

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, August 16, 2024. This meeting was video conferenced between the Legislative Counsel Buildings, 401 South Carson Street, Hearing Room 3138, Carson City, NV and 7230 Amigo Street, Hearing Room 335, Las Vegas, NV. The meeting was also accessible via teleconference and online at <https://www.leg.state.nv.us/App/Calendar/A/> and <https://www.youtube.com/@NVLeg/featured>.

MEMBERS PRESENT:

Kathleen Baker, Washoe County District Attorney's Office
Assemblywoman Lesley Cohen
Ellen Crecelius, Actuarial Economist, Division of Aging and Disability
Kiersten Gallagher, Division of Welfare and Supportive Services (DWSS)
Assemblyman Ken Gray
April Green, Family Law Section of the State Bar of Nevada
Senator Dallas Harris
Charles Hoskin, Family Division of the Eighth Judicial District Court
Adam Hughes, Clark County District Attorney's Office
Bridget E. Robb, Family Division of the Second Judicial District Court
Kim Surratt, Family Law Section of the State Bar of Nevada
Jeff Weed, Churchill County District Attorney's Office

MEMBERS ABSENT:

Patricia Lee, Justice, Nevada Supreme Court
Jim Shirley, Family Division of the Eleventh Judicial District Court

STAFF PRESENT:

Angelise Washington, DWSS
Joy Tomlinson, DWSS
Rebecca Lindelow, DWSS
Tammy Tovey-Stephenson, Deputy Attorney General

GUESTS PRESENT

None

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. Ms. Surratt stated there is a vacant seat on the committee for the Nevada State Senate.

Agenda Item #2 – General Public Comments

No public comment was given.

Agenda Item #3 – Discussion and possible approval of Meeting Minutes (December 9, 2022).

Ms. Surratt asked for any discussion on the meeting minutes from the December 9, 2022, meeting. There was no discussion on the meeting minutes.

Ms. Surratt asked for a motion to approve the December 9, 2022, meeting minutes. Assemblywoman Cohen made a motion to approve the meeting minutes. Judge Hoskin seconded the motion. Ms. Baker abstained from voting on the minutes. Motion passed.

Agenda Item #4 – Elect a Chair pursuant to NRS 425.610(3), which states “At the first regular meeting every 4 years, the members of the Committee shall elect a Chair by majority vote who shall serve until the next Chair is elected.”

Ms. Surratt stated she took the Chair position in August 2017. She stated she could not remember if she was ever re-elected for the next four years. She continued in this position as no one wanted it. Ms. Surratt asked if committee members were interested in taking the chair position. No members stated they were interested.

Ms. Surratt stated she has asked the Family Law Section of the State Bar of Nevada to start looking for a replacement for her on this committee. She will stay in the chair position for now but would like to move on. She asked any members that are interested or think they need training to reach out to her regarding the chair position.

Ms. Surratt asked for a motion to appoint her as chair of the committee. Judge Robb made a motion to appoint Ms. Surratt as chair for the next term. Ms. Baker seconded the motion. Motion passed.

Ms. Surratt asked for the committee to consider appointing a co-chair in case she is unable to attend any meetings.

Agenda Item #5 – Overview and discussion of Committee charge under applicable authority and DWSS Administrator’s welcome and directive.

Ms. Surratt stated the committee was provided with several materials that are foundational to understanding the changes the committee has implemented. She stated the original bill (AB 278 of the 2017 Legislative Session) is narrow in what authority the committee was given. The scope of the committee is to review the calculation of child support. She stated there will be times when

certain topics of discussion do not make it on to the agenda because they are not part of the scope of the committee. Ms. Surratt stated for the record there was a request from the public to discussion consideration of division of tax deductions and tax treatment of children under child support. This topic does not fall under the purview of the committee and therefore was not placed on the agenda for committee discussion.

Ms. Surratt encouraged the committee to review the DWSS website, https://dwss.nv.gov/Support/cs_guideline_committee/, to find the list of members, meeting dates, agendas, materials, minutes, and recordings. Ms. Surratt reminded DWSS that the December 9, 2022, recording is missing from the website.

Ms. Surratt discussed the Administrator's letter to the committee. She asked if there was a statement from DWSS in addition to the letter provided to the committee. DWSS had no other comments.

Ms. Surratt discussed the Open Meeting Law Manual. She warned the committee about walking quorums and to abstain from discussing topics with other members outside of meetings as it is a direct violation of the Open Meeting Law. She stated research assignments given to a committee members do not fall under a walking quorum as long as the research and discussions are kept between the committee members tasked with the research.

Ms. Surratt stated the main purposes of this committee is to make sure they are meeting the needs of Nevada citizens and adhering to the Federal Government's guidance on calculating child support. She pointed to the federal rules and the summary document that shows what the committee's role is. The goal is to keep Nevada funded with the Federal Government. If Nevada does not stay in compliance, they could lose the funding.

Ms. Surratt stated there is a requirement in the statues for the State to pursue an audit of the child support statues every four years. The last audit was done in 2016. The new guidelines did not go into effect until February of 2020. The theory was that we needed to operate under those guidelines for four years before a valid audit could be conducted. She stated the State should have started an audit in February 2024 and it was her understanding that no one has been retained to start that audit. Ms. Surratt stated as the chair, this committee is extremely restricted on compliance of the statutory requirements without an additional audit. Her direction to the committee is that the last audit needed additional statistics from private cases and data from private cases. She stated private attorneys do not have a mechanism to get that date to the auditor. She stated this will probably an item on the next agenda to discuss.

Ms. Surratt stated she would like to motion that these meetings be held through Zoom, instead of meeting in person at the Carons City and Las Vegas locations. She stated Zoom is the only way the committee gets participation from the public. She also stated it would be easier for the members on the committee to not have to attend in person at the physical locations. The committee did meet through Zoom during COVID without any issues. She asked for discussion from the committee on how they would like the meetings held. Ms. Baker stated she agrees with Ms. Surratt and that the committee can accomplish what they need to through Zoom.

Assemblyman Gray stated in person meetings are still very beneficial. He stated the Zoom option is there for people who want to participate. He stated a location for in person meetings is something that still needs to be done. Judge Robb stated she agrees with Ms. Surratt and would like to go to an all Zoom participation. Assemblywoman Cohen stated she agrees with Ms. Surratt, the meetings should be held through Zoom. Judge Hoskin stated there should be physical locations for in-person meetings with the option for members to utilize Zoom if needed. Ms. Green stated she likes the in-person option and have Zoom as an additional option. Senator Harris stated this is a question for Ms. Surratt. If there is the option for in-persona and virtual, the chair is usually the one required to attend in-person while everyone else could attend virtually. Senator Harris stated she supports allowing people to attend virtually. She asked Ms. Surratt how much of burden attending in-person would be for her. Ms. Surratt stated she lives in Washoe Valley and is not that difficult for her to attend in-person. She stated there is a member of the committee driving from Fallon, but he indicated it was not difficult for him to travel in-person. She stated she is okay with keeping it as is so the public can participate from rural Nevada. Judge Robb asked if in-person comment has to been in the meeting rooms in Las Vegas or Carson City or can there be another public place. Ms. Surratt stated she would research this question to see if other locations are available.

Ms. Surratt asked if the committee had any questions regarding the overview of the committee or their charge. Assemblyman Gray asked when the agenda for the meeting was posted to make sure it was in compliance with Open Meeting Law. Ms. Surratt asked Ms. Tomlinson to verify when the agenda was posted. Ms. Tomlinson stated she would have to review for the specific date, but the agenda was posted before 9:00 a.m. on Tuesday, August 13, 2024, to be in compliance with Open Meeting Law. Ms. Surratt voiced her frustration with DWSS about the scheduling of meetings. She stated the recommendations the committee submitted in 2022 have yet to make it to the Legislative Commission in order to be adopted.

Ms. Gallagher stated she agrees this is a good time to get the economist on board to audit the guidelines. She stated a Request For Proposal (RFP) has to be started to get a contract with a vendor to perform the audit. The RFP has been started. Judge Robb asked if the RFP has already gone out and when the close date is on it. Ms. Gallagher stated the RFP has not gone out. She is in contact with DWSS contract team to create the RFP. She did not know how long the process will take. Ms. Gallagher stated while it is a good recommendation to hire an economist, she did speak with the federal representatives and it is not a federal law. Assemblyman Gray asked Ms. Gallagher what has been started and done with the RFP so far. Ms. Gallagher stated the process that has been started and she is working with the DWSS contract team and filling out paperwork for the RFP. She stated this is her first RFP so she is not well versed on all the steps that need to happen. Assemblyman Gray asked when Ms. Gallagher met with the contract team. Ms. Gallagher stated she met with them last month. Ms. Crecelius stated that she works for a DHHS agency, and an RFP takes them about 6 months. They have to file the paperwork, put together a scope of work, work with the State Purchasing Division, post the RFP for a certain amount of time, there is a comment period back and forth, then, review the proposals. Ms. Surratt stated that every four years the audit should take place per the NRS and AB 278 that created this committee. She stated it is not just a good idea, but it is late.

No vote was taken on this agenda item.

Agenda Item #6 – Discussion of the Committee’s last report to DWSS and which recommendations were and were not accepted.

Ms. Surratt stated not all the recommendations submitted by the committee to DWSS made it to the Public Hearing. The committee was not noticed about these changes. She stated the Administrator’s letter states that DWSS does not have to accept all the changes the committee submits. Perhaps the guidelines need to be removed from the Nevada Administrative Code (NAC) and brought back into the Nevada Revised Statutes (NRS) by the legislature. Ms. Surratt stated the point of the committee was to be more efficient versus waiting every two years for a legislative session. She stated DWSS is not meeting the purpose and legislative intent of the committee.

Judge Robb stated she was dismayed at the timing of the minutes and when they were received. The meeting was held more than 18 months ago. She stated it was not acceptable that the minutes were not received until now especially when they included discussion that was ignored by DWSS. She stated she wanted to call attention to the make up of this committee. The committee is made up of subject matter experts: Supreme Court judge, Second Judicial Family Court judge, Eighth Judicial Family Court judge, Eleventh Judicial Court judge, Washoe County District Attorney, Clark County District Attorney, Family Law practitioners, and an economic expert. The committee is comprised of people knowledgeable about and working directly with child support and the guidelines. To summarily set aside or ignore recommendation made by this committee after they have listed to public comment and heard from members of the family law, she thinks it is disrespectful, dismissive, and she wonders why this committee even exists. She stated she does not believe the committee was meant to be a figure head by the legislature.

Ms. Gallagher stated DWSS ignored nothing when reviewing the recommendations submitted by the committee. DWSS took all the recommendations very seriously. The Administrator cannot accept changes that have a very real chance of causing Nevadans to apply for Temporary Assistance for Needy Families (TANF) or not be able to get off of TANF assistance. TANF is a safety net; it is not a program DWSS solicits for. The Division provided the reason why they disagreed with the specific change in the May 2022 meeting. She stated the Division has accepted all the recommended changes the committee has submitted, except one. Ms. Gallagher also stated that DWSS staff have to be available to staff the committee meetings. She stated she has tried to be communicative with Ms. Surratt regarding DWSS in the middle of implementing of NVKIDS.

Judge Robb asked for clarification on which recommendation DWSS did not include in their proposed draft. Ms. Gallagher stated she was talking about the change regarding the halving of the obligation in the joint physical custody scenario. Ms. Surratt stated she believes the current mechanism of calculating joint physical custody causes the payors to often need TANF, but they do not qualify for TANF because of their income. She stated if DWSS disagrees with anything the committee votes on, those recommendations will not be accepted by DWSS. She stated Ms. Gallagher was not part of the committee before and she does not want this to be a denigration of Ms. Gallagher at all. It is DWSS that is the problem.

Ms. Surratt stated she wanted to do some research with the Attorney General's Office regarding a meeting not taking place because DWSS is too busy with their new system. That should not impact the State of Nevada or the citizens of the State of Nevada. She wants to determine what needs to be done so she can hold a meeting whether DWSS is available or not. Ms. Gallagher stated DWSS is going through federal certification of the NVKIDS system that is not a disaster. DWSS has limited staff. That does not mean meetings cannot happen but that it will be more difficult to coordinate these meetings.

Judge Hoskin stated he has received no information since the committee last met in 2022. He stated the committee did not receive much information last time until the regulations were promulgated. His understanding was that things were moving forward. He asked Ms. Surratt if she was in contact with DWSS regarding updates on the adoption of the recommendations. Ms. Surratt stated she has sent several emails pushing for updates on where DWSS is with adopting the recommendations and has been told it is moving forward. She stated she cannot send an email to the committee with an update because that is a violation of the Open Meeting Law. She has to have a meeting to give the committee any updates. She stated DWSS did hold a Public Workshop in June, and she was the only committee member that attended to express her displeasure. Ms. Surratt asked Ms. Gallagher if she had any updates on where DWSS is with the next public hearing to adopt the regulations. Ms. Gallagher stated the public workshop was held in June and the public hearing is scheduled in September. She stated DWSS can share information with the committee on where the adoption of the regulations is at. Ms. Surratt asked that the update happen so the committee knows what is going on.

No vote was taken on this agenda item.

Agenda Item #7 - Discussion of concern voiced by Nevada's low-income legal service providers regarding the Courts obligation to consider "the reasonable cost of childcare paid by either or both parties and make an equitable division thereof" pursuant to NAC 425.130.

Ms. Surratt stated legal services were unable to testify at the meeting today. She asked Ms. Green if she would be able to provide any input on this agenda item. She stated the issue was the courts detailed requirements and findings of facts and those self-representing would have a hard time following or providing that detailed information for the detailed Finding of Facts. She asked if the committee had any comments or if the agenda item should be tabled for the next meeting so legal services can testify on the issue. Ms. Green stated she did not know anything about it. She asked that the agenda item be tabled. Ms. Surratt clarified that it was Southern Nevada legal services that expressed the concern.

Ms. Surratt tabled this agenda item. No vote was taken on this agenda item.

Agenda Item #8 – Discussion of public concern expressed to the Chair regarding the need for the Committee to consider the use of income tax deductions and income distribution among the parties in child support matters.

Ms. Surratt stated the committee did discuss this topic in a previous meeting and it was determined the committee does not have purview on this issue. She suggested the public reach

out to their legislators regarding edits to the NRS. Ms. Cohen stated requests can be submitted to any legislator, not just members of this committee.

No vote was taken on this agenda item.

Agenda Item #9 – Discussion of whether the Nevada Supreme Court’s holding in the case of *Matkulak v. Davis*, 516 P.3d 667 (Nev. 2022), allows courts to exceed the authority to adjust an obligor’s base child support obligation under factor (f) of NAC 425.150(1).

Ms. Surratt stated the individual who brought this issue to her attention was unable to attend the meeting. She suggested tabling this agenda item so the committee can review the case, and someone is able to testify. Judge Hoskin stated he raised this issue at the last meeting as a future agenda item. He stated the issue is that the committee indicated in NAC 425.150(f) that there is a cap. He stated this agenda item is more of a clarification on the committee’s intent. Ms. Surratt stated there shouldn’t be any caps and that the previous caps were in violation of the federal guidelines. The judges need to have discretion to come to the right numbers for each family. Judge Robb stated the committee may not call it a cap any longer but there are limitations in the guidelines. She stated the Nevada Supreme Court stated they did not see childcare as child support but as something above and beyond child support. Ms. Surratt stated that interpretation concerns her because by the Federal Government, childcare and health insurance should be part of the calculation for child support. Judge Hoskin stated this is an issue the committee needs to discuss further.

Agenda item was tabled for further discussion. No vote was taken on this agenda item.

Agenda Item #10 – Discussion and possible approval of ideas for future agenda items and the next meeting date/time.

Ms. Surratt asked the committee for any additional agenda items that need to be added. Mr. Hughes asked for an agenda item regarding clarification or interpretation of the low-income payor table.

Ms. Surratt asked the committee how often they would like to meet. She suggested every two months. Judge Hoskin and Ms. Baker agreed with Ms. Surratt. Assemblywoman Cohen stated two months is good but October has Jewish holidays and Nevada Day. Ms. Green suggested quarterly. Assemblywoman Gray agreed with Ms. Green. Ms. Surratt stated she will aim for November for the next committee meeting. Ms. Surratt asked the committee members to get the agenda out through whatever means they have as she would like more public input in future meetings. Assemblyman Gray asked that an agenda item be added for DWSS to provide an update on the RFP process.

Agenda Item #11 – General Public Comments

No public comment was given.

Agenda Item #12 – Adjournment

Ms. Surratt adjourned the meeting at 10:24am.