

HISTORY AND BACKGROUND OF THE “TONOPAH FORMULA”

In *Gardner v. Gardner*, 110 Nev. 1053, 881 P.2d 645 (1994), the Nevada Supreme Court decried the Nevada Legislature’s failure to set forth an objective standard for determining the appropriate amount of alimony. The Family Law Section of the Nevada State Bar, in response, appointed a working group that proposed such a standard, which was created to establish a starting point and “reality check” for divorce courts by means of a formula that gives weight to the factors set out in the Court’s prior cases. See Roger Wirth, *Alimony in Nevada*, in Eighth Annual Family Law at Tonopah (State Bar of Nevada 1997).

The working group analyzed all of the Nevada Supreme Court’s alimony decisions to the date of its creation (it was created in 1996, and tweaked through 1997), ensuring that every factor relied upon by the Court in determining what sum of alimony should be awarded was reflected in a mathematical model. All information available nationally as to proposed alimony standards and objective tests was reviewed, including law review articles on the subject and the rules of thumb or computer models followed in jurisdictions throughout the country, specifically including Oregon, California, and Minnesota.

Factors were weighted, and a model that produced results essentially consistent with all then-existing case law was created and presented to the Section at its annual meeting in Tonopah in 1997. A statute (A.B. 278, introduced March 17, 1997) was drafted. After some further mathematical testing, a “gross”-based version of the formula was created, which was believed to create essentially the same results as the original “net”-based version, but without requiring calculation of tax effects.

At the 1997 Tonopah meeting, the Section voted to *not* ask the Nevada Legislature to formally enact the proposed statute, on the basis of a lack of familiarity by the bench and Bar as to how well it would work across a multitude of real-life cases. Instead, the Section requested that district courts throughout the state try actually running calculations under the formula, in parallel with their determination of alimony in real cases, and that the resulting comparative data be assembled and returned to the Section for review, so it could be determined whether the statute as proposed should be abandoned, modified, or submitted to the Nevada Legislature for enactment as consistent with justice. Apparently, the follow up was never done, although a significant number of lawyers and judges are believed to have been using the Tonopah formula either as a starting point or a “reality check” on other means of determining appropriate alimony since 1997.

The worksheets for the “gross” and “net” versions of the proposed formula are reproduced on the website, and a link is provided for each one.