

CA Codes (fam:4050-4076) FAMILY.CODE
SECTION 4050-4076

4050. In adopting the statewide uniform guideline provided in this article, it is the intention of the Legislature to ensure that this state remains in compliance with federal regulations for child support guidelines.

4051. This article takes effect on July 1, 1992.

4052. The court shall adhere to the statewide uniform guideline and may depart from the guideline only in the special circumstances set forth in this article.

4053. In implementing the statewide uniform guideline, the courts shall adhere to the following principles:

(a) A parent's first and principal obligation is to support his or her minor children according to the parent's circumstances and station in life.

(b) Both parents are mutually responsible for the support of their children.

(c) The guideline takes into account each parent's actual income and level of responsibility for the children.

(d) Each parent should pay for the support of the children according to his or her ability.

(e) The guideline seeks to place the interests of children as the state's top priority.

(f) Children should share in the standard of living of both parents. Child support may therefore appropriately improve the standard of living of the custodial household to improve the lives of the children.

(g) Child support orders in cases in which both parents have high levels of responsibility for the children should reflect the increased costs of raising the children in two homes and should minimize significant disparities in the children's living standards in the two homes.

(h) The financial needs of the children should be met through private financial resources as much as possible.

(i) It is presumed that a parent having primary physical responsibility for the children contributes a significant portion of available resources for the support of the children.

(j) The guideline seeks to encourage fair and efficient settlements of conflicts between parents and seeks to minimize the need for litigation.

(k) The guideline is intended to be presumptively correct in all cases, and only under special circumstances should child support orders fall below the child support mandated by the guideline formula.

(l) Child support orders must ensure that children actually receive fair, timely, and sufficient support reflecting the state's

high standard of living and high costs of raising children compared to other states.

4054. (a) The Judicial Council shall periodically review the statewide uniform guideline to recommend to the Legislature appropriate revisions.

(b) The review shall include economic data on the cost of raising children and analysis of case data, gathered through sampling or other methods, on the actual application of the guideline after the guideline's operative date. The review shall also include an analysis of guidelines and studies from other states, and other research and studies available to or undertaken by the Judicial Council.

(c) Any recommendations for revisions to the guideline shall be made to ensure that the guideline results in appropriate child support orders, to limit deviations from the guideline, or otherwise to help ensure that the guideline is in compliance with federal law.

(d) The Judicial Council may also review and report on other matters, including, but not limited to, the following:

(1) The treatment of the income of a subsequent spouse or nonmarital partner.

(2) The treatment of children from prior or subsequent relationships.

(3) The application of the guideline in a case where a payer parent has extraordinarily low or extraordinarily high income, or where each parent has primary physical custody of one or more of the children of the marriage.

(4) The benefits and limitations of a uniform statewide spousal support guideline and the interrelationship of that guideline with the state child support guideline.

(5) Whether the use of gross or net income in the guideline is preferable.

(6) Whether the guideline affects child custody litigation or the efficiency of the judicial process.

(7) Whether the various assumptions used in computer software used by some courts to calculate child support comport with state law and should be made available to parties and counsel.

(e) The initial review by the Judicial Council shall be submitted to the Legislature and to the Department of Child Support Services on or before December 31, 1993, and subsequent reviews shall occur at least every four years thereafter unless federal law requires a different interval.

(f) In developing its recommendations, the Judicial Council shall consult with a broad cross-section of groups involved in child support issues, including, but not limited to, the following:

(1) Custodial and noncustodial parents.

(2) Representatives of established women's rights and fathers' rights groups.

(3) Representatives of established organizations that advocate for the economic well-being of children.

(4) Members of the judiciary, district attorney's offices, the Attorney General's office, and the Department of Child Support Services.

(5) Certified family law specialists.

(6) Academicians specializing in family law.

(7) Persons representing low-income parents.

(8) Persons representing recipients of assistance under the CalWORKs program seeking child support services.

(g) In developing its recommendations, the Judicial Council shall seek public comment and shall be guided by the legislative intent that children share in the standard of living of both of their parents.

4055. (a) The statewide uniform guideline for determining child support orders is as follows: $CS = K [HN -- (H\%)(TN)]$.

(b) (1) The components of the formula are as follows:

(A) CS = child support amount.

(B) K = amount of both parents' income to be allocated for child support as set forth in paragraph (3).

(C) HN = high earner's net monthly disposable income.

(D) H% = approximate percentage of time that the high earner has or will have primary physical responsibility for the children compared to the other parent. In cases in which parents have different time-sharing arrangements for different children, H% equals the average of the approximate percentages of time the high earner parent spends with each child.

(E) TN = total net monthly disposable income of both parties.

(2) To compute net disposable income, see Section 4059.

(3) K (amount of both parents' income allocated for child support) equals one plus H% (if H% is less than or equal to 50 percent) or two minus H% (if H% is greater than 50 percent) times the following fraction:

Total Net Disposable Income Per Month	K
\$0-800	$0.20 + TN/16,000$
\$801-6,666	0.25
\$6,667-10,000	$0.10 + 1,000/TN$
Over \$10,000	$0.12 + 800/TN$

For example, if H% equals 20 percent and the total monthly net disposable income of the parents is \$1,000, $K = (1 + 0.20) \times 0.25$, or 0.30. If H% equals 80 percent and the total monthly net disposable income of the parents is \$1,000, $K = (2 -- 0.80) \times 0.25$, or 0.30.

(4) For more than one child, multiply CS by:

2 children	1.6
3 children	2
4 children	2.3
5 children	2.5
6 children	2.625
7 children	2.75
8 children	2.813
9 children	2.844
10 children	2.86

(5) If the amount calculated under the formula results in a positive number, the higher earner shall pay that amount to the lower earner. If the amount calculated under the formula results in a negative number, the

lower earner shall pay the absolute value of that amount to the higher earner.

(6) In any default proceeding where proof is by affidavit pursuant to Section 2336, or in any proceeding for child support in which a party fails to appear after being duly noticed, H% shall be set at zero in the formula if the noncustodial parent is the higher earner or at 100 if the custodial parent is the higher earner, where there is no evidence presented demonstrating the percentage of time that the noncustodial parent has primary physical responsibility for the children. H% shall not be set as described above if the moving party in a default proceeding is the noncustodial parent or if the party who fails to appear after being duly noticed is the custodial parent. A statement by the party who is not in default as to the percentage of time that the noncustodial parent has primary physical responsibility for the children shall be deemed sufficient evidence.

(7) In all cases in which the net disposable income per month of the obligor is less than one thousand dollars (\$1,000), there shall be a rebuttable presumption that the obligor is entitled to a low-income adjustment. The presumption may be rebutted by evidence showing that the application of the low-income adjustment would be unjust and inappropriate in the particular case. In determining whether the presumption is rebutted, the court shall consider the principles provided in Section 4053, and the impact of the contemplated adjustment on the respective net incomes of the obligor and the obligee. The low-income adjustment shall reduce the child support amount otherwise determined under this section by an amount that is no greater than the amount calculated by multiplying the child support amount otherwise determined under this section by a fraction, the numerator of which is 1,000 minus the obligor's net disposable income per month, and the denominator of which is 1,000.

(8) Unless the court orders otherwise, the order for child support shall allocate the support amount so that the amount of support for the youngest child is the amount of support for one child, and the amount for the next youngest child is the difference between that amount and the amount for two children, with similar allocations for additional children. However, this paragraph does not apply to cases in which there are different time-sharing arrangements for different children or where the court determines that the allocation would be inappropriate in the particular case.

(c) If a court uses a computer to calculate the child support order, the computer program shall not automatically default affirmatively or negatively on whether a low-income adjustment is to be applied. If the low-income adjustment is applied, the computer program shall not provide the amount of the low-income adjustment. Instead, the computer program shall ask the user whether or not to apply the low-income adjustment, and if answered affirmatively, the computer program shall provide the range of the adjustment permitted by paragraph (7) of subdivision (b).

4056. (a) To comply with federal law, the court shall state, in writing or on the record, the following information whenever the court is ordering an amount for support that differs from the statewide uniform guideline formula amount under this article:

(1) The amount of support that would have been ordered under the guideline formula.

(2) The reasons the amount of support ordered differs from the guideline formula amount.

(3) The reasons the amount of support ordered is consistent with the best interests of the children.

(b) At the request of any party, the court shall state in writing or on the record the following information used in determining the guideline amount under this article:

(1) The net monthly disposable income of each parent.

(2) The actual federal income tax filing status of each parent (for example, single, married, married filing separately, or head of household and number of exemptions).

(3) Deductions from gross income for each parent.

(4) The approximate percentage of time pursuant to paragraph (1) of subdivision (b) of Section 4055 that each parent has primary physical responsibility for the children compared to the other parent.

4057. (a) The amount of child support established by the formula provided in subdivision (a) of Section 4055 is presumed to be the correct amount of child support to be ordered.

(b) The presumption of subdivision (a) is a rebuttable presumption affecting the burden of proof and may be rebutted by admissible evidence showing that application of the formula would be unjust or inappropriate in the particular case, consistent with the principles set forth in Section 4053, because one or more of the following factors is found to be applicable by a preponderance of the evidence, and the court states in writing or on the record the information required in subdivision (a) of Section 4056:

(1) The parties have stipulated to a different amount of child support under subdivision (a) of Section 4065.

(2) The sale of the family residence is deferred pursuant to Chapter 8 (commencing with Section 3800) of Part 1 and the rental value of the family residence in which the children reside exceeds the mortgage payments, homeowner's insurance, and property taxes. The amount of any adjustment pursuant to this paragraph shall not be greater than the excess amount.

(3) The parent being ordered to pay child support has an extraordinarily high income and the amount determined under the formula would exceed the needs of the children.

(4) A party is not contributing to the needs of the children at a level commensurate with that party's custodial time.

(5) Application of the formula would be unjust or inappropriate due to special circumstances in the particular case. These special circumstances include, but are not limited to, the following:

(A) Cases in which the parents have different time-sharing arrangements for different children.

(B) Cases in which both parents have substantially equal time-sharing of the children and one parent has a much lower or higher percentage of income used for housing than the other parent.

(C) Cases in which the children have special medical or other needs that could require child support that would be greater than the formula amount.

4057.5. (a) (1) The income of the obligor parent's subsequent spouse or nonmarital partner shall not be considered when determining or modifying child support, except in an extraordinary case where excluding that income would lead to extreme and severe hardship to any child subject to the child support award, in which case the court shall also consider whether including that income would lead to extreme and severe hardship to any child supported by the obligor or by the obligor's subsequent spouse or nonmarital partner.

(2) The income of the obligee parent's subsequent spouse or nonmarital partner shall not be considered when determining or modifying child support, except in an extraordinary case where excluding that income would lead to extreme and severe hardship to any child subject to the child support award, in which case the court shall also consider whether including that income would lead to extreme and severe hardship to any child supported by the obligee or by the obligee's subsequent spouse or nonmarital partner.

(b) For purposes of this section, an extraordinary case may include a parent who voluntarily or intentionally quits work or reduces income, or who intentionally remains unemployed or underemployed and relies on a subsequent spouse's income.

(c) If any portion of the income of either parent's subsequent spouse or nonmarital partner is allowed to be considered pursuant to this section, discovery for the purposes of determining income shall be based on W2 and 1099 income tax forms, except where the court determines that application would be unjust or inappropriate.

(d) If any portion of the income of either parent's subsequent spouse or nonmarital partner is allowed to be considered pursuant to this section, the court shall allow a hardship deduction based on the minimum living expenses for one or more stepchildren of the party subject to the order.

(e) The enactment of this section constitutes cause to bring an action for modification of a child support order entered prior to the operative date of this section.

4058. (a) The annual gross income of each parent means income from whatever source derived, except as specified in subdivision (c) and includes, but is not limited to, the following:

(1) Income such as commissions, salaries, royalties, wages, bonuses, rents, dividends, pensions, interest, trust income, annuities, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, social security benefits, and spousal support actually received from a person not a party to the proceeding to establish a child support order under this article.

(2) Income from the proprietorship of a business, such as gross receipts from the business reduced by expenditures required for the operation of the business.

(3) In the discretion of the court, employee benefits or self-employment benefits, taking into consideration the benefit to the employee, any corresponding reduction in living expenses, and other relevant facts.

(b) The court may, in its discretion, consider the earning capacity of a parent in lieu of the parent's income, consistent with the best interests of the children.

(c) Annual gross income does not include any income derived from child support payments actually received, and income derived from any public assistance program, eligibility for which is based on a determination of need. Child support received by a party for children from another relationship shall not be included as part of that party's gross or net income.

4059. The annual net disposable income of each parent shall be computed by deducting from his or her annual gross income the actual amounts attributable to the following items or other items permitted under this article:

(a) The state and federal income tax liability resulting from the parties' taxable income. Federal and state income tax deductions shall bear an accurate relationship to the tax status of the parties (that is, single, married, married filing separately, or head of household) and number of dependents. State and federal income taxes shall be those actually payable (not necessarily current withholding) after considering appropriate filing status, all available exclusions, deductions, and credits. Unless the parties stipulate otherwise, the tax effects of spousal support shall not be considered in determining the net disposable income of the parties for determining child support, but shall be considered in determining spousal support consistent with Chapter 3 (commencing with Section 4330) of Part 3.

(b) Deductions attributed to the employee's contribution or the self-employed worker's contribution pursuant to the Federal Insurance Contributions Act (FICA), or an amount not to exceed that allowed under FICA for persons not subject to FICA, provided that the deducted amount is used to secure retirement or disability benefits for the parent.

(c) Deductions for mandatory union dues and retirement benefits, provided that they are required as a condition of employment.

(d) Deductions for health insurance or health plan premiums for the parent and for any children the parent has an obligation to support and deductions for state disability insurance premiums.

(e) Any child or spousal support actually being paid by the parent pursuant to a court order, to or for the benefit of any person who is not a subject of the order to be established by the court. In the absence of a court order, any child support actually being paid, not to exceed the amount established by the guideline, for natural or adopted children of the parent not residing in that parent's home, who are not the subject of the order to be established by the court, and of whom the parent has a duty of support. Unless the parent proves payment of the support, no deduction shall be allowed under this subdivision.

(f) Job-related expenses, if allowed by the court after consideration of whether the expenses are necessary, the benefit to the employee, and any other relevant facts.

(g) A deduction for hardship, as defined by Sections 4070 to 4073, inclusive, and applicable published appellate court decisions. The amount of the hardship shall not be deducted from the amount of child support, but shall be deducted from the income of the party to whom it applies. In

applying any hardship under paragraph (2) of subdivision (a) of Section 4071, the court shall seek to provide equity between competing child support orders. The Judicial Council shall develop a formula for calculating the maximum hardship deduction and shall submit it to the Legislature for its consideration on or before July 1, 1995.

4060. The monthly net disposable income shall be computed by dividing the annual net disposable income by 12. If the monthly net disposable income figure does not accurately reflect the actual or prospective earnings of the parties at the time the determination of support is made, the court may adjust the amount appropriately.

4061. The amounts in Section 4062, if ordered to be paid, shall be considered additional support for the children and shall be computed in accordance with the following:

(a) If there needs to be an apportionment of expenses pursuant to Section 4062, the expenses shall be divided one-half to each parent, unless either parent requests a different apportionment pursuant to subdivision (b) and presents documentation which demonstrates that a different apportionment would be more appropriate.

(b) If requested by either parent, and the court determines it is appropriate to apportion expenses under Section 4062 other than one-half to each parent, the apportionment shall be as follows:

(1) The basic child support obligation shall first be computed using the formula set forth in subdivision (a) of Section 4055, as adjusted for any appropriate rebuttal factors in subdivision (b) of Section 4057.

(2) Any additional child support required for expenses pursuant to Section 4062 shall thereafter be ordered to be paid by the parents in proportion to their net disposable incomes as adjusted pursuant to subdivisions (c) and (d).

(c) In cases where spousal support is or has been ordered to be paid by one parent to the other, for purposes of allocating additional expenses pursuant to Section 4062, the gross income of the parent paying spousal support shall be decreased by the amount of the spousal support paid and the gross income of the parent receiving the spousal support shall be increased by the amount of the spousal support received for as long as the spousal support order is in effect and is paid.

(d) For purposes of computing the adjusted net disposable income of the parent paying child support for allocating any additional expenses pursuant to Section 4062, the net disposable income of the parent paying child support shall be reduced by the amount of any basic child support ordered to be paid under subdivision (a) of Section 4055. However, the net disposable income of the parent receiving child support shall not be increased by any amount of child support received.

4062. (a) The court shall order the following as additional child support:

(1) Child care costs related to employment or to reasonably necessary education or training for employment skills.

(2) The reasonable uninsured health care costs for the children as provided in Section 4063.

(b) The court may order the following as additional child support:

- (1) Costs related to the educational or other special needs of the children.
- (2) Travel expenses for visitation.

4063. (a) When making an order pursuant to paragraph (2) of subdivision (a) of Section 4062, the court shall:

(1) Advise each parent, in writing or on the record, of his or her rights and liabilities, including financial responsibilities.

(2) Include in its order the time period for a parent to reimburse the other parent for the reimbursing parent's share of the reasonable additional child support costs subject to the requirements of this section.

(b) Unless there has been an assignment of rights pursuant to Section 11477 of the Welfare and Institutions Code, when either parent accrues or pays costs pursuant to an order under this section, that parent shall provide the other parent with an itemized statement of the costs within a reasonable time, but not more than 30 days after accruing the costs. These costs shall then be paid as follows:

(1) If a parent has already paid all of these costs, that parent shall provide proof of payment and a request for reimbursement of his or her court-ordered share to the other parent.

(2) If a parent has paid his or her court-ordered share of the costs only, that parent shall provide proof of payment to the other parent, request the other parent to pay the remainder of the costs directly to the provider, and provide the reimbursing parent with any necessary information about how to make the payment to the provider.

(3) The other parent shall make the reimbursement or pay the remaining costs within the time period specified by the court, or, if no period is specified, within a reasonable time not to exceed 30 days from notification of the amount due, or according to any payment schedule set by the health care provider for either parent unless the parties agree in writing to another payment schedule or the court finds good cause for setting another payment schedule.

(4) If the reimbursing parent disputes a request for payment, that parent shall pay the requested amount and thereafter may seek judicial relief under this section and Section 290. If the reimbursing parent fails to pay the other parent as required by this subdivision, the other parent may seek judicial relief under this section and Section 290.

(c) Either parent may file a noticed motion to enforce an order issued pursuant to this section. In addition to the court's powers under Section 290, the court may award filing costs and reasonable attorney's fees if it finds that either party acted without reasonable cause regarding his or her obligations pursuant to this section.

(d) There is a rebuttable presumption that the costs actually paid for the uninsured health care needs of the children are reasonable, except as provided in subdivision (e).

(e) Except as provided in subdivision (g):

(1) The health care insurance coverage, including, but not limited to, coverage for emergency treatment, provided by a parent pursuant to a court order, shall be the coverage to be utilized at all times, consistent with the requirements of that coverage, unless the other

parent can show that the health care insurance coverage is inadequate to meet the child's needs.

(2) If either parent obtains health care insurance coverage in addition to that provided pursuant to the court order, that parent shall bear sole financial responsibility for the costs of that additional coverage and the costs of any care or treatment obtained pursuant thereto in excess of the costs that would have been incurred under the health care insurance coverage provided for in the court order.

(f) Except as provided in subdivision (g):

(1) If the health care insurance coverage provided by a parent pursuant to a court order designates a preferred health care provider, that preferred provider shall be used at all times, consistent with the terms and requirements of that coverage.

(2) If either parent uses a health care provider other than the preferred provider inconsistent with the terms and requirements of the court-ordered health care insurance coverage, the parent obtaining that care shall bear the sole responsibility for any nonreimbursable health care costs in excess of the costs that would have been incurred under the court-ordered health care insurance coverage had the preferred provider been used.

(g) When ruling on a motion made pursuant to this section, in order to ensure that the health care needs of the child under this section are met, the court shall consider all relevant facts, including, but not limited to, the following:

(1) The geographic access and reasonable availability of necessary health care for the child which complies with the terms of the health care insurance coverage paid for by either parent pursuant to a court order.

(2) The necessity of emergency medical treatment that may have precluded the use of the health care insurance, or the preferred health care provider required under the insurance, provided by either parent pursuant to a court order.

(3) The special medical needs of the child.

(4) The reasonable inability of a parent to pay the full amount of reimbursement within a 30-day period and the resulting necessity for a court-ordered payment schedule.

4064. The court may adjust the child support order as appropriate to accommodate seasonal or fluctuating income of either parent.

4065. (a) Unless prohibited by applicable federal law, the parties may stipulate to a child support amount subject to approval of the court. However, the court shall not approve a stipulated agreement for child support below the guideline formula amount unless the parties declare all of the following:

(1) They are fully informed of their rights concerning child support.

(2) The order is being agreed to without coercion or duress.

(3) The agreement is in the best interests of the children involved.

(4) The needs of the children will be adequately met by the stipulated amount.

(5) The right to support has not been assigned to the county pursuant to Section 11477 of the Welfare and Institutions Code and no public assistance application is pending.

(b) The parties may, by stipulation, require the child support obligor to designate an account for the purpose of paying the child support obligation by electronic funds transfer pursuant to Section 4508.

(c) A stipulated agreement of child support is not valid unless the local child support agency has joined in the stipulation by signing it in any case in which the local child support agency is providing services pursuant to Section 17400. The local child support agency shall not stipulate to a child support order below the guideline amount if the children are receiving assistance under the CalWORKs program, if an application for public assistance is pending, or if the parent receiving support has not consented to the order.

(d) If the parties to a stipulated agreement stipulate to a child support order below the amount established by the statewide uniform guideline, no change of circumstances need be demonstrated to obtain a modification of the child support order to the applicable guideline level or above.

4066. Orders and stipulations otherwise in compliance with the statewide uniform guideline may designate as "family support" an unallocated total sum for support of the spouse and any children without specifically labeling all or any portion as "child support" as long as the amount is adjusted to reflect the effect of additional deductibility. The amount of the order shall be adjusted to maximize the tax benefits for both parents.

4067. It is the intent of the Legislature that the statewide uniform guideline shall be reviewed by the Legislature at least every four years and shall be revised by the Legislature as appropriate to ensure that its application results in the determination of appropriate child support amounts. The review shall include consideration of changes required by applicable federal laws and regulations or recommended from time to time by the Judicial Council pursuant to Section 4054.

4068. (a) The Judicial Council may develop the following:

(1) Model worksheets to assist parties in determining the approximate amount of child support due under the formula provided in subdivision (a) of Section 4055 and the approximate percentage of time each parent has primary physical responsibility for the children.

(2) A form to assist the courts in making the findings and orders required by this article.

(b) The Judicial Council, in consultation with representatives of the State Department of Social Services, the California Family Support Council, the Senate Judiciary Committee, the Assembly Judiciary Committee, the Family Law Section of the State Bar of California, a legal services organization providing representation on child support matters, a custodial parent group, and a noncustodial parent group, shall develop a simplified income and expense form for determining child support under the formula provided in subdivision (a) of Section 4055, by June 1, 1995.

The Judicial Council, also in consultation with these groups, shall develop factors to use to determine when the simplified income and expense form may be used and when the standard income and expense form must be used.

4069. The establishment of the statewide uniform guideline constitutes a change of circumstances.

4070. If a parent is experiencing extreme financial hardship due to justifiable expenses resulting from the circumstances enumerated in Section 4071, on the request of a party, the court may allow the income deductions under Section 4059 that may be necessary to accommodate those circumstances.

4071. (a) Circumstances evidencing hardship include the following:

(1) Extraordinary health expenses for which the parent is financially responsible, and uninsured catastrophic losses.

(2) The minimum basic living expenses of either parent's natural or adopted children for whom the parent has the obligation to support from other marriages or relationships who reside with the parent. The court, on its own motion or on the request of a party, may allow these income deductions as necessary to accommodate these expenses after making the deductions allowable under paragraph (1).

(b) The maximum hardship deduction under paragraph (2) of subdivision (a) for each child who resides with the parent may be equal to, but shall not exceed, the support allocated each child subject to the order. For purposes of calculating this deduction, the amount of support per child established by the statewide uniform guideline shall be the total amount ordered divided by the number of children and not the amount established under paragraph (8) of subdivision (b) of Section 4055.

(c) The Judicial Council may develop tables in accordance with this section to reflect the maximum hardship deduction, taking into consideration the parent's net disposable income before the hardship deduction, the number of children for whom the deduction is being given, and the number of children for whom the support award is being made.

4072. (a) If a deduction for hardship expenses is allowed, the court shall do both of the following:

(1) State the reasons supporting the deduction in writing or on the record.

(2) Document the amount of the deduction and the underlying facts and circumstances.

(b) Whenever possible, the court shall specify the duration of the deduction.

4073. The court shall be guided by the goals set forth in this article when considering whether or not to allow a financial hardship deduction, and, if allowed, when determining the amount of the deduction.

4074. This article applies to an award for the support of children, including those awards designated as "family support," that contain provisions for the support of children as well as for the support of the spouse.

4075. This article shall not be construed to affect the treatment of spousal support and separate maintenance payments pursuant to Section 71 of the Internal Revenue Code of 1954 (26 U.S.C. Sec. 71).

4076. (a) Whenever the court is requested to modify a child support order issued prior to July 1, 1992, for the purpose of conforming to the statewide child support guideline, and it is not using its discretionary authority to depart from the guideline pursuant to paragraph (3), (4), or (5) of subdivision (b) of Section 4057, and the amount of child support to be ordered is the amount provided under the guideline formula in subdivision (a) of Section 4055, the court may, in its discretion, order a two-step phasein of the formula amount of support to provide the obligor with time for transition to the full formula amount if all of the following are true:

(1) The period of the phasein is carefully limited to the time necessary for the obligor to rearrange his or her financial obligations in order to meet the full formula amount of support.

(2) The obligor is immediately being ordered to pay not less than 30 percent of the amount of the child support increase, in addition to the amount of child support required under the prior order.

(3) The obligor has not unreasonably increased his or her financial obligations following notice of the motion for modification of support, has no arrearages owing, and has a history of good faith compliance with prior support orders.

(b) Whenever the court grants a request for a phasein pursuant to this section, the court shall state the following in writing:

(1) The specific reasons why (A) the immediate imposition of the full formula amount of support would place an extraordinary hardship on the obligor, and (B) this extraordinary hardship on the obligor would outweigh the hardship caused the supported children by the temporary phasein of the full formula amount of support.

(2) The full guideline amount of support, the date and amount of each phasein, and the date that the obligor must commence paying the full formula amount of support, which in no event shall be later than one year after the filing of the motion for modification of support.

(c) In the event the court orders a phasein pursuant to this section, and the court thereafter determines that the obligor has violated the phasein schedule or has intentionally lowered the income available for the payment of child support during the phasein period, the court may order the immediate payment of the full formula amount of child support and the difference in the amount of support that would have been due without the phasein and the amount of support due with the phasein, in addition to any other penalties provided for by law.