

MEMORANDUM

To: Ronald Bornstein, Chair Rules and Forms Committee
From: Amy Hamlin
CC: Rebecca Frieden
Monica Pigna
Matt Capstraw
Scott Rubin
Jack Moring
Sara Blumberg

Date: September 7, 2008
Re: Review of 12 Circuit Parenting Plan and Instructions

SUMMARY

On Friday, September 5, 2008, Scott Rubin, Sara Blumberg, Jack Moring, Monica Pigna, Amy Hamlin, and briefly, Norman Levin, attended a telephone meeting to review and comment on the July 2008 draft of the 12th Circuit Parenting Plan and Instructions. Matt Capstraw and Rebecca Frieden were not able to attend.

The Sub-Committee did not review the Long Distance Plan, the Instructions for the Long Distance Plan, or the Highly Structured Plan because time ran out even though the meeting was set for two hours. The 12th Circuit intends to draft a Safety Plan, but at the time the Sub-Committee met, the Safety Plan had not been posted for review.

The purpose of reviewing the 12th Circuit Plan is to determine if the Family Law Section wants to take a position to endorse the Plan, with some modifications, for the Supreme Court to adopt as a statewide Parenting Plan.

OPINION OF THE SUBCOMMITTEE

The general opinion of the Sub-Committee was that the 12th Circuit Plan and Instructions are very good. Norman Levin expressed a concern that Sole Parental Responsibility is not addressed in this Plan. He also believes that this Plan does not adequately comply with the 61.13(b) requirement regarding the children's daily tasks. Overall, the members of the Sub-Committee believe the Plan is well thought out and it was clear to everyone on the Sub-Committee that the drafters of the Plan put a great deal of time into the forms. The Sub-Committee greatly appreciates the time and effort spent and we send a huge thank you to everyone involved.

This Memo will begin with the **Instructions for the Parenting Plan:**

Instructions:

Introduction: The Sub-Committee thought that the Introduction is good and straight forward.

The last sentence of the first paragraph should read “Therefore, parents who are concerned about how their separation will *affect* their children’s healthy development are already ahead of the curve.”

The last sentence of the last paragraph should be removed because it may promote litigation, but the Sub-Committee thought that language should be added either to this section or Step One, the next section, that this assessment shall not be filed with the Court.

Step One: The Sub-Committee did not have any changes to this section, but, as stated above, language should be added to better explain the purpose of the family assessment. If the parties do not agree to a parenting plan, they will have to prove their allegations and requests in Court.

Step Two: The distance assessment should be changed to allow room for the needs of any given circuit to adjust up or down from the 150 miles stated in this Plan.

Step Three: The Sub-Committee had no real changes to this section other than grammar issues in the “parenting” paragraph. There is a space missing between *your* and *direction* in “respond to your direction?”

There is an “n” missing in the sentence directly below: “Does *not* respond to your direction?”

The word “do” is missing from “What do you *do* well as a parent?”

Step Four: The Sub-Committee had no changes to this section; it mirrors the previous section in Step Three. And all the changes requested in Step Three are not present in Step Four.

Step Five: The Sub-Committee thought this section was well thought out. The word “activities” is misspelled in paragraph 6, missing an extra “i.”

Number (f) in paragraph 7 should be the same as (f) in paragraph 6; change to “Place of *Worship*” instead of “church.”

Paragraph 9 should be more defined. Instead of asking to list any future

activities, check box questions should be added that state something similar to:

1. Are you planning on have the child participate in future activities
2. Are you and the other parent thinking about future activities for the child(ren)?
3. Have you and the other parent agreed to future activities?

Paragraph 10 should have a second question that mirrors the first one, for the other parent; “How does the other parent and this child spend time together? When?”

Developmental Milestones: The Sub-Committee thought that we are not qualified to comment on this section and would like to request that Dr. Day and/or other mental health professional review this section for comment.

Remember Page: The last sentence in the “Be Honest” paragraph needs to be developed. There should be discussion as to how this Parenting Plan is developed; is there a single plan? Is there one plan per party? Does it get developed in mediation?

The last sentence, “Remember your parenting schedule may change as your child(ren) grow” should be deleted.

The box at the bottom of the page should be deleted.

Parenting Plan:

Header: The header should read “IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT IN AND FOR _____ COUNTY, FLORIDA”

One of the Sub-Committee members noticed that the font is different in the Parenting Plan than the other two Plans (Highly Structured and Long Distance). The font should be the same for all the forms and the font for the other two forms was preferred over the font in this Parenting Plan.

Section 1: This Section should be uniform with the other two Plans, which do not include the check boxes “By Stipulation” and “Without Stipulation.” These two check boxes should be removed. If both parties agree to the Plan, they will check the box “Both Parents.” If they don’t agree, they will check the box either “Mother” or “Father.”

Phone, e-mail, and the date of birth should be removed due to the possibility of identity theft. The children’s birth dates are provided in the UCCJEA and the parties are required to provide their current information to the Clerk of the Court if paying/receiving child support.

Section 2: The Sub-Committee thought this section is fine with the exception of venue; instead of check boxes, change this to a blank line to write in the name of the County.

Section 3A: After the intro paragraph, the second paragraph should say “Each parent *shall* make . . .” instead of will make, to keep the paragraphs uniform.

The last sentence of the next paragraph should be deleted: “Both parents shall share all information to such records” and be changed to read something like “Each parent shall share information in order to obtain such records.”

Section 3B: There was a concern that this section conflicts with paragraph 12. The first sentence is fine but the two check boxes after that should be deleted and instead state that paragraph 12 shall apply OR the choose from the list of check boxes in the rest of the paragraph

At the end of the check boxes for the ultimate decision making authority, the “needs of the children” should be deleted and more blank check boxes should be added

Section 4: The Sub-Committee believed that none of its members were qualified to comment about the children’s rights section and will request that Dr. Deborah Day review the section and provide any comments.

The Sub-Committee recommends that the new best interest standards from Chapter 61.13 (3) be added to this section.

Section 5: The Sub-Committee thought that most of the information in this section should be included in a table that includes each child in the family. In addition, this section should better itemize the costs involved. For example, rather than just include the percentage of how the parties will pay for private school, list exactly what costs are included in private school; such as uniforms, in addition to tuition. Also, what costs are associated with home schooling

The Sub-Committee had the same discussion during this meeting as they did during the Fast Track discussion regarding whether costs of anything should be included in a Parenting Plan. Some members think costs should be included so everything related to one particular issue is in one place rather than having to look at a settlement agreement or Final Judgment, while other members think that costs should not be included in the event that the children look at the Parenting Plan to see where they are going for the week or who is picking them up, etc. The Sub-Committee agreed, again, that whether costs are in or out, it should be uniform throughout the Plan.

The last two check boxes should remain outside the table.

Section 6: The Sub-Committee had no suggested changes to this section.

Section 7: Whether the costs remain in or out, Part A should read “The training is _____” and specifically identify everything that the religious training includes.

Part B should be similar to section 8 (E) “The parent with the minor child(ren) shall transport the minor child(ren) to and/or from all mutually agreed upon religious training, providing all necessary instruction materials for the training within the parent’s possession.”

Section 8A: The first paragraph, under School Calendar, should be stricken. The list of check boxes that state “The parents shall follow the school calendar of . . .” shall include a box that says “school calendar of the each child for that child”

The counties listed should be deleted and a blank included to write in the name of the County selected.

Section 8B: The definition of “**Begin**” is missing a word and should read “At the end of the last scheduled day *of* classes before the holiday or break, and”

Section 8C: The first check box should be changed to read “A parent requesting a change of schedule shall be responsible for any additional *children’s expenses* resulting from the change.”

The second check box is missing some words and should read “If one parent must pay for the children’s *expenses* when it is the responsibility of the other parent to do so, the parent initially responsible will *reimburse* the other parent for these costs within ten (10) days of payment.”

Section 8D: The first paragraph should read “In the event holiday or vacation time conflicts with the ongoing *time sharing plan*, the scheduled holiday or vacation time shall be observed.”

The next paragraph has the same time sharing plan issue and should read “If there is a conflict between the holiday/vacation time the *time sharing plan*, the ongoing *time sharing plan* will resume”

Section 8E: Extracurricular should be one word. The Sub-Committee had no other suggested changes except for the already noted cost issue.

Section 9: The Sub-Committee thought that overall, this section, is very easy to understand. The first paragraph should be the same as the Information Sharing box at the end of the Plan which reads “Each parent shall keep the other informed of their current contact information (address, telephone and cell numbers) and inform the other of any change in writing

within 3 days. Each parent shall provide the other parent with the contact information for the child's school, sports, extracurricular and religious activities within 3 days of getting that information. Therefore, it shall be the other parent's responsibility to stay informed of the child's events and activities."

Section 10: The last two check boxes should be removed

Section 11: The first check box should read "*Either* parent may select appropriate child care providers."

Section 12: The first sentence should be changed to read "All discussions concerning conflicts of the parents shall take place outside the presence of the children"

There should be a check box to include a default mediator.

Section 13: This section should be changed to read "If both parents agree to make a change to this agreement, such modification must be in writing, signed by both parties and approved by the Court. When the parents do not agree, this agreement remains in effect."

Section 14: The third paragraph starting with "Required child(ren)'s belongings will be . . ." should be deleted. There were no other suggested changes to this section.

Section 15: The Sub-Committee did not have any suggested changes to this section. The members liked the inclusion of the different time sharing schedules that are color coded and include the days of the week and which parent has the child on a given day.

Section 16: For Martin Luther King Day and President's Day, the word "School" on the right hand of the page, should be deleted before the word "Holiday"

The Sub-Committee did not make any other changes to this section.

Section 17: The title of this Section should be "*Summer Time Sharing Plan*"

The first check box should read "The parents will keep the ongoing *time sharing plan* during the summer breaks."

There should be a check box that says
"Divide the summer as follows:
Mother: _____
Father: _____"

Section 18: The first check box should read "Either parent may travel with the child(ren) during the *time sharing plan*."

In the Out of Country Travel section, there should be a section related to the child(ren)'s passports and has spaces to decide:

- a. Who pays for the passport(s)
- b. Who keeps the passport(s)
- c. Both parents will cooperate in filling out the necessary paperwork to obtain or renew a passport
- d. Parents will cooperate in providing necessary documents (such as a birth certificate) to obtain a passport
- e. Who is responsible for renewing the passport(s)
- f. The parents will cooperate in acknowledging if there is a passport

for the child(ren)

Section 19: This section should be titled “Optional *Provisions*”

The line item regarding passports should be removed because it is more fully addressed in Section 18.

Signature page: The legend “By signing this Parenting Plan, I confirm that I have read all of the page and any attachments, I understand it and I believe it is in the best interest if my child(ren). I am freely and voluntarily entering into this Agreement and I request that the Judge approve it” should be in bold type.

The Sub-Committee thought this Parenting Plan is much better than the Fast Track forms drafted by the Supreme Court Committee and believe that with some modification, the Section should vote to approve this modified form for statewide use.