

Georgia Commission on Child Support
Statute Review Committee
Minutes of Meeting: September 22, 2017

Present:

Judge Shawn LaGrua (via phone)
Mr. Stephen Harris
Judge Amanda Baxter
Judge Lisa Jones
Judge Amanda Baxter
Senator Emanuel Jones (via phone)

Guests Present:

Ms. Selinda D. Handsford, Georgia Legal Services Program
Mr. Adam Medlin, Georgia Family Law Reform
Mr. Wayne Slear, Georgia Family Law Reform
Ms. Lori Anderson, Atlanta Legal Aid
Ms. Melanie Medalle, Georgia Center for the Homeless
Mr. Jason Naunas, Senior Assistant Attorney General
Ms. Sarah White, Atlanta Legal Aid Society
Ms. Jill Travis, Office of Legislative Counsel
Ms. Erica Thornton, DCSS
Ms. Ashlei Seals, DCSS
Ms. Megan Pulsts, Atlanta Legal Aid
Ms. Sarah Austin, Atlanta Legal Aid
Ms. Alice Limehouse
Mr. Muhammed Abdunazar
Mr. Ryan Bradley, DCSS (via phone)
Mr. Mark Rogers (via phone)
Mr. Tyler Mashburn (JC/AOC)

I. Welcome and Introductions

The meeting was called to order at 1:30 pm.

II. Review of Minutes – 07/28/17 Meeting

Mr. Stephen Harris moved to approve as corrected (spelling) the minutes from the July 28, 2018 meeting.
Judge Lisa Jones seconded the motion. The motion carried unanimously.

III. Old Business

A. Related to SB 137

1. Multiple Worksheets – Go back to original language?
 - a. Checklist for Multiple Worksheets
 - b. Income Deduction Orders
 - c. Child Support Supplements
 - d. Superior Court Rules 24.11 and 24.12

Ms. Pat Buonodono stated that the feedback received regarding the requirement of filing multiple worksheets has been mostly negative. She created a checklist to help litigants navigate the stepdown process because there are several things to consider such as health insurance, work related child care, preexisting orders, and the age of other qualified children. It also creates confusion in the income deduction process and the question of when a child is no longer qualified for child support, particularly when that event is far in the future. Child support addenda are implemented usually at a county level and they will also need amendments to provide for step downs. Lastly, the statute currently instructs the custodial parent is responsible for serving the income deduction process but they will have no incentive to provide paperwork in the distant future for a decrease in child support. A question was raised about whether the stepdown info would already be provided to employers in the order but additional paperwork like the federal IWO form and notice to payor have to be served as well.

Representatives from Atlanta Legal Aid brought concerns about complicating matters for pro se litigants as well as creating a liability for custodial parents for overpayment. Other concerns are for domestic violence survivors having to serve their abusers farther down the road.

After discussion, it was determined that the intention of the bill was to provide judicial discretion for cases with children imminent to aging out and that the current bill should reflect such.

Judge LaGrua asked Senator Emanuel Jones about the best way to ensure that the bill passes with the intended language to which Senator Jones responded that having sponsors in both parties who are well informed about the intention of the bill would be the most crucial aspect so that it can be effectively communicated when and if changes are attempted to be made in committee.

On October 3, 2017 an electronic vote was taken for the approval of the concepts discussed at this meeting and contained with LC 29 7649 attached hereto as addendum. The Committee voted unanimously in favor of the motion.

B. DHS/OCSE Final Rule

Mr. Stephen Harris presented his suggested language regarding the final rule at the July 28, 2017 meeting and stated that DHS is still going through its legislative process which begins with the Governor's Office and getting their insight and approval on the concepts.

C. Revise O.C.G.A. § 19-6-51 to include an administrative judge on the Commission

Ms. Pat Buonodono stated she spoke with the appointments secretary at the Governor's Office about adding an administrative law judge to the commission. However, she was advised it would likely have to wait for the next Governor. Ms. Buonodono also stated that a new appellate level judge is needed on the Commission since Judge Branch's resignation due to being elevated to the federal court. The appointment secretary is asking for suggestions.

D. Changing the makeup of the Commission

IV. New Business

Ms. Pat Buonodono asked the committee to revisit the question brought previously by Judge Robert Leonard of Cobb County as to whether alimony deviation means alimony from one parent to the other parent of the child for which support is being determined or whether it is from another, previous marriage. Ms. Katie Connell did seek input from previous committee and commission members as to the intent of

the inclusion of the alimony deviation. No firm answer was received but it was likely one of two reasons – 1) It was carried over from one of the model guidelines without much consideration, or 2) It was a hot button issue with one of state legislators so it was included. No clear decision was reached by the committee and the item was tabled until more input could be gained from other judges.

A. Also related to SB 137

1. Complaints about parenting time deviation change

Mr. Wayne Slear expressed his concern about the basic child support obligation table not having the expense of the noncustodial parents parenting time built into it. Ms. Pat Buonodono stated that at one point in time standard visitation was to be built into the obligation but it doesn't appear to have happened. Also there was intended to be a parenting time formula but it was scrapped due to mass confusion and legislature at the time not being able to decide what constituted a day of parenting time. A quadrennial review is being held this year and public input will be considered at which time it is possible to address this issue. Mr. Slear argued that an upward deviation would then be unjust if the custodial parent is already receiving 100 percent credit for the expense in the obligation table.

2. Possible change to definition of “final child support order” to be “final child support amount.”

Many instances in the statute it says “final child support order” where it actually means final child support amount. These instances have been corrected in the draft legislation.

3. Rounding within BCSO Table

Before the meeting began, this item was determined to be a nonissue and not addressed at the meeting.

V. Schedule Next Meeting

The next meeting will be scheduled at a later time.

Meeting adjourned at 3:03 pm.

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 19-6-15 of the Official Code of Georgia Annotated, relating to child
2 support in final verdict or decree, guidelines for determining amount of award, continuation
3 of duty to provide support, and duration of support, so as to clarify and revise a definition;
4 to clarify the process of calculating child support when there is more than one child for
5 whom support is being determined; to provide for related matters; to provide an effective
6 date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 19-6-15 of the Official Code of Georgia Annotated, relating to child support
10 in final verdict or decree, guidelines for determining amount of award, continuation of duty
11 to provide support, and duration of support, is amended by revising paragraph (11) of
12 subsection (a) as follows:

13 "(11) 'Final child support ~~order~~ amount' means the presumptive amount of child support
14 adjusted by any deviations."

15 **SECTION 2.**

16 Said Code section is further amended by revising paragraphs (9) and (11) of subsection (b)
17 as follows:

18 "(9) Any benefits which the child receives under Title II of the federal Social Security
19 Act shall be applied against the final child support ~~order~~ amount. The final child support
20 amount for each parent shall be entered on the child support worksheet, together with the
21 information from each of the utilized schedules;"

22 "(11) In a split parenting case, there shall be a separate calculation and final ~~child support~~
23 order for each parent; and"

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SECTION 3.

Said Code section is further amended by revising paragraph (12) of subsection (b) as follows:

"(12) When there is more than one child for whom support is being determined, the court shall establish the amount of support and the duration of such support in accordance with subsection (e) of this Code section. When, within two years of a final order being entered, there is a likelihood that a child will become ineligible to receive support, the court may allow for the use of separate worksheets. Separate worksheets shall be utilized for such determination and show the full amount of support to be paid for all such children and the adjusted amount of support to be paid as each child becomes ineligible to receive support during such two-year period. Such worksheets shall be attached to the final child support order. Such order shall specify the date upon which the changed support payments shall begin. Such order shall contain findings as required by law. A final order entered pursuant to this paragraph shall not preclude a petition for modification."

SECTION 4.

Said Code section is further amended by revising paragraph (3) of subsection (f) and subparagraph (f)(4)(B) as follows:

"(3) Social Security benefits.

(A) Benefits received under Title II of the federal Social Security Act by a child on the obligor's account shall be counted as child support payments and shall be applied against the final child support ~~order~~ amount to be paid by the obligor for the child.

(B) After calculating the obligor's monthly gross income, including the countable social security benefits as specified in division (1)(A)(xiii) of this subsection, and after calculating the amount of child support, if the presumptive amount of child support, as increased or decreased by deviations, is greater than the social security benefits paid on behalf of the child on the obligor's account, the obligor shall be required to pay the amount exceeding the social security benefit as part of the final ~~child support~~ order in the case.

(C) After calculating the obligor's monthly gross income, including the countable social security benefits as specified in division (1)(A)(xiii) of this subsection, and after calculating the amount of child support, if the presumptive amount of child support, as increased or decreased by deviations, is equal to or less than the social security benefits paid to the nonparent custodian or custodial parent on behalf of the child on the obligor's account, the child support responsibility of that parent shall have been met and no further child support shall be paid.

59 (D) Any benefit amounts under Title II of the federal Social Security Act as determined
60 by the Social Security Administration sent to the nonparent custodian or custodial
61 parent by the Social Security Administration for the child's benefit which are greater
62 than the final child support ~~order~~ amount shall be retained by the nonparent custodian
63 or custodial parent for the child's benefit and shall not be used as a reason for
64 decreasing the final child support ~~order~~ amount or reducing arrearages."

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

75 SECTION 5.

76 Said Code section is further amended by revising the introductory language of subsection (h),
77 subparagraph (h)(1)(F), subdivision (h)(2)(B)(iii), and paragraph (3) of subsection (h) as
78 follows:

79 "(h) **Adjusted support obligation.** The child support obligation table does not include the
80 cost of the parent's work related child care costs, health insurance premiums, or uninsured
81 health care expenses. The additional expenses for the child's health insurance premiums
82 and work related child care costs shall be included in the calculations to determine child
83 support. A nonparent custodian's expenses for work related child care costs and health
84 insurance premiums shall be taken into account when establishing a final ~~child support~~
85 order."

86 "(F)(i) The total amount of work related child care costs shall be divided between the
87 parents pro rata to determine the presumptive amount of child support and shall be
88 included in the worksheet and the final ~~child support~~ order.

89 (ii) In situations in which work related child care costs may be variable, the court or
90 jury may, in its discretion, remove work related child care costs from the calculation
91 of support, and divide the work related child care costs pro rata, to be paid within a
92 time specified in the final ~~child support~~ order. If a parent or nonparent custodian fails
93 to comply with the final ~~child support~~ order:

94 (I) The other parent or nonparent custodian may enforce payment of the work
95 related child care costs by any means permitted by law; or

96 (II) Child support services shall pursue enforcement when such unpaid costs have
97 been reduced to a judgment in a sum certain."

98 "(iii) Eligibility for or enrollment of the child in Medicaid or the PeachCare for Kids
99 Program shall not satisfy the requirement that the final ~~child support~~ order provide for
100 the child's health care needs. Health coverage through the PeachCare for Kids
101 Program ~~and or~~ Medicaid shall not prevent a court from ordering either or both
102 parents to obtain other health insurance.

103 **(3) Uninsured health care expenses.**

104 (A) The child's uninsured health care expenses shall be the financial responsibility of
105 both parents. The final ~~child support~~ order shall include provisions for payment of ~~the~~
106 uninsured health care expenses; provided, however, that ~~the~~ uninsured health care
107 expenses shall not be used for the purpose of calculating the amount of child support.
108 The parents shall divide ~~the~~ uninsured health care expenses pro rata, unless otherwise
109 specifically ordered by the court.

110 (B) If a parent fails to pay his or her pro rata share of the child's uninsured health care
111 expenses, as specified in the final ~~child support~~ order, within a reasonable time after
112 receipt of evidence documenting the uninsured portion of the expense:

113 (i) The other parent or the nonparent custodian may enforce payment of the expense
114 by any means permitted by law; or

115 (ii) Child support services shall pursue enforcement of payment of such unpaid
116 expenses only if the unpaid expenses have been reduced to a judgment in a sum
117 certain amount."

118 **SECTION 6.**

119 Said Code section is further amended by revising subparagraphs (i)(1)(D) and (i)(2)(J) as
120 follows:

121 "(D) If the circumstances which supported the deviation cease to exist, the final ~~child~~
122 ~~support~~ order may be modified as set forth in subsection (k) of this Code section to
123 eliminate the deviation."

124 "(J) **Extraordinary expenses.** The child support obligation table includes average
125 child rearing expenditures for families given the parents' combined adjusted income and
126 number of children. Extraordinary expenses are in excess of average amounts
127 estimated in the child support obligation table and are highly variable among families.
128 Extraordinary expenses shall be considered on a case-by-case basis in the calculation
129 of support and may form the basis for deviation from the presumptive amount of child

130 support so that the actual amount of ~~the~~ such expense is considered in the ~~calculation~~
131 ~~of the final child support~~ order for only those families actually incurring the expense.
132 Extraordinary expenses shall be prorated between the parents by assigning or deducting
133 credit for actual payments for extraordinary expenses.”

134 **SECTION 7.**

135 This Act shall become effective upon its approval by the Governor or upon its becoming law
136 without such approval.

137 **SECTION 8.**

138 All laws and parts of laws in conflict with this Act are repealed.