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***Trial Court's choice of economist raises questions about political influence on the Child Support Guidelines Task Force.***



[Jane Does Well](#), a non-profit located in Wellesley, formed an awareness committee this summer to study the various issues that divorced women and female-headed households were facing in Massachusetts. One of the many issues they discovered was that the average level of child support awards has decreased for children in Massachusetts since 2012. They wanted to know why.

Their search led them to the [Massachusetts Child Support Guidelines Task Force](#), and from there to the Brattle Group, a Boston-based consulting company that performed the Economic Review of the Child Support Guidelines in [2013](#) and [2017](#).

The [Jane Does Well](#) committee's first order of business was to examine the [Massachusetts 2017 Economic Review](#), which formed the basis for child support revisions made by the state's most recent [Child](#)

[Support Guidelines Task Force in 2017-2018](#). The committee, spearheaded by Board Members Lori Johnson and Christina Pavlina, identified several troubling questions with the [2017 Economic Report](#).

The state's Child Support Guidelines Task Force, the committee learned, is [chosen every four years](#) by the Massachusetts Trial Court Department under a 1998 federal law that [requires states](#) to update their child support guidelines every four years. The committee found that [Dr. Mark Sarro](#) from the Brattle Group, with the assistance of [R. Mark Rogers of Rogers Economics](#), had performed the economic analysis for the Massachusetts Child Support Task Force [since 2012](#). In this role, [Brattle's economic](#) team had filtered and analyzed most of the economic data used by the Task Force to revise the state's child support guidelines in [2013](#) and [2017](#).

The problem, according to [Jane Does Well](#), is that the authors of the economic review, Sarro and Rogers, broadly advocate for using an economic model that recommends significantly lower child support across the United States. These economists [argue](#) that the existing economic models used to calculate U.S. child support orders overstate the true cost of raising a child. Their model estimates that the cost of raising children is far lower than most states assume resulting in proposed child support amounts that are substantially lower than current guidelines in Massachusetts and in every other state. *Much* lower.

For advocates for increasing child support, like [Jane Does Well](#), the questions about Brattle's role on the Massachusetts Task Force center on neutrality. "Choosing economists who developed their own method of calculating child costs, which results in extremely low child support amounts, seems like a conflict of interest," says Lori Johnson.

Indeed, it is difficult to square the formal role of the Task Force economist – i.e. providing objective, neutral and non-partisan analysis of state and federal economic data for the state Task Force – with the Brattle Group’s leading role as a voice for broadly reducing child support in the United States. According to the Massachusetts Trial Court Department, the Brattle Group was selected because it is the “most qualified” consulting firm to perform an independent economist analysis for the Massachusetts Task Force.

However, recent history suggests that the Trial Court may view lowering child support as a convenient political outcome. Compared to boisterous [Fathers’ Rights](#) groups – who have loudly and effectively argued for lower child support over the last decade – there have been few public advocates for increasing child support since Trial Court Chief Justice Paula M. Carey began her rise to prominence in 2008 amidst a [political crisis](#) surrounding the state’s Child Support Task Force.

The selection of the Brattle Group as economists for the Child Support Task Force appears to have quieted Fathers’ Rights groups in Massachusetts, especially after child support orders began shrinking in 2013. The trend of reduced child support in Massachusetts continued with the 2016 Task Force, albeit in a more targeted fashion. Today, with the Brattle Group readying its economic report for a third consecutive Task Force in 2020, it appears likely that child support orders in Massachusetts will keep shrinking.

Meanwhile, questions remain over whether Trial Court leaders have been putting their finger on the proverbial scale for lower child support – through the Massachusetts Child Support Task Force – over the last decade. Indeed, if lower child support is the Trial Court’s desired outcome, then its selection of the Brattle Group as the Child Support Task Force’s economist makes perfect sense.

### **Brattle Group Wins Bid as Economist for the 2020-2021 Child Support Task Force**

In May 2020, the Trial Court detailed the scope of work for the Task Force economist in a request for proposals that was posted on the state’s vendor portal, [Comm Buys](#). The Trial Court’s proposal request described the Task Force economist’s responsibilities in detail:

The [economist] will gather information and analyze ... cost of living data for Massachusetts, with an emphasis on data concerning the cost of raising a child or children in Massachusetts. .... The [economist] is expected to be present at the 2020-2021 Child Support Guidelines Task Force meetings. After the [economist] completes his or her analysis, the [economist] will submit to the Trial Court a draft report summarizing, analyzing and discussing the trends the current data shows regarding the cost of raising children in Massachusetts and whether this data affects the current Child Support Guidelines.

When asked to describe the Task Force economist’s role, Johnson of Jane Does Well used similar terms:

The economist’s role is to provide the decision makers with objective, unbiased and comprehensive information so that the Task Force can make informed and thoughtful child support guidelines policy decisions to better serve Massachusetts children and families.

According to Johnson, much of the economist’s work focuses on comparing the cost of raising a child in Massachusetts with national benchmarks that are set out in studies such as Betson-Rothbarth and the USDA, the two most widely accepted benchmarks for calculating child support nationally:

One important part of this analysis is to show the Task Force how current support levels in MA compare to national benchmarks. Since benchmarks are national averages, states adjust the national benchmarks to more accurately reflect the economic conditions within their individual state.

In June 2020, the Trial Court accepted the Brattle Group's proposal to serve as economists for the upcoming [2020-2021 Massachusetts Child Support Task Force](#). It marked Brattle's third consecutive selection, where Brattle had previously served as economists for the 2012 and 2016 Task Forces. In 2020, the Trial Court declined a proposal from a Brattle competitor, [Blum Shapiro](#), a New England consulting firm that offered to perform the economic analysis for a lower fee. Blum Shapiro's losing proposal is [available for download](#) on the Comm Buys website, but Brattle's winning proposal is not online. It is unclear what criteria the Trial Court used to select Brattle's proposal over Blum Shapiro's, despite the higher cost.

In response to a request for comment, Jennifer Donahue, [Public Information Officer for the Supreme Judicial Court](#), offered the following statement about Brattle's selection as the 2020 Task Force economist:

[T]he Brattle Group, with Mark Sarro as the principal, has been selected by the Executive Office of the Trial Court as the economist for the 2020-2021 Child Support Guidelines Task Force. The Brattle Group was selected based on the quality of its technical proposal, experience, and references. R. Mark Rogers is not part of the Brattle Group and is not involved with the 2020-2021 Child Support Guidelines Task Force.

Donahue did not reply to a separate email asking for a copy of Brattle's winning proposal from June 2020.

### **The 2008 Child Support Task Force: New Chief Justice Faces a Rebellion**

Any discussion of the Brattle Group's child support practice must start with the team's leading voice, [Dr. Mark Sarro](#). A decade ago, Sarro was an outsider who made headlines [challenging](#) the Task Force over lower child support. Today, he's the Task Force's most important advisor. Sarro's swift transition from Task Force critic to essential insider is remarkable.

In 2007, the newly appointed Chief Justice of the Massachusetts Probate and Family Court, [Paula M. Carey](#), faced an unprecedented challenge. Carey had been appointed Chief by her predecessor, Hon. Sean M. Dunphy, on October 1, 2007. Earlier in 2007, Dunphy had selected the members of the of the [2008 Child Support Task Force](#). When Carey took the Chief Justice role from Dunphy, the work of the 2008 Task Force was already underway. As the new Chair of the Task Force, Carey had inherited a colorful group, which included several vocal proponents for reducing child support.

Among the 11 Task Force members Carey that inherited in late 2007 was [Ned Holstein, M.D.](#), a charismatic advocate for [Fathers' Rights](#) and [Shared Parenting](#) time. A decade earlier, Holstein founded the [National Parents Organization](#), a group that lobbied for shared parenting and reduced child support nationally. In 2008, Carey's Task Force published its [Task Force Report](#), which called for substantial child support increases under the state's Guidelines. Holstein and two other Task Force members published a "[Minority Report](#)" that sharply criticized the Task Force's efforts. For the new Chief Justice Carey, the minority report was a [public rebuttal](#) of the Trial Court's approach to child support.

Holstein's main ally in the [2008 Minority Report](#) was Dr. Mark Sarro – the man who currently leads the Task Force's economic analysis. In 2008, Sarro had recently [founded](#) Watermark Economics LLC, a consulting firm specializing in climate economics and financial litigation. Although Sarro did agree with every part of Holstein's "[Minority Report](#)", Sarro publicly affirmed Holstein's core position that child support in Massachusetts was "too high in many cases" and needlessly creates disparities in living standards between parents. Sarro also agreed that child support orders in Massachusetts "should be decreased" in many cases, and that the "Guidelines should further encourage shared parenting" time. Sarro likewise agreed with Holstein that parents should not be forced to contribute to children's college expenses.

The [2008 Minority Report](#) was not the only crisis that Carey grappled with. In 2009, she faced a [lawsuit brought](#) by Fathers & Families, Inc. that sought to prevent the new guidelines from being implemented. The lawsuit quoted liberally from Holstein's Minority Report. Although the suit was [eventually dismissed](#), it only amplified the argument that child support in Massachusetts was much too high.

For Trial Court leaders, Holstein's arguments – and political pressure – appeared to be effective. The repercussions for child support in Massachusetts were seismic.

### **The 2012 Child Support Task Force: Dr. Mark Sarro, Task Force Economist**

In 2012, Chief Justice Carey had her first chance to appoint a Task Force of her own following the 2008 debacle. Carey's [2012 Child Support Task Force](#) was much smaller than past Task Forces. It included neither independent attorneys nor public officials from outside of the Trial Court. Also missing from the 2012 Task Force members: Advocates for lowering child support like Holstein and Sarro. Indeed, the 2012 Task Force consisted *only* of Carey and three of her direct subordinates from the Probate and Family Court:

- Hon. Anthony R. Nesi, First Justice of the Bristol Probate and Family Court
- John Johnson, Chief Probation Officer of the Hampden Probate and Family Court
- Evelyn J. Patsos, Esq., Family Law Facilitator and Deputy Assistant Register of the Worcester Probate and Family Court

Compared to prior iterations, Carey's control over the 2012 Task Force was absolute. Judge Nesi had served on the 2008 Task Force under Carey, and all three members were Carey's employees. The 2012 Task Force featured another alumni from the 2008 group, this time acting in a different role: Dr. Mark Sarro, who had recently joined the Brattle Group. Carey chose Sarro as the Task Force's new economist, along with [E. Mark Rogers](#), a Georgia-based economist who had long advocated for lower child support.

The details of how Sarro went from co-signing the 2008 Minority Report to serving as Task Force economist in 2012 are unclear. The [2012 Task Force Report](#) described Sarro's new role as economist without referencing his role in the 2008 Minority Report:

The Trial Court retained an independent economic consultant, Dr. Mark A. Sarro of Watermark Economics, LLC, with Mark Rogers of Rogers Economics, Inc., as a subcontractor (hereinafter "Sarro and Rogers") to gather information and provide an analysis of cost of living data and recent economic studies relative to the cost of raising children. Sarro and Rogers also analyzed the 2009 Guidelines, comparing them to the economic studies and the guidelines in other nearby states. ... Additionally, Sarro

and Rogers provided technical support to the Task Force, modeling thousands of case scenarios with differing income levels of payors and recipients to gauge the impact on support orders of differing guidelines formulae.

According to Johnson of [Jane Does Well](#), the analysis provided to the Task Force from the economist should be impartial. Sarro and Rogers, she says, brought a very specific perspective to the Task Force.

“These economists argue that child support is too high, and specifically that custodial parents receive a ‘windfall’ due to current child support levels,” says Johnson. Carey’s [2012 Task Force](#) appeared to agree with this perspective. The state’s [2013 Child Support Guidelines](#) included an across the board cut in child support that Ned Holstein’s Fathers’ Rights group, the [National Parents Organization](#), hailed as a “[victory](#)” for Shared Parenting advocates.

For the first time since 1998, the [2013 Guidelines](#) significantly reduced child support orders in Massachusetts. Specifically, the 2013 Guidelines decreased the income used to calculate support in Massachusetts from 26% to 15% of the parents’ combined income to a range of 22% to 11% under the 2013 guidelines. The 2013 reduction is best illustrated by example:

Under the [2008 Guidelines](#), a parent with gross earnings of \$2,000 per week paid child support of \$455/week for one child (i.e. 23% of gross weekly income). In 2013, the Task Force broadly reduced child support orders for parents [at every income level](#). As a result, a parent earning \$2,000 per week would now pay \$413/week in child support (21% of gross weekly income). For parents receiving child support in Massachusetts at nearly every income level, the change was immediate: [child support orders got smaller](#).

#### **Sarro and Rogers: Task Force Economists in 2012 and 2016**

R. Mark Rogers, who co-authored the [2013 Economic Report to the Task Force](#) with Sarro, acknowledges that he believes child support is too high in Massachusetts and other states. “There’s no data to justify the current level” of child support in Massachusetts, he says. Indeed, Rogers has argued for lowering child support [for decades](#). A [prolific author](#), Rogers regularly publishes papers, studies and law review articles that press for lower child support based on economic data and Rogers’ analysis. Rogers also hosts a website, [guidelineconomics.com](#), that provides [links to Fathers’ Rights groups in 23 states](#).

When asked if Carey’s 2012 Task Force was intent on lowering child support, Rogers speaks carefully. In 2012 and 2016, he said, the Task Force signaled support for gradual reductions in child support in Massachusetts.

“One thing that did stand out is that the [Massachusetts Task Force] likes gradualism,” says Rogers, who is not part of [Brattle’s economic team](#) for the 2020 Task Force. Rogers says he does not know if the 2020 Task Force will seek additional reductions in child support in Massachusetts. “They may or may not have reached where they want to be, or they may want to take another gradual step” towards lowering child support, Rogers says. Just because the Task Force reduced child support in 2013 and 2017, “doesn’t mean they’re still wanting to change” in 2020, according to Rogers.

The economic analysis for the 2008 Task Force was performed by economist [Jane Venohr](#), who was widely regarded – then and now – as a leader in the field of child support analysis, having analyzed child

support for more than half of states nationwide. The [2013 Economic Report](#) authored by Sarro and Rogers was critical of the model used by economists like Venohr:

Most states base their child support guidelines, to varying degrees, on specific economic studies. However, the most widely used studies do not measure actual direct spending on child costs and are not state-specific (i.e., they use national data). None of the economic data currently available reflect actual spending on children.

Given the prominence of Fathers' Rights advocates like Holstein on the 2008 Task Force, the composition of the 2012 Task Force – consisting of only Carey and three Probate Court subordinates – could have been controversial. However, Carey appeared to receive little push back from Fathers' Rights backers like Holstein, whose group instead hailed the 2013 Guidelines as a “[victory](#).” Other advocates for lower child support, like [Shared Parenting Inc.](#), lauded the 2013 Economic Report by Sarro and Rogers for offering new arguments for reducing child support in other states.

The Brattle team's [2013 Economic Report](#) also included an interesting observation:

No studies have specifically analyzed whether a higher cost of living crowds out spending on children or whether higher local costs lead to higher child costs.

By the time the Brattle team took the helm as [economists for the 2016 Task Force](#), its economists would have a new study to point the Task Force towards. The problem, critics say, is that Sarro and Rogers themselves co-wrote [the 2015 study](#), which argued for lower child support. Sarro and Rogers' co-authorship of the [2015 study](#) did not stop them from citing the study extensively in their [2017 Economic Report](#) to the Massachusetts Task Force.

### **William Comanor: Architect of The Child Cost Model**

In 2015, Sarro and Rogers co-authored the 250-page study, “[The Monetary Cost of Raising Children](#),” which was [widely touted](#) by [Fathers' Rights and Shared Parenting advocates](#). The third author of the study, [UCLA Professor William Comanor](#), had already been arguing that states drastically overpay child support for nearly two decades. The Brattle Group's [child support services page](#) describes Comanor's involvement with the firm:

Brattle works closely with [Professor William Comanor](#) of the University of California, Los Angeles (UCLA) Fielding School of Public Health, who is also Professor of Economics, Emeritus, at the University of California, Santa Barbara. Formerly the Chief Economist at the US Federal Trade Commission (FTC), Professor Comanor is one of the nation's leading experts on child costs and was the editor of the book [The Law and Economics of Child Support Payments](#).

The [2015 study](#) by Sarro, Rogers and Comanor methodically makes the case that child support in the United States is far too high:

Our findings leave little doubt but that current estimates of the cost of raising children, along with the child support awards that rest on them, are substantially overstated.

The partnership between Comanor and Rogers predated Sarro's involvement by nearly a decade. In 2004, Rogers [co-authored](#) a chapter in Comanor's book, [The Law and Economics of Child Support Payments](#). In the 2004 book, Comanor argued the child support models used by most states improperly

calculate child support by equally dividing household costs between adults and children. The better method, Comanor argued, involved tracking how much household spending increases with the addition of children.

In an interview for the 2014 documentary, [Divorce Corp](#), Comanor said the actual costs of raising children are often exaggerated. “For the most part, your child lives in your household and consumes the same collection of goods that you consume,” Comanor says. For many parents, the “total outlays don’t appear to be that much different with the presence of a child than before.” Comanor cites spending on food as an example. He says that parents often spend less on dining out and more on groceries, but in the end, “spend the same amount on food despite the presence of the first child than [what] they spent earlier.”

The 2014 documentary – which plays [stock footage of luxury women’s shoe brands](#) while critiquing child support laws – asks if there is a “profit to being a custodial parent” under current child support guidelines? “That’s exactly right,” says Comanor. “That’s what the current child support system does.”

Child support payers, Comanor says, “recognize that the amount of money that they are obligated to pay exceeds the actual expenditures on the child. They know that. What the payers are funding is not merely the cost of raising their children, but also a financial asset which benefits the recipient.”

### **Brattle Authors Cite Their Own Study in 2017 Report to Task Force**

In July 2013, just a month after the [2013 Child Support Task Force Report](#) was released, Probate Court Chief Justice Carey was [appointed](#) to her current position as Chief Justice of the Trial Court. Her promotion from Probate Court Chief placed Carey at the very top of the Trial Court organization chart, where she remains today. Her oversight includes [21 organizations](#) and departments. Following the 2013 appointment, the [Probate and Family Court Department](#) was only a small part of Carey’s sprawling authority.

Carey’s successor as Probate Court Chief was [Hon. Angela Ordoñez](#). Like Carey before her, Ordoñez took the post after serving as First Justice at the Norfolk Probate & Family Court. Keeping with tradition, as the new Probate Court Chief, Ordoñez chaired the [2016 Child Support Task Force](#). Nevertheless, there were signs that Carey continued to wield influence over the Child Support Task Force, even after moving up the ranks.

The 2016 Task Force was [chosen behind closed doors](#), its members not revealed to the public until its [final report](#) was released in July 2017. Unlike Carey’s 2012 Task Force, the 2016 Task Force included a diverse range of voices, including independent attorneys and public officials from outside the Trial Court. One Task Force member was State Rep. Shawn Dooley (R-Norfolk), a [longtime Fathers’ Right advocate](#). In an interview with the [Attleboro Sun Chronicle](#), Dooley indicated that it was Chief Justice Carey – now several years removed from her role as Probate Court Chief – not Ordoñez, who [invited him](#) to join the 2016 Task Force:

Dooley, R-Norfolk, said he was happy to join the group and said his appointment “came out of the blue” as it was not something he had asked for. He said Chief Justice Paula Carey of the Massachusetts Trial Court called him one day and asked him to serve. “I was extremely honored to have been chosen by the chief justice for this role. It is nice to be noticed for my involvement with parenting rights as well as for my ability to work with differing groups to reach a consensus within the Legislature,” Dooley said.

Another sign of Carey’s continuing influence was the repeat selection of Sarro and Rogers working under the Brattle Group as economists for the 2016 Task Force. In their [2017 Economic Report to the Task Force](#), Sarro and Rogers favorably cited the [2015 study](#) that they co-authored with Comanor:

The study we co-authored with UCLA professor Bill Comanor sought to see if lessons could be learned from analyzing household spending from a different perspective than either Betson’s income equivalence approach or the USDA’s largely per capita approach to estimating child costs. The alternative focus of our study was “monetary costs,” in contrast to opportunity costs included in income equivalence and the improper allocation of some adult costs as child costs in the per capita approach.

....

This methodology resulted in sharply lower estimates of child costs than those from Betson type income equivalence or USDA per capita estimates. Importantly, the definition was sharply different.

...

[A] key takeaway from our study that is not controversial is that the household budget constraint is alive and well in economic analysis. Child support guidelines should reflect the limitations imposed by the household budget constraint in spending decisions.

#### **2016 Task Force Introduces Targeted Child Support Reductions in Massachusetts**

If the 2012 Task Force took a sledgehammer to child support in Massachusetts, the 2016 Task Force used a scalpel. The [2017 Massachusetts Child Support Guidelines](#) included targeted reductions to child support – [such as](#) the “[t]he Task Force’s decision to reduce the guidelines amounts as a credit for a portion of reasonable childcare and health care costs”, a [25% reduction for child support for adult children](#), and a new cap on college contributions for parents.

Johnson of [Jane Does Well](#) says that some of Brattle’s [recommendations](#) to the 2017 Task Force were unusual. Johnson cites a 15% “cap” on cost sharing for childcare and medical insurance costs that was added to the [2017 Guidelines](#), which Johnson says is not used in other states.

“In our view, our state’s 15% cap for childcare costs falls way outside of the mainstream nationally,” says Johnson.

Explaining the 15% cap in laymen’s terms can be challenging. In most states, medical insurance and childcare costs are shared between parents based on each parent’s earning capacity. If two parents earn roughly equal pay, then the cost of medical insurance and childcare are shared equally between the parents. (Thus, a custodial parent who pays \$1000 per month for childcare receives an additional \$500 per month in child support – i.e. 50% of their childcare cost.) If one parent earns twice as much as the other, the higher-earning parent covers 2/3 of the medical and childcare costs. In many states, it is not unusual for child support orders to double or even triple based on medical and childcare cost sharing formulas.

In 2017, Task Force added a 15% cap to the state’s cost sharing formula for medical and childcare expenses. In practical terms, this meant that a parent paying \$100 per week in child support would never need to contribute more than \$15 towards the other parent’s medical and childcare expenses.



Compared to most states – where medical and childcare expenses routinely double child support orders – the 15% cap in Massachusetts limit was strikingly stingy.

Johnson says it is notable that Sarro and Rogers specifically cite the 15% cap in the section of the [2017 Economic Report](#) that discusses the author's [2015 study](#) with Comanor. "I am not sure the Task Force recognized how unusual the cap is compared to other states."

### **No Other States Support Sarro, Rogers and Comanor's Child Support Model**

To date, Massachusetts is the only state to select the Brattle Group or its economists to lead a state Task Force analysis. In 2017, the [Minnesota Child Support Guidelines Task Force](#) considered the model set forth in the [2015 study](#) by Sarro, Rogers and Comanor, which Commoner presented to the Minnesota Task Force individually. The Minnesota Task Force offered this critique of Comanor's approach:

Comanor's results are significantly less than the USDA amounts. Some do not seem plausible when compared to other data sources. For example, Comanor estimates that food costs \$8 to \$14 per week for one child which is essentially the cost of a gallon of milk, a dozen of eggs, and two loaves of bread, based on Minneapolis food prices. Iowa also examined the Comanor et al. amounts and rejected them because they were below basic needs amounts. Most states believe that a state's child support guidelines should provide amounts that allow a child to share in the standard of living enjoyed by the obligated parent if the obligated parent can afford a higher standard of living.

### **Former Co-Author Rogers: Brattle Has Limited Influence over Child Support in Massachusetts**

Rogers, Sarro's former co-author for the [2013](#) and [2017](#) Economic Reports to the Task Force, says that concerns over Brattle's role with the Massachusetts Task Force are overblown. Rogers says that the child support analysis that he and Sarro performed for the Task Force in [2013](#) and [2017](#) was based on the same benchmark studies, i.e. Betson-Rothbarth (BR) study and [USDA child-rearing cost data](#), used by economists in other states.

According to Rogers, these benchmarks are "not exactly economically correct, but it is what most states use, so that's why Brattle used [the studies] for a comparison" between child support in Massachusetts and other states. As long as the Task Force sticks with these benchmarks, Rogers suggests, Brattle's economic analysis should look similar to an analysis performed by an economist like [Jane Venohr](#).

"They should be very close to each other," says Rogers. "Just you know, trivial differences."

According to Rogers, economists like [Venohr](#) sometimes apply cost of living adjustments to the usual benchmark studies that impact child support recommendations by "maybe four, five percent, but that's the typical difference for the cost of living type of adjustment compared to the standard model."

Johnson disagrees that the impact of Sarro and Rogers on Massachusetts child support has been minimal. and Johnson cites the 15% cap on childcare and medical costs as the most recent evidence. Johnson says that the cap suggested by Brattle does not appear in other state's guidelines:

Other states require these costs to be added to the basic child support order and then these costs are shared by both parents on a pro rata basis. The 15% cap hurts children and custodial parents and puts a disproportionate burden on the custodial parent in Massachusetts compared to other states.

Another long-standing area of concern for Jane Does Well is the below-benchmark “multipliers” that Massachusetts uses for child support for multiple children:

The amount of child support paid to parents with more than one child is also low in Massachusetts. A parent with two children only receives a 25% increase in child support, while parents with three children only receive an additional 10% increase in Massachusetts, followed by increases of just 5% for additional children. This falls way short of other states and national benchmarks.

The [2017 Economic Report](#) from Sarro and Rogers argues that child support orders for multiple children are higher in Massachusetts compared to its neighbors:

Relative to neighboring states, the current Massachusetts revised guidelines amounts for more than one child are higher in most, but not all, cases.

According to Johnson, however, the statistics cited by Sarro and Rogers do not tell the whole story. Massachusetts, with its higher incomes and cost of living, has a higher “base” child support order for one child than most of its neighbors. However, she says neighboring states increase child support more generously for parents with multiple children:

The national average is a 49% increase in child support for parents with one additional child, then a 19% additional increase for those with three children, followed by another 10% increase for each additional child. Massachusetts adjustments are well below this average. The result is lower child support for the parents in Massachusetts who need it most.

Indeed, in Massachusetts, a second child only increases child support by 25% compared to a single child. Under the state’s Guidelines, a third child only increases child support by 38% compared to a single child. The difference between Massachusetts and its neighbors are stark.



The advertisement features a dark blue background with a city skyline. On the left, the logo 'L&O' is displayed in a large, white, serif font, with 'DIVORCE & FAMILY LAW ATTORNEYS' in a smaller, white, sans-serif font below it. To the right of the logo is a portrait of Jason V. Owens, a man in a dark suit and light blue tie, smiling. Below the portrait, the text 'Need a family law lawyer? Hire the Best' is written in a white, italicized serif font. To the right of the portrait, the text 'Need a Child Support Attorney?' is written in a white, italicized serif font. Below this text is a dark blue button with the white text 'CONTACT JASON TODAY!'. At the bottom right, the text 'Jason V. Owens Partner & Senior Counsel' is written in a white, sans-serif font.

### Could the 2020 Child Support Task Force Use Brattle Study as New Benchmark?

According to Rogers, Brattle’s child support recommendations to the Task Force are unlikely to dramatically differ in 2020, so long as the Task Force continues to use the same benchmark studies as [2013](#) and [2017](#). Rogers says the same should be true in 2020, “unless Brattle used Comanor’s [study]” as a benchmark, referring to the [2015 study he co-authored with Sarro and Comanor](#).

If Brattle used the [2015 study](#) as a benchmark for the 2020 Task Force’s economic analysis, Rogers acknowledged the impact would be more substantial. According to Sarro and Rogers’ [2017 Economic Report](#) to the Task Force, the [2015 study](#) “resulted in sharply lower estimates of child costs” than the benchmark studies used by the Task Force in prior years.

How big a difference would a shift to the [2015 study](#) make in Massachusetts child support? The answer is complex. The Task Force is not required to accept the conclusions of the economic analysis. However, a conservative estimate is that the [2015 study](#), if adopted as a benchmark by the Task Force, would support at least a 25% reduction in child support in Massachusetts. The [lack of transparency](#) surrounding the Child Support Task Force means that such changes can occur outside of the public view.

Johnson says there should be more transparency in the process:

Historically, the Task Force's quadrennial review has been a closed process. This is concerning to us. Because child support amounts are vital for many parents and children, some states require a peer review by other economists in this process to ensure fairness and comprehensiveness. Many other states are completely transparent and post everything online, including task force meeting transcripts, economic presentations and working documents during the review process. Either of these additions would be welcome in Massachusetts.

### **Will Child Support in Massachusetts Increase or Decrease in 2021?**

Rogers believes "there's no data that justify the current level" of child support in Massachusetts. His view is reflected in the [2015 study](#) he co-authored with the [Brattle Team](#), which found that argued that current "child support awards ... are substantially overstated".

In 2018, Rogers published a [new paper](#) that proposed a method for calculating costs for single-family households based on federal data for intact families. The result of the study? Lower child support. In the new study, Rogers criticizes the benchmark studies used by Massachusetts and other states to calculate child support, which are based on economic data from intact families:

[T]he view that a child is entitled to an intact family standard of living is inappropriate and unreasonable. This gives the child the right to a fictional standard of living that exceeds what is achievable by the parents for themselves. The reality is that each parent can only enjoy a standard of living based on a single-parent household.

Rogers suggests that child support levels should be reduced to avoid the problem of children having "a right to a higher standard of living than either parent can achieve for themselves."

Unsurprisingly, [Jane Does Well](#) has a different view on child support:

Child Support is not a minimum cost exercise or abstract legal presumption. It is a public policy decision stating that children are our future, and we must do everything possible to nurture and protect them. When the actual cost of living in Massachusetts is taken into account, we do not think that child support levels in Massachusetts are too high. In fact, child support awards in many instances should be higher, especially for families with multiple children and for custodial parents that pay high childcare costs.

The release date for the 2020 Task Force Report is unclear. Arguably, the Task Force should be subject to the state's [Open Meeting law](#) as a policy-making board with quasi legislative powers, even if the Trial Court frames the Child Support Guidelines as a "legal presumption" that the Trial Court determines behind closed doors.

What is more clear is that the Trial Court's control over the state's Child Support Guidelines – which effect hundreds of thousands of Massachusetts citizens – is nearly absolute. The Task Force is selected and overseen by unelected judges and trial court employees with the power to make or break the financial lives of divorced and separated parents across the state. Its decisions are not voted on, cannot be vetoed by the governor, and are not subject to public scrutiny. Against this backdrop, the Trial Court's selection of the Brattle Group as the Task Force economist is only one small part of much larger, secretive process.

In its recent [press release](#) announced the members of the 2020-2021 Massachusetts Child Support Task Force, the Trial Court invited the public to submit written comments to the Task Force [via email](#) before December 15, 2020. As always, meetings of the Task Force itself remain closed to the public.

*The Administrative Office of the Massachusetts Probate and Family Court Department and Dr. Mark Sarro of the Brattle Group declined comment for this blog.*

**About the Author:** [Jason V. Owens](#) is a Massachusetts divorce lawyer and family law attorney for Lynch & Owens, located in [Hingham](#), Massachusetts and [East Sandwich](#), Massachusetts. He is also a mediator for [South Shore Divorce Mediation](#).

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