

MINUTES
STATE FAMILY LAW ADVISORY COMMITTEE
(SFLAC)
December 5, 2014
12:30 pm – 4:30 pm
Department of Justice
1515 SW Fifth Avenue, Suite 410
Portland, Oregon

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

Members Absent: Hon. Maureen McKnight, Robin Selig, Hon. David Brewer

Guests: Samantha Benton, Angela Laidlaw, Leola McKenzie via Phone, Holly Rudolph, Hon. Ronald Stone, Terry Svay

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

Minutes: Minutes from September 12, 2014 were approved.

Introductions

Yamhill LFLAC Presentation - Hon. Ronald Stone

Judge Stone chairs the Yamhill LFLAC. They meet once a month with at least two judges present. They invite guest speakers from the community to speak for 20 minutes on family law issues in their field of expertise. The Yamhill LFLAC has been working on developing forms for temporary relief; Judge Stone expressed how difficult it is to generate forms.

Judge Stone spoke to the challenge of making custody decisions with no witnesses in very short hearings. He has tried to solve this challenge by holding status conferences, and this strategy seems to be working; at least 50% of cases are settled through mediation.

Judge Stone announced that starting January 1, 2015, Yamhill County will implement the “One Judge, One Family” system.

- **Action:** Judge Stone will share Yamhill County forms upon request.

SUB-COMMITTEE REPORTS

- **Action:** Subcommittee chairs will send Judge Brownhill up-to-date membership lists.

Self-Representation Subcommittee – Judge Maureen McKnight (absent)

Judge Brownhill read an email submitted by Judge McKnight. The last three Self-Representation Subcommittee meetings have been cancelled due to Odyssey-related activities. The next meeting will take place in January of 2015.

Domestic Violence Subcommittee – Becky Orf

Becky introduced the new OJD Family Law staff: Samantha Benton, Terry Svay, and Colleen Carter-Cox.

The Domestic Violence Subcommittee met November 20, 2014. Becky is working on a series of five domestic violence-related webinars beginning in January 2015. A memo announcing the series will be sent to courts. The webinars are open to judges and court staff and the webinars will be recorded and uploaded to the OJD Intranet.

Webinar Schedule:

- January 14, Federal and State Firearms Laws in DV Cases – Hon. Maureen McKnight
- January 21, Batterers and Parenting – Dr. Christopher Wilson, Psy.D.
- January 28, Full Faith and Credit and Protective Orders – Hon. Deanne Darling
- February 4, Elder Abuse – Hon. Katherine Tennyson
- February 11, Dynamics of Sexual Assault that can Impact Court Proceedings – Jenna Harper

Becky is working on protective order forms for Odyssey. She reported that the statewide interactive FAPA forms will go live in January 2015. She also is working on a firearms disposition project with the VAWA board which aims to increase the number of courts that require firearms to be surrendered in DV cases. Currently six courts have adopted firearm surrender protocols: Yamhill, Clatsop, Clackamas, Multnomah, Washington, and Tillamook.

Becky is monitoring the Oregon Domestic Violence Prevention Task Force, and she is consulting with the Wider Opportunities for Women project which offers financial independence for victims of crime. Becky reported on the daylong meeting held with Oregon judges and NCJFCJ staff and national experts on batterer intervention research. This group of judges is drafting a statement regarding batterer intervention programs for consideration by other Oregon judges.

Court/Child Support Agency Coordination Subcommittee – Kate Richardson

Kate reported on out-of-cycle changes to the Uniform Support Declaration.

The subcommittee is working to update the child support area of the OJD Family Law website.

Kate discussed collecting cash child support money at the courts: some courts collect, some don't. DOJ is working on how this could be accomplished in all courts.

On the issue of two orders active at the same time - an administrative order and a court order with support – the Subcommittee thought that there was a legislative fix, but it isn't really working. However, with courts moving to eCourt, they are hoping it will self-resolve.

The Subcommittee has been looking into the authority of the court to release juvenile court records to child support agencies. This might be an easy fix – the language in the DOJ motion may need to be changed.

There is an opportunity for stakeholders to comment on the Federal Office of Child Support Enforcement's legislation that passed this fall (a report is due to Congress by June 2015). Kate also reported that the fully electronic case management system appears to be working well.

- **Action:** Kate will email a link for the SFLAC to comment online on the proposed Child Support Enforcement regulations.

Parental Involvement and Outreach Subcommittee – Janice Garceau & Lauren MacNeill

The Parental Involvement and Outreach Subcommittee met twice since the last SFLAC meeting.

The *Birth Through Three* guide is completed and receiving great reviews, "Best thing he had seen. Wasn't surprised it came out of Oregon." – Director of Child Support Program in New York. The Spanish version of the *Birth Through Three* guide will be ready in January. Changes to the cover letter have been made with suggestions from the last meeting. A language change on the way the SFLAC is credited for the *Birth Through Three* guide was also made.

Linda Hukari brought up two issues relevant to child support subcommittee work: parenting time and overnights. Two suggestions were shared: enter percentages of overnights in the calculator, and include child support calculations for interim and permanent parenting plans. Kate added that the percentage is difficult to program into the calculator, but it is a goal. However, interim parenting plans would be difficult to implement.

Legislative Subcommittee – Ryan Carty

Ryan is still working on his task from the last meeting – putting together the Legislative Subcommittee. Ryan announced that three individuals are currently interested in joining the Legislative Subcommittee, but he is not ready to reveal names until he confirms that they want to join. In March, Ryan will present additional names to the SFLAC. He would appreciate the SFLAC's help in identifying proposed members from Eastern and Southern Oregon.

Becky Orf announced potential domestic violence-related bills: emergency restraining orders; a bill that makes violating a restraining order a crime; changes to the definition of physical injury;

and upgrading strangulation to a felony. Becky also reported that there will be an OJD bill for the consistency of statutes related to affidavits vs. declarations vs. sworn statements.

- **Action:** Send Ryan the names and contact information for proposed Legislative Subcommittee members by next meeting.

Limited Scope/Unbundling Workgroup – Bill Howe

The IAALS study in Multnomah County is underway. Its focus is to research why people self-represent in court. 750 surveys were sent via mail to randomly selected people, but the problem with the survey is that it required individuals to spend anywhere from 45 minutes to an hour to complete it. Apart from Multnomah Co., the next jurisdictions studied will be: Fort Collins, Colorado; Franklin County, Massachusetts; and Davidson County, Tennessee. Interviews were to begin during the first three weeks of December, but have been postponed.

Bill then discussed licensed legal technicians and unbundled services. The initial draft of the Licensed Legal Technician Task Force report had many supporters but has recently received blowback from various parties. The draft was revised December 4, 2014.

- **Motion:** Stephen Adams moved to authorize Bill Howe to nominate the SFLAC for the ABA Louis M. Brown Award for Legal Access. Seconded by Bill Howe. Motion passed - unanimous.
- **Motion:** To ratify email votes that approved the work group's unbundling recommendations and directed the Chair to forward them to Chief Justice Balmer. Seconded by Bill Howe. Motion passed - unanimous.
- **Action:** Bill will circulate a PowerPoint, polls, and research on licensed legal technician statistics upon request.
- **Action:** At Woody Mosten's suggestion, Bill will nominate the SFLAC for the ABA Louis M. Brown Award for Legal Access.

CREW Proposals – Amy Bonkosky

On behalf of the Crew Business Process Subgroup, Amy Bonkosky asked SFLAC for input on two issues: 1) making an Order to Show Cause an internal Odyssey form to be generated by court staff, and 2) requiring a formal ORCP 69 Order of Default in show cause proceedings when the non-movant has not responded within the designated time.

Judge McKnight wrote to Amy and opined that courts shouldn't abandon default orders in family law modifications, but default orders are not necessary in other show cause matters. Judge Raines offered a counterpoint: a better practice is to get relevant information at the hearing.

SFLAC discussed how various courts handle show cause matters. Holly Rudolph provided information on forms in general, how forms move through the revision process, and who is on the various review committees. Amy Bonkosky stated that CREW becomes involved when other committees cannot resolve issues, and CREW also sends feedback to other committees. Colleen Carter-Cox mentioned that the default issue has a different answer if it's a written response or personal appearance. Amy will send SFLAC comments to CREW subgroup. Ryan Carty mentioned that he wrote a memo on the subject of default orders in modifications. Judge Raines said that Multnomah County may need its own rule because of the volume of cases, but their rule should not be imposed on the other courts.

- **Action:** Amy Bonkosky will forward SFLAC's comments to CREW subgroup members.
- **Action:** Samantha Benton and Holly Rudolph will discuss modification forms.
- **Action:** Ryan Carty will send his memo about defaults to Amy Bonkosky.
- **Action:** Terry Svay will send draft of minutes of this section to Amy.

Standards for SFLAC Review of Statutes and Proposed Legislation – All

Bill Howe stated that the SFLAC was formed to advise the Chief Justice. Sometimes policies/procedures overlap substantive law, such as joint custody discussions and Judge Raines' proposal for a statutory life insurance fix. Stephen Adams said it has been awhile since SFLAC has examined its mandate. ORS 3.436 provides that we assist the State Court Administrator in identifying family law issues. Our purview is broad, and we are within our bounds to address substantive law. We, however, must fully inform the SCA and Chief Justice on these issues so they are aware of the pros and cons.

Becky Orf said that the OJD policy is not to take a stance on legislation (unless it affects court procedure). SFLAC cannot introduce legislation. Stephen Adams agreed but explained that Judge Raines raised the life insurance problem so that another entity could address a fix. In that circumstance, Judge Raines asked Ryan Carty if the Oregon State Bar family law section would look at it. Stephen emphasized that SFLAC can discuss issues, and there is no problem asking another group to consider changes in the law.

Ryan Carty and Judge Raines agreed on language for the life insurance fix. Ryan discussed it with the family law section, and he will follow up at the next meeting in January 2015.

OJD Family Law Website – Colleen Carter-Cox

The Oregon Judicial Department Family Law website is currently being updated by fixing broken links and replacing out of date documents. After the website update, Colleen Carter-Cox, Terry Svay, and Samantha Benton will work on a substantive and organizational redesign. Colleen asked SFLAC if they would help review new content for the website. The Self-Representation Subcommittee has agreed to review some of the changes. The forms page and overall organization are a high priority. Forms tutorials are coming to the new Family Law site. Holly Rudolph mentioned that her OJD website redesign is moving forward. Judge Brownhill would

like a self-help center on the website. The current self-help page says coming soon. Janice Garceau said there is a demand for information on grandparent rights. Holly said that there are statistics about website use that can be obtained from Keith Koerner of ETSD.

- **Action:** Terry Svay will send website statistics to SFLAC members upon request.

Interpreter Costs – Hon. Keith Raines

Interpreter misuse happens when interpreters are scheduled for court, but the person requesting the interpreter doesn't show up. Currently there is no statutory authority for an award of fees or costs when someone misuses interpreter services. Judge Raines would like such authority. Amy Bonkosky asked if the court would have to track requests for interpreters; that could create a workload issue for courts. Linda Hukari said her court has flown an interpreter from Korea. She suggested that SFLAC invite Kelly Mills to the next meeting to discuss this issue.

- **Action:** Invite Kelly Mills to next SFLAC meeting.
- **Action:** Judge Raines will come up with language for the next SFLAC meeting in March.
- **Action:** Put the Interpreter topic on the March 2015 agenda.

Stephen Adams opined that Oregon statutes/court rules probably would cover these bad faith situations. Becky Orf will alert the Chief Justice and State Court Administrator to this discussion.

Mediation Funding – Janice Garceau & Lauren MacNeill

Janice Garceau reported that the 2011 change in the mechanism for funding mediation has reduced funds for court mediation programs. Every year since 2007 has brought a 1300 case-per-year increase in mediations statewide, but funding has not increased proportionally. In the past, counties had the ability to impose a surcharge on filing fees, but they can no longer do so. Programs have been floundering with the decrease in funds. Lauren MacNeill asked how we can fix this.

Amy mentioned that the counties control the mediation funds and there is no requirement for a county to give the circuit court a financial statement. Now the counties can move money out of the law library and mediation funds. Becky Orf offered to work on a subgroup to gather information and generate a report. Janice Garceau will head up the group. Lauren MacNeill and Ryan Carty will work with Janice and Becky.

- **Action:** In 2015, Janice Garceau, Lauren MacNeill, Becky Orf, and Ryan Carty will form a mediation funding work group.
- **Action:** Becky will invite Kingsley to next SFLAC meeting to discuss mediation funding.

Other Business

Action: Add a revised SFLAC roster and list of staff contacts to the OJD website.

Next Meeting

The next SFLAC meeting will be Friday, March 6, 2015, in Portland.

Meeting adjourned at 3:10 p.m.