

## **CHILD SUPPORT COMMITTEE**

### **MEETING MINUTES**

Arizona State Court Building

1501 W. Washington

Phoenix, Arizona

October 9, 2009

#### **PRESENT:**

##### **Co-Chair**

- Honorable Thayer Verschoor

##### **Members:**

- Theresa Barrett
- Honorable Michael Jeanes
- Honorable Colleen McNally
- Veronica Hart-Ragland
- Donald Aden
- Mary K. Boyte
- Brandon Maxwell
- Honorable Rebecca Rios
- Honorable Michala Ruechel

##### **Teleconference:**

- Bianca Varelas-Miller
- Russell Smoldon
- Michelle Krstyen
- Honorable Stephen J.P. Kupiszewski

##### **Guests:**

- Honorable Bruce Cohen
- Don Vert
- Kathy Ber
- Janet Sell
- Bob Barrasso

#### **STAFF:**

Kathy Sekardi  
Joanne Tucker

Administrative Office of the Courts  
Administrative Office of the Courts

#### **CALL MEETING TO ORDER**

Senator Verschoor, Co-Chair, called the meeting to order at 10:10 a.m. Senator Verschoor welcomed the current members and then recognized new members Mary K. Boyte, member from the Executive Committee of the Family Law Section of the State Bar of Arizona; Honorable Stephen Kupiszewski, Title IV-D Court Commissioner; Honorable Michala Ruechel, Presiding Judge from the family law division of the Superior Court in Navajo County; and Don Aden, Assistant Attorney General. Senator Verschoor also recognized re-appointed members Honorable Michael Jeanes, Clerk of the Superior Court, Maricopa County; and Honorable Colleen McNally, Presiding Judge of the family law division of the Superior Court in Maricopa County.

#### **APPROVAL OF MINUTES**

The December 12, 2008 minutes were presented for approval.

**Motion:** A motion was made to approve the December 12, 2008 minutes as presented. Seconded.

**Vote:** Minutes approved unanimously.

## **CHILD SUPPORT GUIDELINES REVIEW COMMITTEE**

Honorable Bruce R. Cohen, Chairman of the Child Support Guidelines Review Committee, presented an update of the Guidelines Review Committee's (GRC) on-going work, timeline and vetting process for this quadrennial review. Judge Cohen reported on highlights regarding the procedural aspects of this review, the current income shares model, how the GRC re-organized the proposed guidelines and the public vetting process. He explained how the current income shares model (which is a Marginal Expenditures Guidelines – MEG) estimates the cost of raising children. The GRC's purpose is (1) to review the current child support guidelines, and (2) to consider other methods of calculating child support. The GRC has reviewed and re-organized the current guidelines section by section. The GRC sought the community's input from the various system stakeholders such as the clerks of the superior court office's, the Attorney General's office, Arizona State Bar, and the family law judiciary. Public comments have been considered by the GRC during this entire process.

The GRC is scheduled to present information to the Arizona Judicial Council (AJC) later this month and in March 2010, the GRC will present to the AJC their final recommendations.

The goal of the GRC is to ensure that child support orders honor the statutory provisions. The GRC explored a new model called COBS (Child-Outcome Based Support) and compared it with the current MEG model.

Issues discussed regarding the support models were as follows:

- Proposed implementation date of the new guidelines is September 1, 2010.
- Outcomes for the child(ren) was paramount in forming GRC's recommendations.
- How to account for adjustments to personal budgets due to a (potentially) new child support model was considered and a phased-in approach was included in the proposed guidelines.
- Years ago, when developing the notion of an "intact" family the "never-married" or unmarried parents hadn't been taken into account.

Judge Cohen made two suggestions for the Statute Review Workgroup (CSC) to consider:

- Review the statute regarding standard of living based on an intact family and consider revising to a "standard of living for child in each home."
- To create a presumptive termination date for a child support order that will terminate as a matter of law. This will eliminate the requirement that the non-custodial parent will have to initiate the filing of a stop payment request with the court.

The GRC's work is on-going and the committee requests comments be submitted to their website during the final vetting process. All GRC documents, minutes, reports, and COBS calculator can be located at: <http://www.supreme.state.az.us/csgrc/>

## **DCSE UPDATE**

Veronica Hart Ragland, DES Asst. Director, Department of Child Support Enforcement, updated the Committee with highlights of some of their accomplishments statewide such as:

- Increased statewide collections average 3.9% and division collections an average 5.5% each year for the last 5 state fiscal years.
- Achieved the highest paternity establishment score among IV-D child support programs in FY2008.
- Increased revenue by 18.23% in SFY2009.
- Featured in three articles in national child support magazines.
- Received Governor Proclamation for Child Support Awareness Month – August 2009.
- Tenth highest FIDM Collections among Child Support Programs.
- Implemented DRA Cash Medical and Assignment of Rights Legislation.

Ms. Hart Ragland also discussed the total collections for SFY2009 highlights:

- IWOs - \$236,839,007 (down .83%)
- UI - \$15,848,614 (up 250%)
- Fed Tax – \$42,563,780 (up 22.11%)
- CSLN - \$167,621
- Passport Denials - \$368,051
- FIDM - \$5,004,342
- Inmate Banking - \$555,591
- SS Lump Sums - \$280,976
- Employer Bonuses - \$47,091

Ms. Hart Ragland presented the strategic objectives and goals including becoming a top ten performing child support program by developing a prepared and confident workforce, expediting cases into paying status and improving customer confidence.

## **STATUTE REVIEW WORKGROUP REPORT**

The Statute Review Workgroup reviewed the following proposed legislation:

### **A. CASH MEDICAL SUPPORT ORDERS PROPOSED LEGISLATION**

- A.R.S. § 25-320 Child support; factors
- A.R.S. § 25-535 Enforcement of health insurance coverage; medical support notice; administrative review

The process of addressing cash medical support began two years ago when the federal government developed new regulations. The workgroup drafted legislation that was amended during the legislative session and went into effect at the end of September 2008. Once the statute began implementation the workgroup realized that, due to new federal regulations, further clarification was needed and began making necessary revisions. The primary changes include: (1) an Alternative Cash Medical Support Order should not be entered against the custodial parent. It is not acceptable for the custodial parent to pay themselves cash medical support. (2) The administrative review provision was changed to allow the administrative review officer to determine if the cost of the medical insurance falls within the new standard and is accessible to the child. The workgroup wanted to give the administrative review officer the discretion to look at the criteria. (3) Application of cash medical support orders should apply only to IV-D cases.

The workgroup also addressed the federal requirements in A.R.S. § 46-408 *Assignment of support rights; priority; definitions* and A.R.S. § 46-407 *Assignment of rights to support; definition*. The statute outlines when child support gets assigned to the state. It is necessary for Arizona to change state law to reflect the changes made in the federal law. The changes will allow families to retain more money from child support payments while less money will be assigned to the state. This proposed change will also simplify the assignment process.

**Motion:** The workgroup recommends approval of the proposed legislation to be posted during the 2010 legislative session. Seconded.

**Vote:** Motion approved unanimously.

## **B. PATERNITY PROPOSED LEGISLATION**

- A.R.S. § 25-807 *Precedence of maternity and paternity proceedings*

The Child Support Committee previously voted and approved this proposed legislation to be submitted during the 2009 legislation. Due to the unusual circumstances surrounding the session, the proposed bill was not posted.

Paternity litigation is increasingly important today because more than 42% of children are born out of wedlock in Arizona. Establishing paternity is a necessary predicate to establishing parental rights and responsibilities including support. Therefore, efficient processing of paternity litigation is necessary. There are several ways to establish paternity including litigation.

Genetic testing was traditionally done by a blood sample drawn from the party to be tested. These days, most genetic samples are collected by swabbing the inner cheek of the party being tested. Therefore, the language of the statute is being modernized to refer to genetic tests in a more inclusive and general sense rather than referring specifically to blood tests.

Also, due to the relative accuracy of genetic testing as a method for establishing paternity, once testing has been completed there is little factual dispute left to resolve at trial, and the issue of paternity is frequently resolved in advance by motion rather than trial.

### **Provisions**

- Changes the wording of the statute to refer to genetic testing rather than blood tests.
- Permits testing to be completed with the father and child or children only if the Mother is unavailable or uncooperative. Advances in genetic testing technology support this change.
- Changes the time period for objection to the genetic testing report to 20 days after the report is filed with the court. The current statute allows for objections up to 21 days before trial.

- Requires Arizona agencies like the Department of Economic Security, the Arizona Department of Corrections or a county jail to honor orders for genetic testing from other states and cooperate with genetic testing of persons in their custody. An agency which does so will be protected from civil liability.

**Motion:** The workgroup recommends approval of the proposed legislation to be posted during the 2010 legislative session. Seconded.

**Vote:** Motion approved unanimously.

#### **C. WITHHOLDING ORDERS PROPOSED LEGISLATION**

- A.R.S. § 25-505(E) *Limited income withholding orders; definition*

The Child Support Committee previously voted and approved this proposed legislation to be submitted during the 2009 legislation. Due to the unusual circumstances surrounding the session, the proposed bill was not posted.

Proposed legislation broadens the definition of “lump sum payment” to include inheritances, trust or annuity distributions, excess proceeds, life insurance proceeds, retroactive disability proceeds, and personal injury awards.

**Motion:** The workgroup recommends approval of the proposed legislation to be posted during the 2010 legislative session. Seconded.

**Vote:** Motion approved unanimously.

#### **D. REPEAL OF STATUTE**

- A.R.S. § 25-506 *Order for assignment; foreign support order*

The Child Support Committee previously voted and approved this proposed legislation to be submitted during the 2009 legislation. Due to the unusual circumstances surrounding the session, the proposed bill was not posted.

The administrative authority to issue an ex parte order is already authorized in A.R.S. § 25-506.01.

**Motion:** The workgroup recommends legislation to repeal A.R.S. § 25-506 during the 2010 legislative session. Seconded.

**Vote:** Motion approved unanimously.

#### **CHILD SUPPORT COMMITTEE MEMBERSHIP PROPOSED LEGISLATION**

- A.R.S. § 25-323.01(A)(3) *Child support committee; membership; duties; report*

The proposed legislation allows a division or section chief from the office of the attorney general, or their designee, to be appointed to the committee by the attorney general.

**Motion:** The workgroup recommends approval of the proposed legislation to be posted during the 2010 legislative session. Seconded.

**Vote:** Motion approved unanimously.

**CALL TO THE PUBLIC**

No public comment offered.

**NEXT MEETING - TBD**

**ADJOURNED**

Senator Verschoor, Co-Chair, adjourned the meeting at 11:50 a.m.

DRAFT