

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 9:02 am. on Friday, December 10, 2021. This meeting was video conferenced via Microsoft Teams.

MEMBERS PRESENT:

Kathleen Baker, Washoe County District Attorney's Office
Assemblywoman Lesley Cohen
Ellen Crecelius, Actuarial Economist, Division of Health Care and Financing and Policy
Charles Hoskin, Family Division of the Eighth Judicial District Court
Adam Hughes, Clark County District Attorney's Office
Cathy Kaplan, Chief of Child Support Enforcement Program, Division of Welfare and Supportive Services (DWSS)
Senator Keith Pickard
Bridget E. Robb, Family Division of the Second 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
Senator Dallas Harris
Jim Shirley, Family Division of the Eleventh Judicial District Court
Lidia Stiglich, Justice, Nevada Supreme Court

STAFF PRESENT:

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

GUESTS PRESENT

Giovanni Andrade
Valerie Balen
Peggy Liou
Jennifer Matabikwa-Walker
Alec Raphael
Marshal Willick
Kimberly Woods

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 9:02 am. It was determined a quorum was present. Adam Hughes filled in for Karen Cliffe. Cathy Kaplan filled in for Margot Chappel. Senator Pickard joined the meeting at 9:13 am. Ms. Surratt reminded all committee members they must keep their cameras on for the duration of the meeting.

Agenda Item #2 – Public Comment

Public comment was given by Kimberly Woods. Ms. Wood asked for clarification on the language of 425.025 calculating gross income, specifically in subsection b, where it says, “not including principle.” She asked if that was specifically intended to exclude losses from the calculation of gross income. Ms. Woods also asked for clarification on the language in 425.025 subsection k, where it says, “undistributed income of a controlled business.” She stated she did not see any language that directly addresses distributed income and that that income could be double counted. She then asked for clarification on the language, “the reasonable allowance for economic depreciation” under subsection k. She wondered if that's intended to be tax assets, because there's a reference to the tax code or whether that could be more broadly interpreted.

Ms. Surratt asked Ms. Woods to email her public comment to her at kim@surrattlaw.com, so she could place the specific items Ms. Woods addressed on the next agenda.

Ms. Surratt let Mr. Willick know she placed an item on the agenda for him to address the committee. Ms. Willick stated he would save his comments for that agenda item.

Agenda Item #3 – Approval of meeting minutes (November 19, 2021).

Judge Robb stated her name was misspelled in the minutes. Ms. Surratt asked that the minutes be updated to show the correct spelling of Judge Robb's name and to show what the vote was on each agenda item.

No vote was taken to approve the meeting minutes until these changes are made.

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

No discussion or action was taken on this agenda item.

b. Public Comment

No public comment was given.

Agenda Item #5 – a. Discussion and recommendations on reorganization of statutes and cleaning up language in the regulations to make clear what is part of the “formula” versus what is an adjustment after the formula.

No discussion or action was taken on this agenda item.

b. Public Comment

No public comment was given.

Agenda Item #6 – 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.

No discussion or action was taken on this agenda item.

b. Public Comment

No public comment was given.

Agenda Item #7 – 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.

Senator Pickard suggested adding a new subsection b to read, “Money earned from bonuses, gratuities, or other additional monetary compensation, if such compensation is substantial, consistent and can be accurately determined.” Assemblywoman Cohen stated she was concerned about the word “consistent” in the suggested language. Senator Pickard suggested changing the word consistent to recurring. Judge Robb stated she like the word “recurring” better. She also stated she does not like using the word “substantial” because people may interpret this to mean the bonus has to be in the 10s of thousands. She suggested saying “not nominal” instead of “substantial.” Ms. Surratt stated she looked at language from other states and could not find any language regarding bonuses and stated that bonuses are supposed to be part of salary and wages. Senator Pickard urged the committee to add this language to clear any confusion. He suggested inserting wages, including without limitation, bonuses, gratuity bonuses, gratuities, money earned from overtime pay, etc.” Judge Hoskin agreed the language should be included in subsection a. He suggested letting Senator Pickard rework the language and the committee could review the updated language at the next meeting. Ms. Surratt stated she agreed with having the language in subsection a. Senator Pickard stated he would provide two language options at the next meeting for the committee to review.

No vote was taken on this agenda item.

b. Public Comment

No public comment was given.

Agenda Item #8 – a. Discussion and recommendations on NAC 425.100(2) and if “basic needs of a child” should be defined.

No discussion or action was taken on this agenda item.

b. Public Comment

No public comment was given.

Agenda Item #9 – a. Discussion and recommendations on NAC 425.125(1) to determine if the “without good cause” language needs to be modified to include individuals who are

unemployed or underemployed because their household members make sufficient money for the person to not work.

No discussion or action was taken on this agenda item.

b. Public Comment

No public comment was given.

Agenda Item #10 – 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.

Ms. Kaplan proposed a sub-committee be formed to discuss these calculations further. Mr. Hughes presented some examples of what these calculations would look like if this change was made. He stated this change will have a fiscal impact with Nevada Kids Program since the system has been built with the current calculations. He also stated that lowering the child support obligation in every offset situation could result in additional families relying on public assistance.

Ms. Surratt asked what the fiscal impact would be. Ms. Kaplan stated she did not have a dollar amount, but this change would also impact the project. She stated the new system is being rolled out in April, July, and October of 2022 and any changes made at this point would delay the project.

Ms. Surratt asked Ms. Kaplan to explain what the Nevada Kids project is. Ms. Kaplan explained the NVKids system is a system replacement for the State of Nevada.

Senator Pickard stated that this is a fairness question and that each party is responsible to the same degree to pay or to support their children financially. Mr. Hughes stated there is also the presumption that the basic needs of a child are met by a child support obligation made under these guidelines. He stated if you divide a joint custody order in half, you have to questions whether the child's basic needs are still met, especially when in some cases this will result in families being dependent upon Welfare.

Ms. Sanford stated he shares some of the concerns in the instances of a sole supported home and a situation where there's no income on one party and income on the other. He asked how that's going to end up working to meet the basic needs. He stated he is generally in favor of this change, but is not opposed to a subcommittee to ensure that if this does go through, the basic needs are met in these sorts of situations. Ms. Surratt stated that nearly every person that has given the committee substantive public comment during the main committee meetings was in a joint physical custody scenario.

Senator Pickard stated he hesitant to create a subcommittee. He offered to ask the LCB Research Division to look at what other states are doing. Ms. Surratt asked Mr. Hughes and Ms. Kaplan if they wanted to create a subcommittee versus allowing the item to stay on the agenda for further discussion. Mr. Hughes pointed out that Mr. Willick provided some information for the committee regarding this topic. Ms. Kaplan stated she would like to have more time to look into this topic from a DWSS perspective and was good with tabling the item until the next meeting.

Ms. Surratt asked Ms. Kaplan if she could gather more information on the fiscal impact, the timing issues, and the responsiveness with those issues.

Ms. Kaplan: Cathy Kaplan for the record and I agree with Mr. Hughes. I think I would like to have more time to look into it from the DWSS perspective and I'm good with tabling it until the next meeting so that we have some time to do some more research.

Ms. Surratt: I would also appreciate if you could gather a little more information about the fiscal impact, the timing issues, the responsiveness with those issues. Unless I have anybody wanting to do otherwise, I am going to move us on to public comment and allow this item to stay on the agenda to allow us all to digest it some more. Perhaps do some individual research and contemplate the AAML materials and anything that may be there regarding this issue. We're moving on to public comment for agenda item number 10 now and I do know that Mister Wilson had his hand raised.

No vote was taken on this agenda item.

b. Public Comment

Public comment was heard from Marshall Willick. Mr. Willick stated this is not a matter that the Academy Chapter addressed as a group, but he has researched it. He stated the subject should be approached with some caution. He stated the mathematics of across obligation offset that set out and right is currently used in 23 states. Before the approach is changed the committee should examine the investigations and projections applied by those other states. All of these states have decided that a right type approach produces the fairest outcome.

Agenda Item #11 – a. Discussion and recommendations on the proposed language for combining NAC 425.130 and NAC 425.140.

No discussion or action was taken on this agenda item.

b. Public Comment

No public comment was given.

Agenda Item #12 – a. Discussion and recommendations on proposed language for NAC 425.150 and NAC 425.110 to define “public assistance.”

Mr. Hughes suggested new language to define “public assistance.” He read the new language for NAC 425.110(d), “Contain a certification by the obligee that he or she is not currently receiving Temporary Assistance for Needy Families Cash Assistance.” Mr. Hughes also provided updated language for NAC 425.150(d). Mr. Hughes read the proposed change, “Contain a certification by the obligee that he or she is not currently receiving Temporary Assistance for Needy Families Cash Assistance.” Mr. Sanford stated he agreed with the changes.

Mr. Hughes made a motion to adopt these changes. Mr. Sanford seconded the motion. Motion passed unanimously.

b. Public Comment

No public comment was given.

Agenda Item #13 – a. Discussion and recommendations on American Academy of Matrimonial Lawyers (AAML) proposal for changes to NAC 425.

Mr. Willick presented language changes for NAC 425 to the committee. He provided a red line document and an explanatory memo to the committee that showed the AAML's suggested changes to the language. They suggested a structural reordering of the steps to correct the repeated problems of judges, in some courts, not agreeing on what to do in which order, which has led to very different results in similar situations. Secondly, they suggested terminology changes that provide uniformity from one specific regulation to another to clarify the meaning of the terms used. The AAML recommends elimination of some undefined terms using normative language to specify that the regulations set out specific procedures for steps to be taken by courts in allocating child support. They have addressed the alimony and multiple family issues by explaining in the memo the mathematical effect of the current regulations in both primary and joint custody situations. And suggesting implementation of an explicit first mortgage approach addressing prior but not subsequent child support obligations as recommended by the 1985 Governors Commission and the 1992 and 1996 Child Support Statute Review Committees.

Ms. Surratt asked Mr. Willick to explain what the AAML is. Mr. Willick stated the American Academy of Matrimonial Lawyers (AAML) is a voluntary organization based in Chicago of generally leading practitioners in Family Law. The structure of the organization is that in Nevada, for example, you have to already be a certified specialist just to apply for Academy membership. The purpose of the Academy is to improve the practice of Family Law.

Ms. Surratt asked if the changes Mr. Willick proposed to the committee were voted on by the Chapter. Mr. Willick stated the changes were circulated to the Academy Chapter and voted on. There were no votes against the changes, someone abstained, and some people did not vote at all.

Senator Pickard asked Mr. Willick if he could email a copy of his written public comment to the committee for reference. Mr. Willick stated he would email his public comment to Ms. Surratt.

No vote was taken on this agenda item.

b. Public Comment

No public comment was given.

Agenda Item #14 – Discuss and approve ideas for future agenda items.

Ms. Surratt asked the committee if they had any items to add to the agenda. Ms. Baker asked to add an agenda item to discuss the basic child support formula. Mr. Sanford asked for a name convention to be created for documents being sent to the committee, so everyone knows which documents are from committee members and which ones are from the public.

Ms. Surratt asked Ms. Kaplan for a status update on the meeting records being listed on the DWSS website. Ms. Kaplan stated she would check on the status and let Ms. Surratt know.

Agenda Item #15 – Public Comment

No public comment was given.

Agenda Item #16 – Adjournment

Ms. Surratt requested a motion to adjourn. Senator Pickard made a motion to adjourn the meeting. Judge Robb seconded the motion. Meeting adjourned at 10:33am.