

MINUTES
STATE FAMILY LAW ADVISORY COMMITTEE
(SFLAC)

September 11, 2015
12:30 pm – 4:30 pm

Members Present: Chair, Hon. Paula Brownhill; Vice-Chair, William J. Howe III; Stephen Adams; Amy Bonkosky; Hon. David Brewer; Colleen Carter-Cox; Ryan Carty; Dr. Adam Furchner; Laurie Hart; Linda Hukari; Lauren MacNeill; Hon. Maureen McKnight; Rebecca Orf via polycom; Hon. Keith Raines;

Members Absent: Kate Cooper Richardson; Robin Selig

Guests: Samantha Benton, Leola McKenzie Terry Svay, Nathalene Frenier, Paul Saucy, Daniel Parr, Holly Rudolph

Chair, Hon. Paula Brownhill called the meeting to order at 12:33 pm.

Introductions

Minutes: Minutes from June 5, 2015 were approved. No corrections or discussion.

Marion County FLAC Update - Paul Saucy

Every judgment that involves children must have a parenting plan. Supplemental Local Court Rule 8.075 in Marion County is the parenting plan rule. Every county has its own version of SLC 8.075. Every one of them is different, but they have something in common: most are one-size-fits-all. Linn County has different standards for different aged children. There is a plethora of standardization. Multnomah County has opted out of having their own parenting plan; they refer people to the state plan. Marion FLAC took up the rule because it was outdated - drafted in the last century. There were also some particular concerns. One was that the rule is a one-size-fits all. Some judges just order the rule. Another was that mediators reported that the rule broke down bargaining. And a third problem was that people don't know what other options were out there. The FLAC also wanted plain language, at an 8th grade level. Two issues that they did not deal with: (1) long distance (because no one size fits all), and (2) birth through three (referred to the OJD website). In Marion County, they include in every pleading "young child involved" when there is a child under three. There is a box on the bottom of every page so that people can be reminded of what is going on. Also, the rule has been submitted to the UTCR Committee.

The FLAC was cognizant of transitions and flexibility. Have transition at school, so there is a neutral third party that can document problems if needed. Child is picked up Friday at school, and dropped off Monday at school. The parenting plan has been well received. Moms and dads appreciate it, you get away from the Disneyland Dad. But if you don't want the standard, then you have other options. A popular option is every other weekend, and every Thursday overnight. Our rule used to have a

Wednesday night parenting night – not an overnight. It is a joke and a mess, so they eliminated it and now the child knows that he is with dad every Thursday night.

There are really two timeframes: School Period and Summer Period. The FLAC rule uses Labor Day as a natural break. Many of the parenting plans, they go through list of holidays. Instead, deal with three day weekends. FLAC wanted to avoid three weekends in a row. No special Easter day, but you can add it if needed because it is a religious holiday, and there are many different religions. Spring break traditionally was ten overnights, but now they split it to keep the alternating schedule intact – split on Wednesday. The FLAC also discussed Mother's Day and Father's Day because mother's day is during school, and father's day is during the summer. So now the plan just has the child stay at the scheduled place. The Marion County FLAC went through every possible scenario to choose the best plan. The goal is to be able to plan. But there are always options! Traditionally, Thanksgiving has been Wednesday – Sunday. This potentially messes up the every other weekend. But now in the new plan, Thanksgiving ends Friday night. Paul says that he has clients that are adults who hate Christmas because of the tension with having to switch on Christmas. Therefore, one of the options is switching on December 26. But the default is having the break time 2:00 pm on December 25th. Again, the idea is that people haven't thought about all the possibilities and problems. There is a sentence at the end of every provision in italics that explains impact of the provisions.

Stephen Adams points out that there is an excellent italic phrase about same-sex marriage and Mother's Day and Father's Day. Paul says there are lots of new things. The first choice is no kid birthday, no parent birthday. It doesn't disrupt the schedule. The FLAC also thought of in-service days and teacher conference days. Also, what about snow days? The FLAC really thought of all kinds of situations. There is a 15 minute window for transitions. There is allocation of responsibility – if the child is sick, the parent with the overnight figures it out. And who provides the transportation. The person who picks up is the start, so it shares the participation. Also, the plan requires insurance and car seats for the cars. The plan also refers to after school activities. If the parent is an adult volunteer, the child goes with the parent. Not something you see in other places. The plan also addresses clothes and uniforms, etc. Noncustodial parent must have clothes so the child has some stuff at their house. The FLAC talked about Skype and phone usage a lot. Paul says to check out the mutual respect provisions. No parent can ask the child to keep a secret from the other parent. Might be hard to enforce, but it is important. The plan also mentions homeschool, haircuts, tattoos, piercings, etc. There are many, many options.

Bill Howe thanks Paul for the FLACs efforts. Stephen mentioned that he thought it was well thought through. He is reluctant to have a standard parenting plan, but this plan is impressive. Paul says that mediators are able to have a checklist, and discussion. Judge Brownhill asks how many people were on the committee. Paul reports that 50 people were on mailing list. Ryan Carty says that you didn't have to be on the committee to have an idea. It was a very inclusive process. Bill makes the suggestion that there be a link to the parenting materials on the website – they make you think about your kids first. Paul says there are links on the back. Judge Raines asks about religious freedom, *bris v. baptism*, or one party not condemning a religion. Paul says there is information on page 50 at bottom, but this was mostly left alone.

Please contact Paul Saucy with questions or comments.

Conversation with Kingsley Click, State Court Administrator

Kingsley says it is very exciting to have staff, and that next year will be about catching up. Kingsley thanks the SFLAC for keeping the Committee going during the times that there wasn't staff. She is excited that now we can reinstate a lot of the tools that we used to have. Judge Brownhill mentioned that the website is wonderful. Kingsley says that in the past she had to be the bearer of bad news, but now she gets to give some good news: the legislature passed funds for another staff member to join the family law team. Leola has been working to leverage that position with IV-D money, to get a child support analyst, and then the reimbursements will fund an Analyst 2. Leola McKenzie reports that there are two things that JFCPD is working on with DOJ. First, there is some money in the PTAC grant for interactive parenting plan forms. OJD will hire a person within OETO to develop the parenting plan, working with Holly, sometime in early November. Second, the IV-D funds are reimbursable through DOJ, and we will use that money to hire an Analyst 2 to help staff the SFLAC and coordinate the Family Law Conference, and facilitator training. This will free up Samantha's time for other projects.

Kingsley says that we say these are new things, but they are actually coming back – for example the Family Law Conference and the facilitator training. Kingsley says that there are growing issues with Guardianships and Conservatorships. Courts need help with resources to evaluate visitor programs and to help with legislative pushes in that area. There is a logical connection between family law and these issue area. Stephen Adams asks if that is an invitation for a subcommittee? Kingsley says yes. Stephen thinks that there is bandwidth, and we don't want to step on other turf, but we could possibly deal with these issues. Bill says there is a nexus – not sure it is something that we want to take on as a big task, but the SFLAC should be involved. Also, is the conference is coming back? Leola says that we have funds set aside for some point this biennium. Bill suggests a Conference Committee. Becky Orf mentions that she is a court visitor, and the Oregonian is interested in the state of the court visitor programs.

Unbundling effort is interesting and critical component. Also, the Mediation Subcommittee is involved with the change in funding for mediation programs. There is no longer a special assessment. Counties establish a baseline for funding. One of our suggestions is to figure out a baseline for programs that we can fund, and some counties have additional mediation funding, and additional services. There will be a survey to see what counties are working with. Everyone should be able to fund basics, and then the additional means to solve issues. Lauren says thanks for giving voice to this issue. Amy Bonkosky says that she has two counties, one reports quarterly, the other does not.

Bill asks to move back to unbundling. Are the suggestions moving along at a good clip? Is there anything we could be doing to move it along? Kingsley says that they are moving along well. Bill says that last year at Salishan the Bar presented on unbundling – the Bar is supportive.

Finally, Kingsley mentioned that there is interest in using technology to help complete forms.

Guide and File Presentation - Holly Rudolph

Holly shows the website where the interview links are. Holly says there will be interviews on the Guide and File website. The website is not contained within OJD, it is out on the web, accessible anywhere. It is not imbedded software. The user can create a profile, but not required. There will be a seamless transition from the link to the website. There is a walk-through video introduction.

The FAPA renewal is based on current instructions and forms on the website now. There are hyperlinks out to OSB and outside websites with supporting information. There are imbedded links in some

documents for these links. Holly shows the SFLAC the basics of getting a FAPA renewal. In an Odyssey court, Guide and File can go in and pull out some information. It is a little bit limited. The case and county is verified through Odyssey. It brings up respondent's name so the user doesn't have to complete everything new. The asterisk shows what is required information, and what is not required. Holly goes through the FAPA Renewal process, showing where there is a place to complete an Amended CIF, and where to put identifying information. There is a declaration, and a digital signature. The fields fill in a document that can be printed and filed. In electronic filings, a NEXT button will take them to a screen to e-file. Holly shows what the petition will look like. Judge McKnight asks about the font size. Holly says it varies, but most are at 12 point. Holly shows how the Instruction packet prints, minus how to complete the form. Service documents will print with the packets.

Judge McKnight asks if there is a webinar to show the functionality of the forms. Holly says there are the help documents on the side, and new features to provide information. "Why do I have to provide this" section. It is a common question, so they can drop it into the interview.

Holly shows how there is an "I" that you can hover over if the question has additional information. Judge McKnight says the prompts should be user-driven. Holly says that is good to hear, in a packet these questions take several paragraphs to explain. This is much less overwhelming. Amy asks to hover over the "I" is it a bubble? Yes, opens up a box. Can hide or unhide them. Daniel Parr says that OJD has absolute control over Guide and File, if there is a question, we can change it that day. Judge McKnight hopes that we are starting with the common questions that court staff need. Holly says that there will also be a survey link at the end of the interview, and there will be discussions with court staff about what is needed when people bring in the forms.

Ryan asks if there are mobile-friendly versions. Daniel says Tyler is switching to HTML 5 and other platforms to allow this. There may also be kiosks at the court. Ryan says he has used the attorney kiosks, and the kiosks cannot be on the same network as the court, and is driven by a dialup modem. He only filed at the courthouse once because it took 35 minutes to file at the courthouse. Please address the time issue. Daniel says this will not be a problem for the public kiosks. They are geared to self-represented litigants.

Judge Brownhill asks if there will be Guide and File in other languages. Holly says not at this point, because the answers are difficult to translate. But we have talked about it, just is farther out.

Colleen asks if the Dom Rel forms will pull from the prior filings. Holly says yes. Judge Raines asks if there is a way to change co-petitioners to petitioner/respondent? Holly says there needs to be a filing to change the caption.

Judge Brownhill asks about the firearms surrender (petition can ask for firearms surrender, and order can order it). Becky says that protocols are so different from county to county. Judge Brownhill says they will just keep using the paper forms. Judge Brownhill asks if the findings can be made? Holly says there is an order after hearing form.

BREAK

SUBCOMMITTEE REPORTS

Self-Representation Subcommittee – Judge Maureen McKnight

Judge McKnight reports that she had to cancel meeting several times. But there was a conference this morning, and they talked about interactive forms. Holly was asked to talk about forms at the next meeting. She is very pleased that there are multiple ways to provide information to litigants. Some court staff was unaware of Guide and File forms, because the memo didn't get to staff. Another round of webinars might be good. Judge McKnight says she has materials to share – a brochure from colleague – from Australia or NZ, a “Rights and Responsibilities” document. We have several really good things, how to represent yourself guides, but an explanation of rights and responsibilities is needed. For example, responsibilities from the court, judges can do x not y, staff can do x not y, etc. for people not used to dealing with the court system. It is a Q and A format, plain English. The Committee would like to take that on next as something that could go on the website, and as a brochure. Justice Brewer – IALLS? Does IALLS have a document? Bill thinks that Justice Brewer is thinking of a broader group of documents.

Judge McKnight next brought up the related work of the Multnomah County grant to work on procedural fairness. The more we can explain to the public, the better. She will share the survey with committee members. It is a one-page document of responses. The more we can explain to the public, the easier it will be for the courts, and for institutional trust. There was general discussion about Yelp reviews of the Clackamas County Courthouse. Judge Raines suggests having a question about whether the survey taker's position was adopted, as this can skew the results. Judge McKnight says they talked about it, but that it is tricky. Bill salutes Multnomah County for doing this. Almost no courts are doing this.

Amy says that there is a court user survey on the National Center for State Courts website. Judge McKnight looked at it, and it was helpful, but not related to procedural fairness. Justice Brewer says the Court of Appeals has a document posted under performance measures. Leola says we did a survey as well. People went to the trial courts as part of the Key Performance Measures Advisory Committee, 2005-07.

- **Action Item:** Bill will check and see if IAALS has a similar document.
- **Action Item:** Judge McKnight to send Samantha a copy of the survey, and a copy of the document from Australia for distribution.

Domestic Violence Subcommittee – Rebecca Orf for Robin Selig

The DV Subcommittee has had one meeting since last SFLAC meeting. A lot of the meeting revolved around legislative updates, including the HB 2776 Emergency Protective Orders, 24/7 and SB 525 federal firearm restrictions for protective orders, and made violation a misdemeanor, under certain circumstances for qualifying relationships. Becky wants to have materials on these issues for the Judicial Conference in October. The bills are not effective until January 1, and there will be a roll out to trial courts in early December.

The Subcommittee has a new member/proposed member, Judge Daniel Murphy asked to join DV Sub, taking the place of Judge Bispham.

There is also news from the work group for Female offenders. There is lots of talk about Batterer Intervention Programs and Becky serves on the State Batterer Intervention Advisory Committee. There is a proposed demonstration program in Yamhill County for couples who want to reconcile. This may sound like couples counseling, and honestly this is what it is. We are monitoring this program for victim safety. There is also news from the work group for Female offenders. Allies in Change in Multnomah County did a presentation on differentiation of offenders.

For every state with VAWA funds, there is a designated VAWA contact, and in Oregon this is Becky. There is an upcoming conference for all the points of contact in Virginia, and Becky will attend. It is sponsored by NCSC.

Judge McKnight will talk to Becky about a lunch next month - Ed Gondolf is coming to PDX for a lunch for judges.

- **Action Item:** Lauren Mac Neill says that she will share with Becky information on BIPS for female offenders.

Court/Child Support Agency Coordination Subcommittee – Judge Raines - Kate Cooper Richardson

Last meeting was August 13th. Update on interpreter costs: Donna Brandt is the head of hearings for DOJ and she says they have interpreter problems - nobody shows up. DOJ is going to study how often this happens. There could be interesting information.

Approval for Tribal Orders filed in court. Child Support Systems project is moving along at expected pace. OSCE Intergovernmental Forms – all forms need to be consistent nationwide. We are trying to make our forms comply. Request for Comment. Parenting Time Opportunities for Children staffing project – there is 300 family agreements, they are offered mediation.

Judge McKnight mentioned that OSCE is still struggling with DV and its whole process. NCFJCJ has been convening meetings on the subject. Next Tuesday they are meeting again. Every child support order needs to have custody and parenting time. In most states child support is done judicially, but we are highly administrative. There is a tension there that adds to the DV wrinkle. This is all continuing to churn at a federal level. Oregon has really great DV laws, and an administrative process, and we may need to merge these types of orders.

Mediation Subcommittee - Lauren Mac Neill

Very happy to let you know that the Mediation Subcommittee convened, and introduces co-chair Nathalie Frenier. The Subcommittee met, and Janice participated. Judy Moyer took over for Janice in Multnomah County, and Judge McIntyre from Lane County also joined the Subcommittee. They created a draft Purpose statement, and identified important voices to be on the committee one panel mediator, one court staff, one family law attorney, and one DV advocate. They also identified overall goals, with informational gathering first.

Another meeting is scheduled for September 30th, and the Subcommittee will meet monthly.

Legislative Subcommittee – Ryan Carty

Most legislative activity in family law this session was related to DV. Although Ryan doesn't deal with DV, Sybil Hebb is on the Subcommittee, and is an asset in that area.

The bill that Ryan reported on last time, SB 370, PERS benefits, ended up passing in an OSB Family Law section bill. It was supposed to be noncontroversial, but there were many roadblocks from City of Portland and PERS. But it passed, and will go into effect January 1st.

Ryan brought up two issues for the October Subcommittee meeting. First, they will discuss Post-Judgment Status-Quo orders and consistency. Judge Letourneau has been frustrated with the statutes. Second, life insurance fix.

Ryan also wants to mention a third issue, at the end of the Legislative Session, the joint judiciary committee took up the issue of joint custody and whether there should be some presumptions or an allowance in the law for judges to award joint custody. This issue was just mentioned at the committee meeting. Rep. Krieger, Sen. Prozanski want to create an off-session work group on this issue.

TPOR and Status Quos, or just Postjudgments? Multnomah and Washington require parties to serve each other, in proposed SLRs.

Judge McKnight is presenting a "thorny issues in ex-parte practice" breakout session at the judicial conference. It is a place for judges to talk about consistency. Ryan and Judge McKnight will confer after the judicial conference.

Limited Scope/Unbundling Workgroup – Bill Howe

Bill asked Samantha to report on unbundling – hands out copies of the proposal and memorandum. Samantha explains the rule and the draft forms for Chapter 8. It is a simple rule, but the rule would encourage limited scope representation. The UTCR Committee is going to meet October 16, 2015. Samantha and Judge Gerking will present the drafts.

Bill updates the SFLAC on the Cases Without Counsel survey – preliminary results are out. At the next meeting, there should be public results. There was a meeting with IAALS, and Judy MacFarlane attended. She did a study in Canada on Self-represented parties. The biggest challenge was getting people legal advice, and getting under-employed attorneys connected with these parties. People are used to self-help in general. This is part of a larger cultural phenomenon. There are actually proposals floated for revocation of civil jury trial. The legal profession has been slow to take responsibility with what is an obvious problem. ABA, AEML, the people who have the power to change the system, don't have the incentive to make changes. IAALS has decided to set up a convening of folks to meet in November to discuss these issues. If anyone has ideas, Bill would love to hear about them.

There was a general discussion about unbundling and contacting parties ex-parte. Samantha said that there were discussions of this on the committee. Judge McKnight says that it should be really clear. Judge Raines says that the form should say all orders are completed, not just matters. Ryan has some questions on logistics regarding the forms.

- **Action Item:** Send ideas to Bill about self-representation issues: how to deal with family disputes that don't go to court, how to increase public satisfaction, how to get self-represented litigants legal advice.

Parental Involvement and Outreach Subcommittee – Lauren Mac Neill & Adam Furchner

Janice has left the SFLAC, looking for a new co-chair. There are a number of presentations scheduled on the Birth Through Three Tool. The Subcommittee is renaming the bench card to “Research Tool.”

Judge Brownhill and Adam will present the tool at the OSB Salishan Conference.

Ryan says he has sent out the Birth Through Three materials to clients, and applauds the work of PIOS.

OJD Family Law Website SFLAC Pages Presentation – Terry Svay, Samantha Benton

Samantha and Terry present the newest updates to the website. Terry shows the newly added SFLAC pages and the DV pages. Terry shows comparisons of the old site versus the new site. Additional information was added, with fewer links. Samantha asks for the SFLAC to approve the pages.

Samantha says that the website will roll out soon, after some ADA compliance issues are addressed. Leola states that there will be an ADA review by the Paciello Group. This could take a month.

Judge McKnight asks about whether the local websites can also make similar changes. Terry says that the tier two links will be live, and the search bar will be included.

There could be a lot more information on the LFLAC Pages. Leola asks if there is information for the LFLACs on the local pages. There is discussion on whether the info should be linked from the local sites, and the consensus is that it is better to have the information on the SFLAC site.

When the family law website is released, the smaller URL will be active.

Ryan suggests adding CLE materials to the website.

Re-Activate Conference Committee – Judge Brownhill

Judge Brownhill asks Leola about the conference date. Leola says it will most likely be before the 2017 legislative session.

Chair: Colleen Carter-Cox Members: Rebecca Orf, Amy Bonkosky, Linda Hukari, Nathaline Frener. Staff: Samantha and Terry.

- **Action Item:** The SFLAC Committee voted to reactivate the committee.

SFLAC Subcommittee to Review Interactive Parenting Plan – Leola McKenzie

Leola asks if PIOS would be the correct committee to review the parenting plan. Lauren says that PIOS can review the substance.

Guardianship/Conservatorship – Judge Brownhill

Judge Brownhill asks for volunteers for the work group. Members: Judge Raines, Amy Bonkosky, Judge Brownhill, Steven Adams. Samantha Benton will staff the committee.

Bill asks the work group to present the scope of the work group in December.

- **Action Item:** Formed Guardianship/Conservatorship Work Group - Members: Judge Raines, Judge Brownhill, Amy Bonkosky, Stephen Adams, Samantha as staff.

Membership – Judge Brownhill

We lost Janice. What would we like to do about recommending another member? Bill nominated Nathaline Frener. Judge Brownhill asked for additional nominations. Send names to Paula. Becky asks if SFLAC should get something for Janice. Maybe a paperweight? Becky will get the gift, Judge McKnight will help if needed.

- Action Item: Two weeks to get suggestions to Judge Brownhill.
- Action Item: Becky and Judge McKnight will get a present for Janice.

Family Law Forms – Declarations

Amy asked about Family Law Forms, and when will the changes to the declarations be done. Samantha says she is working on the domestic relations forms, and that it will be done before the end of the year. Becky says that the protective order forms will roll out after SB 525 issues are concerned. They will be out by the end of the year.

Next Meeting

The next SFLAC meeting will be December 4, 2015 in Portland.

Meeting adjourned at 4:14 p.m.