

Members

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Sen. Richard Bray
Sen. Anita Bowser
Sen. Billie Breaux
John Brandt
Bruce Pennamped
Hon Michael Gotsch
Hon R. Jerome Kearns



CHILD CUSTODY AND SUPPORT ADVISORY COMMITTEE

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Authority: IC 33-2.1-10-1

MEETING MINUTES¹

Meeting Date: September 21, 2004
Meeting Time: 1:00 P.M.
Meeting Place: State House, 200 W. Washington St., Room 233
Meeting City: Indianapolis, Indiana
Meeting Number: 2

Members Present: Rep. Vanessa Summers, Chairperson; Rep. Edmund Mahern; Rep. Andrew Thomas; Sen. David Ford; Sen. Anita Bowser; Sen. Billie Breaux; John Brandt; Bruce Pennamped; Hon Michael Gotsch; Hon R. Jerome Kearns.

Members Absent: Rep. Cleo Duncan; Sen. Richard Bray.

Chairperson Summers called the second meeting of the Indiana Child Custody and Support Advisory Committee ("Committee") to order at 1:10 P.M.

Child Support Guidelines

Judge Michael Scopelitis, of the St. Joseph Superior Court and Chairman of the Domestic Relations Committee of the Judicial Conference of Indiana, provided testimony concerning the child support guidelines ("guidelines"). Judge Scopelitis made the following points:

-The current guidelines were adopted by the Indiana Supreme Court last year and became effective January 1, 2004.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

- Because the guidelines are relatively new, Judge Scopelitis suggested that the Committee wait a year and then go to the Supreme Court with suggested changes.
- The Supreme Court's website now contains three child support calculators. One calculator is for lay people, one calculator is for legal professionals, and one calculator is downloadable.
- Judge Scopelitis praised the calculators and stated that the calculators can calculate child support in approximately 90% of all cases. Judge Scopelitis noted a few problems, including that the calculators cannot calculate support for a family with more than six children. Judge Scopelitis explained that the problems are being fixed and the calculators will be able to handle more complex calculations in the future.

The Committee discussed with Judge Scopelitis the following issues:

- Potential problems with parents keeping track of overnight visits.
- States have different child support guidelines.
- The federal government requires states to adopt their own child support guidelines.

Custody and education expenses, including higher education expenses

Judge Scopelitis also provided testimony concerning child custody and education expenses. Judge Scopelitis made the following points in his testimony:

- A parent could be paying child support after a child is twenty-one years old if the parent has been ordered to pay the child's higher education expenses.
- There is a gray area in the law regarding whether a parent is responsible for some expenses while the child is in college and over twenty-one years old. For example, it is unclear if a parent is responsible for paying transportation costs, insurance, and the child's expenses during the summer.
- It is also unclear if a noncustodial parent is obligated to pay for room and board when a child lives at home and commutes to college.
- IC 31-16-6-2 specifies the difference between child support orders and education support orders. Judges should be very specific in defining what is covered in an education support order.
- Judge Scopelitis cited *Sebastian v. Sebastian*, 798 N.E.2d 224 (Ind. Ct. App. 2003) and stated that the Indiana Court of Appeals held that health insurance is not an education expense for a child over twenty-one years old who is in college, but rent, books, renter's insurance remain educational expenses.

The Committee discussed the following issues with Judge Scopelitis:

- Whether the Legislature should designate that health insurance should be considered an educational expense of a child in college who is older than twenty-one (21) years of age.
- A typical educational support order usually includes an apportionment between both parents and the child. For example, the child would pay 25% of educational expenses, and the remaining expenses would be paid by both parents based on each parent's income.

Title IV-D Program

Steve Johnson, of the Indiana Prosecuting Attorney's Council, provided testimony concerning the history of the Title IV-D program. Mr. Johnson made the following points:

- Indiana's Title IV-D program is the most cost effective Title IV-D program in the country.
- The Legislature should study Indiana's Title IV-D program and consider that the program could be in another state agency rather than in prosecuting attorney's offices.

- In 1975, the federal government required states to start Title IV-D programs, but each state was responsible for organizing their program.
- A parent may enroll in the Title IV-D program for \$25.00.
- The role of prosecutors in Title IV-D program has changed and expanded since 1975.
- Prosecutors have received some funds from collecting child support under Title IV-D. But, the federal government has changed the funding formula, which has resulted in a significant decrease in the amount of money that prosecutors are entitled to receive.
- Funding is a significant problem for Title IV-D programs. There is not sufficient funding to pay for additional staff to handle increased Title IV-D caseloads.
- Chairperson Summers asked what the consequences are if a parent does not pay child support. Mr. Johnson explained that jail is the final resort, but some counties have begun to use work release or community corrections as a punishment for a person who fails to pay child support.

Annette Biesecker, of the Indiana Family and Social Services Administration ("FSSA"), provided the following documents to the Committee:

- "A Record \$5 Million in Online Child Support Payments Collected in August" (exhibit #1).
- "Cost Effectiveness and Region V Title IV-D Spending for FFY 2002" (exhibit #2).
- "Indiana Statewide Performance Statistics" (exhibit #3).

Ms. Biesecker made the following points in her testimony:

- The Title IV-D program distributed \$431,000,000 in 2003 and \$455,000,000 in 2004.
- The federal government has deemed the Indiana Title IV-D program to be the most cost effective program in the country.
- Caseloads in Indiana have steadily increased. In 2003, there were 301,000 cases and in 2004, there were 324,000.
- 66% of funding for Title IV-D program comes from the federal government. The remaining 34% comes from the state. There is also an incentive program from the federal government. In 2002, Indiana received \$3,000,000, and in 2003, Indiana received \$5,500,000 from the incentive program.
- More of the collection process has moved from the local level to the state level primarily because of federal requirements changing.
- The Child Support Bureau in FSSA processes claims and has many tools for enforcement. These tools include:
 - income withholding
 - passport denials
 - new hire directory
 - lottery offsets
 - professional and hunting license suspensions
- The Child Support Bureau could be more effective if penalties could be assessed to employers for failing to notify the Bureau of increased wages.
- While Indiana has the most cost effective Title IV-D program, Indiana does not collect the most money. Indiana spends \$1 to collect \$8.

The Committee discussed the following points with Ms. Biesecker:

- New hire data that is available to the Child Support Bureau is not available to the public.
- Prosecutors are very overwhelmed with increases in the number of cases and do not have the financial resources to deal with increased cases.

Committee member Judge Gotsch, of the St. Joseph County Circuit Court, provided a document entitled "Title IV-D Child Support Program; Background, Challenges, and Opportunities" (exhibit #4) to the Committee. Judge Gotsch made the following points in his testimony:

- Courts generally use the power of contempt to enforce child support orders, but work release programs should be considered.
- Fees for the Title IV-D program should not be increased because more money would go to the federal government than to the state. An increased fee could also hinder a person from getting off of public assistance.
- In 1975, the federal government created the Title IV-D program due to the large number of out-of-wedlock births. The goal was to establish paternity, to obtain child support for single mothers who received welfare, and to assist mothers who did not receive government assistance to obtain child support.
- In many states, the Title IV-D programs are centralized programs instead of having prosecutors do most of the work.
- Child support collection could improve if judges could put liens on criminal bonds.
- The Committee should consider promoting legislation to permit private attorneys to work on Title IV-D cases with Title IV-D prosecutors.
- While Indiana has the most cost effective Title IV-D program, the program is only collecting \$.50 on the dollar, and this needs to improve. Additionally, while the cost effectiveness is high, Indiana spends less money on the program than neighboring states.
- The Title IV-D program could be restructured similar to the Adult Protective Services program. The state could be divided into regions, and large prosecutors' offices could handle the Title IV-D programs for surrounding counties.

The Committee discussed the following issues with Judge Gotsch:

- Direct deposit of child support has been implemented.
- A problem with placing liens on bonds is that often a friend or family member pays for a person's bond. The bond is then returned to the friend or family member and it would not necessarily be fair if that money was intercepted for child support. Courts would need to give notice to family or friends that bond money could be seized for past due child support payments.
- Chairperson Summers asked that the Committee have a bill drafted mandating that FSSA seek a waiver to permit private attorneys to work on a Title IV-D case at the same time as a Title IV-D prosecutor.

Next Meeting

Chairperson Summers reminded the Committee that the next and final meeting of the year would be on October 5, 2004, at 1:00 P.M.

Adjournment

The meeting was adjourned at 3:25 P.M.