

- LEGISLATION COMMITTEE -
March 11, 2011 @ noon
MINUTES
(Telephonic Meeting)

Attendance:

Thomas Duggar, Co-Chair
Maria Gonzalez, Co-Chair
Heather Apicella, Vice-Chair
Ben Hodas, Secretary
Elisha Roy, Executive Com. Liaison
Abigail Beebe
Magistrate Barbara Beilly
Steven L. Berzner
J. Robert Boyd, Jr.
Matthew B. Capstraw
Terry L. Fogel
Michael Gilden
Douglas Greenbaum
Carin M. Green
Amy Hamlin
Amy Hickman
David Hirschberg
Rana Holz
Luis Insignares
Magistrate Robert Jones

Magistrate Katz
Patricia Kuendig
Belinda Lazzara
Judge McNeal
Ashley Myers
Henry S. Pennypacker
Monica Pigna
Carin Porras
David Riggs
Kim Rommel-Enright
Christopher Rumbold
Scott Rubin
Thomas Sasser
Jodi Seitlin
Laura Davis-Smith
Sarah Sullivan
Robyn Vines
Jeffrey Weissman

Excused Absences

Susan Savard, Sec.
Sheena Benjamin-Wise
A. Sam Jubran
Robert Kohlman
C. Debra Welch
Adam Zborowski

Guests:

Nelson Diaz
Edgar Castro
Mag. Diane Kirigin, Chair

I. Call to Order: Maria Gonzalez and Thomas Duggar 12:04pm.

II. Approval of Minutes:

A. March 3, 2011 telephonic meeting (Exhibit "1"):

- i. Motion to approve the Minutes from the March 3, 2011 telephonic meeting. Motion was seconded. Thomas called a voice vote. All members were in favor; no members opposed. Motion passed.

III. Legislative Update

A. Status of Section's Bills: Nelson Diaz gave the report.

1. Paternity - HB 541 / SB 1476:

- a. Nelson advised that the Bill is filed in the House by Rep. Diaz by Senator Flores in the Senate. Both Rep. Diaz and Sen. Flores have requested that it be heard in the first committees. We are having an issue in the House because the speaker has been giving the 1st committee so much work to do. Nelson stated that

Tom Sasser, Elisha Roy were in Tallahassee yesterday and Tom, Elisha, and Nelson met with Senator Storms' bill drafter and they are aware of the bills and working to get them on the Agenda to be heard.

2. UIFSA - HB 1111 / SB 1622

- a. This Bill is filed by Sen. Flores in the Senate and Rep. Mayfield in the House. Nelson said that Rep. Mayfield is in her 5th year, and works her bills very hard. Nelson is very pleased and looks forward to working with Rep. Mayfield.

3. Keeping Children Safe Act - HB 387 / SB 504

- a. Nelson advised that Tom Sasser and Elisha Roy were able to meet with the Sponsor in the Senate, but not the House. Elisha and Nelson met with the bill drafter; the staffer is going to draft an amendment to fix the bill (because there was a problem with the draft). Assuming the bill is fixed, it should be up in the House next week or the week after. We will have to fix this bill in the Senate as well.

B. Child Support Bill :

- a. Nelson advised that there was another issue which came up regarding the child support. Tom Sasser and Elisha Roy did a good job talking to Senator Bogdanoff. She is considering dropping the 20% cliff back to 0%. It was originally the position of the Section that the cliff should be 0%. Tom Sasser said that the Section did not want the 20%; Elisha Roy stated that the standing position says that we want the drop from 40% to 20%, but this was a result of the Legislator (we put 20% b/c no-one thought we could get zero percent). So we will probably have to amend the standing position. Senator Bogdanoff seemed fine with dropping the floor to zero. Tom Sasser said that she recognized that from a calculation standpoint there are problems, essentially creating a cliff. There was a lawyer from Broward or Dade County who gave her an amendment to the current 1.5 multiplier to fix the problem and also presented calculations fixing the problem via lowering the threshold to zero. Tom Sasser explained the problems with the amending the multiplier, and she understood this complication. Tom Sasser explained that a clean fix for this problem is to use 1 formula but take it down to zero. This is certainly a "Fix" without creating other problems. Of course, there are some issues, where in some income levels the child support may actually go up, this goes back to the work which Rob Jones and Tom Sasser did a long time ago. Tom Sasser believes that it is about a 50/50 shot that she takes it to zero or does nothing. Tom is pretty confident that she will not utilize the amendment to the multiplier. The

standing position issue comes from Executive Council, so leadership or Executive Council will deal with this issue.

- b. Steven Pennypacker raised a question that the present Statute does not define "father" in the definition section. Thomas Duggar advised we will work to get this fixed via an amendment.

c. DV Bill:

- a. Thomas Duggar advised he assigned this Bill out to Magistrate Katz group. Thomas advised that there are general thoughts and ideas, but at the time we did not have a formal bill, just an email. Now that there is a bill filed, Magistrate Katz's Team will review the same. Magistrate Katz advised that the subcommittee is meeting on Tuesday. Nelson stated that Tuesday may be too late. Magistrate Katz advised that he will try to get the group together if needed earlier. Thomas stated that the subcommittee should keep the meeting on Tuesday, and Thomas will provide Nelson with the comments and ideas regarding the concept at this time.

D. CVJ1 AND CVJ2:

- a. Magistrate Robert Jones asked if Nelson was tracking the Ruling making issue? Tom Sasser advised that he could answer this question. Tom Sasser stated that this is absolutely coming from the House, the push is not from the Senate. Tom believes there will be court reform this year, but the magnitude is yet to be determined. They are putting a lot in play, whether it is doing away with JNC's, or doing away with the Supreme Courts, etc., is yet to be determined. There are other bills coming out, this is not the only bill we need to be concerned with. There is going to be something and it is going to be bad. Even the people we know, cannot help us. It is going to be a terrible scene. There is very very little if anything that we can do. Tom stated that he has never seen this before, even when he or Elisha would bring the bill up, they did not want to discuss it. Tom advised that he does not believe that this is going to be a redeemable issue. We were able to plant some seeds of concern, in that the amount of work which it will be for this to happen. However, even the people we explained it to, have advised there is nothing they can really do to stop this. Thomas Duggar asked Nelson for his input. Nelson stated that the House is much more inclined to pass this; not necessarily the Senate. Tom Sasser stated that he would take 2 supreme courts over giving up the rule making authority to the Legislator. Magistrate Diane Kirigin advised that there are bills which suggest that if Circuit or County Court judges are unopposed they still have to run and must make sure that there is a 60% retention level. Tom Sasser has advised that this Bill is much more regimented than he has ever seen; in more than a decade. Discussion ensued. Nelson advised that there is another

angle, because of the House redistricting amendments, the House may be trying to cut a deal with the judiciary so that they can get them to agree with them. This is a conspiracy theory, but he wanted to pass it on.

E. SB 15 00:

- a. Magistrate Kirigin asked Nelson and Edgar about B1500; apparently Nan Rich and Sen. Storms are in agreement to oppose this Bill. This is the Bill regarding liability for community based service organizations (who does DCF's work). Magistrate Kirigin asked if we can we track this Bill? Nelson said he will track it and look into it.

F. Alimony Bill:

- a. Nelson advised that the Alimony Bill is filed by Senator Bogdanoff. Thomas Sasser advised that there will be a Bill in the House to match this Bill. Senator Bogdanoff now understands that the statute in the current form is not problematic for the reasons which she thinks it is. Tom Sasser is going to be forwarding Nelson some case law on this issue (which will give the Senator more reassurance about this issue). This bill must be watched very very closely, so that we make sure there are not any last minute changes to this bill. Thomas Duggar stated that SB1978 is the Senate Bill which was sent to Magistrate Katz. There was a Ad Hoc Committee formed which is monitoring this bill. Thomas Duggar requested that Tom Sasser and Elisha Roy address the particulars of this issue with Magistrate Katz. Thomas Duggar advised that we expected this issue to arise this year, which is why Magistrate Kirigin formed the Ad Hoc Committee.

G. Vote on Health Law Section's legislative position re: privacy of firearms owner - HB 155 / SB 432

- a. Thomas Duggar advised that the vote was: no position - 33; Support - 6; and Oppose - 5. Thomas Duggar advised that the majority vote was to take no position. Magistrate Diane Kirigin advised that she sent a letter to the Chair of the Health Law Section yesterday.

H. Volunteers needed for further comments to Bill analysis (CVJ1 & CVJ2 – Court Rulemaking)

- a. Thomas Duggar advised that we will need some other individuals to help in working on the comments. We are looking for any and all volunteers. If you want to help, please contact Magistrate Jones or Mr. Capstraw. Magistrate Diane Kirigin advised that although we are told this is a "done deal," we need to do what is "right." Magistrate Kirigin would like to see us give whatever other

assistance we can to Paul Hill. This is a very slippery slope which we should not be going down, and whatever help we can give would be greatly appreciated. The work load is not that heavy as we have the Big Bar analysis.

- b. Jeff Weissman asked whether there has been consultation with Bruce Rogow regarding obtaining an opinion as to the constitutionality of this? Also, if this is passed would this ultimately go to the Supreme Court to determine whether or not this is constitutional or not? Tom Sasser advised that this is a constitutional amendment, then once the constitution is amended the Supreme Court will not be able to review it. Magistrate Kirigin reminded the Committee that OSCA is broke. Magistrate Rob Jones advised that it is his understanding that other Big Bar Committees are also getting on this issue. However, Matt Capstraw stated that he understands that the other Big Bar Committees work is minimal, if any. Scott Rubin advised that Paul Hill is very very appreciative that this Section has stepped up and responded to this. A lot of the prior membership of the Civil Rules Committee should possibly go up and present to the Legislator how much background work goes into the creation of the rules is necessary. Scott Rubin stated that possibly we can spearhead this issue (again we may be beating our head against the wall), but it is worth a try. Tom Sasser suggested that everyone who has served on the Rules and Forms Committee to explain the number of man hours which is needed for this. They will have to pay for this, and at this time it is done for free. Matt Capstraw advised that all the Rules and Forms Committees will have to be headed by Judges. Elisha and Tom Sasser said that they talked about all these issues yesterday.

IV. Rapid Response Committee Reports - Bill Monitoring

A. GM Robert Jones

-Court Rulemaking - CVJ1 and CVJ2

(Exhibits "2" and "3" – CVJ1 and Staff Analysis)

(Exhibits "4" and "5" – CVJ2 and Staff Analysis)

(Exhibit "6" – Section's Comment to Big Bar)

(Exhibit "7" – Rapid Response Comment to portion of Staff Analysis)

- a. Magistrate Rob Jones thanked his Team for all this work. Magistrate Kirigin advised that the Executive Committee has approved this and it was sent to Paul Hill yesterday.

B. Elisha Roy:

-Effects of crimes on ED and alimony - HB 721 / SB 1050

- a. Elisha Roy spoke with the House sponsor about this yesterday, and advised that the team was willing to work with him. He is eager to work with us if it needs to be fixed.

C. GM Norberto Katz

- Alimony - SB 1978
 - a. The team is meeting next Thursday at noon.
- DV / Stalking - HB 1213 / SB 1674
 - a. Magistrate Katz advised that he did not get this bill assignment yet. He advised he will cover this bill on Tuesday as well.
- DV / Family pets - SB 206
 - a. Meeting on Tuesday.

D. Rob Boyd

- Sovereign immunity - HB 516 / SB 966
- Domestic Partnerships - HB 337 / SB 348
 - a. No significant changes with either bill we are still monitoring.

E. Robert Kohlman

- Child Welfare /Lambourg Keep Families United Act (Exhibit "8") - HB 345 / SB 878
 - a. Matt Capstraw provided the report for Robert Kohlman. He advised that the team is requesting to take no position, but offer technical assistance if this bill starts to move. There are some areas of dependency which needs some work. Elisha asked whether or not we should begin with the technical assistance before it moves so that we are not behind the 8 ball? The report attached the to the Agenda for the this meeting, Thomas Duggar asked that everyone please read the report for next Friday's meeting.

F. Heather Apicella

- Termination parental rights - HB 773 / SB 1652
 - a. Heather Advised that the team will be meeting on Wednesday, and have a report for next Friday's meeting.

V. Next Meeting – Friday, March 18, 2011 at noon

VI. Good of the Order:

- A. Thomas Duggar advised that he may need some people in Tallahassee next week, but will keep everyone advised
- B. Rana Holz made a request that everyone no use "reply all" unless it is necessary. Thomas Duggar advised that this is a standing request, and everyone should know this.
- C. Diane Kirigin reminded everyone that the Committee preference forms have gone out so please try to get those back in. Applications for Executive Council are open. Magistrate Kirigin thanked Tom and Elisha for going up to Tallahassee yesterday and their hard work.

VII. Adjournment : meeting adjourned at 12:52pm.