

Members

Rep. Vanessa Summers, Chairperson
Rep. Edmund Mahern
Rep. Cleo Duncan
Rep. Andrew Thomas
Sen. David Ford
Sen. Richard Bray
Sen. Anita Bowser
Sen. Billie Breaux
John Brandt
Bruce Pennamped
Hon Michael Gotsch
Hon R. Jerome Kearns



CHILD CUSTODY AND SUPPORT ADVISORY COMMITTEE

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MEETING MINUTES¹

Meeting Date: August 25, 2004
Meeting Time: 1:00 P.M.
Meeting Place: State House, 200 W. Washington St., Room 233
Meeting City: Indianapolis, Indiana
Meeting Number: 1

Members Present: Rep. Vanessa Summers, Chairperson; Rep. Cleo Duncan; Rep. Andrew Thomas; Sen. David Ford; Sen. Richard Bray; Sen. Billie Breaux; John Brandt; Bruce Pennamped; Hon. R. Jerome Kearns.

Members Absent: Rep. Edmund Mahern; Sen. Anita Bowser; Hon. Michael Gotsch.

Chairperson Summers called the first meeting of the Indiana Child Custody and Support Advisory Committee ("Committee") to order at 1:10 PM and asked the members of the Committee to introduce themselves.

Joint Legal Custody in Paternity Matters

Committee member John Brandt provided testimony to the Committee concerning joint legal custody in paternity matters. Mr. Brandt explained that under Indiana law, joint legal custody is permitted in dissolution of marriages, but not in situations in which parents

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are not married, but paternity has been established. Mr. Brandt suggested that because the Parenting Time Guidelines promote joint legal custody, joint legal custody should also be extended to children of parents who have not been married if paternity has been established. Finally, Mr. Brandt stated that the number of couples who do not marry but have children seems to be increasing.

Sen. Bray explained that he was concerned that a father should not have joint legal custody of his child if he is not paying child support. Mr. Brandt responded that a father who did not pay child support would not be a candidate for joint legal custody.

Rep. Thomas expressed concern for situations in which a father is married to another woman which could complicate joint legal custody matters. Mr. Brandt responded that joint legal custody in paternity matters should be at the discretion of a court.

Mr. Pennamped pointed out that there is a correlation between child support payments being regularly paid and parents having joint legal custody.

Great-Grandparents and the Grandparent Visitation Statute

Mr. Brandt suggested that the Grandparents Visitation Statute should be extended to allow great-grandparents to petition a court for visitation of great-grandchildren. Mr. Brandt explained that in *Hammons v. Jenkins-Griffith*, the Indiana Court of Appeals denied a petition to extend visitation rights to great-grandparents.

Sen. Ford stated that he was concerned that if the grandparent visitation was extended to great-grandparents, it would also have to be extended to other relatives and non-relatives and a line has to be drawn.

Rep. Summers opined that grandparents and great-grandparents are getting younger and both grandparents and great-grandparents have increased roles raising grandchildren or great-grandchildren.

Rep. Thomas indicated that he was in favor of extending visitation rights to great-grandparents as long as judges have the discretion to grant or deny visitation.

June Lyle, of the AARP, testified that great-grandparents could play a key role in a child's life and therefore visitation rights should be permitted for great-grandparents.

James Ross testified about his personal experience with grandparent visitation. Mr. Ross stated he was against the current statute and any expansion of visitation rights to great-grandparents. Mr. Ross also distributed a packet of materials (Exhibit #1) that contained excerpts from a deposition transcript and various documents concerning his petition to change a visitation order allowing his former in-laws visitation with his children.

Scott Cook of the Marion County Prosecutor's Office pointed out that if visitation rights under the grandparent visitation statute are extended to great-grandparents, the statute could violate the United States Supreme Court's decision in *Troxel v. Granville*.

Rep. Thomas questioned whether there is much demand to extend visitation rights to great-grandparents.

Magistrate Chapleau stated that he has been a magistrate for fourteen years and had never seen a petition from great-grandparents for visitation.

Proposed Legislation

PD 3114-Parenting Time (Exhibit #2)

Sen. Ford explained that this draft replaces references to "visitation" with "parenting time" in parental custody statutes. Sen. Ford also stated that the Committee approved this bill last year, but it did not pass during the legislative session.

Steve Johnson of the Indiana Prosecuting Attorneys Council stated that he supported the version of the bill from last year which stated that prosecuting attorneys who try a Title IV-D case are not required to litigate matters related to parenting time.

The Committee approved this draft with the addition of the language referred to by Steve Johnson, in a roll call vote, 8-0. Rep. Summers also agreed to file this proposed legislation.

PD 3026-Arbitration in Family Law (Exhibit #3)

This draft sets forth procedures for family law arbitration cases.

Andrew Soshnick, Chair of the Family and Juvenile Law Section of the Indiana State Bar Association, spoke in favor of this proposed legislation.

The Committee voted 8-0 to approve this draft. Rep. Summers stated that she would also file this proposed legislation.

Testimony Regarding Child Support Collection

Pam Baker testified about her experiences with collecting child support from her ex-husband. She explained her frustration with Title IV-D prosecutors and her problems with hiring private attorneys to try to collect child support. Ms. Baker also stated that if arbitration was available, arbitration may have been a quicker way to collect child support owed to her.

Steve Johnson indicated that Title IV-D prosecutors have large case loads and there could have been problems if several attorneys were involved in Ms. Baker's attempts to collect child support. Mr. Johnson also explained that judges will only order a person in jail for failing to pay child support as a last resort.

Selection of Meeting Dates

Chairperson Summers selected the next two Committee meeting dates. The next meeting will be on September 21, 2004, at 1:00 P.M., and the final meeting will be on October 5, 2004, at 1:00 P.M.

Adjournment

The meeting was adjourned at 2:45 P.M.