

CHILD SUPPORT COMMITTEE

MEETING MINUTES

Arizona Courts Building
1501 W. Washington, Phoenix, Arizona
September 15, 2005

PRESENT:

Co-Chairs

- Honorable Peter Hershberger
- Honorable James Waring

Members:

- ☐ Honorable Manuel Alvarez
- ☐ Robert Barrasso
- Theresa Barrett
- Honorable Bill Brotherton
- ☐ David Byers
- Honorable Kimberly Corsaro
- Honorable Norm Davis
- Kim Gillespie
- Leona Hodges
- Dr. Curtis James
- Honorable Michael Jeanes
- Michelle Krstyen
- Ezra Loring
- ☐ Suzanne Miles
- ☐ Chuck Shipley
- Russell Smoldon
- Honorable Monica Stauffer
- Bianca Varelas-Miller

STAFF:

Megan Hunter
Annette Mariani
Courtney Riddle
Barbara Guenther

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

GUEST:

Yolanda Sanchez

Custodial Parent

CALL MEETING TO ORDER

Senator Waring called the meeting to order at 10:04 a.m. without a quorum present.

ANNOUNCEMENTS

Senator Waring thanked Commissioner Rhonda Repp for her many years on the Child Support Committee and her role as a IV-D Commissioner in addition to serving on various workgroups

of the committee. She is very effective and knowledgeable and her service is very much appreciated.

Appointments

The following judicial appointments to this Committee were made by Chief Justice Ruth McGregor: Honorable Michael Jeanes, Robert Barraso, Honorable Monica Stauffer and Honorable Norman Davis. Chief Justice McGregor appointed new member, Honorable Kim Corsaro, to serve in the position of IV-D Commissioner representative, replacing Commissioner Rhonda Repp.

STATUTE REVIEW WORKGROUP – KIM GILLESPIE

Disability

Representative Hershberger asked this group to take another look at legislation passed this year that amended post majority support for disabled children. The amendment narrowed the statute. There was some concern that this was too restrictive. The workgroup met several times with a parent who has a disabled son. She proposed language that would include a functional definition of disability and a list of criteria. After consideration, the workgroup concluded that being prescriptive would actually make matters worse. Listing criteria may exclude children who may have otherwise been eligible. The workgroup reached consensus that changing the statute would make it worse, and therefore, no recommendations for a legislative proposal is being made.

Defaults

The group discussed the high right of defaults particularly in IV-D paternity cases. These individuals do not participate in the process, they do not request genetic testing and they do not typically file an answer. The workgroup considered the possibility of waiving the answer fee for alleged fathers served with a paternity suit. After investigating further, it was deemed that this would be a considerable amount of revenue loss. The workgroup then looked at how to simplify the answer. A suggestion was to have a simple form that was easy to read and would request genetic testing. The ideal would be to have individuals participate in the early stages of the process. The workgroup will continue to look at simplifying forms.

Emancipation

The Domestic Relations Committee asked the workgroup to look at the new emancipation statute to ensure that it does not conflict with child support statutes. The workgroup concluded that there was not a conflict, but it would be useful to add a line to the list of factors for emancipation in the statute. The Domestic Relations Committee will be looking into this and other minor changes.

Statute of Limitations

The workgroup discussed ramifications from the Arizona Supreme Court decision in the Hayden Case that addressed collection of support after the statute of limitations has run. There was no time to develop a proposal; instead, the workgroup wanted to talk to the committee to determine interest and willingness to make possible changes to the current statute (A.R.S. § 25-503). The workgroup discussed three options:

- Eliminate the statute of limitations
- Amend the current language to maintain the 3 years, but make it explicit that the debt does not expire.

- Lengthen the statute of limitations (5 years or 10 years possibly)
- Provide opportunity for the custodial parent to waive the statute of limitations

The workgroup requested feedback from the committee. The workgroups recommendation is no legislation other than the possible fix to the statute of limitations. Members discussed the following:

Q: If there is an order and the parent responsible is not paying does the statute of limitation start at that time?

The statute of limitation starts when the support for the youngest child ends and three years beyond that date. For clarification purposes all that is required is that an action needs to be filed to reduce the total amount that is owed to a judgment. Once the judgment is entered then it is enforceable forever with no expiration. In civil judgments there needs to be a renewal every 5 years. In child support judgments they are valid indefinitely.

Q: How many cases are we talking about? Are there a lot of instances?

Yes there are a considerable amount of these cases. In order to preserve your right to collect a party could timely request a written money judgment.

Comments:

Three years is not enough. It seems like too many people are gaming the system. There should be a remedy for individuals to get in and get help. Possibly make it ten years.

What has been happening in older cases where the children are now about 30 years old and the person has been paying because there was no judgment, the debt is gone. Due to the way that ATLAS works, there was no way of knowing that a judgment was needed.

One of the difficulties worked on is the web calculator. It was thought that if persons were able to dial up on a website and found out their status it would be a much easier situation.

With regard to the administrative remedies there seems to be a complex due process problem. There is an ability now to get an administrative review and a determination by the agency. If a person believes that the agency's determination is wrong they have the option to go to court (Judicial Review of Administrative Decision – J-RAD).

Discussion followed on the administrative review process (30 days), the process of persons being served and how this happens.

Q: How are in-kind situations handled?

There is a form available (Affidavit of Direct Pay). The signed affidavit will help the clearinghouse to adjust their records. This is used on a regular basis. The person receiving the direct pay has to acknowledge it. The problem with the current arrears calculator is that is not flexible and does not deal with these issues.

Q: Is there a method in place to freeze accrual interest?

Yes, in cases that go before the court, frequently the custodial parent in exchange for a large payment and a promise to make future payments will often waive the interest. If the judgment reflects this then that goes back to DCSE and the debt is adjusted. The interest could also be

turned off. The only area where the court has explicit statutory authority to waive interest is when someone has been incarcerated and they have applied to the court for eliminating the interest on the debt.

Senator Brotherton stated that if it is lengthened could it possibly be made somewhat more analogous to a contractual situation (6 years possibly). Bianca Varelas Miller stated that by extending the time, it would help those out in the field who are trying to protect people's rights.

The Committee reached consensus to consider the option of lengthening the statute of limitations. The co-chairs asked staff to provide information from other states at the next meeting.

CHILD SUPPORT SOLUTIONS - MICHAEL JEANES AND LEONA HODGES, CO-CHAIRS

A non-statistical study was done on 222 cases in the establishment function. One of the findings was that in 29% of these cases, service on the non-custodial parent did not happen. An office of special investigations that does special locates will be expanded. For the cases that go to the Attorney General's office, there will be a special locate team that will work with these cases with the goal of drastically reducing this percentage.

Another area that is being looked at is decreasing the number of days from the date a Judgment & Order is submitted to the judicial officer to the date it is signed and received by the Attorney General's staff. There is a need for court administration to be brought in on this issue.

Debt Set-off Process - 45% of cases received by DCSE had the debt set off by 10 days. New goals have now been set. The IT staff will begin working on more simplified debt set-off screens. There will be staff available in each to have access to the court records online.

The non IV-D newsletter will be produced quarterly and includes information such as the electronic pay cards. Twenty-four thousand letters have gone out and 12,000 responses have been received requesting they be signed up.

In the future the workgroup will look at judgments. If it is decided not to eliminate the statute of limitations, the need to get the court involved in simplifying this process is important. The custodial parents need to have ample notice and the process needs to be more understandable. A partnership with the clerk's office and court administration will be undertaken some time in January or February, 2006.

Michael Jeanes mentioned that another issue that this group has been working on is the effort to obtain an enterprise license for the electronic document management system which would allow the AG's office, DCSE and others access to documents. The verbiage in the agreement will allow for access to other entities to that database. The process of paying for this license is in motion.

This workgroup has also been looking at working on documents that are needed to be recorded in the county recorder's office. Currently, in the county recorder's office there is an elaborate complex manual process that occurs when documents need to be recorded. The Clerk's office now has an electronic system where the documents are scanned in and kept electronically. Work has begun in conjunction with the county recorder's office to automatically transfer documents

electronically from the system being used in the Clerk's office to the recorder's system. This will help to eliminate numerous manual steps. Michael stated that the relationship between clerks and DCSE has never been better in regards to the level of cooperation and the work that is being done. Michael Jeanes recognized Leona Hodges and all her efforts as the reason for this great success. She has been cooperative and willing to work through all the issues.

AUTOMATION/FUNDING WORKGROUP – KIM GILLESPIE

Kim Gillespie and Leona Hodges announced that the Federal Office of Child Support Enforcement notified them that they have been awarded a Section 1115 grant in the amount of \$400,000. The award resulted from a federal grant application and proposal that was submitted for a web based calculator. This was a collaborative process involving three branches of the government and requires a 5% state match. This is the only grant which is 66% matchable with federal funds even though it is a federal grant. Many letters of support were received, which were essential in proving that there is a process in place. This is very similar to the state disbursement unit project. Meetings will need to be set up. The committee thanked Kim and Leona for their efforts in this endeavor.

The calculator will be called "eCalc". The federal government provided approval for this tool to be built and used in both IV-D and non IV-D cases.

Megan Hunter stated that this is a first of its kind project and has not been done by any other state. She thanked Leona Hodges, Kim Gillespie and Annemarie Mena and all those in their division who worked under a tight deadline to submit the grant. She thanked Judge Davis for pushing this very hard to make it happen. This will be a tremendous asset to Arizona and can be shared with other states.

PUBLIC OUTREACH/CUSTOMER SERVICE – MEGAN HUNTER ON BEHALF OF CHUCK SHIPLEY

This workgroup developed a document that would be made available to any interested parties regarding Arizona's child support system. A child support FAQ sheet was provided to the committee for their review. The main issue was making this available to the public in pamphlet form. A budget is not available for this endeavor. The alternative is to have this available and put into websites. There will be links to the Child Support Guidelines, the State Bar, the Attorney General's office, DCSE, Clerk of Superior Courts, and Superior Courts. With child support being a very technical complicated system, the group did not want to put out too much information. One outstanding issue remains and that is the cost for printing and distribution of a pamphlet.

Motion: To accept the Arizona's Child Support Frequently Asked Questions document as presented and immediately put up on the website. The motion was seconded.

Vote: Approved unanimously.

APPROVAL OF MINUTES

With a quorum present, the minutes were approved.

Motion: Russell Smoldon moved that the June 7, 2005 minutes be approved. The motion was seconded by Michael Jeanes.

Vote: Minutes approved unanimously.

CALL TO THE PUBLIC

Yolanda Sanchez, a custodial parent who has been owed arrears for many years presented her concerns to the committee. Even if a time limit is put on the non-paying parent how can individuals get away with not making any payments. Ms. Sanchez went on to explain that the father of her child did not appear until the child was 18 years old. Throughout the years, she had known where he was and had reported this to DCSE, but he was never served. Ms. Sanchez asked what happens to individuals that are never served; in the case of individuals that have been found and monies have been extracted from their wages; why is this amount not being put on a DCS card; and why are the monies being held.

Committee members explained that monies are held in suspense when the notification was received regarding the law determination, in order to avoid sending monies back prematurely. This will afford the opportunity to help salvage these cases. The avoidance of passing it on to the custodial parent is not the intend of the process. In 52% of the cases where monies have been held, the cases have been saved.

Whether or not the money is owed legally, under the court decision in Hayden is the issue. Until such time as this has been reviewed and the case has been put in front of the judge if there are facts that warrant it to be put in front of a judge that money needs to be held. The court may order it to be sent back to the paying parent. If there is not written money judgment for all the arrears, then it may not be collectable.

Ms. Sanchez stated that many parents including her have worked very hard throughout their children's lives to give them what they need without help from the non-custodial parent and it seems unjust that individuals just skate through with no regards to their responsibilities.

The committee requested that Ms. Sanchez leave names of the others so that the agencies could work with them on an individual basis.

ECONOMIC STUDY WORKGROUP – JUDGE STAUFFER / KIM GILLESPIE

Kim Gillespie reported that the workgroup has been working on whether the entire guidelines approach needs to be changed. They continue examining the economic analysis methods and model construction methods. They continue to discuss ways to analyze other economic data that is not faulty. The data that is currently being used reflects payments or costs of raising a child in an intact household.

The workgroup has also discussed the premise that the current guidelines are based on. Specifically, providing multiple exceptions in an attempt to make them as fair as possible, this has resulted in lengthy, complicated guidelines. The current model does not account for:

- remarriage
- costs that fluctuate over time
- new spouse and,
- multiple children with multiple partners

The workgroup has also:

- looked at other possible models to recommend to a Guidelines Committee,
- reviewed and considered other models,
- reviewed federal required guidelines, worked with an economist with real world factual circumstances and,
- discussed looking at adjustments for rural counties where the cost of living is lower

The group has worked on a survey that would aid in better understanding the public's perception of child support and the best interests of children.

2006 STRATEGIC PLANNING – MEGAN HUNTER

Megan Hunter provided an overview of the Child Support Committee, including:

- History of committee (created by statute, July 17, 1994)
- Goals for the committee
- Mission of the committee
- Makeup of the committee
- Systems that the committee works with (IV-D and Non IV-D)
- Accomplishments made through the committee (support payment clearing house, parent education program, many statutory changes, child support guidelines assistance, guidelines online calculator, arrearages calculators, improved case flow processing and improved public information)
- National rankings

The Committee was encouraged to look at the system as a whole and find areas where integration between all stakeholders can be improved.

Leona Hodges offered to give a presentation at the next meeting to provide information about the IV-D program's measurements. She explained that paternity establishments have increased from 46% to 82% over the past ten years – a significant improvement due in part to collaboration with the courts, particularly Judge Davis in Maricopa County Superior Court. Over 66% of the cases come to the IV-D agency without paternity established. Many of the parties do not have even first names to establish paternity.

Senator Waring asked that as part of the presentation on statistics and measures the following could be addressed:

- tools used by other states to increase performance
- where Arizona was ten years ago
- how the budgets of the agencies that would arguably be responsible for factoring all this out have increased in the last ten or eleven years.

NEXT MEETING

The next meeting is scheduled for Thursday, October 13, 2005 at the Judicial Education Conference Center, 541 E. Van Buren, Phoenix, AZ, 10:00 a.m. – 2:00 p.m.

ADJOURNMENT

Senator Waring adjourned the meeting at 12:08 p.m.