

MINUTES
STATE FAMILY LAW ADVISORY COMMITTEE
March 7, 2014
12:30 pm – 4:30 pm
Department of Justice
1515 SW Fifth, Suite 415
Portland, Oregon

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

Members Absent: Hon. Keith Raines

Guests: Chief Justice Thomas Balmer, Kingsley Click, John Maack, Katsu

Chair Hon. Paula Brownhill called the meeting to order at 12:35 pm. New members Ryan Carty and Adam Furchner introduced themselves.

Minutes: Minutes from December 6, 2013 were approved without correction.

CONVERSATION WITH THE CHIEF: Chief Justice Tom Balmer thanked SFLAC members for their work on family law matters. He explained that the 2013 legislature gave OJD a level of funding to support current services. OJD was able to restore 40+ positions in the trial courts, and courts are open five days a week. It also allowed eCourt to continue to progress; eCourt is a state IT program that works. Odyssey case management system is operational in ten courts, and Multnomah will go live in May. eFiling and remote access to documents are on track. Lawyers will see the benefits when remote document access is added. Some government users are piloting remote document access, and their feedback has been very positive. Work continues on confidentiality issues. Although OJD was able to build connections during the 2013 session, the legislature did not fund the family law policy option package. This was a high priority package that would restore family law staff in Salem and fund 17 positions in trial courts to help self-represented litigants. OJD will ask again in the 2015 session, and the Chief would appreciate SFLAC's help with that effort.

The Chief explained that OJD could not move as quickly as hoped on the development of interactive family law forms. OJD has worked out terms with Intresys (TurboCourt) and Tyler Technologies to implement interactive FAPA forms statewide. OJD will continue to work toward implementation of interactive family law forms.

Justice Martha Walters and Justice David Brewer serve on the Oregon State Bar Innovations in the Law Workgroup. Its purpose is to create a closer connection between recent law school

graduates and the legal needs of moderate and low income Oregonians. Projects could include providing support for self-represented litigants, developing easy-to-access legal resources, and providing unbundled legal services.

Kingsley Click announced that the 2014 legislative session passed two OJD-sponsored bills. One cleans up some problems in SB 622 regarding disclosure of juvenile court records. The other authorizes the Chief Justice to adopt fees for use of electronic case management systems. OJD also received some funding from the 2% hold-back. The legislature authorized funds for construction of a new Jefferson County Courthouse.

Bill Howe pointed out that SFLAC could be even more effective with staff. He also recommended that OJD endorse development of unbundled legal services. Stephen Adams suggested that unbundling needs a structured format that comes from the top down via the judiciary. Judge McKnight acknowledged Robin Selig's contributions to development of FAPA interactive forms. She reminded the group of recommendations of the Task Force on Family Law Forms and Services and said the Oregon State Bar continues to be interested in development of interactive forms. Janice Garceau pointed out that self-represented litigants have no voice in the development of unbundled legal services, and, as users, they may have valuable input.

Bill Howe asked if appellate dockets are slowing down; he said family law litigants need timely resolution of their disputes. The Chief and Justice Brewer said judges on the new Court of Appeals panel will help reduce delays. Chief Judge Rick Haselton is looking at other ways to cut timelines. The Supreme Court does not take many family law cases. Judge Brownhill mentioned that the self-help center on the OJD website is inadequate compared to sites in California and Minnesota. She asked if OJD could access grants or otherwise find funds to create a comprehensive self-help center.

Rebecca Orf asked the Chief what SFLAC can do to help OJD. He responded that SFLAC could give him specific information, such as "Here is what California is doing on unbundling" or "Here is a court rule that another jurisdiction adopted". He was able to approve an out-of-cycle court rule for the Informal Domestic Relations Trial. Tell him other ways we can be innovative. He added that SFLAC could work with OJD to prepare for the 2015 legislative session.

UNBUNDLED LEGAL SERVICES – SFLAC looked at the draft Notice of Limited Scope Representation. Robin Selig asked why an attorney would file the form if only helping behind the scenes, not appearing in court. Ryan Carty explained that the notice would clarify the lawyer's role for the court and opposing counsel. Judge McKnight suggested that a simple certificate would be preferable to a form that gives too much information. Lauren MacNeill said it might be valuable to reconnect with Woody Mosten. Judge McKnight asked who would receive hearing notices if a lawyer has filed the limited scope notice. Can OJD sort notices so some go to counsel and some go directly to the client? A technology expert may need to weigh in.

SFLAC members agreed to form the Limited Scope Workgroup. Bill Howe will chair and members are Ryan Carty, Linda Hukari, and Robin Selig. The Chief will find someone in OSCA to help. The workgroup will develop a certificate or form with notice to the court in discrete task/limited scope arrangements. It also will look at a Bar-approved lawyer/client fee agreement. The workgroup will report back in June.

The Committee went through the list of Woody Mosten's recommendations and adopted these:

1. Courts should offer information to self-represented litigants (see #11).
2. Courts should study the needs and composition of self-represented litigants in Oregon.
3. Courts should train judges and court staff to assist self-represented litigants.
4. Courts should allocate increased resources to assist self-represented litigants.
8. Court personnel (including judges and clerks) should be trained to help court users identify and take advantage of unbundling resources in the community.
9. Unbundling-friendly court rules should be enacted.
10. Courts should develop user-friendly court forms to facilitate lawyers making and withdrawing from limited scope appearances.
11. Courts should create and make available a user-friendly brochure.
14. Courts should provide information on unbundling to mediators within their jurisdiction.
15. Courts should partner with local bar associations to offer unbundling education to lawyers within their jurisdictions.
18. Courts should adopt an evaluation process to assess the effectiveness of unbundling initiatives. This may need to be a joint effort with the Oregon State Bar.

ACTION ITEM: Bill Howe will circulate a self-representation study from Canada.

ACTION ITEM: Janice Garceau and Colleen Carter-Cox will create a survey to obtain information on self-represented litigants in Oregon.

ACTION ITEM: Workgroup will look into a form letter to litigants, will create a notice/certificate for filing in court, and will work on a Bar-approved fee agreement. Workgroup will look into court rules in other jurisdictions.

COMMITTEE REPORTS

Self Representation – Judge Maureen McKnight

Judge McKnight reported that David Factor from OJD Office of Education and Training Outreach attended the last subcommittee meeting. The subcommittee members have a high level of frustration over the delay on interactive family law forms, and the Bar remains interested in developing its own forms. Mr. Factor explained the current status of interactive forms, and Kingsley Click followed up with a memo to SFLAC. Kingsley said SFLAC may contact Kristopher Stockett any time for updates on development of interactive forms.

The Subcommittee has focused on service instructions, which should be completed soon. Product will be a five-page easy-to-understand explanation of the requirements for serving a party with legal process.

ACTION ITEM: Bill Howe will contact Judge McKnight and may attend the next subcommittee meeting.

Domestic Violence – Robin Selig

Robin and subcommittee member Rebecca Orf have spent a great deal of time on development of the new Sexual Abuse Restraining Order forms. They asked for clarification of the subcommittee's role regarding sexual violence. Judge McKnight proposed that the subcommittee have flexibility to address other vulnerable populations with themes similar to domestic violence. SFLAC members concurred.

Odyssey has complicated the ability to pull data on protective orders. Judge McKnight asked if the subcommittee can obtain accurate numbers of filings for the four types of protective orders. Rebecca Orf will send unofficial 2013 data to Judge McKnight. Judge McKnight would like to receive reports twice a year.

The subcommittee work plan: 1) revise the Stalking chapter of the Family Law Benchbook by May 1; 2) update the Domestic Violence webpages on the OJD family law website; 3) help Rebecca Orf with updates to the FAPA forms as needed.

Court/Child Support Agency Coordination - Kate Richardson

Kate Richardson reported that the Court/Child Support Agency Coordination Subcommittee met on February 13, 2014. The National Child Support Enforcement Association is holding its national conference in Portland in August 2014. Oregon (and Kate as director) must present two plenaries with information exportable to other

states. Kate asked if SFLAC members were okay with a session on the Informal Domestic Relations Trial. All agreed. Attorney General Ellen Rosenblum will open the conference.

On February 14, 2014, Kate testified before the Joint Committee on Legislative Audits, Information Management, and Technology on the DCS IT project. Also presenting were eCourt, Cover Oregon, and Department of Revenue.

Parental Involvement - Janice Garceau and Lauren MacNeill

Janice Garceau said the workgroup will reconvene, and they plan to hold two meetings before the June SFLAC meeting. They have combined the Parental Involvement workgroup with the Parenting Plan Outreach Subcommittee. Most of the original members will continue to participate, and they will add a few new members.

They asked for direction regarding the SFLAC Custody and Parenting Time report in light of the Richard Warshak study on shared parenting. Co-chairs feel it is important for parents to have tools to make good decisions so children are as unharmed as possible, but it may not be helpful to revisit the Custody and Parenting Time report. After considerable discussion, SFLAC recommended that the workgroup work on tools for parents and not take on a review of the Custody and Parenting Time report. Rebecca Orf asked if we should take the report down from the website. The workgroup will consider that suggestion.

Futures – Bill Howe, Stephen Adams
No Report.

Legislative Subcommittee – Ryan Carty

Ryan Carty graciously accepted the position of chair of the Legislative Subcommittee. He reported on SB 1505, which would have excluded veteran disability payments in the calculation of spousal support in family law cases. The bill died without being scheduled for a work session.

Ryan asked about SFLAC's role in legislation. It is to review family law bills and refer to appropriate subcommittee chairs if they look viable. Usually SFLAC is reactive rather than proactive, but members may be proactive to advocate for OJD family law resources. Ryan asked for a group of members he can reach quickly during session. The following members volunteered to be in a legislative email group: Judge McKnight, Robin Selig, Rebecca Orf, Bill Howe, Kate Richardson. Colleen Carter-Cox volunteered to help lobby for family law resources for the courts.

Ryan asked SFLAC members to notify him if anyone receives information that a particular bill is dead.

Spousal Support Guidelines Workgroup - Hon. Keith Raines
No report.

Salishan Conference – Bill Howe

Bill Howe requested and received 30 minutes for SFLAC on the agenda at the 2014 OSB Family Law Conference at Salishan. SFLAC will discuss at the June meeting.

Family Law Benchbook - Hon. Paula Brownhill

The DV Subcommittee is updating the Stalking chapter of the Family Law Benchbook. Judge Raines is working on the Spousal Support chapter. Judge Brownhill will make sure all chapter headings and page numbers are accurate and will put finishing touches on the Civil Commitment chapter. **Needed: someone to update the Adoption outline.**

OETO will put pdf versions of the chapters on the OJD intranet for use by judges. Judge McKnight will talk to Cheryl Fowler about the possibility of putting it online with public access.

Next Meeting

The next SFLAC meeting will be on June 6, 2014 at the Department of Justice, 1515 SW 5th, Suite 415, Portland OR.

Meeting adjourned at 4:20 p.m.