

MINUTES
STATE FAMILY LAW ADVISORY COMMITTEE
July 13, 2012
10:45 am – 12:15 pm
Civic Justice Center
Willamette University
Salem, Oregon

Members Present: Stephen Adams, Jean Fogarty, William J. Howe III, Ernest J. Mazorol III, Hon Paula Brownhill, Linda Hukari, Lauren MacNeill, Amy Bonkosky, Linda Scher

Members Absent: Hon. Maureen McKnight, Hon. David Brewer, Hon. Keith Raines, Robin Selig, Janice Garceau, Rebecca Orf

Guests: Justice Paul De Muniz, Rebecca Kourlis, Melinda Taylor, Andrew Schepard, Sylvia Stevens

Futures Committee – *Bill Howe*

Bill summarized the discussions from the Honoring Families Initiative advisory committee meeting. He proposed that SFLAC discuss divorce by registration or the Idaho “small claims” model. Stephen Adams suggested that we start with a discussion of the Idaho model. Although Idaho limits these cases to child custody disputes, Stephen said Oregon’s program should not be limited to a single issue. Linda Scher proposed that we call the program Informal Judicial Resolution (IJR).

SFLAC members agreed to consider this model for Oregon. Should judgments from this system be appealable? In Idaho, parties sign a waiver of appeal. SFLAC tabled that issue for this meeting.

Should it be an opt-in or opt-out program? A majority of members favored opt out. Linda Scher opined that screening cases for the program will be critical, and mandatory mediation should be part of the system. Justice De Muniz said that we should look at the Expedited Civil Jury Trial rules for ideas.

Three principles emerged from the discussion:

- Parties determine their fate
- Expedite the process
- Minimize court resources

Sylvia Stevens said some attorneys would fear malpractice if they participated in this process. The Bar may be able to offer a fee agreement form that limits a lawyer’s liability and tasks.

Bill Howe suggested that the Bar advertise unbundled legal services and provide a rock solid fee agreement. Andy Schepard said we may want to adopt a new ethics rule for this process. Explain that this system will allow limited discovery.

Becky Kourlis explained that Colorado has adopted CRCP Rule 16.1 that allows for a simplified and less costly process for resolving civil cases seeking damages of less than \$100,000. We could look at this model when developing our simplified trial process for domestic relations cases.

If we adopt a system similar to the Idaho model, what would happen when a petition to dissolve a marriage is filed? All cases would go to IJR unless parties opt out. Ernie Mazorol suggested that petitioner put opt-out in the caption, which would put the burden on the parties. If the caption doesn't indicate opt out, the case would be routed to IJR. Sylvia Stevens suggested a cover sheet with options. All agreed that judges could bump cases out of IJR. Mediators could recommend cases be removed from IJR.

Becky Kourlis said we could identify the non-IJR track as the complex slow expensive track and let the litigants choose which they want.

Stephen Adams urged SFLAC to focus on one or two projects and to be successful with those before taking on any additional projects. In addition to the Idaho model, SFLAC will consider divorce by registration. IAALS is gathering information on divorce by registration, and this topic will be on the September SFLAC agenda.

SFLAC also may look at the Alaska Early Resolution Program. In this program, twice a month on Friday afternoon the court schedules divorce and custody cases in blocks of six. One afternoon volunteer attorneys provide unbundled legal services at the courthouse for litigants. On the second afternoon, mediators and a settlement judge work with the parties. In the first year, 80% of the cases settled and closed at the ERP.

SFLAC's next steps: determine opt-out rules for IJR and review IAALS information on divorce by registration.

We may want to create a diagram of the IJR process. Melinda Taylor will send us additional information on the Alaska ERP. She is working with Linda Hukari to learn more about self-represented litigants in Oregon and why they choose to represent themselves. She will create a visual timeline/holistic view for us.

SFLAC Staff Support

Justice De Muniz explained that he plans to retire from the Court at the end of the year, and he will become Jurist in Residence at Willamette University Law School. His office will be in the Civic Justice Center. He will propose to the Dean that the Jurist in Residence program provide administrative support for SFLAC. He also will ask if SFLAC can use law students for research projects under his supervision.

SFLAC administrative needs include:

- schedule meetings
- arrange meeting rooms
- send public notices
- draft agendas
- take minutes
- make copies
- provide administrative support for subcommittees
- update the family law website
- be a contact for family law information statewide
- track family law services statewide
- assist the LFLACs
- handle SFLAC membership duties
- update model family law forms

Linda Hukari has been in contact with a potential intern from Oregon State University. This intern could take on some of these tasks, and there would be lots of work left over .

Justice De Muniz recognizes the importance of up-to-date and accurate model family law forms. He explained that Salem lawyer Paul Saucy is active with the Family Law Center at Willamette. He will meet with Mr. Saucy to discuss the forms and whether the Family Law Center might help with updates.

September SFLAC Meeting

SFLAC's September meeting is scheduled for the Oregon Room at the OJD offices on Chemeketa in Salem. Justice De Muniz suggested that SFLAC meet in the Civic Justice Center instead. He will check on the availability of the meeting room.

Meeting adjourned at 12:15 p.m.