DOMESTIC RELATIONS COMMITTEE

Meeting Minutes – April 8, 2005

PRESENT:

CO-CHAIRS:

- □ Hon. Peter Hershberger, Co-Chair
- ■ Hon. Karen Johnson, Co-Chair

MEMBERS:

- □ Hon. Karen Adam
- □ Lucille Antone-Morago
- □ Hon. Tim Bee
- □ Hon. Andy Biggs
- ■ Hon. David Bradley
- □ Hon. Bill Brotherton
- ■ Jodi Brown
- ■ Sidney Buckman
- ■ Kat Cooper
- □ William Fabricius
- □ Hon. Beverly Frame
- ■ Hon. Gabrielle Giffords
- ■ Terrill J. Haugen
- □ Linda Leatherman
- ■ Ella Maley
- ■ Hon. Debbie McCune-Davis
- □ Jay Mount
- ■ Ellen Seaborne
- ■ Judy Walruff
- ■ David Weinstock
- □ Steve Wolfson
- □ Debbora Woods-Schmitt
- ■ Brian Yee

STAFF:

Megan Hunter	Administrative Office of the Courts
Barbara Guenther	Senate
A. Teaunee Duran	Administrative Office of the Courts

GUESTS:

Mary Bucci	Superior Court in Maricopa County
Honorable Norm Davis	Maricopa County Family Court Presiding Judge
Therese Martin	Arizona Attorney General's Office
Annmarie Mena	Division of Child Support Enforcement - DES

CALL TO ORDER
Senator Johnson called the meeting to order at 10:17 a.m. without a quorum present.

ANNOUNCEMENTS
Senator Johnson announced that long-standing member, Nancy Gray-Eade, has resigned from her position on the Committee. She served on the Committee for several years and made significant contributions both as a member and as part of several workgroups, including chairmanship of one.

LEGISLATIVE UPDATE
Barbara Guenther, Research Analyst, Senate, presented information on Senate Bill 1045 and Senate Bill 1046 and other domestic relations-related bills. Annmarie Mena, Department of Economic Security, Division of Child Support Enforcement, reported on child support-related bills.

Senate Bill 1045 – Child Custody; recodification
- Passed Senate and House
- Transmitted to the Governor
- Awaiting signature

Senate Bill 1046 - Order of Protection; service
- Held in the Senate
- Dead

Senate Bill 1313 – Electronic payments; child support
- Passed Senate and House
- Transmitted to the Governor
- Awaiting signature

Senate Bill 1040 – Sexual assault; marital status repeal
- Passed out of Committee of the Whole and the House
- Awaiting Third read

Senate Bill 1306 – Child abuse restitution
- Became a strike everything in Appropriations
- Changed to bill on immigration enforcement

Senate Bill 2428 – Emancipation of minors
- Passed Senate and House
- Transmitted to Governor
- Awaiting signature

Senate Bill 1145 – Marriage Dissolution misconduct
- Cleared Rules
- Cleared Caucus
- Awaiting debate in Committee of the Whole

House Bill 2249 – Child support, disability, paternity

- Held in House Judiciary
- Offered as a strike everything in the Services
- Third read
- Passed Senate
- Awaiting Third Read in the House

House Bill 2548 – Appropriation; web-based calculator

- Heard in Human Services
- Not scheduled for hearing although exceptions can be made for appropriation related bills

GUARDIANSHIPS; GRANDPARENTS

Megan Hunter informed the Committee that a request had been made that the Committee discuss the possibility of an expedited process for guardianships in light of the high numbers of grandparents raising grandchildren. Since the time of the request, Pima County offered information on their expedited process and that information was forwarded to the requester, thereby resolving the issue and eliminating the agenda item.

INTEGRATED FAMILY COURT; MARICOPA COUNTY – JUDGE NORMAN DAVIS & MARY BUCCI

Mary Bucci, Family Court Administrator in Maricopa County, explained the proposed changes to Maricopa County's Integrated Family Court (IFC) program. Cases were being moved from judges who had substantial history with families to judges who did not know anything about the case.

Judge Davis, Presiding Family Court Judge in Maricopa County, explained that the original idea for the IFC of "one judge, one family" is not realistic. The juvenile court has more resources available to it including, court appointed attorneys, Foster Care Review Board reports, therapists, counselors, parenting aids, etc. The only nexus between family and juvenile court for families is the custody decision. The IFC Committee in Maricopa County concluded that because of the various resources available in juvenile court, a juvenile judge is in a better position to make more informed decisions regarding custody and parenting time. In addition, the environment in a juvenile court setting is one of cooperation and cohesiveness, which generally leads to a stipulated custody and parenting time schedule. As a result, The IFC Committee proposed that the family will receive better services and the family unit will be better preserved under this process than that experienced in the pilot project.

David Weinstock expressed concern regarding what happens when allegations of abuse have been made after family court is involved. Does the case get transferred to a juvenile court at that time? Judge Davis explained that juvenile does not get involved unless a dependency petition has been filed.

David Weinstock also expressed concern about the involvement of Child Protective Services (CPS). How does one deal with allegations that are made, more as a tactic, rather than actual abuse? He pointed out that, as a custody evaluator, he finds that proceeding with an evaluation once an allegation of abuse has been made is very difficult and suggested that CPS be more involved with family court, this measure could possibly alleviate problems that presently exist.

Ellen Seaborne stated that she has had several cases where allegations of abuse have been made and CPS was involved. Unfortunately, many of the allegations that are made in these particular situations end up being unsubstantiated or false allegations. Ellen stated that these cases can go on for at least a year, if not longer, and the parent who the allegation was made against is kept from seeing the children, which leads to the need for a reunification process. Now, in addition to a dissolution proceeding taking place, a reunification process is necessary, creating a tremendous burden for the parents and children.

Ellen Seaborne asked Judge Davis another question regarding the fact that during a dependency proceeding, the Judge may be referring to A.R.S. § 25-403 but the dependency attorney will be looking at juvenile code. This creates a problem as to how the two laws are going to "mesh" and how procedures will need to be refined to make these types of proceedings more clear in relation to which laws are applicable.

COURT PROCEDURES WORKGROUP

Brian Yee explained that he, Beverly Frame and Steve Wolfson met with Tim Nelson from the Governor's office, to encourage the Governor's office to give due weight to judicial candidates who have experience in family law. They expressed the concern of the Domestic Relations Committee that one-third of a judge's tenure is spent on a family law calendar and candidates should have, at least, some working knowledge of family law. Dr. Yee informed the committee that Tim Nelson understood the committees' position on the issue and the office would take the suggestion into consideration.

Dr. Yee mentioned that a highly respected and qualified family law attorney from Phoenix, Bruce Cohen, recently applied to serve on the Maricopa Superior Court bench and suggested that the Committee send a letter of support for his application and/or other respected family law practitioners. The Committee agreed to forward the task of drafting a letter of recommendation to the workgroup, which will meet after the formal meeting.

A quorum was reached at 10:47 a.m.

MOTION: **Approve the February 18, 2005 minutes as submitted. Seconded.**
VOTE: **Minutes approved unanimously.**

WORKGROUP REPORTS

Creditor Issues Workgroup – Ellen Seaborne

This workgroup drafted a proposal that would allow for a simplified prenuptial agreement limiting the ability of spouses to contract joint, common or community debt. This would inform individuals who marry of their rights regarding creditor issues. This workgroup has discussed the possibility of a 15-20 minute class, possibly via video, that would provide information on their rights and responsibilities prior to the marriage. Individuals would have the opportunity to "opt out" of the community property area after learning their rights and responsibilities. The idea of this proposal is to educate and inform "from the beginning", because creditor issues are very difficult to fix after the fact.

Dr. Yee commented that the Family Law Rules of Procedure Committee has been working to put legal jargon into "simple language" for those who are not familiar with law vocabulary to comprehend. Ellen Seaborne will take this comment back to the workgroup and possibly consider simplifying the language without compromising the intent.

Court Procedures Workgroup – Brian Yee

Dr. Yee explained that in August, family law attorney, Helen Davis, spoke to the Committee on the topic of judges who routinely interview children in domestic relations cases. The workgroup discussed the issue, which led to two concerns: (1) this process could lead to due process problems, and (2) there are problems associated with training and competency to conduct such interviews.

As a result of these concerns, Dr. Yee gave a presentation on December 2, 2005, to the Maricopa Superior Court judges on judicial interviewing. A majority of the family court bench attended and the presentation is available on DVD for review by those who could not attend, as well as for judges to use for future reference.

Megan Hunter informed the committee that a separate training on interviewing children was provided at the Domestic Relations Judicial Conference in February, 2005. Approximately 50 judges from across the state attended the training. This training is also available on video.

David Weinstock suggested that the recordings of judge's interviews be used to train judges in the future.

Education/Prevention Workgroup- Terrill Haugen

This group is going to try to work with the Creditor Issues workgroup on the education aspects of creditor issues.

CALL TO THE PUBLIC

There were no comments from the public.

NEXT MEETING

The next meeting will be held on Friday, June 17, 2005.

ADJOURNMENT

The meeting was adjourned at 12:45 p.m.