

**DOMESTIC RELATIONS COMMITTEE
DRAFT MINUTES**

Friday, June 29, 2012
Arizona State Courts Building
Conference Room 119A/B
1501 W. Washington Street
Phoenix, Arizona 85007

Present: Senator Linda Gray, Co-Chair; Representative Terri Proud, Co-Chair; Representative Lela Alston, Theresa Barrett, Sidney Buckman, Mary Ellen Dunlap, Todd H. Franks, Grace Hawkins, Representative Katie Hobbs, David Horowitz, Representative Peggy Judd, David Weinstock, Donnalee Sarda, Ellen Seaborne, Russell Smolden, Steve Wolfson, Shannon Rich.

Absent/Excused: Judge Michael R. Bluff, Daniel Cartagena, Senator Adam Driggs, William Fabricius, Jack Gibson, Danette Hendry, Senator Leah Landrum Taylor, Ella Maley, Brian W. Yee, Wayne Yehling

Presenters/Guests: Ingrid Garvey (Legislative Staff), Elizabeth Navran (Legislative Staff), Katy Proctor (Legislative Staff), Amber Witter (Legislative Staff), Judge Carey Hyatt (Superior Court in Maricopa County), Sarah Hicks, Thomas Alongi, Sarah Youngblood

Staff: Kathy Sekardi (AOC), Kay Radwanski (AOC), Kym Lopez (AOC), Julie Graber (AOC)

CALL TO ORDER

Without a quorum present, the June 29, 2012 meeting of the Domestic Relations Committee (DRC) was called to order by Senator Linda Gray, Co-Chair. Members and staff introductions were made around the room.

LEGISLATIVE UPDATE

Amber Witter presented an update on domestic relations-related legislation.

SB1176: Requires people who supervised parenting time for compensation to have a fingerprint clearance card. The house made two changes, both to the mandatory recording section of statute. The first change removed supervisors from the list of mandatory reporters and the second exempted certain school personnel from reporting certain injuries of students, specifically the physical injury of one student by another student under certain circumstances. The bill was vetoed by the Governor and in her veto message the Governor said she was concerned about bullying but that she appreciates the underlying bill and she looks forward to addressing the fingerprinting requirement in the future.

SB1074: The bill would have allowed the court to issue spousal support arrest warrants similar to child support arrest warrants. The bill was drafted by the Child Support Committee but was not sponsored by the CSC co-chairs. The bill was subsequently vetted and approved for proposed legislation by the DRC and sponsored by Sen. Linda Gray. It passed the Senate 22-7 but never received a hearing in House Judiciary Committee.

SB1187: This was a Child Protective Services (CPS) omnibus bill. It was a compilation of several recommendations that were made by the Governor's Child Support Task Force. It passed the Senate 30-0 but never received a hearing in House Judiciary Committee. The relevant provisions were later attached to HB2794. As a result, it was signed by the Governor.

SB1247: This bill modified and added appointments to the DRC. It passed the Senate 30-0 but was not given a final read in the House.

SB1036: The DRC worked for the past several years with the hospital and health care association to draft language regarding when providers may deny a records request. This bill became a striker; however the germane provisions were included into HB2369, which was signed by the Governor.

SB1246: This bill clarified the standard of living factor related to the child support guidelines. It passed the Senate 30-0 and the House 56-1 and was signed by the Governor.

SB1248: Child Custody Draft. The senate removed the coercive control language from the bill and made some technical changes as well. It passed the Senate 17-13 but was not heard in House Judiciary Committee. Meanwhile SB1127 was assigned to House Health and Human Services Committee. SB1127, as originally written, modified the best interest factor related to false allegations. While in the House provisions of SB1248 were added to SB1127 along with some technical and substantive modifications such as the sanctions for litigation misconduct section.

SB1127 Domestic relations; decision-making; parenting time:

Discussion ensued regarding the implementation of this bill. Comments included:

- Concerns that the addition of the term "parenting time" in A.R.S. § 25-411(A), may conflict with A.R.S. § 25-411(N). Current A.R.S. § 25-411(A) only addresses modifications of a custody decree, not parenting time.
- Under the current law there is a differentiation between physical custody and parenting time; parents may petition to modify parenting time less than a year after entry of the order. Is there an unintended consequence by including parenting time language in A.R.S. § 25-411(A)? How should the judiciary apply this provision given that the new A.R.S. § 25-411(N) states that subsection L does not apply if the requested relief is for the modification or clarification of parenting time?
- Will inclusion of parenting time in A.R.S. § 25-411(A) allow the judiciary to resolve or clarify parenting time issues in a timely fashion or will it create a backlog?

Committee member comments included:

- This was not a substantive change to A.R.S. § 25-411.
- There always has been and continues to be an exception to the year caveat where the health or physical safety of the children is at issue.
- The one-year waiting period exists to deter parties from going to court on a frequent basis for modifying custody issues.

- Recommendations were not designed to change the one-year rule.

It was suggested that this concern be addressed at the upcoming family law judicial training conference in order to fully vet as to interpretation and implementation issues.

Another issue regarding SB1127 is that A.R.S. § 25-403.01(D) may lower the burden regarding findings to restrict parenting time to less than substantial, frequent, meaningful and continued contact. The current statute has findings for “endanger seriously” and the language within SB1127 is changed to “endanger,” which could be interpreted differently.

APPROVAL OF DRAFT MINUTES

A quorum now having been achieved, the minutes of the January 3, 2012 DRC meeting was presented for approval.

MOTION: David Horowitz motioned to approve the January 3, 2012 draft meeting minutes as presented.

SECOND: Sid Buckman.

VOTE: Motion passed unanimously.

A.R.S. §25-408 Change in residential address of child:

The members discussed previous legislation that may be ready to recommend for this legislative session. The members discussed the last revision of A.R.S. § 25-408. This proposed legislation was the result of collaborative efforts between the DRC and special interest advocates from a previous legislative session.

MOTION: David Weinstock moved that DRC rewrite the proposed last draft of changes to the statute.

SECOND: Donnalee Sarda.

ORIGINAL MOTION WITHDRAWN by David Weinstock.

SECOND: Katie Hobbs.

Members made a few suggestions including:

- Request Legislative Council draft this section so that it conforms to current statutory conventions, or to establish a subcommittee charged to re-write it as they deem appropriate and then send it to Legislative Council.

MOTION: Russell Smolden moved to send SB1127 to Legislative Council along with the latest relocation draft and ask them to prepare a bill draft so the subcommittee can start the process with the new language of SB1127 and the relocation draft incorporated into one bill.

SECOND: David Weinstock.

VOTE: Opposed by Todd Franks and Ellen Seaborne. Passed.

A new workgroup called Relocation Subcommittee was established. Members: Ellen Seaborne (Chair), Russell Smolden, David Weinstock, Donnalee Sarda, David Horowitz, Shannon Rich, Steve Wolfson. Participants: Lela Austin, Tom Alongi.

Break for lunch.

CALL TO THE PUBLIC

Gerald Chirnomas - Discussed SB1176 and the regulation of supervised visitation facilities.

Melissa Prins Verburg – Discussed SB1176 and the types of agencies licensed to provide court ordered supervision.

SUPERVISED PARENTING TIME FACILITIES/PROVIDERS

Member request for future discussion: supervised parenting, regulations and A.R.S. § 13-3620(A)(1), duty to report.

Meeting adjourned 12:25 pm

Next scheduled meeting: TBD

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