

## MEMORANDUM

TO: Advisory Committee on Child Support Guidelines and Enforcement

FROM: Subcommittee on Non-parent Custodian Income and Child Support Calculation

RE: Recommendation of Subcommittee on Non-parent Custodian Income and Child Support Calculation

DATE: October 25, 2024

The Subcommittee proposes that the Advisory Committee on Child Support Guidelines and Enforcement recommend to the Supreme Court of Alabama that subsection (8) be added to Rule 32 (C) to address the calculation of child support when a non-parent has custody of the child and that a new subsection be added to Rule 32 (A)(1) to create a deviation to allow a non-parent custodian to include child-care expenses when calculating child support in instances when the child-care is not work or job search related.

The recommendation for the proposed amendment to Rule 32 (C) is as follows:

“(8) In those situations where neither parent has physical custody of one or more children, the income of the non-parent custodian(s) shall not be used to calculate support. Support shall be calculated by treating one parent as the plaintiff and the other parent as the defendant on the Child-Support Guidelines form (Form CS-42), regardless of their actual party status in the case. The monthly gross income of each parent shall be their actual or imputed income. Income shall not be imputed to a deceased parent. Work-related child-care costs or health care coverage paid by a parent shall be included on the Child-Support Guidelines form (Form CS-42) as provided for elsewhere in this rule. Work-related child-care costs or health care coverage paid by a non-parent custodian shall be included on the Child-Support Guidelines form (Form CS-42) in the “Combined” column of lines 5 and 6, however, the parent’s child support obligation shall not be adjusted as provided for in lines 9 and 10 of the Child-Support Guidelines form (Form CS-42). Upon completion of the Child-Support Guidelines form (Form CS-42), each parent(s) shall pay to the non-parent custodian(s) the “Recommended Child-Support Order” designated for that parent on Line 13 of the Child-Support Guidelines. A parent may receive credit for their support obligation for third-party payments paid for the children based on the support obligor's earnings record or other eligibility requirement. Nothing in this subsection precludes a court from deviating from the guidelines as provided in subsection (A)(1) of this rule.”

### Proposed Committee Comments to Amendment to Rule 32, Ala.R.Jud.Admin.

“Committee Comments to Amendment to Rule 32, Ala.R.Jud.Admin. effective \_\_\_\_\_, 202\_\_\_\_. Rule 32 was amended effective \_\_\_\_\_, 202\_\_\_\_ to clarify how support should be calculated when a non-parent has custody of the child(ren). These changes adhere as closely as possible to the traditional method of calculating support when one or both parents have custody and all provisions of Rule 32 apply except as provided for in this subsection. These changes support the public policy that parents have a duty to support their children even if they themselves

do not have custody and that non-parent custodians should not be discouraged from assuming custody because of lack of financial support from the parent(s).”

The recommendation for the proposed amendment to Rule 32 (A)(1) is as follows:

“(h) A non-parent custodian incurs child-care costs for the child or children in their custody that is not related to employment or a job search but that the non-parent custodian would not ordinarily incur if they did not have custody of the child or children;”

Proposed Committee Comments to Amendment to Rule 32, Ala.R.Jud.Admin.

“Committee Comments to Amendment to Rule 32, Ala.R.Jud.Admin. effective \_\_\_\_\_, 202\_\_\_. Rule 32 was amended effective \_\_\_\_\_, 202\_\_ to create a deviation to allow a non-parent custodian to include child-care expenses when calculating child support in instances when the child-care is not work or job search related.”