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LEGISLATIVE UPDATE

The most recent legislative bill for joint custody in the Pennsylvania legislature is **HB 888**, submitted by Representative Tom Stevenson. The bill is in the **House Judiciary Committee**. The PA Senate has a bill **SB074** that was written by lawyers to keep the status quo of Mother Custody.

You can help by meeting with your local representative and requesting him to edit the current **HB 888** to the language of the past legislative **HB 2041** on the

floor for a vote. The reasons you can give them are as follows:

- The present system of custody determination is not working.
- Non-custodial parents are treated as visitors being with their children only 15% of their lives.
- Custody disputes become an expensive financial and emotional battleground with the children always losing.
- The American Psychological Association has published that joint custody is in the best interests of the children over sole custody in most situations.
- The Jewish Health Care Foundation recently sponsored a study of the best interests of children are served between sole or primary custody and joint custody with joint custody being the preferred co-parenting arrangement in terms of the best interests of the children. (Aired on KQV Radio on May 6, 2003)

UNITED WAY DONATION NUMBER FOR NCFC

This year, when your company encourages its employees to donate to the United Way, please remember NCFC when it is your turn to donate.

Our number is **9614**. Remember this when you donate

MEETINGS SCHEDULED FOR THE FOLLOWING TIMES

The first Thursday from 7:00 p.m. to 9:00 p.m. in the basement of One Smithfield (the old United Way Building). These meetings are sponsored by Cooperative Parenting for Divided Families.

The second Saturday of the month at the Bethel Park Library, Study Room 1, from 10:00 a.m. to noon.

NEW SUPPORT GUIDELINES WENT INTO EFFECT IN JANUARY 2006

The PA Supreme Court has approved the new PA child support guidelines, two and a half years late.

The most significant change from the original Recommendation 67 is the elimination of the partial custody credit. Contact us for more details.

OUR NCFC CHAPTER BOARD OF DIRECTORS ELECTION RESULTS

The election results our Board of Directors are in and were certified by the current board of directors. Kevin Sheahen, David Meekins, Doug Jones, Denise Simpson, William Zemba and Doug Fleszar were elected to the Board of Directors for two-year terms. Gary Boatman was elected to the Board of Directors for a one-year term. Officer elections will be held at the January 2007 board meeting. Board positions are voluntary. Meetings are monthly and are a requirement to maintain board member status.

ECONOMIC STUDY OF THE INCOME SHARES TO BE READY BY MID-NOVEMBER

Economist Mark Rogers has completed the Economic Study of Pennsylvania's Child Support Guidelines. This professional study is intended to be used by NCFC's members as evidence that the guidelines themselves are flawed at their next scheduled child support hearings. The content of the study is beyond the comprehension of the Hearing Officers and Common Pleas Court Judges and is intended to be used with appeals to Pennsylvania's Appellate Courts and to out state legislators.

Request a copy of the study:
NCFC

37 Seneca Road
Pittsburgh, PA 15241
Or telefax: 412-835-1362
Or email: pghdads@aol.com

MEMBERSHIP APPLICATION

NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

HOME PHONE: _____ WORK: _____

EMAIL ADDRESS: _____

OF AND AGES OF CHILDREN: _____

OCCUPATION: _____

Would you be willing to help? Yes or No

What area would you be interested in helping? _____

Today's Date ___/___/___

'Kids Need Fathers Not Visitors' Bumper Stickers \$5 ea. _____

1 Yr. NCFC newsletter subscription (\$25) _____

Lifetime NCFC newsletter subscription (\$100) _____

1 Yr. New Membership (Single \$85; Family \$95) _____

1 Yr. Membership Renewal (Single \$50; Family \$70) _____

Lifetime Membership (\$500) _____

Tax Deductible Donation (\$25) _____ (\$50) _____ (\$100) _____

Other _____

Total \$ _____

(The chapter encourages deductible contributions via check or cash)

MC or VISA Card No. _____ Exp. Date _____

Signature: _____

Note: Family membership covers second spouses, significant others and grandparents.

Mail To: NCFC

37 Seneca Road
Pittsburgh, PA 15241

Press Information Kevin Sheahen
Telephone Answering: Dawn Gower
Newsletter Editor: Kevin Sheahen
Public Relations: Denise Simpson
Legislative Information: Jim Carmine, Ph.D.

Membership Information:

Please call 412-571-3038 or use the application on this page.

United Way No. 9614

Membership Benefits:

A 140 page national manual, a sample parenting plan, one-year newsletter subscription and sections of Pennsylvania's custody statutes are included. In addition, you become another voice for equality in family courts. Membership is tax deductible.

THE BEST PARENT IS BOTH PARENTS!!

Current Volunteer Officers of NCFC/ Greater Pittsburgh Chapter

President; Kevin Sheahen 412-835-1672

Vice President; Doug Fleszar

Treasurer; Doug Jones

Secretary; Suzie Fleszar

Current Board Members

Doug Fleszar Suzie Fleszar
Bill Zemba Raymond Ratliff
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**GREATER PITTSBURGH CHAPTER
NATIONAL CONGRESS FOR FATHERS AND
CHILDREN**

Non-

profit

**37 SENECA ROAD
PITTSBURGH, PA 15241**

(Return Address Requested)

**SUMMARY OF 2006 CHILD SUPPORT GUIDELINE
HIGHLIGHTS**

Many on this email list may be unaware that Pennsylvania recently adopted many of the new support changes under consideration by the PA Supreme Court (known as Recommendation 67). In a pair of recent articles within the Domestic Disputes column of the Pennsylvania Law Weekly periodical, Catherine M. McFadden reviewed the changes coming, and described them as 'a sea change'. Surely, many custodial and non-custodial dads alike will want to review the topic here, and make notes for a discussion with their legal counsel in the weeks prior to the adoption of the new guidelines in January, 2006.

Guideline Overview

A new child support obligation chart has been provided in an updated Rule 1910.16-3. As with past obligation charts, the number of children supported is found along the top horizontal axis of the table, from one to six children, and the combined monthly net income of the two parents is shown in a set of figures along the left vertical axis--from \$800/month upward in \$50 increments all the way to a new high of \$20,000/month. The table now consists of no less than 2300 individual support payment amounts, based on the intersection of these two variables shown at top and left.

One new aspect of the table immediately apparent is a shaded portion at lower income levels which marks off the area in which a new 'Self-Support Reserve' (SSR) provides for a new, higher income retention for low-income support obligors. In short, if the individual responsible for paying support would be left with less than \$748 (rather than the older limit of \$550), the support obligation may be limited to maintain the obligor's income at that level deemed necessary for

'self-support'. This is good news indeed for many lower income fathers paying child support which could on occasion force them into hardship situations. This new SSR also applies to responsibilities for payment of spousal support or alimony pendente lite.

Within the portion of the table correlated to the previous chart, some 17% of the cells show an increase in support obligations--particularly at some low and middle-income regions of the table. The maximum increase of 12% affects families with one child and a combined monthly income between \$3400 and \$3600, corresponding to a monthly payment increase of about \$83.

Again, disregarding the new 600 cells in the table that extend the upper range of income to \$20,000 from the former \$15,000 level, support obligations are being decreased in some 77 % of the remaining cells. At many income levels, these welcome decreases are significant: from up to 30% lower in cases involving 3 children and combined income from \$14,200-\$15,000. Fathers paying support for six children with net combined income near \$15,000 will see a decrease of \$1,205! Though these upper income levels may affect only a minority of situations, the decreases are substantial enough to warrant a call, for even at much lower incomes a few hundred dollars in reduction each month will be a welcome relief.

The author of the PA Law Weekly spent numerous paragraphs of the article commenting on the relative reduction in per-child support payments which occur at the three-or-more child levels in the new table. It would seem that the difference in percentage obligation at some income levels between paying for two children and three children did not meet Ms. McFadden's standards of perceived fairness, insofar as she comments that "if the increment for adding a third child to a family were based on the equivalency scale used by the Panel on Poverty and Family Assistance, it would be 14 percent at all income levels." Instead, she explains that some differences are as little as 0.76 % between two and three children amounts, though this interesting and unique example is at the heady combined income figure of \$19,250/month.

One area sure to affect many readers relates to changes in allocation of child care expenses. Under the new guidelines, parents will be required to share child care expenses incurred by either of them, according to the percentage of their respective net income, when the child care is necessary to maintain employment or appropriate education in pursuit of income. Current rules require the parties to share only child care expenses incurred by the obligee.

Notable topics missing from the new guidelines
Overnight counts, not hourly measurements:

Though the formal Recommendation 67 called for a change in the calculation of support in situations of substantial shared custody by having recommended a change from measurement of overnight stays to an additive count of 4-hour blocks of time spent with the non-custodial parent, no such change was adopted by the Supreme Court, and no comment on it's exclusion was made. For the time being, the arcane practice of counting 'tuck-in-for-the-night' episodes for determining percentage of shared custody will remain. Many non-custodial fathers in situations of substantial custody (15-50% of overnights) had been hoping to see the proposed changes promulgated as the proposed calculation method would have more accurately distributed the burden of costs incurred for non-custodial parents in greater shared custody circumstances.

Lump sum awards, bonuses & stock options: The guidelines provide no additional direction regarding the treatment of these sources of income, and past precedents and practices will continue.

Retroactive? No. No change was made to Rule 1910.19(a), which provides that, "A new guideline amount resulting from new or revised support guidelines may constitute a material and substantial change in circumstances." This means that you may, if you wish, file a petition to modify your order if application of the new guidelines would change the order to your benefit.

We strongly recommend that you check with a qualified family law attorney about other subtleties in the guidelines and how they might affect your own situation.

References:

- 1) **PA Law Weekly publication**
<http://www.palawweekly.com>, Oct 31 and Nov 7 issues.
- 2) **Schnader Harrison Segal and Lewis, LLP;**
publication entitled Support Guidelines Go Into Effect January 2006 (link below)
- 3) **Pennsylvania Bar Association Quarterly,**
October 2005, Vol LXXVI, No. 4. (link below)

Links

Should readers wish to review the new guidelines themselves, or point their attorney to an authoritative reference, they are published on the Web at <http://www.aopc.org/opposting/supreme/out/442civ.5at tach.pdf>. A summary of the guidelines, used in

preparing this article, is available at http://www.schnader.com/NEWEST_4_02/site%20File s/nletters/pdf/FamLawSupport1005.pdf and an additional article by Ms. McFadden in the PA Bar Ass'n Quarterly at http://www.schnader.com/NEWEST_4_02/site%20File s/nletters/pdf/FinalPabarMcFaddenOCT2005.pdf.

PITTSBURGH NCFC AFFILIATED WITH FACE

Our chapter is an affiliate with FACE (Fathers and Children for Equality), a similar father's rights educational organization from eastern Pennsylvania to show that the fathers groups are united in PA for custody and support reform.

Representatives from the two organizations met with PA House Judiciary Chairman's office and several key representatives on 10/31/05 in Harrisburg to discuss the importance of HB 888 and to downplay SB 074. The representatives also met with Governor Rendell's Secretary of Children's Affairs, Estelle Richman to garner the Governor's support for HB 888; propose a program of educating the Payors of the new upcoming PA Child Support Guidelines that will go into effect in January of 2006; and to request funding for an economic study for divorced families to replace the Williams Income Share Model.

Harrisburg Trip Report for October 31, 2005

This is to document our activities in Harrisburg on October 31, 2005. In attendance were William Clemens, Director, Father's Legal Advocacy Group (FLAG), Philadelphia, PA; Philip Lutz, Chairman, Philadelphia Chapter, Father's and Children's Equality (FACE) and member of its State Board of Directors; Kevin Sheahan, Founder and President, Greater Pittsburgh Chapter of National Congress for Fathers and Children (NCFC); and Denise Simpson, CEO/President, Cooperative Parenting for Divided Families Initiative, Pittsburgh.

10:00 meeting with Matt Gregorits, staff member, Judiciary Committee. Matt reports that the committee is still reorganizing, that there are wording problems with 888, and no other representatives are pushing the bill.

10:30 Courtesy call on Tom Stevenson to thank him for introducing HB888.

11:30 The Honorable Estelle B. Richman, Secretary, Department of Public Welfare

We had a very supportive meeting with Secretary Richman. She graciously gave us an hour of her time and she told the group that everyone knows her position - she is biased for the fathers! She shared

that she is a grandmother whose son is going through a divorce so our issues are personal to her. Here is what was discussed:

SUPPORT FOR HB 888 - We asked her to support this bill and, as the Governor's Commissioner for Family and Children, to ask the Governor to publicly support it. She committed to pass the bill to the Governor's policy staff for review. She will also ask O'Brien why he is not moving it forward in the Judiciary Committee. But overall, she supports the bill.

PROPOSAL FOR PILOT PROGRAM - NON-CUSTODIAL RIGHTS RESOURCE GUIDE - We proposed that the department support the creation of a non-custodial guidebook which would explain legal rights and the court process. It would inform child support payers that the guidelines are changing in January. The guide would also let parents know of support groups they can call. She would authorize her department to distribute this guide to people paying support in pilot areas. She flat out told us not to recommend Philadelphia - it was too big and she doesn't have enough money for that! [Note - maybe just selected areas in Philly - I know of an area to target!] She invited us to develop such a proposal and budget for her to review.

RESEARCH PROPOSAL ON CHILD SUPPORT COST SHARES MODEL - We also asked that the Department sponsor a true cost shares model to be used for child support calculations. Even the revised support guidelines admit that they did not have a good economic study to base the guidelines on. We will be proposing a study on this item as well.

We left her office around 12:30 after posing for photographs.

In the afternoon, Bill Clemens and Philip Lutz paid a courtesy call on Tom Caltagirone, Minority Chair of the Judiciary Committee and co-sponsor of HB 888 to thank him for his support. Mr. Caltagirone openly complained that Mr. O'Brien was single-handily running the committee.

We paid courtesy calls on the staff of David Argall, Majority Whip, and Samuel Smith, Majority Leader. We provided copies of HB 888 and urged that they ask the members to support it.

We met with a senior staff of John Perzel, Speaker of the House of Representatives. She agreed that equal custody made sense, pulled up a confidential report on the pros and cons of the bill and shared the information with us. There was nothing damaging in what she shared with us. She said she would speak

with Mr. Perzel and Mr. O'Brien about the bill.

Bill Clemens and Philip Lutz had a chance encounter with Mr. O'Brien. He gave us a number of reasons why HB888 hasn't moved forward yet but none of them seemed like a strong reason. He did compliment us by saying we have done a good job of having his constituents who contact our group contact him as well!!

Overall, the attendees feel that the time was well spent and that our issues are being heard and moving forward. But we are more convinced than ever that we need to keep the pressure on the legislators

MEETINGS

The educational meetings are the second Saturday of the month, from 10:00 a.m. til noon; at the Bethel Park Library, Study Room 1. Cooperative Parenting for Divided Families has meetings most Thursdays from 7:00 p.m. to 9:00 p.m. at the United Way Building on One Smithfield Street. Pro se seminars for members only, are held most Sunday mornings at 37 Seneca Road, Pittsburgh, PA. An open meeting through Meetup.com is held at Larry's Roadhouse the second Wednesday of the month at 7:00 p.m. All meeting facilitators are volunteer staff positions.

SUCCESS IN MASSACHUSETTS

Massachusetts put together enough signatures on a petition to get a question of shared; physical custody after a divorce should be the rule and not the exception. The vote by the citizen's of Massachusetts was a mandate from the masses in favor of joint custody. The percentage of the voting was 85% in favor and 15% opposed.

This is an important and monumental demonstration to our elected officials. In the past, our legislators have been reluctant to voice their approval of presumptive joint custody in fear of the voting lobby of the women's domestic violence centers and the Bar Association.

TIME TO DISPOSE OF RADICAL FEMINIST PORK Phyllis Schlafly (archive)

July 18, 2005

If Republicans are looking for a way to return to their principles of limited government and reduced federal spending, a good place to start would be rejection of the coming reauthorization of the Violence Against Women Act sponsored by Sen. Joe Biden, D-Del. It's a mystery why

GREATER PITTSBURGH CHAPTER OF NCFC

Republicans continue to put a billion dollars a year of taxpayers' money into the hands of radical feminists who use it to preach their anti-marriage and anti-male ideology, promote divorce, corrupt the family court system, and engage in liberal political advocacy.

Accountability is supposed to be the watchword of the Bush administration, but there's been no accountability or oversight for the act's spending of many billions of dollars. There is no evidence that the Violence Against Women Act has benefited anyone except the radical feminists on its payroll.

The Senate Judiciary Committee, which is gearing up for a battle royal over the Supreme Court vacancy, has scheduled a hearing on the act for mid-July. It's apparently designed as a be-nice-to-Biden-before-the-court-fight event, since no critic has been invited to speak.

Let's have a reality check. The Violence Against Women Act's gender-specific title is pejorative: it's based on the false, unscientific, unjust and blatantly offensive premise that men are innately violent and abusive toward women, making all women victims of men.

The president of Harvard University was publicly pilloried for months earlier this year for implying innate differences between men and women. But the act is spending a billion dollars a year to inculcate that very notion in the minds of men and women who are having marital difficulties, as well as police, prosecutors, psychologists and family court judges.

Feminists staged tantrums at the suggestion of innate math-aptitude differences between men and women, but the whole premise of the Violence Against Women Act is that men have an innate propensity to violence against women. It's not because some are bad individuals or drunks or psychologically troubled, but because men want to keep women subservient in an oppressive patriarchal society.

The Violence Against Women Act was passed using such bogus statistics as "a woman is beaten every 15 seconds" and "80 percent of fathers who seek custody of their children fit the profile of a batterer." Remember the Super Bowl hoax, the ridiculous claim that "the biggest day of the year for violence against women" is Super Bowl Sunday? It's an assertion conclusively refuted by Dr. Christina Hoff Sommers' research.

The Violence Against Women Act comes out of Andrea Dworkin's tirades of hate such as, "Under patriarchy, every woman's son is her betrayer and also the inevitable rapist or exploiter of another woman." The act comes out of Gloria Steinem's nonsense, such as "the patriarchy requires violence or the subliminal threat of violence in order to

maintain itself."

Here is some mischief in act-funded activities that should be investigated in the coming Senate Judiciary Committee hearing.

The act refuses to provide any help whatsoever for male victims of domestic violence. Let's hear from professor Martin Fiebert of California State University at Long Beach who compiled a bibliography of 170 scholarly investigations, 134 empirical studies and 36 analyses, which demonstrate that women are almost as physically abusive toward their partners as men.

The act encourages women to make false allegations, and then petition for full child custody and a denial of all fathers' rights to see their own children.

The act promotes the unrestrained use of restraining orders, which family courts issue on the woman's say-so. This powerful weapon (according to the Illinois Bar Journal) is "part of the gamesmanship of divorce" and virtually guarantees that fathers are expelled from the lives of their own children.

A woman seeking help from an act-funded center is not offered any options except to leave her husband, divorce him, accuse him of being a criminal and have her sons targeted as suspects in future crimes. The Violence Against Women Act ideology rejects joint counseling, reconciliation and saving marriages.

The act denies that alcohol and illegal drugs are a cause of domestic violence, a peculiar assumption contrary to all human experience. In fact, most domestic violence incidents involve those components.

The act uses a definition of domestic violence that blurs the difference between violent action and run-of-the-mill marital tiffs and arguments. Definitions of abuse can even include minor insults and refusing to help with child care or housework.

The act funds the re-education of judges and all law enforcement personnel to teach them feminist stereotypes about male abusers and female victims, how to game the system to empower women, and how to ride roughshod over the constitutional rights of men.

The act forces Soviet-style psychological re-education on men. The accused men are not given treatment for real problems, but are assigned to classes where feminists teach shame and guilt because of a vast male conspiracy to subjugate women.

The Violence Against Women Act-funded centers engage in political advocacy for feminist legislation such as the "must-

arrest" laws even if there is no sign of violence and even if the woman doesn't want the man arrested, and political advocacy against non-feminist legislation such as shared parental rights.

It's time to stop the act from spending any more taxpayers' money to promote family dissolution and fatherless children.

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JOINT CUSTODY LEGISLATION PROMOTION INFORMATION FOR PENNSYLVANIA

The following information includes the address for writing to Pennsylvania representatives. Also included are some of the reasons the opposition have stated why not to support joint custody. A rebuttal argument is below each point of the opposition.

Representative _____
P.O. Box 202020
Harrisburg, PA 17020

Both chief counselors stated that the domestic violence women's groups were pressuring both legislatures not to pass HB 888 for the following reasons:

1. **Presumptive joint custody is a 'one size fits all' custody arrangement that is untenable for child custody cases.**
2. **Families with domestic violence history will continue to experience threats, harassment, and abuse against the mothers and children.**
3. **Children living in joint custody arrangements when there is a history of domestic violence experience greater emotional and behavior problems than children in sole custody arrangements.**
4. **Joint custody arrangements will harm those who depend on child support for economic stability.**
5. **Low-income families will be disadvantaged by joint custody due to higher legal fees and greater divorce costs.**
6. **Judges will be confused in ordering only joint legal custody and not joint physical custody.**

When you meet or write to your legislatures, or speak with other groups, here are some solid responses that demonstrate the desperation the domestic violence organizations must reach to spin the truth.

Presumptive joint custody is a 'one size fits all' custody arrangement that is untenable for child custody cases. HB 888 should be edited to similar

language in the previous Legislative Session as HB 2041. HB 2041 does not set a single custody arrangement for use by all families. To the contrary, HB 2041 allows each parent to submit his or her own case-by-case, personal custody arrangement. HB 2041 is not a 50/50 presumptive joint custody bill.

Families with domestic violence history will continue to experience threats, harassment, and abuse against the mothers and children. There are factors for the court to consider in determining a custody order. The third factor includes "each parent and adult household member's present and past violent or abusive conduct, . . . (including) Protection From Abuse Act (transgressions). Therefore, the concern of the domestic violence groups has been considered and is a part of this legislation.

Children living in joint custody arrangements when there is a history of domestic violence experience greater emotional and behavior problems than children in sole custody arrangements. The answer to the previous concern about abusive adults will satisfy most of the children affected by domestic violence. The American Psychological Association has considered this concern and has determined that for the majority of families of divorce, joint custody is preferred over primary custody for the children's best interest.

Joint custody arrangements will harm those who depend on child support for economic stability. Joint custody will help, not harm both parents economically. The U.S. Census Bureau has documented that child support is paid 90% of the time in joint custody arrangements compared to 45% of the time when the father does not have frequent and continuing contact. In addition, both parents will have the time during their non-custody time periods to further their work education and/or to work additional hours because the other parent is caring for the children. The expenses for both parents will be similar because each will be with the children a similar amount of time. The parent who makes the greater amount of money will pay child support to other parent to balance the two families. A point that I must make and is a point that the Pennsylvania Support Guidelines ignores, and that is that the income of both parties after a separation does not change, but the expenses double due to two households instead of one household. Therefore, the standard of living of both parents will naturally decrease.

Low-income families will be disadvantaged by joint custody due to higher legal fees and greater divorce costs. The average cost for a family to take a custody action to court is \$10,000 per parent when using an attorney and court ordered evaluations and take up to eighteen months before a decision is

rendered. When both parents submit their written parenting plans, each parent may have \$2500 in retainer and filing fees invested prior to the final decision by the judge. These fees would naturally decrease as the court utilizes outside services and organizations to educate parents about parenting plans. Therefore, the opposite will be true with HB 888, the costs will be less than they are today and the custody decision will be much sooner from the court.

Judges will be confused in ordering only joint legal custody and not joint physical custody. This point is actually the point that Mary Cushing Doherty, Esquire, representing the Pennsylvania Bar Association raised at the Senate Judiciary Committee hearing on April 30, 2001. She stated that shared custody is already issued in 95% of custody cases and therefore, Pennsylvania does not need any changes nor does Pennsylvania need joint custody legislation. Ms. Cushing Doherty was very slick in her statement. She meant that 95% of custody cases have shared legal custody. HB 2041 is about joint physical custody. Most parents do not know the difference between physical and legal custody. This is another application for the court to use outside organizations or groups to educate parents about parenting plans, legal joint custody and physical joint custody.

Summary

In summary, the existing Pennsylvania Family Courts have too much discretion and little or no oversight from the public. As a result, the existing gender-neutral statutes are not being followed and the best interests of the children are not being met. The proposed joint custody legislation HB 2041 will narrow the court's discretion, provide substantial input from the parents directly to each other and the court, reduce custody litigation and relitigation, improve child support compliance, is in the best interests of the children and promotes marriages to stay intact.

Tell your legislators to edit HB 888 to what the previous Legislature bill HB 2041 and put it onto the House Floor for a vote and passage into law. Do not allow the Pennsylvania House to pass SB 074, either. SB 074 will not change the problems of today's Pennsylvania Custody practices but rather, SB 074 will change the Statute numbering system to confuse the existing system.

Please Renew Your Membership

NCFC membership is good for one year. Single membership is **\$85** and family membership is **\$95**. Renewal of membership to NCFC is **\$50** for single members and **\$70** for family membership. Your membership dues are tax deductible because NCFC is a non-profit, 501(c)(3) educational organization. We

need your contributions, membership, and renewals for our help to our members.

Most of our expenses are paid for with your membership and renewal of membership money. Donations are more than welcome and will be put to good use.

Please take time now and renew your membership. If you already have renewed your membership, NCFC thanks you.

By Roger Gay

: Roger.F.Gay@telia.se

:

: For The Children's Advocate

: Newsletter of the New Jersey Council for Children's Rights

: Appeared in the January, 1995 issue.

:

: Introduction:

: A competent decision in a child support case involves the complex consideration of a wide variety of factors. In order to make such a decision, attorneys and judges must apply their skills to extract essential and sufficient information from litigants and understand the proper application of the information they collect. That will be true regardless of the technology used to calculate an award. Modern attempts to change the decision process using crude statistical models have reduced complexity for the sake of an odd sort of consistency. Although child support guidelines themselves show an impressive self-consistency, there is no longer any concrete relationship between an award and the wide variety of factors that are important in making a reasonable decision.

: The Project for the Improvement of Child Support Litigation Technology has demonstrated that the logic of traditional child support decision-making can, to a large extent, be transformed into a concrete science. The application of such a science in the training of judges and attorneys can result in a more desirable sort of consistency. Each award should be just and appropriate, given consideration of the individual circumstances in each case. Just and appropriate results require an understanding of the detailed logic used in reaching a competent child support award decision. With that understanding, it should be possible to produce a similar award in different courts on different days in consideration of a similar set of facts.

: In this article, I would like to summarize the work of Project for the Improvement of Child Support Litigation Technology (PICSLT) toward developing better child support guidelines, and provide an overview of the current PICSLT model. Detailed theoretical development in the PICSLT work has led to a solid definition for the boundary between child support and alimony. This development provides new scientific

proof that many child support awards contain a hidden margin of alimony, and are thus too high in a common, legal sense.

: History of the Project:

: Project for the Improvement of Child Support Litigation Technology began in 1989. It was at this time, that the United States was on the brink of a major change in the way child support award decisions are made. A federal law, known as the Family Support Act of 1988, required each state to base every award decision on formulae known as "child support guidelines". As a result of this legislation, award amounts have increased dramatically from those awarded according to the legal principles that had been established in the states.

: The most fundamental problem resulting from the federal legislation is that rigid mathematical formulae have replaced the rational principles upon which child support decisions had been made. In traditional child support statutes, a definition of child support was given along with a set of principles for guiding complicated decisions. A traditional definition would state that child support is an amount paid by a non-custodial parent for his / her share of the actual and necessary needs of children. Additional guiding principles could include a reasonable consideration for sheltering children from the standard of living loss that accompanies divorce, and that both parents have an equal duty to support their children. Statutes could also explicitly include such considerations as the need for each parent to support themselves, time the non-custodial parent spends with their children, and travel expenses involved with visitation.

: New child support statutes do not provide an alternative definition for child support. They are based on arbitrary analysis of national data on family spending and do not correspond to any set of rational principles for making an award decision. Therefore, it has been necessary to rely on traditional principles for research on developing better child support guidelines. It was discovered early in the project that there are two concepts that are fundamentally important to traditional thinking. The first is the "equal duty principle" (both parents have an equal duty to support their children). The second is "ability to pay". One deals with the issue of fairness, the other with practicality. Both are needed as the basis of a good judgment.

: It is simplest to describe the equal duty principle by first saying what it does not mean. It does not mean that both parents should pay the same amount toward support of their children. The award decision takes into consideration other important factors, including each parents' ability to pay. When all is considered, "ability to pay" is not equivalent to income, as it appears to be in the Income-Shares (example: New Jersey guidelines) and Percent-of-Income (example: Wisconsin guidelines) formulae. (These are the most commonly used types.) There was an established

prohibition against taking from a parent for support of children, so much that a parent is no longer capable of self-support.

: Many of the portions of the current PICSLT model can be found in previous work. Anyone wishing to delve deeply into the detailed mathematics of child support, should begin by reading "How to Calculate Child Support", by Maurice Franks (Case & Comment, January-February, 1981). Franks provided the most complete Income-Shares model ever published, which included detailed mathematics for accounting for children's time with each parent, how to deal with "extraordinary" expenses (expenses that are not included in the standard table), and joint custody. Oddly enough, more recent authors of Income-Shares models currently in use, claim an inability to perform these simple operations.

: In the limited way of the Income-Shares approach, Franks dealt very logically with the equal duty principle. The first step toward improvement upon Franks' model was to replace income with a more sophisticated view of ability to pay. Some newer models deduct a standard amount required for support of one adult from each parents' net income before performing the child support calculation. The remaining income represents "ability to pay".

: There are reasons to believe this approach is too simple. If a parent uses part of his remaining income to purchase tools necessary for work, for example, that amount is additionally needed for self-support. Ability to pay a "standard" amount of child support is also changed by "extraordinary" expenses. When a parent must pay an extraordinary amount of medical expenses, for example, their ability to pay for standard expenses can be significantly reduced. The PICSLT model uses a few simple mathematical operations that can be used to account for a wide range of circumstances that effect actual "ability to pay".

: Several new equations were developed for the first version PICSLT model that were later replaced by a completely new basic formula for child support. Of the technology that remains in the most recent version, there is only one more major area to discuss -- the numeric table. This important component had also received attention in previous work by others. A most intriguing view was expressed in a report for the Washington State Association of Superior Court Judges (1982). The author of the report, William Hewitt, noted that data and methods used to estimate the amounts families spend on children were woefully inadequate. Yet, most numeric tables used in guidelines today are a direct product of such estimates.

: The better approach is to build a standard table giving separate costs related to different spending categories; housing, transportation, food, etc. The amounts listed in each category should be determined from court case experience in which many individual cases have

been decided in full view of all relevant facts. Another advantage identified in the PICSLT work, is that the categorical approach provides a way of comparing individual case circumstances with the amounts listed in the standard table. If for example, a divorce settlement provides a custodial parent with a house that is paid for, understanding the details of the number listed under "housing" can greatly assist a judge in adjusting the award. A detailed look at modern cost analysis is given by Robert Braid (see The Children's Advocate, November 1994, Vol. 7, No. 3).

: PICSLT has not studied a large number of real cases to develop a table. In order to estimate appropriate values, another approach described by Hewitt has been used. It begins with estimates of spending on children from national data, separated into spending categories. PICSLT selected estimates of spending on children by single parents developed by the USDA. The USDA work is exceptionally clear in explaining precisely how the numbers in each category are derived. It is better to start with a clear understanding of what one has, so that it can clearly be compared with what we would like to have. The numbers are then reduced in proportion to the marginal cost of children, with each category receiving an independent appraisal. We then have a table with values that can each be understood in the context of a rational child support decision process and compared with evidence provided case by case.

: The first version PICSLT model can be seen largely as arising from the integration of selected portions of other models. Reasonable modifications were made to complete the integration. Special adjustments were needed to assure that a low income mother is able to maintain a household, for example, even after a support payment is reduced for visitation time. An additional formula was created to adjust child support payments to show what could be done to reduce welfare dependency. Although joint and sole custody cases could be handled with the same model, special additions were needed when either parent remarried or had other children to support.

:
: The Heart of the New Model:

: It was immediately apparent that it would be nicer to rebuild the model such that it was less of a "house that jack built". But there were two compelling reasons to think that integration of the best of the existing best was not good enough. First, there is the issue of sheltering children from the standard of living loss that accompanies divorce. This means increasing the award by some amount that is considered "reasonable" in light of the payer's ability to pay. It remained an arbitrary decision, and its arbitrary nature is the root of the current political problem with child support. How much is enough? How much is too much? These questions were unanswered.

: What is thought of as the second reason, is the political reason. The popular political philosophy is that more child support is always better. Awards granted in state courts have risen dramatically as a result of new child support formulae. Lobby groups, operating on behalf of single mothers, have been pushing for further increases. The Federal Government has been considering the creation of a national child support guideline. Many politicians have supported the notion that a national guideline should result in awards even higher than those of the states. Should the courts decide, on a constitutional basis, that there are limits to the amount of child support that can be awarded? What factual or scientific information is needed to make such a decision?

: Over the years, many people have viewed the new increased child support amounts as containing a hidden margin of alimony. This would seem apparent, but how does one find the boundary between the two? In the PICSLT research, the boundary was defined as being the point at which any additional payment would be primarily for the benefit of the custodial parent rather than the children. This definition follows from case law: "the money is for the support and welfare of the children, not for the enrichment of the custodial parent" (Oregon Court of Appeals, 1987).

: The two important questions became: Does such a boundary exist?, and if so, How do you find it? The boundary between child support and alimony is a solid one, if we rely on custodial parent spending patterns to find it. Take the basic child support amount to be the non-custodial parent's share of what the custodial parent would spend on her own. Payment of child support increases the standard of living (i.e. income) of the household. This in turn, increases the amount we would expect to be spent on their children. The increase in spending justifies increasing the amount of child support awarded. We can use this argument over and over, to continue to justify a greater and greater increase from the basic child support amount, and thus continue to increase the standard of living in the custodial household. But there is a limit.

: To illustrate the concept, let us say that a custodial mother has a take home pay of \$18,000, a non-custodial father has a take home pay of \$25,000, and the mother spends 20 percent of her income on a child. In other words, she spends \$3,600 if she receives no child support from the father. If \$100 dollars a year is paid in child support, we can easily see that it is 100 percent child support. \$100 is just a small portion of the \$3,600 the mother is spending. In fact, applying the "equal duty principle", it is just as obvious that a payment of a much larger portion of that \$3,600 (in proportion to the father's relative ability to pay) is still 100 percent child support. This fact is easily seen, because it is just his share of what the mother actually spends on their child. (Visitation and joint custody are outside this example.)

: But the payment of child support provides more income for the custodial parent, which we expect to increase spending on the child by 20 percent of the payment in this example. If we use \$2,000 in child support for our example, we should expect an increase in spending on the child of \$400. If the father pays an additional amount, equal to his share of this \$400, the additional amount is also 100 percent child support. It is still nothing more than a part of his share of what is actually spent on the child. As you can see however, the add-on is far less than the original \$2,000. Each iteration results in an add-on amount that is less than the last until the limit is reached. Any additional dollar in excess of the limit in this example provides only 20 cents in child support instead of a dollar. The remaining 80 cents is alimony.

: In a more complete and detailed examination of this example, the result from a current-type Income-Shares model was compared to the limit. The Income-Shares model produced a result of \$5,237.40, which was \$2,309.48 above the limit. Just for the sake of simplicity, the example did not consider visitation time. Since most Income-Shares formulae do not account for typical visitation periods, and the PICSLT model does, the amount of alimony found in a real case at these income levels would probably be higher.

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: Alimony in the Balance:

: Custodial parents with low income have an additional need to maintain a household for children and for self-support. This is an example of when an award of alimony may be appropriate. It is a reasonable interpretation of government intent to believe that the government does not wish to support mothers or children when the father is capable of doing so. Given a mathematical definition of the boundary between child support and alimony, it was possible for the PICSLT work to go one step further.

: Given a target standard of living for children, it is possible to calculate the right balance between child support and alimony to provide an additional increase in the standard of living of the custodial household. The new PICSLT model includes the equations for calculating both, in the proper proportion to each other. The most general difference that would result from application of the PICSLT model can be stated as follows. The hidden margin of alimony in current child support awards has been identified, and proportionate amounts of child support and alimony can be awarded separately when appropriate. When alimony is not appropriate in a particular case, it need not be awarded as a hidden part of the child support award.

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: REPORTS AND PUBLICATIONS:

: Gay, Roger F., The Alimony Hidden in Child Support, New Scientific Proof that Many Child Support Awards are Too High, The Children's Advocate (NJCCR, Box

316, Pluckemin, NJ 07978-0316), January, 1995, Vol. 7 No. 5.

: -- Time Limiting Cash Assistance in President Clinton's Welfare Reform Proposal, submitted for the record to the Subcommittee on Human Resources, Committee on Ways and Means, U.S. House of Representatives, August 16, 1994

: -- Transitional Assistance, Work, The Role of States in Welfare Reform, and Financing Issues, submitted for the record to the Subcommittee on Human Resources, Committee on Ways and Means, U.S. House of Representatives, August 9, 1994

: -- Welfare Reform and Parental Responsibility, submitted for the record to the Subcommittee on Human Resources, Committee on Ways and Means, U.S. House of Representatives, July 26-29, 1994

: -- New Equations for Calculating Child Support and Spousal Maintenance With Discussion on Child Support Guidelines, Final Report of the Project for Improvement of Child Support Litigation Technology, 1994.

: -- Settling the Debate Once and For All, An Essay on the Nature of 'Child Cost Estimates' and their Application in Child Support Award Calculations, A table-top paper available to attendees at the conference book store, at the Eighth National Conference of the Children's Rights Council, held at the Holiday Inn, Bethesda, Maryland, April 13-17, 1994

: Children's Rights Council (Washington, DC), Model Child Support Guideline, Donald J. Bieniewicz, et al. (As Consultant) Published in a book on alternative child support guidelines by the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement.

: Gay, Roger F., Child Support Reforms in Perspective: Written statement for Oversight Hearing on Child Support Enforcement, submitted for the record to the Subcommittee on Human Resources, Committee on Ways and Means, U.S. House of Representatives, June 10, 1993

: -- An Alternative Child Support Guideline for State's to Consider, Preliminary Report, Presented at the Seventh Annual Conference of the Children's Rights Council, Holiday Inn, Bethesda, MD, April 28 - May 2, 1993.

: -- Rational Basis is the Key Focus in Emerging 'Third Generation' Child Support Technology, in Proceedings of the Seventh Annual Conference of the Children's Rights Council, Holiday Inn, Bethesda, MD, April 28 - May 2, 1993.

: -- Comment on Canadian Child Support Guideline Report, Submitted to the Canadian Federal / Provincial / Territorial Family Law Committee by the Association of Concerned Academics, University of Alberta, Canada; M.E.R.G.E., Suite 501, 10011 - 116 Street, Edmonton, Alberta T5K 1V4, October 7, 1992

: -- Written statement on the subject of the Changes in the Poverty Rate and Distribution of Income, submitted for the record to the Subcommittee on Human Resources, Committee on Ways and Means, U.S. House of Representatives, September 10, 1992.

: -- Written statement on the subject of the Downey / Hyde child support enforcement and assurance proposal, submitted for the record to the Subcommittee on Human Resources, Committee on Ways and Means, U.S. House of Representatives, July 17, 1992.

: Chavez, Don, Commissioner (editor Phil Holman), Minority (Dissenting) Report of the U.S. Commission on Interstate Child Support, presented to Congress in June, 1992. As Major contributor.

: Clarke, Caroline V., Washington Watch: Deadbeats Beware, Working Woman, May, 1992, p 24. {Provided background information at request of author.}

: Gay, Roger F., Brief History of Prevailing Child Support Doctrine, in Proceedings of the Sixth Annual Conference of the National Council for Children's Rights, Arlington, VA, March 19-22, 1992. {Presented in relation to conference presentations.}

: Gay, Roger F., Robert Bancroft, Brent Whiting, and Ronald K. Henry, Project for the Enhancement of Child Support Litigation Technology, A Concept Paper Submitted to: the State Justice Institute, Alexandria, VA, December 4, 1991

: Gay, Roger F., Recalculating Espenshade's 'Cost' of Raising Children. Intelligent Systems Research Corporation Report; Special Report No. ISR-100191.01, Child Support Series Report No. 3, October 1, 1991.

: -- Testimony in P.O.P.S v. Gardner, expert testimony consisting of several analysis papers on the technical elements of the Washington State child support guidelines related to the legal issues brought before the court. Produced numerous reports between March and August of 1991 for presentation to the court and as advisory information to attorneys preparing legal briefs.

: -- Child Support Guidelines: Resolving the Dilemma, A Summary Report on Design of Federally Mandated Child Support Schedules, Intelligent Systems Research Corporation Report; Special Report No. ISR-091490.01, Child Support Series Report No. 2, September 30, 1990.

: -- Pilot Study on the Development and Evaluation of State Guidelines for Calculation of Child Support Payments, Intelligent Systems Research Corporation Report; Special Report No. ISR-032590.01, Child Support Series Report No. 1, April 16, 1990.

Right to Know Your Child's Educational Records

In the situation where the custodial parent or the school of your children is denying you access to the school records, threaten the School Board with termination of any Federal Funding it may be receiving,

directly or indirectly. The full current text of what used to be called **FERPA** (Federal Educational Rights and Privacy Act) is reproduced below. The purpose of FERPA was to punish school districts for exactly the behavior described at the beginning of this article. It doesn't even require a massive lawsuit. All it takes is one phone call to the appropriate FERPA administrative office in Washington, DC.

When you threaten the school board, suggest that they consult with the attorney for the district on the ramifications of that principal's continuing violation of 20 U.S. Code Section 1232(g) reproduced below.

Title 20, United States Code

Sec. 1232g. Family educational and privacy rights

(a) Conditions for availability of funds to educational agencies or institutions; inspection and review of education records; specific information to be made available; procedure for access to education records; reasonableness of time for such access; hearings; written explanations by parents; definitions

(1)(A) No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the education records of their children. If any material or document in the education record of a student includes information on more than one student, the parents of one of such students shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such material. Each educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable period of time, but in no case more than forty-five days after the request has been made.

(B) No funds under any applicable program shall be made available to any State educational agency (whether or not that agency is an educational agency or institution under this section) that has a policy of denying, or effectively prevents, the parents of students the right to inspect and review the education records maintained by the State educational agency on their children who are or have been in attendance at any school of an educational agency or institution that is subject to the provisions of this section.

(C) The first sentence of subparagraph (A) shall not operate to make available to students in institutions of postsecondary education the following materials:

- (i) financial records of the parents of the student or any information contained therein;
- (ii) confidential letters and statements of recommendation, which were placed in the education records prior to January 1, 1975, if such letters or statements are not used for purposes other than those for which they were specifically intended;
- (iii) if the student has signed a waiver of the student's right of access under this subsection in accordance with subparagraph

(D), confidential recommendations -

- (I) respecting admission to any educational agency or institution,
- (II) respecting an application for employment, and
- (III) respecting the receipt of an honor or honorary recognition.

(E) A student or a person applying for admission may waive his right of access to confidential statements described in clause

(iii) of subparagraph (C), except that such waiver shall apply to recommendations only if (i) the student is, upon request, notified of the names of all persons making confidential recommendations and (ii) such recommendations are used solely for the purpose for which they were specifically intended. Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from such agency or institution.

(2) No funds shall be made available under any applicable program to any educational agency or institution unless the parents of students who are or have been in attendance at a school of such agency or at such institution are provided an opportunity for a hearing by such agency or institution, in accordance with regulations of the Secretary, to challenge the content of such student's education records, in order to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading or otherwise inappropriate data contained therein and to insert into such records a written explanation of the parents respecting the content of such records.

(3) For the purposes of this section the term "educational agency or institution" means any public or private agency or institution which is the recipient of funds under any applicable program.

(4)(A) For the purposes of this section, the term "education records" means, except as may be

provided otherwise in subparagraph (B), those records, files, documents, and other materials which

-
(i) contain information directly related to a student; and

(ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

(B) The term "education records" does not include -

(i) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;

(ii) records maintained by a law enforcement unit of the educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement;

(iii) in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or

(iv) records on a student who is eighteen years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

(5)(A) For the purposes of this section the term "directory information" relating to a student includes the following: the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(B) Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency and shall allow a reasonable period of time after such notice has been given for a parent to inform the institution or agency that any or all of the information

designated should not be released without the parent's prior consent.

(6) For the purposes of this section, the term "student" includes any person with respect to whom an educational agency or institution maintains education records or personally identifiable information, but does not include a person who has not been in attendance at such agency or institution.

(b) Release of education records; parental consent requirement; exceptions; compliance with judicial orders and subpoenas; audit and evaluation of federally-supported education programs; recordkeeping

(1) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) of this section) of students without the written consent of their parents to any individual, agency, or organization, other than to the following -

(A) other school officials, including teachers within the educational institution or local educational agency, who have been determined by such agency or institution to have legitimate educational interests, including the educational interests of the child for whom consent would otherwise be required;

(B) officials of other schools or school systems in which the student seeks or intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record;

(C) authorized representatives of (i) the Comptroller General of the United States, (ii) the Secretary, or (iii) State educational authorities, under the conditions set forth in paragraph (3) of this subsection;

(D) in connection with a student's application for, or receipt of, financial aid;

(E) State and local officials or authorities to whom such information is specifically allowed to be reported or disclosed pursuant to State statute adopted -

(i) before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve the student whose records are released, or

(ii) after November 19, 1974, if -

(I) the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve, prior to adjudication, the student whose records are released; and

(II) the officials and authorities to whom such information is disclosed certify in writing to the educational agency or institution that the information will not be disclosed to any other party except as provided under State law without the prior written consent of the parent of the student.

(FOOT NOTE 1)

(F) organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted;

(G) accrediting organizations in order to carry out their accrediting functions;

(H) parents of a dependent student of such parents, as defined in section 152 of title 26;

(I) subject to regulations of the Secretary, in connection with an emergency, appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons; and (J)(i) the entity or persons designated in a Federal grand jury subpoena, in which case the court shall order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished to the grand jury in response to the subpoena; and

(ii) the entity or persons designated in any other subpoena issued for a law enforcement purpose, in which case the court or other issuing agency may order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena. Nothing in clause (E) of this paragraph shall prevent a State from further limiting the number or type of State or local officials who will continue to have access thereunder.

(2) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of releasing, or providing access to, any personally identifiable information in education records other than directory information, or as is permitted under paragraph (1) of this subsection, unless -

(A) there is written consent from the student's parents specifying records to be released, the

reasons for such release, and to whom, and with a copy of the records to be released to the student's parents and the student if desired by the parents, or

(B) except as provided in paragraph (1)(J), such information is furnished in compliance with judicial order, or pursuant to any lawfully issued subpoena, upon condition that parents and the students are notified of all such orders or subpoenas in advance of the compliance therewith by the educational institution or agency.

(3) Nothing contained in this section shall preclude authorized representatives of (A) the Comptroller General of the United States, (B) the Secretary, or © State educational authorities from having access to student or other records which may be necessary in connection with the audit and evaluation of Federally-supported education programs, or in connection with the enforcement of the Federal legal requirements which relate to such programs: Provided, That except when collection of personally identifiable information is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements.

(4)

(A) Each educational agency or institution shall maintain a record, kept with the education records of each student, which will indicate all individuals (other than those specified in paragraph (1)(A) of this subsection), agencies, or organizations which have requested or obtained access to a student's education records maintained by such educational agency or institution, and which will indicate specifically the legitimate interest that each such person, agency, or organization has in obtaining this information. Such record of access shall be available only to parents, to the school official and his assistants who are responsible for the custody of such records, and to persons or organizations authorized in, and under the conditions of, clauses (A) and (C) of paragraph (1) as a means of auditing the operation of the system.

(B) With respect to this subsection, personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents of the student. If a third party outside the educational agency or institution permits access to information in violation of paragraph (2)(A), or fails to destroy information in violation of paragraph (1)(F), the educational agency or institution shall be

prohibited from permitting access to information from education records to that third party for a period of not less than five years.

(5) Nothing in this section shall be construed to prohibit State and local educational officials from having access to student or other records which may be necessary in connection with the audit and evaluation of any federally or State supported education program or in connection with the enforcement of the Federal legal requirements which relate to any such program, subject to the conditions specified in the proviso in paragraph (3).

(6) Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing, to an alleged victim of any crime of violence (as that term is defined in section 16 of title 18), the results of any disciplinary proceeding conducted by such institution against the alleged perpetrator of such crime with respect to such crime.

- (c) Surveys or data-gathering activities; regulations Not later than 240 days after October 20, 1994, the Secretary shall adopt appropriate regulations or procedures, or identify existing regulations or procedures, which protect the rights of privacy of students and their families in connection with any surveys or data-gathering activities conducted, assisted, or authorized by the Secretary or an administrative head of an education agency. Regulations established under this subsection shall include provisions controlling the use, dissemination, and protection of such data. No survey or data-gathering activities shall be conducted by the Secretary, or an administrative head of an education agency under an applicable program, unless such activities are authorized by law.
- (d) Students' rather than parents' permission or consent For the purposes of this section, whenever a student has attained eighteen years of age, or is attending an institution of postsecondary education, the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.
- (e) Informing parents or students of rights under this section No funds shall be made available under any applicable program to any educational agency or institution unless such agency or institution effectively informs the parents of students, or the students, if they are eighteen years of age or older, or are attending an institution of postsecondary education, of the rights accorded them by this section.
- (f) Enforcement; termination of assistance The Secretary shall take appropriate actions to enforce this section and to deal with violations of

this section, in accordance with this chapter, except that action to terminate assistance may be taken only if the Secretary finds there has been a failure to comply with this section, and he has determined that compliance cannot be secured by voluntary means.

- (g) Office and review board; creation; functions The Secretary shall establish or designate an office and review board within the Department for the purpose of investigating, processing, reviewing, and adjudicating violations of this section and complaints which may be filed concerning alleged violations of this section. Except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such Department.
- (h) Disciplinary records; disclosure nothing in this section shall prohibit an educational agency or institution from -
 - (1) including appropriate information in the education record of any student concerning disciplinary action taken against such student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community; or
 - (2) disclosing such information to teachers and school officials, including teachers and school officials in other schools, who have legitimate educational interests in the behavior of the student.

Footnotes

[1] So in original. The period probably should be a semicolon.

NCFC-NETWORK: official Newsletter of NATIONAL CONGRESS FOR FATHERS AND CHILDREN. Public posts or cc-list fwds NOT accepted here; go to ncfc-network-FORUM@egroups.com

Pro se Links

Here's a few Pro se links that may be of use to you if you really want to represent yourself legally.

The Pro Se Way

<http://www.caught.net/prose/prose.htm>

Advance Trial handbook

<http://members.aol.com/richrwg/advtt/hbindx.htm>

American Pro se Association

<http://www.legalhelp.org/>

Pro se Legal Services

<http://firms.findlaw.com/pettyfogger/memos.htm>

Pro se Resource Center

<http://legalfreedom.com/prc/>

Legal Advice Line

<http://www.legaladvice2.com/HomeFrame.htm>

Appellate Rights and Pro Se Help

<http://www.nolawyer.com/nappl.html>

SAMPLE PARENTING PLAN

1. The Father, _____, shall have _____ physical custody and shared and legal custody of the minor children _____, age (_____), _____, age (_____), and _____, age (_____). The Mother, _____, shall have _____ physical custody and shared legal custody of the minor children.

2. The children shall have two homes, Mom's House and Dad's House. Neither parent shall use the children to deliver messages, to use as allies against the other parent or denigrate the other parent

3. The children shall be with their Father every other Friday evening at 6:00 p.m. to the following Friday at 6:00 p.m. The children shall be with their Mother all other times. The parent beginning his or her custody time shall be responsible for the transportation of the children. The parent beginning his or her custody time may appoint a substitute adult to transport the children if he or she gives the other parent at least a 12-hour notice.

4. The following holidays shall be enjoyed by the parents with their children on an alternating basis. A holiday day shall be defined as the day of the holiday, from 9:00 a.m. to 9:00 p.m. unless otherwise noted in this order or agreed in writing between the two parents. Holiday days take precedent over regular custody times and vacations.

New Year's Day

Martin Luther King Day

Good Friday

Easter Sunday

Memorial Day

July 4th: 9:00 a.m. to 9:00 a.m. July 5th
_____ 's birthday (August 1st)

Labor Day

Thanksgiving Day: 9:00 a.m. to 9:00 a.m. the following day (Friday)

The Friday following Thanksgiving

Christmas Eve Day

Christmas Day

New Year's Eve Day: 9:00 a.m. to 9:00 a.m. the following day (January 1st)

The Mother shall always enjoy Mother's Day and her birthday (February 29th) with the children.

The Father shall always enjoy Father's Day and his birthday (December 18th) with the children.

5. The Father shall enjoy two weeks of vacation with the children and the Mother shall enjoy two weeks vacation with the children. Neither parent shall 'tack-on' their vacation periods with their regular or holiday custody time periods. Each parent may enjoy his or her vacation weeks in one two week period or in two one week time periods. The Father shall submit his vacation time periods in writing to the Mother no later than April 15th. The Mother shall submit her vacation time periods in writing to the Father no later than May 15th. The vacations must take place between the end of the regular school year and the beginning of the following school year.

6. Each parent may telephone the children while in the custody of the other parent no more than once a day, unless an emergency arises. The receiving telephone call parent must honor the other parent's request, allow and encourage the children to answer the telephone call, and the parent must not eavesdrop on the telephone conversation between the children and the other parent.

7. Each parent is responsible to insure the other parent is given written schedules of extra curricular activities, school or teacher conferences, religious schedules and activities, medical or dental appointments or incidents, and any other information important in the children's life.

8. The parent with custody must give the other parent first choice for daycare responsibilities before hiring out daycare or to a relative. A minimum of a 48-hour notice to the other parent for daycare opportunities is required.