

NEVADA CHILD SUPPORT GUIDELINES COMMITTEE PUBLIC MEETING TO REVIEW CHILD SUPPORT ENFORCEMENT GUIDELINES IN ACCORDANCE WITH ASSEMBLY BILL 278 OF THE 2017 LEGISLATIVE SESSION.

The public meeting to review child support enforcement guidelines was brought to order by committee chair Kim Surratt at 1:00 p.m. on Tuesday, June 12, 2018. This meeting was video-conferenced between the Legislative Counsel Building, 401 South Carson Street, Hearing Room 3138, Carson City, NV and the Grant Sawyer State Office Building, 55 East Washington Avenue, Hearing Room 4401, Las Vegas, NV. The meeting was also accessible via teleconference.

MEMBERS PRESENT:

Kathleen Baker, Washoe County District Attorney's Office
David Castagnola for Nova Murray, Social Service Specialist III, Division of Welfare and Supportive Services
Karen Cliffe, Clark County District Attorney's Office
Ellen Crecelius, Chief Financial Officer, Division of Health Care Financing and Policy
Charles Hoskin, Family Division of the Eighth Judicial District Court
Assemblyman Keith Pickard
Joseph Sanford, Churchill County District Attorney's Association
Kim Surratt, Family Law Section of the State Bar of Nevada
Dawn Throne, Family Law Section of the State Bar of Nevada

MEMBERS ABSENT:

Senator Patricia Farley
Assemblyman Ozzie Fumo
Senator Michael Roberson
Jim Shirley, Family Division of the Eleventh Judicial District Court

MEMBERS PRESENT VIA TELEPHONE:

Bridget Robb, Presiding Judge of the 2nd Judicial District Court
Lidia Stiglich, Justice, Nevada Supreme Court

STAFF PRESENT:

Joy Tomlinson, Administrative Assistant IV, Division of Welfare and Supportive Services (DWSS)
Stephanie Dicke, Administrative Assistant III, DWSS
Rebecca Lindelow, Family Services Supervisor, DWSS
Kiersten Gallagher, Social Services Manager, DWSS
Amy Crowe, Deputy Attorney General

GUESTS PRESENT – NORTH

None

GUESTS PRESENT – SOUTH

Ron Easley

GUESTS PRESENT VIA TELEPHONE:

None

Agenda Item #1 – Call to Order and Roll Call

The public meeting to review child support enforcement guidelines was brought to order by committee chair Kim Surratt at 1:00 pm. Roll call was taken. It was determined a quorum was present. David Castagnola was present in Nova Murray's place.

Agenda Item #2 – Public Comment

Ms. Surratt called for public comment in Las Vegas. Public comment was heard from Ron Easley. He stated he is a custodial parent. Mr. Easley suggested the minimum amount of child support should be increased to \$200 a month. He stated the cost of goods and services has increased and the minimum amount of child support should increase. Mr. Easley suggested making the language for child support plain and easy for everyone to understand. He also stated the child support guidelines needs to stay in the Nevada Revised Statutes and not moved to the Administrative code.

Ms. Surratt called for public comment over the telephone: no public comment.

Ms. Surratt called for public comment in the north: no public comment.

Agenda Item #3 – Approval of meeting minutes (June 4, 2018)

Assemblyman Pickard motioned to approve the meeting minutes. Mr. Sanford seconded motion. Motion passed unanimously.

Agenda Item #4 – Discussion and recommendations on how to calculate child support obligations in shared parenting cases.

Ms. Surratt presented new language that defines obligor and obligee in the master document. See Exhibit A. Ms. Surratt directed the committee to page two of the master document and asked the committee for input regarding this language. The committee provided changes they would like to see included or removed.

- Families as it really is not feasible compared to higher income families.
- Judge Hoskin suggested adding some punctuation.
- Judge Robb stated she was concerned with throwing everything out based on one circumstance, but if it works on most cases, judges will need to review cases.

Ms. Surratt asked if there were any suggestions on the definitions of obligee and obligor.

- Ms. Baker suggested adding “non-primary, physical custodian.”
- Mr. Sanford suggested defining primary physical custody and joint physical custody.
- Ms. Surratt stated the committee cannot define primary physical custody and joint physical custody as there is a separate committee working on those definitions.
- Ms. Baker suggested removing “granted.”
- Mr. Sanford suggested changing “granted” to “has primary.”

- Judge Hoskin stated custody must be ordered before for child support can be ordered. He went on to say you can't give a financial award until you have a determination of custody.

Ms. Surratt asked for a motion. Mr. Sanford motioned to change "on an individual" to "individual" so that it matches the other situations. Judge Hoskin objected to this changed. Ms. Surratt explained primary custody with regards to the obligor and obligee. Judge Hoskin then withdrew his objection to Mr. Sanford's motion. Ms. Baker seconded motion. Motion passed unanimously.

Ms. Surratt asked if there was any discussion on the language for joint physical custody. There was no discussion from the committee. Ms. Surratt motioned to adopt language for joint physical custody. Mr. Sanford seconded motion. Motion passed unanimously.

Ms. Surratt opened a discussion on the language regarding split custody. Judge Hoskin volunteered to draft some language and present it at the next meeting. Ms. Surratt closed agenda item #4.

Agenda Item #5– Discussion and recommendations on how to calculate child support obligations in split-parenting cases.

Ms. Surratt tabled this agenda item for the next meeting as the committee ran out of time.

Agenda Item #6– Discussion and recommendations on how to calculate child support obligations in serial parenting cases.

Ms. Surratt tabled this agenda item for the next meeting as the committee ran out of time.

Agenda Item #7 – Discussion and recommendations on how to calculate health care expenses as part of child support obligation.

Ms. Surratt asked David Castagnola to present Medical Support Guidelines from the federal office See Exhibit B. Kim Surratt asked for comments or questions on this issue.

- Judge Hoskin raised concerns about requiring health insurance.
- Ms. Throne stated most of her cases already require one or more of parents to obtain health insurance coverage.
- Ms. Cliffe stated that Clark County always addresses health insurance coverage. She also mentioned that Clark County orders the Petitioner to provide health insurance or both parents. Ms. Cliffe also stated they have ability now to move forward with contempt for not providing health insurance.
- Judge Hoskin stated he would not have a problem with adding "at reasonable cost" or "reasonable policy health insurance" if available. He stated he does not want to hold someone in contempt or sanction them, if they cannot afford health insurance.
- Assemblyman Pickard suggested adding "available at a reasonable cost" to the top of the medical support section.
- Ms. Surratt suggested adding "medical support" to the language.
- Mr. Castagnola stated using medical support does not leave the option to order medical cash in lieu of health coverage when health coverage is available at a reasonable cost to responsible parent. He stated the federal government's intent is that health care is ordered if available, but medical cash is only in lieu of health coverage when it is not available at a reasonable cost or accessible to a child.

- Ms. Surratt stated if the committee leaves the medical support language intact they should be in compliance with federal guidelines.
- Assemblyman Pickard suggested the committee stick with what they have, “provide coverage for health care for minor child under plan of insurance provided its “available at a reasonable cost.”
- Ms. Surratt asked for clarification from Assemblyman Pickard regarding the wording he would like to see at the end of the second line of Mr. Castagnola’s language, under a plan of insurance. Assemblyman Pickard clarified he would like to see the language “if available at reasonable cost.”
- Mr. Sanford suggested adding “accessible and reasonable” at the top of the medical support language to bring both pieces together.

Ms. Surratt asked for a motion. Assemblyman Pickard moved to adopt “accessible and available at a reasonable cost” along with the other suggested changes. Ms. Cliffe asked to clarify if this includes covering children who live out of state. Assemblyman Pickard amended his motion to read “accessible and available in cost.”

There was more discussion on the medical support language.

- Ms. Cliffe stated the payment of medical expenses is not accessed until medical expenses have been reduced to judgements. She also stated medical cash provisions are only for monthly premiums.
- Ms. Baker stated Washoe County uses medical cash if the petitioner (obligee) is providing medical insurance and the respondent (obligor) is covering part of insurance. She asked how medical cash is calculated.
- Mr. Castagnola stated he does not think the federal government intends to get down to this level of detail in their action.
- Judge Hoskin suggested changing medical cash to something more descriptive.
- Mr. Castagnola referenced the federal regulations, 45CFR 302.56 b2, stating this regulation simply addresses how the parents will provide for the child’s health care needs through private or public healthcare coverage and/or through cash medical support.
- Assemblyman Pickard suggested using the existing language in 125B.085 and reinserting it into the medical support language.

Assemblyman Pickard withdrew his earlier motion.

- Ms. Throne suggested breaking down the language from 125B.085.
- Assemblyman Pickard stated if the committee captures the copayment, deductible, and medical expenses somewhere in this consideration, he is fine with separating them.
- Ms. Surratt stated she wants the assessment to be made if it is reasonable to provide health insurance.
- Ms. Surratt summarized that the committee wants to reinstitute the language from NRS 125B.085 with appropriate edits.
- Ms. Baker suggested keeping a definition of plan of insurance that includes the child being provided with public insurance.
- Mr. Sanford suggested adding medical, vision, and dental under 125B.085 subsection 2.

- Mr. Sanford suggested replacing “healthcare” with “coverage for medical, vision and dental.”

Ms. Surratt asked for a motion. Assemblyman Pickard motioned the committee chair to come up with the language and present that language at next the meeting. Mr. Sanford seconded the motion. Motion passed unanimously.

Agenda Item #8 – Review of master document for edits, errors or omissions from prior votes and to create a final report of committee.

Ms. Surratt asked the committee if there are any edits that need to be made to the master document.

- Judge Hoskin found a typo and suggested changing “determine” to “determined.”
- Ms. Surratt asked the committee if overtime pay be included as part of gross income.
- Judge Hoskins suggested leaving it for court to determine.

Ms. Surratt motioned to include in definition of gross monthly income (GMI) “money earned from overtime pay if that overtime pay is substantial, consistent, and accurately determined.” Assemblyman Pickard seconded motion. Motion passed unanimously.

- Ms. Surratt stated she was worried people would not understand the difference between SSI and SSD.
- Mr. Sanford stated he had same concerns with SSI and insurance benefits under federal law are included in GMI but public assistance benefits under federal law are not included in GMI. He stated those are opposing and inconsistent.

Ms. Surratt moved to adjustments on page seven, 1st paragraph.

- Judge Hoskin suggested editing (g) to say “obligee’s household.”
- Assemblyman Pickard suggested using broader language to allow the courts more lenience.

Ms. Surratt moved to the incarceration language on page eight explaining that it currently states to set the order to no less than the minimum set by law. She asked for input from the committee as there is no longer a minimum.

- Judge Hoskin asked if that situation is considered grounds for suspension or modification of child support.
- Assemblyman Pickard asked if the federal guidelines require child support to go to \$0? He stated incarceration should not lead to \$0 order.
- Ms. Cliffe stated child support should be based on actual earnings. She stated in Nevada the courts do reduce orders to \$0.
- Ms. Baker stated the support guidelines must be based on the obligor’s earnings income. She also stated the IV-D office will have no idea what the obligors will be able to pay when they are released.
- Ms. Surratt suggested the committee members review split parenting, the incarceration language, and prior meeting minutes before the next meeting. She also asked committee members to provide sample language.

Assemblyman Pickard brought up a case where there was a party that was taking draws on interest of an account and the judge considered those draws as income. He asked if the full amount should be considered income or just the interest. Ms. Throne stated if it looks like income, it is income. Assemblyman Pickard then asked what if they are not working and living off their savings. Judge Hoskin stated taking draws off an account is income but moving money from checking to savings is not income. Ms. Surratt stated the prior status did not have this much detail. Assemblyman Pickard stated he was not asking for change now but, rather, just bringing it up for discussion.

Agenda Item #9 – Discuss and approve ideas for future agenda

Ms. Surratt verified with staff that the next meeting is June 28, 2018. Ms. Crowe, Senior District Attorney General, stated the deadline to submit the draft is close of business on Friday June 29, 2018.

Ms. Surratt stated it will be very specific on the votes at the next meeting, so she can get the master document edited and to the District Attorney General's office. She notified the committee that DWSS will give notice of a public workshop, once the master document is edited by LCB. Ms. Surratt also let the committee know they are welcome to attend the workshop, but it is not mandatory.

Mr. Sanford asked if the committee wanted the calculation to be included in the master document. Ms. Surratt told Mr. Sanford not to work on the calculation. Judge Hoskin asked if the changes made by the committee would apply to every order. Ms. Surratt stated there is language from Wisconsin that states this is not changed for all orders. She stated she would include this language as an agenda item for the next meeting along with adding split-parenting for discussion based on Judge Hoskin's language. Judge Robb asked that the meeting minutes be provided to the staff earlier so they can review them in enough time.

Agenda Item #10 – Public Comment

Ms. Surratt called for public comment in Las Vegas: no public comment.

Ms. Surratt called for public comment over the telephone: no public comment.

Ms. Surratt called for public comment in Carson City: no public comment.

Agenda Item #11 – Adjournment

Ms. Surratt called for a motion for adjournment. Ms. Baker motioned to adjourn. Assemblyman Pickard seconded motion. Motion passed unanimously. Meeting adjourned at 4:02 pm.

Exhibit A

NEVADA CHILD SUPPORT GUIDELINES

INTRODUCTION PROVISIONS:

Any child support order must be based on the payor's earnings, income, and other evidence of ability to pay.

It is presumed that the basic needs of a child are met by the formulas set forth in these regulations. This presumption may be rebutted by evidence proving that the needs of a child are not met or are exceeded by the applicable formula.

If the amount of the awarded support for a child is greater or less than the amount which would be established under these guidelines, the court shall:

- (a) Set forth findings of fact as to the basis for the deviation from the formula; and
- (b) Provide in the findings of fact the amount of support that would have been established under the applicable formula.

STIPULATIONS AND ORDERS:

Parents have the right to stipulate to a child support obligation for their child(ren) that does not comply with the following guidelines. However, to be binding, a stipulation must be in writing and:

- a. Set forth the current gross monthly income of each parent;
- b. Specify what the child support obligation would be under these guidelines;
- c. Provide notice to both parents that, if either parent seeks a review of the child support obligation upon a material change in circumstances or for regular periodic review, a court will be bound by the child support guidelines in effect at the time of the review;
- d. Certify that the recipient parent is not receiving public assistance and has not applied for public assistance;
- e. Certify that the basic needs of this child are met or are exceeded by this child support award; and
- f. Be approved and adopted as an order of the court.

A court presented with a proposed stipulation of the parents for a child support obligation that does not comply with these guidelines may reject the stipulation, even if it complies with the requirements set forth above, if the court believes that the stipulation is a product of coercion or does not meet the needs of the child. Additionally, the receipt of public assistance by the recipient or the parent entitled to receive child support under the guidelines will constitute a change of circumstances that will allow the review of the child support obligation and the modification of the child support obligation in accordance with the child support guidelines then in effect.

If the parties do not agree to the amount of support required, the Court shall determine the amount of support according to the following guidelines.

STEP ONE TO ASSESS CHILD SUPPORT: DETERMINE WHO IS THE OBLIGOR

Who is the Obligor:

“Obligor” means a person who incurs a legal obligation for child support because of a court order.

“Obligee” means a person who is entitled to receive child support because of a court order.

An individual who is granted primary physical custody of a minor child is an obligee. The non-physical custodian is an obligor.

When individuals have joint physical custody of a minor child they are each an obligor. The child support formula set forth in these guidelines shall be applied to each joint physical custodian’s respective gross monthly income to obtain their respective obligations. Then, the respective obligations shall be offset so that the obligor with the higher obligation pays the other obligor the difference.

When potential obligors have two (2) or more children and they both have joint physical custody of at least one of the children but not 0400231-29 all the children, the obligors shall each calculate their child support obligation under the formula set forth below based on the number of children to whom each obligor owes a child support obligation.

[Serial Parenting: Leave as the adjustment factor – with no other language]

STEP TWO TO ASSESS CHILD SUPPORT: DETERMINE GROSS INCOME

First, the amount of gross income of each obligor must be determined by stipulation of the parties or by the Court upon consideration of all relevant financial information or other information relevant to the obligor's earning capacity. The Court may direct either party to furnish financial information or other records, including income tax returns for prior years.

GROSS INCOME DEFINITION:

"Gross income."

(a) "Gross income" for purposes of calculating child support means all of the following:

1. Salary and wages. **
2. Interest and investment income.
3. Social Security disability and old-age insurance benefits under Federal Law.
4. Income from a pension or retirement plan.
5. Net proceeds resulting from worker's compensation or other personal injury awards intended to replace income.
6. Unemployment insurance.
7. Income continuation benefits.
8. Voluntary deferred compensation, employee contributions to any employee benefit plan or profit-sharing, and voluntary employee contributions to any pension or retirement account whether or not the account provides for tax deferral or avoidance.
9. Military allowances and veterans' benefits.
10. All compensation for lost wages.
11. Undistributed income of a corporation, including a closely-held corporation, or any partnership, including a limited or limited liability partnership, in which the parent has an ownership interest sufficient to individually exercise control or to access the earnings of the business, unless the income included is an asset under [section regarding imputed income] In this paragraph:
 - a. "Undistributed income" means federal taxable income of the closely held corporation, partnership, or other entity plus depreciation claimed on the entity's federal income tax return less a reasonable allowance for economic depreciation.

b. A “reasonable allowance for economic depreciation” means the amount of depreciation on assets computed using the 0400231-29 straight-line method and useful lives as determined under federal income tax laws and regulations.

Note: Income considered under this subsection is subject to the adjustments under [section regarding adjustments].

Note: Income derived from SSI cannot be included.

** Should include overtime in the definition of GMI? Per Scott, 107 Nev. At 841, gross monthly income includes money earned from overtime pay if that overtime pay is substantial and can be accurately determined.

12. All other income of the obligor, whether taxable or not, except that gross income does not include any of the following:

- a. Child support received.
- b. Foster care payments under Federal Law.
- c. Kinship care payments under Federal Law.
- d. Public assistance benefits under Federal Law, except that child care subsidy payments under Federal Law, shall be considered income to a child care provider.
- e. Supplemental Nutrition Assistance Program (SNAP) under Federal Law.
- f. Cash benefits paid by counties under Federal Law.
- g. Supplemental Security Income and state supplemental payments under Federal Law.
- h. Payments made for social services or any other public assistance benefits.
- i. Compensation for losses, both general and special damages, in personal injury awards not intended to replace income.

This subsection defines gross income used in establishing a child support order under this chapter and may not be used to limit income withholding, or the assignment of worker's compensation benefits for child support. **Note:** This paragraph clarifies that although the portion of worker's compensation awards not intended to replace income is excluded from gross income in *establishing* a child support order, the full worker's compensation benefit is assignable for the *collection* of child support.

IMPUTATION OF INCOME:

If the Court determines after taking evidence that the obligor, who has an obligation for support, is underemployed or unemployed without good cause, the Court may impute income to that obligor. Income is imputed, the Court must take into consideration the specific circumstances of the noncustodial and custodial parent to the extent known, including such factors as the noncustodial parent's assets, residence, employment and earnings history, job skills, education attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers will to hire the noncustodial parent, prevailing earnings level in the local community and other relevant backgrounds factors in the case.

STEP THREE: CONSIDERATION OF MEDICAL SUPPORT AND CHILD CARE:

Regardless of the income level of the payer, the obligation for support shall also include the cost of providing medical support for the child. In other words, the obligation for support of both low-income payers and high-income payers shall also include the cost of providing medical support for the child.

Choice A:

The Court shall consider the reasonable costs of medical support and the reasonable child care expenses paid by either or both parents and shall make an equitable division thereof.

The cost of medical support shall be borne equally by the parents, with each parent being responsible for 50% of the cost of medical support unless, in extraordinary circumstances, the Court determines that a basis exists to deviate from the parents equally sharing the cost of medical support.

As used in this section, "medical support" includes, without limitation, the cost of coverage for medical, vision and dental under a plan of insurance for the child that is reasonable in cost and accessible, meaning the payment of the premium.

For the purpose of this subsection:

- (A) The term “plan of insurance” includes the child being provided coverage under a public plan of insurance such as Medicaid or a reduced fee plan such as Nevada Check Up.
- (B) Payments of cash for medical support or the cost of coverage for health care under a plan of insurance are “reasonable in cost” if:
 - (i) In the case of payments for medical support, the cost to each parent who is responsible for providing medical support is not more than 5 percent of the gross monthly income of the parent; or
 - (ii) In the case of the costs of coverage for health care under a plan of insurance, the cost of adding a dependent child to any existing coverage for health care or the difference between individual and family coverage, whichever is less, is not more than 5 percent of the gross monthly income of each parent.
- (C) Coverage for health care under a plan of insurance is “accessible” if the plan:
 - (i) Is not limited to coverage within a geographic area; or
 - (ii) Is limited to coverage within a geographic area and the child resides within that geographic area.

STEP FOUR: DETERMINE CHILD SUPPORT BASED ON GROSS INCOME

LOW INCOME PAYERS:

“Low-income payer” means a payer for whom the Court has determined that the payer’s total economic circumstances limit his or her ability to pay support at the level set forth in section (a) above. Once low-income payer status is determined, the child support obligation shall be established by use of a yearly schedule based on changes in the federal poverty guidelines during the preceding year. This schedule shall be approved by the Child Support Guidelines Committee no later than January 31 of each year and shall be published by the Administrative Office of the Courts.

If a payer’s monthly income is below the lowest level set on the schedule, the Court may set a child support obligation that is appropriate based upon the payer’s total economic circumstances, balancing the payer’s need for self-support and the payer’s obligation to support the child.

[INSERT LOW INCOME CHART]

CHILD SUPPORT CALCUATIONS OTHER THAN LOW INCOME:

Except as set forth in (low-income section), a parent's "Base support obligation" means the dollar amount determined according to the following schedule:

(1) For one child, the sum of

- a. 16 percent of the first \$6,000 of a parent's gross monthly income, plus
- b. 8 percent of the portion of the parent's gross monthly income for any gross monthly income from \$6,001 to \$10,000, plus
- c. 4 percent of the portion of the parent's gross monthly income for any gross monthly income in excess of \$10,000.

(2) For two children, the sum of

- a. 22 percent of the first \$6,000 of a parent's gross monthly income, plus
- b. 11 percent of the portion of the parent's gross monthly income for any gross monthly income from \$6,001 to \$10,000, plus
- c. 6 percent of the portion of the parent's gross monthly income for any gross monthly income in excess of \$10,000.

(3) For three children, the sum of

- a. 26 percent of the first \$6,000 of a parent's gross monthly income, plus
- b. 13 percent of the portion of the parent's gross monthly income for any gross monthly income from \$6,001 to \$10,000, plus
- c. 6 percent of the portion of the parent's gross monthly income for any gross monthly income in excess of \$10,000.

(4) For four children, the sum of

- a. 28 percent of the first \$6,000 of a parent's gross monthly income, plus
- b. 14 percent of the portion of the parent's gross monthly income for any gross monthly income from \$6,001 to \$10,000, plus
- c. 7 percent of the portion of the parent's gross monthly income for any gross monthly income in excess of \$10,000.

(5) For each child in excess of 4 children, the sum of

- a. An additional 2 percent of the first \$6,000 of a parent's gross monthly income, plus
- b. An additional 1 percent of the portion of the parent's gross monthly income for any gross monthly income from \$6,001 to \$10,000, plus
- c. An additional 0.5 percent of the portion of the parent's gross monthly income for any gross monthly income in excess of \$10,000.

STEP FIVE: DETERMINE IF AN ADJUSTMENT IS NEEDED:

The child support obligation may be further adjusted by the Court pursuant to the specific needs of the child and the economic circumstances of the parents based upon the following exclusive factors and specific findings of fact:

- (a) Any special educational needs of the child;
 - (b) The legal responsibility of the parents for the support of others;
 - (c) The value of services contributed by either parent;
 - (d) Any public assistance paid to support the child, including social security benefits available to the child***;
 - (e) The cost of transportation of the child to and from visitation;
 - (g) The relative income of the obligee's household;
 - (h) The contributions to living expenses to an obligor by an adult cohabitant;
- and
- (i) Any other necessary expenses for the benefit of the child
 - (j) The party's ability to pay.

*** Wisconsin Language: Adjustment for child's social security. The court may include benefits received by a child under 42 USC 402(d) based on a parent's entitlement of federal disability or old-age insurance benefits under 42 USC 401 to 433 in the parent's gross income and adjust a parent's child support obligation by subtracting the amount of the child's social security benefit. In no case may this adjustment require the payee to reimburse the payer for any portion of the child's benefit.

INCARCERATION

(1) For purposes of this section, the following definitions shall apply:

(A) "Incarcerated or involuntarily institutionalized" includes, but is not limited to, involuntary confinement for any period exceeding 180 consecutive days to the state prison, a county jail, State or Federal prison, a juvenile facility operated by the Division of Child and Family Services, or a mental health facility.

(B) "Suspend" means that the payment due on the current child support order, an arrears payment on a preexisting arrears balance, or interest on arrears created during a qualifying period of incarceration pursuant to this section is, by operation of law, set to no less than the minimum child support allowed by law.

(2) Incarceration or involuntarily institutionalization shall be considered as a substantial change of circumstances to warrant a child support order to be reviewed and, if appropriate adjusted based on the noncustodial parent's ability to pay. All cases of incarceration or involuntarily institutionalization of the obligor qualify for automatic finding of a substantial change in circumstances and a review hearing shall be conducted. Incarceration or involuntary institutionalization shall not be treated as voluntary unemployment and income shall not be imputed to the person who is incarcerated or involuntarily institutionalized.

(3) If child support is either suspended or reduced during incarceration or involuntary institutionalization, the money judgment or child support obligation shall resume on the first day of the first full month after the release of the person owing support in the amount previously ordered, and that amount is presumed to be appropriate. This section does not preclude a person owing support from seeking a modification of the child support order based on a change in circumstances or other appropriate reason.

(4) (A) A local child support agency enforcing a child support order under Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.) may, upon written notice of the proposed adjustment to the support obligor and obligee along with a form provided for the support obligor or obligee to object to the administrative adjustment to the local child support agency, administratively adjust account balances for a money judgment or order for support of a child suspended pursuant to subdivision (1) if all of the following occurs:

(1) The agency verifies that arrears and interest were accrued in violation of this section.

(2) The agency verifies that the person owing support does not have the means to pay support while incarcerated or involuntarily institutionalized.

(3) Neither the support obligor nor obligee objects, within 30 days of receipt of the notice of proposed adjustment, whether in writing or by telephone, to the administrative adjustment by the local child support agency.

(B) If either the support obligor or obligee objects to the administrative adjustment set forth in this subdivision, the agency shall not adjust the order, but shall file a motion with the court to seek to adjust the arrears and shall serve copies of the motion on the parties, who may file an objection

to the agency's motion with the court. The obligor's arrears shall not be adjusted unless the court approves the adjustment.

(C) The agency may perform this adjustment without regard to whether it was enforcing the child support order at the time the parent owing support qualified for relief under this section.

(5) This section does not prohibit the local child support agency or a party from petitioning a court for a determination of child support or arrears amounts.

(6) This section applies to every money judgment or child support order issued or modified on or after the enactment of this section.

EMANCIPATION

A. If a child support order is for one child only, the ongoing child support obligation shall terminate when the child turns 18, or, if the child is still in high school, until graduation or age 19, whichever comes first, unless there exists a statutory basis to terminate the obligation to provide ongoing support sooner or to extend the obligation to provide ongoing support.

B. If the most recent child support order is for more than one child, and allocates a specific amount of the total support obligation to each child, the ongoing child support amount allocated for the subject child shall terminate the month following the date that child turns 18, or, if the child is still in high school, the month after the child graduates or turns 19, whichever comes first, unless there exists a statutory basis to terminate the obligation to provide ongoing support sooner or to extend the obligation to provide ongoing support.

C. If the most recent child support order is for more than one child, and does not allocate a specific amount of the total child support obligation to each child, if one child emancipates, in order to adjust the existing ongoing child support obligation, a stipulation must be submitted to the court or a motion must be filed with the court for modification of the existing child support order. Any modification of the ongoing child support obligation must be in compliance with the child support guidelines for the remaining non-emancipated child(ren). Regardless of the date of emancipation, any change to the existing child support obligation will only be effective as of the date the motion requesting modification was filed, unless the parties agree otherwise in a stipulation.

The following notice MUST be included in any unallocated child support order when more than one child is the subject of the order.

NOTICE: If you want to adjust the amount of the child support obligation set out in this order, you **MUST** file a motion for review and modification or submit a stipulation to the court. If a motion to modify is not filed or a stipulation is not submitted, the obligation to pay the amount of ongoing child support set out in this order will continue until all of the children that are the subject of this order have emancipated. Any modification made pursuant to a motion for modification shall only take effect as of the date the motion was filed, unless otherwise agreed to by the parties in a stipulation.

PENALTIES:

- Do not adopt language in NRS 125B.095

Exhibit B

Guideline Committee

Medical Support

Background Information

Question: Does the Committee have the authority to require health care coverage as a component of the state child support guidelines?

Yes. The Committee has the authority to recommend a guideline requirement that one or both parents will provide health care coverage because AB 278 (2017) repeals NRS 125B.085, the existing medical support statute and AB 278 (2017) requires the new child support guideline regulation to comply with federal requirements.

Federal regulations mandate state child support guidelines address how the parents will provide for the child's health care needs through private or public health care coverage and/or through cash medical support. The federal Office of Child Support Enforcement (OCSE) interprets this requirement as requiring health care coverage as the first option in providing for a child's health care needs with cash medical support in lieu of health coverage only becoming an option when health care coverage is unavailable to the obligated parent or is inaccessible to the child or unreasonable in cost.

- Section 8 of AB 278 (2017) requires the Administrator to adopt regulations establishing the child support guidelines in accordance with the requirements set forth in 42 U.S.C. 667(a) and 45 CFR 302.56.
- Federal law requires states to establish guidelines for child support amounts by law, judicial or administrative action. See 42 U.S.C. 667(a).
- Federal regulations mandates that a state's child support guidelines "address how the parents will provide for the child's health care needs through private or public health care coverage and/or through cash medical support". See 45 CFR 302.56(c)(2).
- Section 13 of AB 278 (2017) repeals NRS 125B.085, the existing medical support statute, effective (Section 14.2) the date the guideline regulation adopted by the Administrator becomes effective.
- State IV-D agencies are required to petition the court to order health care coverage that is accessible to the child and available to the responsible parent at a reasonable cost. See 45 CFR 303.31.
- OCSE has advised the Nevada Child Support Enforcement Program that 45 CFR 302.56(c)(2) means that a state's child support guidelines must require health care coverage, but a medical cash provision may be ordered in lieu of health care coverage when health care coverage is unavailable, inaccessible, or not available at a reasonable cost.

Proposed Health Care Coverage Language

STEP THREE: CONSIDERATION OF MEDICAL SUPPORT AND CHILD CARE:

Every court order for the support of a child must include a provision specifying that one or both parents shall provide coverage for health care for the child under a plan of insurance, including, without limitation, the payment of any premium, copayment or deductible and the payment of medical expenses. A medical cash provision may be ordered if there is no plan of insurance available that is reasonable in cost and accessible.

Regardless of the income level of the payer, the obligation for support shall also include the cost of providing medical support for the child. In other words, the obligation for support of both low-income payers and high-income payers shall also include the cost of providing medical support for the child.

Choice A:

The Court shall consider the reasonable costs of medical support and the reasonable child care expenses paid by either or both parents and shall make an equitable division thereof.

The cost of medical support shall be borne equally by the parents, with each parent being responsible for 50% of the cost of medical support unless, in extraordinary circumstances, the Court determines that a basis exists to deviate from the parents equally sharing the cost of medical support.

As used in this section, "medical support" includes, without limitation, the cost of coverage for medical, vision and dental under a plan of insurance for the child that is reasonable in cost and accessible, meaning the payment of the premium.

For the purpose of this subsection:

- (A) The term "plan of insurance" includes the child being provided coverage under a public plan of insurance such as Medicaid or a reduced fee plan such as Nevada Check Up.
- (B) Payments of cash for medical support or the cost of coverage for health care under a plan of insurance are "reasonable in cost" if:
 - (i) In the case of payments for medical support, the cost to each parent who is responsible for providing medical support is not more than 5 percent of the gross monthly income of the parent; or
 - (ii) In the case of the costs of coverage for health care under a plan of insurance, the cost of adding a dependent child to any existing coverage for health care or the difference between individual and family coverage, whichever is less, is not more than 5 percent of the gross monthly income of each parent.
- (C) Coverage for health care under a plan of insurance is "accessible" if the plan:
 - (i) Is not limited to coverage within a geographic area; or
 - (ii) Is limited to coverage within a geographic area and the child resides within that geographic area.