

Joint Editorial Board for Uniform Family Laws

November 7, 2004 Meeting Minutes

Present at the Meeting were Harry Tindall (Chair), Robert Spector (reporter), Linda Elrod and Jeff Atkinson (ABA Representatives), and Barbara Handschu (AAML Representative). Also present was Michael Kerr (NCCUSL Staff). The meeting commenced at 8:30 a.m.

1. The minutes of the prior meeting (Fall 2003) and of the July 2004 Conference Call were approved, and meetings from earlier meetings were reviewed.
2. Chairman Tindall discussed several referrals from the Committee on Scope and Program
 - a. The JEB-UFL considered the proposal to draft a uniform act on substantive child support guidelines, and voted to recommend against proceeding on such a project at this time
 - b. The JEB-UFL considered the proposal to draft a uniform act on visitation schedules and related substantive custody and visitation guidelines and voted to recommend against proceeding on such a project at this time.
 - c. The JEB-UFL considered the proposal to draft a uniform act on relocation standards and procedures and voted to recommend that this project be positively considered for study or drafting by the NCCUSL committee on Scope and Program.
 - d. The JEB-UFL considered the proposal to reclassify the Uniform Adoption Act as a model act and voted to endorse this suggestion; however the JEB-UFL also voted to recommend the Uniform Adoption Act not be withdrawn as is still provides a useful model to a number of states, particularly with regard to its jurisdiction provisions.
3. In addition to the referrals from the Committee on Scope and Program, the JEB-UFL voted to recommend the following new projects for consideration by NCCUSL. Chairman Tindall will coordinate the preparation of substantive memos by JEB-UFL members for review by Scope on the relocation proposal above and the following new proposals.
 - a. A uniform or model project on third-party access (visitation) to children.
 - b. A uniform or model project on parenting plans.
 - c. A uniform or model project on collaborative law.
4. The JEB-UFL reviewed the progress of the two current family law drafting projects, and received updated reports and drafts on each.

- a. With regard to the Drafting Committee on the Role of Attorneys Representing Children in Custody disputes, the JEB-UFL agreed with the committee's request for a change in name and scope. The committee discussed whether the current draft's approach would satisfy the federal CAFTA law with respect to the appointment of a single category of child's attorney (best interest-vs child's client) and also discussed the reasoning for keeping "Guardian Ad Litem" as a functional category within an adopting state's law.
 - b. With regard to the Drafting Committee on the Standards for the Protection of Children from Abduction, the committee received the interim report and discussed whether personal jurisdiction would be required for application of remedies under the proposed act, and noted that the committee needed to be careful to avoid creating a mechanism based on purely predictive behavior or which might be unfairly based on attributes such as national or religious identity. The JEB-UFL members were satisfied that the NCCUSL project has managed to do better with these issues than some of the extant state laws on the subject.
5. The JEB-UFL discussed the progress of several recent Uniform Family Laws.
- a. With regard to the Uniform Parentage Act, the committee discussed the growing interest in the act and the relatively infrequent adoption of its surrogacy provisions. The situation in several specific states was discussed.
 - b. With regard to the UCCJEA, the JEB-UFL happily received news of the 41st adoption of the act, and received several state-specific reports about issues that had arisen in the last year. With regard to Massachusetts, the JEB-UFL specifically recommended against any change that would directly undermine the function of continuing exclusive jurisdiction, and would instead recommend that the state emphasize its ability to decline jurisdiction in cases of domestic violence allegations on the existing basis of inconvenient forum.
 - c. With regard to UIFSA, the JEB-UFL received a report on the progress of the act, and of the impact Congress's delay in reauthorizing the PWORA was having on the adoption of the 2001 amendments.
 - d. With regard to the UIEDVPOA, the JEB-UFL received reports on the continuing success of the act.
 - e. With regard to the UCWTAMA, the JEB-UFL received reports on the continuing success of the act.

6. Chairman Tindall delivered a report on his efforts with regard to the ongoing process to revise and update the Interstate Compact for the Placement of Children. The JEB-UFL reviewed several documents relating to this issue, and discussed the need to make sure the ICPC's revisions did not create conflicts with the UCCJEA. Chairman Tindall was requested to continue his efforts on behalf of the JEB-UFL.
7. The JEB-UFL reviewed the February draft of the ongoing NCCUSL project to revise the Uniform Durable Power of Attorney Act, and discussed changes that appeared in the Annual Meeting draft of that act. With regard to Section 110, the JEB-UFL recommended that POA's should be ineffective upon a *filing* of divorce, dissolution, or separation, rather than upon the conclusion of such a proceeding, and that the act should specifically state that POA's do not spring back into existence upon the remarriage of the parties. The JEB-UFL also noted that the form contained in the act should reflect these principles as well, and asked Chairman Tindall to continue to collaborate with the UDPOA committee on these issues.
8. With regard to the structure and functions of the JEB, the members reviewed the founding documents of the entity and discussed the function and role of other joint editorial boards. A proposal to increase membership of the three represented entities to 3 members apiece was discussed, but no motion was passed. A separate proposal to invite full (dues-paying) participation from two national organizations of family court judges (AFCC and NCJFCJ) was approved, with the caveat that such an expansion would need to be approved by the respective executive committees of the ABA Section, AAML, and NCCUSL. The participation of judicial groups was found important in that both of the current NCCUSL family law projects (as well as the UCWTAMA) are primarily focused on court procedures and remedies. The JEB-UFL also discussed the need to increase its capacity to engage in substantive review and commentary of existing and upcoming uniform acts, and to expand its meetings to 1.5 days, twice a year.
9. The JEB-UFL discussed several developments in the international arena, and received a report from Michael Kerr about the increased efforts and interest at NCCUSL in participating in international legal developments. Specifically, the JEB discussed several topics, including:
 - a. the need to prepare a Spanish-language version of the UCCJEA for use in Puerto Rico. Several members of the JEB will help to develop options in this regard for consideration at the next meeting.
 - b. the ongoing project at the Hague conference on international enforcement of support obligations, and its relationship to UIFSA

- c. the adoption in Canadian provinces of the principles of UIFSA and UCCJEA, and the increasingly acute need to foster similar developments in Mexico
- d. The creation of a uniform laws center in Mexico, and the recognition of Jorge Sanchez Cordero as an advisory member of the conference.
- e. The ongoing work of the conference in modifying some of its key acts for use by tribal governments, and the possible need to do so with regard to uniform family law act.

Members of the JEB indicated an interest in working with the Mexican uniform laws center and the Canadian Conference on further cross-border harmonization of child support and custody enforcement (UCCJEA and UIFSA) within the NAFTA community, and expressed an interest in NCCUSL, or alternatively the JEB, in partnering with the Mexican center for purposes of obtaining NGO status at the Hague conference (with specific reference to the ongoing development of a Hague convention on maintenance). Chairman Tindall indicated he would pursue these issues with the chair of the NCCUSL International Developments Committee, and Michael Kerr will attempt to informally meet with Hague Secretariat staff during an upcoming vacation to learn more about NGO status at the Hague.

10. The JEB-UFL's next meeting will be held concurrently with the ABA Family Law Section Meeting, April 13-16, 2005 in Austin, TX. The JEB-UFL meeting concluded at 2:00 p.m.