

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 Kim Surratt, representing the Family Law Section of the State Bar of Nevada, at 1:00 p.m. on Friday, November 17, 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 4401, Las Vegas, NV 89101. The meeting was also accessible via teleconference.

MEMBERS PRESENT:

Kathleen Baker, Washoe County District Attorney's Office
Karen Cliffe, Clark County District Attorney's Office
Ellen Crecelius, Chief Financial Officer, Department of Health and Human Services
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
Jim Shirley, Family Division of the Eleventh Judicial District Court
Lidia Stiglich, Justice, Nevada Supreme Court
Kim Surratt, Family Law Section of the State Bar of Nevada
Dawn Throne, Family Law Section of the State Bar of Nevada

MEMBERS NOT PRESENT:

Senator Patricia Farley
Assemblyman Ozzie Fumo
Joseph Sanford, Churchill County District Attorney's Association

LEGAL REPRESENTATION:

Ryan Sunga, Deputy Attorney General

GUESTS PRESENT – NORTH

Jenelle Gimlin, Chief of Child Support Enforcement, Division of Welfare and Supportive Services (DWSS)
David Castagnola, Social Services Program Specialist III, DWSS
Cathy Kaplan, Fields Operations Manager, DWSS
Julie Balderson, Social Services Program Specialist III, DWSS
Stephanie Lee, Administrative Assistant IV, DWSS
Joy Tomlinson, Administrative Assistant III, DWSS
Peter Jaquette, Attorney
Maureen Convery
Bryce White

GUESTS PRESENT – SOUTH

Rebecca Lindelow, Family Services Supervisor, DWSS
Kiersten Gallagher, Social Services Manager, DWSS
Stephanie McDonald, Attorney
Michael McDonald, Advocate for Veterans in Politics
Alexander Falconi, Advocate for Abused and Neglected Children
Shann Winesett, Family Law Attorney

GUESTS PRESENT – TELEPHONE

Melissa Porter, Paralegal
David Schoen, Paralegal

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 1:00 p.m.

Roll call was taken.

Agenda Item #2 – Public Comment

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

Ms. Surratt called for public comment in the south. Public comment was heard from Alexander Falconi. Mr. Falconi referenced and agreed with items 3, 5, and 6 of Exhibit 44 in Jane Venohr's report. He stated in practice, the district courts appear to routinely impute income. Due to personal experience, Mr. Falconi informed the committee while he was attending college his income was imputed. He was not "willfully unemployed" but was unemployed with the purpose of attending and graduating college. He suggested the committee codify imputing income and stipulations to prevent it happening again in the future. In addition, he suggested the committee mandate retroactive modifications to the date of filing of motion.

Public comment was heard from Michael McDonald. Mr. McDonald discussed Section 42.666 and how it is based on child support enforcement and not the involvement of parents. Mr. McDonald proposed the committee consider additional parental involvement and look at how other states/countries calculate child support. In other countries, child support is a flat rate based on the national average and can be lowered based on principle involvement. He suggested the committee repeal Section 62.666 and 62.667.

Public comment was heard from Shann Winesett. Mr. Winesett had three suggestions for the committee:

1. Consider Family Law Sections arguments in the Diaz case (Supreme Court case 70371) and clarify whether or not child support obligations stop when the child/children emancipate.
2. Consider the 10% penalty on child support arrearages addressed in Supreme Court case Vale (docket number 53798) and the Attorney General's arguments.
3. Consider ways to take the emphasis off the labels of "joint" versus "primary physical" custody when establishing child support. These terms seem to cause unwanted litigation over custodial labels when it is regarding the amount of obligation.

Ms. Surratt informed Mr. Winesett the committee unanimously voted to remove penalties at the last meeting. Ms. Throne asked Mr. Winesett if he had any ideas on how to decouple timeshare custody label from child support. Mr. Winesett suggested the committee look at how California is doing it.

Ms. Surratt called for public comment via teleconference. Public comment was heard from David Schoen. Mr. Schoen read from his proposed child support calculation model. This proposal can be found at:

https://dwss.nv.gov/uploadedFiles/dwssnv.gov/content/Support/cs_proposed_revision_to_nv_cs_guidelines.pdf.

Public comment was heard from Melissa Porter. She asked the concealing of income be taken seriously and the District Attorney require employers of both parties to complete the financial documentation. This would prevent misrepresentation of income. She is concerned the child support offices and private attorneys only require the non-custodial parent's employer to complete the financial information.

Agenda Item #3 – Approval of Meeting Minutes (October 20, 2017)

Assemblyman Pickard moved to approve the meeting minutes from October 20, 2017. Kathleen Baker seconded motion. Motion passed unanimously.

Agenda Item #4 – Discussion and recommendations regarding stipulated modification of child support.

Ms. Baker brought this item before the committee to discussion allowing parties to come to an agreement that does not comply with statutory requirements. Assemblyman Pickard stated he was concerned about situations where there is unequal bargaining power between the litigants, however, stated he agreed with Ms. Baker's intent on this item. Judge Hoskin asked Ms. Baker if she would leave discretion up to the courts in the form of a deviation factor. Ms. Baker stated she would recommend doing a finding based on the testimonies from the parties. Ms. Surratt asked what language the committee would use. Ms. Cliffe stated Clark County makes specific findings on the order. Ms. Murray suggested continuing this discussion at the next meeting so the committee can look at how other states are handling stipulated modifications.

Judge Shirley motioned to table this item for the next meeting. Assemblyman Pickard seconded motion. Motion passed unanimously.

Agenda Item #5 – Discussion and recommendations regarding self-adjusting orders

Ms. Cliffe brought this item before the committee as there were discussions among attorneys regarding whether or not this committee can address self-adjusting orders. She also stated Clark County does not agree with self-adjusting orders and would rather take this item off the agenda. Ms. Surratt suggested leaving the item on the agenda for discussion and mentioned some of the language for self-adjusting orders can be found in the incarceration language from California. Ms. Throne suggested front-loading the litigations in the child support program. Judge Hoskin suggested reevaluating the order when one of the children emancipates. Assemblyman Pickard suggested requiring an annual exchange of financial information so the parties are aware of any changes. However, Assemblyman Pickard stated he did not see the need for a review on a child support case with one child. Ms. Cliffe stated she was concerned the State's system would be unable to calculate self-adjusting orders. Ms. Murray stated the new system is not slated to calculate self-adjusting orders. Ms. Surratt volunteered to draft notice language for the next meeting.

Ms. Surratt tabled Agenda Item #5 for next meeting.

Agenda Item #6 – Discussion of the recommendations detailed in Exhibit 44 of 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”).

No discussion on Agenda Item #6.

Agenda Item #6a – 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 Commission Member Judge Robb to be reviewed and discussed along with economic data to be provided by Commission Member Ellen Crecelius.

Ms. Surratt tabled Agenda Item #6a for next meeting.

Agenda Item #6b – 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).

Ms. Crecelius provided an estimated total annual expenditures table to the committee. Please see Exhibit A attached. Ms. Crecelius stated the percentages were based off of 75% to 150% of the Federal Poverty Guidelines and the chart would change based on the new Federal Poverty Guidelines. There was additional discussion on the different percentages and how Ms. Crecelius came to these percentages. Ms. Crecelius explained the percentages on the chart and stated the chart was replicated based off of Wisconsin's chart. Ms. Cliffe stated she would also like to see a yearly income chart. Judge Hoskin asked Ms. Murray if she could provide information on public assistance and the amount clients receive on public assistance. Ms. Murray stated she would have the information available at the next meeting.

Ms. Surratt tabled Agenda Item #6b for next meeting.

Agenda Item #6c – 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 Commission Member Kim Surratt to be reviewed and discussed.

Ms. Surratt tabled Agenda Item #6c for next meeting.

Agenda Item #6d – Discussion and recommendations as to how to limit income imputation beyond a parent’s earning potential (pursuant to item 9 of Exhibit 44).

Judge Hoskin stated he liked the idea of imputing income when the income is unknown. Ms. Throne suggested asking parties to provide Social Security statements. Ms. Surratt asked about the language the committee would use. Also, she stated the Federal Rule provides specific guidelines on this topic. Judge Hoskin suggested codifying the language. Ms. Surratt motioned to start by codifying the language from CFR 302.56ciii and table additional language changes. Assemblyman Pickard stated he would like to read the language again before the committee adopts it. Also, stated he would provide the Minnear v. Minnear court case to the committee for discussion at the next meeting.

Ms. Surratt tabled Agenda Item #6d for next meeting.

Agenda Item #6e – Discussion and recommendations as to how to develop and adopt an adjustment for additional dependents (pursuant to item 10 of Exhibit 44).

Ms. Surratt tabled Agenda Item #6e for next meeting.

Agenda Item #6f – Discussion and recommendations as to how to develop and adopt an adjustment for shared parenting time (pursuant to item 11 of Exhibit 44).

Ms. Surratt tabled Agenda Item #6f for next meeting.

Agenda Item #6g – 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 looked at the Nevada Statute to see if health care was within their purview to discuss and make change on. Ms. Surratt looked at AB278 and saw that adjusting health care is within the committee’s purview. Ms. Murray asked if there was any data needed to discuss this item. Ms. Surratt stated she did not think the committee would need any additional data on health care.

Ms. Surratt tabled Agenda Item #6g for next meeting.

Agenda Item #6h – Discussion and recommendations as to how to develop and adopt an adjustment for child care expenses (pursuant to item 13 of Exhibit 44).

Ms. Surratt stated the same discussion on health care expenses also applies to this item and the committee is within its purview. She stated there are discrepancies from judge to judge on how

to calculate child care. Assemblyman Pickard stated child care should be something outside the calculations. Ms. Surratt wanted to look at how other states are calculating child care. She mentioned Minnesota provided some conversation at the October 20th meeting on how to calculate child care. Ms. Cliffe stated she would provide Wisconsin's statutes on child care.

Ms. Surratt tabled Agenda Item #6h for next meeting.

Agenda Item #6i – Discussion and recommendations as to how to review and revise the deviation criteria if deemed appropriate (pursuant to item 14 of Exhibit 44).

Ms. Surratt discussed the deviation factors provided in Nevada's statutes and suggested the committee look at Nevada's deviation factors before modifying them.

Ms. Surratt tabled Agenda Item #6i for next meeting.

Agenda Item #7 – Discuss and approve ideas for future agenda items

Assemblyman Pickard requested including the following to the next agenda:

- How to calculate child support when a payor is receiving irregular paychecks
- How to calculate arrears as Nevada currently has no statute on arrears calculation
- How to intercept gambling winnings

Agenda Item #8 – Discuss future meeting dates calendar through July 2018

The committee discussed future meeting dates. Additional meetings can be scheduled if necessary. The December 29th meeting will be confirmed at the December 13th meeting as some members will be unable to attend.

Agenda Item #9 – Public Comment

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

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

Ms. Surratt called for public comment via teleconference. Public comment was heard from Michael McDonald. Mr. McDonald suggested the committee look at how other countries are calculating child support with a flat rate. He stated a flat rate can lead to less litigation compared to a percentage model. He also asked the committee to consider issuing debit cards where payments can be monitored by both parties.

Agenda Item #10 – Adjournment

Ms. Surratt requested a motion of adjournment. Assemblyman Pickard motioned for adjournment. Ms. Cliffe seconded motion. Meeting adjourned at 3:13pm.

Exhibit A

Estimated Total Annual Expenditures on a Child

TABLE 1: Annual Estimated Expenditures on a Child: United States, Married-Couple Families (page 24)

Age of Child	Before Tax Income Less than \$59,200 (average = \$36,300)	Before Tax Income \$59,200 to \$107,400 (average = \$81,700)	Before Tax Income More than \$107,400 (average = \$185,400)
0 - 2	\$9,690	\$12,680	\$19,770
3 - 5	\$9,700	\$12,730	\$19,790
6 - 8	\$9,330	\$12,350	\$19,380
9 - 11	\$9,960	\$13,180	\$20,700
12 - 14	\$9,570	\$13,030	\$21,050
15 - 17	\$9,980	\$13,900	\$23,380
Average for all ages	\$9,705	\$12,978	\$20,678
Average % of Income	27%	16%	11%

Table 2: Annual Estimated Expenditures on a Child: Urban West, Married-Couple Families (page 26)

Age of Child	Before Tax Income Less than \$59,200 (average = \$35,100)	Before Tax Income \$59,200 to \$107,400 (average = \$80,300)	Before Tax Income More than \$107,400 (average = \$189,500)
0 - 2	\$10,340	\$13,340	\$20,670
3 - 5	\$10,340	\$13,390	\$20,680
6 - 8	\$9,970	\$13,030	\$20,290
9 - 11	\$10,590	\$13,850	\$21,570
12 - 14	\$10,240	\$13,700	\$21,910
15 - 17	\$10,610	\$14,510	\$24,150
Average for all ages	\$10,348	\$13,637	\$21,545
Average % of Income	29%	17%	11%

Table 3: Annual Estimated Expenditures on a Child: Rural Areas, Married-Couple Families (page 29)

Age of Child	Before Tax Income Less than \$59,200 (average = \$36,100)	Before Tax Income \$59,200 to \$107,400 (average = \$79,500)	Before Tax Income More than \$107,400 (average = \$156,800)
0 - 2	\$8,000	\$10,380	\$14,940
3 - 5	\$8,020	\$10,440	\$14,970
6 - 8	\$7,650	\$10,090	\$14,600
9 - 11	\$8,270	\$10,880	\$15,880
12 - 14	\$8,200	\$10,960	\$15,970
15 - 17	\$8,630	\$11,590	\$17,000
Average for all ages	\$8,128	\$10,723	\$15,560
Average % of Income	23%	13%	10%

TABLE 4

**WISCONSIN Child Support Obligation of Low-Income Payers at 75% to 150% of the 2017
 Federal Poverty Guidelines**

One Child		Two Children		Three Children		Four Children		Five Children		
Monthly Income Up To	Percent	Child Support Amount								
\$754	11.22%	\$85	16.50%	\$124	19.14%	\$144	20.46%	\$154	22.44%	\$169
\$780	11.43%	\$89	16.80%	\$131	19.49%	\$152	20.84%	\$163	22.85%	\$178
\$806	11.63%	\$94	17.11%	\$138	19.84%	\$160	21.21%	\$171	23.27%	\$188
\$833	11.84%	\$99	17.41%	\$145	20.20%	\$168	21.59%	\$180	23.68%	\$197
\$860	12.05%	\$104	17.71%	\$152	20.55%	\$177	21.97%	\$189	24.09%	\$207
\$887	12.25%	\$109	18.02%	\$160	20.90%	\$185	22.34%	\$198	24.50%	\$217
\$914	12.46%	\$114	18.32%	\$167	21.25%	\$194	22.72%	\$208	24.92%	\$228
\$941	12.67%	\$119	18.63%	\$175	21.61%	\$203	23.10%	\$217	25.33%	\$238
\$968	12.87%	\$125	18.93%	\$183	21.96%	\$213	23.47%	\$227	25.74%	\$249
\$995	13.08%	\$130	19.23%	\$191	22.31%	\$222	23.85%	\$237	26.16%	\$260
\$1,022	13.28%	\$136	19.54%	\$200	22.66%	\$232	24.22%	\$248	26.57%	\$272
\$1,049	13.49%	\$142	19.84%	\$208	23.01%	\$241	24.60%	\$258	26.98%	\$283
\$1,076	13.70%	\$147	20.14%	\$217	23.37%	\$251	24.98%	\$269	27.39%	\$295
\$1,103	13.90%	\$153	20.45%	\$226	23.72%	\$262	25.35%	\$280	27.81%	\$307
\$1,130	14.11%	\$159	20.75%	\$234	24.07%	\$272	25.73%	\$291	28.22%	\$319
\$1,157	14.32%	\$166	21.05%	\$244	24.42%	\$283	26.11%	\$302	28.63%	\$331
\$1,184	14.52%	\$172	21.36%	\$253	24.77%	\$293	26.48%	\$314	29.05%	\$344
\$1,211	14.73%	\$178	21.66%	\$262	25.13%	\$304	26.86%	\$325	29.46%	\$357
\$1,238	14.94%	\$185	21.96%	\$272	25.48%	\$315	27.24%	\$337	29.87%	\$370
\$1,265	15.14%	\$192	22.27%	\$282	25.83%	\$327	27.61%	\$349	30.28%	\$383
\$1,292	15.35%	\$198	22.57%	\$292	26.18%	\$338	27.99%	\$362	30.70%	\$397
\$1,319	15.56%	\$205	22.88%	\$302	26.54%	\$350	28.37%	\$374	31.11%	\$410
\$1,346	15.76%	\$212	23.18%	\$312	26.89%	\$362	28.74%	\$387	31.52%	\$424
\$1,373	15.97%	\$219	23.48%	\$322	27.24%	\$374	29.12%	\$400	31.94%	\$438
\$1,400	16.17%	\$226	23.79%	\$333	27.59%	\$386	29.49%	\$413	32.35%	\$453
\$1,427	16.38%	\$234	24.09%	\$344	27.94%	\$399	29.87%	\$426	32.76%	\$468
\$1,454	16.59%	\$241	24.39%	\$355	28.30%	\$411	30.25%	\$440	33.17%	\$482
\$1,481	16.79%	\$249	24.70%	\$366	28.65%	\$424	30.62%	\$454	33.59%	\$497
\$1,508	17.00%	\$256	25.00%	\$377	29.00%	\$437	31.00%	\$467	34.00%	\$513

Calculations:

The income in the first row is 75% of the poverty level for a one person household (\$12,060/12*75%, rounded) for 2017. The child support amount in the first row is 66% of the amount calculated by applying the fixed percentage. For example, for one child the calculated amount is \$754*17%=\$128.18, 66% of this amount rounds to \$85. The income amount for the last row is approximately 150% for the poverty level for a one person household. Increments of \$26 were used for the first three rows and an increment of \$27 for the remaining rows.

Wisconsin Rates Used:

- 17% One Child
- 25% Two Children
- 29% Three Children
- 31% Four Children
- 34% Five Children

Table 5

NEVADA RATES USED Child Support Obligation of Low-Income Payers at 75% to 150% of the 2017

Federal Poverty Guidelines

One Child		Two Children		Three Children		Four Children		Five Children		
Monthly Income Up To	Percent	Child Support Amount								
\$754	11.88%	\$90	16.50%	\$124	19.14%	\$144	20.46%	\$154	21.78%	\$164
\$780	12.10%	\$94	16.80%	\$131	19.49%	\$152	20.84%	\$163	22.18%	\$173
\$806	12.32%	\$99	17.11%	\$138	19.84%	\$160	21.21%	\$171	22.58%	\$182
\$833	12.54%	\$104	17.41%	\$145	20.20%	\$168	21.59%	\$180	22.98%	\$191
\$860	12.75%	\$110	17.71%	\$152	20.55%	\$177	21.97%	\$189	23.38%	\$201
\$887	12.97%	\$115	18.02%	\$160	20.90%	\$185	22.34%	\$198	23.78%	\$211
\$914	13.19%	\$121	18.32%	\$167	21.25%	\$194	22.72%	\$208	24.18%	\$221
\$941	13.41%	\$126	18.63%	\$175	21.61%	\$203	23.10%	\$217	24.59%	\$231
\$968	13.63%	\$132	18.93%	\$183	21.96%	\$213	23.47%	\$227	24.99%	\$242
\$995	13.85%	\$138	19.23%	\$191	22.31%	\$222	23.85%	\$237	25.39%	\$253
\$1,022	14.07%	\$144	19.54%	\$200	22.66%	\$232	24.22%	\$248	25.79%	\$264
\$1,049	14.28%	\$150	19.84%	\$208	23.01%	\$241	24.60%	\$258	26.19%	\$275
\$1,076	14.50%	\$156	20.14%	\$217	23.37%	\$251	24.98%	\$269	26.59%	\$286
\$1,103	14.72%	\$162	20.45%	\$226	23.72%	\$262	25.35%	\$280	26.99%	\$298
\$1,130	14.94%	\$169	20.75%	\$234	24.07%	\$272	25.73%	\$291	27.39%	\$310
\$1,157	15.16%	\$175	21.05%	\$244	24.42%	\$283	26.11%	\$302	27.79%	\$322
\$1,184	15.38%	\$182	21.36%	\$253	24.77%	\$293	26.48%	\$314	28.19%	\$334
\$1,211	15.60%	\$189	21.66%	\$262	25.13%	\$304	26.86%	\$325	28.59%	\$346
\$1,238	15.81%	\$196	21.96%	\$272	25.48%	\$315	27.24%	\$337	28.99%	\$359
\$1,265	16.03%	\$203	22.27%	\$282	25.83%	\$327	27.61%	\$349	29.39%	\$372
\$1,292	16.25%	\$210	22.57%	\$292	26.18%	\$338	27.99%	\$362	29.79%	\$385
\$1,319	16.47%	\$217	22.88%	\$302	26.54%	\$350	28.37%	\$374	30.20%	\$398
\$1,346	16.69%	\$225	23.18%	\$312	26.89%	\$362	28.74%	\$387	30.60%	\$412
\$1,373	16.91%	\$232	23.48%	\$322	27.24%	\$374	29.12%	\$400	31.00%	\$426
\$1,400	17.13%	\$240	23.79%	\$333	27.59%	\$386	29.49%	\$413	31.40%	\$440
\$1,427	17.34%	\$248	24.09%	\$344	27.94%	\$399	29.87%	\$426	31.80%	\$454
\$1,454	17.56%	\$255	24.39%	\$355	28.30%	\$411	30.25%	\$440	32.20%	\$468
\$1,481	17.78%	\$263	24.70%	\$366	28.65%	\$424	30.62%	\$454	32.60%	\$483
\$1,508	18.00%	\$271	25.00%	\$377	29.00%	\$437	31.00%	\$467	33.00%	\$498

Calculations:

The income in the first row is 75% of the poverty level for a one person household (\$12,060/12*75%, rounded) for 2017.
 The child support amount in the first row is 66% of the amount calculated by applying the fixed percentage. For example, for one child the calculated amount is \$754*18%=\$135.72, 66% of this amount rounds to \$90.
 The income amount for the last row is approximately 150% for the poverty level for a one person household.
 Increments of \$26 were used for the first three rows and an increment of \$27 for the remaining rows.

Nevada Rates Used:

- | | |
|-----|----------------|
| 18% | One Child |
| 25% | Two Children |
| 29% | Three Children |
| 31% | Four Children |
| 33% | Five Children |