

M E M O R A N D U M

TO: Advisory Committee on Child Support Guidelines and Enforcement

FROM: Circuit Judge Michael Sherman, 13th Judicial Circuit, Domestic Relations Division

RE: Recommended Clarification to Rule 32 related to shared custody as grounds for deviation from Guidelines

DATE: May 17, 2024

As the Advisory Committee knows, effective June 1, 2023, the Supreme Court adopted our suggested revision to Rule 32 to provide a method of calculating child support in cases which provide for "shared 50% physical custody". The bulk of those revisions now exist in subparagraph (C)(7) of Rule 32 which sets out the method of calculating and applying a "shared 50% physical custody adjustment ("SPCA").

However, Rule 32(A)(1)(a) was not amended and provides that "Shared physical custody or visitation rights providing for periods of physical custody or care of children by the obligor parent substantially in excess of those customarily approved by the court" is a reason for deviating from the guidelines.

This presents at least an apparent contradiction. On

the one hand, Rule 32 provides a method of calculating child support in shared physical custody cases, and on the other hand, it states that shared physical custody is a ground for deviating from Rule 32.

I propose we recommend to the Supreme Court that Rule 32 be further amended to clarify that the SPCA is the method Rule 32 provides for calculating child support in shared 50% physical custody cases as was described in the most recent amendment to Rule 32, and that we change subparagraph (A)(1)(a) to provide that a deviation may be appropriate in cases where the obligor has more than customary visitation, but not in shared custody situations. In other words, if it is a case where the SPCA applies, then child support should be calculated using that method unless some other grounds exist for deviating.