

03-022c

Jermstad, Sara

From: Witzel-Behl, Maribeth
Sent: Tuesday, July 22, 2003 3:55 PM
To: Jermstad, Sara
Subject: HCFALTC committee vote

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Sara -

Senator Chvala would like to vote Aye on the requests for modifications to both of the clearinghouse rules considered today. Thank you!

- Maribeth
Senator Chvala's Office

-----Original Message-----

From: Jermstad, Sara
Sent: Tuesday, July 22, 2003 9:05 AM
To: Witzel-Behl, Maribeth
Subject: RE: HCFALTC hearing

Ok. Thanks for letting me know. As of last week, Sen. Roessler was planning to exec only on the rules if modifications are needed. Laura Rose, Legislative Council, said that it would be ok to allow Senators to still phone in their vote even if they are out of state. So, if we do vote, I will give you a call.

Thank you,

Sara Jermstad
Office of Senator Carol Roessler
Sara.Jermstad@legis.state.wi.us
(608)266-5300 / 888-736-8720

-----Original Message-----

From: Witzel-Behl, Maribeth
Sent: Tuesday, July 22, 2003 8:29 AM
To: Jermstad, Sara
Subject: HCFALTC hearing

Sara -

Senator Chvala will not be at the hearing today because he is at NCSL.

- Maribeth
Senator Chvala's office

July 22nd, 2003
Public Hearings on CR03-22
Bryan Holland, Monroe WI
on behalf of Legislation for Kids and Dads
<http://www.wisconsinlkd.org>

Shared Placement

We are in favor of the recommendations to the shared placement formula. As you are aware this formula would be applied in cases where both parents have placement at least 25% of the time. It is good to see that the department has reached an understanding that both parents incur expenses directly proportional to the time they care for the child. 25% placement indicates that a parent is taking a significant role in raising their child (or children).

However, the department should make this a **presumptive** rather than a **discretionary** application. They can accomplish this by changing the word "may" to "shall." One of the goals of the child support guideline review committee was "to **have predictability and uniformity**." A discretionary formula does not accomplish this. A discretionary formula will only encourage litigation, and be prone to abuse of judicial discretion.

Low income provision

The low income provision is much improved over the original proposal; however, not significantly different than the existing standard. We feel that the best approach would be to only consider **actual** rather than **imputed** income. The court should still be able to impute income, if a person was shirking, or order them to find work if they are able. You simply can't collect child support on income that someone doesn't have. Imputing non-existent income only creates high arrearages that don't benefit anyone.

High Income provision

Rather than considering only the top 1% of payers, the department should consider a formula, that considers total family income for families where both parents have the means to be financially responsible.

For high income payers the department originally recommended no changes to the existing formula unless the payers income is greater than \$150,000 /year. If we calculate support awards with the existing percentages, at \$150K/yr income under the current formula, child support would be \$37,500 a year for two children. This is a pretty comfortable wage for not working. At \$102,000/yr, the support award would be \$25,500. This is still well above what would be used for child related expenses. But more importantly, what about the other parents income?

At 50,000 a year, a payer would pay \$12,500 a year. Subtract this amount from their after tax earnings, and health insurance, and that person might be living on roughly \$25,000 a year. Now the importance of the other parents income become very important. If the other parent makes \$18,000 a year, one could argue that this support is justified; however, if they make \$100K/yr, then you have one parent barely scraping by, and the other parent living a lavish lifestyle.

Hopefully, everyone understands that it takes two parents to make a child. Two people are equally responsible for the decision to make that child. So, it stands to reason, that both parents should assume responsibility if they chose not to be together. This is especially important in divorce cases. The concept of no fault divorce, as the name would imply, is that we don't find fault in a divorce action. No fault means equal responsibility. No fault divorce was created to remove the adversity from divorce. Well, of course the adversity stayed, and divorce became much more popular. No fault divorce quickly evolved into "Dad's fault divorce." The preface of DWD 40 states that the "child's standard of living should, to the degree possible, not be adversely affected because his or her parents are not living together." Even though, when you double the expenses, this becomes a mathematical impossibility. The solution, unfortunately, is to decimate the father.

But why is this really important? Because this creates a **financial incentive** to destroy families. Children in two parent homes, even if those homes are less than perfect, do better in every area of measurement, by a huge margin over children from single parent homes. When we offer huge financial incentives to be a single parent, we devalue two parent families, and encourage family separation. The custodial parent gets all the benefits of marriage (support and protection), without the **responsibility** of marriage (joint decision making). Furthermore, by giving all of the financial resources of the family to one person, there is no guarantee that the child's needs will be met. The problem is that **child support that is above the necessary costs to care for that child does not benefit the child, so much as it benefits the custodial parent.** There seems to be an assumption, that all money that goes to the custodial parent, will always benefit the child, and that all money kept by the non-custodial parent will not. There is no guarantee that money that goes to the custodial parent will enhance the child's lifestyle. Even if that money directly benefits the child in one home, the child still loses, because they don't see the benefit in both homes.

Frequently, I hear from fathers that are envious of their child's trips to Disney World, when they can't even afford to take their children to the county fair. Another example, that I have heard mentioned at previous hearings, is college tuition. Kids from non-intact families rarely have college savings accounts, while kids in intact families frequently do. This is exactly the problem, non-intact families put all their eggs in one basket. The NCP is barely able to afford basic necessities, and certainly doesn't have any left over.

Still more tragic is what happens to children in divorce or paternity cases, when they are viewed as financial prizes. If we can only remove the financial incentives, then and only then will we look out for the real needs of children, which is to be loved and cared for.

WISCONSIN CHILD

SUPPORT ENFORCEMENT ASSOCIATION

Memorandum

TO : Senate Committee on Health, Children, Families, Aging
And Long Term Care

FROM : Janet Nelson, Chair, Legislative Committee,
Wisconsin Child Support Enforcement Association

DATE : July 22, 2003

SUBJECT : Testimony on Child Support Guidelines, Senate Clearinghouse
Rule 03-022

The Wisconsin Child Support Enforcement Association represents Wisconsin's county and tribal child support agencies. Our members manage approximately 340,000 support cases each year. While there are some concerns about the new rules, the WCSEA in general supports the proposed revisions to the child support guidelines within Chapter DWD 40.

To be effective, child support guidelines must meet three criteria:

1. They must be fair. Support collection occurs more efficiently when payers voluntarily comply with support orders, and payers are more likely to voluntarily comply with orders they see as fair. To be perceived as fair, the guidelines must take into account the variety of circumstances that families find themselves in.
2. They must be predictable. Those who pay support should be able to anticipate what his or her obligation will be, without regard to what county or court hears his or her case.
3. They must be easy to administer. Because of the large volume of support cases within the State, the child support agencies must be able to calculate support requests quickly and efficiently.

The WCSEA's support for the proposal is based on these three factors.

Fairness. In order to generate these rules, the Department of Workforce Development created an advisory committee composed of members who represented a wide variety of interests in the state's child support system. The fact that the courts, the Wisconsin Bar, the child support agencies and a number of community-based organizations (representing both payers and payees) participated in this process helps assure that the final product can be viewed as fair.

Predictability. The adjustments to the shared-time formula and the addition of provisions for low-income and high-income payers will give courts clearer guidance for

these situations (deviations from the percentage standards under these circumstances are less predictable).

Ease of use. While the rules are somewhat more complex to administer than the present guidelines, the child support agencies recognize that this complexity is warranted by the variety of circumstances in which Wisconsin's families find themselves. With training, the WCSEA believes that individual agencies will be able to effectively apply the new rules in short order.

The Changes to DWD 40

Shared time situations. A shared placement situation is recognized once placement for each parent is at least one-quarter of the year, or 92 days. The revised formula recognizes the duplicate costs incurred when both parents have substantial placement time, allowing both parents to reasonably support their children when they have placement. While there are a couple of concerns with this formula - as a result of this change, child support agencies will have to use the shared-time calculation much more frequently than they do now, and such use will reduce the amount of child support paid in a number of cases - this is a reasonable attempt to accommodate the concerns of parents who have substantial placement, yet do not qualify for an adjusted order under the present regulations. This change should be reviewed by DWD, perhaps biannually, to gauge its effect on children's and families' well-being.

Low income payers. The new provision regarding low-income payers recognizes that outside circumstances can limit a parent's ability to pay child support. The proposal allows a court to impute income at less than 40 hours per week at minimum wage when a parent does not have a high school education, nor a stable work history, and community employment opportunities are limited. While some members of the Association are concerned that this provision does not go far enough in making realistic (and affordable) support orders for low-income payers, it is an improvement over the present regulations' lack of any consideration for the low-income payer.

High income payers. The creation of this special provision for high-income payers accounts for the reality that parents with higher incomes spend a somewhat lower percentage of their income on their children. Presently, high-income payers may perceive their child support orders under the current regulations as a disguised form of support for the other parent, rather than support for the child. The reduction of the percentage assessed as support at higher incomes should alleviate this perception.

The WCSEA supports DWD's diligent efforts at accommodating the concerns of the participants in Wisconsin's child support system as it revises the child support regulations.

Thank you for your time and attention.

Janet Nelson, Chief Legal Counsel, Milwaukee County Child Support Enforcement
Room 101, 901 N. 9th Street, Milwaukee WI 53233
Telephone: (414) 278-5269 E-mail: jntnlsn@yahoo.com

MEMORANDUM

TO: Members, Senate Committee on Health, Children, Families,
Aging and Long-Term Care

FROM: Margaret W. Hickey, Family Law Section of the State Bar

RE: Clearinghouse Rule 03-022 , revisions to DWD 40, Wis. Administrative Code
(Child Support Guidelines)

DATE: July 22, 2003

I am an attorney in private practice for 17 years and I practice primarily in the area of family law, representing both men and woman, payers and payees. I have been active on child support legislation issues for about a dozen years. I am the immediate past Chair of the Family Law Section and chaired its Child Support Initiatives Committee that drafted child support legislation last session. In addition, I was a member of the Child Support Advisory Committee formed by the Department of Workforce Development to study changes to the child support law. The proposed rule before you today (CR 03-022) is a product of that committee.

The DWD Advisory Committee worked for a year and spent close to 100 hours in meetings discussing and studying child support issues in Wisconsin, not to count the many hours that Committee members spent on their own time reading the many reports and analyses put forth to the Committee by DWD and by other experts. The DWD Committee was a well-rounded group with members of the judiciary, Family Court Commissioners, fathers', grandparents' and children's rights advocates, advocates for those who have been victims of domestic violence, and those who represent clients with low, middle and high incomes. The Committee did not start with a predetermined agenda and the well-rounded recommendations from the Committee ultimately surprised many of us on it.

The Family Law Section supports the DWD proposal before you. Clearinghouse Rule 03-022 corrects many of the problems with the current child support formula and it balances the interests of the payer and payee without losing sight of the children.

The proposed rule would, in the opinion of the Board of Directors of the Family Law Section, reduce litigation over children in divorce both on child support and on placement issues. It should also lead to more equitable results in situations where families have shared placement.

The proposed rule lowers the threshold for shared time placement to a 25% threshold. All payer parents with over 25% time would then receive a reduction in child support based upon significant time with their children. Because many cases involve placement time over 25% for the payer parent, more parents would get this reduction than under the current rule. This should also reduce fighting over children in divorce.

The proposed rule eliminates the two thresholds for comparing income in a shared placement situation that occur first at 30% and then again at 40% overnight time. This should reduce the litigation over children in divorce that occurs in some cases to reduce the child support obligation of the parent with less time. A parent who receives time with the children over either the 30% or 40% threshold receives a reduction in child support, with a much greater reduction occurring at 40% time because the two parent's incomes are compared once 40% time is reached.

In addition, the proposed rule addresses the need to allocate expenses for such things as childcare, clothing and extra-curricular activities in situations where a child spends a significant proportion of overnight time with each parent. The revisions to the shared-time formula expressly require the court to order parents to assume these "variable costs" in addition to the child support amount under the shared time formula. The proposed revisions to the definition of "variable costs" should also reduce litigation over payment for these items, which is not uncommon.

CR 03-022 also adds new special circumstance provisions for high- and low-income payers that should address many of the problems identified with the current guidelines.

The proposed rule clarifies that child support may be ordered into a trust for a child's education when the amount of child support ordered exceeds the child's needs for current support.

You have received a letter from Mr. Jan Raz, the President of the Wisconsin Fathers for Children and Families asking that you request the Department to make a number of modifications to the proposed rule.

On behalf of the Family Law Section I would like to respond to each of those requests.

A. Section 1: Effect of Rule Change.

This proposal was considered by the Child Support Guidelines Advisory Committee and was rejected. Under current statute, the passage of 33 months (since the date the last child support order is entered) creates a rebuttable presumption of a substantial change in circumstances sufficient to justify the revision of a child support order. (See s. 767.32(1) b.2., Wis. Stats.)

This proposed change would actually impose a new requirement on those seeking a modification to a child support order. Not only would 33 months have to pass from the effective date of the last child support order, but an order calculated under the new formula would also have to differ from the last order by at least 20% of the amount of the last order or by at least \$60 per month in

order to constitute a substantial change of circumstances sufficient to justify the revision of a child support order under s. 767.32, Stats.

Courts have consistently held that a change in circumstances sufficient to justify a revision of a child support order under s. 767.32, Stats., must be a change in the financial circumstances of the parties, **not** a change in the law. As a practical matter, courts will be able to implement this change in the law in a gradual, staggered manner rather than being flooded with requests for modifications following a rule change.

B. Section 7: Item 10: Definition of Income.

C. Section 27: Item (6): Determine Child Support Before Maintenance.

The Advisory Committee made no specific recommendation on this issue.

The definition of income available for child support is well-settled; therefore, retaining the definition in the rule would **not** lead to increased litigation. The current child support guidelines (in DWD 40.02 (13) i., Wis. Admin. Code) contain essentially the same language this request seeks to alter. Ironically, the language in the proposed rule actually tightens up the definition and excludes more from the definition of gross income than the existing rule does.

This requested change could fundamentally increase the likelihood that some child support payers will manipulate their income in order to manipulate the amount of support. It could prevent a court from considering a significant portion of a payers cash flow without regard to the best interest of the child.

This request is not centered on meeting the needs of children; instead, it places the interest of the payer ahead of the child. It imposes blanket restriction on what the court can consider as income in fashioning a child support order without any justification.

D. Sections 29, 30, 31 32: Special Circumstance Provisions.

This proposal was considered by the Child Support Guidelines Advisory Committee and was rejected. It is argued that Circumstances vary from case to case. The Family Law Section believes each case should be looked at on its merits and the court should be guided by the best interest of the child in fashioning child support orders. Uniformity is not necessarily desirable. Requiring the court to follow a rigid formula in these cases will tie the hands of the court in cases where flexibility is needed to fashion an order that best meets the needs and best interests of the child. The court should have the discretion to craft an order that best suits the family before the court in each particular case.

E. Section 32: Provision for High-Income Payers

This proposal was considered by the Child Support Guidelines Advisory Committee and was rejected. The requested change would treat families where the combined annual income of both parents exceeds \$48,000 as high income. The Family Law Section does not believe combined income of \$48,000 should be considered high income or given special treatment. According to the federal Department of Housing and Urban Development, median annual family income in Wisconsin in 2002 was \$59,200. Setting the initial thresholds as low as \$48,000 would result in the special circumstance provision for high income payers being used more often than is appropriate, and for families who are not, in fact, high income.

Child support should meet more than just the basic needs of the child. The basic premise of the child support formula is that a child's standard of living should, to the degree possible, not be adversely affected because his or her parents are not living together. The child support formula attempts to provide children with what is as close as possible to the same state standard of living the child enjoyed when the parents were living together, or if they never did, then the standard of living they would have enjoyed together, taking into account the fact that it is more expensive to maintain two households than one.

The Family Law Section strongly opposes Senate Bill 156 and Assembly Bill 250 to which the request refers. Those companion bills would treat combined annual incomes of \$48,000 as high income cases and would impose an entirely new method of calculating child support in all such cases. Within the past year county child support agencies have had to recalculate tens of thousands of cases from percentage-expressed orders to fixed dollar orders. To force them to adopt a new formula for calculating child support for more than half of all families would create an additional and unnecessary workload on child support agencies without a valid public policy basis to do so.

The Family Law Section believes the straight percentage standards should still be used in the majority of cases not involving shared placement.

F. "Serial Family Payer" Provision.

Serial Family provisions are discretionary. While these provisions may be found unconstitutional if they were presumptive, they are not presumptive but are permissive. This permissive element recognizes that it costs more to raise children in separate households than in a single household.

Serial family situations pose difficult questions. In these situations, the payer, by definition, has a child support order for a child or children from a previous marriage or relationship and now faces a support order for later born children from a different marriage or relationship.

If one follows the percentage standard in each successive case, there is a possibility the payer will simply run out of money and be unable to afford to pay the amount indicated under the percentage in each case. The rule attempts to balance the needs of the children and the obligations of the payer so that each is treated fairly.

Carol
Madaris
Gai
Patti Seger

AMENDMENTS TO PROPOSED DWD 40

1. Amend DWD 40.03 (3) as follows:

DWD 40.03 (3) DETERMINING INCOME IMPUTED BASED ON EARNING CAPACITY. In situations where the income of a parent is less than the parent=s earning capacity or is unknown, the court may impute income to the parent at an amount that represents the parent=s ability to earn, based on the parent=s education, training and work experience, earnings during previous periods, physical and mental health, and the availability of work in or near the parent=s community. If evidence is presented that due diligence has been exercised to ascertain information on the parent=s actual income or ability to earn and that information is unavailable, the court may impute to the parent the income that a person would earn by working **40 35** hours per week for the federal minimum hourly wage under 29 USC 206 (a)(1). If a parent has gross income or income modified for business expenses below his or her earning capacity, the income imputed based on earning capacity shall be the difference between the parent=s earning capacity and the parent=s gross income or income modified for businesses expenses.

2. Delete proposed DWD 40.04 (4) and substitute the alternative below:

DWD 40.04 (4). Is created to read:

DWD 40.04 (4). ALTERNATIVE SUPPORT ORDER FOR LOW INCOME PAYERS.

(a) As an alternative for the calculation of the support amount for a parent whose income is below 150% of the federal poverty guidelines, the court may use the monthly support amount provided in the schedule in Appendix C as the support amount for a payer with a monthly income available for child support at a level indicated in the schedule. The court may use this schedule in Appendix C where the parent has a limited ability to pay support based on income level, employment history, education level, or history of child care responsibilities as the person with primary physical placement.

(b) The department shall revise the schedule in Appendix C at least once every four years. The revision shall be based on changes in the federal poverty level since the schedule was last revised. The department shall publish revisions to the schedule in the Wisconsin Administrative Register.

Note: The schedule in Appendix C provides a minimum monthly support amount that may be used for payers who have a limited ability to pay support based on income level, employment history, education level or history of child care responsibilities as the person with primary physical placement. The schedule may be used for payers with a monthly income available for child support below approximately 70% of the federal poverty level. For payers with a monthly income available for child support between approximately 70% and 150% of the federal poverty level, the schedule provides graduated percentage rates that result in a child support obligation that is between the minimum monthly support amounts and the child support obligation determined by applying the percentage standards under s. DWD 40.03 (1). The percentage standards in s. DWD 40.03 (1) apply to payers with a monthly income available for child support above the levels listed in the Schedule in Appendix C.

Appendix C
Low Income Payers

For Monthly Income Up To	One Child			Two Children			Three Children			Four Children			Five or More Children		
	Current %	Proposed %	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount
500	17	4.250%	\$21	25	6.250%	\$31	29	7.250%	36	31	7.750%	\$39	34	8.500%	\$43
505	17	4.362%	\$22	25	6.413%	\$32	29	7.439%	38	31	7.952%	\$40	34	8.722%	\$44
510	17	4.473%	\$23	25	6.576%	\$34	29	7.628%	39	31	8.154%	\$42	34	8.944%	\$46
515	17	4.585%	\$24	25	6.739%	\$35	29	7.817%	40	31	8.356%	\$43	34	9.166%	\$47
520	17	4.697%	\$24	25	6.902%	\$36	29	8.006%	42	31	8.558%	\$45	34	9.388%	\$49
525	17	4.808%	\$25	25	7.065%	\$37	29	8.195%	43	31	8.760%	\$46	34	9.610%	\$50
530	17	4.919%	\$26	25	7.228%	\$38	29	8.384%	44	31	8.962%	\$47	34	9.832%	\$52
535	17	5.030%	\$27	25	7.391%	\$40	29	8.573%	46	31	9.164%	\$49	34	10.054%	\$54
540	17	5.141%	\$28	25	7.554%	\$41	29	8.762%	47	31	9.366%	\$51	34	10.276%	\$55
545	17	5.252%	\$29	25	7.717%	\$42	29	8.951%	49	31	9.568%	\$52	34	10.498%	\$57
550	17	5.363%	\$29	25	7.880%	\$43	29	9.140%	50	31	9.770%	\$54	34	10.720%	\$59
555	17	5.474%	\$30	25	8.043%	\$45	29	9.329%	52	31	9.972%	\$55	34	10.942%	\$61
560	17	5.585%	\$31	25	8.206%	\$46	29	9.518%	53	31	10.174%	\$57	34	11.164%	\$63
565	17	5.696%	\$32	25	8.369%	\$47	29	9.707%	55	31	10.376%	\$59	34	11.386%	\$64
570	17	5.807%	\$33	25	8.532%	\$49	29	9.896%	56	31	10.578%	\$60	34	11.608%	\$66
575	17	5.918%	\$34	25	8.695%	\$50	29	10.085%	58	31	10.780%	\$62	34	11.830%	\$68
580	17	6.029%	\$35	25	8.858%	\$51	29	10.274%	60	31	10.982%	\$64	34	12.052%	\$70
585	17	6.140%	\$36	25	9.021%	\$53	29	10.463%	61	31	11.184%	\$65	34	12.274%	\$72
590	17	6.251%	\$37	25	9.184%	\$54	29	10.652%	63	31	11.386%	\$67	34	12.496%	\$74
595	17	6.362%	\$38	25	9.347%	\$56	29	10.841%	65	31	11.588%	\$69	34	12.718%	\$76
600	17	6.473%	\$39	25	9.510%	\$57	29	11.030%	66	31	11.790%	\$71	34	12.940%	\$78
605	17	6.584%	\$40	25	9.673%	\$59	29	11.219%	68	31	11.992%	\$73	34	13.162%	\$80
610	17	6.695%	\$41	25	9.836%	\$60	29	11.408%	70	31	12.194%	\$74	34	13.384%	\$82
615	17	6.806%	\$42	25	9.999%	\$61	29	11.597%	71	31	12.396%	\$76	34	13.606%	\$84
620	17	6.917%	\$43	25	10.162%	\$63	29	11.786%	73	31	12.598%	\$78	34	13.828%	\$86
625	17	7.028%	\$44	25	10.325%	\$65	29	11.975%	75	31	12.800%	\$80	34	14.050%	\$88
630	17	7.139%	\$45	25	10.488%	\$66	29	12.164%	77	31	13.002%	\$82	34	14.272%	\$90
635	17	7.250%	\$46	25	10.651%	\$68	29	12.353%	78	31	13.204%	\$84	34	14.494%	\$92
640	17	7.361%	\$47	25	10.814%	\$69	29	12.542%	80	31	13.406%	\$86	34	14.716%	\$94

For Monthly Income Up To	One Child			Two Children			Three Children			Four Children			Five or More Children		
	Current %	Proposed %	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount
645	17	7.472%	\$48	25	10.977%	\$71	29	12.731%	82	31	13.608%	\$88	34	14.938%	\$96
650	17	7.583%	\$49	25	11.140%	\$72	29	12.920%	84	31	13.810%	\$90	34	15.160%	\$99
655	17	7.694%	\$50	25	11.303%	\$74	29	13.109%	86	31	14.012%	\$92	34	15.382%	\$101
660	17	7.805%	\$52	25	11.466%	\$76	29	13.298%	88	31	14.214%	\$94	34	15.604%	\$103
665	17	7.916%	\$53	25	11.629%	\$77	29	13.487%	90	31	14.416%	\$96	34	15.826%	\$105
670	17	8.027%	\$54	25	11.792%	\$79	29	13.676%	92	31	14.618%	\$98	34	16.048%	\$108
675	17	8.138%	\$55	25	11.955%	\$81	29	13.865%	94	31	14.820%	\$100	34	16.270%	\$110
680	17	8.249%	\$56	25	12.118%	\$82	29	14.054%	96	31	15.022%	\$102	34	16.492%	\$112
685	17	8.360%	\$57	25	12.281%	\$84	29	14.243%	98	31	15.224%	\$104	34	16.714%	\$114
690	17	8.471%	\$58	25	12.444%	\$86	29	14.432%	100	31	15.426%	\$106	34	16.936%	\$117
695	17	8.582%	\$60	25	12.607%	\$88	29	14.621%	102	31	15.628%	\$109	34	17.158%	\$119
700	17	8.693%	\$61	25	12.770%	\$89	29	14.810%	104	31	15.830%	\$111	34	17.380%	\$122
705	17	8.804%	\$62	25	12.933%	\$91	29	14.999%	106	31	16.032%	\$113	34	17.602%	\$124
710	17	8.915%	\$63	25	13.096%	\$93	29	15.188%	108	31	16.234%	\$115	34	17.824%	\$127
715	17	9.026%	\$65	25	13.259%	\$95	29	15.377%	110	31	16.436%	\$118	34	18.046%	\$129
720	17	9.137%	\$66	25	13.422%	\$97	29	15.566%	112	31	16.638%	\$120	34	18.268%	\$132
725	17	9.248%	\$67	25	13.585%	\$98	29	15.755%	114	31	16.840%	\$122	34	18.490%	\$134
730	17	9.359%	\$68	25	13.748%	\$100	29	15.944%	116	31	17.042%	\$124	34	18.712%	\$137
735	17	9.470%	\$70	25	13.911%	\$102	29	16.133%	119	31	17.244%	\$127	34	18.934%	\$139
740	17	9.581%	\$71	25	14.074%	\$104	29	16.322%	121	31	17.446%	\$129	34	19.156%	\$142
745	17	9.692%	\$72	25	14.237%	\$106	29	16.511%	123	31	17.648%	\$131	34	19.378%	\$144
750	17	9.803%	\$74	25	14.400%	\$108	29	16.700%	125	31	17.850%	\$134	34	19.600%	\$147
755	17	9.914%	\$75	25	14.563%	\$110	29	16.889%	128	31	18.052%	\$136	34	19.822%	\$150
760	17	10.025%	\$76	25	14.726%	\$112	29	17.078%	130	31	18.254%	\$139	34	20.044%	\$152
765	17	10.136%	\$78	25	14.889%	\$114	29	17.267%	132	31	18.456%	\$141	34	20.266%	\$155
770	17	10.247%	\$79	25	15.052%	\$116	29	17.456%	134	31	18.658%	\$144	34	20.488%	\$158
775	17	10.358%	\$80	25	15.215%	\$118	29	17.645%	137	31	18.860%	\$146	34	20.710%	\$161
780	17	10.469%	\$82	25	15.378%	\$120	29	17.834%	139	31	19.062%	\$149	34	20.932%	\$163
785	17	10.580%	\$83	25	15.541%	\$122	29	18.023%	141	31	19.264%	\$151	34	21.154%	\$166
790	17	10.691%	\$84	25	15.704%	\$124	29	18.212%	144	31	19.466%	\$154	34	21.376%	\$169
795	17	10.802%	\$86	25	15.867%	\$126	29	18.401%	146	31	19.668%	\$156	34	21.598%	\$172
800	17	10.913%	\$87	25	16.030%	\$128	29	18.590%	149	31	19.870%	\$159	34	21.820%	\$175
805	17	11.024%	\$89	25	16.193%	\$130	29	18.779%	151	31	20.072%	\$162	34	22.042%	\$177
810	17	11.135%	\$90	25	16.356%	\$132	29	18.968%	154	31	20.274%	\$164	34	22.264%	\$180

For Monthly Income Up To	One Child			Two Children			Three Children			Four Children			Five or More Children		
	Current %	Proposed %	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount
815	17	11.246%	\$92	25	16.519%	\$135	29	19.157%	156	31	20.476%	\$167	34	22.486%	\$183
820	17	11.357%	\$93	25	16.682%	\$137	29	19.346%	159	31	20.678%	\$170	34	22.708%	\$186
825	17	11.468%	\$95	25	16.845%	\$139	29	19.535%	161	31	20.880%	\$172	34	22.930%	\$189
830	17	11.579%	\$96	25	17.008%	\$141	29	19.724%	164	31	21.082%	\$175	34	23.152%	\$192
835	17	11.690%	\$98	25	17.171%	\$143	29	19.913%	166	31	21.284%	\$178	34	23.374%	\$195
840	17	11.801%	\$99	25	17.334%	\$146	29	20.102%	169	31	21.486%	\$180	34	23.596%	\$198
845	17	11.912%	\$101	25	17.497%	\$148	29	20.291%	171	31	21.688%	\$183	34	23.818%	\$201
850	17	12.023%	\$102	25	17.660%	\$150	29	20.480%	174	31	21.890%	\$186	34	24.040%	\$204
855	17	12.134%	\$104	25	17.823%	\$152	29	20.669%	177	31	22.092%	\$189	34	24.262%	\$207
860	17	12.245%	\$105	25	17.986%	\$155	29	20.858%	179	31	22.294%	\$192	34	24.484%	\$211
865	17	12.356%	\$107	25	18.149%	\$157	29	21.047%	182	31	22.496%	\$195	34	24.706%	\$214
870	17	12.467%	\$108	25	18.312%	\$159	29	21.236%	185	31	22.698%	\$197	34	24.928%	\$217
875	17	12.578%	\$110	25	18.475%	\$162	29	21.425%	187	31	22.900%	\$200	34	25.150%	\$220
880	17	12.689%	\$112	25	18.638%	\$164	29	21.614%	190	31	23.102%	\$203	34	25.372%	\$223
885	17	12.800%	\$113	25	18.801%	\$166	29	21.803%	193	31	23.304%	\$206	34	25.594%	\$227
890	17	12.911%	\$115	25	18.964%	\$169	29	21.992%	196	31	23.506%	\$209	34	25.816%	\$230
895	17	13.022%	\$117	25	19.127%	\$171	29	22.181%	199	31	23.708%	\$212	34	26.038%	\$233
900	17	13.133%	\$118	25	19.290%	\$174	29	22.370%	201	31	23.910%	\$215	34	26.260%	\$236
905	17	13.244%	\$120	25	19.453%	\$176	29	22.559%	204	31	24.112%	\$218	34	26.482%	\$240
910	17	13.355%	\$122	25	19.616%	\$179	29	22.748%	207	31	24.314%	\$221	34	26.704%	\$243
915	17	13.466%	\$123	25	19.779%	\$181	29	22.937%	210	31	24.516%	\$224	34	26.926%	\$246
920	17	13.577%	\$125	25	19.942%	\$183	29	23.126%	213	31	24.718%	\$227	34	27.148%	\$250
925	17	13.688%	\$127	25	20.105%	\$186	29	23.315%	216	31	24.920%	\$231	34	27.370%	\$253
930	17	13.799%	\$128	25	20.268%	\$188	29	23.504%	219	31	25.122%	\$234	34	27.592%	\$257
935	17	13.910%	\$130	25	20.431%	\$191	29	23.693%	222	31	25.324%	\$237	34	27.814%	\$260
940	17	14.021%	\$132	25	20.594%	\$194	29	23.882%	224	31	25.526%	\$240	34	28.036%	\$264
945	17	14.132%	\$134	25	20.757%	\$196	29	24.071%	227	31	25.728%	\$243	34	28.258%	\$267
950	17	14.243%	\$135	25	20.920%	\$199	29	24.260%	230	31	25.930%	\$246	34	28.480%	\$271
955	17	14.354%	\$137	25	21.083%	\$201	29	24.449%	233	31	26.132%	\$250	34	28.702%	\$274
960	17	14.465%	\$139	25	21.246%	\$204	29	24.638%	237	31	26.334%	\$253	34	28.924%	\$278
965	17	14.576%	\$141	25	21.409%	\$207	29	24.827%	240	31	26.536%	\$256	34	29.146%	\$281
970	17	14.687%	\$142	25	21.572%	\$209	29	25.016%	243	31	26.738%	\$259	34	29.368%	\$285
975	17	14.798%	\$144	25	21.735%	\$212	29	25.205%	246	31	26.940%	\$263	34	29.590%	\$289
980	17	14.909%	\$146	25	21.898%	\$215	29	25.394%	249	31	27.142%	\$266	34	29.812%	\$292

For Monthly Income Up To	One Child			Two Children			Three Children			Four Children			Five or More Children		
	Current %	Proposed %	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount
985	17	15.020%	\$148	25	22.061%	\$217	29	25.583%	252	31	27.344%	\$269	34	30.034%	\$296
990	17	15.131%	\$150	25	22.224%	\$220	29	25.772%	255	31	27.546%	\$273	34	30.256%	\$300
995	17	15.242%	\$152	25	22.387%	\$223	29	25.961%	258	31	27.748%	\$276	34	30.478%	\$303
1000	17	15.353%	\$154	25	22.550%	\$226	29	26.150%	262	31	27.950%	\$280	34	30.700%	\$307
1005	17	15.464%	\$155	25	22.713%	\$228	29	26.339%	265	31	28.152%	\$283	34	30.922%	\$311
1010	17	15.575%	\$157	25	22.876%	\$231	29	26.528%	268	31	28.354%	\$286	34	31.144%	\$315
1015	17	15.686%	\$159	25	23.039%	\$234	29	26.717%	271	31	28.556%	\$290	34	31.366%	\$318
1020	17	15.797%	\$161	25	23.202%	\$237	29	26.906%	274	31	28.758%	\$293	34	31.588%	\$322
1025	17	15.908%	\$163	25	23.365%	\$239	29	27.095%	278	31	28.960%	\$297	34	31.810%	\$326
1030	17	16.019%	\$165	25	23.528%	\$242	29	27.284%	281	31	29.162%	\$300	34	32.032%	\$330
1035	17	16.130%	\$167	25	23.691%	\$245	29	27.473%	284	31	29.364%	\$304	34	32.254%	\$334
1040	17	16.241%	\$169	25	23.854%	\$248	29	27.662%	288	31	29.566%	\$307	34	32.476%	\$338
1045	17	16.352%	\$171	25	24.017%	\$251	29	27.851%	291	31	29.768%	\$311	34	32.698%	\$342
1050	17	16.463%	\$173	25	24.180%	\$254	29	28.040%	294	31	29.970%	\$315	34	32.920%	\$346
1055	17	16.574%	\$175	25	24.343%	\$257	29	28.229%	298	31	30.172%	\$318	34	33.142%	\$350
1060	17	16.685%	\$177	25	24.506%	\$260	29	28.418%	301	31	30.374%	\$322	34	33.364%	\$354
1065	17	16.796%	\$179	25	24.669%	\$263	29	28.607%	305	31	30.576%	\$326	34	33.586%	\$358
1070	17	16.907%	\$181	25	24.832%	\$266	29	28.796%	308	31	30.778%	\$329	34	33.808%	\$362
1075	17	17.000%	\$183	25	25.000%	\$269	29	29.000%	312	31	31.000%	\$333	34	34.000%	\$366

Jim Doyle
Governor

Roberta Gassman
Secretary



State of Wisconsin
Department of Workforce Development

OFFICE OF THE SECRETARY
201 East Washington Avenue
P.O. Box 7946
Madison, WI 53707-7946
Telephone: (608) 266-3131
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<http://www.dwd.state.wi.us/>
e-mail: dwdsec@dwd.state.wi.us

Good morning, Senator Roessler and members of the Committee. My name is Connie Chesnik and I am an attorney for the Wisconsin Department of Workforce Development. I am here today to testify on behalf of the Department in support of Clearinghouse Rule 03-022, the Department's administrative rule on the child support guidelines.

In April of 2001, the Department convened an advisory committee to review our administrative rules related to the Percentage of Income Standard and make recommendations to the Department. The committee included representation from many groups that have an interest in children's issues, among them, the State Bar Family Law Section, the Judiciary, the Family Court Commissioners, The Wisconsin Women's Council, Legal Action, the Wisconsin Women's Network, the Wisconsin Coalition Against Domestic Violence, the Center for Fathers, Families and Public Policy, the Wisconsin Council on Children and Families, the Wisconsin Fathers for Children and Families, and Wisconsin Legislation for Kids and Dads. Because this issue affects hundreds of thousands of families in Wisconsin, the Department was committed to ensuring that any changes to our guidelines received a thorough review and analysis by affected parties and policy makers.

The advisory committee met over the course of a year, reviewed hundreds of pages of material, and heard presentations from researchers with extensive experience in the area of child support guidelines. Their recommendations were presented to the Department in February of 2002. Since that time, rule changes were drafted and public hearings held around the state. In response to testimony presented at those hearings, some additional changes were made to the rules and I am here today to testify in support of the final product, which is before you.

The committee identified three key areas for review. Those areas include the establishment of support orders in cases involving either high or low-income parties and cases where both parties share physical placement of the children. These are critical issues that affect many families in Wisconsin. The Department appreciates the thorough review of these issues given by the committee.

The shared time formula recommended by the committee and contained in Clearinghouse Rule 03-022 recognizes the increasing trend of parents sharing placement of their children. The proposed rule change eliminates the incentive for parents to litigate over levels of placement solely for the purpose of reducing their child support obligation. The proposed rule lowers the threshold for eligibility of the shared time formula to 25% and considers the incomes of both parents at that point. Although this does result in a reduction of the amount of support owed at the 25% threshold, this reduction would occur at any threshold that was established. We believe that a formula that recognizes the duplicated costs of raising children in two households and takes both parents incomes into consideration provides a more realistic and equitable basis for setting child support.

The proposed rule changes also contain new provisions addressing the support obligations of high-income payers. The committee reviewed economic data showing that, as income rises above certain high-income levels, families spend a lower percentage of their gross income on their children. Recognizing that children from high-income families are accustomed to a higher standard of living, the committee recommended that the percentage standard should still apply in most cases, but provided for exceptions when the income of the payer exceeded \$150,000 per year. In response to hearing testimony, the Department has lowered that threshold to \$100,000.

The proposed rule changes also address the obligations of low-income payers. It was the committee's hope that lower support levels for low-income payers may encourage or enable those payers to comply with their orders. However, the proposal recommended by the

committee received a great deal of opposition at the public hearings conducted by the department. The low-income language in the rule before you today has been modified to reflect that testimony. The revised language permits the court to impute income to a low-income payer based on 30 hours per week at minimum wage if evidence is presented that the parent's ability to earn is limited due to education, lack of skills and availability of work in or near their community.

There are a number of other smaller areas that have been addressed as a part of these proposed rule changes. They are highlighted as a part of the analysis prepared by the Department at the beginning of the rule. I won't take your time going over them all now; however, I would be happy to answer any questions you may have on them or any of the changes I have addressed in my testimony. Thank you for your time and attention.

DWD 40
THE PERCENTAGE OF INCOME STANDARD

- ◆ Rule unique in that it is implemented by Courts
- ◆ Federal law requires states to review their guidelines every four years
- ◆ Pressure to amend Wisconsin rule coming from various sectors:

- State Bar
- Courts
- Noncustodial Parents Organizations
- Legislature

- ◆ Problems identified with existing rule:

- Does not address high income case
- Does not address low income cases
- Shared time formula creates incentive for litigation

- ◆ DWD Child Support Guidelines Advisory Committee created 2001

- State Bar
- Judiciary
- Family Court Commissioners Association
- Wisconsin Women's Network
- Wisconsin Women's Council
- Wisconsin Coalition Against Domestic Violence
- Legal Action of Wisconsin
- Center for Fathers, Families and Public Policy
- Wisconsin Fathers for Children and Families
- Wisconsin Legislation for Kids and Dads
- Wisconsin Council on Children and Families
- Wisconsin Child Support Enforcement Association

- ◆ Committee focused on three areas:

- Shared Time
- High Income
- Low Income

- ◆ Committee also recommended three statutory changes:
 - Overrule courts decision in Randall to make use of shared time formula permissive
 - Overrule courts decision in Luciani to permit court to consider disparities in incomes of parties when setting support

Require parties to notify court of serial family status

- ◆ Rule submitted to legislature week of June 23rd
- ◆ Retains use of percentage standard and case law that has developed over last 20 years

- ◆ Shared Time:

Reduces threshold for eligibility to 25%

Considers the incomes of both parents

Requires Court to assess variable costs

- ◆ High Income:

Establishes ceiling on application of percentage standard

Ceilings proposed by guidelines committee: \$150,000 and \$200,000. Lowered in response to public hearings to \$100,000 and \$150,000.

- ◆ Low Income:

-Low floor on orders (\$21 month) recommended by guidelines committee

-Opposed by various groups:

-Results in inadequate orders for children

-Affords a 'break' to noncustodial parents that custodial parents don't receive

-Is likely to be used across the board rather than limited to cases involving shirking or inability to pay

-formula changed by DWD in response to hearing testimony. Court may impute income based on 30 hour work week at minimum wage.

Vote Record

Committee on Health, Children, Families, Aging and Long Term Care

Date: 7/22/03

Moved by: Roessler

Seconded by: Welch

AB _____

SB _____

Clearinghouse Rule CR 03-022 (Child Support)

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
Introduction Rejection Tabling Nonconcurrence

Committee Member

Table with 5 columns: Committee Member, Aye, No, Absent, Not Voting. Rows include Senator Carol Roessler, Senator Ted Kanavas, Senator Ronald Brown, Senator Robert Welch, Senator Dale Schultz, Senator Judith Robson, Senator Charles Chvala, Senator Robert Jauch, Senator Tim Carpenter.

Totals: 9

July 22, 2003

Secretary Roberta Gassman
Department of Workforce Development
201 East Washington Avenue, Rm 400 X
Madison, WI 53707

Dear Secretary Gassman,

On July 22, 2003, the Senate Committee on Health, Children, Families, Aging and Long Term Care held a public hearing on Clearinghouse Rule 03-022, relating to child support guidelines.

As chair of this Committee, I am writing to inform the Department of Workforce Development that the Committee voted 9-0 to request further modifications to CR 03-022. Concerns relating to "low income payers," "imputed income," and "high income payers," were expressed by several individuals representing diverse interests throughout Wisconsin.

I commend the Department for its efforts put forth on this rule. Individuals at the Department have diligently worked on this monumental task and should be proud of the level of consensus surrounding this rule proposal.

I ask that you please respond in writing as to whether the Department agrees to work with the Committee on making modifications.

Sincerely,

Carol Roessler, Chair
Senate Committee on Health, Children, Families, Aging and Long Term Care

Halbur, Jennifer

From: Jermstad, Sara
Sent: Wednesday, July 23, 2003 2:02 PM
To: Halbur, Jennifer
Subject: RE: Child Support

Sure! Not a problem. I will save it in the Health Committee Folder for you. Do you have the perfusionist one, too?

Sara Jermstad
Office of Senator Carol Roessler
Sara.Jermstad@legis.state.wi.us
(608)266-5300 / 888-736-8720

-----Original Message-----

From: Halbur, Jennifer
Sent: Wednesday, July 23, 2003 1:39 PM
To: Jermstad, Sara
Subject: Child Support

Hi,

Here is the revised child support letter. Since I won't be able to access the letter next week, could you save this letter until next week? Even if you just want to keep it on your e-mail and then e-mail it back to me when I have a new account.

Thank you!

<< File: 7-22-03 roessler child support.doc >>

Halbur, Jennifer

From: Jermstad, Sara
Sent: Wednesday, July 23, 2003 12:32 PM
To: Halbur, Jennifer
Subject: RE: Your Question Relating to the Legislative History of 1999-2000 Predecessor to 2003 Senate Bill 192

Ron Hermes stopped by to get an update on the timeline for the perfusionist rule. I told him that you wrote a letter and Carol signed off, but you are waiting to hear from Laura Rose. I told him that we have until August 7 to send a letter and receive a response from DRL. I also told him that once you sent the letter, you would send him a copy, too.

Sara

-----Original Message-----

From: Halbur, Jennifer
Sent: Wednesday, July 23, 2003 12:08 PM
To: Jermstad, Sara
Subject: RE: Your Question Relating to the Legislative History of 1999-2000 Predecessor to 2003 Senate Bill 192

Thanks! Short update: I have made copies and put the testimony in both sets of folders. I sent Dave the child support testimony he asked for. Shel stopped in to pick up a copy of the testimony he requested. Laura Rose said the child support letter was good but thought we should add reference to the "imputed income" issue. She and I have been playing phone tag this morning.

Thanks again for your patience and all of your help!!

Jennifer

-----Original Message-----

From: Jermstad, Sara
Sent: Wednesday, July 23, 2003 10:24 AM
To: Halbur, Jennifer
Subject: FW: Your Question Relating to the Legislative History of 1999-2000 Predecessor to 2003 Senate Bill 192

Since this is regarding committee yesterday and you still have the folders, I'm forwarding to you.

Sara Jermstad
Office of Senator Carol Roessler
Sara.Jermstad@legis.state.wi.us
(608)266-5300 / 888-736-8720

-----Original Message-----

From: Rohrer, Daniel
Sent: Wednesday, July 23, 2003 10:22 AM
To: Jermstad, Sara
Subject: FW: Your Question Relating to the Legislative History of 1999-2000 Predecessor to 2003 Senate Bill 192

CR inbox... (this is you right??)

-----Original Message-----

From: Kiel, Joyce
Sent: Wednesday, July 23, 2003 8:55 AM
To: Sen.Roessler
Cc: Rep.Musser; Rose, Laura; Lovell, David
Subject: Your Question Relating to the Legislative History of 1999-2000 Predecessor to 2003 Senate Bill 192

Dear Senator Roessler:

At the July 22, 2003 hearing on 2003 Senate Bill 192, relating to tribal administration of

rehabilitation review under the caregiver background check law, you asked about the legislative history of 1999 Assembly Bill 823 which Representative Musser testified that he had authored to fine-tune the caregiver background check law relating to tribal administration of rehabilitation review. (The 1998-2000 American Indian Study Committee (predecessor to the Special Committee on State-Tribal Relations) had developed the concept of tribal administration, then most of the concept was included in an amendment to the 1999-2001 budget bill, rather than being acted on separately.) (AB-823 also included various technical changes to the caregiver background check law requested by DHFS.)

As noted at the July 22, 2003 hearing, 1999 AB-823 was recommended by the Assembly Health Committee on a vote of Ayes, 17; Noes, 0. It passed the Assembly on a voice vote. It was referred to the Senate Committee on Health, Utilities, Veterans, and Military Affairs. On March 30, 2000, that committee recommended concurrence on a vote of Ayes, 6; Noes, 1. **In particular, you asked which Senate Committee member had voted against concurrence. It was Senator Welch.** (The following Senators voted Aye: Moen, Breske, Robson, Erpenbach, Rude, and Rosenzweig.) The Senate adjourned a week later without taking up the bill.

The next session, the 2000-02 Special Committee on State-Tribal Relations recommended a bill draft that was very similar to the tribal provisions in 1999 AB-823. That draft was introduced by the Joint Legislative Council as 2001 Assembly Bill 223. The Assembly Health Committee unanimously recommended AB-223. Late in the 2001-02 session, the Assembly passed it on a vote of Ayes, 98; Noes, 0. The Senate did not take it up.

2003 Senate Bill 192 (and its companion 2003 Assembly Bill 401) contains the same provisions as 2001 AB-223.

Let me know if you need anything more.

Joyce L. Kiel, Senior Staff Attorney
Wisconsin Legislative Council Staff
Suite 401, One East Main Street
Madison, WI 53703
608-266-3137
608-266-3830 (fax)
Joyce.Kiel@legis.state.wi.us

Halbur, Jennifer

From: Rose, Laura
Sent: Wednesday, July 23, 2003 8:33 AM
To: Halbur, Jennifer
Subject: RE: Child Support

Jennifer,

This looks good. The only thing I am concerned about is that I don't think the letter should limit potential modifications to those two areas (low income and high income payers). There were also a lot of concerns expressed at the hearing about the changes made to imputed income, so it would be worth looking at that too. I would say in the letter that the low income and high income payers and the imputed income issue are provisions where people expressed concerns, but don't limit the possible modifications to those areas. That way, if something else comes up, the committee can ask for modifications other areas of the rule.

Please give me a call if you would like to talk about this further.

Thanks!!

Laura

-----Original Message-----

From: Halbur, Jennifer
Sent: Tuesday, July 22, 2003 5:43 PM
To: Rose, Laura
Subject: Child Support

Hi,

Here is another version of the child support letter. Carol made a few minor changes.

Thanks!

Jennifer

<< File: 7-22-03 roessler child support.doc >>

Halbur, Jennifer

To: ron@tenuta-hermes.com
Subject: Perfusion

Ron,

I just wanted to touch base with you regarding the perfusionist rule. I have had to make changes to the letter Sen. Roessler plans to send to the Medical Examining Board. I can't go over those changes until Monday next week (that's when I start over there full time). As soon as I get the okay, I will send it over to the Board and send a copy to you.

Thanks,

Jennifer

Halbur, Jennifer

To: Rose, Laura
Subject: Perfusion

Hi Laura,

The Dept of Reg and Licensing tells me that Alfred Franger, M.D. is the Secretary of the Medical Examining Board. I just want to double check on who should get the modification letter....Mr. Franger or Darold Treffert?

Thank you for your patience with this. Just FYI, the letters will not get sent out until early next week. I need to get a final "okay" from Carol. I start full time with her Monday so I'll be able to focus on her issues.

Thanks again,
Jennifer

Malcolm Hatfield, MD
Jeanie Hatfield, MEPD
6937 Brook Rd.
Franksville, WI 53126
262-752-1547

JUL 29 2003

7/24/2003

Senator Carol Roessler
8 South
Madison, WI 53702

RE: CR03-22, the DWD 40 Administrative Rule Change proposal.

Dear Senator Roessler:

I was unable to attend the hearing on July 22 regarding this proposed change in child support. My husband did attend the DWD's public hearing in Milwaukee and made the attached comments. The DWD completely ignored his testimony.

Malcolm's ex-wife filed for divorce in Racine County in 1993. They had a daughter named Mary who is now 14. She currently lives in Illinois with her mother, because Racine County Family Court allowed her to move. In 2000, we married. My daughter Dana is 2 years younger than Mary. Since 1993, Malcolm has been assessed \$5,123.00 per month in child support. He has paid over \$600,000.00 to date. This is paid to a physician mom for one child. He has fought a tremendous uphill battle since 1993 so that he can be a father to Mary. Each and every time he asks for more time with Mary, he is first served with a subpoena to show his tax return, with the implication that they will demand more support, and soon thereafter, another false allegation of abuse arises. Malcolm's drop off/pick up time with Mary serves as a useful time to serve him with this subpoena. On the other hand, Dana has a 50/50 shared parenting relationship. Her dad pays \$400 per month in child support. This is used for fixed expenses. Dana is well adjusted and is thriving. Mary was hospitalized in 2001 with inflammatory bowel disease. Her bone age was over 2 years delayed, and her height and weight for age were below the 5th percentile. She is committed to 2 prescription medications until she is 20 years old. She clearly needs a father and is not flourishing. What is more important to a child? Money or a father?

Ironically, the DWD recommends lowering child support for low income payers. They justify this by saying that child support serves as a wedge between children and their parents. Why isn't this true for all incomes? I would like to see the department lower the income threshold to a level more representative of just what it takes to raise a child for Wisconsin families. My husband and I support the provision of AB 250/ SB 156 for parents with combined incomes over \$4000.00 per month. We also support the DWD proposal for low income payers because we share their opinion that child support serves as a wedge between parents and their children. Please do not hesitate to contact us if you have any questions.

Sincerely,



Jeanie Hatfield, MEPD

Malcolm Hatfield, MD
Jeanie Hatfield, MEPD
6937 Brook Rd.
Franksville, WI 53126
262-752-1547

July 24, 2003

Ms Susan E. Pfeiffer
201 E. Washington Ave
E200, DWD
Madison, WI 53703

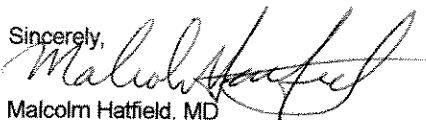
Dear Ms. Pfeiffer:

This is written to summarize my opinion given in today's public hearing regarding the DWD's child support proposed guidelines. I limited my talk solely to high income payers. I first defined high income payers as having a combined income of over \$50K per year...I defined the word combined as being both parents. I made the following 4 points:

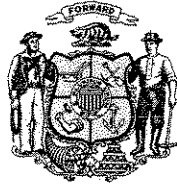
1. There is no economic data to support their assumptions for all levels of income above the \$50k threshold. As the income of one or both parents increases, the disparity between the economic data and proposed obligation increases. In addition, the majority of States and all of our neighboring States have guidelines that are clearly different, with the disparity increasing significantly as combined income increases. There is no economic data to support this discrepancy.
2. Once a parent "wins" primary custody, there is no mandatory work provision for the custodial parent (CP) and therefore, the custodial parent with a high income non-custodial parent (NCP) is not only allowed to receive a windfall profit, but also is allowed to forgo his/her obligation to provide for their half of the financial obligation to their children.
3. The assumptions do not address the significant tax advantages that the CP has, which are especially beneficial in the high income case. This includes head of household filing status and child care credit as well as other tax breaks. High income NCP's are not allowed any of these tax advantages.
4. Lastly, there is no allowance made when the CP is allowed to move out of State for the high income NCP to voluntarily decrease his/her child support obligation when he/she must take a lower paying job to move to be close to his/her kids. High income NCP cannot obtain high income jobs anyplace or anywhere. Current proposal forces NCP's to face possible felony charges (due to federalization of child support enforcement) and deadbeat parent status merely because he/she wants to live near their kids.

I summarized my comments by stating that these and current guidelines give strong disincentive for high income parents to raise their kids in Wisconsin because they can and will lose their kids through no fault of their own. They are then forced to pay outrageous amounts of child support that is not based on economic data and is not in keeping with neighboring States. This serves as a windfall profit for the CP and harms children because the windfall profit is inversely proportional to the amount of time the kids spend with the NCP. Kids need and deserve a strong relationship with BOTH parents, regardless of income.

Sincerely,



Malcolm Hatfield, MD



Carol Roessler
STATE SENATOR

July 28, 2003

Secretary Roberta Gassman
Department of Workforce Development
201 East Washington Avenue, Rm 400 X
Madison, WI 53707

Dear Secretary Gassman,

On July 22, 2003, the Senate Committee on Health, Children, Families, Aging and Long Term Care held a public hearing on Clearinghouse Rule 03-022, relating to child support guidelines.

As chair of this Committee, I am writing to inform the Department of Workforce Development that the Committee voted 9-0 to request further modifications to CR 03-022. Concerns relating to "low income payers," "imputed income," and "high income payers," were expressed by several individuals representing diverse interests throughout Wisconsin.

I commend the Department for its efforts put forth on this rule. Individuals at the Department have diligently worked on this monumental task and should be proud of the level of consensus surrounding this rule proposal.

I ask that you please respond in writing as to whether the Department agrees to work with the Committee on making modifications.

Sincerely,

A handwritten signature in cursive script that reads "Carol".

Carol Roessler, Chair
Senate Committee on Health, Children, Families, Aging and Long Term Care

Halbur, Jennifer

To: Senate Committee on Health, Children, Families, Aging and Long Term Care
Subject: Perfusion and Child Support

Hi,

Just as an FYI, Senator Roessler will be meeting with the Department of Regulation and Licensing on Sept 2nd to discuss changes the Committee requested to CR 03-023. She is planning to use the Perfusion testimony as a starting point in determining the extent of the changes. The Perfusionists provided two alternatives to the way the rule is currently written. Please let me know if your boss prefers one option over the other or has a different idea entirely. If you need another copy of the Perfusionist testimony, let me know.

I will be sending over a copy of the letter DWD sent to Senator Roessler which indicated their willingness to modify CR 03-022 (relating to child support). I apologize for not sending this sooner. The Department has as long as it wants to make the changes, however, JoAnna Richard has told me that the Department has been working with interested parties and is getting close to having something to send back to us.

Please don't hesitate to ask any questions if any of this is not clear!

Thank you,

Jennifer

Jim Doyle
Governor

Roberta Gassman
Secretary

AUG 07 2003



State of Wisconsin
Department of Workforce Development

OFFICE OF THE SECRETARY
201 East Washington Avenue
P.O. Box 7946
Madison, WI 53707-7946
Telephone: (608) 266-3131
Fax: (608) 266-1784
<http://www.dwd.state.wi.us/>
e-mail: dwdsec@dwd.state.wi.us

August 4, 2003

Hon. Carol Roessler, Chair
Senate Committee on Health, Children, Families, Aging and Long Term Care
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

Dear Senator *Carol* Roessler:

Thank you for your recent letter regarding Clearinghouse Rule 03-022, relating to the child support guidelines. We appreciate the time and energy devoted to this issue by your committee, and are committed to working with you to address the issues raised at the hearing on July 22, 2003.

Staff in the Department are working with the groups represented at the hearing to develop modifications to the proposed rules, and will keep you apprised of our progress.

Thank you again for your interest in this issue.

Sincerely,


Roberta Gassman
Secretary

Best to you

JAMES EVENSON
Chief Judge
Sauk County Courthouse, Branch 2
515 Oak Street
Baraboo, WI 53913-2498
Telephons: (608) 355-3218

FREDERIC FLEISHAUER
Deputy Chief Judge
Portage County Courthouse, Branch 1
1516 Church Street
Stevens Point, WI 54481
Telephons: (715) 346-1355

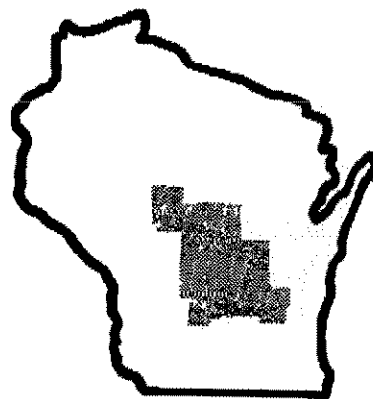
SCOTT K. JOHNSON
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Telephone: (715) 345-5295

STATE OF WISCONSIN

SIXTH JUDICIAL DISTRICT

2957 CHURCH STREET, SUITE B
STEVENS POINT, WISCONSIN 54481-5210

FAX: (715) 345-5297
TTY Users: Call WI TRS at 1-800-947-3529



Representative Steve Kestell
Committee on Children and Families
Box 8952
Madison, WI 53708
fax number 608-282-3627

August 6, 2003

Senator Carol Roessler
Committee on Health, Children, Families, Aging and Long-Term Care
Box 7882
Madison, WI 53707
fax number 608-266-0423

RE: DWD 40 Low Income Provisions

Dear Rep. Kestell and Senator Roessler:

I am writing to you on behalf of the Committee of Chief Judges and District Court Administrators of the Wisconsin courts to express concern about the low-income standard for child support.

We believe that the minimum payment for low-income payers needs to be set at a level high enough to make a realistic contribution to the child's support. Low support orders favor the noncustodial parent over the child and the custodial parent. A low-income custodial parent with children to support must find a way to do it somehow, often by working two or three jobs, in addition to paying child care costs and bearing the responsibility of raising the children. Low payments give the non-custodial parent the option of working little or not at all, thereby escaping the responsibility for supporting the children.

We generally support the Department's proposed changes to DWD Rule 40. Other proposals have suggested that the payments for low-income payers could be set as low as \$21 to \$50 per month for the first child. These proposals do virtually nothing to support the child and send a poor message to all parties. We understand the theory behind these proposals, that setting a lower level of support results in higher rates of compliance, has not been borne out by recent research.

Sixth Judicial District

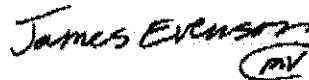
Page 2 of 2

If the low-income standard must be lowered, we recommend a figure in the neighborhood of \$94 per month. This figure represents application of the usual 17% standard to a payer earning minimum wage for 25 hours per week. Our observation of the families we see is that most people can put together at least 25 hours per week of minimum wage work.

We believe that the rule should encourage adherence to the current percentage standards while leaving room for judicial discretion to deviate in appropriate circumstances. Judges should be able to deviate after taking into account local economic circumstances and the individual characteristics of the payer, such as physical and mental health and employability. Judges can and should deviate when the low-income payer genuinely cannot contribute more to the child's support.

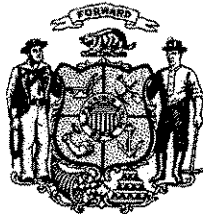
We hope that the Legislature will approve a low-income standard that reflects a meaningful contribution to the child's welfare, balances the burden of support fairly between the custodial and noncustodial parents, and gives the judge flexibility to respond to unusual circumstances. If you have any questions about our position, please feel free to call me.

Sincerely,

A handwritten signature in cursive script that reads "James Evenson". Below the signature is a small, circular stamp containing the initials "JE".

James Evenson
Chief Judge, Sixth Judicial District
Chair, Chief Judges Subcommittee on Child Support

JE/jl



STATE REPRESENTATIVE
STEVE KESTELL
27TH ASSEMBLY DISTRICT

TO: Members of the Children and Families Committee
Representative Ladwig
Representative Albers
Representative Jeskewitz
Representative Vukmir
Representative Miller
Representative Sinicki
Representative Krug

FROM: Representative Steve Kestell, Chair

DATE: August 20, 2003

RE: Child Support: Clearinghouse Rule 03-022 and Assembly Bill 250

On August 7, 2003 the Assembly Committee on Children and Families held a public hearing on DWD Clearinghouse Rule 03-022 and Assembly Bill 250 relating to child support guidelines in Wisconsin. The Senate Committee on Health, Children, Families, Aging and Long-Term Care held a public hearing and executive session on Clearinghouse Rule 03-022 on July 22, 2003. The Senate Committee voted 9-0 to request further modifications to CR 03-022 regarding "low income payers," "imputed income," and "high income payers."

The Department of Workforce Development has indicated that they are close to completing modifications on "low income payers" and "imputed income." The Department revisited the "high income payer" language, however it is unclear whether modifications will be made. Once the Department submits their modifications to the Senate Committee, both Committees will have 10 working days to review the modifications and take any desired action(s).

I am asking for committee member input on issues surrounding CR 03-022 and Assembly Bill 250. I am interested in knowing if members have specific concerns or suggestions on these proposals, and what desired actions you may wish to take. Since the Department has not yet submitted their modifications, the Committee is not bound by a specific timeline. However, it is important that we are prepared to make a decision when the time comes.

Please forward your comments to my office before 1:00 pm on August 27th.

Steve Kestell
Chairman

Halbur, Jennifer

From: Richard, JoAnna - DWD
Sent: Monday, August 25, 2003 4:14 PM
To: Halbur, Jennifer
Subject: FW: memo to Jennifer Halbur



halburdwd40memo.
doc

Jennifer,

Attached is a memo outlining the agreed upon changes to the child support rule. We are trying to contact Rep. Kestell to brief him before sending the letter so that both committees have the same amount of time for considering these changes. Will send the letter to Senator Roessler as soon as we connect with his office.

In the mean-time, this memo will be helpful to you for the suggested changes.

Let me know if you need additional information.

Jo

InterOffice Memo

Department of Workforce Development

Date: August 25, 2003

File Ref: halburdwd40memo.doc

To: Jennifer Halbur

From: JoAnna Richard

Subject: **Clearinghouse Rule 03-022**

As you know, on July 22, 2003, the Senate Committee on Health, Children, Families, Aging and Long Term Care requested that the department modify the proposed child support rule to provide for a realistic payment amount for low-income payers and review the high-income section of the proposed rule to determine if the level of support required is justified. The department agreed to make modifications to the low-income provision and a new proposal has been developed in cooperation with low-income advocates. This memo is intended to outline that proposal. A formal letter will be forthcoming. The department also reviewed the high-income provision and concluded that the proposed rule as submitted to the legislature does accurately reflect research on the cost of raising children. More detailed information will be provided in our letter.

Modification affecting low-income payers. The new proposal provides a schedule with reduced percentage rates to be used to determine the child support obligation for payers with an income available for child support between 75% and 125% of the federal poverty guidelines if the court determines that the payer's total economic circumstances limit his or her ability to pay support at the level determined using the full percentage rates. The full percentages rates apply to payers with income available for child support greater than or equal to the levels listed in the schedule. A chart will be attached as an appendix to the rule setting forth a minimum child support level of \$64 for a payer with an income at 75% of the poverty level and one child. The chart provides for graduated increases in the amount of support up to 125% of poverty level at which point the levels in the percentage standard would be applied.

The modified proposed rule also provides that when income is imputed based on earning capacity the court shall consider a parent's history of child care responsibilities as the parent with primary placement, along with the other factors of the parent's education, training and work experience, earnings during previous periods, physical and mental health, and the availability of work in or near the parent's community.

Also, if the court is imputing income at minimum wage because information on the parent's actual income or ability to earn is unavailable, the court may impute to the parent the income that a person would earn by working 35 hours per week for the federal minimum hourly wage, rather than 40 hours per week.

Halbur, Jennifer

From: Dan Rossmiller [DRossmiller@wisbar.org]
Sent: Monday, August 25, 2003 1:46 PM
To: Halbur, Jennifer
Subject: RE: LRB 2485/2 relating to percentage standard in special cases...



Child Support
Guidelines DWD A...

Jennifer,

You indicated you didn't know much about the history and background of this proposal. This email should you some background. (Sorry it's not quite the Reader's Digest version.)

Federal law requires the state to review its child support program standards every four years. To this end, former Department of Workforce Development (DWD) Secretary Jennifer Reinert created a Child Support Guidelines Advisory Committee to provide guidance to the Department on a number of matters including revisions to our state policy regarding the guidelines used to determine child support payments. That Advisory Committee membership was a diverse group, including representatives of father's groups, domestic violence advocacy groups, attorneys, judges, family court commissioners, county child support agencies, and child advocacy groups. It included a representative of the Family Law Section of the State Bar of Wisconsin.

The Advisory Committee received testimony and data from national experts and the Institute for Research on Poverty at the University of Wisconsin, compiled specifically to determine the impact of the different child support models on the health and well-being of Wisconsin children. After reviewing the data and debating various alternative approaches, the Advisory Committee released its recommendations in a February 2002 Report. In a nutshell, the Advisory Committee determined that many of the changes it recommended could be accomplished by revising the Department's administrative rules contained in DWD 40, Wis. Admin. Code. (Those changes are currently before the Senate Health, Children, Families, Aging and Long-Term Care Committee as Clearinghouse Rule 03-022. As you know, the Committee held a public hearing on the rules on July 22, 2003 and requested that the DWD modify the rules, especially the provisions dealing with low-income payers.)

As part of its review the Advisory Committee also determined that effectuating at least three of its other recommendations would require statutory changes. The changes reflected in the draft you now have were recommended by the Advisory Committee (see pp.16-17 of the attachment). The Family Law Section supports these statutory changes. (Note: These three statutory changes were originally drafted separately. Since then, the three drafts that Sara Jermstad originally received have been combined into one draft.)

As to the Family Law Section's other involvement in these proposals: In 2000, prior to the formation of the DWD Advisory Committee, the Family Law Section of the State Bar formed a Child Support Initiative Committee comprised of a practicing family law attorneys with day-to-day experience with the family law system and the complexities of the child support law to review child support laws from other states, review legislative proposals and run spreadsheets to reflect the different real life situations for each of the proposals they reviewed. The results of that Committee's work were shared with the Child Support Guidelines Advisory Committee created by the Department of Workforce Development.

I hope this answers any questions you may have. Please feel free to get in touch with me if you have any other questions or if you need additional information.

Dan Rossmiller
Public Affairs Director
State Bar of Wisconsin
(608) 250-6140 (voice)
(608) 257-4343 (fax)

WISCONSIN LAWYERS
Expert Advisers. Serving You.

-----Original Message-----

From: Halbur, Jennifer [mailto:Jennifer.Halbur@legis.state.wi.us]
Sent: Thursday, August 14, 2003 8:54 AM
To: Dan Rossmiller
Subject: RE: LRB 2485/2 relating to percentage standared in special cases...

Sounds good, thanks.

-----Original Message-----

From: Dan Rossmiller [mailto:DRossmiller@wisbar.org]
Sent: Wednesday, August 13, 2003 6:59 PM
To: Halbur, Jennifer
Subject: RE: LRB 2485/2 relating to percentage standared in special cases...

Jennifer,

Thanks. I will be happy to discuss this with you when I return from the Family Law Conference. Hopefully, I will get some guidance on whether this draft meets our needs or not.

Dan Rossmiller

-----Original Message-----

From: Halbur, Jennifer [mailto:Jennifer.Halbur@legis.state.wi.us]
Sent: Wednesday, August 13, 2003 4:11 PM
To: Dan Rossmiller; Richard, JoAnna - DWD; Chesnik, Constance; Pfeiffer, Susan
Subject: LRB 2485/2 relating to percentage standared in special cases...

<<03-2485/2>>

Hi,

I just recieved this child support draft. Please take a look at it and let me know if this draft meets your intent.

I have taken over for Sara Jermstad and will be the point person on this issue. I apologize for not yet knowing the history behind this bill. Please share your comments about the draft with me.

Thanks,

Jennifer Halbur
Office of Senator Carol Roessler
608-266-5300

**Child Support Guidelines Review
Advisory Committee Report**

To

Department of Workforce Development

February 22, 2002

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In the Spring of 2001, with input from members of the Legislature, Secretary Reinert appointed an advisory committee to provide guidance to the Department on revisions to the state policy regarding the guidelines used to determine child support payments. This attached report is the result of the extensive deliberations of the advisory panel composed of representatives of the courts, the Wisconsin Bar, community-based organizations and county child support agencies, citizens, and the Department of Workforce Development.

**Child Support Guidelines Review Advisory Committee Report
to
Department of Workforce Development**

SUMMARY

February 22, 2002

On March 23, 2001, the Department of Workforce Development announced the formation of an advisory panel to review the percentage of income standard for child support orders in Wisconsin. The Child Support Guidelines Review Advisory Committee includes representatives from the judiciary, public interest groups and the Department of Workforce Development. The Committee held eleven meetings between April 26, 2001, and February 14, 2002.

Committee Purpose

The federal government requires that states review their child support guidelines every four years. The Committee was charged with providing input and recommendations to the Department for consideration as part of the next required guidelines review. The Committee's charge was to make recommendations for modifications to the child support guidelines and Wisconsin statute, taking into consideration the best interests of the citizens of Wisconsin, and, in particular, the best interests of children impacted by divorce or the absence of a parent. The Department asked the Committee to complete its work by the Spring of 2002.

Committee Process

The Committee included individuals with considerable experience in child support policy formation, who represented the interests of custodial parents, non-custodial parents and children.

The Committee benefited from timely and pertinent presentations. Dr. Robert G. Williams, Director of Policy Studies, Inc., a nationally-known expert in the establishment of child support awards, spent a day with the Committee presenting findings from his research and experience and discussing Committee questions. Staff from the Institute for Research on Poverty (IRP) at the University of Wisconsin – Madison met with the Committee on two occasions. The first time IRP researchers provided an overview of the estimates of family expenditures on children. The second time, they summarized income shares and percentage guidelines in five states.

The Committee was also able to consider very recent research reports and economic data. The Committee reviewed the *Expenditures on Children by Families 2000 Annual Report* published by the U. S. Department of Agriculture (USDA) in May 2001. In developing recommendations for low-income payers, members of the Committee were guided by a report on the *Challenge of Helping Low-Income Fathers* published by the Manpower Development Research Corporation (MDRC) in November 2001. IRP research findings from reports issued in December 2001 and January 2002 were helpful to the Committee in identifying trends in shared-time placements, and in reviewing

income data for payers and payees subject to child support orders. For this reason, the Committee feels that the final recommendations deal with emerging issues and trends related to child support guidelines.

In December 2001, the Committee was informed of legislative interest in proposing revisions to the percentage of income standard for child support during the Spring 2002 legislative session. This prompted the Committee to advance its timetable to publish the final report in February 2002.

The Final Report

The Child Support Guidelines Review Committee puts forth these recommendations to provide the Department with guidance on this important subject that affects large numbers of parents and their children.

The Committee recommends that Wisconsin's child support guidelines should remain in Administrative Rule, Chapter DWD 40 Child Support Percentage of Income Standard, instead of being incorporated into Wisconsin statute. The Committee's final recommendations include proposed changes to DWD 40, as well as proposed changes to existing child support statute.

The Final Report consists of four recommendations and a summary of the Committee meetings. The four recommendations include:

- Recommended changes to DWD 40 for Low-Income Payers
- Recommended changes to DWD 40 for High-Income Payers
- Recommended changes to DWD 40 for Shared-Time Parents
- Recommended Draft Changes to Wisconsin Statute

Committee Membership

Ron Hunt, Chairperson, DWD

Jacquelyn Boggess, Center on Fathers, Families and Public Policy
Connie Chesnik, DWD Legal Counsel
Margaret Hickey, Wisconsin State Bar
Catherine Kendrigan, Legal Action of Wisconsin
Honorable Philip Kirk, Chief Judges Sub-Committee on Child Support
Ann Krummel, Wisconsin Family Court Commissioners Association
James Luscher, Wisconsin Legislation for Kids and Dads
Carol Medaris, Wisconsin Council on Children and Families
Katie Mnuk, Wisconsin Women's Council
Representative Carol Owens, Wisconsin State Assembly
Sally Phelps, Wisconsin Women's Network
Jan Raz, Wisconsin Fathers for Children and Families
Elaine Richmond, Wisconsin Child Support Enforcement Association
Patti Seger, Wisconsin Coalition against Domestic Violence

DWD Child Support Guidelines Advisory Committee

LOW INCOME OBLIGORS

Recommendation: Modify the Child Support Guidelines for low-income payers, as follows:

- For payers with monthly gross income below 70% of the Federal Poverty Level (FPL) (\$501 per month for one person in 2001), there is a presumptive monthly support payment according to the following schedule:
 - ✓ \$21 for one child,
 - ✓ \$31 for two children,
 - ✓ \$36 for three children,
 - ✓ \$39 for four children, and
 - ✓ \$43 for five or more children

These amounts equal approximately one-fourth of the current guideline percentages for incomes of \$500 for one person.

- For payers with gross monthly income between 70% and 150% FPL (\$501 per month and \$1,074 for one person in 2001), calculate the presumptive support using graduated percentage rates between the percentage of the presumptive minimum payment amounts and the DWD 40 payment percents. The rates will differ based on the number of children in the family. (See attached schedule.)
- For payers with gross monthly incomes above 150% FPL (\$1,074 per month for one person in 2001), calculate support using current percentages in DWD 40:
 - ✓ 17% for one child,
 - ✓ 25% for two children,
 - ✓ 29% for three children ,
 - ✓ 31% for four children, and
 - ✓ 34% for 5 or more children
- Courts may still deviate from the presumptive support amount in consideration of the factors in statute.
- In determining income, the court shall use actual income where known, unless the payer is employed less than 40 hours per week and clearly able to increase earnings, in which case the court may impute income based upon the payer's education, training and work experience, and the availability of work in or near the payer's community. In the event that the payer does not appear at the court hearing at which income is determined, the court shall use the best available information about the payer's actual earnings ability. This may include information about the payer's earnings during previous periods, including

information derived from sources accessed by the child support agency. The court may impute income at the minimum wage times 40 hours per week only if evidence has been presented that due diligence has been exercised to ascertain a payer's actual income, and actual income information is unavailable.

- Courts should consider the full economic circumstances of the non-custodial parent, including any in-kind benefits, such as food and shelter, that the non-custodial parent has available. Such resources may impact the ability to pay support at the full percentage amount or in an amount between the full percentage amount and that derived by application of the above schedule.

Justification

- A. Many low-income payers have insufficient income to pay current ordered amounts. Lower support levels for low-income payers may encourage/enable the payer to pay current support and fewer arrears should accrue.
- B. Improved compliance with existing orders may be expected. Research shows that compliance with child support obligations is reduced as support orders are a higher percent of income.¹ This research shows that the number of payers making a partial or full payment is significantly reduced when the order exceeds 35% of the payer's gross income, as follows:
 - When support is 10-15% of income, compliance rate is 83%
 - When support is 21-30% of income, compliance rate is 78%
 - When support is 51-75% of income, compliance rate is 53%
 - When support is more than 75% of income, compliance rate is 45%
- C. Lower support levels for low-income payers may increase emotional and financial investment in their children. When parents don't pay support, research shows that payers have less contact with their children resulting in reduced emotional and financial support.
- D. Currently, when a payer is underemployed or unemployed, the courts routinely calculate a child support amount using the federal minimum wage, times 40 hours per week, times the percentage of gross income. For many payers, it may be unrealistic to expect the payer to pay support at that level. Some of these payers will be pushed into the underground economy to avoid payment of support. The Committee recommends that, when imputing income, the courts should also consider the payer's actual ability to earn, training, education, and work experience, along with the availability of work in the payer's community.

¹ Meyer and Bartfeld, Institute for Research on Poverty, *Compliance with Child Support Orders in Divorce Cases*, 1994

- E. During periods of unemployment, the arrears accruing for low-income payers will be less than under the current standard, thereby increasing the likelihood that the payer will attempt to catch up with past-due amounts in the future.

Discussion Points/Considerations

- A. Lowering support orders may result in lowering the amount of support paid, may have no effect, or may increase the amount paid. If it results in lower payments, then there may be an increased likelihood that the payee and children will need public supports to offset the reduced child support payments. If it results in higher payments, then there will be less likelihood that children will need public supports.
- B. Similarly, if lower orders result in lower payments, and the custodial parent is also low-income, children may have fewer financial resources available under this proposal. Alternatively, if lower orders result in increased payments, children of low-income custodial parents will have more financial resources available under this proposal.
- C. In many cases the custodial parent/payee also has low income. In some of these cases, even when the payer pays the presumptive amount of support under the order, the payee may pay a higher proportionate amount (percentage) of his/her income for the children than the payer.
- D. If a reduced child support obligation results in more regular payments, there may be less conflict between the parents. This may promote increased involvement with the child(ren) for non-custodial parents.
- E. There may be a perceived lack of fairness between payers with new (and lower) orders under the new guidelines and those with existing orders. During the transition, policy should be developed to clarify under what circumstances payers with higher orders may request a review and modification of the support amount that was set under the current guidelines.
- F. If very large numbers of payers request modifications at the same time, it may create an unmanageable work burden on the local child support agencies and the courts.
- Provide that the court has the power to create a trust for children if the amount of support exceeds the amount necessary to maintain the child's standard of living.
 - Clarify that use of the recommended high-income standards is discretionary; courts retain authority to deviate from the support payment amount upon consideration of factors in the statute.

Justification

- A. Economic data shows that, as income rises above certain high-income levels, families spend a lower percentage of their gross income on their children, although this does not take into consideration other expenditures, for example investments and savings for children.
- B. Under the current standards, there is a significant amount of litigation surrounding shared-time and child support. A payment policy that recognizes the reduced proportion of income spent on children above a given high-income amount may reduce this litigation.
- C. The Committee agreed that the percentage standard should apply in most cases, and therefore chose a high-income starting point of \$150,000 so that this high-income exception will apply to only a small number of cases.

Discussion Points/Considerations

- A. By reducing the support amounts in high-income situations, there may be an increased perception of fairness resulting in more positive relations with children.
- B. Some may perceive it to be unfair that persons with higher incomes will pay a lower percentage of their gross income than others are required to pay.
- C. If high-income payers are permitted to retain a higher amount of their income, they may be more able to set aside money for their children, e.g. pre-tax educational accounts.
- D. Many high-income cases also have shared-time placement for the children, and thus may have a further reduction of support based on the Committee's Shared-time Recommendation.
- E. Because high-income situations tend to have a high degree of variation (income expressed as stock options or bonuses, tax consequences, business expense write-offs), the Committee believes that the courts must have the ability to deviate from the high-income formula to account for these individual case considerations.
- F. Some may perceive that the proposal does not sufficiently reduce the support that high-income individuals should pay.

For Monthly Income Up To	One Child			Two Children			Three Children			Four Children			Five or More Children		
	Current %	Proposed %	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount
500	17	4.250%	\$21	25	6.250%	\$31	29	7.250%	36	31	7.750%	\$39	34	8.500%	\$43
505	17	4.362%	\$22	25	6.413%	\$32	29	7.439%	38	31	7.952%	\$40	34	8.722%	\$44
510	17	4.473%	\$23	25	6.576%	\$34	29	7.628%	39	31	8.154%	\$42	34	8.944%	\$46
515	17	4.585%	\$24	25	6.739%	\$35	29	7.817%	40	31	8.356%	\$43	34	9.166%	\$47
520	17	4.697%	\$24	25	6.902%	\$36	29	8.006%	42	31	8.558%	\$45	34	9.388%	\$49
525	17	4.808%	\$25	25	7.065%	\$37	29	8.195%	43	31	8.760%	\$46	34	9.610%	\$50
530	17	4.919%	\$26	25	7.228%	\$38	29	8.384%	44	31	8.962%	\$47	34	9.832%	\$52
535	17	5.030%	\$27	25	7.391%	\$40	29	8.573%	46	31	9.164%	\$49	34	10.054%	\$54
540	17	5.141%	\$28	25	7.554%	\$41	29	8.762%	47	31	9.366%	\$51	34	10.276%	\$55
545	17	5.252%	\$29	25	7.717%	\$42	29	8.951%	49	31	9.568%	\$52	34	10.498%	\$57
550	17	5.363%	\$29	25	7.880%	\$43	29	9.140%	50	31	9.770%	\$54	34	10.720%	\$59
555	17	5.474%	\$30	25	8.043%	\$45	29	9.329%	52	31	9.972%	\$55	34	10.942%	\$61
560	17	5.585%	\$31	25	8.206%	\$46	29	9.518%	53	31	10.174%	\$57	34	11.164%	\$63
565	17	5.696%	\$32	25	8.369%	\$47	29	9.707%	55	31	10.376%	\$59	34	11.386%	\$64
570	17	5.807%	\$33	25	8.532%	\$49	29	9.896%	56	31	10.578%	\$60	34	11.608%	\$66
575	17	5.918%	\$34	25	8.695%	\$50	29	10.085%	58	31	10.780%	\$62	34	11.830%	\$68
580	17	6.029%	\$35	25	8.858%	\$51	29	10.274%	60	31	10.982%	\$64	34	12.052%	\$70
585	17	6.140%	\$36	25	9.021%	\$53	29	10.463%	61	31	11.184%	\$65	34	12.274%	\$72
590	17	6.251%	\$37	25	9.184%	\$54	29	10.652%	63	31	11.386%	\$67	34	12.496%	\$74
595	17	6.362%	\$38	25	9.347%	\$56	29	10.841%	65	31	11.588%	\$69	34	12.718%	\$76
600	17	6.473%	\$39	25	9.510%	\$57	29	11.030%	66	31	11.790%	\$71	34	12.940%	\$78
605	17	6.584%	\$40	25	9.673%	\$59	29	11.219%	68	31	11.992%	\$73	34	13.162%	\$80
610	17	6.695%	\$41	25	9.836%	\$60	29	11.408%	70	31	12.194%	\$74	34	13.384%	\$82
615	17	6.806%	\$42	25	9.999%	\$61	29	11.597%	71	31	12.396%	\$76	34	13.606%	\$84
620	17	6.917%	\$43	25	10.162%	\$63	29	11.786%	73	31	12.598%	\$78	34	13.828%	\$86
625	17	7.028%	\$44	25	10.325%	\$65	29	11.975%	75	31	12.800%	\$80	34	14.050%	\$88
630	17	7.139%	\$45	25	10.488%	\$66	29	12.164%	77	31	13.002%	\$82	34	14.272%	\$90
635	17	7.250%	\$46	25	10.651%	\$68	29	12.353%	78	31	13.204%	\$84	34	14.494%	\$92
640	17	7.361%	\$47	25	10.814%	\$69	29	12.542%	80	31	13.406%	\$86	34	14.716%	\$94
645	17	7.472%	\$48	25	10.977%	\$71	29	12.731%	82	31	13.608%	\$88	34	14.938%	\$96
650	17	7.583%	\$49	25	11.140%	\$72	29	12.920%	84	31	13.810%	\$90	34	15.160%	\$99
655	17	7.694%	\$50	25	11.303%	\$74	29	13.109%	86	31	14.012%	\$92	34	15.382%	\$101
660	17	7.805%	\$52	25	11.466%	\$76	29	13.298%	88	31	14.214%	\$94	34	15.604%	\$103
665	17	7.916%	\$53	25	11.629%	\$77	29	13.487%	90	31	14.416%	\$96	34	15.826%	\$105

For Monthly Income Up To	One Child			Two Children			Three Children			Four Children			Five or More Children		
	Current %	Proposed %	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount	Current %	Apply this Percentage	Child Support Amount
670	17	8.027%	\$54	25	11.792%	\$79	29	13.676%	92	31	14.618%	\$98	34	16.048%	\$108
675	17	8.138%	\$55	25	11.955%	\$81	29	13.865%	94	31	14.820%	\$100	34	16.270%	\$110
680	17	8.249%	\$56	25	12.118%	\$82	29	14.054%	96	31	15.022%	\$102	34	16.492%	\$112
685	17	8.360%	\$57	25	12.281%	\$84	29	14.243%	98	31	15.224%	\$104	34	16.714%	\$114
690	17	8.471%	\$58	25	12.444%	\$86	29	14.432%	100	31	15.426%	\$106	34	16.936%	\$117
695	17	8.582%	\$60	25	12.607%	\$88	29	14.621%	102	31	15.628%	\$109	34	17.158%	\$119
700	17	8.693%	\$61	25	12.770%	\$89	29	14.810%	104	31	15.830%	\$111	34	17.380%	\$122
705	17	8.804%	\$62	25	12.933%	\$91	29	14.999%	106	31	16.032%	\$113	34	17.602%	\$124
710	17	8.915%	\$63	25	13.096%	\$93	29	15.188%	108	31	16.234%	\$115	34	17.824%	\$127
715	17	9.026%	\$65	25	13.259%	\$95	29	15.377%	110	31	16.436%	\$118	34	18.046%	\$129
720	17	9.137%	\$66	25	13.422%	\$97	29	15.566%	112	31	16.638%	\$120	34	18.268%	\$132
725	17	9.248%	\$67	25	13.585%	\$98	29	15.755%	114	31	16.840%	\$122	34	18.490%	\$134
730	17	9.359%	\$68	25	13.748%	\$100	29	15.944%	116	31	17.042%	\$124	34	18.712%	\$137
735	17	9.470%	\$70	25	13.911%	\$102	29	16.133%	119	31	17.244%	\$127	34	18.934%	\$139
740	17	9.581%	\$71	25	14.074%	\$104	29	16.322%	121	31	17.446%	\$129	34	19.156%	\$142
745	17	9.692%	\$72	25	14.237%	\$106	29	16.511%	123	31	17.648%	\$131	34	19.378%	\$144
750	17	9.803%	\$74	25	14.400%	\$108	29	16.700%	125	31	17.850%	\$134	34	19.600%	\$147
755	17	9.914%	\$75	25	14.563%	\$110	29	16.889%	128	31	18.052%	\$136	34	19.822%	\$150
760	17	10.025%	\$76	25	14.726%	\$112	29	17.078%	130	31	18.254%	\$139	34	20.044%	\$152
765	17	10.136%	\$78	25	14.889%	\$114	29	17.267%	132	31	18.456%	\$141	34	20.266%	\$155
770	17	10.247%	\$79	25	15.052%	\$116	29	17.456%	134	31	18.658%	\$144	34	20.488%	\$158
775	17	10.358%	\$80	25	15.215%	\$118	29	17.645%	137	31	18.860%	\$146	34	20.710%	\$161
780	17	10.469%	\$82	25	15.378%	\$120	29	17.834%	139	31	19.062%	\$149	34	20.932%	\$163
785	17	10.580%	\$83	25	15.541%	\$122	29	18.023%	141	31	19.264%	\$151	34	21.154%	\$166
790	17	10.691%	\$84	25	15.704%	\$124	29	18.212%	144	31	19.466%	\$154	34	21.376%	\$169
795	17	10.802%	\$86	25	15.867%	\$126	29	18.401%	146	31	19.668%	\$156	34	21.598%	\$172
800	17	10.913%	\$87	25	16.030%	\$128	29	18.590%	149	31	19.870%	\$159	34	21.820%	\$175
805	17	11.024%	\$89	25	16.193%	\$130	29	18.779%	151	31	20.072%	\$162	34	22.042%	\$177
810	17	11.135%	\$90	25	16.356%	\$132	29	18.968%	154	31	20.274%	\$164	34	22.264%	\$180
815	17	11.246%	\$92	25	16.519%	\$135	29	19.157%	156	31	20.476%	\$167	34	22.486%	\$183
820	17	11.357%	\$93	25	16.682%	\$137	29	19.346%	159	31	20.678%	\$170	34	22.708%	\$186
825	17	11.468%	\$95	25	16.845%	\$139	29	19.535%	161	31	20.880%	\$172	34	22.930%	\$189
830	17	11.579%	\$96	25	17.008%	\$141	29	19.724%	164	31	21.082%	\$175	34	23.152%	\$192
835	17	11.690%	\$98	25	17.171%	\$143	29	19.913%	166	31	21.284%	\$178	34	23.374%	\$195