

Rule 32 Suggestions

Suggestion Number 1

“... I was hoping you might be able to point me in the right direction on a Rule 32 issue. As I understand it, Rule 32 caps child care rates at the Alabama DHR rates. DHR hasn't updated the rates since 2009. The rates are laughably low for actual DHR licensed facilities, which truly just mean custodial parents have to foot a disproportionate amount of child care costs.

Example: Huntsville lists \$101 per week. Having just had a child and looked around for licensed childcare, the average I found was over \$800 a month, or about \$185 per week. One of the staff members in my office was looking for her child and the absolute lowest rate she could find was \$120, and it was NOT a good place. Mostly just griping, but I'd love to talk to someone about the need to fix this. I've got a message in to DHR as well. . . .

I tend to think that the default for Rule 32 day care should simply be what the actual cost of day care is, with parties able to argue for a deviation if it is ridiculously high. . . .”

Suggestion Number 2

“... I think the only thing I brought up was when calculating, gross income should be after mandatory federal and state taxes had been deducted. All too often I see calculations where after child support is paid, and taxes are deducted from gross, they are left with literally nothing in which to survive. Perhaps if consideration was given for taxes it might result in better payment of child support. . . .”

Suggestion Number 3

“... My suggestion was a little more controversial. I have had several clients who are owners or partners in business that pay for the owner/partner's health insurance or part of their health insurance. At the end of the month or year depending on accounting method that amount is taken from any profits of the business before paying out the profits or paying bonuses. The payment for the medical insurance is coming from a third person/business just like if a step parent carries the insurance - comes from the same pot of money....arguably!”

Suggestion Number 4

Could military retirement income be included in the definition of “income”?

CHILD-SUPPORT-OBLIGATION
INCOME STATEMENT/AFFIDAVIT

Case Number

IN THE _____ COURT OF _____ COUNTY, ALABAMA
(Circuit or District) (Name of County)

Plaintiff _____ v. Defendant _____

AFFIDAVIT

I, _____, being duly sworn upon my oath, state as follows :
(Name of Affiant)

1. I am the Plaintiff Defendant Other (please specify): _____ in the above matter.
My Social Security number is: _____

2. I am currently employed. My employer's name and address are:

not currently employed.
My last employer's name and address are: _____

Last position title: _____

Average monthly salary in the last year of employment: \$ _____

3. My monthly gross income includes:

(For example of Income that must be included, see back of this form. If income varies by month, enter the estimated average monthly gross income.)

Employment income	\$ _____
Self-employment income	\$ _____
Other employment-related income	\$ _____
Other non-employment-related income	\$ _____
Total	\$ _____

4. I incur the following amount monthly for work-related child-care: \$ _____
(if none, write "None")

5. The child(ren) of the parties is/are

- not covered by health insurance from me and/or my employer.
- covered by health insurance, and (1) I pay \$ _____ each month, or that amount is paid on my behalf each month by my _____, for the family policy coverage under which the child(ren) is/are covered; and (2) the total number of persons covered under that policy is _____.

The pro rata portion of the medical insurance premium attributable to the child or children who are the subject of the support order (which shall be calculated by dividing the total medical insurance premium actually paid by, or on behalf of, the parent ordered to provide the coverage by the total number of persons (adult and/or children) covered and then multiplying the result by the number of children who are the subject of the support order) is the sum of \$ _____.

6. I pay the following total amount for child support alimony in [a] prior case(s) as follows:
[List case number(s) and county(ies) and state(s) here]:

\$ _____
(if none, write "None")

I understand that I will be required to maintain all income documentation used in preparing this Income Statement/Affidavit (including my most recent income-tax return) and that such documentation shall be made available as directed by the court. I also understand that any intentional falsification of the information presented in this Income Statement/Affidavit may subject me to the penalties of perjury.

Affiant

Sworn to and subscribed before me this _____
day of _____, _____

Notary/Clerk

Can this language be clarified further?

EXAMPLES OF INCOME THAT MUST BE INCLUDED IN YOUR GROSS MONTHLY INCOME

1. Employment Income – shall include, but not be limited to, salary, wages, bonuses, commissions, severance pay, worker's compensation, pension income, unemployment insurance, disability insurance, and Social Security benefits.
2. Self-Employment Income – shall include, but not be limited to, income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation. "Gross income" means gross receipts minus ordinary and necessary expenses required to produce this income.
3. Other Employment-Related Income – shall include, but not be limited to, the average monthly value of any expense reimbursements or in-kind payments received in the course of employment that are significant and reduce personal living expenses, such as a furnished automobile, a clothing allowance, and a housing allowance.
4. Other Non-Employment-Related Income – shall include, but not be limited to, dividends, interest, annuities, capital gains, gifts, prizes, and pre-existing periodic alimony.

RULE 32, ALABAMA RULES OF JUDICIAL ADMINISTRATION, PROVIDES THE FOLLOWING DEFINITIONS:

Income. For purposes of the guidelines specified in this Rule, "income" means the actual gross income of a parent, if the parent is employed to full capacity, or if the parent is unemployed or underemployed, then it means the actual gross income the parent has the ability to earn.

Gross Income.

"Gross income" includes income from any source, and includes, but is not limited to, income from salaries, wages, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, Social Security benefits, workers' compensation benefits, unemployment-insurance benefits, disability-insurance benefits, gifts, prizes, and preexisting periodic alimony.

"Gross income" does not include child support received for other children or benefits received from means-tested public-assistance programs, including, but not limited to, Temporary Assistance for Needy Families, Supplemental Security Income, food stamps, and general assistance.

Self-employment Income.

For income from self-employment, rent, royalties, proprietorship of business, or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required to produce such income, as allowed by the Internal Revenue Service, with the exceptions noted in Rule 32 (B)(3)(b).

Under those exceptions, "ordinary and necessary expenses" does not include amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses, investment tax credits, or any other business expenses determined by the court to be inappropriate for determining gross income for purposes of calculating child support.

Other Income. Expense reimbursements or in-kind payments received by a parent in the course of employment of self-employment or operation of a business shall be counted as income if they are significant and reduce personal living expenses.