

DOMESTIC RELATIONS REFORM STUDY SUBCOMMITTEE
Meeting Minutes - July 19, 2002

PRESENT:

Sen. Mary Hartley
Sid Buckman
Ella Maley
Rene Bartos
Daniella Yahez
Nancy Gray Eade
Hon. Karen Adam
Jay Mount
Ellen Seaborne

Jeff Zimmerman
Janet Scheiderer
Sen. David Petersen
Brian Yee
Bill Fabricius
Terrill Haugen
Debbora Woods-Schmitt

NOT PRESENT:

Rep. Kathi Foster
Rep. Mark Anderson
Rep. Karen Johnson
Gordon Gunnell
Steve Phinney

Frank Costanzo
Ray Rivas (Alma Jennings Haught)
Jennifer Jordan

GUESTS:

Dave Norton, Phoenix Police Department
Barbara Guenther, AZ Senate
Diane Post, ACADV
Therese Martin, AZ Atty Gen.
Kathy Seeglitz, DES

STAFF:

Karen Kretschman
Isabel Gillett
Megan Hunter
Susan Pickard

CALL MEETING TO ORDER

The meeting was called to order at 10:28 a.m. by Senator Petersen.

ANNOUNCEMENTS

Senator Hartley announced that all of the Supreme Court's, Senate's and House's reappointments/ appointments to the new Domestic Relations Committee have been completed.

Daniella Yaloz is the new ACADV representative and Beth Rosenberg is the new Child Advocate representative. The rural judge position now has two applicants and two applicants for the State Bar representative have been sent to the Chief Justice.

APPROVAL OF MINUTES

A quorum was present for minutes approval. The minutes for the June, 2002 meeting were unanimously approved as written.

STATUS OF MEMBERSHIP POSITIONS/NEW APPOINTMENTS

Sen. Hartley discussed the numerous senate positions which are up for election this fall.. A replacement has not been designated by the President of the Senate for Sen. Hellon and one may not be made due to coming vacancies on the Senate Family Services Committee. The new Domestic Relations Committee will have two senators and two representatives on the Committee pursuant to the new wording and structure contained in S 1088, effective August 22, 2002.

Governor Hull's office has notified the Committee that the positions now being reappointed/appointed by the Governor are stalled. Reappointments may not be "automatic" and Stephanie Ashcroft, in the Governor's Committees Section, has asked Gordon Gunnell, Steve Phinney, Ellen Seaborne, Bill Fabricius and Jay Mount to fill out the Governor's required form and also submit a letter of interest and resume.

The Senate has indicated that the Domestic Relations Committee will not be able to officially meet after August 22, 2002 if the Governor's appointments to the Committee are not completed by that time. The above-referenced members were requested to submit their materials as soon as possible in order to expedite the application/appointment process with the Governor's office. Monthly workgroup meetings, however, may continue to be scheduled in the event the appointments are not made by the Governor by August 22, 2002.

INTEGRATED FAMILY COURT SUBCOMMITTEE UPDATE

Senator Hartley reminded the group of legislative committee parameters and separation of powers among the courts, legislature and governor. The legislative branch establishes policies, the executive branch establishes procedures and the judicial branch has enforcement powers.

Due to upcoming legislative elections and term limits, current legislators on the committee may not be returning next year. The committee may need to find sponsors for the IFC proposal.

The Integrated Family Court Subcommittee should be preparing work product in the form of an

Integrated Family Court Action Plan, consisting of recommendations as approved by the Committee. The Report from the IFC is what the legislative charge asks for; it will contain the recommendations made by the IFC Subcommittee. The Report will then be reviewed by the Domestic Relations Committee and approved or not. DRC members who do not agree with the Report may prepare a “minority report” and recommend other options and suggestions. The Committee will not be drafting proposed statutory language over and above the report. Senator Hartley also added that Legislative Council then drafts the statutory language from the Report/Plan which is approved by DRC and sent to the legislature with a sponsor.

Barbara Guenther reiterated some of Senator Hartley’s information and added that Legislative Council is responsible for drafting the statutory language and capturing the ideas/concepts of the proposals in the plan. She did comment that Legislative Council does appreciate statutory language suggestions but is not bound to follow those suggestions. A worksheet was provided to the members for consideration during their discussions that includes tasks, recommended responsible party to carry out the task, time frame and costs. This form will be useful to the IFC Subcommittee members in preparing their final Action Plan for the IFC.

Senator Petersen mentioned that the Child Support Committee does submit statutory language proposals in their work product but the comment was clarified by others who pointed out that the child support issues are usually very narrow and technical in nature.

Barbara Guenther also added the following regarding the IFC Plan draft:

Use caution against being too detailed (This is for the Rules process)
Let the Professionals (Legislative Council) draft the statutory language
Focus on the Plan and finish it first.

Senator Hartley then commented on the cost factor of an IFC Plan. She discussed the difficulties facing the legislature for fiscal year ‘04 and urged the IFC Subcommittee to be creative in suggesting financing methods—i.e. how to get individual counties to pick up part of the tab; would this Plan support a fee, etc. She suggested that the more options provided as to how to finance it, the better chance of it receiving a hearing.

Karen Kretschman asked for clarification on the work product of the IFC Subcommittee: is it a plan/report only or should it contain suggested statutory language? Senator Hartley indicated that the IFC Subcommittee should first ensure that the Plan/report is complete before attempting to draft any kind of proposed statutory language.

Ellen Seaborne updated the members on the progress of the IFC Subcommittee, discussing the contents of the IFC Executive Summary of materials prepared to date. She asked that the DRC workgroups, over lunch, review specific topics including IFC approved proposals, judicial rotation or not and the impact of codifying family laws into a Family Code during the working lunch and returning to the Committee meeting with recommendations on the acceptance/consensus of the content of the IFC Subcommittee’s work completed up to this date.

PRESENTATION

Diane Post, attorney with the Arizona Coalition Against Domestic Violence, presented commentary on Expose, reviewing cases countrywide in which the court has been asked to return children to the custody of a parent who has abused them. Arizona is replicating this research. Diane provided copies of this book to Committee members.

WORKGROUPS

The members of the Substantive law workgroup, the Education/prevention workgroup and the Court procedures workgroup met during the working lunch hour. With Senator Hartley's concurrence, Ellen Seaborne assigned the workgroups various sections of the IFC Executive Summary materials prepared to date and asked for input on whether the material is approved or not, suggestions or additions, and commentary regarding judicial rotation and codifying family-related statutes into one chapter for IFC purposes.

Education/Prevention: Reviewed Authority, Framework, Rotation/Elections, Title Compilation issues

Court Procedures: Reviewed Services and Resources, Minimum Standards, Judicial Officer and Staff Assignments, Rotation/Election of Judges and Title Compilation issues

Substantive Law: Reviewed Specific recommendations on rotation/election, Title Compilation

The workgroups met during the working lunch hour and came back to the general meeting with the following reports:

Substantive Law Workgroup:

Jeff Zimmerman reported the following:

1. Rotation of judges be set at 4 to 5 years as a minimum with the judicial officer having the option of extending their stay without limit with a provision for the presiding judge to have removal authority. They question whether 50% is the right number for judges who need to be appointed or elected out of the Executive Summary.
2. The involved family law statutes should be compiled under one title for IFC purpose. Perhaps the title could read "Family and Juvenile Law" or something similar.
3. Sabbaticals are a good idea. They wondered how this would be covered cost-wise.
4. Caseload standards should be set at the county level where the financing comes into play.

In general, the Substantive Law Workgroup believes the IFC Subcommittee is moving in the right direction.

Court Procedures:

Dr. Brian Yee reported the following:

1. The workgroup expressed concerns about state finances, noting that much of the success of an integrated family court depends on the information systems (computer) which will require substantial funding. All courts will have to be on the “same page.”
2. The Services and Resources working document is a complete and comprehensive list.
3. When it comes to new judges, not judges who are rotating into Family Court but truly NEW judges, the two-week orientation training is not enough and is somewhat overwhelming. Special attention should be given to this training issue.
4. The workgroup recommends that an environment be created to establish a professional bench with judicial officers who instigate progress, published articles, public speeches and working, in net effect, as trainers. Encouraging a professional bench could produce an environment where rotation is not an issue.
5. Recommends the compilation of family law statutes under one title.

Education/Prevention:

Terrill Haugen reported as follows:

1. Reward excellent DR judges; increase their salaries or make them truly “peers” with other Superior Court judicial positions in order to have incentives for taking and staying on this type of an assignment.
2. Recommends a dedicated bench and therefore, a revision of the appointment process (where applicable) where the Governor currently favors attorneys with jury experience. This would eliminate the rotation problem.
3. Encourage the recruitment of those with experience in family law.
4. Recommends the acceptance of the framework as written in the executive summary.

NEW BUSINESS

None was presented.

CALL TO THE PUBLIC

Rene Bartos read a letter from a client as public comment in connection with current domestic violence issues facing victims.

FUTURE MEETING

The August meeting will be held on August 23, 2002 in Conference Room 119A/B, State Courts Building, 1501 W. Washington, Phoenix. The August meeting will be entirely devoted to workgroup meetings in connection with IFC and other new statutory and other proposals for revision and update of statutes, policies and procedures statewide.

The September meeting will be held on September 18, 2002 in Conference Room 119A/B, State Courts Building, 1501 W. Washington, Phoenix.

The October meeting will be held on October 25, 2002 in Conference Room 345A/B, State Courts Building, 1501 W. Washington, Phoenix.

ADJOURNMENT

The meeting was adjourned at 1:45 p.m. by Sen. Hartley.