

Georgia Child Support Commission
Statute Review Subcommittee
Kathleen Connell, Esq., Co-chair
Hon. Connie Williford, Co-chair
Tuesday, October 3, 2023
10:00 a.m.

Meeting Minutes

The Statute Review Subcommittee (“Subcommittee”) of the Georgia Child Support Commission (“Commission”) held this meeting via Zoom Webinar. Five (5) Subcommittee members attended this meeting. The Subcommittee members in attendance were:

Judge Connie Williford
Judge Lisa Colbert

Katie Connell, Esq.
Judge Emory Palmer

Sarah Austin, Esq.

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 10:03 a.m. and welcomed everyone to the meeting. She called upon Latoinna Lawrence to review procedures for handling this virtual meeting.

At its September 21, 2023, meeting, this Subcommittee voted to recommend to the Commission several amendments to Georgia’s Child Support Guidelines statute, O.C.G.A. § 19-6-15. Co-chair Williford concisely recapped those recommendations, which relate to the low-income and parenting time deviations.

Recap of Decisions Made on Low Income

- Recommend to the Commission to remove the current low-income deviation from the statute altogether and replace it as outlined below.
- Recommend to the Commission that Dr. Venohr’s low-income table option 1500.C be used in a new proposed low-income adjustment for Georgia.
- Recommend to the Commission that the low-income adjustment be applied after the additional expenses on Schedule D have been included. In a report by Dr. Jane Venohr this was called “Sequence A.”

Recap of Decisions Made on Parenting Time

- Recommend to the Commission to remove the current low-income deviation from the statute altogether and replace it as outlined below.
- Recommend to the Commission to propose that Georgia adopt a parenting time adjustment using the same type of formula that Minnesota and Michigan use in their parenting time adjustment.
- Recommend the exponent to be used in that parenting time adjustment formula be 2.5.
- Recommend to the Commission a definition for a unit of measurement for parenting time that is very similar to Oregon’s with tweaks suggested by Johanna Kiehl that were discussed in depth during the Subcommittee’s meeting on August 18, 2023.

Co-chair Williford noted and applauded the passage of those recommendations by this Subcommittee as a significant accomplishment many years in the making thanks to the dedication of this Subcommittee, the Parenting Time Deviation Study Committee, and the Low-Income Deviation Study Committee. The Commission will take up those issues at its meeting on November 17, 2023, and staff is actively working on drafting those proposed amendments.

A quorum of Subcommittee members was not present to consider recommendations based upon the extensive discussions on the various topics included on the agenda. Therefore, Co-chair Williford directed staff to include those topics on a future meeting agenda for further consideration.

Staff member, Latoinna Lawrence, reported the results from the public survey on replacing the terms custodial and noncustodial parent that were collected between March - August 2023. Those results showed that a majority of the public voted to keep the same terms—custodial and noncustodial parent. Co-chair Williford noted that other terms recommended in the survey were primary parent/secondary parent, receiver/payor, and payee/payor, and that those terms garnered a high number of votes. She noted that the Subcommittee and, ultimately, the Commission are not obligated to choose the terms with the highest votes. She reminded the Subcommittee that parents think the term “noncustodial parent” implies that the parent has no custody or parenting time rights. The Subcommittee will present the survey results to the Commission at its November 17th meeting and will be prepared to engage in discussions with the Commission as it makes decisions on the terms. As the survey has been open for at least six months, has been well publicized, and has garnered a significant number of responses, staff recommended closing the survey and Judge Williford directed staff to conduct an e-vote on that matter.

Co-chair Williford asked Staff Attorney, Noelle Lagueux-Alvarez, to speak on the definitions of the statutory terms custodial and noncustodial parent in O.C.G.A. 19-6-15. Specifically, Ms. Lagueux-Alvarez spoke on the definitions for custodial and noncustodial parent as those are currently written in the statute, O.C.G.A. 19-6-15 (a)(9) and (a)(14) and talked about substantive issues with those current definitions and how they relate to parenting time. She reviewed the language of both definitions for the Subcommittee noting where the language could be made clearer for all to understand. She noted that the proposed changes to the low-income and parenting time deviations may make those concerns moot as those amendments may need to be accompanied by changes to those definitions. Co-chair Williford agreed that there are inconsistencies in the definitions and that better defined terms would provide the clarity needed. The Subcommittee continued in a lengthy discussion on several topics concerning the current definitions and subjects related, for example, on how to determine who is the noncustodial parent in a 50/50 parenting case, how a large difference in the incomes of the parents impacts the payment of child support when there is 50/50 parenting, and how the designation of custodial and noncustodial parent can flip based upon which parent pays certain expenses for the children. The Subcommittee noted many issues, and staff will continue to look into them as it works on this Subcommittee’s proposed amendments to the guidelines statute.

Co-chair Williford called on Ryan Bradley, staff for DHS/DCSS, to speak on the application of social security payments to child support arrears. Mr. Bradley spoke on the issue of not being able to apply social security overage payments to child support arrears as currently directed in the statute at OCGA 19-6-15(f)(3)(D). The DHS/DCSS would like to see the statute amended to allow for the application of Social Security benefit payment overages on child support arrears. Co-chair Williford called upon Subcommittee member, Sarah Austin, who is an attorney for Atlanta Legal Aid, to add information on the impact of a recent case before the Georgia Court of Appeals, the Colclough case that dealt with payments to the child by the Veterans Administration. Ms. Austin spoke on the case, with

which she was familiar because of Legal Aid's work on that case and shared information pertinent to the discussion by the Subcommittee. (Colclough v. Dep't of Human Servs., 367 Ga. App. 567 (2023)). Subcommittee member Pat Buonodono, who was unable to attend this meeting, has stated previously that she would like to draft proposed language for a statutory change on this Social Security payment overage issue. Co-chair Williford noted that this topic will be revisited with updates from Pat Buonodono.

Co-chair Williford called on Staff Attorney Noelle Lagueux-Alvarez to speak on handling extracurricular expenses outside of the worksheet and why parents may seek to do this because special expenses can vary as children age or change their minds on participating in a particular sport or activity. Ms. Lagueux-Alvarez summarized Day v. Mason and Wiggins v. Rogers for the Subcommittee. She shared that those cases raise Georgia's "7% test" used in the deviation for special expenses for child rearing. In the Day v Mason case, she pointed out that in 2020, the Court of Appeals talked about handling extracurricular expenses outside of the worksheet and called it a deviation and rejected it in that specific case because there was a failure to provide findings of fact to support such a deviation. She added that in the Wiggins v Rogers case, the court had to determine whether the deviation for special expenses for child rearing exceeded 7% of the Basic Child Support Obligation (BCSO), and then required that findings of fact be made to support the deviation. Ms. Lagueux-Alvarez suggested that there is room to explore whether we want to remain the only state that accounts for this 7%.

Co-chair Williford called on Staff Attorney Noelle Lagueux-Alvarez to talk about the statutory language in O.C.G.A. 19-6-15(k)(2)(A) and (B), which addresses when a modification may be brought within two years and when a parenting time deviation may be applied. More specifically, these two sections address modification when a noncustodial parent has failed to exercise court-ordered parenting time or has exercised a greater amount of parenting time than set out in the order. There was a lengthy discussion around a lack of clarity about how parenting time is considered in the subsections noted above in this paragraph, the fact that parenting time is not included whatsoever in the BCSO table, how confusing that fact is to the legal community, and that training is needed.

Co-chair Williford directed that approval of the minutes from this Subcommittee's meeting on September 21, 2023, be conducted by e-vote.

For new business, the Subcommittee discussed whether a modification of child support could be grounded solely on the new, if enacted, parenting time and/or low-income adjustments. In other words, the Subcommittee discussed whether statutory language should be considered to address a possible flood of petitions to modify child support in the wake of enacting the proposed parenting time and low-income adjustments.

As further new business, Staff Attorney Noelle Lagueux-Alvarez questioned the exception excusing the requirement to file a child support worksheet in Temporary Protective Order (TPO) cases, when child support is simultaneously ordered. Ms. Lagueux-Alvarez noted that the worksheet provides transparency on how the child support amount was determined and finds it hard to imagine how a court could follow the child support guidelines statute, as it must whenever ordering child support in any type of case, but not use the child support calculator and worksheet to do so. Subcommittee member Sarah Austin shared that her experience has been that in some of the cases there is not time for discovery before it is necessary for the court to enter an order that includes child support, and she agreed it would always be best to use the child support calculator.

The next Statute Review Subcommittee meeting will take place on November 2, 2023, at 9:30 a.m. via Zoom webinar. The next full Commission meeting will take place on November 17, 2023, at 10:00 a.m., as a hybrid meeting, via Zoom or in-person at the Nathan Deal Judicial Center.

The meeting was adjourned at 11:55 a.m.