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## FAMILY LAW

# Reasonable Needs Now to Be Considered in High-Income Child Support Cases

*Editor's note: The author represented the appellant in Hanrahan v. Bakker.*

**BY MICHAEL E. BERTIN**

*Special to the Legal*

The recent Pennsylvania Supreme Court case of *Hanrahan v. Bakker*, 186 A.3d 958 (Pa. 2018), a unanimous decision, and a case of first impression, changes the application of the high-income child support guidelines in Pennsylvania. Child support in Pennsylvania is governed by a statute and guidelines contained in the Pennsylvania Rules of Civil Procedure. Under the statute, 23 Pa. C.S. 4322, the child support guidelines are to be based on two main components: the ability of the payor to pay, and the reasonable needs of children. The child support guidelines are created from economic data pursuant to studies regarding the reasonable needs of children in intact households that are revised every four years. The child support guidelines are broken into two components. One component is a chart, and the other component is a three-step process. The chart applies to families that have a combined monthly net income up to \$30,000. The reason that the chart stops at \$30,000 combined monthly net income is that there is no reliable economic data



**MICHAEL E. BERTIN** is

*a partner at the law firm of Obermayer Rebmann Maxwell & Hippel. He is co-author of the book "Pennsylvania Child Custody Law, Practice, and Procedure." Bertin is a fellow of the American*

*Academy of Matrimonial Lawyers, a former chair of the family law section of the Philadelphia Bar Association, the current co-chair of its custody committee, and holds the officer position of first vice chair of the family law section of the Pennsylvania Bar Association. Contact him at 215-665-3280 or michael.bertin@obermayer.com.*

regarding the reasonable needs of children in households where the combined monthly net income exceeds \$30,000. Families who have a combined monthly net income in excess of \$30,000 per month are considered high-income cases and have child support calculated based on the three-step process.

The three-step process is as follows: first, there is a preliminary analysis which includes a percentage of the parties' income in excess of \$30,000 added to the highest amount of support on the chart related to the number of children in the family, the second step contains an adjustment for substantial physical of the payor and allocation of additional expenses, and the third step contains

deviation factors (such as the standard of living of the parties and their children) to be applied in conjunction with a 50-plus category expense sheet.

Prior to 2010, the three-step process for high-income families did not exist. During that time period, high-income child support was calculated pursuant to case law. The case of *Melzer v. Witsberger*, 480 A.2d 991 (Pa. 1984), contained the methodology of calculating the reasonable needs of the children in arriving at a support figure for high-income families. When the support guidelines were revised in 2010, the three-step process for calculating high-income child support supplanted the *Melzer* analysis. Once this happened, trial courts began applying the first step of the three-step process as the "guideline calculation" for calculating high-income child support and ignored the 50-plus category expense sheet and reasonable needs of the children. Trial courts looked to non-high-income child support cases as authority for this method.

In the case of *Hanrahan*, the parties had a property settlement agreement that provided that the parties would exchange their income information each year and recalculate child support pursuant to the Pennsylvania child support guidelines. According to the opinion, each year, though the father indicated that he

believed calculating child support solely based on the first step of the three-step process was incorrect, he agreed to that calculation in order to avoid litigation. In 2012, Michael Hanrahan had an extraordinary year and earned in excess of \$15 million. By applying the first step formula in the three-step analysis for calculating high-income child support, an absurd result occurred whereby he would pay an excess of \$60,000 per month for child support. Hanrahan, in a letter, indicated that he was not in agreement with that result and instead wanted to apply the guidelines correctly and consider the children's reasonable needs.

Both parties filed cross-petitions as they could not agree upon the child support to be paid for that year for their two children. It is to be noted that the parties equally share physical custody of the children. Pursuant to the requirements under the Pennsylvania child support guidelines, the parties exchanged their expense sheets which reflected that they each paid approximately \$2,000 per month in their respective households, not including the approximate \$70,000 that Hanrahan paid for camps and school tuitions. Hanrahan also set up a nongrantor, irrevocable trust in the amount of \$2.5 million for the children in that extraordinary year.

After the trial, and motions for reconsideration filed by both parties, "the trial court issued an amended order concluding that the father owed a monthly total child support of \$52,289 for the period of May 1, 2013, until Aug. 8, 2013, and \$59,206 for the period of Aug. 9, 2013, to April 30, 2017." According to the opinion, "In calculating the support, the trial court rejected the father's claim that the court was required to conduct a discrete analysis of the reasonable needs of the children in applying the high-income guidelines and concluded that any such analysis had been eliminated from the child support guidelines."

The parties both appealed to the Superior Court. The Superior Court, in part, held, in a split decision, that the

trial court did not err in fashioning a child support award without conducting a discrete analysis of the reasonable needs of the children. As stated in the Supreme Court decision: "Accordingly, the Superior Court rejected the father's contentions that the 'replacement of the complicated *Melzer* analysis with the three-step process of Rule 1910.16-3.1 did not eliminate the reasonable needs limitation on child support' and that the trial court must consider a child's reasonable needs when determining an appropriate support award pursuant to 23 Pa. C.S. 4322." The Superior Court specifically relied upon the Supreme Court decision of *Ball v. Minnick*, 648 A.2d

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1192 (Pa. 1994), which was a non-high-income child support case.

The father filed a petition for allowance of appeal with the Pennsylvania Supreme Court which the Pennsylvania Supreme Court granted and accepted the case. The Pennsylvania Supreme Court unanimously reversed the Superior Court and held that: "the application of the high-income child support guidelines found at Pa.R.C.P. 1910.16-3.1 requires discrete consideration of the reasonable needs of the children involved through application of its third step, which involves analysis of the deviation factors set forth in Pa.R.C.P. 1910.16-5(b) and the parties' income and expense statements." This is a major change in the application of the high-income child support guidelines in Pennsylvania. The Supreme Court further stated: "with respect to

the deviation factors, we acknowledge that reasonable needs are not specifically listed. Nevertheless, we agree with the father that it was one of the overarching criteria, along with the ability of the obligor to pay, which is served through application of the articulated factors."

Because there is no economic data for families whose combined monthly net income exceeds \$30,000, review of the parties' 50-plus category expense statements is necessary and essential so that the data for that family is known. By doing this, the mandates of 23 Pa. C.S. 4322 are met, whereby child support orders will be related to the reasonable needs of children in all cases. To only apply the percentage formula in Step 1 of the three-step process would result in support calculations that become less related to economic data.

The 42-page opinion authored by Justice Max Baer and the five-page concurring opinion authored by Justice David Wecht contained great detail and analysis and should be reviewed closely by all family law practitioners and the bench as this case represents a seismic shift in calculating high-income child support across the state. The case also addressed the issue of whether a deviation in the amount of support was permitted based on the trust created by the father as well as attorney fees. The Supreme Court found that the trust did not warrant a deviation in the amount of child support and also reversed the order of attorney fees which was granted by the Superior Court. However, the primary issue of the case impacting Pennsylvania in high-income child support cases is the mandate of courts now conducting a reasonable needs analysis in calculating high-income child support. •