

Kansas Child Support Guidelines
Minutes
August 25, 2006

Present: Hon. Nancy Parrish, Hon. Tom Graber, Hon. Tom Foster; Gary Pomeroy, Greta Goodwin, Sherri Loveland, Charles Harris, Jodi Pelkowski, Mark Gleeson., and Elizabeth Reimer.

Approval of July Minutes

The minutes of the July meeting were approved with the following changes: Change all references to “hold-downs” as it applies to child care. This should be changed to “add-ins.” This avoids the appearance that there is an artificial cap on child care contributions. In paragraph 4, delete “update it to 2005” and replace with “uses the Bureau of Labor Statistics 2004.”

Analysis of Economic Basis for Child Support Schedule

Dr. Pelkowski distributed the following documents:

Modified Child Support Schedule dated August 25, 2006
Charts showing comparative data for existing schedules and proposed modified schedule
Comparison of States Child Support Obligations
Vermont Table of Intact Family Expenditures of Children
Web site addresses of states with comparable average annual pay rankings
CEX Inc and Expenditures Less Education and Health
Consumer Expenditure Survey, December 1, 1999
Glossary Notes from Consumer Expenditure Survey Home Page
Miscellaneous Child Support Related Web Site Addresses
Tax Letter from Bureau of Labor Statistics (author, Laura Paszkiewicz)

Child Support Schedules

The committee discussed Dr. Pelkowski’s recommendation to adjust the schedules to account for XX. The recommendation uses the same methodology as has been applied to the current schedule. None of the categories have been eliminated. The adjustment will result is a slight increase in some of the obligations but none will reach the 10% threshold required to initiate a change of circumstance. Charlie Harris moved to make the adjustment. Judge Graber seconded the motion. The committee discussed whether there was adequate information at this time on which to vote to approve the motion. Dave Gregory moved to table the motion and Judge Foster seconded the motion to table the motion until the September meeting.

Several aspects of the proposed schedules were considered by the committee. Of particular interest was whether health care or child care costs were appropriately included or excluded in the data on which the schedules were derived. Dr. Pelkowski led the committee through the process of collecting the data, the limitations of the data collection process, and the risks and limitations of excluding specific data elements.

Three cost areas were carefully reviewed: Health care, child care, and education. All cost areas, as reported in the Consumer Expenditure Survey reflect an average of spending in many different areas for specific consumer units. These families, or consumer units, are extensively surveyed and report their spending during a three month period of time. Families may include children or they may not. Costs for certain items such as food, transportation and housing are most likely included in their spending for the quarter but costs or items such as eye glasses and doctor visits may not. If a family or consumer unit does not have children, they will probably not spend money on such items as preschool or day care. Expenditure data for all of the consumer units in the sample are converted to annual costs and averaged for regional areas. The committee reviewed expenditure estimates for the Midwest.

The committee considered pulling cost estimates for health care, day care as those costs are added back into the child support calculations. It was determined, however, that even if doing so would accurately reflect spending in those areas, doing so would artificially reduce the child support obligation. The committee agreed to accept the recommendation of Dr. Pelkowski to retain the categories of expenditures as they are currently included in the child support schedules.

Following this discussion, the committee voted on the Gregory motion to table the decision to a later date. That motion failed. The committee then voted to accept Dr. Pelkowski's recommendation with the modification adjusting the obligations at the poverty level to smooth the line, in effect slightly lowering the obligation to parents at the lowest income levels but not going below the poverty level. Dr. Pelkowski's recommendation does include an increase to reflect an increase in expenditures on children over the past four years. This amounts to approximately a \$1 per month increase at the lowest income levels, a \$10 per month increase at the middle income levels, and a \$30 per month increase at the highest income levels.

Dr. Pelkowski also provided the committee with information from 10 other states based on average annual wage data. Kansas is ranked 34th in the nation according to wage data from the Bureau of Labor Statistics. She examined the 5 states with average incomes immediately above Kansas and the 5 states with average income below Kansas. Her report suggests that Kansas is "in-line" with states for Kansas incomes in the low to middle ranges but high, compared to the other states examined, for incomes at the higher range.

Dr. Pelkowski also provided information about the Arizona model for determining parenting time. The committee had requested assistance from Dr. Pelkowski regarding this data. The Arizona model counts parenting time in blocks of

full days, half days, and quarter days calculated from the time the child is exchanged between parents. This model had very limited appeal to the committee and was viewed as a means to increase litigation.

Poverty level

Ronen Decision

The committee discussed the Ronen decision which says that costs for extraordinary extracurricular activities are not to be considered a special circumstance. After considerable discussion, Judge Graber offered to draft an explanation of the committee's position and present it at the September committee meeting.

Support past the age of Majority

How support past the age of majority is calculated has been an issue presented at continuing legal education in the past months and at least one court trustee is using the multiple family adjustment with the adult child attending college as the "multiple family." Using the Multiple Family Adjustment in this manner has been suggested by Charles Harris and Linda Elrod and is being used by practitioners. The committee will consider this matter at the September meeting.

Future agenda items

- Support past the age of majority
- Results and progress of surveys
- Smoothing the schedule
- Shared Residency

Shared Residency

The committee discussed shared residency and the application of shared residency. A number of problems appear to be occurring with the application of the shared residency adopted in 2004. Some of the issues result from attorneys not giving their clients adequate instruction as to the criteria necessary for judges to order shared residency.

Charles Harris offered his recommended solution: have one parent responsible for education expenses and the other responsible for clothing expenses. If issues remain, or disagreements arise, the parents can trade responsibilities on an annual basis. Most of the conflicts appear over education and clothing costs. Generally these costs are similar and sharing an entire category of expenses enables the parents to share direct expenses without having to meet on a regular basis to trade and analyze receipts.

Judge Foster shared the problems he has experienced recently with some attorneys not preparing worksheets. Parents are also appearing before the court expecting to eliminate any obligation for child support if they can agree on a shared residency arrangement. Judge Foster emphasizes that shared residency is not a waiver or forgiveness of child support but another way to pay child support.

The committee also discussed whether shared residency orders should be imposed on litigants who either have not reached an agreement on problems with attorneys and parents understanding the application of shared residency.

It was suggested imposing a six-month trial period at the end of which the success of the parenting plan and shared residency is evaluated.

Finally, the committee discussed changing or eliminating the formula for shared residency. Concern was expressed over the confusion any change to the formula might create.

Hearing Officers

The use of hearing officers was discussed as a means to reduce judicial backloads. Decisions of hearing officers are subject to appeal to the district court. Cases with a record are subject to a review of the record. Decisions of the hearing officer without a record are appealed *de novo*.