

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

[]

The Child Support Commission met at 3:30 p.m. on Tuesday, December 14, 2010, in Room 1113 of the State Capitol, Lincoln, Nebraska. Members present: Senator Brad Ashford; Ron Harris; Judge Vicky Johnson; John Kinney; William Mackenzie; Judge Paul Merritt; Charles Lamphear; Troy Reiners; Lori Tworek; Byron Van Patten; and Janice Walker. Absent: Senator Tim Gay.

SENATOR ASHFORD: Good afternoon, everyone. Are we ready? This is the Child Support Advisory Committee meeting, hope not...I certainly love meeting but this may be the last meeting for the year certainly and then we can maybe wrap this up today and get our report in. Why don't we go through...around the room real quickly and everybody give their name again, even though I think we know each other. And then Janice is on the phone. Okay, why don't we go ahead. []

RON HARRIS: Okay. Ron Harris, custodial parent...or noncustodial parent. []

TROY REINERS: Troy Reiners, the director of the Nebraska Child Support Payment Center. []

CHARLES LAMPHEAR: Charles Lamphear. []

VICKY JOHNSON: Vicky Johnson, district judge. []

SENATOR ASHFORD: Christina Case,... []

CHRISTINA CASE: Committee clerk. []

SENATOR ASHFORD: ...committee clerk. Brad Ashford. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

STACEY CONROY: Stacey Conroy, committee staff. []

PAUL MERRITT: Paul Merritt, district judge. []

LORI TWOREK: Lori Tworek, custodial parent. []

WILLIAM MACKENZIE: Bill Mackenzie, deputy Sarpy County Attorney. []

BYRON VAN PATTEN: Byron Van Patten, Health and Human Services, Child Support director. []

SENATOR ASHFORD: Stacey, why don't you remind us where we are in this process. We have a series of recommendations that we discussed at the last meeting and Judge Merritt has given us some comments, by e-mail, that we should all have...we should have all received. I think the best thing to do is just go down the list. And does anyone have any preliminary comments they'd like to make? []

CHRISTINA CASE: Janice, can you hear us? []

JANICE WALKER: I can. Thank you. []

CHRISTINA CASE: Okay. []

SENATOR ASHFORD: Okay. Hi, Chuck. If there are not any preliminary comments, why don't we go through the issues, each one at a time, 1 through 9, and talk about each one and decide. What we may want to do is let's try to reach a consensus on each one and then move to the next one, rather than go back. I have to leave here at 4:15 for a few minutes to meet upstairs with the Governor, but I will be back. So why don't we go ahead. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

STACEY CONROY: Okay. Number 1, cash medical support, we discussed this a little bit. Then Bill had some draft language to...as a solution to some of the issues and I don't know if anybody had any... []

SENATOR ASHFORD: Bill, you want to remind us just briefly what...can you just bring us back to where this issue is. []

WILLIAM MACKENZIE: Sure. Sure. And my voice is a little weak today. I'm recovering from laryngitis. The first, cash medical, is a new concept under Nebraska law. It's been around about a year and a half maybe, something like that, and the courts are still feeling their way through it, as are the litigants. I think it needs a little more clarification to everybody as to what it is and what it can substitute for. And the federal regulations contain language that indicates that if you...if the court order allocates uncovered medical expenses at a certain percentage between the parents, they don't need to do cash medical support. And if they do cash medical support, they don't need to do the allocation on noncovered expenses at a certain percentage, so that this proposed additional language would spell out that you can do one or the other but you really shouldn't do both to the courts. []

SENATOR ASHFORD: Okay. Judge, did you have a comment on that one? []

PAUL MERRITT: I did not. []

SENATOR ASHFORD: Okay. It was the next one. We have discussed this issue. Judge, do you have any thoughts about this? []

VICKY JOHNSON: No, nothing in addition. []

SENATOR ASHFORD: Okay. If there is no objection to the suggestion in 1, we'll move on to Number 2. And then at the end we'll vote on the whole package, but we'll move to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

2, health insurance. []

PAUL MERRITT: Sir, can I...the whole package being every single section and we'll vote on separately at the end, is...? []

SENATOR ASHFORD: Right. []

PAUL MERRITT: Okay. Thank you. []

SENATOR ASHFORD: Right. Health insurance. []

STACEY CONROY: We wanted sort of a definition. There was a case that said that dental was not included in health insurance and so we wanted to spell that out a little bit. We discussed it at the last meeting but there was some resistance to adding "orthodontic" to the list, and maybe "dental" will cover dental and/or including orthodontics. []

SENATOR ASHFORD: I think we sort of concluded it did, didn't we, Bill? []

WILLIAM MACKENZIE: Pardon me? []

SENATOR ASHFORD: That it included orthodontic treatment or... []

WILLIAM MACKENZIE: Well, you know, we didn't reach any conclusion. []

SENATOR ASHFORD: Consensus. []

WILLIAM MACKENZIE: We didn't have a quorum last time. But there was some resistance, as I recall, from one of the members who isn't here today about adding that language specifically, "orthodontic," which is language added in other state guidelines.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

And we were kind of looking at other states when we, you know,... []

SENATOR ASHFORD: Right. []

WILLIAM MACKENZIE: ...cut and pasted this language out. I will mention Judge Merritt suggested a change,... []

SENATOR ASHFORD: Right. []

WILLIAM MACKENZIE: ...and I agree with him, that the word "includes" probably is better than the word "means." []

SENATOR ASHFORD: Okay. Can you read your suggestion, Judge? []

PAUL MERRITT: Well, I have...my suggestion, well, I obviously wasn't here last week...last meeting, so I don't know what the objection was to "orthodontic" being included, and it's hard for me to imagine somebody would say it shouldn't be included because it's encompassed by "dental," because I probably think that means just the opposite, that if you don't include it, it is not included. If you don't include it...if you put "dental" and don't put that then, more likely than not, it's not going to be included. So the question becomes whether you want to include "orthodontic," and I'm going to put that out there because I think they are separate and distinct. []

SENATOR ASHFORD: Okay. []

PAUL MERRITT: And the expenses are really a lot different. []

SENATOR ASHFORD: A lot, yeah, a lot of money. []

PAUL MERRITT: Yeah. You know... []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

VICKY JOHNSON: The opposite of that is also true. If we decide not to include "orthodontic," I think we should specifically say "dental does not include orthodontic" or we're going to just give them no guidance. That will be litigated. []

PAUL MERRITT: And I don't disagree with that. []

WILLIAM MACKENZIE: I personally think it should be included in there. []

STACEY CONROY: So both "dental" and "orthodontic"? []

WILLIAM MACKENZIE: Yes. []

STACEY CONROY: Okay. And is everyone okay with the "includes" instead of "means"? So it would read, "If not otherwise specified in the support order, 'health insurance' includes coverage for medical, dental, orthodontic, optometric, substance abuse and mental health treatment." []

PAUL MERRITT: I mean that's what I would...that would have been... []

SENATOR ASHFORD: That's a proposal. Why don't we take a vote on this provision to include "orthodontic" in paragraph 2. I think that's your place. []

CHRISTINA CASE: You're there. You're there. Byron and you have switched name tags. []

SENATOR ASHFORD: Byron and you, yeah, we can change, you can always change placards. Do we need to roll call this or how do we do this procedurally? Why don't we just go... []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

CHRISTINA CASE: If you want to vote at the end, then let's just wait. []

SENATOR ASHFORD: Well, no, here's what we're going to do. We're going to take care of Item 2. Let's take care of Items 1 and 2. Item 1, the language we just went through in Item 1, and let's go through that. Let's just call the roll on Item 1. []

CHRISTINA CASE: All right. Senator Ashford. []

SENATOR ASHFORD: Yes. []

CHRISTINA CASE: Paul Merritt. []

PAUL MERRITT: Yes. []

CHRISTINA CASE: Vicky Johnson. []

VICKY JOHNSON: Yes. []

CHRISTINA CASE: Bill Mackenzie. []

WILLIAM MACKENZIE: Yes. []

CHRISTINA CASE: John Kinney. []

JOHN KINNEY: Yes. []

CHRISTINA CASE: Lori Tworek. []

LORI TWOREK: Yes. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

CHRISTINA CASE: Ron Harris. []

RON HARRIS: Yes. []

CHRISTINA CASE: Senator Gay is absent. Byron Van Patten. []

BYRON VAN PATTEN: Yes. []

CHRISTINA CASE: Charles Lamphear. []

CHARLES LAMPHEAR: Yes. []

CHRISTINA CASE: Janice Walker. []

CHRISTINA CASE: Yes. []

SENATOR ASHFORD: I'm not sure she can vote, but she can express her opinion and we can... []

JANICE WALKER: Am I an ex officio member? []

SENATOR ASHFORD: Oh, that's right. Well, then whatever. []

CHRISTINA CASE: Okay. Troy Reiners. []

TROY REINERS: Yes. []

JANICE WALKER: If I am, I won't, but I couldn't remember. []

SENATOR ASHFORD: Well, we love your vote but we'll just note it. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

CHRISTINA CASE: Okay. []

JANICE WALKER: (Laugh) That's fine. []

SENATOR ASHFORD: Okay. []

CHRISTINA CASE: Ten ayes. []

SENATOR ASHFORD: Okay. Let's go to Item 2, with the addition of "orthodontic," as Judge Johnson suggests. It's a good idea. Let's go. []

STACEY CONROY: So John Kinney wasn't here when I read that. Mr. Kinney. []

SENATOR ASHFORD: We're including "orthodontic" in "dental." []

STACEY CONROY: And we're also changing the word "means" to "includes." []

JOHN KINNEY: I support both of those changes. []

STACEY CONROY: Okay. []

SENATOR ASHFORD: Okay. Let's go through and call the roll. []

CHRISTINA CASE: Senator Ashford. []

SENATOR ASHFORD: Yes. []

CHRISTINA CASE: Paul Merritt. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

PAUL MERRITT: Yes. []

CHRISTINA CASE: Vicky Johnson. []

VICKY JOHNSON: Yes. []

CHRISTINA CASE: Bill Mackenzie. []

WILLIAM MACKENZIE: Yes. []

CHRISTINA CASE: John Kinney. []

JOHN KINNEY: Yes. []

CHRISTINA CASE: Lori Tworek. []

LORI TWOREK: Yes. []

CHRISTINA CASE: Ron Harris. []

RON HARRIS: Yes. []

CHRISTINA CASE: Byron Van Patten. []

BYRON VAN PATTEN: Yes. []

CHRISTINA CASE: Charles Lamphear. []

CHARLES LAMPHEAR: Yes. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

CHRISTINA CASE: Troy Reiners. []

TROY REINERS: Yes. []

CHRISTINA CASE: Ten ayes and no nays. []

SENATOR ASHFORD: All right, let's go to 3, medical reimbursement. Stacey, would you... []

STACEY CONROY: And this is to allow the state to enforce the judgments for reimbursement for Medicaid birthing expenses, and we used the language from Kansas. At our last meeting, we discussed whether to use 5 percent or 3 percent, and we split it and it 4. []

SENATOR ASHFORD: And I think Judge Merritt asked how we got to 4 in his e-mail (laugh) and there was no art to it, I don't think. I mean... []

STACEY CONROY: But that's up for discussion. []

WILLIAM MACKENZIE: Well, okay. Laryngitis or not, I thought the 4 percent was like pulling a rabbit out of a hat. I think people wonder where that came from. It doesn't come from any federal rule or reg at all. It just came from a compromise here. And I think it's a little incongruous that we'd use 4 percent there when we're only using 3 percent when we're talking about cash medical. []

SENATOR ASHFORD: Right. []

WILLIAM MACKENZIE: And I just have a little bit of discomfort setting it at a higher rate where the state gets paid more than the parent would get paid in a cash medical order.
[]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

SENATOR ASHFORD: Okay. I think you're right. I think 4 was simply a compromise between 3 and 5, but there was no other logic to it. Any other comment on Bill's suggestion? Are you suggesting that we keep it at the same, 3 percent? []

WILLIAM MACKENZIE: Yes. I'm not a big fan of the 3 percent, but that's in the statute. If the statute were to change, it would make sense that that should go up, too, but I don't think that's going to happen anytime real soon. []

SENATOR ASHFORD: Okay. Does everybody understand where we are with medical reimbursement? []

PAUL MERRITT: Can I...? []

SENATOR ASHFORD: Yes, Paul, Judge. []

PAUL MERRITT: Paul Merritt. This one causes me a lot of trouble. And I read in one of the things I had here about "collect approximately \$1.6 million." I presume that means that \$1.6 million is tied up in this money out there somewhere. []

BYRON VAN PATTEN: There's quite a bit more money than that, but that's what we were collecting prior to the federal ruling. []

PAUL MERRITT: Because this used to be collected and it then no longer was collected. []

BYRON VAN PATTEN: That's correct. []

PAUL MERRITT: Okay. And so I guess I can at least see, if what Byron is saying is that we used to collect \$1.6 million and...by doing this and we think we can collect again

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

\$1.6 million, I can see that. These are the people that are IV-D, which means that they're the lowest...mostly the lowest paying or income people that we see in court, generally speaking. But again, if he says that they've collected in the past \$1.6 million then I'm okay with that. One of the things I don't understand is that we're saying they're going to pay--and I love Bill's examples, it really helps me figure out exactly what they're looking at here--they're going to pay 60 percent of the entire bill. Why not half of it? I mean the other side is responsible, should be responsible for half of this. Why--for example, in most instances we're talking about the obligor being the father and I think the example was a \$5,000 bill--then why is he responsible for the entire \$5,000? Why isn't the woman responsible for \$2,500 of it and he's responsible for \$2,500 of it? I don't understand why he's being said that you owe the entire birthing expense. And I will tell you that I talked to our referee about some of these and this is one she hears often from people that appear before her, of why am I having to pay a percentage of the whole, why isn't she responsible for part of it. Now we know "she" is the state, probably, but that doesn't probably change the fact that perhaps the equitable, if that's the way to look at it, be that... []

SENATOR ASHFORD: Okay. []

PAUL MERRITT: ...and Bill's examples, instead of being \$5,000, it would be \$2,500. []

SENATOR ASHFORD: Yeah. []

SENATOR MERRITT: And again, I just throw that out. []

VICKY JOHNSON: What if you've got an obligor, though, who makes a vast amount of money? I mean limiting him to 50 percent may not be fair to the other side. []

PAUL MERRITT: Well, but if he makes...well. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

VICKY JOHNSON: I agree with you, Paul, that I think that we're talking about a certain subset of the population and, basically, we're talking about does the father pay or does the state pay. (Inaudible) []

WILLIAM MACKENZIE: Uh-huh, we did. []

VICKY JOHNSON: And to that extent, I think that's fair, though, to limit it to 50 percent.
[]

PAUL MERRITT: And maybe you get around that by saying "in IV-D cases." []

SENATOR ASHFORD: Is that... []

WILLIAM MACKENZIE: Well, these would only be probably IV-D cases because... []

SENATOR ASHFORD: Because they would have... []

WILLIAM MACKENZIE: ...there's a state debt, so the state has already got the IV-D status there. []

PAUL MERRITT: Well, but where you have this under 4-221, you don't say if a judgment for birthing expenses is awarded... []

WILLIAM MACKENZIE: Oh, okay, sure. []

PAUL MERRITT: ...pursuant to... []

WILLIAM MACKENZIE: Oh, I understand. Yeah. []

PAUL MERRITT: So maybe you can go back then to the IV-D section, if that's what

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

you're saying. []

WILLIAM MACKENZIE: Or you could say a judgment for birth expenses paid by the state, previously paid by the state. []

PAUL MERRITT: That's fine. Now you're going to want to, again, for what Judge Johnson is saying, you're going to want to have two then. You're going to have one that sets a formula for when it's IV-D and you're going to have one when it's not IV-D, and then you come up with a question of whether that's equitable, whether you have an equal protection issue there just because somebody has more money than somebody else. []

WILLIAM MACKENZIE: Well, is there anything that stops, in a non-IV-D case, a party from seeking and receiving a judgment for birthing expenses now? []

PAUL MERRITT: No, I don't think there's anything that... []

WILLIAM MACKENZIE: What we've done is we've stopped the state from collecting because of some federal interpretation of federal law... []

SENATOR ASHFORD: Uh-huh. []

WILLIAM MACKENZIE: ...that says the way that your guidelines, since they don't address it, you can't collect it. And that's what we're trying to fix now... []

SENATOR ASHFORD: That's what we're talking about, is that without us doing this, yeah. []

WILLIAM MACKENZIE: ...is only having to do with the IV-D program and state reimbursement. It wasn't designed for any additional purpose. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

SENATOR ASHFORD: Is the definition IV-D or is the definition where the state pays the birthing expenses? []

WILLIAM MACKENZIE: Well, it's where the state pays. In a lot of IV-D cases, you may not have that but... []

SENATOR ASHFORD: Right. []

WILLIAM MACKENZIE: ...I don't think you would have any cases with state debt where it wasn't a IV-D case. I can't picture that. []

: []

BYRON VAN PATTEN: No, there wouldn't be any. []

PAUL MERRITT: Well, maybe one way to deal with it is IV-D cases are handled under 4-215(C) under the...if you have your rules, 4-215(C). []

WILLIAM MACKENZIE: Uh-huh, you could add it in there. []

PAUL MERRITT: And you could have...what the paragraph that's there now could be, for example, a small Roman numeral (i), and then the language that we have, we're looking at now, could be a second paragraph, Roman numeral (ii), parenthetical, two small i's, that deals with "if a judgment for birthing expenses," and it still comes under the heading of medical cash support and healthcare. We'd have to probably change that, though, if you want to try to bring it into the ambit of the IV-D cases. []

WILLIAM MACKENZIE: Uh-huh. Uh-huh. Although clearly it's a healthcare cost, but I don't know how you'd want to... []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

PAUL MERRITT: Well, you can just change it to say "medical cash support, healthcare costs, and birthing expenses for Title IV-D cases only." This is on page 6 if you... []

SENATOR ASHFORD: Is that implied if you put it in that section, 4-215? Do you have to say it or... []

WILLIAM MACKENZIE: Well, by putting it in 4-215, you make it clear that it only applies to the IV-D cases, so I guess that would eliminate somebody interpreting it. []

PAUL MERRITT: Right. And then what you're saying is that in IV-D cases this is how we're going to do it,... []

WILLIAM MACKENZIE: Right. []

PAUL MERRITT: ...and we're not saying whether it does or it does not apply to other cases that they might even handle differently. We're just saying this is how we're going to handle specifically IV-D cases. Whether somebody who's not a IV-D case wants to have that same one, then he or she can come and argue whether it's equal protection problems or how much money the other side has or all those kinds of things. But at least we aren't setting up two different procedures that says this doesn't apply. We're just saying this does apply only in IV-D; in IV-D cases this applies. Rather than saying it's exclusive, we're just saying specifically for IV-D cases. []

WILLIAM MACKENZIE: Uh-huh. []

PAUL MERRITT: I still think, even if we do it that way, that there's...whether it's fair that the obligor be ordered to pay a percentage of the whole or should only be ordered to pay a percentage of half, based upon the formulas that are set forth in this proposed language that... []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

SENATOR ASHFORD: Byron, does it matter to the...would it matter to our ability to collect how we do that or what percentages we use? []

BYRON VAN PATTEN: No, I don't believe so. And I think normally when county attorneys did this, they took the birthing expense, say \$5,000, divided it in half and then attributed half to the noncustodial parent. []

SENATOR ASHFORD: Should we not do that then? I mean doesn't it...we have to have something to address it somehow, correct? []

BYRON VAN PATTEN: That's correct. []

SENATOR ASHFORD: Okay. Judge, do you have a specific proposal then that you...? []

PAUL MERRITT: Well,...well, for sure we're changing it to 3 percent, right? []

SENATOR ASHFORD: Right. []

STACEY CONROY: And in the other revision it's 3 percent of gross income and in this birthing expense draft it's net annual income. []

WILLIAM MACKENZIE: Well,... []

STACEY CONROY: Does that...is that a... []

PAUL MERRITT: I'd rather go with net annual because that's how much he actually has available to him to liquid. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

WILLIAM MACKENZIE: Yeah, right. Uh-huh. []

PAUL MERRITT: I mean I think the other reason we're doing the other one for gross is because that's what the feds require. []

STACEY CONROY: Yeah. Yeah, yeah. Yeah. []

PAUL MERRITT: And a... []

STACEY CONROY: So you're rather leave it. []

VICKY JOHNSON: So does net annual income get determined based on their tax returns or based on the child support calculation, that bottom-line number? Those are different things. []

WILLIAM MACKENZIE: Uh-huh. []

VICKY JOHNSON: It says down here in the example it's as determined by the worksheet... []

WILLIAM MACKENZIE: I would... []

VICKY JOHNSON: ...when determining the percentage. []

WILLIAM MACKENZIE: Yeah. I would think the net annual income would be looking at the worksheets. Some people won't file taxes and that way you're playing by one set of rules. I would propose that you add the language, in the next to the last line, "parent's net annual income, 'as reflected in the child support worksheet,' projected over five years." []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

SENATOR ASHFORD: Okay. []

VICKY JOHNSON: And "as reflected on line 6 on worksheet 1"? Do we need to be that specific? []

WILLIAM MACKENZIE: I'll leave that up to the group here but I think we should indicate that we are talking about the worksheet, not the tax returns. []

SENATOR ASHFORD: (Inaudible) "worksheet" is sufficient, isn't it, Stacey? []

STACEY CONROY: Uh-huh, on the worksheet. Well,... []

WILLIAM MACKENZIE: Yeah, because there is a net income line, so I think we just go to it. []

SENATOR ASHFORD: Okay, why don't you summarize where we are with 3. []

PAUL MERRITT: I think one of the things that can be done, if you're going to make this a separate paragraph under (C), you could start the sentence off by saying, "Birthing expenses are to be split equally between the parties," and that right there tells you you're splitting the birthing expenses equally between the parties, and then go right into the language you have in the proposed language as, if a judgment, birthing expenses, because then now you know the judgment is going to be for one-half of the birthing expenses. []

SENATOR ASHFORD: Okay. []

WILLIAM MACKENZIE: Well, then you'd have to reword the rest of it then, wouldn't you or would you? []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

PAUL MERRITT: I don't know that you would because you're still... []

WILLIAM MACKENZIE: Okay. So you're taking, say, 60 percent of the half. []

PAUL MERRITT: Right,... []

WILLIAM MACKENZIE: Okay. []

PAUL MERRITT: ...because that...if you start off by saying "birthing expenses are to be split equally between the parties,"... []

WILLIAM MACKENZIE: Okay. []

PAUL MERRITT: ...if it's \$5,000, so you know it's \$2,500. []

SENATOR ASHFORD: It's \$2,500... []

WILLIAM MACKENZIE: Okay. []

SENATOR ASHFORD: ...and you take 60... []

WILLIAM MACKENZIE: Okay. We'd have to redo the two examples then but that would be...or at least the first example, the first example because we're charging him with 60 percent of the total. []

PAUL MERRITT: Right. And I happen to think the examples are good, you know, to include, if we can, as part of our recommendation because that let's people know where we're coming from. But I'm sure Stacey can figure that out. []

VICKY JOHNSON: So you're going to divide the birthing expenses equally between the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

parties and then determine the obligor's amount based upon his proportionate share on the child support calculator. []

WILLIAM MACKENZIE: Yes. []

PAUL MERRITT: Right. And for example, in Example 1, it would be, the parenthetical, would be 60 percent of \$2,500 instead of \$5,000, because that would have been the amount of the judgment. And I think the example is going to have to say the amount of the birthing expenses of \$50,000...or \$5,000, the judgment against would be for \$2,500, something so you explain it as to how you get to the \$2,500. []

WILLIAM MACKENZIE: Uh-huh. Yeah. Yeah, we thought it was crucial to explain it... []

PAUL MERRITT: Uh-huh. []

WILLIAM MACKENZIE: ...because, otherwise, people will go off in all different directions. []

VICKY JOHNSON: Do we need to add then, after "parent's proportionate share," the words "of his or her half of the birth expenses? []

SENATOR ASHFORD: Well, haven't you...maybe you've said that up above with the change, haven't you or not? Do you see it? Would that be saying it again? I don't know. If a parent's proportionate share, which would be one-half, or should you just say what it is? If a parent's share... []

WILLIAM MACKENZIE: Yes. []

_____: Do we then get to divide it a second time? []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

WILLIAM MACKENZIE: Well, I don't know that we do. []

STACEY CONROY: (Inaudible) is a portion of the parent's proportionate share. []

SENATOR ASHFORD: Well, just the share. []

VICKY JOHNSON: Of the parent's half share. []

SENATOR ASHFORD: If a parent's share of the birth expenses totals more than... []

WILLIAM MACKENZIE: Is there...could I ask a question? Is there a logical reason we're only taking a percentage of that half and not the whole half? []

BYRON VAN PATTEN: Because we're still, excuse me, we're still using the parent's income and only a percentage thereof, and we'll divide that by, I believe, 60. []

SENATOR ASHFORD: Meaning you're doing it twice? []

STACEY CONROY: That's one of... []

SENATOR ASHFORD: Is that what you mean, Bill? You're making... []

WILLIAM MACKENZIE: You're kind of dividing the... []

SENATOR ASHFORD: You're dividing it once in half... []

WILLIAM MACKENZIE: Uh-huh. []

SENATOR ASHFORD: ...and then you're... []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

WILLIAM MACKENZIE: Dividing it again. []

SENATOR ASHFORD: ...dividing it again? []

STACEY CONROY: Is one of the requirements, Byron, that it has to be tied to the parent's income? []

BYRON VAN PATTEN: It has to be tied to...the part that does have to be tied to the parent's income. []

STACEY CONROY: So that percentage is... []

BYRON VAN PATTEN: Whether we use a proportionate share or fifty-fifty, I don't think they care, but once you arrive at a figure you need to look at the parent's income... []

SENATOR ASHFORD: For determining how much they're going to have to pay. []

BYRON VAN PATTEN: ...for determining how much of that they'll be responsible to pay. []

WILLIAM MACKENZIE: So if we kept the language that says, if a parent's proportionate share of the birth expenses totals more than 3 percent of his net income projected over five years, you think that will be good enough? []

BYRON VAN PATTEN: That would be, that or something there... []

WILLIAM MACKENZIE: Okay, something like that? []

BYRON VAN PATTEN: ...something like that. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

WILLIAM MACKENZIE: Well, the maybe the word "proportionate" should come out of that sentence. []

SENATOR ASHFORD: His share, isn't it? []

WILLIAM MACKENZIE: Because you've already indicated that he's to pay half... []

SENATOR ASHFORD: Right. []

WILLIAM MACKENZIE: ...and then that's further reviewed by the 3 percent of his income over five years. []

BYRON VAN PATTEN: To see if it's appropriate. []

PAUL MERRITT: And that's the second sentence, right? []

WILLIAM MACKENZIE: Yes. []

PAUL MERRITT: Okay, and that brings up my next issue on the second sentence. We've talked about the first sentence, I think, which is dividing it and splitting it. Second sentence brings up my...I don't like saying that he can ask for a downward deviation. He's not going to know to ask for a downward deviation. I think we need...if in fact we say they're entitled to a downward deviation, we need to say there he is entitled, shall receive a downward deviation as determined by the court, or however you want to do it. But to put the onus on somebody who comes in off the street who's pro se, to say that... []

SENATOR ASHFORD: I want a down... []

PAUL MERRITT: ...I figured out that this is now 3 percent below, you figured this all out.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

I mean they're not going to know to do that. I imagine the county attorney is not going to want to make the request for a downward deviation, some of them might, some of them might not. I think that if we're going to say that there's a certain circumstance under which they're entitled to a downward deviation then we need to say they shall get a downward deviation if these factors exist. Now again, that puts the onus on the court. []

JOHN KINNEY: Well, I'm just thinking of maybe a circumstance where you might want to say that the court may engage in a downward deviation, rather than the court shall, because there may be situations where income is not the only thing that a court is considering. Say a 22-year-old that has very little income happens to be the son of Warren Buffett, and a court may want to think about that. He might...there's all sorts of things that come up where I don't know that a tax return or a pay stub always tells the tale when a judge is trying to make decisions on these things. []

PAUL MERRITT: Again,... []

JOHN KINNEY: So you might want to give the court discretion. I'm just (inaudible). []

PAUL MERRITT: Again, we're in the IV-D cases, right? I mean that's where we are. We're still in the section of IV-D cases. We're not in the section across the board to everybody. We're into the IV-D cases. And I don't disagree except for I'm not sure Warren Buffett is the best example because I'm not sure he would give his kids the money to do it, at least from what I've read about him. But in any event, I just... []

SENATOR ASHFORD: They're making it on their own. []

PAUL MERRITT: Yeah, and very well. []

SENATOR ASHFORD: Yeah. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

PAUL MERRITT: But I just think that we need to do something. And I'm not a big fan of "the court shall," as we'll see from one of my other comments here later on, because there are just a lot of variables in so many different things. But on this, where we're tying it in specifically to, if there's some reason we're saying it's tied into 3 percent, and I'm not sure that that's not something where we should tell a court. If it's, you know, if we believe that this is an income level where they are entitled to a downward deviation, we've already made that determination. []

SENATOR ASHFORD: Yeah. []

PAUL MERRITT: And so now you just got to do it, if we're making that standard, if that's what the committee decides it wants to do. I just throw that out. []

SENATOR ASHFORD: I mean it makes logical sense to give them the deviation without a request. []

VICKY JOHNSON: Could we put in language the court will consider whether it is appropriate to deviate downwards, and then put the obligation on the court to consider it but not to require us to do so if Warren Buffett's son walks into court? []

SENATOR ASHFORD: Right. And you could presume it. I suppose you could presume that the court shall, unless...court shall provide or give the deviation, downward deviation, unless other evidence... []

JOHN KINNEY: Why don't you make it a rebuttable presumption? []

SENATOR ASHFORD: That's what I was going to say, make it a... []

PAUL MERRITT: Well, that exists through all the entire guidelines... []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

SENATOR ASHFORD: Yeah. []

PAUL MERRITT: ...by paragraph... []

SENATOR ASHFORD: Yeah. Well, you could say it again because... []

PAUL MERRITT: You could reiterate it. []

SENATOR ASHFORD: Just say that it's... []

PAUL MERRITT: 4-203. []

SENATOR ASHFORD: ...that the downward deviation, it's a rebuttable presumption that the...or it is presumed. How would you say it, that the court... []

STACEY CONROY: A rebuttable presumption exists to deviate downwards? []

SENATOR ASHFORD: Well, yeah, or the court shall give the downward deviation. How would you (inaudible)? Usually rebuttable presumptions apply when you have parties. Well, I suppose that would apply. How would you say it? How would the wording be (inaudible) rebuttable presumption? It is a rebuttable presumption that the court shall grant the downward deviation? (Laugh) Is it as simple as that? []

PAUL MERRITT: Well, I think one of the things you could say is, at the very end of that sentence, the parent shall... []

SENATOR ASHFORD: Receive. []

PAUL MERRITT: ...receive a downward deviation, subject to 4-203. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

SENATOR ASHFORD: Okay. Okay. []

PAUL MERRITT: In 4-203 is a rebuttable presumption. []

SENATOR ASHFORD: Right. Okay. That sounds good. []

PAUL MERRITT: Then you don't have to worry about all those things. It's just subject to that. []

SENATOR ASHFORD: Okay. []

PAUL MERRITT: And it tells them that that's what it's subject to, the rebuttable presumption. []

WILLIAM MACKENZIE: But it makes sense to eliminate the first sentence that's typed on the page there. We've already added a sentence ahead of that saying "birthing expenses are to be split evenly between the parties." But then to skip that first typed sentence and then move into the one that follows and eliminate the word "proportionate" from that sentence also and say, "If a parent's share of the birth expenses totals more than 3 percent of the parent's net income over five years, the parent." Then it's (inaudible) how we're going to address deviation. []

PAUL MERRITT: I don't understand what you're asking to eliminate. Just... []

WILLIAM MACKENZIE: Well, I think what I'm trying to do is eliminate that second shot where you're charging the guy with half of the birthing expenses, and I don't think we should be then carving that up smaller into a percentage if he earns 60 percent of the parental income that... []

VICKY JOHNSON: I think you're right. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

WILLIAM MACKENZIE: So... []

PAUL MERRITT: Oh, okay. I see what you're saying. Okay. []

WILLIAM MACKENZIE: So I think that we could eliminate that first typed sentence there, in its entirety, and then take the word "proportionate" out of the following sentence, and then proceed to go in and address how we get to the court's attention whose burden it is to deviate. And I'll offer an example. I can see where a court may a lot of times want to not deviate downward. We have a lot of kids that have parents that are in school, they're in college, and we project in four or five years they're going to be earning quite a bit more money, I hope so, and I see that many, many times. And so somebody may not have much income at all at the present time, but in three or four years, hopefully, they'll be earning good money and they should pay that full share over that five-year period. []

VICKY JOHNSON: How do we project income over five years? []

WILLIAM MACKENZIE: Well, there's another question. []

LORI TWOREK: I have a...this is Lori. Every three years I get a letter from Child Support saying if I want a reviewed modification. Wouldn't that come into play over the next five years if parents have a right to review the modification of their case, their child support, because every three years I get a letter--if you'd like to review or modify this. So wouldn't that come into play? I mean projected over five years, wouldn't it have to pertain to if they want to modify it every three years? []

WILLIAM MACKENZIE: I don't think so. []

LORI TWOREK: Okay. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

WILLIAM MACKENZIE: But it's always a guessing game as to what someone is going to be earning in five years. []

VICKY JOHNSON: Uh-huh. Right. []

WILLIAM MACKENZIE: I don't think anybody knows... []

VICKY JOHNSON: Right. []

WILLIAM MACKENZIE: ...what they're going to be earning themselves, much less anyone else. It's a guessing game. Whether you want to take what they have and multiply it by 60, if he earns \$1,500 a month, multiply that by 60 months, I mean no one is going to earn exactly that much over five years but that way you at least come up with a figure to work with, the court does, to work with. []

JOHN KINNEY: I think you need to give courts a road map as to how (inaudible). []

SENATOR ASHFORD: How you get there. []

JOHN KINNEY: Yeah. I think if you don't it's a recipe for a lot of rolling of the eyes. People are going to get frustrated with that without a road map and maybe you just say "projected income." []

SENATOR ASHFORD: Why does it have to be over four, five years? Am I missing something that's... []

WILLIAM MACKENZIE: It doesn't have to be, but what we're looking at is you're going to pay it off in one-sixtieth each month. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

SENATOR ASHFORD: Right. Right. []

WILLIAM MACKENZIE: That way it's a smaller bite, you know, out of your budget. []

SENATOR ASHFORD: Right. No, I get that part, but I mean does it...so to get to that do you have to project the actual income over five years? You're assuming that it has to be at a certain level over five years in order to do it that way. []

WILLIAM MACKENZIE: Well, I think you have to assume a figure. []

SENATOR ASHFORD: Yeah. []

WILLIAM MACKENZIE: How you get to it I don't know, but then I think the courts don't want these judgments to be out there forever where they're paying it for 25 years. If he pays it at the amount the court tells him, in five years he'll be done with it. []

BYRON VAN PATTEN: This is Byron. I don't believe that the Kansas example necessarily was saying that the judgment had to be paid in five years. They were looking at a percentage of the income over five years and establishing a baseline or a judgment amount, and in many cases that was less than half the birthing expenses so it was a ceiling rather than a floor. []

WILLIAM MACKENZIE: Right. []

BYRON VAN PATTEN: The judgment could be paid out, it's all obviously due and owing immediately, but it could be paid out however the county attorney arranges it, over the next 20 years. []

WILLIAM MACKENZIE: Uh-huh. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

JOHN KINNEY: Couldn't you just say you take net...current net monthly income multiplied by 60? []

WILLIAM MACKENZIE: You could. []

VICKY JOHNSON: I think that projecting income out five years is fraught with difficulty. []

SENATOR ASHFORD: Yeah. []

VICKY JOHNSON: And if we do something like what you suggested, John, say based on current annual and then go back to the...it's rebuttably presumed, if you've got a college student that's earning \$10,000 a year now and is going to be earning \$50,000 three years from now, you've rebutted the presumption. It should be higher than that. But I just think we're asking for trouble if we project it out five years. []

PAUL MERRITT: The whole basis for the guidelines is historical income. []

VICKY JOHNSON: Right. We're not supposed to conjecture. []

PAUL MERRITT: Yeah, we're not even...we're told that all the time in cases, hand slapped, that's right. You know, it's not even a valid order if you base it upon projected future income. []

VICKY JOHNSON: But I think if we base it on something like what we do right now, the historical, and then make it a rebuttable presumption and then let the parties come in and say... []

SENATOR ASHFORD: Yeah. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

VICKY JOHNSON: ...so and so is going to earn a whole lot more than that, then I think we're okay. []

SENATOR ASHFORD: That makes sense. []

PAUL MERRITT: You know, and what county attorneys will do sometimes is come in with records from the Department of Labor, Nebraska Department of Labor, to show historically what this person has made for the last three years. []

WILLIAM MACKENZIE: Uh-huh. []

PAUL MERRITT: And so you've got that so you can get an idea. At least the county attorney then will have something that he or she can present to the judge as a basis to rebut, maybe a bad last six months because of the income or, in fact, for a lot of these people, quite frankly, because of the winter and they don't work during the winter because they have seasonal jobs. And county attorneys bring that in often to try to establish what their... []

WILLIAM MACKENZIE: Long-term prospects (inaudible). []

PAUL MERRITT: ...what their income it or what should be imputed to them. So it may very well be what you're looking here is to a period after...well, not a period but omit "projected over five years," just based upon what their net income is. []

SENATOR ASHFORD: Right, just the number. []

PAUL MERRITT: Or net income for the last three years or... []

VICKY JOHNSON: Or if we refer just back to the child support worksheets, we've got three years built in and then you've also got the ability to go back and income average,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

if it's one of those circumstances where income averaging is appropriate, and then we're not recreating something or creating something that we don't need. We've already got our standard set. []

TROY REINERS: I kind of look at the 60 months as being terms. I mean this is a fixed amount. It's not going to change. So in my mind it's like this is that fixed amount you have to pay, we're giving you 60 months to pay it, not so much that it's based upon 60 months of your income. []

SENATOR ASHFORD: Right. []

TROY REINERS: And since it's not going to change if they don't pay it correctly, but doesn't just continue to carry out, Byron? []

BYRON VAN PATTEN: The 60 months or 36 months as Wisconsin uses isn't the time period they are to pay it. It is the amount that is used to establish the judgment amount. []

SENATOR ASHFORD: Over so many months. []

BYRON VAN PATTEN: Over so many months. They're looking at the parent's income of \$1,000, 3 percent of that is \$30, times 60 which is, what, \$1,800? I'm guessing. That's the judgment amount. Now that may be less than half the birthing expenses and that's fine because it's tied to the parent's income. []

PAUL MERRITT: Well, I thought the judgment amount was going to be \$2,500 under our example, and what we were figuring out here was what's the most that we were going to order him to pay on that judgment. It may very well be that over a period of five years, if it's 3 percent or less or depending upon what it is, it may not pay off the judgment. There may still be a judgment that is owed by that person that can be

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

collected, other mechanisms, but at least it establishes a judgment collection method. That's what I thought we were doing. The judgment I thought was going to be \$2,500. And I think this is the most difficult one of all these things we have on this. []

BYRON VAN PATTEN: Yes, it is. There's the \$5,000 is probably an average birthing expense that Medicaid pays for a normal birth. I mean it's in that range. I have seen some upwards of \$50,000 and that there's no relation to the parent's income. They have, obviously, no control over what the birthing expenses are. And by capping that, the maximum they pay, using a certain quantifiable formula, 3 percent of their income times 36 months or 60 months or whatever period, caps that. And it generally, for the type of folks that we deal with, works out to be roughly half of a normal birth. In a normal birth, it works out about half a dozen of one, six of the other for most of the folks we deal with. But for someone who has a \$50,000 birthing expense, \$25,000, which isn't tied to their income, probably would not meet the federal standard. Somehow the amount of the judgment has to be tied to their income. []

PAUL MERRITT: Well, okay, somehow the amount of the judgment has to be tied to their income. We have to just make a procedure then or a formula to say the amount of the judgment is tied to the income? []

BYRON VAN PATTEN: Yes. And the way Kansas did it is they looked at the net income, multiplied that by 3 percent, in my \$1,000 example, \$30, times 36 months or let's say 60--\$1,800, \$1,800 would be the judgment unless half the birthing expenses was less than that. Then it would be...and realistically that's doesn't happen. In some cases, obviously, of a higher income person, their half or their formula (inaudible) defined judgment may be \$6,000 once you go through the 3 percent, 36-month thing. But half the birthing expenses is \$2,500, so we would never ask them to pay more than \$2,500. Half the birthing expenses is the ceiling. They might pay less. They wouldn't pay more. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

PAUL MERRITT: Okay. []

BYRON VAN PATTEN: This is a whiteboard conversation now almost. (Laugh) Bill, you don't happen to have that Kansas (inaudible)? []

TROY REINERS: So doesn't their current income basically establish what it is they're going to pay, regardless of the 60 months? I mean that's kind of why I was looking at that 60 months, because if it's not going to change...I mean, it will change, but who's going to go in and review this? It's not reviewable. The state is...the interest is the state's interest. The state generally isn't going to go and say, well, hey, we need to get more from you for birthing expenses. If it was established right at the beginning what those expenses are, I wouldn't foresee them changing, which is why I looked at the 60 months as being more of how much can they afford based on these terms, because it's like right there at that moment is the way I saw it. []

BYRON VAN PATTEN: Today how much can they afford (inaudible). []

TROY REINERS: Right, and you figure out today's based upon their prior income, is what you'd base it upon. But you know, a year from there it is...I don't see it changing because once it was established... []

BYRON VAN PATTEN: It's established. []

TROY REINERS: ...yeah, it's established. []

PAUL MERRITT: Okay. I want to see if I'm understanding this right. Twenty-five hundred dollars is assuming the birthing expenses are \$5,000 and we say each parent is responsible for one half, so \$2,500 is the ceiling. No one can be ordered to pay...the obligor cannot be ordered to pay more than \$2,500. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

BYRON VAN PATTEN: Correct. []

PAUL MERRITT: Okay. In calculating the monthly amount... []

BYRON VAN PATTEN: They're calculating the judgment amount. []

PAUL MERRITT: ...the judgment amount rather, sorry, we go to the obligor's...I'm just going to presume it's a man, we go to his net income off of the worksheet. And using Bill's example, his net income off the worksheet equals 60 percent of the income of the parties. If that's the case and if my math is any good, that would mean that the amount of the judgment would be \$1,500--60 percent of \$2,500. []

BYRON VAN PATTEN: No, I think that was what Bill was trying to remove, though, wasn't it? []

VICKY JOHNSON: No. Don't we take the 60 percent out all together? []

WILLIAM MACKENZIE: I was trying to remove that. []

BYRON VAN PATTEN: Yeah, Bill was trying to remove that portion. []

VICKY JOHNSON: You take the 60 percent out. []

PAUL MERRITT: Yeah, but I don't think you can if what you have to do is establish a judgment. []

VICKY JOHNSON: Right. []

PAUL MERRITT: If you have to establish a judgment... []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

VICKY JOHNSON: Twenty-five hundred is the ceiling for this. []

PAUL MERRITT: But it's not the judgment though. []

VICKY JOHNSON: Correct. That's where you start. That's the... []

PAUL MERRITT: So where do you...how do you establish the judgment? []

VICKY JOHNSON: You look at his net income and multiply that by 3 percent. []

PAUL MERRITT: Well, no, not yet I don't think. I think you establish... []

WILLIAM MACKENZIE: Yes. Yeah, you would. You would, Your Honor. []

PAUL MERRITT: Don't you...you don't look at the...you don't establish the judgment before you use the 3 percent? []

BYRON VAN PATTEN: The 3 percent is used in establishing the judgment, 3 percent of his net income. And Kansas...Wisconsin uses 36 months. I don't know what Kansas uses, I think 60. I've got an example there... []

PAUL MERRITT: Okay. []

BYRON VAN PATTEN: ...by your right hand, Judge. And that derived figure is the judgment amount. Generally, it will be less than. []

WILLIAM MACKENZIE: Is that it? []

BYRON VAN PATTEN: Yeah, that's it. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

WILLIAM MACKENZIE: Okay. Let me... []

BYRON VAN PATTEN: The monthly period is not tied to how long they have to pay it back or their monthly payments. It's the formula is used in establishing the judgment. []

PAUL MERRITT: Well, but that doesn't make sense to me, because if you take 3 percent of \$2,500...that's what you're saying, right? []

BYRON VAN PATTEN: That could be 3... []

WILLIAM MACKENZIE: No. []

BYRON VAN PATTEN: ...is \$2,500... []

PAUL MERRITT: Let's just assume that's his income,... []

BYRON VAN PATTEN: Okay. []

PAUL MERRITT: ...\$2,500. []

BYRON VAN PATTEN: And that would be... []

PAUL MERRITT: That would be \$75. []

BYRON VAN PATTEN: Okay. []

PAUL MERRITT: That's the judgment? []

BYRON VAN PATTEN: No, times 60. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

PAUL MERRITT: Where does 60 come from? []

BYRON VAN PATTEN: Sixty comes from Kansas. []

PAUL MERRITT: Okay, that's arbitrary. []

BYRON VAN PATTEN: Wisconsin uses 36 in coming up with theirs. []

PAUL MERRITT: Okay. []

BYRON VAN PATTEN: There's no federal standard in the number of months that you use to multiply it by. []

TROY REINERS: And the higher the month, the more likely you're going to collect it because it allows for it to be a smaller amount. []

PAUL MERRITT: Well, yeah, I see that, but... []

VICKY JOHNSON: The 3 percent is just a number that we've chosen to decide what is too much of this guy's income to apply towards his half share of the birthing expenses. If we go...if we make an assumption at the beginning that birthing expenses are to be divided equally, that means that we don't look at the relative income of the Mom versus the Dad. That's why we can only have one or the other. We can go back and say, you look at the child support worksheet and decide whether we're going to go based on income or we can make a decision it's fifty-fifty, but we can't have both of them, as I understand it. []

_____ : Right. []

TROY REINERS: And the reason why the NCP was probably 100 percent, because

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

there's chances the custodial parent, maybe perhaps in these IV-D cases, they had zero income, which is why then 100 percent of it, whereas you know the judge's idea was just split it regardless of incomes, because if it's over, if it's over, you know, 60 months, then each will have their share. My thoughts. []

BYRON VAN PATTEN: And the reasons the feds...one of the reasons the feds disallowed the way we were doing it was pretty much a straight fifty-fifty in many counties because it was in no way tied to the parent's income. If the birth cost \$50,000 and the kid was...didn't even have his GED yet and had no earning capability, saddling him with \$25,000 was deemed unreasonable. []

JANICE WALKER: This is Janice. Could I ask a question of Byron? []

BYRON VAN PATTEN: Yeah, Janice. []

JANICE WALKER: I know that you went to a couple of other states to see how they have done it. Do you know if those states have received any kind of approval from the federal level entity on how they are doing it? []

BYRON VAN PATTEN: Yes, both Kansas and Wisconsin have. Several people here have the Kansas example in front of them. []

JANICE WALKER: Okay. Thank you. []

WILLIAM MACKENZIE: Okay, I've...this is Bill Mackenzie. I've jotted down proposed language. I'll just throw it out, for what it's worth. In this section I'd start, "Birthing expenses are to be shared evenly between the parties, except that the judgment for birthing costs reimbursement shall be capped at an amount equal to 3 percent of the obligated parent's monthly net income projected over 60 months, unless good cause is shown why said cap should not apply. I'm trying to address everyone's concerns and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

that's my starting point there. []

BYRON VAN PATTEN: This is Byron and I know that would work, Bill's example there would work, would be approved by the feds. []

VICKY JOHNSON: Other than we still have "projected income" and I think we need to go back to "as shown on current" or "historical." []

BYRON VAN PATTEN: Yeah. []

VICKY JOHNSON: That's the caveat I would put in. []

BYRON VAN PATTEN: Right. []

WILLIAM MACKENZIE: How would you word that? How would you propose to word that then? []

VICKY JOHNSON: "Except to the extent that the birth expenses exceeds 3 percent of their annual net income, as reflected on the child support worksheet." If you want to be specific to worksheet 1... []

WILLIAM MACKENZIE: No, I don't think that's necessary. But are we looking at their present income times 60 then? Okay. []

JOHN KINNEY: I don't think we're using 60 as a multiplier anymore. []

WILLIAM MACKENZIE: Oh, aren't we? []

JOHN KINNEY: We're just saying that it's anything over 3 percent, right? []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

TROY REINERS: Well, the 60 would still be utilized, I think, as like what I refer to as the terms. []

VICKY JOHNSON: No, we're not talking terms for payback, right? []

STACEY CONROY: No. []

WILLIAM MACKENZIE: We're just talking an amount that we reach by... []

BYRON VAN PATTEN: We're talking an amount. []

WILLIAM MACKENZIE: ...multiplying something by 60 or whatever. []

BYRON VAN PATTEN: In Judge Merritt's example, we had a \$75 judgment on a \$2,500 birthing expense if we use just 3 percent of the one month's income. []

WILLIAM MACKENZIE: Uh-huh. []

PAUL MERRITT: But you're changing the ceiling, if you will, or the cap, as you referred to it. It's not the \$2,500 now under that. []

BYRON VAN PATTEN: We'd never pay...we'd never pay more... []

WILLIAM MACKENZIE: Oh no, that would still be... []

BYRON VAN PATTEN: ...never more than a half. []

PAUL MERRITT: You're saying that the cap now is what's determined by the 3 percent of... []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

WILLIAM MACKENZIE: Yeah, up to half of the total birthing... []

PAUL MERRITT: Not to exceed. []

BYRON VAN PATTEN: Not to exceed. []

WILLIAM MACKENZIE: Not to exceed half of the birth. []

PAUL MERRITT: ...exceed half of the birthing expenses,... []

WILLIAM MACKENZIE: Right. []

PAUL MERRITT: ...something like that. Okay. []

WILLIAM MACKENZIE: Right. []

TROY REINERS: Don't you still have to have some sort of additional multiplier? []

STACEY CONROY: You said annual. []

VICKY JOHNSON: Correct. []

STACEY CONROY: And now you were using a monthly, right? []

TROY REINERS: So they only pay it for one year then and then...? I mean... []

VICKY JOHNSON: No, that's not what we're...we're not talking about how long they have to pay back. []

TROY REINERS: Uh-huh. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

VICKY JOHNSON: We're talking about determining what is their annual income for five years. []

TROY REINERS: And I understand that. []

VICKY JOHNSON: We can either go back five years or, as this example says, we can project it five years, and I'm saying projecting is wrong. We can go back, I think, and look at it historically to determine that. []

TROY REINERS: Yeah, I like your idea of utilizing the worksheets. That makes sense. []

PAUL MERRITT: But all we're...is all we are doing here is establishing the amount of a judgment for collection purposes? []

WILLIAM MACKENZIE: Yes. Yes, a rate. []

PAUL MERRITT: We're not establishing a installment for paying it. []

WILLIAM MACKENZIE: No. []

PAUL MERRITT: We're establishing the procedure to determine the amount that is then collectible by whoever is going to collect it. []

WILLIAM MACKENZIE: Uh-huh. Correct. []

PAUL MERRITT: Okay. []

TROY REINERS: Wouldn't you then always collect the full amount then,... []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

BYRON VAN PATTEN: Could. []

TROY REINERS: ...because where are you going to say that you're not going to? []

WILLIAM MACKENZIE: No, you can, theoretically. It would have a lower priority to child support. It would be the bottom priority. []

BYRON VAN PATTEN: It's a fairly low priority. []

WILLIAM MACKENZIE: Yeah. []

BYRON VAN PATTEN: We collect all the child, spousal, and there's other things. []

WILLIAM MACKENZIE: Spousal and health, cash medical would all come first. []

JOHN KINNEY: Can I ask... []

TROY REINERS: But then... []

JOHN KINNEY: Go ahead. []

TROY REINERS: I'm just curious, how do you create your deviation now? That's what I'm curious. []

WILLIAM MACKENZIE: Well, I think the court, with good cause shown to the court, it could deviate. I don't think you need to spell it out more than that. []

TROY REINERS: Okay, that makes...I mean that answers my question. []

JOHN KINNEY: Do you have cases where the mom is on public assistance and is a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

IV-D case but Dad makes pretty good money? Dad has... []

WILLIAM MACKENZIE: Yes, sometimes. []

JOHN KINNEY: So in that case, why would that dad's birthing expenses be capped at 50 percent? []

WILLIAM MACKENZIE: I guess it takes two to tango, you know. The whole thought that they're half the equation that brought the kid into being and so, for that reason, you'd say they're stuck with 50 percent (inaudible) less. []

JOHN KINNEY: And my suggestion is that would be the only place in the guidelines that is not now tied to proportionate shares of income. []

WILLIAM MACKENZIE: Uh-huh. []

JOHN KINNEY: And I'm questioning that, I guess, because we've done this...over the last 12 to 16 years we've gotten rid of the fifty-fifty for uninsured meds, we've gotten rid of the fifty-fifty for day care. We really started to talk a lot about proportionate shares of net income and I'm wondering, in this IV-D area, we're doing a fifty-fifty on birth expenses. []

WILLIAM MACKENZIE: Well, one thing that makes it different is the custodial parent, it's not going to affect her at all, the fact that...because no one is going to go after her for 50 percent of the birthing. We don't do that. We just go after the one party. []

JOHN KINNEY: Well, I thought we said that if you're on food stamps it's still a IV-D case but you might not be on Medicaid. You might be...the birthing expenses might not be any part of what the state (inaudible). Maybe I'm confused on that. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

WILLIAM MACKENZIE: No, you're right. That's right. []

BYRON VAN PATTEN: So you're just receiving food stamps, not receiving Medicaid, you probably aren't a IV-D case unless you've applied for it. []

JOHN KINNEY: No, I guess what I'm saying is that you've just said that the state is never going to go after Mom for the medical expenses, but it might not be the...her medical expenses might not be funded by the state. She might be a IV-D case because she's on food stamps, right? []

WILLIAM MACKENZIE: Right. We're talking about repaying the state when the state paid those medical expenses. []

JOHN KINNEY: Oh, is that the only time that this applies? []

WILLIAM MACKENZIE: Right. Right. []

JOHN KINNEY: Fair enough. Okay. []

WILLIAM MACKENZIE: I think nothing has ever stopped the courts from ordering a parent to pay birthing expenses if it's not state debt. If Mother shelled out the \$5,000 out of her own pocket, she can ask the court to order Dad to help her, you know, reimburse her, her share. Nothing in the law stops that from being done now. But what the law prevents, the state from getting itself paid back now because this issue is not addressed in the guidelines. Because it is not addressed in the guidelines, the feds said it's not a IV-D function so we can't do it. It's kind of a Catch-22 we're trying to... []

BYRON VAN PATTEN: Uh-huh. []

JOHN KINNEY: Is it clear that this would only...this fifty-fifty would only apply in cases

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

where the state is providing the medical care? []

WILLIAM MACKENZIE: Well, we talked about putting it into section 4-215. []

STACEY CONROY: (C)(i) (inaudible). []

PAUL MERRITT: (ii). []

WILLIAM MACKENZIE: Which is...talks about IV-D cases. Now if you want to further clarify it indicates state reimbursement, that would be fine with me. []

JOHN KINNEY: I mean don't you think we have to because... []

WILLIAM MACKENZIE: I don't...there's no harm in it. []

PAUL MERRITT: Or do you want it to say "birthing expenses reimbursed by the state are to be split equally"? []

STACEY CONROY: Yeah. []

PAUL MERRITT: Does that cover that language you're talking about, Bill? []

WILLIAM MACKENZIE: Birthing expenses paid by the state? []

PAUL MERRITT: Paid by the state, however you want it. []

WILLIAM MACKENZIE: Yeah, that would...I think that... []

PAUL MERRITT: Then that... []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

STACEY CONROY: So that's your (i). []

WILLIAM MACKENZIE: State of Nebraska. Yeah, it would be the very start. []

STACEY CONROY: And then your (ii) is the other language. []

PAUL MERRITT: No, that's right...that would be (ii) also right here. []

LORI TWOREK: Well, what's our (i)? []

PAUL MERRITT: This is. []

LORI TWOREK: Oh. []

PAUL MERRITT: Because it's all going to come under (C), this language will all stay the same. What we're talking about now is adding (i) here. []

LORI TWOREK: Okay. []

PAUL MERRITT: That's the language that Bill is talking about. []

STACEY CONROY: Yes. []

VICKY JOHNSON: Let me just be the devil's advocate for a minute. You said there's nothing that prohibits a court from ordering an obligated parent when the state is not involved for paying birth expenses, but this is an area of the law where we're kind of bound by the law and, without some express authorization, I don't know that we can. Is there...where is your authority for me saying to Joe Blow, there's no state involvement, your obligation to pay the birthing expenses for the mom exists? []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

WILLIAM MACKENZIE: Well, I think...don't you see it plead in complaints? []

VICKY JOHNSON: No. []

WILLIAM MACKENZIE: You don't? []

VICKY JOHNSON: You know, I don't think I ever have. []

WILLIAM MACKENZIE: Really? []

PAUL MERRITT: We have it all the time and I think it's... []

VICKY JOHNSON: I don't think...in a private case? []

WILLIAM MACKENZIE: Yeah. []

PAUL MERRITT: That I don't remember. []

VICKY JOHNSON: You think of statutes are specific to it? []

PAUL MERRITT: But there are statutes, I think, that deal... []

VICKY JOHNSON: Okay, so it is statutory. []

PAUL MERRITT: I don't think it's the guidelines but I think it's statutory that you...but I wouldn't be held to it. []

JOHN KINNEY: The birthing expenses are in the statute, they are. []

PAUL MERRITT: That's what I thought. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

VICKY JOHNSON: Okay, they are? []

PAUL MERRITT: Yeah. []

VICKY JOHNSON: So my next question is then are we leaving a hole if we don't...if we make this particular paragraph specific only to reimbursed cases? Are we telling our other folks how to divide them? []

PAUL MERRITT: I think that's what we really started out at when we were talking about here we're leaving this to be IV-D, so we're just saying here IV-D so we just basically are leaving... []

VICKY JOHNSON: You just want that entirely to the discretion of the court. []

WILLIAM MACKENZIE: I think that's a better way to go. I'm not a judge though, so if... []

VICKY JOHNSON: Well, I think what we'd do is we'd look at this part of the law. And so what I'm thinking is maybe we had it right to start with by saying we look at the proportionate income of the parties, as shown on the child support guidelines, and then limit it, for those people that are in difficult economic circumstances, to that 3 percent of their annual. And then we've got everybody covered and we've got a formula that's fair to those people that don't have the money to pay 80 percent of the birthing expenses if they can't afford it. []

PAUL MERRITT: So rather than even put it in this section, leave it like Bill had it originally as a separate, under birthing expenses, without tying it specifically to IV-D. []

VICKY JOHNSON: IV-D cases. Does that makes sense? []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

BYRON VAN PATTEN: Obviously, from time... []

TROY REINERS: I like the idea. []

BYRON VAN PATTEN: Obviously, from time to time, people who get these types of judgments come to us to enforce them and, because they weren't established under the guidelines and their income was not considered in establishing that amount, we would be barred from enforcing that judgment unless there's...unless this provision applied to everybody in some way, shape, matter or form in establishing it. []

VICKY JOHNSON: You're saying that proposal wouldn't cover that contingency if we have this limit on the...? []

BYRON VAN PATTEN: Yeah, if the parent's income is considered in establishing the judgment, it's addressed under the guidelines, we should be able to get that by the feds for IV-D purposes. []

WILLIAM MACKENZIE: Do you, Byron, do you foresee the state having to collect private birthing expenses that was not state then? I mean is that something... []

BYRON VAN PATTEN: It would be...you know, it's possible. We don't...we obviously don't establish spousal support judgments but we enforce upon them if they apply for IV-D services if it's associated with a child support judgment. If this would be associated with a child support judgment, I would presume we would enforce it. []

WILLIAM MACKENZIE: But if the, say, a custodial parent in private paternity got a judgment for \$5,000 in birthing expenses against the father, and then turned around and files for IV-D services, do you foresee that the IV-D office would have to enforce that part of the order? []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

BYRON VAN PATTEN: If it was established early... []

WILLIAM MACKENZIE: Per the guidelines? []

BYRON VAN PATTEN: ...per the guidelines. []

WILLIAM MACKENZIE: Okay. I think that's a whole nother issue but... []

BYRON VAN PATTEN: It is. I mean they...obviously, what prompted my recommendation to the committee was not that. It was looking at just strictly those individuals that we're paying...the Medicaid pays the birthing expense. And (inaudible) Senator Gay was very much interested in recouping the Medicaid costs paid by the department. So I guess from my perspective, I'm wholly interested in recouping Medicaid costs. []

STACEY CONROY: So where did we arrive at? Did we want to have it out separate or under the healthcare? []

WILLIAM MACKENZIE: I personally think it ought to go into 4-215. []

STACEY CONROY: And just address the IV-D cases. []

WILLIAM MACKENZIE: And state... []

STACEY CONROY: State, say, "Birth expenses paid by the state... []

WILLIAM MACKENZIE: Right, paid by the state of Nebraska. []

STACEY CONROY: ...will be split equally between the parties." And then our next sentence is... []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

PAUL MERRITT: It's the same sentence, I think, the way he had it. []

WILLIAM MACKENZIE: Yes, it's all one sentence. Do you want me to repeat it or...? []

STACEY CONROY: Okay, can you repeat it... []

WILLIAM MACKENZIE: I'll try. []

STACEY CONROY: ...so we can... []

WILLIAM MACKENZIE: "Birthing expenses paid by the state of Nebraska are to be shared evenly between the parties, except that the judgment for birthing cost reimbursement shall be capped at an amount equal to 3 percent of the obligated parent's monthly net income projected over 60 months." []

STACEY CONROY: We're taking that part out. []

WILLIAM MACKENZIE: I don't know. And then a comma, "unless good cause it shown why said cap should not apply." []

BYRON VAN PATTEN: Maybe not projected over 60 months, Bill, multiplied by 60. []

WILLIAM MACKENZIE: Okay. All right. []

BYRON VAN PATTEN: And then it takes out the whole projection of future (inaudible). []

WILLIAM MACKENZIE: Multiplied by 60 months, okay. []

BYRON VAN PATTEN: We're not really projecting the income in the future. We're just

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

using that as a multiplier. []

WILLIAM MACKENZIE: Okay. Okay. []

BYRON VAN PATTEN: Or 60, 36,... []

WILLIAM MACKENZIE: All right. []

BYRON VAN PATTEN: ...whatever figure the committee would... []

WILLIAM MACKENZIE: Okay. []

PAUL MERRITT: Would you read that once more, Bill? []

WILLIAM MACKENZIE: Sure. "Birthing expenses paid by the state of Nebraska are to be shared evenly between the parties, except that the judgment for birthing cost reimbursement shall be capped at an amount equal to 3 percent of the obligated parent's monthly net income multiplied by 60 months, unless good cause is shown why said cap should not apply." []

PAUL MERRITT: I think it's going to have to say "or one-half of the actual birthing expenses, whichever is less." []

WILLIAM MACKENZIE: Okay. []

PAUL MERRITT: Because if you take, for example, if you take \$75 and multiply it by 60, you end up with 4,500 bucks. []

WILLIAM MACKENZIE: Okay, and you don't...sure. Sure. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

PAUL MERRITT: And you don't want to, obviously, have a judgment for 4,500 bucks when \$2,500 is half of it. []

WILLIAM MACKENZIE: Okay. []

PAUL MERRITT: And that may be why Wisconsin uses 36 because at least under that example 36 months is \$2,600, which is closer to what Byron says is half of what normal (inaudible). Someplace you want to have in there "whichever is" not greater, "whichever is less." []

VICKY JOHNSON: So do you want to leave out any guidance as to what we do for private cases? []

WILLIAM MACKENZIE: Well, yeah, if we leave...if we put this in 4-215, that's a IV-D section of the guidelines. []

VICKY JOHNSON: Well, I understand that, but my question is, do you want to leave out any section (inaudible) private cases? []

WILLIAM MACKENZIE: I don't know if you think it should be addressed elsewhere or... []

VICKY JOHNSON: Well, I... []

WILLIAM MACKENZIE: ...extra language should be added at the end of that sentence to address... []

VICKY JOHNSON: I think that if we go back to the way you drafted it originally and craft it for both of those contingencies, I think we've got the best solution. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

WILLIAM MACKENZIE: I'm happy to look at someone else's language. []

JOHN KINNEY: Your Honor, are you concerned about the state being able to enforce those private judgments? Is that why you want (inaudible)? []

VICKY JOHNSON: No, I just...I went back to where...to your point about what do we do if it's a private case, one party has 80 percent of the income. Why are we capping that person's liability at 50 percent. Because, if we're talking about two private parties where one party paid money out and the other party has paid nothing, that doesn't seem quite fair. []

JOHN KINNEY: But in a private case, you have discretion to do almost anything, right? []

VICKY JOHNSON: Correct. But what I'm saying is that it seems to me that if we're going to decide how to apportion out birth expenses, we should have a formula for both contingencies, because otherwise it doesn't...there's no continuity between the two. I understand that there's authority to divide it any way you want, but I think the first place a lawyer is going to look when trying to figure out how to do it is to go to this paragraph on birth expenses. []

PAUL MERRITT: Okay. In that regard, under subparagraph (C) that we have right now for medical...cash medical support and healthcare costs, do we use that for private people also or is that just IV-D cases? []

WILLIAM MACKENZIE: All I ever see is IV-D. That's all I ever deal with, so... []

PAUL MERRITT: I mean I don't see anything in my private cases that I...where they come in and they talk about not to exceed 3 percent of their gross income. I mean the attorneys have just gone and they do based upon the worksheet, and yet we haven't

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

provided them with specific language on how to deal with uncovered meds. Well, I suppose we have in other places. We talked about use of proportions as long as it doesn't take them below the minimum subsistence. []

VICKY JOHNSON: What do you think, Paul? []

PAUL MERRITT: What would you propose the language to be? []

VICKY JOHNSON: Well, I think that we have two paragraphs. One of them is for private pay people and one of them is for state reimbursed cases where we're talking simply about the obligor paying back the state, limiting it to 50 percent. And then for the private pay people, we go back to the original proposal that Bill had. []

PAUL MERRITT: I don't know if arguably you don't already have that, even with the language that Bill was using, by the fact that you have the rebuttable presumption. []

VICKY JOHNSON: Okay. []

PAUL MERRITT: That language of the rebuttable presumption in there, in a private case you could at least argue this is what they do in IV-D cases but this isn't a IV-D case. This is a private case and this person is making \$100,000 a year and even presuming, Judge, that this does apply,... []

VICKY JOHNSON: So they would... []

PAUL MERRITT: ...that's the reason that we should deviate from it. []

VICKY JOHNSON: So you're arguing that they would come in and just say this is a deviation, it clearly doesn't apply to this case. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

PAUL MERRITT: I think that if they were going to look to this language to try and say this is why I should be capped at 3 percent, the other side should be able to say, presuming for purposes of argument this does apply, then I'm going to give you a good reason, Judge, why you should deviate from this argument. []

VICKY JOHNSON: All right, I withdraw my objection. []

PAUL MERRITT: I mean I don't think we're going to see very much of it, but I think that at least an attorney could make that argument. I don't know. []

STACEY CONROY: Then where are we at? Can we decide that we want to have this recommendation and work out the language in the final draft over the next few days over e-mail? []

PAUL MERRITT: I think we're okay on Bill's language, what he said, as modified. []

STACEY CONROY: Okay. []

WILLIAM MACKENZIE: I was going to print it out more logically...or more legibly than what I've got here and give it to you. []

STACEY CONROY: Okay. Let's move on to joint physical custody. I think Judge Merritt had an issue he wanted to bring up about this. This is one that we... []

PAUL MERRITT: Oh. []

STACEY CONROY: ...it was brought by a private attorney in a conversation with Bill, Number 4 on our sheet, about the... []

WILLIAM MACKENZIE: Oh. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

STACEY CONROY: ...clothing and extracurricular activities. []

WILLIAM MACKENZIE: Yeah, that came from me...well, it came to me from members of the private bar who contacted me in response to my request for input from the bar for my work here, indicating...indication was that if the word "may" was changed to "shall," they were under the belief that that would reduce a lot of resistance between or amongst some of the parents to a joint custody agreement or arrangement in their case. He thought that what he was seeing was that when the courts are not ordering a proportionate share of those expenses be shared, if he can't tell his client, well, you know, your husband is going to have to pay his share of those expenses as part of a joint custody arrangement, if he can't sell that to her then she's not going to agree to joint custody and that's the only reason she's not going to agree to a joint custody is because she doesn't see what's in it for her. But if he can say, well, the guidelines will require the court to order, you know, your soon-to-be ex to pay his share, his proportionate share of those expenses, it will calm down his client and clients and he sees it, it will speed resolution of cases. So I pass it on. It wasn't one that originated with me. I passed it on from the bar, from the LISTSERV. And, Judge, you have some concerns about that or...? []

PAUL MERRITT: I dislike when the more and more that we are told that we shall do something. Sometimes you need some discretion. Obviously, the Legislature tells us all the time "shall" and Supreme Court does, too, in their guidelines. And if that's what they deem is appropriate, fine. It just seems to me, number one, in this scenario that Bill is talking about, if that's what's keeping this person from entering into an agreement, then I'm going to bet that that changing of that word is probably not going to change that person's position with respect to...he or she will find another word somewhere. What I look at this as is when there's a dispute and it comes before the judge and he or she is going to decide it, what do they have to do, not when the parties are agreeing. If they're agreeing, judges don't even see these kinds of things. I mean it's covered in the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

agreements that they have when you see joint legal and physical custody. So it's what the judge has to do. And I just...we put in these words with respect to meds a few years ago and with respect to clothing here, "reasonable and necessary," and it's one thing is for meds, you can get that figured out in meds. Doctors, if you have to, can come in and say something, what's reasonable and necessary. I'm not sure it's as easy to ascertain with respect to clothing, sporting activities. I mean anybody involved in those areas know that you see all kinds of parents disagreeing as what's an appropriate sporting activity or what clothes are the right clothes or should be the clothes. Again, that's just my part. []

VICKY JOHNSON: I agree. Let's not give them more fuel to fight with. []

PAUL MERRITT: I mean practical... []

JOHN KINNEY: I sort of disagree but I think it might be just a personal experience. And I'll give you my thought and that is that by putting in the word "shall," you're recognizing the economics that are behind the joint physical custody calculation, and those clothing and extracurricular activities ought to be allocated between the parties because of the sharp reduction in child support for what is traditionally the custodial parent. And what we find, and I think we talked about this four years ago, is when there's no enforcement mechanism, you know, have an arm of the government to enforce a financial obligation, it becomes very difficult for the parties to agree on it, for checks to be cut, that sort of thing. By putting in the word "shall" I don't think you're taking away...the words "may" and "shall," the only thing that's going to shift is who starts the argument. With the word "may" in there, you know, we're going to be having, you know, basically moms or the traditional custodial parent coming in and saying, hey, I really think that you ought to pay for clothing and extracurricular activities. Then if you make it "shall," Dad is going to be saying, well, that's not reasonable, I'm not going to pay for Gap clothing when we could go to J.C. Penney. But the argument is still going to be there. You're not going to change really anything other than somebody is going to be focusing on "reasonable and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

necessary" in one argument and then, if you use the word "may," they're going to be focusing on I want clothing and extracurricular activity expenses to be shared in the order. And I don't know if I'm making myself clear, but I just...and I said this four years ago, I think that when you take the child support numbers and you...and we did some work four years ago with that 1.5 multiplier to make it less austere, but when you see those numbers drop the way they are and then one of the parents who's sharing physical custody is paying for all of the clothing and all of the extracurricular activities, that just seems inequitable to me. And so I've always been a fan of the word "shall," but I understand the position of the court that you folks feel like it's going to be more of a recipe for argument by putting "shall" in there than it is otherwise and, you know... []

PAUL MERRITT: It seems to me, if the recommendation is to put "shall" in there, then "as determined by the court" probably comes out. []

JOHN KINNEY: But doesn't the word "shall" just mean that it becomes a rebuttable presumption and you don't have to put it in there if somebody rebuts it? []

PAUL MERRITT: I think all the guidelines are rebuttable presumption, but if you're putting "shall" in there, that expenditures shall be allocated between the parties, not to exceed...but not to exceed the proportions of...I mean, what's the judge allocating I guess? When it was "may" I could see what the judge is allocating. []

JOHN KINNEY: Well, you may have a case where there's already some determination that a child is involved in the answer, some very...cheerleading or some very expensive activity, and a court may weigh in on that and say, look, I'm going to have you share these expenses but I'm going to cap them a certain way. Extracurricular activities is a pretty broad category. I've had courts that allocated out I'm going to allow you...I'm going to order you folks to share sports activities but not cultural activities; I'm going to order you to share this but not this. You know, that would be the only thing I could say in response to that. But I agree with you, the word "shall" sort of does take away the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

discretion. []

WILLIAM MACKENZIE: Would it help to add the word "shall" as a rebuttable presumption, realizing all the guidelines are, but give you a little wiggle room there? []

PAUL MERRITT: Well, again, to me, what the rebuttable presumption does did not create wiggle room for us. It lets the attorneys know that we are mandated to do it unless they can present evidence... []

WILLIAM MACKENZIE: Right. []

PAUL MERRITT: ...to show why we shouldn't do it. []

WILLIAM MACKENZIE: Right. So it gives everybody a little wiggle room because they can make a pitch to you why it shouldn't be done. But for that pitch being made, it would be done. []

JOHN KINNEY: Let me just ask this question and I think it's a legitimate fear. Are we concerned that if we put the word "shall" in there we're just creating another layer of orders to show cause for people to come in and say, I'm paying for all these expenses and my ex is not helping me with their percentage? Because I understand that and there's too many contempt actions as it is, and if this is going to add fuel to the fire of contempt actions, you know, I'm willing to consider that that would be not a good thing. []

PAUL MERRITT: I don't think that, you know, and I've not discussed this with any judge so I don't know how any judge is going to approach it. This is when there is joint legal physical custody and I presume that it's a contested case, because if it wasn't contested I wouldn't be worried about it. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

JOHN KINNEY: Right. []

PAUL MERRITT: And so if you're mandating me certain things I have to do in a joint...when you're asking for joint physical custody, are you limiting how I'm going to work at this? If you're saying that I have to do certain things if I award joint physical custody, is that going to be something that may dampen my consideration of that as an option? And I'm not saying it would. I'm just saying I'm trying to throw this out because, again, this is not where the parties agree, because if the parties agree I never see it. This is what you're saying is that, "When a specific provision for joint physical custody is ordered," I assume what we're talking about here is then when it's awarded when...again, when it's contested, because otherwise the parties would have agreed and they would have had these things...maybe they won't. Maybe they won't have it covered and so it does show up into a contempt. But I don't see how you can be found to be in contempt of court unless you've been specifically told to do something. And so at that time maybe what the attorney does is says, okay, Judge, now you're required to...you couldn't find them in contempt but under this section of the statute, when there was a contempt proceeding, you can modify it, now modify it and allocate it. Some of these things get so convoluted when you try to think them out, the things that are never going to happen, but you think what's the worst case scenario. But I don't see this as being something that I'm concerned about for contempt. I don't know if... []

VICKY JOHNSON: I can't see how it comes up. []

JOHN KINNEY: Oh, I was just thinking that if you allocate the extracurricular activities between the parties and one parent just pays 100 percent of them but keeps track of it for two or three years and then keeps asking the other parent to pay their percentage share, that that might be another...I see in my practice a lot of contempts on day care and uninsured meds and maybe... []

VICKY JOHNSON: Sure, but that's something that's been set already. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

JOHN KINNEY: Well, I'm saying by putting in the word "shall" maybe we're...because those things are "shalls" (inaudible). []

PAUL MERRITT: Well, I think if you set...I think if we had to set it... []

VICKY JOHNSON: That's in your order. That's in your order. []

PAUL MERRITT: ...then you're right, you're setting up more avenues for further contempt proceedings. But to me that's not the answer. That's not the reason to not do it. To me the reason to do it is do we need this. Is there a reason why we need it? If we do and contempt proceedings are a consequence of it, so be it. Question is, do we need to be doing this, changing this from discretionary to mandatory? []

JOHN KINNEY: And I would just submit to Your Honor that if you put the word "shall" in there, a lot more of the agreements are going to have an allocation of clothing and extracurricular activities because the lawyers are going to say, hey, it says "shall" and we really need to put that into our agreement. []

PAUL MERRITT: You know and if that's the case and if everybody thinks that that's worthwhile, and I'm not saying it's not, then I'm okay with it. At least again I didn't hear the rationale for it before and that may be good rationale for it, to get the attorneys and their clients to establish these allocations. []

VICKY JOHNSON: Well, just take out "as determined by the court." []

WILLIAM MACKENZIE: Yeah. []

VICKY JOHNSON: I mean we don't want to determine that. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

WILLIAM MACKENZIE: Right. []

VICKY JOHNSON: We're not going to determine that if that's the sole thing that's left to decide. If the parties want to decide that, that's...you know, we don't care about that. []

_____: Yeah. []

WILLIAM MACKENZIE: "As determined by the court," is that necessary language? []

VICKY JOHNSON: Yeah, that's just another obligation that they have to figure out as part of their agreement. But take out the "as determined by the court." []

STACEY CONROY: Is this something that we're about ready to vote on? I think Judge Merritt has to get going. []

PAUL MERRITT: I do shortly here, yeah. []

WILLIAM MACKENZIE: Judge Merritt, do you think that that's a wise deletion to take out the "as determined by the court." []

PAUL MERRITT: And leave it as "may" or "shall"? []

WILLIAM MACKENZIE: Shall.

PAUL MERRITT: Shall, yeah, take out as determine...that's what I think. []

WILLIAM MACKENZIE: Okay. Yeah. []

PAUL MERRITT: I think if you're mandating it then you don't need to be putting in there "as determined by the court." []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

WILLIAM MACKENZIE: Well, then I would suggest that we vote on that, that language then. []

STACEY CONROY: Okay. []

WILLIAM MACKENZIE: But leave the word "shall"... []

PAUL MERRITT: Are you okay with that? []

JOHN KINNEY: Yeah. []

WILLIAM MACKENZIE: ...and take out "as determined by the court." []

PAUL MERRITT: Did you get that? []

STACEY CONROY: Yes. []

TROY REINERS: I like the "shall." []

_____: Yep. []

WILLIAM MACKENZIE: Okay. []

STACEY CONROY: All right. Go ahead. []

CHRISTINA CASE: All right. So the word "shall" and taking out "as determined by the court,"... []

WILLIAM MACKENZIE: Uh-huh. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

CHRISTINA CASE: ...Number 4. Paul Merritt. []

PAUL MERRITT: Yes. []

CHRISTINA CASE: Judge Johnson. []

VICKY JOHNSON: Yes. []

CHRISTINA CASE: Bill Mackenzie. []

WILLIAM MACKENZIE: Yes. []

CHRISTINA CASE: John Kinney. []

JOHN KINNEY: Yes. []

CHRISTINA CASE: Lori Tworek. []

LORI TWOREK: Yes. []

CHRISTINA CASE: Ron Harris. []

RON HARRIS: Yes. []

CHRISTINA CASE: Byron Van Patten. []

BYRON VAN PATTEN: Yes. []

CHRISTINA CASE: And Troy Reiners. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

TROY REINERS: Yes. []

JANICE WALKER: Are you sure I can't vote? []

STACEY CONROY: Well, we'll take...we'll take it. []

JANICE WALKER: (Laugh) Just kidding. []

STACEY CONROY: It's not going to be recorded anywhere anyway. []

JANICE WALKER: I mean I feel like I'm fully (inaudible) in all the arguments for and against in all of these things. []

CHRISTINA CASE: All right. Janice Walker. []

JANICE WALKER: Yes. []

CHRISTINA CASE: Yes? Okay. []

PAUL MERRITT: I'm am sorry. Do you still have a quorum if I leave? []

STACEY CONROY: Yes. []

PAUL MERRITT: Okay. I have a drug court graduation at 6:00 that I'm emceeing, so I have to... []

STACEY CONROY: And there weren't any other ones that were really contentious for you. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

PAUL MERRITT: Well, yeah, yeah, there is one. []

STACEY CONROY: That one at the end, the question of... []

WILLIAM MACKENZIE: Do you want to address that next then? []

STACEY CONROY: Can we just, if we can? []

WILLIAM MACKENZIE: Actual...the actually being paid on child support where you get a credit for it. []

WILLIAM MACKENZIE: Oh. []

PAUL MERRITT: You talk about... []

WILLIAM MACKENZIE: Yeah, what does that mean. []

PAUL MERRITT: ...a bee...a hornet's nest. []

WILLIAM MACKENZIE: Yeah. []

PAUL MERRITT: What does it mean? Would it mean...what if a person didn't pay just this month? We don't have anything in there. I just see that as being a... []

WILLIAM MACKENZIE: I think that was taken out of Kansas. I didn't think it was maybe the best but I thought, rather than try to tinker with it, I just passed it on as is. Maybe it works there; maybe it wouldn't work here. I understand your concerns because if...I see that a lot where they have another order but they're not paying on it, and my courts still give them credit for it most of the time, I guess maybe in the hopes that they will or realization that they'll have to eventually. But you gave the example if he owes \$500 a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

month but he's only paying \$250 a month, what do you do. I guess... []

VICKY JOHNSON: Can we drop back to the rebuttable presumption part and say that if someone comes in and shows that this person has not actually been paying your child support, then you deviate? I mean is that the solution? []

WILLIAM MACKENZIE: Or you don't give them the credit for it. []

VICKY JOHNSON: Right. Exactly. []

WILLIAM MACKENZIE: Yeah. []

PAUL MERRITT: And then the question is, upon whom does the burden rest? Does it rest upon the person who wants the credit or rests on the person who says they're not entitled to it because they're not paying? I mean...but I do have to go. I'm sorry. []

WILLIAM MACKENZIE: Could we just put language in there that addresses that burden? []

PAUL MERRITT: Well, you might be able to put language in that addresses the burden, but then the question becomes--as Judge Johnson mentioned, guidance to us as judges--are you talking about they haven't paid for the last two months or are we talking about historically? I think it's a good idea in principle but how do you get...what kind of historical data? Again, we come back to historical data. Are we looking to have they paid 50 percent of it for a year? Well, at least they're paying part of it. Have they paid none for a year, two years? []

WILLIAM MACKENZIE: Could you add something like actually being paid in the previous six months or would something like that address your concerns? []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

PAUL MERRITT: That might, because I mean six months is one of the triggers that we use in the guidelines, right? Something is happened, what is it, six months and expected to continue to three months or vice versa? []

STACEY CONROY: Uh-huh, in the medical, cash medical support (inaudible). []

PAUL MERRITT: Well, and for a material change in circumstances, too, that language is used. []

STACEY CONROY: Right. []

PAUL MERRITT: So I'm sorry, I do have to go. []

WILLIAM MACKENZIE: Okay. []

STACEY CONROY: Thank you, Judge. []

PAUL MERRITT: See you over there, Vicky. []

VICKY JOHNSON: Maybe. I'll do my best. []

JOHN KINNEY: Well, if I could weigh in on that, seems to me that what happens is people change their behavior once something gets filed. []

_____: Of course they do. []

JOHN KINNEY: So all of a sudden, two or three months into the new case,... []

WILLIAM MACKENZIE: They start paying. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

JOHN KINNEY: ...they start paying. So maybe what you do is you say if the party seeking the reduction hasn't paid child support for 9 or 10 months out of the 12 months prior to the filing, and I'm not...I'm sure I'm not being real clear here, then the other party may move to have the court disregard the...what I call the interdependent calculation where you have to factor in the child support for other children. And I'm just throwing that out there, that you might want to tie it to the 12 months prior to filing the new child support action rather than any time frame after that. Because once they sit down with a lawyer, the lawyer says, hey, you're not going to get credit maybe for that child support for that other child unless you show a history of payment, then all of a sudden they start paying. And then as soon as the case is over, they stop paying again. []

VICKY JOHNSON: What if it said, "Child support previously ordered for other children, to the extent that these support obligations have been paid for the 12 months immediately prior to the filing of the instant action"? []

WILLIAM MACKENZIE: That's fine. []

VICKY JOHNSON: And then include the section about the arrearages. []

WILLIAM MACKENZIE: Could you repeat that? []

VICKY JOHNSON: "To the extent that these support obligations have been paid for the 12 months immediately prior to the filing of the instant action" or "current action" would probably be a better term. []

WILLIAM MACKENZIE: That works for me. That way you get rid of that, you know, getting religion on the courthouse steps kind of thing that we see all the time. []

JOHN KINNEY: If you paid 9 out of the last 12 months... []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

WILLIAM MACKENZIE: And you're going to prorate it. []

JOHN KINNEY: ...I mean do you... []

_____: Right. I don't know. []

JOHN KINNEY: Yeah, I don't know. I guess maybe this is one of those situations where you might want to give the judge some discretion to either...you know, if there's a history of sketchy payments during those 12 months, to give the court some discretion to either allow the deduction or not. []

SENATOR ASHFORD: Sorry, everyone. Where are we in this? []

STACEY CONROY: We're on this Number 7. []

WILLIAM MACKENZIE: We waited for you. We didn't do anything. (Laughter) []

VICKY JOHNSON: Well, you could do a couple of different things. You could say for 9 out of the 12 months, or you could let them deduct whatever it is they have actually paid and if it's half, they get half. []

WILLIAM MACKENZIE: I like, you know, that you use the 12 months and then let the court interpret what those... []

VICKY JOHNSON: Yeah, that's the best option I think. []

WILLIAM MACKENZIE: And if he's paid 9 out of 12, he gets credit for, you know, 9/12 of what he is supposed to pay in that case. Or if a court wants to interpret it differently because he says, I was in the hospital for those three months, whatever, the court can do that. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

JOHN KINNEY: As long as there's something in there that gives the court the discretion to do the reduction or not based upon that 12-month period, I'm okay with it. []

WILLIAM MACKENZIE: I think Judge Johnson's language allows enough, I hate to keep using the term wiggle room, it allows enough discretion to the court to interpret that data as it thinks is appropriate. Vote on that? []

STACEY CONROY: Sure. And you want to add discretionary language. Is that what you just said? []

WILLIAM MACKENZIE: Well, Judge Johnson, did you say "to the extent that these support obligations have been paid for the 12 months prior to the filing of the current action"? Was that...? I'm fine with that. []

VICKY JOHNSON: If you...if you're suggesting that you want to explicitly allow the court to consider that to be a rebuttable presumption or if we just want to assume the... []

STACEY CONROY: That it is because of that blanket provision. []

VICKY JOHNSON: ...because of the other language. []

STACEY CONROY: Okay. []

VICKY JOHNSON: It is rebuttably presumed that these may be deducted to the extent, blah, blah, blah. []

WILLIAM MACKENZIE: Now the last sentence in section (D) stays as put though, is that correct, "payment of child support arrearages shall not be deducted"? There's no discussion? Okay. Vote. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

CHRISTINA CASE: This is on Item 7. Senator Ashford. []

SENATOR ASHFORD: Yes. []

CHRISTINA CASE: Judge Johnson. []

VICKY JOHNSON: Yes. []

CHRISTINA CASE: Bill Mackenzie. []

WILLIAM MACKENZIE: Yes. []

CHRISTINA CASE: John Kinney. []

JOHN KINNEY: Yes. []

CHRISTINA CASE: Lori Tworek. []

LORI TWOREK: Yes. []

CHRISTINA CASE: Ron Harris. []

RON HARRIS: Yes. []

CHRISTINA CASE: Byron Van Patten. []

BYRON VAN PATTEN: Yes. []

CHRISTINA CASE: Janice Walker is (inaudible). []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

JANICE WALKER: I'm still here listening, but I'm not voting. []

CHRISTINA CASE: Okay. Troy Reiners. []

TROY REINERS: Yes. []

CHRISTINA CASE: 8 ayes, 0 nays. []

WILLIAM MACKENZIE: Before you move on, I think we skipped 5 and 6, and I don't think there was any real hot issues on either of those, but I think we probably should vote on those, shouldn't we? []

STACEY CONROY: Yes, we should. []

SENATOR ASHFORD: Why don't you put them together, 5 and 6, and we'll just vote on those. []

CHRISTINA CASE: All right, Item 5 and 6. Senator Ashford. []

SENATOR ASHFORD: Yes. []

CHRISTINA CASE: Judge Johnson. []

VICKY JOHNSON: Yes. []

CHRISTINA CASE: Bill Mackenzie. []

WILLIAM MACKENZIE: Yes. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

CHRISTINA CASE: John Kinney. []

JOHN KINNEY: Yes. []

CHRISTINA CASE: Lori Tworek. []

LORI TWOREK: Yes. []

CHRISTINA CASE: Ron Harris. []

RON HARRIS: Yes. []

CHRISTINA CASE: Byron Van Patten. []

BYRON VAN PATTEN: Yes. []

CHRISTINA CASE: Troy Reiners. []

TROY REINERS: Yes. []

CHRISTINA CASE: 8 ayes and 0 nays. []

WILLIAM MACKENZIE: I don't think there's any more discussion on 8 either. []

SENATOR ASHFORD: That was just rounding to the nearest. That was very technical, I remember discussion. How about 9? []

WILLIAM MACKENZIE: Judge Merritt made I think a wise observation indicating that he thought the word "parties" in that new language should be changed to "parents" just to clarify that if there's a third party that has custody of the child, they're not going to be... []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

SENATOR ASHFORD: Okay. []

WILLIAM MACKENZIE: ...ordered to pay, just the other two. []

SENATOR ASHFORD: Okay. []

WILLIAM MACKENZIE: And I agree with him on that. []

JANICE WALKER: Would you say that again? Are you saying the court shall order the parents to pay? []

WILLIAM MACKENZIE: Yes. []

SENATOR ASHFORD: The parents, not the parties. []

JANICE WALKER: Okay. []

SENATOR ASHFORD: Okay. Anything else on that one, Bill? []

WILLIAM MACKENZIE: I don't have anything else. []

SENATOR ASHFORD: Call the roll. []

CHRISTINA CASE: Senator Ashford. []

SENATOR ASHFORD: Yes. []

CHRISTINA CASE: Judge Johnson. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

VICKY JOHNSON: Yes. []

CHRISTINA CASE: Bill Mackenzie. []

WILLIAM MACKENZIE: Yes. []

CHRISTINA CASE: John Kinney. []

JOHN KINNEY: Yes. []

CHRISTINA CASE: Lori Tworek. []

LORI TWOREK: Yes. []

CHRISTINA CASE: Ron Harris. []

RON HARRIS: Yes. []

CHRISTINA CASE: Byron Van Patten. []

BYRON VAN PATTEN: Yes. []

CHRISTINA CASE: Troy Reiners. []

TROY REINERS: Yes. []

CHRISTINA CASE: 8 ayes and no nays. []

STACEY CONROY: We didn't vote on Number 3 so... []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

WILLIAM MACKENZIE: Oh. []

STACEY CONROY: ...we resolved it but we didn't vote on it, medical support reimbursement. []

WILLIAM MACKENZIE: Well, I suppose we need to vote. []

STACEY CONROY: Let's vote. []

SENATOR ASHFORD: Go ahead. []

CHRISTINA CASE: Senator Ashford. []

SENATOR ASHFORD: Yes. []

CHRISTINA CASE: Judge Johnson. []

VICKY JOHNSON: Yes. []

CHRISTINA CASE: Bill Mackenzie. []

WILLIAM MACKENZIE: Yes. []

CHRISTINA CASE: John Kinney. []

JOHN KINNEY: Yes. []

CHRISTINA CASE: Lori Tworek. []

LORI TWOREK: Yes. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

CHRISTINA CASE: Ron Harris. []

RON HARRIS: Yes. []

CHRISTINA CASE: Byron Van Patten. []

BYRON VAN PATTEN: Yes. []

CHRISTINA CASE: Troy Reiners. []

TROY REINERS: Yes. []

SENATOR ASHFORD: Any other additions, deletions, recommendations? Okay, let's...
[]

STACEY CONROY: I will draft up a (inaudible). []

SENATOR ASHFORD: Well, wait a second. We're going to vote on the entire
package,... []

STACEY CONROY: Oh, okay. []

SENATOR ASHFORD: ...even though we voted on each individual item. []

STACEY CONROY: Okay. []

SENATOR ASHFORD: Stacey. []

STACEY CONROY: Yeah, I just...I will draft up these recommendations, as we've

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

amended them, into a report to send to both the Supreme Court and the Executive Board of the Legislature. I'll do that in the next few days and have it out to you on e-mail. We want to do this by probably the 30th of December because the 31st is a nonworking day for us. []

SENATOR ASHFORD: Let's do this. Let's vote on the entire package, even though we voted on each section, and when everyone gets their final report and if there are suggestions or deletions, additions, whatever, get back to Stacey. And then if it looks like it's material and we have to revote again, we can, but otherwise we'll just...because we need to get this done by the 31st and we are close to it. []

STACEY CONROY: Yeah. []

SENATOR ASHFORD: Okay. Let's... []

JANICE WALKER: Senator Ashford, this is Janice. I didn't hear for sure. Did Stacey say this will be agreed upon by the end of this month but submitted to the Supreme Court in January? I'm just wondering about the logistics of that. []

SENATOR ASHFORD: Well, yeah, that's right. As soon as the report is done and it goes, I want to make sure the committee has one more look at it and then we'll submit it to the Supreme Court after that. It may be before the end of the year, it may not be. []

JANICE WALKER: Okay. []

STACEY CONROY: Janice, this is Stacey. I plan to have it to the Supreme Court and the Exec Board by the 30th of January. I hope to have it out... []

SENATOR ASHFORD: Of December probably. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

STACEY CONROY: I'm sorry, of December. I hope to have this report out to the commission members by this Friday. []

JANICE WALKER: Okay. That's great. Thank you. []

SENATOR ASHFORD: All right. Thanks. Let's have a roll call on the entire package. []

CHRISTINA CASE: Senator Ashford. []

SENATOR ASHFORD: Yes. []

CHRISTINA CASE: Judge Johnson. []

VICKY JOHNSON: Yes. []

CHRISTINA CASE: Bill Mackenzie. []

WILLIAM MACKENZIE: Yes. []

CHRISTINA CASE: John Kinney. []

JOHN KINNEY: Yes. []

CHRISTINA CASE: Lori Tworek. []

LORI TWOREK: Yes. []

CHRISTINA CASE: Ron Harris. []

RON HARRIS: Yes. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Child Support Commission
December 14, 2010

CHRISTINA CASE: Byron Van Patten. []

BYRON VAN PATTEN: Yes. []

CHRISTINA CASE: Troy Reiners. []

TROY REINERS: Yes. []

CHRISTINA CASE: 8 ayes and 0 nays. []

SENATOR ASHFORD: Thank you all very much. This is public service so I really appreciate it. And I know it's getting late and we've met several times, but I do appreciate it, all your hard work. Thank you. []

WILLIAM MACKENZIE: Thank you. []

VICKY JOHNSON: Thank you. []