

CHILD SUPPORT COORDINATING COUNCIL SUBCOMMITTEE

Meeting Minutes - Thursday, November 12, 1998

Members Present

Hon. Mark Armstrong
Kirk Burch
David Byers
Brian Chambers
Conrad Greene
William Hurst
Patrick Harrington for Linda Blessing
Hon. Michael Jeanes

Nancy Mendoza
Hon. David Peterson
Hon. Rebecca Rios
Chuck Shipley
Hon. Rhonda Repp
Debbie Schumacher
Bianca Varelas

Members Absent:

Jodi Beckley
Hon. Robert Duber
Hon. Freddie Hershberger

Hon. Sandra Kennedy
David Norton
Commissioner David Ostapuk

Staff:

Carmela Chiarenza

Patrick Scott

Guest/Presenters

Janey Buri
Judy Bushong
Kat Cooper
Glenn Davis
Kim Gillespie
Randi Gonzalez
Kenneth Hunn
Jim Keane
Rita Desoto-Ekpe
John MacDonald
Therese Martin
Jane McVay
Chris Sotiriou
Rick Wagner

Arizona Children for Enforcement of Support
Clerk of Superior Court-Maricopa County
Clerk of Superior Court-Maricopa County
Arizona Senate-Research Analyst
Attorney General's Office
Clerk of Superior Court - Maricopa County
Parent
Arizona Senate-Research Analyst
Community Legal Services
A.O.C.-Communications Officer
Attorney General's Office
DES-DCSE
Parent
Children's Rights Council

Call Meeting to Order

The meeting was called to order by Senator Petersen at 10:35 a.m.

Announcements

Senator Petersen introduced Brian Chambers of the Gila County Attorney's Office. The Gila County Attorney Office replaces Cochise County as the contracting county attorney appointed by the Director of Department of Economic Security, Linda Blessing, from a rural county. Mr. Chambers is the designee of County Attorney Jerry DeRose. Senator Petersen congratulated the Child Support Division of the Gila County Attorney's Office for receiving the National Child Support Enforcement Association - 1998 Most Improved Program Award.

Approval of August 26, 1998 Minutes

The minutes were approved as written.

Centralized Payment Processing Workgroup

Commissioner David Ostapuk was unable to attend the meeting due a trial. In Commissioner Ostapuk's absence, Nancy Mendoza informed the Council that the workgroup has been diligently working to complete the transition to a centralized payment processing system. The workgroup held a statewide meeting on November 10, to assess if all of the preparations for a go live decision had been completed. Nancy shared details regarding connectivity issues, staff training, data conversion and scrubbing, system performance, electronic funds transfer, and public outreach. The decision to go live was not made due to an unforeseen problem with the voice response system used in Maricopa County.

Michael Jeanes stated that his office was working with the vendor to resolve the problem. Mr. Jeanes was optimistic that the December 1, goal for going live could still be met. A conference call is scheduled for November 16, to finalize the decision. Mr Jeanes complemented the workgroup on their efforts and praised the participants for their cooperation.

Dave Byers asked Nancy Mendoza what measures had been taken to make other members of state government aware of the impending change. Nancy stated that plans were in place and that as soon as the final decision has been completed the department will notify the Governor, the Legislature and key staff. Mr. Byers pointed out that the transition to a single state system will save the state the cost of updating and maintaining the county system currently utilized by the courts. Mr. Jeanes concurred and stated that the state system was his offices solution to the Y2K problem. Nancy Mendoza stated that the need for dual maintenance by the clerks was a consideration in trying to meet the December 1, go live date.

Clean up Child Support Statutes

Kat Cooper recapped the workgroup discussions relating to child support judgments and requested Judge Armstrong provide the Council with the details of the proposed bill. Judge Armstrong explained the differences between two legal concepts: the statute of limitations and renewal requirements for judgments. The current statute of limitations allows three years from the date of emancipation of the youngest child to obtain a judgment for the full term of the childrens' minority. Judge Armstrong stated the current statute does not contain a limitation for judgments by operation of law. The current statute also does not specify the renewal requirement for judgments obtained after the emancipation of the children. However, the statute states that a judgment obtained during the minority of a child is good for ten years from the emancipation of the youngest child.

Judge Armstrong stated that the workgroup recommends that there be no renewal requirement for child support judgments in the law. The workgroup recommends that the statutory limitation period be retained at three years, specifically including Judgments by operation of law. The workgroup recommends that there be two exceptions to the three year limitation. First, if it is later determined by the court that the actions or conduct of the obligor impeded the establishment of the money judgment. Second, if the obligor threatened, defrauded, or coerced the obligee into not obtaining a money judgment.

The statute would now also define emancipation to include attaining the age of majority, marriage, death, adoption, or the termination of disability. The Council discussed the different applicable time periods governing judgments obtained during the minority of the children versus after minority. The Council also discussed the three year limitation that parties have within which they may obtain a judgment after minority.

Additionally, Judge Armstrong proposed a change to A.R.S. § 25-414, relating to a violations of visitation rights. The judge proposed to enlarge the time within which the court must hold a hearing or conference to review noncompliance with a visitation order from twenty judicial days to sixty calendar days. The judge also stated that the scheduling of the hearing should be predicated upon the service of the petition.

Conrad Greene discussed the historical background of the statute. Mr. Greene stated that when the twenty day time frame was defined he had lobbied to have the time changed to ten days. Mr. Greene expressed his concern to the Council that noncustodial parents would be adversely effected by this change and requested the Council not to act on the proposal until he could do further research. Commissioner Repp informed the Council that this is not an issue in Yavapai County as litigants filing for expedited hearings can be accommodated within seven days. Mr. Shipley questioned why the change was necessary. Judge Armstrong stated that in Maricopa County the court calendars are very heavily scheduled but that many hearing are vacated due to a lack of service. Kirk Burtch stated that filing under the expedited process plans in effect in each county would be appropriate for matters that require immediate attention. Judge Armstrong stated that if a party files an emergency petition in Maricopa the matter is reviewed by a judge that same day.

The Council deferred further action on A.R.S. § 25-414 until the next meeting.

Kat Cooper called upon Patrick Scott from the Administrative Office of the Courts (A.O.C.) to provide the Council an update on proposed changes to the wage assignment statute at A.R.S. § 25-504. Mr. Scott explained that the majority of the changes were to conform the language in this statute to other provisions of Arizona law. Mr. Scott also stated that the time frame -within which the employer must serve the employee has been shortened so that the employee has adequate time to file a request with the court before the initial deduction is made. The proposed bill contains a new section which would allow a payor to file a request to terminate an order of assignment if the assignment was a duplicate order for the same minor children. The filing party would not be charged a fee.

Kat Cooper called upon Judy Bushong to provide the Council an update on proposed changes to A.R.S. § 25-812 concerning voluntary acknowledge of paternity. Judy explained to the Council members that the proposed bill would incorporate language from A.R.S. § 25-814 dealing with a presumed father. The proposed bill seeks to clarify the procedure that should be followed when there is a presumed father and another man wishes to voluntarily acknowledge paternity. David Sands from A.O.C. pointed out that the provisions of A.R.S. § 25-814 were broader than those specified in the proposed language and that the language should be amended to include all of the provisions. The proposed bill would also allow the clerk to issue an order amending the names of the child if requested by the parents. Nancy Mendoza asked if that provision had been discussed with vital records. Patrick Scott responded that he had been in contact with Magdalena Simpson at the Arizona Department of Health Services and that she had stated that it would be a positive change. Another section of the bill would allow parties who have filed a voluntary acknowledgment of paternity to continue the action past the entry of the order of paternity. The parties would have ninety days to file a request to establish support or visitation orders, for the children included in the order of paternity, without paying an additional filing fee.

Council members questioned if the establishment of a support and/or visitation order would be available to parents using the hospital based paternity program. Judy explained that this would apply only to a voluntary acknowledgment done through the courts. The parents are charged a filing fee to obtain an order by voluntary acknowledgment, as a matter of public policy the workgroup wanted to encourage the parents to finalize the issues of support and custody at the same time or shortly thereafter. A fee is charged to cover the courts costs of establishing a case, processing the pleading and orders, and entering the parties into various computer systems, because the parties have been charged a fee the majority of the costs have been covered. Parents who use hospital based paternity do not pay a fee and a court case has not been established. If these parents came to court to establish support the parents would pay the same fee paid by those parents using the voluntary acknowledgment available through the courts. The department could bring an action to establish support but the department does not pay a fee according to statute, but the state is also precluded from seeking or defending issues of custody or visitation.

Judy proposed that the language be amended so that the parents supply proof of when the order of paternity was entered at the time they file to establish additional orders for support or custody. Conrad Greene asked Judy how this could be communicated to the parents. It was suggested that a statement be included on the order of paternity prescribed by A.O.C. and used by the clerk.

The Council discussed a change recommended by Kim Gillespie of the Attorney General's Office that would clarify A.R.S. § 25-909 dealing with entry of past support judgments in paternity cases.

One additional proposal dealing with fees in parent education programs was withdrawn at the request of the drafting Council member.

A motion was made and seconded to approve the legislative proposals dealing with child support judgments amending A.R.S. § § 12-544, 12-1551, 25-503, and 33-964. The motion passed unanimously.

A motion was made and seconded to approve the legislative proposal dealing with orders of assignment amending A.R.S. § 25-504. The motion passed unanimously.

The Council discussed the proposals amending A.R.S. § § 25-809 and 25-812. The Council directed the workgroup to refine the proposals incorporating the language discussed. The workgroup will present the revised language at the Council's next meeting in December.

Public Comment

Mr. Kenneth Hunn addressed the Council concerning his dissolution case. Mr. Hunn explained the circumstances surrounding a petition he had filed for a change of custody. Mr. Hunn expressed his belief that the courts need to be more responsive to the issues of children in custody matters. Mr. Hunn also stated that the courts discriminate against divorced fathers. Mr. Hunn encouraged the Council to study how custody determinations are made and to promote a change necessary that would guarantee that a party gets their day in court.

Fatherhood Issues

Senator Petersen discussed the issue of promoting responsible fatherhood. Senator Petersen also discussed issues that have been identified by the National Governor's Council and problems associated with older men fathering children with young women. Senator Petersen proposed that a education program for young fathers be instituted similar to a program in California. Senator Petersen will distribute materials to the Council and welcomes their input. Conrad Greene suggested that the workgroup look at methods for establishing paternity sooner, establishing support, reviewing access and visitation guidelines, making judges more accountable, providing less costly supervision programs, providing penalties for false accusations, and requiring some type of accountability of child support expenditures. Senator Petersen invited Conrad draft a document for distribution to the Council.

Public Education Workgroup

Patrick Harrington reminded the Council that the public education workgroup had identified several topics on which to focus, one of which was new hire reporting. Mr. Harrington distributed a press release reporting the departments success in implementing the state's New Hire Reporting Program. The program has received over 67,849 new hire reports and has had 2,589 matches with the state case registry. Mr. Harrington is planning a similar release for the Centralized Payment

Processing effort to educate the media and parents.

Employment Referral Agencies And Wage Assignment Workgroup

Pat Harrington reminded the Council that the workgroup was formed due to the belief that when certain employees are hired by unions or other short term employers, a wage withholding for child support is not implemented. Mr. Harrington informed the Council that the department will use the data obtained from the new hire reporting program to assess compliance with the program and to define enhancements to respond to short term employment, such as union referrals.

Department of Economic Security - 1998 Legislation

Nancy Mendoza distributed a bill proposing a change to A.R.S. § 46-441. The bill clarifies that the clearinghouse distributes spousal maintenance and related payments in addition to support, adds a requirement that the support payment handling fee be paid monthly whenever an order of assignment is issued, deletes outdated language, and states that agreements between parties altering support ordered be by written agreement. Additionally, the bill would grant the department authority to charge a fee for each payment instrument returned for insufficient funds, plus any fees assessed by a financial institution. The obligor would be held liable for the amount of any dishonored payment instrument and the debt eligible for collection by the tax refund offset program, pursuant to A.R.S. § 42-1122.

Senator Petersen expressed concern regarding the mandatory charge and urged Nancy to restructure the bill to give the department discretion. Senator Petersen suggested that the fee only be charged if a obligor fails to reimburse the department after a grace period had expired. Ms. Mendoza expressed concern that by giving staff discretion, when to apply the fee, the potential exists different standards would be applied even though similar circumstances exist for the obligor. The Council requested that the department examine the issue further and report at the next meeting.

Family Ties and Knots: Children of Divorce

Kat Cooper from the Clerk of Superior Court in Maricopa County previewed a 16 minute video produced with funds obtained from the access and visitation grant funds distributed to the county in 1998. The video is intended for use in educating parents referred to expedited programs in Maricopa County. The video includes several scenarios dramatizing unacceptable behavior by adults interspersed with real life interviews of children of divorce, comments from an expert in the area, and the presiding family court judge in Maricopa County. Kat informed the Council that this is only one part of program being developed by the clerk's office to educate parents.

Next Meeting of the Council

The next meeting is scheduled for December 9,1998, from 2:00 p.m. to 4:00 p.m. at the State Courts Building in room 119.

Public Comments

Chris Sotiriou addressed the Council and recommended the amendment of A.R.S. § 25-414 be referred to the Domestic Relations Reform Subcommittee. Mr. Sotiriou urged the Council to maintain their focus on children. He also reiterated the point made earlier by Conrad Greene that the Council work toward encouraging paternity establishment as soon as possible.

Janey Buri, a representative of Arizona Children for Enforcement of Support (ACES), addressed the Council. Ms. Buri has been a member of ACES for over a year and has been using that time to educate herself about the child support system in Arizona. Ms. Buri works in a facility where over 1200 births occurred last year and where sixty percent of the births this last month were to single parents. She urged the Council to continue their efforts in support of Arizona's children.

Adjournment

The meeting was adjourned by Senator Petersen at 2:40 p.m.