

Georgia Child Support Guidelines Statutory Review

MEETING MINUTES

February 15, 2008

I. Welcome and Introductions

Judge Louisa Abbot, Chairman of the Statute Review Subcommittee, called the Subcommittee Meeting to order at 10:15 a.m. Judge Abbot asked subcommittee members to introduce themselves and then asked all guests to introduce themselves.

Subcommittee members present: Judge Louisa Abbot, Judge Quillian Baldwin, Judge Debra Bernes, Senator Seth Harp, Ms. Joy Hawkins, Judge Michael Key.

Judge Abbot asked for any revisions to the January 10, 2008 meeting minutes; none were voiced, the minutes were approved as presented.

II. Review of Proposals Approved at January 10 Meeting

Judge Abbot referred to the draft of the proposed bill that Jill Travis prepared, with the assistance of Jill Radwin, of suggested revisions approved at the January 10, 2008 meeting and then ratified by the Commission.

Judge Abbot reviewed additional changes in the draft that were made for language consistency and grammatical corrections only. These changes were made per Chairman Harp's directive to Jill Travis and Jill Radwin at the January 10, 2008 meeting.

III. Status of Tabled Proposals

A. Twelve Month Protective Orders

At the last meeting, possible statutory revisions regarding the applicability of the Child Support Guidelines to Twelve Month Protective Orders under 19-13-4 were tabled until the issue could be reviewed by the Rules Committee of the Council of Superior Court Judges in conjunction with their review and revisions to Temporary Protective Orders to be used in Family Violence cases. The Rules Committee met toward the end of January. Judge Abbot reported that at that meeting, the Superior Court Judges agreed that Twelve Month Protective Orders were temporary in nature. Thus, the Guidelines would apply. The Statute Review Subcommittee recommended language be added under (c) (1) clarifying that the Child Support Guidelines apply to actions under §19-13-4.

The Rules Committee had also reviewed the Worksheet filing requirement, found under Subsection (m) (1) of the Guidelines. The judges reasoned that since actions under §19-13-4, Family Violence Act, are temporary in nature, and thus, not considered final orders, as set forth in 19-6-15(m), the Child Support Worksheets and Schedules need not be attached to the Order in cases involving Twelve Month Protective Orders. In following the Superior Court Judges' reasoning, the Statute Review Subcommittee proposed that Subsection (m) be amended to reflect this revision.

Both of these revisions in regard to Twelve Month Protective Orders, as set forth in §19-13-4, were presented via a motion to recommend these statutory revisions to the Child Support Commission. The motion was seconded, and approved unanimously by the members present.

B. Financial Affidavit

Another item tabled at the last meeting was adding language to the Guidelines allowing the Child Support Agency to waive the requirement of filing financial affidavits. Since the requirement for financial affidavits is rooted in USCR 24.2, the revision is to be made to the Rule, rather than the Guidelines. Judge Louisa Abbot reported that the Rules Committee of the Council of Superior Court Judges had, at their January meeting, agreed to revise USCR 24.2, allowing the waiver. It will now go through the Rule approval process. Motion to recommend these statutory revisions to the Child Support Commission seconded and approved unanimously by the members present.

C. Military Benefits

Also, at the January meeting, the issue of which military benefits are to be considered attributable income was referred to a Study Committee. Ms. Joy Hawkins, of The Military Benefits Study Committee reported its findings and proposed statutory revisions to the Statute Review Subcommittee on this date. The Statute Review subcommittee approved the recommendations to present to the Child Support Commission. Judge Abbot thanked the Military Benefits Study Committee Chair, Joy Hawkins, Mr. John Camp, and other study committee members for their time and research to draft the recommended statutory changes. **These revised changes are found in an addendum to these minutes.** The proposed recommendations to the Commission regarding military benefits include removing provisions relating to military benefits from the fringe benefit section of gross income; create a new subsection setting forth which military compensation and allowances should be counted as income and which should be excluded; and, language added in the “bonus” paragraph,” also under the gross income subsection, referencing military bonuses. The basic housing allowance, itself, is included in the calculation. There is also language included to allow court discretion to include any additional amounts of income if the court does find additional income. Motion to recommend these statutory revisions to the Child Support Commission seconded and approved unanimously by the members present.

D. Low Income Subcommittee

Judge Abbot asked Low Income Subcommittee Chair, Judge Debra Bernes, to present a report on status of the Low Income Subcommittee. Judge Bernes stated that the subcommittee has met and begun discussion; however, further study is needed regarding the elevated amount of required child support payments. Further data and study is needed before a final report can be presented.

IV. **Assessment/Discussion of Additional Suggested Revisions to §19-6-15**

Judge Abbot called on Jill Radwin to report on additional issues and suggested revisions not discussed at the last Statute Review Subcommittee meeting. Items approved at this subcommittee meeting to present to the full commission for ratification included:

A. Adding language in the modification subsection allowing for temporary modification of child support-

Suggested new language is needed under the Modification Subsection (k) that expressly allows the court to conduct temporary modification hearings to set child support pending the final hearing. Some courts are currently taking the position that under the new Guidelines, temporary modification hearings are no longer permissible so this language change would clarify that parties are still allowed to ask for temporary modification hearings. This suggested revision was presented as a motion to recommend to the Child Support Commission.

B. Adding "Other Income" as Source of Income under "Inclusion to Gross Income" -

"Other income" is a choice a litigant may make on the Worksheets/Schedules electronic calculator but is not expressly provided for in the statute. This language would make the statute and forms consistent in calculating gross income for purposes of calculating child support. The suggested added language was presented and seconded and approved unanimously to present to the Child Support Commission.

C. Revising how to calculate a Modification when a parent fails to produce Reliable Evidence of Income -

Following the passage of the Child Support Bill in 2006, an error was identified under the provision concerning how to calculate a modification case when one of the parents fails to produce any reliable evidence of income. The present language is confusing and may mislead one on how to calculate a parent's income, and thus, child support obligation. In modification cases, the statute currently refers to imputing income using 10% of the parent's pro rata share of child support when no other reliable evidence of income is presented by that parent. The reference to 10% of the parent's pro rata share of the BCSO is what is misleading, since if the income was calculated under prior Guidelines, information regarding the pro rata share of that parent would not be available. The statutory revision will require that a parent who fails to provide reliable evidence of income, and the court has no other reliable evidence of income or income potential to consider, the court may increase the child support of the parent failing to produce evidence of income by an increment of at least 10% per year of such parent's gross income for each year since the final order was entered or last modified. A motion regarding this revision was seconded and approved unanimously to present to the Child Support Commission.

D. Clarifying proof under the Preexisting Orders Provision, to strike the term, "consecutive" as in "consecutive orders" -

The next issue discussed was the recommendation to clarify proof under the Preexisting Orders sub-paragraph (f) (5) (B). At present a paying parent can not get credit unless they pay twelve consecutive months. The revision is to strike the term, "consecutive." This clarification is needed in cases where a paying parent, who may have missed a month but later paid multiple payments in a month to catch up a delinquency, may receive consideration under this provision. This revision was presented and seconded and approved unanimously to present to the Child Support Commission.

Several issues presented were referred for further study, including: 1) clarification as to when and when not to impute income, including when one does not have the ability to earn income; and 2) converting alimony paid to a former spouse from a possible deviation to an adjustment of income.

V. **Other Pending Legislation**

Jill Radwin presented current HB 540—Post Minority Support for children with disabilities stating that this bill is pending in the Legislature and, if passed, will possibly make changes to the § 19-6-15.

VI. **New Business –**

Judge Abbot asked for other issues/concerns. None were stated.

The meeting adjourned at 11:20 a.m.