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FATHERS'&CHILDREN'S EQUALITY-NJ

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New Child Support Guidelines

by Jeffrey Golden

The New Jersey Supreme Court Family Practice Committee has released a report on financial child support guidelines, which includes a proposal for new guidelines. They are presented as a proposed amendment to Rule 5:6A and Appendix IX of the New Jersey Court Rules, and will probably become effective this summer.

The present child support guidelines were adopted in 1986. FACE's position has long been that they are unfair and unrealistic because:

They are based upon obsolete and very likely incorrect data on the cost of raising children.

They can only be accurately applied in cases with combined family income up to $52,000 per year. There are no procedures for how to apply them to higher income levels.

They make no allowance for the non-residential parent to support him/herself.

They do not take into consideration the non-residential parent's expenses for alimony or other forms of support, and do not consider this as income for the recipient.

They do not take into consideration the non-residential parent's expenses for the children during his/her parenting time.

There are no procedures for calculating support in shared or split parenting situations.

They are unclear on how expenses for children's health care or education or the residential parent's work-related child care expenses should be allocated between the parents.

There are no provisions for unusual living arrangements for children, such as when the residential parent has no housing expense.

The non-residential parent gets no credit for the residential parent's tax advantages (i.e., dependant exemptions, earned income credit, child care credit, etc.).

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PRESIDENT'S MESSAGE

What a difference a day make$

by Michael E. Fox

The magic number is 183. Only the parent who has 183 overnights per year with the child(ren) may claim Head of Household on their Federal Income Tax return. I have read many Property Settlement agreements which purport to provide equality by alternating the exemption credit. Never discussed is the built in advantage that only the "183" parent claims. It can't be alternated because of the 183 day requirement.

Example One: Use the following assumptions for a residential (R) and non-residential (NR) parent. Each parent's adjusted gross income is $30,000. Each claim the standard deduction. Each claims one dependency deduction (his/her own). Use 1995 tax rates.

The tax for the R parent at Head of Household rate is $3,266.00. The tax for the NR at Single rate is $3,580.00, an advantage for R of the difference equaling $314.00.

Example Two: Now let's change the assumptions by adding a one child dependency deduction. Give the deduction to NR. NR's tax is now $3169.00. This shifts the advantage to NR by $97.00. So to be fair, the R parent should only receive the

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FACE IS A SELF-HELP GROUP. WE ARE NOT LAWYERS. WE DO NOT GIVE LEGAL ADVICE. WE CAN NOT AND DO NOT REPRESENT ANYONE IN COURT. If you find a competent, capable lawyer who fully understands your and your children's rights, who is willing and able to tenaciously fight to secure those rights, who completely understands the facts in your case, and who you can afford to pay, you should hire him/her. If you can not find or afford to pay such a lawyer, we urge you to seek all available resources to aid yourself in securing these rights.

Gauging Family Court in South Jersey

by Everett Simpson

"What is wrong with Family Court?" is a question frequently asked by its litigants. Moreover, nearly all of the lawyers with whom I associate through civil negligence and liability law frequently say in a disparaging way that they don't practice in Family Court.

Recently, while attending an ICLE (Institute for Continuing Legal Education) Family Law seminar, a statement was made by one of the panelists that could give an outsider some Family Court insight.

Concern was expressed that more and more cases are coming to court in which a litigant's physical injuries are presented with the appropriate expert testimony to qualify them under the Battered Woman's Syndrome. By qualifying them in this way, the usual two year statute of limitations is waived for each event, and all the events are considered together giving way to the argument that the entire series of events be considered as one continuous tort. All counts in a divorce complaint for divorce involving tort claims can be granted a jury trial on those counts only, giving way to an award of money damages.

The panelists suggested that the appropriate way to handle this was to immediately move to strike those counts. However, it was noted that there would, in all probability, come a case in the near future when a motion would not be granted and they would be stuck with a jury trial.

The panelists expressed two concerns. The obvious one certainly was where the money would come from if all the parties' assets were already being considered in equitably dividing the marital estate. But the second was interesting - that they believed they would have to retain the services of a personal injury attorney. In itself, this not surprising in order to properly assess value, but they felt they were not prepared to try a jury case and they intended to use the same personal injury attorney for his jury trial expertise.

It is a fact that in surveys of personal injury values of similar cases, the highest values were placed on cases by judges, the second highest by attorneys, and the lowest values were placed on the cases by a jury. The assumption would appear to be that more experienced individuals are more biased.

You could therefore conclude that any litigant, whether in Family, Civil or Criminal Court, could be said to be better off if his matter was litigated in front of a jury rather than any other alternative. Bringing jury trials into Family Court at any level would therefore be considered a favorable trend, at least by this writer's standard and experience.

Certain questions then arise as to the level of quality of decisions being handed down in Family Court if the lawyers don't feel they are qualified to cross-examine witnesses, accept sanctions to their client for impeachment, have their case suppressed for failure to perform required discovery within the appointed time frames, and submit jury charges to the judge that will withstand the appeal process, all of which are common for the average personal injury attorney.

Let's take a look at a sample of the quality of decisions in Family Court. In the November 6, 1995 Law Journal, it was reported that Judge Vincent Segal ruled that the mere passage of three years was sufficient to meet the changed circumstances requirement for review of IV-D support orders. Why did he do that?

Upon review of the case, it appears that the probation department took it upon itself to notify obligors to produce their financial records simply because probation wanted to see them. The obligors objected on the grounds that the governing case, Lepis v. Lepis, had requirements for changed circumstances, and that these had not been met because the recipient obligees were not pleading their case. This case has governed for 20+- years, and this was a correct position. The recipients were not pursuing the case for more money, yet Judge Segal ruled that the obligors submit their records anyway so that more money would be paid.

Why? The only answer appearing to this writer is that Family Court has reached a state of entropy, and cannot help itself! The system now notices itself, answers itself, and awards itself, with the parties being helpless bystanders! There were lawyers present, but it seems as if they weren't, other than to collect their fees!

Are the lawyers so used to this process that they have lost their confidence to be placed in an adversarial situation in front of a jury!? Perhaps we should not only bring in personal injury lawyers, but also rotate all the other judges from other courts as well, and thereby bring equity back into Family Court.

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The day after his client's divorce was final, the lawyer rushed into court waving a thick sheaf of papers.

"Your Honor, Your Honor," he cried. "I've just uncovered new evidence that requires reopening my client's case."

"New evidence?" the judge inquired. "What sort of new evidence?"

"My client still has $10,000, and I only found out about it today!"

How Men Should Handle False Allegations of Sex Abuse

by Robert B. Gidding, Esq. of the Pennsylvania and New Jersey bars

There are few things in life as reprehensible and low as one parent falsely accusing another parent of sexually abusing the children. Unfortunately, this happens too frequently in the context of a bitter child custody battle; one parent hopes to gain an advantage and cut off all contact between the other parent and the child(ren). Unfortunately, the majority of false allegations come from vindictive mothers trying to cut fathers out of children's lives.

Each state has its own child protective services law which mandates that each county have a child protective service agency. The law requires this agency to promptly investigate each allegation of child abuse, whether physical or sexual, and decide whether abuse is likely to have occurred. If the agency finds that abuse was likely to have occurred, then it enters this finding in its state-wide registry which is open to public inspection. If your name appears there, you may have difficulty obtaining jobs which involve working with children, such as coaching sports, teaching, day care, etc.

The process begins when your spouse (or a doctor or teacher or somebody who regularly sees children) reports to the agency that you sexually abused your child(ren). The agency, without making any findings, usually recommends to the court that all contact between you and the children should be cut off pending investigation, which may take up to sixty days or more.

> America may have only seven more years until the majority of children will be living in single-parent households, and when that happens, the social and psychological forces seeking to justify the choice to raise children in single-parent households will overwhelm those who are trying to re-establish two- parent households as the norm."
>
> Wade Horn, director,
> National Fatherhood Initiative,
> at National Conference of Fathers and Children, Atlanta, Georgia, October 13, 1995

The agency then interviews the children, the mother, and hopefully you and anyone else with information. It may hire a psychologist to write a report. At the end of the investigation, the agency releases one of three findings: abuse definitely occurred, substantial evidence exists that it occurred, or that abuse did not occur.

If you are falsely accused of sexual abuse, you must first fight to avoid being cut off from your children pending the investigation. You might be able to avoid this by obtaining medical records, if any, of any abuse examination of the children conducted by doctors. If that examination revealed no medical evidence of abuse, you should deliver these records to the Judge immediately and ask him/her not to cut off contact.

Once the agency begins the investigation, you should find out the name and phone number of the investigator or social worker assigned to your case. You should call him/her and set up a meeting and give your side of the story. Encourage him/her to interview people you think would vouch for you: friends, relatives, your psychotherapist, people who have seen you with the children over the years and can vouch that you have been a loving parent. If there is medical evidence of sexual abuse, you might suggest to the investigator others, like relatives or teachers, who may have been responsible for abusing your children.

All too often, the social workers at the child protective services agency will enter a finding of abuse without even speaking to the alleged perpetrator. This sounds unbelievable, but is true. You must make sure to contact the social worker even if s/he does not contact you.

If your spouse has ever threatened in the past to falsely report you for sexual abuse, you should let the investigator know this. If there are medical records which show no signs of sexual abuse, you should make sure the investigator has them.

If your spouse has in the past tried to alienate the children from you in other ways, you should tell this to the investigator. This occurs when a spouse denigrates you in front of the kids, when a spouse interferes with your visitation rights by purposely delivering the children late, when a spouse schedules activities or trips for the children during time they are supposed to be with you, if a spouse has "shopped around" for mental health professionals until she found one who would report abuse. All these are signs that the false allegations of sexual abuse merely continue the effort to alienate you from the children.

If you are newly separated and in the middle of a bitter custody battle, and if you suspect your spouse would be capable of falsely accusing you of child sexual abuse, you should not sleep in the same bed or even in the same room with your children, even if the child requests it. Many child sexual allegations center around behavior in or around the bedroom. Call a witness who can testify that you do not sleep in the same room as your child.

Finally, if you are falsely accused of child sexual abuse, you should retain an experienced lawyer right away. The lawyer will be able to gather favorable evidence, present it to the agency, and monitor the agency's investigation to make sure it is thorough and expedited. If the agency finds that you did sexually abuse your children, the lawyer will be able to advise you of your appeal rights and represent you at a hearing designed to overturn the finding.

Most important, remember that if the agency investigates and finds no abuse occurred, you should accuse your spouse of filing a false allegation during a child custody hearing before a judge. Argue that, by filing false allegations of sexual abuse, the accusing parent has mentally abused the children and tried to alienate them from you, and should therefore lose custody of the children.

This article should not be construed as legal adviceappropriate to every individual situation. No lawyer should give you legal advice until s/he has learned all the facts in your case. Legal advise could differ depending on the individual case. If you have a legal problem, you should consult an attorney.

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Is FACE Being Effective Yet? (... Part 2)

by Jeff Golden

I recently received a long distance call from a woman (who wishes to remain anonymous) who is involved in the legal reform movement in a distant state. Her interest in legal reform began when, she alleges, she was scammed out of hundreds of thousands of dollars when her parents' estate was probated in New Jersey. She feels there was gender discrimination against her because a relative, his lawyer and the judge were all part of the county "old boy" network, and this resulted in collusion to hide and dispose of assets.

Since becoming a legal reform activist, she has been particularly interested in freedom of information and gender bias in the courts, and she is on mailing lists for these issues. She had just received the "Report of the New Jersey Supreme Court Committee on Women in the Courts, 1994- 1996 Rules Cycle." In its appendix was a copy of the 4th Quarter 1994 edition of About FACE-NJ, and a newsletter and a flyer authored by two other organizations.

She very excitedly said "Congratulations! They're paying attention to you and they're afraid of you." I asked her to send me a copy of the report, which she did.

The report correctly points out that the 4th Quarter 1994 edition of About FACE-NJ "reports that the group picketed Judge Vincent D. Segal's home on Sunday, October 30, 1994. The article refers to the judge's wife and daughter by name. It contains photographs of the picketers in front of Judge Segal's home, and the judge's cars in his garage. The newsletter states that on Sunday, January 29, 1995, Super Bowl Sunday, the group will meet in Mount Laurel to demonstrate "at the home of one of our favorite judges."

The Committee on Women in the Courts is made up of eleven judges, sixteen lawyers (including Judge Segal's supporter and buddy, "Princess" Diane Cohen, Esq.), two law professors and one court administrator. 21 of them are female and 9 are male. Now that we know that the judges and lawyers are reading About FACE-NJ, we will respond to them here.

The report identifies several issues and makes recommendations concerning those issues. One issue is "Litigants in all courts, but particularly the Family Part, often misunderstand court procedure and misinterpret the need for the court to be neutral and uninvolved as gender bias or indifference. It is the experience of some of the Committee members that on occasion litigants believe they are treated unfairly because of gender. The public should be educated about the precedents, laws and rules which govern a judge's decision on contested matters."

FACE disagrees. The courts are NOT neutral, and should not be "uninvolved" in matters effecting the welfare of children. They are using a body of precedents that were mostly established early in this century, when the "tender years doctrine" (which says that mothers should get custody of children) was the defacto law of the land. Even precedents of more recent years reflect rulings by judges who were steeped in the "tender years" tradition. Although they say that what they are doing is "in the best interest of the child," the result is the same as "tender years doctrine." As long as mothers are awarded custody in 90% to 95% of all cases, one can only surmise that there IS gender bias in family court.

Another issue says "New judges who are often inexperienced in the area of Family Law are frequently assigned to the Family Part as their first assignment in their rotation through the system, and the assignment is frequently viewed by lawyers and judges as undesirable." They recommend that "New Family Part judges should ... observe sitting Family Part judges to see how different judges handle issues raised in Family Part ..." They add "Where possible, experienced and tenured judges should be a substantial component of, and assigned to, the Family Part."

NO! Don't let new judges see sitting judges at all. If the legislature is unwilling to establish a presumption of joint custody in the law, the only thing that the courts can do to eliminate this anti-male gender bias is get rid of the old, tenured, dinosaur family court judges. Replace them with young judges who have been actively involved in the upbringing of their own children, who recognize that spouses also have to work to help support the family, and who have the courage to establish new, realistic precedents for the 21st century. Don't allow these new judges to pick up the dinasaurs' bad habits.

Yet another issue is "Individual judges and the AOC [Administrative Office of the Courts] are not in a position to defend the individual members of the judiciary who occasionally are targeted for unfair, personal attacks by litigants' actions groups or other aggrieved litigants ..." They recommend that "The AOC should implement a program of providing an individual ... who shall appear in a targeted judge's court room ... as a witness to what occurs. ... [T]he person shall witness what occurs in the court room and prepare a written report of what has occurred in the courtroom, and the surrounding areas, such as picket lines."

FACE has a long tradition of court-watching. We go to court with our member-litigants and observe and act as witnesses to what the judge, lawyers and court staff do. This recommendation

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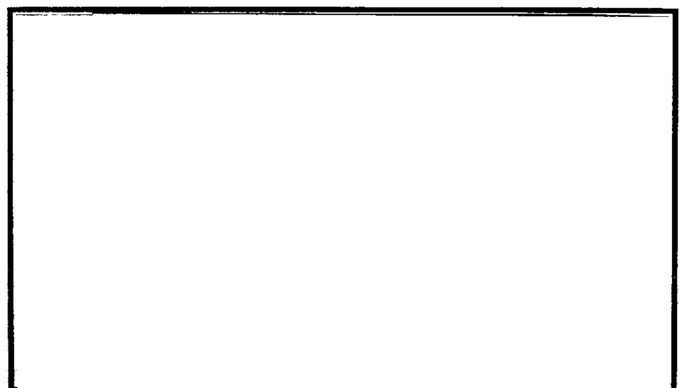
Advertisement



They're Coming After Your Drivers License

By Jeff Golden

As you probably already know, New Jersey passed a law which provides for the suspension or revocation of the driver's and professional licenses (except lawyers' licenses) of obligors who are six or more months in arrears in financial child support payments. Often support is not paid because of unemployment or because, if it is paid in full along with alimony, medical expenses, private school or college tuitions and other payments, the obligor will have nothing left to support himself.

FACE's position is that this law is counter-productive to what the state is trying to accomplish. If there was a presumption of joint legal custody and equal shared physical custody, and each parent was required to support the children while they are with him/her, there would be no arrears. The only time financial child support would be necessary would be if one of the parents was unable or unwilling to exercise his/her share of child rearing responsibilities, in which case that parent should then reimburse the other parent for doing what s/he is not doing. Instead of taking away drivers licenses, the state should be giving financial child support obligors housing subsidies, tax abatements and employment preference.

Until the state wakes up to reality, what will you do when they come for your license? Will you be able to go to work or even look for a job without a drivers license? We recently learned several possible solutions.

It is possible to get a drivers license from a certain Caribbean nation. You don't even have to go there to get it. It is clearly marked "International Drivers License," and by international treaty, is recognized throughout the world, including in the U.S. This might be even better than having a New Jersey license because, if you ignore a U.S. traffic citation or a parking ticket and the authorities notify the Caribbean nation, this country will do nothing to enforce it. They will certainly not suspend a license for a non-driving offense like financial child support arrears. This nation does not require auto insurance either, so if you also register your car there, you could significantly reduce your driving expenses.

If you want to do this, contact FACE and we will refer you to an agent who will assist you in getting this license.

We also learned of a movement in some western states where people are turning in their "privilege to drive" drivers licenses and instead exercising their "Constitutionally secured Right to Travel." Information we received includes testimonials from state legislators and law enforcement officers recognizing and upholding this Right.

Their position is that you have a Constitutionally secured Right to transport yourself and your property anywhere in the country. You can do this on foot, riding a horse, in a horse-drawn wagon, or driving a motor vehicle, as long as you don't hurt anyone else or damage their property while you are doing so. The pioneers didn't have drivers licenses when they went West in their covered wagons, did they?

They say that, when you applied for your drivers license, the Department of Motor Vehicles did not inform you of your Constitutionally secured Right to Travel, and you were not told you were entering into an "unrevealed contract" in which you waive that right and accept the limitations placed upon it in the "privilege to drive" license granted by the DMV. This is fraud, and there is no statute of limitations on it.

You can cancel this "unrevealed contract" by sending a letter to DMV stating their fraud and revoking your signature from all drivers license applications and renewals you have ever signed. This will restore your Constitutionally secured Right to Travel.

Once you have done this, it will be very desirable and useful to have in your wallet a card stating the Rights of the traveller that can be shown to any peace officer who may stop you on the roadway. A kit telling you how to get this card, a six page affidavit to file in your county, legal precedents concerning Right to travel, and what to do if you receive a citation, is available by sending $3.00 to cover the cost of duplicating and mailing to:

SCM Trust
3370 N. Hayden Road #123-148
Scottsdale, AZ 85251

If you give serious consideration to either of these alternatives, do it well BEFORE the DMV, the probation department or some judge orders you to turn in your license.

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means that, while we are watching the court, the court will also be watching us! We welcome this interaction with the court. In the future, when we are court watching, we will seek out the AOC's observers, and make sure that they fully recognize and understand the legal abuses that our members are being subjected to so they can be included in their reports.

A suggestion for the AOC: When we court-watch, we identify ourselves by wearing FACE badges. The AOC observers should not be allowed to hide or operate in secrecy. They should also wear identification badges.

One other point: This committee identified and recognizes FACE as a factor in New Jersey family court reform, but did not have the courtesy to allow our participation in their efforts, or even invite us to testify before them. We did not find out what this committee was doing until their report was sent to us by someone thousands of miles away.

They say we are "targeting" judges and characterize our activities as "attacks." This is not true. All that we do is exercise our First Amendment Right to Freedom of Expression. We testify at public hearings. We talk to our legislators. We participate in government as citizens are supposed to do. We also will continue to peacefully publicly demonstrate and inform the news media and the public of the anti-male gender bias and legal abuse of litigants in New Jersey family courts until the courts STOP INTERFERING IN OUR RELATIONSHIPS WITH OUR CHILDREN.

Continued from Page 1

Since they were a decree of the Supreme Court, they were never voted on or approved by the public or their elected representatives in the legislature.

The Family Practice Committee spent fifteen months investigating child support guidelines, and the Supreme Court is about to decree a new set of guidelines. The new guidelines have some major changes:

The tables go up to combined family incomes of up to $2,400 per week, or $124,800 a year. The tables recognize that expenses for children do not increase proportionately with family income and, on a percentage basis, become more reasonable at higher income levels. Some examples of basic child support awards at various income levels (before any credits) are shown in the table below:

The guidelines are not to be used in cases with combined incomes below $200 per week. Instead, an order of $5 to $10 per week should be established. Child support awards are to be limited to the portion of the obligor's weekly income that is above $156.00 (105% of the 1995 poverty guideline for one person).

Alimony paid for current or past relationships is to be deducted from the payor's income and added to the recipient's income. This becomes important when child care and health care contributions are calculated.

Child care costs are limited to $2,400 per year for one child, or $4,800 per year for two or more children, less the federal child care tax credit.

Unreimbursed health care expenses of $250 per year are considered ordinary and included in the guidelines. Expenses in excess of $250 may be apportioned between the parents.

The parents are assigned two designations: **Parent of Primary Residence (PPR)**, who the child is with for more than 50% of overnights or from whose residence the child is registered for school, and **Parent of Alternate Residence (PAR)**, who provides overnight residence for the child when s/he is not with the PPR.

While, under the old guidelines, no allowance was made for the non-residential parent's expenses for the children while they are with him/her because it was assumed that the children would be with him/her for "traditional visitation" of two or three overnights every two weeks, the new guidelines have no such built-in allowance. Instead, the non-residential parent gets a deduction for the overnights the children are with him/her.

Expenses for children are broken down into three categories: **Fixed Expenditures** that exist even when the child is not present in the household, such as shelter; **Variable Expenses** which follow the child, such as food and transportation; and **Controlled Expenses** which are assumed to be made by the PPR only regardless of where the child is, such as clothing, education and health care. Although the exact proportions are slightly different, to simplify calculations it is assumed that Fixed Expenses are 40% of financial child support, Variable Expenses are 40%, and Controlled Expenses are 20%.

If the child is with the PAR up to the equivalent of the time considered a traditional arrangement, the PAR may be eligible for a credit for his/her proportionate share of the child's Variable Expenses. Thus, if the child support order is for $100.00 per week and the child is with the PAR one overnight per week, the PAR can get a credit for 1/7 of 40% of $100.00, or about $6.00.

If the child is with the PAR for at least two overnights per week, this may be considered **shared parenting**. In shared parenting arrangements, the PAR may get a credit for his/her proportional share of Variable Expenses and Fixed Expenses. If, for example, the child is with the PAR for three overnights per week and the child support order is $100.00 per week, the PAR can get a credit for 3/7 of 40% plus 3/7 of 40%, or about $34.00.

The committee's recommendations specify that child support is NOT to continue when a child attends college. This is because (a) many expenses included in the guidelines are duplicated in the cost of attending college; (b) the guidelines represent spending on children up to age 18, and college students are normally older; (c) the guidelines represent basic needs of children, and college is an excess discretionary expense; and (d) child support is meant to accommodate the daily needs of children as costs are incurred, while college generally requires large advance payments.

If adopted in their present form, the proposed new guidelines will probably be an improvement. But let's look at the potential pitfalls:

These guidelines will discourage a meaningful parent-child relationship with the PAR and promote more custody litigation. Recognizing that child support the PPR receives will be reduced if the PAR has the children at least two overnights a week, the PPR will be motivated to discourage and minimize the PAR's time with the child.

PARs who have parenting time with their children but have no overnights should receive some credit. After all, expenses for food (Variable), transportation (Variable) and entertainment (Controlled) are all

Combined weekly income	1 child	% of income	2 children	% of income	3 children	% of income
250	59	23.6	89	35.6	105	42.0
500	117	23.4	170	34.0	200	40.0
750	155	20.7	224	29.9	263	35.1
1,000	189	18.9	272	27.2	319	31.9
1,250	225	18.0	324	25.9	379	30.3
1,500	257	17.1	371	24.7	435	29.0
1,750	290	16.6	419	23.9	494	28.2
2,000	320	16.0	463	23.2	545	27.3
2,250	346	15.4	501	22.3	590	26.2

incurred while the children are awake, and daytime the PAR spends with the children can allow the PPR time to work and have earnings for him/herself.

There is no allowance for any fixed expenses for the PAR until the children are with the PAR at least two overnights per week. But would a judge allow the PAR to have any overnights with the child unless s/he had a place for the child to sleep? Of course not. The PAR also must have a bedroom for the child, so the PAR also has housing expenses.

It is ludicrous to assume that the PAR never has any controlled expenses. If the child spends a significant amount of time with the PAR, the PAR will have clothing, toys, books, stereo, TV, video games, etc. for the child at his/her home. It is unrealistic to assume that, while at the PAR's home, the child will be a vagabond living out of a suitcase full of things brought from the PPR's home.

These guidelines will not promote the current trend toward shared custody. Since one parent must be designated the PPR and the other the PAR, in a true equal shared custody arrangement, where the child is with each parent half the time, the PAR can only get credits for half of the 40% Variable Expenses plus half of the 40% Fixed Expenses. If the basic child support order would otherwise be $100.00 per week, the parent who has the misfortune of being designated the PAR still pays $60.00 a week. Even if the PAR has the children six nights a week, s/he still pays $31.00!

The Supreme Court Family Practice Committee was made up of only judges and lawyers. They took no testimony from the public. One of the proposals that they did consider was developed by Donald Bieniewicz of the Children's Rights Council (CRC) in Washington, DC, and was published in 1994 by U.S. Department of Health and Human Services, Office of Child Support Enforcement in Child Support Guidelines: The Next Generation. These guidelines recognize non-residential parents' importance to children, and is extremely fair to both parents.

The committee rejected these guidelines stating, among other reasons, that they are not yet used in any other state, income tax and tax benefit calculations were required, and they required complex mathematical calculations. The CRC guidelines could have been easily implemented by using a spreadsheet program on personal computers. Instead, the committee recommended guidelines that require complex mathematical calculations, require tax benefit calculations (for child care), and will probably have to be implemented on personal computers.

At the May 29, 1996 Supreme Court hearing on proposed rule changes, including child support guidelines, the court would not hear any non-lawyers. They allowed only 45 minutes for all of the testimony on ALL of the rule changes. A team from the New Jersey State Bar Association glowingly spoke in favor of all the changes, and only two independent lawyers recommended changes to the proposed guidelines. Like the old guidelines, these will be ramrodded down our throats without any public input.

The disadvantages of both the old and new guidelines could be eliminated if a very simple guideline were established that is only a safety net providing for the basic needs of children at the poverty level. Child support payable would be based only upon the number of children, regardless of either parent's income. Both parents would voluntarily provide for children's needs above that level. Children would learn that, just as in an intact family, they have two parents who each provide for them to the best of their ability, and that the support they receive is dependant upon their relationship with both parents. This would encourage the continued involvement with children by both parents following their separation and, by eliminating financial motivation, make continued custody and support litigation needless.

Bill A-898, currently pending in the New Jersey Assembly, will establish a Commission on Child Support Guidelines which will would examine New Jersey's present child support guidelines and recommend new ones. This Commission is still needed. If enacted, this would allow the public have input into child support guidelines. The Commission would make recommendations that would be voted upon by our elected officials rather than being dictated in secret by the Supreme Court. We must all support this bill.

Child Support Withholding From Civil Suit Judgments

by Jeff Golden

On January 5, 1996, Governor Whitman signed P.L. 1995, c. 334 into law, which, beginning 120 days after its enactment, will require withholding of civil suit judgments and settlements pending a review of child support obligations. This means that, if you are injured in an accident or will receive money from some other type of civil suit, the money you are supposed to receive will be held for thirty days while the Probation Department in the county where you live investigates whether you owe financial child support. If you are in arrears, financial child support arrears that you may owe will be withheld from the money judgement you receive for your pain and suffering or damages.

This law was to become effective on May 5, 1996, but neither the courts nor the probation departments had procedures in place to implement it. The Supreme Court's representative asked the law's sponsor, Senator Wayne Bryant, requesting a sixty day extension. Bryant agreed to that request, but the new statue remains in effect.

If you are a plaintiff in a civil suit, you should know how to protect yourself and preserve your financial interest in these matters. The key is that the law only applies to *matters pending in Superior Court*. If you settle before suit is filed, it is not pending in Superior Court.

If you have a civil suit pending, make every effort to settle with the defendant or his insurance company *before you file suit*. Keep in mind that this law applies to ALL suits, even small claims in Special Civil Part.

LEGISLATIVE UPDATE

The New Jersey legislature is finally beginning to act. On May 1, 1996, the Assembly Judiciary Committee, chaired by Assemblyman David C. Russo of Bergen County, invited public testimony *for discussion only* of the nineteen bills that resulted from the recommendations of the Commission to Study the Laws of Divorce, as well as A-84 (would require recipient to account for how child support is used) and A-1368 (would prohibit courts from ordering divorced parents to pay for college).

Testimony was supposed to be limited to five minutes, but several witnesses spoke for far longer. Assemblyman Russo and the other committee members patiently listened, and the meeting went on until about 6:00 PM.

For the most part, testimony was predictable. The women's groups were opposed to anything that would compromise residential parents' complete control over children or would limit their support income. Men, many of whom were not part of any group, were in favor of all of the bills that would restore their rights as parents and permit them to live a normal life following divorce. Last to testify were about five representatives from the New Jersey State Bar Association (NJSBA), who were opposed to anything that would reduce the blood money they are able to suck out of divorcing couples and their children.

On May 8th, the Senate Women's Issues, Children and Family Services Committee, chaired by Senator James S. Cafiero of Cape May County, *finally* had a hearing on bill S-241, which would prevent courts from ordering divorced parents to pay for children's college education. Testimony on this bill was also very predictable. The many non-residential parents (all fathers and their current spouses) were in favor of the bill. The two representatives from the National Organization of Women (one residential parent and one adult daughter of divorce who, admirably, made her own arrangements to pay for her education) were opposed.

Also appearing in opposition to the bill was another team from the New Jersey State Bar Association. The Bar Association has said that defeat of this bill is their top legislative priority. Why? The only reason we can see is that, just as children are maturing and parents think they are finally going to be able to get on with their own lives, this gives the lawyers one last chance to stir up some more conflict, go back to court, and get one last fee.

Judging by the comments of the committee members, it appears that they are considering watering this bill down by limiting the amount that can be ordered to the tuition at a state university. This is unacceptable. In fact, as it is now written, the bill is not comprehensive enough. It only applies to "college or post-graduate education." It should be modified to include *all post-secondary education*. If this is not done, judges will still be able to order divorced parents (but not married parents) to pay for children's ineffective basket-weaving and cosmetics classes.

On May 20th, the Assembly

Assembly Bill	Senate Bill		FACE's Position
A-66*		Maintain insurance coverage (4)	In favor if modified
A-67		Parents' Education Act (2)	In favor
A-68		Change "visitation" to "parenting time" (6)	In favor
A-69	S-65	Mandatory Parenting Plan Act (3)	In favor
A-70	S-337	Family Mediation Reform Act of 1995 (5)	In favor if modified
A-71*		Frivolous motions (14)	Opposed
A-72		Equal access to children's records (7)	In favor
A-73	S-392	Visitation interference sanctions (8)	In favor +
A-74		Rehabilitative alimony (12)	In favor if modified
A-75		Emancipation at age 18 (9)	In favor
A-76		Limited duration alimony (13)	Opposed +
A-77*		Review child support for students (11)	In favor
A-78		Income withholding for alimony (15)	Opposed
A-79		Mandatory notification of remarriage (16)	In favor
A-80		Retroactive child support modification (18)	In favor
A-81		Equitable distribution - responsibilities for children (19)	Opposed +
A-82		Equitable distribution - deferred career goals (20)	Opposed
A-83*		Alimony in child support calculation (21)	In favor
A-84		Account for child support	In favor
A-189	S-155	Prorate child support withholding	In favor
A-190		Sheriff to compile child support statistics	In favor
A-191	S-157	Notify employer of health insurance requirement	Opposed
A-261	S-153	Uniform Interstate Family Support Act	Opposed
A-276*	S-462	Irreconcilable differences (1)	Opposed
A-348		Accelerated support arrearage payments	Opposed
A-390	S-156	In-hospital paternity acknowledgement	Opposed
A-533	S-216	Child care credit on state income tax	Opposed
A-552		Parenting for All Parents pilot program	In favor
A-737		Removes employer's liability for children's medical expenses	In favor
A-898		Commission on Child Support Guidelines	In favor
A-1145		Accelerates commencement of child support withholding	Opposed
	S-160	Gives Probation access to public utility, tax and DMV records	Opposed
A-1368	S-241	Prohibits court order to pay for college	In favor if modified +

Numbers in parentheses are recommendation of the New Jersey Commission to Study the Laws of Divorce.
Bill numbers in *italics* have been passed.
* Released by committee.
+ Indicates a change in FACE's position.

Judiciary Committee had a voting session on the following bills:
A-66 - Requires divorcing parties to maintain insurance coverages
A-71 - Expands frivolous lawsuit law to include Family Court motions
A-72 - Gives divorced parents access to their children's records
A-73 - Provides civil sanctions for violations of visitation orders
A-77 - Requires a review of child support when paying for education
A-78 - Provides for alimony payment by income withholding
A-83 - Include alimony as income when calculating child support
A-276 - Establishes "irreconcilable differences" divorce in 3 months

This meeting had the heated atmosphere of a Divorce Commission hearing. Witnesses, many of whom had never before testified on these issues, gave impassioned accounts of their Family Court horror stories. The NJSBA's team was here, too.

FACE representatives testified for bills A-72, A-77, and A-83, and in opposition to bills A-71, A-73, A-78 and A-276. We are unopposed to A-66 providing that it is modified so the cost of insurance coverages would be evenly divided at the time of equitable distribution.

Our opposition to A-73 was because New Jersey statute 2C:13-4 already provides for both criminal *and* civil penalties for violations of parenting time (visitation) orders, but the police, the prosecutors and the courts are unwilling to enforce it. It seemed senseless to create new law that duplicates existing law and will also probably be ignored.

A-276, sponsored by Assemblymen "Kip" Bateman of Somerset County (who is also a member of the Judiciary Committee) and Neil M. Cohen of Union County, both of whom are lawyers, was the hot issue of the day. FACE is opposed because divorce should not be too quick or too easy, especially when children are involved. Except for the sponsors, everyone who testified about it was opposed to this bill.

All of these bills, except A-276, were passed unanimously by the Judiciary Committee and released for a vote by the full Assembly. A-276 also passed, but two committee members, Assemblymen Wilfredo Caraballo of Essex County and Carmine DeSopo of Burlington County, abstained. Assembly Speaker Jack Collins of Salem County has already indicated that he may not bring A-276 before the Assembly for a vote.

The full Assembly voted on A-72, A-73 and A-78 on May 30, 1996. A-72 passed by a vote of 75 to zero, A-73 passed by 73 to zero with one abstention, and A-78 passed by 76 to zero.

Changes in FACE's Positions

A-73 and S-392 - Our position on these bills, which would provide for civil sanctions against a residential parent who violates a parenting time (visitation) order, has changed twice. Originally, we were in favor providing that it was modified to include the criminal penalties presently in New Jersey Statute 2C:13-4. At the Assembly Judiciary Committee hearing on A-73, we were opposed. FACE members testified that this bill would be redundant because 2C:13-4 already includes civil penalties, that authorities presently refuse to enforce 2C:13-4, and that, if passed, this would be one more useless law that would not be enforced.

FACE has reconsidered. These bill's supporters appear to believe that courts would be more inclined to impose civil sanctions than to jail residential parents (95% of whom are mothers), and that by passing yet another law, the legislature will send a strong message to the judiciary that interference with the non-residential parents' parenting time should not be tolerated. We now support A-73 and S-392 because we will only find out if they are right when this bill becomes law.

A-76 - This bill would establish, as an alternative to permanent alimony, a new form of alimony payable for only a limited time. It would not replace permanent alimony. It would only be yet another form of alimony that would be ordered in those cases where it is too hard to justify permanent alimony. The result would be that alimony is ordered more often than it is now.

FACE's original position was that we would support A-76 if it were modified to be a replacement for permanent alimony, but that will not be done. FACE believes that, at some time in their lives, everyone must take responsibility for their own needs, so all alimony should be for only a defined period of time. A-76 will not do this, and we oppose it.

A-81 - This bill would add "parental responsibilities for children" to the criteria to be considered when deciding equitable distribution. This would be acceptable if it included the non-residential parent's financial responsibility for children, but apparently that is not the plan.

This is a give-away program for non-working spouses. "Parental responsibilities for children" refers overwhelmingly to stay-at-home moms (many of whom considered marriage to be their early retirement plans) who claim that they deferred their own career goals to raise children. FACE is opposed.

A-1368 and S-241 - These bills would prohibit judges from ordering any parents, married or not, to pay for their children's college or post-graduate education. FACE is generally in favor, but the bill is not comprehensive enough. "College or post-graduate education" should be changed to read "post- secondary education." If this is not done, judges will continue to order divorced parents to pay for ineffective basket weaving and cosmetics classes for children who have the least educational aptitude. FACE will support these bills with these changes.

Due to increased protests by animal rights advocates, research laboratories are considering stopping experimentation with rats and beginning to use lawyers instead. The reasons:

(a.) There is no shortage of lawyers,

(b.) the lab technicians won't get too attached to them, and

(c.) there are some things you can't even get a rat to do.

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exemption credit every fourth year, not every other year. But that is not all.

Example Three: Let's change the assumption again by examining the child care credit. The child care credit can only be claimed by ... you guessed it ...R. The expense limit for child care is capped at $2,400.00. The credit is a function of adjusted gross income of R. Given the fact that most support orders require that child care be split 50-50 over an above the child support amount another inequity appears.

Here's why: Using the assumptions for R in Example One, R pays a tax of $2,786.00 based upon the fact that s/he claims Head of Household and a maximum child care expense, but NO dependency exemption. Using the assumptions for NR in Example Two, NR pays a tax of $3,169.00 using two exemption credits (his/her own and one for the child). As one can see, if NR permanently had the exemption credit, it would never equal the built in combination advantage of Head of Household status where child care is present. I question why so many Judgment's of Divorce routinely split the exemption credit?

Moral: The exemption credit is fact sensitive. To be fair, tentative tax returns have to be run with the parties' real incomes, real child care expenses and correct number of exemptions. Looking ahead, if the G.O.P provide a tax credit of $500.00 for families or the Democrats's provide a college credit of $1,500.00, all existing Orders may have to be revisited as to the fairness between the parents. Run your own numbers based upon example One or Two or Three. Your order may need revisiting right now.

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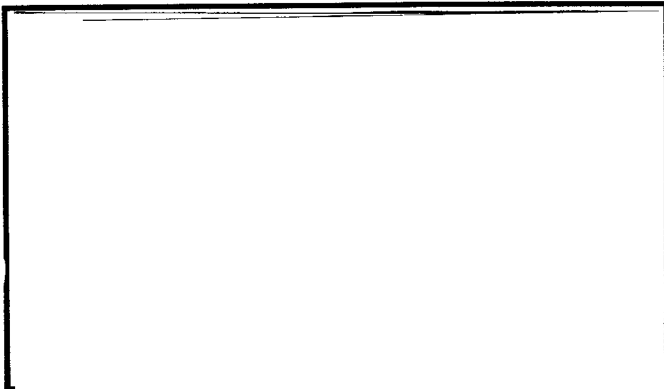

UPCOMING EVENTS

Friday, June 14, 1996 - Noon to 1:00 PM:
"Father-less Day" Rally
Camden County Hall of Justice, 5th and Mickle Sts., Camden, NJ.
In conjunction with rallies throughout New York, New Jersey and Pennsylvania sponsored by Fathers' Rights Newsline (P.O. Box 713, Havertown, PA 19083, 215/879-4099), FACE will again spotlight Family Court's discrimination and injustice that ignores fathers' importance to their children's well- being and makes Fathers's Day (June 16th) a meaningless hypocrisy.
Last year, we set an unattainable goal for ourselves for Fatherless Day. Too few of us could spend the whole morning in front of the courthouse, and we were too spread out to have effective rallies in all of the southern New Jersey counties. This year, let's concentrate our efforts. Let's meet for only one hour in front of one courthouse in Camden. If you can, arrive early or stay late.
Prepare your own sign (no sticks, please) for issues important to you, or carry one of ours. FACE will supply handbills to give to passersby. Be prepared to be interviewed by the news media.
Call FACE-NJ Hotline 609/786-FACE for further details.

Thursday, August 8th through Sunday, August 11th, 1996:
National Congress for Fathers and Children
12th annual convention
Holiday Inn Holidome, Kansas City, KS
This educational conference will focus on the needs of fathers, improving lawyer's representation of fathers, and second wives. Special room rate for conference registrants.
Contact: NCFC at 800/733-DADS or 913/342-3860

THERE WILL BE NO MERCER COUNTY SUPPORT MEETING IN AUGUST, 1996.
Members from Mercer and surrounding counties should plan to attend one of the other FACE support meetings in August.

Child Support Turf War

by Jeff Golden

The New Jersey Department of Human Services and New Jersey Courts are embroiled in a turf war over which agency will administrate this state's child support. By federal mandate, one agency must be designated the state's IV-D agency, which administers welfare payments. In New Jersey, that is Human Services.

But child support enforcement is also part of welfare. The federal government treats child support and interstate enforcement as privately funded welfare. The feds pay about $100 million dollars a year to Human Services for child support administration. It is turned over to the Administrative Office of the Courts, who enforces child support through the Probation Department. Now Human Services wants to keep that money for themselves.

The lawyers don't like this. They are experts at dealing with courts, and Probation is part of the court system. Probation's 1,100 case workers are scared. They think they are going to lose their jobs.

Does it really matter to non-residential parents who takes their child support money? Let's consider what would be different:

Lawyers are like locusts. They swarm where the money is. They are interested in litigating child support for residential parents because they will get a bite of our children's money. If child support was an administrative process in the welfare office instead of a litigated matter in court, the lawyers would all fly away.

When aristocratic child support recipient Mom wants a modification in child support, instead if going to court, she will have to go down to the welfare office, take a number, and wait for hours with all the other welfare mothers.

This change would put the lawyers in an arena they are unfamiliar with. Instead of pleading their child support cases in front of their old buddy judges, who themselves are former lawyers, they will also have to deal with the welfare bureaucrats.

Welfare workers don't carry guns or handcuffs.

One kind of bureaucrat is just as inefficient as another. Welfare workers won't make any more mistakes than Probation workers.

While being quick to garnish wages and arrest non-residential parents, the courts and probation departments have never been too enthusiastic about enforcing parenting time (visitation) orders. Welfare workers, on the other hand, claim to be interested in improving children's lives. Maybe they will be more interested in seeing that children continue to have a meaningful relationship with both parents following their separation. They certainly couldn't be any more disinterested than probation workers.

When and Where do Children Belong?

by Barbara LaMarra

We at FACE-NJ love and enjoy children and appreciate their company, but there are some places where children don't belong -- like at the support meetings held at members' homes.

At these meetings, some of our members vent their emotions concerning their spouses, girl/boyfriends, in-laws, etc. Small children exposed to this can not fully understand it, nor would we want or expect them to. Judges exclude children from courtrooms so they are not exposed to this type of conversation.

I ask all of our members to please leave your children in someone else's care when you come to FACE support meetings. This will help your children feel more comfortable, and you and other FACE members will be able to openly discuss your problems without alarming or offending anyone.

Advertising Contributions

	Single edition	Annual - 4 editions
3 1/2 X 2 inch "business card" (about 1/10th of a page)	125.00	400.00
Classified advertising - per word (10 word minimum)	1.25	4.00
Display advertising - per column/inch	40.00	130.00

FACE NJ

MEMBERSHIP APPLICATION

Help us help you... Join today and together we *can* make a difference!

☐ New membership ☐ Renewal

Date ______

Regular membership $65.00 per year. Patron membership $100.00 or more

Amount enclosed $______ Please make check payable to FACE-NJ

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City ______ State ______ Zip ______

Residence County ______ Date of birth ______

Phones: Home ( ) ______ ( ) ______ Where?

Are you registered to vote? ☐ Yes ☐ No If not, are you eligible? ☐ Yes ☐ No ☐ I don't know

☐ FACE-NJ may use my name as a supporter for legislative purposes. (please check)

How many children do you have? ______ Date of birth of youngest ______

How many overnights per month do your children spend with you? ______

Jurisdiction of your case? ______ County ______ State ______

Judge(s) ______

Mental health professional(s) involved in your case:

Name ______ City ______ State ______

Mail application and payment to: FACE-NJ P.O. Box 2471 Cinnaminson, NJ 08077

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FACE MEETINGS

All meetings begin at 7:00 PM. Phone for information and directions.

Second Tuesday of each month:
FACE General Meeting
OPEN TO THE PUBLIC
Cherry Hill Free Public Library
1100 Kings Highway North
(Next to Richman's Ice Cream)
Cherry Hill, NJ
Directions: (609) 667-0300

Join us at 9:00 PM for resfreshments at a local restaurant following the general meeting.

Third Thursday of each month:
FACE Board of Directors Meeting
(FACE members and invited guests only.)
Phone FACE Hot-Line for location

Support Meetings:

First Monday of each month:
Mercer County Support Meeting
Hamilton Township, NJ
Contact: Charles Forberg
(609) 584-1887

First Thursday of each month:
Burlington County Support Meeting
Wrightstown, NJ
(Near McGuire Air Force Base)
Contact: Jane Hubert
(609) 723-5996

Third Monday of each month:
Camden County Support Meeting
Westmont, NJ
Contact: George & Barbara LaMarra
(609) 858-4272

Fourth Tuesday of each month:
Gloucester/Salem County Support Meeting
Mullica Hill, NJ
Contact: Cliff Wenrick
(609) 223-0434

If you will be attending a support meeting, please be courteous to the hosts and phone in advance. Non-members are usually welcome, but it may be necessary to limit attendance.

V4N2

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