

Child Support Schedule Workgroup Minutes

Location:	Tacoma Division of Child Support, 1949 S State St, Tacoma – Room 307 Meeting also available by webinar: Click this link: Join WebEx meeting and reference the below access info Meeting number (access code): 805 095 228 Meeting password: CSSW@82919 For <u>audio-only</u> , call toll free (855)929-3239
Date:	Thursday, August 29
Time:	9:00 am – 3:00 pm (room will be open at 8:30 am)
Members appearing by phone	Judge Richard Okrent, Anneliese Vance-Sherman, Commissioner Tami Chavez
Members appearing in person	Administrative Law Judge Jeff Manson, Janelle Wilson, Sharon Redmond, Kristofer Amblad, Keoki Kauano, Terry Price, Christy Carpenter
Members not appearing	James Chott, Representative Jeremie Dufault, Sandra Johnston, Senator Maureen Walsh, Shelby LeBret-McCrea, Tara Miller, Crissy Anderson, Mia Harper, Representative Christine Kilduff, Senator Claire Wilson,
Division of Child Support staff	Kimberly Curtis, Mindy Houx, Nancy Koptur, Matthew Parascand
Public attendees	Jim Clark

Agenda details:

1. Welcome (9:00 – 9:15 am):

- a. Welcome and housekeeping
- b. Update to the group: Shelby McCrea resigned and Kris Amblad has returned
- c. August 29 meeting agenda review – spotlight goals:
 - i. Review current status of recommendations
 - ii. Discuss and clarify “problematic” and “doubtful/won’t agree to it” recommendations
 - iii. Review and confirm final status of recommendations
 - iv. Identify outstanding questions or issues and create a plan for how to address them
 - v. Provide feedback about process and participation in Child Support Schedule Workgroup

2. Meeting minutes – summary and review (9:15 – 9:30 am)

- a. Public forum meeting minutes
- b. August 9, 2019 meeting minutes – feedback, questions and agreement

Group agreed that draft August 9th workgroup meeting and forum minutes can be posted as final.

3. Timeline and logistics (9:30 – 9:40 am)

The group discussed the final report is due to the Legislature October 1st, 2019. Recommendations and final draft report must be completed.

4. Review current status of recommendations (9:40 – 10:00 am)

- Voting system is 1 to 5
 - 1 = I won't agree to it
 - 2 = It's doubtful
 - 3 = It's problematic
 - 4 = I like it (I can live with it) which is consensus
 - 5 = I love it (full support) which is consensus
- Reviewed where recommendations were ranked in the early August workgroup meeting and where discussion left off, to be continued at this meeting.

Break (10:00 – 10:15 am)

5. Emerging recommendations - discussion and consensus building (10:15 – 11:45 am)

- **Recommendations:**
 - Defining full time as not necessarily 40 hours per week –RCW 26.19.011
 - Group rating was all 5s – group reached consensus
 - Flexibility Rule considerations (adding factors for imputation) –RCW 26.19.071 (6)
 - Group rating was all 5s – group reached consensus
 - 32 hours per week for some individuals (not in high school) –RCW 26.19.071 (6d)
 - Group rating was all 5s – group reached consensus
 - Child support obligations during dependency may inhibit reunification Group rating was all 5s – group reached consensus
 - No significant earnings history –RCW 26.19.071 (6e)
 - Group rating was all 5s – group reached consensus
 - Maintain prohibition for residential deviation for TANF recipients
 - Group rating was all 5s – group reached consensus
 - High school student imputation
 - All 5s except a 3 and 4

Discussion:

- Concerns that parent paying support with income or assets might avoid child support payments, putting the burden on parent receiving support's family.
 - Important to avoid impoverishing parent receiving support's family
- High school imputation is not really a huge problem because it is fairly rare. The situation doesn't occur often in the system or with legal services. ALJs/judges are mindful of the principles discussed so maybe do not need a specific statute because such a statute might be used as a basis for deviation. There are more critical socioeconomic issues impacting parents.
- Draft Language: "When a parent is currently enrolled in high school full-time, the court shall consider the totality of the circumstances of both parents when determining whether each parent is voluntarily unemployed or voluntarily underemployed. If a parent is determined to be voluntarily unemployed or voluntarily underemployed, the court

shall impute income at earnings of twenty hours per week at minimum wage in the jurisdiction where that parent resides as a rebuttable presumption.”

- The group agreed to this language as a consensus recommendation with all 5s and one 4
- Insufficient resources in either parent’s household and residential schedule credits
 - Discussion:
 - The insufficient resources clause is present because of the impact deviation has. The Child Support Schedule exists because that is what the Legislature decided was adequate for children.
 - Some workgroup members have concern that the parent receiving support would have inequitably insufficient resources compared to the parent paying support’s household’.
 - Some workgroup members think that in a shared plan one should be considering the resources in both households and recognize that kids do spend time in both houses, and emphasized every public comment has been in regards to the lack of a residential credit.
 - Law practitioners on the CSSW disagreed whether one can deviate based on insufficient resources in parent paying support’s household. They could not reach agreement.
 - Concern expressed about the idea of chipping away at only part of this topic without being able to address it entirely. Group support that it may not be worth addressing it only in part, if the main decisions about residential credit cannot reach consensus.
 - Vote: 5, 4, 4, 4, 4, 4, 2, 1, 1,
- Group consensus that moving forward on a residential schedule credit will require political will and action. In recognition of failed previous CSSW workgroup efforts and in light of all public comment the **2019 CSSW recommends the legislature further study and research the concept of a residential schedule credit**, to include addressing a potential threshold, recourse when residential time is not exercised, and how to calculate time spent in each household

Lunch – break/preparation (11:45 – 12:10 am)

6. Emerging recommendations – continued (12:10 pm – 1:10 pm) – **working lunch**

- a. Discuss and clarify “problematic” (ranked 3s) and “doubtful/won’t agree to it” (ranked 2s and 1s) recommendations
- Self-Support Reserve at 175%; no agreement here, but agreement that 150% may not guarantee substantial enough change in light of future min wage increases
 - Discussion regarding the need and the opposition to increase the SSR:
 - Some members see students who pay support and they are struggling. This is a persistent problem exacerbated by increased child support orders and the impacts of imputation of increasing minimum wage.
 - DCS staff and director shared that Support Enforcement Officers think the SSR needed to increase due to high 1-child minimum wage orders.
 - DCS pointed out that the department cannot deviate except for the Whole Family Formula and per the order review, most notices default, so it is a concern.

- The workgroup thought in retrospect it would have been beneficial to have had a subcommittee to look at the lowest end of the Economic Table (ET).
- Talked about political issues surrounding changes to the ET.
- Identified that an increase to 150% might not impact one-child family but would help a two or more child family.
- Some members are deeply conflicted and have concerns that there is not sufficient data (since new ET only started 1/1/19) to make changes.
- **Consensus recommendation to alert the legislature that the majority of the CSSW supports increasing the SSR to 175%, but full consensus could only get achieved at increasing to 150% with the majority agreeing 150% is not enough of an increase to address the problem. Vote: 4, 4, 4, 4, 5, 5, 4, 4**

- The group wants to see the SSR table DCS staff made modified to include 2-child family examples and both tables included in the report appendix.
- Workgroup member shared an example of a family struggling, after divorce. Parent receiving support has high income but the parent paying support still has a low income and can't afford his share of child expenses which continue to increase.

- The workgroup concluded that there would be no further discussion on the calculation of residential time based on hours or overnights, as this is an extension of the recommendation that the legislature address residential credit.

- **Problematic issues (3s):**

- Notice to parties in dependency and/or colloquy regarding support in dependency court.
 - Discussion and explanation of challenges to reach consensus.
 - One workgroup member identified proposed statute having political ramifications regarding jurisdiction and wants the legislature to know that this is a problem.
 - Some workgroup members thought:
 - There should be written notice and oral notice in a shelter care hearing.
 - Every dependency order and contempt order contains statement of due process rights and cites the at risk youth law notice.
 - Notice should be in shelter care order.
 - Pattern forms committee should take care of it.
 - Any initial forms in dependency, review, order of dependency should include notice.
 - There is concern that child support is treated as separate from the dependency process.
 - Vote on notice in initial shelter care hearing and info re child support including admin process and objection process: 5-8, 2-4

- In regards to "colloquy", the group agreed that the "court shall provide oral and written notice and there is not a need to require the word "colloquy".

- Vote on notice in initial shelter care hearing and info re child support including admin process and objection process: 5, 5, 5555544-8, 2-4
- Lengthy discussion about the idea of dependency court to set child support. Issues include:
 - Courts have limited child support knowledge
 - Stakeholders
 - Preexisting orders
 - Differences in county procedures including that most counties do not set support
 - Jurisdictional issues and considerations
 - System issues including that Pierce and King counties do not appear on Odyssey (court order system) as well as administrative orders
 - Order dismissals
 - VOTE on if the dependency court should set child support | VOTE: 5, 5, 4, 4, 4, 3, 2, 2, 1
- Temporary Abatement
 - Arrears adjustment based on dependency:
 - In regard to state-owed arrears that could be written off, one member suggested something other than the conference board process. Refers to Legal Financial Obligations (LFO) bill, and would like to see a statute, not just policy.
 - Discussion of different kinds of FC, including shadow TANF (concurrent TANF while a child is pending reunification).
 - Lots of different placement situations and different people entitled to the support.
 - The group considered if it would it make sense to say “after return of child, you can waive arrearages”? Currently, LFOs are waived retroactively.
 - Some members think if we wait for child to be returned, then arrears can impact parent’s ability to secure housing and so reunification is delayed and feel this is the main issue.
 - Judges generally know when a child is going to be returned and can predict.
 - Discussed deviation versus a stay of collection or abatement or elimination of support debt owed to state prior to return home – only debt accumulated during dependency.
 - Issues around declarations.
 - Collection of arrears affects a parent’s ability to obtain or keep stable housing.
 - Members thought this should be legislative mandate, not policy.
 - One member expressed concern when there is already an order in effect and the parent has significant issues to deal with and child support arrears accumulate or impede reunification.
 - DCS staff suggested perhaps the group is saying a procedure should be created in both judicial and administrative forums that allows for a stay of

the collection or eliminate child support accrued during the current dependency action for the children involved in the dependency. VOTE: 5, 5, 5, 5, 5, 5, 4, 4, 4

- **Residential Credit:**

- Members expressed again that this is chipping away only part of the topic without addressing the main issue. It's hard to discuss or support just individual items that are only a part of a bigger issue.

7. Other recommendations (1:10 – 1:30 pm)

Proposed changes to consumer price index (CPI) for calculating federal poverty line (FPL):

- a. The group talked about a lot of factors affecting SSR, and the chained CPI was an element in the discussion.
- b. Concerns expressed about changes to eligibility rules and immigration and work requirements for food.
- c. In recognition of recent federal trends and federal rule proposals regarding the calculation of the federal poverty limit, the group wants to include these considerations in the report.
- d. No vote needed

Changes to the structure of the workgroup

- e. The group had a discussion about:
 - Group timelines and that the 10/1 report deadline came too soon.
 - Participation – hard to get enough people to attend and fully participate.
 - The need for more preparation and early education before picking issues.
 - Representation of different types of members (parents, etc.) should be engaged; not everyone's voice has been heard.
 - Should the application ask for a time commitment? Is there an opportunity to make the expectations more clear?
 - Should the announcement of "time to apply" include a proposed calendar with meeting days and locations, etc.?
 - How real life experience matters, not just expertise and the challenge of balancing both in discussion.
 - The need for "shared parent" expertise\experience on the group.
 - Suggest setting forums closer to the beginning of the process and maybe even prior to setting issues:
 - a) Some forum comments concerned stuff CSSW had not considered and questioned about why the public was involved so late in the process?

8. Reviewed and confirmed final status of recommendations and next steps

- Final Draft to be distributed on 9/3
- Responses/comments/edits due by 9/10

- DCS staff can schedule a conference call or another meeting if something unforeseen happens

9. Public comment

- Jim Clark addressed the CSSW:
 - Thanks to all for trying to make things better.
 - System will never be perfect, but it can become better.
 - Appreciation that there are a wide range of experiences and issues even though he has one major issue.
 - Lack of residential credit breaks the income sharing model because only one parent pays support.
 - Would like to see threshold lower than 35%.
 - He shared his appellate brief with case called State v Wood.
 - He pays over \$2K, 45% of parent receiving support household budget.
 - Children typically 25% of household budget.
 - Gaming the system
 - In his case, commissioner said no residential credit due to difference in incomes, not due to insufficient resources.
 - He believes in 50-50 presumption for residential time and support.
 - Appreciates DCS attitude/role: enforcement is appropriate when non-custodial parents won't pay support and hides, doesn't fulfill responsibility.
 - But, for 50-50 residential schedule, no recognition.
 - He is digging into his retirement and into the kids' education fund.
 - Fathers worry about avoiding contempt so some work to pay excessive support, and may not fight for custody because afraid will get cited for contempt of court.
 - Parenting plan study of Diane Lye says best interest of the child is to reduce conflict, not money issues.
 - Shared parenting is better for kids and gives mom time to work and improve her life.
 - Compromise is important.
 - Ready to fight all the way to Supreme Court of the United States for his principles.
 - Will apply for 2023 Workgroup.

10. Adjourned