

## **DOMESTIC RELATIONS COMMITTEE**

Minutes

September 21, 2007

### **MEMBERS PRESENT:**

Honorable Linda Gray, Co-Chair  
Theresa Barrett  
Jodi Brown  
Sidney Buckman  
Daniel Cartagena  
William Fabricius  
Barbara Fennell  
Honorable David Lujan  
Honorable Beverly Frame  
Patti O'Berry

Honorable Rebecca Rios  
George Salaz  
Ellen Seaborne  
Honorable Sarah Simmons  
Honorable Thomas Wing  
Steve Wolfson  
Brian Yee  
Linda Leatherman (Call-in)  
Russell Smolden  
David Weinstock (Call-in)

### **MEMBERS ABSENT:**

Honorable Peter Hershberger, Co-Chair  
Honorable Paula Aboud  
Honorable Tim Bee  
Honorable Andy Biggs

Ella Maley  
Donnalee Sarda  
Honorable David T. Bradley  
Jeff Hynes

### **PRESENTERS/GUESTS:**

Melissa Knight, IFC Pinal County  
Donna Williams, Maricopa County Court  
Kay Radwanski, AOC

### **STAFF**

Kathy Sekardi  
Tama Reily  
Eden Rolland  
Amber O'Dell

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

### **CALL TO ORDER**

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

### **ANNOUNCEMENTS**

Senator Gray announced the appointment of Commander Jeff Hynes, of the Phoenix Police Department.

Members were informed that a sign-up sheet for the DRC workgroups was being passed around for members' signatures, in order to record who is on each workgroup.

Senator Gray asked the committee members and guests to introduce themselves, and give a brief statement of their involvement or interest in the DRC.

#### **APPROVAL OF AUGUST 17, 2007 MINUTES**

The minutes from the August 17<sup>th</sup> meeting were not presented for approval at this time, as there was not a quorum present.

#### **UPDATE OF MENTAL HEALTH PROVIDER BILL**

Representative Lujan gave an update on the progress of the legislation aimed at preventing frivolous claims against mental health professionals. He summarized the basis for the legislation, and the circumstances wherein a child discloses abuse to a mental health professional, and the parents alleged to have committed the abuse use the judicial system to prevent the mental health professional from giving court testimony on behalf of the child. This legislation seeks to address the situation in a manner that prevents the frivolous complaints from going forward, while ensuring that legitimate complaints against mental health professionals are identified and handled accordingly.

Some of the issues that have arisen with the proposed legislation include the issue of whether attorney's fees should be awarded when a case does not have merit. The Board was opposed to this measure, however. Additionally, a provision that was discussed at the last meeting of the stakeholders' group was to require all complaints to be filed with a sworn affidavit. This is still under consideration by the group.

The stakeholder group will meet again in mid-October. If members are interested in participating with the group, they can let Representative Lujan know, and he will add them to the mailing list so they may receive invitations to the meetings.

Brian Yee added that beyond the issue of attorney's fees, practitioners in the field are most concerned with preventing individuals from filing unjust board complaints in order to disrupt the court process. The primary need is for a complaint process that ensures accountability for practitioners. He stressed that the legislation in no way attempts to prevent individuals from filing justifiable board complaints.

Ellen Seaborne commented that if the legislation for attorney's fees is not passed and you have that type of frivolous complaint, there is still the other avenue of A.R.S. § 25-324, in which a judge has the discretion of awarding attorney's fees to a party whose position has not been reasonable.

#### **APPROVAL OF MINUTES**

At this point in the meeting, with the arrival of additional members, a quorum had been achieved. Senator Gray presented the minutes for the August 17, 2007 meeting for approval.

**MOTION:** Motion to approve the August 17, 2007 minutes as presented.  
**SECOND:** Motion seconded.  
**VOTE:** Unanimous.

#### **REPORT ON NEW PUBLIC OPINION STUDY**

William Fabricius reported on a recent study which asked four public opinion questions regarding 1) Living arrangements for children; 2) Custody awards based on presumptions; 3) Joint custody and equal access to both parents; and 4) Opinion as to whether Father's disengagement after divorce is "almost normal." Handouts on the study were provided to members.

Patti O'Berry questioned whether the study considered the quality of parenting in their questions to study participants. William explained that the project is in its infancy, and there is much data still to be considered.

Judge Simmons asked about the sampling process, as the report appeared to show that there were half the number of female attorneys interviewed as there were male attorneys. Would they be certain they were getting a fair cross-section in future sampling groups? As well, she asked if there would be a follow-up to this study that would compare this study's findings to studies that followed up with children to see how various living arrangements affected them. Dr. Fabricius explained that there are many studies that indicate the consequences of the various living arrangements.

Dan Cartagena added that he has seen some studies of that nature, where college students who had been children of divorced families were participants in follow-up studies. He felt this to be a good example of how college students can be a great demographic from which to select a sampling.

Judge Rios asked whether the survey asked questions of the children regarding their perception of interest level and/or engagement shown on the part of the non-custodial parent, or perception that the custodial parent was seeking to keep them from the other parent. Dr. Fabricius stated there was no data on this specific question.

#### **PRESENTATION OF JOBS ONE PILOT PROGRAM IN MARICOPA COUNTY**

Donna Williams, Maricopa County Family Court Assistant Administrator reported on a pilot jobs program that took place at the Maricopa County Superior Court, in collaboration with the Department of Child Support Enforcement. Although the pilot program lasted only about 8 weeks, it is considered to be a potential resource that Integrated Family Courts (IFC's) may want to implement. The program is not a "job placement" tool, rather;

it places an individual in the courthouse to assist the obligor with job searching, since many of Arizona's child support obligors are either unemployed or underemployed.

## **ORDERS OF PROTECTION**

Kay Radwanski gave a presentation on the Orders of Protection process and the new forms, which must be used on or before January 1, 2008 for all courts. In addition, she addressed the *Project Passport* program, which is the initiative to develop standardized forms in other states. It has now been instituted in most states across the country, so that the first page of an order of protection can be easily recognized by law enforcement representatives from any jurisdiction.

## **CALL TO THE PUBLIC**

Roger Thompson wanted to thank the committee for their work on fathers' issues, and particularly their attention to A.R.S. § 25-408. He also commented that he was pleased to see the Public Opinion Study presentation by William Fabricius today.

Chris Groninger from the Arizona Foundation for Legal Services, who is a custodial parent, explained her concerns about moving to presumptive joint custody, as this could be dangerous in domestic violence situations. As well, she questioned the wisdom of using law to influence social norms. She also voiced concerns about the demographics and methodology used in the Public Opinion study.

Patricia Madsen, of Community Legal Services, spoke to the committee stating that she was not speaking on behalf of Community Legal Services, but expressing her personal response to the Public Opinion Study. She wondered what questions were asked in the study to determine whether a family was intact or non-intact, and if remarriage was a consideration. Additionally, she felt that college students did not provide a representative sample group for a public opinion study, as too many limiting factors would be present.

Melissa Knight, of the Integrated Family Court in Pinal County, also commented that she didn't feel college students were representative of the norm, but wanted to thank William for his plans to continue this research looking to a wider demographic group.

## **WORKGROUP REPORTS**

### **SUBSTANTIVE LAW**

Steve Wolfson reported that the group focused on two of the current statutes with potential areas for modification. The first was a possible modification to A.R.S. § 25-408, the 100 mile rule. They are looking at it in terms of the usefulness of the 100 mile stipulation, in that it may not be workable or practical today. They felt that many times even relocations of less than 100 miles can be of significant consequence. Since any modification of the statute will have statewide application, the group plans to seek feedback from judicial officers around the state. Another statute discussed was A.R.S. §

25-803 (D), which gives custody of a minor child to the parent with whom the child has resided for the greater part of the past 6 months. The workgroup plans to speak with the Attorney General's office on this to find out why this was originally put into the statute.

#### **EDUCATION & PREVENTION**

William Fabricius related the two main issues the group addressed. The first was Rule 74 under the Arizona Rules of Family Law Procedures, which concerns training for parent coordinators. There are some upcoming opportunities for this type of training; the Family Law Judicial Conference in Phoenix, which will take place October 2nd through 4<sup>th</sup>; also, the IFC group is planning 2 or 3 trainings around the state, the first one will take place January 11, 2008; finally, the AFCC conference will take place in February, and will have sessions on training for parent coordinators. William added that the workgroup will be considering some revised language for Rule 74, regarding training, and this will be addressed at the next meeting.

The other issue they discussed was pilot programs that would add a childcare component to parent education. On this issue, they will be contacting the individual in charge of the Maui, Hawaii program, which seems to have some useful information for the group.

#### **COURT PROCEDURES**

Brian Yee reported that their group met along with the Substantive Law group as their agendas overlap somewhat. The 100 mile rule is an issue they have on their calendar as well. Brian stated that since Steve Wolfson had already given an excellent overview on the topic, he had nothing to add at this time. Brian explained that there were two key players from the workgroup missing today, and as they were in the process of generating a list of the data items that they would like the courts to be tracking. An update on this will be provided at the next meeting.

#### **CREDIT ISSUES**

Ellen Seaborne reported that the workgroup looked at some of the failed legislation from last year and will probably present to this committee the revision of A.R.S. § 25-211. This statute maintains that when a divorce is filed and has been served, the status of the community property in place at that time does not change. Property, debts, and earnings acquired after the date the Petition is served are the property of the individual that earns them. Another statute discussed was ARS § 25-214, which is the equal management and control statute which concerns the right of spouses to manage separately or together their community assets. The workgroup will be addressing these statutes as well as others, and will have more to report at a later date.

#### **INTEGRATED FAMILY COURT**

Ellen introduced Joanne Keene, who is representing the Coconino Board of Supervisors. Joanne shared with the committee that the Board has committed to obtaining additional funding for the IFC program, and she will be responsible for managing that effort.

Melissa Knight gave an update on IFC in Pinal County. They have completed their procedure manual, which includes a 2-tiered screening process for cases. It includes minute entry formats and a bench guide for the judge to be able to combine matters related to a family and hear them sequentially, on the same day. They have begun to pilot their screening form process, and to date they have 22 of the first tiered screening forms completed. Of those, 6 were identified as being potential integrated family court cases, or 30% of the cases that were filed in their court within a 2 to 3 week period.

Ellen also provided a DVD presentation which featured some of the key individuals involved in the IFC, who spoke about the genesis, principles, services, and long term goals of the IFC.

#### **CALL TO THE PUBLIC**

No public comments were offered.

#### **ADJOURNMENT**

The meeting was adjourned at 1:35 pm.

#### **Next Meeting**

Domestic Relations/Child Support Committees Joint Meeting

Friday, November 9, 2007

10:00 am to 2:00 pm

Judicial Education Center

Silver & Turquoise Rooms

451 E. Van Buren

Phoenix, AZ 85004

