

MINUTES
STATE FAMILY LAW ADVISORY COMMITTEE
June 7, 2013
12:30 pm – 3:30 pm
Department of Justice
1515 SW Fifth, Suite 415
Portland, Oregon

- Members Present:** Stephen Adams, Amy Bonkosky, Hon. Paula Brownhill, Colleen Carter-Cox, Janice Garceau, Laurie Hart, William J. Howe III, Linda Hukari, Lauren MacNeill, Hon. Maureen McKnight, Rebecca Orf, Hon Keith R. Raines, Kate Richardson, Linda R. Scher, Robin Selig, Justice David Brewer
- Guests:** Ryan Carty [OSB Family Law Section Legislative Subcommittee Chair], John Maack, Holly Rudolph
- Chair:** Chair J. Brownhill called the meeting to order at 12:35 pm. The proposed agenda was accepted.
- Minutes:** The minutes from March 1, 2013 were approved without correction.
- Ratification:** SFLAC ratified the e-mail action approving the Deschutes County Informal Domestic Relations Trial Supplemental Local Rules and recommending the approval to CJ Balmer.
- Legislation:** SFLAC Legislative Committee Chair Richard Funk resigned from SFLAC because of family health issues. J. Brownhill invited Ryan Carty of Saucy & Saucy, who is the OSB Family Law Section Legislative Subcommittee Chair, to present relevant matters which came before the legislature this session.
- HB 2571 Provides that spousal support terminates upon the death of either party if the judgment is silent as to termination, bringing Oregon into synch with IRS regulations to assure deductibility. It also expands the automatic restraining order in ORS 107.103, as it relates to insurance coverage, to cases filed under ORS 109. Signed by the Governor, it will be in effect in January 2014.
- HB 2572 Provides the life insurance provisions of ORS 107 apply to ORS 109.103 cases. It also specifically provides for attorney fees in contested life insurance matters. Signed by the Governor, it will be in effect in January 2014.
- SB 623 Restructures the adoption statute format. It also provides access to files for Judges, DHS, and petitioners; if the file is closed and the child is over 18, the child may have access. The home study will be available only by Court order. Signed by the Governor, it will be in effect in January 2014.
- HB 3249 Provides notice to grandparents of adoption if child is in DHS custody at time. Expected to be signed by the Governor soon. If so, in effect in January 2014.

- SB 444 Prohibits smoking in car if minors there as a secondary traffic violation. Expected to be signed by the Governor soon. If so, in effect in January 2014
- HB 2205 Makes attorneys and others mandatory reporters of elder abuse. Signed by the Governor, in effect immediately but provides that mandatory reporting requirement takes effect January 1, 2015.
- HB 2559 Proposed legislation limiting spousal support with termination after ½ length of marriage but not later than 10 years, termination upon remarriage or cohabitation of the obligee, termination upon obligor's retirement, limited in amount to 25% of difference in party's incomes. This bill will not pass but will arise again in the 2015 session.
- Upcoming Anticipate proposal to expand spousal support to unregistered DR partnerships.

COMMITTEE REPORTS

Domestic Violence – Robin Selig

The DV Subcommittee met in early May, 2013, charged with reviewing DV issues in the Deschutes County Informal Domestic Relations Trial program brochure. The subcommittee concluded that, in some cases, the brochure language would be fine, in others it would not be. The concern was informing potential participants that they should consider the options and be encouraged to seek professional advice if unsure about the best course of action.

Members of the subcommittee contacted many people, including Judge Simpson and others in Idaho, where the informal custody case model is used. The subcommittee drafted proposed language based on the feedback they received. See discussion below in IDRT section.

Court/Child Support Agency Coordination - Kate Richardson & Hon. Keith Raines

The Child Support Subcommittee meets quarterly and last met in May, 2013. Membership has been in flux because of personnel changes.

The new child support guidelines will roll out, including Excel Spreadsheets, on July 1, 2013. Ms Richardson is going on the lecture tour, both before and after.

The legislature is likely to fund a major IT upgrading initiative proposed by the DOJ. This will be a multi-year project to improve systems.

Donna Brann, the Chief Child Support Administrative Law Judge, will be rolling out a new electronic filing system on July 1, 2013. This system is NOT e-Court and is not compatible and won't talk to e-Court.

Litigants who appeal an administrative law ruling often think that the Court file will contain all of their exhibits. In fact, it doesn't. The DA will have copies of only the

documents the parties provided at the case initiation and objection stage, not documents submitted directly to the ALJ. The new system will allow the local DA access to all documents. All cases filed after July 1, 2013 will go into the system and over the next three months, all pending cases will be entered. The ALJ currently holds the documents for a period of time and then discards them. Only the tape of the proceedings is available to the parties. J. McKnight questioned if documents could be PDF'd and forwarded.

Self Representation – Judge Maureen McKnight

The Subcommittee met this week.

There is movement on the interactive forms. The Subcommittee proposed amendments to the prioritization of the development of the interactive family law forms:

1. **Fee Deferral/waivers.** Because fee waivers and deferrals are essential to the commencement of the action, they should be moved to first stage of documents.
2. **Dissolution, separation, and unmarried parents.** These packets also should be in the first stage. The subcommittee originally placed separations farther down in priority (15 out of 19). Because the construction of the pleadings is so similar, separation and unmarried parent petitions should be developed in the same group with dissolutions. The sub agrees this is the most effective use of limited development resources but is disappointed that modifications will be moved down the list.
3. **FAPA.** FAPA petitions had been ranked in the sixth position because of the potential for outside funding. The City of Portland received VAWA funding to develop interactive FAPA forms; the forms are well accepted by advocate staff, have high usage, the content applies state-wide, and eCourt easily can deploy these forms. The sub strongly recommends that FAPAs be the first priority before development of any other forms.
4. **Parenting Plans.** The federal government is interested in having custody and parenting time orders in all support cases and is studying interactive forms. The sub strongly recommends that parenting plan forms be part of dissolution forms or developed simultaneously. The sub also recommends that discussions occur with Department of Justice as soon as possible. Holly Rudolph reports that a decision was made not to link parenting plans with iForms project because of funding tracking.

Oregon is not prepared to have ALJs develop parenting plans. Judge McKnight stressed that the eCourt developers must improve communications with Department of Justice.

Motion: Bill Howe moved to approve and adopt the recommendations if the Subcommittee (understanding that Judge McKnight may make minor adjustments by e-mail). Rebecca Orf seconded. **Motion passed.**

The subcommittee proposed that the Parental Involvement Workgroup go on hiatus because the next effort is education, which is more in the bailiwick of the Parenting Plan Outreach Subcommittee, which will be contemporaneously revived. PPOW will meet on June 11, 2013 to review any new developments in parenting time schedules and related topics. PPOW also will look into projects that could move forward the conversation started by the Parental Involvement Workgroup's custody report.

Motion – Stephen Adams moved that the Parental Involvement Workgroup be inactivated and the Parenting Plan Outreach Subcommittee be re-activated. Judge McKnight seconded. **Motion passed.**

Futures – Bill Howe, Stephen Adams

The subcommittee will be talking soon about its next direction. It has been largely consumed with the Informal Domestic Relations Trial initiative.

Marsha Kline Pruitt is developing an evaluation piece for the IDRT that will be put in place after a 3-month period to work out the bugs. The challenge is to provide comparisons with standard trial cases.

Janice Garceau reflected that we should be looking at the migration of problem-solving away from the Court system and suggested that subcommittee members read the AFCC articles that were recently published.

Spousal support is being reviewed internationally because of changes in society. Mr. Maack cited Wevorce.com as another upcoming initiative.

Salishan Conference – Bill Howe

The Oregon State Bar Family Law Fall Conference and CLE has invited SFLAC to make a 15 minute presentation. Bill Howe anticipates inviting Deschutes Trial Court Administrator Jeff Hall to assist him to present regarding IDRT.

Informal Domestic Relations Trials – Bill Howe, Linda Hukari

Linda Hukari reports that IDRT started on Monday, June 3, 2013 in Deschutes Circuit Court. Deschutes created a survey that goes back 15 months to track FAPAs and convictions for domestic violence crimes.

Robin Selig said that DV subcommittee members have a concern with the brochure. They feel that DV victims should be notified early on of the options with a suggestion that they consult with a professional if they have questions.

Bill Howe pointed out that SFLAC appreciates the work Deschutes has done, and we want to convey that appreciation.

J. Raines proposed a motion which was amended by Lauren Mac Neill and accepted by J. Raines: **Motion:** SFLAC recommends that, upon the next revision of the brochure, the following language be added: [follows last sentence of introductory paragraph of brochure]: “This is an important choice. If you have experienced domestic violence, serious substance abuse, or serious mental health issues in your relationship, you may wish to consult with an appropriate professional to help you make the best choice for you.” **Motion passed** 8 to 4.

Linda Hukari advised that she would be talking with Jeff Hall and would pass this along. SFLAC left it to J. Brownhill to determine the most friendly path for sharing SFLAC support and recommendations.

Spousal Support Guidelines Workgroup - Hon. Keith Raines

In order to ascertain whether to even breach the subject of spousal support guidelines, J. Raines and Linda Scher created a poll to measure the efficacy of the Massachusetts spousal support guidelines. Unlike Oregon, Massachusetts lacked a statutory framework for spousal support and had a toggle switch approach: it was ordered permanently or not at all. After a ten year negotiation, the MA legislature placed maximum guidelines into effect in 2012. The MA State Family Law Chief Justice, Paula Carey, endorsed the poll and sent it to her member judges resulting in a 50% response. The MA State Family Law Committee Chair, Michael Flores, obtained committee approval to endorse the poll and distributed it to his membership, with a much smaller response. The poll results were compiled and distributed at the meeting and e-mailed to the members. The respondents, both attorney and judge, reported a substantial amount of experience in the area. 64% of responding attorneys and 78% of responding judges reported that the MA guidelines were basically fair. 7% of the judges reported that they favored the obligor and the same percentage reported that they favored the obligee. 19% of the lawyers reported that the guidelines favored the obligor and 8% reported they favor the obligee.

Many of the terms lacked complete definition, and a number of lawyers and judges reported that it was too early to tell about some things and that there was some increased litigation to test out those terms. It appeared that the reporters were largely satisfied with the guidelines.

With the move afoot to do something about spousal support guidelines in the Oregon legislative interim, J. Raines recommended that SFLAC examine the issue. J. Raines was invited to undertake continued work on the issues and chair a work group, perhaps to create overarching principles in defining spousal support even if a specific chart would not be in the offing. Mr. Carty was willing to provide legislative liaison on the issue.

J. Brownhill reports that Keith Koerner at OJD will post updates to the OJD family law website because Brad Kane left Clatsop Circuit Court.

Liaison List – J. Paula Brownhill

J. Brownhill previously distributed the liaison list for local family law advisory committees. Before the September, 2013 meeting, she would like the assigned SFLAC members to report to her by email whether or not the assigned county/district has an active LFLAC and, if so, what SFLAC can do, if anything, to assist them. We also should have local court website information. At least once a year, we will create a place on our agenda to hear about LFLAC issues and ideas. Linda Hukari mentioned that two of her counties struggle with what to do. The following suggestions were made:

- Participate in the Spousal Support Work Group
- Develop/work on local court websites and on the LFLAC pages on the OJD website
- Share information with other LFLACs (once we have a complete list)
- Share information on IDRT development and other family law reforms
- Participate on the SFLAC Legislative Subcommittee
- Appear at an SFLAC meeting once a year to report on local projects and activities

Other Matters – Linda Hukari

Bill Howe discussed SFLAC at a recent statewide TCA peer meeting, where he was well-received.

Next Meeting

The next meeting will be on September 13, 2013 in Salem. Ms. Richardson will take the lead in identifying an appropriate location. SFLAC members will prepare for the meeting by email communications.

Respectfully submitted

Keith R. Raines
Secretary for this meeting