

**Georgia Commission on Child Support
Statute Review Subcommittee
Kathleen Connell, Esq., Co-Chair
Hon. Connie Williford, Co-Chair
Friday, August 12, 2022
9:30 a.m.**

Meeting Minutes

The Statute Review Subcommittee (“Subcommittee”) of the Georgia Commission on Child Support (“Commission”) held this meeting via Zoom webinar. Eight (8) Subcommittee members attended. The Subcommittee members in attendance were:

Mara Block, Esq.	Patricia Buonodono, Esq.	Kathleen “Katie” Connell, Esq.
Byron Cuthbert, Esq.	Hon. Amanda Petty	Regina Quick, Esq.
Christina Scott, J.D.	Hon. Connie Williford	

Executive Program Manager, Elaine Johnson, Staff Attorney, Noelle Lagueux-Alvarez, and Program Coordinator, Latoinna Lawrence, served as staff for the meeting. Legislative Counsel, Holly Carter, General Counsel from the Judicial Council/Administrative Office of the Courts, Jessica Farah, an attorney for the Georgia Department of Human Services/Division of Child Support Services (DCSS), Charles Spinardi, and eleven (11) members of the public also attended this open meeting.

Co-Chair Katie Connell opened the meeting and welcomed all. Staff Attorney, Noelle Lagueux-Alvarez monitored member attendance for quorum and at the time the minutes were reviewed reported to Co-Chair Connell that there was not yet a quorum for a vote on the minutes. Co-Chair Connell acknowledged the absence of a quorum and delayed a vote on the minutes of the Subcommittee’s July 15th meeting in hopes that a quorum would be achieved later in the meeting. Staff member, Latoinna Lawrence, reviewed procedural rules for this virtual meeting. Co-Chair Connell welcomed a new member to the Subcommittee, Pat Buonodono, who is currently an attorney in private practice, and who previously served as the staff attorney to the Commission. Judge Amanda Petty was able to attend the meeting briefly and a quorum of eight (8) of the fifteen (15) Subcommittee members was achieved. Judge Amanda Petty moved to approve the minutes of the Subcommittee’s last meeting held on July 15, 2022, and those minutes were approved by seven of the eight Subcommittee members with an abstention by new Subcommittee member, Pat Buonodono, who had not attended the previous meeting.

Co-Chair Judge Connie Williford led an extensive discussion consisting of several topics on the parenting time deviation in Georgia’s child support guidelines statute (O.C.G.A. 19-6-15). Co-Chair Williford thanked Co-Chair Connell for her leadership of the Commission’s Parenting Time Deviation Study Committee and for the extensive work by the dedicated members of that study committee on that topic over several years and twenty-two (22) meetings. She commented that their work was a herculean effort and that while a lot of work had been completed by the Study Committee, there was still no consensus on several key issues. She added that she had spoken

with staff, and they compiled a list of items where consensus had not been reached and she explained the list was helpful in narrowing down the tasks still ahead of this Subcommittee. Co-Chair Williford noted that because of these outstanding tasks, we may not reach our goal for a bill to be dropped during the 2023 legislative session, but that we may be ready to present a bill by the 2024 legislative session. Co-Chair Williford asked Staff Attorney Lagueux-Alvarez to display the task list on the screen for all to see. Judge Williford led a discussion on the nine items on that list noting that many of the items could produce off shoots of other tasks. A copy of the task list is attached to these minutes as Exhibit A.

Co-Chair Williford invited Subcommittee member Regina Quick to speak on requesting a resolution for a legislative parenting time deviation study committee. Ms. Quick explained that, if approved, a legislative study committee would provide an opportunity to educate the legislature on this complicated issue prior to filing a formal bill, and she offered her assistance with this process. She added that such a legislative study committee will permit legislators to take a deeper dive into this complicated subject and be prepared to engage in discussions on a bill.

Co-Chair Williford thanked Ms. Quick for this information. Co-Chair Williford stated that one of the things that must be decided is when we will move forward with pursuing the resolution for the legislative study committee and that this item must be brought to the Commission. She continued talking about how to move forward and suggested contracting with an expert, such as Dr. Jane Venohr, to help us finish the remaining tasks that that have been identified and must be completed. Ideas were discussed on making an appointment to speak with at least the legislators on the Commission and maybe meet with the current president of the Family Law Section and explain our ideas for parenting time. Also, to have staff find out if we can contract with Dr. Venohr to assist us with our outstanding tasks and at what cost. Co-chair Williford reminded the members that we need to first know what recommendations Dr. Venohr will make to the Commission from the economic study she is conducting for Georgia since some of her recommendations may already address some of our items on the task list.

Staff attorney, Noelle Lagueux-Alvarez, noted that the economist, Dr. Jane Venohr, retained by the Commission to conduct the 2022 Economic Study had been asked to give her opinion on the best way for Georgia to account for low-income parents and parenting time when calculating child support. Staff anticipates these questions will be addressed in the Economic Study Report that will be received by the Child Support Commission on September 30, 2022.

Co-Chair Williford stated that Georgia's legitimation statute presents barriers to possible solutions to the parenting time issue and asked for input on how to get the topic of legitimation before the Georgia General Assembly and the State Bar's Family Law Section. She further noted that we cannot just fix the BCSO Table to allow for parenting time because of the legitimation issue. Subcommittee member Regina Quick offered that legitimation could be an issue discussed by a legislative parenting time deviation study committee and suggested that, as a first step, Georgia's child support guidelines statute could be amended to clarify that the Basic Child Support Obligation (BCSO) Table does not account for parenting time at all. Subcommittee member Mara Block reminded the Subcommittee that there are other considerations on how legitimation intersects with child support. She explained that as a practitioner she has represented a lot of domestic violence survivors, and she encouraged the Subcommittee to talk to the Domestic

Violence advocate community on this subject. Ms. Block also commented that she believes Georgia and Mississippi are the remaining states that require legitimation as a separate court process. Co-Chair Williford acknowledged that the adoption advocates, the Division of Child Support Services (DCSS), and perhaps others will want to engage in conversation on this subject. Co-Chair Connell reminded the Subcommittee that 46% of Georgia's children are born out of wedlock, which is close to half of Georgia's children and that our reality is that our current statutes are not supporting those children in the way that they should be.

Co-Chair Williford noted that federal regulators utilize our economic studies to see what Georgia's deviation rate is because a high deviation rate indicates that Georgia's guidelines are inadequate and that states with high deviation rates are at risk of losing substantial federal funding. Co-Chair Williford expressed her opinion that accounting for parenting time should be an "adjustment" and not a "deviation" and that such a change in our guidelines would help reduce our deviation rate. She continued by saying that any method for accounting for parenting time when calculating child support needs to be simple to be effective. Subcommittee member Christina Scott, agreed with Co-Chair Williford affirming that parenting time in Georgia must be based on a simple calculation process for all to use.

Co-Chair Connell suggested we ask the Legislative Committee of the State Bar's Family Law Section to look into legitimation and thinks that a legislative parenting time deviation study committee would be helpful. Subcommittee member, Mara Block, suggested talking to the domestic violence community about legitimation too. Subcommittee member, Christina Scott, who is a full-time mediator in domestic cases noted that the parenting time deviation is always an issue, and that issue is increasing due to the rise in cases with 50/50 joint physical custody. Ms. Scott agrees that legitimation is tied to the parenting time deviation issue and is in favor of a legislative study committee. Ms. Scott and other Subcommittee members also noted that terminology in the child support guidelines and the child support calculator is an issue, especially the terms custodial and noncustodial parent to which many parents take offense. The Subcommittee discussed how words/titles are important and meaningful to people. Co-Chair Connell noted that she would contact the State Bar's Family Law Section to identify a contact. Co-Chair Williford wants to hear Dr. Jane Venohr's preliminary report to the Commission, which is set for Friday, August 19, 2022, before next steps are taken.

The Subcommittee discussed next the issue of handling extraordinary expenses, including extraordinary expenses for child rearing, outside of the child support calculator after Executive Program Manager, Elaine Johnson, gave a brief presentation on that topic. Her presentation included information she obtained from speaking with Dr. Jane Venohr where she explained that Georgia will have to make its own decision on including or excluding the 7% test for Special Expenses for Child Rearing. Ms. Johnson added that Dr. Venohr had explained that if Georgia decides to retain this calculation in its statute, the percentage will need to be changed to 6%. Regina Quick offered a motion to be put on the agenda for the next meeting of this Subcommittee that the child support guidelines statute be revised to remove the "7% test" for extraordinary expenses for child rearing and allow for extraordinary expenses to be addressed either inside or outside the child support worksheet. Co-Chair Connell asked staff to utilize the minutes from this meeting to articulate the motion and add it to the next agenda, which will allow for additional discussion.

Staff attorney, Noelle Lagueux-Alvarez, gave a report on the status of the LIFE Act and its impact on Georgia's child support guidelines statute. Ms. Lagueux-Alvarez noted that the LIFE Act amends Georgia's child support guidelines in two ways. First, it changes the definition of the term child in the statute to include any "unborn child with a detectable human heartbeat as such terms are defined in Code Section 1-2-1." Second, the LIFE Act creates a new type of child support specifically for unborn children. The new type of child support for unborn children is very different from the child support set for children once they are born. Typical child support for children after they are born is: (1) prospective, (2) largely based on generalized economic data, and (3) may obligate either the mother or the father depending on the circumstances of a particular family. Whereas child support for unborn children, as created by the LIFE Act, is: (1) retrospective (2) exclusively based on actual expenses, and (3) appears to create a reimbursement scenario in the which the "father" specifically reimburses the "mother" of the unborn child. Ms. Lagueux-Alvarez noted that the LIFE Act provides that "After birth, the provisions of this Code section shall apply in full" which she interprets to mean that the General Assembly did not intend to change the way child support is set once the child is born. Ms. Lagueux-Alvarez shared that staff has conferred with our colleagues at DCSS, and at this time, at least, they do not have any concerns on the LIFE Act that they've shared with us, and they also confirmed that they have not received any directives from federal regulators on this topic. Ms. Lagueux-Alvarez concluded that these two types of child support could be ordered at the same time, but otherwise do not affect each other. Co-Chair Connell noted that she will include the LIFE Act in her report to the Commission at its meeting on August 19, 2022 and will likely ask Ms. Lagueux-Alvarez to address it again for the benefit of the full Commission. Co-Chair Connell asked for any discussion from the Subcommittee. Subcommittee member Mara Block commented that she believes there will be litigation related to the fact that the child definition only addresses fathers and doesn't contemplate artificial insemination situations or same sex parents. Co-Chair Connell agreed that it's potentially problematic and creates a new category of child support and is addressed inconsistently with the rest of Georgia's child support public policy and ignores the underlying concept of our child support guidelines being an income sharing model. Member Mara Block commented further that the definition is also vague on explaining what direct medical and pregnancy related expenses are. Co-Chair Connell stated that she will report on this item at the Commission meeting on August 19, 2022, during the segment where she and Co-Chair Williford will summarize the work activity of the Statute Review Subcommittee.

Due to time constraints, the topic of determining the noncustodial parent in 50/50 joint physical custody cases will be placed on the agenda for the next meeting, which is set for September 22, 2022, at 10:00 a.m. This Subcommittee also plans to meet on October 21, 2022, at 10:00 a.m. Co-Chair Connell asked staff to coordinate November and December meeting dates with Judge Williford's office and with Co-Chair Connell's office.

This meeting was adjourned at 11:39 a.m.