

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

**Wednesday, October 6, 2021
1:30 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. Kathleen “Katie” Connell, Chair of the Study Committee, called the meeting to order and welcomed the 13 Study Committee members, including herself, who attended, as well as one member of the public who attended this open meeting. Study Committee members in attendance were:

Katie Connell	Sarah Mauldin
William Alexander	Mindy Pillow
Pat Buonodono	Mark Rogers
Byron Cuthbert	Johanna Kiehl
Charles Spinardi	Jamie Rush
Erica Thornton	Carol Walker
Adam Gleklen	

Executive Program Manager, Elaine Johnson, Staff Attorney, Noelle Lagueux-Alvarez, and Program Coordinator, Latoinna Lawrence, served as staff for the meeting.

Chair Katie Connell called the meeting to order at 1:30 p.m. Katie Connell asked if there were any corrections needed to the minutes from the last meeting. Johanna Kiehl asked for an edit to the section of the minutes regarding her report at that meeting and used the chat feature in Zoom to point out where the correction needed to be made. She asked that the words, “she sees,” be added. Ms. Johnson stated she would make this edit to the minutes. Ms. Lagueux-Alvarez confirmed that 12 of the 21 committee members were present establishing a quorum of members. Member Sarah Mauldin moved to approve the Minutes of the September 15, 2021, Parenting Time Deviation Study Committee Meeting as edited by Johanna Kiehl, and Pat Buonodono seconded that motion. A voice vote was held, and that motion was unanimously approved with no abstentions.

Ms. Connell apologized to the committee for her absence from the September 15th meeting due to an emergency legal matter that prevented her from attending and chairing the meeting. Ms. Lagueux-Alvarez chaired the meeting at Ms. Connell’s request.

Ms. Connell called upon member and attorney Adam Gleklen to report on his interview with a practitioner in the state of Florida. Mr. Gleklen spoke with a very seasoned Florida practitioner from the West Palm Beach area and prepared a report on his interview that was furnished to the members. Although he was unable to incorporate all the questions prepared by this committee, he felt he obtained a good overview on Florida’s guidelines and parenting time. Florida’s motto when embracing a parenting time deviation was “child support flows to where the child goes.” He stated that was the biggest issue considered by the Florida legislature when contemplating adopting a parenting time adjustment was the minimum threshold for when to apply a parenting time adjustment and the legislature decided on 20% of overnights. He stated also that parenting time in Florida is very similar to Georgia in the metro Atlanta area and typically involves Thursday to Sunday or Monday; however, the more rural areas tend to follow the traditional weekend of Friday to Sunday evening and a mid-week overnight. A vast majority of Florida child support cases qualify for a parenting adjustment of 20%, while they’re mostly all in a 30% range and up 50% parenting time. With the threshold that low, they use a process they refer to as the gross-up effect, but most people don’t have to compute the calculation manually and instead use the child support

calculator that is programmed for this calculation. Mr. Gleklen noted that one ongoing problem in Florida is how to handle situations in which a parent works overnight (nurses, police officers, etc.) so that they do not have their child for many “overnights,” but do have their child for a significant amount of time during the day. Florida can adjust for this using a deviation and they may address through more than one calculation.

Ms. Connell suggested that perhaps we should consider the issue of parents who are working overnights, and through no fault of their own, cannot exercise overnights with their children. Maybe there should be an acknowledgement or caveat for those parents who have employment related interference with parenting time as this may be a situation where it could be unfair to a parent.

Member Mark Rogers asked questions that could not be addressed from the information Mr. Gleklen obtained in his interview. Ms. Connell stated we could note the questions as an issue for future discussion. The questions posed are summarized here as follows:

- Florida contends that the intent was for the [child support] money to go where the child is. So, even though it's minimal, if the child is with one parent 15% of the time, why doesn't that logic still apply to that 15%? They're just like Georgia, where the cost table assumes the custodial parent has the child 100% of the time. So, any noncustodial time is a contrast with the underlying facts.
- You discussed that it costs 50% more to raise a child in two households. Now, if I recall correctly with Florida, and other cross credit states, the 50% is applied to the untouched BCSO table. So, it's applied to, you're adding 50% to the custodial parents' costs, not reflecting the increased costs in the other household. So, what's the economic logic of applying the 50% to the custodial house?

Ms. Connell asked Mr. Gleklen to expand upon his comment that Florida may be a few years ahead of Georgia on their parenting time provision. He replied that the practitioner he spoke with explained that the issues we are talking about today in Georgia were handled by the Florida legislature as much as two to five years ago. Questions the legislature considered then were what should be the number of nights, how do you count the overnights, how do you do the calculations?

Member Sarah Mauldin commented that it sounded to her that as we move forward, our recommendations should perhaps include adjusting what our definition of parenting time is.

Ms. Connell called upon Carol Walker to give an update on Tennessee. She began by reminding the committee that Tennessee's definition of parenting time adjustment is based upon the concept of a day, which is defined as the majority of a 24-hour period. She suggested this definition might help solve the issue for parents who have overnight work conflicts since there is flexibility to aggregate partial days and count them as a “day.” Ms. Walker also discussed the interplay of a self-support reserve and an adjustment for parenting time. She found in their state's training materials that the parenting time adjustment may cause a child support obligation to be less than the minimum amount stated in the statute. This suggests there could be a situation where if you have low-income parents, and you have someone who has a minimal amount of a child support obligation, but has significant parenting time, you could end up with no child support or even a situation where the custodial parent would have an obligation to pay a child support. Ms. Walker also explained that Tennessee's threshold for applying a parenting time adjustment is about 92 days or 25% of the time and noted that 68 days or less of parenting time allows an upward adjustment. Ms. Walker stated she thinks the Tennessee model makes sense, because what it does is adds additional, basically support, to the idea of the BSCO and then allocates that extra amount based upon what a parent has in terms of parenting time, and then a credit is given for the amount of support that comes over to the custodial parent.

Katie Connell reported on her conversation with a Minnesota practitioner who is an experienced lawyer and mediator. Ms. Connell explained that Minnesota is an income shares state and that sometime during the 2005 and 2007 timeframe, Minnesota changed their guidelines and included parenting time. They later discovered that there was a cliff effect in the formula, which meant that a parent's child support obligation went way down if they had six out of 14 nights instead of five out of 14 nights. The impact of the cliff effect included parents asking for more

time than they wanted, to the detriment of the children since the parents were concerned about the impact it would have on their pocketbooks. This became very impactful and a few years ago, perhaps 2015, Minnesota changed parenting time again. Ms. Connell's biggest take-away from that conversation was to avoid a "cliff effect." She said they don't discuss parenting time or child support except in the context of 14 days. So, rather than discussing parenting time on a monthly basis they do everything in 14-day increments. She added that Minnesota has a presumption that the noncustodial parent will get at least 25% of the overnights. In terms of their increment of time, it is overnights and they have case law that addresses overnights, versus evenings, versus afternoons. Ms. Connell noted that in Minnesota, a parenting time adjustment is only based on court-ordered parenting time and that it is not possible under their guidelines to calculate child support without knowing the parenting time. The practitioner stated that the legislature meant for parents to share expenses, over and above child support, but it didn't make it into the statute. Judges view parenting time favorably and do have the option to deviate, but they really don't because a deviation involves entering required findings. Ms. Connell asked if Minnesota has a self-support reserve for low-income families? The answer was yes, they do have a self-support reserve for payor and payee. The practitioner explained that if a parenting time deviation is awarded, and both payor and payee are subject to the low-income reserve, which results in a parenting time adjustment, the trial court can exercise discretion to deviate to ensure that the children are adequately provided for in the payee's home. The practitioner explained that Minnesota does use a calculator where they enter the number of days to calculate. She also stated that she does still see posturing both to avoid paying higher child support and to avoid receiving lower child support, although in her experience, the former is more frequent. The Minnesota practitioner is pleased with her state's current parenting time adjustment.

Johanna Kiehl had previously reviewed Minnesota and had a couple of comments to add. She stated that in Minnesota there is a statutory minimum of \$75 a month in child support unless there's exactly 50/50 parenting time and equal income. She also noted that their parenting time is gradual, but not linear, so, it's a curve with smaller adjustments or less time - to bigger adjustments with more time. Ms. Kiehl also spoke about New Jersey and mentioned that what she liked about that state was that they have a smaller adjustment for less time by virtue of the fact that they are only giving credit for variable expenses up to a certain point, and then they can add in more expenses or get credit for additional expenses based on more time. So, she thinks effectively that New Jersey is like Minnesota. So, they're not just giving somebody equal amount of credit per day and going up, because they may not share in some of the expenses for which they may be getting credit.

Carol Walker commented that when she and Joanna looked at Minnesota, they found that the curve sort of isn't just a straight-line curve, it goes up. The more time spent, the more credit a parent gets, or the more adjustment a parent gets. She stated she is guessing that the presumption is that if the child is in a parent's house 40% of the time, as opposed to 25% of the time, or 45%, it's more likely that the parent is going to be spending more money on things, other than just food and housing. She also wondered if their calculation takes that into consideration.

Katie Connell is working on getting in touch with a Nevada practitioner to get feedback from that state.

Ryan Bradley was slated to give a presentation at this meeting but was unable to attend.

Katie Connell asked if Staff could prepare one synthesized document containing the reports from all the conversations had with practitioners in the six sister states that are being reviewed intensively. Study Committee member, Sarah Mauldin, who is also a librarian, volunteered to take on that task and will create a single, page-numbered document.

Katie Connell sees the Study Committee's next meeting as a time to drill down and discuss exactly what will be best for Georgia regarding parenting time as it relates to child support. The Study Committee's next meeting will be on October 27, 2021, at 1:30 p.m. The meeting after that will be held on Monday, November 15, 2021, from 12:00 to 1:30 p.m.