

**COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS
MINUTES**

February 12, 2008

10:00 AM –2:00 PM

State Courts Building,

1501 W. Washington St., Room 345 A/B

MEMBERS PRESENT

Barbara Appenzeller, CPA
Lt. Mark Carpenter
Honorable Anita Escobedo
Laura Horsley
Honorable Lynda J. Howell
Sheri Lauritano, Esq.
Patricia Madsen, Esq.
Cdr. Scott Mascher
Leah Meyers, GOCYF/DFW
Chief Deputy Jerald Monahan
Honorable Michelle Lue Sang
Honorable Dennis Lusk
Honorable Wendy Million
Paul O’Connell
Honorable William O’Neil, Chair
Doug Pilcher
Catherine Shugrue-Schaffner, Esq.-
(Proxy-Richard Shugrue, Esq., Ph.D.)
Renaë Tenny
Tracey Wilkinson
Kim Van Nimwegen, MSW

MEMBERS ABSENT

Dr. Jennifer J. Casaletto
Joan Fox, DDS
Tracey Hannah, Esq.
Bridget Humphrey, Esq.
Cheryl L. Karp, Ph.D.
Honorable Carolyn Passamonte
Honorable Jack Peyton
Honorable Benjamín Zvenia

STAFF

Kay Radwanski
Lorraine Nevarez

Guests

Leah Heathcoat-CAAFA
Heather Dumas-CAAFA
Kendra Leiby- AZCADV
Theresa Barrett-AOC

I. CALL TO ORDER

A. Welcome and Opening Remarks

Judge O’Neil, chair, called the February 12, 2008, meeting of the Committee on the Impact of Domestic Violence and the Courts to order at 10:15 a.m. Judge O’Neil

welcomed the members, including five new members. He also notified the committee of Judge Moran's resignation and thanked him for his years of service to this committee.

Judge O'Neil reminded members that anyone serving as proxy must be from outside the committee. Also, a proxy may not carry multiple proxies. In addition, a member appearing telephonically must be present for the whole meeting to be included in the quorum.

B. Approval of Minutes from November 14, 2007

Minutes of the November 14, 2007, meeting of the Committee on the Impact of Domestic Violence and the Courts were presented for approval.

**MOTION: Motion was made and seconded to approve the November 14, 2007, meeting minutes. Motion passed unanimously.
CIDVC-07-001**

II. IPV Assessment, Screening and Accommodations: Implications for Court-Based Divorce Mediation

Connie J. A. Beck, Ph.D., UOA, discussed her research and the importance of screening for domestic violence between parties who are involved in divorce mediation. Dr. Beck's research answers the following questions: (1) what specific IPV (intimate partner violence) behaviors are identified in pre-mediation screening sessions? (2) What IPV behaviors are associated with a mediator's decision to classify a case as having IPV? (3) What are the characteristics of couples screened out of mediation? (4) What accommodations are provided to couples? Dr. Beck discussed the many variables and correlations that couples indicated during the screening process for mediation. Dr. Beck hopes to develop a conceptual model regarding relationships between variables and outcomes to begin to understand marital stressors, violence triggers and processes variables that lead to specific outcomes throughout divorce process, create a better self-report and interview instrument, develop actuarial predictors of recidivism in divorcing population and differentiate static vs. dynamic risk factors and how often dynamic factors need to be assessed to have accurate predictions.

III. "System Alert" Report-Follow-Up Discussion

Judge O'Neil asked members to review the "Systems Alert" report again and make suggestions to determine effective solutions for the different tribulations identified in the report at the next committee meeting.

IV. New Business

- Judge O'Neil will contact Robert Roll, former CIDVC member, regarding establishment of a workgroup to study the issue of transferred cases between limited and general jurisdiction courts. This issue is more of a business process concern than a technological one. It applies to all courts, not just those using AZTEC. Concerns have been raised about the effect on data in CPOR if a case is transferred from one court to another but the disposition of the sending court's case is not modified.
- Judge Million discussed the VAWA funding and the Lautenberg notification (re prohibition of firearms) on criminal release orders. She provided instruction on this issue at New Judge Orientation recently. Leah Meyers also shared some information on this issue as she is the STOP grant (VAWA) administrator at the Governor's Office. Judge O'Neil appointed an ad hoc workgroup consisting of himself, Judge Million, Judge Lusk, the Hon. Elizabeth Finn, Glendale City Court, and Leah Meyers to explore this issue.
- Judge Lusk raised some concerns about the new protective order form. The protective order form does not provide any space for the judge to sign. Doug Pilcher noted that changes to the forms also require changes to the courts' case management systems. Changes in a CMS results in costs because of the time and personnel required to make such changes. The matter was referred to the Forms Workgroup for review.

V. Workgroup Reports

- A. DV Forms Workgroup (Commissioner Passamonte, Chair) -- No update at this time.
- B. DV Resource Book (Hon. Michelle Lue Sang, Chair) --No update at this time.
- C. Best Practices (Hon. Wendy Million) -- The workgroup has decided to look at the recommendations in the "Systems Alert" report and conduct state-wide surveys to see how different courts in Arizona are trying to meet these challenges.
- D. DV Education Workgroup (Hon. Michelle Lue Sang, Chair) -- The workgroup/CIDVC is sponsoring two judicial conference sessions this year. One session will address the "Systems Alert" report, and Judge Million and Judge Mark Armstrong will conduct a presentation on the Arizona Rules of Protective Order Procedure. The second session will be on the topic of offender and victim behavior in the courtroom. Judge Million is

working on procuring faculty. The workgroup would also like to develop a fact sheet for teens regarding teen dating violence and rights they have as young individuals. The workgroup also thinks it is important to develop staff education.

E. Legislative Workgroup (Hon. Benjamin Zvenia, Acting Chair)—No update at this time.

F. Batterer's Treatment Policies and Programs (Tracy Hannah, Chair)-No update at this time.

VI. Legislative Report

1. HB 2248 Electronic communications; harassment; order; protection

Primary sponsor: Rep. Bob Robson

<http://www.azleg.gov/legtext/48leg/2r/bills/hb2248p.pdf>

Injunction against harassment; petition; venue; fees; notices; enforcement; definition

(Amending § 12-1809, Arizona Revised Statutes; relating to injunction against harassment)

- Clarifies in subsection E that the court, when deciding whether to issue an injunction against harassment, must review the petition, any other pleadings on files and any evidence submitted by the plaintiff, including any evidence of harassment by electronic contact or communication.

Harassment; classification; definition

(Amending § 13-2921, Arizona Revised Statutes; relating to harassment)

- In subsection (A)(1), adds the word contacts to the acts that constitute harassment.

Order of protection; procedure; contents; arrest for violation; penalty; protection order from another jurisdiction

(Amending § 13-3602, Arizona Revised Statutes; relating to orders of protection)

- Clarifies in subsection E that the court, when deciding whether to issue an order of protection, must review the petition, any other pleadings on files and any evidence submitted by the plaintiff, including any evidence of harassment by electronic contact or communication.

STATUS: As of February 7, 2008

This bill has been assigned to the Judiciary and Rules committees. It was first read on January 22, 2008, and second read on January 23, 2008.**STATUS:** As of February 7, 2008

2. HB 2374 Domestic violence; dating relationships §13-3601

Primary sponsors: Rep. Pete Hershberger and Senator Rebecca Rios

<http://www.azleg.gov/legtext/48leg/2r/bills/hb2374p.pdf>

Domestic violence; definition; classification; sentencing option; arrest and procedure for violation; weapon seizure; notice

(Amending section 13-3601, Arizona Revised Statutes; relating to domestic violence)

- Adds subsection 6: the relationship between the victim and the defendant is currently or was previously a significant romantic or sexual relationship. Requires the court to consider factors to determine that the relationship is or was previously a significant romantic or sexual relationship:
 - Type of relationship.
 - The length of the relationship.
 - The frequency of the interaction between the victim and the defendant.
 - If the relationship has terminated, the length of time since the termination.

STATUS: As February 7, 2008

This bill has been assigned to the Judiciary and Rules committees. It was first read on January 23, 2008, and second read on January 28, 2008.

3. HB 2407 Harassment; classification; definition

Primary sponsors: Rep. Pete Hershberger, Rep. David Bradley

<http://www.azleg.gov/legtext/48leg/2r/bills/hb2407p.pdf>

Harassment; classification; definition

(Amending § 13-2921, Arizona Revised Statutes)

- In subsection C, changes the classification of harassment from a class 1 misdemeanor to a class 5 felony if the defendant is at least 18 years old and knows or has reason to know the victim is a minor.
- In subsection E, expands the definition of harassment to include:
 - Conduct that serves no legitimate purpose and that would cause a reasonable person to suffer substantial emotional distress and the conduct in fact causes substantial emotional distress, and
 - Conduct that consists of contact by a person who is at least 18 years of age with a minor and that would cause a reasonable parent to fear for the well-being of the parent's minor child who is the target of the contact.

STATUS: As of February 8, 2008

This bill has not been assigned to committees, nor has it been read in the House.

4. HB 2545 Strangulation and suffocation; study committee

Primary sponsors: Rep. Kyrsten Sinema, Rep. Steve Gallardo, Rep. David Lujan, and Rep. David Schapira

<http://www.azleg.gov/legtext/48leg/2r/bills/hb2545p.pdf>

An Act - Establishing the Strangulation and Suffocation Study Committee

- Provides for the establishment of the Strangulation and Suffocation Study Committee consisting of 19 members.
- Committee shall research and report on:
 - Prevalence of intentional strangulation or suffocation in domestic violence situations in this state.
 - The reporting and recording practices of peace officers in relation to strangulation or suffocation involving domestic violence calls.
 - The number and circumstances of cases involving strangulation or suffocation that are considered misdemeanors and felonies.
 - The outcomes of plea bargains in cases involving strangulation or suffocation.
 - The training currently required for first responders regarding physical indications of strangulation or suffocation.
- The committee shall make recommendations to improve law enforcement, judicial and victim advocate responses to strangulation or suffocation cases.
- On or before December 31, 2008, the committee shall submit a report regarding its findings and recommendations to the governor, speaker of the house, president of the senate and the state coalition against domestic violence that has a member who serves on the committee.

STATUS: As of February 7, 2008

This bill has been assigned to the Judiciary and Rules committees. It was first read on January 29, 2008, and second read on January 30, 2008.

5. HB 2681 Orders of protection; animals

Primary sponsors: Rep. Jonathan Paton, Rep. Ed Ableser, Rep. Marian McClure

<http://www.azleg.gov/legtext/48leg/2r/bills/hb2681p.pdf>

Order of protection; procedure; contents; arrest for violation; penalty; protection order from another jurisdiction

(Amending § 13-3602, Arizona Revised Statutes; relating to orders of protection)

- Adds subsection G(7), regarding custody of animals, to the types of relief a judge may grant when issuing an order of protection. Specifically, the court, may:
 - Grant the petitioner the exclusive care, custody or control of any animal that is owned, possessed, leased, kept or held by the petitioner, the respondent, or a minor child residing in the residence or household of the petitioner or the respondent, and
 - Order the respondent to stay away from the animal, and
 - Forbid the respondent from taking, transferring, encumbering, concealing, harming or otherwise disposing of the animal.

STATUS: As of February 7, 2008

This bill has been assigned to the Judiciary and Rules committees. It was first read on February 4, 2008, and second read on February 5, 2008.

6. HB 2687 Victims' rights; statement of rights

Primary sponsors: Rep. Jackie Thrasher, Rep. Ed Ableser, Rep. David Lujan, Rep. Kyrsten Sinema, Rep. Theresa Ulmer, Rep. Nancy Young Wright

<http://www.azleg.gov/legtext/48leg/2r/bills/hb2687p.pdf>

Statement of rights

(Amending § 13-4438, Arizona Revised Statutes; relating to victim's rights)

Requires the posting of the statement of victim's rights, as set forth in the statute, in both English and Spanish outside of every courtroom entrance;

- Requires the reading of the victim's rights statement at the beginning of the regular criminal docket; and
- Adds the requirement that the victim's rights statement be read not only by judges of the superior court but also by judges of limited jurisdiction courts.

STATUS: As of February 7, 2008

This bill has been assigned to the Judiciary and Rules committees. It was first read on February 5, 2008, and second read on February 6, 2008.

7. SB 1335 Aggravated domestic violence; violation

Primary sponsor: Sen. Tim Bee

Aggravated domestic violence; classification; definition

(Amending § 13.3601.02, Arizona Revised Statutes; relating to family offenses)

- Heightens the severity of aggravated domestic violence by imposing guilt upon a second (rather than third) or subsequent conviction of a domestic violence offense within an 84-month period;
- Disqualifies a person convicted of one (rather than two) prior violation of a domestic violence offense within an 84-month period from eligibility for probation, pardon, commutation, or suspension of sentence or release until the person has served four months in jail; and
- Disqualifies a person convicted of two (rather than three) prior violations of a domestic violence offense within an 84-month period from eligibility for probation, pardon, commutation, or suspension of sentence or release until the person has served eight months in jail.

STATUS: As of February 7, 2008

This bill has been assigned to the Public Safety and Human Services and Rules committees. It was first read on January 31, 2008, and second read on February 4, 2008.

8. SB 1363 Marriage license fees; domestic violence

Primary sponsors: Sen. Paula Aboud, Sen. Amanda Aguirre

<http://www.azleg.gov/legtext/48leg/2r/bills/sb1363p.pdf>

Fees

(Amending § 12-284, Arizona Revised Statutes; relating to court fees)

- Imposes a surcharge (no dollar amount designated) for each filing of a certified copy or abstract of a marriage application or license, which surcharge shall be used to provide funding for domestic violence shelters pursuant to § 36-3002; and
- Requires the clerk to transmit the collected surcharges to the state treasurer each month for deposit in the domestic violence shelter fund established by § 36-3002.

(Amending § 12-284.03, Arizona Revised Statutes; relating to distribution of fees)

- Technical change

(Amending § 36-3002, Arizona Revised Statutes; relating to domestic violence shelter fund)

- Technical change

STATUS: As of February 7, 2008

This bill has been assigned to the Public Safety and Human Services and Rules committees. It was first read on February 4, 2008, and second read on February 5, 2008.

9. SB1386 Domestic violence; definition

Primary sponsor: Sen. Linda Gray

<http://www.azleg.gov/legtext/48leg/2r/bills/sb1386p.pdf>

Domestic violence; definition; classification; sentencing option; arrest and procedure for violation; weapon seizure; notice

(Amending § 13-3601, Arizona Revised Statutes; relating to domestic violence)

- Excludes from the relationships in the definition of domestic violence those current or former household members who reside or resided together as roommates for the purpose of shared housing or expenses and who are not currently or were not previously residing together because of a romantic or sexual relationship.

STATUS: As of February 7, 2008

This bill has been assigned to the Public Safety and Human Services, Judiciary, and Rules committees. It was first read on February 5, 2008, and second read on February 6, 2008

10. SB 1395 Orders of protection; animals

Primary sponsors: Sen. Karen Johnson, Sen. Paula Aboud

<http://www.azleg.gov/legtext/48leg/2r/bills/sb1395p.pdf>

Order of protection; procedure; contents; arrest for violation; penalty; protection order from another jurisdiction

(Amending § 13-3602, Arizona Revised Statutes; relating to orders of protection)

- Identical to HB2681
- Adds subsection G(7), regarding custody of animals, to the types of relief a judge may grant when issuing an order of protection. Specifically, the court, may:
 - Grant the petitioner the exclusive care, custody or control of any animal that is owned, possessed, leased, kept or held by the petitioner, the respondent, or a minor child residing in the residence or household of the petitioner or the respondent, and
 - Order the respondent to stay away from the animal, and
 - Forbid the respondent from taking, transferring, encumbering, concealing, harming or otherwise disposing of the animal.

STATUS: As of February 7, 2008

This bill has been assigned to the Judiciary and Rules committees. It was first read on February 5, 2008, and second read on February 6, 2008.

11. SB1432 Domestic violence; child custody

Primary sponsor: Sen. Barbara Leff

Custody; best interests of child

(Amending § 25-403, Arizona Revised Statutes; relating to child custody)

- Clarifies, among the relevant factors that a court must consider in determining custody, that subsection 6 (“the parent more likely to allow the child frequent and meaningful continuing contact with the other parent”) does not apply if the court determines that a parent is acting in good faith to protect the child from witnessing an act of domestic violence or being a victim of domestic violence or child abuse.

(Amending § 25-403.3, Arizona Revised Statutes; relating to domestic violence and child abuse)

- Establishes a standard of proof of clear and convincing evidence to the rebuttable presumption that an award of custody to the parent who committed an act of domestic violence against the other parent is contrary to the child’s best interests.

STATUS: As of February 7, 2008

This bill has not been assigned to committees. It was first read on February 5, 2008, and second read on February 7, 2008.

VII. Call to the Public

No public members addressed the committee.

VIII. Adjournment

The meeting was adjourned at 1:45 p.m.

Next Meeting:

Tuesday, May 6, 2008

10:00 a.m. – 2:00 p.m.

State Courts Building, Conference Room 119 A/B