

Minutes

Child Support Schedule Workgroup
Friday, June 23rd | 9:00am– 3:00pm

Green River College
12401 SE 320th St, Auburn, WA 98092
Mel Lindbloom Student Union Building
Pine and Noble Rooms (Second Floor)

Meeting also available by webinar: [Teams Webinar](#) | [Miro Board](#)

Attendance

Members appearing on Teams	Amy Roark, Jennifer Turner, Joy Moore, Kaha Arte, Kathleen O'Shea-Senecal, Representative Amy Walen, Senator Claire Wilson, Tami Chavez
Members appearing in person	Anneliese Vance-Sherman, Carol Ann Slater, Gaston (Tui) Shelton, James (Jim) Clark, Janelle Wilson, Raymond Allen, Sharon Redmond
Members not appearing	Bernardene Charley, Senator Matt Boehnke, Terry Price
Division of Child Support Staff (In person/on Teams)	Bryndis Danke, Chereen Kwon, Chris Thein Ian Hall, Jake Hughes, Jana Ekstrom, Janina Oestreich, Josselyn Green, Lucas Camacho, Rachele Jennings
Public Attendees	Lila Bliss

Agenda Details

1. Welcome

- a. Agenda Review
 - Working to build consensus today in preparation for the public forums.
 - We will continue working on consensus on July 14th if that time is needed.
- b. Icebreaker
- c. Review of minutes from 5/19/23 and 6/7/23 meetings
 - There were questions from members after the 6/7/23 meeting minutes were sent out, those have been addressed and attached to the end of the 6/7/23 meeting minutes
 - Minutes have been posted and finalized

2. Discussed Consensus

Agreement: I support the proposal and am willing to implement it – **thumb up**

Reservations: I have some reservations but am willing to let the proposal pass – **thumb to the side**

Stand asides: I can't support the proposal because... but I don't want to stop the group, so I'll support the decision happening without my active involvement – **thumb to the side**

Blocks: I have a fundamental disagreement with the core of the proposal that has not been resolved – **thumb down**

Consensus: Not too many stand asides or reservations and no blocks

3. Subcommittee Draft Recommendations: Changes to the Economic Table – [Draft Recommendations](#) | [Draft Report](#)

- a. Recommendation 1: Extend the economic table from its current ceiling of \$12,000 per month up to \$50,000 per month
- b. Recommendation 2: The economic table should start at \$1600 per month. Any cases where the parties have a lower combined income should default to a \$50 per month order
- c. Recommendation 3: The wording on page 6 of the economic table regarding how to round up and down should be clarified
- d. Took votes for consensus on all three recommendations for changes to the economic table and all members in attendance voted thumbs up.
Consensus was reached among attending members on this topic.

4. Subcommittee Draft Recommendations: Addressing the Self Support Reserve (SSR) & Adding Worksheet Deductions - [Draft Recommendations](#) | [Draft Report](#)

- a. Recommendation 1: The Self-Support Reserve should be increased from 125% of the Federal Poverty Guidelines to 180%
 - Discussed the models that were researched
 1. [Asset Limited, Income Constrained, Employed \(ALICE\)](#)
 - a. Households above the poverty threshold, but with severely limited income
 2. 80% of Minimum wage (Arizona's model)
 - a. Based off research from Orange County, California that shows noncustodial parents are less likely to pay support when their monthly ordered amount exceeds 20% of their income
 3. Self Sufficiency Model
 - a. Determined by the University of Washington to be the amount of income needed to meet basic needs without any public or private assistance. This model determines the income you would need by county
 - Subcommittee found that it would be easier to adjust the current model than try to create or adopt a new model. Increasing the SSR to 180% of the federal poverty level would bring the monthly and yearly income in line with the ALICE model, which is more accurate and comprehensive
 - Took votes for consensus on recommendation #1. All members in attendance voted thumbs up. Consensus was reached among attending members on this topic.
- b. Recommendation 2: Create new statute that allows non-custodial parents (NCPs) in court-ordered treatment for substance abuse to apply to have their child support debt covered while in treatment
 - Members shared concerns around Health Insurance Portability and Accountability Act (HIPAA) – facilities unable to disclose information
 - Members also discussed issues around outpatient programs and if the paying parent is still able to earn income
 - Members discussed whether court-ordered should be a requirement
 - Took votes for consensus on recommendation #2. Several thumbs down from workgroup members in attendance. Consensus was not reached among attending members on this topic.
 1. Members provided feedback and shared concerns
 - a. This might increase litigation for self-represented individuals.
 - b. How do you handle scenarios where the NCP doesn't complete treatment?
 - c. Take out 'covered' as likely won't go through with that language. Need to identify where the funds would come from.
 - d. Not a mirror of incarceration abatement

- e. Look at trying to create a program similar to abatement or towards a program funded like TANF
- f. Reducing monthly obligation to \$0? \$10? \$50?
 - i. Should have to pay something. Abatement was set at \$10 that was based on research of incarcerated individuals and what they were making while incarcerated.
 - ii. Possibly reducing to the presumptive minimum of \$50 per month
- g. What would this cost a person to apply for this? Can we include an application with treatment intake forms?
- c. Recommendation 3: RCW 26.19.071 should be amended to include state insurance premiums for family and medical leave actually paid as an expense that can be deducted from gross income
 - Wanting to include state insurance medical premiums that are paid so that expense can be deducted from income
 - Idea proposed that it could say ‘other mandatory deductions’ to include various deductions (i.e.- WA Cares Act, Family Medical Leave and other payroll deductions) instead of specific deduction language, so that way wouldn’t have to change the language for other deductions
 - Took votes for consensus on recommendation #3. All members in attendance voted thumbs up as long as the language is clarified, changed to ‘other mandatory deductions’ in the recommendation.
Consensus was reached among attending members on this topic.
- d. Recommendation 4: Amend RCW 26.19.011 to define educational expenses that are not included in the Basic Support Obligation (BSO)
 - Should similar definitions for medical insurance and daycare also be included? If the purpose is to clarify what is not included in the BSO, seems like it would be worth mentioning
 - 1. Recommends to add all of them and then take out the specific details for educational expenses
 - Noted that [RCW26.19.080](#) already mentions the definitions of daycare and medical
 - Took votes for consensus on recommendation #4. All thumbs up if language includes all the other listed (medical, daycare, educational expenses) and takes out the details specific to educational expenses.
Consensus was reached among attending members on this topic.
- e. Recommendation 5: The subcommittee recommends *against* removing the maintenance deduction from the Washington State Child Support Schedule (WSCSS)
 - In 2017 federal tax law changes removed the maintenance deduction for tax purposes
 - Based on a review of the [worksheets created for the subcommittee](#), removing the deduction vs. keeping it. It had such a significant shift, not a good idea to change at the moment
 - Took votes for consensus on recommendation #5. Several thumbs down from workgroup members in attendance.
Consensus was not reached among attending members on this topic. But, it was also noted:
 - 1. If this recommendation does not get consensus, since the current law equates to the recommendation, consensus may not be as important.

5. Public Forum Update

- a. Discussed which workgroup members will attend the public forums in-person and virtually
- b. Public forums dates:

- July 26, 2023, 12:00pm – Washington State University Everett, Room 101
915 N. Broadway Everett, WA
[Online Registration](#)
- July 27, 2023, 6:00pm – Spokane Community College, Lair Student Center, Sasquatch and Bigfoot Rooms (124 and 124C)
1810 N Greene St, Spokane, WA
[Online Registration](#)

6. Subcommittee Draft Recommendations: Reviewing Residential Credit – [Draft Recommendations](#)

- Recommendation 1: RCW 26.19.075 (1)(d) should have a formula based on the residential schedule of the children for whom support is being set. The unit of measurement should be the number of overnights per year. The formula used to calculate the deviation should be [(Overnights/year) × the BSO] equals the credit granted. 20% of overnights (or 73 per year) should be the threshold required before a residential schedule deviation may be applied.
 - Should use 20% of overnights/73 overnights before a residential schedule deviation may apply
 - Why 20% / 73 overnights?
 - Determined that anything less than 20% would not trigger a residential credit anyways
 - What percentage is every other weekend?
 - Approximately 14%
 - Every Friday, Saturday and Sunday. 3 out of 14= 21.4%
 - This is the standard language for many parenting plans, so most would qualify NCPs for this deviation
 - Several members believe 20% is too low for the threshold.
 - 25% (91 overnights per year) seemed to be an improvement, but still did not generate full consensus.
 - What is the actual change in cost to an NCP household @ 25%?
 - For a brief period in 1991, the threshold was 91 overnights/year. However, it was quickly repealed. Presently, residential time in excess of 35% and under 50% is considered significant.
 - Just because 91 nights per year was repealed in 1991 does not mean it would be an inappropriate amount now in 2023.
 - The residential schedule subcommittee used the following report for research regarding what other states use for similar policies: [2022 NPO Child Support and Shared Parenting Report Card](#)
 - Some of the language the subcommittee is using is based off [amendment 1603-S AMH SHEA ADAM 218](#) to [House Bill 1603](#) from the 2017-2018 legislative session.
 - Several workgroup members requested examples for how this proposal would affect the calculation of support.
 - No vote taken for this recommendation as several workgroup members in attendance requested more time to look over information/research
- Recommendation 2: This deviation should be available in both the court and administrative processes
 - This would make it more consistent and dependable
 - Administrative support orders were 43.8% of the child support orders
 - The current administrative process infrequently does this. It is normally used on a case-by-case basis (by an Administrative Law Judge) and does not currently require a parenting plan

- Took votes for consensus on recommendation #2. One thumbs down.
Consensus was not reached among attending members on this topic.
- c. Recommendation 3: There should be rules on when the deviation may not be applied. It should not be applied if it would result in insufficient funds in the recipient's household to meet the basic needs of the child, if either party's income is less than 200% of federal poverty level, or if the children receive TANF
 - Should not be applied if it would result in insufficient funds
 - If any other parties income is below 200% of federal poverty level
 - If child(ren) receives TANF
 - Took votes for consensus on recommendation #3. Thumbs up from all workgroup members in attendance.
Consensus was reached among attending members on this topic.
- d. Recommendation 4: The statute should specify how and when the residential schedule credit is calculated
 - 20% or 73 overnights before application formula should apply
 1. I.e. - $\$1,000 \times 20\% = \200 residential schedule credit
 - a. This would be subtracted from each parents proportionate share
 - Research that Jim did was for time shares model and mirrors other states (Maryland, California and New Jersey)
 1. Time shares model formula = $100 \text{ overnights} / 365 \text{ days} \times \text{BSO} = \text{Total}$
 - Where is did the formula come from?
 1. Stated that needs to know where specifically the recommended formula is coming from and will be important when gathering opinions from some of the members

Break

- Workgroup staff created worksheets to show the different scenarios

<u>Scenario #1</u>	<u>Scenario #2</u>	<u>Scenario #3</u>
2 parties at fulltime minimum wage	NCP Income = \$6500/month CP Income = \$3500/month	NCP Income = \$6500/month CP Income = \$3500/month
BSO = \$464	1 child	3 children
1 child	BSO = \$829	BSO = \$1499
91 overnights/year	91 overnights/year	91 overnights/year
BSO = \$464	$(91/365) \times 829 = \$206.68$	$(91/365) \times 1499 = \$373.72$
$(91/365) \times 464 = \$115.68$	$\$829 - \$206.68 = \mathbf{\$622.32}$	$\$1499 - \$373.72 = \mathbf{\$1125.28}$
$\$464 - \$115.68 = \mathbf{\$348.32}$	128 overnights/year (35%)	128 overnights/year
128 overnights/year	$(128/365) \times 829 = \$249.32$	$(128/365) \times 1499 = \525.68
$(128/365) \times \$464 = \162.72	$\$829 - \$249.32 = \mathbf{\$579.68}$	$\$1499 - \$525.68 = \mathbf{\$973.32}$
$\$464 - \$162.72 = \mathbf{\$301.28}$		

- Jim provided links to 2017/2018 session and the bill did not pass – HB 1603 [Bill History](#)
- Workgroup members in attendance agreed to wait to vote for this recommendation until all information reviewed by all members.
- e. Recommendation 5: These recommendations require revision of the existing worksheets. A new line should be added to part VII to show the dollar amount of the potential deviation. The worksheets should not automatically apply the residential schedule deviation
 - Did subcommittee discuss using an attachment rather than adding on to the existing worksheets?
 1. The subcommittee wanted to make the deviation more visible, so the proposed calculations should be directly on the worksheet so it is clear what it's for

2. Other members like the recommendation as-is
 3. Another piece of paper can be confusing and attachments can be lost
 - Why did the subcommittee find including deviation in the worksheets the best way?
 1. From attorney experience, the worksheets are confusing for clients
 - Workgroup members in attendance agreed to wait to vote for this recommendation until all information reviewed by all members.
- f. **Recommendation 6:** If the parent receiving the residential schedule deviation does not spend time with the children in the same amount as used as the basis for the deviation, then there should be enforcement remedies available. There should be the option to bring a contempt action to ask the court to suspend, waive, or reduce the residential schedule deviation. RCW 26.09.075 should be modified so that a request to suspend, waive, or reduce the residential schedule deviation serves as a basis to modify or adjust a support order. Any order granting a residential schedule deviation should contain warnings advising the parties about what can happen if the residential schedule is not followed. The DCS abatement model should be followed to provide a remedy if a party has been noncompliant with a residential schedule for 3 months with a pattern of 10% of misusing residential time
- The subcommittee used [Florida Statute 61.30](#) as a reference point for some of this language
 - One member states that contempt is a coercive action and, as such, is not sure if it's appropriate here. It would be more useful to ask the other party to comply with the existing order.
 1. What is the remedy for prior harm? Retroactive support is not an option per federal statute.
 2. If the order preemptively sets an amount to be charged if the residential schedule is not followed, then it is not technically a retroactive modification.
 3. If the other parent who wants to suspend credit would be bringing an action to superior court or DCS, there could be contempt action as well for the missed residential time itself. Is a court going to require a parent to obtain a contempt order on the residential schedule provisions before being able to bring an action to address the credit?
 - a. It would be preferred to have those be separate actions
 - Workgroup members in attendance agreed to wait to vote for this recommendation until more research is completed/provided.

7. Public Comment

- a. No public comment

8. Wrap-up/Closing

- a. July 14th will be a virtual meeting in the afternoon (1pm-5pm)
- b. Self Support Reserve and Residential Schedule Credit Subcommittees will each have another subcommittee meeting to continue to work on adjusting recommendations.

Meeting Adjourned 2:24pm