CHILD SUPPORT COMMITTEE
REVISED MEETING MINUTES

Arizona Courts Building
1501 W. Washington, Phoenix, Arizona
November 10, 2005

PRESENT:

Co-Chairs

- ■ Honorable Peter Hershberger
- ■ Honorable James Waring

Members:

- ■ Honorable Manuel Alvarez
- □ Robert Barrasso
- ■ Theresa Barrett
- ■ Honorable Bill Brotherton
- □ Honorable Kimberly Corsaro
- ■ Honorable Norm Davis
- ■ Kim Gillespie
- ■ Leona Hodges
- ■ Dr. Curtis James
- □ Honorable Michael Jeanes
- □ Michelle Krstyen
- ■ Ezra Loring
- □ Suzanne Miles
- □ Chuck Shipley
- □ Russell Smoldon
- ■ Honorable Monica Stauffer
- □ Bianca Varelas-Miller

STAFF:

Megan Hunter	Administrative Office of the Courts
Annette Mariani	Administrative Office of the Courts
Courtney Riddle	Arizona House of Representative
Kim Martineau	Arizona State Senate

CALL MEETING TO ORDER

Representative Hershberger called the meeting to order at 10:11 a.m. with a quorum present. After introductions, Kim Martineau, was introduced as the new staff representative from the Senate replacing Barbara Guenther.

APPROVAL OF MINUTES

With a quorum present, the minutes were approved.

Motion: Judge Stauffer moved that the September 15, 2005 minutes be approved.
Vote: Minutes approved unanimously.

BUDGET RECONCILIATION

Lee Posey, a representative from the National Conference of State Legislatures, informed the Committee about Budget Reconciliation proposals in the U.S. House of Representatives.

Background & Overview:

Budget reconciliations is a budget cutting exercise to essentially balance the budget. HR 4241 proposes to cut the federal match rate for child support enforcement program costs (IV-D programs). The remaining costs are paid by states and counties. The rationale is to bring it in line with other federal match programs. Currently, the federal government pays 66 percent of child support program costs. The proposal phases in the reductions as follows:

62% in 2007
58 % in 2008
54% in 2009
50% in 2010

A second recommendation would prevent states from using their performance incentive payments to draw down matching federal funds. Currently, the federal government pays states incentive funds based on their level of child support performance in five measurable areas. States must reinvest these funds in their child support programs or closely related activities, but may claim 66 percent federal matching funds for incentive funds spent on enforcing child support.

The Congressional Budget Office score of this proposal assumes that nearly $5.2 billion would be cut from the program over the five-year phase-in period between 2006 and 2010. Over the next five-year period between 2010 and 2015 the program would lose more than twice as much funding, or $10.9 billion according to the CBO. The cuts would reach 40 percent of federal child support funding in 2010. CBO also estimates that federal funding cuts would reduce child support collections by nearly $7.9 billion in the next five years and $24.1 billion in the next ten years. CBO's calculations presume that states will backfill a portion of the funding ($1.6 billion in the first five years, and $5.2 billion over ten years) to partially make up for the loss in federal funds.

Additionally, the TANF provisions in the bill contain a recommendation to charge custodial parents a $25 annual fee subtracted from collections. Fees would only be collected after $500 had been collected in support. Custodial parents other than those who have received TANF assistance would be required to pay the fee and would necessitates state administrative changes for child support programs.

The Unfunded Mandate Relief Act (UMRA) has been raised but is unlikely to be successful. UMRA is used to raise a point of order against a federal bill that contains direct cost increase to intergovernmental transfers that violate a threshold in the bill. This applies to programs with entitlements and half a billion in federal funding.

The potential impact on Arizona would be:

$59 million in the 5-year cut
$188 million in the 10-year cut

The impact on Arizona collections is projected to be $94 million over 5 years and $286 million over 10 years. Rep. Hershberger explained that if cuts go through the House, there has to be agreement between House and Senate before they can proceed. Senate has taken a significant position against these cuts. We are in a unique position to talk about a cost shift to the state if this bill passes. Senator Brotherton inquired whether the Arizona Congressional delegation has weighed in on the bill yet. Ms. Posey was not aware of their stand but recommended that it is a good time to contact the Congressional delegation. The good of weighing in now does continue into conference.

Sen. Brotherton explained that this bill would have significant impact on the state and we as a state will have to come up with more money ourselves or let it go and let that amount of dollars decrease. Kim Gillespie explained that the National Governor's Association, National Association of Attorneys' General and the National Child Support Child Support Director's Association have all weighed in against it. Leona Hodges indicated that this will impact not just the child support enforcement program but also the clerks, courts, etc.

Members discussed whether to write to Congressmen individually or as a Committee. Without consensus to write as a Committee, members were encouraged to write individually if they so choose.

AUTOMATION WORKGROUP - KIM GILLESPIE

Kim reported that JAD sessions are being held weekly and co-chaired by Megan Hunter, AOC, and John Hinnant, DCSE. An Executive Steering Committee consisting of Judge Davis, Annmarie Mena, Kim Gillespie, Leona Hodges and Megan Hunter has met twice and serves as the steering committee for the project.

The goal is to have a completed calculator (called "eCalc" by July 31, 2006. The concept is to provide a good, flexible tool to calculate arrears. It is being programming with the concept that it will work well for 80% of child support cases. Some cases are difficult to calculate and require a manual calculation. The current arrearage calculator is available only for IV-D cases. eCalc will be for both IV-D and non-IV-D and available on the Internet.

The calculator **needs to be** programmed with specific, clear business rules. The Executive Steering Committee has come up with two issues that need to be addressed by this Committee for possible legislation that would help clarify the business rules and make the calculator more usable. The issues include:

1. When does interest start on delinquent payments? On the IV-D side, interest does not begin to run until the end of the month following the **month** the payment is due. Essentially, the person gets one to one-and-a- half months "interest free". This makes it easier because of order start dates, irregular payments, etc. For ease, this is the way DES has decided to do it.

   IV-D and non-IV-D do it differently and it would greatly help if both were done the same. Non-IV-D cases are handled in a variety of ways. In non-IV-D cases, the CP could lose one to one-and-a-half months of interest.

Judge Davis explained that the non-IV-D process helps the court and public to streamline and not get bogged down in minutia. He prefers the month following but that would make it inconsistent with the IV-D process.

Sen. Brotherton asked if this raises due process issue. Should interest accrue the same in both sides? Judge Davis explained that it has never been raised because it has not been a significant issue in non-IV-D cases, but making them the same would help the eCalc project.

Kim mentioned that in both IV-D and non-IV-D, there is a huge amount of uncollected support and interest. While ordinarily everyone should pay **all the child support owed**, that small bit of interest at the beginning **would make the calculation simpler.**

2. Handling adjustments that happen at a hearing, e.g. adjustments for equitable remedies, waivers, credit for direct payments or custody changes or parties agree to settle for different amount. If there is a specific affidavit, it can be plugged into the calculator as a manual payment. If the parties do not know or if court does not know, and parties dispute it, the court makes a decision and thus the adjustment. A legislative proposal that would give the judge authority to do an adjustment at the end of the calculation where timeframes for credit are not clear would ease the problem. The court could either designate the dollar amount in interest and principal that should be deducted from the calculation to arrive at adjusted judgment or the court could decide not to have interest deducted. This should be a below-the-line manner of making it equitable.

   Judge Davis explained that if all necessary data points are not present, the adjustment will be applied on the date of the order so the computer knows exactly what to do. When a date is not specified in the court order it causes a problem because we do not know when to apply it. The proposal would clarify that it is applied today and interest is not adjusted.

Kim further explained that a bench card for judges would be helpful that contains a list of recommended dos and don’ts when setting child support orders. This would help the courts, the system and inputting information into ATLAS by clerks. Megan and Kim will discuss further and bring something back to the Committee.

Judge Davis suggested a third legislative proposal that would conform statute to case law and help eCalc. Specifically, a payment that is ordered to be paid that does not contain a specific start date would become due on the first day of the month following the order.

MOTION: Judge Davis moved that interest would not begin to run until the end of the month following the end of the month that support is due.
VOTE: The motion passed unanimously.

MOTION: Theresa Barrett moved that a legislative proposal be created that provides clear language in statute regarding how to handle any adjustment where the amount or application date are not specified in the agreement or the order for child support arrearages where the timeframes are not clear. This would give the court authority to designate how much would be deducted for principal and interest and the court could also decide if a credit applies. If information is insufficient to give the date of application and credit, the credit would be made as of the date of the credit or date of the order as the information is provided.
VOTE: The motion passed unanimously.

MOTION: Judge Davis moved to create a legislative proposal that any payment that is ordered to be paid that does not contain a specific start date would become due on the first day of the month following the order.
VOTE: The motion was passed unanimously.

DIVISION OF CHILD SUPPORT ENFORCEMENT – LEONA HODGES

Senator Waring explained that as a result of the September meeting where Arizona's rankings in the Federal Office of Child Support Enforcement statistics was discussed, staff performed research on the program's legislative funding history. Funding has almost exactly doubled in ten years and caseloads have decreased. He and Leona spoke recently where she explained some of the reasons for caseloads dropping.

Leona Hodges explained that Arizona has realized population increases but simultaneous child support caseload decreases. Decreases are a result of PRWORA (Congressional legislation) that brought in time-limited benefits, and decreasing TANF caseloads. These caused IV-D caseloads to decrease as well. Additionally, cases have decreased because tribal cases have been shifted from DES to the tribes and also because of case clean-up, e.g. duplicate cases, cases that needed to be closed, etc.

Leona gave a PowerPoint presentation (see Attachment A) on Arizona's performance measurements. The presentation included the following information:

- Arizona's current IV-D caseload is 253,929
- The program is funded with 66% federal funds, 24% DCSE earned funds and 10% state general funds
- Arizona's TANF caseload is 50% higher than the national average
- In 1997, for every $1 spent / $1.28 was collected
- In 2005, for every $1 spent / $4.42 was collected
- 30% of their expenditures are outside DES (Superior Court, AG legal fees, etc.
- The total Arizona IV-D arrearage amount is $1.9 billion (principal and interest)
- The IV-D program is measured in five performance areas:
    - Paternity Establishment – percentage of cases with paternity established
        - Arizona 2005 - 81.1%
        - National 2004 – 80.21%
    - Support Order Establishment – percentage of cases with child support orders

        - Arizona 2005 – 73.9%
        - National 2004 – 74.4%
    - Current Collections – **amount collected on current support/ total current support owed**
        - Arizona 2005 – 44.36%
        - National 2004 – 58.9%
    - Arrears Collections – **amount paid on arrears/total amount of arrears owed**
        - Arizona 2004 – 50.5%
        - National 2004 – 59.9%
    - Cost Effectiveness – Dollars collected into dollars expended
        - Arizona 2004 - $4.42
        - National 2004 - $4.38

Leona suggested some recommendations to help the IV-D program:

- Encourage non-IV-D population and their attorneys to use IV-D services
- Increase awareness in the paternity arena
- Educate IV-D case participants
- Convert from judicial child support order establishment to administrative establishment through the IV-D agency when both parties agree
- Reduce number of court hearings on initial order
    - Allow automated enforcement actions
- Eliminate need for court to order judgment on arrears
    - 30 day notice to both parties before DCSE records become administrative order of arrears to be filed with Clerk of Court
- Total document imaging acceptance

2006 PLANNING CONTINUED FROM SEPTEMBER MEETING

Representative Hershberger asked members for input on 2006 committee discussions and initiatives and indicated that current child support collections are key for this Committee to focus on.

Judge Davis explained that most cases start with 3-year judgment meaning the pleading was filed three years after the child was born. If the process was moved closer to the child's birth, a three-year arrearage build-up could be avoided. It also alienates the child from a parent for three years (if you bond father with child earlier on, you improve collections). Another thing that hurts the collection rate is that parents give up on paying child support when they get so far behind, which could help be prevented by early intervention. Representative Hershberger proposed that we refer these issues to the Child Support Solutions workgroup and charged that workgroup with bringing a goal and objectives back to this Committee at the December meeting.

Members also suggested looking at: (1) the interest rate charged on unpaid support; (2) public outreach; (3) simplification of forms and court processes; (4) shorten the time employers have to comply with wage assignments.

CHILD SUPPORT SOLUTIONS
Leona Hodges reported that the group continues working on streamlining the judgment of arrears process. She plans to invite Judge Davis to join the group.

ECONOMIC STUDY WORKGROUP
Kim Gillespie and Judge Stauffer reported that the workgroup has been meeting where discussions continue about making sure that our policies and numbers match. The group plans to meet in January, March, May and June and have recommendations for this group on an approach to the guidelines that is more realistic and possibly simpler than what they are now.

CALL TO THE PUBLIC
No one requested to speak to the Committee.

NEXT MEETING
December 6.

ADJOURNED
The meeting was adjourned at 12:41 p.m.