DOMESTIC RELATIONS COMMITTEE
DRAFT MINUTES

December 7, 2012
Arizona State Courts Building
Conference Room: 119A/B
1501 W. Washington
Phoenix, Arizona 85007

Present: Theresa Barrett, Sidney Buckman, Daniel Cartagena, Senator Adam Driggs, William Fabricius, Senator Linda Gray, Representative Peggy Judd, Ella Maley, Shannon Rich, Donnalee Sarda, Ellen Seaborne, David Weinstock, Steve Wolfson, Brian W. Yee.
Present Telephonically: Mary Ellen Dunlap.
Absent/Excused: Representative Lela Alston, Judge Michael R. Bluff, Todd H. Franks, Jack Gibson, Grace Hawkins, Danette Hendry, Representative Katie Hobbs, David Horowitz, Senator Leah Landrum Taylor, Representative Terri Proud, Russell Smolden, Judge Wayne Yehling.
Presenters/Guests: Garth Camp, (Legislative Staff), Ingrid Garvey (Legislative Staff), Amy Love (AOC Legislative Liaison), Kathy McCormick (Proxy for Judge Michael R. Bluff), Pele Peacock (Legislative Staff), Katy Proctor (Legislative Staff), Amber Witter (Legislative Staff).
Staff: Kathy Sekardi (AOC), Kym Lopez (AOC).

CALL TO ORDER

Without a quorum present, the December 7, 2012 meeting of the Domestic Relations Committee (DRC) was called to order by Senator Linda Gray, Co-Chair. Introductions of DRC members and legislative staff were made.

APPROVAL OF DRAFT MINUTES

Without a quorum present, the approval of the June 29, 2012 draft minutes is tabled.

PROPOSED LEGISLATION

Domestic relations; conforming changes: Although terminology changes to SB1127 resulted in the term "custody" being replaced with "legal decision-making," not all provisions within Title 25 were changed. This "clean-up" bill will conform terminology in the remainder of Title 25; however, it's unknown if this bill will be sponsored this legislative session.

A.R.S. § 25-408 Parenting time; relocation of child: Amber Witter reported that the language from folder 129, page 2, lines 21-37, is the same language in the new relocation rewrite. Senator Barto will most likely be the sponsor for this bill.

Member comments and questions included:

- Has there been any consideration about including some kind of bright line, such as reducing the 100-mile rule to 20 miles? Both these bills would make it necessary to notify the other parent of any move and the other parent could object. Ms. Witter stated that no mileage was listed due to discussion with stakeholders. Sen. Gray stated there is a provision that disallows a parent from bringing a frivolous motion, such as objecting to a move from one apartment of an apartment complex to a different apartment in the same building.

- Concern was stated that in many domestic violence cases, an abuser will use this provision as an opportunity to exert more control over their victim by objecting to a move even if the court considers it frivolous. There have been objections to removing mileage from this proposal in the past. Ms. Witter stated that in both drafts, notice is only required if there is joint legal decision-making or unsupervised parenting time.

- A member stated that "residential move" is defined in folder 36, page 2, line 37, and that this negates the issue of having to specify mileage.

- Concern was stated for the terminology "and primary residence" in folder 129, page 1, line 41. This term might confuse situations where custody is split 60/40 or if one parent has a slightly higher parenting time percentage than the other parent. A member commented that perhaps this is an oversight and this language should be stricken. One of the reasons that all the language regarding temporary moves was eliminated was because the rewrite references back to ARFLP Rule 47, which allows for temporary orders.

- Folder 36, page 2, lines 8-9, a member stated that the committee might want to consider including an eviction situation in line 16. Another comment included distinguishing between voluntary and involuntary moves such as military personnel. Many service members do not receive a lot of notice before they are deployed to another base or overseas. A member stated this type of move would most likely fall under the "good cause" exception.

- In folder 36, page 1, line 35, sometimes the word "child" is used and other times "child or children" is used. Need to keep the wording consistent throughout the bill.

- In folder 36, page 4, line 17, strike "~~endanger seriously~~" and replace with "seriously endanger".

- Concerning the language in folder 36, page 1, lines 10-11, referring to "joint legal decision-making or unsupervised parenting time," notice only has to be provided in these two situations. As it stands now, there are several statutes that only become applicable to situations where the parents share legal decision-making or if there is unsupervised parenting time. In many situations where a parent will begin reintegration into a child's life, there may be some period of time when

there is supervision of parenting time. In those situations, the way the bill is drafted, a parent would be able to leave the state of Arizona without any notice to the remaining parent who is participating in a court-ordered reintegration program. It was suggested that revised language should not restrict the groups of people it applies to. Suggested language would strike lines 9-10 and the rest of the sentence on line 11. The paragraph would start with "A parent who wishes to move…" This revision allows all parents to have notice if the other parent wants to move with their child.

- In folder 36, page 1, line 9, suggestions made:
  - "A. Except as provided in subsection B of this section ~~if by written agreement or court order both parents are entitled to joint legal decision-making or unsupervised time~~" a parent who wishes to move from the current residential address with a child must provide the other parent with at least sixty days' advance written notice before that move takes place. the notice must include:"
  - In subsection B add a line to exclude victims that have been previously identified as domestic violence victims in court.
- One member stated their objection to the suggested changes because they are not convinced the revisions would protect victims in domestic violence cases when that parent has sole legal decision-making authority and there is supervised parenting time, as notice would still be required.

- In folder 36, page 2, line 3, insert "a domestic violence order" before "court order".

- In folder 36, page 1, line 25 strike "~~notice~~" and insert "statement".

- Folder 36, page 1, lines 16-19, the language was added as a carryover from ARFLP Rule 7. Confirm consistency with ARFLP language.

- A member inquired as to whether or not a parent would be permitted to object if they haven't received notice or is receipt of notice required in order to file an objection to a move? If a parent failed to notify the other parent that they were moving, the non-noticed parent would be able to request a hearing when they know the other parent is moving.

- Next steps: Sponsorship is needed for this bill and Legislative Council will need to prepare an introductory set. The date for introductory bills is near the end of January.

The 2013 Ad-Hoc Relocation Sub-Committee will be meeting in January 2013. Hon. Mary Ellen Dunlap requested membership to this workgroup.

A.R.S. § 25-407 Parenting time hearings:
This bill will be introduced by Senator Barto.

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A member was concerned that requiring a 60-day hearing deadline may slow down the process considerably in the smaller counties. Ms. Love stated that there is a court rule that requires hearings within 30 days and if issues are not resolved, an evidentiary hearing is set for 60 days out.

Additional concern was that RMC's are not evidentiary hearings and this accelerates the process. Courts may not have the resources available to hold hearings in the 30-day period. Ms. Love stated that if parties can reach an agreement at the RMC then an evidentiary hearing does not need to be held.

Call to the Public

Michael Espinoza discussed comments made in stakeholder meetings regarding amending section A.R.S. § 25-407.

Brent Miller discussed amending section A.R.S. § 25-407.

Tom Alongi, representing Community Legal Services, discussed the burdens that will be imposed on the court regarding amending section A.R.S. § 25-407.

Deborah Pearson commented that this issue also impacts rural courts.

Roger Thompson discussed his experience with relocation issues.

A.R.S. § 25-411 Modification to legal decision-making or parenting time:

Questions received regarding this bill included:

- In folder 130, page 3, line 16, why are dates included? Ms. Witter noted this was a policy decision to provide a stop-gap for people who had orders in place after the bill's effective date. A member stated that there is substantial concern from attorneys and judges in family court that this provision will clog the court calendars and that there would be significant stakeholder opposition to the bill as written.

- A comment was made that "legal decision-making" should be replaced with "parenting time" on line 18.

- A member asked if this provision should be limited to cases that have been brought before the court in the last 5 years, or should it be longer? If a change would be in the children's best interest, then a review would be appropriate. There are many circumstantial changes that exist that are covered in the statute that already give parents the ability to return to court.

DISCUSS DEVELOPMENTS REGARDING SUPERVISED PARENTING TIME PROVIDERS AND REVIEW LEGISLATION SB 1176

Although SB 1176 was vetoed by Gov. Brewer due to the amendment that the School Board Association supported, it is hoped that the legislation will go forward mirroring the same version that came out of the senate last session.

Call to the Public
Nisha Chirnomas commented on visitation agencies.

Gerald Chirnomas commented on visitation agencies and provided a handout.

Jeff Daley discussed professional counselor immunity against complaints.

Melissa Prins Verburg commented on supervised visitation and non-regulated court appointed mediators.

Roger Thompson spoke about visitation agencies.

Deborah Pearson discussed language regarding parenting time and relocation.

Brent Miller talked about relocation, Arizona Rules of Family Procedure, Rule 7.

Michael Espinoza commented on A.R.S § 25-403(A)(6) and relocation.

Tom Alongi, representing Community Legal Services, discussed relocation issues.

Ms. Love stated that the Secretary of State created the Address Confidentiality Program and judges are being informed to implement the program in their courtroom.

A member stated that the last time the Substantive Law Workgroup Committee met, the committee voted to include the word "substantial" in A.R.S. § 25-403(A)(6), but the word was inadvertently omitted in SB 1127. The workgroup included the word "substantial" to keep it consistent with the other language. Ms. Gray stated that the committee will work with legislative staff to insure the word "substantial" is inserted back into A.R.S. § 25-403(A)(6).

Meeting adjourned 12:47 p.m.

Next scheduled meeting: TBD

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