

**Eighth Judicial Circuit Family Law Advisory Group (FLAG)  
Minutes of September 22, 2008**

The FLAG met at the Alachua County Family and Civil Justice Center. Present were: Ruth Angaran, Harvey Baxter, Olivia Bernal-Mora, Jennifer Kirkhart Curcio, Randi Dincher, Tosha Fernandez, Beverly Graper, Helen Gyllstrom, Arlene Huszar, Brian Kramer, Stephanie Mack, Myrna Neims, Judge James Nilon, Marilyn Peterson, Natasha Scheer, Judge Frederick Smith, and Cynthia Swanson.

The minutes of the July 28 and August 25 meetings were approved.

**Old Business**

The nominating committee for next year's chair currently consists of Myrna Neims and Arlene Huszar. Anyone else willing to participate is welcome.

We discussed programs for future meetings. The subject for the next meeting is Collaborative Divorce – How is it working? At a meeting later in the fall, we would like to have a general roundtable discussion with attorneys, mental health professionals, and others regarding what is working and what isn't.

**Program**

Ruth Angaran gave a presentation about a proposed parenting plan for our circuit that had been developed by her committee after many hours of hard work. She hopes that it will help people agree on a plan and stick to it because the costs to the children of not doing so are high. Children of couples who are constantly in conflict have a much higher rate of getting in trouble including everything from committing delinquent acts to having unwanted pregnancies.

Ruth also explained the term "parallel parents." These are couples whose paths never cross but who allow enough communication to make necessary plans for their children. This is not ideal but is useful if the parents just cannot get along.

The Twelfth Circuit has a very detailed plan which has been referred to as a model for the state. It has a flow chart with questions so that people can differentiate what type of agreement they need. The Florida Chapter of the Association of Family and Conciliation Courts (FLAFCC) has also been working on a plan. It has researched similar plans in many states to see what they use. In developing a plan, the parties have to consider whether one of the parents is going to relocate, whether there has been high conflict and lack of ability to make decisions together, and whether there has been domestic violence in the relationship.

Our committee's proposal is very comprehensive. For example, it includes links to all school calendars so parents will know all the school holidays when making their plans.

A question was raised regarding the statutory restriction on considering age and gender when deciding on overnight visits. Section 61.13(7), Florida Statutes, currently states: "If the court orders that parental responsibility, including visitation, be shared by both parents, the court may not deny the noncustodial parent overnight contact and access to or visitation with the child solely because of the age or sex of the child." This restriction has apparently been removed from the statute that goes into effect October 1, 2008.

What happens to a plan that is made when a child is young as the child grows older? Judge Nilon stated that he would not approve a request for rotating custody unless the parties agree that it can be revisited when the child is of school age without any other substantial change in circumstance.

Our judges indicated that, if an agreement states that the parties have considered each of the statutory requirements, the court will likely accept the terms of the agreement. There was some discussion but no resolution about what to do when a party defaults or how to deal with pro se cases.

Judge Nilon suggested that we try the proposed plan for six months and then review it for possible changes. There was some concern about the reading level needed to understand the proposed plan. It was noted that computer programs provide that information. *[Note from the Secretary: These minutes were reviewed by Microsoft Word and are at an 11.9 grade level.]*

Judge Smith proposed that we have a presentation on how to make a finding of maturity as judges are required to do in termination of pregnancy cases for minors. Myrna Neims has found an article that includes questions to ask a minor and she has provided that to Judge Smith. He will provide her with case law on the subject.

Attorneys asked the judges if, with the implementation of the changes to Chapter 61, they would have to replead their cases. The judges will not require parties to replead but will require the final judgments to use the language of the new statute.

The next meeting of the FLAG will be Monday, October 27, at 4:00 PM and the program is on collaborative divorce.

*Note from the Secretary: It has been decided to have the round table discussion at the October meeting and the collaborative divorce program at the following meeting on November 24.*