

Minutes of the Spring Meeting of the Joint Editorial Board for Uniform Family Law Acts

Monterey, CA

April 27, 2007

The meeting was called to order at 8:31 a.m. Present at the meeting were Harry Tindall, Chair, Robert Spector, Reporter, Tom Wolfrum, Jeff Atkinson, Mary Helen Carlson, Linda Elrod, Mike Kerr, Eric Fish, Tom Bolt, and Debra Lehrmann. Battle Robinson joined the meeting in part via conference phone.

1. The minutes of the Fall 2006 meeting were read and approved without objection.
2. The Board received a presentation from Ms. Carlson, Counsel with the State Department Office of Private International Law, regarding the progress of the 1996 Hague Convention on the Protection of Children. Thirteen countries are currently parties to the 1996 Convention and by the end of the year the member states of the European Union are expected to join the convention. Ms. Carlson informed the Board that the State Department believes ratification of the 1996 Convention to be in the best interests of American families. However, the State Department does have concerns of the lack of a definition of habitual resident, a key term to the convention.

The Board discussed a timetable for study and resolution of issues surrounding the 1996 Convention and thanked the State Department for including the Board early in the discussion of the convention.

The JEB recommended to its appointing organizations that NCCUSL should continue its study of the 1996 Convention and that an in-person stakeholder meeting be authorized. The meeting will be hosted in the late Fall of 2007 by the State Department to provide stakeholders with information about the convention and receive comments about its possible implementation and interaction with the UCCJEA. Outreach will include the AAML, ABA Family Law Section, ABA Litigation Section, and ABA International Law Sections.

3. The Board also discussed the proposed Hague Convention on Child Maintenance. Ms. Robinson noted that amendments to UIFSA are necessary to comport to the anticipated ratification of the Convention by the federal government. Methods of mandating the legislation in a manner similar to the 1996 UIFSA were discussed. The Board noted that congressionally, there has not been a priority placed on amending federal IV-D law to properly refer to the 2001 UIFSA amendments, but packaging those amendments with any changes brought forth by ratification with the Maintenance Convention may be possible.
4. At the request of Mr. Tindall, Mr. Sampson developed a report on the intersection of the Uniform Parentage Act and the Model Act on Assisted

Reproductive Technology (ART). Mr. Sampson reported that the UPA is more comprehensive than the ART regarding parentage. Mr. Sampson recommended the elimination the parentage provisions of the ART.

Mr. Kerr reported that NCCUSL is currently working on a new intestacy project that will likely impact the definition of “child” and that attempts will be made to harmonize the two projects.

After discussion, the Board resolved to bring the following language to the Family Law Council:

“The Joint Editorial Board of Uniform Family Laws (JEB-UFL) respectfully requests deletion of Article 6 “Parentage” and Article 7 “Posthumous Conception” from the Model Act because of conflicts with the Uniform Parentage Act, as approved by the American Bar Association House of Delegates, and the scope of the Drafting Committee on amendments to the intestacy provisions of the Uniform Probate Code.

With the deletion of Articles 6 and 7, the JEB-UFL has no objection to the Model Act Governing Assisted Reproduction Technology being submitted to the American Bar Association House of Delegates for approval based on conflicts with uniform acts approved by the conference.”

5. The Board addressed issues pertaining to drafting committees on adult guardianship, collaborative law, relocation of children and third party access to children. Mr. Spector noted that adult guardianship is going for final reading. Additionally, Mr. Spector believes that slight modification of the transfer provisions will alleviate a few problems within the act. Mr. Tindall addressed the drafting committee on collaborative law. This drafting committee had recently had its first meeting, with good representation of the stakeholders. Mr. Tindall stated that the biggest struggle in the project is whether the act is a family law act or a general civil law act, causing some division within the committee. However, the committee reporter is very active and these initial problems will be solved. On the issue of relocation of children, Mr. Kerr stated that NCCUSL leadership is interested in the project but would like to investigate sources of funding for the project. Mr. Kerr and Mr. Fish will investigate funding this summer. The Board discussed third party access to children and decided to defer this project.

After the discussion on drafting committees, the Board concluded it was best to have two family projects in the drafting stage. The Board prioritized these projects in the following manner: (1) 2000 Hague Convention on Maintenance, (2) Collaborative Law, (3) 1996 Hague Convention on Protection of Children, (4) Relocation of Children, (5) Third Party Access to Children.

On other issues, Ms. Elrod and Mr. Bolt discussed the need for uniformity in cases involving non-parental partnerships. Mr. Kerr commented that enactability may be a problem with any non-parental partnership act and further stated that a

model act may be the best option for this issue. NCCUSL may be able to be a technical advisor to the project but with the number of stakeholders, the project may be bigger than NCCUSL's abilities.

6. Mr. Spector addressed the Interstate Compact on the Placement of Children and urged opposition to the compact. According to Mr. Spector, the ICPC infers with the UCCJEA and was not comfortable with the provisions of the compact dealing with placement in juvenile cases and provisions regarding financial issues. The members of the Board concurred with Mr. Spector's comments.

The Board resolved to oppose the ICPC. Further, the Board recommended that the Family Law Section of the ABA to go on record to oppose the ICPC. Moreover, the resolution included direction of the AAML to study the impact the ICPC may have on private custody cases and for all other sending organizations to take an official position regarding the compact. In furtherance of its opposition, the Board resolved to join with the AAAA and the Family Law Section to send a resolution to the ABA House of Delegates opposing the ICPC.

7. Mr. Fish addressed the Board on the progress of legislative enactments. Five states enacted UCAPA and three more enactments are likely. The UCCJEA is progressing towards total uniformity, as 46 jurisdictions have enacted the act. Three enactments are likely, as the bill is in Conference Committee in Indiana, and is progressing well in South Carolina and Missouri. However, the bill is stalled in Vermont, New Hampshire, and Massachusetts. The UCCJEA is being translated into Spanish for introduction and enactment in Puerto Rico. Other acts being considered by the states include UIFSA and the UPA.
8. Mr. Kerr reported on the status of the Uniform Representation of Children Act. The act will have a stakeholder meeting on April 28, 2007 in Monterey. Contention has arisen between stakeholders regarding language pertaining to CASAs and the appointment of best interest lawyers. Ms. Elrod gave a history of the ABA standards and the Fordham and UNLV Conferences that have dealt with the issue.
9. The meeting concluded with discussion on the future of the Board. Mr. Bolt encouraged looking for external funding sources, such as publication of commentary. Further, it was reported that the Association of Family and Conciliation Courts (AFCC) has an interest in joining the Board. Other organizations that may be asked to join include the National Association for the Representation of Children and the U.S. State Department. The consensus amongst the board was that all memorandums of understanding should state that all members and representatives of the Board must be lawyers.
10. The resolutions of this JEB are as follows:

- a. **NCCUSL should continue its study of 1996 Hague Convention on Protection of Children. As part of the study of the Convention, a stakeholder meeting should be authorized by the NCCUSL Executive Committee. Participants in the meeting should include the AAML, ABA Family Law Section, and members of the relevant ABA International Law and other interested sections. The meeting should be held in conjunction with the State Department in the late fall of 2007..**
 - b. **Due to conflicts with the UCCJEA, the Executive Committee of NCCUSL is urged to a formal position in opposition to the revised ICPC. Further, the Family Law Section of the ABA is urged to oppose the ICPC. Moreover, AAML is urged to study the impact the ICPC may have on private custody cases and for all other sending organizations to take an official position regarding the compact. In furtherance of its opposition, the Board resolved to join with the AAAA and the Family Law Section to send a resolution to the ABA House of Delegates opposing the ICPC.**
 - c. **In regards to future projects, the Executive Board of NCCUSL should prioritize family law projects as follows: (1) 2000 Hague Convention on Maintenance, (2) Collaborative Law, (3) 1996 Hague Convention on Protection of Children, (4) Relocation of Children, (5) Third Party Access to Children**
11. The meeting of the JEB-UFL was concluded at 1 p.m. on April 27, 2007. The next meeting will be scheduled in either early October 2007 or December 2007 and will be hosted by the State Department.