

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

Washington, D.C.

May 6, 2006

The meeting was called to order at approximately 8:00 a.m. Present at the meeting were Harry Tindall, Chair, Robert Spector, Reporter, Paul Kurtz, Tom Bolt, Jeff Atkinson, Barbara Handschu, JoAnn Wilder, and Michael Kerr. Howard Swibel, Debra Lehrmann, Ron Nelson, Tim Walker, Steve Zack, and Meg Haynes also attended portions of the meeting.

1. After approving the minutes from the last meeting without objection, the board discussed the status of several ongoing NCCUSL projects, including the Child Abduction Prevention and the Child Representation act, both of which are up for final consideration and promulgation at the NCCUSL 2006 Annual Meeting. Other projects discussed include the drafting committee on Intestacy Rights of Children, the drafting committee on Interstate Guardianship Jurisdiction, and the study committees on Relocation and Collaborative Law. With regard to Child Abduction, the board noted that there was a cross-reference error in part of the draft referring to the UCCJEA (a note will be transmitted to the reporter).
2. Bob Spector gave an update on the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children, and the possible need for follow-up amendments to the UCCJEA in the event of US accession to that agreement. Mike Kerr gave a review of UCCJEA enactments in the United States, with 47 enactments likely by the end of 1996. Ron Nelson of the ABA Family Law Section was in attendance as an observer, and offered to provide some enactment assistance in Missouri. Mike Kerr presented an initial Spanish translation draft of the UCCJEA for use in Puerto Rico, which will be circulated for review and suggestions and will be discussed again at the next meeting of the editorial board.
3. Harry Tindall gave an update on the recently-concluded revisions to the ICPC, and the board review several troubling aspects of those changes. Because the revised compact will not take effect until at least 35 state pass bills on the subject, the board noted there was time to engage further on this issue, and that NCCUSL does have the capacity to affect (and possibly amend) legislation introduced in 2007. This issue will be further discussed at the next board meeting, and Bob Spector agreed to do a more detailed analysis of the potential problems of the

compact as drafted. Harry Tindall will report on this issue to NCCUSL's Scope and Program and Legislative Committees.

4. Howard Swibel, President of NCCUSL, joined the meeting and gave a summary of several ongoing NCCUSL initiatives which may affect the future work of the JEB-UFL, including efforts at implementing international family law conventions and harmonization projects with the Uniform Law Conference of Canada and Mexico. There was also a discussion of a broader effort to export several Uniform Acts internationally, and working with the National Center for Missing and Exploited Children more closely.
5. Meg Haynes, in conjunction with Bob Spector, gave the board an update on the pending Hague Convention on International Recovery of Child Support and other forms of Family Maintenance. It appears the convention will be finalized no earlier than mid-2007, but also that there may be inconsistencies with the Uniform Interstate Family Support Act, especially with regards to modification jurisdiction. There are also issues with regard to the scope of reservations that the United States might adopt if it accepts the convention, as well as possible public policy exceptions. The board also discussed the current state of bilateral state-county agreements under comity, and the state of changes to federal law (42 USC 466) which may be slowing down adoption of the UIFSA 2001 amendments. Mike Kerr reported that the 2001 UIFSA Amendments had been adopted in at least 17 states. The consensus of the board was to continue monitoring developments at the international level, but to recommend to NCCUSL that no active drafting response was needed prior to 2008.
6. Tim Walker, HOD Section Delegate for the ABA Family Law Section appeared at the meeting to discuss the sections recently-approved Model Code Governing Assisted Reproduction, which is scheduled to be submitted to the House of Delegates for consideration at the 2007 Midyear Meeting. While the proposed model legislation was drafted to avoid conflicts with the Uniform Parentage Act, there was some concern about policy conflicts, both with the existing UPA and with NCCUSL work in these subject areas in the future. Mike Kerr was asked to prepare some HOD resolution language designed to avoid these conflicts and provide it to Tim and the ABA Family Law Section committee.
7. Debra Lehrmann and Jeff Atkinson reported on the progress of the NCCUSL Study Committee on Relocation of Children, and indicated that the committee would be recommending a drafting committee start work in the fall. The board discussed some of the thorny issues surrounding this topic, and Barb Handschu discussed the AAML's history with its own model act on this subject. The consensus of the board was that this is an important, although difficult subject, and that NCCUSL should be commended for building on the prior work of the AAML and the ALI; there was also a discussion of possible funding support for the development/drafting work.

8. Steve Zack, Chair of the ABA House of Delegates and ABA Leadership Liaison to NCCUSL, appeared before the board to discuss some of the developments and priorities at the ABA, especially with regard to international rule of law initiatives, and made a series of concrete recommendations with regard to ways to better integrate the work of the JEB-UFL and NCCUSL with efforts by various ABA entities.

9. The board engaged in a long discussion about the future structure of the JEB-UFL. It was noted that the productivity of the board had increased markedly in the past few years, and that several ongoing NCCUSL projects found their genesis in the recommendations of the JEB-UFL. With the expanding portfolio of uniform family law acts, as well as the upcoming vital developments in international and other law, it is clear that the workload of the JEB will continue to increase. Accordingly, the consensus of the committee was that the next meeting of the JEB-UFL should be independent of other family law meetings (ABA or AAML), and should be at least a full day long, possibly longer. It was also noted that the JEB-UFL had a real need for substantive legal scholarship and management of the issues on its agenda. It was noted that unlike the other joint editorial boards, the JEB-UFL did not have a compensated director or reporter, and thus is wholly dependent on the volunteer services of its members to research issues, prepare agendas, and so forth. Accordingly, ways to expand the capacity of the board were discussed, including inviting additional groups to become full, dues-paying members (in particular family court judges were discussed), as well as initiating regular dues increases for the current full members. JoAnn Wilder agreed to look into issuing an invitation to the American College of Family Trial Lawyers, and Debra Lehrmann will report back on family court judge groups, including within the ABA Judicial Division itself. Mike Kerr was asked to prepare for the next meeting, (or possibly discussion via conference call in the interim) a set of budget scenarios which include longer meetings, additional members, dues changes, and the impact of compensating a research director.

The meeting of the JEB-UFL was concluded at approximately 1 p.m. on May 6, 2006.

Respectfully submitted,

Harry L. Tindall, Chair
Joint Editorial Board for Uniform Family Law