

Georgia Child Support Guidelines Commission Meeting

FEBRUARY 15, 2008 MEETING MINUTES (Addendum)

Excerpts of Proposed Revisions Approved by the Child Support Commission

(Bullet Sequence Coincides with Minute Bullets)

A. Twelve Month Protective Orders

Said Code section is further amended by revising subsection (m) as follows:

"(c) Applicability and required findings.

(1) The child support guidelines contained in this Code section are a minimum basis for determining the amount of child support and shall apply as a rebuttable presumption in all legal proceedings involving the child support responsibility of a parent. This Code section shall be used when the court enters a temporary or permanent child support order in a contested or noncontested hearing or order in a civil action filed pursuant to Code Section 19-13-4.

"(m) *Worksheets.*

(1) The child support worksheet is used to record information necessary to determine and calculate child support. Schedules and worksheets shall be prepared by the parties for purposes of calculating the amount of child support. Information from the schedules shall be entered on the child support worksheet. The child support worksheet and Schedule E shall be attached to the final court order or judgment, ~~and any schedules completed by the parties shall be filed with the clerk of court;~~ provided, however, that any order entered pursuant to Code Section 19-13-4 shall not be required to have such worksheet and schedule attached thereto.

C. Military Benefits

(xxii) Other income.

(C) *FRINGE BENEFITS.* Fringe benefits for inclusion as income or 'in kind' remuneration received by a parent in the course of employment, or operation of a trade or business, shall be counted as income if the benefits significantly reduce personal living expenses. Such fringe benefits might include, but are not limited to, use of a company car, housing, or room and

~~board. Basic allowance for housing and subsistence and variable housing allowances for members of the armed services shall be considered income for the purposes of determining child support. Fringe benefits do shall not include employee benefits that are typically added to the salary, wage, or other compensation that a parent may receive as a standard added benefit, including, but not limited to, employer paid portions of health insurance premiums or employer contributions to a retirement or pension plan.~~

(D) *VARIABLE INCOME*. Variable income such as commissions, bonuses, overtime pay, military bonuses, and dividends shall be averaged by the court or the jury over a reasonable period of time consistent with the circumstances of the case and added to a parent's fixed salary or wages to determine gross income. When income is received on an irregular, nonrecurring, or one-time basis, the court or the jury may, but is not required to, average or prorate the income over a reasonable specified period of time or require the parent to pay as a one-time support amount a percentage of his or her nonrecurring income, taking into consideration the percentage of recurring income of that parent.

(E) *MILITARY COMPENSATION AND ALLOWANCES*. Income for a parent who is an active duty member of the regular or reserve component of the United States armed forces, the United States Coast Guard, the merchant marine of the United States, the commissioned corps of the Public Health Service or the National Oceanic and Atmospheric Administration, the National Guard, or the Air National Guard shall include:

(i) Base pay;

(ii) Drill pay;

(iii) Basic allowance for subsistence, whether paid directly to the parent or received in-kind; and

(iv) Basic allowance for housing, whether paid directly to the parent or received in-kind, determined at the parent's pay grade at the without dependent rate, but shall include only so much of the allowance that is not attributable to area variable housing costs.

Except as determined by the court or jury, special pay or incentive pay, allowances for clothing or family separation, and reimbursed expenses related to the parent's assignment to a high cost of living location shall not be considered income for the purpose of determining gross income."

D. Temporary Modification Hearings

SECTION 8.

Said Code section is further amended by revising paragraphs (1) and (4) of subsection (k) as follows:

"(1) Except as provided in paragraph (2) of this subsection, a parent shall not have the right to petition for modification of the child support award

regardless of the length of time since the establishment of the child support award unless there is a substantial change in either ~~parents'~~ parent's income and financial status or the needs of the child."

"(4) A petition for modification shall be filed ~~and returnable~~ under the same rules of procedure applicable to divorce proceedings. The court may allow, upon motion, the temporary modification of a child support order pending the final trial on the petition. An order granting temporary modification shall be subject to revision by the court at any time before the final trial. A jury may be demanded on a petition for modification but the jury shall only be responsible for determining a parent's gross income and any deviations. In the hearing upon a petition for modification, testimony may be given and evidence introduced relative to the change of circumstances, income and financial status of either parent, or in the needs of the child. After hearing both parties and the evidence, the court may modify and revise the previous judgment, in accordance with the changed circumstances, income and financial status of either parent, or in the needs of the child, if such change or changes are satisfactorily proven so as to warrant the modification and revision and such modification and revisions are in the child's best interest. The court shall enter a written order specifying the basis for the modification, if any, and shall include all of the information set forth in paragraph (2) of subsection (c) of this Code section."

E. "Other Income" Language Added Under "Gross Income" Subsection

"(1) INCLUSION TO GROSS INCOME.

(A) *ATTRIBUTABLE INCOME*. Gross income of each parent shall be determined in the process of setting the presumptive amount of child support and shall include all income from any source, before deductions for taxes and other deductions such as preexisting orders for child support and credits for other qualified children, whether earned or unearned, and includes, but is not limited to, the following:

- (i) Salaries;
- (ii) Commissions, fees, and tips;
- (iii) Income from self-employment;
- (iv) Bonuses;
- (v) Overtime payments;
- (vi) Severance pay;
- (vii) Recurring income from pensions or retirement plans including, but not limited to, United States Department of Veterans Affairs, Railroad Retirement Board, Keoghs, and individual retirement accounts;
- (viii) Interest income;
- (ix) Dividend income;
- (x) Trust income;

- (xi) Income from annuities;
- (xii) Capital gains;
- (xiii) Disability or retirement benefits that are received from the Social Security Administration pursuant to Title II of the federal Social Security Act;
- (xiv) Workers' compensation benefits, whether temporary or permanent;
- (xv) Unemployment insurance benefits;
- (xvi) Judgments recovered for personal injuries and awards from other civil actions;
- (xvii) Gifts that consist of cash or other liquid instruments, or which can be converted to cash;
- (xviii) Prizes;
- (xix) Lottery winnings;
- (xx) Alimony or maintenance received from persons other than parties to the proceeding before the court; ~~and~~
- (xxi) Assets which are used for the support of the family; and
- (xxii) Other income.

F. No Reliable Evidence of Income in Modification Cases

"(B) *MODIFICATION*. When cases with established orders are reviewed for modification and a parent fails to produce reliable evidence of income, such as tax returns for prior years, check stubs, or other information for determining current ability to pay child support or ability to pay child support in prior years, and the court or jury has no other reliable evidence of ~~that~~ such parent's income or income potential, the court or jury may ~~enter an order to~~ increase the child support of the parent failing or refusing to produce evidence of income by an increment of at least 10 percent per year of ~~that~~ such parent's ~~pro rata share of the basic child support obligation~~ gross income for each year since the final child support order was entered or last modified and shall calculate the basic child support obligation using the increased amount as such parent's gross income.

G. Preexisting Orders

"(B) *PREEXISTING ORDERS*. An adjustment to the parent's monthly gross income shall be made on the Child Support Schedule B – Adjusted Income for current preexisting orders actually being paid under an order of support for a period of not less than 12 ~~consecutive~~ months immediately prior to the date of the hearing or such period that an order has been in effect if less than 12 months prior to the date of the hearing before the court to set, modify, or enforce child support.