



MARYLAND JUDICIAL CENTER

580 Taylor Ave
Annapolis, MD 21401

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Hon. John W. Debelius III, Chair
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Court of Special Appeals

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Conference of Circuit Court Administrators

Roberta Warnken, Chief Clerk
District Court

Faye Matthews
Secretary
410-260-1257

MARYLAND JUDICIAL COUNCIL Minutes November 16, 2016

Judicial Council Members Present:

Hon. Mary Ellen Barbera, Chair	Hon. Alan M. Wilner
Hon. Kathleen Gallogly Cox	Hon. Susan R. Braniecki
Hon. John W. Debelius III	Pamela Harris
Hon. Thomas C. Groton, III	M. Carol Llewellyn-Jones
Hon. Susan H. Hazlett	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. Michael J. Stamm	Mala Ortiz
Faye Matthews	Eliana Pangelinan
Mark Bittner	Jonathan Rosenthal
Lou Gieszl	Stacey Saunders
Abigail Hill	Suzanne Schneider
Gregory Hilton	Nisa Subasinghe
Melinda Jensen	Lauren Troxell
Kevin Kane	Tracy Watkins
Kelley O'Connor	Alan Wiener

A meeting of the Judicial Council was held Wednesday, November 16, 2016, at the Judicial College 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, which were deemed approved as drafted.

1. Joint Workgroup on Human Trafficking -- Update

Lou Gieszl briefed the Judicial Council on the work of the Joint Workgroup on Human Trafficking, which was formed by Chief Judge Barbera in March 2016. The workgroup was charged with developing an education plan on human trafficking issues for judges and magistrates, as well as for appropriate Judiciary staff and justice partners. In addition, the workgroup was asked to identify resources and best practices for victims of human trafficking who interface with the courts, and to review information regarding programs in Maryland and other states.

The workgroup is chaired by Judge Barbara Waxman and its membership comprises judges and other individuals from within the Judiciary. The workgroup established four subgroups to provide focused attention in the areas of education, best practices, victim services, and legislation. In an effort to ground the members in the issues concerning human trafficking, guest presenters attended the first two meetings to discuss human trafficking from a law enforcement perspective, as well as to provide information regarding victim services and barriers to victims after having been recovered. In addition, the workgroup was briefed on ways judges might become involved with human trafficking issues in cases that seemingly are not trafficking-related. The members also received written materials on human trafficking.

Mr. Gieszl informed the Judicial Council that the workgroup collaborated with other agencies within Maryland on a federal grant, Improving Outcomes for Child and Youth Victims of Human Trafficking: A Jurisdiction-Wide Approach. Maryland, only one of two states to receive a grant, was awarded \$1.8 million three-year grant. The Judiciary will use a portion of the funds to develop an educational curriculum for judges and magistrates regarding characteristics of human trafficking cases, child and youth victims, and courtroom implications when dealing with human trafficking issues. As a result of receiving the grant, the workgroup requested approval to extend the workgroup until December 31, 2017, in order to implement a number of recommendations, including establishing a plan on how to multi-track human trafficking cases and to develop a plan for trainings and training materials in line with the grant commitment. Other recommendations included a session at the 2017 Judicial Conference on human trafficking and training for attorneys and others who are likely to see and are able to report suspected trafficking. The training will not be provided by the Judiciary, but rather the Judiciary will share materials with the bar associations and provide support to other professional organizations.

Judge Wilner inquired as to whether the workgroup is looking at labor trafficking to which Mr. Gieszl responded in the affirmative, but noted that sex trafficking has emerged as the more urgent issue.

Judge Mason moved to approve the workgroup's request for a one-year extension. Following a second by Chief Judge Morrissey, the motion passed.

Chief Judge Barbera expressed her appreciation for the great work of the workgroup and congratulated the members on the grant award.

2. Social Media Policy and Guidelines

Chief Judge Morrissey discussed the Guidelines Concerning the Use of Social Media by Judges and Judicial Appointees of the Maryland Judiciary. He noted that the primary concern articulated by the District Administrative Judges was the requirement for judges and judicial appointees to monitor their family members and friends social media accounts. Chief Judge Morrissey added that the judges suggested adding language “to the extent reasonably possible.” Discussion ensued amongst the Judicial Council members regarding this provision with several expressing concern about a judge’s or judicial appointee’s ability to monitor usage for a variety of reasons. An alternative offered was for judges and judicial appointees to advise family members and friends of any constraints and provide appropriate guidance, rather requiring that the social media accounts be monitored. Following additional discussion, Judge Hazlett moved that the language in the section titled Posts by Family and Friends (1) be modified to read “Judges and Judicial Appointees should advise friends and family members regarding the judges and judicial appointees limitations with respect to social medial and to look for posts about them and alert them of any that might have adverse effects” and that the spelling of Chief Judge Barbera’s name be corrected in the Background and Charge section. Following a second to the motion by Judge Kiessling, the motion passed.

Wayne Robey then discussed the Guidelines for the Use of Social Media by Clerks of the Circuit Courts. He stated that the guidelines had been approved by the Conference of Circuit Court Clerks and that they satisfy the Clerks of Court concern regarding their ability to use social media in their capacity as elected officials, as well as demonstrate their commitment to adhere to established guidelines in line with the rest of the Judiciary.

It was suggested that “The” be added to the title before “Clerks” to add clarity that the guidelines apply to the appointed or elected Clerk of Court and not clerk staff. Mr. Robey accepted the change.

The discussion then moved to the Maryland Judiciary – Social Media Policy, which covers all other Judiciary personnel. There was some concern expressed with respect to the Scope and whether the language was ambiguous. After some discussion, Judge Debelius moved that the language be modified to read “This policy applies to all official users (hereafter “employees”) of Judicial Branch systems, except as otherwise provided in this paragraph. This policy does not apply to any individuals covered by the Guidelines Concerning the Use of Social Media by Judges and Judicial Appointees of the Maryland Judiciary or the Guidelines for the Use of Social Media by The Clerks of the Circuit Court.” Following a second by Judge Mason, the motion passed.

Chief Judge Barbera thanked everyone for their work on the policy and guidelines. A transmittal communication will be drafted addressing all three documents and sent to everyone in the Judiciary.

3. Strategic Initiative Updates

Court Technology Committee. Mark Bittner, in Judge Everngam's absence, briefed the Judicial Council on the work of the Court Technology Committee. He stated that MDEC was implemented in the Upper Eastern Shore counties in July 2016, with the Lower Eastern Shore counties on schedule for a December 2016 implementation, followed by the Southern Maryland counties (except Prince George's County) in June 2017. A subcommittee of the Court Technology Committee is working with a subcommittee of the Rules Committee to assess the current functionality of CaseSearch and to determine the way forward with respect to a rewrite of the system, as well as the resultant modifications to the Access Rules. Other highlights included a joint effort by three Judicial Council committees to develop a Judiciary dashboard website containing court statistics and other metrics, improving data sharing between justice partners, implementing of the e-Warrant for trial court judges, and establishing secondary network capabilities for counties in advance of the MDEC implementation.

Mr. Bittner also stated that ServiceNow had been implemented and that users now have multiple ways to request service from JIS and are also able to track the progress of their service tickets. JIS also is implementing Self-Service Password Reset, which allows users to reset their own Windows login passwords. In the coming months, the password protocol will be changed to at least a 12-character password that will remain active for six months instead of the current 90-day reset period.

Judge Debelius inquired about the existence of an email deletion policy, noting that email is subject to the Public Information Act. Mr. Bittner responded that a policy does not exist, but he will take the matter to the Court Technology Committee for consideration. Judge Wilner stressed the importance of a deletion policy and stated that the Rules Committee is reviewing the Access Rules and their applicability to email.

Mr. Bittner then discussed some of the planned activities for the upcoming year, including implementing Phase II of the Attorney Information System, which will enable attorneys to access the portal to update contact information and pay Client Protection Fund assessments on line; establishing a pilot for virtual desktop infrastructure, which will allow the user to access his or her files from anywhere through any device; expanding the use of juror kiosks statewide; and implementing a security awareness program in collaboration with the Judicial College.

Timothy Sheridan commented on the importance of addressing the issues that result from having part of the Judiciary on the JIS network and portions of the Judiciary on county networks. He stressed that the Court Technology Committee review the issues and formulate recommendations on the way forward.

Domestic Law Committee. Judge Cox briefed the Judicial Council on the work of the Domestic Law Committee, acknowledging the great support provided by the Family Department staff. The major initiatives over the last year include finalizing the Guardianship Workgroup Report and Recommendations that were formulated to improve how courts appoint guardians and counsel, as well as how cases are monitored post-appointment; drafting position papers on

legislation affecting domestic law and revising forms and other materials in response to legislation; developing child counsel curriculum; implementing recommendations from the 2014 report of the Commission on Child Custody Decision-Making regarding expedited hearings and parenting plans; updating the Judges' Domestic Violence Resource Manual; reviewing policies and practices statewide regarding the collection of fees for family services provided through the courts; and reviewing processes and practices regarding Special Juvenile Immigrant Status cases.

Judge Cox noted that the Domestic Violence and Peace Order Subcommittee worked to update forms in response to legislative changes; addressed the issues/concerns articulated by CourtWatch regarding how domestic violence cases are handled by the courts; and stayed current on domestic violence issues, updating trainings as necessary.

The Guardianship Workgroup has continued to work to implement the recommendations approved by the Judicial Council in May. To that end, the workgroup is working with the Rules Committee regarding rules that address eligibility criteria and required training for court-appointed counsel and guardians of the person and property. In addition, the workgroup continues to identify court-appointed counsel training curriculum and synthesizing the existing training modules into one recommended curriculum.

The Court Process Workgroup reviewed the recommendations of the Commission on Child Custody Decision-Making and recommended a change to the Title 16 case management rules to require county administrative judges to develop a plan for expedited hearings in family law matters. The rule requires the DCM plans to contain specific factors in custody cases and requires a parenting plan. The outgrowth is intended to be better-facilitated mediation and court proceedings. The amendments were adopted by the Court of Appeals and were effective July 1, 2016. The workgroup is working with the Rules Committee to enhance the management of expedited, non-emergency cases. The workgroup is formalizing recommendations to present to the full committee regarding a mandatory template form parties would be required to submit in contested custody cases, as well as procedures for mandatory filing and permissive filing of parenting plans.

The Legislative Workgroup met weekly during the legislative session to review proposed legislation and recommend positions for the Judiciary. The workgroup submitted thirty-three position papers to the Legislative Committee.

Among the goals for the upcoming year are to continue implementation of the recommendations outlined in the Guardianship Workgroup Report and Recommendations, continue to develop new rules or practices regarding the use of parenting plans in contested custody cases, continue to work with the Rules Committee on rules for expedited hearings, and assist in the development of a statewide policy regarding fees for family law services.

Discussion ensued regarding fees charged by various jurisdictions in family law matters. Fees charged are used to provide additional family services. Judge Cox stated that the question to be answered is whether courts should charge a fee for services when there is a court employee compensated to provide the service. The Domestic Law Committee recommended that the

Judiciary adopt a policy that no fees be collected for services provided by court staff who are paid through the court's budget. The Committee also recommended that to the extent the fees have financed family services, the family services grant budgets be augmented to absorb the costs to avoid a decrease in services.

Chief Judge Barbera asked that the Committee compile the most up-to-date data available to address all areas where fees may be charged in family law matters and come back before the Judicial Council with recommendations for discussion.

Juvenile Law Committee. Judge Stamm briefed the Judicial Council on the work of the Juvenile Law Committee. He noted that the Committee has been very active in the area of expungements and with the work of the Human Trafficking Workgroup, stating that Maryland is ranked fifth in the country in juveniles involved in sex trafficking. He added that of the children involved in sex trafficking, 70 percent are foster care youth. In addition to the aforementioned, the Committee reviewed all juvenile justice and child welfare-related legislation submitted during the 2016 session and suggested positions for the Legislative Committee's consideration. The Committee also established a number of strategic initiatives, including responsiveness and adaptability to changing community needs and communicating effectively with stakeholders.

The work of the Committee included drafting a video script for CINA basics and a handbook for parents involved in child welfare matters; awarding eleven child welfare program grants to assist courts and other child welfare agencies in improving safety, permanency and well-being outcomes for abused and neglected children; continuing to update the Child Welfare Bench Book; researching the statewide usage of court costs and fines in juvenile justice cases to aid in drafting a Resolution Regarding Imposition of Court Costs and Fines on Juveniles in Juvenile Justice Proceedings; completing a final report outlining proposed procedures and recommendations for the courts' handling of juvenile expungements; and drafting proposed legislation amending the juvenile expungement law.

Judge Stamm stated that the Kinship Workgroup was established to explore kinship care options for children involved in child welfare matters. To that end, the workgroup collaborated with the Department of Human Resources regarding proposed policy changes to expand relative placements and amend COMAR regulations to provide the Department of Social Services directors more discretion and guidelines when approving placements in this area. The workgroup also is reviewing statewide practices of CINA cases that result in third party custody cases and began to discuss the development and implementation of border agreements between the State of Maryland and/or individual counties with adjacent jurisdictions that would extend permanency options for kinship families.

The goals for the upcoming year include further developing and implementing initiatives from the Juvenile Justice Summit; enhancing partnership with the Department of Juvenile Services to improve the outcomes for youth served in the juvenile justice system; developing and implementing court practices on addressing human trafficking in juvenile cases; and developing and implementing trauma-informed juvenile courts.

Judge Stamm stated that the federal FCCIP grant requires that the Executive Director of Social Services be a member of the subcommittee. He asked that the Judicial Council consider an exception to the committee structure and permit an external member to serve on the subcommittee.

Chief Judge Barbera thanked the committees for the hard work that has and continues to be done.

4. For the Good of the Order

Chief Judge Krauser announced that there will be a program commemorating the 50th anniversary of the Court of Special Appeals at the House of Delegates' chambers in the State House on January 6, 2017, at 4:00 p.m. He invited the Judicial Council.

Chief Judge Barbera congratulated Judge Mason and Judge Cox on successfully retaining their judgeship seats in the election.

Action Items

- The Domestic Law Committee will compile up-to-date information regarding fees in family law matters and formulate recommendations for the Judicial Council's consideration at its next meeting.

There being no further business, the meeting adjourned at noon. The next meeting is scheduled for December 21, 2016, beginning 9:30 a.m.

Respectfully submitted,



Faye Matthews