

**Georgia Commission on Child Support
Statute Review Committee
Minutes of Meeting: May 27, 2016**

Present:

Judge Michael Key
Mr. Stephen Harris
Judge Lisa Rambo
Judge Amanda Baxter
Ms. Jill Travis, Office of Legislative Counsel
Mr. Byron Cuthbert, Department of Human Services
Mr. Kurt Bryan, Department of Human Services
Mr. Ryan Bradley, Division of Child Support Services (via teleconference)
Ms. Patricia Buonodono, staff attorney
Ms. Elaine Johnson, staff (via teleconference)
Mr. Bruce Shaw, staff

I. Welcome and Introductions

II. Review of Minutes – 08/18/2015 Meeting

Upon motion, the minutes were passed without amendment.

III. Old Business

A. SB 64 Passed! (Repeal of Administrative Legitimation)

Pat Buonodono informed the committee that SB 64 passed at the last possible moment. She has offered to assist the Office of Vital Records to update their paternity acknowledgement forms to include language regarding hospitals providing copies of the signed forms as well as to update the informational form given to parents at the hospital to include information on legitimation. She also offered to assist with training for the birth clerks on the appropriate subject matter.

Pat Buonodono shared that before passage, a section was added to SB 64 that repealed a section of HB 887 that allowed parents to give temporary custody to someone by simply signing over power of attorney. SB 64 was signed after HB 887 therefore SB 64 takes precedence, repealing only the section of HB 887 addressed within SB 64.

Judge Key asked for clarity as to whether this change originated from the Child Support Commission or if the commission took any position on the change. Pat Buonodono responded that the commission did not. Jill Travis stated that the change was made in a conference committee report and pointed to sections 15 and 19 of SB 64 as the repealing sections.

B. LC 29 6672 (Child Support Bill) and LC 29 6730 (Changing name of agency, fixes cross references, definitional sections need to be relocated, other clean up – mostly on IVD cases)

Jill Travis gave a brief overview of bills LC 29 6672 and LC 29 6730, stressing that they are both drafts. LC 29 6730 reflects an array of the topics that were discussed by the Statute Review Committee including language clean up, gender neutrality, giving court discretion to remove work related child care from support calculations, and parenting time. LC 29 6672 includes language to include termination date within support orders as well as other clean up measures such as making current the IV-D agency name, moving term definitions to appropriate locations according to the style of the code.

Pat Buonodono stated that she was informed it was best to only have a single bill; Jill Travis replied that this is partly true due to the difficulty of passing legislation but it also depends on subject matter as to whether or not items can be included on the same bill.

Judge Key stated that the purpose of today's meeting was to identify issues that could be brought to the commission to determine what should be addressed. Judge Key and Jill Travis both added that introducing two bills to the legislature can be advantageous if there is a controversial issue that needs to be separated from the rest.

The issues discussed for the purpose of presenting to the full commission are:

1. Judicial discretion to remove work related child care from support calculations. While the Division of Child Support Services would prefer to keep work related child care in the calculations due to the process they have in place for modifications, keeping it as judicial discretion should not present a problem in their cases. Judge Key stated that a previous meeting a representative of Atlanta Legal Aid had opposition to this because parties in their cases would not be able to advance the cost of care if removed from support calculations but Judge Key is confident in the discretion of the court to determine in these types of cases to leave it within the calculations. There was some discussion about what judges are doing as a work around to this issue, such as automatic step downs, and whether or not the law provides for these types of solutions. Judge Key suggested asking the commission if it wants the Statute Review Committee to address the issue of clarifying whether or not automatic future adjustments are indeed allowed. Stephen Harris stated that the Division of Child Support Services would have difficulty with automatically adjusting orders due to the sheer volume of cases and tracking cases with adjustments. He requested that the issue remain as discretionary for the court rather than mandatory. Ryan Bradley added that the agency's \$STARs system could be used in such a way to provide for adjustments. No opposition was raised to moving this item forward to the commission.
2. Correct gender issues in the guidelines. LC 29 6730 contains three different locations (sections 4, 5, and 6) where gender neutrality needs to be addressed.
3. Adoption subsidies/tax credits and how they are to be treated for the purposes of calculating support. A recent survey showed little interest in this issue from family law attorneys and it was decided to not move forward on this issue. Judge Key suggested providing issues that this committee elected not to pursue to the Commission for informational purposes.
4. In two recent Court of Appeals cases, termination of parental rights (TPR) was overturned due to in large part the cases' stressing a lack of financial support when a child support was never

ordered. Pat Buonodono originally suggested putting together a subcommittee to study the issue but after discussion it was deemed the policy decisions to treat the underlying problem are outside of the scope of the commission's work as well as an educational issue. Judge Key suggested not moving forward on this issue but following up with Council of Juvenile Court Judges as well as Division of Family and Children Services to receive input (Pat volunteered to call Ann).

5. Moving vision and dental insurance to schedule D of the child support worksheet. Pat Buonodono stated that federal requirements dictate that medical insurance be included in child support calculations but not vision and dental, thus they are different sections of the worksheet. Judge Key stated that it can be confusing and cited a situation that wrongly led to contempt because dental insurance was not provided by a parent. Judge Baxter stated that these types of insurances, especially vision, can be randomly expensive, unnecessary, and unaffordable, such as when provided by an employer for infants, and it would be best in her opinion to leave them separate. Stephen Harris pointed out that the requirement for noncustodial parents (NCP) to pay health insurance only applies when the cost is below five percent of their income, adding vision and dental could push many NCPs above the threshold allowing them to avoid the requirement. There was no support for moving this item to the commission, except for informational purposes.
6. Pat Buonodono brought the committee's attention a part of California's code section where judges can order parents to vocational rehab and job training. After discussion it was determined to already be the practice of many courts across the state and determined to be an educational issue.
7. Pat Buonodono stated that there is some hold over language from the parenting time schedule that remains in the statute. She will discuss this further with Jill Travis and report back. Judge Key asked if there was any strong sentiment felt from the public about addressing parenting time in detail in the code. Pat Buonodono affirmed that there are frequent inquiries for guidance on the matter. This was followed by a discussion of the legislative history of parenting time in 2005 where a presumption of 80 days of parenting time for the noncustodial parent was included when creating the basic child support obligation table (BCSO) which provided the baseline for the parenting time schedule. The parenting time schedule was subsequently taken out because it was fraught with complications such as parties could not agree on the definition of day. Presently, the 80 day presumption is not included within the amounts on the BCSO table however there is no way to deviate downwards for parenting time when a parent is not present in a child's life nor is there guidance for deviating upwards in the statute. Stephen Harris stated that there is a notice of federal rule making from the federal office of child support that has mention of IV-D agencies making parenting time deviations. This could mean more changes need to be made to the statute and it may be best to wait for these rules to be issued (currently scheduled to be released in August 2016) to take action on the issue. This committee will ask the commission if they are to spend any time on the issue.
8. The term "adjusted child support obligation" is used twice in the code but no definition exists. Pat Buonodono asked the committee if this was something that should be included in O.C.G.A. 19-6-15(a). After discussion it was determined that the absence of this definition does not cause a problem and it could possibly be addressed as help text within the worksheet.
9. Veteran's disability payments are increased incrementally per dependent. This amount is included as income for the purposes of calculating support; Pat Buonodono asked the committee if the amount is sent directly to the child through apportionment, should it actually offset support. After discussion the committee elected not to pursue the issue deeming it to be effectively managed by judges and the possibility of complicating the statute unnecessarily.

10. O.C.G.A. 19-6-15(c)(2)(B) references language in 19-5-12(c), but 19-5-12(c) is far less specific than 19-6-15(c)(2)(B). So 19-5-12(c) should be amended to say what 19-6-15(c)(2) says. Both of these passages discuss what information must be contained in the child support order.
11. Do we want to make it so that in shared custody cases, the person with the higher obligation amount pays the difference between what the worksheet shows as the child support obligation for each parent. There is no guidance in the statute for this and it is a frequent point of confusion. The committee agreed to ask the commission if the Statute Review Committee should pursue the matter.
12. Income deduction for current support in private cases often is difficult for individuals to stop without going back to court. To resolve this issue the committee determined it would be best addressed by working to change a superior court rule to include in the income deduction order a discretionary field for a date certain to stop deductions for current support.
13. Language that if an event were going to occur within two years, the support amount may be changed if supported by a separate worksheet. We will take this to the Commission. Many judges are already doing this.
14. A variety of smaller language corrections was also agreed upon to take to the commission for approval.

IV. New Business

Pat Buonodono informed the committee that the new online child support calculator will have a “submit to court” option that could possibly constitute ex parte communications. It may become necessary to include language in the statute that makes an exception for this function to not be an ex parte communication. The details continue to be worked out for this function and this information was provided as notice.

A. Feedback from survey distributed at Family Law Institute

Feedback from this survey was discussed in the issues at III(B).

V. Schedule Next Meeting

The next meeting will be scheduled at a later time.