

1 MEETING OF THE ADVISORY COMMITTEE
2 ON CHILD SUPPORT GUIDELINES AND ENFORCEMENT
3 FOR THE STATE OF ALABAMA
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11 The following proceedings were held in
12 the meeting of the Advisory Committee on Child
13 Support Guidelines and Enforcement for the State
14 of Alabama on Friday, May 12, 2017, commencing
15 at approximately 10:00 a.m. at the
16 Heflin-Torbert Judicial Building, 300 Dexter
17 Avenue, Montgomery, Alabama, and was taken
18 before Haley Tunnell, Court Reporter and
19 Commissioner for the State of Alabama at Large.
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1 APPEARANCES

2 THE HONORABLE JULIE A. PALMER, Chair
Domestic Relations Division
3 Circuit Judge, Birmingham Division
Jefferson County
4

5 THE HONORABLE WILLIAM K. BELL
Madison County Circuit Judge (retired)

6 MS. LATHESIA SAULSBERRY
Director of Child Support Enforcement Division,
7 Alabama Department of Human Resources

8 JENNIFER M. BUSH, Esquire
State-Level Child Support Attorney,
9 Alabama Department of Human Resources

10 PROFESSOR PENNY A. DAVIS, Esquire
Adjunct Professor, University of Alabama School
11 of Law, Tuscaloosa, Alabama

12 THE HONORABLE LYN STUART
Chief Justice
13 Alabama Supreme Court

14 THE HONORABLE MARY MOORE
Perry County Circuit Clerk
15

16 THE HONORABLE WILLIAM THOMPSON
Presiding Judge, Alabama Court of Civil Appeals

17 MELODY BALDWIN, Esquire
Assistant District Attorney
18 Fifth Judicial Circuit over Child Support
Division
19

20 THE HONORABLE DON McMILLAN
Perry County Circuit Judge

21 MR. MICHAEL POLEMENI
Family Rights Association
22

23 SHANE SMITH, Esquire

1 L. STEPHEN WRIGHT, JR., Esquire
2 AMANDA COX, Esquire
3 MS. ANGELA CAMPBELL
4 BRAD MEDARIS, Esquire
5 Supreme Court Clerk's Office
6 BOB MADDOX, Esquire
7 Administrative Office of Courts
8 NATHAN WILSON, Esquire
9 Administrative Office of Courts
10 CHRIS COLEE, Esquire
11 Administrative Office of Courts
12 MR. JASON HODGES
13 Administrative Office of Courts
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1 THE HONORABLE PALMER: I'm going to
2 call the committee meeting for the
3 Advisory Committee on Child Support
4 Guidelines and Enforcement to order. I'm
5 going to ask everybody to please put your
6 phones on silent. I'm going to have to
7 tell my mother to hush back there. She's
8 really having too much of a good time.
9 That's my mother in the back there with
10 Willie.

11 So when I leave here, I get to go
12 and see a five-year-old in a tap dance
13 recital; then we go to the ballet recital.
14 That's going to be fun.

15 All right. So with that, I'm
16 going to have everybody introduce
17 themselves. I am Julie Palmer and chair
18 of this committee. And then we're going
19 to go this way.

20 MS. DAVIS: And I'm Penny Davis.
21 Not chair of this committee.

22 THE HONORABLE BELL: And I'm Billy
23 Bell.

1 MR. POLEMENI: Michael Polemeni,
2 member of Alabama Family Rights
3 Association.

4 MR. WRIGHT: Steve Wright.

5 MR. SMITH: Shane Smith.

6 MS. COX: Amanda Cox.

7 MS. SAULSBERRY: Lathesia
8 Saulsberry. I'm the director of the child
9 support division.

10 MS. BUSH: Jennifer Bush.

11 THE HONORABLE MOORE: Mary Moore.

12 THE HONORABLE THOMPSON: Bill
13 Thompson.

14 CHIEF JUSTICE STUART: Lyn Stuart.

15 MS. CAMPBELL: Angela Campbell.

16 MS. BALDWIN: Melody Baldwin.

17 THE HONORABLE McMILLAN: Don
18 McMillan.

19 THE HONORABLE PALMER: Thank you all
20 very much.

21 Just for the record, this was --
22 this meeting was publicized on the website
23 and to various outlets, news outlets, on

1 March the 31st, announcing that this
2 meeting was going to be held today.

3 And all the handouts would have
4 been on the website. I think we got one
5 really late last night, and I'm not sure
6 that that one was on there, but it's part
7 of your handouts today.

8 I don't believe, Don, that you
9 have signed this. And anybody else that
10 came in late, if you will just take this
11 and pass it around and make sure Justice
12 Stuart got to sign it or not.

13 Also here with us are the two
14 people that I couldn't do without. That's
15 Bob Maddox and Brad Medaris. Also, we've
16 got Nathan Wilson, who is the director of
17 the legal division for the AOC. Scott
18 Hoyem, I don't believe is going to be here
19 today, is that correct?

20 Chris Colee and Jason Hodges, are
21 they here yet? Okay. Well, we'll get to
22 y'all in just a second.

23 So with that, I'm sure everybody

1 had a chance to review all -- at least 500
2 pages of the transcript. This is the same
3 court reporter that we had last time. And
4 for those of y'all who weren't here, it
5 was a lively meeting. It was December the
6 1st. We had Rothbarth. We had -- it
7 wasn't Betson, but it was something like
8 that. We had scheduled one, two, three,
9 four. It went back and forth. It was the
10 most interesting meeting and the court
11 reporter did an excellent job.

12 I do have just a few corrections
13 that I found. On page 89, line 9, you
14 typed in launch, instead of lunch, and
15 probably with my southern accent, it
16 sounded just like launch, but it was
17 lunch.

18 On page 157, line 22, Mr. Mark
19 Rogers said the lawyers have beat this in
20 my -- and the transcript said hand. I'm
21 pretty sure it was supposed to be head.

22 And then, on page 231, line 7, is
23 where it starts, and then throughout -- I

1 believe it was Steve Arnold, who is not
2 here today, was talking about Judge Pate
3 always ordering something, and the
4 transcript had Judge Paige, P-A-I-G-E, and
5 it should be P-A-T-E. And that's
6 throughout the transcript, starting on
7 page 231 and throughout.

8 Does anybody else have anything
9 else that they saw in the transcript that
10 needs to be corrected?

11 (No response.)

12 THE HONORABLE PALMER: All right.
13 Well, with these changes, I'm going to ask
14 that the transcript then be approved.

15 Any objections to that.

16 (No response.)

17 THE HONORABLE PALMER: So with that,
18 then we are going to -- everybody should
19 have a schedule in front of them. We've
20 got the revised child support federal
21 regulations. We'll start with that with
22 Ms. Jennifer Bush.

23 MS. BUSH: In December of 2016,

1 there were some changes in the federal
2 regulations that governed IV-D agencies
3 and child support. There were several
4 areas that the regulation covered:
5 Contempt, guidelines, modifications.

6 And today, if you have a set of
7 papers that look like this, these are the
8 regulation changes for the Child Support
9 Guidelines. And what it has -- it says
10 current version on the far left. That is
11 the old version. And then you have the
12 new version.

13 And then on the far right side,
14 you're going to have a strike through.
15 And that's what we'll look at today is the
16 strike through. And what I thought I
17 would do is go over the regulations, and
18 then look at Rule 32, the actual language
19 and how that will impact it.

20 And there are several types of
21 changes. Some are simple terminology
22 changes, changing the word "award" to
23 "order," from "insurance" to "healthcare

1 coverage," and the -- more are
2 substantive.

3 Some of the changes have to do
4 with the actual language in the text of
5 Rule 32, and then others have to do with
6 the way this committee actually comes up
7 with the numerical schedule for the
8 guidelines.

9 So if you have this piece of
10 paper, first page, far right.

11 THE HONORABLE PALMER: It may look
12 like this on the first page.

13 CHIEF JUSTICE STUART: The page
14 behind that.

15 MS. BUSH: This is stapled as a
16 cover. And just so you'll know, this was
17 put out by the Federal Office of Child
18 Support Enforcement. And this explains
19 the reasoning behind the regulation
20 changes, and you can certainly read it. I
21 don't -- and we could go over it, but I
22 don't know that it's -- with our limited
23 time -- but feel free to read this.

1 They will explain the different
2 changes they made and the reasoning behind
3 that. But what you want is what looks
4 like this.

5 Okay. And we're going to look at
6 the 45-CFR-302.56. And if you -- you'll
7 see it's a strike through. And what it
8 says underlined is "Within one year after
9 completion of the State's next quadrennial
10 review of its child support guidelines,
11 that commences more than one year after
12 the publication of the final rule, in
13 accordance with the 302.56(e)," we have to
14 meet all the requirements in this section.

15 So the last time we reviewed was
16 December 2nd of 2016, and this rule came
17 out, I believe, December 20th. It was
18 after. So we actually have four years to
19 review again, and we have to do all of
20 these things in this regulation one year
21 after our next review. So we have some
22 time.

23 Okay. The State must have

1 procedures for making guidelines available
2 to all persons in the state, and that is
3 subsection (b).

4 I believe now AOC has put that on
5 their website. Rule 32 is already on the
6 website. So we believe this requirement
7 has already been met. I don't know that
8 there's anything in particular we have to
9 do for this one.

10 And if you look at (c)(1), "The
11 child support guidelines established under
12 paragraph (a) of this section must at a
13 minimum:" and then the new language
14 underlined here under one: "Provide that
15 the child support order is based on the
16 noncustodial parent's earnings, income,
17 and other evidence of ability to pay."

18 It takes into consideration all
19 earnings and income of the noncustodial
20 parent and at the State's discretion,
21 which we do the custodial parent.

22 The Child Support Guidelines have
23 to take "into consideration the basic

1 subsistence needs of the noncustodial
2 parent. (and at the State's discretion,
3 the custodial parent and children) who has
4 a limited ability to pay by incorporating
5 a low-income adjustment, such as, a
6 self-support reserve or some of other
7 method determined by the State."

8 Okay. So when you look at this
9 first one, basically, what it's saying is
10 we have to build in a subsistence level or
11 self-support reserve in that. I believe
12 our guidelines already do that. So on
13 this one, we're good. Of course, we have
14 to consider that next time we review the
15 guidelines and do any type of numerical
16 calculations. But from this perspective,
17 I believe that we meet this criteria.

18 "If imputation of income is
19 authorized, takes into consideration the
20 specific circumstances of the noncustodial
21 parent, (and at the State's discretion,
22 the custodial parent) to the extent known,
23 including such factors as the noncustodial

1 parent's assets, residence, employment,
2 and earning's history, job skills,
3 educational attainment, literacy, age,
4 health, criminal record, and other
5 employment barriers, and record of seeking
6 work, as well as the local job market, the
7 availability of employers willing to hire
8 the noncustodial parent, prevailing
9 earnings level in the local community and
10 other relevant background factors in the
11 case."

12 Now, our current Rule 32 does
13 take into consideration certain factors
14 for underemployment and unemployment
15 and -- when you're looking at this. But
16 when we go over the actual text of
17 Rule 32, we've taken the old factors and
18 substituted them with these new factors.

19 Does anybody have any questions?
20 Y'all stop me.

21 MS. DAVIS: Yeah. I was going to
22 ask when -- for example, when it talks
23 about criminal records and employment

1 barriers and their record of seeking work,
2 is that going to require parents to begin
3 to document, you know, if they go to apply
4 online, you know, sign up for state. I
5 mean, the State still has a lot of job
6 fairs and that sort of thing.

7 So will the attorneys that are
8 out practicing now, are they going to
9 advise their clients, or should we online?
10 Are we going to come up with something
11 online that advises people that they need
12 to start maintaining those kind of
13 records, if they're in situations where
14 they are required to fill out child
15 support forms?

16 Are we going to adapt, at some
17 point, forms that will have that sort of
18 information for the judge and the lawyers?

19 MS. BUSH: That's something that the
20 committee may want to consider, whether
21 you do that. I mean, there's criteria
22 already in Rule 32 for imputing income.
23 This just expands it.

1 And so it may -- there may be
2 more evidence that's presented when
3 imputing income.

4 MS. DAVIS: Just thinking what the
5 judges are going to be called upon to make
6 a decision in order to impute it.

7 If you've got a client -- unless
8 we let them know ahead of time, they're
9 not going to necessarily keep
10 documentation. I don't know if the judges
11 will be willing to say, Okay, you've told
12 me you applied online 14 times in the last
13 12 months without some type of
14 documentation.

15 THE HONORABLE PALMER: Well -- and
16 this is Julie Palmer. They pretty much do
17 that now. You know, there's not a lot of
18 documentation, unless they actually go
19 through the State. I went to Target and
20 filled it out in the kiosk in the middle
21 of Target; I went to Walmart and filled
22 out a job application, because it's
23 really -- you don't get a receipt or

1 anything that I filled at this application
2 at Target or Walmart at the kiosk in the
3 building. And that's how most of the
4 applications are done now.

5 MS. DAVIS: Yeah. It's so different
6 than it used to be. I just wonder what we
7 need to do to help the parents.

8 THE HONORABLE PALMER: Yes, Michael?

9 MR. POLEMENI: Yes. Michael
10 Polemeni.

11 Are we going to have to start
12 having all -- whenever somebody gets
13 married, have them issue this out as well?
14 Make sure that they're aware of all of
15 this when they get married?

16 THE HONORABLE PALMER: Well, this is
17 more for the attorney that's representing
18 them that needs to know this.

19 Of course --

20 MS. DAVIS: A lot of pro se people.

21 THE HONORABLE PALMER: I would think
22 a lot of -- at least where I came from, at
23 least 25 percent everybody in the

1 courtroom now are self-represented verses
2 self-represented or self-represented -- if
3 DHR is stepping in, the State's
4 represented to try to collect some money.
5 Then, usually, they're self-represented,
6 you know.

7 MR. POLEMENI: Yeah. It's an
8 information outreach.

9 THE HONORABLE PALMER: Ms. Moore.

10 THE HONORABLE MOORE: Yeah. And I
11 agree. I think we need to -- if we're
12 going to actually rely on this, we need to
13 define what a record is, a record of
14 seeking employment.

15 So if it's going to be
16 documentation, what are the judges
17 accepting now? Some judges want to
18 actually see where you're going in
19 writing. So I think it would may need to
20 be defined what we actually need. That
21 would clear it up much.

22 THE HONORABLE PALMER: Okay.
23 Anybody else?

1 THE HONORABLE BELL: Jennifer, as I
2 -- Billy Bell. As I understand what
3 you're saying, we don't have to worry
4 about this right now, because what we did
5 came into effect after our last review
6 meeting?

7 MS. BUSH: We do have to worry about
8 it, but it doesn't have to be decided at
9 today's meeting.

10 THE HONORABLE PALMER: But don't we
11 have four years?

12 MS. BUSH: Yes.

13 THE HONORABLE PALMER: Okay. I
14 mean, not that I want to wait four years,
15 but --

16 MS. BUSH: We don't have to make
17 this decision today on any of this. We
18 have four years from our last review,
19 which was in December of 2016, so -- where
20 we had someone come and present potential
21 new guidelines to us. So you do have time
22 to think about this.

23 The one thing that we've already

1 done is we've substituted the old -- the
2 current language in Rule 32 from opposed
3 language, which mirrors this, so that we
4 have all of these elements.

5 It was similar. You know, you
6 already had a duty to have a job history
7 and job opportunities and education, but
8 this is a little more detailed.

9 THE HONORABLE BELL: And they should
10 change the whole status of the evidence to
11 be presented to justify a court imputing
12 income.

13 In the past, in cases I tried,
14 generally, all you would see would be the
15 past earnings history, to justify ability
16 to earn, and why do they not have a job
17 right now. What evidence have they made
18 to find a job. This is lot more
19 complicated.

20 You might have to have an
21 employment expert come in, a vocational
22 expert come in and testify. But what I'm
23 saying, we don't have to worry about this

1 right this second. But in the next
2 review, we've got to insert this language.

3 MS. BUSH: Sometime between now and
4 the next review, we need to insert this
5 language. The committee may choose to do
6 it before four years is up.

7 THE HONORABLE PALMER: Go ahead,
8 Penny. And then, Michael, we'll get to
9 you.

10 MS. DAVIS: It talks about the local
11 job market, which I understand where the
12 judge is coming from in terms of needing
13 experts to come testify. But the cost is
14 going to be so great for people to do that
15 that we may need to work with the -- I
16 don't know what department it is, but
17 whatever the department is that does the
18 employment and work and all that. I
19 guess, Department of Labor too, to see if
20 they can develop some statistic -- maybe
21 they already have it, just make it
22 available to the court system, statistical
23 data on the local job market, so that if

1 you don't -- so the parents don't have to
2 incur the cost of having to have an expert
3 come in and testify, you know, about what
4 the local job market is.

5 I mean, I don't know how we can
6 do that, but I think we should begin to
7 think about it, maybe have some contact
8 with the labor department, because that
9 obviously is going to be a requirement.

10 THE HONORABLE PALMER: Well, the big
11 thing that I see with the DHR, when
12 they're bringing people in to try to
13 collect back child support, would be the
14 educational attainment, the literacy, the
15 criminal record, and other employment
16 barriers.

17 Because what I saw on the bench
18 was, you know, they're healthy, they're
19 walking around, they don't have a broken
20 leg, they should have a job. And none of
21 the -- the literacy didn't come in, the
22 criminal record didn't come in, or other
23 employment barriers did not come in.

1 So I just think from DHR's point
2 of view as well, that's going to have to
3 be something that y'all consider when
4 you're saying this person should be paying
5 child support. Because that -- in the
6 past, that's not been -- unless they had
7 an attorney, and they brought it up, the
8 attorney brought it for the person that
9 they were seeking the child support from.

10 MS. CAMPBELL: Angela Campbell. DHR
11 just had a recent policy change where when
12 we file a contempt action, we have to try
13 to locate income or assets for Defendants.
14 We have to provide that information to our
15 attorneys when we request a contempt
16 petition before filing with the Court.
17 So, we are looking at assets and income.

18 THE HONORABLE PALMER: Okay. And
19 Michael?

20 MR. POLEMENI: Yeah. I will go back
21 one to (b) and that notification. We
22 already have -- the Court has it, all the
23 information.

1 But maybe DHR can put a link to
2 that information or other places put a
3 link to that information and make a
4 broader way for people to know about these
5 changes and all of that kind of stuff.

6 THE HONORABLE PALMER: And I'll tell
7 you what we need to do right now. We're
8 going to get a little out of order, just
9 because Jason Hodges and Chris Colee need
10 to go back. They are the IT department
11 for AOC or at least a big part of it, so
12 we're going to come back to this.

13 But right now, let's go to the
14 income withholding order, the CS-47, all
15 of the Social Security numbers that are
16 out there in the public purview and what
17 we need to do about that.

18 Jason and Chris, if y'all will
19 maybe come sit up here, if you would,
20 please, just these two empty seats.

21 So, Jennifer, I apologize. We're
22 jumping around, but I know these guys need
23 to get going.

1 And you have the handout?

2 MR. HODGES: Yes, ma'am.

3 THE HONORABLE PALMER: And then for
4 the court reporter's sake, this is Chris
5 Colee, and then in the white shirt is
6 Jason Hodges.

7 MR. MADDUX: And this is the
8 handout. It starts with important notice.

9 THE HONORABLE PALMER: Alabama made
10 national news about this.

11 And so I know that on the
12 CS-41 -- and CS means child support form
13 for those in the public maybe that aren't
14 maybe familiar with that.

15 It's been common practice in the
16 past where it shows that a Social Security
17 number that -- for the parties, we've just
18 been basically putting their last four
19 digits. On the CS-47, I believe they are
20 supposed to have -- well, I'll tell you
21 what. Withdraw all of that.

22 Let's go to the first page, the
23 income withholding order, right here.

1 It's my understanding, for all the DHR
2 attorneys in the room, that the full
3 Social Security number has to be on the
4 this form; is that correct?

5 MS. BALDWIN: The employer will kick
6 it back if we don't.

7 Because when they have gone out
8 from the clerk's office with just the last
9 four, and they come back to us, and the
10 clerk calls us for the rest of the number.
11 So we key them in, because when it comes
12 back, it's going to be redacted on the
13 case action summary, and it's only going
14 to have the last three or four.

15 But the clerk has it in case the
16 employer requests it.

17 THE HONORABLE PALMER: But when
18 these get entered in through the judge's
19 office, doesn't this whole document show
20 up with nothing redacted?

21 MS. BALDWIN: No. It comes back
22 redacted.

23 MR. HODGES: It comes back redacted.

1 THE HONORABLE PALMER: I don't think
2 it does.

3 Mr. Wright and Mr. Smith, y'all
4 are actually practicing attorneys. What's
5 y'all's experience on this?

6 MR. WRIGHT: We usually just put the
7 last four digits.

8 THE HONORABLE PALMER: Even on an
9 income withholding order?

10 MR. SMITH: Yeah.

11 THE HONORABLE PALMER: Okay. And
12 y'all have not had any problems with the
13 employer, or do you know about what Ms.
14 Baldwin is talking about, as far as them
15 calling back and saying Hey, what's the
16 whole number?

17 MR. SMITH: I've never had that
18 happen.

19 MR. WRIGHT: I've never had that
20 happen.

21 MS. BALDWIN: I doubt seriously the
22 judges would even be asked about it. It
23 would come from us.

1 THE HONORABLE MOORE: Yeah.

2 THE HONORABLE PALMER: Okay. Ms.
3 Moore?

4 THE HONORABLE MOORE: I was going to
5 say as a circuit clerk, we never contact
6 the judge in reference to the Social
7 number. We just usually contact the
8 caseworker with DHR and/or the attorney,
9 if it's filed by the attorney, but we
10 never discuss with -- you know, we don't
11 discuss it with the judge at all.

12 THE HONORABLE PALMER: But if I were
13 to pull up a case right now and it had an
14 income withholding order that had been
15 scanned in by the judge's office, entered,
16 those Social Security numbers would be, on
17 that document, would be redacted.

18 MS. BALDWIN: Okay. That's a little
19 bit of a different question. You said
20 scanned in.

21 If it's one that a private
22 attorney has submitted to the Court and
23 the Court signed, it may have the whole

1 number on there. But if you fill it in in
2 AOC, e-file it the way we're all required
3 to by court order, then it's going to come
4 back redacted in the case action summary.
5 The only one that could probably see an
6 unredacted copy, I assume, would be the
7 clerk.

8 MR. SMITH: Shane Smith.

9 So when you enter in Social
10 Security into the IWO form in AlaFile,
11 even though -- so we should go ahead and
12 enter the full number, and it would be
13 automatically redacted?

14 MS. BALDWIN: That's what we do.
15 That way, if it comes back -- if the
16 income withholding comes back to the
17 clerk, because the failure of us to
18 include that, the clerk can automatically
19 pull it up and see what the number is so
20 that she can reissue it.

21 THE HONORABLE PALMER: So the courts
22 then should never scan in an IWO?

23 MS. BALDWIN: Not if it's got the

1 full Social on it. If they -- you know,
2 they need to X out all those numbers. If
3 the Court is going to be doing that, I
4 think their JA needs to be instructed to X
5 out everything but the last four.

6 THE HONORABLE PALMER: Okay.
7 Anybody? Yes, sir, Michael.

8 MR. POLEMENI: Now, are all these
9 documents e-filed --

10 THE HONORABLE MOORE: No.

11 MR. POLEMENI: -- or are they -- are
12 there hard copies?

13 MS. BALDWIN: Ours are, but private
14 litigants, I'm sure, are not.

15 THE HONORABLE MOORE: There are
16 several ways of filing those income
17 withholding orders. They can be
18 electronically filed, and, of course,
19 people can walk in and file them. You've
20 got attorneys filing them. You got
21 judge's offices filing them. You got the
22 district attorney's office that are
23 actually filing in these income

1 withholding orders, so it just depends.

2 If it goes through electronic --
3 what we mean by electronic is, if you're
4 putting the data in electronically, then
5 it will redact, but if you're just
6 scanning in and electronically filing it
7 that way, it will not.

8 You have to actually manually
9 type that Social in for it to actually go
10 through that redaction process. So that's
11 what you have, the differences in how you
12 file income withholding orders.

13 Now, understand also, we can have
14 prior income withholding orders, and,
15 remember, this is all time sensitive. So
16 it depends on when this process and when
17 this redaction was put into effect.

18 We've got thousands and thousands
19 of IWOs out there with all Socials. So
20 you have -- and then, if someone comes in
21 and they reissue, then you got the whole
22 number there, so there is no redacting on
23 some of them. This is just something that

1 we just started, and Chris and Jason will
2 be able to tell when that started.

3 THE HONORABLE PALMER: So if it's a
4 .03, let's say, being modified .00, .01,
5 .02, income withholding order that was
6 done ten years ago, five years ago, it's
7 going to have the whole number on that?

8 THE HONORABLE MOORE: Yes, ma'am.

9 THE HONORABLE PALMER: And there's
10 nothing we can do about taking that down,
11 off of the --

12 THE HONORABLE MOORE: There is -- I
13 mean, there are ways that it can be done.
14 Pretty much time consuming.

15 You can go and look through those
16 files and through the images, pull those
17 images out, and then rescan those images
18 in private. That could be done.

19 And I think we're working on
20 something now where we can go in and
21 identify IWOs, identify those IWOs and
22 then hopefully just be able to transfer
23 them into a private folder.

1 THE HONORABLE PALMER: Okay.

2 THE HONORABLE MOORE: We're looking
3 at ways of trying to go back and redact.
4 Just remember now, a lot of our files were
5 done -- in the '90s, we had the Department
6 of Corrections inmates coming in scanning,
7 and they were scanning, scanning. Nothing
8 was private, nothing was confidential.
9 Everything was just scanned in the public.
10 So those are the issues we have. I mean,
11 that's just reality. That's just the way
12 it is. And we still have a lot of stuff
13 out there.

14 But there are ways that they are
15 looking at. We are looking at the
16 options, and none of them have been
17 solidified right now, but we're working on
18 that, and Jason and Chris can explain.

19 THE HONORABLE PALMER: Okay.
20 Michael?

21 MR. POLEMENI: Everything has an ID
22 and a password associated, but are you
23 also encrypting this type of data, so

1 where you have you have to secondary
2 classification? Maybe that's something to
3 consider.

4 MR. HODGES: We will check into
5 that.

6 Jason Hodges, IT Support.

7 We don't currently encrypt
8 anything within AlaFile. When it comes
9 across, basically, we do know who logs in.

10 MR. POLEMENI: No. I mean, just
11 encrypt the whole document or whole case
12 file so that could, you know --

13 CHIEF JUSTICE STUART: That's public
14 information, isn't it?

15 MR. HODGES: It's public. I mean,
16 we currently don't redact anything.

17 MR. POLEMENI: So you run into the
18 public information issue. Okay.

19 MR. HODGES: That's right.

20 THE HONORABLE PALMER: Okay. What
21 about then the CS-47? For my DHR people
22 out there, does the CS-47 -- because I
23 believe that was originally established by

1 some federal mandate that had to have
2 Social Security numbers on there, so that
3 you could find somebody who was working,
4 who maybe was saying that they weren't
5 working or trying to not have an income
6 withholding order filed against them.

7 What about the 47? Is that --
8 the whole number required for parties on
9 that?

10 MS. BUSH: Yes. Federal law
11 requires each state to have what's called
12 a state case registry, which will include
13 names, Social Security numbers, dates of
14 birth, and there's also some state law on
15 there as well.

16 And it's my understanding
17 originally, before e-filing, the paper
18 CS-47 was filled out, was given to the
19 clerk, the clerk could then populate SJIS
20 with that information. I don't know if
21 the individual clerks then shred, cut it
22 up, or put it in a file.

23 Once AlaFile came into play, I

1 believe it's now just scanned. I don't --
2 when I looked on AlaFile, I did not see an
3 electronic CS-47, but what I wonder from
4 Jason -- and I don't know if you have this
5 information today or not, but I know when
6 you go in to set up a case, a new case,
7 you have to put in all of that
8 information. And I don't know if AlaFile
9 will pull all of that data, if it's -- you
10 know, data that's on the CS-47, when you
11 fill it in, and then report it to State
12 Case Registry.

13 THE HONORABLE PALMER: Let's get
14 that from Mr. Smith, Shane Smith, because
15 he does those most everyday.

16 The CS-47 when you file a
17 divorce, that's one of the initial things
18 you fill out, isn't it, on a new
19 complaint?

20 MR. SMITH: It is. But we don't do
21 that any longer, because we enter that
22 information directly into AlaFile when we
23 open a case. I just pulled up a case that

1 I have right now on AlaCourt, and all of
2 that information is populated under the
3 parties section, and the Social Security
4 is automatically redacted, except for the
5 last three.

6 MR. HODGES: The first and then the
7 last three.

8 THE HONORABLE PALMER: But, again,
9 we've got the situation where they were
10 paper filed, they were scanned in, and if
11 you had a CS-41 -- you do a 47 on
12 everything, or is it still just on an
13 initial divorce? It's on a .01, a .02?

14 MR. SMITH: Everything we do, and
15 it's a .01, 02, it gives you the option to
16 go and edit the party itself, and you can
17 update all of that information then.
18 Otherwise, if you file it in, it will just
19 have an option information.

20 THE HONORABLE PALMER: Okay. Which
21 might include the whole Social Security
22 number, but, again, the new filing, it
23 will be redacted.

1 MR. SMITH: It will be considered
2 redacted.

3 THE HONORABLE PALMER: But the old
4 filing, those are still out there.

5 THE HONORABLE MOORE: Yes, ma'am.

6 THE HONORABLE PALMER: So if I
7 wanted to go and steal somebody's Social
8 Security number, and I look up the .03,
9 and it's redacted, then I could go back to
10 the .02 or the .01 or the original filing,
11 and I could find that, correct?

12 THE HONORABLE MOORE: Yes, ma'am.
13 But, you know -- and I understand about
14 the Social and how they're all over
15 AlaFile. But just remember, a zillion
16 traffic tickets are out there with
17 everybody's Social on it.

18 So, you know, this issue goes way
19 beyond just child support. Child support
20 is just a minor part of it. There are
21 zillions of traffic tickets -- if you've
22 ever gotten a traffic ticket before
23 10 years, less than the past five years

1 ago, then your Social is out there. It's
2 out there.

3 MR. COLEE: This is Chris Colee.
4 There are also -- just talking about
5 electronic records, you know, someone has
6 pointed out to us a couple of times
7 recently, you go to a probate office and
8 look up a mortgage and find anybody's
9 Social, you know, in paper.

10 So you can go down to the
11 courthouse and do the same kind of thing.
12 So they're just out there everywhere.

13 THE HONORABLE PALMER: Well, what we
14 can do here is what we can do here. We
15 can't control Probate. We can't control
16 the tickets. We can just do in here what
17 we can do to protect everybody, so, I
18 guess -- yes, Michael?

19 MR. POLEMENI: One more thought.
20 Now that Social Security numbers are
21 required at birth, there's that whole
22 window of time between zero and 16, 21,
23 when that could be compromised. All of a

1 sudden at 16, you find out you owe a
2 \$100,000. So raise that up to the level
3 of people -- how do we protect that?

4 And maybe it's a Fed issue that
5 needs to be pushed up to.

6 MS. BALDWIN: And if you don't have
7 to put in -- like, if the case asks for
8 minor children, it will accept the minor
9 child's name and gender without a request
10 for a Social, and I never put a child's
11 Social.

12 THE HONORABLE PALMER: You don't
13 have to put 9999 in anymore?

14 MS. BALDWIN: I don't put anything
15 for the child.

16 MR. COLEE: But if the system ever
17 asks you for a Social and you don't want
18 to put it in, it will accept all nines.

19 THE HONORABLE PALMER: All right.
20 So under the 47, the CS-47, that's -- I
21 guess, the next to the last page, for the
22 adults, that's going to automatically
23 populate now, is that correct?

1 When you enter all the
2 information, the last three digits are the
3 only ones that show up. Under the
4 children, where it says name, address,
5 sex, date of birth, and Social Security
6 numbers, now you don't have to put
7 anything under Social Security numbers; is
8 that correct?

9 MR. SMITH: That's my understanding.

10 THE HONORABLE MOORE: That's
11 correct.

12 THE HONORABLE PALMER: But for some
13 reason you do, you're just supposed to put
14 9999.

15 Okay. And then you should have
16 one more document, and that is a CS-41.

17 Do y'all have that?

18 Now, under here, it has, I am the
19 plaintiff, defendant, or other, and then
20 it has my Social Security number is.

21 So does that get populated when
22 you add in the parties, and if there's
23 children or what happens with these?

1 MR. SMITH: I don't believe there's
2 any current way to enter a CS-41 since it
3 has to be notarized. I believe what is
4 done with that is, it's given to the
5 Court, and it's stamped in -- filed in
6 electronically as a scan.

7 THE HONORABLE PALMER: Okay. What
8 if it's an uncontested divorce and you're
9 just filing all that paperwork? How do
10 you get that into the system?

11 MR. SMITH: The same way. We would
12 scan it in as a pdf. It's uploaded to the
13 AlaFile system. There's no way to redact
14 that, unless we just put Xs and don't put
15 the full Social.

16 MS. BALDWIN: Our workers, of
17 course, have gotten to where they don't
18 submit with it on there. But if they do
19 it in court and the person writes their
20 Social in there, we redact it with a pen,
21 you know.

22 MR. SMITH: Just a curiosity. Is it
23 necessary for the CS form to have a Social

1 on it then, if it's -- to enter something
2 even uncontested, you have to enter in
3 their Social Securities into the AlaFile
4 system, so this seem like it would be
5 duplicative.

6 I mean, is there any reason for
7 that to be on this form so that people
8 don't make that mistake?

9 MS. BALDWIN: Unless it were to get
10 scanned into the wrong file.

11 THE HONORABLE MOORE: On behalf of
12 the clerk's office, I would think that it
13 would not need to be on here. I think it
14 should just be a space for the last three
15 or whatever.

16 I think this form needs to be
17 amended, because when this comes into our
18 office, you know, it's going to be scanned
19 in, and we're not going to alter it,
20 unless we have instructions to do so. So
21 there are -- they're being scanned in just
22 as they are with that full Social, so we
23 could put in that --

1 MS. BALDWIN: Could we just put in
2 the last four digits?

3 THE HONORABLE MOORE: What's being
4 redacted now, Jason, so we can be
5 consistent?

6 MR. HODGES: Currently, the last
7 three, they show.

8 THE HONORABLE MOORE: Just the last
9 three. That's all that should be there.
10 We make it consistent with that.

11 And I do think that -- on top of
12 that, I think we need to send out
13 something to every circuit clerk in the
14 state of Alabama, so it can be circulated
15 to those court specialists that are
16 scanning this in as well, because we could
17 do that as an education thing.

18 We can discuss that at our in
19 conference in July. But this needs to be
20 sent out to every person -- I mean, those
21 instructions need to be sent out. That's
22 a recommendation for this committee.

23 THE HONORABLE PALMER: Is that a

1 motion?

2 THE HONORABLE MOORE: That is.

3 THE HONORABLE BELL: Can I ask you
4 to amend that to take out the part of the
5 CS-47 that says Social Security number for
6 children?

7 If we don't have to put it in
8 there, why do we have that spot in there?
9 Because a lot of people are going to
10 think, Hey, that's required information.
11 Let's plug it in.

12 THE HONORABLE PALMER: Okay.
13 Jennifer Bush?

14 MS. BUSH: We would like to go back
15 and look at the federal requirements for
16 the exact data elements. I know they
17 require names, Social Security, date of
18 birth. But I'd have to go back and look
19 and see if it requires children's Social
20 Security.

21 THE HONORABLE PALMER: Okay. So for
22 our next meeting, we're going to discuss
23 the CS-47. But for today's meeting, the

1 CS-41, can we -- I heard a motion from Ms.
2 Moore that we on -- it's under Number one
3 subsection.

4 It says, "My Social Security
5 number is;" that maybe we change that
6 language to "The last three numbers of my
7 Social Security number is."

8 MS. DAVIS: So we would have a form
9 that has Xs everywhere, except for the
10 last four?

11 THE HONORABLE MOORE: Yes.

12 THE HONORABLE PALMER: Does anybody
13 want to discuss that any further?

14 (No response.)

15 THE HONORABLE PALMER: Okay. I've
16 got a motion. Do I have a second?

17 MR. WRIGHT: I second.

18 THE HONORABLE PALMER: All right.
19 That was Steve Wright.

20 All in favor say aye.

21 (Committee members who favored the
22 motion so indicated.)

23 THE HONORABLE PALMER: Opposed?

1 (No response.)

2 THE HONORABLE PALMER: Okay. So
3 done.

4 So we will submit that to the
5 Supreme Court for their approval.

6 They do have to approve that,
7 right?

8 MR. MADDUX: It's part of the rule,
9 yes, ma'am.

10 THE HONORABLE PALMER: All right.
11 Well, very good. We got something done
12 here.

13 Okay. Now then -- and I do want
14 to bring up, Ms. Moore, about the -- as a
15 private judge, I was looking at something
16 yesterday, and I did find where the SJIS
17 does have the full Social Security number
18 of all the parties for the judges and, I
19 guess, the clerks to see.

20 THE HONORABLE MOORE: Yes, ma'am.

21 THE HONORABLE PALMER: And that's
22 under Alacourt.gov, but then -- or
23 AlacourtPLUS, but then under Alacourt.com,

1 it is redacted out.

2 THE HONORABLE MOORE: Yes, ma'am.

3 THE HONORABLE PALMER: So, I guess,
4 everybody is comfortable with the -- I
5 guess the clerk's office has to see it. I
6 don't know if the judges or the judicial
7 assistants or the court attendants, do
8 they necessarily need to get the whole
9 Social Security number or not?

10 THE HONORABLE MOORE: The judges
11 will see it. I mean, their level of
12 security is higher than ours, so they will
13 have view to that. And I think that's a
14 good thing.

15 THE HONORABLE PALMER: You think
16 that it's a good thing that the judges can
17 see the whole Social Security number?

18 THE HONORABLE MOORE: That's the
19 judges can see those, yes. I don't see
20 anything wrong with that, because judges
21 have access to even more stuff than we do:
22 Confidential, private, and all of that.

23 There may be times when a judge

1 may need to look up a number, just for a
2 quick reference or something, and I don't
3 think he needs to call the clerk's office
4 to verify a Social.

5 THE HONORABLE PALMER: Okay. Any
6 other discussion on that?

7 (No response.)

8 THE HONORABLE PALMER: Okay. Well,
9 then we'll just leave that like it is.

10 Okay. And I know that there are
11 other task forces out there, because,
12 like, if you do a QDRO, don't you have to
13 have a Social Security number on that?

14 MR. SMITH: You do.

15 THE HONORABLE PALMER: Sometimes if
16 you need medical records, if you subpoena
17 medical records on somebody, you have to
18 have a Social Security number on that. So
19 it's not just about child support, like
20 everybody said. It's about everything
21 else.

22 But there are different
23 technology task force, and there's a bar

1 task force that's looking at all of that.
2 So if anybody on these other things that
3 we've brought up have any concerns, then
4 that's the people you need to speak to. I
5 guess, the technology task force, can you
6 find that online?

7 MR. COLEE: Well, we have the
8 technology commission that's going to be
9 involved, but then there's also a new task
10 force being formed with the State Bar. In
11 fact, we just got a list of the members of
12 that today.

13 So we're going to be looking at
14 all of that.

15 THE HONORABLE PALMER: Okay. So if
16 anybody here had a concern, do they just
17 contact y'all or contact you, Chris --

18 MR. COLEE: Sure.

19 THE HONORABLE PALMER: -- or contact
20 whom?

21 MR. COLEE: They can contact me.
22 And it's Chris Colee, that's C-O-L-E-E, at
23 Alacourt.gov, and my number is 954-5113.

1 THE HONORABLE PALMER: That's 334
2 area code?

3 MR. COLEE: Yes.

4 THE HONORABLE PALMER: Any other
5 technology issues while we have these
6 gentlemen here? I haven't dealt with
7 Chris too much, but I've dealt with Jason
8 a lot.

9 Matter of fact, when he hears
10 that I'm on the other line, I'm sure he
11 says, Let me go get a drink of whiskey,
12 but he's very patient with you. But if
13 anybody does have any issues, Jason is
14 wonderful, so.

15 MR. MADDUX: Judge Palmer, did you
16 want to bring up the issue about the CS-42
17 calculator?

18 THE HONORABLE PALMER: Well, I do
19 have that. Let's see where our schedule
20 is right now.

21 But I'll just call Jason up about
22 that, okay? Thank you very much.

23 And one thing I did forget to

1 mention at the opening was that when --
2 for our next meeting, when you get a
3 notice, if y'all would RSVP just as soon
4 as possible. We weren't sure we were
5 going to have a quorum today until about
6 Wednesday.

7 So it just helps with the
8 planning, with the food, with the meeting
9 space, with the copies, so if everybody
10 would just RSVP as soon as possible.

11 Okay. So let's backtrack a
12 little bit. And we were -- Ms. Bush,
13 thank you for your patience on this. We
14 were on the guidelines. I believe we were
15 on page number 2 and talking about
16 education, and then Ms. Baldwin was
17 talking about how -- right now, I
18 believe the DHR workers has to -- they
19 have to have some sort of financial
20 information about the people before y'all
21 try to go collect back child support.

22 MS. CAMPBELL: Yes, ma'am.

23 THE HONORABLE PALMER: And that was

1 Ms. Campbell, I believe, that said that.

2 Sorry.

3 So, Jennifer, thank you. If you
4 want to continue on, I appreciate it.

5 MS. BUSH: Okay. So as we
6 discussed, those are the criteria for
7 imputing income.

8 If you go to the next page,
9 that's going to be page three, this is
10 where there's just been some terminology
11 changes. If you can see at the very top,
12 it will say the Child Support Guidelines
13 have addressed how the parents will
14 provide for -- and they make it similar --
15 child's health care needs through private
16 or public health care coverage and/or
17 through the cash medical support.

18 So you see they've taken out the
19 word "insurance," and it's actually the
20 terminology and the concepts changing from
21 private insurance to public or private
22 health care coverage.

23 If you see Number (3) that's

1 underlined, "Provide that incarceration
2 may not be treated as voluntary
3 unemployment in establishing or modifying
4 support orders."

5 That is -- that's a change for
6 us.

7 THE HONORABLE PALMER: That is a
8 change.

9 MS. BUSH: That is something that's
10 not addressed necessarily in the rule.
11 It's not in there. And I believe
12 different courts treat it differently, and
13 now there is a prohibition against that.

14 THE HONORABLE PALMER: Okay. And so
15 now what you're reading to us, is this
16 effective today? Because I believe
17 there's been cases in the Court of Civil
18 Appeals and the Alabama Supreme Court that
19 says you can impute income to somebody
20 who's incarcerated.

21 MS. BUSH: Okay. The federal
22 regulations are effective, but we have
23 four years, plus a year, from our last

1 review to put them in effect in the state.

2 So until we change Rule 32, the
3 law is as it currently is. We have, like
4 I said, four years and some time to put
5 this clause in there or this prohibition
6 into Rule 32.

7 THE HONORABLE PALMER: Okay.
8 Conversation?

9 MS. DAVIS: When it's talking about
10 you can't treat it as voluntary
11 unemployment, but that would preclude you
12 from otherwise imputing income, if, for
13 example, there were other assets that were
14 available that could be used, utilized, or
15 that relates only to the voluntary nature
16 of employment?

17 MS. BUSH: That's correct. If a
18 person has a trust fund or some other
19 source of income, that's an actual income,
20 that could be considered. The prohibition
21 is against determining that somebody made
22 30,000 a year prior to being incarcerated
23 and imputing 30,000 a year during their

1 incarceration.

2 THE HONORABLE PALMER: But what if
3 they were under an income withholding
4 order or a child support order, \$500 a
5 month, and then they go to jail, and then
6 they're in jail for five years?

7 So you got 60 months at \$500 a
8 month of back child support to collect.
9 Does that language affect that in any way?

10 MS. BUSH: Not in this particular
11 regulation. There is another federal
12 regulation that is -- that speaks to
13 modifications for DHR and how we will
14 treat our cases. And there are some
15 actions that we will need to take if we
16 discover that someone was incarcerated
17 for -- I believe it is 180 days or longer.

18 So that will hopefully prompt a
19 modification that so you will not have
20 orders running and someone incurring more
21 years while they're incarcerated for an
22 extensive period of time.

23 THE HONORABLE BELL: What if they're

1 in jail for a contempt of court, for not
2 paying child support?

3 THE HONORABLE PALMER: Or alimony.

4 THE HONORABLE BELL: I mean, you got
5 a real problem there. It that going to
6 automatically trigger it?

7 Because if DHR comes into my
8 court, when I was there, they wanted five
9 days for each missed payment. If the
10 sentence was more than 180 days, which I
11 have done, does that automatically trigger
12 a modification like you were just talking
13 about?

14 MS. BUSH: Well, like this
15 regulation, we have some time before we
16 have to implement that modification
17 regulation, and so we're looking at that.
18 They give us certain options of what we
19 can do. And so we're still looking at the
20 actual procedure we're going to use and
21 what's going to happen.

22 But the scenario you're giving
23 is, someone is incarcerated for contempt,

1 and they happen to have a modification
2 pending -- well, because this is -- what
3 this says is, these are the guidelines.

4 So when you're running the
5 guidelines and determining someone's child
6 support, you don't want to -- you don't
7 want to impute income or determine if
8 they're voluntarily unemployed because
9 they're incarcerated. So this is going to
10 come into effect when you're actually
11 calculating and ordering child support.

12 THE HONORABLE PALMER: But for a
13 Rule Nisi this is -- again, what I was
14 talking about earlier, this doesn't affect
15 a Rule Nisi.

16 MS. BALDWIN: I don't think it
17 should, because when you put them in jail
18 for failure to pay, you're saying they had
19 an ability to pay; they just didn't. And
20 so you're not saying that they don't have
21 the ability to pay, which would trigger a
22 modification.

23 MS. BUSH: This is addressing only

1 child support orders, when you're actually
2 calculating and ordering child support.

3 THE HONORABLE PALMER: To establish
4 or modify.

5 MS. BUSH: To establish or modify.
6 You cannot treat incarceration as
7 voluntary unemployment.

8 THE HONORABLE PALMER: Okay.

9 MS. BUSH: This is a very narrow
10 time period.

11 THE HONORABLE PALMER: Okay.
12 Michael?

13 MR. POLEMENI: If you incarcerate
14 somebody for 30 days or 180 days or ten
15 years, that person in a lot of cases no
16 longer has the ability to make \$30,000 a
17 year, because they've been fired for
18 whatever reason, or they had a security
19 clearance and they can no longer hold that
20 security clearance.

21 So it opens up a whole can of
22 worms that this kind of helps a little,
23 but that's a whole separate issue. Am I

1 right in that assumption or --

2 MS. BUSH: Well, there are some
3 federal regulation changes that deal with
4 contempt and deal with modification that
5 will address those. This, we're looking
6 at now --

7 MR. POLEMENI: Right.

8 MS. BUSH: -- is just establishing
9 or modifying the order.

10 MR. POLEMENI: Yeah. So what is
11 that other reference document that you're
12 talking about?

13 MS. BUSH: I don't have a federal
14 regulation document. There are a lot of
15 changes.

16 MR. POLEMENI: Okay.

17 THE HONORABLE PALMER: All right.
18 Anybody else on this topic?

19 (No response.)

20 THE HONORABLE PALMER: Ms. Bush,
21 next.

22 MS. BUSH: Okay. Down towards the
23 bottom of the page, if you will see the

1 underlined words. If you can see, they
2 have struck out the word "award," and
3 they're using the word "order."

4 And it also says new addition is
5 "The State shall publish on the Internet
6 and make accessible to the public all
7 reports of the guidelines reviewing body,
8 the membership of the reviewing body, the
9 effective date of the guidelines, and the
10 date of the next quadrennial review."

11 Now, AOC can speak to that, but I
12 do believe that that's already being done,
13 is that correct, Bob?

14 MR. MADDUX: I can speak to the
15 first two. We have documents really all
16 the way back to 2003 that this committee
17 has ever considered as well as we posted
18 the membership of the committee recently
19 with Brad Medaris' help. We got a culled
20 down list, so we have both of those on
21 there.

22 I don't really know what the
23 effective date of the guidelines or the

1 date of the next quadrennial review would
2 be, but I guess we can get with you and
3 find that out and post it.

4 THE HONORABLE PALMER: Well, the
5 effective date of the guidelines would be
6 like January 1st of '09, wouldn't it, of
7 the current guidelines that we go by?

8 MS. BUSH: That's the last time it
9 was changed, but we will need to post this
10 information. Whenever we determine that
11 information to be, that will need to be
12 posted and published on the Internet.

13 MR. POLEMENI: And I go back to my
14 original comment on (b), is we need to
15 have more than just one location where
16 that's, you know, referenced so that
17 people -- not the data itself, but the
18 link saying go here to get this
19 information.

20 MS. BUSH: Okay. The next changes
21 are on page four. There are not a lot of
22 changes on page four, so I will -- unless
23 you want me to, I'm not going to read all

1 of that. It's a lot of terminology
2 changes, instead of -- you'll see at the
3 top, instead of "award," it's
4 establishment and modification of a child
5 support order. They change that language
6 in there, so there are not a lot of
7 changes on page four.

8 Now, if you go to page five, this
9 says our child support guidelines need to
10 consider the "economic data on the cost of
11 raising children, labor market data (such
12 as unemployment rates, employment rates,
13 hours worked, and earnings) by occupation
14 and skill-level for the State and local
15 job markets, the impact of the guidelines
16 policies and amounts on custodial and
17 noncustodial parents who have family
18 incomes below 200 percent of the Federal
19 poverty level, and factors that influence
20 employment rates among noncustodial
21 parents and compliance with child support
22 orders."

23 So what this is saying is

1 whenever we review our guidelines again,
2 the dollar amounts, these are factors that
3 need to be taken into consideration.

4 THE HONORABLE PALMER: So we would
5 need to send all that maybe to Mr. Rogers
6 for him to make sure all of that's
7 included in the data that they use to
8 calculate the possible new child support
9 amounts?

10 MS. BUSH: When we do our next
11 quadrennial review and look at that, this
12 data has to be included. If the
13 guidelines committee wants to do it before
14 that time, it could choose to do so, but
15 we do have a deadline that's about
16 four years away.

17 THE HONORABLE PALMER: Okay. So it
18 seems to suggest that we need regional
19 guidelines, not just one guideline; is
20 that --

21 MS. BUSH: I don't read it as
22 needing regional guidelines. But I
23 think --

1 MS. BALDWIN: Because of the job
2 market.

3 MS. BUSH: Well, I think the thought
4 is you want data that's more local to the
5 southeast and to Alabama, as opposed to
6 the northwest or New York or somewhere.

7 You want just something -- I
8 don't think it has to be county to county
9 or regional in the state, but you do want
10 something that's going to be a fair
11 representation of the economic overall
12 status of Alabama.

13 THE HONORABLE PALMER: Well -- and
14 then, I guess, I've got one question, and
15 then we'll get to Michael and then to
16 Penny. Everybody should have a copy of
17 the guidelines as part of your packet.
18 And this is on page 18 of those
19 guidelines.

20 We already have a self-support
21 reserve, which you said that we met in one
22 of these other sections here. I believe
23 that's on page 2, Number (ii).

1 But I believe our self-support
2 reserve is, like, a 125 or 150 percent of
3 the poverty line versus the 200 percent of
4 the poverty line.

5 MS. BUSH: So we will have
6 four years to come up with numbers that
7 meet the 200 criteria. Whether it will
8 change the guidelines, whether it will
9 change the amount that's awarded for
10 support, I don't know, but we have some
11 time to meet that criteria.

12 THE HONORABLE PALMER: Okay.

13 MS. BUSH: And we may not meet it
14 now.

15 THE HONORABLE PALMER: Okay. Penny
16 Davis?

17 MS. DAVIS: I wanted to go back for
18 clarification from Jennifer, and maybe
19 premature, but in reading the final rule,
20 I don't remember who said regional, but I
21 think it says the labor market data by
22 occupation, skill-level for the state and
23 locate job markets, I do feel like it's

1 going to have to be broken down. I
2 don't -- to at least what's happening in
3 the state of Alabama. When it says local
4 job market, maybe even regionally or -- I
5 don't know if has to be county.

6 The more I read this, the more I
7 think it might be beneficial -- I know
8 we're four years out, but that time passes
9 quickly -- to get a subcommittee to work
10 with or have someone with labor department
11 involved with what we need to be thinking
12 about. Because whoever we get in the
13 future to work on the guidelines and
14 calculation, I think they're going to need
15 the Alabama data in order to do that.

16 And the way we get the data for
17 this, I assume, it's through the
18 Department of Labor, so I think they need
19 to be aware of what we're going to need to
20 comply with the federal guidelines. And
21 maybe they already are aware of that, but
22 if not, I don't see waiting four years to
23 get that information.

1 Is there nobody on this committee
2 that's Labor Department?

3 THE HONORABLE PALMER: Not that I
4 know of.

5 Michael, you had something?

6 MR. POLEMENI: Yeah. I just had a
7 question for Jennifer.

8 Do you meet with other states
9 looking at a regional statement when these
10 rules come out and compare with how you're
11 doing it or how Alabama is doing; how,
12 say, Tennessee or Mississippi or Georgia
13 are doing these things?

14 MS. BUSH: Well, the regulations
15 came out in December. I'm not aware of --
16 I can't say that the other states have
17 already implemented them. I'm not aware
18 that any states have.

19 MR. POLEMENI: No. I mean, do you
20 have, like, a regional meeting that all
21 the DHR people go to once a year or
22 something?

23 MS. SAULSBERRY: Lathesia

1 Saulsberry.

2 As the IV-D director for child
3 support in Alabama, I have had two
4 opportunities to travel out of state as a
5 result of -- since the rules have been
6 published in December.

7 The first meeting would have been
8 in February in DC. Federal Office of
9 Child Support was a part of that meeting,
10 and I just returned this week from
11 Seattle, Washington.

12 States are looking at the final
13 rule, just as Alabama is, having to --
14 some states are having to make -- go look
15 at their statutes and have legislation put
16 in place in order to implement the
17 different requirements of the final rule.
18 And with that, each state is taking into
19 consideration their judicial environment,
20 taking into consideration the practices
21 within their child support enforcement
22 programs.

23 Since I am speaking, I would like

1 to take this opportunity to reference the
2 title of the final rule just for the
3 committee and stress that the final rule
4 be entitled Flexibility, Efficiency, and
5 Modernization in the Child Support
6 Enforcement Program. That title is not by
7 coincidence.

8 The child support program, based
9 upon my involvement with the federal
10 office of child support, is a program that
11 is evolving. The child support program
12 from the federal office standpoint is a
13 program where things that have been in
14 place for 30-plus years are now being
15 changed.

16 We are serving a clientele that
17 is far different from 40 years ago. The
18 child support program was enacted in 1975,
19 I believe, if I'm not incorrect. This
20 program, we're now -- as states, we're now
21 having to implement policies and
22 procedures for our caseworkers to
23 implement policies that will now not

1 necessarily support but that will look at
2 all aspects of the noncustodial parent,
3 the custodial parent. We talk about
4 ability to pay.

5 We're looking at policies that
6 are coming out in the future that are
7 associated with modifications. And we'll
8 need this committee and our partners in
9 the child support community to help the
10 Child Support Enforcement Program in
11 Alabama to implement and to help change
12 the culture of what's been in a Child
13 Support Enforcement Program in 40 years,
14 because the program is evolving.

15 MS. BALDWIN: Do you know if there
16 is any state that already has -- and I
17 know it's real early, and I guess the
18 answer is probably going to be no.

19 But do you know if there's a
20 state that's already implemented or gotten
21 past where we are? I think the question
22 was, is there a state that has looked at
23 it and decided to regionally break --

1 MR. POLEMENI: No. No. I was
2 looking at it from a regional, like, the
3 southeast. Like, there's a group like
4 this that meets from all the different
5 states, and I think she addressed that
6 quite well.

7 MS. SAULSBERRY: To answer your
8 question, based upon my meeting this week
9 in Seattle, Alabama, we're one of few
10 child support committee guidelines
11 committee meetings that happened since it
12 was published in December 2016.

13 THE HONORABLE PALMER: Well, I don't
14 want to rush, but we're running about 15
15 minutes behind schedule, so your questions
16 are much appreciated, but let's move on.

17 MR. POLEMENI: Don't ask too many.

18 THE HONORABLE PALMER: Well,
19 Michael, we love to talk here.

20 Okay. So next, Jennifer. Thank
21 you.

22 MS. BUSH: Okay. Under Number (2)
23 on page five, these are also things that

1 we have to do: "Analyze case data,
2 gathered through sampling or other
3 methods, on the application of and
4 deviations from, the child support
5 guidelines, as well as the rates of
6 default and imputed child support orders
7 and orders to determined using the
8 low-income adjustment required under
9 paragraph (c)(1)(ii) of this section. The
10 analysis must also include a comparison of
11 payments on child support orders by case
12 characteristics, including whether the
13 order was entered by default, based on
14 imputed income, or determined using the
15 low-income adjustment required under
16 paragraph (c)(1)(ii).

17 The analysis of the data must be
18 used in the State's review of the child
19 support guidelines to ensure that
20 deviations from the guidelines are limited
21 and guideline amounts are appropriate
22 based on criteria established by the State
23 under paragraph (g)."

1 So those are going to be some
2 additional things that will need to be
3 looked at, and as Penny mentioned, it's
4 probably wise to go ahead and start
5 gathering that data, if we need data on
6 defaults, when orders are based on imputed
7 income, and the characteristics of the
8 individual orders.

9 THE HONORABLE PALMER: Okay.

10 MS. BUSH: On page six, "Provide a
11 meaningful opportunity for public input,
12 including input from low-income custodial
13 and noncustodial parents and their
14 representatives. The State must also
15 obtain the views and advice of the State
16 child support agency funded under Title
17 IV-D of the Act."

18 So in doing the guidelines, there
19 are other things that we need to do, have
20 input from low-income custodial and
21 noncustodial parents.

22 Any questions?

23 (No response.)

1 MS. BUSH: Okay. The next Federal
2 Regulation is 303.31. And if you see on
3 the very bottom of page six, those are
4 just terminology changes: Health care
5 coverage as opposed to insurance, private
6 health insurance, and public health care.
7 So those are not big changes.

8 They did strike out health care
9 coverage, which is available to either
10 parent, which is along the same lines of
11 what we've already done with our
12 guidelines in that any health insurance is
13 available through any person. So I don't
14 see the big change, just some terminology
15 changes.

16 On page seven, if you look at
17 page (3), at the very bottom of (3), there
18 is some language that is struck out. And
19 what this is saying is they struck out the
20 language -- you know, when you're looking
21 at health insurance, you have to look at a
22 reasonable cost.

23 And one thing that they struck

1 out is the language that we now have that
2 was at the time required, and that is, "In
3 applying the five percent or alternative
4 State standard for the cost of private
5 health insurance, the cost is the cost of
6 adding the child (or children) to the
7 existing coverage or the difference
8 between self only and family coverage."

9 Federal Regulations struck that
10 out. I think it's going to make it a
11 simpler process of determining if the cost
12 is reasonable, and so we struck that out.
13 And when we get to the Rule 32 language,
14 we struck that out as well.

15 If you look under (b)(1)(i),
16 again, just insurance is struck out, and
17 it's changed to health care coverage, and
18 then they added, "can be obtained for the
19 child," which appears to be in line with
20 what we have done recent with our health
21 insurance. So I don't see any big changes
22 there.

23 (b)(1)(ii): "Allocate the cost

1 of coverage between the parents."

2 And I believe -- y'all tell me.

3 I believe we already do that with the way
4 we currently calculate child support on
5 this CS-42. You put it in there, and it's
6 allocated to each parent. So while we
7 certainly want to be aware of that, I
8 think that we're already doing that.

9 On the next page, page eight,
10 again, these are just terminology changes.
11 If you look through here, just health care
12 coverage, they've changed the word
13 "written" to something that is reflected
14 in the record, understanding things may be
15 electronic now, so not a lot of changes on
16 the page eight.

17 THE HONORABLE PALMER: Okay. Well,
18 thank you.

19 Well, I would like to make a
20 motion. Since we are going to send the
21 CS-41 to the Alabama Supreme Court with
22 our suggested changes to where "My Social
23 Security number is," that we go ahead and

1 make the change on the CS-41 form; where
2 we've got health insurance, that we go
3 ahead and call it health care coverage, if
4 we're going to make a change.

5 Does anybody have a problem with
6 that, or is it too early to do that?

7 MS. BUSH: I have a question,
8 because we had made proposed changes to
9 the CS-41, and I did not know if you were
10 taking that into consideration, proposed
11 changes that DHR had suggested.

12 THE HONORABLE PALMER: I don't know
13 that I have that.

14 MS. BUSH: Well, that's what we are
15 going to look at.

16 MR. MADDUX: That's in your packet,
17 Judge.

18 MS. BUSH: With the changes to
19 Rule 32, we had proposed some changes to
20 CS-41 that didn't include the Social
21 Security number in the packet.

22 THE HONORABLE PALMER: All right. I
23 have not looked at that. My apologies.

1 MR. BUSH: That wasn't an issue that
2 was before us at the time we were
3 reviewing it, and I don't know that -- but
4 when we go through Rule 32 and the text,
5 we suggest changes to CS-41 as well.

6 THE HONORABLE PALMER: Okay.

7 I don't have it, Bob.

8 MR. MADDUX: This packet. It starts
9 with Alabama Rules of Judicial
10 Administration Rule 32. It looks like
11 it's got a lot of overstrike underline.

12 THE HONORABLE PALMER: Okay. All
13 right.

14 MS. BUSH: You should have a struck
15 out version of Rule 32, of the actual
16 text.

17 MR. MADDUX: Yeah.

18 MS. BUSH: That will show what
19 language has been added that would
20 underline and then what's been taken out
21 that's struck through. If you're ready to
22 go through that, we can do that now.

23 MS. DAVIS: Are these changes the

1 ones that would make our laws comply to
2 some extent with the new language?

3 MS. BUSH: Yes, ma'am.

4 MS. DAVIS: Would it be totally
5 compliant?

6 MS. BUSH: Well, it will be in
7 compliance with the text. There are
8 certain things that we have to do, as we
9 discussed, where we're actually reviewing
10 the guidelines again, such as the local
11 data and all of that. That's not
12 encompassed in this.

13 But to the extent that the
14 language needs to be changed, such as
15 putting in the prohibition of imputing --
16 excuse me, saying someone is voluntary
17 unemployed because they're incarcerated,
18 that language is in here as well.

19 THE HONORABLE PALMER: Well, I'm
20 wondering, since this is the first time
21 I'm really looking at this, if this is
22 maybe something we need to review since
23 we've got four years. And I'm not saying

1 we're not going to come back in four
2 years.

3 But if we want to discuss it now,
4 I just don't know that I really want to
5 vote on anything now, even though we do
6 have a lovely quorum here. Sometimes
7 that's hard to get.

8 But what's anybody else's
9 response to that?

10 THE HONORABLE THOMPSON: I would
11 agree with you on that. I don't think
12 there's any reason to rush through the
13 amendments to Rule 32 as it pertains to
14 these regulations.

15 It may be something we can take
16 up at the next one.

17 THE HONORABLE BELL: I agree with
18 that.

19 THE HONORABLE PALMER: Ms. Bush?

20 MS. BUSH: So you do not want me to
21 go through it and read it to you, or you
22 just want to read it on your own?

23 THE HONORABLE PALMER: I think we

1 can read it on our own first, and then
2 when we come back, you can read it to us.
3 We'll have some questions.

4 And my copy is kind of hard to
5 read, tell you truth about it.

6 MR. POLEMENI: Want to use mine?

7 THE HONORABLE PALMER: Well, it's
8 just light, and there's all these little
9 arrows going to the side, and I'm going --
10 it's going to take some deciphering, I
11 think, for me anyhow. I'll put it like
12 that.

13 I just reviewed what you had, and
14 then this is coming along. So I would
15 just feel more comfortable having a chance
16 to actually look at everything;
17 especially, if it's going to have the
18 language in there. It's one thing if
19 we're just changing the words from health
20 insurance to health care cost and just
21 some verbiage, but if we're going to put
22 in there about the unemployment and the
23 incarceration and that sort of thing for

1 the rules, I really want to read this a
2 little more closely.

3 MS. BUSH: Okay.

4 THE HONORABLE PALMER: Justice
5 Stuart, do you have any?

6 CHIEF JUSTICE STUART: I was just
7 going to ask, is -- are your proposed
8 changes in response to these new December
9 guidelines, or are they proposed changes
10 for other reasons?

11 MS. BUSH: They are in response to
12 the changes in federal regulations.

13 CHIEF JUSTICE STUART: Then I do not
14 think we should look at them today. I do
15 not think we are prepared to look at them
16 today.

17 THE HONORABLE PALMER: All right.
18 Thank you. So we will put this on our
19 agenda for our next meeting, which will
20 probably be sooner than later, because
21 we've got a lot of work ahead of us.
22 Four years are going to go by really
23 quick.

1 Yes, Chief Justice?

2 CHIEF JUSTICE STUART: Can we try to
3 get a better copy? I mean, some of my
4 pages really are illegible.

5 THE HONORABLE PALMER: Okay. If you
6 would, let's just possibly e-mail this to
7 everybody a better copy, and then, again,
8 put it on the website as well.

9 But, yeah, mine is so light in
10 some areas, it's just hard to read.

11 MR. POLEMENI: I have a question.

12 THE HONORABLE PALMER: Yes, Michael.

13 MR. POLEMENI: Is this for public
14 consumption, this -- both the last
15 document, the rule changes and this
16 document, where I can put that out to the
17 Alabama --

18 MR. MADDOX: All the documents being
19 considered today are on the website now,
20 including Jim Jeffries' comment that was
21 put on this morning.

22 MR. POLEMENI: Okay.

23 THE HONORABLE PALMER: So yes.

1 MR. POLEMENI: Okay. Good. Thank
2 you.

3 THE HONORABLE PALMER: There's no
4 copyright on this or anything, correct?

5 MR. MADDOX: No.

6 THE HONORABLE PALMER: All right.
7 Jennifer finished with her list of things
8 to do.

9 Let's see.

10 THE HONORABLE McMILLAN: Ms. Chair,
11 did you want to go forward on your motion
12 for the --

13 THE HONORABLE PALMER: Oh, yes. I
14 apologize, yes.

15 So it's my motion that we table
16 that review that Ms. Bush just presented
17 to us until we meet again, so that
18 everybody have a better chance just to
19 review both the regulations and then the
20 proposed language to Rule 32. That's my
21 motion.

22 Do I have a second?

23 THE HONORABLE McMILLAN: I'll

1 second.

2 THE HONORABLE PALMER: Okay. Don
3 McMillan seconded it.

4 Any opposed?

5 (No response.)

6 THE HONORABLE PALMER: All in favor?
7 Okay. Thank you.

8 Does anybody need to take maybe a
9 five-minute break, go stretch your legs,
10 get a sip of water, go down the hall?

11 (No response.)

12 No? Okay.

13 Disability/Retirement Offset
14 Discussion. I believe, as I was reviewing
15 the transcript, Ms. Bush, you said that
16 you wanted to just check with the federal
17 regulations on that, because we had sent
18 something to the Alabama Supreme Court
19 about putting it in there that the Court
20 basically shall give a dollar for dollar
21 credit for the VA, and I believe it was
22 the VA mainly that you were going to check
23 into.

1 MS. BUSH: We checked into that, and
2 we have an internal DHR committee that
3 reviewed the guidelines, and we saw no
4 problem with it.

5 THE HONORABLE PALMER: Okay. All
6 right. So then that is ready then to go
7 to the Alabama Supreme Court.

8 Okay. All right. I think the
9 Honorable Billy Bell, we're here to talk
10 about Shared Joint Custody Discussion.

11 THE HONORABLE BELL: Thank you,
12 ma'am.

13 Our subcommittee was tasked with
14 putting together proposals for the full
15 committee. The issue was raised that Rule
16 32 presently has a calculation formula for
17 split custody arrangements, which is where
18 each parent has physical custody of one or
19 more of the parties' children. But it
20 does not have a calculation formula for an
21 award of joint custody, which, in my
22 experience, is far more prevalent in
23 orders than is split custody.

1 And so we were tasked with that,
2 and our subcommittee, Judge Thompson,
3 Penny, me, Jim Jeffries, and Steve Arnold,
4 have put together two options for us to
5 look at. You got option one.

6 THE HONORABLE PALMER: It should
7 read Subcommittee Proposal?

8 THE HONORABLE BELL: Joint Custody
9 Provisions.

10 THE HONORABLE PALMER: Does
11 everybody have that?

12 THE HONORABLE BELL: Option One,
13 that's the heading.

14 And what we have done is
15 basically patterned this after the formula
16 that is in Rule 32 for split custody and
17 taken an additional calculation step
18 forward.

19 And what our thinking was, we
20 need a formula for joint custody, so that
21 there is a some consistency across the
22 state in the calculation and award of
23 child support in a joint custody

1 situation, just like there is for the less
2 prevalent split custody situation. We
3 wanted to keep it as simple as possible.

4 And so what we did is we
5 patterned it after the subparagraph that
6 has to do with the calculations of split
7 custody. If you look at option one, and
8 I'm not going to read it to you, but
9 basically, the calculations in a joint
10 physical custody situation would be as
11 follows: Subparagraph (a), You calculate
12 the child support, what the plaintiff
13 would owe the defendant, for the child or
14 children pursuant to Rule 32, as if the
15 children were placed in the defendant's
16 sole physical custody.

17 Then, in (b), you do the same
18 thing as if physical custody was with the
19 other parent. Basically, you're figuring
20 Rule 32, subtract the lesser child support
21 obligation from the greater, which is
22 exactly what you do in a split custody
23 arrangement.

1 But then for a joint custody
2 arrangement, subparagraph (d) will come
3 into play. Multiply the difference by a
4 fraction, the numerator of which is the
5 number of nights per year that the
6 children will spend with the parent who
7 owes the lesser obligation, according to
8 the joint physical custody parenting plan
9 schedule as ordered.

10 And the denominator is 365 days,
11 obviously, that we have in the year. The
12 parent who owes the greater obligation
13 should be ordered to pay the resulting
14 amount in child support to the other
15 parent, unless the Court determines,
16 pursuant to the provisions of this rule,
17 it should deviate from the guidelines.

18 We've also -- because of the
19 problem with mislabeling joint custody,
20 when it's really not, that the appellate
21 courts have to deal with, I think, a lot,
22 the last section says, "This section is
23 rebuttably presumed to be the appropriate

1 method of calculating child support if
2 each parent has been awarded at least 40 %
3 overnight physical custody of the child
4 (or children) subject to the child support
5 order."

6 So that's the threshold for this
7 calculation to be rebuttably presumed to
8 apply.

9 Penny has done some editing to
10 the comment, which I'll let y'all read.
11 But basically, it just says that there is
12 no provision for the calculation of joint
13 custody child support, and so that is --
14 that's option one.

15 And what we have done is a sample
16 calculation based upon the two CS-41s, and
17 I thank Bob Maddox for that, because with
18 my negative computer skills, trying to get
19 on the e-forms, fill one out, and then
20 save it as a document, you can't get
21 there. You just can't do it.

22 So I went nuts until I sent it to
23 Bob, and said, Bob, you're going to have

1 to help me. Penny was on a trip, and
2 normally she does that.

3 But, anyway, you see from the
4 plaintiff CS-41 \$6,000 a month gross
5 income, the plaintiff pays \$150 a month
6 work-related child-care, covers the
7 children on insurance, and the resulting
8 amount of pro rata for the children is
9 \$300 a month.

10 The next CS-41 is for the
11 defendant. \$4,000 a month gross income
12 and \$250 a month work-related child-care
13 and not covered by health insurance.

14 So in the CS-42 child support
15 calculation sheet, you can see that what
16 we've done coming down to line eight --
17 we've done it just like normal. Figure
18 child support, taken away, and given the
19 plaintiff the credit for the \$300 medical
20 insurance premium paid. So the bottom
21 line is the resulting Rule 32 child
22 support for both the plaintiff and the
23 defendant.

1 Under option one, when the
2 plaintiff has been awarded 170 nights of
3 the physical custody, the defendant 195
4 nights, so the plaintiff's child support
5 under option one would be a \$1,039.20
6 minus the 892.80. That equals \$146.40.
7 You multiply it by the party that has the
8 lesser obligation number of physical --
9 nights of physical custody. That's 195
10 over 365. The resulting child support for
11 the plaintiff in this situation would be
12 \$78.21.

13 And then that does not take into
14 account a scenario where both parents pay
15 towards child-care cost. It just takes
16 the total of the two. So we wanted to
17 look and see if we took into account each
18 parent's child-care payment, how did that
19 affect the calculation.

20 And we did option two, which is
21 the same as option one, except with this
22 provision added. When both parties pay
23 for work-related child-care expenses, the

1 amount to be used for work-related
2 child-care expense in the calculations set
3 out in subparagraph (a) and (b) above is
4 the difference, if any, between the
5 amounts paid by each.

6 So if you'll look at the CS-42
7 for option two, which is the last document
8 in this little packet, you'll see that on
9 the line five, rather than \$400 a month,
10 which was the total child-care expense,
11 we've only used the difference, which
12 would be \$100, okay?

13 And then if we do the same
14 calculation from there below, the
15 resulting child support for the plaintiff
16 is \$46.16, which is, you know, in this
17 particular situation not very much. I
18 mean, it's the difference between \$78.21
19 and \$46.16, which is \$32.05. So -- but it
20 takes into account that both parties have
21 contributed to the child-care expense.

22 So those are the two options that
23 we have. Jim Jeffries -- you have a final

1 sheet that, I believe, we have Jim
2 Jeffries has --

3 THE HONORABLE PALMER: It should
4 look like an e-mail from Jim Jeffries on
5 the top?

6 THE HONORABLE BELL: It's a
7 one-sheet document.

8 THE HONORABLE PALMER: If you don't,
9 we have extra copies. Okay.

10 THE HONORABLE BELL: And this was
11 sent in after we posted everything on the
12 child support website.

13 And what he's suggesting is
14 adding a language and you can read that.
15 It's the next to the last paragraph.

16 That is not part of the
17 subcommittee's proposals, either option
18 one or option two, but it's -- we wanted
19 to make everybody aware that that is --
20 that's Jim's thoughts on how it ought to
21 be added. I don't speak for the whole
22 subcommittee.

23 But it looks to me like if we add

1 the language in this e-mail, we've undone
2 everything that we've done in either
3 option one or option two. The whole
4 point, at least from my perspective, as
5 having been a sitting judge, is to make to
6 make them -- make some consistency, give
7 the judges a standard, a formula to use,
8 just like we've done for split custody, so
9 that there's some consistency in the
10 application and the calculation of child
11 support under joint custody scenarios.

12 They can still deviate. The
13 judges still have the discretion to
14 deviate in an appropriate circumstance but
15 have to state the reasons for the
16 deviation.

17 So we are submitting options one
18 and two and laying on the table for
19 discussion.

20 THE HONORABLE PALMER: Okay. So
21 discussion?

22 Yes, ma'am.

23 MS. COX: Amanda Cox. I just have a

1 question.

2 Do other states have rules
3 similar to this one, and if so, how do
4 they fall as far as the different options?

5 THE HONORABLE BELL: We had an
6 analysis done on all of that. Every other
7 state that I looked at was so darn
8 complicated.

9 THE HONORABLE PALMER: Well, I
10 brought Tennessee's, because I had sent
11 this to y'all, just to show you how
12 complicated it was.

13 First, their overnights has
14 defined more than 12 hours of a 24-hour
15 period, and then, if you're -- you have to
16 have at least -- 68 nights or less would
17 be considered just standard visitation, as
18 we see it now.

19 If your alternative residential
20 parent has 92 days or more per year, then
21 you use a multiplier of .0109589. It's
22 multiplied by the alternative residential
23 parent's parenting time, creating a

1 variable multiplier. The variable
2 multiplier is then applied to the child
3 support obligation to obtain an amount
4 representing the alternative residential
5 parent's child support rearing expenses.

6 So if I could understand that, I
7 would have been an engineer. So we're
8 trying to make it simple for everybody.

9 THE HONORABLE THOMPSON: And that's
10 indicative of a lot of the states that are
11 out there. They're all very complicated.

12 THE HONORABLE PALMER: And maybe
13 that --

14 THE HONORABLE THOMPSON: Judge Bell
15 did a good job simplifying what we're
16 trying to do.

17 THE HONORABLE PALMER: Yes.

18 THE HONORABLE BELL: Well -- and
19 what I tried -- we patterned the split
20 custody formula, just adding the
21 additional step, to take into account the
22 percentages each parent would have
23 physical custody of the children during

1 that month.

2 But, quite honestly, from what
3 I'm hearing, there are -- there are some
4 courts in Alabama that if they award joint
5 custody, they still award full Rule 32
6 child support.

7 Now, to me, I have a problem with
8 that being done. I just don't find that
9 being fair. You can do that, but you got
10 to deviate from this proposal. It would
11 just need consistency, in my opinion.

12 And remember, too, we're going to
13 have pro se people, who are going to be
14 looking at this too. A lot of pro se
15 people now don't think that an award of
16 joint custody affects the child support at
17 all, and there's probably still a lot of
18 lawyers that think that. There's probably
19 a lot of judges that still think that.

20 So this is something, I think,
21 that we need to bring consistency.

22 THE HONORABLE PALMER: Okay.

23 Discussion?

1 Judge McMillan?

2 THE HONORABLE McMILLAN: I like
3 option one, short and simple. I can
4 understand it.

5 THE HONORABLE BELL: I went to
6 Auburn. It makes sense to me.

7 THE HONORABLE McMILLAN: Tennessee
8 gave me a headache.

9 MR. POLEMENI: I have a question.

10 THE HONORABLE PALMER: Yes, sir.

11 MR. POLEMENI: This data that's
12 collected on the form, is that -- once
13 it's awarded, is that categorized anywhere
14 as; i.e., in possibly coming up with the
15 database that supports the federal
16 guidelines here, or is that something that
17 needs to be considered in the future?

18 THE HONORABLE PALMER: Well, we use
19 the guidelines that -- I think you were
20 here last time.

21 MR. POLEMENI: Right. I understand.

22 THE HONORABLE PALMER: So we use the
23 guidelines to calculate.

1 MR. POLEMENI: No. No. I'm just
2 saying the collection of data for future
3 reference. Whatever guidelines are
4 decided on, is that something that would
5 be valuable in the future or --

6 THE HONORABLE PALMER: I don't know
7 that anybody has ever thought of that.

8 Penny?

9 MS. DAVIS: Can I respond to
10 Michael?

11 If I remember, in federal regs,
12 one of the things that has to be
13 accumulated under that is how often is a
14 deviation from the guidelines.

15 So Judge and I were talking and
16 looking at what has to be accumulated. It
17 seemed to me, at some point going forward,
18 there probably should be some type of
19 cover sheet that maybe that -- that the
20 Court develops maybe in conjunction with
21 this committee, to make sure that we have
22 the guidelines, that sort of checkbox, so
23 it's not burdensome on the courts, but

1 they can check if they did or did not
2 deviate. And they can check, you know,
3 whatever the feds are going to require us
4 to have.

5 So at the point four years from
6 now, when we have to --

7 MR. POLEMENI: Just click a button
8 and boom.

9 MS. DAVIS: -- have the data, or
10 actually probably less time than that, if
11 we have to change things in four years,
12 then send the data to whoever, Rogers or
13 whoever, then you're talking about three
14 year from now.

15 So you have to accumulate data at
16 that point for that, so --

17 THE HONORABLE PALMER: But what do
18 you do, because about at least 80, if not
19 85 percent, of all cases filed, divorce
20 cases, are settled by agreement. And,
21 oftentimes, those people deviate in the
22 agreements.

23 So do we collect that data as

1 well, or is it just if the judge --

2 MR. POLEMENI: Yeah.

3 THE HONORABLE BELL: Yeah.

4 MS. DAVIS: I think it has to
5 have --

6 THE HONORABLE PALMER: That's going
7 to be a lot of data.

8 MR. POLEMENI: That's the trust. Do
9 we have the capacity to do that? All the
10 different --

11 MS. DAVIS: I think you need to have
12 a checkbox that gets the basic material.
13 And you have a list that says, just by
14 agreement, check. Then that's, to me,
15 different information.

16 I think what the feds are trying
17 to get from you and from me is to make
18 sure our guidelines really are guidelines
19 that are being applied.

20 THE HONORABLE PALMER: By the
21 courts, by the judges, and in an order,
22 not by agreement of the parties.

23 MS. DAVIS: Right. They're not

1 trying to keep parties from agreeing.

2 So I think you have to have some
3 type of separate procedure or form that
4 says, by agreement of parties, then other
5 ways, the Court does it, then it's by
6 that. And then you see if the courts are
7 deviating from the guidelines 20 percent
8 of the time or 82 percent of the time,
9 which, I think, is what the feds are
10 trying to get to.

11 I think you would have to have
12 exactly what you're saying. This is court
13 ordered or it's plaintiff, defendants.

14 THE HONORABLE PALMER: Mary?

15 THE HONORABLE MOORE: And I think
16 too, in addition to that, we talked just a
17 little bit in one of our meetings about
18 what is actually joint custody, what's
19 going to constitute that. When do you
20 fall under joint custody for the
21 requirements.

22 We're going to have to be very
23 specific, and that's going to be

1 another --

2 THE HONORABLE PALMER: Well, and
3 that's why --

4 THE HONORABLE BELL: The 40 percent
5 threshold for each parent.

6 THE HONORABLE MOORE: Right. But
7 then you're talking 40 percent as far as
8 expenses and time spent.

9 THE HONORABLE PALMER: No.

10 THE HONORABLE BELL: No.

11 THE HONORABLE PALMER: The formula
12 that Judge Bell presented, that's when
13 that would kick in, not because it says we
14 hold joint custody, but when you actually
15 have the overnights in the agreement or in
16 the order, then that would kick in.

17 THE HONORABLE BELL: That's about as
18 clear as we can make it. And going along
19 with what Judge McMillan said, I'm okay
20 with option one too, also -- option one
21 also.

22 And then we can -- a judge could
23 use a disparity in the payment of

1 child-care expenses as a reason to deviate
2 and explain that, so option one is
3 definitely the simpler calculation.

4 THE HONORABLE MOORE: It is the
5 simpler.

6 THE HONORABLE BELL: And I think
7 that's what we need to do.

8 THE HONORABLE THOMPSON: I prefer
9 option one too -- also.

10 THE HONORABLE PALMER: Okay.
11 Mr. Smith, as a practicing attorney, what
12 do you say?

13 MR. SMITH: I prefer option one. I
14 think the only thing that we need to be
15 aware of is that we are going to have a
16 whole lot more custody fights. Telling
17 somebody you're going to go from \$1,000 in
18 child support a month down to \$78 in child
19 support a month, you're going to have a
20 lot more people fighting for sole custody.

21 THE HONORABLE PALMER: Well, I don't
22 know about that. But, right now, if we do
23 a week and a week, which is what my

1 standard was, whenever possible, I pretty
2 much subtracted one from one from the
3 other, and then it depended on if I made
4 25 percent of the income, and you made 75
5 percent of the income, then I would
6 probably just subtract one from the other
7 and give the person who makes 25 percent
8 of the income that amount.

9 If the parties were more 60/40,
10 like on Judge Bell's example, then I
11 probably would divide it by -- take that
12 number, whatever the difference is, divide
13 that by two, so then I've got an extra
14 \$250, and you've got an extra \$250.

15 But what happens is, people
16 often -- and this was part of the bills
17 that were up in the February, one reason
18 we kind of delayed this, was if you
19 bargain for 40 percent of the time, and
20 you don't exercise your 40 percent of the
21 time, then what do you do with that time
22 with I had to cover your daycare expenses.
23 I had to cover the time you were supposed

1 to cover for lunch. I had to cover your
2 time that you were supposed to be paying
3 for the extracurriculars, and you didn't.
4 I had do all of that, because you didn't
5 go and exercise your custodial time. You
6 bargained for it, and we agreed to it, and
7 you said in court that you wanted it, but
8 you didn't do it, because you just wanted
9 to pay not \$1,000 a month but \$78 a month.
10 That's what I see happening.

11 You bargained for it, but you
12 don't exercise it.

13 Penny?

14 MS. DAVIS: One thing that might
15 help. It will have a problem if people do
16 not actually show up to get the child when
17 they're supposed to and just use them of a
18 method of avoiding that.

19 We put in -- the committee shows
20 the 40 percent overnight as sort of the
21 threshold. You could have a higher
22 threshold, like 45 percent of time, or if
23 you're -- we didn't do 50/50, because a

1 lot of joint custody that are not -- can't
2 be 50/50.

3 So it becomes -- another way, at
4 least initially, if you're concerned, I
5 guess, you could bump the percent up so
6 that you really have to have, you know, a
7 very substantially timeframe.

8 That doesn't -- that will not
9 solve the problem if the parent does not
10 show up to get the child, but that would
11 be another thing to limit when this
12 actually applies, the larger percentage.
13 Forty was a percentage that a lot of
14 states -- other states had where that came
15 from.

16 But, certainly, Alabama should
17 choose a higher threshold, to make this
18 become a desired situation.

19 THE HONORABLE PALMER: Yes, ma'am.

20 MS. SAULSBERRY: Ms. Davis just
21 brought up something that just raised a
22 question for me.

23 In terms of determining who had

1 the child this percentage of time and who
2 did not have the child that percentage of
3 the time, whose testimony would be relied
4 upon to answer questions like that?

5 MS. DAVIS: The judge will tell you
6 only testimony would apply, and the judge
7 would listen to both parties.

8 And then when it gets to
9 appellate court level, then based on --
10 they'll rely on what the judges said,
11 unless there is something about what the
12 judges determined, based on the evidence
13 in front of them, unless there is
14 discretion.

15 THE HONORABLE BELL: Maybe I
16 misunderstood your question.

17 But the ratio would be determined
18 by the custody order, the parenting plan
19 schedule and the custody order.

20 MS. SAULSBERRY: Okay.

21 MS. DAVIS: I think your question
22 was related to if they actually showed up
23 and exercised it?

1 MS. SAULSBERRY: The parenting plan
2 that's part of the custody order.

3 THE HONORABLE BELL: Right.

4 MS. SAULSBERRY: Okay. And then --
5 so and the parties, the two parties, would
6 be the testimonies that are taken or
7 received in term of percentages.

8 THE HONORABLE BELL: No.

9 MS. SAULSBERRY: If there was an
10 argument or if there was a disagreement
11 between the parties.

12 THE HONORABLE PALMER: As to, no, I
13 had them that week, or you had them that
14 week.

15 Most people either have kept a
16 calendar, because they're like, Okay, I
17 see where this is going, or you've got
18 your credit card receipt from where you
19 did pay for the daycare, and that wasn't
20 your week, where you did pay for the
21 school lunches, and that wasn't your week,
22 where you did pay for extracurricular
23 activities, and that wasn't your week.

1 So you can recreate a pretty good
2 pattern in the past.

3 MS. SAULSBERRY: So --

4 THE HONORABLE PALMER: And you've
5 got text messages and e-mails saying, you
6 know, why aren't you here, it's your week,
7 and that sort of thing.

8 MS. SAULSBERRY: So the judge would
9 rely on the two parties to present that
10 information to him or her?

11 THE HONORABLE PALMER: Yes.

12 MS. BALDWIN: With the situation we
13 were -- because, for the initial order,
14 that's not -- we're assuming everybody is
15 going to do what they said they were going
16 to do.

17 So we're looking at it is it a
18 modification that we're talking about that
19 we're back in on.

20 MS. DAVIS: And contempt.

21 MS. BALDWIN: Or contempt for
22 failure to exercise visitation?

23 THE HONORABLE PALMER: Well, no.

1 THE HONORABLE BELL: You can't do
2 that.

3 THE HONORABLE PALMER: You can't do
4 that.

5 MS. BALDWIN: Right. We can't do
6 that.

7 THE HONORABLE PALMER: Well, no.
8 The courts, you can't hold them in
9 contempt, because they don't exercise
10 their custodial time.

11 MS. BALDWIN: Right. So we would
12 just be looking at it as maybe being
13 able -- I'm assuming similar to what we do
14 when they don't keep their insurance, is
15 to go back and figure out what it would
16 have been, that the support order would
17 have been if it were as they've actually
18 done, rather than what they said they
19 would do.

20 THE HONORABLE PALMER: I don't --

21 MS. BALDWIN: And then get some
22 retroactive and add to that arrears. We
23 do that with insurance.

1 THE HONORABLE PALMER: You would
2 have to have something in the order or the
3 agreement that says if either party fails
4 to exercise their custodial time and the
5 other party incurs certain expenses due to
6 their failure not to exercise their
7 custodial time, then they can recoup it in
8 some form or fashion, whether it be the
9 daycare expenses or all the other things
10 that I said.

11 MS. BALDWIN: You know, DHR is not
12 going to be involved in an original
13 divorce. So we don't have any say so in
14 how that agreements is crafted or any
15 suggestions as to how it's crafted. We
16 just have to deal with it once we get it.

17 And if we have a CP come in and
18 say -- well, if we have one parent come in
19 and say, I've had this child 70 percent of
20 the time, and he hasn't -- you know, and
21 this is all he's been paying in support,
22 he or she, then --

23 THE HONORABLE PALMER: Well, you

1 can't be retroactive and go back and
2 collect it, I don't think. You can't go
3 back and collect child support, I don't
4 think, and we've got the experts here.

5 MR. POLEMENI: Let me ask -- throw
6 up this thing and see if it's a viable
7 alternative.

8 Kind of like a performance bond,
9 that's in the name of child, since it's
10 all supposed to be for the child. There's
11 so much of that deviation that would go
12 into that fund.

13 At the end of the year, if you
14 met all of your performances or you met
15 all of your times, then you would get that
16 money back, or if not, that money goes to
17 the child.

18 THE HONORABLE PALMER: In theory, it
19 sounds good, but the paperwork, it's going
20 to be hard.

21 MR. POLEMENI: That's what --

22 THE HONORABLE BELL: Can I address
23 Ms. Baldwin?

1 THE HONORABLE PALMER: Yes, sir.

2 THE HONORABLE BELL: What I envision
3 your scenario being is a reason for a
4 modification. That's where I see it. You
5 can't have a contempt.

6 You can't have a modification of
7 the child support amount retroactive,
8 except to the first payment that came due
9 after the filing of the complaint. And
10 you can't hold somebody in contempt unless
11 there's a valid court order that's in
12 effect.

13 So I think it's a modification
14 scenario when that happens. You know, you
15 were awarded joint custody; you obviously
16 didn't want to, for whatever reason,
17 exercise joint physical custody. I can
18 find that to be a significant material
19 change in circumstance and modify
20 custodial rights.

21 THE HONORABLE PALMER: Yes, ma'am.

22 Ms. Cox?

23 MS. COX: And, Judge Thompson and

1 Justice Stuart, y'all might can correct
2 me, but we will sometimes award a credit
3 back against child support, so that could
4 be something that might come into play if
5 the person that was having to pay child
6 support was actually footing the bill more
7 than they might can come in and prove --
8 you see where I'm going -- that they paid
9 more and get a credit back against it
10 retroactively.

11 THE HONORABLE PALMER: Well, if you
12 haven't -- let's say we were supposed
13 to -- I'm the alternative residential
14 parent. I get basically every other
15 weekend. But then you say, Hey, darling,
16 I'm going to the beach, and I never come
17 back, and then I quit paying you child
18 support, and now a year later, you're
19 saying, I want the child back and I want
20 my back child support, because there's an
21 order saying you owe me back child
22 support, then the courts have said that we
23 can give them credit for -- the obligor

1 for you did pay the insurance, you did pay
2 for their meals, you did buy them clothes,
3 you did do all of this stuff. You were
4 the primary custodial parent, and you
5 don't owe this money as long as you can
6 prove that you paid all of that, and that
7 they did live with you and that sort of
8 thing.

9 MS. COX: That can come into play
10 here, but you can't get more money out of
11 the person that's paying, like, what y'all
12 are saying?

13 THE HONORABLE PALMER: I don't think
14 you can for what you're asking.

15 MS. COX: You can do it the other
16 way around, though?

17 THE HONORABLE PALMER: Yeah.

18 MS. DAVIS: You raised a good point.
19 It doesn't seem fair that we only go one
20 direction. What we're really doing is
21 saying Parent A is obligated to pay X
22 amount of support; Parent B, if it's joint
23 custody arrangement, is obligated to pay X

1 amount of support.

2 The check that is written only
3 goes from Parent A to Parent B for \$79,
4 \$32, whatever it happens to be. But it
5 seems to me in the joint custody
6 arrangement, we may need to change the
7 language and make it clear that both
8 parents, if they've been awarded and the
9 amounts being calculated based on joint
10 custody arrangement, that both are equally
11 obligated to pay what's owed under the
12 calculation, and both would be subject to
13 contempt for failure to make that payment.
14 I don't know if that's possible.

15 But it doesn't seem -- you're
16 right. It doesn't seem fair that the
17 obligor, the one that happens to be
18 paying, would get credit; whereas, the
19 other one, who may be the recipient, who
20 is receiving much less, doesn't also get
21 credit for what they're theoretically
22 paying the child support.

23 THE HONORABLE PALMER: Well, that's

1 what I was mentioning earlier. Unless
2 it's in the order or in the agreement
3 somewhere, should this party fail to
4 exercise their custodial time, then they
5 can come back and get, like I said, the
6 daycare or this amount that they would
7 have received or something, but it's got
8 to be in the order.

9 Shane?

10 MR. SMITH: I think, in looking at
11 the federal guideline changes, the orders
12 are going to have -- even if you deviate
13 like this, the courts are going to have it
14 put in the order what the child support
15 amount would have been, so -- and then we
16 need some reference.

17 MR. POLEMENI: So that goes back to
18 the performance bond. If you say, okay,
19 instead of taking that money out monthly,
20 you say, boom, X amount, here's what your
21 maximum payment is going to be. This is
22 what -- if you perform all of your
23 activities as laid out in your parenting

1 plan, at the end of the year, you get, you
2 know, that difference back, and the Court
3 doesn't have to be involved in it.

4 THE HONORABLE PALMER: But that's
5 money going to be spent. I mean, if
6 you're paying that to one parent, and then
7 at the end of the year --

8 MR. POLEMENI: No. No.

9 THE HONORABLE PALMER: But then you
10 have to pay them to the clerk's office,
11 and the clerk is not going to want do
12 that, handle that money.

13 MR. POLEMENI: Okay. Okay.

14 THE HONORABLE PALMER: I wouldn't
15 think -- Ms. Moore just has walked out on
16 us, but I doubt Ms. Moore is going to want
17 to take that money. They've done that.
18 They used to have pay child support into
19 the clerk's office, so.

20 MR. POLEMENI: Would the bank? It's
21 still going -- my child support is still
22 going to Montgomery now, isn't it?

23 THE HONORABLE PALMER: Uh-huh.

1 Yeah.

2 MR. POLEMENI: So is there not some
3 mechanism where the computer can deviate
4 that off into the --

5 MS. CAMPBELL: No.

6 THE HONORABLE PALMER: I would --
7 no. They -- listen, they are lucky to get
8 what they have on there.

9 MS. CAMPBELL: It's passed through.

10 MS. BALDWIN: The only way we can
11 deal with it is what I've already asked,
12 is if we can make it a judgment at the
13 end, when they haven't done what they said
14 they were going to do.

15 THE HONORABLE PALMER: Well, that I
16 can see.

17 MS. BALDWIN: But that's the only
18 way we can deal with it, because we can
19 put that in the system as an arrearage,
20 but we can't hold anyone and divvy it up.

21 MS. CAMPBELL: With regards to be
22 specific in the orders, at DHR, when we're
23 calculating and putting it into our

1 computer system and want to know how much
2 to charge and what credit to give, we like
3 specifics.

4 So, if you're going to be putting
5 the order, on line 10, the recommended
6 child support for each party per the
7 guidelines, put that in the order. Then
8 because you are doing joint custody, put
9 this amount and the final amount the child
10 support is going to be. Then, you can see
11 in the order, the recommended amount for
12 each party. If one party fails to abide
13 by the custody order or fails to exercise
14 their rights to get their child, then
15 there would be something you could refer
16 back to, maybe put a statement that says
17 if you fail to abide by the custody, then
18 your support amount will be this amount.

19 And then -- you don't have to go
20 back to court to file a modification to
21 actually get that as a judgment amount,
22 but could you do that? No?

23 THE HONORABLE BELL: I don't think

1 you can. What we're doing, we're taking
2 up a realm of a simple calculation for
3 child support. We're assuming the worst
4 case scenario, which we all see. And I
5 think we need to leave that to the
6 discretion of the judge. What by law can
7 the judge then do?

8 And, you know, what if one of the
9 parents gets put in the hospital, and
10 they're in the hospital for a month? I
11 mean, there's so many scenarios. I mean,
12 if you try to make a will, a last will and
13 testament that applies for every scenario
14 possibly, what are you going -- you can't
15 do it. It's a never ending process.

16 So what we trying to do is get a
17 basic, simple, consistently applied
18 formula for calculating child support in a
19 joint custody scenario, and then I
20 think -- yeah. I'm sorry.

21 THE HONORABLE THOMPSON: Well -- and
22 according to research, we're one of few
23 states who does so.

1 THE HONORABLE BELL: That's right.

2 THE HONORABLE THOMPSON: But, you
3 know, and I agree with you. We're looking
4 at the worst case scenario, which is what
5 we get and what we'll get out of this.

6 But, yeah, I think we need the
7 basic groundwork for applying, you know,
8 these calculations in this particular
9 situation, just for the overall fairness
10 of having a child spend, you know, equal
11 time or close to equal time with each
12 parent.

13 THE HONORABLE PALMER: Well, I would
14 -- I like Ms. Campbell's idea about
15 referencing Number 10 in there, but then
16 we have to say what is a substantial
17 amount. You know, it's almost like a 10
18 percent change in child support.

19 You can miss, let's say, 10
20 percent or something like that. You get
21 snowed in, you're in New York and a snow
22 storm comes through, and you can't get out
23 for three days, or you're in the hospital

1 or something like that.

2 I just -- again, the worst case
3 scenario is what we see. But, Shane and
4 Steve, what do y'all -- out of your cases
5 that y'all actually have agreements, let's
6 say for, a joint custody. Let's say
7 40 percent with one, 60 percent with the
8 other. How many people don't actually
9 exercise their custodial time?

10 MR. WRIGHT: Most of them that I
11 see.

12 THE HONORABLE PALMER: Most of them
13 do exercise their custodial --

14 MR. WRIGHT: Most of them do not.

15 THE HONORABLE PALMER: Do not
16 exercise their custodial time?

17 MR. WRIGHT: Either you'll have a
18 situation where a child needs shoes or
19 T-shirt, and they'll say, Go talk to your
20 mom; go talk to your dad. He's getting
21 child support, or they don't want to pay
22 for extracurricular activities, or they
23 don't exercise the amount of time they're

1 supposed to upon which the child support
2 is based. That's amongst people that are
3 living by the agreement they made or the
4 order the court, don't need to see a
5 lawyer.

6 THE HONORABLE PALMER: Yeah.

7 MS. BALDWIN: I mean -- and he
8 brought up something I was -- that made me
9 think of this.

10 When we look at this joint
11 custody arrangement, we're just talking
12 about the basic needs of the child. We're
13 not talking about class rings and football
14 gear or cleats or any of that stuff.
15 Aren't we just talking about food?

16 And so that's going to require an
17 extra clause in the divorce to cover those
18 other expenses outside of this, right?

19 THE HONORABLE BELL: Uh-huh.

20 MS. BALDWIN: Because this \$78 a
21 month isn't going to pay for a whole lot
22 of needs outside of basic needs.

23 THE HONORABLE BELL: We're just

1 dealing with Rule 32 child support. We're
2 putting a formula in for joint custody.

3 MS. DAVIS: I have sort of a dual
4 motion. I'll explain what the dual motion
5 will be before I make it.

6 I'm going to make a motion that
7 we accept Proposal Number 1. It seems to
8 be what everybody wants, and that we
9 separate the issue. Because I think it is
10 a serious issue about how to deal with the
11 parents who don't comply with the -- with
12 the ordered amounts and with credit going
13 only to one side versus the other. I
14 think that's a whole separate matter that
15 needs to be developed.

16 My first thought is to do
17 something as it relates to joint custody,
18 but really, it's true even when you don't
19 have joint custody. And I don't know if
20 it's 10 percent of the people or 50
21 percent of the people.

22 As Julie notes in our child
23 custody rule -- bill that was proposed, we

1 put in some very specific -- we said --
2 the bill proposed very specific --

3 THE HONORABLE PALMER: Consequences.

4 MS. DAVIS: -- consequences that
5 specifies what the Court can do when the
6 custody -- I use the term visitation,
7 that's the current law -- is exercised or
8 not exercised. So there's some teeth into
9 the bill.

10 And that's something that we may
11 want to duplicate to some extent in
12 Rule 32 and enhance the ability of the
13 Court to deal with any credit going
14 forward or backwards.

15 But I think that's a separate
16 issue than just the basic calculations
17 that's needed for this.

18 THE HONORABLE BELL: And a different
19 subcommittee.

20 MS. DAVIS: As long as Billy Bell is
21 the chairman of that subcommittee.

22 THE HONORABLE BELL: No. No.

23 MS. DAVIS: Obviously, you've got

1 different people that have different
2 thoughts, so it might need to be a more
3 inclusive subcommittee that Billy chairs.

4 So my motion, I think, would be
5 just to start with a recommendation that
6 we accept option one.

7 MR. POLEMENI: Second.

8 THE HONORABLE PALMER: And Michael
9 says second.

10 Any discussion for this? I think
11 it's a good idea that we start with this,
12 and then we can build on this, but we need
13 something right now for the courts to --
14 and the attorneys, but mainly, I think,
15 the courts, because it is just everywhere
16 right now that the orders come out.

17 And I'm sure Justice Thompson and
18 Chief Justice Stuart see that.

19 MR. POLEMENI: So now that part of
20 our discussion, this is your section
21 portion?

22 MS. DAVIS: Yeah. But I think we
23 need to vote on them separately.

1 THE HONORABLE PALMER: Yes.

2 So I have a motion that Option
3 Number 1 be adopted and made part of the
4 child support guidelines as far as the
5 comments? Is that where this goes?

6 Or where does this go, Mr. Bell?
7 What section?

8 MS. DAVIS: Option Number 1.

9 THE HONORABLE PALMER: But under
10 what? Rule 32 point what?

11 THE HONORABLE BELL: We're adding
12 subparagraph (11).

13 THE HONORABLE PALMER: Under what
14 section?

15 THE HONORABLE BELL: It's right
16 after split custody.

17 Actually, it will be (10), rather
18 than (11).

19 THE HONORABLE PALMER: Okay. Split
20 custody is Number (9), and that's on
21 page 972 of the 2016 Alabama Rules of
22 Judicial Administration.

23 So you're talking then that it

1 would be go after split custody, then it
2 would be Number (10)?

3 MS. DAVIS: I think (10) is added
4 as -- was not the one we talked about
5 credit.

6 Is that (10)?

7 THE HONORABLE BELL: We already have
8 a (10) that we worked on.

9 THE HONORABLE PALMER: Is that what
10 was submitted? Mr. Maddox, do you
11 remember?

12 MR. MEDARIS: I believe that's
13 correct, Judge.

14 THE HONORABLE BELL: Yeah. So I
15 think this would be (11), and if (10) is
16 not accepted by the Supreme Court, this
17 would move to --

18 MS. DAVIS: Number (9) is under
19 Rule 32, where it would accept into
20 credit. That was Number (9), and then
21 split custody became (10).

22 THE HONORABLE PALMER: Number (9) is
23 already -- oh, I see.

1 MS. DAVIS: Under --

2 THE HONORABLE PALMER: We were going
3 to move it.

4 MS. DAVIS: If you look at this one,
5 where the says credit, it was added as
6 Number (9), on page --

7 THE HONORABLE PALMER: Page -- well,
8 split custody --

9 MS. DAVIS: Page eight. Number (9)
10 is credit for third party payment to
11 child.

12 THE HONORABLE PALMER: Okay. And
13 that's what was sent last time that we
14 were waiting on Jennifer to give us some
15 information.

16 MS. DAVIS: Right. It was moved in
17 front of split custody, which was formerly
18 on page (10) -- that was formerly (9), so
19 this becomes -- split custody became (10),
20 and so --

21 THE HONORABLE PALMER: So this would
22 be (11)?

23 MS. DAVIS: So this would be (11).

1 MR. MADDUX: That's correct.

2 THE HONORABLE BELL: It would be (b)
3 (11).

4 THE HONORABLE PALMER: All right.

5 MS. DAVIS: And I would like to add
6 a comment, which is very simple. Prior to
7 the adoption of this provision, Alabama
8 Child Support Guidelines should not
9 specifically address the issue of
10 establishing child support orders when
11 joint physical custody is ordered.
12 Instead, the guidelines provided that when
13 joint custody was ordered by the court,
14 the joint custody award could be
15 considered by the court as a reason for
16 deviating from the guidelines in
17 appropriate situations. The adoption of
18 this provision will provide trial courts
19 with a specific and uniform manner of
20 calculating child support when joint
21 physical custody has been awarded.

22 THE HONORABLE PALMER: All right.

23 So we have a motion. We have a second.

1 All in favor that this become
2 Number (11) of the Child Support
3 Guidelines under Rules of Judicial
4 Administration, Rule 32.

5 THE HONORABLE BELL: Subparagraph
6 big (B), please.

7 THE HONORABLE PALMER: Subparagraph
8 big (B)?

9 THE HONORABLE BELL: Yeah.

10 THE HONORABLE PALMER: Say aye.

11 (Committee members who favored the
12 motion so indicated.)

13 THE HONORABLE PALMER: Opposed?

14 (No response.)

15 THE HONORABLE PALMER: Okay. Thank
16 you very much.

17 MS. DAVIS: So my second
18 recommendation is that we have a
19 subcommittee formed by the chair to look
20 at the issue of a failure on the part of
21 the parties to abide by the guidelines.

22 THE HONORABLE PALMER: Just the
23 terms of the --

1 MS. DAVIS: The order, the child
2 support order custody arrangement, as it
3 impacts on the child support guidelines
4 payment.

5 THE HONORABLE PALMER: Okay. Well,
6 Mr. Smith, I'm going to ask you to be part
7 of that subcommittee.

8 MR. SMITH: Glad to.

9 THE HONORABLE PALMER: All right.
10 Any other volunteers?

11 Steve Wright ought to be on there
12 too.

13 Michael, do you want to be on
14 there.

15 MR. POLEMENI: Yeah. If I can do it
16 by phone.

17 THE HONORABLE PALMER: Sure.

18 MS. DAVIS: Billy ought to be the
19 chair.

20 THE HONORABLE BELL: No. No.

21 THE HONORABLE PALMER: Billy has
22 done work on this. I'm going to give
23 Billy a break.

1 THE HONORABLE BELL: Thank you.

2 THE HONORABLE PALMER: Judge
3 McMillan, would you like to volunteer for
4 this subcommittee?

5 THE HONORABLE McMILLAN: Sure. Yes,
6 ma'am.

7 THE HONORABLE PALMER: Because
8 you're the one that's going to have be
9 enforcing this and that sort of thing, so.

10 MR. POLEMENI: Now, what is the
11 status of the bill that's in the
12 legislature now? Is that moving forward,
13 or is that just --

14 MS. DAVIS: Custody?

15 MR. POLEMENI: Yes.

16 MR. MADDOX: A house version has
17 passed the Senate Judiciary Committee. It
18 just needs to go to the Senate floor,
19 which we only have, I think, four
20 legislative days left, so unless it gets
21 on the floor next week, it probably
22 doesn't stand a good chance to pass it.
23 Senate bills haven't even gone to the

1 other house.

2 MR. POLEMENI: So we're pretty much
3 done for the year.

4 MR. MADDOX: Well, not necessarily.
5 It still has a chance.

6 MS. DAVIS: Just as a side comment
7 for the particular practitioners and the
8 judges, the alimony and retirement bill
9 did pass and get signed, so they will be
10 in effect January 1, 2017.

11 MR. MADDOX: '18.

12 MS. DAVIS: '18. I'm sorry.

13 THE HONORABLE PALMER: But since
14 changing the age of majority did not, but
15 that was not going to affect child
16 support, and then the definition of
17 cohabitation, as to who you can cohabituate
18 with, that did not go through.

19 So it's still cohabitation of the
20 opposite sex. No matter -- that's what
21 the statute still says, a little side note
22 there.

23 THE HONORABLE BELL: Can I make a

1 suggestion?

2 THE HONORABLE PALMER: Yes, sir.

3 THE HONORABLE BELL: As this is none
4 of my business. But I think we need to
5 add a child support enforcement person to
6 that subcommittee, to make sure we're
7 complying with whatever the federal
8 regulation.

9 MS. BALDWIN: Jennifer is the expert
10 on federal regs. I call her. You put me
11 on it, I'm going to be calling her. I
12 don't mind since I spoke up. But that's
13 usually how I get --

14 THE HONORABLE PALMER: Jennifer does
15 not have enough on her plate. I just know
16 that.

17 If you want something done, you
18 give it to the busiest person you know,
19 and it will get done.

20 THE HONORABLE BELL: Thanks for
21 volunteering.

22 THE HONORABLE PALMER: Yeah.
23 Jennifer, you are so sweet.

1 All right. One more thing I
2 think on the agenda, I think. Like y'all
3 haven't heard from me enough.

4 Child-care Cost Discussion. All
5 right. Last time we were here, December
6 1st, Judge Bell had made a proposal about
7 being able to at least let the judge have
8 discretion about putting child-care cost
9 included in the child support calculations
10 if the person -- that the custodial parent
11 were going to school, higher education
12 kind of school.

13 And so my first reaction was no,
14 I just -- I was just so shocked that he
15 would say that, but then the more I
16 thought about it, the more I think that --
17 like one of the scenarios that Judge Bell
18 gave was, you've got three children --

19 THE HONORABLE BELL: Madam
20 Chairperson?

21 THE HONORABLE PALMER: Yes, sir.

22 THE HONORABLE BELL: Can I correct
23 the record, please?

1 THE HONORABLE PALMER: Okay.

2 THE HONORABLE BELL: That wasn't me.

3 THE HONORABLE PALMER: That wasn't
4 you?

5 THE HONORABLE BELL: No.

6 THE HONORABLE PALMER: I swear you
7 were sitting right over there, where Chief
8 Justice Stuart is.

9 THE HONORABLE BELL: No. I was
10 sitting right over here. I always sit
11 right over here. It was Judge Thompson,
12 if anybody.

13 THE HONORABLE THOMPSON: No. But we
14 did have a case that came before the
15 courts that said, you know, there was no
16 provision for educational expenses being
17 considered in that matter.

18 THE HONORABLE PALMER: And what did
19 --

20 THE HONORABLE THOMPSON: I noticed
21 someone has amended the rule to include
22 those.

23 THE HONORABLE PALMER: And wasn't

1 that your case, though, Judge Bell?

2 THE HONORABLE BELL: Oh, no.

3 THE HONORABLE PALMER: Okay. Well,
4 I've been wondering what the Court of
5 Civil Appeals have been doing since you
6 retired.

7 THE HONORABLE BELL: I've been
8 retired two years.

9 THE HONORABLE PALMER: Wow.

10 MS. DAVIS: I think the -- I like
11 Billy getting the credit for working on
12 things.

13 I think what happened, my
14 recollection is, as when we went -- I
15 spoke at a retreat for judges, and that
16 was a case that came out, and that was
17 some concerns that they had.

18 And so the discussion was that if
19 I ask judges for their comments and
20 questions and concerns, that we ought to
21 respond, and so as a result of the case
22 that Judge Thompson was talking about,
23 there was a subcommittee formed and Billy

1 Bell was --

2 THE HONORABLE BELL: Y'all have me
3 confused with somebody.

4 MS. DAVIS: Somebody, somebody who
5 looked a lot like you was involved. And I
6 know Julie and I can kind of look at some
7 things, and we looked at what some other
8 states did, and we came up with some
9 alternative stuff.

10 I felt like we haven't really
11 talked this one out enough to -- other
12 than just to get some -- we have several
13 alternatives that was language, based on
14 what some other states have done, but --

15 THE HONORABLE PALMER: And these are
16 called alternative -- this is called
17 Education Expenses.

18 MS. DAVIS: Right. There was some
19 discussion, not a whole lot, relating to
20 the -- you know, when it would be
21 appropriate for the child-care cost to
22 include situations where parents are
23 involved in educational training, to be a

1 higher end vocational education training,
2 that instead of just searching for jobs or
3 searching to get the credit for that.

4 And so I looked at some other
5 states, and this was some language that
6 came up with. But I don't feel like we
7 really talked that through. Some of the
8 practitioners had some concerns about
9 issues that -- that could be abused
10 situations, that maybe Billy, who talked
11 about you have two college students that
12 are already involved and going to college,
13 and one of them gets -- having a
14 relationship, and one of them gets
15 pregnant, and then all of the sudden, the
16 other one is having to pay for that
17 person's education.

18 So I think there's a lot of
19 scenarios that we need to work through. A
20 point that I raised last time is that
21 under the new alimony law, there is a
22 limitation of duration alimony that's
23 based on the concept of encouraging the

1 spouses to become self-supportive.

2 And one of the concerns I had was
3 that under the new alimony law, a -- when
4 it comes to the judges, the new cases come
5 before the judges, the way the law is
6 drafted, the presumption -- the first
7 thing the court does is determine if
8 rehabilitative alimony is appropriate, and
9 that's what you order first. And if that
10 doesn't adequately provide, that doesn't
11 result in the recipient spouse being able
12 to support his or herself, then it's only
13 then the court looks at what we call
14 permanent alimony, but then that's limited
15 to -- a short-term marriage is an amount
16 equal to the number of years you're
17 married. You get long-term marriage, 20
18 years or longer, that still has
19 limitation.

20 Our concerns -- or my concern was
21 that on the one hand, we're saying, we
22 want the spouses to go out and become
23 self-supporting and limiting the amount of

1 alimony they can get, so we want them to
2 go out and go to school and do that. On
3 the other hand, we're saying we're going
4 to impute your income if you're working
5 full time for calculation of child
6 support. So it's sort of like a catch 22.

7 So I felt like we needed to
8 consider that. But I just don't think
9 we're at the point now that -- I don't
10 feel like we've fleshed this out enough to
11 even make a recommendation. I think it's
12 something that ought to be talked through,
13 particularly with the new law, that is
14 what now has become the new law.

15 THE HONORABLE PALMER: Well, I'm
16 looking at the Court's order in the case
17 that Judge Thompson and Penny referred to,
18 and it's C.C. versus E.W., April 22nd,
19 2016, and that's part of your packet.

20 And as part of their opinion, it
21 says, "Comparable rules and statutes in
22 our neighboring states (such as) Florida,
23 Georgia, and Tennessee, expressly refer to

1 child-care expenses for education-related
2 (purposes)" and then they talk about the
3 Georgia statute, "In an appropriate case,
4 the court may consider child-care costs
5 associated with the parent's job search,
6 (which we already have that) or the
7 training or education of a parent
8 necessary to obtain a job or enhance
9 earning potential, not to exceed a
10 reasonable time as determined by the
11 court, if the parent proves by
12 preponderance of the evidence that the job
13 search, job training, or education will
14 benefit the child being supported."

15 So the case that I saw was there
16 were three children and a nine-year
17 marriage. So it was rehabilitative
18 alimony for the most part. And the first
19 two children -- and the spouse was already
20 in the school, and she had six months left
21 to graduate. Two of the children were in
22 school; one child wasn't in school. One
23 child was three years old.

1 So for her to finish up to get
2 her nursing degree, then she needed six
3 more months, and she needed child-care for
4 those six more months, so that she could
5 start making \$50,000 a year, \$60,000 a
6 year. That would help with the alimony;
7 that would help with the child expenses
8 too, child support.

9 So in that kind of scenario, I
10 can see the judge having some leeway to do
11 that as far as having -- like, what it
12 says here, alternative Number 3: "In an
13 appropriate case, the court may consider
14 the child-care costs," which is pretty
15 much what I just read to you. But it
16 would be limited.

17 When we first talked about it in
18 December, I was thinking it was just like
19 a college case, which it would have -- you
20 would have to supply to the other party
21 your class schedule, you had to graduate
22 in four years, you had to maintain a C
23 average, you had to be a full-time

1 student, all of those types of things.

2 I can't see this being for a
3 four-year degree, but I can see,
4 especially somebody who is already in
5 school or maybe I have been a stay-at-home
6 spouse and my degree was in IT, but I've
7 not done that for five years, seven years,
8 I need -- I would need to go get
9 certified. I've have been a teacher, but
10 I've not taught in seven years. For me to
11 go get recertified, it would take
12 approximately six months. And so that
13 sort of situation, I can see that it would
14 be appropriate in certain situations.

15 But at it stands now, I believe
16 Judge Thompson and his people told the
17 courts that it's not in the rules. We
18 can't do it. If it were in the rules, we
19 could do it. So that's where we are right
20 now.

21 THE HONORABLE THOMPSON: Well, it
22 would be very difficult to reverse a trial
23 court that does not award those.

1 THE HONORABLE PALMER: It would be
2 difficult?

3 THE HONORABLE THOMPSON: It would be
4 difficult to reverse a trial court either
5 way, whichever way, because it's not.

6 THE HONORABLE PALMER: So that's why
7 we're looking at -- we've got alternative
8 one, we've got alternative two, we've got
9 alternative three.

10 And, to me, three gives the Court
11 some leeway, where Number 11 reads -- it
12 is more almost an absolute.

13 So, again, if it's something we
14 don't need to vote on today, that's fine
15 too, but I would -- we need to at least
16 discuss it again.

17 Yes, Ms. Cox?

18 MS. COX: Am I correct that right
19 now, you can do it if you state that
20 you're deviating, a trial judge can? And
21 option three is just spelling it out
22 basically, is that right?

23 THE HONORABLE PALMER: Well, I

1 thought I read these cases that you could
2 not do it, maybe I am wrong, because they
3 were reversed and remanded for including
4 it.

5 MS. COX: At the very end, it says
6 nothing is intended to imply that the
7 juvenile court could not then deviate from
8 the child support guidelines upon its
9 inclusion.

10 I think in this case there was no
11 inclusion of the written finding that the
12 guidelines would be inappropriate.

13 THE HONORABLE PALMER: Well, what
14 I'm looking at is, Therefore, the Court
15 reverses the judgment of the juvenile
16 court insofar that it improperly awarded
17 the mother a prorated amount of
18 work-related childcare expenses and
19 remands the cause to juvenile court to
20 recalculate the father's obligation.

21 So that's what I'm reading on
22 this.

23 MS. DAVIS: The judges that were at

1 the meeting apparently read it the same
2 way Judge Palmer did, that they're
3 excluding from considering educational or
4 vocational training expenses now. These
5 are just alternative ways of deviation or
6 just some additional language that's in
7 the child-care cost.

8 MS. BALDWIN: Maybe that case had a
9 notice of compliance, where it tells you
10 the guidelines had been followed.

11 THE HONORABLE THOMPSON: Well, it
12 might not. I mean, the facts in this case
13 might not apply in every single scenario
14 that comes to our court. You know, it may
15 be possible for there to be a deviation
16 too, as long as it's explained in that
17 situation as to why there might be a need
18 for additional.

19 MS. COX: Because this doesn't
20 really say. It just says nothing intended
21 to imply that it could not deviate. It
22 doesn't say necessarily you can or you
23 can't but --

1 THE HONORABLE THOMPSON: Right.

2 It's kind of left open.

3 MS. DAVIS: And so one of the
4 alternatives --

5 THE HONORABLE THOMPSON: Possibility
6 of a deviation.

7 MS. DAVIS: One of the alternatives
8 that we came up with was a -- I think
9 it's Number 3, was a specific numeration
10 of things being a reason to deviate.

11 The alternative one and
12 alternative two, they were put in as the
13 definition of child-care cost, as it does
14 now, like child-care cost, include
15 child-care cost incurred on behalf of
16 children because of employment. We added
17 educational or vocational training or job
18 search.

19 And on the other one, we just
20 said -- we got more in detail and gave
21 more discretion to the judge.

22 And alternative three was if you
23 have to deviate in order to get any type

1 of consideration by the court.

2 Even though I drafted these, you
3 can see one of them follows Tennessee; one
4 of them follows Georgia. I'm not
5 necessarily suggesting that we vote on it
6 now, but I just want to -- I felt like we
7 needed more discussion on it before I
8 would be comfortable voting, even though I
9 drafted some of these things, just to give
10 the court -- once we recommend something
11 to the court, I think we ought to --

12 THE HONORABLE PALMER: All right.
13 Any further -- any discussion?

14 Judge McMillan?

15 THE HONORABLE McMILLAN: No.

16 MR. POLEMENI: Is it feasible to put
17 in there, you know, after graduation, you
18 know, there's a chain. You can get
19 reimbursed for that child support or
20 whatever to where -- say, you paid \$5,000
21 over X number of years until graduation,
22 that that would be prorated back out in
23 lesser payments in the future.

1 Is that an option?

2 THE HONORABLE PALMER: Well, it
3 would be lesser payments in the future if
4 that person graduated and got a job now
5 making 50, 60, \$70,000 a year versus not
6 making no money at all or minimum wage, so
7 that would go down.

8 MR. POLEMENI: Right.

9 THE HONORABLE PALMER: But --

10 MR. POLEMENI: But for the payor to
11 recuperate, since it's really for the
12 parent's benefit; although, the child does
13 benefit from that increased income, it was
14 really all for the parent's benefit.

15 So I don't know if that's a
16 feasible thing again or not. But just a
17 thought.

18 MS. DAVIS: This is just saying --
19 they're not paying for the -- if you look
20 at the child-care cost, they're not paying
21 for the --

22 MR. POLEMENI: For the tuition,
23 right?

1 MS. DAVIS: -- tuition and all that.
2 They're just saying --

3 MR. POLEMENI: For the child-care
4 cost.

5 MS. DAVIS: If a person is going to
6 school, if they have to put their child in
7 daycare half a day, then this can be
8 considered part of the child-care cost,
9 but the child-care cost still has the same
10 ceiling that you always have. So we're
11 not talking about a whole lot of money.

12 MR. POLEMENI: Yeah. Okay. Maybe
13 making that more appealing to the guy
14 that's having to pay the change would make
15 it --

16 THE HONORABLE PALMER: Or the gal.

17 MR. POLEMENI: Or the gal, yeah.

18 THE HONORABLE PALMER: Mr. Bell?

19 MS. DAVIS: And we also -- remember,
20 we also include vocational training. It
21 may be somebody that's going from a welder
22 one to a welder two, and they need to go
23 somewhere for six weeks.

1 THE HONORABLE THOMPSON: It seems
2 like vocational training would be easier
3 to tie to a job, the employment portion of
4 it.

5 MS. DAVIS: Of course, the theory
6 is, you go to college, you get a job too.

7 THE HONORABLE PALMER: Not
8 necessarily anymore.

9 MR. POLEMENI: A lot of burger
10 flippers.

11 THE HONORABLE BELL: Madam
12 Chairperson?

13 THE HONORABLE PALMER: Yes, sir.

14 THE HONORABLE BELL: My thoughts are
15 is if we do anything, we take Number 3 and
16 set it out as a recognized reason to
17 deviate from Rule 32.

18 My problem with putting language
19 like education or vocational is there are
20 too many variables to that. What if you
21 got a CPA custodial parent, who says, I
22 have decided I want to do art history.
23 Not nothing against art history now, by

1 the way.

2 But there are too many variables,
3 and you've got to leave that to a fact
4 situation, specific situation, for the
5 trial court to consider as to whether it
6 ought to be included or not. That's my
7 personal thoughts.

8 THE HONORABLE PALMER: Okay.

9 Mr. Wright, anything?

10 MR. WRIGHT: I agree with Number 3.
11 It's the court's discretion.

12 THE HONORABLE PALMER: Even though
13 it's got -- well, on Number 3, I think we
14 need to add the word maybe vocational
15 training versus -- it just says training
16 right now. Training or education of a
17 parent. But maybe -- Mr. Smith?

18 MR. SMITH: The less specific, the
19 better, because the trier of facts is
20 going to have hear the facts and determine
21 whether it's something that's truly
22 related.

23 THE HONORABLE BELL: If you

1 remember, this is why we had to change the
2 insurance, the amount of the insurance
3 premium to be included, because of that
4 horrible case that I got reversed on, Hein
5 versus Fuller.

6 THE HONORABLE PALMER: Not that he
7 remembers it all these years later.

8 THE HONORABLE BELL: The appellate
9 courts were right. It said Rule 32 says
10 you do it this way, Billy. I mean, you
11 know. We appreciate you thinking that
12 ain't fair. But, son, that ain't the
13 criteria.

14 And so that's why we revised it
15 and did a scenario where we took the pro
16 rata out for the children, who was subject
17 to the child support order.

18 But I think this needs to be a
19 reason the judge has the power to deviate
20 in the appropriate situation.

21 THE HONORABLE PALMER: Okay. All
22 right. Well -- so is that a motion,
23 Billy, that we adopt?

1 THE HONORABLE BELL: I make a motion
2 that we take alternative three.

3 MR. WRIGHT: I second.

4 THE HONORABLE PALMER: And Steve
5 Wright seconds and Michael thirds.

6 Any other discussion on that?

7 (No response.)

8 THE HONORABLE PALMER: All in favor
9 say aye.

10 (Committee members who favored the
11 motion so indicated.)

12 THE HONORABLE PALMER: Opposed?

13 (No response.)

14 THE HONORABLE PALMER: All right.

15 Thank you.

16 MR. MADDOX: So for clarification,
17 this will be subsection (h) to 32(A)(1), I
18 think.

19 THE HONORABLE BELL: It will come in
20 right before the catch-all phrase and such
21 other reasons.

22 MR. MADDOX: So it will be actually
23 a new (g).

1 THE HONORABLE BELL: That's right.
2 We moved it down. That's what we done on
3 another.

4 THE HONORABLE PALMER: Now, we have
5 the miscellaneous portion of the meeting.

6 Anybody have anything?

7 Well, Chief Justice Stuart, I
8 know you've been very busy, so we
9 appreciate you being here. We really do.

10 Judge Thompson, I know you're
11 busy too, but probably not quite as busy
12 as Justice Stuart has been here lately.

13 All right. So --

14 MR. MADDOX: Judge Palmer, may I
15 make a couple of quick clarification -- or
16 ask a couple of clarification questions?

17 THE HONORABLE PALMER: Yes, sir.

18 MR. MADDOX: We had talked about
19 changing the Social Security number on
20 CS-41, I guess, a couple of hours ago.

21 THE HONORABLE PALMER: And I have
22 that highlighted right here to hand to
23 you.

1 MR. MADDUX: So are we still
2 pursuing that with the Court, or are we
3 waiting on DHR's recommended changes on
4 that form as well?

5 THE HONORABLE PALMER: We don't know
6 when that's going to be. I think this --
7 the Social Security part needs to be done
8 immediately, and so I would want that
9 line, My Social Security number, I would
10 want that taken care of just as soon as
11 possible.

12 MR. MADDUX: Is the recommendation
13 of the committee to put Xs all the way
14 across, except the last three to leave
15 blank?

16 THE HONORABLE PALMER: Correct.

17 MR. MADDUX: And, say, the last
18 three digits only, would that be the
19 proper way to do that?

20 THE HONORABLE PALMER: Yes, I think
21 so. Anybody else have any other comments?

22 (No response.)

23 THE HONORABLE PALMER: Yes, sir.

1 MR. MADDUX: And the other thing was
2 at the previous meeting, I think, the
3 committee wished to have scenarios for
4 practitioners and judges for the child
5 custody proposal.

6 And is that going to be part of
7 the comment examples Judge Bell provided
8 today?

9 THE HONORABLE PALMER:
10 Subcommittee's proposal joint custody
11 provision, Option No. 1?

12 MR. MADDUX: Yes. Is it the
13 committee's preference to include his
14 scenarios as part of the comment?

15 THE HONORABLE PALMER: As far as
16 what the examples -- the CS forms?

17 I don't think it would hurt, at
18 least for a while, to have an example in
19 there, because I know under the split
20 custody, there used to be an actual math
21 example under there.

22 MR. POLEMENI: So make that an
23 appendix?

1 THE HONORABLE PALMER: No. Example.
2 Comment.

3 MR. MADDUX: What's preferable,
4 Brad?

5 MR. MEDARIS: It might have to be up
6 to the Reporter's Office.

7 MR. POLEMENI: I would think if it's
8 an appendix, you can remove an appendix
9 without changing the original form, is
10 that correct?

11 THE HONORABLE PALMER: I don't know
12 about that.

13 CHIEF JUSTICE STUART: I think if
14 y'all will just submit it, it's going to
15 be published in the fashion that our
16 Reporter of Decisions says it should be.

17 THE HONORABLE PALMER: I like that.

18 CHIEF JUSTICE STUART: It really
19 doesn't even matter what I think.

20 THE HONORABLE PALMER: All right.
21 Well, thank you for that.

22 And then what else, Mr. Maddox?

23 MR. MADDUX: That's all I have.

1 THE HONORABLE PALMER: Okay. Well,
2 anybody in the public have any comments?
3 I don't know think we have the pubic here.

4 All right. Willie, you got
5 anything for us? Did we behave okay?

6 MARSHAL JAMES: Yes, I do.

7 THE HONORABLE PALMER: Yes, sir?

8 MARSHAL JAMES: Happy Mother's Day
9 to all of you.

10 THE HONORABLE PALMER: Well, thank
11 you.

12 And speaking of mothers, what did
13 you do with mine? She's gone. All right.
14 I left you in charge of her, so.

15 So let's -- we've got -- we're
16 just about five minutes over here now.

17 What about when should we meet
18 again next? How long are we going to need
19 to go over, especially what Jennifer Bush
20 has presented to us, as far as getting
21 that done and getting a chance to review?
22 Then we might as well try to get the
23 subcommittee as well.

1 I don't really want to wait
2 until, like, December, but August or
3 September, would that give everybody
4 enough time?

5 Is December more practical?

6 MR. POLEMENI: September, I would go
7 with. Get us through the summer and get
8 the kids back in school and all those
9 other variables.

10 THE HONORABLE PALMER: Okay. Does
11 anybody --

12 THE HONORABLE BELL: Could the
13 record reflect that I'm not on any
14 subcommittees?

15 THE HONORABLE PALMER: The record is
16 going to reflect Billy Bell has done his
17 job, and he is not on any subcommittee.
18 But thank you very much for your hard
19 work, and Penny as always and Jim
20 Jeffries.

21 MS. SAULSBERRY: September is the
22 end of the fiscal year for some, you know.

23 THE HONORABLE PALMER: So maybe

1 first of October?

2 MS. SAULSBERRY: September is
3 usually the closeout and wrapping up
4 anything.

5 THE HONORABLE PALMER: Okay.

6 MS. DAVIS: If we have a long
7 agenda, I think for people that come from
8 great distances, Mike and Billy, I know,
9 come a long way, we might want to consider
10 having a longer meeting time.

11 THE HONORABLE PALMER: Oh, sure.
12 Yes.

13 MS. DAVIS: Even if we need to bring
14 in lunch or everybody go get a sandwich or
15 whatever. It's a long haul for some
16 people.

17 THE HONORABLE PALMER: Definitely.

18 All right. And, you know, I
19 believe the last time we were here, we had
20 even made some overnight accommodations,
21 if we were going to go past a certain
22 amount of time for people who had traveled
23 a long way.

1 But how long it's going to take
2 next time, I don't know. But is
3 October --- I know we've got Retreat to
4 the Beach is sometime in October. But I
5 don't know when.

6 Do you know?

7 MS. SMITH: I don't know.

8 THE HONORABLE PALMER: We are having
9 a planning committee meeting on that.

10 MR. MADDOX: We also have a family
11 law seminar October 13, so that Friday is
12 out.

13 THE HONORABLE PALMER: I think
14 that's probably --

15 MR. MADDOX: At the 4-H Center.

16 THE HONORABLE PALMER: Okay. So I
17 don't know about that one. So that Friday
18 is out. And then there's Retreat to the
19 Beach.

20 MR. MADDOX: October 11th, 12th, and
21 13th is the Family Law Judges, at the
22 Alabama 4-H Center.

23 THE HONORABLE PALMER: And do we

1 want a Friday, because we're also into
2 football season. I know that could mess a
3 lot of people up.

4 Okay. Well, we'll get back with
5 y'all. We will send maybe a list of
6 dates, and then if y'all would just RSVP
7 just as soon as possible about the dates.
8 We probably do need longer than two hours,
9 because I have a feeling for the proposed
10 language that Ms. Bush presented to us,
11 it's going to take some time, and then we
12 got the subcommittee for the consequences
13 of the failure to abide by the joint
14 custody bill or the child support.

15 And then I believe a good thing
16 for the subcommittee to look at would be
17 the last bills that was presented. I know
18 it was Senate Bill 191 and Senate Bill
19 186. Both of those came out of committee.
20 One was written by the Alabama Law
21 Institute and the other one was Stutt's.

22 MS. DAVIS: Yeah. I think, once
23 amended, I think we --

1 THE HONORABLE PALMER: They pretty
2 much reflect each other.

3 MS. DAVIS: The equitable remedy
4 for -- they took basically with ours --

5 THE HONORABLE PALMER: Yes.

6 MS. DAVIS: -- and they amended a
7 section off.

8 THE HONORABLE PALMER: Because that
9 was some good work right there.

10 All right. Well, if nothing
11 else, I show it to be 12:29.

12 Thank you very much. Everybody
13 be sure to turn your travel vouchers in.

14 Justice Stuart or Justice
15 Thompson, do y'all have anything for us?

16 No?

17 Anybody have anything else,
18 whether it's wishing anybody Happy
19 Birthday, Happy Mother's Day, anything.

20 All right. Thank you very much
21 for your time. I really appreciate it.

22 (The meeting concluded at 12:30
23 p.m.)

1 REPORTER'S CERTIFICATE

2 STATE OF ALABAMA
3 MONTGOMERY COUNTY

4 I, Haley Tunnell, Court Reporter,
5 Commissioner for the State of Alabama at Large,
6 hereby certify that on Friday, May 12, 2017, I
7 reported the Advisory Committee on Child Support
8 Guidelines and Enforcement and that pages 4
9 through 171 contain a true and accurate
10 transcription of the proceedings set out herein.

11 I further certify that I am neither kin nor
12 counsel to any of the parties to said cause, nor
13 in any manner interested in the results thereof.

14
15 /s/Haley Tunnell
16 HALEY TUNNELL, Court Reporter
17 Commissioner for the
18 State of Alabama at Large
19 ACCR 639, Expires 09/30/17
20 MY COMMISSION EXPIRES: 02/25/19
21
22
23

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