Substantive Law/Court Procedures Workgroup Minutes

Date: August 19, 2011	Time: 12:00 PM – 2:00 PM	Location: Conference Room 119B

Minute Taker: **Tama Reily**

Members Attending:

x	Steve Wolfson	x	Daniel Cartagena		Ella Maley	x	Russell Smolden
x	Brian Yee		Jami Cornish	x	Robert Reuss		David Weinstock
x	Thomas Alongi	x	William Fabricius	x	Donnalee Sarda	x	Sarah Youngblood
	Theresa Barrett	x	Jennifer Gadow		Ellen Seaborne		
x	Keith Berkshire		Grace Hawkins	x	Lindsay Simmons		
x	Sidney Buckman	x	Carey Hyatt				

Staff/Admin. Support: Kathy Sekardi; Tama Reily

Guests: Sheri Fetzer, Joi Davenport, Rena Selden, Josh Eisenstein, Molly Moffett, Larkin Riley

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Matters Considered:

I. Welcome and Announcements

The August 19, 2011, meeting of the Substantive Law / Court Procedures (SLCP) Workgroup was called to order by Dr. Brian Yee, co-chair, at 12:15 p.m. Members and guests were welcomed.

II. Approval of Minutes

The minutes of the May, June, and July 2011, meetings of the SLCP Workgroup were presented for approval.

MOTION: To approve the minutes of the May 13, 2011, SLCP Workgroup meeting as presented. Motion seconded. Passed unanimously

MOTION: To approve the minutes of the June 24, 2011, SLCP Workgroup meeting as presented. Motion seconded. Passed unanimously.

MOTION: To approve the minutes of the July 15, 2011, SLCP Workgroup meeting as presented. Motion seconded. Passed unanimously.

III. Process Review

According to feedback received from the public and the family law bench in Maricopa, the current draft of the statute is thought to be too complicated, lengthy, and non-user-friendly. Co-chair, Dr. Yee, pointed to the challenge of having a workable draft to present to the Domestic Relations Committee (DRC) by its September meeting. He reiterated the alternatives considered at the last workgroup meeting, including the option of drafting a completely new revised version. At this juncture, he suggested the workgroup could opt to continue its work on the current draft until a completed product is ready for presentation to the DRC, or to proceed by increments, presenting the sections to the DRC as they are completed. Several members conveyed support for the incremental approach; although it was stressed that careful attention would be required to avoid a "patchwork" type of finished product.

IV. Request for Comments Regarding Draft

- **Judge Hyatt's Version**
  Judge Hyatt related that her proposed modifications were focused on simplifying the statute with

the exception of section 25-404.03, where she significantly expanded upon domestic violence and child abuse. Members debated the replacement of *coercive control* in section (F), with *intimate partner violence* (IPV) as well as the inclusion of the phrase "an act" of IPV versus "a pattern," and how recent a single act of IPV needs to be in order to be considered by the court.

- **Tom Alongi's Version**
  Mr. Alongi presented his revised version, noting that it significantly reduces the size of the statute by eliminating all presumptions and rebuttals. He proposed that *family violence* and *child abuse* be included as best interest factors, in order to more readily bring the issues to the attention of the court. After extensive discussion on the topic, Mr. Alongi volunteered to draft another version prior to the next workgroup meeting, taking into account the concerns workgroup members expressed today.

- **Legislative Council's Version**
  Item tabled.

Members did not reach consensus as to the placement of IPV, therefore, Mr. Wolfson, co-chair, advised that the workgroup begin the next meeting with a vote on the issue. He also recommended that they focus on the language that distinguishes between situational domestic violence and the classic form of domestic violence.

VI. Call to the Public

Member of the public, Rena Selden, spoke regarding what she feels is too general a reference to Title 13 domestic violence statutes in the current draft. She expressed her belief that Title 13 is unconstitutional because it allows the court to determine whether a person might commit acts of domestic violence in the future. Additionally, she stated she takes issue with "presumptions" as she has seen too many domestic violence allegations in court that are invalid.

Member of the public, Joi Davenport, commented on Mr. Alongi's draft proposal. On page 6, item 7, in the last paragraph, specifically, "…to protect the child from witnessing or suffering," she suggested the term should be *experiencing* rather than *suffering*. Also, on page 10, under the definition of coercive control, she recommended including the language "consistent pattern" at the beginning of the definition. She also touched on the opposition voiced by some regarding the inclusion of coercive control in the statute. She believes the courts have trivialized or ignored it outright simply because there is no physical evidence. Having experienced this type of domestic violence herself, she argued that its effects are significant and long lasting – not only for the victim, but for the children as well.

Meeting adjourned at 1:57

Next Meeting
August 26, 2011
12:00pm – 1:30pm
Arizona State Courts Building
1501 W. Washington
Conference Room 119 B