

REVIEW OF 2011 WORKGROUP RECOMMENDATIONS

2015 Child Support Schedule Workgroup
May 22, 2015

ECONOMIC TABLE

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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.

ECONOMIC TABLE

Adopt a New Economic Table Based on Current Data

- 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” which appears to have been based on political, not economic, considerations.
- Based on RCW 26.19.080(2), the Workgroup members felt that it was important to remove the \$250/year in medical expenses.

ECONOMIC TABLE

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

The Workgroup was unable to reach consensus on extending the table higher than \$12,000 CMNI.

- ◉ *Majority:* the Betson Rothbarth Economic Table (with the \$250/yr medical costs removed) should be adopted as presumptive up to \$15,000 CMNI
- ◉ *Minority #1:* presumptive up to \$12,000 CMNI, and then advisory up to \$15,000 CMNI
- ◉ *Minority #2:* presumptive only up to \$12,000

ECONOMIC TABLE

The Economic Table should not distinguish between age groups

- ◉ Any new Economic Table adopted for use in Washington should not provide different support amounts based on the age of children for the same income bracket.
- ◉ Workgroup does not recommend that the Legislature merely “collapse” the age brackets
- ◉ Unable to reach consensus on how to do this without totally new Economic Table

CHILDREN FROM OTHER RELATIONSHIPS

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.

CHILDREN FROM OTHER RELATIONSHIPS

The Workgroup recommends:

- ◉ First of all, instead of “children from other relationships,” let’s call them “children not before the court.”
- ◉ 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.
- ◉ This adjustment should be calculated using the *Whole Family Formula*.

PROPOSED DEFINITION: "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, 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 acknowledgment of paternity under RCW 26.26.300 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.

CHILDREN NOT BEFORE THE COURT

- 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, 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.

CHILDREN NOT BEFORE THE COURT

The Workgroup recommends no adjustment if:

- ◉ Adjustment 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, including both children before the court and children not before the court

--OR--

CHILDREN NOT BEFORE THE COURT

The Workgroup recommends no adjustment if:

- 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.

CHILDREN NOT BEFORE THE COURT

Workgroup unable to reach consensus on these issues:

- ◉ 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.
- ◉ 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?

RESIDENTIAL SCHEDULE CREDIT

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.*

RESIDENTIAL SCHEDULE CREDIT

The Workgroup recommends:

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

RESIDENTIAL SCHEDULE CREDIT

- 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.

RESIDENTIAL SCHEDULE CREDIT

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*
- ◉ The child is receiving TANF

RESIDENTIAL SCHEDULE CREDIT

- ◉ 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 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.

RESIDENTIAL SCHEDULE CREDIT

Workgroup unable to reach consensus on:

- ◉ Calculation method
- ◉ Threshold
 - Majority: 14% of overnights
 - Minority #1: no threshold
 - Minority #2: 25% of overnights
- ◉ Interplay between the adjustment of a credit and any modification of the underlying parenting plan or residential schedule.

RESIDENTIAL SCHEDULE CREDIT

- ◉ 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 supports a simple way to get the child support order adjusted, including a simple way to adjust the parenting plan, if necessary; the Workgroup could not agree on the method.

RESIDENTIAL SCHEDULE CREDIT

Workgroup's recommended policy statement

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.

POSTSECONDARY EDUCATIONAL SUPPORT

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.

POSTSECONDARY EDUCATIONAL SUPPORT

- 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.

POSTSECONDARY EDUCATIONAL SUPPORT

- ◉ 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
- ◉ “Full time basis” is to be defined by the educational facility or by the order establishing the obligation to pay postsecondary support.

POSTSECONDARY EDUCATIONAL 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, and subtract that amount from the total cost to determine "unmet need" before determining the parents' obligations for postsecondary educational support.

POSTSECONDARY EDUCATIONAL SUPPORT

- ◉ The Workgroup recommends that the provisions regarding how postsecondary educational support payments are made be revised.
- ◉ The Workgroup recommends that payment to a parent should be the least-favored option.

POSTSECONDARY EDUCATIONAL SUPPORT

The Workgroup recommends that RCW 26.19.090 be amended:

- ◉ Where feasible, postsecondary educational support should be paid to the school
- ◉ The statute should address:
 - Suspension of postsecondary educational support
 - Resumption of postsecondary educational support after suspension
 - Termination of postsecondary educational support

SELF-SUPPORT RESERVE AND FPL

SELF-SUPPORT RESERVE AND FEDERAL POVERTY LEVEL

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."

SELF-SUPPORT RESERVE AND FEDERAL POVERTY LEVEL

- ◉ 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.
- ◉ 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.

SELF-SUPPORT RESERVE AND FEDERAL POVERTY LEVEL

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.

WANT A COPY OF THE 2011 WORKGROUP REPORT?

DCS still has a few, so if you want your own hard copy of the 2011 Workgroup Report, contact Nancy Koptur at 360-664-5065 or Nancy.Koptur@dshs.wa.gov and she will send you one while supplies last.