

## Meeting Minutes Draft

### **NEVADA CHILD SUPPORT GUIDELINES COMMITTEE PUBLIC MEETING TO REVIEW CHILD SUPPORT ENFORCEMENT GUIDELINES IN ACCORDANCE WITH NRS 425.620.**

The public meeting to review child support enforcement guidelines was brought to order by committee chair, Kim Surratt at 9:00 am. on Friday, January 7, 2022. This meeting was video conferenced via Microsoft Teams.

#### **MEMBERS PRESENT:**

Kathleen Baker, Washoe County District Attorney's Office  
Karen Cliffe, Clark County District Attorney's Office  
Assemblywoman Lesley Cohen  
Ellen Crecelius, Actuarial Economist, Division of Health Care and Financing and Policy  
Senator Dallas Harris  
Charles Hoskin, Presiding Judge of the 8<sup>th</sup> Judicial District Court  
Cathy Kaplan, Chief of Child Support Enforcement Program, Division of Welfare and Supportive Services (DWSS)  
Senator Keith Pickard  
Bridget E. Robb, Presiding Judge of the 2<sup>nd</sup> Judicial District Court  
Joseph Sanford, Churchill County District Attorney's Association  
Kim Surratt, Family Law Section of the State Bar of Nevada

#### **MEMBERS ABSENT:**

Jack Fleeman, Family Law Section of the State Bar of Nevada  
Assemblywoman Mellissa Hardy  
Jim Shirley, Family Division of the Eleventh Judicial District Court  
Lidia Stiglich, Justice, Nevada Supreme Court

#### **STAFF PRESENT:**

Kiersten Gallagher, Social Services Manager, DWSS  
Kim Smalley, Social Services Program Specialist III, DWSS  
Joy Tomlinson, Administrative Assistant IV, DWSS  
Ryan Sunga, Deputy Attorney General

#### **GUESTS PRESENT**

Alec Raphael  
Sara Kopjo

### **Agenda Item #1 – Call to Order and Roll Call**

The public meeting to review child support enforcement guidelines was brought to order by committee chair, Kim Surratt at 9:00 am. It was determined a quorum was present. Cathy Kaplan filled in for Margot Chappel. Senator Harris joined the meeting at 9:02 am. Ms. Surratt reminded all committee members they must keep their cameras on for the duration of the meeting.

### **Agenda Item #2 – Public Comment**

No public comment was given.

### **Agenda Item #3 – Approval of Meeting Minutes (November 19, 2021 and December 10, 2021).**

Ms. Surratt tabled this agenda item and stated the meeting minutes for October 15, 2021, November 19, 2021, and December 10, 2021 will need to be redrafted to be compliant with Open Meeting Law.

No vote was taken to approve the meeting minutes.

### **Agenda Item #4 – a. Discussion and recommendations on the Master Document for approved language changes.**

Ms. Surratt tabled this agenda item as the document provided to the committee and the public was not showing the redline text of the changes approved by the committee so far.

No vote was taken on this agenda item.

### **Agenda Item #5 – a. Discussion and recommendations/clarification of NAC 425.025(1)(m), the inclusion of alimony in “gross income” in the regulations versus NAC 425.025(2) that does not exclude or deduct alimony paid from the obligor’s income.**

Judge Robb stated alimony is money in the pocket if you are the recipient and currently the recipients do not have to pay tax on alimony. She stated alimony that is being paid should be deducted from gross income before calculating for child support. Ms. Cliffe asked Judge Robb if she was referring to the obligee when she stated alimony being paid. Judge Robb stated if you are the recipient of alimony that should be included in income and if you are paying alimony that amount should be deducted from gross income. Ms. Cliffe asked Judge Robb if she meant paying alimony to the petitioner in that particular case or paying alimony in general. Judge Robb stated she meant paying alimony in general. Ms. Cliffe stated this is a really big change that needs further discussion. Judge Robb stated this has to do with ability to pay. Ms. Cliffe asked how you would know if the obligor is actually paying the alimony.

Ms. Baker asked what happens to the child support obligations for other dependents. She asked if those get deducted from income as well. Ms. Surratt stated serial parenting has not been discussed because no one has known what to do with it. Ms. Baker asked what about restitution or other court ordered obligations and where does the committee draw the line. Judge Robb stated she is drawing the line at alimony as she did not mention other court ordered obligations.

Assemblywoman Cohen asked how alimony is different from other court ordered obligations. Judge Robb stated it is different because it is quantifiable.

Ms. Surratt stated alimony was added to the guidelines by DWSS and the committee never discussed this topic. Judge Hoskin stated he is more comfortable with the alimony being deducted when the other party is the one who is receiving the alimony. Senator Pickard stated child support is based on the gross income and alimony is based on the net income. He stated he would rather leave income paid as an adjustment to be considered.

Ms. Surratt stated she has not put serial parenting back on the agenda until someone has an idea on how to deal with it. Judge Hoskin asked if someone was tasked with looking at what other states do. Ms. Cliffe volunteered to look at Wisconsin and how they handle serial parenting. Ms. Surratt tabled the discussion of alimony for future discussion.

No vote was taken on this agenda item.

#### **b. Public Comment**

No public comment was given.

**Agenda Item #6 – a. Discussion and recommendations on whether income from bonuses should be included in Gross Income and how the receipt of a bonus impacts child support and in particular the language in NAC 425.025(1), see Committee Exhibit Pickard 425.025 (R2).**

Ms. Surratt asked Senator Pickard to present his revised language. Senator Pickard present his revised language and stated this language will clarify for the judges that bonuses are supposed to be part of the calculation. The new language reads:

*(b) Money earned from bonuses, gratuities, or other additional monetary compensation, if such compensation is not nominal, recurring, and can be accurately determined.*

Judge Hoskin suggested changing part of the language to “if such compensation is not nominal, is recurring.” Senator Pickard suggested moving “recurring” before “not nominal” in the language. Judge Robb suggested changing the language to include huge signing bonuses. Senator Pickard stated he thinks that if the bonus is not recurring it should not be included. Ms. Cliffe asked if there was any concern the language “not nominal” will open a host of litigation. She asked how the committee would define “not nominal.” Judge Robb suggested using Judge Hoskin’s earlier language and just stating “bonuses” and leave room for discretion with the judges.

Mr. Sanford suggested adding language of “compensation based on employment.” Ms. Surratt suggested adding language to NAC 425.025(1)(a) of “monetary compensation.” Judge Robb agreed with Ms. Surratt. Ms. Cliffe stated she was hesitant to add language that ties income to employment as there are people who receive income that is not received from an employer. She liked Ms. Surratt’s suggestion of “monetary compensation.”

Senator Pickard stated he would revise the language and present it at the next meeting.

No vote was taken on this agenda item.

**b. Public Comment**

No public comment was given.

**Agenda Item #7 – a. Discussion and recommendations on NAC 425.025(1)(b) to determine if “not including the principal” means that the gross income should not be reduced by investment losses, see Public Exhibit Woods Email re 425.025.**

Senator Pickard suggested Ms. Woods provide some language changes to the committee to help the committee address her public comment. He stated the reference to the tax law in the guidelines is more problematic than it is helpful.

Judge Robb stated she is against going away from the tax code and looking at the gap standard. She stated the guidelines should not be rewarding people for having better accountants. Judge Robb stated the guidelines are trying to capture income and do it fairly.

Ms. Surratt stated the language may need to be reworked and take in consideration the comments from Ms. Woods. Mr. Sanford stated it is rare for the DA’s to have this issue. He stated when it does come up the tax code is not the best way to accurately determine what the income is. Ms. Cliffe agreed with Mr. Sanford. She stated she would not support implementing the gap standard and would prefer the committee leave the language as it is currently written in the guidelines. Ms. Baker agreed with Mr. Sanford and Ms. Cliffe.

Judge Hoskin stated how the guidelines are currently written he has discretion to make a determination on specific cases. Senator Pickard suggested changing the language to “deduct reasonable and necessary expense from the business.” He asked that the agenda item be tabled at this time.

Ms. Surratt clarified for the record that the committee combined and discussed Agenda Item #7, 8, and 9 together.

Mr. Sanford stated the committee did not discuss Ms. Woods’ first question in her public comment which had to do with not including the principle of investment income. He stated this has not come up in any of his cases. However, he has heard comments from members of the public questioning what this language means in terms of investment gains and losses.

Senator Pickard stated investment losses result in reduction of income derived from the account. He stated his answer to Ms. Woods’ first questions is no as the committee does not want to reduce income from investment losses. Judge Robb agreed with Senator Pickard and stated she wanted to leave this language alone. Ms. Surratt agreed with Senator Pickard and Judge Robb.

Ms. Cliffe made a motion to remove Agenda Items #7 and 8 as resolved. Judge Robb seconded the motion. Motion passed unanimously.

**b. Public Comment**

No public comment was given.

**Agenda Item #8 – a. Discussion and recommendations on NAC 425.025(1)(b) to determine if “not including the principal” means that the gross income should not be reduced by investment losses, see Public Exhibit Woods Email re 425.025.**

Ms. Cliffe made a motion to remove Agenda Items #7 and 8 as resolved. Judge Robb seconded the motion. Motion passed unanimously.

**b. Public Comment**

No public comment was given.

**Agenda Item #9 – a. Discussion and recommendations on NAC 425.025(1)(k)(1) and the calculation of “reasonable allowance for economic depreciation”, see Public Exhibit Woods Email re 425.025.**

This agenda item was tabled for the next meeting.

**b. Public Comment**

No public comment was given.

**Agenda Item #10 – a. Discussion and recommendations on AAML recommended changes to NAC 425.025(1), see Public Exhibit AAML Revised NAC 425.**

Ms. Surratt read the changes the AAML is proposing in NCA 425.025(1).

*(a) Salary and wages, including, without limitation, money earned from overtime pay if such overtime pay is substantial, consistent, and can be accurately determined.*

*(d) Any periodic payment from a pension, retirement plan, or annuity which is considered remuneration for employment.*

*(k) Undistributed income of a business entity in which a party has an ownership interest sufficient to individually exercise control over or access to the earnings of the business, unless the income is included as an asset for the purposes of imputing income pursuant to NAC 425.125. As used in this paragraph:*

*(m) Alimony received.*

Ms. Surratt asked if anyone would like to make a motion on these changes. Ms. Cliffe made a motion to adopt these changes. Ms. Baker seconded the motion.

Senator Pickard asked if the vote should be held on 425.025(1)(m) since the committee is planning on discussing alimony separately. Judge Robb stated she is fine with adopting the language for now as long as it does not stop the committee from discussing alimony in the future. Judge Hoskin stated that there were two other suggested changes in subsection a and subsection d.

Ms. Surratt asked Ms. Cliffe and Ms. Baker if their motions included the commas. Ms. Cliffe amended her motion to include the two commas. Ms. Baker seconded the motion. Motion passed unanimously.

**b. Public Comment**

No public comment was given.

**Agenda Item #11 – a. Discussion and recommendations on AAML recommended changes to create a new NAC 425.100, see Public Exhibit AAML Revised NAC 425.**

Ms. Surratt presented the changes from AAML on NAC 425.100.

~~GUIDELINES~~ GUIDELINE SCHEDULE FOR SUPPORT OF CHILDREN

~~NEW~~ NAC 425.100 ~~Order must be based upon obligor's earnings, income and other ability to pay; basic needs of child presumed met if child support obligation based upon guidelines; deviation from guidelines. (NRS 425.620)~~

~~1. Any order must be based on the obligor's earnings, income and other evidence of ability to pay.~~

~~2. It is presumed that the basic needs of a child are met by~~ X A court determining a child support obligation ~~established pursuant to the guidelines set forth in this chapter, however, this presumption may be rebutted by evidence proving that the needs of a particular child are not met or are exceeded by such a child support obligation.~~

~~3. If the court establishes a child support obligation that is greater or less than the child support obligation that would be established pursuant to the guidelines set forth in this chapter, the court must:~~

~~(a) Set forth findings of fact as to the basis for the deviation from the guidelines; and~~  
~~(b) Provide in the findings of fact the child support obligation that would have been established pursuant to the guidelines~~ shall do so after any other alimony or other payments, then calculating the guideline schedule obligation, then making any adjustments, and then allocating medical support and costs of child care.

Senator Pickard stated LCB and DWSS will work out the numbering. He stated he does like some of the organizational changes that were made which will make it easier to understand. Senator Pickard stated the language in 425.100(3)(b) is a very difficult read. Ms. Surratt stated the language is confusing. Mr. Sanford stated the intention of this language is to create an order that the court is supposed to calculate child support. He stated he has concerns with the language "shall do."

Ms. Surratt tabled this agenda item. Senator Pickard and Ms. Cliffe suggested tabling the agenda items and have AAML present their changes at the next meeting.

No vote was taken on this agenda item.

**b. Public Comment**

No public comment was given.

**Agenda Item #12 – a. Discussion and recommendations on AAML recommended changes to NAC 425.110, see Public Exhibit AAML Revised NAC 425**

Ms. Surratt presented the suggested changes from AAML on NAC 425.110.

NAC 425.110 Stipulation to child support obligation that does not comply with ~~guidelines~~guideline schedule: Requirements; authority of court to reject. (NRS 425.620)

1. In lieu of having a child support obligation determined pursuant to the ~~guidelines~~guideline schedule set forth in this chapter, the parties may stipulate to a child support obligation ~~that does not comply with such guidelines.~~ To be binding, such a stipulation must be in writing and:

Senator Pickard stated he does not like the term “schedule.” He stated this is a process more than it is a schedule. Mr. Sanford stated he agreed with Senator Pickard. He suggested the committee come up with a better term than “guideline schedule.” Ms. Surratt asked Mr. Sanford to come up with language to present at the next meeting.

No vote was taken on this agenda item.

**b. Public Comment**

No public comment was given.

**Agenda Item #13 – a. Discussion and recommendations on AAML recommended changes to move NAC 425.145 to follow NAC 425.110, see Public Exhibit AAML Revised NAC 425.**

No discussion or action was taken on this agenda item.

**b. Public Comment**

No public comment was given.

**Agenda Item #14 – a. Discussion and recommendations on AAML recommended changes to NAC 425.115, see Public Exhibit AAML Revised NAC 425.**

No discussion or action was taken on this agenda item.

**b. Public Comment**

No public comment was given.

**Agenda Item #15 – a. Discussion and recommendations on AAML recommended changes to combine NAC425.120 and NAC 425.125, see Public Exhibit AAML Revised NAC 425.**

No discussion or action was taken on this agenda item.

**b. Public Comment**

No public comment was given.

**Agenda Item #16 – a. Discussion and recommendations on the proposed language for NAC 425.140, see Committee Exhibit Pickard 425.140 (R4)**

Judge Hoskin and Senator Pickard presented the language they drafted for NAC 425.140.

*NAC 425.140 Schedule for determining base child support obligation based on number of children and monthly gross income of obligor. Except as otherwise provided in NAC 425.145, the base child support obligation of an obligor must be determined according to the following schedule:*

*1. The initial base child support obligation shall be calculated as follows:*

*a. For one child, the sum of:*

*i. For the first \$6,000 of an obligor's monthly gross income, 16 percent of such income;*

*ii. For any portion of an obligor's monthly gross income that is greater than \$6,000 and equal to or less than \$10,000, 8 percent of such a portion; and*

*iii. For any portion of an obligor's monthly gross income that is greater than \$10,000, 4 percent of such a portion.*

*b. For two children, the sum of:*

*i. For the first \$6,000 of an obligor's monthly gross income, 22 percent of such income;*

*ii. For any portion of an obligor's monthly gross income that is greater than \$6,000 and equal to or less than \$10,000, 11 percent of such a portion; and*

*iii. For any portion of an obligor's monthly gross income that is greater than \$10,000, 6 percent of such a portion.*

*c. For three children, the sum of:*

*i. For the first \$6,000 of an obligor's monthly gross income, 26 percent of such income;*

*ii. For any portion of an obligor's monthly gross income that is greater than \$6,000 and equal to or less than \$10,000, 13 percent of such a portion; and*

*iii. For any portion of an obligor's monthly gross income that is greater than \$10,000, 6 percent of such a portion.*

*d. For four children, the sum of:*



- i. For the first \$6,000 of an obligor's monthly gross income, 28 percent of such income;*
  - ii. For any portion of an obligor's monthly gross income that is greater than \$6,000 and equal to or less than \$10,000, 14 percent of such a portion; and*
  - iii. For any portion of an obligor's monthly gross income that is greater than \$10,000, 7 percent of such a portion.*
- e. For each additional child, the sum of:*
  - i. For the first \$6,000 of an obligor's monthly gross income, an additional 2 percent of such income;*
  - ii. For any portion of an obligor's monthly gross income that is greater than \$6,000 and equal to or less than \$10,000, an additional 1 percent of such a portion; and*
  - iii. For any portion of an obligor's monthly gross income that is greater than \$10,000, an additional 0.5 percent of such a portion.*
- f. The court must then consider the reasonable costs of child care paid by either or both parties and make an equitable division thereof. [prior NAC 425.130] When considering the reasonable costs of child care paid by either or both parties pursuant to NAC 425.130, the court shall set forth its specific findings, if applicable, concerning, **if applicable**:*
  - i. The cost of child care proposed;*
  - ii. The cost of reasonable alternatives to the proposed child care;*
  - iii. The ability of the parties to pay for child care;*
  - iv. Whether either party has elected to remain home with the child rather than earning an income, subject to the provisions of NAC 425.125;*
  - v. Whether child care will allow a party to obtain training or education relating to a job, career or profession; and*
  - vi. Any other factor the court deems relevant to the consideration.*

Senator Pickard suggested approving these changes and moving them to the master document. He stated the committee can make further changes if AAML has any suggested changes for this section. Mr. Sanford suggested fixing the language "the court shall set forth its specific findings, if applicable, concerning, if applicable:" as it states "if applicable" twice. Ms. Surratt asked Senator Pickard and Judge Hoskin which "if applicable" they would like to delete from the language. Senator Pickard suggested deleting the first one so the language would read: "the court shall set forth its specific findings, concerning, if applicable."

Ms. Surratt asked if there was a motion on this agenda item. Judge Hoskin made a motion to adopt the language without the first "if applicable." Judge Robb seconded the motion. Motion passed unanimously.

**b. Public Comment**

No public comment was given.

**Agenda Item #17 – a. Discussion and recommendations on AAML recommended changes to NAC 425.140, see Public Exhibit AAML Revised NAC 425.**

No discussion or action was taken on this agenda item.

**b. Public Comment**

No public comment was given.

**Agenda Item #18 – a. Discussion and recommendations on reorganization of the code sections without consideration to individual edits, see Public Exhibit AAML Revised NAC 425.**

No discussion or action was taken on this agenda item.

**b. Public Comment**

No public comment was given.

**Agenda Item #19 – a. Discussion and recommendations on NAC 425.100 language, see Public Exhibit AAML Revised NAC 425.**

No discussion or action was taken on this agenda item.

**b. Public Comment**

No public comment was given.

**Agenda Item #20 – a. Discussion and recommendations on NAC 425.150 language, see Public Exhibit AAML Revised NAC 425.**

No discussion or action was taken on this agenda item.

**b. Public Comment**

No public comment was given.

**Agenda Item #21 – a. Discussion and recommendations on NAC 425.135 language for medical costs, see Public Exhibit AAML Revised NAC 425.**

No discussion or action was taken on this agenda item.

**b. Public Comment**

No public comment was given.

**Agenda Item #22 – a. Discussion and recommendations on NAC 425.130 language, see Public Exhibit AAML Revised NAC 425.**

No discussion or action was taken on this agenda item.

**b. Public Comment**

No public comment was given.

**Agenda Item #23 – a. Discussion and recommendations on NAC 425.125 language, see Public Exhibit AAML Revised NAC 425.**

No discussion or action was taken on this agenda item.

**b. Public Comment**

No public comment was given.

**Agenda Item #24 – a. Discussion and recommendations on the proposed language for NAC 425.115(3) for joint physical custody to change the language to one-half of the difference versus the full difference in child support values.**

No discussion or action was taken on this agenda item.

**b. Public Comment**

No public comment was given.

**Agenda Item #25 – a. Discussion and recommendations on conflict between NRS 425.160 and NAC 425.160, see Committee Exhibit Surratt 425.160 vs NRS.**

Ms. Surratt read NRS 125C.0045 and NAC 425.160 and asked the committee for comment on the conflict. Judge Hoskin stated he does not see the conflict between the two languages. Mr. Sanford stated he agreed with Judge Hoskin and can see the ambiguity. He stated that the NAC clarifies the ambiguity, but he does not see the conflict. Senator Pickard stated a statutory change may be needed to fix the ambiguity. Judge Robb asked if the committee could make a recommendation that the statutory language be changed to be consistent. Senator Pickard agreed and stated the Judiciary Committee could address this issue. Assemblywoman Cohen suggested the issue go through the Interim Committee to address.

No vote was taken on this agenda item.

**b. Public Comment**

No public comment was given.

**Agenda Item #26 – Discuss and approve ideas for future agenda items.**

Judge Hoskin asked that serial parenting be added as an item on the next agenda. Senator Pickard suggested creating a sub-committee to come up with language for serial parenting. Ms. Surratt asked the committee members, who want to be part of the sub-committee, to reach out to her.

Ms. Surratt asked committee members what date would work for the next meeting. The committee agreed on February 4, 2022 as the date for the next meeting.

**Agenda Item #27 – Public Comment**

No public comment was given.

**Agenda Item #28 – Adjournment**

Ms. Surratt adjourned the meeting at 11:18am.