

**Georgia Commission on Child Support
Commission Meeting**

December 4, 2020 at 10:00 a.m. – 12:00 p.m.

Meeting Minutes

Attendees: Judge Michael Key (Chair), Judge Anne Elizabeth Barnes, Chuck Clay, Esq., Kathleen Connell, Esq., Rep. Houston Gaines, Sen. Emanuel Jones, Judge Emory Palmer, Regina Quick, Esq., Rep. Bonnie Rich, Professor Roger Tutterow, and Wendy Williamson, Esq.

Staff: Elaine Johnson; Noelle Lagueux-Alvarez; Latoinna Lawrence

Welcome, Housekeeping, and Introductions

Chair, Judge Michael Key, welcomed all attendees and recognized three new Georgia Child Support Commission (“Commission”) members:

1. Representative Houston Gaines
2. Representative Bonnie Rich, and
3. Senator Brian Strickland

Noelle Lagueux-Alvarez performed roll call. Latoinna Lawrence reviewed procedures for conducting our first virtual Commission meeting via Zoom webinar, including how people would be recognized by the Chair during the public comment period.

Elaine Johnson introduced herself and her fellow Commission staff members: Noelle Lagueux-Alvarez, Staff Attorney, and Latoinna Lawrence, Program Coordinator.

New Commission Members

Judge Key informed the members and attendees that earlier this morning, new members, Representative Houston Gaines, and Representative Bonnie Rich, were sworn in as members of the Commission. Senator Brian Strickland will be sworn in within the next few days.

Judge Key explained that Judge Emory Palmer was also sworn in earlier today for another term on the Commission. Judge Key commended staff for their diligent work through the pandemic. Commission work, such as child support calculator trainings and study committees, pivoted to an online environment and have continued well despite the challenges of COVID-19.

Judge Key commended Judge Shawn Ellen LaGrúa on her excellent work on behalf of the Commission and congratulated her on her very recent appointment to the Supreme Court of Georgia. Judge Key noted that we currently have one vacancy for a superior court judge and with Judge LaGrúa’s recent appointment, we now have two vacancies for a superior court judge on the Commission. Judge Key also noted that staff is actively working with the Governor’s office to fill those vacancies and asked that if anyone has any suggestions for superior judges to fill those positions, to please advise staff.

Review of Minutes from December 9, 2019 Commission Meeting

Quorum was established. A vote on approval of the minutes from the December 9, 2019 meeting was taken, and those minutes were unanimously approved with no abstentions.

Old Business

Income Deduction Order USCR updates

Elaine Johnson reported that she has been working with the Council of Superior Court judges to amend the Uniform Superior Court Rules regarding the Income Deduction Order (IDO) process in private cases. An amendment to U.S.C.R. 24.11 will now require the use of the federal Income Withholding Order (IWO) form in Georgia that is used in all fifty states. During this effort, staff noticed some references to Code sections were inaccurate and proposed appropriate updates to U.S.C.R. 24-12, which is the statutory form for the IDO. The rule updates will continue through the review process by the Council of Superior Court Judges and the Georgia Supreme Court. Once finalized, staff will update the Commission's IDO website to provide information on the amended rules and public access to the updated IDO form.

Study Committee Reports and Recommendations:

Judge Key noted that there will be no proposed legislation coming out of these study committees this year.

Low-Income Deviation ("LID") Study Committee Report

Judge Emory Palmer, Chair, highly commended staff for providing helpful information and for gathering information in a useful fashion. Judge Palmer submitted a final report from the LID Study Committee to the Commission, which may be found on the Commission's website. In addition to that written report, Judge Palmer gave an oral report generally summarizing the work of the LID Study Committee that is now concluded.

Judge Palmer reported that 34 people from all different backgrounds served on the LID Study Committee and four meetings were held. One of the first tasks of the LID Study Committee was to engage a group of graduate students from Georgia State University to review all 50 states to see how low-income cases are handled by our sister states. The graduate students produced a report that the LID Study Committee attached as an appendix to its report. Judge Palmer believes that Georgia is on the high side for child support awards at the low-income end of the Basic Child Support Obligation (BCSO) table.

The LID Study Committee also conducted two surveys to gather feedback on the low-income deviation from (1) Superior Court judges and (2) the public. Elaine Johnson and Noelle Lagueux-Alvarez attended the Superior Court judges' seminar in January 2020 in Athens and gave a presentation on the work of the LID Study Committee and to encourage judges to respond to the survey. An analysis of the responses to the judicial survey is also in the appendix to the LID Study Committee's report.

Judge Palmer stated that DHS/DCSS was asked for its feedback on the LID. He stated that DHS/DCSS responded that an income threshold at which a low-income deviation would be applied is not needed, DCSS is not in favor of a self-support reserve, and that the functioning of the LID within the calculator needs to be more user-friendly.

Judge Palmer noted that Mark Rogers, an economist and member of the LID Study Committee, and Ross Brockway, a lawyer and member of the LID Study Committee, both strongly advocated in favor of Georgia adopting a self-support reserve, which many other states use. Mr. Rogers and Mr. Brockway's point of view was summarized in a report from them that is also included in the appendix to the LID Study Committee Report.

From a policy standpoint, Judge Palmer personally does not believe in adopting a self-support reserve explaining that he thinks a portion of any amount of money earned by a parent should go to supporting his/her child(ren).

Judge Palmer said that the amounts of awards at the low-income level in the BCSO table need to be reviewed and reconsidered. Noelle Lagueux-Alvarez noted, and Judge Palmer agreed, that deviations should be rare. We have a BCSO table for a reason. If that table is not producing appropriate-sized awards, it needs to be addresses instead of always “deviating.” A downward revision of the BCSO table would also be less complicated than establishing a new self-support reserve process. The LID Study Committee recommends that this be done during the economic study in 2022.

The layout of the low-income deviation in the calculator could possibly be improved to be more user friendly. A workgroup should be formed to take on this task. Elaine Johnson stated that staff would work on forming such a workgroup.

Public Comment on the LID Study Committee Report

Erica Thornton, Manager of the Policy and Paternity Unit for the Division of Child Support Services, stated that DCSS has no preference as to the adoption of a self -support reserve, but is at the table during these discussions to ensure that whatever is decided is in the best interest of the families of Georgia, both custodial and noncustodial parents alike, and to ensure that whatever is decided complies with federal regulations.

Rep. Gregg Kennard of the Georgia General Assembly—who is also CEO of a non-profit that works to combat homelessness and works with citizens re-entering from the Department of Corrections—finds that large child support awards deplete much of his clients’ incomes and is defeating, often leading his clients to either give up or to seek underground employment. In past years, he has considered a bill to waive the accrual of child support while people are incarcerated and to allow noncustodial parents 60 days upon release from incarceration to seek a modification of child support. Generally, Rep Kennard believes child support amounts should never exceed 25% of a noncustodial parent’s income no matter how many children he or she may have. Rep. Kennard said often he sees clients having to pay 50% of their income in child support which leaves them unable to support themselves.

Ross Brockway, an attorney with the Georgia Justice Project, noted that more equitable child support amounts mean they will also be more effective. Mr. Brockway noted there are many studies from around the country that find that more affordable child support amounts result in more money being paid. He noted child support amounts that exceed 20% of a parent’s income ultimately result in less money being paid to those children overall. While Mr. Brockway advocates for a self-support reserve, he agrees the same goal could be reached by lowering the amounts in the BCSO table. He asked the Commission, as it reviews the BCSO table and seeks to update those amounts at the low-income level, to consider the studies he discussed. Mr. Brockway suggested the Commission particularly look at how the following states address low-income cases: South Carolina, North Carolina, Wisconsin, Pennsylvania, and Rhode Island.

Sen. Emanuel Jones—who is also the employer of 70 employees and who has seen the devastating effects of large child support awards pushing noncustodial parents to underground employment — asked whether there is a way for noncustodial parents to get their child support orders lowered during times of economic hardship?

Erica Thornton responded that DCSS has a process for noncustodial parents to request a “review and modification” of their order. There is a charge for the review and modification process, but if a noncustodial parent is earning minimum wage or less, that fee is waived.

Parenting-Time Deviation Study Committee Report (“PTD Study Committee”)

Katie Connell, Chair, reported on the Parenting Time Deviation Study Committee. She noted that the most recent meeting was held on November 17, 2020. Like the LID Study Committee, the PTD Study Committee also received a 50-state review from Georgia State graduate students who looked at how parenting time is handled in all of our sister states. Now, the PTD Study Committee is taking a deeper dive into several states based on what was found in our initial review of all 50 and recommendations from responses to surveys that were previously conducted. Ms. Connell requested that the Commission extend the PTD Study Committee to allow for further study of this complex topic especially because the COVID-19 pandemic slowed the work of the PTD Study Committee. Judge Key extended the PTD Study Committee until 12/31/2021.

Public Comment on the PTD Study Committee Report

Mark Rogers, an economist, and a member of the PTD Study Committee, asked whether the PTD Study Committee had reached a conclusion on whether the BCSO table includes an adjustment for a noncustodial parent’s parenting time. Elaine Johnson clarified that there is no adjustment for parenting time built into the current table, rather any adjustment for parenting time is handled only as a deviation. Mark agreed but stated that he feels this information needs to be more fully recognized by all involved.

New Business

Bylaws

At the start of her tenure as staff attorney, Noelle Lagueux-Alvarez did a comprehensive review of the Commission’s Bylaws. She suggested several substantive and typographical edits. Judge Key opened the meeting for comment on those suggested edits and advised all to submit comments to staff. Changes will be considered and voted on at the next Commission meeting.

As to the frequency of Commission meetings, Judge Key noted that very seldomly is there a need for four meetings per year as currently in the Commission Bylaws. He proposed that be changed to two. He has found that a meeting is usually needed shortly after the Georgia legislative session ends in case there is anything that needs to be done based on new legislation and that one other meeting is prudent in the Fall in case preparation is needed for the upcoming legislative session.

As to offering a physical space for public attendance, Katie Connell opined that the Commission should not be bound to give an in-person option ever, not just during an emergency. However, Judge Key has a concern about open meetings requirements and public access issues and asked Noelle Lagueux-Alvarez to look into this issue for discussion at the next meeting. Katie Connell suggested live streaming via “YouTube” as an alternative.

Committee Status Reports

Training Committee

Latoinna Lawrence reported on the trainings that were held in 2020. The trainings started off in-person and quickly changed to virtual in March of 2020 due to the pandemic. All trainings have been very well received and have been at maximum capacity. Noelle Lagueux-Alvarez noted security measures staff put in place to avoid “zoom bombings” while also allowing for a live question and answer period during trainings.

Economic Study Committee

Dr. Roger Tutterow, Chair, spoke on the Economic Study Committee. The next economic study is scheduled for 2022. The Committee is ramping up for that and researching candidates for conducting this study. The Committee is interested in public input on candidates for consideration.

The Committee is also considering from which counties orders will be collected as the sample for the 2022 economic study to ensure that the sample will be representative of the State of Georgia in terms of per capita income and population density.

The Committee is also planning to have a couple of “public listening sessions” to allow the public to provide input on the economic study so that we make the appropriate choices with regard to professionals that we retain, and also that we can identify other areas of concern that we need to share with those professionals, as we ramp up for our study in 2022.

Statute Review Committee

Judge Key noted there is no report from the Statute Review Committee as that work is being handled by the LID and PTD Study Committees and those reports were made earlier in this meeting.

Technology and Calculator Committee

Wendy Williamson reported that the child support calculator had a close call with the 2019 cyber-attack on the AOC computer network. Elaine Johnson quickly had the calculator moved to the Amazon Web Services (“AWS”) cloud beginning in July 2019. The AWS cloud is a highly protected and safe environment for the calculator.

Since August 8, 2016, the calculator has 52,845 users and produced 253,596 worksheets. The Judicial Council/Administrative Offices of the Courts’ IT Department, led by Ben Luke, provides technical assistance and expertise to the calculator maintenance vendor by assisting with deployments of updates. The next deployment is planned for early January 2021 when the self-employment taxes formula will be updated as required by statute.

Requirements for Filing Affidavit of Public Officer

Noelle Lagueux-Alvarez reminded Commission members they are required to file an affidavit of public officer no later than January 31 each year and reviewed the steps for doing so.

Commission Committee Assignments

Elaine Johnson spoke on the Commission’s standing committee assignments. She noted that this would be an opportunity for our long-serving members to consider whether they want to continue serving on a standing committee, and to see if new Commission members want to take a position on any of these committees.

Katie Connell suggested that, once he is sworn in as a Commission member, Senator Brian Strickland be added to the Statute Review Committee. Not only is he a lawyer and a member of the Georgia Senate, but he also practices some family law.

Regina Quick noted she would be happy to serve on the Statute Review Committee and Judge Key thanked her for that. Roger Tutterow suggested Commission member, Chuck Clay, join the Economic Study Committee.

Update Member Roster

Elaine Johnson asked the Commission members to please communicate with her if any of their contact information has changed or is incorrect and she will update the member roster.

New Child Support Commission Website

Latoinna shared her screen with attendees and Elaine talked about the new Child Support Commission website while Latoinna navigated the various screens. There are links for the child support calculator and the income deduction order website. They showed the different tabs: Legislation, Business of the Commission, meeting minutes, meeting information, the implementation guide, FAQs and more. Elaine explained that the training page is still a work in progress, but the public has access to scheduled trainings and in early 2021 staff will add training videos. Also available are resource materials, case law summaries, and helpful links.

Public Comments

The Commission heard from Philip Laden, a family law attorney, who has a case before the Court of Appeals on the issue of - high-income deviation and also what happens to a child support order while on appeal - that he wanted to bring to the Commission's attention. He stated one issue in the appeal is determining what is a fair and appropriate amount for a high-income deviation and that the statute on the issue is very ambiguous and there is no real guidance from the Commission or statutes. Mr. Laden asked if the Commission could take a look at and come up with some possible guidelines for the high-income deviation.

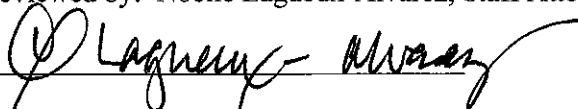
Judge Key responded by asking the Statute Review Committee and staff to review Mr. Laden's request. Katie Connell, Chair of Statute Review Committee, asked for more specifics on his appeal. Mr. Laden will follow up with her by email. Judge Key mentioned that the appeal issue may be outside the purview of the Commission.

There was a comment from an attendee on her personal case. She was advised to email Elaine Johnson for assistance.

Schedule Next Meeting and Adjourn

Judge Key set a tentative next meeting date for April 23, 2021. He anticipates that meeting will also be held via Zoom. The meeting adjourned at 12:06 p.m.

Reviewed by: Noelle Lagueur-Alvarez, Staff Attorney



Approved by Georgia Child Support Commission at
Commission Meeting on 4/23/2021