

**Georgia Child Support Commission  
Statute Review Subcommittee  
Kathleen Connell, Esq., Co-Chair  
Hon. Connie Williford, Co-Chair  
Friday, February 24, 2023  
10:00 a.m.**

**Meeting Minutes**

The Statute Review Subcommittee (“Subcommittee”) of the Georgia Child Support Commission (“Commission”) held this meeting via Zoom webinar. During the course of the meeting a total of Eight (8) Subcommittee members were in attendance and those members were:

Kathleen “Katie” Connell  
Byron Cuthbert  
Christina Scott

Hon. Connie Williford  
Judge R. Michael Key  
Regina Quick

Pat Buonodono  
Jason Naunas

Executive Program Manager, Elaine Johnson, Staff Attorney, Noelle Lagueux-Alvarez, and Program Coordinator, Latoinna Lawrence served as staff for the meeting. Several members of the public also attended this open meeting.

Co-Chair Judge Connie Williford opened the meeting and noted some technical difficulties with Zoom that slightly delayed the meeting. Staff member Latoinna Lawrence reviewed rules for conducting this meeting via Zoom.

Co-Chair Williford noted the absence of a quorum at the beginning of the meeting and delayed a vote on the minutes from the Subcommittee meeting held on November 18, 2022. Before the conclusion of the meeting, Co-Chair Williford confirmed with staff that a quorum of eight Subcommittee members in attendance at the same time was never achieved. Judge Key joined at the end of the meeting, but member Jason Naunas had already departed the meeting. Accordingly, Co-Chair Williford asked staff to conduct an e-vote for the approval of the November 18, 2022, minutes.

Staff member Elaine Johnson gave an update on the anticipated contract with Dr. Venohr and the Center for Policy Research (CPR) for recommendations on alternatives for Georgia to consider regarding Parenting Time and the Low-Income Deviation. Staff has been drafting the deliverables and negotiating the terms and cost of the contract. At the request of the Division of Child Support Services (DCSS), staff added an additional deliverable concerning domestic violence in parenting time. The final version of the contract was emailed to Dr. Venohr on February 24, 2023. Staff anticipates that contract will be signed very shortly and plans for Dr. Venohr to attend the April 21<sup>st</sup> Subcommittee meeting. Co-Chair Williford encouraged the Subcommittee members to attend the April 21<sup>st</sup> meeting.

Co-Chair Williford asked if anyone had news on legitimation reform efforts happening in our state that they could report to the Subcommittee. With no response heard, she asked Subcommittee member Regina Quick if she had any information. Ms. Quick reported on SB 135 that is legitimation “reform-like,” which modernizes genetic testing references and provisions in O.C.G.A. § 19-7-45 and O.C.G.A. § 19-7-46, utilizing guidance from the Uniform Parentage Act of 2017. Ms. Quick stated that she anticipates the bill will move on to the floor next week. Co-Chair Williford asked how SB 135 will help to reform, in any way, legitimation in Georgia. Ms. Quick replied that the bill will not establish any legal rights, but it does address the self-authentication of genetic testing and the admissibility of genetic testing into evidence in

other civil actions, which means that such paternity tests could be used in subsequent legitimation proceedings. Co-Chair Williford commented that she hoped to hear today from Co-Chair Katie Connell and from Ms. Lagueux-Alvarez on this matter as well when each of them could join the meeting today.

Co-Chair Williford asked staff for a status update regarding the public survey on replacing the terms “custodial parent” and “noncustodial parent” in the Child Support Guidelines Statute. Latoinna Lawrence gave a presentation on a draft survey to be added to the Commission’s website explaining how a user will access and participate in the survey. Subcommittee members gave suggestions for making the survey more prominent on the website. Co-Chair Williford suggested adding the terms “Custodial Parent” and “Noncustodial Parent” as an option for the public to consider in the survey. The members agreed with this suggestion to add the terms as a choice on the survey, with a note to indicate these are the existing terms. Subcommittee member Christina Scott suggested adding “Primary Custodial Parent” and “Secondary Custodial Parent.” (During the discussions, Co-Chair Katie Connell joined the meeting.) Staff member Elaine Johnson pointed out definitions (a)(9) and (a)(14) in O.C.G.A. § 19-6-15 create an issue in using those terms because “custodial” is used in both and would be contrary to the two definitions. The discussion then centered on changing the two new terms to “Primary Parent” and “Secondary Parent.” There were no objections to adding these new terms to the survey. The Subcommittee agreed that once suggested updates are made, the survey is to go live on the Commission’s website. The Subcommittee discussed how to promote the survey to maximize participation. Co-Chair Williford called on staff to share ideas for promoting the survey. Staff member Elaine Johnson reported that she and Ms. Lagueux-Alvarez prepared a list of agencies, groups, and courts for publicizing the survey and she shared the list with the members. Ms. Johnson added that the same button and survey process will be added to the home page of the Child Support Calculator. She closed her report saying that staff will prepare a distribution email that will include a request that the receiver of the email share the email with other groups who they believe may have an interest in responding to the survey. Ms. Johnson suggested to the Subcommittee that staff will monitor the survey and capture all data in an Excel spreadsheet for final analysis. (Staff Attorney Noelle Lagueux-Alvarez joined the meeting at the end of this discussion.) Co-Chair Williford asked staff to report on the survey during the April 21<sup>st</sup> meeting of this Subcommittee.

Co-Chair Williford, recognizing that Co-Chair Connell and Staff Attorney Noelle Lagueux-Alvarez had joined the meeting, resumed discussion on legitimation. She reminded members what had been discussed earlier in the meeting and asked Ms. Lagueux-Alvarez to share what she knows, followed by Co-Chair Connell’s remarks on anything she knows going on with the State Bar Family Law Section regarding legitimation reform. Ms. Lagueux-Alvarez reported that she is only aware of SB 135 and is unaware of anything further. Co-Chair Connell reported that legitimation has not been on the State Bar Family Law Section agenda for at least the last 18 months. She had nothing further to report on this subject.

Co-Chair Williford turned the meeting over to Co-Chair Connell, who called upon Subcommittee member Pat Buonodono to make a presentation on the application of social security payments to a child. Specifically, Ms. Buonodono addressed whether when a parent receives social security disability that includes a payment to a child and the amount for the child exceeds the current support amount, can the excess be used to satisfy an arrearage owed by that parent. Ms. Buonodono noted that there are a mix of stances on this topic amongst the states and she found case law on the issue but could not find any legislation on the matter. She cited an Alabama case, Brazeal v. Brazeal, 756 So. 2d 889 (Ala. Civ. App. 1999) that says payments received by a child based on the noncustodial parent's disability which are in excess of the current child support amount may be used to reduce an arrearage, if the arrears accrued at or after the time that parent applied for disability. If it were applied to an arrearage that was older than the disability, the Alabama court saw that as a windfall for the disabled noncustodial parent. DCSS staffer, Ryan Bradley, who has also looked into this issue explained that currently in Georgia that overage cannot be applied

toward an arrearage. He also noted that if an excess is not allowed to offset an arrearage, then payment for the arrearage would come out of the disabled parent's fixed income which could put that parent in a hardship. There was a good bit of discussion by the Subcommittee on the idea that any excess over the current support could be used to offset only an arrearage that accrued once the parent was disabled. There was also concern on whether the overage paid to the child was a windfall for the custodian parent, while at the same time any overage applied toward arrears could be seen as a windfall for the noncustodial parent as well to pay off arrears that could have accrued prior to the noncustodial parent's disability. There was discussion that clarified that this discussion concerned Social Security Disability (SSD) payments to a child and not payments to a disabled child under Supplement Security Income (SSI). Subcommittee member Regina Quick suggested possibly addressing this issue with a statutory change allowing the judge to consider, impose, and award a discretionary "equitable credit" in these circumstances. Co-Chair Williford commented that this means allowing judges discretion when it comes to whether or not the excess disability payment would be credited towards the arrearage. Ms. Quick suggested such a legislative change may eliminate some objections or opposition. Subcommittee member Pat Buonodono made a motion to move this matter to the Child Support Commission for consideration. Co-Chair Williford made a second on the motion. A discussion was held, and it was determined that a quorum was not needed to place the item on the Commission's next meeting agenda, which will be on May 2, 2023. The members agreed, and the matter will be placed on the May 2, 2023, Commission meeting agenda. Subcommittee member Pat Buonodono volunteered to draft language on this subject for the Commission to consider. She stated she would send staff the document for distribution.

Co-Chair Connell reported to the Subcommittee that Judge Amanda Petty contacted her and Co-Chair Williford and resigned as a member of this Subcommittee because of her recent appointments to other committees. Staff acknowledged this information and commented that this brings the Subcommittee membership to 14 members.

Co-Chair Williford continued the Subcommittee's previous discussion on the use of the word "shall" within the code section on deviations at O.C.G.A. § 19-6-15(i)(2)(J)(ii). Staff Attorney Lagueux-Alvarez and Co-Chair Connell joined the discussion, and they talked about all deviations being discretionary and noted that the question is whether any statutory language needs to be amended. They agreed that the word "shall" in the statute should always be carefully considered. They acknowledged that, in this part of the statute, "shall" speaks to the fact that the judge must consider something as part of the analysis on whether to grant a deviation. They further agreed that the threshold question of a deviation is still a discretionary question for the court and the word "shall" does not change that in any way. It was agreed that none of the uses of the word "shall" were problematic and, therefore, no further action on this topic is needed.

Co-Chair Williford led a discussion around whether it is proper to handle extraordinary expenses (educational, medical, and special expenses for child rearing) outside of the Child Support Worksheet in divorce, child support orders, etc., and if in doing so whether this creates non-modifiable terms in the order. Staff Attorney Noelle Lagueux-Alvarez brought to the attention of the Subcommittee a case that may be on point for this discussion, Day v. Mason, 357 Ga. App. 836 (2020). She explained that in this case the trial court ordered extracurricular expenses outside the worksheet and the Court of Appeals found that the trial court made no factual findings to support a deviation from the presumptive child support amount and reversed the award. Co-Chair Connell commented that if the Court of Appeals doesn't seem to think that it's contrary to our existing statute to handle deviations outside the worksheet, then why would we change the existing statute, as opposed to making the need for findings of fact a point of education. Co-Chair Williford thinks this topic needs further thought and should be raised again at a future meeting and the members concurred.

Staff Attorney Noelle Lagueux-Alvarez asked to present new business on HB 499 and the Subcommittee held a discussion around that newly filed bill. Ms. Lagueux-Alvarez explained that the bill would expand the duration of support, referred to as “post majority child support” by adding a section (e)(2) and a definition in subsection (a) of O.C.G.A. § 19-6-15. The bill also provides that the post majority child support should be in addition to and not in lieu of benefits or assistance an adult child may receive from sources other than the parents, i.e., government benefits. Others voiced concerns about benefits and the impact the post majority child support could have on the disabled adult. Co-Chair Williford asked staff to keep this piece of legislation on the Commission’s radar.

Co-Chair Williford raised concerns about provisions in O.C.G.A. § 19-6-15(k) that address when a modification can be made by either parent within a period of two years from the date of the final order on a previous petition to modify. She questions the authority to modify an order to raise the child support amount when a parent is not exercising his or her parenting time because no parenting time is factored into the child support amount whatsoever, and the Subcommittee held a discussion around this topic. Member Pat Buonodono commented that the language in the statute may be poorly drafted, but she thinks the original intent came from a judge. The example was the parent wants the parenting time deviation because they say they're going to have the child 50% of the time, and then they don't have the child for that amount of time and the child support needs to be addressed. Ms. Lagueux-Alvarez stated it would be like taking back or removing the deviation. Co-Chair Connell commented that it seems this subsection concerns a deviation that doesn't come to fruition, and it may be that it doesn't make sense when considering how it's written in the statute. The Subcommittee members concluded that the language in subsection (k) of the statute should be reviewed and possible edits considered when amendments are made to the statute for parenting time as the Commission and legislature continue to study this important subject. Co-Chair Williford asked staff to include this item on the next agenda, so we do not lose track of this item.

Co-Chair Williford delayed discussion on the issue of removing the 7% test for special expenses for child-rearing to a future meeting.

Co-Chair Williford called upon Staff Attorney Noelle Lagueux-Alvarez to report on the status of the Commission’s request for a resolution to create a legislative study committee. Ms. Lagueux-Alvarez announced that a resolution has been filed in the Senate for the creation of a Study Committee on Parenting Time, but no similar resolution has been filed in the House thus far. Co-Chair Williford asked member Regina Quick if she had any status to share. She reported that she had not heard any update on the House side but will check and explained that study committee resolutions are not subject to crossover. She anticipates we’ll probably hear something from Chairman Ballinger after crossover day. She concluded by stating that, even if there are no joint committees, it doesn't preclude the chairs from deciding to meet jointly.

It was announced that the next Statute Review Subcommittee meeting will take place on Friday, April 21, 2023, at 2:00 p.m. via zoom and that Dr. Venohr will participate in that meeting. Co-Chair Williford commented that the co-Chairs will talk with staff on scheduling future meetings and announced the date of the next full Commission meeting which will be on Tuesday, May 2, 2023, at 10 a.m.

This meeting adjourned at 12:13 p.m.