

.....**CHILD SUPPORT COORDINATING COUNCIL SUBCOMMITTEE**
Meeting Minutes - October 4, 1999

Members Present:

Hon. Linda Aguirre
Hon. Mark Armstrong
David Byers
Brian Chambers for Jerry DeRose
Hon. Robert Duber
Conrad Greene
Kim Gillespie for Noreen Sharp

Pat Harrington for John Clayton
Hon. Michael Jeanes
Nancy Mendoza
David Norton
Hon. David Petersen
Hon. Rhonda Repp
Bianca Varelas

Members Absent:

Jodi Beckley
Laura Elmer
William Hurst

Commissioner David Ostapuk
Hon. Rebecca Rios
Chuck Shipley

Staff:

Megan Hunter

Patrick Scott

Guests:

Mark Barry

Judy Bushong

Lauren Eiler

Barbara Guenther

Jane McVay
Dot Reinhard

Rabeya Sen

Eddie Sissons

Arizona House of Representatives
Clerk
of the Superior Court-Maricopa
Clerk
of the Superior Court-Maricopa
Senate
Research
DCSE
Office
of the Auditor General
ACADV
Arizona Justice Institute

Call Meeting to Order

The meeting was called to order by Senator David Petersen at 10:15 a.m.

Announcements

Senator Petersen announced Carmela Trapani, Administrative Secretary for the Domestic Relations Unit at the Administrative Office of the Courts (AOC), was leaving to pursue a career with the Phoenix Police Department. He also welcomed Megan Hunter as the new Child Support Specialist for the Domestic Relations Unit at the AOC. Megan comes from a child support enforcement background with the Dawes County Attorney's Office in Nebraska. Megan replaces Patrick Scott as staff support to the Child Support Coordinating Council Subcommittee. Patrick was promoted to the Public Access Specialist position in the Domestic Relations Unit.

Nancy Mendoza presented a plaque to Senator Petersen in recognition of his role in the successful implementation of the Personal Responsibility and Work Opportunity Reconciliation Act in Arizona. Nancy further commended the Senator for his dedication and leadership to the Child Support Coordinating Council Subcommittee.

Approval of Minutes

Kat Cooper identified an error in a statement attributed to her on page two. The minutes were approved as amended.

WORKGROUP REPORTS

Statute Clean-up

Judge Mark
Armstrong

Judge Armstrong shared copies of legislation being proposed by the Family Court Department of the Superior Court in Maricopa County. The six statutory changes do not deal directly with child support, however, Judge Armstrong encouraged members to review the proposals and make suggestions for improvement.

Judge Armstrong updated members on the progress of the Statute Clean-Up Workgroup. He reported first on statutes which have been discussed but for which no formal recommendations are being made at this time:

Title 25:

- The definition of "support" should be consistent with Federal law.
- Defining or clarify the terms "payor" and "obligor". Both are used in statute. The same term should be used throughout the statute if there is no difference in these terms.

- Define or clarify the use of the terms “arrear” and “arrearages”. Both are used in statute interchangeably. The same term should be used throughout if there is no difference in these terms.

A.R.S. § 25-810. Grandparent Liability for Child Support. The statute is unclear in terms of:

- 1) how to calculate a grandparent’s liability for support of a minor child living with them, and ;
- 2) what is meant by joint & several liability in this statute.

The statute implies that it is fair to assess child support against grandparents who are willing to aid the parent by allowing the grandchild(ren) to live with them, but not to assess child support against non-custodial grandparents.

The group is also discussing how support should be established or modified when there are multiple families and child support orders with the same obligor?

The following recommendations will be made to the Council:

Amend A.R.S. §§ 25-502(c) and 25-681(a). These two statutes relate to child support arrest warrants and findings of contempt in child support arrearage cases. The workgroup recommends amending A.R.S. § 25-502(c) by changing the word *shall* to *may* to be consistent with A.R.S. § 25-681(a). Secondly, the workgroup recommends cross referencing A.R.S. § 25-681(c), the child support arrest warrant statute, to A.R.S. § 25-502(c). These two disparate statutes appear in different articles of Title 25 although they deal with similar issues.

Amend A.R.S. § 12-910(c) Judicial Review of Administrative Decisions. This statute relates to the use of judicial review of administrative decisions by executive branch agencies. These are cases in which a person has appealed an administrative decision by DCSE to the Superior Court. Under current law they have a right to a jury trial. This has the potential to overwhelm Family Court. Additionally, the courtrooms are not equipped to deal with jury trials. Currently there is no right to a jury trial in other Title 25 proceedings. The workgroup recommends adding the following clause to the last sentence of A.R.S. § 12-910(c) “except if the review is of a decision pursuant to A.R.S. 25-522.” Parties would maintain their right to an appeal to Superior Court without the provision for a jury trial.

Amend 25-504(h). This issue is referred to as the “26/52” issue. Under existing law, employers who pay their employees on a bi-weekly basis, 26 times per year, can sometimes unfairly cause child support arrearages to accrue. The workgroup recommends: 1) amending A.R.S. § 25-504(h) by deleting the second sentence which authorizes the prorated method of withholding child support. Deleting this provision would not prohibit this method, it would simply suggest that monthly child support be withheld, and 2) amending A.R.S. § 25-510(c) which is the statute that sets the hierarchy of payments. The statute allows arrearages to accrued unfairly.

Nancy Mendoza shared with the Council copies of DCSE's legislative proposals and their list of items they want to offer for consideration to the Statute Clean-Up Workgroup. The Council agreed come back to this issue at the end of the meeting if time allowed.

Family Violence Indicator

Kat
Cooper

Kat Cooper updated members on the progress of the Family Violence Indicator (FVI) Workgroup which was established to examine how the State IV-D agency and the courts will coordinate in the implementation of a Federal mandate in terms of placing a non-disclosure indicator on the Federal Case Registry via the State Case Registry. The workgroup has studied the Federal requirements placed on the states and how to best protect the interest of all parties.

David Sands explained to the members the issues involved with the Family Violence Indicator (FVI) including the Federal Parent Locator Service and its intended use for efficient location purposes. David and Pat Harrington further explained Federal mandates, statutory requirements, good cause claims and cited the two recommendations of the FVI Workgroup to the Council.

Federal Law requires activation of the FVI when: 1) a protection order has been issued in favor of the requesting party, or, 2) the state has reason to believe that release of the information may result in physical or emotional harm to the parent or child.

A central repository for orders of protection exists, but lacking is a method of getting the information from the various county agencies to the central repository.

A motion was made by Conrad Greene that we establish the needs to be considered in order for a judge to issue a protective order. The motion did not receive a second.

A motion was made by Judge Armstrong to approve and adopt the two recommendations made by the workgroup. The motion was seconded by Representative Repp and was passed by majority vote. Conrad Greene voted nay.

Intrastate Orders Workgroup

Judge Mark
Armstrong

Judge Armstrong stated the purpose of the workgroup was to address the practice of the filing of a certified copy of a superior court order in a county other than the county where the order was issued for modification or enforcement. The resulting problems include: 1) a lack of uniformity in the amount of the filing fee charge, 2) unless the venue of the action is changed there

may be multiple proceedings in different counties creating the possibility of concurrent yet inconsistent rulings, and 3) under the centralized payment processing system, multiple court case numbers contribute to misidentified or mishandled payments. The Workgroup will continue to research this issue and report the results at the next Council meeting.

A.R.S. § 12-284. The Clerk's offices should charge a fee when a party files a certified copy of another county's order. The purpose of reviewing this statute is to: 1) do it uniformly throughout the state, 2) provide some means to notify both counties of both proceedings when a certified order is filed, and 3) create a handout to be used by clerks offices that advises the parties that non-support issues cannot be addressed by filing a certified copy of an order from another county and instead will have to go through the formal change of venue process.

Auditor General's Report

Nancy Mendoza shared with the Council the request made by the Auditor General's Office that this Council consider the methods by which the child support enforcement program should be financed in the future. Specifically, should the program continue to be a cost recovery program or should this be seen as a public service program funded through appropriations. Nancy advised they are required to report to the legislature on September 2000 and to make that report based on a recommendation they are to receive from this Council. Nancy requested a workgroup be formed to report its recommendation by March 1, 2000 and volunteered to chair the workgroup. Kim Gillespie, Bryan Chambers, Bianca Varelas and Conrad Greene volunteered to serve on the workgroup. Consensus was reached that a workgroup should be formed. Nancy will report back at the next Council meeting.

Child Support Guidelines

Patrick Scott advised the Council that it is again time to review the child support guidelines. Patrick requested that a workgroup be formed to review and make recommendations by March 1, 2000, after which the recommendations will be presented to the Arizona Judicial Council and the Supreme Court. He further advised that an updated economic study has been conducted of which copies were provided to the members. The Honorable Michael Jeanes volunteered a member of his staff for this workgroup as did Kim Gillespie and Nancy Mendoza. Consensus was reached that a workgroup should be formed. Senator Petersen will report back at the next Council meeting.

Public Comment

No public comment was heard.

Next Meeting of the Council

The Council scheduled meetings on November 2, 1999 and December 14, 1999. Both meetings will be held in Conference Room 345 A/B of the Arizona Courts Building from 10 a.m. - 2 p.m..

Adjournment

The meeting was adjourned by Senator Petersen at 12:25 p.m.