

FAMILY COURT IMPROVEMENT COMMITTEE - CHILD SUPPORT GUIDELINES REVIEW SUBCOMMITTEE

Minutes

March 1, 2021 10:00 a.m. (Virtual Meeting)

Present:

Telephonic: Judge David Gass (chair), Carol Park Aden, Judge John Assini, Laura Belleau, Mary Boyte Henderson, Judge Bruce Cohen, Kellie DiCarlo, Judge Joseph Goldstein, Jennifer Mihalovich, Janet Sell, Rosa Torrez, Steve Wolfson

Absent/Excused: Jeff Fine, Vance Simms

Presenters/Guests: Don Bays, Horne+Horne; Chris Gorman, Gorman Consulting Group, LLC; James Lawson, Patricia Madsen, Managing Attorney, Community Legal Services; Dr. Jane Venohr, Center for Policy Research

Administrative Office of the Courts (AOC) Staff: Theresa Barrett, Angela Pennington, Susan Pickard

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The March 1, 2021, meeting of the Family Court Improvement Committee – Child Support Guidelines Review Subcommittee (FCIC-CSGRS) was called to order at 10:00 a.m. by Judge David Gass, chair. This 15th meeting of the subcommittee was a virtual meeting, with all attendees being online, on the phone, or both. Susan Pickard discussed “housekeeping” issues and performed the roll call.

The January 5 and January 8, 2021 meeting minutes were presented for approval. The minutes from the January 15, 2021 Public Comment Hearing were also presented for approval.

<p>Motion: To approve the January 5, January 8, and January 15, 2021 minutes. Moved by Steve Wolfson. Seconded by Judge Joseph Goldstein. Motion passed unanimously.</p>

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Final Economic and Case File Review Report

Dr. Jane Venohr, economist and research analyst, Center for Policy Research, presented the final economic and case file review report. The following points were shared:

- This report is a record that becomes a legacy document to use in future child support reviews and demonstrates that Arizona has met all federal requirements.
- The economics portion of the report was previously presented and has not been changed; however, the information from the case file review was added.
- Recommendations for additional information gathering on the Child Support Worksheet that would streamline the next review include:
 - add a checkbox that indicates whether the child support order was issued by default;
 - add checkboxes that indicate whether income was attributed and to whom;
 - add a checkbox that indicates whether the child support amount was adjusted for a multi-family circumstance; and
 - add a checkbox that indicates whether the child support amount was adjusted based on the Self-Support Reserve Test.
- In CY2019 the percentage of child support orders in which payments were made in Title IV-D cases was 85% versus 79% for Non-IV-D cases.
- The Covid-19 pandemic impacted labor market data.

Judge Gass would like to send a note of appreciation for all members involved and asked for that information.

B. Outreach Comments and Responses

Arizona Judicial Council Standing Committees and Commissions

Presentations were made to six Arizona Judicial Council (AJC) standing committees and commissions. Overall, the response to the restyling and substantive changes to the guidelines was positive. The Committee on the Impact of Domestic Violence in the Courts approved the restyling and accessibility of the guidelines but did not support the substance.

Judge Gass pointed out that the public comments made at the January 15, 2021 Public Hearing did not always pertain to the Subcommittee's work. Nevertheless, he emphasized that the input received was insightful and important.

Other Organizations

Judge Jack Assini and Laura Belleau reported on their recent presentation to the Pima County Family Law Practitioners and noted that the guidelines were well received.

It was suggested that additional examples illustrating different tax rate calculations might be helpful. The member consensus was to not make additional changes at this time.

Community Legal Services

Concerns have been raised by Community Legal Services (CLS) on behalf of their client community. The following issues were discussed:

- Determining Child Support Income – The Earned Income Tax Credit (EITC) and Additional Child Tax Credit (ACTC) should be added as examples of mean-based income not to be included in a parent’s child support income.

Motion: To add EITC and ACTC to the subsection as means-tested tax benefits. **Moved by** Janet Sell. **Seconded by** Carol Park Aden. Motion passed unanimously.

- Discussion ensued regarding special needs children. No changes were made. The committee recognizes that the issues regarding children with special needs is important and should be continuously reviewed.
- Childcare expenses.

Motion: To add the language “dependent of one of the parties”. **Moved by** Laura Belleau. **Seconded by** Janet Sell. Motion passed unanimously.

- Parenting time adjustments – the following points were noted:
 - concern about defining essentially equal parenting time as 164 days or more rather than using the previous 182.5 days;
 - time child(ren) have in school has typically not been counted when calculating parenting time; and
 - the parenting plan should be the guiding authority.

Motion: For the record to reflect that the issue of parenting time adjustments was objected to and to end the discussion. **Moved by** Judge Bruce Cohen. **Seconded by** Jennifer Mihalovich. Motion passed with a vote of 10 for and 1 against.

Motion: To change the threshold for an equal parenting time adjustment of .50 from 164 days to 172 days and add more tiers to the Parenting Timetable chart. **Moved by** Carol Park Aden. **Seconded by** None. Motion not seconded; motion failed.

Judge Gass reminded members that the issue of equal parenting time has been previously discussed and is subject to further review at future quadrennial reviews.

- Self-Support Reserve Test - Minimal discussion took place regarding the Self-Support Reserve (SSR) Test. Consensus was that it is subject to further review at future quadrennial reviews.
- Child Tax Benefit – It was suggested that the obligor should be the one to initiate contact and take responsibility for the process. The members agreed to allow the process in the guidelines to be implemented with the recommendation that any future review subcommittee analyze its impact.

- Interest on Arrearages – While all agreed that the current 10% simple interest on child support arrearages is excessive, it is outside the scope of this review. Because the interest rate is set by statute, this issue may be best addressed by the Family Court Improvement Committee.

C. Call to the Public. (taken out of order)

Patricia Madsen spoke to the subcommittee.

D. Child Support Guidelines Review Report and Recommendations Finalization

Motion: To adopt the Child Support Guidelines Review Subcommittee Report and Recommendations as formatted granting the Chair permission to make technical and conforming changes. **Moved by** Janet Sell. **Seconded by** Steve Wolfson. Motion passed with a vote of 10 in favor of and 1 against.

Motion: To add new heading, “Equitable Allocation of Child-Related Tax Benefits,” to the draft Report and Recommendations. **Moved by** Carol Park Aden. **Seconded by** Laura Belleau. Motion passed unanimously.

Regarding additional referrals to a future Interim Review or Quadrennial Review, Judge Gass recognized that there is still a lot of work that needs to be done to address the parenting time issue. He suggested that the discussion focus on the parenting time adjustment with decreased emphasis on the calculation to address the issues more broadly.

Following further discussion, it was agreed that Judge Gass and Ms. Pickard would add the following tax issues to the list of items being referred any future review:

- Affordable Care Act (ACA) tax penalty;
- equitable allocation of child related taxes; and
- assessment of Section XI.B. Allocation of the Tax Benefits Process.

Judge Gass requested a vote to allow him to make technical and conforming changes such as cross-references if they are not substantive. No objections, the subcommittee supported his request.

Motion: The term rebutted is not common English; the sentence “If this presumption is rebutted, the court may order a deviation under Section IX below...” will be changed for clarification. **Moved by:** Carol Park Aden. **Seconded by** Judge Bruce Cohen. Motion passed unanimously.

Motion: To include the following three issues: parenting time adjustment, school days, and tax benefits, along with other issues as suggestions to be addressed at the next quadrennial review. **Moved by:** Janet Sell. **Seconded by** Carol Park Aden. Motion passed unanimously.

Furthermore, it was suggested that the following two underlying factors be more closely examined: married taxpayers versus single taxpayers, and a cap to child rearing.

E. Proposed Arizona Child Support Guidelines Finalization

Motion: To adopt the Child Support Guidelines as formatted with permission to make technical and conforming changes. **Moved by** Janet Sell. **Seconded by** Steve Wolfson. Motion passed with a vote of 10 in favor of and 1 against.

III. OTHER BUSINESS

A. Announcements/Call to the Public

- Judge Gass commended the members and staff for their excellent work and dedication on the guidelines and report. He suggested that members interested in participating in future workgroups formed to study identified child support issues reach out to staff.

The meeting adjourned at 1:55 p.m.