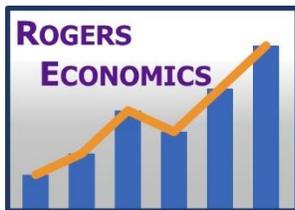

Georgia Child Support Guidelines: Guideline and Deviation Procedure & Other Topics[©]



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CHAPTER 1

Introduction

This manual covers key topics in applying child support cases in Georgia. It blends application of statutes, appellate opinions, using economic data, designing economic exhibits, and practical tips on making the daily routine on procedure and case management easier. The focus is on applications in Georgia, but this work draws on national studies and helpful appellate opinion from other states. Chapters include a variety of topics—basics on the framework of Georgia’s “Income Shares” child support guidelines, deviation procedure and strategies (broad based concepts and individual deviation factors), special topics—legal/economic issues and daily routines for case work.

Author’s Comments

The information presented in this seminar manual is based on years of economic research on child support guidelines in Income Shares states as well as in those with other types of guidelines, child cost studies, federal and state tax codes, and how the economic issues of child support relate to legal standards and procedures. The legal background primarily has come from attorneys advising clients in common on child support issues and on how the attorneys tie economic arguments with legal procedural requirements—including for rebuttal. Because Income Shares child support guidelines have many common features across states, much case law on applying Income Shares child support guidelines in other states will also apply to Georgia’s guidelines. However, some features of Georgia’s guidelines differ. Also, Georgia courts may take different stands on specific issues than do courts in other Income Shares states. Even after a decade of Income Shares guidelines, Georgia has only begun to establish its own in-depth series of appellate court opinions on Income Shares issues. And the Georgia Court of Appeals and the Supreme Court of Georgia are likely to cite other states’ opinions when issuing their own opinions. Most states have been using the Income Shares methodology since 1989 and there is little reason for Georgia to “reinvent the wheel” for many issues. By 2018, Georgia appellate courts already have started to interpret Georgia’s Income Shares guidelines with some key cases included in this handbook.

Caveats

This documentation is intended as educational material for professionals in the legal and economics communities. Although general principles and detailed examples are given for the various issues and are based on professional sources, this material is not intended as stand-alone advice for specific individual cases. This material should be used only in consultation with legal counsel to ensure that these deviation strategies take into account all applicable legal and economic issues for a given case. This manual assumes that the reader has basic knowledge of the procedures for calculating the presumptive award under the Income Shares child support guidelines effective January 1, 2007.

The biggest caveat likely should be that this manual is a work in progress. There will be additional analysis and debate. Today’s version is not the final word on how to deviate under Georgia’s Income Shares child support guidelines.

The Author

R. Mark Rogers, economist and president of Rogers Economics, Inc., has years of experience as an expert witness in numerous Income Shares states and in states with other guideline methodologies. He has testified as an expert witness in over 90 child support cases. Rogers served on the 1998 Georgia Commission on Child Support. He has 19 years of experience as an economist with the Federal Reserve Bank of Atlanta and is author of the *Handbook of Key Economic Indicators* (McGraw-Hill, 1994 and 1998) and *The Complete Idiot's Guide to Economic Indicators* (Penguin Books, 2009). He currently teaches business statistics and economics as adjunct professor at Clayton State University, Morrow, Georgia.

Rogers has testified as an expert on child costs and child support guidelines in Florida, Georgia, Indiana, Maryland, Michigan, Minnesota, Missouri, New Hampshire, New Mexico, North Carolina, Ohio, Texas, Virginia, Wisconsin, and Wyoming. Rogers has consulted on child cost issues for clients in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Mexico, New York, North Carolina, Ohio, Tennessee, Texas, Virginia, Washington State, Wisconsin, and Wyoming. Rogers has testified on child support issues before legislative committees in Georgia, Minnesota, Texas, and Virginia and by invitation before the U.S. Congress. He has presented to child support review commissions in Alabama, Georgia, North Carolina, Ohio, Tennessee, and Virginia.

CHAPTER 2

New Statutory Changes—Federal and State—Affecting Child Support

This chapter is intended as an overview of recent statutory changes that affect child support (and alimony). Most of the changes are addressed in detail in separate chapters of this manual. Federal code changes are related to new income tax code. At the state level, there are many facets of the guidelines that have changed—some significantly. Needless to say, it is not a good idea to assume that your client is prepared for court without being aware and taking into account these procedural and other changes.

Federal Income Tax Changes

In December 2017, the Administration pushed significant changes in income tax code that affect the cost of raising children and affect alimony. The legislation was the Tax Cuts and Jobs Act and resulted in federal tax code changes to be in effect for taxable years 2018 through 2025 with some exceptions when changes took effect. But code modifications are scheduled to expire (returning to prior code) after the 2025 tax year. The relevant changes are:

- ❖ New tax brackets.
- ❖ Higher standard deductions.
- ❖ Elimination of dependency exemptions.
- ❖ Jump in value of child tax credits.
- ❖ Change in deductibility of alimony payment from payor to recipient. Alimony becoming nontaxable for recipient.
- ❖ Elimination in general of deductibility of state & local taxes but with small exception.
- ❖ Ceiling on deductibility of mortgage payments on first and second homes.

These federal tax law issues are covered in greater detail in later chapters.

Georgia Senate Bill 427 Changes Many Facets of the Guidelines

Several changes to this legislation were made at the last minute in committee—incorporating some facets from bills that did not move toward passage. One or two items are completely new and not seen before the final version for the final vote.

- ❖ Separate worksheets when there are multiple children now is not mandatory. The court may allow separate worksheets when within two years of a final order being entered, there is a likelihood that a child will become ineligible to receive support.
- ❖ Ability to pay is specifically listed as a mandatory consideration in final determination of child support. Specific attention must be given to the subsistence needs of the parents and child.
- ❖ The procedure for imputing income changed dramatically. No longer can a simple application of the minimum wage at a 40-hour workweek be used when imputing income. When imputing income the court “shall” take into account specific circumstances of the parent to the extent known. There are parent specific factors such as earnings history, education, criminal records, and other. Notably, the local job market must be examined.
- ❖ Incarceration cannot be considered voluntary unemployment when incarceration prevents employment.