

FAMILY COURT IMPROVEMENT COMMITTEE

Draft Minutes

September 3, 2020 10:00 a.m.

Virtual Meeting

Present:

Telephonic: Judge Paul McMurdie (chair), Kip Anderson, Brian Bledsoe, Benjamin Deguire, Kellie DiCarlo, Judge R. Erin Farrar, Judge Elaine Fridlund-Horne, Judge Joseph Goldstein, CaSaundra Guadalupe, Sabrina Lopez, Patricia Madsen, Tracy McElroy, Jennifer Mihalovich, Judge Michael D. Peterson, Judge Greg Sakall (also proxy for Joi Hollis, PhD.), Janet Sell, Megan Spielman

Absent/Excused: Judge Bruce Cohen, Jeremiah Kaplan, Vance Simms

Presenters/Guests: Lori Ford, member of the public; Judge David Gass, Court of Appeals, Division I; Kay Radwanski, Domestic Violence Court Specialist, AOC; Judge Gerald Williams, Maricopa County Justice Courts

Administrative Office of the Courts (AOC) Staff: Theresa Barrett, Angela Pennington, Susan Pickard

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The September 3, 2020, meeting of the Family Court Improvement Committee (FCIC) was called to order at 10:05 a.m. by Judge Paul McMurdie, chair. Susan Pickard went over housekeeping issues and completed roll call. Judge McMurdie introduced new members, Kip Anderson and Jeremiah Kaplan. Mr. Anderson and Mr. Kaplan introduced themselves.

The draft minutes from the May 5, 2020 meeting were presented for approval.

Motion: Approval of the May 5, 2020 minutes. **Moved by** Judge Joseph Goldstein. **Seconded by** Janet Sell. Motion passed unanimously.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Rule Change Petition R-19-0047, Rule 35, Rules of Protective Order Procedure (Out of order)

Judge Gerald Williams discussed his petition to provide a solution to limited jurisdiction court (LJC) judges issuing injunctions against harassment (IAH) that conflict with family court orders. He explained that the initial solution was for the LJC judge to clear the petition and, if the order was granted, have it transferred to family court, however this would cause more problems and create a conflict of law issue. The subsequent proposed remedy is to stop placing minors as protected parties on an IAH if there is a family court order. Judge Gass asked, Kay Radwanski, Domestic Violence Specialist, Administrative Office of the Courts (AOC), and staff to the Committee on the Impact of Domestic Violence and the Courts

(CIDVC), to discuss a comment to the petition by that committee. Ms. Radwanski explained that CIDVC was concerned about whether a *pro se* litigant would know that they would have to go to the superior court to request an IAH, the distance for plaintiffs to travel in rural counties, and whether the superior court could even have jurisdiction over people that are not the subject of the family court case.

A member asked to have on the record that as someone who lives in a rural county, she felt that if plaintiffs “really want the family court to know about it, they don’t have any problem getting into court with motions for temporary orders without notice.”

Judge McMurdie referred the issue to the Statutes and Rules workgroup and mentioned that the Supreme Court requested the input of the Family Court Improvement (FCIC). Judge McMurdie asked the workgroup to come back with a proposal and the issue would be addressed in the October meeting to be passed along to the Staff Attorney’s office by the end of October deadline.

B. Child Support Guidelines Review Subcommittee Update

Judge Gass, chair of the Child Support Guidelines Review Subcommittee (FCIC-CSGRS), explained that the subcommittee formed workgroups to provide recommendations on the issues which the 2017 Interim Report directed the subcommittee to address and issues they have discussed on their own. These include:

- adjusted gross income, including how to attribute income beyond regular, full-time employment, definitions, and what constitutes regular-full-time
- low-income obligors with multiple orders
- tax implications
 - no deductions, but credits for dependents
 - the non-deductibility of spousal maintenance
- Health Saving Accounts (HSA) and Flexible Spending Accounts (FSA)
- increasing the “cap” on Table A
 - how much should child support be if the cap is reached
 - disparity in incomes with high-income earners
- adjusting the “step system” on Table A
 - closer to equal times means costs are being duplicated versus being shared
- Restyling
 - Increase readability and ease of understanding for *pro se* litigants

- language changes, e.g., custody versus legal decision-making
- mirroring statutory language

Judge Gass explained that the report from the subcommittee will be delayed. The COVID-19 pandemic affected the ability of the subcommittee to receive in a timely manner. The report is expected to be completed by March 2021.

C. SB1555 - Amending A.R.S. §§ 25-503, 25-516, and 25-522

Ms. Sell discussed Senate Bill 1555, which included two initiatives promoted by the Division of Child Support Enforcement. The first was an amendment to A.R.S. § 25.503 (A) to expand the definition of “insufficient funds” to include any kind of payment, not just personal checks. The second amended A.R.S. § 25-516 to allow for the creation of a child support lien by recording the child support order to secure future payments of support rather than obtaining a lien only after arrears have accrued and would include both the amount owed when recorded and any subsequent amounts. The obligor would be aware via the order, so warning letters are no longer required. Lastly, an administrative review would be available if the obligor requests a payoff or contests the balance.

D. Workgroup Updates

Research and Innovation Workgroup

The Research and Innovation workgroup met to consider the topics and ideas which had been presented to them. Judge Greg Sakall completed a straw poll to ascertain the direction the group should take. There were four topics of interest: tiering family law cases and the summary decree process; how to increase collaboration and community resources; one court, one judge; and trauma-informed processes and procedures. Judge Sakall was asked about the new Domestic Violence Legal Licensed Practitioner program and whether this workgroup would be involved or assisting in its implementation. Judge Sakall stated the workgroup would be willing to assist in any way.

Forms/Instructions/Publications Workgroup

The Forms/Instructions/Publications workgroup worked on the Affidavit of Default and the Affidavit of Financial Information. The Affidavit of Default has been submitted to the Supreme Court. The group recommended not to change the Affidavit of Financial Information. Based on the Domestic Violence Legal Licensed Practitioner Program, the workgroup would like to review the Limited Scope Representation Form.

Training Workgroup

Judge Michael Peterson presented the results of the Family Law Judge Survey. He informed the committee that he had been speaking to new member Mr. Kaplan about the partnership between Arizona State University and the AOC to develop new trainings, including trainings for family court judges. The workgroup has also been presented with the possibility of an opportunity to train judges on the effects of trauma on adults, children, and relationships.

There was discussion on how, when, and the best venues to circulate the trainings and additional training tools such as mentorships for judges and informational materials.

Statutes and Rules Workgroup

Judge McMurdie stated the Statutes and Rules workgroup has been working on several changes to Title 25. There are several stylistic changes and one substantive change regarding same sex marriage, which is being revised to align with the statute language. In Section 25-325, it was suggested, and agreed upon, to remove the word “maiden” from the title making it “Decree; finality; restoration of name.”

Motion: To adopt and recommend the proposed amendments for inclusion in a future judicial branch legislative package with the suggested change. **Moved by** Janet Sell. **Seconded by** Megan Spielman. Motion passed unanimously.

III. OTHER BUSINESS

A. Announcements/Call to the Public

- Lori Ford addressed the committee.
- There were no announcements

B. Next Meeting. Thursday, October 15, 2020; 10 a.m. Virtual Meeting

The meeting adjourned at 11:38 pm.