

CHILD SUPPORT COORDINATING COUNCIL SUBCOMMITTEE

***** Amended Meeting Minutes - October 23, 2001**

Members Present:

Robert Barrasso
Todd Bright for John Clayton
Dave Byers
Hon. Kathi Foster
Bruce Gentillon
Kim Gillespie for Noreen Sharp
Michael Henson for James Hazel, Jr.
Hon. Peter Hershberger

Hon. Bethany Hicks
Hon. Michael Jeans
David Norton
Hon. David Petersen
Hon. Rhonda Repp
Benidia Rice
Chuck Shipley

Members Absent:

Hon. Linda Aguirre
Jodi Beckley
Penny Higginbottom
Russell Smoldon

Carmela Trapani
Hon. Monica Stauffer
Bianca Varelas for Barbara La Wall

Staff:

Glenn Davis
Barbara Guenther
Marianne Hardy

Megan Hunter
Isabel Gillett

Guests:

Judy Bushong
Bryan Chambers
Kat Cooper
Terry Donaldson
Clarence Lepsheete
Beverly McConnell
Patrick Murphy

Call Meeting to Order

The meeting was called to order by Representative Hershberger at 10:21 a.m.

Announcements

**Rep. Peter
Hershberger**

Bryan Chambers has moved from the child support division to the criminal division of the Gila County Attorney's Office which has caused him to resign from the Council. Members

acknowledged his many years of dedication to Arizona's family and thanked him for his service to the Council and many workgroups he served as a member.

Bryan's replacement at both the County Attorney's office and on the Council is Michael Henson. Mr. Henson worked previously as a prosecutor in the United States Army, member of the American Indian Law Review, felony public defender, and legal aid attorney in the White Mountains.

Approval of Minutes

A motion to approve the minutes of July 24, 2001 was heard. The minutes were approved by a unanimous vote.

Meeting Protocol

**Rep.
Peter Hershberger**

Leadership of this subcommittee and the Domestic Relations Reform Study Subcommittee met in August in an effort to formalize meeting protocol. They decided on the following: 1) members of the subcommittee, only, may sit around the table; 2) members who are unable to attend meetings may appoint a designee but must complete a designee form indicating who the designee will be and whether or not the designee can exercise member's voting rights; 3) members should designate one individual to represent their position on the Council instead of substituting more than one; this is to promote continuity and consistency. The designee form is available from Megan Hunter.

A question arose as to the authority of a member who is appointed by an elected official to designate a replacement. A reading of A.R.S. §25-320.01(B) clarified that the subcommittee is comprised of a specified list of members or their designees. The group reached consensus that the power of a member to exercise voting rights transfers to his or her properly designated designee.

Workgroup Issues

Leadership of this subcommittee and the Domestic Relations Reform Study Subcommittee have taken the position that the individual who serves as the chairperson of a subcommittee workgroup must be a member of the subcommittee. The workgroup acts on behalf of the subcommittee; therefore, the chair should be familiar with the charge and expectations of the subcommittee. Additionally, the chair should be eligible to vote on the recommendations of the subcommittee.

The Guidelines workgroup had been specifically requested by the Supreme Court to assist with the year 2000 quadrennial review of the child support guidelines. The workgroup has continued meeting on a quarterly basis to discuss recommendations for the 2004 review. Dave

Byers pointed out that the public and members of the bar comment that they want the guidelines to stop changing because by the time they become familiar with the new guidelines, changes are made. The court is in a budget-cutting environment currently where they are looking at every committee and workgroup to see where they can cut back. With the current hiring freeze, staff positions are not being filled and this would be one less group for staff to look after. The court will continue to gather suggestions through website and writing, then in a year and half or two years from now activate the workgroup. There is not a requirement to change the guidelines every four years, the only requirement is to conduct a quadrennial review. Every time a change occurs, the child support calculator must be reprogrammed at considerable expense, plus a huge task of training the judges and bar. Kim Gillespie agreed that a permanent guideline workgroup does not need to exist now but appropriate representatives could be chosen closer to the review period, then remain intact for approximately three months after any revisions are made as sort of a warranty period. The group reached consensus that if an issue arises prior to the next quadrennial review, the subcommittee could call together a workgroup at that time.

MOTION: To disband the guidelines workgroup presently and activate it a year and a half or two years before the next review.

Motion was seconded and passed.

The Finance workgroup was formed to address recommendations made in the July 1999 Performance Audit from the Auditor General to help determine the most appropriate approach for providing program funding. Specifically, the Auditor General recommended that the Division of Child Support Enforcement (DCSE) should work with the subcommittee to develop a recommended policy position which would define whether the program should be cost recovery or service delivery in nature. Although the state funding shortfall was not realized, the workgroup submitted a report on its findings and was subsequently reconstituted to address the continuing issue of a funding shortfall in the counties. Benidia Rice reported that the workgroup did not meet because the counties submitted a legislative proposal seeking additional funding. The bill reached the governor's desk; however, the governor cut half of the funding and set the appropriation to begin in 2003. The counties agree that the funding is not adequate to meet their needs and additional monies are needed to continue child support programs in those counties. In light of current state funding issues, whether or not: 1) this workgroup would have any real meaning, and 2) Benidia should continue as its chair as the head of a state agency whose budget is dictated by the governor. Benidia suggested that the workgroup be disbanded. Senator Petersen agreed that Benidia may not be the appropriate individual to chair the workgroup but suggested that a need exists for continuation of the group. Todd Bright reported that DCSE did not experience a shortfall last year, but project a shortfall this year of several hundred thousand dollars and possibly in the millions next year. Benidia suggested that the issue would be studied by the workgroup for the entire 4-year program. Bryan Chambers pointed out that the scope of the original workgroup was to study how to fund the entire statewide IV-D program. This is a state-mandated program and goes hand-in-hand with the TANF block grant program; if there is no state child support program, there is not TANF block grant. The counties that run child support programs do not have that mandate. One of the county-run programs has decided to terminate the program at the end of this fiscal year which will impact the state. The state will have to decide at that point if they will open an office in that county or do an RFP for a private company to provide

services.

The co-chairs will discuss whether or not this workgroup should continue and if so, the scope of work to be addressed.

Todd Bright reported on the September 12, 2001 Centralized Payment Processing meeting. Commissioner Ostapuk resigned as chair of the group. The group recommended Judge Monica Stauffer of Superior Court in Greenlee County to chair the group. The Support Payment Clearinghouse vendor, Lockheed Martin IMS, was purchased by Affiliated Computer Systems. DCSE is currently going out for bid for a new vendor to begin July 1, 2002.

For the year to date, the Support Payment Clearinghouse has averaged 90,000 non-IV-D payments monthly. Approximately 200,000-220,000 payments monthly IV-D and non-IV-D combined which amount to 10,000 payments processed daily. As of the end of August approximately 2,200 payments were in suspense. Less than 1% payments are in the unidentified category. A new public agency pay record that is now available which allows other agencies access to financial information without accessing the ATLAS system which is governed by confidentiality regulations.

MOTION: To appoint Judge Monica Stauffer to serve as chair of the Centralized Payment Processing workgroup.

Motion was seconded and passed.

Kat Cooper, chair of the NDI workgroup, provided a brief background of the group's purpose and mission. Representative Foster questioned the decision that was made to set the NDI whether or not an Order of Protection has been served. Judge Hicks explained that an Order of Protection is not issued until the person requesting protection has testified before a judge although the process can be ex parte. It is not effective until it is served on the other person; along with the Order is a notice of a request for hearing form. Kat explained that this group worked under a federal mandate and brought recommendations to the subcommittee based on that mandate. The subcommittee adopted the recommendation to set the NDI when an Order of Protection is issued. A judicial override process to remove the NDI is available. A recent expansion of the federal mandate will require states to set the NDI in cases of child abuse and neglect which is a solid reason why this workgroup should continue.

Benidia explained that regardless of the NDI, information about parties is not available outside of a court order. Dave Byers announced that in December, a new data warehouse holding all orders of protection will be implemented. The orders are entered electronically and will indicate when the order has been served. He suggested that the workgroup continue meeting and report back exactly when the NDI is set and if the NDI should be updated when service occurs or doesn't occur. Perhaps a demonstration of the process. Kat was thanked for her work with the workgroup. The co-chairs will appoint a chair.

MOTION: To continue the workgroup.

Motion was seconded and passed.

Judy Bushong was thanked for her work as chair of the Statute Cleanup workgroup. Judge Hicks volunteered to serve as chair of this workgroup.

The Relocation Issues workgroup has not met so legislation will not be introduced in the upcoming session. The group will begin meeting after the first of the year.

A suggestion to allow for a vice-chair to lead a workgroup was put forward. The co-chairs will take this into consideration.

Statute Cleanup Workgroup

**Judy
Bushong**

The following summarizes the 2002 legislative proposal:

A.R.S. § 25-327

Two separate modification statutes, A.R.S. §25-327(A) and §25-503(F), are not in uniformity. The intent of the revision is to conform the two. The following suggestions were requested for the Statute Cleanup workgroup to discuss and craft revised language:

- Proposed language should be consistent with federal law concerning time frames of the filing of notice vs. service of the notice. She suggested that A.R.S. §25-503 should also be changed to comply with the federal requirement.
- Replace the term “revoke” with “terminate.” The term “revoke” is confusing and implies that the original order is revoked. Lawyers are more comfortable with the term “terminated.”
- Change the term “filing” with “service.” Original language stated that modifications are effective on the first day of the month following the filing of the petition to modify. Revised language gives the court discretion on retroactivity. The court allows for a good cause exception but it only allows for a later date, not an earlier one.

A.R.S. § 25-502

Clarify that when clerk of court transfers a case to another county, they actually transfer the entire court file. Previously, it said all related files which the court may interpret to mean that cases with different case numbers but same parties would be transferred instead of just DR files. Revision would make sure it's only the DR case file that goes to the other county.

Line 5, page 2, when drafted last year, the intent was to make transfer like change of venue, except that it would be faster and cheaper. Intent was to clarify that once it's transferred, the new county now has venue over that case and they can enforce any type of proceeding related to that case (enforce parenting time, custody, etc.) The new county has venue over that whole case.

Some judicial officers state that under the current process, every clerk needs to make a copy of the file and only the child support issue would be heard in the new county; other issues would remain in the original county. This statute is only for establishment and modification of support orders, not enforcement. Problem is forum shopping. Should make it clear that the transfer has venue for any action of this case. Does damage to one judge-one family. Bev McConnell suggested looking at original venue statutes.

Line 9, page 2. Change “twenty days after the transfer order” to “ten days after the date of the court clerk’s notice.” Change court clerk to clerk of the court.

A.R.S. § 25-503

Section E is stricken because it is no longer required; as written, it gives a 10-day grace period for non-compliance with a court order.

Line 34, page 3, language changed to be consistent with what we discussed on first page concerning the effective date and filing date of service.

Line 18, page 4. Spousal maintenance/child support uncovered medical costs added.

On uncovered medical costs we don’t know if they’re reasonable in nature or the exact amount. It is unclear which cases the IV-D agency is involved in and puts a burden on the agency to become involved in non-IV-D functions. Uncovered medical not defined as arrearages in 25-500 so there’s inconsistency. Imposing duties on agency that they could not fulfill.

Line 38, page 4. When obligor marries parent of child who is subject of support order, new language would state that the order automatically terminates on the last day of the month in which the marriage takes place and arrearages do not accrue after that date, but arrearages prior to that date can still be collected. Jan. 1 child support orders including modified orders, must notify parties of this provision. Members discussed necessity of including the change to the form.

A.R.S. § 25-510

line 34, page 5 and page 6. When it was required for all payments to be sent through the Support Payment Clearinghouse, a decision was made that ATLAS needed way to process payments. In the past, the 15 clerks had different distribution methods, no standard method existed. Some judicial officers believe that this is the way payments have to be allocated no matter what. The intent was not to change ATLAS or make more work for clerks or IV-D workers to have to manually change ATLAS system. Instead, the intent was to give the court clear authority to make a decision on how a payment should be given credit under that court order. Statute of limitations - litigants who argue where the payments were allocated - maybe the two should have the same statute of limitations..

Bev McConnell stated that formerly in the law, a party making a payment could direct how they wanted payment applied. Standard accounting practices say interest paid first.

Bev’s suggested language: Section E. The clearinghouse distributions as provided in section A above are not binding on the courts or the parties.

Members reached consensus that the workgroup should continue to work on this and e-mail a new draft to members for a vote on November 9 prior to the joint meeting.

Representative. Hershberger proposed that if you have comments that you e-mail comments to Megan or Judy and instruct Megan to put together an information package prior to the Nov. 9 meeting. 9 or 9:30 a.m.

New Business

No new business was heard.

Next Meeting of the Council

The next meeting will be held November 9, 2001, possibly starting at 8:30 or 9:00 a.m. and concluding at 10:00 a.m. when the Joint Child Support and Domestic Relations Subcommittees begins. Staff will notify members with firm arrangements.

Adjournment

Rep. Hershberger adjourned the meeting at 1:38 p.m.