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Child Support Myths and Truths: Exploring the Assumptions Underlying Florida's Statutory Guidelines

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Myths which are believed in, tend to become true.¹ In exploring the mythology which has developed since Florida's child support guidelines were adopted in 1987, it is apparent that George Orwell's observation rings true. In an effort to foster a better understanding and avoid misapplication of the guidelines, this article is intended to expose the myths that have arisen and to identify the economic and political assumptions upon which the guidelines were predicated.

Myth: The guideline table contained in F.S. §61.30(6) was generated based upon an economic analysis of expenditures in divorced families living in Florida.

Truth: The statutory table and amounts were initially developed by the Office of Child Support Enforcement (OCSE) within the U.S. Department of Health and Human Resources and were premised upon the work of Thomas J. Espenshade, who was a senior research assistant in the Women and Family Policy Program at the Urban Institute.² Espenshade analyzed the 1972-73 Consumer Expenditures Survey (CES), which was administered by the U.S. Bureau of Labor Statistics and the Bureau of the Census, in order to develop estimates of child rearing costs. The survey, which was the primary basis for Espenshade's estimates, was a nationwide sample of intact urban and rural families who were asked to report on their total expenditures for a period of 15 months.³ No divorced families were surveyed.⁴ Espenshade's estimates were also based upon two-parent households in which the wife was

Is it time for assumptions and economics to be revisited so that the amounts awarded on children's behalf reflect the realities of divorced and blended families?

employed at least part time.

The failure to consider the potentially increased costs of child rearing in the event of a divorce in formulating the guidelines was rationalized by the OCSE in two ways. First, there was "no credible or current data for single-parent households" and, second, the data concerning intact households was believed to generate higher support levels than in a "single parent household," because the parties to a divorce usually experience an overall reduction in their standard of living following their divorce.⁵ These justifications seem unsubstantiated since the data in Espenshade's research was already approximately 15 years old at the time the guidelines tables were initially formulated and no attempt was made to determine the actual amount of money spent by divorced parents on their chil-

dren. Thus, it remains unclear whether the OCSE's election to use figures for children of intact families was appropriate, especially given the common lament of divorced parents that two households cannot live as cheaply as one.

Myth: Florida's child support guidelines are federally mandated and a judge cannot deviate from the guidelines.

Truth: The federal government requires each state, as a condition for having its state welfare plan approved, to establish guidelines for child support award amounts. There must be a rebuttable presumption that the award, which results from application of the guidelines, is the correct amount of support to be awarded, unless application of the guidelines would be unjust or inappropriate in a particular case.⁶ The rationale underlying this mandate is to ensure the adequacy of child support awards and consistent use of the guidelines. "Although guidelines need not be binding, properly developed guidelines can have a substantial benefit if parents, attorneys and agencies know they will be applied in each case, except when a court determines exceptional circumstances warrant deviation."⁷

In regard to the ability of courts to deviate from the guidelines, proponents recommended that any deviations must be supported by findings "to protect the integrity of the guidelines and facilitate equitable determination in subsequent modifications."⁸ Despite the federal intent that deviations are made only in "exceptional circumstances," Florida law