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MEETING OF THE ADVISORY COMMITTEE  
ON CHILD SUPPORT GUIDELINES AND ENFORCEMENT  
FOR THE STATE OF ALABAMA  
FRIDAY, FEBRUARY 10, 2023  
10:00 A.M.

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**ORIGINAL**

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**THE ADVISORY COMMITTEE ON CHILD SUPPORT  
GUIDELINES AND ENFORCEMENT MEETING** was held before  
Wendy Kendrick, Certified Court Reporter and Notary  
Public in and for the State of Alabama at Large, at  
300 Dexter Avenue, Montgomery, Alabama, on Friday,  
February 10, 2023, commencing at 10:00 a.m.

## 1 APPEARANCES

## 2 COMMITTEE MEMBERS:

3 PROFESSOR PENNY A. DAVIS, Chair  
4 Adjunct Professor of Law  
5 University of Alabama School of Law

6 MS. LATHESIA MCCLENNY  
7 Director  
8 Child Support Enforcement Division  
9 Alabama Department of Human Resources  
10 Montgomery, Alabama

11 PROFESSOR J. BRIAN GRAY  
12 Professor Emeritus of Statistics  
13 Culverhouse College of Commerce  
14 The University of Alabama  
15 Tuscaloosa, Alabama

16 MS. MELODY BALDWIN, Esquire  
17 Fifth Judicial Circuit  
18 District Attorney's Office  
19 Child Support Division  
20 Dadeville, Alabama

21 MS. KATIE STEINWINDER, Esquire  
22 Private Practice Attorney  
23 Montgomery, Alabama

MS. SHIRLEE BEACH  
Morgan County  
Department of Human Resources  
Decatur, Alabama

MS. RACHEL KING, Esquire  
Private Practice Attorney  
Birmingham, Alabama

MS. RHONDA WILSON, Esquire  
Department of Human Resources  
Bessemer, Alabama

## 1 APPEARANCES (continued)

2 MS. EMILY MILLS, Esquire  
3 Private Practice Attorney  
4 Gadsden, Alabama

4 MS. KINTISHA MATTHEWS, Esquire  
5 Private Practice Attorney  
6 Birmingham, Alabama

6 MS. HEATHER FANN, Esquire  
7 Legal Services of Alabama  
8 One Place Family Justice Center  
9 Birmingham, Alabama

## 9 OTHER APPEARANCES:

10 THE HONORABLE GREG COOK  
11 Associate Justice  
12 Supreme Court of Alabama  
13 Montgomery, Alabama

13 DR. JANE VENOHR (Via Zoom)  
14 Center for Policy Research  
15 Denver, Colorado

14 BOB MADDIX, Esquire  
15 Staff Attorney, Legal Division  
16 Alabama Administrative Office of Courts  
17 Montgomery, Alabama

17 STEPHANIE BLACKBURN  
18 Central Staff Attorney  
19 Supreme Court of Alabama  
20 Montgomery, Alabama

20 WENDY KENDRICK, Court Reporter  
21 Boggs Reporting & Video, LLC  
22 Montgomery, Alabama

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23

1 OTHER APPEARANCES CONTINUED -

2 MS. LISA CLARK  
3 Policy and Procedures Specialist  
4 Child Support Enforcement Division  
5 Alabama Department of Human Resources  
6 Montgomery, Alabama

7 MS. VERNECIA HOWELL  
8 Program Specialist  
9 Child Support Enforcement Division  
10 Alabama Department of Human Resources  
11 Montgomery, Alabama

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1                   PROFESSOR DAVIS: Let me  
2                   welcome everybody. We have a number of new  
3                   members on our Committee which we certainly  
4                   welcome.

5                   THE COURT REPORTER: I need you  
6                   to speak up a little bit.

7                   PROFESSOR DAVIS: I need to speak  
8                   up? Okay. And one of the things I was  
9                   going to say is -- this is a Committee that  
10                  has a court reporter. Wendy is our Court  
11                  Reporter for today, and we need to speak up  
12                  for her. And one thing that I don't do and  
13                  didn't do was to introduce myself.

14                 My name is Penny Davis, and I  
15                 am the Chair of the Committee. The Court  
16                 graciously provides us with the name tags  
17                 which also helps our Committee -- our  
18                 Court Reporter. But what we try to do to  
19                 help her is to identify ourselves when we  
20                 get started. I am the world's worst at  
21                 doing that.

22                 So, if you would, go ahead and  
23                 identify yourself. Halfway through when

1           you are talking, you can identify  
2           yourself if you remember that. So,  
3           again, we welcome Wendy as our Court  
4           Reporter. And, Wendy, anything you want  
5           to ask or instruct us other than speaking  
6           up and identifying ourselves?

7                         THE COURT REPORTER: No, ma'am.  
8           I think that's all. As long as I can hear  
9           you, I will be good.

10                        PROFESSOR DAVIS: All right.  
11           Great. Well, the next think I do want to  
12           do is -- do you need us to stop? Go ahead.

13                        MR. MADDOX: Can we see if Dr.  
14           Venohr can hear us and see us? Dr. Venohr,  
15           can you see and hear us?

16                        DR. VENOHR: Yes.

17                        MR. MADDOX: Yes.

18                        PROFESSOR DAVIS: Yay. Thank  
19           you.

20                        MR. MADDOX: We were just making  
21           sure.

22                        PROFESSOR DAVIS: I shouldn't  
23           really say this in front of a Justice of

1 the Court. But the most important people  
2 in this building are not our Justices, but  
3 our IT people. And I tell the dean the  
4 same thing in the law school that he's not  
5 the most important person. So, giving  
6 examples of that.

7 All right. So, let's start to  
8 the right of Wendy. If you would,  
9 identify who you are if you are  
10 representing a group or if you are an  
11 attorney or judge or whatever your role  
12 is and also if you are new to the  
13 Committee, if you would, indicate that as  
14 well.

15 MS. MATTHEWS: Yes, ma'am. I'm  
16 sitting right next to you so I won't be too  
17 loud.

18 My name is Kintisha Matthews.  
19 I am an attorney here in Montgomery with  
20 Legal Services where I am housed at One  
21 Place Family Justice Center.

22 PROFESSOR DAVIS: Thank you.

23 MS. WILSON: My name is Rhonda

1 Wilson. I am a new member. I am an  
2 attorney in Birmingham, but I practice out  
3 of the Bessemer office. And I am one of  
4 the DHR attorneys. And I have been doing  
5 child-support work for 12 years, and I am  
6 happy to be here.

7 MS. MCCLENNEY: Good morning.  
8 Lathesia McClenney, Director of the Child  
9 Support Enforcement Division, with the  
10 Alabama Department of Human Resources.

11 MS. BALDWIN: Melody Baldwin.  
12 And I work in the District Attorney's  
13 Office for the Fifth Circuit.

14 MS. STEINWINDER: Katie  
15 Steinwinder, and I am in private practice  
16 here in Montgomery.

17 MS. BLACKBURN: Stephanie  
18 Blackburn, and I am the Court's liaison. I  
19 am with the Supreme Court Clerk's Office.

20 PROFESSOR DAVIS: Again, I am  
21 Penny Davis, Chair of the Committee.

22 MR. MADDOX: Good morning. I am  
23 Bob Maddox. I am a Staff Attorney in the



1 Administrative Office of Courts here in the  
2 Judicial Building. I am also the AOC  
3 liaison to the Committee.

4 MS. FANN: Heather Fann. I am in  
5 private practice in Birmingham, and I am a  
6 new member.

7 MS. KING: Rachel King, private  
8 practice in Birmingham.

9 PROFESSOR GRAY: Good morning. I  
10 am Brian Gray. I am Professor Emeritus of  
11 Statistics at the University of Alabama.

12 MS. BEACH: I am Shirlee Beach.  
13 I am an employee of Morgan County DHR, and  
14 I represent the Alabama Child Support  
15 Association on this Committee.

16 HON. COOK: I am Greg Cook. I am  
17 a newly elected Justice in the Alabama  
18 Supreme Court, and I am now the liaison to  
19 this Committee. And the only comment I  
20 would have to say is that I understand this  
21 Committee has made a strong push towards  
22 transparency and to allow members of the  
23 public and anybody else who wants to say

1 something or provide input to our Committee  
2 to do that, and I want to continue that.  
3 That would be an emphasis that I would  
4 have.

5 PROFESSOR DAVIS: Thank you.

6 MS. MILLS: I am Emily Mills. I  
7 am with the firm of Cusimano, Roberts,  
8 Mills & Knowlton in Gadsden, Alabama. And  
9 I have been a DHR Child Support Attorney  
10 for over 20 years.

11 PROFESSOR DAVIS: Thank you. And  
12 as Justice Cook indicated, we do invite and  
13 welcome any comments from the public. And  
14 so, I can kind of lean over and see members  
15 of the public.

16 So, if you would like to  
17 introduce yourself, and then I am going  
18 to ask you if you would like to speak to  
19 the group at the end.

20 MS. CLARK: I am Lisa Clark. I  
21 am with Policy with DHR for Child Support,  
22 and I will not be commenting at the end.

23 MS. HOWELL: I am Vernecia

1 Howell. I am with DHR, as well, in the  
2 Policy Unit, and I will not have any  
3 comments. Thank you.

4 PROFESSOR DAVIS: Okay. Thank  
5 you both. And then I will ask that again  
6 in case a question comes to your mind as we  
7 go through.

8 We do have -- and I will  
9 mention this now, but we will also talk  
10 about it at the end. We also allow the  
11 public to respond in more than one way.  
12 And if they cannot attend, then we  
13 encourage them to send information.

14 And so, we do have a  
15 communication, a letter from a member of  
16 the public that I have seen so far today.  
17 And it was presented to the Committee,  
18 and we will talk about that at the end  
19 right before we do the public discussion.

20 And so, is there any other  
21 information that has come in last minute  
22 that you are aware of?

23 MS. BLACKBURN: No, ma'am.

1 MR. MADDOX: No, ma'am.

2 PROFESSOR DAVIS: Okay. So, we  
3 would have one comment from the public and,  
4 of course, we may have other members of the  
5 public to come in and join us. Am I  
6 speaking loud enough now?

7 THE COURT REPORTER: Yes.

8 PROFESSOR DAVIS: Okay. Good.  
9 So, I will ask Stephanie, do we have a  
10 quorum?

11 MS. BLACKBURN: I believe we do.  
12 It looks like we have 11 members here, so  
13 we have a quorum.

14 PROFESSOR DAVIS: Great.

15 (At which time there was a  
16 brief interruption.)

17 PROFESSOR DAVIS: All right. So,  
18 at this point, we would like for Bob to  
19 tell us about the notice of the meeting.

20 MR. MADDOX: Yes. Notice to all  
21 media outlets around the State was sent by  
22 email from the Administrative Office of  
23 Courts on January 5th, 2023, and allowed

1 the public to send in a response if they  
2 wanted to join the meeting by a separate  
3 email and also told them about the  
4 materials that are published on our  
5 website.

6 PROFESSOR DAVIS: Okay. Thank  
7 you. All right. Any questions about the  
8 public notice?

9 (No response).

10 PROFESSOR DAVIS: Okay. The next  
11 item of business is to talk about the  
12 transcript. Everybody has a received a  
13 copy of that. So, the question is: Are  
14 there any changes or corrections that  
15 anyone would like to bring to our  
16 attention?

17 (No response).

18 PROFESSOR DAVIS: Okay. If not,  
19 do I have a motion to have that approved?

20 MS. STEINWINDER: I make a motion  
21 to approve, Katie Steinwinder.

22 MS. KING: I will second that,  
23 Rachel King.

1                   PROFESSOR DAVIS: Okay. It has  
2                   been approved and seconded. So, all in  
3                   favor, just say "aye."

4                   (Committee members saying  
5                   "aye").

6                   PROFESSOR DAVIS: Opposed, nay?

7                   (No response).

8                   PROFESSOR DAVIS: All right.  
9                   That has passed.

10                  We have what I think will be a  
11                  rather slim agenda compared to what we  
12                  generally do. And one of the issues, the  
13                  first one that we will be talking about,  
14                  is a continuation of some issues that the  
15                  Committee has discussed before. And I  
16                  thought since we have a number of new  
17                  Committee members that it would be  
18                  beneficial to discuss the matters again.  
19                  And I did not want and do not plan to  
20                  have a vote on any of these issues  
21                  because I didn't feel like it was really  
22                  fair to ask new Committee members to be  
23                  called upon to vote on important matters

1           like this, like the matters that we have.

2                         And this is the matter of  
3           process for the new members. What we do  
4           is we are a Committee that makes  
5           recommendations to the Supreme Court, and  
6           then they make determinations as to  
7           whether to approve or disapprove our  
8           recommendations or to send them back to  
9           us to work on them. We sent the end of  
10          last year one recommendation to the Court  
11          and several of our Committee members have  
12          worked on kind of cleaning it up. And  
13          so, it has been sent to the Court fairly  
14          recently. And so, they will make a  
15          determination as to whether they approve  
16          or disapprove.

17                        And so, the process is that we  
18          just make recommendations and the Court  
19          makes the final decision as they do in  
20          everything else. And so, they will let  
21          us know what they do. And sometimes in  
22          the past, as I said, they will accept  
23          what we do and sometimes they will ask

1           some of us to come before the Court and  
2           ask questions, and then sometimes they  
3           will just approve or disapprove without  
4           us coming before the Court.

5                        So, I wanted to kind of explain  
6           that in case the public -- when they read  
7           our transcripts they will understand that  
8           is the process we go through as well as  
9           informing the new members of the  
10          Committee.

11                      So, with that being said, our  
12          first item on our agenda is a further  
13          report from Child Support for Multiple  
14          Children's Subcommittee. And the Chair  
15          is actually -- do we have two Chairs?

16                      MR. MADDOX: No. I think it's  
17          just Judge Sherman.

18                      PROFESSOR DAVIS: Judge Sherman  
19          is the Chair, and he had a commitment he  
20          could not get out of. And so, Katie has  
21          agreed to discuss that. And you have the  
22          material in the packets in front of you.

23                      MS. STEINWINDER: Okay. I am not



1 a substitute for Judge Sherman, so I am  
2 going to probably be asking other members  
3 of the Subcommittee to weigh in on their  
4 recollection of our last meeting which was  
5 held by Zoom. And actually I think we do  
6 have a few people here who were on that.  
7 So, that would be --

8 PROFESSOR DAVIS: Who was on the  
9 Committee? Just kind of raise your hand  
10 and --

11 MS. FANN: This -- like just --

12 MS. STEINWINDER: The Zoom.

13 MS. FANN: -- the week before  
14 last or something?

15 MS. STEINWINDER: Yeah.

16 MS. FANN: I was on it.

17 PROFESSOR DAVIS: So, some of our  
18 new people got to participate and that was  
19 good.

20 MR. MADDOX: We had several new  
21 members on there.

22 PROFESSOR DAVIS: That's great.  
23 Excuse me, Katie, for interrupting.

1 MS. STEINWINDER: No, that's  
2 okay.

3 So, what we would be doing is  
4 we would be adding a provision, not  
5 amending Rule 32. But we would add a  
6 provision to Rule 32 for instances where  
7 parties have a child support, whether  
8 it's a divorce or I guess it could be a  
9 modification, however they end up with a  
10 new child-support order, if they know at  
11 that time that they are going to have a  
12 child who ages out, obtains the age of  
13 19, or -- I guess there wouldn't be  
14 another circumstance that we could  
15 predict -- within two years of the date  
16 of that order.

17 Then we are proposing a  
18 provision that allows for the entry of  
19 multiple orders. There would be -- the  
20 child-support order that would go into  
21 effect immediately after that final order  
22 and an alternative -- and I think it's a  
23 "may," Bob, not a "shall." We have been

1 down that road. So, a trial judge "may"  
2 enter multiple orders. And that second  
3 kind of order would be to address that  
4 eventuality when the child ages out  
5 within the two-year period. Have I said  
6 that correctly, Bob?

7 MR. MADDOX: Yes.

8 MS. STEINWINDER: All right. And  
9 so, there has been a lot of discussion  
10 about Worksheets and how we are going to do  
11 the IWOs. We have discussed whether to do  
12 it at the time of the final order and to  
13 have multiple IWOs in the final. And I  
14 know we have got a lot of DHR folks who can  
15 probably speak to that.

16 We have talked about confusion  
17 possibly in the Clerk's Office entering  
18 the wrong order. If we didn't have  
19 multiple IWOs entered at the time of the  
20 final order and we waited until that  
21 eventuality happened during that two-year  
22 period, who would it be incumbent upon to  
23 make sure the IWO was entered. If there

1 is a fee, who would pay the fee. We have  
2 had all of these conversations.

3 So, I think that where we came  
4 down was that it is a -- the trial court  
5 "may," not "shall," enter multiple  
6 orders. It's a two-year time period.  
7 There would be multiple 42s. And the  
8 language that would be added to Rule 32  
9 would address the procedure.

10 Bob, help me -- and Heather,  
11 the other day, was it your understanding  
12 that we did not have a consensus as to  
13 how we were going to handle those  
14 Worksheets?

15 MS. FANN: The IWO part?

16 MS. STEINWINDER: Uh-huh  
17 (positive response).

18 MS. FANN: I think it was  
19 something we were going to continue to  
20 think on.

21 MS. STEINWINDER: And I guess  
22 maybe we need everyone's input. I am  
23 interested in hearing what some of these

1 DHR staff members and attorneys might have  
2 to say about those IWO issues and when they  
3 should be entered.

4 Melody and I talked this  
5 morning about her thoughts.

6 MS. BALDWIN: And I -- we can't  
7 -- I mean, I -- and Lathesia would probably  
8 know this better than me, but you can't --  
9 and Shirlee. You can't load more than one  
10 at once in the system. There is not a  
11 particular system for them to pop up and  
12 say you have to do a new one.

13 MS. BEACH: Not at this point.

14 MS. BALDWIN: It usually happens  
15 when there is a change of employer that  
16 pops up in the system but not -- and that  
17 happens automatically, by the way.

18 MS. BEACH: We can set an alert  
19 to alert the worker that it's time to do to  
20 it.

21 MS. BALDWIN: But we can't load  
22 it.

23 MS. BEACH: But we can't put it

1 in there.

2 MS. BALDWIN: And then the worker  
3 would have to send something to us to file  
4 it with the court. Or --

5 MS. BEACH: Unless they're doing  
6 an administrative --

7 MS. BALDWIN: -- or -- I was  
8 about to say unless there's a -- it's okay  
9 for them to do it administrative.

10 MS. STEINWINDER: So, the  
11 discussion that we had I think really had  
12 come down as the Subcommittee was that it  
13 would be on the obligor, correct? The  
14 paying party would have the obligation to  
15 ensure that that is entered or that an  
16 action is taken through the court when it  
17 is time to enter that when the child has  
18 aged out or obtained the age of 19. And  
19 that language would be mandatory in each  
20 order in which multiple orders were entered  
21 at the time of the final order.

22 Now, I don't know if that makes  
23 sense. If the trial judge shows under

1 the "may" provision to enter multiple  
2 orders, the order would have some  
3 language reminding and nudging that party  
4 this is not going to happen  
5 automatically. You don't get the benefit  
6 of having somebody with a tickler system  
7 if you want to reduce your obligation.  
8 We are giving you the benefit of entering  
9 multiple orders, and you will have the  
10 obligation to ensure that that happens.

11 PROFESSOR DAVIS: Let me  
12 interrupt for just a second. Because the  
13 public will be reading this transcript,  
14 will you explain what IWO is?

15 MS. STEINWINDER: Okay.

16 PROFESSOR DAVIS: It's a term we  
17 are familiar with but --

18 MS. STEINWINDER: Certainly.  
19 It's an Income Withholding Order that would  
20 go into effect to reduce or to take out the  
21 amount of the child-support obligation from  
22 that -- from the paying party's paycheck.  
23 It goes immediately to -- I don't know. I

1 don't want to even -- it goes to DHR or to  
2 the receiving party.

3 PROFESSOR DAVIS: Right.

4 MS. STEINWINDER: And I think  
5 Heather had a --

6 MS. FANN: Yeah. My comment is  
7 it may help clarify that discussion too.  
8 And it's sort of in the form of a question.  
9 My understanding was that the judge could  
10 go ahead and say that's the purpose of the  
11 two 42s. All right. The obligation will  
12 change on this date. We know the child is  
13 going to turn 19 on this date.

14 So, the actual obligation will  
15 change. What will be hanging out there,  
16 if there is an IWO, is the termination or  
17 modification of the IWO.

18 I may have misunderstood that.  
19 But I think the modification of the  
20 support obligation is automatic, just not  
21 the IWO part?

22 MS. STEINWINDER: And the action  
23 --



1 MS. FANN: Is that right?

2 MS. STEINWINDER: -- that the  
3 obligor would have. It would be incumbent  
4 upon the obligor to take the action of  
5 having that IWO amended.

6 MS. FANN: In the event an IWO  
7 was served, right.

8 And we talked about -- and  
9 again, I think this was one of the things  
10 that we were still playing with. I think  
11 a couple of the judges were in favor of  
12 like a -- within 45 days that we put the  
13 emphasis on the obligor to file that  
14 within 45 days of that 19th birthday.

15 And then we talked -- and I  
16 don't know how in the weeds we want to  
17 get today about it but just so everybody  
18 knows about, you know, if there is  
19 overpayment in the meantime because this  
20 is a process that takes some time giving  
21 a presumption of credit for that person  
22 who did what they were supposed to do  
23 under the Rules and through no fault of

1           their own ended up overpaying.

2                         So, yeah, we -- yeah, I don't  
3           know how much -- but those were some of  
4           the ideas that we were contemplating and  
5           hoping for input on, I think, for, you  
6           know, how do we fine tune this to make it  
7           work and make it make sense.

8                         PROFESSOR DAVIS: Can I -- Since  
9           I was not part of that, I am going to play  
10          the role of the low common denominator that  
11          we call it anyway.

12                        So, what we are talking about  
13          is let's say that Bob's the payor and  
14          he's paying in \$100 a month, and then it  
15          drops to \$75 because one of his children  
16          ages out. But for whatever reason, he  
17          doesn't file like he's supposed to. So,  
18          his company continues to take out \$100  
19          even though the child-support order then  
20          changes to -- as of January 1, he only  
21          owes \$75.

22                        So, the idea would be the \$25  
23          that he's paying instead of the court

1           having to decide whether to give him  
2           credit for that, it would be determined  
3           to be an automatic credit.

4                   MS. FANN: No presumption.  
5           Because the judges want room in case  
6           there's arrearages or other issues, we  
7           wanted to leave judges room to --

8                   PROFESSOR DAVIS: So, it would be  
9           a rebuttable presumption?

10                   MS. FANN: A rebuttable  
11           presumption, yes.

12                   MS. STEINWINDER: I was  
13           interested in hearing what y'all had to say  
14           about the credit.

15                   MS. BALDWIN: This is Melody  
16           Baldwin. I have a question.

17                   So, if he doesn't -- he or she  
18           doesn't go in to file for the amended  
19           income totaling or notify DHR within the  
20           45 days and they let it rock on for  
21           months, what does that mean for this  
22           credit you are talking about?

23                   MS. FANN: Well, we were trying

1 to tie them down. And if you want the  
2 credit, then you need to follow the Rule.  
3 And I -- I don't know. I mean, I would  
4 think that our current child-support law  
5 that is in, you know -- I mean, that that  
6 would still be a discretionary thing for  
7 judges to deal with because people overpay.  
8 And, I mean, you know, we have some case  
9 law about overpayment of child support and  
10 all that kind of stuff.

11 MS. BEACH: The issue comes in  
12 for us -- This is Shirlee Beach. I'm  
13 sorry.

14 The issue comes in for us in  
15 that if there is -- if there is one  
16 individual that owes support for a child  
17 and he doesn't owe support for any other  
18 children -- and understand I am talking  
19 about on our DHR system -- if he has past  
20 due support owed, then anything more than  
21 current support is going to go to satisfy  
22 that debt automatically. That happens  
23 automatically.

1                   If he does owe -- or if he  
2                   doesn't owe a debt and he has multiple  
3                   cases, it will allocate to the other  
4                   case. Anything he pays over the current  
5                   support amount is going to allocate to  
6                   any other cases he has in our system.

7                   That's -- that's my concern --

8                   MS. FANN: Well, I would think --

9                   MS. BEACH: -- with the credit.

10                  MS. FANN: -- that would be  
11                  rebutting the presumption.

12                  MS. BEACH: Okay. That's fine.

13                  MS. FANN: Correct? I mean, I  
14                  don't know. Y'all tell me.

15                  MS. BEACH: If that counts,  
16                  that's correct with me, yeah.

17                  MS. FANN: It would seem to --  
18                  that's exactly the kind of thing we were  
19                  trying to -- in making it a presumption and  
20                  not an automatic credit. We were  
21                  contemplating that things like that might  
22                  come into play.

23                  PROFESSOR DAVIS: So, what would

1           happen if -- going back to Bob again.  If  
2           Bob's \$25 that he -- he sends \$100 instead  
3           of DHR directly to me.  So, it's over --

4                   MS. FANN:  That's on him.  He  
5           knows what his order says.

6                   PROFESSOR DAVIS:  So, if he does  
7           that, then I will -- and he comes back and  
8           later -- and doing the same thing with the  
9           other person that goes through y'all.  So,  
10          he gets credit for the \$25 that he is  
11          sending extra to the other child that is  
12          over there, that goes through y'all.  From  
13          me, he would not get credit.  It would be a  
14          presumptive gift; is that correct?  Because  
15          right now Bob gives --

16                   MS. BEACH:  That's what it seems  
17          like.

18                   MS. FANN:  I think so.

19                   PROFESSOR DAVIS:  Because right  
20          now if Bob pays \$500 to me even though the  
21          court only orders \$100, our case law is  
22          such that --

23                   MS. FANN:  Right.

1                   PROFESSOR DAVIS: -- it is  
2                   assumed that he is giving the extra money  
3                   for that.

4                   MS. FANN: Yeah, I think so.  
5                   Especially -- I mean, he knows -- if he  
6                   knows his order says that it changes on  
7                   this date but he sends more despite that --  
8                   our worry was not so much that obviously --

9                   PROFESSOR DAVIS: Right.

10                  MS. FANN: -- because that --

11                  PROFESSOR DAVIS: I'm just seeing  
12                  --

13                  MS. FANN: Yeah. But --

14                  PROFESSOR DAVIS: I want the  
15                  public to understand what the difference  
16                  is.

17                  MS. FANN: Sure.

18                  MS. BALDWIN: Is that going to  
19                  be -- This is Melody Baldwin.

20                  Is that going to be viewed  
21                  differently if it's an income withholding  
22                  that's been issued through the Department  
23                  administratively --

1 MS. BEACH: Uh-huh (positive  
2 response).

3 MS. BALDWIN: -- versus he's gone  
4 to the clerk and it's through the clerk. I  
5 mean, is that viewed differently under your  
6 presumption?

7 MS. FANN: Well, the presumption  
8 is for the judge. Assuming this gets back  
9 before the court and a judge is dealing  
10 with it, there is a presumption -- you  
11 know, and the judge, I would assume, sort  
12 out whether they wanted to give the credit  
13 or not. Is that your question?

14 MS. BALDWIN: Well, I just have  
15 -- and the reason I ask is I have scenarios  
16 that aren't the same facts but, for  
17 instance, I just had this yesterday.

18 The noncustodial parents'  
19 children started receiving Social  
20 Security Disability family assistance  
21 through the entitlement through his  
22 Social Security.

23 Meanwhile, he had an income



1 withholding through the Department. He  
2 never notified the Department his  
3 children were getting this. Certainly  
4 the mother didn't. So, for however many  
5 months, he let that pay. Okay? Now he  
6 comes in to modify it or to terminate his  
7 income withholding. He's entitled to get  
8 that done.

9 The child-support order is  
10 still in place. He just -- The family  
11 assistance pays in excess of that, so  
12 he's not going to have to make that  
13 current payment. That extra is still an  
14 entitlement of the child that doesn't go  
15 to credit. We all agree on that. That's  
16 case law. But he's now wanting credits  
17 for after the child turns 18 and stops  
18 getting that for the extra he's paid.  
19 Well, that mother has already spent that  
20 money to support that child. When that  
21 child gets 18, there is nothing between  
22 18 and 19.

23 So, in this situation, the

1 mother will have already spent -- well, I  
2 say "mother" --

3 MS. STEINWINDER: Custodian.

4 MS. BALDWIN: -- because 98% of  
5 the time it is --

6 PROFESSOR DAVIS: Custodial  
7 parent.

8 MS. BALDWIN: Okay. So, she's  
9 already spent that full amount she has been  
10 getting to support the children, whether  
11 it's still just two, and now she's going to  
12 have to go with less because there is all  
13 these credits. And how much credits are we  
14 talking about? Does that mean that she's  
15 not going to be getting anything to  
16 continue to support the two that are left?  
17 That's just the circumstances I am thinking  
18 about.

19 Because I know with  
20 allocation -- we're -- I think we are  
21 probably good on that. I mean, that is  
22 federal regulation.

23 MS. BEACH: Yes.

1 MS. BALDWIN: We can't get around  
2 that. The State can't change the law on  
3 that.

4 MS. KING: And also -- Rachel  
5 King.

6 How do we rectify that? If the  
7 court enters at a certain time that there  
8 is a sundown clause, that there is a new  
9 order that is going to be entered, so --  
10 and, you know, January 1st the child  
11 support is now ordered X.

12 So, come January 1st that order  
13 is entered. But you have an old active  
14 IWO that's -- so, now you have  
15 conflicting orders.

16 MS. BALDWIN: Right.

17 MS. KING: Whether somebody  
18 changes or not, you still have two  
19 conflicting orders. I don't know how you  
20 can deal with that. I think that causes a  
21 lot of problems on that end.

22 MS. FANN: And we were trying to  
23 tackle that question of, can we have an IWO

1           that is -- the judge goes ahead and says,  
2           okay, this will be an amended IWO that is  
3           effective on this date. But I don't know  
4           that we have the infrastructure --

5                       MS. KING: To do it.

6                       MS. FANN: -- to do that without  
7           causing chaos. So, that was one of the  
8           reasons, I think, we left that question  
9           hanging -- and I'm sorry. I keep  
10          forgetting.

11                      THE COURT REPORTER: That's okay.  
12          I know you now.

13                      MS. FANN: Was because, you know,  
14          nobody in the room felt like the expert on  
15          how those processes work and how we needed  
16          to handle it.

17                      MS. BALDWIN: This is Melody  
18          Baldwin.

19                      Do we have anybody from a  
20          clerk's office here today? I know  
21          sometimes we do, because that would be  
22          great. But, anyway.

23                      PROFESSOR DAVIS: I am going to

1 back up for a minute and primarily again  
2 for the public's benefit but also for a few  
3 of the new members that didn't get to  
4 participate.

5 What's prompted this question  
6 was -- or the issue was brought before us  
7 is from one of the judges, appellate  
8 judges and some other judges that talked  
9 to us. What we know is that the public  
10 -- if they have two children and they are  
11 paying \$500, they have -- they make the  
12 assumption that when the older child ages  
13 out, they can automatically cut that  
14 amount into half. And we know that  
15 that's not statistically how that's going  
16 to work with regard to the child-support  
17 enforcement. And so, what we are trying  
18 to do is figure out a way to alert the  
19 public -- that is one of the issues that  
20 we talked about -- is alert the public  
21 that they can't automatically make that  
22 -- they already should know that but they  
23 don't. But one of the reasons -- and

1           then the judges, of course, from the  
2           court's perspective, they don't want  
3           someone to have to have the expense of  
4           coming back in, you know, 18 months later  
5           or a year later and do the modification.

6                        So, there are several policies  
7           behind it that are really trying to help  
8           the public and this is the struggle.

9                        So, I just wanted to put that  
10          on the record.

11                       MS. STEINWINDER: And, Penny --  
12          Katie Steinwinder.

13                        It might be helpful to say that  
14          Judge Terry Moore sent a memo to the  
15          Committee in 2020, and he laid out  
16          different jurisdictions, how other States  
17          are addressing this very issue. And at  
18          the bottom of your memo, you have got  
19          part of the Georgia's statute that is  
20          cited. But there are several States in  
21          that memo. And I know that's  
22          available -- is it on alacourt.gov?

23                        MR. MADDOX: Absolutely.

1 MS. STEINWINDER: Okay. It's one  
2 of the documents that's out there. And for  
3 the new members, it might also be helpful  
4 to know that all of our documents are out  
5 there.

6 PROFESSOR DAVIS: As well as the  
7 transcripts.

8 MS. STEINWINDER: As well as  
9 transcripts. So, you can get on  
10 alacourt.gov and find pretty much anything.

11 MR. MADDOX: Back to 2004.

12 MS. STEINWINDER: Yeah. More  
13 than you ever wanted to know is out there.

14 PROFESSOR DAVIS: And the public  
15 can do the same thing.

16 MS. STEINWINDER: Absolutely.

17 PROFESSOR DAVIS: They have that  
18 option.

19 MS. STEINWINDER: And it's very  
20 helpful when you are researching some of  
21 these issues, but I think that is exactly  
22 where we were.

23 And the reason why Judge

1 Williams and Judge Sherman, who are on  
2 the Subcommittee, talked about some  
3 mandatory language in those orders if the  
4 judge chose the "may" and included the  
5 multiple orders to say to the  
6 noncustodial parent, the paying party,  
7 this is incumbent upon you to make this  
8 change.

9 So, you can kind of follow some  
10 of where all of that developed from, and  
11 then we got into the new Rule -- the new  
12 CS-42. This issue took a back burner; is  
13 that fair to say?

14 PROFESSOR DAVIS: Right.

15 MS. STEINWINDER: And then once  
16 we got the new 42 voted out and the Court  
17 approved it, and we got rolling with that,  
18 we have revisited this issue.

19 So, there is a lot of  
20 background information out there for the  
21 new members and everybody else to figure  
22 out where we are.

23 MR. MADDOX: Also, for the record



1 and for the benefit of the new members, the  
2 federal law -- I think it's 45-CFR-302.56  
3 -- is that right?

4 MS. MCCLENNEY: You are in the  
5 ballpark, Bob.

6 MR. MADDOX: -- requires States  
7 to -- when discussing the Child-Support  
8 Guidelines, to post the materials on the  
9 internet, the roster of Committee members,  
10 the Guidelines, as well as the ending date  
11 of the current -- we are required to review  
12 the Child-Support Guidelines every four  
13 years, and that's what this Committee has  
14 been set up to do under the Supreme Court  
15 of Alabama Rule.

16 So, we are required to put  
17 that, and we have done it on our  
18 Administrative Office of Courts' website  
19 under Child-Support Guidelines, and then  
20 Child-Support Guidelines Review.

21 So, I just wanted to let the  
22 new members be aware that that is a  
23 requirement of the federal law which we

1 have to follow in order for State DHR to  
2 receive Title IV-D child-support monies.

3 PROFESSOR DAVIS: Which is a lot  
4 of money.

5 MS. STEINWINDER: And another  
6 thing -- Katie Steinwinder again.

7 Another thing that is helpful  
8 about that is that these memos change  
9 obviously as we come through time. And  
10 sometimes it's helpful to go back and see  
11 what changed and why, the rationale being  
12 a subsequent memo perhaps.

13 So, if you are trying to trace  
14 why we did something or how we arrived at  
15 something for the new members, I found  
16 that helpful, especially if you are going  
17 to participate in CLE and you want to be  
18 able to answer questions. Those  
19 documents are a world of help. And I may  
20 have gotten us totally off topic.

21 PROFESSOR DAVIS: No. No. I  
22 did. And I should have said that before we  
23 started because it does kind of disrupt the

1 flow. But I think it's important for us  
2 and the public to be aware of that.

3 MS. FANN: I -- If I can, address  
4 Rachel's point about the conflicting  
5 orders. I was thinking through that  
6 because that bugs me.

7 I think they might appear to be  
8 conflicting, but technically there is a  
9 difference. There is a child-support  
10 order. This is the amount of child  
11 support you are ordered to pay. And  
12 there is an income withholding order that  
13 orders an employer to direct funds in a  
14 certain way.

15 So, I don't think we would have  
16 a conflict in what the person is ordered  
17 to pay. We just have a procedural  
18 conflict in how it's collected.

19 MS. KING: It's still an order  
20 signed by the judge.

21 MS. FANN: No, I know.

22 MS. KING: But it's a --

23 MS. FANN: I think that order --

1 HON. COOK: It's a garnishment.

2 MS. FANN: It's to the employer

3 --

4 MS. KING: Yeah.

5 MS. FANN: -- not to the obligor  
6 is my point. So, it's -- that's where the  
7 credit comes in. I am ordered to pay this.  
8 I've paid that. And we did want to talk  
9 about -- somebody brought that up, one of  
10 the judges. Well, you know, mom's -- a lot  
11 of times it is mom is dependent on this  
12 money and has gotten it. But in this  
13 instance and this particular Rule change  
14 that we are talking about, mom is also  
15 aware that it is to change on such and such  
16 date.

17 So, you know, it -- and the --  
18 you know, we want the IWO change to  
19 happen soon which is why we are  
20 contemplating a quick turnaround. And if  
21 it's within 45 days of the birthdate,  
22 then that -- I was presuming would be a  
23 full 90 days. That ought to be plenty of

1 time for an obligor to try to get to a  
2 courthouse.

3 But it also encourages that,  
4 okay, well, if you want a credit, then  
5 you need to act on this quick and not  
6 have somebody relying on the payments  
7 that were --

8 PROFESSOR DAVIS: So, I know this  
9 hasn't been set yet. If Bob doesn't do it  
10 within 45 days, is there anything punitive  
11 towards him?

12 MS. KING: Yeah. He's still  
13 getting withheld. And that's where I think  
14 the conflict is is because we have under  
15 law we are required to put in our -- judges  
16 are required to put in their final orders  
17 whether or not an income withholding order  
18 is being entered and served. And so, if it  
19 is entered and served and the judge has  
20 signed it, they have to match. If they  
21 don't, I think you have a problem on the  
22 judge's end. I think -- I think it creates  
23 an appealable issue at that point.

1                   PROFESSOR DAVIS: Yeah. But I  
2                   guess my question was: Yes, the  
3                   withholding order is still in place.

4                   MS. KING: The old one.

5                   PROFESSOR DAVIS: The old one is  
6                   in place, correct. And from the employer's  
7                   standpoint, the only one --

8                   MS. KING: Correct.

9                   PROFESSOR DAVIS: -- that's in  
10                  place. But whether he does it -- what  
11                  difference is it from his perspective with  
12                  the 45 days? Because, yes, this continues  
13                  on whether he goes to court in 30 days or  
14                  50 days. Is there any punitive -- like,  
15                  he's not precluded from going and getting  
16                  credit for it or changing it. There is  
17                  no --

18                  MS. KING: No. But I think to  
19                  Melody's comment, it could potentially be  
20                  punitive to the custodial parent if they  
21                  are then turned to -- you know, made to  
22                  somehow pay back that money that they  
23                  received or suddenly that noncustodial

1 parent gets a credit, and they are  
2 receiving less money. I mean, I do think  
3 there is a potential there for a punitive  
4 action towards the custodial parent.

5 PROFESSOR DAVIS: So, are you  
6 anticipating that when the court looks at  
7 it from the perspective of, it's a  
8 rebuttable presumption that he gets credit,  
9 if he sits on his right to go for a period  
10 of time, is that a consideration that the  
11 court would take -- is that what you are  
12 anticipating, the court would then say,  
13 okay, that is going to more adversely  
14 impact the child because they waited so  
15 long that the reality is that child is not  
16 going to have any resources from the mom  
17 because they have already spent that money,  
18 and there is a year from -- I think the  
19 example y'all gave from 18 to 19 -- the  
20 mother may not be receiving any money.

21 MS. FANN: I think, though, that  
22 it's important to remember that this is  
23 something that already exists in the law.

1 People can petition for a retroactive  
2 child-support modification. So, we are not  
3 talking about something that is wildly  
4 different than anything that we already do.  
5 I mean, if somebody wanted to -- if he  
6 wanted to file the amended income  
7 withholding, but he could also just file a  
8 petition for modification and ask for a  
9 retroactive modification and ask for a  
10 credit. You know, I mean, all of that is  
11 something -- this is not a stranger to what  
12 we are doing.

13 MS. BEACH: I'm sorry. Is  
14 retroactive downward modification allowed?

15 MS. FANN: Yes.

16 MS. BEACH: I didn't -- I didn't  
17 know that we did retroactive downward --

18 MS. BALDWIN: That's only for --

19 MS. BEACH: -- modifications.

20 MS. BALDWIN: -- data filing.

21 MS. FANN: Right. That's what  
22 I'm saying.

23 MS. BEACH: I've got --



1 MS. FANN: We already have  
2 something where somebody would have an  
3 obligation --

4 THE COURT REPORTER: I need one  
5 person at a time, please.

6 MS. KING: But I think what  
7 Melody was saying in this situation -- this  
8 is automatic because it's a court order.  
9 It's not going to be --

10 MS. BEACH: Well -- that would be  
11 considered --

12 MS. KING: Because that at least  
13 puts the person on notice.

14 MS. BEACH: But this does too.

15 THE COURT REPORTER: Okay.

16 MS. KING: You're taking this --

17 MR. MADDOX: Time out.

18 PROFESSOR DAVIS: Time out.

19 THE COURT REPORTER: Thank you.

20 (Off-the-record discussion  
21 was held.)

22 PROFESSOR DAVIS: Let's put the  
23 ball back in Rachel's court for a minute.

1 MS. KING: Well, I mean, I am  
2 just -- I'm thinking -- and I guess Melody  
3 -- you know, I think Heather and I in  
4 particular are coming from more of a  
5 domestic relations court standpoint.

6 This is -- so, they're vastly  
7 different. And I think to overlook that  
8 is being disingenuous. And so, from your  
9 standpoint of those clients, I think it,  
10 you know, goes along to what you were  
11 saying in public interest, people don't  
12 know that they can't just divide it in  
13 half. In the same instance, they don't  
14 know that just because there is this  
15 court order but there is another court  
16 order that says that he has to pay \$500 a  
17 month, the IWO, and it's been being  
18 withheld. All of a sudden they are going  
19 to be popped because dad or noncustodial  
20 parent comes back and says, wait a  
21 second, I had an old order from a year  
22 ago, I am due a credit.

23 I just think in your situation

1 it's going to have a much greater impact.

2 MS. BALDWIN: This is Melody  
3 Baldwin again. And if he waits until that  
4 child is 19 --

5 MS. KING: Oh, it would be --  
6 yes.

7 MS. BALDWIN: -- that mother --

8 MS. KING: Is done.

9 MS. BALDWIN: He is going to be  
10 asking to have it paid back, and she has  
11 already spent that money. And I keep  
12 saying "he" and "she," but that's the  
13 circumstances though that --

14 PROFESSOR DAVIS: Custodial and  
15 noncustodial.

16 MS. BALDWIN: Right. I mean,  
17 right. Then you have got a custodial  
18 parent who is now being asked and perhaps  
19 being required to pay back --

20 MS. KING: To reimburse.

21 MS. BALDWIN: -- thousands of  
22 dollars.

23 PROFESSOR DAVIS: Emily wanted to

1 speak.

2 MS. MILLS: Emily Mills. I think  
3 this happens now as you were saying. Any  
4 time you have a modification, you have to  
5 do an amended income withholding order.  
6 And there can be delays with an income  
7 withholding order being issued. Even if  
8 it's simultaneously issued, the employer  
9 has a process through their HR, so it can  
10 be 60 or 90 days. If the order is issued,  
11 and then you have another two months before  
12 the IWO gets done for whatever reason and  
13 then it gets to their employer, you can  
14 have six months delay in the modification  
15 whether it's up or down.

16 And so, I don't -- like you  
17 were saying, I don't think that the issue  
18 itself is an issue.

19 MS. KING: No. But also, I think  
20 the other issue here is that we are  
21 overlooking the fact that right now  
22 retroactive from the date of filing is  
23 discretionary. It's not mandatory. What

1 we are proposing here would be automatic.

2 MS. FANN: If the judge orders it  
3 that way.

4 MS. KING: Correct. Well, that's  
5 what we are assuming. We are talking about  
6 the assumption of they've changed it, and  
7 here is a new IWO that is just waiting for  
8 somebody at some point in time to enter  
9 with a new employer if you've changed jobs  
10 or whatever. But this is your new amount  
11 for a year-and-a-half from now.

12 MS. FANN: Right. I guess what I  
13 was getting to is -- and this is Heather  
14 Fann again.

15 What I was getting to is, there  
16 is still discretion both in whether the  
17 judge enters a second 42, and there is  
18 discretion in whether the judge later  
19 grants any kind of credit. And all of  
20 that would have to be something that the  
21 judge decides. So, there is --

22 MS. KING: That is decided  
23 instantly. And so, you are creating more

1 issues down the road that I thought we were  
2 trying to avoid by doing this. We are  
3 trying to keep people from having to go  
4 back to court, but now we are saying that  
5 if we create this issue of credit, they are  
6 going to have to go back to court to have a  
7 judge enter that.

8 So, I don't think we are  
9 accomplishing what we are trying to do.

10 MS. MATTHEWS: Kintisha Matthews.  
11 And correct me if I am wrong, I think one  
12 of the issues that Judge Williams had  
13 talked about on the Subcommittee was that  
14 very issue about low-income mothers  
15 receiving money that they had spent and  
16 things like that. And I think that's how  
17 we got to the word "presumption." That  
18 it's not an automatic credit, that you  
19 don't automatically get a credit.

20 And that's how we also got to  
21 the term about the timeframe. You don't  
22 get to get these credits if you sit on  
23 your behind and say, hey, a year later I

1 am due this money. It's within a certain  
2 timeframe.

3 MS. KING: But you have an order  
4 that says you are.

5 MS. MATTHEWS: But, no, the order  
6 does not say -- and I think that's why it  
7 was also mentioned that we put it in the  
8 comments. The order will not say, hey, you  
9 are automatically due these things. I  
10 think that's how we got to the order "it's  
11 a presumption," meaning that, hey, the  
12 judge can decide to give this credit if  
13 it's due. But you don't get to just sit  
14 and say, hey, 45 days from now a year later  
15 I want to do this. For that very reason  
16 that I think Judge Williams was saying,  
17 hey, we will have mothers -- we will have  
18 custodial parents because I do deal with  
19 some. We will have custodial parents who  
20 will not be able to pay this money back.

21 So, I think that was -- and  
22 correct me if I am wrong -- on the  
23 Subcommittee, that that was part of what

1 we discussed and how we got to  
2 presumption, that it wasn't going to be  
3 automatic. But correct me if I am wrong.

4 MS. STEINWINDER: Katie  
5 Steinwinder.

6 I think that Judge Williams'  
7 thoughts were that it should be less  
8 punitive on the party receiving and in  
9 need perhaps on that lower end and more  
10 punitive on the obligor parent to take an  
11 action or to suffer consequence. Is that  
12 your recollection?

13 MS. MATTHEWS: Correct.

14 MS. STEINWINDER: Okay.

15 MS. BALDWIN: This is Melody  
16 Baldwin again.

17 I mean -- and I am not saying  
18 add any language. But if we are going to  
19 do -- and I understand the premise of  
20 doing this and saving a modification. I  
21 mean, that makes complete sense because  
22 you are talking two years. I mean, it is  
23 crazy to have to file a modification, pay



1           that filing fee, especially if you are a  
2           private litigant and -- of course, DHR  
3           pays filing fees too. Most people don't  
4           know that, but we do.

5                         And so, I agree with the  
6           premise of doing this. And I -- I don't  
7           have a problem with it. I am supposed to  
8           be on the Subcommittee, but I am never  
9           available for the meeting. But I just  
10          want to be able to avoid this situation  
11          where we have got a custodial parent who  
12          -- because I have seen those. I have  
13          seen them with Social Security -- Social  
14          Security will go after the custodial  
15          parent. I don't want that to happen.  
16          I've seen businesses get liens filed on  
17          them that the custodial parent was on a  
18          bank account with their mother, and they  
19          went to try to get it back.

20                        So, I don't want any  
21          overpayment -- quote, unquote,  
22          "overpayment" to be punitive to the  
23          custodial parent who honestly had --

1 MS. BLACKBURN: Because the other  
2 person -- (inaudible).

3 THE COURT REPORTER: I'm sorry.  
4 I didn't get that.

5 MS. BLACKBURN: I'm sorry.  
6 Because the other person sat on their  
7 rights.

8 MS. BALDWIN: That's right. So,  
9 if we could make it -- and I am not saying  
10 not have it presumptive, because there  
11 might be circumstances where in 45 days  
12 they couldn't. You know, we have talked  
13 about these kind of things before. Maybe  
14 they were in the hospital with COVID or --  
15 you know, and they couldn't.

16 But maybe have some language in  
17 there that makes it clear to a court that  
18 maybe -- if they just simply didn't do  
19 it, that it's a gift just like we do with  
20 --

21 MS. BEACH: Exactly. I like  
22 that.

23 MS. BALDWIN: Just like we do

1 with the entitlements, you know, and not  
2 have this problem on the custodial parent.

3 I just want to avoid that if that --

4 MS. BEACH: And it takes --

5 MS. BALDWIN: -- is at all  
6 possible.

7 MS. BEACH: I'm sorry. Shirlee  
8 Beach.

9 That it basically takes effect  
10 once the withholding order is issued --

11 MS. BALDWIN: Right.

12 MS. BEACH: -- the second  
13 withholding order is issued --

14 MS. BALDWIN: That's right.

15 MS. BEACH: -- rather than it's  
16 automatic at the time that the child  
17 reaches a certain age, more that it's --

18 MS. KING: I think that is --

19 MS. BEACH: -- when the  
20 withholding order is issued.

21 MS. BALDWIN: Right.

22 MS. BEACH: Is that --

23 MS. BALDWIN: That's right.

1 MS. BEACH: Okay.

2 MS. BALDWIN: And I think we have  
3 actually said that before. I just don't  
4 know that it's reflected on what's on the  
5 paper here.

6 MS. FANN: Are we -- So, is this  
7 a -- and by the way, I think everybody on  
8 the Subcommittee -- if we haven't been  
9 clear, I think we should be clear. This is  
10 not -- nobody is asking for a vote --

11 MS. BALDWIN: Right.

12 MS. FANN: -- on this today or  
13 anything. We -- there is a reason we are  
14 not done with it. And this discussion is  
15 it.

16 But y'all are proposing that  
17 the child-support obligation not change  
18 until the income withholding order  
19 changes?

20 MS. WILSON: Correct.

21 MS. KING: I think you have to  
22 otherwise you're --

23 MS. WILSON: Rhonda Wilson.

1           That's what I -- I think I was hearing  
2           people saying. But what I was thinking  
3           about is why not let the order be -- the  
4           order is not automatic. It's like this is  
5           -- the order will change upon motion  
6           because you are still trying to have them  
7           not to come to court.

8                         So, say, your obligation is  
9           going to be the same; however, we already  
10          have something to change it. And if you  
11          file a motion to ask for the new order  
12          without the emancipated child, if you  
13          filed a motion and asked that that new  
14          IWO and order be done, it seems like that  
15          would kind of resolve some of the issues.

16                        And then some other provision  
17          about if you -- you know, you can't just  
18          wait and wait and then say a year later.  
19          And I think it's just too many problems  
20          with it being automatic.

21                        MS. FANN: Right. The problem  
22          with what you are proposing is that there  
23          is no jurisdiction. You can't just file a

1 motion. You have to file a petition to  
2 invoke the court's jurisdiction.

3 MS. KING: But we do allow for an  
4 affidavit to be filed. We want it --

5 MS. WILSON: Right. So, I was  
6 thinking about the affidavit of termination  
7 of parental --

8 MS. KING: So, we could figure  
9 out a way to loophole that.

10 MS. WILSON: Right.

11 MS. BEACH: It is. And do it --

12 MS. KING: That's my big thing.  
13 Because I think if you haven't -- I am just  
14 thinking from the standpoint of appeals  
15 from the obligors. They are saying I have  
16 an order right here --

17 MS. BEACH: Yeah.

18 MS. KING: -- that says that my  
19 income was due to be changed. You can say  
20 all you want in this language that it's up  
21 to the judge, but if the order says that  
22 this child support -- his or her  
23 child-support obligation changes, that's a

1 court order. I mean, none of us can change  
2 it.

3 MS. WILSON: Rhonda Wilson.

4 I guess you have to go back to  
5 -- I guess don't have them come to court  
6 but maybe be similar to the affidavit for  
7 termination of income withholding order.  
8 They do have to file a petition. And a  
9 lot of times if they don't owe anything  
10 or something like that -- a lot of times  
11 people who are owing, the obligor, they  
12 don't show up to court for them.

13 MS. BEACH: Yeah.

14 MS. WILSON: And, you know, we do  
15 what we need to do in regards to  
16 terminating, whether we terminate or don't  
17 terminate based on whether they owe arrears  
18 or not still. But I mean, I think that  
19 would be something -- I mean, you still  
20 would accomplish them not having to  
21 physically come to court and redo the  
22 forms, but they still have to incur some  
23 kind of costs. And, I mean, we are not

1 talking about \$500. And I understand that  
2 \$102 can be a lot for somebody. But I  
3 think that would cut down perhaps on some  
4 of the issues.

5 MR. MADDOX: This is Bob Maddox.  
6 I think the filing fee is only  
7 like \$30.

8 MS. WILSON: Oh, okay. Okay.

9 PROFESSOR DAVIS: Ms. Matthews  
10 had her hand up.

11 MS. MATTHEWS: Oh, it's been  
12 addressed. I was going to say that --

13 PROFESSOR DAVIS: Okay.

14 MS. MATTHEWS: When we talked  
15 about the petition and things like that,  
16 when they were saying just file a motion, I  
17 was like, no, we already have a final order  
18 so we can't just file a motion. But, yes.

19 MS. BALDWIN: This is Melody  
20 Baldwin again.

21 Would it be possible, Rachel --  
22 or is there a problem, if you know, with  
23 a contingency order contingent upon them



1 filing the new form for the amended IWO?

2 MS. KING: To me, it would make  
3 it a nonfinal order.

4 MS. BALDWIN: Well, that's true  
5 because it's contingent on an action by the  
6 obligor.

7 MS. KING: Yeah.

8 MS. BALDWIN: But they don't have  
9 to do anything other than pay if there is a  
10 fee, a small fee, they don't even have to  
11 have new counsel to file that form.

12 MS. WILSON: Right.

13 MS. KING: Right. I think that  
14 goes back to what Rhonda was saying, yeah.

15 PROFESSOR DAVIS: Let me ask you  
16 a question. This is a different approach.

17 If we leave it discretionary,  
18 at the court's discretion, but if they do  
19 enter the order, then it becomes  
20 effective. But also say that the person  
21 that has 45 days or whatever timeframe  
22 you want to file and anything that -- if  
23 they don't file or change anything beyond

1           that amount is treated as a gift just as  
2           any overpayment. And so, then you  
3           wouldn't be worried about credit, but you  
4           could write in perhaps the presumption  
5           that it was a gift, and then let the  
6           other -- if they want to come and  
7           litigate why it shouldn't be, they could.

8                       MS. BALDWIN: A presumption as to  
9           why it isn't a gift?

10                      PROFESSOR DAVIS: Yeah. Or just  
11           make it a gift. I mean, if want to say  
12           automatically if you -- obligor, if you  
13           don't go in, then anything that you allow  
14           that IWO to continue to be in place, then  
15           that will be treated that extra \$25, in my  
16           scenario, will be treated as the same way  
17           we treat any other overpayment from a  
18           noncustodial parent or parent for the  
19           child.

20                      MS. STEINWINDER: Katie  
21           Steinwinder.

22                      But then that presumptive gift  
23           in Shirlee's scenario goes to another

1 child in another case possibly.

2 MS. BEACH: Uh-huh (positive  
3 response).

4 MS. STEINWINDER: And I guess I  
5 am going to throw this out there, and I do  
6 not mean to cause a problem. But does  
7 anyone have a concern that this is somehow  
8 setting up a reversionary clause --

9 MS. KING: Yes.

10 MS. STEINWINDER: -- that we have  
11 said is void and not voidable --

12 MS. KING: Yes.

13 MS. WILSON: Yes.

14 MS. STEINWINDER: -- because it's  
15 impossible to predict the best interest of  
16 the child at a future date? That -- I just  
17 think we need to hash that one out.

18 MS. BEACH: This is Shirlee  
19 Beach.

20 Also a very basic thing that  
21 may or may not come up a lot -- I think  
22 it would in our cases -- is the income of  
23 both parties in a two-year period. With

1 the clients that we work with, it changes  
2 a lot in two years.

3 So, we may be in a position to  
4 where we are having to file a  
5 modification anyway. That's a  
6 possibility.

7 MS. WILSON: Rhonda Wilson.

8 And I was looking at the  
9 Georgia one, and they did kind of address  
10 that one in their statute. And they said  
11 a final order entered pursuant to this  
12 paragraph shall not preclude a petition  
13 for modification.

14 MS. BEACH: Sure.

15 MS. WILSON: So, that kind of, I  
16 think, would address what you are talking  
17 about. I mean, that's true. Their incomes  
18 could wildly vary. But I think this is  
19 saying, you know, if you still want a  
20 modification, you could.

21 MS. KING: This is Rachel King.

22 I just have a question for  
23 someone who is on the Subcommittee. Have

1 any of the other States that have  
2 codified this been attacked from a due  
3 process standpoint? I mean, have we had  
4 a statute that comes down and then we  
5 have a lawsuit that says, no, you can't  
6 do this because you are depriving due  
7 process by it? I just don't -- if we're  
8 saying it's a gift, can we say that?

9 MS. FANN: I think the goal --  
10 Anybody else on the Subcommittee is welcome  
11 to disagree.

12 But I think the goal of the  
13 Subcommittee -- and this is Heather  
14 again -- was not to change any of the  
15 existing law about credits and  
16 retroactive support obligations and --  
17 you know, all of the things that are  
18 currently in place, presumption of gifts  
19 included. I don't think we were trying  
20 to do that. I think what we were trying  
21 to do is put a carrot out there for  
22 obligors that, look, if it's not your  
23 fault, if you came here quickly and tried

1 to get this done, and it's not your fault  
2 that there is a processing delay, then we  
3 are going to presume that you did  
4 everything you were supposed to do and,  
5 therefore, you are due the change that  
6 the court order contemplated.

7 So, I don't think -- you know,  
8 I think we can just be very careful in  
9 whatever language we utilize to make sure  
10 that we are acknowledging all of the  
11 systems that are already in place would  
12 remain in place. We are just really  
13 trying to get a -- and I don't know. I  
14 am sure it's very different for DHR  
15 cases. But in our private practice,  
16 quite frankly, I am sure Rachel has done  
17 it. We do it all the time. We say you  
18 know what, this child is aging out in  
19 four months. It's ridiculous for us to  
20 come back. Our judges maybe shouldn't  
21 sign these because they are, you know,  
22 proactive modifications and technically  
23 they are not supposed to.

1           But really, I mean, what we are  
2           trying to do is address those cases where  
3           who wants to have to pay a lawyer another  
4           \$1,000 plus filing fees and whatever and  
5           run all of these forms again that we can  
6           run right now while we are all sitting in  
7           here and have everyone understand -- and  
8           to your point about due process -- have  
9           everyone understand at the time they are  
10          doing it.

11           So, if I want to make an  
12          argument that, you know what, Judge, no,  
13          I have a child with special needs that we  
14          are still investigating, and I'm not sure  
15          that this child is not going to need  
16          Brewington support. And, you know, a  
17          judge certainly has the discretion under  
18          what we are proposing to say, you know  
19          what, I'm just not going to do this  
20          second 42 at all for this case.

21           So, I think there is -- the  
22          goal was to leave room for all of the  
23          kinds of concerns that everybody is --

1 and I'm not saying there is not still  
2 work to do on drafting and phrasing. But  
3 I think we are all in the same mind, and  
4 that's that nobody is trying to put an  
5 upheaval on all of this. We are just  
6 trying to address these sort of  
7 circumstances where everybody knows this  
8 is coming. Everybody knows this -- you  
9 know, this child -- and if something  
10 happens and the child passes away or  
11 something, then, you know, that's a whole  
12 separate issue that is already addressed  
13 under the law.

14 But if the passage of time is  
15 the only thing, you know, that stands  
16 between these folks and their next  
17 resolution, I appreciate that it is  
18 something that Judge Moore wanted to  
19 address.

20 HON. COOK: So, this is Greg  
21 Cook.

22 I would like a one-on-one  
23 tutorial on IWOs. In other words, number



1           one, do they normally expire by their  
2           terms or can you make them expire by  
3           their terms? First question: Do they  
4           expire by their terms?

5                   MS. BALDWIN: No. You have to  
6           file the affidavit.

7                   HON. COOK: They are just  
8           forever? IWOs are forever?

9                   MS. FANN: Until they are  
10          modified.

11                   MS. KING: Or terminated.

12                   MS. WILSON: Or terminated.

13                   HON. COOK: Good.

14                   MS. FANN: Or somebody changes  
15          jobs and they're --

16                   HON. COOK: So, you want to come  
17          back and modify it. What's the normal  
18          procedure to modify an IWO?

19                   MS. FANN: Petition to modify.

20                   HON. COOK: Petition. And how  
21          much is the filing for a modification?

22                   MS. KING: \$300 usually.

23                   HON. COOK: \$300?

1 MS. FANN: You have to modify the  
2 order.

3 MS. KING: The support order.  
4 The original order, which is what we were  
5 saying is, if the judge is entering an  
6 order now, he or she is also effectively  
7 entering a sundown order to say effective  
8 January 1st when the second child ages --  
9 or the first child ages out, this will be  
10 the new order of support.

11 HON. COOK: The underlying order  
12 of the judge that issued an IWO --

13 MS. KING: Correct.

14 HON. COOK: -- can say the child  
15 support for the older son ends when he in  
16 turns --

17 MS. KING: That's what this is  
18 proposing.

19 MS. FANN: Currently your child  
20 turns 19 and you want your child support to  
21 change, you have to pay a \$300 or so filing  
22 fee, file a petition, wait for a judge to  
23 Rule.

1                   HON. COOK: It's not just the IWO  
2                   that you have to modify. You have to  
3                   modify the underlying --

4                   MS. KING: Yes.

5                   HON. COOK: -- child-support  
6                   order now.

7                   MS. FANN: Right.

8                   MS. KING: Which is what you  
9                   still will be doing.

10                  HON. COOK: Uh-huh (positive  
11                  response). And the underlying --

12                  MS. KING: Just perspectively.

13                  HON. COOK: And the child-support  
14                  order today you can't put a sundown  
15                  provision in it?

16                  MS. KING: Not technically, no.

17                  MS. FANN: The general idea is  
18                  you don't know what a child's situation is  
19                  until the moment of the filing or whatever.

20                  PROFESSOR DAVIS: Child support  
21                  is never final. It's a final order, but  
22                  it's always modifiable. And so, that was  
23                  what -- I think it was maybe Rhonda or one

1 of the ladies over here mentioned that. We  
2 want to make sure that even though you have  
3 this other order that will come into play  
4 at a certain time but that does not  
5 preclude -- or maybe it was Shirlee. I  
6 don't remember. Somebody said that the  
7 intervening events that can cause the child  
8 support -- the application of the  
9 Guidelines to make the amounts go up or  
10 down, that is still in play.

11 So, that's good for the public  
12 to hear your comments.

13 HON. COOK: Yeah. Would your  
14 proposal change the \$300 filing fee that  
15 you have to make?

16 MS. FANN: Yes.

17 MS. KING: You wouldn't have to  
18 pay it because there would already be  
19 another order in place.

20 MS. FANN: The new child support  
21 has already been ordered. We just have  
22 this dangling issue of the IWO still has  
23 the old order. And we don't have a system

1 for a second IWO or an automatic changing  
2 of the IWO.

3 HON. COOK: So, let's say I don't  
4 get an IWO when the original child-support  
5 order goes out and I need it, I have to go  
6 back to court to get it. Do I have to pay  
7 \$300 then?

8 MS. KING: No.

9 MS. BALDWIN: No.

10 MS. FANN: There's a clerk fee, a  
11 minor -- what is it, 30 -- somebody said 30  
12 earlier. There is sort of a minor fee to  
13 -- The IWO is always supposed to be  
14 entered. It does not always have to be  
15 served.

16 So, a lot of our folks in  
17 private practice privately pay and nobody  
18 else is involved. And so, in that  
19 situation where Bob was sending \$100,  
20 even though Bob knew he didn't owe \$100,  
21 I'm not so worried about Bob. Right?

22 But, you know, the complication  
23 comes in this sort of hiccup of things

1 people can't control or couldn't.

2 HON. COOK: But of course --

3 MS. FANN: -- immediately.

4 HON. COOK: -- in your scenario  
5 Bob knows that \$100 is being pulled from  
6 his paycheck --

7 MS. FANN: Right.

8 HON. COOK: -- you know.

9 MS. FANN: And he knows that too.

10 And if he doesn't want to give it as a  
11 gift, that's what we were trying to say,  
12 all right, then, you don't want it to be a  
13 gift --

14 MS. KING: Change it.

15 MS. FANN: -- change it. Get  
16 there quickly and change it so that  
17 somebody else is not relying on -- you're  
18 not changing it or whatever.

19 PROFESSOR DAVIS: This is Penny  
20 Davis.

21 Earlier on in our discussion,  
22 we wanted to make sure that the burden  
23 for changing the withholding order did

1 not fall on the court or the clerk's  
2 office of the court to send that out. We  
3 felt like the appropriate party would be  
4 the obligor, the paying parent, because  
5 they would have the incentive. They  
6 would have skin in the game that they  
7 should want to do that.

8 HON. COOK: But we would -- the  
9 child-support order would already have  
10 sundown language in it.

11 PROFESSOR DAVIS: Yes.

12 HON. COOK: You would be just  
13 changing the IWO?

14 PROFESSOR DAVIS: If the trial  
15 court chose discretionary. If the trial  
16 court chose to do that, then they could  
17 include that.

18 MS. FANN: So, the natural  
19 corollary is termination of support when  
20 there is only one child. We don't --  
21 technically what happens when there is no  
22 IWO is, you know, Bob and I have a child  
23 and Bob stops paying child support and the

1 child turns 19, I am not going to complain  
2 about it because I am wasting my money  
3 because there is no longer a minor child,  
4 right?

5 So, it sort of naturally occurs  
6 there. It doesn't naturally occur when  
7 there is multiple children and someone  
8 ages out. That's what we are getting at.

9 PROFESSOR DAVIS: Well, the --

10 MS. KING: Or when there is an  
11 IWO in place for that one child because it  
12 keeps drafting it out of your paycheck  
13 unless or until you take the affirmative  
14 action to have it terminated.

15 MS. FANN: So, I think Rachel has  
16 got a really good -- I don't know if you  
17 meant it as an explicit suggestion, but I  
18 think it is a good suggestion.

19 Similar thing, it's like you  
20 file an affidavit saying, hey, my child  
21 support has changed as effective  
22 whatever. I don't know if we have a  
23 form. I hate to admit I don't even know.



1 MS. KING: We have --

2 MS. FANN: I tell people to call  
3 the clerk and figure it out.

4 MS. BEACH: There is an  
5 affidavit.

6 MS. FANN: But if we had an  
7 affidavit that was for this circumstance  
8 that said, you know, pursuant to the order  
9 of X date, my child support is to be  
10 changed on Y date and, therefore, I am  
11 asking for -- one of the suggestions I made  
12 and I made it, you know, hesitantly because  
13 I know it can create some confusion was --  
14 that we could enter as an exhibit a  
15 proposed amended IWO, that that obligor  
16 could just then take -- it wouldn't be  
17 entered by the clerk. It would just be  
18 part of the paperwork so that they don't  
19 have to reinvent the wheel, but that he  
20 could then take and say, okay, this is now  
21 what the new IWO should be.

22 MR. MADDOX: When the original  
23 case order is issued, you have a backup

1 order, and then you have a backup income  
2 withholding order as well --

3 MS. FANN: Right.

4 MR. MADDOX: -- at the same time.

5 MS. FANN: Yeah. The same as you  
6 got --

7 MS. BEACH: Would the second  
8 withholding order not be viewed as an  
9 amended withholding order anyway? I mean,  
10 is that not how it would be --

11 MS. KING: It would have to be  
12 amended. It's not an original.

13 MS. FANN: It would except we are  
14 not doing anything with it at the time that  
15 we are creating it. So, the idea was Bob  
16 takes -- when that, you know, 20 days  
17 before the child turns 19, oh, I need to go  
18 get this taken care of. I already have  
19 this paper. I don't have to go see a  
20 lawyer and ask a question or figure this  
21 out. I already have this paper, and I just  
22 take this to the clerk and they say we can  
23 even do the affidavit, you know, both of

1           these things and turn these in and pay my  
2           \$30 and that process is started, and I am  
3           done.

4                   HON. COOK:  So, another dumb  
5           question.  Why can't the IWO that is issued  
6           initially have a sundown provision in it  
7           for half or a third or whatever it is going  
8           to be?  If the underlying child-support  
9           order says that, why can't the IWO have a  
10          step-down in it?

11                   MS. KING:  Well, because I think  
12          you are assuming -- you're pulling in a  
13          third-party employer.

14                   MS. WILSON:  Right.

15                   HON. COOK:  Right.

16                   MS. KING:  It's important to them  
17          --

18                   HON. COOK:  It is.

19                   MS. KING:  -- to not only  
20          withhold it but then to send it somewhere.  
21          So, that's a lot of faith in an employer.

22                   HON. COOK:  It is.

23                   MS. BEACH:  It's also a federal

1 form. I don't know if has that provision  
2 in it.

3 HON. COOK: There we go.

4 MS. FANN: We asked that -- that  
5 was going to be the answer I told you. My  
6 understanding from the Committee was that  
7 we can't create a new income withholding  
8 order that is just for this circumstance.

9 MR. MADDOX: For the benefit of  
10 the new members, that is another federal  
11 law requirement. We have to use these  
12 standardized IWOs.

13 HON. COOK: Yeah, got it.

14 MS. STEINWINDER: Katie  
15 Steinwinder.

16 And I think the choices on an  
17 IWO are amended to terminate or the  
18 initial, and that's it, right?

19 MS. WILSON: Uh-huh (positive  
20 response).

21 MS. BEACH: Right. Correct.

22 MS. STEINWINDER: I mean, those  
23 are your choices.

1                   And I wanted to point out in  
2                   response to a question that Justice Cook  
3                   had a few minutes ago. On page three of  
4                   that memo that's in our packets, that  
5                   proposed comment page to Rule 32, the  
6                   last sentence of the second paragraph  
7                   says the obligor parent should follow the  
8                   procedure required to file an amended  
9                   IWO.

10                   Justice Cook, I understand that  
11                   you had a question as to what if there  
12                   was not an IWO initially, and I think we  
13                   would need to add some language to that  
14                   that says what would cause an IWO to be  
15                   entered.

16                   MS. FANN: Entered or amended.

17                   MS. STEINWINDER: Right. We just  
18                   need to add some language there. And I  
19                   just want to make sure everybody  
20                   understands -- I may be looking at it from  
21                   an elementary viewpoint. But there will be  
22                   two CS-42s, right? That's what would be  
23                   entered at the time of the final order, not

1 necessarily two IWOs. That is something we  
2 have discussed on and off, but what we have  
3 all agreed on I think the whole time is  
4 that there would be two CS-42s.

5 And I don't know if that  
6 affects, Rachel, your position on -- that  
7 there is an order and a non -- that's --  
8 I don't know if there is a nuance there.

9 HON. COOK: Okay. I'm sorry.  
10 What's a CS-42?

11 MS. FANN: The calculation form.

12 MS. STEINWINDER: The  
13 calculation.

14 MS. FANN: It's a formula form  
15 where we figure the support. And  
16 importantly, that is not in and of itself  
17 an order. That is the calculation. A  
18 judge can deviate --

19 MS. KING: It's a calculation.

20 MS. FANN: Right. A judge can  
21 deviate from that number. So, it is not on  
22 its own an order. The judge still decides  
23 in a trial case how much the child support

1           should be. That's just the form we are  
2           required to fill out to calculate it.

3                       PROFESSOR DAVIS: Well, these  
4           have been excellent questions. And I think  
5           that this will help inform the Subcommittee  
6           as they go back and reconsider things.

7                       And let me encourage anyone in  
8           the public, both present and also anyone  
9           who reads the transcript, if you have any  
10          suggestions related to this topic, please  
11          send them. There is an address on the  
12          website that Bob mentioned earlier, the  
13          AOC website. And the Committee certainly  
14          would encourage you to do that and the  
15          Subcommittee would appreciate that.

16                      So, obviously that is an  
17          important topic. Again, trying to serve  
18          and balance the public's interest with  
19          the paying parent -- the receiving parent  
20          but keeping the child in the minds of the  
21          Committee. Most importantly, we're to  
22          make sure the children's needs are being  
23          met.

1                   At this juncture, we have Jane  
2                   Venohr standing by. So, we will let her  
3                   present -- if you will look at your  
4                   agenda, the second item is relating to  
5                   further discussion of non-parent  
6                   custodial income calculation of child  
7                   support and daycare issue rates.

8                   Now, Jennifer is not here. She  
9                   has been exposed to COVID and, in an  
10                  abundance of caution, she is not joining  
11                  us today, which we appreciate her  
12                  consideration for our safety as well as  
13                  concerns, and we hope she does well and  
14                  everyone else does well.

15                  So, we will focus more on what  
16                  Jane is going to talk about and go from  
17                  there.

18                  So, Dr. Venohr, would you  
19                  introduce yourself and also tell the new  
20                  Committee members the company that you  
21                  work for.

22                  DR. VENOHR: Hello, there. Thank  
23                  you. I am Dr. Jane Venohr. I am an



1 economist with Center for Policy Research.  
2 We are based in Denver. We are a nonprofit  
3 organization that provides evaluation and  
4 technical assistance to States on various  
5 issues.

6 We have been working on State  
7 Child-Support Guidelines since 2007. We  
8 have assisted about 30 States. Right now  
9 we are working with the Federal Office of  
10 Child Support on their new Save Center  
11 which will serve about 12 grantees that  
12 are doing innovations on getting safe  
13 child support to victims of domestic  
14 violence.

15 Can you hear me okay?

16 MR. MADDOX: Can you speak up a  
17 little, just a little.

18 DR. VENOHR: Okay. So -- and  
19 welcome to the new members. Can you hear  
20 me better now?

21 PROFESSOR DAVIS: A little, tad.

22 DR. VENOHR: It's a little what?

23 PROFESSOR DAVIS: We can hear you

1 a little bit better. If you increase the  
2 volume just a little bit, it would be  
3 helpful. Bob has worked it on our end.

4 DR. VENOHR: Let me see if I can  
5 change my settings at all.

6 So, in any event, there was a  
7 question the last time about -- I'm  
8 sorry. I should back up a little bit.

9 We have expertise in other  
10 issues relating to Child-Support  
11 Guidelines. And so, we were asked to  
12 look into how States calculate support in  
13 non-parent custodial cases. And there  
14 was interest in the questions that are  
15 posed in the middle of that memo. These  
16 were the questions that were posed. One  
17 is: Should the non-parent custodian's  
18 income be considered in the calculation  
19 essentially?

20 And the second -- and the third  
21 one question is essentially if the  
22 non-parent custodial parent's income be  
23 excluded, what do you -- do you use

1 another parent's income? Say, that the  
2 child has been removed from the home of  
3 the mother and the child support is being  
4 sought by the mother, what do you do if  
5 you don't have information about the  
6 father is essentially what the two other  
7 questions have to do.

8 And so, what we did was we  
9 reviewed 16 States, namely, the ones that  
10 are bordering Alabama and then other  
11 States where we knew this was an issue.  
12 And we have addressed this issue in some  
13 other States but have never done a  
14 consensus State-by-State in-depth  
15 monitoring. And we knew that not all  
16 States address this issue, specifically  
17 with calculations, because in income  
18 shares, you have usually the mother's  
19 income and the father's income. And then  
20 obviously you use the Child-Support  
21 Schedule, and you prorate that  
22 Child-Support Schedule amount between the  
23 parents and the calculation of support.

1                   And we also had some contact  
2                   with some States in passing, and we asked  
3                   how they did it. And those States were  
4                   California, Georgia, Kentucky and West  
5                   Virginia.

6                   So, if you look at the matrix  
7                   at the end -- and you don't have to flip  
8                   there right now -- that will show you  
9                   each State that we reviewed. And you can  
10                  look at their precise provisions. But on  
11                  the second page of the memo, we have a  
12                  summary of what we found for those 16  
13                  States. Only four of those States --  
14                  Arkansas, Georgia, Minnesota and  
15                  Tennessee -- address the non-parent  
16                  custodian cases in their Guidelines.  
17                  They specifically mention that type of  
18                  case in their Child-Support Guidelines.

19                  Another of those three States  
20                  had how to calculate it, you know, whose  
21                  parent -- whose income to consider but it  
22                  wasn't in the Guidelines. It was in  
23                  another part, a statute. In Iowa and

1 Colorado, it was in the statutes that  
2 guide their administrative process or  
3 their child-support program. In Florida  
4 it was actually in their child-welfare  
5 statutes, but they did address it.

6 Among the seven States that  
7 addressed those issues, it's important to  
8 know that all of them had income shares.  
9 So, there is a consideration of two  
10 parents' income. And none of them  
11 considered the income of the non-parent  
12 custodian. And all of the States that we  
13 talked to, they also said that they never  
14 considered the income of the non-parent  
15 custodian except Kentucky. They weren't  
16 sure about some of their judges.

17 But in Georgia, even though  
18 there are some variation in how they  
19 treat the parents' income that they  
20 considered, they specifically say that  
21 they never considered the income of a  
22 non-parent custodian.

23 And then as far as whether the

1 States considered both parents' income in  
2 the calculation of support, that varied  
3 significantly from State to State.

4 Arkansas and Tennessee have provisions  
5 that say that if you have both parents'  
6 income, if you know them both, then use  
7 both of them. But if you don't, only use  
8 the income of the parent for whom you are  
9 establishing support. So, if it's just  
10 the mother and you don't have the income  
11 of the father, don't use it.

12 In Colorado and Iowa and  
13 Florida, they explicitly say all to use  
14 two parents' incomes and that they -- if  
15 you don't know the income of the other  
16 parent at the time, then you should  
17 impute it and use their Rules on income  
18 imputation which are pretty prescriptive  
19 in these States.

20 So, there are calculations of  
21 support using two parents' incomes in  
22 Colorado, Iowa and Florida.

23 Minnesota is the only State

1           that specifically says just use that  
2           parent's income for whom you have it or  
3           for whom support is being established.  
4           Even if you have both parents' incomes --  
5           let's say that the child has been removed  
6           from the home of the mother and the  
7           father and the mother and the father are  
8           still intact, then Minnesota says you  
9           calculate support with the mother  
10          assuming that's her only income, that's  
11          the only parent's income. And then for  
12          the father, you only calculate it using  
13          the father's income.

14                        In Georgia, they don't specify  
15          it. And their court liaison there says  
16          that it varies from judge to judge as far  
17          as whether they impute income to the  
18          other parent. You know, say that an  
19          order is being established against the  
20          mother whether they impute income for the  
21          father in the child-support calculation,  
22          and that it does vary from court to  
23          court.

1                   Additionally, there is another  
2                   provision in Arkansas, Georgia and  
3                   Tennessee that provide for the  
4                   consideration on the non-parent's  
5                   custodian's childcare and other add-ons.  
6                   So, you know how we include that in  
7                   Alabama in the Worksheet. So, you can  
8                   include that for the -- what the  
9                   non-parent custodian incurs. Say they  
10                  incur \$200 a month in childcare, then  
11                  that could be calculated in that  
12                  child-support calculation.

13                  And you can see that in the  
14                  Tennessee Worksheet, and you don't have  
15                  to scroll to it. It has a third column  
16                  for the non-parent custodian. And that  
17                  third column is just to get at that  
18                  childcare expense or those other add-ons.  
19                  It's not because they are going to  
20                  prorate the basic obligation from the  
21                  Schedule between the parents and  
22                  non-parent caretaker.

23                  So, specifically the answers to



1 the questions that were asked here: One  
2 is that the non-parent custodian's income  
3 isn't ever used except for Kentucky  
4 thinks it might be used by some judges,  
5 but they are leaning toward developing a  
6 policy where they would exclude it.

7 And then the second question is  
8 whether there -- the parent from whom  
9 support is being sought, whether it's  
10 100% of their economic responsibility,  
11 that table amount. And that's true in  
12 Minnesota. It's true in Arkansas and  
13 Tennessee only if they have -- only if  
14 they don't have information from the  
15 other parent.

16 And the third question was  
17 whether the order is based on a prorated  
18 amount. And that is true in Arkansas and  
19 Tennessee if they have income available  
20 from the other party. And it's also true  
21 in Colorado, Iowa and Florida, but it's  
22 not a Guidelines provision. It's because  
23 of their income imputation policies that

1           it lands that way.

2                       And the next page, the page  
3 three of the memo, talks about the  
4 advantages and disadvantages of the  
5 approach. The obvious advantage of the  
6 Arkansas and Tennessee, which is a mixed  
7 approach, that they will use the other  
8 parent's income if it's available is --  
9 it's the best income information  
10 available, so it's the most appropriate.

11                      The obvious advantage of the  
12 Minnesota, Colorado, Iowa and Florida  
13 approach is that it is more consistent.  
14 It's not going to vary depending on  
15 whether income information is available  
16 from the other parent.

17                      And then obviously Colorado,  
18 Iowa and Florida's approach which allowed  
19 for income imputation to the other party  
20 are support orders that are more  
21 reasonable and affordable.

22                      And then so, that pretty much  
23 answers the question. The one thing that

1 we did include in here that wasn't asked  
2 for is that there is a recent federal  
3 letter on IV-E Foster Care referrals to  
4 IV-D Child Support that has been  
5 receiving a lot of attention. I was at a  
6 conference last week for child support in  
7 Washington, DC, and there was a whole  
8 session on this.

9 It is both the National IV-E  
10 Agency and the National IV-D Child  
11 Support Agency that are encouraging  
12 limiting the referrals of IV-E Foster  
13 Care. And I realize that non-parent  
14 caretaker cases might not always be IV-E  
15 Foster Care.

16 But they had a memo that they  
17 issued in July last year that they  
18 recognize that for cases where the goal  
19 is family reunification and the child has  
20 been removed out of the home because of  
21 economic issues, which is the majority of  
22 the reasons that they are removed from  
23 the home. It might be that the parent or

1 parents can't afford to pay rent or there  
2 is some other issues with them.

3 But they are encouraging States  
4 to not pursue child support in those  
5 situations, particularly at the goal of  
6 family reunification.

7 And so, I just checked the  
8 Alabama statute -- and I am an economist,  
9 not a lawyer, so feel free anybody to  
10 correct me or add. And it looks like --  
11 It looks like Alabama's position where  
12 you could limit your referrals and you  
13 don't have to set child support in every  
14 single IV-E case. So, I think that  
15 you're good as far as situated where you  
16 can engage in the practice encouraged by  
17 the -- at the federal level in this July  
18 2022 memo. But certainly somebody could  
19 correct me if I got that wrong.

20 And then the last paragraph is  
21 just some of the research on why they  
22 suggest that you shouldn't pursue child  
23 support or some statistics pursuing child

1 support in federal foster care cases.  
2 That there is a Wisconsin study that  
3 found that for every \$100 more in child  
4 support ordered against the mother  
5 lengthened the child's time in foster  
6 care and delayed family reunification by  
7 6.6 months. So, that just underscores  
8 that policy.

9 And then I thought this  
10 statistic was interesting that they found  
11 that most cases where there was a  
12 third-party care, that child support had  
13 already been ordered and new orders were  
14 established for 38% of non-resident  
15 fathers and new orders were established  
16 for 22% of resident mothers when the  
17 child was removed from the home.

18 And again, this is IV-E Foster  
19 Care. So, it's a smaller subset of those  
20 situations where child support would be  
21 ordered in a non-parent caretaker case.  
22 I mean, there is also other situations,  
23 as you all know.

1           So, I am going to stop there  
2           and open it up for -- or return it to  
3           Chair Penny and see what discussion we  
4           can have.

5           PROFESSOR DAVIS: Okay. There is  
6           a lot of meat there, and I appreciate your  
7           going above and beyond. I thought the  
8           Wisconsin study was particularly  
9           significant.

10          Let's turn it over to the  
11          discussion from the Committee. First, do  
12          you have any questions?

13          MR. MADDOX: First of all, I  
14          wanted to point out I handed out, Jane,  
15          a -- as part of our dependency statute,  
16          12-15-314, Subsection (e), which seems to  
17          be contrary to this policy that has just  
18          been issued. It basically requires  
19          juvenile courts to order child support in  
20          dependency cases from the parent, or it  
21          could be a legal guardian or a legal  
22          custodian. That doesn't matter if they  
23          have been placed in foster care or not.

1                   So, that's interesting that it  
2                   seems to be contrary to our State law  
3                   currently. And I have handed that out  
4                   for everybody to see. So, that --

5                   PROFESSOR DAVIS: Did everybody  
6                   get a copy? Did members of the public get  
7                   a copy? Would y'all like a copy?

8                   MS. WILSON: We ran out.

9                   PROFESSOR DAVIS: Oh, you need  
10                  some more?

11                  MR. MADDOX: Okay. Anyway, I  
12                  just wanted to point that out.

13                  DR. VENOHR: Thank you, Bob, for  
14                  doing follow-up on that. That's very good  
15                  information.

16                  MR. MADDOX: And there have been  
17                  a couple of Alabama Court of Civil Appeals  
18                  cases on the statute that track the  
19                  language that it's mandatory that a court  
20                  order support.

21                  PROFESSOR DAVIS: Right. Which,  
22                  again, is part of what this Committee will  
23                  do is to consider changes to the -- We will

1 consider changes to the Rules and make  
2 recommendations to the Supreme Court. And  
3 of course one of the things we try to do is  
4 be in compliance with the federal laws.

5 And so, the information about  
6 the recent letter from the feds is of  
7 interest, and that we will need to keep  
8 -- the Committee will need to keep that  
9 in mind. And, of course, as I mentioned,  
10 Jennifer is not here to represent DHR,  
11 but we have a lot of good representatives  
12 from -- that are well-versed in the  
13 federal law.

14 So, again, we will open up this  
15 area for comments from the Committee and  
16 members. Anything else, Bob?

17 MR. MADDOX: Real quick, for  
18 clarification, this is just a letter, not  
19 federal law, correct, Lathesia?

20 MS. MCCLENNEY: That's correct.  
21 The State received this information from  
22 the Federal Office of Child Support, as  
23 well as the Federal IV-E Agency as Dr.



1 Venohr has mentioned.

2 So, Department heads that are  
3 managing the IV-D agencies throughout  
4 varying States across the country, those  
5 decisions will have to be addressed and  
6 made between IV-E and IV-D and, of  
7 course, the preferred practices according  
8 to, you know, the Department heads.

9 So, our Commissioner, Nancy  
10 Buckner, is aware of this information.  
11 And our Deputy Commissioners of both the  
12 Family and Children's Services Department  
13 Division and Family Resources, which is  
14 where our IV-E Agency, falls under with  
15 DHR, we are all aware of this emphasis  
16 from the federal offices. And we are,  
17 you know, in discussion about how that  
18 practice could be incorporated or how our  
19 current practices could possibly be  
20 enhanced by what the federal offices are  
21 suggesting for States.

22 PROFESSOR DAVIS: And in some  
23 instances, these sort of informational

1 letters become informative as to what might  
2 occur in changes in federal law.

3 So, it's helpful for our  
4 Committee to stay on top of that so we  
5 can kind of begin to think about if there  
6 are changes, what directions will we need  
7 to go.

8 So, it's very helpful to me.  
9 Other comments or thoughts?

10 MS. MILLS: I guess -- I handle  
11 DHR child support, so I deal with this  
12 issue quite often. And, generally, I would  
13 say our local office tries to set the cases  
14 on the same docket if there is a mother and  
15 a father and DHR is pursuing both of them.  
16 And if they happen to be able to get served  
17 and be there on the same date, we use both  
18 incomes to calculate support.

19 And what I do on the form is I  
20 -- instead of plaintiff and defendant, I  
21 mark it out and I write "mom" on one  
22 column and "dad" on the other column and  
23 we run the numbers.

1                   Generally, if one parent is not  
2                   there but we do know that there is  
3                   another parent, somebody has been  
4                   adjudicated to be the father, our court  
5                   will impute minimum wage to the parent  
6                   that was not there because of the view,  
7                   as she mentioned, in having one parent  
8                   pay 100% does not seem reasonable when  
9                   you have another available parent. There  
10                  are cases where there is not an available  
11                  parent or that parent is deceased, then  
12                  at times the court will require that  
13                  parent to pay 100%.

14                  I have had situations where I  
15                  had mother and father both present and  
16                  still together. And so, you know, just a  
17                  minimum wage child support paying \$500 a  
18                  month, and the court felt that that would  
19                  be cost-prohibitive for a reunification  
20                  plan. And so, the court has deviated  
21                  from the Guidelines maybe on one parent.  
22                  They ordered one parent to pay, and they  
23                  deviated due to a financial hardship and

1 chose not to make that second parent pay  
2 or pay a reduced amount.

3 So, I've kind of had all of the  
4 situations at one time or another. But  
5 this is a regular issue that we deal with  
6 every week.

7 PROFESSOR DAVIS: Yes. This was,  
8 again, brought to our attention, the  
9 issues, from the judges and some of the  
10 practitioners that deal with that. So, we  
11 try to address those.

12 In the past, there was sort of  
13 a long-standing thought process in the  
14 Committee which was approved by -- over  
15 the years by the Supreme Court. And,  
16 again, the Court changes as does the  
17 Committee that there was a benefit from  
18 at least having a minimum \$50 -- and we,  
19 again, recommended and the Supreme Court  
20 accepted this last go round the minimum  
21 \$50 order.

22 Now, there has been some  
23 federal laws where you get to keep a

1           certain amount as the -- that sometimes  
2           that minimum order doesn't come into play  
3           in a few instances.

4                        But there is some positive  
5           benefits behind -- the Committee has  
6           discussed before behind a parent paying  
7           and a child knowing that their parents  
8           are contributing to their support. So,  
9           that is a policy issue that we have dealt  
10          with before.

11                      But, again, it's interesting  
12          when you place that against this  
13          Wisconsin study that says that even \$100  
14          or more order against the custodial  
15          parent in this case resulted in the child  
16          being in foster care for a period of  
17          time. And that is, again, another public  
18          policy that has to be considered.

19                      MS. STEINWINDER: Penny, I've got  
20          -- Katie Steinwinder.

21                      Emily, you said that y'all  
22          often put your juvenile and your juvenile  
23          child-support cases on the same docket?

1 MS. MILLS: Yeah. Our juvenile  
2 cases are separate. Our DHR cases all go  
3 through our CS court. We have private  
4 attorneys. Our child support does not go  
5 through the District Attorney's Office.

6 Our juvenile cases -- our  
7 District Attorney's Office at one time --  
8 I did prosecute through a contract child  
9 support through the DA's office too. And  
10 when I did that, the DA prosecution,  
11 which was basically a nonsupport, they  
12 did not do contempts, civil contempts,  
13 modifications, establishments. But our  
14 District Attorney prosecutes criminal  
15 contempts, and those go through the  
16 juvenile court.

17 All of our cases go through the  
18 CS court.

19 MS. STEINWINDER: Well, in  
20 Montgomery County what I have seen is that  
21 you can have a juvenile parent, a parent in  
22 juvenile court who has a child whose, you  
23 know, custody is taken by the Department.

1                   So, you have the juvenile  
2                   dependency issues rocking on, and you are  
3                   having adjudicatory hearings and all of  
4                   these things are going on. Meanwhile, in  
5                   CS court in Montgomery County, a  
6                   different part of town, completely  
7                   different court, a child-support case has  
8                   been filed by the Department. And I am  
9                   saying that loosely. I don't know who is  
10                  filing on behalf of the Department, the  
11                  DA's office.

12                  You have got parents out at JU  
13                  who show up and the attorneys say, you're  
14                  not paying child support. And they are  
15                  like, I don't know what you're talking  
16                  about. I've not been served. They don't  
17                  even know there is a child-support case  
18                  pending across town against them. It's  
19                  totally separate courts. Maybe they've  
20                  -- maybe they're homeless, and they've  
21                  never been served. So, you've got  
22                  parents who don't even know they have an  
23                  obligation. It continues to tick up, and

1           then in a dependency hearing, it's held  
2           against them because they weren't  
3           supporting their child.

4                       MS. MILLS:  So, we -- At times  
5           there has been child support established in  
6           the juvenile case through some issues  
7           within our -- I don't want to say issues  
8           but maybe efficiency.  I think it was  
9           encouraged that most everything goes  
10          through child-support court.  So, I mean, I  
11          -- you know, they have to be served and  
12          have the opportunity to appear before they  
13          get an order -- a child-support order in  
14          our SC case.

15                      So, our judges would not  
16          establish an order without them being  
17          served.  Now, they may be served and not  
18          show up and not be aware by default that  
19          there is an order there.  That can  
20          happen.  But our CS court would not enter  
21          an order without separate service.  I  
22          mean, there may be a service in the JU  
23          case, but it also would have to be served



1 in the CS case.

2 MS. WILSON: This is Rhonda  
3 Wilson.

4 I agree with Emily. Our  
5 process is the same way. I'm in  
6 Bessemer, and we do the process the same  
7 way. They are separate cases. We don't  
8 do orders without separate service. And  
9 the way that she was talking about  
10 imputing wages, I do it the exact same  
11 way. So...

12 MS. KING: I know -- this is  
13 Rachel King.

14 And I know former Judge Kramer,  
15 now Judge Bell, in JU cases if there  
16 wasn't service on a parent. He would  
17 still list them as a parent, you know, in  
18 the preamble of the order, but he would  
19 specifically state that the order did not  
20 apply to that parent because he or she  
21 had not been served and, therefore, there  
22 was no jurisdiction to order anything  
23 against that person.

1 MS. STEINWINDER: Sure. And  
2 there shouldn't be. You'll --

3 MS. KING: I agree.

4 MS. STEINWINDER: You'll end up  
5 --

6 MS. KING: But we see it. Yeah.

7 MS. STEINWINDER: You will end up  
8 in a dependency trial, and you get totally  
9 --

10 MS. KING: And it gets used  
11 against you.

12 MS. STEINWINDER: -- (inaudible).

13 MS. KING: No, I agree. Because  
14 I have seen that when it gets bifurcated  
15 when there is a married couple and there is  
16 a dependency action going on, they started  
17 a divorce, divorce court says we are going  
18 to reserve child support and visitation to  
19 juvenile court. Juvenile court may end the  
20 case without entering any of that.

21 So, then you have a CS court  
22 case that pops up through IV-D, and it  
23 really complicates things.

1 MS. BEACH: This is Shirlee  
2 Beach.

3 I think that is what this  
4 provision was trying to avoid. The  
5 problem is is that there is reluctance --  
6 I think there has been at least on the  
7 part of the juvenile judges -- whether it  
8 be for time or what because there are no  
9 IV-D people or child-support people in  
10 these dependency hearings. The support  
11 is oftentimes either the order says that  
12 there is a referral to child support or  
13 this is moved to CS court or child  
14 support shall be considered by them. But  
15 there is not necessarily a dollar order  
16 in those juvenile cases which is what I  
17 think this (e) is trying to make happen.  
18 I'm not sure that it's happening a lot.

19 MS. BALDWIN: This is Melody  
20 Baldwin.

21 The experience that I have had  
22 with some of these, we don't get -- we  
23 probably should get more of the foster

1 care cases than we do. We don't get a  
2 lot of referrals for them. And when we  
3 do, when we finally get to the point  
4 where we are about to order support, we  
5 do get requests from the reporting  
6 agency, because they're -- if they are  
7 trying to reunify to hold off or not do  
8 it to dismiss it to make findings of  
9 paternity if they haven't. And they  
10 should have already done that in the  
11 dependency, but, you know, we might be  
12 there on a paternity, as well.

13 And there is apparently more  
14 budget money for child support to pay  
15 through the State for paternity tests  
16 than there is for the IV-E. I think I am  
17 consistent --

18 MS. MILLS: That is a --

19 MS. WILSON: Yes.

20 MS. MILLS: I don't know if that  
21 is a new issue, but that was an issue that  
22 developed in our county where it was more  
23 cost effective. Maybe the county had to

1 pay for the paternity tests through  
2 juvenile court. I'm not sure that that is  
3 accurate. But if it went through CS court,  
4 then the State paid for it.

5 MS. BALDWIN: Right. And so, for  
6 y'all, that is what is happening probably.

7 MS. KING: Yeah.

8 MS. BALDWIN: Okay. There are  
9 more resources to take care of that in CS  
10 court with paternity tests. And so, that's  
11 why we get some of those.

12 MS. BEACH: This is Shirlee  
13 Beach.

14 That is something to consider  
15 with what we are looking at too because,  
16 you know, if we establish paternity, we  
17 have to establish support.

18 So, if we are looking at a  
19 potential of not having these cases  
20 referred because of the child-support  
21 issue, understand that if it gets  
22 referred at least, you know, the IV-E  
23 stuff, we don't have an option. We will

1 have to do support, as well.

2 MS. BALDWIN: Sometimes, though,  
3 our judges just will do a finding of  
4 paternity and just either reserve support  
5 for a later date or zero --

6 MS. BEACH: That's an option.

7 MS. BALDWIN: It's in there.

8 MS. BEACH: Uh-huh (positive  
9 response).

10 MS. BALDWIN: It's in the order,  
11 but it's not something they have to pay.

12 MS. BEACH: Correct.

13 MS. MILLS: And I have seen where  
14 -- and like I said, I don't handle  
15 protective services for DHR, but I have  
16 seen where I have had parents come in, and  
17 they feel really strongly about showing  
18 that they can provide support. So, they  
19 want to show that they are making their  
20 payments in order as a -- and I don't know  
21 if that is a measurement that Protective  
22 Services uses -- but to show that they can  
23 actually provide financial support for

1           their child.

2                         So, I do have parents who are  
3 really strongly working for reunification  
4 as that is a marker for them to show that  
5 they -- and then I have some that come in  
6 where, hey, if they are going to be  
7 reunified in 90 days and the judge may  
8 continue it and let's see if they  
9 actually do get reunified in 90 days, if  
10 they don't, we are going to set support  
11 then. And if they do, then, you know,  
12 there is no support order. It's just  
13 retro support entered. I have had that  
14 happen, too.

15                         HON. COOK: So, this is Greg  
16 Cook. So, I have some dumb questions.

17                         So, every time someone is put  
18 into foster care, there is support  
19 ordered; is that right? Because it says  
20 "shall."

21                         MS. FANN: Shall request.

22                         MS. KING: Yeah, it's --

23                         MS. WILSON: No.

1                   HON. COOK: So, that's not true?  
2                   It's not true that every time someone is  
3                   put in foster care that the parents are  
4                   ordered to pay support?

5                   MS. WILSON: No.

6                   HON. COOK: Okay. So, how often  
7                   does that happen? Is that most of the  
8                   time? Half of the time? Part of the time?

9                   MS. WILSON: This is Rhonda  
10                  Wilson.

11                  In Bessemer, it's done -- The  
12                  child-support unit gets a referral from  
13                  the -- the referrals are driven by the  
14                  child welfare caseworkers. So, if they  
15                  don't provide referrals, then we don't  
16                  file a case.

17                  HON. COOK: So, if they get sent  
18                  to foster care, they do get ordered or they  
19                  don't get ordered?

20                  MS. WILSON: It depends. It is  
21                  driven by the -- the foster care worker  
22                  must send a petition or a request --

23                  HON. COOK: For support.



1 MS. WILSON: -- for the support,  
2 and then from there, we take it and work it  
3 all the way up to the point of filing a  
4 petition and getting support done.

5 HON. COOK: So, as we sit here  
6 today, we don't even know if this happens  
7 in most of the cases or not in most of the  
8 cases?

9 MS. WILSON: I will just say  
10 antidotal without any, like, hard numbers,  
11 more often than not, not.

12 MS. BEACH: This is Shirlee  
13 Beach.

14 I think you would have to look  
15 at what county.

16 MS. WILSON: Right.

17 MS. BEACH: Because our county is  
18 extremely good about doing referrals. Our  
19 county director has done a really good job  
20 of getting the two units to communicate.  
21 But that's part of the problem is the  
22 communication between the two --

23 MS. WILSON: Programs.

1 MS. BEACH: -- and the  
2 understanding I think sometimes of the  
3 court about how things work in the two  
4 different units. Most outside people see  
5 DHR as one entity. And so, they assume  
6 that we all know what the other is doing.  
7 That is not necessarily true.

8 Our policies in the  
9 child-support units are often very  
10 different than what they are on the IV-E  
11 side. We have to have a client --

12 HON. COOK: I'm sorry. IV-E  
13 side?

14 MS. BEACH: That's the foster  
15 care.

16 HON. COOK: Foster care.

17 MS. BEACH: IV-E, that is foster  
18 care. We have to have a client in order to  
19 open a case. And our client in those  
20 situations is the foster care worker who is  
21 sending us a case for these two  
22 individuals, mom and dad assuming, that owe  
23 the support.

1                   When they do that -- and there  
2                   is an electronic process for that in our  
3                   county that works really good. But then  
4                   they also have to provide the juvenile  
5                   order and a couple of other things to us  
6                   so that we will have what we need to  
7                   proceed.

8                   So, that has to all happen in  
9                   our county in order for it to go forward.  
10                  And I guess in all counties, it would  
11                  have to happen that way.

12                  MS. MILLS: And just so you know,  
13                  Justice Cook -- and DHR workers, if I  
14                  misstate it, please say so.

15                  If somebody receives  
16                  assistance, like TANF, Temporary  
17                  Assistance to Needy Families, the State  
18                  requires them to open a child-support  
19                  case. So, not only if you are in foster  
20                  care and you are getting services, if we  
21                  are providing you financial assistance,  
22                  we require that parent or that  
23                  grandparent to open a child-support case

1 with the idea -- this is how I was always  
2 taught, so if it's not correct, please  
3 correct me -- with the idea we are going  
4 to provide you assistance but hopefully  
5 we are going to be able to make the  
6 parent start supporting the child. And  
7 once that parent starts supporting the  
8 child, the support you receive from the  
9 State will either be reduced or stopped  
10 altogether.

11 MS. BEACH: This is Shirlee  
12 Beach.

13 I want to differentiate here.

14 MS. MILLS: Okay.

15 MS. BEACH: Foster children --  
16 the custodians of foster children do not  
17 receive necessarily anything -- any  
18 assistance.

19 MS. MILLS: That's right. It's  
20 two separate issues.

21 MS. BEACH: Yes. Yes.

22 MS. MILLS: We do it for children  
23 in foster care, and then we also do it for

1 children who are with their parents who may  
2 receive TANF. Because, you know, a lot of  
3 times we have people in there who would  
4 never be in the child-support system  
5 because, you know, but they receive  
6 assistance and we require them to move  
7 forward.

8 PROFESSOR DAVIS: Before the  
9 child is in the third-party home, like a  
10 grandparent's home.

11 MS. BEACH: Uh-huh (positive  
12 response).

13 MS. KING: I have a question.  
14 This is Rachel King.

15 I guess it is directed towards  
16 you, Rhonda, since you kind of commented  
17 on, you know, what Bessemer is likely to  
18 do.

19 In order to sort of meet -- I  
20 think it was the Wisconsin study, do we  
21 have anything in place right now to take  
22 into consideration what other  
23 requirements are made of the parents

1 through like an ISP for the  
2 reunification?

3 So, for example, if they are  
4 having to take time off work constantly  
5 to go to parenting classes or drug tests  
6 or -- you know, so their income is  
7 greatly affected because they are usually  
8 hourly wage workers, do we look at -- are  
9 we required or do we look at how much is  
10 being asked of them already before we  
11 then refer them for an obligation of  
12 child support?

13 MS. WILSON: I would say, no,  
14 basically because it goes back to what  
15 Shirlee was saying. The two departments  
16 work independently. I wouldn't have no  
17 idea -- I don't get access to any ISPs, any  
18 court orders. I don't know what -- I mean,  
19 that's not even part of my wheelhouse as  
20 the child-support attorney.

21 So, I'm not sure what they are  
22 required and what their expenditures  
23 might be or what their time constraints

1 are. However, our referee is pretty good  
2 about it, and he will pull their case.  
3 Now, I'm not saying in every case, but,  
4 you know, especially ones that he is more  
5 familiar with. He will pull it and see  
6 what they're doing and see -- a lot of  
7 times he determines if we are going to do  
8 a support order right away, wait or  
9 whatever. He will pull and see if they  
10 are on unsupervised visitation,  
11 supervised visitation, and makes kind of  
12 a judgment based on that. Because if  
13 it's like -- if you are on supervised  
14 visitation, you are a good ways away  
15 probably from reunification.

16 So, he is more likely to order  
17 support versus somebody who has been  
18 unsupervised visitation with overnights.  
19 You are getting close -- when you are  
20 getting unsupervised visit -- When your  
21 child is in foster care and you are in  
22 overnight unsupervised visitation, you  
23 are getting close to reunification. So,

1 he thinks a little bit more about  
2 ordering you support. So...

3 MS. KING: I just think in light  
4 of we now have this information from  
5 Wisconsin. I think I can see -- if we  
6 don't take those into consideration, I  
7 think there is a really strong argument  
8 from the parents of being set up to fail,  
9 to not ever be able to be reunified. And I  
10 don't know about you guys, but I've seen a  
11 lot lately on CBS Sunday morning and on the  
12 news on that issue specifically, that we  
13 set up so many barriers that prevent that  
14 reunification because they are not able to  
15 afford to keep working and do it all.

16 So, in other words, they are  
17 just left to sort of go, well, I guess I  
18 won't get my kids back.

19 MS. BEACH: This is Shirlee  
20 Beach.

21 I want to speak to that. I do  
22 not disagree with you at all; however, we  
23 deal with Guidelines.



1 MS. KING: Yeah. Oh, yeah.

2 MS. BEACH: And so, all of that  
3 is at the discretion of the court.

4 MS. WILSON: Right.

5 MS. BEACH: And to bring the  
6 other end to it and make it their  
7 responsibility, it adds a whole new layer  
8 of stuff.

9 I think we depend on the foster  
10 care workers themselves, granted they are  
11 required to request it, I think that  
12 their policy requires that they refer it.  
13 However, I know that there are counties  
14 that use discretion in referring those  
15 cases. The child-support unit is not  
16 going to take action on a foster care  
17 case unless we have that referral.

18 So, what we are thinking and  
19 hoping is that if we get it, then they  
20 want us to move forward with Rule 32.  
21 That's kind of how we look at it.

22 MS. WILSON: All right. We don't  
23 go behind the scenes and ask questions.

1 MS. BEACH: Right.

2 MS. WILSON: It's just like, if  
3 they referred it, then we are assuming that  
4 they have met all of the requirements  
5 necessary, and they make the determination  
6 about whether it should be referred or not.

7 MS. BEACH: Yes.

8 MS. WILSON: It doesn't fall back  
9 on, like, the child-support unit.

10 PROFESSOR DAVIS: So, the  
11 discretion to go forward is left with the  
12 social worker who -- or foster care worker  
13 who is more knowledgeable about the family  
14 dynamics and the situation.

15 MS. WILSON: That's correct. And  
16 then I would say an additional layer of  
17 discretion would be with the judges and how  
18 familiar they might be with that family or  
19 how much initiative they take to see what  
20 is going on in the JU case.

21 But as far as like the  
22 child-support unit, that will be outside  
23 of our purview or, like I said, I say

1 wheelhouse.

2 MS. KING: Penny, wouldn't you  
3 think it would be advantageous then to have  
4 that transparency somewhere so that these  
5 parents recognize that it is actually being  
6 considered? You know, all of their other  
7 obligations that -- you know, because I  
8 don't think many of these parents in that  
9 system are aware of what is being  
10 considered and not being considered. They  
11 see it as I'm just being required, not  
12 through a court order, but an ISP to do all  
13 of these things. How could I possibly have  
14 time to work and make money and pay this  
15 and also meet all of my obligations to be  
16 reunified with my children.

17 PROFESSOR DAVIS: Well, of  
18 course, there are a lot of family law  
19 issues that are brought to this Committee,  
20 some of which really lie outside the  
21 purview. And the last meeting or so we had  
22 someone that spoke to our Committee and had  
23 compelling issues that were unfortunately

1 not something that we could deal with. But  
2 I think it's informative, and I think this  
3 one does have a nexus with the  
4 child-support issue.

5 So, I think it's important  
6 information for us to have. And  
7 hopefully even just this discussion is  
8 beneficial as y'all go back with --  
9 amongst the DHR and foster care to talk  
10 about this.

11 And, again, as I said, when we  
12 see letters like this, we can see a  
13 horizon where we may be faced with, do we  
14 need to build in some other reasons for  
15 deviating from Child-Support Guidelines  
16 that we can see perhaps in the future  
17 coming? Because I can see it playing in  
18 to our Committee in that regard.

19 MS. KING: Well, I was thinking  
20 in terms of like what we did with the  
21 self-support reserve, just having that  
22 transparency within the IV-D to itself so  
23 that these parents were aware that this is

1 being considered for your benefit.

2 PROFESSOR DAVIS: Right. And it  
3 may --

4 MS. MCCLENNEY: May I add?

5 PROFESSOR DAVIS: Yes, ma'am.

6 MS. MCCLENNEY: Lathesia  
7 McClenney.

8 And I just want to add this,  
9 you know, throughout this rich  
10 discussion, the information that has been  
11 provided to States from federal offices,  
12 one word that just stands out and that's,  
13 you know, in the information provided by  
14 Dr. Venohr, is that it encourages States  
15 with their IV-E agencies to only refer  
16 those cases that are appropriate. Okay.  
17 Who defines "appropriate"?

18 MS. WILSON: Yeah, that's why I  
19 underlined that word. Who defines  
20 "appropriate"?

21 MS. MATTHEWS: So, that within  
22 itself is --

23 MS. KING: Problematic.

1 MS. MCCLENNEY: -- just a very  
2 extensive timeline of discussions and  
3 roundtable thoughts --

4 PROFESSOR DAVIS: Right.

5 MS. MCCLENNEY: -- about the  
6 definition of what is appropriate and who  
7 determines what is appropriate.

8 PROFESSOR DAVIS: And it seems  
9 from the discussion with who determines  
10 what is appropriate, that that ball falls  
11 in the court of the foster care worker in  
12 terms of --

13 MS. MCCLENNEY: The IV-E Agency.

14 PROFESSOR DAVIS: Uh-huh  
15 (positive response). Yes, in those  
16 circumstances. But certainly it is a  
17 policy concern that we need to deal with.

18 Time is, of course, passing us  
19 by. It has been an excellent discussion.  
20 Some of the underlying questions that we  
21 had again was from the perspective of the  
22 courts and what the courts order  
23 regarding child support as relating to

1           whether both parents' income should be  
2           considered or the custodial parents'  
3           income that is to be considered. And  
4           Dr. Venohr provided us with information  
5           about that.

6                         So, at this juncture, I know  
7           that Jennifer is not here, but anyone  
8           that has any suggestions for how this  
9           Committee should move forward, then I  
10          would suggest that we think about maybe  
11          putting those in writing, and we can  
12          certainly have a Subcommittee that kind  
13          of goes forward. And following the sort  
14          of Baptist approach that we have, if you  
15          are not in church, you are liable to be  
16          appointed as Chairman of a Committee.

17                        And so, Jennifer is not here,  
18          through no fault of her own, but I would  
19          suggest that if anybody has any  
20          suggestions, if you would send it in  
21          writing to us and also we will send it to  
22          Jennifer. And then if we do get those  
23          suggestions, then we will do a

1            Subcommittee that can look further on  
2            this.

3                            But, Dr. Venohr, your  
4            memorandum here has been very helpful in  
5            helping us to identify some of the issues  
6            that we do need to deal with.

7                            The other issue that is kind of  
8            left was the daycare rates, and Jennifer  
9            could not come but she did provide me  
10           with a paragraph that I will read. And  
11           then because we have limited time, we  
12           will not discuss it other than any  
13           comments that the Committee wants to make  
14           very quickly, and then we will leave on  
15           the table anything else.

16                           Her comment, she said,  
17           regarding the DHR childcare Program says  
18           (as read) "DHR's childcare Service  
19           Division provides a childcare subsidy to  
20           certain individuals. DHR Childcare  
21           Program is not mandated or intended to  
22           pay the full cost of childcare. Its  
23           purpose is to supplement the cost for



1 low-income participants. Participants  
2 contribute and pay any cost not covered  
3 by the DHR subsidy. To determine the  
4 amount of the subsidy, every two years  
5 DHR must conduct a Child Care Market Rate  
6 Study to determine the rate charged per  
7 child. In 2021, Alabama State University  
8 developed and conducted a market survey  
9 for DHR which could be found at" -- and  
10 she's included the site which we will put  
11 this on the record, this document. And  
12 that will be included for the public. I  
13 won't read out the link here.

14 So, before Dr. Venohr has to  
15 leave us, does anybody have any questions  
16 related to her memorandum that you would  
17 like to direct to Dr. Venohr? Any  
18 Committee members?

19 (No response).

20 PROFESSOR DAVIS: Okay. Thank  
21 you, Jane. We always appreciate the good  
22 work that you do for the State of Alabama  
23 and the children there.

1 MR. MADDOX: Thank you.

2 PROFESSOR DAVIS: Thanks so much.

3 Okay. Before we start with  
4 opening comments from the public, we will  
5 go back and see if y'all have changed  
6 your mind. But let me ask the new  
7 Committee members -- we will start with  
8 Emily and go around. And I am asking  
9 this question cold. And so, don't feel  
10 obligated to speak or don't feel like you  
11 are precluded from speaking later. But I  
12 wanted to ask you if there is any  
13 particular topics relating to the  
14 Child-Support Guidelines Committee's  
15 charge that you would like for us to  
16 consider for the future Committee work.

17 So, Emily, I am putting you on  
18 the spot first. You are being called on  
19 by me again.

20 MS. MILLS: I do like the idea of  
21 whether we impute minimum wage when it's a  
22 foster care case or one parent is only  
23 available. I think that's a very important

1 topic in all fairness.

2 PROFESSOR DAVIS: I think so too.

3 Okay. Justice Cook?

4 HON. COOK: So, I will turn it on  
5 you. I don't have a question, but I have a  
6 question for you --

7 PROFESSOR DAVIS: Yes, sir.

8 HON. COOK: -- which is y'all  
9 have proposed a new -- you voted last time  
10 for a new Rule. I have read the 50/50  
11 Rule. If anybody wanted to give me a  
12 description of why we are doing this and  
13 particularly why we used the 150% Rule,  
14 that might be helpful.

15 PROFESSOR DAVIS: Yeah. And I  
16 probably should have kept Dr. Venohr for  
17 this part. But the answer to the first  
18 part of the question, which is why we felt  
19 compelled to do this, we have actually sent  
20 that to the Court before --

21 HON. COOK: Okay.

22 PROFESSOR DAVIS: -- and it was  
23 sent back to us.

1                   HON. COOK: Did we tell you why  
2 we sent it back?

3                   PROFESSOR DAVIS: Yes. Actually  
4 I was not the Chair of the Committee, but I  
5 was asked by the Court to speak. And by  
6 the time I had got there, we had done some  
7 more work on it, and we felt like it was  
8 not as good of a job as we could do. And  
9 so, I actually asked the Court not to  
10 proceed with it. And so, they graciously  
11 agreed to turn us down. And so, we did  
12 more work on it.

13                  MR. MADDOX: This was several  
14 years ago.

15                  PROFESSOR DAVIS: Yes.

16                  MR. MADDOX: Several, like,  
17 seven, eight years ago.

18                  PROFESSOR DAVIS: Yeah, a long  
19 time ago. Time flies.

20                  But the reason we initially  
21 started is there are more and more cases  
22 in which joint custody is ordered or some  
23 version of a 50/50 shared arrangement.

1           And we had been asked by members of the  
2           trial courts as well as the lawyers and  
3           the -- and even some of the public said,  
4           you know, they wanted some degree of  
5           knowing what to do. And we did some  
6           research way back when. And across the  
7           State, different judges were handling it  
8           in different ways. They had set up their  
9           own formula for figuring out how to come  
10          up with that. And one of the charges of  
11          -- overall charges of the -- from the  
12          feds to us and the Guidelines is  
13          uniformity throughout the State.

14                        So, we thought it would be  
15          helpful to give the trial judges and the  
16          lawyers that are trying to present the  
17          trial judges a formula that made sense.

18                        Where the 150% came from -- and  
19          the reason I wish Dr. Venohr was still  
20          here is they do a lot --

21                        MR. MADDOX: She may be. She's  
22          logged on.

23                        PROFESSOR DAVIS: Are you still

1           there, Dr. Venohr?

2                         DR. VENOHR:  Yeah.

3                         PROFESSOR DAVIS:  Good.  Can we  
4           call you back and you tell briefly -- This  
5           is Justice Cook.  He is a new Justice on  
6           our Court.  And so, they are now  
7           considering the recommendation that we made  
8           before.

9                         And so, his question that you  
10          may not have heard was:  Where did we  
11          arrive at the 150% figure?  So, if you  
12          would address that to Justice Cook.  He's  
13          on that side.

14                        DR. VENOHR:  I can't see him on  
15          the camera.

16                        So, the 150% is to address that  
17          it costs more to raise a child in two  
18          households than one household.  And  
19          historically it's been estimated to cost  
20          150% more and that's what most States  
21          that use this type of formula, which is  
22          essentially calculating a theoretical  
23          order for each parent weighing it by the

1 amount of time that that child is with  
2 the other parent and then offsetting  
3 them, and the parent owing the higher  
4 amount pays the difference.

5 So, we start off with 150%  
6 because that's what it costs to raise a  
7 kid in two households.

8 We do have some economic  
9 evidence that that amount should actually  
10 be a little bit more than 150%. And some  
11 of the duplicated expenses are housing,  
12 which counts for about 30% to 40%  
13 depending on how you slice and dice it,  
14 you know, because there's household  
15 expenses in that including, you know,  
16 cleaning products or furniture.

17 And then the other major  
18 duplicated expense is some  
19 transportation. And combining those two  
20 expenses are a little over 60%.

21 So, I am going to pause there  
22 and see if there is any follow-up  
23 questions.

1           HON. COOK: No. That pretty well  
2 covers it, especially the other statutes at  
3 150%. It just seemed a little bit of an  
4 arbitrary number, but I appreciate it. If  
5 there's studies behind it and that's what  
6 other States do, I understand. Thank you.

7           PROFESSOR DAVIS: Yeah. I think  
8 there was one -- Was there one State that  
9 was considering using 160%?

10          DR. VENOHR: Yes, Chair Davis.  
11 You remember well. West Virginia has a  
12 proposal to go to 160%. All the States --  
13 there are about 23 States that use this and  
14 21 of them I think use 150%. Virginia uses  
15 140%. I don't know why. And then Oklahoma  
16 has a sliding scale that starts at I think  
17 it's 165% and then it goes down to 150%.

18                 So, there's two or three States  
19 that do something different.

20          HON. COOK: Got it.

21          PROFESSOR DAVIS: Any other  
22 questions that relate?

23          MR. MADDOX: Good job, Jane.



1                   PROFESSOR DAVIS: That's right.  
2 Thank you for hanging on.

3                   So, that is kind of the answer  
4 to two -- Any other questions relating to  
5 that proposal?

6                   HON. COOK: No. No. If there  
7 had been an objection by the Court  
8 historically, I would like to know that.  
9 Otherwise, that's all I've got.

10                  PROFESSOR DAVIS: No. It was  
11 relating to the calculations that we sent  
12 before were not really as good, and we did  
13 spend -- even before Dr. Venohr was on, we  
14 did some extensive study. And then we  
15 paused our study for our obligation to  
16 every four years do the scheduling.

17                  And then after we did our Rule  
18 -- our Rule 42 -- I mean, Schedule  
19 requirements, met our federal  
20 requirements, then we jumped back on  
21 this. So, it's been a fairly lengthy  
22 review process.

23                  Any other Committee members who

1 were present then want to add anything?

2 (No response).

3 PROFESSOR DAVIS: And we are very  
4 fortunate to have Brian Gray. He is our  
5 statistician from the University of  
6 Alabama. So, the Court included him  
7 several years ago, and he has been our --  
8 if you have a life saver, the guy that is  
9 standing over there throwing you the little  
10 ring, he is our ring -- he throws and  
11 catches the rings and brings them back in  
12 and keeps us straight. So, he is an  
13 excellent resource, and we appreciate y'all  
14 including him.

15 Any other questions or comments  
16 relating to that?

17 (No response).

18 PROFESSOR DAVIS: All right.  
19 Well, at this point, we do have -- if I can  
20 find my letter from the public. Thank you.

21 MR. MADDOX: You're welcome.

22 PROFESSOR DAVIS: The letter from  
23 the individual said (as read) "As it

1 relates to the true shared (50/50) custody,  
2 since health insurance is required for  
3 children, are there any plans to include  
4 language for state mandated auto insurance  
5 for children of driving age with a  
6 permit/driver's license?"

7 And so, I had -- We got that  
8 fairly recently and I had asked  
9 Dr. Venohr to do some research for us to  
10 see how other States deal with that. We  
11 always try to respond to questions,  
12 particularly if we get them from the  
13 public. When we get letters from them, I  
14 can't always direct -- we don't  
15 necessarily know who they are, so we  
16 can't respond as we can if they address  
17 the group. And they will also ask when  
18 the transcripts for the meeting will be  
19 released, which is good to know that they  
20 are reading the transcripts and  
21 interested in coming. It shows how  
22 important Wendy and her colleagues are to  
23 us.

1                   So, let me ask our two present  
2 public members, do y'all -- Have you  
3 changed your mind about wanting to speak?

4                   MS. CLARK: No, ma'am.

5                   MS. HOWELL: No, ma'am.

6                   PROFESSOR DAVIS: Okay. Thank  
7 you.

8                   Well, since we have a couple  
9 more minutes, let me ask: Does anyone  
10 have any thoughts about this issue as it  
11 relates to auto insurance? Does anybody  
12 have any, whether in private cases or  
13 otherwise --

14                   MS. KING: Well, I think we do --  
15 or I mean, the courts still have the  
16 discretion within that material change of  
17 circumstances that, you know, if you show  
18 that the child's needs have increased, the  
19 judge has the discretion to increase and  
20 include things such as the expense of a  
21 car, insurance, you know, whatever it may  
22 be.

23                   MS. FANN: To deviate --

1 MS. KING: I feel like it already  
2 contemplates this.

3 PROFESSOR DAVIS: Is there  
4 anybody yet who has done a private divorce,  
5 do you ever draft in there --

6 MS. KING: Yes.

7 PROFESSOR DAVIS: -- who pays for  
8 the child's auto insurance? Because it's a  
9 fairly substantial --

10 MS. FANN: Repair, maintenance --

11 MS. KING: Gas.

12 MS. FANN: -- insurance, fuel.

13 PROFESSOR DAVIS: Right.

14 MS. FANN: Yeah, all of that.

15 MS. MILLS: I haven't made it a  
16 part -- y'all may have part of the  
17 Guidelines, per sé. We have had the  
18 judge's inequity or outside order the  
19 parents to split car insurance cost or  
20 maintenance costs. I have had judges say  
21 that they do not want to do that because  
22 they don't want to mandate that a child has  
23 to have a car. I have had it go both ways.

1 But I've never actually had it calculated  
2 as part of the Child-Support Guidelines  
3 itself.

4 I don't know that the courts  
5 would be amenable to including that as a  
6 mandate per sé to be included because  
7 then you would be requiring that parent  
8 to provide a car -- or if one parent  
9 chose to provide a car, then you would be  
10 mandating that that other parent has to  
11 agree to provide the car.

12 MS. KING: It's like college  
13 education.

14 PROFESSOR DAVIS: Right. So, the  
15 situation you are talking about is when  
16 both parents are in agreement --

17 MS. KING: Yes.

18 PROFESSOR DAVIS: -- not the  
19 court ordering it?

20 MS. KING: Well, no, not  
21 necessarily because, you have -- you know,  
22 I have tried cases where they -- a party  
23 wants additional child support, an upper

1 deviation for private school tuition or --  
2 you know, so, they don't necessarily want  
3 the court to order the noncustodial parent  
4 to pay the private school tuition, they  
5 just want an upper deviation of the child  
6 support taking in the increased needs of  
7 those children, likewise with the insurance  
8 and the vehicle itself.

9 MR. MADDIX: To me, that would be  
10 a way for deviation.

11 MS. FANN: A deviation.

12 MS. KING: Yeah. But I think to  
13 mandate it would be along the same lines of  
14 then you're allowing for divorced parents  
15 to have to be obligated to pay for college  
16 but not married parents. And so, it's the  
17 same argument.

18 MS. FANN: The same thing.

19 MS. BEACH: The other thing is  
20 that they are comparing it to the day care  
21 or the health insurance expenses. And, you  
22 know, I don't know if that is going to be  
23 -- I mean, it -- to me it's apples and

1 oranges.

2 PROFESSOR DAVIS: Right. Well, I  
3 think they -- again, I'm assuming this  
4 person is probably not a lawyer. But  
5 coming from the perspective of health  
6 insurance is mandated. You have to have it  
7 for your children. And they have in  
8 parenthesis -- and I didn't read it that  
9 way -- State mandated auto insurance.

10 So, from their perspective --

11 HON. COOK: If you have a car.

12 PROFESSOR DAVIS: -- the State is  
13 mandating insurance.

14 MS. BEACH: Okay.

15 PROFESSOR DAVIS: And so, I think  
16 their perspective is that both are mandated  
17 by government entities. And I understand  
18 that is their perspective.

19 MS. MILLS: And I think that is a  
20 reasonable request. It is actually  
21 illogical, but I think it goes back to if  
22 the State mandates us to provide our  
23 children a car, then they would have to



1 provide that.

2 MS. STEINWINDER: Katie  
3 Steinwinder.

4 Just really quick. Is it Ex  
5 parte Christopher that might --

6 MS. FANN: Yes.

7 MS. STEINWINDER: -- be  
8 instructive for the individual to know that  
9 there is a case -- an Ex parte Christopher  
10 that is an analogy maybe to that issue.

11 PROFESSOR DAVIS: Right. Right.

12 MS. FANN: Yeah. People  
13 privately negotiate payment for weddings  
14 and vehicles and all manner of things. But  
15 I think deviations are as widely available  
16 for all -- well, not for college, but you  
17 know what I'm saying, for minor children.

18 I have got a case where I had  
19 somebody who was incarcerated for a long  
20 time, and I am asking for an upper  
21 deviation because my client had to pay  
22 the support on her own for all that time.

23 So, you know, I think there is

1           lots of -- there is a whole world of ways  
2           and reasons that you can ask for a  
3           deviation, and that is one of them.

4                   PROFESSOR DAVIS: Well, we just  
5           dealt with a prison issue. So, that may  
6           alter how you go forward in the future with  
7           that.

8                   But I do think that these types  
9           of discussions are helpful. We know that  
10          this person reads our transcript. So,  
11          any suggestions that you have, then he or  
12          she can read this and benefit from the  
13          suggestion.

14                   So, any other comments relating  
15          to this?

16                   MS. WILSON: I guess -- this is  
17          Rhonda Wilson.

18                   I guess the only thing I was  
19          thinking of -- and I think other people  
20          kind of touched on it too -- is the only  
21          difference between the State mandated is  
22          that you are not forced to drive.  
23          Driving is a privilege, especially for a

1 minor child. I mean, I think I would  
2 view it totally different if minor  
3 children were mandated to have cars,  
4 then, of course, you would be mandated  
5 for auto insurance. But since that's  
6 not -- I mean, I just think it falls  
7 within a deviation just like Rachel and  
8 Heather said. It's something you could  
9 argue in a deviation, but I wouldn't be  
10 in favor --

11 MS. FANN: And let me say this,  
12 if you don't mind. This is Heather again.

13 It's probably most similar to  
14 extra-curriculars --

15 MS. WILSON: Yeah.

16 MS. FANN: -- because that's  
17 during the minority of the child and it,  
18 you know, can vary wildly from different  
19 sort of family culture --

20 MS. KING: Travel ball.

21 MS. FANN: -- of how much you are  
22 spending on that kind of thing.  
23 Gymnastics.

1                   PROFESSOR DAVIS: In the interest  
2 of time, let's go ahead and go around to  
3 all the new Committee members, in  
4 particularly, and see if anybody has any  
5 thoughts of what else we want to think  
6 about going forward.

7                   So, anything else, Emily?

8                   MS. MILLS: No, ma'am.

9                   PROFESSOR DAVIS: Okay. Anybody  
10 on the other Committee -- the long-term  
11 members can also have opinions too.  
12 Anybody else?

13                   MS. FANN: I almost always find a  
14 soap box, but I don't have one today.

15                   PROFESSOR DAVIS: You are  
16 reserving your soap box --

17                   MS. FANN: For a later day.

18                   PROFESSOR DAVIS: Rhonda, have  
19 you got a question?

20                   MS. WILSON: I do. I have always  
21 been -- and this is always a thing that is  
22 kind of tricky. I would just like more  
23 clarification sometimes about how to give

1 credit to a noncustodial party when they  
2 have prior kids and support obligations,  
3 but it's not pursuant to an order. It's a  
4 provision, I think, to give credit, but  
5 it's always but, like, how do you do that?

6 MS. KING: To consider, yeah.  
7 The Rule says to consider it.

8 MS. WILSON: The Rule says you  
9 can consider it, but like how does it play  
10 out in reality?

11 MS. KING: It doesn't.

12 MS. WILSON: And most of the time  
13 we just don't deal with it because how do  
14 you do it?

15 MS. KING: I've had clients argue  
16 that to me, and I tell them all the time,  
17 good luck. This judge is not going to hear  
18 it.

19 MS. WILSON: Right.

20 MS. BALDWIN: This is Melody  
21 Baldwin.

22 I always just argue it's a  
23 "may," not a "shall." You will have to

1 ask the Court, and it will be up to the  
2 Court. And the Court usually starts  
3 saying, okay, how old is that child, how  
4 old is this child. And, you know, a lot  
5 of them see it as a first in time, first  
6 in light, kind of thing, even though that  
7 is not technically correct I don't think.

8 PROFESSOR DAVIS: It's first who  
9 went to court.

10 MS. KING: First order.

11 MS. FANN: Right.

12 MS. BALDWIN: Mostly, yeah. So  
13 -- but, yeah.

14 PROFESSOR DAVIS: And I will say  
15 that in response to Rhonda's question, that  
16 determination that you would take the first  
17 in, first out, the FIFA approach of  
18 counting for children is -- the  
19 determination was made even before I was on  
20 the Committee and I have been on the  
21 Committee for a long time. So, I guess  
22 that could be a consideration that the  
23 Committee looks at and takes back to the

1 Court is: Do we want to be based on  
2 whether that person went to court and had  
3 an order, or is it birth order, or is there  
4 something else?

5 So, that is something that if  
6 you have some thoughts and want to  
7 present some alternatives to the  
8 Committee, we would certainly welcome  
9 that. Or if you have other people that  
10 you want to talk to about that and get  
11 their feelings, then we would love to  
12 address that.

13 MS. FANN: And, Rhonda, while you  
14 are at that, I will give you another  
15 wrinkle for you. I had a case where I'm  
16 having a divorce. I've got a child that  
17 has been around awhile. The mistress goes  
18 to Family Court while the divorce is  
19 pending and gets her child's obligation out  
20 before this child --

21 MS. WILSON: That's pre-existing.

22 MS. FANN: You know, there is  
23 some sticky sort of policy considerations

1 with that first in and first out and  
2 situations like that too.

3 MS. WILSON: Yeah.

4 MS. FANN: Deviation.

5 PROFESSOR DAVIS: Okay. All  
6 right. We are about right on time. Is  
7 there anything else that any of the  
8 Committee members would like to bring up  
9 before the Committee? When is our -- Do we  
10 have another meeting?

11 MR. MADDOX: Yes. The next  
12 meeting is Friday, March 24th, same place  
13 except hopefully we will be in the  
14 Mezzanine room upstairs, 10 o'clock.

15 PROFESSOR DAVIS: Any of these  
16 new ideas that you have, we will add to the  
17 agenda or anything else that needs to go  
18 forward? We will have presumably a  
19 Subcommittee report maybe. We have a lot  
20 of issues that they will present at that  
21 time. If we have any other issues relating  
22 to -- or suggestions related to these two  
23 topics, we will bring those up. And then



1 if anyone presents us with something in  
2 writing about the issues that y'all have  
3 presented today, then we will go forward  
4 with those also.

5 MR. MADDUX: Did everyone have an  
6 opportunity to check the contact roster to  
7 see if your information is still correct?  
8 If not, I can get it to you. Everybody  
9 checked it? Thank you.

10 PROFESSOR DAVIS: Okay. And we  
11 certainly thank Justice Cook for joining us  
12 and your excellent questions that are  
13 really helpful to the public.

14 So, if nothing else, we will  
15 stand adjourned.

16 MR. MADDUX: Thank you, Jane.

17 PROFESSOR DAVIS: Thank you,  
18 Jane, and Wendy.

19  
20 (Conclusion of the Advisory  
21 Committee on Child Support  
22 Guidelines and Enforcement  
23 meeting at 12:21 p.m.)

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STATE OF ALABAMA

CHILTON COUNTY

I, Wendy Kendrick, Certified Court Reporter and Notary Public in and for the State of Alabama at Large, do certify that I reported the proceedings in the matter of:

BEFORE THE STATE OF ALABAMA  
ADVISORY COMMITTEE ON CHILD SUPPORT  
GUIDELINES AND ENFORCEMENT

\* \* \* \* \*

on Friday, February 10, 2023, the foregoing 160 computer-printed pages contain a true and correct transcript of the statements by the Committee members and other persons via Zoom.

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

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4                   This 17th day of March, in the year of our  
5 Lord, 2023.

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**DR. VENOHR: [9]**

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89/22 90/4 103/13  
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**HON. COOK: [44]**

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**MR. MADDUX:**

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**MS. BALDWIN:**

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**MS. BEACH: [57]**

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**MS.**

**BLACKBURN: [5]**

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**MS. CLARK: [2]**

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