

Kansas Child Support Guidelines Advisory Committee
Minutes
July 23, 2010

Present: Charles Harris (Acting Chair), Hon. Amy Harth, Hon. Connie Alvey, Professor Linda Elrod, Gary Pomeroy, Larry Rute, Rep. Lana Gordon, and Sherri Loveland.

Attending by Conference Call: Hon. Thomas Foster and John Bird.

Staff and Advisors: Jodi Messer-Pelkowski, Ph.D., Economist; Jamie Corkhill, SRS; Elizabeth Reimer, OJA; and Mark Gleeson, OJA.

Guests: Erin Kessler, Eric Blankenship

Minutes of May 28, 2010

Minutes of the May meeting were approved (motion by Elrod, second by Alvey). These minutes will be posted on the Kansas Judicial Branch web site.

Overview of the Economic Basis for the Child Support Schedules

Economist Jodi Messer-Pelkowski, Ph.D., provided the committee with a briefing on her preliminary work updating the guidelines based on new economic data. She provided an overview of the prior work on which the current guidelines are based and she will provide a final report to the committee at its September 28, 2010, meeting. In addition to revised schedules, Dr. Pelkowski's report will provide an option to raise the top combined income amount from the current \$14,600 to \$20,000, an analysis of using the Consumer Price Index as the basis for adjusting the guidelines, and recommendations for considering health insurance premiums and out-of-pocket medical expenses. It was noted that the guidelines currently take into account health insurance premiums and out-of-pocket medical expenses.

Dr. Pelkowski confirmed that, in the *USDA Expenditures on Children by Families* (2009), spending for child care and education includes child care and education costs but the data does not break out spending on private education. Spending on education includes spending on both private and public schools.

The committee discussed the issue of rising medical costs and the federal Administration for Children and Families' directive to cap medical support orders at 5% of gross income. The committee questioned whether any change to the Kansas Child Support Guidelines was necessary since the guidelines consider the real cost of insurance premiums and out-of-pocket medical expenses (Section IV.D.4). Jamie Corkhill and Dr. Pelkowski will work together to determine what information is available and what information might be useful in making a recommendation. Dr. Pelkowski indicated that economists don't know how spending on health care costs will change considering the passage of the new Federal Health Care Reform Act.

Consumer expenditure data does show what consumers spend on health care not covered by insurance.

Review of Opinions Issued by the Appellate Courts

The committee reviewed unpublished cases decided by the Kansas Court of Appeals. Staff will review all opinions regarding child support and summaries of opinions will be provided to the committee. Opinions will be added to the agenda only if the opinion requires a change to the guidelines.

80/20 Rule (Equal Parenting Time Adjustment) Discussion

The committee discussed the Shared Expense formula and the use of the 20% reduction when the Shared Expense formula is not used. At the May 2010 meeting, Charlie Harris provided the committee with a brief containing seven factors to consider in determining which parent pays. Examples were also included.

Several concerns have become apparent since the Shared Formula and the 80/20 rule were implemented. First, it was believed that generally, the higher income parent would pay the lower income parent but that may not be true if the higher income parent is also paying most of the direct expenses.

Second, when the 80/20 rule (otherwise known as the Equal Parenting Time Adjustment, Section IV.E.2.c) was implemented, it was considered an alternative to the Shared Expense Formula (Section III.B.7) and would be used when the judge would not approve a Shared Expense Formula. In some judicial districts, the practice appears to have resulted in the 80/20 rule being the default option for many families.

In cases where income is relatively equal, shared cost is generally not a problem. Problems occur more frequently when there is a large discrepancy in income. Problems also occur when there are disagreements regarding what is purchased and who can afford which expenses. While the Shared Expense formula results in an even split of direct expenses, the 80/20 rule results in the parties paying a flat percentage (80% or 20%) of the direct expenses. This may create a disincentive to negotiate and work together since it will lower the child support obligation for the higher income parent when there is a large discrepancy in income.

The Shared Expense and Parenting Time Adjustment Subcommittee will consider the following as future agenda items:

1. The validity of the scenarios and an examination of how the Equal Parenting Time Adjustment (80/20 rule) and the Shared Expense formula work.
2. The distinction between families going through a divorce and those seeking revised orders through a post divorce motion.
3. Do the Parenting Time Adjustment percentages need to change?
4. Should direct expenses be divided based on the Proportionate Shares of Combined Income?

Support Past the Age of Majority

The committee discussed the issue of Support Past the Age of Majority. Although this is a legislative issue (K.S.A. 60-1610), the committee recognizes the fact that children of divorce are less likely to have the financial support of parents after they reach the age of 18. The committee requested that this matter be referred to the Kansas Judicial Council's Family Law committee for its consideration.

Private and Parochial School Cost

Practice suggests more and more families are turning to private and parochial schools with the higher cost of public education and the increased class sizes in many communities. This is a complicated issue and was referred to a subcommittee. The subcommittee was requested to consider, but not be limited to, the following questions:

1. Should private or parochial school tuition be factored into the guidelines?
2. How should tithing be considered when it is required separate from tuition?
3. How should costs for home schooling be considered?
4. What should be done when one parent wants a private school and the other is satisfied with public school?
5. What should be done when one parent resides in a small school district and the other in a large urban school district?

The committee recommended that the following subcommittees be created, with the following membership: (This recommendation will be forwarded to Judge Foster for approval.)

1. Educational and Extracurricular Consideration Committee: Hon. Connie Alvey, Charles Harris, Hon. Amy Harth, Larry Rute, and Jamie Corkhill.
2. Shared Expense and Parenting Time Adjustment Subcommittee: John Bird, Charles Harris, Gary Pomeroy, and Sherri Loveland.
3. Support Past the Age of Majority Committee: Professor Elrod will draft legislation and distribute it to members of the committee for review before submitting it to Judicial Council.

Consent Issue

Strike from future agendas: Strike Divided Residency Instructions III General Instructions A. 4.

Tentative Agenda for September 24, 2010

1. Final report from Economist on the Economic Basis for the Child Support Guidelines, revisions to the child support schedules.
2. Analysis of IV-D Deviation Data.
3. Incorporating the case decision (cite case) involving persons who become deliberately unemployed for the purpose of avoiding or reducing child support.

4. Using the Proportionate Shares of Combined Income to determine how much of a bonus is applied to child support.
5. Giving judges direction on how to consider the retroactive application of bonus income. There may be federal regulations which would help develop this guidance.
6. Should the court consider “other resources” available to the household income when one person remarries?
7. Subcommittee Reports
 - i. Education and Extracurricular Consideration Committee: Hon. Connie Alvey, Charles Harris, Hon. Amy Harth, Larry Rute, and Jamie Corkhill.
 - ii. Shared Expense and Parenting Time Adjustment Subcommittee (John Bird, Charles Harris, Gary Pomeroy, and Sherri Loveland.
 - iii. Support Past the Age of Majority: Professor Linda Elrod will draft legislation for the committee.