

DRAFT MINUTES

Child Support Schedule Workgroup
Meeting of April 15, 2011
L&I Building, Room S118
Tumwater, WA

Attendees: David Stillman, Kathleen Schmidt, Ken Levinson, the Honorable Gary Bashor, Janet Skreen, Kevin Callaghan, Kristopher Amblad, James Cox, Kristie Dimak, Timothy Eastman, the Honorable Edward Pesik, Jr.

DCS Staff: Ellen Nolan, George Smylie, June Johnson.

Guests: Pat Lessard, Jason Doudt, Greg Howe.

I. Introductions.

II. Agenda reviewed. The agenda was reviewed and approved.

III. The 3-25-2011 draft meeting minutes were reviewed. With one typographical error changed, the 3-25-2011 minutes were approved.

IV. The Economic Table Subcommittee gave a report. Some of the items that the subcommittee has been considering include the Florida State study and the USDA study. The subcommittee has not yet reached a consensus on whether to “collapse” the table to a one child column based on age. They do seem to be leaning towards consensus on an income shares model. Some of the issues that the members asked the subcommittee to consider is whether the current table needs to be updated? Does the table need to be extended? If so, how far – such as to \$20,000? The subcommittee is looking at some current census data that may help analyze that issue. Should the table include more children than the current five? Should the top end of the table “flatten out” or be extrapolated? How should “add-ons”, such as day care and medical expenses be considered? Each member was then asked to help the subcommittee further define the focus of the subcommittee’s work. The Economic Table Subcommittee was asked if they could consider the following:

- Define basic support
- What residential time (if any) is presumed in the current schedule?
- What is the basis for the current economic table?
- Consider a single (collapsed) column for the economic table (children under 12 and over)
- Provide a visual depiction of the expenditure data and different models
- Would be nice if someone from the original Commission could present to the Workgroup (*Note – David Stillman is working on this)
- Define special child rearing expenses
- Provide visual aid of adjusted gross as columns go across (*Note - the Policy Studies Report has an aid like this)
- Validate existing numbers against “reality”

V. The Residential Credit Subcommittee gave a report. The Residential Credit Subcommittee is exploring three major categories of determining residential credit: cross credit; per diem; and the residential schedule credit from the 1988 support schedule. The majority of the subcommittee members favor the per diem method.

Some of the issues include whether to apply a threshold, and whether the threshold should be from zero to 33% - should it start at one overnight? There is also some question of whether the current economic table already includes some residential credit within the table. There was some discussion of whether there needed to be legislation on the “need for a bedroom” in order to exercise residential time, as there may need to be more certainty in how the courts award residential time. The subcommittee is discussing the issue of either parent not meeting the residential time agreement, there should be a way of either revoking the credit or adjusting the support. Should it be a six month pattern to take the issue back for an adjustment? Should there be retroactive credit? The Residential Credit Subcommittee was asked by the workgroup to consider the following:

- To make a recommendation for an above the line, non-discretionary presumptive calculation based on overnights
- But, to retain discretion for nontraditional below the line types of residential time
- Should there be a straight reduction based on overnights?
- Should some level of residential credit be built in (presumed) within in the table?
- The method (whatever formula) is very critical – overnights makes sense, but consider cross credits because of the duplication of expenses by each parent
- Define how long before the order can be modified based on a substantial change to revoke the credit – and what constitutes a substantial change to revoke
- Consider the threshold, but having a formula is more important than a threshold
- Consider low income limitations- if they deplete the custodial parent’s household resources
- Consider the litigation issues – if there is a threshold, that might be the issue – getting past the threshold

VI. Public Comments. Pat Lessard, Jason Doudt, and Greg Howe addressed the group.

VII. The Children from Other Relationships Subcommittee gave a report. Ed Pesik distributed a written report to the Workgroup and to the members of the public. The subcommittee believes that more appropriate terminology to describe the work of the subcommittee would be “children not before the court”. Some of the issues that the subcommittee is trying to address include defining which children may be considered in addition to those children “before the court” (which are defined as existing children). These include children born during the marriage; adopted children; children born outside of the marriage, but have paternity established by an order or through a voluntary paternity acknowledgment; and children who have been established as *de facto* children of the obligor. The subcommittee appears to agree that “prior children” – children for whom the obligor already had an obligation to support should be considered, but no agreement on “subsequent children” – who were born or adopted after the support obligation was already established. Stepchildren have also not been addressed by the subcommittee. Some of the issues asked were whether the obligor should be given credit if he or she is not paying support or not paying the full support amount for children for which the obligor is being asked to be

considered in the reduction. Another issue is whether other children could be the basis for a modification or a factor for a modification of a support obligation. Additionally, if children not before the court that are the responsibility of the obligor are considered, should the obligee's children not before the court also be considered? The Children from Other Relationship Subcommittee was asked by the workgroup to consider the following:

- If there should be an above the line application of this current deviation, what formula, if any, should apply?
- Should it apply only when an obligor is "paying" – what is "paying"?
- What is proof of payment?
- Should there be a rebuttable presumption of the formula, and what would it take to rebut the presumption?
- Should there be guidelines for judges for below the line?
- How would this work in conjunction with the 45% limitation of current support for all children?

VIII. Subcommittee expectations. David told the members of the workgroup that he expects written reports from the subcommittees to be presented at the Workgroup meetings beginning in May, similar to the report prepared by Ed Pesik, and that the reports include areas of agreement where possible.

IX. Additional phone conference meeting was discussed. David Stillman is working on setting up another workgroup telephone conference call from other former members. He had previously been asked if he could set up a call to include Dr. Betson, and it was suggested that perhaps Mary Hammerly from the original Child Support Workgroup Commission might be able to participate. Workgroup members were asked to submit additional suggestions for participants to David.

X. Future meeting dates were discussed. The next meeting will be in Tumwater, WA on May 20, 2011. We have scheduled the combination workgroup meeting/public forum for June 25, 2011 for the Everett Community Services Office. If we find a larger location in Everett on that date, we may move the meeting location, but the date is set. We also have confirmed another workgroup meeting/public forum for July 23, 2011 in Spokane at the Gonzaga Law School. Gail Hammer was very gracious in helping us obtain the meeting space.

XI. Other business. Timothy Eastman requested that another subcommittee be formed to discuss post-secondary support issues. Timothy was appointed leader. Kathleen Schmidt and James Cox also volunteered to serve on the subcommittee. David Stillman will appoint a note taker if no one volunteers. George Smylie will staff the subcommittee.

XII. The meeting was adjourned.