

**MINUTES**  
**STATE FAMILY LAW ADVISORY COMMITTEE**  
**September 9, 2011**  
**12:00 p.m. – 3:30 p.m.**  
**Justice Building, Room 306**  
**1162 Court Street**  
**Salem, Oregon**

**Members Present:** Hon. Paula Brownhill, Bill Howe, Russell Lipetzky, Jean Fogarty, Hon. Keith Raines, Linda Scher, Robin Selig, Janice Garceau, Hon. Maureen McKnight, Stephen Adams, Lauren MacNeill, Ernie Mazorol, Hon Roxanne Osborne, Rebecca Orf

**Members Absent:** Jim Adams, Chris Walls.

**Guests:** Chief Justice Paul De Muniz, Trial Court Administrator Kingsley Click, John Maack, Holly Rudolph, John Borden, Mina Morvai, Teresa O'Halloran, David Traisman.

**Staff:** None

**Minutes: June 3, 2011 minutes were approved.**

## **COMMITTEE REPORTS**

### **Domestic Violence – Robin Selig**

The DV Subcommittee has met once since June 2011.

The Subcommittee is monitoring the Victim Notification project coordinated by Diana Fleming at the Department of Justice. The Project provides automated notices to petitioners in FAPA cases when a respondent is served and prior to the petition's expiration. Robin reported that it is going well. Numbers increase every quarter.

The Subcommittee has been involved in planning and implementing judicial trainings on domestic violence and firearms laws. Five trainings are scheduled around the state: the first is in Salem next week, followed by trainings in Portland, Bend, Baker City, and Medford. A Department of Justice VAWA Stop grant will pay travel expenses for court staff and judges, and pro tem coverage is available for judges who attend. SFLAC members Rebecca Orf, Judge McKnight, and Judge Brownhill also have worked on the trainings.

The Subcommittee completed work on the OJD Family Law website DV pages, but there is an unresolved problem with photographs. The Subcommittee used photos from Microsoft Word, but OJD does not have licensing agreements to use those photos. Robin is looking for solutions. Bill Howe volunteered to work with Robin to obtain photos.

The Domestic Violence Bench Book is in the planning stage. The idea is to combine smaller guides into one book. For example, the FAPA guide will be updated and will become a chapter in the Bench Book.

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

The Subcommittee met on July 21, 2011. Jean reported that the Department of Justice grant timeline does not fit the eCourt time frame for development of interactive parenting plans. DOJ cannot wait for Turbo Court so they hope to contract with a program developer.

Texas developed a calendar for children of divorce with stickers for Mom's house, Dad's house, picture day, etc. The Subcommittee is looking at developing a similar calendar for use in Oregon, possibly to be distributed by mediators and court facilitators.

The Guidelines Committee continues to work. The Committee has good representation.

There is a problem with OJD protection orders. The forms allow parents to participate in court hearings despite a restraining order, but there is no exception for participation in administrative hearings. It is a form issue, not a statute problem. Hearings officer are asking parents to get permission from the court to participate together. The hearings are telephonic so the parents are not together in the same room. Jean hopes for a resolution soon.

Multnomah County will no longer have a contract with the Child Support Program. Because of staff reductions, the Court could not meet the program time lines so had to opt out. The Court will still have to do the work but will not receive money from DCS.

Jean Fogarty raised a concern about updating family law forms on the OJD website. Some forms need to be updated due to 2011 legislative changes. It is very time-consuming to work through each form, and OJD does not have staff to do the work. SFLAC members are not able to update the forms. Holly Rudolph' is working on designs for eCourt, but she cannot do the updates. Russ Lipetzky replied that the lack of family law support at OJD is an ongoing issue, and it encompasses form updates as well technical support for trial courts. It is a critical need and it is not news to the Chief Justice. Without funding from the legislature, the situation is unlikely to improve.

Ernie Mazorol suggested that if OJD could find money to make minor changes by January 2012, SFLAC could work with the Chief Justice on the larger issue of family law staff.

**Legislation – *Russ Lipetzky***

Russ Lipetzky referred SFLAC to Judge Maureen McKnight's legislative summary that was distributed by email. He added that she has a dynamite power point.

### **Parenting Plan Outreach Workgroup (PPOW) - Linda Scher**

Linda Scher is working on materials for the SFLAC presentation at the Family Law Conference at Salishan.

### **Guardian Ad Litem Work Group – Keith Raines**

Judge Raines sent out drafts of the forms developed by the GAL Work Group, and at least two courts are using the forms.

### **Self Representation – Judge Maureen McKnight**

The Subcommittee has met once since June. They are concentrating on two issues:

- OJD website's Self Representation web pages
- What to do about future cuts to OJD facilitation programs

### **MODEL FORMS**

The discussion continued about model family law forms on the OJD website. Jean Fogarty identified a missing finding in the child support modification judgment some time ago. She submitted new language to fix the omission. Russ Lipetzky sent it to Sandy Hilfiker at the State Court Administrator's Office, but the change has not happened yet.

There are approximately 363 forms, although some packets have duplicate forms. It is a major job to keep them up-to-date. Rebecca Orf noted that she polled family court facilitators on two options: keep the outdated forms with a written notice that they may be outdated OR take outdated forms off the website. The majority voted to keep the forms with a notice.

### **DISCUSSION WITH CHIEF JUSTICE AND STATE COURT ADMINISTRATOR**

The Chief Justice thanked SFLAC members for their service to the cause of justice. Oregon has one of the best courts in the nation, despite the cuts to the Oregon Judicial Department. The list of SFLAC accomplishments is impressive. We do not have family law staff in OSCA so we cannot research new developments and innovations in family law.

The Chief Justice traveled to all 27 judicial districts last year and spoke to court staff and judges about what was coming. 2012 – 2013 will be worse than 2011. Judges and court staff have been doing their very best despite budget cuts, reduced staff, and lack of OSCA technical assistance, but they cannot maintain it. We will have nine court closure days with mandatory furloughs in this biennium.

The appellate system is 100% electronic. The Chief Justice signed 56 orders electronically while he was in Enterprise, Oregon. The goal is not to make life easier for courts; it is to increase the public's access to the courts.

Kingsley Click thanked SFLAC members for making a difference. She talked about the recent Trial Court Administrators meeting; many trial courts will reduce public service hours and staffing levels due to the budget. It is a difficult time for the courts. There will be a 22% reduction in services to self-represented individuals. Six courts have cut back

or eliminated facilitation programs. There will be a 44% reduction to drug court programs.

Technology will help provide public access to the courts despite court closures, reduced hours, and fewer programs.

Russ Lipetzky voiced his concern regarding the lack of family law staff at OSCA and the need to revise and maintain OJD family law forms and provide technical assistance to trial courts. These two issues come up again and again.

Bill Howe said it is gratifying that the Chief Justice and Kingsley Click listen so closely to SFLAC's concerns. He asked if SFLAC could raise money and solicit volunteers for a couple of specific jobs as a temporary measure until the financial situation improves.

Judge McKnight asked how we can update OJD family law forms in the short term, and she would like a realistic time frame for development of interactive forms in the long term. Members of the OSB/OJD Task Force on Family Law Forms and Services believed forms for pay would be offered if OJD did not develop interactive forms. A law firm now is charging for interactive forms. Is there a realistic timeframe for the interactive forms? Chief Justice De Muniz said he will provide that information to SFLAC soon.

Kingsley Click said we need to maintain cosmetic surgery on the family law forms that are on-line now. She believes they can make legislative changes from the 2011 session if it is not too much work. She said it would be helpful if she had a list of critical changes needed in the current forms. Judge McKnight pointed out that not all changes are legislative. Linda Scher mentioned that SFLAC has a meeting in December 2011. Some legislative changes will take effect in January 2012. We need to know now what OSCA can do to update forms.

Bill Howe requested feedback on how SFLAC can help. He said the courts are hampered in the ability to serve the public, and this results in differential treatment. People with money can buy forms and hire reference judges. The poor cannot. Our courts are excellent, and there must be a better way to publicize how good they are. Judges and court staff are honest, competent, and hard working, but the public does not know this. He asked for feedback on what SFLAC can do and what lawyers can do to help.

The Chief Justice responded that these observations are correct. The question is how to get people to understand the importance of the courts? The Chief Justice is developing a plan for the 2012 legislative session.

Judge McKnight said that in the metro region, facilitators are noticing a growing hostility from litigants. Young people are used to information at their fingertips, and there is no app for the courts.

The Chief Justice responded that, as part of a three-year study group at Harvard, these questions are being addressed:

1. Do young people have the patience for courts?
2. Do our rules of evidence fit with the expectation of immediate access to information?

Russ Lipetzky asked Kingsley what SFLAC can do to help. Kingsley will think about it and get back to SFLAC. She thanked Jean Fogarty for the Child Support Program's help with interactive parenting plans.

Russ Lipetzky said SFLAC members feel constrained during legislative sessions regarding our concerns and preferences. It would be helpful to discuss it further so that SFLAC could help promote OJD's agenda. The Chief Justice responded that he will facilitate a meeting to discuss this further. He said we must speak with one voice.

Ernie Mazorol suggested that we talk to the Association of Oregon Counties about money for OSCA staff. That money will benefit all 36 counties. It may be worth a discussion, even if it is only for the next two years. Ernie thinks it would fit within definition in the statute. Janice Garceau is concerned about distributions to counties and continuation of existing family court programs. She will poll the courts and let SFLAC members know how court-connected services will be affected by the new funding scheme.

### **SFLAC MEMBERSHIP**

Trial Court Administrator Jim Adams has retired and Ernie Mazorol will retire in July 2012. Potential members: custody evaluator, mental health professional, trial court administrators, someone from Central or Eastern Oregon. Russ Lipetzky and Bill Howe offered to make some phone calls to potential members.

Bill Howe and Stephen Adams will handle recognition for Jim Adams. Ernie Mazorol will ask Jim to video-conference from Deschutes for the December meeting.

### **SB 489- DOCKETING FAMILY LAW TRIALS**

Bill Howe explained the reasons behind the introduction of SB 489 and its fate in the legislature (passed the Senate Judiciary and Senate unanimously but failed to receive a hearing before House Judiciary). Bill and Judge Raines offered to co-chair a group to make recommendations for future legislation. While expressing no opinion on the merits of the legislation, the consensus of the members was that SFLAC should not divert its scarce resources to this task. Bill was encouraged to solicit the OSB Family Law Section's assistance.

### **OSB FAMILY LAW CONFERENCE PRESENTATION**

Bill Howe, Linda Scher and Judge McKnight summarized the plan for their presentation at the upcoming OSB Family Law Conference in Salishan. SFLAC members thanked them for their efforts and offered helpful suggestions on additional topics to cover.

## **OTHER BUSINESS**

Stephen Adams observed that OSCA, as evidenced by the Chief's and State Court Administrator's comments, welcomes feedback from the SFLAC. Our input on policy and administrative matters affecting family law is particularly critical since OSCA has lost its policy analysts and family law specialists due to budget cuts. Stephen further observed that several of the recent budget-driven changes risk sabotaging the judicial system as we have known it. Stephen suggested that the Futures Committee be resuscitated, meet before the December SFLAC meeting, and be charged to report back to the SFLAC on global matters affecting the judicial system in Oregon with special emphasis on family law matters. Bill Howe, Chair of the Futures Committee, agreed subject to Stephen joining him as Co-Chair. Stephen agreed and members in attendance unanimously endorsed this plan and the following volunteered to serve (all subject to the approval of the Chair): Bill Howe, Stephen Adams, Linda Scher, Ernie Mazorol, Janice Garceau, Holly Rudolph, Lauren MacNeill and Judge Keith Raines.

Stephen also suggested that the SFLAC consider a retreat, either in conjunction with or following the report of the Futures Committee. No action was taken on this suggestion, pending consideration by the Chair.

Meeting adjourned at 3:30 p.m.