

MEMORANDUM

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

Date: August 14, 2008
Re: Forms Advisory Workgroup Request for Parenting Plans

SUMMARY OF ISSUE

Everyone listed above, as well as a brief appearance from Norman Levin, attended a telephonic meeting on August 13, 2008, to review and comment on the Florida Supreme Court's Advisory Group's Parenting Plan, Parenting Plan Supervised/Safety-Focused, and the instruction sheets for each Plan.

OPINION OF THE SUBCOMMITTEE

The general opinion of the Sub-Committee was that the Supreme Court forms were, overall, inadequate. The forms and instruction sheets do not provide nearly enough guidance for the people who will complete these forms. The forms do not provide a good description of shared parenting or the rights and responsibilities and duties for parents. The Sub Committee believes that the factors listed in Chapter 61.13 should be listed and examples provided for the various type of time sharing schedules. The Supreme Court forms need to be more comprehensible and understandable for the parties.

The Parenting Plans do not provide enough space for the parties to add additional information to the body of each section.

The Sub-Committee did not have nearly enough time to provide thorough comments to both Plans and this Memo is intended as a brief summary of the major issues that were spotted by the members.

At least two of the Sub Committee members reviewed a draft of three different Parenting Plans from the 12th Judicial Circuit, but not everyone on the Sub Committee had access to these drafts. We were able to discuss the concepts and compare the Supreme Court Plans. The Sub Committee would like to have more time to review the 12th Circuit Parenting Plans and perhaps submit revised versions of those Plans because, at least initially, the 12th Circuit versions seem to

be more detailed and, as a result, will be more helpful to people filling out the Plans, as well as to the Courts. The Plan does not address whether the parties can have weapons in their homes and if so, what safety precautions shall be in place. There is no section regarding pets; if the parties are allowed to have pets around the children and how the pets should be cared for, nor is there any mention of any restrictions for Internet communication such as My Space or FaceBook. These matters are addressed in the 12th Circuit Plans.

The Plan does not include any mention of extended family members or significant others; who can the children be around or not be around.

A concern the Sub Committee has is the requirement for the Parenting Plan to be completed and filed with the Petition and Counter-Petition. The timing of this requirement is too soon in the case. The instruction sheets do not tell the parties what to think about when completing the Plan.

This Memo will begin with the Parenting Plan and then address any separate issues in the Safety Plan, that are not addressed in the basic plan.

Section I of the Parenting Plan requires the parents to list their address, telephone number and email address. Providing this information may make the parents susceptible to identify theft and the recommendation is to delete this information. The parties have a continuing duty to keep the Court apprised of their contact information; it is necessary to have the same information in the Plan.

Section II does not have enough lines for families who have more than three children of the marriage.

Section III: This section should be drafted better. A suggestion is to include boxes or spaces for the Judges to initial for jurisdiction issues. Florida has several multi-county circuits that are not mentioned in this section at all.

Section IV: The box for shared parenting does not contain the same definition as Chapter 61.046 (16) and needs to be expanded. The options for the major decision to be decided by Mother/Father/Both should be redone and should include an option that if the parents cannot decide a particular issue related to one of the items listed, then they parties decide who has the ultimate say for any particular matter, and should even refer to the Dispute Resolution Section.

The way the section is crafted now, litigation may ensue, which is not the intent of the new parenting bill or the Parenting Plan.

The Sub Committee discussed whether financial information should be included in the Plan. For example, how the after school activities, uninsured medicals, day care, etc will be paid by the parties. A compromise was reached to include a provision for each issue that will require payment, the same way as transportation costs are addressed, in Section VII (3).

Section V needs to be redrafted and the Sub Committee proposes a similar Time Sharing Schedule to what the 12th Circuit drafted; include several possible schedules with attached calendars so that parents can see exactly what days the child will be with each party. The calendars will also help the parties count the number of overnights which is also required in subsection 6.

Another concern is that holidays are not defined. For example, most school calendars list Spring Break as Monday through Friday. The parties may assume that the weekends before and after are included, but if not specifically stated, arguments may arise.

The 12th Circuit Plan addresses the issue of one parent having a child three weekends in a row and the Sub Committee would like to look at that section of that Plan and compare it to the language in this one.

Section VIII does not include a provision for Home Schooling or private school. If the parties agree to home school their children, there should be space to describe the details; who will home school, the qualification of that person, etc. If the parties agree to private school, how the costs will be divided should be included and be the same as the Transportation Costs section referenced earlier in this Memo.

Section IX should be deleted completely.

Section X should include a provision related to telephone calls between the parents and children; how many times per week, the duration of the call, the time of day the call should occur, who should initiate the call, etc. This information is included in the Safety Parenting Plan.

Section XI should include the same cost allocation for child care as the Transportation Costs section.

Section XII does not give any definition of “substantial” changes. The Plan should include language that states if the parties do not agree how to follow the Plan or how to interpret the Plan, the Parenting Plan remains in effect until further order of the Court.

The Sub Committee decided that the Relocation Section can remain and that if the Glitch Bill is passed, the defects of this Section will be remedied.

The final section, XII is not adequate. Although “other dispute resolution methods” are stated, the Sub Committee believes that resources such as a Parenting Coordinator or Parenting Counselor should be specifically stated as examples. The other issue addressed by the Sub Committee related to this Section is stated above in Section IV.

The signature section should also be revised to delete the word “open” and add language that states the parties have read the Parenting Plan, have willingly participated in the Plan, have read and understands the Plan, and requests the Court approve the Parenting Plan. This language is similar to the 12th Circuit Plan.

Parenting Plan Supervised/Safety-Focused:

There is no section in this Plan to list a Domestic Violence Injunction with Case Number.

Section IV should include Shared Parenting as an option for parental responsibility, with a definition consistent with Chapter 61.046. If a parent chooses sole parenting, there must be space provided for the parent to explain why sole parenting is in the children's best interests. The selection of parental responsibility should have a space for the parties' and/or judge's initials rather than a check box to avoid any stray marks in or near the check box from multiple copies.

The time sharing schedule in Section V needs to be redone to include language that states "the time sharing schedule shall be as defined below" with enough space for the schedule to be completed. There is not enough room to spell out how the costs of a supervisor shall be paid by the parties.

Section VII needs to include the option of a monitored exchange location.

Section X does not contemplate a domestic violence order that bars the parties to communicate with each other. There should be an option for "no communication" and space to explain why. Section 2 of this section misspells children in the first option. It currently reads "chid(ren)."

Section IX should include an option for extracurricular activities and whether each party shall or shall not attend. If either party has a domestic violence injunction that prohibits contact within a certain distance from the other party, there needs to be room to list the Order and the no contact provisions.

The Sub Committee believes that Section XII should include an option that includes the prevention of controlled substances (or non prescribed or over the counter medications). There should be an option for the parties to agree for one or both to submit to drug testing immediately prior to picking up the children and adequate space to explain the details of how the testing will take place, where, who pays the costs, who is entitled to the results, etc.

As stated previously, the Sub Committee requests additional time to provide a more comprehensive analysis of the two Parenting Plans drafted by the Florida Supreme Court Advisory Group.