

Children from Other Relationship Subcommittee –
Conference Call: 3/11/11

Members Present: Ed Pesik, Kevin Callaghan, Ken Levinson, Kris Amblad, Janet Skreen,
Members Absent – Angela Gregracht, Kristie Dimak
DCS Staff Present: Ellen Nolan
Member of the Public: Greg Howell

Preliminary Discussion re notes, ground rules, and length of meeting time

Notes -- not necessary to formally approve notes but intent is to use notes to stay focused and post to website. Will have comment deadline, if no comments prior to deadline, they will be posted to website. All notes will include language that states the CFOR subcommittee represents a work in progress and that our discussion does not reflect decisions of entire 2011 Child Support Schedule Workgroup.

Ground Rules were disseminated by Ellen Nolan earlier today -

2011 Child Support Workgroup
Subcommittee Meeting Ground Rules

The leader of the subcommittee should prepare a draft informal agenda or e-mail for each subcommittee meeting that includes what is expected to be discussed and accomplished during each subcommittee meeting, and provide that to subcommittee members prior to the meeting.

Each subcommittee meeting shall have a leader and a note taker. If the designated leader and/or note taker is unavailable, a temporary substitute shall be appointed for that subcommittee meeting by DCS staff.

Subcommittees shall explore issues and options and help to educate the Child Support Workgroup on their particular subcommittee topic.

Subcommittees are expected to report on their topics at the in-person Child Support Schedule Workgroup meetings, beginning April 15, 2011, and monthly thereafter.

In consideration of non-members, the leader of the subcommittee may set aside part of the agenda for the subcommittee to hear from others, including members of the public. Leaders should encourage members of the public to submit comments in writing, so that they may be shared with the entire Child Support Workgroup.

Ground rules listed above were adopted by subcommittee. (Kris A. moved, Janet S. seconded).

Length of Meetings: CFOR Subcommittee meetings will be limited to one hour. If more time is needed, then more frequent meetings will be held. (Rather than increasing length of time of each meeting.)

Request from Ellen: Look at calendars and send available times and dates. We will need to report back at April 15 meeting.

A roundup of the 2007 Workgroup's efforts and a discussion of where we should start.

Previous Workgroups

The CFOR Subcommittee feels it is necessary to have historical knowledge of how previous CFOR subcommittee dealt with the issue in the past

- what were the obstacles; and
- why they weren't able to reach consensus on this issue.

Kris A, who sat on previous workgroup, summarized prior workgroups successes and challenges:

- There was a general consensus that limited amount of money out there and it must be shared somehow amongst all children.
- 2005 workgroup was very close to accepting whole family formula but difference of opinion as to whether it was a deviation or above the line.
- No consensus about who children are, though: prior born vs. subsequent born.
- Consensus - that if there is a child support order out there, that child counts. But then question about whether actual payment is made. 2005 recommended that actual payment not be prerequisite.
- stepchildren should not be included.
- children who live in the parent's home should be considered.
- not clear about whether biological non-residential children should be considered. Need to revisit this issue.
- Other workgroups spent time looking at blended family formula. Kris feels that this is more flawed than whole family.

Why consensus couldn't be reached:

- Whole family formula is flawed because it only considers additional children from NCPs in the formula -- if you were to include the CP's other children, it would reduce support from the NCPs. From legal services, that would be inequitable -- because limits support but doesn't allow for sufficient support for CPs.
- How should we consider CPs household?
- Other concern: first born children vs. subsequent born children. Context in modification of child support. First born has amount set and subsequently NCP has more children and then asks for modification of original order based on subsequent born children. Was concern originally of judge's association. Mixed reaction from judges -- your client had a choice as to whether or not they had other children, so I will not reward them for having additional children.

Ed P: discussion about workgroup recommendations from 2007 workgroup -- pp 16-19 of 2007 Report.

- Specifically, whether or not whole family formula alone may not serve as the basis for a substantial change in circumstances for modification.

Ellen N: Other issue that came up for 2005 workgroup is should NCP get credit if he/she was not actually making payments.

- DCS practice is that since we have immediate wage withholding, we give credit regardless of whether or not payment is actually being paid.

Discussion of where we should start

Kevin C: Suggested looking to RCW § 26.19.065 – provision that deals with 45% limitation.

- <http://apps.leg.wa.gov/rcw/default.aspx?cite=26.19.065>
- Provision discusses which children should be considered in terms of limitations. Implicitly defines “other children” as “biological or legal children.” Could this be helpful to our challenge of defining which children should be included?
- Discussed - not actually “other relationship” terminology - as it is in actuality often more children from the same relationship (longterm relationship where parents have subsequent children over time.)

Kris A: In hindsight, not enough time put into crafting the language for RCW 26.19.065 terminology.

- It could be broader than people are willing to go – especially When looking at issue of biological, non-residential children.
- If there is no order and no obligation memorialized by an order, should those children actually be included?
- We need to be careful that term “legal child,” be carefully defined. Biological not so contentious because understood as “biological that lives with you,” but the “legal” child, is more difficult.
- Is a step child a “legal child?”

Janet: Question about child support obligations in this statute. If parent is taking care of child but there is no formal order, is there an “obligation?”

- Does one need a court or administrative order to show an obligation?

Need to define: “biological child,” “legal child” and “child support obligation.”

Kevin: question: was “biological” intended to distinguish the step-child situation as opposed to a paternity situation?

- Could we just change to simply, “legal children,” and leave at that - as that would include children with paternity established - through affidavit or court order.

Question: Extent to which previous workgroup members thought other state guidelines/matrix is required reading, helpful, or not essential.

Kris A: Response: was most helpful to look at issue of which children should be counted. Because whole family formula is so well-known, the matrix is not so helpful in looking at other formulas.

Ellen: Response each workgroup has to decide how they look at each issue.

Other items to address

What is the policy? Why are we doing what we're doing?

- Suggestion that review of RCW § 26.09.002: An overview of child support and parenting plans in superior court and RCW § 26.19.001: legislative intent on child support schedule: would be useful
 - <http://apps.leg.wa.gov/rcw/default.aspx?cite=26.09.002>
 - <http://apps.leg.wa.gov/rcw/default.aspx?cite=26.19.001>

Issue to focus on during next (Monday March 21) conference call:

- **Which children should be counted?**
- **If possible, how will we account for all children of CP and NCP?**

Comments from the public:

- Request to have materials workgroup is considering prior to meetings/conference calls
- Topic of first born vs. subsequent child is a particularly difficult issue. It would not be appropriate to treat first born as king.
- "Obligor" is typically being referred to as "he," but would like to see if we can get by without a gender reference.
- Heard concern about deviations for NCPs that would not leave sufficient money for CP, but points out that obligor needs to have reserves too.