

Report of the Interim Committee on Child Support Guidelines (Draft Presented to the Committee for its Final Approval)

June 29, 2006

I. The Committee's Charge.

Arizona conducted its most recent review of its child support guidelines during 2003. The Workgroup that conducted this review had questions about some consultant recommendations but concluded that it could not develop an adequate understanding of their basis within the time constraints of the quadrennial review process. The Workgroup therefore recommended creation of an Interim Committee to review the methods currently employed by the consultant to generate its recommendations, and to consider whether consultants to future guideline workgroups should be asked to use different methods to generate their recommendations. The Interim Committee studied this matter intensively over a two-year period. It was aided substantially in this effort by reports and analyses prepared by Ira Ellman and Tara O'Toole Ellman. This report states the Committee's central conclusions, the main facts upon which those conclusions are based, and its recommendations for changes to implement for the next quadrennial review of Arizona's support guidelines.

II. Legal Background

- A. Federal law (45 C.F.R. § 302.56) requires states to have support guidelines that
- a. are applicable statewide
 - b. take into consideration the non-custodial parent's earnings and income;
 - c. are based on specific numeric and descriptive criteria; and
 - d. result in a computation of the support obligation
 - e. are reviewed and if necessary, revised, at least once every four years.

B. States have broad discretion as to the actual content of their guidelines. There are no federal requirements concerning the amount of support that state guidelines should require, and there is in fact wide variation among the states.

III. The Purposes of Child Support

- A. The committee believes that child support serves three major purposes
1. **Child Well-Being:** To ensure the well-being of children, to the extent their well-being depends upon their financial support, and to the extent their parents are capable of providing for their financial needs.
 2. **Dual-Obligation:** To recognize that both parents have a support obligation, and to allocate that obligation fairly between them.
 3. **Gross Disparity:** To protect the child from suffering an unduly disproportionate decline in living standard, as compared to the living standard of either parent.

B. The current method for generating support guidelines makes no attempt to serve Purposes 1 or 3, but instead focuses exclusively on Purpose 2.

C. **Earners' Priority Principle:** Setting fair support amounts requires a tradeoff between satisfying the three major purposes of child support, on one hand, and respecting the obligor's claim to priority in deciding how to spend his or her own earnings, on the other.

1. In judging how to make that tradeoff, one must keep in mind that every support payment will necessarily both

A. increase the living standard of all members of the custodial household, including the custodial parent, a new spouse or partner of the custodial parent, and children living with the custodial parent beyond those for whom the obligor has a support obligation, and

B. reduce the living standard of all members of the obligor's household, including a new spouse or partner of the obligor, and children living with the obligor beyond those who are the subject of the support order.

2. While the presence in the custodial and noncustodial households of the additional persons noted in Paragraphs 1(A) and 1(B) may reasonably be considered in setting the support amount that best balances the purposes of support against the Earner's Priority Principle, it provides no basis for eliminating support obligations in their entirety.

D. In the quadrennial review of support guidelines, the role of the Guideline Workgroup, and ultimately of the committees and courts to which it reports, is to determine the fair support amount to require of obligors in families of varying size and income level, in light of A, B, and C above. The role of the consultant is to provide these policymakers with the information they need to make that judgment. In particular, policymakers need information about the impact of any proposed support amount on each of the two households affected by it.

IV. The Method Currently Employed in Arizona

A. Arizona uses the income shares model. The defining feature of an income shares model is that it sets the basic support obligation as a percentage of the combined parental income, and requires the support obligor to pay a share of this basic support obligation proportional to his or her share of the combined parental income. Its advantage is that a model that considers the income of both parents appears more fair, to most people, than a model that considers the income of the support obligor only. The committee believes that Arizona should retain support guidelines that consider the income of both parents. While most states use income shares guidelines, the amount of the support payment they require in any given situation varies widely.

B. The most important decision affecting the support amount required in any income shares model is the choice of the percentage that will be applied to the combined parental income to yield the basic child support obligation that is allocated between the parents. Most income shares states apply a percentage that declines as total parental income rises, yielding a regressive support rate schedule.

C. Under current practice, the percentage recommended by the consultant is based upon the consultant's estimate of the *marginal* (additional) expenditures attributable to the presence of children in intact, two-parent families. There are several difficulties with this practice:

1. It looks backward, to the child's situation in the intact family that no longer exists—or which may have never existed--rather than forward to the situation of the two households in which the child will now be living.

2. Because it does not look forward, it obscures, from the view of policymakers, the key information they need: the impact of any proposed support amount on the relative economic status of the custodial and noncustodial households.

3. Any estimate of expenditures on children depends upon one's assumptions about what counts as an expenditure *on children*. How much of the rent is an expenditure on children? How much of the utility bill? The phone bill? The cost of owning a car? Items not counted as child expenditures are not allocated, which means the obligor does not contribute to them and responsibility for them is left entirely with the custodial parent. The current method relies on assumptions about how these expenses should be allocated that are made without reference to child support policy and are largely invisible to the workgroup charged with formulating the guidelines.

4. The only available data on household expenditures are derived primarily from interviews with sample groups who are asked to recall their income and expenditures by category over the prior three months. The literature demonstrates systematic errors in their recollections, and these errors necessarily distort estimates of expenditures on children that are based upon this data. In particular, the current guidelines' regressive support schedule arises in part from these erroneous recollections.

V. A Change in Method Would Yield Guidelines That Better Serve the Policy Purposes of Child Support Laws

A. The current method yields results in certain categories of cases that are problematic.

1. The child's financial well-being depends primarily upon the income of the custodial parent, and relatively little on the income of the support obligor. If the custodial parent is poor, the custodial household remains poor even when the support obligor's income is high. This feature of existing guidelines is the direct result of basing support amounts on marginal child expenditures in intact families.

2. Children whose parents earn, in the aggregate, the same income, can nonetheless find themselves in dramatically different financial circumstances depending upon whether they live primarily with the higher or lower earning parent. This financial disparity between the two parents' households becomes even more pronounced as the allocation of custodial responsibility between them approaches equality.

3. Low-income obligors are expected to pay unreasonably high support amounts to high-income custodial parents, given that in these cases the child enjoys a much higher living standard than the obligor even before any support is paid.

B. To minimize these anomalies the committee recommends that in the future Arizona rely on a method for generating child support guidelines that focuses on the relative economic well-being of the two parental households as they exist at the time of the support order, in contrast to the current method that focuses on the expenditures on children in intact two-parent

families that no longer exist and may never have existed. These anomalies cannot be avoided entirely because support guidelines are necessarily based upon principles that are sometimes in tension with one another. The proposed approach, however, has the advantage of giving the committee the information it needs to balance these competing principles in the way that best meets the needs of Arizona citizens.

VI. Recommended Changes in the Quadrennial Guideline Review Process

A. The Interim Committee recommends a fundamental shift in the method used to develop child support guidelines, from the current backward-looking method that ignores two of the three purposes of child support, to a forward-looking method that allows the relevant policymakers to assess the support amounts that constitute the fairest tradeoff.

B. What follows is the Interim Committee's suggestion of a practical method for implementing this shift, understanding that the next Guideline Workgroup is likely to develop and refine these suggestions as it does its work.

C. The consultant should be asked to provide the Workgroup with the answer to each of the following questions, and the consultant's basis for its answer. It is understood that the answer may consist of a range of reasonable estimates, rather than a single number. In the case of questions 1 through 4, separate answers will be required depending upon the number of children in the household. This information will provide the Workgroup with the benchmarks it requires for the policy decisions it must make.

1. What is the minimum household income required in Arizona to provide a single-parent household the living standard necessary to maintain the basic welfare of the children: adequate nutrition, safe and clean housing, and appropriate clothing and other items needed to successfully attend school?

2. What is the income above which additional dollars will contribute relatively little additional well-being to children in an Arizona single-parent household?

3. What is the approximate income required to provide an Arizona single-parent household the same living standard as that of the median two-parent Arizona family with the same number of children? What is the approximate income required to provide that same living standard to a single person in Arizona?

4. What is the percentage increase in expenditures required to allow a single person to maintain his or her living standard when children are added to the household?

5. What is the income required in Arizona for a single person to avoid living in poverty?

D. The Guideline Workgroup, informed by the consultant's advice as to the range of reasonable answers to the foregoing questions, will choose, for each question, the particular answer it will employ in constructing support guidelines. This choice is necessarily based on policy preferences as well as data, given that it is not possible for anyone to provide data that will give single numbers as the only possible answer to the questions.

E. The consultant will construct a spreadsheet, analogous to the one prepared for the Interim Committee by Tara Ellman, that employs the values chosen in Step D, that will calculate the relative outcomes, before and after the child support payment, for both the custodial and

noncustodial household, for any combination of parental incomes and support payment, at a full range of family sizes.

F. The Workgroup will begin its deliberative process by choosing a sample of custodial parent incomes and obligor incomes spanning a range that includes most Arizona households. Six income levels each, for obligor and custodial household, should be sufficient for this initial step. Using the spreadsheet provided by the consultant, it will compare the outcomes, under current guidelines, of the custodial and noncustodial households, for each of the possible combinations of these sample parental incomes, for each family size intended to be addressed by the guideline grid. This comparison will allow it to make judgments as to the changes, if any, it wishes to make in the support amount called for in any of these cases under existing guidelines. These judgments will reflect the committee's conclusions about how to balance appropriately the purposes of requiring child support, and the Earner's Priority Principle, as explained above in Section III(C).

G. Once the Workgroup has completed Step F, the consultant will interpolate, from the sample cases addressed, to a larger grid that employs 12 values each for the custodial and noncustodial parental incomes, and spans the full income range encompassed by current guidelines. The consultant should highlight, for the Workgroup's attention, any anomalies or difficult policy choices that became apparent in preparing this interpolation. The Workgroup shall examine this enlarged grid, making any changes it believes appropriate in light of the balancing required under Section III(C).

H. After Step G is completed, the consultant shall interpolate from the resulting 12 x 12 grid the full grid intended to be incorporated in the new guidelines, and will present this grid to the Workgroup for its approval.

I. In making the judgments called for in this section, the Workgroup should be informed by scientifically valid survey data of Arizona residents that shows how they weigh the competing considerations and how they would make the tradeoffs required in setting support amounts. To the extent such data is not available, consultants should if possible be funded to collect it.

VII. The Procedure for the Next Quadrennial Review

1. Because the process for generating the next set of guidelines will be new, it is advisable to obtain continuity by including some members of the Interim Committee on the next Guideline Revision Workgroup.

2. Care will be necessary, in drafting the next Request for Proposals, to communicate to prospective consultants the kind of information the committee will expect to receive in its next review, since it will differ from the task consultants have been asked to perform in prior reviews. In addition to the information required to implement the under new methods recommended in this report, it would also be useful if the committee had information as to whether experience in Arizona reveals any consistent patterns in the adjustments judges order to take account of child care and health insurance costs. If such patterns exist, they could provide the basis for a simplified procedure, in the next set of guidelines, for taking account of these costs.

VIII. Conclusion

The Interim Committee believes that these recommendations will yield support guidelines whose underlying rationale is both more transparent and more defensible, than is possible with current methods. In addition, while the process for generating guidelines will be new, members of the public should find the resulting guidelines simpler to use, with fewer interim steps required to arrive at a child support amount.