

**Georgia Child Support Commission
Statute Review Subcommittee
Kathleen Connell, Esq., Co-Chair
Hon. Connie Williford, Co-Chair
Friday, July 21, 2023
2:00 p.m.**

Meeting Minutes

The Statute Review Subcommittee (“Subcommittee”) of the Georgia Child Support Commission (“Commission”) held this meeting via Zoom Webinar. Four (4) Subcommittee members attended this meeting, including a recently appointed member, Sarah Austin, who replaces Mara Block as a representative from the Legal Aid community. The Subcommittee members in attendance were:

Hon. Connie Williford
Sarah Austin, Esq.

Pat Buonodono, Esq.

Christina Scott, J.D.

Executive Program Manager, Elaine Johnson, Staff Attorney, Noelle Lagueux-Alvarez, and Program Coordinator, Latoinna Lawrence, served as staff for this meeting. Several members of other Georgia Child Support Commission Subcommittees or Study Committees joined this meeting as panelists and members of the public also attended this open meeting.

Co-Chair Judge Connie Williford opened the meeting at 2:05 p.m. Staff member Latoinna Lawrence gave a brief reminder of Zoom procedures for this meeting along with a reminder that public comments can be made anytime through the Commission’s website or during any full Commission meeting. Ms. Lawrence reminded attendees that at the conclusion of today’s meeting, staff will post the recording on the Commission’s YouTube channel, which is titled “Georgia Child Support Commission.” Judge Williford noted that the minutes of the Subcommittee’s June 23, 2023, meeting were previously distributed to the Subcommittee. No edits to those minutes were requested, however, a quorum was not present to vote on the approval of the minutes. Accordingly, Co-Chair Williford asked staff to conduct an e-vote on the minutes from the last meeting.

Judge Williford began the meeting by noting that the agenda reflected that Subcommittee discussions would begin on the Low-Income deviation. Staff member Elaine Johnson reported that Judge Emory Palmer, chair of the former Low-Income Deviation Study Committee, had a conflict and would not be able to join today’s meeting. Accordingly, Judge Williford directed that the Subcommittee would focus its discussions today on parenting time.

Judge Williford led a discussion on the pros and cons of various formulas to use when accounting for parenting time in calculating child support and almost the entire meeting was dedicated to that topic.

Dr. Jane Venohr helped to further the discussion by presenting from a memo she drafted dated July 17, 2023, to illustrate: (1) the cross-credit method with a 1.5, 1.6, 1.65, and 1.7 multiplier (2) the Minnesota/Michigan formula with exponents of 2, 2.5, and 3, and (3) the Oregon formula. When discussing the cross-credit method, Dr. Venohr explained that the only way to avoid a cliff effect is to use a calculation that would compare two worksheets. As to the Minnesota/Michigan formula, Dr. Venohr stated that if Georgia decides to adopt that formula, she’d recommend an exponent of 2. Judge Williford asked for her

rationale for that recommendation and Dr. Venohr explained that an exponent of 3 would not give the noncustodial parent enough credit for his or her expenses.

Judge Williford asked Dr. Venohr for further explanations by discussing some of the case scenarios using the cross-credit method. Dr. Venohr explained that there will be some situations, for example, where the custodial parent has low income, and the noncustodial parent has a much higher income, and that parent also has 25%-30% parenting time. Because, when using the cross-credit method, that obligation is being increased by 160% it will produce a higher child support obligation, so then you would use the child support amount calculated without a parenting time adjustment and the resulting child support obligation will be lower. So, even though it would be ideal to give the noncustodial parent an adjustment for food, for example, it takes money away from the custodial parent in supporting the child in that extreme income scenario.

Dr. Venohr shared that she thinks Georgia will not want to do the cross credit *with a threshold*. She explained that was a major criticism of our study committee's report on the cross-credit method. She added that a cross credit with a threshold would necessitate doing the calculation twice (two worksheets). Judge Williford commented that using the Minnesota process for calculating parenting time may be preferential to the cross-credit method because we would not have to create two different worksheets or use two different formulas. Dr. Venohr agreed, although she stated that the cross-credit method is easier to explain to someone because a person can see the math in the worksheet and see exactly how it is calculated.

Subcommittee member Christina Scott shared that she likes the Oregon formula best, but her second choice would be the Minnesota formula with the exponent of 2. She added that she likes Minnesota because she is concerned about using two formulas, which would be cumbersome. Dr. Venohr suggested two other states Georgia may want to look at are Indiana and Oregon. Judge Williford asked Ms. Scott why she prefers the Oregon formula and process. Ms. Scott replied that she likes the way the state set up counting the number of nights in their calculator. Judge Williford commented that we will have our own parenting time calculator in Georgia regardless of which formula is used (staff agreed). Dr. Venohr added that the Oregon definition of overnights is very clean cut, and it gives some options on counting overnights and dealing with those odd work schedules. Subcommittee member Pat Buonodono indicated she also likes the Oregon formula for counting overnights. She then shared other options for counting time in lieu of overnights, such as 12 continuous hours may be counted as one day, additional blocks of time of four hours up to 12 hours may be counted as half days but not in conjunction with overnights. This method of using blocks of time may not be used to equal more than one full day or a 24-hour period.

Parenting Time Study Committee member Johanna Kiehl shared her concerns in counting overnights for parents who have jobs where shift work is required. She shared that parents who would only have evenings after school through like 9 or 10 p.m., would never meet the 12-hour definition for an alternate credit. And they might actually be providing dinner every night and sometimes on the weekends. She added that if there's a way to not have time set at 12 hours, if it was a definition that was like regular and recurring daytime periods, then you could do an average 24-hour calculation as an alternate instead of strictly 12 hours.

Judge Williford, thinking of the conversations to this point, reminded the Subcommittee that Dr. Venohr recommended we either use the cross-credit method at 160% with no threshold or the Minnesota formula, which is really the old Michigan. She added that the beauty of the Minnesota or old Michigan is that the study group decided that was the best one for Georgia. Judge Williford also reminded the Subcommittee that if parenting time becomes an adjustment that we must still have a deviation where judges may apply judicial discretion on parenting time.

The discussion turned to talking about assumptions that the noncustodial parent has zero parenting time in Georgia's BCSO table and that the custodial parent has 365 days a year. Dr. Venohr provided an explanation of the table and parenting time. She explained that the table assumes the child has been raised in *one household* (an intact family) and there is nothing in the table about the number of days because it's impossible to make an assumption about the number of days in that *one household*. Dr. Venohr explained that the income shares model presumes that the child's entitled to the same amount of expenditures that the child would have received had the parents lived together and shared financial resources. So, when the economists look at the data, they are looking at intact families, because those are the ones that share financial resources. We do not have data on two families living separately/apart.

Dr Venohr shared that we cannot divide the cost of the children's clothing on a per diem amount, and we cannot divide housing, more so than clothing, on a per diem amount. So, it is that the child has been raised in *one household*. She noted that there are two things to consider. First, the paying parent, as s/he has more time with the child, s/he is going to incur additional expenses like food and housing, but second, it is a question of when are the custodial parent's costs reduced for the child? For the table, it is just that is how much it costs to raise a child in *one household*. There are not any assumptions about who has zero days, one day, two days, three days, etc.

The Subcommittee began discussing items that it must decide upon while making decisions on parenting time. (This list is not all inclusive.)

- They concluded that we must identify a formula for calculating parenting time.
- We must determine how to count the number of overnights a child spends with the noncustodial parent.
- Will there be a threshold amount of parenting needed before a parenting time adjustment is applied.
- Staff member Noelle Lagueux-Alvarez remarked that the Subcommittee must decide if parenting time will be an adjustment or remain a deviation. She explained that an adjustment would be a deduction from the Basic Child Support Obligation (BCSO) amount, so that is where the calculations would happen and would occur before we add additional expenses for child care and health insurance on Schedule D.
- Staff member Noelle Lagueux-Alvarez also pointed out that with changes to parenting time we will need to amend subsection (b), the Process of Calculating Child Support, in OCGA 19-6-15 and likely add the equivalent of a Schedule C.
- We will need to review 19-6-15(1) for Split Parenting in the statute as well.
- Staff member Elaine Johnson reminded the Subcommittee they will need to look at joint legal custody (50/50 shared parenting) and determine if the definitions in O.C.G.A. 19-6-15(a)(9) for custodial parent and (a)(14) for noncustodial parent will need to be changed because of a new parenting time formula. She indicated the statute now requires identifying a noncustodial parent in the process of a 50/50 case since child support may still be owed by the parent with the higher child support obligation.
 - Dr. Venohr commented that any of the formulas that Georgia is considering would zero out the child support if there was equal **income**, but even if parenting time was 50/50, those formulas would not zero out child support if there was non-equal income, which is a desirable outcome.

Parenting Time Study Committee member Johanna Kiehl asked a question on how to average parenting time, in any of these new formulas, when the children have different parenting time schedules with the parents. Dr. Venohr explained that you determine the amount of time for each child and average the time. For example, if one child is with the other parent 30% of the time and another child is with the other parent 50% of the time, the average for the parenting time schedule will be 40%.

Latoinna Lawrence gave a brief update on the public survey about changing the terms custodial and non-custodial parent. To date, a majority of survey respondents prefer to retain the terms custodial and noncustodial parent.

The Statute Review Subcommittee will meet again on August 18, 2023, at 1:30 p.m., and on September 21, 2023, at 10:00 a.m., both via Zoom. The next full Child Support Commission meeting will take place on August 11, 2023, at 10:00 a.m., as a hybrid meeting on Zoom and at the Nathan Deal Judicial Center.

This meeting adjourned at 4:04 p.m.