

Kansas Child Support Guidelines Advisory Committee  
February 27, 2015  
Approved Minutes

Present: Hon. Thomas Foster, Chair; Hon. Constance Alvey; Hon. Amy Harth; William McClain; Amy Beardy; Larry Rute; Melissa Johnson; Charlie Harris; Brian Mull; Carol Park; Sherri Loveland

Absent: Lisa Howell

Guests: Dr. Pelkowski, Economist; Sean Ostrow, DCF Attorney

Staff: Mark Gleeson and Elizabeth Reimer

Review and Approval of Minutes from January 23, 2015

Charlie Harris moved to adopt the minutes from the January 23, 2015, meeting as modified. Melissa Johnson seconded the motion. The motion passed.

Adoption of Child Support Tables

Charlie Harris moved to adopt the 4, 5, and 6 child schedules provided by Dr. Pelkowski. Judge Alvey seconded the motion. The motion carried.

Economist's Report

Dr. Pelkowski provided additional information regarding the dissolution burden currently built into the Kansas Child Support Guidelines and accounts for the fact that there are two separate households that have some duplicated expenses. She indicated some states build this into their child support guidelines and refer to the adjustment as a "self support reserve." Our dissolution burden provides a downward adjustment at the low and high income levels. Dr. Pelkowski's primary message was that Kansas does not need to add an additional dissolution burden to the existing schedules. Some states multiply the basic child support by 1.5 to account for the dissolution burden. Dr. Pelkowski does not recommend adding back in a dissolution burden. The dissolution burden affects a household in its entirety. Dr. Pelkowski indicated it would be inappropriate to add the dissolution burden back in before considering the Parenting Time Adjustment.

The Consumer Expenditure Survey (CES) includes data from a variety of family constellations including married, intact families, as well as divorced families with both households able to fill out the survey. Financial diaries are kept by the households. Vehicles, cell phones, dog food, and all expenses incurred by the family are included in the CES.

Dr. Pelkowski provided an additional explanation on the dissolution burden in her report titled, "Determining the 2015 Child Support Schedules." There is a little more judgment in

determining the amount of the deduction at the higher income levels (\$15,500). She can include information about what is included and not included in the dissolution burden. The committee suggested that Dr. Pelkowski add a sentence to her report, “The dissolution burden applies equally to both households that have shared custody as well as those where custody resides primarily with one parent.” Charlie Harris moved to adopt the Economist’s Report. Professor Linda Elrod seconded the motion. The motion carried.

### Vehicles and Cell Phones

Charlie Harris inquired if the costs associated with vehicles or cell phones used by a child can be fairly added or removed from the schedules. Dr. Pelkowski indicated that expenditures on vehicles and cell phones are included just like all other expenditures. Since the comparison is on families at equal or nearly equal income levels and on children of a similar age, it is not necessary to pull vehicles or cell phones out of the schedules.

### Health Insurance and Daycare

There may be problems with work-related incentives if the method of calculating daycare is changed. Dr. Pelkowski recommended the child support guidelines not change the calculation of daycare or health insurance. Charlie Harris moved to accept Dr. Pelkowski’s recommendation regarding daycare and health insurance. Larry Rute seconded the motion. The motion was carried.

### Dennis Molamphy, Attorney

Dennis Molamphy gave a presentation to the committee with the following handouts:

- A problem with the Current Tax Consideration Models
- Advisory Committee Agenda Items for February, Dennis Molamphy

Mr. Molamphy indicated that the policy not to factor in county differences in wages is flawed. He recommended changes to the Income Tax Consideration Adjustment and pointed out an error in the tax calculation worksheet. Further, Mr. Molamphy believes that depending on whether the individual itemizes deductions on their federal income tax return, the Kansas income tax return does not necessarily follow the federal return regarding alternating exemptions for the child. Mr. Molamphy looks at federal and Kansas Adjusted Gross Income (AGI) proactively, not on past returns. Mr. Molamphy’s model would exempt self-employment and farm incomes. Mr. Molamphy also indicated there were problems with the Bradley software.

Doni Mooberry pointed out that alternating the tax exemption is a problem given the federal Affordable Care Act (ACA). Mr. Molamphy disagrees. He presented multiple scenarios (alternating and not alternating) to his clients and let the individuals pick which method they prefer. Some clients prefer to incur the loss and the current guidelines do not give the client a way to examine all options. Professor Elrod moved to send this issue to the Tax Subcommittee (Doni Mooberry and Charlie Harris) for review. Judge Alvey seconded the motion. The motion carried.

## Tax Update

The Tax Subcommittee was asked to make a presentation on the impact of the Affordable Care Act at the March meeting. There is the potential for problems unless parents have a good relationship and communicate well. This is also a problem if the custodial parent is not the parent claiming the exemption. Additionally, problems arise if the child(ren) does not have health insurance or does not have health insurance for the entire twelve months or if they are not claiming the child(ren) as an exemption. It was suggested that we may need to put an alert on the guidelines. This has been developed and approved as an amendment to Section IV.E.3

Issues regarding how the Bradley software calculates the Kansas tax factors: Ms. Mooberry will review the data entry screen to determine if Bradley is correctly calculating the Kansas tax information. There are several circumstances where individuals do not pay Kansas income tax and this needs to be reviewed. Currently, there is no child tax credit and the earned income tax credit has been lowered.

It was suggested that an explanatory statement regarding the income tax changes be put in an appendix. Ms. Mooberry will draft a paragraph for the tax committee to review ahead of the next meeting.

## Parenting Time Adjustment (PTA) Discussion

The committee was provided with two different parenting time adjustment proposals by Brian Mull and Charlie Harris. Both Brian and Charlie's proposals introduce parenting time adjustments at thirty percent parenting time rather than the current thirty-five percent. Charlie proposed to increase the current five percent, ten percent, and fifteen percent adjustments to ten percent, fifteen percent, and twenty percent, respectively. Brian's proposal uses a linear method. He presented a "PTA Worksheet" to the committee at the January meeting. Brian's method combines all parenting time adjustments, including shared residency, into a single worksheet. Brian provided the committee with a brief review of his proposed method and a direct comparison to Charlie's proposed method. Brian provided tables and graphs comparing each method.

Brian explained that Charlie's proposal to add five percent to the existing parenting time adjustments will not eliminate the large change in child support observed when transitioning from residential/nonresidential parenting to shared residency. Some committee members stated the large change in child support from 49 percent to 50 percent parenting time is intended and acknowledges the change from one parent providing direct expenses to sharing of direct expenses. Some committee members stated that Brian's method is based on a direct expense sharing plan, which creates excessive adjustments for parenting time. Brian rebutted, explaining that his proposed method is not based on direct expense sharing, but rather the equal parenting time (EPT) formula. His method adjusts for indirect expenses, but does not adjust direct expenses. Brian stated that his method holds direct expenses constant because they do not typically change with parenting time. Brian clarified that the EPT formula was created for

families who do not share direct expenses. Brian's formula can be applied to direct expense sharing families, but his proposed parenting time factors are not based on direct expense sharing.

Bill McClain pointed out to the committee that Dr. Pelkowski had reviewed both Brian and Charlie's proposals. She was asked if Brian's method created a smooth transition from residential/nonresidential to shared residency and whether the mathematical approach worked correctly. Dr. Pelkowski submitted written acknowledgement that Brian's method appears to work as he intends. The committee acknowledged that the current five, ten, and fifteen percent parenting time adjustments are not supported economically or mathematically.

The committee concluded that Brian's method and his proposed "PTA Worksheet" version C.1.2 are too complicated for practitioners to use and provide too much adjustment for parenting time. Charlie Harris motioned to table the parenting time adjustment discussion until the committee's two-year guidelines review to allow the committee more time to review data and comparisons. Charlie proposed that family law attorneys and child support payors and payees could be asked, on a voluntary basis, to use either Brian's method or the current method and provide the committee with their results. There was a motion and a second to table this issue for the current review. The primary basis for the motion was to avoid creating additional problems for parents that would result in increased litigation. The committee discussed the need for data. Mr. Mull indicated he would be willing to process any data collected. There was also an interest in developing general principles that would guide the discussion on Equal Parenting Time and the Parenting Time Adjustment.

#### Shared Residency/Equal Parenting Time (EPT) Discussion

The committee discussed condensing the current thirteen percent, fifteen percent, and eighteen percent for direct expenses on the EPT worksheet into a single percentage. Brian stated that by taking an average of Dr. Pelkowski's data for all income ranges, sixteen percent for direct expenses, and three percent for clothing seemed appropriate. Further, Brian believes most shared residential parents provide clothing, so three percent for clothing should be automatically removed from direct expenses. Some committee members believe the current EPT worksheet is not complicated and does not need revision. There was also consideration for adopting one percentage rather than using the current thirteen percent, fifteen percent, or eighteen percent in the EPT worksheet. There was no motion to change this section of the guidelines.

The not-less-than-zero rule introduced on line 15 of the EPT worksheet was discussed by the committee. Brian reminded the committee that this rule was not introduced by Dr. Pelkowski as part of the EPT formula and can create significant problems for parents with nearly equal incomes. Other committee members stated this rule helps protect the lower income parent and that the problem with understanding the math may not translate into a problem in the courtroom. Brian Mull motioned to remove the not-less-than-zero rule from the EPT worksheet. The motion was seconded by Charlie Harris. The motion failed.

### Definition of Direct/Indirect Expenses

This issue will be discussed at the March 2015 meeting. Mr. Mull will provide information for the committee to review.

### Multiple-Family Application (MFA)

Charlie Harris provided the committee with some background information on the Multiple-Family Application. He explained that the MFA provides a child support payor with a defense to make a motion to increase child support if that parent also has an obligation to care for additional children from another partner. Brian Mull explained that the MFA should be equally available to either parent in any parenting time scenario. The committee will continue discussion and review language changes at the next meeting.

### Extraordinary Expense - Premier Sports

The following question was raised: If money spent on cars and phones used by children is included in the Expenditures on Children by Families report and factored into the Kansas Child Support Guidelines, are items such as premier sports also included? The consensus of the committee, which was confirmed by the Economist, is that the expenditures for these items are incorporated into the schedules.

Melissa Johnson moved to remove the extraordinary expense adjustment. This was seconded by Brian Mull. The motion carried. The impact of this motion is that references to “extraordinary expenses” throughout the child support guidelines will be removed.

### Next Meeting

March 27, 2015

### Possible Agenda Items

Equal Parenting Time/Parenting Time Adjustment  
Multiple-Family Application  
Tax Subcommittee Report  
Direct and Indirect Expenses