

Substantive Law/Court Procedures Workgroup

Minutes

Date: March 11, 2011	Time: 12:00 PM – 2:30 PM	Location: Conference Room 345 B
-----------------------------	---------------------------------	--

Minute Taker: Tama Reily

Members Attending:

Steve Wolfson	X	Sidney Buckman	X	Grace Hawkins	X	Lindsay Simmons	X
Brian Yee	X	Daniel Cartagena	X	Carey Hyatt	X	Laura Sabin Cabanillas	X
Thomas Alongi	X	Jami Cornish	X	Ella Maley		Russell Smolden	
Theresa Barrett	X	Sharon Douglas		Robert Reuss	X	David Weinstock	X
Keith Berkshire	X	Jennifer Gadow	X	Ellen Seaborne		Sarah Youngblood	X

Staff/Admin. Support: Kathy Sekardi; Kay Radwanski; Tama Reily

Guests:

Terry Decker	David Alger
Karen Duckworth	Joi Davenport
Eric Bates	Brent Miller
Bill Fabricius	

- I. The March 11, 2011 joint meeting of the Substantive Law / Court Procedures Workgroup was called to order by Substantive Law Chair, Steve Wolfson, at 12:10 pm. Court Procedures Workgroup Chair, Brian Yee, was introduced. Introductions were made around the room, including new workgroup members Jennifer Gadow, Honorable Carey Hyatt, and Keith Berkshire.

- II. Mr. Wolfson explained the workgroup's charge to review the product of the Ad Hoc Custody Workgroup (AHCW) and provide final recommendations on the product at the June 3 meeting of the Domestic Relations Committee (DRC). He went on to explain that the review process would approach the document section by section from beginning to end. Workgroup members were asked to specifically define any issue they raise with the document, and to provide possible resolution, keeping in mind any consequences that might result from the suggested resolution. He stated the workgroup meetings will be conducted in their usual manner, and laid out some of the following ground rules:
 - Other than the Call to the Public, meeting discussion will pertain to agenda items only. Public speakers are requested to confine their comments to the workgroup's assigned issue.
 - Side conversations should be avoided or removed from the workgroup area. There should be only one person speaking at any time.
 - Discussions may include differing opinions, however, the debate should refer to ideas and not people.
 - Those members participating by conference call will be identified and included in the discussion.
 - Items will be decided by voting. Voting will be limited to DRC members.
 - Proposed agenda items should be submitted in advance to the co-chairs for approval.

- III. Mr. Bill Fabricius, Chair of AHCW, provided a brief report on the AHCW's draft document and informed the workgroup that the final report should be completed by next week. He noted there were three sections they originally planned to address, but were unable due to time constraints. Those sections included: 1) Sanctions; 2) Temporary Orders; 3) Decree Modifications. He suggested that this workgroup may wish to address these areas. He reiterated the AHCW's objective was to go through the entire bill and organize, clarify, update,

make language consistent, add SB1314, and bring the domestic violence section up to date. Mr. Fabricius raised the topic of having outside national experts review the product and offer feedback, something that the AHCW discussed at its last meeting, and suggested that the Substantive Law / Court Procedures Workgroup consider this as an option. Lengthy discussion ensued regarding the type of experts needed, such as mental health experts, and the protocol for selection. Dr. Brian Yee made the following motion:

MOTION: To consult with outside experts for comment on the product and to inquire of Peter Salem to use his networking of mental health experts. Motion seconded. Motion passed unanimously.

Discussion moved to the dissemination of the product, sooner rather than later, to the 'end users', including the Arizona State Bar and the Family Law Section members, family court presiding judges, the conciliation court roundtable, in order to solicit input. Several members will take part in getting the document to the various groups mentioned for further vetting.

As part of the AHCW's report, the workgroup began reviewing and discussing AHCW document. Changes were made to the following sections:

§ 25-421(B): Proposed changes were made to section 25-421(B) as noted:

~~B. A proceeding under this chapter is commenced in superior court: the~~ THE FOLLOWING PERSONS MAY REQUEST PARENTAL DECISION-MAKING OR PARENTING TIME UNDER THE FOLLOWING CIRCUMSTANCES:

~~(a) 1. Marital dissolution or legal separation.~~ BY A PARENT, IN ANY PROCEEDING FOR MARITAL DISSOLUTION, LEGAL SEPARATION, PATERNITY, OR MODIFICATION OF AN EARLIER DECREE.

~~(b) 2. Parental decision-making or parenting time regarding a child born out of wedlock, if there has been an establishment of maternity or paternity.~~ BY A PERSON OTHER THAN A PARENT, BY FILING A PETITION FOR THIRD-PARTY RIGHTS UNDER A.R.S. § SECTION 25-450 IN THE COUNTY IN WHICH THE CHILD PERMANENTLY RESIDES.

~~(c) Modification of a decree or judgment previously issued under this chapter.~~

~~2. By a person other than a parent, by filing a petition for third party rights under A.R.S. § 25-450 in the county in which the child permanently resides.~~

~~3. At the request of any person who is a party to a maternity or paternity proceeding pursuant to A.R.S. §§ 25-801, et. seq.~~

Members discussed the appropriate placement of the definitions section and agreed that readers would find it more useful if definitions were placed in the statutes similar to a standard glossary.

MOTION: To place the definitions section at the end of the chapter. Motion seconded. Motion passed unanimously.

AOC Staff noted that it would be necessary to check with Legislative Council as to drafting conventions regarding the placement of definitions.

IV. Call To The Public

Public attendee, Mr. Terry Decker, related his concerns that the public will be affected by this statute, and he feels the workgroup does not fairly represent the public. He requested that the workgroup expand to include himself and four other non-custodial parents, who he states are the "actual stakeholders." Finally, he stated that the default policy for ARS § 25-103 is joint custody and equal parenting time unless by clear and convincing evidence a parent is deemed unfit, and he feels that point is missing.

Public attendee, Karen Duckworth, indicated her concerns with the meeting format as described today, which would hold the "call to the public" at the conclusion of meetings. She stated that the comments from the public would be more useful if allowed to be heard after each relevant section.

Public attendee, Mr. Brent Miller, voiced complaints regarding the "exclusion" of the public due to lack of time management on the part of the workgroup.

Meeting adjourned at 2:31

Next Meeting

March 25, 2011

12:00p.m. to 1:30 p.m.

Arizona State Courts Building

1501 W. Washington

Conference Room 230

Substantive Law/Court Procedures Workgroup

Minutes

Date: March 25, 2011	Time: 12:00 PM – 1:30 PM	Location: Conference Room 230
-----------------------------	---------------------------------	--------------------------------------

Minute Taker: Tama Reily

Members Attending:

Steve Wolfson	X	Sidney Buckman		Grace Hawkins		Lindsay Simmons	X
Brian Yee	X	Daniel Cartagena	X	Carey Hyatt		Laura Sabin Cabanillas	X
Thomas Alongi	X	Jami Cornish	X	Ella Maley		Russell Smolden	
Theresa Barrett		Sharon Douglas		Robert Reuss		David Weinstock	X
Keith Berkshire	X	Jennifer Gadow	X	Ellen Seaborne		Sarah Youngblood	X

Staff/Admin. Support: Kathy Sekardi

Guests: Marjorie Cook, Julie Minnick, Bill Fabricius

General public: Joi Davenport, Terry Decker, Eric Bates, David Alger, Alvil Kumitz, Jarrett Williams, Kira Dietz, Dennis P. Lee, Karen Duckworth, Dennis Levine, Brent Miller

I. Welcome and Announcements

The March 25, 2011 joint meeting of the Substantive Law / Court Procedures Workgroups was called to order by Substantive Law Workgroup Chair, Steve Wolfson, at 12:10 pm.

The November 2010 and March 2011 meeting minutes were not presented for approval at this time due to the lack of a quorum.

Mr. Wolfson announced that Senator Gray, at the request of the Relocation Workgroup, withdraw SB1083 from further consideration in the House Human Services committee.

II. Procedures Review

Court Procedures Workgroup Chair, Brian Yee, spoke briefly on the procedures that would be followed in order to adhere to open meeting laws. He reiterated how public comments and public requests to speak should be submitted to committee staff at the beginning of meetings in order to obtain the fullest participation of the general public.

III. Hospital Paternity Program

Ms. Marjorie Cook, DSCE Director of Outreach and Community Initiatives, and Ms. Julie Minnick, Assistant Attorney General, addressed the group regarding the Hospital Paternity Program (HPP). Ms. Cook explained the paternity process, and what the required actions and documents are required when paternity is challenged. Ms. Minnick discussed the circumstances under which a court hearing could be requested and further discussed genetic testing in certain situations such as when an „Acknowledgement of Paternity“ is rescinded. Ms. Cook stated that she would provide the suggestions and issues raised by workgroup members today to the attention of her assistant director at DSCE.

IV. Review of Comment Forms

Based upon the comments at the March 25, 2011 meeting it was suggested that the issues of domestic violence, coercive control, false allegations, alienation or manipulation of the children, and possibly substance abuse could be contained in the *Special Circumstances* section. Several members agreed with this proposal, however, it was also thought that the workgroup should hear from experts in the field prior to making any changes to the statute. Jenny Gadow volunteered to draft proposed language in time for the next meeting.

V. Review proposed custody rewrite

Item not addressed.

VI. Call To The Public

Public attendee, Terry Decker, expressed the following:

- Domestic violence should be removed from the custody statutes. A.R.S. § 25-103 “has to, by law, be reflected in all language and Title 25 statutes.” In addition, he stated domestic violence toward a spouse is irrelevant when the parents are divorced.
- The parenting time baseline should be 50/50 unless there is clear and convincing proof that a parent is unfit.
- The term *primary residential parent* does not conform to A.R.S. § 25-103. Paternity should only be overturned by court action. A mother wishing to challenge the father’s paternity should have to file an appropriate pleading before the court.

Public attendee, Brent Miller’s commented on the following:

- On the establishment of paternity and custody, once a birth certificate is signed, the parties should have joint custody until a court or DNA shows otherwise.
- Intimate partner violence is broadened by adding any person that may have a casual relationship with parties involved in dissolution, custody, and parenting time issues. The language should be removed or put in Title 13.
- Wishes to change several portions of the meeting minutes of 3/11/11, stating “they were not an accurate reflection of the events that took place” at the meeting.

Public attendee, Karen Duckworth had the following comments:

- Believes the format of these meetings excludes and invalidates public opinion.
- Objects to the use of the word “*complaints*” in the March 31 meeting minutes, where the term is used in the comments made by public attendee, Brent Miller.
- There is inconsistent language in the unified draft where the definition section references A.R.S. § 13-3601(A) regarding *Intimate Partner Violence*, however, section (C) *Collateral Protective Order Proceedings* and section (F) *Alternative Dispute Resolution* use A.R.S. § 13-3602(I).

Public attendee, Joi Davenport had the following comments:

- Suggests addressing false allegations of parental alienation as research proves perpetrators of domestic violence center allegations of abuse by falsely accusing the victim of parental alienation when the parent is trying to protect the children from witness or experiencing domestic violence.

Next Meeting

April 8, 2011

12:00p.m. to 1:30 p.m.

Conference Room 230

Arizona State Courts Building

1501 W. Washington

Substantive Law/Court Procedures Workgroup

Minutes

Date: April 8, 2011	Time: 12:00 PM – 1:30 PM	Location: Conference Room 230
----------------------------	---------------------------------	--------------------------------------

Minute Taker: Tama Reily

Members Attending:

Steve Wolfson	X	Daniel Cartagena	X	Robert Reuss	X	David Weinstock
Brian Yee	X	Jami Cornish	X	Ellen Seaborne	X	Sarah Youngblood
Thomas Alongi	X	Jennifer Gadow	X	Lindsay Simmons	X	
Theresa Barrett	X	Grace Hawkins	X	Laura Sabin Cabanillas		
Keith Berkshire	X	Carey Hyatt	X	Donnalee Sarda	X	
Sidney Buckman	X	Ella Maley		Russell Smolden		

Staff/Admin. Support: Kathy Sekardi; Kay Radwanski; Tama Reily

Guests: Dean Christoffel, Bill Fabricius; Brent Miller; Karen Duckworth; Terry Decker; Joi Davenport; Sheri Fetzer; Ana Jabkowski; Lisa Royal, Pima County Superior Court
Donnalee Sarda

Matters Considered:

I. Welcome and Announcements

The April 8, 2011 meeting of the Substantive Law / Court Procedures Workgroup was called to order at 12:15 p.m. Members and guests were welcomed.

Discussion began with proposed legislation, SB 1373, which significantly impacts community property law. It is a broad bill that prevents the non-military spouse from receiving any share of the property and/or income acquired by the other spouse as a result of military service. The legislation was never vetted in the Domestic Relations Committee (DRC) and Mr. Wolfson suggested that this workgroup make a recommendation to the DRC to oppose the legislation. It was noted that the DRC does not meet again until after the legislative session ends, however, Mr. Wolfson suggested the workgroup contact Senator Gray with a request that she call an “accelerated” DRC meeting, perhaps telephonically, for this purpose and she could then pass the DRC’s comments to the legislature.

With a quorum now present, a vote was taken on the issue.

Motion: To communicate the workgroup’s opposition to proposed amendment SB 1373, to Senator Gray as discussed. Motion seconded. Motion approved unanimously.

II. Approval of Minutes

The minutes of the Substantive Law / Court Procedures Workgroup meetings November 23, 2010 and March 11, 2011 were presented for approval.

Motion: To approve the meeting minutes from the Substantive Law / Court Procedures Workgroup meeting dates November 23, 2010 and March 11, 2011as presented. Motion seconded. Motion approved unanimously.

III. Independent Review of Custody Rewrite

At previous meetings, the workgroup discussed having an independent review of the re-write product by outside experts, specifically, to consult with mental health expert Peter Salem, Executive Director, Association of Family and Conciliation Courts, for recommendations. A motion to that effect was made.

Motion: To consult with outside experts for comment on the re-write draft. Specifically, to request that Peter Salem provide his recommendations for mental health experts to review this custody re-write document and provide feedback. Motion seconded. Motion approved unanimously.

IV. Review of Comments Received

Mr. Wolfson discussed public comments received at the March 25th meeting. He noted a recurring trend in the comments which is to remove all references to domestic violence from Title 25. He pointed out that neither A.R.S. section 13-3601 nor A.R.S. section 13-3602 mention child custody, and the failure to address domestic violence in Title 25 disregards the relationship and impact of domestic violence to parenting time decisions. Additionally, he stated that 49 of the 50 states recognize the relevance of domestic violence and parenting time decisions and include it in their statutory schemes. Mr. Wolfson also noted that other general public comments indicated that "after separation domestic violence stops" however, national studies show that a separated woman is three times more likely than a divorced woman, and 25 more times likely than a married woman, to be victimized by her spouse. According to these studies domestic violence often increases, not stops. The study referenced was provided by the Bureau of Justice Statistics, U.S. Dept. of Justice, Special Report, Violence Against Women; Estimates from the Redesigned Survey 4 (NCJ – 154348, August 1998.)

Mr. Wolfson commented that the workgroup received a comment from Comm. Kathryn Stocking-Tate regarding false reporting of domestic violence and child abuse, and that the comments provided by Judge Bruce R. Cohen are already included as a sidebar into the current version, section 25-450 (Third party rights, page 18.) The Conciliation Court Roundtable have also provided a version with their feedback and comments, as well as a version authored by workgroup member, Jenny Gadow, which focuses on changes to the sections regarding special circumstances and false allegations.

V. Based upon comments received previously, the unified draft has been revised to contain the domestic violence definitions, except "strangulation" and "suffocation," at the beginning of Article 4, Special Circumstance on page 7. There was no change in the language.

Motion: To keep the ordering of the statute in accordance with the above description. Motion seconded. Approved unanimously.

Discussion moved to comments received from the Conciliation Court Roundtable on the definition of "legal parent." Members considered the suggested terminology and its reference to A.R.S. section 25-814. However, there was no consensus regarding when a person has actually established paternity. After lengthy debate, member, Danny Cartagena volunteered to draft proposed language to clarify establishment of paternity as addressed in A.R.S. section 25-814.

VI. Call to the Public

Public attendee, Mr. Terry Decker expressed his belief that Title 13 does impact a person's contact or association with a child and that it takes precedence over Title 25. In addition, he stated that in section 25-422 the parental decision-making definition should include "in a divided family, it shall not include changing the name of the child or representing a changed identity to any entity." He also made the observation that the workgroup is making many citations, but not tracing them to their conclusions; specifically, he noted child abuse, which he said "ultimately can trace back to things like a parent looking at the other parent's email."

Public attendee, Ms. Karen Duckworth, informed members that she provided staff with a copy of a Columbia University study on parental alienation. She commented about the elements of false allegations and other types of child abuse, like mental and psychological abuse. She stated that the legal definition for parental alienation and its tactics needs to be included in the language the workgroup is developing. She encouraged the workgroup to study the Columbia University report. She also commented that her understanding of some of the definitions

which may be stricken now, such as the intimate partner violence, was inconsistent with later references throughout the draft. She stated it is her understanding that A.R.S. section 13-3602 is actually more procedural and doesn't imply that an order of protection should have any bearing on the custody decision-making.

Public attendee, Mr. Brent Miller, commented that he believes daycare should be included in the draft despite the fact that it is something people argue and go to court about. Member, Steve Wolfson, asked Mr. Miller if he didn't think that it might be better to have a broader discussion and explanation in another separate publication as opposed to trying to approach it in this one definition section. Mr. Miller agreed and stated it needs to be expanded upon and further explored because there is so much misunderstanding about it.

Next Meeting

April 29, 2011

12:00pm – 1:30pm

Arizona State Courts Building, 1501 W. Washington, Conference Room 230

Substantive Law/Court Procedures Workgroup

Minutes

Date: April 29, 2011	Time: 12:00 PM – 1:30 PM	Location: Conference Room 230
-----------------------------	---------------------------------	--------------------------------------

Minute Taker: Tama Reily

Members Attending:

Steve Wolfson	X	Daniel Cartagena	X	Ella Maley	X	Russell Smolden
Brian Yee	X	Jami Cornish	X	Robert Reuss	X	David Weinstock
Thomas Alongi	X	William Fabricius	X	Donnalee Sarda	X	Sarah Youngblood
Theresa Barrett	X	Jennifer Gadow	X	Ellen Seaborne	X	
Keith Berkshire		Grace Hawkins		Lindsay Simmons	X	
Sidney Buckman	X	Carey Hyatt	X	Laura Sabin Cabanillas	X	

Staff/Admin. Support: Kathy Sekardi; Kay Radwanski; Tama Reily

Guests: Dr. Evan Stark; Michael Espinoza; Karen Duckworth; Joi Davenport; Ana Jabkowski; John Weaver; Patricia Madsen; Timothy Frank; Brian Calaway

Matters Considered: (continue on separate sheet if necessary)

I. Welcome and Announcements

The April 29, 2011 meeting of the Substantive Law / Court Procedures Workgroup was called to order at 12:05pm. Members and guests were welcomed.

II. Approval of Minutes

The minutes of the Substantive Law / Court Procedures Workgroup meeting March 25, 2011 were presented for approval.

Motion: To approve the minutes from the Substantive Law / Court Procedures Workgroup March 11, 2011 meeting as presented. Motion seconded. Motion approved unanimously.

III. Role of Coercive Control in an Analysis of Domestic Violence

Dr. Evan Stark, Professor, School of Public Affairs and Administration, Rutgers University, addressed the workgroup about the concept of coercive control. He discussed domestic violence (dv) and its consequences with regard to children and custody. He noted several points: 1) dv is not one specific incident, 2) the majority of dv incidents are trivial physically; the hallmark is the frequency and duration, 3) it is an ongoing process – repeated assaults, 4) 60% to 80% is accompanied by other salient tactics, multiple tactics – coercive control. Dr. Stark discussed the significant, cumulative effect of dv and stated that the victim often may try to keep her/himself and the child away from the abuser. He stated that the vast majority of dv cases are coercive control. He also discussed that abuse is trivialized – if there is no physical injury, there is no recognition of abuse in family court, in fact, the victim’s fears can be viewed as exaggerated. He pointed out some of the tactics abusers use, including patterns of isolation, intimidation and control. About 54% of men arrested for dv have admitted to taking their partners’ money and other items, preventing them from driving, and isolating them from family and friends, in addition to threats of taking the children. He noted the evidence is quite compelling – thousands of studies showing that the effects of coercive control on children are dramatic and also that the risk of abusive incidents is higher during the separation and divorce and in post-separation visitation.

IV. Review Proposed Custody Rewrite

Members assigned to proposing language for certain provisions presented their suggestions.

- Danny Cartagena – discussed his proposed language changes for:

A.R.S. § 25-812 Voluntary Acknowledgement of Paternity

A.R.S. § 25-814 Presumption of Paternity

A.R.S. § 25-815 Paternity; Full Faith and Credit.

Mr. Cartagena explained he wanted to remove the ambiguity surrounding presumptions of paternity and establishing paternity, as well as to clarify the Acknowledgement of Paternity form process. The workgroup reviewed the suggested changes. There were questions as to the removal of the section on the rescission process and whether it would be federally mandated to include some language on this. Mr. Cartagena will continue to work on this and follow up with the Attorney General's Office for clarification.

- Keith Berkshire - proposed language for **A.R.S. § 25-422 Definitions: Parental Decision-Making.**
Item not discussed.
- Tom Alongi – proposed language for **A.R.S. § 25-471 Sanctions for Misconduct.**
Item not discussed.

VI. Call to the Public

See attached for public comments.

Next Meeting

May 13, 2011

12:00pm – 1:30pm

Arizona State Courts Building

1501 W. Washington

Conference Room 230

Substantive Law/Court Procedures Workgroup

Minutes

Date: May 13, 2011	Time: 12:00 PM – 1:30 PM	Location: Conference Room 230
---------------------------	---------------------------------	--------------------------------------

Minute Taker: Tama Reily

Members Attending:

X	Steve Wolfson	X	Daniel Cartagena	A	Ella Maley	A	Russell Smolden
X	Brian Yee	X	Jami Cornish	X	Robert Reuss	A	David Weinstock
X	Thomas Alongi	X	William Fabricius	A	Donnalee Sarda	X	Sarah Youngblood
X	Theresa Barrett	X	Jennifer Gadow	A	Ellen Seaborne		
X	Keith Berkshire	X	Grace Hawkins	X	Lindsay Simmons		
X	Sidney Buckman	X	Carey Hyatt	X	Laura Sabin Cabanillas		

Staff/Admin. Support: Kathy Sekardi; Kay Radwanski; Tama Reily

Guests: Professor Joan S. Meier, Terry Decker, Michael Espinoza, Joi Davenport, Timothy Frank, Brent Miller, Karen Duckworth, Jarrett Williams.

Matters Considered:

I. Welcome and Announcements

The May 13, 2011 meeting of the Substantive Law / Court Procedures Workgroup was called to order by Steve Wolfson, co-chair, at 12:10 p.m. Members and guests were welcomed.

II. Approval of Minutes

The minutes of the Substantive Law / Court Procedures Workgroup April 8, 2011, meeting was presented for approval.

Motion: To approve the minutes from the Substantive Law / Court Procedures Workgroup April 8, 2011 meeting as presented. Motion seconded. Motion approved unanimously.

III. Evaluating Domestic Violence Allegations

Professor Joan S. Meier, George Washington University Law School, presented information to the workgroup regarding how an analysis of coercive control is helpful to evaluate domestic violence allegations. Professor Meier revealed that research trends put coercive control in the forefront, stating the power-control dynamic is considered to be dangerous and puts children at high-risk. Professor Meier stated there is enormous resistance from the courts to acknowledge coercive control in domestic violence cases. She noted that “intimate terrorism” (control and violence) is mostly perpetrated by males against females and is highly correlated to risk to children, whereas situational violence is less indicative of risk to children. She cited studies that assessed validity of abuse allegations and noted that findings indicate the vast majority of abuse allegations are made in good faith. In addition, assessments of validity found intentionally false allegations were more often made by noncustodial fathers.

IV. Review of General Public Comments Received

There were no workgroup member responses to the general public comments received at the April 29, 2011, meeting. The workgroup discussed a proposed language change to A.R.S. § 25-103 submitted by Laura Sabin Cabanillas. The proposed change would replace the term “strong” with “healthy” in section A(1)(2). Although

there was some agreement with the suggested change, consensus was that with so many revisions already being undertaken, it would be preferable to leave this section unchanged.

VI. Discuss June 3, 2011, Domestic Relations Committee Meeting

Mr. Wolfson put forth the idea of extending the timeframe for the workgroup to complete its review of the custody statute. He submitted that the draft in its current form not be presented to the DRC at its June 3, 2011, meeting, but rather, the workgroup request more time to work on the proposal. After some discussion, a motion was made to that effect.

Motion: To continue working on the custody statute revisions beyond the June 3, 2011 DRC meeting, as a complete work product will not be finished by June. Motion seconded. Motion passed unanimously.

Motion: To amend the above motion to state that the workgroup provide an interim report of the current draft of the custody statute at the June 3, 2011 DRC meeting for purposes of soliciting feedback from the committee. Motion seconded. Motion passed unanimously.

VII. Review Proposed Custody Rewrite

Item tabled.

VIII. Call to the Public

Several members of the public, including Terry Decker, Brent Miller, Karen Duckworth, Michael Espinoza, and Joi Davenport, addressed the workgroup. Their concerns included the following:

- Domestic violence and coercive control issues do not belong in the custody statute. They need to be managed in the criminal court.
- The statute needs a lot more work. It should not be rushed.
- Workgroup members are not true stakeholders, they are interest-holders, and as such there is a conflict of interest. In order to be effective, the workgroup needs more representation of true stakeholders.
- Coercive control needs to be in the custody statute because the strategies and tactics used to control a spouse or partner, such as threats of suicide, withholding money, isolating from family members, are not matters handled in the criminal court.

In closing, Mr. Wolfson informed members that additional meeting dates spanning the summer months will be forthcoming. The workgroup will be notified of potential dates as they are scheduled.

Meeting adjourned at 1:35 p.m.

Next Meeting
June 24, 2011
12:00 p.m. – 1:30 p.m.
Arizona State Courts Building
1501 W. Washington
Conference Room 119 A/B

Substantive Law/Court Procedures Workgroup

Minutes

Date: June 24, 2011	Time: 12:00 PM – 1:30 PM	Location: Conference Room 119 A/B
----------------------------	---------------------------------	--

Minute Taker: Tama Reily

Members Attending:

X	Steve Wolfson	X	Daniel Cartagena	A	Ella Maley	A	Russell Smolden
X	Brian Yee	X	Jami Cornish	A	Robert Reuss	A	David Weinstock
X	Thomas Alongi	A	William Fabricius	X	Donnalee Sarda	X	Sarah Youngblood
X	Theresa Barrett	A	Jennifer Gadow	A	Ellen Seaborne		
A	Keith Berkshire	X	Grace Hawkins	X	Lindsay Simmons		
X	Sidney Buckman	A	Carey Hyatt	A	Laura Sabin Cabanillas		

Staff/Admin. Support: Kay Radwanski; Tama Reily

Guests: Joi Davenport, Trey Harris

Matters Considered:

I. Welcome and Announcements

The June 24, 2011 meeting of the Substantive Law / Court Procedures Workgroup was called to order by Steve Wolfson, co-chair, at 12:07 p.m. Members and guests were welcomed.

II. Approval of Minutes

The minutes were not presented for approval at this time due to lack of a quorum.

III. Review of Comments Received

Members discussed comments received from Superior Court Judge Randy Warner regarding some of the draft amendments to the custody statute. Judge Hyatt previously stated that she would be circulating Judge Warner's comments throughout the bench for additional feedback from superior court judges.

IV. Review of Proposed Custody Rewrite

Tom Alongi reviewed his proposed changes to A.R.S. § 25-471; *Sanctions for Misconduct*, and detailed the basis for his suggestions. There was lengthy discussion regarding the establishment of false allegations and judicial discretion when persons of impaired mental status might make false allegations. After considerable debate, Mr. Alongi agreed to continue modifying the section, taking into account the comments members offered today.

VI. Call to the Public

Member of the public, Joi Davenport, commented that children should not be present at the workgroup meetings to avoid exposing them to adult topics of discussion. She also expressed concern that the workgroup is considering reducing the coercive control language in the custody statute. She stated it is imperative to include coercive control in a thorough manner because the courts need to be educated about the issue if it is to be recognized by the family court judiciary. Finally, she argued that abuse and coercive tactics continue throughout the divorce process and its effects remain long after the divorce is finalized.

Meeting adjourned at 1:37 p.m.

Next Meeting

July 15, 2011

12:00 p.m. – 1:30 p.m.

Arizona State Courts Building

1501 W. Washington, Conference Room 345 B

Substantive Law/Court Procedures Workgroup

Minutes

Date: July 15, 2011	Time: 12:00 PM – 1:30 PM	Location: Conference Room 345 B
----------------------------	---------------------------------	--

Minute Taker: Tama Reily

Members Attending:

X	Steve Wolfson	A	Daniel Cartagena	A	Ella Maley	X	Russell Smolden
X	Brian Yee	A	Jami Cornish	X	Robert Reuss	X	David Weinstock
X	Thomas Alongi	X	William Fabricius	X	Donnalee Sarda	A	Sarah Youngblood
X	Theresa Barrett	A	Jennifer Gadow	A	Ellen Seaborne		
A	Keith Berkshire	X	Grace Hawkins	X	Lindsay Simmons		
X	Sidney Buckman	X	Carey Hyatt	A	Laura Sabin Cabanillas		

Staff/Admin. Support: Kathy Sekardi; Kay Radwanski; Tama Reily

Matters Considered:

I. Welcome and Announcements

The July 15, 2011 meeting of the Substantive Law / Court Procedures Workgroup was called to order at 10:13. Members and guests were welcomed.

II. Approval of Minutes

The minutes of the Substantive Law / Court Procedures Workgroup meeting April 29, 2011 were presented for approval.

Motion: To approve the minutes from the Substantive Law / Court Procedures Workgroup April 29, 2011 meeting as presented. Motion seconded. Motion approved unanimously.

III. Future Meeting Dates

Mr. Wolfson addressed the lack of members' responses to staff RSVP requests, emphasizing the importance of determining a quorum prior to going forward with meetings. Additionally, as attendance has been weak over the past several meetings, he discussed the importance of attendance. He noted that if necessary, meeting dates could be changed in order to elicit improved attendance.

IV. Review of Comments Received

Members' responses to comments submitted by Bill Fabricius and Bob Reuss were discussed. Mr. Wolfson stated that the concerns of Mr. Reuss were valid and the workgroup would contemplate them as each respective section was addressed. There was mention of developing a "frequently asked questions" (FAQ) form regarding coercive control. Grace Hawkins pointed out that she has received some comments from attorneys and judges in her area and the main concerns were the complexity and length of the bill.

VI. Review Proposed Custody Rewrite

Tom Alongi presented his proposed changes to A.R.S. § 25-471; *Sanctions for Litigation Misconduct*, and offered his reasoning for the suggested changes. After discussion, a motion was made to approve the revised language.

Motion: To approve revisions to A.R.S. § 25-471(A) as submitted. Motion seconded. Motion approved unanimously.

The workgroup moved on to review Mr. Alongi's suggested revisions to A.R.S. § 25-441(D); *Coercive Control*. Mr. Alongi specified his rationale for the ten proposed items the court should consider with regard to the existence of coercive control. Lengthy discussion ensued on the matter of inclusion of all ten proposed items. A consensus was not obtained at the close of discussion.

Mr. Wolfson mentioned the possibility of modifying the proposed language to alleviate a potential burden to the courts by inquiring of an issue that hasn't already been raised by a party. He therefore recommended that the workgroup should start the next meeting by discussing A.R.S. § 25-404; *Mandatory preliminary inquiry; special circumstances*, to consider a slight change of language in A.R.S. § 25-441(D).

While concluding the meeting, Mr. Wolfson reiterated the importance of members responding to committee staff's requests regarding expected attendance. He again stressed that attendance is paramount to accomplishing the workgroup's task. He also noted that repeated absences could be interpreted as a lack of interest in participating on the workgroup.

VII. Call to the Public

No comments were submitted by the general public.
Meeting adjourned at 1:32.

Next Meeting

July 29, 2011
12:00 p.m. – 1:30 p.m.
Arizona State Courts Building
1501 W. Washington
Conference Room 230

Substantive Law/Court Procedures Workgroup

Minutes

Date: July 29, 2011	Time: 11:30 AM – 1:00 PM	Location: Conference Room 230
----------------------------	---------------------------------	--------------------------------------

Minute Taker: Tama Reily

Members Attending:

A	Steve Wolfson	X	Daniel Cartagena	A	Ella Maley	A	Russell Smolden
X	Brian Yee	X	Jami Cornish	A	Robert Reuss	A	David Weinstock
X	Thomas Alongi	X	William Fabricius	X	Donnalee Sarda	A	Sarah Youngblood
X	Theresa Barrett	X	Jennifer Gadow	A	Ellen Seaborne		
X	Keith Berkshire	X	Grace Hawkins	X	Lindsay Simmons		
X	Sidney Buckman	X	Carey Hyatt	A	Laura Sabin Cabanillas		

Staff/Admin. Support: Kathy Sekardi; Tama Reily

Guests: Joi Davenport, Ariel Serafin, Joshua Eisenstein

Matters Considered:

I. Welcome and Announcements

DRC member Sid Buckman facilitated today’s Substantive Law / Court Procedures Workgroup (SLCP) meeting. The meeting was called to order by Mr. Buckman at 11:39 a.m. Members and guests were welcomed.

II. Approval of Minutes

The May 13th, June 24th, and July 15th, 2011 draft meeting minutes were not presented for approval at this time due to lack of a quorum.

III. Review of Comments Received

- Members discussed comments received by Bill Fabricius regarding A.R.S. § 25-432 wherein he suggested adding a section “c” that would specify a parenting plan. Additionally, Mr. Fabricius proposed the language of section 25-432 could be added to the Temporary Orders section. Upon discussion, members agreed that the Temporary Orders section did not fall under the workgroup’s charge. One member commented that although an enormous amount of work has gone into the rewrite, they feel as though the workgroup has gotten away from original goal of looking at the current custody statutes, cleaning up the language for consistency, and to make the statutes easier to follow and understand. Furthermore, it was suggested that repeated comments, such as the rewrite is too complicated and lengthy, is valid criticism that should be reflected in this workgroup’s recommendations to the DRC.
- Comments from Ellen Seaborne – *Item tabled*
- Comments from the Committee on the Impact of Domestic Violence and the Courts (CIDVC) – *Item tabled.*

IV. Review of Proposed Custody Rewrite

Without a quorum present, members agreed to table discussion regarding the coercive control provision in A.R.S. § 25-441. Instead, Judge Carey Hyatt shared a summary of responses she received from the family court judiciary regarding the draft rewrite. Reaction primarily concerned the complexity of the process and the length of the entire draft. The judges commented that the statutes were confusing to them and if they viewed the statute as convoluted, then self-represented individuals would certainly find it challenging to understand and navigate through the custody statutes. Members considered forming a task force to work on simplifying the statute. There was additional discussion about developing a flow chart of the rewrite and the current statutes in order to compare them and clarify the process. Workgroup staff, Kathy Sekardi, will discuss these suggestions with the co-chairs

and inform members of the plan of action.

VI. Call to the Public

No comments were submitted by the general public.

Meeting adjourned at 1:00 p.m.

Next Meeting

August 19, 2011

12:00pm – 1:30pm

Arizona State Courts Building

1501 W. Washington

Conference Room 119 B

Substantive Law/Court Procedures Workgroup

Minutes

Date: August 19, 2011	Time: 12:00 PM – 2:00 PM	Location: Conference Room 119B
------------------------------	---------------------------------	---------------------------------------

Minute Taker: Tama Reily

Members Attending:

x	Steve Wolfson	x	Daniel Cartagena		Ella Maley	x	Russell Smolden
x	Brian Yee		Jami Cornish	x	Robert Reuss		David Weinstock
x	Thomas Alongi	x	William Fabricius	x	Donnalee Sarda	x	Sarah Youngblood
	Theresa Barrett	x	Jennifer Gadow		Ellen Seaborne		
x	Keith Berkshire		Grace Hawkins	x	Lindsay Simmons		
x	Sidney Buckman	x	Carey Hyatt				

Staff/Admin. Support: Kathy Sekardi; Tama Reily

Guests: Sheri Fetzer, Joi Davenport, Rena Selden, Josh Eisenstein, Molly Moffett, Larkin Riley

Matters Considered:

I. Welcome and Announcements

The August 19, 2011, meeting of the Substantive Law / Court Procedures (SLCP) Workgroup was called to order by Dr. Brian Yee, co-chair, at 12:15 p.m. Members and guests were welcomed.

II. Approval of Minutes

The minutes of the May, June, and July 2011, meetings of the SLCP Workgroup were presented for approval.

MOTION: To approve the minutes of the May 13, 2011, SLCP Workgroup meeting as presented. Motion seconded. Passed unanimously

MOTION: To approve the minutes of the June 24, 2011, SLCP Workgroup meeting as presented. Motion seconded. Passed unanimously.

MOTION: To approve the minutes of the July 15, 2011, SLCP Workgroup meeting as presented. Motion seconded. Passed unanimously.

III. Process Review

According to feedback received from the public and the family law bench in Maricopa, the current draft of the statute is thought to be too complicated, lengthy, and non-user-friendly. Co-chair, Dr. Yee, pointed to the challenge of having a workable draft to present to the Domestic Relations Committee (DRC) by its September meeting. He reiterated the alternatives considered at the last workgroup meeting, including the option of drafting a completely new revised version. At this juncture, he suggested the workgroup could opt to continue its work on the current draft until a completed product is ready for presentation to the DRC, or to proceed by increments, presenting the sections to the DRC as they are completed. Several members conveyed support for the incremental approach; although it was stressed that careful attention would be required to avoid a “patchwork” type of finished product.

IV. Request for Comments Regarding Draft

- **Judge Hyatt’s Version**

Judge Hyatt related that her proposed modifications were focused on simplifying the statute with

the exception of section 25-404.03, where she significantly expanded upon domestic violence and child abuse. Members debated the replacement of *coercive control* in section (F), with *intimate partner violence* (IPV) as well as the inclusion of the phrase “an act” of IPV versus “a pattern,” and how recent a single act of IPV needs to be in order to be considered by the court.

- **Tom Alongi’s Version**

Mr. Alongi presented his revised version, noting that it significantly reduces the size of the statute by eliminating all presumptions and rebuttals. He proposed that *family violence* and *child abuse* be included as best interest factors, in order to more readily bring the issues to the attention of the court. After extensive discussion on the topic, Mr. Alongi volunteered to draft another version prior to the next workgroup meeting, taking into account the concerns workgroup members expressed today.

- **Legislative Council’s Version**

Item tabled.

Members did not reach consensus as to the placement of IPV, therefore, Mr. Wolfson, co-chair, advised that the workgroup begin the next meeting with a vote on the issue. He also recommended that they focus on the language that distinguishes between situational domestic violence and the classic form of domestic violence.

VI. **Call to the Public**

Member of the public, Rena Selden, spoke regarding what she feels is too general a reference to Title 13 domestic violence statutes in the current draft. She expressed her belief that Title 13 is unconstitutional because it allows the court to determine whether a person might commit acts of domestic violence in the future. Additionally, she stated she takes issue with “presumptions” as she has seen too many domestic violence allegations in court that are invalid.

Member of the public, Joi Davenport, commented on Mr. Alongi’s draft proposal. On page 6, item 7, in the last paragraph, specifically, “...to protect the child from witnessing or suffering,” she suggested the term should be *experiencing* rather than *suffering*. Also, on page 10, under the definition of coercive control, she recommended including the language “consistent pattern” at the beginning of the definition. She also touched on the opposition voiced by some regarding the inclusion of coercive control in the statute. She believes the courts have trivialized or ignored it outright simply because there is no physical evidence. Having experienced this type of domestic violence herself, she argued that its effects are significant and long lasting – not only for the victim, but for the children as well.

Meeting adjourned at 1:57

Next Meeting

August 26, 2011

12:00pm – 1:30pm

Arizona State Courts Building

1501 W. Washington

Conference Room 119 B

Substantive Law/Court Procedures Workgroup

Minutes

Date: September 1, 2011	Time: 12:00 PM – 2:00 PM	Location: Conference Room 230
--------------------------------	---------------------------------	--------------------------------------

Minute Taker: Tama Reily

Members Attending:

x	Steve Wolfson	X	Daniel Cartagena		Ella Maley		David Weinstock
x	Brian Yee		Jami Cornish		Robert Reuss		
x	Thomas Alongi	x	William Fabricius		Donnalee Sarda		
x	Theresa Barrett		Jennifer Gadow		Ellen Seaborne		
x	Keith Berkshire		Grace Hawkins	x	Lindsay Simmons		
x	Sidney Buckman		Carey Hyatt		Russell Smolden		

Staff/Admin. Support: Kathy Sekardi; Kay Radwanski; Tama Reily

Guests: Elizabeth Clements; Michael Espinoza; Joi Davenport; Rena Selden; Debra Pearson; Eddie Olivares; Brent Miller; Crystal Lopez

Matters Considered:

I. Welcome and Announcements

The meeting was called to order at 10:16 am by co-chair, Dr. Brian Yee. Members and guests were welcomed.

II. Approval of Minutes

The minutes for the July 20, 2011, and August 19, 2011, were not presented for approval due to lack of a quorum.

III. Review and Discuss Custody Drafts

- **Judge Hyatt’s Version**

Item tabled.

- **Tom Alongi’s Versions 3 & 4**

Mr. Alongi reviewed his proposed simplified initiative, version 4, that includes suggestions made at the last meeting, portions of Judge Hyatt’s version, Leslie Saterlee’s comments, and his own version 3. He directed the group’s attention to page 6, under section 25-422, where coercive control was added as an independent best interest factor. Lengthy discussion ensued regarding the most appropriate placement of the coercive control language. One suggestion was to place the language in a separate paragraph, like the current “.00” sections, such as 25-403.04 drug offenses, or 25-403.05 sexual offenders. The language would then stand on its own merits, however, some viewed this as far more ambitious and more of a challenge in getting the legislature to consider it. Mr. Alongi discussed the advantages and disadvantages of placing the language in paragraph A or B. There was also mention of the importance of a finite distinction between the situational or classic domestic violence and the historical pattern of coercive control. Consensus was not reached on this item.

- **Legislative Council’s Version**

Item tabled.

- **Other Requested Changes / Proposals**

Although no additional suggestions have been submitted at this time, Mr. Wolfson reiterated that any workgroup member is free to present proposed language changes to be considered.

IV. Discuss and Vote on Coercive Control Language

The discussion regarding coercive control was included in Agenda Item III. The committee did not vote on this issue.

V. Distinction Between Situational and Classic
Item tabled.

As no items could be voted upon today, Mr. Wolfson turned to the issue of poor attendance at the workgroup meetings. He stated it is critical for workgroup members to play an active role in the process, or be removed from the workgroup so that a quorum can more easily be attained. Several potential meeting dates were discussed. Staff will send the workgroup an email listing the proposed dates in order to elicit member availability prior to actually setting the meetings.

VI. Call to the Public

Member of the public, Rena Selden spoke of the workgroup's focus on domestic violence and believes it is misguided. She noted the actual number of custody cases involving legitimate domestic violence is small – with most alleged cases being false allegations. She recommended the workgroup concentrate its efforts on custody issues.

Brent Miller echoed the sentiments of Ms. Selden, stating the workgroup has spent time on domestic violence concerns rather than what he believes it was tasked to do. Mr. Miller asserted that the true motives of the workgroup members is to create more cases for the interest holders, such as attorneys, whom he believes will benefit financially from the inclusion of domestic violence in the custody statute. He also argued there is no substantiated evidence that domestic violence is a big problem.

Michael Espinoza suggested the workgroup is trying to do what is right, however, he said the group needs to remember that domestic violence is not the issue here and the workgroup disregards the high incidence of false allegations of domestic violence.

Eddie Olivares commented that he was falsely accused of domestic violence for the purposes of his spouse to gain leverage and burden him with attorney's fees. He stated it took him eight months to regain access to his children and the experience was damaging to the children. He alleged the attorney saw a money-making opportunity and "took it and ran with it" without even considering the possibility of false allegations.

Debra Pearson stated she takes offense to the comments „intellectual" versus „political", as well as to „expert opinion" because so called experts once used science to claim the world was flat. She expressed a concern that women play games and make false allegations to manipulate the system. She stated there is already prejudice and discrimination against fathers relating to domestic violence and adding the language of coercive control to the statute will only add to the problem.

Next Meeting

TBD

Arizona State Courts Building
1501 W. Washington

Substantive Law/Court Procedures Workgroup

Minutes

Date: September 22, 2011	Time: 11:30AM – 12:45PM	Location: Conference Room 345B
---------------------------------	--------------------------------	---------------------------------------

Minute Taker: Tama Reily

Members Attending:

X Steve Wolfson	X Daniel Cartagena	X Ella Maley	David Weinstock
X Brian Yee	X Jami Cornish	Robert Reuss	
X Thomas Alongi	X William Fabricius	X Donnalee Sarda	
X Theresa Barrett	X Jennifer Gadow	Ellen Seaborne	
Keith Berkshire	Grace Hawkins	X Lindsay Simmons	
X Sidney Buckman	X Carey Hyatt	Russell Smolden	

Staff/Admin. Support: Kathy Sekardi; Kay Radwanski; Tama Reily

Guests: Honorable Linda Gray; Katy Proctor; Amber O'Dell; Joi Davenport; Rena Selden; Brent Miller

Matters Considered:

I. Welcome and Announcements

The meeting was called to order at 11:42 a.m. by co-chair, Steve Wolfson. Members and guests were welcomed. Mr. Wolfson introduced Senator Linda Gray, co-chair of the DRC and thanked her for attending this meeting.

In light of events during the Call to the Public at the recent DRC meeting, Mr. Wolfson addressed the workgroup and the general public present, regarding appropriately addressing the committee during the Call to the Public. He stated the Open Meeting Laws allow discretion to a public body to hold an open call to the public during a public meeting, subject to reasonable time, place and manner restrictions. The intent is for constructive comments, not personalized attacks, and that abusive and defamatory remarks are out of order and will not be tolerated. He reiterated the public comment process, that the public are asked not to repeat issues that have already been stated by other speakers so that those with different issues will have the opportunity to state theirs, and that comments are taken in the order they are submitted.

II. Approval of Minutes

The minutes for the July 29, 2011, August 19, 2011, and September 1, 2011, were presented for approval.

MOTION: To approve the minutes of the July 29, 2011, SLCP Workgroup meeting as presented. Motion seconded. Passed unanimously.

MOTION: To approve the minutes of the August 19, 2011, SLCP Workgroup meeting as presented. Motion seconded. Passed unanimously.

MOTION: To approve the minutes of the September 1, 2011, SLCP Workgroup meeting as presented. Motion seconded. Passed unanimously.

III. DRC Update

Mr. Wolfson reported on the information he and Dr. Yee provided to the DRC at the September 16 meeting. He informed the workgroup members that the DRC's feedback was to address four issues: 1) The scope of the work product 2) Identifying the controversial issues 3) Outlining the coercive control issues, and 4) Whether or not to include domestic violence language, and if so, the most appropriate placement of that language. Mr. Wolfson explained that a motion was made to have these items addressed at the next DRC meeting. Dr. Yee related that

the DRC recommended the workgroup have a member prepare a summary of what the main differences are among the versions. Senator Gray offered to have a legislative staff member, Amber O'Dell, draft an analysis and create the summarization as discussed. Mr. Wolfson stated the workgroup would work with Amber and provide whatever information she would find helpful to complete the task.

At this point, Mr. Wolfson suggested the workgroup discuss some of the terminology issues that arose recently, and vote on some of the outstanding issues such as: 1) Whether to approach the statute changes in a comprehensive manner or to make changes to the statute in a piecemeal fashion. 2) Whether to include coercive control language as a "front-loaded" best interest factor, as one of the special circumstances, or whether to include it at all.

Jami Cornish informed the workgroup that the statute changes were addressed last week at the Domestic Relations Task Force meeting hosted by the Morris Institute for Justice. The meeting included domestic relations attorneys from all the legal services providers around the state. Ms. Cornish reported that the general consensus at the meeting was that coercive control should be in the statute as a factor and that a more streamlined version is preferable. She noted there was concern about added confusion with the change in language from *custody* to *parental decision-making*.

Subsequent discussion explored several alternate avenues, including bifurcating the bill, working section by section or issue by issue, further developing a streamlined version, or moving ahead with a comprehensive bill. Senator Gray supported the suggestions that the workgroup could go forward with the more comprehensive bill or approach it as two separate bills. She pointed out that the DRC could amend any portion found to be too controversial. Bill Fabricius made a motion to go forward this year with the parenting time, best interests, and parental decision making sections of the bill and to continue to work on the rest of the bill including the domestic violence section, during the next year. There was no second and the motion was withdrawn.

MOTION: To proceed with work on recommendations to A.R.S. § 25-401 on the Legislative Council version and Alongi variations. Motion seconded. Motion passed 6-1-1.

IV. Call to the Public

Member of the public, Brent Miller, expressed his feelings that the workgroup should ask for input from the public prior to voting on an issue such as how to proceed with the work on the custody statute. He objects to the expansive language regarding coercive control and states there is no substantial, quantified evidence; rather it is based on speculation. He asserted most of these custody cases are filed by pro pers and the language in the statute will not educate the public. He urged the workgroup to simplify the statute.

V. Adjourn

Meeting adjourned at 12:47pm.

Next Meeting

TBD

Arizona State Courts Building
1501 W. Washington

Substantive Law/Court Procedures Workgroup

Minutes

Date: November 10, 2011	Time: 11:00AM – 1:00PM	Location: Conference Room 119 A/B
--------------------------------	-------------------------------	--

Minute Taker: Tama Reily

Members Attending:

<input checked="" type="checkbox"/> Steve Wolfson	<input checked="" type="checkbox"/> Daniel Cartagena	<input type="checkbox"/> Ella Maley	<input type="checkbox"/> David Weinstock
<input checked="" type="checkbox"/> Brian Yee	<input checked="" type="checkbox"/> Jami Cornish	<input type="checkbox"/> Robert Reuss	
<input checked="" type="checkbox"/> Thomas Alongi	<input checked="" type="checkbox"/> William Fabricius	<input type="checkbox"/> Donnalee Sarda	
<input type="checkbox"/> Theresa Barrett	<input checked="" type="checkbox"/> Jennifer Gadow	<input type="checkbox"/> Ellen Seaborne	
<input checked="" type="checkbox"/> Keith Berkshire	<input checked="" type="checkbox"/> Grace Hawkins	<input checked="" type="checkbox"/> Lindsay Simmons	
<input checked="" type="checkbox"/> Sidney Buckman	<input type="checkbox"/> Carey Hyatt	<input checked="" type="checkbox"/> Russell Smolden	

Staff/Admin. Support: Kathy Sekardi; Kay Radwanski; Tama Reily

Guests: Joi Davenport; Shelly Griffin; Rachel Metelits; Josh Eisenstein; Rena Selden

Matters Considered:

I. Welcome and Announcements

The meeting was called to order at a.m. 11:06 a.m., by co-chair, Dr. Brian Yee. Members and guests were welcomed.

II. Approval of Minutes

The minutes for the September 22, 2011, were presented for approval.

MOTION: To approve the minutes of the September 22, 2011, SLCP Workgroup meeting as presented. Motion seconded. Motion passed unanimously.

III. DRC Update

VI. New Custody Rewrite Proposal

Grace Hawkins acknowledged the countless hours that have been devoted to the custody rewrite by the Ad Hoc Custody and the Substantive Law/Court Procedures Workgroups. She reiterated the feedback received by practitioners, judges and the public, namely that the rewrite is not practicable, not workable, and difficult to digest. The custody statutes should be simpler and easier to understand. Ms. Hawkins reviewed a new proposed simplified version of the custody statute that is based on comments received from judges, attorneys, the Conciliation Court Roundtable members, and the public. The revision retains some of the language from the workgroup’s most recent updated version and many provisions from the current custody statute. It eliminates the illustrations for coercive control. Ms. Hawkins discussed and explained proposed changes made to the statute section by section.

Lengthy discussion on the new proposal ensued. Bill Fabricius reminded members that the Ad Hoc Custody Workgroup began its work on the custody statute with the intent of replacing the term “custody “ with “parenting time” and “parental-decision-making,” and with the intent of using research to suggest more substantive changes. The approach was to tighten and modernize the statute so the court and pro pers could easily make sense of it. Then the AHCW accepted the charge to formulate and propose what became SB 1314, and to draft a comprehensive rewrite of the statutes to incorporate SB 1314 into policies and procedures, while concurrently modernizing the domestic violence sections. He stated that the new proposed version only replaces the term “custody” with “parenting time” and “parental-decision-making,” and thus is too minimal. Several members commented that language on false allegations and sanctions should be added in to the new version. There was

also concern that the definition for coercive control was weak. Tom Alongi voiced concern that examples of coercive control are excluded from the new version, and its definition of coercive control is too simplistic. Brian Yee suggested using the new version as a starting off point from which to add in some of the provisions discussed today.

MOTION: To work with the new proposed “yellow” version, subject to potential amendments as discussion goes forward. Motion seconded. Approved 6-1-0.

MOTION: To add the false allegations and sanctions language previously included under section 25-417 in the “blue” version 4 work product to the “yellow” version, subject to potential amendments. Motion seconded. Approved unanimously.

MOTION: To add the language under section 25-421(A) in the “white” legislative version to section 25-403.01 of the “yellow” proposed version, subject to amendments. Motion seconded. Approved 5-2-0.

MOTION: To add the coercive control definition contained in the “white” legislative version to the “yellow” proposed version, subject to discussion about wording. Motion seconded. Motion tabled to next meeting.

In-depth discussion followed. There was concern with the lengthiness of the coercive control definition in the “white” legislative version. Lindsay Simmons offered to draft suggested language for coercive control by the next workgroup meeting.

VI. Call to the Public

Joi Davenport commented regarding false allegations language and the proposed custody statute.

V. Adjourn

Meeting adjourned at 1:02pm.

Next Meeting

TBD

Arizona State Courts Building
1501 W. Washington

Substantive Law/Court Procedures Workgroup

Minutes

Date: November 23, 2011	Time: 10:00 AM – 12:00PM	Location: Conference Room 345AB
--------------------------------	---------------------------------	--

Minute Taker: Tama Reily

Members Attending:

X Steve Wolfson	X Daniel Cartagena		Ella Maley		David Weinstock
X Brian Yee		Jami Cornish		Robert Reuss	X Sarah Youngblood
X Thomas Alongi	X William Fabricius	X	Donnalee Sarda		
X Theresa Barrett	X Jennifer Gadow		Ellen Seaborne		
	X Keith Berkshire	X	Grace Hawkins		Lindsay Simmons
X Sidney Buckman			Carey Hyatt		Russell Smolden

Staff/Admin. Support: Kathy Sekardi; Tama Reily

Guests: Katy Proctor, Joi Davenport, Merri Tiseth, Shannon Rich, Heidi Meyer, Michael Espinoza, Rena Selden, Brent Miller

Matters Considered:

I. Welcome and Announcements

The meeting of the Substantive Law/Court Workgroup meeting was called to order at 10:10 a.m. by Dr. Brian Yee.

II. Discuss and Review “Yellow” Version of Custody Rewrite along with Other Comments

Members reviewed the proposed language for coercive control submitted by Lindsay Simmons. Some members found the proposed language to be too broad. Katy Proctor, state senate policy staff, offered suggestions as to the structuring of the proposed statute language. There was lengthy discussion regarding the appropriate terminology for “electronic stalking.” Inappropriate electronic surveillance of a person is the latest form of controlling and abusive tactics.

MOTION: To insert the proposed language into 25-402 as it appeared in the yellow version, now the white version, under 25-401, the same definitions section, replacing what was line 17 through 22 of the yellow version definition, which would effectively replace lines 16 – 25 of the legislative council version. Motion not seconded. Motion fails.

MOTION: To take as the new working draft a version that replaces lines 19 through 25 of the legislative version, with lines 10 through 30 of the proposed language for coercive control. Motion seconded. Motion approved unanimously.

MOTION: To replace lines 16 – 17 of the legislative version with lines 1 – 2 from the proposed coercive control definition. Motion approved 5-2-1.

MOTION: To strike the term “solely” from subsection (a) in the proposed coercive control definition. Motion seconded. Motion approved unanimously.

MOTION: To replace the term “eavesdropping” in subsection (f) with the term “monitoring.” Motion seconded. Motion approved unanimously.

IV. Call to the Public

Rena Selden had comments about the proposed version and the revised legislative council version.

Michael Espinoza spoke regarding the proposed coercive control language.

Joi Davenport discussed proposed language for coercive control.

Shannon Rich commented regarding the proposed definition of coercive control.

Brent Miller spoke about the coercive control concept in the statute.

V. Adjourn

Meeting adjourned at 12:03.

Next Meeting

TBD

Arizona State Courts Building
1501 W. Washington

Substantive Law/Court Procedures Workgroup

Minutes

Date: December 9, 2011	Time: 11:00 a.m. – 1:00 p.m.	Location: Conference Room 345 A/B
-------------------------------	-------------------------------------	--

Minute Taker: Tama Reily

Members Attending:

x	Steve Wolfson	x	Daniel Cartagena		Ella Maley		Russell Smolden
x	Brian Yee		Jami Cornish	x	Robert Reuss		David Weinstock
x	Thomas Alongi	x	William Fabricius		Donnalee Sarda	x	Sarah Youngblood
x	Theresa Barrett	x	Jennifer Gadow		Ellen Seaborne		
	Keith Berkshire	x	Grace Hawkins	x	Lindsay Simmons		
x	Sidney Buckman		Carey Hyatt				

Staff/Admin. Support: Kathy Sekardi; Tama Reily

Guests: Shannon Rich; Joe DeMennu; Michael Espinoza; Brent Miller; Joi Davenport

Matters Considered:

I. Welcome and Announcements

The meeting of the SLCP Workgroup was called to order at 11:05 a.m., by Steve Wolfson, Co-Chair. He reiterated the importance of member attendance and achieving a quorum. He reported that the following changes to the draft custody statute were voted upon at the DRC meeting on December 2:

- Page 2, line 19, after the word “**care**,” strike remainder of line. Strike lines 20 - 21; insert period.
- Page 4, line 37, after the word “**alter**,” insert the term “**unilaterally**”.

These changes have been incorporated into the draft yellow version presented in today’s meeting materials.

II. Approval of Minutes

The SLCP Workgroup minutes for the November 10, 2011, and November 23, 2011, meetings were presented for approval. Bill Fabricius requested changes to his comments as transcribed in the November 10 minutes. He stated he would forward his requested changes to Steve Wolfson. A vote on the November 10 minutes was held pending receipt of the changes.

MOTION: To approve the minutes of the November 23, 2011, SLCP Workgroup meeting as presented. Motion seconded and passed unanimously.

III. Yellow Version Custody Rewrite (*Item taken out of order*)

Steve Wolfson led a review of the “Yellow Version” of the custody statute. There were several language changes recommended.

MOTION: To strike the word “discernable” on page 1, line 16, and replace with the word “recognizable.” Motion seconded and passed unanimously.

MOTION: To make grammatical changes to page 1, line 18, and items (a) through (g), to ensure consistent verb usage. Motion seconded and passed unanimously.

MOTION: To make grammatical changes and insert on page 1, line 22 – 25 the language “access to financial assets” as discussed. Motion seconded and passed

unanimously.

At this time, the requested changes to the November 10, 2011, minutes were received from Bill Fabricius, who said his comment should read as follows:

Bill Fabricius reminded members that the Ad Hoc Custody Workgroup began its work on the custody statute with the intent of replacing the term “custody” with “parenting time” and “parental decision-making,” and with the intent of using research to suggest more substantive changes. The approach was to tighten and modernize the statute so the court and pro pers could easily make sense of it. Then the AHCW accepted the charge to formulate and propose what became SB1314 and draft a comprehensive rewrite of the statute to instantiate SB1314 into policies and procedures, while concurrently modernizing the domestic violence sections. He stated that the new proposed version only replaces the term “custody” with “parenting time” and “parental decision-making” and thus is too minimal.

MOTION: To approve the minutes of the November 10, 2011, SLCP Workgroup meeting with changes as discussed. Motion seconded. Passed 5-0-2.

IV. Relocation Proposal

Steve Wolfson gave a brief retrospective on the relocation proposal previously addressed by the Relocation Subgroup and the State Bar Family Law Section. He recommended the workgroup consider whether to include changes to the relocation statute in its eventual submission to the legislature.

There was lengthy discussion regarding various provisions of the statute, particularly with regard to the 100-mile rule and notification requirements. Members had concerns about balancing a parent’s right to relocate versus inherent parenting time issues, the best interests of children, and potential safety issues in situations where protected addresses exist. It was noted that HB2302 contains provisions for the Secretary of State’s confidential address program for domestic violence victims that will be established on or before December 31, 2012. As it was evident that further review and consideration is needed regarding the relocation issue, the item was tabled until the next SLCP meeting at which time SB1283 will be made available along with the most updated version of the relocation statute.

Members turned their attention to a comparison guide of the custody statute’s sections pertaining to parenting time and parental decision-making, and proposed alternate language for section **25-403.01(B)**. Upon discussion, there was concern that the language was too simplistic and the comparison did not include language from the most recent yellow version draft. It was determined that the workgroup needs more time to review the proposed language.

VI. Call to the Public

Mike Espinoza spoke regarding A.R.S. § 25-103 and the custody statute revision.

Brent Miller discussed the relocation statute.

Joi Davenport made comments regarding the custody statute.

Meeting adjourned at 12:56.

Next Meeting

TBD