

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

Tuesday, January 11, 2022

10:00 a.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 webinar. Executive Program Manager, Elaine Johnson, Staff Attorney, Noelle Lagueux-Alvarez, and Program Coordinator, Latoinna Lawrence, served as staff for the meeting.

Twelve (12) Study Committee members and two (2) guests attended this open meeting. The Study Committee members in attendance were:

Katie Connell	William Alexander	Byron Cuthbert
Adam Gleklen	Johanna Kiehl	Jill Massey
Sarah Mauldin	Mark Rogers	Wayne Slear
Charles Spinardi	Carol Walker	

Chair Katie Connell called the meeting to order at 10:00 a.m. At the start of the meeting, a quorum of Study Committee members was not present, but a few minutes into the meeting staff attorney, Noelle Lagueux-Alvarez, established that a quorum of eleven Study Committee members was present. Chair Katie Connell pointed out that member Carol Walker had asked for an edit to the November 15, 2021, meeting minutes, and Ms. Walker confirmed that the edits had been made as requested. The Chair asked if any other edits were needed to the November 15, 2021, minutes or to the December 3, 2021, minutes and the Study Committee members confirmed no other edits were needed. Study Committee member Sarah Mauldin moved to approve the minutes of the Study Committee’s November 15, 2021, and December 3, 2021, meetings as circulated to the Study Committee members by Elaine Johnson via email prior to the meeting. Each motion was seconded by member Johanna Kiehl. Chair Connell held separate votes to approve each set of minutes, and both sets of minutes were unanimously approved.

Chair Katie Connell noted that during the last full Child Support Commission meeting held on December 10, 2021, she reported on the work of this Study Committee explaining that more time was needed and requested an extension of the Parenting Time Deviation Study Committee. The Commission Chair, Judge R. Michael Key, granted an extension until the next Commission meeting scheduled for April 29, 2022, from 1:30 to 3:30 p.m. Chair Connell explained that the Commission may expect to receive a report and any recommendations from this Study Committee at that meeting. Chair Connell also noted that Child Support Commission Chair, Judge R. Michael Key, authorized the removal of any Study Committee members who have not attended the last five meetings, including the Study Committee meeting held on December 3, 2021. Chair Connell added that she will review Study Committee membership with staff and conclude which members should be removed. She reminded Study Committee members

that reducing membership will help us meet quorum necessary to ensure the Study Committee can conduct votes when needed during meetings.

Executive Program Manager, Elaine Johnson, along with Staff Attorney Noelle Lagueux-Alvarez made a presentation to the Study Committee members on behalf of staff regarding deviation concerns cited in the 2018 Economic Study report written by Dr. Jane Venohr, with the Center for Policy Research, Inc. It was noted that the Child Support Commission is required to conduct an economic study every four years, with the last study conducted in the year 2018 and the next study being conducted in 2022. She pointed out that in 2018, a review of child support orders from a statewide case sampling, as part of the 2018 Economic Study, revealed that Georgia had a 45% deviation rate—higher than any other state. Ms. Johnson reminded the Study Committee members that currently Georgia’s parenting time is accounted for as a deviation, but the recommendation in the 2018 Economic Study was that parenting time be changed from a deviation and treated prospectively as an adjustment. The Child Support Commission did not at that time bring legislation to change parenting time in the statute. Elaine Johnson shared that what this Study Committee appears to be proposing is the remedy staff is suggesting, and that is accounting for parenting time as a step in the process of calculating child support, not as a deviation, but rather as an adjustment to the Basic Child Support Obligation amount somewhere else in the calculation process.

Chair Connell took a casual poll of the Study Committee, and all agreed that this Study Committee should recommend that going forward parenting time should no longer be handled as a deviation, but rather as an “adjustment.” However, the precise form and when such an adjustment should be made remains an open question. A lengthy discussion by the Study Committee members focused around whether there should be a threshold amount of parenting time required before any adjustment is warranted. Study Committee member, Carol Walker, offered to compile statutory language from other states and circulate those with her thoughts on this issue. Points of important significance and interest in the discussion follows:

- Chair Connell pointed out that the statute is very clear that it uses the word adjustment as something that must be examined and determined. She commented that this idea is a threshold piece of our recommendation that parenting time, one way or another, should be an adjustment as opposed to a deviation.
- Study Committee member Carol Walker reminded the members that they must review the statute for where an adjustment could be placed and stated its form and commencement is still up for discussion. Additionally, the question of discretion for judge and jury is an issue to be determined.
- Study Committee member Adam Gleklen commented that he is of the mindset that there needs to be a baseline amount of parenting time before an adjustment for parenting time should kick in, which he calls a threshold issue.
- Study Committee member Johanna Kiehl commented that we could have a caveat that we think it should be an adjustment, without having yet decided whether there should be a threshold met. She would like to clarify if other adjustments in the statute are presumptive, and then make recommendations on whether parenting time should be a required adjustment or a presumptive adjustment.

The Study Committee also discussed the issue of defining an increment of time in order to determine the amount of parenting time that each parent has. The Study Committee especially

discussed the issue of parents who do shift work (people working in manufacturing, police officers, doctors, nurses, etc.) being negatively impacted if parenting time is determined simply by the term “overnight” with no flexibility to account for other significant amounts of parenting time that does not involve an overnight stay. Study Committee member, Johanna Kiehl, spoke about this issue in depth with a Minnesota legal aid practitioner and will summarize that conversation and circulate it to the group. One of her points was that if we go that route of overnight or overnight equivalence, we need to figure out some way to give credit to those parents whose jobs involve shift work so parents can at least figure out what to include in a child support calculation. Ms. Kiehl said she would summarize this information from her conversation with the Minnesota practitioner and share the summary with Study Committee members. Chair Connell asked Study Committee member Adam Gleklen if he recalled how the state of Florida resolved the issue of shift work in their statute. He commented that the original statute didn't address the issue, but Florida has since revised their statute for that reason. He commented that he believes the language in the Minnesota and Tennessee's statutes are available for the Study Committee to use to phrase exceptional circumstances like that. Chair Connell summarized the discussion by acknowledging that an increment of time needs to be articulated, but with some exception or acknowledgement that not everyone's work schedule will fit into a traditional, nine-to-five schedule and that using overnights may have an unintended and unjust treatment of certain parents.

The Study Committee started discussing the possible form a parenting time adjustment would take including a presumptive formula that would also allow for judicial discretion. Study Committee member Mark Rogers suggested that this group begin working on drafting text for a statutory change. All agreed that generally “simpler is better.” Chair Connell commented that it was her understanding that generally how Schedule C was going to be used was as a calculator that then flowed through to the child support worksheet, with a calculating component. The Study Committee does not believe that the use of a “Schedule C”—as had been in the original child support guidelines statute but removed by the Georgia legislature before passage—is needed. Points of important significance and interest in the discussion follows:

- Study Committee member Mark Rogers commented that somewhere you have to show the actual calculations separate from the input so you can see the adjustment to the BCSO. Also, showing enough information so that when there's a modification you will know what numbers were used in the existing order.
- Study Committee member Carol Walker commented that she still thinks the members have to talk more about not only time increments, but also methodology that needs to be fleshed out a little bit. Ms. Walker also remarked that she believes there was a consensus from the meeting on November 15, 2021, that we should use a two-year time cycle for parenting time.
- Study Committee member Adam Gleklen commented that once you hit a threshold, he doesn't like a mathematical formula that locks in parenting time. In his experience that makes judges and lawyers crazy about math and gets away from the concept of discretion. He thinks that judges and lawyers need to have some discretion, and not just be told this is the answer.

Further discussion focused on a tool for the sole purpose of calculating the parenting time involved in any given case be embedded in the larger child support calculator similar to how the self-employment calculator is a tool embedded in the child support calculator. The overall

consensus is to make certain the calculation tool is simple for any user, with consideration given to the self-represented litigant to avoid overwhelming those parents who are unrepresented. Points of important significance and interest in the discussion follows:

- Chair Connell addressed the fact that people get really upset about being labeled as the “non-custodial parent” even if just for child support purposes and although we know it's no reflection on the parents, we still need to be mindful of this fact.
- Study Committee member Sarah Mauldin asked whether it would be reasonable to come up with a different name for custodial parent and noncustodial parent for child support purposes to make people feel better about it?
- Chair Connell said this is an item that we should consider.
- Study Committee member Carol Walker commented that she thinks we must be careful that when a parenting time calculator is created that it does not push people towards a certain result.

Chair Connell summarized the following action items for a few of the Study Committee members:

- Sarah Mauldin will provide a document to members that will include “Unit Definitions” from the five states defining their parenting time increment.
- Carol Walker volunteered to work on a draft report to the Child Support Commission. She plans to work off historical information compiled by staff and use the Minnesota report as a model.
- Johanna Kiehl will put together a paragraph about her most recent conversation with the Minnesota practitioner, which Sarah will then add to the Minnesota section of our States Notes compilation document.
- Mark Rogers will put something together to help us better understand his idea around expenses for extracurricular activities.

The next two Study Committee meetings will be conducted via Zoom on February 3, 2022, at 10 a.m. and on February 17, 2022, at noon. Staff is working on arrangements for a hybrid meeting at the State Bar building in Atlanta in-person and via Zoom on March 22, 2022.

This meeting was adjourned at 11:50 a.m.