

## Influencing Public Policy: Child Support Policy in Transition

This panel discussion brought together present and past members of the Utah's Child Support Advisory Committee to discuss the history of the process of developing child support guidelines in Utah and current issues affecting many states. Participants included: Barbara Rowe, Purdue University (member of the committee that developed the original guidelines when she was on USU faculty); Rex Olson, attorney and committee chair; Garth Mangum, economics professor and vice-chair; and Jean Lown, convener and moderator.

### Jean M. Lown, Utah State University<sup>1</sup>

Barbara Rowe provided an over view of child support in an era of welfare reform. For the first 190 or so years of our nation's existence marriage and domestic law were the exclusive domain of state legislatures and courts. The Social Security Amendments of 1974 created Title IV-D agencies in states. The Child Support Enforcement Amendments of 1984 require states to establish "descriptive and numeric guidelines" for determining the amount of child support in divorce and paternity cases by October 1987. The guidelines could be established by state legislatures, by judicial action, or by administrative agency (Title IV-D). Congress did not stipulate any particular guideline model states had to follow (most common- Guidelines were advisory, not mandatory. The Family Support Act of 1988 made guidelines rebuttable presumption (that is, the guideline was to be used unless the court made a finding that it was inappropriate in a particular case).

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (a.k.a. "welfare reform") addressed the following issues. Enforcement issues Improved absent parent locator functions by establishing a federal case registry of child support orders, a national directory of new hires, and state disbursement units for collection of child support payments.

The Uniform Interstate Family Support Act (UIFSA) improves full faith and credit laws, requires states to use the same forms, Institutes expedited processes (don't have to stop and wait for judge to sign order), requires licenses and passport revocation (professional, driver's licenses, passports), requires delinquent obligors to work, denies food stamps to delinquent noncustodial parents, allows states to enforce the support orders of delinquent obligors who are minors against their parents, authorizes study of

access and visitation issues, makes federal employers subject to same laws as other employers, requires the military to share information with parent locator services, includes new policies for international cooperation, and initiates cooperative agreements with families living in "Indian country."

The new legislation also expedites paternity establishment by permitting: voluntary establishment in hospitals, permits paternity to be established until child is 18, requires genetic tests upon request of either party, enters default orders of paternity, and creates a presumption of paternity where appropriate. With regard to establishment and modification of child support the new law allows: medical insurance support can be ordered whenever obligor can obtain health insurance "at reasonable cost." States must review all IV-D orders upon request to conform with state guidelines, adjust for inflation, use automated methods (many counties still use hand-written entries in paper ledgers), and requires states to review AFDC orders every 3 years. Arrears are to be distributed to families who move off welfare before state pays itself and states may disregard the \$50 pass-through to AFDC families when support is collected.

"Good faith" cooperation of welfare recipients is required in naming the father, including providing his Social Security number, employer's name and address. "Good faith" is determined by the child support enforcement agency not by the welfare agency (see Turetsky, "Pointing the Finger at Moms"). With regard to agency funding and administration the new law establishes new incentive system for states in collecting child support, establishes notice provisions to obligors but no grievance procedure, requires state audits, and provides funding for training and technical assistance at the state level.

According to Garth Mangum, Utah's Child

Support Advisory Committee is advisory to the legislature with members appointed by the governor; the committee has no power or authority. Child support in Utah follows the income shares model. Over the years the committee devoted a huge amount of time to intensively study guidelines issues. Two years ago the committee revised the guidelines. Funds are needed to study the impact of this revision.

In recent years members of the legislature have been deluged with complaints from noncustodial parents regarding child support and visitation. Virtually every issue raised has been studied by the committee. However, due to lack of attention by legislators and membership turnover, many legislators are unaware that the complaints have been addressed. Essentially the legislature ignores the committee. There is no legislative staff assigned to the committee and legislators invited to meet with the committee do not attend. Collection issues are not the committee's responsibility; collection is carried out by the Office of Recovery Services.

Although Utah is one of the most urbanized states, with 80% of its population living in the densely populated Wasatch Front, the powerful "Cowboy Caucus" in the legislature thinks that Utah is primarily a rural state with a cost of living well below that of other states so they object to using national or regional data on the cost of raising children yet the legislature will not appropriate sufficient funds for a survey of costs.

Attorney Rex Olsen concurred with Dr. Mangum that there is a pervasive misperception, not limited to legislators, regarding the cost of living in Utah. Collecting state specific data would be very expensive and unlikely to affect the perceptions of payors that their child support obligation is too high.

Olsen emphasized the distinction between legal and physical custody. In Utah, when the child spends more than 25% of overnights with the parent who has the least amount of time with the child, it constitutes joint physical custody. A big issue for noncustodial parents is accountability for expenditure of the child support. The court may require accountability but the payor must be current on payment of child support before such a request will be considered.

The worksheets for determining the amount of child support are relatively simple and easy to apply. However, most of the disputes revolve around determining the amount of income to include. Thus, some of the legislators are pushing for a change to a percentage of income model under the misperception that income is easy to define. Using W-2 statement

could lead to privacy issues.

Modification of child support orders is available when there is a substantial material change in circumstances, however, it is expensive and time consuming since modification requires returning to court. Triggers for modification include a change in income and/or a change in needs or circumstances. Thus, it is expensive for the judicial system as well. Often there is a misunderstanding among the parties about how to get a court order. Often legislators and affected parties want to tinker with the system to change one aspect, not realizing the potential impacts of the change.

Jean Lown added a few issues facing the committee in the coming months. A main concern is the need to monitor the mandated periodic reviews and to determine trends and how often initial child support orders are changed. What to do when one or both parents remarries, the so-called "second family" issue is a potent issue that has not been adequately addressed by the committee. There is a need for exchange of information and research among states to assist child support advisory committees in their work.

#### SUGGESTED READINGS

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#### Endnote

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