

DCF 150.03(3)	2015 Guidelines Committee recommended changes to DCF 150.03(3)	Federal Finale Rule
<p>(3) DETERMINING INCOME IMPUTED BASED ON EARNING CAPACITY. In situations where the income of a parent is less than the parent's earning capacity or is unknown, and in the absence of credible evidence to the contrary, the court may impute income to the parent at an amount that represents the parent's ability to earn, based on the parent's education, training and recent work experience, earnings during previous periods, current physical and mental health, history of child care responsibilities as the parent with primary physical placement, and the availability of work in or near the parent's community. If evidence is presented that due diligence has been exercised to ascertain information on the parent's actual income or ability to earn and that information is unavailable, the court may impute to the parent the income that a person would earn by working 35 hours per week for the higher of the federal minimum hourly wage under <a href="#">29 USC 206(a)</a> (1) or the state minimum wage in s. DWD 272.03. As an alternative to imputed income, the court may order the parent who is not a custodial parent to search for a job or participate in a work experience and job training program, including the Children First program under s. 49.36, Stats. If a parent has gross income or income modified for business expenses below his or her earning capacity, the income imputed based on earning capacity shall be the difference between the parent's earning capacity and the parent's gross income or income modified for business expenses.</p>	<p>(3) Determining income imputed based on earning capacity. In situations where the income of a parent is less than the parent's earning capacity or is unknown, <b>and in the absence of credible evidence to the contrary</b>, the court may impute income to the parent at an amount that represents the parent's ability to earn, <u>based on the parent's education, training and recent work experience, earnings during previous periods, current physical and mental health, history of child care responsibilities as the parent with primary physical placement, and the availability of work in or near the parent's community.</u> If evidence is presented that due diligence has been exercised to ascertain information on the parent's actual income or ability to earn and that information is unavailable, the court may impute to the parent the income that a person would earn by working <b>10 to 35 hours per week, based on the availability of work in or near the parent's community for individuals in similar circumstances of the parent,</b> for the higher of the federal minimum hourly wage under <a href="#">29 USC 206</a> (a) (1) or the state minimum wage in s. <a href="#">DWD 272.03</a>. If a parent has gross income or income modified for business expenses below his or her earning capacity, the income imputed based on earning capacity shall be the difference between the parent's earning capacity and the parent's gross income or income modified for business expenses.</p> <ul style="list-style-type: none"> <li>• Provide that the low-income formula can be combined with the shared, serial, and split placement formulas.</li> <li>• Provide language suggesting job search and/or the Children First program as alternatives to imputing income in low income cases.</li> <li>• Remove the words 'up to' from Appendices C and D in DCF 150 to clarify that the amounts in the low income and birth costs charts apply to incomes at or above 75% of the federal poverty level. The court should exercise its discretion in setting support for payers with incomes below 75% of the federal poverty level.</li> </ul>	<p>We revised § 302.56(c)(1) to clarify that the child support guidelines established under paragraph (a) must provide that the child support order is based on the noncustodial parent's earnings, income, and other evidence of ability to pay. The guidelines must take into consideration all earnings and income, the basic subsistence needs of the noncustodial parent who has a limited ability to pay, and if income is being imputed, <b>the specific circumstances of the noncustodial parent</b> (and at the State's discretion, the custodial parent) to the extent known, including such factors as <b>the noncustodial parent's assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the noncustodial parent, prevailing earnings level in the local community, and other relevant background factors in the case.</b></p>