

CWLS & Georgia Child Support Commission Talk Shop May 5, 2023



Georgia Child
Support Commission



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Welcome to the Georgia Child Support Commission Website

 [Georgia Child Support Calculator](#)



 [Income Deduction in Georgia](#)

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Georgia's 2022 Economic Study

- Every four years states must conduct an economic study of their child support guidelines, which must include a sampling of cases
45 CFR 302.56(e)(h)
- 2022's case sampling included 16 counties:
 - Appling, Clayton, Early, Echols, Elbert, Fannin, Fayette, Forsyth, Glascock, Glynn, Houston, Paulding, Rockdale, Stewart, Troup, and Ware
- Number of Worksheets/Orders collected totaled – **472**
 - Number of *Private cases* (filed by lawyers and self-represented litigants) were: **277**
 - Number of *Division of Child Support Services* (DCSS) cases were: **195**
- Our presentation today notes some data from the 2022 Economic Study

One Set of Child Support Guidelines for All Cases Involving Child Support

- Only one set of child support guidelines in each state
 - 45 CFR § 302.56
- Georgia's Child Support Guidelines are codified at O.C.G.A. 19-6-15
- Georgia Child Support Commission provides the calculator to be used in all cases when determining child support, e.g. divorce, TPOs, dependency, etc.

Use the Child Support Calculator

- It's quicker and easier than you think, and we're here to help!
- Georgia's only child support calculator is accessed directly at:
 - <https://csconlinecalc.georgiacourts.gov/frontend/web/index.php>
- ***Excel is extinct!***
 - Every version of the Excel calculator was discontinued on October 1, 2018
- In the case sampling, we found 27 worksheets prepared using various versions of the discontinued Excel child support calculator:
 - 9 Excel worksheets were prepared by self-represented litigants
 - 18 Excel worksheets were prepared by lawyers

Customizing Calculator to Meet the Needs of All Cases Involving Child Support

- What does this mean for Juvenile Court cases?
 - Field for Non-Parent Custodian
 - Working with Judicial Council/AOC developers to provide an automatic case caption appropriate for Juvenile Court cases similar to the one we have for DHS/DCSS cases

Basic Information Worksheet	Gross Income Schedule A	Adjusted Income Schedule B	Health Insurance/Child Care Schedule D	Deviations Schedule E	Self-Employment Calculator	Footnotes
This section concerns Basic Information to be included in the Worksheet. Calculations from the Schedules will be used in the Worksheet.						
For help press the ? button. All required fields are denoted with an asterisk * You may enter information in yellow fields only. Fields with green or white backgrounds are read only.						
*1. Court Name: ?					Superior	
*2. County Name: ?					Candler	
*3. Plaintiff Name: ?						
*4. Defendant Name: ?						
5. Nonparent Custodian Name: ?						
6. Civil Action Case No.: ?						
7. DHS/DCSS IV-D Case No. (Only used for DCSS cases): ?						
8. Type of Action: ?					<input type="radio"/> Initial Action <input type="radio"/> Modification	
9. Initial Child Support Order Date: Use Date Format mm/dd/yyyy ?						
10. Comments for the Court: ?						

Calculating Child Support

- The most basic child support calculation requires you to know the income of the parent(s) and the number of children for whom support is being determined
- Impute income, if necessary
- Use child support calculator to determine a presumptive amount of child support
- If needed, reduce or increase the presumptive amount of child support by adding a deviation on Schedule E of the child support calculator

Stats from the Case Sampling on Imputing Income

- 472 total cases in the case sampling
- Number of times income was imputed to Custodial Parent?
 - 141 (30% of cases)
- Number of times income was imputed to CP at minimum wage (\$7.25/hr)?
 - 108 (23% of cases)
- Number of times income was imputed to Noncustodial Parent?
 - 135 (29% of cases)
- Number of times income was imputed to NCP at minimum wage (\$7.25/hr)?
 - 102 (22% of cases)

Imputing Income

“When establishing the amount of child support, **if a parent fails to produce reliable evidence of income**, such as tax returns for prior years, check stubs, or other information for determining current ability to pay child support or ability to pay child support in prior years, **and** the court or the jury has **no other reliable evidence of the parent’s income or income potential**, gross income for the current year may be imputed.” O.C.G.A. 19-6-15- (f)(4)(A).

Imputing Income: 16-Factor Balancing Test

“When imputing income, the court or the jury shall take into account the specific circumstances of the parent to the extent known, including such factors as the **parent’s assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work**, as well as the **local job market, the availability of employers willing to hire the parent, prevailing earnings level in the local community, and other relevant background factors** in the case.
O.C.G.A. 19-6-15- (f)(4)(A).

O.C.G.A. 19-6-15 provides “Guidelines”

“the guidelines enumerated in this Code section are intended by the General Assembly to be guidelines only and any court so applying such guidelines shall not abrogate its responsibility in making the final determination of child support based on the evidence presented to it at the time of the hearing or trial.”

O.C.G.A. 19-6-15 (d)

Applicability of the Child Support Guidelines Statute

“The child support guidelines contained in this Code section are a minimum basis for determining the amount of child support and shall apply as a rebuttable presumption in all legal proceedings involving the child support responsibility of a parent. This Code section shall be used when the court enters a temporary or permanent child support order in a contested or noncontested hearing or order in a civil action filed pursuant to Code Section 19-13-4.” O.C.G.A. 19-6-15 (c)

Adjust the Presumptive Amount of Child Support with a Deviation

“The rebuttable presumptive amount of child support provided by this Code section may be increased or decreased **according to the best interest of the child for whom support is being considered**, the circumstances of the parties, the grounds for deviation set forth in subsection (i) of this Code section, and to achieve the state policy of affording to children of unmarried parents, to the extent possible, the same economic standard of living enjoyed by children living in intact families consisting of parents with similar financial means.”

O.C.G.A. 19-6-15 (c)

Consider the Non-Custodial Parent's Ability to Pay

"A court's final determination of child support shall take into account the obligor's earnings, income, and other evidence of the obligor's ability to pay. The court or the jury shall also consider the basic subsistence needs of the parents and the child for whom support is to be provided." O.C.G.A. 19-6-15 (d)

Schedule E - Deviations

- Deviations entered on Scheduled E may be used to adjust the presumptive amount of child support upward or downward
- Deviations must be supported by written findings of fact
 - Reasons for the deviation
 - Amount child support would have been absent the deviation
 - how the best interest of the child for whom support is being determined will be served by deviating from the presumptive amount of child support.

Specific Deviation for “Permanency plan or foster care plan”

- Specific Deviation intended for use in dependency cases:
- “Permanency plan or foster care plan”
- Easy to use
- Judge will determine amount of downward deviation
- Could greatly reduce child support or even zero it out

Low Income Deviation

- Can be used sua sponte by the court
- Statutory minimum of \$100 for the first child and \$50 for each additional child

Statutory Duty of Support

- It is the **joint and several duty of each parent to provide for** the maintenance, protection, and education of **his or her child** until the child reaches the age of majority, dies, marries, or becomes emancipated, whichever first occurs, except as otherwise authorized and ordered pursuant to subsection (e) of Code Section 19-6-15 and except to the extent that the duty of the parents is otherwise or further defined by court order. O.C.G.A. 19-7-2.
- It is the **joint and several duty of each parent of a child born out of wedlock to provide for** the maintenance, protection, and education of **the child** until the child reaches the age of 18 or becomes emancipated, except to the extent that the duty of one parent is otherwise or further defined by court order. O.C.G.A. 19-7-24

Statutory Duty of Support

- "... the well-established principle that a parent may not contract away the statutory obligation imposed by O.C.G.A. 19-7-2 to support his or her children" Dep't of Human Res v. Baker, 222 Ga. App. 664 (1996)
- "While a parent can voluntarily contract to surrender her parental rights, a parent cannot contract away the obligation to support her children."
In the Interest of A.C., 283 Ga. App. 743 (2007)

Right to Child Support Belongs to the Child

- “Long-standing principle that the right to receive child support belongs to the child”

Lewis v. Lewis, 278 Ga. 570 (2004);
Le v. Sherbondy, 301 Ga. 28 (2017)

Philosophical Underpinning of Child Support

“... to achieve the state policy of affording to children of unmarried parents, to the extent possible, the same economic standard of living enjoyed by children living in intact families consisting of parents with similar financial means.” O.C.G.A 19-6-15 (c)(1).

Trainings

- Upon Request to Staff
- Monthly Trainings via Zoom
 - Given by Staff of the Child Support Comm.
 - Demonstrates the calculator live by screen sharing
 - 1 hour followed by Q&A
 - Qualified for 1 hour of CLE and/or CE
- On demand videos on Commission's website
 - In plain English
 - Intended for parents, especially self-represented litigants
 - Broken into eight segments
- More information at <https://csc.georgiacourts.gov/training/>

Questions & Discussion

