

# Child Support Guidelines Interim Review Committee

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## MINUTES

Tuesday, August 22, 2017

Conference Room 332 Arizona State Courts Building 1501

West Washington Street

Phoenix, AZ 85007

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**Present:** Judge Paul McMurdie (chair), Judge Suzanne Cohen, Judge Joe Goldstein, Janet Sell

**Telephonic:** Judge Michael Peterson, Commissioner Lisa Bibbens, Annalisa Masunas, Rosa Torrez

**Absent/Excused:** Kiilu Davis

**Administrative Office of the Courts (AOC):** Theresa Barrett, Jodi Jerich

**AOC Staff:** Kathy Sekardi, Sabrina Nash

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## I. REGULAR BUSINESS

Welcome and Opening Remarks. The August 22, 2017, meeting of the Child Support Guidelines Interim Review Committee (CSGIRC) was called to order at 10:03 a.m. by Judge McMurdie, chair.

### Approval of Minutes

This was the first meeting of the CSGIRC, therefore, no past minutes were offered for the committee's approval.

## II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

### A. Review and discuss identified child support guideline issues

Ms. Janet Sell, Assistant Attorney General, discussed revisions to federal regulations (45 CFR § 302.56) that mandate updating and changing states' child support guidelines. ([The Final Rule: Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs](#))

- 1. *Minimum wage and the self-support reserve:*** Effective January 1, 2017 Arizona's state minimum wage increased to \$10 per hour. The monthly full-time minimum wage has increased from \$1,394 to \$1,733. Due to this increase, low-income obligors may pay a higher percentage of their earnings for child support unless the self-support reserve amount is also increased. The committee discussed several alternative proposals to adjust the self-support reserve. Because the new state minimum wage law will increase the minimum wage over the next several years, the committee believes it is appropriate to redefine the self-support reserve as a percentage of the state minimum wage so that the self-support reserve can automatically adjust over time. The committee members discussed several alternative options to determine an appropriate percentage. The members agreed to recommend an evidence-based percentage of 19-20 percent of the paying parent's income. Proposed language will be drafted and distributed to the

committee members for review prior to the next meeting.

2. **Incarceration provision:** The new federal rule requires states guidelines to provide that incarceration may not be treated as voluntary unemployment in establishing or modifying support orders. The committee reviewed and agreed to recommend adding the below proposed language to Section 5E. of the child support guidelines:

*“The court may not attribute income to a person who is incarcerated, but may establish support based on actual ability to pay.”*

3. **Rounding to the nearest dollar:** The committee members discussed simplifying the child support calculator to round the ordered amount to the nearest dollar. The members agreed an order should be rounded up if the order ends in fifty cents or more and rounding down to the nearest dollar amount if it is forty-nine cents or less and that this is not considered a deviation. Proposed language will be distributed to the committee members for review prior to the next meeting.
4. **Standard language for de minimus orders:** The committee members discussed whether to propose adding standard language to the guidelines regarding orders that are insignificant in value. After debating the issue, the members decided not to address this issue in the guidelines.
5. **Affordable Care Act:** The Affordable Care Act’s impact on Arizona’s tax exemption allocation was discussed. The members decided this issue should be examined more closely during the next quadrennial review.
6. **Terminology-Parents:** The issue of gender-neutral terminology regarding parents, in the guidelines, worksheets, and the child support calculator, has not been addressed on a statewide level. It was noted that some of the current worksheets use “father” and “mother,” which could be confusing when same-sex parents seek child support orders. Maricopa County is currently examining whether to use first names in a child support order, while Pima County is using the terms “obligee” and “obligor” in child support worksheets. The Attorney General’s Office designates the parents in their worksheets with the terms “paying parent” and “receiving parent.” One member reported that the word “custody” has been removed from many statutes and replaced with “legal decision-making and parenting time.” The members believe it is important to standardize the terminology; however, suggested waiting for Maricopa County to finalize their forms review before examining the issue further.

## **B. Case Law issues**

1. **Mitton v. Mitton:** Members discussed memorializing the holding in Mitton by including in the child support guidelines an example of calculating parenting time in situations where parenting time differs for multiple children. Proposed language will be distributed to the committee members for review prior to the next meeting.
2. **Lundy v. Lundy:** In this matter, the Arizona Court of Appeals noted in a footnote:

*“Though the second and third sentences of § 5(A) might appear to conflict, we interpret the Guideline as a whole, avoiding constructions that could render any part meaningless. We read the second sentence*

*to prohibit inclusion of income from traditional overtime or second jobs, and we read the third sentence to permit realistic calculation of income in cases involving a parent whose income does not arise from such discrete sources.”*

Members discussed the intent and practical application of § 5(A) of the guidelines, specifically, as it relates to determining gross income of parents by including earnings from a second job. Members believe the examination of this issue is potentially complex and policy considerations will need to be fully vetted. This matter should be considered during the next quadrennial review.

**3. Other issues:**

- **Third-party caregivers** – Judge Cohen will provide a third-party caregiver worksheet for the members to review. Members are to assess whether Section 21 “Third-Party Caregivers” will require revisions to explain and clarify this process.
- **How to allocate insufficient funding for multiple orders** – Members discussed situations where a paying parent does not have the capacity to support multiple children from multiple partners. Arizona Revised Statutes (ARS) § 25-504(I) addresses this issue, but it is not outlined in the guidelines. Members suggested this issue should be fully examined during the next quadrennial review.
- **Ability to pay in multi-partner situations** – The guidelines say an adjustment for another child support obligation must be given if that order is actually being paid; however, members discussed making this provision discretionary rather than mandatory in multi-partner situations. Members decided to provide proposed language to the next quadrennial review committee to consider.

**III. OTHER BUSINESS**

**Good of the Order/Call to the Public.**

No members of the general public were present.

**Adjournment:** The meeting adjourned at 12:40 p.m.

**Next Meeting:**

Thursday, September 21, 2017 11:30 a.m. to 1:30 p.m.  
Conference Room 230

# Child Support Guidelines Interim Review Committee

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## DRAFT MINUTES

Thursday, September 21, 2017  
Conference Room 230 Arizona State Courts Building  
1501 West Washington Street  
Phoenix, AZ 85007

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**Present:** Judge Paul McMurdie (chair), Judge Suzanne Cohen, Janet Sell, Kiilu Davis, Rosa Torrez

**Telephonic:** Judge Michael Peterson, Commissioner Lisa Bibbens, Annalisa Masunas, Judge Joseph Goldstein

**Absent/Excused:** N/A

**AOC Staff:** Kathy Sekardi, Sabrina Nash

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## I. REGULAR BUSINESS

Welcome and Opening Remarks. The September 21, 2017, meeting of the Child Support Guidelines Interim Review Committee (CSGIRC) was called to order at 11:40 a.m. by Chair Judge McMurdie.

### Approval of Minutes

The draft minutes from the August 22, 2017, CSGIRC meeting were presented for approval.

**Motion:** Judge Cohen moved to approve the August 22, 2017, minutes as presented.  
**Seconded:** Janet Sell. **Vote:** Unanimous.

## II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

### A. Review and discuss identified child support guideline issues

Judge McMurdie informed the committee members that *Mitton v. Mitton* (1 CA-CV 15-0769 FC) opinion was de-published since the last meeting and inquired as to whether the committee desired to move forward with the proposed recommended changes to Section 11. ADJUSTMENT FOR COSTS ASSOCIATED WITH PARENTING TIME. All committee members agreed to memorialize the holding in *Mitton* by including in the child support guidelines an example of calculating parenting time in situations where parenting time differs for multiple children.

The committee members continued to discuss terminology to replace “custodial parent,” “custody,” and “non-custodial parent.” The members agreed to move forward with the current proposed language and to allow time for a committee member to look at each of the designations for these terms.

The members proceeded to review and discuss other proposed changes to the guidelines. The proposed changes are attached to the [Preliminary Report and Recommendations](#), Appendices B

and C.

**B. Public hearing meeting**

October 26, 2017 is the date that was selected for the public hearing meeting. A public forum will be developed and launched on the Arizona Judicial Branch webpage to receive [public comments](#) prior to the public hearing for committee members to review.

**III. OTHER BUSINESS**

**Good of the Order/Call to the Public.**

No members of the public were present.

**Adjournment:** The meeting adjourned at 12:59 p.m.

**Next Meeting:**

Public Hearing Meeting  
Thursday, October 26, 2017 10:00 a.m. to 2:00 p.m.  
Conference Room 230