

Ad Hoc Custody Workgroup Minutes

Date: March 4, 2011**Time:** 9:00 a.m. – 12:00 p.m.**Location:** State Courts Building
Conference Room 119A/B**Minute Takers:** Kay Radwanski, Lorraine Nevarez**Voting Members Attending:**

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| ■ William Fabricius, Chair (telephonic) | ■ Grace Hawkins |
| ■ Sidney Buckman | ■ Brian Yee |
| □ Daniel Cartagena | |

Other Participants:

Thomas Alongi	Jack James (via GoToMeeting®)
Theresa Barrett, AOC	Amy Love, AOC
Joi Davenport	Patricia Madsen
Terry Decker	Brent Miller
Jeff Deily	Kathy Sekardi, AOC
Karen Duckworth	Lindsay Simmons
Mike Espinoza	Brian Durham (intern, Arizona State Senate)
Hon. Carey Hyatt	John Weaver

Staff/Admin Support: Kay Radwanski, Lorraine Nevarez**Matters Considered:****I. Welcome and Announcements**

Grace Hawkins called the meeting to order at 9:05 a.m. and welcomed members and participants to the Ad Hoc Custody Workgroup.

Dr. Bill Fabricius and Ms. Hawkins made the following announcements:

- This is the last Ad Hoc Custody Workgroup meeting.
- The proposal will be submitted to the DRC Substantive Law and Court Procedures Workgroup. They will meet on the following dates (all times and rooms are subject to change):

March 11, 2011	Noon – 2:30 p.m.	345B
March 25, 2011	Noon – 1:30 p.m.	230
April 8, 2011	Noon – 1:30 p.m.	230
April 29, 2011	Noon – 1:30 p.m.	230
May 13, 2011	Noon – 1:30 p.m.	230

*Please check the Domestic Relations Committee website for further information.

- Staff was thanked for their support and efforts with this project.
- It was noted the workgroup has met 19 times. Everyone was thanked for their efforts and contribution.
- Minority and majority consensus regarding the proposal will be noted in the final report.

II. Minutes

Minutes from the February 11, 2011, workgroup meeting were approved.

MOTION: (By Dr. Fabricius) Motion to approve the February 11, 2011, minutes as submitted.
Motion seconded. Motion passed.

III. Review of Public Comments Received Since Last Meeting

One comment from the public was submitted through the AHCW web page since the previous meeting on February 11, 2011. Dr. Fabricius noted that the comments discussed a lack of penalties for false allegations.

A summary of the topics addressed in the comment are as follows:

- The draft contains no consequences for a person who makes false allegations of intimate partner violence or child abuse.

IV. Solicitation of National Experts to Review Proposed Draft

Dr. Fabricius reported that Peter Salem, executive director of the Association of Family and Conciliation Courts, offered to identify and approach some national experts to review the workgroup's draft and offer commentary, which would then be passed onto the other bodies taking up the proposal. The commentaries might bring up points or suggestions that others might want to consider. He noted that an independent figure of Mr. Salem's stature, who would independently solicit expert feedback on what this workgroup has produced, would be a strong testimony to the goals of this workgroup being open, accountable and evidenced-based.

Summary of Comments:

- Mr. Salem would randomly select experts.
- It was noted that experts reviewing the proposal should have expertise in diverse areas of family law.
- The Association of Family and Conciliation Courts is an interdisciplinary and international association of professionals dedicated to the resolution of family conflict. The AFCC is made up of members of multiple disciplines in the public, private, and non-profit sectors. A focus of the AFCC is collaboration, education, and empowering families to promote a healthy future for children.
- It was suggested that experts with moderate, expansive, and restrictive views be invited to review the draft.
- It was suggested that experts outside of Mr. Salem's choice of experts be considered.

MOTION: (By Dr. Fabricius) Motion to have the Ad Hoc Custody Workgroup approach Peter Salem to solicit outside commentary from national experts. Motion not seconded. Motion failed.

AMENDED MOTION: (By Sidney Buckman) Motion to have the Ad Hoc Custody Workgroup put together a proposal recommending the DRC Substantive Law/ Court Procedure Workgroup consider a submission to Peter Salem to solicit outside commentary from international experts. Motion seconded. Motion passed.

V. Final Review - Unified Draft (Versions 2 and 2A)

Dr. Fabricius provided a handout that discussed the work of the Ad Hoc Custody Workgroup with regard to the draft proposal. Tom Alongi reported on the updates to the final Unified draft. Clean and marked-up copies of Versions 2 and 2A were provided. Mr. Alongi discussed modifications that had been made to Version 2A. The modifications are as follows:

- The word "frequent" was added to § 25-420(B).
- Added additional language to § 25-432(B) regarding the court's authority to resolve disputes. It was noted that the court has a broad mandate to look at all relevant factors.
- The workgroup note regarding coercive control under § 25-424 was moved to workgroup notes for § 25-425.

The workgroup then conducted a review of the entire Unified Draft - Version 2A. Except for AOC staff, all persons who were present at the meeting, including voting members, non-voting members, and members of the public, were invited to participate in a straw poll on each section. The factors of prior attendance or participation in workgroup meetings were not taken into consideration in determining who could vote in the polls.

A summary of the comments for each section are as follows:

- § 25-420; Public Policy - The workgroup note was updated to reflect the current changes.
- § 25-421; Jurisdiction - no workgroup comments presented.
- By *majority opinion*, it was agreed to reorganize the structure of the sections (§§ 25-432 through 25-436 to be moved under § 25-423 and §§ 25-424 through 25-431 to follow) and include a table of contents for guidance.
- By *majority opinion*, it was agreed to leave §25-422 definitions as presented. *Minority opinion* was to include definitions for the words “false allegations,” “hostile aggressive parenting,” and “parental alienation syndrome.”
- By *majority opinion*, it was agreed to leave the word “religion” in § 25-422(9).
- § 25-423; Mandatory Preliminary Inquiry; Special Circumstances - no workgroup comments presented.
- By *majority opinion*, it was agreed to leave § 25-424 as presented. *Minority opinion* was to change the word “one” in paragraph A.
- By *majority opinion*, it was agreed to leave § 25-425 as presented. *Minority opinion* was to omit the term “intimate partner violence” and change the standard “preponderance” to “clear and convincing.”
- By *majority opinion*, it was agreed to leave the term “one parent” throughout the whole proposal. The *minority opinion* was to use the phrase “control of another person.”
- By *majority opinion*, it was agreed to leave the term “offending parent” throughout the whole proposal.
- By *majority opinion*, it was agreed to leave § 25-425(D) as presented. *Minority opinion* was to reiterate when the use of coercive control is appropriate.
- By *majority opinion*, it was agreed to leave § 25-425(C)(2) as presented. *Minority opinion* was to change the word “successive” to “continuing.”
- By *majority opinion*, it was agreed to leave § 25-425(C)(7) as presented. *Minority opinion* was to remove (C)(7).
- By *majority opinion*, it was agreed to leave § 25-426 as presented. *Minority opinion* was to add the language “false reporting of false allegation of intimate partner violence and domestic violence” in § 25-426(A).
- By *majority opinion*, it was agreed to retain the term “intimate partner violence.” *Minority opinion* was to include the term “domestic violence” after the term “intimate partner violence” throughout the document.
- By *majority opinion*, it was agreed to retain § 25-427(D). *Minority opinion* was to strike § 25-427(D).
- By *majority opinion*, it was agreed to leave § 25-427(B) as presented. *Minority opinion* was to change the word “shall” to “may” in §25-427(B).
- By *majority consensus*, it was agreed to leave §25-428(A)(1) as presented. *Minority opinion* was to change “three years” to “one year” and expand or define “any drug offense.”
- § 25-429; Dangerous Crimes Against - no workgroup comments presented.

- § 25-430; Violent & Serial Felons - no workgroup comments presented.
- § 25-431; Conflicting Presumptions or Mandatory Rules - no workgroup comments presented.
- § 25-432; Parenting Plans - no workgroup comments presented.
- § 25-433; Parental Decision - Making; Shared, Final or Sole - no workgroup comments presented.
- § 25-434; Parenting Time - no workgroup comments presented.
- § 25-435; Third-Party Rights; Decision-Making and Visitation by Grandparents, Parental Figures and Other Third Parties - no workgroup comments presented.
- By *majority opinion*, it was agreed to leave § 25-436 as presented. *Minority opinion* was to include a reference to ARFLP 82(A).

MOTION: (Sidney Buckman) Motion to approve submission of the proposal with note of the majority and minority opinions to the DRC Substantive Law and Court Procedures Workgroup. Motion seconded. Motion passed unanimously.

VI. Call to the Public

There were no public comments.

VII. Adjournment

Meeting adjourned at 12:01 p.m.

Votes Taken:

- ✓ Minutes – February 11, 2011 - unanimously passed as submitted.
- ✓ Submit recommendation to DRC-Substantive Law/Court Procedures Workgroup to consider solicitation of national experts - unanimously passed.
- ✓ Submission of proposal with majority and minority opinions to DRC-Substantive Law/Court Procedures Workgroup - unanimously passed.