

# DOMESTIC RELATIONS COMMITTEE

Meeting Minutes – December 10, 2004

## PRESENT:

## CO-CHAIRS:

Hon. Mark Anderson, 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

Nancy Gray

Bill Hart (designee Dale R. Wiebusch)

Terrill J. Haugen

Linda Leatherman

Karen Kretschman

Ella Maley

Hon. Debbie McCune Davis

Jay Mount

Hon. Dale Nielson

David Norton

Ellen Seaborne

Judy Walruff

David Weinstock

Steve Wolfson

Debbora Woods-Schmitt

Brian Yee

Jeff Zimmerman

## GUESTS:

Herschella Horton

Therese Martin

Maria Lawrence

DES

Attorney General's Office

Center for Arizona Policy

## STAFF:

Barbara Guenther

Megan Hunter

Javan Mesnard

Senate

Administrative Office of the Courts

Senate

Patsy Osmon  
Elizabeth Portillo  
Courtney Riddle

Senate  
Administrative Office of the Courts  
House of Representatives

Representative Johnson called the meeting to order at 10:15 a.m. with a quorum present.

#### **ANNOUNCEMENTS**

Members introduced themselves and welcomed new member, Representative Andy Biggs.

Jeff Zimmerman announced his resignation after many years with the Committee. He has been a member since the Committee's inception and was part of bringing the Committee to fruition. He was thanked for his extraordinary dedication and service.

Senator Anderson will no longer be with this Committee as he has been appointed as chair of the House Education Committee.

**MOTION:** Judy Walruff made a motion to approve the minutes as submitted. Karen Adam seconded the motion and they were approved unanimously.

#### **2005 LEGISLATION**

Jeff Zimmerman discussed the Order of Protection proposal, which reflects one change since the last meeting. The change (page 3) adds language that would prohibit the plaintiff listed on an Order of Protection from contacting the named Defendant. Commissioner Adam explained that cross orders of protection were found to be unconstitutional. Currently, Arizona law prohibits cross orders of protection but does not prohibit either party from filing separate orders of protection. Members suggested that the language would hurt the bill and the proposal belongs in a separate piece of legislation so it can be dealt with separately.

Jeff also discussed the possibility of adding the language from the Committee's original bill regarding service of Orders of Protection to the Injunction Against Harassment statute. Members suggested that this matter be looked at in the future because more study is needed and there is not enough time before the 2005 session.

**MOTION:** Ellen Seaborne made a motion to strike the proposed language regarding plaintiff and defendant contact and forward the proposal to Legislative Council. Bill Fabricius seconded the motion. Approved unanimously.

Senator Brotherton suggested that all Committee legislative members should review the bills and sign as co-sponsors.

#### **CUSTODY RE-WRITE WORKGROUP-STEVE WOLFSON**

Steve Wolfson provided an overview of the Legislative Council draft of the custody bill and explained that no wording has been changed; the proposal simply reorganizes the section to make it flow and easier to read and understand. Members pointed out that one section seems to be missing. Steve and Megan agreed to review the draft word-by-word to ensure accuracy.

**MOTION:** Senator Brotherton made a motion that we adopt the Legislative Council draft and that Steve Wolfson review the draft to ensure it is identical to the Committee

draft before it is forwarded to the Legislature. Ellen Seaborne seconded the motion. Approved unanimously.

#### **MARITAL MISCONDUCT - MARIA LAWRENCE**

Maria Lawrence, private attorney, discussed a potential 2005 legislative proposal, wherein the court would have the option to consider marital misconduct when dividing property in a dissolution case. She provided the example of a man whose wife divorced him after 46 years of marriage for another relationship. The husband was ordered to give her half of his retirement and was required to pay spousal maintenance. In order to avoid losing spousal maintenance, the wife cohabitated with the new boyfriend instead of marrying him.

Maria explained that this does not bring fault back into divorce; instead, it gives the court the option of looking at the situation to determine fairness and equity. Hopefully, it would send a message to the parties to finish a marriage before starting a new relationship.

Members commented that the ramifications from this type of legislation are great because it is a system change and the courts will be burdened with trials on the marital misconduct issue. It would not serve as a deterrent and has been proven that the divorce rates have not gone down in states with fault divorce laws. This type of law may be more harmful to children, as research shows that not all children are harmed by divorce.

#### **MARRIAGE ISSUES-BOB TURES FOR SEN. ANDERSON**

Mr. Tures, marriage class provider in Flagstaff, reported on the follow-up study conducted on the marriage classes provided through the Department of Economic Security. The classes have been beneficial to many married couples in the state.

Members discussed whether it is the appropriate role of government to be involved in helping marriages. Mr. Tures commented that the classes impact the chance for successful marriages, but it is most beneficial if couples take classes prior to marriage. The report recommended that Arizona follow Oklahoma's lead in educating high school and college age young people.

Steve Wolfson mentioned that the American Bar Association has standardized curriculum for the high school level. Representative Johnson suggested that we ask Terrill Haugen's Education Prevention workgroup to look into that curriculum.

#### **INTEGRATED FAMILY COURT -ELLEN SEABORNE**

The three pilot courts have submitted their reports to the Administrative Office of the Courts (AOC). Ellen asked that the Integrated Family Court workgroup be reconvened to review the three reports to ensure they are aligned with the original Integrated Family Court recommendations produced from this Committee.

The AOC has requested funding from the Legislature for the pilot projects. Members suggested that if the Legislature provides the appropriation, it needs to be designated as a line item.

#### **WORKGROUP REPORTS**

Creditor Issues Workgroup – Ellen Seaborne

The first meeting was held this morning prior to the main Committee meeting. They are looking at a fairly large list of credit and bankruptcy issues. Members include chair Ellen Seaborne, Representatives Karen Johnson and Debbie McCune-Davis, attorneys Todd Franks and Gloria Cales, DRC members Linda Leatherman, Judy Walruff and Karen Kretschman. The group will meet again on January 21, 2005.

Court Procedures Workgroup – Brian Yee  
Nothing to report.

Substantive Law Workgroup – Jeff Zimmerman  
Nothing to report.

Education/Prevention Workgroup  
Nothing to report.

#### **NEXT MEETING & 2005 SCHEDULE**

The next meeting will be held on January 21, 2005. The June 24<sup>th</sup> meeting conflicts with the annual statewide judicial education conference and the September meeting is on the Friday of Labor Day Weekend. Megan will revise the schedule and notify members.

#### **ADJOURNMENT**

The meeting was adjourned by Representative Johnson at 11:47 a.m.