

**CHILD SUPPORT ENFORCEMENT AND
DOMESTIC RELATIONS REFORM
COMMITTEE**

State of Arizona

1998 Annual Report

Submitted by:

Senator Ann Day

Representative Winifred "Freddy" Hershberger

Senator David Petersen

Representative Lela Steffey



Arizona State Senate

Phoenix, Arizona

January 29, 1999

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SPEAKER'S OFFICE

The Honorable Jeff Grosco
Speaker of the House of Representatives
1700 West Washington
Phoenix, AZ 85007

Dear Speaker Grosco:

In compliance with Laws 1994, Chapter 374, Section 24, as amended by Laws 1997, Chapter 176, Section 2, enclosed is the 1998 annual report on the work, findings and recommendations of the Child Support Coordinating Council Subcommittee and the Domestic Relations Reform Study Subcommittee.

The Child Support Coordinating Council Subcommittee accomplished two major works in 1998: coordinating the implementation of a centralized payment processing & case registry system, with participation by Lockheed Martin, the Department of Economic Security and the Superior Court; and providing an analysis of child support statute technical changes required due to last year's child support omnibus bill and welfare reform. Other ongoing issues were public education, responsible fatherhood and compliance with employment referral requirements.

The Domestic Relations Reform Study Subcommittee furthered its reform efforts by considering three areas for possible reform, one of which warranted attention. The Subcommittee has proposed legislation on parenting plans to reinforce the continued parental obligations of divorcing parties.

As the vital work of these subcommittees continues, we are confident each will make significant and lasting contributions to the well being of Arizona's children and families. Your continued support is appreciated.

Sincerely,

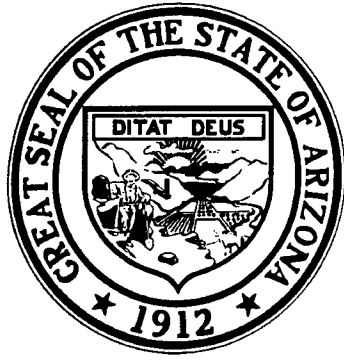
Handwritten signature of Ann Day in black ink.

Senator Ann Day, Cochair
Domestic Relations Reform Study Subcommittee

Handwritten signature of David A. Petersen in black ink.

Senator David A. Petersen, Cochair
Child Support Coordinating Council Subcommittee

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***CHILD SUPPORT ENFORCEMENT
AND
DOMESTIC RELATIONS REFORM
COMMITTEE***

Members:

Senator Ann Day

Cochair, Domestic Relations Reform Study Subcommittee

Representative Winifred “Freddy” Hershberger

Cochair, Child Support Coordinating Council Subcommittee

Senator David Petersen

Cochair, Child Support Coordinating Council Subcommittee

Representative Lela Steffey

Cochair, Domestic Relations Reform Study Subcommittee

CHILD SUPPORT ENFORCEMENT AND DOMESTIC RELATIONS REFORM COMMITTEE 1998 ANNUAL REPORT

EXECUTIVE SUMMARY

As required by law (Laws 1994, Chapter 374, Section 24), the Child Support Enforcement and Domestic Relations Reform Committee, comprised of Hon. Ann Day, Hon. Winifred "Freddy" Hershberger, Hon. David Petersen and Hon. Lela Steffey, submits to the Governor, the President of the Senate, the Speaker of the House of Representatives and the Chief Justice of the Arizona Supreme Court the following report.

From the outset of 1998, both the Child Support Coordinating Council Subcommittee ("Council") and the Domestic Relations Reform Study Subcommittee ("DR Subcommittee") continued to explore concepts for improving the child support and domestic relations systems. Specific proposals resulted in legislative change as work groups appointed by each subcommittee developed ideas and evaluated recommendations for future change.

The Council was originally conceived as a forum for all system stakeholders to develop and coordinate policies and strategies to improve the child support system. The Council's efforts this year again evidenced the wisdom and importance of forging collaborative solutions. In early 1998, the Legislature enacted legislation based on proposals developed and recommended by the Council. The product of various work groups, the omnibus legislative proposal affected community property issues, extended the program of domestic relations education on children's issues to additional paternity cases and consolidated and conformed lengthy and sometimes inconsistent provisions of existing laws relating to orders of assignment for payment of child support and spousal maintenance.

Provision of the omnibus bill also foreshadowed a movement to centralize processing of *all* support payments; a project where the beneficial role of the Council was notable. Although centralization had been accomplished for cases

served by the state title IV-D agency, collection and processing of support payments in all other cases remained fragmented among the various counties. Legislation recommended by the Council for enactment in 1998, established a formula for distribution of support payments under a centralized processing system and clarified the roles of superior court clerks and the state title IV-D agency. Thereafter, the committed efforts of a Council work group culminated on December 1, 1998, in a statewide conversion to receipting, posting and distribution of all child support and spousal maintenance payments by a single clearinghouse.

Efforts of various Council work groups have produced further recommendations intended for introduction to the Legislature in 1999. Proposed are amendments to extend the time for collecting child support arrearages and to make technical corrections, and clarifications and improvements to the statute relating to orders of assignment.

When the DR Subcommittee reconvened at the end of the 1998 legislative session, members moved forward with the mission to broadly reform the state's domestic relations statutes. Although the full Subcommittee met only twice during the year, work groups continued to focus on previously developed long-term goals for improvement of the domestic relations system. Of particular note was a proposal to encourage development of parenting plans by parents at the initial stages of a proceeding for dissolution of marriage or legal separation. Such plans currently are required only when divorcing or separating parents seek joint custody of the children.

Both subcommittees cooperated to accomplish a study delegated by the Legislature. In 1997, a new statute (Section 25-415, Arizona Revised Statutes) was enacted permitting nonparents who stand in loco parentis to a minor child to commence proceedings to determine custody or to obtain visitation rights. The law directed that the issue of in loco parentis custody, visitation and child support be studied, with conclusions and recommendations reported to all branches of state government.

The study resulted in a series of recommended amendments to present law incorporated into a bill introduced in the Legislature in 1998. Although the bill

passed the state House of Representatives, it was not scheduled for a hearing in the Senate and was not passed. No further action was taken this year.

***CHILD SUPPORT ENFORCEMENT
AND DOMESTIC RELATIONS REFORM COMMITTEE
1998 ANNUAL REPORT***

INTRODUCTION

Historical Background

Session law establishing the Child Support Enforcement and Domestic Relations Reform Committee grew from the work of a legislative advisory committee.

In June 1993, Senator John Greene, President of the Senate, and Representative Mark Killian, Speaker of the House of Representatives, appointed a Joint Select Committee on Child Support Enforcement, cochaired by Senator Matt Salmon and Representative Pat Blake Wilder, with the goal of creating an effective child support system for Arizona families and children. To assist in this effort, in July 1993, the Select Committee appointed a Technical Advisory Committee, cochaired by David Byers, Administrative Director of the Courts, and Bonnie Tucker, Deputy Director of the Arizona Department of Economic Security.

The Technical Advisory Committee brought together the major stakeholders in the statewide child support arena. Membership represented a cross section of program administrators, parents, judicial officers and attorneys, creating a forum for meaningful debate on the issues facing Arizona's child support enforcement system.

The Technical Advisory Committee identified various problems within the system and recommended solutions for corrective action, including identification of the agency or entity responsible for initiating implementation. The Committee developed 57 recommendations, of which 28 required legislative action. At the conclusion of its mission, the Committee submitted a report of its recommendations, dated November 1, 1993.

In the course of deliberations, there was consensus that integrated planning and communication among all of the child support stakeholders is vital to ensure continued improvement in the system. Thus, the first recommendation made in the Committee's report was that a child support coordinating council be formed to provide a mechanism for on-going communication and integrated planning among stakeholders to ensure consistency in child support policies.

A specific problem identified by the Technical Advisory Committee concerned the difficulty in understanding laws and procedures resulting from the lack of integration of statutes relating to domestic relations issues. To address this problem, it was recommended that a domestic relations study committee be established to consolidate, revise and modernize the domestic relations statutes.

Legislative Response

During the forty-first session, the Legislature created each of the two committees proposed in the recommendations of the Technical Advisory Committee. By Laws 1994, Chapter 374, Section 24, both the Child Support Coordinating Council Subcommittee ("Council") and the Domestic Relations Reform Study Subcommittee ("DR Subcommittee") were established within a legislative committee titled the Child Support Enforcement and Domestic Relations Reform Committee.

The Child Support Enforcement and Domestic Relations Reform Committee consists of the cochairs (or their designees) of each of the two subordinate subcommittees. This overarching committee was established to coordinate the work of the subcommittees, but is specifically directed not to make substantive changes to the work, findings or recommendations of these bodies. Any conflicts between the findings or recommendations of the subcommittees are to be referred back to the subcommittees for resolution.

Each of the subcommittees is cochaired by a member of the Senate and a member of the House of Representatives. The enabling legislation identifies the composition of each subcommittee's membership and prescribes the tasks to be undertaken. Reports are to be submitted by the subcommittees quarterly to the Child Support Enforcement and Domestic Relations Reform Committee. The overarching committee is responsible to report annually on the work, findings and recommendations of the subcommittees to the Governor, the President of the Senate,

the Speaker of the House of Representatives and the Chief Justice of the Arizona Supreme Court.

The legislation creating the committee and its subcommittees was effective July 17, 1994. That same enabling law appropriated funds to the Arizona Supreme Court for costs associated with staffing the committees. In July 1994, the Arizona Supreme Court designated the Domestic Relations Unit of the Court Services Division of the of the Administrative Office of the Courts to provide that support.

The legislation establishing the committee and its subcommittees originally was scheduled for repeal from and after December 31, 1997. Provisions of law enacted in 1997 (Laws 1997, Chapters 45, 176 and 250) extended this date, so that each of the Subcommittees may continue to serve the public until December 31, 2000.

Membership

The session law originally enacted in 1994, outlined the membership of each subcommittee by position or category and directed how chairpersons would be appointed. In 1995, the Legislature amended this law. Chapter 44 of the Laws of 1995 altered the numbers of subcommittee members and attempted to balance political party representation of legislative members. The new law also directly affected the composition of the Council.

Under the original law, the only legislative members of the Council were the two subcommittee cochairs, one appointed from each legislative chamber. As amended, session law now provides there shall be *two* members of the Senate from different political parties and *two* members of the House of Representatives, also from different political parties. As a result, two additional members, both of the minority party, were added to the Council in 1995. Cochairperson positions were unaffected.

The 1995 amendment spoke to, but did not require a change in, membership of the DR Subcommittee. Under the original session law, the DR Subcommittee's membership included two members of the Senate and two members of the House of Representatives, as well as a cochairperson appointed from each chamber. The 1995 amendment changed session law to provide that the legislative membership should

include *three* members of the Senate and *three* members of the House of Representatives, in each case not more than two of whom are from the same political party.

From the outset of its deliberations, six legislators have served on the DR Subcommittee--three members of the state Senate and three members of the House of Representatives. Of these, four are of the majority party and two are of the minority party, achieving the political balance intended by the 1995 amendment.

One further amendment altered the membership of the DR Subcommittee. From the inception, six parents served on the subcommittee--two custodial parents, two noncustodial parents and two parents having joint custody, all of whom must be knowledgeable in domestic relations issues. In 1997, the Legislature added two additional parent members without any requirement of custodial status. (Laws 1997, Chapter 176, Section 2). This addition permits parents who are not divorced or separated to serve.

In 1997, the Legislature added additional requirements of membership. An amendment (Laws 1997, Chapter 173) to the original enabling law (Laws 1994, chapter 374, section 24) provides that members of each subcommittee shall serve two-year terms at the pleasure of the official or officials who appointed them. Additionally, the law specifies that the appointments shall be made at the start of each even fiscal year and that members may be reappointed.

CHILD SUPPORT COORDINATING COUNCIL SUBCOMMITTEE 1998

Summary

In 1998, the importance of the Child Support Coordinating Council (“Council”) as a recognized forum for cooperative decision making in the area of child support enforcement was reaffirmed. An omnibus legislative package developed by the Council was passed by the Legislature in 1998. Among its provisions are amendments to laws dealing with such diverse topics as termination of the marital community, orders of assignment, education programs for parents in paternity cases, and extension of enforcement resources and remedies to persons not represented by the state title IV-D support agency and distribution of child support payments.

Through the activities of various work groups, additional recommendations for legislation improving the child support system were developed for introduction in 1999. Proposed are amendments to extend the time for collecting child support arrearages and to make technical corrections, clarifications and improvements to the statute relating to orders of assignment.

Membership

The session law originally establishing the Council (Laws 1994, Chapter 374, Section 24) prescribed the membership composition of the Council by title or category and directed how each would be appointed.

Several new nonlegislative members assumed positions on the Council in 1998. On February 5, 1998, Michael Jeanes was appointed by Governor Jane Dee Hull to serve the balance of the remaining term of Judith Allen, who had resigned as Clerk of the Superior Court in Maricopa County. Mrs. Allen had served on the Council by appointment of the Chief Justice of the Arizona Supreme Court in the position reserved for a clerk of the superior court. Upon his succession as court

clerk in Maricopa County, the Chief Justice appointed Mr. Jeanes to the Council. The Chief Justice also appointed Judge Mark Armstrong to replace Judge Barry Schneider in the position designated for a presiding judge of a domestic relations department of the superior court from an urban county. Judge Schneider announced his resignation from the Council in March 1998, in anticipation of the expiration in May of his term as the Presiding Domestic Relations Judge in the Superior Court in Maricopa County. Judge Armstrong succeeded Judge Schneider in that capacity. The Chief Justice also appointed to the Council Commissioner Rhonda Repp of the Superior Court in Yavapai County. Commissioner Repp occupies the position for a title IV-D court commissioner previously held by Commissioner Richard Weiss, also of Yavapai County. Dr. Linda Blessing, Director of Department of Economic Security, chose Gila County Attorney Jerry DeRose to participate on the Council as the designated county attorney of a rural county contracting with the state to perform child support enforcement services. Assistant County Attorney Bryan Chambers will represent Mr. DeRose at Council meetings. Previously, the Cochise County Attorney had served on the Council. The Gila County Attorney's Office received the Most Improved Program Award in 1998 from the National Child Support Enforcement Association. The Council continues to have a vacancy for a custodial parent to be appointed by the Speaker of the House.

The legislative membership also was altered this year. With her retirement from the House of Representatives, Representative Freddy Hershberger ended a distinguished term of service to the State of Arizona and leaves her position as cochair of the Council at the beginning of 1999. Representative Hershberger led the Council since its inception in 1994, overseeing important changes and improvements to the child support system. Partly as a result of her leadership of and contributions to the Council, she was honored as Legislator of the Year for 1997 by the National Child Support Enforcement Association in recognition of her many accomplishments on behalf of Arizona children and families. Senator Sandra Kennedy, also a charter member of the Council, chose not to stand for re-election in November 1998, and will leave the Council.

Work, Findings and Recommendations

The Council held six meetings during the year. At each meeting, public comments were encouraged to assist the Council's efforts. Throughout the year, work groups continued to meet and develop recommendations for improvement to

the child support enforcement system. In particular, work groups focusing on statutory amendments and the centralization of support payment processing offered major contributions.

Tasks and Objectives

Listed below is a description of the major activities by Council work groups.

Centralized Processing of Non IV-D Payments

Since February, 1996, a work group of the Council has been studying the viability of centralizing the processing of support payments.

Historically, all court-ordered child support was paid either directly to the person entitled to receive support (the “obligee”) or, when ordered by the court, through the court clerk. With the advent of mandated orders of assignment (or “wage assignments”), fewer payments were made directly between the parties. Instead, payments came to the court clerk from the obligor’s employer or other payor. Receipting and posting of support payments and distribution to the obligee was performed by the court clerk in each of Arizona’s counties. With the establishment of the joint federal-state IV-D Program, responsibility for payment processing began to shift, depending on case type. The IV-D program provides child support enforcement services to public assistance recipients and others upon request. Court clerks continued to receipt, post and distribute payments in cases that were not serviced by the state. A different system evolved for IV-D cases and payment processing became bifurcated depending on case type.

Prompted by federal mandates, state legislation in 1985 required the IV-D agency to established a central clearinghouse to “receive, disburse and monitor” support payments in IV-D cases (46-441, Arizona Revised Statutes). A system was developed to record payments on an automated statewide computer system for processing through the support payment clearinghouse. Still, payments continued to be made to a Superior Court Clerk or to the clearinghouse, depending on the specific county involved.

In July 1995, the Auditor General performed an audit of the support payment and distribution function in IV-D cases. At that time, support payments were being collected and processed at sixteen different state and county-run locations. In ten of

the fifteen counties, tasks were performed by the Clerk of the Superior Court, while in the remaining five counties payments were receipted and posted within the central payment clearinghouse.

The Auditor General found the system then existing for collecting and processing support payment to be "fragmented, unnecessarily exposing the State to financial risks and preventing it from gaining processing efficiencies available through economies of scale." The report observed that centralization of payment processing appeared consistent with the national trend and that some other states already had moved to consolidate collections into one state-run location, allowing greater efficiency and the opportunity to privatize some functions. Accordingly, the report recommended that the legislature consider centralizing both the collection and distribution of support payments in all IV-D cases.

The Legislature responded by directing that processing of child support payments in Title IV-D cases be centralized by July 1, 1997 (Laws 1996, Chapter 188). It remained to be considered whether the same or a similar process should be used in non-IV-D cases, where payment processing remained the responsibility of the Superior Court Clerks.

The July 1995 report of the Auditor General indicated that centralization ideally also could include non-IV-D cases. However, the Auditor General suggested that there be further study regarding costs and steps necessary to include such cases and recommended that this study be referred to the Child Support Coordinating Council Subcommittee (Council).

Responding to the referral by the Auditor General, the Council formed a work group to study centralization of payment processing in non-IV-D cases. On September 24, 1996, the Council work group reported its conclusion that processing of all support payments, including spousal maintenance, in non-IV-D cases should be centralized in accordance with the model undertaken for IV-D cases. The benefits in efficiency and financial control noted in the Auditor General's Report in respect of IV-D cases were determined to apply equally to all support payments.

During the course of the work group's deliberations, federal welfare reform legislation directed states to effectuate centralized payment processing in both IV-D and certain, but not all, non-IV-D cases. Legislation was enacted in Arizona in 1997 (Laws 1997, Chapter 219) consistent with the federal mandate. Added to this

legislation were amendments to sections of state law (in particular A.R.S. §§ 25-510 and 46-441) that, consistent with the Council work group recommendations, authorized the support payment clearinghouse to receive and disburse *all* monies applicable to support or spousal maintenance on or before October 1, 1999 (unless the court had specifically ordered otherwise).

With legislation in place anticipating centralization of all case types by October 1999, enormous tasks remained before implementation was possible. What is more, for efficiency and to avoid duplicated effort, the work group decided to move the start date for centralization forward by as much as one year. This was done to initiate centralized payment processing to coincide with the October 1, 1998 federal deadline for establishment of a state registry of child support orders. The Council work group assumed principal responsibility to facilitate consensus and provide advice to the various support stakeholders.

Commencing on April 10, 1998, the work group embarked on an ambitious series of bi-monthly meetings designed to coordinate implementation of the centralization and case registry projects. Added to the work group was a resource team comprised representatives of the state title IV-D agency (the Department of Economic Security Division of Child Support Enforcement) (DCSE), the Administrative Office of the Courts, Superior Court Clerks, and public child support enforcement attorneys.

Among the substantial tasks involved was connecting the Superior Court Clerks to the statewide child support database and converting data regarding in non-IV-D cases from the records of individual court clerks to that database.

By design, case and payment information vital to centralized payment processing would be maintained on the Arizona Tracking and Location Automated System (ATLAS), previously used only in IV-D cases. To load and eventually share case and payment information for non-IV-D cases, it was necessary to establish an efficient means of electronically connecting Superior Court Clerks to the ATLAS system. This was resolved at a great savings of taxpayer dollars by linking the clerks through a central computer server maintained by the Administrative Office of the Courts.

With systems connected, the next task was conversion of data. This enormous task involved loading into ATLAS information in approximately 60,000 non-IV-D

support cases. DCSE assumed principal responsibility for developing policies and procedures during the conversion phase. Because of federal confidentiality requirements applicable to the IV-D program many new data fields or “screens” on the system were created by DCSE specifically to accommodate non-IV-D cases. DCSE launched an extensive program to train court clerk personnel in the ATLAS system, establishing training programs and assigning teams to assist the clerks in the data conversion process through both computer-based and classroom training and multiple on-site visits to each clerk’s office.

Throughout the summer of 1998, the work group regularly held telephone conference or face-to-face meetings to coordinate connectivity and conversion, establish policies and protocols and problem solve. Finally, on December 1, 1998, the “switch” was turned on and centralized payment processing became a reality. With this bold step, Arizona became one of the first states in the nation to operate a centralized clearinghouse for the collection and distribution of *all* child and spousal support.

The conversion promised benefits in many sectors. Families and children will be better served by efficient and expeditious processing of support payments and centralized record keeping. Employers and other payers who deduct and earnings or other monies pursuant to orders of assignment now forward payments to one Arizona collection point, rather than to up to sixteen different locations as under the previous system. State taxpayers benefit from the cost savings and economies of scale offered by a single collection entity. The integrity of the support processing system itself is enhanced by reducing the incidence of loss, errors or mismanagement.

Through the end of December 1998, approximately fifteen million dollars in more than 98,000 non-IV-D cases was processed through the support payment clearinghouse. Although centralization has been realized, the commitment and efforts of those involved continues, always with the best interests of the customer as the paramount consideration.

The process and the resulting product of this endeavor evidence the importance of the Council’s role in bringing together interested stakeholders to achieve common goals to the benefit of the public. The activities of the work group proved an exemplary model of successful collaboration among numerous system stakeholders.

Review of Child Support Statutes

This work group originally was formed in 1997 to examine particular statutes related to child support enforcement to identify inconsistencies, lack of clarity, or unnecessary duplication. Its initial task was to focus on sections 25-504 and 25-505, Arizona Revised Statutes, regarding orders of assignment. Section 25-504 governs orders of assignment issued by the court in the course of a support proceeding upon notice to the party obligated to pay support. Section 25-505, on the other hand, concerns so-called *ex parte* orders of assignment. These orders may be issued by the clerk of the court on request of a party to a support order, with no prior notice to the obligated party. Each of these statutes, long in effect in Arizona, had repeatedly been amended, resulting in laws that were lengthy, duplicative and sometimes inconsistent, and containing provisions not reflective of current best practices.

The work group proposed a consolidation of these two laws into a single, improved and concise statute that was adopted by the Legislature and became law in 1998 (Laws 1998, Chapter 280). Also included in this legislation were provisions conceived by other Council work groups, involving community property issues and extending the program of domestic relations education on children's issues to additional paternity cases.

During 1998, the work group continued its charge to refine the child support statutes. This work culminated in additional recommendations for introduction to the Legislature in 1999. In particular, the work group focused on the collection of judgments for past-due child support.

Please see the following section titled "Recommendations for Legislative Action" for additional details about legislation enacted in 1998 and proposed for 1999.

Recommendations for Legislative Action

The product of various subcommittee work groups resulted in an omnibus legislative proposal being recommended for passage during the Second Regular Session of the Forty-third Legislature in 1998. Introduced as Senate Bill 1132 under sponsorship of the Council cochairs, the proposals were adopted as Laws 1998,

Chapter 280. Most noteworthy are provisions of this legislation to enact or amend statutes with the goals of:

- Altering the date of termination of the marital community when an action for dissolution of marriage or legal separation is commenced. Under the law, the community terminates when the marital action is commenced, provided that the action ultimately results in a decree of dissolution or separation.
- Extending the program of domestic relations education on children's issues to all paternity proceedings in the superior court. Presently, this program is mandatory in paternity actions only if custody or visitation is disputed. The law now includes cases in which child support is at issue.
- Consolidating and conforming lengthy and sometimes inconsistent provisions of existing laws relating to orders of assignment for payment of child support and spousal maintenance.
- Establishing a priority for distribution of support payments made in cases not being serviced by the state title IV-D child support enforcement agency. Because the state child support clearinghouse has become responsible for collection and disbursement of *all* support payments, it was necessary to provide a distribution formula for those cases not previously handled by that system. Payments in non IV-D cases traditionally have been received and processed by superior court clerks in each county.

During 1998, a work group appointed to recommend improvements to existing child support statutes developed proposals for introduction to the Legislature in 1999. Based on these efforts, the Council has proposed amendments to existing laws focusing on the collection of child support arrearage. Specifically, the proposals remove time limitations on the collection of court judgments for past-due child support.

Generally, money judgments granted by a court must be renewed periodically to remain enforceable. This pertains also to judgments for child support arrearages. Under current law, a written judgment for past-due child support granted by the court during the minority of the children who are subjects of the support order need not be initially renewed for 10 years following the emancipation of all of the children. After that time, the judgment must be renewed again every five years.

(Sections 12-1551 and 25-503(J), Arizona Revised Statutes). Renewal may be accomplished by taking action on the judgment or filing an affidavit as prescribed by statute. The requirement to renew written judgments presents obstacles that may cause an unwary support judgment creditor inadvertently to excuse an obligor from satisfying a legitimate debt.

Further, by statute (section 25-503(I), Arizona Revised Statutes) the right to receive child support vests as each installment becomes due and the obligation is enforceable as a final judgment by operation of law, without necessity of obtaining written judgment in court. There is confusion regarding whether obligations that become judgments by operation of law must be renewed, as with written judgments, and whether each unpaid installment must be renewed individually.

The legislative proposal fashioned by the work group specifies that written child support judgments be exempted from the statutory renewal requirement and that once obtained, be enforceable until paid in full. It also clarifies that judgments by operation of law be reduced to written judgments not later than three years after emancipation of all of the children subject to the order, and thereafter be exempted from the renewal requirement. Exceptions are provided if the judgment is not reduced to writing because the support obligor impedes establishment of the judgment or threatens, defrauds or coerces the obligee to delay in obtaining a judgment. For consistency and certainty of application, support judgments from other states also are exempted from the four-year limitation on enforcement applicable to foreign judgments generally (section 12-551, Arizona Revised Statutes). Additionally, liens that result from recording a child support judgment are extended beyond the usual five-year duration otherwise applicable to liens under section 33-964, Arizona Revised Statutes and remain effective until the lien is satisfied or lifted.

The legislative proposal offered for 1999 also makes technical corrections, clarifications and improvements to 1998 rewrite of the statute relating to orders of assignment.

Other Issues Before the Council

Council work groups continue to identify methods to improve the child support enforcement system. One method is the use of media presentations to raise

public awareness about the taxpayers burden supporting other people's children and to increase public knowledge of the importance of both parents' participation in financially and emotionally supporting a child. The campaign also will target noncustodial parents, particularly young unwed fathers, by encouraging parental responsibility. In the past, the work group has been instrumental in producing informational public service announcements and promoting a statewide public education campaign, including posters and billboards featuring players from the Arizona Cardinals of the National Football League.

New this year is a work group conceived by Council cochair Senator David Petersen to examine ways of involving fathers more actively in their children's lives and encouraging unmarried fathers to establish paternity. This concept of fatherhood initiatives has received much support nationwide from such important groups as the federal Office of Child Support Enforcement and the National Child Support Enforcement Association. Bringing fathers more in touch with their children not only encourages good parenting, but also results in increased financial support for the children.

The Council also contributed to the development of legislation to improve the law relating to in loco parentis custody, visitation and child support. Acting in concert with the Domestic Relations Reform Study Subcommittee, the Council Subcommittee reviewed and approved recommendations to improve the provisions of section 25-415, Arizona Revised Statutes. Please see the discussion at pages 25 and 26 of this report.

Throughout the year, the Council maintained its knowledge of issues related to child support enforcement by inviting presentations on relevant topics. Legislative officers from the Administrative Office of the Courts kept Council members informed of pending legislation in the support, domestic relations and domestic violence areas. The Department of Economic Security reported on the programs of its Division of Child Support Enforcement to address needs of noncustodial parents. Council members learned that staff of that agency provided training about paternity establishment and support enforcement to representatives of the City of Phoenix, Mesa Community College and the Head Start Program. The state also has created welfare-to-work programs for noncustodial parents to provide federally-funded job training. In another area, it was noted that federal funds are again available to promote noncustodial parents' access to and visitation with their children. In 1997,

the Governor had designated the Department of Economic Security to administer these funds for distribution to individual counties.

Council members also were educated about two important initiatives in the courts. The first is the five-year strategic agenda of the Chief Justice of the Arizona Supreme Court, identified as "Justice 2002." The overall goal of Justice 2002 is to improve and continue to build more public trust and confidence to the Arizona court system. The four major initiatives within the agenda are: 1) Protecting Children, Families and Communities; 2) Providing Access to Swift, Fair Justice; 3) Connecting with the Community; and, 4) Being Accountable.

The category Protecting Children, Families and Communities has particular relevance to Council activities. Courts protect children, families and communities by treating them fairly and giving them an equal voice. The courts are moving to better serve these groups by, for example, improving how children and families are served in dependency cases and ensuring that juvenile detention facilities are available, safe and secure.

Among other projects in this category is a Family Court Committee established by the Chief Justice of the Arizona Supreme Court to examine the manner in which cases involving family issues are processed and determined in the Superior Court. The committee was tasked to review jurisdictional issues, judicial selection and case management; to review other state's methods for promoting the fair, prompt and uniform resolution of family-related cases and to suggest additions or amendments to current rules or procedures or other measures, leading to system improvements. Among the models being considered is a family court, already adopted in some form by a number of other states. Council members were invited to provide suggestions.

Future Actions

The Council is committed to the continued development of mechanisms and procedures to enhance the delivery of child support services to the families and children of Arizona. Work groups will continue to explore issues currently under discussion and endeavor to increase public awareness of child support issues. Implementation of centralized processing of support payments goes forward with cooperation among all system participants. As chartered, the Council will maintain

its important role in providing a forum for cooperative decision making and cohesive policy development among all interested stakeholders in the child support enforcement system.

DOMESTIC RELATIONS REFORM STUDY SUBCOMMITTEE 1998

Summary

Nineteen ninety-eight was a year of reflection for the Domestic Relations Reform Study Subcommittee (“DR Subcommittee”). Under the leadership of Legislative cochairs Senator Ann Day and Representative Lela Steffey, work groups developed ideas intended to continue the mandate to reform the state’s domestic relations statutes. Having successfully proposed legislative changes in the domestic relations area in both 1996 and 1997, the DR Subcommittee considered this year an opportunity to evaluate the impact of these changes and consider a more global response to its statutory charges. One legislative proposal introduced to the Legislature in two prior years but not passed, continued to be refined. Ultimately, no recommendations were advanced to the Legislature for enactment in 1999. However, the ground work had been laid for accomplishment of long-term objectives designed to facilitate the adjudication of domestic relations cases in the best interests of families and children. There were few membership changes but existing vacancies remained.

Membership

In March 1998, Judge Barry C. Schneider notified the cochairs of his decision to resign from the Subcommittee at the conclusion of his term as the presiding judge of the Domestic Relations Department of the Superior Court in Maricopa County. Judge Schneider had served the Subcommittee with distinction as a parent member since September, 1997. Members also were saddened to learn of the untimely death of Subcommittee legislative member Elise Salinger. Representative Salinger, a first-term member of the House of Representatives, was appointed to the Subcommittee in the second quarter of 1997. In July, 1998, the Speaker of the House of Representatives appointed Representative Kathi Foster to this legislative membership position on the subcommittee. In the summer, members were advised that Alice Rose Thatch had resigned her position as Director of the Domestic Relations

Division of the Administrative Office of the Courts and therefore could no longer serve the DR Subcommittee in the position reserved to an administrative officer of the Supreme Court. Also, Member Mark Robens resigned from the subcommittee, leaving vacant the membership position for a domestic relations attorney.

By year's end, DR Subcommittee cochair Representative Lela Steffey had announced that she would not seek another term of office in the House of Representatives. Upon the expiration of her term of office on January 11, 1999, the Speaker of the House will select a new cochair.

Three vacancies continue to exist in the membership of the DR Subcommittee. The positions are reserved by enabling law for a domestic relations attorney, a parent knowledgeable in domestic relations issues, and an administrative officer of the Arizona Supreme Court. All nonlegislative members are appointed by the cochairs with the approval of Legislative Leadership. The House of Representatives member must be appointed by the Speaker of the House.

Work, Findings and Recommendations of the Subcommittee

The DR Subcommittee is specifically charged in its enabling legislation (Laws 1994, Chapter 374, Section 24) to recommend changes to reform the state's domestic relations statutes.

In the first part of 1998, opportunities for the DR Subcommittee to meet were limited by the busy pace of the legislative session. One meeting was held in January to review bills in the domestic relations area proposed for introduction during the second regular session of the Forty-third Legislature. The DR Subcommittee met again in August to develop future strategy, receive reports from standing work groups, and accept public comment.

Much of the work of the DR Subcommittee was conducted by work groups that met frequently throughout the year to develop proposals for system reform.

The Courts and Substantive Law Work Group conducted a statewide survey of attorneys, judicial officers and others involved or interested in the domestic relations system, to identify areas for possible reform. Armed with the results, the work group established three subgroups to study individual issues. In the course of

regularly-held monthly meetings, the subgroups first met and the full work group then convened to share ideas and information. Among the areas under discussion are:

Enforcement of Orders: One subgroup examined issues related to enforcement of court orders in domestic relations cases, including strengthening procedures for enforcement of temporary orders. The group concluded that existing laws are adequate for enforcement of orders. However, there appears to be a need to acquaint litigants, particularly parties not represented by legal counsel, with available remedies. It was noted that the Administrative Office of the Courts is fostering expansion of court-based self service centers for unrepresented litigants, designed to raise awareness and provide necessary forms and instructions for court actions.

False Allegations of Domestic Violence and Misuse of Protection Orders: Another subgroup considered problems related to making false allegations of domestic violence and misuse of protection orders. It is reported that these tactics are sometimes used to obtain strategic advantage in domestic relations litigation, particularly in custody cases. The group expressed concern that victims of domestic violence or abuse not be deterred from seeking appropriate protections. Nevertheless, the subgroup continues to evaluate how to address this potential problem.

Pre-filing Advantage: The third subgroup was charged to study and evaluate allegations that parties gain advantage in domestic relations cases by either removing, concealing, selling or otherwise disposing of community property or relocating children (particularly outside the state) prior to commencement of an action for dissolution of marriage or for legal separation. After study, the group determined not to recommend statutory changes as adequate laws exist in these areas.

The Courts and Substantive work group also continues to review a legislative proposal regarding child custody that failed to pass during the 1997 and 1998 sessions. The work group originally developed this proposal, recommending revision of the state's custody laws by eliminating the terms "custody" and "visitation" and requiring parenting plans in all custody cases. Essentially, a parenting plan outlines each parent's responsibilities for the care of the child, including residential arrangements, and for making major decisions about matters such as education,

health care and religious training. Currently, parenting plans are required only when parents seek joint custody. Requiring parenting plans in every case is intended to reinforce early in the litigation process the continuing nature of parental obligations after divorce or separation.

After the bill failed to pass in 1997, the Subcommittee debated, but ultimately did not support, reintroduction of this legislation in 1998. Instead, the cochairs directed further evaluation of the bill and encouraged continue refinement by this work group of the original proposal. Nevertheless, under independent sponsorship, the work group's proposal was incorporated into an omnibus bill (Senate Bill 1368) introduced but not passed in 1998. During work group meetings in the latter part of 1998, discussion focused on a more narrow version of the parenting plan proposal. However, without scheduled meetings of the full DR Subcommittee, there was no opportunity for complete debate or for consensus whether to seek legislative action.

The Custody Evaluation/Conciliation Court Work Group continues to explore issues in its assigned area. The work group originally was chartered to consider a variety of matters, including custody evaluation, property distribution and conciliation court. Members subsequently elected to focus on issues of child custody evaluation. This involves the manner in which child custody decisions by the courts are assisted and influenced by professional personnel authorized by state law to provide advice (section 25-405, Arizona Revised Statutes) or investigations and reports (section 25-416) to the court on custodial arrangements. Included is consideration of the potential need for review of complaints by litigants against the mental health professionals that perform child custody evaluations. No specific recommendations for legislative reform were offered for introduction in 1998.

The DR Subcommittee also contributed to the development of legislation to improve law relating to in loco parentis custody, visitation and child support. Acting in concert with the Child Support Enforcement Coordinating Council Subcommittee, the DR Subcommittee reviewed and approved recommendations to improve the provisions of section 25-415, Arizona Revised Statutes. Please see the discussion at pages 25 and 26 of this report.

Future Actions

The DR Subcommittee will continue to develop proposals for future legislative action and to pursue a strategy for accomplishing the long-term goal to improve and reform the domestic relations system. Having accomplished a variety of statutory reforms in the initial years of its tenure, the DR Subcommittee now focuses on more global changes. The large number of unrepresented litigants involved in domestic relations cases and the impact that those cases have on families and children demands that the process for adjudication of family matters be less adversarial and public friendly. Members look forward to partnering where appropriate with the Family Court Committee of the Arizona Supreme Court in the development of necessary statutory changes.

Each year, a number of proposals are introduced to the Legislature with the intent of altering procedures and standards in domestic relations cases. The DR Subcommittee stands prepared to serve as a clearinghouse for new ideas and proposals and provide advice to the Legislature, in order that system changes be developed in a coherent manner in the best interests of our state's families and children.

IN LOCO PARENTIS CUSTODY, VISITATION AND CHILD SUPPORT WORK GROUP

Modern society has challenged the traditional model of the intact, nuclear family. Increasingly in America, children are being cared for by nonparents, often relatives, who may have assumed full parental duties and significantly bonded with a child. Persons acting in place of a parent often are referred to as “in loco parentis” parents. While the child, and even the community, may regard such persons as parents, the legal relationship with the child remains undefined absent a court determination.

In 1997, the Legislature enacted a new law (Section 25-415, Arizona Revised Statutes) permitting nonparents who stand in loco parentis to a minor child to commence proceedings to determine custody or to obtain visitation rights. The term “in loco parentis” is defined in the law to mean a person who has been treated as a parent by the child and who has formed a meaningful parental relationship with the child for a substantial period of time. Recognizing that further analysis and debate may be important to the application and implementation of this law, the Legislature directed that the Child Support Enforcement and Domestic Relations Reform Committee study the issue of in loco parentis custody, visitation and child support and submit a report of its findings to the Governor, the Chief Justice of the Arizona Supreme Court, the President of the Senate, the Speaker of the House of Representatives, the Secretary of State and the Director of the Department of Library, Archives and Public Records.

As a matter of efficiency, the Child Support Enforcement and Domestic Relations Reform Committee determined that a preliminary study of in loco parentis issues should be conducted by a work group formed from members of both the Council and the DR Subcommittee and other interested citizens. The work group met in a series of meetings beginning in June 1997, ultimately determining to recommend amendments to present law. Those amendments were submitted to and approved by both the Child Support Coordinating Council Subcommittee and the Domestic Relations Reform Study Subcommittee.

The specific proposals for statutory change were incorporated into a bill (House Bill 2164) introduced for passage in 1998. The bill was designed to: 1) Establish the rights and responsibilities of persons standing in loco parentis who are granted custody of a minor child; 2) Clarify that in loco parentis custodians shall have no court-ordered obligation to pay child support; 3) Formalize the court procedures to be followed for the commencement of a proceeding for and the standards to be utilized by the court when determining a request for custody or visitation by an in loco parentis parent; and, 4) Permit the court in a custody or visitation proceeding, brought by a person who stands in loco parentis to a child, to order paternity testing and to determine paternity when it is in the best interests of the child.

Although the bill passed the House of Representatives, it was not scheduled for a hearing in the Senate and was not passed. The overarching committee took no action this year to reintroduce the bill in 1999.

***APPENDIX TO
CHILD SUPPORT ENFORCEMENT AND
DOMESTIC RELATIONS REFORM
COMMITTEE
1998 ANNUAL REPORT***

CHILD SUPPORT COORDINATING COUNCIL SUBCOMMITTEE

Purpose

Pursuant to Laws 1994, Chapter 374, the Child Support Coordinating Council Subcommittee was formed to:

- Coordinate and review plans of various government agencies.
- Make recommendations regarding child support enforcement and related issues to the Child Support Enforcement and Domestic Relations Reform Committee.
- Develop a plan to implement a statewide parent education program. (With successful implementation of this program effective in 1997, the mandate to develop a program was stricken from session law by Laws 1997, Chapter 176.)

Membership

Membership consists of the following members or their designees who have knowledge of or experience in, child support enforcement and related issues:

- The Director of the Department of Economic Security.
- The Assistant Director of the Division of Child Support Enforcement of the Department of Economic Security.
- A Division or Section Chief from the Office of the Attorney General who is appointed by the Attorney General.
- The Director of the Arizona Supreme Court Administrative Office of the Courts.
- Two Presiding Judges from the domestic relations department of the superior court who are appointed by the Chief Justice of the Arizona Supreme Court; one judge from an urban county, and one judge from a rural county.
- A title IV-D Court Commissioner who is appointed by the Chief Justice of the Arizona Supreme Court.
- A Clerk of the Superior Court who is appointed by the Chief Justice of the Arizona Supreme Court.

- Two County Attorneys who are appointed by the Director of the Department of Economic Security from a county that is currently contracting with the state to provide child support enforcement services; one County Attorney from an urban county and one County Attorney from a rural county.
- An Executive Assistant from the Office of the Governor who is appointed by the Governor.
- One person knowledgeable in child support issues who is a noncustodial parent and one person knowledgeable in child support issues who is a custodial parent, who are appointed by the President of the Senate.
- One person knowledgeable in child support issues who is a noncustodial parent and one person knowledgeable in child support issues who is a custodial parent, who are appointed by the Speaker of the House of Representatives.
- One parent knowledgeable in child support issues who has joint custody who is appointed jointly by the President of the Senate and the Speaker of the House of Representatives.
- One person from the Executive Committee of the Family Law Section of the State Bar of Arizona who is appointed by the Chief Justice of the Supreme Court.
- One person from the business community who is appointed jointly by the President of the Senate and the Speaker of the House of Representatives.
- Two members of the Senate from different political parties.
- Two members of the House of Representatives from different political parties.

The President of the Senate shall appoint the two Senate members and designate one of the members as the cochairperson. The Speaker of the House of Representatives shall appoint the two House of Representatives members and designate one of the members as the cochairperson. Each cochairperson may appoint additional members to the Child Support Coordinating Council Subcommittee to serve as non-voting technical experts. Members shall serve two-year terms at the

pleasure of the official or officials who appointed them. Appointments shall be made at the start of each even fiscal year and members may be reappointed.

Reports of the Council's work are required to be submitted quarterly to the Child Support Enforcement and Domestic Relations Reform Committee.

CHILD SUPPORT COORDINATING COUNCIL SUBCOMMITTEE
Members

Cochairs: **Representative Winifred “Freddy” Hershberger**
Senator David Petersen

Honorable Judith Allen
Clerk of the Superior Court

Jodi R. Beckley
*Executive Assistant from the
Governor's Office*

Linda J. Blessing, D.P.A.
*Director
Department of Economic Security*

Kirk Burtch
*Division Chief
Office of the Attorney General*

David K. Byers
Administrative Director of the Courts

Honorable Robert Duber II
Domestic Relations Judge (Rural)

Conrad Greene
*Noncustodial Parent
Appointed by Senate President*

William Hurst
*Joint Custody Parent
Appointed by Senate President
and House Speaker*

Honorable Sandra Kennedy
Arizona State Senate

Nancy Mendoza
*Assistant IV-D Child Support Director,
DES Division of Child Support
Enforcement*

David Norton
*Noncustodial Parent
Appointed by Senate President*

Honorable David Ostapuk
*Family Law Section Executive
Committee
State Bar of Arizona*

Honorable Rebecca Rios
Arizona House of Representatives

Debora Schumacher
*Custodial Parent
Appointed by Senate President*

Chuck Shipley
*Business Representative
Appointed by Senate President
and House Speaker*

Honorable Barry Schneider
Domestic Relations Judge (Urban)

Paul Smith
*County Attorney's Office Providing
Enforcement Services (Rural)*

Honorable Richard Weiss
IV-D Commissioner

Bianca Varelas
*County Attorney's Office Providing
Enforcement Services (Urban)*

Vacant
*Custodial Parent
Appointed by House Speaker*

DOMESTIC RELATIONS REFORM STUDY SUBCOMMITTEE

Purpose

Pursuant to Laws 1994, Chapter 374, the Child Support Coordinating Council Subcommittee was formed to:

- Recommend a method for consolidating the domestic relations statutes in Title 25, Arizona Revised Statutes, with other related sections of law, including Titles 8 and 14, Arizona Revised Statutes. (Having achieved this goal by legislation enacted in 1996, this mandate was stricken from session law by Laws 1997, Chapter 176.)
- Recommend changes to the domestic relations statutes, rules and procedures and other related issues each year in a phased-in approach designed to lead to a reform of the state's domestic relations statutes.
- Clarify the rights of grandparents in domestic relations issues.

Membership

The Domestic Relations Reform Study Subcommittee consists of the following members:

- Two noncustodial parents knowledgeable in domestic relations issues.
- Two custodial parents knowledgeable in domestic relations issues.
- Two parents who have joint custody who are knowledgeable in domestic relations issues.
- Two parents knowledgeable in domestic relations issues.
- One active or retired judge or commissioner from the domestic relations department of the superior court.
- One domestic relations attorney.
- One Clerk of the Court.

- A professional domestic relations mediator.
- A psychologist experienced in performing child custody evaluations.
- A domestic relations educator experienced in matters relating to parenting or divorce classes.
- An Administrative Officer of the Supreme Court.
- Three members of the Senate, not more than two of whom are from the same political party.
- Three members of the House of Representatives, not more than two of whom are from the same political party.

The President of the Senate shall appoint the three Senate members and designate one of the members as the cochairperson. The Speaker of the House of Representatives shall appoint the three House of Representatives members and designate one of the members as the cochairperson. Nonlegislative members are appointed by the cochairs with the approval of the President of the Senate and the Speaker of the House of Representatives. Members shall serve two-year terms at the pleasure of the official or officials who appointed them. Appointments shall be made at the start of each even fiscal year and members may be reappointed.

Reports of the Subcommittee's proposals for consolidation and change are required to be submitted quarterly to the Child Support Enforcement and Domestic Relations Reform Committee.

DOMESTIC RELATIONS REFORM STUDY SUBCOMMITTEE
Members

Cochairs: **Senator Ann Day**
 Representative Lela Steffey

Honorable Mark Anderson
Representative Appointed by
House Speaker

Sanford Braver, Ph.D.
Domestic Relations Educator

Honorable Jack Brown
Senator Appointed by Senate President

Beverly Burns
Parent with Joint Custody

Ira Mark Ellman, Ph.D.
Parent

Terrill J. Haugen
Noncustodial Parent

Honorable Alma Jennings Haught
Clerk of the Court

Zenia Kuzma
Domestic Relations Mediator

Corrine Harper
Custodial Parent

Honorable David Petersen
Senator Appointed by Senate President

Honorable John M. Quigley
Domestic Relations Judge

Mark J. Robens
Domestic Relations Attorney
(Currently vacant)

Honorable Kathi Foster
Representative Appointed by
House Speaker

Honorable Barry C. Schneider
Parent
(Currently vacant)

Ellen Seaborne
Custodial Parent

Kathryn Tolman
Noncustodial Parent

Alice Rose Thatch
Administrative Officer of the
Supreme Court
(Currently vacant)

Brian W. Yee, Ph.D.
Psychologist with Child Custody
Evaluation Experience

Jeffrey C. Zimmerman
Parent with Joint Custody