

# DOMESTIC RELATIONS COMMITTEE

Draft Meeting Minutes – October 17, 2004

## PRESENT:

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## CO-CHAIRS:

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

## MEMBERS:

- Hon. Karen Adam
- Lucille Antone-Morago
- Hon. David Bradley
- Hon. Bill Brotherton
- Jodi Brown
- Sidney Buckman
- Kat Cooper
- William Fabricius
- Hon. Beverly Frame
- Nancy Gray
- Bill Hart
- Terrill J. Haugen
- Linda Leatherman
- Karen Kretschman
- Ella Maley
- Jay Mount
- Hon. Dale Nielson
- David Norton
- Ellen Seaborne
- Judy Walruff
- David Weinstock
- Steve Wolfson
- Debbora Woods-Schmitt
- Brian Yee
- Jeff Zimmerman

## GUESTS:

Honorable Joseph Heilman  
Marianne Yamnik  
Courtney Riddle  
Ursula Hursch  
Javan Mesnard  
David Benton

Superior Court in Maricopa County  
House of Representatives  
House of Representatives  
Parent  
Senate  
Administrative Office of the Courts

## STAFF:

Isabel Gillett  
Megan Hunter

Administrative Office of the Courts  
Administrative Office of the Courts

Senator Anderson called the meeting to order at 10:10 a.m. with a quorum present.

**ANNOUNCEMENTS – SENATOR MARK ANDERSON**

Senator Anderson announced that Marianne Yamnik has received a different assignment in the House and will no longer serve this Committee. He thanked her for her dedication and service to this Committee. Courtney Riddle was introduced as Marianne’s replacement.

**APPROVAL OF MINUTES – SENATOR MARK ANDERSON**

A motion to approve the minutes as submitted as made by Commissioner Adam. Approved unanimously.

**CUSTODY RE-WRITE – DR. BRIAN YEE**

The workgroup has met monthly to develop a proposal that reorganizes A.R.S. § 25-403. The proposal does not change any wording; it merely rearranges the sections in an attempt to make them flow properly. Commissioner Adam pointed out one change that was agreed upon by the workgroup but not reflected in the draft. Specifically, the drug offenses section should be moved directly below the domestic violence section.

Committee members were urged to review the drafts prior to the November meeting where a vote to advance it as a legislative proposal will be taken.

**CREDITOR ISSUES – ELLEN SEABORNE**

Ellen Seaborne will review copies of statutes from other community property states with the Creditor Issues workgroup during the lunch break.

**ORDER OF PROTECTION – JEFF ZIMMERMAN**

Jeff Zimmerman reported in David Norton’s absence. He provided an overview of the proposals and asked the Committee to examine them, comment and vote for any that should be forwarded for legislation.

**Item 1 - Definitions**

Two definitions have been under discussion: “parties’ residence” and “household.” At present, “parties’ residence” means any residence jointly owned or leased by the parties. The proposal would replace “residence” with “dwelling” and would define “household” as any residence in which the parties now reside or formerly resided together.

The Committee decided that this proposal needs to be studied more carefully.

**Item 2 – Service**

At present time, some peace officers do not want to serve an Order of Protection if filed in another jurisdiction. The proposed language would require any police agency to serve the order, as follows: “Orders of Protection issued by a magistrate, justice of the peace or superior court judge or commissioner shall be served by any police agency for any jurisdiction in which the defendant can be found.”

A majority of the Committee approved the proposal. Senator Anderson mentioned that the Committee should bring in law enforcement representative to get their input. Megan will send

the proposal to law enforcement associations, advising them that this proposal is something the Committee is considering for legislation for next session and request their input.

### **Item 3 – Exemption**

The following proposals regarding counseling and mediation in domestic relations cases include:

A. Would allow parties with a current Order of Protection to meet for counseling or mediation if the following conditions exist:

- The session is either conducted or sanctioned by the court;
- The parties mutually agree to meet with written consent prior to the session; and
- The ultimate decision on whether the parties should meet under these circumstances will be left up to the provider of the service.

The Committee rejected this proposal.

B. The parties to a current valid Order of Protection can meet to exchange their child(ren) in compliance with their Child Custody and Parenting Time Order, without such meeting being considered a violation of the Order of Protection, provided that neither party engages in criminal behavior or acts of domestic violence during the exchange. These meetings are already taking place under the exemptions currently in the law.

The Committee rejected this proposal.

### **Item 4 – Cover Sheets**

The Order of Protection Form should be revised to include two cover sheets, one for plaintiff and one for the defendant, which explains what the parties can and cannot do.

The Committee supports this proposal. Megan will send a copy of the proposal to the Committee on the Impact of Domestic Violence and the Courts for comment.

The Committee will vote on proposals 2 and 4 at the November meeting.

### **2005 LEGISLATIVE PROPOSALS – SENATOR MARK ANDERSON**

Megan Hunter provided copies and an overview of the Child Support Committee 2005 legislative proposals. One proposal would change the paternity section to make it consistent with language in the rest of Title 25, e.g. change Plaintiff/Defendant to Petitioner/Respondent and eliminate oral answers in paternity cases. The second proposal provides additional detail for litigants who request that child support be extended beyond the age of eighteen for disabled people.

### **INTEGRATED FAMILY COURT – KAREN KRETSCHMAN AND ELLEN SEABORNE**

Pinal County's program is still not doing much of anything due to lack of funding. Coconino County is also continuing to grapple with funding issues. Maricopa County's program is having difficulties in light of the Maricopa Family Court Review and plan. Ellen Seaborne would like the workgroup to meet soon to address the progress and problems.

**CALL TO THE PUBLIC – SENATOR MARK ANDERSON**

Ursula Hursh, parent, discussed a problem she had during a family court proceeding in which her child’s father, without notification, requested that the child’s name be changed from the mother’s last name to his (the father’s) last name. Ms. Hursh discussed the laws that govern this area and believes that the law was not followed in her case.

The Substantive Law Workgroup will review the laws and report back to the full Committee with a recommendation on whether the law should be changed. Ellen Seaborne suggested that the workgroup should look at paternity and divorce statutes.

**BREAK/LUNCH**

The Committee dismissed for lunch at 12:00 pm. The meeting reconvened at 12:45 pm.

**EDUCATION PROGRAM FOR SELF-REPRESENTED LITIGANTS – HON. JOSEPH HEILMAN**

Judge Heilman made a presentation regarding the education program that he teaches at the Northwest Superior Court in Maricopa County for self-represented litigants. This education program explains the family court system in great detail, including clerk responsibilities, court programs and processes.

**WORKGROUP REPORTS/UPDATES**

**COURT PROCEDURES – DR. BRIAN YEE, CHAIR**

Brian Yee reported that the Governor has agreed to meet with members of this workgroup to discuss the dedicated family bench issues.

**SUBSTANTIVE LAW – JEFF ZIMMERMAN, CHAIR**

The workgroup is working on the Order of Protection proposal that emanated from Dave Norton’s presentation in September. They will meet prior to the next meeting of this Committee and report at that time. They will also discuss the name change issue brought to the Committee’s attention during the call to the public in today’s meeting.

**EDUCATION/PREVENTION – TERRILL HAUGEN, CHAIR**

The Children’s Education project will commence once Professor Sandler completes another national project. He may have found alternate funding for this project.

**OTHER WORKGROUP ISSUES**

Ellen Seaborne requested that a workgroup look into the possibility of modifying the law in dependency cases to require the court to also consider maternal or paternal relatives for placement when the case is getting close to the termination/adoption stage. Commissioner Adam mentioned that this may not be a Domestic Relations Committee issue. Megan Hunter will check if another court committee would be a more appropriate venue for this issue.

**CALL TO THE PUBLIC**

No requests were received for the Call to the Public.

**NEXT MEETING**

The next meeting will be held on November 12, 2004, 10:00 a.m. – 2:00 p.m. at the Arizona State Courts Building, 1501 W. Washington, Conference Room 119, Phoenix.

**ADJOURNMENT**

The meeting was adjourned by Senator Brotherton at 2:10 p.m.