

DOMESTIC RELATIONS COMMITTEE

State Courts Building
1501 W. Washington
Conference Room 119 A/B
Phoenix, AZ
Draft Minutes
October 23, 2009

MEMBERS PRESENT:

Honorable Linda Gray
Theresa Barrett
Holly Hulen – *proxy for Sid Buckman*
Laura Cabanillas
Daniel Cartagena
Honorable Sharon Douglas
William Fabricius
Todd Franks - *telephonic*
Jack Gibson

Honorable David Lujan
Ella Maley
Patti O’Berry - *telephonic*
Honorable Rebecca Rios – *telephonic*
George Salaz
Donnalee Sarda - *telephonic*
Ellen Seaborne
David Weinstock - *telephonic*

MEMBERS ABSENT:

Honorable Edward Ableser
Honorable Andy Biggs
Grace Hawkins
Dannette Hendry
David Horowitz
Jeffeory Hynes

Honorable Leah Landrum Taylor
Russell Smolden
Honorable Tom Wing
Steve Wolfson
Brian Yee

GUESTS:

Kendra Leiby
Kay Radwanski

Arizona Coalition Against Domestic Violence
Administrative Office of the Courts

STAFF:

Kathy Sekardi
Tama Reily
Amber O’Dell

Administrative Office of the Courts
Administrative Office of the Courts
State Senate

CALL TO ORDER

Without a quorum present, the October 23, 2009, meeting of the Domestic Relations Committee (DRC) was called to order by Senator Linda Gray, Co-Chair, at 10:05 a.m.

ANNOUNCEMENTS

Senator Gray announced the appointment of new members, Representative Steve Court, who will act as Co-Chair, and Mr. Jack Gibson, who will serve in the role of

noncustodial parent. In addition, Senator Gray announced that member Judge Wing was recently appointed as the Associate Presiding Judge of the Superior Court in Navajo County.

Senator Gray noted that agenda item 3 would be taken out of order to allow time for a quorum to be reached before addressing items for vote.

SUBSTANTIVE LAW REPORT (taken out of order)

Mr. Danny Cartagena reported that the workgroup met on October 22, 2009 and continues to work on A.R.S. § 25-408; *Rights of noncustodial parent; parenting time; relocation of child; exception; enforcement; access to records*, and A.R.S. § 25-403; *Custody; best interests of child*. The workgroup has no recommendations for the committee on these issues as of yet. Mr. Cartagena added that the workgroup is looking at A.R.S. § 13-1302, *Custodial interference; child born out of wedlock; defenses; classification* and hope to have representatives from law enforcement and the Department of Economic Security at the next workgroup meeting in order to gather input from those groups.

CUSTODY STATUTE WORKGROUP REPORT

Dr. Bill Fabricius gave a brief report on the workgroup, which held its first meeting this morning. He explained the purpose of the workgroup is to look at possible updates or changes to the custody statute. In addition, Dr. Fabricius informed the committee that the workgroup will hold some of its meetings at a new facility at Arizona State University (ASU), referred to as the "Decision Theater." The facility is a multimedia room with seven screens capable of displaying seven different aspects of a problem simultaneously. He added that the room would comply with open meeting laws as it contains a conference room for observers/members of the public, and meetings held in the room are streamed live on the web. The workgroup plans to meet again on November 13, 2009, here at the State Courts Building, and tentatively on December 4, 2009, at the ASU "Decision Theater" facility.

INTEGRATED FAMILY COURT REPORT

Ms. Holly Hulen, Integrated Family Court (IFC) Coordinator in Coconino County, provided an overview of the mission, model, and services of the IFC, and reported its accomplishments to date. She reported on the funding challenges the IFC continues to face, and disclosed some of the recent contributions, including \$430,000 from the Coconino County Board of Supervisors, and offers from fifty local attorneys to donate their services to litigants in the IFC program.

APPROVAL OF MINUTES

With a quorum now present, the September 18, 2009 minutes were presented for approval.

MOTION: To approve the minutes of the DRC September 18, 2009 meeting as presented.

SECOND: Motion seconded.
VOTE: Approved unanimously.

SB1206

Senator Gray discussed last session’s proposed SB1206, which would have amended A.R.S. §§ 25-318, 25-319, and 25-320; relating to dissolution of marriage. The proposed bill strikes the language “without regard to marital misconduct” in the statute sections. Senator Gray explained the expected outcome of this revision is that the judge would determine whether to consider marital misconduct.

Mr. Todd Franks commented that there is concern within the State Bar that this would essentially return the courts to a fault-based system and signify a great step backward. Several members representing different aspects of the system were in agreement with the perspective that the language should not be stricken from the statute.

DOMESTIC VIOLENCE: TEEN DATING AND WARNING SIGNS

Senator Gray discussed the issue of domestic violence in teen dating and current efforts to educate teens in grades 7 through 12 on this issue. Senator Gray informed members about a program being advocated by a coalition of parents, *Moms and Dads for Education to Stop Teen Dating Abuse* (MADE), together with the *National Foundation for Women Legislators* (NFWL), who are supporting the introduction of legislation to make the program’s free curriculum part of the public school curriculum. Senator Gray provided the website (<http://loveisnotabuse.com/>) where information can be found on the services offered through the program, as well as the features and structure of the curriculum.

MOTION: To support public schools’ implementation of requiring a one-day class on teen dating and violence in public schools.

SECOND: Motion seconded.

VOTE: Passed 15-0-1.

PROPOSED LEGISLATION FROM THE ARIZONA COALITION AGAINST DOMESTIC VIOLENCE

Ms. Kendra Leiby, Systems Advocacy Coordinator for the Arizona Coalition Against Domestic Violence (AzCADV), presented legislation being proposed by the AzCADV.

A.R.S. § 25-323.02 *Domestic relations committee; membership; duties; pilot programs; report*

The coalition plans to propose adding a seat to the DRC for a representative of a statewide sexual assault coalition. Appointing authority has not been determined.

A.R.S. § 25-403.03 *Domestic violence and child abuse*

Proposed legislation adds the words “or a child” to this statute to comply with provisions in A.R.S. § 13-3601 *Domestic violence; definition; classification*

A.R.S. § 13-3601 *Domestic violence; definition; classification; sentencing option; arrest and procedure for violation; weapon seizure; notice*

This statute was revised last session; however unintended consequences have caused some issues with orders of protection and injunction against harassment applications. The coalition proposes to draft language to include the term “dating” in A.R.S. § 13-3601 and remove the dating language from A.R.S. § 12-1809, as victims of dating violence are now eligible for orders of protection. Further changes would recognize first degree murder, second degree murder, negligent homicide, manslaughter, sexual assault, animal cruelty and prevention from using a telephone in an emergency as domestic violence if the perpetrator and victim meet the relationship requirements as outlined in A.R.S. § 13-3601.

A.R.S. § 13-1204 *Aggravated assault; classification; definition*

Proposed legislation elevates strangulation and suffocation when in the context of a relationship as outlined in A.R.S. § 13-3601, to a felony 4.

A.R.S. § 12-1809 *Injunction against harassment; petition; venue; fees; notices; enforcement; definition*

Ms. Leiby noted that the proposed legislation is in draft form and welcomes feedback from the DRC prior to finalizing this bill legislation.

A.R.S. § 36-3001 *Definitions*

The coalition intends to revise the language in Title 36 to mirror recent revisions to A.R.S. § 13-3601.

Arizona Human Trafficking Statutes

The coalition has not yet drafted legislation but intends to model state code after federal laws.

Predominant Aggressor Legislation

The coalition is interested in exploring legislation that would require courts and law enforcement, when confronted with potentially mutual incidents of violence, to make the determination of who was the predominant aggressor. This would include a prohibition against dual arrests if a law enforcement officer determines that one party was the predominant aggressor, and would require the court to determine predominant aggressors in contested custody cases if confronted with evidence of seemingly mutual violence.

Duty to Warn

Although legislation has not been drafted, the coalition may propose imposing a duty on domestic violence advocates to warn third parties of credible threats of violence that the advocate has reason to believe will be carried out, or that the person has the means of carrying out. This would offer liability protection to community-based advocates.

Gun Show Legislation

Unlicensed private sellers are permitted by law to sell privately-owned guns at gun shows, or at private locations in 24 states, including Arizona, without a background check as required by Brady. The coalition has not drafted language yet, but believes their proposal would close this unintended loophole.

SCHEDULE NEXT DRC MEETING

Senator Gray informed members that the next DRC meeting is tentatively set for Friday, November 20, 2009.

ADJOURN/CALL TO THE PUBLIC

No public comments offered.

Meeting adjourned at 11:58 a.m.

NEXT DRC MEETING

Tentatively - November 20, 2009

10:00 a.m. to 12:00 p.m.

Conference Room 345 A/B

1501 W. Washington, Phoenix, AZ