

# ***CHILD SUPPORT COMMITTEE 2003 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 James Waring, 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 (exploring 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. Several workgroups appointed by the Committee comprised of technical experts in the child support system deliberated over and made recommendations to the Committee for improvements to the child support guidelines and various child support laws. A new workgroup focused on development of a strategic plan for the future of child support in Arizona.

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 evidenced the wisdom and importance of forging collaborative solutions. Efforts of various Committee workgroups have produced additional recommendations intended for introduction to the Legislature and Arizona Supreme Court in 2004.

# ***CHILD SUPPORT COMMITTEE 2003 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, the President of the Senate, the 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. The Court Services Division, Court Programs Unit, AOC, is still 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 Committee's work, findings and recommendations for the year 2003.

### ***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, the President of the Senate, the Speaker of the House of Representatives and the Chief Justice of the Supreme Court.

# ***CHILD SUPPORT COMMITTEE***

## ***2003***

### ***Summary***

In 2003, 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. The work of the Committee's predecessor, the Child Support Coordinating Council Subcommittee (Council), was carried over to the new Committee. Several workgroups that study and suggest recommendations to revise child support laws and rules continued their work throughout 2003.

Monthly deliberations by the Guidelines workgroup, an ad hoc group assembled to assist the Arizona Supreme Court in its review of the child support guidelines as directed by A.R.S. § 25-323.01, led to a series of recommendations that are designed to improve the guidelines and to ensure their consistency with current economic conditions.

Recommendations for legislation improving the child support system were developed through the activities of the long-standing Statute Cleanup workgroup for introduction in 2003. Proposals include amendments that eliminate duplicative statutes, authorize the Department of Economic Security, Division of Child Support Enforcement to obtain credit reports for both fathers and mothers, clarify that the Clerk of Court is the entity responsible for issuing transfer orders when a child support case is transferred to another county and that the transferring county should transfer the entire case file to the receiving county for all purposes including venue.

A newly created ad hoc workgroup, the Strategic Planning Workgroup, began meeting to address the future of child support in Arizona. Several major initiatives have been accomplished over the years since the Committee's formation and members wisely chose to again take a look at the child support system and develop strategies for the next 10-year period.

## *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.

Two thousand and three saw the appointment of several new members to the Committee, including new Senate-appointed co-chair, Senator Jim Waring, who replaced former co-chair, Senator David Petersen who left the Senate to become State Treasurer. Senator Waring represents District 7.

Representative Manuel Alvarez was appointed by Senate President Ken Bennett to replace former member Representative Kathi Foster who termed out of the Legislature. Representative Alvarez represents District 25 and serves as a member of the House Human Services Committee.

In September, State Senator Bill Brotherton was introduced as Senator Linda Aguirre's replacement. Senator Brotherton represents District 14 and serves on the Senate Family Services Committee.

Also in September, new IV-D Director, Leona Hodges, replaced outgoing Director Benidia Rice who moved to Washington D.C. to serve as IV-D Director of the District of Columbia. Ms. Hodges stepped into the role with ease as she previously served as interim IV-D Director prior to Ms. Rice's tenure with the IV-D agency.

## ***Work, Findings and Recommendations***

The Committee met four times in 2003. Because of the extraordinary length of the Forty-Sixth Legislature, First Regular Session and the fall Special session, several Committee meetings were canceled. In spite of meeting less frequently, the Committee made significant progress on important policy issues.

Comment from the public was encouraged to assist the Committee's efforts to continually improve Arizona's child support system. Existing workgroups continued to meet as well as new workgroups to develop recommendations intended to benefit the citizens of Arizona.

### ***TASKS AND OBJECTIVES***

Listed below is a description of the major activities by Committee workgroups.

#### ***Guidelines Workgroup***

Section 25-230 of the Arizona Revised Statutes directs the Arizona Supreme Court to "...establish guidelines for determining the amount of child support." Additionally, the Supreme Court is required to "...review the guidelines at least once every four years to ensure that their application results in the determination of appropriate child support amounts."

Since initial adoption in 1987, the guidelines have been reviewed four times. A review was conducted in 1995, and revised guidelines were adopted by the Supreme Court on July 10, 1996 for actions filed after October 31, 1996.

Consistent with state and federal law, Arizona's guidelines were again studied in 2000. On September 28, 2000, the Supreme Court unanimously adopted the proposed changes to the guidelines proposed by the workgroup with an effective date of January 1, 2001. In response to requests from child support entities, attorneys and judges to revise a particularly complex section of the guidelines, the workgroup recommended one further revision, which the Supreme Court adopted with a May 1, 2001 effective date.

As required by federal and state law, in mid-2002, the Administrative Office of the Courts ordered two studies with which to begin the 2004 review: 1) an economic analysis to ensure that the child support schedule reflects current economic conditions, and 2) a case file review to determine if the guidelines are resulting in appropriate child support amounts. Based on these reports, a set of three recommendations was developed by the Administrative Office of the Courts including updating the Schedule of Basic Support, increasing the self support reserve amount and updating the federal child care tax table.

The Administrative Office of the Courts invited the Committee's Guidelines Workgroup to assist in the review and make additional recommendations for changes if needed. The new workgroup, under the able leadership of Honorable Mark Armstrong, Family Court Presiding Judge in the Superior Court in Maricopa County, held its first meeting in late 2002 and subsequently met 11 times throughout 2003. The group developed a set of additional recommendations that are intended to provide clarification and simplification to the guidelines. In light of the high number of self-represented litigants who utilize the guidelines to establish and modify child support orders, some sections of the guidelines were re-written in an attempt to enable those users to better understand them. Other proposed changes would: 1) codify recent case law concerning the use of overtime income for the determination of child support amounts, 2) add a presumptive date of termination of child support orders, 3) add direction to the courts when setting child support arrearage amounts, and 4) provide clarity for parents who receive an adjustment for the amount of parenting time (formerly "visitation") spent with a child.

On December 16, 2003, the Child Support Committee approved the workgroup's recommendations. The Committee on Superior Court and Arizona Judicial Council will consider the proposal and forward their recommendations to the Arizona Supreme Court for final approval and adoption. Any changes are expected to take effect on January 2, 2005.

The Committee also adopted a proposal to create an interim workgroup proposed by Dr. Ira Ellman, Arizona State University that would be tasked with studying economic child-rearing cost estimating methods and guidelines models.

### ***Strategic Planning Workgroup***

Significant progress has been realized through the efforts of the former Child Support Coordinating Council Subcommittee and the reconstituted Child Support Committee. Looking at past achievements and recognizing the importance of planning for the future of child support in Arizona, an ad hoc workgroup was formed to develop a strategic plan which would ultimately be presented to the Committee for approval.

The group met three times in late 2003 to explore innovative ideas intended to improve the child support system in both IV-D and non-IV-D cases. Both short-term, meaning 5-year, and long-term, 10-year proposals were developed. The group plans to continue meeting during the first few months of 2004 and ultimately present its recommendations to the Committee in early summer 2004.

### ***Post-Secondary Support Workgroup***

An ad hoc group, the Post-Secondary workgroup, led by Honorable Monica Stauffer, Presiding Superior Court Judge in Greenlee County, was formed in 2003 to address a specific request received through the Committee's "Call to the Public". A concern regarding the provision of support beyond the age of emancipation was raised by a constituent. Under Arizona law, child support is paid through age 18, or age 19 if the child is still in high school beyond his or her 18<sup>th</sup> birthday. The constituent asked the Committee to examine whether support should be extended throughout the child's college years. In some cases, the parent who has physical custody of a child ends up paying a child's college expenses without assistance from the other parent, thereby causing financial hardship on the parent paying the expense.

Members of the newly formed workgroup examined other states' laws that govern this issue, in addition to the constitutionality of ordering support of a person who is legally considered an adult. The workgroup failed to reach consensus on this controversial issue in terms of a legislative proposal, but agreed on a proposal to add language to court forms that would alert parties to the potential of agreeing on support beyond the age of majority. The Committee approved the proposal and subsequently asked the

Administrative Office of the Courts to ensure that this important revision be incorporated into its forms.

### ***Statute Cleanup Workgroup***

The Statute Cleanup workgroup has functioned since 1997 to examine particular statutes related to child support enforcement to identify inconsistencies, lack of clarity, or unnecessary duplication and to recommend improvements. The group began meeting in May and met monthly throughout the summer and fall to develop legislative proposals for the 2004 session. Several proposals were considered and routed to other committees or determined to be unnecessary. Two proposals were presented to the Committee in December where they were approved for introduction in the Forty-Sixth Legislature – Second Regular Session. Please see the following section below titled “Recommendations for Legislative Action” for additional details about legislation proposed for 2004.

### **Recommendations for Legislative Action**

The product of the Statute Cleanup Workgroup resulted in two legislative proposals being recommended for passage during the Second Regular Session of the Forty-Sixth Legislature in 2004. Committee co-chairs Representative Peter Hershberger and Senator Jim Waring will sponsor the proposals.

Included in the 2004 legislative proposal are provisions that:

- Amend Arizona’s Uniform Interstate Family Support Act (UIFSA) laws by updating them with recommendations from the National Conference of Commissioners on Uniform State Laws. The revisions add clarification to and enhance the current law. UIFSA laws govern child support cases across state lines.
- Create a remedy for reimbursement when a parent pays an amount in excess of the court-ordered amount at the end of a child support obligation. This situation occurs when a wage assignment for child support continues after the child reaches the age of majority,

but a parent fails to ask the court to stop the wage assignment. The proposal would provide a remedy for that parent to seek a judgment for the overpayment within a prescribed time period.

### **Other Issues before the Committee**

Educational programs were presented to the Committee in an effort to apprise members of various child support enforcement-related efforts around the state and country. Importantly, because several new members joined the Committee during 2003, an overview of Arizona's child support system, both IV-D and non-IV-D, was provided by the director of the state child support agency and a clerk of Superior Court. Valarie Merritt, Manager of the Support Payment Clearinghouse, the child support payment processing center, provided an overview of the procedures used to process child support payments.

Bill Coffin, Department of Health & Human Services and Director of President Bush's "Healthy Marriages Initiative" appeared before the Committee to provide an overview of that project. Importantly, the initiative contains an objective of establishing a connection between child support programs and community programs that are involved in the "Healthy Marriages Initiative". Eventually, the project will be used to determine if the need for child support would be reduced if fewer marriages were terminated.

Representative Peter Hershberger, co-chair of the Committee, was honored with a prestigious award as "Legislator of the Year" from the federal Office of Child Support Enforcement. He accepted the award from federal Child Support Commissioner Sherri Heller in Washington D.C.

### ***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. New and existing workgroups 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 TO  
CHILD SUPPORT COMMITTEE  
2003 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**

Membership consists of the following members or their designees who have knowledge of or experience in, child support enforcement and related issues:

- The Director of the Department of Economic Security or the Director's designee.
- The Assistant Director of the Division of Child Support Enforcement of the Department of Economic Security.
- A Division or Section Chief from the Office of the Attorney General who has knowledge of or experience in child support enforcement and related issues and who is appointed by the Attorney General.
- The Director of the Administrative Office of the Supreme Court.
- Two presiding judges from the Domestic Relations Division of the Superior Court who are appointed by the Chief Justice of the Supreme Court. One judge shall be from an urban county and one judge shall be from a rural county.
- A title IV-D Court Commissioner who is appointed by the Chief Justice of the Supreme Court.
- A Clerk of the Superior Court who is appointed by the Chief Justice of the Supreme Court.
- Two county attorneys who are appointed by the Director of the Department of Economic Security from a county that is currently contracting with the state to provide child support enforcement services. One county attorney shall be from an urban county and one county attorney shall be from a rural county.

- An Executive Assistant from the Office of the Governor who is appointed by the Governor.
- One person knowledgeable in child support issues who is a noncustodial parent and one person knowledgeable in child support issues who is a custodial parent. The President of the Senate shall appoint these members.
- One person knowledgeable in child support issues who is a noncustodial parent and one person knowledgeable in child support issues who is a custodial parent. The Speaker of the House of Representatives shall appoint these members.
- One parent knowledgeable in child support issues who has joint custody who is appointed jointly by the President of the Senate and the Speaker of the House of Representatives.
- One person from the Executive Committee of the Family Law Section of the State Bar of Arizona who is appointed by the Chief Justice of the Supreme Court.
- One person from the business community who is appointed jointly by the President of the Senate and the Speaker of the House of Representatives.
- Two members of the Senate from different political parties. The President of the Senate shall appoint the members and designate one of the members as co-chairperson.
- Two members of the House of Representatives from different political parties. The Speaker of the House of Representatives shall appoint the members and designate one of the members as co-chairperson.

***CHILD SUPPORT COMMITTEE***  
**LIST OF MEMBERS**

**Co-Chair: Representative Peter Hershberger**  
**Co-Chair: Senator James Waring**

**Honorable Manuel Alvarez**  
State Representative

**Michelle Krstyen**  
County Attorney (Rural)

**Honorable Mark Armstrong**  
Domestic Relations Judge (Urban)

**Ezra Loring**  
Governor's Office

**Robert L. Barrasso**  
State Bar - Family Law Section

**Suzanne Miles**  
Custodial Parent

**Honorable Bill Brotherton**  
State Senator

**David Norton**  
Noncustodial Parent

**David K. Byers**  
Administrative Office of the Courts

**Honorable Rhonda L. Repp**  
IV-D Commissioner

**Charles DiGeronimo**  
Noncustodial Parent

**Chuck Shipley**  
Business Representative

**Kim Gillespie**  
Office of the Attorney General

**Russell Smoldon**  
Joint Custodial Parent

**Leona Hodges**  
Director, IV-D Agency

**Honorable Monica Stauffer**  
Domestic Relations Judge (Rural)

**Kym L. Hull**  
Custodial Parent

**Bianca Varelas-Miller**  
(for John Clayton)  
Director, Dept. of Economic Security

**Honorable Michael Jeanes**  
Clerk of the Superior Court (Urban)