

DRAFT MINUTES

Child Support Schedule Workgroup
Meeting of August 12, 2011
L&I Building, Rooms S118 & 119
Tumwater, WA

Workgroup Members attending: David Stillman, Chair; Kristopher Amblad, the Honorable Gary Bashor, Kevin Callaghan, Kristie Dimak, Timothy Eastman, Ken Levinson, Kathy Lynn, Andrew McDiarmid, the Honorable Edward Pesik, Jr., and Janet Skreen

DCS Staff: Nancy Koptur, George Smylie, June Johnson

Guests: Greg Howe, Trudes Tango

- I. Introductions:** Everyone introduced themselves.
- II. Agenda Reviewed:** No changes were made to the draft agenda.
- III. Review of 7/23/11 Draft Meeting Minutes:** the minutes were approved as amended.
- IV. Residential Schedule Credit Subcommittee Report:** Andrew McDiarmid led a discussion based on the July 23 and August 12 reports of the Subcommittee.
 - a.** The Subcommittee made a consensus recommendation that the Workgroup adopt the “Indiana Credit” formula with the associated worksheet and table, with a provision that the tribunal has discretion to deny or adjust the residential schedule credit if it would leave insufficient funds in the custodial parent’s household, or if the family received TANF.
 - b.** The Subcommittee made a consensus recommendation that any proposed statutory language regarding the residential schedule credit must coordinate with the recommendations of the Children From Other Relationships Subcommittee concerning insufficient funds.
 - c.** There was a split of opinions regarding whether there should be a threshold amount of overnights, and if so, how many. The Subcommittee had discussed no threshold, a 15% threshold or a 25% threshold.
 - d.** The Workgroup discussed draft statutory language regarding adjustments to the residential schedule credit for failure to keep to the schedule without reasonable justification. This led to a discussion of whether a change to the underlying parenting plan or residential schedule would be required to support an adjustment in the credit.
 - e.** The Workgroup discussed whether the residential schedule credit should be allowed in both court and administrative orders, or perhaps only in court.
 - f.** The Workgroup discussed whether there should be an actual court-ordered parenting plan or residential schedule, or whether a credit could be based on a written agreement between the parties or upon findings of fact by the ALJ regarding the child’s residential schedule.
 - g.** The Workgroup discussed whether the residential schedule credit should be a presumptive credit or whether it should be a deviation. Chair Stillman reminded the group that one of the federal criteria on which a child support schedule is judged is the number of deviations granted.

- h. The Chair asked some questions to get a sense of the group, asking for non-binding votes on the following issues:
 - i. Should there be a residential schedule credit? Consensus YES.
 - ii. Should we use the Indiana model? Consensus YES.
 - iii. What kind of threshold?
 - 1. None – 3 votes
 - 2. 14% - 5 votes
 - 3. 25% - 2 votes
 - iv. What should be the required non-standard period before an adjustment of the credit? [sorry, no record of the vote numbers]
 - 1. 6 *consecutive* months of “noncompliance”
 - 2. 6 month period without 100% compliance
 - v. Should the credit be available in both court and administrative forum? Consensus YES.
 - vi. In the administrative forum, should the residential schedule credit be based on:
 - 1. A court-ordered parenting plan: YES
 - 2. A written agreement: maybe
 - 3. ALJ findings of fact: maybe

- V. **Economic Table Subcommittee Report:** Janet Skreen led a discussion of the economic table.
 - a. The Subcommittee had a split on how high the Economic Table should go, with the majority recommending up to \$20,000 combined monthly net income (CMNI) and the minority recommending \$12,000 CMNI and possibly up to \$15,000 CMNI.
 - b. The Subcommittee made a consensus recommendation that the legislature should adopt a new economic table instead of making tweaks to the existing economic table.
 - i. The Subcommittee does not have a recommendation on how this should be done.
 - ii. Any new economic table should be based on data and created by an expert.
 - iii. The Subcommittee would prefer to have Dr. David Betson create a table using the Betson/Rothbarth method with a look at the USDA, using new data which Dr. Betson discussed in a conference call earlier this year.
 - c. The Subcommittee made a consensus recommendation that any new economic table not have a “Column A and Column B” structure, but instead just one amount. If the current table is retained, the subcommittee did not agree on how the two columns might be combined into one.
 - d. The Subcommittee made a consensus recommendation that they would defer to the Residential Schedule Credit Subcommittee regarding whether the economic table should have a “built-in” residential schedule credit.
 - e. The Subcommittee had discussed what is covered by the basic child support obligation, but came to the conclusion that the data supporting the economic table is what clarifies what support should pay for.

- f. The Workgroup discussed the economic table, and asked Chair Stillman if it would be possible for the Workgroup to hire Dr. David Betson to prepare an updated table for purposes of discussion. Chair Stillman advised that DCS would look into this, with the understanding that it would not necessarily be an endorsement of any table developed by Dr. Betson, but that it would be a useful tool for the Workgroup.

VI. Public Comments: Public comments were made by Greg Howe.

VII. Break and Distribution of Lunches

VIII. Economic Table Subcommittee Report, continued.

- a. Chair Stillman once again asked some questions to get a sense of the group, asking for non-binding votes on the following issues:
 - i. Do we need a basis for the economic table, not just an idea?
Consensus YES.
 - ii. Should we ask Dr. Betson to produce a table based on updated data?
Consensus YES.
 - iii. How high should the economic table go?
 - 1. \$12K CMNI - Consensus YES
 - 2. \$15K CMNI - Consensus YES
 - 3. \$20K CMNI – half yes, half no
 - iv. Would it help if the \$15K-\$20K CMNI part of the economic table were advisory amounts instead of presumptive? Consensus YES.
 - v. Should the economic table have the two age brackets? Consensus NO.
 - vi. If we keep the current economic table, should we collapse Column A and Column B? Consensus YES
 - vii. How should Column A and Column B be collapsed? Consensus: There is no consensus possible.
 - viii. Should there be details setting out what child support pays for?
 - 1. Detail?
 - 2. No Detail?
 - 3. Set out in general statements re the basis for the table?
 - 4. Should we wait and see what assumptions Dr. Betson is working under? Consensus YES.

IX. Children From Other Relationships Subcommittee Report: Ed Pesik led the discussion.

- a. The Subcommittee's proposed definition for Children From Other Relationships, also known as Children Not Before the Court (CNBC) was set out in the Subcommittee's August 12 written report.
- b. The Subcommittee proposes a presumptive calculation, which would be the transfer payment that results after consideration of the obligor's CNBC using the Whole Family Formula.
 - i. The presumption may be rebutted by a showing that the obligor has paid no support for the CNBC for the past 12 months without reasonable justification.
 - ii. The "insufficient funds" analysis should apply.
 - iii. Not using the CNBC would be a deviation, and the tribunal must set out specific reasons for its decision.

- c. The Subcommittee proposes a clarification to RCW 26.19.065(2) to specify that references to the federal poverty level mean “the federal poverty level for a one-person household.”
- d. The Subcommittee asked the Workgroup as a whole to consider the issue of “stacking” limitations or other factors which might reduce the transfer payment.
- e. The Subcommittee made a consensus recommendation that RCW 26.19.075(1)(d) should be amended to change "children from other relationships" to "children not before the court" and then have the proposed definition of CNBC adopted.
- f. The Subcommittee made a consensus recommendation that the statute should also be changed to adopt the Whole Family Formula method whenever a tribunal has to determine a presumptive calculation for CNBC.
- g. The Workgroup discussed the Subcommittee’s proposals.
- h. Chair Stillman once again asked some questions to get a sense of the group, asking for non-binding votes on the following issues:
 - i. Should the Workgroup adopt the Subcommittee’s recommendation regarding the definition and terminology re CNBC? Consensus YES.
 - ii. Should the Whole Family Formula be used in these circumstances? Consensus YES.
 - iii. Should the Whole Family Formula determine a presumptive calculation? The members asked to talk more about this later.
 - iv. Should we talk about stacking later? Consensus YES.
 - v. Must the obligor be current on CNBC obligations before using the Whole Family Formula? No consensus.
 - vi. How far in arrears can the obligor be on CNBC obligations before the Whole Family Formula cannot be used? No consensus.
 - vii. Can we say that we have no consensus on how and when to apply the Whole Family Formula? YES.

X. Postsecondary Education Support Subcommittee Report: Tim Eastman led the discussion.

- a. The Subcommittee made a consensus recommendation that the “child” for whom postsecondary education support (PSES) would be paid must be enrolled in an accredited academic or vocational school on a full time basis (as determined by the educational facility).
- b. The Subcommittee made a consensus recommendation that PSES should be based on instate tuition at a public school in Washington, regardless of where the child goes.
- c. The Subcommittee made a consensus recommendation that, based on individual circumstances at discretion of the court, PSES could be higher for child attending private or out-of-state school.
- d. The Subcommittee made a consensus recommendation that the court must consider all financial aid awarded to the child, and subtract that amount from the total cost before determining the parents’ contribution.
- e. The Subcommittee was unable to agree on what is included in “all financial aid awarded to the child.”

- f. The Subcommittee made a consensus recommendation that if one or both parents saved for PSES and used those funds to pay directly to the school or to the child, those amounts should be considered part of the parent's share of PSES.
- g. The Subcommittee made a consensus recommendation that there should be clear rules on suspending and then reinstating PSES, and also for terminating PSES entirely, but the Subcommittee did not have a consensus recommendation on how this would work.
- h. The Subcommittee made a consensus recommendation that the current statutory scheme regarding who gets the PSES payments should be revised to provide for a preference that PSES be paid directly to the school, and if not, directly to the child.
- i. Chair Stillman once again asked some questions to get a sense of the group, asking for non-binding votes on the following issues:
 - i. Should that the "child" for whom postsecondary education support (PSES) would be paid must be enrolled in an accredited academic or vocational school on a full time basis (as determined by the educational facility)? Consensus YES.
 - ii. Should the upper limit for PSES be the highest cost of an in-state school? Consensus YES.
 - iii. In determining the amount to be contributed by the parents, the following should be deducted from the total cost:
 - 1. Work Study actually earned – Consensus YES.
 - 2. Grants – Consensus YES.
 - 3. Scholarships – Consensus YES.
 - 4. Loans – no consensus
 - iv. Should a parent's savings be deducted from the parent's share? – no consensus.
 - v. Should there be specific rules for suspending, restarting or terminating PSES? – Consensus YES.
 - 1. No specific language in the statute – Consensus YES.
 - 2. Specific language in an order OK? – Consensus YES.
 - 3. Court must consider the child's circumstances? – Consensus YES.
 - vi. No Consensus on who gets the PSES.

XI. Planning: Chair Stillman raised the question of whether the Workgroup should schedule an additional meeting on Friday, August 19. The Workgroup members preferred not to do so.

- a. There are two more meetings scheduled: Friday, August 26 and Friday, September 9th.
- b. In discussing what needs to be done to finalize the Workgroup's Report, the possibility of an additional meeting on September 16 was floated, but no decision was reached.

XII. Meeting Adjourned.