

REPORT TO THE
GOVERNOR
AND THE
GENERAL ASSEMBLY OF VIRGINIA



REVIEW OF
CHILD SUPPORT GUIDELINES
§§ 20-108.1 & 20-108.2

The Virginia Child Support Guidelines Review Panel
Senator Frederick M. Quayle, Chair

December 16, 2009



**Child Support Guidelines Review Panel
Richmond, Virginia**

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December 8, 2009

TO: The Honorable Timothy M. Kaine,
Governor, and

Members of the Virginia General Assembly

FROM: Frederick M. Quayle
Chairman, Child Support Guidelines Review Panel

SUBJECT: Transmittal of Panel Report for 2009

As required under the Code of Virginia and relevant federal statutes, I am pleased to submit the Panel's report of this year's review of Child Support Guidelines.

Of all the responsibilities of government, those that impact people, and especially children, are among the most difficult to put on hold when the subject is increasing funds. Child Support is no exception.

This year's Guideline panel looked at such possibilities as building upon a previous proposed revision of the child support Guidelines that had been developed by the previous Panel in 2005 and passed one but not both houses. Our conclusion was that this was not the year to reopen this. Rather, the Panel chose to work with experts within and without the Panel on process improvements having future promise for children's' and families' situations.

On behalf of the Panel, thank you for the opportunity to work once more on these matters so close to the families of Virginia, and their children.

cc: The Honorable Robert F. McDonnell, Governor-Elect
The Honorable Marilyn B. Tavenner, Secretary of Health and Human Resources

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Commonwealth of Virginia
The Virginia Child Support Guidelines Review Panel
Report to the Governor and the General Assembly: 2009

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EXECUTIVE SUMMARY

COMMONWEALTH OF VIRGINIA THE CHILD SUPPORT GUIDELINES REVIEW PANEL QUADRENNIAL REPORT: 2009

December 16, 2009

Program Background and Primary Purposes

Effective since October 1989, under Title IV-D of the federal Social Security law (45 CFR Ch. III, §302.56), every state is required to establish plans having one set of guidelines to be administered by judicial or administrative action, for setting and modifying child support award amounts within the state.

The state must have procedures for making the guidelines available to all whose duty it is to set child support award amounts. At minimum, these guidelines must:

- Take into consideration all earnings and income of the noncustodial parent;
- Be based on specific descriptive and numeric criteria and result in a computation of the support obligation; and
- Provide for the child(ren)'s health care needs, through health insurance coverage or other means.

The State must include a copy of the guidelines in its State plan.

The State must review, and revise if appropriate, the guidelines established above, at least once every four years to ensure that their application results in the determination of appropriate child support award amounts, along with some additional detailed requirements.

Virginia's State plan complying with the above took effect on October 13, 1989, with presumptive guidelines for setting child support obligations available to the public in accordance with §302.56. A copy of the Guidelines is also maintained in the State Plan files.

Virginia Implementation of the Guideline Requirements

- Much of the Virginia requirements in the establishment of child support awards are included in the following two Code of Virginia sections: § 20-108.1 and §20-108.2.
- Specific to the mechanics of the quadrennial Guideline reviews is paragraph § 20-108.2 (H). Key sections cover these aspects:
 - The Secretary of Health and Human Resources is to ensure the Guideline is reviewed by October 31, 2001 and every four years thereafter, by a Child Support Guidelines Review Panel consisting of four legislative members (three Delegates and one Senator, all chosen from their respective Courts of Justice Committees), and eleven non-legislative citizen members.
 - The four legislative members are appointed by, and under the rules of, their respective Houses. The eleven non-legislative members are specified as to their intended roles on the Panel: one representative of a juvenile and domestic relations district court (JDR); one representative of a circuit court; one representative of the Division of Child Support Enforcement (DCSE); three members of the Virginia State Bar; two custodial parents; two noncustodial parents; and one child advocate.
 - The eleven non-legislative members are to be recommended by the Secretary of Health and Human Services and appointed by the Governor. The Office of the Secretary of the Commonwealth also assists the Governor in the non-legislator appointment process. Legislative members serve coincident with their terms of office. Non-legislative citizen members serve at the pleasure of the Governor. The Department of Social Services shall provide staff support to the Panel, as well as funding for the costs and expenditures of the Panel members.
- The Panel is to determine the adequacy of the guideline for determination of appropriate awards for children by considering current research and data on the cost of rearing children along with other data it deems relevant. The Panel Chairman submits to the Governor and General Assembly a quadrennial executive summary of the Panel's work by the first day of the relevant General Assembly session: in this case 2010.

Operation and Composition of the 2009 Child Support Guidelines Review Panel

- Preceding sections of this report describe in general the composition of these panels and their charter. The process described previously, for ensuring that all eleven non-legislator citizen positions would be filled with appropriate persons in time for the 2009 Spring and Summer Panel consideration period, underwent modifications such that a number of these slots remained unfilled until well into the summer. This delayed the Panel's meeting schedule. However, the responsible offices went to great lengths to find and recruit outstanding citizens in time for the Panel to accomplish its duties. We will offer several recommendations later in this report, both as to insuring the present and future Panels remain continually appointed for their specified duties, and their potential utilization for possible special future convocations on relevant issues.
- Membership of the 2009 Guideline Panel:
 - Ms. Bonnie L. Akkerman (Custodial Parent)
 - Delegate Clifford L. Athey (Delegate)
 - Ms. Amy Atkinson (Child Advocate)
 - Delegate William K. Barlow (Delegate)
 - Mr. Joseph S. Crane (DCSE Member)
 - Ms. Jennifer Crown (Custodial Parent)
 - Lawrence D. Diehl, Esquire (Member of the Bar)
 - Carol B. Gravitt, Esquire (Member of the Bar)
 - Mr. Brian S. Hawkins (Noncustodial Parent)
 - Dennis M. Hottell, Esquire (Member of the Bar)
 - Delegate G. Manoli Loupassi (Delegate)
 - Senator Frederick M. Quayle (Senator)
 - The Honorable Wilford Taylor (Circuit Court Judge)
 - The Honorable A. Ellen White (JDR Court Judge)

- Mr. Michael Woods (Noncustodial Parent)

Inputs to the Panel: Recommendation Considerations

- As noted, the short time for considering new proposals once the Panel was fully populated, and the strictures regarding spending large amounts of money, required the Panel to exercise strong discipline in studying legislative proposals for the 2010 General Assembly. However, that very situation was counterbalanced in some measure by the approaches and outlooks brought to the table, both from within the Panel and other sources. Some of these ideas have emerged before, others not. Here is a sampling of proposals having some support by the Panel in our September 25 final meeting:
 - A proposal, offered by Panel member Crown, to include children's education as a Guideline deviation factor. Judge White and others offered that this can be considered already, as a consideration under the standard of living before the family became separated.
 - A proposal from a noncustodial advocacy group to strengthen noncustodial fathers' ability to participate in their children's upbringing: this was determined to require federal legislation, and therefore outside the Panel's purview.
 - A letter from Nan Joseph, Esq., a family law practitioner to panel member Dennis Hotell, Esq., which was circulated among the members of the Virginia Family Law Coalition (FLC) for comments regarding the effects of the shared custody guideline's impact on the support amount and extra expenditures taken on by one or the other parent had some support on the Panel: it was agreed that the Panel would ask the FLC to conduct a study on this issue.
 - A legislative proposal from the Division of Child Support Enforcement to change its policy and not require families to assign pre-assistance monies owed to the family to the Commonwealth, thereby enabling families to keep more of their child support collections.
 - Apropos the prior comment, the Panel supports having one or two one-day meetings per year in the "off years" between quadrennial reviews, so as to follow up on legislation, initiatives or other developments fitting the mission of federal and state guidelines review purposes.

- Likewise, the Panel supports keeping the Panel intact, as well as maintenance of a continually-maintained contact list and periodic communications during the year.
- Another agreed-upon suggestion is that some version of the maintenance of contact and some form of training among the 11 non-legislator Panel members be offered to both the Senate and House Courts of Justice Committees. As a general observation, most House Panel members do not attend Panel meetings or participate in their proposals. Indeed, no House Panel Member attended any Guidelines Review Panel meetings in 2009.

Recommendations

The panel thoroughly reviewed the child support guidelines, but being fully cognizant of the state budget crisis, the current economic downturn and its impact on Virginia families, refrains from recommending any course of action that requires any far reaching changes, especially if it requires funding. The Panel does recommend that proposed legislation on the Deficit Reduction Act (DRA) amendment be adopted by the General Assembly. In these difficult economic times, the Panel supports giving more of child support collections to Virginia families. It is also recommended that the panel retain its constituent membership so that an annual meeting may be convened to review any pertinent issues or legislation pertinent to child support that arises in the course of the year.