



# IN THE SUPREME COURT OF ALABAMA

March 3, 2023

## ORDER

IT IS ORDERED that that the preface relating to the scope of Rule 32, Rule 32(B)(7)(d), Rule 32(B)(7)(e), and Rule 32(E), Alabama Rules of Judicial Administration, be amended to read in accordance with Appendices A, B, C, and D, respectively, to this order;

IT IS FURTHER ORDERED that Rule 32(C)(7), Alabama Rules of Judicial Administration, be adopted to read in accordance with Appendix E to this order;

IT IS FURTHER ORDERED that the Committee Comments to Amendments to Rule 32 Effective June 1, 2023, be adopted to read in accordance with Appendix F to this order;

IT IS FURTHER ORDERED that Form CS-42-S, "Child Support Guidelines," be adopted to read in accordance with Appendix G to this order;

IT IS FURTHER ORDERED that the amendments to the preface relating to the scope of Rule 32 and to Rule 32 and the adoption of Rule 32(C)(7), the Committee Comments, and Form CS-42-S are effective June 1, 2023; and

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow Rule 32:

**"Note from the reporter of decisions:** The order amending the preface relating to the scope of Rule 32, Alabama Rules of Judicial Administration, Rule 32(B)(7)(d), Rule 32(B)(7)(e), and Rule 32(E), adopting Rule 32(C)(7) and Form CS-42-S, and adopting the Committee Comments thereto, effective June 1, 2023, is published in that volume of *Alabama Reporter* that contains Alabama cases from \_\_ So. 3d."



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Parker, C.J., and Shaw, Wise, Bryan, Sellers, Mendheim,  
Stewart, Mitchell, and Cook, JJ., concur.

Witness my hand and seal this 3rd day of March, 2023.

*Megan B. Rhodelsek*

Clerk of Court,  
Supreme Court of Alabama

**FILED**  
**March 3, 2023**  
**Clerk of Court**  
**Supreme Court of Alabama**



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## APPENDIX A

### **Preface Relating to the Scope of Rule 32, Ala. R. Jud. Admin.**

Preface relating to scope. This rule, as amended effective June 1, 2023, shall apply to all new actions filed or proceedings instituted on or after June 1, 2023. Any actions or proceedings instituted before June 1, 2023, shall be governed by Rule 32 as it read before June 1, 2023.



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## APPENDIX B

### **Rule 32(B)(7)(d), Ala. R. Jud. Admin.**

(d) The actual cost to provide health-care coverage for the child or children shall be added to the "basic child-support obligation" and shall be divided between the parents in proportion to their adjusted gross income in the percentages indicated on the applicable Child-Support Guidelines form (Form CS-42 or Form CS-42-S).



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## APPENDIX C

### **Rule 32(B)(7)(e), Ala. R. Jud. Admin.**

(e) The amount to be added to the "basic child-support obligation" and inserted either in Line 6 ("Health-Care-Coverage Costs") of the CS-42 Child-Support Guidelines form or in Line 7 ("Health-Care-Coverage Costs") of the CS-42-S Child-Support Guidelines form shall be the pro rata portion of the health-care-coverage cost attributable to the child or children who are the subject of the support order, which shall be calculated by dividing the total health-care-coverage cost 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.



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## APPENDIX D

### **Rule 32(E), Ala. R. Jud. Admin.**

**(E) Standardized Child-Support Guidelines Forms, Child-Support-Obligation Income Statement/Affidavit Form, and Child-Support Guidelines Notice of Compliance Form.** A standardized Child-Support Guidelines form (Form CS-42 or Form CS-42-S as appended to this rule), a Child-Support-Obligation Income Statement/Affidavit form (Form CS-41 as appended to this rule), and a Child-Support Guidelines Notice of Compliance form (Form CS-43 as appended to this rule) shall be filed in each action to establish or modify child-support obligations and shall be of record and shall be deemed to be incorporated by reference in the court's child-support order. The form, content, and numbering schemes of the Child-Support Guidelines forms, the Child-Support-Obligation Income Statement/Affidavit form, and the Child-Support Guidelines Notice of Compliance form shall be prescribed by the ADC.



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## APPENDIX E

### **Rule 32(C)(7), Ala. R. Jud. Admin.**

(7) Shared 50% physical-custody adjustment ("SPCA").

(a) Solely for purposes of child-support calculations made pursuant to this rule, "shared 50% physical custody" shall refer to a court-ordered physical-custody arrangement whereby each parent retains physical custody of a child 50% (or approximately 50%) of the time.

(b) When the court orders shared 50% physical custody, the SPCA shall apply as described herein, and child support shall be calculated using Form CS-42-S, instead of Form CS-42. The basic child-support obligation derived from the Schedule of Basic Child-Support Obligations shall be determined as if shared 50% physical custody had not been ordered. The basic child-support obligation on Line 4 of Form CS-42-S shall then be multiplied by 150%. Costs and credits for work-related child care and health-care coverage shall be determined as if shared 50% physical custody had not been ordered. After each parent is credited for costs paid and for half of the shared 50% physical-custody child-support obligation from Line 5 of Form CS-42-S (i.e., after those amounts are deducted from each parent's child-support obligation shown on line 10 of Form CS-42-S), the parent owing the higher amount of the adjusted shared 50% physical-custody child-



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support obligation as shown on Line 13 of Form CS-42-S shall pay that amount to the other parent.

(c) When a court has applied the SPCA by ordering child support pursuant to Rule 32(C)(7)(b) and a parent without sufficient cause fails to exercise his or her physical custody of a child for more than 14 days in the 12 consecutive months immediately preceding the filing of a petition to modify child support with the court, the court may consider that failure to exercise physical custody as a material change of circumstances sufficient to support a modification of child support. Such a modification may be made retroactively to the date of the filing of the petition.

(d) If the court finds that a parent willfully failed to exercise his or her physical custody of a child for more than 14 days in the 12 consecutive months immediately preceding the filing of a petition to modify child support with the court, the court has the discretion to award attorney fees and costs to the other parent in the child-support-modification proceeding.

(e) The SSR calculation, the \$50 minimum child-support requirement, and the provision allowing for a zero-dollar order referenced in Rule 32(C)(5) and (6) shall not apply when using Form CS-42-S.





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## APPENDIX F

### **Committee Comments to Amendments to Rule 32 Effective June 1, 2023**

Rule 32 was amended effective June 1, 2023, to provide a method of calculating child support in cases in which a court order provides for shared 50% physical custody, i.e., when each parent retains physical custody of a child 50% (or approximately 50%) of the time.

Rule 32(C) was amended to add paragraph (7), which provides for the shared 50% physical-custody adjustment ("SPCA"). Before this amendment, Rule 32 contained no provision for calculating child support in cases involving shared 50% physical custody. Rather, in certain cases, awarding shared 50% physical custody was a reason for deviating from the Rule 32 guidelines, including the Schedule of Basic Child-Support Obligations, pursuant to Rule 32(A)(1)(a).

Rule 32(C)(7)(a) defines when the SPCA should be applied. The SPCA is to be applied when shared 50% physical custody is provided by an order (whether the order incorporates an agreement of the parties as to custody or reflects the court's determination as to custody after a trial). It is not to be applied by informal agreement of the parties that has not been adopted by a court order. The labeling of the custody arrangement by the parties or the court is not determinative of whether to apply the SPCA. Rather, the existence of a provision in a court order that awards each parent physical custody of a child 50% (or approximately 50%) of the time is the operative fact.

Rule 32(C)(7)(b) provides for the use of a separate Child-Support Guidelines form (Form CS-42-S) when applying the SPCA and explains that a 150% multiplier is applied to the basic child-support obligation when calculating child support in these cases. The multiplier is used to account for the fact that it costs at least 50% more to raise a child in two households than in one household because of duplicated expenses, such



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as housing and transportation costs.

Rule 32(C)(7)(c) allows a court, after the SPCA has been applied, to modify child support to remove that adjustment in cases in which a parent, without sufficient cause, fails to exercise his or her right to physical custody for more than 14 days in the 12 consecutive months immediately preceding the filing of a petition to modify child support with the court. The modification of child support may be ordered without regard to whether custody is modified.

The attorney fees and costs allowed under Rule 32(C)(7)(d) are to be awarded at the court's discretion in those cases in which the court finds that a parent's failure to exercise his or her right to physical custody for more than 14 days in the 12 consecutive months immediately preceding the filing of the petition for a modification of child support was willful.



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## APPENDIX G

State of Alabama Unified Judicial System Form CS-42-S Effective 6/2023	<b>CHILD SUPPORT GUIDELINES</b>	Case Number		
IN THE _____ COURT OF _____ COUNTY, ALABAMA (Circuit or District) (Name of County)				
_____ v. _____ Plaintiff Defendant				
Children	Date of Birth	Children	Date of Birth	
		Number of Children		
Line	Item	Plaintiff	Defendant	Combined
1	MONTHLY GROSS INCOME	\$	\$	\$
1a	Minus Preexisting Child-Support Payments	-	-	-
1b	Minus Preexisting Periodic Alimony Payments	-	-	-
2	MONTHLY ADJUSTED GROSS INCOME (Line 1 – Line 1a – Line 1b)	\$	\$	\$
<b>Child-Support-Obligation Calculations</b>				
3	PERCENTAGE SHARE OF INCOME (Income on Line 2 divided by Combined Income)	%	%	100 %
4	BASIC CHILD-SUPPORT OBLIGATION (Apply Line 2 Combined to Schedule of Basic Child-Support Obligations)			\$
5	SHARED 50% PHYSICAL-CUSTODY CHILD-SUPPORT OBLIGATION (150% of Basic Child-Support Obligation) (1.5 x Line 4 Combined)			\$
6	WORK-RELATED CHILD-CARE COSTS (Paid by Either Parent)	\$	\$	
7	HEALTH-CARE-COVERAGE COSTS (Paid by Either Parent)	+	+	
8	TOTAL CHILD-CARE AND HEALTH-CARE-COVERAGE COSTS (Line 6 + Line 7)	\$	\$	\$
9	TOTAL CHILD-SUPPORT OBLIGATION (Combined Line 5 + Line 8)			\$
10	EACH PARENT'S CHILD-SUPPORT OBLIGATION (Line 3 x Line 9)	\$	\$	
<b>Shared 50% Physical Custody Calculations</b>				
11	TOTAL COSTS PAID BY EACH PARENT (Line 8)	-	-	
12	CREDIT FOR SHARED 50% PHYSICAL CUSTODY (50% of Line 5 Combined)	-	-	
13	ADJUSTED SHARED 50% PHYSICAL-CUSTODY CHILD-SUPPORT OBLIGATION (Line 10 – Line 11 – Line 12)	\$	\$	
<b>Recommended Child-Support Order</b>				
14	RECOMMENDED CHILD-SUPPORT ORDER (Higher of amounts in Line 13 placed in column of parent with higher amount.)	\$	\$	
Comments, Calculations, or Rebuttals to Guidelines:				
Prepared By:			Date:	