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Rough Draft

Child Support Commission
November 30, 2010

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The Child Support Commission met at 1:30 p.m. on Tuesday, November 30, 2010, in Room 1113 of the State Capitol, Lincoln, Nebraska. Members present: Senator Brad Ashford; Senator Tim Gay; Lori Tworek; William Mackenzie; and Byron Van Patten. Absent: John Kinney; Judge Paul Merritt; Janice Walker; Judge Vicky Johnson; Ron Harris; Charles Lamphear; and Troy Reiners. []

SENATOR ASHFORD: (Recorder malfunction)...obviously, but we don't have enough people here to vote on these recommendations or we can discuss additional recommendations, if there are any, but short of that, we don't have a quorum. []

BYRON VAN PATTEN: What do you need, two-thirds or? []

SENATOR ASHFORD: Need a half. []

BYRON VAN PATTEN: A half, okay. []

SENATOR ASHFORD: So we'd need seven. Now, you know, my reading of this is that if we don't have a quorum, we can take no action which, impliedly, could be interpreted as meaning we don't have any recommendations for any changes. I'm not sure we need to vote on no changes. I'm not sure that (inaudible) because...but if we do want to change anything we will have to have a proactive decision. And so that's where we are in this process. Let's just start with the group here. Do we have any additional recommendation...have we had a chance, has everybody had a chance to look at the recommendations that we...Bill, I know you had some thoughts, I think, about some of it, didn't you or? []

BILL MACKENZIE: Yes. I had sent a number of... []

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SENATOR ASHFORD: Comments. []

BILL MACKENZIE: Comments, especially today, and I apologize. That's kind of how I operate, you know, under pressure, but... []

SENATOR ASHFORD: That's all right. You're here; you're operating (laugh). []

BILL MACKENZIE: True, true. What I have done, Mr. Chairman, is I'm on this family law section of the Bar Association, and they have a LISTSERVE on the Internet where people can share questions, comments, concerns. And I may have mentioned this at the last meeting, you know, it ebbs and flows, but there's always communication back and forth. I had mentioned to the LISTSERVE that I was on this commission because I get requests throughout the years for, you know, why don't the guidelines do this or why can't they do that? And so I mentioned that this commission is meeting and asked for suggestions or asked for comments, and I received several, including two today, when I sent a reminder out. And I sent e-mails to Stacey. I believe she was going to make copies of those e-mails I had sent to her including some of the comments from other members of the private bar about wanting to address childcare, wanting to address cash medical. Are copies going to be distributed or? []

STACEY CONROY: He's making them right now so. []

BILL MACKENZIE: Oh, fine, so I wish I knew some magic tricks to delay things here, but there were...and, of course, getting attorneys to agree on the time of day is difficult, but there are concerns. I had an attorney call me this morning and said, one of the things that he thought could be a great assist when we're dealing with joint physical custody arrangements, he says, you know, people love to litigate those. They love to fight, the parents do, and one of the sticking points he sees is that there's a provision in the guidelines. Let's see if I can track it down. []

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STACEY CONROY: It's 4-212. []

BILL MACKENZIE: Section 4-212 that indicates that in joint custody arrangements all reasonable and necessary direct expenditures made solely for the children such as clothing and extracurricular activities may be allocated between the parents as determined by the court. He was suggesting that the word "may" be changed to "shall." He indicates that if the courts automatically divided up those costs, in his opinion, from his experience, it would make a lot of these contested custody battles go away, because he said if the custodial parent would know that the father...I'll be sexist here, the father would have to pay 40 percent or 60 percent of those expenses, Mom may in return say, okay, I'm not going to do battle with you on the joint custody because I know you're going to pay your share of the band expenses and the field trip expenses and the clothing, etcetera. So his suggestion was that in 4-212 the word "may" be changed to "shall" in the third line from the bottom. And so that was one that came to me just today. Find my other notes here. And I'll mention this also and maybe this is going to be passed around. I mentioned that with regard to medical at the last meeting we had, that there was a court case that defined medical as being other than dental or other than orthodontic or other than mental healthcare. And I finally found the case, and one of the reasons it was a little difficult to find is it's an unreported case. It's still a totally legitimate case. It's just not...it's one that the Court of Appeals chose not to formally publish. It's from last year, June of 2009, indicated that they were not going to read the term "medical expenses" to include dental expenses. And the court said, you know, if the parties wanted that to be included, they should have spelled it out in their decree. I think that may come as a surprise to people, parents whom they believe that what goes on inside their kid's mouth is as important as a broken arm or the flu or something else. So my thought would be to have the commission recommend changes in the term "medical insurance" or "health insurance" to include a broader variety of the children's health needs than just, you know, an M.D. treating them. So that case is Cheremie v. Hafeman from, again, June 9, 2009, filed by the Court of Appeals. So that's another recommendation I would make is that the commission address that issue. Cash medical

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was another issue we discussed last month. There are a number of people that think that the guidelines ought to better address the cash medical support concept, because the way our law reads now, if the cost of the health insurance is more than 3 percent of the parents' gross monthly income, then it's not considered reasonably affordable. And Byron would probably agree with me that it's almost pulled the rug out from our goal of making sure that children are insured in this state. The way that the statute was amended, I believe that was in 2009, it's almost eviscerated our ability to guarantee that kids have health insurance other than kids care or Medicaid. One of the additions to the law last year was this provision for cash medical support only in IV-D cases which are the cases that when people apply to the state for assistance in paternity cases or assistance in collecting child support, they become a IV-D case under the Social Security Act. And the cash medical is a provision that now the courts can order. If nobody can afford health insurance or nobody has it available to them for the other reason, the court can order the noncustodial parent to provide cash medical support equal to up to 3 percent of their gross monthly income or earning capacity. So we're seeing a lot of cases where the courts are now ordering cash medical support, and they typically are under \$100 a month, but they don't have to be that low, they can be higher. There are parties that believe that if the noncustodial parent is paying cash medical, he shouldn't also be stuck with having to pay 30 or 40 or 50 percent of any uncovered medical expenses of the child. And the federal regulations, which the state of Nebraska has tried to follow, make it somewhat clear that you don't have to do both. If the court orders cash medical to be paid, that doesn't also have to order the man to pay 50 percent of any uncovered medical expenses, but our guidelines aren't clear to that. And there are members of the bar, and I would count myself among them, that think that that...those guidelines should be clarified to advise courts that you can do one or the other; you don't have to do both and maybe you shouldn't do both, because they're kind of two sides of the same coin and one side should suffice. Maybe I'll shut up for a minute now. And for the record, I'm William Mackenzie, Deputy Sarpy County Attorney.

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SENATOR ASHFORD: Okay. We... []

STACEY CONROY: I just handed out the e-mails that have some of those issues discussed. []

SENATOR ASHFORD: We just got them, so I think we have to...so the two issues, Bill, that you're raising today are the cash medical, the healthcare issue and then the issue of the...in 212, is that correct? []

STACEY CONROY: Yeah, the health... []

BILL MACKENZIE: Yeah. Those are two. I did want to also address the childcare, but...because those are the three issues that were brought to my attention by...on the LISTSERVE from members of the bar that I indicated I'd share those with the commission and, again, I sent some of those e-mails, forwarded them on to Stacey today. And... []

SENATOR ASHFORD: Okay. Well, we have time to review them because we don't have anything to vote on today. []

STACEY CONROY: I did pass out a sheet that looks like this. At the top it says Cash Medical Support. []

SENATOR ASHFORD: Right. []

STACEY CONROY: It's got one, two, three topics on it. Oh, you didn't get it? []

CHRISTINA CASE: (inaudible) []

STACEY CONROY: Okay. And it has that language that you had...that Bill suggested in

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one of his e-mails to add to the Cash Medical Support. []

BILL MACKENZIE: If I could get a copy just to make sure I have the same...I'm on the same page literally as you are. []

STACEY CONROY: Sorry, I didn't... []

BILL MACKENZIE: Oh, no, you're fine. []

STACEY CONROY: It also has some examples of what healthcare includes in other states' guidelines. And at the bottom is an explanation, something we talked about last time. []

SENATOR ASHFORD: Yeah, that's what we talked about last time, the \$15,000 issue. That was your issue last time, Bill, as well. I mean, I know it's on our list. []

STACEY CONROY: And John Kinney, yeah, John Kinney brought it up. []

SENATOR ASHFORD: Okay. []

BILL MACKENZIE: John Kinney, I think, is who brought that up. []

STACEY CONROY: And he's had this explanation, and I don't know if it needs more clarification or not. But that is her explanation of...Dr. Venohr's explanation of what that means. []

BILL MACKENZIE: And I actually followed that. I don't always, but it seems to make sense that what the...if we adopted this version, we'd be encouraging courts to order at least 10 percent of the parental income above \$15,000 to be allocated to child support. Then the parties would split that at the same ratio that they are to each other's income,

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so the example there would do that. And that might...I think that would be a good idea. []

STACEY CONROY: You don't think the language as it is, is clear. []

BILL MACKENZIE: Well, let me go back and find it. []

STACEY CONROY: Because her explanation is of what is there now? []

BILL MACKENZIE: Four, two, and five. Yeah, I'll just try and find it. Here it is. []

SENATOR ASHFORD: That's three, right? []

STACEY CONROY: Three, number three on the list. That's the current language. That's our language. []

BILL MACKENZIE: I'm sorry, it's what section, the guidelines? []

STACEY CONROY: Oh, I'm sorry. It's...it is 203(c). []

BILL MACKENZIE: Okay. Well, it's not that there's anything necessarily wrong that I see with what's there. It's just that maybe it may need some additional clarification, because it's amazing how courts can look at a paragraph and decide it means a or b or c, and who can say they're right or wrong if it's not completely clear? And, you know, whether you want to use an example or suggest that as... []

SENATOR ASHFORD: Actually, we could do that, could we not? []

STACEY CONROY: Put an example in there? []

BILL MACKENZIE: In there just to...you know, I think examples are wonderful. []

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STACEY CONROY: I've seen that in a lot of other guidelines. []

SENATOR ASHFORD: And I think that we ought to make that a recommendation that we include... []

BILL MACKENZIE: I got to tell you, though, that I don't see a lot of cases...I don't see any cases where people earn more than \$15,000 a month, almost none, less than 1 percent... []

SENATOR ASHFORD: It's probably a small percentage of our... []

BILL MACKENZIE: Well, I did have a professional football player or two and some...I had a lady who ran an escort service. She was making \$150,000 a year. I don't know if that's 15... []

SENATOR ASHFORD: So those are two examples. []

BILL MACKENZIE: Two examples, two very disparate examples but... []

SENATOR ASHFORD: (Laughter) Yes. Well, we could include the...why don't we try to include the example in the...? []

STACEY CONROY: Okay. I'll see how it can...if I can... []

SENATOR ASHFORD: And the other two recommendations, I think, are fine. I think we need to...but I haven't digested them yet so. []

STACEY CONROY: In the sample report, in the draft report, recommendation one on the healthcare, Bill just brought that up, and there's examples on this reference sheet. Is

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that something we can discuss? []

BILL MACKENZIE: I'll see if I can find that. []

STACEY CONROY: I'm sorry. []

BILL MACKENZIE: No... []

CHRISTINA CASE: I have extra copies if anyone...it was sent out on the e-mail so if anyone doesn't have it handy. []

SENATOR ASHFORD: You know, not everybody gets every e-mail, thank God, thank God. Or nor do they read it should they get it. []

BILL MACKENZIE: The lucky ones, the lucky ones. Can I peek at what you got (inaudible)... []

STACEY CONROY: Yeah, yeah, yeah. So I'm saying on this draft report,... []

BILL MACKENZIE: Oh, yes. []

STACEY CONROY: ...number one, what you just talked about, about the definition of healthcare including dental, and so there are some...I mean, what exactly do we want the definition to include? There are some examples there from Iowa, Colorado, Kansas, and South Dakota. []

BILL MACKENZIE: Right. I absolutely think that that's a good idea. Now, it may make it more difficult for the parties to calculate these figures and input them into the guidelines because they're looking at a different dental plan versus a medical plan versus maybe mental health, and it's just more paperwork. But it's really the only fair way to go, I think,

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especially when you have children that have particularly serious mental health issues. That may cost way more than the medical, the health insurance. And if you have any children that play hockey, they may need the dental a lot more too so. []

SENATOR ASHFORD: As I recall the discussion last time, that generally these expenses are included, but it's not always the case. []

BILL MACKENZIE: My court, our referee, we have boilerplate language that we use in ours, it's all in there. []

SENATOR ASHFORD: Right. []

BILL MACKENZIE: But the private bar when they do theirs, they do them all differently and then we also see an awful lot of these pro se divorces cases coming in where we will...my court says it's up to seven or eight a week that come in. And they have these standard do-it-yourself forms on the Web site of the court that they print off, and they fill in names, etcetera. But it's kind of the blind leading the blind in court sometimes with these pro se cases, and these are becoming a bigger and bigger percentage of the overall caseload our court is seeing. So I think if the guidelines were to include that language, it would certainly help. []

STACEY CONROY: Do you have...your boilerplate language, is that what you're talking about? []

BILL MACKENZIE: Well, whether it's that or something similar. I don't know that it has to be the way I would recommend it. But I would add the terms orthodontic, optometric...if that's the correct term, mental health treatment, because those are the big three, I guess. I'm sure there's something I'm forgetting. []

SENATOR GAY: When you're adding that, is there a reasonable standard? I mean,

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what we see is if you're wealthy you're going to get orthodontia; you're going to get optometric...some of the others you don't. Basic dental is, like in Medicaid and those things, it's just basic dental. You don't get all the extras. I mean, there's a certain point when you say...just reading some of these other states and you're not going there, I know, but substance abuse and this and that. Those are very, very, very expensive... []

BILL MACKENZIE: Um-hum, can be. []

SENATOR GAY: ...and I'm not so sure you burden a family...I mean, it'd be great. But if your income is up here, maybe it should be reasonable like you've been used to if you were going to...if you're already getting Cadillac services, you shouldn't go down to the very basic. But basic, we can't force them to get a Cadillac kind of... []

BILL MACKENZIE: Right. Well, and certainly orthodontic may be considered Cadillac. I don't know about getting glasses. I think that's pretty basic and... []

SENATOR GAY: No, no, I'm not saying that but there's... []

BILL MACKENZIE: Yeah. []

SENATOR GAY: ...but I guess you're talking about dental. I'm a little...I agree with you, by the way, but then where do you...where's the fine line where you don't go overboard a little? []

BILL MACKENZIE: Yeah, I mean, a few cases we have where they're earning \$10 an hour. They don't have health insurance available to begin with, so it's kind of a moot point. But when you do get into, you know, people that do have...are able to provide that insurance, I've certainly seen cases where the...and I'm not picking on the men, certainly. But the noncustodial parent will buy the cheapest insurance he can find to cover the child that has much poorer benefits or, you know, much poorer services

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available to the child than a slightly more expensive insurance policy would have that would provide much better coverage. I mean, the parents, you know, still fight their divorce years later, a lot of them, and the courts hate to micromanage these. They want to get them in and out as quickly as possible, and one thing we don't want to see is them having to come back to court on a regular basis because someone is really unhappy with what they've got. And I think if the guidelines were to clarify that, it might ease the number of cases coming back to court to be modified, and it might ease the Medicaid. []

STACEY CONROY: So is it health insurance or healthcare that we want to define? What health insurance includes or what healthcare includes? []

BILL MACKENZIE: Well, I don't know that I have an answer to that. We can make a definition any way we want to. []

SENATOR ASHFORD: Why don't we do this? Why don't we take a look at it, come up with a suggestion? I think the general sense is that we need to be more...we need to have a definition. Let us look at what we've got and recommend...send something out and see if (inaudible)... []

SENATOR GAY: Is everyone...are we supportive of adding the dental on basic coverage and optometric or whatever? []

SENATOR ASHFORD: Well, I mean, we, at the last meeting, I think there was general consensus that we needed to do that, and so we have some examples we probably should just examine those and... []

BILL MACKENZIE: I don't know if the other states define... []

STACEY CONROY: It's not necessarily a definition, but there are references to. Like in

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Kansas, whenever they refer to it, they refer to health, dental, orthodontic, and optometric insurance every time. They don't give a definition of what healthcare is or what insurance is. They just list it out every time. []

BILL MACKENZIE: Okay. Right. And I know like, for instance, the healthcare I have through my employer through the county includes mental health, includes substance abuse to a certain point. It does not include dental, though. There's a separate dental plan completely, and it's a different provider and all this stuff. And I don't purport to know how everyone else's insurance is set up, but that's what I'm familiar with. []

LORI TWOREK: Yeah, I have dental, I have vision, and I have medical. I have three. []

BILL MACKENZIE: Right. Vision too. []

SENATOR GAY: Yeah, most people do. It's all...dental is always separate from (inaudible). []

SENATOR ASHFORD: Well, I think it's worthy of...let's just take a look at...and we'll send out our recommendations back to the group, how we should say it. Is that okay, Bill, if we do that? []

BILL MACKENZIE: Absolutely. []

SENATOR ASHFORD: Okay. The other recommendations two, three, four...well, five...I don't know if that's really a recommendation but a comment. []

BILL MACKENZIE: Can I make a comment about five? []

SENATOR ASHFORD: We've talked about four. Yeah. []

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BILL MACKENZIE: I remember we...Byron had passed that information out last time we were here, and several of us looked rather incredulous at the survey data. And what I did was I talked to my clerk of the district court, because their office inputs this data into the system, and I asked them to...I said, here are the numbers. They show that we have below 50 percent following the guidelines rate, and I said I can't believe that's correct. Could you monitor cases and let me know when you see a case that you're ready to input into the system that says, you're ready to say, no, it does not follow the guidelines. Oh, my goodness, I was getting two, three e-mails a day from her, saying here's another one. This one doesn't...this one I'm going to put in as no. Look it over. Tell me if I'm right or wrong. And what I was seeing was a lot of the pro se cases coming in where the form says, we're following the guidelines. Here's the amount, but then there's no guidelines. And one of our judges I met with said, well, you know, what do you want me to do? Do you want me to force all these people to come back for a separate hearing? He says, I'm not going to do it for them, and I'm like, oh, I don't know. You're the judge, but, you know, the guidelines say you're supposed to do that. And we did see also a number of the private bar that were misinterpreting the guidelines and looking at the wrong line for how much the child support should be and putting the wrong figure in. And these were seasoned attorneys, some of them, that had been practicing longer than I have that were doing it wrong. And I called or sent letters to about half a dozen attorneys, and I had some correct. They went ahead and either did a nunc pro tunc correcting the order, or they filed the worksheets later. But...and I also...I met with two of our three district judges, and I think they left me with the impression they were not going to sign any orders unless that worksheet was there, so we'll see if they stick to that. Ultimately, it's up to the Chief Justice, I guess, or the court administrator's office to come down on them if they don't. But I'd have to almost apologize to Byron. Your figures are probably correct. []

BYRON VAN PATTEN: Well, we did rerun them as Stacey and I discussed. They found a small program in there where they're rerunning corrected, and we actually put together a new chart to amend the chart that we put out last time (inaudible). []

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STACEY CONROY: However, there's so many there that don't have a reason for the deviation which makes it difficult for this group to review to comply with the requirement that we review these deviations. So if there's some way that we could get more accurate data by making a recommendation to the Supreme Court, then maybe we should do that so that future review commissions can actually do the review. []

BILL MACKENZIE: Well, yeah. The data is only as good as the people inputting it and the training they receive. And while I think my county did a pretty good job of pointing out that there was a problem, when I look at Douglas County's figures,--I'm not picking on Douglas County because I live there--but they had a hundred percent compliance rate, and I don't think you'd find an attorney in the state that would find that Douglas County complies a hundred percent with anything of anything. So I'm guessing that there's something that work in clerk of the district court or whoever inputs this into JUSTICE that... []

BYRON VAN PATTEN: They don't input it into JUSTICE. That's... []

BILL MACKENZIE: Where does that data come from? Do you know? []

BYRON VAN PATTEN: It's pulled off their system somehow or other. []

BILL MACKENZIE: Okay. I'm just guessing that maybe they're not as pure as the numbers would indicate. But it does point out to me that despite the fact that the worksheets have been required by the guidelines for many years and our Supreme Court and our Court of Appeals has made it, I thought, ultimately, very clear to litigants that you have to do this and even to judges, they have to do it, but they're still not doing it. And I don't know. It's not up to me to change that, I guess. The guidelines, I think, are pretty clear on it already. []

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STACEY CONROY: So no recommendation on that? []

BILL MACKENZIE: I don't... []

SENATOR ASHFORD: Well, I think we need to discuss it with the court and... []

BILL MACKENZIE: Yeah. Janice isn't here and I think that... []

SENATOR ASHFORD: Where is Janice, by the way? []

CHRISTINA CASE: She's at an out-of-state conference. []

BILL MACKENZIE: Hopefully, it's warm. []

SENATOR ASHFORD: Okay. []

SENATOR GAY: Brad, on two. Do you have a recommendation on two just to...I just want to make sure, so if we add language to the guidelines granting authority to the state to establish and enforce the reimbursement judgments on the birthing cost, we used to do that the way I understand it, collected a million or more dollars, so we have to put this back into the guidelines in order to go get reimbursement from Medicaid dollars? []

STACEY CONROY: That's my understanding. Byron,... []

BYRON VAN PATTEN: That's correct, Senator. []

STACEY CONROY: He has some examples from (inaudible)... []

BYRON VAN PATTEN: Kansas and Wisconsin (inaudible). []

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SENATOR GAY: Okay. I just thought, I think that's important that we start doing that if we can. Now, does it cost more to...I assume it wouldn't...the cost to collect that money wouldn't exceed the money we're going to collect, does it? []

BYRON VAN PATTEN: Excuse me, Senator. []

SENATOR GAY: Sometimes, you know, it shouldn't cost us a lot to enforce this? []

BYRON VAN PATTEN: No. []

SENATOR GAY: Oh, okay. So it's a...we could do well? []

BYRON VAN PATTEN: This is Byron Van Patten. And I think it's one of the last, I mean, there's seven or eight states that do this. I've contacted each one of those states to find out how they did it and got good information back from both Wisconsin and Kansas. Kansas is probably the most user friendly example. In Kansas, they use the 5 percent standard for reasonable cost on healthcare, so that's what they followed in their calculation for medical reimbursements. Obviously, Nebraska uses 3 percent. It's not necessarily...you know, we're not necessarily tied to the number of months that they use in their calculation, but that's just an example of how it's done and it's accepted by the feds. []

SENATOR GAY: I just think that's an important one, and they shouldn't just...they should support that recommendation. []

STACEY CONROY: To do the 5 percent like Kansas? []

SENATOR GAY: I think if we need a specific...is that the best? That's who we should follow, do you think? []

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BYRON VAN PATTEN: Kansas has probably the...the example I could follow the easiest, I think Wisconsin had some little quirks in theirs that would make it a little more difficult, but both are fine, and both are acceptable by the feds and something similar anyway for Nebraska would work just fine. []

BILL MACKENZIE: Now, do they collect over a five-year period? Is that what the 60 figure is, do you know? []

BYRON VAN PATTEN: I believe they can collect over the life of the order and beyond, depending upon what their statute of limitations is. I think that's just how much they calculate is a reasonable amount. []

BILL MACKENZIE: Is there a reasonable duration, I mean, or? []

BYRON VAN PATTEN: A reasonable amount of the judgment. []

BILL MACKENZIE: Okay. []

BYRON VAN PATTEN: It all boils down to...they take a look at the parents' gross income, take a percentage of that, multiply it by...I think both states use 36 months, and determine that's a reasonable amount to make for a birthing expense judgment as opposed to some of those we've seen in Nebraska, and Bill has probably seen some (inaudible)--\$50,000 for some teenager. []

SENATOR GAY: Why don't we just, on the guidelines if we're going to ask for the language, let's do the Kansas model then if, Byron, do you think that's the best one? []

BYRON VAN PATTEN: To me, it was the easiest to follow anyway. []

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SENATOR GAY: Yeah. []

BYRON VAN PATTEN: Something similar to that anyway. []

STACEY CONROY: I have the language...copies of the language from Kansas if you want to see that. []

BYRON VAN PATTEN: Okay. []

STACEY CONROY: How it looks in there. []

BILL MACKENZIE: I see Wisconsin apparently used a 36-month period, so they will get 5 percent of the father's income over a three-year period, and then... []

STACEY CONROY: It's in the middle of the page for expenses. []

BILL MACKENZIE: And this is from where? []

STACEY CONROY: Kansas. []

BILL MACKENZIE: Okay. []

STACEY CONROY: Talking about the (inaudible). []

SENATOR ASHFORD: Okay. []

BILL MACKENZIE: And I'm thinking that they probably...I'd say...I haven't looked at it. They set that as a figure outside of the guidelines for child support, so they already figure the child support, and then they look at another 5 percent for... []

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BYRON VAN PATTEN: Another calculation, yeah. []

BILL MACKENZIE: Okay. So that doesn't shrink the child support amount? It's not in addition? []

BYRON VAN PATTEN: I don't believe so. Similar to what Nebraska has in childcare. []

BILL MACKENZIE: Okay. My only concern going with the 5 percent figure here is if we only, you know, allow cash medical to the parent at 3 percent, I can hear the cries right away, saying, well, the state is getting the bigger chunk than the parent is for the medical, because if the state statute says we'd consider 3 percent to be a reasonable figure and anything over that to be over...too expensive, I'm not sure that we could then justify 5 percent of his income going to repay the state on top of the 3 percent that's for the cash medical. []

SENATOR GAY: On the cash medical, it'd be for up to age whatever. This is a one-time expense for three years only, though, isn't it? How far out can you go? []

BILL MACKENZIE: Well, it's however we would want to write it, I guess, or however the court would want to do it. []

SENATOR GAY: I think, you know, we're...we spend an awful lot in Medicaid and on these...and if we could do anything to get reimbursement, I mean, (inaudible) and this is only up to three years, is that we can go collect this or? []

BYRON VAN PATTEN: No, we... []

BILL MACKENZIE: You can go as long as you want. []

BYRON VAN PATTEN: As long as you want. Currently, the few existing... []

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SENATOR GAY: It'll end at some point, though. []

BYRON VAN PATTEN: ...the few existing ones that are enforceable were all established before 1992, and I can't say how many of those are still out there. But they're still enforceable like this...as a child support judgment would be enforceable long... []

SENATOR GAY: It's a growing cost, I know. []

BYRON VAN PATTEN: ...beyond the emancipation date of the child. And since it's many times the last thing that gets paid off, it would be good if it did go at least to the emancipation...the age of majority and maybe beyond. []

BILL MACKENZIE: What I have seen is our court will set say, \$10,000. You're ordered to repay the state \$10,000 and you're to pay that off at \$50 a month until, you know, it's paid off or till the kid emancipates or for ten years, the court may set an end date or not. Again, for several years we haven't been doing it at all now, but basically, you know, a cost of a birth is what, \$6,000-some-odd... []

BYRON VAN PATTEN: \$5,000 to \$6,000. []

BILL MACKENZIE: The dad will probably not get stuck with more than half of that, because the court figures that it takes two to tango, and even if he earns ten times more than mom does, he shouldn't be stuck with more than half of the birthing expenses. And so he'll get stuck with \$3,000, for instance, and she'll order it to be paid off at \$50 a month or whatever the court thinks is appropriate. Now, when you do have these, you know, premature births where you run into \$500,000, the court is simply not going to stick the guy with half of that, because, you know, we're wasting our time, you know, unless he wins the lottery, we're never going to see the money. []

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SENATOR GAY: Okay. That's exactly what was going through my head, too. Is there a cap then, Byron, in some of these states because you do get a...? []

BYRON VAN PATTEN: The cap is...the bottom line figure is...at least in the Kansas figure is their bottom line. That's what they're going to collect max. []

SENATOR ASHFORD: Is the formula number. []

BYRON VAN PATTEN: Is the formula number. In the Wisconsin...I haven't mentioned much about the Wisconsin one. It has some situations that... []

SENATOR GAY: Well, I mean, however we do it, we need to start doing it whether it's 3 or 5 percent. I'm flexible on that. I just think it's the principle of the thing. We need to start trying to collect it. []

BYRON VAN PATTEN: Right. I fully agree. []

SENATOR GAY: That doesn't give you much guidance, though, does it? []

SENATOR ASHFORD: No, I think so. []

SENATOR GAY: Three or five...I'd go with five, but we can't vote on anything here anyway. []

SENATOR ASHFORD: That gives...well, just do...four? []

SENATOR GAY: Four, all right. Do I hear four and a quarter? []

SENATOR ASHFORD: We could do a secret ballot and we could come up with a

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number. No, I think, you know, Tim's point is well taken. I think we just need to come up with a...why don't we stick...Bill, what do you think? What should we...? []

BILL MACKENZIE: Well, the 3 percent, 5 percent issue may only apply to how much he's ordered to pay... []

SENATOR ASHFORD: Right. []

BILL MACKENZIE: ...per month. I mean, maybe that's \$70 a month. Maybe his share of the birthing expenses would be \$3,000. The court could still order him to pay the \$3,000 but then say, you only have to pay \$70 a month because that's 3 percent of your income. []

SENATOR ASHFORD: Right. []

BILL MACKENZIE: So you still get the full amount. It's just going to take longer. []

SENATOR ASHFORD: You still get the full amount. It's going to take longer. []

BILL MACKENZIE: Right. And then that could be revisited if the child emancipates in a few years... []

SENATOR ASHFORD: Right. []

BILL MACKENZIE: Take more then. []

SENATOR ASHFORD: Put 4 percent in and see how that goes. []

BILL MACKENZIE: They'll wonder where it came from. []

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SENATOR ASHFORD: Any other suggestions, comments, recommendations? What I don't want to have to do, but what I'm going to have to do is we're going to have to come together again and vote on this, these recommendations. And that's too bad, but I don't know any other way. I think these are important recommendations. I would rather not do nothing. I mean, I think these recommendations are sound. We need to send them out to everybody and arrive at a time when people can... []

BILL MACKENZIE: Um-hum. Is there a way...does... []

SENATOR ASHFORD: We can't. We cannot do the other way. []

BILL MACKENZIE: By phone? []

LORI TWOREK: By phone, we don't know. []

CHRISTINA CASE: She said we...Janice Satra from Senator Wightman's office said that we can't do this by phone. []

SENATOR ASHFORD: Cannot? []

CHRISTINA CASE: Cannot (inaudible) find another date. []

SENATOR ASHFORD: Well, what we can...let's do this. There are 12 members of the group. How many...I mean, other than Tim and I that go wherever we're asked, right? How many of us are from the close to Lincoln area? How many of us are in the Lincoln area here? You've got Paul Merritt who can...I know he's very, very busy, but he could come over. Well,... []

LORI TWOREK: The child support treasurer's office. []

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SENATOR ASHFORD: Janice is here. We'll try to build to get up to seven so we can have a meeting and vote on these recommendations. []

BILL MACKENZIE: I'm certainly close enough that barring a blizzard, I'll be here. []

SENATOR ASHFORD: Are you? All right. Well, Vicky is out in Wilber. []

BILL MACKENZIE: John is from Omaha, isn't he? []

SENATOR ASHFORD: Charles is here. Byron is here; he lives here. []

_____: Most of them are. []

SENATOR ASHFORD: Huh? []

_____: Most of them are. []

SENATOR ASHFORD: Most everyone is here. We'll just... []

SENATOR GAY: We can do it after January. Kathy (inaudible), she'll vote for it. Sure. []

SENATOR ASHFORD: I'd like to do it by January 1. A very technical reading would say we have to do it every four years, and the four years is up on December 31. So technically, it would be great if we could do it. It's not...we could do it in January as well, but I'd rather do it in December, I suppose. There's that week from between...like the 17th, is that a Monday, 17th, 18th, the week before...19th? []

BILL MACKENZIE: The 13th is a Monday, I believe, but I could be wrong. []

CHRISTINA CASE: The 13th is a Monday, the 20th is a Monday. []

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SENATOR ASHFORD: Maybe we try to get another time and just get...and those that are further away, I mean, unless you, I mean, certainly can come, but if the recommendations are as they are, and we're going to put them out again. Then we will vote on those recommendations at another meeting. I don't know how else to do it. []

STACEY CONROY: You can certainly give me your comments by e-mail. If we need to vote on something, we have to be here. []

SENATOR ASHFORD: Right. []

BILL MACKENZIE: And the afternoon works better for me (inaudible)... []

SENATOR ASHFORD: Right. We'll try to do the afternoon. []

LORI TWOREK: I did have one comment. []

SENATOR ASHFORD: Good, good. []

LORI TWOREK: This is Lori, sorry. []

SENATOR ASHFORD: Yes, Lori. []

LORI TWOREK: Everybody...I think you, Christina, you had e-mailed everybody the letter from Ms. Rhoades? []

CHRISTINA CASE: Yes. []

LORI TWOREK: I did briefly e-mail her because I was curious about her case. Basically, the NCP...or I should say he makes about \$62,000 a year. She's working two jobs. []

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SENATOR ASHFORD: Right. []

LORI TWOREK: She says that the Nebraska Child Support Enforcement is off. I don't know where she's coming up with that figure. I don't know. She's had modifications. He's never been in jail. []

SENATOR ASHFORD: Right. []

LORI TWOREK: Never had his...license has been suspended and garnishments. He owes to the IRS. So I just want everybody to be aware. I'm not the only one. As of yesterday, trying to wrap my mind around how much the NCP in my case owes, he owes over \$50,000. That's huge. I've brought some suggestions to Senator Nordquist... []

SENATOR ASHFORD: Okay. []

LORI TWOREK: ...because he's trying to figure out what to come up for the agenda for this coming session. The one suggestion that I thought, and I know that the legislative body had passed where there's a list of taxpayers, people who don't pay their taxes. I don't know if this is a suggestion but is there any way that maybe the legislative body can come up or pass something that there's a list of NCPs who owe a certain amount, to post their names? []

SENATOR ASHFORD: Clearly, it's a public record and clearly it could be posted. []

LORI TWOREK: It's a public record. Okay. []

SENATOR GAY: Hasn't it been done in states before? []

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BILL MACKENZIE: My county, when I first started in child support, we did it in the nineties with the permission or with the coordination of the local newspaper... []

LORI TWOREK: Okay. []

BILL MACKENZIE: ...actually two local papers. The Papillion and the Bellevue paper both ran. And what we ended up doing is we cleared up a lot of the records... []

SENATOR ASHFORD: Right. And didn't the...I mean I thought the World-Herald at one point did a list of... []

BILL MACKENZIE: It may have. What we found and, you know, fixing the record is great, no matter how you do it, is a lot of it was I call phantom dead, because the parties had reunited. They were living together; they just never bothered to tell anybody, so it kept cranking up, cranking to be oh, \$50,000-\$60,000. So we got rid of a lot of those cases. We also did shame people into, you know, because Thanksgiving would be really uncomfortable that year around the table if, you know, I put you in the paper, you know. You owe \$20,000. Why aren't you paying, you know, for my grandkid? []

SENATOR ASHFORD: Well, you have the Goodfellows. You have all these people on the front page of the paper being taken care of and then you have a list of people on page two or even at the bottom of page one. I think, Lori, I think it's a great comment. []

LORI TWOREK: Right. I mean, it's just...I'm sure there are some NCPs who don't want their name published. []

BILL MACKENZIE: Almost none of them. []

LORI TWOREK: Almost none of them. []

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SENATOR ASHFORD: I'm guessing 99 percent of them don't. []

LORI TWOREK: Right. You know, or maybe have...post a list of names and people can call in anonymously. []

BILL MACKENZIE: Well, what we found was more than a few people would call in and say, I know where he's living. You maybe probably don't because he's changed his name or he's living, so we got leads on people too from. You know, it flushes all kinds of information out when you print it in the paper. []

LORI TWOREK: Because every time child support enforcement will ask me, do you know where he's at? I don't know, I don't care. []

SENATOR ASHFORD: We can run JUSTICE. Can we run...can we get a composite, an aggregate or a composite? I guess it's not an aggregate but cases over a certain or arrearages over a certain amount, or do you have to go...? []

BILL MACKENZIE: You actually get that from the child support system charts. We've done that...did it for Ms. Witek when she was State Auditor a number of years ago and I've done it once or twice since, people who owe over \$100,000 or. []

SENATOR GAY: Bill, if that was done then, we did it...obviously, you brought the suggestion, we did it. But isn't there a...so you can do it now then. It's in the law. []

BILL MACKENZIE: Oh, it's public record. []

SENATOR GAY: So counties can do this, so why would...I guess to reintroduce a bill, it must already be the law if we did it...probably didn't get repealed, did it? []

BILL MACKENZIE: I don't think the law needs to be changed. []

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SENATOR ASHFORD: No, it's public record. It's just a matter of doing it. []

BILL MACKENZIE: It's a matter of paying to publish it. []

SENATOR ASHFORD: Right. []

BILL MACKENZIE: Now, we had the local papers that were more than happy to do it, so it didn't cost us anything. We got them the data; they published it. You know, I think it increased their readership, so they thought they were doing a civic good too. But, so, you know, and certainly publishing it on-line is almost free so that's where people go now so, you know, for the... []

BYRON VAN PATTEN: (Inaudible). []

SENATOR GAY: But the bill would probably then make it mandatory that you had to do it then instead of optional, so it's optional now if you're going to have them write a bill or introduce a bill. Or are you thinking of making it mandatory or making a recommendation? []

LORI TWOREK: Yeah, I e-mailed them five suggestions, five thoughts, and I thought the fifth one about the posting the list of names because the last hearing that I had, they had to vacate it. They couldn't serve the papers. So now they have another hearing, and in December they have to find them. He is hidden somewhere. Where I don't know, don't care. All I know is the amount keeps getting higher and higher and higher, and by the time my daughter graduates, it could be \$80,000-\$90,000. []

SENATOR ASHFORD: Right. []

LORI TWOREK: You know, what else can I do? You know, child support enforcement

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can only do so much but yet the system is flawed. So I don't know what else to do. And then after getting her letter, I'm like, okay, she's frustrated too, so. []

SENATOR ASHFORD: I think it's a great suggestion, and we can either...we can make it mandatory or...well, we could make it mandatory. []

SENATOR GAY: It's optional now, so... []

SENATOR ASHFORD: We could make it mandatory, and we could obviously legislate that it be mandatory. It makes great sense. []

LORI TWOREK: I don't see why not, yeah. []

BILL MACKENZIE: It could be published on the state's Web site. []

SENATOR ASHFORD: The only why not would be counties saying they don't want to have to do it (laugh) which is a constant why not but (laugh). []

LORI TWOREK: Right, exactly. Right, right. []

SENATOR ASHFORD: But short of that why not, I think it certainly has a public purpose. []

BILL MACKENZIE: Now, we did...I will just say I'm not playing devil's advocate so much. But when you have people with common names, you get a lot of blowback, people who want a retraction or they want something published that I'm not the Frank Johnson that owes, you know, \$500,000 in back support. Now, I mean, all you can do is say, you know,... []

SENATOR ASHFORD: Put the case name in the... []

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BILL MACKENZIE: Well, I suppose there's different ways of doing it, but we did get some of that. And then we also got some complaints from the custodial parents that didn't want the publicity, that said, I don't want it to be publicized that I married a deadbeat or that my kids are going without. They were angry. So, I mean, you never can predict the reaction you're going to get from people. So...but the thought of publishing it on the Web site...because it's free whether it's Nebraska.gov or whatever, I guess it really wouldn't matter. And then publicizing that it's available, publicizing it in the media that it's available on the Web site. []

SENATOR ASHFORD: That may do it and also, I mean, but if you have the case name itself,... []

BILL MACKENZIE: And the county. []

SENATOR ASHFORD: And the county. []

LORI TWOREK: And the county, right. []

BILL MACKENZIE: That helps. []

LORI TWOREK: Yeah, yeah. I don't mind. I mean, I've been doing this almost 14 years now, and everybody knows that I won't stop because I'm doing this for my daughter so... []

SENATOR ASHFORD: Nor should you stop, and it's... []

LORI TWOREK: Nor should I stop. You know, but she's going to be graduating in three years, so it's going to get higher (inaudible)... []

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SENATOR ASHFORD: Is she a senior this year? []

LORI TWOREK: She's a freshman. []

SENATOR ASHFORD: In high school, right? []

LORI TWOREK: Yes. Yeah. []

SENATOR ASHFORD: Where is she in high school? []

LORI TWOREK: Westside. []

SENATOR ASHFORD: Good for her. I have an eighth grader at the middle school so. []

LORI TWOREK: Love it. It's a great school. []

SENATOR ASHFORD: So they'll be at the same school for three years anyway. Yeah, oh, it's wonderful, isn't it? []

LORI TWOREK: Yeah, love it. []

SENATOR ASHFORD: Did she go to the middle school? []

LORI TWOREK: She went to middle school, elementary. Yeah. []

SENATOR ASHFORD: Where did she go to elementary? []

LORI TWOREK: She went to Paddock. []

SENATOR ASHFORD: She went to Paddock, right. Okay. Yeah, it's a great school. []

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LORI TWOREK: But I just wanted to let you know that I have e-mailed Senator Nordquist. He's out, but I don't know... []

SENATOR ASHFORD: I think it's worth a bill. I really do. I mean, have this discussion. It's a good idea. We'll get something drafted on this. Either I will or Jeremy or somebody. []

LORI TWOREK: Okay. []

SENATOR ASHFORD: Unfortunately, Senator Gay won't be doing it, and it's not something we wish, but he isn't going to be but (laugh). []

SENATOR GAY: Yeah, you can handle that one. []

SENATOR ASHFORD: When do we get to thank...well, we already thanked you once, didn't we for your service? []

SENATOR GAY: Yeah, you don't need to. That's all right (laughter). []

SENATOR ASHFORD: I guess that's it, Lori. Any other comments, anybody else? []

LORI TWOREK: Nope, that's...no. []

SENATOR ASHFORD: Byron. []

BYRON VAN PATTEN: Did you want to set a date up for next...? []

SENATOR ASHFORD: Yeah, let's set a date. []

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CHRISTINA CASE: We can try. []

SENATOR ASHFORD: Let me look at my... []

CHRISTINA CASE: The judges are really hard to schedule. []

SENATOR ASHFORD: I know, but at some point,... []

BILL MACKENZIE: Well, you know, we could meet over at the courthouse. []

SENATOR ASHFORD: Yeah, at some point, they have to come to one of these. []

CHRISTINA CASE: So you're thinking the week of the 13th of December? []

SENATOR ASHFORD: That's sort of what I was thinking. []

CHRISTINA CASE: I know you have a lot (inaudible). []

SENATOR ASHFORD: Do I? But some of it is down here, isn't it, some of it? Lori, what's your week of the 13th look like? []

LORI TWOREK: That's a Monday? []

CHRISTINA CASE: 13th is a Monday. []

LORI TWOREK: Depending on the weather, but see that today kind of like what are the roads? I'm like, my car is like (laugh). Depending. Let me get... []

BILL MACKENZIE: Monday works for me. []

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LORI TWOREK: Yeah, afternoon would be good. []

BILL MACKENZIE: That Monday works for me. Tuesday, Wednesday would not. []

CHRISTINA CASE: Tuesday and Wednesday would not work? []

BILL MACKENZIE: Not that week. []

SENATOR ASHFORD: I can't do it Monday. But if we could get a quorum... []

BILL MACKENZIE: I could do it Thursday. []

SENATOR ASHFORD: ...if we can get a quorum on Monday, we'll get...I can't do it Monday. I can do it...well, I can do it Tuesday. What about Tuesday? Problematic or? []

BILL MACKENZIE: You know what? I know how important this is. I'll get it...I have court that day, but I'll call in some favors. []

SENATOR ASHFORD: We could meet at two, three...two probably or...2 o'clock on the 14th. []

CHRISTINA CASE: Two o'clock on the 14th. []

SENATOR ASHFORD: Lori? []

LORI TWOREK: Let me...yeah, it should be okay, depending on the weather. I shouldn't have a problem. []

SENATOR ASHFORD: Byron, you all right? []

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BYRON VAN PATTEN: Yeah, I can be here anytime. []

CHRISTINA CASE: I'll pencil it down to let everyone know. []