

Minutes
September 21, 2011
Orlando

**Adoption/Paternity/Dependency and
Children's Issues Committee**
(Family Law Section - Florida Bar)

ATTENDANCE:

Abigail Beebe, Co-Chair	Kim Nutter
Caryn Green, Co-Chair	Ingrid Keller
Judith Migdal-Mack, Vice Chair	Ron Bornstein
Kim Rommel-Enright, Secretary	Sheena Benjamin-Wise
Amy Hickman, Co-Special Advisor	Ronald B. Gilbert
Dr. Deborah Day, Co-Special Advisor	Jerry Button
Monica Pigna	Sandra M. Kellaheer
Sarah Sullivan	Kelli Murray
Sarah E. Kay	Stephen Pennypacker
Maria Gonzalez	Brandon Arkin
Christina Hansen	Loreal A. Arscott
Sheryl Moore	Jeff Feulner
Judge Raymond McNeal	Dr. Braunstein

I. CALL TO ORDER AND WELCOME BY CO-CHAIRS:

Co-Chairs Abigail Beebe and Caryn Green called the Meeting to Order at: 9:56 am.

Attendance sheet and roster circulated.
Everyone present introduced themselves.

II. APPROVAL OF JUNE 22, 2011 MINUTES FROM ORLANDO:

Sheena BenjaminWise moved to approve the Minutes from the June 22, 2011 Committee Meeting in Orlando. Motion seconded by Brando Arkin. Motion carried. Minutes approved.

III. REPORTS AND UPDATES FROM SUBCOMMITTEE CHAIRS:

A. Sandcastles Program:

Sheena Benjamin Wise reporting: Thanked new members. The subcommittee is contacting judges to see about taking the project statewide, will report back to this committee when they

compile that feedback. Sheena explained what Sandcastle program is for people unfamiliar with the program and welcomed any who wished to join the committee

B. GAL/Hearsay:

Kim Nutter reporting: Hearsay Sub committee: this is a project that has been around for awhile, it keeps hitting a wall, Kim has spoken to about 12 judges and many attorneys. Judges want GALs and want to be able to use what the GALs say, attorneys do not want hearsay to come in. They looked at social investigators and that investigation language. They have less power than GALs but hearsay is allowed. Committee tried to use that language but it was defeated. Would like to have an open forum discussion between lawyers and judges via phone or web to debate the issues, brainstorm to reach a common ground. A compromise may never be met. We need to use the GAL training program to address the hearsay issue. Perhaps the training will help with fears of lack of credibility and/or training. The training will hopefully creating a better trained pool of GALs that wasn't available previously. Does it matter if they are an attorney? GALs vs non attorney gal - because that distinction will disable the program. No issue in 39 regarding GAL reports. The GALs are not qualified as experts either. Is it a slippery slope?

Kim Nutter suggested that the subcommittee should send out information before a forum explaining the history and background.

GAL Training: The subcommittee is putting together a business plan to roll out the training perhaps working with a non profit to assist in the implementation. Brandon Arkin has reached out to law schools to assist in providing the trainings. The goal is to talk to Executive Council and get guidance and then try to roll it out after January meeting. Kim Nutter's law firm's PR firm will assist in getting publicity for the program.

Judge McNeil: If information can't come in, then why appoint a GAL?

Discussion ensued about whether GAL should be subject to expert exclusion of hearsay?

Should there be a form GAL order that creates that exclusion?

The hearsay issue should be determined this year and then either move forward or die.

C. Paternity:

Amy Hickman reporting: Paternity committee moved to Ad Hoc committee from Children's Issues committee, Legal father vs Biological father. New cases coming out constantly.

Legislators are starting to look at tackling the issue with no input from Section due to case that came down recently.

D. Aging out of DCF Subcommittee Report:

Need a chair for this subcommittee, Steven Pennypacker will head the subcommittee. Steven explained the issues surrounding children aging out of foster care. Need to give guidance to the Department on these issues. Need to monitor any issues, cases, legislation coming out about these issues.

E. Military Timesharing:

Sarah Sullivan reporting: Discussed bills that had been brought forth dealing with military personnel and family law issues. Subcommittee should be available to look at any legislation that comes out regarding military personnel. It is likely that more bills will come forward. Need to

support military but maintain basic tenets of common law and family law. Brandon Arkin spoke about other groups (Military affairs committee-stand alone not a Section and VA committee of the Elder Law Section) wanting to work with us regarding these issues.

IV. OLD BUSINESS

It was suggested that perhaps we should look at quorum requirement. We have 75 members but the same folks come to all live meetings and phone meetings and it is usually not enough to make a quorum. Discussed making membership by appointment, probably not feasible. Abby Beebe will send out letter, guest vs voting member. If they want to just get information they need to be guests if they want to vote they need to be member.

V. NEW BUSINESS:

- A.** Maria Gonzalez reporting: Recent case involving dependent child, 18 year old special needs child, child support order in Florida, how to deal with special needs children and what happens to timesharing and child support. Should we analyze jurisdiction of courts: probate vs family and/or definition of child under chapter 61? There should be a subcommittee to look at the issues, specifically what is the definition of child. Child is defined in 63 and 39 so that needs to be taken into consideration. Court loses jurisdiction on the timesharing issue when the child reaches 18 even if they are disabled or special needs. What is special needs vs dependent? Sarah Sullivan will chair "What is a Child subcommittee". Volunteers for the subcommittee: Caryn Green, Ronald Gilbert, Maria Gonzalez, Sandra M. Kellaher, Sheila Furr, Barbara Kelly, Kelli Murray, Sheena Benjamin Wise, Judge McNeal and Abby Beebe.
- B.** Abby Beebe reporting on Nova Law Review Article regarding mandatory representation of children in dependency court. The article reflects the position of the Section and this Committee. This issue may come up again. It died last session. We should work on the issue now though so that if legislation comes up again, we will be available to propose our own legislation. We should not have to react but to be proactive with this issue. Amy Hickman suggested that we need to look at the funding/financial issue. Take on a case at an appellate level to force the issue so that the legislature knows the importance of the issue and will put money to it. Looking for cases across the state where there has been a denial of an appointment of an attorney for the child. No law will go forward unless there is funding for such a program. Judge McNeal addressed the importance of this committee and the protection of children's issues across the statutes. Steven Pennypacker suggested contacting Robin Rosenberg. Child advocates thinking about pursuing certification for children's lawyers. Florida Council of Child Advocates? This may limit those who can be certified. Judy Migdal Mack commented: What is the moral issue, the child, not the money. Abby Beebe commented: Everyone gets a lawyer provided by the state, except the child.
- C.** Loreal Arscott reporting on issue about how child support is applicable in the dependency court and indigent clients. Dade has been assigning a \$56 support application, either by week or month. It was an arbitrary number. The 3rd DCA asked where did that number come from and told them they needed to use chapter 61 for support calculations. Problem

is that certain credits regarding child support calculation in 61 do not apply in 39, i.e daycare, time sharing and medical expenses. Imputation of median income is a problem as well with the indigent population. They either say they are unemployed or they are receiving unemployment. Indigents are being assessed \$500+ in child support. An article was just published where law students wrote legislation addressing child support calculations in dependency court. Abby Beebe will talk to support issues committee, Heather Apicella and see if they are dealing with it, if they are not we will move forward with it. Do not believe they are handling it so Children's Issues will run with it and just let Support Issues know we are handling it. Loreal Arscott and Stephen Pennypacker working on it, they need more members.

D. Jeff Feulner spoke about gay adoptions and second parent adoptions. Gay couples have a child and want to adopt. It is happening across the state but clandestine. What happens if they break up and how are support/timesharing issues addressed? Are other judges in state going to honor that adoption order and deal with the separation? Birth certificates say parent 1 and parent 2 now for same sex adoptions , not mother and father.

VI. FOR THE GOOD OF THE ORDER

VII. ADJOURN:

Meeting adjourned at 11:25 a.m.

Submitted by,
Kimberly Rommel-Enright,
Secretary