

# Minutes

## Child Support Schedule Workgroup

### Subcommittee: Self-Support Reserve and Adding Deductions

Friday, May 19, 2023 11:15am - 1:30pm

Green River College

12401 SE 320th St, Auburn, WA 98092

Salish Hall, Room 252

Teams Webinar | [Miro Board](#)

## Attendance

### Members Appearing:

Amy Roark	Raymond Allen	Tami Chavez
Kaha Arte	Joy Moore	<i>Facilitator: Rachelle Jennings</i>
Terry Price		<i>Note-taker: Lucas Camacho</i>

Public Attendees: None

## Agenda Details

### 1. Focus Area 1: Self Support Reserve Calculation

- a. Behavioral Interventions for Child Support Services (BICS) Research
  - i. Current support larger than 20% of NCP's gross monthly earnings (below \$4100) correlates with arrearage growth.
  - ii. Higher ratio of order to wage (ROTW) reduces payment frequency.
  - iii. Should we go for a similar model to Arizona's?
    1. It would be simpler to raise the existing threshold rather than basing it off of minimum wage like Arizona does.
    2. Higher orders discourage non-custodial parents from working at all.
- b. Anneliese's Research and Alternative Models
  - i. Regarding a low-income adjustment that caps child support at a percentage of an obligor's income. Doesn't the economic table implicitly do that with \$50 orders?
    1. Not necessarily – the economic table uses defined amounts of income. Perhaps the table could be changed to express percentages of income instead?
  - ii. Regarding Janelle's pro-rata idea: The income share model wouldn't necessarily be appropriate when NCP has children in 3+ households.
    1. The income share model wouldn't be appropriate for a situation where an obligor has children in 3 or more households. Perhaps this is where a table finds that if the obligor's income would be pushed below the agreed-upon threshold of sustainability when non-present children are taken into consideration, the obligation is adjusted to the threshold, and distributed to all children in equal amounts.
  - iii. This subcommittee will stop considering county-by-county variation due to the prevailing attitude of the larger workgroup
  - iv. Asset Limited, Income Constrained, Employed (ALICE): Developed by United Way. This model addresses households that are above the poverty threshold but remain severely income limited.
    1. ALICE monthly (WA) = \$2269
    2. Additional research needed on their calculations.

- a. [Washington | UnitedForALICE](#)
- b. The legislature typically feels more comfortable referencing statutes from other states or at the federal level. Concerned what they will make of using a formula developed by a private entity.
- c. Agreement that the ALICE model seems fine, but legislators might balk at the model since it was developed privately.
- d. The group expressed some doubt over if ALICE would stand the test of time as a consistent benchmark to base orders off of. Will legislative bodies want something more global?
- v. When we're setting support amounts that aren't payable, we're setting people up for failure. It's impossible for parties to hit the Self Support Reserve threshold at the current minimum wage. Should we instead consider increasing the threshold to beyond 150% of the federal poverty guidelines? Perhaps 175% or even higher?
  - 1. We did discuss this previously and it is not off the table.
- vi. Is Tami frequently seeing people without any income having income imputed to them?
  - 1. Tami: Yes, she sees it on front end when statute tells people to impute, and also sees it on back end when DCS is going after parties for support who don't have the means to pay. Such imputation creates a fiction about what they can actually pay, and this fiction can potentially lead to jail time.
- vii. 80% of Washington's minimum wage at full-time hours
  - 1. Other states use this model so legislation might be more comfortable with the idea.
  - 2. This threshold (\$2183/mo) is fairly close to the ALICE model's monthly figure
  - 3. Also fairly close to if we changed the SSR threshold to 180% of the federal poverty guidelines.
    - a. If we stick with the federal poverty guidelines, it might not help our issues down the line if we have lower income states keeping the federal minimum wage down.
  - 4. Increasing the existing percentage of the federal poverty guidelines might be an easier task than changing the measurement altogether.
  - 5. We can use the ALICE figures to bolster the argument for this model, letting the larger group know we're not just shooting for a high number and that the recommendation is backed by statistics.
  - 6. Big jump might be needed to prevent this from being a consistent issue.
- viii. 180% SSR – take larger group's temperature and whatever discussion comes out of that, we'll address in next subcommittee meeting.
- c. Continued Discussion on 2-Tier Approach
  - i. Workgroup does not seem amenable to a differentiated approach. They appear to prefer something uniform across the state

## 2. Focus Area 2: Treatment Abatement

- a. Proposed changes to RCW 26.09.325 (incarceration abatement) to include “behavioral health or substance abuse treatment (inpatient or outpatient) for at least six months combined.”
- b. Lacks court-ordered language in current version
  - i. Terry and Kaha agree that needs to be present in order for this to work.
- c. Terry didn't realize there was a whole process involved for abatement. He thinks this is in the wrong place in statute. Rather, he believes it should be in the divorce (26.19) section of the RCWs. Are we going to allow people to challenge or hold hearings about this?
- d. What do treatment sentences look like?

- i. We modeled it after this statute, but this is not intended for people who go to rehab following incarceration, so should it be a separate statute?
- ii. Sometimes treatment and incarceration go hand-in-hand. Sometimes treatment is mandated ahead of sentencing.
- iii. Does this proposal apply to non-incarcerated individuals?
  - 1. Most people who aren't in legal trouble aren't getting court-ordered treatment.
  - 2. Ray will do further research.
  - 3. This also affects imputation of income. We should not be imputing income to parent who is underemployed due to court ordered services such as drug rehabilitation.
- iv. Can we reduce arrears for these people? Also, a full increase from \$10/mo to full support might be a barrier.
  - 1. Prefer to extend abatement period further for substance abuse.
  - 2. Inmates coming out of prison have halfway homes whereas substance abuse patients don't have those same guardrails.
- v. Now we have a separate issue of "What are they going to be able to earn when they're out of treatment?"
- vi. Can we reach consensus on this? The legislature expects people to pay child support.
  - 1. Kaha would not support extending the abatement further as suggested.
  - 2. Terry: For this proposal, is Ray going to do more research? The issue with recently incarcerated individuals having more supports than rehab patients is legitimate, but what do we need to move this forward?
    - a. Ray will talk with municipal court and other resources to get more info on timelines and expectations.

### 3. Focus Area 3: Adding Maintenance

- a. Research of DCS' caseload found that approximately 2000 orders out of around 94000 have maintenance attached.
- b. Knowing this, thoughts on moving forward?
  - i. Major piece of legislation under Trump administration was a rewrite of the tax code. It created confusion as to whether a payer can use maintenance as a deduction on the worksheets or if the payee counts it as income. Do we keep both of those in their current categories or do we remove one or both from the worksheets?
  - ii. Are we trying to capture tax code differences for income imputation purposes?
    - 1. What do we call income/deductions? Do we follow the current tax code and consider it income, or do we deviate and say it doesn't factor into consideration? Do we clean up the worksheets by following the federal model or do we go our own way?
      - a. Tami prefers to count maintenance as income. Terry, Joy, and Ray agree. Amy has no preference.
      - b. The group agrees not to change the existing format. Terry believes that even though no change is recommended, we should recommend *not* changing the existing format.
    - 2. [Topic No. 452, Alimony and Separate Maintenance | Internal Revenue Service \(irs.gov\)](#)

#### **4. Defining Basic Support Obligation (BSO)**

- a. Proposed added language: “BSO does not include either mandatory educational expenses, such as tuition, books, required electronic devices, required school payments; or expenses that students will incur to fully participate in school activities including, but not limited to: sports fees, sports uniforms, band fees, band uniforms, yearbooks, driving classes, and other participation fees and costs.”
- b. Terry hasn’t heard back from Brady regarding enforceability. Rachelle will check in between now and next meeting to get his thoughts.
- c. Group seems okay with this language pending Brady’s input.

#### **5. Draft of Subcommittee Final Report**

- a. Overview of goals and what recommendations address
- b. Key Issues
  - i. Self-Support Reserve Calculation
  - ii. Worksheet Deductions
  - iii. Treatment for substance use and mental health disorders
  - iv. Defining educational expenses for line 11b of the worksheets
- c. Findings and Recommendations
  - i. No decision made yet on Self-Support Reserve calculation method
  - ii. New RCW for abatement for substance use/mental health treatment (court ordered)
  - iii. Amend RCW 26.09.71 to include paid FMLA
  - iv. Amend RCW 26.19.011 to define education expenses