CHILD SUPPORT SCHEDULE WORKGROUP

RECOMMENDATIONS TO THE WASHINGTON STATE LEGISLATURE FOR WASHINGTON'S CHILD SUPPORT SCHEDULE PURSUANT TO RCW 26.19.025

SEPTEMBER 2011

TABLE OF CONTENTS

A. Executive Summary ……..… 2

B. Background ……... 6

C. Overview of Process …… 13

D. Recommendations …….…….. 17

1. Economic Table …… 17
2. Children From Other Relationships…… 20
3. Residential Schedule Credit .……..…… 23
4. Postsecondary Education Support …… 26
5. Other …….. 29

E. Appendices …….. 30

Appendix I	Workgroup Roster
Appendix II	RCW 26.19.025
Appendix III	42 CFR 302.56
Appendix IV	Issues Considered by the 2007 Workgroup
Appendix V	2010 Child Support Order Review
Appendix VI	Workgroup Ground Rules
Appendix VII	Proposed Statutory Language
Appendix VIII	Comparison of Economic Table (ET) Curves
Appendix IX	Betson-Rothbarth Draft ET
Appendix X	Comparison of ET Curves, including Betson-Rothbarth Draft ET
Appendix XI	Indiana Residential Schedule Credit Formula and Worksheet
Appendix XII	Proposed Washington Parenting Time Credit Worksheet
Appendix XIII	Revised Betson-Rothbarth Economic Table

Executive Summary

In 2007, the Washington Legislature adopted 2SHB 1009,[1] which established a process for performing the federally-required quadrennial review of the state's child support guidelines[2] by creating a Workgroup tasked to review current laws, rules, and practices regarding child support. Prior to that, Washington law called for a review, but did not specify how that review should be carried out.[3]

Under Section 7 of 2SHB 1009, the DSHS Division of Child Support (DCS) was directed to convene a workgroup "to examine the current laws, administrative rules, and practices regarding child support." The 2007 Child Support Schedule Workgroup was tasked to "continue the work of the 2005 child support guidelines workgroup, and produce findings and recommendations to the legislature, including recommendations for legislative action, by December 30, 2008."[4] The 2007 Workgroup was further directed to "review and make recommendations to the legislature and the governor regarding the child support guidelines in Washington state." In preparing the recommendations, the 2007 Workgroup was required, at a minimum, to review fourteen specific issues.[5] Based on the Report of the 2007 Child Support Schedule Workgroup, the 2009 legislature adopted ESHB 1794,[6] which made the first major changes to the Washington Child Support Schedule in almost 20 years.

Starting in 2011 and every four years thereafter, RCW 26.19.025 provides that DCS must convene a new Workgroup whose non-legislative members are to be appointed by the Governor. The President of the Senate and the Speaker of the House of Representatives are each to appoint two members, one from each of the two largest caucuses of those bodies. The statute does not provide a list of issues to be considered by these ongoing Workgroups, but it is anticipated that each Workgroup will select its own issues, based on a report which reviews and analyzes data collected from support orders entered since the last review, prior Workgroup reports, the current child support guidelines, and other relevant research and data regarding the cost of child rearing, as well as research and data on the application of, and deviations from, the child support guidelines. Under Section 6 of 2SHB 1009, this report was to be provided by the Joint Legislative Audit and Review Committee. In the 2011 legislative session, responsibility for the report was officially transferred to DCS;[7] anticipating this change, DCS performed the most recent review and provided a report to the 2011 Workgroup as part of its materials.[8]

---

[1] Chapter 313, Laws of 2007.
[2] 45 CFR 302.56(e).
[3] Prior to 2007, RCW 26.19.025 in its entirety stated: "The legislature shall review the support schedule every four years to determine if the application of the support schedule results in appropriate support orders."
[4] 2SHB 1009 (Chapter 313, Laws of 2007)
[5] *Ibid*. See Appendix IV for a list of the 14 issues considered by the 2007 Workgroup.
[6] ESHB 1794 (Chapter 84, Laws of 2009)
[7] Section 1 of HB 1298 (Chapter 21, Laws of 2011)
[8] https://www.dshs.wa.gov/pdf/esa/dcs/2010orderreview.pdf

The 2011 Child Support Schedule Workgroup

The first meeting of the 2011 Child Support Schedule Workgroup was held on January 21, 2011. The Workgroup continued to meet on a monthly basis until the frequency of meetings was increased in August of 2011, for a total of ten in-person meetings. In addition to the in-person meetings, there were two Workgroup meetings held by conference call. The Workgroup also formed *ad hoc* Subcommittees to research and report on specific issues, making recommendations to help the entire Workgroup come to more informed final decisions.

The Subcommittees met by conference call; those calls were open to all Workgroup members.[9] Each Subcommittee was tasked to make recommendations to the Workgroup, or to provide information on those issues on which the Subcommittee had been unable to reach consensus.

The Workgroup's website[10] contains the agendas for, and minutes of, all Workgroup meetings. The Workgroup Calendar[11] provides time, date and location information for Workgroup meetings and Subcommittee conference calls. When available, notes from the Subcommittee conference calls are posted on the Workgroup website. Each Subcommittee has its own section on the Materials page.[12]

The attached recommendations of the 2011 Child Support Schedule Workgroup are the result of an intense, collaborative process of committed volunteer Workgroup members. Members included both noncustodial parents and custodial parents, a law professor, and a tribal child support director, as well as representatives of the state bar association, legal services, the Office of Administrative Hearings, the courts, and the legislature.

The Workgroup encouraged public participation in their process. Workgroup meetings and Subcommittee meetings were open to the public. Individuals who appeared at meetings were invited to provide their comments at some time during each meeting. DCS created a web page[13] and a listserv,[14] and set up an e-mail address for anyone wishing to submit comments for consideration by the Workgroup.[15] The Workgroup held two Saturday meetings with extended time for public comment: one in Seattle and one in Spokane.

Prioritization of Issues to be Addressed

After reviewing the reports of the 2007 Workgroup and the 2005 Workgroup, the 2011 Workgroup identified three issues as being the most important: the economic table, the

[9] All meetings of the Workgroup and its Subcommittees, whether in-person or by conference call, were open to the public.
[10] https://www.dshs.wa.gov/dcs/Resources/workgroup.asp
[11] https://www.dshs.wa.gov/pdf/esa/dcs/2011draftcalendar.pdf
[12] https://www.dshs.wa.gov/dcs/Resources/WorkgroupMaterials.asp
[13] https://www.dshs.wa.gov/dcs/Resources/workgroup.asp
[14] https://listserv.wa.gov/cgi-bin/wa?
[15] A0=SUPPORTSCHEDULEWORKGROUP SupportSchedule@dshs.wa.gov

residential schedule credit, and how to address children from other relationships. Three Subcommittees were established, one for each of these major topics. A fourth Subcommittee on postsecondary educational support was created in May.

Final Recommendations

As was the case with the 2007 Workgroup, the 2011 Workgroup's main concern was that whatever child support schedule is ultimately adopted, it must:

- Be clear and easy to understand.
- Be easy to implement.
- Provide certainty and consistency while allowing flexibility to deal with unjust or inappropriate outcomes.
- Cover the greatest possible number of families.
- Provide specific guidelines.

The Workgroup's ground rules provided that the group would work to arrive at a consensus.[16] "Consensus means that a member may not agree with the position, but can live with it. Where that is not possible we will determine the majority and minority views." Although the Workgroup was unable to reach consensus on every point, the members thoroughly discussed all issues considered. Where consensus was not reached, the Workgroup attempted to narrow down the options and point out the advantages and disadvantages of each approach.

In the end, the 2011 Workgroup agreed by consensus to the following recommendations, which are described here in summary:

- **The Legislature should adopt a new Economic Table**, which:
    - Is based on more current data
    - Is presumptive to $12,000 combined monthly net income
    - Does not differentiate between age groups of children
- **There should be a presumptive adjustment of support, not just a deviation, when a parent has children not before the court.**
    - The adjustment should be calculated using the Whole Family Formula.
    - The court may not grant the adjustment if doing so would leave "insufficient funds" in the household of the custodial parent.
- **There should be a residential schedule credit adjustment**, **not just a deviation,** based on the number of overnights a child spends with each parent.
    - The residential schedule credit *should* be:
        - Available in both the superior courts and the administrative forum

[16] The Ground Rules, adopted January 28, 2011, are set forth in Appendix VI.

        - Adjusted when the child's time with the parents varies from that set out in the child support order granting the credit
    - The residential schedule credit *should not* be:
        - Considered a deviation
        - Available if:
            - The adjustment would result in insufficient funds in the custodial parent's household
            - The CP's net income before receiving the support transfer payment is at or below 125% of the federal poverty level guidelines for one person; or
            - The child is receiving TANF.
- **The statute regarding postsecondary educational support should be amended** to provide more guidance on:
    - When to order postsecondary educational support;
    - How to set the amounts;
    - How/when it may be suspended and then reinstated; and
    - When/how it may be terminated.
- **The statutory references to the self-support reserve should be clarified** to provide that the self-support reserve is 125% of the federal poverty level for a one-person family.

Conclusion

The Workgroup's recommendations contained within this report are the culmination of months of effort by thoughtful individuals who took into consideration their own experience and expertise with the child support schedule while evaluating comments from the public and other interested parties, and reviewing the research and reports that were made available to them regarding the Washington State Child Support Schedule.

Where the Workgroup was able to reach a consensus or majority opinion, we respectfully urge the Legislature to consider adopting the proposals set forth in this report. Where the Workgroup was unable to reach a consensus, we hope that our discussion of the options is helpful.

Background

Federal Requirements Regarding Child Support Schedules

As a condition for states receiving federal money to run their child support program, 42 USC §667(a) requires states to enact child support guidelines for setting child support awards. The law requires that the guidelines be reviewed at least every four years to ensure that their application results in appropriate child support award amounts. The requirements for the four-year review are further defined in 45 CFR §302.56. As part of the review, the state must take into consideration:

> …economic data on the cost of raising children and analyze case data, gathered through sampling or other methods, on the application of, and deviations from, the guidelines. The analysis of the data must be used in the State's review of the guidelines to ensure that deviations from the guidelines are limited.[17]

Washington State's Child Support Schedule History[18]

- 1982: The Washington State Association of Superior Court Judges (ASCJ) approved the Uniform Child Support Guidelines, which recognized the equal duty of both parents to contribute to the support of their children in proportion to their respective incomes. Most counties adopted ASCJ guidelines, but others promulgated their own.
- 1984: The federal Child Support Enforcement Amendments of 1984 required states to establish child support guidelines, which were made available to judicial and administrative officials, but were not binding. The setting of child support through a statewide schedule was intended to standardize the amount of support orders among those with similar situations.
- 1986: The Governor's Task Force on Support Enforcement examined the ASCJ Guidelines and recommended that a statewide child support schedule be established, using gross income and a schedule be followed unless certain exceptional situations defined by the enabling statute were established. (Final Report, Sept. 1986).
- 1987: Legislation was introduced to the House to create a statewide child support schedule. The Legislature rejected a rebuttable presumption support schedule proposed by the Governor's Task Force on Support Enforcement. On May 18, 1987, Gov. Gardner signed SHB 418,[19] creating the Washington State Child Support Schedule Commission and setting guidelines by which the Commission was to propose a statewide child support schedule to take the

[17] 45 CFR §302.56(h).
[18] Provided by the Division of Child Support's Management and Audit Program Statistics Unit (MAPS)
[19] Laws of 1987, Chapter 440.

place of county support schedules by Nov. 1, 1987. The Commission was specifically directed by the Legislature to propose a schedule after studying the following factors:

1) Updated economic data

2) Family spending and the costs of raising children

3) Adjustments based upon the children's age level

4) The basic needs of children

5) Family size

6) The parents' combined income

7) Differing costs of living throughout the state

8) Provision for health care coverage and child care payments

- 1987: The Legislature created the Washington State Child Support Schedule Commission, comprised of an economist, representatives from parents' groups, attorneys, a judge and a court commissioner. Child support agency staff served as support staff to the Commission. The Commission was charged with reviewing and proposing changes to the support schedule when warranted.

- 1988: Recommendations from the Child Support Commission were adopted July 1, 1988 by the Legislature, establishing a state schedule for determining child support codified at Chapter 26.19 RCW.[20] The federal Family Support Act in 1988 made the guidelines presumptive rather than advisory. The Legislature adopted the rebuttable-presumption statewide child support schedule proposed by the Commission and gave the Commission authority to make revisions subject to the approval of the Legislature.[21] The January 26, 1988 support schedule contained standards for setting support, worksheets, instructions and the basic obligation table. The July 1, 1988 support schedule changed the "basic obligation table" to the "economic table." In November 1988, the Commission proposed changes, accepted by the 1989 Legislature and effective July 1, 1989. The major change was the inclusion of ordinary health care expenses in the economic table to be paid by the payee parent. A formula was provided to determine that amount.[22]

- 1989: The Child Support Commission issued recommendations on applying the schedule to blended families.[23] The 1989 support schedule included standards for setting support, instructions, the economic table and worksheets.

- 1990: The Legislature attempted to change the way overtime pay, second (or multiple) families and a few other items are treated in the schedule.[24] The Governor vetoed the attempted amendments on those major issues. That bill

[20] Chapter 275, 1988 Laws.
[21] Chapter 26.19 RCW and schedule dated July 1, 1988.
[22] Report dated November 1988 and schedule dated July 1, 1989.
[23] Report on the Use of Support Schedule for Blended Families, December 1989.
[24] EHB 2888 (Chapter 2, Laws of 1990, 1st ex.s.).

made no changes to the economic table itself, but did significantly impact its use. RCW 26.19.020 was amended to provide that any county superior court could adopt an economic table that varied no more than twenty-five percent from that adopted by the Commission for combined monthly net income of over $2,500. The bill required that the Child Support Order Summary Report Form be completed and filed with the county clerk in any proceeding where child support is established or modified. RCW 26.19.035 was amended to provide that child support worksheets are to be completed under penalty of perjury, and the court is not to accept incomplete worksheets or worksheets that vary from the worksheets developed by the Administrative Office of the Court. The moving force behind the attempted changes in 1990 was an organization called Parents Opposed to Punitive Support (POPS), which consisted primarily of noncustodial parents with multiple families. POPS announced that they would continue their efforts with the 1991 Legislature, and also brought an unsuccessful lawsuit against OSE (now DCS) to gain access to judges' records on child support that had been collected for a study of child support orders.

- The September 1, 1991 support schedule[25] eliminated the residential credit (standard 10) in determination of child support and substituted the residential schedule as a standard for deviation. The Legislature made other changes including amendments to RCW 26.19.020 to mandate a uniform statewide economic table based on the Clark County model. The table is presumptive up to $5000, and advisory up to $7000.
- 2007: Substitute House Bill 1009,[26] based in part on the recommendations contained in the Report of the 2005 Workgroup, established a process for the quadrennial review of the child support guidelines. This bill provided that the child support order summary report be added to the first page of the Washington State Child Support Schedule Worksheet, developed by the Administrative Office of the Courts. The order summary report form was required to include "all data the department of social and health services division of child support has determined necessary, in order to perform the required quadrennial review of the Washington state child support guidelines."
- 2009: Based on the Report of the 2007 Child Support Schedule Workgroup,[27] the Legislature adopted ESHB 1794,[28] which made the first major changes to the Washington Child Support Schedule in almost 20 years.[29]

Washington's child support schedule is based on the Income-Shares Model developed by Robert Williams[30] in 1987, which at that time was used in 33 states. It is based on the combination of incomes of both parents to estimate the proportion that would be spent on children in an intact family. After all factors are considered, the noncustodial parent is

[25] Chapter 367, Laws of 1991.
[26] SHB 1009 (Chapter 313, Laws of 2007)
[27] https://www.dshs.wa.gov/pdf/esa/dcs/finalreportofworkgroup.pdf
[28] ESHB 1794 (Chapter 84, Laws of 2009)
[29] Those changes are discussed *infra*.
[30] Robert Williams, 1987, *Development of Guidelines for Child Support Orders: Advisory Panel Recommendations and Final Report.*

ordered to transfer child support to the parent with whom the child resides a majority of the time.

At the time of the development of the statewide child support schedule, there was considerable attention given to the issue of whether the schedule reflected the appropriate level of support for children. The focus of the discussion, however, turned to the issue of the hardship the schedule imposed on the nonresidential parent rather than the well-being of the child. The fathers' rights activists expressed concern that the schedule was too high. A comparative report[31] indicated that the support schedules of income shares states tended to cluster closer to the lower bound of the range of estimates of expenditures on children than they did to the upper bound on the range of estimates. Further, no state that had adopted the income shares model required the noncustodial parent to pay more in child support than would have been spent to support the child in an intact family.

History of Child Support Schedule Reviews in Washington State[32]

The presumptive child support schedule was enacted in 1988. The first comprehensive review of the support schedule was initiated in 1993. The chairs of the House Judiciary Committee and the Senate Law and Justice Committee asked the Washington State Institute for Public Policy (WSIPP) to conduct a study of the Washington State Child Support Schedule. The study[33] was issued in March 1995. The study found that Washington's support guidelines fell within the median level of the range for raising children at the time. Based on that report, the Legislature did not act to make any changes to the support schedule at that time.

During the 2003 legislative session, the Department of Social and Health Services' Division of Child Support (DCS) provided the Speaker of the House of Representatives and the Majority Leader of the Washington State Senate with a copy of a report by Kate Stirling, Ph.D, suggesting that a review of the support schedule was necessary.[34] In addition, DCS submitted a letter requesting that the Legislature review the support schedule as required under RCW 26.19.025, 42 USC §667(a), and 45 CFR §302.56. Section 207(8) of the Supplemental Operating Budget for the state's fiscal year 2002-2003 contained the following language:

> In reviewing the budget for the division of child support, the legislature has conducted a review of the Washington state child support schedule, chapter 26.19 RCW, and supporting documentation as required by federal law. The legislature concludes that the application of the support schedule continues to result in the correct amount of child support to be awarded. No further changes will be made to the support schedule or the economic table at this time.[35]

---

[31] Laurie Bassi, Laudan Aron, Burt S. Barnow, and Abhay Pande, 1990, *Estimates of Expenditures on Children and Child Support Guidelines,* U.S. Department of Health and Human Services.
[32] Taken in large part from the Report of the 2007 Child Support Schedule Workgroup.
[33] *Child Support Patterns in Washington State: 1993-1994,* by Steve Aos and Kate Stirling.
[34] *A Review of the Washington State Child Support Schedule, March 2003, Completed under Contract for the Washington State Division of Child Support.*
[35] SSB 5403 (Chapter 10, Laws of 2003).

Then in February of 2005, DCS received a letter from the Regional Administrator of the Federal Office of Child Support Enforcement (OCSE) indicating that the child support guidelines had not been reviewed as required by 45 CFR 302.56, and warning that Washington state's child support plan might be disapproved if the review did not occur.[36] As a result of this warning, Governor Gregoire directed DCS to put together a workgroup to make recommendations to the Legislature no later than January 15, 2006.[37] The Governor directed that the 2005 Workgroup provide a report that contained recommendations for needed amendments to the child support guideline statutes, a process for improving record keeping of orders entered, and a better method of ensuring that the child support guidelines are reviewed and updated as federally required. As part of the review, DCS contracted with Policy Studies, Inc., to do a review and analysis of the support schedule in compliance with 45 CFR 302.56(e) and (h). The 2005 Workgroup delivered its report to the Governor and the Legislature in January 2006.[38] Although several consensus items were included in that report, the Legislature made no changes to the child support schedule in the 2006 legislative session.

However, in the 2007 legislative session, the Legislature established the Child Support Schedule Workgroup,[39] which was tasked to "continue the work of the 2005 child support guidelines workgroup, and produce findings and recommendations to the Legislature, including recommendations for legislative action, by December 30, 2008." The Workgroup was given fourteen specific issues to consider.[40] The 2007 Workgroup delivered its Report[41] to the Legislature on December 30, 2008.

In the 2009 legislative session, the Legislature adopted ESHB 1794,[42] which was based on the Report of the 2007 Child Support Schedule Workgroup.[43] ESHB 1794 made the first major changes to the Washington Child Support Schedule in almost 20 years. That bill:

- Expanded the Economic Table up to a combined monthly net income (CMNI) of $12,000, which covered families with combined annual gross incomes of approximately $200,000.
- Provided that for combined monthly net income (CMNI) of less than $1000, the obligation is "based upon the resources and living expenses of each household," and minimum support may not be less than $50 per child per month except when allowed under RCW 26.19.065(2).

[36] Failure to have an approved state child support plan could result in the loss of all federal funding for the child support program (roughly $85 million per year) and loss of up to 5% of the $400 million in the Temporary Assistance for Needy Families (TANF) funding.
[37] This workgroup is referred to as "the 2005 Workgroup."
[38] https://www.dshs.wa.gov/word/esa/dcs/reports/Child%20Support%20Schedule%20Review%20draft%20Report.doc
[39] 2SHB 1009 (Chapter 313, Laws of 2007)
[40] Section 7 of 2SHB 1009 (Chapter 313, Laws of 2007)
[41] https://www.dshs.wa.gov/pdf/esa/dcs/finalreportofworkgroup.pdf ESHB 1794 (Chapter 84, Laws of 2009)
[42] https://www.dshs.wa.gov/pdf/esa/dcs/finalreportofworkgroup.pdf
[43]

- Provided that the Economic Table is presumptive for CMNI up to and including $12,000, and that when CMNI exceeds $12,000, the court may exceed the presumptive amount of support set for CMNI of $12,000 upon written findings of fact.
- Removed the presumption that the basic support amounts in the Economic Table included a certain amount for health care expenses. Prior to this time, RCW 26.19.080 provided that 5% of the basic support obligation represented "ordinary health care expenses" of the children, and that "extraordinary health care expanses," defined as costs that exceed 5% of the basic support obligation, were to be shared proportionally by the parents. ESHB 1794 provided a definition of health care costs, and provided that they are not included in the Economic Table but are to be shared by the parents in the same proportion as the basic child support obligation.
- Added language intended to clarify the application of the limitation in RCW 26.19.065(1) providing that neither parent's child support obligation owed for all his or her biological or legal children may exceed 45% of net income except for good cause shown.
- Increased the presumptive minimum support obligation to fifty dollars per month per child.
- Provided that the basic support obligation of the parent making the transfer payment, excluding health care, day care, and special child-rearing expenses, shall not reduce his or her net income below the self-support reserve of one hundred twenty-five percent of the federal poverty level, except for the presumptive minimum obligation.
- Made changes to the provisions regarding which income sources are to be included in, or excluded from, a parent's gross monthly income.
- Established a hierarchy for the imputation of income in the absence of actual earnings.

The Current Schedule Review under RCW 26.19.025

Starting in 2011 and every four years thereafter, the DSHS Division of Child Support (DCS) was directed to convene a workgroup "to review the child support guidelines and the child support review report prepared under RCW 26.19.026 and determine if the application of the child support guidelines results in appropriate support orders."[44] The membership of these future Workgroups was to be the same as required for the 2007 Workgroup. As indicated above, the statute did not set out specific issues for the 2011 and later Workgroups to consider. Starting with the 2011 Workgroup, RCW 26.19.025(6) directs each Workgroup to "report its findings and recommendations to the legislature, including recommendations for legislative action, if necessary."

[44] RCW 26.19.025(1).

Members of the 2011 Workgroup

The Speaker of the House of Representatives appointed Representative Jim Moeller (D), and the President of the Senate appointed Senators Jim Kastama (D) and Mike Carrell (R).

The Governor, in consultation with the Division of Child Support, appointed the remaining members of the Workgroup:

- David Stillman, the Director of the Division of Child Support. The Governor appointed Mr. Stillman as the Chair of the 2011 Workgroup. Mr. Stillman was appointed as the Acting Assistant Secretary of the DSHS Economic Services Administration in April, and then permanently appointed in August, but retained his duties associated with the Workgroup.

- Gail Hammer, a professor of law specializing in family law, from Gonzaga University School of Law.

- Kathleen Schmidt, a family law practitioner nominated by the Washington State Bar Association's Family Law Executive Committee (FLEC).

- Ken Levinson, the Director of the Nooksack Tribe's Child Support Program, a representative of the tribal community.

- Commissioner Gary Bashor of Cowlitz County was nominated by the Superior Court Judges' Association. When Commissioner Bashor was elevated to the Superior Court of Cowlitz County in May 2011, he continued to serve on the Workgroup as Judge Bashor.

- Janet Skreen, nominated by the Administrative Office of the Courts (AOC).

- Kevin Callaghan, of the Yakima County Prosecuting Attorney's Office, nominated by the Washington Association of Prosecuting Attorneys (WAPA).

- Kristofer Amblad, nominated by legal services.

- Ed Pesik, Jr., an administrative law judge (ALJ) nominated by the Office of Administrative Hearings (OAH)

Three noncustodial parents:

- James Cox, Timothy Eastman and Andrew McDirmid

Three custodial parents:

- Kristie Dimak, Angela Gerbracht and Kathy Lynn

Overview of Process

Workgroup Meetings

The first meeting of the 2011 Child Support Schedule Workgroup was held on January 21, 2011. The Workgroup continued to meet in-person on a monthly basis until August 2011, when the Workgroup met twice. The Workgroup also met twice by conference call, for a total of twelve meetings. The final "working" meeting of the Workgroup was held on September 9, 2011.

Due to state budget challenges, the 2011 Workgroup chose to meet only at locations which were rent-free. The majority of the in-person meetings were thus held at the Headquarters Building of the Department of Labor & Industries in Tumwater, Washington. The Administrative Office of the Courts hosted one meeting at its office in SeaTac. There were two meetings at which the afternoon was devoted to a public forum (see below), one in Spokane at Gonzaga Law School, and one in Seattle at North Seattle Community College. Several subcommittees were created and they met by conference call between Workgroup meetings.

Each Workgroup member was presented with a notebook of materials. The notebooks included research material prepared by DCS staff, the 2010 Child Support Order Review prepared by Ken Forgy of the Economic Services Administration of DSHS (called "the Forgy Report"), and a copy of the Report of the 2007 Workgroup. These notebooks were supplemented at each meeting with various additional materials created by DCS staff, Forgy or Workgroup members. These materials and others submitted by Workgroup Subcommittees or members of the public were also posted on the Workgroup's website.[45]

Public Participation

The Division of Child Support provided several resources to make information on the Workgroup available to the public.

- DCS established a web page for the Child Support Schedule Workgroup[46] and posted agendas, meeting minutes, and other information including materials prepared by DCS staff or Workgroup members, and sometimes materials submitted by members of the public.
- DCS created a listserv[47] as a broadcast list with open subscription. This type of listserv is open to anyone, and is used only to send out notices, not as a discussion portal.

[45] http://www.dshs.wa.gov/dcs/Resources/WorkgroupMaterials.asp
[46] http://www.dshs.wa.gov/dcs/Resources/workgroup.asp
[47] http://listserv.wa.gov/cgi-bin/wa?A0=SUPPORTSCHEDULEWORKGROUP

- DCS created an e-mail address[48] for anyone to use for providing comments to the Workgroup. Messages received in that email box that dealt with child support, the schedule, or Workgroup issues were forwarded to the entire Workgroup, and those messages were distributed on the Support Schedule listserv.
- At each meeting, members of the public and interest groups were invited to attend. Time was set aside during each meeting to allow members of the public to address the Workgroup members.[49]
- Subcommittee meetings were held by conference call and members of the public were encouraged (on the web page and by listserv) to call in and listen to the discussions.

The Charge of the 2011 Workgroup

The legislative mandate for the 2011 Workgroup did not require the Workgroup to address specific issues, but merely to "review the child support guidelines and the child support review report prepared under RCW 26.19.026 and determine if the application of the child support guidelines results in appropriate support orders."

Prioritization of Issues

The Workgroup members decided that the most important issues to focus on were those left without a resolution by the 2007 Workgroup, namely:

- The Economic Table,
- Children From Other Relationships, and
- Residential Schedule Credit.

Public Forums

From the beginning the Workgroup was committed to having this process be an open process, including opportunities for public input. To help accomplish this goal, two public forums were organized and held. The Workgroup held one forum in Seattle and one in Spokane, in order to get input from members of the public in urban centers in both Eastern and Western Washington.

At each "public forum," the afternoon was set aside to hear concerns from members of the public. On each of those days, the Workgroup met from 9:00 am until noon, during which some time was allowed for public comment. At 1:00 pm, the public forum began and continued for as long as there were people who wanted to address the Workgroup. A number of DCS staff members[50] attended each public forum in case any attendees wanted

[48] SupportSchedule@dshs.wa.gov
[49] Normally, a public comment period of fifteen to thirty minutes was allocated on the agenda, but all members of the public who wished to address the Workgroup were given an opportunity.
[50] DCS staff included support enforcement officers from the local field office, as well as staff from the DCS Headquarters Community Relations Unit and the DCS conference board unit.

to talk to representatives from DCS about specific case problems. Not everyone who attended addressed the Workgroup, but everyone who wished to address the Workgroup was given the opportunity.

The first public forum was held June 25, 2011, at North Seattle Community College. Chair Stillman introduced the members of the Workgroup, and each of the Subcommittees gave a brief presentation. After everyone who wanted to do so had an opportunity to address the Workgroup, the Chair invited everyone to participate in an informal discussion of child support schedule issues. The public forum was adjourned at approximately 2:45 pm.

On July 23, 2011, the second public forum was held at the Gonzaga Law School in Spokane. Chair Stillman introduced the members of the Workgroup, and each of the Subcommittees gave a brief presentation. Again, after everyone who wanted to do so had an opportunity to address the Workgroup, the Chair invited everyone to participate in an informal discussion of child support schedule issues. The public forum was adjourned at approximately 2:30 pm.

Subcommittees

Given the breadth and depth of the material presented at the first few meetings, the Workgroup realized that they would need subcommittees to do the homework to study and discuss certain topics and then make recommendations to the larger group. The subcommittees met by conference call and were facilitated by a DCS staff member. Other members of the Workgroup were welcome to attend any subcommittee meeting, and several members did so. The subcommittee conference calls were publicized on the Workgroup's web page and the listserv, and members of the public were able to call in and listen to the meetings.[51] Membership on the subcommittees varied throughout the duration of the Workgroup. Eventually, there were four subcommittees:

- Economic Table This subcommittee was chaired by Jim Cox. Members were Tim Eastman, Gail Hammer, Kathy Lynn, Kathleen Schmidt, and Janet Skreen.
- Children from Other Relationships ALJ Ed Pesik chaired the subcommittee. Members were Kris Amblad, Kevin Callaghan, Kristie Dimak, Angela Gerbracht, Ken Levinson, and Janet Skreen.
- Residential Credit Andrew McDirmid chaired the subcommittee. Members were Judge Gary Bashor, Kevin Callaghan, Kristie Dimak, Tim Eastman and Andrew McDirmid.
- Postsecondary Education Tim Eastman chaired this subcommittee. Members were Jim Cox, Andrew McDirmid and Kathleen Schmidt.

[51] As time permitted, the chair of each subcommittee solicited input from members of the public during the conference call. Most conference calls contained some public input.

Starting in April, each subcommittee gave a monthly report to the Workgroup to keep all Workgroup members aware of what issues were being considered, and what kind of input the subcommittee wanted from the Workgroup as a whole. Workgroup members were also given the opportunity to suggest additional issues the subcommittee should consider.

Recommendations

The Workgroup's recommendations are described in the following section. Although the Workgroup did not reach consensus on all of the issues, each of the issues was discussed and various points of view were considered regarding each one.

Workgroup Recommendations

Issue 1:

The Workgroup makes the following recommendations regarding the Economic Table:

The Legislature should adopt a new Economic Table which is based on more current data, is presumptive to $12,000 combined monthly net income, and does not differentiate between age groups of children.

New Economic Table Based on Current Data

It was very important to the Workgroup that the Economic Table should have a clearly identified economic basis, which can be explained and validated periodically against updated models of similar form and source. Workgroup members felt unable to explain the reasoning or assumptions underlying the current Economic Table.

From the beginning, the Workgroup members were concerned that the current Economic Table is based on economic data and information that is at least thirty years old. In addition, the Economic Table, when expressed as a curve, contains an inexplicable "dogleg"[52] which appears to have been based on political, not economic, considerations.

Seeking information on how the current Economic Table was developed, the Workgroup sought input from Mary Hammerly, an attorney who participated in the Washington State Child Support Schedule Commission. The Commission's recommendations were adopted by the Washington State Legislature in 1988 to establish the Washington State Child Support Schedule, codified as Chapter 26.19 RCW.[53] During a conference call on June 24, 2011, Ms. Hammerly shared her memories of the Commission and the legislative process, but did not know the history behind the dogleg.[54]

The Workgroup considered input from a variety of sources, and the Economic Table Subcommittee discussed several options before coming up with its recommendations to the Workgroup.[55] The Subcommittee's main recommendation was that the current Economic Table should be replaced.

As part of its work, the Economic Table Subcommittee reviewed the current Washington Economic Table and compared it with tables from similar states. They created a chart[56] showing the curve of each Economic Table by plotting "single child support payments versus income" from the following tables:

---

[52] See Appendix VIII for a table showing the curve.

[53] See discussion page 8, *supra*.

[54] As described in the July 19 Report of the Economic Table Subcommittee discussing the conference call, the call "…made it very clear that it is not easy to characterize where our current economic table came from, catalog what it is intended to cover, or identify the underlying economic rationale."

[55] Written Reports and Notes from meetings of the various subcommittees can be found on the Workgroup Materials page at https://www.dshs.wa.gov/dcs/Resources/WorkgroupMaterials.asp

[56] See Appendix VIII for the Comparison Chart. (https://www.dshs.wa.gov/pdf/esa/dcs/etreport72311.pdf)

- Current Washington Economic Table
- Economic Table from Pennsylvania, which is a similar-sized state, using net income and a Betson-Rothbarth inspired model
- A 2005 Betson-Rothbarth model prepared for Washington State
- An approximation of the Minnesota Economic Table, described by the subcommittee as a gross-income table based on the USDA model. For our purposes, income was adjusted from gross to net, and the average differential between Urban Midwest and Urban West estimates of expenditures applied

Based on the Comparison Chart, the Subcommittee determined that:

> "Both the Betson-Rothbarth and USDA models appear to have similar functional forms, and are not dramatically different from each other. This consistency was also demonstrated over time during Dr. Betson's presentation. Either approach, or some consensus estimate between these models, would meet our criteria of clarity, consistency, and well-defined content."[57]

The Workgroup then asked that DCS request Dr. David Betson of the University of Notre Dame to prepare a draft Economic Table based on recent research he had performed. Dr. Betson agreed to prepare a draft table for no remuneration, and the Workgroup reviewed that draft at the September 9th meeting.[58]

The Workgroup recommends a slightly-modified version of the "Betson Rothbarth Table," as developed by Dr. Betson with the assistance of Jane Venohr of Policy Studies, Inc. The original "Betson Rothbarth Table"[59] reviewed on September 9th contained the assumption that extraordinary medical expenses (defined as those expenses exceeding $250 per calendar year) were to be dealt with outside the Economic Table.[60] The Workgroup requested Dr. Betson to revise the proposed Economic Table to remove that $250 per year, because the bill that was based on the recommendations of the 2007 Workgroup (ESHB 1794, Chapter 84, Laws of 2009) amended RCW 26.19.080 to provide in subsection (2):

> "Health care costs are not included in the economic table. Monthly health care costs shall be shared by the parents in the same proportion as the basic child support obligation. Health care costs shall include, but not be limited to, medical, dental, orthodontia, vision, chiropractic, mental health treatment, prescription medications, and other similar costs for care and treatment."

[57] Report of the Economic Table Subcommittee, July 19, 2011.
[58] See Appendix X for a chart comparing the curves of the current Economic Table and the draft Betson Rothbarth Economic Table.
[59] See Appendix IX for the draft Betson Rothbarth Economic Table.
[60] This means that the table included $250 per year for medical expenses.

Although they realize that any resulting changes to the actual dollar amounts on the table will no doubt be small, if not insignificant, the Workgroup members felt that it was important to remove the $250/year in medical expenses. DCS staff contacted Dr. Betson, who agreed to provide a revised Economic Table. That revised Economic Table is contained in Appendix XIII of this Report.[61]

The new Economic Table should be presumptive to $12,000 combined monthly net income

The Workgroup recommends that, like the current table, the new Economic Table should be presumptive up to $12,000 in combined monthly net income (CMNI). The Workgroup was unable to reach consensus on how much higher the presumptive amounts of support should go. A review of economic studies indicates that the majority of the data available is for households under $12,000 CMNI. Although there is some data available for higher-income families, the workgroup could not reach consensus on extending the table higher than $12,000 CMNI.[62]

The majority of the Workgroup recommends that the Betson Rothbarth Economic Table (with the $250/yr medical costs removed) be adopted as presumptive up to $15,000 CMNI. There was a minority preference for adopting the table as presumptive up to $12,000 CMNI, and then advisory up to $15,000 CMNI. There was another minority opinion for adopting the table as presumptive only up to $12,000.

The Economic Table should not distinguish between age groups[63]

The current Economic Table provides two different support amounts for each income bracket: Column A provides the support amount for children under 12, and Column B provides the support amount for children age 12-18.

The Workgroup recommends that any new Economic Table adopted for use in Washington not provide different support amounts based on the age of children for the same income bracket.

- The economic table developed by Dr. Betson for and recommended by the Workgroup (without the $250 in medical expenses), discussed on the previous pages, does not differentiate based on children's ages.
- While the current economic table does have two age brackets, the Workgroup does not recommend that the Legislature attempt to collapse these age brackets, as the Workgroup was not able to reach consensus on the mechanism to be used for that purpose.

---

[61] The revised Economic Table was received by DCS on September 22, 2011.

[62] For instance, Alabama ($20,000 combined adjusted gross income); Arizona (($20,000 combined gross income); Oregon ($29,951 combined gross adjusted income); Ohio ($150,000 combined gross income); New York ($130,000 combined income); and Pennsylvania ($30,000 combined adjusted net income). Note, all of these support schedules are available on the 2011 Workgroup's website at https://www.dshs.wa.gov/dcs/Resources/workgroup.asp

[63] The 2007 Workgroup made a similar recommendation, and there was no consensus on whether the two columns should be "collapsed" into one column, or how that should happen.

Issue 2:

The Workgroup makes the following recommendations regarding children from other relationships:

When a parent has children not before the court (CNBC), there should be a presumptive adjustment of support – not a deviation. The adjustment should be calculated using the Whole Family Formula. The court may not grant the adjustment if doing so would leave "insufficient funds" in the household of the custodial parent; if the custodial parent's household is at or below 125% of the federal poverty level guideline for that household's size; or if it is shown that the obligor parent has not actually paid the support owed for the children not before the court that do not reside with the obligor unless there is a reasonable justification.

The Workgroup recommends that "children from other relationships" be referred to instead as "children not before the court." The Subcommittee felt that that this phrase more accurately describes the children who should be considered during the process of determining the support obligation for "the children before the court."[64]

The Workgroup recommends that, instead of a deviation, there should be a presumptive adjustment of support when the noncustodial parent (obligor) has an obligation to support children not before the court.

The Workgroup recommends that this adjustment should be calculated using the Whole Family Formula.

The Workgroup has proposed statutory language defining which children should be included in the term "children not before the court" and therefore should be included in the Whole Family Formula calculations.[65]

The Workgroup recommends the following definition for Children Not Before the Court:

> "Children not before the court are defined as children for whom support is not being determined in the current proceeding, but who are the children of one of the parents involved in the proceeding, and:
>
> a. Who were born during a marriage or domestic partnership, or for whom there is a presumption of parentage consistent with RCW 26.26.116 (as amended by §8 of E2SHB 1267, Chapter 283, Laws of 2011),[66] and the presumption of parentage has not been rebutted;
> b. Who were born outside of a marriage or domestic partnership, but for whom paternity has been established by the filing of an

[64] This phrase would apply to proceedings in the administrative forum as well.
[65] See Appendix VII for proposed statutory language, which would be a new section in Chapter 26.19 RCW. Making this adjustment a presumptive adjustment removes the consideration of the obligor's children not before the court from RCW 26.19.075, which discusses deviations.
[66] Not codified as of the date of the preparation of this document.

acknowledgment of paternity under RCW 26.26.300 (as amended by §11 of E2SHB 1267, Chapter 283, Laws of 2011)[67] or its equivalent in another state;

c. Who were born outside of a marriage or domestic partnership, but for whom paternity or parentage has been established by court order;
d. Who were adopted; or
e. Who are the subject of a court order which established the parent as a *de facto* parent."

The Workgroup recommends that stepchildren not be considered as children not before the court, but instead may be considered as a reason to deviate from either the standard or the adjusted calculation.

The Workgroup recommends that the Whole Family Formula be used as the method for calculating the presumptive adjustment to the obligor's support obligation for the children before the court.[68]

The Workgroup recommends that, when considering "insufficient funds" when determining whether to use the Whole Family Formula, the court must consider the total circumstances of both households, including the children of either parent who do not live in the household of that parent.

The Workgroup recommends that the court not adjust the standard calculation on the basis of children not before the court if:

- Adjusting the standard calculation would result in insufficient funds to meet the basic needs of the children in the receiving household and when taking into consideration the totality of the circumstances of both parents, the application of the adjustment would be unjust;
- The obligee's net income before receiving the support transfer payment is at or below 125% of the federal poverty level guidelines for the obligee's household size,[69] including both children before the court and children not before the court; or
- It is shown that the obligor parent has not actually paid the child support owed for the obligor's children not before the court who do not live with the obligor, unless there is a reasonable justification for this failure. A "reasonable justification" must include a consideration of the obligor's ability to make full payments of the child support owed for those children.

[67] Not codified as of the date of the preparation of this document.
[68] See Appendix VII for the Workgroup's recommended language regarding the Whole Family Formula.
[69] This provision intentionally uses the federal poverty level based on actual family size, rather than the "one-person family" federal poverty level recommended for the self-support reserve or the consideration of "insufficient funds" when considering whether to allow a residential schedule credit.

The Workgroup discussed, but did not have consensus recommendations on the following issues regarding Children Not Before the Court:

- Whether the obligor must be current on all support obligations for children not before the court before the court would consider applying the Whole Family Formula.
    - There was a split of opinion about this issue, because many felt that if there were support orders in existence, there was always the possibility that all orders could come within the purview of the Division of Child Support and DCS would enforce all of the orders, whether or not the obligor had the ability to pay the amount of support ordered.
    - Others believed that the obligor should not be able to "count" a child for whom there were support arrears owed, because that was an indication that the obligor was not sufficiently involved with the child.
- Whether the statute should provide guidance to the court on the issue of "stacking" – should there be a limit to how many limitations or adjustments could be applied to the basic support obligation or standard calculation?
    - There was concern expressed that a combination of limitations, adjustments and/or deviations might reduce the transfer payment to a negligible amount.
    - It was pointed out during discussion that the current child support schedule does not specifically address the issue of "stacking."

Issue 3:
The Workgroup makes the following recommendations regarding the residential schedule credit:

The Workgroup recommends that there should be a residential schedule credit to adjust the transfer payment, and that credit should be based on the number of overnights. There should be a mechanism to adjust the credit when necessary. The credit should be available in both the courts and the administrative forum, and the credit should not be granted if doing so would result in insufficient funds in the custodial parent's household.

The Workgroup recommends that there should be an adjustment of the child support obligation – not a deviation – based on the child's residential schedule. This concept is referred to as a residential schedule credit.[70] While recognizing that there are many approaches to calculating a residential schedule credit, the Workgroup recommends that the easiest method for determining the credit or adjustment would be a method based on the number of overnights which the child spends with each parent. Although there are some family situations which would not fit nicely into the "overnights" scenario, the Workgroup members believed that the majority of cases would be amenable to such a calculation.

The Workgroup strongly recommends that any residential schedule credit be available both in the superior court and in the administrative forum.

- The Workgroup recommends that, in the superior court, the residential schedule credit should be based only on the existence of a court-ordered parenting plan or residential schedule.
- The Workgroup recommends that, in the administrative forum, the residential schedule credit should be based on:
    - The existence of a court-ordered parenting plan or residential schedule; or
    - Findings of fact entered by an administrative law judge based on a written agreement between the parents and/or the sworn testimony of the parents at hearing.

The Workgroup recommends that, in either forum, the residential schedule credit should not be available if the adjustment of support would result in insufficient funds in the custodial parent's household; the custodial parent's net income before receiving the support transfer payment is at or below 125% of the federal poverty level guidelines for one person; or if the child is receiving TANF.[71]

[70] This recommendation means that the parts of RCW 26.19.075 referring to a deviation for the child's residential schedule should be deleted, and a new section created in Chapter 26.19 RCW created to address the residential schedule credit, or to include the residential schedule credit in reasons for adjusting the standard calculation.

[71] This last condition is required under the state plan under Title IV-D of the federal social security act, based on the assignment of support rights under 42 USC 608(a)(3).

The Subcommittee on the Residential Schedule Credit recommended that Washington adopt the calculation method adopted by the state of Indiana, which uses a Worksheet and a Table.[72] The Indiana method was recommended by Dr. David Betson to the Workgroup during a conference call.[73] A strong majority of the Workgroup voted to recommend the "Indiana Credit" formula, but a minority could not accept that method. In addition, the Workgroup was divided on the issue of whether there should be a threshold number of overnights before application of the credit, and if so, what that threshold should be.

- There was concern that any threshold would create the possibility of more litigation over residential schedules, as parents' positions regarding the child's residential schedule might be motivated by the impact of the schedule on the child support order. This concern was countered by the argument that the existence of any residential schedule credit, even as a deviation, might create the possibility of litigation. However, the Workgroup recognized the need for a predictable method of adjustment of the support obligation, since the traditional "every other weekend" residential arrangement seems to be on the wane.

- Regarding a threshold before the residential scheduled credit could be granted, there were three options favored, although no option was agreed on by all:
    - There was a majority in favor of 14%, and of that there was a minority who favored no threshold; and
    - A minority was in favor of a 25% threshold; within that minority group some agreed to accept a 14% threshold.

The Workgroup recommends that, if possible, there should be a legislatively-mandated residential credit calculator available online for the use of the courts, the bar, and the public, especially unrepresented parties. The Workgroup leaves it to the Legislature to determine where the calculator would be hosted; how the calculator would be developed; who would be responsible for maintaining the calculator and updating it as necessary; and how such a calculator would be funded.

The Workgroup recommends that, no matter how the residential schedule credit is calculated, once a support order has been entered with such a credit, there should be a mechanism to adjust the residential schedule credit for "noncompliance" by either parent.

The Workgroup also discussed, but was unable to reach consensus on, the interplay between the adjustment of a credit and any modification of the underlying parenting plan or residential schedule. Workgroup members realized that such a discussion was beyond

[72] See Appendix XI for information on the Indiana Residential Schedule Credit from the Indiana Rules of Court, Child Support Rules and Guidelines.

[73] Many Workgroup members characterize the Indiana Credit as having been "invented" by Dr. Betson and would prefer to call it the "Betson Formula." In any event, Indiana's Residential Schedule Credit is based on a formula developed by Dr. Betson and which has been adopted by at least one other state; the states of Indiana and Pennsylvania each used different percentages for calculating duplicated and transferred expenses.

the scope of the Workgroup's charge, and would take considerably longer than the Workgroup's allotted time. There was a strong sentiment expressed that any support order in which a residential schedule credit has been granted should contain a clause advising the parties that failure to follow the residential schedule on which the credit had been granted might result in a modification of the residential schedule and/or of the child support order.

The Workgroup attempted to define noncompliance with the residential schedule, and was unable to reach consensus other than a desire that there should be a method to adjust the credit when the child's time with the parents varies from that set out in the child support order granting the credit.

- The Workgroup was unable to reach consensus on the criteria for adjustment of the residential schedule credit or the method for such an adjustment. One of the concerns raised was whether an adjustment in the residential schedule credit would require a conforming change in the underlying court-ordered parenting plan or residential schedule, and if so, how such a change could be accomplished.

- Discussion of the adjustment process for the residential credit recognized that parents do not always strictly follow a court-ordered parenting plan or residential schedule. Very often, DCS will receive an application for nonassistance services (or a referral based on the opening of a TANF grant) from the parent who is designated in the court order as the non-primary residential parent. DCS may serve an administrative support establishment notice on the parent who is designated in the court order as the primary residential parent, who becomes the noncustodial parent in the administrative action. RCW 74.20A.055 provides that DCS may serve a Notice and Finding of Financial Responsibility (NFFR) on the noncustodial parent, so long as there is no current order setting, or specifically relieving that parent from, a support obligation. There is no requirement that the court-ordered parenting plan or residential schedule be modified before an administrative support order may be entered. However, the superior court will often refuse to modify a child support order in such a situation unless the parenting plan is modified as well.

- The Workgroup supports a simple way to get the child support order adjusted, including a simple way to adjust the parenting plan, if necessary; however, the Workgroup could not agree on the method. There were various opinions expressed about when and whether the residential schedule credit should be removed or decreased if the child does not reside with the non-primary residential parent for all the overnights that were anticipated when the support order was entered, or if it should also be increased if the if the child resides with non-primary residential parent for more overnights than were anticipated.

- A majority of the Workgroup offers a policy statement to help the Legislature develop statutory language, or that a future Workgroup might be tasked with:

When the adjustment for the residential credit is no longer accurate because, for a period of at least six months, the child's time with the parents varies from that set out in the child support order granting the credit, in an amount sufficient to change the transfer payment by at least $50 per month, either parent may petition the court or administrative forum for a change in the child support order.

Issue 4:
The Workgroup makes the following recommendations regarding postsecondary educational support:

The statute regarding postsecondary educational support should be amended to provide more guidance on when to order postsecondary educational support, how to set the amounts, how/when it may be suspended and then reinstated, and when/how it may be terminated.

Even though the Postsecondary Educational Support (PSES) Subcommittee had not made a recommendation on whether postsecondary educational support as it currently exists in Washington law should be abolished, the Workgroup discussed that option, in light of many public comments received, both in person and by email. After discussion the majority of Workgroup members voted to keep the requirement for postsecondary educational support in Washington law. A minority of the members voted in favor of removing it. The Workgroup reached consensus that, if the provisions regarding postsecondary educational support are to remain in the child support schedule, RCW 26.19.090 should be amended.

The Workgroup recommends that the child for whom postsecondary educational support would be paid must be enrolled in an accredited academic or vocational institution on a full time basis, and that "full time basis" is to be defined by the educational facility or by the order establishing the obligation to pay postsecondary support.

The Workgroup recommends that, if one or both of the child's parents saved separately for postsecondary educational support and paid those amounts directly to the school or the child, those funds should be considered part of the parent's share of postsecondary educational support.

The Workgroup recommends that the court must consider the grants and scholarships awarded to the child,[74] and subtract that amount from the total cost to determine "unmet need" before determining the parents' obligations for postsecondary educational support.

The Workgroup recommends that the provisions regarding how postsecondary educational support payments are made be revised. Several Workgroup members, as well as several members of the public, expressed concern that postsecondary educational support appeared to be "disguised maintenance" when payments were made to the parent who had been the custodial parent during the child's minority. Although a minority of the Workgroup urged that postsecondary educational support payments should never be paid to one of the parents, the Workgroup did reach consensus that payment to a parent should be the least-favored option.

[74] Including work-study opportunities, but only if there is an actual work-study position available for the child.

The Workgroup recommends that RCW 26.19.090 be amended, and Appendix VII contains the proposed statutory language. The proposed statute addresses the following issues:

- Where feasible, postsecondary educational support should be paid to the school.
    - If payment directly to the school is not feasible, both parents should make payments to the child, if the child is not residing with either parent.
    - If the child resides with one of the parents, the other parent should be required to make payments either to the child, or to the parent with whom the child resides.
    - If the child's living situation changes, either parent may ask the court to change the terms of payment.
        - If the child is no longer residing with either parent, both parents should be required to make payments to the school, if feasible, or to the child.
- Suspension of postsecondary educational support: A parent may suspend payments based on the child's failure to be enrolled full time, failure to actively pursue a course of study commensurate with the child's vocational goals or failure to be in good academic standing as defined by the institution.
- Resumption of postsecondary educational support after suspension: The obligation to pay remains suspended until the child provides proof of compliance.
    - If there is a dispute about whether the child is in compliance with the requirements of 26.19.090(3),[75] the parties (either parent or the child) may bring a motion in the superior court, unless the support order provides for a different dispute resolution method.
- Termination of postsecondary educational support:
    - Based on failure to comply with requirements: either parent may file a motion to terminate postsecondary educational support, if the child has failed to comply with the provisions of RCW 26.19.090(3) for at least two consecutive periods.[76] The court must consider all relevant circumstances of the parents and the child, including but not limited to exceptional circumstances such as mental, physical or emotional disabilities of the child.
    - Based on the age of the child: no change to existing provisions

[75] In the current statute, this is 26.19.090(3); Appendix VII contains proposed changes to the statute, so if adopted this reference would be to *new* 26.19.090(4).
[76] "Two consecutive periods" would be defined by the educational or vocational facility.

Additional Recommendation:

References to the federal poverty level when discussing the self-support reserve should be revised to refer to "the federal poverty level for a one-person family."

During discussions of the different issues, Workgroup members decided that it was necessary to resolve an issue that was apparently inadvertently caused by language in §2 of ESHB 1794 (Chapter 84, Laws of 2009), which amended RCW 26.19.065.[77]

ESHB 1794 amended references in RCW 26.19.065(2) to support obligations which would take the obligor's net monthly income below "the one-person need standard." The new terminology referred to "the self-support reserve," which was defined as "one hundred twenty-five percent of the federal poverty guideline." The Workgroup recommends that RCW 26.19.065(2) be amended to clarify that the self-support reserve is intended to be measured by 125% of the federal poverty guideline for a one-person family.

The basis for this recommendation is that the Report of the 2005 Child Support Schedule Review, as discussed in the Report of the 2007 Child Support Schedule Workgroup [78] indicates that the amounts compared were the one-person need standard and 125% of the federal poverty guideline for a one-person family. It appears to this Workgroup that it may have been easier to talk about "the federal poverty level" and "the need standard" without including a reference to the fact that both of those were meant to apply a one-person-family standard.

Having discussed this point, the Workgroup acknowledges that the recommendation regarding the adjustment for Children Not Before the Court intentionally uses the measure of the federal poverty level based on the obligee's actual household size when determining whether use of that adjustment would be appropriate.

[77] ESHB 1794 was based on the recommendations of the 2007 Child Support Schedule Workgroup.
[78] Both Reports are available on the DCS internet site at https://www.dshs.wa.gov/dcs/Resources/Reports.asp

APPENDICES

Appendix I	Workgroup Roster
Appendix II	RCW 26.19.025
Appendix III	42 CFR 302.56
Appendix IV	Issues Considered by the 2007 Workgroup
Appendix V	2010 Child Support Order Review
Appendix VI	Workgroup Ground Rules
Appendix VII	Proposed Statutory Changes
Appendix VIII	Comparison of Economic Table Curves
Appendix IX	Betson-Rothbarth Draft Economic Table
Appendix X	Comparison of Economic Table Curves, including Betson-Rothbarth Draft Economic Table
Appendix XI	Indiana Residential Schedule Credit Formula and Worksheet
Appendix XII	Proposed Washington Parenting Time Credit Worksheet

Appendix I

Roster of 2011 Workgroup Members

Chair: David Stillman, Director of the DSHS Division of Child Support (currently Assistant Secretary, Economic Services Administration, Department of Social and Health Services)

Legislative Members:
Senator Mike Carrell (R)
Senator Jim Kastama (D)
Representative Jim Moeller (D)

Governor Appointments:
Kristofer Amblad
The Honorable Gary Bashor
Kevin Callaghan
James Cox
Kristie Dimak
Timothy Eastman
Angela Gerbracht
Professor Gail Hammer
Ken Levinson
Kathy Lynn
Andrew McDirmid
ALJ Edward Pesik, Jr.
Kathleen Schmidt
Janet Skreen

Appendix II

RCW 26.19.025[79]
Quadrennial review of child support guidelines and child support review report — Work group membership — Report to legislature.

(1) Beginning in 2011 and every four years thereafter, the division of child support shall convene a work group to review the child support guidelines and the child support review report prepared under RCW 26.19.026 and 26.18.210 and determine if the application of the child support guidelines results in appropriate support orders. Membership of the work group shall be determined as provided in this subsection.

(a) The president of the senate shall appoint one member from each of the two largest caucuses of the senate;

(b) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives;

(c) The governor, in consultation with the division of child support, shall appoint the following members:

(i) The director of the division of child support;

(ii) A professor of law specializing in family law;

(iii) A representative from the Washington state bar association's family law executive committee;

(iv) An economist;

(v) A representative of the tribal community;

(vi) Two representatives from the superior court judges association, including a superior court judge and a court commissioner who is familiar with child support issues;

(vii) A representative from the administrative office of the courts;

(viii) A prosecutor appointed by the Washington association of prosecuting attorneys;

(ix) A representative from legal services;

(x) Three noncustodial parents, each of whom may be a representative of an advocacy group, an attorney, or an individual, with at least one representing the interests of low-income, noncustodial parents;

(xi) Three custodial parents, each of whom may be a representative of an advocacy group, an attorney, or an individual, with at least one representing the interests of low-income, custodial parents; and

(xii) An administrative law judge appointed by the office of administrative hearings.

(2) Appointments to the work group shall be made by December 1, 2010, and every four years thereafter. The governor shall appoint the chair from among the work group membership.

(3) The division of child support shall provide staff support to the work group, and shall carefully consider all input received from interested organizations and individuals during the review process.

[79] As amended by §2 of HB 1298 (Chapter 21, Laws of 2011)

(4) The work group may form an executive committee, create subcommittees, designate alternative representatives, and define other procedures, as needed, for operation of the work group.

(5) Legislative members of the work group shall be reimbursed for travel expenses under RCW 44.04.120. Nonlegislative members, except those representing an employee or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(6) By October 1, 2011, and every four years thereafter, the work group shall report its findings and recommendations to the legislature, including recommendations for legislative action, if necessary.

Appendix III

42 CFR 302.56

TITLE 45--PUBLIC WELFARE

CHAPTER III--OFFICE OF CHILD SUPPORT ENFORCEMENT (CHILD SUPPORT ENFORCEMENT PROGRAM), ADMINISTRATION FOR CHILDREN AND FAMILIES, DEPARTMENT OF HEALTH AND HUMAN SERVICES

PART 302 STATE PLAN REQUIREMENTS--Table of Contents

Sec. 302.56 Guidelines for setting child support awards.

(a) Effective October 13, 1989, as a condition of approval of its State plan, the State shall establish one set of guidelines by law or by judicial or administrative action for setting and modifying child support award amounts within the State.

(b) The State shall have procedures for making the guidelines available to all persons in the State whose duty it is to set child support award amounts.

(c) The guidelines established under paragraph (a) of this section must at a minimum:

(1) Take into consideration all earnings and income of the noncustodial parent;

(2) Be based on specific descriptive and numeric criteria and result in a computation of the support obligation; and

(3) Provide for the child(ren)'s health care needs, through health insurance coverage or other means.

(d) The State must include a copy of the guidelines in its State plan.

(e) The State must review, and revise, if appropriate, the guidelines established under paragraph (a) of this section at least once every four years to ensure that their application results in the determination of appropriate child support award amounts.

(f) Effective October 13, 1989, the State must provide that there shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of the guidelines established under paragraph (a) of this section is the correct amount of child support to be awarded.

(g) A written finding or specific finding on the record of a judicial or administrative proceeding for the award of child support that the application of the guidelines established under paragraph (a) of this section would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption in that case, as determined under criteria established by the State. Such criteria must take into consideration the best interests of the child. Findings that rebut the guidelines shall state the amount of support that would have been required under the guidelines and include a justification of why the order varies from the guidelines.

(h) As part of the review of a State's guidelines required under paragraph (e) of this section, a State must consider economic data on the cost of raising children and analyze case data, gathered through sampling or other methods, on the application of, and deviations from, the guidelines. The analysis of the data must be used in the State's review of the guidelines to ensure that deviations from the guidelines are limited.

Appendix IV

Issues Considered by the 2007 Child Support Schedule Workgroup[80]

The work group shall review and make recommendations to the legislature and the governor regarding the child support guidelines in Washington state. In preparing the recommendations, the work group shall, at a minimum, review the following issues:

(a) How the support schedule and guidelines shall treat children from other relationships, including whether the whole family formula should be applied presumptively;
(b) Whether the economic table for calculating child support should include combined income greater than five thousand dollars;
(c) Whether the economic table should start at one hundred twenty-five percent of the federal poverty guidelines, and move upward in one hundred dollar increments;
(d) Whether the economic table should distinguish between children under twelve years of age and over twelve years of age;
(e) Whether child care costs and ordinary medical costs should be included in the economic table, or treated separately;
(f) Whether the estimated cost of child rearing, as reflected in the economic table, should be based on the Rothbarth estimate, the Engle estimator, or some other basis for calculating the cost of child rearing;
(g) Whether the self-support reserve should be tied to the federal poverty level;
(h) How to treat imputation of income for purposes of calculating the child support obligation, including whether minimum wage should be imputed in the absence of adequate information regarding income;
(i) How extraordinary medical expenses should be addressed, either through the basic child support obligation or independently;
(j) Whether the amount of the presumptive minimum order should be adjusted;
(k) Whether gross or net income should be used for purposes of calculating the child support obligation;
(l) How to treat overtime income or income from a second job for purposes of calculating the child support obligation;
(m) Whether the noncustodial parent's current child support obligation should be limited to forty-five percent of net income; and
(n) Whether the residential schedule should affect the amount of the child support obligation.

[80] Section 7 of 2SHB 1009 (Chapter 313, Laws of 2007)

APPENDIX V

Washington State
2010 Child Support Order Review
January 2011

Table of Contents

Report Summary **3**

1 Introduction **5**

1.1 Washington State Child Support Schedule 6

1.2 Changes in Washington's Child Support Schedule 6

1.3 Purpose of DCS Order Review 7

2 Overview of the Order Sample **9**

2.1 Sampling 9

2.2 WSCSS Guideline Usage 9

2.3 Exploratory Data Analysis 10

3 Order Deviation **14**

3.1 Deviation Criteria in the Washington State Child Support Schedule 14

3.2 Deviation Rate 14

3.3 Deviation Reasons 16

4 Adjustments and Limitations **18**

4.1 Adjustments and Limitations Under the WSCSS 18

4.2 Low-Income Limitations 18

4.3 Other Adjustments 19

4.4 How Adjustments and Low Income Limitations are Applied in Washington State 20

APPENDIX I - Order Review Definitions **22**

APPENDIX II - Order Review Questionnaire **24**

APPENDIX III - Relevant Statutes **28**

Report Summary

Federal law requires states to enact statewide child support guidelines for setting child support awards. 45 CFR 302.56 requires that the child support guidelines be reviewed by the state every four years. The quadrennial review is intended to ensure that application of the guidelines results in appropriate child support award amounts and that deviations are limited.

In 1988, the Washington State Legislature established a schedule for determining child support amounts that was codified at Chapter 26.19 RCW (Chapter 275, 1988 Laws). Child support may be awarded through the court system or through administrative proceedings[81] by the Department of Social and Health Services (DSHS), Division of Child Support (DCS). The Washington State Child Support Schedule (WSCSS) is based on the "income-shares" model. The child support obligation is based on the parents' combined net monthly income, and is then divided between the parents according to their proportionate share of total net income as defined by the WSCSS.[82] The WSCSS instructions also allow for adjustments to be made for various factual scenarios. The sum of the basic child support obligation with the adjustment calculations establishes the presumptive amount of the child support order. Unless a deviation is granted, this presumptive amount is the child support order amount.

In accordance with recommendations of the Joint Legislative Audit & Review Committee (JLARC)[83] and the quadrennial review requirements of federal and state law (RCW 26.19.025), DCS completed a review of child support orders by sampling administrative and court orders entered during the four year period from August 2006 to July 2010. This order review is intended to estimate the deviation rate of the child support orders and to identify the major reasons for the deviation.

The major findings of the 2010 DCS Order Review are:

- Out of the overall 1,132 randomly selected orders, there are 486, or 42.9%, administrative orders and 646, or 57.1%, court orders. The majority of the orders are IV-D orders[84] (84.6%) and the father is the noncustodial parent (NCP) on the order (79.9%).

- The median NCP monthly net income is $1,691 and the median order amount is $271, representing 16.0 percent of the noncustodial parent's income.

- As the number of children on the orders increases, the NCP pays a larger proportion of income in child support – 15.3% for one child, 18.8% for two children, and 30.4% for three children.

- The sample shows that 95% of the parties to these orders have combined monthly net incomes that fall in the income range of the revised WSCSS Economic

[81] Under RCW 74.20A.055, 74.20A.056 or 74.20A.059.
[82] See Appendix I – Order Review Definitions
[83] JLARC, January 5, 2010, – *Review of Child Support Guidelines - Report 10-1*, at Page 19
[84] See Appendix I – Order Review Definitions

Table.[85] However, there are only 389 cases, or 34.3%, of the overall sample where actual NCP and custodial parent (CP) income were used to determine the combined monthly net income. The other orders were based on the imputed[86] income of one or both parents.

- Out of the total 1,132 orders, 236 orders were found that deviated from the WSCSS for reasons that were part of the statutorily-recognized deviation standards, which results in a 20.8% deviation rate. Deviations in non-IV-D[87] orders were more common (34%) than deviations in IV-D orders (19%). Court orders have a higher deviation rate (25%) than administrative orders (15%).

- The majority (96%) of deviations were downward, reducing the child support obligation from the presumptive amount, with the average downward amount being $208 per month.

- The majority of deviations found in Washington orders were because of the existence of children from other relationships or shared residential schedules. These two reasons account for 88% of the deviations. The remainder of the deviations are for other reasons such as sources of income and tax planning, nonrecurring income, etc.

- For the overall sample, 540 out of the 1,132 orders, or 47.7%, apply adjustments to determine the presumptive order amounts. Administrative orders (54.9%) are more likely to apply adjustments than court orders (42.3%).

- Low income limitations were found to be the major reasons for order adjustments (74%). For those adjustments due to low income limitations, most of the orders in the sample (80%) were adjusted due to the self-support reserve (post-October 2009) or the need standard for cash assistance (pre-October 2009).[88]

[85] RCW 26.19.020.
[86] The definition of imputed income, and the methods of calculating imputed income, have changed over the years.
[87] Ibid.
[88] Before 10/1/09, RCW 26.19.065(2)(b) provided that the support obligation should not reduce the noncustodial parent's net income "below the need standard for one person established pursuant to RCW 74.04.770." DSHS sets the need standards for cash assistance in WAC 388-478-0015.

Introduction

Federal law (45 CFR 302.56) requires states to enact statewide child support guidelines for setting child support awards, in order to standardize the amount of support orders among those with similar situations. All court and administrative proceedings must use their state's child support guidelines in setting child support orders unless there is a written, specific finding to deviate from the presumptive amount. In addition, federal law requires that the guidelines be reviewed at least every four years to ensure that application of the guidelines results in appropriate child support award amounts and that deviations are kept at a minimum.

Since 1990, RCW 26.18.210[89] has required that the Child Support Order Summary Report Form be completed and filed with the county clerk in any proceeding where child support is established or modified. The 2005 Child Support Schedule Review Workgroup found that parties and courts did not always comply with this requirement, and found that those who did comply often completed the form incorrectly.[90] As a result of the 2005 Workgroup's recommendation, the legislature adopted 2SHB 1009 (Chapter 313, Laws of 2007), which in §4 amended RCW 26.18.210 to make changes to the form and to require DCS to collect information from these summary report forms and prepare a report at least every four years.

Section 6 of 2SHB 1009 created RCW 26.19.026, which directed the Joint Legislative Audit & Review Committee (JLARC) to review and analyze:

- The data collected from the order summary report;
- The recommendations of the 2007 child support workgroup;
- The current child support guidelines;
- Relevant research and data on the cost of raising children; and
- Research and data on the application of, and deviations from, the child support guidelines.

After the review, RCW 26.19.026 directed JLARC to prepare a report on the application of the current child support guidelines and the recommendations of the work group. JLARC staff did so, and submitted a final report in January 2010.[91] The JLARC review determined that the summary report forms were "inadequate for reaching valid conclusions about deviations from state guidelines or for conducting the federally required review of deviations." The report recommended that the "workgroups convened under RCW 26.19.025 should use data obtained directly from court and administrative orders to conduct the federally required quadrennial review."

During the 2010 legislative session, a bill was introduced that would have shifted the responsibility for the review and the report to DCS.[92] Although that bill did not pass, DSHS agreed that DCS would take over this process in support of future Workgroups.

---

[89] RCW 26.09.173 and RCW 26.10.195 contain the same requirement.
[90] Report of the 2005 Workgroup, page 15.
[91] JLARC, January 5, 2010, *Review of Child Support Guidelines – Report 10-1*.
[92] HB 2627

Washington State Child Support Schedule

In compliance with federal requirements, the Washington State Legislature established a state schedule for determining child support amounts that was codified as Chapter 26.19 RCW.[93] Child support may be awarded through the court or through administrative proceedings by the Department of Social and Health Services (DSHS), Division of Child Support (DCS).

The Washington State Child Support Schedule (WSCSS) is based on the "income-shares" model. This model, with some variation, is currently employed in 38 states. It is based on the concept that children should receive the same proportion of income that they would have received if their family was intact. The child support obligation is based on the parents' combined net monthly income and is then divided between the parents according to their proportionate share of income. The Schedule's instructions also allow for adjustments to be made in various factual scenarios. The sum of the basic child support obligation with adjustments establishes the presumptive amount of the child support order. Generally, this presumptive amount is the child support order amount (also known as the transfer payment) unless the presumptive amount is rebutted or a deviation is granted.[94] The procedure for setting child support order amounts in Washington was summarized into five main steps in the JLARC report:

(1) The process starts with determining the combined monthly net income[95] of the parents.

(2) The economic table contained in RCW 26.19.020 is used to determine a Basic Support Obligation for each child based on the parent's combined net monthly income and other factors such as the number of children.

(3) Each parent's share of the Basic Support Obligation is determined by the parent's proportionate share of the combined income.

(4) The law provides for some adjustments to this amount for shared expenses for the children (health care and special costs),[96] low income limitations,[97] and child support credits.[98]

(5) The court or administrative officer may deviate from the presumptive amount only for reasons set forth in state statute and must provide a written basis for the deviation.

Changes in Washington's Child Support Schedule

Several changes were made to the WSCSS based on legislation adopted after the recommendations of the 2005 Child Support Schedule Workgroup.[99] In 2009, the Legislature passed ESHB 1794, which made changes to the Child Support Schedule and

---

[93] (Chapter 275, 1988 Laws)

[94] *E.g.*, the court in *N.R. v Soliz* (W.D. Wash. February 7, 1994) ruled that the presumptive minimum obligation is a rebuttable presumption, and that it was subject to downward deviation under proper circumstances, consistent with 45 CFR 302.56(g) in federal law. The *N.R. v Soliz* ruling applied only to administrative support orders, but the legislature codified this by amending RCW 26.19.065 in the 1998 session (§1 of SB 6581, Chapter 163, Laws of 1998).

[95] "Net Income" and "Gross Income" are defined in RCW 26.19.071.

[96] RCW 26.19.080.

[97] RCW 26.19.065

[98] WSCSS-Instructions 6/2010, Part V re Line 16 (Page 8)

[99] You can find the Report of the 2005 Workgroup at http://www.dshs.wa.gov/dcs/Resources/Reports.asp

adopted many of the recommendations of the 2007 Child Support Schedule Workgroup.[100]

Until October 1, 2009[101] the Washington State Child Support Schedule provided that an obligated parent's support obligation should not reduce his or her net monthly income below the one person need standard found in WAC 388-478-0015, except for the presumptive minimum obligation of $25 per month per child. The child support schedule Economic Table began at a combined monthly net income (CMNI) of $600 and continued to a CMNI of $7,000. The support obligation from the Economic Table was presumptive for CMNIs between $600 and $5,000 but only advisory for CMNIs above $5,000.

Effective October 1, 2009, two bills adopted by the Washington legislature based on recommendations of the 2007 Child Support Schedule Workgroup made significant changes to the WSCSS. ESHB 1794 (Chapter 84, Laws of 2009) made changes to the sections containing the economic table[102], limitations[103], income determination[104], deviations[105], and the allocation of health care [106]costs. SHB 1845 (Chapter 476, Laws of 2009) made changes regarding the requirements for medical support obligations in child support orders.

RCW 26.19.065 now provides that the support obligation shall not reduce the obligated parent's net income below the self-support reserve of one hundred twenty-five percent of the federal poverty level. Also, SHB 1794 increased the presumptive minimum obligation to $50 per month per child. The support schedule Economic Table now starts at a CMNI of $1,000 and continues to a CMNI of $12,000. The schedule is presumptive for all incomes between these amounts.

Additional changes were made in the calculation of health care expenses. Under previous law,[107] both parents were responsible for a proportional share of health care expenses exceeding 5% of the Basic Support Obligation. Under ESHB 1794, health care costs are no longer included in the economic table and all health care costs are divided between the parents based on their proportional share of the Basic Child Support Obligation.

Purpose of DCS Order Review

In 2005, the federal government expressed concern regarding the completeness of Washington's reviews of its guidelines. In response, the Washington Legislature established in statute a process for its reviews to be conducted by workgroups (2SHB 1009, Chapter 313, Laws of 2007). The first review under the statute was conducted in 2007, and the next review is scheduled for 2011. Section 6 of 2SHB 1009 was codified as RCW 26.19.026, and directed JLARC to: (1) review the efforts of the 2007 child support workgroup; (2) summarize research on the cost of raising children; and (3) analyze the current child support data collected by DSHS in order to review child support

[100] ESHB 1794 (Chapter 84, Laws of 2009)
[101] The effective date of ESHB 1794.
[102] RCW 26.19.020
[103] RCW 26.19.065
[104] RCW 26.19.071
[105] RCW 26.19.075
[106] RCW 26.19.080
[107] Former RCW 26.19.080

orders that deviate from the state's guideline. The JLARC report was to be submitted by July 1, 2010, and it was submitted to the Legislature in January 2010.[108]

Two recommendations were made in JLARC's final report: (1) the Workgroups convened under RCW 26.19.05 should use data obtained directly from court and administrative orders to conduct the federally required quadrennial review; and (2) the Legislature should eliminate all statutory references to the Child Support Summary Order Report.

In accordance with the recommendations of JLARC and in support of the 2011 Child Support Schedule Workgroup, the DCS completed a review of child support orders by sampling administrative and court orders entered during the period of August 2006 to July 2010. This 2010 order review is intended to satisfy the review requirements of 45 CFR 302.56.

[108] JLARC, January 5, 2010, *Review of Child Support Guidelines – Report 10-1*.

Overview of the Order Sample

Sampling

The sampling frame for this study includes all Washington orders (a total of 169,576 court and administrative orders) entered during the four year period from August 1, 2006 through July 31, 2010. This universe consisted of imaged order documents for child support cases in the active DCS caseload, as well as imaged orders maintained by the Washington State Support Registry (WSSR) for payment processing only. A simple random sample of 1,146 orders was selected from the sampling frame. The sample size was determined to give an estimated average income of NCPs at 95% confidence interval with marginal error within 10%. It is also good enough to have the estimated order deviation rate at at 95% confidence interval with marginal error within 5%.

The 1,146 sample orders were randomly assigned to six volunteer Support Enforcement Officers (SEOs). An on-line tracking tool was developed to allow SEOs to input their responses to the questionnaire (see appendix II for the detailed questionnaire). SEOs completed 1,132 valid reviews by the end of the review period.

WSCSS Guideline Usage

The WSCSS Worksheet Pamphlet effective October 1, 2009[109] contains Definitions and Standards, Instructions, the Economic Table and a blank Worksheet; *having that pamphlet available will assist greatly in understanding this section.*

Part I of the Worksheet[110] is used to calculate the income of each parent according to RCW 26.19.071. After calculating the combined monthly net income of the parents, one finds the Basic Support Obligation (line 5) for each child in the Economic Table. The Basic Support Obligation is divided between the parents based on their proportional share of the income (line 6).

Line 7 of the Worksheet shows each parent's Basic Support Obligation without consideration of any low income limitations. Line 8 allows the application of low-income limitations when appropriate, and then Line 9 shows each parent's Basic Support Obligation. In some cases, the Basic Support Obligation will equal the Standard Calculation on line 17, but if there are health care, day care, and/or special child rearing expenses for the children, the Standard Calculation may be different. The Standard Calculation is the amount that is obtained by applying the guideline standards.

In certain cases, the presumptive transfer payment which is reflected by the Standard Calculation has been changed because of a deviation, which must be granted by the judge and must be supported by findings of fact. In those cases, the Transfer Payment ordered will be higher or lower than the Standard Calculation.

In some cases, the limitations contained in RCW 26.19.065 may result in a Standard Calculation which is different from the Basic Support Obligation found on Line 7. This

[109] Available online on the 2011 Workgroup's webpage at https://www.dshs.wa.gov/dcs/Resources/WorkgroupMaterials.asp

[110] The Worksheet is developed by the Administrative Office of the Courts under RCW 26.19.050.

is not considered a deviation, because the limitation is part of the process of arriving at the Standard Calculation.

Exploratory Data Analysis

Out of the overall 1,132 orders, there are 486, or 42.9%, administrative orders and 646, or 57.1%, court orders (Table 1). The majority of the orders are IV-D orders (84.6%) and the father is the NCP on the order (79.9%).

For the overall sample, the median NCP monthly net income is $1,691 and the order amount is $271, representing 16.0 percent of the noncustodial parent's income.

The income levels and the monthly order amount are different depending upon whether the order is an administrative order or a court order, a IV-D order or a non-IV-D order, a father as an NCP or a mother as an NCP (Table 1). NCPs with administrative orders earn less and have relatively higher child support obligations (15.9% vs. 14.5%) compared to NCPs with court orders. The median combined monthly net income of the parents with a non-IV-D order is approximately twice the median income of parents with a IV-D order.

Table 1. NCP Median Net Income and Child Support Order Amount

Group	Number of Cases	Percent of Cases	Median NCP Monthly Net Income	Median Monthly Order Amount	Percent of Order Amount in Income
Overall Sample	**1,132**	**100.0%**	**$1,691.0**	**$271.0**	**16.0%**
Admin Order	486	42.9%	$1,376.5	$219.0	15.9%
Court Order	646	57.1%	$2,121.7	$307.5	14.5%
IV-D Order	958	84.6%	$1,507.0	$249.0	16.5%
Non-IV-D Order	174	15.4%	$3,181.8	$431.0	13.5%
Father as NCP	904	79.9%	$1,878.5	$307.0	16.3%
Mother as NCP	228	20.1%	$1,286.0	$154.0	12.0%

Over two-thirds of the sample orders have only one child on the order and 22.4% of the orders have two children (Figure 1). The Schedule Economic Table incorporates the concept that additional children entail additional costs, while at the same time recognizing that two children are not always twice as costly as one. Figure 2 shows that the monthly child support obligation increases as the number of children increases. For the overall sample, the median award amount for one child is $248; for two children, the amount is $399; and for three children, the amount is $486.5. As the number of children increases, the NCP pays a larger proportion of his or her income for child support – 15.3% for one child, 18.8% for two children, and 30.4% for three children.

Figure 1. Number of Children on the Order

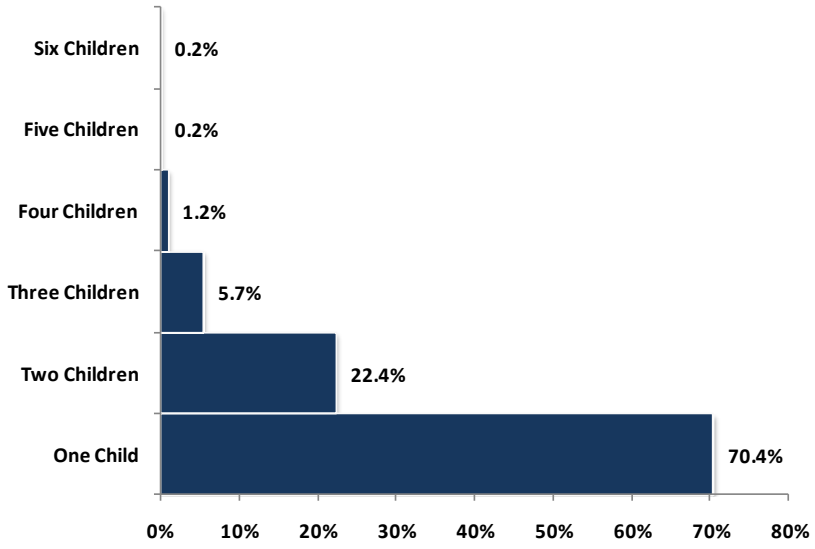


Figure 2. Monthly Order Amount vs. NCP Net Income by the Number of Children

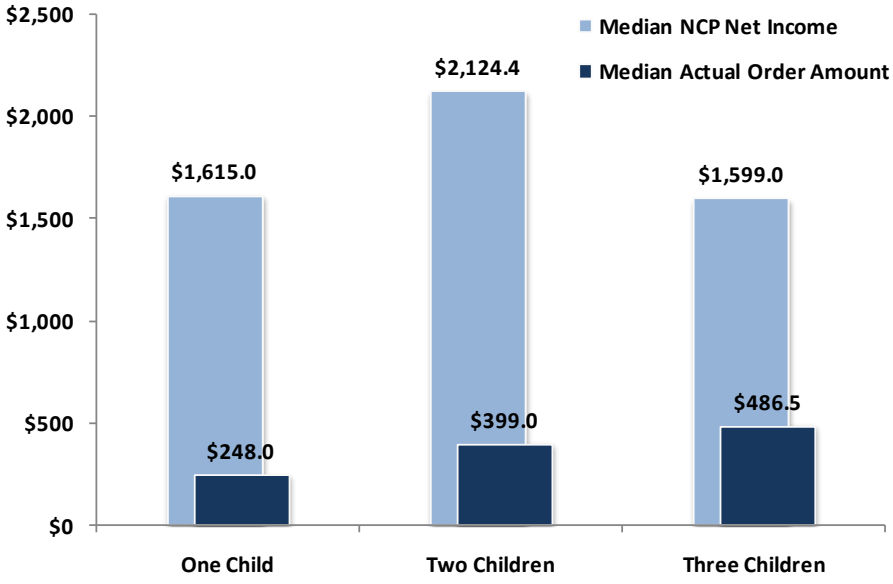


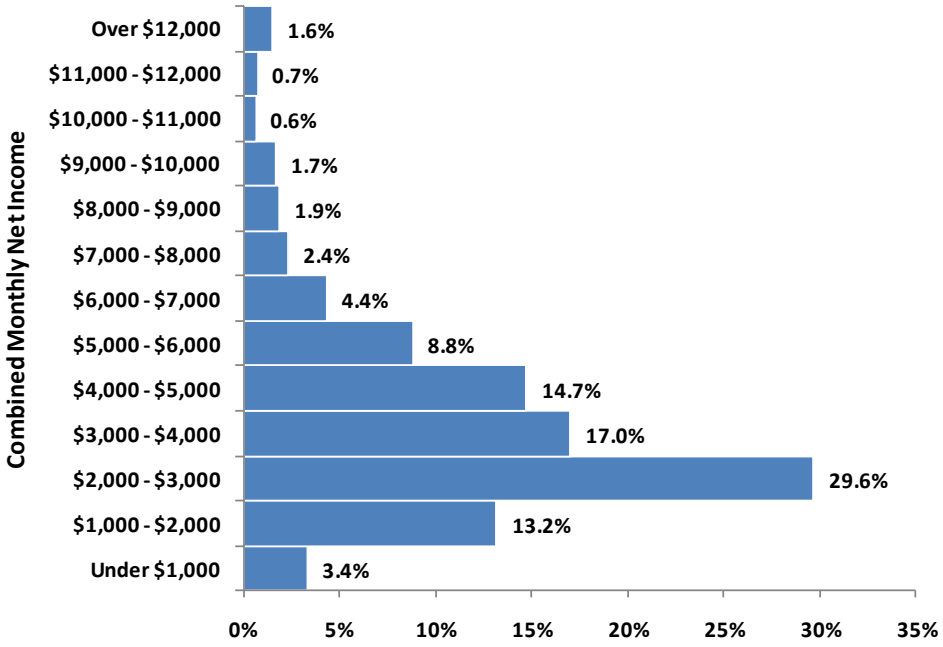
Figure 3 shows the distribution of combined monthly net income of the overall sample. For the overall sample, 75% of orders have CMNI between $1,000 and $5,000 and over 20% of orders have combined monthly net income more than $5,000. Before October 2009, the WSCSS Economic Table began at a CMNI of $600 and continued to a CMNI of $7,000 per month. The support obligation was presumptive for CMNI between $600 and $5,000 and was advisory above that level. The pre-October 2009 Economic Table did not provide a presumptive support amount for cases with CMNI over $5,000.[111] The new child support schedule under ESHB 1794,[112] which took effect on October 1, 2009, updated the Economic Table. It now provides presumptive support amounts for CMNI from $1,000 to $12,000. The sample shows that 95% of orders have CMNI falling within the income range of the new Economic Table. Only 5% of the orders have CMNI of less than $1,000 or greater than $12,000. However, only 389 cases, or 34.3%, of the overall sample, derived the CMNI using actual income for both the NCP and CP. The other cases in the sample use imputed income for one or both parents.[113]

[111] The prior version of RCW 26.19.065 provided the following guidance for income above five thousand and seven thousand dollars: "In general setting support under this paragraph does not constitute a deviation. The economic table is presumptive for combined monthly net incomes up to and including five thousand dollars. When combined monthly net income exceeds five thousand dollars, support shall not be set at an amount lower than the
presumptive amount of support set for combined monthly net incomes of five thousand dollars unless the court finds a reason to deviate below that amount. The economic table is advisory but not presumptive for combined monthly net income that exceeds five thousand dollars. When combined monthly net income exceeds seven thousand dollars, the court may set support at an advisory amount of support set for combined monthly net incomes between five thousand and seven thousand dollars or the court may exceed the advisory amount of support for combined monthly net income of seven thousand dollars upon written findings."

[112] (Chapter 84, Laws of 2009).

[113] Section 3 of ESHB 1794 amended RCW 26.19.071(4) and set out for the first time a hierarchy of imputation methods to be used when records of a parent's actual earnings were not available. Prior to October 1, 2009, the WSCSS did not contain specific guidance for imputing income. The term "imputation" covered a wide variety of methods for determining a parent's monthly income, some of which would not fit the current definition or method.

Figure 3. Distribution of Combined Monthly Net Income



Order Deviation

Deviation Criteria in the Washington State Child Support Schedule

Since 1989, federal law has required statewide guidelines for child support. Each state has the authority to determine its own specific guidelines. All court and administrative orders that establish or modify child support must be based upon the guidelines, and a deviation is allowed only for a reason set forth in state statute and must be based on a written justification. As part of the federally mandated quadrennial review, each state must review child support award data to determine the frequency of deviations from the state's guidelines and to ensure that deviations from the guidelines are limited.
The WSCSS provides a non-exclusive list of standards for deviation from the Standard Calculation in RCW 26.19.075, including: (1) sources of income and tax planning; (2) nonrecurring income; (3) debt and high expenses; (4) residential schedule; and (5) children from other relationships. Appendix III sets out RCW 26.19.075 in full.

Deviation Rate

For purposes of the DCS 2010 Order Review, "deviation" is defined as a child support amount that differs from the Standard Calculation in an amount greater than $10.00 (to allow for rounding) with one or more reasons for deviation that meet the standards set forth in RCW 26.19.075.
Out of the total 1,132 orders reviewed, 236 orders deviated from the Standard Calculation resulting in a 20.8% deviation rate. Figure 4 shows that deviations in non-IV-D orders were more common (34%) than deviations in IV-D orders (19%). Court orders have a higher deviation rate (25%) than administrative orders (15%). The majority (96%) of the deviations were downward, reducing the child support obligation from the presumptive amount. Downward deviations average $208 per month.

Figure 4. Deviation Rates

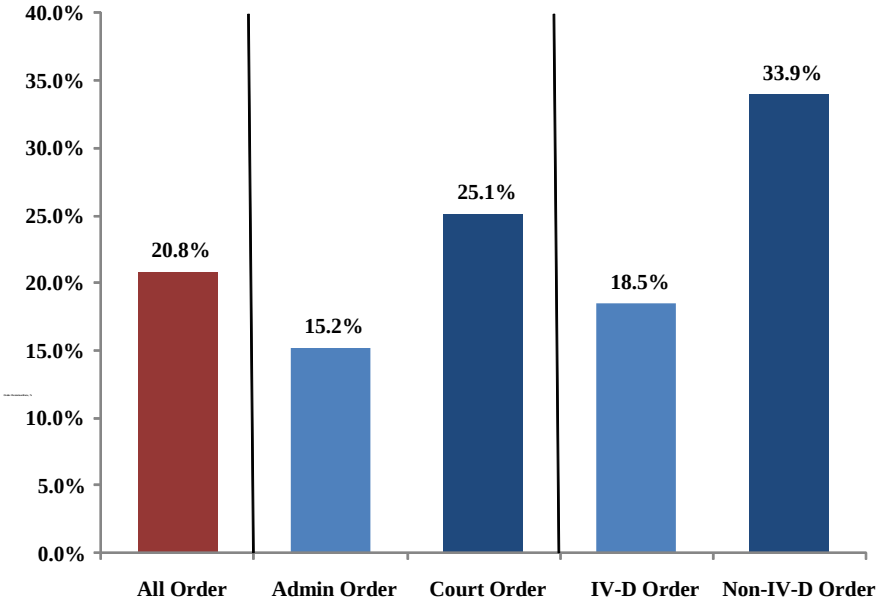
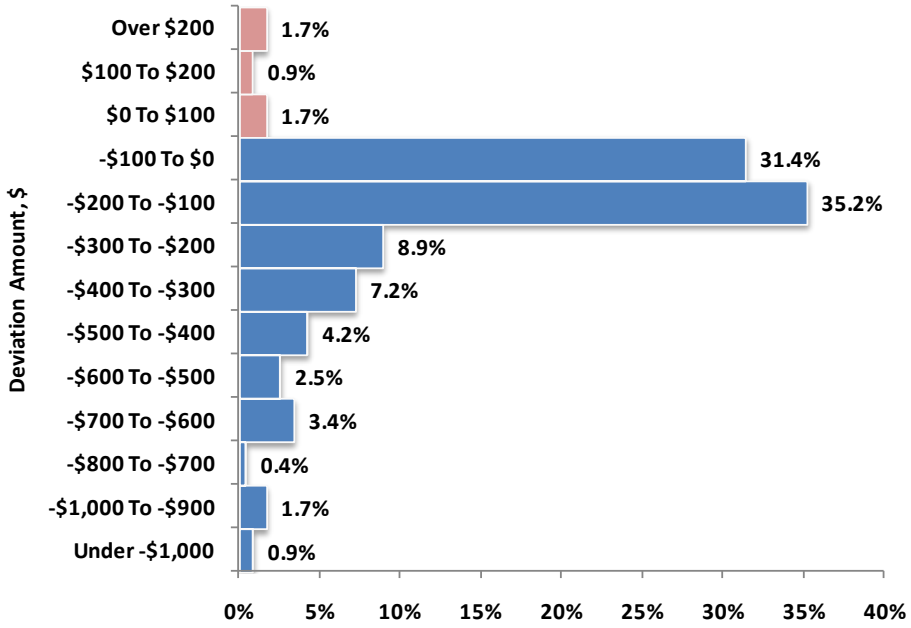


Figure 5 displays the detailed distribution of deviation amounts in the 236 orders deviated from the Standard Calculation. Two-thirds of the deviations reduce the order amount from the presumptive amount in the range of $0 to $200. There are 21 orders, or 9%, deviating downward from the Standard Calculation by more than $500.

Figure 5. Distribution of Deviation

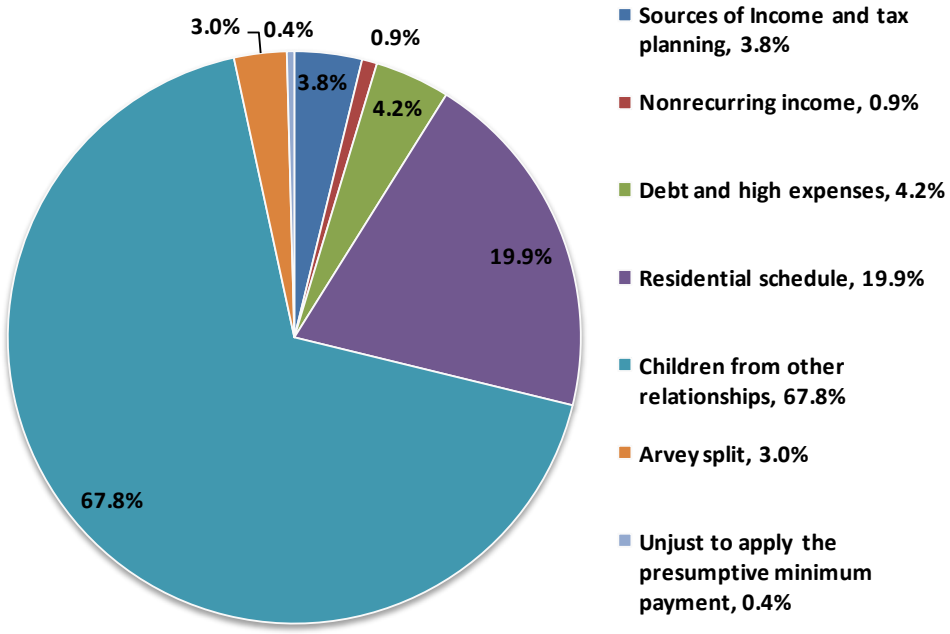


Amount

Deviation Reasons

Figure 6 describes deviation reasons for the overall sample. Over two-thirds of deviations are due to children from other relationships. The order amount may deviate from the Standard Calculation when either or both of the parents have children from other relationships to whom the parent owes a duty of support. Another 20% of deviations are due to the residential schedule. If the child spends a significant amount of time with the noncustodial parent, the court may consider a deviation from the Standard Calculation.[114] Therefore, two major reasons of deviation in Washington orders are children from other relationships and residential schedules, which account for 88% of the deviations. The rest of the deviations are for a variety of reasons such as sources of income and tax planning, nonrecurring income, etc.

Figure 6. Deviation Reasons

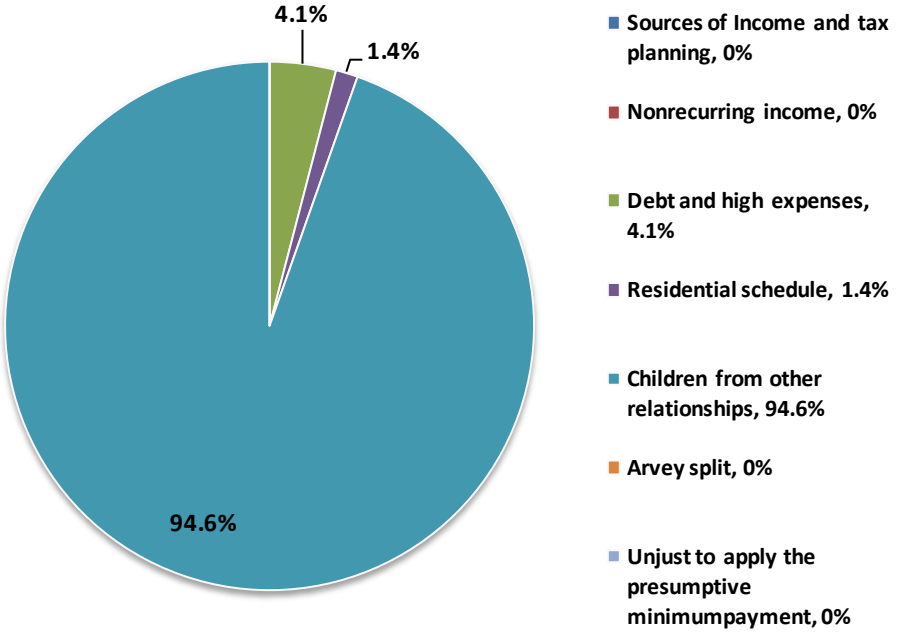


Deviation reasons vary between administrative orders and court orders (Figure 7). The existence of children from other relationships is the dominant (95%) reason for deviations in administrative orders. Only 1.4% of administrative orders deviate due to the criteria of residential schedule. For court orders, children from other relationships (56%) and residential schedule (28%) are the two major deviation reasons.

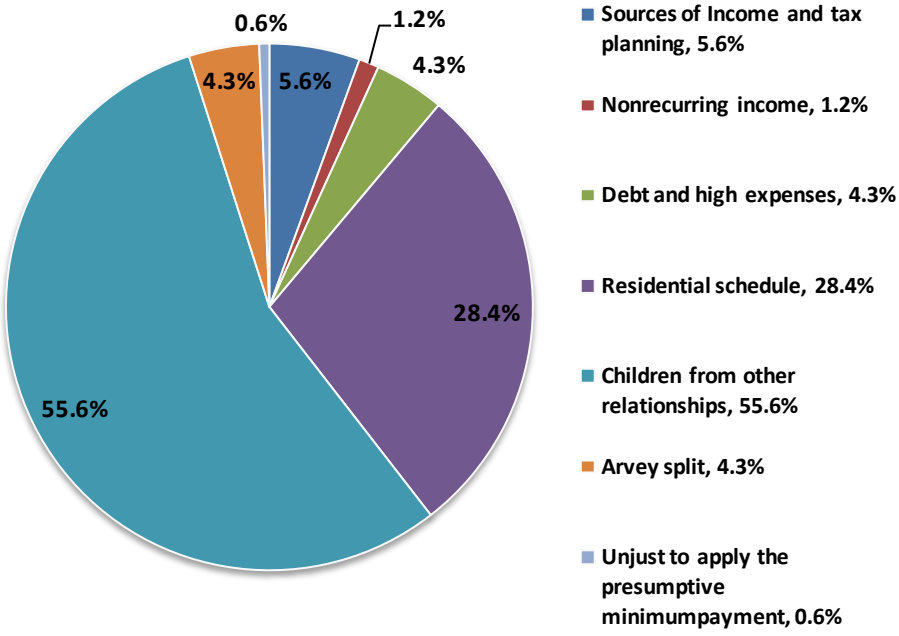
Figure 7. Deviation Reasons by Order Type

[114] A deviation for the child's residential schedule is not allowed if it will result in insufficient funds in the custodial household or if the child is receiving temporary assistance for needy families.

Administrative Orders



Court Orders



Adjustments and Limitations

Adjustments and Limitations Under the WSCSS

The WSCSS Worksheet is used to calculate each parent's child support obligation by proceeding through a series of steps, represented by the different parts of the Worksheet. Part I of the Worksheet is used to calculate the Combined Monthly Net Income (CMNI) of the parents (Line 4). Using the CMNI and the number of children for whom support is being set, the Economic Table provides the monthly Basic Support Obligation in a per child amount and in a total monthly amount (line 5). Line 6 is used to calculate each parent's proportional share of the CMNI.

Part II of the Worksheet is then used to find each parent's "Basic Child Support Obligation without consideration of low income limitations" (Line 7 of the Worksheet). Lines 8a, 8b and 8c are used to apply any relevant adjustments to establish the "Basic Child Support Obligation after calculating applicable limitations" (Line 9 of the Worksheet). The amount on Line 9 is the presumptive support amount for each parent.

Part III of the Worksheet is used when there are Health Care, Day Care, and Special Child Rearing Expenses. This Part allocates each parent's proportional share of the expenses, and the result on Line 14 is each parent's obligation for Health Care, Day Care, and Special Expenses.

Part IV of the Worksheet determines the Gross Child Support Obligation on Line 15, which is the sum of line 9 (Basic Support Obligation) and line 14 (Obligation for Health Care, Day Care, and Special Expenses).

Part V of the Worksheet is used to calculate any credits that may be due for amounts actually being paid at the time of the calculation. Line 16d provides the Total Support Credits.

Part VI of the Worksheet provides the Standard Calculation, also known as the Presumptive Transfer Payment. Unless a deviation is granted, this presumptive support amount is the child support order amount.

As illustrated by the above description, "deviations" are distinguished from "adjustments" in that adjustments are made because of a limitation, and the application of an adjustment happens during the calculation of the Basic Support Obligation. A deviation is granted only after the calculation of the Standard Calculation, resulting in a Transfer Payment (also called the order amount) that is different from the Standard Calculation.

Low-Income Limitations

The WSCSS contains several low-income limitations, which operate to adjust the Basic Support Obligation so that the parent is allowed to retain a certain amount of his or her monthly net income, subject to the presumptive minimum support obligation (currently $50 per month per child; $25 per month per child prior to October 1, 2009). The application of these limitations is subject to a determination that it would be unjust to apply the limitation, based on a consideration of the best interests of the child. Prior to

the October 1, 2009 changes,[115] the determination of "unjust to apply" was not a part of the law.

When the CMNI of both parties is less than $1,000, each parent's presumptive support obligation is $50 per child per month.[116] Prior to October 1, 2009, the WSCSS provided that when the parents' CMNI was less than $600, each parent's presumptive support obligation was $25 per child per month.

Other low-income limitations are based on the Self-Support Reserve.[117] Before October 1, 2009, this was called the Need Standard, based on the cash assistance need standard for one person.[118] RCW 26.19.065(2) now provides that when a parent's monthly net income is below the Self-Support Reserve of 125% of the federal poverty level, his or her presumptive support obligation is no less than $50 per month per child. Prior to October 1, 2009, the WSCSS provided that when a parent's monthly net income was less than $600, his or her presumptive support obligation was $25 per child per month.

In addition, RCW 26.19.065 provides that the Basic Support Obligation, excluding health care, day care, and special child-rearing expenses, shall not reduce the NCP's net income below the Self-Support Reserve, except for the presumptive minimum obligation of $50 per child per month. Prior to October 1, 2009, the law provided that the NCP's support obligation should not reduce his or her income below the one person need standard, except for the presumptive minimum obligation of $25 per child per month.

The final low-income limitation usually applies to noncustodial parents with many children, or at least with many families: RCW 26.19.065(1) provides that neither parent's child support obligation owed for all his or her biological or legal children may exceed 45 percent of his or her net income except for good cause (good cause includes, but is not limited to, possession of substantial wealth, children with day care expenses, special medical need, educational need, psychological need, and larger families). ESHB 1794 amended this section to provide that each child "is entitled to a pro rata share of the income available for support, but the court only applies the pro rata share to the children in the case before the court."

Other Adjustments

Other reasons that the Standard Calculation may differ from the Basic Support Obligation are:

- Health Care, Daycare, Or Special Expenses
- Child Support Credits
- Income above the Economic Table amounts

RCW 26.19.080 provides that health care costs, day care and special child rearing expenses, such as tuition and transportation costs for visiting purpose, are not included in the Economic Table. These expenses are to be shared by the parents in the same proportion as the basic child support obligation. Prior to October 1, 2009, the WSCSS provided that the amounts in the Economic Table were considered to include an amount for "ordinary medical expenses," but that "extraordinary medical expenses," defined as

[115] The changes under ESHB 1794 took effect on October 1, 2009.
[116] RCW 26.19.020.
[117] RCW 26.19.065.
[118] See discussion *supra* in Section 1.2.

medical expenses that exceed five percent of the basic support obligation, were to be shared by the parents. ESHB 1794 did away with the distinction between ordinary and extraordinary medical expenses.

Child support credits are provided in cases where parents make direct payments to third parties for the cost of goods and services which are included in the Standard Calculation support obligation. When the WSCSS Worksheet contains these direct payments in Part III, the parent who pays for the shared expenses will receive credit by means of a lower transfer payment.

Finally, for parents with a CMNI that exceeds $12,000, the WSCSS provides that the court may exceed the maximum presumptive amount of support upon written findings of fact. See Section 2.3 and Footnote 31, *supra*, for a discussion of the way higher incomes were treated before October 2009.

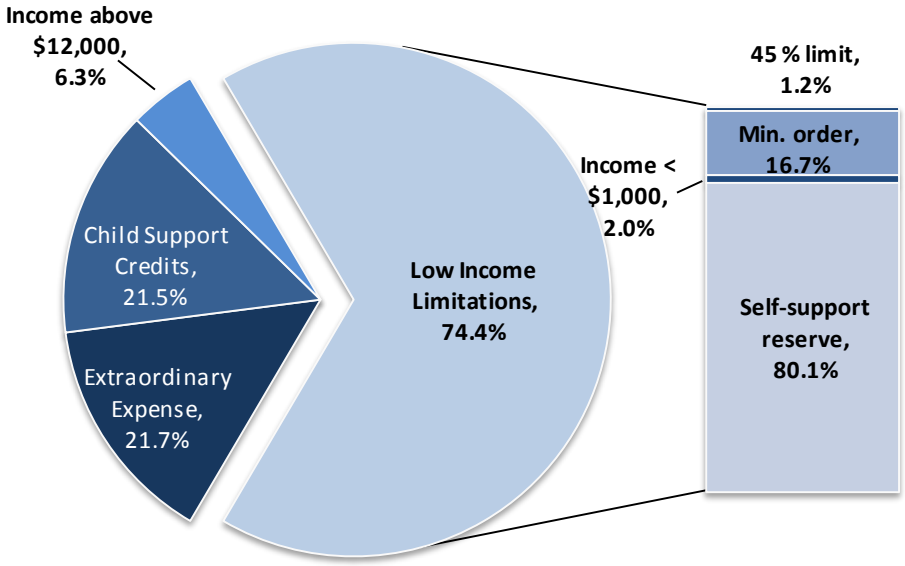
How Adjustments and Low Income Limitations are Applied in Washington State

For the overall sample, 540 orders out of the 1,132 orders, or 47.7%, apply adjustments to determine the presumptive order amounts. Administrative orders (54.9%) are more likely to apply adjustments than court orders (42.3%).

When reasons for adjustments were reviewed, it was found that 76% of adjustments were due to a single reason and 24% of adjustments were due to two to four reasons. Figure 8 shows that the primary reason for adjustments are low income limitations. 402 orders, or 74%, are adjusted for this reason. Extraordinary expenses and the application of child support credits in part III of the WSCSS Worksheet are also commonly used, accounting for 22% of adjustments, respectively. Only 34 orders, or 6%, are adjusted due to a CMNI above $12,000.[119]

[119] The percentage does not add up to 100% because some orders are adjusted for more than one reason.

Figure 8. Distribution of Adjustment Reasons



The application of the Self-Support Reserve (post October 2009) or the need standard (pre- October 2009) are the major reasons for the low income limitation adjustments (bar chart in Figure 8). Effective October 1, 2009, Washington State adopted the Self-Support Reserve as the basic subsistence level to determine adjustments due to low income limitations. On average, 7.3 orders per month were adjusted due to the use of the TANF need standard for the period of August 2006 through September 2009, while 6.7 orders per month were adjusted due to application of the Self-Support Reserve for the period of October 2009 through July 2010. There were 67 out of 540 orders with adjustments that set support at the presumptive minimum order amount for reasons other than the need standard or self support reserve ($25 per month per child pre-October 2009 and $50 per month per child as of October 2009).

APPENDIX I - Order Review Definitions

Adjustment: A child support amount that differs from the Standard Calculation, not because of a Deviation, but because of the application of one or more Limitation Standards under the WSCSS applicable as of the date of the order. Adjustments differ from deviations as they are applied during the determination of the Standard Calculation / Presumptive Transfer Payment. They are in effect an expected application of the established guidelines.
Average: Arithmetic mean, unless otherwise noted.
Basic Support Obligation (BSO): The monthly child support obligation determined from the economic table based on the parties' combined monthly net income and the number of children for who support is owed. RCW 26.19.011(1). For purposes of this review, Basic Support Obligation also means the guideline support obligation without consideration of income limitations, extraordinary expenses, or child support credits.
CMNI: Combined Monthly Net Income, Line 4 on the WSCSS Worksheet.
Deviation: A child support amount that differs from the Standard Calculation. RCW 26.19.011(4). For purposes of this review, a support order contains a Deviation when the Final Transfer Payment differs from the Standard Calculation / Presumptive Transfer Payment in an amount greater than $10.00 (to allow for rounding) and the reasons for deviation meet standards set forth in the WSCSS guidelines and RCW 26.19.075.
Final Transfer Payment: the amount ordered by the court/ALJ to be paid by the noncustodial parent.
IV-D Orders: Support orders that are enforced by the Division of Child Support (DCS) due to the payment of public assistance monies or application for services from either party. This abbreviation came into use because DCS operates its child support program under Title IV-D of the Social Security Act.
Median: The median is the middle value of a set of data containing an odd number of values, or the average of the two middle values of a set of data with an even number of values. In other words, half of data set has the value below median and half of the data set has the value above the median. The median is a useful number in cases where the distribution has very large extreme values (e.g., income) which would otherwise skew the data.
Non-IV-D Orders: Support orders that direct the noncustodial parent (NCP) to make child support payments either through the Washington State Support Registry (WSSR) or directly to the custodial parent (CP), and DCS has no existing case for the parties or no application for services from either party.
Standard Calculation: the presumptive amount of child support owed as determined from the child support schedule before the court considers any reasons for deviation. RCW 26.19.011(8). This is sometimes also called the Presumptive Transfer Payment.
Support Transfer Payment: the amount of money the court orders one parent to pay to another parent or custodian for child support after determination of the Standard Calculation and deviations. If certain expenses or credits are expected to fluctuate and the order states a formula or percentage to determine the additional amount or credit on an ongoing basis, the term "support

Transfer payment" does not mean the additional amount or credit. RCW 26.19.011(9). This may also be called the Final Transfer Payment, or just the Transfer Payment.

WSCSS: The Washington State Child Support Schedule, codified as Chapter 26.19 RCW.

APPENDIX II - Order Review Questionnaire

A. General Descriptive Information (Washington Orders)

1) IV-D Number _____
   a) Type of case (Current TANF, Subro-only TANF, Non TANF /Former Assistance, Non TANF / Never Assistance, FC-TANF, FC-SO, Medicaid, PSO, Non-IVD *alternate payer*)
2) Date of Order _____
3) Order or Cause Number _____
4) Type of Order
   a. Court b. Administrative
   - Drop-down list of all SEMS Order Types, both court orders & admin orders
5) Location (FIP Code) of Order _____
6) Which Parent is NCP? Father/Mother
7) Worksheets completed by: a.) DCS b.) OAH c.) Prosecutor d.) Private Attorney e.) Pro Se

B. Income of Parties

1) Monthly Net Income of Noncustodial Parent $_____
   a. Actual Y/N
   b. Imputed Y/N
   c. Median Net Y/N
2) Monthly Net Income of Custodial Parent $_____
   a. Actual Y/N
   b. Imputed Y/N
   c. Median Net Y/N

C. Child Support

1) Standard Calculation/Presumptive Transfer Payment Amount $_____
2) Parent Ordered to Pay…Mother or Father
3) Support Amount Ordered $_____
4) Number of Children _____
   a. (If only one child, proceed to (5) now)
   b. (If more than one child, Undifferentiated Support? Y/N)
      i. (If Y – show Ages of Children *at time of order*)
      ii. (If N – show Ages of Children and Amount Ordered Per Child)

5) Ages of Children *(at time of order)*/Amount per Child

c. Child 1 age____ Amount Ordered $_____
d. Child 2 age____ Amount Ordered $_____
e. Child 3 age____ Amount Ordered $_____
f. Child 4 age____ Amount Ordered $_____
g. Child 5 age____ Amount Ordered $_____

D. Deviation from Standard Calculation

1) Was there a deviation?; Y/N
2) Reasons for Deviation from Standard Calculation
   a) Income of a new spouse or new domestic partner of the parent requesting a deviation for other reasons Y/N
   b) Income of other adults in the household of the parent requesting a deviation for other reasons Y/N
   c) Child support actually paid or received for other child(ren) from other relationships Y/N
   d) Gifts Y/N
   e) Prizes Y/N
   f) Possession of wealth Y/N
   g) Extraordinary income of child(ren) Y/N
   h) Tax planning resulting in greater benefit to the child(ren) Y/N
   i.) Income from overtime or second jobs that was excluded from income of the parent requesting a deviation for other reasons Y/N
   j) A nonrecurring source of income Y/N
   k) Extraordinary debt not voluntarily incurred Y/N
   l) A significant disparity in the living costs of the parents due to conditions beyond their control Y/N
   m) Special needs of disabled child(ren) Y/N
   n) Special medical, educational or psychological needs of the child(ren) Y/N
   o) The child(ren) spend(s) a significant amount of time with the parent who is obligated to make a support transfer payment. The deviation does not result in insufficient funds in the receiving parent's household to meet the basic needs of the child(ren). The child(ren) do(es) not receive public assistance. Y/N
   p) Costs anticipated or incurred in compliance with reunification efforts or voluntary placement agreement Y/N

q) Child(ren) from Other Relationships Y/N
* Method Used to Calculate Children Factors
i.) Whole Family Formula Y/N
ii.) Blended Family Formula Y/N
iii.) Other Y/N Describe: _____

r) Costs incurred or anticipated to be incurred by the parents in compliance with court-ordered reunification efforts or under a voluntary placement agreement with an agency supervising the child(ren) Y/N

s) The obligor established that it is unjust to apply the presumptive minimum payment (*$50 pmpc post-10/09)* Y/N
i.) The court/tribunal found that NCP had rebutted the presumption that s/he should pay the presumptive minimum obligation and entered a zero support order.
ii.) The court/tribunal found that NCP had rebutted the presumption that s/he should pay the presumptive minimum obligation and ordered that NCP should pay an amount which is less than the presumptive minimum but more than zero.

t) The obligee established that it is unjust to apply the self-support reserve *(post-10/09)* Y/N

u) Agreement of the parties Y/N *(not by itself adequate reason for deviation - but may be found in some orders)*

v) Other reason(s) for deviation Y/N *(describe)*

_____
_____

w) No reason stated Y/N
Comment for (q(iii), c., or v. above:
_____

E. (1) Adjustments of Support Obligation Y/N

2) Income Limitations
a) Combined income less than $600 *(pre-10/09)* Y/N
b) Combined income less than $1000 *(post-10/09)* Y/N
c) NCP Need Standard limitation applied *(pre-10/09)* Y/N
d) NCP Self-Support Reserve applied *(125% of federal poverty guideline-- post-10/09)* Y/N
e) 45% net income limitation for NCP applied Y/N
f) Presumptive Minimum Obligation Ordered Y/N
($25 pmpc pre--10/09 / $50 pmpc post--10/09)

3) Extraordinary Health Care, Daycare, or Special Expenses Y/N
   *Health Care Y/N NCP ____ CP ____
   *Daycare Y/N NCP ____ CP ____
   *Special Expenses Y/N NCP ____ CP ____
4) Child Support Credits Y/N
   *Monthly Health Care Expenses Credit Y/N NCP ____ CP ____
   *Day Care and Special Expenses Credit Y/N NCP ____ CP ____
   *Other Ordinary Expenses Credit Y/N NCP ____ CP ____
5) Combined Monthly Net Income greater than $5,000 but less than $7,000 *(pre-10/09)* Y/N
6) Combined Monthly Net Income greater than $7000 *(pre-10/09)* Y/N
7) Combined Monthly Net Income greater than $12,000 *(post-10/09)* Y/N

F. Health Care Provisions

1) NCP to provide health insurance Y/N
2) CP to provide health insurance Y/N
3) Both parties to provide Y/N
4) CP's Contribution to NCP Premium Included in Worksheet, and in Standard Calculation/Transfer Payment *(post-10/09*) Y/N
5) Not Addressed Y/N

General Comments:

_____

_____

____

APPENDIX III - Relevant Statutes

RCW 26.19.065
Standards for establishing lower and upper limits on child support amounts.
(1) **Limit at forty-five percent of a parent's net income.** Neither parent's child support obligation owed for all his or her biological or legal children may exceed forty-five percent of net income except for good cause shown.

(a) Each child is entitled to a pro rata share of the income available for support, but the court only applies the pro rata share to the children in the case before the court.

(b) Before determining whether to apply the forty-five percent limitation, the court must consider whether it would be unjust to apply the limitation after considering the best interests of the child and the circumstances of each parent. Such circumstances include, but are not limited to, leaving insufficient funds in the custodial parent's household to meet the basic needs of the child, comparative hardship to the affected households, assets or liabilities, and any involuntary limits on either parent's earning capacity including incarceration, disabilities, or incapacity.

(c) Good cause includes, but is not limited to, possession of substantial wealth, children with day care expenses, special medical need, educational need, psychological need, and larger families.

(2) **Presumptive minimum support obligation.** (a) When a parent's monthly net income is below one hundred twenty-five percent of the federal poverty guideline, a support order of not less than fifty dollars per child per month shall be entered unless the obligor parent establishes that it would be unjust to do so in that particular case. The decision whether there is a sufficient basis to deviate below the presumptive minimum payment must take into consideration the best interests of the child and the circumstances of each parent. Such circumstances can include leaving insufficient funds in the custodial parent's household to meet the basic needs of the child, comparative hardship to the affected households, assets or liabilities, and earning capacity.

(b) The basic support obligation of the parent making the transfer payment, excluding health care, day care, and special child-rearing expenses, shall not reduce his or her net income below the self-support reserve of one hundred twenty-five percent of the federal poverty level, except for the presumptive minimum payment of fifty dollars per child per month or when it would be unjust to apply the self-support reserve limitation after considering the best interests of the child and the circumstances of each parent. Such circumstances include, but are not limited to, leaving insufficient funds in the custodial parent's household to meet the basic needs of the child, comparative hardship to the affected households, assets or liabilities, and earning capacity. This section shall not be construed to require monthly substantiation of income.

(3) **Income above twelve thousand dollars.** The economic table is presumptive for combined monthly net incomes up to and including twelve thousand dollars. When combined monthly net income exceeds twelve thousand dollars, the court may exceed the presumptive amount of support set for combined monthly net incomes of twelve thousand dollars upon written findings of fact.

RCW 26.19.071
Standards for determination of income
(1) **Consideration of all income.** All income and resources of each parent's household shall be disclosed and considered by the court when the court determines the child support obligation of each parent. Only the income of the parents of the children whose support is at issue shall be calculated for purposes of calculating the basic support obligation. Income and resources of any

other person shall not be included in calculating the basic support obligation.

(2) **Verification of income.** Tax returns for the preceding two years and current paystubs shall be provided to verify income and deductions. Other sufficient verification shall be required for income and deductions which do not appear on tax returns or paystubs.

(3) **Income sources included in gross monthly income.** Except as specifically excluded in subsection (4) of this section, monthly gross income shall include income from any source, including:

(a) Salaries;

(b) Wages;

(c) Commissions;

(d) Deferred compensation;

(e) Overtime, except as excluded for income in subsection (4)(h) of this section;

(f) Contract-related benefits;

(g) Income from second jobs, except as excluded for income in subsection (4)(h) of this section;

(h) Dividends;

(i) Interest;

(j) Trust income;

(k) Severance pay;

(l) Annuities;

(m) Capital gains;

(n) Pension retirement benefits;

(o) Workers' compensation;

(p) Unemployment benefits;

(q) Maintenance actually received;

(r) Bonuses;

(s) Social security benefits;

(t) Disability insurance benefits; and

(u) Income from self-employment, rent, royalties, contracts, proprietorship of a business, or joint ownership of a partnership or closely held corporation.

(4) **Income sources excluded from gross monthly income.** The following income and resources shall be disclosed but shall not be included in gross income:

(a) Income of a new spouse or new domestic partner or income of other adults in the household;

(b) Child support received from other relationships;

(c) Gifts and prizes;

(d) Temporary assistance for needy families;

(e) Supplemental security income;

(f) Disability lifeline benefits;

(g) Food stamps; and

(h) Overtime or income from second jobs beyond forty hours per week averaged over a twelve-month period worked to provide for a current family's needs, to retire past relationship debts, or to retire child support debt, when the court finds the income will cease when the party has paid off his or her debts.

Receipt of income and resources from temporary assistance for needy families, supplemental security income, disability lifeline benefits, and food stamps shall not be a reason to deviate from the standard calculation.

(5) **Determination of net income.** The following expenses shall be disclosed and deducted from gross monthly income to calculate net monthly income:

(a) Federal and state income taxes;

(b) Federal insurance contributions act deductions;

(c) Mandatory pension plan payments;

(d) Mandatory union or professional dues;

(e) State industrial insurance premiums;

(f) Court-ordered maintenance to the extent actually paid;

(g) Up to five thousand dollars per year in voluntary retirement contributions actually made if the contributions show a pattern of contributions during the one-year period preceding the action establishing the child support order unless there is a determination that the contributions were made for the purpose of reducing child support; and

(h) Normal business expenses and self-employment taxes for self-employed persons. Justification shall be required for any business expense deduction about which there is disagreement.

Items deducted from gross income under this subsection shall not be a reason to deviate from the standard calculation.

(6) **Imputation of income.** The court shall impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed. The court shall determine whether the parent is voluntarily underemployed or voluntarily unemployed based upon that parent's work history, education, health, and age, or any other relevant factors. A court shall not impute income to a parent who is gainfully employed on a full-time basis, unless the court finds that the parent is voluntarily underemployed and finds that the parent is purposely underemployed to reduce the parent's child support obligation. Income shall not be imputed for an unemployable parent. Income shall not be imputed to a parent to the extent the parent is unemployed or significantly underemployed due to the parent's efforts to comply with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child. In the absence of records of a parent's actual earnings, the court shall impute a parent's income in the following order of priority:

(a) Full-time earnings at the current rate of pay;

(b) Full-time earnings at the historical rate of pay based on reliable information, such as employment security department data;

(c) Full-time earnings at a past rate of pay where information is incomplete or sporadic;

(d) Full-time earnings at minimum wage in the jurisdiction where the parent resides if the parent has a recent history of minimum wage earnings, is recently coming off public assistance, disability lifeline benefits, supplemental security income, or disability, has recently been released from incarceration, or is a high school student;

(e) Median net monthly income of year-round full-time workers as derived from the United States bureau of census, current population reports, or such replacement report as published by the bureau of census.

RCW 26.19.075

Standards for deviation from the standard calculation.

(1) Reasons for deviation from the standard calculation include but are not limited to the following:

(a) **Sources of income and tax planning.** The court may deviate from the standard calculation after consideration of the following:

(i) Income of a new spouse or new domestic partner if the parent who is married to the new spouse or in a partnership with a new domestic partner is asking for a deviation based on any other reason. Income of a new spouse or new domestic partner is not, by itself, a sufficient reason for deviation;

(ii) Income of other adults in the household if the parent who is living with the other adult is

asking for a deviation based on any other reason. Income of the other adults in the household is not, by itself, a sufficient reason for deviation;

(iii) Child support actually received from other relationships;

(iv) Gifts;

(v) Prizes;

(vi) Possession of wealth, including but not limited to savings, investments, real estate holdings and business interests, vehicles, boats, pensions, bank accounts, insurance plans, or other assets;

(vii) Extraordinary income of a child;

(viii) Tax planning considerations. A deviation for tax planning may be granted only if the child would not receive a lesser economic benefit due to the tax planning; or

(ix) Income that has been excluded under RCW 26.19.071(4)(h) if the person earning that income asks for a deviation for any other reason.

(b) **Nonrecurring income.** The court may deviate from the standard calculation based on a finding that a particular source of income included in the calculation of the basic support obligation is not a recurring source of income. Depending on the circumstances, nonrecurring income may include overtime, contract-related benefits, bonuses, or income from second jobs. Deviations for nonrecurring income shall be based on a review of the nonrecurring income received in the previous two calendar years.

(c) **Debt and high expenses.** The court may deviate from the standard calculation after consideration of the following expenses:

(i) Extraordinary debt not voluntarily incurred;

(ii) A significant disparity in the living costs of the parents due to conditions beyond their control;

(iii) Special needs of disabled children;

(iv) Special medical, educational, or psychological needs of the children; or

(v) Costs incurred or anticipated to be incurred by the parents in compliance with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child.

(d) **Residential schedule.** The court may deviate from the standard calculation if the child spends a significant amount of time with the parent who is obligated to make a support transfer payment. The court may not deviate on that basis if the deviation will result in insufficient funds in the household receiving the support to meet the basic needs of the child or if the child is receiving temporary assistance for needy families. When determining the amount of the deviation, the court shall consider evidence concerning the increased expenses to a parent making support transfer payments resulting from the significant amount of time spent with that parent and shall consider the decreased expenses, if any, to the party receiving the support resulting from the significant amount of time the child spends with the parent making the support transfer payment.

(e) **Children from other relationships.** The court may deviate from the standard calculation when either or both of the parents before the court have children from other relationships to whom the parent owes a duty of support.

(i) The child support schedule shall be applied to the mother, father, and children of the family before the court to determine the presumptive amount of support.

(ii) Children from other relationships shall not be counted in the number of children for purposes of determining the basic support obligation and the standard calculation.

(iii) When considering a deviation from the standard calculation for children from other relationships, the court may consider only other children to whom the parent owes a duty of support. The court may consider court-ordered payments of child support for children from other relationships only to the extent that the support is actually paid.

(iv) When the court has determined that either or both parents have children from other relationships, deviations under this section shall be based on consideration of the total circumstances of both households. All child support obligations paid, received, and owed for all children shall be disclosed and considered.

(2) All income and resources of the parties before the court, new spouses or new domestic partners, and other adults in the households shall be disclosed and considered as provided in this section. The presumptive amount of support shall be determined according to the child support

schedule. Unless specific reasons for deviation are set forth in the written findings of fact and are supported by the evidence, the court shall order each parent to pay the amount of support determined by using the standard calculation.

(3) The court shall enter findings that specify reasons for any deviation or any denial of a party's request for any deviation from the standard calculation made by the court. The court shall not consider reasons for deviation until the court determines the standard calculation for each parent.

(4) When reasons exist for deviation, the court shall exercise discretion in considering the extent to which the factors would affect the support obligation.

(5) Agreement of the parties is not by itself adequate reason for any deviations from the standard calculation.

Appendix VI

GROUND RULES
CHILD SUPPORT SCHEDULE WORKGROUP
Adopted on January 28, 2011

1. Workgroup time belongs to the Workgroup.

2. Every member participates.

3. All ideas deserve discussion.

4. Listen and ask questions.

5. Respect and courtesy.

6. Stay on topic and in sync with the agenda.

7. We will work to arrive at a consensus. "Consensus" means that a member may not agree with the position, but can live with it. Where that is not possible we will determine the majority and minority views.

8. Meet Workgroup deadlines and commitments.

9. Support for Workgroup recommendations.

10. Let people finish – no interruption

APPENDIX VII

PROPOSED CHANGES TO CHAPTER 26.19 RCW CHILD SUPPORT SCHEDULE

26.19.065 Standards for establishing lower and upper limits on child support amounts.
26.19.075 Standards for deviation from the standard calculation.
NEW SECTION: Adjustments to the standard calculation.
26.19.090 Standards for postsecondary educational support awards.

26.19.065
Standards for establishing lower and upper limits on child support amounts.

(1) **Limit at forty-five percent of a parent's net income.** Neither parent's child support obligation owed for all his or her biological or legal children may exceed forty-five percent of net income except for good cause shown.

(a) Each child is entitled to a pro rata share of the income available for support, but the court only applies the pro rata share to the children in the case before the court.

(b) Before determining whether to apply the forty-five percent limitation, the court must consider whether it would be unjust to apply the limitation after considering the best interests of the child and the circumstances of each parent. Such circumstances include, but are not limited to, leaving insufficient funds in the custodial parent's household to meet the basic needs of the child, comparative hardship to the affected households, assets or liabilities, and any involuntary limits on either parent's earning capacity including incarceration, disabilities, or incapacity.

(c) Good cause includes, but is not limited to, possession of substantial wealth, children with day care expenses, special medical need, educational need, psychological need, and larger families.

(2) **Presumptive minimum support obligation.** (a) When a parent's monthly net income is below one hundred twenty-five percent of the federal poverty guideline for a one person household, a support order of not less than fifty dollars per child per month shall be entered unless the obligor parent establishes that it would be unjust to do so in that particular case. The decision whether there is a sufficient basis to deviate below the presumptive minimum payment must take into consideration the best interests of the child and the circumstances of each parent. Such circumstances can include leaving insufficient funds in the custodial parent's household to meet the basic needs of the child, comparative hardship to the affected households, assets or liabilities, and earning capacity.

(b) The basic support obligation of the parent making the transfer payment, excluding health care, day care, and special child-rearing expenses, shall not reduce his or her net income below the self-support reserve of one hundred twenty-five percent of the federal poverty level for a one person household, except for the presumptive minimum payment of fifty dollars per child per month or when it would be unjust to apply the self-support reserve limitation after considering the best interests of the child and the circumstances of each parent. Such circumstances include, but are not limited to, leaving insufficient funds in the custodial parent's household to meet the basic needs of the child, comparative hardship to the affected households, assets or liabilities, and earning capacity. This section shall not be construed to require monthly substantiation of income.

(3) **Income above twelve thousand dollars.** The economic table is presumptive for combined monthly net incomes up to and including twelve thousand dollars. When combined monthly net income exceeds twelve thousand dollars, the court may exceed the presumptive amount of support set for combined monthly net incomes of twelve thousand dollars upon written findings of fact.

26.19.075
Standards for deviation from the standard calculation.

(1) Reasons for deviation from the standard calculation include but are not limited to the following:

(a) **Sources of income and tax planning.** The court may deviate from the standard calculation after consideration of the following:

(i) Income of a new spouse or new domestic partner if the parent who is married to the new spouse or in a partnership with a new domestic partner is asking for a deviation based on any other reason. Income of a new spouse or new domestic partner is not, by itself, a sufficient reason for deviation;

(ii) Income of other adults in the household if the parent who is living with the other adult is asking for a deviation based on any other reason. Income of the other adults in the household is not, by itself, a sufficient reason for deviation;

(iii) Child support actually received from other relationships;

(iv) Gifts;

(v) Prizes;

(vi) Possession of wealth, including but not limited to savings, investments, real estate holdings and business interests, vehicles, boats, pensions, bank accounts, insurance plans, or other assets;

(vii) Extraordinary income of a child;

(viii) Tax planning considerations. A deviation for tax planning may be granted only if the child would not receive a lesser economic benefit due to the tax planning; or

(ix) Income that has been excluded under RCW 26.19.071(4)(h) if the person earning that income asks for a deviation for any other reason.

(b) **Nonrecurring income.** The court may deviate from the standard calculation based on a finding that a particular source of income included in the calculation of the basic support obligation is not a recurring source of income. Depending on the circumstances, nonrecurring income may include overtime, contract-related benefits, bonuses, or income from second jobs. Deviations for nonrecurring income shall be based on a review of the nonrecurring income received in the previous two calendar years.

(c) **Debt and high expenses.** The court may deviate from the standard calculation after consideration of the following expenses:

(i) Extraordinary debt not voluntarily incurred;

(ii) A significant disparity in the living costs of the parents due to conditions beyond their control;

(iii) Special needs of disabled children;

(iv) Special medical, educational, or psychological needs of the children; or

(v) Costs incurred or anticipated to be incurred by the parents in compliance with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child.

(((~~(d) **Residential schedule.** The court may deviate from the standard calculation if the child spends a significant amount of time with the parent who is obligated to make a support transfer payment. The court may not deviate on that basis if the deviation will result in insufficient funds in the household receiving the support to meet the basic needs of the child or if the child is receiving temporary assistance for needy families. When determining the amount of the deviation, the court shall consider evidence concerning the increased expenses to a parent making support transfer payments resulting from the significant amount of time spent with that parent and shall consider the decreased expenses, if any, to the party receiving the support resulting from the significant amount of time the child spends with the parent making the support transfer payment.~~

~~(e) **Children from other relationships.** The court may deviate from the standard calculation when either or both of the parents before the court have children from other relationships to whom the parent owes a duty of support.~~

~~(i) The child support schedule shall be applied to the mother, father, and children of the family before the court to determine the presumptive amount of support.~~

~~(ii) Children from other relationships shall not be counted in the number of children for purposes of determining the basic support obligation and the standard calculation.~~

~~(iii) When considering a deviation from the standard calculation for children from other relationships, the court may consider only other children to whom the parent owes a duty of support. The court may consider court-ordered payments of child support for children from other relationships only to the extent that the support is actually paid.~~

~~(iv) When the court has determined that either or both parents have children from other relationships, deviations under this section shall be based on consideration of the total circumstances of both households. All child support obligations paid, received, and owed for all children shall be disclosed and considered.~~))

(2) All income and resources of the parties before the court, new spouses or new domestic partners, and other adults in the households shall be disclosed and considered as provided in this section. The presumptive amount of support shall be determined

according to the child support schedule. Unless specific reasons for deviation are set forth in the written findings of fact and are supported by the evidence, the court shall order each parent to pay the amount of support determined by using the standard calculation.

(3) The court shall enter findings that specify reasons for any deviation or any denial of a party's request for any deviation from the standard calculation made by the court. The court shall not consider reasons for deviation until the court determines the standard calculation for each parent.

(4) When reasons exist for deviation, the court shall exercise discretion in considering the extent to which the factors would affect the support obligation.

(5) Agreement of the parties is not by itself adequate reason for any deviations from the standard calculation.

Proposed New Sections

Although the Workgroup has not reached consensus on draft language, the Workgroup recommends that one or more new sections be added to Chapter 26.19 RCW dealing with adjustments to the standard calculation for the following reasons:

Shared residential schedule. The Court shall make an adjustment to the standard calculation based upon the residential credit formula. A residential adjustment may only be made if there is a court order or findings made by an administrative law judge as to the number of overnights the child(ren) spend with the obligor parent. This number of overnights shall be used to calculate the residential adjustment. The findings made by the administrative law judge may be based upon a written agreement between the parents or upon sworn testimony provided by a party at the administrative hearing for child support.

…

(a) The court may not adjust the standard calculation on the basis of the residential schedule if:

(i) the adjustment will result in insufficient funds in the household receiving the support transfer payment to meet the basic needs of the child;

(ii) the obligee's net income before receiving the support transfer payment is at or below 125% of the federal poverty level guidelines for one person; or

(iii) the child is receiving temporary assistance for needy families.

Children Not Before the Court. The court shall adjust the standard calculation when the obligor has children not before the court by using the whole family formula, subject to the limitations set forth in RCW 26.19.065 and as provided below.

(1) The child support schedule shall first be applied to the parents and children of the family before the court to determine the standard amount of support.

(2) Children not before the court shall not be counted in the number of children for purposes of determining the standard calculation but shall be counted in the adjusted calculation for the obligor parent.

(3) Children not before the court are defined as children for whom support is not being determined in the current proceeding, but who are the children of one of the parents involved in the proceeding, and:

a. Who were born during a marriage or domestic partnership, or for whom there is a presumption of parentage consistent with RCW 26.26.116 (as amended by Section 8 of E2SHB 1267, Chapter 283, Laws of 2011), and the presumption of parentage has not been rebutted;
b. Who were born outside of a marriage or domestic partnership, but for whom paternity has been established by a court order;
c. Who were born outside of a marriage or domestic partnership, but for whom paternity has been established by the filing of an acknowledgment of paternity under RCW 26.26.300 (as amended by Section 8 of E2SHB 1267, Laws of 2011) or its equivalent in another state;
d. Who were adopted; or
e. Who are the subject of a court order which established the parent as a de facto parent.

(4) Step-children shall not be considered as children not before the court but may be considered as a reason to deviate from either the standard or the adjusted calculation of support.

(5) When the tribunal has determined that either or both parents have children that are not before the court, adjustments under this section shall be based on consideration of the total circumstances of both households including the children of either parent who do not live in the household of the parents. Both parents must disclose, and the court must consider, all child support obligations, paid, received and owed for all children.

(6) The court may not adjust the standard calculation on the basis of children not before the court if:

a. Adjusting the standard calculation would result in insufficient funds to meet the basic needs of the children in the receiving household and when taking into consideration the totality of the circumstances, the application of the adjustment would be unjust; or

b. The obligee's net income before receiving the support transfer payment is at or below 125% of the federal poverty level guidelines for the obligee's household size, including both children before the court and children not before the court; or

c. It is shown that the obligor parent has not actually paid the child support owed for the obligor's children not before the court who do not live with the obligor unless there is a reasonable justification for this failure. A reasonable justification shall include a consideration of the obligor's ability to make full payments of the child support owed for those children.

(7) The whole family formula shall be used to determine the adjusted amount of child support, and is to be calculated as follows:

a. Determine the total number of children before the court and the total number of children not before the court for the obligor parent;
b. Determine the monthly basic support obligation from the economic table based on the combined monthly net income of the parents before the court and the obligor's total number of children as described in #1 above; and
c. Multiply this monthly basic support obligation by the obligor's proportional share of the combined monthly net income. This amount is the adjusted transfer payment owed by the obligor parent for the children before the court.

(8) If the court does not establish the transfer payment at the adjusted calculation determined in accordance with the foregoing provisions of this section, the court shall set forth specific findings in the order of child support for this difference.

26.19.090
Standards for postsecondary educational support awards.

(1) The child support schedule shall be advisory and not mandatory for postsecondary educational support.
(2) When considering whether to order support for postsecondary educational expenses, the court shall determine whether the child is in fact dependent and is relying upon the parents for the reasonable necessities of life.
(3) The court shall exercise its discretion when determining whether and for how long to award postsecondary educational support based upon consideration of factors that include but are not limited to the following:

(a) Age of the child;
(b) The child's needs;
(c) The expectations of the parties for their children when the parents were together;
(d) The child's prospects, desires, aptitudes, abilities or disabilities;
(e) The nature of the postsecondary education sought; ((~~and~~))
(f) The parents' level of education, standard of living, and current and future resources; and
(g) The ((~~Also to be considered are the~~)) amount and type of support that the child would have been afforded if the parents had stayed together.

((~~(3)~~)) (4) The child must enroll full time as defined by the institution or as set forth in the order establishing the obligation to pay postsecondary educational support in an accredited academic or vocational school, must be actively pursuing a course of study commensurate with the child's vocational goals, and must be in good academic standing as defined by the institution. ((~~The court-ordered postsecondary educational support shall be automatically suspended during the period or periods the child fails to comply with these conditions.~~))

(((~~4~~))) (5) Unless the support order says otherwise, a parent may suspend payment of postsecondary educational support based on the child's failure to be enrolled full time, failure to actively pursue a course of study commensurate with the child's vocational goals or failure to be in good academic standing as defined by the institution.

a. Until such time as the child is able to provide proof that the child is in compliance with the terms of RCW 26.19.090(3), the obligation to pay will remain suspended.

b. If there is a dispute between the parent(s) or between the parents and the child about whether the child is in compliance, the child or the parents may seek resolution of the dispute by motion to the court, unless the order establishing the obligation to pay postsecondary educational support provides otherwise.

(6) The child shall also make available all academic records and grades to both parents as a condition of receiving postsecondary educational support. Each parent shall have full and equal access to the postsecondary education records as provided in RCW 26.09.225.

(((~~5~~))) (7) The court shall not order the payment of postsecondary educational expenses beyond the child's twenty-third birthday, except for exceptional circumstances, such as mental, physical, or emotional disabilities.

(((~~6~~))) (8) The court shall direct that either or both parents' payments for postsecondary educational expenses be made directly to the educational institution if feasible.

(a) If direct payments are not feasible, then the court in its discretion may order that either or both parents' payments be made directly to the child if the child does not reside with either parent.

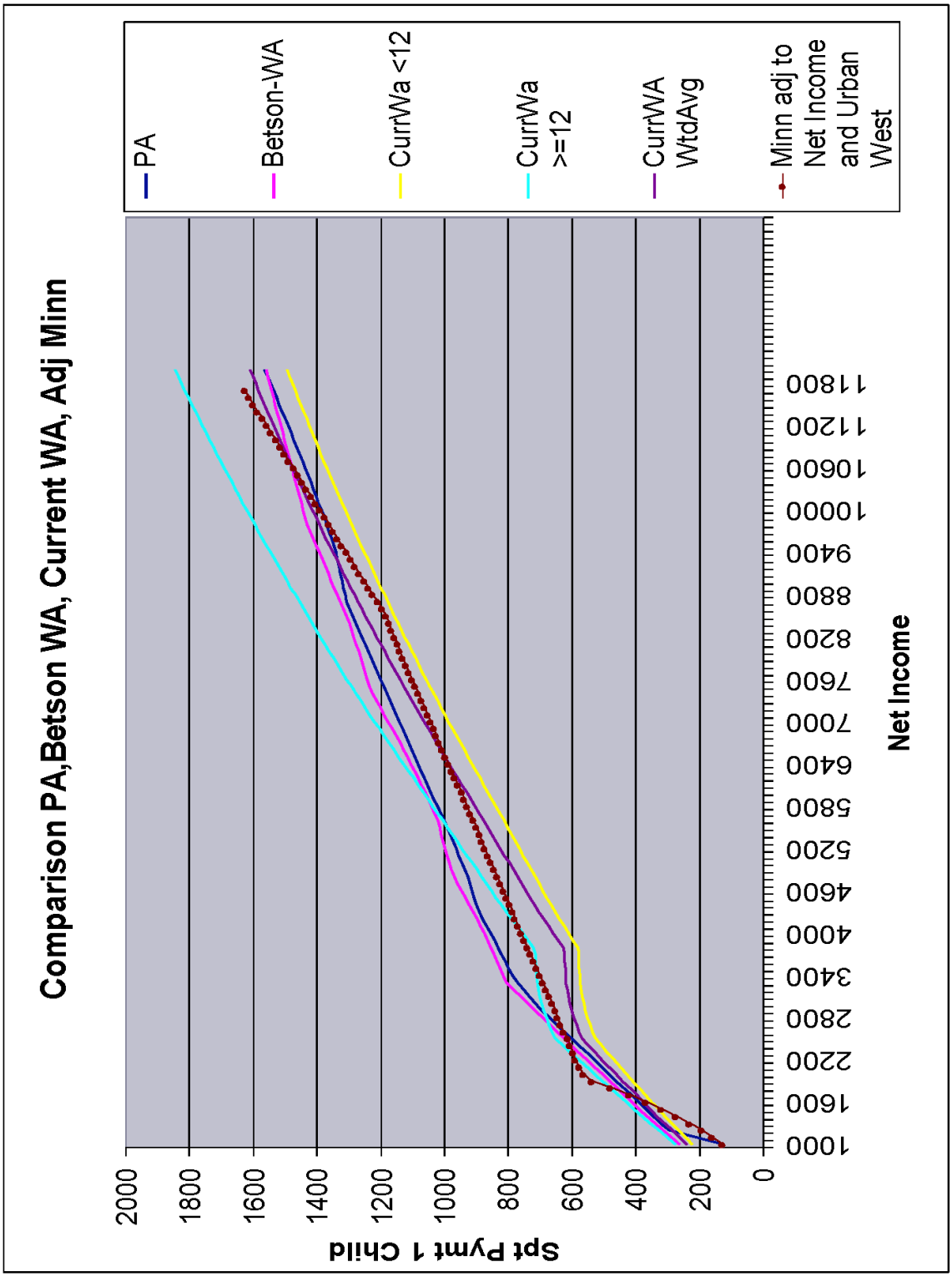
(b) If the child resides with one of the parents the court may direct that the parent making the postsecondary educational support transfer payments make the payments to the child or to the parent ((~~who has been receiving the support transfer payments~~)) with whom the child is residing.

(c) If the child's living situation changes, such a change will form the basis to change the terms of payment of the postsecondary educational support transfer payment to the other parent.

(d) If the child is no longer residing with either parent, both parents shall make the payments to the school, if feasible, or to the child.

(9) A parent who has been ordered to pay postsecondary educational support shall have the right to file a motion to terminate such support if the child has failed to comply with the provisions of RCW 26.19.090(4) for at least two consecutive periods as defined by the school. Before terminating the obligation for postsecondary educational support, the Court shall be required to take into consideration all relevant circumstances of the parents and the child, including but not limited to exceptional circumstances such as mental, physical or emotional disabilities of the child.

Appendix VIII



Appendix IX

Draft: August 31, 2011

Prototype of an Updated Washington Table - Pg.1

Based on Betson-Rothbarth Estimates from 2004-2008 CE

(per child amount)

Monthly Combined Available Income	One Child	Two Children	Three Children	Four Children	Five Children	Monthly Combined Available Income	One Child	Two Children	Three Children	Four Children	Five Children
1000	220	170	141	118	104	3600	789	605	490	410	361
1100	243	187	155	130	114	3700	808	619	501	420	370
1200	265	204	169	141	124	3800	822	629	509	426	375
1300	287	221	183	153	135	3900	836	639	517	433	381
1400	309	238	197	165	145	4000	849	649	524	439	386
1500	331	255	211	177	155	4100	863	659	532	445	392
1600	353	272	225	188	166	4200	873	666	537	450	396
1700	375	289	239	200	176	4300	883	674	543	455	400
1800	397	306	252	211	186	4400	893	681	549	460	405
1900	418	322	266	223	196	4500	903	689	555	465	409
2000	440	339	279	234	206	4600	913	696	560	470	413
2100	462	355	292	245	215	4700	923	703	566	474	417
2200	484	372	305	256	225	4800	934	712	573	480	422
2300	506	389	318	267	235	4900	946	721	580	486	427
2400	527	405	332	278	244	5000	958	730	587	492	433
2500	549	422	345	289	254	5100	970	739	594	498	438
2600	571	439	358	300	264	5200	982	748	601	504	443
2700	593	455	371	311	274	5300	994	757	609	510	449
2800	615	472	384	322	283	5400	1006	766	616	516	454
2900	636	488	398	333	293	5500	1018	775	623	522	459
3000	658	505	411	344	303	5600	1030	784	630	528	465
3100	680	522	424	355	313	5700	1037	789	634	531	467
3200	702	538	437	366	322	5800	1043	793	638	534	470
3300	724	555	450	377	332	5900	1049	798	641	537	473
3400	745	572	463	388	342	6000	1056	802	645	540	475
3500	767	588	477	399	351	6100	1062	807	648	543	478

Draft: August 31, 2011

Prototype of an Updated Washington Table - Pg.2

Based on Betson-Rothbarth Estimates from 2004-2008 CE

(per child amount)

Monthly Combined Available Income	One Child	Two Children	Three Children	Four Children	Five Children	Monthly Combined Available Income	One Child	Two Children	Three Children	Four Children	Five Children
6200	1068	812	652	546	480	**8800**	1351	1021	815	683	601
6300	1074	816	655	549	483	**8900**	1360	1027	820	687	604
6400	1080	821	658	552	485	**9000**	1369	1034	825	691	608
6500	1089	827	663	556	489	**9100**	1378	1040	830	695	612
6600	1104	838	672	563	496	**9200**	1387	1048	836	701	617
6700	1118	849	681	571	502	**9300**	1396	1055	843	706	621
6800	1133	860	690	578	509	**9400**	1404	1063	850	712	626
6900	1148	872	699	586	515	**9500**	1413	1070	856	717	631
7000	1163	883	708	593	522	**9600**	1422	1078	863	723	636
7100	1178	894	717	601	529	**9700**	1431	1085	869	728	641
7200	1193	905	726	608	535	**9800**	1440	1093	876	734	646
7300	1208	916	735	616	542	**9900**	1449	1100	882	739	650
7400	1220	925	742	622	547	**10000**	1460	1108	888	744	655
7500	1229	933	748	626	551	**10100**	1471	1115	893	748	659
7600	1239	940	753	631	555	**10200**	1482	1123	899	753	663
7700	1249	947	759	636	559	**10300**	1493	1130	904	757	666
7800	1259	954	764	640	563	**10400**	1504	1138	909	762	670
7900	1269	961	770	645	568	**10500**	1516	1145	915	766	674
8000	1279	969	775	650	572	**10600**	1527	1153	920	771	678
8100	1288	976	781	654	576	**10700**	1538	1160	925	775	682
8200	1298	983	787	659	580	**10800**	1549	1168	930	779	686
8300	1307	989	791	663	583	**10900**	1553	1171	933	782	688
8400	1316	996	796	667	587	**11000**	1558	1175	936	784	690
8500	1325	1002	801	671	590	**11100**	1563	1179	939	787	692
8600	1333	1008	806	675	594	**11200**	1567	1182	942	789	695
8700	1342	1015	810	679	597	**11300**	1572	1186	945	792	697

Draft: August 31, 2011

Prototype of an Updated Washington Table - Pg.3

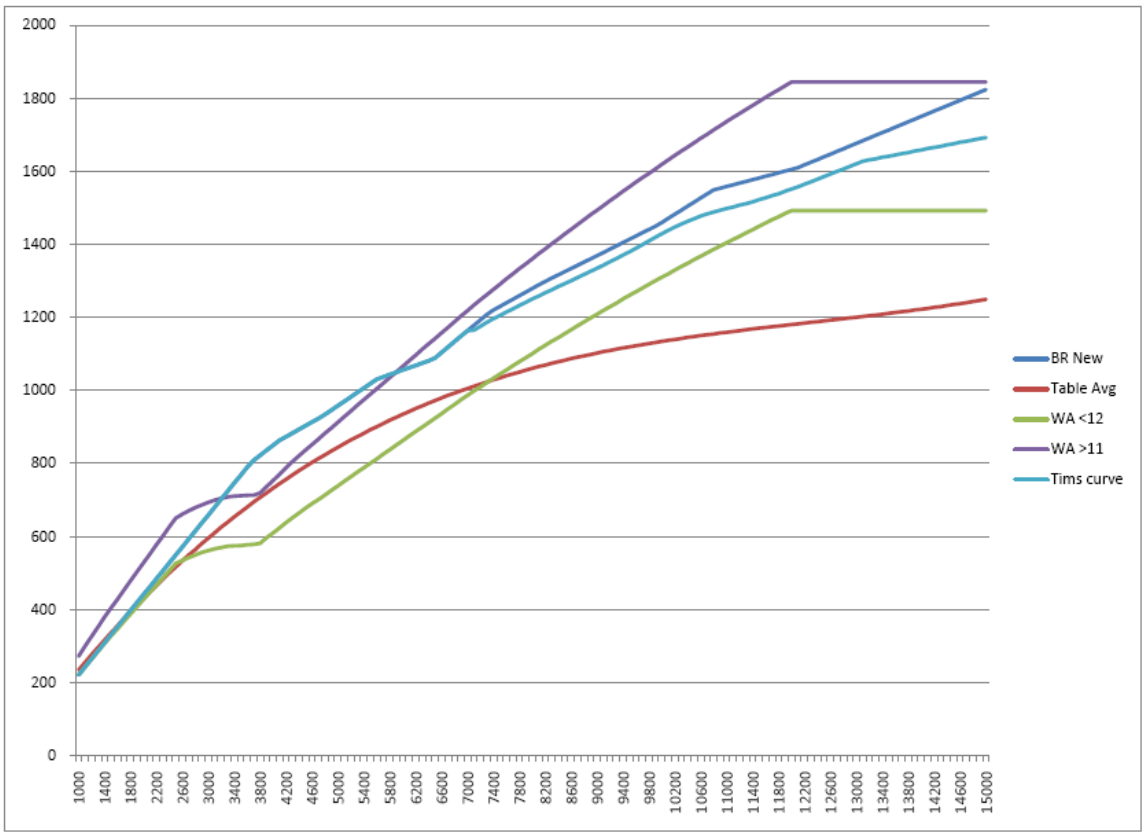
Based on Betson-Rothbarth Estimates from 2004-2008 CE

(per child amount)

Monthly Combined Available Income	One Child	Two Children	Three Children	Four Children	Five Children
11400	1577	1190	948	794	699
11500	1581	1193	951	797	701
11600	1586	1197	954	799	703
11700	1591	1200	957	802	706
11800	1595	1204	960	804	708
11900	1600	1208	963	807	710
12000	1605	1211	966	809	712
12100	1610	1215	969	812	714
12200	1617	1221	973	815	718
12300	1624	1226	978	819	721
12400	1632	1232	982	823	724
12500	1639	1237	986	826	727
12600	1647	1243	991	830	730
12700	1654	1248	995	833	733
12800	1661	1254	999	837	737
12900	1669	1259	1003	841	740
13000	1676	1264	1008	844	743
13100	1683	1270	1012	848	746
13200	1691	1275	1016	851	749
13300	1698	1281	1021	855	752
13400	1706	1286	1025	859	756
13500	1713	1292	1029	862	759
13600	1720	1297	1033	866	762
13700	1728	1303	1038	869	765
13800	1735	1308	1042	873	768
13900	1742	1314	1046	877	771

Monthly Combined Available Income	One Child	Two Children	Three Children	Four Children	Five Children
14000	1750	1319	1051	880	774
14100	1757	1325	1055	884	778
14200	1764	1330	1059	887	781
14300	1772	1336	1063	891	784
14400	1779	1341	1068	894	787
14500	1787	1347	1072	898	790
14600	1794	1352	1076	902	793
14700	1801	1358	1081	905	797
14800	1809	1363	1085	909	800
14900	1816	1369	1089	912	803
15000	1823	1374	1093	916	806

Appendix X


2000
1800
1600
1400
1200
1000
800
600
400
200
0
1000
1400
1800
2200
2600
3000
3400
3800
4200
4600
5000
5400
5800
6200
6600
7000
7400
7800
8200
8600
9000
9400
9800
10200
10600
11000
11400
11800
12200
12600
13000
13400
13800
14200
14600
15000
BR New
Table Avg
WA <12
WA >11
Tims curve

APPENDIX XI

Indiana Rules of Court Child Support Rules and Guidelines adopted effective 10/1/89, including Amendments received Through January 1, 2010

Worksheet – Child Support Obligation

IN RE:	**CASE NO:** FATHER: MOTHER:

PARENTING TIME CREDIT WORKSHEET

Children	**DOB**	**Children**	**DOB**

Line:		
1PT	Enter Annual Number of Overnights	
2PT	Enter Weekly Basic Child Support Obligation – BCSO (Enter Line 4 from Child Support Worksheet)	
3PT	Enter Total Parenting Time Expenses as a Percentage of the BCSO (Enter Appropriate TOTAL Entry from Table PT)	
4PT	Enter Duplicated Expenses as a Percentage of the BCSO (Enter Appropriate DUPLICATED Entry from Table PT)	
5PT	Parent's Share of Combined Weekly Income (Enter Line 2 from Child Support Worksheet)	
6PT	Average Weekly Total Expenses during Parenting Time (Multiply Line 2PT times Line 3PT)	
7PT	Average Weekly Duplicated Expenses (Multiply Line 2PT times Line 4PT)	
8PT	Parent's Share of Duplicated Expenses (Multiply Line 5PT times Line 7PT)	
9PT	Allowable Expenses during Parenting Time (Line 6PT – Line 8PT)	
	Enter Line 9PT on Line 7 of the Child Support Worksheet as the Parenting Time Credit	

Parenting Time Table. *The TOTAL column represents the anticipated total out-of-pocket expenses expressed as a percentage of the Basic Child Support Obligation that will be incurred by the parent who will pay child support. The total expenses are the sum of transferred and duplicated expenses. The DUPLICATED column represents the duplicated expenses and reflects the assumption that when there is an equal sharing of parenting time, 50% of the Basic Child Support Obligation will be duplicated. The Number of Annual Overnights column will determine the particular fractions of TOTAL and DUPLICATED to be used in the Parenting Time Credit Worksheet.*

TABLE PT

ANNUAL OVERNIGHTS			
FROM	TO	TOTAL	DUPLICATED
1	51	0.000	0.000
52	55	0.062	0.011
56	60	0.070	0.014
61	65	0.080	0.020
66	70	0.093	0.028
71	75	0.108	0.038
76	80	0.127	0.052
81	85	0.150	0.070
86	90	0.178	0.093
91	95	0.211	0.122
96	**100**	**0.250**	**0.156**
101	105	0.294	0.195
106	110	0.341	0.237
111	115	0.388	0.280
116	120	0.434	0.321
121	125	0.476	0.358
126	130	0.513	0.390
131	135	0.544	0.417
136	140	0.570	0.438
141	145	0.591	0.454
146	150	0.609	0.467
151	155	0.623	0.476
156	160	0.634	0.483
161	165	0.644	0.488
166	170	0.652	0.491
171	175	0.660	0.494
176	180	0.666	0.495
181	183	0.675	0.500

APPENDIX XII

Proposed Washington Worksheet

Worksheet – Child Support Obligation

IN RE:	**CASE NO:** FATHER: MOTHER:

PARENTING TIME CREDIT WORKSHEET

Children	**DOB**	**Children**	**DOB**

Line:		
1PT	Enter Annual Number of Overnights	
2PT	Enter Monthly Basic Child Support Obligation – BCSO (Enter Line 4 from Child Support Worksheet)	_____.__
3PT	Enter Total Parenting Time Expenses as a Percentage of the BCSO (Enter Appropriate TOTAL Entry from Table PT)	._____
4PT	Enter Duplicated Expenses as a Percentage of the BCSO (Enter Appropriate DUPLICATED Entry from Table PT)	._____
5PT	Parent's Share of Combined Monthly Income (Enter Line 2 from Child Support Worksheet)	._____
6PT	Average Monthly Total Expenses during Parenting Time (Multiply Line 2PT times Line 3PT)	_____.__
7PT	Average Monthly Duplicated Expenses (Multiply Line 2PT times Line 4PT)	_____.__
8PT	Parent's Share of Duplicated Expenses (Multiply Line 5PT times Line 7PT)	_____.__
9PT	Allowable Expenses during Parenting Time (Line 6PT – Line 8PT)	_____.__
	Enter Line 9PT on Line 7 of the Child Support Worksheet as the Parenting Time Credit	

APPENDIX XIII
Revised Betson-Rothbarth Economic Table

	one child	two children	three children	four children	five children
1000	216	167	136	114	100
1100	238	184	150	125	110
1200	260	200	163	137	120
1300	281	217	177	148	130
1400	303	234	191	160	141
1500	325	251	204	171	151
1600	346	267	218	182	161
1700	368	284	231	194	171
1800	390	301	245	205	180
1900	412	317	258	216	190
2000	433	334	271	227	200
2100	455	350	285	239	210
2200	477	367	298	250	220
2300	499	384	311	261	230
2400	521	400	325	272	239
2500	543	417	338	283	249
2600	565	433	351	294	259
2700	587	450	365	305	269
2800	609	467	378	317	279
2900	630	483	391	328	288
3000	652	500	405	339	298
3100	674	516	418	350	308
3200	696	533	431	361	318
3300	718	550	444	372	328
3400	740	566	458	384	337
3500	762	583	471	395	347
3600	784	599	484	406	357
3700	803	614	496	416	366
3800	816	624	503	422	371
3900	830	634	511	428	377
4000	843	643	518	434	382
4100	857	653	526	440	388
4200	867	660	531	445	392

4300		877	668	537	450	396
4400		887	675	543	455	400
4500		896	682	548	459	404
4600		906	689	554	464	408
4700		916	697	559	469	412
4800		927	705	566	474	417
4900		939	714	573	480	422
5000		951	723	580	486	428
5100		963	732	587	492	433
5200		975	741	594	498	438
5300		987	750	602	504	443
5400		999	759	609	510	449
5500		1011	768	616	516	454
5600		1023	777	623	522	459
5700		1030	782	627	525	462
5800		1036	786	630	528	465
5900		1042	791	634	531	467
6000		1048	795	637	534	470
6100		1054	800	641	537	472
6200		1061	804	644	540	475
6300		1067	809	648	543	477
6400		1073	813	651	545	480
6500		1081	819	656	549	483
6600		1096	830	665	557	490
6700		1111	842	674	564	497
6800		1126	853	683	572	503
6900		1141	864	692	579	510
7000		1156	875	701	587	516
7100		1170	886	710	594	523
7200		1185	898	719	602	530
7300		1200	909	727	609	536
7400		1212	918	734	615	541
7500		1222	925	740	620	545
7600		1231	932	745	624	549
7700		1241	939	751	629	554
7800		1251	946	756	634	558
7900		1261	953	762	638	562
8000		1270	960	767	643	566
8100		1280	968	773	647	570
8200		1290	975	778	652	574
8300		1299	981	783	656	577

8400		1308	987	788	660	581
8500		1316	994	793	664	584
8600		1325	1000	797	668	588
8700		1334	1007	802	672	591
8800		1343	1013	807	676	595
8900		1352	1019	812	680	599
9000		1361	1026	817	684	602
9100		1370	1032	822	689	606
9200		1379	1040	828	694	611
9300		1387	1047	835	699	616
9400		1396	1055	841	705	620
9500		1405	1062	848	710	625
9600		1414	1069	854	716	630
9700		1423	1077	861	721	635
9800		1432	1084	867	727	639
9900		1441	1092	874	732	644
10000		1451	1099	879	737	648
10100		1462	1107	885	741	652
10200		1473	1114	890	745	656
10300		1484	1122	895	750	660
10400		1495	1129	900	754	664
10500		1507	1136	906	759	668
10600		1518	1144	911	763	672
10700		1529	1151	916	767	675
10800		1539	1159	921	772	679
10900		1542	1161	924	774	681
11000		1545	1164	926	776	683
11100		1548	1166	928	778	684
11200		1551	1169	931	780	686
11300		1554	1172	933	782	688
11400		1556	1174	936	784	690
11500		1559	1177	938	786	692
11600		1562	1179	940	788	693
11700		1565	1182	943	790	695
11800		1568	1184	945	792	697
11900		1571	1187	948	794	699
12000		1573	1190	950	796	700
12100		1577	1192	953	798	702
12200		1585	1198	957	802	706
12300		1593	1204	962	806	709
12400		1601	1210	966	809	712

12500		1609	1216	971	813	716
12600		1617	1222	975	817	719
12700		1625	1228	980	821	722
12800		1633	1233	984	824	726
12900		1641	1239	989	828	729
13000		1649	1245	993	832	732
13100		1657	1251	998	836	735
13200		1665	1257	1002	840	739
13300		1673	1263	1007	843	742
13400		1681	1269	1011	847	745
13500		1689	1275	1016	851	749
13600		1697	1280	1020	855	752
13700		1705	1286	1025	858	755
13800		1713	1292	1029	862	759
13900		1722	1298	1034	866	762
14000		1730	1304	1038	870	765
14100		1738	1310	1043	873	769
14200		1746	1316	1047	877	772
14300		1754	1321	1052	881	775
14400		1762	1327	1056	885	779
14500		1770	1333	1061	889	782
14600		1778	1339	1065	892	785
14700		1786	1345	1070	896	789
14800		1794	1351	1074	900	792
14900		1802	1357	1079	904	795
15000		1810	1362	1083	907	798