

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 Monday, June 4, 2018. This meeting was video-conferenced between the Legislative Counsel Building, 401 South Carson Street, Hearing Room 2134, Carson City, NV and the Grant Sawyer State Office Building, 55 East Washington Avenue, Hearing Room 4412, Las Vegas, NV. The meeting was also accessible via teleconference.

MEMBERS PRESENT:

Kathleen Baker, Washoe County District Attorney's Office
David Castagnola for Nova Murray, Social Service Specialist III, Division of Welfare and Supportive Services
Charles Hoskin, Family Division of the Eighth Judicial District Court
Marko Markovic for Ellen Crecelius, Management Analyst 3, Division of Health Care Financing and Policy
Assemblyman Keith Pickard
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
Bridget Robb, Presiding Judge of the 2nd Judicial District Court
Senator Michael Roberson
Jim Shirley, Family Division of the Eleventh Judicial District Court
Lidia Stiglich, Justice, Nevada Supreme Court

MEMBERS PRESENT VIA TELEPHONE:

None

STAFF PRESENT:

Cathy Kaplan, Child Support Chief, Division of Welfare and Supportive Services (DWSS)
Joy Tomlinson, Administrative Assistant IV, DWSS
Stephanie Dicke, Administrative Assistant III, DWSS
Rebecca Lindelow, Family Services Supervisor, DWSS
Kiersten Gallagher, Social Services Manager, DWSS
Amy Crowe, Deputy Attorney General

GUESTS PRESENT – NORTH

None

GUESTS PRESENT – SOUTH

Nina Dunn
Latonya Dyess

GUESTS PRESENT VIA TELEPHONE:

Sirisha Tilley
Michael McDonald

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 pm. Roll call was taken. There was no quorum present. Ms. Surratt postponed the meeting until Assemblyman Pickard arrived. The meeting resumed at 1:21 pm once Assemblyman Pickard arrived. It was determined there was a quorum present. Marko Markovic was present in Ellen Crecelius's place and David Castagnola was present in Nova Murray's place.

Agenda Item #2 – Public Comment

Ms. Surratt called for public comment in Las Vegas. Public comment was heard from Yolonda Dyess. Ms. Dyess stated her child support payments were placed on hold in December 2017 without a formal letter or any notice. She stated she called the Flamingo child support office to see why her payments were placed on hold and was told there was a balance on the account that was due to the State. Ms. Dyess stated she was sent a bill stating she owed \$740. She stated she wrote back questioning why she owes this money but has not received a response.

Ms. Surratt informed Ms. Dyess that the committee's job is to rewrite the child support calculation from statute. She also explained to Ms. Dyess that the committee cannot help her with her own personal case.

Public Comment was heard from Nina Dunn. Ms. Dunn stated there are a lot of women who suffer because of men that are in prison. She stated if elected officials were so concerned about child support being paid then they would take it from the \$300 prisoners are being paid. Ms. Dunn stated some of the prisoner's money should be used to pay their child support. She also stated if the obligor is in prison working off his time, then child support should be part of that.

Assemblyman Pickard stated the \$300 is what it costs to house inmates. He asked if Ms. Dunn is suggesting inmates should pay child support while they are in prison. Ms. Dunn agreed that inmates should be paying their child support while they are in prison.

Ms. Surratt called for public comment over the telephone. Public comment was heard from Michael McDonald. Mr. McDonald stated the system is in desperate need of overhaul. He stated there are a huge amount of men and women being thrown into jail because they have not paid their child support. Mr. McDonald stated he would like the committee to change the law to say that if an individual is in jail, their child support is suspended. He then stated that not paying child support should be an infraction, not cause for people to be thrown in jail. Mr. McDonald stated parents should be able to stipulate their child support amount to an amount both parents agree on. He stated

the minimum child support should be set at what the individual can pay. Mr. McDonald stated an individual should be able to modify child support at any time.

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

Ms. Surratt then referred to written public comment from Kellene Fucillo. Ms. Fucillo's public comments were regarding additional child deviations, health care, and tax deduction for children. See Exhibit A.

Ms. Surratt then referred to written public comment from Adam Radel. Mr. Radel's full written comments are regarding joint physical custody, the use of Wright v. Osborne, adding number of days into the calculation, and use of household income are attached. See Exhibit B.

Agenda Item #3 – Approval of meeting minutes (May 25, 2018)

Ms. Baker motioned to approve the meeting minutes. Ms. Throne seconded motion. Motion passed unanimously.

Agenda Item #4 – Discussion and recommendations on proposed language regarding the percentages of income to be used in the formula to calculate the base child support obligation at varying income levels.

Ms. Surratt stated Judge Shirley made a recommendation to change the language regarding the calculation on page six of the master document. See Exhibit C. She then read the new language to the committee. Ms. Surratt motioned to adopt the new language proposed by Judge Shirley on page six of the master document and to carry this language through to the rest of the document. Assemblyman Pickard seconded the motion. Motion passed unanimously.

Agenda Item #5 – Discussion and recommendations on proposed language for a minimum child support amount.

Ms. Surratt tabled this agenda item for the next meeting as the meeting had to end early because Judge Hoskin needed to leave early and there would be no quorum once he left.

Agenda Item #6 – Discussion and recommendations on proposed language for modification of child support.

Ms. Surratt tabled this agenda item for the next meeting as the meeting had to end early because Judge Hoskin needed to leave early and there would be no quorum once he left.

Agenda Item #7 – Discussion and recommendations on proposed language for shared, split, and/or serial parenting.

Ms. Surratt tabled this agenda item for the next meeting as the meeting had to end early because Judge Hoskin needed to leave early and there would be no quorum once he left.

Agenda Item #8 – Discussion and recommendations on guidance for the courts regarding how to calculate a deviation for additional dependents in the home.

Ms. Surratt tabled this agenda item for the next meeting as the meeting had to end early because Judge Hoskin needed to leave early and there would be no quorum once he left.

Agenda Item #9 – Discussion and recommendations regarding the scope of the Committee’s authority pursuant to AB 278 (2017).

This agenda item was resolved at the May 25th meeting.

Agenda Item #10 – Discussion and recommendations on how to deal with child care and health care expenses in the child support calculation.

Ms. Surratt tabled this agenda item for the next meeting as the meeting had to end early because Judge Hoskin needed to leave early and there would be no quorum once he left.

Agenda Item #11 – Review of master document for edits, errors or omissions from prior votes and in an effort to create a final report of committee.

Ms. Surratt presented the updated master document. See Exhibit C. Ms. Surratt stated the introduction section on page one comes from the statutes and asked for comments from the committee. Judge Hoskin suggested adding the second sentence of the second paragraph to state “are not met or are exceeded by the applicable formula.” Ms. Surratt motioned to adopt the introduction section including the edits proposed by Judge Hoskin. Ms. Baker seconded the motion. The motion passed unanimously.

Ms. Surratt stated that she added “If the parties do not agree to the amount of support required, the Court shall determine the amount of support according to the following guidelines,” and asked for input from the committee.

- Assemblyman Pickard suggested adding language requiring the parties to certify the amounts agreed upon meets the needs of the child.
- Mr. Sanford suggested adding “or not in the best interest of the child,” at the end of the first sentence of the second paragraph.
- Judge Hoskin suggested adding “or does not meet the needs of the children,” instead.

Ms. Surratt motioned to change subsection e under stipulations to include language regarding parents need to certify, stipulated child support meets the needs of the child, change subsection e to f, and after coercion insert “or does not meet the need of the child,” and correct the typo in the redlined section. Ms. Baker seconded motion. Motion passed unanimously.

Ms. Surratt that stated she added the introduction section before the gross monthly income definition on page two of the master document. She stated this is the current language from the statute.

- Judge Hoskin suggested changing the paragraph to “First, the amount of gross monthly income of either party must be determined either by stipulation of the parties or Court determination.”
- Assemblyman Pickard suggested dropping “either” from the paragraph.

- Mr. Sanford suggested adding “the payor’s income” to the paragraph.
- Assemblyman Pickard suggested adding “obligor’s income” instead of parent or payor.

Ms. Surratt asked for comments regarding the three-year language at the end of the gross income introduction paragraph. Judge Hoskin suggested changing the language to “prior years” instead of “three years.” Ms. Surratt motioned to adopt the above changes which would read: “First, the amount of gross monthly income of each obligor must be determined by stipulation of the parties or Court determination upon consideration of all relevant financial information or other information relevant to the obligor’s earning capacity. The Court may direct either party to furnish financial information or other records, including income tax returns, for prior years.” Ms. Baker suggested changing the first paragraph to “the gross income of each obligor must be determined by stipulation of the parties or by the Court.” Ms. Baker seconded motion. Motion passed unanimously.

Ms. Surratt moved to page three and reviewed the committee’s prior discussion to remove health care and child care from the gross monthly income definition. Ms. Baker stated she was unclear about the difference between the public assistance mentioned under 12(e) and the public assistance mentioned under adjustments on page seven and suggested the committee clarify. Judge Hoskin stated the two are different, as one is referring to the obligor’s income and deducting that from the calculation and the other is referring to the obligee’s income and adjusting the calculation. Ms. Surratt suggested adding “public assistance benefits received by the obligor” under 12(d). Assemblyman Pickard stated adding “all other income received by the obligor” in the introductory paragraph before section 12 makes more sense.

Ms. Baker motioned to modify section 12 on page three to read: “all other income, whether taxable or not, except that gross income of the obligor does not include any of the following.” Assemblyman Pickard seconded the motion. Judge Hoskin suggested “of the obligor” be included at the beginning of the paragraph after “all other income.” Ms. Baker moved to adopt Judge Hoskin’s change. Assemblyman Pickard agreed with the suggested change. Motion passed unanimously.

Ms. Surratt moved to page four and suggested the old language for imputation of income be changed to: “If a parent who has an obligation for support is willfully underemployed or unemployed, the Court may impute income.”

- Assemblyman Pickard suggested adding “if the Court determines after notice and hearing that a parent is willfully underemployed.”
- Judge Hoskin suggested changing “parent” to “obligor.”
- Judge Hoskin suggested adding “may impute income to that obligor” at the end of the sentence.
- Assemblyman Pickard suggested insert “and finding by preponderance of the evidence that an obligor is unemployed.”
- Mr. Sanford suggested giving the Courts more guidance.
- Judge Hoskin suggested adding “if the Court determines after taking evidence that an obligor who has an obligation.”
- Ms. Baker suggested adding “the Court may also consider the specific situation leading to the obligor’s underemployment or unemployment” to the next paragraph.

- Assemblyman Pickard suggested adding “if income is imputed the Court must take into consideration” to the next paragraph.
- Ms. Surratt suggested using the language “if the Court determines after taking evidence that the obligor is improperly underemployed or unemployed.”
- Ms. Baker suggested adding “underemployed or unemployed without good cause.”

Ms. Surratt motioned that the new language for imputation of income read: “If the Court determines, after taking evidence, that an obligor who has an obligation for support is underemployed or unemployed without good cause the Court may impute income to that obligor. If income is imputed, the Court must take into consideration the specific circumstances.” Ms. Baker seconded motion. Motion passed unanimously.

Ms. Surratt moved to the medical support language and asked Judge Hoskin to present the new language. Judge Hoskin motioned the new language for medical support read: “The Court must consider reasonable costs of health insurance premiums and child care necessary for either, or both, parents and shall make an equitable division thereof.” Assemblyman Pickard seconded motion. Motion passed unanimously.

Ms. Surratt asked David Castagnola to present his concerns regarding the medical support language. Mr. Castagnola stated medical support is expressed in terms of a cash or monetary requirement and there is no requirement for one or both parents to enroll a child into health care coverage if it is accessible to the child, reasonable in cost, and available. He stated this does not fulfill the federal requirement in 45 CFR 302.56. He stated OCSE, the federal office for child support, interprets the guideline requirement for medical support to go to a cash equivalent if the health care is not available, accessible, or reasonable in cost. Mr. Castagnola volunteered to work on language for health care and present it at the next meeting.

Judge Hoskin asked if this was within the committee’s purview. Mr. Castagnola stated AB 278 repeals the medical support provisions. Ms. Surratt asked Ms. Throne if she had a concern regarding the medical support language. Ms. Throne stated the language already has premium costs that are divided equally between the parents. She asked how this is different than dividing the premiums equitably. Ms. Surratt stated the committee has not discussed this yet.

Assemblyman Pickard suggested replacing the third sentence of the first paragraph regarding medical support with the sentence the committee previously voted on. He also suggested removing “in other words” from the medical support language. Ms. Surratt stated she would edit the master document based on the committee’s comments.

Ms. Surratt tabled this agenda item for the next meeting.

Agenda Item #12 – Discuss and approve ideas for future agenda items.

There were no future agenda items to add to the next agenda.

Agenda Item #13 – Public Comment

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

Ms. Surratt called for public comment over the telephone. Public comment was heard from Sirisha Tilley. Ms. Tilley stated she would like to see something in the statute regarding garnishments. She stated her husband has been a victim of having his wages garnished even though he is receiving Medicaid.

Ms. Surratt informed Ms. Tilley the committee is under a strict purview regarding the calculation of child support and does not have the authority to deal with garnishments.

Public Comment was heard from Michael McDonald. Mr. McDonald stated the committee should give the power to the parents to determine child care and medical support. He stated the parents should be allowed to stipulate with regards to child care and medical support.

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

Agenda Item #14 – Adjournment

Ms. Surratt called for a motion for adjournment. Ms. Baker motioned to adjourn. Ms. Throne seconded the motion. Motion passed unanimously. Meeting adjourned at 2:48 p.m.

Exhibit A

Good Afternoon,

I'm not sure if this has already been addressed, or if you will accept an emailed question for the committee, but my question is regarding tax deduction.

Will you be considering allowance of noncustodial parent paying child support to claim children on taxes. It seems like another issue that has been quite unfair to the obligor if they are paying thousands of dollars per year AND being taxed on that income, while the custodial parent collects the money AND claims the deduction on taxes.

Example: If noncustodial parent is paying \$12000 per year before taxes, and there are two minor children, why would parents not split children 1:1 for tax filing?

Thank you for taking the time to read this and hopefully this will be addressed in your next session.

Kellene Fucillo

I have two more questions for the committee to consider.

1. Regarding additional child deviation. I do understand the issue with consistency and enforcement with court ordered vs non court ordered support, as well as the need to make it level across the state vs just Clark County. I strongly agree that all children should be treated with equal importance, regardless of the order in which they were conceived, and at \$100/per month deviation this is not currently the case.

I'm wondering if making additional minor dependent in home without court order "deviation" set at a percentage to reduce the gross monthly income, similar to what is being discussed for child and health care, before the child support obligation calculation could be a possible resolution.

2. Regarding Health Care. I'll give an example to try to make my question clear.
How would this be handled/enforced?

Ex. Noncustodial parent was ordered to obtain and carry health insurance for minor children on original divorce decree and has been carrying health insurance with no lapse in coverage for over 9 years, which consequently required a shift in coverage, cost, and insurance carrier for entire family (in home).

Custodial parent has refused to use this health insurance, and has since obtained coverage of their own for the minor children. Custodial parent now says that noncustodial parent should be responsible for paying for the health insurance that she obtained, and that noncustodial parent can cancel coverage for the minor children.

This is not feasible for noncustodial parent, as they have been carrying coverage at a cost for "family" and removing the minor children will not reduce the monthly premium cost. This coupled with being responsible for paying custodial parent for their coverage for the minor children would result in significantly higher financial obligation for noncustodial parent.

How would the court handle a situation like this? How is it to be determined who carries coverage? (I hope this made sense)

Thank you for your time and consideration.

Kellene Fucillo

Exhibit B

To the child support guideline committee:

My name is Adam Radel and I would have liked to give this public comment in person or over the phone but work obligations do not allow me to participate in the next meeting. I have been listening in and reviewing minutes of this committee for months and I appreciate the work that is being done to review the child support guidelines.

My divorce decree and child support order were established in the Elko County court although I have subsequently relocated to Sandy, UT. My case is unique because although my children's mother and I live in separate states we labeled our custody situation as joint physical custody in order to settle our divorce amicably and move forward recognizing the role both parents play in raising children. Due to this joint designation we use the Wright v Osborne income offset method when calculating child support. My children now attend school in Utah and spend alternating weekends, holidays, and the summer in Nevada. The total time share comes out to roughly 68% of the time in Utah and 32% in Nevada.

I am currently in the process of reviewing child support through the courts and requesting a deviation for time spent with each parent. The request for review was filed 12 months ago when my children moved to Utah but the case has yet to be completed.

Under current Nevada rules of Wright v Osborne because I am the higher income earner I pay child support of \$1500 per month for my 4 children even though I pay for the majority of their clothing, food, and extra curricular activities. If child support had been calculated in Utah where the children primarily reside I would be receiving \$800 per month under Utah guidelines instead of paying.

The total number of days spent with each parent was included in the very first version of the calculation considered by this committee months ago but has not been discussed subsequently. It may have been the intention of the committee to address this topic under shared parenting in future meetings but I wanted to make sure it isn't forgotten as this was previously considered a deviation.

I believe that adding the number of days spent with each parent into the calculation would eliminate a lot of contention in custody battles where the parties are arguing over the label of "Sole" or "Joint" custody rather than focusing on the schedule that is best for the children.

On a separate topic, I am also concerned when the committee discusses the idea of considering the household income of the parties. Previous discussions were not clear to me on whether the household income would be used for both parties. The intention of using household income was to address underemployment situations of the receiver but did not discuss how that would affect the payor.

It would not be fair or just for a payor's child support to increase because their partner is also employed. The new partner has no legal obligation to support the children and if household income of both parties were the basis for calculation that would be the result.

Thank you for your consideration,

Adam Radel

Exhibit C

NEVADA CHILD SUPPORT GUIDELINES

INTRODUCTION PROVISIONS:

Any child support order must be based on the payor's earnings, income, and other evidence of ability to pay.

It is presumed that the basic needs of a child are met by the formulas set forth in these regulations. This presumption may be rebutted by evidence proving that the needs of a particular child are not met by the applicable formula.

If the amount of the awarded support for a child is greater or less than the amount which would be established under these guidelines, the court shall:

- (a) Set forth findings of fact as to the basis for the deviation from the formula; and
- (b) Provide in the findings of fact the amount of support that would have been established under the applicable formula.

STIPULATIONS AND ORDERS:

Parents have the right to stipulate to a child support obligation for their child(ren) that does not comply with the following guidelines. However, in order to be binding, a stipulation must be in writing and:

- a. Set forth the current gross monthly income of each parent;
- b. Specify what the child support obligation would be under these guidelines;
- c. Provide notice to both parents that, if either parent seeks a review of the child support obligation upon a material change in circumstances or for regular periodic review, a court will be bound by the child support guidelines in effect at the time of the review;
- d. Certify that the recipient parent is not receiving public assistance and has not applied for public assistance; and
- e. Be approved and adopted as an order of the court.

A court presented with a proposed stipulation of the parents for a child support obligation that does not comply with these guidelines may reject the stipulation, even if it complies with the requirements set forth above, if the court believes that the stipulation is a product of coercion. Additionally, the receipt of public assistance by the recipient or the parent entitled to receive child support under the guidelines will constitute a change of circumstances that will allow the review of the child support obligation and the modification of the child support obligation in accordance with the child support guidelines then in effect.

If the parties do not agree to the amount of support required, the Court shall determine the determine the amount of support according to the following guidelines.

STEP ONE TO ASSESS CHILD SUPPORT: DETERMINE WHO IS THE PAYOR

PRIMARY / SHARED / SERIAL / SPLIT

STEP TWO TO ASSESS CHILD SUPPORT: DETERMINE GROSS INCOME

First, The Court must determine the amount of gross income of either party either by stipulation of the parties or Court determination upon consideration of all relevant financial information or other information relevant to the parent's earning capacity. The Court may direct either party to furnish financial information or other records, including income tax returns for the preceding three years.

GROSS INCOME DEFINITION:

“Gross income.”

(a) “Gross income” for purposes of calculating child support means all of the following:

1. Salary and wages.
2. Interest and investment income.
3. Social Security disability and old-age insurance benefits under Federal Law.
4. Income from a pension or retirement plan.
5. Net proceeds resulting from worker's compensation or other personal injury awards intended to replace income.
6. Unemployment insurance.
7. Income continuation benefits.
8. Voluntary deferred compensation, employee contributions to any employee benefit plan or profit-sharing, and voluntary employee contributions to any pension or retirement account whether or not the account provides for tax deferral or avoidance.
9. Military allowances and veterans benefits.
10. Any and all compensation for lost wages.
11. Undistributed income of a corporation, including a closely-held corporation, or any partnership, including a limited or limited liability partnership, in which the parent has an ownership interest sufficient to individually exercise control or to access the earnings of the business, unless the income included is an asset under [*section regarding imputed income*] In this paragraph:
 - a. “Undistributed income” means federal taxable income of the closely held corporation, partnership, or other entity plus depreciation claimed on the entity's federal income tax return less a reasonable allowance for economic depreciation.
 - b. A “reasonable allowance for economic depreciation” means the amount of depreciation on assets computed using the straight line

method and useful lives as determined under federal income tax laws and regulations.

Note: Income considered under this subsection is subject to the adjustments under [*section regarding adjustments*].

12. All other income, whether taxable or not, except that gross income does not include any of the following:

- a. Child support received.
- b. Foster care payments under Federal Law.
- c. Kinship care payments under Federal Law.
- d. Public assistance benefits under Federal Law, except that child care subsidy payments under Federal Law, shall be considered income to a child care provider.
- e. Supplemental Nutrition Assistance Program (SNAP) under Federal Law.
- f. Cash benefits paid by counties under Federal Law.
- g. Supplemental Security Income and state supplemental payments under Federal Law.
- h. Payments made for social services or any other public assistance benefits.
- i. Compensation for losses, both general and special damages, in personal injury awards not intended to replace income.

(b) This subsection defines gross income used in establishing a child support order under this chapter and may not be used to limit income withholding, or the assignment of worker's compensation benefits for child support. **Note:** This paragraph clarifies that although the portion of worker's compensation awards not intended to replace income is excluded from gross income in *establishing* a child support order, the full worker's compensation benefit is assignable for the *collection* of child support.

IMPUTATION OF INCOME:

OLD LANGUAGE: If a parent who has an obligation for support is willfully underemployed or unemployed to avoid an obligation for support of a child, that obligation must be based upon the parent's true potential earning capacity.

SUGGESTED LANGUAGE CHANGE: If a parent who has an obligation for support is willfully underemployed or unemployed, the Court may impute income.

If imputation of income is authorized, the imputation must take into consideration the specific circumstances of the noncustodial and custodial parent to the extent known, including such factors as the noncustodial parent's assets, residence, employment and earnings history, job skills, education attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers will to hire the noncustodial parent, prevailing earnings level in the local community and other relevant backgrounds factors in the case.

STEP THREE: CONSIDERATION OF MEDICAL SUPPORT AND CHILD CARE:

The Court must consider reasonable costs of health insurance premiums and child care necessary for either or both parents, and shall make an equitable division thereof.

Regardless of the income level of the payer, the obligation for support shall also include the cost of providing medical support for the child. In other words, the obligation for support of both low-income payers and high-income payers shall also include the cost of providing medical support for the child. The cost of medical support shall be borne equally by the parents, with each parent being responsible for 50% of the cost of medical support unless, in extraordinary circumstances, the Court determines that a basis exists to deviate from the parents equally sharing the cost of medical support.

- (1) As used in this section, "medical support" includes, without limitation, the cost of coverage for medical, vision and dental under a plan of insurance for the child that is reasonable in cost and accessible, meaning the payment of the premium.

For the purpose of this subsection:

- (A) The term "plan of insurance" includes the child being provided coverage under a public plan of insurance such as Medicaid or a reduced fee plan such as Nevada Check Up.
- (B) Payments of cash for medical support or the cost of coverage for health care under a plan of insurance are "reasonable in cost" if:
 - (i) In the case of payments of case for medical support, the cost to each parent who is responsible for providing medical support is not more than 5 percent of the gross monthly income of the parent; or
 - (ii) In the case of the costs of coverage for health care under a plan of insurance, the cost of adding a dependent child to any existing coverage for health care or the difference between individual and family coverage,

whichever is less, is not more than 5 percent of the gross monthly income of each parent.

(C) Coverage for health care under a plan of insurance is “accessible” if the plan:

- (i) Is not limited to coverage within a geographic area; or
- (ii) Is limited to coverage within a geographic area and the child resides within that geographic area.

STEP FOUR: DETERMINE CHILD SUPPORT BASED ON INCOME

LOW INCOME PAYERS:

“Low-income payer” means a payer for whom the Court has determined that the payer’s total economic circumstances limit his or her ability to pay support at the level set forth in section (a) above. Once low-income payer status is determined, the child support obligation shall be established by use of a yearly schedule based on changes in the federal poverty guidelines during the preceding year. This schedule shall be approved by the Child Support Guidelines Committee no later than January 31 of each year and shall be published by the Administrative Office of the Courts.

If a payer’s monthly income is below the lowest level set on the schedule, the Court may set a child support obligation that is appropriate based upon the payer’s total economic circumstances, balancing the payer’s need for self-support and the payer’s obligation to support the child.

NSERT LOW INCOME CHART

CHILD SUPPORT CALCUATIONS OTHER THAN LOW INCOME:

Except as set forth in (low-income section), a parent's "Base support obligation" means the dollar amount determined according to the following schedule:

(1) For one child, the sum of

- a. 16 percent of the first \$6,000 of a parent's gross monthly income, plus
- b. 8 percent of the portion of the parent's gross monthly income for any gross monthly income from \$6,001 to \$10,000, plus
- c. 4 percent of the portion of the parent's gross monthly income for any gross monthly income in excess of \$10,000.

(2) For two children, the sum of

- a. 22 percent of a parent's gross monthly income less than or equal to \$6,000, plus
- b. 11 percent of a parent's gross monthly income from \$6,001 to \$10,000, plus
- c. 6 percent of a parent's gross monthly income in excess of \$10,000.

(3) For three children, the sum of

- a. 26 percent of a parent's gross monthly income less than or equal to \$6,000, plus
- b. 13 percent of a parent's gross monthly income from \$6,001 to \$10,000, plus
- c. 6 percent of a parent's gross monthly income in excess of \$10,000.

(4) For four children, the sum of

- a. 28 percent of a parent's gross monthly income less than or equal to \$6,000, plus
- b. 14 percent of a parent's gross monthly income from \$6,001 to \$10,000, plus
- c. 7 percent of a parent's gross monthly income in excess of \$10,000.

(5) For each child in excess of 4 children, the sum of

- a. An additional 2 percent of a parent's gross monthly income less than or equal to \$6,000, plus
- b. An additional 1 percent of a parent's gross monthly income from \$6,001 to \$10,000, plus
- c. An additional 0.5 percent of a parent's gross monthly income in excess of \$10,000.

Note \$7,000 GMI = \$84,000 Annual earnings. Approximately 83rd percentile of workers in US.
\$15,000 GMI = \$180,000 Annual earnings Approximately 97th percentile of workers in US.

STEP FIVE: DETERMINE IF AN ADJUSTMENT IS NEEDED:

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 and specific findings of fact:

- (a) (b) Any special educational needs of the child;
- (b) The legal responsibility of the parents for the support of others;
- (c) The value of services contributed by either parent;
- (d) Any public assistance paid to support the child, including social security benefits available to the child;
- (e) The 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;
- (g) The relative income of both parents; and
- (h) Any other necessary expenses for the benefit of the child

The party's ability to pay. (h)

INCARCERATION

(1) For purposes of this section, the following definitions shall apply:

(A) “Incarcerated or involuntarily institutionalized” includes, but is not limited to, involuntary confinement for any period exceeding 180 consecutive days to the state prison, a county jail, State or Federal prison, a juvenile facility operated by the Division of Child and Family Services, or a mental health facility.

(B) “Suspend” means that the payment due on the current child support order, an arrears payment on a preexisting arrears balance, or interest on arrears created during a qualifying period of incarceration pursuant to this section is, by operation of law, set to no less than the minimum child support allowed by law.

(2) Incarceration or involuntarily institutionalization shall be considered as a substantial change of circumstances to warrant a child support order to be reviewed and, if appropriate adjusted based on the noncustodial parent’s ability to pay. All cases of incarceration or involuntarily institutionalization of the obligor qualify for automatic finding of a substantial change in circumstances and a review hearing shall be conducted. Incarceration or involuntary institutionalization shall not be treated as voluntary unemployment and income shall not be imputed to the person who is incarcerated or involuntarily institutionalized.

(3) If child support is either suspended or reduced during incarceration or involuntary institutionalization, the money judgment or child support obligation shall resume on the first day of the first full month after the release of the person owing support in the amount previously ordered, and that amount is presumed to be appropriate. This section does not preclude a person owing support from seeking a modification of the child support order based on a change in circumstances or other appropriate reason.

(4) (A) A local child support agency enforcing a child support order under Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.) may, upon written notice of the proposed adjustment to the support obligor and obligee along with a form provided for the support obligor or obligee to object to the administrative adjustment to the local child support agency, administratively adjust account balances for a money judgment or order for support of a child suspended pursuant to subdivision (1) if all of the following occurs:

(1) The agency verifies that arrears and interest were accrued in violation of this section.

(2) The agency verifies that the person owing support does not have the means to pay support while incarcerated or involuntarily institutionalized.

(3) Neither the support obligor nor obligee objects, within 30 days of receipt of the notice of proposed adjustment, whether in writing or by telephone, to the administrative adjustment by the local child support agency.

(B) If either the support obligor or obligee objects to the administrative adjustment set forth in this subdivision, the agency shall not adjust the order, but shall file a motion with the court to seek to adjust the arrears and shall serve copies of the motion on the parties, who may file an objection to the agency’s motion with the court. The obligor’s arrears shall not be adjusted unless the court approves the adjustment.

(C) The agency may perform this adjustment without regard to whether it was enforcing the child support order at the time the parent owing support qualified for relief under this section.

- (5) This section does not prohibit the local child support agency or a party from petitioning a court for a determination of child support or arrears amounts.
- (6) This section applies to every money judgment or child support order issued or modified on or after the enactment of this section.

EMANCIPATION

A. If a child support order is for one child only, the ongoing child support obligation shall terminate when the child turns 18, or, if the child is still in high school, until graduation or age 19, whichever comes first, unless there exists a statutory basis to terminate the obligation to provide ongoing support sooner or to extend the obligation to provide ongoing support.

B. If the most recent child support order is for more than one child, and allocates a specific amount of the total support obligation to each child, the ongoing child support amount allocated for the subject child shall terminate the month following the date that child turns 18, or, if the child is still in high school, the month after the child graduates or turns 19, whichever comes first, unless there exists a statutory basis to terminate the obligation to provide ongoing support sooner or to extend the obligation to provide ongoing support.

C. If the most recent child support order is for more than one child, and does not allocate a specific amount of the total child support obligation to each child, if one child emancipates, in order to adjust the existing ongoing child support obligation, a stipulation must be submitted to the court or a motion must be filed with the court for modification of the existing child support order. Any modification of the ongoing child support obligation must be in compliance with the child support guidelines for the remaining non-emancipated child(ren). Regardless of the date of emancipation, any change to the existing child support obligation will only be effective as of the date the motion requesting modification was filed, unless the parties agree otherwise in a stipulation.

The following notice MUST be included in any unallocated child support order when more than one child is the subject of the order.

NOTICE: If you want to adjust the amount of the child support obligation set out in this order, you **MUST** file a motion for review and modification or submit a stipulation to the court. If a motion to modify is not filed or a stipulation is not submitted, the obligation to pay the amount of ongoing child support set out in this order will continue until all of the children that are the subject of this order have emancipated. Any modification made pursuant to a motion for modification shall only take effect as of the date the motion was filed, unless otherwise agreed to by the parties in a stipulation.

PENALTIES:

- DELETE PENALTIES AND KEEP INTEREST LANGUAGE