



**Welcome to the 26th Annual
AB 1058 Child Support
Training Conference**

Please enter your First Name/Last Name, and Court or County to sign in for this session

1. Enter your First Name and Last Name (i.e., John Doe, Ann Lewis, Don Lee).



2. Enter your Court or County.



3. Click on “Submit.”

Participant Sign-in

1. Please enter your First Name(s) and Last Name(s) - such as John Doe, Ann Lewis (Short Answer)

2. Please enter your Court or County (Short Answer)



Review of the Statewide Uniform Child Support Guideline 2021

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Review of the Statewide Uniform Child Support Guideline 2021

MAY 16, 2022



JUDICIAL COUNCIL
OF CALIFORNIA
OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS



Federal and/or State Guideline Review Requirements (page i)

Review once every four years:

- Consider economic data on the cost of raising children
- Analyze case file data, and
- Gather input from a wide range of stakeholders.

Expectations:

- Develop data-informed recommendations:
 - ensure the guideline results in appropriate child support orders, and
 - deviations from the guideline are limited.



Report Chapters

- Chapter 1: Introduction
- Chapter 2: Basis of the Child Support Guideline Formula and Economic Evidence of the Cost of Raising Children
- Chapter 3: Low-Income Analysis of Labor Market Data
- Chapter 4: Legal Analysis of Federal Regulations Regarding Income Available for Child Support
- Chapter 5: Findings Form the Analysis of Case File Data
- Chapter 6: Findings From the Focus group
- Chapter 7: Conclusions and Recommendations



Federal Requirements of State Guidelines Have Expanded (p viii)

- Consider other evidence of ability to pay in addition to a parent's earnings and income;
- Consider the basic subsistence needs of the noncustodial parent who has a limited ability to pay;
- If imputation of income is authorized, must also consider the actual circumstances of the obligor; and
- May not treat incarceration as voluntary unemployment in establishing or modifying support orders.

In addition, data analysis requirements to be considered as part of a guidelines review have expanded.



Chapter 2: Findings from Economic Analysis

- Federal requirement to analyze cost of raising children
- Over a dozen studies on cost of raising children examined
 - Vary in data years, and
 - Methodology
- “Unpacks” the data and assumptions underlying the current formula
- Major Conclusion: California guideline amounts are not inadequate



The Existing California Formula

When 1 Child

$$CS = K [HN - (H\%) (TN)]$$

CS – child support

K - % of income

HN- higher earner income

H% - Timeshare

TN- Total net disposable income

For more children, multiply by...

- 1.6 for 2 children
- 2.0 for 3 children...
- Up to 2.86 for 10 children

Total net disposable income per month	<i>K-factor</i> (amount of both parents' income allocated for child support)
\$ 0–\$800	$0.20 + TN/16,000$
\$801–\$6,666	0.25
\$6,667–\$10,000	$0.10 + 1,000/TN$
Over \$10,000	$0.12 + 800/TN$

“anchor”



The Existing California Formula

- Unique to California, no other state uses
- Mathematically efficient but more complex
- Less transparent than other state formulas, which typically clearly state:
 - Amount each parent is expected to contribute to raising the child; and
 - The amount of the adjustment for shared parenting time.

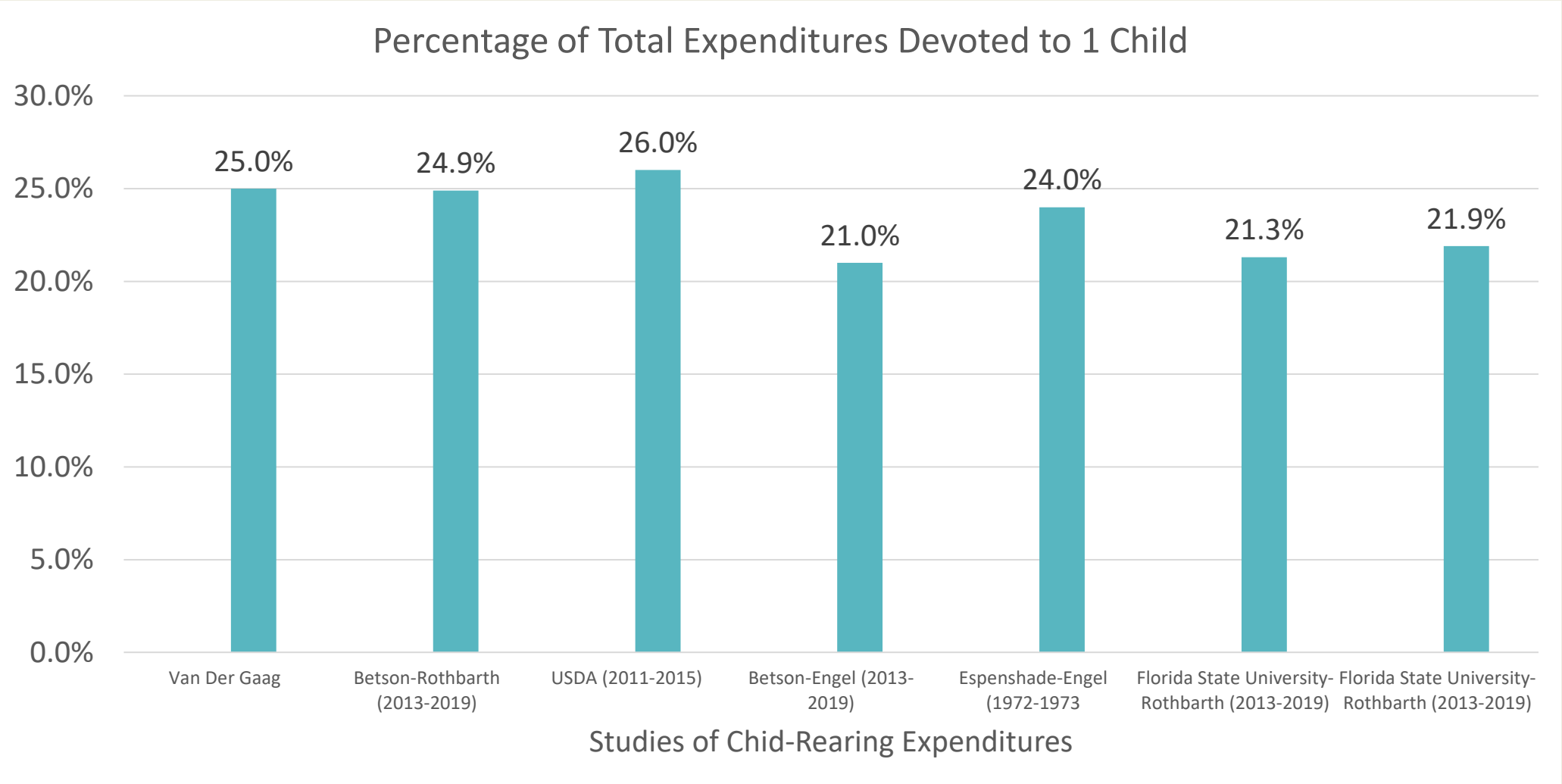


Conclusion about Formula Parameters

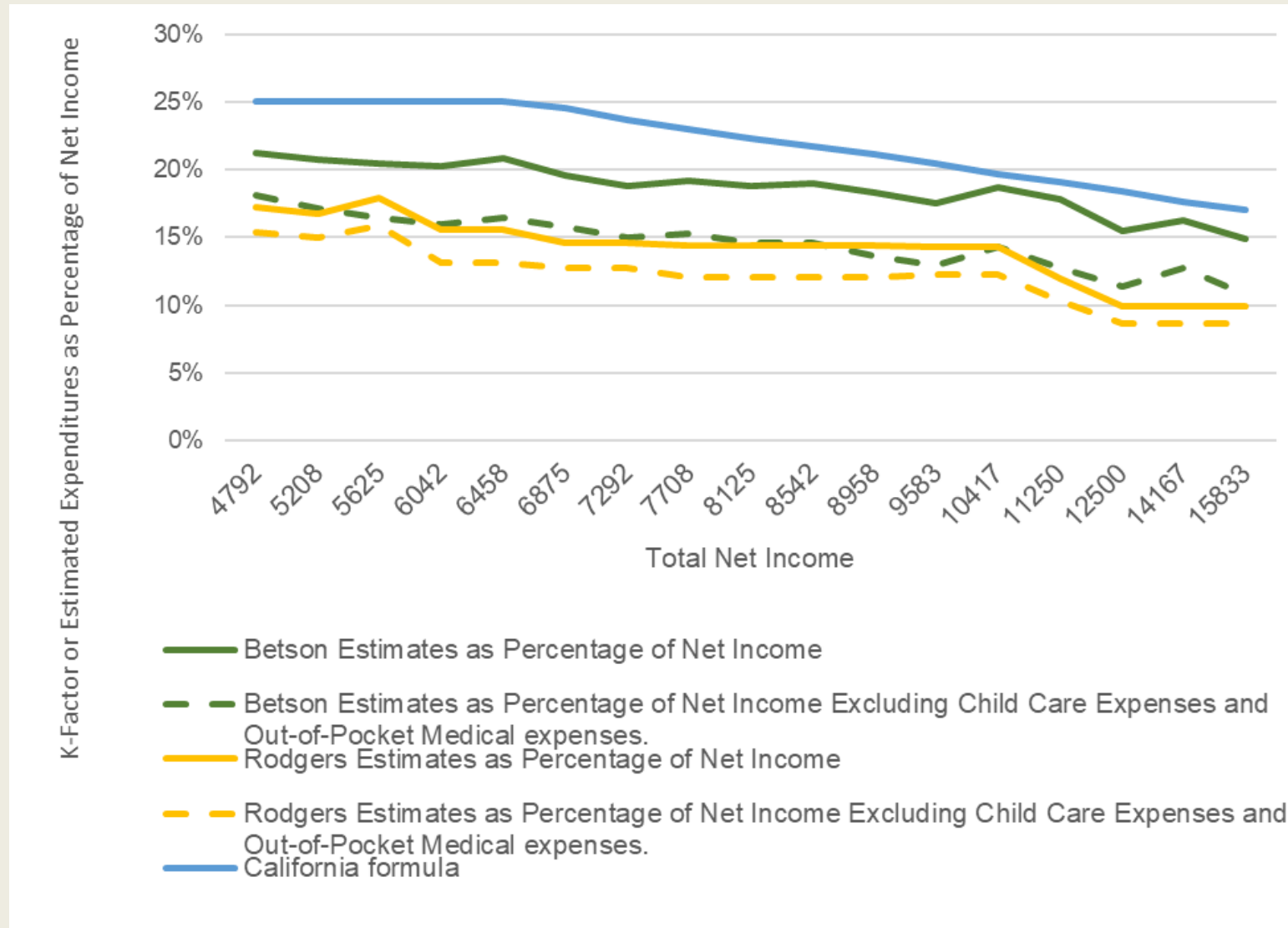
Are the Following Parameters of the Existing Guideline Formula Appropriate and Just?	Conclusions
The 25% “anchor K-factor” for one child for disposable income of \$801-\$6,666 per month	<ul style="list-style-type: none"> • Within range of studies on cost of child rearing
K-factor for disposable income below \$800 per month	<ul style="list-style-type: none"> • Intended as low-income adjustment • Out-of-date
K-factors at higher incomes	<ul style="list-style-type: none"> • Some evidence too high • Lots of assumptions to consider
Multipliers for more children	<ul style="list-style-type: none"> • Some evidence too high • Additional issue of percentages for more children exceeding income withholding limits
Timesharing adjustment embedded in formula	<ul style="list-style-type: none"> • The assumption about how much more it costs to raise child when the child spends time with each parent isn't always sensible



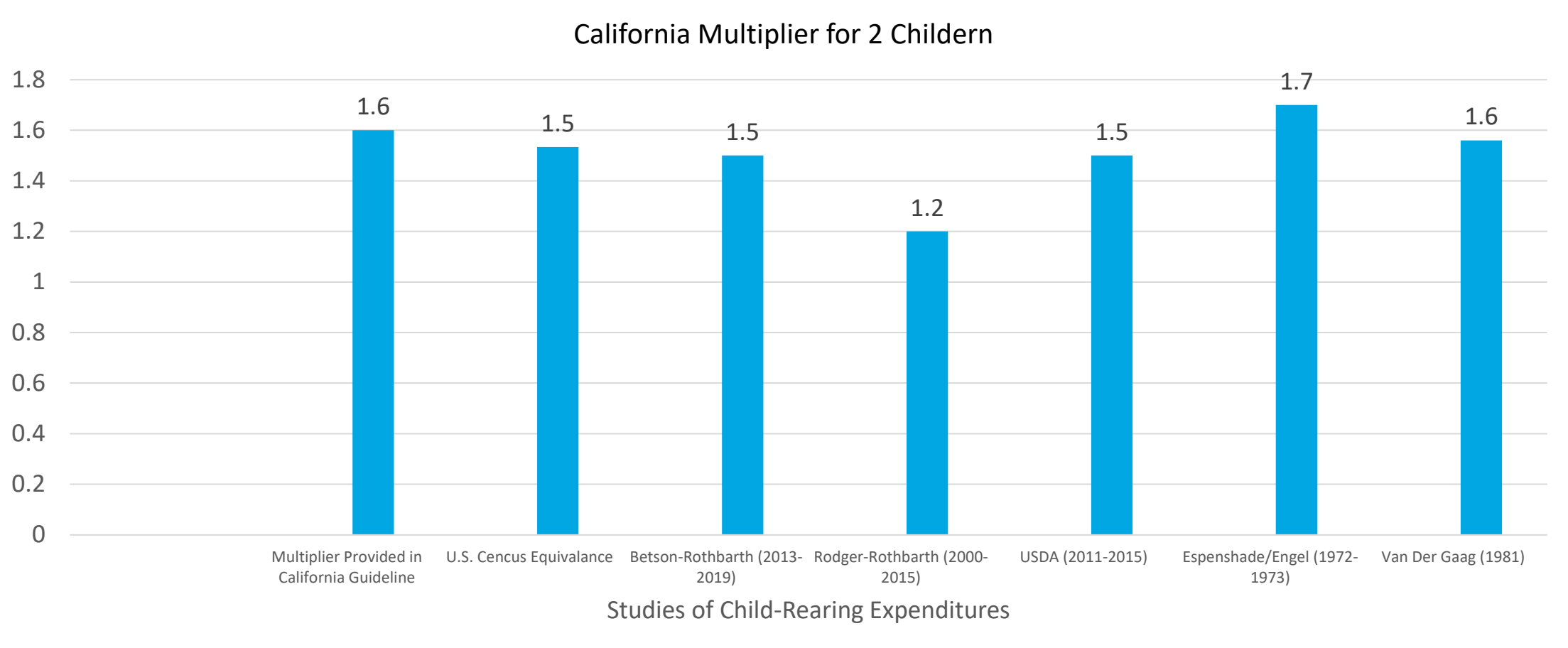
Does the 25% Anchor Align with Economic Evidence?



Assessing K-factor at higher incomes is more difficult because different definitions of income

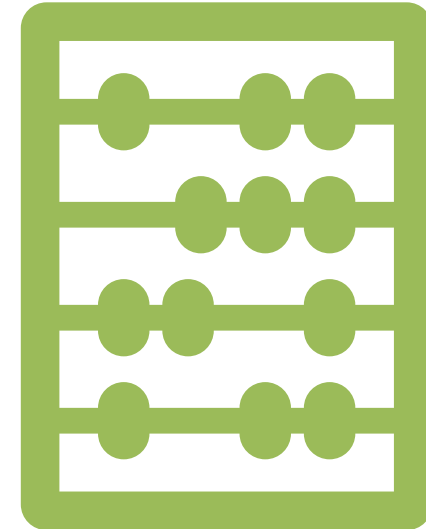


Multiplier for More Children?



Multipliers when Lots of Children

- California covers up to 10 children (2.86 so 71.56% of income)
- Most states cover up to 5-6 children
- Consumer Credit Protection Act limits wage garnishment for child support to 45-65%
 - Some states provide a deviation for child support that exceeds a threshold that approximates the CCPA limit (e.g., if order is more than 45% of income, deviation is permissible)



Chapter 3: Low-Income Adjustment and Analysis of Labor Market Data



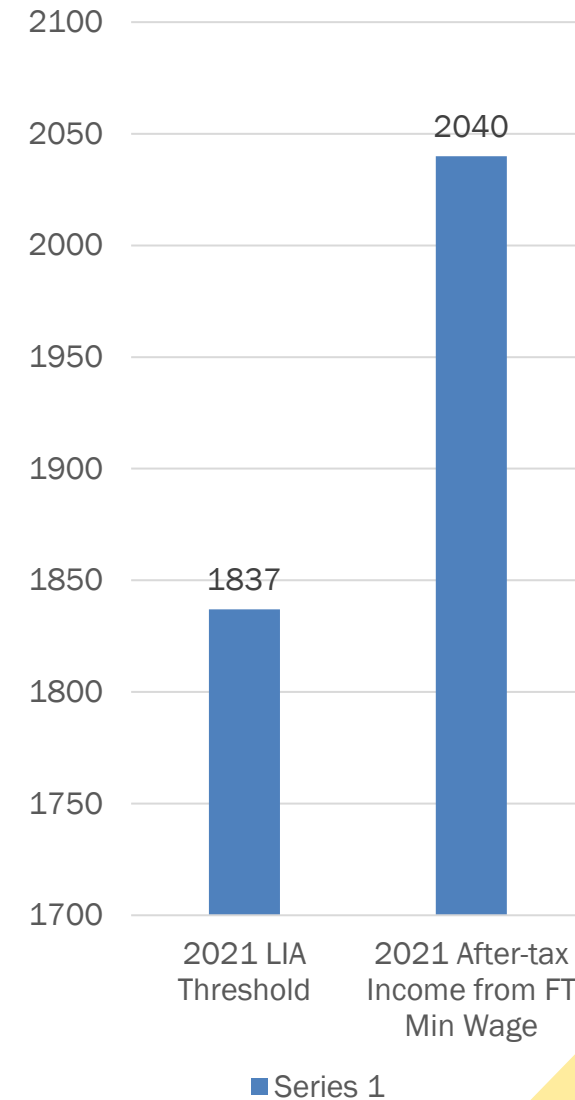
Federal Regulation: Low-Income Adjustments (p 6)

- State guidelines must consider the basic subsistence needs of the obligor through a low-income adjustment such as a self-support reserve
 - Option to extend adjustment to custodial parents
- Research-informed requirement:
 - support beyond what a low-income parent has the ability to pay has many outcomes that do not serve the best interest of the child

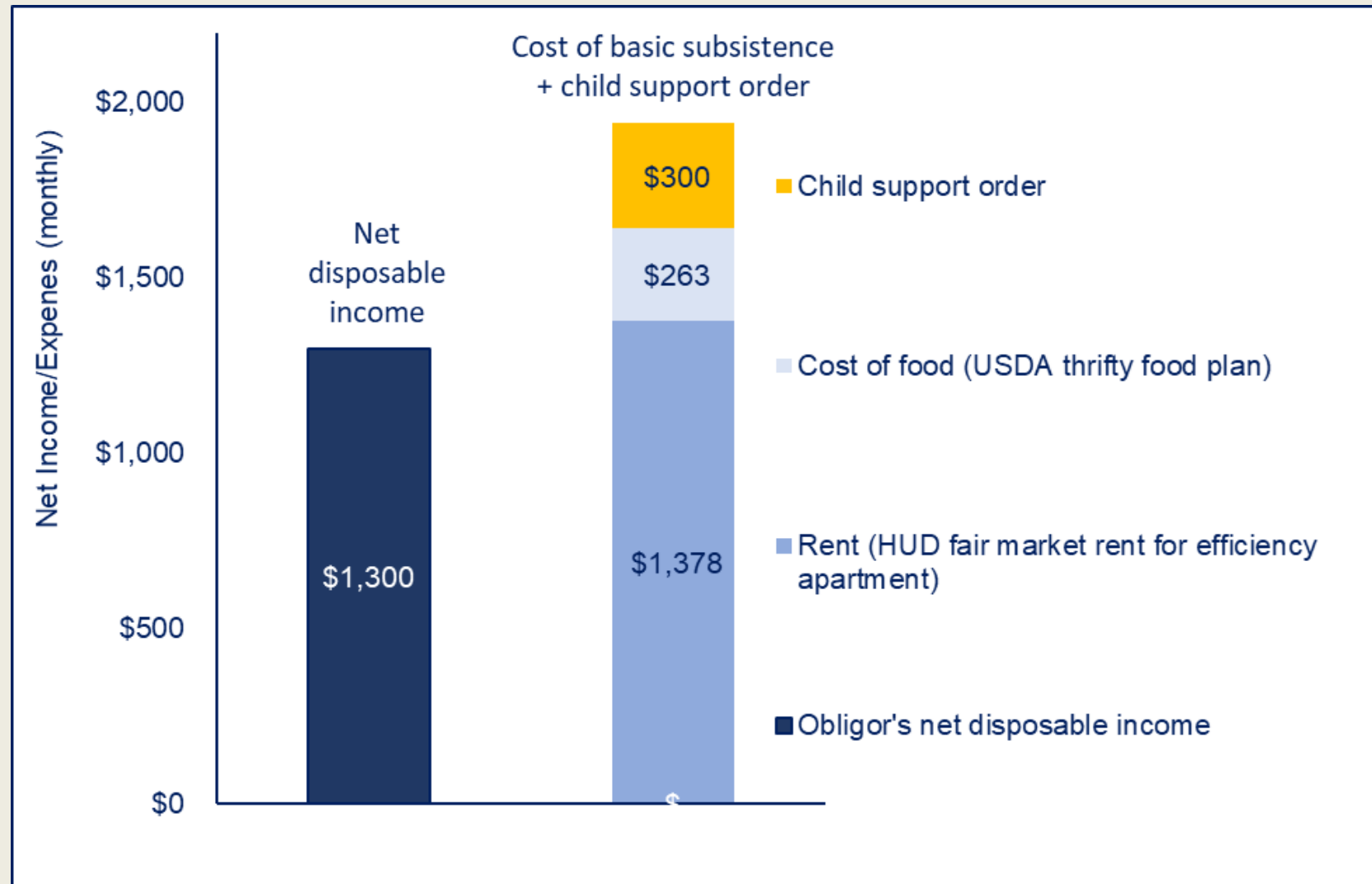


Major Findings on Low-Income Adjustment (LIA)

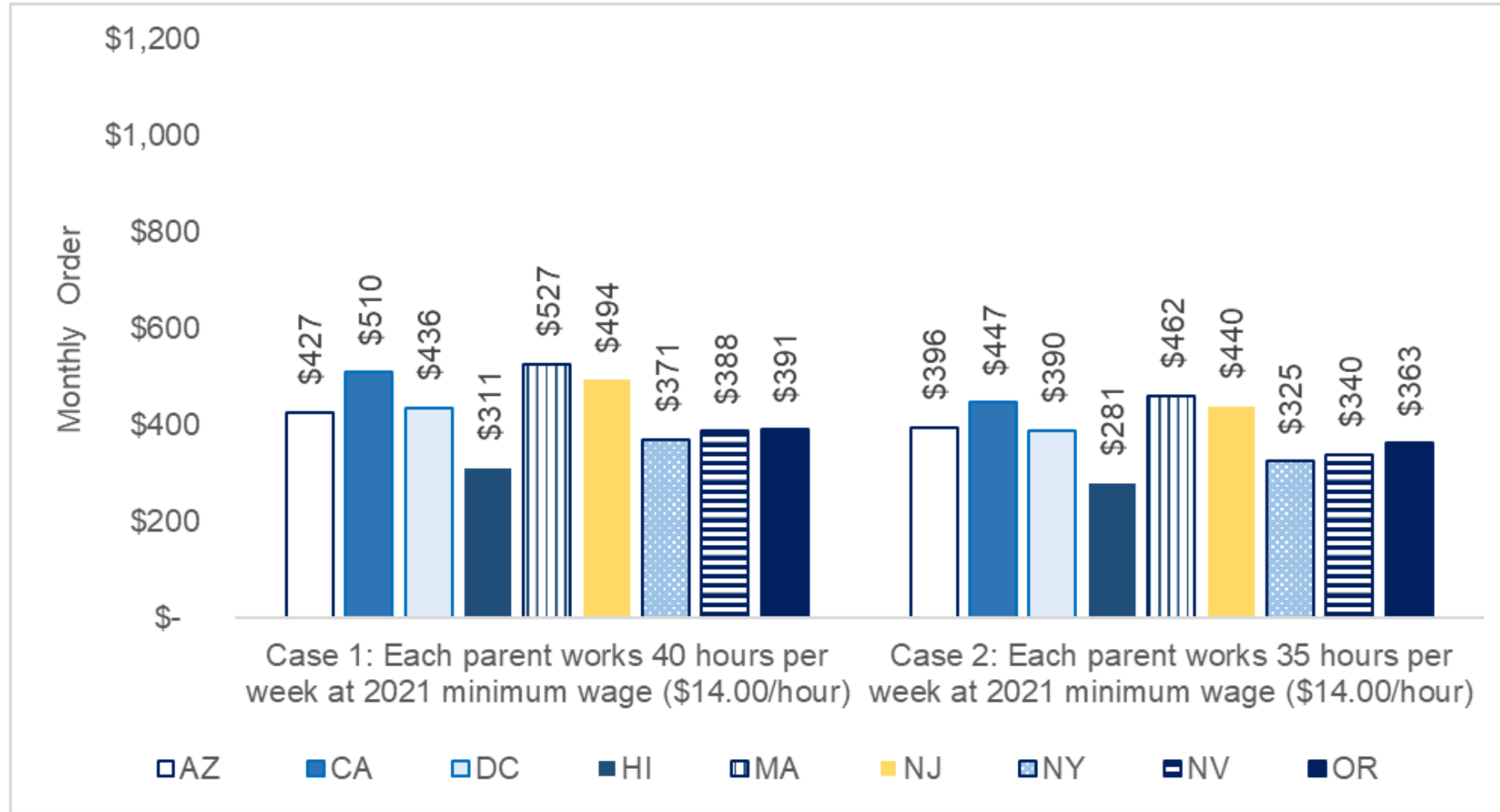
- CA fulfills federal requirement with a LIA formula that provides a range for the adjustment
 - Lowest is a proportional reduction to guideline amount
 - Highest is the guideline amount
 - $LIA = CS \times (\$1,837 - \text{obligor's net disposable income}) / \$1,837$
- The income threshold for applying the LIA is too low
- The first two income bands of the *K-factor* formula limit the effectiveness of the LIA
- Other states use a different approach.
 - Most common approach is a self-support reserve



Difference between Average Income and Expenses for Obligated Parent with LIA Order



CA produces highest or 2nd highest among 9 states among Minimum-Wage Earners



Findings from Labor Market Analysis

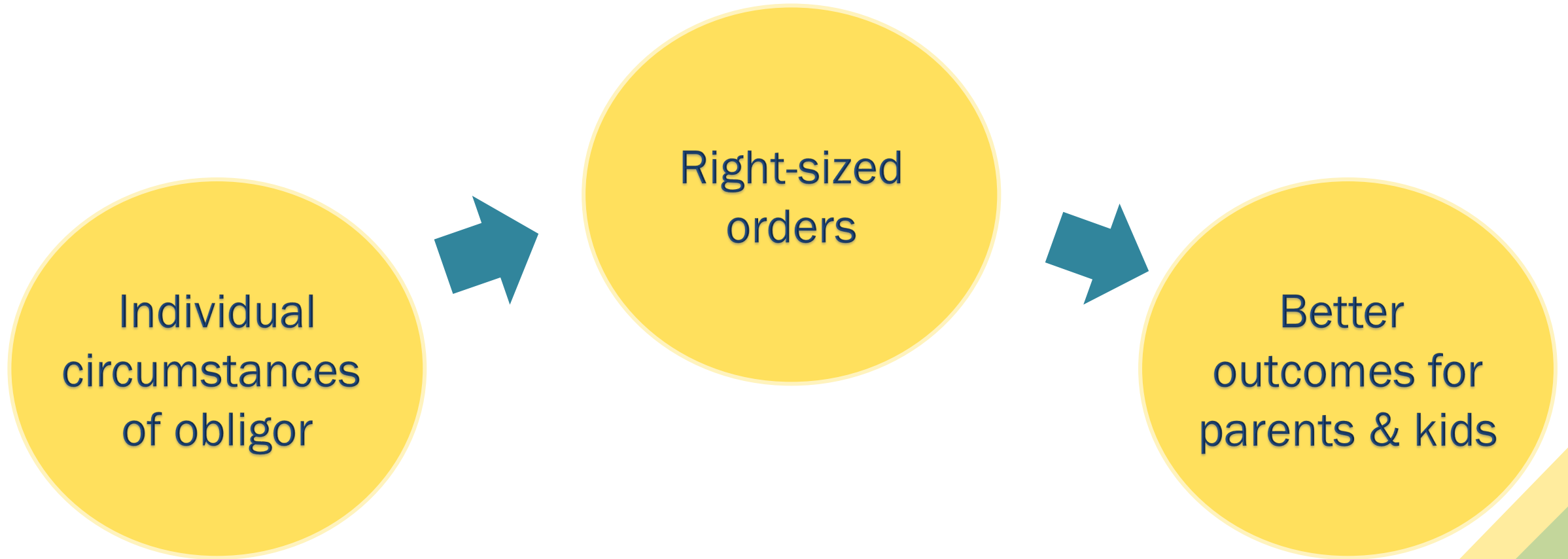
- Many obligors have limited earning capacity
- Despite increases in the state minimum wage, there are many low-paying jobs in California
- Many low-paying jobs
 - Offer less than a 40-hour workweek
 - Offer no sick pay or paid vacation days
 - Have high turnover
- The average hours worked per week in California is 35 hours
- **Conclusion:** presumption of a 40-hour workweek at the state minimum wage is not realistic



Chapter 4: Legal Analysis of Federal Regulation



Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs (aka the Final Rule)



Changes already made (AB 207)

Final Rule	Family Code
if court imputes income, must consider 14 specific factors	4058(b)(2)
incarceration \neq voluntary unemployment	4058(b)(3)

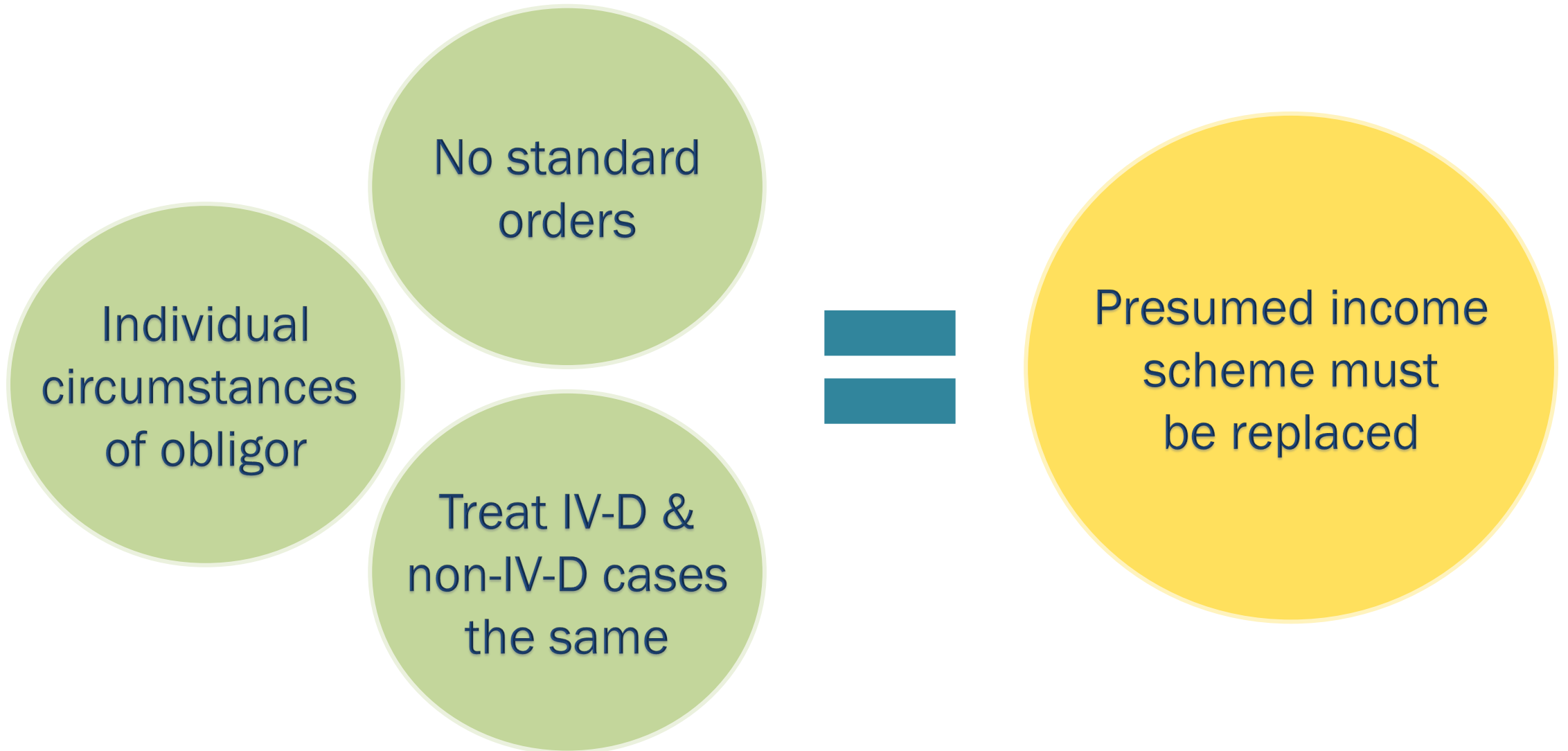


Earning Capacity Factors

- 1) Parent's assets
- 2) Residence
- 3) Employment and earnings history
- 4) Job skills
- 5) Educational attainment
- 6) Literacy
- 7) Age
- 8) Health
- 9) Criminal record and other employment barriers
- 10) Record of seeking work
- 11) Local job market
- 12) Availability of employers willing to hire the parent
- 13) Prevailing earnings levels in the local community
- 14) Other relevant background factors affecting the parent's ability to earn



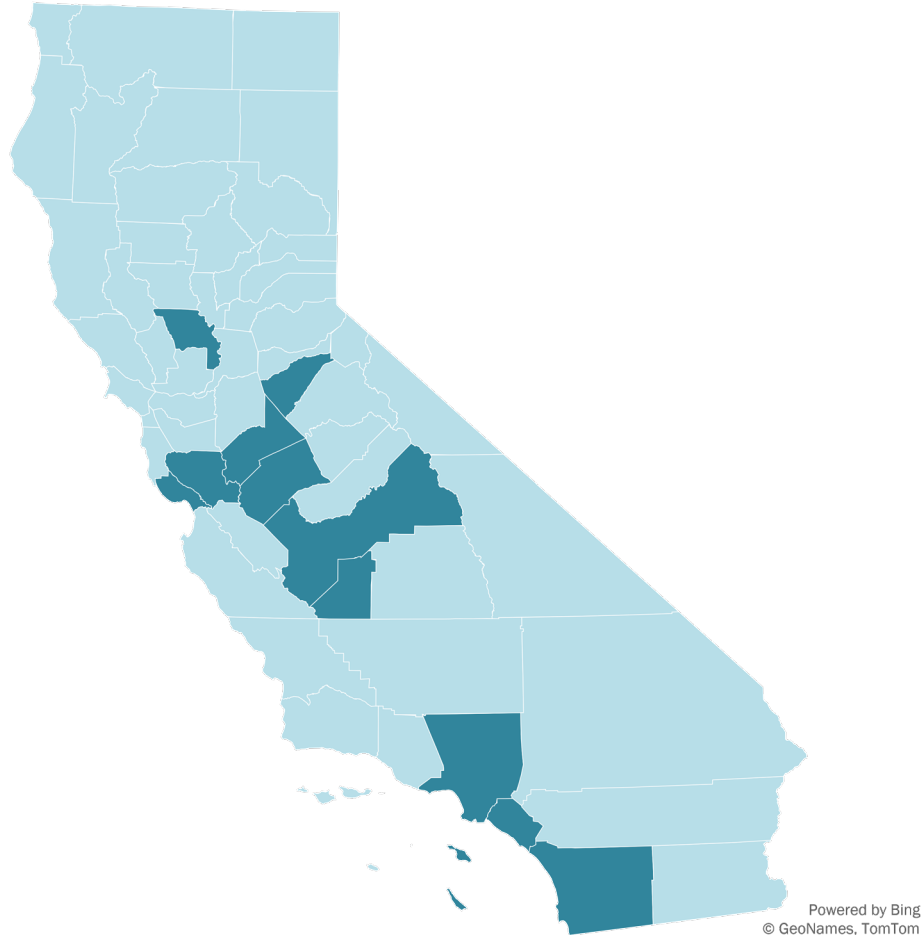
Changes that still need to be made



Chapter 5: Analysis of Case File Data



Analysis of Case File Data



- 1,205 court orders sampled from 11 counties
 - 611 IV-D orders
 - 594 non-IV-D orders
 - Sampling strategy improved to better reflect California
- 123,880 IV-D orders from DCSS automated system



Federal Requirements for Analysis

- ✓ Deviations
- ✓ Default rate
- ✓ Income presumption rate
- ✓ Frequency that LIA is applied
- ✓ Payment data



Deviations: Statistically Unchanged

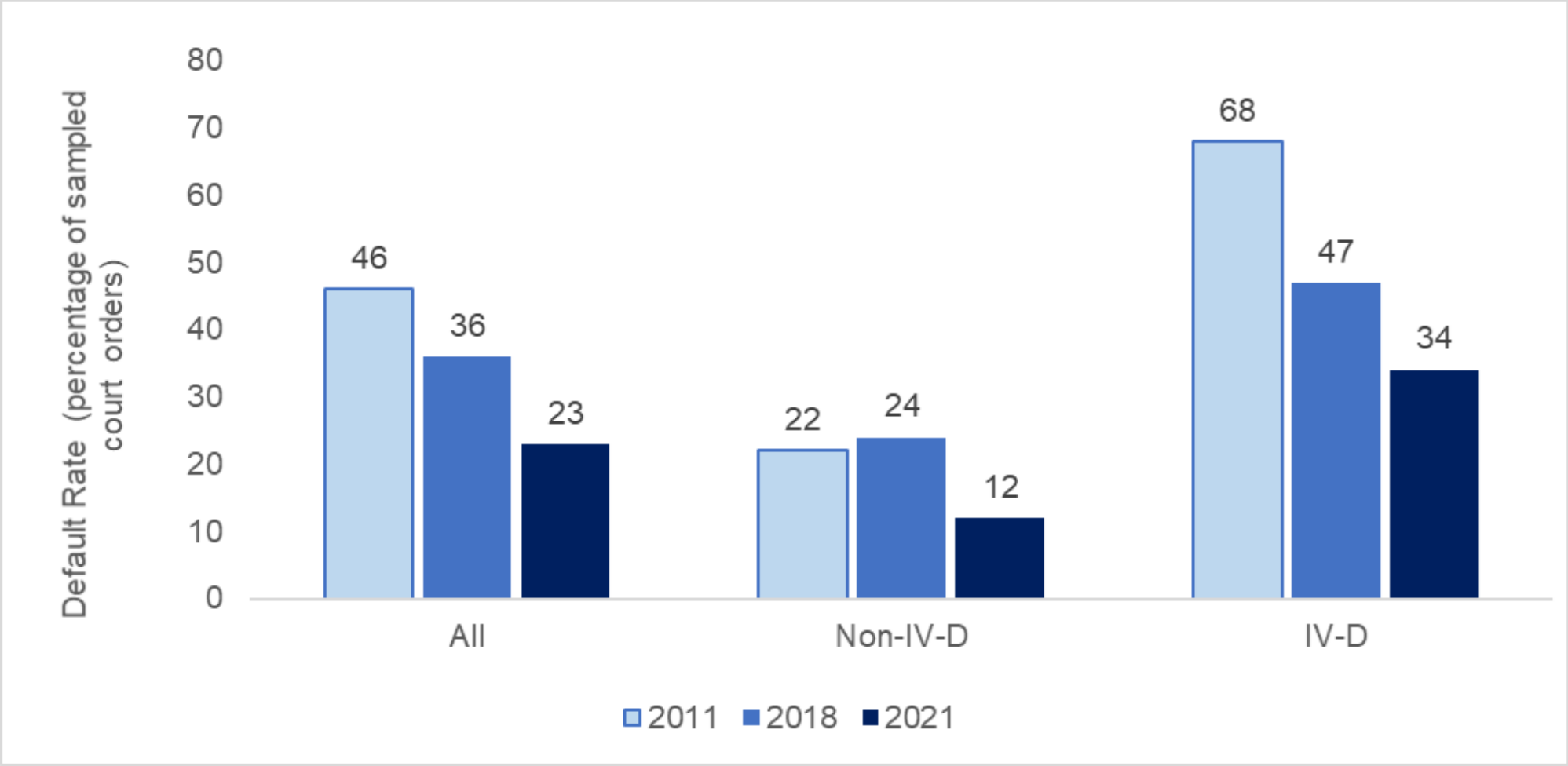


Deviation Reasons

- 51% stipulation
- 20% unjust/inappropriate
- 9% other
- 20% unstated



Default Rate is Decreasing



Income Imputation/Presumption Rate Is Decreasing

	2021 Case File Review			2018 Case File Review		
	All	Non-IV-D	IV-D	All	Non-IV-D	IV-D
Obligor's Income Source						
Actual Income	70	66	73	56	53	59
Presumed Income	2	-	5	3	1	4
Imputed Income	2	1	3	2	1	5
Other/Not Specified/Unknown	26	33	19	25	29	21
Missing Value	-	-	-	14	16	11
Obligee's Income Source						
Actual Income	70	66	73	47	45	48
Presumed Income	-	-	-	<1	<1	<1
Imputed Income	2	2	2	2	1	3
Other/Not Specified/Unknown	29	32	24	27	30	25
Missing Value	-	-	-	24	25	24



LIA Eligibility Is Decreasing

	2021 Case File Review			2018 Case File Review		
	All	Non-IV-D	IV-D	All	Non-IV-D	IV-D
LIA-eligibility (percentage of all orders)	(N=1,205)	(N=594)	(N=611)	(N=1,203)	(N=591)	(N=612)
Not Eligible for LIA	79	95	62	81	92	71
LIA-Eligible	21	5	38	19	8	29
LIA Applied (percentage of eligible orders)	(n=258)	(n=27)	(n=231)	(n=226)	(n=48)	(n=178)
LIA Applied	84	44	89	60	9	74
LIA Not Applied	10	37	7	18	24	16
Unknown	5	19	3	19	67	6
Missing	-	-	-	3	0	4



Other Findings

Number of Children

- 1 Child: 56%
- 2 Children: 31%
- 3 Children: 9%
- 4+ Children: 4%

Median Gross Income of Obligated Parents
Non-IV-D: \$4,883/mo
IV-D: \$1,985/mo

Obligated Parent's Share of Combined Income Varies with CP Income

Time with Obligor	Non-IV-D (N=594)	IV-D (N=611)
Zero percent	24	54
1 to 20 percent	32	21
21 to 40 percent	19	12
41 percent or higher	26	13



Payments and Income Presumption

	All Charging Orders (N=87,974)	Order Based on Presumed Income (N=4,829)	Order Not Based on Presumed Income (N=83,145)
Made Payments (percentage of orders)			
No Payments (zero)	11	61	8
Some or all Payments	89	39	92
Total Annual Payment			
Average	\$4,804	\$717	\$5,041
Median	\$3,300	\$0	\$3,582
Percentage of Total Support Due that is Paid			
Average	72	19	75
Median	97	0	99
Months with Payments			
Average	7.8	1.8	8.1
Median	10.0	0.0	10.0

Payment metrics are also less when LIA applied and in defaults



Chapter 6: Findings from Focus Groups



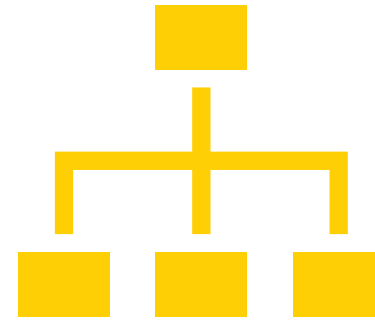
Participants



PARENTS



JUDICIAL OFFICERS



**LOCAL CHILD
SUPPORT AGENCIES**

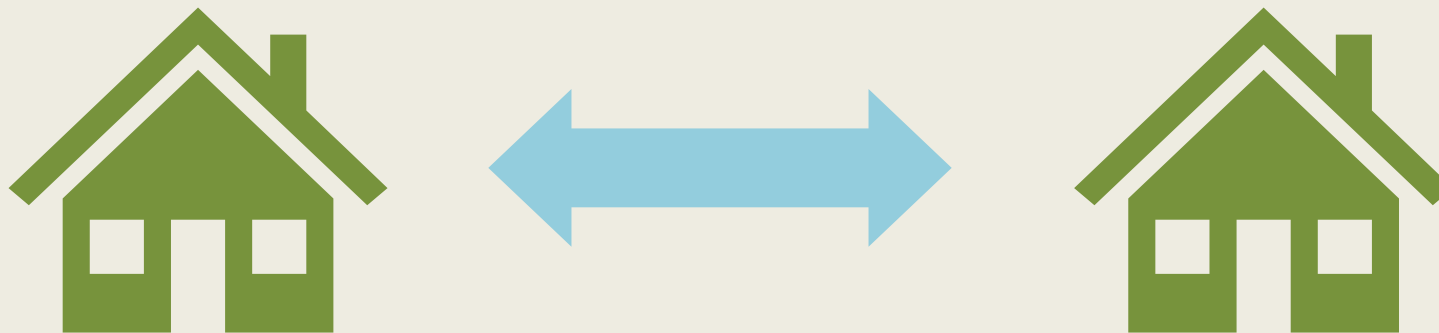


**FAMILY LAW
FACILITATORS**



Themes from Focus Groups

- Parents:
 - Maintain the child's lifestyle across households
 - Consider add-ons, like mental health care, based on the needs of that child



Themes from Focus Groups

- LSCAs and Judicial Officers
 - Fewer defaults due to outreach and using technology
- LSCA, Judicial Officers, and FLFs
 - Shared parenting time needs to be revisited
 - LIA threshold should increase
- All groups
 - Calculation should account for regional differences



Chapter 7: Recommendations



Mandatory Recommendations

Comply with 2016 Federal Requirements

- Provide that incarceration is not voluntary unemployment
- Provide for the consideration of the factors listed in federal regulation when income imputation or presumption is authorized

Revamp the LIA

- Update threshold, continue annual COLA increase
- Modify lowest 2 income bands
- Create a deviation criteria for orders exceeding CCPA limit



Other Recommendations

- Make formula more transparent and revisit underlying assumptions and other formula considerations
- Numerous data improvements for next review
 - CA economic data, more counties, more parents, improved court records, data validity checks between court and DCSS data
- Change Judicial Council forms to increase transparency in pleadings and orders.



Next Steps



Assembly Bill 207

- Signed by the Governor on September 27, 2022
 - Requires courts when determining earning capacity to **consider the specific circumstances of the parents**
 - **Prohibits incarceration treated as voluntary unemployment**
 - **Removes the sunset date** from Family Code 4007.5 and limited applicability for certain crimes.
 - Request the Judicial Council and the Department of Child Support Services to meet and confer and submit a **report to the Legislature** on what additional legislative changes are necessary to fully implement federal regulations.



Additional Necessary Changes

Remove PRUSUMED INCOME as a pleading option in AB 1058 cases

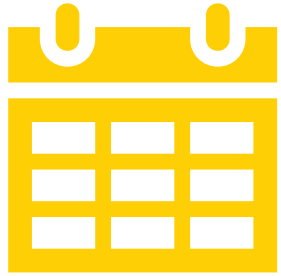
- Allow LCSAs to plead based on actual earnings or earning capacity
- If proposed judgment is based on earning capacity, require the LCSA to plead with more specificity of factors considered
- Requires judicial review of the of the factors before judgment is entered.

Review the impacts of the guidelines on low-income families

- Update LIA threshold to gross minimum wage
- Modify lowest 2 income bands in the formula
- Create a deviation criteria to address the impact for families with multiple children.



What Happens Before September 2024



- The Legislature has schedule meetings in November for a broad cross-section of stakeholder to discuss the changes and the impacts on families
- Advocate for the courts
- The Judicial Council is reviewing forms to determine necessary changes to implement new legislation
- Train, Train, Train



Thank you!

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