

NEVADA CHILD SUPPORT GUIDELINES COMMITTEE PUBLIC MEETING TO REVIEW CHILD SUPPORT ENFORCEMENT GUIDELINES IN ACCORDANCE WITH ASSEMBLY BILL 278 OF THE 2017 LEGISLATIVE SESSION.

The public meeting to review child support enforcement guidelines was brought to order by committee chair Kim Surratt at 1:01 p.m. on Friday, December 29, 2017. This meeting was video-conferenced between the Nevada State Legislative Building, 401 South Carson Street, Hearing Room 2135, Carson City, NV 89701 and Grant Sawyer State Office Building, 555 East Washington Avenue, Hearing Room 4412, Las Vegas, NV 89101. The meeting was also accessible via teleconference.

MEMBERS PRESENT:

Kathleen Baker, Washoe County District Attorney's Office
Ellen Crecelius, Chief Financial Officer, Division of Health Care Financing and Policy
Charles Hoskin, Family Division of the Eighth Judicial District Court
Nova Murray, Deputy Administrator, Division of Welfare and Supportive Services
Assemblyman Keith Pickard
Bridget E. Robb, Family Division of the Second Judicial District Court
Senator Michael Roberson
Joseph Sanford, Churchill County District Attorney's Association
Kim Surratt, Family Law Section of the State Bar of Nevada
Dawn Throne, Family Law Section of the State Bar of Nevada

MEMBERS ABSENT:

Karen Cliffe, Clark County District Attorney's Office
Senator Patricia Farley
Assemblyman Ozzie Fumo
Jim Shirley, Family Division of the Eleventh Judicial District Court
Lidia Stiglich, Justice, Nevada Supreme Court

STAFF PRESENT:

Jenelle Gimlin, Chief of Child Support Enforcement, Division of Welfare and Supportive Services (DWSS)
Joy Tomlinson, Administrative Assistant III, DWSS
Rebecca Lindelow, Family Services Supervisor, DWSS
Kiersten Gallagher, Social Services Manager, DWSS
Ryan Sunga, Deputy Attorney General

GUESTS PRESENT – NORTH

Bryce White
Maureen White

GUESTS PRESENT – SOUTH

Michael McDonald
Deleon Jones

Sarah Gazala

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 1:01 p.m.

Roll call was taken.

Agenda Item #2 – Public Comment

Ms. Surratt called for public comment in the south. Public Comment was heard from Michael McDonald. Mr. McDonald stated the child support guidelines are incentivizing separating families due to money. He asked the committee to repeal Title 42 Section 666, The Child Support Enforcement Act. Also, he asked the committee to consider how other countries calculate child support using a flat rate. He stated other countries have a set standard of joint physical custody which elevates the fighting over the children. Mr. McDonald asked the committee to look the enforcement of parental involvement.

Ms. Surratt called for public comment in the north: no public comment.

Ms. Surratt called for public comment over the telephone: no public comment.

Agenda Item #3 – Approval of Meeting Minutes (November 17, 2017 & December 13, 2017)

Assemblyman Pickard moved to approve the meeting minutes from November 17, 2017. Kathleen Baker seconded motion. Motion passed unanimously.

Assemblyman Pickard moved to approve the meeting minutes from December 13, 2017. Kathleen Baker and Down Throne seconded motion. Motion passed unanimously.

Agenda Item #4 - In items 8a through and including 8i below, the reference to Exhibit 44 is the 2015 written report of Jane Venohr, Ph.D. to the State of Nevada Child Support Enforcement Program entitled, “Review of the Nevada Child Support Guidelines” (hereinafter “Exhibit 44”). A copy of the full written report is available online at https://dwss.nv.gov/Support/cs_meeting_agenda_materials/

No discussion or action was taken on this agenda item.

Agenda Item #4a - Discussion and recommendations as to what formula to use for child support after elimination of the presumptive maximum amounts (pursuant to items 2, 3 and 5 of Exhibit 44 and the Action Items from the September 26, 2017 meeting). Sample language drafted by Committee Member Judge Robb to be reviewed and discussed along with economic data to be provided by Committee Member Ellen Crecelius.

Ms. Surratt informed the committee of a new committee that has been formed through the Supreme Court to study legislative changes to custody statutes in Nevada and make legislative recommendations. It is a study group to create proposed legislation. One of the potential

directions this committee will go is to eliminate labels of legal and physical custody. Assemblyman Pickard suggested this committee discuss making changes to child support statutes. Ms. Surratt stated this committee is ongoing and will be able to make any changes necessary based on the next legislative session. Assemblyman Pickard also stated he has heard feedback from some members of the new committee and it appears many of them are leaning toward eliminating custody labels. Committee members discussed concerns regarding removal of labels.

Ms. Surratt asked the committee if they had time to look at Judge Robb's calculation under NRS 125B.080. She stated there was a suggestion to add a definition of what child support is for. Ms. Surratt asked Ms. Murray if she was able to get data regarding child care expenses. Ms. Murray stated she has the State of Nevada's data on public assistance cases, but was still working on creating a secure document for the committee to view. Ms. Murray will provide data at next meeting.

Ms. Throne stated the committee had discussed the three component calculations: percentage of income, health care, and child care.

Judge Hoskin volunteered to draft language defining support and what it contains and requested Judge Robb send him the language she has so far. Ms. Surratt suggested Judge Hoskin look at page 25 and 27 of Exhibit 44 for suggestions on language.

The committee discussed whether or not they can add a definition of what income is. They agreed to include a definition of what income is in the draft language. Ms. Surratt stated she would add a specific agenda item on future agendas regarding adding a definition of income. Mr. Pickard volunteered to work on a proposed definition of what income is and present it at the next meeting.

Ms. Surratt suggested Agenda Item #4a be included on the next meeting's agenda for further discussion and possible action.

Agenda Item #4b – Discussion and recommendations as to how to set a minimum order with a self-support reserve/low-income adjustment (pursuant to item 7 of Exhibit 44 and the Action Items from the September 26, 2017 meeting).

No discussion or action was taken on this agenda item.

Agenda Item #4c – Discussion and recommendations as to how to address the treatment of incarcerated parents or parent recently released from prison (pursuant to item 8 of Exhibit 44). Sample language drafted by Committee Chair Kimberly Surratt to be reviewed and discussed.

The committee discussed these points regarding incarceration for the draft language.

- Do not adjust order to \$0.
- Adjust order to minimum amount.
- Put the burden on obligor to prove he/she is unable to pay.

- Keep federal language, “Incarceration or involuntary institutionalization shall not be treated as voluntary unemployment and income shall not be imputed to the person who is incarcerated or involuntary institutionalized.”

Ms. Murray suggested looking at how Colorado deals with incarceration. In Colorado, some individuals are employed while incarcerated and they have court orders being paid out of the prison. Ms. Surratt asked Ms. Murray if Colorado has statutory language regarding their incarceration program. Ms. Murray replied she was unsure but she will look into it.

Ms. Murray stated she would look into the Federal Guidelines and see if a minimum order can be set on an incarcerated parent.

Ms. Surratt stated she would redraft the language and the committee would discuss this item at the next meeting.

Agenda Item #4d – Discussion and recommendations as to how to limit income imputation beyond a parent’s earning potential (pursuant to item 9 of Exhibit 44).

No discussion or action was taken on this agenda item.

Agenda Item #4e – Discussion and recommendations as to how to develop and adopt an adjustment for additional dependents (pursuant to item 10 of Exhibit 44).

No discussion or action was taken on this agenda item.

Agenda Item #4f – Discussion and recommendations as to how to develop and adopt an adjustment for shared parenting time (pursuant to item 11 of Exhibit 44).

No discussion or action was taken on this agenda item.

Agenda Item #4g – Discussion and recommendations as to how to develop and adopt an adjustment for the child’s health care expenses (pursuant to item 12 of Exhibit 44).

Committee discussed how they will deal with health care expenses in the calculations. Judge Robb stated she would like to keep health care expenses at 50/50 for each party as it makes both parties understand they are responsible for the child/children. Ms. Surratt stated she has not had clients complain about how health care expenses are divided between the parties. Ms. Baker brought up two distinct issues:

- Payment of out of pocket expenses.
- Payment of health insurance premiums.

Ms. Baker asked if the committee would keep premiums 50/50 as well as the health care expenses. Assemblyman Pickard stated he does hear complaints about the 50/50 from client in his pro bono work. Committee discussed these changes to the language for health insurance costs:

- Use wording from Judge Robb’s deviation language.

- Add “court needs a specific finding to deviate from the 50/50” to Section 1(c) of the current draft language.
- Remove “extraordinary” from Section 1(c) of the current draft language.
- Use language from other statutes.
- Add public assistance as appropriate insurance.
- Add payments of cash for medical insurance.
- Add “The obligation for support shall include as an addition” to Section 1(c) of the current draft language.

Ms. Throne volunteered to research and draft new language regarding health care expenses and present the language at the next meeting.

Ms. Surratt suggested Agenda Item #4g be included on the next meeting’s agenda for further discussion and possible action.

Agenda Item #4h – Discussion and recommendations as to how to develop and adopt an adjustment for child care expenses (pursuant to item 13 of Exhibit 44).

No discussion or action was taken on this agenda item.

Agenda Item #4i – Discussion and recommendations as to how to review and revise the deviation criteria if deemed appropriate (pursuant to item 14 of Exhibit 44).

Judge Robb provided the redraft of the deviation language. See Exhibit A. She stated the underlined language is what was discussed in the last meeting. Also, she added some language based on conversation from last meeting. Judge Robb stated she modified the language for cost of transportation based on her experience with the court.

Committee further discussed changes they would like to be made on the deviation language.

- Add court has the ability to deny transportation costs due to domestic violence as subsection iv under section 6.
- Add domestic violence directly related to the relocation.
- Make subsection i and ii be a requirement and add “and/or” for subsection iii.
- Take out subsection iii under section 6 and make it part of section f.
- Add “whenever there is a majority or minority” to Section 1f(6)i.
- Add percentages to mirror the proposed language for 125B.070.

Ms. Surratt opened the topic of Social Security Disability (SSD) and whether the committee should keep it a deviation factor. Mr. Pickard suggested the committee decide later whether or not they want to included (SSD) as a deviation factor. Ms. Surratt stated the committee would discuss SSD at the next meeting when the language for deviation factors has been redrafted by Judge Robb.

Ms. Surratt suggested Agenda Item #4i be included on the next meeting’s agenda for further discussion and possible action.

Agenda Item #5 – Discussion and recommendations regarding stipulated modification of child support.

No discussion or action was taken on this agenda item.

Agenda Item #6 – Discussion and recommendations regarding self-adjusting orders.

No discussion or action was taken on this agenda item.

Agenda Item #7 – Discussion and recommendations as to how to calculate child support for a payor who receives irregular income/paychecks.

No discussion or action was taken on this agenda item.

Agenda Item #8 – Discussion and recommendations as to how to intercept gambling winnings.

No discussion or action was taken on this agenda item.

Agenda Item #9 – Discussion and recommendations as to how to calculate arrears.

No discussion or action was taken on this agenda item.

Agenda Item #10 – Discuss and approve ideas for future agenda items.

Ms. Surratt asked the committee if they had any items they would like her to add to the agenda for future meetings. The committee had no agenda items to add at this time.

Judge Hoskin asked if Judge Robb would be compiling the new language into one document. Ms. Surratt asked the committee to provide the language certain members were assigned to work on to Judge Robb and she would compile all the language into one Word document.

Agenda Item #11 – Discuss and approve future meeting dates calendar through July 2018

Ms. Surratt informed the committee the January 17th meeting would not be at the Legislative Counsel Bureau. She stated the location is still to be determined. The committee will be notified when the location has been verified.

Agenda Item #12 – Public Comment

Ms. Surratt called for public comment in the south. Public comment was heard from Deleon Jones. Mr. Jones asked committee to look at child support that has accrued while the obligor is in prison. He stated it is hard for incarcerated individuals to pay child support when they are first released from prison. Mr. Jones also asked the committee to look at not suspending the obligor's driver's license.

Ms. Surratt informed Mr. Jones the committee is looking at the incarceration language and changing it. Also, Ms. Surratt informed Mr. Jones child support enforcement methods or procedures are not within the committee's purview and will not be reviewed by the committee.

Public comment was also heard from Michael McDonald. Mr. McDonald stated he would email Sweden's laws on how they calculate child support to the committee so they can review it. He also encouraged the committee to look into the communication between Family Court and the District Attorney's Office. Mr. McDonald stated if there was a set standard for child support, obligees would not fight obligors on custody or child support. Also, he suggested the committee look into principle involvement when calculating child support.

Public comment was also heard from Sarah Gazala. Ms. Gazala had questions about the committee's work. Assemblyman Pickard offered to meet with Ms. Gazala outside the meeting since public comment is not for discussion or action.

Ms. Surratt called for public comment over the telephone: no public comment.

Ms. Surratt called for public comment in the north. Public comment was heard from Bryce White. Mr. White disagreed with Mr. Sanford while he was speaking on incarceration. Mr. Sanford suggested high arrears equals low collections. Mr. White disagreed because he stated there are many reasons why people with high arrears might not pay. Also, Mr. White stated Mr. Sanford's suggestion on not collecting on cause with high arrears because statistically obligors might not pay is an absurd idea. Mr. White asked the committee to look at removing the transportation deviation. In addition, Mr. White suggested adjusting child support upwards in shared parenting cases when one parent is incarcerated.

Agenda Item #14 – Adjournment

Ms. Surratt called for a motion of adjournment. Judge Robb motioned for adjournment. Assemblyman Pickard seconded motion. Meeting adjourned at 3:44 pm.

Exhibit A

Re-Draft of 125B.070(1)(f)

(f) The child support obligation may be further adjusted by the Court pursuant to the specific needs of the child and the economic circumstances of the parents based upon the following factors:

- (1) The reasonable cost of child care, which has not been included in the child support established above;
- (2) Any special educational needs of the child;
- (3) The legal responsibility of the parents for the support of others;
- (4) The value of services contributed by either parent, such as one parent providing child care during the other parent's custodial time;
- (5) ~~Any public assistance paid to support the child, including Social Security benefits available to the child as a result of Social Security Disability payments received by the payer parent, but not as a result of Social Security Disability payments received by the payee parent;~~
- (6) The reasonable cost of transportation ~~of the child to and from visitation if the custodial parent moved with the child from the jurisdiction of the court which ordered the support and the noncustodial parent remained;~~ associated with visitation if:
 - (i) one parent is required to bear the majority of the travel expenses;
 - (ii) the custodial parent has moved with the minor child and this move has increased the cost of transportation substantially; or
 - (iii) it is in the best interest of the child, and will permit visitation to occur.
- (7) Any other necessary expenses for the benefit of the child; and
- (8) The relative income of both ~~parents~~ households.