

MINUTES
STATE FAMILY LAW ADVISORY COMMITTEE
September 10, 2010
12:30 p.m. to 4:30 p.m.
Department of Justice
Portland, Oregon

Members Present: Hon. Paula Brownhill, Jim Adams, Hon. Maureen McKnight, Margaret Olney, Linda Scher, Bill Howe, Dr. Ed Vien, Hon. Keith Raines, Stephen Adams, Lauren MacNeill, Chris Walls, Jean Fogarty, Rebecca Orf

Members Absent: Ernie Mazorol, Russell Lipetzky, Robin Selig, Hon. Roxanne Osborne

Guests: Kingsley Click, Dr. Don Gordon; David Traisman

Staff: None

Minutes: March 5, 2010 and June 4, 2010 minutes were approved.

SUBCOMMITTEE REPORTS:

Domestic Violence — *Rebecca Orf*

The committee is working with LEDS and the Department of Justice on victim notification in Family Abuse Prevention Act (FAPA) restraining order cases. FAPA petitioners will be notified by telephone or email when the respondent is served with a FAPA order and 30 days before the order expires. They hope for an October 1, 2010 rollout, but this date may be delayed as the contracts may take longer to finalize. Modified confidential information forms (CIF) will go to sheriff's offices.

The new CIF rule rolled out effective September 1, 2010. UTCR 2.130 was amended. Robin Selig, Rebecca Orf, and Maureen McKnight hosted a webinar and created a list of frequently asked questions with answers. A summary of changes are on the Family Law Forms web page. Training is available for staff on the staff database. The webinar also is posted on the staff database. Several SFLAC members worked on the revisions and training, and the transition was smooth.

The Domestic Violence video went to trial courts in June 2010.

Judge McKnight presented on domestic violence and firearms at an Oregon Judicial Department regional training on August 20, 2010. Judge McKnight's presentation was excellent. Following the training, several judges emailed Judge McKnight with questions about best practices and notices. Rebecca Orf and Judge Brownhill are writing a memo for trial judges and court staff regarding firearm prohibitions, notices, and Brady certificates.

Rebecca Orf received Full Faith and Credit bench cards free of charge from the National Council of Juvenile and Family Court Judges for every judge in Oregon.

A question was raised about the protocol for posting forms on the OJD intranet. Kingsley Click reported that most family law forms are on the court's database and some also may be on the intranet. Leola McKenzie can make sure that documents are posted to the intranet. Christopher Hamilton is a resource. Sandy Hilfiker can help if no one else is available. DAS did not renew the contract so OJD may have to change its website again.

A subcommittee of the DV Subcommittee is revising the DV pages on the OJD Family Law website. It is taking extra time because so much information is contained on those pages. The sub-group hopes the updates will be completed within sixty days.

The Firearms Benchbook, DV Benchbook, and updates to the FAPA Benchbook are on the back burner at this time.

Judge Raines asked if it would be possible to obtain new EPPDAPA forms. Rebecca Orf responded that the model forms are up-to-date. Judge Raines clarified that he meant global revisions. The answer was no.

Court/Child Support Agency Child Support Coordination-*Jean Fogarty*

The committee met on July 15, 2010. They discussed the Division of Child Support (DCS) Access and Visitation grant, which is \$100,000 a year for three years. The grant funds previously were used to fund mediation in some counties. These grant funds will be used to develop interactive parenting plan forms for use by the Oregon Judicial Department. Funds will go to create and maintain forms and provide some staff support for court facilitation.

Enterprise Technology Services Division Director Bryant Baehr will hire a forms person who will coordinate with the Court/Child Support Agency subcommittee, the joint OJD/OSB Task Force on Family Law Forms and Services, the Gateway Center, DCS, Val Paulson's eCourt Forms Committee, and others.

Jean Fogarty and Judge McKnight hosted a webinar with 22 judges on the child support guidelines. Judges could look at a PowerPoint and ask questions via conference call.

Chris Walls mentioned that a PowerPoint on the Confidential Information Form went out by email and asked if the child support PowerPoint could as well. Judge McKnight said it could go by email but asked if she should check with the Office of Education, Training and Outreach first. Kingsley Click said there is no need to check with OETO first. Judge McKnight and Jean also will do a webinar for court staff and facilitators.

Jean Fogarty is completely re-doing the Department Of Justice Child Support web pages. They are under legal review now. After that work is done, the subcommittee will revise the OJD Child Support web page.

Self Representation – *Judge Maureen McKnight*

The subcommittee is involved in three primary issues:

1. Participation on the Task Force on Family Law Forms and Services (Tiffles)
2. Work on the OJD Family Law website
3. Publication and distribution of pamphlets for judges working with self-represented litigants. This project has been on hold while waiting for judicial ethics rule changes. Once the changes are approved, the subcommittee will send the pamphlet to SFLAC for approval.

Tiffles has heard from interactive forms vendors and has discussed what is important in interactive forms. The primary issue now is fees. There is a continuum of views on the fee issue:

No fees > Charge recoupment fees only > Charge recoupment and maintenance fees only > Make money on forms.

Interactive forms will benefit courts by saving OJD staff time, creating efficiencies, and allowing courts to reallocate resources. How do we put a value on that?

Kingsley said it would be nice not to charge any fees other than a filing fee. Maybe there will be a way to capture the costs in the filing fee, although maintenance of the forms will cost money.

After further discussion, SFLAC members decided to recommend to the Chief Justice and Kingsley that OJD NOT charge users for interactive forms. It will guarantee access for users who cannot afford to pay for forms, it will enhance the court's image, and it will save court staff and judge time in the long run. We recognize, however, that there is no family law staff at OJD and maintenance of the forms will be an expense. We will respect a different decision from the Chief Justice and Kingsley, and we will do whatever we can to provide further information if they decide fees for interactive forms are necessary.

Stephen Adams will prepare a written recommendation and send it to Bill Howe for polishing. Judge Brownhill will send the draft recommendation to the entire SFLAC for review and comments.

Forms Review Subcommittee – Rebecca Orf

OJD contracted with Russ Lipetzky to update several model forms on the OJD Family Law website with the Confidential Information Form changes and legislative changes. SFLAC discussed what to do about forms after the next legislative session. Should we leave model forms on the website if they are not up-to-date? Judge McKnight mentioned that there was lots of discussion on this issue at the Tiffles meeting this morning. There is a global sense of confusion about the model forms, which are up-to-date and which are not, and how to institutionalize collaboration.

Linda Scher reported there remains an issue with two parenting plan forms, and no one is available to update them. Rebecca Orf said Linda could make the changes and send the revised documents to Judge Brownhill for posting. Judge Brownhill will need the master documents; she cannot update PDF versions.

Legislative Subcommittee –

Lauren MacNeill reported on the joint interim committee on justice system revenues. The committee took testimony on September 7, 2010. The proposal, which would eliminate county fee add-ons for mediation and other family court services, has far-reaching consequences. The joint committee contracted with the National Center for State Courts. The goal is to make fees more knowable and uniform. Judge Raines said it is moving quickly and it may be hard to stop the train. Lauren listed some questions about the bill: How much of the funds will go for administration? How will courts request distributions? How will distributions be made? Will all current programs be able to continue? What happens to programs if general fund money is no longer available? Currently local courts and/or counties decide what local programs are funded and for how much.

Kingsley Click explained that the Legislative Fiscal Office is dealing with a singular paradigm in a quest to simplify. Final decisions have not been made. It is possible that there could be a clearinghouse where fees come in and are distributed from one source. She suggested that SFLAC look at the array of services needed for family law cases and the standards for each type of service. Figure out if services can be standardized for each court. If not, let the subcommittee know why services need to be tailored for different community needs.

Judge Raines said Washington County charges \$60.00 for a case to go to mediation. There are huge differences among the courts. The Oregon State Bar Task Force on Fees has finished its work, and some pieces are missing. The legislative subcommittee set up a new work group to review the issue and merge the work of various groups.

Judge Raines will chair an SFLAC sub-group to look at LC 1168 and put together a draft response. Russ Lipetzky was nominated along with Lauren MacNeill, Janis Garceau, and Wendy Hull.

Parenting Plan Outreach Workgroup (PPOW) - Linda Scher

Linda Scher is working with Shawn Brenizer and Janice Garceau on the initial stage of development of interactive parenting plan forms. Shawn will summarize ideas, and Linda will circulate the ideas to the Parental Involvement Workgroup and the PPOW subcommittee. Linda said it is necessary to circulate potential products to all interested people and use parent testers to go through the forms and provide feedback.

Judge McKnight stated that funds must be spent by September 2011 for the first grant year.

Jean Fogarty reported that the next step is to issue a Request for Proposals for a vendor that can create interactive forms. DCS is working with the OJD eCourt group so they do not duplicate efforts.

Parental Involvement Workgroup – Linda Scher

The 11-member workgroup is going strong and working hard. They met in May and July, and will meet September 17 and November 12. They will issue a report after their last meeting. The Oregon State Bar report came out, and it is on the OSB website. It is a good report that will help the Legislature understand the history of joint custody and parental access.

Dr. Vien said they hope to develop a useful report. It will consist of two papers:

1. The research regarding joint decision-making and parental access
2. A systematic analysis with recommendations.

EPPDAPA Guardian Ad Litem Workgroup – Judge Raines

Judge Raines provided a written report. He asked where a new rule should go. ORS? UTCR? Chief Justice Order? SLR? Local court General Order?

Rebecca Orf suggested that the workgroup could create a model form for appointment of a guardian ad litem and it could be posted on the OJD Family Law website with the other EPPDAPA forms.

Judge McKnight thanked Judge Raines and the workgroup for all of their work. She mentioned that the change will be in the adult process. The child support subcommittee revised the process for minors, and maybe they could exchange forms and processes with Judge Raines.

Judge Raines would like to move beyond EPPDAPA and address the issue in other domestic relations contexts. Judge McKnight moved that the EPPDAPA workgroup continue its charge and expand its scope. Motion seconded. **Motion passed.**

Uniform Support Declaration – Judge Brownhill

Judge Brownhill reviewed the history of SFLAC's recommendation to the UTCR Committee that the Uniform Support Declaration be an exhibit rather than a filing. Judge McKnight said the Child Support Subcommittee will take on this issue and will report back in December. Richard Weill is interested in the proposal so Judge McKnight will contact him.

Family Law Website – Judge Brownhill

Judge Brownhill described the changes to the OJD Family Law website. The redesign is complete. She noted that she has received requests to add topics to the left-hand menu including Child Support, Parenting Plans, and Domestic Violence. In the redesign that SFLAC approved in March, those topics were moved to Family Law Topics. If we move back to stand-alone topics on the left-hand menu, we may need to eliminate some because we are limited to 10 items. Judge Brownhill asked SFLAC to view the web pages and let her know by September 30, 2010 if the left-hand menu should be changed.

Judge Brownhill handed out general introductory information to put on the website under specific topics. She asked SFLAC to review the material before it goes on-line. Margaret Olney will look at the summaries and provide feedback to Judge Brownhill.

Parent Education

Don Gordon presented on the Latest Developments and Best Practices in Parent Education.

Meeting adjourned at 4:30 p.m.