

**CHILD SUPPORT COORDINATING COUNCIL SUBCOMMITTEE**  
**Meeting Minutes - Wednesday, May 27, 1998**

**Members Present**

Hon. David Petersen  
Hon. Freddie Hershberger  
Patrick Harrington for Linda Blessing  
Kirk Burtch  
Hon. Robert Duber  
Hon. Michael Jeanes  
Nancy Mendoza

Commissioner David Ostapuk  
Debbie Schumacher  
Chuck Shipley  
Alice Rose Thatch for Dave Byers  
Hon. Richard Weiss  
Rick Wagner for Conrad Greene

**Members Absent:**

Hon. Mark Armstrong  
Jodi Beckley  
William Hurst  
Hon. Sandra Kennedy

David Norton  
Hon. Rebecca Rios  
Paul Smith  
Bianca Varelas

**Guest/Presenters**

Judy Bushong  
Kat Cooper  
Kim Gillespie  
Randi Gonzalez  
Jim Keane  
Heidi Koopman  
Jane McVay  
Chris Sotiriou

Clerk of Superior Court - Maricopa County  
Clerk of Superior Court - Maricopa County  
Attorney General's Office  
Clerk of Superior Court - Maricopa County  
Arizona Senate - Research Analyst  
DES - Legislative Services  
DES - DCSE  
Parent

**Staff Present**

Carmela Chiarenza  
Patrick Scott

**Call Meeting to Order**

The meeting was called to order by Representative Hershberger at 10:15 a.m.

**ANNOUNCEMENTS**

The cochairs announced the appointment of Judge Mark Armstrong, by Chief Justice Zlaket, to the urban county domestic relations presiding judge position on the Council. Judge Armstrong replaces Judge Barry Schneider. Judge Armstrong was attending the Association of Family and Conciliation Courts annual convention in Washington, D.C. and was not able to attend the meeting.

## **APPROVAL OF MARCH 2, 1998 MINUTES**

The minutes, as amended, were approved. The minutes as originally published inadvertently omitted Conrad Greene's name, as an absent member.

## **WORK GROUPS**

### *Public Education*

Patrick Harrington discussed the May 12 meeting of the work group. The work group discussed the messages that the Council wants to get out to the public, date sensitive issues, and the methods that will prove most effective in disseminating those messages. Mr. Harrington supplied the Council with a document summarizing the topics discussed by the work group and the priority given to each topic. The recommendation of the work group is to concentrate on disseminating information on the support payment clearinghouse, assuming responsibility for non-IV-D payments, and the message that job training is available for unemployed obligors. The topics of parental responsibility, children need two parents, and responsible fatherhood were identified as additional priorities. The work group will meet again in a couple of weeks and will refine the plan.

### *Clean Up Child Support Statutes*

Kat Cooper reminded the Council that this work group was formed to review and clarify discrepancies in the child support statutes. The work group has been reviewing the statutes relating to judgments. The work group has made some initial suggestions for consideration by the Council. It was agreed by the members of the work group that limitations in statute on child support judgments be eliminated.

Ms. Cooper distributed a document in legislative format detailing the proposed amendments to statute. The work group proposes to exempt child support judgments from the limits imposed by A.R.S. § 12-1551 and restates the exemption in A.R.S. § 25-503, D., also section J would be eliminated.

Judge Duber asked if anyone perceived a problem with the statute of limitations under current state statute. The judge also questioned how a party would obtain a lien release or a satisfaction of judgment. It was stated by Nancy Mendoza that currently those functions may be performed by the IV-D agency when they are a party to a case. It was noted that this issue was brought to the Council by Beverly McConnell, a private attorney. Ms. Mendoza and Kat Cooper

suggested these issues be addressed at the next meeting after obtaining more information about judgment enforcement practices in other states.

### ***Centralized Processing of Non-IV-D Payments***

Commissioner David Ostapuk stated that the Council bill SB 1132 had been passed by the legislature. The bill prescribes a statutory priority for distribution of child support, spousal maintenance, and interest for non-IV-D cases.

This work group has been expanded to include several people with additional expertise such as superior court clerks, computer personnel from the Department of Economic Security and the Administrative Office of the Courts, and representatives from the Attorney General's Office and Pima County Attorney's Office.

One of the issues that the work group is examining is how to distribute those monies paid in excess of the amount ordered by the court. The work group intends to contact all of the superior court clerks and obtain a consensus how distribution should occur. The work group will also investigate the computer connections that are necessary for the superior court clerks to access to the state case registry system and how best to provide training.

The next meeting of the work group is scheduled for June 2.

## **LEGISLATIVE UPDATE**

Staff member David Sands advised members about legislation in the area of child support and domestic relations recently passed during the Second Regular Session of the Forty-third Legislature. Although the legislative session adjourned on May 22, 1998, most of the bill referred to still had not been signed by the Governor. Unless a different time period is specified in a particular bill, new laws become effective August 21, 1998.

First discussed was the Council's omnibus legislative proposal, introduced as Senate Bill 1132. The bill passed largely as introduced. Principal features of the bill are provisions advancing termination of the marital community to the date of service of a petition for dissolution of marriage or legal separation; expansion of the domestic relations on children's issues (DRECI) programs to additional paternity cases; consolidation and revision of the laws governing orders of assignment; and codification of a hierarchical formula for distribution of support payments in non title IV-D cases by the centralized payment processing center. Amendments added during the legislative process provide that the DRECI program is extended only to paternity cases in which the court is asked to determine child support; clarify that provisions concerning termination of marital community apply only to actions for dissolution of marriage, legal separation or annulment commenced August 21, 1998; and limit access to employer information under A.R.S. § 25-513 by private child support litigants to not more than once in three months.

Senate Bill 1133, enacted as Laws 1998, Chapter 57, codified as sections 25-901 through 25-906, Arizona Revised Statutes creates a new type of marriage with specific, exclusive grounds

for obtaining a divorce or separation To enter into a covenant marriage, parties must declare the intent to do so on the marriage license application. The statute prescribes the content of the declaration. Because the marriage already recognized in Arizona has not been abolished, persons contemplating marriage will have a choice regarding the type of marriage to be contracted.

Senator Petersen provided additional information regarding the covenant marriage bill. He indicated Arizona is the second state in the nation, after Louisiana, to pass this legislation. Central to this type of marriage is the requirement of premarital counseling. Several grounds for dissolution of marriage are provided in the legislation, including physical, sexual and emotional abuse, domestic violence, habitual alcohol or drug abuse, adultery, abandonment and mutual agreement of the parties.

Mr. Sands also discussed three domestic violence bills that passed. House Bill 2142 was proposed by the Arizona Supreme Court Committee on the Impact of Domestic Violence and the Courts. This bill makes a variety of amendments to state laws regarding domestic violence protection orders, among them reducing the fee for an injunction against harassment from ten to five dollars; extending the effective length of a protection order from six months to one year, commencing January 1, 1999; clarifying the courts authority to prohibit purchase and possession of firearms by a defendant or to order a defendant to attend counseling programs when subject to an order of protection; and amending state law consistent with federal law to require that courts give full faith and credit recognition to the protection orders of other states and Indian tribes. Senate Bill 1175 creates a new crime of aggravated domestic violence applicable to repeat offenders and House Bill 2189 establishes the crime of aggravated harassment, applicable when the defendant commits harassment and either is subject to a valid, effective order of protection in favor of the same victim or has been convicted of a previous domestic violence offense involving the same victim.

Also, noted were two bills that did not pass. In 1997, state law was amended to allow persons standing in loco parentis to a child to seek custody or visitation. At that time, the Legislature, directed that the Child Support Enforcement and Domestic Relations Reform Committee study in loco parentis custody, visitation and child support and submit a written report of its findings. Recommendations in that report for amendments to state law lead to introduction of House Bill 2164. Principally, the bill would have clarified procedures for seeking custody and visitation, and clarified the legal status and child support obligation of persons seeking custody. Although passed by the House of Representatives, the bill died in the Senate when it failed to clear assigned committees. The other bill, Senate Bill 1368, contained a series of amendments to laws regarding custody evaluation and violation of visitation rights. It also was a vehicle for reintroduction of a parental responsibility bill, developed by the Domestic Relations Reform Study Subcommittee and first proposed to the Legislature in 1996.

Nancy Mendoza spoke about House Bill 2451, an omnibus bill proposed by the state title IV-D agency. The bill builds upon changes to state law made in 1997 as a part of federal welfare reform legislation and makes technical corrections to last years Arizona legislation. Many of the provisions require further reporting of parents' or children's social security numbers on such documents as petitions for dissolution of marriage (A.R.S. § 25-314); petitions to establish or

enforce support (section 25-502); drivers (section 22-3158) and recreational (25-320) licenses.

### **STATUTORY REFERENCE TO URESA vs UIFSA**

Judge Duber called the attention of the Committee to several lingering references to URESA in state statute. The judge was concerned about the fact that URESA was repealed but A.R.S. § 25-811 still states “All remedies available under the uniform reciprocal enforcement of support act are available for the enforcement of duties under this article. “ The judge requested the issue be placed on a work group agenda and , if appropriate, language drafted for a statutory reference to UIFSA.

Kim Gillespie volunteered to check into this issue when she attends a national conference on UIFSA and will report back to the Council.

### **WORK GROUP HOUSEKEEPING: MEMBERS AND DUTIES**

Alice Rose Thatch stated that her staff is in the process of updating and reviewing all the records, memberships lists for the Council and the associated work group lists. She asked the Council to check all lists for correct spelling of names and correct listing of address, phone and fax numbers. Members should notify Carmela Chiarenza at 542-9637 if any changes need to be made. In addition, she requested a status update on two particular work groups.

- Information Access for Non IV-D Cases. This work group was working to draft a letter for congress. Commissioner Ostapuk mentioned that this is something that needs to be brought back to the Council. Commissioner Ostapuk stated that he was to come up with a improved letter, along with Kirk Burch, and to identify other issues that need to be addressed. He recommended that this be keep on the agenda for future meetings so that other recommendations can be discussed and considered by the full council. Carmela Chiarenza will be sending Commissioner Ostapuk the current work group membership list to be sure that the members are correct.
- The second is the work group on non-traditional employer reporting with Patrick Harrington as chair. Mr. Harrington stated that the work group was examining the issue of job referral agencies such as unions or agencies employing private contractors. Mr. Harrington and Judy Bushong have discussed the issues with several union organizations. Mr. Harrington suggested that this work group be referred to as the Employment Referral Agencies and Wage Assignment work group.

Ms. Thatch asked if the Council supported the *in loco parentis* work group continuing considering the bills failure to progress during the legislative session. Chuck Shipley suggested if the members to this work group were reappointed they evaluate why the legislation did not succeed and come back to the Council with a recommendation. Senator Petersen explained that no one legislator had a problem with the bill as introduced. It had been held at the request of a

citizen and never did not move forward. Judge Duber suggested that staff should be tracking what is happening with judicial decisions relating to this statute.

Ms. Thatch also discussed a memo which was sent with permission of Senator Petersen and Representative Hershberger. The memo requested each Council member to submit the names of any person they wished to identify as a designee and/or who would be authorized to vote on behalf of the absent members.

Senator Petersen informed the Council that a new work group on fatherhood initiatives would be formed. The Senator requested Nancy Mendoza, Commission Ostapuk, Alice Rose Thatch and Kat Cooper to be on the work group. The work group will examine ways of getting fathers more actively involved in their children's lives and discuss how to encourage unmarried fathers to establish paternity. Ms. Mendoza suggested that DCSE could offer information to noncustodial parents that are unemployed or underemployed about how to receive job training. Ms. Mendoza will be share with the work group some of the activities underway nationally.

Judge Duber questioned how the Domestic Relations Reform Study Subcommittee was progressing. Ms. Thatch stated that the subcommittee is active and dealing effectively with several issues, e.g. custody evaluation, property division and domestic violence.

Senator Petersen stated that is very important these committees continue to try to solve the problems that relate to family issues. The Senator and Ms. Thatch both are members of the Domestic Relations Reform Study Subcommittee and agreed to facilitate the sharing of information between the Subcommittee and the Council.

## **NEXT MEETING OF THE COUNCIL**

The next meeting is scheduled for August 26, 1998, from 10:30 a.m. to 2:30 p.m. at the State Courts Building in room 119.

## **PUBLIC COMMENTS**

Mr. Chris Sotiriou addressed the Council concerning the issue of judicial abuse. He described his case and stated that he felt he had been treated unfairly. He explained that his former wife has custody of their son and Mr. Sotiriou is concerned for his son's safety. He was hoping to be able to get help from the council.

Commissioner Ostapuk responded to Mr. Sotiriou's issue, informing the Council that he was the commissioner referred to by Mr. Sotiriou in the case. Commissioner Ostapuk stated it would not be appropriate for him to discuss the details of the case and cautioned the members that there are always two sides to each case. Commissioner Ostapuk explained that the trial judge is in a unique position to hear all the information and evaluate that information. The court may then make a determination based upon the testimony, about what is in the best interest of the children.

Representative Hershberger explained to Mr. Sotiriou that the Council is not a court of law and they are not able to make those decisions.

## **ADJOURNMENT**

The meeting was adjourned by Representative Hershberger at 1:30 p.m.

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Hon. Michael Jeanes

Nancy Mendoza  
David Norton  
Commissioner David Ostapuk  
Hon. David Petersen  
Hon. Rhonda Repp  
Debbie Schumacher  
Bianca Varelas

**Members Absent:**

Jodi Beckley  
Hon. Robert Duber  
William Hurst  
Hon. Sandra Kennedy

Hon. Rebecca Rios  
Chuck Shipley  
Paul Smith

**Guest/Presenters**

C. Crabtree  
Kat Cooper  
Glenn Davis  
Scott Dusenberry  
Kim Gillespie  
Rand Gonzalez  
Jim Keane  
Heidi Koopman  
Rita Anita Linger  
John MacDonald  
Beverly McConnell  
Jane McVay  
Sheryl A. Rabin  
Chris Sotiriou  
Nancy Swetnam  
Rick Wagner

Parent  
Clerk of Superior Court-Maricopa County  
Arizona Senate-Research Analyst  
DES-Public Information Office  
Attorney General's Office  
Clerk of Superior Court - Maricopa County  
Arizona Senate-Research Analyst  
DES-Legislative Services  
A.O.C.-Parent Education Specialist  
A.O.C.-Communications Officer  
Private Attorney  
DES-DCSE  
Clerk of the Court-Maricopa County  
Parent  
Administrative Offices of the Court  
Children's Rights Council

**Staff Present**

Carmela Chiarenza

Patrick Scott

**Call Meeting to Order**

The meeting was called to order by Representative Hershberger at 10:50 a.m.

## **ANNOUNCEMENTS**

Representative Hershberger introduced Commissioner Rhonda Repp from the Superior Court in Yavapai who was appointed by Justice Zlaket to replace Commissioner Weiss of Mohave County. Commissioner Repp has been serving as the IV-D official officer in Yavapai for the past year. Mr. Michael Jeanes was formally appointed by Chief Justice Zlaket to fill the position designated for a Superior Court Clerk. Mr Jeanes had been serving in place of Judith Allen.

Additionally, the Council was notified that Alice Rose Thatch, Director of the Domestic Relations Division at the Administrative Office of the Courts (A.O.C.), has resigned. The staff of the Domestic Relations Unit has been merged with the Court Services Division at A.O.C., under the direction of Agnes Felton.

Congratulations were offered to the Child Support Division of the Gila County Attorney's Office for receiving the National Child Support Enforcement Association -1998 Most Improved Program Award. The award recognizes a state, regional, or county program that has shown remarkable improvement in operations and collections consistently for the last three years.

## **APPROVAL OF MAY 27, 1998 MINUTES**

The minutes were approved as written.

## **INFORMATION ITEMS**

The Council received three presentations for informational purposes.

### *Family Court Committee Interim Report*

Judge Mark Armstrong, Presiding Judge of Family Court Department in Maricopa County, presented the Council a recap of the work of the Committee studying formation of a Family Court. Additionally, Judge Armstrong announced several changes implemented by Superior Court in Maricopa County, where the Domestic Relations Department has been designated as the Family Court Department. The department adopted three priorities.

- 1) Insuring that the children are adequately supported, both financially and emotionally including meaningful parenting time with both parents when possible and appropriate.
- 2) Protecting the victims of domestic violence and preventing domestic violence.
- 3) Processing cases fairly and efficiently using non-adversarial means to the extent possible and appropriate.

Judge Armstrong distributed an article, that he wrote, dated August 6, 1998. The article explains the change in the name of the department, the reasons for the change, the priorities of the

department and summarized the work of the Family Court Committee. Judge Armstrong also directed the members to the interim report of the Family Court Committee that was distributed to the Council members. The report is currently being circulated for public comment and Judge Armstrong encouraged the Council to review the report and to submit comments.

The Judge went on to explain that the Family Court Committee was created by Chief Justice Zlaket as a state-wide committee to look into how the Arizona courts are dealing with families and their problems and to make recommendations to the Supreme Court on how families problems can be dealt more effectively within the court system. One of the specific tasks was to look into the feasibility of forming a family court in Arizona. Judge Armstrong noted that the committee formed four workgroups to meet and make recommendations. Those workgroups are:

- 1) Court System Workgroup - to examine the possible structure of a family court.
- 2) Jurisdiction Workgroup - to identify the types of cases that the family court would have jurisdiction over.
- 3) Case Processing/Resources Workgroup - to formulate how cases will be processed and to identify the resources required for a family court.
- 4) Legislation Rules Workgroup - to review legislation or rules that may be required to implement a family court in the proposed form.

Judge Armstrong summarized that the Family Court could be organized as a department of the Superior Court in each county and have general jurisdiction to deal with all domestic relations cases, juvenile court cases, and guardianships involving minors.

The structure that is envisioned is a unified or integrated family court. All the family court (domestic relations) department and juvenile court department judicial officers would be designated as family court department judicial officers and would be empowered to handle the full range of cases. The organization would be dependent upon access to information concerning all of the family members not on bringing all of the cases to a physical location.

The report makes global recommendations and envisions that before anything can be done that there has to be design groups in each county that formulate an implementation plan for each county.

There are two benefits to a family court.

1. There will be better information sharing among the courts.
2. This would bring the concept of the one judge/one family system closer. This means that one judge or a team of judicial officers would deal with all problems for a family.

Conrad Greene inquired why parent groups were not involved in any of the groups. Kim Gillespie stated that there were some groups that were invited and attended. Judge Armstrong

added that all comments are welcome.

David Norton asked if there are going to be separate facilities. Judge Armstrong stated that they will remain as they are now, but be connected through technology and deal with full range of family court cases.

Commissioner Repp asked Judge Armstrong how he envisions connecting the information. The Judge responded through information sharing using automation such as JOLTS (Juvenile Online Tracking System) that has the actual orders of the court online.

Kim Gillespie added that she feels that there is still a lot of work to be done, if family court is to be implemented and that automation is important.

Conrad Greene stated that he is very supportive of the family court and asked what can be expected on accountability of the judges and the court appointed experts. Judge Armstrong stated that judges are accountable at this time through the judicial performance review process. As the Presiding Judge, he has administrative responsibility over the department and is trying to lead the department by adopting core values that will set the tone and values for the department. He also stated that he can not control the judges individual decisions and that there are other remedies for litigants such as appeal and special actions.

### Justice 2002

Dave Byers explained Justice 2002, the Chief Justice's strategic agenda for the Arizona court system over next five years. The agenda was developed from many meetings and discussions throughout the court system and with citizen groups. The overall goal of Justice 2002 is to build public trust and confidence in the Arizona courts. There are four strategic categories to the project.

- 1.) Protecting Children, Families and Communities
- 2.) Providing Access to Swift, Fair Justice
- 3.) Connecting with the Community
- 4.) Being Accountable

### Protecting Children, Families and Communities

A number of projects have been started and significant progress has been made under protecting children, families and communities. Pima county has instituted a model court project that is being tested and the results are good. Dependency cases that normally would take several months are being heard within five to seven days.

The Family Court Committee is another project. While still in the early stages, the question is should there be a family court and if so should there be a separate facilities. The Committee's interim report is out in draft form for public comment.

Mr. Byers added that there could be a problems properly identifying parties due to differences

in formatting names. There may be children with multiple last names, multiple sets of parents within the family structure, etc.

Other projects created to deal with protecting children and families are:

1. Centralization of child support payment processing
2. New juvenile detention facilities
3. Juvenile and Adult Probation System emphasizing enforcement of court orders
4. Drug and alcohol treatment programs

#### Providing Access to Swift, Fair Justice

Between arrest and prison there is a gap. The court is trying to “Fill that Gap” by appealing to the legislature for the resources needed to expedite case processing. The core belief is that justice delayed is justice denied. The goal is to process 90 percent of all criminal cases within 100 days. Coconino and Yavapai counties are close to achieving this goal.

Another project is the expansion of self service centers for self-represented litigants across the state. There are Quick Court kiosks in each county, a Self Service Center in Maricopa County. The Self Service Center is available through the Internet and by telephone. Mr. Byers feels that there will be self service centers throughout the state. Additionally, there will also be an 800 telephone number offering free legal advice regarding elder law beginning in October. The Elder Law Hotline will be staffed by attorneys from Southern Arizona Legal Aid, Inc. under a contract with the Arizona Supreme Court.

#### Connecting with the Community

The Chief Justice is committed to having the court system reconnect with the community. There are a series of citizens summits scheduled around the state to obtain input from the public. The first was held in Flagstaff in June attended by approximately 150 people from five counties. The next citizen summit will be held in Maricopa County in November and in southern Arizona in December. Court employees will be able to attend a summit in Phoenix before the end of this year.

#### Being Accountable

The courts and judges need to be independent to make the decisions free of political pressures, but this does not mean that the court system is unaccountable. There will be increased emphasis on accountability by developing measurable performance standards for trial courts.

#### **Child Support Enforcement - Services to Noncustodial Parents**

Nancy Mendoza addressed meeting the needs of noncustodial parents involved in child

support cases. Nancy distributed a handout which summarized a variety of supportive services that can be provided to noncustodial parents. Head Start is a program which has been around for a couple of decades successfully providing services to low income families and children. The program has had great success in engaging parents in their children's early development. The Division of Child Support Enforcement (DCSE) staff will now be training Head Start staff about issues relating to paternity and support enforcement. Head Start male involvement staff will then educate unwed fathers about the benefits of establishing paternity.

DCSE established a memoranda of understanding with the City of Phoenix-Step Up Program and the Mesa Community College Educational Development Training Center. These programs are offering job training and placement services to noncustodial parents referred by DCSE. Additionally, DCSE staff will now be training program staff about issues relating to paternity and support enforcement.

Ms. Mendoza also discussed the Welfare to Work Program. This is a new program made possible by federal legislation passed in 1997, creating an additional source of grant funding for states to train individuals enabling them to move off of public assistance. Under this program, the noncustodial parent of the family on public assistance, will be eligible under certain criteria to participate in federally funded job training. These programs will be available throughout the state. There is no age limit for participation in this program.

Access and Visitation Grants, that were first available last year, will be available again this year. The application forms and materials will be sent out to each of the counties to request funds. The allotment to the state bears the same ratio as the number of children in the state living with one biological parent divided by the national number of children living with one biological parent. DCSE will allocate a proportional share of the state grant to each of the participating counties to fund access and visitation projects.

## **URESAs vs UIFSA**

Kim Gillespie followed up from the previous meeting in which Judge Duber raised an issue with regards to the statute in the paternity area (25-811). Ms. Gillespie had recommended to repeal this portion since it is a reference to an already repealed section. Ms. Gillespie suggested the clean-up child support statute workgroup could include this statute as a reform item.

## **PUBLIC EDUCATION WORKGROUP**

Patrick Harrington introduced John MacDonald of the Administrative Office of the Courts, Len Kesso from the Clerk of Superior Court in Maricopa County, and Scott Dusenberry of the Department of Economic Security. They are Public Information Officers that Mr. Harrington has been working with in this workgroup. Mr. Harrington passed out a draft document that details the three areas that the workgroup is concentrating on which are Centralized Payment Processing, new hire employer reporting and services to noncustodial parents. The workgroup explained the efforts made in each of these areas and how resources are being stretched by using the media to help spread the message.

## **CENTRALIZED PAYMENT PROCESSING WORKGROUP**

Commissioner David Ostapuk informed the Council that the workgroup has been working very hard in redesigning the system for processing child support payments and spousal maintenance. The workgroup has brought together the interest of the A.O.C., D.C.S.E., the Superior Court clerks, and other stakeholders. At the last face to face meeting on August 25, 1998, there were visitors from the state of Texas that are facing the same policy decisions for their state. The representatives from Texas were amazed to see how well Arizona has done in resolving the interests of all parties.

Commissioner Ostapuk stated that computer training for the clerks will be beginning by the end of August and by the middle of September all the training should be completed. The clerk's offices will have input most of the clearinghouse data by September 11. Commissioner Ostapuk is hoping that the information regarding the implementation dates, computer training and usable data will be finalized by the end of the September. The next face to face meeting for this workgroup is September 29 and he is hoping that the decision will be made then that everything is complete for a November 1 implementation.

The centralized system will have an enhanced feature in regards to arrearages. Utilizing ATLAS, it may now be possible to calculate and track interest on arrearages for child support orders and spousal maintenance, but to use this feature additional programming may be required for non-IV-D cases.

Nancy Mendoza added that the technology staff at the A.O.C. has been very helpful to this workgroup. Additionally, the legislature allocated funds for the conversion of the cases and the money is adequate to pay each of the clerks of court for the time and effort that it will be required to convert non-IV-D cases to the ATLAS system.

An additional feature of the state case registry is the family violence indicator. The domestic violence indicator will be placed on a person who is the victim of the domestic violence or any other person whom the state has reason to believe could suffer physical or emotional harm, if the information is released. A party may still petition for release of that information for authorized purposes, but a court would be required review the petition and approve the disclosure of the information.

In the IV-D system, if there is money that has been receipted and there is not a current debt against which the funds can be credited, the money does not get disbursed and is held in a suspense account for future distribution. The decision was made by the clerks that payments would not suspend in non-IV-D cases. If the amount paid exceeds current debts the funds would be credited to the case and a report generated to the clerks indicating the case debts need to be reviewed. As time permits, the clerks can then investigate and determine if the debts need to be amended. Consideration of duplicate docket numbers between counties was also discussed and a county specific source code to determine the origin of each case debt will be included in the initial case load.

Dave Byers asked the workgroup if they had considered preparing the legislature and their staff prior to going live with the centralized payment processing. Mr. Harrington informed the Council that DCSE had a network in place and will let those individuals know when the transition will occur.

## **CLEAN UP CHILD SUPPORT STATUTES**

Kat Cooper recapped the workgroup discussions relating to child support judgments. The issue at this time is whether or not to change the statute to extend the life of judgments without limits or renewal requirements. The workgroup researched how other states are addressing these issues. The states of California, Nevada, Utah, and Colorado are all moving in the direction of not limiting the life of a child support judgment.

Kim Gillespie spoke about the complexities regarding judgments and stated that even experts in domestic relations matters disagree about how to interpret the current statutes. There are basic restrictions on the collection of child support. The first is a statute of limitations which allows three years from the date of emancipation of the youngest child to obtain the liquidated judgment for the full term of the childrens' minority. The second is having once obtained a judgment, it needs to be renewed every five years, unless the judgment is obtained during the minority in which case it is good for ten years from the emancipation of the youngest child. Ms. Gillespie added renewal is not a value added activity, but rather extra work for clerks, county recorders, and the parties. It is also not easy to program for high volume case processing. The workgroup is suggesting repealing the restrictions as the other states have done.

Bev McConnell added that the workgroup has been doing a study of the statutes. She feels that there is much confusion caused by the current statutes. She stated that the time period should be clarified and feels that parties should not have to renew judgments. The central the question the Council should address is; should a party be able to extinguish their responsibilities by avoiding them?

Kat Cooper shared specific statutes of the various states. California has removed the requirement to renew a judgment for child, family, or spousal support including the judgment for reimbursement of arrearages. Colorado provides for continuing garnishment until the debt is satisfied. Nevada provides that if a court has issued a judgment for support of a child, there is no limitation in which an action can be commenced to collect arrearages in the amount of that support or to seek reimbursement for money paid as public assistance for that child. In Utah they provide that an order is effective until no child support is owed.

The Council discussed the different applicable time periods governing judgments obtained during the minority of the children versus after minority. The Council also discussed the three year limitation that parties have within which they may obtain a judgment after minority and if this should be expanded or if it is in the best interests of the parties, the state, and the courts to compel parties to act soon after the emancipation of the children. Written judgments versus judgments by application of law were also discussed. A concern was expressed that there should be a consistent time frame for all debts relating to a child support case, including spousal maintenance, attorney's

fees, and paternity tests.

Commissioners Ostapuk and Repp cautioned the workgroup not to adopt too simplistic an approach, as it has been their experience that determining an accurate arrearage can be a fact intensive process. Parents may change custody without notifying the court, make direct payments, or agree to alternative arrangements. It is not uncommon for the parties not to have kept any records of these arrangements.

Council members directed the workgroup to identify the issues and draft language the Council can review. The Council agreed that the issues need to be addressed and legislation crafted to clarify the time parties have to take action.

Judge Armstrong, Commissioner Ostapuk, and Commissioner Repp offered their assistance with this issue.

## **FATHERHOOD ISSUES**

Nancy Mendoza reminded the committee that Senator Petersen had been interested in a workgroup concerning the issues surrounding involving fathers in the lives of their children. Commissioner Ostapuk read from the May 1998 minutes that the workgroup would examine ways of getting fathers more actively involved in the childrens' lives and how to encourage unmarried fathers to establish paternity. Commissioner Ostapuk asked Senator Petersen which path he would like this workgroup to take. Senator Petersen stated that he would like a workgroup focusing on both of these issues. Nancy Mendoza reluctantly declined to participate in this workgroup at this time due to her workload attending to agency duties, as well as, insuring implementation of the State Case Registry, the New Hire Directory, and the expanded Central Payment Clearinghouse. Conrad Greene volunteered to join the workgroup and suggested Commissioner Repp be a part of the workgroup. Bianca Varelas will also be a member. Senator Petersen invited Chris Sotiriou to give the workgroup his input. The Senator informed the Council that he has an interest in proposing legislation dealing with statutory rape and thought the workgroup could assist in examining that issue. It was decided to have the charge to the workgroup as an open item.

## **EMPLOYMENT REFERRAL AGENCIES AND WAGE ASSIGNMENT WORKGROUP**

Pat Harrington spoke in regards to this workgroup. At this point, this workgroup is at a stand still and Mr. Harrington has a few leads.

## **NEXT MEETING OF THE COUNCIL**

The next meeting is scheduled for October 7, 1998, from 10:00 a.m. to 2:30 p.m. at the State Courts Building in room 119.

## **PUBLIC COMMENTS**

Mr. Frederick Von Brincken asked to speak to the committee in regards to his situation. He had filed a paternity case in June 1996. He had several issues throughout his ordeal. He went through a parenting and custody evaluation and received 50% joint custody of his son. He has always continued to pay child support even though there was no court order on the amount. He ran into some financial problems and child support was adjusted. Mr. Von Brincken felt that the way the child support was computed was unfair and that he is unable to pay this amount.

Chris Sotiriou came to speak in regards to payment of child support that can be made on a debit card. He states that he had made a payment for child support and the next day his account was garnished. He also discussed tax issues for child support payments. He is concerned that there is no longer head of household for the paying parent or any other tax credits. Patrick Scott advised that there are guidelines for child care tax credit.

## **ADJOURNMENT**

The meeting was adjourned by Representative Hershberger at 2:40 p.m.

**CHILD SUPPORT COORDINATING COUNCIL  
SUBCOMMITTEE**

**Meeting Minutes - Thursday, November 12, 1998**

**Members Present**

Hon. Mark Armstrong  
Kirk Burtch  
David Byers  
Brian Chambers  
Conrad Greene  
William Hurst  
Patrick Harrington for Linda Blessing  
Hon. Michael Jeanes

Nancy Mendoza  
Hon. David Peterson  
Hon. Rebecca Rios  
Chuck Shipley  
Hon. Rhonda Repp  
Debbie Schumacher  
Bianca Varelas

**Members Absent:**

Jodi Beckley  
Hon. Robert Duber  
Hon. Freddie Hershberger

Hon. Sandra Kennedy  
David Norton  
Commissioner David Ostapuk

**Staff:**

Carmela Chiarenza

Patrick Scott

***Guest/Presenters***

Janey Buri  
Judy Bushong  
Kat Cooper  
Glenn Davis  
Kim Gillespie  
Randi Gonzalez  
Kenneth Hunn  
Jim Keane  
Rita Desoto-Ekpe  
John MacDonald  
Therese Martin  
Jane McVay  
Chris Sotiriou  
Rick Wagner

Arizona Children for Enforcement of Support  
Clerk of Superior Court-Maricopa County  
Clerk of Superior Court-Maricopa County  
Arizona Senate-Research Analyst  
Attorney General's Office  
Clerk of Superior Court - Maricopa County  
Parent  
Arizona Senate-Research Analyst  
Community Legal Services  
A.O.C.-Communications Officer  
Attorney General's Office  
DES-DCSE  
Parent  
Children's Rights Council

## **Call Meeting to Order**

The meeting was called to order by Senator Petersen at 10:35 a.m.

## **Announcements**

Senator Petersen introduced Brian Chambers of the Gila County Attorney's Office. The Gila County Attorney Office replaces Cochise County as the contracting county attorney appointed by the Director of Department of Economic Security, Linda Blessing, from a rural county. Mr. Chambers is the designee of County Attorney Jerry DeRose. Senator Petersen congratulated the Child Support Division of the Gila County Attorney's Office for receiving the National Child Support Enforcement Association - 1998 Most Improved Program Award.

## **Approval of August 26, 1998 Minutes**

The minutes were approved as written.

## **Centralized Payment Processing Workgroup**

Commissioner David Ostapuk was unable to attend the meeting due a trial. In Commissioner Ostapuk's absence, Nancy Mendoza informed the Council that the workgroup has been diligently working to complete the transition to a centralized payment processing system. The workgroup held a statewide meeting on November 10, to assess if all of the preparations for a go live decision had been completed. Nancy shared details regarding connectivity issues, staff training, data conversion and scrubbing, system performance, electronic funds transfer, and public outreach. The decision to go live was not made due to an unforeseen problem with the voice response system used in Maricopa County.

Michael Jeanes stated that his office was working with the vendor to resolve the problem. Mr. Jeanes was optimistic that the December 1, goal for going live could still be met. A conference call is scheduled for November 16, to finalize the decision. Mr Jeanes complemented the workgroup on their efforts and praised the participants for their cooperation.

Dave Byers asked Nancy Mendoza what measures had been taken to make other members of state government aware of the impending change. Nancy stated that plans were in place and that as soon as the final decision has been completed the department will notify the Governor, the Legislature and key staff. Mr. Byers pointed out that the transition to a single state system will save the state the cost of updating and maintaining the county system currently utilized by the courts. Mr. Jeanes concurred and stated that the state system was his offices solution to the Y2K problem. Nancy Mendoza stated that the need for dual maintenance by the clerks was a consideration in trying to meet the December 1, go live date.

## **Clean up Child Support Statutes**

Kat Cooper recapped the workgroup discussions relating to child support judgments and requested Judge Armstrong provide the Council with the details of the proposed bill. Judge Armstrong explained the differences between two legal concepts: the statute of limitations and renewal requirements for judgments. The current statute of limitations allows three years from the date of emancipation of the youngest child to obtain a judgment for the full term of the childrens' minority. Judge Armstrong stated the current statute does not contain a limitation for judgments by operation of law. The current statute also does not specify the renewal requirement for judgments obtained after the emancipation of the children. However, the statute states that a judgment obtained during the minority of a child is good for ten years from the emancipation of the youngest child.

Judge Armstrong stated that the workgroup recommends that there be no renewal requirement for child support judgments in the law. The workgroup recommends that the statutory limitation period be retained at three years, specifically including Judgments by operation of law. The workgroup recommends that there be two exceptions to the three year limitation. First, if it is later determined by the court that the actions or conduct of the obligor impeded the establishment of the money judgment. Second, if the obligor threatened, defrauded, or coerced the obligee into not obtaining a money judgment.

The statute would now also define emancipation to include attaining the age of majority, marriage, death, adoption, or the termination of disability. The Council discussed the different applicable time periods governing judgments obtained during the minority of the children versus after minority. The Council also discussed the three year limitation that parties have within which they may obtain a judgment after minority.

Additionally, Judge Armstrong proposed a change to A.R.S. § 25-414, relating to a violations of visitation rights. The judge proposed to enlarge the time within which the court must hold a hearing or conference to review noncompliance with a visitation order from twenty judicial days to sixty calendar days. The judge also stated that the scheduling of the hearing should be predicated upon the service of the petition.

Conrad Greene discussed the historical background of the statute. Mr. Greene stated that when the twenty day time frame was defined he had lobbied to have the time changed to ten days. Mr. Greene expressed his concern to the Council that noncustodial parents would be adversely effected by this change and requested the Council not to act on the proposal until he could do further research. Commissioner Repp informed the Council that this is not an issue in Yavapai County as litigants filing for expedited hearings can be accommodated within seven days. Mr. Shipley questioned why the change was necessary. Judge Armstrong stated that in Maricopa County the court calendars are very heavily scheduled but that many hearing are vacated due to a lack of service. Kirk Burtch stated that filing under the expedited process plans in effect in each county would be appropriate for matters that require immediate attention. Judge Armstrong stated that if a party files an emergency petition in Maricopa the matter is reviewed by a judge that same day.

The Council deferred further action on A.R.S. § 25-414 until the next meeting.

Kat Cooper called upon Patrick Scott from the Administrative Office of the Courts (A.O.C.) to provide the Council an update on proposed changes to the wage assignment statute at A.R.S. § 25-504. Mr. Scott explained that the majority of the changes were to conform the language in this statute to other provisions of Arizona law. Mr. Scott also stated that the time frame -within which the employer must serve the employee has been shortened so that the employee has adequate time to file a request with the court before the initial deduction is made. The proposed bill contains a new section which would allow a payor to file a request to terminate an order of assignment if the assignment was a duplicate order for the same minor children. The filing party would not be charged a fee.

Kat Cooper called upon Judy Bushong to provide the Council an update on proposed changes to A.R.S. § 25-812 concerning voluntary acknowledge of paternity. Judy explained to the Council members that the proposed bill would incorporate language from A.R.S. § 25-814 dealing with a presumed father. The proposed bill seeks to clarify the procedure that should be followed when there is a presumed father and another man wishes to voluntarily acknowledge paternity. David Sands from A.O.C. pointed out that the provisions of A.R.S. § 25-814 were broader than those specified in the proposed language and that the language should be amended to include all of the provisions. The proposed bill would also allow the clerk to issue an order amending the names of the child if requested by the parents. Nancy Mendoza asked if that provision had been discussed with vital records. Patrick Scott responded that he had been in contact with Magdalena Simpson at the Arizona Department of Health Services and that she had stated that it would be a positive change. Another section of the bill would allow parties who have filed a voluntary acknowledgment of paternity to continue the action past the entry of the order of paternity. The parties would have ninety days to file a request to establish support or visitation orders, for the children included in the order of paternity, without paying an additional filing fee. Council members questioned if the establishment of a support and/or visitation order would be available to parents using the hospital based paternity program. Judy explained that this would apply only to a voluntary acknowledgment done through the courts. The parents are charged a filing fee to obtain an order by voluntary acknowledgment, as a matter of public policy the workgroup wanted to encourage the parents to finalize the issues of support and custody at the same time or shortly thereafter. A fee is charged to cover the courts costs of establishing a case, processing the pleading and orders, and entering the parties into various computer systems, because the parties have been charged a fee the majority of the costs have been covered. Parents who use hospital based paternity do not pay a fee and a court case has not been established. If these parents came to court to establish support the parents would pay the same fee paid by those parents using the voluntary acknowledgment available through the courts. The department could bring an action to establish support but the department does not pay a fee according to statute, but the state is also precluded from seeking or defending issues of custody or visitation.

Judy proposed that the language be amended so that the parents supply proof of when the order of paternity was entered at the time they file to establish additional orders for support or custody. Conrad Greene asked Judy how this could be communicated to the parents. It was suggested that a statement be included on the order of paternity prescribed by A.O.C. and used by the clerk.

The Council discussed a change recommended by Kim Gillespie of the Attorney General's Office that would clarify A.R.S. § 25-909 dealing with entry of past support judgments in paternity cases.

One additional proposal dealing with fees in parent education programs was withdrawn at the request of the drafting Council member.

A motion was made and seconded to approve the legislative proposals dealing with child support judgments amending A.R.S. § § 12-544, 12-1551, 25-503, and 33-964. The motion passed unanimously.

A motion was made and seconded to approve the legislative proposal dealing with orders of assignment amending A.R.S. § 25-504. The motion passed unanimously.

The Council discussed the proposals amending A.R.S. § § 25-809 and 25-812. The Council directed the workgroup to refine the proposals incorporating the language discussed. The workgroup will present the revised language at the Council's next meeting in December.

### **Public Comment**

Mr. Kenneth Hunn addressed the Council concerning his dissolution case. Mr. Hunn explained the circumstances surrounding a petition he had filed for a change of custody. Mr. Hunn expressed his belief that the courts need to be more responsive to the issues of children in custody matters. Mr. Hunn also stated that the courts discriminate against divorced fathers. Mr. Hunn encouraged the Council to study how custody determinations are made and to promote a change necessary that would guarantee that a party gets their day in court.

### **Fatherhood Issues**

Senator Petersen discussed the issue of promoting responsible fatherhood. Senator Petersen also discussed issues that have been identified by the National Governor's Council and problems associated with older men fathering children with young women. Senator Petersen proposed that an education program for young fathers be instituted similar to a program in California. Senator Petersen will distribute materials to the Council and welcomes their input. Conrad Greene suggested that the workgroup look at methods for establishing paternity sooner, establishing support, reviewing access and visitation guidelines, making judges more accountable, providing less costly supervision programs, providing penalties for false accusations, and requiring some type of accountability of child support expenditures. Senator Petersen invited Conrad to draft a document for distribution to the Council.

## **Public Education Workgroup**

Patrick Harrington reminded the Council that the public education workgroup had identified several topics on which to focus, one of which was new hire reporting. Mr. Harrington distributed a press release reporting the departments success in implementing the state's New Hire Reporting Program. The program has received over 67,849 new hire reports and has had 2,589 matches with the state case registry. Mr. Harrington is planning a similar release for the Centralized Payment

Processing effort to educate the media and parents.

## **Employment Referral Agencies And Wage Assignment Workgroup**

Pat Harrington reminded the Council that the workgroup was formed due to the belief that when certain employees are hired by unions or other short term employers, a wage withholding for child support is not implemented. Mr. Harrington informed the Council that the department will use the data obtained from the new hire reporting program to assess compliance with the program and to define enhancements to respond to short term employment, such as union referrals.

## **Department of Economic Security - 1998 Legislation**

Nancy Mendoza distributed a bill proposing a change to A.R.S. § 46-441. The bill clarifies that the clearinghouse distributes spousal maintenance and related payments in addition to support, adds a requirement that the support payment handling fee be paid monthly whenever an order of assignment is issued, deletes outdated language, and states that agreements between parties altering support ordered be by written agreement. Additionally, the bill would grant the department authority to charge a fee for each payment instrument returned for insufficient funds, plus any fees assessed by a financial institution. The obligor would be held liable for the amount of any dishonored payment instrument and the debt eligible for collection by the tax refund offset program, pursuant to A.R.S. § 42-1122.

Senator Petersen expressed concern regarding the mandatory charge and urged Nancy to restructure the bill to give the department discretion. Senator Petersen suggested that the fee only be charged if a obligor fails to reimburse the department after a grace period had expired. Ms. Mendoza expressed concern that by giving staff discretion, when to apply the fee, the potential exists different standards would be applied even though similar circumstances exist for the obligor. The Council requested that the department examine the issue further and report at the next meeting.

## **Family Ties and Knots: Children of Divorce**

Kat Cooper from the Clerk of Superior Court in Maricopa County previewed a 16 minute video produced with funds obtained from the access and visitation grant funds distributed to the county in 1998. The video is intended for use in educating parents referred to expedited programs in Maricopa County. The video includes several scenarios dramatizing unacceptable behavior by adults interspersed with real life interviews of children of divorce, comments from an expert in the area, and the presiding family court judge in Maricopa County. Kat informed the Council that this is only one part of program being developed by the clerk's office to educate parents.

## **Next Meeting of the Council**

The next meeting is scheduled for December 9,1998, from 2:00 p.m. to 4:00 p.m. at the State Courts Building in room 119.

## **Public Comments**

Chris Sotiriou addressed the Council and recommended the amendment of A.R.S. § 25-414 be referred to the Domestic Relations Reform Subcommittee. Mr. Sotiriou urged the Council to maintain their focus on children. He also reiterated the point made earlier by Conrad Greene that the Council work toward encouraging paternity establishment as soon as possible.

Janey Buri, a representative of Arizona Children for Enforcement of Support (ACES), addressed the Council. Ms. Buri has been a member of ACES for over a year and has been using that time to educate herself about the child support system in Arizona. Ms. Buri works in a facility where over 1200 births occurred last year and where sixty percent of the births this last month were to single parents. She urged the Council to continue their efforts in support of Arizona's children.

## **Adjournment**

The meeting was adjourned by Senator Petersen at 2:40 p.m.

**CHILD SUPPORT COORDINATING COUNCIL SUBCOMMITTEE**  
**Meeting Minutes - Wednesday, December 9, 1998**

**Members Present**

Hon. Mark Armstrong  
David Byers  
Hon. Robert Duber  
Kim Gillespie for Kirk Burtch  
Conrad Greene  
Patrick Harrington for Linda Blessing

Hon. Michael Jeanes  
Nancy Mendoza  
Hon. David Petersen  
Hon. Rhonda Repp  
Debbie Schumacher

**Members Absent:**

Jodi Beckley  
Brian Chambers  
Hon. Freddie Hershberger  
William Hurst  
Hon. Sandra Kennedy

David Norton  
Commissioner David Ostapuk  
Hon. Rebecca Rios  
Chuck Shipley  
Bianca Varelas

**Staff:**

Carmela Chiarenza

Patrick Scott

**Guest/Presenters**

Kat Cooper  
Glenn Davis  
Rand Gonzalez  
Cheryl Holt  
Jim Keane  
Therese Martin  
Jane McVay  
Mike Millette  
Chris Sotiriou  
Rick Wagner

Clerk of Superior Court-Maricopa County  
Arizona Senate-Research Analyst  
Clerk of Superior Court - Maricopa County  
Custodial Parent  
Arizona Senate-Research Analyst  
Attorney General's Office  
DES-DCSE  
Noncustodial parent  
Parent  
Children's Rights Council

**Call Meeting to Order**

The meeting was called to order by Senator Petersen at 2:15 p.m.

**Announcements**

Senator Petersen announced that Barbara Guenther will replace Jim Keane as the research analyst for the Senate Family Services Committee. Angela Bowman, Manager of the Domestic

Relations Unit at the Administrative Office of the Courts (A.O.C.), was introduced to the Council. Anegla replaces Alice Thatch at the A.O C.

### **Approval of August 26, 1998 Minutes**

The minutes were approved as written.

### **Fatherhood Issues**

Senator Petersen distributed a several handouts dealing with fatherhood, paternity and fatherhood, and a draft bill dealing with statutory rape. Jim Keane, the research anaylst for the Senate Family Services Committee, outlined the provisions of the proposed legislation on statutory rape. Members of the Council questioned if it would be a crime for a parent not to disclose possible sexual activity by their children or freinds of the children. A question was asked if it would then be a crime not to report a rumor. Council members also questioned if the age of fifteen was consistent with other provisions of law relating to sexual conduct by a minor.

Senator Petersen informed the Council that the bill had been drafted with the assistance of several county attorneys offices. The question was asked if this bill was concerned with adult contact with minors or if it was sexual conduct by minors with minors. Senator Petersen stated that the concern was for both circumstances but mainly adults taking advantage of minors. Judge Duber suggested the appropriation included in the bill be made available to agencies other then the police or prosecutors, who would have greater skills in interveiwing children.

The Council extended their discussion to the specific case where a male minor fathers a child with an adult female. The child or the child's parents would be responsible for supporting the baby even if the mother were convicted of sexual conduct with a minor. Senator Petersen encouraged the members to examine the bill further and to notify his office of additional concerns.

The discussion continued with members expressing their veiws on how best to reach minors with the intention of educating them of the potential consequences of their sexual conduct. Members discussed a media campaign to educate junior high and high school students about statutory rape as a crime and programs to provide services to teen parents.

### **Clean up Child Support Statutes**

Kat Cooper recapped the workgroup discussions and the motions passed by the Council at the last meeting. Kat requested Judge Armstrong provide the Council with an explanation of the changes to A.R.S. § 25-414, relating to a violations of visitation rights. The judge proposed to change the time within which the court must hold a hearing or conference to review noncompliance with a visitation order from twenty judicial days to twenty-five calendar days. The judge also stated that the scheduling of the hearing should be predicated upon the service of the petition. Judge Armstrong also pointed out a technical changeto A.R.S. § 25-503, suggested by staff, to the definition of emancipation. The change clarifies that a child still in high school but not yet nineteen is not emancipated. The change also adds an additional reference to A.R.S. § 25-320, by including subsection C. The Council voted to approve the language as presented.

Kat Cooper provided the Council an update on proposed changes to A.R.S. § 25-812 concerning voluntary acknowledge of paternity. The bill was redrafted to clarify that parents completing a voluntary acknowledgement in the superior court at the clerks office could continue the action to include support establishment and custody without paying an additional fee. The additional proceeding would be required to be commenced within the same county as the acknowledgment and within ninety days of the entry of the paternity order establishing paternity.

The Council discussed the language in section (A)(2) dealing with acknowledgments when there is a presumed father. Nancy Mendoza asked why the workgroup felt it necessary to duplicate the language of A.R.S. § 25-814 in the proposed bill. Michael Jeanes stated that it would be beneficial for clerks staff and the public to clarify the procedure that should be followed when there is a presumed father and another man wishes to voluntarily acknowledge paternity. The inclusion of the language in this section eliminates confusion when people wish to use this specific process. The Council voted to approve the language as presented.

The Council discussed the acknowledgment process further. Conrad Greene advocated for procedures to establish paternity while the child was still in the womb. Several members of the Council expressed concern that to do so presented a potential risk to the pregnancy and the health of the mother and child.

A motion was made and seconded to approve the legislative proposals dealing with child support judgments amending A.R.S. § 12-544, 12-1551, 25-503, and 33-964. The motion passed unanimously.

A motion was made and seconded to approve the legislative proposal dealing with orders of assignment amending A.R.S. § 25-504. The motion passed unanimously.

The Council discussed the proposals amending A.R.S. § 25-809 and 25-812. The Council directed the workgroup to refine the proposals incorporating the language discussed. The workgroup will present the revised language at the Councils next meeting in December.

### **Public Comment**

Mr. Kenneth Hunn addressed the Council concerning his dissolution case. Mr. Hunn explained the circumstances surrounding a petition he had filed for a change of custody. Mr. Hunn expressed his belief that the courts need to be more responsive to the issues of children in custody matters. Mr. Hunn also stated that the courts discriminate against divorced fathers. Mr. Hunn encouraged the Council to study how custody determinations are made and to promote a change necessary that would guarantee that a party gets their day in court.

### **Fatherhood Issues**

Senator Petersen discussed the issue of promoting responsible fatherhood. Senator Petersen also discussed issues that have been identified by the National Governor's Council and problems associated with older men fathering children with young women. Senator Petersen

proposed that a education program for young fathers be instituted similar to a program in California. Senator Petersen will distribute materials to the Council and welcomes their input. Conrad Greene suggested that the workgroup look at methods for establishing paternity sooner, establishing support, reviewing access and visitation guidelines, making judges more accountable, providing less costly supervision programs, providing penalties for false accusations, and requiring some type of accountability of child support expenditures. Senator Petersen invited Conrad draft a document for distribution to the Council.

### **Public Education Workgroup**

Patrick Harrington reminded the Council that the public education workgroup had identified several topics on which to focus, one of which was new hire reporting. Mr. Harrington distributed a press release reporting the departments success in implementing the state's New Hire Reporting Program. The program has received over 67,849 new hire reports and has had 2,589 matches with the state case registry. Mr. Harrington is planning a similar release for the Centralized Payment Processing effort to educate the media and parents.

### **Employment Referral Agencies And Wage Assignment Workgroup**

Pat Harrington reminded the Council that the workgroup was formed due to the belief that when certain employees are hired, by unions or other short term employers, a wage withholding for child support is not implemented. Mr. Harrington informed the Council that the department will use the data obtained from the new hire reporting program to assess compliance with the program and to define enhancements to respond to short term employment, such as union referrals.

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Senator Petersen expressed concern regarding the mandatory charge and urged Nancy to restructure the bill to give the department discretion. Senator Petersen suggested that the fee only be charged if a obligor fails to reimburse the department after a grace period had expired. Ms. Mendoza expressed concern that by giving staff discretion, when to apply the fee, the potential exists different standards would be applied even though similar circumstances exist for the obligor. The Council requested that the department examine the issue further and report at the next meeting.

## **Family Ties and Knots: Children of Divorce**

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## **Next Meeting of the Council**

The next meeting is scheduled for December 9, 1998, from 2:00 p.m. to 4:00 p.m. at the State Courts Building in room 119.

## **Public Comments**

Chris Sotiriou addressed the Council and recommended the amendment of A.R.S. § 25-414 be referred to the Domestic Relations Reform Subcommittee. Mr. Sotiriou urged the Council to maintain their focus on children. He also reiterated the point made earlier by Conrad Greene that the Council work toward encouraging paternity establishment as soon as possible.

Janey Buri, a representative of Arizona Children for Enforcement of Support (ACES), addressed the Council. Ms. Buri has been a member of ACES for over a year and has been using that time to educate herself about the child support system in Arizona. Ms. Buri works in a facility where over 1200 births occurred last year and where sixty percent of the births this last month were to single parents. She urged the Council to continue their efforts in support of Arizona's children.

## **Adjournment**

The meeting was adjourned by Senator Petersen at 2:40 p.m.

**CHILD SUPPORT COORDINATING COUNCIL SUBCOMMITTEE**  
**Meeting Minutes - Thursday, February 4, 1999**

**Members Present**

Hon. Mark Armstrong  
Angela Bowman for David Byers  
Brian Chambers  
Kim Gillespie for Kirk Burtch  
Conrad Greene

Hon. Michael Jeanes  
Nancy Mendoza  
Hon. David Petersen  
Hon. Rhonda Repp

**Members Absent:**

Jodi Beckley  
Linda Blessing  
Hon. Robert Duber  
William Hurst  
David Norton

Commissioner David Ostapuk  
Hon. Rebecca Rios  
Chuck Shipley  
Bianca Varelas

**Staff:**

Patrick Scott

**Guest/Presenters**

Kat Cooper  
Joseph Doyle  
Chris Sotiriou

Clerk of Superior Court-Maricopa County  
Parent  
Parent

**Call Meeting to Order**

The meeting was called to order by Senator Petersen at 12:15 p.m.

**Legislative Review**

The Child Support Coordinating Council met telephonically to discuss introduced legislation impacting child support, child custody, or marriage. The discussion began with the Council's bill, SB1152, sponsored by Senator Petersen.

**SB1152 Child support; judgments.** The Council discussed the concerns expressed by Eddie Sissons of the Arizona Justice Institute. Eddie is concerned that parties with child support orders that have not expired, will not be aware of the requirement to obtain a judgment within three years of the last child emancipating. Eddie proposed that the bill be amended to add language

requiring all future child support orders notify the parties of the three year statutory limitation. The members suggested that the Administrative Office of the Courts could do an article in the DR Quarterly to help inform the legal community, change their child support pamphlets to highlight the change, and include a notice in the child support order used in conjunction with the Arizona Child Support Guidelines. Kim Gillespie will research the effect of the change on administrative remedies available to the IV-D Agency.

Members questioned whether this change could revive judgments that had not been renewed. The consensus of the Council was that this would not have that effect on expired judgments.

**SB1053 Child Support; exemption.** The bill would exempt parents, who are minors, from the obligation to support their children, if the minor became a parent as the result of a sexual assault or an act of illegal sexual conduct for which the other parent had been found guilty. The exemption would also apply to the minors parents or legal guardians.

The Council noted that sexual assault was not defined and suggested that a reference be added to A.R.S. § 13-1406. The Council also discussed how the bill related to good cause exemptions as used by the IV-D agency. The members were assured that the bill does not conflict with any federal regulations.

Senator Petersen informed the Council members that he sponsored the bill as the result of a Kansas court case. A minor had been sexually assaulted by his baby sitter and was later ordered to pay support for the child resulting from that sexual contact. The Kansas court stated: "If the legislature had wanted to exclude minor parents from responsibility for support, it could easily have done so." This bill would clarify legislative intent in Arizona.

**SB1055 Children and families services; committee.** The bill revives the Joint Legislative Committee on Children and Family Services (Committee) to review legislative recommendations and public concerns regarding children and family services and to review specific Child Protective Services (CPS) cases when there is a written constituent complaint.

**SB1183 Marriage; sexually transmitted diseases.** Requires marriage license applicants to execute a statement under oath that they understand they can obtain information on sexually transmitted diseases from the county health department and that these diseases may be transmitted to their unborn children. The bill also makes technical changes that simplify the process for married couples converting to a covenant marriage and place in statute the procedure to be followed when a marriage license is lost. The bill allows the clerk of the superior county to designate to justices of the peace and city or town clerks authority to issue covenant marriages licenses and to process the conversion of existing marriages to covenant marriages. Additionally , the bill references the grounds that need to be established when filing a petition for legal separation or dissolution of a covenant marriage.

**SB1184 Child support; most wanted postings.** The bill would require the Department of Economic Security, Division of Child Support Enforcement to post on the Internet the ten most wanted non-payers of child support. Nancy Mendoza informed the Council members that the

Division did not have a website and that she was concerned the message to payors could be contrary to the goals of the division. The division could create a website if the bill is passed, but would require funding. Bianca Varelas explained to the members that Pima County has a website with obligors for whom child support arrest warrants have been issued. The members discussed how IV-D and non-IV-D obligors would be chosen. The Administrative Office of the Court was asked if they could host the website. Angela Bowman from A.O.C. responded that they would have similar budget concerns as the child support enforcement agency. Senator Petersen will continue to examine the possibility of a website with the assistance of the IV-D agency.

**SB1185 Child custody.** The bill sets a standard that relocation of a child will occur only if the relocating parent can establish by clear and convincing evidence that it is in the best interest of the child. Judge Armstrong expressed two concerns; one that the court could be undoing the agreement of the parents, and two that the addition of section (J)(8) made a finding of fact for the court. Conrad Greene favored the changes and expressed his belief that New York State had a provision in their statutes that considered the children assets to the state.

**SB1284 Domestic violence.** The bill adds a new section to statute dealing with custody and domestic violence. The court after determining that a party had committed an act of domestic violence should consider that it is not in the best interests of the child to be placed in the sole custody, joint legal custody, or joint physical custody of the parent who committed the act of domestic violence. The bill would also require the Department of Health Services to make available to health care professionals and institutions a notice advising domestic violence victims of the rights that are available to them. Conrad expressed concern that an allegation of domestic violence could be used as a weapon in a custody proceeding.

**HB2063 Children; grandparents; visitation rights.** The bill would allow grandparents and great grandparents to file for visitation during the minority of a child. The bill removes provisions limiting the circumstances where grandparents could file for visitation to dissolutions, a deceased or missing parent, or to a child born out of wedlock. Council members were concerned that grandparents would have the ability to request visitation even if the parents and children were living together as a healthy family unit. The bill was held in the house Human Services Committee.

**HB2121 Marriage; dissolution; creditors; information.** The bill would require an additional notice to be given parties to a legal separation or dissolution that the order of the court assigning debts is binding only on the parties. The notice informs parties that the order does not bind creditors from pursuing collection of the community debts from both parties. The bill also contains a letter to creditors notifying them that one of the parties wants to be notified of any notices, demands, and statements being provided to the other spouse.

Members noted that if the debt was a community debt both spouses would have a right to access to account information. It was further suggested that this notice could be included in the preliminary injunction issued when an action is commenced. The bill passed out of committee,

but is not supported by the business community.

**HB2212 Dissolution of marriage; liquid assets.** The bill would require the court to divide liquid assets of the community upon motion by either party. It would also allow an attorney to withdraw from a case as a matter of right after a hearing for temporary orders. Judge Armstrong stated that the bill was unnecessary because the court can equitably allocate assets now on a temporary basis pending the final decree. The judge cautioned that this would cause further delay in the courts and would not grant any powers to the court they don't already possess.

**HB2420 Domestic Relations; parenting plans.** Judge Armstrong informed the Council members that this bill was discussed at length in the House Human Services Committee and then held for a complete rewrite. The Council did not discuss the bill further.

**HB2524 Marriage; blood tests.** The bill would require applicants for a marriage license to obtain a blood test for sexually transmitted diseases. The physician performing the test would be required to complete a certificate, in a format prescribed by the Department of Health Services, that states the applicant is not infected or if infected not at a stage where the disease may become communicable. Mike Jeanes stated the clerks are working with the sponsor on technical considerations.

## **Handout**

Council members were given a copy of a request from a citizen addressed to Senator Solomon asking for legislation to create an advocate for special needs children in the courts. The constituent is concerned that courts may not grasp fully the impact a disability has on a child or a family. The letter suggests that the advocate would need to be knowledgeable in the law with a background dealing with the disabled.

Council members expressed the opinion that it would be difficult to find volunteers that had the required skills to fill the position. It was suggested that if such a position were to be created, funding would need to be considered. Commissioner Repp expressed concern that government continues to encroach into family life and that this position could be another unwanted intrusion. Conrad Greene stated his opinion that courts are not sensitive to special needs children. Mr. Greene suggested that volunteer organizations could fill the needs of this position and that the parents be the first option rather than government. Brian Chambers suggested that there was a parallel situation in special education due process hearings where advocates are allowed to participate. Brian suggested that advocates might be allowed to participate in a limited role to explain a disability to the court.

## **Public Comment**

The Council was addressed by two members of the public. Chris Sotiriou favored the provisions of SB1185. Mr. Sotiriou expressed his belief that it is beneficial for children to have extended visitation with the noncustodial parent. Mr. Sotiriou expressed concern about HB2063. Mr. Sotiriou hypothesized about grandparents with criminal records obtaining visitation rights with a child. Mr. Sotiriou questioned how a noncustodial parent would receive notice when a grandparent sought visitation and how visitation would occur should the grandparent live out of state or out of the country.

Joseph Doyle addressed the Council. Mr. Doyle gave a brief synopsis of his experiences dealing with the child support system. Mr. Doyle expressed concern with the direction of the Committee and that Conrad Green was the only voice speaking for noncustodial parents. Mr. Doyle expressed an interest in meeting with Senator Petersen to discuss his views. Senator Petersen encouraged Mr. Doyle to contact his office and invited Mr. Doyle to put his concerns in writing to be shared with the members of the Council.

### **Next Meeting of the Council**

The next meeting is scheduled for March 2, 1999, from 12:00 a.m. to 2:00 p.m. telephonically.

### **Adjournment**

The meeting was adjourned by Senator Petersen at 2:00 p.m.

# **CHILD SUPPORT COORDINATING COUNCIL SUBCOMMITTEE**

**Tuesday, March 2, 1999**

## **Members Present**

Hon. Mark Armstrong  
Angela Bowman for David Byers  
Brian Chambers  
Kat Cooper for Michael Jeanes  
Pat Harrington for Linda Blessing

Nancy Mendoza  
Commissioner David Ostapuk  
Hon. Rhonda Repp

## **Members Absent:**

Hon. Linda Aguirre  
Jodi Beckley  
Linda Blessing  
Hon. Robert Duber  
Laura Elmer  
William Hurst

David Norton  
Commissioner David Ostapuk  
Hon. David Petersen  
Hon. Rebecca Rios  
Chuck Shipley  
Bianca Varelas

## **Staff:**

David Sands

Patrick Scott

## **Guests**

Gordon Mulleneaux

The Child Support Coordinating Council had scheduled a telephonic meeting from 12:00 - 2:00 p.m. Seven members or their designees were present for the conference call. Unfortunately, the Cochairperson, Senator Peterson, was unable to attend due to business at the legislature. Members were uncertain if it was appropriate to proceed without the Cochairperson in attendance or a quorum of the Council's membership. The members present requested staff clarify the proper protocol under these circumstances. Staff will obtain an answer from Senator Petersen's office and report back at the next meeting.

Council members decided to use the time to informally discuss bills currently in process at the legislature, and other topics of interest. The call was terminated at 12:50 p.m. No further meetings were scheduled.

**MINUTES**  
**CHILD SUPPORT COORDINATING COUNCIL SUBCOMMITTEE**  
**Wednesday, June 2, 1999**

**Members Present**

Hon. Linda Aguirre  
Beverley Boyd for David Byers  
Brian Chambers  
Kat Cooper for Michael Jeanes  
Hon. Robert Duber

Kim Gillespie for Kirk Burtch  
Pat Harrington for John Clayton  
Nancy Mendoza  
Hon. David Petersen  
Hon. Rhonda Repp

**Members Absent:**

Hon. Mark Armstrong  
Jodi Beckley  
Laura Elmer  
Conrad Greene  
William Hurst

David Norton  
Commissioner David Ostapuk  
Hon. Rebecca Rios  
Chuck Shipley  
Bianca Varelas

**Staff:**

David Sands

Patrick Scott

**Guests:**

Chris Sotiriou

Parent

**Call Meeting to Order**

The meeting was called to order by Senator Petersen at 10:15 a.m.

**Announcements**

Senator Petersen welcomed Beverley Boyd. Ms. Boyd was recently named as the Manager of the Domestic Relations Unit at the Administrative Office of the Courts.

**Legislative Review**

The Child Support Coordinating Council was presented a review of enacted legislation impacting child support, child custody, or marriage. The review was presented by David Sands

from the Administrative Office of the Courts.

The recap distributed to Council members is attached.

Mr. Sands identified several amendments to bills that the Council reviewed at the last meeting and detailed key provisions of each bill. Nancy Mendoza clarified the amendment to SB1184. The original bill stated that only those parties for whom a child support arrest warrant had been issued would be placed on the agency website. The amendment to the bill would require that before posting the delinquent parent on the website, that there also be a photograph of the individual. The amendment is to protect individuals with similar names.

The notice provision of the Council Bill, SB1152, was amended to include language that would require a date by which parties would need to obtain a written judgment. Mr. Sands pointed out that while desirable, it may not be practical as it requires the parties at the time the order is entered to predict when emancipation of the children will occur. Council members discussed a provision of the bill that would in certain instances restrict the agency from using A.R.S. § 25-505.01 from adding an arrears amount to the administrative assignment issued by the Department of Economic Security. The department currently uses a formula provided in statute to increase the amount of an assignment based on the level of delinquency. The statute would now prohibit an increase in the court-ordered amount if it is specifically stated in the court order. Nancy Mendoza stated that the ATLAS system has the capability now to accommodate this requirement and the department has been doing this since October, 1998.

Mr. Sands discussed an amendment that added a provision that would allow an adult to establish their biological parent. The effect of the amendment was not clear as it was included in the paternity statutes.

### **Domestic Violence Issues**

Kat Cooper distributed materials dealing with orders of protection, the state case registry, and the family violence indicator. Kat proposed that a work group be formed to examine how the court process of issuing orders of protection interfaces with law enforcement and affects the child support enforcement agency. Consequently, there is no single point for the Department of Economic Security to obtain this information for the state case registry.

Council members discussed how a determination is made that a family violence indicator should be placed on a party in the state case registry. Nancy Mendoza stated that the existence of a valid order of protection, a good cause exception, or a substantiated case of child abuse were currently being used as a basis for activating the family violence indicator on a party.

Judge Duber expressed concern that a Judge might be less willing to issue a protective order if it were thought that this would in some way impede the ability of a non-custodial parent from locating his/her child(ren). The Council agreed that the issues deserved further study and approved formation of a work group. It was recommended that the Domestic Relations Reform Subcommittee be informed of the work group and interested parties be encouraged to participate. Additionally, it was suggested that the workgroup include participants from the Arizona

Coalition Against Domestic Violence, the Committee on Domestic Violence in the Courts, non-custodial parents, the Governor's Office for Domestic Violence Prevention, law enforcement, and judicial officers from the lower jurisdiction courts.

David Sands volunteered to draft a letter, for the Councils' approval, notifying interested parties of the work group.

### **New Business**

Judge Duber requested that the Council form a work group to address the issue of intrastate enforcement actions. There currently exists some confusion on where it is appropriate to enforce an order. Members discussed the concepts relating to jurisdiction, venue, abatement, and the states right to enforce according to the law. David Sands informed the Council that a work group was already in existence consisting of statewide court personnel. Mr. Sands suggested that the existing work group be made a Council work group and that Brian Chambers as well as a representative from the Attorney General's Office be added. Senator Petersen agreed and instructed Mr. Sands to report the progress of the work group to the Council at the next meeting.

### **Public Comment**

Mr. Christopher Sotiriou addressed the Council. Mr. Sotiriou stated that the laws relating to child support and garnishment need to be reviewed. Chris related a personal story to illustrate the how a potential problem exists.

### **Next Meeting of the Council**

The next meeting is scheduled for August 26, 1999, from 10:00 a.m. to 1:00 p.m.

### **Adjournment**

The meeting was adjourned by Senator Petersen at 12:00 noon.

.....**CHILD SUPPORT COORDINATING COUNCIL SUBCOMMITTEE**  
**Meeting Minutes - October 4, 1999**

**Members Present:**

Hon. Linda Aguirre  
Hon. Mark Armstrong  
David Byers  
Brian Chambers for Jerry DeRose  
Hon. Robert Duber  
Conrad Greene  
Kim Gillespie for Noreen Sharp

Pat Harrington for John Clayton  
Hon. Michael Jeanes  
Nancy Mendoza  
David Norton  
Hon. David Petersen  
Hon. Rhonda Repp  
Bianca Varelas

**Members Absent:**

Jodi Beckley  
Laura Elmer  
William Hurst

Commissioner David Ostapuk  
Hon. Rebecca Rios  
Chuck Shipley

**Staff:**

Megan Hunter

Patrick Scott

**Guests:**

Mark Barry

Arizona House of Representatives

Judy Bushong

Clerk

of the Superior Court-Maricopa

Lauren Eiler

Clerk

of the Superior Court-Maricopa

Barbara Guenther

Senate

Research

Jane McVay

DCSE

Dot Reinhard

Office

of the Auditor General

Rabeya Sen

ACADV

Eddie Sissons

Arizona Justice Institute

**Call Meeting to Order**

The meeting was called to order by Senator David Petersen at 10:15 a.m.

### **Announcements**

Senator Petersen announced Carmela Trapani, Administrative Secretary for the Domestic Relations Unit at the Administrative Office of the Courts (AOC), was leaving to pursue a career with the Phoenix Police Department. He also welcomed Megan Hunter as the new Child Support Specialist for the Domestic Relations Unit at the AOC. Megan comes from a child support enforcement background with the Dawes County Attorney's Office in Nebraska. Megan replaces Patrick Scott as staff support to the Child Support Coordinating Council Subcommittee. Patrick was promoted to the Public Access Specialist position in the Domestic Relations Unit.

Nancy Mendoza presented a plaque to Senator Petersen in recognition of his role in the successful implementation of the Personal Responsibility and Work Opportunity Reconciliation Act in Arizona. Nancy further commended the Senator for his dedication and leadership to the Child Support Coordinating Council Subcommittee.

### **Approval of Minutes**

Kat Cooper identified an error in a statement attributed to her on page two. The minutes were approved as amended.

## **WORKGROUP REPORTS**

### **Statute Clean-up**

Judge Mark  
Armstrong

Judge Armstrong shared copies of legislation being proposed by the Family Court Department of the Superior Court in Maricopa County. The six statutory changes do not deal directly with child support, however, Judge Armstrong encouraged members to review the proposals and make suggestions for improvement.

Judge Armstrong updated members on the progress of the Statute Clean-Up Workgroup. He reported first on statutes which have been discussed but for which no formal recommendations are being made at this time:

Title 25:

- The definition of "support" should be consistent with Federal law.
- Defining or clarify the terms "payor" and "obligor". Both are used in statute. The same term should be used throughout the statute if there is no difference in these terms.

- Define or clarify the use of the terms “arrear” and “arrearage”. Both are used in statute interchangeably. The same term should be used throughout if there is no difference in these terms.

A.R.S. § 25-810. Grandparent Liability for Child Support. The statute is unclear in terms of:

- 1) how to calculate a grandparent’s liability for support of a minor child living with them, and ;
- 2) what is meant by joint & several liability in this statute.

The statute implies that it is fair to assess child support against grandparents who are willing to aid the parent by allowing the grandchild(ren) to live with them, but not to assess child support against non-custodial grandparents.

The group is also discussing how support should be established or modified when there are multiple families and child support orders with the same obligor?

The following recommendations will be made to the Council:

Amend A.R.S. §§ 25-502(c) and 25-681(a). These two statutes relate to child support arrest warrants and findings of contempt in child support arrearage cases. The workgroup recommends amending A.R.S. § 25-502(c) by changing the word *shall* to *may* to be consistent with A.R.S. § 25-681(a). Secondly, the workgroup recommends cross referencing A.R.S. § 25-681(c), the child support arrest warrant statute, to A.R.S. § 25-502(c). These two disparate statutes appear in different articles of Title 25 although they deal with similar issues.

Amend A.R.S. § 12-910(c) Judicial Review of Administrative Decisions. This statute relates to the use of judicial review of administrative decisions by executive branch agencies. These are cases in which a person has appealed an administrative decision by DCSE to the Superior Court. Under current law they have a right to a jury trial. This has the potential to overwhelm Family Court. Additionally, the courtrooms are not equipped to deal with jury trials. Currently there is no right to a jury trial in other Title 25 proceedings. The workgroup recommends adding the following clause to the last sentence of A.R.S. § 12-910(c) “except if the review is of a decision pursuant to A.R.S. 25-522.” Parties would maintain their right to an appeal to Superior Court without the provision for a jury trial.

Amend 25-504(h). This issue is referred to as the “26/52” issue. Under existing law, employers who pay their employees on a bi-weekly basis, 26 times per year, can sometimes unfairly cause child support arrearages to accrue. The workgroup recommends: 1) amending A.R.S. § 25-504(h) by deleting the second sentence which authorizes the prorated method of withholding child support. Deleting this provision would not prohibit this method, it would simply suggest that monthly child support be withheld, and 2) amending A.R.S. § 25-510(c) which is the statute that sets the hierarchy of payments. The statute allows arrearages to accrued unfairly.

Nancy Mendoza shared with the Council copies of DCSE's legislative proposals and their list of items they want to offer for consideration to the Statute Clean-Up Workgroup. The Council agreed come back to this issue at the end of the meeting if time allowed.

### **Family Violence Indicator**

Kat  
Cooper

Kat Cooper updated members on the progress of the Family Violence Indicator (FVI) Workgroup which was established to examine how the State IV-D agency and the courts will coordinate in the implementation of a Federal mandate in terms of placing a non-disclosure indicator on the Federal Case Registry via the State Case Registry. The workgroup has studied the Federal requirements placed on the states and how to best protect the interest of all parties.

David Sands explained to the members the issues involved with the Family Violence Indicator (FVI) including the Federal Parent Locator Service and its intended use for efficient location purposes. David and Pat Harrington further explained Federal mandates, statutory requirements, good cause claims and cited the two recommendations of the FVI Workgroup to the Council.

Federal Law requires activation of the FVI when: 1) a protection order has been issued in favor of the requesting party, or, 2) the state has reason to believe that release of the information may result in physical or emotional harm to the parent or child.

A central repository for orders of protection exists, but lacking is a method of getting the information from the various county agencies to the central repository.

A motion was made by Conrad Greene that we establish the needs to be considered in order for a judge to issue a protective order. The motion did not receive a second.

A motion was made by Judge Armstrong to approve and adopt the two recommendations made by the workgroup. The motion was seconded by Representative Repp and was passed by majority vote. Conrad Greene voted nay.

### **Intrastate Orders Workgroup**

Judge Mark  
Armstrong

Judge Armstrong stated the purpose of the workgroup was to address the practice of the filing of a certified copy of a superior court order in a county other than the county where the order was issued for modification or enforcement. The resulting problems include: 1) a lack of uniformity in the amount of the filing fee charge, 2) unless the venue of the action is changed there

may be multiple proceedings in different counties creating the possibility of concurrent yet inconsistent rulings, and 3) under the centralized payment processing system, multiple court case numbers contribute to misidentified or mishandled payments. The Workgroup will continue to research this issue and report the results at the next Council meeting.

A.R.S. § 12-284. The Clerk's offices should charge a fee when a party files a certified copy of another county's order. The purpose of reviewing this statute is to: 1) do it uniformly throughout the state, 2) provide some means to notify both counties of both proceedings when a certified order is filed, and 3) create a handout to be used by clerks offices that advises the parties that non-support issues cannot be addressed by filing a certified copy of an order from another county and instead will have to go through the formal change of venue process.

### **Auditor General's Report**

Nancy Mendoza shared with the Council the request made by the Auditor General's Office that this Council consider the methods by which the child support enforcement program should be financed in the future. Specifically, should the program continue to be a cost recovery program or should this be seen as a public service program funded through appropriations. Nancy advised they are required to report to the legislature on September 2000 and to make that report based on a recommendation they are to receive from this Council. Nancy requested a workgroup be formed to report its recommendation by March 1, 2000 and volunteered to chair the workgroup. Kim Gillespie, Bryan Chambers, Bianca Varelas and Conrad Greene volunteered to serve on the workgroup. Consensus was reached that a workgroup should be formed. Nancy will report back at the next Council meeting.

### **Child Support Guidelines**

Patrick Scott advised the Council that it is again time to review the child support guidelines. Patrick requested that a workgroup be formed to review and make recommendations by March 1, 2000, after which the recommendations will be presented to the Arizona Judicial Council and the Supreme Court. He further advised that an updated economic study has been conducted of which copies were provided to the members. The Honorable Michael Jeanes volunteered a member of his staff for this workgroup as did Kim Gillespie and Nancy Mendoza. Consensus was reached that a workgroup should be formed. Senator Petersen will report back at the next Council meeting.

### **Public Comment**

No public comment was heard.

### **Next Meeting of the Council**

The Council scheduled meetings on November 2, 1999 and December 14, 1999. Both meetings will be held in Conference Room 345 A/B of the Arizona Courts Building from 10 a.m. - 2 p.m..

## **Adjournment**

The meeting was adjourned by Senator Petersen at 12:25 p.m.

**CHILD SUPPORT COORDINATING COUNCIL SUBCOMMITTEE**  
**Meeting Minutes - November 2, 1999**  
**AMENDED**

**Members Present:**

Hon. Mark Armstrong  
David Byers  
Kat Cooper for Hon. Michael Jeanes  
Bryan Chambers for Jerry DeRose  
Conrad Greene  
Leona Hodges  
William Hurst  
Hon. Laura Knaperek  
Dana French for Noreen Sharp

Nancy Mendoza for John Clayton  
David Norton  
Commissioner David Ostapuk  
Hon. David Petersen  
Hon. Rhonda Repp  
Chuck Shipley  
Russell Smolden  
Bianca Varelas

**Members Absent:**

Hon. Linda Aquirre  
Jodi Beckley

Hon. Robert Duber  
Hon. Rebecca Rios

**Staff:**

Megan Hunter  
David Sands

Isabel Gillett

**Guests:**

Todd Bright  
Judy Bushong  
Glenn Davis  
Lauren Eiler  
Paul Geisheker  
Karen Gendron  
Barbara Guenther  
Ron Johnson  
Jane McVay  
Dot Reinhard  
Rabeya Sen  
Stefan Shepherd  
Eddie Sissons  
Chris Sotiriou  
Keri Sparks  
Linda Zelonky

Division of Child Support Enforcement  
Clerk of the Superior Court-Maricopa  
Senate Council to Minority  
Clerk of the Superior Court-Maricopa  
Single Parents Association  
Custodial Parent  
Senate Research  
State Bar of Arizona  
DCSE  
Office of the Auditor General  
ACADV  
JLBC  
Arizona Justice Institute  
Parent  
House Research  
ACADV

**Call Meeting to Order**

The meeting was called to order by Senator David Petersen at 10:04 am.

## **Announcements**

Senator Petersen introduced three new members of the group and the positions in which they serve as follows: Honorable Laura Knaperek, House of Representatives, Co-Chair; Russell Smolden, Parent; and Leona Hodges, Acting IV-D Director, DCSE.

Pat Harrington announced the first meeting of the Finance Workgroup would commence immediately following this meeting.

Nancy Mendoza informed the group that a nomination for the Governor's Spirit of Excellence Award was submitted on behalf of the Council honoring the work of the Centralized Payment Processing Workgroup. Notification was received that they are a finalist.

## **Approval of Minutes**

David Norton moved that the Family Violence section of the minutes be amended to reflect that a central repository for orders of protection exists, but lacking is a method of getting the information from the various county agencies to the central repository. A second to the motion was made by Chuck Shipley. The minutes were approved as amended.

## **WORKGROUP REPORTS**

### **Family Violence Indicator**

Kat Cooper

Kat Cooper updated members on the progress of the Family Violence Indicator (FVI) Workgroup. The Workgroup was established to examine how the State IV-D agency and the courts will coordinate in the implementation of a Federal mandate in terms of placing a non-disclosure indicator on the Federal Case Registry via the State Case Registry. The workgroup continues the effort to meet the Federal requirements placed on the states and how to best protect the interests of all parties.

Two recommendations were previously adopted by this Council: 1) to use orders of protection as the basis for putting the indicator on the system to protect addresses; and 2) to place the indicator on all TANF "good cause" cases.

The Workgroup's third recommendation is to replace the term FVI with the term Non-Disclosure Indicator (NDI). This will serve the purpose of protecting families outlined by the feds and at the same time addresses the concerns of individuals that placing the FVI on someone indicates guilt of violence. The federal system will recognize both the NDI and FVI. Concern was raised by a member of the Arizona Coalition Against Domestic Violence that using NDI reduces the seriousness of domestic violence.

David Byers explained the efforts being made by various agencies to collect data on orders or protection and place them in a central repository. The data can then be matched with ATLAS

for placement of the FVI or NDI.

Nancy Mendoza apprized the members on the historical background of the Federal Parent Locator Service and its relationship to the FVI or NDI. She also explained that Federal law sets forth that only authorized users have access to this information and that an override process has been provided for.

The group is working to define the criteria Arizona will consider as reasonable evidence, and to decide when to turn off the FVI or NDI.

The Council approved of changing the Family Violence Indicator (FVI) to Non-Disclosure Indicator (NDI).

### **Statute Clean-up**

David Sands

#### **A.R.S. § 12-910**

Administrative reviews - The child support agency is obligated to hold an administrative review on the request of a party. The agency determination is then subject to a judicial review which currently includes the right to a jury trial. The proposed change simply makes an exemption for jury trial in child support cases.

#### **A.R.S. § 23-1068**

Presently, workers compensation benefits are exempt from attachments, garnishments and executions. The proposed change makes those benefits subject to assignment for the payment of child support.

#### **A.R.S. § 25-322**

This statute currently refers to payments being received by the Clerk of Court and the Support Payment Clearinghouse. In the past, payments were made to both, but all payments are now made through the Support Clearinghouse. This proposal strikes reference to the clerk in that statute as it is now unnecessary.

A.R.S. § 25-502 also refers to amounts paid and mentions the Clerk of Court again. The group is researching how to fix this statute. The language could be left as is or it could be amended to indicate that payments will be made to the Support Payment Clearinghouse but allows for the Clerk of Court to collect payments in certain circumstances. The Workgroup will continue to work on this matter and report it back to the Council as a whole.

#### **A.R.S. § 25-330**

**When sections of Titles 8 & 12 were brought into Title 25 in previous legislation some**

lingering references to Title 12 did not get changed in statute. This recommendation removes reference to Title 12 and instead references Title 25.

**A.R.S. § 25-502**

This section deals with specialized child support arrest warrants. These warrants are broader than civil arrest warrants that were previously used. A.R.S. § 25-502 provides that the court *shall* issue a child support arrest warrant in certain instances. A.R.S. § 25-681 describes more broadly what the warrant is, how it works, and in what situations it applies. This statute uses the term *may* instead of *shall*. The proposed change would make those statutes consistent by using the term *may* in both statutes. This change would allow the court judicial discretion to make that decision as it may not always be appropriate to issue a warrant.

**A.R.S. § 25-504**

The proposed change would strike language that allowed employers to calculate the wage assignment amount to send in each month by simply multiplying the child support order by 12 and dividing by the number of pay periods that applied to that business. This has caused problems with the Support Payment Clearinghouse. If more than a month's payment is received in any given month, the system may not know what to do with the excess and could send it to a suspense account. More damaging results occur when less than a full month's amount is received. This causes the arrearage referred to as the "26/52" pay period provision in which the pay period frequency does not match the ATLAS system thereby causing it to appear as an underpayment by an individual. The statutory language presently provides an employer the method by which to cause employees to fall short several months of the year. This statute would keep the accounts accurate for the obligors. This change is merely trying to make a small step to show that employers need to pay monthly. It is a suggestion, not mandatory or a requirement.

The Division of Child Support Enforcement has investigated fixing this problem internally through ATLAS programming. Due to the systems inability to discern if the shortfall for a particular month is due to the employer's pay cycle or to the possibility that the employee did not work the entire month, internal changes are not possible. Payroll processing professionals have indicated that most companies would not have to change pay cycles, but they would only have to take out deductions from the first two pays of each month.

**A.R.S. § 25-504**

Removed references to Clerk of Court but the Workgroup will take another look at this in light of this meeting.

**A.R.S. § 25-510**

This proposal helps the statute represent what exists today in the collection of support payments. Until the Support Payment Clearinghouse was set up to receive all support payments, it was set up to accept payments in only IV-D cases. The transition to include all payments

occurred in December 1998. At that time language was adopted to allow the possibility that the payments would go to both the Clerk of Court and the Support Payment Clearinghouse. This proposal strikes the temporary or conditional provisions of this statute and simply says that the Support Payment Clearinghouse will receive all payments.

#### **A.R.S. § 25-510**

This statute deals with the allocation of support payments to various debts that have been set up. When non IV-D cases were put into the ATLAS system for distribution of payments, it was not clear that the existing algorithm provided under federal law for IV-D cases would appropriately disburse payments to the various debts that might exist in a non IV-D case. Last year the Legislature passed a hierarchy for how payments should be distributed in non IV-D cases through the Support Payment Clearinghouse and included the handling fee clerks used to receive for handling cases. Now the Support Payment Clearinghouse handles all payments. Currently this statute set out the handling fee in an annual amount instead of a monthly amount creating problems. The Workgroup suggests removing the clerk references and providing for a specific fee called a monthly fee instead of an annual fee.

Various Council members expressed their interest in revisiting the notion of continuing to charge the handling fee. The Workgroup will continue its research.

#### **DCSE Legislation**

#### **A.R.S. § 25-320**

Propose referencing the definition of *support* in A.R.S. § 25-320 to A.R.S. § 25-500. They are attempting to eliminate multiple definitions of support and direct individuals to look in A.R.S. § 25-500 for the definition.

#### **A.R.S. § 25-500**

Propose defining arrearage in this section as it presently does not exist.

#### **A.R.S. § 25-500**

Propose clarifying that spousal maintenance will be enforced by DCSE only when it is contained within a child support order. This places DCSE in compliance with directives from the Feds and only affects IV-D cases. They will continue investigation into interstate and tax issues and bring it back next month.

#### **A.R.S. § 25-503**

This statute addresses under what grounds a person can request a modification. The Balanced Budget Act of 1997 mandated that states have until 2001 to comply with the changes to the enforcement of medical support. The Governor must certify to the Secretary of Health &

Human Services that we have a state plan that conforms to federal law and if she does not certify that, then we as a state lose our eligibility for Temporary Assistance to Needy Families (TANF). DCSE has enhanced the previous language to meet the federal language. Congress has created a National Medical Support Enrollment Notice to be used uniformly across the United States. The Feds do not allow much flexibility for the states.

In this light, it needs to be made clear that if a prior support order did not contain medical support, or it did contain medical support but was not being actively enforced and now is, DCSE has the responsibility to enroll the child(ren) in the medical insurance if the obligor now has an employer who provides that insurance. The additional medical insurance coverage constitutes a change in circumstances which is substantial and continuing. Obligor can then come in and request a modification on this basis. DCSE will continue work in this area.

DCSE is also proposing new language related to how they are going to enforce medical support. In the past, multiple notices had to be sent out. To conform to new federal language, on new orders, obligors would be required to provide new information about their health care coverage plan, effective date of coverage, a description of the coverage, the name of the employer and any other needed information, forms or documents related to health care insurance, within 30 days after the support order is established. The court would include this in their order, then an administrative order would be used to go forward.

Members discussed problems arising from medical insurance choices, who gets to choose among medical insurance plans and what methods the obligor has available to discover options. Additionally, if there's a change in insurance availability that constitutes a change in circumstances and that allows the party to go back for a modification.

#### **A.R.S. § 25-816**

This proposal centers around caretaker cases where the biological mother is no longer custodian of the child(ren). In these cases, another party, such as a grandparent, has physical custody of the child. In some instances an individual wants to establish paternity for that child(ren) and this proposal would make it possible for father to establish paternity. The statute's purpose is to direct the custodian to bring the child(ren) in for paternity testing. Research will continue.

#### **A.R.S. § 36-322**

This proposal would allow birth certificates to be amended following a voluntary acknowledgment of paternity. If a new paternity acknowledgment has been entered, the Department of Health Services can then be changed the birth certificate to reflect that.

#### **A.R.S. § 46-408**

This proposal would lengthen the time from 15 to 30 days that a custodial parent can contest the distribution of support. This only affects those on public assistance.

### **A.R.S. § 46-441.01**

This proposal would allow the redirection of payments when the custodial parent is incarcerated. Currently, DCSE does not have the ability to redirect the payment to the person having actual physical custody of the child(ren). Information will be sent out on this issue to members before the next meeting for their review.

### **Senator Gleason's Proposal**

#### **A.R.S. § 25-503.01**

This amendment was originally suggested by Representative Gleason. He asked the Council to review the bill before he files it. Presently, in statute there's a provision that allows a court on good cause to order a parent responsible to pay support to put up security when there's a history of non-payment. This proposal is similar. It allows the court to order a self-employed obligor to forward not more than six months payment into an escrow account maintained by DCSE. If the month ends and the payment has not been received for that month, then the money would be released from the escrow account to cover that month per a judge's order. This amendment resulted from the difficulty of getting regular payments from a self-employed individual who is not honoring wage assignments when issued to them in the capacity of their ownership of their company. The bill will be fine tuned and brought back to the Council next month.

### **Intrastate Orders Workgroup**

This Workgroup is currently attempting to allow for an easier transfer of cases and/or files from one court to another without hampering enforcement activities. Child support enforcement agencies had the capacity to take a support order from one county and to file it in another county if that is was determined to be the best place to enforce the order. Duplicate case numbers and incomplete files cause a problem. In addition, not all issues of the order can be addressed in the second county. The Workgroup will continue working on this.

### **Sunset Legislation**

David Sands reported that this Council will expire, or sunset at the end of calendar year 2000. Legislation formed the Council in 1994 and provided that the group would sunset at the end of 1997. Recognizing the value of this committee, in 1997, legislation was changed to grant the life of this committee another three years. That means the Council is currently prepared to sunset at the end of year 2000. To continue this committee, this next legislative session is the only time to ask that legislation be passed to continue the committee. David Byers suggested lengthening the life of the committee beyond three years.

### **Child Support Guidelines**

Staff member Megan Hunter advised the members of the historical aspects of the Guidelines and the current status of the Guidelines review. Members were given a copy of a *Findings of a Case File Review* prepared by Policy Studies, Inc. of Denver, Colorado. The review fulfilled a Federal requirement that states conduct a case file review every 4 years to ensure that deviations from the guidelines are limited. Arizona's deviation rate is 15% while the national average is 17%. The case file review suggests that application of Arizona's present guidelines results in the determination of appropriate child support amounts. Based on this information, the Domestic Relations Unit, Administrative Offices of the Court (AOC), has made only two recommendations for changes to the guidelines. These recommendations, in effect, tweak the guidelines to bring them up to current economic standards.

Seven public hearings will be held through each region of the state and the Guidelines Workgroup will meet at least six times to provide feedback along with any additional suggestions for improvement.

### **Public Comment**

Karen Gendron, a single parent who has experienced the divorce process, addressed the committee on her concerns regarding post secondary educational support. Currently, obligors are not required to pay child support after the child has reached the age of 18 unless ordered by the court. The impact of this on families who historically don't get along is that the child ends up not knowing where the tuition for college will come from. She pointed out that fifteen states have statutory provisions for post-secondary education beyond the age of 18. She requested further research by the Council that would allow a court to decide this matter on a case by case basis. Judge Armstrong stated that unless the parties come to agreement on this issue the judges do not order child support beyond the age of 19.

Paul Geisheker also spoke as a concerned parent. He described his objections to the income shares method of child support calculation currently used in Arizona. He pointed out that self-employed individuals do not receive benefits which distorts the balance with a custodial parent who does receive benefits. Discussion centered around various methods that self-employed individuals can employ to adjust their income. The Guidelines Workgroup will address these issues at their meetings.

Another concerned parent, Chris Sotiriou expressed his concern that judges do not listen to the public. He stated that he became homeless due to the amount of child support that he was court-ordered to pay.

### **Next Meeting of the Council**

The next meeting of the Council will be held on December 14, 1999 in Conference Room 345 A/B of the Arizona Courts Building from 10 a.m. - 2 p.m.

### **Adjournment**

The meeting was adjourned by Senator Petersen at 2:08 p.m.

**CHILD SUPPORT COORDINATING COUNCIL SUBCOMMITTEE**  
**Meeting Minutes - December 20, 1999**

**Members Present:**

Hon. Mark Armstrong  
David Byers  
Bryan Chambers for Jerry DeRose  
Kim Gillespie for Noreen Sharp  
Leona Hodges  
William Hurst

Hon. Michael Jeanes  
Nancy Mendoza for John Clayton  
David Norton  
Hon. David Petersen  
Russell Smolden  
Bianca Varelas

**Members Absent:**

Hon. Linda Aquirre  
Jodi Beckley  
Hon. Robert Duber  
Conrad Greene  
Hon. Laura Knaperek

Hon. David Ostapuk  
Hon. Rhonda Repp  
Hon. Rebecca Rios  
Chuck Shipley  
Carmela Trapani

**Staff:**

Isabel Gillett  
Megan Hunter

David Sands

**Guests:**

Mark Barry  
Judy Bushong  
Kat Cooper  
Rita DeSoto-Ekpe  
Patrick Harrington  
Jane McVay  
Rick Wagner

Arizona House of Representatives  
Clerk of the Superior Court-Maricopa  
Clerk of the Superior Court-Maricopa  
Community Legal Services-Maricopa  
DCSE  
DCSE  
CRC

**Call Meeting to Order**

The meeting was called to order by Senator David Petersen at 10:10 am.

**Announcements**

Senator Petersen noted that David Sands has been temporarily assigned to the legislative team from the Administrative Office of the Courts for this year's legislative session.

**Approval of Minutes**

Nancy Mendoza noted that Senator Gleason's draft bill had been placed under DCSE's legislation and requested that it be placed in a separate section. David Norton noted two typographical errors. The minutes were approved as amended.

**A.R.S. § 25-534** This section requires the employer to notify the IV-D agency and the other parent of termination in medical coverage or change in the carrier, of the last day on which health insurance coverage is effective and of any available conversion privileges.

**A.R.S. § 25-535** The notice of intent to enforce medical support that is sent to an obligor has been stricken. Added to this section is a provision requiring that in a IV-D case a parent who is ordered, either by the court, by another state's process, or by administrative order, to provide health insurance coverage for a child, and shall provide the Department with specific information necessary to enroll the child(ren). This new subsection requires a parent to provide the Department with the name of the insurance plan, the effective date of the coverage, a description of the coverage, the employer's name and any other needed information, forms or documents related to the health insurance coverage as provided to all new members within 30 days after the support order is established.

New subsection B provides that if a court order or administrative order requires a parent to have health insurance coverage, the Department or the other parent may serve on the parent's employer a medical support notice to enroll the child in the health insurance program using the federally required medical support notice. This section also requires the employer to deliver a copy of the medical support notice to enroll to the parent within 10 days of service on the employer. The notice serves to enroll the child in the parent's health insurance plan or the least costly plan and provides that the parent may contest the notice by requesting an administrative review within 10 days. The Department is required to notify the employer that the parent has contested the notice and requires the employer to continue to send withheld employee contributions until the Department notifies the employer that the issue has been resolved. This section prescribes the issues which may be the subject of an administrative review. Additionally, the employer is required to notify the Department if they do not have existing dependent coverage within 10 days of receipt of the notice to enroll.

New subsection D provides that if an employee on whom an income withholding order or order of assignment is served is a new employee entered from the State Directory of New Hires, the Department must provide the medical support notice to enroll to the employer within two days.

New subsection E requires that when a parent changes employment, and the Department knows the new employer, the Department shall transfer the medical support notice to enroll to the new employer. A parent would be required to provide the Department with the name of the insurance plan, the effective date of the coverage, a description of the coverage, the employer's name and any other needed information, forms or documents related to the health insurance coverage as provided to all new members within 30 days after the support order is established.

New subsection F requires the employer to transfer the notice to enroll to the appropriate health insurance plan providing health insurance for the child within 20 days after the notice to enroll. This section requires: 1) the Department to notify the employer that the parent has contested the notice; and 2) the employer to continue to send withheld employee contributions

until the Department notifies the employer that the issue has been resolved.

New subsection G requires a parent who is ordered to provide medical insurance coverage, either by a court or administratively, to make employee contributions. That parent would be subject to appropriate enforcement unless the parent contests the enforcement pursuant to A.R.S. § 25-522.

New subsection H provides that the medical support notice to enroll has the same effect as an enrollment application signed by the parent.

New Subsection I provides that the medical support notice to enroll is the form prescribed by the U.S. Secretary of Health and Human Services to enroll a child in health insurance coverage pursuant to federal law.

Nancy noted that members were provided with a document from the Federal Register. It is a proposed rulemaking by the federal government with regard to the implementation of the new federal National Medical Support Notice requirements. Attached to the document are the federal draft forms to be used by the state.

**A.R.S. § 46-441.01** This section addresses situations when the agency is collecting support for an obligee who does not have the child in his/her custody and a caretaker such as a grandparent provides care for the child. Currently, the money would be sent to the obligee. However, the caretaker needs that financial assistance to care for the child. The agency wants the authority to disburse money to the appropriate person, organization or agency authorized to receive or collect child support or to the caretaker who has physical custody of the child or physical custody with the obligee's consent. The department would be required to: 1) obtain a written statement from the caretaker stating that the caretaker has physical custody of the child or custody with the obligee's consent; 2) mail a copy of the caretaker's statement or verification that the caretaker is receiving cash assistance for the child along with a notice of the change in disbursement to the obligor and obligee at their last known address; and 3) file copy of the notice of change of disbursement with the clerk of the court that entered the original support order.

Any of the parties may request an administrative review to object to the action within ten days of the date of the notice. If they do not request an administrative review, then the department would begin sending the money to the caretaker. The payments would continue to go to the caretaker unless an obligor obtained a current order granting custody to the obligor. When the obligee claims that the child remains in the obligee's custody, payments would continue to go to the obligee until the issue is resolved.

Judge Armstrong suggested that the parties: 1) be given 30 days to respond; 2) require a statement of custody from the caretaker; and 3) require a statement of the obligee's consent to the redirection of payment. He also explained that the courts have a process designed to deal with the caretaker issue, in loco parentis. Another suggestion was made that subsection I be removed from this section. DCSE will continue to research this.

**A.R.S. § 25-320** Subsection L.2. references the meaning of support with Section

25-500.

**A.R.S. § 25-500** defines “arrearages” as the total unpaid support owed, including child support, past support, spousal maintenance and interest thereon. This also clarifies that in a IV-D case support also includes spousal maintenance when it is contained within the same order as child support.

**A.R.S. § 25-503** provides that the addition of medical support or a change in the availability of medical support may constitute a change in circumstance which is substantial and continuing, making it possible for the obligor to request a review.

**A.R.S. § 25-522** adds issues that are the subject of administrative review.

**A.R.S. § 25-816** provides that if the biological mother cannot be located for genetic testing, the Department may order the caretaker of the child to bring the child in for genetic testing. This section also provides that any of the persons tested may contest the genetic test results in writing to the Department within thirty days of the mailing of the test results.

**A.R.S. § 46-408** extends the time in which a custodial parent can dispute the distribution of support from fifteen to thirty days.

DCSE will continue to work on its legislative proposals.

The members of the Council voted to approve the DCSE legislation.

### **Subcommittee Omnibus Child Support Legislative Proposals**

David Sands

**A.R.S. § 12-284** Removed from the fee schedule the \$27 clerk’s annual handling fee for alimony/child support payments. This also removes the clerk’s responsibility and authority to collect and forward alimony/child support payments since the responsibility now rests with the Centralized Payment Clearinghouse.

**A.R.S. § 25-510** Provides that all payments go to the Support Payment Clearinghouse, and amends numbers three and eight of the distribution hierarchy in the following manner:

# 3 Amended to characterize the handling fee at a monthly level of \$2.25 to cover the cost of handling support and maintenance payments as part of the order for support and maintenance.

#8 Assesses past due fees if there is any money left after disbursing monies to the preceding levels.

**A.R.S. § 46-441** amends this section to make proper reference to the appropriate hierarchy to describe the fee as monthly instead of annual and by deleting references to the clerk of court.

This section also adds language that alternative support payment agreements shall not be credited against the support obligation unless the agreement is in writing.

This section also requests an appropriation of \$70,000 from the state general fund to the department for the fiscal year 2000-2001. The appropriation would be used to offset the loss of anticipated revenue for processing support payments incurred as a result of amendments made in section 9 of this act.

**Sunset Legislation** requests that the life of this committee be extended 10 years.

The members voted to approve the child support omnibus legislation. Senator Petersen will open a folder so Legislative Council can begin its drafting work.

## **WORKGROUP REPORTS**

### **Non Disclosure Indicator**

Kat Cooper

The workgroup met in November. Guest speaker, June Melvin Mickens, the federal technical expert on the Family Violence Indicator and Federal Case Registry, answered questions and shared other states' experiences in dealing with these issues.

The group is continuing to work with DCSE on internal issues. Kat reported that a member of the workgroup who was not satisfied initially with changing the workgroup name from Family Violence Indicator to Non Disclosure Indicator has since approved of the change.

### **Financing**

The group continues to meet on schedule with the goal of bringing a recommendation to the Council in late February or early March. The recommendation will focus on how to approach the shortfall that is occurring in the IV-D child support program both at the state and county levels.

The group has reviewed the structural funding issues of how the IV-D program is funded in Arizona, and also looked at the state and county estimates of the shortfall expected this year and in the next two state fiscal years.

They are currently exploring options as to how the shortfall can be addressed. Members of the Department's budget staff, and others who work with the child support from the Joint Legislative Budget Committee and from the Governor's Office of Strategic Planning & Budgeting have attended the meetings and observed the work that the committee is doing.

The group is researching the fee schedules that are in effect in other states and the incomes of parties in IV-D cases in Arizona. They will be meeting at least two more times before they come back to the Council to report their recommendations.

### **Child Support Guidelines**

Public hearings have been held in Phoenix, Mesa, Kingman, Yuma, and Flagstaff. Senator Petersen, Judge Armstrong, Kathie Pearson and Judy Bushong participated in the Maricopa County area hearings. David Sands and Megan Hunter were present at all hearings. Two hearings will be held in January in Globe and Tucson. Attendance has been low.

The workgroup met with Jane Venohr of PSI, Denver, Colorado. Dr. Venohr presented a historical background of our guidelines, answered questions about the current recommendations, and relayed information regarding other states' practices.

The group will review the comments and suggestions from the hearings, website and mail and come back to this Council with its recommendations in late February or early March.

The Arizona Judicial Council was briefed on the progress of the review and informed that they will be requested to take action on the recommendations to the guidelines at their March meeting. The recommendations will then be placed on the Supreme Court's administrative agenda in May for final approval and implementation of the new guidelines in October, 2000.

### **Public Comment**

No comments were received from the public.

### **Next Meeting of the Council**

The next meeting of the Council will be held on February 16, 2000 in Conference Room 119 A/B of the Arizona Courts Building from Noon - 3 p.m.

### **Adjournment**

The meeting was adjourned by Senator Petersen at 2:00 p.m.

**CHILD SUPPORT COORDINATING COUNCIL SUBCOMMITTEE**  
**Meeting Minutes – January 12, 2001**

**Members Present:**

Beverley Boyd for Dave Byers  
Todd Bright for Benidia Rice  
Bryan Chambers for Jerry DeRose  
Bruce Gentillon  
Kim Gillespie for Noreen Sharp  
Hon. Bethany Hicks

Hon. Michael Jeanes  
David Norton  
Hon. Rhonda Repp  
Benidia Rice for John Clayton  
Russell Smoldon

**Members Absent:**

Hon. Linda Aguirre  
Jodi Beckley  
Penny Higginbottom  
Hon. David Ostapuk

Chuck Shipley  
Carmela Trapnia  
Bianca Varelas

**Staff:**

Megan Hunter

Isabel Gillett

**Guests:**

Hon. Mark Armstrong  
Judy Bushong  
Kathie Pearson  
William Sturgiss

Superior Court in Maricopa County  
Superior Court in Maricopa County  
Office of the Attorney General  
Parent

**Call Meeting to Order**

The meeting was called to order by Michael Jeanes at 3:10 p.m.

**Announcements**

Senator Petersen was unable to attend this meeting and appointed Michael Jeanes to chair the meeting in his place.

Bruce Gentillon was introduced as the Senate-appointed noncustodial parent. Mr. Gentillon, noncustodial parent of two children, resides in Phoenix. He replaces long-time member Conrad Greene.

A letter and Certificate of Appreciation from Chief Justice Zlaket to Judge Duber for his years of dedicated service to this committee was acknowledged.

A replacement for Representative Knaperek has not been named to date. Senator Petersen was re-appointed as Senate co-chair of the Council.

### **Approval of Minutes**

The minutes reflect a change in the attendance list from the December 6, 2000 meeting. Kim Gillespie noted one change: the second paragraph on page three should be moved beneath the third paragraph. The minutes of the meeting of December 6, 2000 were unanimously approved.

### **Legislative Proposals**

**Hon. Mark Armstrong**

At the last meeting, five of the eight Statute Cleanup Workgroup legislative proposals were approved and subsequently introduced by Senator Petersen as Senate Bill 1057. Judge Armstrong will attend the hearings and provide testimony as needed. The remaining three proposals were reviewed by the workgroup. Judge Armstrong explained that the workgroup decided to withdraw A.R.S. 25-527 as a proposal for this year's legislative session. It can be reviewed in the future for revision.

#### **A.R.S. 25-502**

This proposal was tabled at the last meeting to allow time for members to review the proposed revisions. The workgroup also reviewed and made changes to address concerns expressed at the last meeting. Commissioner Ostapuk's concern regarding clarification that the original change of venue statutes should be used in divorce proceedings was addressed. The new language specifies the original change of venue statutes must be used where no court order or action exists under Title 25, Section 3.

Benidia Rice noted that current law allows parties to file an action immediately in the second county. Proposed revisions would require filing an action in the first county before filing in the second county. Doing so potentially lengthens the process and prohibits expeditious modification and enforcement, which the IV-D agency is required to have under federal law. Ms. Rice recommended that language be revised to treat enforcement and modification separately.

The new language gives opportunity for the judicial officers to review the entire file and provides uniformity statewide. Another benefit is that it prioritizes the county of residence of the child for purposes of venue and eliminates multiple orders of assignment and venue shopping.

The following will be revised, then circulated to Council members before forwarding to the Legislature:

- Subsection A.1. - change "county of **this** state" to "county of **the** state."

- Subsection A.2. - add comma in the 8<sup>th</sup> line behind “reside in this state,” and remove the comma from line 9 at the end of “which a party resides,”.
- Subsection A – delete references to establishment and modification
- Remaining sections – delete references to enforcement

The Council voted unanimously to amend the proposal.

### **A.R.S. § 25-513**

The workgroup reviewed this proposal to address concerns regarding the additional burden the proposal’s provisions could place on employers. The proposal was scaled back to restrict gathering of financial information until an Order of Paternity has been established. The IV-D agency can still get that information through administrative subpoena, but a private individual could not. The Legislature’s original intent was to not allow the IV-D agency or private individuals to obtain asset information of a noncustodial parent.

A concern was raised regarding protection from criminal prosecution for state and county attorney child support caseworkers when requesting income information for a child support order. Adding the same information from subsection B should address the issue sufficiently.

The following will be revised, then circulated to Council members before forwarding to the Legislature:

- Subsection C - Delete “which prevails”
- Subsection F.4 - include reference to subsection A, paragraphs 5, 7, 8, 9 and 10

The Council voted unanimously to amend the proposal. Ms. Hunter will draft the amendments to both proposals, then send them to the members for review and comment before the bill is introduced in the legislature.

### **Guidelines Workgroup**

**Hon. Mark Armstrong**

Judge Armstrong reported that the workgroup met January 11, 2001. The issue receiving the most attention was the uncovered medical expenses included in the Schedule of Basic Support Obligations. Confusion exists as to the correct manner in which to address the issue. The group will meet again in two weeks, then bring a recommendation to the Council for voting purposes.

### **New Business**

No new business.

### **Public Comment**

Chris Soutirou, parent, expressed concern regarding proposed legislation that would allow mothers to drop newborns off at designated places without penalty. Michael Jeanes indicated that Mr. Soutirou could contact the sponsor of that bill to express his concerns.

### **Next Meeting of the Council**

The next meeting will be held February 27, 10:00 a.m. - 2:00 p.m. at the Department of Education, Room 417, 1535 W. Jefferson, Phoenix.

### **Adjournment**

Michael Jeanes adjourned the meeting at 4:23 p.m.

**CHILD SUPPORT COORDINATING COUNCIL SUBCOMMITTEE**  
**AMENDED Meeting Minutes – February 27, 2001**

**Members Present:**

Todd Bright for Benidia Rice  
Hon. Kathi Foster  
Bruce Gentillon  
Kim Gillespie for Noreen Sharp  
Hon. Peter Hershberger  
Hon. Bethany Hicks  
Hon. Michael Jeanes

David Norton  
Hon. Rhonda Repp  
Benidia Rice for John Clayton  
Janet Scheiderer for David Byers  
Russell Smoldon  
Carmela Trapani

**Members Absent:**

Hon. Linda Aguirre  
Jodi Beckley  
Bryan Chambers for Jerry DeRose  
Penny Higginbottom

Hon. David Ostapuk  
Hon. David Petersen  
Bianca Varelas

**Staff:**

Megan Hunter  
Karen Kretschman

Isabel Gillett

**Guests:**

Hon. Mark Armstrong  
Jane McVay  
Daniella Yalor

Superior Court in Maricopa County  
Division of Child Support Enforcement  
Morris Institute for Justice

**Call Meeting to Order**

The meeting was called to order by Judge Hicks at 10:21 p.m.

**Announcements**

Senator Petersen was unable to attend this meeting and appointed Judge Bethany Hicks to chair the meeting in his place.

Members were provided with the Child Support Enforcement and Domestic Relations Reform Committee 2000 Annual Report submitted in January, 2001 to Governor Hull, Chief Justice Zlaket, House Speaker James Weirs and Senate President Randall Gnant.

Members also received a copy of the Performance Audit of the Department of Economic Security, Division of Child Support Enforcement Office conducted by the Office of the Auditor General. Members should review the report before the next Council meeting where the Division of Child Support Enforcement will provide a summary of the report.

House Speaker Weiers recently appointed Representative Peter Hershberger to serve as co-chair of the Council. He replaces Representative Laura Knaperek who served as co-chair through December, 2000. Representative Hershberger was introduced; he provided a brief summary of his background, which includes thirty years in the juvenile justice/mental health field. He indicated that he is looking forward to learning, participating and contributing to this group. Rep. Hershberger is a member of both the Human Services and Judiciary committees at the House of Representatives.

House Speaker Weiers also recently appointed Representative Kathi Foster to serve as the House of Representatives member. Representative Foster replaces Representative Rebecca Rios. She has served on several House committees including Human Services, Judiciary and Education in addition to membership on the Domestic Relations Reform Study Subcommittee. Representative Foster indicated that she is pleased to be a part of the Council and looks forward to participating and contributing as a member.

### **Approval of Minutes**

A motion to approve the minutes of January 12, 2001 was heard. The minutes were approved by a unanimous vote.

### **Legislative Update**

**Hon. Mark Armstrong**

Seven separate statutes were included in the Council proposals. Five statutes were grouped together in Senate Bill 1057, which passed the Senate committees and was referred to the House Human Services and Rules Committees on February 20.

Part of the Council's recommendations in Senate Bill 1057 defined "incapacitated" as the "inability to make or communicate decisions" as found in Title 14, Probate code. The definition was amended in Senate Family Services Committee as "unable to work."

Senate Bill 1487, the most controversial of the Council's proposals, provides for an intrastate transfer procedure for child support cases within Arizona. The bill was approved on February 26 by the Senate Committee of the Whole with amendments 3406 and 3584. Those amendments do not change the substance of the Council's recommendation.

Senate Bill 1436, the employer cooperation bill, passed the Senate on February 20 and was referred to the House Human Services, Commerce/Economics, and Rules Committees. Bills that are assigned to three committees usually have a difficult time passing through all assigned committees.

House Bill 2026, proposed by the Domestic Relations Study Subcommittee, replaces the term "visitation" with the term "parenting time" in all Arizona family law statutes. This bill has a good chance of passing.

House Bill 2219 proposes that current grandparent visitation laws be amended to require that before the court can grant visitation to a grandparent, it must find that a parent is unfit and places the burden of proof on the grandparent. This bill is controversial and not expected to pass.

House Bill 2261 involves divorce and child custody. Upon filing of a divorce, an immediate preliminary injunction would order that both parties would have equal access to the children. This bill is not expected to pass.

House Bill 2349 would eliminate “no fault” divorce in Arizona. This bill is not expected to pass.

House Bill 2402 would essentially re-write the custody statute by replacing the word “custody” with “parenting plan” and includes a presumption for one-third access to the parenting time parent and a presumption of equal parenting. This bill was killed today.

Senate Bill 1054 would eliminate “no fault” divorce for marriages that occurred prior to August 8, 1973. Any marriage prior to that date would be governed by the dissolution laws in effect at the time of the marriage. This bill has experienced some difficulties.

Senate Bill 1055 would give courts the authority in a divorce to order a reconciliation conference and add at least sixty days to six months to the divorce process and order the parties to participate in joint marital counseling session with a certified therapist with each party paying half the cost. An amendment was introduced taking out the joint counseling sessions if any domestic violence or an order of protection was involved. This bill is not expected to pass.

Senate Bill 1520 would require courts to award custody of a child who is at least twelve years of age to the parent the child requests as the child’s primary child caretaker. Kat Cooper commented that places too much responsibility on a child. Commissioner Repp commented that part of the court’s role is to minimize the stress of a divorce on the child. Current law allows the court to consider the child’s wishes but no age limit is provided. This is a very controversial bill and not expected to pass.

Senate Bill 1520 would allow a person that has been appointed by the court to assist in the disposition of an action would be immune from liability for acts that are intimately related and essential to the judicial decision-making process unless the person committed one of a long list of behaviors.

Senate Bill 1357 would require continuation of health insurance coverage for parties going through a divorce. This bill is not expected to pass.

### **NCSEA Policy Forum Synopsis**

Michael Jeanes and Kat Cooper attended the National Child Support Enforcement Association Policy Forum held in early February. They reported that the conference offered

many interesting sessions primarily focusing on IV-D agencies and IV-D issues. Disappointing to non-IV-D attendees was the absence of non-IV-D sessions. Comments to that effect were given to conference organizers.

Benidia Rice reported that the forum focused on methods to improve. The child support enforcement programs were designed to be collection agencies, to establish child support orders and to enforce those orders. Many tools have been designed to assist the states to make their programs more efficient and effective to get money for families. Increases in orders established and money collected means increased funding.

The collection agency persona is being re-examined in the child support program nationwide. The focus is being shifted to the low-income sector of parents whom have no income and low education, and the subsequent impact on the self-sufficiency of families. The forum addressed how the states will re-examine and re-invent themselves, and how to accomplish this under the existing funding source that is designed for a collection agency as opposed to a social service agency. One of the focuses is providing services to noncustodial parents and how to do that with existing funding and not impact collections. This is expected to be a major challenge to IV-D agencies around the country.

The Arizona IV-D agency is looking at how to accomplish the new directives. Agency staff have always been hired as legal processors or to administer legal functions, not as social workers. The agency recently hired a full-time individual to create a father supportive service program and will be partnering with other child support stakeholders. Sophisticated tracking mechanisms will be put in place to measure whether or not bringing noncustodial parents into this program: 1) increases contact between noncustodial parent and child, and 2) increases child support payments.

Commissioner Repp commented that she will be implementing a program in April called “Job Court” that will entail bringing representatives from temp agencies and agencies that offer job training and assistance finding employment to hearings once per month. Those obligors who cannot pay child support because they lack employment will be referred to the agency representatives. The program will be accomplished at no cost to the court or the IV-D agency.

### **Guidelines Workgroup**

**Hon. Mark Armstrong**

Judge Armstrong reported that the workgroup met February 2, 2001. The group discussed the ongoing issue regarding guideline section 8.a., uncovered medical expenses included in the Schedule of Basic Support Obligations. This section does not deal with the calculation of child support, instead it allocates \$250 of non-covered medical costs per child, per year. The guideline and example adopted in 2000 for apportioning responsibility for the \$250 are confusing and subject to multiple interpretations.

The workgroup voted to make a recommendation to the Council that Section 8.a. be revised by apportioning deductible medical expenses in proportion to the parent’s incomes. In essence, this section would be applied in the same manner as the 1996 guidelines. The

workgroup also voted to request the Council to decide whether Section 8.a. should be revised as soon as practicable or in the next quadrennial review. Judge Armstrong drafted a memo to the child support community and the courts explaining the issue and will distribute to the same upon the Council's approval. The Council noted that the memorandum was written in a clear and concise manner.

If the Council decides to wait to make the revision until the next quadrennial review, the courts would remain free to exercise their discretion in accordance with their own interpretation of the guidelines and use the clarification provided in the memorandum as a reason for a deviation. If the Council decides to make the revision as soon as practicable, the Committee on Superior Court and the Arizona Judicial Council would have to approve the change before being considered by the Supreme Court.

Workgroup members commented on credibility issues and the possibility that others may think the guidelines are open to review at any time. Members commented that this issue affects every child support case.

The Council voted to revise Guideline Section 8.a. as soon as practicable and that in the interim, the memo drafted by Judge Armstrong should be sent to the child support community and the courts.

### **Relocation Issues Workgroup**

**Russell Smoldon**

Russell Smoldon, chair, reported that the group held its first meeting on January 23, 2001. Discussion focused on issues that arise when a parent and child relocate a great distance away from the other parent, including increased transportation costs and decreased parent-child access. The members decided to draft some recommendations to bring to the Council. Because the issue is co-mingled with non-child support issues, the recommendations will be shared with the Domestic Relations Reform Study Subcommittee for their input.

Arizona law does not address travel costs. The group will look at addressing this issue either in the child support guidelines or in statute. Penny Higginbottom will conduct research and prepare a memorandum for the workgroup and Council. Workgroup members reported that they believe the issue to be worthwhile and that consensus amongst the members was reached quickly.

### **Non-Disclosure of Information Indicator Workgroup**

**Kat Cooper**

The workgroup has worked on developing criteria for removal of the non-disclosure of information indicator (NDI) when one has been placed on a child support case on the ATLAS system. The Council previously decided to keep the NDI on the system for the life of the child support case.

The workgroup has studied the benefits and drawbacks of three removal methods:

**1) Automatic Removal – NDI removed upon Order of Protection (OP) expiration.**

ATLAS is not connected to all courts that issue Orders of Protection (OP).

NDI is set based on when OP is issued, not when served.

No process to determine if OP issued in another state has expired.

May be in violation of A.R.S. 13-3602.

Passage of time in domestic violence cases is not sufficient to warrant automatic removal.

Most states do not automatically remove the NDI. Of the few who remove the NDI based on OP expiration, most do not have automated systems in place to date. Those states maintain the NDI for an indefinite period of time.

Staffing and programming considerations to automation systems.

**2) Removal by Affidavit – NDI removed if ordered by a child support court in the state.**

Jurisdiction issues – does the court have jurisdiction to remove the NDI or should an administrative process occur through the IV-D agency first? Which courts have jurisdiction for removal? If any?

Removal by court order may be a violation of federal law.

Notification of removal to all parties, including the IV-D agency

Treatment of IV-D vs. non-IV-D cases.

Removal treatment based on two scenarios: 1) NDI placed on cases under either a court order, OP, or under A.R.S. 13-3602; or, 2) NDI placed on IV-D cases under ‘good cause’ status.

Potential violation of federal law requiring keeping NDI set even though the OP has been quashed.

**3) Removal by Court Order – NDI removed based on written affidavit providing notice that the risk of violence has ended.**

Liability/lack of immunity for courts/staff.

Who has the right to request removal?

Removal of NDI from victim and child(ren) or only the victim?

Basis of proof that risk has ended.

How to ensure the applying party is not under duress to request removal.

What constitutes due diligence on the part of court/agency staff? (no judicial immunity)

Insufficient staff available to conduct research.

OP still valid.

Should a child support caseworker approve the removal first?

Upon victim’s request, should removal occur automatically or should it instead trigger an investigation by the IV-D agency?

Warnings to the victim on the affidavit.

In addition to state removal processes, the federal legislation requires each state to provide an override process through a court. A drawback to this procedure is to a parent who is trying to locate their children and who have a legitimate court order for access. The process could potentially be lengthy thereby delaying parent-child access time.

Megan Hunter reported on her contact with other states regarding their removal processes. The states report that this issue has been difficult to deal with. Most states have made limited policy decisions and report that the process is still too new to have anything firmly established.

Ms. Cooper reported that there is not a federal requirement to remove the NDI; however, the topic is under discussion because Council members raised concerns regarding a need for a removal process.

Members from domestic violence advocacy groups will be invited to upcoming NDI Workgroup and Council meetings.

Benidia Rice reported that the agency is still conducting research on removal processes before making any formal decisions. Currently, they are leaning toward the affidavit process.

The Council commented that more information is needed on both IV-D and non-IV-D issues before a vote will be called. Additionally, the Council recommends uniformity in policy between the IV-D and non-IV-D sides.

The Council voted unanimously to hold a vote on this issue until a future meeting.

### **Legislative Update – DCSE**

**Benidia Rice**

The Division proposed only one bill this session, S.B. 1032, which would allow the Division to issue administrative income withholding orders against lump sum payments to a noncustodial parent and to allow the Division to assess a \$25 penalty for returned check fees. This bill is expected to pass.

### **New Business**

Russell Smoldon recommended that a contingency from the Council and the Domestic Relations Reform Study Subcommittee meet with members of the Legislature each year to provide an open forum for sharing of domestic relations-related legislation. Members commented that constituents have a right to contact legislators and propose legislation. The forum would not prohibit any constituent's right to propose legislation. Benidia Rice pointed out that in some instances the IV-D agency, because of their unique position, would not be able to support certain bills. Council members agreed to use the forum as an educational resource and not a lobbying agent.

David Norton proposed that the Council give a certificate of appreciation and recognition to members when they leave the Council. Megan Hunter explained that certificates are sent from the Supreme Court to members appointed by the Chief Justice. She will draft a certificate to be sent to all members.

**Public Comment**

No public comment.

**Next Meeting of the Council**

The next meeting will be held March 27, 10:00 a.m. - 2:00 p.m. at Arizona State Courts Building, Conference Room 345 A/B, 1501 W. Washington, Phoenix, Arizona.

**Adjournment**

Judge Hicks adjourned the meeting at 1:00 p.m.

CHILD SUPPORT COORDINATING COUNCIL SUBCOMMITTEE  
Meeting Minutes - April 12,2001

Council Members Present:

Bryan Chambers for James W. Hazel, Jr.

David Norton

Kat Cooper for Michael Jeanes  
Foster

Benidia Rice

Honorable Rhonda Repp Honorable Kathi

Bruce Gentillon  
Gillespie for Noreen Sharp

Janet Scheiderer for Dave Byers Kim  
Russell Smolden

Honorable Peter Hershberger  
Honorable Bethany Hicks

Bianca Varelas for Barbara LaWall

Council Members Absent:

Honorable Linda Aquirre

Chuck Shipley

Honorable David Petersen Jodi R. Beckley

John Clayton  
Higginbottom

Honorable Monica Stauffer Penny  
Carnela Trapani Honorable David Ostapuk

AOC Staff Present:

Isabel Gillett

Karen Kretschman Megan Hunter

Guests Present:

Kelly Campbell  
Violence

Arizona Coalition Against Domestic

Judy Bushong  
County

Clerk of the Superior Court in Maricopa

Jane McVay  
Therese Martin  
Ventrelia

Division of Child Support Enforcement  
Office of the Attorney General Robert  
Office of the Attorney General

Call Meetiniz to Order

The meeting was called to order by Representative Peter Hershberger at 8:45 a.m. at the Arizona

State Courts Building, 1501 West Washington Street, Suite II 9, Phoenix, Arizona 85007, on April 12, 2001.

#### Announcements

Co-Chair Hershberger welcomed the Council members and guests, then introduced himself. Co-Chair Hershberger explained that a sound system is being used for the first time to enable members and the public to hear each other better.

Co-Chair Hershberger announced that Judge Monica Stauffer, Greenlee County, was recently appointed to the Council by Chief Justice Zlaket. She replaces Judge Robert Duber 11.

Co-Chair Hershberger requested that members notify Ms. Hunter prior to meetings that they will be unable to attend. Ms. Hunter contacts members prior to each meeting to inquire of their attendance plans and the meeting is then held on the basis that a quorum will be reached.

Co-Chair Hershberger thanked the members for their attendance at this meeting.

#### Approval of Minutes

The co-chair called for any corrections or additions to the minutes from the February 27, 2001 meeting and noted that an amendment had already been made to the Public Comment section on the last page.

MOTION: To approve the Minutes from the February 27, 2001 meeting of the Child Support Coordinating Council Subcommittee as amended. Motion was seconded and passed.

#### Legislative Update - Council

Judge Mark Armstrong

Judge Armstrong explained that the Council recommended three legislative proposals amending child support statutes to the Arizona State Legislature. All three bills are proceeding through the legislature without obstacle. Judge Armstrong offered testimony on two of the bills shortly after they were introduced.

Senate Bill 1436, employer cooperation, would amend A.R.S. §25-513 by making technical changes and is proceeding through the legislature without difficulty.

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Senate Bill 1487, intrastate transfer procedures, would amend A.R.S. §25-502 by making some technical changes and outlining a procedure for intrastate transfer procedures between counties.

Senate Bill 1057 would amend several statutes including one that allows judges to suspend interest on child support cases when an individual is incapacitated or incarcerated, another dealing with self-employed parents, and another that would be repealed upon passage. A.R.S. §25-503.01 was amended recently in the legislature from requiring a person to be in arrears "90 consecutive days" to "three months." The change was seen as a positive one.

Russell Smoldon asked if any other bills had been proposed outside the Council that would negatively impact family law-related issues. Judge Armstrong explained that a bill changing the term "visitation" to "parenting time" looks like it will pass.

Kat Cooper explained that the Clerk of Superior Court (Maricopa County) has been working with Senator Mary Hartley regarding Senate Bill 1190, enforcement of spousal maintenance.

Amendments have been drafted that would permit the courts to gain access to certain enforcement tools at the state level through the Department of Revenue.

Benidia Rice further explained that the bill will also increase dissolution, separation and

post- dissolution filing fees by \$25. The fees will be deposited into a spousal support enforcement fund operated by the Department of Economic Security to be used for enforcement of spousal maintenance orders for people who do not have children. Under current federal law, the Division of Child Support Enforcement cannot enforce spousal maintenance only cases - a child support order has to be included. IV-D monies cannot be used to enforce spousal maintenance orders.

Representatives Foster and Hershberger commented that they are attempting to get legislators to run family law bills through appropriate committees such as the Council and/or the Domestic Relations Reform Study Subcommittee in an attempt to help educate them in these very specialized areas.

#### Legislative Update - DCSE

Benidia Rice

This was thought to be a non-controversial bill but has ended up with a few problems. The wage laws require employers to release money within seventy-two hours upon termination of an employee or within five days if the employee leaves employment voluntarily. Upon DCSE's amendment the bill would require the employer to hold the money for thirty days in order for DCSE's administrative process to take place if the employee wanted to dispute the lump sum attachment. The amendment includes deletion of a requirement that employers notify DCSE when an employee leaves employment and a lump sum payment was going to be withheld. Although this would have been an effective tool for DCSE, the automation requirements for employers would be too burdensome at this point. A delayed effective date of January 1, 2002 is included in the amendment. All indications point to passage of this bill.

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#### Non Disclosure Indicator

Kat

Cooper

Kat Cooper referred members to the minutes from the February 27, 2001 meeting regarding removal of the NDI. The Council's initial recommendation was to keep the NDI on a child support case in the state case registry for the life of the case. The workgroup researched removal methods used in other states including: 1) automatic removal; 2) affidavit removal; and 3) court order removal.

After researching the issues associated with each removal process the workgroup:

- 1) Does not recommend automatic removal because the removal would be based on date of issuance of the Order of Protection instead of the date of service, which is a more accurate timetable for expiration of the order.
- 2) Recommends removal by affidavit of the victim. DCSE would review the affidavit to ensure that the conditions protect the information and would apply to both IV-D and non-IV-D cases.
- 3) Recognizes DCSE as the ultimate base of responsibility about removal. If there is a court order to remove the NDI, DCSE would review the case to decide whether to proceed with removal.

Bob Ventrella, Assistant Attorney General, reported that if a person requests removal of the NDI and they produce an affidavit requesting such, federal law requires DCSE to review the affidavit to determine if it is appropriate to remove the NDI. This constitutes a change in circumstance

which, by federal law, DCSE is required to review. DCSE retains discretion to remove or not remove the NDI and removal would be based on other case information. If an Order of Protection is in place, DCSE believes that under federal law DCSE could not remove the NDI because federal law makes the Order of Protection that is in place the minimum standard.

Regarding court ordered removal, Mr. Ventrella explained that under federal law, it is the responsibility of DCSE to review any information that comes to them. They are responsible under A.R.S. §46-422 for the state case registry, including non-IV-D cases; therefore, they have to update the information.

DCSE is not sure that the court, at least initially, would have jurisdiction to remove the NDI from the state case registry - it would probably require a statute. Only two states address court removal: 1) Florida - has a court rule and a statute that says if a court is going to remove the violence indicator, notice must be given to the alleged victim; 2) Iowa - removal is tied to the override process - if someone needs to get information in the federal case registry, they must go through an override process. If it is found that the court has jurisdiction, then the court can remove the NDI.

Mr. Ventrella further commented that if the court started taking jurisdiction, further questions would arise such as a court's jurisdiction to override another court's Order of Protection; this could potentially create forum shopping. The NDI is not intended to flag an individual - it is intended to protect the victim and there is no irreparable harm. It is up to DCSE to maintain the NDI and

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determine if it is appropriate to remove it.

Benidia Rice explained that DCSE met with the court, reviewed federal law and has concluded that the responsibility and liability of removal of the NDI lies squarely with the agency regardless of whether it is an affidavit or court ordered removal. There is a process in place to allow a person to get information protected by the NDI.

Ms. Rice strongly encouraged the group to accept the fact that the responsibility and liability lies with the agency, that DCSE accepts the responsibility and believes DCSE is charged under federal law with maintaining the registry. They will remove the NDI upon investigation after receipt of an affidavit from the alleged victim. If the court orders removal, DCSE would still have the responsibility of investigation and ultimate decision-making authority.

If the court were petitioned to remove an NDI, it would first have to determine if it had jurisdiction, and secondly, whether the NDI should be removed. At that point, if the court decided it had jurisdiction, and directed DCSE to remove the NDI, it would be incumbent upon DCSE to litigate that in a higher court.

Judge Hicks commented that from the court's perspective, this is a jurisdictional issue which may or may not tie the courts' hands. Realistically she could not imagine it would be likely or usual for a court to order disclosure when the victim has not been served. It is more likely to come by a request by the victim. Judge Hicks receives requests daily to release an address of someone who is involved in a IV-D case and she automatically refers those to DCSE because of sensitivity to domestic violence issues.

Ms. Rice explained that the agency is in the process of developing a protocol (process of placing and removing the NDI). The goal is to remove the virtual indicator by July and have a true NDI on cases with court orders or in cases where the alleged victim has requested placement. DCSE will have in-house procedures that will address removal. Notices have been sent to all custodial

parents giving them the opportunity to provide information to retain the NDI on their case. If an Order of Protection or other court order does not exist, the NDI will be removed from those cases. Russell Smoldon asked why noncustodial parents were not notified. Ms. Rice explained that according to state law, DCSE is required to keep information confidential regarding the person who has applied for DCSE services; however, they are not required to keep other parties' information confidential, unless the source of the information requires it.

Ms. Cooper asked the Council to approve the workgroup's recommendations and approve DCSE's responsibility to maintain the N-DI.

Judge Hicks inquired about the federal override process. Kim Gillespie explained that the process is outlined in the federal mandate. A process through the court exists now. DCSE has always maintained and protected that information. The federal mandate simply places an indicator on the case. The noncustodial parent has the ability to come to court and request that information

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to be released. If the court decides the information can be released or if the person can be served in another manner or if they need info from FPLS. Ms. Gillespie commented the override process has existed for at least seventeen years. If a parent wants visitation, he/she can go to court and request it, the practice of DCSE has been and is to file a motion for protective order or to contact the custodial parent and find out if he/she objects to identifying information being released to the other parent.

MOTION: The Council approve a recognition that DCSE has responsibility for maintaining this database under state law and that the Council recommends to DES that the NDI be able to be removed through an affidavit process after an investigation is done by the department.

The motion was seconded and passed.

#### DCSE Performance Audit

Benidia Rice

Ms. Rice explained that she will provide a full report on the Auditor General's Performance Audit of DC SE and announce who will participate on the workgroups as recommended by the Audit. Benidia noted that many people in the room had been contacted regarding membership on the workgroup and that a date will be announced at the next Council meeting.

#### Workgroup Reports Finance

Benidia Rice This group has not met since the February 27, 2001 Council meeting. Bryan Chambers

explained that Senate Bill 1615 is intended to alleviate some of the funding problems for the County Attorney's offices which manage the child support program in their particular county. The counties contribute local monies to the cost of running the child support program and the appropriation is expected to alleviate some of that burden. The counties in which DCSE operates the child support program rely on state appropriations, whereas the counties rely on local monies. The bill is expected to pass.

Guidelines

Judge Mark Armstrong

Judge Armstrong explained that the Guidelines workgroup has met three times. The workgroup's purpose is to review public comment over the four-year period between federally mandated guidelines reviews.

The group has been tied up the past three meetings with section 8.a., uncovered medical expenses. In February, the Council voted to recommend changing section 8.a. as soon as possible.

The Committee on Superior Court and the Arizona Judicial Council voted to recommend the change to the Supreme Court. On March 28, 2001, the Supreme Court adopted the change with an effective date of May 1, 2001.

The change was positive in that it simplified the use of the guidelines. Prior to the change, the court was directed to apportion between the parties \$250 of uncovered medical expenses included in the Schedule of Basic Support Obligations. The change directs the court to apportion only expenses included in I.R.S. Publication 502. The change does not change the actual child support calculation.

The next meeting is scheduled for later today; the group will review public comment, child support expenditure tracking and overtime/bonus income. Items that will be discussed are intended to clarify the guidelines, not substantially change them.

Relocation Issues

Russell Smoldon

This group has not met since the February 27, 2001, Council meeting. The next meeting will be held April 27, 2001.

Centralized Payment Processing

This group has not met since the February 27, 2001, Council meeting. The next meeting will be held April 23, 2001.

New Business

Bryan Chambers explained that the Arizona Family Support Council will hold a Spring Conference on April 20, 2001 at the Viscount Suites Hotel in Tucson and invited interested individuals to attend. He also explained that for the first time, awards are being presented to certain individuals for outstanding achievement in the child support field. He recognized three award winners that are present at this meeting: 1) Kim Gillespie - Distinguished Service Award; 2) Judy Bushong - Clerk of Superior Court Award; and 3) Clerk of Superior Court in Maricopa County - Outreach Award for their "Family Ties & Knots" video. The group acknowledged the winners with a round of applause. Kat Cooper, on behalf of the Clerk of Superior Court in Maricopa County, expressed that Ms. Gillespie is very deserving of this special honor. Benidia Rice commented that she attended Megan Hunter's Guidelines training at the recently held Commission on Minority and Women Conference. She commended Ms. Hunter's presentation and commented that she represented the Council very ably.

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Public Comment

No public comment was heard.

Next Meeting of the Council

The next meeting of the Council will be held on May 22, 2001 in Conference Room 3 45 A/B of the Arizona Courts Building from 10:00 a.m. - 2:00 p.m.

Adjournment

MOTION: To adjourn the meeting. The motion was seconded and passed.

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# CHILD SUPPORT COORDINATING COUNCIL SUBCOMMITTEE

\*\*\* Amended Meeting Minutes - October 23, 2001

## Members Present:

Robert Barrasso  
Todd Bright for John Clayton  
Dave Byers  
Hon. Kathi Foster  
Bruce Gentillon  
Kim Gillespie for Noreen Sharp  
Michael Henson for James Hazel, Jr.  
Hon. Peter Hershberger

Hon. Bethany Hicks  
Hon. Michael Jeans  
David Norton  
Hon. David Petersen  
Hon. Rhonda Repp  
Benidia Rice  
Chuck Shipley

## Members Absent:

Hon. Linda Aguirre  
Jodi Beckley  
Penny Higginbottom  
Russell Smoldon

Carmela Trapani  
Hon. Monica Stauffer  
Bianca Varelas for Barbara La Wall

## Staff:

Glenn Davis  
Barbara Guenther  
Marianne Hardy

Megan Hunter  
Isabel Gillett

## Guests:

Judy Bushong  
Bryan Chambers  
Kat Cooper  
Terry Donaldson  
Clarence Lepsheete  
Beverly McConnell  
Patrick Murphy

## Call Meeting to Order

The meeting was called to order by Representative Hershberger at 10:21 a.m.

## Announcements

**Rep. Peter  
Hershberger**

Bryan Chambers has moved from the child support division to the criminal division of the Gila County Attorney's Office which has caused him to resign from the Council. Members

acknowledged his many years of dedication to Arizona's family and thanked him for his service to the Council and many workgroups he served as a member.

Bryan's replacement at both the County Attorney's office and on the Council is Michael Henson. Mr. Henson worked previously as a prosecutor in the United States Army, member of the American Indian Law Review, felony public defender, and legal aid attorney in the White Mountains.

### **Approval of Minutes**

A motion to approve the minutes of July 24, 2001 was heard. The minutes were approved by a unanimous vote.

### **Meeting Protocol**

**Rep.  
Peter Hershberger**

Leadership of this subcommittee and the Domestic Relations Reform Study Subcommittee met in August in an effort to formalize meeting protocol. They decided on the following: 1) members of the subcommittee, only, may sit around the table; 2) members who are unable to attend meetings may appoint a designee but must complete a designee form indicating who the designee will be and whether or not the designee can exercise member's voting rights; 3) members should designate one individual to represent their position on the Council instead of substituting more than one; this is to promote continuity and consistency. The designee form is available from Megan Hunter.

A question arose as to the authority of a member who is appointed by an elected official to designate a replacement. A reading of A.R.S. §25-320.01(B) clarified that the subcommittee is comprised of a specified list of members or their designees. The group reached consensus that the power of a member to exercise voting rights transfers to his or her properly designated designee.

### **Workgroup Issues**

Leadership of this subcommittee and the Domestic Relations Reform Study Subcommittee have taken the position that the individual who serves as the chairperson of a subcommittee workgroup must be a member of the subcommittee. The workgroup acts on behalf of the subcommittee; therefore, the chair should be familiar with the charge and expectations of the subcommittee. Additionally, the chair should be eligible to vote on the recommendations of the subcommittee.

The Guidelines workgroup had been specifically requested by the Supreme Court to assist with the year 2000 quadrennial review of the child support guidelines. The workgroup has continued meeting on a quarterly basis to discuss recommendations for the 2004 review. Dave

Byers pointed out that the public and members of the bar comment that they want the guidelines to stop changing because by the time they become familiar with the new guidelines, changes are made. The court is in a budget-cutting environment currently where they are looking at every committee and workgroup to see where they can cut back. With the current hiring freeze, staff positions are not being filled and this would be one less group for staff to look after. The court will continue to gather suggestions through website and writing, then in a year and half or two years from now activate the workgroup. There is not a requirement to change the guidelines every four years, the only requirement is to conduct a quadrennial review. Every time a change occurs, the child support calculator must be reprogrammed at considerable expense, plus a huge task of training the judges and bar. Kim Gillespie agreed that a permanent guideline workgroup does not need to exist now but appropriate representatives could be chosen closer to the review period, then remain intact for approximately three months after any revisions are made as sort of a warranty period. The group reached consensus that if an issue arises prior to the next quadrennial review, the subcommittee could call together a workgroup at that time.

**MOTION: To disband the guidelines workgroup presently and activate it a year and a half or two years before the next review.**

*Motion was seconded and passed.*

The Finance workgroup was formed to address recommendations made in the July 1999 Performance Audit from the Auditor General to help determine the most appropriate approach for providing program funding. Specifically, the Auditor General recommended that the Division of Child Support Enforcement (DCSE) should work with the subcommittee to develop a recommended policy position which would define whether the program should be cost recovery or service delivery in nature. Although the state funding shortfall was not realized, the workgroup submitted a report on its findings and was subsequently reconstituted to address the continuing issue of a funding shortfall in the counties. Benidia Rice reported that the workgroup did not meet because the counties submitted a legislative proposal seeking additional funding. The bill reached the governor's desk; however, the governor cut half of the funding and set the appropriation to begin in 2003. The counties agree that the funding is not adequate to meet their needs and additional monies are needed to continue child support programs in those counties. In light of current state funding issues, whether or not: 1) this workgroup would have any real meaning, and 2) Benidia should continue as its chair as the head of a state agency whose budget is dictated by the governor. Benidia suggested that the workgroup be disbanded. Senator Petersen agreed that Benidia may not be the appropriate individual to chair the workgroup but suggested that a need exists for continuation of the group. Todd Bright reported that DCSE did not experience a shortfall last year, but project a shortfall this year of several hundred thousand dollars and possibly in the millions next year. Benidia suggested that the issue would be studied by the workgroup for the entire 4-year program. Bryan Chambers pointed out that the scope of the original workgroup was to study how to fund the entire statewide IV-D program. This is a state-mandated program and goes hand-in-hand with the TANF block grant program; if there is no state child support program, there is not TANF block grant. The counties that run child support programs do not have that mandate. One of the county-run programs has decided to terminate the program at the end of this fiscal year which will impact the state. The state will have to decide at that point if they will open an office in that county or do an RFP for a private company to provide

services.

The co-chairs will discuss whether or not this workgroup should continue and if so, the scope of work to be addressed.

Todd Bright reported on the September 12, 2001 Centralized Payment Processing meeting. Commissioner Ostapuk resigned as chair of the group. The group recommended Judge Monica Stauffer of Superior Court in Greenlee County to chair the group. The Support Payment Clearinghouse vendor, Lockheed Martin IMS, was purchased by Affiliated Computer Systems. DCSE is currently going out for bid for a new vendor to begin July 1, 2002.

For the year to date, the Support Payment Clearinghouse has averaged 90,000 non-IV-D payments monthly. Approximately 200,000-220,000 payments monthly IV-D and non-IV-D combined which amount to 10,000 payments processed daily. As of the end of August approximately 2,200 payments were in suspense. Less than 1% payments are in the unidentified category. A new public agency pay record that is now available which allows other agencies access to financial information without accessing the ATLAS system which is governed by confidentiality regulations.

**MOTION: To appoint Judge Monica Stauffer to serve as chair of the Centralized Payment Processing workgroup.**

*Motion was seconded and passed.*

Kat Cooper, chair of the NDI workgroup, provided a brief background of the group's purpose and mission. Representative Foster questioned the decision that was made to set the NDI whether or not an Order of Protection has been served. Judge Hicks explained that an Order of Protection is not issued until the person requesting protection has testified before a judge although the process can be ex parte. It is not effective until it is served on the other person; along with the Order is a notice of a request for hearing form. Kat explained that this group worked under a federal mandate and brought recommendations to the subcommittee based on that mandate. The subcommittee adopted the recommendation to set the NDI when an Order of Protection is issued. A judicial override process to remove the NDI is available. A recent expansion of the federal mandate will require states to set the NDI in cases of child abuse and neglect which is a solid reason why this workgroup should continue.

Benidia explained that regardless of the NDI, information about parties is not available outside of a court order. Dave Byers announced that in December, a new data warehouse holding all orders of protection will be implemented. The orders are entered electronically and will indicate when the order has been served. He suggested that the workgroup continue meeting and report back exactly when the NDI is set and if the NDI should be updated when service occurs or doesn't occur. Perhaps a demonstration of the process. Kat was thanked for her work with the workgroup. The co-chairs will appoint a chair.

**MOTION: To continue the workgroup.**

*Motion was seconded and passed.*

Judy Bushong was thanked for her work as chair of the Statute Cleanup workgroup. Judge Hicks volunteered to serve as chair of this workgroup.

The Relocation Issues workgroup has not met so legislation will not be introduced in the upcoming session. The group will begin meeting after the first of the year.

A suggestion to allow for a vice-chair to lead a workgroup was put forward. The co-chairs will take this into consideration.

### **Statute Cleanup Workgroup**

**Judy  
Bushong**

The following summarizes the 2002 legislative proposal:

#### **A.R.S. § 25-327**

Two separate modification statutes, A.R.S. §25-327(A) and §25-503(F), are not in uniformity. The intent of the revision is to conform the two. The following suggestions were requested for the Statute Cleanup workgroup to discuss and craft revised language:

- Proposed language should be consistent with federal law concerning time frames of the filing of notice vs. service of the notice. She suggested that A.R.S. §25-503 should also be changed to comply with the federal requirement.
- Replace the term “revoke” with “terminate.” The term “revoke” is confusing and implies that the original order is revoked. Lawyers are more comfortable with the term “terminated.”
- Change the term “filing” with “service.” Original language stated that modifications are effective on the first day of the month following the filing of the petition to modify. Revised language gives the court discretion on retroactivity. The court allows for a good cause exception but it only allows for a later date, not an earlier one.

#### **A.R.S. § 25-502**

Clarify that when clerk of court transfers a case to another county, they actually transfer the entire court file. Previously, it said all related files which the court may interpret to mean that cases with different case numbers but same parties would be transferred instead of just DR files. Revision would make sure it's only the DR case file that goes to the other county.

Line 5, page 2, when drafted last year, the intent was to make transfer like change of venue, except that it would be faster and cheaper. Intent was to clarify that once it's transferred, the new county now has venue over that case and they can enforce any type of proceeding related to that case (enforce parenting time, custody, etc.) The new county has venue over that whole case.

Some judicial officers state that under the current process, every clerk needs to make a copy of the file and only the child support issue would be heard in the new county; other issues would remain in the original county. This statute is only for establishment and modification of support orders, not enforcement. Problem is forum shopping. Should make it clear that the transfer has venue for any action of this case. Does damage to one judge-one family. Bev McConnell suggested looking at original venue statutes.

Line 9, page 2. Change “twenty days after the transfer order” to “ten days after the date of the court clerk’s notice.” Change court clerk to clerk of the court.

**A.R.S. § 25-503**

Section E is stricken because it is no longer required; as written, it gives a 10-day grace period for non-compliance with a court order.

Line 34, page 3, language changed to be consistent with what we discussed on first page concerning the effective date and filing date of service.

Line 18, page 4. Spousal maintenance/child support uncovered medical costs added.

On uncovered medical costs we don’t know if they’re reasonable in nature or the exact amount. It is unclear which cases the IV-D agency is involved in and puts a burden on the agency to become involved in non-IV-D functions. Uncovered medical not defined as arrearages in 25-500 so there’s inconsistency. Imposing duties on agency that they could not fulfill.

Line 38, page 4. When obligor marries parent of child who is subject of support order, new language would state that the order automatically terminates on the last day of the month in which the marriage takes place and arrearages do not accrue after that date, but arrearages prior to that date can still be collected. Jan. 1 child support orders including modified orders, must notify parties of this provision. Members discussed necessity of including the change to the form.

**A.R.S. § 25-510**

line 34, page 5 and page 6. When it was required for all payments to be sent through the Support Payment Clearinghouse, a decision was made that ATLAS needed way to process payments. In the past, the 15 clerks had different distribution methods, no standard method existed. Some judicial officers believe that this is the way payments have to be allocated no matter what. The intent was not to change ATLAS or make more work for clerks or IV-D workers to have to manually change ATLAS system. Instead, the intent was to give the court clear authority to make a decision on how a payment should be given credit under that court order. Statute of limitations - litigants who argue where the payments were allocated - maybe the two should have the same statute of limitations..

Bev McConnell stated that formerly in the law, a party making a payment could direct how they wanted payment applied. Standard accounting practices say interest paid first.

Bev’s suggested language: Section E. The clearinghouse distributions as provided in section A above are not binding on the courts or the parties.

Members reached consensus that the workgroup should continue to work on this and e-mail a new draft to members for a vote on November 9 prior to the joint meeting.

Representative. Hershberger proposed that if you have comments that you e-mail comments to Megan or Judy and instruct Megan to put together an information package prior to the Nov. 9 meeting. 9 or 9:30 a.m.

### **New Business**

No new business was heard.

### **Next Meeting of the Council**

The next meeting will be held November 9, 2001, possibly starting at 8:30 or 9:00 a.m. and concluding at 10:00 a.m. when the Joint Child Support and Domestic Relations Subcommittees begins. Staff will notify members with firm arrangements.

### **Adjournment**

Rep. Hershberger adjourned the meeting at 1:38 p.m.

**CHILD SUPPORT COORDINATING COUNCIL SUBCOMMITTEE**  
**Meeting Minutes - November 9, 2001**

**Members Present:**

Mark Armstrong for Bethany Hicks  
Robert Barrasso  
Todd Bright for John Clayton  
Bruce Gentillon  
Kim Gillespie for Noreen Sharp  
Peter Hershberger

Michael Jeanes  
David Norton  
David Petersen  
Benidia Rice  
Janet Scheiderer for Dave Byers  
Bianca Varelas for Barbara LaWall

**Members Absent:**

Linda Aguirre  
Jodi Beckley  
Kathi Foster  
Michael Henson for James Hazel, Jr.  
Penny Higginbottom

Rhonda Repp  
Chuck Shipley  
Russell Smoldon  
Monica Stauffer  
Carmela Trapani

**Staff:**

Glenn Davis  
Barbara Guenther  
Marianne Hardy

Megan Hunter  
Isabel Gillett

**Call Meeting to Order**

The meeting was called to order by Representative Hershberger at 9:29 a.m.

**Approval of Minutes**

A motion to approve the minutes of October 23, 2001 was heard. The minutes were approved by unanimous vote with two amendment to page four. Amended minutes to be mailed as soon as possible.

**Statute Cleanup Workgroup**

Judge Armstrong, designee for Judge Hicks, deferred to Judy Bushong, workgroup member, to summarize changes made to the 2002 legislative proposal since the October 23, 2001 Council meeting. Ms. Bushong summarized the original intent for each change and the changes as

previously requested.

**MOTION:** Forward Bill #230 as submitted to the Legislature.

*Motion was seconded and passed.*

**MOTION: Forward Bill #231 to the Legislature with the following amendments:**

- 1) A.R.S. §25-327. Change the effective date from “a later date” to “a different date but no earlier than the date of filing the petition for modification or termination.”
- 2) A.R.S. §25-503. Change the effective date from “a later date” to “a different date but no earlier than the date of filing the petition for modification or termination.”

*Motion was seconded and passed.*

**MOTION:** Forward Bill #231 to the Legislature with the following amendment:

A.R.S. §25-327(A). Change language previously agreed upon that would include terminations to “revocations.”

*Motion was seconded and passed.*

### **Next Meeting of the Council**

The next meeting will be held:

**April 23, 2002  
10:00 a.m. - 2:00 p.m.  
Conference Room 345 A/B  
Arizona State Courts Building  
1501 W. Washington, Suite 411  
Phoenix, Arizona 85007**

### **Adjournment**

Senator Petersen adjourned the meeting at 10:00 a.m.

**CHILD SUPPORT COORDINATING COUNCIL SUBCOMMITTEE**  
**Meeting Minutes - May 28, 2002**

**Members Present:**

Hon. Mark Armstrong for Hon. Bethany  
Hicks  
Robert Barrasso  
Dave Byers  
Hon. Kathi Foster  
Bruce Gentillon  
Kim Gillespie for Noreen Sharp  
Hon. Peter Hershberger

Hon. Michael Jeanes  
David Norton  
Hon. David Petersen  
Hon. Rhonda Repp  
Benidia Rice  
Chuck Shipley  
Russell Smoldon

**Members Absent:**

Hon. Linda Aguirre  
Jodi Beckley  
Carmela Brown  
John Clayton

Penny Higginbottom  
Clint Sorenson (for Daisey Flores Gilker)  
Hon. Monica Stauffer  
Bianca Varelas for Barbara LaWall

**Staff:**

Barbara Guenther  
Marianne Hardy  
Megan Hunter  
Isabel Gillett

**Guests:**

Judy Bushong

Maricopa County Clerk of Superior Court

Kat Cooper

Maricopa County Clerk of Superior Court

Stacy Lockery

Governor's Office

Beverly McConnell

Attorney, Private Sector

Jane McVay

Div. of Child Support Enforcement

Danielle Yaloz

AZ Coalition Against Domestic Violence

**Call Meeting to Order**  
**Hershberger**

**Rep.**

The meeting was called to order by Representative Hershberger at 10:11 a.m.

**Announcements**

**Rep.**  
**Hershberger**

Rep. Hershberger welcomed everyone and reminded public attendees to fill out orange speaker sheets if interested in the Call to the Public. Member designees for this meeting then introduced themselves to the group.

Barbara LaWall, County Attorney (Urban) member, resigned from this subcommittee due to the termination of Pima County's child support program. Ms. LaWall's designee, Bianca Varelas, was thanked for her many years of dedicated service to the Council and many associated workgroups. Judge Hicks, Domestic Relations Presiding Judge member, also resigned due to her rotation from the DR bench to the civil bench in the Superior Court in Maricopa County. Judge Hicks was thanked for her service to the Council, especially serving as chairperson of the Statute Cleanup Workgroup.

The Domestic Relations Reform Study Subcommittee (DRRSS) holds its workgroup meetings during the Subcommittee meeting lunch hour. Members agreed to hold Council workgroup meetings during the lunch hour to encourage participation and reduce the number of meetings. This does not prevent workgroups from meeting at other times if necessary.

The joint meeting of this Subcommittee with the DRRSS is to be held on June 21, 2002; however, if Senate Bill 1088 is signed by the Governor, the joint meeting may not be necessary. Megan Hunter will notify members as soon as possible.

**Approval of Minutes**  
**Hershberger**

**Rep.**

The minutes for the November 9, 2001 meeting were unanimously approved as written.

### **Child Support-Related Senate Bills**

**Barbara  
Guenther**

Barbara Guenther reported that the bills proposed through the Council, SB 1028 and SB 1029, were combined into one bill (SB1028). SB 1028 initially contained technical changes while SB 1029 contained a substantial change in that it authorizes automatic stoppage of a child support order when an obligee and obligor on the same case marry each other. The combined bill passed both the Senate and the House and has been transmitted to the Governor.

Elizabeth Baskett, Senate Research Assistant, reported that SB1088 establishes the Child Support Committee and the Domestic Relations Committee, their members and duties until December 31, 2007. The bill also repeals the Child Support Enforcement and Domestic Relations Reform Committee, the Child Support Coordinating Council Subcommittee and the Domestic Relations Reform Study Subcommittee. It eliminates the quarterly reporting and joint meeting requirement. The bill passed both the Senate and the House and has been transmitted to the Governor. Upon the Governor's signature, members who wish to be reappointed to the Child Support Committee should contact Megan Hunter.

Five amendments were tacked on to SB1088 without having been routed out of the appropriate House committees. David Norton commented that in the future, bills should go through the appropriate committees in both chambers before being submitted to the legislature as a whole.

### **Child Support-Related House Bills**

**Marianne  
Hardy**

Marianne Hardy reported that HB 2095 increases the time period in which the clerk or the clearinghouse has to locate an obligee, changes the administrative review procedures and time frames, revises the distribution of support in cash assistance cases and assigned support in foster care cases. The bill passed both the House and Senate and was signed by the Governor.

### **Making the Legislature More Accessible to the Public**

**Barbara  
Guenther**

Barbara Guenther, Arizona Senate staff, gave a presentation on how a bill becomes law in Arizona, how the Council fits into the process, how to access the Arizona legislature, how to do bill tracking on ALIS, the availability of watching proceedings on the Internet and TV, and how to individually register support for or opposition to a bill. She and her assistant, Elizabeth Baskett, prepared handouts entitled "How a Bill Becomes a Law" and "A Public Guide to Accessing the Arizona State Legislature." Barbara also explained "strike-everything bills," bill amendments, bill readings, standing committees, committee chair appointments and resulting effect on bills being heard, Committee of the Whole (COW), conference committees and vehicle bills. She added that the Subcommittee doesn't have to actually draft the language for a bill; legislative council and staff will draft the bills originating in the Subcommittee.

Ms. Guenther also gave a presentation on Arizona's open meeting laws. She defined Council meetings as "open meetings" (those conducted in the presence of the public rather than run by the public or deemed public hearings) and explained the open meeting laws as they pertain to Subcommittee meetings. She also described the requirements regarding strictly following the agenda and prohibition against discussing topics not on the meeting's agenda. Desired topics should be brought to the chair's attention for future meetings. Issues brought to the Council during the Call to the Public should not be discussed until the next meeting. Ms. Guenther also handed out two documents on the Arizona Open Meeting requirements for before, during and after meetings and describing the exact statutory requirements and sanctions for non-compliance.

**Formalize Legislative Proposal Procedures**

**Rep. Hershberger**

To facilitate streamlining of formalizing legislative proposals in the Council, all workgroups, members or members of the public will be required to utilize a form developed in the Statute Cleanup Workgroup that details who is proposing the idea, the statute cite or like information and reason for the proposal. Forms can be obtained from Megan Hunter.

Barbara Guenther and Marianne Hardy will provide a training session regarding the Committee, its purpose and role at freshman orientation in December. They will provide information regarding upcoming meetings and direct anyone interested in working with the group to speak with current Committee members and/or attend a meeting. Megan Hunter will contact staff to the Domestic Relations Reform Study Subcommittee to see if they are interested in doing the same (to be Domestic Relations Committee, August 2002).

**MOTION: To adopt the proposed form and the process for proposing statutory revisions.**

*Motion was seconded and passed.*

**County Child Support Program Transition**

**Benidia Rice**

Benidia Rice reported that on June 21, 2001, Cochise County notified the Division of Child Support Enforcement (DCSE) that they would be terminating their child support program contract with the state, effective June 21, 2001. A Request for Proposal has been released to private vendors with an expected awarding by end of summer 2002. Once the provider is selected, the DCSE will send two notices to all parents to inform about the transition and new contact information for the chosen provider.

Ms. Rice also reported Pima County notified the DCSE on March 18, 2002 of their decision to terminate Pima County's child support program contract with the state, effective June 30, 2002. The state DCSE will take over the program on July 1, 2002 and have offered employment to 55 current County Attorney Child Support employees. Total staffing requires 100 DCSE employees and 26 Attorney General employees. Bianca

Varelas has been hired to manage the state program. The program will move to a new physical location as well.

It was noted that the state is not saving any money by taking over the Pima County child support program; in fact, the transition will most likely cost the state.

### **State Funding Issues**

**Benidia Rice**

Changes in federal distribution laws will have an impact on DCSE's funding. While the impact will be significant, DCSE's goal is to adopt a different business model to increase efficiency and reduce costs instead of asking for an increased appropriation.

### **Urban County Attorney Membership Position**

**Rep. Hershberger**

Pima County's withdrawal from providing child support services leaves the Council's County Attorney from an urban county membership position vacant with no possibility of filling it. Both urban counties' programs, Pima and Maricopa, will now be state provided. A legislative change will need to be introduced next year to change the requirements for this Child Support Committee position.

### **Workgroup Reports**

#### **Relocation Issues**

**Russell Smoldon**

The group has been in an information gathering mode, specifically, reviewing national trends. When the group convenes, they will discuss parenting time via the Internet, providing incentive for parents to be more involved with a child who is relocated, financial issues associated with child support of a relocated child, and the best interest of the child in relocation situations. This group will fold some issues in with the Guidelines workgroup and the Domestic Relations Reform Study Subcommittee.

#### **Statute Cleanup Workgroup**

**Hon. Mark Armstrong**

The group met on May 15, 2002 and discussed the following:

A.R.S. §44-1692, technical and clarifying

Allows DES to look at credit reports for obligor parents. The proposal to revise the statute is intended to:

1. Eliminate confusion in terminology that is used interchangeably between "consumer" and "obligor";
2. Clarify that DES can look at the credit report of either parent.

A.R.S. §25-502, technical and clarifying

Provides for a simplified change of venue procedure in intrastate child support cases. The proposal to revise the statute is intended to:

- A. Eliminate confusion as to who should sign the order to transfer the case to another county when there is no objection; the revision would authorize the clerk to issue the transfer order;
- B. Provides that, once transferred, the case stays in the new county for all purposes unless and until a new transfer order is issued.

A.R.S. §25-520

The group began discussion on whether or not a definite, finite cut-off date for child support that is based on chronological age should be put forward. Currently, the cut-off age is 18 or until the child graduates from high school but not longer than age 19. The workgroup will review and bring back to the Council. A date certain could be programmed into the computer, parties would not have to go back to court.

A.R.S. §25-510

Dictates how the Support Payment Clearinghouse allocates monies. This proposal would provide that in non-IV-D cases the court would have discretion as to how these monies are allocated. Beverly McConnell, a private family law attorney, testified that when the decision was made to require all payments to be sent through the Support Payment Clearinghouse, ATLAS would need a way to process the payments or provide an algorithm. This algorithm does not suit every case, specifically takes away the rights that parties typically have in debtor/creditor situations, and discourages settlement. She recommends that both the parties and the court can elect where to apply the payments. Benidia Rice commented that DCSE does not object to the change but that practical considerations such as costs for programming the ATLAS system need to be analyzed and discussed.

At its next meeting the group will discuss the issue of requiring child support during college years and revising A.R.S. §25-320.01 regarding the urban County Attorney membership position.

The Council postponed taking action on this item and will wait for the workgroup's recommendations after meeting with Benidia to discuss fiscal and case impact.

**Finance Workgroup**

**Benidia Rice**

No meetings have been held as the workgroup previously met its charge.

**Nondisclosure of Information Workgroup**

**Benidia Rice**

Met on May 3. Prior to November, 2001, approximately 240,000 letters were sent to custodial parents informing them of the right to have their case information protected. As of November 28, 2001, every new case and every re-opened case began receiving those letters automatically. As of April 18, 2002, over 46,776 indicators have been set on both IV-D and non-IV-D cases. One thousand two hundred ninety-eight custodial parents have requested information on shelters as a result of the mailing and 471 returned a completed form along with a copy of the order of protection. Anticipated misuse of the NDI and reports of barriers to the noncustodial parents has not been realized.

The group also discussed the federal requirement to protect child abuse victims with the NDI. The letter sent by DCSE to custodial parents explains that if child abuse is an issue, the indicator can be placed on their child support case.

The outstanding issue is child abuse issue as it relates to non-IV-D cases. The group will meet this summer and bring findings to the Council in September.

**Guidelines**

**Megan Hunter**

The guidelines review for 2004 is underway. After the federally mandated reports are completed in January the Guidelines Workgroup will begin their work around March or April, 2003. A review time line included in the materials provides an approximate schedule for the 2004 guidelines review.

**New Business**

**Sen. Petersen**

Commissioner Repp commented that she would like to see fatherhood programs implemented across the state. DCSE has such a program in Maricopa County. The Council will contact the Domestic Relations Reform Study Subcommittee members who are currently studying this issue. Benidia Rice commented that approximately one year ago, DCSE hired a full-time fatherhood coordinator who works extensively with community-based organizations.

**Public Comment**

**Sen. Petersen**

There was no answer to the call to the public.

**Next Meeting of the Council**

**Sen. Petersen**

The next meeting will be held September 24, 2002, in the State Courts Building, Room 119A/B, Phoenix.

**Adjournment**

**Sen. Petersen**

Rep. Hershberger adjourned the meeting at 1:48 p.m.

**CHILD SUPPORT COMMITTEE**  
**MEETING MINUTES - SEPTEMBER 24, 2002**

**PRESENT:**

Rep. Peter Hershberger  
Sen. David Petersen  
Hon. Mark Armstrong  
Robert Barrasso  
Karen Kretschman (for David Byers)  
Charles DiGeronimo  
Kym L. Hull  
Kat Cooper (for Hon. Michael Jeanes)

Russell Smoldon  
Michelle Krstyen  
Ezra Loring (for Jodi Beckley)  
Suzanne Miles  
David Norton  
Susan Tunks (for Benidia Rice)  
Hon. Rhonda Repp  
Chuck Shipley

**NOT PRESENT:**

Hon. Kathi Foster  
Hon. Ramon Valadez  
Hon. Monica Stauffer

Bianca Varelas-Miller (for John Clayton)  
Kim Gillespie

**Staff:**

Megan Hunter

Isabel Gillett

**GUESTS:**

Stacy Wekey  
David Hamn  
Anna Bronnenkant  
Deborah Bryant  
Judy Bushong  
Kathy Seeglitz  
Theresa Barrett  
Marianne Hardy

Governor's Office  
Parent  
Custodial Parent  
Attorney General's Office  
Superior Court in Maricopa County  
Department of Economic Security  
Administrative Office of the Courts  
House of Representatives

**CALL MEETING TO ORDER**

**Rep. Hershberger**

The meeting was called to order by Representative Hershberger at 10:10 a.m. with a quorum present.

**ANNOUNCEMENTS**

**Rep. Hershberger**

This is the first meeting of the newly created Child Support Committee created by Senate Bill 1088 which became effective August 22, 2002.

**REVIEW OF MINUTES**

**Rep. Hershberger**

Minutes of the May 28, 2002 meeting were not approved because those minutes were from the old Child Support Coordinating Council Subcommittee. The minutes from the May 28, 2002 meeting were provided for review purposes only, with no changes or corrections found.

**INTRODUCTIONS**

**Rep. Hershberger**

Members introduced themselves, giving names and positions on the Committee. All positions are currently filled.

**STRUCTURE AND PURPOSE OF COMMITTEE**

**Rep. Hershberger**

Representative Hershberger reviewed the charge of the new committee pursuant to Senate Bill 1088 that was signed into law with an August 22, 2002 effective date. The previous overarching Child Support Enforcement and Domestic Relations Reform Committee and both Subcommittees were eliminated, and the newly created Child Support Committee and Domestic Relations Committee are now statutorily separate committees with no requirement to report to or meet with each other.

The charge of the new committee remains much the same as the old CSCCS charge with the addition of reporting on recommendations regarding child support guidelines. The committee must submit an annual written report reflecting its recommendations to the President of the Senate, Speaker of the House of Representatives, the Governor and the Chief Justice of the Supreme Court. Child support-related legislative proposals should be routed through the Child Support Committee prior to introduction.

All positions remained the same from the old Subcommittee to the new Committee.

The Statute Cleanup workgroup has been meeting since early spring to develop the 2003 legislative proposal package.

**A.R.S. § 12-1551**

In 1999, two separate bills with revisions to this section were passed. The proposal combines language from both versions into one and clarifies that the judgment renewal requirements do not apply to written orders for child support and spousal maintenance.

**MOTION: Add A.R.S. § 12-1551, as drafted, to the 2003 legislative proposal package.**

*Motion was seconded and passed unanimously.*

**A.R.S. § 25-323.01**

This section establishes the Child Support Committee and its membership. One of the twenty-two membership positions is county attorney from an urban county. The proposal eliminates that position from statute due to a transition of Pima County's child support program from the county attorney to the state; county attorney offices operate no other urban child support programs.

**MOTION: Add A.R.S. § 25-232.01, as drafted, to the 2003 legislative proposal package.**

*Motion was seconded and passed unanimously.*

**A.R.S. § 25-502**

Current language is unclear regarding whether the county to which a case is transferred has jurisdiction over all case matters and whether that county retains the case file or sends it back to the originating county. Also unclear is whose responsibility it is to issue a transfer order. The proposal clarifies: 1) that the county transferring the case does not retain a copy of the court file; 2) the county to which a transfer is made retains the court files for all purposes; and 3) the clerk of court issues the transfer order.

Members pointed out that the county who retains the court files also retains venue. Proposed language should include "venue."

**MOTION: Add A.R.S. § 25-502, with an amendment which adds "venue" in section G, to the 2003 legislative proposal package.**

*Amended motion was seconded and passed unanimously.*

**A.R.S. § 25-510**

The workgroup will address this statute at the next Committee meeting after language is finalized.

**A.R.S. § 44-1692**

Language in the current statute alternates between “consumer” and “obligor” when referring to the same individual. Current language also indicates that a consumer report may be used to determine an obligor’s capacity to pay child support; using the definition provided within the statute, obligor means “the legal father” of a child. The proposal clarifies that: 1) the consumer has been determined to be the parent of a child to whom a support obligation relates; and 2) the Department of Economic Security or its agent may obtain a credit report for a mother who is an obligor.

**MOTION: Add A.R.S. § 25-502, as drafted, to the 2003 legislative proposal package.**

*Motion was seconded and passed unanimously.*

**A.R.S. §§ 25-320, 25-327, 25-500, 25-501, 25-503, 25-804, 25-809**

Creating a specified age (such as eighteen, eighteen and six months, or nineteen) for the duration of child support would: 1) provide a means to automatically calculate an end date for the obligation of child support and would allow for automation to stop or modify an income withholding order through the IV-D agency and/or possibly the courts; 2) reduce the number of actions filed to stop or modify income withholding orders with the courts; 3) provide better customer service to obligors and obligees because both will have a date certain for the end date of support; and 4) eliminate disputes regarding whether a child who leaves high school after 18 and then re-enrolls is to be supported. The duration of support could be terminated earlier than the new fixed age based upon a court’s finding that a child is emancipated by some event.

A proposal has not been developed for presentation to the CSC; instead, the Statute Cleanup workgroup asked for direction from the committee. Committee members commented that more research should be conducted before the Committee considers it.

**MOTION: Refer the “duration of support” issue to the Guidelines workgroup; the Guidelines workgroup should draft a recommendation for the Child Support Committee.**

*Motion was seconded and passed unanimously.*

**DCSE 2002 Legislative Proposals**

**Susan Tunks**

The Division of Child Support Enforcement provided an overview of their 2003 legislative proposals (see below). Drafts are not yet complete; Representative Hershberger asked Susan Tunks to bring the drafts to the next CSC meeting.

- **Voluntary acknowledgement of paternity.**  
Current law requires parents to sign the acknowledgement in front of a notary public; the proposal would allow for signing before a witness instead of a notary public.
- **Remove statute of limitations on collection of past due child support.**  
Current law requires a custodial parent to file a formal written judgment in the court to collect past due child support; the proposal would release the custodial parent of that requirement.
- **Provide administrative authority to DCSE to establish paternity in uncontested cases.**  
Current law allows for paternity establishment through a variety of procedures. The proposal would provide administrative authority for the child support agency to establish paternity when both parties are in agreement.
- **Provide authority for DCSE to file a wage assignment in arrears-only cases.**  
Current law authorizes the child support agency to file wage assignments for arrears, only when combined with current support. The proposal would authorize wage assignment in arrears-only cases.
- **Provide administrative authority to DCSE to establish child support orders in uncontested cases.**  
Current law allows for establishment of child support through the court only. The proposal would provide administrative authority for the child support agency to establish child support when both parties are in agreement.
- **Provide administrative authority to DCSE to modify a court order in uncontested cases.**  
Current law allows for modification of child support through the court only. The proposal would provide administrative authority for the child support agency to modify child support when both parties are in agreement.
- **Require employers to convert their child support wage assignment payments to a monthly basis.**  
Some employers pay on a bi-weekly basis, which causes some payors to appear to be in arrears on a constant basis. The proposal would require employers to convert to a monthly wage assignment payment basis (similar to the method used by employers to pay health insurance).

**NONDISCLOSURE OF INFORMATION (NDI) WORKGROUP**

**Annmarie Mena**

Annmarie Mena, on behalf of Benidia Rice, reported that the NDI workgroup met in June to discuss a request from the clerk's office. The clerks want authorization from the CSC to place the NDI on cases where child abuse may be present, which fulfills the federal requirement in its entirety.

**MOTION: Authorize the clerks to set the NDI on child support cases when child abuse is made known to the attention of the clerk.**  
*Motion was seconded and passed unanimously.*

**GUIDELINES WORKGROUP**

**Megan Hunter**

The Arizona Child Support Guidelines review is underway with the awarding of a contract to perform the economic analysis and case file review to Policy Studies, Inc., Denver, Colorado. The reports should be complete by January 31, 2003. Ongoing state fiscal problems should be kept in mind during the guidelines review process.

The Guidelines workgroup will hold its first meeting on October 31, 2002 with Laura Morgan of Family Law Consulting and author of Child Support Guidelines: Interpretation and Application. She has lectured extensively on child support guidelines nationwide and has acted as consultant to numerous state governments, including Arizona, and the federal government of Canada on the issue of child support guidelines. Anyone wishing to serve on the workgroup should contact Megan Hunter.

**CENTRALIZED PAYMENT PROCESSING WORKGROUP**

**Megan Hunter**

Megan Hunter, on behalf of Hon. Monica Stauffer, provided the report. The CPP workgroup's last meeting was in April. The report included September totals for receipts, pending payments, and unidentified payments.

**POST-SECONDARY SUPPORT PROPOSAL**

**Anna  
Bronnenkant**

Child support in Arizona extends to the age of 18 or the end of high school. Post-secondary support is not considered in Arizona. Anna Bronnenkant, a parent, offered two post-secondary support proposals for consideration by the Committee: 1) revise child support laws to allow for child support, including medical support, to continue until the child reaches the age of 23; or 2) provides for college support for children who remain dependent on their parents after majority.

Members were generally not supportive of either proposal; however, Representative Hershberger offered to form an informal workgroup to further study the issue at Ms. Bronnenkant's request.

**STRATEGIC PLANNING**

Because this is a new committee with a new charge, the co-chairpersons want to develop a strategic plan that will list priorities of the committee for both the short and long term. Christine Powell, AOC, reviewed the process and gathered ideas and comments from members including arrears management, expanding juvenile processes to include more child support, public

outreach and job court. Christine will provide a preliminary list for the October meeting, then meet with the Committee in November to develop the plan.

**NEW BUSINESS**

**Rep. Hershberger**

There was no new business.

**PUBLIC COMMENT**

**Rep. Hershberger**

There was no answer to the call to the public.

**NEXT MEETING OF THE COUNCIL**

**Rep. Hershberger**

The next meeting will be held October 22, 2002, in the State Courts Building, Room 119, Phoenix.

**ADJOURNMENT**

**Rep. Hershberger**

Rep. Hershberger adjourned the meeting at 1:43 p.m.

**CHILD SUPPORT COMMITTEE  
MEETING MINUTES – OCTOBER 22, 2002**

**PRESENT:**

Robert Barrasso  
Hon. Kathi Foster  
Kim Gillespie  
David Hamu for Charles DiGeronimo  
Hon. Peter Hershberger  
Kym Hull  
Hon. Michael Jeanes  
Karen Kretschman for David Byers  
Suzanne Miles

David Norton  
Hon. David Petersen  
Hon. Rhonda Repp  
Benidia Rice  
Chuck Shipley  
Russell Smoldon  
Hon. Monica Stauffer  
Bianca Varelas-Miller for John Clayton

**NOT PRESENT:**

Hon. Mark Armstrong  
Michelle Krstyen

Ezra Loring for Jodi Beckley  
Hon. Ramon Valadez

**Staff:**

Megan Hunter

Isabel Gillett

**GUESTS:**

Judy Bushong  
Kat Cooper  
Amy Gillespie  
Marianne Hardy  
Eileen Klein  
Jerry Landau  
Jane McVay  
Julie Thorpe

Clerk of Superior Court in Maricopa County  
Clerk of Superior Court in Maricopa County  
Morris Institute for Justice  
Arizona House of Representatives  
Arizona House of Representatives  
Maricopa County Attorney's Office  
Division of Child Support Enforcement  
Morris Institute for Justice

**CALL MEETING TO ORDER**

**Rep. Hershberger**

The meeting was called to order by Representative Hershberger at 10:13 a.m. with a quorum present.

**APPROVE MINUTES**

**Rep. Hershberger**

Minutes of the September 24, 2002 meeting were approved unanimously.

**INTEGRATED FAMILY COURT**

**Ellen Seaborne**

Legislation passed in 2002 required the Domestic Relations Committee, a legislative committee, to develop a report and plan for the formation of an Integrated Family Court (IFC) for Arizona. The Committee formed the Integrated Family Court workgroup to research and develop the report with Ellen Seaborne, a private attorney from Flagstaff, serving as its chairperson.

Ellen provided a PowerPoint presentation of the IFC proposal, including the self-funding proposal. The general purpose of the IFC is to integrate domestic relations and juvenile cases (both dependency and delinquency) into one court using a “one family-one team-one judge” approach. The group estimates the annual cost to be \$10 million. The funding mechanism proposed by the group focuses solely on self-funding by implementing filing fees on cases that currently do not have fees associated with them, and increasing other filing fees. The Domestic Relations Committee previously adopted the proposal and funding mechanism.

A proposal to increase the child support handling fee from \$2.25 to \$3.00 has many questions surrounding its legality. Benidia Rice explained that the handling fee is, by statute, at the bottom of the collection algorithm making it almost impossible to collect in many cases.

She went on to explain that the IV-D child support sector could be substantially impacted by the IFC plan. The IV-D sector is mandated by federal regulations, including timelines, and must operate using a mass production process. She will meet with Ellen and/or the IFC workgroup to discuss in detail and return for the November 19 Child Support Committee meeting.

Members commented as follows:

- an emphasis should be placed on alternative dispute resolution
- timelines should be implemented to reduce the lengthiness of domestic relations court processes
- the financial burden for funding the IFC is being placed on the families
- conciliation services are sometimes used as a roadblock to the other party’s request for relief
- judicial officers should receive better training in domestic relations issues

- assessing a filing fee on all subsequent filings is not fair to the party who does not file frivolous pleadings
- terminology used in family court causes an adversarial relationship between parents
- the plan is ideal but elected judges make it political
- will be difficult to collect the child support payment processing fee
- judges shift problem cases away
- judges do not realize the devastating effect they have on families

**STATUTE CLEANUP WORKGROUP**

**Karen Kretschman**

The Statute Cleanup workgroup met on October 15 to put finishing touches on two remaining proposals for the 2003 legislative package.

**A.R.S. § 25-510**

This statute provides an algorithm for the method in which child support payments are to be applied and distributed through the Support Payment Clearinghouse. The algorithm is used in all child support and spousal maintenance cases but does not necessarily suit every case. The algorithm in existing law treats all cases, including IV-D and non-IV-D, the same and does not allow for an allocation method other than that prescribed in statute. The proposal adds language authorizing the court, in non-IV-D cases only, to allocate payments or credits in a different manner than that provided by the algorithm in subsection A of the same section.

**MOTION: Add A.R.S. § 25-510, as drafted, to the 2003 legislative proposal package.**

*Motion was seconded and passed with two votes opposed.*

**A.R.S. § 23-722.02**

Two versions of this statute were passed into law. The proposal repeals section 1.

**MOTION: Add A.R.S. § 23-722.02, as drafted, to the 2003 legislative proposal package.**

*Motion was seconded and passed unanimously.*

**DCSE 2002 Legislative Proposals**

**Benidia Rice**

The Division of Child Support Enforcement provided an overview of their 2003 legislative package at the September meeting, which included seven proposals. Since that time, they decided to pull all proposals dealing with extending administrative authority to establish orders from the package. The remaining proposals follow:

- **Voluntary acknowledgement of paternity.**  
Current law requires parents to sign the acknowledgement in front of a notary public; the proposal would allow for signing before either a witness or notary public.
- **Remove statute of limitations on collection of past due child support.**  
Current law requires a custodial parent to file a request for a formal written judgment to collect past due child support; the proposal would release the custodial parent of that requirement.
- **Provide authority for DCSE to file a wage assignment in arrears-only cases.**  
Current law authorizes the child support agency to file wage assignments for arrears, only when combined with current support. The proposal would authorize wage assignment in arrears-only cases.

Members expressed dissatisfaction with the second proposal that removes the statute of limitations on collection of past due child support. Benidia explained that DCSE has many cases that need arrearage judgments but a lack of resources and other priorities prevents them from obtaining arrearage judgments on all applicable cases. Parties may request an arrearage judgment from the court on their own. Benidia commented that DCSE will consider the Committee’s concerns with this proposal. The issue will be placed on the November agenda.

Benidia requested formation of a workgroup to study administrative order establishment issues to begin soon. Megan will contact volunteers for meeting scheduling.

### **STRATEGIC PLANNING**

Because this is a new committee with a new charge, the co-chairpersons want to develop a strategic plan that will list priorities of the committee for both the short and long term. Christine Powell, AOC, reviewed the process and gathered ideas and comments from members including arrears management, expanding juvenile processes to include more child support, public outreach and job court. Christine provided a preliminary list for Committee members to review prior to the November meeting. She will meet with the Committee in November to develop the plan.

### **JOB COURT – SUPERIOR COURT IN YAVAPAI COUNTY**

**Hon. Rhonda Repp  
Humberto Cisneros**

Throughout her five years on the family law bench, Commissioner Repp began to recognize that many child support payors were not deadbeat dads; rather, they could not pay court-ordered support due to lack of employment and education. She began a program in her court in which local community service agencies and employment services attend court session one day each week to meet with child support obligors who claim unemployment and other needs as reasons for non-payment. Many participants were not aware of such services; many obtained employment and began paying support.

Humberto Cisneros, Research and Statistics, AOC, evaluated the program and found that the average support obligation for Job Court Program participants was \$286 per month and participants made average monthly payments of \$148 (51.6%) during the follow-up period of six months. Non-participants in the program had an average court-ordered monthly child support order in the amount of \$248 and made payments of \$48 (19.7%). When average child support payments were compared to the previous three months before participating in the program, participants improved by 169% from an average of \$55 to \$148. Non-participants improved by only 57%, from an average of \$35 to \$55.

Overall, the program seemed to be successful. While most people who appeared in court showed improvement in their monthly child support payments, people who attended the Job Court program exhibited a dramatic improvement in their court-ordered support payments.

**FATHERHOOD PROGRAM – DIVISION OF CHILD SUPPORT ENFORCEMENT**

**Tommy Epps**

Tommy Epps, Fatherhood Coordinator, DCSE, provided a presentation regarding a program intended to encourage and train young fathers to be parents including financial responsibility for their children. DCSE was recently awarded a federal grant to help fund and expand the program. The “Parenting Academy” helps young fathers learn to take responsibility for their role as a parent through parenting classes, education and skills training, learning to get and keep a job, and working with the other parent. DCSE’s collaborative partners from several organizations including Maximus and Fathers Matter provided an overview of the nature of each individual program.

**NEW BUSINESS**

**Rep. Hershberger**

There was no new business.

**PUBLIC COMMENT**

**Rep. Hershberger**

There was no answer to the call to the public.

**NEXT MEETING OF THE COUNCIL**

**Rep. Hershberger**

The next meeting will be held November 19, 2002, in the State Courts Building, Room 119, Phoenix.

**ADJOURNMENT**

**Rep. Hershberger**

Rep. Hershberger adjourned the meeting at 1:54 p.m.

**CHILD SUPPORT COMMITTEE**  
**MEETING MINUTES – NOVEMBER 19, 2002**

**PRESENT:**

Hon. Mark Armstrong  
Robert Barrasso  
Kat Cooper for Hon. Michael Jeanes  
Kim Gillespie  
Hon. Peter Hershberger  
Kym Hull  
Karen Kretschman for David Byers  
Michelle Krstyen

Ezra Loring for Jodi Beckley  
Suzanne Miles  
David Norton  
Hon. Rhonda Repp  
Benidia Rice  
Chuck Shipley  
Russell Smoldon

**NOT PRESENT:**

Charles DiGeronimo  
Hon. Kathi Foster  
Hon. David Petersen

Hon. Monica Stauffer  
Hon. Ramon Valadez  
Bianca Varelas-Miller for John Clayton

**Staff:**

Megan Hunter

Isabel Gillett

**GUESTS:**

Anna Bronnenkant  
Judy Bushong  
Daniel Cartagena  
Robin Glover  
Marianne Hardy  
Michael LaPolla  
Stacy Lockery  
Jane McVay  
Gloria Weiss

Custodial parent  
Clerk of Superior Court in Maricopa County  
Parent  
Hospital Paternity Program - DCSE  
Arizona House of Representatives  
Hospital Paternity Program - DCSE  
Governor's Office  
Division of Child Support Enforcement  
Maricopa Clerk of Court

### **CALL MEETING TO ORDER**

The meeting was called to order by Representative Hershberger at 10:10 a.m. with a quorum present. Members introduced themselves.

### **APPROVE MINUTES**

Minutes of the October 22, 2002 meeting were unanimously approved.

### **HOSPITAL PATERNITY PROGRAM**

Benidia Rice distributed notebooks containing an “Agency Overview” of the Division of Child Support Enforcement. She then introduced Robin Glover, Hospital Paternity Program Coordinator and Michael LaPolla, Education

### **INTEGRATED FAMILY COURT**

**Ellen Seaborne**

Legislation passed in 2002 required the Domestic Relations Committee, a legislative committee, to develop a report and plan for the formation of an Integrated Family Court (IFC) for Arizona. The Committee formed the Integrated Family Court workgroup to research and develop the report with Ellen Seaborne, a private attorney from Flagstaff, serving as its chairperson.

Ellen provided a PowerPoint presentation of the IFC proposal, including the self-funding proposal. The general purpose of the IFC is to integrate domestic relations and juvenile cases (both dependency and delinquency) into one court using a “one family-one team-one judge” approach. The group estimates the annual cost to be \$10 million. The funding mechanism proposed by the group focuses solely on self-funding by implementing filing fees on cases that currently do not have fees associated with them, and increasing other filing fees. The Domestic Relations Committee previously adopted the proposal and funding mechanism.

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**MOTION: Add A.R.S. § 25-510, as drafted, to the 2003 legislative proposal package.**

*Motion was seconded and passed with two votes opposed.*

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Two versions of this statute were passed into law. The proposal repeals section 1.

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*Motion was seconded and passed unanimously.*

## DCSE 2002 Legislative Proposals

Benidia Rice

The Division of Child Support Enforcement provided an overview of their 2003 legislative package at the September meeting, which included seven proposals. Since that time, they decided to pull all proposals dealing with extending administrative authority to establish orders from the package. The remaining proposals follow:

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Benidia requested formation of a workgroup to study administrative order establishment issues to begin soon. Megan will contact volunteers for meeting scheduling.

## STRATEGIC PLANNING

Because this is a new committee with a new charge, the co-chairpersons want to develop a strategic plan that will list priorities of the committee for both the short and long term. Christine Powell, AOC, reviewed the process and gathered ideas and comments from members including arrears management, expanding juvenile processes to include more child support, public outreach and job court. Christine provided a preliminary list for Committee members to review prior to the November meeting. She will meet with the Committee in November to develop the plan.

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**Hon. Rhonda Repp  
Humberto Cisneros**

Throughout her five years on the family law bench, Commissioner Repp began to recognize that many child support payors were not deadbeat dads; rather, they could not pay court-ordered support due to lack of employment and education. She began a program in her court in which local community service agencies and employment services attend court session one day each week to meet with child support obligors who claim unemployment and other needs as reasons for non-payment. Many participants were not aware of such services; many obtained employment and began paying support.

Humberto Cisneros, Research and Statistics, AOC, evaluated the program and found that the average support obligation for Job Court Program participants was \$286 per month and participants made average monthly payments of \$148 (51.6%) during the follow-up period of six months. Non-participants in the program had an average court-ordered monthly child support order in the amount of \$248 and made payments of \$48 (19.7%). When average child support payments were compared to the previous three months before participating in the program, participants improved by 169% from an average of \$55 to \$148. Non-participants improved by only 57%, from an average of \$35 to \$55.

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**Tommy Epps**

Tommy Epps, Fatherhood Coordinator, DCSE, provided a presentation regarding a program intended to encourage and train young fathers to be parents including financial responsibility for their children. DCSE was recently awarded a federal grant to help fund and expand the program. The “Parenting Academy” helps young fathers learn to take responsibility for their role as a parent through parenting classes, education and skills training, learning to get and keep a job, and working with the other parent. DCSE’s collaborative partners from several organizations including Maximus and Fathers Matter provided an overview of the nature of each individual program.

**NEW BUSINESS**

**Rep. Hershberger**

There was no new business.

**PUBLIC COMMENT**

**Rep. Hershberger**

There was no answer to the call to the public.

**NEXT MEETING OF THE COUNCIL**

**Rep. Hershberger**

The next meeting will be held November 19, 2002, in the State Courts Building, Room 119, Phoenix.

**ADJOURNMENT**

**Rep. Hershberger**

Rep. Hershberger adjourned the meeting at 1:54 p.m.

# **CHILD SUPPORT COMMITTEE**

**MEETING MINUTES – APRIL 22, 2003**

**Arizona State Courts Building ~ Phoenix  
1501 W. Washington, Conference Room 345**

## **PRESENT:**

Hon. Manuel Alvarez  
Kim Gillespie  
Hon. Peter Hershberger  
Hon. Michael Jeanes  
Karen Kretschman (for David Byers)  
Michelle Krysten  
Ezra Loring (for Susan Gerard)

Suzanne Miles  
David Norton  
Hon. Rhonda L. Repp  
Benidia Rice  
Chuck Shipley  
Hon. Monica Stauffer  
Hon. Jim Waring

## **NOT PRESENT:**

Hon. Mark Armstrong  
Robert Barrasso  
Hon. Bill Brotherton  
Charles DiGeronimo

Kym Hull  
Russell Smoldon  
Bianca Varelas-Miller

## **STAFF:**

Megan Hunter

Isabel Gillett

## **GUESTS:**

Anna Bronnenkant  
Judy Bushong  
Kat Cooper  
Jane McVay

Custodial Parent  
Clerk of Superior Court in Maricopa County  
Clerk of Superior Court in Maricopa County  
Division of Child Support Enforcement

## **CALL MEETING TO ORDER**

**Rep. Hershberger**

The meeting was opened by Representative Hershberger at 10:06 a.m. without a quorum present.

Two new members were introduced: Hon. Manuel Alvarez, Arizona House of Representatives, and Hon. Jim Waring, Arizona State Senate. Senator Waring was appointed to serve as the Committee co-chair.

## **LEGISLATIVE UPDATE**

**Marianne Hardy**

HB 2130 – Child support transfer bill. The bill has been signed into law by the Governor.

HB2131 – Execution of judgments. Eliminated a duplicative statute. The bill was amended in the Senate with a technical change. After final passage in the House, the bill will be transmitted to the Governor.

HB 2132 – Child Support Committee bill. The bill eliminates the urban county attorney position from the committee. The bill died in the Senate, but was resurrected later as an addition to HB 2139 in conference committee. The House will hear it for final passage, then it will be transmitted to the Governor.

HB 2133 – Child support payment algorithm bill. The bill was struck in House Human Services and did not proceed further.

HB 2134 – Authorized DES to obtain credit report for both fathers and mothers. The bill went through the Senate without changes and was signed into law by the Governor.

HB 2135 – Employer request, disclosure. Combined duplicative statutes. The bill has been signed into law by the Governor without any changes from the introductory version.

## **COMMITTEE OVERVIEW**

The Committee Overview was tabled until a future meeting when the new members can be here for the presentation.

## **CHILD SUPPORT IN ARIZONA 101**

**Benidia Rice**

The Division of Child Support Enforcement is a division of the Department of Economic Security in Arizona. The agency performs locate functions, establishes paternity, child support and medical support, sets up debts and collections. Cases needing court action are coordinated with the Office of the Attorney General.

The most successful tool used to enforce support is the income withholding order. Also helpful are new hire reporting and the federal and state tax intercept programs. The agency also reviews child support orders for modifications. Support services such as fatherhood programs and the hospital paternity program are offered to clients as well.

Arizona is currently in the top five states in terms of increased collections. In 1993, \$75 million was collected; in 2002 \$254 million was collected.

The total number of paternitys established in FY02 was 14,101 representing 22% of the children needing paternity established. This figure was up from the previous year at 18%. In 2001, a record 15,852 paternitys were established. In FY02, 9,135 child support orders were established representing 29% of all cases with child support orders. The court order ratio is 64.26% (cases needing a court order compared those with a court order). The total number of cases that have received at least one payment within the calendar year was 62.7%.

The agency's current caseload is approximately 249,000 cases. Their caseload has increased significantly over the past six months. The current TANF (Temporary Assistance to Needy Families) caseload of 60,000 represents 26.3% of the total caseload; current assistance foster care cases represent less than 1% or 567 cases; former assisted caseload (most important because they are the most vulnerable) of 120,979 represents 52.4% of the total caseload; the never assisted caseload is also increasing and represents 21% of caseload or 48,000 cases.

David Levin, ATLAS Systems Development Manager and Sierra Rose, Business Systems Analyst, DCSE, provided a presentation about ATLAS, the automated system used by the agency and implemented in March, 1996. The system is currently in the final approval phase from the federal government for final certification. The system has 500 screens and is backed up every night. The system: 1) interfaces with IV-A and IV-E systems; 2) can assign cases by function, offices, cases or specific workers; 3) interfaces with the Federal Case Registry to perform data matches; 4) generates approximately 300 income withholding orders each night; 5) can seize bank accounts; 6) send automated notices to the federal government and to parents for audit purposes; and 7) generate documents.

Arizona recently received the federal Office of Child Support Enforcement award for Best Customer Service. ATLAS is owned by the State of Arizona and is a main frame system. The agency would eventually prefer to move into a web-based system.

Michael Jeanes offered to provide a presentation of the non-IV-D program to the Committee at its next meeting.

#### **POST-SECONDARY SUPPORT WORKGROUP REPORT**

**Hon. Monica Stauffer**

This workgroup was formed to study and review the issue of the continuation of child support after high school. The group met in person and telephonically with lively debate and both sides defended quite passionately.

The group discussed whether a parent should be ordered to assist with college tuition. Members debated constitutionality issues such as equal protection. They also reviewed other states' laws. Judge Stauffer surveyed judges statewide to solicit their input. Most judges were tilted against providing support beyond the age of emancipation but both sides were equally passionate about the reasons to be for or against it.

While the group did not reach complete consensus, two ideas were generated, as follows:

1. Voluntary agreement. Parties can voluntarily agree to college support under current law, but may be unaware that they can do so.

To alleviate the problem, language could be included in dissolution pleadings. The group focused only on a proceeding during dissolution, not paternity cases.

2. Revise the child support guidelines, extra education expenses section, to add the cost a parent provides for college support.

The cost a parent pays for college support would be added to the Basic Child Support Obligation amount, then divided between the parents based on their respective percentages of income. In effect, the party providing college support would be relieved of a portion of that expense because the other party would take on his/her portion pursuant to the income percentages. This option would be used only by parties with more than one child.

Discussion:

Chuck Shipley explained that the workgroup reached general consensus on option number one, specifically, post-secondary support should not be mandatory, but only by voluntary agreement of both parents. He further explained that the group did not reach consensus on option two and indicated that it is a backdoor way to accomplish a mandate to require a parent to support an adult past the age of emancipation.

Suzanne Miles commented that the voluntary approach affects only parents who can afford to send children to college. Other members commented that there was substantial opinion against extending child support through college when this topic was first broached in this Committee. Ordering support beyond emancipation steps into a new area of law with extremely complicated issues. Up to this point in our country's history, there has been no requirement for post-secondary education and until there is, this state should not require parents to pay for it.

Commissioner Repp pointed out that this option is already available for parents. This is a philosophical issue focused on how deeply and for how long the government should be involved in the life of a family.

Rep. Hershberger will discuss the issue with Sen. Waring prior to the next meeting.

**APPROVE MINUTES**

**Rep. Hershberger**

A quorum was reached.

**MOTION:** Michael Jeanes made a motion to approve the minutes of the November 19, 2002 meeting. Kim Gillespie seconded the motion. The motion was approved on a unanimous vote.

**STRATEGIC PLANNING**

**Rep. Hershberger**

Christine Powell, AOC, was with us in September and November to guide the Committee through a strategic planning process. Ms. Powell is no longer with the Court, but the group proceeded and developed an initial list of ideas for future study. A workgroup was formed to define how the Committee should proceed. Megan will send a request for volunteers to serve on the workgroup. Benidia volunteered the help of a trained strategic planner from within DCSE.

**NEW BUSINESS**

**Rep. Hershberger**

There was no new business.

**PUBLIC COMMENT**

No comments were offered by the public.

**Rep. Hershberger**

**NEXT MEETING OF THE COUNCIL**

The next meeting will be held June 24, 2003, 10:00 am – 2:00 pm, Arizona State Courts Building, Room 119, 1501 W. Washington, Phoenix.

**Rep. Hershberger**

**ADJOURNMENT**

The meeting was adjourned at 1:30 p.m.

**Rep. Hershberger**

# **CHILD SUPPORT COMMITTEE**

Meeting Minutes – June 24, 2003

## **PRESENT:**

Hon. Peter Hershberger, Co-Chair  
Hon. James Waring, Co-Chair  
Hon. Manuel Alvarez  
Hon. Mark Armstrong  
Robert L. Barrasso  
Karen Kretschman for David Byers  
Maryanne Dye for Charles DiGeronimo  
Kim Gillespie  
Kym L. Hull

Kat Cooper for Hon. Michael Jeanes  
Michelle Krstyen  
Ezra Loring for Susan Gerard  
David Norton  
Hon. Rhonda Repp  
Benidia Rice  
Russell Smoldon  
Hon. Monica Stauffer  
Bianca Varelas-Miller

## **NOT PRESENT:**

Hon. Bill Brotherton  
Suzanne Miles

Chuck Shipley

## **GUESTS:**

Anna Bronnenkant  
Theresa Barrett

Parent  
Administrative Office of the Courts

## **STAFF:**

Barbara Guenther  
Megan Hunter  
Isabel Gillett

Senate  
Administrative Office of the Courts  
Administrative Office of the Courts

### **CALL MEETING TO ORDER**

The meeting was called to order at 10:22 a.m. by Rep. Peter Hershberger with a quorum present. Members took turns introducing themselves.

### **APPROVAL OF MINUTES**

**MOTION:** Dave Norton made a motion to approve the minutes of the April 22, 2003 meeting as submitted. Second by Russell Smoldon. Approved unanimously.

### **ANNOUNCEMENTS**

House Bill 2135 was signed into law by Governor Napolitano. The bill eliminates the urban county attorney position from the Child Support Committee in recognition that there are no urban county attorney child support programs in the state any longer. As of the general effective date, September 18, 2003, the full Committee membership will be comprised of 21 members instead of 22.

### **SUPPORT PAYMENT CLEARINGHOUSE PRESENTATION**

**VALARIE MERRITT**

Valarie Merritt, Affiliated Computer Systems (ACS) manager, and Andy Wangrycht, Division of Child Support Enforcement Clearinghouse manager, gave a co-presentation regarding Arizona's Support Payment Clearinghouse. The clearinghouse is operated by a private company, ACS, for the State of Arizona and processes approximately 95% of all child support payments in Arizona for both IV-D and non-IV-D. Ms. Merritt explained the child support payment processing system from receipt of a payment, internal operational mechanisms, and payment tracking and disbursement. After processing payments, ACS reconciles the books down to the penny each day, then transfers the tapes to DCSE. Checks go into the mail within 24 hours after the payments are processed.

In fiscal year 2002, the clearinghouse processed \$492.5 million in support payments. In fiscal year 2003 to date, over \$500 million in payments have been process with a week to go in the fiscal year. Approximately 86% of payments result from wage assignments, 10% come directly from the paying parent, and 4% are received from out-of-state withholdings from other child support agencies. They are attempting to move as many employers as possible to an electronic funds transfer (EFT) process.

A typical problem experienced by the clearinghouse is the issue of unidentified payments resulting from unsigned checks, illegible handwriting, and incorrect or missing case numbers. The clearinghouse goes to great lengths to research each unidentified payment to match it with a case on the ATLAS system. The incidence of unidentified payments is extremely low.

A centralized payment processing center was mandated by the federal government in 1997. Arizona was one of the first states to become certified by the federal government. Some states still are not certified and thus receiving stiff financial penalties.

## **FEDERAL CHILD SUPPORT PRESENTATION**

**BILL COFFIN**

Bill Coffin, Department of Health & Human Services, Washington D.C., who serves as the director of the President's Healthy Marriage Initiative, provided an overview of that program in relation to child support. The federal child support office, OCSE, recently funded three Special Improvement Project grants that focus on marriage in Ohio, Pennsylvania and Alabama. The projects hope to provide a connection between child support and community programs involved in the Healthy Marriage Initiative. The anticipated result of the projects is to determine if the need for child support would be reduced in relation to fewer marriages being terminated.

## **BREAK/LUNCH**

After a short break, the meeting was called back to order at 12:30 p.m.

## **NON-IV-D CHILD SUPPORT IN ARIZONA**

**KAT COOPER**

Kat Cooper, office of the Clerk of Superior Court in Maricopa County, provided an overview of the inner workings of services provided to parties involved in a child support case on the non-IV-D side. The program is called Expedited Services; their goal is to secure a stipulation between the parties and a conference officer is used to accomplish the goal. The conference officer meets with the parties, then draws up a report and recommendations for a judicial officer to review and approve. Parties have 25 days to object to the recommendations. If they do, a hearing is scheduled; if they do not, the order is entered. Eighty-eight to ninety per cent of their cases do not result in an objection or request for hearing.

Parent members discussed their experiences in Expedited Services. In one case, a modification was ordered and a wage assignment issued, then an objection was filed and the amount was changed again with a six months retroactive provision. The parent was told that she would have to file for a hearing before a judge to get a wage assignment to cover the retroactive amount. To the parent, this seemed to defeat the purposes of Expedited Services. Kat offered to meet with any members who would like to discuss it further. Judge Armstrong proposed that in cases that are made retroactive, the amount should be converted to an arrearage and the conference officer should recommend an arrearage payment. Another suggestion from a parent was for the court to inform the paying parent of his/her responsibility to make payments directly to the clearinghouse until a wage assignment is in place.

## **WORKGROUP REPORTS**

*Statute Cleanup Workgroup – Kim Gillespie*

The group met in May and June. The group has reviewed the following issues:

- Default paternity by motion. This recommendation has been referred to the Supreme Court's Committee on the Rules of Procedures in Domestic Relations cases. That Committee will begin meeting in August and will include this issue on their agenda at some point.
- UIFSA – Uniform Interstate Family Support Act. Several years ago, Arizona adopted UIFSA in response to a federal mandate. Now, the

Uniform Law Committee has recommended several amendments. Kim analyzed and summarized the proposals for the workgroup and reported that the changes are clarifying and relatively minor. The changes have been adopted in a few states. This group will work with legislative council on a draft document.

- Working on language that would make it easier for a party to be reimbursed when an overpayment exists. In some cases, the child emancipates, but the wage assignment is not stopped, even though no arrearage exists. The change is intended to provide a process for repayment.

*Post Secondary Support Workgroup – Judge Stauffer*

The group has not met since the last Child Support Committee. She asked to have this placed on the agenda for the next meeting.

**MOTION:** David Norton made a motion to put this issue on the next Child Support Committee agenda. Seconded by Russell Smoldon. Approved unanimously.

*Guidelines Workgroup – Judge Armstrong*

The group has a meeting scheduled directly following the present Child Support Committee meeting. Judge Armstrong reported that the guidelines are currently under review for changes to be recommended to the Supreme Court in 2004 and implemented, if approved, in early 2005. The workgroup has been meeting since January and will meet monthly until the work is completed. They are working with some difficult, substantive issues. The guidelines are currently 26 pages long and have been in place for about 15 years. Sometimes, in an effort to make them more equitable, they end up becoming more complicated. The workgroup is trying to comply with a federal mandate of keeping the guidelines understandable and easy to apply.

The group has study and will continue to study and make recommendations on the following:

- Clarifying the parenting time adjustment.
- Determining whether the courts have authority, under federal tax law, to apportion the federal tax exemption. The IRS has been contacted and communicated back to the group that if there is a contest, they do not care what the court says, they will adjudicate it pursuant to federal law. For the vast majority of people, the courts provide a tremendous service to the public by minimizing future conflict. The group is not likely to recommend a change to this section.
- Adding language to require the court to impose a payment on an arrearage that is at least equal to accruing interest. Currently, when the child support obligation ceases and an arrearage is still

owing, the court sometimes does not require a reasonable payment on arrearages. The change would suggest or require the arrearage payment to be at least the same as the current support payment had been.

- Adding a presumptive termination date of child support. Currently, child support terminates at age 18, or until 19 if still in high school. This change would create a presumptive termination date when child support is established or modified.
- Reviewing a suggestion that the income of a new spouse should be included as gross income.
- Reviewing a recommendation of the Post-Secondary Support workgroup. The Child Support Committee will be voting on whether a recommendation of that workgroup should be referred to the Guidelines workgroup.

The group is considering a recommendation to this Committee to create a sub-workgroup to look at underlying economic models used to build Arizona's Schedule of Basic Support Obligations.

*Strategic Planning Workgroup – Megan Hunter for Chuck Shipley*

Megan reported that Chuck Shipley has agreed to serve as chairperson of this workgroup and asked for additional volunteers. Kat Cooper, Kim Gillespie and Karen Kretschman volunteered in addition to previous volunteers. Megan will contact them to set up an August meeting.

**CALL TO THE PUBLIC**

No members from the public were present.

**NEXT MEETING**

The next meeting will be held on September 23, 2003, at the Arizona State Courts Building, 1501 W. Washington.

**ADJOURNMENT**

Rep. Hershberger adjourned the meeting at 1:00 p.m.

# **CHILD SUPPORT COMMITTEE**

Meeting Minutes – September 23, 2003

## **PRESENT:**

Hon. Peter Hershberger, Co-Chair  
Hon. Manuel Alvarez  
Hon. Mark Armstrong  
Hon. Bill Brotherton  
Kim Gillespie  
Leona Hodges  
Karen Kretschman for David Byers  
Hon. Michael Jeanes

Ezra Loring  
Suzanne Miles  
David Norton  
Chuck Shipley  
Russell Smoldon  
Hon. Monica Stauffer  
Bianca Varelas-Miller

## **NOT PRESENT:**

Hon. James Waring, Co-Chair  
Robert Barrasso  
Charles DiGeronimo

Kym Hull  
Michelle Krstyen  
Hon. Rhonda Repp

## **GUESTS:**

Judy Bushong  
Anna Bronnenkant  
Jane McVay  
Sean Laux  
Valarie Merritt  
Glenn Davis  
Javan Mesnard  
Kat Cooper

Maricopa County Clerk of Court  
Custodial Parent  
Div. of Child Support Enforcement  
Senate  
ACS State & Local Solutions  
Senate  
Senate  
Maricopa County Clerk of Court

## **STAFF:**

Barbara Guenther  
Megan Hunter  
Isabel Gillett  
Sean Laux

Senate  
Administrative Office of the Courts  
Administrative Office of the Courts  
Senate

**CALL MEETING TO ORDER**

**REP. HERSHBERGER**

The meeting was called to order at 10:12 a.m. by Rep. Peter Hershberger with a quorum present.

**APPROVAL OF MINUTES**

**REP. HERSHBERGER**

**MOTION:** Dave Norton made a motion to approve the minutes of the June 24, 2003 meeting with the following amendment: add “Kat Cooper for” Hon. Michael Jeanes to the list of members present. Second by Chuck Shipley. Approved unanimously.

**ANNOUNCEMENTS**

**REP. HERSHBERGER**

Benidia Rice has served as a member of this Committee for three years in her capacity as IV-D Director. Benidia left the agency on September 16 to begin a new position as IV-D Director in Washington D.C. Rep. Hershberger commended her involvement and interaction with this Committee and the child support effort in Arizona.

Leona Hodges was named IV-D Director and started in that capacity last week. Leona served as interim IV-D Director for approximately one year before Benidia. Rep. Hershberger welcomed Leona on behalf of the Committee.

Senator Brotherton was introduced as the new Senate appointment to the Committee. Staff members from the House, Senate and Administrative Office of the Courts were recognized. Barbara Guenther served as Senate staff to this Committee for many years and is now being moved to another Committee. Her replacement will be Sean Laux.

Meeting dates for the remainder of 2003 are October 28 and November 18.

**REPORT – OFFICE OF CHILD SUPPORT ENFORCEMENT**

**REP. HERSHBERGER AND MEGAN HUNTER**

The Committee congratulated Rep. Hershberger for being chosen as the federal Office of Child Support Enforcement’s (OCSE) “Legislator of the Year” award winner. He was in Washington D.C. last week to accept the award from OCSE’s Commissioner Sherri Heller.

Rep. Hershberger remarked on the experience and discussed another child support conference where he was invited to speak in Colorado with other lawmakers, IV-D Directors and child support professionals from across the country.

**GUIDELINES WORKGROUP**  
**JUDGE MARK ARMSTRONG**  
**PROFESSOR IRA ELLMAN**

Judge Armstrong discussed the handouts provided, one of which discussed recent constitutional challenges to the guidelines in several states. He commented that Constitutional challenges have little likelihood of success.

The Guidelines Workgroup has met monthly for one year and expects to conclude in the next two to three months. Judge Armstrong provided and presented a list of tentative recommendations made by the Guidelines Workgroup for informational purposes only at this point. Final recommendations will be made to the Committee after the Guidelines Workgroup finalizes them. At that point, the Committee will be asked for a vote.

Rep. Hershberger asked if interest is an issue in child support cases to which Judge Armstrong agreed it can be a problem because it is difficult for judges to calculate it. Currently, interest is 10% on child support arrearages. The members of the Guidelines Workgroup have agreed to refer the matter to the Statute Cleanup Workgroup due to the fact that there was a problem in the language regarding arrearages and interest.

Judge Armstrong introduced Ira Ellman, Professor of Law, Arizona State University and Guidelines Workgroup member. Ira discussed “Child Support Guidelines: Examining the Methodology” which entailed a discussion surrounding the policy choices for the methodology used to develop the guidelines. He suggested the formation of an interim workgroup to study the methodological choices that must be made by Arizona in advance of the next review of the child support guidelines in 2008. He explained guidelines “equivalence tables”, guidelines construction, measurement of standard of living, flaws in the data and marginal expenditures. The American Law Institute (ALI) recommends a test to determine if parents have equal incomes, then their living standard should be the same after the child support transfer, and if parents have disparate incomes, with the custodial parent earning less, then the living standard of the custodial household should not be “grossly disproportionate” to the noncustodial household.

Judge Armstrong explained that the proposal to create an interim workgroup is separate from the recommendations being made for the 2004 guidelines review by the Guidelines Workgroup and suggested a vote in October on the specific proposal. The Committee agreed to place the matter on the October 28, 2003 meeting for a vote.

**POST-SECONDARY SUPPORT**  
**JUDGE MONICA STAUFFER**

Judge Stauffer served as chairperson of the Post-Secondary Support Workgroup. She explained the workgroup’s deliberations and proposals. The workgroup deliberations were controversial and consensus was not reached; however, two proposals were drafted and are being brought before the Committee for a vote. The first proposal would add recommended language to the Petition and Response for Dissolution of Marriage with

Minor Children and Decree of Dissolution of Marriage (Divorce) with Children that would alert parties that they could voluntarily agree to college support (current law allows this but they may be unaware of it). The second proposal would amend the Child Support Guidelines by giving the court discretion, within the child support calculation, to consider the college expenses of the parent paying. This would occur only in cases where minor children remain in the home.

Members made observations regarding the philosophy of providing child support beyond emancipation. Some agreed that it is dangerous to mandate the action, and instead the parents should be allowed to come to agreement. Other members asserted that the concept is a wise policy choice because children who attend college are advantaged. Other members explained that attorneys should be advising their clients that this option is available under current law; however, many litigants are unrepresented so are unaware of the option. The first change reflects current law, while the second is a philosophical change for the state.

Members explained that this issue is on the national stage, but no particular trend can be tracked. Eighteen states have a provision for college support on the books while one state passed a law that disallows the court from ordering college support. Some states have upheld a constitutional argument (equality) and others have not. Intact families are not required to provide a college education for their children, while non-intact families must do so under these laws.

Rep. Hershberger, on the approval of the Committee, allowed Anna Bronnenkant, custodial parent and initiator of the proposals, to speak to the Committee. She urged the Committee to look at reality in terms of one parent having fewer funds to spend on the children remaining in the home because of supporting older children in college. She said that this proposal allows the court discretion regarding the factors of finances, whether the parents themselves went to college and what plans the parents had for the children before the divorce. It is also an attempt to lessen the impact of divorce on children. Ms. Bronnenkant reiterated that this proposal would only take effect if there are minor children in the home.

Megan Hunter explained that the Committee, if they approved the first proposal, would be making a recommendation to the Administrative Office of the Courts and individual courts of general jurisdiction to revise their self-service center forms to include the college support language. The second proposal would direct the Guidelines Workgroup to include the proposal in their final recommendations to the Child Support Committee, but the Arizona Supreme Court, who adopts the guidelines, would have final determination.

**MOTION:** Suzanne Miles made a motion to add language from Document 1 as drafted for the Post-Secondary Support Workgroup to the Petition and Response for Dissolution of Marriage with Children, and Decree of Dissolution of Marriage (Divorce) with Children. Second by Kim Gillespie. The motion passed on a vote of 8 ayes, 6 nays, and 1 abstaining.

**MOTION:** Suzanne Miles made a motion to revise the Arizona Child Support Guidelines to allow a judge to consider including a calculation for college expenses paid by a parent (both custodial and noncustodial) in determining child support for any remaining minor children in the home. Second by Leona Hodges. The motion failed on a vote of 4 ayes, 9 nays, and two abstaining.

**BREAK/LUNCH**

After a short break, the meeting was called back to order at 12:28 p.m.

**STRATEGIC PLANNING WORKGROUP**

**CHUCK SHIPLEY**

The group met in August and September. The group is in the exploratory phase and has begun developing a list of recommendations for the Committee. Chuck and Megan met with Sen. Waring and Rep. Hershberger to get their input regarding the direction they would like to take the Committee; they also plan to meet with Sen. Brotherton and Rep. Alvarez to get their input.

Michael Jeanes suggested to the workgroup that they look at issues through the eyes of self-represented litigants in an attempt to make the process as easy as possible for them to navigate. Chuck stated that Stan O'Dell made that particular recommendation at the first workgroup meeting.

**STATUTE CLEANUP WORKGROUP**

**KIM GILLESPIE**

The group met in August. They discussed amendments to the Uniform Interstate Family Support Act as proposed by the Uniform Law Committee. The group finalized all but one issue, which dealt with whether telephonic appearances should be allowed or not. Practitioners believe litigants should always have the ability to appear telephonically in interstate cases. The group will make a decision in October. Kim and Megan will meet with Legislative Council this week to begin the bill drafting process.

The group will meet on October 1 and discuss lengthening the statute of limitations and judgments on arrearages.

**CALL TO THE PUBLIC**

No members from the public were present.

**NEXT MEETING**

The next meeting will be held on October 28, 2003, at the Arizona State Courts Building, 1501 W. Washington, Room 119, Phoenix.

**ADJOURNMENT**

Rep. Hershberger adjourned the meeting at 1:00 p.m.

# CHILD SUPPORT COMMITTEE

Meeting Minutes – December 16, 2003

## PRESENT:

### Co-Chairs

- Hon. Peter Hershberger
- Hon. James Waring

### Members:

- Hon. Manuel Alvarez
- Hon. Mark Armstrong
- Robert Barrasso
- Hon. Bill Brotherton
- David Byers (designee Karen Kretschman)
- Charles DiGeronimo
- Kim Gillespie
- Leona Hodges (designee Annmarie Mena)
- Kym Hull
- Hon. Michael Jeanes
- Michelle Krstyen
- Ezra Loring
- Suzanne Miles
- David Norton
- Hon. Rhonda Repp
- Chuck Shipley
- Russell Smoldon
- Hon. Monica Stauffer
- Bianca Varelas-Miller

### GUESTS:

Judy Bushong  
Julianna Koob  
Andy Wangrycht  
Jane McVay  
Valarie Merritt  
Eddie Sissons

Maricopa County Clerk of Court  
AZ Coalition Against Domestic Violence  
Self/Parent  
Division of Child Support Enforcement  
ACS  
Morris Justice Institute

### STAFF:

Marianne Hardy  
Megan Hunter  
Isabel Gillett

House of Representatives  
Administrative Office of the Courts  
Administrative Office of the Courts

**CALL MEETING TO ORDER**

**REP. HERSHBERGER**

The meeting was called to order at 10:15 a.m. by Rep. Peter Hershberger with a quorum present.

**APPROVAL OF MINUTES**

**REP. HERSHBERGER**

**MOTION: Russell Smoldon made a motion to approve the minutes of the September 23, 2003 meeting. Second by Kym Hull. Approved unanimously.**

**ANNOUNCEMENTS**

**REP. HERSHBERGER**

The 2004 meetings will be held on the following dates:

February 24

April 20

June 15

September 21

October 19

November 16

**GUIDELINES WORKGROUP**

**JUDGE MARK ARMSTRONG**

The Guidelines Workgroup voted to recommend to the Child Support Committee the creation of an interim workgroup that would commence after the 2004 review is complete and whose purpose would be to study the economic estimating methods and guidelines models.

**MOTION: Russell Smoldon made a motion to create an interim workgroup to commence after the 2004 review is complete, to study economic child-rearing cost estimating methods and guidelines models. Second by Kim Gillespie. Approved unanimously.**

Federal law requires states to review their child support guidelines at least once every four years. Under statutory authority, the Arizona Supreme Court reviews and adopts the guidelines in Arizona. The law requires that an economic analysis and case file review be conducted to ensure that the guidelines result in appropriate child support amounts. In addition to the reports, a survey on the Supreme Court's website allows opportunity for public comment. Stakeholders in the child support community such as parents, judicial officers, attorneys and members of the state child support agency offer input as well.

The economic analysis required by law proposes an updating of the Schedule of Basic Support Obligations and is based on recent evidence on child-rearing expenditures and changes in prices levels and tax rates. The case file review, also required by law, found a 22% deviation rate. Arizona's deviation rate in the 1999 review was 15%. While this is a somewhat significant increase, the majority or 78% of deviations stem from agreement of the parties and half were upward and half downward.

The Administrative Office of the Courts developed a set of initial recommendations, then invited the Guidelines Workgroup of this Committee to offer further recommendations. The group studied the reports and public comment/input over a period of 14 months to develop a set of recommendations for improvements to the guidelines. The workgroup was comprised of parents, attorneys, judicial officers, court administrators, clerks of court, educators, representatives from the Division of Child Support Enforcement, Office of the Attorney General and Community Legal Services. The workgroup developed a set of recommendations which are being circulated for public comment.

The workgroup proposed the following recommendations:

- 1. Premises.**  
Add a premise that a custodial parent can be ordered to pay support.
- 2. Presumptive Termination Date.**
  - a. Incorporate the duration of support section currently found in section 2.d. into new section 4.
  - b. Provide a presumptive termination date in new section 4.
- 3. Determination of Gross Income.**  
Expand current language to reflect the McNutt v. McNutt decision.
  - a. A parent should have the choice to work overtime or a second job without a risk of increasing the child support award, and/or have the choice to reduce hours to the equivalent of full-time employment without income attribution for child support purposes.
  - b. The court may consider income actually earned greater than full-time employment if that income was historically earned prior to the initial support order from a regular schedule and is anticipated to continue into the future.
- 4. Adjustments to Gross Income**
  - a. Revise for consistency
  - b. Clarify that this adjustment is not for the children at issue in the present case.
  - c. Define simplified application to the guidelines.
  - d. Clarify that the spousal maintenance adjustment can be from this or another divorce.
- 5. Determining the Total Child Support Obligation**
  - a. Add cost of vision insurance to the basic child support obligation, if vision insurance is provided by a parent.
  - b. A parent has 180 days to request a medical expense reimbursement and the other parent has 45 days to make the payment or payment arrangements
  - c. The child care tax credit is not applicable if neither parent has the child for the greater part of the year.
  - d. Revise child care tax credit language for simplification.
  - e. Eliminate adjustment for court-ordered supervised parenting time and exchanges.
- 6. Adjustments for Costs Associated with Visitation**
  - a. Change the term “visitation” to “parenting time” to comport with Arizona statutes.

- b. No adjustments should be granted if the noncustodial parent does not incur costs during parenting time
  - c. Clearly define hours/blocks of time toward parenting time, and clarify that the adjustment is for regular, recurring parenting time only.
- 7. Equal Custody**  
Separate the equal custody paragraphs from the parenting time adjustment section.
- 8. Adjustments for Other Costs**  
Add an example to illustrate the intent behind the calculation.
- 9. Self Support Reserve Test**  
Increase the self support reserve amount from \$710 to \$775 to reflect the increase in inflation between 1999 to 2003 of 9.3%.
- 10. Travel Expenses**  
Clarify that long-distance parenting time generally means a distance of more than 100 miles one-way.
- 11. Deviations**  
Clarify that:
- a. Written findings should be contained in the child support order, minute entry or child support worksheet.
  - b. Parties can agree to deviate on the record, in addition to the current ability to deviate based on a written agreement.
  - c. Court may deviate when parties “enter into” instead of current requirements to “sign” the agreement.
- 12. Modification**  
Eliminate reference to “prima facie evidence” and refer to it simply as “evidence”.
- 13. Income of a Child & Credit for Benefits**
- a. Combine sections 24 and 25.
  - b. Clarify, in section 25, that this section applies to benefits received by a parent on behalf of a child.
  - c. Clarify, in section 25, that if the amount of the child’s benefit is less than the paying parent’s support obligation, the difference must be paid by that parent unless the court modifies the order to equal benefits being received.
  - d. Clarify that benefits received directly, and not on behalf of a child, by either parent as a result of his or her own contributions shall be included as part of that parent’s gross income.
- 14. Child Support Arrears**
- a. Court must make a finding when the amount of arrears ordered is less than the amount of accruing monthly interest.
  - b. Court may adjust the arrearage payment upon a showing of substantial and continuing change of circumstances.
  - c. Court must consider the total amount of arrears, accruing interest and time it will take to pay off these amount before adjusting the Order of Assignment to an amount less than the current support amount and payment on arrears.

**15. Effective Date**

- a. Direct the court to use guidelines in effect when the order is entered unless the court determines otherwise based on good cause.
- b. In cases of default or stipulation, the guidelines effective at the time of filing shall be used.

**16. Update the Schedule of Basic Support Obligations**

The workgroup voted to update the Schedule of Basic Support Obligations on a vote of seven in favor, 2 against and 1 abstaining. However, a strong minority opinion against updating the Schedule in light of current economic conditions was noted.

- a. At low and Middle Income Levels, small increases will occur.
- b. At middle to high income levels, small increases will occur. Most child support cases are likely to fall into the area where there are increases to the Schedule.
- c. At high levels of income, large decreases will occur. About 18% of child support cases are likely to be in this category.

Members discussed guidelines models and estimating methods including the factual basis for determine that the existing guidelines model is appropriate. Judge Armstrong explained that Arizona initially adopted the Income Shares model in 1987 and has adopted the same model at each review. Thirty-two states also use the Income Shares model. Senator Waring expressed concern about voting on the guidelines proposal if there are concerns about the model. Senator Brotherton suggested that the interim workgroup be comprised of economic experts. Judge Armstrong stated that the workgroup membership has not been discussed but it is anticipated to include economic experts, and that Dr. Ira Ellman, who is on the subcommittee, has offered to bring in members from the academic community at no cost.

Michael Jeanes asked if it was impossible to change the Guidelines within the four-year period. Judge Armstrong stated that federal law requires that the review occur at least once every four years, but nothing prevents a change to the guidelines from being proposed in the interim period.

Megan Hunter described the three guidelines models in use in the country at present and the separate issue of child-rearing cost estimating methodologies.

Megan read a letter from one of the dissenters on the workgroup, David Hamu, who thinks that the amount paid by the noncustodial parent should go down. He recommended that the recommendations for improvements to the guidelines should be adopted, except the tables. Suzanne Miles presented an opposing viewpoint to the idea and thoughts presented in Mr. Hamu's letter.

**MOTION: Russell Smoldon made a motion to accept the recommended improvements to Arizona's Child Support Guidelines as recommended by the Guidelines Workgroup with two minor, technical modification discussed previously in the meeting. Karen Kretschman seconded the motion. Approved on a voice vote.**

## **BREAK/LUNCH**

After a short break, the meeting was called back to order at 12:50 p.m. with a quorum present.

## **STATUTE CLEANUP WORKGROUP**

### **KIM GILLESPIE**

Kim Gillespie chaired the Statute Cleanup Workgroup over the past several months. The group began meeting in April and finished with their proposals this month. Two proposals have been prepared for the 2004 legislative session.

#### 1. UIFSA (Uniform Interstate Family Support Act)

The UIFSA was intended to provide enforcement of family support orders in interstate cases. It established the “one order” concept to avoid the problems created by the prior interstate law of having multiple support orders simultaneously in effect. UIFSA was initially promulgated in 1992 and revised in 1996. At the request of the child support community and with its active participation, a uniform laws drafting committee prepared amendments to UIFSA, which were approved by the National Conference of Commissioners on Uniform State Laws in 2001. The amendments are intended to improve the act and include provisions as follows:

- Clarify how the controlling order is to be determined and reconciled where multiple orders have been issued.
- Clarify the rules limiting the ability of parties to seek modifications of orders in states other than the issuing state. Permit the parties who have all left the initiating state to agree to modification in a state in which they do not reside.
- Require (rather than permit) a tribunal to permit a party or witness residing in another state to appear by phone or other electronic means.
- Provide clearer guidance to support agencies with regard to redirecting payments to an obligee’s current state of residence.
- Clarify that the duration of support is determined by the laws of the issuing state.
- Expand UIFSA to include coverage of support orders from foreign countries and address other aspects of international support enforcement.
- Require that a copy of all known support orders be attached to the pleadings, but eliminate the requirement that the copies be certified.
- Clarify that an obligor contesting direct withholding has a choice of remedies.

The workgroup did not reach consensus regarding the issue of allowing a party or witness residing in another state to be deposed or to testify by telephone. The uniform laws draft allows for telephonic appearances.

The proposal would repeal the current UIFSA statute because it does not track the uniform national law. The proposal would track the uniform national law, thereby making it less confusing for practitioners in this and other states.

**MOTION: Judge Armstrong made a motion to adopt the UIFSA proposal as proposed by the Statute Cleanup Workgroup without a change to the uniform act**

**regarding telephonic appearances. Suzanne Miles seconded the motion. Approved unanimously.**

2. A.R.S. § 25-527 Child Support Overpayment

This proposal is intended to provide a remedy for a child support obligor parent in cases where he/she paid an amount in excess of the court-ordered support payments. This situation happens when a wage assignment for child support is unstopped at the termination of the order, usually because the obligor forgot to file for wage assignment stoppage. There is currently no law covering this issue in Arizona.

The proposals key provisions include the following:

- Would require an obligee in a child support case, who has been paid in excess of the court-ordered support payments, to refund the overpayment to the obligor parent upon request for reimbursement.
- The request for reimbursement would be filed with the Clerk of the Superior Court.
- The obligor would have a prescribed period of time after the termination of the support obligation to file the request for reimbursement.
- All arrearages and interest would have to be satisfied before reimbursement would be ordered.
- The repayment would go directly to the requesting parent, not through the Support Payment Clearinghouse.
- This would not be a support judgment, but rather a civil judgment enforceable as any other civil judgment.
- Could be made a judgment and enforced as any other civil judgment.

The group did not reach consensus regarding the prescribed time period to request a reimbursement.

**MOTION: Michael Jeanes made a motion to adopt the proposal as submitted by the workgroup. Suzanne Miles seconded the motion. Approved unanimously.**

The workgroup considered a proposal brought to them by Eddie Sissons of the Morris Justice Institute. The workgroup has some concerns about the initial proposal, after which a second draft which addressed the issues was presented at a subsequent workgroup meeting. The workgroup did not take a position on supporting the proposal, but would like Eddie Sissons to explain the proposal.

The proposal is an attempt to provide parity between paternity and dissolution cases. In paternity cases, parties can get retroactive child support up to three years. In dissolution cases, retroactive child support only goes back to the date of filing. This proposal would give permission to court to go back to the date of separation for child support. The parties would be required to prove it up on a factual basis. The proposal would provide economic stability for the divorcing parties.

Lisa Moore Melton, managing attorney of Community Legal Services, explained the details of the proposal. When parties separate, a child support order should be entered to immediately get support flowing to the children. This bill would send message to couples who are separating that they will have an obligation to financially support the children.

Discussion:

Bob Barrasso discussed the issue of Arizona being a community property state. He also expressed concern about digging into the past while the parties were still married.

**MOTION: Kim Gillespie made a motion to support this recommended legislation. The motion was seconded. The proposal was approved on a voice vote.**

#### **STRATEGIC PLANNING WORKGROUP**

##### **REP. HERSHBERGER**

The group did not have a report for this meeting.

#### **CALL TO THE PUBLIC**

No members from the public were present.

#### **NEXT MEETING**

The next meeting will be held on February 24, 2004, at the Arizona State Courts Building, 1501 W. Washington, Phoenix.

#### **ADJOURNMENT**

Rep. Hershberger adjourned the meeting at 1:37 p.m.

# CHILD SUPPORT COMMITTEE

Meeting Minutes – April 20, 2004

## PRESENT:

### Co-Chairs

- Hon. Peter Hershberger
- Hon. James Waring

### Members:

- Hon. Manuel Alvarez
- Hon. Mark Armstrong
- Robert Barrasso
- Hon. Bill Brotherton
- David Byers (designee Karen Kretschman)
- Charles DiGeronimo
- Kim Gillespie
- Leona Hodges (designee Annmarie Mena)
- Kym Hull
- Hon. Michael Jeanes
- Michelle Krstyen
- Ezra Loring
- Suzanne Miles
- David Norton
- Hon. Rhonda Repp
- Chuck Shipley
- Russell Smoldon
- Hon. Monica Stauffer
- Bianca Varelas-Miller

## GUESTS:

Kat Cooper

Maricopa County Clerk of Court

## STAFF:

Marianne Hardy

Megan Hunter

Isabel Gillett

House of Representatives

Administrative Office of the Courts

Administrative Office of the Courts

**CALL MEETING TO ORDER**

**Judge Armstrong**

The meeting was called to order at 10:14 a.m. by Judge Mark Armstrong without a quorum present. The co-chairs appointed Judge Armstrong to chair the meeting in their absence due to their required presence at the Legislature.

**ANNOUNCEMENTS**

**Judge Armstrong**

Members took turns introducing themselves.

The 2004 meetings will be held on the following dates:

- June 15
- September 21
- October 19
- November 16

Kim Gillespie announced that the Attorney General's Office opened three new offices in Prescott, Cottonwood and Nogales beginning March 31<sup>st</sup>. Previously, the child support programs in Yavapai and Santa Cruz Counties was contracted to a private contractor.

A quorum was reached at 10:23 a.m.

**APPROVAL OF MINUTES**

**Judge Armstrong**

**MOTION: Russell Smoldon made a motion to approve the minutes of the December 20, 2003 meeting. Second by Chuck Shipley. Approved unanimously.**

**GUIDELINES WORKGROUP**

**Judge Mark Armstrong**

Judge Armstrong reported that this Committee's recommendations for improvements to the guidelines have been approved by the Committee on Superior Court and Arizona Judicial Council, the advisory body to the Arizona Supreme Court (Court). The Court will take them under consideration next week.

**STATUTE CLEANUP WORKGROUP**

**Kim Gillespie**

Kim Gillespie reported on bills emanating from this Committee:

SB 1334 – UIFSA. This bill has experienced very little controversy, but one amendment has been tacked on which provides for a delayed effective date based on the request and receipt of a waiver from the federal government to replace the existing UIFSA laws with the new.

SB 1332 - Reimbursement for child support overpayment. This bill provides a mechanism for an obligor to request reimbursement (a judgment) for the overpayment of child support (beyond the date of the child's emancipation). This bill has not been controversial. The only amendment would require that a copy of the judgment be sent to the Support Payment Clearinghouse (DES) for their records. The bill was signed by the Governor.

Megan Hunter reported on other child support and domestic relations bills.

#### **STRATEGIC PLANNING WORKGROUP**

##### **Chuck Shipley**

Mr. Shipley reported that this group began meeting in August and met for a total of six meetings. The group developed a lengthy list of issues, then narrowed it down into items that were truly strategic in nature vs. those that should be deferred to other workgroups. The workgroup has met their charge; therefore, the

The four major initiatives proposed by the workgroup are:

1. IV-D and Non-IV-D issues
2. DCSE/AG Funding
3. Automation
4. Public Outreach

Funding is critical because it underlies the other strategic issues. Without funding, the other items probably cannot happen. Judge Armstrong suggested combining Funding with Automation.

**MOTION: Russell Smoldon made a motion to accept the report, and form 3 workgroups: (1) Child Support Solutions, (2) Funding & Automation, and (3) Public Outreach/Customer Service. Chuck Shipley seconded the motion. Michael Jeanes suggested amending the name of the third workgroup from "Public Outreach" to "Public Outreach/Customer Service". Russell Smoldon accepted the amendments to his motion. Approved unanimously.**

Kim Gillespie suggested that we forego studying the IV-D funding structure because it was studied a few years and has not changed since that time.

**MOTION: Russell Smoldon made a motion to appoint the following members to chair the workgroups: (1) Child Support Solutions - co-chaired by Michael Jeanes and Leona Hodges, (2) Automation/Funding - Kim Gillespie, (3) Public Outreach/Customer Service - Chuck Shipley. Michael Jeanes seconded the motion. Approved unanimously.**

The following members volunteered to either serve on the workgroups or send others from their respective offices:

- 1. Child Support Solutions**  
Kym Hull
- 2. Funding/Automation**  
Stan O'Dell (AG's office)  
Michelle Krysten
- 3. Public Outreach/Customer Service**  
Russell Smoldon  
Hon. Rhonda Repp  
Michelle Krysten

Members thanked Chuck for his fine job leading the Strategic Planning workgroup. Chuck thanked workgroup members and Megan for their help.

#### **CALL TO THE PUBLIC**

No members from the public were present.

#### **BREAK/LUNCH/WORKGROUP MEETINGS**

After a short break, the meeting was called back to order at 12:45 p.m. with a quorum present.

The meeting reconvened at 12:45 p.m.

Kat Cooper reported for the Child Support Solutions workgroup. They discussed finding ways for the IV-D and non-IV-D communities to partner together to serve all child support customers in equitable ways. The group's objective is to ensure that child support is being paid regardless of what agency it comes from. It's all about serving the customer.

Kim Gillespie reported for the Automation/Funding workgroup. They began discussing child support calculators, including a uniform, centralized arrears calculator.

Chuck Shipley reported for the Public Outreach/Customer Service workgroup. They began discussing ideas and gathering volunteers.

#### **NEXT MEETING**

The next meeting will be held on June 15, 2004, at the Arizona State Courts Building, 1501 W. Washington, Phoenix.

#### **ADJOURNMENT**

Sen. Waring adjourned the meeting at 12:53 p.m.

# CHILD SUPPORT COMMITTEE

Meeting Minutes – June 15, 2004

## PRESENT:

### Co-Chairs

- Hon. Peter Hershberger
- Hon. James Waring

### Members:

- Hon. Manuel Alvarez
- Hon. Mark Armstrong
- Robert Barrasso
- Hon. Bill Brotherton
- David Byers (designee Karen Kretschman)
- Charles DiGeronimo
- Kim Gillespie (designee Janet Sell)
- Leona Hodges
- Kym Hull
- Hon. Michael Jeanes
- Michelle Krstyen
- Ezra Loring
- Suzanne Miles
- David Norton
- Hon. Rhonda Repp
- Chuck Shipley
- Russell Smoldon
- Hon. Monica Stauffer
- Bianca Varelas-Miller

## GUESTS:

Kat Cooper

Maricopa County Clerk of Court

## STAFF:

Megan Hunter  
Isabel Gillett  
Barbara Guenther  
Marianne Yamnik

Administrative Office of the Courts  
Administrative Office of the Courts  
Senate  
House of Representatives

### **CALL MEETING TO ORDER**

The meeting was called to order at 10:12 a.m. by Rep. Hershberger and Sen. Waring without a quorum present.

### **ANNOUNCEMENTS**

Members introduced themselves. Janet Sell, Office of the Attorney General, was introduced as Kim Gillespie's designee for this meeting.

Rep. Hershberger presented a plaque with a Certificate of Appreciation to Judge Armstrong for his many years of service to this Committee and to family court in general. Chief Justice Charles Jones also joined the meeting to extend his appreciation to Judge Armstrong for leading the Family Court in Maricopa County and for serving on this Committee in the role of Family Court Presiding Judge in an urban county. Judge Armstrong will be leaving Family Court on June 28<sup>th</sup> and serving as the State Tax Court judge. He served on the original Child Support Coordinating Council Subcommittee and existing Child Support Committee and served on many workgroups including chairing several of them.

### **APPROVAL OF MINUTES**

The minutes were not approved due to the absence of a quorum. They will be considered at the September meeting.

### **2004 LEGISLATIVE RECAP**

Judge Armstrong reported on behalf of Kim Gillespie. The two bills produced by this Committee, SB 1332 and SB 1334, and introduced by Sen. Waring and Sen. Brotherton were both signed by the Governor. SB 1332 allows for reimbursement for child support overpayment and will take effect on August 25, 2004. SB 1334 adopts revisions to UIFSA laws as recommended by a national uniform laws committee. The law will go into effect either on August 25 or when a waiver is received from the federal government to repeal the existing laws.

The proposal brought before this Committee by the Morris Justice Institute dealing with retroactive child support in dissolution cases was also signed by the Governor with an August 25, 2004 effective date.

Rep. Hershberger thanked Senators Waring and Brotherton for sponsoring the bills and their dedication to seeing them through.

### **WORKGROUP ISSUES**

As a result of the Strategic Planning Workgroup's efforts, three new workgroups were formed to address specific topics. Michael Jeanes reported that since the last Committee meeting, changes have occurred with the Expedited Services program in the Clerk's office. A mutual decision between the Superior Court and Clerk of Court will move Expedited Services to the Superior Court effective July 1, 2004. There are no anticipated changes in the levels of service and Judge Davis intends to keep it operating. A report will be produced this summer resulting from a study that is going on now to look at overall family court operations in Maricopa County. Michael recommended that the Committee take a look at that report.

The new workgroups are:

1. **Child Support Solutions**, co-chaired by Michael Jeanes and Leona Hodges.  
The workgroup will look at the Maricopa Family Court report due out this summer. Rep. Hershberger asked this workgroup to look at the possibility of making all child support cases IV-D cases.
2. **Public Outreach/Customer Service**, co-chaired by Chuck Shipley and Russell Smoldon.  
The workgroup will discuss methods to improve customer service for the child support population and to develop ideas to get child support information to the general public.
3. **Automation/Funding**, chaired by Kim Gillespie.  
The workgroup will look into opportunities to get more funding for the state child support agency. The group will also look into automation options such as moving to a web-based environment rather than the existing mainframe system.

Megan will contact the chairs to schedule meetings and help the group develop timelines. The groups will meet independently and report back to the full Committee at each meeting. The groups should anticipate having recommendations formed by early fall in order to allow time for drafting legislative proposals, if needed.

The standing Statute Review workgroup, chaired by Kim Gillespie, began meeting this month and will continue meeting throughout 2004.

The ad hoc Guidelines Interim workgroup will begin meeting in January, 2005. Rep. Hershberger appointed Judge Monica Stauffer and Kim Gillespie to serve as co-chairs. Bianca Varelas and Janet Sell volunteered to serve on the workgroup.

#### **CALL TO THE PUBLIC**

Danny Cartegena – Parent. Danny volunteered to serve on the Guidelines workgroup and the Automation/Funding Workgroup. He also suggested that two seats be created on this committee and the Domestic Relations Committee for two parents from never-married backgrounds. Currently, parents come from Dissolution of Marriage situations. A high number of never-married parents exist and are overlooked. He inquired about the formal process. Megan commented that the Statute Review Workgroup would be the appropriate group to review the request and she will forward the request to Kim Gillespie, chair of that group.

Judge Armstrong mentioned that the authorizing statute does not distinguish between married and never-married parents.

#### **BREAK/LUNCH/WORKGROUP MEETINGS**

The workgroups met during lunch. The meeting was called back to order at 12:13 p.m. without a quorum present.

## **WORKGROUP REPORTS**

### **Child Support Solutions**

Leona Hodges reported that they will start recruiting members from outside the Committee to join the group. The group will explore options such as making all child support cases IV-D cases. Many of the issues will have overlap with other workgroups.

### **Public Outreach**

Commissioner Repp reported that they will need to recruit additional members. They discussed two areas: (1) improving paternity establishment, and (2) providing information to the public, such as through the medical community, high schools and other non-governmental organizations that provide social services.

### **Automation/Funding**

Judge Armstrong reported that this was an organizational meeting. The group suggested adding more members to balance the workgroup with DCSE, Attorney General, court, clerk of court, county attorney, Clearinghouse (both ACS and DES) and possible tribal representation. They would like to start with a presentation of the existing automation system within DCSE. Leona Hodges commented that plans are underway for Colorado to share their automation system with Arizona. This could happen in the next 30-60 days. The group suggests looking at what other states are doing and any history in other states of privatization of these functions. The group will also discuss developing ways to achieve consistency between IV-D and non-IV-D child support and child support arrearage calculations. They will look at funding and grant opportunities for accomplishing these tasks. They will look at options such as changing the system incrementally and looking into systems that will not become obsolete within a few years. Public outreach could also be achieved through a web-based system. Volunteers include John Hinnant (DCSE), Don Aden (AG), Danny Cartagena (public).

Rep. Hershberger mentioned that he will be attending the National Conference of State Legislatures annual meeting in Salt Lake City next month. He serves as Vice Chair of the Human Services Committee and they will be discussing two new policies. He will report back to the Committee in September.

### **CALL TO THE PUBLIC**

No members of the public submitted a request to speak.

### **NEXT MEETING**

The next meeting will be held on September 21, 2004, at the Arizona State Courts Building, 1501 W. Washington, Phoenix. The workgroups will meet in the interim.

### **ADJOURNMENT**

Rep. Hershberger adjourned the meeting at 12:25 p.m.

# CHILD SUPPORT COMMITTEE

Meeting Minutes – September 21, 2004

## PRESENT:

### Co-Chairs

- Hon. Peter Hershberger
- Hon. James Waring

### Members:

- Hon. Manuel Alvarez
- Robert Barrasso
- Hon. Bill Brotherton
- David Byers (designee Karen Kretschman)
- Hon. Norm Davis
- Charles DiGeronimo
- Kim Gillespie
- Leona Hodges
- Kym Hull
- Hon. Michael Jeanes
- Michelle Krstyen
- Ezra Loring
- Suzanne Miles
- David Norton
- Hon. Rhonda Repp
- Chuck Shipley
- Russell Smoldon
- Hon. Monica Stauffer
- Bianca Varelas-Miller

### STAFF:

Megan Hunter  
Isabel Gillett  
Barbara Guenther  
Marianne Yamnik

Administrative Office of the Courts  
Administrative Office of the Courts  
Senate  
House of Representatives

### **CALL MEETING TO ORDER**

The meeting was called to order at 10:13 a.m. by Rep. Hershberger and Sen. Waring without a quorum present.

### **ANNOUNCEMENTS**

Members introduced themselves.

### **APPROVAL OF MINUTES**

The minutes were not approved due to the absence of a quorum. They will be considered at the October meeting.

### **WORKGROUP ISSUES**

#### **GUIDELINES INTERIM – KIM GILLESPIE AND JUDGE STAUFFER**

Kim Gillespie explained that she and Judge Stauffer met with Megan Hunter to develop meeting dates and times and membership categories, which will include: judges and IV-D commissioners with urban and rural representation; private attorney representative; a representative from the Attorney General's office (in addition to Kim); a representative from the Division of Child Support Enforcement; a custodial, non-custodial and joint custodial parent; a representative from the State Bar Family Law Section; an attorney from the legal aid community; possibly an AOC member; and professors and economists. They hope to have Laura Morgan, a national guidelines expert, consult with them.

They have also thought about the rules they will need for this group. The workgroup's first meeting will be in January, 2005.

#### **STATUTE REVIEW – KIM GILLESPIE**

The group met monthly over the summer. They discussed the pros and cons of a change in the interest rate. The group determined that changing or eliminating the interest rate would be controversial and implementation would be difficult for the IV-D ATLAS system. They chose to leave the issue alone at this point. It was suggested they do a cross reference to Title 25, where most family law statutes are located. The group did not reach a consensus on this suggestion.

#### Paternalty Statute

The group developed a proposal to make minor revisions to the paternity statutes, A.R.S. § 25-800, which will:

- change plaintiff/defendant to petitioner/respondent throughout the section to conform it to the rest of Title 25.
- 806(C)(1) and (2) allows for an oral answer in a response to a paternity suit. The proposal was eliminated as it is unnecessary because it is largely unused. Language was added in (D) to permit a party to seek emergency or temporary orders before the court has made a paternity judgment when there are no serious objections.

- 808(A) and (B) were eliminated because they are not necessary.
- The last sentence in 809(A), which discusses the Defendant paying costs of litigation, was deleted because this is already stated in 809(D).
- A phrase was added to 812(2)(B) to expand the types of personnel within the courts who can enter a paternity order.
- Language was added in 817(A)(3) to make it consistent with language that was added in 806(D).

#### Disability Statute

A.R.S. § 25-320 (E) - Mental/Physical Disability. Kim explained that the current statute is very broad. Arizona law allows child support past the age of majority in cases where a child is mentally or physically disabled. The workgroup discussed the following considerations:

- At what age does the disability diagnoses need to occur. The workgroup agreed that it must be before the age of 18.
- Time limit on when a party can file for ongoing support.
- Duration of duty to pay support. Judge Repp and Judge Davis agreed that in an intact family, there would be no duty for parents to pay support toward their disabled adult child.
- Modifiable ongoing support. The workgroup agreed that the support should be modifiable.
- The workgroup agreed that no definitions should be added.

#### UIFSA

Kim mentioned that revisions to the Uniform Interstate Family Support Act (UIFSA) passed by the Legislature this year cannot be implemented until a waiver is received from the federal government. Because the Federal statute required adoption of an earlier version, there was a requirement that we get a waiver from the government. Leona Hodges has submitted request for a waiver.

#### **AUTOMATION / FUNDING – KIM GILLESPIE**

Kim explained that the group has agreed that a statewide, web-based child support arrears calculator and a web-based payment history would be beneficial for the entire child support community, both IV-D and non-IV-D.

#### Child Support Arrears Calculator

The IV-D portion can be done with IV-D funds, but non-IV-D will need outside funding due to federal regulations prohibiting the use of IV-D funds for any other purpose. DCSE currently has an arrears calculator available for IV-D cases, which they call ARCA. ARCA

could be duplicated on the non-IV-D side. The first look at this option indicates no additional screens would need to be created, and it would probably not cost more than about \$40,000. The workgroup is looking at funding opportunities to get this done in the short term for judges and court staff. In the long-term, a web-based solution would be needed. It would save time and money for the agencies, courts and public. Judge Davis mentioned that we are decades behind the private industry. We are probably spending approximately half a million to a million dollars a year having people calculate arrears, and it takes two to three months to get an answer.

#### **EDCSE WEBSITE DEMONSTRATION –**

##### **JOHN HINNANT, DIVISION OF CHILD SUPPORT ENFORCEMENT**

Mr. Hinnant provided an overview of DCSE's new website for customers, which will give them access to case information and payment history information. They also have an Interactive Voice Response system for people who want information over the phone. The website was adapted from Colorado which obtained a grant to develop a website. DCSE went live with the website on September 1<sup>st</sup> and have received many positive comments. The site is expected to reduce the number of customer service calls. At this time, caseworkers and lawyers from the Attorney General's office have access as well. They anticipate extending accessibility to judges and court staff in the next few months.

#### **GREACEN MARICOPA FAMILY COURT REPORT -**

##### **HON. NORM DAVIS, PRESIDING FAMILY COURT JUDGE, MARICOPA COUNTY**

##### **KAREN KRETSCHMAN, ADMINISTRATIVE OFFICE OF THE COURTS**

Judge Davis explained that this report was viewed by the Superior Court as very positive and motivating, and the entire case management system should be built around it. The court has been treating family court cases much like civil cases, which has been very detrimental to families as this process takes so much longer. The longer a family court case takes to be resolved, the more damaging to the family and especially to the children. The Northwest Regional Court has been working on a pilot project for two years, which entails early intervention in family court cases meaning that the parties meet with a judge early on in the process to settle as much as possible up front. This is a way to make the waiting time for a final resolution shorter for the families.

Another process has been originated in the downtown court, which is called "Default on Demand." Half of the cases are settled this way. This program allows litigants to choose their own default hearing date. This is a responsive service for the public and has changed the culture in the court.

In the past, each judge has been handling his/her case management system differently from other judges. Judge Davis said the court is now implementing a uniform case management system so that judges will conform procedurally. This system is patterned after the Northwest pilot project.

The court is converting the Self Service Center to an interactive web-based system. It is more meaningful for litigants and helpful for the courts because it is simplified and party-specific.

The court is making some child support-related system changes: a post-decree modification court will be implemented in the next 30-60 days. Parties will go to post-modification court one

day and get the agreements and enter orders on the same day. If there is any dispute, the parties can go right into the courtroom for a judicial decision.

Maricopa County Superior Court is required to respond to the Administrative Office of the Courts by October 7, 2004. Judge Davis said he will share that letter and other information with the Child Support Committee and asked members to share any ideas or suggestions with him.

Michael Jeanes asked Judge Davis what is being done in regarding the issue of clerks giving out legal information and legal advice. Judge Davis said that this is a very difficult area, but that the Greacen Report states there is definitely a difference between the two. He stated that how accurate the information a clerk gives many times depends on how much experience that clerk has had in this field.

However, the Supreme Court is going to be redefining what is legal information and legal advice, in order to give a clearer definition to employees. Judge Davis stated that California has been working on this and he is looking at what they are doing. Another area that will be helpful is that there will be interactive forms at the Self Service Center which will be able to give information that is specific to a particular area. In this way answers can be given for the most commonly asked questions, of which there are many.

Senator Brotherton asked if there was still a problem with the rotation of judges in the family court bench. Judge Davis said that a committee has been formed to research this issue and he is the chairperson. The committee will give recommendations to Presiding Judge Colin Campbell within six months. As far as he is concerned, if a judge wants to stay on the family court bench, he is quite happy to allow that judge to do that. Lately, the practice has been to assign new judges to the family court rotation. The family court is the biggest department in the court – half of cases seen are family court cases. Judge Davis agreed that it is a difficult assignment, and frequently judges do want to rotate to another bench. He believes that the court needs to go for longer tenure for judges on the family court bench. One problem is that most of the judges appointed through the Selection Committee do not have family court experience. Judge Davis believes that this practice needs to be changed.

Senator Brotherton asked about the probability of applying more resources to judges. Most of the Superior Court judges' work falls on the judicial assistants. He feels this makes a higher workload for the judge. He also said that Pima County uses more commissioners, and might that be helpful in Maricopa County. Judge Davis answered that he does not think it is a resource problem. Calendar cases per judge have gone down significantly in the past few years. He said that 20-25% of the cases that the judges handle are high conflict, and therein lies the problem. These cases are emotional issues where parties are not willing to work on the best solution for everyone concerned. These cases make 90% of the judges' work. It takes experience to deal with these cases and get them out of the system. He stated that the resources have grown in Maricopa County under Judge Campbell's tenure. His goal is to have the best family court in the country within a year, and although there are some areas that will need work, he believes they will get there.

At this point Megan gave a brief update of the Judicial Selection Committee in regard to this Committee getting information to them. She stated that Judge Armstrong addressed the Pima and Maricopa County Trial Court Commissions a little over year ago, which was instrumental in educating the Commissions about the problems that Michael Jeanes and Judge Davis were discussing previously. The Committee sent a letter to both of those Commissions further explaining the issues involved in the DR bench and what the DRC would recommend in trying to attract more family law practitioners to the family law bench. They had planned to address the Commissions again in their annual meeting this year, but decided that the Commissions members are aware of the issues and with the advent of the Greacen report and the letter that will come from Judge Davis and Judge Campbell in response to that report, many of the issues in the family law bench will be addressed.

#### **COMMITTEE ON RULES OF PROCEDURE IN DOMESTIC RELATIONS CASES – KONNIE NEAL, ADMINISTRATIVE OFFICE OF THE COURTS**

Konnie Neal from the AOC provided an overview of the Supreme Court's Committee on Rules of Procedure for Domestic Relations Cases. At this point, the Rules are still in draft form. The deadline for the completion of the Rules is at the end of March, 2005, when they will present them to the Arizona Judicial Council.

One critical area where there was much discussion was Emergency and Temporary Orders. Judge Davis stated the Rules Committee is attempting to make the Rules simpler than they are now. Temporary Orders provide support for custodial parents who need it but do not want to do more litigation than necessary. As it stands now, parties could have a two-hour trial for temporary orders, then three months later have a trial for permanent orders, covering the same information. The Rules Committee is trying to eliminate overlap. Early on in the case there is one of two situations: either the parties have the basic numbers needed to calculate child support, or they do not. If so, a Resolution Management Conference can be set up whereby parties can meet and resolve that issue on a permanent basis, and enter a permanent resolution. In the cases where there is dispute and one of the parties does not have the numbers that are needed to calculate child support (i.e., a party is self-employed and needs to go and get the income numbers), there needs to be a way to enter orders quickly. However, since Temporary Orders are only good for two or three months, they are not cost-effective. If a party is in court asking for Temporary Orders, the party is only asking because the other party is behind in child support payments. It takes at least a month to get a hearing; therefore the party that should be paying support is at least a month behind. The approach the Rules Committee is looking at is estimating the amount the support should be, and entering that order. Therefore, if both parties' positions on the child support amount are within 150% of each other, the court could establish an amount within that range without a hearing. If there is an error in there, it can be fixed in the permanent trial.

#### **CALL TO THE PUBLIC**

There were no public members present.

#### **BREAK/LUNCH/WORKGROUP MEETINGS**

The Committee reconvened at 12:35.

## **WORKGROUP REPORTS CONT.**

### **Child Support Solutions - Michael Jeanes and Leona Hodges, Co-Chairs**

Michael Jeanes explained that this workgroup had met twice since the last full Committee meeting. They found that the Division of Child Support Enforcement's office, the Attorney General's office, and the Clerk of the Court's office did not really understand how each agency worked. Therefore, they brought in staff from each of the agencies who made presentations on work flow and process. The workgroup will now focus on the top customer complaints or issues that they hear most often within their agencies. They will then prioritize these issues to look at what can be done in each agency to find solutions and develop a cohesive process for the child support customer. The workgroup has also included the Pinal County Clerk of the Court as a member and has invited all the clerks statewide to participate. The Clerks' Association meets quarterly, and this workgroup will bring a standard report to this Association at each meeting. Representative Hershberger offered to help with Pima County concerns.

### **Public Outreach/Customer Service – Chuck Shipley and Russell Smoldon, Co-Chairs**

Chuck was not present and Megan provided the report. She stated that this workgroup has met two or three times and has grown the membership by adding people from Community Legal Services, urban and rural, the Attorney General's office and a clerk from Yavapai County. The basic mission of the workgroup is to assist the child support customer to understand more about the child support system in Arizona. The Child Support Solutions Workgroup will be helpful in this area. The Public Outreach workgroup will cull some of the information from the Child Support Solutions workgroup to build upon the other information their workgroup uncovers.

Megan said there is a great deal of information on the Web regarding child support, but it cannot be found all in the same place. The workgroup has discussed building a Web page that other agencies could add to their own Web sites. They are also considering putting together a brochure that would have the same information. The workgroup has discussed places to market this information, and are thinking about hospitals, doctors' offices, DCSE and AG offices, the Clerks offices. They have access to a listing of all statewide non-profit organizations, and the party who hosts that list has offered to send out the information to those non-profit people who work with members of the public who do not have resources to hire attorneys for their child support cases.

This workgroup plans to meet a few more times and come back to the Committee with a proposal, hopefully in November.

## **2005 LEGISLATIVE PROPOSALS**

Megan reported on the various workgroups:

The Child Support Solutions and Public Outreach/Customer Service workgroups do not anticipate bringing forward any legislative proposals. The Statute Review Workgroup will have two proposals as mentioned previously in this meeting. Automation/Funding Workgroup may have a proposal if they decide to proceed with an appropriation request.

Rep. Hershberger stated that he was concerned about the lack of a quorum for this meeting and what it means for the Committee. He said he would like to see these proposals presented in a more comprehensive fashion and prepare to move them forward in legislation. He would be willing to ask for an appropriation for an arrearage calendar. He said that the input at this meeting makes it clear that it is a direction that needs to be taken.

Megan discussed a proposal from the Domestic Relations Committee. She said she was seeking information from the Committee members that may know about domestic relations or child support bills that may be coming forward. She said the Domestic Relations Committee is coming forth with a proposal which is an attempt to redraft A.R.S. § 25-403 (custody statute). This statute has been piecemealed since the 70's, and is three pages long. There will be no substantive changes to it and they will simply make the statute more user-friendly and easier to follow.

At this time, Dave Norton reported that at the previous Domestic Relations Committee (Friday, September 17), he made a presentation on four areas of interest in looking at either legislative or rules changes: definitions in the domestic violence statutes; the possibility of an exemption from an Order of Protection violation if the parties are attending a court-sponsored counseling or mediation session, in order for the parties to meet under certain guidelines; service of orders; and working on the law enforcement representation on that issue.

#### **NEXT MEETING**

The next proposed meetings are October 19, November 16, and December 14. Representative Hershberger recommended that given the issues with attendance and the need for a quorum that meetings be scheduled for October 19 and November 16 of two hours in length, and then evaluate the meeting schedule with the Committee members. Discussion ensued. Judge Repp stated that she may attend by phone for a two-hour meeting. Senator Brotherton suggested that during the legislative session, legislators have difficulties with overlap regarding meetings, and that afternoon meetings might be best

Megan stated that in regard to the 2004 April meeting, she had thought the legislative session might be over by that time. She mentioned that there were no meetings in January, February or March and that future meetings depend on what the Committee wants to do. The Domestic Relations Committee meets on Fridays each month, and this works well for that committee. However, this Committee does not have as many issues to discuss as does the Domestic Relations Committee. The December meeting was scheduled recently in the event that the Committee needed more time to discuss legislation.

Dave Norton suggested that perhaps the Committee needs to look at the work product, and ask whether the work of this Committee could be combined with another committee to streamline the work product. Megan said that this has been discussed in the past, and the main issue against it is that child support is such a technical topic. This has been a very strong policy-making group in this state, and she would hate to see it disappear. The Guidelines Workgroup starts in January, and this will take at least two years to finalize. She stated that it is something to think about, but did not know where else the work of this committee would fit.

Megan also said that today's small turnout is unusual, but that perhaps it is time to look at the members who frequently do not attend, and attempt to have those positions filled by others who would attend.

Members agreed to meet in October and November for two hours each meeting instead of four hours.

**CALL TO THE PUBLIC**

No members of the public submitted a request to speak.

**NEXT MEETING**

The next meeting will be held on October 19, 2005, 10:00 am – 2:00 pm, at the Arizona Courts Building, 1501 W. Washington, Conference Room 119.

**ADJOURNMENT**

Rep. Hershberger adjourned the meeting at 11:00 a.m.

# CHILD SUPPORT COMMITTEE

Meeting Minutes – November 16, 2004

## PRESENT:

### Co-Chairs

- Hon. Peter Hershberger
- Hon. James Waring

### Members:

- Hon. Manuel Alvarez
- Robert Barrasso
- Hon. Bill Brotherton
- David Byers (designee Karen Kretschman)
- Hon. Norm Davis
- Charles DiGeronimo
- Kim Gillespie
- Leona Hodges
- Kym Hull
- Hon. Michael Jeanes
- Michelle Krstyen
- Ezra Loring
- Suzanne Miles
- David Norton
- Hon. Rhonda Repp
- Chuck Shipley
- Russell Smoldon
- Hon. Monica Stauffer
- Bianca Varelas-Miller

### STAFF:

Isabel Gillett  
Barbara Guenther  
Megan Hunter  
Javan Mesnard  
Patsy Osmon

Administrative Office of the Courts  
Senate  
Administrative Office of the Courts  
Senate  
Senate

## **CALL MEETING TO ORDER**

Sen. Waring called the meeting to order at 10:09 a.m. with a quorum present.

## **APPROVAL OF MINUTES**

**MOTION:** Michael Jeanes made a motion to approve the minutes as submitted. Suzanne Miles seconded. Approved unanimously.

## **STATUTE REVIEW WORKGROUP – KIM GILLESPIE**

Kim described the workgroup's two proposals and asked the Committee to consider them for advancement to Legislative Council.

### **1. A.R.S. § 25-320 (E), Disabilities.**

Existing law is very broad and allows child support past the age of majority in cases where a child is mentally or physically disabled. The proposal narrows the statute by qualifying the disability as "severe" and the person as "unable to live independently and be self-supporting." It also requires that the disability must have occurred prior to the age of majority. Bob Barrasso suggested that language should be added to clarify that the court can make such an order even if the child has reached the age of majority at the time of complaint.

**MOTION:** Michael Jeanes made a motion to amend the proposal by adding the following language at the end of the paragraph: "The court may issue such an order even if the child has reached the age of majority at the time of complaint." Susanne Miles seconded. Approved unanimously.

**MOTION:** Michael Jeanes made a motion to proceed with this proposal in the 2005 legislative session. Commissioner Repp seconded. Approved unanimously.

### **2. A.R.S. § 25-800, Paternity.**

Several technical changes are made to enhance and clarify existing law and eliminate duplication, including:

- Change plaintiff/defendant to petitioner/respondent throughout the section in conformity with Title 25.
- Eliminate the allowance of an oral answer in a response to a paternity suit because it is largely unused. Adds the ability to permit a party to seek emergency or temporary orders before the court has made a paternity judgment when there are no serious objections.
- Expands the personnel within the courts who can enter a paternity order, in conformance to existing practice.

**MOTION:** Michael Jeanes made a motion to amend the proposal by: conforming subsection (F) to make it consistent with the approved changes to A.R.S. § 25-320, and

re-letter (J) to (I); strike “either” and insert “any of the following apply.” Susanne Miles seconded. Approved unanimously.

#### **AUTOMATION / FUNDING – KIM GILLESPIE**

Kim Gillespie explained that the workgroup has been working on two child support arrears calculators: 1) a statewide calculator for non-IV-D cases that would be built on ATLAS and made available to the courts; and 2) a web-based calculator that could be available to anyone with Internet access.

The calculator would be the biggest improvement in Arizona child support since welfare reform. The Division of Child Support Enforcement performed 63,000 arrears calculations last year and the courts, litigants and lawyers spend a great deal of time performing the calculations manually. An arrears calculator would be a cost and time savings.

The non-IV-D calculator on ATLAS (short-term solution) would cost approximately \$40,000. Funding is being sought through internal sources.

The web-based calculator (long-term solution) is roughly estimated at \$400,000. Funding would be sought through a legislative appropriation.

The workgroup requested that this Committee support a proposal from the workgroup to develop a legislative proposal to request funding for a web-based calculator. The workgroup will pull together a small group called a Joint Application Design (JAD) to determine the technical requirements and to develop a cost estimate.

#### **CHILD SUPPORT SOLUTIONS - MICHAEL JEANES AND LEONA HODGES, CO-CHAIRS**

Michael Jeanes explained that the group has continued meeting monthly to look at the process as payments flow through the entire system, from the time of the order to the mailing of the payment. Members are developing a detailed flowchart of the process so members can determine where any problems may occur. The issues will be prioritized and addressed.

The group is making great progress and is serving as a tremendous forum with all stakeholders working collaboratively to enhance the system for end users.

#### **PUBLIC OUTREACH/CUSTOMER SERVICE - CHUCK SHIPLEY, CHAIR**

Megan Hunter reported in Chuck Shipley’s absence. The group’s purpose is to make recommendations for methods to help child support customers navigate the child support system in a more seamless manner. The group has met on a monthly basis and has been working primarily on a brochure that will provide information to both IV-D and non-IV-D customers.

#### **CALL TO THE PUBLIC**

James Hager, parent, discussed the “support of other children” portion of the Arizona Child Support Guidelines. Parents with other children receive an adjustment in the calculation and Mr. Hager pointed out the inequities of the apportionment of these adjustments. He also discussed the inequities in the percentage of income for child support dependent on the income category. For

example, for one child, low income parents spend approximately 27% of their income on child support, while high income parents spend approximately 14% of their income on child support.

Judge Stauffer and Kim Gillespie explained that they will be co-chairing a new workgroup that will be looking at the underlying estimates of the Schedule of Basic Support Obligations, including the issues Mr. Hager raises. They will include Mr. Hager's issues in the workgroup discussions.

**NEXT MEETING**

The December 14<sup>th</sup> meeting will be canceled. The next meeting will be held on January 5th, 2005, 10:00 a.m. – 12:00 p.m., at the Arizona Courts Building, 1501 W. Washington.

**ADJOURNMENT**

Sen. Waring adjourned the meeting at 11:30 p.m.

# CHILD SUPPORT COMMITTEE

Meeting Minutes – January 5, 2005

## PRESENT:

### Co-Chairs

- Hon. Peter Hershberger
- Hon. James Waring

### Members:

- Hon. Manuel Alvarez – via teleconference
- Robert Barrasso
- Hon. Bill Brotherton
- David Byers (designee Karen Kretschman)
- Hon. Norm Davis
- Charles DiGeronimo
- Kim Gillespie
- Leona Hodges
- Kym Hull
- Hon. Michael Jeanes
- Michelle Krstyen
- Ezra Loring
- Suzanne Miles – via teleconference
- David Norton
- Hon. Rhonda Repp
- Chuck Shipley
- Russell Smoldon
- Hon. Monica Stauffer – via teleconference
- Bianca Varelas-Miller – via teleconference

### STAFF:

Megan Hunter	Administrative Office of the Courts
Annette Mariani	Administrative Office of the Courts
Javan Mesnard	Senate
Courtney Riddle	Legislature

### CALL MEETING TO ORDER

Sen. Hershberger called the meeting to order at 10:09 a.m. without a quorum present.

### STATUTE REVIEW WORKGROUP – KIM GILLESPIE

Ms. Gillespie reported that both workgroup proposals, A.R.S. § 25-320, disability and A.R.S. § 25-800, paternity, passed the majority, were put in bill format and are moving forward appropriately. Representative Hershberger will sponsor the bills and plans to circulate for signatures soon.

### **CHILD SUPPORT SOLUTIONS - MICHAEL JEANES AND LEONA HODGES, CO-CHAIRS**

Mr. Jeanes reported that the group did not meet in December. The group's primary project is to analyze the flow of documents and orders from the court to DES, specifically as they refer to payment processing issues. A meeting is scheduled to help focus on the details of the specific workflow, identify any blockage or issues that may exist and discuss any automation changes that would help improve the process. The group is also looking at other priorities such as interaction of work between the clerks from around the state and DES.

### **PUBLIC OUTREACH/CUSTOMER SERVICE – MEGAN HUNTER FOR CHUCK SHIPLEY, CHAIR**

Megan Hunter reported in Mr. Shipley's absence that the group did not meet in the past month. An update will be provided at the next meeting.

### **APPROVAL OF MINUTES**

At 10:32 a.m., a quorum was reached and the minutes were approved.

**Motion: Approve the November, 2004 minutes. The motion was seconded.**

**Vote: Minutes approved unanimously.**

### **AUTOMATION / FUNDING – KIM GILLESPIE**

Ms. Gillespie reported that the workgroup has been meeting on a regular basis. The group has two projects – short-term and long-term. The short-term project will entail transferring code from the existing mainframe in the ATLAS system and re-creating it on the non-IV-D side. The group acknowledges that with the help of the Administrative office of the Courts (AOC), there will be funding (\$40,000) for a qualified programmer to perform the work. Programming will start up in about a month and then testing will be done.

The long-term project is expected to be a large project. Through JAD Sessions (Joint Application Design), clear business rules will be developed. Some of the issues include:

- Getting as close to real time information as possible;
- Online help;
- The platform being big enough for adequate performance and reporting; and
- The IV-D and non-IV-D be as similar as possible for seamless integration.

The recommendation is to first offer a prototype it to judges and their staff with the ultimate goal of making it available for everyone. The group had discussed putting the concept on paper and then costing it out. The options that were discussed for this year were:

- Present a bill seeking legislative appropriation, (firm financial data will not be available by this timeframe);
- Utilize this as an educational year. Possibly putting together information and speak to legislators letting them know that this is being worked on and could be presented next year as something beneficial to the public or;
- Seek start-up monies which will require firm cost estimates.

The group will continue to meet and have JAD Sessions regardless of whatever approach is taken. Because ATLAS is a huge system and translating over to a web application is a major task, an estimate will take awhile. Judge Davis stated that perhaps getting the best estimate, putting a cost limit on it, and moving ahead could be a workable plan. Rep. Hershberger agreed with Judge Davis and stated that he would be willing to go forward. Some of the issues include: if this is addressed through an increase handling fee, would a stop date be attached to it once the project is completed, and, would it revert?

Rep. Hershberger is willing to work with individual members to pursue legislation asking for funding with the knowledge that there will be limitations. An appropriation bill would have Prop 108 implications. Legislative Council and JLBC will be asked for assistance in developing a proposal.

**Motion: To allow the Child Support Committee to form a committee to pursue and draft a legislative proposal. The motion was seconded.**

**Vote: Motion was approved unanimously.**

### **MARICOPA COUNTY FAMILY COURT UPDATE – JUDGE NORM DAVIS**

Attempts are ongoing to process cases more efficiently, including:

- An aggressive plan to address 29 different priority areas;
- Better handling of cases and statistics;
- Development of reports that identify and pull out the cases that do not meet case management standards;
- Operating default on demand program,
- Statistics: 2400 cases filed, 4200 terminated last month; and
- eCourt project went online December 1, 2004.

Senator Brotherton raised a question as to efficiency of handling of cases if the allowance of fault divorce is presented with marital misconduct. Would this increase litigation? Discussion ensued on what is the definition of marital misconduct and whether the addition of a fault element would reduce efficiency. **Members agreed that fault divorce would have an adverse impact on efficiency.**

Michael Jeanes reported that eCourt is going well. The response from the public is that the forms are helpful and easy to use, but they want the option of electronic filing. Judge Davis added that major changes in the rotation of younger judges to Family Court is taking place, which will result in having a different kind of experienced bench.

### **CALL TO THE PUBLIC**

No members of the public requested time for comments.

### **NEXT MEETING**

The next meeting will be held in June, 2005, date to be announced.

**ADJOURNMENT**

Rep. Hershberger adjourned the meeting at 11:00 a.m.

**CHILD SUPPORT COMMITTEE**  
**MEETING MINUTES**  
Judicial Education Center  
541 E. Van Buren, Phoenix, Arizona  
June 7, 2005

**PRESENT:**

**Co-Chairs**

- Hon. Peter Hershberger
- Hon. James Waring

**Members:**

- Hon. Manuel Alvarez – via teleconference
- Robert Barrasso
- Hon. Bill Brotherton
- David Byers
- Hon. Norm Davis
- Kim Gillespie
- Annmarie Mena for Leona Hodges
- Hon. Michael Jeanes
- Michelle Krstyen
- Ezra Loring
- Suzanne Miles
- Hon. Rhonda Repp
- Chuck Shipley
- Russell Smoldon
- Hon. Monica Stauffer
- Bianca Varelas-Miller

**STAFF:**

Megan Hunter  
Annette Mariani  
Courtney Riddle

Administrative Office of the Courts  
Administrative Office of the Courts  
Legislature

**CALL MEETING TO ORDER**

Sen. Hershberger called the meeting to order at 10:17 a.m. without a quorum present.

**ANNOUNCEMENTS**

Annmarie Mena, Deputy Assistant Director of the Division of Child Support Enforcement, is serving as Leona Hodges designee for this meeting.

Approved 9-15-05

## Vacancies

Charles DiGeronimo	Noncustodial parent
David Norton	Noncustodial parent

There has been no communication or contact with Mr. DiGeronimo in over a year.

The Committee recognized David Norton's invaluable service to the Committee. He served faithfully for many years and was always an effective committee member.

## Appointments

All judicial appointments for this committee will expire at the end of June. The Chief Justice will reappoint current members or appoint new members to the five positions before July 1, 2005.

## Meeting Dates for 2006

The Committee will look at possible meeting dates for 2006. Tuesdays or Thursdays are a possibility. More information will be forthcoming.

## **CHILD SUPPORT SOLUTIONS - MICHAEL JEANES AND LEONA HODGES, CO-CHAIRS**

Mr. Jeanes reported that the working relationship between the Clerks of the Superior Court and DES has improved through the efforts of this workgroup. The focus has been on issues related to workflow due to concerns received from constituents and customer as to the timeliness of processes. In order to obtain better access to court documents, the Maricopa County Clerk's Office is negotiating with a software vendor for an enterprise licenses in order to provide DES, DCSE, and the Attorney General's Office, access to court documents via the Internet. This is scheduled occur within a few months and is expected to enhance child support case processing.

Additionally, a staff exchange educational program has taken place between the Clerk of the Court's Office and DCSE. The staff from each office has toured the other's facilities to see first hand how workflow is handled.

## **APPROVAL OF MINUTES**

At 10:38 a.m., a quorum was reached and the minutes were approved.

**Motion: Approve the January, 2005 minutes. The motion was seconded.**

**Vote: Minutes approved unanimously.**

## **UPDATE FROM DIVISION OF CHILD SUPPORT ENFORCEMENT – ANNMARIE MENA**

Ms. Mena reported that the electronic payment card process was implemented in May, 2005. Legislation was passed that requires DCSE to issue child support payments that are collected using two methods: (1) direct deposit into an individual's checking or savings account, and (2) electronic payment card.

The electronic payment card will begin with the IV-D program and then move to non-IV-D cases. To date there have been 4,000 responses. The goal is that by late summer, all individuals will have been contacted. The card has a VISA logo on it and can be used at any point of purchase location, which is a benefit to those individuals who do not have a bank account. The bank that will be handling the cards is J.P. Morgan.

The general populace and customers will benefit the most from this process. Families who have relocated will no longer have to be tracked down, checks will no longer have to be forwarded and there will be no opportunity for lost checks any longer.

By the end of the calendar year, a breakdown of percentages between direct deposit and electronic payment card can be made available. These accounts are not traditional accounts, rather the funds are posted to an "electronic account." Individuals have 30 days to respond to the election of having an electronic payment card. If there is no response, a card will be issued to the last known address. That individual will need a PIN number to access the account.

### **MARICOPA COUNTY FAMILY COURT UPDATE – JUDGE NORM DAVIS**

Judge Davis reported that methods for automating and handling cases with better efficiency continue to be implemented and refined, including:

- Active case loads are over 15,000.
- Filing rate is increasing.
- Cases over 12 months have dropped by 36%.
- The decree on demand program has been working well – one downside has been phone time with interviews. An online software program will be implemented allowing individuals to call, answer questions and set hearings. Later, this will be switched over to a computerized system.
- The process of developing a post-modification court is being implemented with an anticipated start date of mid-August. Modifications will go directly to expedited officers who will conduct an abbreviated interview. If agreements are reached, the paperwork can be prepared and orders can be entered. If agreements are not reached, the parties can go immediately into a courtroom for a hearing with a Commissioner where the order will be entered that same day.
- The petition tracking software has been completed, which will help with statistics and tracing.
- Starting an early private resolution pilot project to assist with families getting mental health services. A partnership with the mental health community has been established who have agreed to help with some cases pro bono.
- eCourt project is continuing. The goal is to fully convert the forms at the Self Service Center and family court into an electronic format. Target Date: March 1, 2006.
- Honorable Barbara Mundell became Presiding Judge on July 1, 2005.
- The Integrated Family Court is being changed effective July 1, 2005. They are looking at a much less resource-intensive way of working with cases that cross over between juvenile and family court.

## **AUTOMATION/FUNDING WORKGROUP – KIM GILLESPIE**

Web-Based Arrears Calculator. Ms. Gillespie explained that the DES applied for a federal grant from the Office of Child Support Enforcement in the amount of \$400,000 to help fund the arrears calculator. A decision will be made around July or August, 2005. Technical support is coming from Maricopa Court and the AOC. A subcommittee comprised of technical experts is meeting in Joint Application Design (JAD) Sessions to design the calculator.

Non-IV-D Mainframe Calculator. The AOC provided funding to program a non-IV-D calculator that will be made available to judicial officers statewide. DES is programming the calculator, including a few enhancements that will be housed on the non-IV-D side of the ATLAS system with an anticipated completion date of June 30, 2005. The next step is to identify court staff that need access to the tool and have them sign user agreements. Training will need to be provided.

## **STATUTE REVIEW WORKGROUP – KIM GILLESPIE**

2006 Legislation. Ms. Gillespie reported that the workgroup has begun discussing ideas for legislative proposals. One issue the group is looking at is the concept of making it easier for alleged fathers in paternity cases to respond and participate in the process. Options include participating early in genetic testing and not requiring them to pay a filing fee for the simplified response document. The idea is to help with the numbers of default cases (50%-60%). The Committee agreed that fees are more a barrier to access than a revenue generator.

The workgroup also discussed developing a simple form that would be provided to the alleged father, similar to a jury summons. A fee would not be required. Streamlining the procedure would help speed up the process. There are approximately 70,000 cases in Arizona where paternity is not established each year.

### 2005 Legislation

#### HB 2259 - Child Support: Children with Disabilities; Maternity; Paternity: Proceedings

- Narrowed the language post majority support by clarifying that support is ordered only when a mental or physical disability is severe. Severity is defined as the child not being able to live independently nor be self-supporting. Also, the disability must have occurred prior to the age of majority.
- Changed terminology in paternity section to conform to remainder of Title 25, e.g. “plaintiff” and “defendant” to “respondent” and “petitioner”.
- Changed terminology from “rules of civil procedures” to the “rules applicable to family law cases.”
- Clarified that the voluntary acknowledgement of paternity can be signed by court staff, not just clerk staff.
- Eliminated the oral answer in paternity cases because it was not being utilized.
- Made it clear that either party could be required to pay the cost of genetic testing or child birth related expenses.

#### SB 1313: Support Payments: Electronic Transfers

- Requires child support payments to be handled electronically. The bill contained an emergency clause.

Senate Bill 1314: Child Support: Paternity Registry

- Creates a paternity registry pursuant to federal law.

**ECONOMIC STUDY WORKGROUP – JUDGE STAUFFER / KIM GILLESPIE**

The workgroup first met in February, 2005, to reviewing past factors used in child support and whether these factors should be considered in designing new guidelines for child support. This meeting took place over a two day period where the group learned about the underlying economics of the guidelines and discussed ideas that should be considered. A presentation was made by Dr. Ira Ellman, Arizona State University, and Dr. Burt Barnow, John Hopkins University. Judge Davis will be helping to set up a survey on child support issues using prospective jurors. Judge Davis explained that the surveys have been revised and the Superior Court is considering the proposal. The goal is to finish it by the end of the summer. Dr. Ira Ellman was assisted by a professor with expertise in developing surveys from Berkeley to develop the survey instrument. They want something reliable and credible that can be used for the purpose of this workgroup. This survey relates a child's financial well being to a child's overall well being.

**PUBLIC OUTREACH/CUSTOMER SERVICE – COMMISSIONER RHONDA REPP**

This group discussed alternative methods of providing child support information to the public for educational purposes. A child support FAQ sheet was provided to the Committee for their review. This is a work in progress and is intended to be provided online. Another topic discussed by this group was providing more information to individuals in the paternity establishment area.

Megan Hunter asked that the Committee provide any input they may have. The plan is to bring a finalized document to the next meeting for a vote. One outstanding issues remains that involves who would pay for printing and distribution of a pamphlet.

**2005 AGENDA ITEMS – MEGAN HUNTER / CO-CHAIRS**

Ms. Hunter explained that she serves on a taskforce sponsored by the federal Office of Child Support Enforcement that is working to build collaborations between the judiciary and the child support system. The taskforce has recognized that Arizona is far ahead of other states in terms of collaboration such as the Child Support Committee. Representative Hershberger acknowledged Megan Hunter's contribution and leadership in putting all this together and that her partnership is valued.

Ms. Hunter asked the Committee to begin thinking about what they want this group to consider and accomplish in coming years. The National Child Support Enforcement Strategic Plan for 2005-2006 was distributed for the Committee to review and give input on what areas they would like to explore. Members suggested:

- Money for the Web-Based Calculator
- More education in the schools – bringing awareness to individuals before ending up in the court system.
  - Teach critical reasoning skills
  - Public speaking

- Research on what other states are doing
- Videos
- Be part of an abstinence program
- Look at the ABA has curriculum for high schools on family law matters

**CALL TO THE PUBLIC**

Mr. George Salaz is a noncustodial parent who lives in Tucson. Mr. Salaz discussed Arizona's statutory ten percent interest rate on child support arrears. He asserted that this may contribute to noncustodial parents walking away from their financial obligations and that ten percent is too high, unfair and penalizes those who have accepted their financial obligations to their children. His opinion is that the system is flawed and counterproductive and defeats the purpose for which it was designed. Mr. Salaz is requesting a re-evaluation, reduction and a repeal of the ten percent interest penalty.

**NEXT MEETING**

Information will be forthcoming on the next meeting date. Mr. Salaz's issue can be a topic of discussion at the next meeting.

**ADJOURNMENT**

Rep. Hershberger adjourned the meeting at 1:00 p.m.

# **CHILD SUPPORT COMMITTEE**

## **MEETING MINUTES**

Arizona Courts Building

1501 W. Washington, Phoenix, Arizona

September 15, 2005

### **PRESENT:**

#### **Co-Chairs**

- Honorable Peter Hershberger
- Honorable James Waring

#### **Members:**

- Honorable Manuel Alvarez
- Robert Barrasso
- Theresa Barrett
- Honorable Bill Brotherton
- David Byers
- Honorable Kimberly Corsaro
- Honorable Norm Davis
- Kim Gillespie
- Leona Hodges
- Dr. Curtis James
- Honorable Michael Jeanes
- Michelle Krstyen
- Ezra Loring
- Suzanne Miles
- Chuck Shipley
- Russell Smoldon
- Honorable Monica Stauffer
- Bianca Varelas-Miller

#### **STAFF:**

Megan Hunter  
Annette Mariani  
Courtney Riddle  
Barbara Guenther

Administrative Office of the Courts  
Administrative Office of the Courts  
Arizona House of Representative  
Arizona State Senate

#### **GUEST:**

Yolanda Sanchez

Custodial Parent

#### **CALL MEETING TO ORDER**

Senator Waring called the meeting to order at 10:04 a.m. without a quorum present.

#### **ANNOUNCEMENTS**

Senator Waring thanked Commissioner Rhonda Repp for her many years on the Child Support Committee and her role as a IV-D Commissioner in addition to serving on various workgroups

of the committee. She is very effective and knowledgeable and her service is very much appreciated.

### Appointments

The following judicial appointments to this Committee were made by Chief Justice Ruth McGregor: Honorable Michael Jeanes, Robert Barraso, Honorable Monica Stauffer and Honorable Norman Davis. Chief Justice McGregor appointed new member, Honorable Kim Corsaro, to serve in the position of IV-D Commissioner representative, replacing Commissioner Rhonda Repp.

### **STATUTE REVIEW WORKGROUP – KIM GILLESPIE**

#### Disability

Representative Hershberger asked this group to take another look at legislation passed this year that amended post majority support for disabled children. The amendment narrowed the statute. There was some concern that this was too restrictive. The workgroup met several times with a parent who has a disabled son. She proposed language that would include a functional definition of disability and a list of criteria. After consideration, the workgroup concluded that being prescriptive would actually make matters worse. Listing criteria may exclude children who may have otherwise been eligible. The workgroup reached consensus that changing the statute would make it worse, and therefore, no recommendations for a legislative proposal is being made.

#### Defaults

The group discussed the high right of defaults particularly in IV-D paternity cases. These individuals do not participate in the process, they do not request genetic testing and they do not typically file an answer. The workgroup considered the possibility of waiving the answer fee for alleged fathers served with a paternity suit. After investigating further, it was deemed that this would be a considerable amount of revenue loss. The workgroup then looked at how to simplify the answer. A suggestion was to have a simple form that was easy to read and would request genetic testing. The ideal would be to have individuals participate in the early stages of the process. The workgroup will continue to look at simplifying forms.

#### Emancipation

The Domestic Relations Committee asked the workgroup to look at the new emancipation statute to ensure that it does not conflict with child support statutes. The workgroup concluded that there was not a conflict, but it would be useful to add a line to the list of factors for emancipation in the statute. The Domestic Relations Committee will be looking into this and other minor changes.

#### Statute of Limitations

The workgroup discussed ramifications from the Arizona Supreme Court decision in the Hayden Case that addressed collection of support after the statute of limitations has run. There was no time to develop a proposal; instead, the workgroup wanted to talk to the committee to determine interest and willingness to make possible changes to the current statute (A.R.S. § 25-503). The workgroup discussed three options:

- Eliminate the statute of limitations
- Amend the current language to maintain the 3 years, but make it explicit that the debt does not expire.

- Lengthen the statute of limitations (5 years or 10 years possibly)
- Provide opportunity for the custodial parent to waive the statute of limitations

The workgroup requested feedback from the committee. The workgroups recommendation is no legislation other than the possible fix to the statute of limitations. Members discussed the following:

*Q: If there is an order and the parent responsible is not paying does the statute of limitation start at that time?*

The statute of limitation starts when the support for the youngest child ends and three years beyond that date. For clarification purposes all that is required is that an action needs to be filed to reduce the total amount that is owed to a judgment. Once the judgment is entered then it is enforceable forever with no expiration. In civil judgments there needs to be a renewal every 5 years. In child support judgments they are valid indefinitely.

*Q: How many cases are we talking about? Are there a lot of instances?*

Yes there are a considerable amount of these cases. In order to preserve your right to collect a party could timely request a written money judgment.

Comments:

Three years is not enough. It seems like too many people are gaming the system. There should be a remedy for individuals to get in and get help. Possibly make it ten years.

What has been happening in older cases where the children are now about 30 years old and the person has been paying because there was no judgment, the debt is gone. Due to the way that ATLAS works, there was no way of knowing that a judgment was needed.

One of the difficulties worked on is the web calculator. It was thought that if persons were able to dial up on a website and found out their status it would be a much easier situation.

With regard to the administrative remedies there seems to be a complex due process problem. There is an ability now to get an administrative review and a determination by the agency. If a person believes that the agency's determination is wrong they have the option to go to court (Judicial Review of Administrative Decision – J-RAD).

Discussion followed on the administrative review process (30 days), the process of persons being served and how this happens.

*Q: How are in-kind situations handled?*

There is a form available (Affidavit of Direct Pay). The signed affidavit will help the clearinghouse to adjust their records. This is used on a regular basis. The person receiving the direct pay has to acknowledge it. The problem with the current arrears calculator is that is not flexible and does not deal with these issues.

*Q: Is there a method in place to freeze accrual interest?*

Yes, in cases that go before the court, frequently the custodial parent in exchange for a large payment and a promise to make future payments will often waive the interest. If the judgment reflects this then that goes back to DCSE and the debt is adjusted. The interest could also be

turned off. The only area where the court has explicit statutory authority to waive interest is when someone has been incarcerated and they have applied to the court for eliminating the interest on the debt.

Senator Brotherton stated that if it is lengthened could it possibly be made somewhat more analogous to a contractual situation (6 years possibly). Bianca Varelas Miller stated that by extending the time, it would help those out in the field who are trying to protect people's rights.

The Committee reached consensus to consider the option of lengthening the statute of limitations. The co-chairs asked staff to provide information from other states at the next meeting.

#### **CHILD SUPPORT SOLUTIONS - MICHAEL JEANES AND LEONA HODGES, CO-CHAIRS**

A non-statistical study was done on 222 cases in the establishment function. One of the findings was that in 29% of these cases, service on the non-custodial parent did not happen. An office of special investigations that does special locates will be expanded. For the cases that go to the Attorney General's office, there will be a special locate team that will work with these cases with the goal of drastically reducing this percentage.

Another area that is being looked at is decreasing the number of days from the date a Judgment & Order is submitted to the judicial officer to the date it is signed and received by the Attorney General's staff. There is a need for court administration to be brought in on this issue.

Debt Set-off Process - 45% of cases received by DCSE had the debt set off by 10 days. New goals have now been set. The IT staff will begin working on more simplified debt set-off screens. There will be staff available in each to have access to the court records online.

The non IV-D newsletter will be produced quarterly and includes information such as the electronic pay cards. Twenty-four thousand letters have gone out and 12,000 responses have been received requesting they be signed up.

In the future the workgroup will look at judgments. If it is decided not to eliminate the statute of limitations, the need to get the court involved in simplifying this process is important. The custodial parents need to have ample notice and the process needs to be more understandable. A partnership with the clerk's office and court administration will be undertaken some time in January or February, 2006.

Michael Jeanes mentioned that another issue that this group has been working on is the effort to obtain an enterprise license for the electronic document management system which would allow the AG's office, DCSE and others access to documents. The verbiage in the agreement will allow for access to other entities to that database. The process of paying for this license is in motion.

This workgroup has also been looking at working on documents that are needed to be recorded in the county recorder's office. Currently, in the county recorder's office there is an elaborate complex manual process that occurs when documents need to be recorded. The Clerk's office now has an electronic system where the documents are scanned in and kept electronically. Work has begun in conjunction with the county recorder's office to automatically transfer documents

electronically from the system being used in the Clerk's office to the recorder's system. This will help to eliminate numerous manual steps. Michael stated that the relationship between clerks and DCSE has never been better in regards to the level of cooperation and the work that is being done. Michael Jeanes recognized Leona Hodges and all her efforts as the reason for this great success. She has been cooperative and willing to work through all the issues.

#### **AUTOMATION/FUNDING WORKGROUP – KIM GILLESPIE**

Kim Gillespie and Leona Hodges announced that the Federal Office of Child Support Enforcement notified them that they have been awarded a Section 1115 grant in the amount of \$400,000. The award resulted from a federal grant application and proposal that was submitted for a web based calculator. This was a collaborative process involving three branches of the government and requires a 5% state match. This is the only grant which is 66% matchable with federal funds even though it is a federal grant. Many letters of support were received, which were essential in proving that there is a process in place. This is very similar to the state disbursement unit project. Meetings will need to be set up. The committee thanked Kim and Leona for their efforts in this endeavor.

The calculator will be called "eCalc". The federal government provided approval for this tool to be built and used in both IV-D and non IV-D cases.

Megan Hunter stated that this is a first of its kind project and has not been done by any other state. She thanked Leona Hodges, Kim Gillespie and Annemarie Mena and all those in their division who worked under a tight deadline to submit the grant. She thanked Judge Davis for pushing this very hard to make it happen. This will be a tremendous asset to Arizona and can be shared with other states.

#### **PUBLIC OUTREACH/CUSTOMER SERVICE – MEGAN HUNTER ON BEHALF OF CHUCK SHIPLEY**

This workgroup developed a document that would be made available to any interested parties regarding Arizona's child support system. A child support FAQ sheet was provided to the committee for their review. The main issue was making this available to the public in pamphlet form. A budget is not available for this endeavor. The alternative is to have this available and put into websites. There will be links to the Child Support Guidelines, the State Bar, the Attorney General's office, DCSE, Clerk of Superior Courts, and Superior Courts. With child support being a very technical complicated system, the group did not want to put out too much information. One outstanding issue remains and that is the cost for printing and distribution of a pamphlet.

**Motion: To accept the Arizona's Child Support Frequently Asked Questions document as presented and immediately put up on the website. The motion was seconded.**

**Vote: Approved unanimously.**

#### **APPROVAL OF MINUTES**

With a quorum present, the minutes were approved.

**Motion: Russell Smoldon moved that the June 7, 2005 minutes be approved. The motion was seconded by Michael Jeanes.**

**Vote: Minutes approved unanimously.**

### **CALL TO THE PUBLIC**

Yolanda Sanchez, a custodial parent who has been owed arrears for many years presented her concerns to the committee. Even if a time limit is put on the non-paying parent how can individuals get away with not making any payments. Ms. Sanchez went on to explain that the father of her child did not appear until the child was 18 years old. Throughout the years, she had known where he was and had reported this to DCSE, but he was never served. Ms. Sanchez asked what happens to individuals that are never served; in the case of individuals that have been found and monies have been extracted from their wages; why is this amount not being put on a DCS card; and why are the monies being held.

Committee members explained that monies are held in suspense when the notification was received regarding the law determination, in order to avoid sending monies back prematurely. This will afford the opportunity to help salvage these cases. The avoidance of passing it on to the custodial parent is not the intend of the process. In 52% of the cases where monies have been held, the cases have been saved.

Whether or not the money is owed legally, under the court decision in Hayden is the issue. Until such time as this has been reviewed and the case has been put in front of the judge if there are facts that warrant it to be put in front of a judge that money needs to be held. The court may order it to be sent back to the paying parent. If there is not written money judgment for all the arrears, then it may not be collectable.

Ms. Sanchez stated that many parents including her have worked very hard throughout their children's lives to give them what they need without help from the non-custodial parent and it seems unjust that individuals just skate through with no regards to their responsibilities.

The committee requested that Ms. Sanchez leave names of the others so that the agencies could work with them on an individual basis.

### **ECONOMIC STUDY WORKGROUP – JUDGE STAUFFER / KIM GILLESPIE**

Kim Gillespie reported that the workgroup has been working on whether the entire guidelines approach needs to be changed. They continue examining the economic analysis methods and model construction methods. They continue to discuss ways to analyze other economic data that is not faulty. The data that is currently being used reflects payments or costs of raising a child in an intact household.

The workgroup has also discussed the premise that the current guidelines are based on. Specifically, providing multiple exceptions in an attempt to make them as fair as possible, this has resulted in lengthy, complicated guidelines. The current model does not account for:

- remarriage
- costs that fluctuate over time
- new spouse and,
- multiple children with multiple partners

The workgroup has also:

- looked at other possible models to recommend to a Guidelines Committee,
- reviewed and considered other models,
- reviewed federal required guidelines, worked with an economist with real world factual circumstances and,
- discussed looking at adjustments for rural counties where the cost of living is lower

The group has worked on a survey that would aid in better understanding the public's perception of child support and the best interests of children.

**2006 STRATEGIC PLANNING – MEGAN HUNTER**

Megan Hunter provided an overview of the Child Support Committee, including:

- History of committee (created by statute, July 17, 1994)
- Goals for the committee
- Mission of the committee
- Makeup of the committee
- Systems that the committee works with (IV-D and Non IV-D)
- Accomplishments made through the committee (support payment clearing house, parent education program, many statutory changes, child support guidelines assistance, guidelines online calculator, arrearages calculators, improved case flow processing and improved public information)
- National rankings

The Committee was encouraged to look at the system as a whole and find areas where integration between all stakeholders can be improved.

Leona Hodges offered to give a presentation at the next meeting to provide information about the IV-D program's measurements. She explained that paternity establishments have increased from 46% to 82% over the past ten years – a significant improvement due in part to collaboration with the courts, particularly Judge Davis in Maricopa County Superior Court. Over 66% of the cases come to the IV-D agency without paternity established. Many of the parties do not have even first names to establish paternity.

Senator Waring asked that as part of the presentation on statistics and measures the following could be addressed:

- tools used by other states to increase performance
- where Arizona was ten years ago
- how the budgets of the agencies that would arguably be responsible for factoring all this out have increased in the last ten or eleven years.

**NEXT MEETING**

The next meeting is scheduled for Thursday, October 13, 2005 at the Judicial Education Conference Center, 541 E. Van Buren, Phoenix, AZ, 10:00 a.m. – 2:00 p.m.

**ADJOURNMENT**

Senator Waring adjourned the meeting at 12:08 p.m.

**CHILD SUPPORT COMMITTEE**  
**REVISED MEETING MINUTES**  
Arizona Courts Building  
1501 W. Washington, Phoenix, Arizona  
November 10, 2005

**PRESENT:**

**Co-Chairs**

- Honorable Peter Hershberger
- Honorable James Waring

**Members:**

- Honorable Manuel Alvarez
- Robert Barrasso
- Theresa Barrett
- Honorable Bill Brotherton
- Honorable Kimberly Corsaro
- Honorable Norm Davis
- Kim Gillespie
- Leona Hodges
- Dr. Curtis James
- Honorable Michael Jeanes
- Michelle Krstyen
- Ezra Loring
- Suzanne Miles
- Chuck Shipley
- Russell Smoldon
- Honorable Monica Stauffer
- Bianca Varelas-Miller

**STAFF:**

Megan Hunter	Administrative Office of the Courts
Annette Mariani	Administrative Office of the Courts
Courtney Riddle	Arizona House of Representative
Kim Martineau	Arizona State Senate

**CALL MEETING TO ORDER**

Representative Hershberger called the meeting to order at 10:11 a.m. with a quorum present. After introductions, Kim Martineau, was introduced as the new staff representative from the Senate replacing Barbara Guenther.

**APPROVAL OF MINUTES**

With a quorum present, the minutes were approved.

**Motion:** Judge Stauffer moved that the September 15, 2005 minutes be approved.

**Vote:** Minutes approved unanimously.

## **BUDGET RECONCILIATION**

Lee Posey, a representative from the National Conference of State Legislatures, informed the Committee about Budget Reconciliation proposals in the U.S. House of Representatives.

### **Background & Overview:**

Budget reconciliations is a budget cutting exercise to essentially balance the budget. HR 4241 proposes to cut the federal match rate for child support enforcement program costs (IV-D programs). The remaining costs are paid by states and counties. The rationale is to bring it in line with other federal match programs. Currently, the federal government pays 66 percent of child support program costs. The proposal phases in the reductions as follows:

- 62% in 2007
- 58 % in 2008
- 54% in 2009
- 50% in 2010

A second recommendation would prevent states from using their performance incentive payments to draw down matching federal funds. Currently, the federal government pays states incentive funds based on their level of child support performance in five measurable areas. States must reinvest these funds in their child support programs or closely related activities, but may claim 66 percent federal matching funds for incentive funds spent on enforcing child support.

The Congressional Budget Office score of this proposal assumes that nearly \$5.2 billion would be cut from the program over the five-year phase-in period between 2006 and 2010. Over the next five-year period between 2010 and 2015 the program would lose more than twice as much funding, or \$10.9 billion according to the CBO. The cuts would reach 40 percent of federal child support funding in 2010. CBO also estimates that federal funding cuts would reduce child support collections by nearly \$7.9 billion in the next five years and \$24.1 billion in the next ten years. CBO's calculations presume that states will backfill a portion of the funding (\$1.6 billion in the first five years, and \$5.2 billion over ten years) to partially make up for the loss in federal funds.

Additionally, the TANF provisions in the bill contain a recommendation to charge custodial parents a \$25 annual fee subtracted from collections. Fees would only be collected after \$500 had been collected in support. Custodial parents other than those who have received TANF assistance would be required to pay the fee and would necessitates state administrative changes for child support programs.

The Unfunded Mandate Relief Act (UMRA) has been raised but is unlikely to be successful. UMRA is used to raise a point of order against a federal bill that contains direct cost increase to intergovernmental transfers that violate a threshold in the bill. This applies to programs with entitlements and half a billion in federal funding.

The potential impact on Arizona would be:

- \$59 million in the 5-year cut
- \$188 million in the 10-year cut

The impact on Arizona collections is projected to be \$94 million over 5 years and \$286 million over 10 years. Rep. Hershberger explained that if cuts go through the House, there has to be agreement between House and Senate before they can proceed. Senate has taken a significant position against these cuts. We are in a unique position to talk about a cost shift to the state if this bill passes. Senator Brotherton inquired whether the Arizona Congressional delegation has weighed in on the bill yet. Ms. Posey was not aware of their stand but recommended that it is a good time to contact the Congressional delegation. The good of weighing in now does continue into conference.

Sen. Brotherton explained that this bill would have significant impact on the state and we as a state will have to come up with more money ourselves or let it go and let that amount of dollars decrease. Kim Gillespie explained that the National Governor's Association, National Association of Attorneys' General and the National Child Support Director's Association have all weighed in against it. Leona Hodges indicated that this will impact not just the child support enforcement program but also the clerks, courts, etc.

Members discussed whether to write to Congressmen individually or as a Committee. Without consensus to write as a Committee, members were encouraged to write individually if they so choose.

#### **AUTOMATION WORKGROUP - KIM GILLESPIE**

Kim reported that JAD sessions are being held weekly and co-chaired by Megan Hunter, AOC, and John Hinnant, DCSE. An Executive Steering Committee consisting of Judge Davis, Annmarie Mena, Kim Gillespie, Leona Hodges and Megan Hunter has met twice and serves as the steering committee for the project.

The goal is to have a completed calculator (called "eCalc" by July 31, 2006). The concept is to provide a good, flexible tool to calculate arrears. It is being programmed with the concept that it will work well for 80% of child support cases. Some cases are difficult to calculate and require a manual calculation. The current arrearage calculator is available only for IV-D cases. eCalc will be for both IV-D and non-IV-D and available on the Internet.

The calculator **needs to be** programmed with specific, clear business rules. The Executive Steering Committee has come up with two issues that need to be addressed by this Committee for possible legislation that would help clarify the business rules and make the calculator more usable. The issues include:

1. When does interest start on delinquent payments? On the IV-D side, interest does not begin to run until the end of the month following the **month** the payment is due. Essentially, the person gets one to one-and-a-half months "interest free". This makes it easier because of order start dates, irregular payments, etc. For ease, this is the way DES has decided to do it.

IV-D and non-IV-D do it differently and it would greatly help if both were done the same. Non-IV-D cases are handled in a variety of ways. In non-IV-D cases, the CP could lose one to one-and-a-half months of interest.

Judge Davis explained that the non-IV-D process helps the court and public to streamline and not get bogged down in minutia. He prefers the month following but that would make it inconsistent with the IV-D process.

Sen. Brotherton asked if this raises due process issue. Should interest accrue the same in both sides? Judge Davis explained that it has never been raised because it has not been a significant issue in non-IV-D cases, but making them the same would help the eCalc project.

Kim mentioned that in both IV-D and non-IV-D, there is a huge amount of uncollected support and interest. While ordinarily everyone should pay **all the child support owed**, that small bit of interest at the beginning **would make the calculation simpler**.

2. Handling adjustments that happen at a hearing, e.g. adjustments for equitable remedies, waivers, credit for direct payments or custody changes or parties agree to settle for different amount. If there is a specific affidavit, it can be plugged into the calculator as a manual payment. If the parties do not know or if court does not know, and parties dispute it, the court makes a decision and thus the adjustment. A legislative proposal that would give the judge authority to do an adjustment at the end of the calculation where timeframes for credit are not clear would ease the problem. The court could either designate the dollar amount in interest and principal that should be deducted from the calculation to arrive at adjusted judgment or the court could decide not to have interest deducted. This should be a below-the-line manner of making it equitable.

Judge Davis explained that if all necessary data points are not present, the adjustment will be applied on the date of the order so the computer knows exactly what to do. When a date is not specified in the court order it causes a problem because we do not know when to apply it. The proposal would clarify that it is applied today and interest is not adjusted.

Kim further explained that a bench card for judges would be helpful that contains a list of recommended dos and don'ts when setting child support orders. This would help the courts, the system and inputting information into ATLAS by clerks. Megan and Kim will discuss further and bring something back to the Committee.

Judge Davis suggested a third legislative proposal that would conform statute to case law and help eCalc. Specifically, a payment that is ordered to be paid that does not contain a specific start date would become due on the first day of the month following the order.

**MOTION:** Judge Davis moved that interest would not begin to run until the end of the month following the end of the month that support is due.

**VOTE:** The motion passed unanimously.

**MOTION:** Theresa Barrett moved that a legislative proposal be created that provides clear language in statute regarding how to handle any adjustment where the amount or application date are not specified in the agreement or the order for child support arrearages where the timeframes are not clear. This would give the court authority to designate how much would be deducted for principal and interest and the court could also decide if a credit applies. If information is insufficient to give the date of application and credit, the credit would be made as of the date of the credit or date of the order as the information is provided.

**VOTE:** The motion passed unanimously.

**MOTION:** Judge Davis moved to create a legislative proposal that any payment that is ordered to be paid that does not contain a specific start date would become due on the first day of the month following the order.

**VOTE:** The motion was passed unanimously.

#### **DIVISION OF CHILD SUPPORT ENFORCEMENT – LEONA HODGES**

Senator Waring explained that as a result of the September meeting where Arizona's rankings in the Federal Office of Child Support Enforcement statistics was discussed, staff performed research on the program's legislative funding history. Funding has almost exactly doubled in ten years and caseloads have decreased. He and Leona spoke recently where she explained some of the reasons for caseloads dropping.

Leona Hodges explained that Arizona has realized population increases but simultaneous child support caseload decreases. Decreases are a result of PRWORA (Congressional legislation) that brought in time-limited benefits, and decreasing TANF caseloads. These caused IV-D caseloads to decrease as well. Additionally, cases have decreased because tribal cases have been shifted from DES to the tribes and also because of case clean-up, e.g. duplicate cases, cases that needed to be closed, etc.

Leona gave a PowerPoint presentation (see Attachment A) on Arizona's performance measurements. The presentation included the following information:

- Arizona's current IV-D caseload is 253,929
- The program is funded with 66% federal funds, 24% DCSE earned funds and 10% state general funds
- Arizona's TANF caseload is 50% higher than the national average
- In 1997, for every \$1 spent / \$1.28 was collected
- In 2005, for every \$1 spent / \$4.42 was collected
- 30% of their expenditures are outside DES (Superior Court, AG legal fees, etc.)
- The total Arizona IV-D arrearage amount is \$1.9 billion (principal and interest)
- The IV-D program is measured in five performance areas:
  - Paternity Establishment – percentage of cases with paternity established
    - Arizona 2005 - 81.1%
    - National 2004 – 80.21%
  - Support Order Establishment – percentage of cases with child support orders

- Arizona 2005 – 73.9%
  - National 2004 – 74.4%
- Current Collections – **amount collected on current support/ total current support owed**
  - Arizona 2005 – 44.36%
  - National 2004 – 58.9%
- Arrears Collections – **amount paid on arrears/total amount of arrears owed**
  - Arizona 2004 – 50.5%
  - National 2004 – 59.9%
- Cost Effectiveness – Dollars collected into dollars expended
  - Arizona 2004 - \$4.42
  - National 2004 - \$4.38

Leona suggested some recommendations to help the IV-D program:

- Encourage non-IV-D population and their attorneys to use IV-D services
- Increase awareness in the paternity arena
- Educate IV-D case participants
- Convert from judicial child support order establishment to administrative establishment through the IV-D agency when both parties agree
- Reduce number of court hearings on initial order
  - Allow automated enforcement actions
- Eliminate need for court to order judgment on arrears
  - 30 day notice to both parties before DCSE records become administrative order of arrears to be filed with Clerk of Court
- Total document imaging acceptance

#### **2006 PLANNING CONTINUED FROM SEPTEMBER MEETING**

Representative Hershberger asked members for input on 2006 committee discussions and initiatives and indicated that current child support collections are key for this Committee to focus on.

Judge Davis explained that most cases start with 3-year judgment meaning the pleading was filed three years after the child was born. If the process was moved closer to the child's birth, a three-year arrearage build-up could be avoided. It also alienates the child from a parent for three years (if you bond father with child earlier on, you improve collections). Another thing that hurts the collection rate is that parents give up on paying child support when they get so far behind, which could help be prevented by early intervention. Representative Hershberger proposed that we refer these issues to the Child Support Solutions workgroup and charged that workgroup with bringing a goal and objectives back to this Committee at the December meeting.

Members also suggested looking at: (1) the interest rate charged on unpaid support; (2) public outreach; (3) simplification of forms and court processes; (4) shorten the time employers have to comply with wage assignments.

**CHILD SUPPORT SOLUTIONS**

Leona Hodges reported that the group continues working on streamlining the judgment of arrears process. She plans to invite Judge Davis to join the group.

**ECONOMIC STUDY WORKGROUP**

Kim Gillespie and Judge Stauffer reported that the workgroup has been meeting where discussions continue about making sure that our policies and numbers match. The group plans to meet in January, March, May and June and have recommendations for this group on an approach to the guidelines that is more realistic and possibly simpler than what they are now.

**CALL TO THE PUBLIC**

No one requested to speak to the Committee.

**NEXT MEETING**

December 6.

**ADJOURNED**

The meeting was adjourned at 12:41 p.m.

**CHILD SUPPORT COMMITTEE**  
**MEETING MINUTES**  
Arizona Courts Building  
1501 W. Washington, Phoenix, Arizona  
December 6, 2005

**PRESENT:**

**Co-Chairs**

- Honorable Peter Hershberger
- Honorable James Waring

**Members:**

- Honorable Manuel Alvarez
- Robert Barrasso
- Theresa Barrett
- Honorable Bill Brotherton
- Honorable Kimberly Corsaro
- Honorable Norm Davis
- Kim Gillespie
- Leona Hodges
- Dr. Curtis James
- Honorable Michael Jeanes
- Michelle Krstyen
- Ezra Loring
- Suzanne Miles
- Chuck Shipley
- Russell Smoldon
- Honorable Monica Stauffer
- Bianca Varelas-Miller

**STAFF:**

Megan Hunter	Administrative Office of the Courts
Annette Mariani	Administrative Office of the Courts
Courtney Riddle	Arizona House of Representative
Kim Martineau	Arizona State Senate

**CALL MEETING TO ORDER**

Representative Hershberger called the meeting to order at 10:06 a.m. with a quorum present.

**ANNOUNCEMENTS**

Representative Hershberger asked if members knew of any legislation that would affect child support and should thus be considered by this committee. None was offered.

**APPROVAL OF MINUTES**

With a quorum present, the minutes were approved.

**Motion:** Senator Brotherton moved that the revised draft of the November 10, 2005 minutes be approved.

**Vote:** Minutes approved unanimously.

### **CALL TO THE PUBLIC**

No requests to speak were received from the public.

### **AUTOMATION WORKGROUP - KIM GILLESPIE**

#### eCalc Update

- JAD group will finish the POD this week and hand off to programmers.
- Business rules are needed to fully or to the extent possible automate the calculator – statutory revisions would be helpful.
- The calculator’s baseline is two-fold: the state case registry indicates what is owed and the support payment clearinghouse indicates what has been paid.
- The calculation should be the presumptive calculation.
- At present, interest does not begin to accrue until the end of the month following the month support is due.
- Put in statute a start date - if court does not state a start date, presumption is the payments start the first day of the month following entry of the support order.
- Equitable credits & adjustments – when adjustment or equitable credit occurs, there needs to be a way reflect this in the calculator. The court needs to precisely identify start and end dates for adjustments.
- Arrears assigned to the State should not be credited without the state’s notification.

### **LEGISLATIVE PROPOSALS**

Judge Davis suggested that we include the statutory ten percent interest rate language in Title 25 because it is currently in the civil judgment statutes and difficult to find. If the Legislature ever decides to change the child support rate for other objectives, it would not have to track the rate of civil judgments.

The group discussed the following for a legislative proposal:

- Interest shall accrue at the annual rate of 10% commencing at the end of the month following the month in which support is due.
- Affidavit of direct payment should be filed with the court or sent to the clearinghouse.
- The court should make a specific finding based on testimony and evidence when credits are allowed.
- The resulting amount produced by eCalc is the presumptive calculation.

**MOTION: To approve the concept of legislation regarding the arrears calculator that will assist with the calculator by stating that the automated data from clearinghouse and case registry shall be used to specify when interest begins to accrue; that indicates the bottom line on the calculator is presumptively correct; and specifies how the parties both in and out of court can obtain equitable adjustments and credits against support. The legislation should also specify when payments are due and that interest commences when the order is both silent and**

**specific, and will provide for a methodology for applying equitable credits and affidavits of direct payment by agreement.**

**The motion was seconded.**

**VOTE: Approved unanimously**

**CHILD SUPPORT SOLUTIONS WORKGROUP – LEONA HODGES & MICHAEL JEANES**

At last month's meeting, the committee asked Michael Jeanes and Leona Hodges as co-chairs of the Child Support Solutions Workgroup to take on the matter of making recommendations to the full Committee on the improvement of current child support collections. They reported that they met and discussed the direction they intend to take the group

Leona stated that increasing child support collections ten fold may not help to get to the level where the state needs to be in improving the state's standing.

- What is needed:
  - Diligently close cases
  - Conduct significant public outreach
  - Bring in cases quicker, and improve case management
- Information on what other states have done to increase child support was presented.

How do we meet 100% of collecting monies? Arizona is at 44% in national level of current support due. Last year 44% was collected of the current IV-D caseload and 40% of the Non IV-D caseload. How are obstacles limited? What are the top priorities in terms of strategy?

- Increasing outreach with the judges early on – no duplicating efforts
- Improving enforcement remedies (state match)
- Improve income withholding orders
- Timeliness of income withholding orders

Rep. Hershberger requested a baseline be established and measurables be defined.

The question was raised as to whether it is a goal to have Non IV-D cases enter the IV-D system. This was discussed as part of the outreach by having individuals apply early on for services (This was Pennsylvania's number one priority that they felt moved them up the ranks).

Judge Davis mentioned that there is a 90% default in IV-D cases. As long as this is present the chances of collecting support is low. Issues that need to be discussed include:

- The interest rate level
- Setting realistic support amounts
- Principle versus interest
- Easier waiver of unrealistic orders

Members suggested the following:

- Interest accrued until after notification.
- Provide more outreach.
- Simplify forms.
- Waive filing fees for respondents for easier access to the court system to reduce the default rate. (Findings: In the Non IV-D side, 90% had attorneys and 10% were defaults)
- Be aware that a 100% collection rate is not realistic because much of it is not collectible.
- Gather demographic information such as income, age, tax intercepts, etc.

Representative Hershberger stated that as goals are set, data on the default rate is important in order to implement strategies and move forward. Bianca Varelas-Miller, Pima County, informed the group that letters have been going out to alleged fathers asking them to call a dedicated line for genetic testing. They have had success with individuals calling in and signing up for genetic testing instead of the standard existing method of using difficult forms. This is a people intensive method, but it has helped with decreasing default rate and increasing the compliance rate.

Representative Hershberger asked the group to keep the focus on the goal of more funding for children.

#### **OTHER DISCUSSION – HAYDEN CASE**

Representative Hershberger asked Kim Gillespie to briefly explain the Hayden case. She explained that it was an Arizona Supreme Court decision that overruled a Court of Appeals decision and stated that the existing Arizona statute of limitations (three years after the youngest child's emancipation) is a bar to any collections - judicial and administrative.

The Committee will be looking at statute of limitations this year, either extending or limiting this.

#### **CALL TO THE PUBLIC**

No members of the public made a request to speak to the Committee.

#### **NEXT MEETING**

The scheduled January 13<sup>th</sup> meeting will be canceled because it coincides with the first week of legislative session. Members will be notified of the next meeting date.

#### **ADJOURNED**

The meeting was adjourned at 11:23 a.m.

**CHILD SUPPORT COMMITTEE**  
**MEETING MINUTES**  
Arizona Courts Building  
1501 W. Washington, Phoenix, Arizona  
August 11, 2006

**PRESENT:**

**Co-Chairs**

- Honorable Peter Hershberger
- Honorable Ron Gould

**Members:**

- Honorable Manuel Alvarez
- Robert Barrasso
- Honorable Bill Brotherton
- David Byers
- Honorable Kimberly Corsaro
- Honorable Norm Davis
- Kim Gillespie
- Leona Hodges (Designee - AnnMarie Mena)
- Dr. Curtis James
- Honorable Michael Jeanes
- Michelle Krstyen
- Ezra Loring
- Chuck Shipley
- Russell Smoldon
- Honorable Monica Stauffer
- Bianca Varelas-Miller

**STAFF:**

Theresa Barrett	Administrative Office of the Courts
Kim Ruiz	Administrative Office of the Courts
Dan Brown	Arizona House of Representative
Barbara Guenther	Arizona State Senate
Kim Martineau	Arizona State Senate

**GUEST:**

Professor Ira Ellman

**CALL MEETING TO ORDER**

Representative Hershberger called the meeting to order at 10:10 a.m. with a quorum present.

**ANNOUNCEMENTS**

Megan Hunter's last day with the AOC was July 28. Kim Ruiz will be staffing the Committee until a permanent replacement is found. There were no other announcements.

## APPROVAL OF MINUTES

With a quorum present, the minutes were approved.

**Motion:** Senator Brotherton moved that the presented draft of the December 6, 2005 minutes be approved.

**Vote:** Minutes approved unanimously.

## 2006 LEGISLATIVE SUMMARY – KIM MARTINEAU

Kim Martineau provided members with an overview of child support-related and domestic relations - related legislation. Member's comments are indicated in relevant sections under "Comment(s)". The general effective date this year is September 21, 2006.

BILL	CHILD SUPPORT - STATUS
HB2292	(Recommended by this Committee) Signed by the Governor on April 21, 2006 and will become effective the general effective date.
SB1194	Never received a third read in the Senate, so this bill did not pass into law this session. Comment(s): The sponsor pulled this bill.
SB1294	Failed in the House Judiciary Committee; similar provisions passed in another bill.
HB2026	Did not receive a hearing in the House Judiciary Committee, so this bill did not pass into law.
HB2279	Did not receive a hearing in the House Human Services and Rules Committee, so this bill did not pass into law this session.
HB2342	Signed by the Governor on April 12, 2006 and will become effective on the general effective date.
HB2488	Signed by the Governor on April 25, 2006 and will become effective on the general effective date. Comment(s): Sections of this bill address the Hayden case and the elimination of the three year limit.
HB2561	Did not receive a hearing in the House Ways and Means Committee, so it did not pass into law.

BILL	DOMESTIC RELATIONS - STATUS
SB1087	Signed by the Governor on May 2 and will become effective on the general effective date of September 21, 2006.
SB1267	Emergency measure. Signed by the Governor on June 21 and went into effect immediately due to the emergency clause.
HB2716	Neither version passed committee. HB2716 was held in the House Human Services and House Rules Committee. The latter striker version (HB2413) was held in the Senate Family Services Committee. Proponents of the legislation will continue to work on it and propose a similar bill in the next legislative session.
HB2559	Vetoed by the Governor on June 28, 2006.
HB2794	Did not receive a hearing in the House Judiciary Committee, so it did not pass into law this session.

BILL	DOMESTIC VIOLENCE - STATUS
SB1097	A strike everything amendment was adopted in Senate Family Services. Another strike everything amendment passed the House and was vetoed by the Governor.
SB1147	Signed by the Governor on May 2, 2006 and will become effective on the general effective date.

### **ECONOMIC STUDY WORKGROUP - KIM GILLESPIE & IRA ELLMAN**

Kim Gillespie gave a brief background of the creation of the Economic Study Workgroup, which emerged from the last Child Support Guidelines Review Committee. Professor Ellman presented to the Child Support Committee in 2004 the need for a study committee to be created to look at the issues of the economic basis behind the child support guidelines before the next guideline review. The Economic Study Workgroup was established in January 2005 to look at the economic principles behind the numbers. Kim noted that federal law requires that states review their Child Support Guidelines every four years. Arizona's guidelines are due to be reviewed in 2007. The Workgroup's report proposes the following:

- "Surprises" arise that have an impact on children when the parents have disparate incomes. Particularly when the custodial parent has an income much lower than the obligor's. This situation causes a significant drop in the living standard for the household in which the child is living.
- This report recommends the type of information that the Guidelines Review Committee should have access to when making decisions. In past reviews a consultant has been retained to update only the existing schedule data. The workgroup recommends that the consultant be asked to provide a whole new type of data.
- The economic data provided to the next Child Support Guidelines Committee should be "forward looking" data that allows the committee to see the impact of the award on the families as they exist today, rather than backward at the single family household that no longer exists.
- A pilot study has been conducted by Ira Ellman and associates looking at people's attitudes toward child support and what they feel the purpose of child support should be.
- Currently the majority of cases have no great problems; rather it is the cases with a gross disparity of incomes between families that the current system does not function effectively.

The Committee members had the following comments and questions:

- In a significant portion of the total child support cases in Arizona the parents were never married (potentially 35 – 45%). In many of these cases the parents never shared an intact household lifestyle or previous relationship, so there is no change of lifestyle for either or the child.
- Ira suggested the forward looking data was at least as reliable as the current data, possibly better.
- Consensus was, for the majority of cases the current data is accurate and reliable.
- There was not consensus on the third proposed purpose of child support on page one of the report.

- An issue for next Guideline Review Committee to consider is simplification of the guidelines and the calculation process. It was argued this would achieve public policy benefits and cost benefits.
- The report does not provide an option of collecting both types of data (current data and proposed “forward” data). It was suggested that, at a minimum, the existing data will need to be updated to maintain the ability to update the current schedule if it is determined to be most reliable.
- The Guidelines Committee is appointed by the judiciary and reports to the Child Support Committee and to the court.
- Concerned was voiced that if the Guidelines Review Committee proposal potentially leads to a major shift in public policy it could pose a challenge for the courts to adopt the recommendations. Committee consensus was that public policy debates need to occur in the legislature not the courts.

**Motion:** The Committee accepts the Economic Study Workgroup report in terms of asking for additional information and recommends the Court incorporate the proposed questions in section VI(C), on page four of the report, in the RFP for the consultant hired to update the current schedule. In addition to collecting the proposed “forward thinking” data, the Committee further recommends obtaining data based on the methodology used in previous reviews for the next Child Support Guidelines Review Committee’s use and future policy making decisions.. The Committee also recommends exploring simplification of the guidelines. The motion was seconded.

**Vote:** Approved unanimously.

#### **AUTOMATION WORKGROUP – KIM GILLESPIE**

##### eCalc Update

- The data being used from the state case registry and state disbursement unit has unique identifiers that are numbers.
- The Executive Committee approved the addition of a drop-down menu to search for court case numbers by county as well as ATLAS numbers.
- The programmers have nearly completed the draft, and they are currently in their testing phase.
- The user testing will take place the week of September 4, 2006. The program is internet based, so users can conduct their testing at their convenience. Theresa Barrett is coordinating non-IV-D participants and Kim Gillespie is coordinating IV-D participants.
- After the user testing is complete, the programmers will make any additional changes identified, as feasible.
- The anticipated live date is October 4, 2006.

#### **STATUTE REVIEW WORKGROUP – BOB BARRASSO**

The mandate of the Workgroup is to fine-tune language and draft statutory language for items that the full Committee identify, as well as self-generating ideas to bring back to the Committee for consideration.

Committee members were asked to join the workgroup and the following members volunteered:

Bianca Varelas-Miller  
Senator Bill Brotherton

The Workgroup Chair reported on the following issues that they are addressing:

- Establish a provision for temporary Parenting Time or Custody Orders while paternity is being established. Currently, the modification made to statute 25-806 which requires the filing of a response to a paternity judgment and eliminated verbal answers, resulted in long delays for fathers attempting to establish custody or parenting time when paternity has not been established. The Workgroup will research other states with provisions allowing temporary Custody Orders for Parenting Time. Discussion points included:
  - This is the exact situation that makes the voluntary acknowledgement of paternity at the hospital so important. It is the equivalent of adjudication on the marriage or a court order, which eliminates the waiting period for paternity when establishing custody.
  - This issue might be addressed better by finding ways to speed up the paternity establishment process, rather than allowing temporary custody for technically a legal stranger.
- There are also a number of topic suggestions from the Child Support Solutions Workgroup that will be presented at the next committee meeting. It was noted that members of the Statute Review Workgroup and the Child Support Solutions Workgroup need to work closely to ensure the issues are communicated accurately.

#### **CALL TO THE PUBLIC**

No members of the public made a request to speak to the Committee.

#### **NEXT MEETING**

September 15, 2006

10:00 a.m. – 2:00 p.m.

State Courts Building, Room 230

#### **ADJOURNED**

The meeting was adjourned at 1:13 p.m.

**CHILD SUPPORT COMMITTEE**  
**DRAFT MEETING MINUTES**  
Arizona Courts Building  
1501 W. Washington, Phoenix, Arizona  
September 15, 2006

**PRESENT:**

**Co-Chairs**

- Honorable Peter Hershberger
- Honorable Thayer Verschoor

**Members:**

- Honorable Manuel Alvarez
- Robert Barrasso
- Theresa Barrett
- Honorable Bill Brotherton
- Honorable Kimberly Corsaro
- Honorable Norm Davis
- Kim Gillespie
- Leona Hodges
- Dr. Curtis James
- Honorable Michael Jeanes (designee Laura Eng until arrival)
- Michelle Krstyen
- Ezra Loring
- Chuck Shipley
- Russell Smoldon
- Honorable Monica Stauffer
- Bianca Varelas-Miller

**STAFF:**

Kim Ruiz  
Barbara Guenther

Administrative Office of the Courts  
Arizona State Senate

**CALL MEETING TO ORDER**

Senator Verschoor called the meeting to order at 10:13 a.m. with a quorum present.

**ANNOUNCEMENTS**

Senator Verschoor was appointed to the Child Support Committee on August 14 as the new Senate co-chair of the Committee. Senator Verschoor shared his background with the members and indicated he was looking forward to working with the Committee. There were no other announcements.

**APPROVAL OF MINUTES**

With a quorum present, the August 11, 2006 minutes were approved.

**Motion:** Senator Brotherton moved that the presented draft of the August 11, 2006 minutes be approved. Seconded.

**Vote:** Minutes approved unanimously.

### **CHILD SUPPORT FAQ**

Kim Ruiz presented a FAQ document for child support questions that was produced by the Public Outreach/Customer Service Workgroup and approved by the Child Support Committee. The document is on the Arizona Supreme Court website at:

<http://supreme8/dr/childsupsup/FAQ.htm>

Kim indicated the document is available for other agencies to use on their websites.

**ACTION:** It was recommended that the underlined sections be bolded instead, because they give the impression of being a link.

### **CHILD SUPPORT UPDATE**

Leona Hodges gave an update on the five federal child support performance measures and how Arizona is performing. Leona then identified programs DCSE has implemented to improve paternity establishment:

- Outreach to hospitals to include:
  - Child support services and paternity/genetic testing information
  - Paternity Affidavit information (it was noted 41.9% of children born in Arizona are born out of wedlock, well above the national average)
- Provide trainings to hospital staff

It was recommended DCSE explore partnership with the Division of Benefits and Medical Eligibility to establish paternity for all births covered by AHCCCS.

**ACTION:** Leona will follow-up with DBME to propose paternity establishment when determining eligibility for AHCCCS. She'll report back to the Committee at the November meeting.

Leona reported that, based on the findings of an Urban Institute Study, the Arizona policy of interest on arrears does not have an impact on noncompliant obligors. In addition, the study found that noncompliant obligors are generally not impacted by incentives to start paying.

The discussion then turned to what is being done to improve the parent-child relationship once paternity is established. The following points were made by other committee members:

- There are various organizations, classes and outreach programs for single parents and specifically fathers; unfortunately there is not a lot of father turnout.
- It was suggested the structure of the system discourages obligor involvement. From the federal government through our court system the focus is solely on enforcement and collections, not the parent-child relationship. Child support collection is the stiffest enforcement we have by law. It is an intimidating system for non-custodial parents to access.
- Another example given was the process for establishing the child support order. If the non-custodial parent is not present to state their income at the hearing, an income assumption is made and entered in the order. The child support order amount is based on that number and cannot be changed until the non-custodial parent comes forward to show

their actual income. Even then, they are not able to adjust past payment requirements, only future payments.

Finally, Leona reported on the following areas of enforcement that have increased payments:

- Recent legislation that changed child support payments from live checks to the EPC debit card and direct deposits has improved the efficiency of payment processing and reduced administrative costs.
- The Autodialer program started September 8, 2006. Calls clients to remind them of upcoming hearings and appointments, first payment due date and/or if there has been a missed payment. In the past, obligors weren't notified of collections until they were approximately six months behind. Furthermore, even though they receive a monthly statement which shows late payments and the accruing interest, many obligors are not aware of the amount of interest that accrues on late payments.

### **STRATEGIC PLANNING**

The Committee members proposed the following topics to discuss and investigate in future meetings:

- The public policy issue of whether 10% is a reasonable assessment of interest in a family law context and develop practical alternatives to the current system for the accrual of interest.
- Ways to improve non-custodial parent involvement. At a recent National Conference of State Legislators meeting it was reported that studies have shown the more involved non-custodial parents are with their children, the more likely they are to make child support payments.
- Grandparents' eligibility for assistance when they have custody of grandkids. The Child Support Guidelines and rules allow for the collection of child support from both non-custodial parents, but very rarely do grandparents want the child support order enforced against their child.

### **CALL TO THE PUBLIC**

No public present.

### **CHILD SUPPORT SOLUTIONS RECOMMENDATIONS**

Leona gave a brief history of the how the Child Support Solutions Workgroup was formed to find ways to improve the collections ratio (amount collected/amount owed) in Arizona, based on the federal performance measures. The Workgroup completed their charge and developed the following proposals for the Committee's approval:

1. Develop the following proactive outreach methods to educate people on the importance of staying current with child support payments, so child support is collected when it is most beneficial for the child:
  - Put posters and IV-D information and application in Clerk of Court offices, court houses and DES offices across the state.
  - Work with the Birth Registrars at the hospitals to help establish paternity and provide child support service information to unwed parents. These programs are currently underway.

- Posters have also been placed in Tucson malls and on Tucson city buses.
- Requests have also been made with local radio and television stations to make public service announcements.
- A one-page “EZ” application was also created for people that already have a court order established and they are looking for enforcement. They will be placed in the Clerk of Court offices and self-service centers.
- Consider a statute of limitations change to only allow arrears to be calculated back to the date of filing for child support with the court or filing date for IV-D services, rather than the current statute of calculating back three years.

The following discussion ensued:

- 64% of those that owe arrears in support report an annual income of \$10,000 or lower.
- It was recommended to include a search of the 4A system along with New Hire for obligor’s income because 4A requires income disclosure for food stamps.
- It was questioned whether the children receive any benefit from all the enforcement tools utilized to reduce the denominator (arrears) of the state ratio, or if it is solely an indirect benefit through the DCSE incentives. This is an ongoing public policy struggle of balancing what is in the best interest of the child and what is in the best interest for the state as a whole and the programs that improve child support enforcement.
- It was suggested that the problem is not a lack of remedies available to DCSE for enforcement; the problem lies in the unforgiving structure of the system. There needs to be greater judicial discretion to forgive interest or part of the arrears based on information presented.

**No action was necessary on this proposal.**

2. Request the Family Law Rules Review Committee review Rule 44(A)(B) regarding the default process, to add language that requires specific arrears information be provided to the defendant regarding the hearing. The calculated estimate of arrears should be on the Affidavit of Default.

The following comments were made:

- The estimated arrears amount should be in a prominent area, so it easily catches the attention of the obligor.
- The finality of the consequences if they fail to appear should also be included.
- It was suggested to presumptively start child support from the time the petition is filed then allow discretion on what to add to the order for support of the past three years. Guidelines can be established to determine what factors to consider in the decision, such as why the parent waited to file, the income of the parties, the collectibility of the arrears, etc.
- The discretion should also encompass alternative solutions for how to impose the arrears, such as being able to adjust the monthly payment to include the arrears amount, without labeling it arrears which means the 10% interest won’t be applied and it won’t count against the denominator of the state ratio.
- Court rules can regulate how the statutes are enforced, but they cannot change the statutory authority, so we might want to look at a statutory change, not a rule change.
- If we eliminate the three year statute of limitations it could have a negative affect in other areas such as TANF requirements.

**The Committee agreed to recommend to the Statute Review Workgroup:**

- **Outline factors for the courts to take into consideration for changing a past order and establish a standard for what should be considered in making a calculation to reduce, eliminate or use alternate options that are reasonable and not arbitrary for arrears.**
- **Allow judicial discretion with statutory reasons for adding to the monthly amount the pre-filing accrual in appropriate circumstances.**
- **Require the calculated estimate of arrears be on the Affidavit of Default along with language that explains the finality of judgment.**

3. Leona briefly overviewed the workgroups' discussion on triage of the IV-D caseload. Leona reported prioritizing resource allocations was found to not be allowable under Federal regulations and giving the state administrative authority to suspend drivers licenses was determined to be too controversial.
4. Leona and Michael presented the following workgroup proposal for remedies to eliminate or reduce interest:
  - Expand Title 25-327(D) to give further judicial discretion on when to impose interest
  - Interest stops accruing once the last child reaches age 19 (emancipation). Put a cap on the arrears amount.
  - Give judicial discretion to extend interest after emancipation if there is a finding of bad faith

**The Committee agreed to recommend the Statute Review Workgroup expand judicial discretion in Title 25-327(D) to determine when to impose interest, stop interest from accruing once the last child reaches age 19 and order interest accrual if there is a finding of bad faith.**

5. Leona and Michael reported on the workgroup's proposal to have the Statute Review Workgroup expand the time limit an obligor has to file a motion for relief from a judgment and address the finality of judgment issue. This will be going against decades of case law, but the workgroup agreed it is appropriate with the trend toward pro se litigants.

**The Committee agreed to recommend the Statute Review Workgroup expand the time limit an obligor has to file a motion for relief from a judgment and reconcile the finality of judgment issue.**

6. Leona and Judge Davis reported on a job training pilot test they have set-up in the Maricopa County court to improve job training accessibility for both custodial and non-custodial parents that is anticipated to begin in October.
7. The workgroup proposed creating a tax credit program for employers that hire felons with child support orders. The workgroup asked that it be sent to Legislative Council  
**It was agreed to send the proposal to legislative council for input on the amount of the credit and the cost to the state.**

8. The workgroup proposes a statutory change to include “holder of monies” in the new hire system to capture the contract labor section of the workforce. Currently all employers are required by statute to report all new hires, but it doesn’t include 1099 / contract labor.

**It was agreed to send the proposal to the Statute Review Workgroup to draft and also reconcile the language with the maximum withholding statute.**

9. Leona gave a brief recap of a recent mailing they did of child support arrest warrants. They had some response and payments made, but they are still assessing whether it is worth trying again.

10. Leona reported that DCSE is unable to “write off” any uncollectible debt like a business practice, because it is not a debt to the state; it is a debt to the custodial parent. They are going to more aggressively enforce federal policy guidelines that allow them to close certain cases. The guidelines permit DCSE to close a case after three years if they are unable to locate a non-custodial parent with a known social security number and close after one year if the social security number is unknown. Closing a case does not remove the debt; it simply removes it from federal reporting.

The following discussion ensued:

- Even though the case is closed to the state, the debt to the obligor has no statute of limitations. There is no finality or closure of the debt. There should be a statute of limitations that limits how long after a child emancipates a party can file for payment of support from the non-custodial parent.
- There was a statute of limitations that was three years after emancipation of the youngest child (*Hayden* case). It was eliminated because of the backlash it caused for custodial parents that thought remedies were still available. The three year statute of limitations put a burden on the custodial parent, state and administration.
- A longer statute of limitations such as five or seven years should be considered.

**The Committee agreed to have the Statute Review Workgroup consider drafting a new statute of limitations, longer than three years.**

#### **STATUTE REVIEW UPDATE**

Judge Davis, on behalf of Bob Barrasso, presented the following two issues the Statute Review Workgroup recently reviewed:

- Social Security Numbers on Petitions: Currently the petition for paternity requires a social security number which the sensitive data sheet was created to keep that information from public record. The problem is that many people still put their social security number on the petition, because the statute states it is required. The only reason a social security number is needed is the federal IV-D requirement that it be filed in the case of record and for collection purposes it needs to be on the Order of Assignment. The Workgroup agreed to delete the requirement for having the social security number on the petition and to draft statutory language that changes it to the “record of the action” which would be the sensitive data sheet.
- Temporary Parenting Time and Custody Orders: The issue is a father’s visitation and custody rights during the time between when a paternity action is filed and the time the

court establishes paternity. A.R.S. § 25-817 provides the following four circumstances under which a temporary child support order be established:

- Genetic test
- Acknowledgement
- Admission of paternity in written document
- Clear and convincing evidence

The Workgroup would like to expand the statute to include temporary parenting time and custody orders, but make the statutory language may rather than shall.

**NEXT MEETING**

November 3, 2006

10:00 a.m. – 2:00 p.m.

State Courts Building, Room 230

**ADJOURNED**

The meeting was adjourned at 2:03 p.m.

**CHILD SUPPORT COMMITTEE**  
**MEETING MINUTES**  
Arizona Courts Building  
1501 W. Washington, Room 230  
Phoenix, Arizona  
December 1, 2006

**PRESENT:**

**Co-Chairs**

- Honorable Peter Hershberger
- Honorable Thayer Verschoor

**Members:**

- Honorable Manuel Alvarez
- Robert Barrasso
- Theresa Barrett
- Honorable Bill Brotherton
- Honorable Kimberly Corsaro
- Honorable Norm Davis
- Kim Gillespie
- Leona Hodges
- Honorable Michael Jeanes
- Michelle Krstyen
- Ezra Loring
- Chuck Shipley
- Russell Smoldon
- Honorable Monica Stauffer
- Bianca Varelas-Miller

**STAFF:**

Kathy Sekardi  
Kim Ruiz  
Barbara Guenther

Administrative Office of the Courts  
Administrative Office of the Courts  
Arizona State Senate

**CALL MEETING TO ORDER**

Judge Norm Davis, acting Chair, called the meeting to order at 10:25 a.m. without a quorum present.

**ANNOUNCEMENTS**

Judge Davis introduced Kathy Sekardi, the new Child Support/Family Law Specialist. The members in attendance discussed how to proceed with the Statute Review Workgroup proposals in light of there not being enough members for a quorum. It was agreed to move forward with the presentation and discussion and have the minutes reflect the consensus of the group.

## **APPROVAL OF MINUTES**

Without a quorum present, the September 15, 2006 minutes were not approved and will be presented at the next meeting.

## **STATUTE REVIEW WORKGROUP PROPOSALS**

### **Title 25 Amendments**

Kim Gillespie and Janet Sell of the Attorney General's Office presented the following proposed identity protection based changes made to A.R.S. Title 25:

- It was found that some statutes still contain social security number (SSN) requirements on documents that are public record. A new subsection A.R.S. § 25-501(G) was drafted to move the requirement for SSN's from the petition or complaint to the "record of the proceeding" which satisfies federal rule and Arizona statutes through the use of the *Sensitive Data Sheet* created in the Arizona Rules of Family Law Procedure.
- A.R.S. § 25-314 requires SSN's in a petition for dissolution of marriage. The proposed change removes the language from (A)1 and 3 requiring the SSN in the petition and references the newly drafted A.R.S. § 25-501(G) which moves it to the *Sensitive Data Sheet*.
- A.R.S. § 25-502 requires SSN's in a petition to establish support. The proposed change removes the language from (I) and (J) requiring the SS# in the petition and references the newly drafted A.R.S. § 25-501(G) which moves it to the *Sensitive Data Sheet*.

### **Committee Comments:**

- It was suggested changing the "may" leniency of the proposed A.R.S. § 25-501(G) to "shall" to match the language of the statutes referencing it. If *pro se* litigants are reading the statute "shall" would be a better way of informing them they need to record their SSN in the *Sensitive Data Sheet* and not on the petition.
- It was drafted with "may" to allow for flexibility if the rules requiring it change.
- If it is changed to a "shall" there could be an unintended consequence of someone violating the statutory requirement if they do include it. This could be a liability issue if published, creates a standard of care. Would the Clerk of Court have a separate duty to keep it out?
- Right now the burden is on the filing party to keep the SSN out of the pleading, because the clerk's office does not have the resources to read every pleading to ensure SSN's are redacted.
- The problem with leaving the burden on the filing party is there is no "gatekeeper" to manage and monitor the requirement. A possible next step for the future is to research a proposal for additional resources for the clerk's office, so they can be the gatekeepers of SSN's being redacted from public documents.
- There may be technology in the future that will scan documents for nine digit, social security type numbers. This will allow the clerk's office to review each document, but until that technology is in the clerk's office the lack of resources means the burden needs to stay with the filing party.
- The last sentence also includes the requirement for the document to be "maintained" which could be interpreted to mean the clerk's office will keep the document.
- It was agreed to change the last two sentences of A.R.S. § 25-501(G) to read:  
This requirement **shall** be satisfied by filing a separate pleading containing the social security numbers and any other sensitive data as defined by court rule.

This separate document **shall** be segregated from other pleadings in the case and maintained (~~remove: as a~~ confidentially (~~remove: document~~) as permitted by court rule.

Janet continued:

- A.R.S. § 25-504 is the judicial order of assignment statute. An Order of Assignment needs to contain the SSN so language was added to (C), but the request for an Order of Assignment does not need to require it so the requirement was removed from (B)4

Committee Comments:

- It was suggested adding language that makes it clear the Order of Assignment is enforceable and must be processed even without the SSN. The following additional language was suggested:  
The absence of a social security number does not invalidate the Order of Assignment.
- One foreseen challenge to the proposed language is that federal employers require a valid social security number on the Order of Assignment and if it isn't included they reject the order.
- There is also a requirement in the statute that they be provided in Spanish, which will potentially be affected by Prop 300.

Janet continued:

- A.R.S. § 25-505.01 requires the SSN in the order that goes to the employer for administrative income withholding. Since it doesn't require the SSN on a document for public record there is no need to change this statute.
- A.R.S. § 25-806 describes what should be in a petition for paternity. The proposed change removes the language from (A) and (B) requiring the SSN in the petition and references the newly drafted A.R.S. § 25-501(G) which moves it to the *Sensitive Data Sheet*.
- A.R.S. § 25-812 the voluntary acknowledgement of paternity requires the SSN with an affidavit filed with the court. The proposed change added language to (A)1 to allow the redaction of the SSN and separately filed as referenced in the newly drafted A.R.S. § 25-501(G) which moves it to the *Sensitive Data Sheet*.

Committee Comments:

- It was asked who would be responsible for the redaction and Janet responded that the rule says the filing party is responsible. It was suggested adding language to make it clear the filing party needs to redact the SSN's.

It was also suggested to broaden the language for whose SSN is to be redacted, so people know children's SSN's should also be redacted even though they are not parties.

The second line of A.R.S. § 25-812(A)1 now reads:

If the voluntary acknowledgement is filed with the court, **the filing party shall redact** any social security numbers and file them separately as provided by § 25-501(G).

It was recommended adding the following sentence to § 25-501(G):

Any social security number filed shall comply with Arizona Rules of Family Law Procedure Rule 43(G).

Rule 43 also has an exception for Uniform Interstate Family Support Act (UIFSA) documents. The required federal forms still require social security numbers and they

must be included when they are sent to another state. The exception was drafted in Rule 43 solely for the purpose of these forms.

- If it complies with rule 43, then it is still maintaining the status quo. Keeping the last sentence of § 25-501(G) "...as permitted by court rule," accomplishes the proposed sentence about Rule 43, while not conflicting with the exception for UIFSA documents.
- Rule 43 is not necessarily read as mandatory. It simply provides another way to record the SSN that the statute requires.
- It was proposed and agreed to change § 25-501(G) to the following:  
In any case filed under this title, including an action filed under chapters 3, 5, 6 or 9, if a duty of support for another person exists or may exist, the social security numbers of the parties and any affected children shall be filed in the record of the proceeding and included in the state case registry. **This requirement shall be satisfied as directed in the Arizona Rules of Family Law Procedure relative to sensitive data. [remove last two sentences]**

Janet continued:

- A.R.S. § 25-1251 is part of the UIFSA requirements and requires the SSN in the petition. The added language in (A) uses "may" to be in compliance with the federal requirements.
- A.R.S. § 25-1302 is similar to § 25-1251 with similar language added to (A)4a.

Committee Comments:

- The "if necessary" can be interpreted in unintended ways, so it was recommended and agreed to remove it from both statutes.
- The broadened language from § 25-812(A)1 needs to be added here also to include children's SSN's.
- The newly proposed language for A.R.S. § 25-1251(A) reads:  
Any social security numbers may be redacted and filed separately as provided by section § 25-501(G)
- § 25-1302 just needs to have "if necessary" removed.

RECAP of changes to proposals:

A.R.S. § 25-501(G)

In any case filed under this title, including an action filed under chapters 3, 5, 6 or 9, if a duty of support for another person exists or may exist, the social security numbers of the parties and any affected children shall be filed in the "record of the proceeding" and included in the state case registry. This requirement shall be satisfied as directed in the Arizona Rules of Family Law Procedure relative to sensitive data.

A.R.S. § 25-812(A)1

If the voluntary acknowledgement is filed with the court, the filing party shall redact any social security numbers and file them separately as provided by § 25-501(G).

A.R.S. § 25-1251(A)

Any social security numbers may be redacted and filed separately as provided by § 25-501(G)

A.R.S. § 25-1302(A)4.a.

Obligor's social security number may be redacted and filed separately as provided by § 25-501(G).

**Judge Davis asked the committee members if there was any opposition to the presented amendments and proposed changes to the amendments. There was no opposition.**

### **Temporary Parenting Time and Custody Orders**

Bob Barrasso presented the proposed new legislation for temporary parenting time and custody orders with a presumption of paternity. Bob gave a brief background of how the amendments made to § 25-806(D) had unintended consequences on fathers without established paternity. The proposed legislation helps to close the loophole of presumptive fathers not being granted parenting time while paternity is established. The legislation uses the language and requirements of A.R.S. § 25-817. Temporary support orders; presumption of paternity, and applies it to temporary custody orders. Initially, the workgroup amended § 25-817 to include custody orders, but when it was presented to the Committee on the Impact of Domestic Violence and the Courts for comment, the incorporation of their suggestions made it necessary to create a separate statute. The proposed new statute contains the following:

- The same four standards of § 25-817.
- The same language from § 25-817(B) and (C), but applied toward temporary custody orders.
- The requirement of a hearing and compliance with § 25-403.
- The additional standard requirement of an existing relationship between the child(ren) and the presumptive father.

#### **Committee Comments:**

- It was suggested that the two statutes should be kept together in concept either as corresponding statutes (it is believed § 25-819 is open) or as a second part of § 25-817.
- It was agreed the legislative council would determine the manner in which the statutes will be related.

**Judge Davis asked the committee members if there was any opposition to the presented legislation. There was no opposition.**

### **Judicial discretion when settling arrears**

Bob Barrasso reported that the Workgroup determined judicial discretion with arrears was going to be too controversial for legislation, especially with custodial parents. There was also concern that judicial discretion to settle an arrears balance would violate the federal statute that orders cannot be retroactively modified, and the court cannot settle a debt that belongs to a third party (custodial parent) without their consent.

### **Stop interest accrual when the youngest child reaches 19**

Bob Barrasso briefly presented the discussion the Workgroup had and the various ideas presented. Some workgroup proposals were:

- Stop the accrual of interest on arrears when the child reaches 19.
- Lower the rate at which interest accrues when the child reaches 19.
- Judicial discretion to stop interest accrual when the child reaches 19 (not automatic).

Bob asked the Committee to further discussion and brainstorming the issue to see if a viable option could be reached.

#### **Committee Comments:**

- Some members didn't support changing the interest accrual. It is the noncustodial parent's responsibility to pay their child support and the court should not be able to change that obligation, including the interest.
- There is no discretion with regard to arrears because the federal law and Arizona case law, but there is discretion with how interest is applied. It varies greatly from state to state, and Arizona is one of the few states that collect interest.
- The legislature would probably be most responsive to the proposal of the interest changing at 19.
- Judge Davis stated that the interest is only part of the problem in the "hopeless" cases. The three year arrearage judgments coupled with the interest make it so there is no chance of collecting. The three year judgment has to be addressed also. Possibly consider a time period after a child is born that child support needs to be sought. A time period more reasonable than three years, like thirty days. As the world becomes more global and transient people are harder to locate especially when there is a gap of time. The gap needs to be closed.
- Bob Barrasso added that it is also the obligors in the hopeless cases that turn to underground cash employment. The committee should consider legislation regarding due diligence on the mother's part.
- The State can administratively forgive arrears that are due the state, but the State cannot forgive arrears due the custodial parent.
- Leona recommended lowering the overall interest rate, rather than creating automation challenges by changing the interest rate at a certain date.
- Bob Barrasso proposed giving judicial discretion to turn interest off when the child reaches 19 as long as the payments are being made, with the option of turning it back on if the payments are not being made.
- There has to be a good public policy reason to stop interest and the judicial discretion needs to be clearly defined.
- In ATLAS a debt accrual can be suspended and scheduled to be turned back on, but the interest cannot be scheduled. That would require a manual tracking of turning it off/on.
- The manual tracking would coincide with a hearing to monitor the payments.
- Janet proposed that the interest not accrue until the obligor has been made aware of the judgment, then once they are aware if they fall behind on current payments the interest will start accruing on those arrears. There would be no interest on the past support judgments, but it could accrue on current arrears. This proposal addresses the growing interest issue on the front end rather than the back end after it had accrued.
- The committee agreed this proposal was worth working on further.
- It was also proposed lowering the interest rate along with Janet's proposal. Although, the lowered interest rate has not fared well in the legislature in the past.

**Judge Davis asked the committee members if there was any opposition to the following propositions:**

- **Due diligence on how much of the three years to establish in the beginning.**
- **No interest on past support judgments.**
- **Defined judicial discretion on prospective interest waivers for good public policy reason.**

**There was no opposition.**

**ACTION:** Bob Barrasso will take the above proposals to the Statute Review Workgroup for drafting legislation.

**DCSE UPDATE**

Leona reported on the grant awarded for \$2.5 million to DES and Children/Family Resources, Inc. in collaboration with various agencies to start the Arizona Center for Responsible Fatherhood in partnership with HeadStart.

It looks like it will be a great program with focus areas in life skills, parenting, outreach and training. They will be looking to the courts and other agencies for referrals. In the past, getting young fathers involved and participating was the greatest challenge. Once they were involved it was very successful, but getting them there was the challenge.

Judge Davis agreed that the courts would be interested in working with DES on the program. They are talking about starting an establishment court for paternity cases to establish parenting time and custody orders as early as possible. It will work well with the Center for Responsible Fatherhood.

**CALL TO THE PUBLIC**

No public present.

**NEXT MEETING**

January 12, 2007

10:00 a.m. – 2:00 p.m.

State Courts Building, Room 345 A/B

**ADJOURNED**

Judge Davis, acting Chair, adjourned the meeting at 12:28 p.m.

**CHILD SUPPORT COMMITTEE**  
**MEETING MINUTES**  
Arizona Courts Building  
1501 W. Washington, Room 345  
Phoenix, Arizona  
January 12, 2007

**PRESENT:**

**Co-Chairs**

- Honorable Peter Hershberger
- Honorable Thayer Verschoor

**Members:**

- Honorable Manuel Alvarez
- Robert Barrasso
- Theresa Barrett
- Honorable Kimberly Corsaro
- Honorable Norm Davis
- Kim Gillespie
- Leona Hodges (Veronica Romero)
- Honorable Michael Jeanes (Don Vert)
- Michelle Krstyen
- Ezra Loring
- Chuck Shipley
- Russell Smoldon
- Honorable Monica Stauffer
- Bianca Varelas-Miller

**STAFF:**

Kathy Sekardi  
Kim Ruiz  
Barbara Guenther

Administrative Office of the Courts  
Administrative Office of the Courts  
Arizona State Senate

**CALL MEETING TO ORDER**

Representative Hershberger, Co-Chair, called the meeting to order at 10:15 a.m. with a quorum present.

**ANNOUNCEMENTS**

Representative Hershberger made the following announcements:

- The 2006 Child Support Committee Annual Report has been completed and a copy has been provided for each member.
- The Arizona Coalition Against Domestic Violence is sponsoring the 4<sup>th</sup> Annual “Stop Violence Against Woman Day”, on February 14 with guest speaker Denise Brown, Nicole Brown’s sister.

- The Committee has vacancies and recommendations from Committee members are encouraged. There are two openings for non-custodial parent. Members can forward recommendations, along with their resume, to Kathy Sekardi, Representative Hershberger or Senator Verschoor.

Kathy Sekardi reported on a survey the AOC has been requested to participate in on presumptive default orders.

- In 2004, the Office of Child Support Enforcement created a National Judicial Child Support Task Force that put together a strategic plan for 2006-07.
- Within the plan there are six goals and one of the goals is to reduce the number of inappropriate and unrealistic child support orders through improved practice and information sharing.
- Three counties have been selected to participate: Maricopa, Coconino and La Paz.
- The scope of the survey is limited to IV-D cases.
- The counties will participate in the survey and a phone interview.

No other announcements.

#### **APPROVAL OF MINUTES**

The September 15, 2006 and December 1, 2006 minutes were presented for approval. No discussion.

**Motion:** A motion was made to approve the September 15, 2006 minutes and December 1, 2006 minutes as presented. Seconded.

**Vote:** Minutes approved unanimously.

#### **STATUTE REVIEW WORKGROUP LEGISLATIVE PROPOSALS**

Bob Barrasso reported on the proposed legislation from the Statute Review Workgroup. The first two items were presented and discussed in the December meeting, but were not approved due to a quorum not being present. Representative Hershberger opened the discussion for a vote.

#### **Folder 791 – Children Temporary Court Orders Temporary Parenting Time and Custody Orders**

No discussion

**Motion:** A motion was made to support the presented legislation on Children Temporary Court Orders § 25-817 and forward it on for this legislative session.

**Vote:** Motion passed unanimous

The bill has been dropped in Representative Hershberger's name.

#### **Folder 797**

#### **Redaction of social security numbers in parts of Title 25**

No discussion

**Motion:** A motion was made to support the presented legislation on the redaction of social security numbers in areas of Title 25 and forward it on for this legislative session.

**Vote:** Motion passed unanimous

The bill has been dropped in Representative Hershberger's name.

Bob Barrasso presented the following proposed legislation from the Statute Review Workgroup for approval:

### **Folder 795 – Eliminating Interest on Past Support Judgments**

The Workgroup requested the approval of the proposed amendment to § 25-510(E) to eliminate interest on past support judgments. The workgroup agreed this option balances the issue of past support judgments growing out of control with interest and realistically collecting on debt owed to the custodial parent. A variety of recommendations were put forth regarding interest and child support judgments and this is the option everyone supported. The automation implementation will also be fairly simple.

No discussion

**Motion:** A motion was made to support the presented legislation to eliminate interest on past support judgments § 25-510(E) and forward it on for this legislative session.

**Vote:** Motion passed unanimous

### **STATUTE REVIEW WORKGROUP REPORT**

Bob Barrasso presented the following items which were discussed by the workgroup, without reaching consensus. The workgroup would like to further research information from other states and DCSE before requesting the Committee to move forward on any of the options.

#### **§ 25-510(E)**

1. Judicial discretion to eliminate interest on past support after emancipation. The support for this was the “hopeless” case situation where a child support judgment has grown to an unrealistic debt that the non-custodial parent will never get out from under. These non-custodial parents tend to avoid any payments because it seems so hopeless and there is often a financial resource issue. It would be better to have them pay something than nothing. This option gives the judge discretion to adjust the interest on the support after assessing the financial situation and if there is good intention. The workgroup didn’t support this option with the public policy implications of a judge having the discretion to eliminate debt that is owed to the custodial parent. It would also create an automation challenge, requiring manual entries. Bob Barrasso took it to the attorney community for response and there was not support of this legislation.
2. A statement of public policy that it is important for people to bring issues of paternity forward in a timely manner to improve parental involvement and the financial support of children. The workgroup didn’t support this option with the potential backlash of shifting the responsibility from the non-custodial parent to the custodial parents for not collecting support.

Representative Hershberger concluded that there was not overall committee support to research either of the above options at this time, but leaves it open for a future workgroup to analyze.

### **Elimination of Past Support Provisions**

The workgroup would like more time to determine if this is a direction to go. The workgroup drafted three amendments to § 25-320 with varying levels of elimination of the three year past support judgment. The workgroup requests the Committee support to further research:

- Past support policies in other states. California only imposes a past support judgment (up to one year) if it is a public assistance case.
- Calculate what the actual collection rate is on past support judgments before considering eliminating it.

Committee Comments:

- There appears to be two issues. One is to increase collections and the other is to hold parents accountable. At this time, increasing collection rates is priority.
- Regarding collections, we want them to be cost effective while not discouraging fathers from being involved.
- Need to research both missions of getting children supported and encouraging involvement of non-custodial parents.

Representative Hershberger asked the workgroup to research and evaluate past support policies and issues in other states and analyze the current collection rate in Arizona.

**CALL TO THE PUBLIC**

No public present.

**NEXT MEETING**

February 9, 2007

10:00 a.m. – 2:00 p.m.

State Courts Building, Room 119 A&B

**ADJOURNED**

Rep Hershberger, Co-Chair, adjourned the meeting at 10:50 a.m.

**CHILD SUPPORT COMMITTEE**  
**MEETING MINUTES**  
Arizona Courts Building  
1501 W. Washington, Room 345  
Phoenix, Arizona  
July 6, 2007

**PRESENT:**

**Co-Chairs**

- Honorable Peter Hershberger
- Honorable Thayer Verschoor

**Members:**

- Honorable Manuel Alvarez
- Robert Barrasso
- Theresa Barrett
- Honorable Kimberly Corsaro
- Honorable Norm Davis
- Kim Gillespie
- Honorable Michael Jeanes
- Michelle Krstyen
- Ezra Loring
- Chuck Shipley
- Russell Smoldon
- Honorable Colleen McNally
- Veronica Hart-Ragland

**STAFF:**

Kathy Sekardi	Administrative Office of the Courts
Lorraine Nevarez	Administrative Office of the Courts
Kay Radwanski	Administrative Office of the Courts

**CALL MEETING TO ORDER**

Representative Hershberger, Co-Chair, called the meeting to order at 10:15 a.m. with a quorum present. Co-Chair Hershberger introduced the new members Ms. Veronica Hart-Ragland and Honorable Colleen McNally to the committee and the members that have been reappointed are Honorable Michael Jeanes, Honorable Kimberly Corsaro and Robert Barrasso.

**APPROVAL OF MINUTES**

The September 15, 2006, December 1, 2006, and January 12, 2007 minutes were presented for approval. No discussion.

**Motion:** A motion was made to approve the September 15, 2006 minutes, December 1, 2006 and January 12, 2007 minutes as presented. Seconded.

**Vote:** Minutes approved unanimously.

**LEGISLATIVE UPDATE**

Staff gave a brief update on the 48<sup>th</sup> Legislative Session at a Glance.

- Bills posted 1434
- Bills passed 318
- Bills vetoed 22
- Bills signed 296
- Mem, Res Posted 114
- Mem, Res Passed 22
- General effective date: September 19, 2007
- 

The Child Support Committee proposed 3 bills which passed and the bills are as follows:

**A. HB2211-** Children: Temporary Court Orders (Amending sections 25-817, Arizona Revised Statutes; relating to maternity and paternity proceedings.)

<ul style="list-style-type: none"><li>• Allows the court to issue a temporary order regarding custody and parenting time pending a judicial determination of paternity.</li><li>• Specifies that a temporary order issued pending a judicial determination of paternity does not prejudice the rights a person or child that are adjudicated at subsequent hearings.</li><li>• Specifies that a temporary order regarding custody or parenting time may be revoked or modified, and terminates when the final order is entered or when the petition is dismissed.</li><li>• Becomes effective on September 19, 2007</li></ul>	Signed by the Governor on April 11, 2007  (Chapter 42; House Engrossed Version)
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**B. HB2214-**Domestic Relations; Social Security Numbers (Amended sections 25-314, 25-501, 25-502, 25-504, 25-806, 25-812, 25-1251 and 25-1302, Arizona Revised Statutes; relating to domestic relations.)

<ul style="list-style-type: none"><li>• Redacts social security numbers from pleadings, petitions, and documents related to child support and requires them, in some cases, to be filed separately on a sensitive data sheet.</li><li>• Requires orders of assignment to include the social security number of the obligor.</li></ul>	Signed by the Governor on May 4, 2007  (Chapter 181; House Engrossed Version.)
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<ul style="list-style-type: none"> <li>• Requires individuals who submit voluntary acknowledgements of paternity at the Court to redact the social security numbers and file them separately on a sensitive data sheet.</li> <li>• Clarifies that parties are responsible for filing Social Security Numbers on a sensitive data form and that the Courts are liable for filing the information with the state case registry.</li> <li>• Makes technical and conforming changes.</li> <li>• Effective on September 19, 2007</li> </ul>	
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**C. HB2594-Domestic Relations; Support Judgments; Interest (Amending Title 25, Chapter 5, Article 1, Arizona Revised Statutes, by adding Section 25-515; Relating to Child Support.)**

<ul style="list-style-type: none"> <li>• Specifies that interest does not accrue on past child support obligations prior to the time the child support order was issued.</li> <li>• Becomes effective on September 19, 2007.</li> </ul>	<p>Signed by the Governor on May 4, 2007. (Chapter 181; House Engrossed Version.)</p>
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Committee Comments

With regard to bill HB2594 the purpose of the bill was to not create so many barriers to collect child support. Is there a way to measure the effectiveness of this bill?

Response

The current system cannot make any direct outcome correlation between a strategy and an implementation of a policy. It is difficult to isolate for different variables. However, DCSE is creating strategies to reduce uncollected arrears.

**REPORT ON “EFFECTS OF CHILD SUPPORT ORDER AMOUNTS ON PAYMENTS BY LOW-INCOME PARENTS”**

Bob Barrasso gave a brief overview of the following article: “The Story Behind the Numbers.” This article discusses three different studies that had the same results with regard to low-income (\$10,000 income per year or less) families. This article looks at seven states and compared the child support orders to the quarterly wage files. The first study, from the 2006 Urban Institute, found that median current support orders are 83% of reported earnings for noncustodial parents with incomes up to \$10,000 per year. In contrast, it found that median current support orders are 11% of reported earnings for noncustodial parents with incomes starting at \$40,000 per year.

The second study from the 2002 Office of Inspector General (OIG) study of TANF (Temporary Assistance for Needy Families) looked at cases in 10 states and found that 40% of the noncustodial parents’ reported earnings on average. As for low-income people, noncustodial

parents with reported earnings below the poverty line, child support equaled 69% of their total income.

The last study from the Federal Office of Child Support Enforcement (OCSE) evaluated fatherhood programs in five states and found that noncustodial parents with reported earnings of \$500 per month or less, support orders averaged over 100% of their reported earnings. If participants reported earnings of \$501-\$1000 monthly their percentage ranged from 21-61% of their reported earnings.

The rest of the article discusses factors contributing to high percentage orders among low-income noncustodial parents such as (1) the structure of child support guidelines (2) income imputation and default orders, (3) retroactive support, (4) noncustodial parents owing support on multiple orders and (5) the lack of modification of orders.

Overall, this is a concern for low-income non-custodial parents who may not have the support that the custodial parent may get from the state. This is something that can be discussed further in the strategic plan. A suggestion for a solution may include the state collecting retroactively for three years and it seems it would be beneficial if the noncustodial parent could qualify for assistance.

#### Committee Comments

The idea of the noncustodial parent getting assistance would present a challenge because of the way the child support program is funded. Currently, less than 10% of the child support budget is general fund. The rest of the money is used for different resources.

Currently, the Child Enforcement Division is looking at the affects of ability to pay and looking for noncustodial parents (NCP) who may be building up arrears and trying to approach them in different ways. Currently, there are strategies being developed.

#### **UPDATE REPORT ON ECALC PROGRAM**

Veronica Hart Ragland gave an update on the ECalc Program for 2007.

#### Highlights

- 12% of cases are in paternity and 10% in establishment
- 86.14% of people were getting paternity established
- ECalc produces real time web based arrearage calculations in 100% of all the cases
- Average time to calculate using ECalc is 64% faster
- Staff has saved approximately 472 days of processing time and 3339 cases
- ECalc is 97% accurate

#### Concerns

- ECalc receives low usage
- More training is needed
- Need to address some of the issues presented by the evaluator
- Data integrity issues
- More user friendly

## Committee Comments

Who uses ECalc?

### Response

Primarily the debt workers and enforcement workers currently use ECalc; although the objective was to make the tool accessible to the judiciary, legal staff, AG's office, court staff, custodial and non-custodial parents.

What information is public information?

### Response

It requires five pieces of personal identification for security reasons.

Who enters the information into the system?

### Response

The calculator tool reads from ATLAS and the State Case Registry database. The database is maintained by the ATLAS system and the State Case Registry database is maintained by the State Disbursement Unit which is maintained by the Division of Child Support Enforcement and by the Clerks of Court.

## **STRATEGIC PLANNING TOPICS FOR 2007**

The committee brainstormed on the following topics for next session:

- Electronic issuing of civil and criminal warrants
- Administrative Process for Child Support
- Uncontested order establishment
- Updating Statutes for technology regarding electronic signatures
- Multiple partner fertility
- Impact on low income parents

## **UPDATE MEETING SCHEDULE FOR 2007**

The committee will look into the following dates for future committee meetings:

- August 24, 2007
- September 14, 2007
- October 2, 2007
- October 26, 2007
- November 9, 2007
- December 7, 2007

## **WORK GROUP REPORTS**

### **A. STATUTE REVIEW WORKGROUP**

Kim Gillespie gave a presentation on a study "Multiple-Partner Fertility: Incidence and Implications for Child Support Policy." The study looked at TANF/state assistance recipients in Wisconsin. The study researched the complexities of these different families. Some of the questions that were raised: (1) how do you deal with Child Support Guidelines (2) impacts on

marriage initiatives and (3) is there any relationships between these families. Some of the following statistics give insight to the complexities:

- 1/3 of the mothers who have two kids also have two different fathers
- 75% of mothers who had more than five kids had more than one father
- 26% of fathers only had children by one mother
- 28% had children with one mother but the mother had children with multiple fathers
- 9% had children with two or more mothers
- 37% had complications on both sides (mom & dad have other children with other partners)
- 30% of all children will spend time with a step family

The full report can be found at the following website.

<http://www.irp.wisc.edu/publications/dps/pdfs/dp130005.pdf>

The workgroup is also proposing language to Statute 25-510. The current language poses some consequences for DES. The purpose of the statute was to make it easier to receive credit when parties are in agreement. It also required that both parties sign the affidavit of direct payment. However, in the population that DCSE is dealing with, this requirement is almost impossible.

The new suggested language to the first sentence will read: “No credit against support arrearages, other than by court order, may be given without a written affidavit of direct payment signed by the person entitled to receive the support or by both the person ordered to make the support payment and the person entitled to receive the support.”

**Motion:** A motion was made to approve the proposed language for Statute 25-510 as presented. Seconded.

**Vote:** Language approved unanimously.

#### **CALL TO THE PUBLIC**

No public present.

#### **NEXT MEETING**

August 24, 2007

10:00 a.m. – 2:00 p.m.

State Courts Building, Room 119 A&B

#### **ADJOURNED**

Rep Hershberger, Co-Chair, adjourned the meeting at 12:10 p.m.

**CHILD SUPPORT COMMITTEE**  
**MEETING MINUTES**  
Arizona Courts Building  
1501 W. Washington, Room 345  
Phoenix, Arizona  
September 14, 2007

**PRESENT:**

**Co-Chairs**

- Honorable Peter Hershberger
- Honorable Thayer Verschoor

**Members:**

- Honorable Manuel Alvarez
- Robert Barrasso
- Theresa Barrett
- Honorable Kimberly Corsaro
- Honorable Rebecca Rios
- Kim Gillespie
- Honorable Michael Jeanes
- Michelle Krstyen
- Ezra Loring
- Russell Smoldon
- Honorable Colleen McNally
- Veronica Hart-Ragland
- Honorable Gilberto Figueroa

**STAFF:**

Kathy Sekardi  
Lorraine Nevarez

Administrative Office of the Courts  
Administrative Office of the Courts

**CALL MEETING TO ORDER**

Senator Verschoor, Co-Chair, called the meeting to order at 10:13 a.m. Co-Chair Verschoor introduced Senator Rebecca Rios as a new legislative member to the committee. Russell Smolden had some kind words to share about Chuck Shipley, Business Representative on the Child Support Committee who recently past way. The Committee will discuss all materials but no formal action will take place without a quorum.

**APPROVAL OF MINUTES**

The July 6, 2007 minutes were presented for approval; but the committee was unable to vote due to a lack of quorum.

## **CHILD SUPPORT POLICY IN THE DEFICIT REDUCTION ACT OF 2005, AND CHILD SUPPORT PASSTHROUGH**

Ellen Sue Katz, Executive Director of William E. Morris Institute for Justice, introduced and explained the Deficit Reduction Act of 2005 as well as informed the committee members on how Arizona may take advantage of the pass through monies. Under the Deficit Reduction Act of 2005 child support enforcement is a “family-first” program. The Deficit Reduction Act of 2005 states the federal government will waive its share of support to the extent that the state passes through more child support dollars to families with children who currently receive or previously received cash assistance under the Temporary Assistance to Needy Families (TANF) and disregard the support when determining TANF benefits. The waiver is limited to \$100 support passed through per month for one child and \$200 for two children. The federal share will be waived in states with pre-existing pass through policies. In the state of Arizona for every dollar that is collected the federal government receives 67 cents. If the state decides to pass through the money then the federal government will waive their share. The pass through of monies will help families transition off welfare and there is better cooperation with the custodial and non-custodial parent. DCSE made some preliminary estimates that it would cost 2.3 million dollars in state costs per year for a \$100 pass through to the families.

Secondly, Ms. Katz discussed Limitation on Assignment. Currently, families applying for TANF must permanently assign support owed during the assistance period to the state. Beginning October 1, 2009, families will no longer assign rights to pre-assistance support to the state. States will have two options when this new law takes effect (1) to implement this a year early or (2) to conform older assignments to new rules.

Thirdly, Ms. Katz discussed if states collect the federal tax intercepts and send it to the families the federal government will waive their share. This is a way to redirect money that is going to the federal government and instead give it to the citizens of Arizona. Ms. Katz is asking the Committee to support the pass-through and to put it on their legislation agenda.

### **REVISIT A.R.S. § 25-510(G)**

Kim Gillespie gave an update on the amended A.R.S. § 25-510(G). A change was proposed that allows credit against support arrearages shall be made only by written affidavit of direct payment or waiver of support arrears signed by the person entitled to receive the support or by that person and the person ordered to make the support payment. Also, a change was made to clarify that any credits against support arrearages shall be applied as of the dates contained in the affidavit, or date of affidavit if no date is specified.

### **DISCUSS REVISION OF A.R.S. § 25-320(L)**

Kim Gillespie gave an update on the amended A.R.S. § 25-320(L). The proposed change to the statute inserts the language of “applicable state or...whichever is higher” to clarify the presumption that a noncustodial parent is capable of full-time employment at the appropriate adult minimum wage for the purpose of calculating child support.

**DISCUSS REVISION OF A.R.S. § 25-681(D)**

Kim Gillespie gave an update on A.R.S. § 25-681(D). This is the Child Support Arrest Warrant statute that the Child Support Committee created years ago. The language in the current statute, section D, discusses using a fax to receive the judges signature and with new technology (i.e. electronic signature) the Clerks office has proposed that the current language in A.R.S. § 25-681(D) be deleted entirely.

**DISCUSS HB2594**

Kim Gillespie gave an update on HB2594. Last year this Committee worked on this bill to keep past support judgments from increasing by the addition of interest. Past support judgments are entered at the time the first child support order is established. This often happens in paternity cases. The current language needs clarification from the workgroup.

**WORK GROUP REPORTS**

**A. STATUTE REVIEW WORKGROUP**

The statute review workgroup is currently working on A.R.S. 25-807. The workgroup will be looking at whether the mother should participate in paternity testing if a test has not already taken place.

Judge Gilberto Figueroa asked to have the record reflect that he is the Juvenile Presiding Judge in Pinal County and was appointed under the statutorily designated appointment title of “Domestic Relations Presiding Judge – Rural”.

**CALL TO THE PUBLIC**

No public present.

**NEXT MEETING**

October 12, 2007

10:00 a.m. – 2:00 p.m.

State Courts Building, Room 119 A&B

**ADJOURNED**

Senator Verschoor, Co-Chair, adjourned the meeting at 11:15 a.m.

**CHILD SUPPORT COMMITTEE**  
**MEETING MINUTES**  
Arizona Courts Building  
1501 W. Washington, Room 119A/B  
Phoenix, Arizona  
October 12, 2007

**PRESENT:**

**Co-Chairs**

- Honorable Peter Hershberger
- Honorable Thayer Verschoor

**Members:**

- Honorable Manuel Alvarez
- Robert Barrasso
- Theresa Barrett
- Honorable Kimberly Corsaro
- Honorable Rebecca Rios
- Kim Gillespie
- Designee Don Vert, for Honorable Michael Jeanes
- Michelle Krstyen
- Ezra Loring
- Brandon Maxwell
- Bianca Varelas-Miller
- Russell Smoldon
- Honorable Colleen McNally
- Veronica Hart-Ragland
- Honorable Gilberto Figueroa

**STAFF:**

Kathy Sekardi  
Lorraine Nevarez

Administrative Office of the Courts  
Administrative Office of the Courts

**CALL MEETING TO ORDER**

Representative Hershberger, Co-Chair, called the meeting to order at 10:10 a.m. Co-chair Representative Hershberger welcomed new member Brandon Maxwell.

**APPROVAL OF MINUTES**

The July 6, 2007 and September 14, 2007 minutes were presented for approval.

**Motion:** A motion was made to approve the July 6, 2007 and September 14, 2007 minutes as presented. Seconded.

**Vote:** Minutes approved unanimously.

### **ARIZONA PUBLIC OPINION SURVEY**

Dr. William Fabricius, Associate Professor, Arizona State University reported on a recent study which asked four public opinion questions regarding (1) Living arrangements for children (2) Custody awards based on presumptions (3) Joint custody and equal access to both parents and (4) Opinion as to whether Father's disengagement after divorce is "almost normal." The presentation was based on preliminary results in this on-going study.

### **CHILD SUPPORT PASS-THRU PROPOSED LEGISLATION**

Susie Cannata, lobbyist for the Wm. Morris Institute for Justice, reported on the Deficit Reduction Act and the child support pass-thru which the feds make available to states to pass more money through to families in need. The CSC members seemed to be supportive of the concept; however, they are concerned about the financial impact this program could have on the state.

**Motion:** A motion was made to approve the public policy behind the child support "pass-through" to families as permitted by the Deficit Reduction Act on the condition that the legislature was able to provide funding to DES to make the necessary changes to its automation to effectuate the change and also to make up for the loss of revenue. Seconded.

**Vote:** Recommendation for support from CSC approved unanimously.

### **DISCUSS REVISION OF HB2211 A.R.S § 25-817**

Sarah Youngblood, attorney with Community Legal Services, addressed her concerns regarding HB2211 that was proposed last session through the CSC. This bill allows the court to order temporary parenting time and custody orders pending determination of paternity. Her concerns are the following: (1) it allows the court to enter a custody order pending the determination of paternity and (2) the court is able to award custody without a paternity test. The committee referred the HB211 to the Statute Review Workgroup to evaluate the language.

### **DISCUSS REVISION OF A.R.S. § 25-320**

Kim Gillespie gave an update on the amended A.R.S. § 25-320. The proposed change to the bill is "Applicable State or...Whichever is higher".

**Motion:** A motion was made to add language to ARS. § 25-320 language making it clear that the court has discretion to consider income inputted at the state or federal adult minimum wage whichever is higher. Seconded.

**Vote:** Recommendation for support from CSC to add language to A.R.S. § 25-320 approved unanimously.

**DISCUSS REVISION OF A.R.S. § 25-681(D)**

Don Vert gave an update on A.R.S. § 25-681(D). This is the Child Support Arrest Warrant that the Child Support created years ago. In the current statute, section D it discusses using a fax to receive the judges signature and with new technology (i.e. electronic signature) the Clerks office has proposed that the current language in A.R.S. § 25-681(D) be deleted. This would eliminate the requirement of having a fax with the judges' signature.

**Motion:** A motion was made to delete language to ARS. § 25-681(D). Seconded.

**Vote:** To delete language to A.R.S. § 25-681(D) approved unanimously.

**DISCUSS REVISIONS TO A.R.S. § 25-513**

Kim Gillespie gave an update on the employer cooperation statute it essentially requires the employers to provided information to find out their benefits and income. In reviewing, it does not seem equitable because the current language in (A) it talks about getting information concerning the person who is obligated to pay support. Then in paragraph (F)(4) it discuss being able to locate information for a person who is obligated to pay support. The Statute Review workgroup would like to see consistency so that both parties can receive information regarding locate and financial information.

**Motion:** The statute Review workgroup would like to continue to develop clearer language but would like to have the concept approved in theory by the Child Support Committee.

**Vote:** To continue to have the Statute Review workgroup make the language clearer and consistent approved unanimously.

**DISCUSS HB2594 AND REVISIT A.R.S. § 25-510(G)**

Kim Gillespie gave an update on HB2594. Last year this Committee worked on this bill to keep past support judgments from increasing by the addition of interest. Past support judgments are entered at the time the first child support order is established. This often happens in paternity cases. The current language needs clarification from the workgroup.

Kim Gillespie also gave an update on the amended A.R.S. § 25-510. A change was proposed that allows credit against support arrearages shall be made only by written affidavit of direct payment or waiver of support arrears signed by the person entitled to receive the support or by that person and the person ordered to make the support payment. Also, a change was made to clarify that any credits against support arrearages shall be applied as of the dates contained in the affidavit, or date of affidavit if no date is specified.

**Motion:** For the Child Support Committee to approve the changes being made in A.R.S. § 25-510 to (E) and an addition to an new (F) and (G) going forward with the legislation with the consideration that the final language should be as recommended by the experts at legislative counsel but the concept be approved.

**Vote:** To approve the concept of the changes to A.R.S. § 25-510 approved unanimously.

#### **WORK GROUP REPORTS**

##### **A. STATUTE REVIEW WORKGROUP**

The statute review workgroup worked on A.R.S. 25-510 and would like approval of the new language. This is regarding a change in an agreement to a waiver or an affidavit of what has been paid directly and giving credit to the support payer. To change the language so that it can be signed by both parties or the person whom receives the support.

**Motion:** To approve this legislative change as part of the legislative package for the child support committee in 25-510.

**Vote:** To approve the legislative change to A.R.S. § 25-510 approved unanimously.

#### **CALL TO THE PUBLIC**

No public present.

Representative Hershberger proposed to vacate the October 26<sup>th</sup> full committee meeting and plan for the following Child Support Committee on November 9<sup>th</sup>. The October 26<sup>th</sup> meeting timeframe can be used for the Statute Review Workgroup.

#### **NEXT MEETING**

November 9, 2007

10:00 a.m. – 2:00 p.m.

Judicial Education Center

#### **ADJOURNED**

Representative Hershberger, Co-Chair, adjourned the meeting at 11:50 a.m.

**CHILD SUPPORT COMMITTEE  
&  
DOMESTIC RELATIONS COMMITTEE  
JOINT MEETING  
MEETING MINUTES  
Arizona Courts Building  
Judicial Education Building  
Phoenix, Arizona  
November 9, 2007**

**CHILD SUPPORT MEMBERS PRESENT:**

**Co-Chairs**

- Honorable Peter Hershberger
- Honorable Thayer Verschoor

**Members:**

- Honorable Manuel Alvarez
- Robert Barrasso
- Theresa Barrett
- Honorable Kimberly Corsaro
- Honorable Rebecca Rios
- Kim Gillespie
- Honorable Michael Jeanes
- Michelle Krstyn
- Ezra Loring
- Brandon Maxwell
- Bianca Varelas-Miller
- Russell Smoldon
- Honorable Colleen McNally
- Veronica Hart Ragland
- Honorable Gilberto Figueroa

**GUESTS:**

Don Vert, COC, Maricopa County  
Amber O'Dell, State Senate  
Kendra Leiby, AZCADV  
Richard Slatin,  
Kyle Routen, AZ Foundation for Legal Services/Education  
Stan O'Dell, AZ Foundation for Legal Services/Education  
Janet Sell, AZ Attorney General Office

**DOMESTIC RELATIONS MEMBERS PRESENT:**

**Co-Chairs**

- Honorable Peter Hershberger (telephonically)
- Honorable Linda Gray

**Members:**

- Theresa Barrett
- Honorable Tim Bee
- Honorable Andy Biggs
- Honorable David T. Bradley
- Jodi Brown (telephonically)
- Sid Buckman
- Daniel Cartagena
- William Fabricius, Ph.D.
- Barbara Fennell (telephonically)
- Honorable Beverly Frame
- Jeff Hynes
- Linda Leatherman
- David Lujan
- Ella Maley, Ph. D.
- Patti O'Berry
- Honorable Rebecca Rios
- George Salaz
- Ellen Seaborne, J.D.
- Honorable Sarah Simmons
- Russel Smoldon, J.D.
- Honorable Leah Landrum Taylor (telephonically)
- Honorable Thomas L. Wing
- David Weinstock, Ph.D.
- Steve Wolfson, J.D.
- Brain W. Yee, Ph.D.

**STAFF:**

Kathy Sekardi Administrative Office of the Courts  
Lorraine Nevarez Administrative Office of the Courts  
Tama Reily Administrative Office of the Courts  
Eden Rolland Arizona State Senate

**CALL MEETING TO ORDER**

Senator Gray, Co-Chair of the Domestic Relations Committee, called the meeting to order at 10:10 a.m.

**APPROVAL OF MINUTES- CHILD SUPPORT**

The October 12, 2007 minutes were presented for approval.

**Motion:** A motion was made to approve the October 12, 2007 minutes as presented. Seconded.

**Vote:** Minutes approved unanimously.

**APPROVAL OF MINUTES-DOMESTIC RELATIONS**

The September 21, 2007 minutes were presented for approval.

**Motion:** A motion was made to approve the September 21, 2007 minutes as presented. Seconded.

**Vote:** Minutes approved unanimously.

**LEGISLATIVE DEADLINES**

November 15<sup>th</sup> – 5:00 PM Agency Bill Report  
November 15<sup>th</sup> – Prefiling begins  
January 14<sup>th</sup> – Session begins  
January 17<sup>th</sup> – 5:00PM Seven Bill introduction Limitation Begins in House  
January 28<sup>th</sup> – Last day for House Members to submit bill requests to Legislative Counsel  
February 4<sup>th</sup> – Legislative Council completes house intro Sets  
February 11 – Last day for House Bills to be introduced.

**DISCUSSION OF SB1190**

SB1190 was sponsored by Landrum-Taylor, Rios, and Bradley; however, it did not pass last session. Senator Landrum-Taylor gave a brief explanation of the intent of the SB1190. SB1190 was created to give judges in family court the ability to refer families to different services. The bill was stopped in committee last session. The language in SB1190 has addressed the concerns the legislative body had last session and will be presented at the next DRC meeting.

**IFC UPDATE –COCONINO COUNTY**

Gary Krcmarik gave an update on the Integrated Family Court (IFC) for Coconino County. An interim report was done by Mark Morris and Associates and Joanne M. Brown Consulting to evaluate the implementation of the Integrated Family Court. The IFC program is doing great. People are able to utilize more services such as supervised visitation, supervised exchanges, drug testing, and drug and

alcohol assessments. The program is saving money, people are not coming back as often and it seems to be efficient and effective.

Committee Comments

How is the funding working for implementing the program?

*Response:* The program is funded by the legislature through this coming June 2008. The funding is being extended to at least October 31, 2008. The Court has benefited with all the programs and service it can now offer families. Also, there has been more high conflict cases resolved sooner, the number of custody evaluations have significantly decreased, and the referrals going out for custody evaluations are now more issue focused. The cases are going to the integrated family court are resolved about three months earlier.

Do you believe the bulk of the success is related to the fact that Coconino has an Integrated Family Court or that there is more judicial resources that take the time to handle the cases right up front versus rushing them through?

*Response:* Both methods benefit the court. It helps that all domestic relation cases involving children are sent to one division that has the services available and are able to refer the parties to the appropriate services.

Does the Integrated Court have a property mediator or is that a judicial officer?

*Response:* There is a list of attorney's that we refer families to (for this service).

How does the governance structure work?

*Response:* The Administrative Office of the Courts is whom we report to; there is a Board and an Integrated Advisory Committee.

**IFC UPDATE-PINAL COUNTY**

Paul O'Connell gave a brief update on the progress of the Integrated Family Court pilot program. Currently, Pinal County has been planning on implementing the IFC for the past year. During that time policy and procedures have been completed. Pinal County is planning to commence the IFC calendar sometime in mid December.

Committee Comments

How many judges will be assigned to the IFC?

*Response:* One judge will be assigned.

Will the assignment of one judge be assigned to only family law cases or will it include juvenile and dependency (matters)?

*Response:* It will include domestic relations, dependency, and delinquency (matters).

Will the cases that will be assigned to the judge, are they cross-over or will there be a select number of cases?

*Response:* There will be commonality between all the cases.

What is the structure of governance?

*Response:* There is the same set of governance as Coconino County.

**CHILD SUPPORT COMMITTEE-DISCUSSION OF PROPOSED LEGISLATION**

Robert Barrasso, Kim Gillespie and Michael Jeanes discussed and explained the proposed legislation for the upcoming legislative session.

**A. A.R.S. § 25-510 and HB2594:** Last year, the committee proposed and the legislature passed HB2594. This bill relates to receiving and disbursing support and maintenance monies and judgments for past support. Currently, the bill is in conflict with the language in A.R.S. § 25-510. The Child Support’s Statute Review workgroup is in the process of cleaning up the language to conform with ARS § 25-510.

Committee Comments:

What standard is being used to establish the current 10% interest rate on the arrears?

*Response:* The 10% interest rate is the rate that is provided for every single civil judgment.

**B. A.R.S. § 25-681:** The Superior Court in Maricopa County developed a process by which criminal and civil arrest warrants can be electronically issued. They are transmitted electronically to the sheriff’s office that is electronically signed by the judicial office. However, in A.R.S. § 25-681 (D) there is a provision that a facsimile signature of a judicial officer is required. The workgroup would like to delete that language to not only allow for facsimile signatures but to also allow for electronic signatures.

Committee Comments:

If paragraph D is being stricken, where is the replacement language that authorizes the electronic signatures?

*Response:* By eliminating the current language it is mirroring the language in statute for civil and criminal arrest warrants.

**C. A.R.S. § 25-320:** The committee has been looking at how to draft language to establish paternity to receive custody orders. A change in paragraph L now reads “at least the applicable state or federal adult minimum wage whichever is higher.” There was discussion and the workgroup will look at revising the language to include imputing minimum wage to custodial parents, when appropriate.

**D. A.R.S. § 25-817:** Last legislative session, the workgroup revised 25-817 to allow the court, under certain circumstances, to enter temporary child support and temporary parenting time orders. The workgroup is also looking into revising the paternity testing statute to use broader language to update the statute with more modern methods of testing paternity.

**Motion:** A motion was made to accept the amendment which provides for notice and an opportunity to be heard before any temporary custody or support is ordered, in ARS § 25-817. Seconded.

**Vote:** Approved unanimously.

## **DOMESTIC RELATIONS COMMITTEE-DISCUSSION OF PROPOSED LEGISLATION**

The workgroup members will discuss and explain the proposed legislation for the upcoming legislative session.

**A. A.R.S. § 25-211:** The workgroup did some cleanup with the language. The change to 25-211 attempts to clarify that filing of a divorce petition does not alter the status of preexisting community property. It also clarifies that property purchased with community property continues to be community property, and if there was community property in existence at the time the divorce petition was served, then whatever duties, with respect to the property, continues to exist.

**B. A.R.S. § 25-214:** The committee is proposing a few changes. One of the changes clarifies equal management for both spouses to participate equally in partnerships and entities, unless prohibited by law, or unless one party waives their rights by signing a notarized written waiver of that spouse's right to manage community property. Another proposed change requires signature of both spouses if a creditor wishes to collect judgment against community assets, when a transaction of a partnership, corporation, or limited liability company, or other entities, are involved.

**C. A. R.S. § 25-213:** Clarifies what is separate property and status of separate property at time of service of a petition for dissolution, separation or annulment. The change in section B mirrors the change in A.R.S. § 25-211. The workgroup also made changes regarding transfers of sole and separate property.

**D. A.R.S. § 25-215:** Attempting to deal with creditors and collection of debt.

**E. A.R.S. § 25-318:** The proposed language directs the judge to clarify their rulings if any aspect of the division of parties' joint, common, or community property is the nature of support.

### Committee Comments:

The both committee had a suggestion to change the word "shall" to "may" in section A.

**F. A.R.S. § 25-216:** Committee did not discuss at the meeting.

**G. A.R.S. § 33-413:** Committee did not discuss at the meeting.

## **DISCUSS DRC SCHEDULED MEETING ON NOVEMBER 16, 2007**

The Domestic Relations Committee decided to cancel the November 16, 2007 meeting.

**Motion:** A motion was made to cancel the November 16, 2007 meeting. Seconded.

**Vote:** Approved unanimously.

## **CALL TO THE PUBLIC**

Kara Tiffany, Pediatrician in North Phoenix, came to speak on behalf of children who are involved in custody cases. Sometimes children are forced to visit parents that are abusive or using drugs. The courts need to consider the affects of decisions made that reflect on our children.

**NEXT MEETING** Child

Support Committee

December 7, 2007

10:00 AM – 2:00 PM

State Courts Building, Conference Room 345A/B

Domestic Relations Committee

December 14, 2007

10:00AM – 2:00PM

State Courts Building, Conference Room 345A/B

**ADJOURNED**

Senator Gray, Co-Chair, adjourned the meeting at 1:30 PM

**CHILD SUPPORT COMMITTEE**  
**MEETING MINUTES**  
Arizona House of Representatives  
1700 W. Washington, HHR-1  
Phoenix, Arizona  
September 12, 2008

**PRESENT:**

**Co-Chairs**

- Honorable Peter Hershberger
- Honorable Thayer Verschoor

**Members:**

- Honorable Manuel Alvarez
- Robert Barrasso
- Theresa Barrett
- Honorable Kimberly Corsaro
- Honorable Rebecca Rios
- Kim Gillespie
- Honorable Michael Jeanes proxy Don Vert
- Michelle Krstyen
- Ezra Loring
- Brandon Maxwell
- Bianca Varelas-Miller
- Russell Smoldon
- Honorable Colleen McNally
- Veronica Hart-Ragland
- Honorable Gilberto Figueroa

**STAFF:**

Kathy Sekardi  
Lorraine Nevarez

Administrative Office of the Courts  
Administrative Office of the Courts

**CALL MEETING TO ORDER**

Senator Verschoor, Co-Chair, called the meeting to order at 10:10 a.m. Co-chair Senator Verschoor welcomed the members.

**APPROVAL OF MINUTES**

The November 9, 2007 minutes were presented for approval.

**Motion:** A motion was made to approve the November 9, 2007 minutes as presented.  
Seconded.

**Vote:** Minutes approved unanimously.

### **CHILD SUPPORT GUIDELINES REVIEW COMMITTEE**

Honorable Bruce Cohen, Chairman of 2008 Child Support Guidelines Review Committee, presented on what the Guidelines Review Committee is doing for this quadrennial review. The Guidelines Review Committee is meeting with stakeholders to learn in advance the areas in need of improvement. The Committee has met with many stakeholders such as Superior Court judges, Clerks of Court and the State Bar Family Law Section. The Committees' goal is to make this process valuable by incorporating community comments into Committee discussions. The Child Support Guidelines Review Committee will be approaching the guidelines in terms of fairness.

The Committee has concluded that there is an *appearance* of potential unfairness in the Child Support Award. This *appearance* of unfairness seems to be viewed in situations where (1) as the income disparity between two parents grows the end result tends to look less fair compared to people with equal combined income, and (2) as we move towards equal parenting time with the disparity of income the question becomes if we are getting fair results.

The Committee will be approaching the guidelines in two phases: (1) taking the updated economic data required under the current regulations for the Committee to review in which the guidelines are based (2) reviewing a different way for us to approach child support. The Committee is assessing how to simplify the process in terms of developing a summary sheet that would have direct links to the worksheet for the different sections within the guidelines that apply.

### **CALL TO THE PUBLIC**

No public present.

### **UPDATE ON DCSE PERFORMANCE MEASURE RESULTS**

Veronica Hart Ragland, Assistant Director, DCSE, presented an update on the Department of Economic Security Division of Child Support Enforcement performance measures. Some of the highlights are as follows:

#### **SFY2008:**

- Good to Great “Hedgehog Concept”: Improve Data Veracity, Expedite Case Management, and Increase Collections
- Better Tools/Teaming: eCalc
- New Contracts: Central Payment Processing and Collection (“ACT”) Vendors
- Cochise County
- New Facilities: Maricopa North and South Regional Offices
- Centralized Outreach Effort: Hospital Paternity Program Conference
- Collection Efforts: Inmate Banking Accounts, MVD & Administrative Liens, FIDM, IRS Certifications, Economic Stimulus Checks, Employer Bonus Checks, Professional & Occupational Licensing Boards, Annual Round-up
- Auto Dialer System Recognized

#### **Next Steps in SFY 2009:**

- WICSEC Most Improved Program

- Knowledge Transfers: South Dakota and Texas, and Guam, Nevada and Nebraska
- DocGen
- Legislation: Cash Medical, Past Support Judgment, AHCCCS New Hire Directory & Minimum Wage Presumption Implementation
- Collections: Payment Methods, Assessment of Enforcement Practices, Insurance Settlements, State Assigned Arrears Settlement Opportunities
- Possibly privatize? Look at Employer File and National Medical Notices
- New Hire Reporting Contract
- Operations: Locate Information and Sources, Staff Preparedness, Data Management, IT Assessment, Procedural Justice Concepts, Customer Voice, Apply Six Sigma and Lean Principles

### **LEGISLATIVE UPDATE**

Staff gave a legislative update on the bills that passed this session. They are as follows:

- HB2505 Child support; medical insurance- Amends sections A.R.S. 20-154, 25-320, 25-500. Adds sections A.R.S. 25-529
- HB227 Child support factors –Amends section A.R.S. 25-320
- HB2276 Receiving; distribution of support-Amends section A.R.S. 25-510 and Repeals section A.R.S. 25-515
- SB1013 Child support arrest warrant-Amends sections A.R.S. 14-5701 and 25-681

### **DISCUSSION OF MEDICAL SUPPORT REGULATIONS**

Kim Gillespie, Assistant Attorney General, Attorney General’s Office, discussed the federal medical support regulations which were effective July 21, 2008 and the interplay between the federal regulations, state law, and the new cash medical support.

Medical insurance for children has been a requirement by law and has been amended every few years. The federal Deficit Reduction Act of 2005 (DRA) included changes to enhance enforcement of medical support. The costs of Title XIX Medicaid programs and AHCCCS are rising rapidly. Congress thought if enforcement of medical insurance requirements were enforced and more children were covered by private medical insurance then the cost by the tax payers would be reduced.

The Deficit Reduction Act of 2005 required the Federal Office of Child Support Enforcement to regulate enforcement. The federal government issued draft regulations in 2006 which became final this 2008 legislation session. The state is currently working on implementing these regulations.

### **STATUTE REVIEW WORKGROUP REPORT**

Bob Barrasso, facilitator of the workgroup discussed the works in progress and the proposed legislation that are ready for a vote:

#### **A. A.R.S. §25-807 - *Precedence of maternity and paternity proceedings***

The workgroup is concerned that results of the examiner’s report of paternity testing contain actual data of an individual’s DNA profile. The workgroup added language to

protect the confidentiality of the genetic information included on the report by having it sealed. Current law does not require this and the Clerk's Office in Maricopa County have concerns regarding the implementation of this proposed requirement. The Clerk's Office does not believe genetic testing information is sensitive data since the normal lay person would not have access to the resources to interpret the data and identify a person from the report. Therefore, this would be an extra expense to tax payers which they believe is unnecessary. The workgroup will continue to discuss the concerns and comments of the committee.

**B.** A.R.S. § 25-506 - *Order for assignment; foreign support order*

The workgroup discussed eliminating this statute because other statutes in existence have made this statute obsolete. There was a consensus that no one is currently using this statute.

**Motion:** For the Child Support Committee to approve deleting A.R.S. § 25-506 from statute. Motion passed unanimously.

**C.** A.R.S. § 25-505(E) - *Limited income withholding orders; definition*

The workgroup added language to the statute to for clarity of lump sum payments and specifying some of the specific areas.

**Motion:** For the Child Support Committee to approve the added language to A.R.S. §25-505(E). Motion passed unanimously.

**D.** A.R.S. § 25-819 - *New section-Title pending*

The workgroup will need to discuss whether or not both 25-819 and 25-807 are necessary as it may be possible to merge the two together. The workgroup will continue to discuss and will possibly bring proposed language to the next meeting.

**E.** A.R.S. § 25-320(E)(2) - *Child Support; factors; methods of payment; additional enforcement provisions; definition*

The workgroup has clarified language in the statute to require a two-prong test, namely that the child is severely mentally or physically disabled and the child is unable to live independently and be self-supporting.

**Motion:** For the Child Support Committee to approve the clarity of the language in A.R.S. §25-320(E)(2). Motion passed unanimously.

**DISCUSS COMMENTS TO GUIDELINES REVIEW COMMITTEE**

Discussion tabled to next meeting.

**DEVELOP AGENDA FOR NEXT MEETING**

Committee did not have any agenda items to add at this time.

**NEXT MEETING**

TBD

**ADJOURNED**

Senator Verschoor, Co-Chair, adjourned the meeting at 11:20 a.m.

**CHILD SUPPORT COMMITTEE**  
**MEETING MINUTES**  
Arizona Courts Building  
1501 W. Washington, Room 119A/B  
Phoenix, Arizona  
December 12, 2008

**PRESENT:**

**Co-Chairs**

- Honorable Peter Hershberger
- Honorable Thayer Verschoor

**Guests**

Amber O'Dell  
Jana Bertucci  
Janet Sell  
Barbara Guenther

**Members:**

- Honorable Manuel Alvarez
- Robert Barrasso
- Theresa Barrett
- Honorable Kimberly Corsaro
- Honorable Gilberto Figueroa
- Kim Gillespie
- Veronica Hart-Ragland
- Honorable Michael Jeanes
- Michelle Krstyen
- Ezra Loring
- Brandon Maxwell
- Honorable Colleen McNally
- Honorable Rebecca Rios
- Russell Smoldon
- Bianca Varelas-Miller

**STAFF:**

Kathy Sekardi  
Lorraine Nevarez

Administrative Office of the Courts  
Administrative Office of the Courts

**CALL MEETING TO ORDER**

Senator Verschoor, Co-Chair, called the meeting to order at 10:15 a.m. with a quorum present.

**ANNOUNCEMENTS**

Co-Chair Verschoor informed the Committee that this would be Representative Hershberger's last meeting. Co-Chair Verschoor thanked Co-Chair Representative Hershberger for his time and contribution to this committee over the years and the committee thanked him as a whole for his efforts, knowledge, expertise and service which will not be forgotten.

**DES PROPOSING NOTICE OF LIEN LEGISLATIVE BILL**

Veronica Hart Ragland discussed legislation that the Child Support Enforcement Division would be putting forth this upcoming legislation session. Currently, the Child Enforcement Division has

the authority to place liens on property which requires a first notice to be sent to the obligor by first class mail. After a brief response period, if the division does not hear back from the obligor they are required to send out a second notice by first class mail before a lien can be filed. Once the lien gets filed the division will send a copy of the lien to the obligor by certified mail. However, the division would like to send the copy of the lien by first class mail to reduce the costs of mailing and the manual intervention that is involved by sending the copy of the lien notice by certified mail. This also would assist in reducing the cycle time of this type of action.

#### **APPROVAL OF MINUTES**

The September 12, 2008 minutes were presented for approval. No discussion.

**Motion:** A motion was made to approve the September 12, 2008 minutes as presented.

The motion was seconded.

**Vote:** Minutes approved unanimously.

#### **WORK GROUP REPORTS**

##### **A. STATUTE REVIEW WORKGROUP**

1. Proposed Legislation A.R.S. § 25-807- *Precedence of maternity and paternity proceedings*. Mr. Barrasso discussed the changes intended to update the language and process for obtaining genetic testing in paternity matters. Proposed changes include allowing an alleged father and child to submit to genetic testing (if the mother is unavailable or uncooperative) with a high degree of accuracy. Also, a new paragraph (J) was added which would allow the Arizona Department of Corrections or a county jail to treat a genetic testing order issued in another state that appears regular on its face as if it had been issued by an Arizona court.

##### Committee Comments

Are there safeguards built into this process?

Response: All of the genetic testing orders are pursuant to a courts' order. Samples drawn are done with contractors that are aware of privacy issues.

**Motion:** A motion was made to approve the legislation amending statute 25-807. Seconded.

**Vote:** Approved unanimously.

**Motion:** A motion was made to approve the new paragraph (J), part B, to add to 25-807. Seconded.

**Vote:** Approved unanimously.

**Motion:** A motion was made to approve the legislation amending statute 25-807 including paragraph (J), part B. Seconded.

**Vote:** Approved unanimously.

2. Proposed Legislation A.R.S. § 25-320-*Child Support; factors*  
Kim Gillespie informed the committee that the new medical support order bill and new federal regulations have created substantial changes which need to be addressed legislatively. She has identified three immediate challenges. The first has to do with clarifying a timing issue as it relates to paragraph K(1), especially in those instances where one parent is paying a cash medical support order then obtains private medical insurance. The proposed language would make it clear when the cash medical support order would terminate. The revised language attempts to clarify that the obligor needs to notify the department so the cash medical support order stops. It encourages communication by an obligor to notify the department. The committee reread the paragraph and redrafted the paragraph to read as follows:

“On notification by the obligor to the court, or in a IV-D case, to the department and the other parent that the obligor has obtained private insurance that is verified, the cash medical support order will terminate by operation of law on the first day of the month after the policy’s effective date or the date the court, or in a IV-D case, the department and the other parent are notified that insurance has been obtained, whichever is later.”

The second change adds clarification in paragraph (L), which instructs the court not to order the custodial parent to pay (themselves) a cash medical support order.

The third proposed change affects mostly the large number of Title IV-D cases. Changes to A.R.S. § 25-535 paragraph B(4) and (5), permits an opportunity for a person to file for an administrative review if a new national medical support notice were to be issued or if one of the parents already has medical insurance.

**Motion:** A motion was made to amending title 25-320(K) with the language the committee has discussed and agreed upon today. Seconded.

**Vote:** Approved unanimously.

**Motion:** A motion was made to approve the language amending title 25-320 paragraph (L). Seconded.

**Vote:** Approved unanimously.

3. Discussed A.R.S. § 25-809 (B)-*Judgment*. The committee has decided to table this discussion until a later date.
4. Discussed A.R.S. § 23-722.01-*Employer or payer reporting*. The committee has decided to table this discussion until a later date.

#### **CALL TO THE PUBLIC**

The public present did not comment.

#### **NEXT MEETING**

TBD

**ADJOURNED**

Senator Verschoor, Co-Chair, adjourned the meeting at 11:20 a.m.

## **CHILD SUPPORT COMMITTEE**

### **MEETING MINUTES**

Arizona State Court Building

1501 W. Washington

Phoenix, Arizona

October 9, 2009

#### **PRESENT:**

##### **Co-Chair**

- Honorable Thayer Verschoor

##### **Members:**

- Theresa Barrett
- Honorable Michael Jeanes
- Honorable Colleen McNally
- Veronica Hart-Ragland
- Donald Aden
- Mary K. Boyte
- Brandon Maxwell
- Honorable Rebecca Rios
- Honorable Michala Ruechel

##### **Teleconference:**

- Bianca Varelas-Miller
- Russell Smoldon
- Michelle Krstyen
- Honorable Stephen J.P. Kupiszewski

##### **Guests:**

- Honorable Bruce Cohen
- Don Vert
- Kathy Ber
- Janet Sell
- Bob Barrasso

#### **STAFF:**

Kathy Sekardi  
Joanne Tucker

Administrative Office of the Courts  
Administrative Office of the Courts

#### **CALL MEETING TO ORDER**

Senator Verschoor, Co-Chair, called the meeting to order at 10:10 a.m. Senator Verschoor welcomed the current members and then recognized new members Mary K. Boyte, member from the Executive Committee of the Family Law Section of the State Bar of Arizona; Honorable Stephen Kupiszewski, Title IV-D Court Commissioner; Honorable Michala Ruechel, Presiding Judge from the family law division of the Superior Court in Navajo County; and Don Aden, Assistant Attorney General. Senator Verschoor also recognized re-appointed members Honorable Michael Jeanes, Clerk of the Superior Court, Maricopa County; and Honorable Colleen McNally, Presiding Judge of the family law division of the Superior Court in Maricopa County.

#### **APPROVAL OF MINUTES**

The December 12, 2008 minutes were presented for approval.

**Motion:** A motion was made to approve the December 12, 2008 minutes as presented. Seconded.

**Vote:** Minutes approved unanimously.

## **CHILD SUPPORT GUIDELINES REVIEW COMMITTEE**

Honorable Bruce R. Cohen, Chairman of the Child Support Guidelines Review Committee, presented an update of the Guidelines Review Committee's (GRC) on-going work, timeline and vetting process for this quadrennial review. Judge Cohen reported on highlights regarding the procedural aspects of this review, the current income shares model, how the GRC re-organized the proposed guidelines and the public vetting process. He explained how the current income shares model (which is a Marginal Expenditures Guidelines – MEG) estimates the cost of raising children. The GRC's purpose is (1) to review the current child support guidelines, and (2) to consider other methods of calculating child support. The GRC has reviewed and re-organized the current guidelines section by section. The GRC sought the community's input from the various system stakeholders such as the clerks of the superior court office's, the Attorney General's office, Arizona State Bar, and the family law judiciary. Public comments have been considered by the GRC during this entire process.

The GRC is scheduled to present information to the Arizona Judicial Council (AJC) later this month and in March 2010, the GRC will present to the AJC their final recommendations.

The goal of the GRC is to ensure that child support orders honor the statutory provisions. The GRC explored a new model called COBS (Child-Outcome Based Support) and compared it with the current MEG model.

Issues discussed regarding the support models were as follows:

- Proposed implementation date of the new guidelines is September 1, 2010.
- Outcomes for the child(ren) was paramount in forming GRC's recommendations.
- How to account for adjustments to personal budgets due to a (potentially) new child support model was considered and a phased-in approach was included in the proposed guidelines.
- Years ago, when developing the notion of an "intact" family the "never-married" or unmarried parents hadn't been taken into account.

Judge Cohen made two suggestions for the Statute Review Workgroup (CSC) to consider:

- Review the statute regarding standard of living based on an intact family and consider revising to a "standard of living for child in each home."
- To create a presumptive termination date for a child support order that will terminate as a matter of law. This will eliminate the requirement that the non-custodial parent will have to initiate the filing of a stop payment request with the court.

The GRC's work is on-going and the committee requests comments be submitted to their website during the final vetting process. All GRC documents, minutes, reports, and COBS calculator can be located at: <http://www.supreme.state.az.us/csgrc/>

## **DCSE UPDATE**

Veronica Hart Ragland, DES Asst. Director, Department of Child Support Enforcement, updated the Committee with highlights of some of their accomplishments statewide such as:

- Increased statewide collections average 3.9% and division collections an average 5.5% each year for the last 5 state fiscal years.
- Achieved the highest paternity establishment score among IV-D child support programs in FY2008.
- Increased revenue by 18.23% in SFY2009.
- Featured in three articles in national child support magazines.
- Received Governor Proclamation for Child Support Awareness Month – August 2009.
- Tenth highest FIDM Collections among Child Support Programs.
- Implemented DRA Cash Medical and Assignment of Rights Legislation.

Ms. Hart Ragland also discussed the total collections for SFY2009 highlights:

- IWOs - \$236,839,007 (down .83%)
- UI - \$15,848,614 (up 250%)
- Fed Tax – \$42,563,780 (up 22.11%)
- CSLN - \$167,621
- Passport Denials - \$368,051
- FIDM - \$5,004,342
- Inmate Banking - \$555,591
- SS Lump Sums - \$280,976
- Employer Bonuses - \$47,091

Ms. Hart Ragland presented the strategic objectives and goals including becoming a top ten performing child support program by developing a prepared and confident workforce, expediting cases into paying status and improving customer confidence.

## **STATUTE REVIEW WORKGROUP REPORT**

The Statute Review Workgroup reviewed the following proposed legislation:

### **A. CASH MEDICAL SUPPORT ORDERS PROPOSED LEGISLATION**

- A.R.S. § 25-320 Child support; factors
- A.R.S. § 25-535 Enforcement of health insurance coverage; medical support notice; administrative review

The process of addressing cash medical support began two years ago when the federal government developed new regulations. The workgroup drafted legislation that was amended during the legislative session and went into effect at the end of September 2008. Once the statute began implementation the workgroup realized that, due to new federal regulations, further clarification was needed and began making necessary revisions. The primary changes include: (1) an Alternative Cash Medical Support Order should not be entered against the custodial parent. It is not acceptable for the custodial parent to pay themselves cash medical support. (2) The administrative review provision was changed to allow the administrative review officer to determine if the cost of the medical insurance falls within the new standard and is accessible to the child. The workgroup wanted to give the administrative review officer the discretion to look at the criteria. (3) Application of cash medical support orders should apply only to IV-D cases.

The workgroup also addressed the federal requirements in A.R.S. § 46-408 *Assignment of support rights; priority; definitions* and A.R.S. § 46-407 *Assignment of rights to support; definition*. The statute outlines when child support gets assigned to the state. It is necessary for Arizona to change state law to reflect the changes made in the federal law. The changes will allow families to retain more money from child support payments while less money will be assigned to the state. This proposed change will also simplify the assignment process.

**Motion:** The workgroup recommends approval of the proposed legislation to be posted during the 2010 legislative session. Seconded.

**Vote:** Motion approved unanimously.

## **B. PATERNITY PROPOSED LEGISLATION**

- A.R.S. § 25-807 *Precedence of maternity and paternity proceedings*

The Child Support Committee previously voted and approved this proposed legislation to be submitted during the 2009 legislation. Due to the unusual circumstances surrounding the session, the proposed bill was not posted.

Paternity litigation is increasingly important today because more than 42% of children are born out of wedlock in Arizona. Establishing paternity is a necessary predicate to establishing parental rights and responsibilities including support. Therefore, efficient processing of paternity litigation is necessary. There are several ways to establish paternity including litigation.

Genetic testing was traditionally done by a blood sample drawn from the party to be tested. These days, most genetic samples are collected by swabbing the inner cheek of the party being tested. Therefore, the language of the statute is being modernized to refer to genetic tests in a more inclusive and general sense rather than referring specifically to blood tests.

Also, due to the relative accuracy of genetic testing as a method for establishing paternity, once testing has been completed there is little factual dispute left to resolve at trial, and the issue of paternity is frequently resolved in advance by motion rather than trial.

### **Provisions**

- Changes the wording of the statute to refer to genetic testing rather than blood tests.
- Permits testing to be completed with the father and child or children only if the Mother is unavailable or uncooperative. Advances in genetic testing technology support this change.
- Changes the time period for objection to the genetic testing report to 20 days after the report is filed with the court. The current statute allows for objections up to 21 days before trial.

- Requires Arizona agencies like the Department of Economic Security, the Arizona Department of Corrections or a county jail to honor orders for genetic testing from other states and cooperate with genetic testing of persons in their custody. An agency which does so will be protected from civil liability.

**Motion:** The workgroup recommends approval of the proposed legislation to be posted during the 2010 legislative session. Seconded.

**Vote:** Motion approved unanimously.

#### **C. WITHHOLDING ORDERS PROPOSED LEGISLATION**

- A.R.S. § 25-505(E) *Limited income withholding orders; definition*

The Child Support Committee previously voted and approved this proposed legislation to be submitted during the 2009 legislation. Due to the unusual circumstances surrounding the session, the proposed bill was not posted.

Proposed legislation broadens the definition of “lump sum payment” to include inheritances, trust or annuity distributions, excess proceeds, life insurance proceeds, retroactive disability proceeds, and personal injury awards.

**Motion:** The workgroup recommends approval of the proposed legislation to be posted during the 2010 legislative session. Seconded.

**Vote:** Motion approved unanimously.

#### **D. REPEAL OF STATUTE**

- A.R.S. § 25-506 *Order for assignment; foreign support order*

The Child Support Committee previously voted and approved this proposed legislation to be submitted during the 2009 legislation. Due to the unusual circumstances surrounding the session, the proposed bill was not posted.

The administrative authority to issue an ex parte order is already authorized in A.R.S. § 25-506.01.

**Motion:** The workgroup recommends legislation to repeal A.R.S. § 25-506 during the 2010 legislative session. Seconded.

**Vote:** Motion approved unanimously.

#### **CHILD SUPPORT COMMITTEE MEMBERSHIP PROPOSED LEGISLATION**

- A.R.S. § 25-323.01(A)(3) *Child support committee; membership; duties; report*

The proposed legislation allows a division or section chief from the office of the attorney general, or their designee, to be appointed to the committee by the attorney general.

**Motion:** The workgroup recommends approval of the proposed legislation to be posted during the 2010 legislative session. Seconded.

**Vote:** Motion approved unanimously.

**CALL TO THE PUBLIC**

No public comment offered.

**NEXT MEETING - TBD**

**ADJOURNED**

Senator Verschoor, Co-Chair, adjourned the meeting at 11:50 a.m.

**CHILD SUPPORT COMMITTEE  
DRAFT MINUTES**

Friday, September 9, 2011  
Arizona State Courts Building  
Conference Room 230  
1501 W. Washington Street  
Phoenix, AZ 85007

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**MEMBERS PRESENT:**

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Honorable Cecil Ash, Co-Chair   | <input checked="" type="checkbox"/> Honorable Stephen J.P. Kupiszewski |
| <input checked="" type="checkbox"/> Honorable Adam Driggs, Co-Chair | <input checked="" type="checkbox"/> Ms. Cassandra A. Larsen            |
| <input checked="" type="checkbox"/> Ms. Theresa Barrett             | <input checked="" type="checkbox"/> Honorable Richard D. Nichols       |
| <input checked="" type="checkbox"/> Ms. Mary K. Boyte Henderson     | <input checked="" type="checkbox"/> Mr. J. Mitchell Padilla            |
| <input checked="" type="checkbox"/> Ms. Veronica Hart Ragland       | <input checked="" type="checkbox"/> Honorable Michala Ruechel          |
| <input checked="" type="checkbox"/> Mr. William Jaffa               | <input checked="" type="checkbox"/> Ms. Bianca Varelas-Miller          |
| <input checked="" type="checkbox"/> Honorable Michael K. Jeanes     | <input checked="" type="checkbox"/> Ms. Farrah Watkins                 |
- 

**MEMBERS ABSENT:**

- |   |  |
|---|--|
| <input type="checkbox"/> Honorable Edward Ableser | <input type="checkbox"/> Mr. Brandon Maxwell |
| <input type="checkbox"/> Honorable Steve Gallardo | <input type="checkbox"/> Mr. Russell Smolden |
| <input type="checkbox"/> Ms. Michelle Krstyen     |  |
- 

**PRESENTERS/GUESTS:**

Ms. Amber O'Dell  
Ms. Janet Sell

Mr. Don Vert

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**STAFF:**

Ms. Julie Graber, AOC

Ms. Kathy Sekardi, AOC

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**1. Welcome and Announcements**

With a quorum present, the September 9, 2011, meeting of the Child Support Committee (CSC) was called to order by Representative Cecil Ash, Co-Chair, at 10:10 a.m.

Rep. Ash remarked that the last CSC meeting was on October 9, 2009, and since then, the Committee membership has changed drastically. Co-Chair Ash welcomed current and new members, which was followed by introductions around the table. He recognized the following new members, re-appointed members and resignation:

- New members
  - Representative Cecil Ash, Co-Chair
  - Senator Adam Driggs, Co-Chair
  - Representative Ed Ableser, Legislative member
  - Senator Steve Gallardo, Legislative member
  - Mr. J. Mitchell Padilla, Unit Chief Counsel, AGO
  - Hon. Richard Nichols, Pima County Superior Court
  - Ms. Farrah Watkins, Custodial parent

- Mr. William Jaffa, Business community representative
- Re-appointments
  - Hon. Michala Ruechel, Navajo County Superior Court
  - Comm. Stephen Kupiszewski, Maricopa County Superior Court
  - Hon. Michael Jeanes, Clerk of Superior Court, Maricopa County
  - Ms. Mary K. Boyte Henderson, Attorney
- Resignation
  - Mr. Terry Decker, Noncustodial parent

The draft minutes from the October 9, 2009, meeting of the CSC were presented for approval.

**MOTION:** To approve the October 9, 2009, CSC meeting minutes as presented. Motion was seconded. Motion approved unanimously.

## 2. DCSE Update

Veronica Hart Ragland, DES Assistant Director, Division of Child Support Enforcement (DCSE) provided background information and updates about DCSE and its child support enforcement program. Her report included information regarding the program's authority, purpose and role; services and enforcement remedies; mandates and goals; and performance measures for the last fiscal year. Some of DCSE's report included the following information:

- One of DCSE's goals is to become a top-ten collection program by 2014.
- Four years ago, Arizona was ranked 49<sup>th</sup> out of 54 states/territories in child support collections. As a result of new leadership and implementation of the "Strategic Approach," Arizona's rank has risen from 49<sup>th</sup> to 28<sup>th</sup>.
- DCSE's desire to be in the top-ten is not just about numbers; DCSE is providing services for and meeting the needs of customers seeking reliable sources of income in order to prevent placement on the state's public assistance program.
- DCSE possesses an arsenal of tools to assist with enforcement such as bank account seizures, liens on property and vehicles, interception of lottery winnings, tax refunds and inheritance.
- DCSE has been successful meeting the needs of customers while streamlining, reducing costs and improving its performance. DCSE's staff has been reduced from over 800 employees in 2004 to just over 500 currently.
- DCSE's cost effectiveness measure has improved since 2004 when \$4.35 was collected in child support for each \$1 spent on the program – It is now \$5.84 collected for each \$1 spent.

Ms. Hart Ragland also explained that current law does not require new employers to report consultant earnings and information, which in turn affects DCSE's ability to collect child support obligations. By adjusting business practices with mandatory employer reporting, DCSE could collect child support obligations from consultants, independent contractors and the self-employed; however, legislative changes are needed to institute mandatory reporting.

Questions from members included:

- *What percentage are interstate cases?* 26%.
- *Are recourses available if non-custodial parents do not pay their child support obligations and are self-employed, “flying under the radar,” or avoiding process service?* If mandatory employer reporting were allowed, DCSE would have additional recourses regarding the self-employed. DCSE has set up a specialized enforcement unit to look specifically at remedies in areas such as retirement accounts, bank seizures and insurance intercepts. DCSE’s enforcement tools kick in when certain arrears thresholds are met. A passport intercept, for example, requires an arrears balance of \$2,500 or more. If the obligor tries to renew a passport, the automatic lien search will match up the records and trigger a passport intercept until arrears are satisfied. Finally, DCSE is trying to have people sign a waiver to accept service by mail instead of by process service to improve effectiveness.
- *Do custodial parents usually consult private attorneys or the Attorney General’s (AG’s) office when non-custodial parents fall in arrears?* There is often overlap between systems. In IV-D cases, 60-70% are current or former public assistance beneficiaries who interface with caseworkers (and sometimes have their own attorneys) and 30% are parents who apply for services at the AG’s office. Some parents retain private attorneys based on the perception that the process will go faster but also apply for IV-D services, which is very effective since private attorneys do not have access to all of the same tools that are available to DCSE.
- *Does DCSE keep track of incarceration rates?* DCSE tracks rates in different ways. DCSE tries to modify inmates’ child support orders down to almost nothing to minimize build-up of arrears. DCSE also works with law enforcement to reach inmate’s bank accounts or intercept settlement funds to satisfy obligations.

### 3. Statute Review Workgroup (SRWG) Report

#### **Proposed legislation:**

- **A.R.S. § 25-505.01 – Administrative income withholding order; notice; definition**  
Comm. Kupiszewski introduced the SRWG’s proposed changes to increase efficiency and obtain new forms of income through mandatory Electronic Funds Transfer (EFT) and lump sum payments reporting. Mandatory use of EFT by employers would improve the processing efficiency of child support payments and the requirement is not directed at “mom and pop” businesses but rather at businesses that already have EFT in place. Secondly, he justified adding a notice requirement for employers and payors before disbursing any lump sum payment (bonuses, severance pay, and vacation time) of \$500 or more to the obligor so DES could determine if any portion should be applied to the obligor’s child support arrearages.

Ms. Ragland supported these proposed changes and provided some statistics on the benefits of EFT for DCSE and mandatory lump sum reporting for other states:

- Mandatory electronic disbursements for DCSE resulted in a 40% increase in families receiving payments electronically to 96%.
- The State Disbursement Unit (SDU) downsized from 40 to 15 employees because of processing efficiencies.

- 12 states have legislation requiring EFT; seven of those states are outperforming Arizona.
- Only four of the top 100 major Arizona employers report lump sum payments.
- Texas received \$1.2 million within the first 45 days of mandatory reporting.

Senator Driggs queried the origin of the proposed language, which came from “the best of” a survey of outperforming states that mandate EFT and lump sum reporting. Mr. William Jaffa, CPA questioned the term “usual” earnings on page 3, line 45, which might raise more questions than answers. After some discussion, members agreed to change “usual” to “any other.” Judge Richard Nichols questioned a scenario in which an obligor comes in to the court and says he cannot afford to have his bonus captured in addition to the monthly child support obligation and arrears payment. Ms. Ragland clarified that a bonus will not be taken “in addition to” other payments but rather “in lieu of” other payments. Ms. Sell further specified that the bonus must first be over \$500 and that only a certain percentage of the bonus could be intercepted since a bonus is income for the purposes of the income exemption law in Title 33 and income is subject to withholdings (\$1,000 bonus - \$250 withholding – 50% = \$375). Unit Chief Counsel Mitch Padilla backed the proposed changes to close a loophole and put all payers of child support on the same level playing field.

- **A.R.S. § 23-722.01 – Employer or payor reporting; exceptions; retention of records; unauthorized disclosure; new hire directory; definitions**

The SRWG proposed additional reporting requirements for employers and payors to align the reporting statute with the income reporting statute, assist DES with capturing information about payors and independent contractors, and comply with new federal regulations. First, employers and payors would be required to report new hires and independent contractors if certain thresholds are met (three or more periodic payments totaling \$5,000 or more and expected to be made by the payor in any 12-month period). Second, the proposed changes would add new language to mirror federal legislation under the Claims Restitution Act of 2010 (42 USC 653a(b)(1)(A)), which seeks to collect additional data elements for start dates, medical insurance benefits and eligibilities. The workgroup considered whether to include a penalty provision as allowed in federal statute for failure to report, as a result, the workgroup recommended tabling the penalty provision for now and focus on education and business outreach.

Mr. William Jaffa, CPA was concerned about the inclusion of the 1099-MISC form in the definitions because it would act to exclude certain entities. Rep. Ash commented that if the 1099 Form were taken out, then the definition becomes very broad. Comm. Kupiszewski commented that the intent is to capture as many people who are currently “flying under the radar.” Ms. Ragland drew attention to at least 12 states that report independent contractors, or 1099 type workers, as part of their mandatory employer reporting. Of the 12 states, all of them are exceeding Arizona’s performance on current collections and arrears payments measures. In FFY 1998, New Hampshire implemented its statute to require 1099 reporting and during its first year an additional \$1.65 million was collected from independent contractors. Five of

the top-ten performing states in current collections have a mandate to require the reporting of 1099 contractors and consultants. DCSE believes that these proposals would help to find new sources of income for workers and child support obligors.

- **A.R.S. § 25-505.02 – Insurance information exchange; definitions**

The SRWG proposed new legislation to generate additional sources of income and capture child support arrearages in IV-D cases by collecting lump sum payments from personal injury awards. The workgroup devised this language after surveying successful states that already impose mandatory reporting and intercept personal injury awards such as Oklahoma (collections tripled in the first year), Texas (collections increased from \$9 to \$24 million in first year), New Jersey, Maryland and Rhode Island. The proposal necessitates the implementation of a mandatory data exchange system between insurance companies and DES in order to identify whether a personal injury claimant is also an obligor and to prevent settlement funds to be paid directly to the claimant/obligor. Ms. Sell emphasized that DES is only seeking to collect on a claimant/obligor's share of the proceeds *after* medical bills and attorney fees and costs have been satisfied. Comm. Kupiszewski stressed that insurance companies will continue doing business in Arizona if this was implemented. He cited 50% of insurance companies already participate in the Child Support Lien Network mostly voluntarily to meet mandatory reporting and data submission requirements.

Discussion ensued. Some questions were raised from Judge Michala Ruechel and Ms. Boyte Henderson about property damage liens and payments, which the workgroup had not considered.

**Proposed project:**

- **Child Support Guidelines enhancement**

Ms. Theresa Barrett, AOC, provided background information regarding the Child Support Guidelines and explained that the Supreme Court is required under A.R.S. section 25-320(D) to review the guidelines every four years to ensure that child support amounts are in keeping with economic indicators. During the last review, the Child Support Guidelines Review Committee (CSGRC) updated and reorganized the guidelines with tools such as a table of contents, definitions of terms and some expanded examples. Ms. Barrett presented an “enhanced” draft of the guidelines that incorporates these tools and builds upon the current guidelines that is income shares model-specific. She clarified that the goal is to simplify and streamline the guidelines and to make them more understandable and user-friendly, especially for self-represented litigants, and in keeping with the Chief Justice's strategic plan. SRGW sought approval from the Committee to proceed with review of the draft and make recommendations at the November meeting.

Asst. Attorney General Padilla expressed concerns about any enhancements that did not consider the needs of pro pers who may not want an attorney and he advocated for a simpler process so they could handle their own child support issues. Mr. Jaffa also called for simplified procedures as well as some recourse for custodial parents who must incur high legal fees when needing further Court involvement after noncustodial

parents fail to abide by established child support orders. Ms. Barrett and Comm. Kupiszewski illustrated how the enhancements are mindful of pro pers in the reordering of the guidelines in a sequential order and in the expanded examples so a pro per may better understand the child support process and perhaps identify themselves in a specific example or category. Ms. Barrett also referenced the new online child support calculator designed to be easier to use and to follow for straightforward calculations.

**MOTION:** To direct the Statute Review Workgroup to review the enhanced guidelines and make recommendations at the November 18, 2011, meeting, as presented. Motion was seconded. No further discussion, motion approved unanimously.

**MOTION:** To support the recommended amendments to ARS section 25-505.01 (with change from “usual earnings” to “any other earnings” on page 3, line 45); amendments to ARS section 23-722.01; and addition of ARS section 25-505.02, and to further request that these proposals be sponsored by the legislature in the next legislative session, as presented. Public comment read. Motion was seconded. No further discussion, motion approved unanimously.

- **Public Comment**

Before voting on the proposed legislation, Rep. Ash read into the record an email received from Mr. David Hamu from District 19. Rep. Ash sought comments from the members.

Mr. Hamu discussed his concerns regarding the proposed enhanced guidelines, the penalty provision in the employer or payor reporting proposed legislation, and belief that more burdens would be placed on insurance companies that would pass the costs on to Arizona citizens.

Ms. Barrett responded that the enhanced guidelines look at the improvements made by the guideline review committee such as reordering the guidelines in a sequential order. Clerk Michael Jeanes shared his experience as a CSC and AJC member during the last review process and described it as very challenging, difficult, controversial and transparent process.

A.R.S. section 23-722.01 – Employer or payor reporting. The workgroup is not proposing any penalty provision.

A.R.S. section 25-505.02 – Insurance information exchange. Ms. Sell disagreed that it would put more burdens on insurance companies since many companies voluntarily provide this without being mandated to do so. Additionally, the proposed legislation does not intercept medical payments.

#### **4. Strategic Plan for 2011-2012**

##### **A. Federal Income Withholding Order Form (IWO)**

Ms. Sell provided background information on IWOs and the applicability of the federally mandated IWO form in all types of cases. She raised some issues concerning the use and implementation of the federal standardized form, specifically with Arizona statute that provides for a notice to obligors of their rights to be sent with the order of assignment (ARS section 25-504). Our statutory language requiring due process does not comply with the uniform form. Ms. Sell described the Attorney General's current practice to send the IWOs in a printed form along with a separate hardcopy notice form explaining obligors' rights in Arizona, which is inconsistent with the trend towards electronic exchanges of IWOs (e-IWO), which use data elements that limit the inclusion of state-specific language. Ms. Sell offered alternative delivery methods of the notice such as mandating it as part of the underlying child support order instead of the order of assignment. Nonetheless, statutory changes will be needed to accommodate this new interstate and federally mandated practice. Comm. Kupiszewski added that a federally mandated and recognized form is not unprecedented and pointed to Orders of Protection, which are easily recognizable and bring increased efficiency and reduced costs.

**MOTION:** To direct the Statute Review Workgroup to review the implementation of the IWO form in order to conform to the standardized form presented by the federal government, as presented. Motion was seconded. No further discussion, motion approved unanimously.

##### **B. Unreimbursed medical expenses**

Several members suggested overall simplification of processes and procedures. After some discussion, the issue of unreimbursed medical expenses was identified as a possible topic after considering what is and is not within the scope of this Committee, constitutionality limitations and appropriateness.

**MOTION:** To direct the Statute Review Workgroup to initiate discussion with regard to unreimbursed medical expenses as related to child support orders including notice issues, statutory schemes to accomplish such, and simplification of forms, as discussed. Motion was seconded. No further discussion, motion approved unanimously.

#### **5. Call to the Public**

No public comments offered.

#### **6. Next Meeting**

The next meeting is scheduled for Friday, October 7, 2011 in Conference Room 119.

#### **7. Adjourn**

The meeting was adjourned at 2:00 p.m.