

**Georgia Commission on Child Support
Statute Review Committee
Minutes of Meeting: June 17, 2014**

Present in person:

Judge Michael Key
Katie Connell
Stephen Harris
Judge Lisa Rambo
Judge John Simpson
Jill Travis
Deborah Johnson
Judge Velma Tilley
Eric John
Ryan Bradley
Sandy Bair
Erica Thornton
Catherine Fitch
Eric John
Pat Buonodono, staff attorney
Elaine Johnson, staff
Bruce Shaw, staff

Present via teleconference:

Representative Timothy Barr
Judge Lisa Branch
Jim Holmes
Tracy Mason

The meeting began at 2:38 p.m.

- I. Welcome and Introductions
- II. Review of Minutes of 10/18/2013

Judge Rambo stated she had appeared via teleconference but was not included as present. The minutes were amended to reflect Judge Rambo as present. Representative Barr moved to approve the minutes as amended. Katie Connell seconded the motion. The motion carried unanimously.

- III. Old Business
 - A. Statute Revisions that Passed

Pat Buonodono stated that Senate Bill 282 passed in the 2014 legislative session with special thanks to Senator Hufstetler, Representative Barr and Representative Mary Margaret Oliver.

B. Other (passed) Statute Revisions that affect Child Support

Pat Buonodono stated Senate Bill 386 is the only other bill that affects the child support code. This bill changes O.C.G.A. Title 9 to only allow the year of birth rather than the full date of birth to be used in pleadings, orders and child support worksheets. Jill Travis informed the committee that this was done for privacy and identity theft concerns as well as to align state and federal laws. Stephen Harris pointed out that the bill creates a conflict with UIFSA for providing social security numbers when registering out of state orders, but there is a provision in SB 386 that repeals any conflicting laws. The child support calculator is currently being changed to reflect only the birth year for children.

C. Report from Administrative Legitimation Subcommittee

Judge Tilley advised the committee that a working draft for amendments to the administrative legitimation statute has been introduced and the subcommittee will be evaluating it from now until the subcommittee reconvenes.

IV. New Business

A. Discussion and determination of issues to carry in 2015

Pat Buonodono researched some issues that were brought up in previous meetings such as first child dynamic, preexisting orders, cash medical provision, child support for children above the age of 18 for incapacitated children, foreseeable changes in child care, foreseeable changes in alimony and other expenses, income withholding termination and order modifications.

Judge Key addressed the first child dynamic as an issue of disparate impact for custodial parents (CP) and noncustodial parents (NCP). In many instances a CP with children from different NCPs contribute little to no money to the child's upbringing because each subsequent child was treated in child support orders as singular and not incremental. Thus, there are instances where this actually creates income for a CP and almost incentivizes procreation in broken households, and generally works to the detriment of NCPs, especially those with subsequent children.

Pat Buonodono stated that preexisting orders were handled differently in other states. Currently in Georgia, preexisting orders are treated as an adjustment and may only be considered if they were filed with the clerk before the date and time of the current action. About half of the states she reviewed treat preexisting orders in the same fashion, with the underlying thought process being that NCPs were aware of their responsibility to the children in preexisting orders but disregarded that responsibility to have more children. Many of the reviewed states tied preexisting with theoretical orders and other states restrict consideration of any subsequent children to be used only as a defense in a modification seeking an increase in support. Out of the ten states reviewed, other qualified children could only be used as a deviation in three.

Cash medical payments and the cost of insurance was the next issue presented by Pat Buonodono. Federal law requires Georgia to address cash medical payments but our current state law covers it only to the extent of uninsured medical expenses. Pat Buonodono gave possible options as being the inclusion of cash medical as a percentage for which each parent would be responsible, or defining the reasonable cost of health insurance as a prescribed percentage of income. Out of the states reviewed, the highest percentage of income deemed as reasonable was nine percent. Discussion was held on what

number the Division of Child Support Services (DCSS) uses as reasonable, which is five percent. DCSS arrived at this number by conducting a study years ago. Deborah Johnson commented that including a definition of what is reasonably available in the statute would be beneficial because for lower income people, the cost of health insurance as a percentage of income is disproportionate and unaffordable, and often a judge will order health insurance to be purchased regardless of affordability.

Pat Buonodono stated another issue is that health insurance is frequently ordered but the future cost of it is often not considered in calculations. Katie Connell stated that health insurance is accounted for in the statute and failure to include it in the worksheet would be a statewide training issue. Deborah Johnson pointed out that most courts require proof of health insurance and child care expenses being paid in order to include the cost in child support calculations, but when parents are ordered to obtain health insurance the cost is unknown and unconsidered. Often when a family is breaking up in a divorce, new child care costs are expected but not included in the calculations. Judge Key stated that if anyone in the committee felt strongly that clarification on the issue needed to be made in the statutes then it should be included in a discussion draft. Jill Travis pointed to O.C.G.A. § 19-6-15(h)(2)(A)(i) regarding the cost of health insurance premiums which states "The amount that is, or will be, paid..." which indicates prospective health insurance costs are allowed to be included.

Child support for a disabled child over the age of 18 was the next topic introduced by Pat Buonodono. Out of ten states that were studied five of them cover an incapacitated child past the age of 18, two states absolutely do not and two states limit the coverage to age 21. If child support is received for a disabled child it could possibly reduce disability benefits. There was a discussion about whether a parent should receive disability if they had the means to care for a disabled child through child support but Katie Connell presented the crux of the problem is in obtaining needed services. The only way to access these services is through government benefits, and it would be remiss of the committee to jeopardize that access to anyone by means of carelessly crafted legislation. Deborah Johnson stated that Atlanta Legal Aid has a team dedicated to disabled persons that could be consulted for information on this issue. She stated that there are a number of poor people caring for their disabled progenies of adult age who could greatly use child support and that child support is not counted dollar for dollar but as 1/3 of a dollar as income when determining disability levels. Judge Key inquired if the Committee wished to pursue the issue. Katie Connell advised against it, concurred by Judge Rambo, especially without seeking more expertise on the matter for which she would have suggestions. Pat Buonodono stated that an attempt at passing legislation regarding this issue was made in 2008 but went nowhere. Judge Key suggested that no proposed legislation go forward on this issue this year and more public input could be made. Another suggestion made by Pat Buonodono was a requirement for life insurance for parents of disabled children in child support cases.

Pat Buonodono stated the next issue for discussion is child care expenses and adjustments to child support. Child care expenses vary by specific developmental stages through the child's life and these changes can often be anticipated. The discussion last year was about ways to possibly phase out or phase in these expected expenses. Judge Key stated we should add the topic of the possibility of child care expenses being dealt with in a similar manner to uninsured health expenses and taken out of the worksheet to a discussion draft. This is where the CP pays the initial expense and provides proof of the expense to the NCP for reimbursement of an agreed percentage of the child care amount. Deborah Johnson stated that a practical problem persists in handling child care expenses this way. It is very difficult to collect on separately reimbursable amounts. The only way to collect on these amounts when they are unpaid is through contempt orders but fixed amounts of child support are collectible through an income deduction order (IDO), which is the most reliable method of collecting child support. Judge

Key brought forth another issue in removing the expense from the worksheet is that it puts a burden on some CPs by making them reach out to NCPs for reimbursement. Stephen Harris pointed out that DCSS currently receives all child support payments through the family support registry and if child care expenses were taken out of the child support amount that they would no longer be able to collect on it.

Termination of income withholding was introduced by Pat Buonodono as the next topic of discussion. Many employers err on the side of caution and will not terminate an income withholding order until they are presented with a new order directing them to do so. This results in many parents paying support long after it was supposed to have ended. Pat Buonodono stated that she has put a consent order template on the Georgia Commission on Child Support's website that enables parents who agree to enter an order, but for the vast amount of parents who don't have good relations, the problem persists. Judge Key stated he would like to see a required finding in the IDO as to anticipated date of termination of the child support obligation, which would take care of a majority of the problem. In the minority of cases where the date needs to be extended, parents would either have to agree to keep paying outside of an IDO or go to court to have it extended. Deborah Johnson stated that there are many issues in the statute that aren't explicit that could stand to be more direct regarding the termination of IDOs, such as court filing fee amounts and the terms of notice for the CP. Erica Thornton stated that arrearage amounts could cause confusion with employers in terminating IDOs, to which Judge Key replied it would likely have to be dealt with in the contempt hearing where the arrearage is established. Katie Connell added that if there was a mechanism for NCPs to recoup overpayments made from an IDO, placing the onus on both sides to stop the IDO, the problem would likely occur less. Deborah Johnson stated that this would often punish a parent who is still caring for a teenager in their home.

Judge Key stated for purposes of the discussion draft that alimony should be added to the list of prospective changes in income.

B. Other New Business

No other new business was brought forth.

V. Schedule Next Meeting

The next meeting will be scheduled within the next four to six weeks after consulting with Georgia Commission on Child Support chair Judge Louisa Abbot.

The meeting adjourned at 3:46 p.m.