

MINUTES
STATE FAMILY LAW ADVISORY COMMITTEE
September 12, 2014
12:30 pm – 4:00 pm
Marion County Courthouse
Salem, Oregon

Members Present: Stephen Adams, Amy Bonkosky, Hon. Paula Brownhill, Colleen Carter-Cox, Ryan Carty, Adam Furchner, William J. Howe III, Linda Hukari, Hon. Maureen McKnight, Rebecca Orf, Hon. Keith Raines, Kate Cooper Richardson, Laurie Hart, Lauren MacNeill

Members Absent: Hon. David Brewer, Robin Selig, Janice Garceau

Guests: State Court Administrator Kingsley Click, Megan Hassen, Natalie Knowlton, Holly Rudolph, Brian Reverman, Lee Merrill, Leola McKenzie

Chair Hon. Paula Brownhill called the meeting to order at 12:35 pm.

Minutes: Minutes from June 6, 2014 were approved.

OJD WEBSITE

Judge Brownhill's staff searched the OJD family law website and located numerous broken links. Kate Richardson's staff checked the child support pages and found broken links. Judge Brownhill sent the list of broken links to Keith Koerner at Enterprise Technology Services Division (ETSD). Mr. Koerner will address as time allows.

Judge Brownhill would like to update the SFLAC Subcommittee and Work Group lists on the OJD family law website.

Action Item: Subcommittee chairs should send Judge Brownhill up-to-date membership lists.

COMMITTEE REPORTS

Domestic Violence – Becky Orf

In Chair Robin Selig's absence, Becky Orf reported the subcommittee has not met this quarter. The 20th anniversary of VAWA is September 13, 2014.

Self Representation – Judge Maureen McKnight

Subcommittee has not met this quarter. There is an undercurrent of dissatisfaction regarding lack of progress on interactive forms. The Subcommittee has almost finished work on service instructions.

The Subcommittee is continuing work on a survey to ascertain the number of self-represented litigants using court resources and to find out what was helpful to them and what was most difficult.

Court/Child Support Agency Coordination - Kate Richardson

Kate Richardson reported that the Subcommittee met in August after the National Child Support Enforcement Association national conference. The conference was well-attended.

The session on the Informal Domestic Relations Trial generated lots of interest. Judge Katherine Tennyson was on a panel that addressed child support and victims of family violence. SFLAC member Janice Garceau spoke on parenting time and its correlation to child support. Some Division of Child Support staff also presented.

HR 4980 is a broad-ranging federal bill that passed the House and is awaiting a vote in the Senate. The child support provisions recommend increased parental access, which has prompted federal discussions about child support and parenting time.

Gary Taylor is the new Chief Administrative Law Judge.

Parental Involvement and Outreach - Lauren MacNeill

Prior to the meeting, Janice Garceau had circulated a draft of the Birth to Three handbook. The Subcommittee wants it to be useful statewide. Lauren MacNeill asked for SFLAC approval and to have it posted to the OJD family law website. Many SFLAC members offered comments on the cover letter, which Adam Furchner will take back to the Subcommittee.

Motion: Bill Howe moved approval of the Birth to Three Handbook and cover letter as revised by the Parental Involvement and Outreach Subcommittee. Motion seconded. Motion passed.

The Subcommittee recommended that we leave the 2011 Custody and Parenting Time Report on the OJD family law website as an accurate statement of the research in 2011. SFLAC members concurred.

Legislative Subcommittee – Ryan Carty

Ryan Carty serves on an Oregon State Bar/Oregon Judicial Department eCourt Task Force. He explained that UTCR 21.120 requires that, unless a court orders otherwise, a person who files a document that contains an original signature other than the filer's must retain the paper document for ten years. The Task Force recommended a change in the rule that would shorten the retention period to at least 30 days.

Judge McKnight said the Task Force recommendation went to the Law and Policy Work Group. Some on LPWG argued for no retention requirement for lawyers. Others felt there should be something tied to the Oregon Rules of Civil Procedure 71(d) timeframe which is a one year

period for raising mistake/excusable neglect/fraud issues. The LPWG will discuss further and may adopt the Task Force recommendation of retention for at least 30 days.

The Hon. Keith Raines stated that he proposed a life insurance fix at the June meeting but had no response from SFLAC members. The problem arises when a judge orders a party (obligor) to maintain life insurance for the benefit of a child or former spouse, the obligor designates a new friend as beneficiary, the new friend does not know about the court order, and the obligor dies. In that scenario, the new friend will receive the insurance proceeds instead of the child or former spouse. Ryan Carty agreed that it is a good idea, but he proposed a few tweaks to Judge Raines' proposal. Stephen Adams asked if reviewing statutes for potential improvements is within the SFLAC purview. He suggested that we reserve time during the December SFLAC meeting to discuss development of standards for adopting or changing statutes. He was not addressing the life insurance issue specifically but suggesting that we have a standard for all proposals for substantive changes to family law.

Judge McKnight asked if SFLAC or the Legislative Subcommittee should develop criteria for recommending legislation. Should the criteria be different if we're responding to a proposed bill? She further suggested that we adopt a protocol for resolving SFLAC disagreements.

Action Item: Stephen Adams will work with Ryan Carty over the next two months to address this issue and present a background report.

Action Item: Judge Brownhill will put this topic on the December 2014 meeting agenda for further discussion and possible action.

Colleen Carter-Cox raised an issue about service by publication. ORCP 7 provides that when summons is served by publication, the defendant shall appear within 30 days of the date of the first publication. In a proceeding for summary dissolution of marriage, ORS 107.490 provides that if service is made by publication, respondent must appear within 30 days of the date of last publication. She asked how to reconcile those differences. No action was taken.

Conversation with State Court Administrator Kingsley Click

Kingsley Click joined SFLAC's meeting. SFLAC members welcomed her and thanked her for her continued support of the committee.

Kingsley announced that she is ready to sign the Intresys contract. Interactive FAPA forms should be on the OJD family law website within 60 days after the contract is signed.

Kingsley will hire a family law analyst to work at OJD in Salem. The application deadline was September 11, 2014. She credited Leola McKenzie with figuring out funding. OJD will still request the Family Law Policy Option Package, but this will enable OJD to get started. The analyst will work with local facilitation programs and will be a child support liaison to DCS. The analyst also will work on guardianship and conservatorship issues.

Leola McKenzie said she will hire a limited duration management assistant to help SFLAC with minutes and meeting logistics. The MA also will work on website updates. The position is only funded through June 2015 so it is important for the 2015 legislature to pass the family law POP. Kingsley said she hopes that having one guide and file product (interactive FAPA forms) will help us develop other interactive forms. Small claims and FED forms are relatively simple and could be next.

Multnomah County Family Court received a technical assistance grant through the National Council of Juvenile and Family Court Judges to assist with custody decision-making and procedures in family violence cases. The \$400,00 grant will improve information to parties, increase the use of triage and assessment tools, and address procedural fairness. The benefits may flow to the entire state, not just Multnomah County.

IAALS Self-Representation Study – Bill Howe

Bill Howe introduced Natalie Knowlton from the Institute for the Advancement of the American Legal System (IAALS). Natalie is working on *Cases Without Counsel*, a self-representation study in five courts in the US. Multnomah County is one of the five. The study is modeled on Dr. Julie McFarlane's Canadian study. IAALS will look at self-represented litigants to learn about the self-representation experience and why some people choose to proceed without counsel.

Action Item: Bill Howe will send Julie McFarlane's study to Kingsley Click.

Unbundled Legal Services Workgroup – Bill Howe

Bill Howe asked that the work group's recommendations be forwarded to the Chief Justice. The two highest priorities are #1 and #2.

1. OJD should enact unbundling-friendly court rules.
2. Courts should develop and make available user-friendly court forms that facilitate lawyers making and withdrawing from limited scope appearances.
3. Courts should offer information to self-represented litigants (videos, brochures, website postings, etc).
4. Courts should study the needs and composition of self-represented litigants in Oregon so we can better serve the population.
5. Courts should enhance judicial education and court staff education on how to best help self-represented litigants and reinforce the goal of treating all litigants with a high level of respect.
6. Courts should allocate increased resources to help self-represented litigants.

7. OJD should educate all court personnel on ways to help self-represented litigants with unbundling resources.
8. OJD should ask the Oregon State Bar to notify mediator groups and the Oregon Mediation Association of all new unbundling court practices and procedure changes.
9. OJD should support and encourage local bar associations to offer education to lawyers regarding the delivery of unbundled legal services.
10. When appropriate, judges should consider limited scope representation when considering fee and cost request.
11. OJD should adopt an evaluation process to assess the effectiveness of new court-connected unbundling initiatives.

Action item: Bill Howe will send Kingsley Click the Judge Marjorie Steinberg letter to litigants.

After considerable discussion, Bill Howe agreed to modify the recommendations. He will ask for a vote via email. Kingsley Click asked if the work group could propose a draft rule. Bill Howe offered to put together a small group to draft a court rule. He will invite Sylvia Stevens from the Oregon State Bar. Kingsley added that a new business process will need to be developed.

Judge McKnight announced that she went through the family law statutes that require use of an affidavit. Many of the model forms require notarized signatures rather than declarations. OJD will introduce a bill that allows declarations in lieu of notarized signatures. This will cut way down on staff time.

Salishan Conference – Bill Howe

Representing SFLAC, Bill Howe and Natalie Knowlton will present at the Oregon State Bar Family Law Conference at Salishan. They will talk about the Unbundling Initiative, the Informal Domestic Relations Trial, and the IAALS self-representation study.

LFLAC Liaisons - Hon. Paula Brownhill

Linda Hukari contacted Judge Ronald Stone, chair of the Yamhill LFLAC, about making a presentation at the September SFLAC meeting. Judge Stone would like to present at the December meeting. Judge Brownhill will add him to the agenda.

Financial Cost of Interpreters – Judge Keith Raines

Judge Raines told about a case in which a lawyer informed the court that he needed a French interpreter. The trial court administrator paid a French interpreter to appear in court, but the interpreter was not needed. Judge Raines said he is concerned about this unnecessary expense.

Judge McKnight concurred. She said interpreters can have fiscal ramifications for courts, especially when they travel from out of state. She suggested that judges talk about this issue at the Judicial Conference as a first step.

Action Item: Judge Raines will bring information back to the December SFLAC meeting.

Next Meeting

The next SFLAC meeting will be on December 5, 2014 in Portland.

Meeting adjourned at 3:40 p.m.