

Georgia Child Support Guidelines Commission
STATUTE REVIEW SUBCOMMITTEE

SUMMARY OF MEETING MINUTES

September 9, 2005

Sub-Committee Chair, Judge Louisa Abbot

I. Welcome and Introductions

The meeting was called to order by Chair, Judge Louisa Abbot at 1:15 p.m., following the full Commission Meeting on Friday, September 9, 2005. The members introduced themselves, and those in attendance were as follows: Judge Louisa Abbot; Judge Debra Bernes; Senator Seth Harp; Annetta Panatera; Judge Michael Key; and Joy Hawkins. Staff and special invited guests also introduced themselves.

After the Subcommittee Members had the opportunity to review the August 25, 2005 Meeting Minutes, a motion was made and seconded to approve the minutes. The motion passed without objection and the Minutes stand approved.

II. Overview of Statute

A. NEW PROPOSED BILL—LC 29 1996

At the last Statute Review Subcommittee Meeting, Rep. Ehrhart asked that the Legislative Counsel work with this Subcommittee in incorporating all of the suggested revisions into the customary format in which a bill would be presented. This format would give the Statute Review Subcommittee a sense of what the statute would look like organizationally. Ultimately after all of the revisions have been reviewed and approved by the Full Commission, the end proposal will be in a format in which the Legislature is customarily accustomed to and familiar.

B. REVIEW OF HB 221 SECTIONS WHICH WERE REVISED OR TABLED SINCE THE PREVIOUS STATUTE REVIEW SUBCOMMITTEE MEETING OF AUGUST 25, 2005

1. Section Two

Section Two of HB 221 concerns direct appeals. At the last meeting, the motion to adopt amendments to §5-6-35 as a recommendation to the Commission was tabled for further study. The intent of the amendments was to make §5-6-35 consistent with §5-6-34. Judge Bernes withdrew her previous concerns with these amendments. Therefore, a motion was made by the Subcommittee to recommend to the Commission the additional language in §5-6-35 which would make it consistent with the direct appeals of final child support orders now found in §5-6-34. With no further discussion and no objections, the motion passed and this recommended language was adopted.
[The new language of Section Two is attached.]
2. Section Four

Section Four of HB 221 concerns the form of the Order. At the last meeting, the Subcommittee adopted the recommendations but discussed that the final judgment needs to contain a sum certain amount. Since then, the term “sum certain” has been added to the language of this Section. A motion to approve the addition of the term “sum certain amount to be paid” was made and seconded. With no opposition, the motion carries.
[The new language of Section Four is attached]
3. Subsection by Subsection Review and Analysis of Section 5, §19-6-15
 - a. Definitions
 - i. DEFINITION 5(a)(4)—New definition is ‘Basic Child Support Obligation’—The changes were primarily stylistic but some clarification was added to ensure that there was an understanding that the Basic Child Support Obligation is the amount prior to adjustments. A motion was made to adopt these revisions, and seconded. Motion carries without any opposition. [See attached.]
 - ii. DEFINITION OF CARETAKER—This term was used inconsistently throughout the statute and failed to make clear who actually the caretaker was. The term, “Legal Custodian” was added to incorporate the former definition of “Caretaker.” Motion to delete this definition was approved and motion carries. [See attached.]
 - iii. DEFINITION 5(a)(5)—This is a new definition which defines “Child Support Enforcement Agency.” Jill Travis, representing Legislative Counsel, pointed out that even

- though the Enforcement Agency is mentioned throughout the statute, Child Support Enforcement is not defined within the statute. A motion to adopt this new definition was made and seconded. With no discussion and opposition, the motion to adopt the new statute carries. [See attached.]
- iv. DEFINITION 5(a)(6)—Child Support Obligation Table—The changes here were primarily stylistic. However, the Subcommittee felt that the line, ‘created by the Child Support Guidelines Commission’ was misleading, in the event that the Legislature does not approve the Obligation Table as presented by the Child Support Commission. Thus, for clarity and to assure future accuracy, that phrase was struck. Motion to adopt this definition with the amendments made was made and seconded. The Motion passed, without objection. [See attached.]
 - v. DEFINITION 5(a)(7)—Combined Adjusted Income, which is a simplification of how you arrive at combined adjusted income. The Motion to accept the revisions to this definition was made and seconded. The Motion passed without objection. [See attached.]
 - vi. FORMER DEFINITION OF CREDIT WORKSHEET WAS RENAMED AS “ADJUSTED INCOME WORKSHEET” AND MOVED.
 - vii. DEFINITION 5(a)(8)—Court—A new definition was created because while the term, “court” is used throughout the statute, it was not defined. The Office of Child Support Enforcement’s representative was asked whether the new definition was too limiting, especially in light of UIFSA cases. OCSE responded that the new definition does suffice. Motion was made to accept this new definition as a recommended revision to the statute. The motion was seconded and approved without objection. [See attached.]
 - viii. DEFINITION 5(a)(9)—Custodial Parent—There was a suggested revision here to address the occasion when a custodial parent has not been designated. Typically this occurs when the parents have the children for equal amounts of time. Language was added that the court would be authorized to designate one the custodial parent. The practical reason for the requirement, already embedded in the bill, is primarily to designate such on the worksheet. The Subcommittee discussed the reasons for adding new lines to this definition, and exactly how these lines should read. With those changes made, a Motion was made to

recommend the new revisions to this definition. The Motion was seconded and approved without any objections. [See attached.]

- vix. DEFINITION 5(a)(10)—“Day”—The Subcommittee discussed this definition and some of the issues associated with it. At Jill Travis’ suggestion, the Subcommittee Members agreed to take the term out of the definition section and instead, ensure that the term “day” is explained in the Parenting Time Adjustment subsection subsection (g) of the Statute. Motion to adopt this revision was made and seconded. It was approved without objection. [See attached]
- x. DEFINITION 5(a)(11)—Deviation—This is a new suggested definition which tracks the current understanding of the law and how it will be used in the new statute. A Motion was made to adopt this new definition as a recommended revision. The motion was seconded and approved with objection. [See attached]
- xi. DEFINITION 5(a)(12)—Final Child Support Order—The only suggested changes here were stylistic. A Motion was made to adopt these changes. The Motion was seconded and approved without objection. [See attached]
- xii. DEFINITION 5(a)(13)—Gross Income—This was a suggested new definition that arose out of the previous Statute Review Subcommittee Meeting. A Motion was made to adopt this definition as a recommended revision. The Motion was seconded and approved without any objection.
- xiii. DEFINITION 5(a)(14)—The definition of Health Insurance was felt to be somewhat confusing since the way the definition currently reads. It appears that “dental insurance” alone could suffice for health insurance coverage, which is mandated by the statute. After discussion, Subcommittee Members agreed that it may clarify the entire definition if “dental insurance” is removed, as well as “accident” and “sickness.” Instead, Health Insurance will be defined as “any general health or medical policy.” A Motion was made and seconded to adopt this revised definition. The Motion carried.
- xix. DEFINITION 5(a)(15)—Legal Custodian—This is a new definition which replaced the term “caretaker.” A legal custodian can include a parent and a non-parent. There was some discussion about the language here which details that a nonparent Legal Custodian’s expenses for Work Related

Child Care Expenses, Health Insurance, and Uninsured Health Care Expenses be included instead in Subsection (h) dealing with these three items. A notation was made to discuss this further when the Subcommittee discusses Subsection (h). Until then, a Motion was made to adopt the first line only of this definition. This Motion was seconded and approved without objection. [See attached]

- xx. DEFINITION 5(a)(16)—Noncustodial Parent—The Subcommittee Members felt that this definition should track parallel language to that of the definition of Custodial Parent, as adopted at this meeting. The intent is to include language which addresses the occasion where the parents have equal custody and neither owes a duty of support. If this was to occur, the court shall have authority to designate the noncustodial parent. The Subcommittee tabled the vote on this revision to further review the added language.
- xxi. DEFINITION 5(a)(17)—The definition of Parent is a new one to make clear the distinction between a legal custodian and one who owes a legal duty of support. The Subcommittee Members thought it should read, “a person who owes a child a duty of support pursuant to Code Section 19-7-2.” Motion was made to adopt this definition as a recommendation. It was seconded and approved without objection. Jill Radwin also brought up whether the Subcommittee Members would agree to using the term, “child” alone in the statute, instead of stating both “child and children” when used throughout the statute. The Subcommittee agreed. “Child” becomes a defined term. [See attached]
- xxii. DEFINITION 5(a)(18)—Parenting Time Adjustment—The suggested changes here were stylistic. A Motion was made to adopt these changes. It was seconded and approved without objection. [See attachment]
- xxiii. THE PERCENTAGE OF INCOME DEFINITION WAS DELETED BECAUSE USED INFREQUENTLY IN THE STATUTE. A motion was made to delete this definition. It was seconded and approved without objection.
- xxiv. DEFINITION 5(a)(19)—Preexisting Order Definition—Only a few stylistic changes were made, including deleting the name of “Department of Human Resources” since “Child Support Enforcement Agency’s” name was listed, too. A Motion was made to approve these changes. The Motion

was seconded and approved without objection. [See attachment]

- xxv. DEFINITION 5(a)(20)—Presumptive Amount of Child Support—The name of this definition was changed and the definition was simplified. The Subcommittee voted to adopt these changes. The Motion passed without an objection. [See attachment]
- xxvi. PRO RATA DEFINITION WAS DELETED. INFORMATION WAS INCORPORATED INTO SUBSECTION 5(b). A Motion was introduced to adopt this recommended revision. The Motion was seconded and approved without objection.
- xxvii. DEFINITION 5(a)(21)—Qualified Children—This deals with a provision from the Theoretical Support paragraph found in Section (f) which is the Gross Income Subsection. This definition was added at the suggestion of the Family Law Section. A Motion was made to adopt this recommended revision. The Motion was seconded and approved without objection. [See attached]
- xxviii. DEFINITION 5(a)(22)—Self-Employment Taxes—This was a newly proposed definition at the suggestion of the Family Law Section. After discussion, the Statute Review Subcommittee felt that this same information is found in the Gross Income Subsection, Subsection (f) and therefore, did not need to be repeated in the form of a definition. The Self-Employment Tax definition's wording was also confusing because it does not make clear that the amount deducted is only one-half of the self-employment tax. A Motion was made to delete this definition, and instead place in the Gross Income Subsection under the paragraph of Self Employment Income. Within that paragraph, it will detail that one's gross income will be adjusted by deducting one-half of the self-employment tax which is under current federal law of 6.25 percent of FICA and an additional 1.45 percent for Medicare. This Motion was seconded and was approved without objection. [See attached]
- xxix. DEFINITION 5(a)(23)—Split Parenting—The suggested revisions here were strictly stylistic. A Motion was made to adopt these changes. It was seconded and approved without objection.
- xxx. STANDARD PARENTING DEFINITION WAS DELETED AS THERE WAS NOT FURTHER REFERENCE TO THIS TERM WITHIN THE STATUTE. A Motion was made to adopt this recommendation. It was seconded and approved without objection.
- xxxi. DEFINITION 5(a)(24)—Theoretical Child Support Order—This definition was simplified since the mechanics of calculating a Theoretical Child Support Order is set out in Subsection (f). Motion

was made to approve these changes. The Motion was seconded and approved without objection. Judge Abbot commented that this is a difficult concept and thought about asking several to look at this issue. Thus, if the Legislature wants to look at this issue or how other states are handling this issue, there would be several who could speak on the issue. [See attached]

xxxii. DEFINITION 5(a)(25)—Uninsured Health Care Expenses—Only stylistic changes were made. Motion was made to approve, and seconded. It was approved without objection. [See attached]

xxxiii. DEFINITION 5(a)(26)—Work Related Child Care Costs—Only stylistic changes were made. Motion was made to approve, and it was seconded. It was approved without objection. [See attached]

xxxiv. DEFINITION 5(a)(27)—Worksheet—It was noted that the worksheets will be incorporated into the statute. A Motion was made to approve the changes, and it was seconded. The Motion carried. The actual worksheets will be presented to the Commission at a later time.

b. Applicability and required findings—5(c)

This section explains to which actions this statute applies and sets forth what type of findings are required to be made. A recommendation has been made that instead of giving a partial list of all actions to which it applies, state that it applies in “all legal proceedings involving child support.” The phrase “sum certain” was also added here as to the amount of support. The phrase “sum certain” is being injected throughout the statute. Other changes were suggested, such as “or jury” added to a requirement for a written finding as to the gross income. Either a Court or jury may determine that issue. Other changes were adding paragraphs requiring additional findings of the number of days of visitation and specifying the percentage of unreimbursed health care expenses. There were new suggested provisions regarding the procedure and order of the jury process. However, the Statute Review Subcommittee reached a consensus to table that paragraph for further study. A Motion was made to approve the other changes to this subsection. It was seconded and approved without objection.

c. Nature Guidelines; Court’s Discretion—5(d)

The wording here originates in the original statute, and therefore, changes here were strictly stylistic. A Motion was made and seconded. It passed without objection.

d. Duration of Support Obligations—5(e)

It allows a child for whose benefit the support is ordered to enforce post majority support. A Motion was made to accept this change, and it was seconded. It passed without objection.

III. Agenda Items for Next Meeting/Future Meeting Dates

Judge Abbot addressed the additional sections which the Statute Review Subcommittee will review in future meetings. The meeting was adjourned, with notices for a future meeting to be sent out shortly.