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MEETING OF THE ADVISORY COMMITTEE
ON CHILD SUPPORT GUIDELINES AND ENFORCEMENT
FOR THE STATE OF ALABAMA
FRIDAY, OCTOBER 1, 2021
10:00 A.M.

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**THE ADVISORY COMMITTEE ON CHILD SUPPORT
GUIDELINES AND ENFORCEMENT MEETING** was held before
Jeana S. Boggs, Certified Court Reporter and
Commissioner for the State of Alabama at Large, via
Virtual videoconference, Montgomery, Alabama,
commencing at 10:00 A.M., Friday, October 1, 2021.

1 APPEARANCES

2 GUEST SPEAKER:

3 DR. JANE VENOHR
4 Center for Policy Research
5 Denver, Colorado

6 COMMITTEE MEMBERS:

7 PROFESSOR PENNY DAVIS, Chair
8 Adjunct Professor of Law
9 University of Alabama School of Law
10 Tuscaloosa, Alabama

11 THE HONORABLE MATT FRIDY
12 Judge, Alabama Court of Civil Appeals
13 Montgomery, Alabama

14 THE HONORABLE DON MCMILLAN
15 Circuit Judge
16 4th Judicial Circuit
17 Marion, Alabama

18 THE HONORABLE MICHAEL D. SHERMAN
19 Circuit Judge
20 Domestic Relations Division
21 Mobile County, Alabama

22 THE HONORABLE JULIE PALMER
23 Private Practice Attorney and
24 Part-time Referee, Shelby County
25 Hoover, Alabama

26 AMANDA COX, Esquire
27 Staff Attorney, The Honorable Terry Moore
28 Judge, Alabama Court of Civil Appeals
29 Montgomery, Alabama

30 SHIRLEE BEACH
31 Morgan County DHR
32 Decatur, Alabama

33 DREW WHITMIRE, Esquire
34 Private Practice Attorney
35 Birmingham, Alabama

1 JENNIFER BUSH, Esquire
2 State-Level Child Support Attorney
3 Alabama Department of Human Resources
4 Montgomery, Alabama

5 JOAN-MARIE SULLIVAN
6 Private Practice Attorney
7 Huntsville, Alabama

8 JIM JEFFRIES, Esquire
9 Private Practice Attorney
10 Mobile, Alabama

11 KATIE STEINWINDER, Esquire
12 Private Practice Attorney
13 Montgomery, Alabama

14 LATHESIA MCCLENNEY
15 Director
16 Child Support Enforcement Division
17 Alabama Department of Human Resources
18 Montgomery, Alabama

19 MELODY BALDWIN, Esquire
20 District Attorney's Office
21 Child Support Division
22 Dadeville, Alabama

23 PROFESSOR BRIAN GRAY
Associate Dean
Culverhouse College of Commerce
The University of Alabama
Tuscaloosa, Alabama

RACHEL KING, Esquire
Private Practice Attorney
Birmingham, Alabama

MALLORY HALL, Esquire
Private Practice Attorney
Birmingham, Alabama

1 OTHER APPEARANCES:

2 JEANA BOGGS, COURT REPORTER
3 Boggs Reporting & Video LLC
4 Montgomery, Alabama

5 STEPHANIE BLACKBURN, Esquire
6 Central Staff Attorney
7 Supreme Court of Alabama
8 Montgomery, Alabama

9 BOB MADDOX, Esquire
10 Staff Attorney, Legal Division
11 Alabama Administrative Office of Courts
12 Montgomery, Alabama

13 APPEARANCES OF THE PUBLIC:

14 LISA CLARK

15 JORDAN PAVLOW

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1 PROFESSOR DAVIS: We will go ahead
2 and get started by thanking everyone for
3 making the special effort to join us today
4 because this is a very -- all meetings are
5 important, but we do want to be able to
6 vote. So, we need a quorum for that.

7 So, let me start by thanking
8 Jeana Boggs for being so faithful on our
9 Committee as the reporter.

10 So, Jeana, if you would, wave so
11 everybody, particularly Joan, will know
12 who you are. And just as a reminder,
13 please try to identify yourself before
14 you speak or during your conversation,
15 if you think about it, to help Jeana.
16 She's great about recognizing names, but
17 that's also very helpful.

18 Also, to help her, because we
19 have a numbers Committee, if you would,
20 be sure to delineate when you are
21 talking in percentages or numbers such
22 as three dollars and 95 cents as opposed
23 three point nine five cents, that sort

1 of thing.

2 Bob, would you call the roll for
3 us today, please?

4 MR. MADDOX: Yes, ma'am.
5 Honorable Sarah Stewart?

6 (No response).

7 MR. MADDOX: Honorable Matt Fridy?

8 (No response).

9 MR. MADDOX: Honorable Don
10 McMillan?

11 (No response).

12 MR. MADDOX: Honorable Michael
13 Sherman?

14 HON. SHERMAN: I am here.

15 MR. MADDOX: Thanks, Judge.
16 Honorable Aubrey Ford?

17 (No response).

18 MR. MADDOX: He emailed me. I
19 think he couldn't join today, so I'm sure
20 he is not on.

21 Honorable Julie Palmer?

22 HON. PALMER: Here.

23 MR. MADDOX: Thank you. Honorable

1 Karen Dunn Burks?

2 (No response) .

3 MR. MADDOX: Penny Davis just
4 spoke. She's on the Zoom today.

5 Amanda Cox?

6 MS. COX: Here.

7 MR. MADDOX: Shirlee Beach?

8 HON. BEACH: Here.

9 MR. MADDOX: Thank you. Drew
10 Whitmire?

11 (No response) .

12 MR. MADDOX: I can't hear you,
13 Drew, but I see you talking.

14 PROFESSOR DAVIS: Okay. He is on
15 mute, but we know he is here.

16 MR. WHITMIRE: Here.

17 MR. MADDOX: All right. Thank
18 you. Greg Starkey?

19 (No response) .

20 MR. MADDOX: Jennifer Bush?

21 MS. BUSH: Here.

22 MR. MADDOX: Thank you.

23 Joan-Marie Sullivan?

1 MS. SULLIVAN: Here.

2 MR. MADDOX: Thank you. Jim
3 Jeffries?

4 MR. JEFFRIES: Here.

5 MR. MADDOX: Thanks, Jim. Katie
6 Steinwinder?

7 MS. STEINWINDER: I'm here.

8 MR. MADDOX: Thank you. Lathesia
9 McClenney?

10 MS. MCCLENNY: Here.

11 MR. MADDOX: Thank you. Melody
12 Baldwin?

13 MS. BALDWIN: Here.

14 MR. MADDOX: Professor Brian Gray?

15 PROFESSOR GRAY: I'm here, Bob.

16 MR. MADDOX: Thank you. Stephen
17 Arnold?

18 (No response).

19 MR. MADDOX: I haven't seen him
20 come on yet.

21 Rachel King?

22 MS. KING: I am present.

23 MR. MADDOX: Thank you. Mallory

1 Hall?

2 MS. HALL: I am here.

3 MR. MADDOX: Thank you. Jeana
4 Boggs, of course, is on as our Court
5 Reporter.

6 Honorable Julia Weller?

7 (No response).

8 MR. MADDOX: I haven't seen her
9 yet.

10 MS. BLACKBURN: She's not going to
11 be able to join today.

12 MR. MADDOX: Thank you, Stephanie.
13 Stephanie Blackburn?

14 MS. BLACKBURN: I am here.

15 MR. MADDOX: Thanks. Nathan
16 Wilson?

17 (No response).

18 MR. MADDOX: We have Dr. Venohr, I
19 think, on as our consultant today. She's
20 waving. Thank you, Jane.

21 Clifford Smith?

22 (No response).

23 MR. MADDOX: Tiffany Gates?

1 (No response).

2 MR. MADDOX: Lisa Clark?

3 MS. CLARK: Here.

4 MR. MADDOX: Thank you. Would you
5 like to speak at the end, Lisa?

6 MS. CLARK: No, sir.

7 MR. MADDOX: Thank you. Nicole
8 Clark?

9 (No response).

10 MR. MADDOX: Richard Harrison?

11 (No response).

12 MR. MADDOX: And Jordan Pavlow; is
13 that how you pronounce it?

14 MR. PAVLOW: Yes, sir. Thank you.
15 I am here.

16 MR. MADDOX: Thank you, sir.
17 Welcome to the Committee today.

18 Also, I think we had Judge Fridy
19 join us. Judge Fridy?

20 HON. FRIDY: Yes. Good morning.

21 MR. MADDOX: Thank you. Judge Don
22 McMillan?

23 (No response).

1 MR. MADDUX: Judge McMillan, you
2 are here. Okay. Thank you.

3 That's it, Penny.

4 PROFESSOR DAVIS: Thank you.
5 Stephanie, could you confirm that we do
6 have a quorum today?

7 MS. BLACKBURN: We have a quorum
8 today.

9 MR. MADDUX: Yes.

10 PROFESSOR DAVIS: The cheers go
11 up. Well, again, thank all of you for
12 your faithful attendance over many months
13 on this project.

14 Stephanie, could you also
15 indicate our authorization for the
16 videoconference?

17 MS. BLACKBURN: Yes, ma'am. The
18 Court did order on August 11th that we
19 could continue authorizing us to continue
20 doing videoconference through March 31st
21 of 2022.

22 PROFESSOR DAVIS: Thank you,
23 ma'am. Bob, would you discuss the notice

1 to the media outlets?

2 MR. MADDUX: Yes, ma'am. Just
3 like prior meetings, notice of this web
4 meeting was sent to all the media outlets
5 around the state by email dated
6 September 1st, 2021, from Scott Hoyem,
7 Public Information Officer of the Alabama
8 Administrative Office of Courts. This
9 notice basically provided the public to
10 provide written comments or suggestions to
11 the Committee to the Supreme Court Clerk's
12 Office by last Wednesday, September the
13 22nd.

14 Stephanie, did you get any
15 written comments from the public?

16 MS. BLACKBURN: I did not.

17 MR. MADDUX: I did not either.
18 Also, persons wishing to join the Zoom
19 meeting could do so by informing our
20 office by this past Wednesday, the 29th,
21 at 5:00.

22 In addition, the documents
23 relating to this Committee are all on

1 our website www.alacourt.gov under Child
2 Support and Child Support Guidelines
3 Review.

4 Thanks, Penny.

5 PROFESSOR DAVIS: Thank you, Bob.

6 All right. At this time, we
7 have -- each of you received a copy of
8 the transcript from the August 12th
9 meeting. Does anyone have any suggested
10 changes or corrections?

11 (No response).

12 PROFESSOR DAVIS: Okay. If not,
13 do I hear a motion to approve?

14 MS. BALDWIN: This is Melody
15 Baldwin. I make a motion to approve the
16 minutes.

17 PROFESSOR DAVIS: Thank you,
18 ma'am. Do I hear a second?

19 MR. WHITMIRE: Second. Drew
20 Whitmire.

21 PROFESSOR DAVIS: Thank you, Drew.
22 We are going to do a test here. We are
23 going to try to do a hand raise.

1 So, if you go to the bottom of
2 the screen, there is a reaction -- well,
3 not to the bottom. There's a reaction
4 place. And you can -- If you check on
5 that, there's a raised hand. Maybe
6 you-all are familiar with that. We are
7 going to try that because we are going
8 to do some voting.

9 So, if everybody wants to
10 attempt that, if not, if you have a
11 problem, then you can just raise your
12 hand physically.

13 So, all in favor, if you would,
14 raise your hand.

15 (Committee members raising
16 hands).

17 PROFESSOR DAVIS: Okay. Anyone
18 who is not able to visually raise your
19 hand, if you would like to unmute, if you
20 would, vote in favor -- if you are in
21 favor.

22 (No response).

23 PROFESSOR DAVIS: Anyone opposed

1 to -- if everyone would remove their
2 hands. I forgot what they say, put them
3 down anyway. Let's see. What do they
4 say? Lower, I guess.

5 (Committee members removing
6 hands from screen).

7 PROFESSOR DAVIS: Okay. Anyone
8 opposed, if you would, raise your hand.

9 (No response).

10 PROFESSOR DAVIS: And anyone who
11 cannot raise their hand, if you would,
12 unmute and indicate your vote that way.
13 Okay. I see one opposition. Okay. Wait.
14 No, he is waving it off.

15 MR. JEFFRIES: I was testing some
16 kind of thing that said that if you raise
17 your hand it would put an emojis up there.
18 Sorry.

19 PROFESSOR DAVIS: No. No. That's
20 why we are doing this, why we are testing,
21 because we are about to do some real
22 voting in just a moment.

23 MR. JEFFRIES: Gotcha.

1 PROFESSOR DAVIS: Thank you very
2 much.

3 So, the approval of the
4 transcript did pass, I think,
5 unanimately as it turns out.

6 So, at this point, we are going
7 to turn our attention to our discussion
8 and vote on recommendations. If you
9 will recall at the end of the last
10 meeting, I invited each member of the
11 Committee to either work with other
12 members and formed subcommittees or
13 individually to work on and make
14 suggestions regarding all the material
15 that we had covered and gave everyone a
16 deadline to send in materials. And we
17 only had one subcommittee that was
18 formed that worked on projects. That
19 certainly does not preclude anybody else
20 on the Committee from speaking.

21 But we did feel like at the last
22 meeting that would be helpful at the
23 last general meeting if we did try to

1 organize our thoughts. And so, the
2 Subcommittee was very helpful in doing
3 this. And Amanda Cox was gracious and
4 very generous with her time and did the
5 memorandum that you see that was sent
6 out to the Committee. So, we will look
7 at that first.

8 So, if you want to pull that
9 out. And the Subcommittee met several
10 times and went through a series of
11 questions which, again, Amanda was
12 gracious and organized them in a
13 systematic manner for us to review in
14 the memorandum. And so, I thought we
15 would do that.

16 So, the -- Bob is pulling the
17 memorandum up. There we go. Thank you.

18 The way it's set up is in --
19 it's organized by the questions that are
20 raised. And then, at the end are the
21 conclusions with the votes of the
22 Committee members.

23 So, my suggestion would be --

1 Amanda, if you don't mind kind of going
2 through basically the first paragraph
3 that outlines the questions that we
4 looked at, and then maybe we will go to
5 the conclusions and deal with the
6 questions. And then, if we have
7 discussions, then we will come back and
8 go in more detail with the memo.

9 MS. COX: Yes, ma'am.

10 Okay. So, first of all, we kind
11 of came up with four main issues that
12 need to be addressed today. One is
13 whether any changes to the Schedule, the
14 Child Support Schedule, should be made.
15 And that has to do with mainly updating
16 numbers, but there's also some other
17 decisions that need to be made in that.

18 Number two: What changes should
19 be made with the Self-Support Reserve
20 Adjustment.

21 Then, number three: Should we
22 make any changes on the minimum order
23 requirement.

1 And then number four is: Should
2 there be an adjustment in the Form CS-42
3 for the payment of work-related
4 childcare costs.

5 And we noted that there was an
6 adjustment for insurance but not for
7 childcare.

8 And, then, if we go down to the
9 conclusions --

10 PROFESSOR DAVIS: So, page 15,
11 Bob, if you want to scroll down.

12 MS. COX: So, we are skipping over
13 the discussion. Going down to the
14 conclusions: Should we update the
15 Schedule.

16 We recommended doing so. It's
17 been awhile since we have updated it,
18 and we thought that was best.

19 What methodology to use. If the
20 Schedule is updated, and we recommended
21 to use the Betson-Rothbarth 5, realigned
22 for Alabama incomes. And that was also
23 what the Committee had kind of come to a

1 consensus of.

2 Whether to implement a cap on
3 percentage increases. This is really
4 the only area where we didn't have a
5 consensus. We had a majority not in
6 favor of the cap, a majority of the
7 Subcommittee, but we did not have a
8 consensus on that.

9 And, then, the last subpart on
10 number one is: Whether the maximum
11 combined monthly income in the Schedule
12 should be expanded.

13 And we did recommend doing that
14 moving it up to \$30,000.

15 Okay. And the next --

16 PROFESSOR DAVIS: Let's stop here
17 and see if we can do votes --

18 MS. COX: Yes, ma'am.

19 PROFESSOR DAVIS: -- on the first
20 one on question number one. We will start
21 with the first issue, which is: Should we
22 update the Schedule.

23 And so, let's go to the Brady

1 bunch. Okay. And we are going to try
2 again to vote. But before we vote,
3 let's see if there are any questions or
4 discussions. This is probably the most
5 basic question that we have is: Should
6 we update the Schedule.

7 So, we will open up the
8 discussion. So, if anybody wants to
9 speak, if you will, unmute and speak or
10 raise your hand either way so we can let
11 you speak or ask questions.

12 (No response).

13 PROFESSOR DAVIS: Okay. I see no
14 one indicating they want to ask questions
15 or have a discussion.

16 So, let's try the vote. So,
17 everyone that -- and the Subcommittee
18 did recommend the affirmative. So, we
19 will ask the question that way is: All
20 those in favor of updating the Schedule,
21 if you would, raise your hand.

22 (Committee members raising
23 hands).

1 PROFESSOR DAVIS: All right. So,
2 right now, I see -- one, two, three, four,
3 five, six, seven, eight, nine, ten,
4 eleven, twelve -- thirteen hands. Anybody
5 that cannot -- we don't see, if you would
6 like to unmute and vote.

7 HON. PALMER: Penny, this is Julie
8 Palmer. I vote yes.

9 PROFESSOR DAVIS: Okay. And I saw
10 Drew's hand; that's two more.

11 All right. I count 15 yeses,
12 Bob. Anybody count -- ask Bob and --

13 MR. MADDOX: That's what I have.
14 I mean, I didn't hear from Lathesia
15 McClenney or Jennifer Bush, I don't think.

16 PROFESSOR DAVIS: Okay. Let's
17 open up. If you will -- okay. Let's
18 lower our hands and do that. Okay. And,
19 then, anyone that wants to vote "nay," if
20 you would, raise your hand.

21 (No response).

22 PROFESSOR DAVIS: Okay. If you
23 are not able to vote via hand, if you

1 would, unmute if you want to vote in the
2 negative.

3 (No response).

4 PROFESSOR DAVIS: Thank you. That
5 passes unanimously. And we will continue
6 to vote this way to save time from having
7 to do a roll call each time unless anyone
8 objects and wants a roll call. And if
9 anyone wants roll call at any time on any
10 of the issues, just feel free to ask for
11 that and we will switch to a roll-call
12 vote.

13 Okay. The second question was:
14 What methodology to use if we update
15 which we voted to do. And the
16 Subcommittee recommended using the
17 Betson-Rothbarth 5 Realigned for Alabama
18 Incomes.

19 So, I am going to stop here and
20 see if anyone has any questions or
21 comments regarding that recommendation.

22 (No response).

23 PROFESSOR DAVIS: Okay. Well, we

1 will vote again. So, all those in favor
2 of the recommendation, if you would, raise
3 your hand.

4 (Committee members raising
5 hands).

6 PROFESSOR DAVIS: I see 13. Would
7 anyone like to unmute and vote?

8 HON. PALMER: Penny, this is Julie
9 Palmer. I vote yes. Okay. That's 14.

10 All right. Anyone else?

11 MR. MADDOX: I think Drew had his
12 hand raised originally. Drew, did you
13 vote yes?

14 (Mr. Whitmire raising hand).

15 PROFESSOR DAVIS: Thank you, Drew.
16 I am sorry I missed that.

17 All right. So, we will lower
18 our hands now. And anyone -- go ahead
19 and lower your hands. And anyone who
20 wants to vote in the negative, opposes,
21 that recommendation, would you vote nay
22 at this time by raising your hand.

23 (No response).

1 PROFESSOR DAVIS: Anybody that is
2 on -- not visible, if you would, unmute
3 and vote if you want to vote in the
4 negative.

5 (No response).

6 PROFESSOR DAVIS: Okay. The next
7 question relates to whether there should
8 be a cap on the percentage of increases.
9 And as Amanda indicated, this is the one
10 issue that there wasn't a unanimous
11 decision with regard to the Subcommittee.
12 The majority did favor not having a cap,
13 but we did have some discussion about
14 that.

15 And I am looking for Katie. I
16 see her. Katie, would you like to speak
17 to that issue at this point?

18 MS. STEINWINDER: Sure. Penny, as
19 you know the last time the Subcommittee
20 met, I was asked to reach out to some
21 colleagues who practice pretty much all
22 family law like I do and discuss anything
23 that they might have on that. I just

1 think it's important, first of all, for
2 the Committee to know that, as I
3 understand what Jane has provided on the
4 revised Schedule, somewhere in the area of
5 a \$17,000 combined gross monthly income we
6 hit some pretty big increases in
7 child-support obligations. For one child,
8 it looks like maybe at \$17,050 is a 24%
9 increase; and with three children, it went
10 up to 34% on the increase. That seems to
11 peek just below \$18,000 gross combined
12 monthly incomes.

13 And I just thought it was
14 important for everybody to know about
15 that increase. The Subcommittee
16 discussed whether there was a possible
17 phaseout on that, if we could have some
18 time for those to hit. Jane had given
19 us a couple of ideas on that. When I
20 reached out to, I think, ten of my
21 colleagues here in Montgomery County,
22 everyone was interested in the idea of
23 the phase-in or a cap for some period of

1 time. I got some feedback on rising
2 prices and some potential economic
3 instability that we might be looking at.

4 One person felt very strongly
5 that we should not cap it, and he wanted
6 me to convey his sympathies were with
7 the parties receiving child support.

8 So, I just thought it was
9 significant for everybody to know that
10 we are looking at some pretty big
11 increases potentially. And as the
12 Subcommittee knows, I have made this
13 pitch several times that my thought was,
14 if we had a paying non-custodial parent
15 who had negotiated child support and
16 they had negotiated other items like
17 maybe private school tuition, a higher
18 than 50% percentage of uncovered meds
19 and extracurricular activities, that
20 that up to 34% increase could be -- it
21 could cause what we call on the
22 Subcommittee "sticker shock."

23 So, I will just throw that out

1 there so that everybody knows that it's
2 in those new guidelines. And there's
3 nothing automatic. We all know that we
4 would have to go back. Clients would
5 have to go back and get that modified.
6 But it's out there and something to know
7 about.

8 PROFESSOR DAVIS: Thank you,
9 Katie. I appreciate the time constraints
10 she was under to try to reach out and talk
11 to some people.

12 Jane addressed -- I am going to
13 ask you to unmute in just a minute and
14 if you want to make any comments about
15 nationally what's going on.

16 On page four and five of the
17 memo is some information that Katie
18 alluded to and some comments that Dr.
19 Venohr had.

20 So, Dr. Venohr -- Well, first,
21 Bob, why don't you, if you would, put
22 pages four and five -- we'll start with
23 page four on the screen and then that

1 will be available if Dr. Venohr would
2 like to refer to that.

3 So, Dr. Venohr, while he is
4 searching for that, would you like to
5 make any comments about what other
6 states are doing with regard to caps and
7 any concerns you might have or thoughts
8 regarding Alabama's decision?

9 DR. VENOHR: Sure. The Schedule
10 that you were recommending is based on the
11 most current economic data available, and
12 it's a new study that was released in
13 2020. And it takes economists a while to
14 get the data, you know, and the data have
15 to be collected and clean. So, there's
16 always a lag.

17 And normally, you know, there
18 are other studies that we could use as a
19 benchmark. And the only other study
20 that we have that we can use as a
21 benchmark is the USDA, and that's a
22 little bit older; it's 2015. And it's a
23 reliable comparison until about \$15,000,

1 \$18,000. And then after that, you know,
2 there isn't anything that another study
3 that we can compare it to.

4 So, some states are saying, oh,
5 this is a bit of a price sticker shock.
6 And, you know, if you look at the
7 numbers, they were in the August
8 memorandum. When we get to where the
9 problem really is where I feel less
10 comfortable because there isn't another
11 study, it's about a 23% increase for one
12 child, about a 30% increase for two
13 children, and it's more for four or five
14 or six children, but, you know, we don't
15 find in the data that we have that many
16 families with more than three, children
17 particularly of that income.

18 So, a few states have elected
19 that knowing that, you know, it is
20 not an issue even though that we don't
21 have as many checks as we do for the
22 lower income, then there are states that
23 have decided to cap the increase and

1 also in respect for, you know, that to
2 minimize requests for review, you know.
3 But because it's at such a high income,
4 I don't think Alabama has that many
5 families. And where they -- other
6 states with capped increase -- are
7 capping it around about 10%, 15%.

8 And some states, when they make
9 that decision, they consider what their
10 threshold is for modification, and they
11 might tie it with that. Because the one
12 thing that they don't want to do is
13 burden the courts. But they also
14 recognize that, you know, this is
15 economic evidence that's suggesting that
16 these families do spend more on
17 children.

18 So, somebody mentioned that, you
19 know, the concerns of the child, that,
20 you know, the child really is entitled
21 to this. So, you know, it's a weighing
22 of those two factors.

23 Penny, is that what you were

1 expecting of me to say or did I miss
2 something?

3 PROFESSOR DAVIS: No. That's
4 fine. I think that there was a -- if you
5 scroll down a little bit more about the
6 percentage, the 4% or 5% to give people an
7 idea of how that would impact in Alabama
8 that -- right there, that only
9 approximately 5% to 7% child support
10 orders would not increase more than 10%.
11 And that's what we use as a threshold.
12 That might be of interest to some of the
13 Committee members that didn't hear that.

14 DR. VENOHR: Right. And that's
15 the back-of-the-envelope calculation
16 because we don't really have data from
17 what's in the non-IV-D caseload. And so,
18 I actually used census data on the
19 families, but I don't have it perfect, you
20 know, as far as how many of those families
21 actually have child support orders. But I
22 feel pretty good about that estimate.

23 PROFESSOR DAVIS: Okay. So, it

1 won't affect a lot of people, but
2 certainly if you or your client is the one
3 affected, that's significant to you.

4 Let's see. I guess that's all
5 that's in the report. So, we can go
6 back to the Brady bunch and see if
7 anyone else has comments or questions
8 either from the bench perspective or
9 from the perspective of the clients, the
10 parents or the attorneys representing
11 the clients.

12 HON. PALMER: Penny, this is Julie
13 Palmer.

14 As far as the cap goes, is this
15 going to be a cap by how much it can be
16 reduced if the income is less versus the
17 a cap for the income of being increased?
18 That's what I see. If we are going to
19 have a cap, I think it needs to go both
20 ways if we are going to have one. I
21 personally don't think we should have
22 one. But if we were to have one by
23 increasing it, then we should have it as

1 far as decreasing it, as well. That's
2 my question about that. Thank you.

3 PROFESSOR DAVIS: Okay. Did
4 everyone hear Judge Palmer? Her comment
5 was that she does not favor the cap; but
6 if there is a cap, that we ought to
7 consider doing a cap on both ends of the
8 spectrum.

9 MS. COX: Professor Davis, I did
10 want to mention that we had discussed that
11 as a Subcommittee, too. And maybe that
12 was Dr. Venohr could speak to it more.
13 But I think they were significant.

14 DR. VENOHR: Right. There isn't a
15 10% decrease anywhere in the Schedule.
16 But I know the equity thing makes sense.
17 I think the math behind it just isn't
18 there.

19 PROFESSOR DAVIS: And when you say
20 there is not a decrease, that's when you
21 consider that Self-Support Reserve; is
22 that correct?

23 DR. VENOHR: Right. Thank you for

1 the clarification.

2 PROFESSOR DAVIS: And we haven't
3 voted on that yet. But that's why the
4 numbers look substantially different when
5 you -- If you just take a look with that
6 understanding that the numbers we are
7 comparing, the Self-Support Reserve are in
8 the current guideline numbers, but it's
9 only for the payor. And as we get further
10 into the issues, we will discuss the
11 direction that we went on the straw votes
12 were to make it transparent and to allow
13 the Self-Support Reserve for both parents,
14 not just the obligor parent.

15 And so, the Self-Support Reserve
16 is not in the chart, the child support
17 chart. It's on the form.

18 Did I explain that correctly,
19 Jane?

20 DR. VENOHR: Right. And I
21 think -- I mean, I think that whole
22 suggestion there is that, you know, of
23 course, it's sounds very equitable. But I

1 think it might be confusing if you vote on
2 it now as far as that low income. I think
3 it's okay to vote on that high income.
4 But I think it's hard to vote on that low
5 income until you vote on the low-income
6 adjustment, if that makes sense.

7 PROFESSOR DAVIS: Yeah. I think
8 that's correct. And it could be that we
9 may want to just go through the rest of
10 these votes and then come back to the cap.

11 HON. SHERMAN: Penny, can I ask a
12 question about the cap?

13 PROFESSOR DAVIS: Yes, sir, Judge.

14 HON. SHERMAN: I missed the last
15 couple of calls because I have been in
16 court. So, y'all may have -- y'all may
17 have covered this.

18 But would a cap also affect
19 parties whose child support would be due
20 to be increased anyway? In other words,
21 not strictly because of the Schedule but
22 because their income has changed
23 significantly?

1 In other words, for example, if
2 they have a child support order that was
3 based on, say, the noncustodial parent
4 making \$30,000 a year, he now has a job
5 making \$60,000 a year, and she files to
6 increase child support, wouldn't that
7 cap his obligation also because of the
8 increase in the Schedule?

9 PROFESSOR DAVIS: Judge, I think
10 that's an excellent point. I think a cap
11 could be drafted so that it only impacts
12 on the -- well, let me ask Jane.

13 The caps that the other states
14 have, are they drafted in such a manner
15 that the other changes independent of
16 the Schedule changes are considered, or
17 is it all considered at one time where
18 you are looking at, as Alabama does, the
19 10% rule?

20 DR. VENOHR: So, that the cap in
21 other states is a cap and the increase in
22 the Schedule only. So, all the
23 circumstances of that case that had

1 changed, like, if there is an increase of
2 income, there would still -- and that
3 increase of income still indicated that
4 the order should increase by 10%, it would
5 happen. Am I answering that question?

6 PROFESSOR DAVIS: The way I
7 understood your answer was, in Judge
8 Sherman's example, if the parties come
9 before him and there's, say, the 10% or
10 just change of circumstances and they come
11 forward, which obviously the numbers he
12 gave would be more than a 10% change, he
13 would, as the judge, would look at all the
14 factors that changed like the income, what
15 other deviation factors that would or did
16 apply before that may or may not apply
17 now, and then would look and would
18 consider those and make whatever
19 determination he wants to make about that
20 and then would look at the chart for the
21 numbers only. Is that the way your --

22 DR. VENOHR: Yes. Yes. That word
23 "cap" is so confusing because it's like:

1 Where is the cap? And it's really just --
2 I think we maybe should use a different
3 word, that we are going to say that the
4 Schedule amount from the current amount is
5 only going to increase so much. And so,
6 it's not going to be -- That's what I am
7 trying to get at. I don't want to imply
8 that there's a cap, you know, with a
9 change of circumstance.

10 HON. SHERMAN: In other words, the
11 cap would be a cap on the -- if we
12 instituted one, would be a cap on, say,
13 for example, the number that you are
14 pulling out of the Schedule and putting on
15 the form, that number only would be
16 capped, correct?

17 DR. VENOHR: You explained it much
18 better than I could, Judge. Thank you.

19 HON. SHERMAN: Okay.

20 PROFESSOR DAVIS: Other questions
21 or comments?

22 MS. COX: Professor Davis, I
23 guess, since I was kind of one of the

1 Subcommittee members that was not in favor
2 of the cap, I guess I should just at least
3 explain my reasons, which I don't feel
4 super strongly about this, but I do agree
5 with Katie that there are some instances
6 where that will be a sticker shock. But I
7 think overall we have got the data. We
8 haven't updated in 13 years. To take
9 money that is owed to a child away almost,
10 I think we have got to have a very good
11 reason for that, and I'm just not sure
12 that it rises to that level. But those
13 were my thoughts.

14 PROFESSOR DAVIS: I guess, if the
15 Committee chose to, they could have those
16 reasons for deviating. You could add
17 those reasons for deviating, something
18 like that, as an alternative. We really
19 didn't discuss that in the -- I don't
20 recall discussing that as an option. We
21 discussed phase-in I think.

22 MS. COX: One other thing I
23 thought about is we could even put

1 something in the comments about -- you
2 know, because there is just a, you know,
3 general deviation reason in there already.
4 We could just even put something in the
5 comments like that could be considered,
6 especially if they have other obligations
7 like private school or, you know, a lot of
8 the medical care. We could just put
9 something in the comments, that that might
10 help. I don't know. Those are just my
11 thoughts.

12 HON. SHERMAN: As a trial judge,
13 that's how I would look at it. I mean, I
14 think the way our current rules are
15 written I would have discretion to deviate
16 if, you know, there was going to be a huge
17 increase, or something, in those factors
18 that Katie mentioned earlier existed.

19 Additionally, I think I could
20 address those other issues. You know, I
21 am sensitive to the fact that they may
22 have entered into some kind of agreement
23 where they, you know, agreed to do

1 something else and got a lower child
2 support and now the child support is
3 going up. I think that's grounds to
4 either deviate from the Guidelines or
5 modify those other provisions.

6 So, I think you can take care of
7 those limited facts that are going to
8 come. It sounds like it's a smaller
9 percentage of the cases anyway, but that
10 there would be a way to address them
11 without capping it. And for the reasons
12 that Amanda said, I agree. I don't -- I
13 am not in favor of a cap.

14 PROFESSOR DAVIS: Katie, would
15 you -- how would you feel about trying to
16 address in the comments as an indication
17 that would be an appropriate reason to
18 deviate? Would that make the people that
19 you talk with you think they would derive
20 some comfort from that?

21 MS. STEINWINDER: I do. Penny, I
22 really do. And I see both sides of it,
23 and I appreciate Judge Sherman's comments

1 because that comment has stumped me a
2 little bit, get around to it. I do think
3 that might be helpful.

4 PROFESSOR DAVIS: Okay. Thank
5 you.

6 Any other comments or questions?

7 (No response).

8 MR. MADDOX: Penny, this is Bob
9 Maddox. Did you want to take a vote on
10 this now or not?

11 PROFESSOR DAVIS: Yeah. That's
12 what I was thinking. What I think we will
13 do is this is: The question that was
14 posed is whether to implement a cap on the
15 percentage increase. And I want to alter
16 that to suggest that we say the issue will
17 be whether to implement a cap on the
18 percentage of increase and, if we do not,
19 to include a comment that is consistent
20 with what we've talked about that being
21 appropriate for the judges to consider as
22 a deviation. That's kind of a wordy way
23 of saying that.

1 HON. SHERMAN: So, Penny, the vote
2 is -- a no vote means no cap; is that
3 right?

4 PROFESSOR DAVIS: A no vote would
5 be no cap but with a --

6 HON. SHERMAN: With comments.

7 PROFESSOR DAVIS: -- with a
8 comment, yes. Thank you.

9 HON. SHERMAN: Understood.
10 Understood.

11 PROFESSOR DAVIS: We will do that
12 first. And everybody who is in favor of
13 that, then we will proceed on.

14 Okay. So, let's go to our hand
15 emoji. And all that's in favor of that,
16 which would be: No increase but with a
17 Committee comment regarding deviation.

18 HON. SHERMAN: Hold on. I am
19 confused now. I thought -- So, a "yes"
20 vote means no cap but with a comment? Is
21 that what you are saying?

22 PROFESSOR DAVIS: Yes. That's
23 correct.

1 HON. SHERMAN: Okay.

2 PROFESSOR DAVIS: I think that's
3 the sense of what we are getting here.
4 So, no cap but a comment that you can have
5 a deviation.

6 MR. JEFFRIES: Hey, Penny?

7 PROFESSOR DAVIS: Yes.

8 MR. JEFFRIES: My audio -- I don't
9 know if this happened to anybody else, but
10 my audio cut out for a good 30 seconds
11 there.

12 PROFESSOR DAVIS: Okay.

13 MR. JEFFRIES: So, it was not
14 clear what we were saying we were voting
15 on, to me.

16 PROFESSOR DAVIS: Oh, okay. I'm
17 sorry.

18 MR. JEFFRIES: No, no, no. I hate
19 to make you repeat it, but --

20 PROFESSOR DAVIS: No. That's
21 quite all right.

22 My sense was that the Committee
23 would not be in favor of a cap. And so,

1 the vote is, if you are opposed to a cap
2 of the percentage increase with the
3 addition of a comment that the increase
4 of -- a substantial increase in the
5 percentage could be considered as a
6 reason for deviation.

7 Okay. And, again, I am sorry I
8 am not artfully in drafting that.

9 All right. Let's see.

10 (Committee members raising
11 hands).

12 PROFESSOR DAVIS: I see -- one,
13 two, three, four, five, six, seven, eight,
14 nine, ten, eleven, twelve -- thirteen. I
15 see 13 yeses. Anybody want to vote
16 verbally? Fourteen, I see Drew's.

17 HON. PALMER: Penny, this is Julie
18 Palmer. I vote yes, no cap but with
19 comments.

20 PROFESSOR DAVIS: All right.
21 Okay. Thank you. That's 15.

22 Okay. If you will lower your
23 hands. And then anyone that wants a

1 cap, if you will raise your hand.

2 (No response).

3 PROFESSOR DAVIS: If you will,
4 unmute and vote that you would like a cap.

5 (No response).

6 PROFESSOR DAVIS: Okay. Thank
7 you. I appreciate that and certainly all
8 your comments.

9 The next question was whether
10 the maximum combined monthly gross
11 income in the Schedule should be
12 expanded. And the numbers that we have
13 now extended up to \$30,000. So, all --
14 and the Committee was in favor of that.

15 So, all those that are in favor,
16 if you would, raise your hand.

17 (Committee members raising
18 hands).

19 PROFESSOR DAVIS: I see 14 again.
20 Anyone else want to unmute and vote?

21 HON. PALMER: Penny, this is Julie
22 Palmer. I vote yes.

23 PROFESSOR DAVIS: Thank you. All

1 right. Now we will lower our hands.

2 And anyone that wants to vote in
3 opposition, if you would, raise your
4 hand or unmute.

5 (No response).

6 PROFESSOR DAVIS: Okay. Great.

7 All right.

8 So, we will go back to the
9 second question. And at this point,
10 Amanda, if you will go through our
11 second question and the conclusions on
12 page 16, Bob.

13 MS. COX: Yes, ma'am. Okay. So,
14 the next main topic is about the
15 Self-Support Reserve Adjustment. And the
16 subtopics underneath that is: Should the
17 amount of the Self-Support Reserve be
18 updated.

19 And the Subcommittee recommended
20 updating it to the 2021 federal poverty
21 levels adjusted for Alabama incomes, and
22 that would be \$981. And that's
23 consistent with how we updated the

1 Schedule. And I believe the
2 Subcommittee had all favored that, as
3 well, when we discussed it previously.

4 The next subpart is: Should we
5 change the manner in which the
6 Self-Support Reserve Adjustment is
7 implemented.

8 And currently it's built into
9 the Schedule. And we recommended adding
10 it to the worksheet after the
11 calculation of childcare and health
12 insurance expenses. And that's
13 something that we had gone back and
14 forth about in Committee. And Professor
15 Davis and Professor Gray and Dr. Venohr
16 kind of came up with the idea of putting
17 it after childcare and health insurance
18 expenses, and it makes the form so much
19 more clear than what we were looking at
20 before.

21 The next subpart is: Should
22 there be an economic incentive
23 calculated with the Adjustment.

1 And the Subcommittee recommended
2 using the 85%, and that addresses
3 payroll taxes and also to allow the
4 obligor to retain a small portion of the
5 increased earnings.

6 The last thing on Self-Support
7 Reserve is: Should the percentage to
8 calculate the economic incentive
9 increase as the number of children
10 increased.

11 And we recommended not varying
12 the percentages for the number of
13 children.

14 PROFESSOR DAVIS: Okay. Thank
15 you. We will go back to the Brady bunch
16 look for a moment.

17 And before I forget, which I
18 tend to do, Katie, since you have talked
19 with the group about the issue on caps,
20 would you mind talking with everyone
21 that you had talked with or as well as
22 any Subcommittee members and draft a
23 comment for the -- to go with the rule?

1 And we will look at that.

2 MS. STEINWINDER: Yeah, I will.

3 PROFESSOR DAVIS: Thank you. I
4 think that will be helpful.

5 All right. So, the issue
6 related to the use -- the location of
7 the Self-Support Reserve Adjustment, the
8 first question was: Should the amount
9 of the Self-Support Reserve be updated.

10 And the recommendation was to
11 update it to the 2021 federal poverty
12 levels adjusted for the Alabama income
13 which currently would mean the amount
14 would be \$981.

15 So, let me pause here to see if
16 anyone has a discussion about that,
17 questions or comments.

18 (No response).

19 PROFESSOR DAVIS: All right. I
20 think that's fairly straightforward. So,
21 let's do a vote and see what the consensus
22 was and number of issues. All in favor,
23 if you would, raise your hands.

1 (Committee members raising
2 hands).

3 PROFESSOR DAVIS: Okay. I see 14
4 again. If you would, unmute and vote.

5 HON. PALMER: Penny, this is Julie
6 Palmer. I vote yes.

7 PROFESSOR DAVIS: Thank you. All
8 right. We will lower our hands. And then
9 anyone that is in opposition, if you
10 would, raise your hand and -- or unmute.

11 (No response).

12 PROFESSOR DAVIS: Okay. The next
13 question is: Should Alabama change the
14 manner in which the Self-Support Reserve
15 Adjustment is implemented.

16 And the Subcommittee recommended
17 adding the calculations of the SSR
18 Adjustment into the worksheet and after
19 the calculation the childcare and health
20 insurance expenses. Again, currently
21 Self-Support Reserve is in the child
22 support numbered chart, and it's only
23 for the obligor. And we wanted more

1 transparency and its availability to
2 both parents but particularly if you
3 have a joint custody situation.

4 Now, I think at this time it
5 might be helpful -- Professor Gray, I
6 think you can share your screen or maybe
7 Bob has that -- if we look at the
8 worksheet that several of us have been
9 working on. Bob, can Professor Gray
10 share or can you put it up, either one?
11 I think Bob is sharing it. Okay. There
12 we go.

13 Can you walk us through this,
14 Professor Gray, as to how this would
15 work? And I think it's fair to say the
16 first -- basically the first eight lines
17 are exactly the same as the current
18 Alabama worksheet, the CS-42 that we are
19 all familiar with. And then the
20 remainder part of the worksheet is very
21 similar through 10. We will look at one
22 part that's different.

23 And then lines 11 and 12 deal

1 with the Self-Support Reserve. And then
2 lines 13, 14, and 15 deal with the issue
3 of the zero minimum order that the
4 Committee had already recommended and
5 the \$50 minimum order that we were
6 accustomed to.

7 So, Professor Gray, will you
8 walk everyone through this?

9 PROFESSOR GRAY: Sure. You might
10 want to switch back to the previous tab,
11 though, Bob. This is the one that has the
12 West Virginia approach.

13 Okay. So, as Professor Davis
14 said, yes, several of the first lines of
15 the sheet are pretty much what they had
16 been in the past. There are some
17 changes -- slight change up there where
18 we were accounting for, I believe, was
19 the worker-related childcare costs that
20 we are currently not doing in the Form
21 CS-42. But after you get past, say,
22 line 12, that's where the calculation --
23 the alternative calculation based on a

1 Self-Support Reserve is done.

2 And so, basically you take the
3 combined income -- I am sorry, you take
4 the gross income from line one at the
5 top of the form, the same line one as it
6 was back in the original CS-42 form, and
7 subtract out the \$981 Self-Support
8 Reserve that we are voting on.

9 And then, after that, the line
10 14 takes the 85% of that line, the
11 adjustment that we were talking about.

12 PROFESSOR DAVIS: Bob, do you want
13 to scroll up and let us look at the first
14 line. So, if the plaintiff makes \$1,200
15 and without a Self-Support Reserve, line
16 12, would say that based on the chart and
17 credit for any payments that the plaintiff
18 had made regarding either work-related
19 childcare costs or healthcare costs, then
20 his or her recommended child support would
21 be \$194.

22 PROFESSOR GRAY: Correct.

23 PROFESSOR DAVIS: And 13 basically

1 takes the -- right now the current amount
2 for Self-Support Reserve is \$981. If that
3 changes in the future, then it would be
4 easier to change that on the form. That
5 was another thing that was beneficial.

6 So, you would always subtract at
7 this point \$981 from number one, and
8 that's where the \$219 comes from. And
9 then the 85%, if that's the percentage
10 that we vote on, which is the number we
11 used here, 85% of the \$219 is \$186.

12 And so, that would be the amount
13 that would be owed by the plaintiff if
14 you vote for the 85%. And we won't look
15 at the 15, 16 right now. And let people
16 ask questions up to this point before we
17 look at the final child support order.

18 Let's give people a chance to
19 kind of look at it, if you will go back
20 up to the line one so they can see the
21 whole thing, Bob. Okay. Thank you. As
22 long as they can see from line one to
23 line 14 at this point.

1 And Professor Gray has set this
2 up on an Excel sheet. The lines that
3 you see in yellow are what the client
4 would put in, the lawyer would put in,
5 their income, and then what they are
6 paying with regard to work-related
7 childcare costs or healthcare costs.
8 The Excel sheet would do the
9 calculations, of course. And the green,
10 the \$414, is the number that would come
11 off the chart that we are updating.

12 So, the combined income of
13 \$2,200 with one child, the chart would
14 show that they should pay \$414. And
15 then, you would have \$2,200 of
16 work-related childcare costs and \$100 in
17 healthcare. We know those numbers are
18 -- We put the numbers in there so you
19 would see how it worked even though they
20 are not, perhaps, realistic.

21 And so, then, the total
22 obligation would be the \$534. And
23 someone raised the question before I

1 thought it was a good question. The
2 child support number that we see in the
3 chart does not include the cost for
4 work-related childcare costs or
5 healthcare coverage other than the
6 number does reflect \$250 for the
7 healthcare coverage.

8 So, that's why it's added on.
9 It's certainly a cost that most parents
10 incur.

11 And so, \$534 would be the amount
12 that both parents would be paying or are
13 paying for child support if they were an
14 intact family. And then, obviously the
15 percentages, line eight, is the
16 percentage that the two owed based on
17 their incomes, the same way we have done
18 before. And the only difference is,
19 before we did give credit for healthcare
20 but not for the work-related childcare
21 costs that someone was paying. So, we
22 put that in.

23 I am going to pause here and see

1 if anyone has questions.

2 (No response).

3 PROFESSOR DAVIS: I think we won't
4 deal with the other lines yet since that's
5 not going to be what we are talking about
6 in number two.

7 So, if no questions on the
8 worksheet, we will go back to the Brady
9 bunch and begin to vote on the
10 underlying issues. And, again, the
11 first question was the recommended SSR,
12 the poverty rate, \$981. You can see how
13 it would be used in the chart. It would
14 be, if you do the worksheet like we did,
15 that number would be adjusted -- could
16 be adjusted as those numbers adjust, the
17 poverty levels adjust, and so forth.

18 Any questions about that?

19 (No response).

20 PROFESSOR DAVIS: All right. We
21 will do the voting on that. So, do we
22 want to update the SSR to the 2021 federal
23 poverty level adjusted by the Alabama

1 income, the \$981, now that you've seen the
2 chart.

3 All those in favor, if you
4 would, raise your hand.

5 (Committee members raising
6 hands).

7 PROFESSOR DAVIS: All right. I
8 see 14. And anyone want to unmute and
9 speak?

10 HON. PALMER: Penny, this is Julie
11 Palmer. I vote yes.

12 PROFESSOR DAVIS: Okay. Thank
13 you. All right. If we would lower our
14 hands. Does anybody want to raise their
15 hand in opposition or unmute and speak in
16 opposition?

17 (No response).

18 PROFESSOR DAVIS: Okay. The
19 second question is the manner in which the
20 SSR Adjustment should be implemented, and
21 it was recommended by the Subcommittee
22 that the calculations be put in the
23 worksheet. And that would be after the

1 calculation for childcare -- the
2 work-related childcare and health
3 insurance expenses.

4 So, the recommendation was
5 favorable to that process for adding the
6 calculations and worksheet and after the
7 calculation for the childcare and health
8 insurance.

9 So, any discussion?

10 (No response).

11 PROFESSOR DAVIS: All right. Will
12 raise our hands if you are in favor of
13 that.

14 (Committee members raising
15 hands).

16 PROFESSOR DAVIS: All right. At
17 14. Anybody want to vote, if you can
18 unmute.

19 HON. PALMER: Penny, this is Julie
20 Palmer. I vote yes.

21 PROFESSOR DAVIS: Thank you,
22 Judge. All right. We will lower our
23 hands.

1 And if you are opposed to that,
2 if you would, unmute and let us know of
3 your opposition.

4 (No response).

5 PROFESSOR DAVIS: Okay. Thank
6 you.

7 The next question is: Should
8 the economic incentive calculated with
9 the SSR Adjustment, or should there be
10 one and, if so, how much?

11 The recommendation by the
12 Subcommittee was that there would be an
13 economic incentive, and the percentage
14 was 85%. The idea would be that would
15 address the payroll tax issue that
16 someone actually pays. They don't get
17 the full 100%, and that would allow the
18 obligor to retain a small portion.

19 So, again, the recommendation is
20 that we do have an SSR calculation with
21 an economic incentive of 85%, which is
22 what you saw demonstrated on the
23 worksheet.

1 So, any discussion?

2 (No response).

3 PROFESSOR DAVIS: Okay. We will
4 vote. All those in favor, if you would
5 raise your hands.

6 (Committee members raising
7 hands).

8 PROFESSOR DAVIS: Or unmute and
9 raise your hands. I see 14 visible.
10 Anyone want to unmute and vote?

11 HON. PALMER: This is Julie
12 Palmer. I vote yes.

13 PROFESSOR DAVIS: Okay. All
14 right. So, let's see. We need to lower
15 our hands. I feel like I am in
16 kindergarten, but it helps me to remind
17 myself.

18 And so, anyone who would like to
19 vote in opposition, if you would, raise
20 your hand or unmute.

21 (No response).

22 PROFESSOR DAVIS: Okay. Thank
23 you. All right.

1 The final issue related to
2 whether the calculation for the economic
3 incentive should increase as the number
4 of children increase. And the
5 Subcommittee voted not to favor varying
6 the percentage based on the number of
7 children. I think the primary reason
8 was because it really didn't have an
9 economic change because of the lower
10 income folks is my recollection.

11 So, that's the recommendation.
12 Any discussion?

13 (No response).

14 PROFESSOR DAVIS: All right. And
15 then we will vote again. Those of you who
16 are in favor, if you would, raise your
17 hand.

18 (Committee members raising
19 hands).

20 PROFESSOR DAVIS: And those who
21 cannot raise their hands, if you would,
22 unmute.

23 HON. PALMER: Penny, this is Julie

1 Palmer. I vote yes.

2 PROFESSOR DAVIS: Thank you,
3 Judge. All right. We will lower our
4 hands again.

5 And anyone that is in
6 opposition, if you would, raise your
7 hand or unmute and speak.

8 (No response).

9 PROFESSOR DAVIS: All right. The
10 third issue before the Committee is:
11 Should the current minimum order of \$50
12 remain in effect.

13 And, Amanda, do you want to
14 speak to what we talk about there on the
15 minimum?

16 MS. COX: Yes, ma'am. This is the
17 one where we do currently have a minimum
18 order, and Dr. Venohr said that most
19 states do. And that just recognizes that
20 even, if someone has a lesser income, they
21 still have a responsibility to support
22 their child.

23 We did note that the -- voting

1 on that zero order provision. So, if
2 that zero order provision applies, then
3 there would be a zero order. Otherwise,
4 we came up with the language, if the
5 zero order provision does not apply,
6 then there shall be rebuttable
7 presumption that a \$50 minimum
8 obligation less any payments for
9 healthcare coverage and work-related
10 childcare costs shall be entered. And
11 you won't have anything less than zero
12 dollars.

13 But Professor Gray kind of had
14 to help us with that language because
15 what we wanted to do is -- and Professor
16 Davis had pointed out -- that we did not
17 want somebody to have to pay, say, a
18 \$100 in health coverage and then also
19 get hit with a minimum order. We wanted
20 to consider that they were already
21 paying that \$100 and not necessarily go
22 into the minimum order if that was the
23 case. But that was the language that we

1 ended up with.

2 PROFESSOR DAVIS: Thank you,
3 Amanda. That's what you see in front of
4 you, the Committee had previously voted on
5 the zero dollar child support order. And
6 it was a part of the new subsection
7 (C) (5).

8 And, Amanda, I am going to ask
9 you to read that. I have got a little
10 tickle in my throat, so I'm going to get
11 water. If you will read the zero dollar
12 order to remind people what we are
13 voting on.

14 MS. COX: Yes. (As read) "If the
15 obligor has no gross income and receives
16 only means-tested assistance, there is a
17 rebuttable presumption that a zero dollar
18 order shall be entered. If the obligor
19 has no gross income and is incarcerated or
20 institutionalized for a period of more
21 than 180 consecutive calendar days, there
22 is a rebuttable presumption that a zero
23 dollar order shall be entered."

1 And that just talks about
2 completing the forms and specifying the
3 reason.

4 PROFESSOR DAVIS: Thank you,
5 Amanda.

6 All right. Let's go back I
7 think at this point to the Excel sheet.
8 And Professor Gray, if you will, go
9 through the last part of the worksheet
10 for us, and thank Bob for doing all this
11 heavy lifting on the changing of the
12 screens for us.

13 PROFESSOR GRAY: That is some
14 serious navigation for sure.

15 PROFESSOR DAVIS: It is.

16 PROFESSOR GRAY: So, basically,
17 the worksheet that we have here was based
18 on what we thought the Committee might
19 approve. And, of course, we would make
20 changes if there were something different.

21 So, when you get down to the
22 last two lines on this worksheet -- and
23 this is the one that mimics the old

1 CS-42 as closely as possible in the
2 first part and then adds on the
3 Self-Support Reserve portion.

4 So, at the very end, you are
5 basically wanting to compare line 12 and
6 line 14. And this is before considering
7 that minimum obligation of \$50 and also
8 the zero order.

9 So, I think in this case it
10 might be more instructive to look at
11 that second column. So, over in the
12 second column for the defendant, they
13 had a \$1,000 in gross income. We
14 computed that their share on line eight
15 was \$240, but that they are paying \$20
16 toward work-related childcare costs.
17 So, we are giving them a credit for
18 that, and then it brings it down to \$220
19 on line 12.

20 Okay. When you get down to the
21 alternative calculation based on
22 Self-Support Reserve, you are going back
23 up to line one, the \$1,000, subtracting

1 out the SSR of \$981 and that only leaves
2 you with \$19. And then when we take 85%
3 of that in line 14, we end up with \$16.

4 Okay. So, at this point, you
5 would say, well, I guess this minimum
6 \$50 obligation to apply, but what we
7 want to keep in mind is they have
8 already paid \$20. Okay? So, we end up
9 calculating that they would owe -- let's
10 see -- \$16.

11 PROFESSOR DAVIS: Bob, scroll up
12 just a little bit so we can see the next
13 few lines.

14 PROFESSOR GRAY: Yeah. Just a
15 little bit more. There we go, \$30.

16 Okay. So, the \$16 obviously is
17 the minimum of that and the \$220 back up
18 in line 12. And so -- but \$16 is well
19 below that \$50 minimum obligation that
20 we are talking about. And so, we say we
21 are going to have them contribute \$50.
22 But they are already paying \$20 toward
23 the work care child costs -- childcare

1 costs. And so, we subtract that out.
2 That's how we end up with the \$30 there
3 in line 15.

4 Now, in this particular form,
5 that line 15 is telling you a lot of
6 calculation. It seems kind of
7 confusing. You know, when you walk
8 through it, it makes perfect sense, but
9 it seems a little confusing as short as
10 it is. So, we do have an alternative on
11 the next tab -- I don't know if we want
12 to look at that or not just yet -- that
13 breaks that calculation down just one
14 more step to make it a little bit easier
15 to understand how we arrived at that
16 \$30.

17 PROFESSOR DAVIS: The one that's
18 marked West Virginia, right?

19 PROFESSOR GRAY: West Virginia,
20 correct.

21 Okay. So, we switch over there,
22 you can see that we now have three lines
23 down at the bottom. And so, line 13 in

1 this case -- because there have been
2 some other adjustments at the top. We
3 won't bother talking about that just yet
4 just to focus on this.

5 So, on line 13, you had the \$16
6 that we came up with. And so, now we
7 say in line 14: What's the child
8 support obligation after we consider the
9 zero order or the \$50 minimum
10 obligation? Well, in this case, the \$16
11 is less than \$50, so we are going to
12 enter \$50. We are assuming there's not
13 a zero order in this case. And then on
14 the next line, line 15, we make the
15 adjustment for the \$20 because they are
16 currently contributing back up in line
17 nine. And that gets us down to the \$30.

18 So, it adds one more step in the
19 process, but that might be a little bit
20 easier for people to understand.

21 PROFESSOR DAVIS: So, in the tab
22 that you see listed as child support
23 order, it basically takes two policies and

1 deals with the calculation there. One, we
2 already have the existing concept that --
3 and as Dr. Venohr indicated -- the
4 longstanding policy was that every parent
5 ought to pay something. They should
6 understand that there's a financial
7 obligation to their children.

8 So, Alabama and most states have
9 a minimum order. Ours has been \$50 for
10 a long time. And so, that's one aspect
11 that's considered there. What would be
12 new -- and the Committee has already
13 voted -- is to have what we are calling
14 a zero order. And, again, the zero
15 order applies in those circumstances
16 that Amanda read when someone is
17 basically incarcerated for a long period
18 of time or they basically don't have any
19 income. They have zero income.

20 And, so, that's the scenario
21 that we have already voted on. So,
22 that's why the chart that Professor Gray
23 has already worked on here for our

1 Committee already includes that.

2 So, let me pause here and let
3 people that are not as familiar with
4 this have a moment to look at the way
5 the calculations go here. And the
6 numbers, if you use the Excel sheet,
7 they would self-populate; is that
8 correct, Professor Gray?

9 PROFESSOR GRAY: That's correct.
10 In fact, on the West Virginia, it's a
11 little bit easier. There's less data to
12 enter than there is back on the previous
13 sheet that we looked at.

14 Bob, if you would, scroll up to
15 the top just a little bit. Yeah. In
16 this case, there are actually fewer
17 cells to be populated just because of
18 the way the data are entered. In this
19 case, you only enter the work-related
20 childcare costs and the healthcare
21 coverage costs once instead of twice.

22 In the previous sheet, we are
23 putting the total in and then we are

1 breaking out what the payments are that
2 are being made by the plaintiff and the
3 defendant. But in this case, it just
4 enters the amounts paid. And then, of
5 course, it just adds them up to come up
6 with the total amount that's being --

7 PROFESSOR DAVIS: So, if you are a
8 judge or an attorney that's basically
9 familiar with Excel and has the ability to
10 access that, even the parents that might
11 have the ability to access that, they
12 would only be putting in their income and
13 their payments related to childcare costs
14 or healthcare coverage. And the form --
15 the Excel sheet would do the rest of the
16 calculations.

17 PROFESSOR GRAY: And it could
18 easily be done pencil and paper. It's
19 just that this was a nice, quick, easy way
20 for us to test ideas out and see what
21 would happen.

22 PROFESSOR DAVIS: And by easily
23 done by paper and pencil, he is talking

1 about people that do numbers all the time,
2 not us regular folks. But the
3 calculations are not that different than
4 what you have before. It's just that we
5 are adding the Self-Support Reserve and
6 the zero order would be different. Yes,
7 he is correct.

8 So, again, let me pause and let
9 y'all look and ask questions.

10 HON. SHERMAN: Penny, can I ask
11 you a question?

12 PROFESSOR DAVIS: Yes, sir, Judge.

13 HON. SHERMAN: I don't want to get
14 us off track because we are having such a
15 productive meeting. And you said a vote
16 has already been taken on the zero dollar
17 child support order provision which I must
18 have missed. But my question is: This
19 zero child support order, this language,
20 does not change the ability of a trial
21 judge to impute income and then set child
22 support for someone the Court finds is
23 voluntarily underemployed or unemployed,

1 correct?

2 PROFESSOR DAVIS: That is correct,
3 Judge. Do we want to go back to that?

4 HON. SHERMAN: Well, where it says
5 if the obligor has no gross income, are we
6 going to have some comment or something
7 that will reflect that that means either
8 actual gross income or imputed by the
9 Court gross income?

10 PROFESSOR DAVIS: Yeah. What it
11 says -- we can certainly add a comment; I
12 think that would be very appropriate -- is
13 that they only receive means-tested
14 assistance. And I guess that's sort of a
15 term of art that perhaps would be
16 appropriate in the comment.

17 But, yes, this does not preclude
18 a judge from finding that they are
19 underemployed or they are voluntarily
20 unemployed.

21 The issue that we kind of had
22 dictated relates to the imprisonment.
23 The feds, if you will recall, did say

1 that we had to consider that.

2 HON. SHERMAN: Right.

3 PROFESSOR DAVIS: They didn't
4 require that we do it this way.

5 Yes, I think you are right,
6 Judge. We definitely need to clarify
7 that an obligor cannot get out of paying
8 child support just because they choose
9 not to work when they could work.

10 MR. MADDOX: Penny, this is Bob
11 Maddox. I wanted to clarify with the
12 Committee that the Committee did vote in
13 favor of the first paragraph in (C) (5)
14 back at the November 5th, 2020, Committee
15 meeting. The underlying language is the
16 proposed language to be voted on today as
17 an addition to this (C) (5) language.

18 PROFESSOR DAVIS: That's correct.
19 Thank you, Bob.

20 MR. MADDOX: So, they can still
21 tweak the first paragraph, as well, if
22 they wanted to, to revote on this (C) (5).

23 PROFESSOR DAVIS: That's correct.

1 Yeah. We haven't -- What we had voted was
2 to not -- We voted in favor of this change
3 but not to send it to the Court until we
4 sent everything to the Court. So, the
5 Court has not seen that.

6 So, we could certainly entertain
7 any language changes that we have
8 regarding that.

9 MS. COX: I kind of think we might
10 need to put that in the rule because that
11 seems to be a big issue that comes up a
12 lot.

13 HON. SHERMAN: The voluntarily
14 underemployment or unemployment? Yeah, it
15 does come up a lot.

16 PROFESSOR DAVIS: All right. Does
17 anyone have some suggested changes?

18 (No response).

19 MS. COX: We might could even just
20 put it underneath the new language, just
21 put it at the bottom and just say neither
22 of these prevent, you know, whatever the
23 current rule is, just kind of refer back

1 to that.

2 MS. BALDWIN: I think that
3 question was posed earlier, at least maybe
4 in a meeting that we didn't have a vote,
5 but we were discussing the zero dollar
6 language. I thought we said that the
7 words there were "rebuttable presumption"
8 that covered that, and that's the same
9 with the second new paragraph. I think it
10 was intended to cover that.

11 MS. COX: I do agree that it
12 covers it too, but I don't know. I just
13 can see there being some confusion about
14 it still. But I do agree that it does --
15 it does cover it.

16 PROFESSOR DAVIS: Do you think a
17 comment would be sufficient, Judge
18 Sherman, or do you think we need to --

19 HON. SHERMAN: I think a comment
20 would be sufficient. I mean, you know,
21 like, what Amanda is talking about,
22 referring back to the definitions of
23 income, that Section (B) (5), you know,

1 that we could make reference to that
2 provision, you know, that the trial courts
3 still has, that this doesn't prevent the
4 Court from making that finding, or
5 something to that effect.

6 PROFESSOR DAVIS: Okay.

7 MS. BEACH: This is Shirlee Beach.

8 Could you also not just remove
9 the part that says, if the obligor has
10 no gross income, and leave it that the
11 obligor receives only means-tested
12 income or is going to be incarcerated
13 for 180 consecutive calendar days?

14 HON. SHERMAN: I am imagining
15 instances where a court might find that
16 someone has voluntarily underemployed even
17 where they are receiving some type of
18 means-tested assistance.

19 MS. BEACH: Okay.

20 HON. SHERMAN: And so, having a
21 comment -- so, I think the issue is not so
22 much -- I mean, it is that it says it is
23 no gross income. But if we are saying

1 there is a presumption of no child
2 support, zero dollar child support, that
3 if we just make reference in a comment
4 that this other thing is still out there
5 because I could see attorneys come in and
6 saying, Judge, no income, no child
7 support, you know? Or no income and
8 means-tested assistance, so, therefore, no
9 child support.

10 PROFESSOR DAVIS: Okay. Does
11 anybody want to volunteer to work on a
12 Committee comment for that?

13 HON. SHERMAN: I don't mind doing
14 it if maybe I can send it to Amanda to
15 look over it for me. Do you mind, Amanda?

16 (Ms. Cox indicating positive
17 response).

18 PROFESSOR DAVIS: All right.

19 HON. SHERMAN: Thank you.

20 PROFESSOR DAVIS: All right.

21 Let's take a minute or two to look at the
22 rule here.

23 We do need another vote on this.

1 So, while it's on the screen, do we want
2 to go ahead and vote on this?

3 HON. SHERMAN: Yeah. I was going
4 to ask you if you needed a motion or
5 anything that we vote on this new amended
6 language with the comment that will be
7 provided.

8 PROFESSOR DAVIS: We do, Judge.
9 Would you like to make that motion?

10 HON. SHERMAN: Yeah. I so move.

11 PROFESSOR DAVIS: Okay. Let's go
12 back to the Brady bunch screen, Bob.
13 Thank you for being so agile. All right.
14 So, we need a second.

15 (Ms. Cox is indicating a
16 positive response).

17 PROFESSOR DAVIS: Amanda is a
18 second. Okay. Thank you.

19 All right. So, Judge Sherman
20 makes the motion and Amanda seconds
21 that. Okay. So, all in favor -- Any
22 further discussion?

23 (No response).

1 PROFESSOR DAVIS: Okay. Let's go
2 to our hand raising. All in favor, if you
3 would, raise your hand.

4 (Committee members raising
5 hands).

6 PROFESSOR DAVIS: And I count 14.
7 And unmute if anyone else wants to vote.

8 HON. PALMER: Penny, this is Julie
9 Palmer. I vote yea.

10 PROFESSOR DAVIS: Okay. Thank
11 you.

12 So, if we will lower our hands.
13 And anyone who wants to vote in
14 opposition, if you would, raise your
15 hand or unmute. And, Judge Sherman,
16 your hand is remaining up, but I assume
17 that's not the case since you made the
18 motion.

19 (No response).

20 PROFESSOR DAVIS: Okay. Thank
21 you. All right.

22 HON. SHERMAN: I don't want to
23 oppose my own motion.

1 PROFESSOR DAVIS: In the
2 Legislature sometimes you do that so you
3 can go back if you lose and bring it up.

4 All right. Thank you so much.
5 So, I guess now the number three, that
6 we were discussing, question was:
7 Should we keep the current minimum order
8 of \$50 in effect. And would that be \$50
9 less the payment for healthcare coverage
10 and work-related childcare costs is
11 explained in the example by Professor
12 Gray.

13 So, any further discussion on
14 that?

15 (No response).

16 PROFESSOR DAVIS: All right.
17 Let's go to our emojis. If you would,
18 raise your hand if you are in favor of
19 that.

20 (Committee members raising
21 hands).

22 PROFESSOR DAVIS: And unmute.

23 HON. PALMER: This is Julie

1 Palmer. Yes.

2 PROFESSOR DAVIS: Okay. Thank
3 you. Now we will lower our hands.

4 And if anyone would like to vote
5 in opposition, if you would, raise your
6 hand or unmute and speak.

7 (No response).

8 PROFESSOR DAVIS: Okay. Thank
9 you. And the last question is number
10 four. Amanda, do you want to read that
11 out?

12 MS. COX: Yes, ma'am. This is
13 the -- the last one is just we wanted to
14 consider both the work-related childcare
15 costs and the healthcare coverage costs in
16 the term -- in giving an adjustment to the
17 payment.

18 So, right now, we consider it
19 and determine the total child support
20 obligation, but we only adjust for
21 health insurance. And we just couldn't
22 really think of a reason why we would do
23 that. And we thought just to be fair

1 and consistent we would do an adjustment
2 for both.

3 PROFESSOR DAVIS: Okay. Professor
4 Gray -- Bob, if you would put up the chart
5 one more time. And probably what the West
6 Virginia -- Do you want the West Virginia,
7 Professor Gray, or the other one? You
8 were on mute, Professor Gray.

9 PROFESSOR GRAY: Actually it might
10 be better to take a look at the previous
11 one, the first modified, yeah, since it's
12 a little bit closer to the previous.

13 Okay. So, I guess in line nine,
14 now, we have that adjustment for
15 work-related childcare costs.

16 PROFESSOR DAVIS: Right. And I
17 don't know exactly why we didn't have that
18 before. It just seems it was added in the
19 line eight. It added both costs, but it
20 did not -- it only gave credit for the
21 parent that paid the healthcare but not
22 for the parent that paid the childcare.

23 PROFESSOR GRAY: Correct.

1 PROFESSOR DAVIS: Any questions
2 about that to Professor Gray?

3 (No response).

4 PROFESSOR DAVIS: All right. We
5 will go back to the Brady bunch screen.
6 And if you would, if you are in favor of
7 that, if you would, raise your hand.

8 (Committee members raising
9 hands).

10 PROFESSOR DAVIS: And unmute if
11 you want to vote. All right. I see 13 in
12 favor.

13 HON. PALMER: This is Julie
14 Palmer. Yes.

15 PROFESSOR DAVIS: All right.
16 That's 14. All right. Now, if you will
17 lower your hands. And anyone that wants
18 to vote in opposition, if you will, raise
19 your hand.

20 (No response).

21 PROFESSOR DAVIS: Amanda, is your
22 hand -- okay. It's off. All right. So,
23 no one opposed.

1 Okay. All right. So, that
2 passes also. Wow. I think everybody
3 ought to turn around and pat themselves
4 on the back for working through this,
5 because it's a lot of issues and they
6 are complicated issues. So, I certainly
7 appreciate that. I think we will be
8 able to maybe meet our deadline for the
9 Court.

10 We did ask -- let me ask you
11 this: Does anybody have any other
12 questions related to our votes before we
13 look at the information Dr. Venohr
14 provided us?

15 MS. COX: Professor Davis, I would
16 just like to know just because, when we
17 send up the memo to the Supreme Court, was
18 everything unanimous today? Is that
19 right?

20 PROFESSOR DAVIS: I believe that's
21 correct. Bob, is that correct?

22 MR. MADDIX: That's correct.
23 Everything was unanimous on the record.

1 PROFESSOR DAVIS: Thank you.

2 All right. Any other questions
3 or comments before we move forward?

4 (No response).

5 PROFESSOR DAVIS: Okay. Dr.
6 Venohr, if you would, go over the question
7 that the Committee had posed. Bob, if you
8 would put up --

9 DR. VENOHR: Congratulations.

10 PROFESSOR DAVIS: I feel like we
11 should do a victory dance or something.

12 DR. VENOHR: Definitely. Kudos to
13 everybody. It's just amazing. I really
14 didn't expect presenting this memo today.
15 So, I need to find it. So, I'm not sure I
16 really understood the reason for this.
17 Professor Davis, do you want to comment on
18 the reason for asking me to research the
19 issue --

20 PROFESSOR DAVIS: I am sorry. Go
21 ahead. I was going to say something while
22 you were looking, but you are prepared.
23 Go right ahead.

1 DR. VENOHR: So, what I was asked
2 to do was just look at the treatment of
3 childcare expenses in other states,
4 specifically the cap that's imposed. And,
5 again, there's that word "cap."

6 And so, the context of it here
7 is that here are the provisions for the
8 Alabama Guidelines on Childcare. And
9 what it says is that -- I am going to be
10 more precise. I am going to read it.

11 It says that -- if you look at
12 the bottom box, you will see that the --
13 (as read) "Shall not exceed the amount
14 required to provide care from a licensed
15 source for the child or children, based
16 on a schedule of guidelines developed by
17 the Alabama Department of Human
18 Resources."

19 And what that Department does is
20 that they have childcare assistance, and
21 that's a federal block grant. And to
22 provide it, they have to do market
23 surveys every two years of childcare

1 providers, you know, because they are
2 reimbursing these childcare providers,
3 and they have to do something that's
4 fair market value but not over the top.

5 So, what they do is they do a
6 survey, you know, by licensed care, by
7 home care, by center care, by licensed
8 home, unlicensed home, and then they do
9 it by different age brackets because
10 then we know that childcare costs vary
11 depending on the age. And they also
12 consider quality. There's some star
13 rating that they can get.

14 So, that's the information
15 that's used, and I think it's a 70
16 percentile that they use. So, median is
17 50%. So, if we line everything up from
18 the lowest to the highest, 70% would
19 be -- 30% back from the highest and 70%
20 from the lowest.

21 And so, the courts published
22 that information. And the advantage of
23 it is that it's great information, you

1 know, whether those childcare costs are
2 reasonable. It's a little bit confusing
3 just because there is all these
4 different stars, and do you use home
5 care, or do you use center care, et
6 cetera.

7 So, I was asked how do other
8 states do it. And, well, first of all,
9 I should look at the perceived strengths
10 and weaknesses. If you look at the
11 bottom, if you scroll down a little bit,
12 Bob has got so many skills there,
13 audio/video among them. So, the
14 perceived strengths or it provides
15 guidance. It's updated every two years
16 approximately. There's probably some
17 delays due to COVID right now. It's
18 confusing.

19 And -- but some of the other
20 states, I think, that have exemplary
21 language are Florida and Maryland where
22 they just make it clear that this is the
23 cap that use the actual amount if you

1 have it. And then you use the highest
2 ranking of qualities is what the Florida
3 and Maryland language says.

4 And I pulled states that were
5 neighboring states. Some neighboring
6 states don't even address it. So, if
7 you don't see a neighboring state on
8 there, it's because they didn't address
9 it. They didn't have a cap.

10 But there's language from other
11 states. And I think that's about it.
12 I'll give you a moment to look at the
13 language, but I'm not sure I understood
14 the assignment, why it was important.
15 And maybe Professor Davis can shed some
16 light on that, what was the reason you
17 asked.

18 PROFESSOR DAVIS: Okay. If you
19 will scroll down a little bit more, Bob,
20 on the back, stop right there. Thank you.

21 In the first paragraph in the
22 background, it says, it appears that DHR
23 last update rates were in 2019. Then

1 the rates represent the 75th percentile
2 of market rate, where 75% is deemed a
3 reasonable rate of reimbursement for
4 childcare providers when childcare is
5 being subsidized. And that kind of
6 struck me that, you know, a lot of the
7 people who are being -- where the caps
8 are being applied are not getting
9 subsidized childcare, but yet there's a
10 cap at 75%.

11 And so, it kind of explains to
12 me why there appears to be an under --
13 under amount allowed -- the amount that
14 generally I see in the charts for
15 childcare is substantially less than the
16 actual costs. And so, this kind of
17 explains for me why that -- I may be
18 wrong. If I am misinterpreting that,
19 Jane, please correct me.

20 DR. VENOHR: That's interesting.
21 So, even for the quality, the highest
22 quality, it seems low, too?

23 PROFESSOR DAVIS: That's my --

1 yes. I see Shirlee is nodding.

2 DR. VENOHR: Yeah. Because I
3 would probably put that "when child is
4 being subsidized" in the wrong place.
5 When they do these surveys, they survey
6 childcare providers that will take in
7 subsidized. But I don't know in
8 Alabama -- I am more familiar with it in
9 Colorado, my home state, where when the
10 surveys are conducted, most of the centers
11 will take both subsidized and
12 unsubsidized.

13 So, I feel pretty good about the
14 market rates here in Colorado, and I
15 have done the survey for Minnesota. And
16 I can tell you I feel good about it
17 there.

18 But in Alabama, if there is some
19 segregation as far as -- and I use that
20 term "segregation" meaning that the
21 children with subsidies go to one
22 daycare and then the children without
23 subsidies go to another daycare -- then

1 I could see how that would happen in the
2 data. That survey would underreport it.

3 PROFESSOR DAVIS: I guess I am
4 also wondering why you would put a cap at
5 75% instead of having a cap at 100% of
6 what the average is.

7 DR. VENOHR: I think that's just
8 for the CCAP program that that's --

9 PROFESSOR DAVIS: And CCAP is the
10 subsidized children, right?

11 DR. VENOHR: Right. Right.
12 Right. And so, they report it at 75%. I
13 thought it was 70%. But, oh, well, 75%.
14 And then that's just because, you know,
15 they have to have some sort of ground
16 rules. Like, if there is a center that --
17 you know, they survey a center and a
18 center charges \$2,000 month, they don't
19 want to use an 100% or, you know, the
20 highest which would be 100% of that \$2,000
21 a month, because, you know, that wouldn't
22 be fair.

23 So, they take 75% thinking that,

1 you know, okay, we want to subsidize --
2 they want to make sure that the provider
3 is taking care of, too, you know,
4 because the market for childcare
5 providers isn't that great. You know,
6 it's not -- They want to pay them fairly
7 just because they are -- it's a
8 struggling business. It's not
9 exactly...

10 But with the context of what you
11 are concerned about, Penny, if the
12 concern is that Alabama is -- that this
13 market survey isn't reflective of some
14 of the parents that come in with a child
15 support issue, then maybe you should
16 just eliminate it or say that if they
17 could consult this and not treat it as a
18 cap if you know that it is not
19 reflective of what center-base care is.

20 PROFESSOR DAVIS: Ironically, I
21 think it was last night I was seeing the
22 news, and it said the average -- there's a
23 problem with childcare now post the COVID

1 issues. And so, it's difficult for
2 parents to find childcare. And the cost
3 is so high the average is, like, \$10,000,
4 or a little over \$10,000 up a year.

5 And so, if you put -- My thought
6 then in thinking about it how it relates
7 to what we are working on here, if it
8 costs a lot more than we are giving
9 people credit for but they are having to
10 pay it, then it's hard enough for them
11 to want to work and pay it. But then if
12 they are not getting credit for it on
13 the child support, then it's -- it may
14 be a disincentive for people that
15 actually work if they are not actually
16 getting credit for what they are paying
17 to work.

18 So, that was a concern of mine.
19 But let's see if anyone else had any
20 questions regarding the information that
21 she has here on the memo example. There
22 was Fort Payne, Jane.

23 And maybe the DHR folks can tell

1 us. The star rating -- you indicated,
2 Jane, that a lot of the states base
3 theirs on an amount for the highest
4 quality of care. But it appears that
5 Alabama does -- pardon?

6 DR. VENOHR: Yeah.

7 PROFESSOR DAVIS: But it doesn't
8 appear that Alabama does that; is that
9 correct?

10 DR. VENOHR: No.

11 PROFESSOR DAVIS: The percentage
12 is not based on the highest amount of
13 care; is that correct?

14 DR. VENOHR: Correct. Yeah. And
15 I think you nailed it. I mean, another
16 issue is that the last time the survey was
17 done was in 2019. And I suspect -- it
18 just hasn't been updated because of COVID.
19 Usually they do it every two years. They
20 should be -- And somebody from the
21 Department could speak to that.

22 But also, you are correct,
23 Penny, that there's lots of stuff in the

1 media these days about the quality
2 schedule of care and availability. So,
3 I wouldn't be surprised if the prices
4 are higher than this.

5 And the thing I wanted to point
6 out is, there really isn't more updated
7 data. I mean, even if we were to use
8 census data, I think we are still on
9 2019 for that. And so, we don't have
10 good data for the post-pandemic, current
11 pandemic world.

12 PROFESSOR DAVIS: My only comment
13 regarding that is that I have always felt
14 that the child support payments were not
15 reflective of what is generally being paid
16 even prior to the COVID issues. So, it's
17 not tied into that necessarily from my
18 perspective.

19 Let's go to the Brady bunch
20 screen and see if anybody else has any
21 concerns about the way we currently cap
22 the childcare costs.

23 (No response).

1 PROFESSOR DAVIS: Obviously, if we
2 do nothing, then the cap remains as it is
3 now.

4 HON. SHERMAN: Penny, I'm just
5 noticing there is a -- I just pulled up
6 DHR's website.

7 There's a recent -- There is a
8 market rate survey that was done, looks
9 like, September of this year. I am not
10 reading what all it says. But that
11 might be something we want to look at or
12 that might inform our opinion.

13 I would agree with you that I
14 see a lot of cases where the DHR rate
15 that is the cap is less than the actual
16 amount of childcare that the folks are
17 paying.

18 You know, the other problem I
19 see with daycare -- or childcare having
20 it included in the child support
21 calculation is that it is -- because
22 it's so high, it can really increase the
23 child support amount and then

1 frequently, after childcare is no longer
2 being paid, that child support doesn't
3 get adjusted, which isn't the same
4 concern, but it may inform how we want
5 to address it if we do want to address
6 it.

7 PROFESSOR DAVIS: Thank you,
8 Judge, for your comments.

9 Additional comments from the
10 Committee members?

11 (No response).

12 PROFESSOR DAVIS: All right.
13 There doesn't seem to be any additional
14 comments.

15 So, if someone has a suggestion
16 or proposal for a different language,
17 obviously that's -- our Committee is, as
18 Dr. Venohr has pointed out, an ongoing
19 committee. And so, if someone comes up
20 with some language that they would like
21 for the Committee to consider, then we
22 can do further surveys or whatever else
23 at the pleasure of the Committee. But

1 if nothing else, then we will move off
2 that topic.

3 All right. So, before we open
4 up the time for the public comment, let
5 me ask the Committee members if you have
6 any other issues that you would like for
7 us to address today.

8 MS. COX: Professor Davis, are we
9 going to decide which of those two forms
10 to use, or are we going to deal with that
11 later?

12 PROFESSOR DAVIS: That's a good
13 question. We could look -- We don't have
14 a whole lot of time left, but we do have a
15 few minutes.

16 Let me -- let me do this: Let
17 me find out -- I don't believe anybody
18 from the public previously had indicated
19 they wanted to speak.

20 So, Bob, can you do a quick roll
21 call with the public and see if anybody
22 has changed their mind about wanting to
23 speak?

1 MR. MADDOX: Yes, ma'am. Lisa
2 Clark, did you want to make any comments
3 at this time?

4 MS. CLARK: No, sir.

5 MR. MADDOX: Jordan Pavlow, did
6 you want to make any comments? Did I
7 pronounce your last name correctly? If I
8 didn't, pardon me.

9 MR. PAVLOW: That was perfectly
10 correct. Thank you. I would like to ask
11 a quick question if that's all right.

12 MR. MADDOX: Sure.

13 MR. PAVLOW: So, thank you for
14 letting me listen, and it was very nice to
15 hear everyone's perspectives.

16 I am a law student going to a
17 University in San Francisco and writing
18 some articles on family law. And I am
19 not sure the prevalence of child support
20 apps in Alabama, but I was wondering to
21 hear a few judges or professionals,
22 Committee members' perspective on using
23 child support apps in Alabama in the

1 court system and so on.

2 MS. KING: This is Rachel King.
3 The only one that I'm aware of that people
4 have used is the one that Candi Peeples
5 created. But all it really does is
6 calculate the child support. Is that what
7 you were speaking to?

8 MR. PAVLOW: Sort of. They are
9 maybe not so big. But in California, I
10 mean, I think a new app came up last
11 month. There's maybe six or seven that I
12 am aware of. And I am reading a bunch
13 about judges ordering the use of these
14 child support apps in child support orders
15 and so on, but I'm not sure how it is
16 elsewhere. I was wondering.

17 HON. SHERMAN: Child support apps
18 that do what, Jordan?

19 MR. PAVLOW: They do -- Some only
20 handle, like, kind of manage the
21 communications between the parents, help
22 calculate the support. Others keep
23 financial records of transactions and

1 allow parents to submit reimbursement
2 requests, for example, from the other
3 parent.

4 MS. STEINWINDER: Jordan, are you
5 talking about an app like "Our Family
6 Wizard"?

7 MR. PAVLOW: Exactly. That's one
8 of the big ones.

9 HON. SHERMAN: Yeah. That gets
10 used here, some voluntarily and some by
11 court order that I am aware of.

12 MR. PAVLOW: Okay. I have looked
13 through Westlaw and Nexis, and it seems
14 like some judges are recommending it but
15 not always mandating them -- the use of
16 them.

17 HON. SHERMAN: Yes. I think
18 that's accurate.

19 MR. PAVLOW: Okay.

20 HON. SHERMAN: I mean, some judges
21 order it and some don't. And some folks
22 will use it voluntarily. That's my
23 experience in my court, anyway.

1 MR. PAVLOW: Okay. How would you,
2 Judge Sherman, be open to using them?
3 Have you ever thought about ordering it?

4 HON. SHERMAN: I have been asked
5 to order it by attorneys in cases, and
6 sometimes I have ordered it in those cases
7 and sometimes I haven't. It really just
8 depends on the circumstances. I mean, it
9 can be very helpful, but I am also
10 sensitive to imposing additional financial
11 burdens on the parties because the ones
12 I've seen, you know, aren't free. So, it
13 just depends on the circumstances.

14 MR. PAVLOW: Okay. Thank you.

15 PROFESSOR DAVIS: Thank all of you
16 judges and Committee members for
17 responding to his question.

18 All right. So, I think that if
19 no one else has questions from the
20 public, unless someone else comes on,
21 then we can spend the remainder of our
22 time looking at those two forms and
23 maybe be able to make a decision on

1 those two. I think it will be time well
2 spent.

3 So, Bob, if you will put back up
4 the Excel sheets.

5 And, Professor Gray, would you
6 recommend we look at the West Virginia
7 first or the other one first?

8 PROFESSOR GRAY: It really doesn't
9 matter. You know, the one thing to
10 realize is both do produce the same
11 results, so there's no difference. It's
12 just a reordering of a few things.

13 I think that the West Virginia
14 worksheet, the second one, has the
15 advantage that there are fewer entries
16 and there's one less opportunity for
17 making a calculation mistake because you
18 are entering the amounts paid. They are
19 lines five and six by the two parties.
20 And then it gets some that's supposed
21 to -- you input the sum and then you
22 also break down on what they are paying.
23 So, that saves the potential for a

1 mistake.

2 I think the more -- So, I think
3 I would probably favor this sheet just
4 because it's a little simpler at the
5 top. And then the question is: Do you
6 want to down in the very bottom split
7 out that calculation?

8 So, on the West Virginia sheet
9 that we are seeing here, we have a line
10 14 and a line 15 that accomplishes
11 essentially the same thing that one line
12 does on the previous modified worksheet.

13 So, it's just a question of: Do
14 you want the quick simplicity, or do you
15 want to see it broken out one more step
16 just to make it a little bit easier for
17 somebody to see how the numbers were
18 arrived at?

19 PROFESSOR DAVIS: And I guess --
20 and, of course, several of us have been
21 working on this worksheet. I guess I am
22 like Professor Gray, and I favor the West
23 Virginia version, the one you see here,

1 even though it's one extra line because it
2 does, I think, explain the zero order and
3 the \$50 minimum order a little better.
4 And because the zero order is a new
5 concept, it may be worth an extra line to
6 do that.

7 And I do agree that it makes
8 more sense that we use this approach
9 with the way they do the calculations
10 relating to work-related childcare costs
11 and healthcare coverage. So, you only
12 have to only input it once, not twice.

13 MS. COX: Okay. Professor Davis,
14 I agree with the top part. I think Dr.
15 Venohr even also said that she agreed
16 with -- she liked the West Virginia
17 worksheet better. I think that's almost
18 no brainer, that that looks much better.

19 The bottom part, I did want to
20 bring it up what we talked about in the
21 Subcommittee that this is not going to
22 happen very often. I don't know. I do
23 think it looks simpler, but I also think

1 for something that's not going to happen
2 very often, adding a whole other line.
3 I'm just not sure it is worth it when
4 they could just go to the rules and read
5 the rules to see how to do it. I don't
6 know.

7 Maybe Dr. Venohr can talk more
8 about how often that's going to happen,
9 but I just hate to use a line for
10 something that might not even happen.

11 PROFESSOR DAVIS: That is a good
12 point. We could do essentially a
13 combination and use line 12 up with the
14 chart version that we see here which does
15 have the benefit of only imputing those
16 two numbers once and then use the lines --
17 I think it's lines 13 and 14 instead from
18 the other modified worksheet. Is that
19 what you would be recommending Amanda, if
20 I'm understand that, lines 15 and 16?

21 (Ms. Cox indicating a
22 positive response).

23 PROFESSOR DAVIS: Well, it would

1 be lines 15 and 16, but I think if you use
2 the top part from West Virginia, then the
3 new lines would be -- what lines --

4 PROFESSOR GRAY: Well, there would
5 just be a line 14 at that point. And that
6 line 14 on the sheet we are looking at
7 right now --

8 PROFESSOR DAVIS: Yes.

9 PROFESSOR GRAY: -- would be the
10 last line that you saw on the previous
11 one.

12 PROFESSOR DAVIS: Right.

13 PROFESSOR GRAY: In other words,
14 the two orange lines here accomplish
15 exactly what the one orange line does on
16 the previous worksheet.

17 So, yes, you can mix and match
18 at the top part of this one and then
19 slip in the bottom part of the previous.

20 MS. BALDWIN: This is Melody
21 Baldwin. I would just think that,
22 especially when we are talking about child
23 support workers having to do this all over

1 the state and breaking it down, is
2 probably the better of two things to do
3 because they are not going to be referring
4 to the rules when they are sitting in
5 their office trying to do some of this. I
6 mean, DHR would, of course, train their
7 employees, but you are going to add new
8 employees all the time at different levels
9 of training who would probably benefit
10 from having it broken down.

11 PROFESSOR DAVIS: I see Shirlee
12 nodding. Do you want to speak to that,
13 Shirlee?

14 MS. BEACH: Only to say that I
15 agree with what Melody says. This is
16 going to be done in court even, in the
17 court setting. They are not going to be
18 able to reference the rules every time.

19 PROFESSOR DAVIS: Okay. I think
20 that's -- both good points. Other
21 comments? Concerns?

22 MS. COX: Didn't Dr. Venohr say,
23 you know, kind of tell us -- I remember --

1 I'm not sure if you have a number. But
2 she was basically saying that this would
3 not happen very often, and I can't
4 remember exactly the reasons why. But she
5 might be able to speak to that more, or
6 Melody might remember too.

7 DR. VENOHR: There's a footnote in
8 the March memo on it. And this is going
9 to occur for those that are below minimum
10 wage, which that doesn't happen very
11 often. There's less than 4% with low
12 enough to be affected by the self-support
13 reserve case file data, so this is only
14 IV-D case file data.

15 Four percent of obligated
16 parents with incomes less than minimum
17 wage in our case file that we annualize,
18 and that's per year. And then among
19 those, 12% had a calculation adjustment
20 for health insurance. So, 12% of 4% is
21 going to be less than 1% and the same
22 with childcare.

23 So, the short of it, yeah, it's

1 going to be less than 1% of the orders
2 being established or modified in the
3 IV-D world per year.

4 MS. BALDWIN: I still think this
5 one is the better to use. This is Melody
6 Baldwin, by the way, for the same reasons.

7 And I will tell you another
8 thing too. Amanda, whenever I was
9 sent -- because I missed the
10 Subcommittee meeting where the forms
11 were actually displayed and then I was
12 just looking at the language that
13 you-all had recommended, I think if I
14 had had the West Virginia form instead
15 of the first one because I didn't get
16 sent the West Virginia form, I would
17 have better understood that we were
18 actually trying to keep the \$50 minimum
19 order and exactly what had occurred in
20 the meeting. And just to me, it's more
21 beneficial to have it.

22 I realize it's going to be few
23 and far between, but somebody might

1 screw up an order if they don't have it
2 broken down, so, in that few and far
3 between. And I might be the one to do
4 it.

5 PROFESSOR DAVIS: We are all
6 agreeing because we are all thinking, no,
7 it would be me that would do it.

8 All right. Do we want to flip
9 back and forth and let people look at
10 the other one again one more time?
11 Just, again, focus on the bottom where
12 it says, the final child support order.

13 PROFESSOR GRAY: This is --

14 MS. COX: Is that -- I'm sorry.
15 Is that just the imprint, that zero?

16 PROFESSOR GRAY: Yes. We are in
17 that little space there.

18 One thing I would say is, in
19 either of these two, you are doing
20 exactly the same calculation. It's just
21 that this one does it on one line, and
22 the other one does it in two lines. But
23 I just -- I have a feeling that people

1 are going to be less likely to make a
2 mistake if they break it down into two
3 pieces like on this sheet.

4 Again, the same calculation,
5 same amount of work. There's no
6 difference. It's just spelling it out
7 and taking it in two steps rather than
8 one big step.

9 PROFESSOR DAVIS: Let me ask this,
10 Melody, or anyone else. The people that
11 will be doing this by hand, what
12 percentage of the people -- you know, if
13 we had this Excel sheet, this wonderful
14 Excel type sheet that Professor Gray has
15 graciously spent his time developing for
16 us, if you have that availability, you
17 know, obviously the amount of lines
18 doesn't matter because it will just pop in
19 the numbers. So, I am really thinking
20 about the people who are going to have to
21 handwrite things in.

22 So, are most of your DHR people,
23 are they using some, you know, formula

1 like or some calculator like an Excel
2 sheet, or are they having to write in by
3 hand?

4 MS. BALDWIN: I would say 99% of
5 them are by hand.

6 PROFESSOR DAVIS: That's kind of
7 what I thought. Pro se people, obviously,
8 are going to be doing that by hand.

9 HON. SHERMAN: Penny, this is just
10 anecdotal from my courtroom. But the
11 private lawyers that I have, the majority
12 I would say -- you know, significant
13 majority of them are still doing a CS-42
14 in court because they like to wait and see
15 what the testimony is and, you know, all
16 of that -- these are in contested cases,
17 of course -- and then fill one out.

18 So, even with them, they are
19 doing it there with me most of the time.
20 I use the -- You know, we have that
21 CS-42 calculator in Alacourt, which is
22 what I used. And I calculate my own in
23 almost every case using that calculator.

1 PROFESSOR DAVIS: Just, again,
2 based on your personal experience, do you
3 think having the extra line would help the
4 people that are in your court or --

5 HON. SHERMAN: I think the --
6 yeah, I don't think it's going to apply to
7 most of them in my court. But it
8 definitely is clearer to have the second
9 line when it does apply.

10 This whole worksheet is going to
11 be much more complicated, I think, than
12 what they are used to seeing. So, there
13 will be an adjustment period even for
14 the attorneys, I think, to understand
15 it. We will have to do some education
16 with them with the local bar and so
17 forth.

18 PROFESSOR DAVIS: I guess your
19 comment also confirms what Amanda is
20 saying is there's not many people who will
21 be impacted by it. But...

22 HON. SHERMAN: Yes. I think
23 that's right.

1 PROFESSOR DAVIS: But also it
2 is -- it may help people understand it if
3 you read it through.

4 HON. SHERMAN: It helped me, and I
5 am a judge that does only DR, and I am on
6 this Committee, and I didn't understand
7 it, and the parenthesis the first when I
8 saw it. And it made it very clear to see
9 the second, the West Virginia form, to see
10 it broken out and stuff. I think it is
11 clearer, though.

12 MS. COX: If we are going to -- If
13 we are changing it anyway, I guess we
14 might as well just add another line. I
15 don't guess it really matters that much.

16 HON. SHERMAN: I am also curious
17 how this whole new -- the new form is
18 going to look on the printed. You know,
19 this is a nice Excel spreadsheet, but most
20 of them are just handwriting it out. And
21 I'm wondering how it's going to look on a
22 printed sheet and if it's going to be one
23 sheet now or two in every case that we

1 have to keep up with and all that.

2 PROFESSOR DAVIS: Well, we did
3 have some discussion about that. I can't
4 remember now.

5 Professor Gray, did you try to
6 work that through anything other than
7 Excel?

8 PROFESSOR GRAY: No, I didn't.
9 But we were taking a look at the one sheet
10 I did knowing it would be good if it were
11 to carry over to more than one. And I
12 think the way the current one is laid out,
13 the lines are pretty tall.

14 So, I think just a little
15 shrinkage would very easily allow you to
16 get this on one sheet.

17 HON. SHERMAN: That would be good.

18 Penny, we will, just as a side
19 note, I need to talk to -- I know this
20 is way down the road -- but to the IT
21 people and there will be some
22 reprogramming they will need to do of
23 this calculator that they have built

1 into Alacourt for the judges -- for all
2 the judges.

3 PROFESSOR DAVIS: Yes, sir.
4 That's a good thing to remember obviously.
5 And maybe that's something pragmatically,
6 Bob, that we might want to go ahead and
7 address with the IT people so that we
8 could inform the Court what the IT people
9 have said regarding the amount of lead
10 time they need to make changes so that
11 when the Court is deciding when this would
12 become effective, then that would be a
13 consideration that they may find helpful.

14 MR. MADDOX: Yes. I will check on
15 that, as well as with our forms typesetter
16 who does the paper form.

17 PROFESSOR DAVIS: Yeah. I am sure
18 Professor Gray would be willing to share
19 what he has in terms of how he has done
20 all this stuff. It's magic to me. To him
21 I guess it would be like how the people at
22 Hardee's learn how to -- once they learn
23 how to make a biscuit, it's not that big a

1 deal to them but it would be to me.

2 PROFESSOR GRAY: Yeah. I have
3 been doing computer programming for
4 probably about 45 years now. So, I've
5 seen it all.

6 But I would be glad to work with
7 the IT people in terms of, you know,
8 walking through whatever we come up with
9 and double checking whatever they come
10 up with to make sure it's doing what
11 it's supposed to do.

12 PROFESSOR DAVIS: Thank you. We
13 would appreciate that. I am sure they
14 would also.

15 All right. Shall we go to the
16 Brady bunch look for a moment. Anybody
17 want to -- we can always go back to the
18 Excel screen. I know --

19 MR. MADDOX: Hey, Penny, this is
20 Bob. I need to step away for just a
21 couple of minutes. I'll be right back if
22 you can take over.

23 PROFESSOR DAVIS: Okay. Sure.

1 All right. I will do that. Thank you,
2 Bob.

3 I was going to mention that
4 Judge Fridy had indicated he had to
5 leave. I know we are getting close to
6 the 12:30 hour. So, let's see if we
7 have any other comments or thoughts
8 about the forms.

9 (No response).

10 PROFESSOR DAVIS: Well, I guess we
11 have got two straight-up forms to look at.
12 And if we are not comfortable with either
13 of those two, then we have the third idea,
14 which is to take the upper part of the
15 West Virginia one and the lower part of
16 the other one.

17 I think it may be simpler if we
18 just vote straight up, like, in favor of
19 West Virginia versus the other form
20 first. And then, if we don't have a
21 consensus, then we can continue to work
22 on it or see if we have got some
23 combination that we are in favor of.

1 So, let's start with the West
2 Virginia version.

3 MS. COX: Professor Davis, I am
4 sorry. So, did we say that it would fit
5 on one form even with that extra line?

6 PROFESSOR DAVIS: We do think that
7 it will. Professor Gray indicated -- We
8 don't know that for sure, so we don't want
9 to represent that we have tried it.

10 But his point was, the way the
11 lines are, are pretty generous. And so,
12 if you reduce the line size down, then
13 he thinks that it would fit on one page;
14 is that correct, Professor Gray, what I
15 am saying?

16 PROFESSOR GRAY: Yes, ma'am. I
17 think that should work just fine.

18 PROFESSOR DAVIS: Any other
19 question? That was a good question for
20 sure. We want to clarify everything.

21 (No response).

22 PROFESSOR DAVIS: All right.
23 Well, let's go to the little emojis here.

1 And if you are in favor of the West
2 Virginia version of the CS-42, if you
3 would, raise your hand.

4 (Committee members raising
5 hands).

6 PROFESSOR DAVIS: I see one, two,
7 three, four, five -- I see 13. Would
8 anyone like to unmute and vote?

9 HON. PALMER: Penny, this is Julie
10 Palmer. Since I am on the phone and I
11 can't see the forms, I am just going to
12 vote present like they do in DC. So, I've
13 got --

14 PROFESSOR DAVIS: Thank you,
15 Judge. That's a very good point.

16 All right. So, let's lower our
17 hands. And then anyone that is --
18 Mallory, you still have your hand up.

19 But anybody who wants to vote in
20 opposition, if you would, raise your
21 hand or unmute and speak.

22 (No response).

23 PROFESSOR DAVIS: You know, I see

1 none at this point. So, good work for
2 everyone. Bob, are you back?

3 MR. MADDUX: I am. Sorry.

4 PROFESSOR DAVIS: Okay. Thank
5 you. No, no, that's fine. No problem at
6 all.

7 All right. So, we have a few
8 more minutes left. Let me ask if the
9 Committee has anything else you would
10 like to address at this point?

11 HON. SHERMAN: Penny, I have a
12 quick question. You mentioned earlier the
13 time by which the Court has asked us to
14 act. Could you remind me again when that
15 is.

16 PROFESSOR DAVIS: We -- it's based
17 on federal guidelines. It really isn't
18 the Supreme Court that's asking us.

19 HON. SHERMAN: Okay.

20 PROFESSOR DAVIS: We feel like
21 that we need to get it to them as soon as
22 possible. And December is -- and I think
23 Jennifer is still on. What day in

1 December did we decide the deadline was
2 for them?

3 (No response).

4 PROFESSOR DAVIS: Jennifer may not
5 be on.

6 MR. MADDOX: I don't know if she
7 heard you, Penny, but I believe it was
8 December 1st.

9 PROFESSOR DAVIS: Okay. So, I
10 think we have interpreted the regulations,
11 and Jane has, I think, confirmed that to
12 some extent, that as long as we get it to
13 them prior to that time, we will have
14 complied, and they don't have to vote
15 necessarily on it in order to be in
16 compliance with the federal rules.

17 Does that answer your question,
18 Judge?

19 HON. SHERMAN: Yes, it does.
20 Thank you.

21 PROFESSOR DAVIS: Okay. Jane, do
22 you have any comments about the time
23 frame?

1 DR. VENOHR: No. I think I've
2 never seen in a state -- You can't control
3 when the Legislature or the Supreme Court
4 is going to approve things. So, you have
5 done your job on time. And that's the way
6 I see it in most jurisdictions.

7 PROFESSOR DAVIS: Okay. And this
8 has definitely been a very hard working
9 committee. So, I think it would be hard
10 pressed for the feds not to agree that we
11 have certainly attempted to comply.

12 We have a meeting scheduled for
13 October 21st. We have obviously made
14 the decision. We have some Committee
15 comments and some things like that that
16 we are asking people to work on that we
17 would want to have the full Committee to
18 review and to approve or amend.

19 So, I still think we need to
20 have that meeting on the 21st. That was
21 the -- and then with the idea of getting
22 it to the Court sometime in November.

23 Bob, is that still the plan as

1 far as you know?

2 MR. MADDOX: Yes, ma'am. I think,
3 Amanda -- you remind me -- I think you
4 were going to help me with the rule
5 changes and comments. I think Judge
6 Sherman is going to obviously do the one
7 for (C) (5) that he volunteered to do
8 earlier.

9 PROFESSOR DAVIS: Right. And then
10 send it to Amanda also.

11 MR. MADDOX: Right. Are you still
12 willing, Amanda, to work with me on that
13 rule and comment?

14 MS. COX: Yes, sir.

15 MR. MADDOX: Okay. Great.

16 PROFESSOR DAVIS: So, our
17 deadline, then, would be for y'all to get
18 it to the Committee maybe by the 15th of
19 October so that everybody would have over
20 the weekend to kind of look at those
21 because the 21st is on a Thursday.

22 MR. MADDOX: Right.

23 PROFESSOR DAVIS: So, that would

1 be our goal and also give the public the
2 opportunity to review those.

3 MR. MADDUX: Also, I wanted to ask
4 Dr. Venohr. Jane, will you have an
5 updated Schedule for us by the 15th based
6 on the votes today?

7 DR. VENOHR: On October 15th? The
8 reason I am pausing is that that Schedule
9 date, the most recent version, which would
10 have been in your August materials, is
11 based on June 2021 price levels. As most
12 of you know, we've been experiencing
13 inflation for the last few months.

14 So, the subgroup talked about
15 updating it for most recent price
16 levels, and that information is usually
17 released about mid months.

18 So, I'm not sure. Right now if
19 I was to update it, it would be for
20 August price levels. As of
21 October 15th, I'm not sure. September
22 price levels would be available.

23 So, I don't know if that's an

1 issue. I certainly can update it for
2 August price levels, but not September.
3 It's questionable.

4 MR. MADDOX: And if I recollect,
5 the Committee in previous meetings has
6 understood that. It would probably not be
7 the most updated data.

8 PROFESSOR DAVIS: Right.
9 Considering where we are now, I think that
10 the Court will be happy if we have that
11 August material. I think they would
12 certainly be happy even with what we have
13 now. But what we ought to send them is
14 the best that we can. That's a good
15 point.

16 DR. VENOHR: Okay. Then, if you
17 are willing with the August, then there's
18 no problem with that October 15th
19 deadline.

20 MR. MADDOX: Right. Thank you.

21 PROFESSOR DAVIS: Thank you, Jane.

22 All right. Then we will meet in
23 our usual time on the 21st as previously

1 scheduled.

2 And, Stephanie, I am going to
3 ask you if you will remain online after
4 we end, if you could, for just an extra
5 moment or two.

6 Anybody else have anything else
7 before we wind up our meeting?

8 (No response).

9 PROFESSOR DAVIS: Okay. Again, we
10 want to thank the members of the public
11 that took the time to both attend and also
12 to comment today. And we welcome any
13 input that any member of the public may
14 have who reads our -- the transcripts and
15 the material that we voted on today. We
16 still would welcome any comments from the
17 public on that, too.

18 All right. I thank, everyone,
19 for participating.

20 MR. MADDUX: And just for the
21 record, this officially ends our 14th
22 Committee meeting. So, that's a lot of
23 work.

1 PROFESSOR DAVIS: That's right.

2 MR. MADDOX: You ought to be
3 commended.

4 PROFESSOR DAVIS: We are going to
5 ask the Court to double our pay because of
6 the number of meetings.

7 Thank you-all so much.

8 MR. MADDOX: Thank y'all. Have a
9 good weekend.

10

11 (Conclusion of the Advisory
12 Committee on Child Support
13 Guidelines and Enforcement
14 meeting at 12:26 P.M.)

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1 REPORTER'S CERTIFICATE

2 STATE OF ALABAMA,

3 MONTGOMERY COUNTY,

4 I, Jeana S. Boggs, Certified Court Reporter
5 and Commissioner for the State of Alabama at Large,
6 do certify that I reported the proceedings in the
7 matter of:

8 BEFORE THE STATE OF ALABAMA

9 ADVISORY COMMITTEE ON CHILD SUPPORT

10 GUIDELINES AND ENFORCEMENT

11 * * * * *

12 on Friday, October 1, 2021, the foregoing 135
13 computer-printed pages contain a true and correct
14 transcript of the statements by the Committee
15 members and other persons via Zoom.

16 I further certify that I am neither of
17 relative, employee, attorney or counsel of any of
18 the Committee members and other persons, nor am I a
19 relative or employee of such Committee members and
20 other persons, nor am I financially interested in
21 the results thereof. All rates charged are usual
22 and customary.

23 I further certify that I am duly licensed

1 by the Alabama Board of Court Reporting as a
2 Certified Court Reporter as evidenced by the ACCR
3 number following my name found below.

4 This 7th day of October, in the year of
5 our Lord, 2021.

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15/Jeana S. Boggs
Jeana S. Boggs, CCR
ACCR NO. 7 Exp 9/30/22
Certified Court Reporter and
Notary Public
Commission expires: 8/9/2022

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