

**ANNUAL REPORT  
OF THE  
CHILD CUSTODY AND SUPPORT  
ADVISORY COMMITTEE**



**Indiana Legislative Services Agency  
200 W. Washington Street, Suite 301  
Indianapolis, Indiana 46204**

**October, 2008**

**INDIANA LEGISLATIVE COUNCIL**  
2008

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# INDIANA CHILD CUSTODY AND SUPPORT ADVISORY COMMITTEE

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### Staff

K.C. Norwalk  
Attorney for the Committee

Bill Brumbach  
Fiscal Analyst for the Committee

A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.in.gov/legislative/>.

## **I. STATUTORY AND LEGISLATIVE COUNCIL DIRECTIVES**

The Indiana General Assembly enacted legislation (see IC 33-24-11-6) directing the Committee to review custody and educational expenses and other items related to the welfare of a child of a family that is no longer intact. Specifically, the Committee is to consider the following in studying the child support guidelines adopted by the Indiana Supreme Court:

- (1) The mathematics pertaining to the child support guideline chart.
- (2) The actual costs of supporting a child.
- (3) Whether it is appropriate to calculate child support guideline amounts based primarily upon the ability of the parent to pay rather than the financial needs of the child.
- (4) Equality of child support awards for the children of the parties, regardless of birth order.
- (5) A mechanism that may be employed to modify the amount of support to be paid due to a change in financial circumstances or a change in the number of children being supported by either parent.
- (6) The age of a child to the extent that the child may require different amounts of support at different ages.
- (7) Clarification regarding under what circumstances, if any, support may be abated.
- (8) A mechanism that may be employed to ensure that the guidelines are applied flexibly.
- (9) The application of the guidelines to a split custody situation.
- (10) Whether it is appropriate to base child support guidelines upon the premise that the child should enjoy the same standard of living that the child would have enjoyed had the family remained intact.

Additionally, the Legislative Council charged the Committee with studying the topic of whether IC 31-17-2-8.3 should be expanded to cover situations in which domestic or family violence have been alleged and the noncustodial parent was either not charged or acquitted for the violent act. (IC 31-17-2-8.3 currently provides that if a noncustodial parent has been convicted of a crime involving domestic or family violence that was witnessed or heard by the noncustodial parent's child, there is a rebuttable presumption that the noncustodial parent's parenting time with the child must be supervised.)

## **II. SUMMARY OF WORK PROGRAM**

The Committee met three times during the 2008 interim, on August 14, September 11, and October 15. All meetings were held at the State House in Indianapolis.

At the meeting on August 14, 2008, the Committee heard testimony concerning the Domestic Relations Committee's review of the child support guidelines. The Committee also heard testimony regarding paternity affidavits.

At the meeting on September 11, 2008, the Committee heard testimony regarding the putative father registry. The Committee also discussed the topic assigned by Legislative Council concerning supervised visitation and determined that IC 31-17-2-8.3 should not be expanded to cover situations in which domestic or family violence has been alleged and the noncustodial parent was either not charged or charged and acquitted for an alleged violent act. Finally, the Committee heard testimony regarding father's rights issues.

At the meeting on October 15, 2008, the Committee heard testimony regarding the reimbursement of birthing expenses and protective orders. The Committee also approved a bill draft concerning joint legal custody.

The minutes from the Committee's meetings can be accessed from the General Assembly Homepage at <http://www.in.gov/legislative/>.

## **III. SUMMARY OF TESTIMONY**

### *Child Support Guidelines*

Testimony was given that the Domestic Relations Committee (DRC) is reviewing and making recommendations concerning the Child Support Guidelines. Specific issues that the DRC is considering include:

- (1) child support owed by an incarcerated parent;
- (2) better explanation of the parenting time credit;
- (3) child support paid by low income earners and extremely high income earners;
- (4) federal rules regarding medical support in child support orders and Medicaid reimbursement for birth expenses; and
- (5) court orders for child rearing expenses.

### *Paternity Affidavits*

Testimony was given concerning paternity affidavits that are signed at a child's birth giving mothers full custody rights.

### Putative Father Registry

Testimony was given regarding the history of putative father registries in other states and Indiana. Testimony was also given regarding the effectiveness of Indiana's putative father registry.

### Father's Rights Issues

Several fathers testified regarding various father's rights issues, including court explanations of custody determinations, excessive periods to wait for hearings in divorce proceedings, biases against men in divorce proceedings and child custody matters, paternity affidavits, joint parental involvement, and appellate review of custody cases. Testimony was also given regarding joint custody for families in which violence exists.

### Reimbursement of Birthing Expenses

Testimony was given that the federal government is requiring all states to have their child support guidelines require a noncustodial parent to repay birthing expenses in Title IV-D cases. The DRC is planning on meeting to formulate potential legislation and a change in the child support guidelines to comply with federal requirements.

### Protective Orders

Testimony was given that *ex parte* protective orders are sometimes issued based on untrue allegations that fathers are abusive. Testimony was further given that if a court makes an *ex parte* protective order prohibiting a father from contact with his children, the evidence should meet a clear and convincing standard.

## **IV. COMMITTEE FINDINGS AND RECOMMENDATIONS**

The Committee did not make any findings of fact.

The Committee approved Preliminary Draft 3329, in an 11-0 roll call vote, concerning joint legal custody. This draft establishes a rebuttable presumption that an award of joint legal custody is in the best interest of a child.

The Committee approved this final report in a 10-0 roll call vote.

WITNESS LIST

Jeff Bercovitz, Indiana Judicial Center

Laura Berry

John Dustin

Charles Erickson

Judge William Fee, Steuben Superior Court

John Herrin

Steven M. Kirsh, Kirsh & Kirsh

Steve Lefebvre

Cynthia Longest, Department of Child Services, Child Support Bureau

Robert Monday

Randall Richter

Stuart Showalter

Judge Dean Young, Blackford Circuit Court