



Hon. Mary Ellen Barbera, Chair
Chief Judge
Court of Appeals

Hon. Nathan Braverman
Baltimore City District Court

Hon. Kathleen Gallogly Cox, Vice-Chair
Conference of Circuit Judges

Hon. John W. Debelius, III, Chair
Conference of Circuit Judges

Hon. Thomas C. Groton, III
Circuit Court for Worcester County

Hon. Susan H. Hazlett
Harford County District Court

Hon. James A. Kenney, III, Chair
Retired and Recalled Judges
Committee

Hon. Laura S. Kiessling
Circuit Court for Anne
Arundel County

Hon. Peter B. Krauser,
Chief Judge
Court of Special Appeals

Hon. Karen H. Mason
Circuit Court for Prince George's
County

Hon. John P. Morrissey,
Chief Judge
Chief Judge, District Court

Hon. Gerald V. Purnell
Worcester County District Court

Hon. Alan M. Wilner, Chair
Standing Committee on Rules of
Practice and Procedure

Hon. Eugene Wolfe
Montgomery County District Court

Hon. Susan Braniecki, Vice-Chair
Conference of Circuit Court Clerks

Pamela Harris
State Court Administrator

Jennifer Keiser, Chair
Conference of Court Administrators

Carol Llewellyn-Jones,
Administrative Clerk
District Court

**Robert Prender, Administrative
Clerk**
District Court

Hon. Wayne A. Robey, Chair
Conference of Circuit Court Clerks

Timothy H. Sheridan,
Vice-Chair
Conference of Circuit Court
Administrators

Roberta Warnken, Chief Clerk
District Court

Faye Matthews, Secretary
(410) 260-1257

MARYLAND JUDICIAL COUNCIL

MARYLAND JUDICIAL CENTER

580 Taylor Ave
Annapolis, MD 21401

Meeting Minutes

February 17, 2016

Judicial Council Members Present:

Hon. Mary Ellen Barbera, Chair	Hon. Alan M. Wilner
Hon. Nathan Braverman	Hon. Eugene Wolfe
Hon. Kathleen Gallogly Cox	Hon. Susan R. Braniecki
Hon. John W. Debelius, III	Pamela Q. Harris
Hon. Susan H. Hazlett	M. Carol Llewellyn-Jones
Hon. Karen Murphy Jensen	Jennifer Keiser
Hon. James A. Kenney, III	Robert Prender
Hon. Laura S. Kiessling	Hon. Wayne A. Robey
Hon. Peter B. Krauser	Timothy Sheridan
Hon. Karen H. Mason	Roberta L. Warnken
Hon. John P. Morrissey	

Others Present:

Hon. Patrick L. Woodward	Connie Kratovil Lavelle
Hon. Gary G. Everngam	Mala Ortiz
Faye Matthews	Pamela Cardullo Ortiz
Lou Gieszl	Stacey Saunders
Gregory Hilton	Suzanne Schneider
Melinda Jensen	Nisa Subasinghe
Lauren Kitzmiller	Angelita Plemmer Williams
Stephane Latour	Eliana Pangelinan

A meeting of the Judicial Council was held Wednesday, February 17, 2016, at the Judiciary Education and Conference Center, beginning 9:30 a.m. Chief Judge Barbera began the meeting by welcoming everyone and then called for approval of the minutes of the previous meeting.

Judge Kenney moved for approval of the minutes of the January 20, 2016 meeting, followed by a second to the motion by Judge Braverman. The motion passed.

1. Court Technology Committee Update

Judge Everngam updated the Council on the eWarrants project. He commented that the Court Technology Committee had worked to implement a secure methodology to electronically execute warrants.

The Judicial College's School of Technology Services has developed a training plan that will ensure every judge will be instructed on how to electronically execute warrants by the end of June. Judge Everngam noted that enhancements to the program has removed restrictions on the size of the email and attachments. Additionally, judges are able to edit the pdf's with the Adobe software.

Judge Everngam also presented the Judicial Information Systems (JIS) Information Security Policy for the Council's consideration, noting that the policy was last reviewed in 2010 by the Technology Oversight Board. The policy puts into place safeguards to ensure the protection of Judiciary data. It covers the use of hardware and technology devices, as well as the governance of licenses. The policy applies to all users of Judiciary technology assets to include information that is generated, received, stored, transmitted, or printed. The policy provides for an annual review of the same each January by the JIS security department with recommendations to the Court Technology Committee. The policy addresses the various security controls and the levels therein. It also provides a means by which judges can designate other individuals to act on his or her behalf with respect to procedures such as changing passwords.

While the policy provides for the availability of the public information under the Public Information Act, Judge Wilner suggested that the language is not necessary because the matter is covered by the Maryland Rules. Also, it was suggested that "In conjunction with the Judiciary" in Section 6.9, be removed and the paragraph begin with "JIS shall..."

Pamela Harris moved to recommend adoption of the policy with the following changes – remove the language referencing the Public Information Act in Section 3.2 and strike "In conjunction with the Judiciary" in Section 6.9. Following a second by Judge Kenney, the motion passed. Chief Judge Barbera adopted the policy with the noted changes.

2. Domestic Law Committee Update

Judge Cox thanked the Guardianship Workgroup of the Domestic Law Committee for its work on the Guardianship Workgroup Report and Recommendations. She commended Judge Jensen for her leadership of the workgroup, which included consultants from the various stakeholder groups who were able to provide valuable insight and information. Judge Cox stated that she was before the Council seeking approval of the recommendations, as well as approval to transition the workgroup to a subcommittee because of the ongoing work that is going to be required. She then turned presentation of the report and recommendations over to Judge Jensen and Judge Woodward.

Judge Jensen recognized the hard work of Connie Kratovil-Lavelle and Nisa Subasinghe in their support of the workgroup, which included surveying the other 49 states to determine the measures instituted across the country to address guardianship issues. Judge Woodward echoed Judge Jensen's sentiments and applauded Chief Judge Barbera for including this very important issue as part of her priorities. He added that because of the increasing life expectancy of individuals, there undoubtedly will be more and more guardianship cases filed and, along with them, the likelihood of abuse unless the courts take a more active role.

The workgroup focused its attention on three primary areas: the appointment and training of court-appointed counsel for alleged disabled persons, the appointment and training of guardians of the person, and the appointment and training of guardians of the property. In addition to the substantive recommendations for each aforementioned area, the workgroup also formulated recommendations for implementation. There was a total of 22 recommendations.

The recommendations centered on the requirements for becoming a guardian, as well as subsequent training requirements following appointment. It was noted that often appointees don't have a clear understanding of their role as guardians; training is critical in clarifying that understanding. In addition, it was noted that the court should know up front if the guardian is unwilling or unable to fulfill his or her responsibilities. The pre-appointment training will help the guardians to make that determination. The recommendations for guardians of property include submission of a credit report, unless waived by the court.

Among the topics recommended to be covered during the training are an overview of the expected roles and responsibilities, an overview of guardianship, reporting requirements, ethical considerations, termination of the guardianship, understanding disabilities and diminished capacity, accessing community resources, and post-appointment court proceedings. It was stressed that the training should be done in person between the potential guardian and someone experienced in the respective area.

The implementation recommendations include establishing mechanisms to improve the screening of guardians and exploring ways to run national criminal background checks on all potential guardians. Other implementation recommendations include developing a guardianship webpage that includes information about guardianship laws and procedures in Maryland, guardianship forms and instructions, and other resources for attorneys and individuals serving as or desiring to serve as guardians. The workgroup recommended that every jurisdiction have dedicated guardianship staff, as well as dedicated, specially-trained guardianship judges.

Judge Wilner inquired as to whether standby guardians were considered in the recommendations since it was indicated that temporary guardians are excluded. Judge Woodward noted that while they were not considered, they need to be addressed. Ms. Harris noted that the recommendations did not address a requirement for bonds. Judge Woodward stated that it's getting increasingly more difficult for individuals to obtain bonds, even with good credit ratings. Bond companies apparently are concerned about guardians having access to large amounts of money and property with only an annual accounting. He added that the provision for bonds is in the rules, but the court can waive the requirement. Judge Woodward suggested the workgroup review and make a recommendation regarding factors to be considered in making good cause determinations in waiving the requirement for a bond, possibly raising the bar in that area. Judge Cox added that it is more and more difficult to get family members bonded, adding that the recommendations call for a review of the forms and require guardians to obtain an order of court to withdraw money over a certain amount.

Susan Braniecki asked if the workgroup considered an exemption for guardianship of the person if the Department of Aging is the guardian. Judge Cox responded that unless waived, the agents of the Department would have already completed the training so they would be exempt.

Judge Jensen added that there is a distinction between public and private guardianship and that private guardianships tend to be more problematic. As such, the focus of the report and recommendations is on private guardianships.

Judge Wilner noted that the recommendations focused on the circuit courts and asked if any consideration was given to applying them to the Orphans' Courts. Judge Woodward responded that the focus was guardianship of adults, but the recommendations could be modified to deal with guardianships of minors.

Judge Hazlett expressed concern about the ability of the Education Committee and Judicial College to manage all of the recommended training. Judge Woodward responded that the subcommittee or workgroup would take the lead and work out the logistics with the Education Committee. Ms. Kratovil-Lavelle noted that the Department of Family Administration has developed a curriculum for one of the three tracks that includes materials from all over the state and country. The only assistance that would be required is technical support. Ms. Harris stated that consideration should be given to the bar providing the training. Chief Judge Morrissey commented that fundamentally it is not the courts' role to train attorneys, from both an operational and ethical standpoint, because the attorneys appear before the court.

Judge Cox expressed that while the sentiment has been that the Judiciary should not be in the business of training attorneys, this matter is different because the Judiciary is the guardian and the appointed guardians serve as its agents. The Judiciary should ensure that they are appropriately trained and that the case management processes are in place to help eliminate problems.

Judge Jensen noted that the workgroup is not recommending that the Judiciary necessarily has to provide the training, but rather discuss how the training can be provided, as well as determine the types of training that already exists. She added that regardless of who provides training, it has to be standardized across the Judiciary.

Judge Hazlett stated that to the extent that the Education Committee serves as the clearinghouse, then that is within its role. Recommendation 17 speaks to continuing education and mentoring programs, which are beyond that responsibility.

Chief Judge Barbera noted that in light of the questions raised, as well as others that will be generated as a result, the Council should not recommend adoption at this point, even in concept. Additionally, the workgroup should not be disbanded at this time because further discussions can benefit from the input of the consultants that have been involved thus far. She expressed concern about the Judiciary training the attorneys that then appear before the court. Chief Judge Barbera noted that the issue should be considered and carefully analyzed.

Judge Cox stated that she would like to present the report and recommendations to the Conference of Circuit Judges for discussion and comment. She then would like for the workgroup to consider the Conference's comments before bringing the report and recommendations back to the Council. Ms. Harris asked that the Internal Affairs Division of the Administrative Office of the Courts be included in the discussion.

Judge Kenney moved that further discussion of the report and recommendations of the Guardianship Workgroup be tabled until the workgroup is able to consider the Council's comments, as well as those of the Conference of Circuit Judges and factor them in the recommendations. Judge Kiessling seconded the motion. The motion passed.

Chief Judge Barbera commended everyone who worked on the report and recommendations.

3. Court Access and Community Relations Committee Update

Pamela Ortiz, on behalf of the Court Access and Community Relations Committee, presented an expanded list of court-sponsored services for which interpreters can be provided. She provided a brief history stating that former Chief Judge Bell issued a memorandum in 2013 in which he noted that the Judiciary had adopted a language access plan that included the provision of interpreters for court-ordered services. A number of Judiciary departments met to discuss the list of services and suggested that it be expanded to ensure individuals have interpreters for all court-ordered services. Mala Ortiz asked if prehearing conferences in the Court of Special Appeals could be added to the list of court ordered services.

Ms. Ortiz noted that adoption of the expanded list would not require a change in the interpreter rule because the rule simply references the list.

Judge Kenney moved to recommend approval of the changes to the list of *Court Services for Which Interpreters are Appropriate* with the modification to add prehearing conferences in the Court of Special Appeals. Following a second by Judge Hazlett, the motion passed.

4. For the Good of the Order

Chief Judge Barbera congratulated Judge Mason on her appointment to the Circuit Court for Prince George's County.

Action Items

- Judge Cox will present the report of the Guardianship Workgroup to the Conference of Circuit Judges with comments back to the Guardianship Workgroup.

There being no further business, the meeting adjourned at 11:07 a.m. The next meeting is scheduled for March 16, 2016, beginning 9:30 a.m.

Respectfully submitted,



Faye Matthews