to those of any child support situation.

ENDNOTES

¹See Karen Czapanskiy, *Child Support and Visitation: Rethinking the Connections*; 20 RUT.—CAM. L.J. 619 (1989).

²See Marianne Takas, *Improving Child Support Guidelines: Can Simple Formulas Address Complex Families?*, 26 FAM. L.Q. 171, 183 (1992).

³FRANK F. FURSTENBERG, JR., & ANDREW J. CHERLIN, *DIVIDED FAMILIES* 35-36 (1991). Somewhat more frequent visitation patterns were found in a study of California divorcing families. In a majority of the mother-resident families studied, the fathers saw the children and most of the children had overnight visits. In nearly 40 percent of the mother-resident families, however, no visitation with the father was occurring three and a half years after the separation. See ELEANOR E. MACCOBY & ROBERT H. MNOOKIN, *DIVIDING THE CHILD: SOCIAL AND LEGAL DILEMMAS OF CUSTODY* 274 (1992).

⁴FURSTENBERG, JR. & CHERLIN, *supra* note 3, at 34-39; see Karen Czapanskiy, *Volunteers and Draftees: The Search for Parental Equality*, 38 UCLA L. REV. 1415, 1449-50 (1991).

⁵See ROBERT G. WILLIAMS and DAVID A. PRICE, *ANALYSIS OF SELECTED FACTORS RELATING TO CHILD SUPPORT GUIDELINES* (1993).

⁶*Id.*, Table 1 (including, inter alia, Arizona, Connecticut, Florida and Montana).

⁷*Supra* note 5. The economic evidence for these assumptions is ambiguous, as will be discussed later.

⁸*Supra* note 2, at 186.

⁹FURSTENBERG, JR. & CHERLIN, *supra* note 3, at 71.

¹⁰*Id.* at 72-75.

¹¹*Id.* at 72-73.

¹²*Id.* at 74-75.

¹³See MACCOBY & MNOOKIN, *supra* note 3, at 158 (in conflicted custody cases where outcome was an order for joint physical custody, primary custodial parents were awarded lower child support than would have been awarded in sole custody cases even where the residential pattern of the children was one of sole custody). See also Czapanskiy, *supra* note 4, at 1448 (joint custody may be awarded and child support reduced in absence of evidence that both of the proposed joint custodians have participated previously in caring for the child).

¹⁴See Czapanskiy, *supra* note 4, at 1444-1446 and n. 109.

¹⁵See WILLIAMS & PRICE, *supra* note 5, at 4-5.

¹⁶*Id.*

¹⁷The 50 percent figure is extrapolated from research done by Thomas Espenshade about the spending habits of families with respect to their children in the 1970's. See THOMAS ESPENSHADE,

INVESTING IN CHILDREN: NEW ESTIMATES OF PARENTAL EXPENDITURES (1984). The study families were intact, and the study was not undertaken for the purpose of accurately estimating the costs of raising children in single-parent families. Nonetheless, the Espenshade research was used by Dr. Robert Williams to provide estimates of expenditures on children in divorced families for the purpose of developing guidelines for child support. The most that can be said for the applicability of the Espenshade research to the costs of maintaining two households for a child in shared physical custody is that his findings "suggest" that the costs would increase by 50 percent. See WILLIAMS & PRICE, *supra* note 5, at 7. Given the age of Espenshade's data and the purposes of his research, the 50 percent figure must be deemed highly speculative.

¹⁸Karen A. Getman, *A Critique of the Effect of Non-Traditional Visitation and Custody Arrangements on Child Support Awards Under Current Guidelines and Formulas*, in *ESSENTIALS OF CHILD SUPPORT GUIDELINES DEVELOPMENT: ECONOMIC ISSUES AND POLICY CONSIDERATIONS* (Proceedings of the Women's Legal Defense Fund's National Conference on the Development of Child Support Guidelines 1986) (approximately 2 percent of the annual expenditures on children in intact families are for food).

¹⁹*Supra* note 5.

²⁰*Supra* note 2, at 184-85.

²¹*Supra* note 2, at 186.

²²In Wisconsin, for example, the adjustment is available only where the nonprimary parent is providing more than 30 percent of the care, and only to the extent that the care exceeds the assumed minimum. Marianne Takas has proposed a 1 percent reduction in child support for every day that a child is with the noncustodial parent beyond a baseline of 30 percent of the time. See Takas, *supra* note 2, at 188. See also WILLIAMS & PRICE, *supra* note 5, at 10. The Takas proposal would mean that the standard of living in the primary custodial home would decrease slightly in a shared physical custody arrangement as compared to the standard of living that would be maintained in a sole custody arrangement. The standard of living in the secondary custodial home also would decrease, to a slightly greater degree than the decrease in the primary home. Since the secondary home typically begins at a higher level, however, the relative impact is not great.

²³MACCOBY & MNOOKIN, *supra* note 3, at 275-276.

²⁴Relying on history for the purpose of adjusting child support is not unknown. Michigan and Utah provide for retroactive adjustments of child support where a child spends more than 10 out of 14 or 25 out of 30 days, respectively, with the noncustodial parent. The noncustodial parent receives a 50 percent credit against the child support due for the next biweekly or monthly period. WILLIAMS & PRICE, *supra* note 5, at 23-24. These adjustments are for temporary changes in visitation, however, not for longterm shared physical custody situations.

²⁵*Supra* note 5, at 188-190.

²⁶The figure is produced as follows:

Basic Child Support (BSC)	\$100.00	
65% Proportional Allocation to Primary Custodial Household	.65 x BSC	65.00
35% Proportional Allocation to Secondary Custodial Household	.35 x BSC	35.00
Net Child Support Payment	(.65 BSC)—(.35 BSC)	30.00

²⁷The figure is produced as follows:

Basic Child Support (BSC)	\$100.00	
55% Proportional Allocation to Primary Custodial Household	.55 x BSC	55.00
45% Proportional Allocation to Secondary Custodial Household	.45 x BSC	45.00
Net Child Support Payment	(1.55 BSC)—.45 BSC	10.00

²⁸See MACCOBY & MNOOKIN, *supra* note 3.

²⁹See, e.g., COLO. REV. STAT. § 14-10-115(9); MINN. STAT. § 518.17.

³⁰See, e.g., COLO. REV. STAT. § 14-10-115(14)(c)(I); MINN. STAT. § 518.17.

³¹See, e.g., *In re Marriage of Keown*, 225 Ill. App. 3d 808, 587 N.E.2d 644, 647 (1992) ("A strict mathematical application of the guidelines where there is split custody of the children is not contemplated by the statute.").

³²See WILLIAMS & PRICE, *supra* note 5, at 294.

³³See, e.g., *In re Marriage of Keown*, 225 Ill. App. 3d 808, 587 N.E.2d 644 (1992); *In re Marriage of Arbuckle*, 792 P.2d 1123 (Mont. 1990); *Berlin v. Berlin*, 360 N.W.2d 452 (Minn. 1985).