

MINUTES
STATE FAMILY LAW ADVISORY COMMITTEE MEETING
April 7, 2006

Deschutes County Courthouse
Bend, Oregon 97701

Judge Brownhill called the meeting to order at 10:05 a.m.

Members Present: Judge Paula Brownhill, Judge Robert Selander, Judge Maureen McKnight, Stephen Adams, Linda Scher, Ernie Mazorol, Jim Adams, Dr. Ed Vien, Dave Hakanson, Ramona Foley, Robin Selig, Lauren Mac Neill

Members Absent: Judge Leggert, William Howe

Guests: Chief Justice Paul J. De Muniz; State Court Administrator Kingsley Click; Richard Zorza, Judge Michael Sullivan (Deschutes County), Judge Dale Koch (Multnomah County), Judge Barbara Haslinger (Deschutes County); Judge Ronald Pahl (Umatilla County), Commissioners Daley and Luke, and the Deschutes County Local FLAC

Staff: BeaLisa Sydlik, Maria Hinton

The committee extended a welcome to Chief Justice Paul J. De Muniz and State Court Administrator Kingsley Click, and to hosts Hon. Michael Sullivan, Presiding Judge, Deschutes County Court, Chair and members of the Deschutes County Local Family Law Advisory Committee. Also welcomed was the keynote speaker for the Family Law Conference, Richard Zorza.

CONSENT CALENDAR

Minutes for December 2, 2005: A motion was made to adopt the minutes as written. The motion was seconded and carried unanimously.

POLICY CONCERNS AND DEVELOPMENTS–Old Business

SFLAC Charter: BeaLisa Sydlik distributed a copy of the Charter of the Statewide Family Law Advisory Committee (SFLAC) signed by both Chief Justice Paul J. De Muniz and State Court Administrator Kingsley Click. The charter specifies that the SFLAC will meet once a year with the Chief Justice and the State Court Administrator to discuss and advise on family law matters. This meeting accomplishes that objective for the calendar year 2006.

Elder Law: On December 19, 2005, Judge Brownhill contacted the Oregon State Bar, Elder Law Section, inviting members of the Executive Committee to attend the June 9, 2006, meeting of the SFLAC to discuss elder law issues. Past and current chairs, S. Jane Patterson and Steven A Heinrich, have accepted the invitation. BealLisa recommended discussing probate forms, guardianships, pro bono attorneys, resources for self represented litigants, and the status on use of court visitors statewide. It was also suggested that discussion with Ms. Patterson and Mr. Heinrich include identifying emerging resources regarding mediation services for probate cases, what their committee sees as unmet needs, and determine how the SFLAC can best interface with the Elder Law Section.

Performance Measures: BealLisa Sydlik reported that a sub-workgroup with members from the Performance Measures Advisory Committee (PMAC), the Court Programs and Services Division (CPSD), and TCA/family law facilitator representatives met in March 2006 to discuss OJD's Family Law Facilitation Programs and worked to develop a matrix that would identify components for both "adequate" and "quality" facilitation programs. Subsequent to this meeting, Alice Phalan, Strategic Planning and Evaluation Manager, contacted all Trial Court Administrators and distributed a table listing these key components of "adequate" and "quality" facilitation programs, asking that they complete the table and return it for compilation by the end of March. There has been insufficient time to analyze the data collected as of the date of this SFLAC meeting but handouts were distributed to SFLAC members with a brief, preliminary compilation of results received as of that date. BealLisa explained that the final results will be reconsidered by the sub-workgroup and eventually the PMAC for a final determination of how best to attempt defining what "adequate" and "quality" family law facilitation services are. In the meantime, the key components will assist the courts in developing their policy option packages for the 2007-2009 biennium to be submitted by the Chief Justice in his budget at the end of 2006.

BealLisa also reported that Leola McKenzie, Assistant Director of Court Programs and Services, has indicated an evaluation of a family law facilitation program in a pilot court could be begun as early as June 2006. In this regard, she has requested time on the SFLAC's June meeting agenda to discuss the parameters of such an evaluation and to solicit ideas from the SFLAC. Stephen Adams volunteered to participate in a conference call with Leola and Christopher to help lay groundwork for the project. Jim Adams wants to move forward to adopt the performance measure #10 for 2007, and continue to refine the measure thereafter. Judge Selander stated that the problem remains that legal advice is needed by people trying to use the facilitation programs, but it is not able to be given. Ernie Mazorol agreed that many people are being missed, but also that facilitation programs serve people who can afford attorneys. It was suggested that the SFLAC may want to revisit the option of revising legislation to authorize attorney facilitators.

SFLAC Focus Regarding Subcommittees: The issue remains that there is insufficient OSCA/CPSD staff available to devote large blocks of time to the work that the SFLAC would like to address as set forth in the OJD's Family Law 2005-2009 Strategic Plan.

Judge Brownhill, Bill Howe and Stephen Adams will meet to look at subcommittee structures and will report back to the committee at the June meeting.

POLICY CONCERNS AND DEVELOPMENTS–New Business:

Judicial Involvement in Encouraging Pro Bono

BeaLisa reported that this agenda item derived from her position as Secretary and future Chair of the Oregon State Bar Pro Bono Committee, as well as SFLAC and subcommittee staff support. She distributed copies of a White Paper "*Judicial Involvement in Promoting Pro Bono Services in Oregon*" and discussed key points made in that document. She noted that Oregon's Code of Judicial Conduct does not specifically address the whether judges can ethically support and recruit pro bono legal services in Oregon. Results from a survey in 2002-2003 show that as many as 69% of cases involving family law have at least one party appearing without an attorney. Less than 20% of low income litigants receive legal assistance and of that number, only 4% are assisted by pro bono attorneys. Information from other states confronting the issue shows that the key to increasing the provision of pro bono legal services to the self-represented litigation population is having judicial support for such efforts.

It was also noted that the issues of judicial conduct during proceedings involving self-represented litigants, as well as support for pro bono legal services, will also be discussed at the annual meeting of the Circuit Judges Association on April 9-11, 2006.

It was reported that several entities have identified that, as stated in the White Paper, "*there is an urgent need in Oregon to clarify the extent to which Oregon's judicial canons allow its judges to participate in and encourage the provision of pro bono services by members of the bar.*" BeaLisa stated that the OSB's Pro Bono Committee and Judicial Administration Committee are addressing the issue, in addition to the SFLAC's Self-Represented Legal Services Committee. This change may take the form of clarifying written opinions from the Judicial Conduct Committee of the Oregon Judicial Conference or revision of the existing judicial canons. Richard Zorza stressed that clarification of the canons does not necessarily represent a change in the law.

The SFLAC affirmed that it has identified self-represented litigants as a primary focus, as shown by the theme of this weekend's annual conference, and indicated that it would support a recommendation to the Judicial Conference, Chief Justice and State Court Administrator that clarifying language be adopted in the Oregon Code of Judicial Conduct and/or that clarifying written opinions be issued. Some concerns expressed included that the issue of appointing attorneys for children be addressed, as well as that the creation of volunteer attorney lists for court staff have open standards and not appear to be comprised only of "favorites." Kingsley Click mentioned that the Pro Bono program of the Oregon State Bar is set up to provide pro se legal services and it would be necessary to list how actions would be coordinated to eliminate duplication.

The SFLAC determined that the topic would remain on SFLAC agendas for the future and asked that BeaLisa continue to provide it with updates regarding the progress of research and developments in the work on this issue by the entities and committees referenced above. Stephen Adams moved to adopt this philosophy in principle and encourage groups to take action. Motion carried unanimously.

Proposed OJD Domestic Violence Website

Robin Selig, Chair of the SFLAC's DV Subcommittee and Stephen Adams reported. They indicated that there has been creation and review of sample web pages that would serve as a Domestic Violence link on the OJD Family Law website. It was agreed that the website needed to be neutral and accurate, and the DV website of the California courts was pointed to as a good example of one that contained, not only information for petitioners, but also for respondents. It was noted that the Domestic Violence Subcommittee is limited by resources in what it can develop as far as detail, complexity and content of a webpage.

Jim Adams asked if a Policy Option Package (POP) could be developed for additional SFLAC support services and BeaLisa stated that she had just received an e-mail to that effect but had insufficient time to review it before this meeting. She will report to the SFLAC with any information it may contain upon her return. Ernie mentioned the possibility of increasing conciliation fees by \$1 to develop a pool of funds to support projects such as this one. Another possibility is looking into applying for a VAWA grant.

It was resolved that the SFLAC's Domestic Violence Subcommittee will continue to review and evaluate the content of a proposed DV webpage for the OJD Family Law Website. Stephen Adams stated he would be willing to work with the subcommittee on information and materials for respondents. Reports will be made at future SFLAC meetings.

SUBCOMMITTEE REPORTS

Annual Family Law Conference: A list of registrants with their occupations/positions identified was distributed to the SFLAC. Maria Hinton reported that there were 167 registrants for the Family Law Conference, and the group has a well balanced mix of judges, attorneys, mediators and court staff, as well as others from the Department of Human Services, Department of Justice Child Support Division, and other private and governmental organizations. Currently, the conference looks like it will be self-supporting, but the final figures won't be available until the June meeting, when all invoices have been processed and final reports have been received from the Financial Administrative Services Division.

The keynote speaker, plenaries, judges panel, lunch presentation by local FLAC and two workshops will be audio taped.

BeaLisa reported that due to an emergency, Liss Hart-Haviv will not be able to present during the *Encountering Family Abduction* workshop. However, Dr. Edward Vien,

another presenter for the workshop, will be asked to fill in and show the video that Liss will supply via FedEx.

Futures Subcommittee: The subcommittee has not met recently, therefore there is no report available.

Legislative Planning: Judge Leggett was not present to report. However, it was mentioned that the governor has called a special two day session of the legislature. Topics to be discussed include the deficit from DHS, funding for education, payday loans, and “Jessica’s law” re: enhanced penalties for those convicted of child sexual abuse.

Domestic Violence Subcommittee: Robin Selig reported that the new members to the subcommittee are very enthusiastic. There have been three meetings since the December SFLAC meeting. Revision of FAPA forms has been completed and they are now on the OJD’s Family Law Website. The Subcommittee recommends keeping the new FAPA law and forms on the SFLAC agenda, with particular attention to how the new “exceptional circumstance hearings” are playing out. The subcommittee has a workgroup working with members of the Judicial Conference’s Family and Juvenile Committee to revise the FAPA Benchguide. It is anticipated that these revisions will be completed by the May 2006 deadline.

11:50 a.m. - 1:15 p.m. A break was called at this time for lunch

After lunch, the Deschutes FLAC reported on low-cost custody evaluations and the Safe Havens program. The conciliation fee was increased to \$150 by the county commission, \$30 goes to mental health for custody evaluation and \$20 goes to Safe Havens for supervised visits.

Each parent pays \$300 for a custody evaluation through mental health. There are good cause exceptions at no charge. They provide fifty evaluations per year with ten evaluations at no charge. Judge Brady has oversight to space the evaluations out and not go over the limit of fifty. There is a questionnaire that is completed and Judge Brady chooses according to priority ranking (low income are high priority). They receive a summary with recommendations, or a full report upon request.

Safe Havens received a VAWA grant for planning, and now has seven families in the process, with four families ready to start. They completed individual intakes with each parent and obtained releases so background check could be completed. They want to build strong relationships between parents, focusing on how they can have a healthy relationship with the child, and taking the focus off the other parent. Their facility has separate entrances, panic alarms, security cameras, baby monitors, and they arrange staggered arrival/departure times for parents. They brought in Dr. Scott Hampton from New Hampshire as a trainer and addressed the relationship between batterers intervention programs and supervised visits. **Trainers also met with judges individually.** The daycare center is used by the county during the day and Safe Havens at night.

Stephen Adams asked the FLAC for recommendations on how to get dormant FLACs re-invigorated. The FLAC members responded that the strength of the lead judge is the key. FLAC members should approach the TCA for help if judges are disengaged. They suggested inviting judges to a successful local FLAC meeting. They stated that successful FLACs have all agencies at the table, and they keep the agenda tight, and make meetings meaningful. Also, the building of "action items" into reports for follow-up is essential.

Parenting Plan Outreach Workgroup: Linda Scher reported that she and Lauren MacNeill are presenting a workshop at the Family Law Conference. This workshop will include the premier appearance of the Power-point presentation that has been developed on "Parenting Plans and Family Law Materials", and will be going to another state in July. Linda stated that not having a projector to show the Power-point is still a barrier. Nancy Miller volunteered to look into purchasing a projector from family law funds, after conference finances are determined.

The Basic Parenting Plan forms is being revised so that it can be completed on-line. That process is close to completion.

Court/Child Support Agency Child Support Coordination: A co-chair has not yet been appointed to this committee. Cindy Chinnock resigned her position at the DOJ Child Support Division at the end of last year and it was announced at this meeting that William "Butch" Castor is now the new Director. There are still restrictions with using information in the child support database and as yet there is no solution. There is a lack of progress in addressing rulings dealing with releasing information through the federal and state parent locate service. JCIP, DHS and OYA are looking at policies and procedures to help in collaboration, information sharing and training issues. Child Support guidelines are being reviewed. There is now funding for scanning and imaging copies of child support orders, so this will help court staff with workload issues. Modification forms for child support may be put on the DOJ website.

Self-Represented Legal Services Subcommittee: Judge McKnight touched upon the subcommittee's workshop for the Family Law Conference, *Travails of Paul and Pauline*, and explained that the subcommittee wanted to examine the judicial and administrative processes from the pro se litigants' perspective. Judge McKnight also informed the committee that the booklet "How to Prepare for Your Divorce, Legal Separation, Custody or Support Trial" is now complete and posted on the OJD Family Law Website. The guidelines for courts developing attorney assistance programs is on hold pending possible changes to judicial canons. Developing "best practice" will depend on the discussions and outcomes of the Circuit Judges Association meeting, as well as follow-up efforts as previously discussed. This subcommittee will suspend meetings until a new chair is appointed. This issue will be included on the June agenda.

Other Business: Nancy Miller had a conversation with General Caldwell from the military. He is concerned and asking for legislative concepts related to family law for deployed troops. It is a major national concern that children are being used as weapons in family disputes while troops are deployed.

Jim Adams stated that he liked the opportunity to visit a local court for the SFLAC meeting and recommended holding future meetings at host local FLACs once a year. It was suggested that, at the Family Law Conference, an announcement be made asking for volunteer FLACs to host the SFLAC in 2007.

At this time, the opportunity to tour the new Deschutes County court rooms with Hon. Michael Sullivan was extended, and to afford a look at the new technology installed. Gateway is on an ISD line rather than IP line, with video conferencing around the world (\$30,000). Deschutes County Commissioners paid for electrical access on a “wireless project”, and, with existing infrastructure, the wiring of portals cost less than \$5,000.

The meeting was adjourned at 1:30 p.m.

FUTURE MEETING DATES:

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| Friday, June 9, 2006 | 12:30 p.m. - 4:30 p.m. | The Convention Plaza Bldg., Large Conference Room, 1 st floor, 123 NE 3 rd Ave., Portland |
| Friday, Sept 29, 2006 | 12:30 p.m. - 4:30 p.m. | Multnomah County Juvenile Justice Center, Portland |
| Friday, Dec 1, 2006 | 12:30 p.m. - 4:00 p.m. | Multnomah County Juvenile Justice Center, Portland |