

Georgia Child Support Guidelines Commission Meeting

MEETING MINUTES

February 15, 2008

I. Welcome and Approval of January 10, 2008 Meeting Minutes

Chairman Seth Harp called the meeting to order at 1:07 p.m. Present were Judge Debra Bernes, Judge Louisa Abbot, Chairman Harp, Representative Edward Lindsey, Judge Lisa Jones, Judge Michael Key, and Judge Quillian Baldwin. Ms. Joy Hawkins arrived later to create a quorum for a vote on the suggested statutory recommendations.

Chairman Harp stated that minutes from January 10, 2008, had been delivered via email prior to the meeting. He asked for changes; none spoken. He moved for approval. After the motion was seconded, the January 10, 2008, minutes were approved as submitted.

II. Review of Statute Review Subcommittee Recommendations

Chairman Harp stated that since this meeting was an immediate follow up of the Statute Review Subcommittee meeting he asked Judge Louisa Abbot to proceed with recommendations from the Statute Review Subcommittee meeting. These were additional recommendations, other than those made and approved at the January meeting. Judge Abbot reported the following:

A. Twelve Month Protective Orders

At the last meeting, possible statutory revisions regarding the applicability of the Child Support Guidelines to Twelve Month Protective Orders under 19-13-4 were tabled until the issue could be reviewed by the Rules Committee of the Council of Superior Court Judges in conjunction with their review and revisions to Temporary Protective Orders to be used in Family Violence cases. The Rules Committee met toward the end of January. Judge Abbot reported that at that meeting, the Superior Court Judges agreed that Twelve Month Protective Orders were temporary in nature. Thus, the Guidelines would apply. The Statute Review Subcommittee recommended language be added under (c) (1) clarifying that the Child Support Guidelines apply to actions under §19-13-4.

The Rules Committee had also reviewed the Worksheet filing requirement, found under Subsection (m) (1) of the Guidelines. The judges reasoned that since actions under §19-13-4, Family Violence Act, are temporary in nature, and thus, not considered final orders, as set forth in 19-6-15(m), the Child Support Worksheets and Schedules need not be attached to the Order in cases involving Twelve Month Protective Orders. In following the Superior Court Judges' reasoning, the Statute Review Subcommittee proposed that Subsection (m) be amended to reflect this revision.

Both of these revisions in regard to Twelve Month Protective Orders, as set forth in §19-13-4, were presented via a motion to recommend these statutory revisions to the Georgia Legislature. The motion was seconded, and approved unanimously by the Commission Members present.

B. Financial Affidavit

Another item tabled at the last meeting was adding language to the Guidelines allowing the Child Support Agency to waive the requirement of filing financial affidavits. Since the requirement for financial affidavits is rooted in USCR 24.2, the revision is to be made to the Rule, rather than the Guidelines. Judge Louisa Abbot reported that the Rules Committee of the Council of Superior Court Judges had at their January meeting agreed to revise USCR 24.2, allowing the waiver. It will now go through the Rule approval process.

C. Military Benefits

Also, at the January meeting, the issue of which military benefits are to be considered attributable income was referred to a Study Committee. The Military Benefits Study Committee reported its findings and proposed statutory revisions to the Statute Review Subcommittee on this date. The Statute Review subcommittee adopted the recommendations, and was now recommending them to the Child Support Commission. Judge Abbot thanked the Military Benefits Study Committee Chair Joy Hawkins, Mr. John Camp, and other study committee members for their time and research to draft the recommended statutory changes. [These revised changes are found in an addendum to these minutes.] The proposed recommendations to the Commission regarding military benefits include removing provisions relating to military benefits from the fringe benefit section of gross income; create a new subsection setting forth which military compensation and allowances should be counted as income, and which should be excluded; and, language added in the “bonus” paragraph,” also under the gross income subsection, referencing military bonuses. Judge Abbot asked for any questions or comments to the suggested changes. A question arose about whether a cost of living increase due to housing in a high cost area is counted as income. It was seen as a benefit to the military parent if it was not counted as income. Jill Radwin explained that according to John Camp, who had presented research and findings on this specific topic to the Military Benefits Study Committee, the additional income due to the location of the military assignment was a pass through for a “high cost” of living allowance. One should not be profiting on this cost of living allowance. The basic housing allowance, itself, is actually included in the calculation. However, there is language included to allow court discretion to include any additional amounts of income if the court does find additional income. The revisions in regard to military benefits and bonuses were presented via a motion to recommend these statutory revisions to the Georgia Legislature. The motion was seconded, and approved unanimously by the Commission

D. Temporary Modification Hearings

Judge Abbot reported that the Statute Review Subcommittee had approved suggested new language under the Modification Subsection (k) that expressly allows the court to conduct temporary modification hearings to set child support pending the final hearing. Some courts are currently taking the position that under the new Guidelines, temporary modification hearings are no longer permissible so this language change would clarify that parties are still allowed to ask for temporary modification hearings. This suggested revision was presented as a motion to recommend it to the Georgia Legislature. The motion was seconded, and approved unanimously by the Child Support Commission.

E. “Other Income” Language Added Under “Gross Income” Subsection

The Statute Review Subcommittee suggested adding “Other Income” as a source of income under “Inclusion to Gross Income.” “Other income” is a choice a litigant may make on the Worksheets/Schedules electronic calculator but is not expressly provided for in the statute. This language would make the statute and forms consistent in calculating gross income for purposes of calculating child support. The suggested added language was presented as a motion to the Commission. The Commission seconded the motion, and it was approved unanimously.

F. No Reliable Evidence of Income in Modification Cases

Judge Abbot reported that following the passage of the Child Support Bill in 2006, we noticed an error under the provision concerning how to calculate a modification case when one of the parents fails to produce any reliable evidence of income. In fact, the present language is confusing and may mislead one on how to calculate that parent’s income, and thus, child support obligation. In modification cases, the statute currently refers to imputing income using 10% of the parent’s pro rata share of child support when no other reliable evidence of income is presented by that parent. The reference to 10% of the parent’s pro rata share of the BCSO is what is misleading, since if the income was calculated under prior guidelines, information regarding the pro rata share of that parent would not be available. The statutory revision will require that a parent who fails to provide reliable evidence of income, and the court has no other reliable evidence of income or income potential to consider, the court may increase the child support of the parent failing to produce evidence of income by an increment of at least 10% per year of such parent’s gross income for each year since the final order was entered or last modified. This revision was presented as a motion for the Commission to recommend this change to the Georgia Legislature. The motion was seconded, and was approved unanimously by the Commission Members.

G. Preexisting Orders

The next issue discussed was the Statute Review Subcommittee’s recommendation to clarify proof under the Preexisting Orders sub-paragraph (f) (5) (B). At present a paying parent can not get credit unless they pay twelve consecutive months. The revision is to strike the term, “consecutive.” This clarification is needed in cases where a paying parent, who may have missed a month but later paid multiple payments in a month to catch up a delinquency, may receive consideration under this provision. This revision was presented as a motion for the Commission to recommend this change to the Georgia Legislature. The motion was seconded, and was approved unanimously by the Commission Members.

III. Public Comments

Chairman Harp asked members of the public present if there were any comments or questions. Rick Leeds, Georgians for Child Support Reform, asked if there was concern from the commission that the 10% per year modification changes would be construed by some attorneys as a threshold to limit others seeking modification if there was not a 10% increase in income. Judge Abbot stated the 10% has nothing to do with being compliant with the current order but rather, would be only for a parent not providing proof of income at a modification hearing. If the parent does not provide proof of income at a modification hearing the court could at that point use the 10% per year increase.

IV. New Business

A. Forms Subcommittee

Chairman Harp stated that Judge Lisa Jones has been appointed as the new chair for the Forms Subcommittee. Judge Jones then commended Jill Radwin for working so diligently to identify and assist with organizing a Child Support Electronic Worksheet Task Force, which now has twenty members and was scheduled to meet on March 14, 2008. Jill also announced that there will be a sub-task force to develop an EZ manual form consisting of Electronic Task Force members and a representative from the Georgia Commission on Family Violence. Chairman Harp asked if there would be any need for legislative change. Ms. Radwin stated that there would be no need for legislative changes; however, the form changes would need to be approved by the Commission.

B. Economic Study Subcommittee

Jill Radwin reported that she and Dr. Tutterow, chair for the Economic Study Subcommittee, were currently working to set a meeting date for the Economic Study Subcommittee. Chairman Harp stated that one of the charges of the Commission is to review the BSCO table every two years to determine if there were any needed revisions.

V. Next Steps

There were no recommendations for further business. The meeting adjourned at 1:50 p.m.