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From: *DADS of Michigan PAC*

Subj: DADS OF MICHIGAN PAC 2009 LEGISLATIVE AGENDA

The following agenda has been developed to describe recommended changes to Michigan and US family law to help, preserve, and rebuild families for the benefit and well being of families and support welfare reform in the State of Michigan. Five major focuses for 2009 are: Presumption that Family is the building block for prosperity with Sharing Parenting and family involvement in most instances, Paternity, Parenting Plans, Child Support Compliance, and Family Education.

A summary of the issues is provided. Task force teams have been established on many of these issues to present expert testimony and develop talking points.

I. **Family Preservation**

A. Substantial Shared Parenting

Issue: Current statistics in the State of Michigan support the premise that there is an unwritten presumption that one parent will raise children (still 90% of the time), promoting single parenthood, and disadvantaging women and children. This has been confirmed and supported by statistics and testimony from the Legislature, Judges, Lawyers, and Counselors the U.S. Department of Human Services, and family and social policy think tanks.

Solution: Initiate and pass legislation to mandate substantial shared parenting with mandatory parenting plans, except in cases of unfitness.

B. 12 Best Interest Factors

Issue: The 12 Best Interest Factors for children do not consider shared parenting and do not consider current sociological changes of the extended family.

Solution: Create legislation to modify the Best Interest Factors to include ‘substantial equal parenting’ as a preamble to the Best Interest Factors. Create a task force to review, inspect and provide an assessment of the Best Interest Factors in the Child Custody Act of 1970, to include family, and financial care factors (who is best able to financially provide and support the children).

C. Inter-State / Intra-State / Immigration

Issue: Different Counties in Michigan and States have different application and guidelines of custody and child support using URESA. Illegal immigrants and temporary residents are moving children born in the U.S., to U.S. citizens, out of the country.

Inter-State / Intra-State [URES](#), [RURES](#) and [UIFSA](#)

Solution: Modify guidelines in Michigan, emphasizing enforcement of residency shared parenting and shared economic responsibility.

D. Change of Domicile and Interstate Transfer of Children

Issue: Parents frequently move more than 100 miles or out of country from the non-custodial parent. This is typically performed when a parent is planning a divorce, they move immediately before filing for divorce. Military service members experience this when the one parent (Man or Women) first moves to another Country. Illegal immigrants will move then file for divorce.

Solution: Provide education to Judges and DHS workers on the Michigan 100 mile rule for change of domicile. Implement fines and penalties, including mandatory change of custody when parents violate the rule without court approval. Enforce jurisdiction in the State of residency.

II. Paternity

A. Unwed Parents

Issue: Thirty eight percent (38%) of all children in Michigan are born by unwed parents. Un-wed Fathers are frequently 'duped' into being the Father of children that are not their biological children. Paternity tests prove that the alleged Father is not the biological Father one-third (1/3) of the time. The Michigan parentage law forces the Father to sign the parentage form which waves their right to a paternity test and legal council.

Solution: Modify the parentage act and specify mandatory DNA testing of unwed parents.

B. Truth in Paternity

Issue: Mothers may designate a Father without burden of proof or notification of the alleged Father. A default judgment of paternity occurs even when a Father is not properly notified.

Solution: Require a statement by medical institutions to the alleged Father of the rights of parents to request a DNA paternity test. Require confirmed notification to the alleged Father. Modify the parentage form to clearly explain the law. Strike subsection (g) of the parentage act.

C. Children born in unstable marriages

Issue: Married parents in unstable relationships may have children that are not of the paternal parents. Michigan law does not provide time to establish paternity, and judges refuse to allow paternity testing. Military personnel may return from service and find that they have new children, that are not their biological children, and divorce is eminent. Michigan law requires the paternal Father to pay child support for the biological Fathers children.

Solution: Allow the paternal parent to request a paternity test to establish the biological parent and increase the guideline for paternity testing to 5 years following divorce. Create a task force to reform paternity guidelines.

III. Child Support

A. Child Support Guidelines

Issue: The child support guidelines are required to be reviewed every four years and Michigan has failed to comply. The FOCB completed this work and recommended several revisions that were not enacted. The Supreme Court delegated this responsibility to the Legislature in 2004. The Michigan Legislature has failed to create a task force to review the guidelines.

- Solution:** Mandate that the child support guidelines be reviewed every two years and the child support calculators be adjusted to match the cost of raising children, based on income, and the U.S. Department of Labor, and Agriculture. Comply with the FOCB recommended and approved shared economic responsibility guidelines.
- B. Strict Liability
Issue: The Strict Liability law provides for 4 years in prison and a \$2,000 fine for failure to pay the court ordered child support amount on a single payment. Many people have been laid off from work in Michigan, and their child support usually not adjusted. These people obtain a criminal record and are then unable to obtain work
Solution: Repeal the Strict Liability law.
- C. 128 Day Rule for Overnight Visits and the Cliff Effect
Issue: Parents and courts are reluctant to award shared parenting due to the effects of the 128 day rule and it's affect on child support.
Solution: The child support formula should be revised to remove all references to 128 days of overnights. This was recommended by the FOCB in 2004 and the state rejected this common sense recommendation.
- D. Compliance, deviation of child support
Issue: Child support guidelines are inconsistently applied in Michigan counties.
Solution: Provide continuing education to Judges and Referees on the application of the child support guidelines and calculators. Provide the calculators online.
- E. Tax deduction
Issue: Dependent tax deductions favor one parent in joint custody situations
Solution: Allow for the division of dependent income tax deductions.
- F. Arrearage interest charge
Issue: Arrearages are assessed at 4% interest each year. The interest charges in Michigan are \$320,000,000 per year. Most of this (90%) is the burden of people making less then \$30,000 per year. Frequently the children are emancipated, beyond 18 years old. There is no authorized method to write off the bad debt, and the interest accumulates.
Solution: Eliminate interest charges on arrearages after children are emancipated. Provide a method (legislation) for Judges and FOC Referees to write off the bad debt.
- G. Child Support Payment Processing
Issue: Child support payment and account history frequently requires people to take off from work to make payments and review account history. Most major private vendors (banks and financial institutions) allow for Electronic Funds Transfer of payments, credit cards, debit cards, and online account review. Many checks are sent to the incorrect address.
Solution: Provide web based access and review of child support accounts, EFT transactions from checking and savings accounts, and credit/debit card processing as do every financial institution. This method will save the state in excess of \$120 million per year.
- H. Child support adjustment based on change of circumstances
Issue: DHS offices and the Judiciary have made it more difficult for a change of circumstances in child support adjustments. DHS offices typically will schedule a

hearing in 3-5 months. Most people laid off from work are not provided an adjustment in child support.

Solution: Child support tables should be provided online and calculations of child support can be computed in less than 1 hour. Customer service levels for reviewing child support should be consistent with industry retail businesses. The recalculation and calibration should be made within 12 business days by mail or immediately during a visit to the FOC office. Establish reprimand to employees for non-compliance.

IV. Visitation/Parenting time

A. Non compliance with parenting time guidelines

Issue: Custodial parents frequently refuse and interfere with visitation schedules. The State is not funded to support parenting time compliance.

Solution: When visitation complaints occur, prescribe mandatory parenting plans with financial penalties. Several parenting plan formats have been prepared in other states and are available through the Department of Health and Human Services. Establish penalties (bond), or change of custody criteria when visitation is obstructed.

B. Parenting plans

Issue: Judges frequently do not prescribe detailed parenting plans and frequently recommend the default Michigan parenting time guidelines even when parents provide a parenting plan, or reasonable and liberal visitation. Parenting plans prepared by consensual parents are thrown out and the Michigan parenting time guidelines are mandated.

Solution: Mandate a detailed parenting plan before a judgment of divorce. When consensual parents provide a parenting plan, accept the parenting plan, with penalties for non-compliance. Several key states have enacted legislation to mandate parenting plans.

C. Lack of visitation enforcement

Issue: Parenting plans and visitation is not enforced.

Solution: Establish misdemeanor charges and fines for non-compliance with visitation.

D. Access to medical records

Issue: Michigan medical institutions do not consistently support the release of medical information to non-custodial parents. This frustrates insurance reimbursement and medical payments.

Solution: Prepare a Legislative Memorandum to medical institutions that they must comply with federal law. Mandate that Michigan medical institutions provide medical information to non-custodial parents and unwed parents.

E. Access to education records

Issue: Michigan schools do not support the release of education and school information to non-custodial parents.

Solution: Prepare a Legislative Memorandum to educational institutions that they must comply with federal law for the release of school records to both parents. Mandate that Michigan schools provide report card and parent information to non-custodial parents as required by federal law. Schools should be required to treat both parents equally and allow both parents equal access to attend all school functions.

F. Drop off points for visitation

Issue: Parents may have conflict during the interchange of children during visitation.

Solution: Specify that Michigan schools and day care centers be designated as child pick-up and drop off points.

V. Conflict in Divorce/ Parent Education Programs

A. Conflict in Divorce/Parental Counseling

Issue: Parents may be in conflict during divorce and are unable to negotiate a settlement in the Best Interest of the Child and the family. The legal community will promote conflict, knowing that this mandates that a sole custody arrangement is in the Best Interest of the Child. Personal Protection Orders (PPO's) are liberally ordered and create a parental advantage.

Solution: (1) Provide legislation to authorize judges to mandate parental counseling classes at prescribed centers. (2) Prescribe a standard, mandatory parenting plan as a prerequisite for divorce.

B. Pre-marriage Counseling

Issue: Parents anticipating marriage are not educated on successful marriages, the consequences of divorce, and the Best Interest of the Child.

Solution: Support non-profit programs to educate parents (faith based and non-faith based) on successful marriages and the consequences of divorce to children).

C. Un-wed Parent Counseling

Issue: Unwed parents are not educated on successful marriages, effective parenting and communication skills.

Solution: Support non-profit programs to educate parents (faith based and non-faith based) on successful marriages.

D. Post Divorce Counseling

Issue: Parents are frequently in conflict following divorce and are unable to negotiate visitation and financial issues in the Best interest of the Children and the family.

Solution: (1) Provide legislation to authorize judges to mandate parental counseling classes at prescribed centers. (2) Prescribe a standard, mandatory parenting plan.

VI. State of Michigan FOC and DHS Offices

I. FOC Customer Service

Issue: FOC customer service is poor and inconsistent. There are inadequate performance metrics for processing payments, answering telephones, and resolving problems. There is frequent finger pointing between different agencies.

Solution: Prepare customer service metrics for FOC offices that are consistent with industry best practices for customer service.

J. FOC biases

Issue: FOC agents are inconsistent in applying the Best Interest Factors for the fitness of parents.

Solution: Develop a definition of fitness; the basis is the Best Interest Factors. If a parent is compliant with a majority of the definitions of the Best Interest Factors, except in cases of clear and convincing evidence and conviction of Domestic Violence, then they are considered fit parents. Have the SCAO or DHS prepare a standard report card (customer satisfaction survey) that is available at each FOC office. The report card is

distributed to the CAC, FOCB, and SCAO and is used to evaluate FOC employee's performance evaluation.

K. Citizens Advisory Committees (CAC)

Issue: CAC's have not been formed in many of the Michigan counties. FOC and court offices do not consistently support CAC activities because of funding. Several Judges have interfered with this mandate to avoid oversight.

Solution: Provide a directive to support the CAC formation as the customer service mechanism for FOC offices.

L. Court appointed psychologists

Issue: Court appointed Psychologist are frequently not trained properly in their evaluation of parental fitness.

Solution: SCAO or DHS prepare a standard report card (customer satisfaction survey) of court appointed psychologists and evaluators, available at each FOC office. The report card is distributed to the CAC and is used to evaluate FOC employees.

VII. Judicial Compliance

A. Judicial Performance Report Survey

Issue: Judges are inconsistent in the application of child support and visitation guidelines prepared by the State and Federal Government. Each State County maintains different parenting plans and applies the guidance differently.

Solution: (1) Provide continuing education to family court Judges and Referees on child support and visitation guidelines. (2) Prepare more detailed statistics on judicial performance in custody and visitation issues and provide court and Judge performance reports to the SCAO.

VIII. False Allegations

A. Domestic Violence

Issue: Domestic Violence is frequently used as a charge to alienate a child from one parent and family to obtain custody and obstruct legal proceedings. Current court rules presume a person is guilty, then removes access and visitation.

Solution: Require clear and convincing evidence as the measure for domestic violence and PPO's. Provide for a cool down period and education on Domestic Violence. Adjust court rules such that a person is presumed innocent until convicted.

B. Personal Protection Orders (PPO's)

Issue: PPO's are issued liberally, without evidence, and as a tool to obtain custody

Solution: Develop detailed guidelines for PPO's and require clear and convincing evidence before a PPO is awarded, or an individual is convicted.

C. Child Abuse, False Allegations

Issue: False allegations of child abuse are a custody tactic to alienate one parent and interfere with visitation and custody.

Solution: Require clear and convincing evidence of child abuse before interfering with visitation and custody awards. Provide for parent education of the laws on child abuse.

D. Parental Alienation

Issue: Parents alienate children from one parent by disparaging one parent.

Solution: Recognize parental alienation as an allegation and include in the Best Interest Factors or Parenting Time Guidelines.

E. Child Sexual Abuse, False Allegations

Issue: False allegations of child sexual abuse are used as a tactic to alienate one parent and interfere with visitation and custody.

Solution: Require clear and convincing evidence of child sexual abuse before interfering with visitation and custody issues. Provide for parent education of the laws on child abuse.

VIII. National Issues

A. Domestic Violence

Issue: Domestic Violence as specified in the Violence Against Woman Act assumes that all domestic violence is committed by men and provides funding primarily women's organizations. Almost 50% of domestic violence is initiated by women. All domestic violence shelters in Michigan offer marginal support and educational services for men.

Solution: Change the spirit and name of the law to include men and update the laws to provide funding and services to men. Increase education on domestic violence in schools.

B. Child Support Incentives Under the Bradley Amendment

Issue: Federal law under the Bradley Amendment provides financial incentives to states for the collection of child support. The incentives encourage the Michigan FOC to inflate child support awards and refuse adjustments due to change of circumstances; i.e. military activation, medical disability, unemployment.

Solution: Modify the law to add specificity to a change in circumstances to include a change in employment, military activation, medical disability, and require compliance to a child support adjustment.

C. Paternity Establishment

Issue: Nearly 38% of national paternity tests exclude the alleged Father, according to paternity testing centers. States have failed to acknowledge paternity establishment based on DNA testing and Fathers are frequently duped into being the Father of a child that is not theirs.

Solution: Establish laws to mandate paternity establishment based on DNA testing. Provide more discretion to Judges to modify paternity and child support awards based on paternity establishment.