

Substantive Law/Court Procedures Workgroup

Minutes

Date: December 9, 2011	Time: 11:00 a.m. – 1:00 p.m.	Location: Conference Room 345 A/B
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Minute Taker: Tama Reily

Members Attending:

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

Staff/Admin. Support: Kathy Sekardi; Tama Reily

Guests: Shannon Rich; Joe DeMennu; Michael Espinoza; Brent Miller; Joi Davenport

Matters Considered:

I. Welcome and Announcements

The meeting of the SLCP Workgroup was called to order at 11:05 a.m., by Steve Wolfson, Co-Chair. He reiterated the importance of member attendance and achieving a quorum. He reported that the following changes to the draft custody statute were voted upon at the DRC meeting on December 2:

- Page 2, line 19, after the word “**care**,” strike remainder of line. Strike lines 20 - 21; insert period.
- Page 4, line 37, after the word “**alter**,” insert the term “**unilaterally**”.

These changes have been incorporated into the draft yellow version presented in today’s meeting materials.

II. Approval of Minutes

The SLCP Workgroup minutes for the November 10, 2011, and November 23, 2011, meetings were presented for approval. Bill Fabricius requested changes to his comments as transcribed in the November 10 minutes. He stated he would forward his requested changes to Steve Wolfson. A vote on the November 10 minutes was held pending receipt of the changes.

MOTION: To approve the minutes of the November 23, 2011, SLCP Workgroup meeting as presented. Motion seconded and passed unanimously.

III. Yellow Version Custody Rewrite (*Item taken out of order*)

Steve Wolfson led a review of the “Yellow Version” of the custody statute. There were several language changes recommended.

MOTION: To strike the word “discernable” on page 1, line 16, and replace with the word “recognizable.” Motion seconded and passed unanimously.

MOTION: To make grammatical changes to page 1, line 18, and items (a) through (g), to ensure consistent verb usage. Motion seconded and passed unanimously.

MOTION: To make grammatical changes and insert on page 1, line 22 – 25 the language “access to financial assets” as discussed. Motion seconded and passed

unanimously.

At this time, the requested changes to the November 10, 2011, minutes were received from Bill Fabricius, who said his comment should read as follows:

Bill Fabricius reminded members that the Ad Hoc Custody Workgroup began its work on the custody statute with the intent of replacing the term “custody” with “parenting time” and “parental decision-making,” and with the intent of using research to suggest more substantive changes. The approach was to tighten and modernize the statute so the court and pro pers could easily make sense of it. Then the AHCW accepted the charge to formulate and propose what became SB1314 and draft a comprehensive rewrite of the statute to instantiate SB1314 into policies and procedures, while concurrently modernizing the domestic violence sections. He stated that the new proposed version only replaces the term “custody” with “parenting time” and “parental decision-making” and thus is too minimal.

MOTION: To approve the minutes of the November 10, 2011, SLCP Workgroup meeting with changes as discussed. Motion seconded. Passed 5-0-2.

IV. Relocation Proposal

Steve Wolfson gave a brief retrospective on the relocation proposal previously addressed by the Relocation Subgroup and the State Bar Family Law Section. He recommended the workgroup consider whether to include changes to the relocation statute in its eventual submission to the legislature.

There was lengthy discussion regarding various provisions of the statute, particularly with regard to the 100-mile rule and notification requirements. Members had concerns about balancing a parent’s right to relocate versus inherent parenting time issues, the best interests of children, and potential safety issues in situations where protected addresses exist. It was noted that HB2302 contains provisions for the Secretary of State’s confidential address program for domestic violence victims that will be established on or before December 31, 2012. As it was evident that further review and consideration is needed regarding the relocation issue, the item was tabled until the next SLCP meeting at which time SB1283 will be made available along with the most updated version of the relocation statute.

Members turned their attention to a comparison guide of the custody statute’s sections pertaining to parenting time and parental decision-making, and proposed alternate language for section **25-403.01(B)**. Upon discussion, there was concern that the language was too simplistic and the comparison did not include language from the most recent yellow version draft. It was determined that the workgroup needs more time to review the proposed language.

VI. Call to the Public

Mike Espinoza spoke regarding A.R.S. § 25-103 and the custody statute revision.

Brent Miller discussed the relocation statute.

Joi Davenport made comments regarding the custody statute.

Meeting adjourned at 12:56.

Next Meeting
TBD