

Child Support Workgroup  
Children from Other Relationships Subcommittee  
Teleconference Notes  
June 7, 2011

Participating on the call: Janet Skreen, Kevin Callaghan, Ken Levinson  
DCS Staff: Ellen Nolan  
Member of the public: Greg Howe

## Preliminary Discussion

General discussion regarding the need to reach consensus with an eye towards drafting the workgroup report.

Discussion re above the line, below the line approach being questioned at May 20 meeting. Feeling that if we use above the line approach we are not taking court's discretion away. Rather, we are finessing the approach that the court would take so that there would be some consistency in the starting point. Could still supply information on worksheet about what the calculation would have been without the deviation.

One participant expressed a concern about the inherent unfairness of considering the issue of the Obligor's other children while not considering the Obligee's other children.

Historically, courts have only looked at Obligor's other children.

## Main Discussion

1. Attempt to finalize our subcommittee recommendation with respect to the following issue:

Whether or not there is an above-the-line presumption for "non-resident" CNBC in categories 3a through 3d (as identified in our May 20<sup>th</sup> Report); and, if so, whether or not it is rebuttable by obligee in those cases where it can be shown that the obligor is not paying the full support amount for those CNBC.

- Agreement with "above the line" – Yes
- Agreement with "rebuttable presumption" – Yes
- Agreement that there would not be a credit if obligor is not paying – no consensus
- Agreement that there would be a credit if obligor is paying some support – no consensus
  - Suggestion that there should be a threshold amount of 25% - to show some conscientious effort
  - Feeling that requiring payment of any amount in order to give credit would be difficult: how much payment? When is 'payment' determined? Etc.
- Alternative suggested statement regarding presumption: Agreement with rebuttable presumption that burden is on obligor to show who children are and what the obligations are – Yes
- Court can then decide whether or not the issue of whether or not credit is given based on amount paid/or not paid.

2. Discuss a statement of our position on the issue of whether or not stepchildren residing with the obligor should count as CNBC.

- Not part of presumptive calculation but can be other factor to consider below the line.

Public Comment:

- First issue of whether or not presumptive credit is a purely emotional issue rather than rationally. Folks should get the credit either way. Really only 2 scenarios: 1) If Obligor is currently paying on Child #1 and wants credit when Child #2 before the court. If Obligor is paying for Child #1, pretty good chance that Obligor will pay for Child #2. 2) If Obligor is not paying for Child #1, likely Obligor will not pay for Child #2. The consequence there would be just piling onto the arrears that will accrue and never be paid. The real issue is that obligations should be reasonable and we know that if an unreasonable amount is obligated then the likelihood of payment decreases as Obligor checks out.
- Comfortable with stepchildren being treated below the line.