Change that Matters:
Georgia's Child Support Guidelines Need Significant Changes for Low-Income Obligors

Suggested Recommendations

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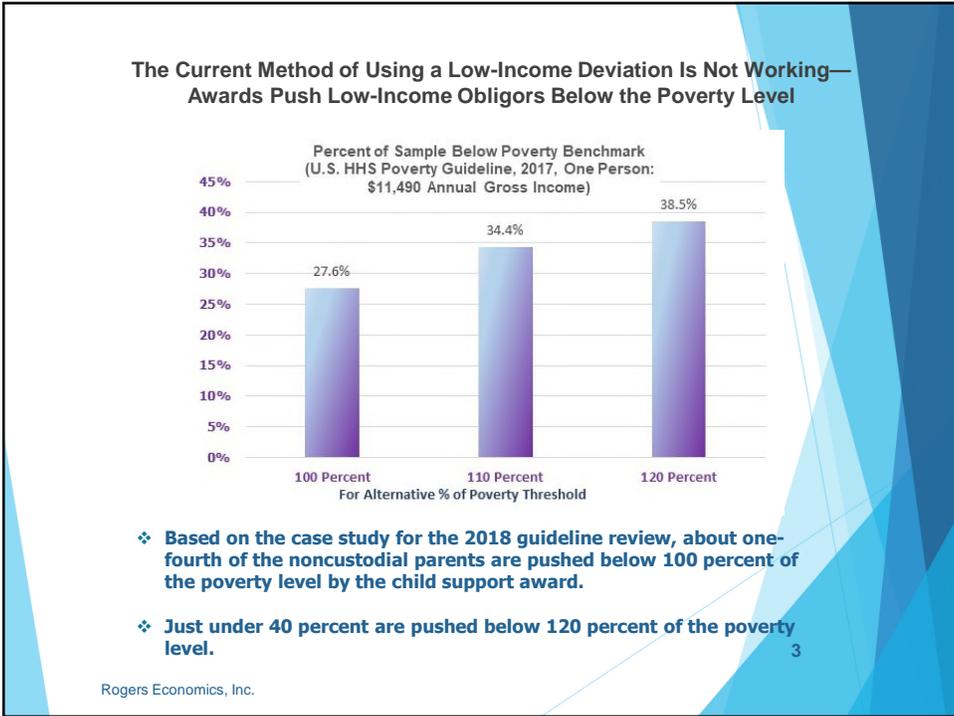Peachtree City, GA 30269
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Overview

- ❖ The issue of how low-income situations should be addressed by the child support guidelines should be examined from two broad perspectives:
    - ▪ The impact on individuals affected—the two parents and the child, and
    - ▪ The impact on the community and society—which, in turn, affect the child.
- ❖ It is easy to focus just on the custodial household—and that household gets the most attention as that is where the child mostly lives.
- ❖ But it is important to view the importance of the impact from a broader perspective.
- ❖ It likely is best to make overall decisions based on the broad impact and then look at what facets need focused attention.

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**The Current Method of Using a Low-Income Deviation Is Not Working—
Awards Push Low-Income Obligors Below the Poverty Level**

Percent of Sample Below Poverty Benchmark
(U.S. HHS Poverty Guideline, 2017, One Person:
$11,490 Annual Gross Income)

For Alternative % of Poverty Threshold		
100 Percent	110 Percent	120 Percent
27.6%	34.4%	38.5%

❖ **Based on the case study for the 2018 guideline review, about one-fourth of the noncustodial parents are pushed below 100 percent of the poverty level by the child support award.**

❖ **Just under 40 percent are pushed below 120 percent of the poverty level.**

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**Example of Low-Income Obligor Being Pushed
Below Poverty Level, One Child Case**

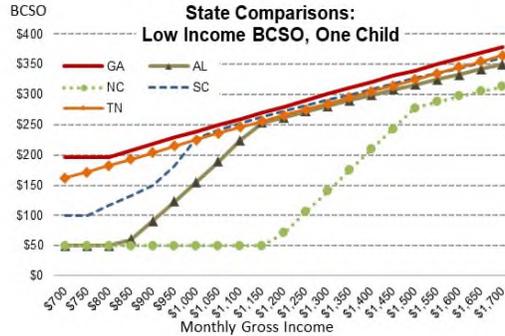| NCP Gross Income	$1,261.50
CP Gross Income	$1,261.50
Presumptive Award (BCSO Only)	$264.00
Calculation of Award Impact on Self-Support Income	
NCP Gross Income	$1,261.50
Award Paid, Presumptive, BCSO Only	-$264.00
Self-Support Income/Reserve, 2017, Monthly	-$1,110.70
NCP Gross Minus Award & SSR Income/Reserve	-$113.20

❖ <u>**Assume that an obligor has a minimum wage full-time job at**</u> **$7.25/hour (min. wage), 40 hours per week, 4.35 weeks per month. This is $1,261.50 per month.**

❖ **Self-support income ("self-support reserve") for 2017 is used since that is when data for the latest case study came.**

❖ **Even assuming 40 hours per week is obtainable, this automatically puts the obligor below poverty with the presumptive award.**

❖ <u>**The guidelines, as is, set up the low-income NCP for failure.**</u>

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GA has one of the highest sets of child cost tables in the country

State Comparisons: Low Income BCSO, One Child

- ❖ **In contrast to most states, Georgia does not have a self-support reserve.**

- ❖ **In the U.S., minimum awards (assuming zero income for the CPI), range from zero dollars to $197 per month.**

- ❖ **For all states, the median minimum award is $50 per month for one child. A significant number of states have a zero dollar minimum presumptive award. GA's minimum award is the highest in the U.S. at $197.**

- ❖ **Essentially, nearly all low-income obligor cases should have a low-income deviation (only exception: high CP income).**

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Detailed Analysis of Georgia's Case Study Shows Judges Rarely Deviate for Low-Income Obligors

- ➢ **The 2018 case study showed NO low-income deviations.**

- ➢ **However, some speculate that the non-specific deviation is used instead of the low-income deviation.**

- ➢ **The case study shows that of the 59 cases with obligor income of $1,500 or less only 11 had nonspecific deviations. Only 4 of the 59 cases resulted in income above self-support income.**

- ➢ **Only 6.8 percent of low-income cases had nonspecific deviations that had the equivalent impact of a low-income deviation that maintained income at least equal to self-support income.**

- ➢ **If the nonspecific deviation was used to ensure self support, more than 4 cases would have had income above self support.**

- ➢ **Detailed analysis of the case study indicates there is no basis to claim that the nonspecific deviation is used to any notable degree to ensure ability to retain income for basic needs.**

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Summary of Economic Causes of Low-Income Awards Not Being Affordable and Pushing NCPs Below Poverty

➢ **Georgia has no self-support reserve.**

➢ **Georgia's child cost tables are the highest in the southeast and near the top in the U.S. (this is despite the fact that the BCSO is 14 years old).**

➢ **Judges rarely deviate for low-income obligors.**

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Key Issues of Impact from Low-Income Issues

❖ Custodial parents under current guidelines receive little or even no child support because of inability to pay.

❖ Inability to pay results in child support arrearages-which also cannot be paid.

❖ Affordable child support—even if low amounts—results in more child support actually received by custodial parents in low income situations.

❖ Cutting arrearages results in greater long-term income growth for noncustodial parents and results in greater long-term child support.

If legislative proposals are enacted, there would be:

❖ Reduced costs to taxpayers from lower rates of incarceration (incarceration is expensive for taxpayers).

❖ Continuation of receipt of federal funds for complying with new federal regulations—otherwise, Georgia will not fully comply for getting federal funds for child support programs.

❖ Greater accountability of elected officials with the requirement for written explanations when imputing income (this is a "good government" proposal).

❖ Greater stability of low-income neighborhoods. Fathers are more willing to spend time with their children when not worrying about arrest for child support arrearages.

❖ Less frequent cases for with arrearages and contempt proceedings for judges to deal with.

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Legislation to Consider Proposing

- ➢ Enact a Self-Support Reserve as Part of the Child Support Guidelines Formula

  - ▪ Make low-income awards more likely to succeed and for CPs to get more income.

- ➢ Required Written Explanations for Imputed Income—Ensuring Courts Do Not Skip Mandatory Steps for Imputing Income

  - ▪ Many low-income orders are based on monthly income of $1,261.50 (or close). This reflects judges using old code for imputing a 40-hour workweek at minimum wage. Anytime you see these figures used, it is strong evidence that the judge is not following new law on examining listed personal data and local economic conditions. Minimum wage jobs generally get about 30 hours per week.

- ➢ Automatically Incorporate Seeking Relief from Arrearage Accrual When Filing Modification (OCGA § 19-6-15(j))

  - ▪ There is no reason to require citing adjacent code (adjacent to OCGA § 19-6-15(k)) separately as a technicality. Most NCPs and many attorneys do not know about asking for stopping accrual of arrearage even though relief is clearly needed.

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Legislation to Consider Proposing

- ➢ Make Child Support Orders Automatically Terminated When an Obligor Is Incarcerated

  - ▪ Most NCPs incarcerated do not have the resources to file for a modification and arrearages impede a reentry into society and the workforce.

- ➢ Include custodial parents in Administrative Court orders related to underemployment and required attendance in the Fatherhood Program

  - ▪ While federal regulations may make addressing this awkward, workarounds of any regulatory hurdles should be investigated.

  - ▪ This clearly is an issue of fairness—treating CPs and NCPs equally.

  - ▪ But more importantly, including CPs in such programs benefit CPs and child. CPs develop work skills—better to support the parent and the child. Additionally, there is no credit toward Social Security from receiving child support. Work skills benefit the CP in the near term and long term (acquiring credit toward Social Security benefits).

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Concluding Comments

- ➢ **Current guidelines set up low-income obligors for failure.**

- ➢ **Failure (arrearages from unaffordable awards) creates impediments to job prospects and earnings. The hurts the child over time.**

- ➢ **Failure creates father absence due to fears of prosecution and incarceration. The child and father suffer.**

- ➢ **Communities suffer from father absence. Crime rises.**

- ➢ **These outcomes are contrary to the best interests of the child.**

- ➢ **The impact of child support guidelines must be viewed from a broader perspective, which necessarily includes the best interest of the child.**

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