

STATE OF ALABAMA
 ADVISORY COMMITTEE ON
 CHILD SUPPORT GUIDELINES
 AND ENFORCEMENT
 MONTGOMERY, ALABAMA

IN RE: CHILD SUPPORT GUIDELINES
 COMMITTEE MEETING
 SEPTEMBER 21, 2007

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Advisory Committee on Child Support
 Guidelines and Enforcement meeting held on
 Friday, September 21, 2007, commencing at
 approximately 10:06 a.m. at the Heflin-Torbert
 Judicial Building, 300 Dexter Avenue, Montgomery,
 Alabama; reported by Laura A. Head, Licensed
 Court Reporter and Commissioner for the State of
 Alabama at Large.

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1 ADVISORY COMMITTEE MEMBERS PRESENT:

2 Gordon F. Bailey, Jr., Esquire, Chairman
3 P. O. Box 1930
4 Anniston, AL 36202-1930

5 Honorable Lyn Stuart
6 Associate Justice
7 Supreme Court of Alabama
8 300 Dexter Avenue
9 Montgomery, AL 36104

10 Honorable Mary C. Moore
11 Perry County Circuit Clerk
12 Perry County Courthouse
13 P. O. Box 505
14 Marion, AL 36756-0505

15 Mr. Stephen R. Arnold, Esquire
16 Suite 600
17 2025 3rd Avenue N
18 Birmingham, AL 35203-5400

19 Ms. Jennifer Bush, Esquire
20 Legal Division
21 Alabama Department of Human Resources
22 Gordon Persons Building
23 50 N. Ripley Street
24 Montgomery, AL 36130

25 Ms. Faye Nelson, Director
26 Child Support Enforcement Division
27 Alabama Department of Human Resources
28 Gordon Persons Building
29 50 N. Ripley Street
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31 Professor Penny Davis
32 Associate Director
33 Alabama Law Institute
34 P. O. Box 861425
35 Tuscaloosa, AL 35486-0013

36 Mr. J. Michael Manasco, Esquire
37 P. O. Box 302510
38 Montgomery, AL 36101-2510

1 Mr. Bryant A. (Drew) Whitmire, Jr., Esquire
Suite 501
2 215 Richard Arrington, Jr., Blvd. N.
Birmingham, AL 35203

3 Ms. Julie A. Palmer, Esquire
4 2363 Lakeside Drive, Suite 101
Birmingham, Al 35244-3387

5 Mr. L. Stephen Wright, Jr., Esquire
6 2125 Morris Avenue
Birmingham, AL 35203-4209

7 Ms. Julia C. Kimbrough, Esquire
8 1300 Corporate Drive
Birmingham, AL 35242

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1 (Whereupon, the following was
2 had and done of Record:)

3 MR. BAILEY: I would like to welcome
4 everyone to our meeting this morning. This
5 is the first meeting we've had since our last
6 meeting on June 30th, 2006. We'd like to
7 start out by asking the Committee members to
8 identify themselves and tell us something
9 about you, if you will. Steve, you're first
10 up.

11 MR. WRIGHT: My name is Steve Wright.
12 I practice in Birmingham, Alabama, with the
13 firm of Najjar Denaburg. I'm in private
14 practice and have been for forty years.

15 MR. MANASCO: I'm Mike Manasco. I
16 privately practiced in matrimonial law for
17 twenty-four years, and for the last four,
18 I've been General Counsel for the State
19 Treasurer.

20 MR. ARNOLD: I'm Steve Arnold from
21 Birmingham, Alabama. I private practice
22 doing domestic relations law for the firm of
23 White, Arnold, Andrews, and Dowd.

1 MS. KIMBROUGH: Julie Kimbrough. I'm
2 in private practice practicing primarily
3 matrimonial law with the firm of Allison,
4 May, Alvis, Fuhrmeister & Kimbrough in Shelby
5 County, Alabama.

6 MS. NELSON: I am Faye Nelson. I'm the
7 Director of the Child Support Enforcement
8 Program for the State of Alabama.

9 MS. BUSH: I'm Jennifer Bush. I'm DHR
10 Legal Counsel.

11 MS. DAVIS: I'm Penny Davis of the
12 Alabama Law Institute.

13 JUSTICE STUART: Lyn Stuart, Associate
14 Justice on the Alabama Supreme Court.

15 MR. BAILEY: I'm Gordon Bailey, and I'm
16 a Child Support Referee now in Calhoun
17 County. And we'll introduce Jane in just a
18 few minutes.

19 But I want to welcome everybody, as
20 I've said. I want to certainly welcome those
21 of you that are here as observers from the
22 public. We're going to try to allow some
23 time for you to speak at the end of the

1 meeting today. We're scheduled to go from
2 10:00 until 1:00. Wayne Jones, Wayne, would
3 you raise your hand, please? Wayne has a
4 sign-up sheet. If you'd like to speak to the
5 Committee at the conclusion of the meeting,
6 please sign up. Give us your name, address,
7 and we'll certainly try to accommodate you
8 today. If we can't get to you today, we'll
9 certainly get to you at the next meeting.

10 I have a statement that I'd like to
11 read. I'm Gordon Bailey, as I said, Chair of
12 the Committee. I have a statement I'd like
13 to read to all of our Committee members and
14 the public as well.

15 On August 14th, 2007, Committee Member
16 James R. Blackston and Alternate Committee
17 Member Bradley W. Barber filed in United
18 States District Court in Montgomery, Alabama,
19 a document entitled Motion to Enforce Order
20 and Final Judgment and the 1995 and 2003
21 Settlement Agreements. In that document,
22 they contend that the State of Alabama and
23 certain individuals, including the Committee

1 Chair and an individual Committee member,
2 violated settlement agreements made to settle
3 lawsuits brought by Mr. Blackston and
4 Mr. Barber with respect to how this Advisory
5 Committee performs its functions. In
6 addition, on September 5th, 2007, Plaintiffs
7 Blackston and Barber filed a motion for
8 injunctive relief in which they sought to
9 keep today's Advisory Committee meeting from
10 taking place. The plaintiffs' motion to
11 prevent today's Advisory Committee meeting
12 from taking place was denied by the Court,
13 and we will hold today's meeting as
14 scheduled.

15 Attorney General Troy King's office is
16 representing us in this matter and has filed
17 a response in opposition to the plaintiffs'
18 motion to enforce the settlement agreements.
19 The Court has set the matter for a hearing on
20 October 30th, 2007 in Federal Court here in
21 Montgomery. I have been requested by legal
22 counsel to make no additional comments on
23 this pending legal matter and to request

1 other Advisory Committee members to do the
2 same. Thank you.

3 All right. As I said, we're scheduled
4 to go from 10:00 to 1:00. Dr. Venohr joins
5 us today at the direction of the Court. She
6 is updating us on our pending three issues
7 using Alabama data. As I said, this has been
8 since our last Committee meeting on June
9 30th.

10 Jane, if you will, submit a
11 biographical statement to the court reporter
12 if you can sometime today or as soon as you
13 get back. And at this time, I'll turn the
14 program over to Dr. Venohr.

15 Jane, just -- I'm sorry. One more
16 thing. We have handouts available at the end
17 of the table over there. So if you'd like to
18 get a handout, please feel free to help
19 yourself. Jane.

20 DR. VENOHR: Thank you, Mr. Bailey.
21 I'm Dr. Jane Venohr. I was the economist
22 that developed the PSI 2004 chart that was
23 recommended by the Committee in 2006. I am

1 now with the Center for Policy Research,
2 which is a nonprofit organization that does
3 research on family issues. I have a Ph.D. in
4 economics. I have about twenty years of
5 experience and have consulted over thirty
6 states. My academic training was on family
7 issues as well. I studied economics and
8 family, and I will submit a biography.

9 MR. BAILEY: Thank you.

10 DR. VENOHR: Mr. Bailey, if you would
11 be kind enough, I'm going to be pointing this
12 way for the court reporter to hear me better,
13 and please tell me if I start pointing this
14 way. And I apologize to the Committee
15 members on this side of the table because she
16 needs to hear me. So, Mr. Bailey, if you
17 could, if you see the hands go up here and
18 start getting questions --

19 MR. BAILEY: I certainly will.

20 DR. VENOHR: And the reason that I'm
21 back is that I understand my charge is to
22 explain the changes in that PSI 2004 table
23 better. And one of the reasons that we want

1 to take a little bit of time or that the
2 Court wants to take a little bit more time to
3 hear about it is that the Alabama chart has
4 not been updated for about twenty years, so
5 intuition would say everything goes up. It's
6 been twenty years since these numbers were
7 looked at, so they should go up. That's what
8 would occur at a first blush statement, using
9 the same assumptions, just more recent data.
10 And what we see on the table that was
11 presented, we see increases and decreases.
12 So I want to take the time today to explain
13 why that's so, the assumptions behind there.

14 And just as a refresher, here are the
15 seven 2006 Committee recommendations that
16 were put forth to the Court. One was to
17 adopt the 2004 PSI chart, and the Court
18 requested verification of a bunch of examples
19 and some more examples. And so we're going
20 to go through some of those examples today
21 and some more. The second recommendation was
22 no change to the existing rule regarding the
23 tax credit. The third was no formulaic

1 adjustment for parenting time. And the
2 fourth was there is a recommendation that
3 pertained to the credit for other children,
4 specifically after-born children. And the
5 Court requested more information, so I'm
6 going to go through some case examples and
7 more information today. Five, there is no
8 change to the child care costs, the treatment
9 of that. That recommendation was to continue
10 to use the Department of Human Resources
11 published schedule on child care costs. The
12 sixth has to do with the child's share of the
13 health insurance. As we all know, some of
14 our health plans aren't -- the child's share
15 isn't readily discernable. And so what the
16 Guidelines Committee was trying to do was
17 develop some sort of mechanism for prorating
18 it, and we're going to talk more about that
19 today. The Court requested more information
20 again, and they wanted more examples. And
21 seven is just a housecleaning issue, which is
22 to amend the forms and charts accordingly to
23 any of the six changes above.

1 MR. BAILEY: Jane, let me stop you real
2 quick. I'm sorry. We've had another
3 Committee member join us. Julie, if you
4 will, introduce yourself. Tell us a little
5 something about you, and the court reporter
6 will be taking all this down for you.

7 MS. PALMER: I'm Julie Palmer. I
8 apologize for being late. I'm past Chair of
9 the Family Law Section, and my office is in
10 Shelby County. I primarily practice in
11 family law.

12 MR. BAILEY: Julie, glad you joined
13 us. I failed to note one other thing. Jane,
14 I don't want to take away from your time. I
15 failed to note one other thing. In view of
16 Dr. Venohr being with us today and there are
17 a number of letters that the Committee has
18 received that I've passed out to the
19 Committee that I've received and Wayne's
20 office has received, we passed them out to
21 the Committee members. We are not going to
22 vote on any issues today, so if anyone needs
23 to leave from the Committee a little bit

1 before 1:00, don't worry. We're not going to
2 vote on any of the issues today. Jane. Oh,
3 I'm sorry.

4 MS. MOORE: Mary Moore, Perry County
5 Circuit Clerk.

6 MR. BAILEY: Very good to have you with
7 us. Go ahead, Jane. I'm sorry.

8 DR. VENOHR: I want to add one thing.
9 The other thing I'm going to speak about
10 today besides these three issues that the
11 Court requested more clarification on is I'm
12 going to talk about the new federal medical
13 support rules because that does affect the
14 guidelines, and it does affect probably what
15 you want to do with the health insurance
16 premium.

17 I'm going to plunge into the
18 recommended schedule changes, and that's the
19 biggest of this report, the biggest of the
20 handouts. And as I mentioned earlier, the
21 proposed changes show increases as well as
22 decreases. And it seems counter-intuitive
23 that there be any decreases since it's been

1 twenty years since the schedule was updated,
2 so I want to take the time to explain that.

3 First, let's look at where are the
4 increases and where are the decreases.
5 Yellow, the upper part of the schedule has
6 the decreases. These are near poverty
7 incomes, and this is the only place in the
8 schedule that we consider the noncustodial
9 parent's ability to pay. Specifically, the
10 schedule is devised to ensure that the
11 noncustodial parent's income will never be
12 below poverty. That is the federal
13 definition of poverty, not a subjective
14 definition of poverty. So the guidelines in
15 the schedule, the existing Alabama schedule,
16 was devised so that child support would never
17 impoverish the noncustodial parent. And we
18 updated it using the same methodology, just
19 the more close recent poverty level, although
20 there's other ways you could adjust the lower
21 income area.

22 MR. BAILEY: Penny, you want to tell
23 us -- for the court reporter, we need to know

1 who is speaking. If you don't mind, just
2 identify yourself, Penny. I'm sorry.

3 MS. DAVIS: Penny Davis. One of the
4 questions I have had all along on this self-
5 reserve that we have is whether the self-
6 reserve was for the custodial parent and the
7 noncustodial parent or just one or the other.

8 DR. VENOHR: It is just for the
9 noncustodial parent. There are methods to
10 adjust for low income that consider both
11 parents' income, and I'll show you them in a
12 second. But first I want to make sure that
13 we understand how this adjustment works
14 because the way that this schedule was
15 updated, the one in this report, is the exact
16 same way that the current Alabama schedule
17 was developed. And the current Alabama old
18 schedule only considered the NCP's income
19 when devising that low-income adjustment.
20 But it considered poverty level in 1986, and
21 obviously poverty level has increased
22 significantly over twenty years. But I will
23 show you an alternative, and I'm glad to have

1 that opportunity.

2 The green area of the schedule is the
3 area of the schedule where we see increases.
4 These are mostly at middle incomes. And
5 these amounts, the children are getting an
6 inadequate amount relative to what they would
7 be getting if they lived in an intact
8 family.

9 And the red is where we see decreases
10 at higher incomes. And in these situations,
11 the chart, the existing chart, is more than
12 what is spent in an intact family using the
13 Rothbarth estimates, and I'll explain this
14 all in detail more later. I'm going to take
15 each section and discuss it individually so
16 we can gain an understanding of this. But I
17 just wanted to give you an overview.

18 And the first thing I want to say is
19 that this is not a tax. I mean, when people
20 hear this, they go, Well, the amounts are
21 going down for low income, they're going up
22 for middle income, they're going down for
23 high income. This is not a tax. This is

1 about children getting the amount that is
2 comparable to what they would get had their
3 parents decided to continue living together.
4 The only exception is in that yellow area
5 where that is solely based on the
6 noncustodial parent's ability to pay. The
7 green and the red area are about the child
8 getting what the child should be getting if -
9 - based on the Income Shares guidelines
10 model.

11 So I'm going to start with the low
12 income, the decreases at the low income. And
13 again, this is the only area of the chart
14 that's based on the noncustodial parent's
15 ability to pay. It does not consider the
16 custodial parent's income or whether the
17 custodial parent has a sufficient income to
18 bring her or him and the children out of
19 poverty. And it is based on the premise that
20 the noncustodial parent is entitled to live
21 at least a subsistence level of living. So
22 we use the federal poverty level as an
23 indicator of the self-support reserve, which

1 is a subsistence level of living. And if you
2 look at the schedule in this report, you'll
3 see that we shaded the areas where we apply
4 the self-support reserve. And if we were to
5 base these -- this is on page 17 in the
6 biggest report. And if we were to base these
7 amounts on what is actually spent on a child
8 of this income in this family size, these
9 amounts would be more. So these amounts are
10 adjusted to consider the noncustodial
11 parent's needs.

12 MS. DAVIS: Can I ask a question? And
13 maybe I should be asking Gordon or the other
14 ones here from the earlier Committee. But I
15 was wondering if perhaps the guidelines
16 didn't choose to include a self-support
17 reserve for custodial parents because there
18 was, at that time, the custodial parent -- if
19 children were under five, they didn't have to
20 work. They were not under-employed or
21 unemployed, and maybe that was reflected in
22 that. That's changed or is that --

23 MR. BAILEY: I think that's what we

1 considered back in the early days of the
2 guidelines, wasn't it, Jane?

3 DR. VENOHR: Yes. Historically, when
4 the guidelines were developed, we had AFDC,
5 Aid to Assistance for Dependent Children.
6 That was replaced in 1996 by TANF which, if
7 you remember the big push during that time,
8 it mandated that families that received
9 public assistance, cash assistance, have to
10 work. And there's a push now. They use that
11 money that used to go for public assistance,
12 cash public assistance, to put them in jobs
13 training programs and provide subsidized
14 child care. But historically, there was a
15 better safety net.

16 MS. DAVIS: And I guess I'm wondering
17 if we need to have the same underlying
18 principles since the basis for those have
19 changed somewhat and, if the purpose of self-
20 support reserve is to encourage people to
21 work, we want to do it with both custodial
22 and noncustodial parents.

23 DR. VENOHR: Yeah. And I will show you

1 how Colorado does it in a minute because
2 Colorado does make that assumption that both
3 parents are able-bodied, both parents are
4 capable of minimum wage, earning full-time
5 minimum wage. And so it starts with the
6 presumption that both parents can work
7 minimum wage and they're low income, what
8 amount of child support would equalize income
9 between those two parents. And the Colorado
10 adjustment found that what would equalize
11 income between those two parents would be
12 seventy-five dollars for one child and a
13 hundred and fifty for two children. Now,
14 that's probably changed because there's been
15 increases to the federal poverty level, but
16 we can do that calculation for you.

17 The bottom line is that what happens at
18 this low-income adjustment is certainly a
19 policy decision, and there is some -- you
20 have to decide what the principle is, whose
21 needs take precedence. Do the noncustodial
22 parent's needs take precedence, or should the
23 after-tax after-child-support income of the

1 parent of the households be equal? And then
2 there's a third approach. You could just
3 assume that the child's needs take
4 precedence.

5 So you've got three options there, and
6 we can structure that chart however way you
7 come up with the premise. You come up with
8 the principle that you as a Committee decide
9 is -- best serves Alabama families, and
10 technically we can come up with it.

11 MS. DAVIS: The third premise, which is
12 the child takes precedence, is the premise
13 that's used for the other chart areas; is
14 that correct?

15 DR. VENOHR: Right. Right. Exactly.
16 So one of the reasons there's a lot of
17 emphasis now on low-income adjustments is
18 it's coming from the Federal Office of Child
19 Support Enforcement. They have a hundred and
20 five billion in arrears nationally, two point
21 two billion in Alabama arrears. Now, this is
22 from the IV-D agencies. Now, the IV-D
23 agencies are those that enforce child support

1 orders if the family applied for TANF or the
2 family can also apply for IV-D services. But
3 it will all be enforced by the IV-D agency if
4 the mother or the custodial parent applies
5 for TANF.

6 And the Federal Office of Child Support
7 Enforcement has studied this extensively, and
8 they have found that eighty percent of this
9 arrears is owed by parents that make ten
10 thousand dollars or less. And ten thousand
11 dollars or less is pretty close to minimum
12 wage. It's also pretty close to poverty.
13 And based on other studies, they've also
14 found that about twenty, twenty-five percent
15 of the IV-D caseload involves noncustodial
16 parents with below poverty incomes.

17 And a lot of those, about twenty-eight
18 percent of them, are institutionalized
19 incarcerated, so they have no monies coming
20 in. And still a lot of these orders are set
21 at three hundred, four hundred dollars a
22 month. California, for a while there, they
23 were defaulting their child support orders

1 and IV-D cases at four hundred dollars a
2 month. They changed legislation about four
3 years ago, and they no longer do that. But
4 the point is is that the Federal Office of
5 Child Support Enforcement recognizes that
6 this is one of the factors that's
7 contributing to these high arrears, so they
8 just are asking states to be -- to really
9 think carefully about what to do at these
10 poverty incomes and below. And I should
11 mention that they're just asking. They're
12 not saying a state has to lower their
13 guidelines amount at below poverty.

14 So I want to point out the largest
15 decrease at low incomes. So that yellow area
16 of the schedule I showed you earlier. So if
17 you were to look at the very back of this
18 report, I have some side-by-side
19 comparisons. And at the low incomes, you
20 will not find a larger increase than seventy
21 percent. And that happens right at six
22 children and when the obligor income is
23 eleven hundred dollars a month, and that is

1 pretty close to existing minimum wage. Well,
2 I'm sorry. Existing minimum wage is five
3 eighty-five, which is ten thirteen gross a
4 month. It will go up to six fifty-five July
5 2008, which is eleven thirty-four per month.
6 And then in 2009, the federal minimum wage
7 will go up to seven dollars and twenty-five
8 cents an hour, which is twelve fifty-six a
9 month.

10 And these are very important numbers to
11 consider when we're talking about what to do
12 with that low-income adjustment because
13 Alabama, I suspect, like most states, its
14 income information is inconsistent or
15 there's -- the noncustodial parent has been
16 in and out of the labor market, they've
17 recently lost their job. It's common to
18 impute at federal minimum wage full-time
19 earnings. So in 2009, that amount will be
20 twelve fifty a month. Until recently, it was
21 about nine hundred dollars a month because we
22 had a minimum wage of five twenty-five an
23 hour, and it's just increased this summer to

1 five eighty-five. So it makes the math a
2 little bit more difficult, and I really
3 encourage you to really think about it when
4 you're thinking about what to devise with the
5 low-income adjustment.

6 And most of these decreases at this
7 very low end, the yellow part of the schedule
8 that reflect the increase in the federal
9 poverty level, you can see in the type in the
10 middle that the federal poverty level for one
11 person increased from four forty-seven per
12 month to eight fifty-one per month. So it
13 increased by almost four hundred dollars.

14 Let me see if I've got my spotter here
15 before I walk through this calculation. I
16 apologize for doing this. I'm going to stand
17 here for just a second.

18 I want to a walk through how we get
19 this adjusted amount. I know I could have
20 used this example for six children because we
21 all know that's a rare case. I want to use a
22 case that we're going to see, so I'm going to
23 use an example of two children. And I'm

1 going to use twelve fifty as the gross
2 income. So that's going to be the federal
3 minimum wage in 2009, so we're looking into
4 the future.

5 And if we take the obligor's income at
6 twelve fifty, and we take out FICA, federal
7 and state taxes, that's a hundred and eighty-
8 two a month. Then we have an after-tax
9 income of ten sixty-eight. And then we take
10 out the poverty level. The current poverty
11 level is eight fifty-one. We have two
12 hundred and seventeen dollars left for
13 support.

14 Now, the current calculation goes
15 through the same sort of thing only we took
16 1987 taxes instead of current taxes. We took
17 the poverty level in 1986, which was four
18 forty-seven, and we subtracted that out. And
19 then we have this retained work incentive.
20 And what that says is that all that two
21 hundred seventeen dollars will not be
22 assessed in child support. For two children,
23 only nine -- the noncustodial parent is

1 allowed to keep nine percent. For one child,
2 the noncustodial parent is allowed to keep
3 ten percent. Then we subtract that, and the
4 remaining becomes the guidelines amount. And
5 you can see it's a substantial decrease from
6 the current amount, which is three hundred
7 and forty-five. And definitely it sets
8 precedent on the noncustodial parent's needs
9 because it ensures him or her the poverty
10 level. Okay. If this amount was less than
11 fifty dollars, most states set a minimum
12 order amount of fifty dollars. The current
13 Alabama schedule says it's at discretion of
14 the Court.

15 I want to show you Colorado, so I'm
16 going to flip Power Points here. This is the
17 Colorado low-income adjustment. Now, their
18 objective is to equalize income among
19 low-income families. So equalize the
20 noncustodial parent's income and the
21 custodial parent family's income. And what
22 we start with is the assumption that both
23 parents are at least capable of making

1 minimum wage, full-time minimum wage.

2 In fact, South Dakota has a similar
3 adjustment. They say right in their
4 guidelines, there's a provision, that there's
5 a rebuttable presumption that both parents
6 are at least capable of making full-time
7 minimum wage. And if they can't, they have
8 to provide evidence that they're
9 incapacitated and unable to work. So
10 otherwise, it's presumed.

11 So we start with that. We take their
12 after-tax income. So we do a tax simulation,
13 and then we compare that to their poverty
14 level for their particular family size. For
15 the noncustodial parent, we assume that
16 there's one member in the household. For the
17 custodial parent, we assume there's the
18 custodial parent plus the number of children
19 for whom support is being determined. After
20 we do that, we find the amount of child
21 support that would equalize income between
22 those two households.

23 In Colorado when they did this in I

1 think it was 2002, the minimum wage was five
2 fifteen an hour, so nine hundred a month.
3 They found that seventy-five dollars would
4 equalize support between two parents making
5 minimum wage for one child. And this is --
6 here is the custodial parent's household.
7 Their after-tax after-child-support income is
8 a hundred and six percent of the poverty
9 level, and the noncustodial parent's
10 household's income is ninety-nine percent of
11 the poverty level. So they're both very,
12 very close to a hundred. It's just point
13 zero five percentage points off. And, you
14 know, we could have taken it to the nine but
15 we wanted a nice round number.

16 Similarly, they did the same
17 calculation for two children. They found
18 that one hundred and fifty dollar order would
19 leave two children at -- the custodial parent
20 and two children at ninety percent of the
21 poverty level, and the noncustodial parent at
22 ninety percent of the poverty level. So they
23 use these as the order amounts right at

1 minimum wage, and then they phase in
2 gradually to the actual amounts of child-
3 rearing costs. And I don't have the whole
4 Colorado schedule, but you can make this
5 invisible. I just wanted to show you how
6 those amounts are derived.

7 So obviously if these are the amounts
8 in 2002 using minimum wage back then, if we
9 were to do this calculation now, those
10 amounts would be a little bit more. So they
11 are different than the fifty dollar minimum
12 order that we have in the schedule that the
13 CPR could spend. Does that help?

14 MS. DAVIS: Yes, it does help. As a
15 practical matter, is that a difficult
16 calculation in terms of how the Courts and
17 the Referees and everybody would have to
18 apply that to the lower levels? Is that --
19 would it be built into the guidelines?

20 DR. VENOHR: We would build it right
21 into the table. It takes us about three to
22 four hours to do the calculation. And then
23 let's see what happens. I'm just going to

1 show you. We can make it invisible like
2 that.

3 MS. DAVIS: So we could, for example,
4 give the Court two choices. One, it retains
5 the self-support for the noncustodial parent
6 on the chart with that. We could also supply
7 them with charts like Colorado that retains
8 the concept of both parents being treated the
9 same.

10 DR. VENOHR: Yes, you could.

11 MR. BAILEY: Good question. That's a
12 good question.

13 DR. VENOHR: And another thing that I
14 would recommend is -- a lot of states are
15 doing this is where they say if the obligor's
16 income falls in the shaded area, then you
17 just look at the noncustodial parent's income
18 when you calculate the support. And that
19 just ensures that that low-income adjustment
20 is always applied. And I can give you
21 examples of languages from states with that
22 if that is something that you're interested
23 in pursuing. And you can put the adjustment

1 in the worksheet, too. Colorado has it
2 partially in the worksheet, but I think it's
3 just cleaner to put it in the schedule.

4 Any questions on the low income area?
5 Are you ready to go to the middle income?

6 MR. BAILEY: I think we're ready.
7 Thanks, Jane.

8 DR. VENOHR: Okay. So now we're at the
9 green part of the schedule. That's where
10 there's increases. And the largest
11 percentage increase occurs at thirty-two for
12 one child. And we see that it increases from
13 four fifty-nine per month to six thirteen per
14 month, and that's about a third, thirty-three
15 percent increase. The dollar change is a
16 hundred and fifty-four dollars. So if you
17 just scan this whole Appendix B to the
18 report, which does the side-by-side, you will
19 not see a percentage change more than that
20 thirty-three point six percent upwards. And
21 that thirty-three point six percent is a
22 hundred and fifty-four dollars. Now, this is
23 the increase to the basic obligation, and it

1 does not necessarily mean that the child
2 support order will increase by that same
3 amount.

4 And to illustrate that, I've got
5 several case examples that show different
6 permutations of thirty-two hundred, which is
7 the combined income of the parents. So we
8 could have a case where the custodial parent
9 earns seven hundred. The noncustodial parent
10 earns twenty-five hundred. Twenty-five
11 hundred is the median male earnings in
12 Alabama. Seven hundred, obviously the
13 custodial parent is working less than full
14 time. And in this case, that increase would
15 result in a new order amount of four seventy-
16 nine. It was three fifty-nine, so it's going
17 to go up by a hundred and twenty dollars.

18 The second case, I now have the
19 custodial parent working at the new 2009
20 minimum wage, so we're looking
21 prospectively. The noncustodial parent makes
22 slightly less, nineteen fifty. Slightly less
23 than median earnings. The combined income is

1 thirty-two hundred. The obligor's share is
2 sixty-one percent of the six thirteen, which
3 is three seventy-four. The existing order
4 would be two hundred and eighty, so there is
5 an increase in the support order of ninety-
6 four dollars.

7 And I want to mention that in Case A
8 and Case B -- actually, all of these cases
9 are probably realistic case examples. I
10 mean, these are pretty close to median
11 incomes and poverty levels. Case A and Case
12 B, the custodial parent has poverty income.
13 There's poverty income in both of these
14 households. So we're saying that in both of
15 these households, we're trying to raise this
16 family's standard of living, and we could do
17 that with a hundred and twenty dollars and
18 forty dollars equitably and justly.

19 As an aside, I want to say that there
20 is one point one million children in
21 Alabama. About four hundred thousand of
22 those children live in single-parent
23 families. And the poverty rate among those

1 families is close to -- it's over -- let's
2 see. I want to give you the exact amount.
3 It's thirty-five percent. So we have one
4 point one million children in Alabama. Four
5 hundred thousand live in single-parent
6 families, and thirty-five percent of them
7 live in poverty. So in these two case
8 scenarios --

9 MR. ARNOLD: Are you saying thirty-five
10 percent of the four hundred thousand?

11 DR. VENOHR: Yes. And as far as the --
12 if you look at Alabama as a whole, twenty-
13 three percent of Alabama children live in
14 poverty. Alabama ranks ninth in poverty
15 among children. The national figure is
16 eighteen percent. So a disproportional
17 number of those impoverished children live
18 with single-parent households. In fact,
19 seventy-seven percent live in single-parent
20 households, so it's really important for
21 these families.

22 Now, Case C, we've got equal incomes,
23 and the order amount would only go up by

1 seventy-seven dollars. And in Case D, I
2 flipped the scenario. Now it's the
3 noncustodial parent that's making minimum
4 wage, which is a realistic scenario, too.
5 And the custodial parent is making one
6 thousand nine hundred and fifty. And the
7 order amount would only increase by sixty
8 dollars. So this is an extreme example of
9 that thirty-three percent. This is what it
10 looks like.

11 MS. DAVIS: Can I ask a question? What
12 percentage of change is there in dollars in
13 terms of from when the child support
14 guidelines were adopted? Now like it's
15 thirty-three percent. Is that more or less
16 than the change -- I mean, what percentage of
17 change is there in --

18 DR. VENOHR: Oh, the price levels have
19 increased about eighty percent since the
20 original schedule was adopted.

21 MS. DAVIS: Okay. So even in a thirty-
22 three percent price change, that's still a
23 reduction in terms of the dollars that a

1 person would spend of their income in
2 nineteen eighty -- whatever it was -- six
3 versus now because the charts were too high
4 then by the way we calculate? Is that why
5 it's so --

6 DR. VENOHR: No. The reason it isn't
7 parallel to that eighty percent is because
8 incomes increase, too. Prices and incomes go
9 like this, and then on top of it, we change
10 the way we do our expenditures and our
11 savings. So it's -- if income increased the
12 same rate as price levels, we'd all just have
13 the same percentage increase, but it doesn't.

14 MS. DAVIS: Okay.

15 DR. VENOHR: So --

16 MR. BAILEY: Steve has a question.

17 MR. ARNOLD: Steve Arnold again. I
18 know this is a different model, but I'm
19 asking because it's equally of interest to
20 me. Have you done a similar breakdown where
21 the noncustodial parent's income remained the
22 same and the custodial parent's income
23 increased at the same levels? Have you done

1 a test of what that comparison would be?

2 DR. VENOHR: If we kept the
3 noncustodial parent's income the same, so
4 let's say it was twenty-five hundred. And
5 then we kept going up here, then the order
6 amount would go down, down, down, because the
7 custodial parent picks up a larger share.

8 MR. ARNOLD: Right. I understand. In
9 terms of actual dollars, have you done any
10 testing of that to see what the dollar change
11 would be?

12 DR. VENOHR: It's going to be -- you
13 know, you can kind of get a hint of it from
14 here. Like if you look here, twenty-five
15 hundred. I know that's not twenty-five
16 hundred. But you can look to see that the
17 reduction was twenty-six dollars, so it's
18 going to be a little bit less than that if I
19 kept twenty-five hundred here. So it's --
20 does that give you an indication?

21 MR. ARNOLD: It does. And correct me
22 because I don't know if I see it or not. In
23 this model you've got up here, the amount the

1 custodial parent would be paying is still
2 pretty much driven by that parent's income as
3 opposed to the impact of the other parent's
4 income. Is that close to philosophically
5 correct?

6 DR. VENOHR: Right. It's driven by the
7 combined income, but the obligated parent's
8 income carries a bigger weight.

9 MR. ARNOLD: Okay.

10 DR. VENOHR: But both parents' incomes
11 are considered, but mathematically, if I had
12 to look at the magnitude.

13 So that was the largest percentage
14 increase. This is from the report, page 36.
15 We're going to look at the percentage
16 increase for various ranges.

17 Now, one-child amounts are particularly
18 important because about fifty to sixty
19 percent of orders cover one child. And I
20 don't have Alabama-specific data, so when I
21 come up with that fifty to sixty percent, I'm
22 using national data and data that I have from
23 Georgia. But the only place that I've seen

1 this amount vary is some of the East Coast
2 states where there's a much higher percentage
3 of one-child cases, and in those states, it
4 can be up as high as eighty percent.

5 Now, for one child, the amount will
6 increase right when the self-support reserve
7 phases out, and it goes -- increases all the
8 way up to the end of the existing schedule.
9 The existing schedule stops at ten thousand
10 dollars per month. The updated schedule, we
11 have more economic data. We have more
12 families making higher incomes, so we can go
13 up to twenty thousand dollars. Back when
14 this schedule was developed, it relied on
15 data from families surveyed in '72 and '73,
16 and few of those families had high incomes.
17 In fact, the amounts from the existing
18 schedule are extrapolated for incomes above
19 four thousand.

20 So here we have the minimum to maximum
21 increase. There is that thirty-three point
22 whatever percent that we saw in the previous
23 slide. And the minimum would be obviously

1 one percent. If we were to look at the
2 average for this whole income range, there is
3 an average increase of fifteen percent, which
4 is an average increase in the basic
5 obligation of eighty-four dollars. That does
6 not mean that the order amount will increase
7 by eighty-four dollars because as I've shown
8 you in the previous example, it really
9 depends on the noncustodial parent's income
10 and the custodial parent's income. So that
11 is the maximum amount it will increase. Once
12 it's prorated for the custodial parent's
13 share, it will be less than that.

14 Two children. The same data that I use
15 for one child tells us that twenty-six to
16 thirty-five percent of child support orders
17 cover two children. Again, the area of the
18 increase is where that self-support reserve
19 phases out, about sixteen hundred dollars per
20 month. And at six thousand, we begin to see
21 decreases again. The range of those
22 increases are one to twenty-five percent or
23 one to one hundred and seventy-five dollars

1 per month. Again, that does not mean that
2 the order amount will increase by a hundred
3 and seventy-five dollars. We have to
4 consider the custodial parent's share of that
5 amount. The average increase for two
6 children is fifteen percent, and the average
7 would be a hundred and six dollars per
8 month. Again, that does not mean that the
9 order amount would increase by a hundred and
10 six dollars for all two-children orders in
11 this income range because we have to consider
12 the custodial parent's income.

13 Three children. About ten percent or
14 eight to eleven percent of orders cover three
15 children. The self-support reserve using the
16 method where we adjust for the eight hundred
17 and fifty-one poverty level phases out at
18 nineteen fifty a month. We're almost at the
19 point of median earnings. It begins to
20 decrease again at fifty-two fifty. We have
21 increases of one to seventeen percent, and
22 that is three to a hundred and fifty-three
23 dollars. The average is ten percent or a

1 ninety dollar per month increase in the basic
2 obligation before the custodial parent's
3 share is taken out.

4 And then we've got the four children.
5 These cover about four to five percent of the
6 cases. And it doesn't seem right. It seems
7 like that should be higher. I'm wondering if
8 that's a typo. The sixteen hundred to six
9 thousand -- oh, I know what happened here.
10 The self-support reserve, there's a little
11 anomaly in the old schedule just because
12 we're already on the basic obligations
13 amounts, but don't worry about that. That's
14 fine. And then these would increase to one
15 to nineteen percent, and that would be one
16 dollar to a hundred and ninety-two dollars
17 and an average of ten percent increase or a
18 hundred and seven dollars per month.

19 But again, most of your cases are going
20 to be one to two children. And given incomes
21 in Alabama, most of the cases will probably
22 fall in that yellow, that very low income,
23 particularly the IV-D cases or that green

1 area.

2 In the communications exchanged between
3 the Courts and Judge Hughes last fall, there
4 was an attachment of a whole bunch of
5 worksheets that compare the order amounts.
6 And in that letter, the Courts asked the
7 Committee to review those calculations and to
8 verify them, and these are those
9 calculations. And there were two errors, and
10 I didn't catch them until last night. It's
11 that in the examples in the communications,
12 it's these two cases. And the worksheets
13 that were sent to Judge Hughes and the
14 Committee, it said that this was a sixty-
15 seven/thirty-three split. And as you can
16 see, it's really a seventy-five/twenty-five
17 percent split because the plaintiff's income
18 is three thousand and the custodial parent's
19 income is a thousand, so that really should
20 be a seventy-five/twenty-five percent split.

21 And what this means is that we've got
22 add-ons here now for work-related child care
23 expenses, and we also have the health

1 insurance costs. In these case examples, the
2 work-related child care costs are always
3 bourne by the custodial parent, and the
4 health insurance costs are bourne by the
5 noncustodial parent. And as we talk more,
6 especially about the new medical support
7 rules, we're going to see that this is
8 probably going to change. There's going to
9 be more custodial parents that bear the cost
10 of the health insurance, and that's because
11 the federal regs currently say that the
12 Courts must pursue child support from the
13 noncustodial parent if it's available from an
14 employer.

15 And the new federal rules are going to
16 say that child -- health insurance can be
17 pursued by either parent and that it should
18 consider which parent has the more
19 appropriate insurance for the child. So if
20 the child has got asthma or some sort of
21 special condition and one plan has more
22 deductibles than the other, that should be
23 considered. A second thing that should be

1 considered is the geographical area that is
2 served by the insurance company. So if the
3 custodial parent was in one area and the
4 noncustodial parent was in another area, with
5 HMO's, sometimes HMO's limit the geographical
6 area covered.

7 So there is -- in short, the new
8 legislation is going to encourage more
9 custodial parents to carry the health
10 insurance. I have data from several states,
11 and currently the split is usually forty
12 percent of the noncustodial parents carry --
13 sixty percent, excuse me. Sixty percent of
14 the noncustodial parents carry the health
15 insurance, and forty percent of the time the
16 custodial parent carries it.

17 MR. ARNOLD: Steve Arnold again. Where
18 did the health insurance cost data come
19 from?

20 DR. VENOHR: You know, I am not sure.
21 Those are the case examples, and when we get
22 to the brief on health insurance, I do have
23 some statistics on what Alabama is. This is

1 pretty reasonable given a family plan, a
2 little low.

3 MR. ARNOLD: Way low.

4 MR. BAILEY: It is low.

5 MS. PALMER: And -- Julie Palmer. What
6 about the work-related child care costs? Of
7 course depending on the age of the child, but
8 if you have a child that's not in school,
9 those are pretty low, too.

10 DR. VENOHR: Actually, this brings me
11 to another point. If we -- you know, I'm
12 going to throw eight hundred out here as a
13 child care cost. Does that sound too high
14 for Alabama?

15 MS. PALMER: Well, there's a cap.

16 MR. BAILEY: Yes, we have a cap. DHR
17 has a cap that we follow from county to
18 county.

19 DR. VENOHR: Oh, okay. For your Child
20 Care Assistance Program. Okay. Yeah. In
21 Colorado, the maximum amount is thirty-seven
22 dollars per day. I bet you Alabama's is
23 probably twenty-five dollars per day. Does

1 that sound right?

2 MR. BAILEY: We can ask Faye. Faye, do
3 you want to comment on that?

4 DR. VENOHR: Do you know what the DHR
5 --

6 MR. BAILEY: Faye Nelson is our IV-D
7 Director. She can I know help us with that.

8 DR. VENOHR: I have a question. Do you
9 impute child care costs when there aren't
10 child care costs in Alabama?

11 MR. BAILEY: No. No, we don't impute
12 it.

13 DR. VENOHR: Okay. Some states do.

14 MR. ARNOLD: It has to be work-
15 related. It can't be discretionary.

16 DR. VENOHR: So what you use the DHR
17 child care is that the cost of child care
18 cannot exceed the DHR amount, right?

19 MR. BAILEY: Recommended amount per
20 county.

21 JUSTICE STUART: So that is the cap for
22 just a selected county.

23 MR. BAILEY: Right. That's correct.

1 DR. VENOHR: And so if somebody gets
2 the Cadillac of child care, the guidelines
3 amount will only consider the county amount,
4 the DHS.

5 MR. BAILEY: That's exactly right.

6 DR. VENOHR: Okay.

7 MR. BAILEY: Jane, one more thing. I'm
8 sorry. Julie, you wanted to --

9 MS. PALMER: I was just going to say is
10 ours are due to be revised next month,
11 October 1st. They are revised every two
12 years?

13 MR. BAILEY: Let's ask Faye.

14 MS. NELSON: Okay. They are looking at
15 revising the day care guidelines right now,
16 but a decision has not been made to do that.
17 But currently the rates do vary in various
18 locations depending on the age of the child.
19 Say, in the Huntsville area at a center, the
20 cost would be ninety-three dollars.

21 DR. VENOHR: A month?

22 MS. PALMER: No, a week.

23 MS. NELSON: A week.

1 DR. VENOHR: A week. Okay.

2 MS. NELSON: Mobile would be ninety-
3 four. Birmingham, a hundred and five. So
4 it's going to vary. Fort Payne, for example,
5 is seventy-two dollars a day. This is at a
6 center. But if you look at a family day care
7 home, the rate is going to be a little bit
8 lower.

9 DR. VENOHR: Right.

10 MS. NELSON: It's going to vary from
11 eighty-three to sixty-three dollars a day.
12 It depends on the location.

13 DR. VENOHR: Right.

14 MS. NELSON: And of course the age of
15 the child also drives that, you know.

16 DR. VENOHR: So it sounds like about
17 two hundred and forty to about five hundred
18 dollars per month.

19 MR. BAILEY: Jane, we're -- also,
20 another committee is working on forms for
21 Judges and Referees to use, standardized
22 order forms. A question came up recently
23 about whether or not -- where you have both

1 the custodial parent and noncustodial parent
2 have health insurance coverage, which would
3 be wonderful. But both of them -- but one
4 wants to be primary, and one wants to be
5 secondary. Are there state policies on that,
6 or should that be left to the discretion of
7 the Judge based on the policy provisions? Or
8 is that something that has been addressed in
9 other states?

10 DR. VENOHR: You know, I have not seen
11 that in other states. And if medical
12 services are rendered for that kid, they'll
13 want both insurances. So I would -- so the
14 question is what? Should they pick one as a
15 primary?

16 MR. BAILEY: Well, a lot of our --
17 well, for guideline purposes. And one of our
18 committee members on the forms committee
19 suggested that some health insurance policies
20 dictate who is the primary and who is
21 secondary, but I didn't know that.

22 DR. VENOHR: Oh. No, I'm going to look
23 into that. I've got some contacts.

1 MR. BAILEY: I just wondered should
2 that be something that we try to address in
3 our guidelines or just leave it to the
4 discretion of the Judge.

5 DR. VENOHR: I'd just leave that --
6 that's too micro-managing. Okay.

7 MR. BAILEY: Steve, has that come up in
8 cases you handle where --

9 MR. ARNOLD: All the time.

10 DR. VENOHR: Really?

11 MR. BAILEY: -- both parties want to
12 claim -- be the primary carrier for the
13 purposes of health insurance?

14 MR. ARNOLD: All the time. There's a
15 lot of negotiation, a lot of competition
16 about who's going to have --

17 MS. PALMER: And sometimes depending on
18 the birth date of the party is who's the
19 primary and who's the secondary according to
20 the insurance companies.

21 MR. BAILEY: That's exactly what one of
22 our members said yesterday. That's right.

23 DR. VENOHR: So is it the insurance

1 companies that battle it out who's the
2 primary or is it the --

3 MR. ARNOLD: Sometimes.

4 DR. VENOHR: Or is it, you know, like
5 the hospital that's providing the service?

6 MR. ARNOLD: It's --

7 DR. VENOHR: It would be the insurance
8 companies.

9 MR. ARNOLD: It's all over the map.
10 Sometimes it's the insurance company.
11 Sometimes it's the provider of service. I've
12 seen examples where a doctor says, I'm filing
13 with so-and-so because I know they pay
14 quicker and better and I'm picking them as
15 primary.

16 MR. BAILEY: That's exactly right.

17 MR. ARNOLD: Then the insurance company
18 writes back and says, No, we're not primary;
19 we're secondary. And you get into this
20 circle and you wonder why you have insurance.

21 DR. VENOHR: Yeah, really. Well,
22 nobody wants to pay the cost. It is
23 interesting to me. I am very concerned about

1 it because that's a lot of work to be
2 deciding in every case. And we do have a
3 demonstration project that we just found out
4 we won this grant. I won this grant in
5 Texas. And we're going to be working with
6 their Health Insurance Commission to develop
7 some rules as far as which parent should be
8 ordered to provide health insurance, and I
9 would certainly be happy to share any
10 information that we gain from that. But most
11 states -- I haven't seen any states that get
12 that specific. If you look at the Medical
13 Support Rules, the federal regs which is in
14 that brief, you can see that they recommend
15 really getting into the nitty details about,
16 you know, the geographical area, which parent
17 has the better plan more appropriate for the
18 kid, and doing the primary. And New Jersey
19 has a report on the steps that you should
20 consider to do that, but it's a lot of work.
21 You know, you would have to increase staffing
22 at IV-D agencies. You would have to have a
23 medical support facilitator, you know, to do

1 that. I mean, it's a -- I mean, reviewing
2 adjustments alone just on an order take four
3 to six hours of a technician's time and child
4 support worker's time, and then to get into
5 the medical support, you know, it's just time
6 consuming, a lot of investigating, you know.

7 The one thing I do want to say about
8 this is that these add-ons, you can see the
9 impact it has on these order amounts. We get
10 into some high order amounts, and I've heard
11 horror stories that sometimes where the child
12 care costs are eight hundred, twelve hundred
13 dollars a month, that health insurance costs
14 are four hundred or five hundred a month.

15 And once you add this on to the basic order
16 amount, that the order amount is fifty, sixty
17 percent of the noncustodial parent's income.

18 And a few states, how they've addressed
19 that is they've put a cap on what the order
20 amount can be. Those states are Washington,
21 New Mexico, Pennsylvania, and South Dakota.
22 And those caps range from about forty-five to
23 I think it's fifty percent is the maximum

1 amount of a noncustodial parent's income can
2 be ordered in support. And the reason that
3 they cap it right around forty-five, fifty
4 percent is if you look at the Consumer Credit
5 Protection Act, which is the one that
6 dictates how much can be withheld from an
7 obligated parent's income paycheck, it's
8 fifty to sixty-five percent, and that depends
9 on whether the obligated parent has
10 additional dependents or is in arrears. If
11 they have additional dependents or are in
12 arrears, that amount can be sixty-five
13 percent. So those states that came up with
14 the rule, you know, that that fifty to sixty-
15 five percent in the Consumer Protection
16 Credit Act, that is based on -- how do they
17 phrase it? It's spendable income. It's
18 after-tax income. I'm using the wrong term.

19 MR. WRIGHT: Disposable income.

20 MR. BAILEY: Disposable income.

21 DR. VENOHR: Disposable income -- thank
22 you -- is the way that they use it. So those
23 states -- you know, like New Mexico's is

1 forty-five percent gross income. So the
2 reason that they don't use a different
3 percentage is just because of that difference
4 between gross and disposable income. So
5 anyway, it's a nice, simple provision. Some
6 states include it as a presumption. Some
7 states include it as a deviation factor.

8 The only other thing I wanted to say
9 about this is that most of the increases are
10 thirty to a hundred dollars per month, and I
11 think these are pretty realistic case
12 examples, that they're probably within range
13 of typical Alabama cases. Most of them cover
14 one to two children. Incomes are about two
15 thousand to six thousand per month combined.

16 And there are only two cases in all of
17 these scenarios where there were decreases,
18 and that's what we're going to talk about
19 next. And those two cases with decreases, it
20 was this one with two children, and the
21 amount decreased from seven hundred and
22 eighteen dollars per month to seven hundred
23 and sixteen dollars a month. So it's not

1 even adequate to meet the modification
2 threshold. And then the last case, it
3 deceased from ten thirty to ten twenty-one
4 per month.

5 So did anybody want to say anything
6 more about this middle income range before we
7 plunge into the most difficult --

8 MR. BAILEY: Justice Stuart has a
9 comment. Lyn Stuart.

10 JUSTICE STUART: I just want to
11 comment. I guess it's a question, too. Is
12 it apparent from that that it's the health
13 insurance that's really making the big
14 difference?

15 DR. VENOHR: On the order amount?

16 JUSTICE STUART: In the order amount.

17 DR. VENOHR: I didn't put the -- I
18 didn't break it down before. Well, I mean if
19 you look at this -- well, we've got child
20 care in there, too. So the basic order here
21 is a hundred and fifty-nine. So before the
22 add-ons, this order amount in this case would
23 be a hundred and fifty-nine dollars. And

1 then because they have equal incomes, we're
2 adding on a hundred and fifteen dollars. The
3 noncustodial parent is responsible for half
4 of that to that a hundred and fifty-nine
5 dollars. So the child care is making a big
6 deal. And then we give the noncustodial
7 parent a credit for half of that, a hundred
8 dollars. So it can make a big difference.
9 And we do have case examples when we get to
10 the health insurance brief, and that might be
11 a good time to see the impact of that. But
12 I'm really glad that you're thinking about
13 that because these two expenses can really
14 impact the final child support order.

15 And just as some background
16 information, I've got case file review data
17 from several states, and work-related child
18 care costs are in about ten to about thirty-
19 eight percent of the orders. I don't know
20 what they are in Alabama, how often you see
21 cases that have child care expenses.
22 Remember that children less than twelve --
23 twelve and less are those in need of child

1 care expenses.

2 And the other thing I want to say is in
3 regard to the DHR numbers, what -- I take it
4 that they're from the market survey that's
5 conducted for the Child Care Assistance
6 Program?

7 MS. NELSON: That's right.

8 DR. VENOHR: And all states have a
9 Child Care Assistance Program. And they're
10 required to conduct a market survey because
11 this program obviously provides subsidies to
12 low income parents that need child care, and
13 it's intact families as well as single-parent
14 families. And they can only -- the federal
15 reg is that they can only charge up to the
16 seventy-five percent of the median child care
17 market rate. So they can never -- those
18 rates can never be at the very top. And I
19 wish I had the statistics from Alabama, but I
20 remember Alabama being considerably lower
21 than seventy-five percent. I want to say it
22 was forty-nine percent of median. There was
23 a study by the National Woman's Center -- Law

1 Center that they do an annual report. So in
2 short, those amounts that are capped are
3 probably a lot lower than actual Alabama
4 child care costs is what I'm trying to say.

5 MS. PALMER: Well, if you -- while you
6 were talking --

7 MR. BAILEY: Julie Palmer.

8 MS. PALMER: I'm sorry. Anywhere you
9 go to Jefferson County, it's a hundred and
10 five dollars. And most cases with two
11 children, you've got a two-year-old and four-
12 year-old and both parties working, that's
13 nine hundred and ten dollars a month in day
14 care.

15 DR. VENOHR: It's a serious issue. It
16 really is. I'm working with Colorado right
17 now to revise their rate structure, and it's
18 hard because we're trying to make a rate
19 structure where we can get families
20 eventually off child care assistance. But,
21 you know, when families spend on average nine
22 percent of their income on child care, that's
23 a big chunk. You know, when families are

1 making minimum wage or seven twenty-five an
2 hour, it's hard to get off there.

3 So any more comments on this middle
4 income range before we go to the high
5 income?

6 MR. BAILEY: I think we're ready.
7 Thanks.

8 DR. VENOHR: Okay. So again, if you
9 are to do the scan of all those tables in the
10 back of that report, Appendix B, you're never
11 going to find a larger decrease than that
12 eleven point five percent. That's the
13 highest percentage change at the high
14 income. And it occurs at seven thousand four
15 hundred combined income and for four
16 children. So this isn't a typical case. And
17 I'm not going to kid you. There are probably
18 some cases out there that are in that red
19 area of the schedule. I would guesstimate
20 less than ten percent. I would suspect maybe
21 in Huntsville. There are some brilliant
22 people up there, and they're making incomes
23 comparable to what they should be. They

1 might be in that range. But again, having
2 four children is not the norm as far as child
3 support orders.

4 So again, I want to point out that even
5 though the schedule amount would go from one
6 thousand eight hundred eighty-five dollars to
7 one thousand six hundred and sixty-nine
8 dollars, which is a two hundred and sixteen
9 dollar drop, that does not mean that the
10 order amounts will decrease by the same
11 amount.

12 This first case, again, I look at a
13 custodial parent has working obviously part-
14 time. The noncustodial parent has sixty-
15 seven hundred dollars a month, which is good
16 income. All these cases, the combined income
17 is seventy-four hundred. The noncustodial
18 parent's share in Case A is ninety-one
19 percent of the combined income. So under the
20 existing order, we take ninety percent of the
21 existing schedule, one eight eight five. We
22 come up with seventeen oh seven. And we take
23 the updated amount, one six six nine.

1 Multiply that by ninety-one percent. We have
2 fifteen eleven. That would be a reduction of
3 one hundred and ninety-six dollars.

4 In Case B, we have the custodial parent
5 now making minimum wage. The noncustodial
6 parent makes slightly less, six one five oh.
7 Their combined income is still seventy-four
8 hundred, and the noncustodial parent's share
9 of the basic obligation is eighty-three
10 percent. Under the existing schedule, that
11 amount would be fifteen sixty-seven. Under
12 the updated schedule, it would be thirteen
13 eighty-seven, a reduction of a hundred and
14 eighty.

15 Now, the thing that I want to tell you
16 is that in both these cases, this fifteen
17 eleven and this thirteen eighty-seven still
18 brings the children above poverty. So even
19 though we have a reduction, these children
20 are not living in poverty. And to save time,
21 I'll just skip those last two examples.

22 And I want to talk about the causes in
23 the decrease at the high incomes. The major

1 reason is -- this is the only major
2 assumption that we change when we devise the
3 new schedule -- is we switch from the Engel
4 to the Rothbarth methodology to estimate
5 child-rearing expenditures. And I'm going to
6 talk more about that.

7 The Rothbarth methodology understates
8 actual child-rearing costs. The Engel
9 methodology overstates child-rearing costs.
10 And I do have some data to let you know how
11 it would look if we were to use the Engel,
12 and I'll explain why we do that in a second.
13 But these are also reasons too, is that this
14 is the major change.

15 And certainly if you wanted to, you
16 could go with the schedule based on Engel. I
17 want to say that clear out, that there's
18 nothing that precludes this Committee from
19 going with a schedule totally based on the
20 Engel. You could take the average of the
21 Engel and the Rothbarth, or you could take
22 Rothbarth. According to the feds, anything
23 between the Engel or Rothbarth are

1 acceptable.

2 So these other reasons are minor, but I
3 wanted to go through them anyway.

4 MR. BAILEY: Jane, can I ask you a
5 question? I'm sorry. Which of the number of
6 states -- is it thirty-one states that have
7 Income Shares model like we do?

8 DR. VENOHR: It's thirty --

9 MR. BAILEY: Thirty-six? Thirty-seven?
10 And then Georgia recently adopted Income
11 Shares as well. Of those states, do the
12 majority use Engel or Rothbarth, or is that
13 something that we know now?

14 DR. VENOHR: Every single state that
15 has updated their schedule uses the Rothbarth
16 except for Minnesota, which is -- uses the
17 USDA, and the USDA is known to overstate
18 actual child-rearing costs, too. Now, I'm
19 throwing Georgia in the category using the
20 Rothbarth, but they actually use the average
21 of the Engel and the Rothbarth. And I'm
22 going to show you what those numbers look
23 like. And you could certainly adopt that. I

1 mean, if it's good enough for Georgia, it's
2 good enough for Alabama.

3 MR. MANASCO: Not this weekend.

4 MR. BAILEY: He said not this weekend.
5 We're playing Georgia. Alabama is playing
6 Georgia.

7 DR. VENOHR: And I want to say that I
8 worked with Georgia at the end. They went
9 through quite an ordeal before they landed at
10 where they did. They started off with Cost
11 Shares, but there were some problems with
12 that. And they called me in at the last
13 minute. And for Georgia, we prepared a
14 schedule -- three schedules: one based on
15 the Engel, which is the upper estimate; one
16 based on the Rothbarth, which is the lower
17 estimate; and then we prepared a third one,
18 which is the average of the two. And they
19 did two things in Georgia. One, they took a
20 team of their economists from the
21 university -- universities. There's eight
22 economists that reviewed my work. And then
23 they took these three schedules, and they

1 took them out to public hearing. And they
2 let the public have input. And when they
3 came back, they decided to go with the
4 average based on what the economists, the
5 academic economists, said and what the public
6 said. And the average also was the closest
7 to what the existing Georgia schedule was.

8 MR. BAILEY: So I guess there was no
9 sticker shock. It was pretty much existing
10 what it was.

11 DR. VENOHR: Uh-huh. And that's one of
12 the reasons that state switched to the
13 Rothbarth actually was because of the sticker
14 shock.

15 And so just to talk about this, these
16 other points is that the existing Alabama
17 schedule is based on the Engel estimator, and
18 it's based on data collected in 1972 and
19 '73. And it's based on data collected for
20 the Consumer Expenditure Survey, which is
21 conducted by the Bureau of Labor Statistics,
22 and they survey about six thousand households
23 per year including families in Alabama. The

1 updated schedule is based on families
2 surveyed in 1998 through 2004. In '72 and
3 '73, that was like a one-shot deal with that
4 CEX survey, and it wasn't until the 1980's
5 that they started conducting that survey
6 annually. And it's gotten better. They've
7 improved the sampling, the validity. They
8 use computer-assisted survey tools to make
9 sure that they get a good response rate. I
10 do believe that the data -- and even the
11 Bureau of Labor Statistics say that the data
12 collection methods are so much better now,
13 and these data, the more recent data, are
14 more reliable. In addition, we have a much
15 larger sample size because we have families
16 in '98, '99, 2000, 2001, 2002, and so forth.
17 And this is very important because, as we all
18 know, in the late 90's we experienced an
19 economic boom. It was some of the best
20 growth periods that we have had in the last
21 two decades. We plummeted right after 2002.
22 We had a mild recession for about ten months,
23 and now we've had some steady economic growth

1 since.

2 As I mentioned earlier, back in
3 '72/'73, there weren't a lot of high income
4 families, and so those amounts from four
5 thousand and above were extrapolated where
6 they were -- they might have been over-
7 extrapolated. I mean, we have some evidence
8 that suggests we did, but because the same
9 economist that conducted the '72/'73 study is
10 not the same economist that used the Engel
11 with the more recent data, we don't know. We
12 don't know if the economist made slightly
13 different assumptions or in the data -- the
14 difference is in the data. We're not sure.
15 But when the Engel estimates were estimated
16 with more recent families, they became --
17 they were much, much larger than the Engel
18 estimates that formed the basis of Alabama's
19 guidelines.

20 A final point that I want to say that's
21 kind of minor but it has affected trends in
22 the last couple of decades is that -- and
23 this is really important for people that use

1 those guidelines. Those guidelines amounts,
2 those schedule amounts do not include payment
3 on mortgage principal. They include mortgage
4 interest. They include rent. They include
5 utilities. They include property taxes.
6 They include association fees. But they do
7 not include mortgage principal. And the
8 reason being is that's a pseudo-investment.
9 That house can be sold later, and somebody
10 could reap some profits out of it hopefully.
11 With this new housing crisis that we're in,
12 that might not be true.

13 But in any event, for any of you who
14 are old enough to remember -- and I'm
15 certainly in that class -- back in the
16 1980's, we had double digit interest rates,
17 and in the 90's we have a lot lower interest
18 rates. And what we see is that families have
19 taken what they have spent on interest,
20 mortgage interest, and they shifted it to
21 mortgage principal. So at those high
22 incomes, we're having more of that pop not
23 including for child-rearing expenditures

1 because it's being devoted to the mortgage
2 principal.

3 I actually have some statistics about
4 that. Since 1984, income has increased by
5 about threefold. Our payment on mortgage
6 principal has increased about threefold, but
7 our payment on mortgage principal increased
8 sixfold. Did I say that right? The payment
9 on mortgage interest increased threefold.
10 The payment on mortgage principal increased
11 sixfold, and our income has increased
12 threefold. And also home ownership
13 increased. In 1984, there was seventy-three
14 percent of family owned homes and, in 2005,
15 eighty-one percent. So just a little -- and
16 who knows what's going to happen with these
17 subtrends, this recent debacle with
18 subtrends, but that's an aside. That's
19 another issue.

20 So I'm going to talk a little bit more
21 about the Engel and the Rothbarth. At the
22 time that the Alabama schedule was developed,
23 there were not Rothbarth estimates

1 available. The best estimates available were
2 those devised by the Engel -- using the Engel
3 methodology. There was a study by Thomas
4 Espenshade. He was with the Urban Institute.
5 He received funding from the National
6 Institute for Child Development. And his
7 study was published in 1984, and the Alabama
8 guidelines were developed by '86/'87
9 originally. And that was the best data
10 available at that time. Subsequently, the
11 Federal Department of Health and Human
12 Services contracted with Dr. David Betson or
13 actually contracted with the University of
14 Wisconsin Institute of Research on Poverty
15 which David Betson is affiliated with. And
16 he updated all of the expense of child-
17 rearing costs. He used the Engel
18 methodology. He used the Rothbarth
19 methodology. He used three different
20 methodologies. He concluded that the
21 Rothbarth estimator was the best estimate for
22 theoretical grounds. And another report
23 reviewing Betson's work concluded that the

1 Rothbarth understated actual child-rearing
2 costs, and economists used calculus to do
3 that. They don't know how much it
4 understates, but they know it understates
5 it. And the Engel estimator overstates it.

6 Now, Mark Rogers, you heard us debate
7 this issue in I think it was 2006. We talked
8 about the Rothbarth estimator. Mark Rogers
9 claims that the Rothbarth estimator
10 overstates actual child-rearing costs. So
11 though Mark hasn't said this, though, if Mark
12 thinks that the Rothbarth overstates actual
13 child-rearing costs, he must really think the
14 Engel really, really overstates child-rearing
15 costs. And when Betson produced those new
16 Engel estimates when they first came out,
17 they were much, much higher than what the
18 original ones that Espenshade produced. And
19 so the states that were studying the issue --
20 Ohio is a case in point -- when Betson first
21 released the numbers, they ran schedules with
22 the Engel estimator. They ran schedules with
23 the Rothbarth estimator. And they concluded

1 to go with the Rothbarth estimator, and
2 largely because it resulted in the least
3 amount of price sticker shock.

4 But like I say, what we tell states,
5 because we got criticized for telling states
6 to go with the Rothbarth, is we encourage
7 states to look at both the Engel and the
8 Rothbarth. And we are abiding by what the
9 Lewin report says, that any amount between
10 those two is adequate and appropriate for
11 child support guidelines.

12 So again, this last point is just what
13 I had told you earlier, that all states that
14 have updated their guidelines, their Income
15 Shares guidelines, have used the Rothbarth
16 except for Minnesota. And there is no -- I
17 think it's twenty-two, twenty-three Income
18 Shares states that rely on the Rothbarth
19 estimator.

20 MR. BAILEY: And, Jane, as you said,
21 that's a policy decision for our Committee to
22 make to recommend to the Supreme Court.

23 DR. VENOHR: Right. And I think one of

1 the things that got jumbled for Alabama is
2 that there is actually two issues. One is
3 the guidelines model, and then there is what
4 estimates the child-rearing costs underlying
5 that guidelines model. And I think when Mark
6 and I were here debating last 2006, those
7 issues got really jumbled as far as which was
8 which. And so what I always encourage states
9 to do is decide what your guidelines model is
10 and then figure out what your economic basis
11 is underneath.

12 So I want to throw out this option of
13 updating Alabama using more recent Engel
14 estimates or average of Engel and Rothbarth
15 estimates. And if you look at Appendix B,
16 I've got side-by-side comparisons that
17 include the Georgia approach, which is the
18 average. And so Georgia didn't even use the
19 full Engel. They could go up higher. And if
20 you look at the Georgia approach, all the
21 basic obligation amounts would go up except
22 for that low income area.

23 MR. BAILEY: Jane, you also have

1 Tennessee listed.

2 DR. VENOHR: Yes. I just put Tennessee
3 because they are a neighboring state. But
4 Tennessee is about to update their
5 guidelines, so those amounts are probably
6 going to be higher pretty soon.

7 MR. BAILEY: Okay.

8 DR. VENOHR: So I just think it's
9 always good to see what neighboring states
10 do. And this just shows -- I took that area
11 of the schedule for one child, and I took
12 that area where we saw the maximum increase,
13 the largest increase, which was thirty-two
14 hundred per month. And here I've got the
15 existing amount. I have the 2004 PSI chart.
16 I also have the updated 2007 data, so it's
17 the same assumptions here, just 2007 data.
18 And then I have the Georgia. And you can see
19 that at thirty-two hundred where we had that
20 thirty-three point six percent increase, if
21 we were to use the Georgia approach, which is
22 the average, it would be more like a forty-
23 four point seven percent increase. So we're

1 talking about a ten percent increase above
2 what the Rothbarth estimator would do. But
3 Alabama certainly could do it, and there is
4 economic justification to do it that way.

5 JUSTICE STUART: I notice that -- and I
6 appreciate your making that note that
7 Georgia's low income adjustment only applies
8 below nine hundred a month. What was their
9 rationale for doing that?

10 DR. VENOHR: It wasn't a good
11 rationale. The guidelines in Georgia are
12 legislated. And it got so contentious
13 there. I mean, things were in committees,
14 and they would change overnight. And so the
15 only -- and they knew they had to change
16 something, and the only way they could get it
17 through was they got the Income Shares bill.
18 And remember that they were a Percentage of
19 Obligor Income before that, and nobody liked
20 that because it had no consideration of the
21 custodial parent's income, no consideration
22 to child care, health insurance. The only
23 way they could get the bill through was that

1 they said, We're going to pass this bill, but
2 we're not going to pass it with a table
3 because the minute you put a table out there,
4 everybody starts comparing what the order
5 amount would be. But what they legislated
6 was so prescriptive that they couldn't put a
7 low income adjustment in it. It said only --
8 you can only adjust for incomes below
9 poverty, which is about nine hundred dollars
10 per month. And that committee, that
11 commission dare not deviate from anything
12 from what was in that legislation, and they
13 were very careful to really -- they didn't
14 recommend anything. They were so cautious
15 about it because I'm not kidding you, I mean,
16 there was a Cost Shares bill in there, and
17 overnight it turned into another bill. Then
18 another bill was introduced, and then it was
19 some back door -- I mean, there was a lot of
20 decisions made, I mean, you know, that
21 were -- and the IV-D agency is not happy with
22 it. I'll be honest with you. They're not
23 happy with it. They think that the order

1 amounts are too high, particularly because
2 Georgia went with the average. So you can
3 imagine what that did for the order amounts
4 right around twelve hundred, fifteen hundred,
5 and that's a huge increase.

6 MR. BAILEY: Jane, is this a good time
7 for us to take a short break? We've been
8 going about an hour and a half. Is this a
9 good time?

10 DR. VENOHR: I was just getting warmed
11 up.

12 MR. BAILEY: Let's take about a
13 ten-minute break. And while we do, if you
14 will sort of begin to categorize for us the
15 major policy decisions that we need to make
16 on our guidelines review process. You've
17 already told us one, of course, Rothbarth
18 versus Engel. But if you can, at the end of
19 this discussion about guideline schedules, if
20 you could give us kind of category by
21 category the major policy decisions we need
22 to make.

23 DR. VENOHR: Okay. Let me just show

1 the amount that's on the mileage form because
2 that's the state regulation. That's what's
3 on that separate sheet. And you have to do
4 it in blue pen, too.

5 MR. BAILEY: Any questions of Bob about
6 mileage reimbursement? Okay. All right.
7 Jane, again.

8 DR. VENOHR: Thank you. Okay. We're
9 almost done with the charts. The one last
10 slide I want to go through, it's just all the
11 data underlying these charts. And we have
12 the existing schedule. We've got the updated
13 schedule, both the 2004 that was recommended
14 by the Committee and then what we did in 2007
15 with the most -- it's essentially the 2004
16 with just 2007 data.

17 And the first thing is that there's a
18 difference in the economist that's measuring
19 child-rearing costs, so they might have
20 slightly different codes. Dr. Betson did
21 both the estimates for 2004/2007, so his
22 programming code is exactly the same. We
23 don't know the impact from Dr. Espenshade to

1 Dr. Betson. When Betson originally did his
2 work, he talked extensively to Dr. Espenshade
3 and tried to figure out what might be
4 different. They could never deduce what any
5 of the differences were when Dr. Betson did
6 his estimates of Engel methodology.

7 We have the estimation methodology.
8 Espenshade did the Engel. That was the best
9 study available back then, and that's why
10 Alabama and most states adopted their initial
11 child support guidelines using the
12 Espenshade/Engel study. And subsequently,
13 most states that have updated their child
14 support guidelines rely on the
15 Betson/Rothbarth estimates, including
16 Arkansas actually, and Arkansas is a
17 non-Income Shares state. As we mentioned
18 earlier, the Rothbarth estimator definitely
19 is less than the Engel estimator. And it
20 varies. The gap between one child is not as
21 much. The gap for two children is more, and
22 the gap for three children is more.

23 We take these national data, these

1 national estimates. We realign them for
2 Alabama's income -- we recognize that Alabama
3 has low income -- and the original schedule
4 that was done using 1980 census data and the
5 updated schedule that was done using 2002 or
6 2005 census data. And there has been nominal
7 increases due to that. Very, very small.
8 The gap between Alabama and national income
9 has closed very, very small. I mean, that's
10 not the largest cause of any changes.

11 We have different years of the Consumer
12 Expenditure Survey. As I mentioned earlier,
13 Espenshade has '72/'73 data. Those were the
14 best data and the most recent data available
15 at the time. Depending on if you're looking
16 at the 2004 or 2000 schedule, one is based on
17 families surveyed in '96/'99. The other one
18 is based on '98 or 2004. And these are going
19 to have decreases at high incomes partially
20 because of that extrapolation with the older
21 data.

22 We have increases in the price level,
23 and we used the '87 Consumer Price Index.

1 That's what all economists use to adjust for
2 prices. And depending on if you're looking
3 at the 2004 or 2007 schedule, you could have
4 the CPI there. Price levels have increased
5 by about eighty percent since the original
6 schedule was developed. And there are some
7 school of thoughts that say, Well, let's just
8 take the schedule and update it by eighty
9 percent. But we also recognize that income
10 has changed, and so we consider the data. We
11 go back to the original data.

12 These amounts are based on
13 expenditures, and expenditure is based on net
14 income. And so we have to back it out to the
15 gross income because the schedule is based on
16 gross income, and it's easier to use a gross
17 income schedule. We do that by using the tax
18 rates: IRS, state, and FICA. The existing
19 schedule was based on tax rates in '87. The
20 updated ones are based on tax rates in
21 2004/2007. Recent tax reform in 2003/2004
22 has increased the after-tax income for middle
23 class families and low incomes making those

1 families have more income available for child
2 support. So that's one of the reasons that
3 you see a bigger increase in the middle
4 incomes. One of the reasons you don't see
5 such a bigger -- larger increase at high
6 incomes is not only has the tax rate not
7 changed as favorably for higher incomes, but
8 we have to deal with that FICA cap now.
9 Right now, FICA is capped. It's close to a
10 hundred thousand, ninety thousand that you
11 get the seven point six five percent applied,
12 and then once you hit that threshold of I
13 think it's about ninety or a hundred
14 thousand, then only the Medicare tax goes.
15 It's two point sixty-five percent. Back when
16 this schedule was developed, it was a lot
17 lower than that. It was close to fifty
18 thousand. So essentially for these high
19 incomes, that tax thing is a wash. These
20 higher incomes really don't have as much --
21 more spendable incomes. Middle income
22 families do. Middle income families have
23 more spendable income available for child

1 support.

2 There is some nominal amount in that
3 schedule to address the child's health care
4 needs. That's to cover Band-Aids. It's to
5 cover well visits to the doctor. It's to
6 cover nonprescription medicines. And we have
7 to leave a little bit in there because most
8 families do have these expenses. Back in
9 '87, it was two hundred per family. Now it's
10 two fifty per child per year, which is in
11 line with what national data says how much is
12 spent in out-of-pocket medical costs, and
13 that's just a nominal increase.

14 The final assumption that's changed is
15 that the equivalence scales that we use to
16 expand that schedule from three children to
17 four children to five children to six
18 children, there's an insufficient number of
19 families that are sampled that have four
20 children, five children, six children, and so
21 we use an equivalence scale to extend it
22 out. And the National Child Support
23 Guidelines Project devised some equivalencies

1 back as part of their project that were used
2 by Alabama to derive the four, five, six
3 child amount. The National Research Counsel,
4 which is part of the National Academy of
5 Science, researched this issue, and they came
6 up with their own little formula. And so
7 we're using that instead, and it's some
8 nominal decreases for four-plus children.

9 So I would say that probably the
10 biggest factors that affect the schedule are
11 the estimate methodology, the price levels,
12 and the tax rates. And I will get back to
13 that when I get to the recommendations.

14 Ready to talk about health insurance?
15 I'm trying to speed up things. Want to talk
16 about the schedule more?

17 MR. BAILEY: Absolutely.

18 DR. VENOHR: Okay. So the existing
19 provision says, The actual cost of a premium
20 to provide health insurance benefits for the
21 children shall be added. Well, we know that
22 in some cases, the actual costs cannot be
23 ascertained. So my understanding is that the

1 Committee was trying to devise an alternative
2 when the actual costs couldn't be
3 ascertained, and they were trying to prorate
4 it. And you can prorate it by the number of
5 children that are covered by the family on a
6 family policy. You can prorate it by the
7 number of individuals that are covered by the
8 policy. In most states, they use the number
9 of persons covered by the plan. That's what
10 most states do. And most states have a
11 provision exactly what Alabama was trying to
12 accomplish where they say use the actual
13 cost, but if it's not available, then prorate
14 it. And they'll just prorate it based on the
15 number of persons in the family.

16 MR. BAILEY: Excuse me just a minute.
17 Aren't we the only state of twenty-seven or
18 twenty-nine states that calculate a premium
19 in the guideline worksheet, aren't we the
20 only state that allows the entire premium,
21 family premium, rather than just the child's
22 part?

23 DR. VENOHR: Yes.

1 MR. BAILEY: Okay.

2 DR. VENOHR: Yes. So I'm glad you
3 brought that up. It's painful. And I have
4 to apologize because I have two versions of
5 this chart here, and I don't know which one I
6 sent on to the Court. And one of them is not
7 right, so I will correct it. And I'm looking
8 at the Child Support Guidelines Brief:
9 Child's Share of Health Insurance Premium.
10 And if you look at page 2, I've got some
11 statistics from the Kaiser Family
12 Foundation. They conduct the studies on how
13 much it costs for health insurance. It's a
14 pretty good study. Now, this is already old
15 data. I'm looking at 2005 data. And so
16 health insurance costs have increased by
17 about eight percent a year, so it could be --
18 yeah, it could be substantially more since
19 then. But in any event, in 2005, it cost
20 seventy dollars per month for a single
21 individual on average in Alabama, and a
22 hundred and forty-seven dollars per month for
23 an individual plus one. Not all plans have

1 individual plus one options. Now, some do
2 and some don't. And then there is the family
3 coverage of two hundred and fifteen per
4 month. And somebody was saying that these
5 are -- that health insurance is much more in
6 Alabama now?

7 MR. BAILEY: Yes.

8 MR. WRIGHT: And if you're dealing with
9 a situation where the employer pays a portion
10 of the premium, those figures may be
11 accurate.

12 DR. VENOHR: Yeah, yeah. If you --

13 MR. ARNOLD: But the population of the
14 employers that are paying a portion of the
15 premium are steadily decreasing.

16 DR. VENOHR: Yeah, these are definitely
17 -- these are the employee's portion.

18 MR. WRIGHT: Right.

19 DR. VENOHR: So I know nationally it's
20 about eight percent increase per year. It
21 would be two hundred fifty if I use that rule
22 for family coverage. So do people -- are
23 they self-insured?

1 MR. WRIGHT: Well, it just depends on
2 what their situation is. If they work for a
3 company, ordinarily the employer does pay a
4 portion of the health insurance premiums. If
5 it's a self-employed individual or small
6 group or something of that type, ordinarily
7 they might pay the entire premium themselves,
8 which would be much higher.

9 DR. VENOHR: Is it a trend in Alabama
10 to start getting the high deductibles like
11 the five thousand dollars per month?

12 MR. ARNOLD: Yes.

13 DR. VENOHR: I mean --

14 MR. ARNOLD: We're talking about two
15 different -- Steve Arnold here. We're
16 talking about different population segments.
17 Small business owners, small to medium
18 employer, individual professional, or
19 whatever, it's not unusual for that health
20 insurance premium to be seven, eight hundred
21 dollars per month or more. And you're also
22 seeing a population in the larger employers
23 who are either decreasing the benefits

1 available or increasing the employee's share,
2 and I'm saying antidotally with the increase
3 in deductible before benefits start. I think
4 you could accurately say the burden of health
5 cost is falling more and more on the
6 individual and less and less on the employer.

7 DR. VENOHR: When you say the seven
8 hundred dollars a month, is that the total
9 employer and employee contribution?

10 MR. ARNOLD: That's the cost. When you
11 get into that range, the employer is not
12 paying anything. I mean, my personal health
13 insurance premium is nine hundred and eighty
14 dollars a month --

15 DR. VENOHR: Yeah.

16 MR. ARNOLD: -- out of my pocket.

17 DR. VENOHR: You know, Alabama, I do
18 have -- this is a great site. It's
19 statehealthfacts.org. And Alabama is higher
20 as far as the employee's contribution
21 compared to the employer's contribution than
22 the national average. In Alabama, the
23 employee contribution is twenty-nine percent,

1 and in the U. S., it's twenty-three percent.
2 And these data show -- and this is from 2005,
3 so it's right in line with what you're
4 saying. The total insurance premium for a
5 family -- oh, this is an employee plus one is
6 six thousand five hundred dollars per year.
7 So if I was to adjust that to 2000 level, it
8 would be comparable to what you say. So they
9 are high. Yeah.

10 MR. WRIGHT: There are not many
11 insurance companies that offer that type of
12 coverage that I'm familiar with either here.
13 You either have family coverage or single
14 coverage. There are not many that offer
15 insured plus one or insured plus two in
16 Alabama that I'm aware of.

17 MR. ARNOLD: And that's a monopoly
18 effect of BlueCross BlueShield.

19 DR. VENOHR: And I think how this
20 relates to children is that -- and I'll get
21 into the new medical support rules in a
22 minute -- is that federal regs now say that
23 the child support order must provide for the

1 child's health care needs, and the new rules
2 are getting more specific. They say they've
3 got to say how you're going to provide it.
4 So the new rules are saying you can even
5 order a mom or a custodial parent to go apply
6 for Medicaid or CHIP. You know, they have to
7 figure out how. They want all options -- the
8 way that the regs are written, they want
9 states to first pursue private, and then if
10 private is not available at a reasonable
11 cost -- and we'll talk about reasonable cost
12 in a minute -- they want Medicaid or CHIP to
13 be pursued. And unfortunately I didn't bring
14 what the CHIP limit is in Alabama. Do you
15 know? Does it go to two hundred percent of
16 the federal poverty limit?

17 MS. NELSON: I'm not familiar with
18 CHIP's guidelines for eligibility, but we
19 could always follow up on that if the
20 Committee would like to see that.

21 DR. VENOHR: Yeah, because it is a big
22 issue because I do worry that there might be
23 more pressure to go to private health

1 insurance for these kids, and I don't know if
2 Alabama has child-only insurance.

3 JUSTICE STUART: ALL Kids.

4 MR. BAILEY: ALL Kids.

5 DR. VENOHR: Oh, okay. Is it about one
6 hundred and twenty a month premiums, or do
7 you know?

8 MS. PALMER: No, it's a hundred dollars
9 a year per child.

10 DR. VENOHR: Oh, okay. So there's an
11 option. Is it income?

12 MS. PALMER: It's income. And it's --
13 once you get that, it's --

14 DR. VENOHR: And is that the CHIP
15 program? What is it called again?

16 MS. PALMER: ALL Kids.

17 JUSTICE STUART: ALL Kids.

18 DR. VENOHR: And just because we're
19 talking about this, I'm going to throw this
20 out here right now, is that the federal reg
21 right now says that if insurance is available
22 from the employer, it's reasonable in cost.
23 And the new reg is, states can determine a

1 threshold. It has to be a quantitative
2 threshold relating to income, and they
3 recommend five percent of gross. So
4 essentially those cases where there is health
5 insurance available and it's seven hundred
6 dollars a month and if the obligor earns
7 thirty-five hundred dollars per month, you
8 know, that's going to be too high. It's not
9 going to be -- well, that would be just the
10 threshold of what was available. So in
11 short, if an obligor is making -- let's use a
12 more reasonable case example -- two thousand
13 a month and their health insurance premium
14 cost is two hundred dollars a month, using
15 that five percent threshold, that insurance
16 wouldn't be pursued. So, you know, it's
17 something to think about when you're thinking
18 about how to do this because -- and I'm sorry
19 to mingle them.

20 Okay. Let's go back to this example.
21 What we do here is we've got a whole bunch of
22 case examples. And sometimes I've got mom
23 paying the health insurance; sometimes I've

1 got dad paying the health insurance. And
2 I've got the order amount before the
3 consideration of the health insurance.

4 In this one, I've got the parent paying
5 two hundred and fifteen, which is the full
6 family premium in 2005. And then in this
7 example, I've got the parent -- the child
8 support calculation considering the
9 difference between family versus single.

10 Family is two fifteen. Single is a hundred
11 and forty-five. But I think Penny was the
12 one that pointed out you could just as well
13 take the difference between single and single
14 plus one if there is one child. And no state
15 has gotten that specific in their guidelines,
16 but you certainly could, you know.

17 And in this last one, I just take the
18 family premium of two fifteen, and I divide
19 that by the total covered by that plan, which
20 is the parent plus the child if there's one
21 child, the parent plus two children if
22 there's three children. But you could do
23 it -- there's a whole bunch of different

1 configurations or ways that you can do it.

2 JUSTICE STUART: Let me give you the
3 typical BlueCross BlueShield example, which
4 is employer pays for employee. There's a
5 separate family premium, and let's say it's
6 two fifteen a month. And let's say that it
7 covers three children. Then what this would
8 do is you divide the two fifteen by three and
9 you would ignore the rest; is that right?
10 Because I think that's the typical BlueCross
11 BlueShield setup.

12 DR. VENOHR: Actually, what most states
13 will do is take -- oh, yeah, take the two
14 fifteen and divide it by three.

15 JUSTICE STUART: By three if it covers
16 three children.

17 DR. VENOHR: Yeah. In most states --

18 JUSTICE STUART: If it covered a new
19 spouse and three children, divide it by four?

20 DR. VENOHR: Right.

21 MS. DAVIS: Plus the employee.

22 JUSTICE STUART: But that would be
23 separate. I'm saying the typical BlueCross

1 BlueShield is the employee is completely
2 separate, completely. And then you have the
3 family coverage that covers everybody else.
4 That's the reason I think that example is
5 important because that's -- probably the
6 majority of people in the State of Alabama
7 have BlueCross BlueShield insurance.

8 DR. VENOHR: Yeah. And that's
9 different than the way I did it because --

10 MS. DAVIS: The two fifteen here, does
11 that include -- the number here, does that
12 include the employee?

13 DR. VENOHR: Uh-huh.

14 JUSTICE STUART: See, here it
15 wouldn't. In Alabama, it wouldn't.

16 DR. VENOHR: Yeah. So you're actually
17 doing -- in Alabama, taking the difference
18 between family and single and then prorating
19 it by the number of children.

20 JUSTICE STUART: I'm just saying in
21 Alabama, it's typically completely separate,
22 and the employee is just out of the picture.
23 You're talking about a family premium that

1 does not include the employee but includes
2 the other family members.

3 MS. DAVIS: If you have like, for
4 example, state coverage. It costs zero if
5 you are the employee. You get -- if you are
6 a -- I don't know about you. You're the same
7 way. Your family coverage is X-amount of
8 dollars no matter how many people are in that
9 family at the time. So in that case, the
10 individual number under your formula would be
11 zero.

12 DR. VENOHR: Yeah. If you read
13 Missouri's, which is on page 3, read that
14 last line. Is that what you're talking
15 about?

16 MR. WRIGHT: Where is that?

17 DR. VENOHR: It's on page 3 of the
18 Health Insurance Brief. Missouri, the very
19 last line.

20 JUSTICE STUART: That would be the
21 Alabama situation.

22 MR. BAILEY: Yes, I think you're right.

23 DR. VENOHR: And then if you read

1 Arizona's, you could see, like, in
2 mid-sentence, If coverage is applicable to
3 other persons, the total costs are prorated
4 by the number of persons covered.

5 MR. BAILEY: Jane, if we wanted to just
6 itemize the child's portion, it looks like to
7 me those last two lines of the Missouri
8 provision is what we want to consider. Am I
9 correct?

10 DR. VENOHR: Right. Right. And you
11 could read the other ones. I don't think you
12 need me. This is -- there are some options
13 here, and you've got some case examples. I
14 don't have the case example like Missouri
15 here, but I certainly could get you that if
16 that would be helpful.

17 MR. BAILEY: Justice Stuart, are you
18 satisfied with that provision that Missouri
19 has, those last two lines? Is that
20 pretty much what you were getting at?

21 JUSTICE STUART: Certainly the last
22 line.

23 MR. BAILEY: Right.

1 JUSTICE STUART: And I guess there's
2 nothing wrong with the last two. I do think
3 when this proposal comes, there are going to
4 have to be two or three examples --

5 MR. BAILEY: Right.

6 JUSTICE STUART: -- to show
7 specifically how it applies, and those are
8 going to at least need to be in the comments
9 because the last recommendation, both from
10 the Committee and then the revised
11 recommendation by Mr. Helms, could not be
12 interpreted. I mean, you know, they just
13 couldn't be. We couldn't figure out how they
14 worked in real life, and we've just got to
15 have them set forth how they work in real
16 life.

17 MR. BAILEY: Well said. Well said.

18 DR. VENOHR: Do we want to talk about
19 this some more, or do you want to move on
20 to --

21 MR. BAILEY: I think we've pretty much
22 got hopefully in our minds what we need to do
23 with this issue, and I think we know what we

1 want to do. If you don't mind, let's move on
2 to the after-born.

3 DR. VENOHR: Could we talk about the
4 medical support rules just real quickly?

5 MR. BAILEY: Absolutely, yes, while
6 you're here.

7 DR. VENOHR: This is another brief.
8 And the federal government issued the new
9 federal medical support requirements last
10 fall, and they received comments. The
11 closing date for the comments was May, I
12 believe, last year. And I just talked to Tom
13 Miller at the Federal Office of Child
14 Support, and he thinks that they're going to
15 be effective probably spring 2008.

16 And this is the difference that I was
17 talking about where right now the current
18 provision is that guidelines must provide for
19 the children's health care needs. Now the
20 language says, Address how the parents will
21 provide for the children's health care needs
22 through health insurance coverage and/or
23 through cash medical support in accordance

1 with Section 303.31(b) of this chapter. And
2 by cash medical support, that can include an
3 offset for Medicaid or SCHIP. And now the
4 Federal Office of Child Support on its 157
5 Form is giving credit for states on the
6 percent of cases where medical insurance is
7 ordered or medical support is ordered, and
8 that's one line. And then the second line is
9 actually provided. And to be counted as
10 actually provided, there must be cash medical
11 support ordered when there is Medicaid or
12 CHIP, when the family is receiving Medicaid
13 or CHIP. And the rationale of this is very
14 simple is that Medicaid and CHIP, the costs
15 are escalating. Medicaid is absorbing about
16 twenty to twenty-five percent of state
17 budgets. It's a cost containment measure.
18 It's that the parents should be responsible
19 for the medical support of their children
20 prior to the state getting involved.

21 And they also are changing the
22 definition of reasonable costs. As I
23 explained earlier, it was considered

1 reasonable if it was employment related. Now
2 they're saying use a five percent of gross
3 income threshold or at a state option or
4 reasonable alternative income based numeric
5 definition.

6 And I'm going to just cut to the
7 chase. We recommend ten percent. And the
8 reason we recommend ten percent is that there
9 are studies -- and they are cited in the
10 Medical Support Brief -- that shows that
11 there is few cases, a few situations where
12 health insurance costs are less than five
13 percent. So ten percent is just too low of a
14 threshold when you compare it to average
15 incomes and average premiums.

16 But I want it to be very clear is that
17 this does not mean that cash medical support
18 has to be ten percent. And even if you were
19 to use a five percent threshold, cash medical
20 support does not have to be five percent. In
21 fact, that doesn't have to be determined in
22 the guidelines. This threshold has to be
23 determined in the guidelines. You can use

1 five percent or you can -- the way the
2 federal rule is, it has to be in the
3 guidelines. What states do as far as
4 defining how much is to be ordered for cash
5 medical support can be an agency rule.

6 And there's another little caveat to
7 that that I've got to tell you about is that
8 Medicaid can only receive money up to what it
9 expends on that child. So if there's managed
10 care and there are pm pm pm, which is payment
11 per month per member, is a hundred and twenty
12 dollars per month, they can receive a hundred
13 and twenty dollars per month for that child.
14 But if it's fee for service, which is, you
15 know, if the kid goes to the doctor, then,
16 you know, and let's say the kid doesn't go to
17 any doctor, then the agency could be
18 collecting cash medical support and have no
19 place to disburse that money. So you really
20 need to talk to the Medicaid agency about
21 that, you know, just to really understand
22 that. I think you guys do mostly managed
23 care here if I remember right, so it

1 shouldn't be an issue. But you really want
2 to talk because what they told me at the
3 Federal Office of Child Support when I talked
4 to Tom this week, I said, What if the state
5 is collecting five percent cash medical and
6 the family is not spending that. And he said
7 that they're encouraging states to disburse
8 that to the families, the custodial parent
9 families. They can't disburse it to
10 Medicaid. That's a problem. I mean, I'm
11 sure -- were you in Delaware?

12 MS. NELSON: No.

13 DR. VENOHR: So I just want to
14 encourage you to be very careful about that.
15 The second thing I want to recommend is that
16 you make sure that you can order cash medical
17 support by adding some language in there. I
18 just pulled the language from federal -- the
19 pending federal reg just to make sure that
20 the IV-D agency could do its job.

21 MR. BAILEY: But we have to include
22 that in our new guidelines.

23 DR. VENOHR: Right. I would -- the two

1 things I would recommend in the guidelines is
2 putting this ten percent of gross income in
3 that one provision that says employment
4 related and then just adding this. But, you
5 know, I'm okay. You can do whatever you
6 want. That's my best recommendation. But
7 you know Alabama and your cases better, and I
8 respect that. Okay.

9 MR. BAILEY: And, Jane, just to
10 clarify. It deals only with the medical
11 health insurance premium, not any
12 unreimbursed expenses. We don't have to get
13 into that arena.

14 DR. VENOHR: No.

15 MR. BAILEY: Good.

16 DR. VENOHR: Okay.

17 MR. BAILEY: Steve Wright has another
18 question.

19 MR. WRIGHT: Does it include premiums
20 paid for other forms of medical insurance?

21 DR. VENOHR: It can. It's at the
22 state's discretion. Some states include it;
23 some states don't. I mean, you can. And

1 hopefully, there's examples in here. Yeah.
2 Some of these states specify dental and
3 medical. This Arizona says vision. So you
4 can put it in there if you want if you think
5 it's important. The federal rule doesn't
6 address that. And I'm anxious -- I think
7 we'll get some good stuff from Texas, but
8 unfortunately that's going to be another
9 three years before we finish that project.

10 Okay. My least favorite subject.

11 Okay. I better find my notes. I'm going to
12 show you something. I'm just going to
13 deviate here. Yesterday, I was holed up in
14 my hotel room, and so I did something for
15 Louisiana that's the craziest thing in the
16 world. Louisiana, just before we delve in
17 Alabama, because states go from one extreme
18 to the other on multiple family
19 adjustments -- and this is purely a policy
20 decision. I feel like our job as technical
21 consultants is just to do what the state
22 wants, and this is a very extreme example.
23 In Louisiana, they became obsessed with

1 multiple family cases. There were -- the
2 Assistant Commissioner of Health and Human
3 Services there now used to be an attorney,
4 and she had a case where the noncustodial
5 parent had nine kids in six jurisdictions.
6 She got a modification in all the six
7 jurisdictions, and so she wanted a formula
8 for it on how to mathematically divide
9 support across all these different families.
10 And so her principle was equalization across
11 children. It's very different from a first-
12 child approach. Okay?

13 And so I guess that's the first thing
14 the Committee needs to really decide is
15 whether you want to equalize among the
16 children, or if you want to do a first-family
17 approach, which if you only have the
18 adjustment for prior-born, that's first-
19 family. When you expand it to subsequent-
20 born, then you're taking a different
21 approach.

22 And just look at this worksheet. I've
23 got to re-skew it just to show you it. Let's

1 see how complicated it is. They love it
2 because it does it automatically. But look
3 at this. But you only have to plug in --
4 let's see. It's all automatic. You only
5 have to plug in the numbers right up at this
6 point, the number of children in each family,
7 and then it calculates it all automatically.
8 But this whole calculation essentially
9 equalizes support between all the families.

10 MS. DAVIS: When you do that, do you
11 take in consideration the other income of
12 other household members?

13 DR. VENOHR: No, that would be
14 impossible to do.

15 JUSTICE STUART: Does it include all
16 the children of both parents?

17 DR. VENOHR: It only includes the --
18 the way they wanted to structure it, it
19 includes all the children of the noncustodial
20 parent, but it does not include the CP's
21 children. Oh, yeah, that's -- yeah.

22 JUSTICE STUART: All the children of
23 both parents.

1 DR. VENOHR: No, it doesn't. The
2 Louisiana approach only considers the
3 children of the obligated parent or the one
4 they're proposing or considering I should
5 say.

6 MS. DAVIS: Is there any state that
7 does that type of calculation --

8 DR. VENOHR: No.

9 MS. DAVIS: -- considering the
10 complications involved?

11 DR. VENOHR: No. I'll stick to the
12 simple stuff. I showed you the most
13 complicated to begin with. And what -- right
14 now, Alabama considers prior-born but not
15 after-born. And these were the Committee's
16 recommendations. Let's just ground ourselves
17 on where we were and where we might be
18 going.

19 And the Committee's recommendations
20 were to treat any child with a valid Court
21 order similarly. And the second was to
22 preserve the requirement of a valid Court
23 order to obtain the adjustment even if

1 parents have proof of payment. The third one
2 is to allow the Courts to deviate for
3 additional dependents who are not covered by
4 a Court order but live with that parent in an
5 intact household. And then, in addition, the
6 Committee members clarified that the
7 adjustments were to be applied to either
8 parent regardless of their gender or whether
9 the parent was the custodial or noncustodial
10 parent.

11 And if you take the time to read the
12 brief, you can see that that language on
13 intact family -- this is my take of it.
14 Obviously, I wasn't there. I got it all from
15 the Committee minutes. But it seemed like
16 you guys were really struggling with what to
17 call that family. And one of the reasons was
18 that, is the child in the home, is the child
19 not in the home, is the child a stepchild, is
20 the child a biological child, are the parents
21 remarried, et cetera. And so what I did here
22 is I -- we've got some languages from other
23 states, and I just highly encourage you to

1 read it to see if there is some language you
2 could pick up on that works better than using
3 that term intact family, just some -- you
4 know, it's all vernacular, and it's cultural,
5 too. I mean, who knows? What works better
6 in Alabama -- you know, what works better in
7 Minnesota might not work as well in Alabama.
8 So that's the intent is to give you some
9 examples.

10 I want to say that it's mixed as far as
11 whether states take that first-family
12 approach. There's a few states that don't.
13 For instance, my home state, Colorado, they
14 have a first-family approach. It's been very
15 controversial whether they need to extend it
16 to subsequent-born children.

17 I'm working with the State of Iowa
18 right now. They had a first-family
19 approach. They really thought about it.
20 They had a first-family approach, and they
21 had a very small adjustment. They took their
22 AFDC/TANF grant and divided it by two as
23 their adjustment. And I'm working with them

1 right now. And they said, Well, we did this
2 because we thought it would help the economic
3 incentive for people not to have more
4 children. And we realized it doesn't
5 matter. So they said, you know -- and they
6 were under the same pressure, too, that they
7 were thinking they are going to extend the
8 adjustment.

9 So the other thing I want to say is
10 that -- I don't have slides on this so I'll
11 just back up -- is if you look on page 4,
12 I've got a summary of what other states do
13 with those children that might be in the home
14 or where you have to impute a child support
15 obligation, and this gets to your point about
16 whether it considers the other parent's
17 income. And in Jersey, they require that
18 imputation to actually go out there and get
19 that other parent's income. Now, in other
20 states, they simplify it and just say, We're
21 just going to take fifty percent because we
22 know there is a third parent out there or
23 another parent that can support that child.

1 And then there is still another option where
2 states take seventy-five percent because they
3 find that taking seventy-five percent of that
4 imputed amount will equalize support between
5 the sets of children.

6 So if you're interested in equalizing
7 support between the children, my
8 recommendation would be to take seventy-five
9 percent of a dummy order or imputed amount
10 using only that parent's income, and it could
11 be the custodial parent's income or the
12 noncustodial parent's income. Very simple.
13 And that would be the approach of -- did I
14 put Arizona in here? Let's see. No.
15 Georgia. Georgia uses seventy-five percent.
16 And if you want to keep the first-family
17 approach, my recommendation is probably just
18 to leave it as is, you know. I wouldn't
19 recommend Louisiana, but I'll let you know
20 how it goes.

21 My read on what the Court's concerns
22 were -- and I could be totally wrong -- was
23 this whole issue about whether you want to

1 abandon the first-family approach or do you
2 want to stay with it. And another concern
3 that I saw -- and maybe I'm -- who knows?
4 Everybody interprets things differently. Is
5 that the after-born additional dependents of
6 noncustodial and custodial parents wouldn't
7 be treated similarly because most after-borns
8 of custodial parents aren't going to have a
9 Court order, so they're going to be a
10 deviation factor if we use the curve
11 recommendations.

12 So my recommendation on this is just to
13 do the homework if you're still not sure
14 about whether you want to extend this credit
15 to all children or just leave it first-
16 family. I've got a whole bunch of case
17 examples here where we've got children born
18 before and after and to whom and whomever.
19 And look at those and then discuss the
20 results and then tweak those recommendations
21 depending on what your policy decision is.

22 Do you have any comments or questions
23 on that, on the additional families? Like I

1 say, it's my least favorite topic, so I
2 totally whipped through it.

3 MR. BAILEY: We did have a lot of
4 discussion on that.

5 DR. VENOHR: Yeah. It's a hard
6 decision. I think it's my least favorite
7 discussion because it's a policy -- it's such
8 a big policy decision. Obviously, I would
9 rather do my Excel spreadsheet, even though I
10 think it's silly, with my Louisiana stuff.
11 No, it's funny. Louisiana just sends me the
12 principles and says, Come up with a
13 mathematical formula that does this.

14 Okay. So summary. Summary and
15 recommendations and steps for the guideline
16 Committee. These are my two cents, so
17 obviously you can dismiss them. And I
18 understand this is not a voting meeting.

19 MR. BAILEY: Right.

20 DR. VENOHR: Is that we have three
21 schedules, three options for the schedule.
22 We have the 2004 PSI one, which was put forth
23 to the Court. You now have the same one,

1 2007 Rothbarth. And the third is you can do
2 a Georgia approach. You can take the
3 average. You know, I think there is -- all
4 three of those are sound economic
5 methodologies. There is a rational basis,
6 and they have been used in the other states.

7 MR. BAILEY: Jane, let me just ask you
8 real quick. Most states now have the
9 guidelines schedule extend up to twenty
10 thousand gross; is that correct?

11 DR. VENOHR: Uh-huh. And all those
12 options would take it --

13 MR. BAILEY: Because I've had a number
14 of Judges ask me the one thing they wanted
15 the Committee to certainly do was have a
16 guidelines schedule that went to twenty
17 thousand dollars gross. It would help them a
18 lot.

19 DR. VENOHR: And I obviously would
20 recommend the 2007 Rothbarth.

21 MR. BAILEY: Yes.

22 DR. VENOHR: The second part of that is
23 deciding what to do with the low-income

1 adjustment. I put three options in this
2 report. And one was to update using the same
3 methodology only the eight fifty-one poverty
4 level. A second was to take eighty-five
5 percent of the poverty level, and some states
6 have done that. South Carolina. A third was
7 just a more gradual approach. And I want to
8 throw a fourth one out there which would be
9 the Colorado method. And, you know, I don't
10 know -- I'm not sure how you can do this, but
11 if you wanted to do the Colorado method, you
12 would probably want more examples.

13 MS. DAVIS: Refresh our mind. The
14 Colorado method.

15 DR. VENOHR: The equalization of
16 income. Because the other three methods only
17 consider the noncustodial parent's needs, and
18 the Colorado method or the equalization of
19 income considers both parents' or both
20 households' needs.

21 As far as health insurance, it seems
22 like that's still on the table. And
23 hopefully there is some language from

1 Missouri and other states that you can use to
2 tweak that to get it where you think is
3 appropriate, and we certainly can provide you
4 with some case examples using the Missouri
5 adjustments.

6 The fourth is regarding the federal
7 medical support rules, and there is two
8 things that I recommend there. One is that
9 you want to come up with the definition of
10 threshold for reasonable cost. If you're not
11 going to use ten percent, which is our
12 recommendation, you probably want to use five
13 percent just to comply with the federal
14 rules. The second component is to make sure
15 that you have something in your guidelines
16 that allows for cash medical support just to
17 keep the IV-D agency doing -- in business,
18 and that's pretty simple.

19 And then on the recommendation of other
20 children, again, I think that you need to ask
21 yourself whether you want to do family-first
22 or equalize support between the children. If
23 you want to do family-first, you probably

1 keep the existing provision. If you want to
2 do equalized income between the children, I
3 would do a dummy order and take seventy-five
4 percent. And in Alabama, it's called an
5 imputed order. In other states, it's called
6 a dummy order. So I apologize for that
7 language.

8 MR. ARNOLD: Usually it's reversed.

9 DR. VENOHR: There are no dummies in
10 Alabama.

11 MR. BAILEY: Jane, that was wonderful.
12 Any questions of Jane? We have her for
13 another few minutes. Any other questions
14 from the Committee? Jane, thank you very
15 much. That was wonderful. Great job. Great
16 job.

17 All right. We would now like to hear
18 from some of you. I understand during the
19 break some of you would like to address the
20 Committee. If you would, just take about ten
21 minutes each. If you'll sign in or just give
22 us your name so the court reporter -- Wayne,
23 have you got a sign-in sheet?

1 MR. JONES: Yes, I do.

2 MR. BAILEY: Who's first?

3 MR. JONES: Austin Humber.

4 MR. BAILEY: Thank you, sir.

5 MR. AUSTIN HUMBER: A few of the things
6 that I want to go backwards where she made
7 her presentation. The State of Alabama does
8 not recognize a prior child in Court.
9 Nothing. I have an older son that I am the
10 sole care and custody. I get no child
11 support, but the Judges don't look at that.
12 They don't care. As far as the health care,
13 they don't care about that either. I pay an
14 extremely high amount of child support, but I
15 am also one hundred percent paying my
16 children's health care. And that is after
17 insurance pays, anything left over, me and my
18 wife, my current wife, have to pay that.
19 Okay. We're billed for everything.

20 As far as the recommendations, y'all --
21 what's -- I'm looking at it like this: What
22 she recommended, you're going to send half
23 the State of Alabama into bankruptcy because

1 I'm not going to be able to afford my house.
2 I'm not going to be able to afford to pay my
3 light bill, my water bill, feed my child,
4 feed my other children. Come Christmas,
5 birthdays, hey, it's going to be nonexistent
6 in my household. I mean, yeah, I make good
7 money. I work for a good company. But
8 still, when you're paying fifty percent of
9 your income and she makes as good a money as
10 I do and I'm still out sixteen hundred, right
11 at sixteen hundred dollars a month between
12 health care cost and everything else, you
13 know, yeah, there needs to be some changes in
14 the child support laws in the State of
15 Alabama. But what y'all need to take into
16 account is where we stand, where the dad
17 stands or any moms out here that pays child
18 support. I'm not standing up here because
19 I'm a man saying we're getting screwed
20 because we are. It's everybody. It's the
21 women that's having to pay it just like the
22 men are. What y'all need to do is y'all need
23 to look at where they're putting us in a

1 position when we have to pay the child
2 support.

3 You've got people that, Hey, we don't
4 want to pay child support. Okay, we ain't
5 got to pay it. What does the State of
6 Alabama do? Nothing. They don't go after
7 them. I know of cases now that's in the same
8 courtroom that I'm in. The people are in
9 thirty, forty thousand dollars in arrears.
10 The Judges know where they're at. The Judges
11 know where they live, where they work. But
12 the people can't even get a warrant signed to
13 have them picked up. But us, the people
14 that's honest about it, pay our child
15 support, take care of our children, we're
16 left out in the cold.

17 The visitation, we're left out in the
18 cold on it. I get every other weekend with
19 my kids, and I get three weeks out of the
20 year, two weeks in the summer, one week in
21 the winter for Christmas. Y'all think that's
22 fair for me to see my kids like that?
23 Anybody? Tell me that's fair. Anybody in

1 I stand in that chart -- and I forget what
2 page it's on -- you're going to jack my child
3 support up to almost two thousand dollars a
4 year. Bankrupt. That's what's going to
5 happen. Thank you.

6 MR. BAILEY: Thank you very much.
7 Appreciate you coming today, sir. All right.
8 Wayne, who is next?

9 MR. JONES: Tracy McMichens.

10 MR. BAILEY: Thank you, ma'am.

11 MS. TRACY MCMICHENS: I would like to
12 speak to this Committee as a minority
13 represented here. I am one of the wives who
14 married these men. My husband just spoke.
15 If it was not for my income right now, he
16 would have already lost his home, his child
17 that he has sole custody of, sole support, no
18 child support received. He and that child
19 would be living with his parents right now
20 had it not been for my income. You jack it
21 up even more, I can't cover the debt then.

22 They say that the child that lives with
23 us doesn't count in Court because his child

1 support is figured in in our bills. Without
2 that child, it's not going to change our
3 house payment. It's not going to change our
4 car payment. It's not going to change the
5 homeowner's, the auto insurance. Nothing
6 will change. The power bill might change
7 four or five dollars, and the grocery bill
8 may change a few dollars a month. That's
9 it. What does change is that his clothing,
10 anything he does extra, which is few and far
11 between because there's so much that goes to
12 his brother and sister, any support he has,
13 anything that has to be done at school,
14 medical bills, anything like that is our
15 responsibility. But we get no credit for
16 him. That's whereas she spoke, she said that
17 prior children -- no. Prior children have
18 never been taken into consideration unless
19 the laws are different in Walker County than
20 the other sixty-six counties.

21 So there is no way -- like my husband
22 said, if y'all do this, we have two choices.
23 We go down the drain together, bankrupt

1 together. We divorce, and I try to salvage
2 us somewhere to live on my credit.

3 But one thing I'd like y'all to do is
4 look in that kid's face -- and I speak as a
5 child advocate because I did it for four long
6 years. Look in that kid's face and tell him,
7 No, Son, you can't play ball because we don't
8 have the money. No, Son, you can't have a
9 four wheeler. And then you see his brother
10 and his sister come in every other weekend.
11 They go to Talladega to the races. They go
12 to Atlanta to the races. They go to the
13 mountains. They go to Florida. They've got
14 all the new games. They've got all the new
15 clothes. He doesn't get it.

16 Now, psychologically, what does that do
17 to that child that's left out? Kind of makes
18 him bitter, and it's only going to breed
19 resentment. And down the road, somewhere
20 there's going to be a problem. Where there
21 should be a bond between two brothers and a
22 sister, there's going to be a separation
23 because psychologically that kid has seen the

1 difference that not only his parents and
2 stepmother have made -- or his dad and his
3 stepmother but the difference the Court
4 system in Alabama has forced us to make in
5 that child because there's thirteen hundred
6 dollars a month going to those other two
7 children. That's six hundred and fifty
8 dollars each that mom gets to spend.

9 I really figure where I messed up is I
10 should have been really smarter. Married
11 somebody with a good income, had a couple of
12 kids, took him to the cleaners. Then I would
13 have had the third income coming in every
14 month. We would have had new husband's
15 income -- we'd have new husband's income,
16 we'd have my income, then we'd have the child
17 support from the poor dad who's out there
18 busting his tail trying to support his kids
19 who he doesn't get to see. And new husband's
20 living high on the hog because, hey, you've
21 got a whole third income, tax-free I might
22 add. That income is not even taxed. It's
23 free money that they -- the Court does not

1 make them have to pay for those children.

2 There is nothing in the Courts that
3 says you have to prove what you spend on
4 those kids. You may take that thirteen
5 hundred dollars and pay for trips somewhere,
6 for new clothes for you, a new computer
7 system. There's nothing in the Court system
8 that makes the custodial parent prove what
9 they spend on those children every month.
10 That's something else you need to address.
11 They need to prove that they have spent that
12 money on them and not gone to casinos or gone
13 to Vegas or gone for a couple of weekends to
14 Atlanta or the mountains for her. You know,
15 you think that's fair that you give money to
16 another home and that money is not going to
17 where we're all trying to get it to go, to
18 the kids? Supposed to put the kids first and
19 think about the kids? Let's make sure
20 they're thought of. Make the custodial
21 parent come up with the receipts to prove to
22 the Court and the other parent that they're
23 spending that money on those kids, that

1 you're not paying the other parent's
2 support. We may be paying husband number
3 two's child support. Has anybody thought
4 about that?

5 There's a lot of things that the
6 Committee needs to think about if we are
7 truly going to be a state that puts the
8 children first, and that's all we hear in
9 Alabama, that the children need to come
10 first. We've got to do that. So there's a
11 lot more that needs to be addressed than what
12 she put in her presentation. And, please, if
13 one thing is considered, making the custodial
14 parent prove where they spend the money.
15 Thank you.

16 MR. BAILEY: Thank you very much.
17 Wayne, who is next?

18 MR. JONES: Mr. Bryan Hill.

19 MR. BAILEY: Mr. Hill.

20 MR. BRYAN HILL: I will try to keep my
21 comments brief as well. I'm here today to
22 express the views that many other Alabamians
23 share that are in a similar situation that I

1 am. I'm currently paying a quarter of my net
2 income to my ex-wife who makes eighteen
3 thousand dollars more than I do a year. That
4 amount alone is as much as my house payment.
5 My children are wearing the same clothes, but
6 she's got a brand new John Deere lawn mower
7 in her garage and a brand new wardrobe.

8 Under the new proposals, I'll be paying
9 more than half of my net income. This
10 wouldn't allow me enough to live currently.
11 I pay almost four hundred dollars in gas
12 alone, which we all know is going up.
13 Considering insurance, student loans, car
14 payments, and food, I would be forced to
15 liquidate everything that I have and declare
16 bankruptcy in order to survive. What about
17 my retirement or saving for my kid's
18 education?

19 Therein lies the problem with the new
20 proposal and the economics in general. There
21 are no case studies. There were no case
22 studies mentioned. It's strictly numbers and
23 not real life consequences, and that's why

1 I'm standing up here before you today. I've
2 spoken with dozens of people with a similar
3 situation that I am and these gentlemen back
4 here, and yet all you hear about are the
5 deadbeat dads, as they're commonly called,
6 but you hear nothing about the people
7 struggling to get by while paying their child
8 support timely.

9 I believe the more pressing issue that
10 stands before this Committee is a system of
11 accountability, such as we described before,
12 so that the child support being paid now is
13 going for the children themselves versus
14 other areas. Do we currently know how many
15 alcoholics or drug addicts are being
16 supported by the money currently being paid?
17 If the Social Security Administration, which
18 I work for, can monitor representative payee
19 beneficiaries, which number in the hundreds
20 of thousands if not millions, why can't the
21 State of Alabama account for the child
22 support that's being paid to see that it's
23 being used for the child? How many states

1 are currently doing so now? A system of
2 quarterly or at least semi-annual accounting
3 should be in place. I would be more than
4 happy to advise this Committee about
5 undertaking that, as technology can make this
6 a fairly simple process without taxing the
7 already strained resources of the state.

8 I'm taking a major chance even speaking
9 up before this Committee today because I
10 still have an appeal before the Judge now on
11 my divorce. I stood silent throughout the
12 whole ordeal in order to let the system work,
13 and the system at this point has failed me.
14 The state has failed me, and most of all,
15 it's failed my children. And the problem is
16 I'm a third generation educator, and I've
17 been a public servant for more than eight
18 years. And yet, I'm not qualified enough to
19 get split custody of my children. Are you
20 kidding me? That's part of the problem that
21 we need to be looking at in this state.

22 As for my recommendation to this
23 Committee other than that would be to table

1 this issue and have public hearings in
2 Mobile, Montgomery, Birmingham, and
3 Huntsville and get the public's opinion
4 because thirty minutes before we all leave
5 for a weekend is not going to cut it.

6 One more brief mention. I would like
7 to speak on behalf of somebody that had to
8 work today and could not be here. He is a
9 deputy sheriff that earns seventeen dollars
10 and nineteen cents an hour. He's currently
11 living at the federal poverty level that you
12 spoke of. His net income is eight hundred
13 and fifty dollars a month as a deputy sheriff
14 after he pays his child support. If the
15 proposals that she wants go into effect,
16 he'll have a hundred dollars every two weeks
17 to live off of. Now, that is absolutely
18 absurd.

19 All I ask is that you level the playing
20 field. Males are treated differently in
21 Court. They're treated differently in here.
22 And that's something that we need to look at
23 because I can take care of my kid as well as

1 any woman can. Thank you for your time.

2 MR. BAILEY: Thank you, sir. Wayne,
3 who is next?

4 MR. JONES: Mr. Frank Hicks.

5 MR. BAILEY: Frank Hicks.

6 MR. FRANK HICKS: First of all, I want
7 to thank you for this opportunity, and I'm
8 Frank Hicks. I'm a member of the Alabama
9 Family Rights Association, and I've seen many
10 of you before. This is not my first trip
11 here.

12 I was looking through the attachment --
13 well, through the 2007 recommended update to
14 the child support tables. And on page 3, it
15 talks about the Income Shares model, and it
16 says that it was developed to embody the
17 Advisory Panel's principles of state child
18 support guidelines as well as incorporate
19 actual evidence of child-rearing
20 expenditures. It does this through the
21 premise that the child should be entitled to
22 the same level of expenditures that the child
23 would have received had the parents lived

1 together and combined financial resources. I
2 submit to this Committee that that is
3 fantasy. You cannot support two households
4 on the same income at the same level before
5 the divorce. It's not possible. And to me,
6 the whole Income Shares model ought to be
7 thrown out.

8 We came here I guess it's been almost
9 two years ago. A number of us came here and
10 addressed this Committee and made a number of
11 recommendations, and I want to thank you for
12 considering those. However, I don't think
13 very many of them were given serious
14 consideration. The most important change to
15 these tables that could be made would be
16 considering relative time spent with each
17 parent, and the goal ought to be shared
18 parenting, not having a parent a visitor
19 paying the child support. And that is the
20 stated policy of the Alabama law, and we
21 ought to try to promote that, at least in the
22 way we calculate child support. If you've
23 got two parents and a child is living with

1 both parents half the time, there shouldn't
2 be a whole lot of child support changing
3 hands except in extraordinary circumstances.

4 I'm also concerned about the make-up of
5 this Committee. You're all fine people. I'm
6 not speaking against anybody personally, but
7 what we have here is a group of attorneys and
8 state employees. There are no
9 representatives of noncustodial parents that
10 are going to be affected by these child
11 support guidelines sitting on this Committee,
12 today at least. There may be two that are
13 not here because they've got a lawsuit filed,
14 but I don't think they are noncustodial
15 parents. There needs to be a make-up that
16 represents the people you're affecting here,
17 and particularly if you've got people that
18 have a background in economics, which is
19 really what we're talking about, not just the
20 law. It does affect people in real life
21 situations as other people have testified.

22 Mr. Rogers, Dr. Mark Rogers, made a
23 proposal that had a different methodology,

1 and that was rejected. I don't know why. I
2 would like to know why. Most of the --
3 again, most of the recommendations that the
4 public made two years ago have been set
5 aside, as far as I know are not being given
6 serious consideration by this Committee.

7 Also, when you revise these guidelines,
8 keep in mind that in addition to what you're
9 paying in child support, as the other
10 gentleman alluded to here, you're also going
11 to be paying for medical expenses and child
12 care expenses on top of that. And it can be
13 burdensome to say the least.

14 I was surprised to hear there's a forms
15 committee that met. I'm not sure what this
16 forms committee is doing since I don't know
17 how you can devise a form for child support
18 until we've decided how we're going to
19 compute child support, which is what you guys
20 are doing. I would like to know more about
21 that.

22 I'm also concerned that adequate public
23 notice has not been given about the even

1 goings on of this Committee. The only way I
2 found out about this Committee meeting was
3 through the internet.

4 I guess, in essence, I've got a lot of
5 concerns about the way we're doing business
6 here in the state. This is very important.
7 This affects a lot of people, almost
8 everybody in this state one way or the
9 other. So we need to rethink how we're doing
10 this because you are, in effect, setting
11 law. You can call it a guideline if you want
12 to, but it has the force of the law. If you
13 don't make these payments, they'll come put
14 you in jail, and you'll get further behind on
15 your payments. So please consider what I'm
16 saying to you.

17 I have to disagree, ma'am, with what
18 you said about most of the tax breaks going
19 to the middle class. Most of the tax breaks
20 have gone to the upper classes for the last
21 twenty years, and that's pretty well known.
22 The middle class is getting squeezed, and
23 this proposal intends to squeeze them even

1 more. That's something you need to consider,
2 also.

3 I don't know if these tables take into
4 consideration that as income goes up,
5 percentage of income spent on such things as
6 food and housing go down. I don't know. I
7 mean, I haven't read all this report. Maybe
8 it does.

9 I've got too many concerns to really
10 cover in ten minutes, but I agree with this
11 gentleman. We really need to have a more
12 open forum for public input than what we've
13 got. A lot of these matters are policy
14 decisions, which means really you don't have
15 to have a very sound basis. You can just
16 make a decision.

17 I think the ten percent amount you
18 mentioned is way too high for medical costs.
19 You yourself said other states use five
20 percent (inaudible).

21 THE COURT REPORTER: I'm sorry. I'm
22 having trouble hearing you.

23 MR. BAILEY: She can't hear you. I'm

1 sorry.

2 MR. FRANK HICKS: I said I thought the
3 ten percent figure the lady here recommended
4 was too high personally. She herself said
5 that other states are using five percent.
6 That's what I would recommend the Committee
7 use for medical cost imputation.

8 Anyway, that's all I've got to say.
9 I'm just concerned about the way this whole
10 thing was set up and operated in essence in
11 secrecy because ninety-nine point nine
12 percent of the people don't even know about
13 this meeting today. We need to fix that.
14 Government should be open. Thank you.

15 MR. BAILEY: All right. Who's next?

16 MR. JONES: Mitch Edwards.

17 MR. MITCH EDWARDS: Thank you for the
18 opportunity to speak with you today. I would
19 like to echo the comments that some who have
20 gone before me have said, and I do have great
21 concerns about how this Committee has
22 operated. I too stumbled across this
23 particular meeting and had a vested interest

1 and was too here, but I'm very concerned that
2 the majority of parents, whether they be
3 custodial or noncustodial parents, won't have
4 that same opportunity to be here to hear
5 these meetings.

6 I did participate or I should say that
7 I was here some sixteen, eighteen months ago
8 when Mark Rogers produced his report. And
9 since I have tried to follow some of the work
10 of this Committee, I'm a bit taken by
11 surprise that none of those recommendations
12 were acted upon at all. Some of the
13 recommendations in prior meetings have not
14 been acted upon at all. I think that speaks
15 volumes about this Committee.

16 Unfortunately, I think there has been a
17 fraud that's been perpetuated upon the
18 peoples of Alabama. I think part of that
19 fraud has to deal with the joint custody
20 arrangement that is being handed out with
21 divorce decrees. It's not really true joint
22 custody. In fact, what it is, what it comes
23 down to is who has primary physical custody

1 because that's where the money goes.

2 Unfortunately, what I did not hear
3 today were such things that addressed some of
4 these issues. To quote Jane early on, and I
5 think it was echoed on page 3 of that early
6 model that we had, was that the goal is that
7 it's about children getting the amount they
8 should receive if the parents remained
9 together. Getting the amount of what? The
10 amount of money? The amount of love? The
11 amount of support? The amount of
12 involvement? Later she said that it was to
13 equalize income between two households. Last
14 month I attended a meeting here in Montgomery
15 headed by Judge Aubrey Ford with regard to
16 visitation. And he said quite frankly that
17 the real reason child support was established
18 was to get -- quote, to get people off
19 welfare and reduce the burden of the state.
20 I'm afraid if many of those recommendations
21 that were presented here today were enacted
22 is that you're going to see a great deal of
23 poverty perpetuated in this state primarily

1 by noncustodial parents.

2 There are larger issues that have not
3 been considered by this Committee I think,
4 not only this Committee here in Alabama but
5 across the nation. When we're looking at
6 being able to support children, we should
7 look at things such as the ages of the
8 children, should we not? Does it cost the
9 same amount to raise a six-month-old as it
10 does a sixteen-year-old? Are the same
11 expenses incurred for an eight-year-old as
12 for an eighteen-year-old? I haven't heard
13 anyone address such issues.

14 It also -- what I haven't heard today
15 is it does not take into account the amount
16 of time noncustodial parents are involved in
17 the lives of their children. There are many
18 noncustodial parents that share equal time
19 with the custodial parents with the
20 children. And yet if there were two
21 households, one household made into two,
22 there are two light bills, there are two gas
23 bills, there are clothes, there are food that

1 has to be involved. But only one parent is
2 paying the other, and they're paying from
3 gross wages not from net income. Now, I
4 don't know about you, but I live in the real
5 world. I have a take-home pay. And from
6 that take-home pay, if I'm not the
7 noncustodial parent, I'm paying the custodial
8 parent additional income which is tax-free.
9 So that balance, again, it causes an
10 inequity, an inequality if you will, between
11 the two households. If the goal is to give
12 children and about getting children the
13 amount they should receive if the parents
14 remained together, the proposals that I heard
15 today certainly do not address those.

16 And finally, I'll conclude by saying
17 that we're not taking into account for the
18 custodial parents as a true household income
19 that they receive as well. Many times a
20 custodial parent, whether it be a male or
21 female, marries someone else and increases
22 their standard of living, which again causes
23 a greater inequity of which is not being

1 presented in the proposals that I'm seeing
2 today.

3 So in short, what I would see for the
4 Committee is to make your work more public,
5 more open for all Alabamians, both custodial
6 and noncustodial parents, that this issue and
7 many others that have yet to come to light
8 would be considered in a more open forum.
9 Thank you.

10 MR. BAILEY: Wayne, I think we probably
11 have time for one more.

12 MR. JONES: Yes, we have one more.
13 Mr. James Knox.

14 (Whereupon, someone in the
15 audience indicated Mr. James
16 Knox had already left.)

17 MR. BAILEY: Is that everybody? Let me
18 clarify for the Record about the notice
19 provision. Some of you mentioned that. Bob
20 and Wayne, we sent notice to the press about
21 this meeting I think several weeks ago,
22 public notice through your Administrative
23 Office of Courts.

1 MR. JONES: That's right. I did that.
2 I tried to cover the entire state.
3 Scottsboro, Huntsville down to Mobile and the
4 cities in between. I contacted the
5 newspapers and radio stations, TV stations --

6 MS. TRACY MCMICHENS: It was a teeny,
7 tiny little thing about that big square in
8 the Birmingham News.

9 MR. BAILEY: I just wanted to clarify
10 that we did try to --

11 MS. TRACY MCMICHENS: I mean, it was
12 one of those things you really don't ever
13 find.

14 MR. BAILEY: Well, we'll continue to do
15 the public notices that we've done before.
16 And to clarify your question about a meeting
17 yesterday, that was a meeting on court forms,
18 Judge's orders and Referees. It had nothing
19 to do with the Child Support Advisory
20 Committee. That was a separate group working
21 on standardized court forms.

22 MR. MANASCO: The meeting announcement
23 is compliant with the new Alabama Open

1 Meetings Law, and it's posted with the
2 Secretary of State on the internet. And
3 that's what makes the Open Meetings Law
4 requirement with the internet such a great
5 tool for the public because you can go to the
6 Secretary of State's website via the internet
7 and check for open meetings for all state
8 agencies that are going on, committees like
9 this. And seven days in advance is the
10 requirement of the law. But it does give you
11 the opportunity to know that something is
12 going on. And I would like to go on Record
13 as well in saying that this is not a
14 deliberative meeting. This is a meeting to
15 receive information. When you have a
16 deliberative meeting and a board or a
17 committee is involved or a quorum of a
18 committee is involved, public notice is made
19 available and there is opportunity for the
20 public to be there.

21 MR. BAILEY: Thank you, Mike. Well
22 said. All right. Penny, did you want to say
23 something? Penny Davis.

1 MS. DAVIS: I want to ask a couple of
2 questions relating to the comments that were
3 made while Jane is here. A couple of the
4 issues that were presented related to proof
5 of the payment going directly to the child,
6 some type of receipt form. Do any states use
7 annual or quarterly or some type of procedure
8 in which the custodial parent has to show
9 receipts to establish child support, how the
10 child support is actually being spent?

11 DR. VENOHR: There is several states
12 that have a provision that can require proof
13 of expenditures on the children. Louisiana
14 is a case in point. And it's not used very
15 often.

16 MS. DAVIS: Is it automatic or just if
17 ordered by the Court?

18 DR. VENOHR: No, it's never automatic.
19 You know, it's another -- it would be another
20 expensive government expenditure to do that
21 sort of tracking and monitoring of receipts
22 and the dollar amounts are -- you know, when
23 you hear people talking about that they can't

1 afford the mortgage. I mean, some of the
2 child support orders we're talking about are
3 two hundred and forty dollars. They'll
4 think, you know, is it worth it to try to
5 monitor expenditures on two hundred and forty
6 dollars a month is their question.

7 MR. BAILEY: Jane, in those states, is
8 it by case law, or is it in the guidelines?

9 DR. VENOHR: Yes, it's in the
10 guidelines.

11 MR. BAILEY: Okay. If you can make it
12 real quick because we're running over time.

13 MS. TRACY MCMICHEN: You know, it may
14 not be something that may be included in
15 everything. But if you have a custodial
16 parent that you have great proof that is not
17 spending the money on the children as it is
18 supposed to be, then open it up where you can
19 go to the Court and say, Look, produce it.
20 I'm not saying we should go to expense on
21 everything because there's custodial parents
22 out there that do the right thing, but
23 there's also those out there that don't.

1 DR. VENOHR: I just want to add one
2 more recommendation after listening to the
3 public comment is one, as I mentioned, having
4 a cap on child support orders like fifty to
5 sixty percent. And I heard -- and to be
6 honest, I heard some -- I was listening to
7 some of the order amounts, and the numbers
8 didn't make sense to me. The only way that
9 they could have made sense is if you had add-
10 ons for child care and health insurance. And
11 so I would encourage that also next time you
12 do public hearings, if you're going to talk
13 about your case, bring in your worksheets. I
14 mean --

15 MS. TRACY MCMICHEN: We weren't even
16 allowed to have one in Walker County.

17 DR. VENOHR: But if that's really
18 happening as far as orders being fifty
19 percent gross income, then there is a -- I
20 mean, I think that's a quick solution,
21 especially when we hear about escalating
22 health insurance costs. You know, several
23 states do that where they cap it.

1 MR. BAILEY: All right. Listen. Any
2 other Committee --

3 MS. DAVIS: One more. The other
4 question I heard was that there should be a
5 different amount of child support based on
6 the age of the children, calculation based on
7 the age. Does any state do that?

8 DR. VENOHR: I recommend against it.
9 There's two states -- well, three states.
10 Massachusetts, Washington, and Maine. And
11 the reason that I -- we recommend against it
12 is it's just because of a more cumbersome
13 calculation. If you want to do it right, you
14 should have an automatic clause that the
15 order automatically administratively adjusts
16 when the child ages. And, you know, we
17 definitely recommend things that keeps child
18 support policy more simple and not more
19 cumbersome. And in a highly judicial state
20 like Alabama, I can't see having an automatic
21 adjustment that works well. In Washington
22 state, they have a similar problem, so what
23 happens is that the order amount gets set at

1 the young child amount and never gets
2 modified upward. And so you really need a
3 process that supports that.

4 MR. BAILEY: All right. Any other
5 Committee member comments or questions? I
6 want to thank everybody for coming. Thank
7 you so much. Thank you, Committee members.
8 And we're adjourned.

9 (Whereupon, the meeting was
10 adjourned.)

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1 STATE OF ALABAMA
2 ADVISORY COMMITTEE ON
3 CHILD SUPPORT GUIDELINES
4 AND ENFORCEMENT
5 MONTGOMERY, ALABAMA
6

7 IN RE: CHILD SUPPORT GUIDELINES
8 COMMITTEE MEETING
9 SEPTEMBER 21, 2007
10

11 REPORTER'S CERTIFICATE

12 STATE OF ALABAMA
13 MONTGOMERY COUNTY
14

15 I, Laura A. Head, Licensed Court
16 Reporter and Commissioner for the State of
17 Alabama at Large, hereby certify that on Friday,
18 September 21, 2007, I reported the Meeting of the
19 Advisory Committee on Child Support Guidelines
20 and Enforcement, at the Heflin-Torbert Judicial
21 Building, 300 Dexter Avenue, Montgomery, Alabama,
22 and that the pages are numbered serially, 1
23 through 158, and contain a true and accurate
transcription of said meeting, ending with the

1 page number appearing at the top of this
2 Certificate.

3 This 18th day of October, 2007.
4
5
6

7 

8 LAURA A. HEAD, Court Reporter
9 Commissioner for the
10 State of Alabama at Large

11 MY COMMISSION EXPIRES: 2/6/08
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