

FINAL Meeting Minutes

Child Support Schedule Workgroup Meeting

December 12, 2008

8:30 am to 3:30 pm

SeaTac Airport, Beijing Room

Attendees: *David Stillman; Comm. Gallaher; David Spring; Kris Amblad; Angela Cuevas; Kristie Dimak; Jason Doudt; ALJ Robert Krabill; Merrie Gough; Kathleen Schmidt; Colleen Sachs; Adina Robinson; Judge Christine Pomeroy; Rep. Jim Moeller.*

Guests: *Pat Lessard; Mark Mahnkey; Mark Coy; Trudes Tango; Joe Corum*

Staff: *Ellen Nolan; Nancy Koptur; Mitchelin Wolff*

1. The workgroup convened and approved the agenda.¹
2. The workgroup reviewed the draft minutes for several prior meetings: 12/4/08 (approved subject to a change in (5)(c); 11/21/08 (approved subject to change in (3)(f); 11/14/08 (approved as written); and 10/23/08 (approved as written).²
3. DCS staff reviewed the process used in drafting the Final Report of the Workgroup.
4. The Chair reviewed the requirements of 2SHB 1009, the legislation which created the Workgroup.
5. The Chair reviewed the Executive Summary and solicited input from the Workgroup members.
6. The Chair reviewed the Final Draft of the Workgroup Report and solicited input from the Workgroup members. Certain corrections were agreed upon by the members:
 - a. The members clarified that the revision to RCW 26.19.071(6) was intended to keep the existing language (except for the last sentence) and then add the new language regarding the priority of consideration for imputation of income.
 - b. The Workgroup discussed the Whole Family Formula and agreed that the description of that issue should reflect that the majority of members would support a modified Whole Family Formula which took into account all the children of both the NCP and the CP, and that lack of time prevented the development of a method to be used for counting children for purposes of that formula
 - c. The Workgroup discussed the issue of whether to continue the practice of distinguishing between children under and over age 12 in the current economic table and there was a consensus that if the legislature adopts a new economic table, there should be distinction, but if the legislature keeps the current table, there was no consensus as to whether the current distinction should be kept, or how the change to not distinguishing

¹ Agendas are available at: <http://www1.dshs.wa.gov/dcs/Resources/WorkgroupMaterials.asp>

² See "Revised Draft Minutes" for October 23, 2008. Minutes are available at: <http://www1.dshs.wa.gov/dcs/Resources/WorkgroupMaterials.asp>

- between age groups should happen. The Chair polled the group and a majority felt that there should be only a single column amount (in other words, treat all children equally, no matter what the age). The group rejected using just the current amount for children under 12 (current column A), or a straight average, with 8 favoring using just the current amount for children 12 and over (current column B), and 7 favoring using a weighted average of the two amounts.
- d. The members clarified that, if the legislature keeps the current table, they should take out the “5% for ordinary medical expenses.”
 - e. The group discussed the charts developed by ALJ Krabill and asked him to re-do the chart showing the “current less 5%” table to show both column A and column B amounts (he did so and the revised chart has been included in the Report).
 - f. The group agreed that the term “federal poverty guideline” should be used instead of “federal poverty level.”
 - g. The group discussed whether the Self Support Reserve (SSR) should apply just to the NCP or to both NCP and CP. A majority agreed that they could support a provision where the SSR applies just to the NCP so long as equity to the CP household is considered.
 - h. The group clarified that when discussing overtime or income from second jobs, the language should always reflect that the “40 hours” was averaged over a 12-month period. The draft report and draft statute were changed.
 - i. The group agreed that, where draft language (re SSR, 45% limitation and residential credit) discussed that the court should consider whether consideration of those limits/credits was “unjust or inappropriate,” the “or inappropriate” language should be stricken and something should be added requiring the court to consider where there was insufficient income in the CP’s household.
 - j. The group agreed to add language regarding the residential schedule credit to the effect that a threshold makes it difficult for a long-distance parent to avail him- or herself of a residential credit.
7. The Chair agreed to hear from a member of the public who needed to leave for work before the group reached that point on the agenda. Mark Coy addressed the Workgroup.
 8. The Workgroup continued its discussion of the Final Draft of the Report.
 - a. The group agreed that they did not have time to come up with majority and minority positions on how to deal with the issue of how noncompliance with the residential schedule should affect the residential credit, and what process should be recommended.
 9. Members of the public were invited to address the Workgroup. Mark Mahnkey did so.
 10. The Chair then asked members of the Workgroup to discuss “what next?” and to mention any suggestions or ideas they had about the Child Support Schedule that should be addressed by the legislature, the next Workgroup, or anyone else.

- a. Merrie Gough suggested that the next Workgroup should consider a report by Adrienne Lockie in the Harvard Journal of Law and Gender, Vol. 32 (2009) called *Multiple Families, Multiple Goals, Multiple Failures*, (September 16, 2008).
- b. David Spring raised the issue of whether Minority Reports would be included in the hard copy of the main Workgroup Report. After considerable discussion, the Chair announced that Minority Reports submitted by Workgroup members would be added to the hard copy (the Chair pointed out that any Minority Report would be solely the product of the person submitting it and that DCS staff had no responsibility beyond including the document in the Report), and that the Report would inform the reader that non-member Minority Reports would be available on the Workgroup Materials Web Page. Any member's Minority Report which claimed to have the support of other members would have to be confirmed by the other members by email to Nancy Koptur before noon on Monday, 12/15/08 in order to include the names of those members. At that time, the following had indicated their intention to submit non-member Minority Reports, which would be mentioned in the Workgroup Report: Washington Civil Rights Council (Mark Mahnkey), The Other Parent (Greg Howe) and the WSBA Family Law Executive Committee.
- c. David Spring expressed a desire that the next Workgroup or the legislature should commission a new study to get new data, which will assist further inquiries. At the time, there are both new and old studies, but they are based on old data.
- d. Representative Moeller stated that he was very proud of all the work done by the Workgroup and that the group had accomplished so much. He stated that this was a great beginning, and that he would be introducing a bill in the 2009 session based on the Workgroup's work.
- e. ALJ Krabill suggested that the next Workgroup consider the issue of daycare: at what point should the parent not participating in the choice of daycare be required to contribute or not? He would like to see the next Workgroup consider the question of relatives who provide daycare for pay when the relatives would probably have provided free daycare before the need for a child support order arose. He pointed out that, while a new study would be desirable, but it might be unrealistic to expect the legislature to spend money on one in the current fiscal climate. Also important are a formula for the residential schedule credit, the basis of the economic table, modification of support orders, and the issue of having to share in the cost of health care expenses when the obligated parent does not agree with the decision regarding the health care.
- f. Adina Robinson felt that the issue of children from other relationships really must be addressed.
- g. Commissioner Gallaher reminded the group that the Workgroup can only go so far, and that political decisions must be made by the legislators. He agreed with the need for a new study and new data, especially regarding the basis of the economic table. He felt that an entire workgroup could be

devoted to the issue of children from other relationships. He requested clear guidance from the Chair on the issue of preservation of records and public disclosure issues.

- h. Colleen Sachs advised that the main issue for her is accountability, especially with daycare expenses. She would like to see either a Workgroup or the legislature address relocation.
- i. Kristie Dimak identified as issues child support enforcement gaps and problems, and college expenses. She asked that the next Workgroup get clear information right at the beginning about public records and public disclosure issues.
- j. Chair David Stillman advised the group that DCS will work with their Public Disclosure Coordinator to see if there is a way for DCS to become the keeper of the records so that Workgroup members can turn their records over to DCS. He pointed out that a good faith deletion of any records before the Workgroup member was advised of the requirements was permissible. Records must be maintained in their native format, according to recent rules promulgated by the Secretary of State.
- k. Angela Cuevas recommended that the following issues needed consideration: complex familial structure; children from other relationships; residential credit. Access to Justice issues are very important, and the mandatory forms are still hard to find and hard to access; not everyone has a computer. It would be nice to see on-line hints and tips for modification, and it would be great if the modification process could be simplified. She would like to see DCS provide better on-line access to account information, or at least more publicity about existing resources. She believed that either the legislature or the next Workgroup should consider post-secondary support and emancipation issues. Finally, she was very excited at the recommended changes on imputation of income, and felt this would lead to fair and enforceable orders.
- l. Jason Doudt's biggest hope was that the legislature would make the Child Support Schedule Workgroup an ongoing committee, as he felt that a 4-year review was not sufficient. He encourages further work on the 45% limitation, feels it is important to treat all children equally.
- m. Judge Pomeroy asked for clarification and guidance on the issue of post-secondary support; a definition for a residential schedule credit; and attention to the issue of children from other relationships.
- n. Kris Amblad pointed out the importance of the Workgroup's accomplishments, especially regarding imputation of income and the self support reserve. For future workgroups, he recommended that they be mindful of the fact that someone opposing your point of view is not necessarily evil. He pointed out that he felt that 14 issues were really too many and the directions for the Workgroup were not clear enough. He recommended that the next Workgroup be required to address the economic table, the residential schedule credit and children from other relationships first (or maybe even only). He also would like to see the

modification process simplified, and requested an easier way to help unrepresented parties argue deviations.

- o. Kathleen Schmidt pointed out that her remarks were on behalf of herself only, and not on behalf of WSBA/FLEC. Having been on the 2005 Workgroup as well, she felt that there must be a better way to review the child support schedule, and pointed out that the majority of states do not use a legislative process. She felt that Washington should consider a different process. She was also concerned about the non-participation by many Workgroup members. Finally, she felt that the next Workgroup should be required to address the economic table before doing anything else.

- 11. The workgroup adjourned the meeting at 3:46 pm.³

³ Video of the three most recent meetings is available at the workgroup website; and meetings not available on the website are available on DVD. The web address for viewing videos is <http://www1.dshs.wa.gov/dcs/resources/workgroup.asp#w6>