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**Presentation for the Clark County
Bar Association
Family Law Section:
Bill 5470 &
Restraining Orders

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Effects of 2SSB 5470

New Process for Presenting Final Parenting Plan Orders for signature:

Because of the new JIS search required before a judicial officer signs a final parenting plan (per 2SSB 5470, Section 304), the following new procedures are being adopted by the Clark County Superior Court Bench and the Clerk's Office:

- All final parenting plans should be presented on one of the following dockets: Family Law, Show Cause, Modification or Ex Parte. They should **NOT** be presented off docket or in chambers. The court needs lead time to perform the JIS search.
- Any Citation for presentation of final parenting plans on any of the above named dockets, except the Ex Parte docket held at 1:15 PM daily, should indicate, "**JIS Search Required**".
- If a final parenting plan will be presented on the daily Ex Parte docket, the attorney is required to advise the Clerk's Office staff at the civil counter or contact Kalen at (360) 397-2292 x4204 by telephone by **11:00 AM** the day of presentation. The minimum information required is the case number. Final parenting plans presented for signature without this prior notification will **NOT** be signed by the judicial officer.

New Forms Required:

1. **Residential Time Summary Report** (per 2SSB 5470, Section 701&702)

The Residential Time Summary Report (RTSR) is a new form that **MUST** be filed as of July 22, 2007, when a Final Parenting Plan is filed. Either the attorneys can file it or the parents (one or both). The Clerk's Office will forward these forms to the Division of Child Support who will compile statistics from them for use by the legislature.

2. **Final Parenting Plan Orders** have the following new statement before the judge's signature:

"Before signing the final parenting plan, the court consulted the judicial information system and databases, if available, to determine the existence of any information and proceedings that are relevant to the placement of the children."

Summary of Chapter 496, Laws of 2007 (2SSB 5470)

Dissolution of Marriage

Effective July 22, 2007 (unless otherwise noted)

Prepared by Janet Skreen, AOC

Sections 101 &102 Legislative Intent

- Residential time and financial support are equally important components of parenting arrangements
- Reduction of conflict, better identification of domestic violence, and enhanced judicial discretion will improve decisions for families and children

Section 201 Family Court Program (Effective July 1, 2009)

- Must be established between July 2 and November 1, 2009
- Initial point of contact for legal separations and dissolutions of marriage
- Provide information re facilitator programs, alternatives to dissolution proceedings, alternatives to litigation, community support programs
- Perform screening of parties for domestic violence, child abuse, child neglect, substance abuse, mental health
- Meet with parties prior to mediation in cases with domestic violence or child abuse
- Provide assistance to courts
- No provision of legal advice
- Funded by specific budget allocation and user fee or up to \$20 filing fee surcharge
- Program services provided at no charge to indigent parties
- **FUNDING:** \$100,000 FY09 to AOC for program training

Section 202 Family Law Handbook (Effective January 1, 2008)

- Family law handbook must be provided to petitioners and respondents in dissolution cases (clerks will be reimbursed by AOC for copies of handbook)
- **FUNDING:** \$43,000 FY 08 and \$43,000 FY09 to AOC as reimbursement to counties for distribution of the handbook per this section

Section 203 Affirmation re Meeting with Family Court Program (Effective July 1, 2009)

- Petition for dissolution, legal separation or declaration of invalidity must allege that moving party met with family court program (section 201) before filing
- Does not limit or prohibit parties from obtaining appropriate emergent relief

Section 204 Family Court Program Surcharge (Effective July 1, 2009)

- Provides for up to \$20 filing fee surcharge to fund Section 201 family court program.

Section 301 Mediation in Domestic Violence & Child Abuse Cases

- Parties shall be provided access to trained domestic violence advocates when appropriate
- Court may order mediation in cases of domestic violence or child abuse, when victim requests mediation
 - Court must make finding mediation is appropriate under circumstances
 - Victim may have supporting person present during mediation

Section 302 GAL Training Curriculum

- AOC shall include domestic violence in GAL training curriculum by **July 1, 2008**

Section 303 Parenting Plan .191 Limitations

- Limitations must be reasonably calculated to protect parent at risk of harm from contact with parent requesting residential time and may include
 - Supervised contact between child and parent
 - Completion of relevant counseling or treatment (does not specify who should get counseling or treatment)
- If child abuse or domestic violence allegations are made, both parties must be screened to determine if full assessment is necessary re impact of limiting factor on child and parties

Section 304 JIS Check

- Court must check JIS before entering permanent parenting plan for existence of any relevant information and proceedings

Section 305 GAL Training

- GALs in .191 cases must receive domestic violence training (Section 302) when available

Section 306 Supreme Court Task Force

- Supreme Court is requested to establish task force to establish statewide protocols in dissolution cases
- Task force shall address/develop
 - Clear, concise alternative dispute resolution procedures
 - Sexual assault training curriculum with Office of Crime Victims Advocacy
 - Domestic violence training curriculum for evaluators in dissolutions
 - Recommendations for specialized evaluators in dissolutions
 - Recommendations for dissolution forms, procedures and fees
 - Venue for filing original and modifying petitions
 - Section 201 family court program
 - Components
 - Extent
 - Administration
 - Confidentiality protocols
 - Screening tools
- Preliminary report due September 1, 2008; final report due December 1, 2008
- **FUNDING:** \$150,000 FY08 and \$55,000 FY09 to Supreme Court as funding for this task force

Section 401 Additional Services

- Parties and witnesses shall be provided access to interpreters under RCW 2.42 and RCW 2.43
- As practical and within resources, interpreters shall be provided at proceedings
- Parties and witnesses needing literacy help shall be provided to displaced homemaker programs

- In GAL cases
 - Court shall specify hourly GAL rate
 - Court shall specify maximum charge without further review
 - Counties shall provide GAL services at reduced or waived fee if state funding is provided
 - **FUNDING:** \$350,000 FY08 and \$350,000 FY09 to AOC to provide GAL services for the indigent at reduced or waived fee
- Court may allow parties' and witnesses' telephonic participation
- In domestic violence cases court may
 - Order exchange of child in protected setting
 - Order supervised visitation
 - Court shall approve supervisor only if supervisor is willing and capable of protecting child
 - Court hearing if supervisor fails to protect child or is no longer willing to serve
 - Court shall establish conditions if supervisor is family or household member
- If court finds no history of cooperation or finds high conflict court may order
 - Supervised visitation and safe exchange centers
 - Alternative safe locations

Section 501 Mediation (Effective January 1, 2009)

- Court shall use most cost-effective mediation services absent good cause to use others
- Counties shall provide reduced or waived fee mediation, pre and post decree, within one year of dissolution filing if state funding is provided
- **FUNDING:** This section was not funded. However, the bill did not contain a specific "null and void" clause for this section.

Section 601 Permanent Parenting Plan Consideration

- Court may consider cultural heritage and religious beliefs of child

Section 602 Renumbering of RCW 26.09.184

Section 603 Parenting Plan Residential Provisions

- Relative strength, nature and stability of child's relationship to each parent is given greatest weight
- Performance of parenting functions re daily needs now part of each parent's past and potential for future performance of parenting functions
- If .191 factors not dispositive, court may order frequent changes between residences for short, equal time (ping-pong)
 - If arrangement is in child's best interest
 - Court may consider geographic proximity to extent necessary to perform parenting functions
- Residential provisions may include any reasonable terms or conditions including requirements of notice if residential time will not occur

Section 604 Temporary Parenting Plan

- For temporary parenting plan court shall give particular consideration to relative strength, nature and stability of child's relationship to each parent and arrangement that will cause least disruption

Sections 701 & 702 Residential Time Data Tracking

- Dissolution parties shall file residential time summary report
- AOC and Division of Child Support shall develop the form to include tracking of all residential time orders re
 - Actual time with each parent
 - Enforcement practices (dispute resolution process)
 - Parties' representation status
 - Domestic violence, child abuse, chemical dependency, mental health issues
 - Agreed or contested
- Clerk shall forward form to Division of Child Support at least monthly (for dissolution cases)
- Division of Child Support shall compile and transmit data to AOC (on all residential time orders)
- AOC shall report data organized by each county at least annually (on all residential time orders)
 - Publicly available through public access services
 - Shall not contain parties' personal identifying information
- **FUNDING:** \$50,000 FY08 and \$50,000 FY09 to AOC and \$100,000 FY08 and \$100,000 FY09 to DSHS Economic Services Division (Division of Child Support) to implement data tracking provisions

RESTRAINING ORDERS Reminders:

LEA Sheets Missing:

Please provide the **law enforcement agency (LEA) information sheet** whenever filing an order which includes a restraining order. The LEA sheet needs to list all the parties protected and restrained in the order, must have complete names and dates of birth for all parties, including minor children. If these are not provided with the order, the Clark County Sheriff's Office **cannot** enter these orders in the law enforcement database and, therefore, law enforcement officers will not know that a restraining order even exists if there happens to be a domestic dispute or incident between the parties.

Common Errors on Restraining Orders:

There have been a number of orders refused for entry into the law enforcement database by the Clark County Sheriff's Office because the order is missing parts of or all of the pertinent restraining order language in the following sections of these pleadings:

1. Ex-Parte Restraining Orders (WPF DR 04.0170)
 - Under pleading title "Clerk's Action Required", "Law Enforcement Notification ¶ 4.1" need to be included.
 - On page 1, "Restraining Order Summary" is incomplete or inconsistent, i.e. has "Does not apply" checked, then names parties restrained and protected in the next paragraph.
 - Section 4.1 needs to contain all the pattern form language filled out, as well as the "Clerk's Action" section marked, directing the Clark County Sheriff's Office as the law enforcement agency to enter this order.

2. Temporary Orders (WPF DR 04.0250)
 - Under pleading title "Clerk's Action Required", "Law Enforcement Notification ¶ 3.1" need to be included.
 - Section 1.1, "Restraining Order Summary" is incomplete or inconsistent, i.e. has "Does not apply" checked, then names parties restrained and protected in the next paragraph.
 - Section 3.1 needs to contain all the pattern form language filled out, as well as the "Clerk's Action" section marked, directing the Clark County Sheriff's Office as the law enforcement agency to enter this order.

3. Decree of Dissolution/Legal Separation (WPF DR 04.0400)
 - Under pleading title "Clerk's Action Required", "Law Enforcement Notification ¶ 3.8" need to be included.
 - Section 1.1, "Restraining Order Summary" is incomplete or inconsistent, i.e. has "Does not apply" checked then names parties restrained and protected in the next paragraph.
 - Section 3.8 "Continuing Restraining Order" needs to contain all the pattern form language filled out, as well as the "Clerk's Action" section marked, directing the Clark County Sheriff's Office as the law enforcement agency to enter this order. Also remember to complete the expiration date of the order.

Note: The Washington State Pattern Forms can be found at www.courts.wa.gov/forms

Generic Restraining Orders:

Don't use the sections above for generic restraining orders that are not supposed to be sent to the Clark County Sheriff's Office for entry. Please list this type of restraining order in the "other" section.