**January 15, 2016 Minutes**

**Executive Council Meeting**

**Family Law Section**

Present: Jen Feingold, Kristi Wells, Rebecca Alexander, Robin Beattie, Jerremy Ramp, Bonnie Schriner, Ray Weaver, Joan McWilliams, Steve Epstein, Martin Brown, Todd Stahly, Richard Zuber, Anne Gill, Terri Harrington, Steve McBride, Laura Ammarell, Jamie Rutten, John Eckleberry, Kevin Sidel, Bonnie Schriner, Marc Chapleau, David Littman, Marie Moses

On phone: Meredith Cord, Peggy Walker, Deb Andersen, Jennifer Rice, Ann Gushurt, Mary Jane Cox

Excused: Joe Pickard, Trish Cooper, Bill King

September minutes - Laura moves to approve without any changes, Terri seconded; approved unanimously.

**Officer Reports**:

**Todd Stahly (Chair):**  Next meeting on the LLLTs is January 22nd at CBA at 2:00 p.m. Helen and Fran will update on potential funding to evaluate data.

CFI cap raised to $2750 effective January 1, 2016.

From Trish – she and Meredith are working on articles for TCL. Reviewing 3-4 articles now.

**Laura Page (Chair-Elect):** FLI is coming along – a ton of great presentation ideas. Working on finalizing presentation ideas. Will do three tracks again and trying to cover as many topics as possible. Several Supreme Court justices wanted to speak. August 5-7; Breckenridge – save the date!

**Jennifer Feingold (Secretary**): Email absences to jennifer@feingoldhorton.com.

**Robin Beattie (Treasurer):** Balance is higher than it’s been and everything is on track.

**Trish Cooper (Immediate Past Chair):** See above.

**Committee Reports:**

Amicus: Bonnie reports there is a case coming before the court of appeals – Interest of C.P.-Anne Gill and Ann Gushurt are involved with regard to standing as it relates to a same sex couple filing an APR action. Question is does common law marriage apply retroactively to same sex couples?

Under CRS 14-10-123, all parents have standing but there are arguments about whether a presumptive parent has standing. Do presumptive parents qualify as parents under 14-10-123?

Concern over the Section’s position. Can be there intent for a same sex couple to the marriage if at the time they knew same sex marriage was illegal?

Recommendation is to table this issue at this time unless it reaches the Supreme Court but if we are asked by LGTB group for us to weigh in, we will need to discuss our position as a section.

Another case is being petitioned for cert wherein father filed for APR in CO, mom went out of state to place baby up for adoption and the Utah state found fraud; issue is standing and whether the intervenors who had care and custody through fraudulent means, had proper standing to file APR. Section may need to weigh in on this issue. Interest of K.B. Amicus committee to look at the brief – Steve, Bonnie and Tina Pateirno on the committee to look at and provide a report/recommendation at the next council meeting as moved by Steve, seconded by Terri – passes unanimously.

**Judicial Liaison:** Rebecca reports that assignments were handed out in September with a request for update by December. Have not heard back from everyone; some districts are not responding. Many judicial employees do not have access to website because they are not members of the FLS – 9th, 17th, and 20th districts have all expressed this. Melissa will be providing a guest code so everyone can access the information.

20th district invited Rebecca and John to speak at their Tuesday lunch to present similarly as was presented at the Judicial Conference.

CMO’s – AAML presented a white paper on this (prepared by Lesleigh Monahan, et al), regarding the inconsistencies in processes and this issue is coming before the standing committee at their meeting (Contact is Steve Lass). Each district is developing a “best practices” committee so this can also be discussed. Discussion about having a statewide CMO is also being discussed.

Judge Stevens is chair of Arapahoe’s best practices committee. In Douglas, Magistrates Dumler and Moss are the leads. In Larimer it is the chief judicial officer.

This is believed to be a directive from Supreme Court to each district just related to family law.

**Legislative Committee:** Marie reports session started Wednesday.

These do not need to be weighed in.

HB 7 – offenses against an unborn child. If you commit a crime as defined by statutes 18 and 42 and kill an unborn child - charges can be brought. Much more narrow than the previous personhood legislation

HB 10-59 – concerning the definition of judge regarding crimes against judge. Can’t retaliate against senior and private judges.

HB 10-62 – concerning limitation on when certain disciplinary actions can be brought against mental health professions – looking 7 year statute of limitations.

HB 10-66 = concerning habitual DV offender – if you’ve been convicted of more than 3 or more DV charges will be defined as a habitual offender.

Will need to likely weigh in:

SB 13 – concerning statutory changes of the child protection ombudsman – last year this was created and tried to consolidate several different areas. This is a cleanup bill BUT there is a provision that says that ombudsmen may not be subpoenaed by independent parties to testify about parenting issues under Title 14. Why is Title 14 being singled house? Jeremy – our liaison – is talking to the sponsor about why. Committee proposes the section opposes this provision because there are not many circumstances where you wouldn’t want to subpoena, but why would be there a bar if he/she is best person to testify? Steve McBride seconds – passes unanimously.

Canadian protections order act – committee requests the Section support passing this recognition act. Bonnie seconded. Motion carries.

Trust Decanting Act – the concerns expressed are 1) not letting the decanting act affect how the trust is treated as property under Balance and 2) Prevent a party/trustee or family to use a decanting as a family divorce planning tool to recharacterize the nature of the property and if it does the DR court would have equitable remedies to deal with this situation.

Language that was successfully added (p. 8, line 7-21 (p.25 in packet). Does this language achieve this goal? Belief that this will pass even over the Section’s support. Estate section says this should be addressed in Title 14, but this is the probate code and they are not trying to affect DR cases.

Many other states do have decanting statutes. Benefits of decanting – tax implications and changes in tax code may lead to a desire to decant; other administrative benefits. Discussion was had regarding reasons for decanting and practical effect of same.

Marie moves that with this added language that the Section remain neutral with the exception that when the Bill comes up for testimony that the Section may testify this Bill is ok because our understanding is it will not affect DR or limit DR court’s discretion. Terri seconded. Motion carries.

Discussion was had – Marie, Rebecca and Diana can reach out to Chornet to clarify language.

Premarital Statute language – will there be a cleanup bill? Not yet.

Section should have a list of all bills that need to be cleaned up? (I.e. marital agreement act, elongation of 90 + days for PERA DRO) - send clean up issues to Marie/committee.

Bench Bar – Cyndy is working with Judge Arkin on assignments – goal is to circulate by January 18th so everyone can start work.

Adjourn.