

# *Substantive Law/Court Procedures Workgroup*

## *Minutes*

<b>Date:</b> March 11, 2011	<b>Time:</b> 12:00 PM – 2:30 PM	<b>Location:</b> Conference Room 345 B
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**Minute Taker:** Tama Reily

**Members Attending:**

Steve Wolfson	X	Sidney Buckman	X	Grace Hawkins	X	Lindsay Simmons	X
Brian Yee	X	Daniel Cartagena	X	Carey Hyatt	X	Laura Sabin Cabanillas	X
Thomas Alongi	X	Jami Cornish	X	Ella Maley		Russell Smolden	
Theresa Barrett	X	Sharon Douglas		Robert Reuss	X	David Weinstock	X
Keith Berkshire	X	Jennifer Gadow	X	Ellen Seaborne		Sarah Youngblood	X

**Staff/Admin. Support:** Kathy Sekardi; Kay Radwanski; Tama Reily

**Guests:**

Terry Decker	David Alger
Karen Duckworth	Joi Davenport
Eric Bates	Brent Miller
Bill Fabricius	

- I. The March 11, 2011 joint meeting of the Substantive Law / Court Procedures Workgroup was called to order by Substantive Law Chair, Steve Wolfson, at 12:10 pm. Court Procedures Workgroup Chair, Brian Yee, was introduced. Introductions were made around the room, including new workgroup members Jennifer Gadow, Honorable Carey Hyatt, and Keith Berkshire.
  
- II. Mr. Wolfson explained the workgroup’s charge to review the product of the Ad Hoc Custody Workgroup (AHCW) and provide final recommendations on the product at the June 3 meeting of the Domestic Relations Committee (DRC). He went on to explain that the review process would approach the document section by section from beginning to end. Workgroup members were asked to specifically define any issue they raise with the document, and to provide possible resolution, keeping in mind any consequences that might result from the suggested resolution. He stated the workgroup meetings will be conducted in their usual manner, and laid out some of the following ground rules:
  - Other than the Call to the Public, meeting discussion will pertain to agenda items only. Public speakers are requested to confine their comments to the workgroup’s assigned issue.
  - Side conversations should be avoided or removed from the workgroup area. There should be only one person speaking at any time.
  - Discussions may include differing opinions, however, the debate should refer to ideas and not people.
  - Those members participating by conference call will be identified and included in the discussion.
  - Items will be decided by voting. Voting will be limited to DRC members.
  - Proposed agenda items should be submitted in advance to the co-chairs for approval.
  
- III. Mr. Bill Fabricius, Chair of AHCW, provided a brief report on the AHCW’s draft document and informed the workgroup that the final report should be completed by next week. He noted there were three sections they originally planned to address, but were unable due to time constraints. Those sections included: 1) Sanctions; 2) Temporary Orders; 3) Decree Modifications. He suggested that this workgroup may wish to address these areas. He reiterated the AHCW’s objective was to go through the entire bill and organize, clarify, update,

make language consistent, add SB1314, and bring the domestic violence section up to date. Mr. Fabricius raised the topic of having outside national experts review the product and offer feedback, something that the AHCW discussed at its last meeting, and suggested that the Substantive Law / Court Procedures Workgroup consider this as an option. Lengthy discussion ensued regarding the type of experts needed, such as mental health experts, and the protocol for selection. Dr. Brian Yee made the following motion:

**MOTION:** To consult with outside experts for comment on the product and to inquire of Peter Salem to use his networking of mental health experts. Motion seconded. Motion passed unanimously.

Discussion moved to the dissemination of the product, sooner rather than later, to the 'end users', including the Arizona State Bar and the Family Law Section members, family court presiding judges, the conciliation court roundtable, in order to solicit input. Several members will take part in getting the document to the various groups mentioned for further vetting.

As part of the AHCW's report, the workgroup began reviewing and discussing AHCW document. Changes were made to the following sections:

§ 25-421(B): Proposed changes were made to section 25-421(B) as noted:

~~B. A proceeding under this chapter is commenced in superior court: the~~ THE FOLLOWING PERSONS MAY REQUEST PARENTAL DECISION-MAKING OR PARENTING TIME UNDER THE FOLLOWING CIRCUMSTANCES:

~~(a) 1. Marital dissolution or legal separation. BY A PARENT, IN ANY PROCEEDING FOR MARITAL DISSOLUTION, LEGAL SEPARATION, PATERNITY, OR MODIFICATION OF AN EARLIER DECREE.~~

~~(b) 2. Parental decision-making or parenting time regarding a child born out of wedlock, if there has been an establishment of maternity or paternity. BY A PERSON OTHER THAN A PARENT, BY FILING A PETITION FOR THIRD-PARTY RIGHTS UNDER A.R.S. § SECTION 25-450 IN THE COUNTY IN WHICH THE CHILD PERMANENTLY RESIDES.~~

~~(c) Modification of a decree or judgment previously issued under this chapter.~~

~~2. By a person other than a parent, by filing a petition for third party rights under A.R.S. § 25-450 in the county in which the child permanently resides.~~

~~3. At the request of any person who is a party to a maternity or paternity proceeding pursuant to A.R.S. §§ 25-801, et. seq.~~

Members discussed the appropriate placement of the definitions section and agreed that readers would find it more useful if definitions were placed in the statutes similar to a standard glossary.

**MOTION:** To place the definitions section at the end of the chapter. Motion seconded. Motion passed unanimously.

AOC Staff noted that it would be necessary to check with Legislative Council as to drafting conventions regarding the placement of definitions.

#### IV. Call To The Public

Public attendee, Mr. Terry Decker, related his concerns that the public will be affected by this statute, and he feels the workgroup does not fairly represent the public. He requested that the workgroup expand to include himself and four other non-custodial parents, who he states are the "actual stakeholders." Finally, he stated that the default policy for ARS § 25-103 is joint custody and equal parenting time unless by clear and convincing evidence a parent is deemed unfit, and he feels that point is missing.

Public attendee, Karen Duckworth, indicated her concerns with the meeting format as described today, which would hold the "call to the public" at the conclusion of meetings. She stated that the comments from the public would be more useful if allowed to be heard after each relevant section.

Public attendee, Mr. Brent Miller, voiced complaints regarding the "exclusion" of the public due to lack of time management on the part of the workgroup.

Meeting adjourned at 2:31

**Next Meeting**

March 25, 2011

12:00p.m. to 1:30 p.m.

Arizona State Courts Building

1501 W. Washington

Conference Room 230