

From: Jim Jeffries

Sent: Thursday, May 11, 2017 5:07 PM

Subject: RE: Proposed Joint Custody Provision for Rule 32

Bob,

Unfortunately, I have now had two cases be set for emergency custody hearings in both Mobile and Baldwin Co. tomorrow. I have filed motions to continue in both but at this point neither have been granted. As a result, I will not be able to attend the meeting tomorrow. If they get continued in time for me to be there I will. If they get resolved in time for me to attend by phone I will try to do that as well. I am sorry about this inconvenience, especially in light of the important nature of our meetings tomorrow.

Regarding the language about splitting daycare costs in joint custody orders, I don't know whether this language would be seen as appropriate to be included but if it is, I think it would be suitable for including in a comment after the rule. It would go something like:

“When a court has ordered joint physical custody, and the parties’ incomes are similar enough that a minimal child support amount would be ordered, then it is appropriate to allow the parties to agree or the court to order that no specific child support amount be paid by either party. In those circumstances, no specific findings of fact, as is normally required, or other justification for such a deviation is necessary, provided that the court make specific orders that ensures that health insurance premiums, non-covered health costs and work related daycare expenses are addressed. Appropriate methods of addressing these costs are to order that each party pay for the daycare costs that they incur when the children are in their custody or ordering that these costs be paid by each party in a specific percentage each month. Failure to pay these costs as ordered will subject the parties to the entry of judgments each month as well as to contempt and collection actions in the same manner as any other child support arrearage.”

This language might conflict with the “rebuttable presumption” language previously discussed. The point of this suggestion is to specify to judges that they are allowed to exercise more discretion in joint physical custody situations so the judges aren't concerned that when they do they will get reversed on appeal because they didn't make written findings.

Thanks.

JIM JEFFRIES, Attorney