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MEETING OF THE ADVISORY COMMITTEE ON CHILD  
SUPPORT GUIDELINES AND ENFORCEMENT

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AFOREMENTIONED HEARING was taken before  
Kristie Pearson, Certified Court Reporter and  
Commissioner for the State of Alabama at  
Large, in the Mezzanine Classroom of the  
Heflin-Torbert Judicial Building, 300 Dexter  
Avenue, Montgomery, Alabama, on Thursday,  
February 7, 2013, commencing at approximately  
10:00 a.m.

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APPEARANCES

ADVISORY COMMITTEE MEMBERS

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District Judge  
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1 HONORABLE LYN STUART  
Associate Justice  
2 Alabama Supreme Court  
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4 MR. MICHAEL A. POLEMENI  
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9 Montgomery, AL 36130-4000

10 MR. JAMES D. JEFFRIES, ESQ.  
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11 2053 Dauphin Street  
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13 ALSO PRESENT:

14 MR. SCOTT HOYEM  
Alabama Administrative Office of Courts  
15 300 Dexter Ave  
Montgomery, AL 36104

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17 MR. ALEX JACKSON, ESQ.  
Alabama Supreme Court  
18 300 Dexter Ave  
Montgomery, AL 36104

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1 MR. BAILEY: I'm Gordon Bailey.

2 I want to welcome everyone to the  
3 committee four-year meeting of  
4 reviewing the Alabama Child Support  
5 Guidelines. I'd like to welcome our  
6 court reporter, Kristie Pearson, from  
7 Freedom Court Reporting. She's going  
8 to take down everything we say so  
9 we'll have a verbatim record. If you  
10 will, before you speak, if you'll  
11 identify yourself and give us your  
12 title, then Kristie won't have to  
13 stop and ask.

14 I also want to welcome Alex  
15 Jackson. Alex is sitting at the end  
16 of the table. Alex is replacing  
17 Wayne Jones, who retired, our supreme  
18 court liaison and staff attorney has  
19 retired. Welcome, Alex, on board to  
20 the committee.

21 And I also want to welcome Scott  
22 Hoyem -- Did I pronounce your last  
23 name?

1 MR. HOYEM: Yes, sir. Hoyem.

2 MR. BAILEY: Hoyem. From AOC, who is  
3 here for Bob Maddox. Bob is usually  
4 with us, but Scott is subbing for him  
5 today.

6 Let's go around and introduce  
7 ourselves first. And if you will,  
8 tell us your name, your title, and  
9 how many years you've been on the  
10 committee.

11 I'm Gordon Bailey. I'm retired.  
12 Former attorney and child support  
13 referee. And I've been on the  
14 committee since 1980. Penny.

15 MS. DAVIS: My name is Penny Davis. I  
16 am the associate director of the  
17 Alabama Law Institute. And I don't  
18 remember how many years I've been on  
19 the committee. My apologies. A  
20 number.

21 MR. BAILEY: Best guess.

22 MS. DAVIS: Twelve maybe.

23 JUDGE BELL: My name is Billy Bell.

1 I'm the circuit judge from Madison  
2 County, and I started on the  
3 committee in 2008.

4 MS. NELSON: I'm Faye Nelson. I'm the  
5 director for the IV-D Program for  
6 Alabama. I've been on the committee  
7 five years.

8 MS. BUSH: I am Jennifer Bush, DHR legal  
9 counsel. And I've been on the  
10 committee since 2008.

11 JUDGE DRINKARD: I'm Wade Drinkard,  
12 District Court Judge for Marengo  
13 County. I've been on the committee  
14 about two years, I think. I'm fairly  
15 new.

16 MR. WRIGHT: I'm Steve Wright. I'm a  
17 lawyer in Birmingham, Alabama, and  
18 I've been on the committee since the  
19 early '90s. I don't remember the  
20 exact.

21 MR. JEFFRIES: I'm Jim Jeffries with  
22 Jeffries Family Law in Mobile, and  
23 I've been on the committee about

1 three years.

2 MR. POLEMENI: I'm Michael Polemeni, a  
3 private citizen. I've been on the  
4 Committee since 2008.

5 JUSTICE STUART: I'm Lyn Stewart. I'm  
6 an associate justice on the Alabama  
7 Supreme Court. I'm not sure when I  
8 joined the committee. It's been a  
9 while.

10 MR. BAILEY: Good to have you. Thank  
11 you.

12 Our task today is to review the  
13 guidelines after four years of being  
14 in effect. It doesn't seem like it's  
15 been four years since we did all the  
16 work we did, but it certainly has  
17 gone by quickly. Let's start with a  
18 review of the guidelines first.

19 And does anyone have any item they  
20 would like to bring before the  
21 committee at this time? We're going  
22 to give the public a chance to speak,  
23 and we'll get to that later. But let

1           me ask the committee members first,  
2           anyone have any particular area of  
3           the guidelines that you'd like for us  
4           to consider reviewing today? Billy.

5           JUDGE BELL: Gordon, I'd like us to look  
6           at two specific areas, one is one  
7           that we dealt with back in 2008,  
8           which is the amount of the medical  
9           insurance premium that has to be  
10          included in the calculation under  
11          Rule 32. And this was brought to  
12          light by a case I got reversed in  
13          last year called Hein, H-E-I-N,  
14          versus Fuller. And it involved a  
15          lady who was divorced from her former  
16          husband, obviously, and it was a  
17          child support modification case. She  
18          had remarried and the two children of  
19          these parties' marriage was covered  
20          under a medical insurance policy  
21          provided by the stepfather.

22                   And I deviated from Rule 32,  
23                   because when I included the



1           stepfather's family policy insurance  
2           premium, it increased the father's  
3           child support by \$325 per month, and  
4           he was paying 79.27 percent of that  
5           stepfather's family policy premium,  
6           which covered, not only him and the  
7           mother, his new wife, but also his  
8           own child and then the two children  
9           of the case that I was involved in.  
10          I deviated and got reversed from  
11          that. The Court of Civil Appeals --  
12          and I think correctly so -- said,  
13          look, Rule 32 is clear. Whether you  
14          think that's fair or not, Rule 32  
15          requires that the family policy  
16          premium under which the children are  
17          covered has to be included in the  
18          calculation.

19                 Now, they were gentle on me and  
20                 they said, Why don't you consider  
21                 letting the father carry the medical  
22                 insurance. So I did and that took  
23                 care of that situation and it was not

1            appealed, so it hasn't gone up on  
2            cert or anything. But there's got to  
3            be a way -- And we addressed that, I  
4            think, in 2008.

5            I'd also like to look at the tax  
6            exemption. Because under the current  
7            Rule 32, it is presumed in the basic  
8            child support obligation that the  
9            custodial parent gets the tax  
10           exemption for the children. Now, I  
11           am concerned that the same language  
12           that was used to reverse me on  
13           carrying the medical insurance  
14           premium, or deviating from that, they  
15           will say that, look, Rule 32 is  
16           clear. It says the noncustodial  
17           parent gets presumed they -- I mean  
18           the custodial parent gets the tax  
19           exception. I'd like for us to look  
20           at maybe allowing a judge to deviate  
21           from Rule 32 and not allow the  
22           custodial parent to carry the tax  
23           exemption in cases where we find it

1 to be fair and equitable to do so.

2 So those are the two main areas I'd  
3 like for us to look at.

4 MR. BAILEY: Tax exemption and medical  
5 insurance premium.

6 MR. POLEMENI: It may be a moot point.  
7 I'm not a lawyer, but Amendments 6  
8 says that any person, employer or  
9 health care provider can't be  
10 compelled to participate in the  
11 health care system. Thus, we're  
12 forcing -- The Court is forcing  
13 someone to participate in the health  
14 care system. So is that a misreading  
15 or is that something that was passed  
16 through and not thought about by the  
17 legislature?

18 JUDGE BELL: Are you looking to talk to  
19 me, Mike?

20 MR. POLEMENI: No. I'm just asking a  
21 general question to anyone that can  
22 answer.

23 JUDGE BELL: And that's a good question,

1           and I think we need to look at that.  
2           I don't know what the definition of  
3           health care system is. But we do  
4           need to see if that's inconsistent  
5           with the requirement under Rule 32.  
6           Because as we know, a parent is  
7           obligated to carry medical insurance  
8           coverage on the children if it's at a  
9           reasonable cost. It's interesting  
10          that in Rule 32, the reasonable cost  
11          is defined as ten percent based upon  
12          the difference between single  
13          coverage and family coverage. But  
14          then on the calculation part, we've  
15          got to include the whole thing. It  
16          just doesn't make any sense. But I  
17          think we need to look at that, Mike.  
18          I do.

19          MR. BAILEY: All right. Those are three  
20          issues. Does anyone else have any  
21          issues you would like for us to  
22          discuss while we're here this morning  
23          and maybe look at in the future?

1 MR. POLEMENI: I'd like to bring up the  
2 issue of the maximum child support.  
3 I'll bring up again is that my belief  
4 is that the child support should be  
5 maxed out at what the State pays to  
6 foster parents.

7 MR. BAILEY: Say that again.

8 MR. POLEMENI: That the maximum amount  
9 of child support has to be set at the  
10 same rate that the DHR pays to foster  
11 parents. A fit parent is going to do  
12 what's right for his children. A  
13 nonfit probably isn't going to pay  
14 the minimum to begin with.

15 MR. BAILEY: Jennifer, do you want to  
16 help us out with that, setting it at  
17 the amount of foster care payment.

18 MS. BUSH: The federal regulation  
19 required that the guidelines consider  
20 the needs of the child and the  
21 ability of the parents to pay. And  
22 that sounds like an arbitrary amount  
23 that would be applied regardless of

1 the needs of the children.

2 MR. POLEMENI: Doesn't that apply to  
3 foster children as well, that they  
4 need the best and most?

5 MS. BUSH: Foster care is under a  
6 different set of statutes and  
7 regulations than child support.

8 MS. DAVIS: Just out of curiosity, what  
9 is the maximum amount? Is it based  
10 per child or is it a sliding scale?  
11 If you have three children it's less  
12 than -- Let's say it's a \$100 per  
13 child, or if they had three children,  
14 it would be \$225, or whatever the  
15 amount is. Is it one single amount  
16 per child or is it based on the  
17 number of children the parent has?  
18 What's the calculation for payment?

19 MS. BUSH: It's my understanding that  
20 it's per child.

21 MR. POLEMENI: Was that not in the PDF  
22 that was sent? I believe it is. The  
23 schedule where it's a certain

1 percentage for low income, and then  
2 it rises up for middle income, and  
3 then it drops again for --

4 MS. DAVIS: No. I was talking about for  
5 the foster children.

6 MR. POLEMENI: Oh, for foster. Okay.  
7 I'm sorry.

8 MS. BUSH: But do be aware that in  
9 foster care cases, the child support  
10 program does receive child support  
11 from the parents. So just because a  
12 child is in foster care, DHR may be  
13 paying moneys to those foster  
14 parents, but in turn they will seek  
15 child support from the parents.

16 MR. POLEMENI: Yes. I'm familiar with  
17 that.

18 JUDGE BELL: Justice Stewart and I when  
19 we were at the judges conference, she  
20 asked if anybody had anything that we  
21 needed to bring up to let us know.  
22 One of the things that was brought up  
23 to me is: How do you calculate child

1 support when a non-parent is getting  
2 custody? There's no procedure for  
3 that. And I think that goes hand in  
4 hand with what Michael is talking  
5 about. And so maybe we need to look  
6 at that. I don't know how you  
7 calculate that, because normally you  
8 take both parents' combined gross  
9 income, but in this particular  
10 situation, you've got a custodial  
11 parent being someone else.

12 JUSTICE STUART: I would just comment  
13 about the way I did it when I was a  
14 trial judge. And I would have  
15 calculated it based upon the parents,  
16 not a non-parent.

17 JUDGE BELL: One other thing, and I hate  
18 to keep bring up this issue.

19 MR. BAILEY: No, go ahead.

20 JUDGE BELL: I ran into a situation  
21 recently where in a child support  
22 modification case the father was  
23 paying alimony, periodic alimony, to



1           the mother. But there's case law  
2           that says that when you do that  
3           calculation, that alimony he pays to  
4           her is not preexisting alimony for  
5           the child support calculation, but  
6           it's money that coming out of his --  
7           money that he's giving to her for her  
8           support. The case law seems to say  
9           that that preexisting alimony is only  
10          alimony paid to a former spouse other  
11          than the one you're in the child  
12          support modification with. That  
13          seems odd to me.

14           MS. DAVIS: The underlying question also  
15           is -- And I know it's a public policy  
16           decision that was made early on, but  
17           that raises the point that I've  
18           wondered. Why should child support  
19           be impacted by spousal support? In  
20           other words, why should a subsequent  
21           child get less based on a spousal  
22           support? I understand the first in  
23           time, and I understand the philosophy

1                   perhaps is by the time the second  
2                   child is being asked to be supported,  
3                   theoretically, that second marriage,  
4                   they would have been aware of those  
5                   prior support issues. But I'm  
6                   wondering if it's still good policy  
7                   to continue to let alimony to wife or  
8                   husband Number 1, 2 or 3 impact on  
9                   children if you're just focusing on  
10                  child support.

11                 MR. BAILEY: That's something you  
12                   propose we look at in the future?

13                 MS. DAVIS: It's just a thought process  
14                   if we're going to look at it in terms  
15                   of preexisting alimony versus  
16                   expanding it to current alimony  
17                   payments, which is what I guess  
18                   you're suggesting we at least think  
19                   about.

20                 JUDGE BELL: In a modification case.

21                 MS. DAVIS: In a modification case. Do  
22                   we want to even revisit the idea of  
23                   whether alimony should be in the

1 calculation for child support?

2 JUDGE BELL: There's no definition of  
3 preexisting alimony that I see in  
4 Rule 32. It's by case.

5 MR. POLEMENI: One of the issues that  
6 continually is coming up over the  
7 years is that everything is based on  
8 predivorce numbers, and in reality,  
9 when you're divorced, your income --  
10 you're cut in half essentially. And  
11 there should be some consideration  
12 given to what the present condition  
13 of the family's life is -- double  
14 housing, double -- all those  
15 different variables that can put a  
16 strain on a family and a  
17 relationship, plus lawyers fees on  
18 top of that going back and forth.

19 You're going to bust the golden egg.

20 MS. DAVIS: Except that what the child  
21 support is based on is income, not  
22 household expenses. I think you're  
23 correct in terms of economic reality,

1           that's correct. But the way the  
2           child support guidelines are drafted  
3           now, they are only focusing on the  
4           income of the parties, which probably  
5           does not necessarily change when  
6           people get divorced, but can, if all  
7           of a sudden someone has worked part  
8           time and they are going to full time,  
9           for example, or they haven't worked  
10          and now they are working, and  
11          certainly that would change.

12          MR. POLEMENI: I agree with that  
13          statement.

14          MS. DAVIS: Do you think at the time  
15          you're doing the divorce and doing  
16          the child support guidelines, you  
17          need to know that there's going to be  
18          a change? They ought to anticipate  
19          that and base it on that?

20          MR. POLEMENI: Exactly, exactly. And  
21          again, when you get in the second and  
22          third levels, what DHR wants, in my  
23          opinion, is to have that revenue

1 stream coming in to the State and to  
2 pay that child support. But if the  
3 guy can't pay it, nothing is going to  
4 happen. So you've got to set a  
5 reasonable amount. And I think the  
6 guidelines are based on that  
7 assumption that if -- PSI  
8 presented -- And I guess they've  
9 changed their name since the original  
10 projections that they gave out in  
11 2008 -- that instead of a cost model,  
12 they went with the income model. And  
13 the judges can probably tell you how  
14 many times a person is coming back  
15 and forth because they can't pay the  
16 child cost because it's too high.  
17 And thus, they go into arrears and  
18 then that's at -- What is the  
19 percentage of arrearage now? Is it  
20 seven something?

21 MS. DAVIS: I think it's -- It was  
22 dropped down from twelve to either  
23 six or seven. Seven and a half.

1 JUDGE BELL: September 1st, '11.

2 MR. BAILEY: Michael, do you have a  
3 proposal that we should consider?

4 MR. POLEMENI: I'm not a lawyer, so  
5 there's a lot of things that need to  
6 be looked at, so I don't know to  
7 frame it in legalese. All I just  
8 know is that in my opinion, the child  
9 support is too high and it needs to  
10 be adjusted, and we need to look at  
11 all income.

12 And the odd thing I would say is  
13 if it's for the best interest of the  
14 child, the child should have a debit  
15 card. All that money goes to the  
16 debit card and then all expenses paid  
17 out for that child are accounted for,  
18 and then the payor gets a receipt.  
19 If the Court so wants, they get a  
20 receipt of what's being paid for the  
21 child, and then obligee gets the  
22 payments. They kind of do that with  
23 welfare now, don't they?

1 MR. BAILEY: What is your question?

2 MR. POLEMENI: There's a debit card for  
3 welfare already, so why not roll that  
4 over to the next step since  
5 everything is being funneled through  
6 and against SB103, which was proposed  
7 by Senator Orr, everything being  
8 funneled through DHR for all child  
9 support to get Title IV-D funds out  
10 of Washington. Which on the  
11 average -- and my numbers may be  
12 old -- \$1.85 to \$2.00 for every  
13 dollars that's collected by DHR of  
14 Alabama, they get funding from Title  
15 IV-D. And this is listed under  
16 finance and taxation general fund,  
17 which has nothing to do with child  
18 support. But that's where the funds  
19 from Title IV-D funding is going to  
20 and being controlled by. So there's  
21 a lot of things out there that are  
22 happening.

23 MS. DAVIS: If I understood you

1                   correctly, one of the aspects you're  
2                   concerned about is some type of  
3                   accountability of how the funds are  
4                   being expended?

5                   MR. POLEMENI:   Exactly.

6                   MS. DAVIS:   Which I understand where  
7                   you're coming from, but I'm not sure  
8                   that's under the umbrella of the  
9                   child support guidelines.  I don't  
10                  think historically we've done that.  
11                  That might be another committee's  
12                  responsibility.  But I guess maybe  
13                  clarification, if our committee is  
14                  going to look beyond child support  
15                  guidelines or to other family law  
16                  matters that relate to child support,  
17                  which that would, or just limit  
18                  ourselves to child support  
19                  guidelines, which is Rule 32.

20                  MR. BAILEY:   That's right.  Any other  
21                  comments on the schedule, Mike?  Your  
22                  position is that the schedule is too  
23                  high that we adopted four years ago?



1 MR. POLEMENI: Yes, sir.

2 MR. BAILEY: Any other comments on our  
3 schedule?

4 MS. DAVIS: I'll ask a question  
5 following up with Michael's  
6 comments. Is there any way to find  
7 out if most states review and adjust  
8 their guideline amounts, the charts,  
9 more regularly than we do it? I know  
10 there was a long span of time from  
11 the first time we did it to the  
12 second time. And most of the people  
13 that are on the committee -- It's a  
14 very tedious process, but it's also  
15 an important process, because it  
16 impacts on what people pay. And it  
17 might be helpful to know what other  
18 states are doing in that regard.

19 MR. POLEMENI: On the Fathers and  
20 Families website there's been a lot  
21 of -- Massachusetts and a couple of  
22 other states are in the same process  
23 as of 2011 and 2012. They've been

1           going through the same process. And  
2           I don't know what their outcomes  
3           were. I can research that and find  
4           out.

5           JUDGE BELL: The last section in Rule  
6           32, it looks like to me it obligates  
7           us -- In Subparagraph G it's a review  
8           of guidelines. The Advisory  
9           Committee on Child Support Guidelines  
10          and Enforcement appointed by the  
11          Supreme Court shall at least once  
12          every four years review the child  
13          support guidelines and the schedule  
14          of basic child support obligations.  
15          So I think we are obligated to look  
16          at it.

17          MS. NELSON: And other states are pretty  
18          much following that schedule, every  
19          four years that you have to review  
20          the guidelines and the schedule.

21          MR. POLEMENI: Is that coming from the  
22          federal government?

23          MS. BUSH: Yes, it is. There's a

1 federal regulation that requires the  
2 guidelines to be reviewed at least  
3 every four years. It can be more  
4 frequently, but it cannot be --

5 MR. POLEMENI: Less than?

6 MS. BUSH: Yes.

7 MS. DAVIS: Does that reg require us to  
8 look at the calculation and the  
9 figures or just the whole guideline  
10 itself?

11 MS. BUSH: You have to review it. You  
12 do not necessarily have to change  
13 it. And you have to review the rule  
14 and you also have to review the  
15 calculations. And keep in mind, that  
16 of all the states, they all have  
17 different methods. So some may have  
18 a rule that does not necessarily have  
19 numbers set out the way ours are set  
20 out. But you would have to review  
21 the entire thing.

22 JUDGE BELL: How do we know, Jennifer,  
23 how those numbers are calculated?

1 MS. BUSH: These numbers are  
2 calculated -- And you can help me  
3 with this. Back when we met in 2008,  
4 it was DSI did a study --

5 MR. BAILEY: Jane Venohr.

6 MS. BUSH: -- and presented these  
7 numbers to us. We had numerous  
8 meetings where she would present  
9 presentations to the committee  
10 concerning how she came up with the  
11 numbers. And she actually had a  
12 bound document that went through an  
13 in-depth explanation of how they came  
14 up with the numbers.

15 JUDGE BELL: Has that been updated?

16 JUSTICE STUART: I don't know if this  
17 answers your question or not. There  
18 were many factors considered, but my  
19 recollection is primary factors  
20 considered are the incomes in the  
21 state of Alabama -- that is, what  
22 people are making as far as salaries  
23 and other incomes -- and then the

1 reasonable child rearing cost is the  
2 best way I know to put it. Those  
3 were the two primary factors,  
4 although there are some other things  
5 that were figured in. And it was a  
6 very extensive and I think fairly  
7 expensive study that was done to  
8 determine that, because it basically  
9 takes an economist.

10 JUDGE BELL: It's been four years, five  
11 years. Has that been looked at  
12 again? I mean, there's a lot that's  
13 gone on in four years. If somebody  
14 came into our courts for a child  
15 support modification, we would  
16 probably consider four years a pretty  
17 substantial period of time within  
18 which to gauge whether there's a  
19 material change in circumstance.  
20 Does it cost more to raise a child  
21 now? Does it cost less? What's the  
22 income level? I just wonder how  
23 revisiting that study would impact

1           the numbers. I mean, I went to  
2           Auburn, but I can look and all I see  
3           is a bunch of numbers.

4           JUSTICE STUART: Billy, I went to  
5           Auburn, too.

6           JUDGE BELL: Well, I'm proud of it. But  
7           I went to Alabama and it kind of  
8           rounded me off, so to speak.

9           MR. POLEMENI: Actually, my  
10          recollection, PSI study was all  
11          income based. There was another  
12          gentleman from Georgia -- and I  
13          forget his name. I would have to  
14          look at my records -- which was a  
15          cost-based analysis and how Georgia  
16          does theirs. So the two different  
17          numbers, and the cost based was a  
18          more realistic and lower number than  
19          the income level, which is what we've  
20          been using.

21          MS. DAVIS: Does Georgia still use  
22          that? I thought they flipped and  
23          went to the other.

1 MR. BAILEY: They use income now.

2 MS. DAVIS: I thought they changed.

3 MR. BAILEY: Judge Bell, do you think we  
4 ought to look into asking Jane Venohr  
5 to update her information and get a  
6 cost and see how much that would  
7 cost?

8 JUDGE BELL: I depends on how much it  
9 costs. I mean, we all know we work  
10 for a broke company. But like  
11 Justice Stuart said, it's a lot of  
12 lost money. We're not going to get  
13 it probably to be able --

14 MR. BAILEY: Alex, I guess we should  
15 maybe check with Jane and see what it  
16 would cost her to update our material  
17 that she worked with four years ago.

18 MR. JACKSON: Yeah, and then we would  
19 have to consult with the Court to see  
20 what the ability to pay would be.

21 JUSTICE STUART: The last time when she  
22 did that study and we did that  
23 extensive review, it had been a long

1           time, like almost twenty years. I  
2           mean, there was a huge gap in time.  
3           I would hope that to update for four  
4           years would not be as expensive as  
5           say over a twenty-year period.

6           MR. BAILEY: Alex, let's check on that,  
7           if you will, and see what Jane's  
8           estimate would be to update the  
9           economic information that she based  
10          the schedule on.

11          MS. DAVIS: Can I ask a question?

12          MR. BAILEY: Sure.

13          MS. DAVIS: In relationship to what  
14          Judge said about the taxes, I think  
15          that was incorporated in the  
16          guideline figures. So if we're going  
17          to get her to do some calculations,  
18          if we want that to be sort of  
19          segregated out so we can consider his  
20          suggestions, unless it's going to  
21          cost -- you know, bump up the cost  
22          too much.

23          MR. JACKSON: Could you give me a time



1 frame on what we're trying to do and  
2 when it needs to be done? Because I  
3 was under the impression that we were  
4 looking at a March 1st deadline for  
5 certain things to be done.

6 MR. BAILEY: As I understand it --  
7 correct me if I'm wrong, Faye and  
8 Jennifer -- our meeting today  
9 satisfies, we think, the four-year  
10 requirement to meet to review the  
11 guidelines.

12 MS. BUSH: Yes.

13 MR. BAILEY: And anything we do in the  
14 future is not time driven. Is that  
15 correct?

16 MS. BUSH: This meeting satisfies --

17 MR. JACKSON: The date of start, not the  
18 date of completion.

19 MS. BUSH: -- the requirement to review  
20 it. We are reviewing. Now, it may  
21 be that we have ongoing changes and  
22 we take six months or however long to  
23 make those changes, but we are

1 reviewing the guidelines today.

2 MR. JACKSON: I just don't want us to  
3 trip over the federal --

4 MR. BAILEY: That's right. We want to  
5 stay in compliance. Absolutely.

6 Alex, I would think Jane could get  
7 us something back within a couple of  
8 weeks maybe, three weeks at the most.

9 Any other questions or comments on  
10 the guidelines and the schedule?

11 Let's now hear from our members of  
12 the public that would like to speak  
13 to the committee. If you will, if  
14 you've given Alex your name and  
15 title, if anything. We generally  
16 limit you to ten minutes. If there's  
17 some questions after that, then, of  
18 course, that's fine.

19 Mr. Smith.

20 MR. SMITH: I'm Tim Smith with Alabama  
21 Family Rights Association. I'm the  
22 sitting president this year, as I was  
23 back in 2004, the last time I spoke

1 in front of the committee. At that  
2 time, I got ten other AFRA members to  
3 come and we spoke on numerous topics  
4 then. They are no less relevant than  
5 they are now, back then. I would  
6 encourage you, if you have questions  
7 about public input -- We don't have  
8 much public here, because it hasn't  
9 been publicized, the meeting has  
10 not.

11 MR. BAILEY: We did publicize the  
12 meeting. I'm sorry. I didn't mean  
13 to interrupt you. But we sent a  
14 notice out to all of the media and  
15 everything.

16 MR. DAVIS: Oh, okay. Well, it wasn't  
17 publicized, whether y'all sent it to  
18 them or not. It wasn't for the  
19 general public to see.

20 But if you'll look back on the  
21 AOC's website, you can look back at  
22 the testimony that was given by AFRA  
23 members and other members of the

1 public back in 2004. And like I say,  
2 the testimony there is even more  
3 relevant now than it was in 2004.  
4 You can see all that on the PDF  
5 file. It's on AOC's website. So I  
6 didn't see the point in lining up a  
7 bunch of AFRA members back here to  
8 come back and put the same  
9 information back to the same  
10 committee again. That would have  
11 just been a waste of everybody's  
12 time. Waste of their time; waste of  
13 your time. You can read it at your  
14 convenience. I would encourage you  
15 to do that. Because what this  
16 committee does directly affects the  
17 public. Everybody that goes through  
18 a divorce that has children, this  
19 committee's actions dramatically  
20 affect children and both parents.

21 That being said, we spoke on the  
22 11th of March 2004. AFRA also paid  
23 Mark Rogers, who Mike eluded to, an

1 economics professor from the  
2 University of Georgia, who did a  
3 presentation for the committee, who  
4 showed up to the committee and gave  
5 testimony to the committee. Our  
6 group, Alabama Family Rights  
7 Association, paid entirely for that.  
8 So continuing to go back to PSI, or  
9 whatever company it is now -- I don't  
10 know their name -- or Jane Venohr, to  
11 continue to go back to the same  
12 trough and drink the same water is  
13 ignorant. We need to get some other  
14 information for the committee to look  
15 at. We're under no time constraint  
16 now. You've met the federal  
17 obligation by meeting in four years.  
18 Mark Davis did do a cost-based  
19 analysis based on the cost in the  
20 southeast. PSI is out of Colorado.  
21 They used national Data. I  
22 distinctly remember, because I came  
23 to every meeting and I saw all of her

1 presentations and read them all.

2 With that being said, we need  
3 to look at more than just going back  
4 to the same trough and drinking the  
5 same water and coming back with the  
6 same results.

7 MR. BAILEY: Do you have anyone to  
8 suggest?

9 MR. DAVIS: Mark Rogers. If we look,  
10 before in 2004 the committee asked  
11 for the same information. I don't  
12 remember which committee member it  
13 was. Resources are out there. Do I  
14 know? I don't know. I may could  
15 find them. I think anybody could.

16 MR. POLEMENI: I would volunteer to go  
17 to the sites that I know of and look  
18 and see if there's a document in the  
19 other states that have gone through  
20 this process recently that have the  
21 cost versus income share model.  
22 Again, the income share model, I see  
23 as a Title IV-D revenue stream rather

1           than something that's for the  
2           noncustodial and custodial parent to  
3           manage their funds.

4           MR. DAVIS: Like Judge Bell said when  
5           he's talking about going to Auburn  
6           and Alabama both. We have two major  
7           universities in this state. I am  
8           sure that there are social arms in  
9           both those universities that would be  
10          willing to take graduate students and  
11          do specific Alabama research to find  
12          out what's going on in this state  
13          rather than what's going on in the  
14          region, rather than what's going on  
15          in the nation.

16                 With that being said, Item 2 is --  
17          Michael eluded to Amendment 8.  
18          Amendment 8 passed through  
19          ratification by the citizens of the  
20          state of Alabama. Now, I'll read  
21          directly from the Child Support  
22          Guidelines. It may be Amendment 6.  
23          The child support guidelines say

1 Health-Insurance coverage, cash  
2 payment medical support. Medical  
3 support in the form of health-  
4 insurance coverage and/or cash  
5 medical support shall be ordered  
6 provided that health care coverage is  
7 available to either parent as a  
8 reasonable cost and/or cash medical  
9 support is considered reasonable in  
10 cost. That's directly from Rule 32.  
11 I just read that to you.

12 Now I'm going to read to you  
13 directly from Alabama State  
14 Constitution, Amendment 864, ratified  
15 by public vote. Part A: In order to  
16 preserve the freedom of all residents  
17 of Alabama to provide for their own  
18 health care, a law or rule shall not  
19 compel, directly or indirectly, any  
20 person, employer or health care  
21 provider to participate in any health  
22 care system. It's the first line.  
23 It's directly out of the



1 Constitution.

2 You have met here today to review  
3 the guidelines. I'm here today to  
4 tell you the guidelines are  
5 unconstitutional. I just told you.  
6 I charge you to deal with that today,  
7 because if you don't, you walk out of  
8 this room knowing that Rule 32 is  
9 unconstitutional because I just told  
10 you. I pulled it right off the  
11 site. It's unconstitutional. It  
12 doesn't say divorced parents. It  
13 doesn't say married parents. It  
14 doesn't say children. It says all  
15 residents. So you're going to have  
16 to deal with that today. I hate to  
17 tell you. But if you don't, I won't  
18 suffer the consequences, because I  
19 told you. I can read the  
20 Constitution, and it's clear and  
21 plain and that came directly from the  
22 legislature. It may have been to do  
23 away with Obama Care, but it just did

1           away with that part of Rule 32.  
2           January 1st. Should have met back in  
3           December, because Rule 32 has been  
4           non compliant. It's been  
5           unconstitutional since January 1st.  
6           No comments? I guess y'all are going  
7           to deal with it as soon as I get  
8           through speaking.

9           MR. JEFFRIES: I've got a comment. I  
10          was looking to read the exact  
11          language, but you read Rule 32 for  
12          us.

13          MR. DAVIS: Yes, sir.

14          MR. JEFFRIES: And does it not have an  
15          alternative there for insurance  
16          versus for cash support?

17          MR. DAVIS: It does not matter, sir.  
18          You're compelled -- When you pay  
19          cash in Rule 32 --

20          MR. JEFFRIES: It's an alternative,  
21          though. When you pay cash support --

22          MR. DAVIS: For what?

23          MR. JEFFRIES: For medical costs.

1 MR. DAVIS: So you're compelling me to  
2 pay cash and you're not thinking that  
3 I'm participating in a health care  
4 system?

5 MR. JEFFRIES: Potentially, yes, but --

6 MR. DAVIS: Let's not try to be  
7 lawyerese. The Constitution  
8 speaks for itself --

9 MR. JEFFRIES: I'm not lawyerese. I'm  
10 just trying to get some input from  
11 you on --

12 MR. DAVIS: I know -- I just read the  
13 Constitution, and I know for a fact  
14 what the Constitution says. No, no  
15 resident will be compelled. And if a  
16 court order is not being compelled, I  
17 don't know what is. So we've got so  
18 scared of Obama Care that we just  
19 shot that part of Rule 32 down.  
20 Maybe you can rush over today to the  
21 legislature, write something up where  
22 we can come in here -- Now we can  
23 segregate out divorced parents even

1 more than they already are. So if we  
2 want to do that, then we better hurry  
3 up, because they start at 9:30 and I  
4 think the session ends at 2:30 or so,  
5 and then they will be back in session  
6 Tuesday. But as of the 1st of  
7 January, Rule 32 is  
8 unconstitutional.

9 The third item that I want to talk  
10 about -- Excuse me. The second item  
11 I want to talk about. I have some  
12 questions to ask of the good  
13 committee members. Let me ask my  
14 friend Billy Bell.

15 In Rule 32, reasons for deviating  
16 from the guidelines is when a judge  
17 orders the obliger parent  
18 substantially more visitation than is  
19 customarily approved. Judge Bell,  
20 what is customary visitation?

21 JUDGE BELL: I don't know that there is  
22 any customary, Tim. But it  
23 depends -- And I think the schedules

1           are different from county to county.  
2           I know in Madison County we just  
3           revised our schedule. It's not the  
4           88 days that I see referenced. Our  
5           schedule is probably pretty close to  
6           half and half. We do half the  
7           summers. We do half of the school  
8           breaks. We do the weekends, every  
9           Wednesday night. I haven't totaled  
10          the numbers. But, now, they may do  
11          something different down in Dale  
12          County or Houston County or  
13          wherever. There is no state standard  
14          custom.

15          MR. DAVIS: Judge Bailey, what is  
16          customary to you?

17          MR. BAILEY: I'm not a judge. I'm  
18          sorry.

19          MR. DAVIS: Retired judge, retired  
20          lawyer.

21          MR. BAILEY: Lawyer. I was child  
22          support referee.

23          MR. DAVIS: I would have voted for you

1           for judge. What is your idea of  
2           what's customary?

3           MR. BAILEY: I don't think there is a  
4           customary visitation statewide.

5           MR. DAVIS: We reference it in Rule 32.  
6           Judge Stuart?

7           MR. BAILEY: It's circuit. By the  
8           circuit. I think the circuits have  
9           customs.

10          JUSTICE STUART: That's what I would  
11          say. I think it varies from circuit  
12          to circuit.

13          JUDGE BELL: That's one of the  
14          problems. You can go -- And that's  
15          one of the reasons Rule 32 was  
16          enacted, as I understand it. But in  
17          the old days back when I started  
18          practicing law, I could try the same  
19          case in ten different counties and I  
20          could get ten different decisions --

21          MR. DAVIS: And you still can.

22          JUDGE BELL: -- for child support. And  
23          what we've tried to do in Madison

1 County is to make it consistent.  
2 Now, a lot of lawyers say I'm  
3 consistently wrong, but at least I'm  
4 going to be consistent. And so you  
5 know what to expect, and I think that  
6 helps. But there's no consistency.  
7 That's one of our problems.

8 MR. DAVIS: If you'll read -- I hate to  
9 bulldog you, because I'm on my ten  
10 minutes. But if you'll read our  
11 testimony back from 2004, I directly  
12 spoke on that issue. Because I had  
13 substantial time with my son over and  
14 beyond what the customary visitation  
15 was, I thought. I didn't know. I  
16 still don't know what customary is.  
17 I don't think anybody knows now.  
18 We've referenced something that  
19 nobody can tell me what it is in Rule  
20 32.

21 JUDGE DRINKARD: I can tell you what it  
22 is. This says ordered by the court.  
23 The court being whatever court is

1 hearing that case, whether it's my  
2 court, Judge Bell's court, or  
3 whatever judge. Now, I don't know  
4 how many judges we have in this  
5 state, but let's say we've got 115  
6 judges. Well, that's a 115 courts.  
7 So you might have a 115 different  
8 customary court orders.

9 MR. DAVIS: Thank you for sharing that  
10 with me, Judge. That's what I wanted  
11 to get on the record.

12 JUDGE DRINKARD: That's the way it  
13 works. I agree with everybody else.  
14 There is no statewide custom.

15 MR. DAVIS: So we're referencing -- Once  
16 more we're referencing something  
17 that's undefined. And maybe we  
18 weren't as forceful as we should have  
19 been when we spoke here in 2004. I  
20 spoke for the whole group of AFRA.  
21 I'm the president. I'm also here for  
22 every divorced parent, be they  
23 custodial or noncustodial. We've



1           been treated completely different  
2           than the rest of society. We're  
3           dealt with by committee. And this  
4           committee deals with what directly  
5           impacts our lives.

6                     Luckily I've moved on. And I can  
7           tell you it directly affected my  
8           relationship with my son, the actions  
9           of this committee in the past.  
10          Luckily things have moved on. He's  
11          turned out tremendously well. I can  
12          tell you that 90 percent of the  
13          children don't. You can look at the  
14          statistics and tell what this issue  
15          is doing to the children and families  
16          of Alabama.

17                    If y'all have any other questions,  
18                    I'll answer --

19                   MR. BAILEY: Did you give Alex copies of  
20                    any of the documents you've referred  
21                    to?

22                   MR. JACKSON: Gordon, I was going to  
23                    suggest -- If you don't mind, writing

1 a memo and getting it to me with the  
2 highlights of the things that you  
3 brought up today.

4 MR. DAVIS: I have all three things.

5 MR. JACKSON: Don't give me a bunch of  
6 material. Put it in one consolidated  
7 document and I'll make sure it  
8 gets --

9 MR. BAILEY: Jim, would you be willing  
10 to do that, to send a memo to Alex  
11 with your attachments?

12 MR. DAVIS: I can. I can hand them to  
13 him. Because all I have is --  
14 There's Amendment 864 from the  
15 Constitution.

16 MR. JACKSON: See, that puts me in the  
17 position of having to try and  
18 extrapolate from that what your  
19 position is. What I want you to do  
20 is have what ideas you're talking  
21 about and what your opinions are  
22 regarding a particular issue.

23 MR. DAVIS: If you will share your

1 e-mail address with me or give me a  
2 card, I will get that back to you by  
3 the first of next week.

4 MR. BAILEY: Thank you, Tim. Appreciate  
5 you being here.

6 MR. DAVIS: Thank you.

7 MR. BAILEY: Nikki Rothschild. Welcome.

8 MR. ROTHSCHILD: Good evening. My name  
9 is Adler Rothschild, also known as  
10 Nikki. I'm a local attorney in  
11 Montgomery for family law. I got the  
12 e-mail. I thought of a couple of  
13 things I felt like we needed to --  
14 needed to be changed in Rule 32. One  
15 is our legislature appears to be  
16 going toward forcing shared  
17 visitation. And the question is: In  
18 Montgomery County, our visitation,  
19 standard visitation, quote/unquote,  
20 is every other weekend, every other  
21 major holiday and a few weeks in the  
22 summertime.

23 Some of our judges, if the child

1 stays with the father Sunday night,  
2 that makes it shared custody. And  
3 then you start subtracting one child  
4 support from the other child  
5 support. So it makes it really  
6 difficult because that's what the  
7 guidelines say, that if you share  
8 custody, you subtract the one  
9 child -- Well, that's what it appears  
10 to say.

11 JUDGE BELL: No, sir. That's a split  
12 custody arrangement only under Rule  
13 32.

14 MR. ROTHSCHILD: Right. So my question  
15 is -- We have primary physical  
16 custody; we have joint physical  
17 custody; and we have shared and we  
18 have split. We need some kind of  
19 definitions, I think, to maybe --  
20 depending on how y'all decide on  
21 the -- if we can decide -- on  
22 standard visitation, because that's  
23 what we just talked about. It's

1 different in all the counties. So  
2 how do you do child support if one  
3 parent gets the child also one day  
4 during the middle of the week? Do  
5 you deviate from the child support?  
6 I think that's something that needs  
7 to be looked at in light of what  
8 we're probably going to get from the  
9 legislature, since the legislature  
10 and the bar and the court system  
11 that's been looking at this. That's  
12 what I would ask that you look at.

13 The other thing is child support  
14 is based on income. What is income?  
15 Rule 32 states that very well. In  
16 most cases it works. Of course, we  
17 have people that work out at  
18 Hyundai. For three months they work  
19 a zillion dollars worth of overtime,  
20 and then they're put on another shift  
21 and they don't. So they've got to go  
22 back to court and hire an attorney  
23 and go through all that.

1                   That's not the bad thing. The bad  
2                   thing is the military. The military,  
3                   we take their total paycheck, which  
4                   includes their housing allowance.  
5                   Now, housing allowance is somebody  
6                   out at Maxwell, that's reasonable.  
7                   But when the father is in England and  
8                   he gets \$7,000 a month housing  
9                   allowance which goes to pay for an  
10                  apartment, for that to be included in  
11                  his total salary, isn't right.  
12                  Because it should be based on Alabama  
13                  expenses, Alabama housing costs and  
14                  so forth. But that's not what the  
15                  guidelines say. The guidelines say  
16                  total income, except for a few  
17                  things. And by adjusting the income  
18                  and how we figure the income, may be  
19                  a lot easier than going and lowering  
20                  the amount the chart, the guideline  
21                  chart.

22                  MR. POLEMENI: I'm open to that.

23                  MR. ROTHSCHILD: That's another way of

1 looking at it. That's the two  
2 things.

3 MR. POLEMENI: One thing on the  
4 legislation that Alabama Family  
5 Rights Association is putting forth  
6 is for fit parents. So if that means  
7 anything to you. Unfit parents would  
8 be a different class and would fall  
9 under --

10 MR. ROTHSCHILD: That's true. Right.

11 Thank you.

12 MR. BAILEY: Thank you very much.

13 Appreciate you being with us.

14 James Blackston. Welcome.

15 MR. BLACKSTON: Thank you, Committee,  
16 Members of the public. Thank you for  
17 the opportunity to speak. I've been  
18 at this a few years. Still don't  
19 know what I'm doing.

20 The child support system is  
21 failing. It has been failing for a  
22 number of years, been failing ever  
23 since the beginning. I've been

1           involved in it ever since 1993,  
2           almost from the first day. The  
3           system's failure is significant  
4           because it's helping to drag down our  
5           whole country. It's affecting the  
6           government of the people, by the  
7           people and for the people.

8                   I want to explain how it has  
9           failed and then I want to offer a  
10          couple of solutions and maybe one  
11          real life example. I want to tug at  
12          your heart strings of this committee  
13          today in hopes of encouraging this  
14          committee to finally get it right,  
15          and correct some of the problems with  
16          Rule 32.

17                   The child support system is  
18          repressive and imputative and is  
19          designed to push one of the parents  
20          out of the children's lives. How  
21          does child support push the other  
22          parent out you may ask. It gives one  
23          parent a huge incentive to complain



1           that there's never enough money for  
2           the children; thereby dragging the  
3           other parent continuously through the  
4           courts of Alabama. But most of all,  
5           the child support system enables and  
6           creates and a huge incentive for the  
7           custodial parent to deny the other  
8           parent access to the children. It's  
9           all about control and money.

10                   The absent parent's involvement  
11           and access to his or her children is  
12           a huge threat to the custodial  
13           parent's literally tax-free child  
14           support payments and increases the  
15           likelihood that one or more of the  
16           children may move or change residence  
17           from the custodial parent to the  
18           absent parent. Do you see? The  
19           child's move has an unwanted side  
20           effect of possibly lowering the child  
21           support amount that is paid to the  
22           custodial parent. So the custodial  
23           parent denies access to the children

1           and creates a climate of hate,  
2           discontent and ill will for the  
3           absent parent, often the expressed  
4           purpose of insuring an ever  
5           increasing child support monthly  
6           check.

7                     Four years ago that increase  
8           amounted to 32 percent across the  
9           board for the middle income parent.  
10          It went down for a few, but mostly it  
11          went up 32 percent. And that was the  
12          result of this Ms. Jane Venohr person  
13          you were talking about earlier and  
14          her efforts to revise the basic  
15          schedule of child support obligation  
16          table. And that's what she came up  
17          with. There was a better solution at  
18          that time by Mr. Mark Rogers. And  
19          I'll talk about that in a few  
20          minutes.

21                    What is this committee doing and  
22          what has it done to rectify some of  
23          the problems I talked about, that

1 allows the custodial parent to profit  
2 from this child support system at the  
3 expense of the children, wherein the  
4 children of Alabama are being  
5 exploited and used for personal  
6 property gain, and then thrown out  
7 when the child support payments are  
8 ended.

9 I remember sitting in this  
10 committee closed meeting back in 1993  
11 listening to the lawyers and the  
12 judges and the child support members  
13 of that committee. They denigrated  
14 the absent parent and they laughed  
15 that they were creating every lawyer  
16 in Alabama a job. You can look  
17 around and see that that's pretty  
18 well true. Lawyers are living off of  
19 child support cases that come in  
20 court. I remember those days as if  
21 it were yesterday.

22 The person that made the  
23 statement, we're making a job for

1 every lawyer here in the state of  
2 Alabama was a supreme court justice,  
3 former supreme court justice, that's  
4 no longer here.

5 JUSTICE STUART: I would appreciate it  
6 if you would name that person,  
7 because I didn't join this committee  
8 until 2005.

9 MR. BLACKSTON: You were not on the  
10 committee at that time. Matter of  
11 fact, I see a lot of new faces. Most  
12 everybody on the committee today was  
13 not there in 1993. And there's no  
14 need to name names, but I'll tell you  
15 in private when this is over with, if  
16 you want to know his name.

17 Just what did that supreme court  
18 justice mean? Did he have the best  
19 interest of Alabama's children at  
20 heart? I don't think so.

21 Some of the problems of Alabama's  
22 child support system are outside the  
23 purview of any child support

1 guidelines review and I realize  
2 that. Some come directly from the  
3 court system. But the child support  
4 system is the enabler. Finance is  
5 the destruction of many Alabama  
6 families. And it drives the absent  
7 parent further and further away from  
8 his children. A huge price is being  
9 paid in Alabama and all across  
10 America today because unreasonable,  
11 communist-inspired child support  
12 system. Straight out of Carl Marx's  
13 rule book is the child support system  
14 we're dealing with today. There's  
15 been many research on that. You  
16 don't have to take my word for it.

17 Mr. Jane Venohr's Policy Studies  
18 Institute sold Alabama a bill of  
19 goods four years ago when she offered  
20 her review of the child support  
21 guidelines. Some of the best  
22 economic experts in this country have  
23 testified before this committee. On

1                   March 31, 2006, Mark Rogers presented  
2                   this committee with a report entitled  
3                   Economic Report on Alternative Child  
4                   Support Cost Schedules and Related  
5                   Issues. Rogers wrote that the child  
6                   support guidelines were wrong and  
7                   oppressive in 2006, yet this  
8                   committee increased the basic child  
9                   support obligation table by 32  
10                  percent. There's been a downturn in  
11                  the economy since then. There's many  
12                  hurting families out there because of  
13                  these child support guideline tables.

14                    You should still have this report  
15                    that Mark Rogers put out. It's 119  
16                    pages long. It's very detailed and  
17                    he told in detail all the problems  
18                    with Alabama child support  
19                    guidelines. If you can't find that  
20                    report, I can get it to you. I still  
21                    have a copy.

22                    After reading that report from  
23                    Mark Rogers, if you're still a little

1           rusty and can't identify the problems  
2           with Alabama Child Support  
3           Guidelines, you can just ask about  
4           any noncustodial parent in Alabama.  
5           They can tell you from personal  
6           experience.

7                       Now, the solutions that I have  
8           that I would like to present, some of  
9           the things that the guidelines does  
10          not address. Number 1 is the Mark  
11          Rogers report. I would like to see  
12          the committee consider his report  
13          well before anything that Jane Venohr  
14          has put out. The child support  
15          enforcement agency in this state,  
16          DHR, as I speak, is failing to assist  
17          the noncustodial parents when they  
18          come to DHR asking for help. The  
19          latest violation of federal law for  
20          them to refuse. And you know what  
21          I'm talking about. Probably not many  
22          noncustodial parents are coming to  
23          DHR asking for help. Can't blame

1                   them if they don't.  It's like the  
2                   chicken going to the fox asking for  
3                   help.

4                   MS. DAVIS:  Excuse me.  I don't know  
5                   what you're talking about.  You said  
6                   we would know, but I don't.  Can you  
7                   clarify that?  What kind of help  
8                   you're asking --

9                   MR. BLACKSTON:  Which one?

10                  MS. DAVIS:  You said DHR fails to  
11                  provide help to noncustodial parents,  
12                  that we should know.  But I'm sorry.  
13                  I don't know what specific you're  
14                  talking about.

15                  MR. BLACKSTON:  Federal law requires DHR  
16                  to assist both parents in child  
17                  support matters.  The custodial  
18                  parent can go to DHR and ask for  
19                  enforcement to collect child support,  
20                  and they become a representative of  
21                  sorts and assist the custodial parent  
22                  in collecting child support to the  
23                  point of taking the noncustodial



1 parent to court and getting a court  
2 order to establish and enforce child  
3 support orders. That's what the  
4 custodial parent can do. And this  
5 happens quite frequently in the  
6 state. Now, are you aware of that?

7 MS. DAVIS: What my concern was you said  
8 the noncustodial parents are not  
9 getting help they're seeking, and I  
10 wasn't sure what kind of help you  
11 were seeking that you were not  
12 getting.

13 MR. BLACKSTON: The noncustodial parent  
14 has that same right. If he has a  
15 problem with child support, if he  
16 wants his child support modified for  
17 any reason that the guidelines cover,  
18 he has the same right to go to DHR  
19 and ask for assistance. There's no  
20 need for him to hire an attorney at  
21 great expense and go to court. He  
22 can go to DHR and ask for the same  
23 type help. Pay a \$25 fee, unless the

1           \$25 fee has changed. I don't think  
2           it has.

3           JUDGE BELL: Mr. Blackston, one of the  
4           problems that I have is that  
5           everybody seems to get painted with a  
6           broad brush. I'm from Madison  
7           County. We've got a really good  
8           child support unit up there, and I  
9           handle a lot of cases that DHR files  
10          for noncustodial parents. And I've  
11          also handled a lot of child support  
12          cases where the noncustodial parent  
13          will come in for a child support  
14          hearing and they file a handwritten  
15          counterclaim and the DHR people will  
16          take them back in my jury room, do  
17          their calculations, and they will  
18          agree on a child support  
19          modification, which is the right  
20          thing to do in that situation. So  
21          there are probably problems with any  
22          consistency or uniformity, which is  
23          one of the problems we have across

1           the board in the court system  
2           anyway. But I have to stand up for  
3           my Madison County folks, because they  
4           do a good job, and I think they try  
5           to do the right thing.

6           JUDGE DRINKARD: I've got to agree with  
7           Judge Bell. I'm judge in Marengo  
8           County and I just had a child support  
9           docket this past week. And I don't  
10          know how many modification petitions  
11          I had on that docket, but if I had to  
12          guess I would say maybe twenty all  
13          total. But I would have to say that  
14          over fifty percent of those were  
15          filed by the noncustodial parent and  
16          they did receive the assistance of  
17          the local DHR child support unit.  
18          I've never had any complaints or  
19          problem associated with what you are  
20          outlining in my county. That's not a  
21          problem.

22          MS. NELSON: I'm Faye Nelson. I'm over  
23          the child support program for the

1 state, and I can say from the State's  
2 perspective that these are the  
3 directives -- The experiences that  
4 these judges have had with their  
5 county departments, these are the  
6 directives that we give to the county  
7 departments to work with the  
8 custodial as well as the noncustodial  
9 parent. And that's not to say that  
10 on occasions there may be some that  
11 may not be doing the job that they  
12 should be doing. But these are not  
13 the directives that comes from the  
14 state level. So we do encourage them  
15 and remind them constantly to be  
16 mindful of noncustodial parents,  
17 changes in circumstances. And when  
18 those circumstances meet a certain  
19 criteria, then it's their  
20 responsibility to bring those cases  
21 back to court.

22 We are aware that there are  
23 sometimes when fathers, or

1 noncustodial parents, may bring their  
2 issues to the County department, but  
3 they don't meet a certain criteria in  
4 order for those to be brought to  
5 court, even though a person may see  
6 their circumstances is changing. So  
7 I do want to echo what is being  
8 stated here, that that's the  
9 expectation that counties work with,  
10 not just the custodial parent, but  
11 with the noncustodial parents as  
12 well.

13 MR. BLACKSTON: Thank you for doing the  
14 right thing, the ones of you that  
15 have mentioned the cases that are  
16 happening in your county. But let me  
17 tell you, that's not the case in  
18 every county. And your directives  
19 are not being followed in every  
20 county. You might want to check up  
21 on that.

22 The State of Alabama was cited for  
23 that very issue in 1995. There's a

1 memo out on it, 95-51, that says  
2 Department of Human Resources are  
3 refusing to assist the noncustodial  
4 parent. I'm not making up stuff  
5 here.

6 MR. POLEMENI: Things have improved over  
7 the last eight years that I've been  
8 involved with this. But again,  
9 Mr. Blackston is correct. It's not  
10 the same in every county. Judges in  
11 some counties override the good  
12 intentions of DHR. We had one judge  
13 in Lauderdale County. I don't know  
14 if you heard, where he forbade a  
15 noncustodial father from calling the  
16 child by his middle name in a court  
17 order, which seems a bit ludicrous.  
18 So there are things happening out  
19 there that the AOC should be  
20 monitoring or at least advising  
21 judges. In my opinion, there should  
22 be consistency across the state with  
23 some latitude for judges, but very

1           little latitude with a clear and  
2           concise finding of fact for those  
3           issues.

4           MR. BAILEY: Thank you, Michael.

5                     Did you have some specific issues  
6           you'd like for us to address besides  
7           what you've already gone over?

8           MR. BLACKSTON: Yes.

9           MR. BAILEY: Please, go ahead.

10          MR. BLACKSTON: The next issue that I  
11          would like to see addressed is the  
12          fact that federal law requires the  
13          state to have a procedure to refund  
14          overpayments of child support. To my  
15          knowledge, there's no system in  
16          existence today. In my opinion, the  
17          State of Alabama is in noncompliance  
18          with that federal law.

19          JUDGE BELL: Can I comment on that  
20          Mr. Blackston? One of the problems  
21          that I have is that I find that the  
22          parent paying child support through  
23          an income withholding order does not

1           always know that they have to file a  
2           affidavit and request for the income  
3           withholding order to be terminated.  
4           And I'm getting some of them that are  
5           two years after the child turns  
6           nineteen. That's not right. That's  
7           not right. There ought to be some  
8           mechanism, if there's no arrearage,  
9           for child support to stop when all  
10          the children reach the age of  
11          majority, which is nineteen or  
12          eighteen and married in Alabama. And  
13          I see that as problem. It keeps  
14          coming out and most folks just don't  
15          see it and they just don't remember  
16          about it. But I just wanted make  
17          that comment, sir. I see the problem  
18          you're talking about.

19               MR. BLACKSTON:    It may be a solution  
20               that this child support committee  
21               could find. In closing, let me say  
22               that I hope this committee can find  
23               it in their heart to do the right



1           thing and finally straighten out some  
2           of these problems.

3           As far as Jane Venohr's review she  
4           did four years ago, that was one of  
5           the most heinous acts of any person  
6           that's ever breathed air in the state  
7           of Alabama. Increasing child support  
8           on the average of 32 percent was  
9           completely heinous.

10          I want to call your attention  
11          specifically to Mark Rogers' study  
12          that he did in 2006. That's part of  
13          that study that was being done last  
14          time when Jane Venohr did her study.  
15          He detailed exactly in terms that  
16          anybody could understand. He  
17          recorded 119 pages long. It's going  
18          to take you a while to read it. But  
19          there are some very definite  
20          solutions to Rule 323.

21          I appreciate the opportunity to  
22          allow me to speak here today.

23          MR. BAILEY: Thank you for being here.

1 MR. POLEMENI: I have a question. Is  
2 there any way -- Since Mr. Blackston  
3 referenced the 32 percent increase in  
4 child support, there should be a  
5 correlating increase in Title IV-D  
6 funding from the federal government.  
7 Can we get a copy of each year's  
8 Title IV-D funding amount that come  
9 from the federal government?

10 MS. NELSON: It's published annually.  
11 We do an annual report from the  
12 Department of Human Resources --

13 MR. POLEMENI: And that's available on  
14 line?

15 MS. NELSON: Yes, it is. It breaks down  
16 state dollars, federal dollars that  
17 is expended for the IV-D program.

18 MR. POLEMENI: So there's a specific  
19 amount and it says this is how much  
20 we receive from the federal  
21 government? No other breakdowns? No  
22 other -- A flat fee that the State of  
23 Alabama received X-millions of

1           dollars worth of Title IV-D funding  
2           and then it breaks it down from  
3           there; is that correct?

4           MS. NELSON: I'm not sure what it is  
5           that you're asking for. If you could  
6           provide --

7           MR. POLEMENI: I want a blanket total  
8           number that can be given to the  
9           committee that says each year since  
10          the income shares was implemented in  
11          2008 -- or actually 2009, what that  
12          total amount the State received from  
13          Title IV-D, not a breakdown of how it  
14          was dispensed, but what was the total  
15          amount received by the State of  
16          Alabama. Just one number.

17          MS. BUSH: There is a breakdown and it's  
18          available on the internet. It may or  
19          may not be in the form that you would  
20          like it to be. I'm not quite  
21          understanding either exactly what  
22          you're wanting, but the information  
23          is out there. And it may be that

1           once you look at it, it answers your  
2           question.  But the federal  
3           regulations require us to submit  
4           certain documents and to present the  
5           information to them in a certain  
6           manner and do it in that manner.

7           MR. BAILEY:  Our next speaker is Boyd  
8           Landry.  Boyd, welcome and we're glad  
9           you're here.

10          MR. LANDRY:  And I live in Elmore County  
11          and my children live in Autauga  
12          County, the 19th Circuit.  And I  
13          think one of the things that I'd like  
14          the committee to take a good look at  
15          is:  What exactly is child support  
16          and what is it meant for?  Because I  
17          think with the exception of Judge  
18          Bell and this gentleman here, child  
19          support is in the hands of judges  
20          with discretion can mean a wide  
21          variety of things, from things like  
22          unreimbursed health care expenses, to  
23          extra curricular activities, to

1                   tuition, to Johnny's gymnastics class  
2                   or whatever the case may be. And I  
3                   think that is something that gets  
4                   into a situation for the noncustodial  
5                   parent where it becomes child support  
6                   plus, plus, plus, plus. And before  
7                   long, you're looking at a situation  
8                   where if the noncustodial parent  
9                   makes significantly less than the  
10                  custodial parent, and those items are  
11                  divided equally, fifty percent,  
12                  versus child support guidelines,  
13                  which are based on income. So that  
14                  creates a situation of unfair burden  
15                  on the noncustodial parent that's not  
16                  being addressed. Now, I may be  
17                  addressing Madison County and I wish  
18                  you would move further south, because  
19                  we could use you down here.

20                 JUDGE BELL: Talk to my lawyers, because  
21                  they might not agree with that.

22                 MR. LANDRY: Because we're not getting  
23                  that down here, at least where I'm

1 at. Another thing is if the  
2 custodial parent is receiving legal  
3 fee support from a third party,  
4 that's not being treated as income,  
5 and it should be. Because if they  
6 have the ability to -- whether it's a  
7 family member or some outside party  
8 who is paying for their lawyer to  
9 drag the noncustodial parent in over  
10 and over again like he mentioned  
11 earlier -- And I'm the victim of  
12 that -- that should be treated as  
13 income and should be calculated in  
14 the terms of -- Because as gross  
15 income is define in Rule 32, it says  
16 anything that could be used to offset  
17 the expenses of a household, in some  
18 language like that. Well, if you  
19 have somebody else paying for your  
20 lawyer, then you're not having to  
21 worry about paying your lawyer plus  
22 meeting the needs of your household.  
23 So I think that's something that

1           ought to be addressed.

2           On the issue involving DHR, and I  
3           think what Mr. Blackston was trying  
4           to say, is the treatment of custodial  
5           and noncustodial parents -- at least  
6           in my situation, because I'm one of  
7           those parents who went and paid the  
8           \$25. I'm a noncustodial parent. I  
9           had a change in economic  
10          circumstances. And my experience was  
11          the forms that were used by DHR were  
12          situated and designed for parents who  
13          are looking to collect child support,  
14          not looking to lower child support.  
15          The services being offered to me were  
16          offered by people who are trained to  
17          in situations to collect child  
18          support, not lower child support.  
19          Put me in a very difficult  
20          situation. And thanks to the Court  
21          of Civil Appeals in overturning the  
22          order and declaring it void for lack  
23          of subject matter jurisdiction, I was

1           able to get out from underneath that  
2           problem.  And now I won't go pay the  
3           \$25 anymore because I could do it  
4           better myself and I'm not even a  
5           layer.

6                    Another thing that I think Rule 32  
7           ought to take into account -- and  
8           your job could help enable that -- is  
9           require the judges who oversee  
10          domestic relation cases to be trained  
11          and receive continuing education  
12          credits on this.  Be required.  
13          Because I cannot stand to walk into a  
14          courtroom and I bring up something  
15          and the judge goes, Well, that's not  
16          in Rule 32.  And I have to leave the  
17          courtroom, go get Rule 32, walk right  
18          back in and say, Your Honor, this is  
19          what it says.

20                   Not everybody is like you.  Not  
21          everybody is like you.  And we're in  
22          situations in courtrooms in this  
23          state where the judges have no clue



1           what Rule 32 is, because they've done  
2           it this way or whatever way they've  
3           done it for years and years and  
4           years. And we end up in your court  
5           having to get it corrected, having to  
6           get it fixed. And that's a drain on  
7           the system. It's a drain on us.

8           MR. POLEMENI: I will stand up for the  
9           AOC in that they have offered courses  
10          to judges. However, as it's been  
11          noted in this committee before, a lot  
12          of them are not taking -- It's not  
13          being utilized, but the AOC is  
14          offering.

15          MR. LANDRY: They may be offered and  
16          great that they are offered, but they  
17          are not being required and they  
18          should be required.

19                 The next thing I want to bring up  
20                 is the setting of the effective  
21                 date. There's a choice between the  
22                 date of filing and there's the date  
23                 of order. And judges deviate and go

1            somewhere in between or either end  
2            of the spectrum. But with the court  
3            dockets like they are, you might be  
4            six, eight months before you get in  
5            front of the judge. And the change  
6            in circumstance happened on day 1,  
7            the date of filing. But you may not  
8            always get that. You may get the  
9            date of the order. And you're  
10           responsible for all that past child  
11           support when you're the noncustodial  
12           parent. So instead of treading above  
13           water, you're sunk at that point, if  
14           it's a significant sum of money. And  
15           that's a real problem. And this  
16           committee can address that.

17           I heard the age of majority  
18           brought up. There's another  
19           interesting aspect of it. The age of  
20           majority is defined as nineteen or  
21           eighteen if you get married. What  
22           about at seventeen and a half you  
23           enter college? And this state has

1           what I believe to be an  
2           unconstitutional situation in the  
3           bailiff's court system, because --  
4           But at that point you're paying child  
5           support plus college in a situation  
6           like that.

7                   And maybe we ought to say eighteen  
8           if you're married, nineteen if you're  
9           not married or the day you enter  
10          college, because that brings in a  
11          whole different set of case law.  
12          There's no statute. But it brings in  
13          a whole new set of case law. And I  
14          know it's difficult because we're  
15          having to sit here. But when you're  
16          in a situation where the guidelines  
17          are meant to be applied statewide,  
18          but in each circuit and each  
19          courtroom, those deviations are  
20          dramatically different from Madison  
21          County down to Autauga County down to  
22          Baldwin County. And that's where the  
23          problems are. The problems aren't

1                   necessarily in the guidelines. I  
2                   think I could live within the realms  
3                   of the guidelines. It's when judges  
4                   take it upon themselves in usage of  
5                   discretion, which can be dangerous in  
6                   the hands of people that really don't  
7                   know what they have in their hands.  
8                   That's when you sink people when you  
9                   get into these plus, plus, plus  
10                  situations. And I think that's  
11                  something that when I go back to what  
12                  I started with in the beginning,  
13                  which is what is child support? And  
14                  what is it meant for? Because I  
15                  think if DHR got smart, they would  
16                  say, okay, custodial parent,  
17                  noncustodial parent, you both pay and  
18                  then the money is sent back to the  
19                  custodial parent and you get to  
20                  collect more federal money that way.  
21                  Then we've got a situation where it  
22                  might be a little bit fair. And DHR  
23                  can make the money and maybe they can

1 train their people on how to deal  
2 with not -- handle situations with  
3 noncustodial parents come in with  
4 significant material changes and  
5 economic conditions and we can help  
6 them out.

7 And I think the other thing is you  
8 ought to start with the referee. You  
9 ought not be allowed to yank it out  
10 of the referee's hand and go right to  
11 the circuit court. I think DHR -- If  
12 you go to DHR, it ought to be in  
13 front of their referee. And if  
14 somebody wants to appeal after that  
15 point, fine. But for a lawyer who is  
16 representing the custodial parent to  
17 say, oh, no, we don't want to go in  
18 front of the DHR referee. We want to  
19 go in front of the circuit judge who  
20 is my buddy. You laugh, but --

21 JUDGE BELL: Well, as a circuit judge, I  
22 would vote for that rule.

23 MR. LANDRY: I think you're right. I

1           mean, you don't like it as much as  
2           anybody else. I understand that.

3           JUDGE BELL: I don't mind it because I  
4           know what I'm doing. The problem is  
5           in Alabama we elect judges, politics  
6           gets involved. We've got new judges  
7           in Madison County and they don't know  
8           how to calculate Rule 32 child  
9           support. But listen, I don't know  
10          how to handle a capital murder case  
11          either. It's just different  
12          expertise. But with the case load  
13          that we have, we have to do  
14          everything now. I don't do just DRs  
15          anymore. I do criminal and civil,  
16          too. So it's tough.

17                 But you're right. There is no  
18                 consistency. If you get in a  
19                 situation where it's plus, plus like  
20                 you're talking about, you have  
21                 deviated from Rule 32, you have to  
22                 state that you're deviating and state  
23                 the reasons to deviate. That's what

1 Rule 32 says.

2 MR. LANDRY: Exactly, but it's not being  
3 done. And unfortunately -- Justice  
4 Stuart can probably speak to this a  
5 little bit better. It's  
6 extraordinarily difficult to get the  
7 Court of Civil Appeals to address  
8 those matters because we have this  
9 sport of tennis thing. And that  
10 handcuffs them into you better make  
11 darn sure that that trial judge made  
12 a blatant error, otherwise, we're not  
13 going to touch it. And that's a  
14 problem.

15 And what's even worse is we've got  
16 circuit judges who don't even have  
17 reporters in there to take down the  
18 record. You have to ask to have the  
19 record done.

20 MR. POLEMENI: Pay for it yourself.

21 MR. LANDRY: Yeah, or bring somebody  
22 yourself. And that's in the  
23 statute. The statute says that the

1 circuit court is the recorder of the  
2 record. Clear as day. And this is  
3 not being done.

4 MR. POLEMENI: This may be outside the  
5 purview of this committee, all the  
6 things you're addressing. But I'm  
7 asking can this committee come up  
8 with a statement to the legislature  
9 to deal with these issues?

10 MR. LANDRY: I think some of these  
11 issues like setting the effective  
12 date, that's within the purview of  
13 Rule 32.

14 JUDGE BELL: I don't know about court  
15 reporters, though.

16 MR. POLEMENI: There may be some things  
17 we can address; there may be things  
18 we can't address. But can we do  
19 something -- Can we as a committee  
20 send something to the legislators  
21 saying we need to deal with these  
22 issues?

23 COMMITTEE MEMBER: We really should send



1 something to the supreme court.

2 JUDGE BELL: We don't have to go to the  
3 legislature. And you've made a lot  
4 of good points and I do appreciate  
5 it. Because it's obvious you've been  
6 through it. I've been through it. I  
7 see these cases every day. But when  
8 it takes so long for a case to get to  
9 trial -- Now, it can cut both ways.  
10 It could go retroactive, which I  
11 normally do, because it takes so  
12 long. And if you don't go  
13 retroactive, people will drag out the  
14 dern cases. So I don't want them  
15 drug out on just a child support  
16 recalculation, which ought to be the  
17 easiest thing in domestic relations  
18 law to do. But it's hard for us to  
19 make a hard and fast rule that you've  
20 got to go retroactive.

21 I think one of the things you've  
22 touched on is education of the  
23 judges. I think that's a key. And

1 we have that to a certain extent, but  
2 judges are just like most lawyers.  
3 Most lawyers don't want to do  
4 domestic relations work. They think  
5 it's dirty work. They think it's  
6 hard. It's emotional. You get  
7 called in the middle of the night.  
8 But it's important cases and it's got  
9 to be done and done in the right  
10 way. So I agree with you on that. I  
11 think education is the key.

12 JUDGE DRINKARD: Mr. Landry, I've got to  
13 agree with you and what Judge bell  
14 said also. I listened to what you  
15 were saying about some judges, and  
16 unfortunately we do have some judges  
17 that are ignorant. And I know of  
18 some judges that aren't particularly  
19 ignorant. They just flat out ignore  
20 the child support guidelines and say  
21 the heck with it. I'm going to do it  
22 my way. And I've got to agree with  
23 you and sympathize with you. Because

1 I try my best to do it the right way,  
2 just like Judge Bell does. And it  
3 just aggravates the you know what out  
4 of me when I know other judges are  
5 not doing this. The fact that you  
6 want to require them to get  
7 continuing education won't work if  
8 they're going to ignore it to start  
9 with. Because they are elected to  
10 that office and unfortunately they  
11 are there. I've got to agree with  
12 you in that aspect.

13 MR. BAILEY: Did you have any other  
14 specific recommendations to the  
15 committee?

16 MR. LANDRY: In my day job when I'm not  
17 a parent, I'm a lobbyist and I deal  
18 with the legislature. There's a  
19 common thing that we deal with in  
20 agency law, which is basically  
21 occupations and professions. And  
22 typically what happens when the  
23 legislature has two groups looking to

1           be -- One group wants to be regulated  
2           and regulate the other one out of  
3           business basically. We call it turf  
4           war.

5                     Well, essentially that's what  
6           parenting and divorce cases has  
7           become in this state. It's become  
8           about turf. And what happens between  
9           a custodial parent and a noncustodial  
10          parent is the custodial parent gains  
11          economic and judicial power, because  
12          I can't use the word political, but  
13          economic and judicial power. And  
14          that generates a tremendous amount of  
15          weight in a lot of situations.

16                    And I haven't seen my girls in two  
17          plus years. I have three daughters  
18          and a son. In two plus years. I  
19          haven't spent any reasonable amount  
20          of time with my -- And it says in  
21          that order, every other weekend, the  
22          whole nine yards. And I can't  
23          because she doesn't bring them. But

1 I guarantee you -- And I know there's  
2 case law. There might even be a  
3 statute that says or federal law that  
4 says you can't tie child support to  
5 visitation. But I guarantee you, if  
6 you tied it to visitation -- In other  
7 words, if you quit sending those  
8 children, you don't get your child  
9 support, I guarantee you things would  
10 change like that. And it balances  
11 the equation.

12 MR. POLEMENI: Let me make this  
13 reference along those lines as it was  
14 suggested last time, is that DHR  
15 could still receive the money, but  
16 put it in a holding account until  
17 such time as that visitation order by  
18 the judge was exercised. That's just  
19 a thought.

20 MS. BUSH: DHR's funding under Title  
21 IV-D is set out in statutes and  
22 regulations, which I do not have in  
23 front of me, therefore I cannot in a

1           concise, succinct manner explain to  
2           you, because there are a lot of  
3           regulations. But what I hear is a  
4           mischaracterization of DHR's funding  
5           in that the more money received, the  
6           more child support you pay, the more  
7           money we receive, the more profit as  
8           if it's a business. And that's a  
9           mischaracterization.

10                   However, as I said earlier, I  
11           don't have the statutes, the  
12           regulations, in front of me. They  
13           are very detailed. So for me to sit  
14           here and tell you exactly how it  
15           works, is beyond my ability to do  
16           today, because I don't have that  
17           material with me.

18                   But someone mentioned earlier  
19           about both parents paying child  
20           support and then DHR funneling it  
21           through. We do what the federal  
22           regulations require us to do, which  
23           is to take in the child support and

1 disburse it.

2 MR. LANDRY: I'm pretty sure the federal  
3 regulations don't distinguish how the  
4 money is paid in and paid out.

5 MS. BUSH: Again, that's why I don't  
6 want to get into the specifics --

7 MR. LANDRY: I understand.

8 MS. BUSH: -- with you as far as what  
9 the regulations say or don't say,  
10 because they say whatever they say,  
11 and we don't have them in front of  
12 us.

13 MR. LANDRY: That's right.

14 MS. BUSH: Several speakers have talked  
15 about the funding, but what I hear is  
16 a mischaracterization.

17 MR. LANDRY: That's fair.

18 MR. BAILEY: Any other specific  
19 suggestions.

20 MR. LANDRY: Let me look over my notes  
21 real quick. I think that's pretty  
22 much it. I thank you for your time.

23 MR. BAILEY: We appreciate you being

1           here. That concludes all the public  
2           speakers that we have today.

3           (Whereupon a brief recess was taken)

4           MR. BAILEY: We'll reconvene again.

5           We've heard from our speakers. Does  
6           any committee member have anything  
7           they would like to add before we  
8           adjourn?

9           JUSTICE STUART: I have a brief  
10          comment. I think there have been  
11          some very informative comments, and a  
12          lot of issues have been addressed.  
13          But I do believe that everyone needs  
14          to understand that we are limited in  
15          what this committee is authorized to  
16          do. And we can only address the  
17          child support guidelines and the  
18          schedule of basic obligations. And  
19          many of the other issues that have  
20          been addressed today, like additional  
21          education and visitation and good  
22          judges and bad judges, and, gosh, a  
23          whole list of issues, are very, very



1           valid issues. But everyone does need  
2           to understand that many of those  
3           issues will have to be addressed in  
4           another quorum. This committee just  
5           has no power to do anything about  
6           those things, not even to make  
7           recommendations in my opinion. I  
8           don't think that that's within the  
9           scope of this committee.

10           MR. POLEMENI: Along those lines, can  
11           the committee make a recommendation  
12           to the Supreme Court about some of  
13           these issues, or is that out of our  
14           purview?

15           JUSTICE STUART: My opinion is it's  
16           outside of the purview and that that  
17           needs to be addressed somewhere  
18           else. And the reason for my making  
19           this comment is some of these are  
20           very, very valid. Some need to be  
21           directed straight to DHR. Some need  
22           to be directed to individual trial  
23           judges and individual cases. Some

1           need to be brought through the  
2           appellate process. Some need to go  
3           to the legislature. But those issues  
4           that are not before this committee  
5           properly, really do need to be  
6           addressed elsewhere.

7           JUDGE BELL: One thing that I have  
8           picked up, if we're going to be  
9           reviewing this schedule of basic  
10          child support obligation, I would  
11          like to know that it is Alabama  
12          based. Somebody said it was national  
13          average.

14          MR. BAILEY: If my recollection is  
15          correct, Billy, Jane did a study of  
16          national information figures, data  
17          based and so on. We asked her to go  
18          back and make it Alabama specific.

19          MR. DAVIS: Her report is still on the  
20          AOC -- The whole report, everything  
21          to do with that, is still on AOC's  
22          website. Everything, everything from  
23          2004 forward.

1 MR. BAILEY: Did I answer your  
2 question?

3 JUDGE BELL: You did. Thank you,  
4 Gordon.

5 JUDGE DRINKARD: That's what I was going  
6 to say.

7 MR. BAILEY: We asked her to go back and  
8 do it specifically.

9 JUDGE DRINKARD: We need to look at the  
10 underlying economic basis.

11 MR. LANDRY: Can I ask one question. If  
12 I understand Justice Stuart's  
13 comments, does that mean your role as  
14 this committee is only limited to the  
15 numbers?

16 MR. BAILEY: No. It's limited to the  
17 guideline and enforcement of child  
18 support.

19 MR. LANDRY: So the rest of Rule 32 --  
20 So basically Rule 32 is under your  
21 purview?

22 MR. BAILEY: Yes.

23 JUSTICE STUART: All of Rule 32. It's

1           the rule and then it says more  
2           specifically and the schedule of  
3           basic child support obligations.

4           Those are sort of --

5           MR. LANDRY: That's what I want to  
6           understand.

7           JUSTICE STUART: -- the two things we  
8           have responsibility of.

9           MR. DAVIS: One quick question.

10          MR. BAILEY: Yes, sir.

11          MR. DAVIS: Are we going to leave here  
12          today unconstitutional? Are we going  
13          to leave here today with the rules  
14          not -- with no advising that the  
15          Supreme Court -- that the rules are  
16          unconstitutional?

17          MR. BAILEY: I don't plan to do anything  
18          today, unless the committee wants to  
19          take any other action.

20          MR. DAVIS: I'm just concerned that  
21          you're putting yourself in a  
22          predicament that you know since  
23          January 1st -- And how many cases

1           have been covered since then that  
2           Rule 32 has been adhered to be being  
3           unconstitutional? Every case --

4           MR. BAILEY: This committee doesn't have  
5           jurisdiction --

6           MR. JACKSON: -- state statute or how it  
7           interacts with the with federal  
8           statute.

9           MR. DAVIS: What was that again? I  
10          didn't hear.

11          MR. JACKSON: This is not a judicial  
12          body. We don't have the authority to  
13          make a constitutional determination  
14          of what is constitutional and what is  
15          not constitutional or how state  
16          statute fairs against the federal  
17          statute. That's for some other body  
18          to determine at some future time.

19          MR. BAILEY: Yes, sir.

20          MR. BLACKSTON: I'd like the committee  
21          to look at Mark Rogers' study that he  
22          did in 2006. Please don't ignore  
23          that study. The State paid about

1           \$12,000, if I remember correctly, for  
2           that study. And to my knowledge,  
3           that's the only one that is Alabama  
4           specific, even though Jane Venohr  
5           claims she did one. She needs to  
6           look at Mark Rogers' to be specific.  
7           If y'all would look at that study --  
8           I think it may be still on the  
9           website.

10           MR. DAVIS: It is. Everything is there.

11           MS. DAVIS: I have a suggestion for our  
12           committee chair. There's been a  
13           number of suggestions that have been  
14           presented, and I think it would be  
15           helpful if we give you the authority  
16           to go through and try to organize  
17           those that are under our purview.  
18           Because different people have  
19           different suggestions, but some of  
20           them related to the same topic, some  
21           of them different topics. And it  
22           would just be helpful to see what  
23           different topics we have. And after

1           we get a list of them, then maybe --  
2           And maybe even through e-mail the  
3           committee could vote -- maybe not.  
4           We may have to have a public hearing  
5           to vote on the priorities, which ones  
6           we taken in any order. Maybe we have  
7           to do that in an open setting. I  
8           don't know in the circumstances.

9                     But I think it would be helpful to  
10           have at some point a compilation of  
11           the issues that we saw and then the  
12           committee could at that point decide  
13           a priority.

14           MR. BAILEY: I'll ask Alex and Bob  
15           Maddox to assist me in getting --  
16           Once we get the court reporter's  
17           transcript, we'll go over those and  
18           try to put them together in some form  
19           the committee can see.

20           MS. DAVIS: Thank you.

21           JUDGE BELL: Could we have a schedule of  
22           meeting dates for the future, too, as  
23           early as possible?

1 MR. BAILEY: Good idea.

2 JUDGE BELL: Because I know we're all  
3 busy. And I have to get it on my  
4 calendar, because if I don't, my  
5 judicial assistant will set me  
6 something to try that day.

7 MR. BAILEY: Let me just ask for a  
8 quick show of hands. We usually  
9 meet on Friday. We met on Thursday  
10 today because of the meeting room  
11 issue. Do we still prefer Fridays  
12 or do we want to go Thursday?

13 We'll stick with Friday, wherever  
14 we may have to meet.

15 Any other matters that the  
16 committee needs to consider today?  
17 Do I hear a motion we adjourn?

18 JUDGE DRINKARD: We adjourn.

19 MR. BAILEY: A second to Drinkard?  
20 Second. All in favor?

21 Thank you very much. Thank you  
22 for coming.

23 (Meeting was adjourned at 11:50 a.m.)



1 C E R T I F I C A T E

2 STATE OF ALABAMA)

3 COUNTY OF MONTGOMERY)

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I hereby certify that the above and foregoing hearing of the Advisory Committee on Child Support Guidelines and Enforcement was taken down by me in stenotype, and the proceedings were reduced to typewriting under my supervision, and that the foregoing represents a true and correct transcript of the hearing.

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I further certify that I am neither of counsel nor kin to the parties to the action, nor am I in any way interested in the result of said cause.

/s/Kristie Pearson  
KRISTIE PEARSON  
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