

(Post reconsideration)

Senators Adelman of the 42nd and Jones of the 10th offered the following substitute to HB 221:

LOST

**A BILL TO BE ENTITLED
AN ACT**

1 To provide for legislative findings; to amend Titles 5, 7, 15, and 19 of the Official Code of
2 Georgia Annotated, relating respectively to appeal and error, banking and finance, courts,
3 and domestic relations, so as to change provisions relating to the calculation of child support;
4 to provide for direct appeal in certain domestic relations cases; to change the amount of
5 interest on arrearage of child support; to provide guidelines for determining amount of child
6 support to be paid; to provide for factors for apportioning child support obligations; to
7 provide for definitions; to change the form of the final judgment in divorce actions to
8 conform such changes in the determination and computation of child support; to change
9 provisions relating to petitions to modify alimony and child support; to correct
10 cross-references relating to petitions to modify child support orders; to create the Georgia
11 Child Support Commission; to provide for legislative findings and intent; to provide for
12 composition of the commission and the commission's powers and duties; to provide for
13 compensation of the members of the commission; to provide for officers of the commission;
14 to provide for a quorum for the transaction of business; to provide for reporting; to provide
15 effective dates; to repeal conflicting laws; and for other purposes.

16 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

17 **SECTION 1.**

18 The General Assembly finds and declares that it is important to assess periodically child
19 support guidelines and determine whether existing guidelines continue to be viable and
20 effective or whether they have failed or ceased to accomplish their original policy objectives.
21 The General Assembly further finds that supporting Georgia's children is vitally important
22 to the citizens of Georgia. Therefore, the General Assembly has determined that it is in the
23 best interests of the state and its citizenry to undertake an evaluation of the child support
24 guidelines on a continuing basis. The General Assembly declares that it is important that all
25 of Georgia's children are provided with adequate financial support whether the children's
26 parents are living together or not living together. The General Assembly finds that both

1 parents have a continuing obligation with respect to providing financial and emotional
 2 stability for their child or children. It is the hope of the members of the General Assembly
 3 that all parents work together to advance the best interest of their children.

4 **SECTION 2.**

5 Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, is amended
 6 by striking subsection (a) of Code Section 5-6-34, relating to judgments and rulings deemed
 7 directly appealable, and inserting in its place the following:

8 "(a) Appeals may be taken to the Supreme Court and the Court of Appeals from the
 9 following judgments and rulings of the superior courts, the constitutional city courts, and
 10 such other courts or tribunals from which appeals are authorized by the Constitution and
 11 laws of this state:

12 (1) All final judgments, that is to say, where the case is no longer pending in the court
 13 below, except as provided in Code Section 5-6-35;

14 (2) All judgments involving applications for discharge in bail trover and contempt cases;

15 (3) All judgments or orders directing that an accounting be had;

16 (4) All judgments or orders granting or refusing applications for receivers or for
 17 interlocutory or final injunctions;

18 (5) All judgments or orders granting or refusing applications for attachment against
 19 fraudulent debtors;

20 (5.1) Any ruling on a motion which would be dispositive if granted with respect to a
 21 defense that the action is barred by Code Section 16-11-184;

22 (6) All judgments or orders granting or refusing to grant mandamus or any other
 23 extraordinary remedy, except with respect to temporary restraining orders;

24 (7) All judgments or orders refusing applications for dissolution of corporations created
 25 by the superior courts; ~~and~~

26 (8) All judgments or orders sustaining motions to dismiss a caveat to the probate of a
 27 will; and

28 (9) All final judgments of child support."

29 **SECTION 3.**

30 Title 7 of the Official Code of Georgia Annotated, relating to banking and finance, is
 31 amended by striking in its entirety Code Section 7-4-12.1, relating to interest on arrearage
 32 of child support, and inserting in lieu thereof the following:

33 "7-4-12.1.

34 All awards of child support expressed in monetary amounts shall accrue interest at the rate
 35 of ~~12~~ 7 percent per annum commencing 30 days from the day such award or payment is

1 due. This Code section shall apply to all awards, court orders, decrees, and judgments
2 rendered pursuant to Title 19. It shall not be necessary for the party to whom the child
3 support is due to reduce any such award to judgment in order to recover such interest. The
4 court shall have discretion in applying or waiving past due interest.

5 SECTION 4.

6 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by striking
7 subparagraph (c)(2)(A) of Code Section 15-11-28, relating to jurisdiction of juvenile court,
8 and inserting in lieu thereof a new subparagraph (c)(2)(A) to read as follows:

9 "(A) In any case where a child is alleged to be a deprived child as defined in paragraph
10 (8) of Code Section 15-11-2, the juvenile court upon a finding of deprivation shall have
11 jurisdiction to order temporary child support for such child to be paid by that person or
12 those persons determined to be legally obligated to support such child. In determining
13 such temporary child support, the juvenile court shall apply the child support guidelines
14 provided in Code Section 19-6-15 or 19-6-15.1, as applicable. Where there is an
15 existing order of a superior court or other court of competent jurisdiction setting child
16 support for the child, the juvenile court may order the child support obligor in the
17 existing order to make such payments instead to the caretaker of the child on a
18 temporary basis but shall not otherwise modify the terms of the existing order. A copy
19 of the juvenile court's order shall be filed in the clerk's office of the court that entered
20 the existing order. The juvenile court shall have jurisdiction to order temporary child
21 support for the child to be paid by any other person determined to be legally obligated
22 to support such child."

23 SECTION 5.

24 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is
25 amended by striking subsection (a) of Code Section 19-5-12, relating to form of judgment
26 and decree in divorce actions, and inserting in lieu thereof a new subsection (a) to read as
27 follows:

28 "(a) This Code section shall apply to all final judgments of divorce entered prior to March
29 1, 2006. A final judgment of divorce shall be prepared so as to conform to the pleadings
30 and the evidence and may restore a maiden or prior name, if requested. It shall be prepared
31 in form substantially as follows:

1 FINAL JUDGMENT AND DECREE

2 Upon consideration of this case, upon evidence submitted as provided by law, it is the
3 judgment of the court that a total divorce be granted, that is to say, a divorce a vinculo
4 matrimonii, between the parties to the above stated case upon legal principles.

5 It is considered, ordered, and decreed by the court that the marriage contract heretofore
6 entered into between the parties to this case, from and after this date, be and is set aside
7 and dissolved as fully and effectually as if no such contract had ever been made or
8 entered into.

9 Petitioner and Respondent in the future shall be held and considered as separate and
10 distinct persons altogether unconnected by any nuptial union or civil contract whatsoever
11 and both shall have the right to remarry.

12 Decree and order entered this _____ day of _____, ____.

13 _____
14 Judge, Superior Court"

15 **SECTION 6.**

16 Said title is further amended by adding a new Code Section 19-5-12.1 to read as follows:

17 "19-5-12.1.

18 (a) This Code section shall apply to all final judgments of divorce entered on and after
19 March 1, 2006. A final judgment of divorce shall be prepared so as to conform to the
20 pleadings and the evidence and may restore a maiden or prior name, if requested. It shall
21 be prepared in form substantially as follows:

22 FINAL JUDGMENT AND DECREE

23 Upon consideration of this case, upon evidence submitted as provided by law, it is the
24 judgment of the court that a total divorce be granted, that is to say, a divorce a vinculo
25 matrimonii, between the parties to the above stated case upon legal principles.

26 It is considered, ordered, and decreed by the court that the marriage contract heretofore
27 entered into between the parties to this case, from and after this date, be and is set aside
28 and dissolved as fully and effectually as if no such contract had ever been made or
29 entered into.

30 Petitioner and Respondent in the future shall be held and considered as separate and
31 distinct persons altogether unconnected by any nuptial union or civil contract whatsoever
32 and both shall have the right to remarry.

1 Decree and order entered this _____ day of _____, ____.

2 _____
3 Judge, Superior Court

4 (b) Where applicable, any one or more of the following clauses shall be included in the
5 form of the judgment:

6 The court restores to (Petitioner/Respondent) his/her prior or maiden name, to wit:
7 _____.

8 The court awards custody of the children of the parties as follows:
9 _____.

10 The court fixes alimony as follows: _____.

11 (c) In any case which involves the determination of child support, the form of the
12 judgment shall also include provisions indicating both parties' incomes, the number of
13 children for which support is being provided, the presumptive award calculation, and, if the
14 presumptive award is rebutted, the award amount and the basis for the rebuttal award."

15 **SECTION 7.**

16 Said title is further amended by striking subsection (a) of Code Section 19-6-15, relating to
17 guidelines for calculating child support, and inserting in lieu thereof a new subsection (a) to
18 read as follows:

19 "(a) This Code section shall apply to all temporary orders and final verdicts and decrees
20 entered prior to March 1, 2006, and to any modifications of such final verdicts and decrees
21 at any future time after the entry of such final verdicts and decrees. The provisions of this
22 Code section shall not apply with respect to any divorce case in which there are no minor
23 children, except to the limited extent expressly authorized in subsection (e) of this Code
24 section; and in a divorce case in which there are no minor children the requirements of this
25 Code section for findings of fact and inclusion of findings in the verdict or decree shall not
26 apply. In the final verdict or decree, the trier of fact shall specify in what amount and from
27 which party the minor children are entitled to permanent support. The final verdict or
28 decree shall further specify as required by Code Section 19-5-12 in what manner, how
29 often, to whom, and until when the support shall be paid. The final verdict or decree shall
30 further include a written finding of the gross income of the father and the mother and the
31 presence or absence of special circumstances in accordance with subsection (c) of this
32 Code section. The trier of fact must also determine whether the accident and sickness
33 insurance for the child or the children involved is reasonably available at reasonable costs
34 through employment related or other group health insurance policies to an obligor. For
35 purposes of this Code section, accident and sickness coverage shall be deemed available

1 if the obligor has access to any policy of insurance authorized under Title 33 through an
2 employer or other group health insurance plan. If the accident and sickness insurance is
3 deemed available at reasonable cost, the court shall order the obligor to obtain the
4 coverage; provided, however, if the obligee has accident and sickness insurance for the
5 child or children reasonably available at reasonable costs through employment related or
6 other group health insurance policies, then the court may order that the child or children
7 be covered under such insurance and the obligor contribute as part of the child support
8 order such part of the cost of providing such insurance or such part of any medical
9 expenses incurred on behalf of the child or children not covered by such insurance as the
10 court may deem equitable or appropriate. If currently unavailable or unreasonable in cost,
11 the court shall order the obligor to obtain coverage when it becomes available at a
12 reasonable cost, unless such insurance is provided by the obligee as provided in this
13 subsection. When support is awarded, the party who is required to pay the support shall
14 not be liable to third persons for necessities furnished to the children embraced in the
15 verdict or decree. In any contested case, the parties shall submit to the court their proposed
16 findings regarding the gross income of the father and the mother and the presence or
17 absence of special circumstances. In any case in which child support is determined by a
18 jury, the court shall charge the provisions of this Code section and the jury shall be required
19 to return a special interrogatory similar to the form of the order contained in Code Section
20 19-5-12 regarding the gross income of the father and the mother and the presence or
21 absence of special circumstances. Furthermore, nothing contained within this Code section
22 shall prevent the parties from entering into an enforceable agreement to the contrary which
23 may be made the order of the court pursuant to the review by the court of child support
24 amounts contained in this Code section; provided, however, any such agreement of the
25 parties shall include a written statement regarding the gross income of the father and the
26 mother and the presence or absence of special circumstances in accordance with subsection
27 (c) of this Code section."

28 **SECTION 8.**

29 Said title is further amended by adding a new Code Section 19-6-15.1 to read as follows:

30 "19-6-15.1.

31 (a) As used in this Code section, the term:

32 (1) 'Adjusted gross income' means the net determination of a parent's income, calculated
33 by deducting from that parent's gross income any applicable self-employment taxes being
34 paid by the parent and any preexisting child support order for current child support which
35 is being paid by the parent.

1 (2) 'Adjusted support obligation' means the basic child support obligation from the child
2 support obligation table, adjusted for parenting time, health insurance, and work related
3 child care expenses.

4 (3) 'Basic child support obligation' means the amount of support displayed on the child
5 support obligation table which corresponds to the combined adjusted gross income of
6 both parents and the number of children for whom support is being determined. This
7 amount is rebuttably presumed to be the appropriate amount of basic child support to be
8 provided by both parents in the case immediately under consideration, prior to
9 consideration of any adjustments for parenting time or additional expenses.

10 (4) 'Caretaker' means the person or entity providing care and supervision of a child more
11 than 50 percent of the time. The caretaker may be the child's custodial parent. The
12 caretaker may be a parent of the child or a nonparent relative of the child who voluntarily
13 or otherwise, pursuant to court order or other legal arrangement, is providing care and
14 supervision of the child. A caretaker may also be a private or public agency providing
15 custodial care and supervision for the child through voluntary placement by the child's
16 parent, nonparent relative, or other designated caretaker or by court order or other legal
17 arrangement.

18 (5) 'Child support obligation table' means the chart created by the Georgia Child Support
19 Commission which displays the dollar amount of the basic child support obligation
20 corresponding to various levels of combined adjusted gross income of the children's
21 parents and the number of children for whom a child support order is being established
22 or modified. The table shall be used to calculate the basic child support obligation
23 according to the provisions of this Code section. Deviations from the table shall comply
24 with the requirements of this Code section.

25 (6) 'Combined adjusted gross income' means the amount of adjusted gross income
26 calculated by adding together the adjusted gross incomes of both parents. This amount
27 is then used to determine the basic child support obligation for both parents for the
28 number of children for whom support is being calculated in the case immediately under
29 consideration.

30 (7) 'Credit worksheet' means the worksheet used for listing information regarding a
31 parent's preexisting child support order and self-employment tax.

32 (8) 'Custodial parent' means the parent with whom the child or children resides more than
33 50 percent of the time. The term also means a nonparent caretaker who has been given
34 physical custody of the child or children. If each parent spends exactly 50 percent of the
35 time with the child or children, then the court shall designate the parent with the lesser
36 child support obligation as the custodial parent and the other parent as the noncustodial

1 parent. If a custodial parent has not been designated, the caretaker with whom the child
2 resides more than 50 percent of the time shall be the custodial parent.

3 (9) 'Day' or 'days' means that a child spends more than 12 hours of a calendar day with
4 or under the control of a parent and that parent expends a reasonable amount of resources
5 on the child during such time period, such as the cost of a meal or other costs directly
6 related to the care and supervision of the child. Partial days of parenting time that are not
7 consistent with this definition shall not be considered a 'day' under the child support
8 guidelines. A 'day' under the control of a parent includes a day the child is not in the
9 parent's home, but is under the parent's control, for example, with the parent's
10 permission at camp or with friends.

11 (10) 'Final child support order' means the presumptive child support order adjusted by
12 any deviations ordered by the court.

13 (11) 'Health insurance' means accident, sickness, health, medical, or dental insurance.

14 (12) 'Noncustodial parent' means the parent with whom the child resides less than 50
15 percent of the time.

16 (13) 'Parenting time adjustment' means an adjustment to the noncustodial parent's
17 portion of the basic child support obligation based upon the noncustodial parent's
18 parenting time with the child.

19 (14) 'Percentage of income' for each parent is obtained by dividing each parent's adjusted
20 gross income by the combined total of both parents' adjusted gross income. The
21 percentage of income is used to determine each parent's pro rata share of the basic child
22 support obligation and each parent's share of the amount of additional expense for health
23 insurance and work related child care. The percentage of income is also used to designate
24 the amount of uninsured medical expenses that each parent is financially responsible to
25 pay, absent an order of a court setting a different amount.

26 (15) 'Preexisting orders' means:

27 (A) An order in another case that requires a parent to make child support payments for
28 another child or children, which child support the parent is actually paying, as
29 evidenced by documentation including, but not limited to, payment history from a court
30 clerk, Title IV-D agency, as defined in Code Section 19-6-31, the Department of
31 Human Resources computer system, the department's Internet child support payment
32 history, or canceled checks or other written proof of payments paid directly; and

33 (B) That the date of filing of the initial order for each such other case is earlier than the
34 date of filing of the initial order in the case immediately before the court, regardless of
35 the age of any child in any of the cases.

36 (16) 'Presumptive child support order' means the amount of support to be paid for the
37 child or children derived from the parent's proportional share of the basic child support

1 obligation, adjusted for parenting time, plus the parent's proportional share of any
2 additional expenses. This amount is rebuttably presumed to be the appropriate child
3 support order.

4 (17) 'Pro rata' means the proportion of one parent's adjusted gross income to both
5 parents' combined adjusted gross income, or the proportion of one parent's support
6 obligation to the whole support obligation. A parent's pro rata share of income is
7 calculated by combining both parents' adjusted gross income and dividing each parent's
8 separate adjusted gross income by the combined adjusted gross income. A parent's pro
9 rata share of the basic support obligation is calculated by multiplying the basic child
10 support obligation obtained from the child support obligation table by each parent's pro
11 rata percentage of the combined adjusted gross income.

12 (18) 'Split parenting' can only occur in a child support case if there are two or more
13 children of the same parents, where one parent is the custodial parent for at least one
14 child of the parents, and the other parent is custodial parent for at least one other child of
15 the parents. In a split parenting case, each parent is the custodial parent of any child
16 spending more than 50 percent of the time with that parent and is the noncustodial parent
17 of any child spending more than 50 percent of the time with the other parent. A split
18 parenting situation will have two custodial parents and two noncustodial parents, but no
19 child will have more than one custodial parent or noncustodial parent.

20 (19) 'Standard parenting' means a child support case in which all of the children
21 supported under the order spend more than 50 percent of the time with the same custodial
22 parent. There is only one custodial parent and one noncustodial parent in a standard
23 parenting case.

24 (20) 'Theoretical support order' means a hypothetical order which allows the court to
25 determine the amount of a child support obligation if an order existed. A theoretical
26 support order is used to determine the amount of credit allowed as a deduction from a
27 parent's gross income for a parent's qualified other child or children who are not under
28 a preexisting child support order.

29 (21) 'Uninsured health care expenses' means the child's or children's uninsured medical
30 expenses including, but not limited to, health insurance copayments, deductibles, and
31 such other costs as are reasonably necessary for orthodontia, dental treatment, asthma
32 treatments, physical therapy, vision care, and any acute or chronic medical or health
33 problem or mental health illness, including counseling and other medical or mental health
34 expenses, that are not covered by insurance.

35 (22) 'Work related child care costs' means expenses for the care of the child or children
36 for whom support is being determined which are due to employment of either parent. In
37 an appropriate case, the court may consider the child care costs associated with a parent's

1 job search or the training or education of a parent necessary to obtain a job or enhance
2 earning potential, not to exceed a reasonable time as determined by the court, if the parent
3 proves by a preponderance of the evidence that the job search, job training, or education
4 will benefit the child or children being supported. The term shall be projected for the
5 next consecutive 12 months and averaged to obtain a monthly amount.

6 (23) 'Worksheet' or 'child support worksheet' means the worksheet used to record
7 information necessary to determine and calculate gross income and child support.

8 (b)(1) The child support guidelines contained in this Code section are a minimum basis
9 for determining child support obligations and shall apply as a rebuttable presumption in
10 all legal proceedings involving the child support obligation of a parent, including, but not
11 limited to, orders entered in criminal and juvenile proceedings, orders entered pursuant
12 to Article 3 of Chapter 11 of this title, the 'Uniform Interstate Family Support Act,' and
13 voluntary support agreements and consent orders approved by the court. The child
14 support guidelines do not apply to orders for prior maintenance for reimbursement of
15 child care costs incurred prior to the date an action for child support is filed or to child
16 support orders entered against stepparents or other persons or agencies secondarily liable
17 for child support. The child support guidelines shall be used when the court enters a
18 temporary or permanent child support order in a contested or noncontested hearing. The
19 rebuttable presumption award provided by these child support guidelines may be
20 increased according to the best interest of the child for whom support is being considered,
21 the circumstances of the parties, the grounds for deviation set forth in subsection (i) of
22 this Code section, and to achieve the state policy of affording to children of unmarried
23 parents, to the extent possible, the same economic standard of living enjoyed by children
24 living in intact families consisting of parents with similar financial means.

25 (2) The provisions of this Code section shall not apply with respect to any divorce case
26 in which there are no minor children, except to the limited extent authorized by
27 subsection (d) of this Code section. In the final judgment or decree in a divorce case in
28 which there are minor children, or in other cases which are governed by the provisions
29 of this Code section, the court shall:

30 (A) Specify in what amount and from which party the minor children are entitled to
31 permanent support as determined by use of the worksheets;

32 (B) Specify as required by Code Section 19-5-12 in what manner, how often, to whom,
33 and until when the support shall be paid;

34 (C) Include a written finding of the gross income of the father and the mother as
35 determined by the factfinder;

36 (D) Determine whether health insurance for the child or children involved is
37 reasonably available at a reasonable cost to either parent. If the insurance policy is

1 reasonably available at a reasonable cost to the parent, then the court may order that the
2 child or children be covered under such insurance; and

3 (E) Include written findings of fact as to whether one or more of the deviations allowed
4 under this Code section are applicable; and if one or more such deviations are
5 applicable, the written findings of fact shall further set forth:

6 (i) The reasons the court deviated from the presumptive amount of child support;

7 (ii) The amount of child support that would have been required under the child
8 support guidelines if the presumptive amount had not been rebutted; and

9 (iii) A finding that states how application of the child support guidelines would be
10 unjust or inappropriate in the case immediately under consideration considering the
11 relative ability of each parent to provide support and how the best interests of the
12 child or children who are subject to the support award determination are served by
13 deviation from the presumptive guideline amount.

14 (3) When support is awarded, the party who is required to pay the support shall not be
15 liable to third persons for necessities furnished to the child or children embraced in the
16 judgment or decree. In any contested case, the parties shall submit to the court their
17 worksheets and the presence or absence of other factors to be considered by the court
18 pursuant to the provisions of this Code section. In any case in which the gross incomes
19 of the father and the mother are determined by a jury, the court shall charge the
20 provisions of this Code section applicable to the determination of gross income and the
21 jury shall be required to return a special interrogatory. Based upon the jury's verdict as
22 to gross income, the court shall determine the child support obligation in accordance with
23 the provisions of this Code section.

24 (4) Nothing contained within this Code section shall prevent the parties from entering
25 into an enforceable agreement to the contrary which may be made the order of the court
26 pursuant to the review by the court of the adequacy of the child support amounts
27 negotiated by the parties, including the provision for medical expenses and health
28 insurance; provided, however, that if the agreement negotiated by the parties does not
29 comply with the provisions contained in this Code section and does not contain findings
30 of fact as required to support a deviation, the court shall reject such agreement. To assist
31 in this determination by the court, the parties shall provide all child support worksheets
32 utilized by the parties to determine the child support amounts proposed in the agreement.

33 (c) In the event of a hearing or trial on the issue of child support, the guidelines
34 enumerated in this Code section are intended by the General Assembly to be guidelines
35 only and any court so applying these guidelines shall not abrogate its responsibility in
36 making the final determination of child support based on the evidence presented to it at the
37 time of the hearing or trial.

1 (d) The duty to provide support for a minor child shall continue until the child reaches the
2 age of majority, dies, marries, or becomes emancipated, whichever first occurs; provided,
3 however, that, in any temporary or final order for child support with respect to any
4 proceeding for divorce, separate maintenance, legitimacy, or paternity entered on or after
5 March 1, 2006, the court, in the exercise of sound discretion, may direct either or both
6 parents to provide financial assistance to a child who has not previously married or become
7 emancipated, who is enrolled in and attending a secondary school, and who has attained
8 the age of majority before completing his or her secondary school education, provided that
9 such financial assistance shall not be required after a child attains 20 years of age. The
10 provisions for support provided in this subsection may be enforced by either parent or the
11 child for whose benefit the support is ordered.

12 (e) *Gross income.*

13 (1)(A) Gross income of each parent shall be determined in the process of setting the
14 presumptive child support order and shall include all income from any source, before
15 deductions for taxes and other deductions such as preexisting child support orders and
16 credits for other qualified children, whether earned or unearned, and includes, but is not
17 limited to, the following:

18 (i) Salaries;

19 (ii) Commissions, fees, and tips;

20 (iii) Income from self-employment;

21 (iv) Bonuses;

22 (v) Overtime payments;

23 (vi) Severance pay;

24 (vii) Recurring income from pensions or retirement plans including, but not limited
25 to, Veterans' Administration, Railroad Retirement Board, Keoughs, and individual
26 retirement accounts;

27 (viii) Interest income;

28 (ix) Dividend income;

29 (x) Trust income;

30 (xi) Income from annuities;

31 (xii) Capital gains;

32 (xiii) Disability or retirement benefits that are received from the Social Security
33 Administration pursuant to Title XI of the federal Social Security Act;

34 (xiv) Workers' compensation benefits, whether temporary or permanent;

35 (xv) Unemployment insurance benefits;

36 (xvi) Judgments recovered for personal injuries and awards from other civil actions;

- 1 (xvii) Gifts that consist of cash or other liquid instruments, or which can be converted
2 to cash;
- 3 (xviii) Prizes;
- 4 (xix) Lottery winnings;
- 5 (xx) Alimony or maintenance received from persons other than parties to the
6 proceeding before the court; and
- 7 (xxi) Assets which are used for the support of the family.

8 (B) Excluded from gross income are the following:

9 (i) Child support payments received by either parent for the benefit of a child or
10 children of another relationship; and

11 (ii) Benefits received from means-tested public assistance programs such as, but not
12 limited to:

13 (I) PeachCare for Kids Program, Temporary Assistance for Needy Families, or
14 similar programs in other states or territories under Title IV-A of the federal Social
15 Security Act;

16 (II) Food stamps or the value of food assistance provided by way of electronic
17 benefits transfer procedures by the Department of Human Resources;

18 (III) Supplemental security income received under Title XVI of the federal Social
19 Security Act;

20 (IV) Benefits received under Section 402(d) of the federal Social Security Act for
21 disabled adult children of deceased disabled workers; and

22 (V) Low Income Heating and Energy Assistance Program payments.

23 (2)(A) When establishing an initial order of child support, if a parent fails to produce
24 reliable evidence of income, such as tax returns for prior years, check stubs, or other
25 information for determining current ability to support or ability to support in prior
26 years, and the court has no other reliable evidence of the parent's income or income
27 potential, gross income for the current year shall be determined by imputing gross
28 income based on a 40 hour workweek at minimum wage.

29 (B) When cases with established orders are reviewed for modification and a parent
30 fails to produce reliable evidence of income, such as tax returns for prior years, check
31 stubs, or other information for determining current ability to support or ability to
32 support in prior years, and the court has no other reliable evidence of that parent's
33 income or income potential, the court may enter an order to increase the child support
34 obligation of the parent failing or refusing to produce evidence of income by an
35 increment of at least 10 percent per year of that parent's pro rata share of the basic child
36 support obligation for each year since the support order was entered or last modified.

1 (C) In either circumstance in subparagraph (A) or (B) of this paragraph, either parent
2 may later provide within 90 days, upon motion to the court, the reliable evidence
3 necessary to determine the appropriate amount of support based upon reliable evidence.
4 The court may increase or reduce the amount of current support from the date of filing
5 of either parent's initial filing or motion to modify child support, but arrearages or
6 retroactive amounts entered in an order based upon imputed income shall not be
7 forgiven. When a parent, whose income has been imputed under subparagraph (A)
8 or (B) of this paragraph, provides reliable evidence to support a modification of the
9 amount of income imputed for that parent, the parent is not required to demonstrate the
10 existence of a significant variance otherwise required for modification of an order
11 pursuant to subsection (l) of this Code section.

12 (3)(A) Income from self-employment includes income from, but not limited to,
13 business operations, work as an independent contractor or consultant, sales of goods or
14 services, and rental properties, less ordinary and reasonable expenses necessary to
15 produce such income. Income from self-employment, rent, royalties, proprietorship of
16 a business, or joint ownership of a partnership, limited liability company, or closely
17 held corporation is defined as gross receipts minus ordinary and necessary expenses
18 required for self-employment or business operations. Ordinary and reasonable
19 expenses of self-employment or business operations necessary to produce income do
20 not include:

21 (i) Excessive promotional, travel, vehicle, or personal living expenses, depreciation
22 on equipment, or costs of operation of home offices; or

23 (ii) Amounts allowable by the Internal Revenue Service for the accelerated
24 component of depreciation expenses, investment tax credits, or any other business
25 expenses determined by the court to be inappropriate for determining gross income.

26 In general, income and expenses from self-employment or operation of a business
27 should be carefully reviewed by the factfinder and the court to determine an appropriate
28 level of gross income available to the parent to satisfy a child support obligation.
29 Generally, this amount will differ from a determination of business income for tax
30 purposes.

31 (B)(i) An additional deduction of 6.2 percent of FICA and 1.45 percent of medicare,
32 or in any amount subsequently set by federal law as FICA and medicare tax, shall be
33 deducted from a parent's gross income earned from self-employment, up to the
34 amounts allowed under federal law.

35 (ii) Any self-employment tax paid shall be deducted from gross income as part of the
36 calculation of a parent's adjusted gross income.

1 (4)(A) Fringe benefits for inclusion as income or 'in kind' remuneration received by a
2 parent in the course of employment, or operation of a trade or business, shall be counted
3 as income if they significantly reduce personal living expenses.

4 (B) Such fringe benefits might include, but are not limited to, use of a company car,
5 housing, or room and board.

6 (C) Basic allowance for housing, basic allowance for subsistence, and variable housing
7 allowances for members of the armed services are considered income for the purposes
8 of determining child support.

9 (D) Fringe benefits do not include employee benefits that are typically added to the
10 salary, wage, or other compensation that a parent may receive as a standard added
11 benefit, including, but not limited to, employer paid portions of health insurance
12 premiums or employer contributions to a retirement or pension plan.

13 (5)(A) Benefits received under Title XI of the federal Social Security Act by a child
14 on the obligor's account shall be counted as child support payments and shall be
15 applied against the child support obligation ordered to be paid by the obligor for the
16 child.

17 (B) If after calculating the obligor's gross income as defined in this subsection,
18 including the countable Social Security benefits in division (1)(A)(xiii) of this
19 subsection, and after calculating the amount of the child support obligation using the
20 child support worksheet, the amount of the child support obligation is greater than the
21 Social Security benefits paid on behalf of the child on the obligor's account, the obligor
22 shall be required to pay the amount exceeding the Social Security benefit as part of the
23 child support obligation in the case.

24 (C)(i) If after calculating the obligor's gross income as defined in this subsection,
25 including the countable Social Security benefits in division (1)(A)(xiii) of this
26 subsection, and after calculating the amount of the child support obligation using the
27 child support worksheet, the amount of the child support obligation is equal to or less
28 than the Social Security benefits paid to the caretaker on behalf of the child on the
29 obligor's account, the child support obligation of that parent is met and no further
30 child support obligation shall be paid.

31 (ii) Any benefit amounts under Title XI of the federal Social Security Act as
32 determined by the Social Security Administration sent to the caretaker by the Social
33 Security Administration for the child's benefit which are greater than the child
34 support obligation ordered by the court shall be retained by the caretaker for the
35 child's benefit and shall not be used as a reason for decreasing the child support order
36 or reducing arrearages.

1 (D) The court shall make a written finding of fact in the child support order regarding
2 the use of the Social Security benefits in the calculation of the child support obligation.

3 (6) Variable income such as commissions, bonuses, overtime pay, and dividends shall
4 be averaged by the factfinder over a reasonable period of time consistent with the
5 circumstances of the case and added to a parent's fixed salary or wages to determine
6 gross income. When income is received on an irregular, nonrecurring or one-time basis,
7 the court may, but is not required to, average or prorate the income over a reasonable
8 specified period of time or require the parent to pay as a one-time support amount a
9 percentage of his or her nonrecurring income, taking into consideration the percentage
10 of recurring income of that parent.

11 (7)(A) A determination of whether a parent is willfully or voluntarily unemployed or
12 underemployed shall ascertain the reasons for the parent's occupational choices and
13 assess the reasonableness of these choices in light of the parent's obligation to support
14 his or her child or children and to determine whether such choices benefit the child or
15 children. A determination of willful and voluntary unemployment or underemployment
16 is not limited to occupational choices motivated only by an intent to avoid or reduce the
17 payment of child support. A determination of willful and voluntary unemployment or
18 underemployment can be based on any intentional choice or act that affects a parent's
19 income.

20 (B) Factors for the court to consider when determining willful and voluntary
21 unemployment or underemployment include, but are not limited to:

22 (i) The parent's past and present employment;

23 (ii) The parent's education and training;

24 (iii) Whether unemployment or underemployment for the purpose of pursuing
25 additional training or education is reasonable in light of the parent's obligation to
26 support his or her child or children and, to this end, whether the training or education
27 may ultimately benefit the child or children in the case immediately under
28 consideration by increasing the parent's level of support for that child or those
29 children in the future;

30 (iv) A parent's ownership of valuable assets and resources, such as an expensive
31 home or automobile, that appear inappropriate or unreasonable for the income
32 claimed by the parent; and

33 (v) The parent's role as caretaker of a handicapped or seriously ill child of that
34 parent, or any other handicapped or seriously ill relative for whom that parent has
35 assumed the role of caretaker, which eliminates or substantially reduces the parent's
36 ability to work outside the home, and the need of that parent to continue in that role
37 in the future.

1 (C) When considering the income potential of a parent whose work experience is
2 limited due to the caretaker role of that parent, the court shall consider the following
3 factors:

4 (i) Whether the parent acted in the role of full-time caretaker immediately prior to
5 separation by the married parties or prior to the divorce or annulment of the marriage

6 or dissolution of another relationship in which the parent was a full-time caretaker;

7 (ii) The length of time the parent staying at home has remained out of the workforce
8 for this purpose;

9 (iii) The parent's education, training, and ability to work; and

10 (iv) Whether the parent is caring for a child or children who are four years of age or
11 younger.

12 (D) If the court determines that a parent is willfully and voluntarily unemployed or
13 underemployed, child support shall be calculated based on a determination of potential
14 income, as evidenced by educational level or previous work experience. In the absence
15 of any other reliable evidence, income may be imputed to the parent pursuant to a
16 determination that gross income for the current year is based on a 40 hour workweek
17 at minimum wage.

18 (E) A determination of willful and voluntary unemployment or underemployment shall
19 not be made when an individual is activated from the National Guard or other armed
20 forces unit or enlists or is drafted for full-time service in the armed forces of the United
21 States.

22 (8)(A) An adjustment to the parent's gross income shall be made on the child support
23 worksheet for current preexisting orders actually being paid under an order of support
24 for a period of not less than 12 consecutive months immediately prior to the date of the
25 hearing before the court to set, modify, or enforce child support.

26 (B) In calculating the adjustment for preexisting orders, the court shall include only
27 those preexisting orders where the date of entry of the initial support order precedes the
28 date of entry of the initial order in the case immediately under consideration.

29 (C) The priority for preexisting orders is determined by the date of the initial order in
30 each case. Subsequent modifications of the initial support order shall not affect the
31 priority position established by the date of the initial order.

32 (D) Adjustments are allowed for current preexisting support only to the extent that the
33 payments are actually being paid as evidenced by documentation including, but not
34 limited to, payment history from a court clerk, a Title IV-D agency, as defined in Code
35 Section 19-6-31, the Department of Human Resources computer system, the
36 department's Internet child support payment history, or canceled checks or other
37 written proof of payments paid directly. The maximum credit allowed for a preexisting

1 order is an average of the amount of current support actually paid under the preexisting
2 order over the past 12 months prior to the hearing date.

3 (E) All preexisting orders shall be entered on the credit worksheet for the purpose of
4 calculating the total amount of the credit to be included on the child support worksheet,
5 but the preexisting orders shall not be used on the credit worksheet as a deduction
6 against gross income for the purpose of calculating a theoretical child support order.

7 (F) Payments being made by a parent on any arrearages shall not be considered
8 payments on preexisting or subsequent orders and shall not be used as a basis for
9 reducing gross income.

10 (9)(A) In addition to the adjustments to gross income for self-employment tax provided
11 in subparagraph (B) of paragraph (3) of this subsection and for preexisting orders
12 provided in paragraph (8) of this subsection, credits for either parent's other child or
13 children qualified under this paragraph may be considered by the court for the purpose
14 of reducing the parent's gross income or as a reason for deviation. Credits may be
15 considered for a qualified child:

16 (i) For whom the parent is legally responsible and in whose home that child resides;

17 (ii) The parent is actually supporting;

18 (iii) Who is not subject to a preexisting order for child support; and

19 (iv) Who is not before the court to set, modify, or enforce support in the case
20 immediately under consideration.

21 Stepchildren and other minors in the home that the parent has no legal obligation to
22 support shall not be considered in the calculation of this credit. To consider a parent's
23 qualified other child or children for credit, a parent must present documentary evidence
24 of the parent-child relationship to the court.

25 (B) Credits against income pursuant to this paragraph may be considered in such
26 circumstances in which the failure to consider such child or children would cause
27 substantial hardship to the parent. Use of this credit is appropriate when a child support
28 order is entered. Credits may also be appropriate when a child support order is
29 modified to rebut a claim for increased child support brought by the custodial parent.
30 If the court, in its discretion, decides to apply this credit, a parent's current financial
31 responsibility for his or her natural or adopted child or children who currently reside
32 with the parent, other than a child or children for whom child support is being
33 determined in the pending action, can be no greater than an amount (i) equal to the
34 basic child support obligation for that child or those children based on the parent's
35 income if the other parent of such child or children does not live with the parent and
36 child or children or (ii) one-half of the basic child support obligation for such child or
37 children based on the combined incomes of both of the parents of such child or children

1 if the other parent of such child or children lives with the parent and the child or
2 children.

3 (C) Credits against income for another qualified child or other qualified children shall
4 be calculated and recorded on the credit worksheet and then entered on the child
5 support worksheet for the purpose of reducing the parent's gross income on the child
6 support worksheet. However, except for self-employment taxes paid, no other amounts
7 shall be subtracted from the parent's gross income on the credit worksheet when
8 calculating a theoretical support order under this paragraph.

9 (10) Actual payments of alimony should not be considered as a deduction from gross
10 income but may be considered as a factor to vary from the final presumptive child
11 support order. If the court considers the actual payment of alimony, the court shall make
12 a written finding of such consideration as a basis for deviation from the final presumptive
13 child support order.

14 (11) In multiple family situations, the adjustments to a parent's gross income shall be
15 calculated in the following order:

16 (A) Preexisting orders according to the date of the initial order; and

17 (B) After applying the deductions on the child support worksheet for preexisting
18 orders, if any, in subparagraph (E) of paragraph (8) of this subsection, any credit for a
19 parent's qualified other child or children may be considered using the procedure set
20 forth in subparagraph (A) of this paragraph.

21 (f) The basic child support obligation is determined based upon the parent's gross income
22 and by using the corresponding child support obligation table as established and maintained
23 by the Georgia Child Support Commission. If the combined monthly adjusted gross
24 income falls between the amounts shown in the table, then the child support obligation
25 shall be based on the income bracket mostly closely matched to the combined monthly
26 adjusted gross income. The number of children column on the table corresponds to
27 children for whom parents share joint legal responsibility and for whom support is being
28 sought.

29 (g)(1) The child support obligation table does not include the cost of the child's work
30 related child care costs or the cost of health insurance premiums or uninsured health
31 expenses. The additional expenses for the child's health insurance premium and work
32 related child care shall be included in the calculations to determine child support.

33 (2)(A) Work related child care expenses necessary for the parent's employment,
34 education, or vocational training that are determined by the court to be appropriate, and
35 that are appropriate to the parents' financial abilities and to the lifestyle of the child or
36 children if the parents and child or children were living together, shall be averaged for
37 a monthly amount and entered on the child support worksheet in the column of the

1 parent initially paying the expense. Work related child care expenses of a nonparent
2 caretaker shall be considered when determining the amount of this expense.

3 (B) If a child care subsidy is being provided pursuant to a means-tested public
4 assistance program, only the amount of the child care expense actually paid by either
5 parent shall be included in the calculation.

6 (C) If either parent is the provider of child care services to the child or children for
7 whom support is being determined, the value of those services shall not be added to the
8 basic child support obligation when calculating the support award.

9 (D) If child care is provided by a family member, other unpaid person, or provided by
10 a parent's employer without charge to the parent, then the value of these services shall
11 not be added to the basic child support obligation.

12 (3)(A) The amount that is, or will be, paid by a parent for health insurance for the child
13 or children for whom support is being determined shall be added to the basic child
14 support obligation and prorated between the parents based upon their respective
15 incomes. Payments made by a parent's employer for health insurance and not deducted
16 from the parent's wages are not included. When a child or children for whom support
17 is being determined are covered by a family policy, only the health insurance premium
18 actually attributable to that child or those children is added. If this amount is not
19 available or cannot be verified, the total cost of the premium shall be divided by the
20 total number of persons covered by the policy and then multiplied by the number of
21 covered children for whom support is being determined.

22 (B) The amount of the cost for the child's or children's health insurance premium and
23 work related child care expenses shall be determined and added to the basic child
24 support obligation as 'additional expenses' whether paid directly by the parent or
25 through a payroll deduction.

26 (C) The total amount of the cost for the child's or children's health insurance premium
27 and work related child care shall be divided between the parents pro rata to determine
28 the total presumptive child support order and shall be included in the worksheet and
29 written order of the court together with the amount of the basic child support obligation.

30 (4)(A) If health insurance that provides for the health care needs of the child or
31 children can be obtained by a parent at reasonable cost, then an amount to cover the
32 cost of the premium shall be added to the basic child support obligation. A health
33 insurance premium paid by a nonparent caretaker shall be included when determining
34 the amount of this expense. In determining the amount to be added to the order for this
35 cost, only the amount of the insurance cost attributable to the child or children who are
36 the subject of the support order shall be included.

1 (B) If coverage is applicable to other persons and the amount of the health insurance
2 premium attributable to the child or children who are the subject of the current action
3 for support is not verifiable, the total cost to the parent paying the premium shall be
4 prorated by the number of persons covered so that only the cost attributable to the child
5 or children who are the subject of the order under consideration is included. This
6 amount shall be determined by dividing the total amount of the insurance premium by
7 the number of persons covered by the insurance policy and taking the resulting amount
8 and multiplying it by the number of children covered by the insurance policy. This
9 monthly cost shall be entered on the child support worksheet in the column of the
10 parent paying the premium.

11 (C) Eligibility for or enrollment of the child or children in Medicaid shall not satisfy
12 the requirement that the child support order provide for the child's or children's health
13 care needs.

14 (h)(1) The court shall determine each parent's pro rata share of the additional expenses
15 by multiplying the percentage of income of each parent by the combined total additional
16 expenses.

17 (2)(A) In standard parenting situations, the adjusted support obligation is the parent's
18 share of the basic child support obligation plus the parent's share of any additional
19 expenses for the child's or children's health insurance premium and work related child
20 care.

21 (B) In split parenting situations, the adjusted support obligation is each parent's basic
22 child support obligation for the child or children in the other parent's care plus each
23 parent's share of any additional expenses for the child or children's health insurance
24 premium and work related child care.

25 (C) If a parenting time adjustment has been calculated in either a standard or split
26 parenting situation and that parent's share of the basic child support obligation is
27 adjusted as specified in paragraph (5) of this subsection, then each parent's adjusted
28 support obligation is calculated pursuant to this paragraph.

29 (3)(A) If a parent pays directly or through payroll deduction the child's or children's
30 health insurance premium, or pays through payroll deduction work related child care
31 costs, the total amount of the expenses paid in this manner shall first be entered on the
32 child support worksheet to be used in calculating total additional expenses and each
33 parent's adjusted support obligation.

34 (B) Once the adjusted support obligation has been calculated, the expenses paid by the
35 parent as indicated in subparagraph (A) of this paragraph shall be deducted from the
36 adjusted support obligation of that parent to credit the parent for the payment of these
37 expenses. The amount of the deduction for the health insurance premium or payroll

1 deduction for the work related child care expense shall be included in the child support
2 order to identify the amount and nature of the child support obligation. These expenses
3 shall not be included in the noncustodial parent's income deduction order. The order
4 shall require that these expenses continue to be paid in the same manner as they were
5 being paid prior to the instant action.

6 (C) To the extent that work related child care expenses are not included in subsection
7 (g) of this Code section, the expense shall be accounted for in the noncustodial parent's
8 income deduction order as part of the child support order. The custodial parent shall
9 pay this expense in full out of his or her income and the child support award.

10 (4)(A) The child's or children's uninsured health expenses, including, but not limited
11 to, deductibles, copayments, and dental, orthodontic, counseling, psychiatric, vision,
12 hearing, and other medical needs not covered by insurance, shall be the financial
13 responsibility of both parents. The order of the court shall include provisions for
14 payment of the uninsured medical expenses. The parents shall divide these expenses
15 pro rata, unless otherwise specifically ordered by the court.

16 (B) If a parent fails to pay his or her pro rata share of the child's or children's,
17 uninsured medical expenses, as specified in the child support order, within a reasonable
18 time after receipt of evidence documenting the uninsured portion of the expense, the
19 other parent, the nonparent caretaker, or the state or its Title IV-D agency, as defined
20 in Code Section 19-6-31, may enforce payment of the expense by any means permitted
21 by law.

22 (5) No adjustment to gross income shall be made in the calculation of a child support
23 obligation which seriously impairs the ability of the custodial parent in the case
24 immediately under consideration to maintain minimally adequate housing, food, and
25 clothing for the child or children being supported by the order and to provide other basic
26 necessities, as determined by the court.

27 (i)(1) The amount of child support established by this Code section and the child support
28 obligation table are rebuttable, and the court may deviate from the presumptive child
29 support order in compliance with this subsection. In deviating from the child support
30 guidelines, primary consideration shall be given to the best interest of the child or
31 children for whom support under the child support guidelines are being determined.

32 (2) When ordering a deviation from the presumptive amount of child support established
33 by the child support guidelines, the court's order shall contain written findings of fact
34 stating:

35 (A) The reasons for the change or deviation from the presumptive child support order;

36 (B) The amount of child support that would have been required under the child support
37 guidelines if the presumptive child support order had not been rebutted; and

1 (C) How, in its determination,

2 (i) Application of the child support guidelines would be unjust or inappropriate in the
3 case immediately under consideration; and

4 (ii) The best interests of the child for whom support is being determined will be
5 served by deviation from the presumptive child support order.

6 No deviation in the amount of the child support obligation shall be made which seriously
7 impairs the ability of the custodial parent in the case immediately under consideration to
8 maintain minimally adequate housing, food, and clothing for the child or children being
9 supported by the order and to provide other basic necessities, as determined by the court.

10 (3)(A) For purposes of this paragraph, parents are considered to be high-income
11 parents if their combined adjusted gross income exceeds \$20,000.00 per month.

12 (B) For high-income parents, the court shall set the child support obligation at the
13 highest amount allowed by the child support obligation table but may consider upward
14 deviation to attain an appropriate award of child support for high-income parents which
15 is considered in the best interest of the child or children.

16 (4) Deviation from the child support guidelines may be appropriate for reasons in
17 addition to those established under subsection (g) of this Code section when the court
18 finds it is in the best interest of the child, in accordance with the requirements of
19 subsection (e) of this Code section and the following procedures:

20 (A) In making its determination regarding a request for deviation pursuant to this
21 subsection, the court shall consider all available income of the parents and shall make
22 a written finding that an amount of child support other than the amount calculated under
23 the child support guidelines is reasonably necessary to provide for the needs of the child
24 or children for whom support is being determined in the case immediately under
25 consideration. If the circumstances which supported the deviation cease to exist, the
26 child support order may be modified to eliminate the deviation;

27 (B) In cases where the child or children are in the legal custody of the Department of
28 Human Resources, the child protection or foster care agency of another state or
29 territory, or any other child caring entity, public or private, the court may consider a
30 deviation from the presumptive child support order if the deviation will assist in
31 accomplishing a permanency plan or foster care plan for the child or children that has
32 a goal of returning the child or children to the parent or parents and the parent's or
33 parents' need to establish an adequate household or to otherwise adequately prepare
34 herself or himself or themselves for the return of the child or children clearly justifies
35 a deviation for this purpose;

36 (C) If parenting time related travel expenses are substantial due to the distance between
37 the parents, the court may order the allocation of such costs by deviation from the basic

1 child support obligation, taking into consideration the circumstances of the respective
2 parties as well as which parent moved and the reason that the move was made; and

3 (D)(i) The child support obligation table includes average child rearing expenditures
4 for families given the parents' monthly combined income and number of children.
5 Extraordinary expenses are in excess of these average amounts and are highly variable
6 among families. For these reasons, extraordinary expenses, other than the health
7 insurance premium and work related child care, shall be considered on a case by case
8 basis in the calculation of support and added to the basic support award as a deviation
9 so that the actual amount of the expense is considered in the calculation of the final
10 child support order for only those families actually incurring the expense.

11 (ii)(I) Extraordinary educational expenses may be added to the basic child support
12 as a deviation. Extraordinary educational expenses include, but are not limited to,
13 tuition, room and board, lab fees, books, fees, and other reasonable and necessary
14 expenses associated with special needs education or private elementary and
15 secondary schooling that are appropriate to the parent's financial abilities and to the
16 lifestyle of the child or children if the parents and child or children were living
17 together.

18 (II) In determining the amount of deviation for extraordinary educational expenses,
19 scholarships, grants, stipends, and other cost reducing programs received by or on
20 behalf of the child or children shall be considered.

21 (III) If a deviation is allowed for extraordinary educational expenses, a monthly
22 average of these expenses shall be based on evidence of prior or anticipated
23 expenses and entered on the child support worksheet in the deviation section.

24 (iii)(I) Special expenses incurred for child rearing, including but not limited to
25 expense variations related to the food, clothing, and hygiene costs of children at
26 different age levels, which can be quantified may be added to the child support
27 obligation as a deviation from the presumptive child support order. Such expenses
28 include, but are not limited to, summer camp, music or art lessons, travel, school
29 sponsored extra curricular activities, such as band, clubs, and athletics, and other
30 activities intended to enhance the athletic, social, or cultural development of a child
31 but are not otherwise required to be used in calculating the child support order as
32 are health insurance premiums and work related child care costs.

33 (II) A portion of the basic child support obligation is intended to cover average
34 amounts of special expenses incurred in the rearing of a child. When special
35 expenses exceed 7 percent of the monthly basic child support obligation, the court
36 shall consider additional amounts of support as a deviation to cover the full amount
37 of these special expenses.

1 (iv) In instances of extreme economic hardship, such as in cases involving
2 extraordinary medical needs not covered by insurance or other extraordinary special
3 needs for the child or children of a parent's current family, deviation from the child
4 support guidelines may be considered. In such cases, the court shall consider the
5 resources available for meeting such needs, including those available from agencies
6 and other adults.

7 (5)(A) For purposes of this paragraph, a parent is considered to be a low-income
8 person if his or her annual gross income is at or below the federal poverty level for a
9 single person.

10 (B) The court may consider the low income of the custodial parent or the noncustodial
11 parent as a basis for deviation from the guideline amounts.

12 (C) The court shall consider all nonexempt sources of income available to each party
13 and all expenses actually paid by each party.

14 (D) The party seeking a low-income deviation shall present to the court documentation
15 of all his or her income and expenses or provide sworn statements of all his or her
16 income and expenses in support of the requested deviation.

17 (E) The court shall make a written finding in its order that the deviation from the child
18 support guidelines based upon the low income and reasonable expenses of a party are
19 clearly justified and shall make the necessary written findings pursuant to this
20 paragraph.

21 (F) The court may deviate from the lowest amount of child support provided for in the
22 basic child support guideline table and shall make the necessary written findings if it
23 chooses to deviate.

24 (j)(1) The child support guidelines presume that when parents live separately, the child
25 or children will typically reside primarily with the custodial parent and stay overnight
26 with the noncustodial parent a minimum of every other weekend from Friday to Sunday,
27 two weeks in the summer, and two weeks during holidays throughout the year, for a total
28 of 80 days per year. The child support guidelines also recognize that some families may
29 have different parenting situations and thus allow for an adjustment in the noncustodial
30 parent's child support obligation, as appropriate, in compliance with the criteria specified
31 in this subsection. The calculations made for each parenting situation shall be based on
32 specific factual information regarding the amount of time each parent has with the child
33 or children.

34 (2)(A) If the noncustodial parent spends 100 or more days per calendar year with a
35 child or children, an assumption is made that the noncustodial parent is making greater
36 expenditures on the child or children due to the duplication of some child rearing
37 expenditures between the two households, for example, housing or food, and a

1 reduction to the noncustodial parent's child support obligation may be made to account
2 for these expenses.

3 (B) The noncustodial parent's child support obligation may be reduced for the days of
4 additional parenting time based upon the following schedule:

<u>Number of Days</u>	<u>Percent Reduction in Support</u>
<u>100-136 days</u>	<u>10 percent</u>
<u>137-151 days</u>	<u>20 percent</u>
<u>152-166 days</u>	<u>30 percent</u>
<u>167-181 days</u>	<u>40 percent</u>
<u>182 or more days</u>	<u>50 percent</u>

11 (C) The presumption that more parenting time by the noncustodial parent shall result
12 in a reduction to the noncustodial parent's support obligation may be rebutted by
13 evidence.

14 (D) If there is more than one child in the case with whom the noncustodial parent
15 spends 100 days or more per year, and the noncustodial parent is spending different
16 amounts of time with each child, then the time the noncustodial parent spends with each
17 child shall be averaged to determine the parenting time adjustment.

18 (3)(A) If the noncustodial parent spends 60 or fewer days per calendar year with a
19 child or children, an assumption is made that the custodial parent is making greater
20 expenditures on the child or children for items such as food and baby-sitting associated
21 with the increased parenting time by the custodial parent, and an increase in the
22 noncustodial parent's child support obligation may be made.

23 (B) The noncustodial parent's child support obligation may be increased for the
24 reduction in days of the noncustodial parent's parenting time based upon the following
25 schedule:

<u>Number of Days</u>	<u>Percent Increase in Support</u>
<u>60-39 days</u>	<u>10 percent</u>
<u>38-24 days</u>	<u>20 percent</u>
<u>23-9 days</u>	<u>30 percent</u>
<u>8-0 days</u>	<u>35 percent</u>

31 (C) The presumption that less parenting time by the noncustodial parent shall result in
32 an increase to the noncustodial parent's support obligation may be rebutted by
33 evidence.

34 (D) If there is more than one child in the case with whom the noncustodial parent
35 spends 60 or fewer days per year, and the noncustodial parent is spending different

1 amounts of time with each child, then the time the noncustodial parent spends with each
2 child is averaged to determine the parenting time adjustment.

3 (4) If there are additional children for whom support is being calculated with whom the
4 noncustodial parent spends more than 60 days but less than 100 days per calendar year,
5 the days with these children are not included in the calculation for the parenting time
6 adjustment.

7 (5) If a child support obligation is being calculated for multiple children, and the
8 noncustodial parent spends 100 days or more per year with at least one child and 60 or
9 fewer days with at least one child, then the percentage increase is offset against the
10 percentage decrease and the resulting percentage is applied to the child support
11 obligation.

12 (k) In the event a parent suffers an involuntary termination of employment, has an
13 extended involuntary loss of average weekly hours, is involved in an organized strike,
14 incurs a loss of health, or similar involuntary adversity resulting in a loss of income of 25
15 percent or more, then the portion of child support attributable to lost income shall not
16 accrue from the date of the filing of the petition for modification, provided that service is
17 made on the other parent.

18 (l)(1) The adoption of these child support guidelines constitutes a significant material
19 change in the establishment and calculation of child support orders. In any proceeding to
20 modify an existing order, an increase or decrease of 15 percent or more between the
21 amount of the existing order and the amount of child support resulting from the
22 application of these child support guidelines shall be presumed to constitute a substantial
23 change of circumstances as may warrant a modification based upon the court's
24 considerations of the parent's financial circumstances and the needs of the children. This
25 differential shall be calculated by applying 15 percent to the existing award. If there is
26 a material change in the father's income, the mother's income, the needs of the child or
27 children, or the needs of either parent, either parent shall have the right to petition for
28 modification of the child support award regardless of the length of time since the
29 establishment or most recent modification of the child support award. If there is a
30 difference of 30 percent or more between a new award and a prior award, the court may,
31 at its discretion, phase in the new child support award over a period of up to one year
32 with the phasing in being largely evenly distributed with at least an initial immediate
33 adjustment of not less than 25 percent of the difference and at least one intermediate
34 adjustment prior to the final adjustment at the end of the phase-in period.

35 (2) In proceedings for the modification of a child support award pursuant to the
36 provisions of this Code section, the court may award attorneys' fees, costs, and expenses
37 of litigation to the prevailing party as the interests of justice may require.

1 (3) No petition to modify child support may be filed by either parent within a period of
 2 two years from the date of the final order on a previous petition by the same parent except
 3 where the child support obligation table created by the Georgia Child Support
 4 Commission creates a difference of 15 percent or more between a new award and a prior
 5 award.

6 (m) For split custody situations, a worksheet shall be prepared separately for the child or
 7 children for whom the father is custodial parent and for the child or children for whom the
 8 mother is the custodial parent; and that worksheet shall be entered into the record. For each
 9 of these two custodial situations, the court shall enter which parent is the obligor, the
 10 presumptive award, and the actual award, if different from the presumptive award; how and
 11 when the net cash support owed shall be paid; and any other child support responsibilities
 12 for each of the parents.

13 (n) The child support obligation table shall be proposed by the Georgia Child Support
 14 Commission and set as determined by joint resolution of the General Assembly.

15 (o) This Code section shall apply to all temporary orders and final verdicts and decrees
 16 entered on and after March 1, 2006, and to any modifications of such final verdicts and
 17 decrees at any future time after the entry of such final verdicts and decrees."

18 SECTION 9.

19 Said title is further amended by striking Code Section 19-6-19, relating to revision of
 20 judgment for permanent alimony or child support generally, and inserting in lieu thereof the
 21 following:

22 "19-6-19.

23 (a) The judgment of a court providing permanent alimony for the support of a spouse
 24 rendered on or after July 1, 1977, shall be subject to revision upon petition filed by either
 25 former spouse showing a change in the income and financial status of either former spouse.
 26 ~~The judgment of a court providing permanent alimony for the support of a child or children~~
 27 ~~rendered on or after July 1, 1977, shall be subject to revision upon petition filed by either~~
 28 ~~former spouse showing a change in the income and financial status of either former spouse~~
 29 ~~or in the needs of the child or children. In either case a A petition shall be filed and~~
 30 returnable under the same rules of procedure applicable to divorce proceedings. No
 31 petition may be filed by either former spouse under this subsection within a period of two
 32 years from the date of the final order on a previous petition by the same former spouse.
 33 After hearing both parties and the evidence, the jury, or the judge where a jury is not
 34 demanded by either party, may modify and revise the previous judgment, in accordance
 35 with the changed income and financial status of either former spouse in the case of
 36 permanent alimony for the support of a former spouse, or in accordance with the changed

1 income and financial status of either former spouse ~~or in the needs of the child or children~~
 2 ~~in the case of permanent alimony for the support of a child or children~~, if such a change in
 3 the income and financial status is satisfactorily proved so as to warrant the modification
 4 and revision. In the hearing upon a petition filed as provided in this subsection, testimony
 5 may be given and evidence introduced relative to the income and financial status of either
 6 former spouse.

7 (b) Subsequent to a final judgment of divorce awarding periodic payment of alimony for
 8 the support of a spouse, the voluntary cohabitation of such former spouse with a third party
 9 in a meretricious relationship shall also be grounds to modify provisions made for periodic
 10 payments of permanent alimony for the support of the former spouse. As used in this
 11 subsection, the word 'cohabitation' means dwelling together continuously and openly in a
 12 meretricious relationship with another person, regardless of the sex of the other person. In
 13 the event the petitioner does not prevail in the petition for modification on the ground set
 14 forth in this subsection, the petitioner shall be liable for reasonable attorney's fees incurred
 15 by the respondent for the defense of the action.

16 (c) When an action for revision of a judgment for permanent alimony under this Code
 17 section is pending, the court in its discretion may allow, upon motion, the temporary
 18 modification of such a judgment, pending the final trial on the petition. In considering an
 19 application for temporary modification under this subsection, the court shall consider
 20 evidence of any changed circumstances of the parties and the reasonable probability of the
 21 petitioner obtaining revision upon final trial. The order granting temporary modification
 22 shall be subject to revision by the court at any time before final trial.

23 (d) In proceedings for the modification of alimony for the support of a spouse ~~or child~~
 24 pursuant to the provisions of this Code section, the court may award attorneys' fees, costs,
 25 and expenses of litigation to the prevailing party as the interests of justice may require."

26 SECTION 10.

27 Said title is further amended by striking Code Section 19-6-20, relating to revision of
 28 judgment for permanent alimony or child support generally, merits not an issue, and inserting
 29 in lieu thereof the following:

30 "19-6-20.

31 In the trial on a petition authorized in subsection (a) of Code Section 19-6-19, the merits
 32 of whether a party, ~~a child or children, or both, are~~ is entitled to alimony ~~and support~~ are
 33 not an issue. The only issue is whether there has been such a substantial change in the
 34 income and financial status of either former spouse ~~or in the needs of the child or children,~~
 35 ~~in cases of permanent alimony for the support of a child or children, or in the income and~~
 36 ~~financial status of either former spouse,~~ in cases of permanent alimony for the support of

1 a former spouse, as to warrant either a downward or upward revision or modification of the
2 permanent alimony judgment."

3 SECTION 11.

4 Said title is further amended by striking Code Section 19-6-21, relating to revision of
5 judgment for permanent alimony or child support not available in case of lump sum award,
6 and inserting in lieu thereof the following:

7 "19-6-21.

8 A petition authorized in subsection (a) of Code Section 19-6-19 can be filed only where a
9 party has been ordered by the final judgment in an alimony or divorce and alimony action
10 to pay permanent alimony in weekly, monthly, annual, or similar periodic payments and
11 not where the former spouse of such party, ~~the child or children, or both, have~~ has been
12 given an award from the corpus of the party's estate in lieu of such periodic payment."

13 SECTION 12.

14 Said title is further amended by striking Code Section 19-6-22, relating to revision of
15 judgment for permanent alimony or child support, expenses for defense of litigation, and
16 inserting in lieu thereof the following:

17 "19-6-22.

18 Where a petition authorized by subsection (a) of Code Section 19-6-19 is filed by a party
19 obligated to pay alimony, the court may require the party to pay the reasonable expenses
20 of litigation as may be incurred by the party's former spouse, ~~either~~ on behalf of the former
21 spouse, ~~or the child or children, or both,~~ in defense thereof."

22 SECTION 13.

23 Said title is further amended by striking Code Section 19-6-24, relating to applicability of
24 Code Section 19-6-18 or Code Sections 19-6-19 through 19-6-22 to judgments prior to
25 March 9, 1955, and inserting in lieu thereof the following:

26 "19-6-24.

27 Code Section 19-6-18 or Code Sections 19-6-19 through 19-6-22, as applicable, shall apply
28 to all judgments for permanent alimony for the support of a wife, ~~a child or children, or~~
29 ~~both,~~ rendered prior to March 9, 1955, where all the following conditions are met:

- 30 (1) Both parties to the case in which the judgment for permanent alimony was rendered
31 consent in writing to the revision, amendment, alteration, settlement, satisfaction, or
32 release thereof;

1 (2) There are no minor children involved or, if there were minor children at the time the
 2 original judgment was rendered, the children are all of age at the time the application is
 3 filed;

4 (3) The judge of the court wherein the original judgment for permanent alimony was
 5 rendered approves the revision, amendment, alteration, settlement, satisfaction, or release;
 6 and

7 (4) The consent of the parties, together with the court's approval, is filed with the clerk
 8 of the court wherein the original judgment for permanent alimony was rendered."

9 **SECTION 14.**

10 Said title is further amended by striking subsection (b) of Code Section 19-6-34, relating to
 11 inclusion of life insurance in order of support, and inserting in lieu thereof a new subsection
 12 (b) to read as follows:

13 "(b) The amount of the premium for such life insurance shall be counted as a part of the
 14 support ordered pursuant to the provisions of Code Section 19-6-15 or 19-6-15.1, as
 15 applicable, provided that the court shall review the amount of the premium for
 16 reasonableness in the circumstances of the child, the parent ordered to pay support, and the
 17 other parent."

18 **SECTION 15.**

19 Said title is further amended by designating the existing matter in Chapter 6 as Article 1 and
 20 adding a new Article 2 to the end of the chapter to read as follows:

21 "ARTICLE 2

22 19-6-50.

23 There is created the Georgia Child Support Commission for the purposes of studying and
 24 collecting information and data relating to awards of child support and to create and revise
 25 the child support obligation table. The commission shall be responsible for conducting a
 26 comprehensive review of the child support guidelines, economic conditions, and all matters
 27 relevant to maintaining effective and efficient child support guidelines and modifying child
 28 support orders that will serve the best interest of Georgia's children and take into account
 29 the changing dynamics of family life. Further, the commission shall determine whether
 30 adjustments are needed to the child support obligation table taking into consideration the
 31 guidelines set forth in Code Section 19-6-53. Nothing contained in the commission's
 32 report shall be considered to authorize or require a change in the child support obligation
 33 table without action by the General Assembly.

1 19-6-51.

2 (a) The Georgia Child Support Commission shall be composed of 15 members. The
3 Governor shall appoint all of the members as follows:

4 (1) Three members who shall be judges in a superior court;

5 (2) One member who shall be a Justice of the Supreme Court of Georgia or a Judge of
6 the Georgia Court of Appeals or the Justice's or Judge's designee;

7 (3) Two members of the House of Representatives and two members of the Senate; and

8 (4) Seven other members.

9 Each member of the commission shall be appointed to serve for a term of four years or
10 until his or her successor is duly appointed except the members of the General Assembly,
11 who shall serve until completion of their current terms of office. The initial members of
12 the commission appointed pursuant to paragraph (1) of this subsection shall serve for terms
13 of three years. The initial member of the commission appointed pursuant to paragraph (2)
14 of this subsection shall serve for a term of four years. The initial members of the
15 commission appointed pursuant to paragraph (4) of this subsection shall serve for terms of
16 two years. The initial members of the commission shall be appointed within 30 days of the
17 effective date of this Act and shall serve until their terms expire. The succeeding members
18 of the commission shall begin their terms of office on July 1 of the year in which
19 appointed. A member may be appointed to succeed himself or herself on the commission.
20 If a member of the commission is an elected official, he or she shall be removed from the
21 commission if he or she no longer serves as an elected official.

22 (b) The Governor shall designate the chairperson of the commission. The commission
23 may elect other officers as deemed necessary. The chairperson of the commission may
24 designate and appoint committees from among the membership of the commission as well
25 as appoint other persons to perform such functions as he or she may determine to be
26 necessary as relevant to and consistent with this article. The chairperson shall only vote
27 to break a tie.

28 (c) The commission shall be attached for administrative purposes only to the Department
29 of Human Resources. The Department of Human Resources shall provide staff support for
30 the commission. The Department of Human Resources shall use any funds specifically
31 appropriated to it to support the work of the commission.

32 19-6-52.

33 (a) The Georgia Child Support Commission shall hold meetings at the call of the
34 chairperson or as called by the Governor. Meetings shall be open to the public.

35 (b) A quorum for transacting business shall be a majority of the members of the
36 commission.

1 (c) Any legislative members of the commission shall receive the allowances provided for
2 in Code Section 28-1-8. Citizen members shall receive a daily expense allowance in the
3 amount specified in subsection (b) of Code Section 45-7-21 as well as the mileage or
4 transportation allowance authorized for state employees. Members of the commission who
5 are state officials, other than legislative members, or state employees shall receive no
6 compensation for their services on the commission, but they shall be reimbursed for
7 expenses incurred by them in the performance of their duties as members of the
8 commission in the same manner as they are reimbursed for expenses in their capacities as
9 state officials or state employees. The funds necessary for the reimbursement of the
10 expenses of state officials, other than legislative members, and state employees shall come
11 from funds appropriated to or otherwise available to their respective departments. All other
12 funds necessary to carry out the provisions of this article shall come from funds
13 appropriated to the House of Representatives and the Senate.

14 19-6-53.

15 (a) The Georgia Child Support Commission shall have the following duties:

16 (1) To study and evaluate the effectiveness and efficiency of Georgia's child support
17 guidelines;

18 (2) To evaluate and consider the experiences and results in other states which utilize
19 child support guidelines;

20 (3)(A) To create and recommend to the General Assembly a child support obligation
21 table consistent with Code Section 19-6-15.1. Prior to January 1, 2006, the commission
22 shall produce the child support obligation table and provide an explanation of the
23 underlying data and assumptions to the General Assembly by delivering copies to the
24 President Pro Tempore of the Senate and the Speaker of the House of Representatives.

25 (B)(i) The child support obligation table shall include deductions from a parent's
26 gross income for the employee's share of the contributions for the first 6.2 percent in
27 Federal Insurance Contributions Act (FICA) and 1.45 percent in medicare taxes.

28 (ii) FICA tax withholding for high-income persons may vary during the year. Six
29 and two-tenths percent is withheld on the first \$90,000.00 of gross earnings. After the
30 maximum \$5,580.00 is withheld, no additional FICA taxes shall be withheld.

31 (iii) Self-employed persons are required by law to pay the full FICA tax of 12.4
32 percent up to the \$90,000.00 gross earnings limit and the full medicare tax rate of 2.9
33 percent on all earned income.

34 (iv) The percentages and dollar amounts established or referenced in this
35 subparagraph with respect to the payment of self-employment taxes shall be adjusted
36 by the commission, as necessary, as relevant changes occur in the federal tax laws.

1 (C) After reviewing the commission's report, the General Assembly shall consider and
 2 approve by joint resolution the initial child support obligation table before the table
 3 shall become effective and shall authorize by joint resolution all subsequent child
 4 support obligation tables;

5 (4) To determine periodically, and at least every two years, if the child support obligation
 6 table results in appropriate presumptive awards;

7 (5) To identify and recommend whether and when the child support obligation table or
 8 child support guidelines should be modified;

9 (6) To develop and publish the child support obligation table and worksheets associated
 10 with the use of such table;

11 (7) To develop or cause to be developed software and a calculator associated with the use
 12 of the child support obligation table and child support guidelines;

13 (8) To develop training manuals and information to educate judges, attorneys, and
 14 litigants on the use of the child support obligation table and child support guidelines;

15 (9) To collaborate with the Institute for Continuing Judicial Education, the Institute of
 16 Continuing Legal Education, and other agencies for the purpose of training persons who
 17 will be utilizing the child support table and child support guidelines; and

18 (10) To make recommendations for proposed legislation.

19 (b) The commission shall have the following powers:

20 (1) To evaluate the child support guidelines in Georgia and any other program or matter
 21 relative to child support in Georgia;

22 (2) To request and receive data from and review the records of appropriate agencies to
 23 the greatest extent allowed by state and federal law;

24 (3) To accept public or private grants, devises, and bequests;

25 (4) To enter into all contracts or agreements necessary or incidental to the performance
 26 of its duties;

27 (5) To establish rules and procedures for conducting the business of the commission; and

28 (6) To conduct studies, hold public meetings, collect data, or take any other action the
 29 commission deems necessary to fulfill its responsibilities.

30 (c) The commission shall be authorized to retain the services of auditors, attorneys,
 31 financial consultants, child care experts, economists, and other individuals or firms as
 32 determined appropriate by the commission."

33 **SECTION 16.**

34 Said title is further amended by striking in its entirety Code Section 19-7-2, relating to
 35 parents' obligations to child, and inserting in lieu thereof the following:

1 "19-7-2.

2 It is the joint and several duty of each parent to provide for the maintenance, protection,
3 and education of his or her child until the child reaches the age of majority, dies, marries,
4 or becomes emancipated, whichever first occurs, except as otherwise authorized and
5 ordered pursuant to subsection (e) of Code Section 19-6-15 or subsection (d) of Code
6 Section 19-6-15.1 and except to the extent that the duty of the parents is otherwise or
7 further defined by court order."

8 **SECTION 17.**

9 Said title is further amended by striking subsection (a) of Code Section 19-7-46.2, relating
10 to temporary order of support, and inserting in lieu thereof a new subsection (a) to read as
11 follows:

12 "(a) Upon motion by a party to a paternity action, a temporary order shall be issued in
13 accordance with the guidelines prescribed in Code Section 19-6-15 or 19-6-15.1, as
14 applicable, if there is clear and convincing evidence of paternity. Such temporary order
15 will be valid pending an administrative or judicial determination of parentage."

16 **SECTION 18.**

17 Said title is further amended by striking Code Section 19-11-12, regarding determination of
18 ability to support, and inserting in lieu thereof a new Code Section 19-11-12 to read as
19 follows:

20 "19-11-12.

21 (a) The IV-D agency shall determine the ability of the noncustodial parent to support his
22 or her child or children in accordance with the guidelines prescribed in Code Section
23 19-6-15 or 19-6-15.1, as applicable.

24 (b)(1) The IV-D agency shall periodically give notice to the obligor and obligee who are
25 subject to a IV-D court order for child support, as defined in paragraph (1) of Code
26 Section 19-11-3, of the right of each to request a review of the order by the IV-D agency
27 for possible recommendation for adjustment of such order. Such notification should be
28 provided within 36 months after the establishment of the order or the most recent review;
29 however, failure to provide the notice within 36 months shall not affect the right of either
30 party to request a review nor the right of the IV-D agency to conduct a review and to
31 recommend an adjustment to the order. The notice can be included in the initial order or
32 review recommendation.

33 (2) The establishment of a child support order or the entry of an order to modify a child
34 support order or a determination of no change to a child support order under this Code
35 section shall commence a 36 month cycle, the purpose of which is to provide the parties

1 the right to a review of the order at least every 36 months or in such shorter cycle as the
2 IV-D agency may determine. The failure of either party to request a review at least once
3 every 36 months shall not affect the right of either party to request a review nor the right
4 of the IV-D agency to conduct a review and to recommend an adjustment to the order at
5 any time beyond the 36 month cycle.

6 (c)(1) The IV-D agency shall review IV-D court orders for child support, as defined in
7 paragraph (1) of Code Section 19-11-3, for possible modification under this chapter. The
8 review shall be performed upon the written request of either the obligor or obligee, or,
9 if there is an assignment under subsection (a) of Code Section 19-11-6, upon the request
10 of the IV-D agency or of the obligor or obligee. Exceptions to this procedure are cases
11 where the IV-D agency determines that such a review would not be in the best interest
12 of the child or children involved.

13 (2) If the request for the review occurs less than 36 months since the last issuance or last
14 review of the order, the IV-D agency shall review, and if the requesting party
15 demonstrates a substantial change in circumstances, seek to modify the order in
16 accordance with the guidelines as provided by paragraph (2) of subsection (d) of this
17 Code section.

18 (3) If the request for the review occurs at least 36 months after the last issuance or last
19 review, the requesting party shall not be required to demonstrate a substantial change in
20 circumstances, the need for additional support, or that the needs of the child have
21 decreased. The sole basis for a recommendation for a change in the award of support
22 under this paragraph shall be a significant inconsistency between the existing child
23 support order and the amount of child support which would result from the application
24 of Code Section 19-6-15 or 19-6-15.1, as applicable.

25 (d)(1) The IV-D agency shall notify the obligor and obligee at least 30 days before the
26 commencement of a review of a child support order.

27 (2) The IV-D agency shall review and, if there is a significant inconsistency between the
28 amount of the existing child support order and the amount of child support which would
29 result from the application of Code Section 19-6-15 or 19-6-15.1, as applicable, the
30 agency shall make a recommendation for an increase or decrease in the amount of an
31 existing order for support. The IV-D agency shall not be deemed to be representing
32 either the obligee or obligor in a proceeding under this Code section.

33 (3) Upon completion of a review, the IV-D agency shall send notice by first-class mail
34 to the obligor and obligee at their last known addresses of a proposed adjustment or a
35 determination that there should be no change in the child support award amount. Each
36 party shall have 30 days from the date of the notice to object in writing to the IV-D
37 agency's proposed adjustment or determination of no change.

1 (4)(A) In the case of an administrative order, the agency shall request the
2 administrative law judge to increase or decrease the amount in the existing order in
3 accordance with the agency recommendation. If either the obligor or the obligee files
4 with the agency within 30 days written objections to the agency's proposed adjustment
5 to the child support order or determination of no change to the child support order, the
6 matter shall be scheduled for an administrative hearing within the Office of State
7 Administrative Hearings. The administrative order adjusting the child support award
8 amount which results from a hearing or the failure to object to the agency's proposed
9 adjustment or determination of no change shall, upon filing with the local clerk of the
10 court, have the full effect of a modification of the original order or decree of support.
11 As part of the order adjusting the child support award the administrative law judge shall
12 issue an income and earnings deduction order which shall also be filed with the court
13 pursuant to Code Sections 19-6-30 through 19-6-33.

14 (B) In the case of a judicial order, the agency shall file a petition asking the court to
15 adopt the agency's recommendation for an increase or decrease in the amount in the
16 existing order. Upon the filing of a written objection to the agency's proposed
17 adjustment or determination of no change with the clerk of the superior court and with
18 the agency, a de novo proceeding shall be scheduled with the court on the matter. If
19 neither party files an objection within the 30 day notice period, the court shall issue an
20 order adopting the recommendation of the IV-D agency. As part of the order adjusting
21 the child support award, the court shall issue an income and earnings deduction order
22 pursuant to Code Sections 19-6-30 through 19-6-33.

23 (e) When the trier of fact, the administrative law judge for administrative orders, or a judge
24 of the superior court for court orders, as the case may be, determines that there is a
25 significant inconsistency between the existing child support order and the amount of child
26 support which would result from the application of Code Section 19-6-15 or 19-6-15.1, as
27 applicable, the trier of fact may use this inconsistency as the basis to increase or decrease
28 the amount of support ordered. The trier of fact may also address the repayment of any
29 arrears accumulated under the existing order.

30 (f) An obligor shall not be relieved of his or her duty to provide support when such obligor
31 has brought about his or her own unstable financial condition by voluntarily incurring
32 subsequent obligations.

33 (g) The department shall be authorized to promulgate rules and regulations to implement
34 the provisions of this Code section."

SECTION 19.

Said title is further amended by striking subsection (a) of Code Section 19-11-15, relating to voluntary support agreement, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) When the department has completed its investigation, has determined the ability of the absent parent to support his or her child or children in accordance with guidelines prescribed in Code Section 19-6-15 or 19-6-15.1, as applicable, and believes that the absent parent is able to furnish a certain amount of support, the department may, as an exception to Code Section 9-12-18, request the absent parent to enter into a proposed consent order and income deduction order to provide the support amount and accident and sickness insurance coverage consistent with Code Section 19-11-26 prior to the filing of an action with the superior court. The orders may not be set aside on the grounds that the parties consented thereto prior to the filing of the action. An income deduction order shall issue consistent with Code Sections 19-6-30 through 19-6-34. If the department is unable to secure a proposed consent order from the parent, the department may file an action in superior court or may initiate an administrative action pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'"

SECTION 20.

Section 15 of this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval, and the remaining sections of this Act shall become effective on March 1, 2006.

SECTION 21.

All laws and parts of laws in conflict with this Act are repealed.