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So What Do I Do Now? Child Support Enforcement – Issues & Options

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Research Guides

So What Do I Do Now? Child Support Enforcement – Issues & Options

Guide Information

Last Updated:	Oct 29, 2010
Guide URL:	http://libguides.law.gsu.edu/ChildSupportEnforcement
Description:	Sarah Trevena Gordon - Spring 2006 - Family Law
Tags:	family_law, georgia_law
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Introduction

The failure of a parent to pay child support, whether due to inability to pay or due to willful refusal, causes problems for all concerned. The stereotypical concept of a “deadbeat parent” may or may not be applicable in a particular case, although this term is thrown around rather carelessly in the mainstream media. Unemployment, underemployment, downsizing, outsourcing, lack of health insurance and the overall decline in recent years in the types and amounts of public assistance available to those in need all play a role. Factor in the pain of love relationships gone wrong, the stress of long-distance parenting, and sometimes domestic violence, and you’ve got a recipe for conflict.

Sometimes child support is withheld in an effort to continue to exert control over and inflict pain upon the former partner. This is particularly true in cases of domestic violence. Likewise, child support enforcement measures can be abused by custodial parents seeking any excuse to retaliate against the other parent for past wrongs, whether real or perceived. Whatever the motivation for such behavior, the law says that parents have a duty to support their children. Kids should come first, and compromise between the parties should be encouraged so that exposure of the children to conflict is minimized. Mediation is usually a good idea, except in cases of domestic violence, where it should be employed only after following strict guidelines of which courts, attorneys, and family law mediators must be aware. Late case evaluations can also be a great way to make difficult parties see the light. It is my hope that this research guide will be used with an eye toward choosing the right tool for the right job, and with a realization that a sledgehammer is not always the best choice.

Scope

The scope of this annotation is options for child support enforcement for obligee/payee parents in Georgia, as well as the issues that may arise in connection therewith. The annotation also addresses some of the resources available to obligor/payor parents who wish to meet their obligations but are having trouble doing so.

Purpose

The purpose of this online research guide is to identify in one resource the various issues that arise in relation to enforcement of child support obligations in Georgia, as well as to gather in one place the options that exist for parties on both sides of the equation with regard to collection and payment of child support arrears. The guide is aimed at attorneys, paralegals and pro se litigants alike, with the hope of providing practical advice as to what laws to consider and what steps to take in resolving child support enforcement disputes.

A Note on Secondary Sources

There are two treatises used extensively by family law practitioners in Georgia and cited numerous times in this research guide. Rather than annotate each citation to these sources, here are general descriptions of these treatises:

Dan E. McConaughey, *Georgia Divorce, Alimony, and Child Custody* (2005). The first step in any Georgia domestic relations research project is to “check McConaughey.” It is THE Georgia family law treatise, and it is organized by subject and written in a narrative style, with plenty of case citations. It also contains a handy legal forms section. Published by Thomson/West, with new editions every year, it is available in electronic form on Westlaw. The call number in the Georgia State University College of Law Library is KFG100 .M25 1980. As with any treatise, be sure you are using the latest edition, and always read the cited authority; do not simply rely on the conclusory statements in the treatise itself.

Kathy L. Portnoy and Charla E. Strawser, *Georgia Domestic Relations Case Finder* (3d ed., 2004). This treatise is the second essential component of any Georgia family law practitioner's legal research arsenal. It contains a listing of case summaries by topic, with minimum narrative. There is an entire chapter devoted to enforcement. It is published by LexisNexis Matthew Bender, and it is available in electronic form on Lexis. GSU COL Library call number: KFG94.A53 C35 2004. The latest edition is kept in the Ready Reference section of the library.

A Word of Caution

This annotation is not comprehensive; there is no way it could be. Nothing in this research guide should be understood to constitute legal advice. Every case is different and highly fact specific. Not every option listed herein will apply to every case, nor should pro se litigants act on any of the options listed without first consulting an attorney and/or the appropriate state agency.

The information contained in this guide is current as of Spring 2006; after that, all bets are off. Statutes and cases listed herein should be Keycited or Shepardized every time they are used to ensure they are still good law. Be sure to use the most current editions of secondary sources, and don't forget to check the pocket parts. Also, do not rely on treatise author's interpretations of cases; they are sometimes strained, and they can be downright wrong. Read every case before citing it. Websites change often; please e-mail the author about any broken or outdated links.

About the Author

As of Spring 2006, Sarah Trevena Gordon is a part-time student in her fourth and final year of study at Georgia State University College of Law. Since beginning law school in Fall 2002, the author has worked full-time as a paralegal at a small Atlanta general litigation firm with a concentration in family law.

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FEDERAL LAWS ON CHILD SUPPORT ENFORCEMENT

Introduction

There have been numerous federal efforts to encourage states to increase their child support enforcement efforts, the most recent major change being the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The listing of statutes offered here is by no means exhaustive, and absolutely no attempt has been made to compile an accurate legislative history. Please see the Government Agency and Law Enforcement section for some practical applications of the legislation.

Federal Statutes

15 U.S.C. § 1681b, Permissible Purposes of Consumer Reports. This statute allows state and local child support enforcement agencies to access consumer credit reports for the purpose of determining a person's capacity to make child support payments.

18 U.S.C. § 228, Child Support Recovery Act of 1992. This section of the criminal code makes it a federal crime to willfully fail to pay a support obligation with respect to a child who resides in another state, or to travel in interstate or foreign commerce to evade a support obligation. There are two different levels of nonpayment – one year or $5000, and two years or $10,000.

26 U.S.C. § 6103, Confidentiality and Disclosure of Returns and Return Information. Part (l)(6) of this section of the tax code provides for disclosure by the IRS to state and local child support enforcement agencies of certain income tax return information of both obligor and obligee parents.

28 U.S.C. § 1738B, Full Faith and Credit for Child Support Orders Act (FFCCSOA). This statute sets forth the conditions under which states must accord full faith and credit to child support orders from other states. In addition, it provides for continuing jurisdiction of the state that issues a child support order until certain conditions are met. It also contains choice-of-law provisions.

42 U.S.C. §§ 651 through 669b, Child Support and Establishment of Paternity. Highlights include:

§ 653 -- Federal Parent Locator Service

§ 653(a) -- State Directory of New Hires

§ 660 -- Jurisdiction of U.S. District Courts for certain child support enforcement actions

§ 664 – Collection of past-due support from Federal tax refunds

§ 665 – Allotments from pay for child and spousal support owed by members of uniformed services on active duty

§ 669(a) – Nonliability for financial institutions providing financial records to State child support enforcement agencies in child support cases

§ 669(b) – Grants to States for access and visitation programs

Secondary Sources

Kurtis A. Kemper, *Validity, Construction, and Application of Child Support Recovery Act of 1992 (18 U.S.C.A. § 228)*, 147 A.L.R. Fed. 1 (2005). This annotation deals largely with the constitutionality of this federal law, which ventured further into the traditionally state-controlled realm of family law than Congress had ever dared go before. The number of

Supreme Court cases on the subject is astounding.

History of Child Support in the USA. This UK-based website offers a detailed look at child support enforcement from 1601 forward and is a great source for the public policy behind the federal laws of the past ten to twenty years.

Online Search Tips

If you are looking for legislative history materials, often the best search term is the name of the particular act itself, e.g., "Child Support Recovery Act of 1992". Also, searching for the name of the particular provision or program, such as "Directory of New Hires", often takes you directly where you need to go.

Child Support and Bankruptcy

1. Introduction

As a general rule, an obligor parent cannot get out of paying either current or back child support by filing for bankruptcy.

2. Federal Statutes

11 U.S.C. § 523(a)(5), Exceptions to Discharge. This section of the Bankruptcy code exempts "domestic support obligations" from discharge in bankruptcy.

11 U.S.C. § 362(a) & (b), Automatic Stay. Exempted from the automatic stay provisions of this code section are:

(1) the commencement or continuation of an action or proceeding for the establishment of paternity or the establishment or modification of an order for alimony, maintenance, or support; or

(2) the collection of alimony, maintenance, or support from property that is not property of the [bankruptcy] estate.

3. Federal Case Law

Dunbar v. Dunbar , 190 U.S. 340, 23 S.Ct. 757, 47 L.Ed. 1084 (1903). Although this case was argued before the bankruptcy laws expressly exempted child support obligations from discharge, the Supreme Court held it was not the intent of Congress, in passing the bankruptcy act, to provide for the release of a parent from the obligation to support minor children.

Wetmore v. Markoe , 196 U.S. 68, 25 S.Ct. 172, 49 L.Ed. 390 (1904). This is another case from before the child support exemption from discharge was codified, holding that bankruptcy does not bar the collection of child support arrearages.

In re Booch , 95 B.R. 852 (N.D.Ga. 1988). Attorney fee award to custodial parent made in connection with suit to establish paternity and child support held to be in the nature of support and therefore not dischargeable in bankruptcy. The court gave considerable weight to the disparity in income between the parties.

4. Georgia Case Law

Dep't of Human Res. v. Chambers , 211 Ga.App. 763, 441 S.E.2d 77 (1984). Confirms that various remedies for enforcement and collection of child support, including contempt, execution by writ of fi fa, and garnishment may generally be pursued either singly or concurrently when a bankruptcy stay is in place.

Ward v. Ward , 256 Ga. 164, 344 S.E.2d 652 (1986). In this rather odd case, a former husband assumed responsibility for repayment of a joint loan when his former wife declared bankruptcy. The former husband's child support obligation was subsequently reduced as a result of his having taken on full repayment of the loan, as well as of the former wife's doubling in income.

In re Bates , 272 Ga. 93, 526 S.E.2d 545 (2000). Voluntary surrender of bar license case in which, among other things, the attorney failed to take further action to obtain child support for her client because she mistakenly assumed that the filing for bankruptcy by the opposing party meant that child support would be paid through the bankruptcy trustee.

5. Secondary Sources

Diane M. Allen, *Debts for Alimony, Maintenance, and Support as Exceptions to Bankruptcy Discharge, Under Sec. 523(a)(5) of Bankruptcy Code of 1978 (11 U.S.C.A. § 523(a)(5)*, 69 A.L.R. Fed. 403 (1984). Like most ALRs, this annotation provides more information than you'll ever need to know on this topic. It is valuable to Georgia practitioners for its extensive listing of 11 th Circuit authority.

Dan E. McConaughey, *Georgia Divorce, Alimony, and Child Custody* § 14:25 (2005).

Laura W. Morgan, *The Effect of Bankruptcy on Child Support Enforcement*. This article by one of the leading scholars on child support lays out all the basics on the subject.

William L. Norton, Jr., *Norton Bankruptcy Law and Practice* § 36:16 (2d ed. 2006). This section of one of the leading bankruptcy law treatises is of course aimed at bankruptcy practitioners, but it provides a good summary.

Kathy L. Portnoy and Charla E. Strawser, *Georgia Domestic Relations Case Finder* § 15(D)(2)(s) (3d ed., 2004).

Howard J. Steinberg, Bankruptcy Litigation § 13:30 (2005). Another concise source aimed at attorneys who specialize in bankruptcy.

Shayna M. Steinfeld and Bruce R. Steinfeld, *The Family Lawyer's Guide to Bankruptcy* (ABA Publishing, 2001). This book covers all family law issues as they relate to bankruptcy, not just child support. It comes with a CD-Rom containing sample letters, documents, forms and pleadings and can be purchased on the ABA website.

Shayna M. Steinfeld and Bruce R. Steinfeld, *A Brief Overview of Bankruptcy and Alimony/Support Issues,* 38 Fam. L.Q. 127 (Spring, 2004). This article by the authors of the leading treatise listed above hits all the highlights in a well-organized and easy-to-read form.

6. Online Search Tips

The following terms, limited by "child support": "bankrupt!", "discharg!"; "exempt!"; "stay".

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UNIFORM LAWS ON CHILD SUPPORT ENFORCEMENT

Introduction

Drafted by the National Conference of Commissioners on Uniform State Laws, URESA, RURESA and UIFSA provide streamlined procedures for collection of child support across state lines. The UEFJA applies to all foreign judgments, not just child support, but it is an important tool in enforcement. A full discussion of the provisions of these uniform laws is beyond the scope of this annotation.

Uniform Reciprocal Enforcement of Support Act (URESA)

1. Georgia Law

URESA is codified at O.C.G.A. §§ 19-11-40 through 81, but it has been largely superceded by UIFSA (see below). Two important points:

Effective January 1, 1998, no new proceedings may be initiated using URESA; instead, UIFSA applies. URESA may still be used for proceedings pending prior to the above date.

Under URESA, a petition could be filed with the district attorney in the county of residence of the defendant. If the DA elected not to represent the petitioner, the action was brought by the state child support agency under the Child Support Recovery Act.

2. Secondary Sources

Dan E. McConaughey, *Georgia Divorce, Alimony, and Child Custody* § 14:23 (2005).

Kathy L. Portnoy and Charla E. Strawser, *Georgia Domestic Relations Case Finder* § 15-9 (3d ed., 2004).

Uniform Interstate Family Support Act of 1992 (UIFSA)

1. Georgia Law

UIFSA is codified at O.C.G.A. §§ 19-11-100 through 191. Some highlights include:

UIFSA applies to proceedings initiated on or after January 1, 1998.

UIFSA can be used to establish, enforce or modify a child support order or to determine parentage of a nonresident individual.

UIFSA provides for continuing exclusive jurisdiction over nonresident parents who fail to pay child support as long as certain conditions are met (generally speaking, as long as one of the parties to the order remains a resident of the state that issued the child support order).

UIFSA can be used by individual petitioners, but it would seem to have the most application with state child support enforcement agencies.

2. Secondary Sources

Kurtis A. Kemper, *Construction and Application of Uniform Interstate Family Support Act,* 90 A.L.R. 5 th 1 (2001). This comprehensive resources contains a detailed review of the case law involving UIFSA, especially with regard to the issue of continuing exclusive jurisdiction and personal jurisdiction, as well as enforcement and modification.

Laura W. Morgan, *Interstate Enforcement of Support: A Short Primer on Federal and Uniform Law*. Written for lawyers, this article by one of the country's leading legal scholars on child support is an excellent summary for practitioners who need to come up to speed quickly.

Dan E. McConaughey, *Georgia Divorce, Alimony, and Child Custody* § 14:27-35 (2005).

Kathy L. Portnoy and Charla E. Strawser, *Georgia Domestic Relations Case Finder* §§ 1-4 (3d ed., 2004).

Uniform Enforcement of Foreign Judgments Act (UEFJA)

1. Georgia Law

UEFJA is codified at O.C.G.A. §§ 9-12-130 through138. Highlights include:

"A filed foreign judgment has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, staying, enforcing, or satisfying as a judgment of the court in which it is filed and may be enforced or satisfied in like manner." O.C.G.A. § 9-12-132.

O.C.G.A. § 9-12-133 provides for filing of an affidavit by the judgment creditor and for notice of the filing to the judgment debtor.

If the foreign judgment is subject to a pending appeal in the issuing state, execution is stayed until the appeal is resolved.

The fee to file a foreign judgment is the same as for any other newly initiated action.

The UEFJA applies only to foreign judgments from states that have adopted the UEFJA in substantially the same form as Georgia.

2. Secondary Sources

Stuart Firestone, *Georgia Post-Judgment Collection* § 5-2 (4 th ed., 2002-2006). This concisely written treatise contains a comprehensive summary of the UEFJA in Georgia, with numerous citations to authority.

Laura W. Morgan, *Interstate Enforcement of Support: A Short Primer on Federal and Uniform Law*. Written for lawyers, this article by one of the country's leading legal scholars on child support is an excellent summary for practitioners who need to come up to speed quickly.

Online Search Tips

The best way to find cases is to search on the applicable acronym, e.g., UIFSA. The best way to find the codification of a uniform act in a particular state code is usually to consult the online table of contents for the code. With the exception of UEFJA, which is usually found in a state's civil practice act or equivalent under "judgments" or "executions", most of the uniform acts relating to child support can be found in the domestic relations section of a state code.

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GEORGIA STATE LAWS ON CHILD SUPPORT ENFORCEMENT BY TOPIC

Abandonment

1. Introduction

In cases in which a parent willfully refuses to provide any support whatsoever for a child, there exists the option of criminal prosecution for abandonment. Needless to say, it is an extreme remedy that should not be used if the ultimate goal is compromise.

2. Georgia Statutes

O.C.G.A. § 19-10-1, Abandonment of child. This statute makes it a misdemeanor for a parent to leave a child in a dependent condition, that is, not to furnish the child with sufficient food, clothing, or shelter for the needs of the child. Leaving the state or being convicted of misdemeanor abandonment a third time makes it a felony. Abandonment is considered a continuing offense. The statute contains provisions for ordering blood tests in order to establish paternity. It also authorizes a court to suspend a defendant's sentence on the condition that he or she pay child support. Finally, the statute contains a provision for modification of child support, with the court that issued the original order of support retaining jurisdiction to hear modification actions. Since criminal matters in Georgia often come before state instead of superior courts, this can result in the anomaly of a state court trying a modification case. But that is what the statute prescribes.

O.C.G.A. § 16-5-72, Reckless abandonment of a child. This code section makes it a felony to willfully and voluntarily abandon a child with the intention of severing all parental or custodial duties and responsibilities to such child and leaving such child in a condition which results in death.

3. Georgia Case Law

Jones v. Helms, 452 U.S. 412, 101 S.Ct. 2434, 69 L.Ed.2d 118 (1981). Georgia's child abandonment statute providing for stiffer penalties for parents who leave the state does not violate the fundamental right to travel, nor does it violate the equal protection clause.

Wilson v. State , 244 Ga.App. 224, 534 S.E.2d 910 (2000). The elements of abandonment under O.C.G.A. 19-10-1(a) are desertion, defined as "willful forsaking and desertion of duties of parenthood," and dependency, defined as leaving a child without "sufficient food, clothing, or shelter." Both elements must be satisfied beyond a reasonable doubt to support a conviction. Proof that the custodial parent was forced to rely on public assistance is sufficient to show dependency.

Chapman v. State , 181 Ga.App. 320, 352 S.E.2d 216 (1986). The duty of support is not dependent on custody; a parent has a duty to support his or her child regardless of which parent has custody.

Bull v. State , 80 Ga. 704, 6 S.E. 178 (1888). A father cannot be convicted of abandoning an unborn child. If he leaves before the child is born but returns to support the child upon its birth, he is not guilty of abandonment. If, however, he leaves before the child is born and his abandonment continues after the child is born, he is guilty of abandonment. See also:

Waites v. State, 138 Ga.App. 513, 226 S.E.2d 621 (1976).

Fairbanks v. State , 105 Ga.App. 27, 123 S.E.2d 319 (1961). Venue for prosecution of parent for abandonment is the county in which the child first became dependent upon others for support. See O.C.G.A. § 19-10-1(d).

Pruitt v. Lindsey , 261 Ga. 540, 407 S.E.2d 750 (1991). State court that issued original order of support in connection with father's abandonment conviction retained jurisdiction under O.C.G.A. § 19-10-1(j)(1, 2 & 4) to hear mother's subsequent modification action.

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4. Secondary Sources

M.L. Cross, *Father's Criminal Liability for Desertion of or Failure to Support Child Where Divorce Decree Awards Custody to Another*, 73 A.L.R.2d 960 (2005). This annotation points out that Georgia appears to follow the minority view that the wilful failure of a father to pay child support after the entry of a divorce decree which grants custody of the child to the mother constitutes abandonment or desertion. (The majority view is that a father cannot be deemed to abandon a child where full custody has awarded to the mother). There are eight Georgia cases cited.

Robert E. Cleary, *Molnar Ga. Criminal Law – Crimes and Punishment* § 8-1 (Abandonment of Child) (6 th ed. 2000-2005). This treatise provides an extensive discussion of all aspects of the offense of abandonment and is an excellent source not only for criminal lawyers but for family practitioners who may be unfamiliar with how things work on the criminal side.

5. Online Search Tips

The search terms here are pretty straightforward: "abandon!" limited by "child support"; "wilful" or "willful"; "reckless abandonment"; "desertion".

Contempt Actions

1. Introduction

One remedy for non-payment of child support is to bring a motion for contempt against the obligor parent.

2. Georgia Statutes

O.C.G.A. § 15-1-4. Part (c) of this statute authorizes a court to sentence a gainfully employed person found in contempt for violating an order for child support to a diversion program established under O.C.G.A. 42-8-130 if such a program exists in the county. Such a program allows the contemnor to continue working until he purges himself of the contempt.

O.C.G.A. § 15-6-8. This statute lists the powers of superior courts, including the punishment of contempt by fines not exceeding $500.00 and by imprisonment not exceeding 20 days.

O.C.G.A. § 19-6-28. This code section provides for power of a Georgia court to punish violation of child support orders to the same extent as in any other action for contempt. It also provides that an action for enforcement of a child support order is part of the underlying action. This means there is no new filing fee, and the procedure is to file a motion for contempt using the same case number as the underlying action (e.g., the divorce or child support order).

Part (b) contains the rules for serving motions and rules nisi in actions under this code section. (A rule nisi is an order to appear before the judge and show cause why the prayers for relief in the motion should not be granted). Cross reference O.C.G.A. § 9-11-4 regarding service of process. If the defendant will not acknowledge service of the motion, he or she must be personally served with the motion for contempt and rule nisi.

O.C.G.A. § 42-8-130. This statute authorizes counties to establish diversion programs for confinement of persons found in contempt for violation of orders to pay child support. Cross reference O.C.G.A. § 15-1-4. Unfortunately, it also contains a provision that allows counties to charge inmates up to $30 a day for the cost of the program in the event there is anything left over once child support is paid.

3. Georgia Case Law

Ensley v. Ensley , 239 Ga. 860, 238 S.E.2d 920 (1977). This case contains many of the rules for contempt actions, including:

The difference between civil and criminal contempt lies in the purpose for which the power is exercised. If the primary purpose is punishment, the contempt is criminal. If the primary purpose is to provide a remedy to an aggrieved party and to coerce compliance, the contempt is civil.

If the contemnor is imprisoned for a specified unconditional period, the purpose is punishment and thus the contempt is criminal. If he or she is imprisoned only until compliance with the court's order, then the purpose is remedial and the contempt is civil.

There is nothing inherent in a divorce decree or alimony award that prevents willful disobedience from being punished with criminal contempt.

A parent who willfully refuses to pay child support which he or she is able to pay and which is required by an order of the court may be found guilty of either civil or criminal contempt of court, or both, and dealt with as provided by law.

Wrightson v. Wrightson , 266 Ga. 493, 467 S.E.2d 498 (1996). The trial court's determination of whether the obligor parent's failure to pay child support is due to willful refusal or inability to pay will not be disturbed absent gross abuse of discretion.

Hughes v. Dept. of Human Resources , 269 Ga. 587, 502 S.E.2d 233 (1998). Trial court abused its discretion in continuing father's incarceration for civil contempt for nonpayment of child support after finding that the father lacked the ability to pay. The concurring opinion points out that the county in question did not have a diversion program, and because the father's only way to earn income was through manual labor, he lost his job when he was incarcerated, making him quite literally unable to pay. See also: *Pittman v. Pittman*, 179 Ga.App. 454, 346 S.E.2d 594 (1986).

Buckholts v. Buckholts , 251 Ga. 58, 302 S.E.2d 676 (1983). As a general rule, contempt actions must be filed in the county where the final judgment and decree or other support order was entered. An exception exists where the contempt is a counterclaim to an action for modification, in which case jurisdiction and venue are proper in the court where the action for modification was filed.

McNeal v. McNeal , 233 Ga. 836, 213 S.E. 845 (1975). By way of contrast with *Buckholts* above, the defendant in a contempt action for nonpayment of alimony cannot file a counterclaim for modification, or for anything else, for that matter. The Georgia Civil Practice Act, specifically O.C.G.A. § 9-11-13, does not allow counterclaims in contempt actions. The concurring opinion in this case points out that "if the rule were otherwise, a[n obligor parent] could decline to pay alimony or child support so as to precipitate an application for contempt upon which a counterclaim for modification could be based." See also: *Baer v. Baer*, 263 Ga. 574, 436 S.E.2d 6 (1993) for the general proposition that a counterclaim cannot be filed in response to an action for contempt. But see the dissent for the proposition that counterclaims should be allowed in the interest of judicial economy.

Carden v. Carden , 266 Ga.App. 149, 596 S.E.2d 686 (2004). Competing claims for contempt are authorized but should be filed as competing motions, not counterclaims. The concurring opinion points out that this is putting form before function, but until the Supreme Court says otherwise, or until the Civil Practice Act is amended, counterclaims cannot be filed in response to a motion for contempt.

Oliff v. Oliff, 234 Ga. 892, 218 S.E.2d 622 (1975). Separate actions for contempt and modification may be consolidated by consent of the parties under O.C.G.A. § 9-11-42(a).

4. Secondary Sources

T.C. Williams, *Contempt Proceedings to Enforce Decree or Order in Divorce or Separation Suit for Support of Children*, 172 A.L.R. 869 (2005). This annotation cites over 60 Georgia cases and contains an extensive discussion of inability to pay.

Power of Divorce Court, After Child Attained Majority, to Enforce by Contempt Proceedings Payment of Arrears of Child Support , 32 A.L.R. 3d 888 (2005). This very short ALR deals with whether a contempt action can be brought after a child reaches the age of majority for past-due child support accrued before a child reaches the age of majority. Although there is only one Georgia case cited, it indicates that Georgia follows the majority view that an obligee parent can bring a contempt action for arrearages even after the child support obligation has ceased due to the child having attained the age of majority.

Dan E. McConaughey, *Georgia Divorce, Alimony, and Child Custody* §§ 14:1-17 (2005).

Kathy L. Portnoy and Charla E. Strawser, *Georgia Domestic Relations Case Finder*, §§ 15-2, 15-3 (3d ed., 2004).

5. Online Search Tips

Search terms include: "contempt" limited by "child support"; "civil contempt"; "criminal contempt"; "ability to pay"; "willful disobedience of a court order".

Execution

1. Introduction

Execution is a good remedy for collection of child support arrearages when the obligor spouse owns assets such as real property or a car but is unemployed or does not have a bank account. In many cases, the obligee spouse may simply sign an affidavit of fieri facias (commonly known as a "fi fa") outlining the amount of arrearages, attach a certified copy of the original child support order and take it to the court clerk's office for issuance of a writ of fi fa. A fi fa issued by a Georgia court is valid statewide and allows the sheriff in any of the state's 159 counties to seize any property owned by the obligor within his jurisdiction.

NB: Execution and other forms of post-judgment collection are governed by a very strict and detailed body of law designed to protect debtors from abusive practices. Therefore, a comprehensive discussion of execution is beyond the scope of this research guide.

2. Georgia Statutes

O.C.G.A. §§ 9-13-1 through 178. Chapter 13 of Title 9 contains Georgia law on executions and judicial sales.

O.C.G.A. § 19-6-17. Part (e) of this code section provides that "[a]ny payment or installment of support under any child support order is, on and after the date due, a judgment by operation of law, with the full force and effect and attributes of a judgment of this state, including the ability to be enforced…."

3. Georgia Case Law

Hill v. Hill, 219 Ga.App. 247, 464 S.E.2d 656 (1995). "Various remedies for enforcement and collection of a child support order, including contempt, execution by writ of fi. fa, and garnishment, may generally be pursued either singly or concurrently." It was therefore error, in an action to collect past due child support, for the trial judge to order father to pay back arrearage in installments but to preclude mother from pursuing other collection remedies as long as father was in compliance with order.

Rabon v. Brown, 275 Ga. 46, 561 S.E.2d 816 (2002). A writ of fieri facias may be amended to so as to conform to the judgment upon which it is issued. If a court is to hear evidence in support of the amendment, the respondent must be given notice and a meaningful opportunity to be heard.

4. Secondary Sources

Dan E. McConaughey, *Georgia Divorce, Alimony, and Child Custody* § 14:18 (2005).

Stuart Firestone, *Georgia Post-Judgment Collection* (4th ed., 2002-2006). This concise resource is the best treatise on Georgia collections law.

5. Online Search Tips

Terms include: "execut!", "levy"; "lien"; "fieri facias"; "writ of execution"; "affidavit of fieri facias (or fi. fa.)", all limited by "child support".

Garnishment

1. Introduction

Another remedy available to obligee parents when the obligor parent is behind on child support is garnishment of wages or of a bank account. However, there are some protections in place for the obligor parent so that he or she is not left destitute due to garnishment.

NB: In metro Atlanta, garnishment filings are handled in State Court or Magistrate Court. Most courts provide forms on their websites and in the clerk's office. Be aware that garnishment proceedings are subject to VERY STRICT service and notice provisions. Be sure to follow the instructions to the letter, and NEVER file a garnishment without first doing a thorough review of the statutes. Remember, by filing a garnishment, you are considered a creditor going after a debtor, and thus you are subject to laws designed to protect consumers from abuse.

2. Federal Statutes

15 U.S.C. § 1671 et seq., Restrictions on Garnishment. This subchapter of the Consumer Protection code places restrictions on the amount that can be garnished from a person's wages (see § 1673(b)). It also contains a provision that prohibits an employer from discharging an employee due to the fact that his wages are being garnished.

42 U.S.C. § 659, Consent by the United States to Income Withholding, Garnishment, and Similar Proceedings for Enforcement of Child Support and Alimony Obligations. This statute provides for a very limited waiver of sovereign immunity so that back child support can be collected via garnishment of U.S. Government and Armed Forces employers.

3. Georgia Statutes

O.C.G.A. § 19-6-30. This code section provides that every order for support of a child entered or modified on or after July 1, 1985, must contain the following provision:

Whenever, in violation of the terms of this order there shall have been a failure to make the support payments due hereunder so that the amount unpaid is equal to or greater than the amount payable for one month, the payments required to be made may be collected by the process of continuing garnishment for support.

Any order entered or modified before that date shall be construed as containing the above provision.

O.C.G.A. § 7-4-12.1. Like the rest of Georgia's child support law, this code section dealing with interest on arrearages of child support is in flux at this time. Until July 1, 2006, the rate of interest on back child support is 12% per annum. If the newly proposed version of this statute is approved, the rate will be 7% per annum as of July 1, 2006, and the court shall have discretion to waive payment of interest. It is not necessary for the party to whom child support is owed to get a judgment before proceeding with garnishment; the parties' final judgment and decree of divorce or most recent award of child support serves that purpose.

O.C.G.A. §§ 18-4-1 et seq. This is Georgia's garnishment code. A full explanation goes far beyond the limits of this annotation. § 18-4-20(f) limits the amount of disposable earnings subject to garnishment for any workweek to 50%.. §§ 18-4-130 et seq. deal specifically with continuing garnishment for support.

O.C.G.A. § 19-6-26(e). Concurrent jurisdiction for enforcement of a child support order via garnishment is with (1) the court in the county issuing the order, (2) the court in the county where the obligor resides or is employed, and (3) the court in the county where the property subject to garnishment may be found.

NB: As a practical matter, it is usually best to file the garnishment action in the county where the garnishee (and hence the property) is located, because that way a second original is not needed for service by the sheriff. Attach a certified copy of the original judgment for child support, be it the Final Judgment and Decree of Divorce or other order for support.

4. Georgia Case Law

Morgan v. Morgan , 156 Ga.App. 726, 275 S.E.2d 673 (1980). A foreign corporation doing business in this state and having a proper officer for service of process may be issued a summons of garnishment naming one of its employees as defendant. In other words, garnishee inside Georgia, defendant outside Georgia, garnishment action okay.

Compare *Nelson v. Nelson*, 173 Ga.App. 546, 327 S.E.2d 529 (1985), in which a Georgia court was held without power to enforce a Georgia judgment for child support via garnishment of the payor's Alabama employer. In other words, both garnishee and defendant outside Georgia, garnishment action void.

See also *Souza v. Souza*, 196 Ga.App. 59, 395 S.E.2d 298 (1990), for a case involving garnishment of military pay from an out-of-state garnishee, where the U.S. has waived its sovereign immunity for the limited purpose of allowing garnishment for back child support. Cross reference: 42 U.S.C. § 659(b) and 5 C.F.R. Pt. 581.

Brodie v. Brodie , 155 Ga.App. 593, 271 S.E.2d 725 (1980). A judgment for contempt against a delinquent obligor that sets out a payment plan for back child support does not preclude an obligee from pursuing garnishment of obligor's wages. But be aware that this may give the defendant grounds to traverse (challenge) the plaintiff's affidavit of garnishment as to the amount owed.

Colvin v. United States , 153 Ga.App. 874, 267 S.E.2d 297 (1980). The IRS cannot be garnished for tax refund money. The United States does waive sovereign immunity under

42. U.S.C. § 659 so as to provide for garnishment of government employees' wages for payment of child support obligations, but it is limited to wages. State and local child support enforcement agencies do have the power to divert federal and state tax refunds, but this cannot be done via private garnishment proceedings.

5. Secondary Sources

Validity, Construction, and Application of § 301-307 of Consumer Credit Protection Act (15 U.S.C.A. §§ 1671-1677) Placing Restrictions on Garnishment of Individual's Earnings , 14 A.L.R. Fed. 447 (2005). This relatively brief annotation discusses another area where federal law has asserted itself in a largely state-controlled realm. Although it contains only two 11 th Circuit cases, this is an excellent source for those interested in the federalism aspects and policy behind this law.

Allan L. Schwartz, *Garnishment Discharge Policy of Employer as Unlawful Employment Practice Violative of Title VII of Civil Rights Act of 1964 (42 U.S.C.A. § 2000e et seq.)*, 26 A.L.R. Fed. 394 (2005). Although only peripherally related to the issue of child support, this annotation might be of use to a practitioner whose client has been discharged from a job due to garnishment of wages.

Ethel R. Alston, *Construction and Application of 42 U.S.C.A. § 659(a) Authorizing Garnishment Against United States or District of Columbia for Enforcement of Child Support and Alimony Obligations*, 44 A.L.R. Fed. 494 (2005). This annotation, which includes two 11th Circuit cases, may be helpful in regard to clients or opposing parties who work for the federal government.

Laura W. Morgan, *The Federal Consumer Credit Protection Act and Garnishment for Child Support*. This article does a good job of explaining the federal statutes limiting garnishment and includes a good number of case citations.

Stuart Firestone, *Georgia Post-Judgment Collection* § 9-12 (4 th ed., 2002-2006). This section contains a concise discussion of garnishment in divorce cases.

Dan E. McConaughey, *Georgia Divorce, Alimony, and Child Custody* §§ 14:19-21 and 27:53 (2005).

Kathy L. Portnoy and Charla E. Strawser, *Georgia Domestic Relations Case Finder* § 15-5 (3d ed., 2004).

6. Online Search Tips

Search terms include: "garnish!" limited by "child support"; "traverse".

. Income Deduction Orders

1. Introduction

Unlike most child support enforcement remedies, which kick in after child support is past due, an income deduction order operates like preventive medicine in that it usually goes into effect upon entry of the Final Judgment and Decree of Divorce or other child support order. In practice, income deduction orders tend to be the exception rather than the rule, as the statute allows parties to forego the income deduction order if they have a written agreement in place that lays out the specifics of child support payment. Most settlement agreements in divorce cases involving children include detailed specifics as to payment of child support, and many people would prefer to avoid the extra layer of paperwork and delay that is added when a state agency becomes involved. Nevertheless, an income deduction order is a good idea if there is any doubt at the outset that the obligor parent will not honor his or her duty to provide support for the children. In the event of a failure to pay, remedial action by the state agency will be quicker if the case is already in the system; at least, so goes the theory. And an income deduction order can, of course, be put in place subsequent to the initial decree or order of support, should a problem arise.

2. Georgia Statutes

O.C.G.A. §§ 19-6-31, 32 & 33. These rather complex code sections provide for income deduction orders so that child support payments come right out of the obligor parent's paycheck and are sent to the Family Support Registry operated by the Office of Child Support Enforcement of the Georgia Department of Human Resources. From there, payments are forwarded on to the recipient parent. Employers need to be familiar with these statutes.

O.C.G.A. § 19-6-31 contains definitions of terms used in §§ 32 and 33.

O.C.G.A. § 19-6-32(a) provides that all upon the entry of a judgment or order establishing, enforcing or modifying a child support, a separate income deduction order must also be entered. Section (a.1)(1) provides two instances when this rule does not apply – when the court finds there is good cause not to require immediate withholding, or when the parties reach a written agreement which provides for an alternative arrangement. There are special provisions for income deduction orders involving obligee parents receiving benefits under Title IV-D of the Social Security Act.

O.C.G.A. § 19-6-33 provides for enforcement of income deduction orders and the administrative remedies available for appeal. Section (k) provides that an employer must inform the obligee parent if the obligor parent leaves the job.

3. Georgia Case Law

Dept. of Human Resources v. Word , 265 Ga. 461, 458 S.E.2d 110 (1995). Georgia's mandatory income deduction statute does not violate the separation of powers doctrine of the State Constitution. This case contains a good explanation of the history of the statute.

Singleton v. Dept. of Human Resources , 263 Ga.App. 653, 588 S.E.2d 757 (2003). This case against an employer of an obligor parent addresses the service provisions for income deduction orders.

4. Secondary Sources

Dan E. McConaughey, *Georgia Divorce, Alimony, and Child Custody* §§ 14:34 and 27:54 (2005). Section 14:34 provides a good overview of the statutory provisions concerning income deduction orders. Section 27:54 contains a form for an income deduction order.

Kathy L. Portnoy and Charla E. Strawser, *Georgia Domestic Relations Case Finder* § 15-6 (3d ed., 2004).

5. Online Search Tips

Search terms include: "income deduction order" limited by "child support"; "Family Support Registry"; "Office of Child Support Enforcement".

Modification

1. Introduction

Sometimes circumstances dictate that the amount of child support paid be modified. Upward modification offers a remedy to custodial parents when the needs of the children change or when the noncustodial parent becomes able to provide a better level of support. Downward modification may be justified when an obligor parent suffers job loss, disability, or illness.

2. Georgia Statutes

CAUTION : Georgia's child support laws with regard to modification are currently in a state of flux. Practitioners are strongly encouraged to monitor developments from the Georgia General Assembly and to attend any and all Continuing Legal Education courses addressing this topic to ensure that they have the most current information.

O.C.G.A. § 19-6-15. This is Georgia's main child support guidelines statute, which contains the tables for determining the amount of child support to be paid. Please note there are currently two versions of this law, one in effect until December 31, 2006, and a new one set to take effect thereafter. The new law purports to correct a perceived unfairness in the old law by giving greater consideration to the custodial parent's income in calculating the amount of support to be paid by the noncustodial parent. In the language of child support experts, Georgia is moving from a percentage-of-income model to an income shares model. A complex scheme to give noncustodial parents credit against amounts owed for spending extra time with their children was ultimately scrapped by the General Assembly, largely due to fears it would lead to increased conflict between parents, not to mention additional paperwork.

The newly proposed version of § 19-6-15 also contains provisions for modification of child support awards. Previously, modification of both alimony and child support were dealt with in O.C.G.A. §§ 19-6-19 and 20. See below for a description of the modification statutes in effect until December 31, 2006.

A detailed discussion of the newly proposed modification provisions is beyond the scope of this annotation. In truth, not much has changed here. However, one proposal that did not make it into the final version of the statute would have provided automatic grounds to petition for modification in any case in which the application of the new child support guidelines resulted in a 15% or more increase or decrease in the amount due under a pre-existing order. The standard remains a substantial change in either parent's income or in the financial status or needs of the child. Changes in the amount of support between 15 and 30 percent can be phased in over a year's time, and changes over 30 percent can be phased in over two years, at the court's discretion.

O.C.G.A §§ 19-6-19 and 20, version effective until December 31, 2006. This statute authorizes modification of child support awards based on a change in the income and financial status of either former spouse or in the needs of the child or children. Unlike an action for enforcement of child support, a modification action is filed as a new action and is assigned a new case number. Either parent may petition for modification, whether upward or downward. The same parent may not petition for modification more than once in any two-year period. "The court may award attorneys' fees, costs and expenses of litigation to the prevailing party as the interests of justice may require."

O.C.G.A §§ 19-6-19 and 20, version effective January 1, 2007. All mention of child support has been removed from the new versions of these code sections, which now deal exclusively with alimony (spousal support). Modification of child support is now dealt with in the newly proposed version of O.C.G.A. § 19-6-15. See above.

3. Georgia Case Law

Wingard v. Paris , 270 Ga. 439, 511 S.E.2d 167 (1999). The showing of a change in financial status or a change in the needs of the child is a threshold requirement for modification of a child support obligation.

Ehlers v. Ehlers, 264 Ga. 668, 449 S.E.2d 840 (1994). Child support guidelines are the expression of legislative will regarding calculation of child support and must be considered by any court setting or modifying child support. See also: *Wingard*, supra.

Miller v. Tashie , 265 Ga. 147, 454 S.E.2d 498 (1995). The fact that an obligor parent's gross income has increased does not bar him from seeking downward modification. Where an obligor parent has acquired responsibility for other children in addition to the ones at issue in the child support order, the court should consider "every relevant fact" in determining whether modification was justified.

Moccia v. Moccia , 277 Ga. 571, 592 S.E.2d 664 (2004). Trial court did not abuse its discretion in denying father's petition for downward modification of child support where father had not made a "bona fide effort to obtain employment commensurate with his abilities."

Livsey v. Livsey , 229 Ga. 368, 191 S.E.2d 859 (1972). Unlike alimony, with regard to which the right to modification may be waived, the right to child support belongs to the child; therefore, an obligee parent may not waive the child's right to upward modification of child support (in return, for example, for other concessions by the opposing party).

Nelson v. Mixon , 265 Ga. 441, 457 S.E.2d 669 (1995). By way of contrast with *Livsey* above, an obligor parent can waive the right to seek downward modification of child support. However, the waiver language must be very clear and specific in order to pass muster. See also: *Varn v. Varn*, 242 Ga. 309, 248 S.E.2d 667 (1978).

Staffon v. Staffon , 277 Ga. 179, 587 S.E.2d 630 (2003). Loss of income due to incarceration resulting from voluntary acts does not constitute material change of circumstances so as to provide grounds for downward modification of child support.

Forrester v. Buerger , 241 Ga. 34, 244 S.E.2d 345 (1978) (in dissent). "A [parent] is more apt to make his [or her] periodic child support payments if they are reasonably within his means."

4. Secondary Sources

C. P. Jhong, *Change in Financial Condition or Needs of Parents or Children as Ground for Modification of Decree for Child Support Payments*, 89 A.L.R.2d 7 (1963). This 370-page annotation is the wellspring for cases on the subject of changed circumstances in regard to child support. It lists over 20 Georgia cases.

C. P. Jhong, *Remarriage of Parent as Basis for Modification of Amount of Child Support Provisions of Divorce Decree*, 89 A.L.R.2d 106 (2005). What happens to the amount of child support if you or your ex-spouse remarries? Does the new spouse's income figure into the equation? This annotation answers these questions and much more. Six Georgia cases are cited.

Elizabeth Trainor, *Basis for Imputing Income for Purpose of Determining Child Support Where Obligor Spouse is Voluntarily Unemployed or Underemployed* , 76 A.L.R.5 th 191 (2000). This annotation discusses how to make or rebut a showing of diligence in obtainment or maintenance of employment. It does not contain any Georgia case citations, but it does have a very useful practice pointers section.

Dan E. McConaughey, *Georgia Divorce, Alimony, and Child Custody* §§ 16:1-11 (2005).

Kathy L. Portnoy and Charla E. Strawser, *Georgia Domestic Relations Case Finder* §§ 10-1 through 10-7 (3d ed., 2004).

5. Online Search Tips

Search terms include: "modif!" limited by "child support"; "change" limited by "income" or "financial status"; "voluntary unemployment"; "voluntary underemployment"; "imputed income".

Miscellaneous Other Georgia Laws

1. Introduction

As with the federal statutes listed above, no attempt has been made to provide a comprehensive listing; rather, the goal is to highlight some of the more useful provisions of the code.

2. Statutes

O.C.G.A. § 19-6-16. "Orders, decrees, or verdicts, permanent or temporary, in favor of the children may be enforced as those in favor of a party." Since the right to child support belongs to the child, this statute effectively gives the custodial parent standing to sue to enforce a child support award.

O.C.G.A. § 19-6-17. Among other things, this statute allows for child support orders entered subsequent to a divorce between the parents to be enforced in the same way as those entered contemporaneously with a final judgment and decree of divorce. See part (e)(1).

O.C.G.A. § 19-6-26. This statute is essentially the codification of 28 U.S.C. § 1738B (FFCCSOA) above. Part (e) of this statute grants concurrent jurisdiction to enforce a child support order entered by or registered with a court in this state to "the court issuing such order, the court in the county where the person owing the duty of support may be found or is employed, and the court in the county where property may be found which is subject to seizure, sale, foreclosure or other process for application toward the support obligation."

O.C.G.A. § 19-6-33.1. This statute provides for the creation of a Family Support Registry which collects and processes payments in cases assigned to the state child support enforcement agency and in some cases where income deduction orders are in place. The Department of Human Resources is to coordinate the operation of the Family Support Registry with that of the state case registry created under O.C.G.A. § 19-11-39 so as to avoid duplication of effort and resources.

O.C.G.A. § 19-6-35. Part (b) of this code section recognizes child support obligees as creditors and child support obligors as debtors for the purpose of attacking fraudulent conveyances.

O.C.G.A. § 19-11-39. This statute orders the creation of a computerized central case registry for all support orders entered in Georgia. Part (e) provides that the information contained in this registry shall be made available to state and federal agencies for the enforcement of support orders.

O.C.G.A. §§ 15-15-1 et seq. This chapter authorizes each county, either by itself or in cooperation with counties in the same judicial circuit, to establish an Office of the Receiver of Child Support. These offices can be appointed by courts to receive and disburse child support payments on behalf of parents. They help minimize contact between parents in contentious cases and/or in cases where parental kidnapping or domestic violence is a concern and the whereabouts of one or both parents and/or the children needs to be concealed in the interest of safety.

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GOVERNMENT AGENCY AND LAW ENFORCEMENT ACTION

Introduction

Involving federal and state agencies and law enforcement in child support enforcement is not always the first step that comes to mind for most family law practitioners. Assuming the client can afford an attorney, traditional court-based remedies and, increasingly, alternative dispute resolution tend to be the preferred avenues for handling child support enforcement matters.

However, there are good reasons to turn to child support enforcement agencies for assistance, not the least of which is cost. For those who cannot afford an attorney but do not qualify for legal aid services, seeking help from an agency is an economical option. In cases where Temporary Assistance for Needy Families (TANF, formerly AFDC or Aid to Families with Dependent Children) benefits are at issue, involvement of state child support enforcement agencies is automatic and mandatory.

Another advantage government child support agencies offer is access to information that is not public record and therefore not available to attorneys (short of hiring a private investigator), such as the Federal Parent Locator Service and the State Directory of New Hires. Agencies are also the only ones who can go after federal and state tax refunds.

Agency action may be slow and cumbersome in the making, but its advantages should not be overlooked and, in the case where an obligor parent has completely disappeared, it may be the best shot at collecting.

Finally, it is worth noting that agency action is not all stick and no carrot. Some agencies offer programs to help obligor parents meet their obligations without incurring further penalties. These programs include job training and even occasional amnesty periods. The most recent (and rather questionable) addition to these programs is the so-called Healthy Marriage Initiative.

Federal Agencies

The Office of Child Support Enforcement of the Administration for Children & Families of the U.S. Department of Health and Human Services (HHS) is the main federal government entity charged with child support enforcement issues. A useful document to download is the Handbook on Child Support Enforcement: Answers to Your Questions, Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement.

The Office of Family Assistance in the same division of HHS administers the TANF program in conjunction with state agencies. Information on the Healthy Marriage Initiative can be found here.

HHS also participates in a multi-agency task force entitled Project Save Our Children, which also includes the FBI, the U.S. Marshal's Service, the U.S. Attorneys Office of the Department of Justice, as well as state and local law enforcement and child support agencies. This task force concentrates on locating and prosecuting noncustodial parents with significant child support arrearages who go into hiding in an attempt to avoid meeting their obligations. The government even has a Most Wanted Dead Beat Parents webpage.

Georgia Office of Child Support Enforcement

The Office of Child Support Enforcement (OCSE) of the Georgia Department of Human Resources (DHR) is the place to go for child support enforcement issues in Georgia. The OCSE is charged with collecting and processing all child support payments for any case involving TANF funds, as well as any case for which an income deduction order is in place. Payments are sent by obligor parents or employers to the Georgia Family Support Registry, which forwards them on to obligee parents. Payments to custodial parents are made via direct deposit, thereby eliminating the need for paper checks.

The OCSE also offers remedies for obligee parents when obligors fail to pay child support. In theory, all of the remedies available to private attorneys and their clients are available to the state agencies. In addition, they can intercept federal and state tax refunds due to obligor parents and divert them as payment of child support arrearages. They can even help establish paternity and obtain an initial order of support. Applications can be made in person at the local OCSE office, by telephone or even online. Services are free to TANF recipients; others pay a $25 application fee. The OCSE will even review an existing order of support for $100, a fee which is waived for TANF recipients and for those with non-TANF gross income of $1000 or less per month.

Because the OCSE has access to such resources as the Federal Parent Locator Service (FPLS) and the State Directory of New Hires, they can help track down parents who have "skipped" on their obligations. The FPLS is a federally-mandated collection of databases containing information used to locate parents who evade their responsibilities. The idea is for state agencies to share information across state lines. The Directory of New Hires is one component of the FPLS, and it collects information from employers, who must report all new hires for child support enforcement purposes.

Georgia's OCSE offers a number of proactive services for obligor parents as well. In recognition of the fact that non-custodial parents who have regular visitation with their children are much more likely to pay child support as ordered, the OCSE offers an Access and Visitation program. Unfortunately, this program is temporarily inactive, pending what the OCSE calls a "planning phase."

Another program for non-custodial parents is the Fatherhood Program. Recognized nationally as the most comprehensive program for low-income fathers, the program provides education, job training and other services to help fathers meet their support obligation. The program recognizes that many fathers face other barriers in their lives, such as lack of a high school diploma, criminal records, lack of personal vehicle and/or driver's license, substance abuse problems, mental health issues, and criminal records. Judges sometimes use this program as an alternative to jail.

Georgia's Healthy Marriage Initiative takes the form of a pilot project involving six communities, including three in the metro-Atlanta area – Norcross/Duluth, Lithonia and the Pittsburgh/Mechanicsville neighborhood of Southwest Atlanta. The program involves relationship skills education for both individuals and couples on the aspects of healthy marriages.

Finally, obligor parents with arrearages should be on the lookout for occasional child support amnesty periods offered by the OCSE, sometimes on a county-wide and other times on a statewide basis, and often in conjunction with the county district attorney's office. An amnesty allows parents to come forward and pay their arrearages without fear of being hauled into court or otherwise penalized.

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SUSPENSION OR REVOCATION OF PRIVILEGES

Federal Law

42 U.S.C. § 652(k). This section provides that if an individual owes more than $5000 in back child support, his or her name is transmitted to the Secretary of State, who shall refuse issuance of a passport to such individual and may revoke, restrict, or limit an existing passport.

22 C.F.R. Part 51.70 is the regulation associated with the above code section.

Georgia Law

O.C.G.A. § 19-6-28.1. This section provides that in cases where the obligor parent owes more than the amount of support due for 60 days, the court may order suspension of a driver's license, professional license, hunting or fishing license or motor vehicle registration until the past due amount is paid.

O.C.G.A. § 19-11-9.3. This section contains the administrative procedures to be followed by the Office of Child Support Enforcement of the Georgia Department of Resources in reporting the name of an obligor parent who is not in compliance with an order for child support to licensing entities, which includes the Georgia DMV and the professional licensing agencies. It includes provisions for administrative hearings and an appeals process as well.

O.C.G.A. § 40-5-54.1. This is the section that authorizes the Department of Motor Vehicle Safety to suspend the license of any driver not in compliance with a child support order as provided by DHR or a court of competent jurisdiction.

O.C.G.A. 43-1-19. This code section includes failure to comply with a child support order as one of the grounds for professional licensing boards to revoke or refuse to grant or renew professional licenses.

Some of the statutes affecting specific professional licenses are listed below:

O.C.G.A. § 2-7-102. Pesticide contractors and certified commercial pesticide applicators
O.C.G.A. § 7-1-1017. Mortgage lenders and mortgage brokers
O.C.G.A. § 12-6-49.1. Registered foresters
O.C.G.A. § 26-4-60. Pharmacists
O.C.G.A. § 43-39A-14. Real estate appraisers
O.C.G.A. § 43-40-15. Real estate brokers and salespersons
O.C.G.A. §§ 33-23-21 and 22. Insurance agents, subagents, counselors and adjusters

Secondary Sources

Joanna B. Bossin, *Alimony and Child Support: Limit Issuance or Renewal of Licenses for Failure to Comply with Child Support Order,* 13 Ga. St. U. L. Rev. 127 (November, 1996). This article offers a concise legislative history of the act that resulted in many of the above-listed Georgia statutes.

Online Search Tips

Search terms include: "license revocation", "license suspension", "denial of license", "refusal to issue license", "driver's license", "license to practice", "professional license", all limited by "child support". Substitute the word "passport" as appropriate.

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METRO-ATLANTA RESOURCES

Introduction

There are numerous sources of information and assistance with child support enforcement in the metro-Atlanta area. Both family law practitioners and pro se litigants can benefit from taking advantage of these resources. With the exception of garnishments and abandonment, almost all actions involving child support are handled by the Superior Courts.

Fulton County

1. Superior Court of Fulton County, Family Division.

The website for the Family Division of Fulton Superior Court is an excellent source of information for practitioners and pro se litigants alike. There is a FAQ on child support, as well as forms to use for income deduction orders and modification actions. The office is located on the seventh floor of the Justice Center Tower adjacent to the Fulton County Courthouse, and the staff are very friendly and helpful.

2. Superior Court of Fulton County, Clerk's Office

The website for the Clerk of Superior Court of Fulton County also offers forms and a list of filing fees. It used to offer an online case index similar to those on the Dekalb, Cobb and Gwinnett websites, but for some unknown reason it has been disabled for nearly three years. The Clerk's Office is where to go for copies of pleadings and orders from past cases.

3. State Court of Fulton County

In Fulton County, garnishment actions are filed in State Court. The website has all the forms and a list of fees.

4. Fulton County District Attorney's Office

The Fulton County District Attorney's Office has a Child Support Recovery Unit responsible for securing court-ordered support for dependant children. They work very closely with the OSCE.

Dekalb County

1. Superior Court of Dekalb County, Family Law Information Center

Like its counterpart in Fulton County, the Dekalb Family Law Information Center offers information and forms for those seeking to enforce or modify child support orders. It is located separately from the courthouse at 120 West Trinity Place, Room 412, in Decatur.

2. Superior Court of Dekalb County, Clerk's Office

Unfortunately, the website for the Dekalb Superior Court Clerk is woefully outdated, and much of the information it does contain is of minimal practical use. It does not even offer a list of filing fees.

3. Dekalb Online Judicial System

This is a great system that allows users to look up past and present cases in both Superior and State Courts. Information includes documents filed (print landscape if you want the docket sheet), hearing dates and party information.

4. State Court of Dekalb County, Clerk's Office

Here you will find forms and filing fees for garnishment actions.

5. Dekalb County District Attorney's Office

The Dekalb DA has a UIFSA office that works closely with the local OSCE. According to the website, the Dekalb DA is one of only nine county DAs who have chosen to maintain child support prosecution divisions for the benefit of local county residents.

Cobb County

1. Superior Court of Cobb County, Clerk's Office

This site includes a search function for pending and past cases, as well as a list of filing fees. It was once one of the best county court clerk websites in the state, but it has not been updated in some time.

2. State Court of Cobb County, Clerk's Office

Here is where you go for garnishment forms and filing fees.

Gwinnett County

Gwinnett County Courts Webpage. Unlike the other metro counties, Gwinnett County has one website for Superior, State and Magistrate Courts. Garnishments are usually handled in Magistrate Court.

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VIII. ENFORCEMENT OF INTERNATIONAL CHILD SUPPORT OBLIGATIONS

Child Support Enforcement Abroad.

Check out the U.S. Department of State website for information on Child Support Enforcement Abroad.

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