

## **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, March 25, 2022. This meeting was video conferenced via Zoom Webinar.

#### **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

Charles Hoskin, Family Division of the Eighth Judicial District Court

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 Office

Lidia Stiglich, Justice, Nevada Supreme Court

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

#### **STAFF PRESENT:**

Kiersten Gallagher, Social Services Manager, DWSS

Joy Tomlinson, Administrative Assistant IV, DWSS

Sharon Benson, Deputy Attorney General (DAG)

#### **GUESTS PRESENT**

Giovanni Andrade

Jimmy Carr

April Green

### **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. Ms. Surratt reminded all committee members they must keep their cameras on for the duration of the meeting. Ms. Surratt also notified the committee that Jack Fleeman has vacated his position on the committee and she notified the Family Law Section to nominate someone else. Judge Robb joined the meeting at 9:10am.

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

Public comment was given by Jimmy Carr on agenda items 7 and 8. Mr. Carr stated he supported using one half of the difference in support obligations as he believes that is fair for everyone and it equalizes child support in both households. He suggested the committee clarify what it means when there are two or more child support orders affective at the same time. He stated he has joint custody of one child and child support is set at zero dollars. He is not sure if the zero-dollar order would be considered in a serial parenting situation.

Public comment was given by April Green. Ms. Green stated she is against equalizing income in joint physical custody situations. She stated at Legal Aid they see thousands of people living at the poverty level litigating these cases through Family Court because of the preference for joint physical custody. She stated children are living in poverty and are falling further into poverty. The calculations are low enough and now there is an attempt to reduce the child support even more. This just means more children are going to be in poverty as well as the person who is primarily taking care of the children. She stated this is dangerous and should not be done.

Public comment was given by Giovanni Andrade. Mr. Andrade stated he is the Staff Attorney at the Family Law Self Help Center in Clark County. He stated he wanted to echo Ms. Green's comments regarding cutting child support in half on joint custody situations. The new calculation would be cutting the initial child support obligation on one child from 16% to 8%. He stated he does not understand how this would benefit the child at all.

### **Agenda Item #3 – Approval of Meeting Minutes (March 25, 2022).**

Ms. Surratt asked for a motion to approve the March 25, 2022 meeting minutes. Senator Pickard made a motion to approve the meeting minutes. Mr. Sanford seconded the motion. Assemblywoman Cohen, Judge Hoskin, and Judge Robb abstained from the vote. Motion passed unanimously.

Ms. Tomlinson notified Ms. Surratt the meeting minutes were not available on the DWSS website for the public to view and the DAG advised the committee could not vote on the meeting minutes at this meeting since they were not available to the public. Senator Pickard and Mr. Sanford withdrew their motions.

### **Agenda Item #4 – Discussion, recommendations and nominations for chair for the State of Nevada Child Support Guidelines Committee.**

No discussion or action on this agenda item. No vote was taken on this agenda item.

**Agenda Item #5 – Discussion and recommendations on the Master Document for approved language changes. See Exhibit 1**

No discussion or action on this agenda item. No vote was taken on this agenda item.

**Agenda Item #6 – Discussion and recommendations on proposed reorganization and language changes to the NAC. See Exhibit 2 from Committee Members Sanford and Fleeman.**

Ms. Surratt asked Mr. Sanford if he would present the changes that were made. Mr. Sanford stated 425.110 had redundant language and he corrected that language. He stated the 425.XXX, that was introduced at the last meeting, still needs to be given an official number in the NAC. Ms. Surratt stated in Exhibit 2, the language in purple is language the committee has voted on in other meetings and the language in blue are the changes Mr. Sanford is presenting.

Ms. Surratt asked for comments from the committee. Senator Pickard suggested tabling this agenda item until the committee has voted on the other agenda items. Ms. Surratt stated she would keep this item on the agenda for the next meeting.

No vote was taken on this agenda item.

**Agenda Item #7 – Discussion and recommendations on formulas to address new possible administrative codes to calculate child support for serial parenting. See Exhibit 3 from Committee Members Pickard, Cliffe, and Sanford.**

Ms. Surratt asked Senator Pickard, Ms. Cliffe, and Mr. Sanford to present their suggestions on this agenda item. Senator Pickard suggested adding serial parenting as an adjustment. He stated after much discussion they decided it is not an adjustment, it is the first consideration made before calculating child support. He stated it should occur before NAC 425.140 as it is an early consideration.

Mr. Sanford stated they had discussion about how to handle joint physical custody orders and zero-dollar orders. He stated he had received feedback there was offence to the term serial parenting. He was told it was a derogatory term.

Ms. Cliffe stated she agreed with Senator Pickard and Mr. Sanford. She stated she could come up with other terms for serial parenting that are less offensive.

Judge Hoskin stated this is too limiting from a judicial standpoint. He stated there are too many definitives. He stated as a judicial officer he needs the ability to right size the order. Senator Pickard offered to have Judge Hoskin join the discussion with himself, Ms. Cliffe, and Mr. Sanford.

Ms. Benson advised the committee they should have an official sub-committee if several people are having discussions on language to keep the committee in compliance with Open Meeting Law. Ms. Surratt stated the numbers have not been met for the committee to be out of compliance with Open Meeting Law and that they will review if more members join the discussion for this agenda item. Senator Pickard stated as long as there is not a quorum, and no action is taken the members are okay to meet. Ms. Surratt agreed with Senator Pickard and stated as long as the individuals

meeting do not create a walking quorum by reaching out to other members who reach out to another members.

Judge Robb stated she looked up the word “serial” and to see why it would be offensive She suggested using “successive” instead of “serial.” Ms. Surratt stated she would keep this item on the agenda for the next meeting.

No vote was taken on this agenda item.

**Agenda Item #8 – 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. Surratt asked Ms. Kaplan to present the information DWSS provided on this topic. Ms. Surratt asked the committee if they have had an opportunity to review the information and if they are ready to discuss it. Senator Pickard stated this is a fairness issue and would like time to review the information provided by DWSS. Ms. Kaplan suggested the committee read through the North Dakota provision as it had good insight on this topic. Ms. Surratt stated the majority of public comment on this agenda item is from non-custodial parties in a joint physical custody situation.

Ms. Cliffe stated she had a chance to read the information provided by DWSS. She stated it was nice to see how involved the State of North Dakota was in drafting language. Mr. Sanford asked if one of the examples was including a child from another court order. Ms. Kaplan clarified that is was. Senator Pickard stated he wanted to come up with examples that show half the difference or proportional difference and how that would be unfair in any situation. Ms. Kaplan stated these examples are recent cases that have come through the DWSS program and offered to provide more examples at the next meeting if need be.

Judge Robb stated the judges need discretion to right size orders. Senator Pickard stated his goal is to reduce the obligation to what is fair. Ms. Surratt stated she would keep this item on the agenda for the next meeting.

No vote was taken on this agenda item.

**Agenda Item #9 – Discussion and recommendations on the proposed language for NAC 425.115(4) for scenarios in which a parent has primary physical custody of one child each and when one parent has primary over one child but both parents have joint physical over two other children.**

Ms. Surratt asked Ms. Baker to present her suggested language. Ms. Baker stated the only change she made is when both parents have primary physical custody of one or more children. The next language reads:

4. If the parties have two or more children and a) each party has joint physical custody of at least one, but not all, of the children, or b) each party has primary physical custody of one or more, but not all, of the children, the total child support obligation of each party must be determined based on the number of children to whom each party owes a child support obligation. After each party’s respective child support obligation is determined, the child support obligations must be offset so that the party with the higher child support obligation pays the other party the difference.

Ms. Surratt asked if there was a motion on the new language. Ms. Baker made a motion to add the new language to NAC 425.115(4). Mr. Sanford seconded the motion. Motion passed unanimously.

**Agenda Item #10 – 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.**

Ms. Surratt asked Judge Robb to present her suggested language. Judge Robb presented the new language. The new language reads:

4. An Obligor who pays alimony pursuant to a court order, to the same Obligee for whom a child support order is being established, enforced or modified, may delete the amount of alimony actually paid from the Obligor’s gross income as defined in sections 1-3 above.

Judge Hoskin suggested using “reduce” instead of “delete.” Mr. Sanford stated he agreed with Judge Hoskin. Assemblywoman Cohen asked if the committee needs to discuss what happens when alimony goes away. Ms. Cliffe asked who will monitor “actually pay.” Judge Robb stated the alimony has to be money that has been received by the Obligee in order to be considered for a reduction. Senator Pickard stated if you don’t pay alimony a judgement follows. He stated “ordered” would still be appropriate. Judge Robb stated she has no problem removing “actually paid” from the language.

Ms. Cliffe stated she would not be voting in support of this language. Mr. Sanford stated he agrees with Ms. Cliffe. Senator Pickard stated alimony is discretionary and the court should be taking everything in consideration when ordering alimony. Ms. Surratt stated there was feedback from the private bar about what to do with alimony. She stated she would keep this item on the agenda for the next meeting.

No vote was taken on this agenda item.

**Agenda Item #11 – Discussion and recommendations on NAC 425.110(1)(d) to account for the possibility that TANF could have a name change in the future and the successor program names should be included.**

Ms. Surratt asked for committee comments. Ms. Cliffe asked Ms. Kaplan if she has a position on this. Judge Hoskin asked if the committee was looking at Exhibit 2 for this agenda item. Ms. Surratt stated they were on Exhibit 2 (NAC 425.110). Ms. Kaplan stated she would be fine with adding language that states “cash assistance paid through the State” or language similar to that. She stated she would run the new language by DWSS’s Administrator to make sure the language is capturing the intent of what TANF is. Ms. Surratt asked Ms. Kaplan if she could discuss new language with the Administrator and provide that information at the next meeting. Senator Pickard suggested adding “and its successor” to address if there was a name change to the TANF program. Assemblywoman Cohen stated she agreed with “or its successor program.” Ms. Surratt stated she would keep this item on the agenda for the next meeting.

No vote was taken on this agenda item.

**Agenda Item #12 – Discussion and recommendations on the means for division of “medical costs” including whether the term “equitable” should be utilized for division.**

Ms. Surratt asked if the committee was ready to discuss this agenda. Senator Pickard stated it should be an equitable division instead of an equal division. Ms. Surratt stated she likes the use of “equitable.” Judge Robb stated “equitable” may not fix everything. She stated she would work on drafting some language for the next meeting. Ms. Baker stated the NAC does not address unreimbursed medical expenses. Judge Hoskin stated unreimbursed medical expenses are not a child support issue. Judge Robb stated she would review the previous meeting minutes and recordings. Ms. Surratt stated she would keep this item on the agenda for the next meeting.

No vote was taken on this agenda item.

**Agenda Item #13 – Discussion and recommendations on NAC 425.100 and language to clarify that the low-income table does not meet the needs of a child(ren).**

Ms. Surratt asked for comments on this agenda item. Senator Pickard stated the language in NAC 425.100 comes directly from the federal mandate that the committee is required to come up with a guideline that meets the basic needs of the child. Judge Hoskin stated he is comfortable with relying on a regulation that indicates what the presumption is and what he needs to do to overcome the presumption. He stated he does not know the last time he has used this language in court. Judge Robb stated she does not do anything different than Judge Hoskin. Ms. Surratt stated this is a solution without a serious problem at this time. She stated she would remove the agenda item for now.

No vote was taken on this agenda item.

**Agenda Item #14 – Discuss and approve ideas for future agenda items and the next meeting date/time.**

Ms. Surratt asked if there are any new agenda items that need to be added. There were no new agenda items provided.

Ms. Surratt asked when the next meeting date should be. The committee agreed on June 3, 2022 for the next meeting date.

Ms. Benson pointed out that Agenda Item 4 and 5 were skipped and wanted to make sure the committee was not missing any committee requirements by skipping those agenda items. Ms. Surratt stated Agenda Item 4 was held over from the last agenda but had been dealt with at the last meeting.

**Agenda Item #15 – Public Comment**

No public comment was given.

**Agenda Item #16 – Adjournment**

Ms. Surratt adjourned the meeting at 10:45am.