

Virginia Child Support Review Panel
June 17, 2013 meeting
Statement by Kenneth H. Skilling

Introduction

My name is Kenneth Skilling. Currently, I am a long-time resident of Fairfax County, and I have lived in the northern Virginia area since 1975. I have a son and a daughter. Both are now in their thirties, but I paid child support for more than 10 years after my divorce in the late 1980s. I have been involved for many years with Fathers For Virginia (FFV), a support group for divorced and never-married fathers that seeks to have a constructive influence on family policy issues.

I would like to direct my remarks today at three main issues:

- The general background to child support issues and the urgent need to make decisions in light of the wider context of family policy;
- In particular, the need to examine the incentive patterns established by current systems of child support in Virginia, and the need to correct the very obvious discrimination against fathers;
- The specific proposals made by Dr. Jane Venohr in her two papers for this panel -- "Preliminary, Updated Schedules" (<http://dls.virginia.gov/GROUPS/childsupport/meetings/110512/schedule.pdf>), and "Selected Guidelines Factors" (<http://dls.virginia.gov/GROUPS/childsupport/meetings/110512/issues%20briefing.pdf>).

My overall objective will be to ask the panel to reject any proposals for significant increases in the child support numbers in the guideline. Dr. Venohr's two papers are very lengthy and complex, and there is – so far as I am aware -- no executive summary for either paper. However, on page 14 of the updated schedules report the statement is made that "[t]he average change under Schedule A [*i.e. that based on 2012 federal and state income rates and FICA*] is \$75 per month or 8.9 percent. The average change under Schedule B [*that based on on 2013 federal and state income rates and FICA if Congress passes no additional legislation affecting taxes before 2013*] is \$30 per month or 4.5 percent." That seems to me to be the core of Dr. Venohr's recommendations.

General Background

I understand that the panel may feel that an already complex issue would become even more complex if wider considerations affecting the Virginia child support guideline have to be considered. Nevertheless it has to be recognized that there has been a steady reduction in the percentage of children who grow up in two-parent families. This phenomenon has produced all kinds of social problems, some of which are outlined in the appendix to this testimony. The

reaction of many to the creation of so many single-parent families has been, “yes, it’s a very serious problem, but there’s nothing we can do about it.”

However, I believe there *are* things that can be done. Among the things that can be done is to examine the incentives for the creation of single parent families. Two of the central issues in that context are the custody situation and the scale of child support imposed on fathers, who in most cases had no say on the question of whether they would cease to have any role in regard to their children other than as providers of financial support.

CS Incentive Patterns

It’s a cliché of economic policy that you get more of the behavior that you subsidize. However, virtually all analysis of child support that I have seen is *static* analysis – that is, it assumes that changing the amounts of support paid will have no effect, even in the long term, on the total number of recipients of child support. By contrast, in other welfare policy issues it now seems to be well-accepted that *dynamic* analysis is an appropriate technique to use. In other words, it’s well-accepted that we should ask ourselves what would be the long-term incentive effects of increasing or decreasing welfare payments.

Is this the time to be enlarging the incentives for the creation of single-parent families in Virginia? We know that, while individual single parents may do their best in a situation that is not of their creation, the evidence is that, overall, children who grow up without their fathers are at a serious disadvantage. Then there’s the issue of the cost to taxpayers of family fragmentation. A paper by former Virginia Social Services Commissioner Martin Brown (http://www.dss.virginia.gov/files/about/sfi/intro_page/about/slide_deck_9_26_11.pdf) estimates that in 2011 the total costs to the taxpayers of fragmented families in Virginia was about \$2.4 billion. As I understand it, this does not include the cost to individual fathers, who have to pay child support as a result of the fragmentation of their families. Surely we must do something to reduce this burden. We must stop propping up a system one of whose features is facilitating the creation of single parent families.

Specific Proposals in Dr. Venohr’s Papers

As noted earlier, it appears that Dr. Venohr’s papers are recommending substantial increases in Virginia’s child support, although some decreases are apparently recommended in the amounts of support payable at very low income levels. I hope the panel will not adopt the recommendations for increases.

In the first place, the existing guidelines already are index-linked for inflation. The amounts payable are linked to parental income. So increasing the amounts in the existing guideline represents the imposition of greater burdens on fathers, without regard to their ability to pay. (And I think it is perfectly justifiable to refer to “fathers” in this context, because fathers are custodial parents in only about 6 percent of cases in Virginia, according to 2011 figures from the Division of Child Support Enforcement.)

At an earlier stage, the panel was told that Virginia's schedule was too low relative to those of nearby states. This "keeping up with the Joneses" argument involves a certain amount of circularity. I have not done a comprehensive check, but it appears that Dr. Venohr herself was involved in the review of at least the Maryland, North Carolina, Pennsylvania, and Georgia guidelines.

Removal of Discrimination Against Fathers

Change **is** needed in the guidelines. But the change should be to correct the present discrimination against fathers. The federal principles for state guidelines include two that are especially relevant in this context. One is that guidelines should be gender-neutral. Another is that guidelines should not discourage shared physical custody.

Both of these principles are violated by the failure of the present Virginia guidelines to take proper account of fixed costs. A father who wants to have his children stay with him during his visitation time must have suitable accommodation for this. His housing costs do not diminish when the children are with his ex-wife. The principle should be that the child support follows the child.

I would urge the panel to remove the present "cliff effect" under which there is no recognition of a father's continuing costs for his children until they are with him for more than 90 days each year. I can see no reason for this sharp distinction. The end result is that lawyers make sure that fathers don't have visitation with their children that exceeds 90 days in the year. I urge the panel to recommend that this 90-day limit be removed, and a sliding scale put in its place. In the past, the objection to making this change has been that it would make the calculation of child support too complex. However this objection has now been removed by the widespread use of VADER (Virginia Attorneys' Divorce Electronic Reference), the computer program that calculates child support from data that is inputted to the program.

Submitted by:
Kenneth H. Skilling
7221 Stover Drive
Alexandria, VA 22306
[703 768 6588](tel:7037686588)
Nimrod9@verizon.net

APPENDIX

Fatherless Families and Shared Custody

Children are born with two parents, and all the indications are that, when one parent (nearly always the father) is removed -- or removes himself -- from the lives of the children, the children do much worse than children who grow up in two-parent families. Many studies have indicated that teenage pregnancy, crime, and educational underachievement are much more common among children from fatherless families than among children from two-parent families. These social pathologies are not merely the result of low family income.

One area where children in single-parent families suffer serious harm is **education**. A Heritage Foundation paper on family structure and children's education (<http://www.familyfacts.org/briefs/35/family-structure-and-childrens-education>) highlights the various elements in the situation, and provides links to the underlying research. "Individuals from intact families completed, on average, more years of schooling and were also more likely to graduate from high school, attend college, and complete college compared to peers raised in blended or single-parent families," the paper says. Among other problems, the paper points out, "youths who experienced parental divorce tend to have lower grade point averages and are more likely to be held back a grade in school."

The National Fatherhood Initiative was founded in 1994 to confront what its organizers regarded as the most serious social problem of our time: widespread father absence in the lives of children. In the educational context, among the problems identified by NFI are the following:

-- Fatherless children are twice as likely to drop out of school. (National Center for Health Statistics. Survey on Child Health. Washington, D.C.: GPO, 1993) (<http://www.cdc.gov/nchs/slait/nsch.htm#2003nsch>);

-- Father involvement in schools is associated with the higher likelihood of a student getting mostly A's (<http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2001032>)

-- Students living in father-absent homes are twice as likely to repeat a grade in school; 10 percent of children living with both parents have repeated a grade, compared to 20 percent of children in stepfather families and 18 percent in mother-only families (<http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2001032>).

Fatherless families are closely linked to **crime**, particularly violent crime. The Progressive Policy Institute, a Washington, D.C. think-tank affiliated with the Democratic Party, in a report on family issues (http://www.ppionline.org/ppi_ci.cfm?contentid=254874&knlgAreaID=114&subsecid=144), summarized the research as follows: "The relationship [between serious crime and single-parent families] is so strong that controlling for family configuration erases the relationship between

race and crime and between low income and crime. This conclusion shows up time and again in the literature; poverty is far from the sole determinant of crime."

A Justice Department study (<http://bjs.ojp.usdoj.gov/content/pub/pdf/pji02.pdf>) noted in 2004 that over half of jail inmates grew up in either a single-parent household or with a guardian, such as grandparents, another relative, or a non-relative. Thirty nine percent of jail inmates lived with a mother only. Another study (<http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=569>), of 13,986 women in prison, showed that more than half grew up without their fathers. Forty two percent grew up in a single-mother household and 16 percent lived with neither parent.

Father-absence is a major cause of **childhood poverty**. Fatherless homes are five times more likely to be poor. In 2002, 7.8 percent of children in married-couple families were living in poverty, compared to 38.4 percent of children in female-householder families. (U.S. Census Bureau, Children's Living Arrangements and Characteristics: March 2002, P200-547, Table C8. Washington D.C.: GPO, 2003 (<http://www.census.gov/prod/2003pubs/p20-547.pdf>).

Studies of "fragile families" establish a clear link between father-absence and poverty. For example, during the year before their babies were born, 43 percent of unmarried mothers received welfare or food stamps, 21 percent received some type of housing subsidy, and 9 percent received another type of government transfer (unemployment insurance etc.). For women who have another child, the proportion who receive welfare or food stamps rises to 54 percent. (Sara McLanahan: The Fragile Families and Child Well-being Study: Baseline National Report. Princeton, NJ: Center for Research on Child Well-being, 2003: <http://www.fragilefamilies.princeton.edu/documents/nationalreport.pdf>).

A child with a nonresident father is 54 percent more likely to be poorer than his or her father (Elaine Sorenson and Chava Zibman. "Getting to Know Poor Fathers Who Do Not Pay Child Support." Social Service Review 75, September 2001 <http://www.urban.org/publications/310334.html>).

In short, the research evidence is beyond dispute. The creation of fatherless families is a major reason for a large proportion of the most serious social pathologies facing Virginia and other states. Finding ways of keeping fathers involved in their children's lives, even after divorce, is absolutely critical.

(b) Existing Joint Custody Provisions

Family lawyers typically tell clients that in Virginia custody of children is no longer determined by the gender of the parent. However, this is a misleading summary of the current situation. The language of the law is as follows:

"In determining custody, the court shall give primary consideration to the best interests of the child. The court shall assure minor children of frequent and continuing contact with both parents, when appropriate, and encourage parents to share in the responsibilities of rearing their children. As between the parents, there shall be no presumption or inference of law in favor of either. The court shall give due regard to the primacy of the parent-child relationship but may upon a showing by clear and convincing evidence that the best interest of the child would be served thereby award custody or visitation to any other person with a legitimate interest. The court may award joint custody or sole custody." § 20-124.2.

The reason for including a presumption of joint custody, is that the practical result of the current language is to exclude fathers from their children's lives. In some cases, fathers are awarded joint legal custody, and this is sometimes seen as evidence that the system is evolving. However, as fathers who have had joint legal custody will attest, this adds very little to their role in relation to their children, if they don't also have joint physical custody, and if they see their children only every other weekend, and one evening a week.

A more revealing picture is presented by information in the database of the Division of Child Support Enforcement. According to a recent (October 2011) analysis of the DCSE database, 93.39 percent of custodial parents are female and **only 6.23 percent of custodial parents are male**. In other words, custody arrangements are very far from being gender-neutral, whatever the law may say.

(c) Shared Custody and the Status Quo

When legislators are considering proposals for presumptive shared parenting or joint custody, the tendency is to focus exclusively on the possible problems that would arise if the change were made. However, examining the issue in this way distorts the picture.

The appropriate analysis is to compare presumptive joint custody with the status quo, which in Virginia overwhelmingly (93.39 percent) is maternal custody. Without even considering the issue of gender bias, the social research indicates that when fathers have no effective participation in their families, **very serious problems result**. That comparison should be the basis of pushing the system in the direction of joint physical and legal custody.

(d) Incentives for Family Breakups

Current arrangements in Virginia, and in other states, have unintentionally created incentives for family breakups. A change to presumptive joint custody would help to correct this situation.

Research by Richard Kuhn and John Guidubaldi (<http://www.deltabravo.net/custody/divrates.php>) established that states with high levels of joint physical custody awards (over 30 percent) in 1989 and 1990 have showed significantly greater declines in divorce rates in following years through 1995, compared with other states. "Divorce rates declined nearly four times faster in high joint custody states, compared with states where joint physical custody is rare," Kuhn and Guidubaldi said. "As a result, the states with high levels of joint custody now have significantly lower divorce rates on average than other states."

A paper originally published in 2000 suggests that expectations about child custody are very important in decisions about seeking divorce (<http://www.nytimes.com/library/national/regional/071100ny-col-tierney.html>). Margaret F. Brinig and Douglas W. Allen concluded that "who gets the children is by far the most important component in who files for divorce, particularly when there is little quarrel about property, as when the separation is long."

Often, there is an unfortunate tendency to treat fathers as if they were to blame for the creation of single-parent families. However, the research indicates otherwise. Most divorces (estimates range from 60-90 percent) are initiated by wives over the objections of their husbands (see, for example,

<http://www.informaworld.com/smpp/content~db=all~content=a904381947~frm=titlelink> and http://www.cdc.gov/nchs/data/series/sr_21/sr21_046.pdf).