

CHILD SUPPORT COMMITTEE

Meeting Minutes – September 21, 2004

PRESENT:

Co-Chairs

- Hon. Peter Hershberger
- Hon. James Waring

Members:

- Hon. Manuel Alvarez
- Robert Barrasso
- Hon. Bill Brotherton
- David Byers (designee Karen Kretschman)
- Hon. Norm Davis
- Charles DiGeronimo
- Kim Gillespie
- Leona Hodges
- Kym Hull
- Hon. Michael Jeanes
- Michelle Krstyen
- Ezra Loring
- Suzanne Miles
- David Norton
- Hon. Rhonda Repp
- Chuck Shipley
- Russell Smoldon
- Hon. Monica Stauffer
- Bianca Varelas-Miller

STAFF:

Megan Hunter
Isabel Gillett
Barbara Guenther
Marianne Yamnik

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

CALL MEETING TO ORDER

The meeting was called to order at 10:13 a.m. by Rep. Hershberger and Sen. Waring without a quorum present.

ANNOUNCEMENTS

Members introduced themselves.

APPROVAL OF MINUTES

The minutes were not approved due to the absence of a quorum. They will be considered at the October meeting.

WORKGROUP ISSUES

GUIDELINES INTERIM – KIM GILLESPIE AND JUDGE STAUFFER

Kim Gillespie explained that she and Judge Stauffer met with Megan Hunter to develop meeting dates and times and membership categories, which will include: judges and IV-D commissioners with urban and rural representation; private attorney representative; a representative from the Attorney General's office (in addition to Kim); a representative from the Division of Child Support Enforcement; a custodial, non-custodial and joint custodial parent; a representative from the State Bar Family Law Section; an attorney from the legal aid community; possibly an AOC member; and professors and economists. They hope to have Laura Morgan, a national guidelines expert, consult with them.

They have also thought about the rules they will need for this group. The workgroup's first meeting will be in January, 2005.

STATUTE REVIEW – KIM GILLESPIE

The group met monthly over the summer. They discussed the pros and cons of a change in the interest rate. The group determined that changing or eliminating the interest rate would be controversial and implementation would be difficult for the IV-D ATLAS system. They chose to leave the issue alone at this point. It was suggested they do a cross reference to Title 25, where most family law statutes are located. The group did not reach a consensus on this suggestion.

Paternity Statute

The group developed a proposal to make minor revisions to the paternity statutes, A.R.S. § 25-800, which will:

- change plaintiff/defendant to petitioner/respondent throughout the section to conform it to the rest of Title 25.
- 806(C)(1) and (2) allows for an oral answer in a response to a paternity suit. The proposal was eliminated as it is unnecessary because it is largely unused. Language was added in (D) to permit a party to seek emergency or temporary orders before the court has made a paternity judgment when there are no serious objections.

- 808(A) and (B) were eliminated because they are not necessary.
- The last sentence in 809(A), which discusses the Defendant paying costs of litigation, was deleted because this is already stated in 809(D).
- A phrase was added to 812(2)(B) to expand the types of personnel within the courts who can enter a paternity order.
- Language was added in 817(A)(3) to make it consistent with language that was added in 806(D).

Disability Statute

A.R.S. § 25-320 (E) - Mental/Physical Disability. Kim explained that the current statute is very broad. Arizona law allows child support past the age of majority in cases where a child is mentally or physically disabled. The workgroup discussed the following considerations:

- At what age does the disability diagnoses need to occur. The workgroup agreed that it must be before the age of 18.
- Time limit on when a party can file for ongoing support.
- Duration of duty to pay support. Judge Repp and Judge Davis agreed that in an intact family, there would be no duty for parents to pay support toward their disabled adult child.
- Modifiable ongoing support. The workgroup agreed that the support should be modifiable.
- The workgroup agreed that no definitions should be added.

UIFSA

Kim mentioned that revisions to the Uniform Interstate Family Support Act (UIFSA) passed by the Legislature this year cannot be implemented until a waiver is received from the federal government. Because the Federal statute required adoption of an earlier version, there was a requirement that we get a waiver from the government. Leona Hodges has submitted request for a waiver.

AUTOMATION / FUNDING – KIM GILLESPIE

Kim explained that the group has agreed that a statewide, web-based child support arrears calculator and a web-based payment history would be beneficial for the entire child support community, both IV-D and non-IV-D.

Child Support Arrears Calculator

The IV-D portion can be done with IV-D funds, but non-IV-D will need outside funding due to federal regulations prohibiting the use of IV-D funds for any other purpose. DCSE currently has an arrears calculator available for IV-D cases, which they call ARCA. ARCA

could be duplicated on the non-IV-D side. The first look at this option indicates no additional screens would need to be created, and it would probably not cost more than about \$40,000. The workgroup is looking at funding opportunities to get this done in the short term for judges and court staff. In the long-term, a web-based solution would be needed. It would save time and money for the agencies, courts and public. Judge Davis mentioned that we are decades behind the private industry. We are probably spending approximately half a million to a million dollars a year having people calculate arrears, and it takes two to three months to get an answer.

EDCSE WEBSITE DEMONSTRATION –

JOHN HINNANT, DIVISION OF CHILD SUPPORT ENFORCEMENT

Mr. Hinnant provided an overview of DCSE's new website for customers, which will give them access to case information and payment history information. They also have an Interactive Voice Response system for people who want information over the phone. The website was adapted from Colorado which obtained a grant to develop a website. DCSE went live with the website on September 1st and have received many positive comments. The site is expected to reduce the number of customer service calls. At this time, caseworkers and lawyers from the Attorney General's office have access as well. They anticipate extending accessibility to judges and court staff in the next few months.

GREACEN MARICOPA FAMILY COURT REPORT -

HON. NORM DAVIS, PRESIDING FAMILY COURT JUDGE, MARICOPA COUNTY

KAREN KRETSCHMAN, ADMINISTRATIVE OFFICE OF THE COURTS

Judge Davis explained that this report was viewed by the Superior Court as very positive and motivating, and the entire case management system should be built around it. The court has been treating family court cases much like civil cases, which has been very detrimental to families as this process takes so much longer. The longer a family court case takes to be resolved, the more damaging to the family and especially to the children. The Northwest Regional Court has been working on a pilot project for two years, which entails early intervention in family court cases meaning that the parties meet with a judge early on in the process to settle as much as possible up front. This is a way to make the waiting time for a final resolution shorter for the families.

Another process has been originated in the downtown court, which is called "Default on Demand." Half of the cases are settled this way. This program allows litigants to choose their own default hearing date. This is a responsive service for the public and has changed the culture in the court.

In the past, each judge has been handling his/her case management system differently from other judges. Judge Davis said the court is now implementing a uniform case management system so that judges will conform procedurally. This system is patterned after the Northwest pilot project.

The court is converting the Self Service Center to an interactive web-based system. It is more meaningful for litigants and helpful for the courts because it is simplified and party-specific.

The court is making some child support-related system changes: a post-decree modification court will be implemented in the next 30-60 days. Parties will go to post-modification court one

day and get the agreements and enter orders on the same day. If there is any dispute, the parties can go right into the courtroom for a judicial decision.

Maricopa County Superior Court is required to respond to the Administrative Office of the Courts by October 7, 2004. Judge Davis said he will share that letter and other information with the Child Support Committee and asked members to share any ideas or suggestions with him.

Michael Jeanes asked Judge Davis what is being done in regarding the issue of clerks giving out legal information and legal advice. Judge Davis said that this is a very difficult area, but that the Greacen Report states there is definitely a difference between the two. He stated that how accurate the information a clerk gives many times depends on how much experience that clerk has had in this field.

However, the Supreme Court is going to be redefining what is legal information and legal advice, in order to give a clearer definition to employees. Judge Davis stated that California has been working on this and he is looking at what they are doing. Another area that will be helpful is that there will be interactive forms at the Self Service Center which will be able to give information that is specific to a particular area. In this way answers can be given for the most commonly asked questions, of which there are many.

Senator Brotherton asked if there was still a problem with the rotation of judges in the family court bench. Judge Davis said that a committee has been formed to research this issue and he is the chairperson. The committee will give recommendations to Presiding Judge Colin Campbell within six months. As far as he is concerned, if a judge wants to stay on the family court bench, he is quite happy to allow that judge to do that. Lately, the practice has been to assign new judges to the family court rotation. The family court is the biggest department in the court – half of cases seen are family court cases. Judge Davis agreed that it is a difficult assignment, and frequently judges do want to rotate to another bench. He believes that the court needs to go for longer tenure for judges on the family court bench. One problem is that most of the judges appointed through the Selection Committee do not have family court experience. Judge Davis believes that this practice needs to be changed.

Senator Brotherton asked about the probability of applying more resources to judges. Most of the Superior Court judges' work falls on the judicial assistants. He feels this makes a higher workload for the judge. He also said that Pima County uses more commissioners, and might that be helpful in Maricopa County. Judge Davis answered that he does not think it is a resource problem. Calendar cases per judge have gone down significantly in the past few years. He said that 20-25% of the cases that the judges handle are high conflict, and therein lies the problem. These cases are emotional issues where parties are not willing to work on the best solution for everyone concerned. These cases make 90% of the judges' work. It takes experience to deal with these cases and get them out of the system. He stated that the resources have grown in Maricopa County under Judge Campbell's tenure. His goal is to have the best family court in the country within a year, and although there are some areas that will need work, he believes they will get there.

At this point Megan gave a brief update of the Judicial Selection Committee in regard to this Committee getting information to them. She stated that Judge Armstrong addressed the Pima and Maricopa County Trial Court Commissions a little over year ago, which was instrumental in educating the Commissions about the problems that Michael Jeanes and Judge Davis were discussing previously. The Committee sent a letter to both of those Commissions further explaining the issues involved in the DR bench and what the DRC would recommend in trying to attract more family law practitioners to the family law bench. They had planned to address the Commissions again in their annual meeting this year, but decided that the Commissions members are aware of the issues and with the advent of the Greacen report and the letter that will come from Judge Davis and Judge Campbell in response to that report, many of the issues in the family law bench will be addressed.

COMMITTEE ON RULES OF PROCEDURE IN DOMESTIC RELATIONS CASES – KONNIE NEAL, ADMINISTRATIVE OFFICE OF THE COURTS

Konnie Neal from the AOC provided an overview of the Supreme Court's Committee on Rules of Procedure for Domestic Relations Cases. At this point, the Rules are still in draft form. The deadline for the completion of the Rules is at the end of March, 2005, when they will present them to the Arizona Judicial Council.

One critical area where there was much discussion was Emergency and Temporary Orders. Judge Davis stated the Rules Committee is attempting to make the Rules simpler than they are now. Temporary Orders provide support for custodial parents who need it but do not want to do more litigation than necessary. As it stands now, parties could have a two-hour trial for temporary orders, then three months later have a trial for permanent orders, covering the same information. The Rules Committee is trying to eliminate overlap. Early on in the case there is one of two situations: either the parties have the basic numbers needed to calculate child support, or they do not. If so, a Resolution Management Conference can be set up whereby parties can meet and resolve that issue on a permanent basis, and enter a permanent resolution. In the cases where there is dispute and one of the parties does not have the numbers that are needed to calculate child support (i.e., a party is self-employed and needs to go and get the income numbers), there needs to be a way to enter orders quickly. However, since Temporary Orders are only good for two or three months, they are not cost-effective. If a party is in court asking for Temporary Orders, the party is only asking because the other party is behind in child support payments. It takes at least a month to get a hearing; therefore the party that should be paying support is at least a month behind. The approach the Rules Committee is looking at is estimating the amount the support should be, and entering that order. Therefore, if both parties' positions on the child support amount are within 150% of each other, the court could establish an amount within that range without a hearing. If there is an error in there, it can be fixed in the permanent trial.

CALL TO THE PUBLIC

There were no public members present.

BREAK/LUNCH/WORKGROUP MEETINGS

The Committee reconvened at 12:35.

WORKGROUP REPORTS CONT.

Child Support Solutions - Michael Jeanes and Leona Hodges, Co-Chairs

Michael Jeanes explained that this workgroup had met twice since the last full Committee meeting. They found that the Division of Child Support Enforcement's office, the Attorney General's office, and the Clerk of the Court's office did not really understand how each agency worked. Therefore, they brought in staff from each of the agencies who made presentations on work flow and process. The workgroup will now focus on the top customer complaints or issues that they hear most often within their agencies. They will then prioritize these issues to look at what can be done in each agency to find solutions and develop a cohesive process for the child support customer. The workgroup has also included the Pinal County Clerk of the Court as a member and has invited all the clerks statewide to participate. The Clerks' Association meets quarterly, and this workgroup will bring a standard report to this Association at each meeting. Representative Hershberger offered to help with Pima County concerns.

Public Outreach/Customer Service – Chuck Shipley and Russell Smoldon, Co-Chairs

Chuck was not present and Megan provided the report. She stated that this workgroup has met two or three times and has grown the membership by adding people from Community Legal Services, urban and rural, the Attorney General's office and a clerk from Yavapai County. The basic mission of the workgroup is to assist the child support customer to understand more about the child support system in Arizona. The Child Support Solutions Workgroup will be helpful in this area. The Public Outreach workgroup will cull some of the information from the Child Support Solutions workgroup to build upon the other information their workgroup uncovers.

Megan said there is a great deal of information on the Web regarding child support, but it cannot be found all in the same place. The workgroup has discussed building a Web page that other agencies could add to their own Web sites. They are also considering putting together a brochure that would have the same information. The workgroup has discussed places to market this information, and are thinking about hospitals, doctors' offices, DCSE and AG offices, the Clerks offices. They have access to a listing of all statewide non-profit organizations, and the party who hosts that list has offered to send out the information to those non-profit people who work with members of the public who do not have resources to hire attorneys for their child support cases.

This workgroup plans to meet a few more times and come back to the Committee with a proposal, hopefully in November.

2005 LEGISLATIVE PROPOSALS

Megan reported on the various workgroups:

The Child Support Solutions and Public Outreach/Customer Service workgroups do not anticipate bringing forward any legislative proposals. The Statute Review Workgroup will have two proposals as mentioned previously in this meeting. Automation/Funding Workgroup may have a proposal if they decide to proceed with an appropriation request.

Rep. Hershberger stated that he was concerned about the lack of a quorum for this meeting and what it means for the Committee. He said he would like to see these proposals presented in a more comprehensive fashion and prepare to move them forward in legislation. He would be willing to ask for an appropriation for an arrearage calendar. He said that the input at this meeting makes it clear that it is a direction that needs to be taken.

Megan discussed a proposal from the Domestic Relations Committee. She said she was seeking information from the Committee members that may know about domestic relations or child support bills that may be coming forward. She said the Domestic Relations Committee is coming forth with a proposal which is an attempt to redraft A.R.S. § 25-403 (custody statute). This statute has been piecemealed since the 70's, and is three pages long. There will be no substantive changes to it and they will simply make the statute more user-friendly and easier to follow.

At this time, Dave Norton reported that at the previous Domestic Relations Committee (Friday, September 17), he made a presentation on four areas of interest in looking at either legislative or rules changes: definitions in the domestic violence statutes; the possibility of an exemption from an Order of Protection violation if the parties are attending a court-sponsored counseling or mediation session, in order for the parties to meet under certain guidelines; service of orders; and working on the law enforcement representation on that issue.

NEXT MEETING

The next proposed meetings are October 19, November 16, and December 14. Representative Hershberger recommended that given the issues with attendance and the need for a quorum that meetings be scheduled for October 19 and November 16 of two hours in length, and then evaluate the meeting schedule with the Committee members. Discussion ensued. Judge Repp stated that she may attend by phone for a two-hour meeting. Senator Brotherton suggested that during the legislative session, legislators have difficulties with overlap regarding meetings, and that afternoon meetings might be best

Megan stated that in regard to the 2004 April meeting, she had thought the legislative session might be over by that time. She mentioned that there were no meetings in January, February or March and that future meetings depend on what the Committee wants to do. The Domestic Relations Committee meets on Fridays each month, and this works well for that committee. However, this Committee does not have as many issues to discuss as does the Domestic Relations Committee. The December meeting was scheduled recently in the event that the Committee needed more time to discuss legislation.

Dave Norton suggested that perhaps the Committee needs to look at the work product, and ask whether the work of this Committee could be combined with another committee to streamline the work product. Megan said that this has been discussed in the past, and the main issue against it is that child support is such a technical topic. This has been a very strong policy-making group in this state, and she would hate to see it disappear. The Guidelines Workgroup starts in January, and this will take at least two years to finalize. She stated that it is something to think about, but did not know where else the work of this committee would fit.

Megan also said that today's small turnout is unusual, but that perhaps it is time to look at the members who frequently do not attend, and attempt to have those positions filled by others who would attend.

Members agreed to meet in October and November for two hours each meeting instead of four hours.

CALL TO THE PUBLIC

No members of the public submitted a request to speak.

NEXT MEETING

The next meeting will be held on October 19, 2005, 10:00 am – 2:00 pm, at the Arizona Courts Building, 1501 W. Washington, Conference Room 119.

ADJOURNMENT

Rep. Hershberger adjourned the meeting at 11:00 a.m.