

CHILD SUPPORT COMMITTEE
DRAFT MEETING MINUTES
Arizona Courts Building
1501 W. Washington, Phoenix, Arizona
September 15, 2006

PRESENT:

Co-Chairs

- Honorable Peter Hershberger
- Honorable Thayer Verschoor

Members:

- Honorable Manuel Alvarez
- Robert Barrasso
- Theresa Barrett
- Honorable Bill Brotherton
- Honorable Kimberly Corsaro
- Honorable Norm Davis
- Kim Gillespie
- Leona Hodges
- Dr. Curtis James
- Honorable Michael Jeanes (designee Laura Eng until arrival)
- Michelle Krstyen
- Ezra Loring
- Chuck Shipley
- Russell Smoldon
- Honorable Monica Stauffer
- Bianca Varelas-Miller

STAFF:

Kim Ruiz
Barbara Guenther

Administrative Office of the Courts
Arizona State Senate

CALL MEETING TO ORDER

Senator Verschoor called the meeting to order at 10:13 a.m. with a quorum present.

ANNOUNCEMENTS

Senator Verschoor was appointed to the Child Support Committee on August 14 as the new Senate co-chair of the Committee. Senator Verschoor shared his background with the members and indicated he was looking forward to working with the Committee. There were no other announcements.

APPROVAL OF MINUTES

With a quorum present, the August 11, 2006 minutes were approved.

Motion: Senator Brotherton moved that the presented draft of the August 11, 2006 minutes be approved. Seconded.

Vote: Minutes approved unanimously.

CHILD SUPPORT FAQ

Kim Ruiz presented a FAQ document for child support questions that was produced by the Public Outreach/Customer Service Workgroup and approved by the Child Support Committee. The document is on the Arizona Supreme Court website at:

<http://supreme8/dr/childsup/FAQ.htm>

Kim indicated the document is available for other agencies to use on their websites.

ACTION: It was recommended that the underlined sections be bolded instead, because they give the impression of being a link.

CHILD SUPPORT UPDATE

Leona Hodges gave an update on the five federal child support performance measures and how Arizona is performing. Leona then identified programs DCSE has implemented to improve paternity establishment:

- Outreach to hospitals to include:
 - Child support services and paternity/genetic testing information
 - Paternity Affidavit information (it was noted 41.9% of children born in Arizona are born out of wedlock, well above the national average)
- Provide trainings to hospital staff

It was recommended DCSE explore partnership with the Division of Benefits and Medical Eligibility to establish paternity for all births covered by AHCCCS.

ACTION: Leona will follow-up with DBME to propose paternity establishment when determining eligibility for AHCCCS. She'll report back to the Committee at the November meeting.

Leona reported that, based on the findings of an Urban Institute Study, the Arizona policy of interest on arrears does not have an impact on noncompliant obligors. In addition, the study found that noncompliant obligors are generally not impacted by incentives to start paying.

The discussion then turned to what is being done to improve the parent-child relationship once paternity is established. The following points were made by other committee members:

- There are various organizations, classes and outreach programs for single parents and specifically fathers; unfortunately there is not a lot of father turnout.
- It was suggested the structure of the system discourages obligor involvement. From the federal government through our court system the focus is solely on enforcement and collections, not the parent-child relationship. Child support collection is the stiffest enforcement we have by law. It is an intimidating system for non-custodial parents to access.
- Another example given was the process for establishing the child support order. If the non-custodial parent is not present to state their income at the hearing, an income assumption is made and entered in the order. The child support order amount is based on that number and cannot be changed until the non-custodial parent comes forward to show

their actual income. Even then, they are not able to adjust past payment requirements, only future payments.

Finally, Leona reported on the following areas of enforcement that have increased payments:

- Recent legislation that changed child support payments from live checks to the EPC debit card and direct deposits has improved the efficiency of payment processing and reduced administrative costs.
- The Autodialer program started September 8, 2006. Calls clients to remind them of upcoming hearings and appointments, first payment due date and/or if there has been a missed payment. In the past, obligors weren't notified of collections until they were approximately six months behind. Furthermore, even though they receive a monthly statement which shows late payments and the accruing interest, many obligors are not aware of the amount of interest that accrues on late payments.

STRATEGIC PLANNING

The Committee members proposed the following topics to discuss and investigate in future meetings:

- The public policy issue of whether 10% is a reasonable assessment of interest in a family law context and develop practical alternatives to the current system for the accrual of interest.
- Ways to improve non-custodial parent involvement. At a recent National Conference of State Legislators meeting it was reported that studies have shown the more involved non-custodial parents are with their children, the more likely they are to make child support payments.
- Grandparents' eligibility for assistance when they have custody of grandkids. The Child Support Guidelines and rules allow for the collection of child support from both non-custodial parents, but very rarely do grandparents want the child support order enforced against their child.

CALL TO THE PUBLIC

No public present.

CHILD SUPPORT SOLUTIONS RECOMMENDATIONS

Leona gave a brief history of the how the Child Support Solutions Workgroup was formed to find ways to improve the collections ratio (amount collected/amount owed) in Arizona, based on the federal performance measures. The Workgroup completed their charge and developed the following proposals for the Committee's approval:

1. Develop the following proactive outreach methods to educate people on the importance of staying current with child support payments, so child support is collected when it is most beneficial for the child:
 - Put posters and IV-D information and application in Clerk of Court offices, court houses and DES offices across the state.
 - Work with the Birth Registrars at the hospitals to help establish paternity and provide child support service information to unwed parents. These programs are currently underway.

- Posters have also been placed in Tucson malls and on Tucson city buses.
- Requests have also been made with local radio and television stations to make public service announcements.
- A one-page “EZ” application was also created for people that already have a court order established and they are looking for enforcement. They will be placed in the Clerk of Court offices and self-service centers.
- Consider a statute of limitations change to only allow arrears to be calculated back to the date of filing for child support with the court or filing date for IV-D services, rather than the current statute of calculating back three years.

The following discussion ensued:

- 64% of those that owe arrears in support report an annual income of \$10,000 or lower.
- It was recommended to include a search of the 4A system along with New Hire for obligor’s income because 4A requires income disclosure for food stamps.
- It was questioned whether the children receive any benefit from all the enforcement tools utilized to reduce the denominator (arrears) of the state ratio, or if it is solely an indirect benefit through the DCSE incentives. This is an ongoing public policy struggle of balancing what is in the best interest of the child and what is in the best interest for the state as a whole and the programs that improve child support enforcement.
- It was suggested that the problem is not a lack of remedies available to DCSE for enforcement; the problem lies in the unforgiving structure of the system. There needs to be greater judicial discretion to forgive interest or part of the arrears based on information presented.

No action was necessary on this proposal.

2. Request the Family Law Rules Review Committee review Rule 44(A)(B) regarding the default process, to add language that requires specific arrears information be provided to the defendant regarding the hearing. The calculated estimate of arrears should be on the Affidavit of Default.

The following comments were made:

- The estimated arrears amount should be in a prominent area, so it easily catches the attention of the obligor.
- The finality of the consequences if they fail to appear should also be included.
- It was suggested to presumptively start child support from the time the petition is filed then allow discretion on what to add to the order for support of the past three years. Guidelines can be established to determine what factors to consider in the decision, such as why the parent waited to file, the income of the parties, the collectibility of the arrears, etc.
- The discretion should also encompass alternative solutions for how to impose the arrears, such as being able to adjust the monthly payment to include the arrears amount, without labeling it arrears which means the 10% interest won’t be applied and it won’t count against the denominator of the state ratio.
- Court rules can regulate how the statutes are enforced, but they cannot change the statutory authority, so we might want to look at a statutory change, not a rule change.
- If we eliminate the three year statute of limitations it could have a negative affect in other areas such as TANF requirements.

The Committee agreed to recommend to the Statute Review Workgroup:

- **Outline factors for the courts to take into consideration for changing a past order and establish a standard for what should be considered in making a calculation to reduce, eliminate or use alternate options that are reasonable and not arbitrary for arrears.**
- **Allow judicial discretion with statutory reasons for adding to the monthly amount the pre-filing accrual in appropriate circumstances.**
- **Require the calculated estimate of arrears be on the Affidavit of Default along with language that explains the finality of judgment.**

3. Leona briefly overviewed the workgroups' discussion on triage of the IV-D caseload. Leona reported prioritizing resource allocations was found to not be allowable under Federal regulations and giving the state administrative authority to suspend drivers licenses was determined to be too controversial.
4. Leona and Michael presented the following workgroup proposal for remedies to eliminate or reduce interest:
 - Expand Title 25-327(D) to give further judicial discretion on when to impose interest
 - Interest stops accruing once the last child reaches age 19 (emancipation). Put a cap on the arrears amount.
 - Give judicial discretion to extend interest after emancipation if there is a finding of bad faith

The Committee agreed to recommend the Statute Review Workgroup expand judicial discretion in Title 25-327(D) to determine when to impose interest, stop interest from accruing once the last child reaches age 19 and order interest accrual if there is a finding of bad faith.

5. Leona and Michael reported on the workgroup's proposal to have the Statute Review Workgroup expand the time limit an obligor has to file a motion for relief from a judgment and address the finality of judgment issue. This will be going against decades of case law, but the workgroup agreed it is appropriate with the trend toward pro se litigants.

The Committee agreed to recommend the Statute Review Workgroup expand the time limit an obligor has to file a motion for relief from a judgment and reconcile the finality of judgment issue.

6. Leona and Judge Davis reported on a job training pilot test they have set-up in the Maricopa County court to improve job training accessibility for both custodial and non-custodial parents that is anticipated to begin in October.
7. The workgroup proposed creating a tax credit program for employers that hire felons with child support orders. The workgroup asked that it be sent to Legislative Council
It was agreed to send the proposal to legislative council for input on the amount of the credit and the cost to the state.

8. The workgroup proposes a statutory change to include “holder of monies” in the new hire system to capture the contract labor section of the workforce. Currently all employers are required by statute to report all new hires, but it doesn’t include 1099 / contract labor.

It was agreed to send the proposal to the Statute Review Workgroup to draft and also reconcile the language with the maximum withholding statute.

9. Leona gave a brief recap of a recent mailing they did of child support arrest warrants. They had some response and payments made, but they are still assessing whether it is worth trying again.

10. Leona reported that DCSE is unable to “write off” any uncollectible debt like a business practice, because it is not a debt to the state; it is a debt to the custodial parent. They are going to more aggressively enforce federal policy guidelines that allow them to close certain cases. The guidelines permit DCSE to close a case after three years if they are unable to locate a non-custodial parent with a known social security number and close after one year if the social security number is unknown. Closing a case does not remove the debt; it simply removes it from federal reporting.

The following discussion ensued:

- Even though the case is closed to the state, the debt to the obligor has no statute of limitations. There is no finality or closure of the debt. There should be a statute of limitations that limits how long after a child emancipates a party can file for payment of support from the non-custodial parent.
- There was a statute of limitations that was three years after emancipation of the youngest child (*Hayden* case). It was eliminated because of the backlash it caused for custodial parents that thought remedies were still available. The three year statute of limitations put a burden on the custodial parent, state and administration.
- A longer statute of limitations such as five or seven years should be considered.

The Committee agreed to have the Statute Review Workgroup consider drafting a new statute of limitations, longer than three years.

STATUTE REVIEW UPDATE

Judge Davis, on behalf of Bob Barrasso, presented the following two issues the Statute Review Workgroup recently reviewed:

- Social Security Numbers on Petitions: Currently the petition for paternity requires a social security number which the sensitive data sheet was created to keep that information from public record. The problem is that many people still put their social security number on the petition, because the statute states it is required. The only reason a social security number is needed is the federal IV-D requirement that it be filed in the case of record and for collection purposes it needs to be on the Order of Assignment. The Workgroup agreed to delete the requirement for having the social security number on the petition and to draft statutory language that changes it to the “record of the action” which would be the sensitive data sheet.
- Temporary Parenting Time and Custody Orders: The issue is a father’s visitation and custody rights during the time between when a paternity action is filed and the time the

court establishes paternity. A.R.S. § 25-817 provides the following four circumstances under which a temporary child support order be established:

- Genetic test
- Acknowledgement
- Admission of paternity in written document
- Clear and convincing evidence

The Workgroup would like to expand the statute to include temporary parenting time and custody orders, but make the statutory language may rather than shall.

NEXT MEETING

November 3, 2006

10:00 a.m. – 2:00 p.m.

State Courts Building, Room 230

ADJOURNED

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