

MINUTES
STATE FAMILY LAW ADVISORY COMMITTEE
September 7, 2012
12:30 pm to 4:00 pm
Oregon Room
1133 Chemeketa Street NE
Salem, Oregon

Members Present: Stephen Adams, William J. Howe III, Hon Paula Brownhill, Linda Hukari, Lauren MacNeill, Linda Scher, Hon. Maureen McKnight, Hon. David Brewer, Hon. Keith Raines, Robin Selig, Janice Garceau, Rebecca Orf

Members Absent: , Ernest J. Mazorol, Jean Fogarty, Amy Bonkosky

Guests: Chief Justice Thomas Balmer, State Court Administrator Kingsley Click, Melinda Taylor, Jeff Hall, Holly Rudolph, Christopher Symeonides (staff support)

Minutes: Minutes from June 1, 2012 and July 13, 2012 meetings were approved.

In Memoriam: Judge Raines informed SFLAC that Senior Judge Tim Alexander passed away on September 6, 2012.

SUBCOMMITTEE REPORTS

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

The subcommittee is idle at this time, although Linda will be working with DCS on a new grant that will include completion of the interactive parenting plan forms project.

Domestic Violence Subcommittee—*Robin Selig*

The Subcommittee has been working on two major projects. The DV pages on the OJD Family Law website are done. The other project is an update of *A Benchguide for the Family Abuse Prevention Act*. The work group will circulate the draft one more time.

Court/Child Support Agency Coordination – *Judge Keith Raines*

Judge Raines reported that the subcommittee is looking at legislative concepts related to judicial oversight of administrative child support orders and other related issues.

Self Representation – *Judge Maureen McKnight*

The Subcommittee is working on two projects: 1) model and interactive forms and 2) repurposing law libraries to create more comprehensive legal resource centers for use by self-represented litigants. Multnomah County may develop a model resource center by partnering with public library and other entities.

Legislation –

There is no subcommittee chair so no report.

Futures Committee – *Bill Howe*

Bill Howe recounted some of the financial challenges facing courts. The Futures Committee is looking to increase efficiency in these difficult financial times while also looking for ways to improve the process in family law cases. Bill emphasized that Oregon Judicial Department needs family law staff; Bill and Judge Brownhill have been trying to keep up with SFLAC staffing duties, but it is difficult and their time could be better used in other ways.

DISCUSSION WITH CHIEF JUSTICE AND STATE COURT ADMINISTRATOR

Chief Justice Balmer said he was excited to be at the meeting. He noted how many ways SFLAC touches on aspects of the Oregon Judicial Department. When he came on the bench, he didn't have much experience in family law, but that changed when he presided over FAPA hearings in Deschutes Circuit Court. He appreciates the hard work of SFLAC members and their successes despite lack of staff.

Chief Justice Balmer explained that OJD will submit Policy Option Package 209 to the 2013 legislature. If funded, it would allow OJD to reinstate its Family Law program, which was dissolved in 2009. Family law staff would assist SFLAC and subcommittees, allow OJD to keep on-line family law forms up to date, support trial courts and answer questions of trial court staff and administration, help develop forms in eCourt, help develop information and processes for self-represented litigants, work with other state agencies such as the Division of Child Support, and assist OJD with review of family law legislation. He stressed that there is no substitute for a central family law program in OJD. He also asked that SFLAC find a chair for the legislative subcommittee as soon as possible. He asked SFLAC to let him know if there is anything specific he can do to help.

State Court Administrator Kingsley Click thanked SFLAC members for fielding family law questions from trial courts and the public. She recognizes the work that SFLAC has been doing. She agreed to get a copy of the POP to SFLAC.

Judge McKnight mentioned her interest in repurposing local law libraries. Chief Justice Balmer said the Oregon State Law Library is willing to provide support and could replace some functions of local law libraries. Locals could gear more toward helping self-represented litigants, and professionals could use the state law library. Judge McKnight said Catherine Bowie, librarian for the Oregon State Law Library, will attend their next meeting in Multnomah County.

Linda Scher said she is pleased to hear the family law proposal; SFLAC has been talking about the need for family law staff since 2009.

Judge McKnight reported that many state courts receive IV-D money for child support work. These federal funds would pay for a myriad of court functions, such as data entry (but not judicial salaries).

FAMILY LAW REFORMS

Bill Howe began this discussion by summarizing the “Idaho model,” also referred to as Informal Judicial Resolution. At the July 2012 SFLAC meeting, members preferred an opt out program rather than an opt in. We are likely to have more participants in the opt out version.

Janice Garceau asked if there will be screening for domestic violence cases and others that should be excluded. Will parties self-report family violence? Bill suggested that we could have a cover sheet with questions for parties to answer. Parties with FAPA orders should be excluded. Rebecca Orf said courts staff should not be asked to screen cases, and she would like more discussion before we consider asking courts to engage in risk assessments.

Bill said courts are seeing more and more self-represented persons, and we need a new approach to working with them. We could look at the Australia example with community resource centers that help people before filing, with relationship issues, with dispute resolution, etc. Janice Garceau suggested that screenings could occur in community resource centers.

Judge McKnight suggested that we mesh the two resource center concepts – a community legal resource center and the court’s family resource center combined into one. We don’t need separate legal tracks. Multnomah County folks are meeting to discuss development of a community resource center that will help with more than family law issues. Lauren MacNeill said these are all good ideas, but what is our ideal vision? What is the big picture and what are the individual components?

Bill asked if we could try Informal Judicial Resolution without added the component of the community resource center. He would support proposing both, but we may not be able to do both at this time. He said Presiding Judge Alta Brady in Deschutes may be open to piloting. Linda Hukari said Benton Presiding Judge Locke Williams might like Benton to be a pilot court.

Stephen Adams supports the Idaho model with opt-out; he proposed leaving the right to appeal intact for now. Judge Brewer said that if we devise a summary dissolution process with bar support (which is essential), appeal would be difficult with the record that would be created. The appeal problem will take care of itself in many cases. ORCP 71 could be the backstop for the remaining cases.

Linda Scher said that if we design the informal process without the community resource center component, maybe we shouldn’t have criteria to opt out but allow opt out upon request.

Bill asked where we should go from here. After discussion, the group decided to circulate information to SFLAC subcommittee chairs for discussion among subcommittee members. Bill will schedule a meeting of the Futures Committee to work on additional details.

SFLAC MEMBERSHIP

Linda Hukari said she and Amy Bonkosky would like to be helpful, and she would like to know more about subcommittees and where her help is needed most. Judge Brownhill said they are welcome to join any subcommittees. Bill Howe asked her to join the Futures Committee.

We no longer have a custody evaluator on SFLAC, and members would like that perspective. Some names were suggested. Chris Walls retired from OJD so we no longer have a court facilitator, family court coordinator, or family court specialist. Some names were suggested. We need a chair for the Legislative Subcommittee as soon as possible. SFLAC members have contacted family law lawyers in the Salem area but have not found anyone who is willing to serve and chair the subcommittee. Judge Brownhill asked members to contact the persons mentioned as well as any other potential members and ascertain if they are interested. Submit names of those interested, she will circulate to all members, and we can submit a list of potential members to the Chief Justice.

Judge McKnight moved to impose membership term limits of two to three terms. The motion died for lack of second. Bill Howe said we've had many new members over the years. Replacement process is occurring naturally. Stephen Adams agreed with Bill and said if we did not already have a strong pattern of change, he would support term limits.

SPOUSAL SUPPORT GUIDELINES

Judge Raines is interested in spousal support guidelines as a means to improve the family law system, not to make it worse. He would like to send a list of questions to communities that have guidelines and ask if they work and if not, why not? How were they implemented?

Judge McKnight explained that she testified before the Joint Interim Judiciary Committee on May 21, 2012. In her opinion, we should have guidelines for temporary or prejudgment spousal support and should at least look into guidelines for permanent support. She has done some of the research that Judge Raines wants to undertake. Rebecca Orf agrees that spousal support guidelines could be helpful. They would result in less subjective decisions. Bill Howe said that an Oregon State Bar group did a study years ago, and it raised a lot of controversy. He is on the fence on this one, but he sees it as potentially divisive.

Stephen Adams brought up some preliminary considerations. Should this issue be studied in Oregon? Is this the right group to study it? How does it fit with other budget priorities? Should SFLAC just list issues or should we draft a specific proposal? He explained that historically judicial officers have opposed guidelines because they were perceived as limiting judicial discretion. After the federal mandate, judges accepted child support guidelines. Rebuttal factors left judicial discretion intact. The first state with spousal support guidelines uses them to decide cases, but the debate continues on the formula.

Judge Raines would like to continue to explore the issue. He would like SFLAC feedback on the survey. He will email it to members with a deadline for comments.

Meeting adjourned at 4:05 p.m.