



Assure that child support laws protect the best interests of children

**Priority Leader: Jack Lightfoot
Child and Family Services**

Issue Overview

Divorce laws and practice have changed markedly in recent years. More parents are maintaining healthy, significant contact with their children following a divorce or separation; the divorce law itself was changed in 2005 to encourage more parents to arrive at their own parenting plans, using mediation if necessary, rather than litigating differences; "parental rights and responsibilities" has replaced "custody and visitation" to better describe post-divorce relationships; and parenting plans are now required to help families create new relationships.

However, child support issues remain highly contentious. Current child support guidelines are effective in the vast majority of cases, providing consistent decisions in similar circumstances while allowing the courts flexibility to deviate from the guidelines when the unique circumstances of a case require it. However, the guidelines and laws provide limited guidance for the courts in determining child support amounts in cases where parents share equal, or approximately equal residential responsibility. Further legislative action had been awaiting an economic study on child support, completed by a team of researchers from UNH and released in March, 2009¹,

The report revealed this and other growing disconnects between the current reality and NH's child support laws. Current law places a cap on child care expenses that are used as part of the child support calculation, limiting those expenses to \$5,000 for one child and \$9,000 for two children. Furthermore, child care is an allowable expense only if it is work-related, excluding education and training. It is common knowledge that one cannot obtain child care for \$100/week and a bi-annual market rate survey done for the state documents the absurdity of this cap.²

Finally, the report recommends that the state recognize that a parent who cannot support him or herself, is unlikely to be able to make regular child support payments. Current law mandates that the obligation to pay more than the minimum child support order begins when the parent makes more than 100% of poverty (\$10,830 for a single individual). In contrast, the 2006 Livable Wage study documented it takes over \$20,000 to support one individual.³

Over 2,500 families with minor children were divorced in 2008.⁴

Proposed Solution

We propose legislation to create two new "categories" of child support orders. In cases where the parents share equal or nearly equal residential responsibility (defined as 165-183 overnights/year), child support would be derived by calculating what each parent would pay in support if that parent were the payer. The **parent** with the higher child support payment would pay the difference between that amount and the amount that would have been paid by the other parent. To avoid a "cliff effect" that would lead to a substantial reduction in support payments in going from 164 to 165 overnights, a slope would be created for situations involving 126-164 overnights. We also propose legislation to increase the self support reserve from 100% of poverty to 115% of poverty, to remove the cap on child care expenses and to clarify that education and training needs also qualify for deductions of child care expenses.

Call to Action

Child and Family Services will be joined by the NH Coalition Against Domestic and Sexual Violence and a bi-partisan, cross-section group of legislators who have been working on the issue for several months. Of note is that individuals who in the past have been on opposite sides of this issue have come together to support legislation arising from the March, 2009 study.

¹ 2009 NH Child Support Guidelines Review and Recommendations

(<http://dhhs.nh.gov/DHHS/DCSS/guidelines.htm>)

² Final Report of the NH Early Care and Education Market Rate Survey for 2007

(<http://www.dhhs.nh.gov/DHHS/CDB/LIBRARY/data-statistical+report/mkt-survey.htm>)

³ NH's Basic Needs and Livable Wage 2006

(http://www.nccouncil.org/pdf/nh_livable_wage_report_06.pdf)

⁴ NH Vital Records Information Network

(<http://nhvrinweb.sos.nh.gov/>)