

Georgia Commission on Child Support

Meeting Minutes February 20, 2015

Commissioners Present

Judge Michael Key (via teleconference)
Judge Elizabeth Branch (via teleconference)
Judge Tom Campbell (via teleconference)
Ms. Katie Connell (via teleconference)
Senator Chuck Hufstetler (via teleconference)
Senator Emanuel Jones (via teleconference)
Representative Ronnie Mabra (via teleconference)
Judge Lisa Rambo (via teleconference)
Mr. Rick Smith (via teleconference)
Dr. Roger Tutterow (via teleconference)
Ms. Wendy Williamson (via teleconference)

Staff Present

Ms. Patricia Buonodono, staff attorney
Ms. Elaine Johnson
Mr. Bruce Shaw

Guests Present

Mr. Samuel Tillman
Ms. Erica Thornton, Policy Unit DCSS (via teleconference)
Mr. Stephen Harris, Associate General Counsel, DHS
Ms. Rachel King, General Counsel, DHS
Mr. Ryan Bradley, DCSS Policy Unit
Ms. Katherine Durant, attorney
Ms. Alice Limehouse, family law attorney

The meeting was called to order at 12:02 p.m.

I. Welcome and Introductions – New member: Representative Ronald Mabra

Judge Key welcomed all members and guests and stated Judge Abbot was unable to attend and that she instructed him to chair the meeting.

II. Review/Approval of Minutes of 12/5/2014 Meeting

Wendy Williamson moved to approve the meeting minutes of the December 5, 2014 meeting. Judge Campbell seconded the motion. The motion carried unanimously.

III. Old Business

A. Committee Reports

1. Statute Review Committee

Pat Buonodono updated the commission on the status of the legislation proposed. Both SB 64 and HB 264 have been filed but there are some differences between the two bills due to changes to HB 264 for some clarification in language. There was discussion with Senator Emanuel Jones about whether the senate bill should be substituted to reflect these changes to which Senator Jones stated that it would be best to wait for all changes to be made before substituting. Pat Buonodono moved on to inform the commission that she has a meeting scheduled the following week with representatives from hospital

associations who are likely to voice concerns over several issues, one of them being the notary requirement.

- a. SB 64 – filed by Senator Hufstetler**
- b. HB 264 – filed/to be filed by Representative Barr**
- c. Issue regarding waivers of interest (Katherine Durant, Esq.) – OCGA § 7-4-12.1**

Katherine Durant presented an issue for the commission's consideration. O.C.G.A. § 7-4-12.1 gives the courts discretion to waive interest accrued for past due child support without the parties' consent. Katherine Durant stated that U.S.C. 42 § 6-6-6 mandates states to have in place procedures whereby the order for each payment of child support becomes an enforceable judgment by operation of law on and after that payment is due, and further stating these judgments are not subject to retroactive modification. According to Katherine Durant, when a judge waives the interest on child support payments they have effectively retroactively modified the judgment. The language for retroactive modification is also mirrored in Georgia law located in O.C.G.A. § 19-6-17, creating a conflict within Georgia's statutes as well. Katherine Durant also maintains that the waiving of this interest violates the Georgia constitution which prohibits a law from being retroactively applied which prohibits or impairs substantive rights. Her contention is that when a judge waives interest that has already accrued from a judgment that it effectively allows the courts to retroactively modify orders. Katherine Durant stated that this affects all parents with child support judgments and has caused an issue for a client's case in which the obligor has continually contested that the amount of interest prevented a firm amount to be nailed down in an order.

After this issue was presented Judge Key instructed Pat Buonodono to await further response from the Attorney General's office and to follow up on the issue then.

- d. Conflict between OCGA § 19-6-14 and § 19-6-15(c)(1)**

Pat Buonodono stated that this issue dealt with the statute regarding temporary orders and that it possibly needed to be brought up to date with a reference within O.C.G.A. § 19-6-14 to using § 19-6-15 when establishing temporary orders.

- e. Statute re Child Support Receivers (OCGA § 15-15-4)**

Pat Buonodono stated that the statute regarding child support receivers has not been amended since the mid 1990s and needs to be brought up to date. The three issues brought forward at today's meeting will be possible candidates for further action.

2. Technology/Calculator Committee

Pat Buonodono thanked the members of the Technology and Calculator Committee for all of the work done in selecting a vendor to develop a web-based child support calculator. Wendy Williams informed the committee that on December 17th the committee had a meeting and that due to the high cost and technological difficulties of building a downloadable calculator that functions across all or most systems, the committee voted to move away from the downloadable option and pursue developing an online calculator. Excel versions will be maintained for 2 to 3 years minimum and for as long as it is economically feasible to ensure a gentle transition.

a. Bid Selection

A bid selection process was developed to ensure bids were evaluated for blindly and for the merits of each bid. After careful consideration by a task group consisting of committee members, Managed Information Services International was selected to be the vendor for the new child support calculator. The bid was considered the most thorough as well as less expensive when maintenance costs are factored in.

B. By-Laws

Pat Buonodono drafted bylaws at the request of the commission. One point discussed was in article 5, section 2 from d until the end that talks about quorums available, conference call meetings and email voting. Katie Connell stated that while she thought initially that the email voting and motion process was cumbersome she now feels it to be necessary so as to clearly establish when a motion is made.

Katie Connell moved to adopt the by-laws for the commission. Judge Lisa Rambo seconded the motion. The motion carried unanimously.

IV. New Business

A. Appointment of Judge Key as Vice Chair

Judge Campbell assumed the role of chair of the commission to appoint Judge Key as Vice Chair at the request of Judge Abbot.

B. DCSS Legislation

- 1. Genetic testing in all cases for which paternity has not yet been established**
- 2. Venue for contempt actions in original court or county in which Defendant resides or works**

Commissioner Horton of the Georgia Department of Human Services (DHS) requested the Child Support Commission to endorse legislation they are going to put forth. Judge Key opened the meeting for objections and discussion regarding these bills. Wendy Williamson inquired if the bill for genetic testing only applied to cases handled by the Department of Child Support Services (DCSS); Pat Buonodono responded that it did. Wendy inquired further as to who bears the cost of the genetic testing to which Pat Buonodono replied the obligor but a cheaper rate than is available to the general public. Lisa Rambo stated that it was her belief that this solves many problems for the courts and supports it.

Wendy Williamson made a motion to support the DCSS legislation. Judge Rambo seconded the motion.

Katie Connell voiced her concern to carve out a special venue for DCSS without further consideration as to how it affects jurisdiction, venue and constitutional implications. Katie Connell moved to table the commission's approval for legislation regarding venue for contempt actions and to only endorse the genetic testing legislation. Ronnie Mabra seconded the motion. The motion carried unanimously.

Rachel King stated that a provision for venue is already in the law in O.C.G.A. § 19-6-26 where child support orders are specifically carved out and that the legislation only provides clarification that contempt orders are included in that specific provision.

C. Annual Report to Judicial Council

Pat Buonodono drafted a report to be presented to the Judicial Council at the next meeting and sought the commission's approval of the report as written. Wendy Williamson moved to approve the report. Katie Connell seconded the motion. The motion carried unanimously.

V. Close of Meeting and Scheduling Next Meeting

The next meeting will be scheduled at a later time.

The meeting adjourned at 1:05 p.m.