

MINUTES
STATE FAMILY LAW ADVISORY COMMITTEE
December 2, 2011
12:30 pm – 4:00 pm
Citizen Review Board Office (CRB)
410 NE 18th Avenue
Portland, Oregon

Members Present: Steven Adams, Jean Fogarty, Janice Garceau, William J. Howe III, Russell Lipetzky, Lauren MacNeill, Hon. Maureen McKnight, Ernest J. Mazorol III, Hon. Rebecca Orf, Hon Keith R. Raines, Linda R. Scher, Robin Selig, Chris Walls

Members Absent: Hon Paula Brownhill, Hon Roxanne Osborne

Guests: Mike Hohn, John Maack, Hugh Mclsaac, Holly Rudolph, Cindy Smith

Chair: Vice Chair William J. Howe III called the meeting to order at 12:47 pm.

Minutes: The minutes from September 9, 2011 were approved with one correction which is: Page 2, Child Support. DOJ cannot wait for Turbo Court so they hope to contract with a program developer.

COMMITTEE REPORTS

Domestic Violence – *Robin Selig*

The DV Subcommittee met once since September.

The Subcommittee is addressing revising the FAPA Bench Guide, which was last done in 2006. A group of 3 will be meeting in the next couple of weeks.

The OJD DV web pages went live after resolving issues about licensing photos. The information has gone out to county DV advocates, Legal Aid offices, and facilitators.

FAPA forms will need updating for children over 18 who wish to renew a parent's FAPA TRO.

Becky Orf reported that the DV and Firearms Task Force training had 9 presentations statewide with around 150 judge and court staff participants; DV advocates presented courthouse safety issues. Judge McKnight had a dynamite power point presentation.

Administrative child support referees are terminating telephone support hearings and declining to hear matters for FAPA litigants. There is a line in the OJD FAPA forms so judges may allow parties to appear in court together; a similar exception is needed for administrative hearings.

Court/Child Support Agency Coordination - *Jean Fogarty*
Meetings in September and November were cancelled.

There is grant money for interactive parenting forms. Time has been lost working with eCourt through Turbo Court. Interactive forms will cost more and take longer to provide, but the agency is looking for a provider who can work within its reduced budget. It will require a DOJ resource person. Jean believes that the product can be completed within the two-year grant cycle. Funding will be lost if not used.

A Texas child support program offered Oregon use of its parenting time calendar, which Oregon has modified for local use. This was recently shipped out to court facilitators and mediators. The program includes swap out days and activity stickers.

Model forms to allow FAPA parties to participate in administrative support hearings will be in the January changes.

Military deployment issues will be referred to a subcommittee including Judges McKnight and Raines working with Shawn Brenizer.

Multnomah County Judge Katherine Tennyson is promoting their successful program for parents to avoid contempt charges by taking classes which teach: importance of paying child support, the need for children to have parenting time, employment readiness, and how to apply for work. These self-funding classes [\$35/class] are offered in Multnomah and Clackamas Counties. Ernie Mazorol suggests that this be an agenda item for the next PJ meeting, with articles in the local bar newsletters, OCDLA, OMA and other interested groups. DAs should also be brought on board.

Legislation – *Russ Lipetzky*

There was no committee report, but a reminder of the January 1 changes in effect. The changes apply to cases filed after January 1.

Parenting Plan Outreach (PPOW) – *Linda Scher* - No report.

Self Representation – *Judge Maureen McKnight*

The last two meetings were cancelled.

The priority is material for the website. We should forge a partnership with the local law Libraries, where many self-represented litigants seek assistance. We should supplement courts and libraries with parallel resources to reduce expenses and increase access. While forms may work for a select group, many folks need a live body to instruct them. The City of Portland is prepared to sign off with Turbo Court for interactive FAPA forms, but the City wants the County to assume responsibility for maintenance. Subject matter experts have been identified. The City is drafting the agreement.

Guardian Ad Litem – Judge Keith Raines

The subcommittee meets only by email.

The Council on Court Procedures (COCP) has appointed a subcommittee to work on the GAL issues Identified by the subcommittee. It is on the COCP agenda for 12/8/11. The subcommittee anticipates polling judges in about 6-9 months to see if the forms have been effective.

Other COCP Matters – Judge Keith Raines

The COCP declined to appoint a subcommittee to review discovery issues in FAPA cases. The COCP declined to review the issue of counterclaims in modification show cause orders. The COCP declined to deal with the Malarky pendente lite order/limited judgment issue.

Salishan Conference – Bill Howe, Linda Scher

The Oregon State Bar Family Law Fall Conference had SFLAC report in its first session. Bill Howe talked about the fiscal realities of the state courts, Linda Scher addressed the parenting time online resources, and Maureen McKnight discussed DV issues. The volume of information didn't allow for dialogue with the audience. Lawyers were shocked to learn the realities of the loss of court funding, staffing and capacity. We should ask to participate at annual conferences so that we can develop a responsive dialogue with the audience.

OJD Model Forms

There is nobody to update model forms. When Becky Orf polled facilitators, they voted to retain the forms on the website even if they are not updated. Office of State Court Administrator has completed minor changes and the summons has been changed. Even if out of date, it does not appear that the forms will be fatally flawed.

In our meeting on September 9, 2011, the Chief Justice suggested that he might find staff to update forms that might become fatally defective,. He indicated he may be open to allow SFLAC to raise funds to post updated forms. Robin Selig and Russ Lipetzky will develop a list of priorities regarding form revisions, but they will not do the revisions. They will identify forms that clerks decline to file or which are fatally defective.

Holly Rudolph pointed out that, while all judicial districts will be invited to comment, there will be only one set of interactive forms.

Futures Committee – Bill Howe

All but three members of SFLAC attended the December 1, 2011 Futures Committee meeting at Bill Howe's home. Stephen Adams reported that the meeting had the sense of a retreat. He said there was a feeling of discouragement because of the dreary financial situation, but the group had a lively discussion and identified ideas and made suggestions.

Judge Maureen McKnight reported that, with a 3.5% budget reduction in the February legislative session, local courts will identify their own service reductions. If the reductions are as high as 7% to 10.5%, courts will close statewide for one or two days a week and some may shut down altogether. The long term assumptions are that there will be a decade long financial crisis, and it will get worse before it gets better. If this is true, customers will not be able to look to the courts for dispute resolution.

The short term consequences are: priorities and leadership will change; the 2 tier system (hired private judges) will expand; court may be delegitimized in the public's eye. We need to view other court options, e.g. Australian Family Court . We need to try something which is mindful of generational differences. Proposals include META process, collaboration with law libraries, identifying leadership, getting the message out, and delivering legal information without wobbling over into legal advice.

Some identified long term strategies hold the following key elements: rewriting Oregon statutes, dissolution registration [without court review], adopting other models, collaborative terms, and moving items outside of the system. A major tool will be data evaluation.

The short term goal is to complete a report by July 12, 2012 . It should have a two-step analysis: What should be done if there is funding? What should be done if there is no funding? We must address the need of OSCA to fund a family law staff position and the need for facilitators and forms in local courts. We may need to seek permission to work separately from OJD. The balance of the notes from the Futures Committee meeting will be added to the minutes and distributed.

ACTION ITEM

SFLAC observes that Oregon's state courts are in desperate financial straits with legislative action likely within a very short span of time. The Chief Justice has advised that the Judicial Branch should speak with one voice. The Chief Justice has worked very hard to develop effective relationships with legislative leadership to foster understanding of the role and importance of the branch. There may be others for whom the CJ does not have time to hold those discussions.

Therefore, a motion was made by Ernie Mazorol, seconded by Stephen Adams and passed unanimously that: Judge Paula Brownhill and Bill Howe are directed to seek the Chief Justice's approval for the SFLAC to take a greater role in carrying forward his message to individuals and groups he identifies.

Other Matters

SFLAC will invite the Chair of the OSB Family Law Section to attend our meetings. Russ Lipetsky agreed to extend the invitation for the group. We should consider other groups as well, including Oregon Academy of Matrimonial Lawyers and Oregon Mediation Association.

Bill Howe invites the Committee to email any other concrete suggestions to him by Monday, December 5, 2011.

Respectfully submitted

Keith R. Raines
Secretary for this meeting