

Virginia Child Support Guidelines Review Panel
October 5, 2016
10:00 a.m. – 2:00 p.m.
House Room 1, State Capitol

Meeting Minutes

Members Present:

The Honorable Edward A. Robbins, Jr., Chair
The Honorable Deborah V. Bryan
Craig M. Burshem, Deputy Commissioner
Lawrence (Larry) D. Diehl, Esq.
Carol B. Gravitt, Esq.
Dennis M. Hottell, Esq.
Delegate James A. (Jay) Leftwich, Jr.
Christian R. Paasch
Karen H. Sampson
Delegate David J. Toscano
Delegate Vivian E. Watts

Members Not Present:

Christine (Christie) E. Marra, Esq.
Kim-Marie A. Pigott-Brown
Russell J. Smith
Senator Glen H. Sturtevant, Jr.

Staff Members Present:

Alice G. Burlinson, Esq.
Melody C. McKinley, Panel Administrator
Ryan Speray, Esq.

I. Welcome and Introductions

Judge Robbins

Judge Robbins welcomed Panel members and introduced Delegate Toscano and Delegate Leftwich, both new to the Panel.

II. Discussion of Pending Issues

All

Ms. Burlinson facilitated discussion of the following pending issues with a PowerPoint presentation:

a. Attaching Guidelines Worksheets to All Orders

Panel staff located an old Division of Child Support Enforcement (DCSE) worksheet mentioned at the last meeting as a possible template for indicating both presumptive and deviated guidelines calculations; however, the form addresses other children, not the separate calculations, and is thus not helpful to the discussion.

The Panel discussed Supreme Court Form DC-639, Child Support Guidelines Exception Supplement to Order for Support. Judge Robbins and Judge Bryan agreed that the form is not used frequently; in juvenile court, judges more often write notes on the three-part form order. The form indicates the reason for deviation but not the calculation itself. Judge Robbins noted that he typically does a second worksheet when deviating and emphasized the importance of “showing your work” so that parties, particularly *pro se* litigants, understand the basis of the obligation. After further discussion, the Panel opted not to recommend requiring use of DC-639 in all deviation cases, although it could be suggested as a best practice.

The Panel agreed that attaching the guidelines worksheet to all orders is a good idea and decided that the final worksheet used for the calculation would be sufficient. Judge Robbins suggested the Panel recommend that the following language be added in Va. Code Ann. § 20-108.2: “The guidelines relied upon by the court or agency to reach its computation shall be

attached to the order.” Mr. Diehl moved to adopt Judge Robbins’ suggestion; Delegate Watts seconded the motion. All members voted in favor.

DECISION: The Panel will recommend that language be added to § 20-108.2 to require that the guidelines worksheet used to determine the obligation shall be attached to child support orders.

b. Accounting for Later-Born Children in Calculating Obligations

Ms. Burlinson provided research regarding how other states handle later-born children in calculating obligations. In Virginia, a new child is not by itself a basis for modifying an obligation. Judge Robbins noted the public policy underlying this approach, which is to ensure that all children are treated equally and do not bear the consequences of their parents’ behavior.

The Panel discussed whether a new spouse’s income and/or household income should be included in calculating obligation. Mr. Diehl pointed out that the new parent does not have a legal duty of support to the first child, so his/her income should not be considered. He suggested adding a deviation factor addressing the financial resources of the family; Judge Robbins noted that the “catch-all” deviation factor (§ 20-108.1(B)(15)) would cover this.

Mr. Hottell moved to include this issue in the Panel’s letter to the Family Law Coalition. Mr. Bursch seconded. All members agreed. The next Family Law Coalition meeting is November 11, 2016. Panel staff will revise the letter and forward to Judge Robbins for his signature.

DECISION: Include issue in letter to Family Law Coalition asking that they consider providing guidance for complex cases.

c. Adding Deviation Factors

1. Age of Children

Ms. Burlinson provided research regarding costs of raising children at various ages and how other states approach this issue. While older children are more expensive, the difference is not significant. After discussion of the research and various other factors (e.g., increased litigation, unequal decision-making between parents), the Panel determined that the “catch-all” deviation could be used to address this issue if necessary.

DECISION: The Panel will make no recommendation on this issue.

2. Cost of Living in Various Parts of the State

Ms. Burlinson reviewed the federal law (45 CFR § 302.56) requiring that states have one set of guidelines that apply across the entire state. In addition, she contacted the federal Office of Child Support Enforcement, which confirmed that this law is still applicable. Ms. Burlinson also provided research on housing costs in various parts of Virginia, which indicates that, irrespective of income, renters and homeowners spend about the same percentage of income on housing, regardless of where they live in the state. While housing costs do vary, those areas with higher costs also have higher incomes.

DECISION: The Panel will make no recommendation on this issue.

III. Reconsidering the 1.4 Multiplier and 90-Day Threshold in Shared Custody Cases

Christian Paasch

Mr. Paasch gave a PowerPoint presentation entitled “Child Support in Virginia: A New Perspective” (attached) and recommended that the 90-day threshold and multiplier be removed completely in shared

custody cases. Mr. Diehl provided historical background of the threshold and multiplier and noted that a special committee conducted research and studied hundreds of scenarios over a two-year period before making the current 90-day threshold and 1.4 multiplier recommendations.

Judge Robbins acknowledged DCSE's emphasis on right-sizing orders. Mr. Burshem confirmed this trend and noted that Mr. Paasch's assertion that DCSE collected only 20% of child support owed in 2015 is incorrect. DCSE collects approximately \$660 million per year and approximately 63% of current support owed. This figure is about the same as the national average. In addition, Mr. Paasch's \$3 billion arrears figure represents arrears since the child support program's inception and does not reflect the arrears on current DCSE cases.

Judge Bryan noted that any change in the threshold/multiplier would require support from the Family Law Coalition. She does not see any indication from the bar or bench that the current law is a problem.

DECISION: The Panel will not pursue elimination of the 90-day threshold and 1.4 multiplier.

IV. New Business

Alice Burlinson

At the next meeting, the Panel would like to hear more about the right-sized orders trend and the pending Notice of Proposed Rulemaking, *Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs*, which includes significant changes for child support programs nationwide.

V. Administrative Items

All

- a. Panel emails from April 15, 2016 through October 1, 2016: Panel members were provided with a list of all emails sent to the Panel and responses from staff.
- b. Schedule next meeting: Panel staff will coordinate possible dates (after March 15, 2017) with Judge Robbins for the next meeting and will send a Doodle survey to Panel members.
- c. Travel vouchers: Mileage and parking costs will be reimbursed. Samples, forms and postage-paid envelopes were provided.
- d. Questions: None.

VI. Adjourn

The Panel adjourned at 1:55 p.m.

Action Items for Staff:

- Post the following items on the Panel's website:
 - Minutes, upon approval of Panel
 - PowerPoint presentations
 - Panel emails from April 15, 2016 through October 1, 2016
- Revise letter to Family Law Coalition for Judge Robbins' signature.
- Coordinate possible meeting dates with Judge Robbins and send Doodle survey to Panel members to select date.