

**Georgia Commission on Child Support  
Parenting Time Deviation Study Committee  
Kathleen Connell, Esq., Chair**

**Wednesday, September 15, 2021  
1:30 – 3:00 p.m.**

**Meeting Minutes**

The Parenting Time Deviation Study Committee (“Study Committee”) of the Georgia Commission on Child Support (“Commission”) held this meeting via videoconferencing using Zoom. Executive Program Manager, Elaine Johnson, Staff Attorney, Noelle Lagueux-Alvarez, and Program Coordinator, Latoinna Lawrence, served as staff for the meeting.

Kathleen “Katie” Connell, Chair of the Study Committee, was unable to attend this meeting due to a child custody emergency and asked Noelle Lagueux-Alvarez to chair the meeting in her stead. Ms. Lagueux-Alvarez called the meeting to order at 1:30 p.m. and explained the Chair’s absence. Thirteen (13) Study Committee members and six (6) guests attended this open meeting. Study Committee members in attendance were:

William Alexander	Mindy Pillow	Pat Buonodono
Mark Rogers	Byron Cuthbert	Jamie Rush
Judge Warren Davis	Wayne Slear	Adam Gleklen
Charles Spinardi	Johanna Kiehl	Carol Walker
Jill Massey		

After an initial lack of quorum, a quorum of 13 of the 24 members was established. Pat Buonodono moved to approve the minutes of the Study Committee’s August 25, 2021, meeting and that Motion was seconded by Johanna Kiehl. That motion was unanimously approved by voice vote with no abstentions.

Ms. Lagueux-Alvarez pointed out that most of the meeting would be devoted to listening to reports from the Study Committee members on what they have learned in communicating with practitioners in other states. Summaries of some of the reports are provided in these minutes.

Pat Buonodono volunteered to give her report on her conversation with a seasoned family law attorney in Virginia, who participated in Virginia’s most recent child support guidelines review in 2018. (Pat has a document of her notes, which will be furnished to the members for their review.)

- Virginia has had a parenting time adjustment built into their calculator since the beginning. Originally, parenting time started at 120 days, and it had kind of a cliff effect. So, nothing kicked in until 120 days and that was changed years ago to 90 days, which is about 25% for an adjustment. And if there is a 20% level of visitation, he said he saw a lot less parents arguing over custody.
- The state has gone further in 2018 and come up with worksheet calculations for a family with mixed parenting time, split parenting with one child shared with another, and different amounts of shared parenting time.
- A day is measured at 24 hours, but if a child goes to school during that day, then it's not counted as a day. They have case law starting in the 1990s that supports that time frame, and everyone abides by it.

- In terms of credit given to a noncustodial for parenting time and the resulting child support amounts, Virginia was stingy, DC the most generous, and Maryland was somewhere in between.
- They have a self-support reserve built into their calculator at a 150% of poverty level.
- Virginia's calculator is privately owned, but there is another calculator. The link did not work, and Pat will try again to secure the correct link.

Executive Program Manager, Elaine Johnson, asked that the Study Committee members who are reporting on other state practitioners submit to staff the answers to the 20 questions.

Study Committee Chair, Katie Connell, was able to join the meeting briefly and gave a report. She had a lengthy and informative call with a family law practitioner in Minnesota. She is continuing to work on the Nevada contact. She noted several points from her conversation:

- Her biggest takeaway is that when Minnesota switched to an income sharing model, they had a cliff effect situation. And so, they made another change specifically to the parenting time piece somewhere around five to 10 years later. The cliff was having such a negative effect on litigants and the way people were posturing. Katie said she was particularly intrigued by not just that initial change they made from percentage to income sharing with a parenting time adjustment, but the one where they addressed their cliff and the way that it was impacting a volume of cases and the positions that parents were taking.
- They have a parenting time calculator built in and it has evolved since they first put it in place. And they use overnights as their time increment.
- I think it's fair to say she would describe it as them having sort of learned the hard way with the first round of their parenting time calculation and then adjusted from there.

Adam Gleklen reported that he is still working on his contact in Florida and will report out to the members during the October 6<sup>th</sup> meeting.

Next, Study Committee member, Carol Walker, gave her report on her conversation with a practitioner from Tennessee who has been practicing for a long time, since before Tennessee switched to an income shares model for child support. She noted it was especially interesting to speak with a practitioner from Tennessee because Georgia's child support guidelines statute was modeled on Tennessee's.

- Their law basically says that there is a rebuttable presumption for custody in Tennessee, of a minimum of every other weekend, Friday to Sunday, two weeks in the summer and two weeks for holidays.
- Tennessee looks at costs, and they call them by names like transferred costs, which are things such as food, and duplicated costs, and housing and clothing.
- Tennessee allows a parenting time adjustment starting at 94 days, which is basically 25% of parenting time, you have a primary residential parent, and you have an alternate residential parent.
- And the parent who has more days is the primary residential parent. There is a mathematical formula, which is the number of days which is called a variable multiplier that is built into the child support tables, which increases the amount of the BCSO in relation to the parenting time. And then that is divided proportionately by the parents' income, and then there is a subtraction in the amount from the alternative residential parent to the primary residential parent. Sounds really complicated, but simple in application.
- The week-to-week custodial basis is not uncommon. So almost every case that you have, there is going to be a parenting time adjustment, because you're going to get over that 25% threshold.
- So that statutory presumption as every other weekend is not applicable for the most part, even though it's in the statute; it's like it doesn't really belong there anymore. People don't fight much about days.

- Days are most of a 24-hour period, but it doesn't have to be 24-hour midnight to midnight, it can be 24 hours otherwise.
- Judges sometimes will not accept the presumptive amount with the adjustment depending upon what the amount is. And there's just not a lot of litigation at this point over the parenting time adjustment.
- The calculator tool is required, the worksheets are required, and for the most part, the judges are following it without deviation because there is a strong presumption that the adjustment is appropriate.
- If you have less than 60 days of parenting time, there's an adjustment upward for the primary residential parent. So, if someone is not exercising parenting time, there is a statutory calculation for that.
- Their child support calculator is easy to use and accessible, although pro se litigants may have difficulty.

Johanna Kiehl gave the final report with a practitioner in New Jersey who attended Emory Law School and practiced in Georgia for a few years before moving north. She also plans to interview another family law practitioner in New Jersey. Carol Walker also participated in the call and offered her observations as well.

Johanna:

- New Jersey uses two separate worksheets. The sole parenting worksheet is applicable up to 28% parenting time. Parenting time does not include vacations and holidays and is based on overnights, which are 12 hours or more of a 24-hour day. You plug in a number of days, and it tells you which calculator to use and the calculator does all the math.
- The non-custodial parent gets a percent adjustment for variable expenses and even if that minimal level of visitation is zero to 28%, they get an adjustment for variable expenses. Within their BCSO, variable expenses account for 37% of that number, fixed expenses account for 38%, and the last 25% is called control expenses, for things like food and transportation.
- The shared parenting is 28% and above, and you get credit for variable and fixed expenses like housing and utilities, but there is a bit of a cliff.
- I asked if she could see a benefit to children for the parenting time adjustment, and her response was absolutely. And, that it is necessary to have the adjustment because of the cost of housing.
- They have a continuing issue of determining what are fixed versus variable expenses. She said also, when there are multiple children, it's a lot more complicated, because when a child goes off to college, the housing expenses do not change.

Carol:

- New Jersey seems to place a lot more emphasis on what kind of parenting is going on during the regular year, day to day, week to week, and are not just looking at an artificial number for say 30 days in the summer. It affects the whole issue of whether a parent is going to get the adjustment for housing, which is evidently a big deal because of the cost of housing.

Johanna:

- 50/50 is not often done, but most everyone she sees reaches the 28% threshold. Once you get to 50/50, exactly, you must back out a percent of the BCSO. So, the parties are kind of splitting the control expenses, which normally the custodial parent is given 100% credit for. Otherwise, the lesser income parent ends up getting the shaft, as was stated. They don't argue over what classifies as a day, they do argue about the regular visitation. They don't really argue about holidays and vacations.

Carol:

- The primary residential parent always feels like they're getting the short end of the stick with the parenting time adjustment. Judges in New Jersey don't always examine outcomes as closely as they should, such as, whether the extra bedroom requirement is really being met.

Johanna:

- A parent has to show evidence of different living accommodations, if you're going to get that controlled expense adjustment. The judges are okay with the adjustment and get angry if you try to deviate from what the parenting time adjustment says it should be.
- They do have some extracurricular costs factored into their BCSO, but they do a lot of add-ons and divide those expenses pro rata.
- We talked about parties who are not pursuing custody orders and how parenting time works in those situations. If they're going to get a child support order, they can do that in the court system and they are given credit for what they tell the judge their arrangement is even if there is no custody order. Making it sort of a de facto visitation arrangement, because they're plugging this information in the calculator.
- Carol asked if the practitioner for any words of wisdom. She said knowing about the huge economic disparity in Georgia, she thinks it's going to be important for us to know the economic principles on which the guidelines are based. She reminded us that we have Metropolitan Georgia and the rest of Georgia. She said it's very different from Dade County in the northwest corner to DeKalb County, and it's almost two different places.

Staff noted that the next Study Committee meeting will be on October 6, 2021. Study Committee members discussed possible dates for future meetings and the meeting was adjourned at 2:43 p.m.