

## **Virginia Child Support Guidelines Review Panel**

**November 16, 2011 Meeting**

### **Statement by Kenneth Skilling**

My name is Kenneth Skilling. I am a resident of Fairfax County, and have lived in Virginia since 1975. I have a son and a daughter, who are now grown, but I paid child support for more than 10 years. Formerly, I was president of an organization called Fathers For Virginia (FFV), and I continue to be involved in its work. FFV provides support for divorced fathers and seeks reforms that would end discrimination against these fathers. We also favor strengthening the protections against family breakdowns.

I understand that the review panel faces a difficult job. These issues are very complex. I would suggest that one way of simplifying the task is to look at the child support guidelines in a wider perspective. Let's not look just at numbers in the child support guidelines. Let's acknowledge that setting the numbers for the tables that appear in the statute is not an exact science. Inevitably there is an arbitrary element. Let's also look at where changing the numbers in the child support schedule is likely to lead.

#### **Underlying Realities**

In my view, there are several underlying realities that should be factored in. Unfortunately, they are not considered in the report by Dr. Jane Venohr that was presented at an earlier meeting. One important issue is the custody situation. The child support guidelines talk about "custodial parents" and "noncustodial parents." However, the inescapable fact is that it is very rare for fathers to be custodial parents. The latest information available to me – from the Virginia Joint Legislative Audit and Review Commission – is that in 1999 only 4 percent of custodial parents were male (<http://jlarc.virginia.gov/meetings/December99/support.pdf>). Overwhelmingly, child support is money that fathers pay mothers.

Another underlying reality never seems to be addressed in the context of the context of child support. That reality is the incentive pattern established by child support rules, in combination with the continued glass ceiling on paternal custody. It is inevitable that, if you make more generous provision for single parent – essentially fatherless – families, you establish more incentives for the creation of those families. The rule is that you get more of the behavior you subsidize.

Do we want to add to the incentives for the creation of fatherless families, when we know beyond any doubt that such families are immensely damaging to children?

#### **Cost of Family Fragmentation**

Then there's the issue of the cost to taxpayers of family fragmentation. I have recently seen a paper ([http://www.dss.virginia.gov/files/about/sfi/intro\\_page/about/slide\\_deck\\_9\\_26\\_11.pdf](http://www.dss.virginia.gov/files/about/sfi/intro_page/about/slide_deck_9_26_11.pdf)) delivered by Social Services Commissioner Martin Brown to a conference on Strengthening Virginia's Families. This paper estimates that in 2011 the total costs to the taxpayers of fragmented families in Virginia will be 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. And let's be clear about one thing. The research shows that family fragmentation usually takes place over the objections of the fathers involved. Under no-fault divorce laws, fathers have no way of preventing this fragmentation.

Dr. Venohr seems to be recommending an increase in Virginia's child support, on the basis that the cost of raising children has increased. From her reference to "sticker shock," I have to assume that this increase, if adopted, would be a very nasty surprise for the fathers who would have to pay it. I can see no justification for this increase.

The guidelines are already indexed for inflation, since the numbers are linked to total parental income: if a parent's income rises, the amount of child support rises. To raise the numbers in the guideline without regard to this indexing component means that greater burdens would be imposed on fathers whose incomes have not risen.

And then there's the issue of what's been happening in Virginia in recent years to per capita personal income (a measure of ability to pay). Dr. Venohr says that Bureau of Labor Statistics figures indicate that median family income in the state increased 86.5 percent from 1989 to 2009. However, recent experience is very different. The Council on Virginia's Future, a state agency, has a report (<http://vaperforms.virginia.gov/indicators/economy/personalIncome.php>) showing that per capita personal income in Virginia rose over the period 2001 to 2007, and then dropped off, recovering at a slow rate in 2010.

### **Keeping Up With the Joneses**

Included in Dr. Venohr's justification for increasing child support amounts is the statement that Virginia's schedule is too low relative to those of nearby states. This "keeping up with the Joneses" argument involves a certain amount of circularity. In the time available to me I have not been able to do a comprehensive check. However, it appears that Dr. Venohr herself was involved in the review of at least the Maryland, North Carolina, and Georgia guidelines.

I would suggest to the panel that the index-linking of the present Virginia guidelines be acknowledged. The numbers in the schedule should be left as they are.

### **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.

Furthermore, the current guidelines provide for shared custody provisions to apply only when one of the parents "has custody or visitation of a child or children for more than 90 days in the 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.

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