1   MEETING OF THE ADVISORY COMMITTEE

2   ON CHILD SUPPORT GUIDELINES AND ENFORCEMENT

3   FOR THE STATE OF ALABAMA

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11   The following proceedings were held

12   in the meeting of the Advisory Committee on

13   Child Support Guidelines and Enforcement for the

14   State of Alabama on Friday, August 17, 2018,

15   commencing at approximately 10:06 a.m. at the

16   Heflin-Tolbert Judicial Building, 300 Dexter

17   Avenue, Montgomery, Alabama, and was taken

18   before Haley Tunnell, Court Reporter and

19   Commissioner for the State of Alabama at Large.

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 1                APPEARANCES

 2    THE HONORABLE JULIE A. PALMER, Chair
      Domestic Relations Division
 3    Retired Circuit Judge

 4    MS. LATHESIA McCLENNEY
      Director, Child Support Enforcement Division
 5    Alabama Department of Human Resources,
      Montgomery
 6
      JENNIFER M. BUSH, Esquire
 7    State-level Child Support Attorney,
      Alabama Department of Human Resources,
 8    Montgomery

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

11    THE HONORABLE WILLIAM THOMPSON
      Presiding Judge, Alabama Court of Civil Appeals,
12    Montgomery

13    MELODY BALDWIN, Esquire
      Assistant District Attorney, Child Support
14    Division, Fifth Judicial Circuit

15    THE HONORABLE DON McMILLAN
      Circuit Judge, Fourth Judicial Circuit
16
      AMANDA COX, Esquire
17    Staff Attorney, The Honorable Terry Moore,
      Alabama Court of Civil Appeals, Montgomery
18
      STEPHANIE BLACKBURN, Esquire
19    Attorney, Legal Services Alabama, Montgomery

20    JIM JEFFRIES, Esquire
      Private practice attorney, Mobile
21
      JESSICA KIRK DRENNAN, Esquire
22    Chair, Alabama State Bar Family Law Section

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 1    THE HONORABLE MARY MOORE,
      Perry County Circuit Clerk
 2
      STEVE ARNOLD, Esquire
 3    Private practice attorney, Birmingham

 4    MR. KENNETH PASCHAL
      Alabama Family Rights Association
 5
      BRAD MEDARIS, Esquire
 6    Staff Attorney, Alabama Supreme Court Clerk's
      Office, Montgomery
 7
      BOB MADDOX, Esquire
 8    Staff Attorney, Legal Division, Alabama
      Administrative Office of Courts, Montgomery
 9
      SCOTT HOYEM, Esquire
10    Staff Attorney, Legal Division, Alabama
      Administrative Office of Courts, Montgomery
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1   THE HONORABLE PALMER: First off, let's

2   go ahead and turn our phones to silent,

3   please. I show it's 10:06 on Friday, August

4   the 17th. I'm going to call to order the

5   Advisory Committee on Child Support

6   Guidelines and Enforcement.

7   I want to first thank Brad Medaris and

8   Bob Maddox for pulling everything together

9   for me as always. This is the end of the

10   fiscal year, so there's really no money for

11   lunch. Bob had a buy-one-get-one-free coupon

12   for the donuts.

13   So thank you Bob for providing the

14   donuts.

15   MR. MADDOX: You're welcome.

16   THE HONORABLE PALMER: And I brought

17   some campaign candy, so all that's in the

18   back. And it's all chocolate too. That's in

19   the back. And I've got some right here. If

20   anybody needs any chocolate, just raise your

21   hand.

22   We have a court reporter, Haley, who has

23   been with us many times before, so as usual,

1   at least for the first couple of times that

2   you speak up, state your name so that she can

3   know who you are. Make sure that your name

4   tag is facing her -- thank you, Kenneth --

5   and speak loudly. We should only be here

6   about two and a half hours, so I don't know

7   that you'll need a break, but if you do, you

8   just let me know.

9   Okay?

10   COURT REPORTER: Okay.

11   THE HONORABLE PALMER: Scott Hoyem?

12   MR. HOYEM: Yes.

13   THE HONORABLE PALMER: Was the public

14   notice about this meeting taken care of?

15   MR. HOYEM: Yes, ma'am.

16   THE HONORABLE PALMER: Okay.

17   MR. HOYEM: Scott Hoyem. I'm the

18   public information officer for the

19   Administrative Office of Courts. And I would

20   just like for the record to reflect that on

21   July 19th, I sent out notification of today's

22   meeting to media outlets around the state,

23   and we also posted that notice on the

1 homepage for our website.

2   THE HONORABLE PALMER: Thank you very

3 much.

4   Chief of Security Willie James was going

5 to speak to us.

6   MR. MADDOX: He's on his way.

7   THE HONORABLE PALMER: Okay. Well, I

8 heard a door just close back there, so when

9 Chief James comes in, we'll just stop what

10 we're doing and let him give us our --

11   Are you here for the safety for the

12 building?

13   MR. RICHARDSON: Yes.

14   THE HONORABLE PALMER: Or just for our

15 own personal safety?

16   MR. RICHARDSON: Both.

17   THE HONORABLE PALMER: Okay. And your

18 name, sir?

19   MR. RICHARDSON: Hey, I'm Eric

20 Richardson. I'm a deputy marshal with the

21 marshal service here in the building. I'm

22 just going to go over some emergency

23 protocols with y'all.

1   In the event of a fire or you hear the

2   alarm going off and everything, you're going

3   to go out these double doors right here, turn

4   right. You'll see at the end of the hallway

5   there's two big metal doors. It's got

6   Emergency Exit written on it. You're going

7   to go out those doors, down a couple set of

8   stairs. You're going to see another double

9   set -- set of double doors with the emergency

10   exit on it. You're going to go out those

11   doors, safely cross the street into the

12   parking lot across the road. And that's

13   where you're going to wait until you get an

14   all clear from someone, or you get some other

15   information from someone.

16   Who is our liaison here that's in the

17   building, an employee with the building?

18   THE HONORABLE PALMER: Well, you got

19   Bob Maddox and Brad and Scott.

20   MR. RICHARDSON: Okay. He's going to

21   be the coordinator. If y'all have any

22   problems, he's going to be who you get with.

23   In the event of some weather emergency,

1   we got a safe haven down on the basement

2   floor -- on the ground floor, excuse me, and

3   he's going to lead you there, if there's any

4   kind of weather emergency. I think we're

5   clear for the whole time you're going to be

6   here.

7   Anything else?

8   MR. MARSH: In the event that someone

9   else is anywhere else in the building, the

10   elevators are out of play. Anytime the alarm

11   goes off, the elevator is going to go

12   straight down to the first floor, so you

13   won't be able to get on there. So nobody go

14   to the elevator.

15   Any questions?

16   THE HONORABLE PALMER: Just your name,

17   sir, for the record.

18   MR. MARSH: Deputy Marshal Earl Marsh.

19   THE HONORABLE PALMER: Thank you very

20   much.

21   Anybody, any questions?

22   (No response.)

23   THE HONORABLE PALMER: All right.

1   Thank y'all very much.

2   MR. RICHARDSON: Okay. Thank you all.

3   THE HONORABLE PALMER: Okay. All

4   right.

5   Well, our first item. We're going to --

6   I'll introduce ourselves.

7   Steve, I'm going to start with you,

8   please.

9   MR. ARNOLD: Steve Arnold. Private

10   practice in Birmingham, Alabama.

11   THE HONORABLE McMILLAN: Don McMillan,

12   Circuit Judge, Fourth Circuit.

13   MS. DRENNAN: Jessica Kirk Drennan,

14   Private practice, Birmingham, Alabama; also

15   chair of the family law section.

16   THE HONORABLE THOMPSON: William

17   Thompson, presiding judge, Alabama Court of

18   Civil Appeals.

19   MS. BLACKBURN: Stephanie Blackburn,

20   Legal Services Alabama, here in Montgomery.

21   THE HONORABLE MARY MOORE: Mary Moore,

22   Circuit Clerk, Perry County.

23   MR. BUSH: Jennifer Bush, attorney with

1   the Department of Human Resources.

2   MS. McCLENNEY: Lathesia McClenney,

3   director of Child Support Enforcement

4   Division, Alabama Department of Human

5   Resources.

6   MS. BALDWIN: Melody Baldwin, assistant

7   district attorney of the Child Support

8   Division, Fifth Circuit.

9   MS. COX: Amanda Cox, staff attorney

10   for Judge Terry Moore, Court of Civil

11   Appeals.

12   MR. PASCHAL: Kenneth Paschal, Veteran.

13   Alabama Family Rights Association.

14   MS. DAVIS: I'm Penny Davis. I'm

15   adjunct professor of law at the University of

16   Alabama Law School.

17   THE HONORABLE PALMER: And let the

18   record reflect that Penny is ready for some

19   football. She's got her Alabama "A" around

20   her neck. She's got her hounds tooth pants

21   on, and she is ready for some football.

22   MS. DAVIS: And cool weather.

23   THE HONORABLE PALMER: And cool

 1   weather. In that order?

 2   MS. DAVIS: Either order.

 3   THE HONORABLE PALMER: Either one.

 4   Everybody was sent a copy of the

 5   transcript from when we were here on December

 6   the 15th, and I know you've read every page

 7   of it. It's also in front of you. It's not

 8   attached because the stapler doesn't staple

 9   that thick.

10   Anybody have any corrections to the

11   minutes that were e-mailed to you

12   approximately a week ago for the final?

13   (No response.)

14   THE HONORABLE PALMER: Okay. Then, if

15   there's no objections, then do I hear a

16   motion that the transcript be approved as

17   presented? Anybody?

18   MR. PASCHAL: So move.

19   THE HONORABLE THOMPSON: Second.

20   THE HONORABLE PALMER: Okay. Anybody

21   object to that?

22   (No response.)

23   THE HONORABLE PALMER: Okay.

1   Transcript is approved.

2   All right. We are now on the second

3   part of the agenda, and that's update on Form

4   CS-47 Proposal.

5   MR. MEDARIS: Judge, may I interrupt?

6   THE HONORABLE PALMER: Yes.

7   MR. MEDARIS: I just want to put on the

8   record that we have a quorum for this

9   meeting.

10   THE HONORABLE PALMER: Oh. Thank you,

11   yes. Thank you very much.

12   All right. CS-47. That is not

13   something that this group was doing. It was

14   a committee that was reviewing the Alabama

15   Rules of Judicial Administration.

16   And is there anybody here to discuss

17   that form?

18   MR. MEDARIS: No, ma'am, there's not.

19   My understanding is that form has been

20   submitted to the Court for its approval.

21   They're meeting at the end of this month to

22   review new rule changes and proposals, so we

23   should hear something from them in mid

1   September about whether or not it's been

2   approved.

3   THE HONORABLE PALMER: Okay.

4   MR. MEDARIS: So, hopefully, at our

5   next meeting, we can have that available.

6   THE HONORABLE PALMER: All right.

7   Thank you very much.

8   And then if you'll go to the first

9   packet in front of you. It says Alabama

10   Rules of Judicial Administration and turn to

11   page 18. And that is a new section that was

12   adopted and became effective June the 1st of

13   2018, and it's about adoption of the credit

14   for third party payments which became a part

15   of Rule 32. That's something we talked about

16   last time we met in December and submitted to

17   the Supreme Court for their approval and

18   adoption or rejection. And it was adopted

19   and became effective June the 1st of 2018. I

20   just want to make everybody aware of that.

21   Has anybody had any chance to use this

22   either as an attorney or as a judge to give

23   somebody credit for the past due child

1   support arrearages?

2   (No response.)

3   THE HONORABLE PALMER: Okay. DHR, have

4   y'all had this come?

5   MS. BUSH: I'm sure we have in the 67

6   counties in court.

7   THE HONORABLE PALMER: Somewhere?

8   MS. BUSH: Somewhere.

9   THE HONORABLE PALMER: But no personal

10   knowledge.

11   MS. BALDWIN: Yes. We just adopted

12   case law, so we were already doing this.

13   THE HONORABLE PALMER: Okay. Okay.

14   Well, great. All right.

15   And, now, Judge McMillan, I'll tell you

16   what. Let me do something real quick, Judge.

17   Kenneth Paschal is here, and normally,

18   he is not a voting member. If -- what is

19   that gentleman's name?

20   MR. HOYEM: Polemeni.

21   MS. DAVIS: Michael.

22   THE HONORABLE PALMER: Michael

23   Polemeni. But Michael is not here; is that

1   correct?

2   MR. MADDOX: Right.

3   THE HONORABLE PALMER: So for this

4   meeting, Kenneth, you will be a voting

5   member.

6   Okay?

7   MR. PASCHAL: Okay.

8   THE HONORABLE PALMER: Thank you.

9   Now, Judge McMillan.

10   THE HONORABLE McMILLAN: Yes, ma'am.

11   THE HONORABLE PALMER: Child-care cost

12   subcommittee update.

13   THE HONORABLE McMILLAN: We got a

14   handout.

15   THE HONORABLE PALMER: Okay.

16   THE HONORABLE McMILLAN: I think I tore

17   up the copier maybe. There's only 20 of

18   them. It's two proposals in it. I can walk

19   and talk, if that will work.

20   THE HONORABLE PALMER: Wonderful.

21   THE HONORABLE McMILLAN: Two proposals

22   in it, and for full disclosure, I was blessed

23   to be on a committee with someone a lot

1   smarter than me, Professor Davis. So the

2   good parts of these -- of this proposal,

3   she'll get credit. Anything that you don't

4   like is mine. So I'll give my summation of

5   what this is.

6   DBA Guidelines allow for training or

7   education of a parent necessary to obtain a

8   job to enhance earning. Two proposals. If

9   you'll flip to the second page, you got

10   Proposal One and Proposal Two.

11   My experience in being a prosecutor,

12   district judge, and now circuit judge is that

13   the majority of the folks coming into court

14   for these issues are pro se, so the Proposal

15   One kind of fits that model more so than the

16   Proposal Two, whether seeking for -- to have

17   this cost associated with obtaining their

18   earning potential that will benefit the

19   child.

20   And I think -- Professor Davis, correct

21   me if I'm wrong, that that is our preference

22   and recommendation, is Proposal One as

23   opposed to Proposal two.

 1   THE HONORABLE PALMER: Okay. Well,

 2   this handout was not ready for our last

 3   e-mail when we sent the transcript and the

 4   agenda and that sort of thing.

 5   So why don't we all take a few minutes

 6   and read over this before we start discussing

 7   it, so we can have some good questions for

 8   everybody.

 9   MS. DAVIS: Can I comment, just to make

10   it clear?

11   THE HONORABLE PALMER: Yes, ma'am.

12   MS. DAVIS: The first thing that we had

13   on the handout is the proposal at the top

14   that was submitted to the Supreme Court.

15   This is something -- the concept has been

16   presented to them before, and at the time,

17   they rejected in whole everything that we had

18   sent. This was rejected.

19   But I thought, to remind everybody, it

20   will be helpful to have that. So that's the

21   first thing that you see, including the

22   comments that were sent at that time.

23   And then the other two are proposals

1   that are a little bit different but capture

2   some of the thoughts that we had and related

3   to some of the questions that they had, which

4   after you read it, I'll be happy to explain.

5   MR. ARNOLD: Steve Arnold. Just out of

6   curiosity, what was the general consensus of

7   why they rejected the proposal? Not

8   challenging it, just curious.

9   MS. DAVIS: Right. I can't remember,

10   Steve, if you were at the last meeting or

11   not.

12   MR. ARNOLD: I was not.

13   MS. DAVIS: Just for the record, I want

14   to say that I was asked by the Court to speak

15   to them en banc, and I confirmed with Justice

16   Stuart that I could talk freely about what

17   was said in my presence there. So I just

18   want to make sure that everybody knows this

19   is appropriate.

20   And at the time, I did go back and

21   reread all the transcript, and it reminded me

22   that Justice Stuart had said that even though

23   some of the justices ask some of the

1   questions, it didn't mean that other

2   questions were not brought up and discussed

3   among themselves or that other justices might

4   not have the same questions.

5   But so to say that, back to what you

6   were asking, there was some concern about the

7   length of time that some of the training for

8   education could occur, and I explained to the

9   Court that we had discussed that, and that's

10   why the proposal that you saw did have a

11   reasonableness in terms of the time, and

12   basically, everything was to the Court's

13   discretion.

14   The other aspect of it was that this is

15   time consuming for the Court. And that's a

16   discussion that we also had among some

17   subcommittee members. As you see, the first

18   proposal related to reasons for deviating

19   from the guidelines; whereas, this proposal

20   is just changing the definition of the

21   child-care cost.

22   So if it's in the reasons for deviating

23   from the guidelines, then there automatically

 1   would have to be a court determination;

 2   whereas, by changing.

 3   So to the extent that we could, by

 4   putting in the definition, it broadened the

 5   definition. So if you select Proposal Number

 6   One, it doesn't necessitate, in my mind, the

 7   Court hearing on it; whereas, perhaps in -- I

 8   think if you choose Proposal Number Two, it

 9   does incorporate the concept of

10   reasonableness and that sort of thing. But

11   it would also require the courts to be

12   involved in making -- I think they'd have to

13   have a hearing on it, you know, in those

14   instances.

15   So I think that's why our subcommittee

16   felt like, at least initially, it might make

17   more sense for Proposal One.

18   Does that answer your questions?

19   MR. ARNOLD: It does. Thank you.

20   THE HONORABLE PALMER: For those who

21   want to know about the history of this, right

22   now, a judge cannot deviate from the

23   guidelines for this reason is my

1   understanding.

2   Is that correct?

3   MS. DAVIS: Correct.

4   THE HONORABLE PALMER: I am in nursing

5   school. I've been in nursing school for

6   18 months. It's a two-year program. I get a

7   divorce. I want to finish out my education,

8   so, therefore, I will have an income, and my

9   child will have an income, but I need daycare

10   for that last six months that I'm in nursing

11   school.

12   And right now, as I read the guidelines,

13   you get childcare credit for working or

14   looking for a job, and so, to me, finishing

15   up your schooling, to me, looking for the job

16   because you've got to get the training. So

17   that's where the genesis of this started for

18   any new members. We're just trying to get

19   somebody -- it's not, well, heck, I just

20   might as well start my career and let me go

21   to college for the first time for a four-year

22   program or a five-year program type of thing.

23   Now, if the judge sees that is the best

1   thing, and maybe these children are going to

2   age out of daycare after the first year,

3   again, just give the judge the discretion.

4   That's all this proposed change is for, just

5   to give the judge some discretion to even

6   contemplate having these childcare expenses

7   while somebody is in training, not

8   necessarily college, but training.

9   THE HONORABLE THOMPSON: Yeah.

10   THE HONORABLE PALMER: The big thing

11   around Birmingham now is they've got five

12   women at Jeff State that are finishing up

13   their welding degree. They got these women

14   out of a homeless shelter. They're training

15   them, and they're going to be making $25 an

16   hour when they get out. But they have

17   children.

18   They have need some sort of daycare

19   credit for putting their kids in school while

20   they go and get a job making $25 an hour. I

21   think it's an 18-month program.

22   THE HONORABLE THOMPSON: Right, Judge.

23   I think this issue kind of came ahead in our

1   case -- I'm sorry. William Thompson, Court

2   of Civil Appeals -- CC versus EW.

3   We were asked if those educational

4   expenses could be used to deviate from the

5   guidelines, and we read the statute

6   literally, and it didn't include education

7   costs.

8   Yeah, I think that that kind of got the

9   ball rolling here with this proposal to the

10   Supreme Court. And I'll be interested to

11   hear what everybody thinks about the two

12   proposals because, in my opinion, what was

13   already proposed to the Supreme Court in 2017

14   is the best option, maybe minus the comment.

15   I think, on Proposal Number Two, there's a

16   "shall" in there that's probably going to

17   make them shy away from adopting that

18   proposal. And then in Number One, I think

19   it's a little lacking with regard to the

20   reasonable time. And I think probably some

21   of them -- I'm not a mind reader, but some of

22   them probably want to limit that in some way.

23   They don't want people to go on and get a

1   master's degree and Ph.D., you know. Those

2   with children, we know that we want them to

3   finish their education and not keep going on.

4   So I think that they will -- I think

5   that that's something that the Supreme Court

6   would be interested in, is limiting it.

7   THE HONORABLE PALMER: And just for a

8   quick second, let the record reflect that Jim

9   Jeffries, solo practitioner from Mobile just

10   walked in the room.

11   MR. JEFFRIES: Thank you. I apologize

12   for being late, everybody.

13   THE HONORABLE PALMER: Okay. Right

14   now, Jim, we are looking at -- maybe, Judge

15   McMillan, do you have one extra copy?

16   THE HONORABLE McMILLAN: I did, yes,

17   ma'am.

18   THE HONORABLE PALMER: The education

19   expenses, child-care costs.

20   MR. JEFFRIES: Okay. Thank you.

21   THE HONORABLE PALMER: So anybody have

22   any responses or comments further of what

23   Justice Thompson had to say?

1   Yes, ma'am. Amanda Cox.

2   MS. COX: Yes, ma'am. Like Judge

3   Thompson said, I wonder if we can put this to

4   the Supreme Court with the option of "shall"

5   or "may." Have we ever done like an

6   alternative recommendation? And that way, if

7   they feel that the "shall" is too strong,

8   they can go back to "may," if they want the

9   trial court to have more discretion to not

10   award child support based on those child care

11   costs.

12   THE HONORABLE PALMER: Okay. Kenneth?

13   MR. PASCHAL: Couple of questions --

14   well, just statements.

15   First question is state interest. What

16   is the state interest in this issue? And

17   then, if you have an interest, are you using

18   a least restrictive means to address that?

19   For example, if the state feels they

20   have an interest to address this, you know,

21   before you go to this option, should it be

22   another -- like a flowchart? You know, first

23   right of refusal.

1   If you're in school, if the other parent

2   is available, instead of requiring an

3   additional expense, financial side, if a body

4   is available or a family member, utilize that

5   source. Then if it's not, then, the state

6   has an interest to address that.

7   So that's just something to think about

8   as far as saying are there other options

9   before you get to this step. Then, if you

10   get to this step, then, the next question or

11   statement is -- I think somebody already

12   mentioned it -- time period. You know, you

13   have to have some type of guidelines so far

14   as saying state interest is not to ensure

15   that every parent in the state gets a

16   master's degree, for example.

17   But the state interest is to make sure

18   you have a means to provide either maybe an

19   associate's degree, certificate, or training

20   or so forth. I think it needs to be some

21   type of guideline saying that someone wants

22   to get a master's degree, that's great, but

23   it's not really a state interest because the

1   child's needs are being met.

2   So I just want to kind of throw those

3   ideas out there. But I think the main one is

4   the first right of refusal for another family

5   member because if the child is being provided

6   for, the state does not have an interest.

7   But if there's no other means, Mom and Dad

8   just is in Alabama and the other parent is in

9   another state, well, then, the state may have

10   an interest at that level.

11   THE HONORABLE PALMER: Anybody else

12   have any comments or questions?

13   MS. DRENNAN: I have a comment.

14   THE HONORABLE PALMER: And that's

15   Jessica Kirk Drennan.

16   MS. DRENNAN: Of course, I am very new,

17   and so excuse me if this has already been

18   discussed.

19   I like the reasonableness standard

20   because I believe the reasonableness standard

21   would cover what Mr. Paschal is talking

22   about. The judge could consider whether the

23   family had alternative resources without

1   adding it to the child support obligation,

2   and also the Court could consider whether

3   that master's degree was, in fact, necessary.

4   As we know some of our teachers don't

5   make very much money, but with a master's

6   they get a bump in pay, which would help them

7   raise the standard of living of the family.

8   Maybe a judge would find that reasonable. I

9   don't know that a master's is necessary in

10   all professions. I don't know the answers to

11   all of those questions. But with some

12   flexibility, I think our circuit judges could

13   make that decision based on reasonableness.

14   And I find, as a practicing attorney,

15   that flexibility often allows the judge to be

16   more fair, rather than to have very strict

17   guidelines that then don't work when a new

18   situation arise. So that's just my two

19   cents.

20   THE HONORABLE PALMER: Okay. Penny

21   Davis?

22   MS. DAVIS: I would like to point out

23   one other thing. The way it's drafted,

1   whichever proposal, it is for either parent,

2   custodial or noncustodial parents. There's a

3   tendency, I think, assuming the custodial

4   parent is the one that's trying to work

5   and/or be able to enhance their job or get a

6   job.

7   But if the noncustodial parent is, say,

8   a welder one, and they want to become a

9   welder two so they can go from $25 an hour to

10   $35, then it cuts both ways.

11   I just wanted to mention that it is for

12   both parents involved.

13   THE HONORABLE PALMER: Steve Arnold?

14   MR. ARNOLD: Steve Arnold here. I'm

15   leaning towards agreeing with the Supreme

16   Court about rejecting the concept. I

17   understand the good it's trying to do. I

18   understand the underlying purpose. But

19   embedding this actually into the rules and

20   into the guidelines seems, to me,

21   problematic.

22   One perspective is what happens when the

23   training is over, and when is it over. Are

1   we doing this just to enrich a family

2   member -- Mom, Dad, Grandma, Grandpa? And

3   then there's just so many -- there's possible

4   other options.

5   If I were a judge -- and, Judge

6   McMillan, I appreciate the position you're

7   in. I would say, okay, if I want to resolve

8   this problem for these people, why don't I

9   award a supplement for a defined period of

10   time, either by way of alimony, which after

11   December 31st isn't going to have any tax

12   consequence negative to the recipient or for

13   the recipient, negative to the payer or

14   positive to the recipient. So I've got that

15   option to say, all right. I'm going to award

16   temporary alimony for the sheer purpose of

17   obtaining an education and limited as to

18   time, because this is just creating in many

19   instances, in this particular part of our

20   world, necessitating comeback for changes,

21   modifications, potential fights over whether

22   it was done properly or abused.

23   That's just some of my thoughts.

1   THE HONORABLE PALMER: Okay. Anybody

2   else? Penny?

3   MS. DAVIS: Could I clarify. Justice

4   -- you said you weren't here. Justice Stuart

5   did mention last time -- I started to say

6   emphasize, but I don't know if that's

7   correct -- did say last time, even though

8   they, the Supreme Court, voted not to approve

9   all of these, was not necessarily a

10   reflection that they didn't take a vote on

11   these individually. They just decided to

12   send the whole thing back.

13   THE HONORABLE PALMER: We had four, I

14   believe, proposals to them.

15   MS. DAVIS: Right. So it doesn't mean

16   that the majority would not have necessarily

17   been for what we sent.

18   The other thing related to your alimony

19   goes back to what I was saying earlier. Only

20   one person is receiving alimony in a divorce

21   case. But it may be the other parent that is

22   actually, you know, getting the extra six

23   months of work or whatever. So the person

1   that's paying the alimony under your scenario

2   would not be able to acquire any relief for

3   child care when they're the one that is

4   seeking to --

5   MR. ARNOLD: It could be a temporary

6   redirection for the stated time period --

7   MS. DAVIS: Alimony is different from

8   child support.

9   MR. ARNOLD: -- or as a credit. I'm

10   just thinking of methods.

11   MS. DAVIS: Right. I understand. The

12   thing --

13   MR. ARNOLD: Not a requirement.

14   MS. DAVIS: -- I would say is, number

15   one, alimony is not supposed to be related to

16   child support, and, two, because of the new

17   changes of alimony there's already a lot of

18   limitations that I'm not -- at some point --

19   MR. ARNOLD: That's what I'm saying

20   too. Alimony shouldn't be a part of child

21   support. And I'm not suggesting that this

22   should be a part of child support.

23   I'm suggesting alimony is not a part of

1   child support. That allowances to a spouse

2   or a credit to one spouse, depending on who

3   is searching for the job, is a matter as

4   between husband and wife and not necessarily

5   about the child.

6   MS. DAVIS: Then, I guess, I didn't

7   understand what your suggestion was as

8   relating to this child support.

9   MR. ARNOLD: Not embedding this kind of

10   circumstance into the rules.

11   MS. BALDWIN: This is Melody Baldwin,

12   if I can make a comment about that.

13   You know, there are a large number of

14   people who seek child support who aren't in

15   divorce situations, and the district court is

16   only going to -- or juvenile court at that

17   point is only going to be able to order child

18   support. They can't look at anything else.

19   They can't call it anything else. It will be

20   child support.

21   And so the only person -- or the only

22   people dealing with child support who could

23   have another option are those in a divorce

1   case, if your scenario is --

2   MR. ARNOLD: That point is well-heard

3   and well-made.

4   THE HONORABLE THOMPSON: I would say

5   that lends credence to the idea that we

6   should not include "shall" in any of these

7   proposals simply because I think that it's --

8   our goal should be to give the trial court

9   the discretion in the end to include these

10   extraordinary costs in its equation trying to

11   decide whether or not to deviate from the

12   guidelines. And I think that's all we would

13   be doing, is providing that latitude to the

14   trial judges.

15   THE HONORABLE PALMER: Jim Jeffries?

16   MR. JEFFRIES: I want to add in

17   reference to what Steve said.

18   Your thought, Steve, was my first

19   thought as well when I read this. It's just

20   setting you up for the judge having to make a

21   change at some point to whatever reasonable

22   time is. And we all know the disfavored

23   nature of the future contingent clause, where

1   you would say, okay, at a certain time, the

2   child support is going to change to X,

3   because we don't know what all the

4   circumstances would be at whatever that time

5   in the future is.

6   But the more I think through this,

7   that's the nature of the child support

8   guidelines and the changes based on a

9   material change in circumstances for

10   anything, like change in income.

11   If you got younger children who need

12   full-time daycare and then they started

13   kindergarten and so they don't need it, I

14   mean, it's just the kind of the nature of the

15   guidelines.

16   I appreciate what Judge Thompson was

17   saying about just giving discretion to

18   address situations that come up routinely.

19   MR. ARNOLD: And, Jim, I appreciate

20   that. It's a balancing thing. Because if

21   it's embedded in the rules, you're requiring

22   people to reenter the legal and judicial

23   system. And adding to the burden of that,

1   for some, it's an expense; for others, it's a

2   do you have the incentive, the access, all

3   the other variables that our diverse

4   backgrounds dictate.

5   And I would say, the less we require

6   people to enter the legal system, the better.

7   I'm fully aware of the differences in -- just

8   say, for example, in the part of the world I

9   am, times goes by, and spouse is now finished

10   with the training and has new needs for child

11   care, no needs for child care. My client

12   comes to me and says, Mr. Arnold, I don't

13   have a child-care cost anymore. It don't

14   apply.

15   And I've got to say, well, it's going to

16   cost as much in legal fees and time and

17   trouble coming into the legal system as the

18   benefit you would get for so long. Now, we

19   face that problem all the time in law.

20   So, you know, that's -- I'm all for

21   Judge Thompson and all for taking out the

22   word "shall." "May" is a decent objective

23   and a decent compromise. But I just see

1   untangling this from the system as being

2   problematic.

3   MS. BALDWIN: There is a way to fix

4   your problem that you described paying extra

5   fees because it is expensive. But if they go

6   through the department, it's actually very

7   inexpensive. So they can always go through

8   the Department of Human Resources for a

9   modification with no filing fees and minimal

10   fees to the department.

11   MS. BUSH: Well, the state does pay

12   filing fees. We pay a fee per case, just so

13   you know.

14   MS. BALDWIN: But when I file it, I do

15   not get billed for it. But it's subsidized

16   basically. And there's few limits on people

17   that are able to use that.

18   MR. ARNOLD: What time limit do they

19   get while they're still paying along the way?

20   Some people have come to me in the past in

21   Jefferson County who have said, well, I tried

22   going through the DHR system to get my child

23   support modified, and it's two years and we

1   haven't gotten it done yet.

2   So let's be realistic about the ability

3   to respond to the entire public's needs for

4   access to the judicial system. It's pretty

5   limited.

6   MS. BALDWIN: Right. Well, it does

7   take longer because the caseloads are larger.

8   THE HONORABLE PALMER: Okay, Ms. Cox.

9   Amanda?

10   MS. COX: I'm thinking, too, and I'm

11   not a practicing attorney, so correct me if

12   I'm wrong, they would still presumably need

13   the child care, though, after they graduated

14   because they would hopefully be working. So

15   I'm not sure what circumstances would have

16   changed necessarily. Maybe the time.

17   THE HONORABLE PALMER: The children may

18   be in school. Maybe they're three and four

19   when you're in nursing school. You get out

20   of nursing school, now they're in

21   kindergarten, and so your daycare needs are

22   different. You probably need some aftercare

23   and summer care, but you're not going to need

1   that. So that could be a change of

2   circumstances, or they could age out, and now

3   they're 12 years old and the guidelines, as

4   far as daycare goes, doesn't cover that.

5   MR. ARNOLD: Or an employer has a

6   child-care facility onsite. There's a lot of

7   different circumstances.

8   MS. COX: But this rule wouldn't

9   necessarily change anything, because they

10   would just be moving from child care for

11   educational purpose for child care or

12   kindergarten would happen regardless.

13   THE HONORABLE PALMER: It would change

14   about four- or $500 a month because your

15   aftercare is --

16   THE HONORABLE THOMPSON: Yeah. And

17   then in our CC case that kind of started this

18   whole thing, I think the mother was working

19   and going to school.

20   MS. COX: She had double.

21   THE HONORABLE THOMPSON: She might be

22   working, and that may include more hours than

23   just working a job.

1   THE HONORABLE PALMER: And like for the

2   noncustodial parent -- to follow up on what

3   Penny said.

4   Let's say you're going to Birmingham

5   School of Law.   They've got Saturday classes.

6   You've got one semester left.   You're the

7   noncustodial parent.   You get the child,

8   let's say, every other weekend.

9   But during that four-hour span, while

10   I'm finishing up my law degree, I need some

11   child care for my kids.   It's not really

12   enough, let's say, first right of refusal

13   because it's four hours -- actually, it might

14   be two hours.   But you need somebody to watch

15   those kids for the noncustodial parent as

16   well.

17   And then, of course, you got the one,

18   I'm going to school.   I got the Pell Grant.

19   I'm ready to go.   And then they drop out of

20   school and now a year and a half later, when

21   they haven't been to school in a year and a

22   half, but yet, you've been paying that

23   daycare expense because supposedly they were

1   in school, and they were needing that, and

2   you were paying it.

3   So there's a lot of devil's advocate on

4   both sides, I have feeling on this.

5   MR. PASCHAL: I would like to just go

6   back to, once again, state interest. If

7   we're a married couple, and we need someone

8   to watch our kids, do we go to the state for

9   assistance? No. We find someone to watch

10   our child while we're at the beach or going

11   to school or whatever it may be.

12   But my point is, in the threshold of

13   state interest is, if we're going to go with

14   this, I think it needs to be a burden. If

15   this is met, you know, if the other parent or

16   other family member is not available, then

17   you shift to this.

18   But if you just leave it to open to the

19   "may," I'm saying I travel to the 67 counties

20   in Alabama, I see this being abused without a

21   threshold saying this must sit here first, if

22   there's no means or family members in the

23   area and then now you come to this option.

1   But this should not be the first option.

2   THE HONORABLE PALMER: Well, I think

3   that would be the discretion of the judge

4   myself. Somebody else might have a different

5   opinion.

6   THE HONORABLE THOMPSON: This is an

7   evidentiary issue. You know, obviously, if

8   you're representing that other parent who

9   says -- it should be part of your plan to

10   say, Hey, listen. I can take the child on

11   that Saturday that the other parent is going

12   to Birmingham School of Law.

13   MR. ARNOLD: Kenneth, I can answer the

14   state interest question historically.

15   I was one of the ones who back in the

16   late '80s, or whenever it was, who made the

17   presentation Anti-Child Support Guidelines to

18   the Supreme Court, long time ago. And the

19   issue of state interest came up and was

20   readily addressed by the Alabama Supreme

21   Court.

22   The state does have an interest in the

23   welfare of children that are citizens of this

1   state or dependents of parents in this case.

2   The Supreme Court was real quick to say, yes,

3   we have a state interest, and we also have

4   this little thing called federal oversight

5   that says we're going to do this.

6   So getting past the issue of state

7   interest, I understand where you're coming

8   from, but it's well-addressed. I've been on

9   this committee since its inception. The

10   statement has been made a few times about

11   state interest, and the response is pretty

12   much always the same thing. But I appreciate

13   the point.

14   THE HONORABLE PALMER: Well, do we --

15   Jessica?

16   MS. DRENNAN: I just wanted to ask one

17   thing from Professor Davis.

18   So when I'm reading through the Proposal

19   Number Two, because we were talking about the

20   word "shall" and whether that is something

21   that should be changed to "may," in the

22   Proposal Number Two, the way it's written,

23   and it's just an interpretation question, and

1   maybe it can't be answered here, but it

2   appears to me to be written that the judge

3   would have to make certain determinations and

4   only upon those determinations being met

5   would this "shall" then be activated.

6   In other words, once they proved that

7   the education or the training was going to

8   benefit the child being supported and it

9   would be a reasonable time period, only after

10   that was proven to the judge would it become

11   "shall."

12   MS. DAVIS: That's correct.

13   MS. DRENNAN: Is that correct? So that

14   kind of maybe corrects the -- or addresses

15   the "shall" issue in Number Two. It doesn't

16   address it in Number One because there's no

17   discretion of the judge in Proposal Number

18   One.

19   MS. DAVIS: I think the reason that the

20   subcommittee, when we talked about it, since

21   one of the concerns that was raised in both,

22   I think, in the prior discussions of the

23   committee and the Court was the time factor

1   and the burden on the Court if you had to in

2   every instance when that's raised involve a

3   hearing, which I think they would have to do

4   under the proposal that we had here because

5   -- to the Court, it was a reason for

6   deviating.

7   So, again, that's a difference. The

8   proposal was just an additional reason to

9   deviate. The Proposal One and Two are

10   proposal to the definitions. So that is a

11   section not to forget.

12   But so Number One was to take out the

13   need for the Court to have to be involved in

14   these situations. It was just a straight,

15   you know, if they're doing training, if

16   they're doing education, just like the

17   current situation. If you're doing a job

18   search and you have child care while you're

19   searching for the job, that counts.

20   Now, obviously, some of the same

21   problems that you discussed, once somebody

22   gets a job, maybe it's six months later,

23   well, you're still stuck with whatever amount

1   the Court determines at that time. And the

2   only way you can get away from having to

3   actually pay for somebody's child care amount

4   when they're no longer job searching is to go

5   back and do a modification. It's the same

6   way here.

7   You know, if you look at the definition

8   of the child care, when kids age out, they

9   age out. You just have to go back and

10   modify.

11   So a lot of the dilemma, as y'all can

12   point it out, is true. I think Jim said it's

13   just the nature of the way the child support

14   guidelines have been drafted.

15   I think you're right. The second

16   proposal does involve the Court making the

17   decision. And it would have to be because of

18   Proposal Number Two and Number One are

19   changes to the child custody definition. So

20   that's the figure that goes to interest.

21   It just says -- and like Justice

22   Thompson said, when they looked at that

23   case -- and this is all brought about because

1   of the case that he mentioned. You know,

2   they looked at what the statute showed. It

3   says, you know, you can consider somebody

4   looking for a job, but you can't consider the

5   fact that they're finishing up a welding or a

6   law degree or whatever it happens to be or

7   whatever. That's just not in there.

8   And in that particular case, they

9   followed what the statue said, and it said

10   no. So that was brought to this committee's

11   attention to look at. That's how it came

12   about.

13   And so the committee's, before they sent

14   this proposal, original proposal to the

15   Supreme Court, felt that it should be a

16   reason for deviating to give the trial judges

17   and appellate courts something that the Court

18   could consider giving discretion to do that

19   but with these limitations and stipulations

20   that we put and also go to both parents,

21   though, the paying parent as well as the

22   nonpaying parent of the child.

23   THE HONORABLE THOMPSON: And, of course,

1   we can't look at all of this in isolation

2   from the other reasons that there may be a

3   deviation. And the intro to the reasons says

4   the guidelines -- you know, reasons for the

5   deviating may include.

6   So I don't know if we're going to say

7   "may" and then throw a "shall" in there

8   afterwards. And that's still my objection to

9   saying, you know, if it's proven by a

10   preponderance of the evidence, it shall be.

11   MS. DAVIS: Right. And the proposal

12   says the Court may consider in the proposal

13   that was rejected as a reason for deviating.

14   THE HONORABLE THOMPSON: Yeah. That's

15   already in the rule.

16   MS. DAVIS: Right. Well, that's what

17   we proposed in (g) that's on the first one we

18   sent to them --

19   THE HONORABLE THOMPSON: Yeah.

20   MS. DAVIS: -- the "may." The "shall"

21   is the language that is in the definition for

22   child support. And they use the language

23   "shall" throughout, so I think that's --

1   THE HONORABLE THOMPSON: Right.

2   MS. DAVIS: -- kind of why we did --

3   THE HONORABLE THOMPSON: Right.

4   MS. DAVIS: -- because it's a

5   definition, as opposed to a reason for

6   deviating.

7   THE HONORABLE THOMPSON: Oh, I

8   understand. Yes.

9   MS. DAVIS: Personally, I like what we

10 sent to the Court before, but I didn't feel

11 like we ought to necessarily just stop

12 without exploring it. Because if I have to

13 be the one that goes back to the Court, which

14 it may be somebody else next time, I want to

15 be able to say there was broad discussion on

16 this, and we looked at some different things

17 before we sent it back, if we sent back the

18 same thing or if we went to send back

19 something different.

20   THE HONORABLE PALMER: Well, since all

21 four items that we sent in, I want to say in

22 May or June of '17 or April of '17, were

23 rejected, maybe if we just send this one,

1   then we can find out if it is rejected and

2   why it is rejected.

3   Well, let's go ahead. I'm going to open

4   the floor. I personally like the one that

5   was sent in 2017, and I would just like to

6   say that we submit what is just basically

7   page 1 of your handout. That's my suggestion

8   on here.

9   Mr. Arnold, we'll just go person by

10   person. If you don't have anything, that's

11   fine too. If your suggestion is we just

12   don't send it at all, I don't see the need

13   for this, then that's your suggestion as

14   well.

15   That's something that's on the table.

16   MR. ARNOLD: If anything goes to the

17   Supreme Court, resending this is probably the

18   most friendly to me. In general, though, I'm

19   kind of philosophically opposed to embed this

20   into the rules to begin with.

21   THE HONORABLE PALMER: Okay. Judge?

22   THE HONORABLE McMILLAN: I agree with

23   resending or sending just exclusively the

1   original one, I mean, and from a practical

2   standpoint, plug your ears if I'm not

3   supposed to say this, as district court

4   judge, 150 cases on the child support docket,

5   out of those 150, you might have one attorney

6   present. Everybody is pro se.

7   We were already doing this. We were

8   just having them go and talk about it and

9   work it out amongst themselves because we

10   didn't have authority to do it. It was

11   already happening. You just had to get

12   everybody to agree to it because we couldn't

13   order it. So it would be nice to have some

14   guidelines for it. I mean, that's just the

15   hay-in-the-barn kind of thing. It's

16   happening.

17   We just have to take additional time for

18   everybody to go talk and see if they can find

19   grandma, aunt, uncle, and agree that it's a

20   good thing that Dad go to truck driving

21   school and Mom go to nursing school. Then,

22   they come back and say, Yes, Judge, we'll do

23   it.

1   So that's the boots-on-the-ground kind

2   of thing. We have been doing it. It's just

3   taking more time because we can't do it.

4   THE HONORABLE PALMER: Okay. Jim?

5   MR. JEFFRIES: I agree with

6   resubmitting the proposal on page 1, as you

7   mentioned.

8   THE HONORABLE PALMER: Jessica?

9   MS. DRENNAN: I like the Proposal

10   Number Two, 2018 Proposal Number Two,

11   changing the definition along with the

12   guidelines.

13   THE HONORABLE PALMER: So you want

14   Number Two. Do you want to change the word

15   "shall" to "may"?

16   MS. DRENNAN: No. Actually, I think

17   the "shall" only kicks in after the Court

18   makes the evidentiary determination, so that

19   doesn't bother me. The word "shall" doesn't

20   give me any worries.

21   THE HONORABLE PALMER: Okay. Justice

22   Thompson?

23   THE HONORABLE THOMPSON: I prefer the

1 proposal that was previously rejected. And I

2 was wondering if there was a possibility, and

3 I don't know -- Professor Davis, are you

4 generally meeting with the Supreme Court

5 prior to their consideration of these?

6 MS. DAVIS: If they ask me to come, I

7 show up. I mean, they asked me this

8 occasion, and on the preceding proposal, they

9 asked me and Billy Bell to come and speak,

10 so...

11 THE HONORABLE THOMPSON: Okay. Well,

12 if there is a presentation to be made in any

13 way, I would like to have some additional

14 research on whether or not this is a majority

15 view of the states. It seems like in the

16 cases that I've read on this subject, that

17 there are a lot of states that include

18 education as part of their child support

19 guidelines. And I think it would go a long

20 way to say we're very much in the minority.

21 MS. DAVIS: Yeah. This is from

22 Georgia. This is based on Georgia.

23 THE HONORABLE THOMPSON: Most of the

1   states, surrounding states, do have this

2   provision in their guidelines.

3   THE HONORABLE PALMER: Okay.

4   Stephanie?

5   MS. BLACKBURN: I actually prefer the

6   second proposal also mainly because it feels,

7   to me, that it would be implemented more

8   evenly across the state than just having it

9   as a reason for deviating from the

10   guidelines.

11   THE HONORABLE PALMER: Okay. Ms.

12   Moore?

13   THE HONORABLE MARY MOORE: I think I

14   would like to see it resubmitted as page 1.

15   And I agree with Judge Thompson on finding

16   out a little bit more on why and some of the

17   comments and reasons. And I think it's going

18   to be a work in progress.

19   Once we get that information back, then

20   we'll be able to better answer.

21   THE HONORABLE PALMER: Okay. Jennifer?

22   MS. BUSH: I think resubmitting the

23   2017 proposals.

1   THE HONORABLE PALMER: Okay. Lathesia?

2   MS. McCLENNEY: Same thought, resubmit

3   2017.

4   THE HONORABLE PALMER: Okay. Melody?

5   MS. BALDWIN: Same thing, resubmit.

6   THE HONORABLE PALMER: Amanda?

7   MS. COX: I do have some concerns with

8   resubmitting what's already been rejected

9   just for obvious reasons, but I do like that

10   one. I would volunteer that I would assist

11   in any way with the research because that's

12   kind of my thing. I can help with the

13   research of the 50 states, if the committee

14   decides to that.

15   THE HONORABLE PALMER: Okay. Kenneth?

16   MR. PASCHAL: Well, I'm going to be on

17   the minority here. I reject the concept

18   unless we put -- there's a clause preceding

19   the parent exhausted these avenues before it

20   enters the Court.

21   THE HONORABLE PALMER: Okay. Penny?

22   MS. DAVIS: I tend to favor -- I

23   recognize it's a burden on the Court if you

1   have a hearing. That bothers me because I

2   know that's a real issue. And, I guess, just

3   listening to the judges and practitioners,

4   despite that I still think it's -- in

5   balancing everything, I think it's better to

6   have the Court's involvement, rather than

7   have it for an indefinite period of time.

8   Even though child support by its nature

9   is fluid and people would have to go back, I

10   think may create a barrier to its passage.

11   If we do submit it, the first one, then

12   I'm suggesting -- whatever we decide to do.

13   I think we can take out the inappropriate

14   cases because I think that doesn't really add

15   anything to it, and it would be a little bit

16   different than sending it back to them. It

17   wouldn't matter a whole lot. But you sent

18   this, it was rejected, and then send it.

19   THE HONORABLE PALMER: What do you

20   mean, "inappropriate cases"?

21   MS. DAVIS: Well, we're saying

22   inappropriate cases that the Court may

23   consider. And I don't really think that adds

1   anything. I think we can take it out, so it

2   wouldn't be exactly the same thing that was

3   sent back if the decision of the body here is

4   to send that back. And then, so it will just

5   start with, The Court may consider, and read

6   the rest of the way.

7   And I'd certainly be happy to work with

8   Amanda if we wanted to beef up -- you

9   suggested the commentary to -- if the

10   evidence does reflect, research does reflect

11   that it is in keeping with the majority of

12   the states or majority of the southern states

13   around, however you want to do it, then we

14   can add something to the commentary.

15   I don't know if you want to delay to the

16   next meeting to do that or what.

17   THE HONORABLE PALMER: Well, we're not

18   sure when the next meeting is going to be.

19   There's going to be a lot of changes in 2019

20   in this very building alone as far as that

21   sort of thing. So I would really like to get

22   something. They meet on August 24th, I

23   believe.

1   MR. MEDARIS: They do. But they've

2 already got all of the rules they're going to

3 consider.

4   THE HONORABLE PALMER: Okay. So this

5 will not be sent.

6   MR. MEDARIS: I believe the next one

7 will be in October.

8   Yeah. They'll meet on rule issue again

9 on Halloween, actually.

10   THE HONORABLE PALMER: Okay. So we

11 still got time.

12   MR. MEDARIS: Judge, if I could just

13 make a couple of suggestions?

14   THE HONORABLE PALMER: Yes, sir.

15 That's Brad Medaris.

16   MR. MEDARIS: To help the committee,

17 the Court, and specifically Penny, whatever

18 the decision the committee makes, it may be

19 useful to write a memo to go along with it to

20 explain the committee's reasoning and include

21 within that, you know, Court, if you have any

22 concerns or questions, please submit them to

23 us, and we'll address them.

1   Because we have seen that done from

2   other committees, and the Court has been very

3   responsive to that. And that may keep Penny

4   from driving down from Tuscaloosa to

5   Montgomery to discuss this for a day. And I

6   think they welcome that, because it shows --

7   they get very skeptical if the rule is

8   proposed to them and looks like it was kind

9   of a knee-jerk rule. If you show them that

10   you put in a lot of work and live effort,

11   like having the state survey and whatnot, I

12   think that would have a big impact in their

13   deliberations, and, again, would save the

14   members of the committee a lot of time and

15   would get some feedback from the Court, if

16   they have any problems.

17   THE HONORABLE THOMPSON: Can I ask a

18   question?

19   When you submitted this proposal that

20   was rejected, did you also submit a change to

21   the definition at that time?

22   MS. DAVIS: No. We only sent one

23   suggestion -- one proposal of the three or

1   four topics we had. We just sent one. We

2   didn't send alternatives.

3   THE HONORABLE THOMPSON: Would we need

4   to change the definition?

5   MS. DAVIS: No. All this was another

6   reason to deviate so that -- I mean, well,

7   maybe I should ask.

8   THE HONORABLE THOMPSON: We're talking

9   about child care.

10   MS. DAVIS: Maybe I should ask you that

11   question since you're -- I mean, it's not an

12   issue before you now, so I guess you could

13   comment on.

14   I mean, I don't know if you feel

15   comfortable commenting on --

16   THE HONORABLE THOMPSON: I think you

17   would want to add education to child-care

18   cost just off the top of my head because it

19   wouldn't be within the definition of the

20   child-care cost.

21   MS. DAVIS: So, for example, what

22   you're suggesting is even if we sent a reason

23   for deviating, we should define child-care

1   cost to include incurred on behalf of the

2   children because of employment or job search

3   or education of either parent.

4   Would that one work?

5   THE HONORABLE THOMPSON: Well, we now

6   just have training and job search, so if we

7   added education to that list.

8   MS. DAVIS: Right now, the --

9   THE HONORABLE THOMPSON: Although, I

10   don't know if you wanted it to actually be in

11   there. There's a "shall" in there.

12   MS. DAVIS: Training is not in there

13   now. It's got because of employment, job

14   search.

15   THE HONORABLE THOMPSON: Right.

16   MS. DAVIS: We could add training or

17   education related to employment. So I don't

18   know. Maybe we need to have both Number One

19   as a reason to deviate. I don't know. I

20   really haven't thought. I'll have to --

21   MS. BALDWIN: If you did that, wouldn't

22   you have to accomplish what we're saying as

23   leaving it just as a deviation. You would

1   have to put a period at the end of the parent

2   on Proposal Number One; of either parent,

3   period. And then you'd have to repeat the

4   first part of that and then put "shall" be

5   at, and then that would still leave the one

6   as "shall" and the other as a reason to

7   deviate if you were going to do it that way.

8   That way, you would include it in child-care

9   cost definition, and nobody could argue,

10   well, it's not in the child-care cost anyway,

11   so you still can't do the deviation if that's

12   the case. But that would sort of accomplish

13   both if you were going to do that.

14   MS. DAVIS: Well, I guess -- I don't

15   know that we -- I don't remember if we

16   considered whether at the time we did the

17   deviation that we needed to look at

18   definition.

19   But, to me, if you're looking at reasons

20   for deviating, that means they're not already

21   covered by the definition.

22   THE HONORABLE PALMER: And Penny is

23   referring to -- there's a copy of the Alabama

1   Rules of Judicial Administration Rule 32.

2   It's page 1. Number One says, "Reasons for

3   deviating from the guidelines," is what she's

4   is referring to right now.

5   MS. DAVIS: Right. I guess, I just

6   didn't view it as -- if it's already in the

7   reason for deviating, you're already saying

8   it's different from what's already in the

9   guidelines.

10   THE HONORABLE THOMPSON: I guess my

11   problem is it's called child-care cost. And

12   I guess that kind of steers you back to the

13   definition of that.

14   MS. DAVIS: Right. And you vote on

15   that court and I don't, so it doesn't matter

16   what I say.

17   THE HONORABLE THOMPSON: I'm not saying

18   that I have the answer, but I'm just

19   wondering if it's a problem.

20   THE HONORABLE PALMER: Well, all right.

21   We need to move on because we've got one more

22   topic to cover here.

23   MS. DAVIS: Can I make a suggestion?

1   THE HONORABLE PALMER: Yes, ma'am.

2   MS. DAVIS: I make a motion that our

3   subcommittee take into consideration what's

4   been said here and add Justice Thompson to

5   that subcommittee and maybe Amanda.

6   THE HONORABLE PALMER: Okay.

7   MS. DAVIS: And come back, whenever we

8   do, with a little more research and also

9   study the point -- we didn't talk about

10   whether we needed to do both.

11   THE HONORABLE McMILLAN: Right.

12   THE HONORABLE PALMER: So is that a

13   motion?

14   MS. DAVIS: It is a motion.

15   THE HONORABLE PALMER: Okay. Anybody

16   second that motion?

17   THE HONORABLE McMILLAN: Second.

18   THE HONORABLE PALMER: All right. All

19   in favor say aye.

20   (Whereupon, committee members in

21   favor so indicated.)

22   THE HONORABLE PALMER: Will you feel

23   comfortable doing that?

1   THE HONORABLE THOMPSON: Sure.

2   THE HONORABLE PALMER: Okay. So with

3   that, we're going to come back maybe before

4   the end of the year. If the schedule comes

5   out, Bob says he's got all the football

6   schedules for every school in the state.

7   MR. MADDOX: Just two, the two main

8   ones.

9   THE HONORABLE PALMER: Two main ones

10   for --

11   MS. DAVIS: Alabama and who?

12   MR. MADDOX: Auburn.

13   MR. ARNOLD: I think that's a good

14   question.

15   THE HONORABLE PALMER: UAB, okay. And

16   that Justice Bill Thompson be added to the

17   committee and that Amanda Cox be added to the

18   committee.

19   Anybody object, or is that open for

20   further discussion?

21   (No response.)

22   THE HONORABLE PALMER: Well, all right

23   then. Before we go, we have to find a new

1   date.

2   Also, just a little bit of housekeeping

3   before Jennifer gets started. You have your

4   travel voucher in front of you, so just be

5   sure to fill that out, and as always, they

6   have filled out a sample that you need to do.

7   All right. So do we need to take any

8   sort of five-minute break or anything?

9   Are you okay, Madam Court Reporter?

10   Well, I show it to be 11:11, and we're

11   going to try to get out of here in

12   approximately an hour.

13   So your next handout is going to be --

14   it's two. It's called "Guideline, Overview,

15   Final Rule," and then the actual rules that

16   have some red highlights in there and

17   strikeouts.

18   So with that, Jennifer Bush, if you

19   would start proposed changes to the child

20   support guidelines rules and forms per

21   federal regulations.

22   MS. BUSH: In previous meetings, we

23   have reviewed the federal regulations that

1   have gone into effect that will impact the

2   child support guidelines, and we also spent a

3   meeting reviewing the proposed changes that

4   DHR had for actual Rule 32, and that's what

5   you have in front of you that has those

6   changes in it. Unless someone wants me to

7   review something, I think now it would be

8   open for discussion and questions.

9   THE HONORABLE PALMER: Well, my first

10   question is do we, as the state of Alabama,

11   have any flexibility other than to change the

12   words child support award versus child

13   support order, some basic language like that?

14   Do we have any other flexibility as far

15   as whether or not what we will and will not

16   adopt out of these new federal guidelines, or

17   is this going to be pretty much mandatory if

18   we are going to be collecting, I guess,

19   federal money?

20   MS. BUSH: The federal regulations are

21   mandatary for the receipt of federal funds.

22   So we do have to adopt changes that reflect

23   the federal regulations.

1   THE HONORABLE PALMER: All right. So

2   is there anything really for us to vote on

3   for this or to change other than like you

4   have done for us with some minor words, like

5   versus the word award to order. But I think

6   even the changes -- and I'm referring to the

7   one that has the red strikeouts on it in

8   front.

9   Is that something that we have done as

10   the state to make some changes towards the

11   federal, or is this the federal's changes

12   with the red strikeout?

13   MS. BUSH: No. This is not -- with the

14   red strikeout, that is DHR had a committee go

15   through and look at the Rule 32 Guidelines

16   and look at the federal regulations, and we

17   went line by line, and these are the DHR

18   proposed changes to comply with the federal

19   regulations.

20   THE HONORABLE PALMER: To our actual

21   guidelines that are in what we use right now,

22   our Rule 32?

23   MS. BUSH: Yes.

1   THE HONORABLE PALMER: The red or the

2   red strikeout is to make our current rules

3   compliant with the federal rules; is that

4   correct?

5   MS. BUSH: Yes.

6   THE HONORABLE PALMER: Okay.

7   MS. DAVIS: Can I ask one question?

8   The only thing I looked at that I had a

9   question about regarding, when we have the

10   flexibility to do anything, and I'm not

11   opposed to, I think we should have it, but

12   the gross income of Veterans benefits, that

13   was based on the case law, wasn't it?

14   Is that the only place?

15   MS. BUSH: Yes.

16   THE HONORABLE PALMER: What page is

17   that, please?

18   MS. DAVIS: I'm sorry.   Page 4.

19   That is the only thing that I noticed in

20   looking that looked like it was not part of

21   the requirement.   Now, I'm not opposed to it.

22   I think it's a reflection of case law, which

23   I think is what's the law.

 1   THE HONORABLE THOMPSON: Yeah. On

 2   page 12, it has Goldman versus Goldman, 2015

 3   case.

 4   MS. DAVIS: Right. I think we should,

 5   but that was the only place that I noticed

 6   might not be mandated; is that correct?

 7   MS. BUSH: That is correct.

 8   MS. DAVIS: Okay. And, again, I'm not

 9   opposed to it. I think it's appropriate and

10   a good decision by the appellate courts.

11   THE HONORABLE PALMER: So then,

12   Jennifer, do we then send -- let's say the

13   one with red strikeouts, is that what we

14   would send to the Alabama Supreme Court for

15   their adoption for them to review?

16   MS. BUSH: If that is what the

17   committee votes on and chooses to send, then

18   yes.

19   THE HONORABLE PALMER: I do. I'm on

20   page 13 where it says, in subsection

21   32(B)(5), The factors that should be

22   considered when determining voluntary

23   underemployment or unemployment were changed

1   to be consistent with the requirements in

2   federal child support regulations. See 45.

3   Incarceration may no longer be treated

4   as voluntary unemployment when establishing

5   or modifying child support.

6   It's a "may" and not a "shall." So is

7   that some discretion?

8   MS. BUSH: I'm going to go and refer to

9   the federal regulation, so give me a moment.

10   THE HONORABLE PALMER: Yes, ma'am.

11   MS. DAVIS: I don't think it's

12   discretionary. I think it's grammar issues

13   here, how you say it.

14   MS. COX: I think it's supposed to mean

15   that you are not permitted --

16   MS. DAVIS: You're not permitted.

17   MS. COX: -- to use that as a reason.

18   MS. BUSH: My memory is it's you may

19   not/shall not. It should not happen, so we

20   may need to change that "may" to "shall."

21   MS. DAVIS: Could you say incarceration

22   can no longer? That way, you avoid the

23   may/shall issue. This is the comments.

1   MS. BUSH: This is what the federal

2   regulation says.

3   THE HONORABLE PALMER: What page are

4   you on?

5   MS. BUSH: I am looking at the

6   strike-through version that had previously

7   been provided. It shows the federal

8   regulations as they existed, and then on the

9   far right, there's the added and striking

10   through version.

11   THE HONORABLE PALMER: Yes. And

12   everybody should have that in front of you,

13   so do you have that page? There's a

14   handwritten page number, and there's a

15   typewritten page number.

16   MS. BUSH: It is on page 3.

17   THE HONORABLE PALMER: Handwritten or

18   typewritten?

19   MS. DAVIS: I think you're referring to

20   two different things.

21   MS. BUSH: It's on page 30 -- you're

22   looking at that. I'm looking at the federal

23   regulations to tell you what the federal

 1   regulation says.

 2   MR. MADDOX: It's handwritten page 5.

 3   MS. BUSH: Handwritten page 5.

 4   THE HONORABLE PALMER: Okay.

 5   MS. BUSH: And if you see under three,

 6   on the far right, it's underlined and it

 7   says --

 8   THE HONORABLE PALMER: It does say

 9   "may."

10   MS. BUSH: As a committee within DHR,

11   we stayed as closely as possible with the

12   language in the federal regulation. I

13   believe the intent is you shall not. But if

14   the federal regulation said "may," we put

15   "may" in there. I believe the intent is not

16   that it be considered in some cases and it

17   not considered in others.

18   I believe it should no longer be a

19   consideration.

20   THE HONORABLE PALMER: Okay.

21   MS. BUSH: I believe that is intent.

22   THE HONORABLE PALMER: Well, we'll let

23   Justice Thompson make that decision. He can

1   decide the "may" or the "shall."

2   Okay.

3   MR. ARNOLD: Question: Jennifer, am I

4   hearing correctly that in these forms,

5   anything that's in red is a required change

6   to come in compliance with the federal reg?

7   MS. BUSH: On the form, the forms are

8   to reflect the changes in Rule 32. The

9   federal regulations -- you know, every state

10   has different guidelines, and every state has

11   different forms. And so these changes in the

12   forms are to reflect the changes in the text

13   of Rule 32.

14   MR. ARNOLD: Okay. That answers my

15   question.

16   THE HONORABLE PALMER: So, again, on

17   where it's the CS-41 and it says: "The

18   healthcare coverage company name and address

19   are."

20   MR. ARNOLD: That bothers me.

21   MS. BUSH: And we included this so that

22   you can capture that information. It may --

23   right now, it says health insurance. But we

1   want to know is it All Kids, is it Medicaid,

2   is it --

3   THE HONORABLE PALMER: Blue Cross Blue

4   Shield.

5   MS. BUSH: Yes. So that was to expand

6   the language from just an insurance to other

7   providers.

8   THE HONORABLE PALMER: I can just see

9   that changing. I mean, of course, when you

10   do a CS-47, the employer's information, that

11   changes too. But on the day that is filled

12   out, that's what you need.

13   MR. ARNOLD: Would it be possible to --

14   that line that says the healthcare coverage

15   company's name and address are, I understand

16   what you're saying. I just have a problem

17   with disclosure of that information for

18   various reasons.

19   But would you not be solving the

20   information you needed just by saying the

21   coverage is through the private care,

22   Medicaid, All Kids, or whatever.

23   MS. BUSH: It would not, and here is

1   why: We have separate, different regulations

2   other than what we're addressing today that

3   require us to send what's called a National

4   Medical Support Notice to employers. And so

5   we have medical regulations as well. And so

6   what happens is when that insurance or if

7   there's any medical insurance, private

8   insurance, when we find out there's private

9   insurance, we're mandated to send a notice to

10   that employer or the insurance company,

11   however, to notify them that this child is

12   now covered under this insurance, and you

13   need to add that child.

14   And so that's to capture that

15   information.

16   THE HONORABLE McMILLAN: I just have

17   one question of page 3 on the bottom. I

18   notice they strike through the word

19   "insurance" everywhere and put "care."

20   I don't know if that's -- where it says

21   health insurance, it may not mean anything.

22   But y'all went through the links to remove

23   "insurance" and put "care."

1   MS. BUSH: Okay. We left that, and I'm

2   going to go back and find the actual federal

3   regulation. I remember that one because we

4   left that because that's what the federal

5   regulation said. It changed the word from

6   "insurance" to "care" everywhere else, but

7   when you look at that specific part, it left

8   "insurance."

9   And by the way, that is one thing that

10   the proposed comments will do. It will point

11   to every single change, and it will direct

12   you to the federal regulation that that

13   change is referring to.

14   So let's go look at that.

15   Okay. If you look at page 13 of your

16   proposed comments, the red underline. It's

17   going to say a little bit above halfway up.

18   In subsection (b)(7)(c)(1), "insurance"

19   remains to be consistent with 45 C.F.R.

20   303.31(a)(1).

21   Because that was the language they used.

22   And that would be on the -- I'm looking at

23   the -- yeah, that's on page 6 that's printed

1   and in the federal regulation.

2   MR. MADDOX: I think Judge McMillan was

3   referring to Subsection (a)(3)(f), which is

4   the comments on page 12.

5   THE HONORABLE PALMER: Twelve of the

6   proposed guidelines; is that correct?

7   MR. MADDOX: Yes, on page 12 of the

8   proposed changes.

9   THE HONORABLE PALMER: (A)(3)(f).

10   Okay.

11   MR. MADDOX: Citing 45 C.F.R 303.8(d).

12   MS. BUSH: So you're talking on page 3

13   of the proposed guidelines (f), where it

14   says, The need to provide for the children's

15   healthcare needs in the order through health

16   insurance or other means.

17   Is that what you're --

18   THE HONORABLE McMILLAN: Yes, ma'am.

19   MS. BUSH: Okay.

20   MR. MADDOX: So that would refer back

21   to 45 C.F.R. 303.8, on page 13 of the federal

22   regulation handout, handwritten page 13,

23   Subsection (d).

1   THE HONORABLE McMILLAN: I see. And it

2   has the term health insurance, which y'all

3   just had to use.

4   MS. BUSH: That's right.

5   THE HONORABLE McMILLAN: That was just

6   my question. They had to change it

7   everywhere else.

8   MS. BUSH: And we noted at the time

9   they changed it everywhere else, but we

10 stayed --

11   THE HONORABLE McMILLAN: Sure.

12   MS. BUSH: -- as close as we could to

13 the federal regulation language.

14   THE HONORABLE PALMER: So if we submit

15 this to the -- now, we technically have got

16 four years to adopt this or something or

17 parts of it one year, parts of it is two

18 years, parts of it is three years, as I

19 remember.

20   MS. BUSH: Well, we've been looking at

21 this for over about a year and a half now, so

22 time is running short. And we don't want to

23 wait until the last minute to adopt it

1   because, you know, we would need to implement

2   policy change.

3   You have to implement CS-41, 42 changes

4   on the AOC. There's more than just adopting

5   it. For DHR, as an agency, to get this in

6   place, we need policy. Sometimes they need

7   to change the administrative code. All of

8   that takes time. So we don't want to wait

9   until the last minute to do that. We want to

10   have it in place well before the time limit.

11   THE HONORABLE PALMER: Okay. Does

12   anybody have anymore questions or concerns

13   about what's in front of you because it

14   sounds like it's pretty much mandatory that

15   we take it like it is anyhow; is that

16   correct?

17   MS. BUSH: The regulations are

18   mandatory, yes, ma'am.

19   THE HONORABLE PALMER: Okay.

20   MR. JEFFRIES: May I ask a question?

21   I'm looking at the form, Jennifer. I don't

22   have a page number. It's the proposed CS-41.

23   MS. BUSH: Yes.

1   MR. JEFFRIES: And where it says, am I

2   reading this correctly, that the purpose of

3   the addition under health insurance, the

4   health insurance box, there's an added

5   provision of healthcare coverage is available

6   as opposed to is in place.

7   I guess's that the whole point of this.

8   Is that required or --

9   MS. BUSH: Well, many times on a

10   paternity case, a person may have insurance,

11   but they're not covering the child because

12   they're not established as the parent, and so

13   the child would not be covered, but they can

14   be covered once the person has that court

15   order in place saying they're the parent.

16   They can take it to their employer or

17   healthcare provider and show that.

18   So that's why it's not necessarily

19   already coverage that's available. And

20   sometimes people -- maybe paternity is

21   already established, but the person has not

22   been ordered to pay support or maybe it's

23   implied paternity through an acknowledgement

1   of paternity or, you know, some other way.

2   But they haven't been ordered to pay child

3   support, and they haven't been ordered to

4   provide child support. So this captures that

5   the coverage is available, even if it's not

6   actually in place for the child.

7   MR. JEFFRIES: Just seems like a fairly

8   significant layer of just an additional

9   perhaps unnecessary information that has to

10   be -- that we are now going to require to be

11   included in the form.

12   MS. BUSH: Well, you would have a

13   checkbox, not covered by health coverage.

14   And if you skip the red, the other checkbox

15   was covered by health coverage. This is

16   letting you know you're either covered or not

17   covered, but what if the child -- what if

18   coverage is available at a certain cost, but

19   the child is not covered. That's what that

20   is to capture.

21   This child is not covered, but they

22   could be for X-dollars per month.

23   MR. JEFFRIES: Yeah. I mean, my

1   thought is that seems unnecessary to put that

2   in there. It's either an issue or it's not.

3   If it's an issue, somebody is going to

4   be saying, hey, I want to be the one to be

5   allowed to cover the child on my insurance,

6   and here's what is available, and here's what

7   the cost is.

8   MS. BUSH: Well, healthcare coverage is

9   going to be an issue in every child support

10   case. And so if both parties had it, they

11   could both check this, and it would be up to

12   the judge to decide.

13   MR. JEFFRIES: If they are covered.

14   MS. BUSH: Yeah, if they're covered.

15   THE HONORABLE PALMER: But if you send

16   a national letter out and say cover this

17   child, do y'all -- say, it's not a divorce,

18   and there's two separate coverages, do y'all

19   say Blue Cross Blue Shield cover this child,

20   Viva Health cover this child, so the child

21   has got two insurances going on and both

22   parents are paying.

23   How is that decided?

1   MS. BUSH: I may have to refer to

2   someone else.

3   THE HONORABLE PALMER: Sure.

4   MS. BUSH: But it's my understanding

5   that normally there's just one insurance

6   carrier. Normally, there's case law that

7   says you shouldn't put two different

8   insurances into the Rule 32 guidelines and

9   thereby artificially inflate the child

10   support amount. Normally, we just have one.

11   If a court ordered, if a court said a

12   child was going to be covered by two

13   different insurances, then we're going to

14   follow the court order.

15   THE HONORABLE PALMER: Because

16   sometimes you have, I've got health

17   insurance, but I don't have dental, and he's

18   got dental insurance. So you include my

19   health and his dental, and you give people

20   credit, and it gets a little confusing.

21   But from what I thought I heard you say,

22   though, that you send you a letter out to

23   that healthcare provider and say cover this

1   child. But that's only after an order comes

2   out?

3   MS. BUSH: It's a federally mandated

4   form that we just send the information to the

5   insurance carrier, employer, whoever it is,

6   to let them know about the insurance -- the

7   order and the insurance that's been ordered.

8   THE HONORABLE PALMER: So it's after an

9   order?

10   MS. BUSH: Yes. It's after an order,

11   and we are notifying that provider that here

12   is an order.

13   MR. ARNOLD: How do you distinguish?

14   Because I think your question is well-taken,

15   and maybe I'm just not hearing it, which is

16   likely. Parents separated for a long time,

17   and this is a divorce situation. I

18   understand that's what I'm speaking out

19   about. They have been separated. The wife

20   is employed. She's got insurance through

21   Viva Health. Husband has Blue Cross. They

22   both disclose on this form my coverage is.

23   The order says husband is to pay child

1   support, provide health insurance coverage.

2   The wife's information is disclosed.

3   Is the wife's employer carrier going to

4   receive a letter saying this child has to be

5   covered?

6   MS. BUSH: No. Just the person who is

7   ordered.

8   MR. ARNOLD: So you do go through and

9   compare the CS-41s with the actual order to

10   determine what carrier receives that national

11   letter you're talking about?

12   MS. BUSH: The only carrier that

13   receives it is the one that's ordered to

14   provide.

15   MS. ARNOLD: So if I'm representing

16   someone and they're not going to be the one

17   ordered to provide, to be safe, I would leave

18   the identity of that carrier off the form?

19   That's what I'm asking.

20   How do you distinguish? I see what

21   Judge Palmer is concerned about. Husband is

22   ordered and he complies and provides

23   insurance, but your agency sees a CS-41 for

1   Mom and sends that carrier.

2   MS. BUSH: No. We're not going to

3   operate off of the CS-41 because that's not

4   an order. We're only going to operate off

5   the order. And if the order says Father to

6   pay or Mother to pay, then we're going to

7   determine the insurance company or provider

8   for that person and send the letter to that

9   person.

10   MR. ARNOLD: Okay. You answered my

11   question. You are going to discern?

12   MS. BUSH: Yes. Yes.

13   MR. ARNOLD: Okay.

14   MS. BUSH: We're not just gathering up

15   all the CS-41s and sending notices to every

16   insurance company on the CS-41. We're going

17   by court order. If a person is ordered to

18   provide insurance, we then determine that

19   carrier and send that letter.

20   MR. ARNOLD: Okay. That's very helpful

21   and very much a relief.

22   THE HONORABLE PALMER: Well, I have

23   been ordered to carry the insurance. I quit

1   or lose my job. Now I no longer have

2   insurance. Is that insurance company not

3   going to send DHR a letter saying Julie

4   Palmer left her job and this coverage is --

5   how is that going to work?

6   MS. BUSH: You know, we have policy on

7   that. I don't know if I'm fully prepared to

8   go in to discuss of the national medical

9   support notice policy today. I did not know

10   we were going to go into that.

11   THE HONORABLE PALMER: Well, I was just

12   asking because I know sometimes income

13   withholding orders and things like that get

14   rejected because that person no longer works

15   here, and but then if they -- you know, the

16   only time you don't know that they don't work

17   there is the checks stop coming in.

18   MS. BUSH: But the reason we put this

19   on the form was so that the information would

20   be available to the Court, so the Court would

21   know what healthcare coverage was available,

22   what the cost would be, and if there is more

23   than one source of coverage, the Court would

1   make a decision, pick one, order it, and then

2   we would have that information.

3   THE HONORABLE PALMER: Sure. Okay.

4   Any other discussion on this?

5   MR. JEFFRIES: My point in raising that

6   was if that language about the availability

7   of whatever insurance is out there that's

8   required by the proposals from the federal

9   government, then we don't have a choice, and

10   there's no need to discuss it.

11   If we do have a choice and it's not

12   necessarily required, I don't necessarily see

13   the purpose in having it be required to be

14   provided from every litigant that comes

15   forward. If it's an issue, the court is

16   going to know about it anyway.

17   THE HONORABLE MARY MOORE: Mary Moore

18   from Perry County. While she's looking for

19   that, I think when we're speaking on child

20   support obligations and these income

21   statements and affidavits, we have to also go

22   back to what Judge McMillan said.

23   A lot of people that are coming into

1   court are pro se. This information that's

2   provided on this form could be very helpful

3   for a court because they would not know the

4   questions to ask or how to ask those

5   questions. I mean, I think it's -- and I see

6   that too on the clerk's side lots of times.

7   You know, people will call and ask us what's

8   on the affidavit. I think it would be a good

9   thing even if it's not federally mandated.

10   MS. BUSH: Okay. If you look at the

11   regulation 303.31(6). It's on page 6.

12   THE HONORABLE PALMER: Typewritten six.

13   MS. BUSH: Okay. Are y'all ready?

14   THE HONORABLE PALMER: Yes.

15   MS. BUSH: This talks about securing

16   and enforcing medical support obligations.

17   And just know that you have to address -- one

18   thing this says is you have to address

19   healthcare for the children in every single

20   order. And so this first (a)(2) defines

21   healthcare coverage.

22   Then, if you flip on through here, look

23   at --

1   MS. DAVIS: Is (b)(1) little i? Is

2   that where says include healthcare coverage

3   that is accessible to children?

4   Is that where it comes from?

5   MS. BUSH: See, the court has to --

6   when you look through all of this, the court

7   has to make a decision that this healthcare

8   is accessible, reasonable in cost. It is

9   under (3)(i): Establish criteria which are

10   reflected in a record to identity orders that

11   do not address healthcare needs of the

12   children based on -- then you have to

13   evidence that healthcare coverage may be

14   available to the other parent at reasonable

15   cost.

16   You're not going to know the reasonable

17   cost unless you capture the amount.

18   MR. JEFFRIES: Can I comment, Jennifer?

19   MS. BUSH: Yes.

20   MR. JEFFRIES: It seems to me, if you

21   look at (d)(1), it's talking about -- the

22   part about being available is in reference to

23   specifically the parent that is responsible

1   for providing the medical support, and I

2   think that's the clarification.

3   MS. BUSH: I think you're right.

4   MR. JEFFRIES: I can stand to be

5   corrected here too.

6   MS. BUSH: And the court doesn't know

7   who is going to be responsible for the health

8   insurance until it has the information before

9   it because it's not always the payor or the

10   obligor. It's not always the noncustodial

11   parent. It may be the custodial parent.

12   And the court won't know the reasonable

13   cost unless they have that information in

14   front of them.

15   MR. ARNOLD: But identity of the

16   private carrier doesn't in and of itself

17   reveal the cost. The disclosure identity of

18   the carrier in a private insurance situation

19   is a concern to me.

20   MS. BUSH: I -- okay.

21   MS. DRENNAN: It's not a cost provision

22   number on the provisions. I don't know that

23   this fixes -- I'm not saying this clears up

1   your objection. But on this form, it says

2   healthcare coverage is available at a cost of

3   blank per month. And then it wants you to

4   write down here in the comment the healthcare

5   coverage company's name and address are X.

6   And it sounds like to me you're

7   contemplating this for litigation, as if

8   maybe the judge wouldn't otherwise be

9   provided it. But like when you settle it, I

10   mean, I don't see that there would be a

11   reason for it, so both points are well-taken.

12   THE HONORABLE PALMER: All right.

13   Well, anybody propose that we go ahead and

14   send those as presented to us, these being

15   Alabama Rules Judicial Administration 32 with

16   the red strikeout to the Alabama Supreme

17   Court for them to consider adopting and will

18   -- Brad, will anybody need to go, like Ms.

19   Bush, and discuss this with the Alabama

20   Supreme Court?

21   MR. MEDARIS: That would be up for the

22   Court. They would invite somebody.

23   But I think, again, a memo explaining

1   why this is being done will be extremely

2   helpful and maybe a copy of the regulations

3   along with it.

4   THE HONORABLE PALMER: Sure.

5   Definitely.

6   But is everybody in favor of sending

7   this to the Supreme Court, not for their

8   August meeting but for their October 31st

9   meeting considerations with the memos?

10   MS. DAVIS: I'll make a motion so we

11   can start the discussion we do send it to the

12   Court as presented by the DHR here.

13   THE HONORABLE PALMER: And that was

14   Penny Davis.

15   Any further discussion? Any second?

16   THE HONORABLE MARY MOORE: Second.

17   THE HONORABLE PALMER: Mary Moore

18   seconded.

19   All in favor.

20   (Whereupon, committee members in

21   favor so indicated.)

22   THE HONORABLE PALMER: Any opposed?

23   Steve Arnold so noted.

1   MR. JEFFRIES: I would say opposed with

2   my concern, I guess.

3   MR. ARNOLD: My opposition is limited

4   to that one concern. I don't see that on the

5   CS-41 form, which is not the order. I

6   understand the requirement to disclose the

7   private insurance company's name and address.

8   I see some real privacy concerns.

9   I don't see that that is actually

10   required by the regulations you identified to

11   us. I see the amount is, availability is. I

12   get that. But I have some privacy concerns,

13   especially in this day of lack of computer

14   integrity and some other things that that

15   particular information I don't think is

16   required. My only opposition to the motion

17   is that.

18   THE HONORABLE PALMER: Okay. So noted.

19   And, Mr. Jeffries, that's yours as well?

20   MR. JEFFRIES: I agree with Steve.

21   THE HONORABLE PALMER: Okay. Well, I

22   believe the majority carries, so we will send

23   this to the Alabama Supreme Court along with

1   a memo as to why we are sending this.

2   MR. MEDARIS: Can we put on the record

3   who is going to be responsible for putting

4   together the memo so there won't be any

5   confusion?

6   THE HONORABLE PALMER: Well, I believe

7   Jennifer Bush and myself. Is that all right

8   with you, Jennifer?

9   MS. BUSH: Yes, ma'am.

10   THE HONORABLE PALMER: All right. Now,

11   we have comments from the public. I believe

12   we've got -- I see four people. I think

13   three of them work for the Department of

14   Human Resources. I don't know who the other

15   gentleman is, but I've seen his face before.

16   Okay. Now, coming back sometime before

17   now and the end of year, Bob, because really,

18   I would think the only thing to come back for

19   would be what was discussed earlier, and that

20   is their proposed education expense.

21   THE HONORABLE THOMPSON: If I could go

22   back to that particular issue, I think I may

23   have answered my own question. I don't

1   believe that we need to amend the definition

2   of the child-care cost. We submit this. We

3   may want to change it, the wording of it, a

4   little bit but --

5   THE HONORABLE PALMER: Well, then.

6   Let's go back and revisit it. We've got some

7   time.

8   Earlier. When we were going around the

9   room, I had ten people that wanted to

10   resubmit the one that was rejected with the

11   modifications because there's 14 people in

12   the room: Ten that wanted to, two that said

13   no, and two that wanted to do Proposal Number

14   Two.

15   It was also suggested earlier that we

16   don't send the exact thing, that we take out

17   inappropriate cases, just take that sentence

18   out and start with "The Court may consider

19   child-care cost associated with the training

20   or education of a parent necessary to obtain

21   a job or enhance earning potential not to

22   exceed a reasonable time as determined by the

23   Court if the parent proves that by

1　preponderance of the evidence that the job

2　training or education will benefit the child

3　being supported."

4　　　And I don't know if there's anymore to

5　that one. That's where my mine ends. And

6　then we have the comments.

7　　　THE HONORABLE THOMPSON: What I would

8　propose is that we change child-care cost to

9　any additional costs incurred for child care.

10　That way, it kind of takes you away from that

11　definition of child-care cost.

12　　　And we could even add "not enumerated"

13　in the definition of child-care cost, and

14　then it could be associated. We may not want

15　to put all of that in there, but at least, it

16　says "additional cost" instead of just label

17　it child-care cost.

18　　　THE HONORABLE PALMER: Comment?

19　　　MS. DAVIS: I'm sorry. Let me make

20　sure -- so it would to read, The Court may

21　consider the cost associated with child care.

22　　　Is that what you're saying?

23　　　THE HONORABLE THOMPSON: I would say,

1   The Court may consider any additional cost

2   incurred for child care associated with the

3   training or the education of any parent.

4   THE HONORABLE PALMER: Okay. Jessica?

5   MS. DRENNAN: Just as far the word

6   "additional," that would concern me if it was

7   the parent who was maybe the noncustodial

8   parent that had no existing child-care cost.

9   I mean, is someone going to argue over the

10   fact that they're asking for child-care cost,

11   and it's not, in fact, additional. It's

12   brand new, and they didn't have them before.

13   Can we just leave the word "additional"

14   out?

15   THE HONORABLE THOMPSON: That's a good

16   point.

17   THE HONORABLE PALMER: Any response to

18   that? Melody?

19   (No response.)

20   THE HONORABLE PALMER: Okay. So I have

21   this, now we are going to delete "in an

22   appropriate case." That's going to be

23   deleted. Start with capital, "The Court may

1   consider additional."

2   THE HONORABLE THOMPSON: No

3   "additional." I would say no "additional."

4   THE HONORABLE PALMER: Okay. So take

5   the word "additional" out.

6   Okay. Cost incurred for child care

7   associated with the training or education of

8   a parent.

9   So put those words in?

10   MR. JEFFRIES: I have a comment about

11   that.

12   THE HONORABLE PALMER: Okay. Yes, sir.

13   I know there are specific definitions of what

14   type of child care is included in a regular

15   child support calculation. Any cost.

16   I'm trying to brainstorm in my head

17   about what kind of cost might need to come up

18   with for a client of mine. Does that include

19   mileage? Does that include -- it seems a

20   little broad to me.

21   Does that include you have to travel and

22   buy a hotel room to go to an interview. Does

23   that include -- it seems like we are kind of

1   getting away from the actual

2   childcare/daycare type of expense if we add

3   language like that. As soon as you give

4   somebody -- as soon as you give an attorney

5   an opening to start parsing those words.

6   THE HONORABLE THOMPSON: Would taking

7   "any" out of there help you any?

8   MR. JEFFRIES: Maybe adding "reasonable

9   cost" or giving some indication to the Court

10   that this is not just a free for all now for

11   any costs.

12   THE HONORABLE PALMER: Well, if you'll

13   look at the actual Alabama Rules of Judicial

14   Administration Rule 32, the very last page,

15   page 37 handwritten, it has definitions of

16   full-time rates, part-time rates, a center, a

17   group family daycare, and a family daycare.

18   MS. DRENNAN: Well, shouldn't we add

19   that restriction to the deviation because the

20   deviation may or may not include the

21   definition of child care costs does include

22   this. It restricts it to that. But this is

23   a deviation.

1   So if we're not bound by the definition

2   of child-care cost and we want to restrict

3   those costs to these guidelines, I think we

4   would have to state that in the deviation.

5   MS. DAVIS: Yeah. I think if you use

6   the term "child-care cost," it would go back

7   to --- "child care" is defined term. And I'm

8   not sure it was intended.

9   But what Jim is saying, you want to take

10   that out, so you wouldn't have to deal

11   with --

12   THE HONORABLE THOMPSON: Right.

13   MS. DAVIS: But if you take that out,

14   what Jim is saying, these young

15   whippersnapper attorneys out here are going

16   to see it as an invitation to look at the

17   book costs, mileage, anything else, which if

18   that's what you want, I think that's the way

19   it's defined. But if you want to limit it to

20   it's just -- what I thought we were talking

21   about was limiting it to just the fact that

22   you would have additional times that you

23   would need child care above and beyond what's

1   permitted now.

2   Job search, you can consider putting the

3   child in daycare for, you know, every Friday

4   when you drive off and go and do whatever.

5   And you're really talking about small amounts

6   of money because there's already a ceiling on

7   the amount because DHR says it may cost you

8     $600 to send your kids to -- I sent mine to

9   Calvary Baptist, and it was much higher than

10   what DHR would have allowed, you know, had

11   that been the situation where Rule 32

12   applied. So really talking about small

13   amounts of money here.

14   But if you broaden it beyond child care,

15   you're really talking about a lot more money.

16   I would think that would really be opposed by

17   the -- my speculation would be that would

18   probably have a greater impact on the Court's

19   decisionmaking than what we sent before.

20   MR. JEFFRIES: I agree. If we send

21   that, I just think we need to be careful

22   about the language and opening it up to all

23   of that. That might be exactly what Judge

1   Thompson wants to do.

2   MS. DAVIS: I think he's trying to

3   solve the problem.

4   THE HONORABLE THOMPSON: It's not -- I

5   do, you know, again, like to give the

6   discretion to the trial court to sit there

7   and determine.

8   MS. BALDWIN: I think it might end up

9   being similar to what you suggested earlier,

10   and that is maybe make some change to

11   Proposal Number One. Putting a period and

12   then making -- if we're going to leave the

13   child-care cost associated with the training

14   and education discretionary and job search

15   not, you could actually fix it by doing the

16   period and then put --

17   THE HONORABLE PALMER: And you're

18   talking about Proposal Number One. Not the

19   one that was rejected but Proposal Number

20   One?

21   MS. BALDWIN: Right.

22   THE HONORABLE PALMER: Behind the word

23   "either parent," period.

 1   MS. BALDWIN: Right. And then you

 2   would have to repeat yourself. You would put

 3   period there, and then you would have to

 4   repeat yourself, child-care cost incurred on

 5   behalf of the children because of employment

 6   or job search of either parent shall be --

 7   because you're not changing what you already

 8   have. You're just adding in.

 9   That way, you would still be referring

10   to what you already limit it to, and that is

11   this chart and daycare cost of the chart,

12   which is what we use already.

13   That might be simpler than trying to

14   reword this.

15   THE HONORABLE PALMER: The one that was

16   sent out in '17?

17   MS. BALDWIN: Because of the problem

18   with broadening it too much by tweaking the

19   deviation language.

20   That's just my thought.

21   THE HONORABLE PALMER: All right.

22   Well, now, does that mean that we're going to

23   -- okay. Let me withdraw that.

1   Okay. Anybody who likes Melody's

2   suggestion that we change 2018 Proposal

3   Number One to have a period behind where it's

4   underlined, Earning potentials of either

5   parent, period, and then we start all over

6   again with child-care cost.

7   Is that what you're saying, Melody, and

8   repeat that whole first sentence?

9   MS. BALDWIN: Until you get to "the" or

10   "because of," because that's going to be --

11   MS. DAVIS: I'm not sure I'm following

12   you.

13   Can you read out loud what it would say?

14   MS. BALDWIN: Yes, ma'am. Child-care

15   cost incurred on behalf of the children

16   because of -- I guess, you might have to add

17   the word child-care cost, includes cost

18   incurred on behalf of the children because of

19   the employment or job search of either parent

20   or because of the training or education of a

21   parent necessary to obtain a job or enhance

22   earning potential of either parent.

23   Child-care cost incurred on behalf of the

1   children because of employment or job search

2   of either parent shall be added to the basic

3   child support obligation.

4   MS. DAVIS: So are you trying to say

5   the first part you want, the first existing

6   sentence to remain "shall," and you want --

7   MS. BALDWIN: No. You wouldn't have --

8   "shall" wouldn't be in the first sentence.

9   It would be child-care cost includes cost

10   incurred on behalf of the children. It just

11   defines what child-care cost is, and it

12   doesn't tell you what to do with it.

13   And then the second sentence would tell

14   you the only one you shall include on the

15   basic child support obligation is because of

16   employment or job search of either

17   participant, which is what you already have,

18   and you're just leaving that "or" because of

19   the training.

20   MS. BLACKBURN: You need to add --

21   MS. DAVIS: You have to say what it

22   was, because the other would be a "may."

23   MS. DRENNAN: A "may." You have to add

1   a second sentence.

2   I have a suggestion. It may not work.

3   But wouldn't it just be simpler if we're not

4   going to change the definition to take this

5   sentence out of Proposal Number One:

6   Child-care cost shall not exceed the amount

7   required to provide care from a licensed

8   source for the children based on a schedule

9   of guidelines developed by the Alabama

10   Department of Human Resources. Take that

11   sentence and add it to this deviation

12   paragraph because then you've got your

13   limitation.

14   You don't need to change the definition

15   because you got your deviation and then your

16   limitation all in the same paragraph, and you

17   don't have people cross-referencing to the

18   two provisions.

19   I don't know if that accomplishes it,

20   but it seems easier than changing up that

21   definition maybe.

22   MS. DAVIS: Okay. Let's do take out

23   inappropriate case section. The Court may

1   consider child-care cost. Leave it as

2   written now. And then before the semicolon

3   put a period there, and then that would be

4   one sentence, and then the second sentence

5   would be to say child-care cost -- I would

6   say -- in this subsection shall not --

7   THE HONORABLE PALMER: Child-care cost

8   shall not exceed the amount required to

9   provide care from a licensed source for the

10   children.

11   MS. DAVIS: You would be adding the

12   same sentence back. And then you would have

13   your "and," which is only because so you can

14   go back to what's there now, which is any

15   other thing.

16   THE HONORABLE THOMPSON: And that would

17   limit it quite a bit.

18   MS. DAVIS: Yeah. The only reason you

19   have that the current is (g) then would then

20   become (g), (h), and other factors.

21   MS. COX: Well, I think, logically, it

22   belongs more in the definition, because

23   you're already looking at deviation, and then

 1   you're limiting the deviation by the

 2   reasonable time by the preponderance of the

 3   evidence and then by these guidelines.

 4   If you're going to put so much in there,

 5   I think it belongs back in the definition

 6   logically, and that would be in the Proposal

 7   Two.

 8   I just think it's getting too detailed

 9   for the deviation at this point.

10   THE HONORABLE THOMPSON: But I think

11   we're talking about the basic child support

12   obligation and a deviation from that, you

13   know. So I don't know that they're --

14   thinking about it more, as we're talking of

15   other things, is that -- I don't know.

16   There's a huge overlapping there.

17   You know, you're talking about deviating

18   from and just a reason to deviate. I guess

19   you would have to first establish what the

20   basic child support obligation is. But I

21   don't know that that should necessarily have

22   to include the training and education that

23   we're talking about.

1   MS. DAVIS: I guess, let me ask this

2   question just pragmatically.

3   If you put it solely in the deviation

4   section by including the limitation that

5   we're talking about so it's clear, then it's

6   only when someone asks for deviation the

7   court would be involved; whereas, I think

8   you're right. It may be cleaner to put it in

9   the definition section, because that's really

10   what we're talking about, just that one

11   thing. But it would then, I think, require

12   the court in all cases, because you're --

13   that is by definition part of the parcel of

14   the determination of what child care costs

15   are, you'd have to include it in every

16   instance.

17   MS. COX: The trial court would then

18   have to --

19   MS. DAVIS: Then the trial court will

20   have to make some determinations.

21   MS. COX: If it was in the deviation,

22   the trial court will have to specifically say

23   I'm deviating for this reason. If it's in

1   the definition, the trial court would not

2   have to say I'm deviating.

3   MS. DAVIS: They would not have to make

4   a determination of why they're deviating,

5   because it wouldn't be a deviation. It would

6   be internal. But I think it would

7   necessitate the court touching on -- maybe

8   I'm asking.

9   Would that not mean the court would have

10   to touch on, in every instance, have to say,

11   okay -- maybe not. Maybe if it's just

12   brought before the parties.

13   THE HONORABLE PALMER: But wouldn't you

14   have to --

15   MS. DAVIS: So much pro se people, I

16   guess, is what --

17   THE HONORABLE PALMER: Well, wouldn't

18   the judge have to make a finding as to --

19   like it talks about the preponderance of the

20   evidence and testimony presented to the

21   court, that the court is going to deviate.

22   THE HONORABLE McMILLAN: I agree with

23   Justice Thompson, just leaving it under

1   deviation, because that's what we are doing.

2   THE HONORABLE THOMPSON: Yeah. I don't

3   know that it necessarily would. It's part of

4   the basic child support obligation if that

5   was submitted in whatever form. I don't know

6   that the trial court would have the -- I

7   mean, if we can discern how she came up with

8   that amount.

9   MS. DAVIS: Well, wouldn't the

10   lawyers -- let's go back to Steve. He's

11   going to have to sign a document saying --

12   certifying that this is in compliance with

13   the rule.

14   And so in every case, wouldn't you have

15   to make a judgment that what you're asking

16   for and what other parties is asking for is

17   not to exceed a reasonable time, you know,

18   determined by the court. How are you going

19   to know what that is to fill that out?

20   And then if the parent proves by the

21   preponderance of the evidence, to me, it

22   suggests that there's going to have to be a

23   court determination --

 1   THE HONORABLE THOMPSON: Right.

 2   MS. DAVIS: -- to make that. And

 3   that's why, I guess, I favor leaving it as a

 4   deviation, so it doesn't burden the courts

 5   having to do that in every instance or even

 6   the parties or the attorneys, if there are

 7   attorneys there, which Judge said, in his

 8   court, less than half people now are

 9   represented. Steve has got all the rich

10   people in Birmingham.

11   MR. ARNOLD: Thank you. But I don't.

12   MS. DAVIS: Wishful thanking.

13   THE HONORABLE PALMER: And Jim in

14   Mobile.

15   MR. ARNOLD: I agree. I think it's

16   cleaner in the deviation side. Even if I

17   have to spell out a little more in one of

18   those CS forms or others do, I just think

19   it's cleaner there.

20   MR. JEFFRIES: The judges that I

21   practice in front of, I can tell you what

22   they would require. They would require it to

23   be proved as a deviation and specifically

1   written in the bottom portion of the CS-42

2   and put in the agreement or judgment

3   document, and if it wasn't, then they're not

4   going to do it.

5   That goes to your question, how will

6   that be dealt with. It would be a separate

7   deviation on the CS-43 and in the proposed

8   decree of whatever that is a modification or

9   judgment divorce.

10   MR. ARNOLD: Jim, I agree with you. I

11   would rather go through that trouble of

12   writing down the deviations and presenting

13   that to the judge, because that's going to

14   set my baseline for a modification later. If

15   it's embedded into child-care cost, as

16   opposed to deviation, I can't untangle it as

17   easy.

18   Yeah. Sure. You and I, maybe others,

19   may have to write more, but that's not the

20   objection here. Keeping it manageable. And

21   a deviation seems to me to be the best place

22   to keep it manageable for everyone's

23   perspective.

1 MR. JEFFRIES: The whole purpose of us

2 dealing with this came from the decision

3 where these types of costs were rejected;

4 right?

5 THE HONORABLE THOMPSON: Uh-huh.

6 MR. JEFFRIES: It was a very limited

7 basis from the outset, so I think it makes

8 sense to do it just like it is, to me.

9 THE HONORABLE THOMPSON: Right. So my

10 proposal --

11 THE HONORABLE PALMER: Everybody write

12 it down.

13 THE HONORABLE THOMPSON: -- would be to

14 adopt the proposal that was rejected back in

15 2017 and to add the language about the

16 child-care costs shall not exceed the amount

17 required to provide care from a licensed

18 source, that sentence from the definition.

19 THE HONORABLE PALMER: Okay. Any

20 response to that? Discussion?

21 Anybody second that?

22 MR. JEFFRIES: I'll second that.

23 THE HONORABLE PALMER: Okay. Jim

1   Jeffries.

2   Opposed?

3   (No response.)

4   THE HONORABLE PALMER: For? Everybody?

5   MS. DAVIS: Does that include the

6   limitation of the inappropriate cases or just

7   you want to leave that in?

8   THE HONORABLE THOMPSON: I would take

9   out inappropriate cases.

10   THE HONORABLE PALMER: Okay. All

11   right. Well, we will get that in a prettier

12   form to send to the Court, along with a memo.

13   MR. MEDARIS: Okay.

14   MS. DAVIS: Do you want the

15   subcommittee to work with Amanda doing the

16   memo relating to what other states do?

17   MS. COX: We're already going to do

18   that, so we're not necessarily going to make

19   recommendation based on the research. We're

20   just --

21   MS. DAVIS: Give them information to

22   the Court. That's what you wanted, the Court

23   to have information?

 1   MR. MEDARIS: I just think it would be

 2   easier for them to understand.

 3   THE HONORABLE PALMER: But we can put

 4   that in the memo and not part of the

 5   comments; correct?

 6   MR. MEDARIS: Right. Yeah, something

 7   directed to the Court.

 8   THE HONORABLE THOMPSON: If results

 9   support --

10   THE HONORABLE PALMER: Exactly.

11   MS. DAVIS: Shall we give our chair the

12   discretion of --

13   THE HONORABLE McMILLAN: A very short

14   memo.

15   MS. DAVIS: We like what Georgia did.

16   MR. MADDOX: So for clarification, on

17   both proposals, will there be a comment

18   drafted as well to go with the change?

19   MS. DAVIS: I think --

20   THE HONORABLE PALMER: Well, Jennifer

21   and I are going to do either a memo and/or

22   the comments for --

23   MS. BUSH: Yes.

1   THE HONORABLE PALMER: -- what DHR and

2   federal regulations are.

3   As far as this one goes, I think Amanda

4   is going to work with Penny and Judge to get

5   some sort of the memo/comments.

6   MR. MADDOX: Okay.

7   MR. MEDARIS: Just so everybody is

8   aware, I think the Court is going to request

9   to submit any rules for the Octobers rules

10   conference by the end of the first week of

11   October, which will be October 5th.

12   THE HONORABLE PALMER: Okay. Well, we

13   should be able to get that done.

14   All right. Do we need to meet again,

15   because that was my goal so that we don't

16   have to come back just for that one proposal

17   and have a quorum.

18   So right now, do we need to meet again

19   for any other reason in 2018? Now, these may

20   be rejected, but we won't know until well

21   after October 31st, and it may be the first

22   of next year or November --

23   MR. MEDARIS: Mid November, the

1   earliest.

2   THE HONORABLE PALMER: -- if these are

3   rejected.

4   So I don't believe we're going to have

5   to worry about the football schedule, Bob,

6   for this year.

7   MR. MADDOX: Thank you.

8   THE HONORABLE PALMER: All right.

9   Again, any comments from the public?

10   (No response.)

11   THE HONORABLE PALMER: I thank you all

12   for all of your hard work this year. We did

13   try to meet in April, but we didn't get a

14   quorum so now we're here. We got a quorum.

15   That is harder that you would think. I

16   appreciate people taking time out of their

17   day.

18   Stephanie, last time we saw you, you

19   were rather pregnant.

20   Did you have a baby?

21   MS. BLACKBURN: I did.

22   THE HONORABLE PALMER: And what was it?

23   MS. BLACKBURN: A little girl. Her

1   name is Piper.

2   THE HONORABLE PALMER: Congratulations.

3   Okay. Anybody else have any wonderful

4   news or announcements we need to know?

5   THE HONORABLE THOMPSON: I want to say

6   thank you to Chairman Palmer for putting so

7   much time into this committee.

8   THE HONORABLE PALMER: Well, thank you.

9   The real heroes are right over there,

10   but I appreciate being recognized for this.

11   So we got a few donuts left, I think.

12   MR. MADDOX: Please take them.

13   THE HONORABLE PALMER: We got some

14   campaign candy left. Go get a bottle or

15   water or soda or something for the road.

16   Everybody have a safe trip. Don't

17   forget your waiver, your vouchers.

18   MR. MADDOX: Please turn those in.

19   THE HONORABLE PALMER: Thank you again.

20   Everybody have a wonderful weekend.

21   (The meeting concluded at 12:10

22   p.m.)

23

1

2   REPORTER'S CERTIFICATE

3   STATE OF ALABAMA
    MONTGOMERY COUNTY
4

5   I, Haley Tunnell, Court Reporter,

6   Commissioner for the State of Alabama at Large,

7   hereby certify that on Friday, August 17, 2018,

8   I reported the proceedings in the foregoing

9   cause and that pages 3 through 121 contain a

10 true and accurate transcription of the

11 proceedings set out herein.

12   I further certify that I am neither kin nor

13 counsel to any of the parties to said cause, nor

14 in any manner interested in the results thereof.

15

16   /s/Haley Tunnell
                    HALEY TUNNELL, Court Reporter
17   Commissioner for the
                    State of Alabama at Large
18   ACCR 639, Expires 09/30/18
                    MY COMMISSION EXPIRES: 02/25/19
19

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