

DOMESTIC RELATIONS COMMITTEE

DRAFT Meeting Minutes – March 19, 2004

PRESENT:

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CO-CHAIRS:

Hon. Mark Anderson, Co-Chair
Hon. Karen Johnson, Co-Chair

MEMBERS:

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Hon. Karen Adam
Hon. David Bradley
Hon. Bill Brotherton
Sidney Buckman
Kat Cooper
Frank Costanzo
William Fabricius
Hon. Beverly Frame
Nancy Gray
Bill Hart
Terrill J. Haugen
Ella Maley
Hon. Dale Nielson
David Norton
Steve Phinney
Karen Kretschman
Ellen Seaborne
Kelly Spence
Judy Walruff
Steve Wolfson
Debbora Woods-Schmitt (designee Jeri Auther)
Brian Yee (designee Dr. John Moran)
Jeff Zimmerman

GUESTS:

Annalisa Alvrus
Clarence Cramer

AZ Protective Parents Network
Pinal County Conciliation Court

STAFF:

Sharon Dautrich
Isabel Gillett
Barbara Guenther
Marianne Hardy
Megan Hunter
Elizabeth Portillo

House of Representatives
Administrative Office of the Courts
Senate
House of Representatives
Administrative Office of the Courts
Administrative Office of the Courts

Representative Johnson called the meeting to order at 10:17 a.m. without a quorum present.

APPROVAL OF MINUTES

Because a quorum was not reached, the minutes were not considered for approval.

ANNOUNCEMENTS

Representative Johnson introduced Dr. John Moran, psychologist, who is serving as Dr. Yee's designee. She also introduced, Jeri Auther, custodial parent, who is serving as Debbora Woods-Schmitt's replacement.

DEDICATED FAMILY BENCH UPDATE

Annette Corrallo, Administrative Office of the Courts and staff to the Trial Courts Commissions, discussed the makeup of the Maricopa and Pima Trial Court Commissions and the process utilized to nominate candidates to the Governor for appointment to the bench.

The Commissions contain ten public members and five attorney members who are recommended by the State Bar of Arizona. The Chief Justice chairs all commissions, but can designate other justices to chair them in his place.

After vacancies are announced, the Commission accepts and reviews applications along with public comment about the candidates. It is a very public process. The Constitution directs the Commission to consider merit as the primary focus, but they also must take diversity and trial experience into consideration. Ultimately, the Commissions are dealing with a trial court so trial skills are emphasized above all others. The Commission selects and interviews the most qualified candidates and checks their references. Communication skills are a primary consideration because of the significant size of the self-represented population. A vote is taken and all information regarding the candidates is sent to the Governor. The Governor makes the selection and the Senate confirms. New judges stand for retention after two years on the bench, then every four years after that.

The Pima Commission has a letter on file from Presiding Judge Leonardo indicating that the first appointment will be five years on the juvenile bench. In the first ten years, they must serve in juvenile, probate or family, then they may request specific assignments.

David Norton asked how the Committee can get the commissions to look at someone other than a candidate with criminal trial experience. Annette responded saying that we could make a proposal to add materials to their handbook about family law appointments and speak to the commissions at the annual meetings. Megan will contact Dr. Yee about utilizing the Court Procedures workgroup to draft proposed additions for the handbook. She will contact Ms. Corrallo in September to request placement on the November annual meeting agenda.

Christine Thompson, Government Relations Director, State Bar, provided an overview of the Bar's Commission appointment process. There are 16 members on the Commissions. The State Bar undertakes a very complicated and thorough appointment process beginning with advertising vacancies in magazines, newsletters and the Internet, etc. Names are sent to Board of Governor's Appointments Committee where the applications are vetted. Once names are vetted,

they are sent to the Board of Governor's (29-member Board) where selections are made and sent to the Governor's office.

Carrie Sherman, staff to the State Bar Appointment Committee, further discussed the extensive advertising process to attract nominees. On the Trial Court Commissions, they are advertising for a specific seat dependent upon the supervisorial district of which there are five. No more than three attorney members of the five can be from one political party.

Most of the attorneys who serve come from diverse backgrounds such as large firms and solo practitioners. There is not a dedicated seat for any particular practice area. At the moment, there are no family law section members.

Nancy Gray asked if there is a way that the DR Committee can have some kind of input in light of the fact that half of all cases are domestic-relations related and out of those ten attorney members, none are family practitioners. Christine replied saying that they could encourage members of the family law section to apply for these positions. Members discussed and agreed to write letters to the State Bar to encourage the selection family law experts to serve on the Trial Court Commission. Rep. Johnson would like the Bar to put that request to the Board of Governors. Ms. Thompson agreed to speak with the editor of the Bar magazine to determine if more focus can be placed on this issue through that medium.

Bill Hart inquired as to the level of interest from attorneys for these seats. Ms. Sherman indicated that about a dozen applications are received per seat and the candidates must live in the supervisorial district for which they are applying; not their place of business.

LEGISLATIVE UPDATE

House Bills – Marianne Hardy

HB 2001- Judges Pro Tem; Domestic Relations

Passed the House; assigned to Senate committees but not heard yet.

HB 2090 – Marriage Dissolution; Community Property

Passed the House; assigned to Senate committees but not heard yet.

HB 2346 – Spousal Maintenance; Taxpayer Information

Passed the House and Senate committees; waiting to be caucused in the Senate.

HB 2348 – Dissolution of Marriage; Misconduct

Passed the House; transmitted to the Senate where it awaits committee assignment.

This bill would remove the prohibition against allowing the court to consider marital misconduct when ruling on disposition of property, spousal maintenance and child support. A strike everything amendment was offered which removes that language and instead would permit the court to impress a lien on the property of either spouse to secure payment of damages from criminal conviction by either spouse in which the other spouse was the victim, require the court to consider damages from criminal conviction when calculating spousal maintenance, stipulate that the Supreme Court shall consider damages from criminal conviction for acts committed

against the child in determination of guidelines for establishing a child support order. Rep. Johnson explained that this bill derived from some recent court cases were particularly egregious. In one case, a man was incarcerated for nearly killing his wife. While in prison, the couple divorced and the court was not allowed to look at the husband's prior misconduct so he was granted half of his wife's assets.

HB 2704 – Parenting and Parenting Time

Assigned to committees in the House but never received a hearing.

Senate Bills – Barbara Guenther

SB 1052 – Domestic Relations Social Security Numbers

The bill was assigned to Senate committees but did not receive a hearing.

SB 1053 – Child Support Committee

Passed the Senate; transmitted to the House and assigned to committees but has not been heard.

SB 1149 – Marriage Classes; Healthy Families Program

Passed the Senate. Transmitted to House where it awaits committee assignment.

SB 1156 – Child Support; Retroactive

Passed the Senate; transmitted to House where it awaits committee assignment.

SB 1196 – Domestic Violence; Protection Orders

Failed in Senate Judiciary.

SB 1237 – Psychologists; Judicially Ordered Examinations

Passed the Senate; passed House Health Committee and awaits Rules Committee assignment.

SB 1266 – Emancipation of Minors

Passed the Senate committees; will be scheduled for third read in the Senate next week

SB 1267 – Support Payments; Electronic

Passed the Senate; transmitted to House where it awaits committee assignment.

SB 1332 – Family Support Act; Uniform Interstate

Passed the Senate; transmitted to House and assigned to House committees.

SB 1334 – Child Support Overpayment

Passed the Senate; passed House committees and awaiting Rules Committee agenda.

Julie Koob (Arizona Coalition Against Domestic Violence) Senate Bill 1308

Passed Senate Judiciary & Family Services Committees; Assigned to House committees but not heard yet.

Ms. Koob explained that several amendments have been made to the original bill. In current form it would require six initial hours of training in domestic violence, six hours in substance abuse and six hours in child abuse. Evaluators would be required to certify that they have had training on these issues. Ms. Koob further explained that these matters are not necessarily handled in a like manner statewide; the bill is an attempt to have an overreaching policy statewide. Some evaluators are not regulated by a licensing board, such as social workers and in-house court employees; the only way to reach all of them is through a statutory change. She stated that it is worthy of government intrusion.

Dr. Moran explained that psychologists are required to have 60 hours of continuing education and those they are broken into categories. If this bill passes, 33% of their education requirements will be commanded by the Legislature and Psychologists Board of Examiners. He feels the amount of domestic violence training is disproportionate and that it is a dangerous and unnecessary precedent to have legislative control over psychologists.

Sid Buckman asked what the Coalition's concerns focused on. Ms. Koob responded that domestic violence is often ignored or minimized by custody evaluators. Mr. Buckman pointed out that the bill requires the training to occur through Ms. Koob's organization. Ms. Koob explained that they are trying to negotiate a compromise that allows for outside training.

Jeri Auther commented that her family underwent a court-ordered evaluation. The evaluator did not address two domestic violence convictions, and never addressed substance abuse and child abuse. She is the custodial parent – her biggest complaint was the lack of consistency. The proposal would establish some modicum of consistency.

Dr. Moran commented that the bill is not data-driven to which Ms. Koob responded with national statistics.

CALL TO THE PUBLIC

Annalisa Alvrus – Arizona Coalition Against Domestic Violence. Ms. Alvrus discussed custody evaluators ignorance of domestic violence. She quoted from a battered women's book. She discussed her year and a half custody evaluation. Her ex-husband had been convicted of domestic violence toward her and had a conviction of assault on the mother of his son. She said there should be a review process when bad incidents are reported. She wants us to focus on the children, even if it is only one child who gets put back with an abuser.

Clarence Cramer – Director of Conciliation Court in Pinal County. Mr. Cramer has conducted custody evaluations for 26 years and has always taken domestic violence very seriously. They have safeguards for all involved. He discussed a potential problem with SB 1308, section R which directs the courts to hold mediations separately. This will impact the courts and parties by increasing waiting times. The Pinal County Conciliation Court conducts several screenings prior to providing mediations, custody evaluations, etc. Ninety-eight percent of the parties who utilize Conciliation Services in Pinal County who have reported domestic violence in the screening agree to meet together. He added that parties should not meet together if an Order of Protection exists. He disagreed with the training provision in the bill; specifically, limiting training to one agency.

BREAK/LUNCH

The Committee dismissed for lunch at 12:00. The meeting reconvened at 12:30 p.m.

DOMESTIC RELATIONS EDUCATION FOR CHILDREN

Dr. Irwin Sandler, Director Center for Prevention Research, Arizona State University, continued his presentation from the previous month regarding divorce education for children. He provided an overview of current research on resilience in children of divorce and programs across the country aimed at improving resilience and child outcomes. Some longer-term (11-16 weeks) school-based programs have shown promising effects. Evaluation of some programs has shown a decrease in externalizing and internalizing problems and a reduction in mental health problems. The major goal of programs should be focused on increasing children's coping efficacy.

Dr. Sandler explained that he does not advocate a particular position on whether Arizona should implement a children's program or not. Members asked his opinion about the ideal number of sessions to be effective for children. His hunch is that 14 to 16 sessions is ideal; the minimum would be 8 to 10 sessions. Steve Phinney asked Megan to forward the materials from Hawaii's "Kids First" program to Dr. Sandler. That program is an "exposure" class as it is a one-time session. Hawaii's program may not be appropriate because it may have an affect-arousing component without affect. In other words, there is no follow-up.

Dr. Sandler reiterated the importance of building an evaluation component into any program that is developed.

Representative Johnson asked the Education/Prevention workgroup to meet with Dr. Sandler before the next meeting to further discuss the proposal and make a recommendation to the full Committee. Megan will schedule the meeting.

INTEGRATED FAMILY COURT

No updates were provided as no changes have occurred.

WORKGROUP REPORTS

The workgroups did not have an opportunity to meet; no reports were necessary.

CALL TO THE PUBLIC

No requests to speak were received for the call to the public.

NEXT MEETING

The next meeting will be held on April 16, 2004, 10:00 am – 2:00 pm at the Arizona State Courts Building, 1501 W. Washington, Conference Room 119.

ADJOURNMENT

The meeting was adjourned at 2:00 p.m.