

Minutes

Child Support Schedule Workgroup

July 14, 2023 | 1:00pm – 5:00pm

Microsoft Teams Webinar | [Miro Board](#)

Attendance

Members appearing on Teams	Raymond Allen, Kaha Arte, James Clark, Tami Chavez, Kimberly Loges, Joy Moore, Kathleen O’Shea-Senecal, Terry Price, Sharon Redmond, Amy Roark, Carol Ann Slater, Jennifer Turner, Anneliese Vance-Sherman, Senator Claire Wilson, Janelle Wilson
Members appearing in person	None
Members not appearing	Senator Matt Boehnke, Bernardene Charley, Gaston Shelton
Division of Child Support Staff	Lucas Camacho, Bryndis Danke, Jana Ekstrom, Josselyn Green, Ian Hall, Brady Horenstein, Jake Hughes, Rachelle Jennings, Chereen Kwon, Janina Oestreich, Rachel Tumbleson
Public Attendees	Dung Nguyen, Sherry Stroud

Agenda Details

1. Welcome

- a. Today’s meeting will focus on discussing topics and hopefully attaining consensus
- b. Reviewed group agreements.
- c. Icebreaker

2. June 23rd Meeting Summary

- a. Reviewed meeting minutes from 6/23 meeting.
 - Economic Table reported 3 recommendations and reached consensus on all of them.
 - Self-Support Reserve has two recommendations that have not yet reached consensus.
 1. Create a new RCW to allow abatement for noncustodial parents (NCPs) in treatment
 2. Do not change the RCW regarding how maintenance income is calculated on the worksheets
 - The workgroup discussed the Residential Schedule Credit subcommittee’s recommendations at length. The following recommendations have yet to reach consensus.
 1. The residential schedule deviation per [RCW 26.19.075 \(1\)\(d\)](#) should have a set formula based on the residential schedule.
 2. The residential schedule deviation should be available in both the court and administrative processes.
 3. The statute should specify how and when the residential schedule deviation is calculated.
 4. These recommendations require revision of the existing worksheets.
 5. There should be enforcement remedies available against a NCP who does not adhere to the residential schedule upon which the deviation is based.
 - Discussed public forums, locations, and who will attend in-person and virtually
 - Reviewed consensus process

1. Agreement – Thumb up
2. Reservations – Thumb to the side
3. Stand asides – Thumb to the side
4. Block – Thumb down
5. Question: To clarify, one person can block a proposal entirely?
 - a. One person can block consensus, yes, but that does not block the recommendation entirely. Ultimately, it is up to the legislation regardless of the workgroup’s opinion.

3. Subcommittee Draft Recommendations: Addressing the Self-Support Reserve and Adding Worksheet Deductions

- a. **Review of Recommendation #1:** Abatement for NCPs in mental health/substance abuse treatment
 - Add a definition for incapacitation to the RCW
 1. Inability to pay support due to receiving treatment for a behavioral health disorder as defined in [RCW 71.05.020\(7\)](#).
 - This idea is meant to reflect incarceration abatement for people who are ordered to enter treatment and cannot pay support while in said treatment.
 - The subcommittee modeled the language in their recommendation off of Michigan’s own [incapacitation abatement statute](#).
 1. Incapacitation abatement should only be allowed for an individual once.
 2. Support should be abated to \$50 per month for up to a 180 day period. If the NCP ends up not using the full 180 days, they do not get an exception to the once-per-individual rule above.
 - Refutable in cases where the NCP has funds available for collection
 - **Discussion** – The workgroup discussed the proposed abatement only starting when treatment begins, and that the policy would not be retroactive. In addition, abatement would not include mental health counseling.

The workgroup also discussed what the process would be for abatement, and it was suggested that it could be part of the court process when treatment is ordered so that it happens simultaneously with the same motion. It was also suggested that abatement information could be included in the treatment intake process.

• **Vote**



1. Discussion
 - a. The rebuttable presumption is problematic. Why is the burden of persuasion on the obligee? Most obligees don’t have access to medical records, bank statements, etc.
 - i. Willing to change vote to a thumb up or to the side of this piece was removed.

- b. Second downvoter unable to share feedback at the time of meeting.

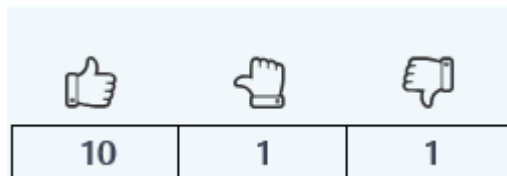
2. Break: 2:01pm – 2:11pm

4. Subcommittee Draft Recommendations: Reviewing Residential Credit

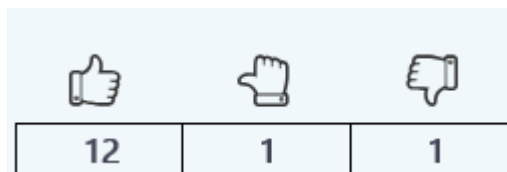
- a. **Review of Recommendation #1:** The residential schedule deviation per [RCW 26.19.075 \(1\)\(d\)](#) should have a formula based on the residential schedule of the children for whom support is being set.
 - [Maryland Family Law Section 12-204 \(m\)](#) was used as a reference point for their own discussion.
 1. Per their policy, the Basic Support Obligation (BSO) is divided between the parents in proportion to their respective adjusted actual incomes. This is then multiplied by the percentage of time the child/children spend with the other parent to determine the support obligation.
 2. [Parenting plans weren't required to attain this until 2020.](#)
- b. The subcommittee's goal is to get this proposal to the legislature and recognizes it may not be exactly what each workgroup member wants to see.
- c. Half of all support orders are issued via the administrative process and very few grant a residential deviation. They would like to see the venues be more equal and consistent.
 - This recommendation would give more parents the opportunity to get this deviation.
 - Right now, residential deviations are decided on a case-by-case basis and should be more consistent.
- d. Workgroup members discussed the lack of data to support the proposal but some members suggested that the goal is to get this in front of the Legislature and that it would not be possible to do the research necessary in the time the group has.
- e. **Discussion -**
 - Question: Does this proposal consider access to resources for both parties? Can you object based on imbalanced income?
 1. Subcommittee Answer: Yes, the deviation should be rebuttable.
 - Some members are concerned that the given formula overly simplifies costs. The subcommittee must consider static vs transitory costs such as increased food expenses.
 1. Subcommittee Answer: Using overnights as the unit of measurement might be limiting due to those other components, but we should still have a place to start from. As previously stated, the deviation calculated by the worksheets should be rebuttable if either party believes that there are factors not being properly accounted for.
 - Some members are concerned that the 20% overnights threshold is too low. 35% would be preferable.
 1. The subcommittee is flexible on the threshold, as their priority is on getting something to the legislature.
 2. Discussion included a comment that there needs to be a way to use supplemental information to determine whether someone is being factual in their claims.
 3. Discussion mentioned many people who go through the administrative process don't have parenting plans. The purpose of the recommendation is to give the credit to those in an informal arrangement.
 4. Some workgroup members are concerned that modifying the administrative process will effectively discourage parents from pursuing the court process.
 - a. Some workgroup members are in agreement with this and have concerns with an Administrative Law Judge creating a residential schedule based on findings of fact.

5. A parenting plan is not currently required for administrative orders to give a residential schedule deviation, so why should we introduce that limitation now?
 - a. Despite this, only 3% of deviations granted by the Office of Administrative Hearings are due to the residential schedule.
 - b. Even though it's available in the status quo, the subcommittee wanted to codify the ability to do this administratively without a parenting plan.
 - Voting tabled until all members in attendance can discuss.

- f. **Review of Recommendation #2:** The residential schedule deviation should be available in both the court and administrative processes.
 - Vote



- g. **Review of Recommendation #4:** The statute should specify how and when the residential schedule deviation is to be calculated.
 - Separate from the formula, this only states that the statute should articulate how and when the residential schedule deviation is to be calculated.
 - This vote is not to commit to a certain threshold or formula, just that you support laying out what those are within the statute itself.
 - Vote



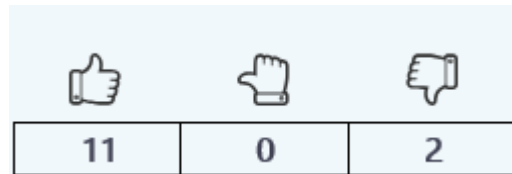
1. Discussion - No suggestions on how to make adjustments to this recommendation

Break: 3:08pm – 3:18pm

- h. **Continued Discussion on Recommendation #1**
 - The residential schedule deviation can be considered on a case-by-case basis. Overnights is the easiest unit to calculate and is already used in parenting plans. The aforementioned 20% overnights threshold can be changed to 35% if that garners additional support.
 1. There still is not consensus due to concerns around a lack of data and the fact that 35% still isn't enough.
 - A discussion around whether a parenting plan should be necessary ensued. Some members shared that the parenting plan process addresses power imbalances and mitigates the risks of intimate partner violence.
 1. Other members shared that the reality is that many people do not have parenting plans, which is why this subcommittee is making these recommendations. If people are exercising time with their child but haven't gone through the court system, they should

still get a residential credit. Typically, people are in the administrative forum because they haven't gone through the rigors of the court process.

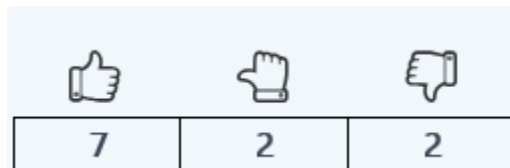
- Vote



- a. No suggestions on how to make adjustments to this recommendation

i. **Review of Recommendation #5:** These recommendations require revision of the existing Washington State Child Support Worksheets (WSCSS).

- This info would be included in the narrative of the worksheets but wouldn't necessarily affect the end transfer payment. This recommendation is meant to increase transparency about how the calculation works.
- Concern that B recommends how the worksheet would work. It could be confusing and there could be problems with programming the worksheet to reflect that.
- Workgroup resolution - Take out A and B and just leave it at "These recommendations require revision of the existing WSCSS" and leave it to the technical team to decide how to implement?
 1. The group agreed to take out the explanations.
 2. Vote



3. For those who voted no, could your mind be changed if adjustments were made?
 - a. No suggestions on how to make adjustments to this recommendation

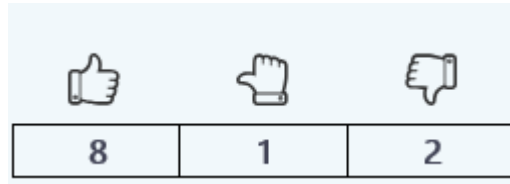
j. **Review of Recommendation #6:** If the parent receiving the residential schedule deviation does not spend time with the children in the same amount as used as the basis for the deviation, then there should be enforcement remedies available.

- Should the word "contempt" be removed? Contempt is a coercive action, so it would be inappropriate in such a scenario. Change to "motion?"
- Some members shared concerns around the lack of details for what the process would like as well as the criteria used. Also concerns that this would lead to more litigation. As of right now, what happens with an administrative order when a NCP does not adhere to the residential schedule?
 1. Either party can request a modification.
 - a. Question: How long does this take?
 - i. Answer: Depends on continuances, but usually they are placed on the administrative docket within 30 days.
 - b. Some members shared their experiences that the court process could be just as timely, if not more so. Others shared their experience that it took several

months in court. Question: Can DCS address a NCP not adhering to a parenting plan?

- i. Answer: No, DCS can only offer to modify the support order. They cannot change an underlying parenting plan.

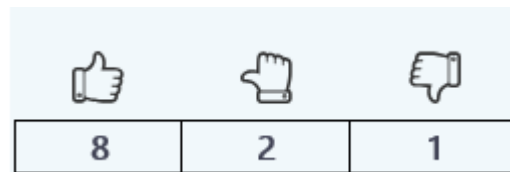
- Vote



1. For those who voted no, could your mind be changed if adjustments were made?
 - a. No suggestions on how to make adjustments to this recommendation

k. **Review of Recommendation #7:** Request hard data regarding parenting plans, shared custody and the associated costs in the state of Washington be gathered, to better inform the work of future workgroups

- Alternative text: Request that the legislature direct the Gender and Justice Commission or other agency to form a residential credit workgroup to include representatives from various organizations with a mandate to research and develop recommendations to the legislature by a specific date.
- Members would like to see data for what's currently happening, such as what residential schedule deviations look like on average within the court system.
- Question: Who are we asking to procure this data?
 1. Answer: Washington State Center for Court Research
- It is difficult to know what data to request before the questions are formulated.
- Vote



1. This would be an enormous effort to collect this kind of data, so we would need to lead them a little more about what data we need in order to make a decision. Would like more specific language to bolster the conversation.
2. We can table this for now. Subgroup will work on drafting the recommendations and then develop language for this consideration as an addendum.

5. Public Comment

- a. No public comment

6. Wrap Up and Closing

- a. Full workgroup report – Brady Horenstein
 - Writing of the report is underway and there are internal drafts coming together. Today's discussion will be incorporated. The report will become more substantive as we approach final consensus.

b. Public Forums

- **Everett** - July 26th at 12:00
- **Spokane** - July 27th at 6:00pm
- [Flyers](#) have been posted online! Available in multiple languages.
- Information on the forums has also been posted to the [Washington State DSHS Facebook page](#).
- Sent notification via email through listserv.

c. Plus/Delta

Meeting adjourned at 4:46pm