

Kansas Child Support Guidelines Advisory Committee

June 24, 2011

9:30 AM

Wyandotte County Courthouse

Approved Minutes

Present: Hon. Tom Foster, Chair; Hon. Connie Alvey; Charlie Harris, Sherri Loveland, Linda Elrod, Gary Pomeroy, Tom Holland

Staff: Elizabeth Reimer, Mark Gleeson

Guest: Jodi Messer-Pelkowski

Not present: Lana Gordon, Hon. Amy Harth, John Bird, Roy Brungardt, Larry Rute

Guests attending via conference call: Brian Mull, Marty Houdeshell, Engin Sabuncu, Brandon Mull

Minutes

Charlie Harris moved to adopt the minutes of the April meeting. John Bird's name was removed as being present. The minutes were approved as amended.

Parenting Time Adjustment

Brian Mull, Wichita, spoke to the committee and discussed his paper on the Parenting Time Adjustment. Mr. Mull recommended that the current Parenting Time Adjustment be abandoned. He proposed a new parenting time adjustment which utilizes the actual percentage of parenting time in lieu of the current 5/10/15% adjustments. Mr. Mull also expressed opposition to any proposal that would require one parent to equally provide expensive items such as televisions, computers, iPods, books for the home, and other such items deemed "miscellaneous expenses" in Mark Leno's report, to both homes.

The current formula presumes that items purchased by one parent will automatically be transferred to the other parent when the child goes from one home to the other. This is impractical particularly for large items such as computers, televisions, etc. As a result, one parent may end up purchasing these items for both homes.

One of the major concerns expressed by Mr. Mull and Mr. Sabuncu is the inclusion of clothing in the calculation. Mr. Mull indicated the guidelines are not clear about what direct expenses include and suggested that additional clarity would avoid interpretation by judges, case managers, and SRS personnel and would also avoid litigation.

Mr. Mull agreed that the current Shared Custody Parenting Time Adjustment (80/20 rule) should be abandoned and that the proposed Shared Custody formula is an improvement although he felt it does not go far enough. He agreed that having two formulas with two widely disparate outcomes would create problems and encourage litigation.

The committee discussed other problems with the shared parenting time. Transferring clothing and personal items from one home to another continues to be a big issue. Where incomes are equal and the preferences in clothing similar, there are usually few problems. When the incomes are not equal and there are different preferences in clothing it is not uncommon for problems to occur. Problems also occur when parents disagree or when one parent is not included in decisions regarding private schooling, high cost extracurricular activities, or any other activities that diminish the other parent's time with the child.

There was considerable discussion on how to define high cost extracurricular activities. Federal data was used to create an average for spending on children. The two issues that can deviate are: 1) Day care – already considered in the guidelines; 2) Extracurricular activities and private school. Normal activities are not an issue. Some parents choose high end, expensive extracurricular activities or private school. Neither of these is accurately reflected in the economic data. The point made regarding the definition is well taken and deserving of further discussion.

Engin Sabuncu supported Mr. Mull's proposal. He also asked that the bonus issue be revisited. Mr. Sabuncu's receives an irregular bonus which has inflated his income. He recommended that the guidelines include instructions that the party earning the bonus be permitted to submit two worksheets, one with the bonus and one without.

The committee discussed shared custody as being in the best interest of the children and that the judge must make a determination that equal parenting time is in the best interests of the minor children as a requirement to applying the shared expense formula. Also discussed by the committee was the fact that the guidelines contain a dissolution burden that takes into consideration the establishment of a second home and the fact that parents earning a lower income continue to have considerable difficulty meeting the basic needs of their children.

The economist reminded the committee of the federal mandate that the guidelines be consistent and that judges apply the guidelines consistently. The state needs guidelines that fit unique families and this is why there is court discretion built into the guidelines. Judges have an important role in determining the facts of a situation and when the judge rules against a parent it is not necessarily because of the guidelines.

Judge Alvey moved to accept the revisions to Section IV.e.2.d, second by Charlie Harris, motion approved.

Extraordinary expenses

The committee discussed the need to have a stronger definition of what constitutes “extraordinary expenses.” It is important to take all of the costs associated with an activity into consideration. It was suggested that the guidelines need to include the difference between a “normal” activity and an “extraordinary” one. Any change to this section risks further complication of the guidelines which goes against the committee’s goals.

The issue of requiring parents to account for their spending on the children was discussed. This was decided during previous reviews of the guidelines. Creating an administrative body or process to review these accountings is not practical and would require an accounting process that has the potential to increase litigation without improving the outcome for children.

Alternating expenses continues to be recommended for parents that are able to work together. Direct expenses would alternate from one year to another. Both parents should provide their own clothing for the children and the quality of the clothing should be relatively equal. If the percentages are more consistent with actual expenses, the requests for reimbursement will be reduced.

Special Needs Discussion

The committee continued to address the issues raised by the Supreme Court decision in Ronen. Proponents of the adjustment have the obligation to prove the adjustment. Ronen says what “special needs” are not. Charlie Harris proposed language suggesting that extracurricular expenses be added to the Special Needs adjustment. Professor Elrod moved that the revised language be adopted, Charlie Harris seconded, motion carried.

Tax

Mark discussed some technical changes to the Tax section. Mark will work with Roy Brungardt to clean up the examples and formulas. Charlie Harris moved that this work be approved, Judge Alvey seconded, motion carried.

Reformatting the Guidelines

Judge Foster will continue to work on reformatting the guidelines.

July Meeting

Cancelled.

Next Meeting August 26, 2011

Kansas Judicial Center
Room 269
9:30 a.m.

