Revised: March 30, 2006

Advisory Committee on Child Support Guidelines and Enforcement

March 31, 2006 Agenda Items: Comparisons of PSI and Mark Rogers' Recommendations

March 31, 2006 Agenda Item	PSI Recommendation	Mark Rogers' Recommendation (from p. 6 of his report)	Considerations	Treatment in Other States	Impact on Order Amounts
a. Do we wish to continue to use the Income Shares Model? If not, which model?	PSI believes this is a state decision, not a technical issue	Cost Shares or adjusted Income Shares	♦ Recent MN & GA legislation proposing Cost Shares failed. Instead, MN & GA both adopted Income Shares. ♦ 1984-87 National Guidelines Panel recommended Income Shares or Melson formula ♦ See <u>Family Law Quarterly</u> Article (Biernart & Beld 2001) comparing Income Shares, Cost Shares & Melson (it is in Committee package)	<u>Income Shares</u>: 34 states <u>% of obligor income</u>: 12 states <u>Melson formula</u>: 3 states <u>Hybrid (Inc Shrs & % of income)</u>: 2 states <u>Cost Shares</u>: 0 states	Cost Shares will result in substantial **<u>decreases</u>**
b. Do we wish to have our child support calculations by the trial courts based on gross income or net income?	PSI's perspective is that this is a state decision that should be made by weighing the pros & cons.	Presumptively share the child-related tax benefits or offset them in the award calculation	From experiences of other states <u>Net Income</u> PRO: uses parents' actual available income CON: paystubs, tax returns not always well kept. States with net-income guidelines tend to develop automated tax simulation programs. <u>Gross Income</u> PROs: (i) discovery of gross income easier than after-tax income; (ii) similarly situated NCPs with equal incomes but different tax consequences (i.e., due to remarriage, mortgage interest) treated the same. CON: confusion and misperceptions about the child-related tax benefits	<u>Gross Income</u>: 28 states <u>Net Income:</u> 23 states (but many have standardized formulas for converting gross income to net income)	Difference between gross & net is **<u>negligible</u>** Rogers' recommendation results in **<u>decreases</u>**
c. Do we agree with the child support obligation dollar amounts in the proposed child support tables? Should they be lower? Higher? Should the obligation dollar	♦ Schedule should be updated using more current data ♦ PSI schedule is based on the most current & authoritative estimates of child-rearing expenditures	♦ Schedule should be updated using more current data ♦ PSI schedule needs to be adjusted for second household	♦ **<u>PSI and Rogers agree</u>** that schedule needs to be updated using more current data. ♦ PSI and Rogers disagree about the second household cost adjustment. ♦ Rogers' Income Share schedule adjusted for second families is on top of the schedule PSI already adjusted for Alabama income. This lowers support too much. In his March 2004 presentation, Rogers suggested the second family adjustment as an alternative to PSI's	All states guidelines based on economic evidence rely on estimates of child-rearing expenditures in intact families.	Both schedules result in **<u>decreases</u>** and **<u>increases</u>** Rogers schedule has more **<u>decreases</u>**

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amounts in the existing tables be changed?	available in 2004. It is adjusted for Alabama income. ♦ In March 2006, Dr. Betson developed new estimates of child-rearing expenditures from 1998-2004 data for Oregon. With the exception of one child, the amounts have increased somewhat, particularly at higher incomes.	costs	adjustment for Alabama income. ♦ The application of the second family adjustment on top of the PSI realigned schedule is of further concern because of the 1993 University of Alabama study that concluded that the PSI method over-adjusted for Alabama's low income (see Professor Formby's report). ♦ Rogers (page 9) assumes that there is a need for a second household adjustment because there are "two, single-parent families" but according to actual visitation patterns (see in the PSI letter), the children are not always being raised in two households. ♦ The premise of the second family adjustment is that the parent's right to a higher standard of living should take precedent over the child's standard of living (Rogers, page 10). ♦ On page 10, Rogers uses an analogy to a second mortgage/rent to justify the second family adjustment. However, it is not clear whether this comports with the housing expenses included/excluded in the Rothbarth estimates, which forms the basis of both the PSI and the Rogers' adjusted Income Shares schedule. The Rothbarth estimates do not include mortgage principal because that is a form of savings. The home can be sold after the children emancipate. The Rothbarth estimates do, however, include mortgage interest, rent (for families who rent), utilities, and other housing expenses. If the IRS includes mortgage payments, the adjustment is too large.		

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d. Do we wish to incorporate a Self Support Reserve for low income parents into our calculations? On the table? With a shaded area? Off the table?	Any of these methods are acceptable.	Adopt a self-support calculation that includes the standard Income shares calculation and the obligor-only calculation.	♦ <u>**PSI and Rogers agree**</u> that the guidelines should include a self support reserve (i.e., adjustment for low-income obligors). ♦ One caveat to this agreement is that PSI recommends not applying the self support reserve to Cost Shares since the Cost Shares model already disregards half of each parent's income in the calculation of child support. It does this by taking the parents' average income, rather than the parents' total income. ♦ Current poverty guidelines (2006) for 1 person = $817/month ♦ There is an overwhelming abundance of new research indicating that many noncustodial parents in public assistance/former public assistance cases have earning capacities similar to their custodial-parent counterparts.	♦ About 42 states have an adjustment ♦ About 33 states have a self support reserve test ♦ Self support reserve is typically in the $600-$700 range	<u>**Decreases**</u> to order amounts
e. How do we wish to deal with Shared Parenting Time? At what level of Parenting Time should this begin?	PSI initially recommended any of the shared-parenting time adjustments shown in the report (e.g., Arizona, Indiana, Colorado cross-credit), but based on new information only recommends the cross credit.	Adopt the Arizona parenting time adjustment.	♦ <u>**PSI and Rogers agree**</u> that the guidelines should include a shared parenting time adjustment. ♦ PSI no longer believes the AZ adjustment is a viable option given difficulties Oregon has faced. Oregon adopted the AZ adjustment in 2003, but starts it at 20% timesharing. They find there is more parental conflict over the timesharing arrangement and actual timesharing is less than the amount used in the determination of the support award amount.	♦ 35 states specify a formula ♦ Most states set threshold at 20-35% time sharing (73 – 128 overnights) ♦ A few states start at 2-4 overnights (NJ, AZ) ♦ 19 states use cross-credit formula ♦ AZ, OR, NJ & IN use formulas that adjust for variable expenses (e.g., food) at low levels of timesharing,	<u>**Decreases**</u> to order amounts

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				then duplicated expenses (e.g., housing) at higher levels of timesharing.	
F. Other Issues (only Issues 1, 3 and 4 were addressed by PSI and/or Rogers).					
f.1 Subsequently-Born Children	Expand the additional dependents adjustment to cover subsequent children and also consider weighing the dummy order by 75 percent	No recommendation	♦ 75% of a dummy order equalizes income available to the two sets of children	♦ Presumptive: 23 states ♦ Deviation: 18 states ♦ Most states use dummy order ♦ A few states limit adjustment to prior born children	**<u>Decreases</u>** to order amounts
f.3 Child care	No recommendation made earlier, but favor adjusting child care expenses for child care tax credit.	Add a formula to take into account child care (day care) tax credits when day care is an add-on	♦ **<u>PSI and Rogers agree</u>** that the child care tax credit should be addressed in the guidelines. ♦ PSI does not favor any one particular methodology, although PSI would like to point out that it is an error to assume all parents are eligible for the child care tax credit. Many custodial parents are low income and do not have sufficient tax liability to be eligible for a tax credit.	♦ State-by-state count not available. ♦ States that consider child care tax credit: AZ, SC, WV & others ♦ SC & WV provide an income threshold in which a custodial parent has sufficient tax liability for a tax credit.	**<u>Decreases</u>** to order amounts
f.4 Extraordinary Medical Expenses	Include $250 per year per child	Include $250 per year per child	♦ **<u>PSI and Rogers agree</u>**. ♦ $250 per year per child approximates average out-of-pocket medical expenses.	Most states that have updated recently use the $250 assumption.	**<u>Increases</u>** to order amounts