



Legislative Update

Friend of the Court Association
2009 MIFSC Conference
Boyer Highlands

HB 4061

- Termination of child support obligations when DNA evidence shows parent is not the biological father.
- Must file motion for relief within 6 mos. Of genetic test results.
- Introduced January 2009 and referred to House Families Committee.

HB 4197

- Great grand parents added to grand parenting time statute.
- Introduced in February 2009 and referred to House Families Committee.

HB 4671

- Amends the acknowledgement of parentage act to provide that an attorney, court clerk or employee of the court clerk shall be provided a copy of the acknowledgment of parentage by the state registrar within one day.
- Requests may be made by phone, mail or fax.
- Introduced in March 2009 and sent to House Judiciary Committee.

HB 4672

- State registrar must issue a copy of birth record, affidavit of parentage or record of still birth to the court, an attorney, court clerk or employee of the court clerk without payment of a fee.
- Tie barred with 4761.

HB 4704

- Change of name procedure in granting of a divorce made gender neutral.
- Passed the House September 10, 2009 by a vote of 105-0 and is now pending in the Senate Judiciary Committee.

HB 4794, 4795, 4796

- Prohibits the inclusion of personal information in cases entered under the FSA, paternity act and the divorce act.
- Allows for redaction.
- Introduced in April, 2009 and referred to the House Judiciary Committee.

HB 5114

- Joint custody mandated in every custody dispute except when one parent is shown to be unfit, unwilling or unable to care for a child
- Or if a parent moves outside of the school district, but then the case shall be ordered to mediation to resolve the custody dispute in a way that maximizes time with both parents.
- Introduced in June 2009 and referred to House Judiciary Committee.

SB 67

- Payer of support must give support recipient and title IV-D agency notice if the payer will receive property against which a lien may be levied.
- In Senate Families Committee since January 2009 when it was introduced.

SB 68

- Before payment of winnings of \$1,000 or more, a casino must determine whether child support is owed.
- List provided monthly to casinos by the Treasury Department.
- Chairperson of Gaming shall attempt to enter into an agreement with Indian tribes to voluntarily withhold from individuals in gambling operated by the tribe.
- In Senate Families Committee since January 2009 when it was introduced.

SB 99-107

- FOCA Bill Package
- Has passed the Senate and sits in the House Families Committee.

SB 197

- Paternity establishment for child born or conceived during a marriage but not the issue of that marriage.
- Must happen within 1 year of the birth and only if 1 or more apply: mother and bio dad openly acknowledge, mother and husband separated, bio dad files acknowledgment and notifies everyone in writing.
- Introduced February 5, 2009 and is pending in the Senate Families Committee.

SB 458

- Macomb County bill to eliminate the presentence report in felony non-support cases.
- Opposed by DHS.
- Introduced in April, 2009 and currently in the Senate Judiciary Committee.

SB 568 and 569

- Introduced May 12, 2009 and referred to Senate Committee on Families & Human Services.
- Amends RJA and Child Custody Act (to reference the RJA).
- In reviewing an arbitrator's custody decision, the court make take additional evidence to determine if the award is in the best interests of the child.

ADM 2009-09

- A court appointing a magistrate or referee must designate the appointment and duties to SCAO by LAO.
- LAO must include contact info for the person who is appointed.
- Individual magistrate or referee must notify SCAO of changes in contact information.
- FOCA supported.
- Adopted by the Supreme Court

ADM 2008-09

- Proposed Amendment to MCR 3.210 and 3.211.
- Must take proofs before entry of judgments of divorce even if uncontested.
- Defaults eliminated. Uncontested cases created.
- Comment period ends November 1, 2009.

FOCA Bill Package

- Bills have passed the full Senate but four were re-introduced last week as House bills to allow for shared sponsorship between parties and Houses of the legislature.
- Hearing scheduled for today – October 14, 2009 in the House Families Committee.
- This is the result of a review of mandatory unfunded duties requested by then CJ Maura Corrigan and Sen. Bill Hardiman. Report issued in 2006. See full text of reports on FOCA website <http://foca.cc>.
- Broad goal of this package is to provide greater flexibility to FOCs in providing required services to achieve goals of efficiency and cost effectiveness.

SB 99 – Amends FOC Act

- Replacing required Friend of the Court Domestic Relations Mediation of child custody and parenting time disputes with a requirement that each office establish ADR plans. Recognizes limitations on resources available and that there are a number of means by which the office can assist parties in resolving disputes.
- Clarifying that the county may be a "recipient of support" in certain foster care cases.

Amendments to FOC Act

....(SB 99 continued)

- Clarifying that the FOC, as to spousal support ordered entered after the effective date of the Act has no duties related to such orders unless the recipient receives IV-D services for child support or unless otherwise ordered by the Court.
- Custody change investigations by the FOC can be ordered by the court after the court first finds that there has been a substantial change in circumstances.

Amendments to FOC Act

....(SB 99 continued)

- Permitting the FOC to recover the costs of custody and/or parenting time investigation pursuant to State Court Administrative Office or Supreme Court standards. Funds go to the FOC Fund.
- The requirement to enforce health care expenses is subject to any minimum threshold established by SCAO or the Supreme Court.
- Revising data collection requirements by deleting specified information in favor of the SCAO determining what information shall be provided by FOC offices to the SCAO.

SB 100 -- Amends SPTEA

- Including a labor organization as a "source of income."
- Clarifying that no further action is needed to reduce support to a final judgment.
- Duty to keep the FOC advised of a current address to which notices and papers will be served. Clarifying information parties are required to provide to the FOC for contact purposes. Clarifying that if mail is returned from the address last provided by the party to the FOC then the FOC may change the address under guidelines established by the SCAO or Supreme Court. Further, clarifies that failure of the party to provide a current mailing address relieves the FOC from the obligation to provide that party with notices and the like until an address is provided.

Amendments to SPTEA

....(SB 100 continued)

- Surcharge assessment for past due support is based in the future upon a court determination that the payer willfully failed to comply. No longer automatic.
- Clarifying that a support order must specify a specific date of termination rather than reference to a graduation event.
- Clarifying that abatements or credits for a payer are not subject to the one month holding requirement.
- Clarifying provisions related to payment plans to provide greater flexibility in crafting such plans for payment of past due support.

Amendments to SPTEA

....(SB 100 continued)

- Eliminating sending a copy of the income withholding notice to the support recipient since the recipient may not object.
- Requiring that labor organizations that assign a member to work shall forward a copy of an income withholding notice served on them to the actual employer.
- Income withholding amounts also includes amounts for payment of fines, costs and sanctions.
- Streamlining license suspension. Provides for FOC issuance of a "compliance certification" to payer which permits reinstatement of a suspended license without the payer having to petition the court and obtain an order.

Amendments to SPTEA

....(SB 100 continued)

- Permitting "booting" of a vehicle owned by the payer as a possible contempt sanction.
- Permitting placing a payer or respondent under FOC "supervision" as a possible contempt sanction for non payment or custody/parenting time order violation.
- A sanction for contempt for non payment or a custody/parenting time order violation may include committing a payer to the county jail or "alternative to jail."
- Clarifying that if a respondent is arrested on a bench warrant in a custody or parenting time order violation proceeding, he/she may be released on bond if a hearing cannot be held immediately after arrest.

HB 5501 - Amends Custody Act

- Changing the reference from FOC domestic relations mediation to FOC alternative dispute resolution.

HB 5503 - Amends Vehicle Code

- Making technical changes to conform to the process changes made in the Support and Parenting Time Enforcement Act.

HB 5504 - Amends RJA

- Clarifies that specific statutory record retention provisions do not apply to FOC records. Instead, retention times for FOC records will be completely controlled by the schedule jointly issued by SCAO and the state historical agency. The purpose of the clarification is to help facilitate imaging!
- Redirecting \$10 of the custody, support or parenting time final judgment/order fee from the state bench warrant enforcement fund to counties for use by the FOC in enhancing enforcement of bench warrants. This codifies the result of how the state bench warrant fund has been utilized.

Amendments to RJA

...continued

- Incorporates and adds the \$2 per month service fee used to fund custody and parenting time enforcement activities of the FOC and assessed against the payer of support into the \$1.50 per month non iv-d services fee in section 2538. There is no resulting increase in the overall current fee of \$3.50 per month. The intent is to remove the monthly service fee provisions from the separate domestic relations laws (i.e. Divorce, Family Support Act, Paternity Act, etc.) and have the fee authorization in one location for consistency purposes. Also clarifies that a person who fails to pay the fee may be held in contempt of court.

HB 5502 - Amends OCS Act

- Requiring OCS to coordinate with SCAO the provision of title IV-D services by the Friend of the Court.
- Updating tax offset provision to recognize the current requirements of federal regulation which provide for automatic referral rather than case by case referral by the FOC.
- Repealing language concerning the now defunct amnesty program.

SB 105 & 106 - Amends the Divorce & Paternity Acts

- Moving the \$2 per month service fee provision to the revised judicature act (RJA.)
- Making technical changes recognizing that conversion to the state disbursement unit has been completed.

SB 107 - Amends FSA

- Codifying confinement expense assessment and abatement of the same consistent with similar provisions in the paternity act.
- Clarifies that verified complaint and summons are to be served as required by court rules for service of process in civil actions replacing the statutory requirement of personal service
- Making technical changes recognizing that conversion to the state disbursement unit has been completed.
- Moving the \$2 per month service fee provision to the RJA.
- Provision regarding codification of practice in 8 counties where FOC handles establishment has been removed.