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**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2003-04

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on ... Children and Families (AC-CF)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (May 2012)

**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 2

Connie Chesnik, DWD Legal Counsel 1

Margaret Hickey, Wisconsin State Bar 1

Catherine Kendrigan, Legal Action of Wisconsin 1

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 2

Carol Medaris, Wisconsin Council on Children and Families 1

Katie Mnuk, Wisconsin Women's Council 1

Representative Carol Owens, Wisconsin State Assembly

Sally Phelps, Wisconsin Women's Network 1

Jan Raz, Wisconsin Fathers for Children and Families 2

Elaine Richmond, Wisconsin Child Support Enforcement Association

Patti Seger, Wisconsin Coalition against Domestic Violence 1

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

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
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
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

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
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

DWD Child Support Guidelines Advisory Committee

HIGH INCOME OBLIGORS

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

- Apply the current standard percentages in DWD 40 to a payer's income up to the \$150,000 annual gross income level.
 - ✓ 17% for one child
 - ✓ 25% for two children
 - ✓ 29% for three children
 - ✓ 31% for four children
 - ✓ 34% for 5 or more children

- Apply the following reduced percentages that represent 80% of the current standard to the amount of annual gross income between \$150,000 and \$200,000.
 - ✓ 1 child 14% (rather than 17%)
 - ✓ 2 children 20% (rather than 25%)
 - ✓ 3 children 23% (rather than 29%)
 - ✓ 4 children 25% (rather than 31%)
 - ✓ 5 or more children 27% (rather than 34%)

- Apply the following percentages that represent 60% of the current standard to the amount of annual gross income that exceeds \$200,000.
 - ✓ 1 child 10%
 - ✓ 2 children 15%
 - ✓ 3 children 17%
 - ✓ 4 children 19%
 - ✓ 5 or more children 20%

- 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

- D. 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.
- E. 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.
- F. 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

- G. By reducing the support amounts in high-income situations, there may be an increased perception of fairness resulting in more positive relations with children.
- H. 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.
- I. 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.
- J. 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.
- K. 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.
- L. Some may perceive that the proposal does not sufficiently reduce the support that high-income individuals should pay.

DWD Child Support Guidelines Advisory Committee

SHARED-TIME FORMULA CHANGES

Recommendation: Modify the Child Support Guidelines for shared-time parents, as follows:

- The shared-time formula shall be applied when both parents have court-ordered periods of placement of 25% or more, and each parent is ordered to assume the child(ren)'s costs, in proportion to the time that the parent has placement of the child(ren). Variable costs shall be ordered in addition to the basic support amount under the formula.
- The periods of placement for each parent shall be determined by calculating the number of overnights or equivalent care exercised by the parents, and dividing that number by 365 days in a year. Equivalent care means a period of time during which the parent cares for the child that is not overnight, but which is determined by the court to require the parent to assume the costs that are substantially equivalent to what the parent would spend to care for the child overnight. The combined periods of placement for both parents should equal 100%.
- In shared-time cases, the formula shall apply a cross-credit calculation that sets support based on the costs of shared parenting when both parents exercise periods placement of 25% or more, as follows:
 - Calculate the basic child support amount for each parent using the Percentage of Income Standards.
 - Multiply the basic support amounts by 150% to account for child-rearing expenditures duplicated by the parents (e.g. the child's bedroom).
 - Allocate shared placement amounts by multiplying each parent's obligation by the proportion of the child's time spent with the other parent.
 - Offset resulting amounts against each other. The parent with a greater amount of support pays the difference, not to exceed the amount that would be paid under the straight percentage standard.

The result represents the base support amount under the shared-time formula.

- In addition to establishing the base support amount under the formula, the court shall appropriately assess the child's variable costs. Variable costs means the reasonable costs incurred by or on behalf of the children, including but not limited to the cost of day care, a child's special needs, tuition and extracurricular activities.
- In deciding whether to impute income for an unemployed parent or a parent employed less than full time, the court shall consider benefits to the child in having a parent remain in the home during periods of placement and the additional variable day care costs that would be incurred if the parent worked more.
- Clarify that use of the recommended shared-time calculation is discretionary. Courts should retain the authority to deviate from the support amount upon consideration of the factors in the statute.

Justification

- A. When both parents exercise significant periods of placement, a formula that takes into account the duplicated costs of child rearing in both households, and both parents' income, will provide a more realistic and equitable basis to set child support.
- B. Research shows that, for placement orders issued during the period from 1996 to 1998, a greater number of parents shared placement of their children, compared to the period from 1990 to 1992. Furthermore, research over the same period shows that these placement arrangements tend to hold up over time.²
- C. Effective in 2000, changes were made to Wisconsin family law statutes that should further increase the likelihood of shared-placement situations.
- D. Considering these trends, the Committee believes that child support formulas in shared-time cases should be modified to more equitably distribute the available income across both parents' households. The proposed formula may increase parental involvement by encouraging more shared-time arrangements between parents, and may increase compliance with existing shared-placement orders.
- E. Costs for day care, tuition and recreation vary widely, from family to family. The recommended shared-time formula expressly requires the courts to order parents to assume the variable costs in addition to the child support amount under the shared-time formula.

² Cancian, Cassetty, Cook and Meyer, Institute for Research on Poverty, *Placement Outcomes for Children of Divorce in Wisconsin*, Revised January 2002

- F. Nineteen other states currently use cross-credit child support adjustment for shared-time situations. The cross-credit shared-time calculation methodology can be considered the child support *industry standard*.

Discussion Points/Considerations

- G. The current shared-time formula does not proportionately reduce the paying parent's share of support at the same rate as the increase in placement. The recommended changes to the shared-time formula assume that parents will provide for their children, proportionate with the level of placement exercised.
- H. The Committee is concerned about the potential for any shared-time formula to encourage litigation between the parties. The elimination of the 30% and 40% Tables under the current DWD 40 will eliminate the "cliff effects" inherent in those tables and should, therefore, reduce litigation.
- I. Increased public costs: A shared-time formula that substantially reduces the amount of child support paid by parents may increase the likelihood that the children will need public support while the children are in the home of the lower-income parent.
- J. A shared-time formula that substantially reduces the amount of child support paid by parents may reduce the resources available for children where the primary household is headed by a low-income parent.
- K. If very large numbers of parents request modifications of their orders to utilize the new shared-time formula at the same time, it may create an unmanageable work burden on the local child support agencies and the courts.
- L. The Committee recommends a thorough review of the effects of this shared-time formula on low-income payers. Such a review should occur before the Shared-time Recommendation is applied in low-income cases.

DWD Child Support Guidelines Advisory Committee

RECOMMENDATIONS FOR STATUTORY CHANGES

Recommendation regarding Randall v. Randall Decision

The Court, in Randall, held that the presumptive application of the percentage standard applied also to the shared time formula for application of the percentage standard in Chapter DWD 40. The decision infers that the repeal of language in ss. 46.25(9b) and 767.25(1n) was intended to extend the presumptive application of the percentage of income standard to cases involving shared time and serial family status. Although use of the percentage standard itself is presumptive under Wisconsin law, its application in shared time, serial family and split custody cases was intended to be permissive. The language of DWD 40 uses the terminology 'may'. However, that was not deemed sufficient by the court in Randall. The Committee would like to clarify in statute that the application of the standards under these circumstances is discretionary.

Committee Proposal

S. 49.22(9) The department shall promulgate rules that establish a percentage standard for courts to use in determining a child support obligation based upon a percentage of the gross income and assets of either or both parents. The rules shall provide for consideration of the income of each parent and the amount of physical placement with each parent in determining a child support obligation in cases in which a child has substantial periods of physical placement with each parent, and may provide for adjustments to the percentage standard that a court, in its discretion, may use for determining child support in such cases and in other cases with special circumstances, such as when a parent has a preexisting obligation to pay court-ordered support for the benefit of the child. (Underline is Committee recommendation.)

The Committee requests a legislative note be added that the intent of this change is to overrule the Randall decision.

Disclosure of serial family situations

The Committee recommends a statutory provision requiring that when one party requests establishment or modification of a support order in a serial family situation, the court should consider the existence and amounts of other orders.

Committee Recommendation

The Committee recommends adding the following language to the Statutes:

S. 767.085(1)(dm) Whether either of the parties is obligated to pay child or family support under any judgments or orders issued by a court and, if so, the name of the court that issued each judgment or order and the amount of child or family support owed under each judgment or order, if known.

Recommendation regarding Luciani v. Montemurro-Luciani Decision

In Luciani v. Montemurro-Luciani the court applied the percentage standard in a case in which the custodial parent's income was significantly greater than the noncustodial parent's income.

Committee Recommendation

The Committee recommends the following revision to s. 767.25(1m)(b) regarding consideration of the financial resources of both parents.

S. 767.25(1m)(b) The financial resources and standard of living of both parents as determined by the court including any significant disparity between the parties' gross income or earning capacities. (underline is Committee recommended revision.)

The Committee requests a legislative note be added that the intent of this change is to overrule the Luciani decision.

Child Support Guidelines Review Advisory Committee

SUMMARY OF MEETINGS

April 26, 2001

Institute for Research on Poverty (IRP) staff presentation of *Estimates of Family Expenditures on Children* followed by Committee discussion. The Committee asked the Department to request that the sponsors of SB 151 delay their legislation until the Committee concluded its deliberations.

June 18, 2001

Connie Chesnik reviewed the history and development of child support guidelines in Wisconsin and Susan Pfeiffer gave the Committee an overview of the current child support guidelines.

Linda Preysz facilitated a Committee discussion about the strengths and weaknesses of the current guidelines system in Wisconsin.

Catherine Kendrigan, Legal Action of Wisconsin (LAW) representative on the Committee made two proposals:

1. Eliminate the current ability to impute income at 40 hours per week. Replace this with language that would allow the court to determine the support amount based upon the payer's education, training and work experience and the availability of work in the payer's community.
2. Recommended statutory section to limit arrears in certain situations.

The Committee did not take a position on the proposals, but invited LAW to bring revisions to a future meeting.

August 27, 2001

Susan Pfeiffer led a discussion about policy objectives in setting a child support standard.

IRP staff gave a summary presentation of an IRP report, *Experience with Income-Shares and Percentage-of-Income Child Support Guidelines: A Report on Five States*.

Follow-up discussion of the LAW proposal from the June 18, 2001, meeting concerning setting support amounts.

LAW also asked the Committee to consider placing limits on non-custodial parent arrears when the person earns below federal poverty level income. The Committee decided the proposal was not administratively feasible.

The Committee discussed issues concerning the use of the percentage standard in shared-time cases (Randall case), the use of the standard when there is a significant disparity between the parties income or earning capacities (Luciani decision), and disclosure of information about other families when orders are being set in serial family cases.

September 24, 2001

The Committee confirmed its consensus that children should expect the following from the child support standards:

- At least a minimum level of support from both parents
- The same proportion of parental income that they would have received if the family was intact
- Children should benefit as parental income increases over time
- Children in similar situations should end up with similar orders
- A child should not be subjected to inadvisable placement based on economic considerations of the parents
- The child support standard should be fair so that it does not drive economic incentives for placement (a child expects to be loved)
- The standard should not increase conflict between parents
- The standard should have a predictable outcome

The Committee confirmed its consensus that parents should expect the following from the child support standards:

- Similar treatment for parents similarly situated
- Predictable outcome, simple; uniform, understandable. However, the standard should recognize and accommodate the unique circumstances of individual parents/situations
- Orders should be based on actual knowledge of the child's actual living situation
- The standard should not impute income in cases where the payer does not have the ability to earn that income
- The standard should consider low-income, never-married parents
- The standard should leave the parents with enough to meet basic needs
- The standard should allocate significant costs for the child, including day care and health care
- Arrearage limitations
- All children should be supported regardless of birth order

Dr. Robert G. Williams of Policy Studies, Inc. presented materials about establishing guidelines and answered questions from the Committee.

Bob Andersen, LAW, requested that the Committee consider a revision to DWD 40 to require the court to set support at an individual's earning capacity, but if the payer fails to appear in court, impute the income at minimum wage by default. Although the Committee supported the proposal, it did not support changes in DWD 40 until after the Committee completes its deliberations.

October 31, 2001

Connie Chesnik and Elaine Richmond summarized the Income Shares Model. Margaret Hickey summarized the State Bar's proposal. Jan Raz summarized SB 151. Each Committee member was asked to articulate his or her position at this point in the Committee's deliberations.

The Committee decided to retain the percentage standard methodology and address problems associated with low-income situations, high-income situations, and shared-time placement situations.

The Committee confirmed the decision that there should be a statutory change to clarify that the use of the percentage standard in shared-time cases is not mandatory (pertinent to Randall v. Randall decision).

The Committee confirmed a decision to recommend statutory language that if one family in a serial family situation requests the establishment or review of a child support order, the court should consider the existence and amounts of other orders.

The Committee recommended with one dissenting vote to amend s. 767.25(1m) as follows (proposed language underlined), "...the financial resources and standard of living of both parents as determined by the court including any significant disparity between the parties' gross income or earning capacities." Furthermore, there should be a LRB note indicating that this revision is to address the Luciani case, in which the noncustodial parent had significantly lower income than the custodial parent.

December 13, 2001

The Committee decided to accelerate the meeting schedule in order to make recommendations that could be considered in the spring 2002 legislative process. The Committee decided to focus first on recommendations concerning low-income payers. The Committee reviewed charts prepared by DWD staff concerning different payment models for low-income and high-income payers. The Committee discussed low-income payer options.

January 10, 2002

The Committee reached consensus that payers with incomes under 70% of the federal poverty level (FPL) should have a presumptive fixed payment. Payers with gross incomes between 70% and 150% FPL should pay a presumptive minimum support amount based upon a graduated, linear payment progression up to 17% of gross income, according to income. The Committee reached consensus that support for payers with gross incomes above 150% FPL will be calculated using the percentage standard in the Administrative Rule DWD 40.

January 22, 2002

The Committee gave additional consideration to the low-income payer policy considered on January 10, 2002, and confirmed its decision. The decision was made with one dissenting vote. The Committee continued discussion of shared-time and high-income payer policies.

January 31, 2002

The Committee reached the following consensus on shared-time cases: the recommended threshold for overnights or equivalent care will be 25%, with two dissenting votes. After 25% the shared-time formula will apply, with consideration of both parents' incomes. The calculation of support in shared-time cases will involve a 150% calculation of the support owed by each parent, prior to the offset calculation, to recognize the duplication of expenses when a child resides in two households.

The Committee agreed on the following definition of "equivalent care" for shared-time payers: "Equivalent care" means a period of time during which the payer cares for the child that is not overnight but which is determined by the judge to require the payer to assume child care costs that are substantially equivalent to what the payer would spend to care for the child overnight."

The Committee agreed that health care should not be considered a variable cost in determining whether a parent is a shared-time payer, but expressed interest in having the court allocate other variable costs including child care between parents in shared-time situations.

The Committee reached the following consensus on high-income payers with two dissenting votes: The current percentage standard should be used until the payer's annual gross income reaches \$150,000. Income between \$150,000 and \$200,000 should be subject to a reduced percentage, representing approximately 80% of the percentage standard. Income that exceeds \$200,000 annually should be subject to a further reduced percentage, representing approximately 60% of the current standard.

February 14, 2002

The Committee reviewed the draft report and approved edits. The Committee clarified variable cost language for the shared-time recommendation, but made no substantive changes to the other policy recommendations.

One member supported the Committee's recommendation for shared-time placement, but requested that the minutes reflect that she does not support application of the formula to low-income families because the affects have not been inadequately studied.

The Committee considered whether to recommend to the Department that the proposals for low-income, high-income and shared-time placement be included in statute or administrative rule. All members present at the meeting supported retaining the guidelines in administrative rule, and those not present were polled. The poll result is that two members recommended the guidelines be incorporated into statute, rather than administrative rule. One member did not vote due to vacation.

APPENDIX 1 - DISSENTING REPORT

Child Support Guidelines Review Committee

**Department of Workforce Development –State of Wisconsin
(02/11/02)**

RE: Recommendation regarding higher-income family cases:

As members of this review committee, we strongly disagree with the majority recommendation, to continue to use the current percentages in all cases in which the payer's annual gross is less than \$150,000 with minor reductions thereafter. This recommendation is bad public policy, is not rationally based, and does not meet the goals defined by the committee, the Wisconsin legislature, and federal requirements.

We believe that this recommendation is not justified, based on data presented to the committee. (No committee in any other state has endorsed such an arbitrary and irrational policy.) We therefore request Secretary Reinert to reject this recommendation and instead propose a method that achieves the goals defined by the committee, the Wisconsin legislature, and federal requirements. Such a method for dealing with higher income families is included in SB 151/ AB449, which is currently before the legislature and is attached to this report.

The majority recommendation in regard to this issue:

1. Is not only arbitrary and without any economic basis, but is in contempt of established economic data and national child support policy.
2. Fails to meet the committee's own goal to assure children "the same proportion of parental income that they would have received if the family was intact." On the surface the recommendation results in a higher entitlement for children in non-intact higher-income families than children receive in similar intact families.
3. In reality, as noted by Wisconsin courts, this is a hidden maintenance award in all above-average-income family cases; even in the 49% of the cases where the mother earns a similar or higher income than the father. This allows the primary or sole-placement parent (90% of which are mothers) to escape her or his fundamental obligation to support the children and in some cases themselves.

4. Fails to meet the intent of Wisconsin's policy of expecting both mothers and fathers to assume personal financial responsibility for their children, and the family law policy, as defined in Wisconsin Statute 765.001(2), which reads "Each spouse has an equal obligation in accordance with his or her ability to contribute money or services or both which are necessary for the adequate support and maintenance of his or her minor children and of the other spouse. No spouse may be presumed primarily liable for support expenses."
5. Fails to meet the committee's goal that "Parents in similar situations should be treated similarly." The majority recommendation results in requiring the payer in a non-intact family to pay a significantly higher portion of his or her income for the children than what a similar parent would spend in an intact family.
6. Will continue to aggravate gender-based conflicts, since approximately 90% of parents that benefit from the excessive child support awards in these cases are women and those that are negatively impacted are men. It is no surprise that all 11 women on the committee voted for this proposal, and that it was not objected to by the overwhelmingly female staff of the DWD Division of Child Support.
7. Fails to meet the committee's goal that "child support should be fair so that it does not drive economic incentives for placement". Since 69% of the families with shared placement had combined incomes in excess of \$48,000, this recommendation will continue to provide a greater adjustment for placement than is actually incurred by the parents.
8. Does not address the fairness issue in the approximately 30-40% of the cases where the combined gross income exceeds \$50,000 per year. It only provides minor relief in less than 1% of the cases where the payer's annual gross income exceeds \$150,000.
9. May result in loss of federal funding for Wisconsin because this recommendation fails to meet the intent of the Code of federal regulations 45CFR302.56
 - (h) *As part of the review of a State's guidelines required under paragraph (e) of this section, a **State must consider economic data on the cost of raising children and analyze case data, gathered through sampling or other methods, on the application of, and deviations from, the guidelines. The analysis of the data must be used in the State's review of the guidelines to ensure that deviations from the guidelines are limited.***

10. Will continue to require the resources of both the legislature, and the administration to deal with this issue in the future.
11. Will require taxpayers to continue to pay the courts costs for these families to resolve the fairness issue on a case-by-case basis.
12. Will continue a punitive state policy that may discourage some higher income parents from growing their businesses and careers in Wisconsin or moving to Wisconsin.

Sincerely:

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SUMMARY OF DATA TO SUPPORT THESE CONCLUSIONS

1. At the 8/27/01 meeting, the committee reached consensus on the goals of Wisconsin's child support policy that included that:

- *children should expect the same proportion of parental income that they would have received if the family was intact*
- *child support should be fair so that it does not drive economic incentives for placement*
- *parents in similar situations should be treated similarly*

2. At the 9/24/01 meeting, Dr. Williams, a nationally known expert in the establishment of child support awards, during a four hour presentation to the committee concluded, "**At higher income levels (\$2,500 - \$3,000) per month net income, the percentage amounts per child (In Wisconsin) cannot be justified by current child rearing studies.**"

3. At the 10/31/01 meeting, Jan Raz presented economic data, case data, and approaches used by other states, which demonstrated that the use of the current percentage standard in families where the combined annual gross income of both parents exceed \$50,000, exceed the amounts spent on children in intact families and how this allows the parent that receives the child support order to escape his or her obligation.

4. At the 12/13/01 meeting the DWD staff presented a chart on various economic studies that define the "*Cost for two children as a percent of combined gross income*". In all cases this data showed families with higher incomes spent a smaller percentage of their gross income on their children than families with lower income. The data for high-income cases shown on the DWD chart was based on a combined family annual gross income starting at \$64,804 or \$73,000. Three out of four studies showed that at these levels the percentage of income that parents spend on children in intact families is similar or less than the 25% defined by the current standard.

5. In a 12/26/01 letter, which was distributed to the committee, Jan Raz explained that the DWD chart presented at the 12/13 meeting was deliberately misleading to support the incorrect DWD statement "*The studies do not show high-income families spending significantly less than the Wisconsin percentages on children.*" He again provided a table with more comprehensive summary of studies, which defines what portion of an intact family's income is spent on children in families with different incomes to demonstrate that the DWD statement in the Option paper, was incorrect.

6. At the 1/10/02 meeting the DWD staff, distributed a report titled "Presumptive State Child Support Guidelines: A decade of Experience" authored by Maureen A. Pirog. This report noted that while Wisconsin child support orders in low and average income cases are reasonably close to mean awards in other states, in the highest income case, where a father earned a gross income of \$6,300/month, (\$75,600/yr), in 1999 **the \$1,575 order in Wisconsin was \$408 more than the mean award of \$1,167.** (Comment: This \$408 is not more money going to the children, but maintenance disguised as child support which allows the mother to escape her fundamental responsibility to share an equal portion of her income with the same children. The \$1,167 is representative of what other states find, based on economic data, parents in similar intact families spend on children.)

7. At the 1/10/02 meeting, the DWD staff distributed data on family incomes which included:

- The number of sole placement cases, with a combined annual gross income in excess of \$48,000, reviewed in an IRP study, was 32% when the mother had sole placement and 47% when the father had sole placement
- Of the 1997 shared placement reviewed in an IRP study, 69% had a combined income in excess of \$48,000 and 27% had a combined income greater than \$72,000.
- The Department of Revenue estimates that in the year 2000, 5% of the families with an adjusted annual gross income in excess of \$107,043, 2% over \$154,959, and 1% over \$253,595.

8. At the 1/10/02 meeting, the DWD staff distributed a 2001/2002 IRP report titled "Placement outcomes for Children of Divorce in Wisconsin". This included the following statistics:

- In 1996-8 mothers had sole or greater placement in 71% of the cases, fathers in 10% of the cases. This suggests that women (mothers) represent about 87% of the recipients of child support orders. (Figure 1)
- In 1996-8, of the 1,529 cases reviewed, 746 (49%) the mothers had a similar or greater income than the father and 159(10%) mothers had and income 4 times greater than the father. (Table 1C)
- The number of shared placement cases increased for 11.5% in 1990-2 to 23.1% in 1996-9. (Table 1C)

9. At the 1/10/02 meeting, DWD staff attorney Connie Chesnick, who played a key role in setting up the current child support formula in 1987, who has been educating the Wisconsin legal community on and defending the current formula since 1987, and who played a major role in selecting the members of this policy review committee, urged the committee to disregard the economic data and to continue to ignore the income of the primary placement parent.

10. At the 1/31/02 meeting, all eleven of the women on the committee voted for continuing to use the current percentages in all cases in which the payer's annual gross is less than \$150,000 with minor reductions thereafter. Both men that represent fathers groups voted against this proposal.

11. 2001 IRS tax tables indicate that a significant difference in federal tax liability (28% v 15%), which reduces the disposable income families have for children, begins when the family income exceeds \$4,158/month, and continues to increase as a percentage of the family's income as the family income increases.

DWD Child Support Guidelines Advisory Committee

APPENDIX 2: MINUTES OF COMMITTEE MEETINGS

Minutes

DWD Child Support Guidelines Review Advisory Committee April 26, 2001 Meeting

Committee Attendees: Ron Hunt, Chairperson, DWD; Jan Raz, Wisconsin Fathers for Children and Families; Sally Phelps, Wisconsin Woman's Network; Carol Medaris, Wisconsin Council on Children and Families; Hon. Philip Kirk, Chief Judges Subcommittee on Child Support; Elaine Richmond, Wisconsin Child Support Enforcement Association; Margaret Wrenn Hickey, State Bar; Catherine Kendrigan, Legal Action of WI; James Luscher, Wisconsin Legislation for Kids and Dads; Katie Mnuik, Wisconsin Women's Council; Patti Seger, Wisconsin Coalition against Domestic Violence; Hon. Ann Krummel, Wisconsin Family Court Commissioners Association; Connie Chesnik, DWD Legal Counsel;

Visitors: Jennifer Noyes, DWD; Susan Pfeiffer, DWD, Bureau of Child Support (BCS); Kathy Fullin, BCS; Todd Kummer, BCS; Roni Harper, citizen, Marguerite Roulet; Center for Fathers, Families and Public Policy

Jennifer Noyes, Executive Assistant to the DWD Secretary, welcomed the committee on behalf of Secretary Reinert and thanked the members for their willingness to participate on the committee. She noted that the federal government requires states to review the child support guidelines every four years and in 1998 Wisconsin did not have an extensive review including public input. The committee's charge is to make recommendations to the Department in the Spring of 2002 for modifications of the child support guidelines and that it would be important to take into consideration the best interests of children.

Ron Hunt introduced himself as Deputy Administrator of the Division of Workforce Solutions and Chair of the committee. He clarified the goal of the committee to be advisory to the Secretary of DWD regarding proposed changes to the child support guidelines, not percent-expressed orders. He noted that the recommendations of the committee would likely lead to either or both proposed legislation or amendments to the Child Support Percentage of Income Standard, Administrative Rule, Chapter DWD 40.

Mr. Hunt also noted that part of the committee's charge would be to review reports from the University of Wisconsin, Institute for Research on Poverty (IRP) and that the first one to be discussed today concerned estimates of family expenditures for children. He noted that the next report, to be ready in July 2001, will look at implementation issues in 4-5 states, including a comparison of issues in percent of income states and income shares states. The third report, to be available in December 2001, will examine the use of the standard in first orders in recent cases.

The general schedule for the committee is to meet every two months between now and the Spring of 2002. IRP will present its analysis of guidelines in four to five states at the August meeting. In September the committee will recommend a guideline model. In November the committee will review the application of the methodology selected in special circumstances other than shared-time high income, low income, serial family, and split custody situations. In February 2002, following presentation of reports by IRP, the committee will discuss shared time and child care.

A number of committee members raised concern about SB 151 currently pending in the Wisconsin Legislature. Should this bill pass prior to the committee making its final recommendations, they were concerned it would render the committee's deliberations moot. It was suggested that the Department bring to the attention of SB 151 sponsors the existence of the committee and the benefits to waiting for the committee to conclude its work prior to legislative consideration. Mr. Raz disagreed with the suggestion to delay action on SB 151. To date the Department has not taken a position on SB 151. The Committee Chair will communicate the committee's recommendation to Secretary Reinert.

Maria Cancian, Daniel Meyer, Judith Cassetty, and Ingrid Rothe of the Institute for Research on Poverty gave a presentation about the IRP and related research about child support issues done by IRP in the past, key public policy issues crucial to a discussion of child support guidelines, and a summary of the most recent paper, *Estimates of Family Expenditures for Children: a Review of the Literature*. A copy of the overheads discussed is attached.

The committee discussed a variety of approaches to considering child support guidelines. It was agreed that at the next meeting, the committee would analyze existing DWD 40 to identify issues related to the current methodology for establishing support. There was some discussion on the need to take a historical perspective in looking at this issue. Some members expressed an interest in hearing some of the history behind how the Department initially decided to adopt a percentage of income standard. However, there was also some feeling that too much emphasis on the past may make it difficult to take a fresh look at the issue.

Several committee members recommended that the Department bring in experts from outside Wisconsin to provide input. Additionally, other reports about determining expenditures on children or the calculation of support guidelines would be useful. Suggested resources were Robert Williams, Policy Studies Inc., "Development of Guidelines for Child Support Orders," DHHS, September 1987 and a report commissioned for the Virginia Legislature in 2000.

The committee requested an up-to-date chart of other states' methodologies in determining child support guidelines. Margaret Hickey will send Ron Hunt a copy of the State Bar Family Law Section's chart.

Ron Hunt noted that the Department has several automated tools available for use by the Committee to brainstorm, identify concerns and assist in finding consensus and noted that the committee may want to utilize one of these at a future meeting.

Next Meeting: June 18, 2001, 9:00 – 1:00 with lunch provided. Location TBD

ATTACHMENT