

Minutes
September 9, 2009
Tampa Airport Marriott

Legislative Committee
(Family Law Section - Florida Bar)

MEMBERS IN ATTENDANCE: Patricia Alexander, Elisha Roy, Tomas Duggar, Maria Gonzalez, Ron Bornstein, Heather Apicella, Abigail Beebe, Angel Bello-Billini, Steve Berzner, Rob Boyd, Toni Butler, Matt Capstraw, Linda Clark, Lawrence Datz, Terry Fogel, Doug Greenbaum, Amy Hickman, David Hirschberg, Rana Holz, Norberto Katz, Ingrid Keller, Diane Kirigin, Lisa Kleinberg, Belinda Lazzara, Juliette Lippman, David Manz, Ray McNeal, Robert Merlin, Jack Moring, Ashley Myers, Monica Pigna, Carin Porras, David Riggs, Rosemarie Roth, Scott Rubin, Tom Sasser, Robin Scher, Lee Ann Schreiber, Sarah Sullivan, Jeff Weissman, Julia Wyda, Frank Zilaitis.

GUESTS IN ATTENDANCE: Peter Gladstone, Tinley Rudd, Barbara Ingram, Jodi Seitlin, Robert Rodriguez, Valorie Hoppenworth, Cindy Harari, Kathy Beamer, Lori Caldwell-Carr, Deborah Day, Caroline K. Black, Doreen Inkeles, Jean Westin, Nicole Goetz, Kim Nutter, Damian Turco, Dionne L. Meyers, Sheena Benjamin-Wise, Robyn Vines, Susan Savard, Robert Boyd.

I. Welcome and Introduction of Officers, Members and Lobbyists:

A. Co-Chairs, Patty Alexander and Elisha Roy, called the meeting to Order at 2:50pm. Co-Chair, Patty Alexander, introduced the officers. Patty requested that all individuals in attendance introduce themselves.

II. Brief Overview of Committee Responsibilities and Objectives – Information on What We Do and How We Do It:

A. Co-Chair, Elisha Roy, explained the procedures for this legislative year. Elisha stated that the reason she is going over the procedures is because a lot of the voting members of this committee are new this year. Elisha further stated that she and Scott Rubin are going to give a brief “here is what you do” so that everyone will know what to expect. There is a welcome binder/packet available on the website for all Committee members to download. This welcome packet will be very helpful for those individuals new to the Committee (i.e. how the legislative process works, the various house procedures, and a copy

Roberts' Rules of Order, etc.). Elisha explained that essentially what this Committee does is: 1) draft legislation which we lobby during the legislative session; 2) the Committee also has ad hoc committees that bring legislation to this committee, which if approved, we will lobby; and 3) we have outside groups that draft bills which we monitor, review, fix, revise, etc. Elisha emphasized that the attendance at the telephonic meetings is very important, because these meetings deal with the issues which are last minute (i.e. problems which arise which we need to fix on a quick basis). At the end of each week we will get a report of the bills to monitor, which are assigned to subcommittees to determine if something should happen. If we already have a standing position (which everyone should be familiar with...which are also posted via the handbook on the website), then the issue is simple because the Section has already spoken on the issue. If there is a new issue that comes up, and there is not a standing position, this issue must be approved by the Bar.

Elisha further explained that the legislative process is very interesting. If you are actively involved, and able to go to Tallahassee, you will get a great understanding of how this process truly works. If you do go to Tallahassee, it is a very very different experience than sitting in this room and discussing the issues. Elisha asked Scott Rubin to speak about the experience in Tallahassee.

B. Scott Rubin stated that if you do go to Tallahassee, and you are there with Nelson Diaz (one of our lobbyist), then you will need your "running shoes." Scott explained that Nelson (or his staff, or interns), will have prior arranged appointments with many legislators for you to meet. You will be seeing/meeting with a large amount of people in a very short period of time. The main things the legislators want to know about the bill is:

- 1). How much is this going to cost;
- 2) who is against the bill; and
- 3) who is in favor of the bill.

By the time you meet with the legislators they will also have previously received the "talking points" from Nelson. You will meet with the legislator, then go to the Committee meeting (where you will fill out a form, which will let the Chair know you want to speak), if you waive your right to speak this means that you are in favor of the bill. If someone is against the bill, then the sponsor will tell the

committee that someone from the Family Law Section is present and that sponsor will then turn to you, to speak on the particular issue. If this happens, then you must be quick on your feet, if your answer is too broad then you may unknowingly set yourself up for a whole new round of questions, or opposition.

- C.** Co-Chair, Elisha Roy, asked that our lobbyist Edgar Castrow introduce himself. Edgar explained that if you do go to Tallahassee you will be with Yolanda, Nelson or himself. Edgar echoed the statements by Scott Rubin. Edgar introduced Yolanda. Yolanda explained that the section actually has a total of 5 lobbyists working for the Section. Yolanda stated that we are very disciplined in speaking with the legislators, and it is important that we remain uniform in the decision making process (i.e. what we decide at these Section Committee meetings, is the same information provided to the legislator). Yolanda further stated that if you have a relationship with a legislator, you must let your leadership know of this relationship. Yolanda stated that it is so important that the members of the section come up. Yolanda concluded by stating that the firm is honored to be representing the Section.
- D.** Co-Chair, Elisha Roy explained that once the bill passes the legislation committee, it goes to Executive Council, and then it goes to the senator who will sponsor the bill. At this point we do not have a lot of control over the bill (i.e. certain bills may come out looking different than what we originally proposed). Sometimes the Section will be contacted prior to the changes being imposed to the bill, but sometimes things happen without our input. After the bill goes to the sponsor, it will go to the Committee, and then if it passes the committee, it will go to the floor. If you are in Tallahassee, you may be asked questions that have nothing to do with the bill that you are there for. You must be prepared for just about anything if you go up to Tallahassee. Elisha stated that the leadership will do its best to provide as much preparation to you, but the leadership cannot anticipate every scenario.
- E.** Scott Rubin further stated that everyone or everyone's staffer knows someone who is going through a divorce, and they will ask you all kinds of questions. The questions which are asked provide great insight as to what the legislator or staffer may "perceive as the law."

A lay persons idea of the law, may be entirely different than the actual law itself.

F. Elisha explained that legislation Committee has been broken up into Issue based subcommittees, which are set forth below (under provision III). Elisha stated that the Chairs of the subcommittees will likely be the “point person” as to who will be going to Tallahassee. The members of the subcommittees may also be asked to go up to Tallahassee to speak about the bill. However, Elisha provided the example, that just because you are going up to Tallahassee on the Alimony bill does not mean you will not be grilled on the Equitable Distribution bills. For example, you will be assigned to the subcommittees based upon your interests (which were listed on the forms everyone filled out).

III. Old Business – 2009 Bills: Co-Chair, Elisha Roy, explained that all of the following bills have previously been approved by this body. The Equitable Distribution, Alimony, Child Support and Collaborative Law, bills are all the bills from last year which did not pass. The Chapter 39 bill, is a glitch bill, which essentially fixes a problem within the statute.

A. Equitable Distribution Bill – David Mantz:

- i. David Mantz is the Chair of the subcommittee which reviewed this bill. David explained that §61.075(10) states that the court can order equitable distribution in one lump sum or paid over a certain period of time. The problem is the security which may be needed. David stated that last year we added language that the court shall require security or a reasonable rate of interest, absent good cause shown. The court shall also make written findings of fact and not preclude Chapter 55 in the equitable distribution scheme.
- ii. *David moved to approve the bill as written.*
 1. Robert Merlin asked why did this not make it through the legislator last year? David Mantz explained that this bill was tacked on to another bill which died. Terry Fogel stated that this bill was tacked onto child support bill; and the Child Support bill died, which in turn killed this bill. Scott Rubin, added that Nelson was informed that this bill was going to be placed on a special agenda calendar,

but it never made it, which is why both the Equitable Distribution Bill and the Support issues bill died.

2. Co-Chair, Elisha Roy, called for the vote.
 - a. *Motion passed unanimously.*

B. Alimony- Thomas Sasser

- i. Tom Sasser is the Chair of this Subcommittee and explained that the subcommittee discussed numerous changes/revisions, but settled only on one change. Matt Capstraw requested language which adds: “or any combination of these forms of alimony” to the bill. Everything else is exactly the same as the bill which was submitted to the legislator last year.
- ii. *Tom Sasser, moved to approve the bill, with the addition of the language set forth above. .*
 1. Robert Merlin suggested a friendly amendment, to revise the language to: “with whom”. Tom Sasser accepted the friendly amendment.
 2. Elisha Roy called for the vote.
 - a. *Motion passed unanimously.*

C. Chapter 39 Glitch – Abigail Beebe

- i. Abigail Beebe is the Chair of this Subcommittee, and she explained that this bill is the “Keeping Children’s Safe Act.” If someone calls a hotline making any allegation of abuse, that person can prevent and restrict all contact with the child and the other parent. There is also some language which could essentially create a problem where the child is in foster care. The subcommittee believes there is nothing to change from the language which this committee approved 2 years ago.
- ii. Abigail stated the only suggestion which she wanted to bring to the attention of this Committee is in subsection 4(a), the words “special training” possibly should be elaborated or explained? Discussion. The committee determined that any elaboration was unnecessary.
- iii. *Abigail moved to approve the language which was previously submitted to this committee a couple years ago.*
 1. Elisha called the vote.
 - a. *Motion passed unanimously.*

D. Child Support – Mag. Diane Kirigin

i. Magistrate Kirigin is the Chair of this subcommittee. Magistrate Kirigin explained that the subcommittee reviewed the statutory changes which were previously approved by the section and have some suggested revisions.

1. Florida Statutes §61.13 (1)&(2): deals with the automatic termination of child support upon child's 18th birthday. *Motion to re-approve the language, only amending the portion § 61.13(1)(2) to include “, day”.*

a. Elisha called the vote: *Motion passed unanimously.*

2. Florida Statutes §61.14(d)(6): this is the companion language mirroring the 2008 legislative changes overruling Vitt v. Rodriguez. The subcommittee voted to approve this language.

3. Florida Statutes § 61.14 (d)(12): this language deals with interest on child support, alimony or spousal support which shall be enforceable through all methods available to enforce underlying support order, including contempt. The Subcommittee voted to re-approve this language.

4. Florida Statutes § 61.30(2)(b)2: this language codifies both the burden a party seeking to impute income and creates a rebuttable presumption permitting imputation. The Subcommittee voted to re-approve this language.

5. Florida Statutes § 61.30(2)(b)3: Creates a rebuttable presumption permitting the Court to impute minimum wage under certain circumstances. The subcommittee voted to re-approve this language.

a. Magistrate Kirigin wanted to bring to the attention of this Committee a debate which occurred regarding the imputation of income language. Both Magistrate Kirigin and Terry Fogel felt that the language of 3b. - i.e. “The parent needs to stay home to care for a child who is the subject of the child support calculation, thereby preventing the parent's employment or rendering the parent underemployed” would prevent the Court from considering the needs of child(ren) born prior to the child or children who are the subject of a current child support calculation. While Magistrate

Beilly and Schriber stated that paragraph 3c. would take care of this concern. There are other circumstances over which the parent has no control, except for penal incarceration, which prevent the parent from earning an income."

6. Florida Statutes Section 61.30 (2)(b)3: Creates a chronology for the imputation of income when a party is not residing in the State of Florida; requires that the imputation be based on the minimum wage of the State where party lives. The subcommittee voted to approve this language.
7. Florida Statutes § 61.30(2)(b)4 a. & b.: this language imposes certain limitations on the imputation of income beyond minimum wage. The subcommittee voted to re-approve this language.
8. Florida Statutes §61.30(3)(a): language defines with more particularity, than previously, the allowable deductions from gross income for items in the nature of taxes and tax
 - a. Magistrate Kirigin stated that although the subcommittee voted to re-approve this language, there was concern as to whether or not it was clear as to what "allowable deductions" truly are.
9. Florida Statutes §61.30 (6): language is in accordance with the recommendations set forth in the F.S.U. Study the 3 lowest combined net monthly income that were eliminated from the minimum child support guidelines chart to enable the Court to consider the child support in these circumstances on a case by case basis. The subcommittee voted to re-approve the language.
10. Florida Statutes §61.30(6): this language eliminates "good fortune child support" by requiring that the percentages contained in the minimum child support guidelines chart where the parties have a combined net monthly income in excess of \$10,000.00 not be used to determine child support beyond an amount necessary to satisfy the "reasonable needs" of children. The subcommittee voted to re-approve this language.
 - a. Terry Fogel cautioned the Committee that Senator Storms had a problem with eliminating good

fortune child support. Senator Storms believes that good fortune child support should stay alive. Tom Sasser stated that someone should give the Senator a copy of Finley v. Scott and let her read this case (b/c this is just codifying the case law). If this poses a problem for the bill then we should pull this language out of the bill.

- 11.** Florida Statutes §61.30(7): this language eliminates the 25% reduction of child care costs that are an add on to minimum base child support to comport with the 100% of eligible child care costs for allocation provided in the substantial time-sharing portion of Florida Statutes Chapter 61. The subcommittee voted to re-approve this language. There were renumbering of the lines as well.
- 12.** Florida Statutes §61.30 (8): this language clarifies that the total minimum child support includes child care and health insurance costs added to the minimum child support need. Subcommittee voted to re-approve this language.
- 13.** Florida Statute § 61.30 (10): this establishes the methodology for payment of child support in the wake of the elimination of the phrases "primary" and "secondary residential parent" to be defined by overnight time-sharing where the threshold or cliff is 40% of the overnights by the paying parent to the parent having 60% of the overnights to trigger application of traditional child support. Magistrate Kirigin explained that the subcommittee voted to restore the prior language which lowers the threshold to 20% from 40%.
 - a. Magistrate Kirigin wanted to share with this Committee that there was some concern by David Riggs that the parent who has less of the timesharing could be receiving the child support.
 - b. Tom sasser explained that ran thousands of calculations, and the child support at any income level will allow the child support flow to the parent with whom it should be. There are certain people who think that this will change the total child support, which it will not, it will simply change the flow of the support. If you have the child 20% of

the time, you should get 20% of the need of the child support. The calculation will give the proper percentages to the proper parent. It can give the support to the person who has the child the less amount of the time. The first step should be who much is the child support, what is the percentage of the child support, and what is that child's need. The child should not pass from prosperity to poverty. The gross up method allows the the child support to flow where it needs to go. Tom finally stated that any language regarding "who pays child support to whom" must come out of the bill.

- 14.** Florida Statutes Section 61.30 (11)(a) – this strikes the permissive deviation criteria set forth in subparagraph (8) which states: "The impact of the Internal Revenue Service dependency exemption and waiver of that exemption and the impact of any federal child care tax credit. The subcommittee voted to re-approve this language.
- 15.** Florida Statutes §61.30 (11)(a) 8. is renumbered and Provides for permissive deviation from child support guidelines when the application thereof would leave a part with a net income lower than the current federal poverty guidelines. Subcommittee voted to re-approve this language.
- 16.** Florida Statutes §61.30 (11)(a) 9 is renumbered and provides for permissive deviation from child support guidelines when the parenting plan provides that child(ren) spends a significant amount of time but less than 40% of the overnights. The subcommittee voted to re-approve this language, with the threshold lowered to 20%.
- 17.** Florida Statutes § 61.30 (11)(b)5 is renumbered and eliminates the 25% reduction of child care costs that are an "add on" to minimum base child support to be uniform with the 100% of eligible child care costs for allocation provided in the substantial time-sharing portion of Florida Statutes Chapter 61. The subcommittee voted to re-approve this language.

18. Florida Statutes §61.30 (11) (b)8. is renumbered and corrects "glitch" by providing for mandatory deviation from child support. Subcommittee voted to re-approve this language.
19. Florida Statutes § 61.30 (11) (c) is renumbered and corrects language by inserting "the" and striking the phrases "non-custodial" and "or agreed" in 2 different locations within this subparagraph which provides that a parent's failure to exercise time-sharing where child support was calculated per the "gross-up." The subcommittee voted to re-approve this language.
20. Florida Statutes §61.3010(18): this language provides more logical placement within the scheme of Florida Statutes Section 61.30 of the sentence that states "The court may, for good cause shown, order the parent otherwise entitled to the dependency exemption for a child to execute a waiver of the dependency. The subcommittee voted to re-approve this language.
21. Florida Statutes § 409.2563 corrects language in the administrative support section striking the phrase "it shall be presumed" and replacing it with "there shall be a rebuttable presumption" that a parent living in Florida can earn income equivalent to Florida's minimum wage, but if the parent lives in another State, then minimum wage is imputed per that State's law; and if that State has no State minimum wage, then minimum wage is imputed as determined by the U. S. Department of Labor for purposes of calculating child support administratively. Magistrate Kirigin stated that the intent of this paragraph is to have the imputation of minimum wage comport with the same proposed language contained in Florida Statutes Section 61.30 (2)(b)3. The subcommittee voted to re-approve this language.
22. Florida Statutes § 742.08: this language in this statutory subsection mirrors that which is also proposed in * Florida Statutes Section 61.14 (d)(12).
 - a. *Co-Chair, Elisha Roy, called for the vote on the chapters which do not call for discussion...the exact same language which was approved last year.* Angel Bello Bellini asked whether or not we

have updated our research based on the FSU study to ensure that there is no impact? Elisha stated that the FSU guidelines have not changed in years, so there is no impact. Elisha explained that we are not voting on the portions of the bill which need further discussion. Jack Morning stated that a couple years ago there was some discussion regarding the Vitt v. Rodriguez decision. There was clarification that this proposed language is in opposition to Vitt v. Rodriguez.

b. Jeff Weissman asked whether or not there was decision not to address child support then alimony in the priority of payments. Magistrate Kirigin stated that there was discussion. Heather Apicella explained that the Support Issues Committee had a subcommittee which was dispensed with today, because of the unrealistic budget issues which will be created (i.e. will have to re-due the clerks system). Jeff questioned whether or not there will still be a impact with the finances if we clarify the language to state what is already taking place. Heather responded by stating that this will create a budget/financial issue, which will not be well received at this time in the economy. Tom Sasser further explained that the dicey situation is where we get into the retroactive support, arrearages, then into alimony, child support, etc. Magistrate Kirigin explained that this is a funding/budget issue which will not get passed.

c. Elisha called for the vote. ***All members present were in favor, with the exception that Angel Bello-Bellini abstained.***

ii. Magistrate Kirigin explained that we have language which has been referred back to the Support Issues Committee for further consideration, which we do not want included in the bill at this time:

1. Language regarding a modification based on a substantial change which is not permanent in nature per 61.14.
2. Split Parenting Issue - Support issues subcommittee is already in place, and is Chaired by Carin Porras. This

subcommittee is not quite ready, so we are suggesting that we do not include this language in the support bill until that subcommittee provides its report.

iii. Further discussion ensued regarding → 61.30(2)(b)3 – Circumstances to rebut the imputation of income:

1. Terry Fogel explained that if a mother is required to stay home with a child who has down syndrome, and there is a child support obligation for the second relationship. The imputation of income should not be included in these types of situations. However, some subcommittee members felt as if this type of situation explained above could be overcome by 3.c.
2. Tom Sasser stated that there is a fundamental duty to support your offspring. If you go out and bear additional children, you have a responsibility for them. The fundamental precept is first in time, first in right (i.e. race to the courthouse). This falls in line with that concept, which states that you should not be having other children if you cannot support them.
3. Terry Fogel explained that she is concerned that when a guy hooks up from a girl who is staying home, he takes on the risk as to that mother's circumstances, which he knows at the time of the "hook up." Discussion ensued. Rana Holtz agreed with Terry Fogel.

a. Elisha called the vote: Motion from the subcommittee to approve the language:

- i. In favor- 26
- ii. Opposed – 6
- iii. Abstentions- 5.

b. Motion carried.

iv. FURTHER DISCUSSION REGARDING 61.30 (a) – some members of the subcommittee were concerned with the language as it relates to "applicable deductions. Motion is to approve the language. David Rigges, explained was that he was concerned that some individuals are receiving non-cash deductions, which decreased their income tax liabilities. Elisha asked where this language came from? Tom Sasser explained that this language came those individuals who were not taking the actual or applicable deductions. However, we may now get into the phantom deductions where the income is lower than

what it should be. The standard deduction should be considered...however, if you are getting a deduction for depreciation, then this may not be appropriate. Scott Rubin explained that the support issues committee and this committee discussed the terms “allowable deductions” which language was struck, and the concept of using “applicable” would allow the people to argue with the judge those cases which the “applicable deductions” should be used. Tom suggested a friendly amendment, adding “and excluding depreciation or carry forward loss or carry back losses.” David Riggs stated that the deductions may work for child support. Nichole Getts stated that the child support is calculated on gross. Tom stated that you take the gross and subtract these deductions to get to the net income. You have always been able to deduct the federal, state and local tax. Now we are trying to state with exactness what the federal, state and local tax is. Merlin states that he agrees with what David Riggs says. When you use the applicable deductions you determine what the true taxes are, and therefore if there are more deductions there is really more income. Toni Buttler states that the confusion comes in with the language of “subtracting gross income” Tom states that you are adding and subtracting in actuality. Your client can actually get a check from the government.

1. In light of the discussion, Elisha Roy sent this language back to the Support issues committee to review and report.

v. FURTHER DISCUSSION REGARDING “who pays child support to whom” language.

1. *Motion by Magistrate Kirigin to approve the first portion of the sentence subsection (10).*

- a. *Elisha called the vote. Motion passed unanimously.*

2. *Motion to pass the language proposed regarding the “the resulting amount shall be paid by the parent having less than 20 percent of the overnight timesharing to a parent having more than 80 percent of the overnight timesharing.”*

- a. *Motion failed, all members were opposed.*

E. Collaborative Law – Scott Rubin

- i.** Scott Rubin is the chair of this Subcommittee. Scott explained that the subcommittee had 3 telephonic meetings. The charge of the subcommittee, was to determine whether we wanted to recommend that last years legislation be adopted, not be adopted, or make changes to the legislation from last year. The subcommittee decided not to move forward with last years legislation, and to make some changes to the uniform collaborative law act (UCLA) (the proposed language from this subcommittee was emailed to all members prior to the Committee meeting). Scott further explained that the subcommittee decided that Florida should be the first to consider and pass the uniform collaborative law act (UCLA). Scott asked for discussion on the proposed language.
- ii.** Co-Chair, Elisha Roy, stated that she wanted to take a vote as to whether or not the Committee would vote to forgo the prior Bill? Discussion ensued. Matt Capstraw stated that he worked on the bill last year, and what the Committee did was “pear out” things that should not be in legislation. Matt explained that last year’s bill does not have a training requirement, this bill creates a training requirement. This proposed bill changes confidentiality, and regulates the practice of law. The 2009 bill has 2 provisions which must be changed. Thomas Duggar, stated that the prior bill is a good bill and that it just needs some changes. Thomas further explained that if you pass the uniform collaborative law bill you will create a huge set back in time. We have done the ground work for the bill. Thomas spoke against any type of uniform act (UCLA). Rana Holz stated more is bad, less is good. Rana stated that collaborative law is just an agreement that the attorneys agree to step out if the case does not settle. Allowing the legislature to control the practice of law is not a good idea. Tom Sasser stated that he would like to see a collaborative law bill. However, Tom stated that if you are in support of the uniform collaborative law, you are making a huge mistake. A uniform act will set up a situation where the legislator will step back because they are not going to want to go down this road (allowing the legislator to regulate the practice of law). Tom emphasized by asking the Subcommittee to save themselves a lot of time...fix the bill, and get a

collaborative law bill that will pass. Robert Merlin stated that reality is not having a uniform/model act. Robert stated that Matt Capstraw has convinced him to use the bill from last year.

- iii. Scott Rubin explained that we should take the legislators up on the offer which they made last year (which was to present the bill to them first, and then they may sponsor the same). The genesis of the bill last year, was the proposed UCLA. Terry Fogel stated that we should learn our lesson from the Parenting Coordination bill, keep this simple.

- 1. ***Elisha called the vote on the subcommittee Motion to ditch last years bill?***

- a. in favor - none
 - b. opposed – with the exception of 2 members, all members were opposed.
 - c. abstention – 2.

- 2. ***Motion failed.***

- iv. Frank Zilatis suggested that the subcommittee get together tonight and make the changes so that the subcommittee can take something to EC? Co-Chair, Elisha Roy, stated that this will not happen tonight because Scott has to be somewhere else this evening. Tom Sasser stated that we should approve last years bill? Bring it in front of EC tomorrow, and then EC can make the changes. A question was posed, as to whether or not Scott Rubin’s subcommittee get the information together by tomorrow regarding the changes to last years bill? Scott Rubin replied that he has all of the information on his desk in Miami. Robert Merlin asked whether or not Steve Berzner did the amendments to last year’s bill consistent with the legislator’s recommendations? Scott Rubin reiterated that there is not one single document with all the language/amendments, there is a file which is on his desk (in Miami).

- 1. ***Norberto Katz moved to table this discussion. Toni Butler seconded the motion. Co-Chair, Elisha Roy explained that this will be tabled until she gets documentation from Scott Rubin. Elisha further explained that upon receipt of the information from Scott, we will have an emergency telephonic meeting, and an emergency Executive Committee meeting will follow.***

- a. With the exception of 1 member, all members were in favor.

- b. opposed = 1
- c. abstention = none.

2. Motion passed.

IV. New Business

A. Uniform Child Abduction Prevention Act (UCAPA) – Rana Holz:

- i. Representative Darryl Rouson was present at the Committee meeting. Rep. Rouson explained that he became involved with this issue because one of the constituents, in his district, came to him because this issue directly impacted her. The constituents were in the process of going through a divorce, her husband was a non-citizen, and he was requesting custody of the children. The wife knew that there was information contained in the immigration documentation which would be important for the family court to know. The family (state) court said they would not look into this file. Rep. Rouson stated that he is requesting some language, in the Florida Statutes, requiring any individual who is availing themselves to the court system to sign a form with immigration allowing the state courts to look into the immigration file. Rep. Rouson explained that this examination is solely in the best interest of the child/ren. Rep. Rouson stated that on July 15, 2009 two more children were abducted in Hillsborough County Florida because of this type of situation.
- ii. Rana Holz is the Chair, of the subcommittee who drafted language for a proposed bill. Tom Sasser explained that he just returned from the international academy of matrimonial lawyers convention. The international academy is pushing for this type of legislation on an international level. Tom explained that we need to bolster this issue on an international, national, and local level.
- iii. Rana Holz explained that Representative Rouson made changes to §61.45. The UCAPA is a parental abduction act, this is only for parents. Rana stated that she has been looking into (researching, reading, etc.) this language for the past 3 years and examining the way the UCAPA is drafted, the only people this language will affect are those parents who have a parenting plan. Rana further stated that as a Section, we have always supported a bill which does away with parental abduction. The UCCJEA has a pickup order, which means we have current law

which permits a person to get a pick up order. The UCAPA “beefs this language of the pick up order up” a bit. Parental abduction is a serious concern of the subcommittee. Rana explained that her subcommittee suggests supporting this bill in concept, and offering technical assistance to the representative. The Section should suggest that, as proposed, the language is okay, we need to improve it, we should put together a draft to fit with the new parenting laws, and fix the sections we may not agree with.

1. ***Subcommittee Motion: support the bill and offer technical assistance.*** Discussion: Angel Bello-Belini stated that Representative Rouson had a problem with the immigration court not heeding to the state court. Angel questioned whether or not the proposed UCAPA has language dealing with this issue? Co-Chair, Elisha Roy, stated that this is a part of the bill (requiring that the litigant sign a release allowing the state court to get a copy of the immigration documentation). Angel Bello-Belini stated that he cannot vote in favor of something that he has not read. Co-Chair, Elisha Roy, stated that this bill was disseminated, via email, to the Committee about 14 days ago and went up on the Family Law Section’s website.
 2. ***Tom Sasser moved that we should table this issue. Angel Seconded.*** Co-Chair, Elisha Roy, called the vote:
 - a. ***Motion passed unanimously.***
 - b. Elisha directed all members to read the uniform child abduction prevention act (UCAPA) including the Bill which the Representative is requesting that we approve.
- iv. Rana Holz explained that if we approve the language as the Representative propose, (i.e. the bill), the bill does not adopt the UCAPA. This is a very significant issue (i.e. because there is a question, what if we have a child born out of wedlock?). Co-Chair, Elisha Roy, explained that she wants Rana to make a Motion at the next meeting regarding her subcommittee’s proposed language. Rana Holz explained that the subcommittee is in need of someone who is familiar with Chapter 39 cases. Abigail Beebe and Sara Sullivan stated that they would help.

B. Special Needs of Children of the Florida Bar Legislation – Amy Hickman

i. Amy Hickman explained that we had an emergency legislative meeting (on 8/27/09), where we reviewed the Special Needs of Children bill. We are going to work with the Special Needs of Children to workout our concerns of this Committee. Co-Chair, Elisha Roy, explained that Amy Hickman, is going to co-chair a subcommittee of the Children’s Issues Committee, wherein we will work hand in hand with the Special Needs of Children to meet the goals of the children’s commission (from 2002).

1. Additional members volunteered to work on this issue:

- a. Robin Scher
- b. Maria Gonzalez
- c. Juliet Lippman

ii. Elisha Roy explained that Howard Tallenfeld is interested in working with the Section on this issue. We have been in contact with Paul Hill (the Florida Bar Attorney) to discuss this issue. One of the concerns relating to the proposed bill is that it dictated the practice of law. Elisha explained that 2 years ago we changed this bill in its entirety. Peter Gladstone is going to try to talk to Howard tonight regarding our concerns relating to this bill. Amy Hickman explained that the Section is in favor of the Attorney Ad Litem concept, we just need to make sure that the funding issues are addressed. We have a lot of pervasive issues, where the private funders who cannot assure us that the private dollars will be there, even with the language carved out of the bill. Amy Hickman told Howard that if we get beyond the pervasive issues, we will provide technical assistance regarding this bill. Elisha Roy explained that at the emergency meeting, this Committee unanimously voted to oppose the bill because of funding and separation of powers issues. These issues violate one of the Bar’s current standing positions. Norberto Katz stated that if this violates the standing position, then this Bill is done there is no discussion. Amy stated her big concern, is that we will be taking funds from other children’s programs. Angel Bello-Bellini stated that he doesn’t think this bill will fix anything, he believes that someone will have to be a magician to fix this bill. Further concern was discussed regarding the significant funding impact. We should not make

any decisions approving this bill, until this committee has the time to look at this bill.

- iii. Amy Hickman made it clear that this Committee will see any of the proposed changes to the bill. Judge McNeal does not believe we can fix the bill. Judge McNeal stated his opposition to any bill which mandates attorneys representation in cases. Co-Chair, Elisha Roy, explained that we cannot answer specific questions until we speak to Howard in detail regarding the concerns. Whether or not the special needs of children will work with us, is a question which is still posed, because we have not been able to speak to Howard on this issue.

1. ***Tom Sasser Motioned to oppose any legislation to make mandatory the appointment of an AAL or GAL for any circumstances for which they are already required at this time. Motion was second by Lisa Kleinberg.***

Discussion ensued. Norberto Katz stated that the motion basically makes it so that we cannot work with Howard Tallenfeld. Norberto stated that we already voted this bill down. How are we going to offer technical assistance when this body is inherently opposed to the bill? Elisha explained that we are faced with the political issue. We do agree that children should have representation, that there should be funding for the GAL project. We oppose the mandatory requirements imposed. Particularly in family law cases an AAL is going to be appointed. There is nothing stating that we cannot offer technical assistance. Terry Fogel, clarified, the subcommittee was viewing this bill in a very limited capacity. Before this legislative committee votes on this position you need to read this bill. I don't think that anyone on this committee has sat in the conferences on the legal needs of children. Terry further requested that this Committee be informed; know the role of the bill, the concerns of Mr. Diner, and Mr. Tallenfeld. Amy Hickman stated that the position taken until this point allows us to work on the pervasive issues. We do not get to this point until we get to through the issues we have concerns about. Our concerns raise substantial changes to this bill. Tom Sasser stated that he proposed a very broad statement. I think that there is not a lot of dispute in this room regarding the mandatory

appointment of AAL and GAL. I am not looking to oppose Mr. Diner. We need to go on record with this issue. Amy- we may lose credibility if we make such a broad motion. *Tom amended his motion: to add “with regard to existing case law or statute.” To the end of the motion. Therefore the Motion is as follows: to oppose any legislation to make mandatory the appointment of an AAL or GAL for any circumstances for which they are already required at this time with regard to existing case law or statute.* Elisha Roy called the vote:

- a. In favor: 23
- b. opposed: 12
- c. abstention: 3

2. Motion passed.

V. Adjournment: Motion to adjourn:

A. Meeting adjourned at 5:48pm

Submitted by Co-Secretaries:

Ron Bornstein and Heather Apicella.