

M E M O R A N D U M

TO: Advisory Committee on Child Support Guidelines and Enforcement

FROM: Subcommittee on Proposed Changes to Rule 32, Ala. R. Jud. Admin. re: Shared Custody

RE: Revised Recommendation of the Subcommittee

DATE: November 4, 2022

The Subcommittee proposes that the Advisory Committee on Child Support Guidelines and Enforcement recommend to the Supreme Court of Alabama that subsection (7) be added to Rule 32(C) to address the issue of calculating child support in situations involving shared 50% physical custody. The recommendation for the proposed amendment is as follows:

(7) Shared 50% Physical Custody Adjustment.

(a) Solely for purposes of child-support calculations pursuant to this Rule, "Shared 50% Physical Custody" shall be defined as 50% (or approximately 50%) physical custody of a child with each parent pursuant to a written court order.

(b) When the court orders any custody arrangement which provides for 50% (or approximately 50%) physical custody of a child with each parent, the "Shared 50% Physical Custody Adjustment" shall apply as described herein, and child support shall be calculated using the Form CS-42-S, instead of the Form CS-42. The basic child-support obligation from the schedule of basic child-support obligations shall be determined as if "Shared 50% Physical Custody" had not been ordered. The basic child-support obligation on Line 4 of

Form CS-42-S shall then be multiplied by one-hundred fifty percent (150%). Costs and credits for work-related child-care and health-care-coverage shall be determined as if "Shared 50% Physical Custody" had not been ordered. After each parent is credited for their costs paid and for 50% of the shared-parenting time obligation shown on Line 5 of Form CS-42-S from each parent's child-support obligation shown on line 10 of the Form CS-42-S, the parent owing the higher amount of the adjusted shared-custody child support obligation as shown on Line 13 of Form CS-42-S shall pay that amount to the other parent.

(c) When a court applies the "Shared 50% Physical Custody Adjustment" to the child support ordered pursuant to subparagraph (b) above, and a parent fails to exercise his or her physical custody of a child for more than 14 days in the 12 months preceding the filing of a petition to modify child-support with the court, the court may consider this failure to exercise physical custody as a material change of circumstances sufficient to support a modification of child support. This modification of child support may be made retroactively to the date of the filing of the petition.

(d) If the court finds that a parent willfully failed to exercise his or her physical custody of a child for more than 14 days in the 12 months preceding the filing of a petition to modify child support with the court, the court has the discretion to award attorney fees and costs to the other custodial parent in the child-support modification proceeding.

(e) Neither the Self-Support Reserve ("SSR") Calculation, Zero-Dollar order provision, nor the minimum \$50.00 dollar order referenced in Rules 32(C)(5) and (6) applies when using Form CS-42-S.