

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 9:03 am on Friday, November 15, 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
Ellen Crecelius, Actuarial Economist, Division of Aging and Disability
Assemblyman Ken Gray
April Green, Family Law Section of the State Bar of Nevada
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
Jim Shirley, Family Division of the Eleventh 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
Kiersten Gallagher, Division of Welfare and Supportive Services (DWSS)

STAFF PRESENT:

Angelise Washington, DWSS
Joy Tomlinson, DWSS
Janet Vostinar, DWSS
Ryan Sunga, 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 9:03 am. Judge Robb was present via Zoom and Judge Shirley via telephone. It was determined a quorum was present. Ms. Surratt stated there are two new vacant seats on the committee for the Nevada State Senate and Nevada State Assembly.

Agenda Item #2 – General Public Comments

No public comment was given.

Agenda Item #3 – Discussion and possible approval of Meeting Minutes (August 16, 2024).

Ms. Surratt asked for discussion on the meeting minutes from the August 16, 2024, meeting. There was no discussion on the meeting minutes.

Ms. Surratt asked for a motion to approve the August 16, 2024, meeting minutes. Judge Hoskin made a motion to approve the meeting minutes. Ms. Baker seconded the motion. Motion passed.

Ms. Surratt asked that the judges and justices on the committee be addressed by their formal titles in the meeting minutes. Ms. Green asked about a Zoom link for the committee meetings. Ms. Surratt stated the committee members need to reach out to Joy Tomlinson to get a Zoom link for future meetings.

Agenda Item #4 – Elect a Co-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 the NRS does not mention a Co-Chair specifically. However, once the Family Law Section chooses someone to take Ms. Surratt’s position on the committee, the Co-Chair will be available to fill the Chair position. This will give the Co-Chair time to be trained on what Ms. Surratt does as the Chair. Ms. Surratt stated Judge Hoskin was willing to serve as Co-Chair and eventually the Chair, once Ms. Surratt is no longer on the committee. Judge Hoskin verified he was still willing to serve as Co-Chair.

Ms. Surratt asked for a motion for Judge Hoskin to serve as Co-Chair. Ms. Green made a motion for Judge Hoskin to serve as the Co-Chair. Ms. Baker seconded the motion. Motion passed.

Agenda Item #5 – 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 Assemblyman Gray was having difficulties with the Zoom link. Assemblyman Gray stated he has a weak signal and keeps losing video and audio.

Ms. Surratt asked if Legal Services was present in Las Vegas to comment on this agenda item. Judge Hoskin verified Legal Services was not present in Las Vegas. Ms. Green stated she was

briefed on Legal Services comment on this agenda item. She stated proposed findings would need to be made regarding childcare with the proposed regulations the committee submitted to DWSS for adoption. The judges are already inundated with making findings and these findings are often reversed. She stated adding more findings will not help. Legal Services is opposed to the proposed language. She stated Legal Services is hoping the committee will come up with a simplified formula to determine childcare contributions.

Judge Hoskin asked if the request is to eliminate this requirement or clarify it. Ms. Green stated clarify the requirement. Judge Hoskin asked if the requirement should be modified so childcare is considered and divided or not considered and divided. Ms. Green stated considered and divided and an easier formula to calculate childcare contribution. Judge Hoskin asked if Legal Services has provided any proposed language for the committee to consider. Ms. Green asked for the agenda item to be tabled so Legal Services could provide proposed changes.

Ms. Surratt stated her understanding on the issue had to do with the public not articulating the findings and fact properly when submitting them to the Court . The idea was not to get rid of any of the calculations of childcare or the division. Ms. Surratt stated the changes to the NAC are on their way to the LCB Commission for approval. She stated Ms. Gallagher was not present at the meeting to give an update on where the proposed changes are in the process. Ms. Surratt stated that if the committee made changes to the language, it would be included in the next set of proposed language changes submitted to DWSS.

Ms. Surratt asked if any other committee members had any comments on this agenda item. She asked Ms. Baker if these same concerns were voiced in Washoe County. Ms. Baker stated she has not heard anyone express concerns to Washoe County. Since the language has not been adopted into the NAC yet, there may be concerns voiced in the future.

Ms. Green stated there is a disconnect with low-income earners versus high-income earners when calculating child support. She stated she will be bringing in evidence of scenarios where the low-income earner utilizes the difference of income to pay for bills or rent. Judge Hoskin suggested the committee create a percentage that would balance the child support obligation. He stated a sliding scale may solve this issue. Ms. Surratt stated at that income level, the difference in income could also assist the payor in making a care payment or paying a bill. Ms. Baker stated in low-income families neither party has enough money to make ends meet. She stated striking the balance of how each parent can meet the child's needs is part of the problem in low-income scenarios. Ms. Surratt stated she was not opposed to Judge Hoskin's sliding scale idea. She suggested looking at how other states handles this scenario. Judge Robb stated there is already a bifurcated system for low-income versus high-income earners. She suggested concentrating on the low-income issues as she the committee's solution for high-income earners.

Ms. Surratt tabled the agenda item for the next meeting and asked Ms. Green to discuss with Legal Services so they can be present at the next meeting to provide input on this agenda item.

No vote was taken on this agenda item.

Agenda Item #6 – 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 for the public that the committee is not an enforcement body. The committee has no control over any of the statutes regarding enforcement or modification. The committee only addresses setting child support. Ms. Surratt thanked the public for providing public comment and encourage them to continue providing their input for the committee to consider. Ms. Surratt stated this email is an example to DWSS on how the joint custody child support calculations need to be balanced.

Ms. Surratt read the email a Nevada citizen sent to her regarding this agenda item. The email stated the following:

I am emailing you about the unjust current child support laws.

I currently have joint custody of my daughter. I was ordered to pay \$1,270 a month in child support. Her mother chooses not to work. Yet by law is entitled to child support while I have joint custody.

I was laid off in January. I just currently began working in August. Half my unemployment was taken for child support.

I applied with the District Attorney's office to have my child support modified. It takes 6 months for them to modify it. I am currently working so the request is denied. I owe money in back child support. I have rent that is \$1,500 Car insurance \$300 as well as varies other bills. I received \$292 a week in unemployment after child support was taken out. I was in the negative for 6 months and forced to sell my personal belongings to survive.

There needs to be a more efficient system to modify child support once someone loses employment. The current state laws caused me severe financial hardship. Also, my daughter suffers if I become homeless and without a car. As stated, I have joint custody.

I am now receiving threats from the district attorney for my driving privileges to be revoked because I owe back child support. I live in Las Vegas I am working at Stateline. My commute is 50 miles each way so 100 total a day. If I lose my license, I lose my job and will also not be able to pay my rent provide insurance for my daughter.

So, my daughter will suffer because of the inefficient laws of the state of Nevada.

Something needs to change in the laws. I'm punished because my daughter has a deadbeat mother that refuses to work. I would gladly take full custody of my daughter btw. But as you know Nevada normally rules in joint custody.

Can you explain to me why I am punished and my daughter is punished by laws that are supposed to have the best interests of the child at heart?

If there is joint custody, there should be no child support. You are punishing a parent that is responsible and rewarding a parent that is irresponsible. The law is broken it has caused me severe financial and emotional stress.

I work construction we finish projects. Last year Fountain Blue, The Sphere, Durango station and two large solar projects ended. I am a member of IBEW 357 it took me 6 months to return to work. There is no system currently in place to safeguard people who become unemployed from getting behind on child support. It just builds up and becomes overwhelming. Making an honest person a criminal because they literally don't have the money to pay it.

Ms. Surratt stated the comments that were made on the record by DWSS were that the payee is the one that ends up on welfare and the payee is the one that is punished. She stated in this scenario there is a hard-working parent that has custody of the child 50% of the time and nearly all the unemployment money was taken for child support. There is a parent who has the child 50% of the time, is trying to work to make ends meet, and is suffering because the other parent is not working and receives the difference in the child support. The committee tried to fix this problem in the proposed language submitted to DWSS. Ms. Surratt encouraged the committee to discuss this issue and come up with a resolution.

Judge Hoskin asked if the committee's change to that language still pending or does the committee need to resubmit it with any changes made this time around. Ms. Surratt stated the change did not go forward with the last proposed changes but the committee could continue to make the recommendation or different variations of the recommendation moving forward. Ms. Green stated the essence of the letter to her was the failure to be able to modify child support obligation due to unemployment. She stated maybe the committee could create a proposal for modifications. Ms. Surratt stated the committee does not have jurisdiction over modification. She stated the committee can only address calculating child support in for joint physical custody.

Judge Robb stated her distress of the disposal of the committee's work. She stated that both her and Judge Hoskin have to have evidence to support a decision. She stated DWSS's decision was based on an anecdotal understanding or a feeling. She did not see that it was based on any kind of evidence. She suggested bringing this discussion back and maybe doing a study on this scenario. She agreed with Ms. Surratt that it unfairly places the burden on the payor.

Ms. Baker stated the Washoe County District Attorney's Office puts emphasis on both parent's responsibility to support the children in a joint physical custody situation. She stated with seasonal jobs they try to do an average of what the person makes per month when calculating the child support obligation. Ms. Baker stated part of the issue addressed in this email was not being able to get in for a modification hearing. She stated Washoe County looks at the ability to pay for that period of time and the obligee is held responsible, as well.

Mr. Hughes stated he agrees with what Ms. Baker said. He stated the six-month timeframe comes from the federal regulations that requires modifications to be processed within 180 days. That is the timeline that Clark County provides to their customers, but the modification is often completed well before that timeline. Clark County first tries to stipulate with parties and if that is done, the modification is completed within 30 days or less. If the parties have to get into court,

that timeline is 35 days pursuant to the EDCR. They do average the income for individuals who have union or sporadic employment when setting the child support obligation. Ms. Green stated she would be happy to submit the information on Nevada's report card regarding children, health, poverty, etc. for the committee's review.

Ms. Surratt stated this is not a done issue and she wants the committee to continue to discuss it. More agenda items will be added based on the committee's discussion.

No vote was taken on this agenda item.

Agenda Item #7 - 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 asked if there was anyone on the phones as the individual who presented this issue was supposed to attend the meeting to provide comment. One caller was present in the queue but did not respond to give comment.

Judge Hoskin stated he was concerned when this first came out as the finding was that there was a cap in NAC 425. He stated the committee was very clear that there would not be a cap. He stated it needs to be addressed and resolved by the committee. Ms. Surratt stated she wanted the committee to have a discussion.

Ms. Surratt stated that the overall intent of the committee was that there would be no caps. She stated the language was to prevent a punitive modification of the child support. Judge Hoskin stated he agreed with how Ms. Surratt explained it. However, how the Supreme Court interpreted the language now there is a cap. Mr. Weed asked if the intent was that the initial calculation would have no caps or if it included the adjustments. Ms. Surratt stated it was on the adjustments so they would not adjust so far that it would be punitive. She stated the committee did struggle on the word choice in that section of the regulations. Judge Hoskin stated he is looking for clarification on this section of the regulations. He stated he liked how the committee drafted the language the first time around. Judge Robb stated she has come across using this statute and using it in the way the Nevada Supreme Court has decided would create a hardship. She said she has only seen this issue once and does not want to try to fix it for one off scenarios. Ms. Surratt asked if Judge Hoskin would be okay with the committee leaving the language as is because all the meeting minutes are on the DWSS website stating there is no cap. Judge Hoskin stated he wanted to make sure the committee was all on the same page and agreed with Judge Robb.

Ms. Surratt stated she would be removing this item from future agendas. No vote was taken on this agenda item.

Agenda Item #8 – Discussion and possible approval of ideas for future agenda items and the next meeting date/time.

Ms. Surratt stated she would add an agenda item for DWSS to provide a status on the new audit. The audit is supposed to be done every four years. Since the regulations went into effect in

February 2020, the audit needs to happen in 2025. Ms. Surratt stated she would add an agenda item to revisit the balancing of the joint physical custody calculations and other solutions when there is one unemployed party. She would also add an agenda item based on Judge Robb's suggestion to do a study on the balancing of joint physical custody obligations and if there would be an economical effect on the parties. She stated agenda item 5 will be on the next agenda.

Ms. Baker asked to add an agenda item to discuss how to handle calculating child support when the obligor's income is not known but testimony is given that the obligor is working. Ms. Surratt stated she would add an agenda item regarding the committee's authority and reaching out to the Legislature regarding these other issues provided by the public. Judge Hoskin asked to add an agenda item for a status on the proposed regulations sent to DWSS.

Ms. Surratt stated she would like to have meetings via Zoom so the committee can continue meeting during session. She did not currently have a date in mind.

Agenda Item #9 – General Public Comments

No public comment was given.

Agenda Item #10 – Adjournment

Ms. Surratt adjourned the meeting at 10:05am.