

To: Alabama Advisory Committee on Child Support Guidelines and Enforcement
 From: Jane Venohr, CPR
 Date: Dec. 31, 2020
 RE: Providing a Self-Support Reserve

Background

New federal regulation, as shown in the textbox, requires the consideration of the basic subsistence of the noncustodial parents.

§303.56 Guidelines for setting child support orders

(a) Within 1 year after completion of the State’s next quadrennial review of its child support guidelines, that commences more than 1 year after publication of the final rule, in accordance with § 302.56(e), as a condition of approval of its State plan, the State must establish one set of child support guidelines by law or by judicial or administrative action for setting and modifying child support order amounts within the State that meet the requirements in this section.

(b) The State must have procedures for making the guidelines available to all persons in the State.

(c) The child support guidelines established under paragraph (a) of this section must at a minimum:

(1) Provide that the child support order is based on the noncustodial parent’s earnings, income, and other evidence of ability to pay that:

(i) Takes into consideration all earnings and income of the noncustodial parent (and at the State’s discretion, the custodial parent);

(ii) Takes into consideration the basic subsistence needs of the noncustodial parent (and at the State’s discretion, the custodial parent and children) who has a limited ability to pay by incorporating a low-income adjustment, such as a self- support reserve or some other method determined by the State; and...

Most states provide a self-support reserve adjustment. The existing Alabama provides a self-support reserve that is incorporated into its schedule. The adjusted area is shown in blue shading. (See Figure 1.) The shaded amounts are below the average child-rearing expenditures at that particular combined income and number of children.

Figure 1: Excerpt from Existing Alabama Schedule

Combined Adjusted Gross Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
800.00	50	50	50	50	50	50
850.00	60	61	61	62	63	63
900.00	91	93	94	95	96	97
950.00	123	124	126	127	129	130
1000.00	155	156	158	160	162	163
1050.00	189	191	193	195	198	200
1100.00	224	227	229	232	234	237
1150.00	253	262	265	268	271	274
1200.00	262	298	301	304	307	311
1250.00	272	333	337	340	344	348
1300.00	281	368	372	376	381	385
1350.00	290	404	408	413	417	422
1400.00	299	435	444	449	454	459
1450.00	308	447	478	483	488	494
1500.00	316	459	512	517	523	528
1550.00	325	471	545	551	557	563
1600.00	333	483	570	585	592	598
1650.00	342	495	584	619	626	633
1700.00	350	507	598	653	660	667
1750.00	359	519	611	683	694	702
1800.00	367	532	626	699	729	736
1850.00	376	545	641	716	763	771
1900.00	385	558	656	733	797	806
1950.00	394	571	672	750	825	840
2000.00	403	584	687	767	844	875
2050.00	412	597	702	784	863	909
2100.00	421	609	717	801	882	944
2150.00	430	622	733	818	900	979

Questions for the Committee:

1. Does the committee favor putting the SSR-adjustment in the worksheet so it can apply to each parent?
2. What should the amount of the SSR be?
3. Should the SSR be discretionary if the receiving parent’s income is below a certain threshold (e.g., poverty)?
4. Should the SSR adjustment occur after consideration of childcare and other additional expenses?
5. Should there be an economic incentive to the SSR?

Question 1: Should the SSR adjustment be in the worksheet or schedule?

Figure 2 shows how the SSR can be applied in the worksheet. Note that if Alabama were to include a parenting-time adjustment in its worksheet, most states apply either the shared-parenting time adjustment or the low-income adjustment, not both. Further, most states have separate worksheets for sole-custody orders and shared-physical custody orders. This eases the design of the worksheets to accommodate including or not including a low-income adjustment.

Figure 2 assumes no child care expense and no health care costs. The impact of including these additional expenses are explored later.

Figure 2: Illustration of Self-Support Reserve in Worksheet

	Plaintiff	Defendant	Combined
Line 1: Monthly gross income	\$1,257	\$1,257	\$2,514
Line 2: Monthly adjusted gross income	\$1,257	\$1,257	\$2,514
Line 3: Percentage share of income (each parent's income on line 2 divided by Combined Income)	50%	50%	100%
Line 4: Basic child support obligation for one child (Apply Line 2 Combined to "Schedule of Basic Child Support Obligations" from Appendix to Rule 32 and rounded up to combined income of \$2,550)			\$500
Line 5-6: Skipped for this illustration and assumed to be \$0	\$0	\$0	\$0
Line 7: Total child support obligation (Line 4 for this illustration, i.e., no child care expenses and no health care costs).			\$500
Line 8: Each parent's child support obligation (Multiple Line 7 by Line 3)	\$250	\$250	
Self-Support Reserve Test			
New Line 10: Amount of the SSR (\$1,063, which is 100% of the 2020 federal poverty guidelines for one person for illustrative purposes, <i>actual SSR amount is a policy decision</i>)	\$1,063	\$1,063	
New Line 11: Income available for support (Line 2 minus new line 10 for each parent, if less than \$50, enter \$50, which is the minimum order and a policy decision)	\$194	\$194	
New Line 12: SSR-adjusted amount (lower of Line 8 and Line 11 for each parent)	\$194	\$194	
New Line 13: Recommended child support order (Line 12 for the parent with less parenting-time, leave blank for the parent with more parenting-time.)		\$194	

Figure 3 shows how the current SSR is incorporated into the worksheet. It is calculated based on a hidden column that shows the after-tax income equivalent to gross income. For example, at an income of \$1,000 gross per month, the after-tax income equivalent (in 2007, which was when the existing schedule was developed) was \$873.91. The existing SSR is \$702 per month, which is the 2007 federal poverty guidelines (FPG) for one person (\$851 per month) multiplied by the ratio of median family income of Alabama to median family income in the U.S. In 2004, the ratio was 82.5%, so \$851 multiplied by 82.5% equals \$702 per month. The difference between \$873.91 and \$702 is \$172 per month. In other words, the difference between the obligated parent's after-tax income and the SSR amount is \$172. For the SSR to be effective, the schedule amount should not be more than \$172 per month. To create an economic incentive to work, 10 percent of the \$172 is disregarded (\$17 per month). This leaves \$155 as the schedule amount at this income (\$1,000 gross per month). The percentage disregarded varies by the number of children. It is 10% for one child; 11% for two children; and so forth up to 15% for six children.

Figure 3: Illustration of How SSR is Incorporated into Existing Schedule

Hidden Column of Equivalent After Tax Income	Combined Adjusted Gross	One Child	Two Children
733.54	800.00	50	50
768.83	850.00	60	61
803.72	900.00	91	93
838.82	950.00	123	124
873.91	1000.00	155	156
912.25	1050.00	189	191
951.17	1100.00	224	227
990.10	1150.00	253	262
1029.02	1200.00	262	298
1067.95	1250.00	272	333
1106.87	1300.00	281	368
1145.80	1350.00	290	404
1184.72	1400.00	299	435

Table 1: Major Pros and Cons of Putting SSR in Worksheet or Schedule

	In Worksheet	Incorporated in Schedule
Pros	<ul style="list-style-type: none"> • Transparency • Can apply to each parent • Can easily change amount without changing schedule • Can put the adjustment before or after consideration of child care expenses and other additional expenses 	<ul style="list-style-type: none"> • Consistent with current method • Easy to apply • Easy to incorporate an economic incentive to increase earnings • Can apply to gross or after-tax income
Cons	<ul style="list-style-type: none"> • Change in method • Requires additional worksheet lines • Requires changes to automated worksheets • Cumbersome to relate to after-tax income • Cumbersome to include an economic incentive to increase earnings (see discussion surrounding Question 5 at the end of this memorandum) 	<ul style="list-style-type: none"> • Non-transparent • Can't apply SSR to receiving parent • Provides some anomalous increases when the receiving parent has significant income • Can only occur before the consideration of childcare expenses and other additional expenses

Question 2: What amount shall the SSR be?

Most states relate their SSR to the federal poverty guidelines (FPG) for one person. The 2020 FPG is \$1,063 per year. Some states index their SSR so it updates with annual changes to the FPG that typically occur by February of each year. The limitation to that it requires annual form changes to forms, annual changes to automated guidelines calculators, and information distribution of the changes to guidelines users.

Some states use more or less of the FPG. New York indexes its SSR and sets it at 135% of the FPG, which is the highest percentage of FPG used by any state. Nonetheless, Arizona has the highest SSR in the nation. Arizona is the only state to relate its SSR to its state minimum wage. Arkansas, another low-income state, sets its SSR at its price parity multiplied by the 2019 FPG.

Using the 2020 FPG, the SSR amounts that would be consistent with the adjustment for Alabama prices/incomes to a BR5-based schedule are shown below.

Table 2: SSRs Consistent with Alabama Price/Income Adjustments to the BR5 Schedule

Schedule Option	Basis of SSR	Monthly Amount
BR5 (US prices)	100% of 2020 Federal Poverty Guidelines (FPG) for 1 Person	\$1,063
BR5 (AL prices)	2020 FPG multiplied by Alabama price parity	\$ 912
BR5 (Average of AL and US prices)	Average of the above two	\$ 988
BR5 (AL incomes)	2020 FPG multiplied AL median income / US median income	\$ 868

The committee could also consider other amounts for the SSR.

Comparison of Order Amounts Using Alternative SSRs

The following case scenarios are considered.

- *Scenario A:* Each parent earns the current federal minimum wage of \$7.25 per hour and works 40 hours per week (\$1,257 per month, which is \$2,514 per month in combined income.)
- *Scenario B:* Each parent earns the median earnings of an Alabama food preparation workers, \$9.23 per hour, and works 40 hours per week (\$1,600 per month, which is \$3,200 per month in combined income.)
- *Scenario C:* Each parent earns the proposed federal minimum wage of \$10.00 per hour and works 40 hours per week (\$1,733 per month, which is \$3,466 per month in combined income.)
- *Scenario D:* Each parent earns the proposed federal minimum wage of \$12.00 per hour and works 40 hours per week (\$2,080 per month, which is \$4,160 per month in combined income.)
- *Scenario E:* Each parent earns the proposed federal minimum wage of \$15.00 per hour and works 40 hours per week (\$2,600 per month, which is \$5,200 per month in combined income.)

Table 3: Comparison of Order Amounts: One Child

Schedule Option	SSR Amount	Scenario A: (\$7.25/hr)	Scenario B: (\$9.23/hr)	Scenario C: (\$10.00/hr)	Scenario D: (\$12.00/hr)	Scenario E: (\$15.00/hr)
Existing	\$702/net	\$250	\$306	\$318	\$399	\$390
BR5 (US prices)	\$1,063/gross	\$194*	\$297	\$319	\$379	\$446
BR5 (AL prices)	\$ 912/gross	\$206	\$255	\$274	\$325	\$382
BR5 (Average of AL and US prices)	\$ 988/gross	\$223	\$276	\$297	\$352	\$414
BR5 (AL incomes)	\$ 868/gross	\$237	\$291	\$310	\$346	\$392

Grey shading: Is amount when income is imputed to each party at the current minimum wage of \$7.25 per hour at 40 hours per week.

*Lower than existing amount due to application of the SSR.

Red font: Lower than existing amount due to improved measure of income under BR5 and if applicable, price parity or realigned income.

Impact of Minimum-Wage Increases. Note that if federal minimum wage increases above \$10 per hour and Alabama continues imputing full-time minimum wage income to each party, the amount under any proposed schedule option would increase except the BR schedule adjusted for Alabama prices. At current minimum wage, the one-child order amount would be \$250 per month under the existing schedule. At a \$12 per hour minimum wage, the one-child order amount would be \$379 per month under the BR5 considering U.S. prices, \$352 per month considering a BR5 schedule based on the average of Alabama and U.S. prices, and \$346 per month under a BR5 schedule adjusted for Alabama incomes.

Application of SSR. Table 2 shows that the SSR affects only one case scenario for one-child order amounts. It affects the BR5 schedule (U.S. prices) assuming a SSR of \$1,063 per month.

Table 4: Comparison of Order Amounts: Two Children

Schedule Option	SSR Amount	Scenario A: (\$7.25/hr)	Scenario B: (\$9.23/hr)	Scenario C: (\$10.00/hr)	Scenario D: (\$12.00/hr)	Scenario E: (\$15.00/hr)
Existing	\$702/net	\$356	\$444	\$461	\$504	\$560
BR5 (US prices)	\$1,063/gross	\$194*	\$453	\$486	\$569	\$672
BR5 (AL prices)	\$ 912/gross	\$309	\$389	\$417	\$488	\$577
BR5 (Average of AL and US prices)	\$ 988/gross	\$269*	\$421	\$451	\$528	\$625
BR5 (AL incomes)	\$ 868/gross	\$353	\$440	\$468	\$521	\$587

Grey shading: Is amount when income is imputed to each party at the current minimum wage of \$7.25 per hour at 40 hours per week.

*Lower than existing amount due to application of the SSR.

Red font: Lower than existing amount due to improved measure of income under BR5 and if applicable, price parity or realigned income.

Table 5: Comparison of Order Amounts: Three Children

Schedule Option	SSR Amount	Scenario A: (\$7.25/hr)	Scenario B: (\$9.23/hr)	Scenario C: (\$10.00/hr)	Scenario D: (\$12.00/hr)	Scenario E: (\$15.00/hr)
Existing	\$702/net	\$412	\$522	\$542	\$592	\$655
BR5 (US prices)	\$1,063/gross	\$194*	\$548	\$587	\$683	\$805
BR5 (AL prices)	\$ 912/gross	\$345*	\$470	\$504	\$586	\$691
BR5 (Average of AL and US prices)	\$ 988/gross	\$269*	\$509	\$545	\$635	\$748
BR5 (AL incomes)	\$ 868/gross	\$389*	\$529	\$561	\$622	\$698

Grey shading: Is amount when income is imputed to each party at the current minimum wage of \$7.25 per hour at 40 hours per week.

*Lower than existing amount due to application of the SSR.

Red font: Lower than existing amount due to improved measure of income under BR5 and if applicable, price parity or realigned income.

Question 3: Should the SSR adjustment be discretionary? If so, what should be considered when applying?

Most states apply their SSR or low-income adjustment presumptively. Examples of states that make the adjustment discretionary are shown in the below table. Each of these states provides for the consideration of the receiving parent's income or circumstances. A limitation of discretionary adjustments is they are often overlooked in application. This limitation can be overcome by including a discretionary checkbox in the guidelines worksheet or other lines in the automated worksheet.

State	Excerpted Provision from State Child Support Guidelines
Arizona	<p>SELF-SUPPORT RESERVE TEST</p> <p>In each case, after determining the child support order, the court shall perform a self support reserve test to verify that the paying parent is financially able to pay the child support order and to maintain at least a minimum standard of living, as follows: The self-support reserve shall be an amount equal to 80% of the monthly full-time earnings at the current state minimum wage at the time of the order (the self-support reserve amount). Deduct the self-support reserve amount from the paying parent's Adjusted Gross Income, except that the court may deduct from such parent's Adjusted Gross Income for purposes of the self-support reserve test only, court-ordered arrears on child support for children of other relationships or spousal maintenance, if actually paid. If the resulting amount is less than the child support order, the court may reduce the current child support order to the resulting amount after first considering the financial impact the reduction would have on the receiving parent's household. The test applies only to the current child support obligation, but does not prohibit an additional amount to be ordered to reduce an additional amount to be ordered to reduce an obligor's arrears.</p>
Georgia	<p>(2) Specific deviations.</p> <p>(A) High income....</p> <p>(B) Low income.</p> <p>(i) If the noncustodial parent requests a low-income deviation, such parent shall demonstrate no earning capacity or that his or her pro rata share of the presumptive amount of child support would create an extreme economic hardship for such parent. A noncustodial parent whose sole source of income is supplemental security income received under Title XVI of the federal Social Security Act shall be considered to have no earning capacity.</p> <p>(ii) In considering a noncustodial parent's request for a low-income deviation, the court or the jury shall examine all attributable and excluded sources of income, assets, and benefits available to the noncustodial parent and may consider all reasonable expenses of the noncustodial parent, ensuring that such expenses are actually paid by the noncustodial parent and are clearly justified expenses.</p> <p>(iii) In considering a noncustodial parent's request for a low-income deviation, the court or the jury shall then weigh the income and all attributable and excluded sources of income, assets, and benefits and all reasonable expenses of each parent, the relative hardship that a reduction in the amount of child support paid to the custodial parent would have on the custodial parent's household, the needs of each parent, the needs of the child for whom child support is being determined, and the ability of the noncustodial parent to pay child support.</p>
New Jersey	<p>- Maintaining a Self-Support Reserve</p> <p>To ensure that the obligor parent retains sufficient net income to live at a minimum subsistence level and has the incentive to work, that parent's net child support award is tested against 105% of the U.S. poverty guideline for one person. If the NCP's net income after deducting the child support award is less than the self-support reserve, the order should be adjusted. No such adjustment shall occur, however, if the custodial parent's net income minus the custodial parent's child support obligation is less than the self-support reserve. This priority is necessary to ensure that custodial parents can meet their basic needs while caring for the child(ren).</p>

Question 4: Should the SSR adjustment occur before or after add-ons for childcare and other expenses?

Figure 4 shows consideration of the SSR after the add-ons for child care and health-care coverage using the same assumptions in Figure 2 except \$100 in child care expenses. It produces an order amount of \$194 per month, which is the same amount when there are no child care expenses. Figure 5 shows consideration of the SSR before the add-ons for child care and healthcare coverage. It produces an order amount of \$244 per month. The latter approach will produce a higher order amount as long as the receiving parent incurs additional expenses.

As an aside, the line numbering is designed to be comparable to that shown in Figure 2. If adapted, the line numbering could be sequenced better.

Figure 4: Illustration of SSR Adjustment after Consideration of Child Care Expenses and Health-Care Coverage Costs

	Plaintiff	Defendant	Combined
Line 1: Monthly gross income	\$1,257	\$1,257	\$2,514
Line 2: Monthly adjusted gross income	\$1,257	\$1,257	\$2,514
Line 3: Percentage share of income (each parent's income on line 2 divided by Combined Income)	50%	50%	100%
Line 4: Basic child support obligation for one child (Apply Line 2 Combined to "Schedule of Basic Child Support Obligations" from Appendix to Rule 32 and rounded up to combined income of \$2,550)			\$500
Line 5: Work-related child care costs	\$100	\$0	\$100
Line 6: Health-care coverage costs	\$0	\$0	\$0
Line 7: Total child support obligation (Sum of lines 4, 5 and 6).			\$600
New Line 7a: Adjustment for payment of health-care coverage	\$0	\$0	
New Line 8: Each parent's child support obligation (Multiple Line 7 by Line 3 minus New Line 7a)	\$300	\$300	
Self-Support Reserve Test			
New Line 10: Amount of the SSR (\$1,063, which is 100% of the 2020 federal poverty guidelines for one person) for illustrative purposes, actual amount is a policy decision)	\$1,063	\$1,063	
New Line 11: Income available for support (Line 2 minus new line 10 for each parent, if less than \$50, enter \$50, which is the minimum order and a policy decision)	\$194	\$194	
New Line 12: SSR-adjusted amount (lower of Line 8 and New Line 11 for each parent)	\$194	\$194	
New Line 13: Recommended child support order (Line 12 for the parent with less parenting-time, leave blank for the parent with more parenting-time.)		\$194	

Figure 5: Illustration of SSR Adjustment before Consideration of Child Care Expenses and Health-Care Coverage Costs

	Plaintiff	Defendant	Combined
Line 1: Monthly Gross income	\$1,257	\$1,257	\$2,514
Line 2: Monthly adjusted gross income	\$1,257	\$1,257	\$2,514
Line 3: Percentage share of income (each parent's income on line 2 divided by Combined Income)	50%	50%	100%
Line 4: Basic child support obligation for one child (Apply Line 2 Combined to "Schedule of Basic Child Support Obligations" from Appendix to Rule 32 and rounded up to combined income of \$2,550)			\$500
New Line 8: Each parent's child support obligation (Multiple Line 4 by Line 3 for each parent)	\$250	\$250	
Self-Support Reserve Test			
New Line 10: Amount of the SSR (\$1,063, which is 100% of the 2020 federal poverty guidelines for one person) for illustrative purposes, actual amount is a policy decision)	\$1,063	\$1,063	
New Line 11: Income available for support (Line 2 minus new line 10 for each parent, if less than \$50, enter \$50, which is the minimum order and a policy decision)	\$194	\$194	
New Line 12: SSR-adjusted amount (lower of Line 8 and Line 11 for each parent)	\$194	\$194	
Consideration of Additional Child-Rearing Expenses			
New Line 15: Work-related child care costs	\$100	\$0	\$100
New Line 16: Health-care coverage costs	\$0	\$0	\$0
New Line 17: Additional expense (sum of new Lines 15 and 16 combined)			\$100
New Line 18: Each parent's share of additional expenses (New Line 17 multiplied by each parent's Line 3)	\$50	\$50	
New Line 19: Each parent's total responsibility (Add New Line 12 and New Line 18 for each parent)	\$244	\$244	
New Line 20: Adjustment for direct payment of additional expenses (Sum New Lines 15 and 16 for each parent)	\$100	\$0	
New Line 21: Each parent's obligation (For each parent, subtract New Line 20 from New Line 19)	\$ 144	\$244	
New Line 22: Recommended child support order (Line 21 for the parent with less parenting-time, leave blank for the parent with more parenting-time.)		\$244	

Question 5: Should the SSR adjustment contain an economic incentive to earn more?

This is only an issue if the obligee has no income and the obligor's income is below the SSR. For example, assume an obligor has a gross income of \$1,157 per month, which is \$100 less than full-time earnings at the current minimum wage of \$7.25 per hour (\$1,257 per month). The maximum amount of child support that could be ordered assuming a self-support reserve of \$1,063 is \$94 per month. So strict application of the SSR would assign every additional dollar of additional income to child support. The reality, however, is that the obligated parent incurs payroll taxes on that additional \$100 in income.

Figure 6 shows how an economic incentive can be incorporated using a modified version West Virginia's approach. West Virginia is the only state to use this approach. West Virginia uses 85% to account for an approximate tax rate of 15%, but the percentage for a work incentive is a policy decision. Without this additional line for the economic incentive, the parent would have no additional income to account for payroll tax increases even though the defendant's income increased by \$100 per month.

Figure 6: Illustration of Impact of Providing an Economic Incentive

	CASE A: Defendant Column Only		CASE B: Income is \$100 more Defendant Column Only	
	No economic Incentive	With economic Incentive	No economic Incentive	With economic Incentive
Line 1: Monthly gross income	\$1,157	\$1,157	\$1,257	\$1,257
Line 2: Monthly adjusted gross income	\$1,157	\$1,157	\$1,257	\$1,257
Self-Support Reserve Test				
New Line 10: Amount of the SSR (<i>\$1,063, which is 100% of the 2020 federal poverty guidelines for one person for illustrative purposes, actual SSR amount is a policy decision</i>)	\$1,063	\$1,063	\$1,063	\$1,063
New Line 11: Available income (<i>Line 2 minus new line 10 for each parent, if \$0 or less enter \$0</i>)	\$94	\$94	\$194	\$194
New Line 11b: Income available for support (<i>New Line 11 multiplied by 85% for each parent, if less than \$50, enter \$50, which is the minimum order and a policy decision</i>)	New Line 11A doesn't apply	\$80	New Line 11A doesn't apply	\$165
New Line 12: SSR-Adjusted Amount (<i>lower of Line 8 and Line 11b for each parent</i>)	\$94	\$80	\$194	\$165

Order amount is \$100 more
without economic incentive and
only \$85 more with economic incentive