



CHILD SUPPORT IN HIGH INCOME CASES

Arizona Revised Statutes § 25-320(A) abrogates the court to apply the Arizona Child Support Guidelines in determining the appropriate amount of child support to be awarded in every case. The Arizona Child Support Guidelines further expressly provide that, (among other things) where parents combined adjusted gross income is greater than \$20,000.00 per month:

The amount set forth for combined adjusted gross income of \$20,000.00 shall be the presumptive basic child support obligation. The party seeking a sum greater than this presumptive amount shall bear the burden of proof to establish that a higher amount is in the best interests of the child(ren), taking into account such factors . . . which . . . demonstrate that the increased amount is appropriate.

In order of a party to rebut the presumption of Guideline Support (upward deviation) a party must demonstrate that additional child support is necessary based upon the following statutory factors:

1. The financial resources and needs of the child.
2. The financial resources and needs of the custodial parent.
3. The standard of living the child would have enjoyed have the marriage not been dissolved.
4. The physical and emotional condition of the child and the child's educational needs.
5. The financial resources and needs of the non-custodial parent.
6. Excessive or abnormal expenditures, destruction, concealment, fraudulent disposition of community, joint tenancy, and other property held in common.
7. The duration of parenting time and related expenses.

If the parties combined earnings exceed the Guidelines income cap of \$20,000.00, the court must presume that a calculation based on the Guidelines cap is appropriate to meet the reasonable and necessary needs of the minor children. Section 8 of the Child Support Guidelines requires a showing that it is in the best interests of the children that support in excess of the Guidelines be ordered. As a result a parent must prove by credible and reliable evidence that the best interests of the children mandate a higher support amount.

The Arizona Child Support Guidelines are based on the actual cost to raise a child and recognize that there is a point beyond which child support no longer simply supports the child, but rather, constitutes an improper distribution of the payors estate to the other parent. Indeed an award beyond the presumptive needs of the child could result in an award of disguised spousal maintenance. To argue that a parent is entitled to an upward deviation from the Guideline presumptive cap only because the payor parent has substantial income in excess of the Child Support Guidelines ignores the underlying policy and purpose of the Arizona Child Support Guidelines. The Child Support Guideline directives deviate only where the needs of the children have not been met as well the focus on the parent's substantial assets or excess earning capacity should be considered.