

**Kansas Child Support Guidelines Advisory Committee  
Minutes  
May 28, 2010**

Present: Hon. Thomas Foster; Hon. Connie Alvey; Hon. Amy Harth; Roy Brungardt; Professor Linda Elrod; Gary Pomeroy; Charles Harris; Sherri Loveland; Larry Rute.

Staff: Mark Gleeson, Elizabeth Reimer

Guest: Jamie Corkhill, SRS; Brian Mullen, Wichita

**Health Care Reform Act**

Jamie Corkhill, SRS, discussed the impact of the new federal health care reform legislation on child support. The federal Office of Child Support Enforcement (OCSE) is drafting regulations which may have an impact on the health care cost analysis. There may need to be an explanation of how the new health care law affects child support in the revised guidelines and the committee may want to consider increasing the maximum age of support. Health care reform provides that parents may cover children up to the age of 26 on their health care policy.

**Proposed Plan and Timeline for the review**

The following proposed timeline and critical event schedule were discussed.

Dates	Discussion Item; Critical Event Schedule
July 23, 2010	Committee meeting; General Discussion
September 24, 2010	Committee meeting; Analysis of deviations from basic child support guidelines (SRS) Review of case law and statutory changes to the guidelines
October 22, 2010	Committee meeting; Economist's review of economic basis for the schedules; Economist's review of health care costs
November 30, 2010	Preliminary Report to Kansas Supreme Court. Not a committee meeting
January 28, 2011	Committee meeting; General Discussion
February 25, 2011	Committee meeting; Public Hearing; public survey; attorney and judge survey
March 25, 2011	Committee meeting; General Discussion
April 22, 2011	Committee meeting; General Discussion
May 27, 2011	Committee meeting; Approval of final recommendation to Kansas Supreme Court
October 1, 2011	New Administrative Order presented to Kansas Supreme Court
January 1, 2012	Effective date for revised Child Support Guidelines

Charlie Harris moved to adopt the timeline and project plan. Professor Linda Elrod seconded the motion. The motion was approved.

### **Review of Appellate Court Opinions and Amendments to Kansas Statutes Annotated**

The committee had a brief discussion of relevant case law. Elizabeth Reimer will prepare a comprehensive review of published and unpublished opinions issued by the Kansas appellate courts and amendments to the Kansas Statutes Annotated and will brief the committee at the July meeting.

### **Topics for Future Discussion**

The committee developed the following list of issues for discussion during future meetings. This list is subject to change.

- Divided Residency Instructions III General Instructions A. 4.
- No issues with change in age categories.
- Shared residency and the 80/20 rule (See brief by Charlie Harris).
- Adjusting the expense of private school off of gross income.
- Should the amount of extraordinary cost for extracurricular activities be treated the same as expenses for private school?
- Imputed income: Should the court consider the circumstance under which someone becomes unemployed as a basis for a reduction in child support? Example: getting fired intentionally or creating a circumstance under which misconduct results in termination.
- Retroactive treatment of raises or bonuses.
- Child care expense, how to handle high or unreasonable amounts for child care expenses, and the need to make the same adjustment for income as Leedy does for expenses.
- The cost of living adjustment is working. The feds need to keep the chart.
- Need to look at each of the examples in the guidelines.
- Concerns regarding case management.

### **Shared Expense - 80/20 Rule**

If the parties do not use the shared expense formula, child support may be established using the 80/20 rule, which creates a significant change in how money flows from one party to the other.

Brian Mullen, Wichita, expressed concern that the 80/20 rule exacerbated child support obligations when different families made widely divergent choices in life style. He specifically cited a family who chose to purchase a \$150,000 home and a family who chose to purchase a \$75,000 home. It was pointed out that the child support guidelines take into account housing, food, transportation, and education, and that these items are not included in direct expenses. The

committee will discuss expenses of public school and private school separately. It is possible that using the shared expense formula may create more problems than it solves in paternity cases where the parents have never been married and have only a minimal relationship.

### **Tax Update**

Roy Brungardt provided the committee with recommended changes in the Qualifying Child/Dependency Rules. Prior to creating the 2009 rules, the problem occurred when the parents were never married, a paternity order was established, parenting time was arranged, and the parents began arguing over how the tax benefit would be alternated between the parties. If neither parent signs the IRS Form 8332, the IRS will instruct both parents to choose who gets the tax benefit. If both parents continue to claim the child, the case goes before the IRS' Tax Court and the district court loses jurisdiction over the tax portion of the child support obligation.

Mr. Brungardt also provided dependency exemptions, tax credit eligibility, and other tax breaks. These are in a red-line version showing the recommended changes to the guidelines.

### **Minutes on the Website**

The committee discussed and moved to put approved minutes on the Kansas Supreme Court website in a readable but not modifiable (pdf) version. Charlie Harris moved. Gary Pomeroy seconded the motion. The motion was approved.