

Child Support Workgroup
Children from Other Relationships Subcommittee
Teleconference Notes
March 29, 2011

Participating on the call: Ed Pesik, Kevin Callaghan, Kris Amblad, Janet Skreen
DCS Staff: Ellen Nolan
Member of the public: Greg Howe

Notes Ed will call for approval of the previous call's notes at the beginning of the weekly teleconference. Ellen will have the approved notes posted on the Website as soon after as possible.

Public Comments The public will be invited to make comments about half-way through the call, and again at the end. In addition, when appropriate to the discussion at hand, the public may be invited to comment at other times as appropriate, especially at the end of a topic's discussion.

Identification of Tasks for This Call

1) Who are the children not before the court who will be reflected in calculation of child support?

- The term "biological children" is problematic.
- Kevin's definition is better, after some minor editing:
 - Adopted children; children born during a marriage and the presumption (under Chapter 26.26 RCW) has not been rebutted; children born outside of a marriage where parentage has been legally established through a registered paternity acknowledgment or a court order; or where a court order has established de factor parentage.
- Consideration still needs to be given to obligors who support children, who haven't been formally acknowledged or adjudicated, through supplying clothing, food, etc., for an above the line calculation.
- Other children, such as those who are the subject of a nonparental custody decree or other informal arrangement, need to be considered as well. They would be subject to a below the line deviation.
- DCS will eventually seek enforcement of support in those cases as well, but it might not be in time to really benefit the obligor.

2) How will those children be handled formulaically?

- The question was raised whether support for the defined children is really being paid.
 - Public policy assumes that support is being paid.
 - If there is proof that support is not being paid, obligee can request no presumptive calculation for reduction of children not before the court be granted.
 - How would the obligee prove that support is not being paid?
 - Burden could shift back to obligor to prove support is being paid.
- Situations when presumptive calculation would not be applied might include cases where obligee receives TANF or when there are not sufficient resources in the obligee's household with the presumption applied.
- Court should have some discretion to deny the above-the-line presumption.

Public comment: Should the presumption be rebuttable? Most people do pay support; courts make sure of it.

Subcommittee discussion resumed:

- The presumption is similar to the child care context – if the obligor thinks money isn't being spent on child care, ask for proof.
- Apply the presumption to the children living with obligor; make the presumption rebuttable for children living elsewhere.
- Ed would like a narrative description of which children, and how the calculation would be derived at. He will work on it for the Subcommittee's review.

Public comment: Making the presumption so easily rebuttable by shifting the burden to the obligor is really a presumption in name only. It is one more slap in the face of obligors. Obligees enjoy many presumptions in their favor now.