



WISCONSIN LEGISLATIVE COUNCIL

MEETING MINUTES

STUDY COMMITTEE ON CHILD PLACEMENT AND SUPPORT

Room 412 East, State Capitol
Madison, WI

October 23, 2018
10:00 a.m. – 4:15 p.m.

Call to Order and Roll Call

Chair Brooks called the meeting to order. A quorum was determined to be present.

COMMITTEE MEMBERS PRESENT: Rep. Robert Brooks, Chair; Sen. Lena Taylor (via telephone), Vice Chair; Reps. Janel Brandtjen and Amanda Stuck; and Public Members Maureen Atwell, Tony Bickel, Mark Fremgen, Jenna Gormal, Tiffany Highstrom, Benjamin Kain, James Sullivan, and Thomas Walsh.

COMMITTEE MEMBER EXCUSED: Sen. Chris Kapenga.

COUNCIL STAFF PRESENT: Rachel Letzing, Principal Attorney; and Margit Kelley, Senior Staff Attorney.

APPEARANCES: Lindsay Beaver, Legislative Counsel, Uniform Law Commission (ULC); and Kenneth Waldron, Ph.D., Monona Mediation and Counseling.

Approval of the Minutes of the September 25, 2018, Meeting of the Study Committee

Representative Brandtjen moved, seconded by Mr. Fremgen, that the minutes of the September 25, 2018, meeting be approved. The motion passed by unanimous consent.

Presentation by Lindsay Beaver, Legislative Counsel, ULC

Ms. Beaver provided an overview of the Uniform Deployed Parents Custody and Visitation Act (UDPCVA), including background regarding the role of the ULC, ULC

membership, and the process the ULC utilizes when crafting a uniform act. She explained that the ULC determined a uniform law was appropriate to address issues of child custody and visitation that arise when parents are deployed in military or other national service due to the current patchwork of state laws, the high mobility of service members across multiple jurisdictions, and because family law and custody issues are generally addressed in state, rather than federal, law. Ms. Beaver summarized the major provisions of the Act, and then noted the following differences between the Act and LRB-0409/P1: the bill draft does not include a 60-day transition period for temporary custody arrangements after the deployed parent returns; does not include a limited contact visitation provision; and does not specifically allow a court to consider significant impacts of the service member's deployment in determining the child's best interest.

In response to questions from committee members, Ms. Beaver noted that the 60-day transition period is a suggested, optional timeframe and states may choose a different amount of transition time for temporary orders in state legislation. Committee members also engaged in a preliminary discussion of the limited contact visitation provisions in the Act and how visitation of nonparents is addressed under current Wisconsin law.

Presentation by Kenneth Waldron, Ph.D., Monona Mediation and Counseling

Mr. Waldron summarized social science research on residential placement schedules and offered suggestions to change certain components of the child support guidelines. At the outset, he explained the inherent limitations in conducting and interpreting the research, and described the evolutionary history of custody and physical placement. He explained that research has shown that substantial time with both parents, unless the specific facts indicate otherwise, and not the residential placement schedule alone, leads to better child adjustment.

Mr. Waldron then discussed the research regarding the specific factors that are relevant to designing a child-focused placement schedule, including establishing frequent, regular contact with both parents; the level and type of parental conflict; the presence of positive co-parenting; the ability to preserve the child's support system; any substantial differences in the quality of parenting; the mental health of the parents; the age and developmental level of the child; preservation of sibling groups; a child's temperament; and practical considerations, such as geographic distances between the homes and school. Regarding research on equal placement, Mr. Waldron noted that most studies compare a form of shared placement with primary placement, and only one study has compared equal placement with other forms of shared placement, which showed that the respondents' satisfaction was highest with equal placement schedules.

Mr. Waldron also provided an overview and answered questions from committee members regarding research showing positive outcomes when co-parenting education classes are combined with mediation.

Regarding the child support guidelines, Mr. Waldron suggested changes in order to decrease conflict and address the perception of unfairness, including eliminating the number of overnights as a basis to calculate child support, and requiring both parents to pay a percentage

of income to Department of Children and Families (DCF), which would then distribute the money to each parent based on a placement schedule that recognizes low-, moderate-, and high-expense times with the child.

Discussion of Materials Distributed

Chair Brooks explained that the three bill drafts were initiated in order to stimulate committee discussion and possible suggestions for revisions, and that the committee would not be voting on the bill drafts at this meeting.

LRB-0409/P1, Relating to a Uniform Deployed Parents Custody and Visitation Act

Ms. Kelley summarized the major provisions of the bill draft.

The committee then discussed issues including the potential conflict between the draft's provision regarding a deploying parents' delegation of custodial responsibilities by a power of attorney and current Wisconsin law, whether to include a limited visitation provision and how to ensure that visitation includes a child's siblings, and the need to create a form deploying parents may use to create an agreement or a motion for custodial responsibility. The committee then reached consensus on the following:

- Remove the power of attorney provision in the bill draft.
- Keep the definition of "family member" currently included in the draft.
- Require that a hearing on a motion to grant custodial responsibility be conducted "within 30 days" instead of requiring that such a hearing be "expedited".
- Add that a significant factor for a court to consider when granting physical placement to a nonparent who is an adult family member of the child or an adult who has maintained a relationship similar to a parent-child relationship with the child is maintaining sibling relationships.
- Recommend that the Wisconsin Court System create a form for the agreement and the motion for custodial responsibility.

In addition, the committee asked that the definition of "service member" in the draft be reviewed to ensure that it includes all branches of service and requested information about whether a deployment could be longer than 18 months.

LRB-0410/P1, Relating to Reduction of Child Support Payments During Incarceration

Ms. Kelley described the bill draft. At the request of Chair Brooks, Constance M. Chesnik, Office of Legal Counsel, DCF, explained that federal regulations provide three ways for states to comply with the requirement to review and adjust child support after learning that a payer will be incarcerated for more than 180 days: creating an automatic suspension procedure; providing notice to the incarcerated payer and allowing them to request a review; and requiring an internal review by a child support enforcement agency.

The committee then discussed a variety of issues, including whether to automatically suspend or reduce child support, whether to create a rebuttable presumption that the child support order be stayed, what sources of income to include, whether the list of exceptions in the bill draft should be retained, how long the period of incarceration should be in order to be eligible for suspension or reduction, how long a suspension or reduction should remain in effect upon release, and the rate and range of payment inmates may earn.

At the conclusion of the committee's discussion, Chair Brooks stated that there was some consensus to request a bill draft to automatically suspend child support orders when a parent is incarcerated, and asked Legislative Council staff to work with Ms. Chesnik to answer questions raised by members and to ensure that the draft creates consistency in Wisconsin courts and optimizes funding available under federal law.

LRB-0411/P1, Relating to Proposed Parenting Plans in Certain Actions Affecting the Family

Ms. Letzing described the bill draft. After discussion, the committee reached consensus on the following:

- Keep the requirement currently in the draft to exchange or submit parenting plans at least 10 days before the initial session of mediation.
- Add an option that the proposed parenting plan be submitted to an assigned mediator, as an alternative to the director of family court services.
- Provide that the parenting plan exchange or submission may occur electronically.
- Keep child care payment information in the parenting plan.
- Add inclusion of a list of proposed variable costs to the parenting plan requirements.

Discussion of Prior Materials Distributed

LC Study Committee Memorandum, Topics for Committee Discussion Relating to the Standards for Determining Periods of Physical Placement and Child Support in Actions Affecting the Family

Legislative Council staff summarized the remaining topics for committee discussion included in the memorandum. After significant discussion, the committee reached consensus to request bill drafts on the following items:

- Allowing contingent placement arrangements.
- Requiring domestic violence training for guardians ad litem.
- Allowing judicial notice of records relating to a conviction of or injunction against a parent for domestic violence.
- Reorganizing current language to move the child support emphasis to shared placement but maintain current standards.

- Repealing the family support option under s. 767.531, Stats.
- Excluding the allowance attributable to variable housing costs when establishing child support orders for a military parent.
- Reorganizing the considerations in a placement determination as outlined in the State Bar of Wisconsin Family Law Section proposal.
- Specifying a rebuttable presumption to equalize placement to the highest degree.
- Subject to the paramount concerns for domestic violence under current law, directing a court to use a substantially equal allocation of physical placement as the initial consideration, which is to be modified as appropriate after considering in each case the best interests of the child, geographic separation of the parents, and accommodations for different households.

Discussion of Committee Assignment

Chair Brooks stated his intention to discuss birth cost recovery at the end of the committee's next scheduled meeting and asked Legislative Council staff to provide the committee with background information.

Other Business

The next meeting of the committee is scheduled for Tuesday November 20, 2018.

Adjournment

The committee adjourned at 4:15 p.m.

REL:ksm

[The preceding is a summary of the October 23, 2018, meeting of the Study Committee on Child Placement and Support, which was recorded by WisconsinEye. The video recording is available in the WisconsinEye archives at <http://www.wiseye.org/Video-Archive>. The PowerPoint presentations and other materials provided by the speakers and Legislative Council staff are available at <https://docs.legis.wisconsin.gov/misc/lc/study/2018/1785>.]