

AUGUSTA JUDICIAL CIRCUIT
DOMESTIC RELATIONS DIVISION

To: Members of the Bar

From: Michael N. Annis, Sheryl B. Jolly & J. David Roper

June 25, 2007

Final Child Support Orders – Child Support Addendum

This memo is written to help you make sure that your final orders comply with the current child support guidelines. The findings required by the guidelines apply to *all final orders* establishing or modifying child support – divorces, custody, modifications, legitimations and twelve month protective orders. The same findings are required for all. *No exceptions!* The requirements are found in OCGA §§ 19-6-15 & 19-5-12. See last page of this memo. We believe that the findings should be made in *a child support addendum*.

Addendum

We have designed a Child Support Addendum for use in the Augusta Judicial Circuit. *The use of this addendum is required in this circuit for every final judgment establishing or modifying child support.* If properly completed, it contains all of the required findings in a typical case. You will see that the addendum incorporates data from the worksheet and schedules, reducing the amount of data required to be entered into the addendum. Following are some requirements for the addendum:

1. Each paragraph with options and/or blanks must be completed, except Paragraph 19 (Emancipation) when there is only one child.
2. Do not delete paragraphs which do not apply, except that the paragraph entitled Agreement of Parties at the very end may be deleted, if the addendum is not signed by both parties or their counsel.
3. If you make substantive changes to the basic form of the addendum, *use a distinctive font* to distinguish the changes and check where indicated at the end of the instructions on the first page.
4. The addendum must be incorporated into the final judgment. Suggested language: The Child Support Addendum entered contemporaneously herewith is incorporated into and made a part of this judgment. The parties shall comply with all provisions of said Child Support Addendum.
5. If income is imputed based on minimum wage or earning potential, give particulars in Paragraph 20.

6. The amount of child support and the frequency of payment must be included not only in the addendum, but also in the *final judgment*.

7. The parties are not required to sign the addendum, but it is desirable that the parties and/or their attorneys sign when an agreement has been reached.

Deviations

All deviations are discretionary. The code and worksheet list several types of deviations. Most are self-explanatory. Here are some comments on low income and nonspecific deviations.

Low Income: Noncustodial Parent's gross income must be \$1850/month or less. Applies if the Noncustodial Parent will be financially unable to pay the child support order and maintain at least a minimum standard of living. Takes into account all nonexcluded sources of income available to each parent and all reasonable expenses of each parent, and the financial impact that a reduction in the amount of child support paid to the Custodial Parent would have on the custodial parent's household. Under no circumstances shall the amount of child support awarded to the Custodial Parent impair the ability of the Custodial Parent to maintain minimally adequate housing, food, and clothing and provide for other basic necessities for the child. The deviation must be clearly justified. See language in the addendum for Low Income Deviation.

Nonspecific: Schedule E, Line 10 provides for "other" deviations. This is where hardships and other reasons for deviation are entered. If you are asking for a deviation, please don't tinker with child care and insurance to get the desired result. Use Line 10. Be sure to answer the three magic questions on Schedule E, Sections B, C & D or in the addendum. See #13 below.

Justification for Deviations: *All deviations must be justified.* Be inventive. "The deviation will enhance the parent-child relationship because dad will be able to maintain a suitable home for his family." Or "a desirable home for visitation." Or "that dad may maintain a stable economic household." An agreement of the parties to deviate, standing alone, is not sufficient reason to deviate.

Emancipation

Under the recent decision of *Eubanks v. Raborn*, 281 Ga. 708, 264 S.E.2d 652 (2007), it appears that when child support is established for more than one child, an emancipation provision is required. This means running worksheets for 4 children, then 3, then 2, then 1. Some judges are suggesting that all of the worksheets be filed with the final judgment. In any event, they will have to be run so that the court can make a proper determination. For appeal purposes, it seems that all worksheets should be attached. Paragraph 19 of the addendum contains emancipation language.

Split Parenting

A split parenting situation occurs when the parents have two or more children together, at least one of the children spends more than 50% of the time with one parent, and at least one of the children spends more than 50% of the time with the other parent. ***You must file a worksheet for each parent. And, you will need an addendum for each parent.***

Split Parenting - suggested language

(For the final judgment, not the addendum) This is a split parenting case. Separate Child Support Worksheets have been filed for the children living with Plaintiff and for the children living with Defendant, and a Child Support Addendum has been entered for each parent. At this time, Plaintiff is obligated to pay the sum of \$_____ per month to Defendant, and Defendant is obligated to pay the sum of \$_____ per month to Plaintiff. (Include one of the following sentences here.)

- (1) (Net Payment) For so long as these amounts remain in effect, _____ shall pay only the difference between the two amounts (which is \$_____) to _____.
- (2) (Zero Payment) The parents' child support obligations are equal. For so long as the amounts remain equal, neither parent shall pay any child support payment to the other parent.
- (3) (Full Payment From Each) Each parent shall pay the full amount of his or her child support obligation to the other.

Modification

Suggested language (For the final judgment, not the addendum)

This judgment modifies the amount of child support that was previously ordered for the child(ren).

The basis for the modification is: *[choose one or more]*

- (1) Substantial change in the income and financial status of the Plaintiff/Defendant.
- (2) Substantial change in the needs of the children.
- (3) The noncustodial parent failed to exercise visitation provided under the prior order.
- (4) The noncustodial parent has exercised more visitation than was provided in the prior order.
- (5) Plaintiff's/Defendant's involuntary loss of income.

Findings **REQUIRED** by OCGA §§ 19-6-15 & 19-5-12:

1. Number of children for which child support is being provided.
2. Identify the Custodial Parent and Noncustodial Parent for child support purposes.
3. Gross income of both parents.
4. Presumptive amount of child support calculation (the worksheet).
5. A sum certain amount of child support to be provided by each parent.
6. The sum certain amount to be paid by obligor to obligee
 - (a) in what manner
 - (a) how often
 - (c) duration
7. If child receives Social Security, a finding as to effect on obligor's child support amount.
8. If there is work related child care, how much, and who is paying.
9. Whether health insurance for the child involved is reasonably available at a reasonable cost to either parent.
10. If health insurance is reasonably available at a reasonable cost to a parent, a provision that the child be covered under such health insurance.
11. If there are preexisting orders to pay child support – an adjustment to gross income.
12. If there are qualified children living in the parent's home – **discretionary** adjustment to gross income.
13. Whether one or more of the Deviations are applicable. (See more information below). If so, the **reasons for deviating**. Schedule E lists the reasons, including "other". Then answer the three magic questions on Schedule E, Sections B, C & D or in the order or addendum:
 - (a) **Why presumptive award of child support is unfair or inappropriate?**
 - (b) **Why deviation is in child's best interest?**
 - (c) **Whether deviation would seriously impair the ability of the Custodial Parent to provide for child's basic necessities?**

The presumptive amount of child support without any deviation must also be shown.
14. Specify the amount of the Noncustodial Parent's parenting time as set forth in the order of visitation (number of days, afternoons, etc.).
15. Specify the percentage of uninsured health care expenses for which each parent shall be responsible (pro rata percentages, 50/50 or other percentages).