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(FORM UPDATED: 08/11/2010)

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)



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 03-022

AN ORDER to repeal DWD 40.02 (4), (20), (25), (28) and (30) and 40.05; to renumber DWD 40.02 (5), (6), (7), (8), (10), (16), (18), (19), (22), (23), (24) and (31) and 40.03 (4), (6) and (7); to renumber and amend DWD 40.02 (9), (14), (17), (26) and (27); to amend DWD 40.02 (2) and (15), 40.04 (1) (b) 1., 3. a. and b., 4., 5. b., 6. and 8. and (note); to repeal and recreate DWD 40.02 (3), (13), (21), (29), 40.03 (1) (intro.), (2), (3) and (5), 40.04 (2) and (3) and (note); and to create DWD 40.01 (3), 40.02 (10), (14), (19) and (26), 40.03 (4), (6), (7), (9) and (10), 40.04 (4) and (5), relating to the child support guidelines.

Submitted by **DEPARTMENT OF WORKFORCE DEVELOPMENT**

02-12-2003 RECEIVED BY LEGISLATIVE COUNCIL.

03-10-2003 REPORT SENT TO AGENCY.

RNS:DLS

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]
Comment Attached YES NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



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CLEARINGHOUSE RULE 03-022

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 2002.]

1. Statutory Authority

Where is the statutory authority for the provision in s. DWD 40.03 (7) which specifies that if a payer will have obligations for both child support and maintenance in a particular case, the court is required to determine the payer's child support obligation under ch. DWD 40 **before** determining the payer's maintenance obligation under s. 767.26, Stats.?

2. Form, Style and Placement in Administrative Code

a. In s. DWD 40.02 (13), in the text of the rule, "DWD 40.02 (13)" should appear only in the first line. The subsequent paragraphs and subdivisions should just be listed as (a), (b), (c), etc. The same comment applies to SECTIONS 27 and 28 of the rule.

b. In s. DWD 40.03 (1) (intro.), in the treatment clause and the text, "(intro)" should be "(intro.)". Also, in the last sentence in the text of the introductory clause, should "Except as provided in DWD 40.04 (4) and (5), "the percentage" be substituted for "The percentage"?

c. In s. DWD 40.01 (3), the intent of the provision would be clearer if the phrase "in and of itself," is inserted after "A modification of any provision in this chapter shall not." The intent should be that a modification in the rule alone is not a sufficient basis, but a modification coupled with the specific facts of a case applying the modified provision may be sufficient for "a substantial change of circumstances" determination. See, for example, the Wisconsin Court of Appeals decision in *Licary v. Licary*, 168 Wis.2d 686 (Ct. App. 1992) holding that the 1988

amendments to the child custody statutes in ch. 767, Stats., did not, in and of themselves, constitute a "substantial change of circumstances" for purposes of modification of custody.

d. In s. DWD 40.04 (2) (b) 3., 4., 5., and 6., "(b)" after "subd." should be deleted. The correct reference to a subdivision is "subd. _ (insert the number of the subdivision)."

e. Section DWD 40.04 (4) requires the department to publish revisions in the schedule in the Wisconsin Administrative Register. Would it not provide the public with substantially more notice of these changes if they were done by rule? Is there a reason that these revisions should not be done by rule?

f. Since the percentages in the "Current" and "Proposed" columns in Appendix C will be changed once the rule takes effect, the chart needs to be changed to reflect the fact that the new figures are no longer proposed figures but are the rule.

g. In the treatment clause in Section 5 (and elsewhere in the rule where the term "respectively" appears in such a clause), the word "respectively" should be deleted.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. DWD 40.02 (3), "mean" should be "means." Since the term "basic support costs" is being defined, the verb should be singular.

b. In s. DWD 40.02 (28), "when" should be inserted before "multiplied."

c. In s. DWD 40.02 (26), first line, "court-order" should be "court-ordered."

d. In s. DWD 40.03 (3) (intro.), "by doing any of the following" should be substituted for "as follows". In par. (b), "is" should be substituted for "should be considered." In par. (c), "are more than" should be substituted for "may differ from."

e. In s. DWD 40.03 (4), first sentence, "to the parent" should be inserted after "impute income." In the second sentence, "to the parent" should be inserted after "may impute."

f. In s. DWD 40.03 (5) (a) 1., the part of the provision beginning "and when" does not fit in well grammatically with the rest of the provision and should be redrafted.

g. Section DWD 40.03 (6) seems confusing. Is a court permitted to do one of the actions listed and not the other (i.e., can the court include benefits received, but not adjust a parent's child support obligation or vice versa)? The confusion is caused because the two clauses use the term "may" and are connected by "and." This should be redrafted to clarify the intent. Subsection (10) permits creation of a trust if the payer's legal obligation for child support "exceeds the amount necessary to maintain the standard of living the child would have if the child were living with both parents." How is the requirement in quotes to be determined?

h. In s. DWD 40.04 (4) (a), "an monthly" should be "a monthly."

i. Throughout various provisions in the rule, the terms "parent" and "payer" are sometimes used interchangeably. The entire rule should be checked to make sure that these

terms are used appropriately and consistently. For example, "payer" should not be used in one part of a sentence or provision and then "parent" used in another part of the same sentence or provision to refer to the same person. The same issue should be checked with reference to the use of the terms "parent" or "parents" and "party" or "parties." [See, e.g., s. DWD 40.03 (2).]



Response to Legislative Council Recommendations

Proposed rules relating to the child support guidelines Chapter DWD 40 CR 03-022

Comment 1. Where is the statutory authority for the provision in s. DWD 40.03 (6) which specifies that if a payer will have obligations for both child support and maintenance in a particular case, the court is required to determine the payer's child support obligation under ch. DWD 40 before determining the payer's maintenance obligation under s. 767.26, Stats.?

Response. Section 49.22 (9), Stats., prescribes that the department promulgate a standard for courts to use in determining a child support obligation based on a percentage of the gross income and assets of either or both parents. An important piece of setting this standard is defining what is to be included in gross income for the purpose of determining the child support obligation. Also, s. 767.25 (1m), Stats., assumes that maintenance received is not included as gross income under ch. DWD 40 by listing it as a factor for deviation from the child support obligation determined under the rule. The deviation factor is considered after the obligation has been determined using the definition of gross income and percentage standards in the rule. In addition, the rule is merely stating what has been the practice in case law developed over the last 20 years of using the percentage of income standard.

Comment 5.d. In s. DWD 40.03(2)(c), "are more than" should be substituted for "may differ from."

Response. Department disagrees. "May differ from" is the correct phrase.

Other comments were accepted or rendered moot by revisions.



WISCONSIN STATE LEGISLATURE





**WISCONSIN
LAWYERS**
STATE BAR of WISCONSIN* EXPERT ADVISERS.
SERVING YOU.

MEMORANDUM

To: Representative Steve Kestell
From: Dan Rossmiller, Public Affairs Director
State Bar of Wisconsin
Date: June 11, 2003
Re: Revisions to DWD 40 (Child Support Guidelines) As Submitted for
Public Hearings in March 2003 as Clearinghouse Rule 03-022

This memo describes proposed revisions to Chapter DWD 40, Wis. Administrative Code, as they were presented for public hearing testimony at three hearings in mid- to late March 2003. While it is our understanding that the Department of Workforce Development (DWD) may revise these proposed rules (Clearinghouse Rule 03-022) before submitting them to the Legislature, this memo accurately describes the position of the Family Law Section of the State Bar with respect to the proposed changes as they were presented at the March 2003 public hearings.

Child Support Revisions

Existing child support guidelines (a/k/a percentage standards) became effective in 1987. They haven't been revised for almost ten years. In 2001, the Department of Workforce Development created a Child Support Guidelines Advisory Committee to examine the existing guidelines and suggest revisions. Those revisions—at least the ones that do not require statutory changes—are contained in Clearinghouse Rule 03-022

The Family Law Section of the State Bar of Wisconsin supports all of the central provisions in Clearinghouse Rule 03-22, including three major components:

- **revisions to the shared placement or “shared-time” formula;**
- **the proposed provisions for high-income payors; and**
- **the proposed provision for low income payors.**

Revisions to shared time formula:

- provide a more realistic and equitable basis for setting child support by taking into account the fact that there will be duplicate costs of raising children in two homes;
- lower the threshold for shared time placement to a 25% level, and compare the parties' incomes for child support, starting at this 25 % threshold;

State Bar of Wisconsin

5302 Eastpark Blvd. ♦ P.O. Box 7158 ♦ Madison, WI 53707-7158
(800) 728-7788 ♦ (608) 257-3838 ♦ Fax (608) 257-5502 ♦ Internet: www.wisbar.org ♦ Email: service@wisbar.org

- expressly require courts to order parents to assume “variable costs”-- for day care, tuition, clothing, a child’s special needs and other activities that involve substantial cost--in addition to child support amounts under the shared time formula.

Revisions to low-income situations:

- recognize that many low-income payers have insufficient income to pay current ordered amounts;
- set forth a special schedule that the court may use for payers with incomes below 70% of the federal poverty level and payers with incomes between 70% and 150% of the federal poverty level:
 - for payers with income below approximately 70% of the FPL the schedule provides a minimum monthly support amount.
 - for monthly income between approximately 70% and 150% of the federal poverty level, the schedule provides graduated percentage rates that result in a child support obligation somewhere between the minimum monthly support amounts and the amount that would be determined by applying the full percentage standards.

Revisions to high-income situations:

- recognize that above certain income levels, parents share a smaller percentage of their income with their children
- sets forth a new guideline courts may use in addressing situations involving payers with annual incomes above \$150,000.
- the court may apply approximately 80% of the full percentage standards to the portion of a payer’s annual income that is greater than or equal to \$150,000 and less than or equal to \$198,000 and approximately 60% of the full percentage standards to the portion that is above \$198,000.

Trusts

- 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.

Background On Shared-Time Revisions

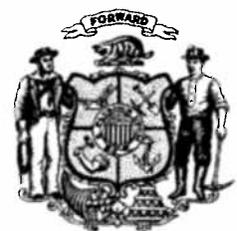
- Under the current shared time guidelines, a parent who makes it over either the 30% or 40% threshold receives a reduction in child support. The proposed rule eliminates the 40% threshold for comparing income in a shared placement and sets one threshold for comparing incomes and shared-time treatment at 25% placement. (Too often, fights over the children in divorce cases result from attempts to reduce the child support obligation of the parent with less time.)

- The current shared-time formula does not reduce the paying parent's share of support in proportion to increases in placement. The new rule does a better job of this because it will compare incomes in a far greater number of cases.
- The new rule assumes that parents will provide for their children in proportion to the level of placement they exercise. This may encourage more shared-time placement arrangements between parents, and may increase both parental involvement with children and compliance with the orders. Shared time placements are increasing as more families become two-earner families.

Please contact Dan Rossmiller, State Bar Public Affairs Director, at (608) 250-6140 if you have any questions or if you would like additional information on the proposed rules or the Family Law Section.



WISCONSIN STATE LEGISLATURE



DATE: June 27, 2003

TO: Dave Matzen

Committee on Children and Families

FROM: Patrick E. Fuller, Assembly Chief Clerk

RE: Clearinghouse Rules Referral

The following Clearinghouse Rule has been referred to your committee.

CLEARINGHOUSE RULE 03-022

AN ORDER to repeal DWD 40.02 (4), (20), (25), (28) and (30) and 40.05; to renumber DWD 40.02 (5), (6), (7), (8), (10), (16), (18), (19), (22), (23), (24) and (31) and 40.03 (4), (6) and (7); to renumber and amend DWD 40.02 (9), (14), (17), (26) and (27); to amend DWD 40.02 (2) and (15), 40.04 (1) (b) 1., 3. a. and b., 4., 5. b., 6. and 8. and (note); to repeal and recreate DWD 40.02 (3), (13), (21), (29), 40.03 (1) (intro.), (2), (3) and (5), 40.04 (2) and (3) and (note); and to create DWD 40.01 (3), 40.02 (10), (14), (19) and (26), 40.03 (4), (6), (7), (9) and (10), 40.04 (4) and (5), relating to the child support guidelines.

Submitted by **Department of Workforce Development.**

Report received from Agency on **June 18, 2003.**

To committee on **Children and Families.**

Referred on **Friday, June 27, 2003.**

Last day for action - **Monday, July 28, 2003.**

Under section 227.19 (4) of the Wisconsin Statutes, your committee has 30 days to take action or get an extension. The day **after** the official referral date is day one of your review period. Therefore, the 30th day should fall four weeks and two days after the referral date. For example, for Clearinghouse Rules referred on a Monday, a Wednesday would be your 30th day. For Clearinghouse Rules referred on a Tuesday, a Thursday would be your 30th day. For Clearinghouse Rules referred on a Wednesday, a Friday would be your 30th day. For Clearinghouse Rules referred on a Thursday or Friday, your 30th day would fall on a weekend. Therefore, your time would expire on the next working day (Monday) as provided for in s. 990.001 of the Wisconsin Statutes. Also, if the 30th day falls on a legal holiday, time would expire on the next working day.

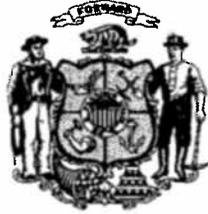
Section 227.19 **requires** you to notify each member of your committee that you have received this Clearinghouse Rule. Although some committee chairs choose to do so, you are not required by law or rule to send a copy of the text of the rule to each member at this time. Instead, your notice could state that members should contact you if they wish to receive a hard copy of the rule. Another option would be to email the rule to members. (**Please note that the text of Rules beginning with the prefix "01" is available online in the Clearinghouse Rules infobase in FOLIO.**) Please put a copy of your official notification memo in the rule jacket.

Three copies of the Clearinghouse Rule and its accompanying documents are contained in the jacket. If you wish to have your Legislative Council attorney review the Clearinghouse Rule, send him/her a copy. I only need one copy remaining in the jacket when you report it out of committee at the end of the review period.

The identical process is happening simultaneously in the Senate. Keep track of their action on the rule.

For assistance with the Clearinghouse Rule process, please consult Ken Stigler (6-2406) or your Legislative Council attorney. If you wish to learn more on this subject, read section 227.19 of the Wisconsin Statutes or part 2 of the *Administrative Rules Procedures Manual* written by the Revisor of Statutes Bureau and the Wisconsin Legislative Council staff.





STATE REPRESENTATIVE

STEVE KESTELL

27TH ASSEMBLY DISTRICT

TO: Members of the Children and Families Committee

Representative Ladwig

Representative Miller

Representative Albers

Representative Sinicki

Representative Jeskewitz

Representative Krug

Representative Vukmir

FROM: Representative Steve Kestell, Chair

DATE: June 27, 2003

RE: Clearinghouse Rule 03-022

On June 27, 2003 the following clearinghouse rule submitted by the Department of Workforce Development was referred to the Assembly Children and Families Committee:

Clearinghouse Rule 03-022, proposed rules relating to the child support guidelines, DWD 40. The proposed rules amend the standards that courts use in determining a child support obligation under s. 767.25, Stats. New special circumstance provisions are added for high and low income payers, and the special circumstance provision for shared-placement parents is revised.

The deadline for committee action on this rule is **July 28, 2003**. If you are interested in obtaining a hard copy of the rule or requesting a hearing, please do so prior to the deadline date. This rule can also be accessed online in FOLIO under the "Clearinghouse Rules" InfoBase.



WISCONSIN STATE LEGISLATURE



Wisconsin for Children



Fathers and Families

608/ALL-DADS (255-3237) ♦ P.O. Box 1742, Madison, WI, 53701-1742 ♦ <http://www.wisconsinfathers.org>

July 7, 2003

To: Senator Carol Roessler
Chair of Committee on Health, Children,
Families, Aging and Long-Term Care
P.O. Box 7882
Madison 53707-7882

Representative Steve Kestell
Chair of Committee on
Children and Families
P.O. Box 8952
Madison 53708-7882

RE: CR03-022 - Proposed changes to DWD 40 Child Support Percentage of Income Standard

Dear Senator Roessler and Representative Kestell

I understand your committee has been asked to review and approve, the changes proposed by the Department of Workforce Development to the DWD 40 Administrative rule (Child Support Percentage of Income Standard).

I served on the Department's 2001 child support review committee, and have spent an extensive amount of time over the past six years, analyzing the problems of the current child support standard. As a result of this insight, I believe the changes proposed by the DWD include a substantially improved formula for defining child support orders in shared placement cases, however, there are numerous other problems that the Department has failed to address, or has addresses erroneously. Therefore, before approving these proposed changes, I ask your committee to request the Department to incorporate the attached list of modifications to the proposed rule.

I have previously brought these proposed changes to the Department's attention, but they appear to have chose to protect their bureaucratic self interests, rather than establishing a good standard for Wisconsin citizens. Since legislator have a greater responsibility to represent of the interests of Wisconsin citizens, I urge your committee to ask the Department to incorporate these changes.

I am not optimistic that the Department will address these concerns adequately, so I also ask you to consider expressing your support for AB250/SB156, which would eliminate the Department's responsibility for promulgating the DWD 40 administrative rule, and instead establish Wisconsin's child support standard in Statute Section 767.251. AB250/SB156 provide a much more comprehensive improvement to Wisconsin's child support standard and would bring greater fairness, uniformity and predictability to a much larger number of cases.

Sincerely

Jan Raz
President (Home Tel#: 414 425-4866, email: jraz@wi.rr.com)

CR03-022: DWD 40 Child Support Percentage of Income Standard

The following modifications to the proposed rule are requested:

A. SECTION 1: EFFECT OF RULE CHANGE: *In some shared placement cases, this standard corrects significant unfairness problems resulting from the use of the current standard, however this proposal does not allow a parent to easily correct an existing unfair order. This section should be modified to allow a phase in plan to easily correct these problems and should read:*

"After 33 months from the effective date of the last child support order, if the amount of child support under the revised order by using the method of calculating child support under this chapter will differ from the amount under the last order by at least 20% of the amount under the last order or by at least \$60 per month, shall constitute a substantial change of circumstances sufficient to justify a revision of a judgement or order under s. 767.32, Stats.

B. SECTION 7: item 10: "All other income, whether taxable or not": *This is a broad and vague definition which could result in unnecessary litigation in some cases. This section should be modified to read:*

"All other income considered income for income tax purposes"

C. SECTION 27 Item (6) DETERMINE CHILD SUPPORT BEFORE MAINTENANCE: *This provision is inconsistent with IRS definition of maintenance income. Maintenance is considered the income of the person who receives it, not the person who is obligated to pay it to an ex-spouse. This will present significant unfairness issues in some cases. This section should be modified to read:*

(6) MAINTENANCE INCOME: The court shall subtract all court ordered maintenance payments from the income of the person ordered to pay them, and shall include this as income of the parent that receives these payments, before calculating the child support order.

D. SECTION 29, 30, 31, 32, include provisions for special circumstances, however, these allow the court to use these provision, rather than requiring the courts to use them. Thus a court can arbitrarily use them or not, without giving any reason for doing so. This may result in significantly different orders in similar cases and fails to meet an important purpose of this standard, namely to have uniformity and predictability. This will lead to unnecessary litigation.

The MAY in these provisions should be changed to SHALL.

E. SECTION 32; Provision for High Income Payers; *This provision is arbitrary, inadequate and irrational. It is intended to deceive the legislature and the courts into believing the Department has corrected the unfairness problems of applying the child support standard in higher income families, when in fact it is designed to provide a minimal adjustment in less than 1% of the cases.*

1. *The provision is not rationally based on economic data that suggests the application of the percentages defined by DWD 40.03 in above average income families, exceeds the realistic economic needs of the children in these families. It fails to recognize that the disparity between the realistic needs of the children and the amount defined by the current DWD standard starts to diverge when the combined income of the family exceeds \$4,000 per month and continues to get greater as the family income increases. This disparity does not start when one parent's monthly gross income exceeds \$8,500. Above the \$8,500 income level, and the \$12,500 income level the disparity is much greater than the adjustment in this proposal.*

2. *The proposal fails to consider the incomes of both parents! When one parent has a monthly income of \$4000, the economic needs of the children are significantly different if the other parent has a monthly income of \$1,000 vs \$10,000. Thus a standard that does not consider the incomes of both parents can not correctly reflect the economic need of the children in many cases.*

SECTION 32 should be modified to require the incomes of both parents to be considered, and to provide appropriate reduction in these percentages to be consistent with the economic data used by most other states to define their child support orders.

F. The existing DWD 40.04(1) "serial family payer" provision *does not consider a payer's obligation to support later born children and continues to provide greater child support entitlement for first born children. This method has been ruled to be unconstitutional in Tennessee and yet this proposed change does not address this issue.*

DWD 40.04(1) should be modified to make sure all children of the same parent receive a similar child support amount.

7/7/03

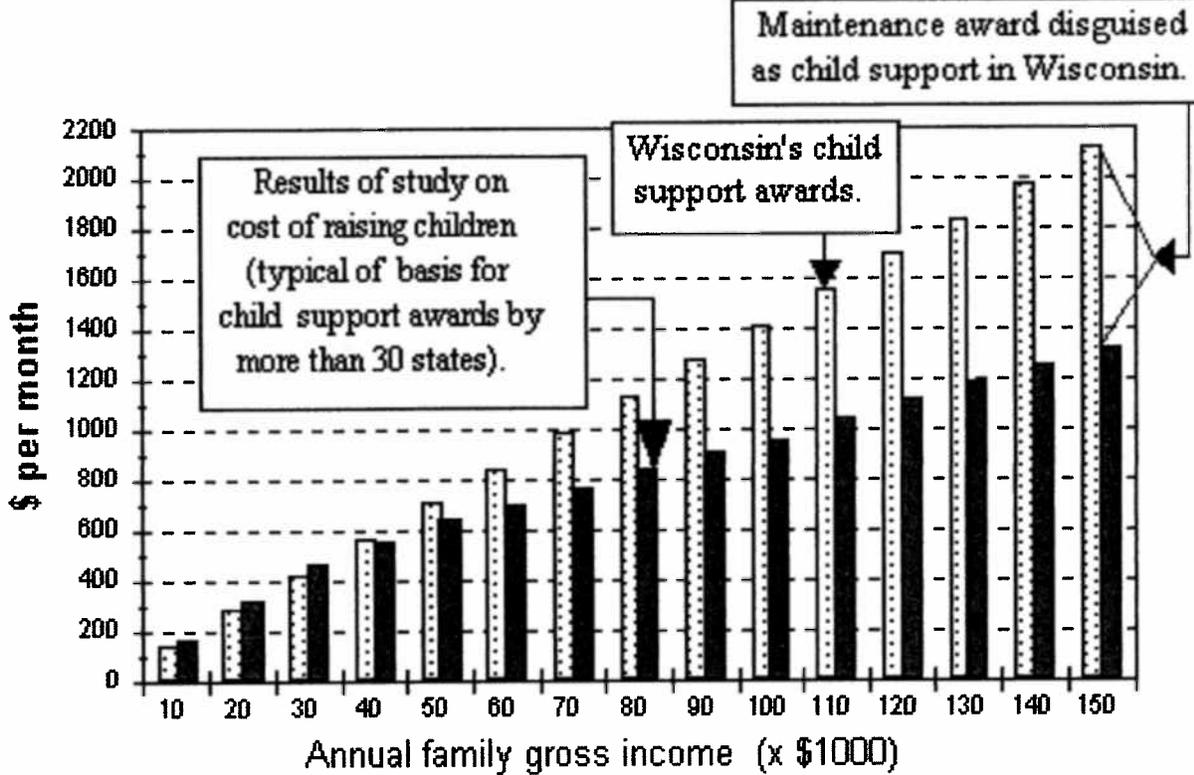
Comparison of Wisconsin's child support standard to economic data which defines what percentage of a typical family's gross income is used to raise TWO children.

Combined gross annual family income (both parents)	IRP*/Jacques van der Gaag (WI Cost of raising children study) 1982?	US DHSS (Develop. of guide-lines/ Cost of raising children study) *** 1987	IRP*/ R. Douthitt (Cost of raising children study) 1990	IRP*/Pirog - Good (Study of mean awards by all states in 1991) 1993	US Dept of Agric. (Cost of raising children study) **** 1999	Arizona (Cost of raising children study)*** Typical for 30+states 1999	Indiana (Cost of raising children tables) *** Typical for 30+states	Wisconsin proposed SB 15E/ AB250 (2003)	Wisconsin DWD 40 Standard 1987-2001
\$ 14,400		28.8%		28.1%		30.0%	33.6%	25%	25%
\$ 20,066	27%**	26.9%	46%			27.8%	30.3%	25%	25%
\$ 23,000		26.0%			52%	27.6%	28.5%	25%	25%
\$ 30,000		23.9%		26.8%		26.8%	26.5%	25%	25%
\$ 41,446		21.6%	29%			24.6%	23.7%	25%	25%
\$ 48,900		21.0%			34%	23.2%	23.2%	24.6%	25%
\$ 52,800		20.8%		23.3%		22.4%	22.7%	23.9%	25%
\$ 92,700		17.4%			26%	17.3%	20.5%	19.0%	25%
\$126,000		15.2%		18.0%		16.1%	17.7%	17.3%	25%
\$180,000						14.2%	13.7%	15.8%	25%
\$208,000							12.4%	15.4%	25%

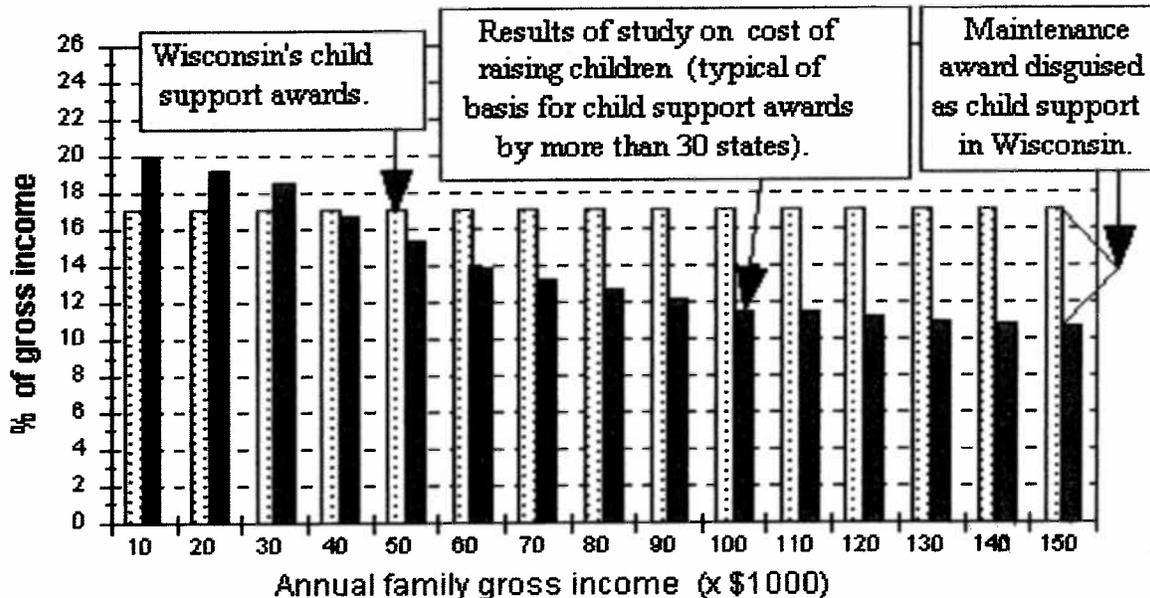
* IRP = Institute of Research on Poverty - UW Madison
 ** The 1982 income of \$16,500.
 *** Based on marginal expenditures for children, does not include health care and child care expenses.
 **** Based on per capita expenditures for children, includes health care and child care expenses.

PROVIDED TO DWD COMMITTEE
 5/17/01

Wisconsin's child support awards vs cost of raising children study results in \$ for combined family gross incomes (both parents) - for 1 child.

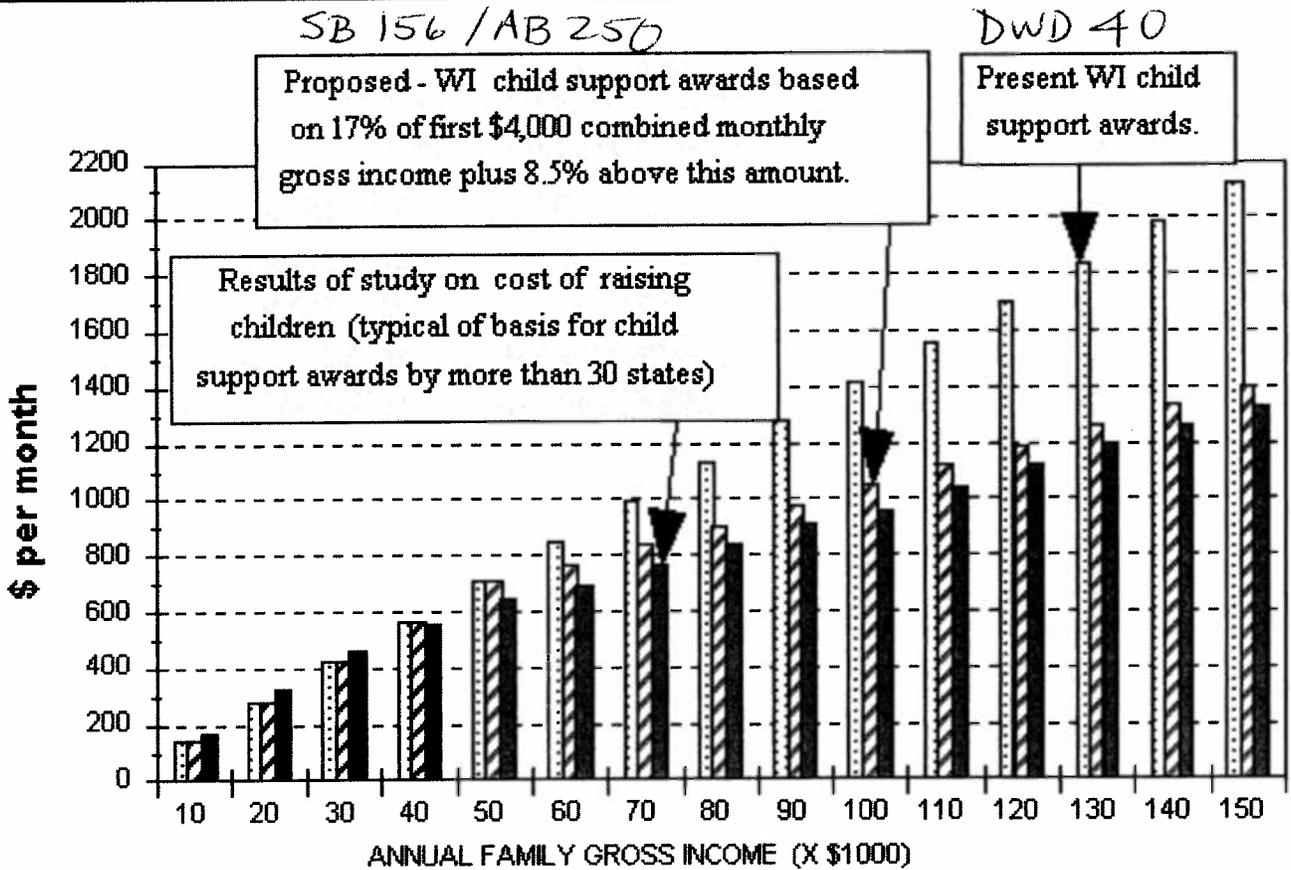


Wisconsin's child support awards vs costs of raising children study results as a % of combined family gross income (both parents) - for 1 child.



1

Wisconsin's child support awards vs costs of raising children study results
for different combined family gross incomes (both parents) - for 1 child.



Comparison of annual child support entitlement of TWO children, from both parents

Combined gross annual income of the 2 parents	A WI-Existing DWD 40	B WI- Proposed DWD 40	C WI-Proposed AB250/SB156	D Indiana CS standard	E Michigan CS standard
\$40,000	\$12,000	\$12,000	\$12,000	\$9,776	\$ 10,284
\$60,000	\$15,000	\$15,000	\$13,500	\$13,208	\$13,464
\$80,000	\$20,000	\$20,000	\$16,000	\$16,796	\$16,380
\$100,000	\$25,000	\$25,000	\$18,500	\$20,228	\$18,768
\$150,000	\$37,500	\$37,500	\$24,750	\$23,504	\$23,460
\$200,000	\$50,000	\$50,000	\$31,000	\$25,532	\$29,544
\$500,000	\$125,000	\$100,188	\$51,600	\$31,892	\$54,924
\$1,000,000	\$250,000	\$175,176	\$81,600	\$36,727	\$96,084

- A. Existing DWD 40 administrative rule
- B. Proposed DWD 40 administrative rule changes CR 03-022 , by DWD: (Comparison assumes both parent's incomes are equal)
- C. AB 250/SB156
- D. Indiana CS standard is based on Eco Data up to \$208,000 combined gross income, then has complex formula for higher incomes. (See http://www.in.gov/judiciary/rules/child_support/child_support.pdf)
- E. Michigan CS standard is based on Eco Data up to \$90,000 combined net income plus 15% of addition NET income. (See <http://courts.michigan.gov/scao/resources/publications/manuals/focb/formula01.pdf>)

Comments:

The current and proposed DWD 40 formula, when applied in above average income families, is not based on any economic data related to these families.

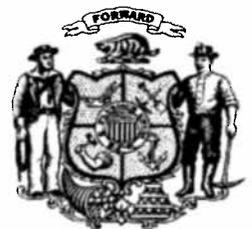
Indiana and Michigan formulas as well as those of the vast majority of other states are based on economic data used by vast majority of states up to \$200,000 combined gross income.

AB250 will make Wisconsin child support orders more consistent with established economic data on the cost of raising children, and awards in other states.

(3)



WISCONSIN STATE LEGISLATURE



July 16, 2003

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

Representative Steve Kestell, Chair
Committee on Children and Families
P.O. Box 8952
Madison, WI 53708-8952

RE: Clearinghouse Rule 03-022, relating to revising Wisconsin's Child Support Guidelines.

Dear Senator Roessler and Representative Kestell:

The Family Law Section of the State Bar **supports** Clearinghouse Rule 03-022, relating to revising Wisconsin's Child Support Guidelines, and urges your favorable consideration of Clearinghouse Rule 03-022.

The changes to the child support guidelines reflected in CR 03-022 are largely the product of a consensus among the members of the Child Support Guidelines Advisory Committee. (Provisions that differ from the committee's recommendations reflect the DWD's response to public comments voiced in public hearings held throughout the state on the proposed rule in March of 2003.)

The Advisory Committee was established by the Department of Workforce Development in the spring of 2001 and met 11 times. The Family Law Section participated in the advisory committee process and supports its recommendations.

The Family Law Section supports the proposed rule before you for the following reasons:

- **CR 03-022 will make child support orders in Wisconsin fairer by addressing problems with the current guidelines with respect to low-income payers; high-income payers and shared-time parents.**
- **CR 03-022 is the product of a broad public input and consensus.**
- **The rulemaking process is an appropriate means for establishing and revising child support guidelines because it allows greater public input than is likely to occur through the legislative process.**

I DISAGREE -

THIS IS A TELLING STATEMENT

Here is a detailed rationale for the Family Law Section's support of CR 03-022:

Addressing Problems with Current Guidelines: CR 03-022 adds new special circumstance provisions for high- and low-income payers, and revises the special circumstance provision for shared-placement parents.

1. Provisions for Low-Income Payers

Many low-income payers have incomes that are insufficient to allow them to pay the amounts of child support they are ordered to pay. The Family Law Section contends that it is better to have the paying parent actually pay the lower amount than nothing at all, which is the situation in many low-income cases currently.

The low-income provision in CR 03-022 provides that the court may impute income at 30 times the minimum wage if evidence is presented that the parent's ability to earn is limited due to less than a high school education, less than 6 months employment in the past 12 months, and limited availability for work in or near the parent's community. It is important to note that this provision is totally discretionary; it is not mandatory upon judges and court commissioners.

- Studies show that lowering the child support obligation is likely to result in higher compliance.
- Lower support levels for certain low-income payers may encourage or enable the payer to keep current on support and thus accrue fewer arrears.
- Courts will still be free to impute income if they find that the payer is shirking by lowering his or her income to avoid paying child support.
- Research shows that when parents don't pay support, because they are unable to do so, they have less contact with their children. Not only is their financial investment in their children reduced, but their emotional investment is also reduced.

2. Provisions for High-Income Payers

The Family Law Section believes it is important to revise the current formula to incorporate changes for high-income payers and supports the changes proposed in the rule.

- Economic data indicate that, as income rises above certain high-income levels, families spend a lower percentage of their gross income on their children. Under the current standards, there is a significant amount of litigation around the issues of shared-time placement and child support for high-income families.

Higher-income parents tend to have more resources available to engage in protracted legal battles than lower income parents, possibly exacerbating this situation. A child support formula

that recognizes the reduced proportion of income spent on children by families above a given high-income amount may reduce this litigation, which would benefit children.

3. Shared-Placement (Shared-Time) Changes

It is important to revise the existing shared time formula. The Family Law Section supports the changes proposed in the rule.

- The current shared-time formula does not reduce the paying parent's share of support in proportion to increases in placement. The changes in CR 03-022 will distribute the available income more equitably across both parents' households.
- When both parents are granted significant periods of placement the child is essentially raised in two households. The changes in CR 03-022 implement a formula that takes into account the fact that there will be duplicate costs and by taking into account both parents' income it will provide a more realistic and equitable basis for setting child support.
- The changes to the formula in CR 03-022 assume that parents will provide for their children in proportion to the level of placement they exercise. This may encourage more shared-time placement arrangements between parents, and may increase both parental involvement with children and compliance with the orders.
- Under the current guidelines, a parent who makes it over either the 30% or 40% threshold receives a reduction in child support. All too often, fights over the children in divorce cases result from attempts to reduce the child support obligation of the parent with less time at both threshold levels. The changes in CR 03-022 eliminate the two thresholds for comparing income in a shared placement situation which currently occur at 30% and 40% overnight time.
 - Eliminating the 40% threshold should reduce unnecessary litigation created by "day counting" to the 40% time share level at which payers see reductions in child support under the current guidelines.
 - The proposed rule lowers the threshold for shared time placement to a 25% level, and it would compare the parties' incomes for child support, starting at this 25 % threshold. All payer parents with over 25% time would thus receive a reduction in child support based upon time with their children and the incomes of both parents will be considered. Because many cases involve placement time over 25% for the payer parent, more parents would get this reduction. We believe that a rule that compares income of the parents at a lower threshold level will also be perceived as more fair by payers, which should increase compliance. This should also reduce the amount of fighting over children in divorce cases, which can only be good for children, not to mention the court system.

- Costs for things such as day care, tuition, a child's special needs and other activities that involve substantial cost vary widely from family to family. The revisions to the shared-time formula include provisions that 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 items such as clothing.
- All of the special circumstance provisions in s. DWD 40.04 of the proposed rule are set up as permissive guidelines so that the court has discretion to craft an order that best suits the family before the court in a particular 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.

Rulemaking is an appropriate way to establish and revise Child Support Guidelines

Child support guidelines have been set by administrative rules since the current child support formula was established in 1987. It has proven to be an effective and fair way to establish child support guidelines.

Once promulgated, rules have the force and effect of law, equal to statutory law. The rulemaking process is flexible, allows for a great deal of public input, and provides for legislative review and alteration. Should a situation arise that requires urgent modification to the guidelines, administrative rules may be altered quickly through the promulgation of an emergency rule.

Rulemaking allows a consensus approach for establish and revise Child Support

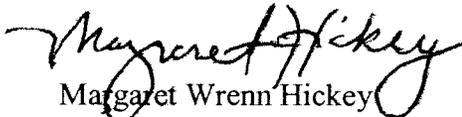
CR 03-022 is the Product of Public Input and Consensus: From the formation of the Advisory Committee to the submission of the rule to the legislature, the development of CR 03-022 has been a consensus process.

- The Advisory Committee, which included members of the courts, state bar, legislature, community-based organizations, county child support agencies, citizens, and the department (DWD), was drawn from a wide range of groups with various and competing interests in child support issues, including the Wisconsin Fathers for Children and Families.
- The Advisory Committee met eleven times over the course of nearly a year to develop the proposal that became CR 03-022. The committee was able to hear from nationally recognized experts including researchers from the UW-Madison's Institute for Research on Poverty before fashioning its recommendations. The recommendations were based on the informed judgment of committee members after thorough consideration of various options.

- The original rule reflected the consensus that developed in the advisory committee. Following three public hearings held in Milwaukee, Madison and Stevens Point to allow additional public input on the bill, the Department made a number of changes in the rule in response to testimony it received from the public. Throughout the process, the Department has been responsive to public input, including input from the Family Law Section of the State Bar.

We look forward to testifying on the rule at the public hearings before the respective committees you chair. If you have any questions or if you would like additional information, please feel free to contact me or Dan Rossmiller, State Bar Public Affairs Director, by phone at (608) 250-6140 or by email at drossmiller@wisbar.org.

Sincerely,



Margaret Wrenn Hickey
Immediate Past Chair
Family Law Section Board
State Bar of Wisconsin

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



WISCONSIN STATE LEGISLATURE



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.

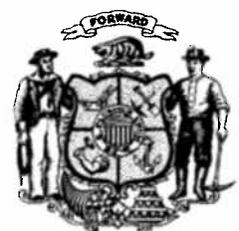
The WCSEA supports DWD's diligent efforts at accommodating the concerns of the participants in Wisconsin's child support system as it revises the child support regulations.

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



WISCONSIN STATE LEGISLATURE





**WISCONSIN
LAWYERS**
EXPERT ADVISERS.
SERVING YOU.

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.

State Bar of Wisconsin

5302 Eastpark Blvd. ♦ P.O. Box 7158 ♦ Madison, WI 53708-7158
(800)728-7788 ♦ (608)257-3838 ♦ Fax (608)257-5502 ♦ Internet: www.wisbar.org ♦ Email: service@wisbar.org



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.

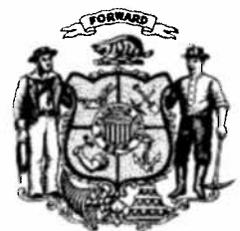
Serial Family provisions are discretionary. While these provisions may be found unconstitutional if they were presumptive, they are not presumptive but are permissive. This permissive element recognizes that it costs more to raise children in separate households than in a single household.

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.



WISCONSIN STATE LEGISLATURE





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



WISCONSIN STATE LEGISLATURE



Matzen, David

From: sunflower [sunflower@shadowfire.org]
Sent: Saturday, August 02, 2003 11:54 AM
To: rep.kestell@legis.state.wi.us; rep.nischke@legis.state.wi.us; sen.kanavas@legis.state.wi.us
Subject: DWD40 Administrative Rule Change Hearing Testimony

Assembly Committee on Families and Children
DWD40 Administrative Rule Change Hearing Testimony

Since I will not be able to attend the Committee hearing on the DWD Administrative Rule change I would appreciate the following comments be distributed to committee members.

Last year, the Department of Workforce Development organized a "Guidelines Advisory Committee" to examine the current child support laws in Wisconsin. The resulting Administrative Rule change this committee wrote totally disregarded incorporating current studies on the cost of raising children. This puts the State of Wisconsin in violation of Federal Law requiring basing child support law on current studies on the cost of raising children. Federal incentives of over \$10 million a year could be withheld on the basis of this violation.

The Department of Workforce Development went to much effort to change many words, but does not change the current standard. The existing statutes allow for all the discretionary changes in the Administrative Rule Change. The only actual change from the current DWD40 standard is changing calculation of percent of placement time from overnight to "equivalent care". If the changes are not mandatory, then no change is being made and the existing standard with all it's flaws will remain.

The current DWD40 standard and this Administrative Rule change is nothing more than a transfer of income from the noncustodial parent to the custodial parent. Since 90% of the custodial parents in the state of Wisconsin are mothers, it is highly discriminatory. It prevents many noncustodial parents from exercising placement time by not allowing them enough money to support the children during that placement time.

The current law and this Administrative Rule change also serves the purpose of maintaining very high federal incentives (currently over \$10 million/year) for the support of the child support enforcement agency. This legislature needs to remove the making of child support law out of the hands of the agency that receives direct benefits from keeping child support percentages as high as possible.

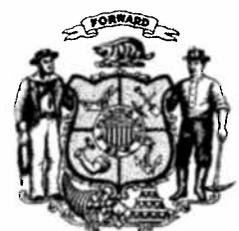
The State of Wisconsin and this Legislature need to put the emotional and psychological welfare of the children ahead of money by not allowing this Administrative Rule Change.

Thank You

Daniel and Andrea Laack
1169B Burr Oak Blvd
Waukesha, WI 53189
262-650-7753



WISCONSIN STATE LEGISLATURE



Kestell, Steve

From: William F. Fale [wffale@ffhlawoffices.com]
Sent: Tuesday, August 05, 2003 2:29 PM
To: rep.kestell@legis.state.wi.us
Subject: Clearinghouse Rule 03-022 and Assembly Bill 250

August 5, 2003 @ 2:10 p.m.

Steve:

I didn't want to bother you at home since I know what a hassle that can be, so I thought it best (and most professional) to contact you at work.

The Clearinghouse Rule 03-022 seems to eliminate many problems dealing with the low-income payers, high-income payers and shared time arrangements. You are obviously familiar with the testimony heard from national experts as well as the materials you have probably had to sift through.

As you realize, I practice primarily in the family law arena and the issue of support is one of the areas that causes the most dispute. The courts in one county sometimes have different approaches. It appears that this Rule is making efforts to be more specific which, in turn, eliminates the abilities of the attorneys to be "creative" in their approach because an established standard does not exist. There is often too much litigation in trying to make a point in one of these three areas so it is imperative to make sure we make life easier for the litigants and (at the risk of sounding patronizing) we should not create more opportunities for attorneys. I pride myself in being a problem solver and trying to avoid conflict. This rule appears to be pro litigant and I urge your support.

Conversely, I (along with my Family Law Section colleagues) oppose strongly Assembly Bill 250. This bill seems to dramatically change what you'd be addressing by supporting Rule 03-022. Many families would be dramatically affected by the new criteria in that support could be significantly reduced. The definition of "high income" is a joke, especially by today's standards.

We have established "guidelines", over the years by cases that dealt with the existing standards for calculating support. To drastically change that system now would open the floodgates of litigation because as drastic as some of these changes are, we are seemingly forced back to square one in determining support.

I have tried to follow AB250 and I am comfortable in stating that I don't see it as the product of consensus. The child support advisory committee considered AB250's approach and (wisely) rejected it.

I encourage you to support Clearinghouse Rule 03-022 and to allow it to go forward. Assembly Bill should not be allowed to go anywhere but to a swift and prompt death.

Thanks for hearing me out, Steve, and please acknowledge receipt of this email so I know you will see it before the upcoming action.

8/5/2003



CRule
03-022

August 6, 2003

My name is Jacquelyn Boggess legal analyst for the Center on Fathers, Families, and Public Policy. The Center is a policy organization that focuses on the impact of national and state welfare and child support policy on never-married, low-income parents and their children. Our center was created, in part, to provide public education and information on the plight of very poor families who are attempting to negotiate these systems. Because of the inadequacy of legal advocacy or policy analysis of these issues from the perspective of very low-income and unemployed poor fathers, our mission has been to concentrate on that perspective.

Our organization was represented on the Department of Workforce Development's Child Support Guidelines Advisory Committee which after a series of productive and educational meetings provided the Department with a report which suggested changes in Wisconsin's current guideline structure for low-income families.

From conversations and focus groups with low-income mothers and fathers in Wisconsin, our experience is that for these parents current guidelines, enforcement tools (such as incarceration), and interest and reimbursement policies can be impossible to withstand and counterproductive to low-income non-custodial parents' efforts to sustain their ability to pay bills owed to the state as reimbursement, support their children, and maintain themselves so that they can work.

There are families in poverty all over the state of Wisconsin. However, eight counties in southeastern Wisconsin, including Milwaukee county and Dane County, have over 88% of the total state TANF (W2) caseload;¹ in 6 of the counties, over 20% of the population earned less than 200% of the federal poverty level in 1999;² 65 of the 72 school districts in the state that failed to meet Federal Leave No Child Behind requirements in 2003 are in this region;³ the state has the highest poverty rate for Asian-American children and the second highest rate for African-American children in the country⁴, and the region includes 95% of the total African-American population in the state⁵; the region includes 5 of the 6 cities in the state with the largest population of homeless children and youth.⁶

Residents of the region are among the most disadvantaged of the state, and what is especially germane to this hearing today is that in 7 of the 8 counties, over 20% of births in 1999 were to single mothers, and in Milwaukee the figure is close to 50%.⁷ All of these statistics reflect the serious poverty and disadvantage of men, women, and children in Wisconsin.

We are in complete agreement with those who say that welfare reform has removed the safety net for women, and that mothers need financial support to supplement their very best effort at providing for their children. However, we do not believe that for

¹ WI Department of Workforce Development (figures from May 2003 total caseloads)

² WI 2000 census

³ Wisconsin State Journal 7/14/03

⁴ WisKids Count 2001

⁵ Oliver & Yocom 2003

⁶ Milwaukee Journal Sentinel, December 2002

⁷ WisKids Count 2001

the individual child and her parents—who live in poverty in the communities described above—the existence of a higher child support order will change the reality of the life in those communities. Ordering (or even wishing) that a non-custodial parent command an adequate income to keep themselves alive, and their children out of poverty, will not make it so.

Moreover, in order to make an informed decision about the mathematical formula for the calculation of the amount necessary for them responsibly care for their children, legislators and the people of this state should at the very least be advised (or reminded) that for some (many? most? a few?that is what it is important to find out) poor parents the amount of the current support order and the amount the child support enforcement agency and the state of Wisconsin expect them to pay can be completely different.

We believe that it is important to be mindful of the difference between the money custodial parents need to provide for the food, clothing, shelter, and other essential needs of their children, and the amount of the monthly child support bill.

We attended the Guidelines committee meetings with a particular concern about the burdens of the extras; mounting arrears and interest, fees, birth costs, (and about incarceration) for families in this area in particular. These concerns were voiced in the committee meetings, however, we were reminded that the purpose of those meetings was to address ourselves to the guidelines for setting current child support orders. I will take the opportunity today to suggest that some research, some counting some knowing on the

part of those of us who are interested in making sure kids are taken care of, about the actual amounts of money expected of very low-income parents is vital.

As to the matter at hand, of course, lower, more reasonable child support orders which are reflective of a parent's actual ability to pay would, at the very least, decrease the rate at which arrears and interest charges build, and would, therefore, reduce the overall burden on low-income parents.

We understand that individuals and representatives of various groups and agencies in the state strongly disagree with a policy reform that—in their perception—reduces a fathers obligation to provide support for his children and unfairly discounts the overwhelming burden and effort of mothers to provide support. However, given the charge to use our expertise to provide advice on guidelines for current support amounts, the committee recommended a reduction in the guideline amounts for low-income non-custodial parents.

It is also important to point out here that non-custodial parents (or shared placement parents) in Wisconsin are both mothers and fathers. The burden of imputing income against a parent who has extraordinary difficulty (because of lack of skills, substandard education, felony record, or discrimination) securing that income will weigh heavily on mothers as well as fathers in Wisconsin.

We understand that for some children, a reduction of their non-custodial parent's child support obligation will result in less money than there would have been with a higher order. We also understand and share in the concern for those children. We would, however, suggest that the most positive child support policy outcome at this point would be a reduction of the guideline amounts for low-income parents. This is generally, the most responsive to the needs of low-income children and their parents because it acknowledges the realities of life for some of the very poorest, most disconnected families in Wisconsin.