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## Results of the Online Survey on the Federal Child Support Guidelines

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In Canada, child support is calculated using regulations called child support guidelines. They are a set of rules and tables used to determine child support amounts. The [Federal Child Support Guidelines](#) (Federal Guidelines) are regulations under the *Divorce Act* that apply when parents divorce or are divorced. There are also provincial and territorial child support guidelines that apply when married parents separate but do not divorce, or when the parents were never married to each other.

As part of ongoing work on the Federal Guidelines, the Department of Justice Canada (Justice Canada) is exploring possible ways to increase access to justice for families by trying to divert some matters, where appropriate, from the courts.

In 2024, Justice Canada undertook a targeted online engagement survey to gather stakeholder feedback on the Federal Guidelines and on possible changes to specific areas. The online survey focused on two areas that are often described as being particularly contentious, difficult to resolve and as creating access to justice barriers:

- Determining child support amounts in shared parenting time arrangements (section 9)
- Compliance with income disclosure obligations

The online survey was distributed to family law stakeholders, which included academics, legal professionals, advocacy organizations, non-profit organizations (including parents' groups), and other professionals (e.g., financial experts). Efforts were made to distribute the survey widely among stakeholders in the family law community by encouraging respondents to share the survey link within their networks. Because participants were not randomly selected to complete the survey, the findings are not generalizable and may not reflect the views of everyone who works in or has experience with the family law system. The online survey received 532 responses; 75% of respondents identified as family law experts (experts), and 25% identified as parents.

This fact sheet highlights key findings from the online survey.

## 1. Determining child support amounts in shared parenting time arrangements

Under the Federal Guidelines, shared parenting time is when children spend at least 40% of the time with each parent in a year. When parenting time is shared, the rules under section 9 of the Federal Guidelines allow discretion in determining the appropriate child support amount.

Some family law stakeholders have suggested changes to section 9 to provide more structure and simplicity to how child support amounts are determined. They suggest that specific rules would promote agreement and facilitate access to justice by increasing the use of family justice services.

Because of the discretionary nature of the provision, many families in shared parenting time arrangements are not eligible to use administrative child support services to calculate or recalculate child support amounts. These families must go to court to determine child support amounts when there is a dispute over the support amount or there has been a change in income for one of the spouses. This can put significant pressure on the family justice system and create access to justice barriers for these families.

**Most respondents indicated that the current shared parenting time provision (section 9) is not useful or effective to determine child support amounts in shared parenting time arrangements.**

- Respondents were asked about the usefulness and effectiveness of the current shared parenting time provision:
  - 50% disagreed or strongly disagreed that the shared parenting time provision works well
  - 53% disagreed or strongly disagreed that it is easy to use
  - 54% disagreed or strongly disagreed that it leads to predictable child support amounts

**There was support among respondents for possible changes to the shared parenting time provision.**

- When asked about impacts of potential changes to the shared parenting time provision, the responses were largely positive. The highest level of agreement was that changes would reduce conflicts between parents. More than 8 in 10 respondents agreed that changes would reduce conflicts between parents, with 57% of those respondents indicating they strongly agreed. A similar proportion of respondents (82%) agreed that changes would facilitate out of court agreements between parents.
- There was strong support (more than three-quarters of respondents agreeing) for a possible change to make the set-off the starting point in the determination of child support amounts in shared parenting time arrangements. When asked about the potential impacts of this approach, 79% of respondents agreed or strongly agreed it would

A **set-off** is calculated by using the Federal Child Support Tables amount for each parent based on their income and the total number of children. The set-off is the difference between the two table amounts.

make it easier to determine child support amounts. More than half of respondents (55%) also agreed that using the set-off as the starting point would help to ensure that child support amounts are fair given the child's circumstances.

- When looking at the possibility of changing the shared parenting time provision to specify that special or extraordinary expenses (section 7)<sup>1</sup> can be added to the set-off amount, almost two-thirds of respondents (65%) agreed with such a change. Respondents generally agreed such a change would have benefits for children and families. They agreed that it would make child support determinations easier (56%), more predictable (57%), and fair (59%). About half agreed (49%) it would reduce conflicts between parents.
- When asked about the possibility of adding a list of specific criteria<sup>2</sup> to depart from the set-off amount where appropriate, there was strong agreement among respondents that the approach would have benefits for children and families, with 77% agreeing with such a change. Eighty-five percent (85%) of respondents agreed that including departure criteria would allow courts to recognize that in some situations the set-off may not accurately reflect the sharing of expenses between parents. Three-quarters (75%) agreed that departure criteria would help to ensure that child support amounts are fair.

## 2. Compliance with income disclosure obligations

Under the Federal Guidelines, parents need to provide complete and up-to-date income information to ensure a fair amount of support. There are two types of income disclosure obligations: initial and continuing.

- Initial disclosure obligation: The Federal Guidelines require that one or both parents provide their complete and up-to-date income information for the last three (3) tax years to determine the first child support amount.
- Continuing disclosure obligation: Parents then have an obligation to continue to provide income information after a child support order is made to ensure children receive fair support based on up-to-date information. Under the Federal Guidelines, if a parent requests updated income information in writing no more than once a year, the other parent has an obligation to provide that information. In addition, the Supreme Court of Canada said that parents must pay child support based on their most current income information.<sup>3</sup> Therefore, parents should keep each other informed of changes to their income.

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<sup>1</sup> Section 7 of the Federal Guidelines provides an exhaustive list of special or extraordinary expenses. Under the current section 9 approach, these expenses are not analyzed separately from other expenses when calculating support as the court already has broad discretion to determine the appropriate child support amount.

<sup>2</sup> Departure criteria would allow a court to use its discretion in exceptional situations to determine if child support amounts should increase or decrease from the set-off amount.

<sup>3</sup> *D.B.S. v. S.R.G.; L.J.W. v. T.A.R.; Henry v. Henry; Hiemstra v. Hiemstra*, [2006] 2 S.C.R. 231, 2006 SCC 37. Additional information can be found in the [Fact Sheet - Income Disclosure for Child Support Purposes](#).

The Federal Guidelines also set out sanctions and other consequences if a parent fails to disclose this information. Despite these sanctions, failure to comply with income disclosure obligations for family support purposes is often described as one of the biggest problems in the family justice system. Lack of accurate and up-to-date income information makes it difficult to determine fair and accurate child support amounts and puts pressure on the family justice system. It also creates financial and emotional hardship for the parties involved.

### **Many respondents indicated that the current income disclosure obligations are not working well and are not easy to use.**

- Respondents were asked whether the current income disclosure obligations work well and are easy to use:
  - 49% disagreed or strongly disagreed that the current income disclosure obligations work well
  - 37% disagreed or strongly disagreed that they are easy to use

### **There was support among respondents for changes to the income disclosure obligations.**

- Respondents generally agreed that changes to the income disclosure provisions would have positive impacts on children and families. Around three-quarters of respondents agreed or strongly agreed that changes would encourage compliance with the disclosure obligations (75%) and clarify when income information must be shared (76%).
- There was general agreement that it would be beneficial to introduce a new mandatory annual obligation for former spouses to disclose their income to one another. Respondents agreed that mandatory disclosure would make the provision easier to understand (74%), ensure support amounts are fair (72%), encourage compliance with disclosure obligations (72%), and reduce conflicts between parents (58%).
- When asked about the possibility of including additional sanctions or consequences to increase compliance with disclosure obligations, there was strong support among respondents for such a change (77% agreeing or strongly agreeing).
- There was strong support for a presumption that child support be retroactively increased as of the date a payor's income increases. Seventy percent (70%) agreed that it would make child support determinations easier and 66% agreed that it would encourage compliance with income disclosure obligations. Half of respondents (49%) agreed that such a change would reduce conflicts between parents.
- There was also support for a presumption related to retroactive reductions in child support that would clarify that the child support amount cannot be decreased back to a date before a notice of the reduction in income is provided to the child support recipient. Almost two-thirds (64%) of respondents agreed that including a presumption for retroactive changes for decreases in income would make child support determinations easier, and a similar proportion (70%) agreed it would

encourage compliance with income disclosure obligations. Just under half (45%) of respondents agreed that such a change would reduce conflicts between parents.

## **Conclusion**

- The online survey results showed that there is general support for changes to the shared parenting time and income disclosure provisions under the Federal Guidelines.