

**Georgia Child Support Commission  
Low-Income Deviation  
Study Committee Meeting Summary  
February 7, 2020**

**Attendees**

Judge Emory Palmer, Chair, Staff - Noelle Alvarez, Latoinna Lawrence, Elaine Johnson (phone), Afiya Hinkson (phone), Amanda Baxter, Audrey Bergeson, Ryan Bradley, Barbara Briley, Shirley Champa, Alice Limehouse, Jason Naunas, Sabrina Rivers, Mark Rogers, Kenneth Sleets, and Erica Thornton, Elaine Johnson (phone)

**Welcome and Housekeeping**

Judge Palmer spoke to the committee about the Judge's Winter Conference held in Athens in January of this year, and that the surveys were distributed to judges for response. He reminded the committee that the surveys were initially drafted with judges in mind but may be completed by anyone. Elaine, Noelle and Judge Palmer distributed surveys to the judges on January 22, 2020 and have received several completed responses. The surveys are also available on the Child Support Commission website for access by anyone who would like to provide feedback. The surveys will also be circulated to the State Bar Family Law Section, Mediators and the Division of Child Support Services. Judge Palmer encouraged members to distribute the website link. Judge Palmer stated he has heard from judges that something does need to be done with the low-income deviation, but not to take away their discretion and they weren't pleased with the idea of using a self-support reserve.

**50-State Group Presentations and Discussions**

The states are divided into three groups. Audrey Bergeson is the moderator for group 1, Alabama through Kansas, Kate Franklin is the moderator for group 2, Kentucky through North Carolina, and Alice Limehouse is the moderator for group 3, North Dakota through Wyoming.

Audrey Bergeson and Alice Limehouse agreed Alice would speak for the three groups. Kate Franklin, Group 1, could not attend due to a court conflict. Alice Limehouse presented first and relayed she contacted 17 states in her group and received responses from seven states.

Audrey reviewed states trying to pull out common themes. One thing she observed in a few states was child support may be set at zero and not a minimum amount. California does not have a minimum amount of child support with a low-income deviation. Georgia has the highest for the minimum amount. The range she found for states was \$0 to \$197 as the child support amounts, with no one crossing over \$200. The median was \$50. Audrey explained she represents low-income clients routinely and has never seen the low-income deviation used. She related, if you paid \$197 in child support out of \$1257 income, that would leave one with around \$1000 to live on monthly.

Judge Palmer asked Audrey if she looked at the tables and the amounts being paid as the basic amount? He also asked if she looked at what percentage of the NCP's income is ordered at the low-income level? She responded no, but that would be an interesting place to go next in this study. Alice stated there were several states that have a consideration if the total support package (child support, childcare, medical) exceeds 45-50% of the net income generally (can be gross income also), there will be an

automatic cap of 50%. This was true in South Dakota, which has an income shares model based on net income and a standard formula for determining net income. They also do not have a formulaic way of deviating. South Dakota's Child Support Commission produced a report in 2016 recommending a minimum of \$79 per month as child support, which could be less if pro-rated between the parents. Alice also stated South Dakota has a rebuttable presumption that the income of a second job is not considered in the income determination.

Audrey asked Erica Thornton to report on the state of Hawaii and their self-support reserve, for which she provided handout resources. They also have a "child support need" covering minimum monthly needs and costs. Net income is in the table of income along with gross income. They also have a standard of living adjustment income based on gross income minus \$1102, based on their 2013 federal poverty guidelines. The table of incomes calculates 70% of net income and includes the standard living adjustment income in the table. There is also a maximum child support, which means the total support obligation per parent should not exceed a parent's monthly net income. They also have a minimum amount of child support of \$77 per month. They have a self-support reserve included in the table of incomes, which is \$840, after tax poverty level support in Hawaii. Refer to resources Erica provided showing how Hawaii applies the \$840 self-support reserve. They also have a provision concerning a parent's inability to earn income, when a payor has a net income of \$0 in the table of incomes, perhaps involving special circumstances. Noelle asked if the self-support reserve was extended to each parent, and Erica answered yes, the self-support reserve is applied from the table to both parents.

Judge Palmer stated Georgia uses a higher percentage of a parent's income for low-income parents than for high income parents. For example, if you earn \$1000, the award is 23 or 24% of income, while \$10,000 is about 12%. Judge Palmer stated this doesn't seem right. Judge Palmer asked if the groups looked at the percentages applied for low-income and high income in other states? Ryan Bradley pointed out if you use the low-income deviation, the percentage of income would be about 10%, which would fall in line with other states. Judge Palmer observed that it appears what some are looking for from this group is an automatic deviation. He further observed that many orders are entered by default when the obligor fails to appear for court, and minimum wage is likely used as the income for the obligor. One of the observations is that parents don't always know about Georgia's low-income deviation and that it can be requested.

Elaine spoke to Audrey's comment that Georgia low-income deviation is hardly used. She asked why is it difficult for people to use the low-income deviation? Audrey indicated the low-income deviation is not automatic and not always known about by the parties. They may also not be represented or have someone to advocate for them at court. Judge Palmer commented that Judge John Simpson has a Parental Accountability Court and uses the low-income deviation as much as 70% of the time.

In the surveys, there was a much greater portion of the responders who indicated they used a nonspecific deviation rather than the low-income deviation. The judge speculates they use it because they don't have to think about it and are looking for the path of least resistance. Afiya Hinkson pointed out her experience has been when she appears in court with her client and they request a low-income deviation, the court is surprised the obligor needs the low-income deviation when the obligor was able to hire a lawyer. It was observed it makes sense for the courts to order an amount of child support the parent can afford to pay and pay it, i.e., \$100 per month, versus \$250 a month that doesn't get paid. A question was asked whether in low-income cases where there are lower support awards, is the child support paid better? Ryan Bradley responded saying he has a link to a website where this data may be viewed. Visit: <https://www.acf.hhs.gov/css/resource/fy-2018-preliminary-data-report>.

Presentation by Mark Rogers. He provided materials in a PowerPoint available to the attendees. (Note: It was impractical to write in these notes the mathematical details discussed by Mr. Rogers. It is recommended one refer to the PowerPoint for presentation details.) Mr. Rogers stated he believes the self-support reserve helps the most. He explained child support is a broader issue than just how much money goes to the child. He reported Georgia has the highest tables in the United States. He stated Georgia's table, without deviations, sets the noncustodial parent up for failure without an ability to pay the child support. He mentioned there could be a self-support reserve in the table or in the worksheet. If we stayed with deviations, you would have to deviate in nearly every case, or one could go directly to using a formula for self-support. Mr. Rogers utilized information from North Carolina's child support statute. He also used New Hampshire as an example. Mr. Rogers stated he believes a new table with a self-support reserve would be the best answer.

Judge Palmer discussed with the group the idea of moving the 2022 economic study up to year 2021, one year earlier. This would address the concerns about the basic child support obligation table.

### **Scheduling next meeting**

Judge Palmer wants to summarize the information surveyed by all for presentation to the Child Support Commission, toward the idea of whether we want to recommend change or leave the low-income deviation as it is today.

The next meeting was scheduled for Tuesday, March 17, 2020, from 10:00 – 11:30 a.m. The meeting will take place in the Judicial Council, Administrative Office of the Courts, Ratley Conference room.