

DOMESTIC RELATIONS COMMITTEE

Minutes

August 17, 2007

Members Present:

Honorable Linda Gray, Co-Chair
Honorable Peter Hershberger, Co-Chair
Honorable Paula Aboud
Theresa Barrett
Daniel Cartagena
William Fabricius
Honorable Beverly Frame
Ella Maley
Honorable Rebecca Rios

Donnalee Sarda
George Salaz
Ellen Seaborne
Honorable Thomas Wing
Brian Yee
Barbara Fennell
Honorable David Lujan

MEMBERS ABSENT:

Honorable Andy Biggs
Honorable David T. Bradley
Sidney Buckman

Jodi Brown
Patti O'Berry
Linda Leatherman

PRESENTERS/GUESTS:

Melissa Knight, IFC Pinal County
AdiShakti Khalsa, IFC, Coconino County

STAFF:

Kathy Sekardi
Tama Reily
Eden Rolland
Barbara Guenther
Amber O'Dell

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

CALL TO ORDER

With a quorum present, Honorable Peter Hershberger, Co-Chair, called the meeting to order at 10:10 a.m.

ANNOUNCEMENTS

The appointment of Honorable Sarah Simmons as the rural domestic relations Superior Court judge member was announced, as was new appointee Patti O'Berry, representative

of a statewide domestic violence coalition. New member, Representative David Lujan, Phoenix, was introduced.

APPROVAL OF MINUTES

The minutes for the November 17, 2006, January 26, 2007, February 16, 2007, and July 20, 2007 meetings were presented for approval.

MOTION: Senator Linda Gray made a motion to approve the November 17, 2006, January 26, 2007, February 16, 2007, and July 20, 2007 minutes as presented.

SECOND: Representative Hershberger seconded the motion.

VOTE: Unanimous.

DISCUSSION ESTABLISHING COMMITTEE RULES

Policy regarding quorum – legislative members

Kathy Sekardi explained to the committee a member's suggestion for a proposal for a new policy regarding quorums. The policy would help the committee to attain a quorum more easily by continuing to allow legislative members voting rights, but it would not count them toward the quorum. The quorum requirement would be reduced to 12 if the 8 legislative members were excluded from the quorum.

MOTION: Representative Hershberger made a motion to change the rules in order to allow legislative members to retain voting rights but not to count toward attaining a quorum.

SECOND: Motion seconded.

VOTE: Unanimous.

Policy regarding retention of emails

Kathy Sekardi addressed the committee on the need to establish a policy regarding retention of e-mails. According to Julia Smock of the Attorney General's office, Open Meeting Laws mandate that the committee have a policy to guide retention of DRC related emails.

Discussion ensued regarding which specific emails the policy would pertain to, whether they should be kept in hard copy form, or electronic, and the time frame that should be established. Several members suggested keeping legislative emails for a period of one year, to mirror the legislative session, and administrative emails, such as meeting notices, for 60 days. However, Representative Hershberger expressed concern as to whether the legislative emails would be kept for a set period, such as November 1, through October 31, or a running year, beginning on the date the email is received.

In addition to these details, the question of who has the responsibility for keeping the emails was raised. Should it be an administrative duty that the specialist could manage, or should each committee member monitor his/her emails?

It was decided that before establishing a policy, Representative Hershberger and Senator Gray will consult with their respective House Rules Attorneys on what the Open Meeting Laws dictate, and discussion on the matter will resume once this information has been obtained.

Open Meeting Law (HB2208) and workgroup minutes

Kathy Sekardi addressed the members on new legislation (HB2208), which will require legislative committee workgroups to provide public notice and record minutes of their meetings, beginning on September 19, 2007. Kathy offered to provide a template formatted for minutes, which the workgroups can use in the event she is absent from a meeting. If there are any questions on this matter, members can contact Kathy.

DISCUSSION REGARDING HB2662

Judicially appointed health professionals; complaints

Representative David Lujan reported on the history of HB2662, which amends A.R.S. § 13-3620. It relates to mental healthcare providers, who, during the course of working with a child, learn that abuse is taking place. The goal of this legislation is to put a process into place to prevent frivolous complaints from being filed against the provider. These complaints occur when a parent/guardian wishes to keep the provider from testifying on behalf of the child. It's an issue that has been before the legislature a few times in the past, but it continues to face challenges. Currently, Representative Lujan is working with many system stakeholders on revising the bill. They are discussing the idea of a screening committee, comprised of individuals from the Board of Behavioral Health Examiners, and other licensing boards, which would examine a complaint when it is filed, to determine its legitimacy. If it is not legitimate, then it would be thrown out, and allow the mental health provider to continue advocating for the child. Representative Lujan hopes the group will complete their work on the bill in the next month, and will bring it to the next DRC committee meeting.

Judge Wing raised a question about the time lag that could occur when a complaint is processed by a screening committee, and the possibility that the abuser would be allowed to continue his/her abuse during this lag. Representative Lujan pointed out that this time lag is present in the current process as well, when a complaint is filed. The hope is to come up with a more expedited process with the new legislation.

Steve Wolfson commented that a pleading before the court, similar to a Notice for Change of Judge, might be more effective than a screening committee in these cases, because the court has to give priority to the Notice hearing. He suggested that the workgroup consider this. Representative Lujan stated that this was an option previously considered; however, there was opposition by the licensing boards, who were of the opinion that Judges don't have the expertise needed to screen mental health providers. The boards also wanted to maintain the role of screening.

Ellen Seaborne asked about the term *licensee*, which is found in the bill. In view of the fact that many attorneys are now being licensed as Parenting Coordinators, Family

Masters, and best interest attorneys, does this language include attorneys as well as the mental health providers? Representative Lujan clarified that the parts of the statute being amended refer to licensed counselors, psychiatrists and psychologists under title 32 and this legislation will retain that.

Representative Lujan stated that the group will be meeting again on September 10, and he extended an invitation to any committee member who is interested in attending. The meeting will take place at the House of Representatives building.

INTEGRATED FAMILY COURTS REPORTING

Coconino county

AdiShakti Khalsa presented a report on the progress of the IFC in Coconino County. She provided members with a written report outlining the program's processes, and financial and caseload statistics.

Pinal County

Melissa Knight updated the committee on the activities for the last quarter in Pinal County. A written quarterly progress report was provided.

CALL TO THE PUBLIC

No public comments offered.

WORKGROUP REPORTS

Substantive Law

Dan Cartagena reported that the workgroup discussed the 100-mile rule, looking at language that needs to be clarified because it could be easily misinterpreted. This is a line item they will approach at their next meeting. Another item that will be addressed is to clean up some language in A.R.S. § 25-403 and 25-402, where the key words *joint physical custody* and *joint custody* need to be more specific as to the legal status of the custody. Also, paternity fraud was considered, but they will need to take a more thorough look at the issue, as there does not seem to be a lot of statutes in Arizona that pertain to this. It might not be a real significant item for them to work on at this point in time. Finally, they talked about the order of dependents, and the interaction between IV-D cases and existing custody or paternity cases. This relates to the fact that anyone can seek the assistance of the Attorney General on child support matters, but this could disrupt an ongoing custody, paternity, or divorce case.

Education & Prevention

William Fabricius reported that the workgroup talked about two main issues. The first concerned training for parent coordinators. He noted that there are some groups in the state who want to organize this type of training, and are looking for ideas on how to do that. The workgroup learned from Ellen Seaborne that her court in Flagstaff is preparing to run some parent coordinator training this coming fall, and they were able to gain some information about the court's approach to the structure and content of the training. The

second item they worked on regarded adding a child component to the parent-education programs that the courts run. Flagstaff court is already planning a pilot program to institute a child component. They discussed meeting with the people in Flagstaff and having a workshop-planning meeting to work out a type of curriculum for the child-component of the program. There are some other states that have this type of program, so these will be looked to for ideas, as well. That will be going on later this fall, so hopefully in the new year there will be a child-education pilot program up and running.

Dr. Yee added that there are some upcoming training modules on parent-coordinator training at the Maricopa County Annual Training in December, and in February, the AFCC has at least one module. A complete definition of *parenting-coordinator* is found under Rule 74 of the Arizona Rules of Family Law Procedure.

Court Procedures

Dr. Yee reported that the workgroup talked about developing a list of recommendations for data collection, as Yuma County is going to be starting up the new data collection model. One issue they are focused on is post-dissolution filings, because the cases have increased to the point where they almost exceed initial filings. Data analysis could help to identify what contributes to post-dissolution filings. Some of the data that could be useful in this process include the frequency of joint versus sole custody cases that go to post-dissolution, and/or the occurrences of domestic violence allegations and orders of protection during the initial pre-dissolution filings.

Creditor Issues

Ellen Seaborne reported on the workgroup's meeting, which was attended by the Co-Chairs of this committee today. She reminded the committee that they are always welcome to attend the meetings. The topics the workgroup discussed today were proposed bills that didn't pass in the last session. They specifically looked at SB1358, which applied to management and control of marriage property and debts, and SB1621, which pertained to premarital and postmarital agreements and a central marriage registry.

Integrated Family Court

Ellen reported on the workgroups plans for their first meeting, which was scheduled to take place immediately following this committee meeting. Due to the fact that many of the workgroup's members have had to leave today, the meeting will likely be cancelled. She will table the DVD presentation they were prepared to give, as time will not allow for the length of the presentation. It will be presented at the next DRC meeting. Ellen extended an invitation to any committee member who would like to participate in the workgroup.

CALL TO THE PUBLIC

There was no public present.

ADJOURNMENT

The meeting was adjourned at 2:00 pm.

Next meeting

Friday, September 21, 2007
10:00 am to 2:00 pm
State Courts Building
Room 345 A/B
Phoenix, AZ 85007