

Statute Review Workgroup

Minutes

Date: March 8, 2011	Time: Noon to 1:00 p.m.	Location: AOC – Conf Room 345B
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Minute Taker: Kathy Sekardi

Members Attending:

- Comm. Stephen Kupiszewski – Acting Chair
- Theresa Barrett
- Michael Jeanes
- Brandon Maxwell
- Veronica Hart Ragland
- Janet Sell
- Bianca Varelas-Miller
- Donald Vert

Staff/Admin. Support: Kathy Sekardi

Guests: Pat Griffin, Policy Manager, DCSE; Kay Radwanski, AOC Court Analyst

Matters Considered:

- New Acting Chair for the Statute Review Workgroup is Commissioner Stephen Kupiszewski.
- Strategic planning will evolve over the next few meetings. Suggestions made include:
 1. ARS § 23-722.01 Employer or payor reporting; exceptions (Proposed language handout.)
 - a. Issue - Clerk's office would like to address access to the state directory of new hires
 - b. Issue - How to identify amount of potential employer collections for legislature.
 - c. **Action item: Janet Sell and Pat Griffin will invite Andy Wangrycht (SDU) to the next meeting to report on potential amount of electronic payments from employers.**
 2. ARS § 25-505.01 Administrative income withholding order; notice; definition (Proposed language handout.)
 3. Possibly review different child support guidelines models with CSC.
 4. Review new version of income shares model guidelines – incorporate new review guidelines.
 5. Federal IWO form – interpretation question pending.
 6. Update statutory language to replace “interstate” to “intergovernmental” (non-UFISA) statutes. (New federal rules implemented on March 31, 2011.)

Bianca Varelas-Miller reported Arizona ranks 53rd for collections of current child support (out of 54) and ranks 48th for collections of arrears, using 2009 data. It was remarked that ranking numbers may change depending on what information is used, and how compiled. This workgroup may want to research impact to courts and state agency if payment algorithm changed in statute.

Votes Taken: N/A

Statute Review Workgroup

Minutes

Date: April 12, 2011	Time: Noon to 1:00 p.m.	Location: AOC – Conf Room 345B
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Minute Taker: Kathy Sekardi

Members Attending:

<input checked="" type="checkbox"/> Comm. Stephen Kupiszewski – Acting Chair	<input type="checkbox"/> Veronica Hart Ragland
<input type="checkbox"/> Theresa Barrett	<input checked="" type="checkbox"/> Janet Sell
<input checked="" type="checkbox"/> Pat Griffin	<input type="checkbox"/> Bianca Varelas-Miller
<input type="checkbox"/> Brandon Maxwell	<input checked="" type="checkbox"/> Donald Vert

Staff/Admin. Support: Kathy Sekardi

Guests: Pat Griffin, Policy Manager, DCSE; Kay Radwanski, AOC Court Analyst

Matters Considered:

Meeting commenced at: 12:06 p.m.

Members discussed:

1. ARS § 23-722.01 Employer or payor reporting; exceptions (Proposed language handout.)
Janet Sell, AAG, reported the Claim Restitution Act of 2010, (42 USC 653a(b)(1)(A)), added language to federal law that requires the employer to report the date the employee first performed services for pay. The changes made to the proposed language mirror the income withholding order reporting law. Janet reported the last time this change was proposed there was a lot of push-back from lobbyists. Janet will research the genesis of sub-section (K), including information regarding the impact to the trucking, realtor, and insurance industries.

Motion: Refer this proposed legislation to the CSC with additional language that adds a court penalty, if feasible. Seconded. Motion passed unanimously.

2. ARS § 25-505.01 Administrative income withholding order; notice; definition (Proposed language handout.)
 - A. Regarding “EFT” (electronic funds transfers):
 - Janet Sell reported that EFT makes processing payments more efficient.
 - Janet researched other states’ language that didn’t further burden the employers.
 - The issue is how to identify employers who have the ability to process by EFT.

B. Regarding attempts to collect bonus compensation:

- Don Vert reports the COSC doesn't have authority to collect lump sums.
- The AG staff asks the judiciary to make an order of assignment non-modifiable without a court order...this is a judicial education issue.
- What is the law that requires employers to report lump sums?
- Issue: Do these have to be reduced to a judgment prior to attachment?
- Issue: If so, who keeps track of this?
- Don Vert will research the notice to employer for withholding.

C. Changes made to proposed language below in red font:

F. EFFECTIVE _____, AN EMPLOYER OR PAYOR MUST MAKE PAYMENTS TO THE CLEARINGHOUSE BY ELECTRONIC FUNDS TRANSFER IF ANY OF THE FOLLOWING CONDITIONS ARE MET:

1. THE EMPLOYER OR PAYOR IS REQUIRED TO PAY STATE TAXES BY ELECTRONIC FUNDS TRANSFER PURSUANT TO A.R.S. § 42-1129;
2. THE EMPLOYER OR PAYOR PAYS SOME OR ALL OF ITS EMPLOYEES BY DIRECT DEPOSIT;
3. THE EMPLOYER OR PAYOR HAS TEN OR MORE EMPLOYEES OR PAYEES WITH AN INCOME WITHHOLDING ORDER FOR SUPPORT; OR
4. THE EMPLOYER OR PAYOR HAS FIFTY OR MORE EMPLOYEES.
5. THE EMPLOYER OR PAYOR USES A PAYROLL PROCESSING SERVICE.

D. Outreach efforts

- Efforts have been made to reach the Payroll Association, the Support Payment Clearinghouse (Andy Wangrycht presents to employers' groups), and with the DES OCI program director, Margie Cook.

Motion: Move to present the proposed legislation to the CSC with modifications as discussed. Seconded. Motion passed unanimously.

3. Other considerations: Insurance companies and personal injury awards.

- Some states such as MA and NJ require insurance companies to check for arrears before issuing personal injury awards.
- NJ also requires attorneys to check this registry before issuing award money.

Statute Review Workgroup

Minutes

Date: May 10, 2011	Time: Noon to 1:00 p.m.	Location: AOC – Conf Room 422
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Minute Taker: Kathy Sekardi

Members Attending:

<input checked="" type="checkbox"/> Comm. Stephen Kupiszewski – Acting Chair	<input type="checkbox"/> Veronica Hart Ragland
<input checked="" type="checkbox"/> Theresa Barrett	<input checked="" type="checkbox"/> Janet Sell
<input checked="" type="checkbox"/> Pat Griffin	<input type="checkbox"/> Bianca Varelas-Miller
<input checked="" type="checkbox"/> Brandon Maxwell	<input checked="" type="checkbox"/> Donald Vert

Staff/Admin. Support: Kathy Sekardi

Guests: None.

Matters Considered: Meeting commenced at: 12:05 p.m.

Members discussed:

1. ARS § 23-722.01 Employer or payor reporting; exceptions (Proposed language handout.)
 Janet Sell, AAG, reported additional changes were made to subsection (D) by adding paragraphs 3, 4 and 5. The new language mirrors federal legislation in an effort to collect additional data elements such as:
 - The date the employee or payee first performed services for pay.
 - Whether medical insurance is an available employee benefit.
 - Whether the employee is or will be eligible for a medical insurance benefit.

The workgroup members discussed whether or not to include a provision that would allow penalties to be assessed on employers who did not comply with reporting requirements. Janet provided federal statute language which reflects the State shall have the option to set a civil money penalty not to exceed \$25 per failure or \$500, if under State law, the failure is the result of a conspiracy between the employer and the employee to not supply the required report or to supply a false or incomplete report. The members decided to provide the penalty provision information to the CSC at the next meeting.

Motion: Refer this proposed legislation, as amended, along with the penalty provision language to the CSC. Seconded. Motion passed unanimously.

2. ARS § 25-505.01 Administrative income withholding order; notice; definition (Proposed language handout.)
 Janet Sell reported that two initiatives are part of this proposed legislation: 1) encourage withholdings by electronic means, and 2) try to capture lump sum payments from employers. Changes made to proposed language below in red font:

F. EFFECTIVE _____, AN EMPLOYER OR PAYOR MUST MAKE PAYMENTS TO THE CLEARINGHOUSE BY ELECTRONIC FUNDS TRANSFER IF ANY OF THE FOLLOWING CONDITIONS ARE MET:

1. THE EMPLOYER OR PAYOR IS REQUIRED TO PAY STATE TAXES BY ELECTRONIC FUNDS TRANSFER PURSUANT TO A.R.S. § 42-1129;
2. THE EMPLOYER OR PAYOR PAYS SOME OR ALL OF ITS EMPLOYEES BY DIRECT DEPOSIT;
3. THE EMPLOYER OR PAYOR HAS TEN OR MORE EMPLOYEES OR PAYEES WITH AN INCOME WITHHOLDING ORDER FOR SUPPORT; OR
4. THE EMPLOYER OR PAYOR HAS FIFTY OR MORE EMPLOYEES OR PAYEES; OR
5. THE EMPLOYER OR PAYOR USES A PAYROLL PROCESSING SERVICE.

(Staff made an additional technical change to ARS § 25-505.01 (B)(3) in blue font:

3. At the time of issuance, the arrearage is an amount equal to one year or more of the obligors's OBLIGOR'S support obligation, an income withholding order may include an additional amount that exceeds thirty-three per cent of the support obligation.)

Motion: Move to present the proposed legislation to the CSC, as amended. Seconded. Motion passed unanimously.

3. Strategic Agenda

Brandon Maxwell raised an issue concerning overpayments to custodial parents and the need for the judiciary to address during the course of litigation. The members discussed various situations wherein an overpayment can accrue. This issue will be discussed at the next meeting. Possible ARS sections to be reviewed are: ARS 25-327; 25-503; and 25-527.

4. Next Agenda

- Janet Sell will share information regarding what other states are doing to collect child support from personal injury awards.
- Discuss issue of overpayments, statute(s) placement if changes are made, and best practices for judiciary to address.

Meeting adjourned at 1:00 p.m.

Statute Review Workgroup

Minutes

Date: June 14, 2011	Time: Noon to 1:00 p.m.	Location: AOC – Conf Room 345A
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Minute Taker: Kay Radwanski

Members Attending:

<input type="checkbox"/> Comm. Stephen Kupiszewski – Acting Chair	<input type="checkbox"/> Veronica Hart Ragland
<input type="checkbox"/> Theresa Barrett	<input checked="" type="checkbox"/> Janet Sell
<input type="checkbox"/> Pat Griffin	<input type="checkbox"/> Bianca Varelas-Miller
<input checked="" type="checkbox"/> Brandon Maxwell - <i>telephonic</i>	<input checked="" type="checkbox"/> Donald Vert

Staff/Admin. Support: Kay Radwanski, Julie Graber

Guests: Amy Love, AOC Legislative Liaison

Matters Considered: Meeting commenced at 12:11 p.m. without a quorum. Janet Sell led the meeting in the absence of Comm. Kupiszewski.

Minutes from the May 10, 2011, meeting were not voted upon because of the lack of a quorum. Ms. Sell clarified that regarding proposed language for ARS § 25-505.01, the first initiative is to encourage employers to transfer withholdings to the clearinghouse by electronic means.

Members discussed:

1. ARS §§ 25-327, 25-503, and 25-527, regarding overpayments of child support to custodial parents
 Members discussed the challenges of creating provisions to adjust for overpayments to a custodial parent prior to the termination of the support obligation. Members agreed that while ARS § 25-527 is the only one of the above-referenced statutes that directly addresses overpayment, it is not the appropriate statute in which to place a provision regarding overpayment that occurs prior to the end of a child support case. ARS § 25-527 applies only when the obligation to pay child support has ended. For active IV-D cases, offsets for overpayments would create errors in Atlas as that system works only in a forward direction. Atlas cannot move backward and split a payment between the parents. The same challenges would not exist in non-IV-D cases. Also, public policy might be offended by the notion that a child would be deprived of support to correct an accounting imbalance between the parents. As to the effect on parents, the overpayment may or may not be significant, depending on their individual financial circumstances. The idea of adding language that would give a judge the discretion to enter orders to address overpayments was discussed. Ms. Sell will bring language as a proposed amendment at the next meeting.

2. Personal injury awards
 Ms. Sell explained that six states – Texas, Pennsylvania, Rhode Island, Massachusetts, Oklahoma, and New Jersey – have laws mandating insurance companies and attorneys to search lien databases, including child support, before distributing personal injury awards. Nearly half of the insurance

companies nationwide voluntarily participate in a consortium called the Child Support Lien Network. She said some Arizona insurance companies have gotten information from this network and have made payments in IV-D cases. Arizona does not have high performance measures for child support collection, and mandatory participation in the Network might lead to improvement. For a lien to appear in the Network database, DCSE would first have to file a lien. A public policy argument could be made that child support judgments should be paid when funds are available. She noted that Massachusetts has had a lien program for more than ten years and performs well in collecting child support payments. Ms. Sell will bring draft language to the next meeting.

3. Strategic Agenda

Brandon Maxwell raised two concerns for consideration. First, he suggested that when a parent remarries and chooses not to be employed, half of the income earned by the new spouse should be attributed to the non-working parent. He said that on some Internet message boards, there is a perception that one parent is paying child support to augment the other parent's new lifestyle. During discussion, it was noted that the non-working parent may not have the capacity to earn half of what the new spouse earns. There are factors in place to determine how much, if any, income should be attributed to an unemployed or underemployed parent. The Child Support Guidelines address the issue of income attribution, so this is not a statutory issue within the scope of the Child Support Committee. In addition, case law provides direction for situations where a parent receives a regular benefit (e.g., cash from his or her own parents).

Second, Mr. Maxwell asked why child support hearings and parenting time/custody hearings are conducted separately in two different courts. He said requiring parents to keep coming back to court increases animosity between them and does not benefit their children. Ms. Sell explained that IV-D cases are conducted under federal law, which expressly prohibits the court from addressing parenting time and custody issues during a IV-D hearing. The purpose is to expedite processing of child support cases for the benefit of children. Also, as public policy, a parent's obligation to support his or her children is separate from the right to spend time with the children. Mr. Vert noted that in non-IV-D cases, the court can hear the custody, parenting time, and child support issues concurrently.

4. Next Agenda

- Ms. Sell will prepare draft language regarding overpayment of child support.
- Ms. Sell will draft a proposal regarding collection of child support arrears from personal injury awards.

Meeting adjourned at 1:07 p.m.

Statute Review Workgroup

Minutes

Date: July 12, 2011	Time: Noon to 1:00 p.m.	Location: AOC – Conf Room 230
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Minute Taker: Kathy Sekardi

Members Attending:

<input checked="" type="checkbox"/> Comm. Stephen Kupiszewski – Acting Chair	<input type="checkbox"/> Veronica Hart Ragland
<input checked="" type="checkbox"/> Theresa Barrett	<input checked="" type="checkbox"/> Janet Sell
<input checked="" type="checkbox"/> Pat Griffin	<input checked="" type="checkbox"/> Bianca Varelas-Miller - <i>telephonic</i>
<input checked="" type="checkbox"/> Brandon Maxwell - <i>telephonic</i>	<input checked="" type="checkbox"/> Donald Vert - <i>telephonic</i>

Staff/Admin. Support: Kathy Sekardi, Julie Graber

Guests: N/A

Matters Considered: Comm. Kupiszewski commenced the meeting at: 12:05 p.m. with a quorum.

Members discussed:

1. ARS §§ 25-327, 25-503 regarding overpayments of child support to custodial parents
 Janet Sell provided proposed language to the workgroup members; however, she noted the court already has the inherent authority to discuss and order appropriate orders to address overpayments. The proposed language does not add anything further to the statute. Brandon Maxwell discussed inclusion of language into the statute that would require overpayment situations to be addressed during a hearing. Mr. Maxwell noted that the perception is that the system is one-sided and believes the noncustodial parent should have an opportunity to address overpayments and reimbursement. Members of the workgroup noted that the issue of overpayment and reimbursement is already routinely brought to the court’s attention. Requiring the courts to address overpayments in modification situations would also require the Clearinghouse to submit a recalculated arrears calculation. The concern is that this would open up more litigation and objections. The members noted that an obligor has the right to seek reimbursement in family or civil court. The workgroup consensus is that the proposed language is not necessary, and that this is an educational issue for judges. The members discussed providing training opportunities for judges on this topic and Comm. Kupiszewski offered to discuss this issue with the family court presiding judge.

2. Personal injury awards
 Ms. Sell noted her agency is collecting information from other states regarding personal injury awards statutes. Ms. Sell will bring draft language to the next meeting. This item was tabled to the next meeting.

3. Strategic Agenda

Added to the strategic agenda is to discuss with Judge Hyatt the issue of overpayment in downward modification situations and to request feedback from the family court judiciary.

4. Next Agenda

- Ms. Sell will draft a proposal regarding collection of child support arrears from personal injury awards.

5. Statute Review Workgroup webpage

Members were encouraged to RSVP to the next Statute Review Workgroup by accessing the Child Support Committee, Statute Review Workgroup webpage at:

<http://www.azcourts.gov/cscommittees/ChildSupportCommittee/ChildSupportCommitteeWorkgroups.aspx>

All meeting materials, agendas, and minutes are available online.

Meeting adjourned at 12:30 p.m.

Statute Review Workgroup

Minutes

Date: August 9, 2011	Time: Noon to 1 pm	Location: AOC – Conf. Rm 345A
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Minute Taker: Kathy Sekardi, Julie Graber

Members Attending:

Comm. Stephen Kupiszewski (Acting Chair) –
telephonic
 Theresa Barrett
 Janet Sell
 Pat Griffin

Brandon Maxwell
 Veronica Hart Ragland
 Bianca Varelas Miller - *telephonic*
 Donald Vert - *telephonic*

Staff/Admin. Support: Kathy Sekardi, Julie Graber

Guests: Mark Ciafullo

Matters Considered: Comm. Kupiszewski commenced the meeting at 12:06 p.m. with a quorum.

Members discussed:

1. Proposed language for personal injury awards

Assistant Attorney General, Janet Sell explained that Arizona is one of the lowest-ranking states in the country regarding collection of child support arrearages. She explained that collection of lump sum payments from personal injury awards have been successful in other states that use the Child Support Lien Network (CSLN), such as Oklahoma, Texas, New Jersey, Maryland and Rhode Island. The proposed language adds A.R.S. § 25-505.02, which allows for the capture of child support arrearages in IV-D cases through the implementation of a mandatory data exchange system between insurance companies and the Department of Economic Security (DES) that would ascertain whether personal injury claimants/obligors owe any arrearages, and then to collect on these arrearages from claimants/obligors' personal injury awards.

To implement this system, DES would develop an insurance industry data match reporting system that uses data exchanges to compare claimant information held by insurance companies with DES' database of obligors who owe arrearages. Insurance companies in turn would be required to exchange information with DES by data matching or by providing the necessary claimant/obligor information (as well as insurer and claims adjuster information) at least 10 business days prior to making payment to the claimant. Insurance companies could also comply by participating in an insurance industry database, which both contained all the necessary information and was accessible by DES, or by utilizing the services of the CSLN through a central reporting agency. If a data match was found the Division of Child Support Enforcement, (DCSE) would send the insurer an Income Withholding Order (IWO) or a Limited Income Withholding Order (LIWO), and the insurer would be directed to withhold the full amount of the arrearages and pay the support payment clearinghouse the amount specified in the order. Any payment to the claimant/obligor would be contingent on the order being first satisfied. Based on public policy concerns, the intent is to seize the amount that would be disbursed to the claimant obligor after payment of medical bills and attorney costs and fees.

The workgroup discussed maybe using CSLN as a one-stop shop to match arrearages in child support cases that are in the CSLN database with personal injury claims registered by insurers using ISO ClaimSearch. A few members requested specific information about collection data from a cost-benefit point of view. Ms. Sell indicated she would gather more data for another workgroup meeting. Additionally, members discussed the likely legislative opposition to this proposal and need for support. A question about the 10-day requirement as being sufficient was answered by guest, Mark Ciafullo, who advised that this is a requirement that could be subject to discussion.

Motion: To support the proposed language for recommendation to the Child Support Committee. Motion was seconded. No further discussion, motion passed unanimously.

2. Review and update strategic plan

- Income Withholding Order

Ms. Sell reminded the workgroup that the federal deadline to implement the standardized federal IWO is May 31, 2012. It was mentioned that failure to use the federally-mandated form could result in employers rejecting the IWO and returning it to the sender. Ms. Sell highlighted the following additional issues:

- i. With the implementation of electronic exchanges of IWOs (e-IWO), big employers such as Pepsi Bottling Group receive e-IWOs from the state in an electronic stream form rather than in the printed IWO form. Currently, the IWO is sent to employers, and then to obligors, in a printed form along with a separate hardcopy notice form explaining obligors' rights in Arizona. The e-IWO, however, limits the inclusion of state-specific language that is required by Arizona statute to be included.
- ii. Employers have raised concerns about their obligation under the IWO to make allocation determinations between families in cases where the obligor cannot pay the full child support amount across multiple IWOs.
- iii. The federal form does not use a presumptive termination date, which is mandated by state statute.

Other IWO issues:

- The workgroup concluded that in order to ensure due process in Arizona, the notice to obligors would need to be disseminated in other ways and suggested that the notice be included with child support orders instead of orders of assignment.
- Some terms on the form raised more questions than answers (e.g. "regular on its face") and the members discussed an educational component. There was a suggestion that the AG and the AOC collaborate to provide training videos.
- One member pointed out that there was also the need to make the implementation compatible with software languages and algorithms in the child support calculator and ATLAS.
- There were questions regarding the potential compatibility, reprogramming issues, and costs involved. A member noted that the federal form separates arrears payment between categories; one arrears amount for past-due child support, one for past-due cash medical support, and one for past-due spousal support. ATLAS' algorithm, on the other hand, makes only one arrears payment in ATLAS. Payments that exceed the current support amount are identified by ATLAS as one arrears payment and then any excess is applied to the debts pursuant to state statute.

3. Child Support Committee Meeting

Kathy Sekardi announced that the Child Support Committee has been scheduled for the following 2011 dates: September 9, 2011, October 7, 2011, and November 18, 2011, from 10:00 a.m. to 2:00 p.m. The

workgroup will be reporting to the Committee on September 9th in Conference Room 230.

There will be three proposed legislative changes that will be introduced at the Committee meeting:

- A.R.S. § 23-722.01 adds definitions for “payee” and “payor” and adds reporting requirements for the employer and the “payor.” Payments not subject to income tax withholdings that are made to a payee and for whom the payor must complete an IRS 1099-Misc Form must be reported following a set of conditions and including specific information.
- A.R.S. § 25-505.01 adds requirements in the notice of income withholding order to the employer/payor that: 1) payments to the clearinghouse must be made by electronic funds transfer if one of the listed conditions is met; 2) lump sum payments of \$500.00 or more must be first approved by DES to determine whether all or a portion of the payment should be applied to child support arrearages, and 3) disbursements must be performed in accordance with the listed conditions.
- A.R.S. § 25-505.02 adds a requirement to utilize insurance information exchanges in order to capture child support arrearages when a claimant/obligor receives a personal injury lump sum payment.

Ms. Sekardi will send the updated proposed legislation to the members of the workgroup.

4. Call to the Public

No members of the general public were in attendance.

5. Next Meeting/Agenda

Since the next SRWG meeting will take place after the Child Support Committee meeting, the workgroup will discuss the Committee’s strategic plan and how it will impact the SRWG’s 2011 work plan.

Meeting adjourned at 12:45pm.

Statute Review Workgroup

Minutes

Date: September 13, 2011

Time: Noon to 1 pm

Location: AOC – Conf. Rm 230

Minute Taker: Kathy Sekardi, Julie Graber

Members Attending:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Comm. Stephen Kupiszewski (Acting Chair) | <input type="checkbox"/> Veronica Hart Ragland |
| <input checked="" type="checkbox"/> Theresa Barrett | <input type="checkbox"/> Bianca Varelas Miller |
| <input type="checkbox"/> Janet Sell | <input checked="" type="checkbox"/> Donald Vert |
| <input checked="" type="checkbox"/> Pat Griffin | <input checked="" type="checkbox"/> Farrah Watkins |
| <input checked="" type="checkbox"/> Brandon Maxwell – <i>telephonic</i> | |

Staff/Admin. Support: Kathy Sekardi, Julie Graber

Guests: Mark Ciafullo

Matters Considered:

1. Welcome and announcements

Comm. Kupiszewski commenced the meeting at 12:00 p.m. with a quorum. He thanked the members for their hard work as the three pieces of proposed legislation were approved unanimously by the Child Support Committee (CSC). He further commended Assistant Attorney General, Janet Sell, for her indispensable contributions. Ms. Farrah Watkins was introduced as a new CSC member and custodial parent. Lastly, Comm. Kupiszewski volunteered to testify at any legislative committee hearings in order to support the proposed legislation and encouraged others to do so.

2. Review and discuss CSC strategic plan/SRWG assignments

- CSC Goal #4: Review draft of guidelines
 - CSC referred to SRWG the task of reviewing a draft of the child support guidelines that incorporates concepts developed by the last review committee. Theresa Barrett explained the last review committee reorganized the guidelines in a chronological manner, they added a table of contents and definitions of terms, as well as expanding some of the examples for further clarification and simplicity. This “enhanced” version builds upon the current guidelines and includes the conceptual changes. Discussion ensued regarding the workgroup’s charge.
 - Comm. Kupiszewski thought it would be important to begin this task by first answering the question: “Why are we revising the guidelines?”
 - The correlation table will be used as another tool for the workgroup to review and make recommendations.
 - Staff will start compiling a matrix of the proposed changes.
- CSC Goal #5: Review federal IWO form; use and implementation
 - The workgroup reviewed federal and state statutory requirements to use, comply with, and implement the prescribed standard federal IWO format.
 - Members explored whether legislative changes to Arizona Statutes or rule changes to Arizona Rules of Family Law Procedure (ARFLP) would be better to implement the

OMB-approved form.

- Possible IWO forms could be included in ARFLP.
- Links to the federal Office of the Child Support Enforcement website could be placed in various venues such as the AOC website.
- Members reported on how their agencies plan to implement the use of the mandated form in IV-D and non-IV-D cases.
 - Maricopa County Presiding Judge Norman Davis is aiming to have the form ready to self-populate by the May 31, 2012, deadline for non-IV-D cases.
 - AOC is planning to make the form part of the child support calculator.
 - DCSE is contemplating the addition of a page to the IWO to send to employers that would include language about Presumptive Termination Date and obligors' rights.
- The workgroup discussed Arizona's statutory requirement for inclusion of the presumptive termination date.
 - The federal form does not use a presumptive termination date, which is mandated by state statute. It requires a termination order to be filed.
 - Don Vert reported that the Maricopa County Clerk's Office gets close to 100% compliance from employers using the presumptive termination date.
 - Pat Griffin at DCSE indicated that the presumption is that the order of assignment is still in place based on emancipation, not presumptive termination date. An order of assignment is stopped based on the emancipation date of the youngest child in a child support order, which allows the custodial parent the chance to verify if their youngest child is still in school when they turn 18. If there is no response, child support payments will stop on the 18th birthday unless payments on arrears were ordered. Most IV-D cases have arrears.
 - Further discussion on the conflict between Arizona statute and federal mandates regarding presumptive termination date are necessary.
- Further discussion about e-filing and its impact on the mandated form will also be needed.
- CSC Goal #8: Discuss unreimbursed medical expenses; simplified procedure

The workgroup discussed the topic of medical expenses incurred by a parent that are not reimbursed by the other parent, willingly and unwillingly. Since further discussion and research are needed, this item was tabled to SRWG's 2012 Calendar.

3. Review and update strategic plan

- CSC Goal #8 regarding unreimbursed medical expenses was moved to Item #2 on SRWG's strategic plan for 2012.

4. Call to the Public

No members of the general public were in attendance.

5. Set next agenda

For the next agenda, SRWG will continue to work on Goals #1—8, including reviewing enhanced guidelines and proposing responses to "Why are we revising the guidelines?"

Meeting adjourned at 12:45pm.

Statute Review Workgroup

Minutes

Date: October 18, 2011	Time: Noon to 1 p.m.	Location: AOC – Conf. Rm 119A
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Minute Taker: Kathy Sekardi, Julie Graber

Members Attending:

- | | |
|---|---|
| <input type="checkbox"/> Comm. Stephen Kupiszewski (Acting Chair) | <input checked="" type="checkbox"/> Veronica Hart Ragland |
| <input checked="" type="checkbox"/> Theresa Barrett | <input checked="" type="checkbox"/> Bianca Varelas Miller |
| <input checked="" type="checkbox"/> Janet Sell | <input checked="" type="checkbox"/> Donald Vert |
| <input type="checkbox"/> Pat Griffin | <input checked="" type="checkbox"/> Farrah Watkins |
| <input type="checkbox"/> Brandon Maxwell | |

Staff/Admin. Support: Kathy Sekardi, Julie Graber

Guests: None.

Matters Considered:

1. Welcome and announcements

Meeting commenced at 12:20 p.m. with a quorum. Janet Sell facilitated the meeting in Comm. Kupiszewski's absence.

2. Review and discuss red-lined matrix

In keeping with Comm. Kupiszewski's prior query, the workgroup reviewed the question: "Why are we revising the guidelines?" The guidelines could be simplified to improve understandability and accessibility for the general public. Ms. Barrett proposed making use of enhancements that stemmed from Child Support Guidelines Review Committee's review process and incorporating those new elements such as a table of contents, definitions of terms and expanded examples into the current guidelines. Members noted it was important that the public understand the difference between the guidelines and a guidelines' *model* (i.e., income shares model), and proposed further education and outreach to clarify the difference. Some members inquired about the vetting process. The vetting process was described and emphasis was placed on transparency and a thoughtful and deliberate process.

3. Review and update strategic plan

Ms. Watkins expressed interest in spousal maintenance enforcement. Some concerns were raised about the appropriateness of the topic for the workgroup. Mr. Vert called attention to spousal maintenance arrest warrants that expire after one year when there is no corresponding child support order and sought equal treatment between spousal maintenance and child support arrest warrants. Ms. Sell identified that A.R.S. sections 25-681 and 25-685 could be amended to include spousal support. Members agreed to add spousal maintenance arrest warrants to the strategic plan for 2011. Mr. Vert volunteered to work on the proposed legislation to review at the next meeting.

With regard to the federal IWO form, Ms. Barrett advised that the topic would be brought to court leadership's attention to obtain feedback for implementation planning purposes. Accordingly, she proposed holding off on new legislation until next session when language could be written to address specific challenges, if any, encountered during the implementation process.

4. Call to the Public

No members of the general public were in attendance.

5. Set next agenda

For next agenda, SRWG will continue to review and discuss the red-lined matrix.

Meeting adjourned at 1:12 p.m.

Statute Review Workgroup

Minutes

Date: November 8, 2011	Time: Noon to 1 pm	Location: AOC – Conf. Rm 345A
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Minute Taker: Kathy Sekardi, Julie Graber

Members Attending:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Comm. Stephen Kupiszewski (Acting Chair) | <input checked="" type="checkbox"/> Veronica Hart Ragland |
| <input checked="" type="checkbox"/> Theresa Barrett | <input type="checkbox"/> Bianca Varelas Miller |
| <input checked="" type="checkbox"/> Janet Sell | <input type="checkbox"/> Donald Vert |
| <input checked="" type="checkbox"/> Pat Griffin | <input checked="" type="checkbox"/> Farrah Watkins |
| <input type="checkbox"/> Brandon Maxwell | |

Staff/Admin. Support: Kathy Sekardi, Julie Graber

Guests: None.

Matters Considered:

1. Welcome and announcements

Comm. Kupiszewski commenced the meeting at 12:00 p.m. with a quorum. The members discussed the lack of sponsorship for the four proposed pieces of legislation that have been approved by the Child Support Committee. Ms. Hart Ragland offered to discuss the situation with her director's office and report her findings.

2. Discuss proposed amendments

- A.R.S. 25-681: Child support or spousal support arrest warrant
- A.R.S. 25-685: Entry into criminal information system

Ms. Sell presented proposed amendments that seek to equalize the treatment between child support and spousal support arrest warrants. Currently, spousal support arrest warrants expire after a year and must be renewed whereas child support arrest warrants expire upon satisfaction of the child support obligation. Discussion ensued. Ms. Sell made the following motion:

Motion: To support the proposed language for recommendation to the Domestic Relations Committee.

Motion was seconded by Ms. Barrett. No further discussion, motion passed unanimously.

3. Discuss proposed amendments

- A.R.S. 25-320(M): Child support; factors; methods of payment; additional enforcement
- A.R.S. 25-502: Jurisdiction; venue and procedure; additional enforcement provisions

Ms. Sell and Ms. Griffin presented proposed amendments that would allow the Department of Economic Security (DES) to file copies of imaged child support enforcement documents with the superior court without the requirement to maintain the original certified paper copy. These proposed changes are necessary to clarify statutory language that implies the transmitter must have a hard copy of the transmitted document. Arizona courts currently accept electronically submitted documents from the

Clerks of Court, who are not required under A.R.S. Title 12, Chapter 2 to maintain hard copies of certified documents for filing purposes. These proposed amendments would therefore streamline the filing process for the DES by matching the Clerks of Court's filing procedures. Discussion ensued. Ms. Sell made the following motion:

Motion: To support the proposed language for recommendation to the Child Support Committee. Motion was seconded by Ms. Barrett. No further discussion, motion passed unanimously.

4. Review and discuss red-line matrix

Ms. Barrett reminded the workgroup that there are no deadline requirements for completion of this goal and that proper vetting will be of the utmost importance. The workgroup discussed the best ways to format and present the enhanced child support guidelines to generate the best feedback during the vetting process. Ms. Barrett suggested that reviewing language found in legal memoranda written during the last review process might be beneficial to the workgroup. Ms. Sekardi will prepare summary explanations of the legal memoranda for review and discussion.

5. Review and update strategic plan

Mr. Maxwell raised an individual issue when he moved out-of-state and found a lack of coordination between states. Members responded that this is a program issue with administrative remedies; however, there is no statutory solution.

Members added the review of the legal memoranda language and summary explanations to the strategic plan.

6. Call to the Public

No members of the general public were in attendance.

7. Set next agenda

For next agenda, SRWG will review a summary of the suggested changes and explanations regarding the legal memoranda. SRWG will also focus on ways to move proposed legislation forward.

Meeting adjourned at 12:40 p.m.

Statute Review Workgroup

Minutes

Date: December 13, 2011	Time: Noon to 1:00 p.m.	Location: AOC – Conf. Rm. 230
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Minute Taker: Kathy Sekardi, Julie Graber

Members Attending:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Comm. Stephen Kupiszewski (Acting Chair) | <input type="checkbox"/> Veronica Hart Ragland |
| <input checked="" type="checkbox"/> Theresa Barrett | <input type="checkbox"/> Bianca Varelas Miller |
| <input checked="" type="checkbox"/> Janet Sell | <input checked="" type="checkbox"/> Donald Vert |
| <input type="checkbox"/> Pat Griffin | <input checked="" type="checkbox"/> Farrah Watkins |
| <input type="checkbox"/> Brandon Maxwell | |

Staff/Admin. Support: Kathy Sekardi, Julie Graber

Guests: None.

Matters Considered:

1. Welcome and announcements

Comm. Kupiszewski commenced the meeting at 12:00 p.m. with a quorum. Mr. Vert made a motion to approve the minutes from the November 8, 2011, meeting, which was seconded by Ms. Barrett and passed unanimously.

2. Report on Spousal Maintenance Arrest Warrant (SMAW) amendments

Mr. Vert reported that the proposed amendments regarding SMAW were presented to and approved by the Domestic Relations Committee. Senator Linda Gray has agreed to sponsor the legislation, which was subsequently reviewed by Senate staff. SRWG has been asked to review and rework some areas. First, the appropriateness of the language under Article 3, “Spousal Maintenance Enforcement,” was queried and Article 5, “Child Support Arrest Warrants,” was suggested as an alternate location. Members re-examined the goal and intent of the proposed language when they considered whether to keep the proposed amendments under Article 3 or move them to Article 5 (and perhaps rename the heading too). They also contemplated including the language in both Articles, consolidating the Articles and even adding a new section 25-554 that would mirror ARS section 25-681.

- Some members sought delineation between child support and spousal support arrest warrants while others wanted equal treatment.
- The meaning of equal treatment was debated because some thought that parents should not be put in the same category and afforded the same protections as children but others indicated that spousal support is already in a special category.
- Members confirmed that the intent behind this proposal is to incorporate both types of warrants together, not to make them equal, but to provide a support arrest warrant that does not expire, like the child support arrest warrant.
- Members determined that the simpler the language the better and supported the use of a new inclusive term, *support arrest warrants*. “Child” should then be stricken from references to “~~child~~ support arrest warrant” throughout the statute.
- Members also agreed that the proposed language should stay in Article 3, “Spousal Maintenance Enforcement,” since SMAW is ultimately an enforcement topic.

While SRWG recommends that the proposed legislation remain in Article 3, it defers the decision to the legislative council as to the final location of the proposed amendments.

The second issue concerned a corresponding spousal support statute missing in ARS sections 25-683(A)/(C) for ARS section 25-502(I). Members reviewed ARS section 25-683(A)/(C) and ARS section 25-502(I) and discussed topics related to the algorithm, order of payments, and payments and purges.

ARS section 25-502 (I) was modified by:

- Adding “or spousal support arrest warrant” after child support arrest warrant on line 35.
- Striking “arrearages” on line 43 and adding “other support obligations as required by law.”

A corresponding statute is no longer necessary.

3. Discuss moving proposed legislation forward

Mr. Vert reported that the federal law requirement in ARS section 23-722.01 will be sponsored by the Department of Economic Security. This agenda item is tabled until sponsorship is found for the other pieces of legislation.

4. Review and discuss legal memoranda

Members reviewed topics on child support guidelines that were based on legal memoranda from the last review process by the CSGRC in order to incorporate portions of their work that is applicable to the current model or to provide further clarification.

- Topic 1: Percentage of Income Applied to Support Adjustments

Members reviewed the way proportionate responsibility for parents is determined and considered CSGRC’s solutions, including recalculating income proportions at different stages of the child support calculation. Mr. David Hamu, member of the general public, indicated that the way costs are currently allocated is unfair and inequitable and that CSGRC’s recommended calculation was the fairest approach.

While members supported the general concept of allocating the costs differently, they were concerned that a significant change of this type is outside the scope of this workgroup; however, they recognize that the issue may be ripe for the next review process. No recommendations for changes to the guidelines will be made by SRWG regarding this issue.

- Topic 2: Income and Expense Attribution

Members examined income and expense attribution issues. Members discussed proposed changes that incorporate CSGRC’s solutions to insert additional language that mirrors case law and that provided added emphasis and clarification to current practice. Members agreed that the language was instructive and clarified and they supported the suggested modifications.

Mr. Hamu stated that the guidelines and standard of law are inadequate and that it is imperative that the guidelines provide more predictable and equitable determination of incomes in unusual circumstances so that the judges’ rulings are consistent. Comm. Kupiszewski responded that exact outcomes in hypothetical situations cannot be guaranteed or legislated and that judges’ discretion will always be needed. Furthermore, to demand fairness and finality from the legislature is unfair to others. Accordingly, SRWG will not recommend changes to the guidelines regarding this issue.

The remaining memoranda were tabled to the next meeting.

5. Review and discuss red-line matrix

This item was tabled.

6. Review and update strategic plan

Review of the red-line matrix will return to the top of the strategic plan.

7. Call to the Public

No members of the general public were in attendance.

8. Set next agenda

For the next agenda, SRWG will review and discuss the remaining legal memoranda topics that were tabled and focus on assigning sections of the red-line matrix for review.

Meeting adjourned at 1:05 p.m.

Statute Review Workgroup

Minutes

Date: January 10, 2012	Time: Noon to 1:00 p.m.	Location: AOC – Conf. Rm. 230
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Minute Taker: Kathy Sekardi, Julie Graber

Members Attending:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Comm. Stephen Kupiszewski (Acting Chair) | <input type="checkbox"/> Veronica Hart Ragland |
| <input checked="" type="checkbox"/> Theresa Barrett | <input checked="" type="checkbox"/> Bianca Varelas Miller |
| <input checked="" type="checkbox"/> Janet Sell | <input checked="" type="checkbox"/> Donald Vert |
| <input checked="" type="checkbox"/> Pat Griffin | <input type="checkbox"/> Farrah Watkins |
| <input type="checkbox"/> Brandon Maxwell | |

Staff/Admin. Support: Kathy Sekardi, Julie Graber

Guests: Corrina Snyder

Matters Considered:

1. Welcome and announcements

Meeting commenced at 12:08 p.m. with a quorum. Ms. Sekardi announced that SRWG’s proposed legislation on support arrest warrants was just introduced in the Senate by Senator Gray and four co-sponsors. The bill is designated as SB1074, “Domestic relations; support arrest warrants.”

Ms. Sekardi noted some changes to the proposed language, which the members reviewed to ensure it was consistent with the workgroup’s intent. A question was raised about the changes made to A.R.S. section 25-684 (page 5, lines 28-35). SRWG’s language stated that a civil arrest warrant that is issued before *the effective date of this section* automatically becomes a child support arrest warrant after *the effective date of this section*. This language was changed by replacing “*the effective date of this section*” with “*July 20, 1996*.” Ms. Sell provided some background and history about preexisting warrants and the automatic conversion of civil arrest warrants into child support arrest warrants (CSAW) that occurred in 1996. Members discussed how and whether to follow a similar auto-conversion on preexisting warrants or to grandfather them in. Members supported an automatic conversion of current warrants and warrants moving forward rather than focus on those few preexisting warrants that might still be valid. Ms. Sell will draft proposed amendment language to submit to the PSHS Committee for consideration.

2. Review and discuss legal memoranda

Members continued reviewing topics on child support guidelines that were based on legal memoranda from the last review process by the CSGRC in order to incorporate portions of their work that is applicable to the current model or to provide further clarification.

- Topic 3: Entitlement to Dependency Exemption

Members examined issues related to entitlement to the dependency exemption and loss of the right to claim the tax deduction, and whether denial of this right is too harsh or unfair in its application. Members looked at how much discretion to provide to judges and the best ways to provide proper guidance. Additionally, CSGRC’s proposed guidance language was considered in which an obligor who pays 75% or more of the child support amount due in a tax year would be entitled to claim the exemption for that year and that unpaid contributions to medical or extracurricular expenses would not affect the entitlement unless there was a judgment. Members

did not support the concept of a threshold amount because it would restrict a judge's discretion and it would be unfair to the custodial parent if the obligor were to derive a potential economic benefit when not paying the full child support obligation or any of the outstanding medical expenses. Members agreed that unconditionally allocating the exemption to noncustodial parents is a matter of policy. Ms. Sell made the following motion:

Motion: To leave the language as it currently is in the enhanced guidelines.

Motion seconded by Ms. Griffin. No further discussion, motion passed unanimously.

- Topic 4: Remarriage Situations

Members reviewed issues related to remarriage situations and determination of gross income of parents based on State law, which does not allow consideration of new spouse's income, and case law, which allows consideration of the economic benefit derived from cost-sharing toward living expenses. Concerns were expressed about addressing this topic and modifying the existing language because it would generate controversy, litigation and perhaps unexpected changes for some. For example, if a parent's new spouse were to be considered in the calculations, the other parent's spouse should be also taken into consideration. Several members opposed CSGRC's solutions and proposed that no changes be made to the guidelines. A motion was made by Ms. Sell:

Motion: To leave out the proposed language from the guidelines.

Motion seconded by Mr. Vert. Motion passed 3-2. Further discussion ensued about including current case law in the guidelines, which was agreeable to all members.

Motion was withdrawn by Mr. Vert.

Members then discussed leaving the language alone, adding CSGRC's "Proposed Language" on page 3, and including additional considerations from CSGRC on page 4. Ms. Sell then made the following motion:

Motion: To approve the language that currently exists in the enhanced version of the guidelines.

Motion seconded by Ms. Griffin. No further discussion, motion passed unanimously.

Topic 5 was tabled to the next meeting.

3. Review and discuss red-line matrix

This item was tabled.

4. Call to the Public

No members of the general public were in attendance.

5. Set next agenda

For the next agenda, SRWG will review and discuss the last legal memoranda topic that was tabled and focus on assigning sections of the red-line matrix for review.

Meeting adjourned at 1:10 p.m.

Statute Review Workgroup

Minutes

Date: February 14, 2012	Time: Noon to 1:00 p.m.	Location: AOC – Conf. Rm. 230
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Attendance:

Present: Hon. Stephen Kupiszewski, Chair, Theresa Barrett, Patricia Griffin, Janet Sell, Don Vert, Farrah Watkins.

Absent/Excused: Veronica Hart Ragland, Brandon Maxwell, Bianca Varelas-Miller.

Guests: Rena Selden.

Staff/Admin. Support: Kathy Sekardi, Julie Graber.

Matters Considered:

1. Welcome and announcements

Comm. Kupiszewski commenced the meeting at 12:00 p.m. with a quorum. Ms. Kathy Sekardi updated members on current legislation and announced that SB1074, “Domestic relations; support arrest warrants,” cleared the Senate and was transmitted to the House. Ms. Sekardi then directed members to two bills that were scheduled to be heard by the PSHS committee:

- SB1492, “Out-of-wedlock children; fathers; rights,” would add a presumption of equal rights between a father and a mother regarding custody as long as the father acknowledges paternity based on his signature on a birth certificate or filing an acknowledgment.
- Ms. Sekardi reported a new strike-everything amendment in SB1246, “Child support; factors; supreme court.” The proposed changes were drafted to satisfy concerns that were submitted to the Domestic Relations Committee.

SRWG members agreed not to consider making any recommendations to these bills.

Motion: To approve the January 10, 2012, minutes as presented.

Action: Approve, moved by Janet Sell, seconded by Theresa Barrett.

Motion passed unanimously.

2. Review and discuss legal memoranda

Members continued reviewing topics on child support guidelines that were based on legal memoranda from the last review process by the CSGRC in order to incorporate portions of their work that is applicable to the current model or to provide further clarification.

- Topic 5: Retroactive Support Modification

Members examined issues related to the ban on retroactive modification following the federal Bradley amendment and possible alternatives (e.g., equitable relief) for helping those in unique circumstances when a party fails to file a modification of child support despite there being clear changed circumstances. In these situations, it then permanently precludes the prior circumstances from consideration in any later action, including enforcement, and creates at times unfair results without the court being able to remedy the circumstances. The workgroup’s consensus was that retroactive modification was an issue that occurs frequently enough to merit additional research and discussion. After discussing whether modifications impacted the legislature, the guidelines or the statute, the workgroup agreed that amending the statute may be appropriate. Comm. Kupiszewski suggested changes to ARS section 25-809 regarding

judgments. Ms. Sell recommended changes to ARS sections 25-327 and 25-503(E) because these sections deal with modification and standards.

Action: Ms. Sekardi will pull the relevant case law on this subject and forward to members for review.

3. Review and discuss red-line matrix

Members discussed how to proceed with the red-line matrix and the enhanced guidelines. Members agreed to handle any substantive changes separately from SRWG's basic exercise, which was intended to simplify and make the guidelines more user-friendly (e.g., sequential order, table of contents and expanded examples) without making any substantive changes.

Motion: To recommend to CSC for further recommendation to the Supreme Court the adoption of the enhanced guidelines that reorganize the guidelines without making any substantive changes.

Action: moved by Janet Sell, seconded by Theresa Barrett.

Motion passed unanimously.

Motion: To discuss issues that are substantive in nature separately and to review those issues further for possible recommendations to the full CSC.

Action: Moved by Janet Sell, seconded by Theresa Barrett.

Motion passed unanimously.

4. Call to the Public

Ms. Selden inquired about the workgroup's actions with regard to the pending legislative proposals. SRWG did not take any action.

5. Set next agenda

For the next agenda, SRWG will further discuss substantive changes to the guidelines that were not part of the basic exercise.

Meeting adjourned at 12:50 p.m.

Statute Review Workgroup

Minutes

Date: March 13, 2012	Time: Noon to 1:00 p.m.	Location: AOC – Conf. Rm. 230
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Attendance:

Present: Hon. Stephen Kupiszewski, Chair, Theresa Barrett, Janet Sell, Bianca Varelas-Miller, Don Vert, Farrah Watkins.

Absent/Excused: Veronica Hart Ragland, Brandon Maxwell, Patricia Griffin.

Guests: Jennifer Pittman-Leeper

Staff/Admin. Support: Kathy Sekardi, Julie Graber.

Public: Timothy Frank

Matters Considered:

1. Welcome and announcements

Comm. Kupiszewski commenced the meeting at 12:00 p.m. with a quorum.

Motion: To approve the February 14, 2012, minutes as presented. **Action:** Approve, moved by Don Vert, seconded by Theresa Barrett. Motion passed unanimously.

2. Review and discuss retroactive support modification

Members recommenced their discussion from last meeting regarding retroactive support modification and reviewed relevant case law from other jurisdictions. Discussion ensued about the following points:

- Janet Sell discussed two possible models based on laws in Alaska and Missouri.
 - In Alaska, there is no retroactive support modification but the court may find that preclusion is a defense based on clear and convincing evidence, which means that the court would have the authority to preclude arrears.
 - In Missouri, the family service division (or Division of Child Support Enforcement, DCSE) may determine the amount of abatement for any child support order.
 - Members considered whether the determination of arrears should be a court or an agency function. Members agreed that the court should have the authority to determine arrears.
- Comm. Kupiszewski suggested the inclusion of statutory language that would give clear authority to the court to make findings that payments should be made directly to the child in the form of a direct pay credit when the child is living with the obligor on a full-time basis.
 - Members supported the idea of a credit.
 - Members discussed whether this credit would constitute a modification or if it is in conflict to federal legislation. Further discussion is needed on this topic.
- Don Vert related a recent scenario that illustrated the current limitations for the court when faced with unique circumstances. A father came in to request a modification of child support because the child who was living with him for the last nine years just returned to live with the mother, who immediately obtained IV-D services. During the nine years, the parents failed to file a change of custody. Consequently, DCSE is now pursuing the father to pay child support for the nine years during which the child lived with him. The only assistance that could be offered in this instance was to send him to DCSE for an administrative review.
 - Members evaluated how Comm. Kupiszewski's direct pay credit proposal would impact these types of unusual situations. Had it been in place, Ms. Sell would have recommended the father file an action so the court could determine arrears and exercise discretion in giving a credit and in precluding arrears.

- Members considered some requirements for a direct pay credit proposal:
 - Must be subject to clear and convincing standard of proof.
 - Include a presumptive time limit (similar to the current three-year limit to establish child support) with an exception for extraordinary circumstances.
 - Members did not reach a consensus but they will review when proposed language is offered.
- Ms. Sell recommended moving away from the Alaska model by addressing retroactive support modification as a credit instead of as equitable preclusion. She suggested incorporating the credit in A.R.S. § 25-510.
- Members queried whether other States have done something similar to the proposed direct pay credit. Members will look to examples from other States on how they handled this topic (i.e., drafting of the language; challenges that were raised; and final dispositions).
- Members briefly discussed how arrears and inequitable determinations intersect with adoptions and termination of parental rights issues.
 - Don Vert called for greater protection of parties when agreements are made because not all parties realize the consequences. A parent who relinquishes their parental rights, for example, is not automatically relieved of a support obligation and arrears.
- Mr. Vert sought simplification of court procedures when dealing with self-representing (pro se) litigants who reach party-agreements.
 - For example, pro se parties often try to file a stipulation with the court but it will often not be binding because it will be rejected by staff, due to failure to provide a stipulation in the proper form of a motion and an order.
 - Members considered several options such as treating the stipulation as a petition, modifying some forms, and creating a new form.
 - Members objected to the court getting in the way of reached agreements.
 - This topic goes beyond the scope of the workgroup.

3. Review and discuss public comment

Pursuant to Representative Ash's request to incorporate public comments into SRWG's review of the child support guidelines, the workgroup reviewed the comments made by Mr. Hamu again to assess whether all of his comments required substantive changes to the guidelines. Members were in agreement that his comments would necessitate substantive changes (to the guidelines or to programming) that go beyond the scope of this workgroup. Additionally, there was consensus that these issues must be discussed with the full committee to determine whether some or all of these issues should be undertaken; to prioritize them (i.e., one at a time, all at once or wait until the next review cycle); and to provide a roadmap and further direction on which agenda item to expand.

4. Call to the Public

No comments were made.

5. Set next agenda

For the next agenda, SRWG will discuss proposed direct pay credit language.

Meeting adjourned at 1:02PM.