

DOMESTIC RELATIONS COMMITTEE

****REVISED** Meeting Minutes –December 16, 2005**

PRESENT:

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CO-CHAIRS:

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

MEMBERS:

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Hon. Karen Adam
Lucille Antone-Morago
Theresa Barrett
Honorable Tim Bee
Honorable Andy Biggs
Honorable David Bradley
Honorable Bill Brotherton
Jodi Brown
Sidney Buckman
Daniel Cartagena
William Fabricius
Honorable Beverly Frame
Honorable Gabrielle Giffords
Linda Leatherman - Telephonically
Ella Maley
Hon. Debbie McCune-Davis
George Salaz
Ellen Seaborne
Russell Smoldon
Judy Walruff
Wanda Weber
David Weinstock
Dale Wiebusch
Hon. Thomas Wing
Steve Wolfson
Brian Yee

STAFF:

Susan Marrero
Megan Gnagy
Courtney Riddle
Barbara Guenther

Administrative Office of the Courts
House of Representatives
House of Representatives
Senate

CALL TO ORDER

The meeting was called to order by Senator Johnson at 10:20 am with a quorum present.

ANNOUNCEMENTS

Senator Johnson thanked the Committee for their commitment and participation in this very important work. Commissioner Adam thanked the Committee for their show of support during her interview process for judicial appointment to the Pima Superior Court.

APPROVAL OF MINUTES

MOTION: Russell Smoldon moved that the minutes from July 22, 2005, August 26, 2005, September 22, 2005 and November 12, 2005 be approved. Seconded by Honorable Karen Adam.

VOTE: Minutes approved unanimously.

COMMENT: On the November 18, 2005 minutes, Judge Wing stated that the statement on page four of the second paragraph should read: **not** the judge with oversight of the case. Tape will be reviewed to ensure accuracy.

INTEGRATED FAMILY COURT – ELLEN SEABORNE

Ellen Seaborne explained a proposed bill on the integrated family court pilot programs. Ellen thanked the legislative analysts for their work on the bill. Highlights:

- Recommendations of Committee were taken stating that there will be two pilot programs in two separate counties.
- Counties cannot be named on the bill; instead, population will be listed as the criterion.
- Monies
 - Monies will go to the Administrative Office of the Courts (AOC) to administer the programs (to supplement staff time)
 - The remaining amount will go to the two counties.
- Reports
 - AOC would be required to make a quarterly report to the Legislature as to spending and allocation of the funds
 - Counties will report to the AOC
 - AOC will forward the report to the Domestic Relations Committee
- The counties would be responsible for the evaluation process. The vision is that each county have a pre-test and a post-test.

As discussed in previous meetings, the cost estimates for the two counties under consideration, are:

- Pinal County - \$350,000/year
- Coconino County - \$500,000/year

The group agreed that in order for the programs to be successfully evaluated and to provide meaningful data and conclusions, they will need adequate funding for the full two years. Also, there needed to be funding for the program to be administered and evaluated through the Administrative Office of the Courts. The group agreed that \$25,000 per year would be

appropriate. The group agreed that at least \$875,000/year is necessary to accomplish that goal. The total allocation of \$1,750,000 for the two-year period will be needed for the pilot programs.

MOTION: Russell Smoldon made a motion to accept the Integrated Family Pilot Program legislation. Commissioner Adam seconded.

VOTE: Approved unanimously.

CREDIT ISSUES WORKGROUP – ELLEN SEABORNE

Ellen Seaborne explained that proposals #1 and #2 will not go forward this year but #3 is still on the table:

1. Credit Card Proposal
 - 25-214 – Management and Control
 - 25-215 – Liability of community property and separate property for community and separate debts

2. Marital Education

Dr. John Horan, Arizona State University, Education & Psychology Department, recently demonstrated a software package to staff and a member that could be used for purposes of the marital education proposal. The Committee suggested that Dr. Horan demonstrate the software for the full Committee. The Committee will examine and discuss the following before forwarding a proposal for marital education legislation:

 - Mandatory vs. volunteer
 - May need to have a piece on wills – blended families
 - How does this impact rural area?
 - Is this done in other places?
 - How will individuals know that they are required to take this class?
 - How will opt-out affect the judiciary?
 - Video length
 - Education is definitely in the best interest of everyone and needs to be on the front end.
 - Courts are dealing with emotions of people who may not consider the law.
 - It was suggested that there could be information mailed out and put on a website to see how many hits are made on this site.
 - Choose one county as a pilot program and work on what needs to be re-shaped.
 - For those individuals that would like to obtain more information, the website could be set-up with tabs that will provide links to additional resources.
 - Should it be required?
 - What happens if there is no computer access?
 - Should video be 20 minutes or do the subject areas need to be limited?
 - Is there a way to do an option and is there a way to do a pilot program?

Representative Anderson was invited to speak to the Committee. He offered support of this idea. The understanding is that individuals will have access when

they walk in to apply for marriage license. This type of information is available for divorce when the parents have children.

The Marriage Skills Commission allocated \$1 million/year toward a marriage education program and they are currently sending it out for bid. It was suggested that the amount, \$30,000, that is needed to produce the video for purposes of the marital education proposal could be brought to the commission as part of this budget. A proposal from the Department of Corrections was sent to the Commission to partner with them. Those individuals coming out of prisons have families that may need help in this area of education. Representative Anderson disseminated an article “The Decline in Marriage: What To Do” from Princeton Bookings, a bi-partisan article on where marriage is today and what can be accomplished through marriage education classes. The Committee will continue working on this proposal with a recommendation to consider Representative Anderson’s suggestion to include \$30,000 from the marriage education fund.

3. Pre-Nuptial and Post-Nuptial Agreements Registry

The proposal would require the Secretary of State’s office to create a registry for pre-nuptial and post-nuptial agreements with the intent of informing creditors. This will protect both the creditor and the spouse. Megan Hunter met with the Secretary of State to discuss the proposal. They are agreeable but have questions:

- How many would be filed annually?
- What are the start-up costs?
- Filing fee to handle ongoing costs?

MOTION: To accept the Committee’s recommendation to hold off on legislation for the credit card proposal and marital education proposal. **Seconded.**

VOTE: Approved unanimously.

MOTION: To move forward with pre- and post-nuptial registry legislation. **Seconded.** Clarification: The duties of the clerk are to see that applicants for marriage license meet the laws of the State of Arizona. They will be the accepting agency for the certificates; they will not have something in the clerk’s office to facilitate this.

VOTE: Approved unanimously.

COMPLAINTS PROCEDURE FOR CUSTODY EVALUATORS – REPRESENTATIVE LUJAN

In addition to his work at the Legislature, Representative Lujan works as an attorney with an organization – Justice for Children. He explained what happens in some cases when there is a mental health professional that is treating a child and there are issues of abuse. The abuser files a complaint against the mental health professional that forces the mental health professional off the case. His proposal would require that the complaint has to be filed by both parents in order for it to be a valid complaint or the complaint goes to the judge overseeing the case and the judge has the opportunity to review complaint and make a determination as to merit. The purpose of the proposal is to weed out frivolous complaints and preventing the mental health professional from advocating in behalf of the child. Members discussed the issues that have been raised by custody evaluators. Their concerns focus on the threat of board complaints. The proposed bill would

provide an additional filter and some protection for professionals doing this type of work which could ultimately reduce the number of frivolous or inappropriate complaints.

Dr. Tapia addressed the committee to discuss the goal of Representative Lujan's bill. It is focused on children's welfare and their rights to services. Judges need the input from those working with the children. If a parent decides that he/she is not satisfied with the documentation that is provided by the mental health professional, that person can file a complaint with the board causing the mental health professional to be removed from the case, thereby leaving the children with no voice. If subpoenaed by one parent, the input provided is viewed as biased. Senator Johnson stated that this is an area that will be pursued and the Committee will wait to see how the bill has develops. Representative Hershberger and Representative Lujan will meet and bring back information for the January meeting.

POST-SEPARATION PARENTING TIME PROPOSAL – WILLIAM FABRICIUS

Bill Fabricius discussed the post-separation parenting time proposal. The Committee suggested that the wording OF A.R.S. 25-803(D) may result in unintended consequences. This will be further discussed in the Substantive Law Workgroup.

WORKGROUP REPORTS

SUBSTANTIVE LAW – WILLIAM FABRICIUS FOR STEVE WOLFSON

This group will meet online next month and bring some suggestive language to the committee in reference to 25-803, paragraph D.

EDUCATION AND PREVENTION – WANDA WEBER

The workgroup will research:

- other states' pre-marriage education programs
- web-based marriage education opportunities
- a pilot program.

COURT PROCEDURES - BRIAN YEE

There was discussion on materials presented. The workgroup will continue working on the proposal from Representative Lujan.

CALL TO THE PUBLIC

There were no public members in attendance.

NEXT MEETING

The next meeting is scheduled for January 20, 2006. As part of the Creditor Workgroup's meeting on January 20, 2006, Larry Hirsch will give an overview on bankruptcy and how that affects spousal issues. All are invited to attend. Megan Hunter will send out more information. As a note, the Domestic Relations Committee meeting scheduled for October 20, 2006 may need to be changed. The DR Training falls in that timeframe.

ADJOURNMENT

The meeting adjourned at 1:30 pm.