

Minutes

September 22, 2010

Live meeting- Orlando Hilton

Adoption/Paternity/Dependency and Children's Issues Committee

(Family Law Section- Florida Bar)

Members in Attendance:

Sarah Sullivan

Abigail Beebe

Caryn Green

Avonelle Mackerell

Judith Migdal-Mack

Deborah Day

Heather Apicella

Loreal Arscott

Sheena Benjamin-Wise

Ron Bornstein

Alan Braunstein

Tracy Carlisle

Sheila Cohen-Furr

Nexcy DeLaRosa

Margherita Downey

Jeffrey Gillen

Maria Gonzalez

Tenesia Hall

Cindy Harari

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Jon J. Johnson

Barbara Keyy

Jill Lowe

Ray McNeal

H. Stephen Pennypacker

Yolyvee Rivera

Keela Samis

Mercedes Scopetta

Call to Order

Meeting was called to order at 9:40 A.M. Attendance list passed around.

Approval of June 23, 2010 Minutes

H. Stephen Pennypacker motioned to accept the minutes of June 23, 2010, seconded by Amy Hickman and approved unanimously.

Reports from Sub-Committees

1. Paternity Issues:

Several revisions of Chapter 39 paternity language. Sarah stated this issue will be addressed under new business.

2. Sandcastle Program

Sheena Benjamin –Wise reported about the program for children in Dissolution of marriage. The committee prepared a survey which will be going out to all the Judiciary and family administration throughout the State. The questions will include if they feel the program is important to the community and if it should be voluntary or mandatory. The committee will report back with the results when they are available.

3. Amend Section 61.403 (5) Fla. Stat.-Admissibility of GAL reports/hearsay

There has been no meeting set for this sub-committee yet. More information to follow.

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4. Report from AD HOC COMMITTEE

Kim Nutter reported about the training for GALs. The first phase for the lay manual has been completed and distributed. The second phase which includes the financial budget and implementation of training, either a two day training or an on line program is being worked on. The web site is not completed yet. They are addressing how the site can be secured. If you are interested in reading the manual , e-mail Maria Gonzalez.

New Business

A. Amend Chapter 39- paternity Legislation:

There was a lengthy discussion on the pros and cons of the revised language of the paternity issue in Chapter 39. Hon. Jon Johnson had major concerns and presented the committee with a handout of those issues.

He addressed procedural and substantive problems. Procedurally, he stated that changes were supposed to be underlined and there were places that were not underlined, causing confusion as to what was actually changed.

Substantively – His concern was the significant difference in the goal of Chapter 39 and Chapter 63.

He stated that there is an equal protection and due process issue because fathers aren't given their constitutional rights. There is also no leeway for notice for prospective father. He implored the committee not to vote on this but to have the sub committee continue to work on the language. Not to rush to push legislation through.

Amy Hickman stated her feelings that she was insulted by his remarks as was Stephen Pennypacker.

Stephen stated that chapter 39 doesn't have the ability as it stands now to bring in prospective fathers and order DNA as Chapter 742 does. The idea is to bring in all parties including prospective fathers early on in the case and not wait for TPR.

Amy spoke to Jon 's concerns and stated that the revisions seek to identify fathers, not exclude them and that there are steps for an identified prospective father can do , to become part of the case. There needs to be one legal father on a case and the issues of dual fathers have been addressed by the revisions. Amy was adamant that the child's need for permanency is paramount.

Keela Samis- who is now in the dependency court has grave concerns about the new language and finds it confusing for her as magistrate. She addressed concerns about the language not being clear and that the focus should be on serving all prospective dads

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and with due process issues. There needs to be allegations from Chap. 742 in the dependency petitions if they can hear all the 742 issues in juvenile court.

Kim Rommel-Enright voiced concerns that there is no default process in 39 which gives fathers remedies, which is available in 63.

Amy stated they left that out purposely and this gives the prospective father's more ways to be identified.

Mercedes Scopetta stated that she has problems and objections to the revisions.

Hon. Tracy Sheehan stated she also had huge concerns and questions with the language and intent and did not want it to be sent on at this time.

There was then a question about quorum and there was consensus to take a general vote.

Sarah called the question.

Raymond McNeal Motioned : The committee vote to send the revisions to the legislative committee as drafted.

Seconded by Karen Green

Vote 10 to 6 in favor. 1 abstention.

Abigail Beebe stated she would bring the issue up at the E.C. and present Hon. Jon Johnson's concerns and explain the amount of people present and the issues addressed by all parties. Abigail requested that his handout be made available to anyone that wanted it. He provided his remaining copies to Abigail to hand out at Legislation Committee and EC meetings.

- B. The new Military Service Statute for substituting a person for the time sharing has some problems that need to be addressed. For example: If one party objects to the substitute, what type of hearing is set? Is it a motion? Who hears it? Will it be expedited? Amy Hickman will chair sub-committee. Maria Gonzalez and Hon. Jon Johnson volunteered to serve on the committee. Sarah promised to get some more members to volunteer.

There is also a problem with consistency with the Soldiers and Sailors Act. A military person that is employed cannot be sued. Is the party waiving service by putting in a substitute?

All these issues are being considered.

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- C. There is a chronic problem of people signing up for the committee and not attending meetings. Addressing the issue of mandatory attendance or changing the schedule of meetings may need to be implemented. Please make sure any changes to your address, phone or e-mail is sent to the Bar and to Judith Migdal-Mack or Avonelle Mackerell , so that you get the information being sent out.

Motion to Adjourn – Judith Migdal-Mack; seconded by Avonelle Mackerell, unanimous vote.

Meeting adjourned at 11:35 A.M.

Submitted by Judith Migdal-Mack and Avonelle Mackerell