



CHILD SUPPORT COMMITTEE

State of Arizona

2008 Annual Report

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Child Support Committee

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CHILD SUPPORT COMMITTEE 2008 ANNUAL REPORT

EXECUTIVE SUMMARY

As required by law (A.R.S. § 25-323.01), the Child Support Committee, jointly chaired by Representative Peter Hershberger and Senator Thayer Verschoor, submits to the Governor, the President of the Senate, the Speaker of the House of Representatives and the Chief Justice of the Arizona Supreme Court the following report.

The Child Support Committee (“Committee”) was created in 2002 to continue the work of its predecessor, the Child Support Coordinating Council Subcommittee. The Committee’s purpose to explore concepts for improving the child support system again proved to be successful and beneficial to Arizona’s residents as evidenced by the passage of legislative proposals designed to enhance the child support system.

The Committee was originally conceived as a forum for all system stakeholders to develop and coordinate policies and strategies to improve the child support system. The Committee’s efforts have evidenced the wisdom and importance of forging collaborative solutions. In keeping with their vision, efforts of the Committee’s workgroup have again produced additional recommendations intended for introduction to the Legislature in 2009.

CHILD SUPPORT COMMITTEE 2008 ANNUAL REPORT

INTRODUCTION

Historical Background

Session law establishing the original Child Support Enforcement and Domestic Relations Reform Committee grew from the work of a legislative advisory committee.

In June 1993, Senator John Greene, President of the Senate, and Representative Mark Killian, Speaker of the House of Representatives, appointed a Joint Select Committee on Child Support Enforcement, co-chaired by Senator Matt Salmon and Representative Pat Blake Wilder, with the goal of creating an effective child support system for Arizona families and children. To assist in this effort, in July 1993, the Select Committee appointed a Technical Advisory Committee co-chaired by David Byers, Administrative Director of the Courts, and Bonnie Tucker, Deputy Director of the Arizona Department of Economic Security.

The Technical Advisory Committee brought together major stakeholders in the statewide child support arena. Membership represented a cross section of program administrators, parents, judicial officers and attorneys, creating a forum for meaningful debate on the issues facing Arizona's child support enforcement system.

The Technical Advisory Committee identified various problems within the system and recommended solutions for corrective action, including identification of the agency or entity responsible for initiating implementation. Fifty-seven recommendations, of which 28 required legislative action, were developed. At the conclusion of its mission, the Committee submitted a report of its recommendations dated November 1, 1993.

In the course of deliberations, there was consensus that integrated planning and communication among all of the child support stakeholders is vital to ensure continued improvement in the system. Thus, the first

recommendation made in the Committee's report was that a child support coordinating council be formed to provide a mechanism for on-going communication and integrated planning among stakeholders to ensure consistency in child support policies.

The Technical Advisory Committee also identified a problem concerning the difficulty in understanding laws and procedures due to the lack of integration of the statutes relating to domestic relations issues. To address this problem, the Technical Advisory Committee recommended that a domestic relations reform study committee be established to consolidate, revise and modernize the domestic relations statutes.

Legislative Response

During the forty-first session, the legislature created each of the two subcommittees proposed in the recommendations of the Technical Advisory Committee. By Laws 1994, Chapter 374, Section 24, both the Child Support Coordinating Council Subcommittee (“Council”) and the Domestic Relations Reform Study Subcommittee (“DR Subcommittee”) were established within a single overarching legislative committee called the Child Support Enforcement and Domestic Relations Reform Committee.

The Child Support Enforcement and Domestic Relations Reform Committee consisted of the four co-chairs from each of the two subordinate subcommittees. This overarching committee was established to coordinate the work of the subcommittees, but was specifically directed not to make substantive changes to the work, findings or recommendations of the two subcommittees. Any conflicts between the findings or recommendations of the subcommittees were to be referred back to the subcommittees for resolution.

Each of the subcommittees was co-chaired by a member of the Senate and a member of the House of Representatives. The enabling legislation identified the composition of each subcommittee's membership and prescribed the tasks to be undertaken. Reports were to be submitted by the subcommittees quarterly to the Child Support Enforcement and Domestic Relations Reform Committee. The overarching committee was responsible to report annually on the work, findings and recommendations of the subcommittees to the Governor, President of the Senate, Speaker of the House of Representatives and the Chief Justice of the Arizona Supreme Court.

The original legislation creating the overarching committee and its subcommittees was effective July 17, 1994. That same enabling law appropriated funds to the Arizona Supreme Court for costs associated with staffing the subcommittees. In July 1994, the Arizona Supreme Court designated the Domestic Relations Division of the Administrative Office of the Courts (AOC) to provide that staff support.

The legislation that originally established the committee and its two subcommittees was scheduled for repeal from and after December 31, 1997. Provisions of law enacted in 1997 (Laws 1997, Chapters 45, 176 and 250) extended this date so that each of the subcommittees continued to serve the public until December 31, 2000. New legislation (Laws 2000, Chapter 312) repealed Laws 1994, Chapter 374, Section 24 and added A.R.S. § 25-320.01 to statute. This statute, effective as of July 18, 2000, created the committee and subcommittees by statute, rather than session law, and extended the life of the committee and the two subcommittees until July 1, 2007. The statute further specified that the Domestic Relations Reform Study Subcommittee was to meet jointly with the Child Support Coordinating Council Subcommittee at least twice each year.

Legislation passed in 2002 (Laws 2002, Chapter 332) eliminated the Child Support Enforcement and Domestic Relations Reform Committee, the Child Support Coordinating Council Subcommittee and Domestic Relations Reform Study Subcommittee. The new law created a new structure and two independent committees: the Child Support Committee (Committee) and the Domestic Relations Committee, with simplified purposes, appointments and reporting requirements and provided that the two committees will expire on January 1, 2008. However, legislation was passed in 2007 (Laws 2007, Chapter 73) which provides an extended expiration date of December 31, 2017 for these valuable and productive committees. The Court Services Division, Court Programs Unit, AOC, continues to be responsible for staffing the Committee created by this new legislation.

The new statute, A.R.S. §25-323.01, effective August 22, 2002, requires the Committee to prepare an annual report on the work, findings and recommendations regarding child support guidelines, enforcement and related issues to the President of the Senate, Speaker of the House of Representatives, Governor and the Chief Justice of the Arizona Supreme Court each year.

This report reflects the Child Support Committee's work, findings and recommendations for the year 2008.

Membership

The session law originally enacted in 1994 outlined the membership of each subcommittee by position or category and directed how chairpersons would be appointed. In 1995, the legislature amended this law. Chapter 44 of the Laws of 1995 altered the numbers of subcommittee members and attempted to balance political party representation of legislative members. The 1995 law also directly affected the composition of the Council.

Under the original law, the only legislative members of the Council were the two subcommittee co-chairs, one appointed from each legislative chamber. As amended, session law provided there shall be *two* members of the Senate from different political parties and *two* members of the House of Representatives, also from different political parties. As a result, two additional members, both of the minority party, were added to the Council in 1995. Co-chairperson positions were unaffected.

In 1997, the legislature also added additional requirements of membership. An amendment (Laws 1997, Chapter 173) to the original enabling law (Laws 1994, chapter 374, section 24) provided that members of each subcommittee shall serve two-year terms at the pleasure of the official or officials who appointed them. Additionally, the law specified that the appointments shall be made at the start of each even fiscal year and that members may be re-appointed.

The new law enacted in 2002 that created the Committee did not alter its membership, but eliminated the two-year term limit. Members now serve at the pleasure of the appointing official. Appointments are made by the Governor, President of the Senate, Speaker of the House of Representatives and the Chief Justice of the Supreme Court.

CHILD SUPPORT COMMITTEE

2008

Summary

In 2008, as in past years, the importance of the Child Support Committee (Committee) as a recognized forum for cooperative decision making in the area of child support was reaffirmed. New strategic planning measures were formulated in 2008 through the efforts of the Statute Review Workgroup.

The Statute Review Workgroup will offer legislative proposals for the First Regular Session of the Forty-Ninth Legislature. The workgroup will recommend revisions to Title 25 which expands the scope of “lump sum payments” to include inheritances, trust or annuity distributions, excess proceeds, life insurance proceeds, retroactive disability proceeds, and personal injury awards in the context of a limited income withholding order. The workgroup will also offer a legislative proposal which clarifies a two-prong test when the court orders support to continue past the age of majority. Other areas of legislative reform focus on eliminating obsolete statutes and updating references to the newly established Arizona Rules of Family Law Procedure. Further legislative changes update one of the paternity statutes to reflect modern genetic testing language, while other provisions propose to allow state or local agencies that have custody of a party who is the subject of a genetic testing order, to treat an order issued in another jurisdiction as though it has been issued by a court in Arizona.

The Workgroup examined the unique challenges faced by state agencies and courts due to the adoption of new federal regulations and state law concerning implementation of a cash medical support law. Collaboration with the Maricopa County Family Law bench, court administration, and the Department of Economic Security resulted in proposed legislation which provides further guidance to courts and state agencies that address the issuance of cash medical support orders.

As in past years, several presentations were made to the Committee throughout the year to inform them of current issues in the child support system and stimulate new ideas for system improvements. An example of

these include: a presentation of the Division of Child Support Enforcement (DCSE) 2007-2008 performance measure results. Veronica Hart Ragland, Assistant Director of DCSE, reported notable accomplishments, such as receiving the WICSEC Award for the “Most Improved Program,” and expansion of collection efforts to include sources such as, inmate banking accounts, economic stimulus checks, motor vehicle division and administrative liens, and employer bonus checks.

Assistant Attorney General, Kim Gillespie, presented a summary of the new federal medical support regulations which provided timely information necessary to draft crucial proposed legislation for the 2009 session.

Membership

The session law originally establishing the Child Support Coordinating Council Subcommittee (Laws 1994, Chapter 374, Section 24) prescribed the membership composition of the Council by title or category and directed how each would be appointed. The new law enacted in 2002 that eliminated the Council and created the Child Support Committee did not alter the membership composition.

2008 marked a year without changes to the Child Support Committee membership. Senator Thayer Verschoor and Representative Peter Hershberger continued to lead the Committee as co-chairs. Their cooperative spirit and support of the Committee was instrumental in the passage of several key legislative proposals.

Work, Findings and Recommendations

Although the Child Support Committee met only twice in 2008, all of the committee’s goals were attained as economically and efficiently as possible. The Statute Review Workgroup met between Committee meetings to work on the tasks and objectives of the Committee. Their work product and progress was reviewed at each of the regular Committee meetings. Significant progress was realized on important policy issues with the intent of improving the child support system for the citizens of Arizona.

Comment from the public was encouraged to assist the Committee’s efforts to continually improve Arizona’s child support system. Judge Bruce R. Cohen, Associate Presiding Family Court Judge in Maricopa County and

Chairman of the Child Support Guidelines Committee (CSGRC), reported on the activities of the newly established CSGRC. Judge Cohen outlined the extra efforts taken by this committee to reach out to all system stakeholders in order to receive meaningful comments regarding the quadrennial review of Arizona's Child Support Guidelines.

TASKS AND OBJECTIVES

Extensive work was completed in 2008 by the Statute Review Workgroup. This Workgroup produced all of the 2008 proposed legislation for recommendation by the Child Support Committee. Listed below is a description of the major legislative contributions proposed by Statute Review Workgroup.

Statute Review Workgroup

The Statute Review Workgroup has functioned for several years examining particular statutes related to child support enforcement in order to identify inconsistencies, lack of clarity or unnecessary duplication and to recommend improvements.

Chaired by Robert Barrasso, the group met ten times in 2008 to develop proposals from the Committee for the 2009 session. The Committee asked the group to fine-tune language and draft statutory language that the Committee identified, in addition to generating ideas back to the Committee.

Recommendations for Legislative Action

The product of the Statute Review Workgroup resulted in several legislative proposals being recommended for passage during the First Regular Session of the Forty-Ninth Legislature in 2009. One of the Committee co-chairs will sponsor the proposed legislation.

Included in the 2009 legislative proposal are provisions that:

- Repeal an outdated statute regarding foreign orders for assignment.

- Broaden the definition of “lump sum payment” to include inheritances, trust or annuity distributions, excess proceeds, life insurance proceeds, retroactive disability proceeds, and personal injury awards. Clarifies a two-prong test to allow the court to order support to continue past the age of majority if a child is severely mentally or physically disabled, and the child is unable to live independently and be self-supporting. Modernizes genetic testing language in statute, and allows testing of alleged father and child(ren) if mother is unavailable or fails to cooperate. This provision will also allow either party to apply for summary judgment on the issue of paternity, as outlined in the *Arizona Rules of Family Law Procedure*.
- Adds a new provision that allows a genetic testing order issued by any state to be given full faith and credit by any state or local agency in Arizona, including the Department of Corrections, Department of Economic Security, or other correctional facilities that have custody of a party that is the subject of a genetic testing order. Agencies that cooperate in obtaining genetic testing samples would not be subject to civil liability.

Other Issues before the Committee

In 2008, the newly established Child Support Guidelines Review Committee (CSGRC) began reviewing the Arizona child support guidelines. Two phases of the review are currently under consideration; Phase I is comprised of a traditional basic review, while Phase II examines the level of child support necessary to be consistent with the twin goals of protecting child welfare and of treating both parents fairly in the allocation of the support burden between the parents. In order to achieve this goal, a collection of data and answers are currently being collected to assist the CSGRC to evaluate systematically the fairness of any proposed child support schedule by examining a forward-looking method of calculating child support. The results and final report for Phase II is expected to be reported to the CSGRC and made available to all system stakeholders during the early part of 2009.

Future Actions

The Committee is committed to the continued exploration and development of procedures and mechanisms to enhance the delivery of child support services to the families and children of Arizona. The existing workgroup will continue to explore issues currently under discussion, new issues that arise, and endeavor to increase public awareness of child support issues. As chartered, the Committee will maintain its important role in providing a forum for cooperative decision making and cohesive policy development among all interested stakeholders in the child support enforcement system.

APPENDIX A
TO
CHILD SUPPORT COMMITTEE
2008 ANNUAL REPORT

CHILD SUPPORT COMMITTEE

PURPOSE

Pursuant to A.R.S. § 25-323.01, effective August 22, 2002, the Child Support Committee was formed to:

Prepare an annual written report on its work, findings and recommendations regarding child support guidelines, enforcement and related issues to the Governor, President of the Senate, Speaker of the House of Representatives and Chief Justice of the Arizona Supreme Court on or before December 31 of each year and provide a copy of the report to the Secretary of State and the Director of the Arizona State Library, Archives and Public Records.

CHILD SUPPORT COMMITTEE

MEMBERSHIP

House Two members of the House of Representatives, from different political parties and one designated as Co-Chair, appointed by the Speaker of the House of Representatives:

Manuel Alvarez, Pete Hershberger (Co-Chair)

Senate Two members of the Senate, from different political parties and one designated as Co-Chair, appointed by the President of the Senate:

Rebecca Rios, Thayer Verschoor (Co-Chair)

Other One person from the executive committee of the family law section of the State Bar of Arizona, appointed by the Chief Justice of the Supreme Court:

Mr. Robert L. Barrasso, State Bar Family Law Section Executive Committee

The director of the administrative office of the Supreme Court or the director's designee:

Ms. Theresa Barrett, Arizona Supreme Court

One Title IV-D court commissioner, appointed by the Chief Justice of the Supreme Court:

The Honorable Kimberly Corsaro, Santa Cruz County Superior Court

One presiding judge from the domestic relations division of the superior court from a rural county, appointed by the Chief Justice of the Supreme Court:

Honorable Gilberto Figueroa, Pinal County Superior Court

One division or section chief from the Office of the Attorney General who has knowledge of or experience in child support enforcement and related issues, appointed by the attorney general:

Ms. Kim Gillespie, Attorney General's Office

One clerk of the superior court, appointed by the Chief Justice of the Supreme Court:

Mr. Michael Jeanes, Clerk, Maricopa County Superior Court

One county attorney from a county that is currently contracting with the state to provide child support enforcement services, appointed by the director of the department of economic security:

Ms. Michelle Krysten, Child Support Division

One executive assistant from the Office of the Governor, appointed by the Governor:

Mr. Ezra Loring, Governor's Office, Executive Assistant

One person who is knowledgeable in child support issues and is a non-custodial parent, appointed by the Speaker of the House of Representatives:

Mr. Brandon Maxwell

One presiding judge from the domestic relations division of the superior court from an urban county, appointed by the Chief Justice of the Supreme Court:

Honorable Colleen McNally, Presiding Family Court Judge, Maricopa County Superior Court

The assistant director of the division of child support enforcement of the department of economic security:

Ms. Veronica Ragland, Department of Economic Security, Division of Child Support Enforcement

One parent who is knowledgeable in child support issues and has joint custody, appointed jointly by the President of the Senate and the Speaker of the House of Representatives:

Mr. Russell Smolden, State Government Relations, Salt River Project

The director of the department of economic security or the director's designee:

Ms. Bianca Varelas, DES, Division of Child Support Enforcement

One person from the business community, appointed jointly by the President of the Senate and the Speaker of the House of Representatives:

Vacant

One person who is knowledgeable in child support issues and is a custodial parent, appointed by the President of the Senate:

Vacant

One person who is knowledgeable in child support issues and is a noncustodial parent, appointed by the President of the Senate:

Vacant

One person who is knowledgeable in child support issues and is a custodial parent, appointed by the Speaker of the House of Representatives

Vacant

Prepared by Committee Staff:

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