

STATE BAR OF MICHIGAN
STANDING COMMITTEE ON JUSTICE INITIATIVES
ALIMONY GUIDELINES
SURVEY REPORT
BY THE
ALIMONY GUIDELINES PROJECT
OF THE
EQUAL ACCESS INITIATIVE



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SUMMARY

The Michigan Supreme Court Task Force on Gender Issues in the Courts issued its final report in December of 1989 recommending statewide alimony guidelines to increase equity and consistency in results across the state. In 1998 the State Bar Task Force on Racial/Ethnic and Gender Issues in the Courts and the Legal Profession issued its report on the status of the task force recommendations. The State Bar report found that there had been no progress towards statewide alimony guidelines. One of the recommendations in the report was implementation of statewide alimony guidelines:

Gender Recommendation VI-5: The Supreme Court should establish a Task Force to develop statewide guidelines for alimony awards.

Summary of condition prompting 1989 recommendation:

The 1989 Task Force concluded that the economic impact of divorce is very different for men than it is for women. Women experience a significant decrease in their standard of living after divorce. Concerns about alimony include the infrequency of awards and the reluctance of some judges to award permanent alimony. Some judges feel that the Child Support Guidelines impose the upper limits of financial contribution of a supporting spouse. Also, many judges make erroneous assumptions about a woman's ability to survive economically after a divorce. Some assumptions are that women will enter the workforce and be in parity with their male counterparts; alimony creates a negative dependency; and, the woman will be remarried and be supported by someone else.

The Open Justice Commission authorized creation of the Domestic Relations Committee to look at this issue. In response, that committee started an Alimony Guidelines Project in 2002. The work of the project continued under the umbrella of the Equal Access Initiative of the Standing Committee on Justice Initiatives and resulted in the development of this report.

As alimony guidelines are available in Michigan already, the Project members undertook a survey of the family law judges in Michigan to determine the usage of and attitude toward alimony guidelines. The Alimony Guidelines Project members drafted a series of 11 survey questions. The surveys were mailed to all of the 208 judges presiding over family law matters in Michigan, with a second survey sent to the judges who did not initially respond. The questions were not drafted by survey professionals and for that reason some of the results are ambiguous. This report tries to take a conservative view of the data as a result and make clear the limitations of any particular question.

In general, the majority of family law judges in Michigan responded to the questionnaire on alimony guidelines and with some thought. The committee received 150 responses out of the 208 judges surveyed, a remarkable response rate of 70%. The responding judges had a great deal of experience in family law with over 60% having heard family law cases for more than five years. Responses were received from all regions of the state and the results were consistent across the state. The committee is grateful to all the judges who took time out of their busy schedules to answer the survey.

The survey results showed that 89% of the responding judges knew alimony guidelines were available and a majority of the respondents use them. Although the responses are somewhat hard to interpret, the answers to questions 5 and 7 indicate that over 60% of the responding judges use guidelines in some fashion. Very few of the judges use the guidelines as a presumptive determination in an alimony case, but rather consider it a useful tool to analyze and settle cases. Some judges indicated they start with the guidelines and then modify the recommendation to fit the case before them. The data further indicates that more judges would consider using non-mandatory guidelines if they were endorsed by a trusted source. The source the respondents had the most confidence in was a task force of family law judges and family law attorneys, not a surprising result. Of the guidelines currently available in Michigan at this time, the judges most often used the Alimony Program by Marginsoft.

Finally, there were expressions of concern about the implementation of mandatory guidelines. The survey was drafted to refer to *non-mandatory* guidelines only, but some judges expressed concern that non-mandatory alimony guidelines would become mandatory and further limit their discretion. They pointed out that the factors to consider when making an alimony determination have been clearly set out by the appellate courts and many of these factors are not easily quantifiable. Indeed it would be difficult to design a guideline that considered all the factors in any individual alimony determination. Nonetheless, the widespread use of guidelines as a tool in analyzing alimony claims indicates their usefulness.

Following are more detailed survey results.

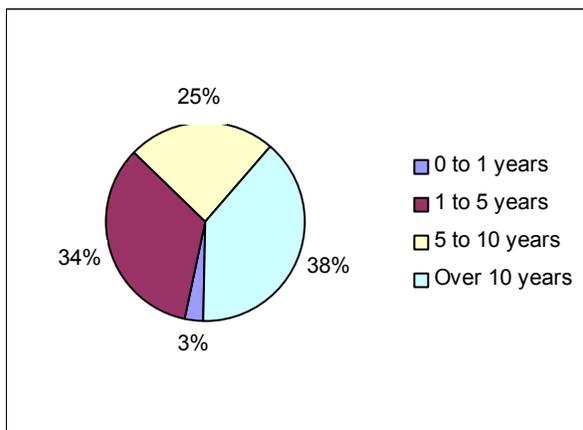
Question 1. *How long have you been hearing family law cases?*

0 to 1 years

5 to 10 years

1 to 5 years

Over 10 years



Of the judges responding 37.9% have heard family law cases for over 10 years, 24.8% for 5 to 10 years and 34.5% have served 1 to 5 years. See Figure 1. Only 2.8% of responding judges have served on the family bench less than one year.

FIGURE 1

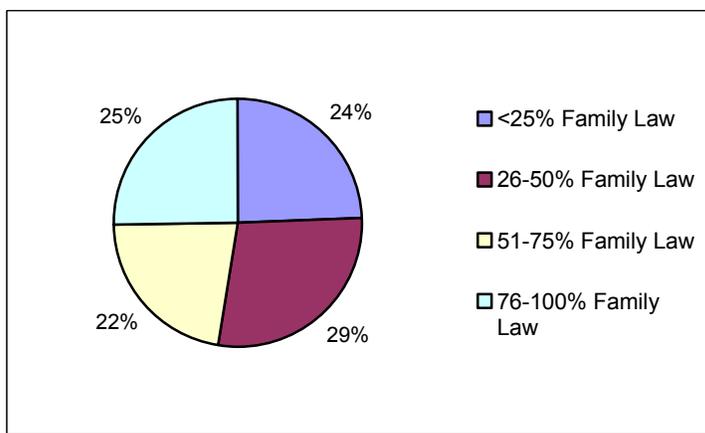
Question 2. *In the past 30 days, what percentage of your work time have you spent on family law cases?*

Less than 25%

51 to 75%

26 to 50%

75 to 100%



Almost half the respondents had over 50% of their cases in family law. Over 78% of the judges responding have caseloads with more than 25% family law cases. See Figure 2.

FIGURE 2

Question 3. *Of the family law cases you heard over the past 30 days, how many involved alimony claims?*

The question was open-ended and is not easily reduced to quantifiable data. 113 respondents gave a number in response and the average was 2.19 cases. 27 judges answered with a percentage and the average was 18.6 % of cases. While the two responses are not comparable, it does appear that alimony claims are regularly brought before the family court.

Question 4. *In how many of your cases involving claims, did you make a decision without consulting alimony guidelines?*

Once again the open-ended nature of the question made analysis of the data difficult. It was further complicated because the question was framed in the negative and appeared to refer to cases in the past 30 days only. Due to the ambiguity, no conclusions can be reached from the answers to this question.

Question 5. *In how many of your cases involving alimony claims did you use alimony guidelines:*

As a tool to facilitate settlement offers?

As one factor to consider, along with other relevant factors?

As a presumptive alimony determination, from which you might be persuaded to depart?

Of the judges who responded to the survey 99 used guidelines in their cases. This is a remarkable 68% of the judges responding to the survey. Of the judges who have used guidelines, 88% used the guidelines as one factor in their determination or as a tool for settlement and another 5% of the judges used guidelines as a presumptive determination. It should be noted that the responses to Question 5 were not mutually exclusive, i.e. the judges could use the alimony guidelines as both a factor and as a tool for settlement and these results account for that fact. See Figure 3.

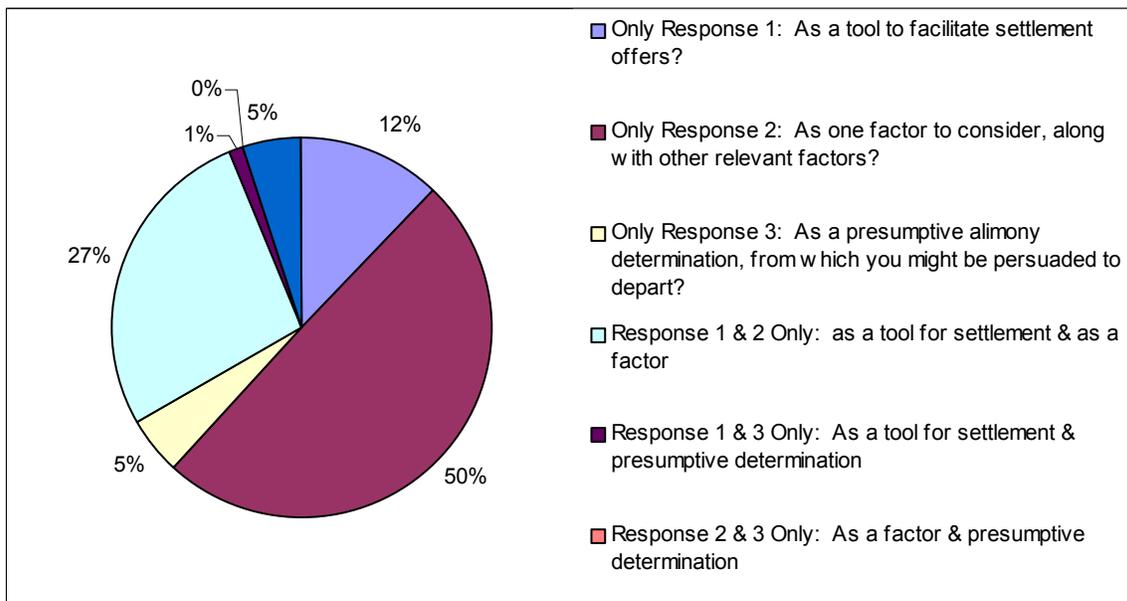


FIGURE 3

Question 6. *Prior to this survey, were you aware that non-mandatory alimony guidelines are available?*

Yes

No

Approximately 10% of the judges said they were not aware of the existence of alimony guidelines. See Figure 4.

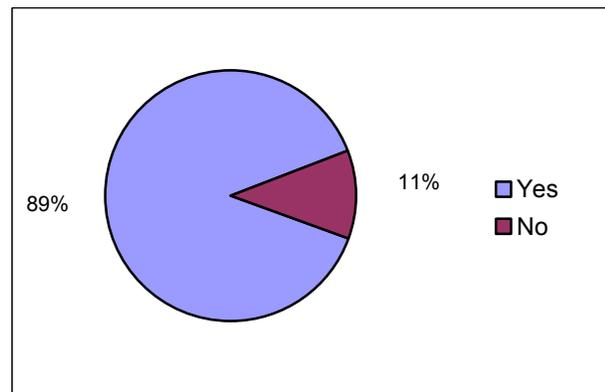


FIGURE 4

Question 7. *If you consult alimony guidelines, which guidelines do you consult?*

Primarily two programs were listed by the judges who responded; the Alimony Program by Marginsoft and the Prognosticator by Springfield Publications. The responses were sorted into 5 categories; those who use the Alimony Program by Marginsoft, those who use the Prognosticator by Springfield Publications, those who use both, those who use the guidelines presented by counsel, and those who said they use the factors or case law.

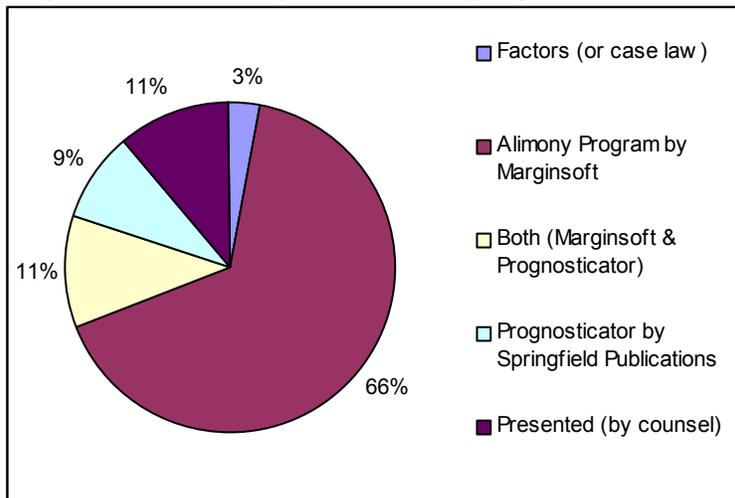


FIGURE 5

Another 22% indicate they use both available guidelines or that presented by counsel. See Figure 5. Of the 145 judges who responded to the survey, 88 listed guidelines they consider, or 60% of total survey responders. This reaffirms the results in questions five that a majority of the judges answering the survey find guidelines useful in their alimony cases.

Question 8. *How likely would you be to consult non-mandatory alimony guidelines if they were recommended by a source you considered highly reputable:*

- Very likely (more than 80%)
- Somewhat unlikely (20 to 40%)
- Likely (60 to 80%)
- Very unlikely (0 to 20%)
- Somewhat likely (40 to 60%)

61% of the family law judges responding to the survey would very likely use non-mandatory alimony guidelines if that guideline were endorsed by a reputable source, with an additional 17% likely to do so. Of the responding judges 4.9% said they were very unlikely to consult guidelines. See Figure 6.

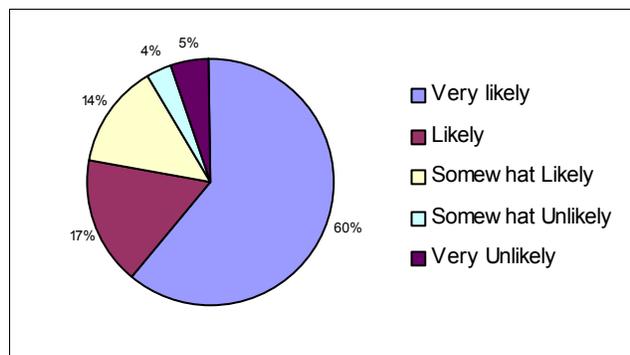


FIGURE 6

Question 9. *If the following entities promulgated non-mandatory alimony guidelines, how confident would you be in those guidelines?*

ENTITY	VERY CONFIDENT	SOMEWHAT CONFIDENT	SLIGHTLY CONFIDENT	NOT CONFIDENT	NO OPINION
<i>The State Bar of Michigan</i>					
<i>The Michigan Supreme Court</i>					
<i>The Michigan Legislature</i>					
<i>Governor's Task Force</i>					
<i>A Task Force of family law Judges only</i>					
<i>A Task Force of family law Judges and Attorneys</i>					
<i>Other (please specify)</i>					

The respondents indicated the most confidence in non-mandatory alimony guidelines that were promulgated by a task force of family law judges and attorneys, with 52.9% of respondents saying they would be “very confident” in such a product. Combining the results for the “very confident” and the “somewhat confident” responses 87% of respondents would be confident in the product of such a task force.

The table also lists the “Other” responses that were submitted by the judges in the survey. Most notable of the other sources recommended was the Friend of the Court and economists or CPAs.

Question 10. *Please use the space below for any comments:*

Approximately 46 judges took the time to add comments to the survey. These comments are not quantifiable and are not included in this report. Approximately 17 judges expressed concern about the guidelines becoming mandatory, while nine judges indicated there should be no guidelines whatsoever.

Question 11. *OPTIONAL: Please indicate the region of Michigan in which you sit: (Actual map with zones shown on map)*

- 1 – *The Upper Peninsula*
- 2 – *North West Quarter of the Lower Peninsula, e.g. Traverse City*
- 3 – *North East Quarter of the Lower Peninsula, e.g. Alpena*
- 4 – *South West Quarter of the Lower Peninsula, e.g. Grand Rapids*

□ 5 – South East Quarter of the Lower Peninsula, e.g. Detroit

Judges throughout the state responded to the survey, and the results were consistent across the state with no regional variation, further validating the information obtained. The results were consistent across the state, showing no regional variation. See Figure 7.

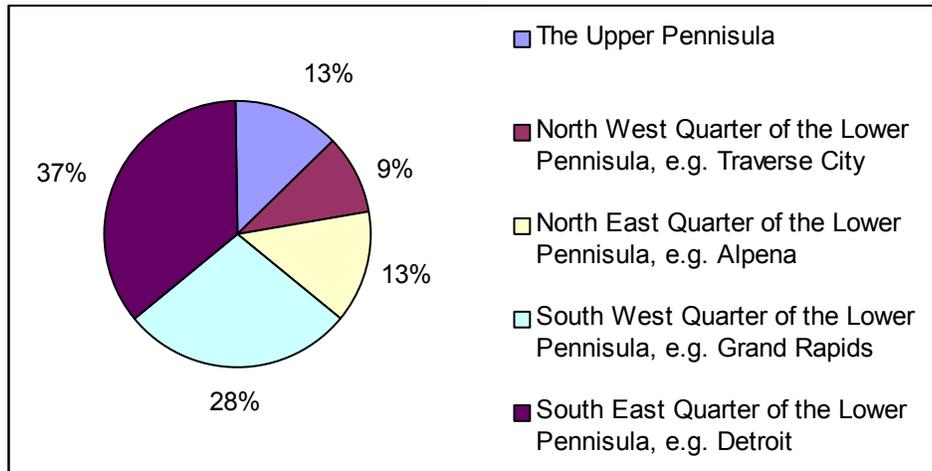


FIGURE 7