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

IN RE: CHILD SUPPORT GUIDELINES
COMMITTEE MEETING
April 22, 2005

* * * * *

Advisory Committee on Child Support
Guidelines and Enforcement meeting held on
Friday, April 22nd, 2005, commencing at
approximately 10:00 a.m. at the Alabama Judicial
Building, 300 Dexter Avenue, Montgomery, Alabama;
reported by Laura A. Head, Court Reporter and
Commissioner for the State of Alabama at Large.

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LAURA A. HEAD, COURT REPORTER
(334) 286-4938 or (334) 202-4851

1 **ADVISORY COMMITTEE MEMBERS PRESENT:**

2 **Honorable Jack W. Hughes, Chairman**
3 **Presiding Circuit Judge**
4 **7th Judicial Circuit**
5 **Calhoun County Courthouse**
6 **25 West 11th Street**
7 **Anniston, AL 36201**

8 **Honorable Lyn Stuart**
9 **Associate Justice**
10 **Supreme Court of Alabama**
11 **300 Dexter Avenue**
12 **Montgomery, AL 36104**

13 **Honorable John B. Crawley**
14 **Presiding Judge**
15 **Alabama Court of Civil Appeals**
16 **300 Dexter Avenue**
17 **Montgomery, AL 36104**

18 **Honorable Aubrey Ford, Jr.**
19 **Macon County District Court Judge**
20 **101 E. Northside Street**
21 **Tuskegee, AL 36083**

22 **Honorable Mary C. Moore**
23 **Perry County Circuit Clerk**
24 **Perry County Courthouse**
25 **P. O. Box 505**
26 **Marion, AL 36756-0505**

27 **Mr. Stephen R. Arnold, Esquire**
28 **Suite 600**
29 **2025 3rd Avenue N**
30 **Birmingham, AL 35203**

31 **Mr. Gordon F. Bailey, Jr., Esquire**
32 **Suite 230**
33 **1001 Noble Street**
34 **Anniston, AL 36201**

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Mr. Tom Bernier
Alabama Department of Human Resources
Gordon Persons Building
50 N. Ripley Street
Montgomery, AL 36130

Ms. Jennifer Bush, Esquire
Legal Division
Alabama Department of Human Resources
Gordon Persons Building
50 N. Ripley Street
Montgomery, AL 36130

Ex-Officio Member:
Mr. J. Brian Huff, Esquire
Chairman, Family Law Section, Alabama State Bar
Suite 302
2801 University Boulevard
Birmingham, AL 35233

Also Present (for Bonnie Teague):
Mr. Kelley Christian
409 County Road 181
Moulton, AL 35650

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(Whereupon, the following
Committee Meeting was had and
done as follows:)

JUDGE HUGHES: I will go ahead and call
the meeting of the Supreme Court's Advisory
Committee on the Child Support Guidelines to
order. We do have a quorum of the members
present. And I'd like to go over a few
housekeeping things with you and welcome the
public, too, to our meeting.

For the gentlemen, the restroom --
gentlemen's restroom is down this hallway
down past the elevators. The ladies'
restroom is down the other hallway at the end
of this hall down there and back toward the
elevator area. So if you need to step out
during the meeting, just do so quietly and
that will be fine.

I would ask you that if you have cell
phones or beepers, if you would put them on
vibrate or quiet mode at this time so that we
won't be interrupted by the phones ringing.
And since I said that, let me check mine.

1 That would be embarrassing to have mine be
2 the one to go off.

3 I would like to have the committee
4 members to introduce themselves, and I will
5 start. I'm Jack Hughes, and I'm a Circuit
6 Judge. I have been on the bench for eighteen
7 years. I have been on this committee since
8 -- I think it was '88 or '89 that I was
9 appointed to this committee. So I have been
10 on it probably -- Let's see. I know Gordon
11 Bailey has been on it longer than me. He
12 goes back to the original committee with
13 that.

14 But we would want to get the committee
15 members to introduce themselves. And for the
16 court reporter's benefit, for the committee
17 members, when you start to speak, please
18 identify yourself again so she can get that
19 down. If we have anyone from the audience
20 that speaks, please state your name, also, so
21 that we will -- she'll be able to get that,
22 and we'll have an accurate record of who have
23 made comments to the committee.

1 And if you would start, right here. We
2 will let you --

3 JIM WOMACK: Introduce myself? My name
4 is Jim Womack, a citizen. I don't know if
5 I'm going to get a chance to speak, but I do
6 have a few things that I'd like to say to
7 this committee. I have testified to them
8 before.

9 JUDGE HUGHES: Are you on the committee,
10 sir?

11 MR. WOMACK: No.

12 JUDGE HUGHES: All right. If you would,
13 take a seat at one of the other tables,
14 please.

15 MR. WOMACK: Should have went to law
16 school.

17 JUDGE HUGHES: Going to law school would
18 not be one of the criteria, Mr. Womack. It
19 would be an appointment to the committee.
20 Okay.

21 MR. BERNIER: I am Tom Bernier. I am
22 Director of DHR's Child Support Program.

23 MS. BUSH: Jennifer Bush, Legal Counsel

1 for Department of Human Resources.

2 MR. BAILEY: Gordon Bailey, private
3 practice and Special Court Referee in Child
4 Support. Been on this committee since the
5 inception, as Judge Hughes said. Been in
6 practice for thirty-five years. Four years
7 in the JAG Office.

8 JUDGE FORD: Aubrey Ford, Macon County
9 District Judge where I've served for twenty-
10 seven years. I've been on the committee
11 since the inception.

12 MR. CHRISTIAN: My name is Kelley
13 Christian. I am sitting in for Bonnie
14 Teague, who is not able to attend. She's had
15 a death in the family. And if Mr. Chairman
16 wouldn't mind, I think it would be
17 appropriate if we would observe, before we
18 started, a moment of silence for Ms. Teague.

19 JUDGE HUGHES: All right. We will just
20 stop right there. And if you would, just bow
21 your heads and observe a moment of silence,
22 then, for one of our committee members.

23 (Brief pause.)

1 JUDGE HUGHES: Thank you very much.

2 MR. HUFF: Brian Huff, lawyer in private
3 practice in Birmingham, Chair of the Family
4 Law Section of the Alabama State Bar.

5 MR. ARNOLD: Steven Arnold, private
6 practice lawyer from Birmingham, Alabama.
7 Along with Gordon Bailey, I've been on this
8 committee since its inception.

9 JUSTICE STUART: I'm Lyn Stuart. I am
10 an Associate Justice on the Alabama Supreme
11 Court.

12 JUSTICE CRAWLEY: I'm John Crawley. I'm
13 Presiding Judge of the Alabama Court of Civil
14 Appeals.

15 JUDGE HUGHES: The first item on our
16 agenda is the election of a Vice-Chair. And
17 the floor is open for nominations.
18 Do we have any nominations? Don't be shy.

19 MR. ARNOLD: I will nominate Gordon
20 Bailey.

21 MR. HUFF: I'll second that.

22 JUDGE HUGHES: Any other nominations?

23 JUDGE FORD: Nominations closed.

1 JUDGE HUGHES: Second to that.

2 MR. BAILEY: Thank you, Steve.

3 MR. ARNOLD: We'll discuss it later.

4 JUDGE HUGHES: All right. All in favor
5 of Gordon Bailey as the Vice-Chair, say aye.

6 (Whereupon, committee members
7 in favor of the motion so
8 indicated.)

9 JUDGE HUGHES: Gordon you got that one
10 real easy.

11 MR. BAILEY: Thank you, Judge.

12 JUDGE HUGHES: All right. The first
13 item on the agenda is the consideration of a
14 proposal that was submitted by Judge Crawley,
15 and that deals with a modification to Rule
16 32(E), by adding subsection (E) (2) and
17 amending subsection (F) (1) and by adding the
18 others. That proposal, Judge Crawley passed
19 that out. That is the one of the draft --
20 March 12, 2004, proposal. And that is a
21 requirement of filing the child support
22 income affidavit within forty-two days of
23 being served and that -- and for the

1 petitioning party to file it along with their
2 petition.

3 JUSTICE STUART: I am Lyn Stuart. I
4 would move the adoption of the draft
5 proposal, proposed changes to Rule 32(E).

6 JUDGE HUGHES: Do we have a second?

7 JUSTICE CRAWLEY: Mr. Chairman, may I be
8 heard since there seems to be a little
9 reluctance on the other committee members?

10 JUDGE HUGHES: Certainly.

11 JUSTICE CRAWLEY: The -- As I stated,
12 I'm Presiding Judge of the Court of Civil
13 Appeals, but more importantly, I've been
14 there for a little over ten years. And we
15 constantly must reverse cases simply because
16 the parties have not filed a one-page form.
17 This causes a delay in the case. Probably it
18 doesn't cause any change in the amount,
19 although sometimes it does.

20 But the reason that we have decided
21 that -- First of all, the Rule says that
22 filing the form is mandatory. But we feel
23 that it's important. It is child support.

1 Even when a parent who does not file the form
2 on appeal -- Or it is, Well the forms aren't
3 filed. Well, that's very aggravating to have
4 to reverse it. But we feel that getting the
5 correct amount of child support is paramount
6 over gains.

7 This has been the law since the Rules
8 were passed, and even when we stated in '94
9 that we would do this procedure, the parties
10 still don't do that. So the purpose of this
11 amendment to (E) -- and (F) is not on the
12 motion just (E) -- is to put some teeth into
13 it. And this is about all we could come up
14 with. We tried to make it as innocuous as we
15 could, but we don't want the trial judges to
16 have to do the heavy lifting here.

17 And the reason we put an amount of ten
18 dollars a day -- the committee may want a
19 different amount -- but was to keep the local
20 judge from being put on the spot. That's the
21 reason we put a minimum attorney's fee of a
22 hundred and fifty is to keep the local judge
23 from being put on the spot. I would think

1 that it wouldn't take but a few impositions
2 of ten dollars to get the attention of the
3 local bar to doing this.

4 This is a very, very simple matter that
5 should be done immediately, not the day
6 before the court or even after the court
7 because some judges, when they finish the
8 hearing will say, Well, now, I am not going
9 to render a decision until -- I am not going
10 to release it until everybody files their
11 forms. Well, that sounds okay except for one
12 matter. What if one person doesn't want the
13 divorce? They just don't file the form.
14 Well, then you've got one party running the
15 court, and that's certainly not a way to run
16 your court.

17 So I thought that this would be a good
18 way to -- Let's try, at least. We can always
19 change it, but let's try it and see if it
20 will work. Any questions about it?

21 MR. CHRISTIAN: Yes, Judge Crawley.
22 Kelley Christian. I was reading the part
23 that said the court shall award a penalty of

1 not less than ten dollars a day to either
2 parent for the other parent's noncompliance.
3 So is that stating that -- I mean, what's the
4 purpose? Am I being asked to sort of hurry
5 the other party along or --

6 JUSTICE CRAWLEY: Let me find that.

7 MR. CHRISTIAN: That's on page --

8 JUDGE HUGHES: It's on page 3, line
9 8. If the purpose is to take the trial court
10 out of it, then we've still got to make an
11 assessment in the finding.

12 MR. ARNOLD: If the trial court is still
13 in it -- And if I may Mr. Chairman, Judge
14 Hughes. It does seem simple on its face, but
15 to many practitioners, it is not so simple.
16 The documentation or the calculation of
17 income for some people is not a readily
18 accessible process. There are many people in
19 the state who are self-employed, small
20 business owners, farmers, what-have-you,
21 whose income is not an ascertained figure
22 until a great deal of work occurs.

23 So having that under some sort of

1 penalty that, A, you either have to have that
2 income before you have -- or that figure
3 before you have the privilege of filing, or
4 to respond to it within a certain matter of
5 time or face some sort of penalty is in many
6 instances not a practical solution. That
7 would then involve the intervention of the
8 trial court to determine whether or not that
9 person is in compliance, isn't in compliance,
10 could have complied, should have complied.
11 It's almost like it's a mini case in itself,
12 which I think adds more to the problem.

13 When the judges themselves can take, you
14 know, into consideration that, you know, If
15 you don't provide your income information or
16 your income affidavit as required, I'll not
17 withhold ruling, I'll just rule against you.
18 That would certainly bring about some results
19 and some cooperation.

20 It's not always a practical thing to do,
21 and it's not always just a one-piece-of-paper
22 proposition for those who are in private
23 practice. In the DHR areas, you have a lot

1 of individuals who have a lot of different
2 problems, a lot of different issues, aren't
3 necessarily able to comply with a great deal
4 of ease. You have DHR lawyers who have a
5 mountain of a caseload who keeping up with
6 them and their load is very difficult.

7 Then you have another issue, if I may,
8 and that is the attachment of documentation.
9 I don't know about most people, but I know I
10 regard my tax return as being very private.
11 And for it to be filed a public record in a
12 court file and some of my clients -- I'm
13 sorry -- but their tax returns are that
14 thick. Some are that thick. I don't believe
15 the clerks of our court system need that
16 particular burden to attach that kind of
17 documentation.

18 I'm totally sympathetic with the problem
19 that Your Honor is raising, and I believe
20 that there are parts of what are being raised
21 here that can add to the solution. But I
22 wish some caution in that we don't create a
23 larger problem with the solution.

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1 JUSTICE STUART: Can I just point out
2 that I only moved the adoption of Rule -- the
3 proposed amendment to Rule 32(E), and so if
4 everyone addressing it would please indicate
5 whether they have a problem with (E) or (F)
6 or with both.

7 MR. ARNOLD: I am Steve Arnold by the
8 way. I forgot my role.

9 JUDGE FORD: I have a practical problem
10 with Rule 32(E).

11 JUDGE CRAWLEY: Speak up.

12 JUDGE FORD: Ninety-five percent of the
13 people who appear in my court are never--
14 marrieds and are not represented by counsel.
15 Most of the time they don't know what to
16 file. Most of the information is gathered on
17 the day of court as opposed to being
18 prefiled. So to require that -- the
19 prefiling of this information is just not
20 going to work as far as DHR cases are
21 concerned.

22 JUDGE HUGHES: Judge, might I ask a
23 question? And I understand where you're

1 coming from because I've seen your reversals
2 in that because the Record was not complete.
3 Would it not: -- One, I see that we've got a
4 judge-training problem, that the judges are
5 not having the documentation in the file that
6 should be in the file. But rather than a
7 reversal, would not a notice to the trial
8 court that the CS-41's were not included and
9 that they have so many days in which to
10 obtain the CS-41's and send back -- Rather
11 than reversing the whole case, they'd just
12 give a notice that it was not in there.

13 JUSTICE CRAWLEY: Yes. That's what
14 Martin said is we would reverse and remand.
15 It's foolish to just reverse the case because
16 one form is missing.

17 JUDGE HUGHES: And I understand that,
18 and the remand, also. But before a remand,
19 why not just a notice that it's not in
20 there? Would that not be something that
21 could be done? Just a notice to the trial
22 court, We have gotten the file on the appeal,
23 The CS-41's are not included, You must have

1 the CS-41's included. Would that be a
2 possibility?

3 JUSTICE CRAWLEY: Of course it would,
4 but that's -- Let him speak before --

5 JUDGE HUGHES: Okay.

6 MR. ARNOLD: I'd like to suggest some
7 consideration to this solution that a trial
8 court, upon entry of its order, must certify
9 as a paragraph in the order that the CS forms
10 have been submitted and are of Record.

11 JUSTICE CRAWLEY: May I respond to
12 that?

13 MR. ARNOLD: Please.

14 JUSTICE CRAWLEY: The trial courts have
15 enough to do. It's the parties'
16 responsibility. It's mandatory for the
17 parties to do it.

18 And I'd like to respond to some other
19 comments that he made a while ago.

20 JUDGE HUGHES: Judge, before you do
21 that, let me state from the trial court
22 level, that it's the trial judge's
23 responsibility to review in a trial of the

1 case that you've got it. You should -- They
2 should be submitting it at the trial of the
3 case. If it's not done, then that's the
4 trial judge's fault for not requiring it to
5 be done. In an agreement, the judge has
6 still got to review that file --

7 JUSTICE CRAWLEY: Exactly.

8 JUDGE HUGHES: -- to see if -- One, you
9 have got to look at the child support
10 guideline, and you've got to look and see if
11 those are in compliance. If it's not in
12 compliance and they haven't given a reason
13 for deviation, then you've got to reject it.
14 You can't --

15 JUSTICE CRAWLEY: That's correct.

16 JUDGE HUGHES: -- do anything else. So
17 I'm seeing this as a problem at the trial
18 court level rather than the parties for the
19 trial court not enforcing what the Rule
20 already is.

21 JUSTICE CRAWLEY: Well, the purpose and
22 the way I've worded this Rule is to try to
23 put the burden on the party. And the reason

1 I put sanctions in there is to get their
2 attention. Now, obviously there might be
3 some instances of one or two percent of the
4 cases where they're self-employed or farmers
5 or something like that. But obviously, in
6 forty-two days, if you get sued for divorce,
7 you can come up with the information. A good
8 business person is going to have it anyway.

9 But most of them are wage earners, and
10 the trial court should not be involved in
11 this unless there is a noncompliance. And I
12 put the sanctions in there, again, to
13 encourage the parties to go ahead and do it,
14 and then it doesn't come up to the trial
15 judge.

16 Yes?

17 MR. CHRISTIAN: Yes, sir.

18 JUSTICE CRAWLEY: Excuse me. That's
19 Mr. Chairman's response. Not mine.

20 JUDGE HUGHES: Yes?

21 MR. CHRISTIAN: My complaint was -- I
22 don't have a problem with you charging me ten
23 dollars a day or whatever because I'm going

1 to provide my information. But saying that I
2 can be penalized because the other party
3 won't provide theirs, you know, that's where
4 I --

5 JUSTICE CRAWLEY: No, you won't be
6 penalized.

7 MR. CHRISTIAN: It says --

8 JUSTICE CRAWLEY: It would be for
9 failure to comply.

10 MR. CHRISTIAN: -- Not less than ten
11 dollars a day to either parent for the other
12 parent's noncompliance.

13 JUSTICE CRAWLEY: Well, now, that's on
14 the second part of the Rule. But even in
15 that part, the person who complies -- If you
16 file the divorce, your client is supposed to
17 file the Form 41 then. All right. The other
18 party has forty-two days, about -- you know,
19 that's more than the thirty days for the
20 attorney to be involved and file an answer.
21 And he then instructs his client to get the
22 information up.

23 And, again, if you leave it to the trial

1 -- And, of course, trial judges should have
2 great discretion. But if you leave it to
3 them on this, in my experience, you are not
4 going to say, Well, Joe, you've been four
5 months late getting it in, but get it in
6 tomorrow. This puts the burden on them to
7 keep up with it.

8 MR. CHRISTIAN: I was just looking for
9 something to say -- to mean a penalty of not
10 less than ten dollars a day to either parent
11 for noncompliance instead of --

12 JUSTICE CRAWLEY: What does it say?

13 MR. CHRISTIAN: It says for the other
14 parent's noncompliance.

15 JUSTICE CRAWLEY: Well, yes, that would
16 be ten dollars from the noncompliant parent
17 to the compliant parent. That's the --

18 MR. CHRISTIAN: Oh, okay.

19 JUSTICE CRAWLEY: The committee could
20 change the Rule to make it payable to the
21 state.

22 MR. CHRISTIAN: Okay. Well, just the
23 way I was reading it there it was saying

1 that -- it didn't say if it was going to me
2 or whoever. I was just under the assumption
3 that it would be going to the court, that I
4 would be penalized ten dollars for her not
5 complying.

6 JUSTICE CRAWLEY: Well, if you've
7 represented clients, you know they are going
8 to have a fit before they give any money to
9 the other spouse. I mean, giving it to the
10 state is bad, but giving it to the other
11 spouse is horrible. The whole purpose of
12 this amendment is to get them to comply.

13 And another thing, too. I think that it
14 might help settlement if all of this
15 information were on the table at the
16 beginning so there won't be this yah-yahing
17 back about how much child support we're going
18 to pay. A lawyer should be able to tell his
19 client, This is how much child support you're
20 going to receive, This is how much you're
21 going to pay, long before they get before the
22 judge.

23 What a lot of parties now are doing are

1 using the judge to calculate it according to
2 the schedule. The judge is too busy for
3 that. We get paid a lot of money to be doing
4 fourth grade arithmetic.

5 Other comments? Okay.

6 MR. HUFF: May I, Mr. Chair? Brian
7 Huff. Justice, I see -- I think -- I hear
8 what Mr. Arnold says, and I think there is a
9 lot of merit in what he says. I believe that
10 if we were to order that the CS-41 be filed
11 at some time, it might be more appropriate to
12 set that deadline at some point prior to the
13 trial of the case, given what Mr. Arnold
14 says. And, in addition, I have a problem
15 with the trial court shall award a penalty
16 and not leaving whether or not to find the
17 individual in contempt or whether or not to
18 award the penalty to the discretion of the
19 trial court, because there can obviously be
20 unforeseen circumstances that may prohibit or
21 prevent someone from filing this in a timely
22 manner.

23 And, also, the requirement in Section

1 (F) (1) on the first page of certain receipts
2 and expenses if self-employed. I happen to
3 do a lot of Petition for Protection from
4 Abuse cases myself, and if this were to apply
5 in that type of a case and I have a client
6 who is potentially the victim of abuse who is
7 self-employed, it could seriously delay the
8 filing of that petition and, thereby, getting
9 her the protection that she needs. So I
10 would suggest that, if this were to take
11 place, that instead of being filed
12 simultaneous with the complaint, that it be
13 at some point prior to the trial date.

14 JUSTICE STUART: I don't think there had
15 been a second --

16 JUDGE HUGHES: There hasn't.

17 JUSTICE STUART: -- so it's really --

18 JUDGE HUGHES: We're going to close the
19 discussion at this point. Is there a second
20 to the motion? Motion dies for lack of a
21 second.

22 Number three on the agenda is the
23 consideration of the proposal submitted by

1 Judge Gosa of Lamar County to amend Rule
2 32(B) (7) (a). If any of the public would like
3 a copy of the agenda...

4 (Whereupon, copies of the
5 agenda were passed out.)

6 JUDGE HUGHES: All right. This deals
7 with the issue of the inclusion of health
8 insurance premiums. Currently, the child
9 support rules require that the total amount
10 of the premium in which the child or children
11 are covered under be included in the
12 calculation of the child support. In case of
13 the obligor having that, it could make very
14 little change. If the obligee or the payee
15 has the -- or the recipient has the child --
16 has the insurance, it increases the premium
17 substantially in that. And the
18 recommendation is that this be changed to
19 allow on the insurance portion for the -- for
20 it to be prorated for the actual number of
21 people that are included on that insurance
22 coverage.

23 Do we have a motion regarding the

1 changes to Rule 32(7), (A) and (B)?

2 Actually, it's not (A) but (B).

3 MR. ARNOLD: I would like to move the
4 adoption of it merely so we can get to the
5 discussion at this point because it bears
6 some real thought. As to whether it passes
7 or not, I am not taking a position at this
8 time. But I move its adoption.

9 JUDGE HUGHES: We have a motion to adopt
10 the recommendation. Do we have a second?

11 MR. HUFF: I'll second that.

12 JUDGE HUGHES: All right. It's open for
13 discussion.

14 MR. ARNOLD: Mr. Chairman, if I may, I
15 have a couple of questions. I think Judge
16 Gosa's proposal bears some considerable
17 thought and some considerable investigation.
18 We are experiencing, at the present, a
19 rapidly escalating cost of health insurance,
20 which is pretty much universal among the
21 populous. It is not unusual to see insurance
22 premiums as high as six and seven hundred
23 dollars a month for people who are in

1 closely-held businesses, even some large
2 corporations, large plants, things like
3 that. And that is obviously having a very
4 significant impact on the ultimate
5 calculation of child support. We are
6 experiencing that at all levels right now.

7 The investigation that I would like to
8 see is -- I don't know that we are equipped
9 to make these policy decisions at this
10 particular time at this particular body
11 without some investigation by the economists
12 or people we rely on, past or future, who do
13 the calculation of the tables. I know that's
14 a point of discussion, an entirely separate
15 matter. But the cost of insurance is a part
16 of that process, and it should be looked at
17 because there are a lot of considerations to
18 bear there.

19 Just by way of example, what if a -- in
20 a modification process, a husband who is
21 obligated to provide health insurance does
22 not but his new wife does and his children
23 are covered and therefore there is compliance

1 with an order but it's not coming out of that
2 gentleman's paycheck, it's still coming out
3 of his family's economic base. So that's
4 just one example of many that could be
5 thought about.

6 What -- The other thing that needs to be
7 thought about is the tables that we have -- I
8 know this is a matter of some controversy. I
9 am not trying to kick sand in this
10 controversy at all. But when the tables were
11 created, the proportionate cost of health
12 insurance to the family as compared to total
13 income was drastically different than it is
14 today. And the economics of that I think
15 really needs to be studied.

16 With that, those are just my questions
17 and my concerns, and they are not a statement
18 of my position.

19 MR. CHRISTIAN: Mr. Chairman, I'm trying
20 to recall if last year it was brought up by
21 someone in the audience and in the public
22 that I think what he was trying to address
23 was for them to provide insurance on their

1 children, provide family coverage. The
2 children's custodial parent was providing the
3 family coverage, the coverage on the
4 children. They were being assessed the cost
5 of that family coverage which, in turn,
6 covered the spouse and -- you know, the
7 custodial parent's spouse and all. Only this
8 year -- And I agree with the gentleman here.
9 Only this year, personally, in my dealings
10 with the Blue Cross that I deal with did they
11 break down our coverage where I covered me
12 and the children -- me -- you know, they
13 broke it down into categories where I could
14 either have single coverage, single and
15 children, single, wife and children --
16 spouse, and single, spouse and children.

17 And so I think that what Judge Gosa's
18 intent was -- in talking to him last year
19 was, like, we don't want the noncustodial
20 parent being assessed coverage for his
21 ex-spouse or her ex-spouse and all in here.
22 How you separate it, I don't know.

23 I don't know if the court, the trial

1 court, would say, Hey, you've got four
2 people, three children, a hundred dollars a
3 month -- Let's say, for just simplicity's
4 sake, the three children's part is seventy-
5 five dollars. You're going to pay -- You
6 know, I mean, I don't have a plan for doling
7 out how much each person is assessed coverage
8 for and -- But I think someone that spoke
9 last year, that was what was happening to
10 them. For them to be able to provide
11 coverage for their children, the custodial
12 parent had them on their plan, and they were
13 being assessed coverage -- family coverage
14 for the premiums for that ex-spouse's
15 insurance. And that way, you know, they got
16 into they were paying for the ex-spouse's
17 coverage and their spouse and so on.

18 JUDGE HUGHES: That's correct.

19 Gordon --

20 MR. BAILEY: Yes?

21 JUDGE HUGHES: -- and to Steve's
22 comment, correct me if I am wrong. In going
23 back to our original chart and studies, that

1 was the reason the separate category was put
2 in there for insurance is because it is not
3 included in that overall cost, right?

4 MR. BAILEY: That's correct.

5 JUDGE HUGHES: Okay. I didn't think it
6 was. I wanted to make sure.

7 MR. ARNOLD: And I totally agree that
8 that was the scenario. I will -- And I did
9 some pro bono work for a friend's friend the
10 other day, and we did the child support
11 calculation. And after subtracting the
12 insurance at the bottom of the calculation,
13 the custodial parent owed my client fourteen
14 dollars. And it was strictly due to the
15 math, that the cost of that gentleman's
16 health insurance, based on both these
17 people's very nominal income, that was coming
18 out of his paycheck killed child support.

19 And I understand Judge Gosa's intent.
20 But that's the reason I say the economics of
21 the table do relate to that, even though it
22 is a separate event. And I do understand
23 that, and that is correct. But times have

1 changed, and it's had an impact. I would
2 like to know more of what their side of that
3 is.

4 Gordon, you're in that realm of a very
5 diverse universe of obligors and recipients.

6 MR. BAILEY: I would like for Jennifer
7 to comment on that, Mr. Chairman. But if
8 it's some comfort to the committee, we have
9 struggled with this issue since '85 on
10 whether to include the whole premium or
11 whether to just proportion it out with the
12 children, who should be primary, secondary.
13 So we have really been struggling with this
14 for the last twenty years, this issue.

15 JUDGE HUGHES: Jennifer, do you --

16 MS. BUSH: Jennifer Bush, DHR. First of
17 all, there is case law out there. Balfour,
18 B-a-l-f-o-u-r, versus Balfour, which states
19 that if a noncustodial parent or custodial
20 parent's spouse provides the health
21 insurance, that amount could be used in the
22 guidelines. DHR's position, you know, we
23 certainly think if there is a way to prorate

1 the amount for the children out of the full
2 amount, that would be a more equitable result
3 as opposed to including the entire amount.
4 How we do that is the question. I can't
5 speak for everyone here, but it does seem
6 equitable that a person should not have to
7 pay for the ex-spouse's coverage or that
8 spouse of the ex-spouse.

9 MR. ARNOLD: Or the new spouse's new
10 children.

11 MS. BUSH: Or the new children or the --
12 or whoever else. The noncustodial parent
13 should only be responsible for their
14 children, but how we prorate that amount
15 out -- And it could be as simple as simply
16 dividing. And there are some premiums --
17 Such as the state, you have family coverage,
18 blanket. That's it. It doesn't break down
19 one person, two people, three people. So it
20 could be as simple as dividing it among the
21 number of people who are covered. I mean,
22 that's a very simplistic way, but you could
23 do it that way. If it's broken down, as this

1 gentleman's insurance may be, then that would
2 obviously be a more accurate method.

3 MR. ARNOLD: And if I may, Mr. Chairman,
4 I am not opposed to the position DHR is
5 taking. I proposed adoption of this
6 amendment just to get this dialogue going,
7 and I agree it's not a mathematically simple
8 thing to do. I think DHR's position -- hold
9 still, Gordon, hold still -- is probably
10 right.

11 MS. BUSH: Well, let me back up. DHR --

12 MR. BAILEY: Did the court reporter get
13 that? I'm sorry. But I'd like a copy of the
14 transcript.

15 MS. BUSH: DHR's position is to follow
16 whatever the Rule 32 Guidelines are. So let
17 me back up. I may have misspoke. Our
18 position is that whatever the guidelines say,
19 we do. And now it says we take the full
20 amount of insurance, and we do.

21 MR. ARNOLD: I understand.

22 MS. BUSH: But from all of the -- You
23 know, from the DHR personnel I have talked

1 with and from experience in child support, it
2 does seem more equitable to be able to divide
3 out and pull out those numbers that apply to
4 those children only.

5 JUDGE FORD: Aubrey Ford, Macon County
6 District Judge. Most of the clientele that I
7 deal with are nonmarrieds. Most of them,
8 from the DHR perspective, your observation is
9 quite correct. Health insurance is no longer
10 a perk of employment, and many times the cost
11 of health insurance has become so phenomenal
12 that it can really trounce your child support
13 amount.

14 I don't know how you could really deal
15 with this particular issue as recognized by
16 Judge Gosa since there is a -- just a vast
17 array of different health insurance plans.
18 And some are very good, and some are
19 terrible. And I really just don't know how
20 you can do it. But that is a constant
21 struggle, particularly when you're dealing
22 with folks who have never married, in very
23 minimal jobs, and the cost of health

1 insurance is -- just makes a tremendous
2 impact on their -- First of all, it makes an
3 impact on their income, as far as what net
4 income they'll have left. And the second
5 thing, what you could calculate for child
6 support.

7 JUSTICE STUART: I wonder -- Lyn
8 Stuart. I wonder if, based on the
9 conversations here, we might even need to
10 consider if the health insurance needs to be
11 pulled out of the guidelines and dealt with
12 separately. It's just become such a unique
13 kind of situation.

14 MS. BUSH: Jennifer Bush, DHR. Federal
15 regulations do require that health insurance
16 be included. If not in the child support
17 calculation itself, it needs to be provided
18 for for the children in the order. So we
19 have to deal with the medical insurance,
20 whether it's -- How it is included or
21 calculated in the child support is up to the
22 state. But federal regulations do require us
23 to make some provision for the health

1 insurance.

2 And it does not actually have to be the
3 payment of a health insurance premium. The
4 federal regs recognize that there could even
5 be what's called a cash payment for health
6 insurance in situations where there is no
7 insurance or the insurance could only be
8 obtained at a very high cost. It is not
9 under our guidelines as they presently exist,
10 but there are some states that allow for a
11 monetary amount to be included for a cost
12 payment for medical expenses. And that could
13 be -- Of course that would involve a
14 recalculation of how we do the guidelines,
15 but that -- it does --

16 JUSTICE STUART: That's just what I was
17 suggesting is that maybe that whole issue
18 needs to be re-explored given the different
19 economic conditions.

20 JUDGE FORD: Aubrey Ford again. One of
21 the issues that federal regulations does not
22 really address is the quality of health
23 insurance because you can go from a

1 hospitalization policy where you have to pay
2 a percentage of hospitalization but will not
3 pay for any doctor visits, to policies that
4 will have doctor visits, to what you see now
5 advertised on the television that you will
6 pay twenty-nine dollars a month to receive a
7 discount on medical services that are
8 performed by certain doctors. So the vast
9 array that's out there really has never been
10 looked at on the federal side.

11 MR. CHRISTIAN: Mr. Chairman, Kelley
12 Christian. I'm wondering -- I've never dealt
13 with -- And perhaps some of the DHR
14 representatives can tell me more about what
15 the Ala-Kids Program covers. I mean, you
16 know, is the cost involved with Ala-Kids, I
17 mean -- And I don't know. That's probably a
18 whole 'nother discussion. Would the premium
19 amounts be less or if you could use it as a
20 guideline or would that be illegal or...

21 JUDGE HUGHES: I don't think you can use
22 that in this -- The regulations in the
23 guidelines call that if insurance is

1 available at a reasonable price, one or the
2 other is supposed to be ordered to provide
3 that insurance. And I don't have any problem
4 with that, and that's also a ground -- If
5 it's not available, then you make other
6 arrangements. And that's part of your child
7 support award, if it's in there, and that's
8 where you come into some creative work in
9 your child support area in that. Or a lot of
10 times the kids are on Medicaid, Medicare, or
11 they have the All Kids, and it's covered.
12 And so you don't include an amount.

13 What we are dealing with here is just
14 actually what you are going to put down in
15 that child support worksheet to determine the
16 amount of child support and whether we should
17 include the entire amount of the premium,
18 which I feel is entirely unfair in that, or
19 prorate it out.

20 Now, in looking at the proposal that he
21 had down there, at the bottom of the page it
22 says, The amount to be added to the basic
23 child support obligation shall be the

1 proportionate share the children bear to the
2 actual amount of the total insurance premium
3 for the family/dependent coverage.

4 I made a couple of little notes in there
5 as to the proportionate share for the
6 children at issue to the actual amount of the
7 total insurance premium for the family or
8 dependent coverage. And then unless the
9 party or parties present proof to the
10 contrary as to the actual amount that's
11 incurred to cover that child in that, that
12 gives them an opportunity to present
13 something if the -- if there is an additional
14 child and the insurance company does it on a
15 per dependent basis. And they can present
16 something that's different. Otherwise, to
17 proportion it out to everybody that's covered
18 under that family coverage.

19 And, you know, it's -- You know, it's up
20 to the vote of the committee, and that would
21 take an amendment to the motion to adopt
22 this. But that would appear to be a fair way
23 to include an amount for insurance on the --

1 on our child support worksheet to determine
2 the child support obligation.

3 I have dealt with that a long time
4 before we had the committee comments last
5 year in that, and I have granted some
6 deviations for the insurance amount where
7 there was -- In fact, one of the cases, it
8 was the mother's new husband had the
9 insurance, but he also had three other kids
10 covered under that. They had one child. It
11 was absolutely not fair to take away from
12 that. So I did. I deviated and allowed a
13 proportionate share to be used for the
14 calculation of the child support.

15 And that's -- And I think it's fair when
16 you proportion it out to what it takes to
17 cover the child of these parties or the
18 children of these parties in the insurance
19 unless they can prove something else, that
20 there is another charge that's out there,
21 actually out there for including an
22 additional dependent.

23 MR. ARNOLD: Steve Arnold. May I ask a

1 question? Did you deviate from the bottom
2 line, or did you deviate on the component of
3 the health insurance premium that went into
4 the calculation?

5 JUDGE HUGHES: Deviated on the component
6 that went in there.

7 JUSTICE STUART: This is Lyn Stuart
8 again. I would simply like to point out that
9 I think the language here needs some cleaning
10 up before it could possibly be voted on
11 because it's not clear that you are only
12 talking about these children between these
13 two parties.

14 MR. ARNOLD: I agree. I'd like to
15 withdraw my motion.

16 JUDGE HUGHES: We've already -- We've
17 had a motion and a second. We would call for
18 a question. All in favor of the proposal as
19 presented, say aye. Okay. It dies.

20 Do we have a motion to look at this
21 issue and come up with some better wording on
22 the issue of the -- Is that the desire of the
23 committee?

1 (Whereupon, several committee
2 members simultaneously said yes.)

3 JUDGE HUGHES: Okay. Steve, would you
4 and Justice Stuart get together and work up a
5 wording?

6 MR. ARNOLD: I would be honored to.

7 JUDGE HUGHES: All right. Thank you.
8 All right. Now comes the biggie, the
9 consideration of the report and -- submitted
10 by the Policy Studies Inc. for updating the
11 child support chart that we have had.

12 The chart that is in effect at the
13 present time has not been updated since 1987
14 when it was first adopted as advisory to the
15 courts. And at the public hearing on the
16 report, there were a number of issues raised,
17 and there were some good issues. And I think
18 that we've got several options that we can
19 take.

20 We can accept the -- recommend to the
21 Supreme Court that this chart be updated
22 pursuant to the proposal by Policy Studies,
23 accept the chart in part and reject it in

1 part, leave the current chart as our
2 guideline chart. The federal regulations
3 require that we review our child support
4 guidelines every four years. It doesn't
5 require that we make a change to it. So that
6 is up to the committee and ultimately to the
7 Supreme Court.

8 Before we take any motions on this, we
9 have an attorney here from Georgia who has
10 brought over some material from Georgia, Jill
11 Radwin who is with the Georgia Administrative
12 Office of Courts. And they have gone through
13 a process with the -- theirs is by
14 legislation, and the legislature handles
15 their child support guidelines. And they are
16 changing over and to the Income Shares model,
17 but there have been some interesting
18 developments in that that she has brought to
19 my attention and -- in talking with her prior
20 to the meeting. And, Jill, where did you
21 go?

22 MS. RADWIN: I'm right here.

23 JUDGE HUGHES: Okay. Would you -- If

1 you would, please stand up and just tell us a
2 little bit about the process that Georgia is
3 going through and where you are going and
4 where Georgia is going with this.

5 MS. RADWIN: Okay. Well, Georgia, as I
6 am sure all of the commission knows, has had
7 a Percentage of Income model since 1989 --
8 actually since 1987 when they were just
9 discretionary. And then in 1989, they were
10 the permanent guidelines. It's always been
11 Percentage Share. There has been a lot of
12 different bills over the years introduced and
13 changed to a Cost Shares to Income Shares and
14 some other model.

15 And this past year, legislation was
16 introduced. The original legislation was
17 more of a Cost Shares model. But through
18 compromising and a lot of other -- a lot of
19 committee meetings -- one was a seven-hour-
20 long committee meeting -- there was
21 compromises, and the bill was more an Income
22 Shares. It's based pretty closely on
23 Tennessee's. As some of you are probably

1 aware, Tennessee just changed over to Income
2 Shares, and theirs went into effect January
3 1st of this year.

4 So Alabama's is very similar to
5 Tennessee's. But one thing that Alabama did,
6 Alabama -- I mean Georgia -- sorry. Georgia
7 has not had an economic study ever. And
8 before we start developing obligation charts,
9 we need an economic study. So part of the
10 duty of the Guideline Commission, which is
11 part of the statute -- you'll see this
12 twenty-eight, twenty-nine page statute --
13 does include authorization for a Guidelines
14 Commission that will be ongoing to create and
15 maintain the obligation tables.

16 And the first step, though, is to have
17 an economic study of the cost of raising
18 children in Georgia since there never has
19 been such a study. So that's the first step
20 the Guideline Commission will do.

21 I just got an e-mail that the bill is
22 going to be signed today. This bill -- It's
23 passed both houses, and it's going to be

1 signed by the governor today. And upon the
2 signature, the commission will be up and
3 running, and the first step of the commission
4 is to initiate an economic study. And then
5 the commission has to report back to the
6 legislature in early January the results of
7 the economic study. And then the legislature
8 will approve or not approve that.

9 And then that whole bill, all the
10 provisions, will not go into effect until
11 July 1st, 2006, to allow time for worksheets
12 because Georgia has never had worksheets. We
13 didn't need it with a Percentage model. So
14 there will have to be development of
15 worksheets. There will have to be
16 development actually of an electronic
17 calculator.

18 And what the goal is is to make it part
19 of the public domain. What I would like to
20 see -- And I keep talking to anybody who will
21 listen to me. I would like to have computers
22 in every single Superior Court courtroom. In
23 Georgia, it is the Superior Courts that hear

1 the child support issues, for the most part.
2 Juvenile courts hear it some, too. And to
3 have one there for your pro se litigants, for
4 everybody that will have this software on
5 there to allow someone to calculate their
6 child support.

7 So that's what's going on in Georgia.
8 It's a really huge, big change in Georgia.
9 It's been many years in the making, a lot of,
10 you know -- like I know here, a lot of
11 controversy, a lot of rumbling. But I think
12 there are some good compromises that were
13 made this legislative session for our new
14 bill.

15 JUDGE HUGHES: Thank you.

16 MS. RADWIN: Thank you.

17 JUDGE HUGHES: In regard to the economic
18 study, in our 1993 meeting, we had a proposal
19 by PSI at that time. The committee voted not
20 to accept the proposal at that time and was
21 concerned on the basis of the study done by
22 PSI, that it did not deal with Alabama. And
23 we requested a study be done by -- for the

1 economics for Alabama. Shortly after that
2 meeting, there was a lawsuit that was filed,
3 and nothing ever came to the committee as a
4 result of that study. So I don't know if it
5 was ever done or not.

6 JUSTICE STUART: There has been an
7 economic study but -- And it was presented to
8 us at our last meeting. My understanding is
9 it's not a study of Alabama, that it's some
10 type of extrapolation --

11 JUDGE HUGHES: No, no, no. You
12 misunderstand, Justice Stuart. This was --
13 We requested that AOC contract with either
14 Auburn or Alabama to do an economic study for
15 Alabama.

16 JUSTICE STUART: I understand that.
17 What I said was that's not --

18 JUDGE HUGHES: And it's not the PSI. It
19 was a separate thing. So I -- After the --
20 After that '93 lawsuit was filed, I don't
21 know if it ever got done or not, if it just
22 got put on hold. Bob, do you know if it was
23 ever done or ever even contracted for?

1 MR. MADDIX: We did contract with
2 Dr. John Formby at the University of Alabama
3 Business School back in 1994. We got a study
4 from them. I think he actually came to a
5 meeting in July of 1994. That was probably
6 the last official committee meeting we had
7 before last March. He did come and answer
8 some questions about an initial study they
9 did. They wanted a further study done. And
10 like you said, there was a lawsuit pending,
11 and we didn't have any meetings after 1994 in
12 July. So we never did get the further study
13 considered by the committee.

14 Obviously, that study is about ten years
15 out of date now. So, you know, if it's the
16 request of the committee to get another one,
17 we would probably have to do that because
18 obviously the data would be probably out of
19 date. But it was done, and it just never got
20 considered by the committee because they had
21 no more meetings after that July '94 meeting.

22 JUDGE HUGHES: I know that. And the
23 reason I bring that up is because of what

1 Jill said and -- that Georgia is doing and
2 what we had requested back in '93 as a result
3 of this. And the public comments that were
4 made last March at the meeting, and
5 especially in reviewing the transcript of
6 that, it got me to thinking back. I never
7 saw anything. So I was wondering if it was,
8 and that was -- So the committee, even in
9 '93, had the same concerns that the -- that
10 were voiced by the public last year. We had
11 the same concerns in '93 and -- that it was
12 not -- that the economic study was not
13 reflective of Alabama in that.

14 MR. BAILEY: Judge, could I ask Bob a
15 question?

16 JUDGE HUGHES: Sure.

17 MR. BAILEY: Gordon Bailey. Bob, was
18 that ever reduced to writing and sent out?

19 MR. MADDOX: Yes, sir.

20 MR. BAILEY: I couldn't remember if we
21 got that study. It was reduced to writing.

22 MR. MADDOX: Yes, sir.

23 MR. BAILEY: Thank you.

1 JUDGE HUGHES: We will open up the PSI
2 study to discussion with the committee
3 members.

4 JUSTICE STUART: I'm Lyn Stuart. I will
5 just say that I have sort of a general
6 overriding problem with the study, and that
7 is that it's not related to Alabama, which
8 makes it very, very difficult for me to deal
9 with any further.

10 MR. CHRISTIAN: Kelley Christian. I
11 have a piece of information that I would like
12 to pass out or I will pass out later. It's
13 by Richard Byrd, which he was on the
14 committee in Virginia, and he did a
15 memorandum of their study. And it's some
16 interesting information, but I, as the
17 Justice does, have a problem with the study
18 not being from Alabama.

19 Also, the PSI has been contracted for --
20 And just on a personal note with the
21 committee, I -- last year I asked Dr. Venohr
22 if the Espenshade that did the study was an
23 economist. And she assured me that he was,

1 and I think I spoke to Justice Stuart about
2 information I had. He is a sociologist, and
3 PSI's study, which they come along and had it
4 updated by Betson and Rothbarth, was based on
5 information that Espenshade came up with.
6 And, like I said, it's not done by an
7 economist. It was a social project, and it
8 just sort of snowballed into what it is
9 today. And I, as Justice Stuart, unless it
10 applies to Alabama and the cost of raising
11 children here, I don't see where it even
12 applies for us to talk about.

13 JUDGE HUGHES: All right. One of the
14 things that really concerned me is on -- in
15 your book that was handed out, on page -- it
16 would be Chapter II, page 8. And in that,
17 the second paragraph under category one is a
18 statement that -- regarding the economic data
19 that was used.

20 And it says: Data of this depth and
21 quality are simply not available at the state
22 level. Moreover, replication of the Consumer
23 Expenditure Survey at the state level would

1 be extremely costly. Because of the methods
2 that must be used to estimate child-rearing
3 expenditures, the absence of such data
4 precludes the development of accurate
5 estimates specific to a given state. This is
6 why no state has attempted to develop such a
7 data source and conduct its own research on
8 child-rearing expenditures.

9 As Ms. Radwin said, Georgia is doing
10 that, and I believe -- Did you not say that
11 PSI said that they could do the study, gave
12 you a --

13 MS. RADWIN: Right. I mean, I have seen
14 a proposal from PSI. I mean, I have not
15 directly talked to PSI, but I have seen their
16 proposal. And the proposal was that they
17 would do the economic study, and there was
18 even a dollar amount next to it.

19 JUDGE HUGHES: Okay. You also told me
20 that it had been recommended -- that PSI had
21 recommended Arizona even do their own study.

22 MS. RADWIN: Exactly. Yes, sir.
23 Exactly.

1 JUDGE HUGHES: I've got a problem when
2 they say we can't do it here, but yet they're
3 giving a price for Georgia and recommending
4 that Arizona do that.

5 MR. CHRISTIAN: Mr. Chairman, I'm sure
6 you know from last year that we had Mark
7 Rogers here, and he says there is information
8 available, that he can do a study for the
9 state. And so I would like to see us
10 consider going outside of PSI and looking for
11 other information, or if you would rather use
12 university level.

13 JUDGE HUGHES: We had a study. If there
14 was a study done and it was reduced to
15 writing, then we have got it here in the
16 state. That could be even updated from that
17 period of time.

18 All right. All right. Since the -- We
19 have some members of the public here, and
20 this is our last item on the agenda at this
21 point. Do we have any of the public that
22 would like to address the committee at this
23 time?

1 The public hearing was the last time
2 where you had a longer period of time to
3 speak, so I would ask you to limit any
4 comments that you've got to no more than five
5 minutes, if you would at this time. And if
6 you -- someone would like to speak, then
7 please raise your hand so I can recognize
8 you.

9 All right. The gentleman right here on
10 the front. Just -- This one. The gentleman
11 right here in the front.

12 MICHAEL POLEMENI: Michael Polemeni,
13 Alabama Family Rights Association,
14 Huntsville, Alabama. I have really two
15 questions.

16 One is, on the original study in '93,
17 were you able to come up with a percentage
18 differentiation between PSI's figures at that
19 point in time and what Alabama came up with
20 at that point in time? That's just a general
21 question. And then --

22 JUDGE HUGHES: Okay. Let's answer
23 that. And, Bob, I don't remember. I don't

1 remember ever seeing the report.

2 MR. BAILEY: I don't either, Judge.

3 MR. MADDOX: There was no comparison
4 done. It wasn't ever --

5 JUDGE HUGHES: It was not completed.
6 Okay. That's fine.

7 MR. POLEMENI: And then the other thing
8 is House Bill 650 is before the legislature,
9 which deals with equal-parenting rights. And
10 I would like to see the committee, you know,
11 wait on that to happen, which would
12 essentially give a null value in some
13 instances in child parenting due to equal
14 shared time.

15 JUDGE HUGHES: Okay. All right.

16 MR. WOMACK: My name is Jim Womack. I'm
17 just a citizen. A couple of questions just
18 to make a point.

19 I understood -- If I counted right,
20 there are about ten people on this committee,
21 and I respect you for what you do. You have
22 a tough job. You can't please everybody.
23 But I would like to know how many of you on

1 this committee are single parents. If you
2 are, raise your hand. Okay. Thank you. So
3 one out of nine.

4 We've got nine people who aren't single
5 parents writing laws for people who live as
6 single parents. So I kind of -- It's kind of
7 hard to believe that you understand the level
8 that I'm coming from.

9 Okay. Secondly, raising the income for
10 paying child support. The way that I learned
11 about this meeting was the Montgomery
12 Advertiser yesterday. And according to the
13 article, it says child support is determined
14 by combined gross income.

15 And I think that must be a mistake
16 because my child support is based on my
17 income only. Even though my ex-spouse has
18 the same education level I do and earns more
19 than I do, it's based on my income level, not
20 combined. So there must be an error
21 somewhere.

22 JUSTICE STUART: No, sir, I think you're
23 the one that's mistaken. Alabama uses an

1 Income Shares model that is very clearly
2 based on both parents' income.

3 MR. WOMACK: Okay. I have been to court
4 twice, and I brought that up to the judge.
5 And the judge that heard my case is not
6 sitting in this room.

7 JUSTICE STUART: Well, that judge or
8 someone needs to explain it to you.

9 MR. WOMACK: It's based on your income.
10 That husband is still considered the --
11 whether there's an error or not --

12 JUDGE HUGHES: I don't know your
13 particular case, but that is not -- That's
14 not the law in Alabama.

15 MR. WOMACK: Well, I don't understand
16 then why my child support was determined that
17 way.

18 And I understand that the state has this
19 firm doing this study. I don't understand.
20 We've got fifteen colleges in this state, and
21 I would certainly think that one or two or
22 three of them together could do this economic
23 study without having to pay somebody else to

1 do it. We're already paying these colleges
2 lots of money to do whatever they are doing.
3 Doesn't that make sense? Get three colleges
4 in the state and have them work together and
5 do the study?

6 I can see where this study needs to be
7 redone because it's been ten years. But
8 every time I get a raise, my ex-spouse gets a
9 raise. In fact, she gets more of a raise
10 than I do. So why are we going to increase
11 her earnings when she gets one every year
12 when I get a cost-of-living raise? Does that
13 make sense? She gets a raise every year if I
14 get a raise. If I don't get a raise, she
15 doesn't get one. So why are we going to give
16 them more money when it's not going to help
17 me?

18 I mean, I'm doing the best I can. I
19 have to work two jobs. I'm a librarian. I
20 have been a librarian fourteen years. I love
21 what I do, but I don't like working at
22 McDonald's at night after I get off my job.
23 I'll have to do it eighteen more years until

1 my children are eighteen.

2 The laws haven't protected me. I have
3 not broken any laws. Every case is
4 different, and I understand that. But I'm
5 being penalized for something I didn't do.

6 I appreciate the chance to say -- make a
7 few comments. If you have questions, I will
8 gladly answer them.

9 JUDGE HUGHES: The gentleman right
10 there. Yes, sir, you.

11 MR. BARNETT: Heath Barnett. I'm a
12 father and a member of the ALCFC. Just in
13 relation to the study itself, obviously it
14 needs to be updated. And I do agree somewhat
15 with the gentleman here that it would
16 probably be best done within the state. And
17 the findings of that study, I feel more
18 comfortable with having that left in the
19 hands of the committee members and servants
20 of the public at large as opposed to
21 outsourcing to any type of unrelated group
22 that does this for profit. And that's the
23 only comment I have.

1 JUDGE HUGHES: Yes, sir?

2 MR. TIDWELL: Brian Tidwell. The only
3 comment that I have is I think it does need
4 to be state-specific. No matter who --
5 Whoever does the study, I think it ought to
6 be specific to the State of Alabama and all
7 the studies, and that's what it ought to be
8 based on. These are our children, and they
9 reside in our state. And it ought to be
10 state-specific.

11 JUDGE HUGHES: Okay. Yes, sir? You
12 with the glasses on.

13 MR. BARNES: Yes, sir. I'd actually
14 like to pass a brief around to the --

15 JUDGE HUGHES: What's your name?

16 MR. BARNES: I'm sorry. Craig Barnes.
17 I'd actually like to pass a brief around to
18 the committee. It's very short. It shows
19 where an abatement was made by a judge that
20 took away federal funds from my children and
21 rerouted them to their mother.

22 I wrote to the Attorney General's Office
23 who then wrote me back and informed me that

1 he had no jurisdiction in this matter. I
2 also wrote to Mr. Bernier, the Director of
3 Child Support Enforcement, asking for more
4 help, trying to find what can I do to feed my
5 children during the summer months while I
6 have them.

7 By the way, this abatement changed the
8 law. I had custody of my children while I
9 had them during the summer months. The
10 abatement changed those laws completely that
11 took my custody away and just gave me
12 visitation rights.

13 JUDGE HUGHES: Mr. Barnes, I'm going to
14 interrupt you.

15 MR. BARNES: I'm sorry.

16 JUDGE HUGHES: I am going to cut you
17 short and explain again that this is dealing
18 with the recommendations to the child support
19 guidelines, not an individual case that you
20 have. We cannot address your individual
21 situations in your individual cases. This
22 committee can only make recommendations to
23 the Supreme Court regarding the chart and the

1 rules for what goes into that chart, and this
2 is what the purpose of the committee is.

3 So if you have some comments dealing
4 with this Policy Studies Inc. recommendation
5 or any of the rules that are in Rule 32 that
6 we include in that chart, I will let you make
7 that. But I cannot allow you to discuss your
8 individual cases because there is nothing
9 that we can do about your individual cases.

10 MR. BARNES: I understand that. Yes,
11 sir. Could you give me any direction to go
12 in other than this?

13 JUDGE HUGHES: Mr. Barnes, the only
14 thing I can suggest is that you get an
15 attorney that's --

16 MR. BARNES: Well, that's my problem.
17 See, I'm on disability, Social Security. And
18 I've tried the pro bono system, and it
19 doesn't work because you have to go through
20 Legal Aid to get on the pro bono system. And
21 they do not handle child support and custody
22 cases.

23 JUDGE HUGHES: I understand that, but if

1 you will contact the State Bar Association --

2 MR. BARNES: Yes, sir, I've done that.

3 JUDGE HUGHES: Have you contacted
4 them --

5 MR. BARNES: Yes, sir, I have

6 JUDGE HUGHES: -- to see about somebody

7 --

8 MR. BARNES: Yes, sir, I have.

9 JUDGE HUGHES: There are attorneys, and
10 a lot of attorneys will do some pro bono
11 work.

12 MR. BARNES: I have asked. I have
13 contacted the Alabama Bar Association and
14 asked, and they say that you have to be
15 referred by the Legal Aid Society of Alabama.

16 JUDGE HUGHES: They are the screening one
17 for -- that screens for your economic
18 status.

19 MR. BARNES: Yes, sir, but they do not
20 handle child support and custody
21 issues.

22 JUDGE HUGHES: I understand that. But if
23 -- They do the screening. If you go

1 in there and -- Or even though they won't do
2 it, they can screen you for referral to the
3 State Bar.

4 Am I correct in the way that works?
5 Some of the attorneys, would you please
6 correct me if I am wrong? I thought that was
7 the way it was.

8 MR. BARNES: Does anyone know? If you
9 do, I'd sure like to know because I -- that's
10 what I have been getting is closed doors.

11 JUDGE HUGHES: If the State Bar refers
12 you back to the Legal Aid for screening, then
13 tell them to give you something in writing so
14 that you can take it to the Legal Aid there
15 so they'll know what you're doing. They may
16 think that you're coming in for them to
17 represent you, and that may not be it.

18 But I know that if they are the ones
19 that are doing the screening, then they will
20 screen you for your economic status to see
21 whether you would qualify for that pro bono
22 program with the State Bar.

23 MR. BARNES: Well, I've been misled,

1 sir, because they tell me that they just do
2 not get involved in child support and custody
3 issues.

4 JUDGE HUGHES: You're not listening to
5 me. Call the State Bar. Tell them your
6 problem, that you're wanting to get under the
7 pro bono -- find somebody that would
8 represent you pro bono. If they refer you to
9 an agency for screening, then tell them to
10 put it to you in writing as to who you need
11 to see.

12 All right. Do we have any other -- Yes,
13 sir?

14 MR. BARNES: I'm sorry, Judge.

15 MR. SIMS: My name is Woodrow Sims. I'm
16 a member of Alabama Family Rights
17 Association. I'd just like to make two or
18 three quick points. Number one, I agree with
19 the other gentleman that any study that does
20 not exclusively consider the State of Alabama
21 and how much it costs to raise children here,
22 we shouldn't even be considering it. And we
23 may even want to go into regions. Like

1 whether metro or living in rural areas, there
2 is a different cost of living.

3 Secondly, I would also like to say that
4 I think we should consider the amount of time
5 that children spend with each parent as far
6 as the amount of child support.

7 And, thirdly, I don't know if the
8 committee realizes it or not, but they
9 actually admitted today that -- the
10 dereliction of the duties of this committee
11 for the last ten years. You stated in the
12 beginning of the meeting you're supposed to
13 review this every four years. You haven't
14 met in ten years until last year.

15 JUDGE HUGHES: Yes, sir -- Or yes,
16 ma'am. Excuse me.

17 MS. RICHMOND: Good morning. My name is
18 Mary Richmond. I am a parent and a
19 grandparent. And I'm a sounding board for
20 many mothers who are receiving child
21 support. And I have some questions, and I'm
22 not sure whether or not this is the board I
23 need to address them to. But if it's not,

1 please direct me to where I need to go.

2 JUDGE HUGHES: Can you hear her?

3 COURT REPORTER: Just barely.

4 JUDGE HUGHES: Would you come up a
5 little bit closer to the court reporter here
6 so she can hear you?

7 MS. RICHMOND: Is this close enough?

8 JUDGE HUGHES: Okay. That's good.

9 Thank you.

10 MS. RICHMOND: Okay. How child support
11 payment is calculated for unemployed and
12 employed single parents. What department is
13 responsible for enforcing child support
14 payments? What is the policy and procedure
15 for enforcement and in what time frame?
16 Noncustodial parents should bear more
17 responsibility of rearing and training a
18 child than just paying child support. Is
19 there a policy to address the issue? Is
20 there an open forum for single parents, male
21 or females, to have an opportunity to express
22 concerns for caring for children?

23 JUDGE HUGHES: One of the questions that

1 you asked, I think we can address. The
2 Department of Human Resources is the state
3 agency on enforcement of child support. If
4 you are -- If you receive child support or
5 you wish to have child support established,
6 then the department could represent you in
7 the establishment of your child support or
8 the collection of child support. And
9 that's -- They are the State agency that does
10 that.

11 MS. RICHMOND: And if you are working
12 with them and they've done what they can do
13 and nothing has been accomplished, then where
14 do you go from there?

15 JUDGE HUGHES: Ma'am, if they -- If you
16 have gone through that and nothing can be
17 accomplished, it may be one of those
18 situations where there is nothing that can be
19 done. I don't know. It would just be, you
20 know, depending on the individual cases as to
21 what can be done, but to use the phrase that
22 I've heard all my life, sometimes you can't
23 get blood out of a turnip, and sometimes

1 there is nothing to get.

2 (Whereupon, several people began
3 speaking simultaneously.)

4 JUDGE HUGHES: Well, the U. S. Supreme
5 Court says you cannot put someone in jail for
6 a civil debt unless they have the ability to
7 pay that debt. It has to be a willful
8 nonpayment. And so you can't put someone in
9 jail, and that's the only thing. And
10 that's --

11 MS. RICHMOND: Maybe they should work
12 during the day and go to jail at night, and
13 the check should go to the children.

14 JUDGE HUGHES: All right.

15 JUDGE FORD: Could I just say one
16 thing?

17 JUDGE HUGHES: Yes.

18 JUDGE FORD: I think we also have to
19 make a distinction between those cases that
20 derive out of a divorce matter -- This is
21 Aubrey Ford -- as opposed to those cases that
22 derive out of never-marrieds. Many times
23 with never-marrieds, you don't have a

1 relationship with that child, and it may not
2 be in that child's best interest to establish
3 a relationship with that noncustodial
4 parent.

5 Because sometimes -- And what we've
6 tried to address in some areas of the state
7 is provide mediation and other types of
8 outlets so that parents can be encouraged --
9 noncustodial parents can be encouraged to
10 have a relationship with their child. It's
11 not one of the primary duties of DHR to get
12 into that aspect of a case. I, as judge, do
13 that because I think it's important. But it
14 also takes cooperation of the parties to
15 establish a good relationship for the benefit
16 of the children, and many times they take out
17 their frustrations on each other by
18 alienating the child from the other parent.

19 It's very difficult where you have
20 nonmarrieds. At least when you've been
21 married to the person, you have some
22 established relationship. But if you have
23 never been married, sometimes you don't know

1 that it's your child until you come to court
2 for that particular day or you've received
3 the results of a paternity test. Then you're
4 talking about establishing a family.

5 Essentially, child support enforcement
6 is the collection of money and not to
7 establish families.

8 JUDGE HUGHES: Let me address one of the
9 questions that was asked. And talking about
10 the shared parenting in that, there is one
11 part of the proposal by PSI that I did like.
12 They had a -- They addressed that issue, and
13 they had a couple of proposals.

14 And one was one was from Arizona that
15 has a chart that directly relates to the
16 amount of child support and the amount of
17 parenting time in that. And it sets a basic
18 type thing that it starts a reduction in the
19 amount of child support paid after a certain
20 percentage of time. And it's something that
21 needs to be addressed in the final adoption
22 of any guidelines, and I know that the
23 committee is -- that is one of the issues

1 that we will definitely be looking at.

2 But we -- First of all, we have got to
3 get the chart set up to do something on that,
4 but I did like the -- They had two different
5 methods of doing it, and one was a
6 calculation in that.

7 The other was a chart with a percentage-
8 type thing that was very easy to follow that
9 you could, if you had the child -- Say, if
10 you started out that you had the child twenty
11 percent of the time, then you would pay the
12 full amount of child support. Anything above
13 that, then there was a percentage reduction
14 in the amount of child support to compensate
15 for the additional time that the other parent
16 has the child.

17 And I think that is something that the
18 committee will be addressing in that, and it
19 has no relation whatsoever to the bill that's
20 been introduced in that. It's something that
21 the committee had recognized for a while,
22 that there is some inequities. The way that
23 it has been -- It's not been figured in the

1 chart. The way it's been handled in my court
2 was a deviation from the Child Support
3 Guidelines. It was a grounds for deviation
4 in that and -- which didn't follow that.

5 But I think, after looking at this
6 proposal and the way it's been done in some
7 of the other states, that it can be
8 incorporated into the chart, into the actual
9 figuring of the chart, rather than having to
10 go to a deviation.

11 MR. ARNOLD: Steve Arnold here. And to
12 address some of your points with the shared
13 parenting and how it links into child
14 support, be careful what you ask for. You
15 just might get it.

16 And consider some of the problems that
17 are attendant to the very concept that sounds
18 so great. If I'm negotiating a divorce and
19 I'm representing the father who wants as much
20 time as he can get and as much involvement as
21 he can possibly get with his child, the other
22 side representing the mother sees more
23 interest in dollars, then all of a sudden

1 you're fighting over that time. And you
2 build in more acrimony, more division by
3 virtue of that competing interest time versus
4 dollars. So it's something that has to be
5 approached very carefully.

6 Then you get the post-divorce problems.
7 Well, he's not spending the time that he has,
8 so I'm bringing him back to court so I can
9 get more money because he's allowed so many
10 days per year but he is only taking so many
11 days. And then everyone is still mired in
12 litigation. They are spending fortunes on
13 attorneys or mediators or involving the court
14 system.

15 So what sounds to be a wonderful thing,
16 be careful with it. I've always told people
17 that two good parents are going to do what
18 two good parents do. If one of them isn't,
19 there's going to be problems forever. Those
20 problems are going to exist whether you're
21 married or divorced.

22 Having been a single parent, having been
23 involved with a former wife who did her best,

1 unsuccessfully, to alienate and to raise all
2 those issues, you persevere through them.

3 Those are just some of my comments, that
4 your problems are well recognized. The need
5 is well recognized. The solution is
6 obviously very, very complicated and
7 difficult.

8 MR. BAILEY: Steve, there is a question
9 right here.

10 MR. ARNOLD: I don't know if that's a
11 question for me or for the Chair.

12 JUDGE HUGHES: Ma'am?

13 MS. MORRIS: Yes. My name is Robin
14 Morris, and I would like to comment on his
15 statement.

16 I was married for ten years. When my
17 husband divorced me, I became the primary
18 custodial parent with joint custody for five
19 years. When I lost my job, my husband --
20 ex-husband took me to court, and the judge
21 awarded custody to my children to him -- of
22 my children to him based on the fact that I
23 did not have a job. I lost my job after

1 9-11.

2 I would like to have time with my
3 children. I have always been with my
4 children. And this shared custody would help
5 me to spend more time with my children. I
6 have never -- During the five years that I
7 had custody, that I was the primary
8 custodian, I never disallowed my ex to spend
9 time with them. He got to see them whenever
10 he wanted to.

11 I don't have that same privilege. I am
12 restricted to the first and third weekend of
13 the month, a few days during Christmas, and a
14 week or two at -- during the summer. That is
15 all. I cannot even spend the day that I
16 birthed my children with them. And I would
17 like for the court to do something about
18 that.

19 JUDGE HUGHES: Ma'am, we cannot do
20 anything with that with this committee. We -

21 -

22 MS. MORRIS: Well --

23 JUDGE HUGHES: This committee will --

1 MS. MORRIS: Well, I just --

2 JUDGE HUGHES: -- address only the -- I
3 understand what you're doing. And we can
4 only address the issues of the child support
5 guidelines. I'm sorry.

6 MS. MORRIS: Okay. Then I would like to
7 make a comment about that, as well. I was
8 unemployed, and the judge ordered me to pay
9 my husband -- my ex-husband child support. I
10 cannot afford to pay one more penny of the
11 money that I am paying now of the -- and I
12 even have arrearages. And I'm being charged
13 interest every month for the arrearages that
14 I have.

15 If this thirty-two percent increase goes
16 into effect, I don't know what I'm going to
17 do. You know, this -- And there's many other
18 parents that are sitting right here that are
19 in the same boat that I'm in that are paying
20 more than we can afford to even set up our
21 own home. I -- You know, it's extremely
22 difficult to do.

23 And I agree with the consideration that

1 we should have a survey done or a study done
2 from someone that is inside the State of
3 Alabama. And that's my comments.

4 JUDGE HUGHES: Please limit it to one
5 comment for each person in that, if you
6 would. Yes, sir?

7 MR. BIVENS: Paul Bivens, Elmore,
8 Alabama, member of Alabama Family Rights
9 Association. The motto of our organization
10 is that children need both parents,
11 especially after a divorce. Our organization
12 doesn't exist -- We're not here to try to
13 beat child support. We are here to be
14 involved in the process.

15 Make no mistake. The system is not only
16 broken but breaks people everyday. Please
17 appreciate that child support means more than
18 money. Support is about more than money.
19 It's about being there for our children. We
20 want to be there for our children. And
21 please consider that when you think about the
22 dollar guidelines that are being considered.

23 JUDGE HUGHES: Yes, ma'am?

1 MS. BROTHERS: My name is Cynthia
2 Brothers. I'm with the Alabama Coalition for
3 Fathers and Children. I'm also the one that
4 answers the phones when the men call in. I
5 have spoke to many, many men that -- nine out
6 of ten say, I do not have a problem paying
7 child support, I want to support my children,
8 but the amount that they are making me pay, I
9 cannot live.

10 When you can take up to fifty-five
11 percent of a man's net income, you're not
12 leaving him a lot to live on. So by
13 increasing the current guidelines the least
14 little bit is going to hurt a lot of people.
15 Going to put a lot of men and women, as Robin
16 has said, into a -- more of a poverty level
17 because they have to set up their own homes,
18 they have to feed those children when they
19 are in their homes, they have to clothe those
20 children when they're in their homes. And
21 there are a lot of vindictive ex-spouses out
22 there that deny men and women time with their
23 children.

1 So my opinion is that if we have a child
2 support system that does not promote
3 divorce -- Seventy-five percent of the
4 divorces are filed by women. And I'm not
5 anti-woman because I was a single mother for
6 four years, and I never received a dime in
7 child support. So I wanted you to know where
8 I was coming from. I'm not anti-women. But
9 our system promotes divorce because women
10 know going into it they're going to get the
11 house, they're going to get the children, and
12 they're going to get tax-free child support
13 until the child reaches age nineteen.

14 If child support was equitable for both
15 parties, you would not have a problem or as
16 large of a problem with collections, and I
17 know that in the lower income level you
18 might. There are still going to be problems
19 there. But as far as the middle class
20 families, you are not going to have problems
21 with collections if it was equitable for both
22 sides.

23 And I wanted to make a comment about the

1 insurance. The insurance companies can break
2 out the cost of covering each child. So the
3 insurance companies can send you a letter
4 that says, This is what it's costing to cover
5 this child and this child and this child.
6 And that's the simplest way to decide how
7 much of the insurance that the noncustodial
8 parent should pay.

9 JUDGE HUGHES: Yes, sir, back there.

10 MR. DAVIS: Mark Davis from Tuscaloosa.

11 JUDGE HUGHES: If you would come up
12 closer, please.

13 MR. DAVIS: I have been a payer of child
14 support for about ten years. I recently
15 remarried last -- well, remarried about five
16 years ago. I have four kids that are living
17 in my house that don't belong to me, which I
18 get no credit or no recognition for me paying
19 child -- me taking care of them. But their
20 father lives in South Carolina, which has
21 different rules from here.

22 What I want to know from the committee
23 is at some point are we going to do something

1 to try to make this thing go federal where
2 rules don't variate so much? I can be hit
3 with a big amount of sum to pay here, and
4 you're talking about increasing that now.
5 But now this guy that lives in South Carolina
6 doesn't even have to pay back. Then if we
7 can't get our hands on it, DHR, unless they
8 are actually paying something out of their
9 pocket like food stamps or giving this family
10 something, then they won't pursue those cases
11 as much as those parents that's not getting
12 anything. And I am just trying to live.

13 I just want to know if the committee is
14 going to look at something to do something
15 federal-wide where it's not just state to
16 state.

17 JUDGE HUGHES: No, sir. That would be
18 contrary to what we're talking about of
19 having a study done for Alabama. Each state
20 is different. The -- And that's the reason
21 that the federal government has said the
22 states will come up with their individual
23 guidelines because they recognize that you

1 cannot have a nationwide guideline in that,
2 that each state's situation is different.

3 But even if that were plausible, this
4 committee would not have the authority to do
5 anything on that level.

6 MR. DAVIS: Not even give me any type of
7 credit for helping me take care of kids that
8 don't belong to me as well as kids that do
9 belong to me?

10 JUDGE HUGHES: No, sir.

11 MR. WOMACK: He has to seek to become
12 their custodial parent --

13 JUDGE HUGHES: That's correct. If he
14 adopted the children, then there would be --
15 it would be a basis --

16 MR. DAVIS: The children are not
17 adopted.

18 JUDGE HUGHES: Pardon?

19 MR. DAVIS: The children are not
20 adopted.

21 JUDGE HUGHES: Okay. No. You can't --
22 As an individual in that, you cannot get
23 credit for what you are paying for someone

1 else's children. You get it for your
2 children, and that's -- You know, it
3 certainly wouldn't be fair to the mother of
4 your child to have less child support because
5 of someone else's children in that. So it's
6 between the parents in that and your children
7 --

8 MR. DAVIS: -- because those kids belong
9 to me. And I just want to make -- Because I
10 have to take care of my kids. Everyone else
11 should have to take care of their kids, also.

12 JUDGE HUGHES: Yes, ma'am?

13 MS. MEYER: I have a comment. Excuse
14 me. My name is Beth Ann Meyer. I am also a
15 member of the Alabama Coalition for Fathers
16 and Children.

17 I just have a comment about the child
18 support and considering any kind of
19 increase. I know someone who -- Cindy
20 mentioned fifty-five percent can be garnished
21 from your wages. But I know someone who is
22 not in arrears, has always paid on time,
23 who's paying over seventy-five percent of his

1 take-home pay in child support. If he has
2 any increase, he will be on the street. He
3 will not have a car. He will not be able to
4 go to work. He already cannot afford the --
5 to feed his children the four days that he
6 gets to see them each month. If he didn't
7 have assistance from friends and family, he
8 wouldn't be able to feed his children on the
9 four days.

10 Seventy-seven percent of your take-home
11 pay is outrageous to pay in child support
12 and -- when any increase would put you on the
13 street. And everyone needs to consider that
14 when they are thinking about making new child
15 support tables and new child support
16 guidelines.

17 This is a father who would spend every
18 minute with his children. This is not
19 someone who doesn't want to pay. He has
20 never complained about -- I am outraged by
21 what he pays. He doesn't complain about what
22 he pays. He complains because he never sees
23 his children, and you're never going to get

1 that when you go see a judge. You're not
2 going to get more time. He's just going to
3 look at the money. Someone needs to consider
4 the time that a father want and can spend
5 with his children, if he is a fit parent,
6 which most of them are. But that's what I
7 would say about the guide support
8 guidelines.

9 JUDGE HUGHES: All right. We've got
10 time for one more comment.

11 MR. SMITH: How about two?

12 JUDGE HUGHES: One. No, we've got time
13 for -- Have you spoken before?

14 MR. SMITH: No, I have not, sir.

15 JUDGE HUGHES: Okay. Go ahead.

16 MR. SMITH: Tim Smith with the Alabama
17 Family Rights. I was here last year and
18 spoke to the committee.

19 I would like to thank all of you for
20 taking on this task and being on the
21 committee. If you will look at the comments
22 you've got from the crowd here today, the
23 comments you had at the last meeting last

1 year, I think you've got a tremendous
2 resource in the citizens of the state that
3 are willing to step up and help the committee
4 in anything the committee does and come up
5 with great answers on our own that we can
6 assist you.

7 So I would really like to commend you
8 and offer you my help personally, the help of
9 the Alabama Family Rights Association, and
10 I'm sure you could get help from anybody in
11 this room if you just allow us to help.
12 Thank you.

13 JUDGE HUGHES: All right. Thank you.
14 We'll go back to the issue before the --

15 MS. RICHMOND: Mr. Hughes --

16 JUDGE HUGHES: Ma'am, we're cutting --

17 MS. RICHMOND: Wait just a minute. That
18 was my comment.

19 JUDGE HUGHES: No, ma'am.

20 MS. RICHMOND: What can we do to help
21 you with your task? That was my next --

22 JUDGE HUGHES: I don't know. Just a
23 moment.

1 We'll go back to the committee now. The
2 issue that we have is -- And I will accept
3 any motion that would be made to either
4 accept the proposal by PSI, table the issue
5 and request an economic study be done
6 addressing Alabama in that, or leave the
7 child support guidelines as they are and
8 complete the work of the committee for the
9 review at this time.

10 So that -- I think that that is our
11 issues that we have to make a decision on at
12 this time.

13 JUSTICE STUART: I'm Lyn Stuart. I just
14 want to ask a question because I have only
15 been on the committee for a year. Do you
16 recall at the time you requested the study in
17 1993 -- I understand it was to be of
18 Alabama. Was it going to come forward with a
19 proposed chart --

20 JUDGE HUGHES: Yes.

21 JUSTICE STUART: -- to the guidelines?

22 MR. BAILEY: Yes. Yes. That's correct.

23 JUDGE HUGHES: Do we have a motion on

1 either one of those categories that we need
2 to --

3 MR. ARNOLD: I move to table
4 consideration of the report from PSI. I add
5 to that motion that we investigate a resource
6 to assist the committee in making a
7 comparison of the PSI study to Alabama's
8 specific economics. That would be my motion.

9 JUDGE HUGHES: Okay. Do we have a
10 second?

11 MR. BAILEY: Second.

12 JUDGE HUGHES: All in favor.

13 (Whereupon, the committee members
14 simultaneously said aye.)

15 MR. ARNOLD: Discussion on the motion.
16 I don't know where we get the money or where
17 the resource is. And that has always been a
18 perineal problem and --

19 JUDGE HUGHES: That may be, but that is
20 the recommendation of the child support
21 guidelines this morning. Now it will be up
22 to the Supreme Court to accept our
23 recommendation or not. They may send it back

1 to us.

2 JUSTICE STUART: I have another question
3 then. At the time that the PSI study was
4 requested, because I wasn't part of the
5 committee at that time, what was the
6 understanding about what they were going to
7 do? Because quite frankly, when I got on the
8 committee and got the study, I was surprised
9 by what I got. It was not what I expected to
10 get.

11 JUDGE HUGHES: Basically, what they did
12 is update what they had done in '93.

13 JUDGE FORD: What they had done
14 originally.

15 JUDGE HUGHES: And going back to '87.

16 MR. BAILEY: Right.

17 JUSTICE STUART: But do y'all agree with
18 that, that it is simply an extrapolation of
19 some type of national figures?

20 JUDGE HUGHES: Oh, this is, yes.

21 JUSTICE STUART: Which is the problem
22 that I have with it.

23 JUDGE FORD: Our original guidelines are

1 established from national figures and other
2 studies at the time. You have to understand,
3 at the time these original guidelines were
4 done under the federal requirement, there was
5 really no one on the horizon who had really
6 done such a thing.

7 MR. ARNOLD: There were two guys in the
8 whole country, and they took a quick monopoly
9 on the system, and they worked with all the
10 different states and made a quick fortune.
11 And they did it with a bare minimum of study
12 and economic data and background. And the
13 states were compelled to fulfill the federal
14 mandates, so they gobbled up what those two
15 people did. And we are left with the
16 remnants.

17 JUDGE HUGHES: All right. Any -- Yes,
18 ma'am?

19 MS. MOORE: I have a comment. When we
20 request that study, is it possible to put a
21 stipulation in to consider the different
22 areas of Alabama, rural Alabama, black
23 Alabama?

1 JUDGE HUGHES: I think that -- Yes, I
2 agree that it should be representative of all
3 sections, that it be rural, metropolitan
4 areas that the study --

5 MS. MOORE: Maybe to contrast the cost
6 of living in one area as opposed to the
7 other.

8 JUDGE HUGHES: I don't know if we can
9 contrast or not, but it would at least be --
10 all of it be included for an overall state
11 average of something. I don't know if we --
12 If you tried to take out one area in that --
13 and I'll just use, for example, Dallas County
14 and then my county of Calhoun, then you're
15 going to have different amounts for different
16 counties. And I don't think that that's
17 going to be feasible.

18 What we would have to do is take an
19 overall -- get an overall study of the state
20 and taking into consideration those areas and
21 come up with an average in that. Yes, sir?

22 MR. CHRISTIAN: We probably wouldn't
23 address this today, but I was wondering at

1 what point in time -- There has been some
2 questions raised. I have some questions
3 about -- we say we take income from both
4 parents. And with the gentleman back here,
5 he is probably ahead that they only took his
6 income. If his wife is making more than he
7 is, then it would probably help him if they
8 only used his.

9 But at what point in time will the
10 committee address questions like intact
11 household? I mean, you don't have an intact
12 household, and I've seen one study in one
13 state where they add both parties' income
14 together, divide it in half and this is what
15 each household, you know, will take to
16 maintain that standard of living.

17 So we're looking at the forest when we
18 say we're going to have -- we've got a
19 hundred and twenty thousand dollars worth of
20 combined income or we've got forty thousand
21 dollars worth of combined income. You don't
22 actually have that amount of money in each
23 household to spend on the children and all.

1 So we're comparing apples and oranges in that
2 respect.

3 Also, there are some things that I
4 had -- personally had a problem with, like
5 what we define income as, total income,
6 overtime. I mean, second jobs. You've got
7 people out here, noncustodial parents, that
8 are trying to -- they say, Okay, I'm paying
9 X-dollars in child support, so if I want to
10 take my children on vacation, I've got to
11 work X-number of extra hours or I've got to
12 get a second job. In this gentleman's case,
13 he's got a second job. When would be the
14 appropriate time to look at the definition of
15 income for the committee because I know some
16 states --

17 JUDGE HUGHES: Okay. Let me stop you on
18 that one. And I don't disagree with you in
19 that, and it needs to be looked at. That was
20 not a proposal that was submitted last time.
21 If you would like to have that put as a
22 proposal for our next meeting to address
23 along with the others, the insurance and

1 that, please submit that as a proposal for a
2 change to the Rule in that, and we will put
3 it on the agenda for the next meeting that we
4 have.

5 And as soon as we get an answer from the
6 Supreme Court or a study with another
7 proposal, then we will call another meeting
8 of the committee to address all of it at one
9 time as to what we do with the chart and the
10 other aspects of the Rule 32.

11 MR. JONES: Judge Hughes, I'm sorry.
12 I'm Wayne Jones. I'm the liaison with the
13 Supreme Court. Is the committee going to lay
14 out the parameters of the study or is the
15 committee going to make a recommendation to
16 the Supreme Court and ask the court what they
17 want studied?

18 JUDGE HUGHES: All right. The
19 recommendation that will go to the court is
20 that we have an economic study done based on
21 Alabama and that it be used for the
22 computation of the chart rather than the
23 national figures that were used.

1 Now, whether that is done -- You know,
2 whether PSI is contracted with to do the
3 study or whether it is put out for bid to the
4 universities here to -- or any other company
5 that's capable of doing that type study, that
6 would, you know, certainly be up to the Court
7 and the Administrative Director of Courts in
8 doing that.

9 But the recommendation of the committee
10 is that we have an economic study done on the
11 basis that they -- the figures that they used
12 in this, the same criteria in that, but it be
13 based on the Alabama cost rather than some
14 type of extrapolation that they have done.

15 All right. Do we have anything else
16 from the committee that we need to address at
17 this time? Or, if not, then I'll accept a
18 motion to adjourn.

19 MR. BAILEY: So moved.

20 MR. HUFF: Second.

21 JUDGE HUGHES: We're adjourned.

22 (Whereupon, the meeting was
23 adjourned.)

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

IN RE: CHILD SUPPORT GUIDELINES
COMMITTEE MEETING
April 22, 2005

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I, Laura A. Head, Court Reporter for the State of Alabama at Large, do hereby certify that I have this date completed a true and correct transcription of the Meeting of the Advisory Committee on Child Support Guidelines and Enforcement held on Friday April 22nd, 2005, at the Alabama Judicial Building, 300 Dexter Avenue, Montgomery, Alabama. All pages are numbered serially with the numbers appearing in the top of each page, and the transcript ends with the

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Laura A. Head

LAURA A. HEAD
Court Reporter