

# *Statute Review Workgroup*

## *Minutes*

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

**Members Attending:**

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| <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.