



Family Law

Section

Q&A regarding the new Child Support Guidelines

1. **If a child support case was filed prior to October 1st, but comes on for a hearing after October 1st, which set of guidelines applies?**
 - According to the Constitution, laws take effect on the first day of June after the session in which they were passed, except when a later date is specified in the act, or the bill is declared an emergency measure. For many years, most laws took effect July 1. During the 1992 Session, October 1 began to be used as the standard effective date for legislation. Laws are presumed to apply prospectively only. (See e.g., *Allstate Ins Co. v Kim*, 829 A.2d 611(2003)).
 - Technically, the new guidelines are mandatory only for child support –related petitions filed after 10/1/10, for family incomes up to \$15k. **HOWEVER** - as you will see below, the issue is less the effective date than it is about practicality and how you present your case to the court.
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2. **Can the new guidelines be a factor (it is clear that they cannot be the only factor) among several factors that the court can consider in finding a significant change in circumstances?**
 - Practically, between now and 10/1/10, especially for incomes between \$10k and \$15k, there is nothing wrong with a court looking at the new guidelines as part of an analysis of what's reasonable, since no guidelines are mandatory above the \$10k. In fact, it makes sense for a court to do so, so there isn't a question about what the court reviewed vis-a-vis modification 6 months later.
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3. **Can a pending case be dismissed and re-filed after October 1st and have the new guidelines apply?**
 - Possibly. A case could be dismissed *without* prejudice, re-filed after 10/1/10, and have the new guidelines apply. That may not be the answer if there is a dismissal *with* prejudice, and how that affects the "change in circumstances" analysis.
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4. **Can the Court apply the new guidelines to a case before October 1st and identify that it is exercising its discretion since the guidelines are not yet "mandatory"?**
 - See no. 2, above. Under \$10k in that scenario, the Court is technically deviating and will have to say why. Especially for incomes in the \$10k to \$15k range, the best practice is probably the ask that Court state on the record what it did, which should include determining the income, expenses, assets and liabilities of each parent, the children's expenses, and that the Court calculated using the new guidelines matrix (if it did).
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5. **Will the Court system still use Sasi-Calc?**
 - Yes. The AOC Sasi-Calc "contract" has been renewed for one year with AOC. The new Sasi is available now. It presently calculates on the existing and new matrices.
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6. **Does the extrapolation calculation above 15k in income continue indefinitely or does it "level off" at some point?**
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7. **If the application of the new guidelines results in a 25% change in the child support amount, is that alone sufficient to establish a material change in circumstances justifying a modification?**
 - NO. The new law states that its enactment is "**NOT A MATERIAL CHANGE OF CIRCUMSTANCE FOR THE PURPOSE OF A MODIFICATION OF A CHILD SUPPORT AWARD.**"