

Kansas Child Support Guidelines Advisory Committee

May 20, 2016

Draft Minutes

Present: Hon. Thomas Foster, Chair; Hon. Constance Alvey; Amy Beardy; Larry Rute (arrived near the end of the meeting); Charlie Harris; Brian Mull; Sherri Loveland; Doni Mooberry; Trisha Thomas; Linda Elrod

Absent: Hon. Amy Harth; William McClain; Carol Park

Staff: Amy Raymond, Elizabeth Reimer, Matt Vogelsberg

Judge Foster called the meeting to order. New committee member Trisha Thomas, child support director for the Department for Children and Families, introduced herself. New staff members Amy Raymond, Director of Trial Court Programs, and Matt Vogelsberg, staff attorney, introduced themselves.

The members discussed the Tax Considerations Worksheet 2016. Charlie Harris noted he had found typos that need to be corrected. There was discussion of whether the worksheet was based on 2015 tax consideration and should be updated to reflect 2016 data. There was debate amongst the members whether the 2016 worksheet is completed using an individual's 2015 tax return or 2016 pay stubs.

Though it was on the agenda to submit the Tax Considerations Worksheet 2016 to the Court as a Guidelines revision, it was ultimately determined that no official action was needed.

Sherri Loveland brought up whether the phrase "Annual Adjusted Gross Income" found in IV.D.5.a should be replaced with "Annual Gross Income." The issue was discovered when working a case with another attorney. Attorneys were using the same figures in the Bradley child support software but arriving at different calculations. There was a discussion on whether use of the phrase "annual adjusted gross income" created a

glitch in the Bradley software. The committee discussed differences in the meanings of the terms and whether one term better reflected the basis upon which child support obligations should be calculated. A change was made to the Bradley software requiring the adjusted gross income to be entered rather than just gross income. Doni Mooberry believes the error is because spousal maintenance is being added to the adjusted gross income without maintenance information being entered. There is also concern that attorneys are using the default amount/autofill amount for the adjusted gross income provided by the Bradley Software.

Judge Foster stated the committee needs to decide what the guidelines should say: annual gross income or annual adjusted gross income and whether the committee should issue a warning to attorneys that there may be a problem with the software.

Sherri Loveland stated there are sections of the worksheet for other income such as dividends; she suggested changing the guidelines to state only annual gross income rather than annual adjusted gross income as other portions of guidelines have always said annual gross income.

Charlie Harris favored taking out "adjusted" and just using the phrase annual gross income.

Judge Foster asked whether this needs to be done immediately or should it be done in the next round of revisions. Sherri Loveland stated she believes it should be done immediately because there are incorrect worksheets across the states as attorneys aren't aware of the issue.

Brian Mull stated that the point is to calculate the tax advantage to a parent claiming children on income taxes and if the gross income is used on the child support worksheet for tax adjustment purposes, then the adjustment isn't correct; tax adjustments are correct when adjusted gross income is used for tax adjustments.

Doni Mooberry stated that adjusted gross income doesn't take into account things such as 401K contributions which lowers a party's taxable income. Mooberry was of the opinion that "annual gross income" should be used to calculate an individual's child

support obligation, but adjusted gross income must be used to calculate tax effects/credits.

Sherri Loveland made a motion to replace "Annual Adjusted Gross Income" found in IV.D.5.a with "Annual Gross Income." Charlie Harris seconded the motion. The resolution passed with Brian Mull voting nay.

Brian asked when the change would be effective. Linda Elrod asked if the committee could ask for an expedited review. Judge Foster suggested waiting until the conclusion of the interim period to submit all the changes together. Loveland asked about issuing an advisory to lawyers about the Bradley software.

After resolution passed, Judge Foster asked whether the committee members should look for other places in the Guidelines where "Annual Adjusted Gross Income" should be replaced with "Annual Gross Income."

Doni Mooberry volunteered to review the guidelines for improper use of the phrase annual adjusted gross income.

There was further discussion about the change to IV.D.5.a. Mooberry suggested simply eliminating the section. Upon further consideration, Mooberry believed use of the phrase "annual adjusted gross income" was probably correct. Brian Mull made a motion to reconsider the vote and return to the original language. Mooberry seconded the motion. The motion carried. Linda Elrod suggested the committee examine the tax sections during the next review period.

Charlie Harris raised the issue of discrepancies between the EPT sample worksheets and the clean version. He suggested deleting blank form on page 73 and replacing it with blank form found on page 89 and then deleting page 89. Harris also made suggested edits to page 11—deleting the phrase "an example" and creating an Appendix XI.

The committee suggested reviewing the changes at its next meeting.

Charlie Harris discussed Shared Expense Formula and Equal Parenting Time. Harris voiced his belief that they were an improvement from the old "80/20" rule. He suggested that no more needs to be done with Shared Expense Formula verses Equal Parenting Time.

Trisha Thomas suggested exempting low-income individuals from SEF/EPT formulas. She preferred applying the old 80/20 formula to low-income individuals.

Linda Elrod voiced concern about a low-income parent not reducing his or her expense by having a child in the home. She believed that the parenting time adjustment does not make sense if one parent's income is much greater than the ex-spouse's income. Elrod stated that when there is a great disparity in incomes, there probably should not be an adjustment.

Judge Alvey suggested that a parenting time adjustment may place a burden on a low-income custodial parent; do the guidelines place a burden on the parent with the lower income by pushing that parent to give up shared residency because it is cheaper to pay a lower amount of support than have a child 50% of the time.

Charlie Harris noted that there had been no economic study on the validity of the parenting time adjustment formula. Harris mentioned having Jodie Pelkowski, the economist from Wichita State University, do an analysis of the parenting time adjustment.

Judge Alvey mentioned observing non-custodial parents seeking to increase visitation in order to lower child support payment.

Doni Mooberry left the meeting to attend a CLE.

Brian Mull gave his presentation on parenting time adjustments and how they are calculated. Mull pointed out that health care and childcare expenses have the potential to

reduce the parenting time adjustment as they are currently calculated. Current parenting time adjustment calculations may lead to drastic changes in child support when compared to shared residency. Other members gave their input.

Larry Rute came into the meeting.

The committee discussed the agenda for the next meeting scheduled for June 24, 2016. A staff member was asked to review the contract the committee had with Pelkowski. Judge Foster asked the committee members to define questions that they would like Pelkowski or another economist to address. Suggested issues included determining the effect of the parenting time adjustments on the poverty level and the minimum amount that is needed to run a household. Committee will frame questions at the next meeting. The economist presentation could be during the next review period. Larry Rute mentioned he would not be able to attend the next meeting.

Judge Foster decided it would be best to keep July 22, 2016, scheduled as a future meeting date. Judge Foster adjourned the meeting.