

MINUTES
STATE FAMILY LAW ADVISORY COMMITTEE
December 4, 2009
12:30 p.m. to 4:30 p.m.

Citizen Review Board Offices
Portland, Oregon

Members Present: Hon. Paula Brownhill, Jim Adams, Stephen Adams, Jean Fogarty, Bill Howe, Russell Lipetzky, Hon. Maureen McKnight, Margaret Olney, Rebecca Orf, Ernie Mazorol, Hon. Keith Raines, Linda Scher, Dr. Ed Vien, Chris Walls

Members Absent: Lauren MacNeill, Robin Selig

Guests: Sandy Turrell

Staff: None

Minutes: September 11, 2009 minutes were approved as amended.

Membership

Judge Brownhill announced that the Hon. Robert Selander resigned from SFLAC because he is retiring from the bench on December 31, 2009. SFLAC members appreciate Judge Selander's valuable contributions to the Committee and to family law in Oregon. Members were encouraged to think about potential replacements, and membership will be a topic on the March agenda.

SUBCOMMITTEE REPORTS

Parenting Plan Outreach Workgroup (PPOW)--- *Linda Scher*

Linda Scher reported that she presented parenting plan information to the Oregon Association of Family Court Services in October of 2009. She asked if anyone had been identified to update the OJD website. Bill Howe will follow up with Chief Justice De Muniz.

Domestic Violence (DV) Subcommittee—*Linda Scher*

The subcommittee is happy to be reinstated and is an enthusiastic group. Rebecca Orf is working on elder abuse forms.

Priorities were set as follows:

1. DV awareness brochure for the Firearms Taskforce
2. Confidentiality brochure update, including the CIF
3. Update Judges' Handbook on Firearms
4. Update DV webpage
5. Judicial training on firearms prohibitions/MCDVs
6. Update FAPA Bench guide

Margaret Olney reported that the Attorney General's Office will add a statewide domestic violence/family violence prosecutor as a resource for district attorneys. The person also will assist with child abuse issues. Person will be a training and trial resource and may serve on the DV Subcommittee.

Rebecca Orf reported that the Firearms Task Force is creating an arraignment DVD that will include the Judicial Notification on potential firearm prohibitions required by VAWA 2005. Judge Brownhill added that the arraignment script will go to district attorneys, the Attorney General's Office, the DV sub and trial judges for review and comment. Stephen Adams would like to review the script. Rebecca also reported that the Task Force is working with LEDS to develop automated notices to petitioners when FAPA orders are served. The FAPA forms may need to be revised to add petitioner's email and/or phone number.

Court/Child Support Agency Child Support Coordination—*Judge Maureen McKnight and Jean Fogarty*

Judge McKnight circulated a proposal for OJD child support staff that was sent to State Court Administrator Kingsley Click. Kingsley has concerns about the OJD budget but has not had an opportunity to respond to the proposal.

The group working on the Confidential Information Form has been meeting every two weeks and has identified 58 issues with the form.

Child support guidelines changes will take effect on January 4, 2010. A calculator and worksheets will be available to the bench and bar in advance. Judge McKnight has a plan to alert judges and court facilitators to the changes. Jean Fogarty will forward information to Judge McKnight for dissemination.

The Division of Child Support will release an access and parenting plan video soon. It will be available on DVD at various locations and on the DCS website. The target audience is young unmarried parents. The goal is to motivate them to enter into parenting plans. SFLAC would like to add a link to the video on the OJD family law web page.

Forms Review Subcommittee – *Rebecca Orf*

Brian DeMarco worked on family law forms review for 60 days, then left OJD. Rebecca Orf has taken over the forms and is formatting documents that Brian completed. The subcommittee was asked for feedback on the last round of forms. There is some confusion about which forms Brian updated and which still need work. We may need a final review of some forms.

Qualifications and Guidelines Work Group—*Ed Vien*

At Kingsley Click's request, the SFLAC Guidelines Re: Qualifications for Appointment and Training of Parenting Coordinators, Custody Evaluators, and Supervised Visitation Providers were sent to trial courts for review and comment. Three judges responded. Two comments were favorable, but one judge was stunned by the rigorous standards.

The guidelines went back to the workgroup for final revision. Dr. Vien explained that the guidelines are based on national standards, and the work group did not want to compromise those standards. They also are consistent with California standards. He added that the guidelines are aspirational, and trial courts may deviate from the standards if necessary. Custody evaluators, parent coordinators and parenting time/visitation supervisors play an important role and need to meet basic standards. The work group gave due consideration to all comments, and the final draft of the guidelines was presented for approval.

Bill Howe moved to approve the Guidelines; Motion PASSED.

There was further discussion regarding implementation of the guidelines, as follows:

- Judge Raines would like the final guidelines posted on OJD website with emphasis that they are aspirational guidelines.
- Ernie Mazorol likes the idea of an introductory statement. He would like to see local jurisdictions implement the guidelines.
- Stephen Adams stated there should be commentary next to the text (like ABA does), which would go further than a preliminary statement. He would like to see high standards encouraged throughout Oregon. He also recommends that SFLAC adopt a short, practical exposition about how small communities are able to do this with limited resources. Offer a tool box with practical suggestions.
- Ed Vien said the work group could write an exposition, but he was unsure what to say.
- Margaret Olney would like an introduction and a “how to”. She suggested framing the introduction first, then do a separate follow-up with suggestions for how to make it work in small counties.
- Bill Howe does not want to delay implementation while the group is drafting an introduction. He suggested stating that the guidelines are adopted for the well-being of children, and it works best if providers are trained.

Ed Vien will reconvene the workgroup to develop a plan to publicize and disseminate the guidelines. They also will work on a preamble but will not delay dissemination. Rebecca Orf said there are no training dollars, but she will keep in mind the need to familiarize judges with the new guidelines.

DESCHUTES CIRCUIT COURT VIDEOS – Ernest Mazorol

Ernie Mazorol and Dan Gumtow-Farrior introduced and demonstrated Deschutes County’s family law videos. These videos are available on the Deschutes Circuit Court website. There is a mediation orientation video and additional videos with specific instructions to help self-represented litigants use forms and understand the process, such as how to fill out a summons, how to serve a summons. Judges and staff can direct people to the website. On one video, Dave Hakanson talks about mediation, and Judge Sullivan explains local resources.

Stephen Adams had concerns about the use of Latin terms on the screen. Some people might not understand terms such as “pro se.” Jean Fogarty asked if there are Spanish versions. Ernie explained that they do not have translations yet.

Ernie estimated the costs may be \$5000-\$7000.

Margaret Olney asked if a statewide version would be as effective as county by county. Ernie said there has been no evaluation of the effectiveness of a statewide version versus a county-by-county version. He said the written script is on the website, and he will distribute scripts upon request.

There are eight online videos intended to help viewers comprehend the process and complete paperwork accurately and thoroughly. The videos have helped lighten the facilitators’ workload. Court staff developed the content. The videos took three weeks to develop. They tried to write the scripts in simple English.

Advantages are:

1. Adjunct to facilitators
2. Viewable on demand
3. Audio mirrors oral
4. Ten-minute increments

Ernie asked if SFLAC would like to integrate videos with the state. How can SFLAC make it happen? Russ said it would be ideal to have videos on the OJD website with updated family law forms. Linda pointed out that SFLAC needs website support first. Chris Walls would like the flexibility to adapt the videos to local practice. Jim Adams suggested that the videos may fall within the eCourt domain and perhaps eCourt COP funds could be accessed. Ernie agreed that may be a solution.

Jim Adams explained that eCourt has four pilots, but this could be a stand-alone project. Ernie chairs the workgroup that could get it into the pipeline, which would be an excellent starting point. He said the product has statewide application and interest, and eCourt has a funding source.

Bill Howe likes the eCourt idea, and it forwards the eCourt agenda, but he restated that we cannot show a video on how to complete a form without an up-to-date form. He would like SFLAC to be involved at a policy level.

Jim Adams said the Law and Policy Committee with nine subcommittees is working with OSB to provide web-based access, and that the next step is to work on statewide forms. He said we need a uniform, standardized format so they do not have to duplicate data entry. He asked what SFLAC’s role should be in the process. He said they are not ready to start yet, but that he will come up with a coordinated body for Kingsley.

Linda Scher said we need to discuss mandatory versus discretionary forms. Her number one concern is parenting plans. Jim explained that for one to two years the

work will be limited to forms required for workflow and process. Jim will talk to Ernie and Bryant Baehr and get back to SFLAC. Jim also suggested SFLAC look at Utah's forms and processes. Minnesota also has good resources, and Arizona is working on family law forms. Judge Raines said Washington County will have a module for family law trials. Self represented litigants will be directed to view it when they appear for status conferences. They already have a video for FAPA contested hearings and one for FAPA applications. Linda said Multnomah County has a fabulous mediation orientation video. She suggested that SFLAC maintain a directory of available resources.

Bill Howe asked the status of discussions on privacy and confidentiality. Margaret Olney said the Domestic Relations work group of the Law and Policy Committee's

Confidentiality Information Work Group is discussing:

- No restrictions on orders (except NCOs)
- No restrictions on judgments
- Parenting plans segregated if they are separate documents
- Petitions/motions/affidavits segregated.
- CIF forms -- no access except to DCS and law enforcement

She was asked if this will be acceptable to eCourt leadership since it seems their preference is for open records. Some work group members are putting together policy reasons/rationale for segregation of some records. Some people feel that if records are available over the counter, they should be available on the web.

Ernie Mazorol explained that there are three governance bodies.

- Implementation Committee -- Ernie and Jim are co-chairs. There are 15 members. The Law & Policy Committee works through this committee.
- Steering Committee: Chief Judge David Brewer chairs. It includes four judges and 3 trial court administrators.
- Sponsors: Chief Justice Paul De Muniz, Kingsley Click, Chief Judge David Brewer and Judge Nan Waller.

There is a schedule to frame issues; the presumption is for access. Stephen Adams stated that it is not just a statutory presumption, open courts are constitutional in Oregon.

PARENT EDUCATION

Some time ago Dr. Don Gordon asked if SFLAC would endorse his on-line parent education program. Bill Howe attempted to connect with Dr. Gordon on the telephone so he could listen to the discussion.

Linda Scher suggested that we should not respond to one request, but rather we should help local courts understand best practices and improve their parent education classes. She pointed out that there is lots of variety among the counties. The OJD list online is not a thorough list of resources. SFLAC could be more helpful by expanding that list of resources. SFLAC also could host a symposium to discuss parent education.

Stephen Adams hopes SFLAC will endorse standards that meet the needs of kids. He has taught parent education, and he feels strongly about content as well as procedures. Judge Raines described Washington County's parent education program which includes ten sessions with some therapy. A judge also meets with the children. Jean Fogarty said a symposium would be time-consuming and expensive, and it would be difficult to pull off without staff. Linda Scher said perhaps SFLAC could convene a group and facilitate the discussion, but SFLAC could not contribute financially. The purpose would be to share information, synthesize the information and bring it to SFLAC. We should respect the individuality of each court's program and make recommendations after receiving local input. Margaret Olney asked if we could find an eager PhD candidate to review programs. Judge Raines asked if we can and should take on this project. Stephen Adams replied that there is no urgency. Although it is very important, we may have to wait given the limitations. Russ agreed that SFLAC is not in a financial position to facilitate an exchange of best practices.

Linda Scher agreed to follow up with the Association of Family Court Services, she will collect information on current programs and create a more thorough list of resources for the OJD family law website.

Motion: Linda Scher moved to defer further discussion of parent education programs to the September 2010 or December 2010 agenda. **Motion Passed.**

Margaret Olney asked if the group was going to put a parent class on the web as part of the one-stop shop. Ed Vien said in an ideal world there would be consistency with programs. Some are boring and depressing, some are informative and helpful. The group should look at the content and quality of classes. Judith Swinney has an excellent model. Stephen agreed that evaluations are an important tool, and that the group should consider those. Ernie said many people want the class sooner in the process.

Self-Representation Subcommittee

The group meets monthly, and they are working with the eCourt standardization of forms committee. They have concentrated on five major documents, in addition to FAPAs:

1. Venue
2. Modification
3. ORS 109.103 – custody for unmarried parents
4. Parenting time enforcement
5. Divorce

User friendliness and adaptability are key, but there is no staff to create the templates or make forms more user friendly. They are trying to decide what data is needed for wrappers. Judge Raines said fillable forms would be much better for courts and families.

The OJD/OSB Bench/Bar Task Force is moving forward. The Chief Justice and OSB president have okayed it. Kay Pulju from OSB and Judge McKnight are working on several issues. They are creating a slate of potential members, taking into consideration:

- Knowledge of family law
- Interest in family law
- Geographical diversity
- Gender diversity

The proposal is for a 12-person task force, but the Chief may change the number. They envision a larger circle of persons of interest. Division of Child Support should be represented on the Task Force. They have experience with electronic forms.

Judge McKnight explained that the Task Force will not actually do forms updates but will make recommendations for institutional responsibility. Russ asked if the task force will solicit volunteers to update forms. Judge McKnight said that could be a recommendation. She is optimistic that the Task Force will develop a plan for what needs to be done, why, how to pay for it, how to leverage resources, and how to integrate with eCourt. She said the task force is time-limited. It could recommend a permanent group, but the Task Force will make recommendations and then disperse.

SFLAC Website

Discussion focused on recovery of the SFLAC page. When servers switched last summer, the SFLAC web page disappeared. SFLAC would like to re-create the SFLAC page if the original page cannot be recovered.

Judge McKnight is working on the Multnomah County Family Law website, and she will share her outline. If SFLAC can play a role in supplementing the OJD Family Law website, we would work on:

- Domestic violence page
- Child support page with links to DCS calculator and guidelines
- SFLAC with list of members, committees, link to LFLACs
- Firearms forms and federal law summary
- Self-represented page with links to videos, forms
- Parenting plan page with guides and plans

Rebecca Orf will ask Kingsley Click if SFLAC can work on the OJD Family Law webpage, including a critical look at structure and updating forms and links. Once we have a template, it is less work to keep the pages up-to-date, but we will need to monitor the pages and update as needed.

Focus on the audience. Some users will be persons who need forms and assistance, some users will be professionals, some will be persons interested in family law. Judge Brownhill will talk to Bryant Baehr about the SFLAC and Family Law web pages and whether anyone can provide web support and post our information. Bill Howe will check with his brother about recovering the old SFLAC page.

Uniform Support Affidavit (USA)

Judge Brownhill explained that SFLAC recommended to the UTCR Committee that the Uniform Support Affidavit should be an exhibit rather than a filing. Shortly before the UTCR Committee meeting in September, UTCR Committee member Judge Kirsten Thompson expressed concern that this approach might be a problem for courts that decide prejudgment relief by affidavit rather than in court hearings. Robin Selig, Judge Brownhill and Judge McKnight decided to pull the SFLAC recommendation pending resolution of this potential glitch.

Stephen Adams opined that the issue of USA and confidentiality is very important, and it is not too late to rework our recommendation. Russ Lipetzky explained that Judge Thompson is knowledgeable and, as a UTCR Committee member, she can put the kibosh on the proposal. Judge Raines said we should give Judge Thompson a practical solution. Judge McKnight suggested that we send the issue back to the Domestic Violence and Child Support Subcommittees for further work.

Russ Lipetzky said the CIF revisions may resolve this issue. He said CIF is not the most artfully crafted product, and there is lots of frustration with rule. The Child Support Subcommittee put together a work group which Robin Selig co-chairs. They meet every two weeks, and they are resolving many CIF issues.

The meeting adjourned at 4:30 p.m.