

DOMESTIC RELATIONS COMMITTEE

Minutes
July 20, 2007

MEMBERS PRESENT:

Honorable Linda Gray, Co-Chair
Theresa Barrett
Sidney Buckman
Daniel Cartagena
Honorable Beverly Frame
Linda Leatherman (conference-partial)
Donnalee Sarda
Ellen Seaborne
Honorable David Bradley (conference-partial)

David Weinstock (conference)
Brian Yee
Patti O'Berry
Honorable Rebecca Rios
George Salaz
Russell Smoldon

MEMBERS ABSENT:

Honorable Peter Hershberger, Co-Chair
Honorable Paula Aboud
Honorable Tim Bee
Honorable Andy Biggs
William Fabricius
Jodi Brown

Barbara Fennell
Ella Maley
Honorable Thomas Wing
Steve Wolfson

PRESENTERS/GUESTS:

Melissa Knight, Pinal County Family Court
Paul O'Connell, Pinal County Family Court
Julia Smock, Office of the Attorney General, Glendale
Jana Bertucci, Department of Economic Security
Honorable David Lujan, State House of Representatives
Kay Radwanski, AOC
Jennifer Greene, AOC
Diana Baker, Member of Community

STAFF:

Kathy Sekardi
Tama Reily
Eden Rolland
Amber O'Dell

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

CALL TO ORDER

Honorable Linda Gray, Co-Chair, called the meeting to order at 10:15 a.m. without a quorum present.

ANNOUNCEMENTS

The following announcements were made:

- Commissioner Karen Adam resigned her DRC membership effective April, 2007.
- New member Patti O’Berry, of the Domestic Violence Coalition, was introduced.
- New AOC Domestic Violence Court Specialist, Kay Radwanski, and AOC Administrative Assistant, Tama Reily were introduced.

Senator Gray asked the Committee members to introduce themselves.

Kathy Sekardi announced the Arizona State Bar’s “Parting Shots” seminar will take place on September 27, 2007. The segment “Pornography and How It Affects the Family” was developed from the pornography possession issue that presented to the DRC earlier this year. Kathy will send more information as it becomes available.

Ellen Seaborne reports that Todd Franks has oral argument before the Supreme Court on September 27, 2007, regarding non-modifiable spousal maintenance issues. As this is the same date that the “Parting Shots” seminar is to take place, Kathy will look into what the time each event is to take place and forward the information via email to the members.

Paul O’Connell and Melissa Knight reported on the status of the Pinal County Integrated Family Court (IFC) program. A “living document” of the IFC procedures was provided in today’s meeting, along with the Chronological Task Timeline as laid out by the IFC Steering Committee.

Arizona House Representative, David Lujan was appointed as a new DRC member in today’s meeting.

APPROVAL OF MINUTES

The minutes for the November 17, 2006, January 26, 2007, and February 16, 2007 could not be approved since there is not a quorum present.

OPEN MEETING LAWS PRESENTATION

Assistant Attorney General, Julia Smock, presented the Open Meeting Laws (OML). Some of the key points discussed included:

- A public notice and agenda must be posted no less than 24 hours prior to regularly scheduled meeting.
- Agenda should state “subject to revision up to 24 hours in advance,” no revisions may be made after this period.
- Agendas should accomplish two things:
 - ~ define what the meeting will cover
 - ~ limit what the meeting will cover
- Public has the right to listen – it does not have the right to speak; although committee members may invite a member of the public to speak.
- Issues raised by the public cannot be addressed at that meeting unless an agenda item.

- Action items should be handled when there is a quorum.
- All emails committee members send regarding committee issues are “on the record” and must be retained according to an established retention policy.
- Additional OML information can be found online at www.azag.gov

REVIEW OF STRATEGIC PLANNING TOPICS OF 2006 AND REVIEW OF 2007 MEETING SCHEDULE

Kathy announced the new schedule for potential meeting dates, and informed the members that the November 9 meeting will likely be a joint meeting with the Child Support Committee.

Members were asked to review the Strategic Planning Topics from 2006 and discuss some of the items they would like added to next year’s topics. The 100 mile rule and education for children of divorcing parents were among the issues requested.

CALL TO THE PUBLIC

Diana Baker, a custodial parent who previously addressed the Committee (January 26, 2007), returns to offer additional considerations for her proposed “Pathway” program. These involved the use of a “red line item” system to track accountability in three areas:

- Following long-term court orders
- Following through with specific “red-line” (incomplete) items
- Ensure the “minimum requirements” of court orders are maintained by the parties

She also suggests that program procedures be made available to the public.

WORKGROUP REPORTS

Substantive Law

Dan Cartagena reported that the workgroup discussed a few of the items added to the Strategic Planning document. This included whether the issue of the 100-mile rule should be addressed, in terms of making a change to the relocation statute. No definitive plans were made. In addition, the workgroup considered some terminology and statute clean-ups such as:

- The definition and meaning of “primary care.”
- The definition of “joint physical custody,” and whether or not this should be updated to “equal parenting time,” since the notion of “physical custody” relates more to parenting time.
- A.R.S.§ 25-803(D), which has to do with establishment of legal custody based solely on whether the child has been with one parent for the greater part of six months. There is concern that this language might encourage misbehavior in a parent, such as keeping a child from the other parent, or using the rule as a legal tactic.
- Paternity fraud.
- DES currently does not address parenting time when establishing custody, due to competing issues. Workgroup may explore this issue.

Education & Prevention

George Salaz reported that the majority of the workgroup was not present, but there were a couple of items that warrant consideration. One is a model of cooperative system of family law out of South Bend, Indiana, that he plans to research before the next meeting. Another program to consider is the collaboration with ASU and Maricopa County that is coordinated by Erwin Sandler and Sandy Braver.

Court Procedures

Brian Yee reported that the workgroup is looking at data collection as a significant issue to work on. The data that is collected is not collated in a way that is useful for evaluating the number of joint custody versus sole custody filings, the time from start of the filing of the petition to when the litigation is finally resolved, and the number of post-dissolution filings. For example, in many jurisdictions we have just as many post-dissolution filings as initial filings, and it would be useful to have data available to allow for factor analyses, which could identify possible characteristics that are present with post-dissolution filing. This could lead to methods of intervention, and ultimately, a decreased case load in the courts.

Another issue is the 100-mile rule, which they could look at collaboratively with the Substantive Law workgroup. One key area of the statute they suggest looking at is the question of where the mile-marker begins and how the rule is impacted by various factors, such as when one parent leapfrogs from area to area, but each move is within the 100-mile limit.

Creditor Issues

Ellen Seaborne reported on the bills that went through the last legislative session:

SB1357 - Amends Section 25.324 allows for more specificity in the findings of relative economic position of the parties, and the position each party has taken through the proceedings.

SB1247 – Amends Sections 33.964 and 33.1103, the homestead exemption can not be claimed if there is a judgment for child support, spousal maintenance, and court-ordered attorney fees.

Bills that did not pass are:

SB1356 – Would amend Section 25-211 in order to specify the community property status does not change at the time of service of petition for dissolution of marriage

SB1358 – Would amend Sections 25-214 and 25-215, which would clarify the right to manage community property.

SB1621 – Would set up a central registry for maintaining premarital and postmarital agreements.

Integrated Family Court

Ellen reported on a couple of issues the workgroup will be working on. Paul O'Connell will be looking at how their two pilot programs stack up against the ten recommendations that were adopted by the AOC and by the legislature, to learn if they are actually pursuing the areas intended. Additionally, they will be looking into the question of funding for the pilot programs, going forward. The workgroup will meet for approximately one hour following the DRC meetings. Ellen requests that members interested in serving on their committee notify her. Materials provided in today's meeting include the Third quarter and Annual progress reports, as well as articles from local papers highlighting the IFC program.

2007 LEGISLATIVE UPDATE

The update for the DRC legislation was covered in Ellen Seaborne's earlier. Kathy Sekardi asked for any questions or clarifications there might be, and reminded members that they will continue to receive weekly legislative summaries from her during the legislative session.

Amber O'Dell addressed the committee on SB1190, which would have allowed family court judges to order a family to participate in services offered by any state program in which the family is eligible to participate. Senator Landrum Taylor is considering sponsoring this legislation again next year and would like the committee to be aware of this. It was decided to place the issue on the agenda for the next meeting, and invite Senator Landrum Taylor to present on the bill.

CALL TO PUBLIC

No public was present.

ADJOURNMENT

The meeting was adjourned at 2:03 p.m.

Next meeting:

Friday, August 17, 2007

10:00 a.m. to 2:00 p.m.

Room HHR-1

Arizona State Legislature

1700 W. Washington

Phoenix AZ 85007

Teleconference number: 602-452-3912 Access Code: 1114