



# AB1058 Child Support Court Allocation Project

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# Presentation Overview

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# Introduction

- Daniel Bauer is a licensed attorney (2013) with child support administrative experience since 1998
  - Worked in Iowa's administrative program (executive branch)
    - Helped draft administrative rules on case closure, and later helping with performance metrics and budgeting
  - Worked in Michigan's judicial program (executive branch)
    - Helped design the system for child support allocation, distribution, and disbursement
  - Worked in Michigan's judicial program (judicial branch)
    - Wrote confidential reports to judges on the operations of their child support offices
  - Aided DCSS with their 2016 LCSA Allocation project

## What Has Gone Before

- Hired by the Department of Child Support Services (DCSS) to propose potential workload-based allocation models for the AB1058 courts
- Worked closely with the JCC administrative offices and the Child Support Commissioner (CSC) and Family Law Facilitator (FLF) Subject Matter Expert (SME) workgroups
- Jointly developed **guiding principles**
  - Used for model evaluation
- Jointly identified **driving factors**
  - Driving factors are those tasks which, because of a combination of frequency and duration, identify a majority of the work done in the office

# Establishing Guiding principles

## Child Support Commissioners

Fully address unique needs of each court

- Comprehensive
- Uniform
- Sufficient
- Tailored
- Ensure access to services

Flexibility

Statewide performance

Reduce use of presumed income

Cooperation

Self-enforcing integrity

## Family Law Facilitators

Base level of services

- Inclusive
- Exclude favoritism
- Address unique aspects of service delivery
- Technology
- Effective delivery of services
- Attract and retain competent staff

Flexible yet stable

Transparency

# Discussing Driving Factors

## Child Support Commissioners

### Hearings

- Paternity establishment
- Support order establishment
- Enforcement
- Modification

### Pre-hearing work

- Scheduling
- Prep for commissioner to hear case

### Post-hearing work

- Completing orders (submission)
- Processing orders

## Family Law Facilitators

Triage (answering initial questions, directing people to right service provider)

Providing one-on-one support

- Assistance in completing forms
- Identifying immediate need and providing tools to meet that need

Preparing support schedules (guidelines) – varies by office

Workshops

# Determining Workload

- Workload is primarily the result of two items
  - **Volume:** How *much* work there is to do
  - **Duration:** How *long* it takes to do the work
- Can make adjustments due to extenuating circumstances with direct or indirect impacts
  - Directly impact volume or duration for some cases
    - Poverty
    - Limited English proficient (LEP) individuals
  - Indirectly impact volume or duration
    - For example, a geographically large, mountainous jurisdiction has different challenges and potential funding needs than a large urban jurisdiction

# Determining Volume: Commissioners & Court Admin

- AB1058 courts are motion-based practice
- Data sources
  - JBSIS
    - Closest to source – court database
    - No mandatory elements that track volume in AB1058 courts
  - CSE
    - Single, statewide database with data from LCSA offices (single largest volume contributor to AB1058 court docket)
    - Does not consistently include information from other litigants
    - Office-to-office inconsistencies
      - Many issues per motion or hearing, or only one issue per motion
      - Detailed pleadings or generic pleadings affect court preparation time
- Data types: Motions or Hearings?



# Determining Volume: Motions vs. Hearings

## Motions

- *JBS/S*: Not all AB1058 courts reported motion filings
- *CSE*: All offices reported motions; 95% of all motions fell in one of three motion types:
  - Modification: 50% of all
  - Judgment: 27% of all
  - Generic (Other): 18% of all

## Hearings

- *JBS/S*: Not all AB1058 courts reported hearings
- *CSE*: All offices reported hearings; 95% of all hearings fell into one of seven motion types
  - Modification: 39% of all
  - Generic (Other): 18% of all
  - Contempt: 15% of all
  - Judgment: 11% of all
  - Seek Work: 5% of all
  - JDE/OEX: 4% of all
  - Set Aside: 3% of all

## Determining Volume: Proposal (CSC)

- At this time, CSE is the only source for statewide information regarding volume of data at the AB1058 courts
- Hearing data has the appropriate granularity to match the driving factors identified by the CSC SME workgroup
- Proposed changes for long-term solution:
  - Gather data directly from the AB1058 courts
    - Make motion and hearing data mandatory data elements in JBSIS
    - Include volume and type
  - Create consistency
    - All LCSAs provide uniform, detailed pleadings rather than using generic language
    - CSE able to accurately count the issues presented to the court, regardless of the number of motions filed

# Determining Volume: Family Law Facilitators

- Work includes:
  - One-on-one sessions with litigants and potential litigants
  - Group sessions with several litigants at the same time
  - Research into caselaw changes and resources available in jurisdiction
  - General administrative duties (personnel issues, meetings, reporting, etc.)
- Volume is a factor of:
  - People served in one-on-one sessions
  - Number of group sessions (workshops) provided
  - Jurisdiction size

## Determining Volume: Sources

- Can derive from number of hearings in AB1058 court
  - Assumes most users do not seek FLF assistance without a hearing already scheduled
  - Excludes users who seek FLF assistance before scheduling a hearing and choose not to file a pleading
- Can count interactions from the FLF database
  - Not designed to be used as a volume tracker for funding purposes
  - May have inconsistent reporting regarding number of FLF office users
    - 1 workshop with 10 attendees may be 1 interaction for Office A, 10 interactions for Office B

## Determining Volume: Proposal (FLF)

- Develop one model using percentage of hearings / number of hearings per facilitator office FTE
- Develop remaining models using data regarding interactions from FLF Electronic Database (FLFED)
  - Limit use to one-on-one family law interactions by court
  - Do not use FLF database for count of workshops
- Estimate workshops by office size: daily for largest; monthly for smallest; weekly, semi-weekly, and semi-monthly in between

## Determining Duration: Two Methods (Plus One)

- Two methods:
  - Subject matter expert estimates obtained through sequential meetings (Delphi)
  - Self-reported task duration study (Stopwatch time study)
- Plus one:
  - Third-party observed task duration study (observational time study)

## Determining Duration: Delphi Meetings

- Different *Delphi* than JCC currently uses for RAS/WAFM
- SMEs individually estimate duration of driving factors and submit estimates to meeting facilitator
- Meeting facilitator compiles all estimates, identifies who provided high- and low-estimates, and facilitates meeting with all SMEs who participated
  - Individual SME providing high estimate explains to group their justification for estimate
  - Individual SME providing low estimate explains to group their justification for estimate
  - Group asks questions for better understanding
- Seek revised estimates from SMEs and repeat

# Pros and Cons of Delphi Technique

## Pros

- Easy to apply results for non-case specific tasks (research, general administration, workshops, etc.)
- Generates consensus among experts
- Relies on many different perspectives to provide a result
- Easily replicated

## Cons

- Can be overwhelming to estimate, if too many driving factors to consider
- Can be time consuming or stressful for experts
- Results in a single result, which may not reflect individuality of all offices statewide
- May not adequately account for the difference between short-cause and long-cause calendars



## Determining Duration: Stopwatch Time Study

- Spreadsheet created allowing court users to self-report durations on certain tasks (identified driving factors)
  - Four courts volunteered to require staff to gather data for 26 days
    - 8 hours / day x 5 days per week = 40 hours / week
    - 40 hours / week times 52 weeks = 2,080 hours per year
    - 2,080 hours per year divided by 8 hours per day = 260 work days per year
    - 260 work days per year times 10% = 26 work days
  - Los Angeles, Ventura, Sacramento, Yolo participated
- Reported date, task, start time, stop time, and number of cases worked
- Note: Staffing hours may be less than 2,080 in model to account for holidays, annual or sick leave, trainings, etc.

# Pros and Cons of Stopwatch Time Study

## Pros

- Easy to apply results to case-specific tasks in hearing or only done by one person (commissioner)
- Durational results more reliable than estimates, as it records actual durations over time
- When all courts follow the same data collection protocols, data gathering is not complex

## Cons

- Difficult to determine per-task duration if many people touch the same case outside of hearing time
- Assumes offices participating are a representative sample of similarly sized offices
- Time consuming for staff to record daily tasks – time spent reporting changes hours available to complete work

# Determining Workload: Extenuating Circumstances

- Some courts require more staff to deal with the unique needs of the population served
  - Courts are required by court rule to provide LEP court users with an interpreter
    - Interpreter-facilitated interactions are longer than non-interpreter-facilitated interactions on the same topic
  - People living below or near the poverty level typically have challenges to getting to court for hearings, or staying at court for long interactions.
    - Factors that impede court users at or near the poverty level include issues such as access to transportation and child care, as well as the inability to take time off of work
- The models can adjust staffing levels for those courts with high LEP populations or high poverty levels

# Strata

- Prior models have identified the need for a “funding floor”
  - As applied, this provided a minimum amount of funding to operate an office
  - It did not account for varied office sizes and only focused on the total allocation
- Proposed models apply minimum staffing needs for offices, based on office strata
  - Strata determined by workload volume (CSE-reported hearings)
  - Each strata can have staffing levels set by lowest number of staff prior to reallocation under the model within that strata

## Strata Example

- Courts A, B, and C exist in the same strata, and roughly the same workload volume
- Court A has 6 court administrative staff, Court B has 4 court administrative staff, and Court C has 7 court administrative staff funded by the AB1058 program
- Under the workload based allocation, neither Court A, nor Court B, nor Court C will be allocated fewer than 4 full-time equivalent employees, even if the workload assessment would allocate fewer than 4 FTEs to any of these courts.

# Pros and Cons of Strata

## Pros

- Accounts for varied office sizes
- Ensures adequate staff for a court based on existing staffing levels for similarly sized courts
- Does not mandate how staff are hired or allocated by local court – only used as a funding allocation
- Strata sizes may be adjusted

## Cons

- Assumes each similarly sized office does work in a way that can be staffed by the lowest-staffed office in the strata
- Applying the strata to staffing levels may not protect a court from a large drop in appropriation
- Assumes existing practices in the lowest-staff office are acceptable

# One-Time Technology Enhancement

- Courts could request a one-time technology enhancement budget for AB1058 courts
  - If all AB1058 courts had remote video conferencing equipment, litigants could attend hearings remotely, or a commissioner sitting in one courtroom could hear a case from another courtroom, saving travel expenses in some jurisdictions
  - Hardware and software for computer, printer, and CSE access in courtroom would allow minute orders to be printed before a litigant leaves a hearing, or CSE to be updated immediately with order information
  - E-filing may save time, paper, and money (seeking federal IV-D reimbursement may create funding issues)

## Model 1: Default-Adjusted Hearing, WAFM

- Determine staffing levels for each office, each court
  - Commissioner and court administrative staff workload volume determined by count of CSE-reported hearings in AB1058 courts.
    - Adjust volume by adding defaults filed by DCSS
  - Facilitator staff workload volume determined by count of one-on-one encounters in FLF database
  - Workload duration determined by Stopwatch time study and (for certain FLF tasks) Delphi study amounts
  - Adjust staffing levels by poverty level and LEP participants
- Use staffing levels as input for the WAFM allocation process used by rest of court.



# Pros and Cons of Model 1

## Pros

- Follows same funding allocation model as rest of the court system
- Using hearing information tracks to the volume of work the courts hear, independent of the initial pleadings

## Cons

- Model may overestimate the actual court need

## Model 2: Default-Adjusted Hearing, Average Salary

- Determine staffing levels for each office, each court
  - Commissioner and court administrative staff workload volume determined by count of CSE-reported hearings in AB1058 courts
    - Adjust volume by adding defaults filed by DCSS
  - Facilitator staff workload volume determined by count of one-on-one encounters in FLF database
  - Workload duration determined by Stopwatch time study and (for certain FLF tasks) Delphi study amounts
  - Adjust staffing levels by poverty level and LEP participants
- Multiply staffing levels by average salary, benefit, and overhead costs billed to the AB1058 program

## Pros and Cons of Model 2

### Pros

- Using average salary and overhead costs already incurred accounts for local variations in pay structure and benefits (skills and experience of staff, years of seniority, benefit computations, etc.)
- A three-year average can be used to “blend out” significant changes in staffing levels or needs

### Cons

- Using a different method than the existing WAFM creates administrative difficulties in implementing the model
- Assumes salary and overhead costs are similar in subsequent years – may not account for raises (step or COLA) or decreases following retirements (lower-paid staff hired)

## Model 3: Two-Pass Methodology

- Determine allocation as established by Model 2
- Select courts for secondary review for extenuating circumstances not otherwise addressed in the model
  - Geographically large, mountainous jurisdiction with multiple courthouses requires increased funding for travel
  - Court staff participate in fundable tasks outside of existing workload-based allocation model
  - Court has innovative idea for service delivery model that requires additional funding in implementation years
- JCC reviews courts for change in allocation (applied for secondary review, or certain objective standards met), reallocates within existing legislative appropriation

## Pros and Cons of Model 3

### Pros

- Allows for independent review to ensure that each court has the funds it needs to continue its work
- Allows for innovative service models to be funded on an annual basis

### Cons

- Leaves JCC open to allegations of “favoritism” for certain courts
- Reallocation of funds within existing appropriation requires removing funds from some courts not requesting evaluation, creating some uncertainty in budgeting process

## Model 4: Model Office

- Determine number of staff needed for each office by dividing volume of work (CSE-reported hearings or FLF encounters) by a fixed number (i.e., each single staff person can handle X number of cases / people per year)
- Adjust staffing levels using LEP and poverty adjustments
- Apply strata as appropriate to each office
- Potential performance enhancement?
  - Increase allocation for fewer days from notice of motion filed to hearing?
  - Increase allocation for fewer days from days from service to order?
  - Other performance-based enhancement?

## Pros and Cons of Model 4

### Pros

- All courts statewide have same amount of people to work the same amount of cases
- Similar to initial staffing estimates
- Provides support staff for each commissioner and facilitator on an equal basis – all are supported by the same number of FTEs

### Cons

- Does not take into account economies of scale (larger offices can work more cases with fewer people)
- Does not take into account different ways to complete the work in each court, which may require more or fewer cases per staff than other courts

## Questions and contact information

# Questions?

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