

CHILD SUPPORT GUIDELINES REVIEW COMMITTEE RECOMMENDATIONS
AUGUST 2026

A. INTRODUCTION

Once every four years the State of Alaska reviews its child support guidelines to make sure that application of the guidelines results in appropriate child support award amounts. The committee responsible for this current review is made up of judges, family law attorneys, and a representative from the state's Child Support Enforcement Division (CSED). Administrative staff from the Alaska Court System also assists the committee.

Last fall, the review committee invited the public to comment on the current child support guidelines. The committee utilized current technology and social media to reach a wide audience and notified the public the following ways: posting on the court system's and CSSD's website; posting on the court system's and CSSD's Facebook page; posting on the court system's and CSSD's Twitter feed; distributing flyers for display at courthouses; emailing all Alaska state legislators; sending an email directly to each active, Alaskan-licensed attorney; posting notices in the Alaska Bar Association's weekly e-newsletter; sending the notice to the Family Law Bar Section; and sending an email directly to all Alaska Court System judicial officers and court clerks.

In response, members of the public submitted 64 comments. The committee reviewed and discussed the comments. Additionally, the committee reviewed the requirements in the federal child support regulations. Finally, the committee considered suggestions for changes from its members. After discussing changes from these three sources, the committee prepared its recommended changes to the guidelines. The recommended changes and underlying rationale are summarized in [section \(B\)](#) below. The actual proposed changes are shown in "legislative style" in [section \(C\)](#). "Legislative style" means that proposed new language is underlined (like this) and deleted language has a line through it (~~like this~~).

This second request for comments seeks your input on the committee's recommended changes. The request for comments is again being broadly circulated.

If you wish to comment on the committee's recommended changes to the guidelines, please send your written comments:

By SurveyMonkey to:
surveymonkey.com/r/90-3comments

-OR-

By mail to:
Rule 90.3, c/o Stacy Steinberg
Alaska Court System
820 West 4th Avenue
Anchorage, AK 99501

By email to:
ChildSupportRule@akcourts.gov

The deadline for submitting comments is Friday, October 2, 2026.

After the comment period closes, the committee will review all new comments, and consider whether to revise the child support guidelines further. After that, the committee will present its final recommendations to the Alaska Supreme Court.

NOTE: All comments received are part of the public record and will not be treated as confidential by the Alaska Court System.

B. SUMMARY OF PROPOSED CHANGES

Proposed changes to Civil Rule 90.3 and its Commentary are summarized below.

1. Revising Rule 90.3(a)(4)(A) to reflect current case law that incarceration is not voluntary unemployment when setting or modifying a child support award.

The committee recommends adding language to the rule addressing potential income and clarifying that, for the purposes of setting or modifying a child support award, a parent who is incarcerated is not voluntarily unemployed. This language reflects Alaska’s current case law in *Bendixen v. Bendixen*, 962 P.2d 170 (Alaska 1998). The rule change would also bring Alaska’s child support guidelines into alignment with federal child support regulations.¹ Here is the recommended rule language:

(a) Guidelines—Primary Physical Custody.

* * * *

(4) *Potential Income.* The court may calculate child support based on a determination of the potential income of a parent who voluntarily and unreasonably is unemployed or underemployed.

(A) A parent may be voluntarily and unreasonably unemployed or underemployed when the parent’s current situation and earnings reflect the parent’s decision to not work or to earn less than the parent is capable of earning. A parent who is incarcerated is not voluntarily unemployed.

(B) * * * *

The committee also recommends adding further explanation to the Commentary to assist readers. Here is the recommended addition:

COMMENTARY

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III. DEFINING INCOME

A. Generally. * * * *

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C. **Potential Income.** The court may calculate child support imputing potential income to a parent who the court determines is voluntarily and unreasonably unemployed or underemployed based on an analysis of the factors enumerated in the rule. The court shall consider the totality of the circumstances in deciding whether to impute income and the amount.

¹ See 45 C.F.R. § 302.56(c)(3).

A parent who is incarcerated is not voluntarily unemployed. When setting or modifying a child support award for an incarcerated parent, the court must consider whether the incarceration is temporary or results in a substantial reduction in earnings. See *Bendixen v. Bendixen*, 962 P.2d 170 (Alaska 1998).

2. Eliminating the minimum \$50 monthly support amount in Rule 90.3(c)(3).

The committee recommends eliminating the minimum \$50 monthly support amount currently in the exceptions section of Rule 90.3(c)(3). If adopted by the Alaska Supreme Court, all child support awards would be based on a parent's income and earnings (or imputed based on evidence that the parent has the ability to earn an income). This change was prompted by the federal Office of Child Support Enforcement's interpretation of federal regulations relating to child support.² Here is the recommended rule language:

(c) Exceptions.

* * * *

(3) There is no minimum child support amount. The minimum child support amount that may be ordered is \$50 per month (\$600 per year) except as provided in subparagraph (a)(3) and paragraph (b).

(4) * * * *

Corresponding changes are made in subsection (b) of the rule as well as the Commentary (Section III.D., and Section VI. C. and E.2.). New language is added to the Commentary, Section VI.C., explaining the reason for the change.

If approved, the rule change would apply prospectively to future child support orders.

3. Raising the income cap in Rule 90.3(c)(2).

The committee recommends raising the income cap from \$138,000 to \$155,000 to keep pace with increases in the consumer price index (CPI) since the last review. The recommendation is based on the Alaska Department of Labor and Workforce Development's [CPI data](#) through 2024. As in previous reviews, the committee used the \$100,000 income cap that the Alaska Supreme Court adopted in 2005 as the baseline for calculating the inflation adjusted value of the cap. The new amount reflects a 55% increase in the CPI over that time period (2005 to 2024). The income cap amount is adjusted upward in Rule 90.3(c)(2) and at several places in the Commentary.

² See 45 C.F.R. § 302.56(c)(1).

4. Adding an example in the Commentary for a variance from the child support formula when setting support for a child in foster care in a Child in Need of Aid proceeding.

During the public comment period last fall, several agencies that represent parents or children in Child in Need of Aid (CINA) matters proposed that child support should be reduced or not set at all when a child is taken into state custody (foster care) by the Office of Children’s Services (OCS). They contend that requiring the parent to pay child support can hinder the parent’s reunification with the child because the parent will have fewer financial resources to pay for the child’s services or basic needs. It can also undermine the financial stability of the parent during the reunification process and potentially after reunification.

The committee concluded that the current rule can address this circumstance; the current rule allows a parent to request a variance from the standard child support formula for “unusual circumstances”. Depending on the parent’s circumstances, the parent could qualify for a variance. To assist parents involved in a CINA case, the committee recommends adding language to the Commentary specifically identifying a CINA case and a parent’s particular circumstance may qualify for a variance from the standard child support formula.

Here is the committee’s recommended change to the Commentary, VI. Exceptions, B. Unusual Circumstances:

VI. EXCEPTIONS

A. Generally. * * * *

B. Unusual Circumstances. 90.3(c)(1) provides that a court shall vary support if it finds, first, that unusual circumstances exist and, second, that these unusual circumstances make application of the usual formula unjust. Examples might include especially large family size, significant income of a child, health or other extraordinary expenses, or unusually low expenses. This determination should be made considering the custodial parent’s income because the percentage of income approach used in Alaska tends to slightly understate support relative to the national average for cases in which the custodial spouse does not earn a significant income. This understatement relative to the national average becomes substantial if the custodial parent has child care expenses. The application of the unusual circumstances exception to particular types of factual situations is considered below.

*1. Agreement of the Parents. * * * **

* * * *

10. Child in Foster Care in Child in Need of Aid Matter. If a child is in foster care pursuant to a Child in Need of Aid matter and the permanency goal for the child is reunification with one or both parents,

the court may find that this constitutes good cause to vary child support if the court finds that the imposition of a child support order calculated pursuant to this rule may frustrate achieving that goal.

C. PROPOSED CHANGES TO CIVIL RULE 90.3 AND COMMENTARY

Here are all of the committee’s recommended changes to Civil Rule 90.3 and the Commentary shown in legislative style:

Civil Rule 90.3. **Child Support Awards.**

(a) **Guidelines—Primary Physical Custody.** A child support award in a case in which one parent is awarded primary physical custody as defined by paragraph (f) will be calculated as an amount equal to the adjusted annual income of the non-custodial parent multiplied by a percentage specified in subparagraph (a)(2).

(1) *Adjusted Annual Income.* * * * *

(2) *Percentage.* * * * *

(3) *Extended Visitation Credit.* * * * *

(4) *Potential Income.* The court may calculate child support based on a determination of the potential income of a parent who voluntarily and unreasonably is unemployed or underemployed.

(A) A parent may be voluntarily and unreasonably unemployed or underemployed when the parent’s current situation and earnings reflect the parent’s decision to not work or to earn less than the parent is capable of earning. A parent who is incarcerated is not voluntarily unemployed.

(B) * * * *

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(b) **Shared, Divided, and Hybrid Physical Custody.**

(1) *Shared Physical Custody.* A child support award in a case in which the parents are awarded shared physical custody as defined by paragraph (f) will be calculated by:

(A) Calculating the annual amount each parent would pay to the other parent under paragraph (a) assuming the other parent had primary custody. In this calculation the income limit in subparagraph (c)(2) applies. ~~and the minimum support amount in subparagraph (c)(3) apply.~~

* * * *

(2) *Divided Physical Custody.* A child support award in a case in which the parents have divided custody is calculated, first, by determining what each parent would owe the other for children in that parent’s primary physical custody under paragraph (a), taking into account the income limit in subparagraph (c)(2) ~~and the minimum support amount in subparagraph (c)(3)~~, and offsetting those amounts. Second, because divided custody is an “unusual circumstance,” the court must consider whether this support amount should be varied under subparagraph (c)(1).

(3) *Hybrid Physical Custody.* A child support award in a case in which the parents have hybrid custody is calculated by applying paragraph (a), taking into account the income limit in subparagraph (c)(2) ~~and the minimum support amount in subparagraph (c)(3)~~, to determine support for children in the primary physical custody of each parent and applying subparagraph (b)(1) to determine support for children in the shared physical custody of the parents. In these calculations, the sub-paragraph (a)(2) percentages must be adjusted pro rata based on the number of children in each type of custody. These results are then combined to determine the net obligation. Finally, because hybrid custody is an “unusual circumstance,” the court must consider whether this support amount should be varied under subparagraph (c)(1).

(c) **Exceptions.**

(1) * * * *

(2) Paragraph (a) does not apply to the extent that the parent has an adjusted annual income of over \$155,000~~\$138,000~~. In such a case, the court may make an additional award only if it is just and proper, taking into account the needs of the children, the standard of living of the children and the extent to which that standard should reflect the supporting parent’s ability to pay.

(3) There is no minimum child support amount. ~~The minimum child support amount that may be ordered is \$50 per month (\$600 per year) except as provided in subparagraph (a)(3) and paragraph (b).~~

(4) * * * *

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COMMENTARY

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III. DEFINING INCOME

A. Generally. * * * *

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C. Potential Income. The court may calculate child support imputing potential income to a parent who the court determines is voluntarily and unreasonably unemployed or underemployed based on an analysis of the factors enumerated in the rule. The court shall consider the totality of the circumstances in deciding whether to impute income and the amount.

A parent who is incarcerated is not voluntarily unemployed. When setting or modifying a child support award for an incarcerated parent, the court must consider whether the incarceration is temporary or results in a substantial reduction in earnings. See *Bendixen v. Bendixen*, 962 P.2d 170 (Alaska 1998).

D. Low-Income Adjustment. A non-custodial parent with a gross annual income of \$30,000 or less must calculate annual adjusted income under two different methods. *See* Rule 90.3(a)(5). First, the parent calculates their annual adjusted income by using the formula under subparagraph (a)(1) with “itemized deductions”. Second, the parent calculates their adjusted annual income by applying the low-income adjustment formula that provides for a \$7,500 “standard deduction” from gross annual income. For purposes of calculating child support, the parent’s adjusted annual income is the lesser of the two calculations. ~~The child support amount is still subject to the \$50 monthly minimum in subparagraph (c)(3).~~ The low-income adjustment was added in 2023 to take into consideration the noncustodial parent’s basic subsistence needs and limited ability to pay, as required by federal regulations governing child support guidelines. *See* 45 C.F.R. § 302.56(c)(1)(ii).

E. Deductions. * * * *

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IV. PRIMARY CUSTODY

A. Generally. “Primary custody” as this term is used in Rule 90.3 covers the usual custodial situation in which one parent will have physical custody of the child—in other words, the child will be living with that parent—for over seventy percent of the year. The shared custody calculation in paragraph (b) applies only if the other parent will have physical custody of the child at least thirty percent of the year (110 overnights per year). The visitation schedule must be specified in the decree or in the agreement of the parties which has been ratified by the court. **See also** commentary V.A.

The calculation of child support for the primary custodial case under Rule 90.3(a) simply involves multiplying the obligor's adjusted income times the relevant percentage given in subparagraph (a)(2). (Normally, the portion of an adjusted annual income over ~~\$155,000~~ ~~\$138,000~~ per year will not be counted. See Commentary VI.D.) As discussed above, the rule assumes that the custodial parent also will support the children with at least the same percentage of his or her income.

B. Visitation Credit. * * * *

V. SHARED, DIVIDED, AND HYBRID PHYSICAL CUSTODY

A. Shared Custody—Generally.

* * * *

B. Calculation of Shared Custody Support. The calculation of support in shared custody cases is based on two premises. First, the fact that the obligor is spending a substantial amount of the time with the children probably means the obligor also is paying directly for a substantial amount of the expenses of the children. Thus, the first step in calculating shared custody support is to calculate reciprocal support amounts for the time each parent will have custody based on the income of the other parent. The “high income” limit of paragraph (c)(2) (~~\$155,000~~~~\$138,000~~) applies to the determination of adjusted income at the first stage of this process. A parent's annual support amount for purposes of this calculation will be no less than \$600. The support amounts then are offset.

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VI. EXCEPTIONS

A. Generally. Child support in the great majority of cases should be awarded under 90.3(a) or (b) in order to promote consistency and to avoid a tendency to underestimate the needs of the children. Nevertheless, the circumstances in which support issues arise may authorize courts to vary support awards for good cause.

The court may apply this good cause exception only if the parent requesting that support be varied presents clear and convincing evidence that manifest injustice would result if the support award were not varied. In addition, a prerequisite of any variation under 90.3(c) is that the reasons for it must be specified in writing by the court.

What constitutes “good cause” will depend on the circumstances of each cause. Three situations constituting “good cause” are discussed below in sections VI.B D. These three specific exceptions are not exclusive; however, the general exception for good cause may not be interpreted to replace the specific exceptions. Absent the (c)(1) exception (unusual circumstances) ~~or, the (c)(2) exception (high income), or the (c)(3) exception (low income),~~ the rule presumes that support calculated under 90.3(a) or (b) does not result in manifest injustice.

B. Unusual Circumstances. 90.3(c)(1) provides that a court shall vary support if it finds, first, that unusual circumstances exist and, second, that these unusual circumstances make application of the usual formula unjust. Examples might include especially large family size, significant income of a child, health or other extraordinary expenses, or unusually low expenses. This determination should be made considering the custodial parent’s income because the percentage of income approach used in Alaska tends to slightly understate support relative to the national average for cases in which the custodial spouse does not earn a significant income. This understatement relative to the national average becomes substantial if the custodial parent has child care expenses. The application of the unusual circumstances exception to particular types of factual situations is considered below.

*1. Agreement of the Parents. * * * **

** * * **

*9. Overtime Income. * * * **

10. Child in Foster Care in Child in Need of Aid Matter. If a child is in foster care pursuant to a Child in Need of Aid matter and the permanency goal for the child is reunification with one or both parents, the court may find that this constitutes good cause to vary child support if the court finds that the imposition of a child support order calculated pursuant to this rule may frustrate achieving that goal.

C. Low Income of Obligor. Paragraphs (a) and (b) of the rule must be applied even in low-income situations. ~~However, in a paragraph (a) [primary custody] calculation and in the first stage of a paragraph (b) [shared, divided or hybrid custody] calculation, if the calculations result in a support amount below \$50.00 per month, a minimum support amount of \$50.00 per month (\$600 per year) must be set. This \$50.00 minimum support applies for all children, not to each child separately. The minimum level may be reduced if an extended visitation credit is granted under Rule 90.3(a)(3). This minimum support amount does not apply to final support~~

~~amounts for shared, divided, or hybrid custody entered under Rule 90.3(b).~~ For child support orders established or modified after [XXXX - insert effective date of Supreme Court Order], the rule no longer requires a minimum monthly support obligation; the minimum \$50 monthly support order requirement was eliminated in 2028 based on the federal Office of Child Support Enforcement's interpretation of 45 C.F.R. § 302.56(c)(1). See SCO [XXXX – insert Supreme Court Order number].

D. High Income of a Parent. Rule 90.3 provides that the percentages for child support will not be applied to a parent's adjusted annual income of over ~~\$155,000~~\$138,000. An additional award may be made only if the other parent is able to present evidence which justifies departure from this general rule. The standard of proof for a departure is preponderance of the evidence, unlike the higher standard of clear and convincing evidence required for a showing of manifest injustice under exception (c)(1). The factors which the court should consider when making an additional award in high income cases are specified in the rule.

E. Retroactive Establishment.

1. *Retroactive Establishment of Child Support.* * * * *

2. *Retroactive Application of Amendments.* When establishing support for a period of time before a complaint or petition was served, the court should apply the most current version of the rule, except for portions of the rule that state dollar amounts. This is because Civil Rule 90.3, unlike most other court rules, is interpretive. The most current version of the rule is presumably the most refined interpretation to date of the statute calling for fair and equitable child support awards. For example, the credit for prior children living with the obligor was not found in early versions of the rule, but nonetheless should be applied when support is being established. However, the dollar amounts in the rule, such as the former minimum support amount (increased from \$40 to \$50) and the income cap (increased over the years from \$60,000 to ~~\$155,000~~\$138,000), have been revised over time to reflect inflation or for other reasons. With regard to these amounts, the court should apply the version of the rule that was in effect in the month for which support is being calculated.

F. Seasonal Income. * * * *