

Report to the Kansas Supreme Court from the  
Kansas Supreme Court Child Support Guidelines Advisory Committee with  
Preliminary Recommendations to the Kansas Child Support Guidelines

April 14, 2015

**Introduction**

The Code of Federal Regulations (45 C.F.R. § 302.56) requires the child support guidelines of each state to be reviewed at least once every four years to ensure that the application of the guidelines results in determinations of appropriate child support amounts. To meet this requirement, the Kansas Supreme Court convenes the Kansas Child Support Guidelines Advisory Committee every four years for the purpose of reviewing the existing guidelines and recommending changes to the Court. The last review of the guidelines concluded in 2012. Supreme Court Administrative Order No. 261, implementing the revised guidelines, became effective April 1, 2012.

45 C.F.R. § 302.56 states in part:

(h) As part of the review of a State’s guidelines required under paragraph (e) of this section, a State must consider economic data on the cost of raising children and analyze case data, gathered through sampling or other methods, on the application of, and deviations from the guidelines. The analysis of the data must be used in the State’s review of the guidelines to ensure that deviations from the guidelines are limited.

The members of the Kansas Child Support Guidelines Committee are appointed by the Chief Justice of the Kansas Supreme Court. Current members and their date of initial appointment are listed below:

**Table 1**  
**Kansas Child Support Guidelines Advisory Committee**

<b>Advisory Committee Member</b>	<b>Date of Initial Appointment</b>
Hon. Thomas E. Foster	May 24, 2001
Professor Linda Elrod	April 7, 1989
Charles F. Harris	April 7, 1989
Sherri Loveland	April 7, 1989
Larry Rute	April 7, 1989
Hon. Constance Alvey	July 1, 2009
Hon. Amy Harth	July 1, 2009
Brian Mull	April 3, 2014

<b>Advisory Committee Member</b>	<b>Date of Initial Appointment</b>
Amy Beardy	April 3, 2014
William McClain	April 3, 2014
Lisa Howell	April 3, 2014
*Doni Mooberry	June 2, 2014
Melissa Johnson	April 3, 2014
**Carol Park	June 3, 2012

\*Completing the unexpired term of Roy Brungardt

\*\*Completing the unexpired term of John Bird

### **Preliminary Recommendations**

The table below sets forth the changes to the Kansas Child Support Guidelines recommended by the Kansas Child Support Guidelines Advisory Committee.

<b>Section</b>	<b>Subject</b>	<b>Recommended Change</b>	<b>Substantive or Technical</b>
II	Definitions	Defines direct and indirect expenses. The definition of child support is modified to include, “[T]he needs of the child include direct and indirect expenses related to the day-to-day care and well-being of the child.”	Substantive
II.D	Domestic Gross Income – Wage Earner	The following was added, “VA Disability payments, Social Security Disability payments, and any employer provided or private disability insurance payments shall be considered income for child support purposes.”	Substantive
II.F	Imputed Income	Income may be imputed to either parent. Currently, income may only be imputed to the parent not having primary residency.	Substantive
II.F.1.d	Imputed Income	Clarifies that the value of both in-kind payment and reimbursement of certain expenses should be added to gross income.	Substantive
III.B.1	Rounding	Clarifies the instruction regarding how income is rounded.	Technical

Section	Subject	Recommended Change	Substantive or Technical
III.B.7.a.(1)(f)	Shared Expense Formula - Alternative Dispute Provisions	Determines that “neither party may unilaterally modify or terminate the agreed upon shared expense plan.”	Substantive
III.B.7.b	Equal Parenting Time Formula	In circumstances where the parents agree to each provide clothing for the child in their own home, the multiplier would be reduced from 11% to 10% for a combined monthly gross income less than \$4,690; from 13% to 12% for combined monthly gross income more than \$4,690 but less than \$8,125; and from 16% to 15% if combined monthly gross income is greater than \$8,125.	Substantive
IV.D.5.c.	Work-Related Child Care Costs (Kansas credit)	Eliminate this section as Kansas no longer has a child care tax credit.	Substantive
IV.E.2.c.	Extended Parenting Time Adjustment	Expand the availability of the adjustment to situations when the child spends time on a shared time schedule during the summer. Currently, this adjustment is limited to situations where the child spends 14 or more consecutive days with the parent not having primary residency.	Substantive
IV.E.3.	Income Tax Considerations	Inserts a paragraph explaining the impact of the federal Affordable Care Act. The committee recommends that this section be bolded.	Substantive
IV.E.4.	Special Needs or Extraordinary Expenses	Extraordinary expenses have been removed from the guidelines based on the economist’s recommendation. What had been considered “extraordinary expenses” is factored into the child support schedules.	Substantive
IV.E.6.	Overall Financial Conditions of the Parties	Adds overtime pay as a factor that may be considered as being “historically relied upon” in determining the overall Financial Conditions Adjustment. Currently, additional employment is considered but not overtime pay.	Substantive

Section	Subject	Recommended Change	Substantive or Technical
IV.F.7.	Required Worksheet Signatures	Clarifies that the person preparing the worksheets shall sign the worksheet, and the judge approving the worksheet shall sign and date it. Worksheets submitted but not approved shall not be signed by the judge. These same changes will also be made to the sample worksheet in Appendix VII.	Substantive
V.B.2.	Duty to Notify	If a judge sanctions for failure to disclose a material change of circumstances, the judge must establish a “determinate amount of time” for the sanction.	Substantive
End Notes	Membership and appointment dates on the Kansas Child Support Guidelines Advisory Committee	Updates	Technical
Appendix I	Child Support Worksheet	Updated to include preparer signature lines.	Technical
Appendix I	Child Support Worksheet	Updated to remove “Extraordinary Expenses” on Line E.4. This same change will be made to the example in Appendix VII, Sample Child Support Worksheet.	Substantive
Appendix II	Child Support Schedules	Updated with new support amounts per the advice of the economist.	Substantive
Appendix IV	Interstate Pay Differential	Updated with new federal Bureau of Labor Statistics data.	Technical
Appendix V	Income Tax Considerations	Updated with the same language regarding the federal Affordable Care Act recommended in Section IV.E.3.	Substantive
Appendix V	Income Tax Considerations	Updated with current references and figures from 2015 federal and state tax laws. This section also updates instructions regarding self employment income or if income is received from a Limited Liability Corporation (LLC) or as a member of an S-Corporation.  Updates and changes the format for Kansas and Federal Income Tax tables.	Substantive Technical

## **Economic Data and the Cost of Raising Children**

Dr. Jodi Messer-Pelkowski, Professor of Economics at Wichita State University, served as the economist during this review and created the current Kansas Child Support schedules. The economic data analyzed by Dr. Messer-Pelkowski supports an increase in the Kansas child support schedules based on Consumer Expenditure Survey data for 2012-2013 published by the United States Department of Agriculture (USDA). The USDA reports spending on children for the following major budget items: housing, food, transportation, clothing, health care, child care, education, and miscellaneous goods and services. Almost all income levels will see an average increase between 3.0% and 3.5% depending on the number of children in the family and their combined gross income.

In 2012, the expenditure data indicated that the amount of spending by families on younger children (ages 0 to 5 and ages 6 to 11) had increased at a higher rate than spending on older children (ages 12 to 18). In response to this, the multiplying factor for children ages 0 to 5 was increased from .76 to .80 and the multiplying factor for children ages 6 to 11 was increased from .86 to .92. These factors are multiplied against the child support obligation for children in the 12 to 18 year old age group to obtain the child support obligation for children in the appropriate groups. For example, child support for a 4 year old child is determined by multiplying the child support obligation from the older child age group (12 to 18 year old child) by .8. In this example, if the child support obligation for the older child age group is \$100, the child support for the 4 year old child would be \$80 ( $\$100 \times .8 = \$80$ ). If the child were 7 years old, the child support obligation would be \$92 ( $\$100 \times .92 = \$92$ ).

Also in 2012, the highest combined monthly income computed on the child support schedules was raised from \$14,600 to \$15,500. The committee recommends that this \$15,500 ceiling be retained.

Two factors continue to contribute to the committee's unanimous support for adjusting the child support schedules as recommended by the economist: (1) the public's demand that committee decisions be based on data; and (2) the likelihood that failing to make the adjustment now would result in a much greater adjustment in the future. The economist's report is attached.

## **Report on the Use of Adjustments and Deviations from the Guidelines**

45 C.F.R. § 302.56(h) requires the analysis of "case data, gathered through sampling or other methods, on the application and deviations from the guidelines. The analysis of the data must be used in the State's review of the guidelines to ensure that deviations from the guidelines are limited."

Kansas judges may deviate from the basic child support obligation and apply one or more "adjustments" to increase or decrease one or more parties' child support obligation. Adjustments

must be requested by a party, and are discretionary with the court. There are six types of adjustments: (1) Long-Distance Parenting Time Costs; (2) Parenting Time Adjustment; (3) Income Tax Considerations; (4) Special Needs/Extraordinary Expenses; (5) Support of Children Beyond the Age of Majority; and (6) Overall Financial Conditions of the Parties.

The Kansas Department for Children and Families (DCF) provided data showing adjustments involving 4,843 worksheets in 2013, and 3,771 worksheets in 2014. All of the cases included in the study were IV-D cases, which means the cases receive child support enforcement services through the DCF Child Support Enforcement (CSE) Division. The IV-D caseload includes families that receive public assistance and families that do not receive public assistance. It is important to note that although this study was conducted pursuant to the Code of Federal Regulations, there is no federal standard suggesting how many deviations, or adjustments, are “too many.” The data provided by DCF is reflected in the table below.

Another task was to determine the frequency of deviation from the guidelines. Only 3.8% of the 64,500 cases in the study included an adjustment during the study period. This demonstrates the limited use of adjustments in Kansas IV-D cases. It is not known whether this represents an appropriate number of adjustments.

	FY 2013		FY 2014	
<b>Total Worksheets Created</b>	4,843		3,771	
	Adjustments		Adjustments	
<b>Agreement Past Minority</b>	3	0.06%	3	0.08%
<b>Income Tax Consideration</b>	1,725	35.62%	2,036	53.99%
<b>Long Distance Visitation Costs</b>	47	0.97%	27	0.72%
<b>Overall Financial Condition</b>	160	3.30%	122	3.24%
<b>Parenting Time Adjustment</b>	87	1.80%	80	2.12%
<b>Special Needs</b>	20	0.41%	18	0.48%
<b>Total Adjustments</b>	<b>2,042</b>		<b>2,286</b>	

## Process for Reviewing the Kansas Child Support Guidelines

### Committee Meeting Process

The committee met on an almost monthly basis beginning in June 2014. Meetings were open to the public and notices of meetings were published in the *Kansas Register*. All meetings have been held in the Kansas Judicial Center, Topeka, Kansas. The committee has scheduled meetings for the fourth Friday of each month through October 2015, although it is possible that not all of the meetings will be necessary. Committee minutes are posted on the Judicial Branch website. The meetings are open to the public. Members of the public have made presentations to the committee and observed meetings in person.

## Stakeholder Input

The committee will solicit input on the preliminary recommendations from the following stakeholders: judges, attorneys, child support payors and payees, software developers, and the general public. This will be accomplished by offering stakeholders the opportunity to submit input via a web-based survey. Notice of this opportunity will be made through emails to judges and active Kansas attorneys, postings on the Kansas Judicial Branch and Kansas Payment Center (KPC) websites, publication in the Kansas Register, a media release, and KPC emails to payors and payees for whom the KPC has email addresses.

The survey format is expected to be similar to that used in 2012, where the recommended changes were summarized and respondents could indicate their level of agreement. An open narrative was available for each item, with a final open narrative option so that participants could raise any other concerns.

OJA will send the preliminary recommendations to software developers at the time the survey is released to stakeholders.

## Special Issue: Equal Parenting Time (Section III.B.7.b.)

Equal parenting time was the subject that consumed the majority of the committee's time and energy during this review. The committee considered several proposals about the equal parenting time issue, but declined to recommend change other than that suggested by the economist regarding an adjustment for providing clothing in each household, until such time as the committee has obtained and reviewed stakeholder input. This subject may be addressed further following consideration of stakeholder input.

## Committee Membership

Seven new members were added to the Kansas Child Support Guidelines Advisory Committee in 2014, bringing the total number of individuals on the committee to 14. Four members of the public who are child support payors and payees were selected from 231 individuals who submitted applications during a statewide search.

## Technical Changes Prior to Distribution for Comment

Numerous changes to the table of contents, appendixes, and the topic index will be made prior to distributing the proposed changes for comment. These changes will be made after the Supreme Court has accepted the proposed changes.

### Anticipated Timeline for Completion of the Review

The goal is to have a new Administrative Order implementing the Kansas Child Support Guidelines with an effective date of January 1, 2016. If the preliminary recommendations are accepted, it is anticipated that the committee will have final recommendations for the Supreme Court's review in September 2015. Approving final recommendations in September provides sufficient time to inform stakeholders of the changes before the effective date. This timeline enables software developers sufficient time to modify their products and incorporate the changes adopted by the Supreme Court. This anticipated timeline complies with 45 C.F.R. § 302.56.