

**Georgia Commission on Child Support
Statute Review Committee
Minutes of Meeting: February 16, 2015**

Present:

Judge Michael Key (via teleconference)
Judge Louisa Abbot (via teleconference)
Judge Amanda Baxter (via teleconference)
Ms. Alice Limehouse (via teleconference)
Judge Lisa Branch (via teleconference)
Mr. Stephen Harris (via teleconference)
Ms. Anne Kirkhope (via teleconference)
Judge Velma Tilley (via teleconference)
Representative Regina Quick (via teleconference)
Ms. Katherine Durant (via teleconference)
Ms. Jill Travis, legislative counsel (via teleconference)
Ms. Pat Buonodono, staff attorney (via teleconference)
Ms. Elaine Johnson, staff
Mr. Bruce Shaw, staff

The meeting began at 12:00 p.m.

I. Welcome and Introductions

II. Review of Minutes – 8/19/2014

Quorum was not reached until later in the meeting. The minutes were set aside to be approved at the next Statute Review Committee meeting.

III. Old Business

A. SB 64 (HB 264)

Due to an opinion she wrote in a case regarding administrative legitimation, Judge Lisa Branch abstained from any discussion or voting on this matter.

Pat Buonodono summarized the progress of both the senate and house bills. The senate bill SB 64 has been filed as it was presented. The house bill HB 264 was filed with some minor changes that mostly pertain to clarifications such as in language in Section 1-3 pertaining to O.C.G.A. § 19-7-22(c) to explicitly state that there has to be hearing as well as a change in paragraph (f) in the same section to shorten some of the language. Section 1-7 has a minor change adding “swearing or affirming the statements contained in the acknowledgement are true.” Another change was made in the bill to O.C.G.A. § 19-7-51 which was a statute reference which inserts “as provided in O.C.G.A. § 19-6-15.” Pat Buonodono inquired of the committee if the language should be changed to SB 64 as well. Judge Key inquired if there was any reason not to, to which Pat Buonodono replied that none were apparent and all of the changes were beneficial and that they were made at the request of Chairman Willard.

Pat Buonodono stated that she attended a meeting with Senator Huftstetler and members of various hospital associations in Georgia where a couple of changes to the legislation were requested. In section 5 it was requested to add an exception that hospitals do not have to provide the legitimation paperwork

before birth in the case of an emergency. Hospital representatives also wanted to change the term “perinatal” to “labor and delivery” - otherwise it sounds as if the obstetrician is responsible for providing the paperwork. A final request was made to remove any language suggesting that the hospital should advise about judicially establishing paternity so as to avoid crossing the line of giving legal advice. Judge Key replied that citing notifications in a legal statute does not really constitute legal advice. Pat Buonodono agreed and suggested that perhaps there was some way to clarify this point in the language. Stephen Harris added that DHS provides templates to hospitals for paternity acknowledgements but he was unaware if anything in these templates involved legitimation. Pat Buonodono asked if a document could be created by DHS that explains the difference between paternity and legitimation to which Stephen Harris responded with an affirmative. Stephen Harris added that if the language was modified to say that hospitals were only providing information that it could be achieved by using the DHS provided pamphlet. Judge Key noted that it is important to make people aware of the option of judicial legitimation and that the language should remain in the bill. Judge Key concluded by saying that if any pushback was made language could be added to the effect of “complying with this notification requirement shall not constitute practice of the law.”

B. LC 29 6078

Pat Buonodono asked if it was the committee’s intention to continue working on LC 29 6078 which has been tabled for this session. Judge Key replied that the committee should continue its work on the bill. Pat Buonodono suggested breaking the issues apart from one another and having discussion via email in task groups before bringing them back in front of the committee.

IV. New Business

A. Issue regarding waivers of interest (Katherine Durant, Esq.)

Katherine Durant addressed the committee to bring their attention to what she views as a statutory conflict when judges waive interest in child support cases without parties’ consent. In 2007 the law was amended to allow judges the discretion to waive the interest accrued on child support. Katherine Durant stated that this violates federal law as well the Georgia constitution, which was detailed in a letter she sent to Assistant Attorney General Mark Cicero as well as Judge Abbot as the chair of the Child Support Commission. Katherine Durant stated in brief that the U.S.C. Title 42 § 6-6-6 requires states to have in effect laws that require the use of procedures that any payment or installment for a child support order is a judgment by operation of law with the full force and attributes of a judgment of the State including the ability to be enforced. These installments are also entitled to a judgment in full faith and credit in such state or any other state and they are not subject to retroactive modification by such state or any other state. According to Katherine Durant when a judge waives this interest it becomes a retroactive modification of a contractual agreement. This issue came up in a case for Ms. Durant when an obligor argued that a judgment could not be nailed down because a judge can waive interest at any point therefore not allowing a fi,fa. or garnishment.

Pat Buonodono inquired if she had received a response from Mark Cicero to which Katherine Durant responded that she had not. Judge Key stated that the matter should be referred the full Child Support Commission as whether or not to pursue this issue this legislative session or the next.

B. Conflict between O.C.G.A. § 19-6-14 and O.C.G.A. § 19-6-15

Pat Buonodono brought to the committee a conflict between these two statutes. O.C.G.A. § 19-6-15 states that it must be used for all child support orders. However, O.C.G.A. § 19-6-14 authorizes temporary orders in divorce cases but fails to state that O.C.G.A. § 19-6-15 should be applied.

Judge Key instructed that the matter be referred to the commission as to whether or not the committee should take any action on the issue.

C. Statute re Child Support Receivers (O.C.G.A. § 15-15-4)

Pat Buonodono explained this statute hasn't been revised since 1997 and needs to be updated specifically to designate when it is appropriate for court to order child support payments through a receiver and to distinguish between the child support receiver and the family support registry. This statute should also reference O.C.G.A. § 19-6-15 and § 19-6-33.1.

Judge Key instructed the committee to refer the matter to the full commission. Stephen Harris stated that the Division of Child Support Services works well with child support receivers but it does create a two-step process for the obligor with additional fees.

V. Schedule Next Meeting

Judge Key closed by stating that when administrative legitimation is eventually done away with that the Administrative Legitimation Committee will need to be reconstituted to address pro se issues and to explore solutions for noncustodial parents to reconnect with their children legally.

The next meeting will be scheduled at a later time.

The meeting adjourned at 12:56 p.m.