

Members

Rep. Vanessa Summers, Chairperson
Rep. John Day
Rep. Phyllis Pond
Rep. Heath VanNatter
Sen. Brent Steele
Sen. Brent Waltz
Sen. James Arnold
Sen. Jean Breaux
Judge Marianne L. Vorhees
Greg DeVries
Robert Bishop
Bruce Pennamped



CHILD CUSTODY AND SUPPORT ADVISORY COMMITTEE

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MEETING MINUTES¹

Meeting Date: October 15, 2008
Meeting Time: 1:30 P.M.
Meeting Place: State House, 200 W. Washington St., Room 404
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Rep. Vanessa Summers, Chairperson; Rep. John Day; Rep. Phyllis Pond; Rep. Heath VanNatter; Sen. Brent Steele; Sen. Brent Waltz; Sen. James Arnold; Judge Marianne L. Vorhees; Greg DeVries; Robert Bishop; Bruce Pennamped.

Members Absent: Sen. Jean Breaux.

Call to Order

Representative Vanessa Summers, Chairperson, called the meeting to order at 1:42 P.M.

Reimbursement of Birthing Expenses

Cynthia Longest, the Deputy Director of the Child Support Bureau within the Department of Child Services, and Judge Dean Young, of the Blackford Circuit Court, introduced themselves to the Committee. Ms. Longest explained that the federal government is requiring states to mandate in the state's child support guidelines that a noncustodial parent repay birthing expenses in Title IV-D cases. Ms. Longest further stated that the

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federal government is not providing specific guidance as to the wording of this guideline or the corresponding state statutes. Indiana's current guidelines do not mention the reimbursement of birthing expenses. Ms. Longest is working with the Indiana Prosecuting Attorney's Council and the Domestic Relations Committee (DRC), who are the judges that are reviewing the Indiana Child Support Guidelines, and will propose changes to the guidelines and state statutes. Ms. Longest explained that if Indiana does not comply with this federal requirement, Indiana is at risk for losing federal funding of Indiana's Title IV-D program.

Rep. Day asked Ms. Longest if the state funds any of the Title IV-D program. Ms. Longest explained that the federal government provides 66% of Title IV-D funding and the state provides 34% of the funding.

Mr. Bishop stated that prosecutors are concerned that changes to the child support statutes and guidelines could result in prosecutors being overwhelmed with Title IV-D cases.

Jeffrey Bercovitz, counsel for the DRC and of the Indiana Judicial Center, added that the DRC is meeting October 16 and October 17 to propose legislation and changes to the Child Support Guidelines, as mandated by the federal government. Mr. Bercovitz stated that it is a challenge trying to come up with language that the federal government will approve and that will be workable.

Rep. Day asked Mr. Bercovitz how birthing expenses currently are handled for parents who are not married. Mr. Bercovitz explained that this issue is not dealt with in the Child Support Guidelines and that Indiana Code 31-14-17-1 requires a court to order the father to pay at least 50% of the reasonable and necessary birthing expenses.

Parenting Time Guidelines

Connie Spence contacted Chairperson Summers about testifying before the Committee concerning the coordination of visitation for a noncustodial parent who lives in a different location than the custodial parent. Ms. Spence did not attend the meeting, but Mr. Pennamp explained that the Parenting Time Guidelines have a provision concerning visitation if there is a large distance between the parents. Mr. Pennamp also stated that courts have discretion concerning visitation orders when a large distance is involved.

Preliminary Draft 3329 Concerning Joint Legal Custody

The Committee next discussed preliminary draft (PD) 3329, which establishes a rebuttable presumption that an award of joint legal custody is in the best interests of a child. The Committee voted 11-0 to approve this draft.

Preliminary Draft 3300 Concerning Domestic Relations Counseling Bureaus

Chairperson Summers next discussed PD 3300, concerning expanding domestic relations counseling bureaus to all counties (currently only courts in Marion and Lake Counties have domestic relations counseling bureaus). Senator Steele expressed concern about how this program would be funded. Mr. Pennamp stated that in Marion County a user fee is charged. Mr. Pennamp suggested that instead of expanding domestic relations counseling bureaus, *pro se* mediation in divorce cases could be expanded. Senator Waltz questioned whether this legislation was necessary if courts could set up their own version of domestic relations counseling bureaus without having to follow a statute. Chairperson Summers stated that she would withdraw this PD and research the issue further.

Protective Orders

Stuart Showalter - Mr. Showalter introduced himself to the Committee and provided a

written copy of his testimony (Exhibit 1). Mr. Showalter stated that he believes that some divorce attorneys advise clients to make an allegation of abuse in order to obtain a protective order that prohibits a father from seeing his children. By making this allegation, a court will often make an *ex parte* restraining order prohibiting a father from contact with his children. Mr. Showalter suggested that if a court makes an *ex parte* order prohibiting a father from seeing his children, the evidence should meet a clear and convincing standard.

Rep. Pond stated that she has heard of attorneys in Fort Wayne who will seek a protective order for peeping based on very little evidence.

Judge Vorhees explained to the committee that a judge can issue a protective order *ex parte*, which means without a hearing. However, the person against whom an order is issued may request a hearing regarding the order. At the hearing, both parties may present witnesses and explain their position concerning the allegation. Often, a judge will grant a protective order and have the order expire within ten days or until a hearing.

Rep. Pond asked Judge Vorhees how false accusations could be stopped.

Judge Vorhees stated that the penalties of perjury apply to false accusations.

Senator Steele stated that protective orders are often a difficult issue for judges because accusations are often false or inflated. But judges feel they need to act on protective orders because of the possibility that violence could occur, which a protective order could prevent.

Judge Vorhees also stated that stalking is a crime that is often a loophole for a protective order to be issued. She stated that some judges will consider harassing text messages or e-mail to be stalking while other judges will not.

Chairperson Summers then stated that protective orders are necessary because there are legitimate cases where a protective order works. Chairperson Summers suggested that the Committee study protective orders next year.

Final Report

The Committee voted 10-0 in favor of adopting the final report.

Adjournment

The Committee adjourned at 3:00 P.M.