



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

Hon. Susan Braniecki, Chair
Conference of Circuit Court Clerks

Tamera Chester, Administrative Clerk
District Court

Hon. Kathleen Gallogly Cox, Chair
Conference of Circuit Judges

Hon. Amy J. Craig, Vice- Chair
Conference of Circuit Court Clerks

Hon. JoAnn M. Ellinghaus-Jones
Carroll County District Court

Pamela Harris
State Court Administrator

Hon. Susan H. Hazlett
Harford County District Court

Doug Hofstedt, Vice- Chair
Conference of Court Administrators

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

Hon. Laura S. Kiessling, Vice-Chair
Conference of Circuit Judges

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
District Court

Robert Prender, Administrative Clerk
District Court

Hon. W. Michel Pierson
Circuit Court for Baltimore City

Hon. Gerald V. Purnell
Worcester County District Court

Timothy H. Sheridan, Chair
Conference of Circuit Court Administrators

Roberta Warnken, Chief Clerk
District Court

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

Hon. Brett Wilson
Circuit Court for Dorchester County

Hon. Eugene Wolfe
Montgomery County District Court

Faye Matthews, Secretary
(410) 260-1257

MARYLAND JUDICIAL COUNCIL

Meeting Location:
Judiciary College Education and Conference Center
Upper Level 4 & 5

MARYLAND JUDICIAL COUNCIL Minutes March 15, 2017

Judicial Council Members Present:

Hon. Mary Ellen Barbera, Chair
Hon. Kathleen Gallogly Cox
Hon. JoAnn Ellinghaus-Jones
Hon. Susan H. Hazlett
Hon. James A. Kenney, III
Hon. Laura S. Kiessling
Hon. Peter B. Krauser
Hon. Karen H. Mason
Hon. John P. Morrissey
Hon. W. Michel Pierson
Hon. Gerald V. Purnell

Hon. Alan M. Wilner
Hon. Brett W. Wilson
Hon. Eugene Wolfe
Tamera Chester
Hon. Amy J. Craig
Pamela Harris
Douglas Hofstedt
Robert Prender
Timothy Sheridan
Roberta L. Warnken

Others Present:

Hon. Cynthia Callahan
Hon. W. Timothy Finan
Hon. Nicholas E. Rattal
Hon. Thurman H. Rhodes
Hon. Michael J. Stamm
Faye Matthews
Heather Akehurst-Krause
Gray Barton
Hope Gary
Lou Gieszl
Melinda Jensen
Sarah Kaplan

Kelley O'Connor
Pamela Ortiz
Eliana Pangelinan
Suzanne Pelz
Jonathan Rosenthal
Suzanne Schneider
Dionne Smith
Nisa Subasinghe
Andrew Tress
Lauren Troxell
Jamie Walter
Paul Williamson

A meeting of the Judicial Council was held Wednesday, March 15, 2017, at the Judiciary College Education and Conference Center, beginning 9:40 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. Attorney Information System – Update

Pamela Ortiz and Dionne Smith briefed the Council on Phase II of the Attorney Information System (AIS), which will be implemented in two releases. In April 2017, the Court of Appeals' bar admissions legacy application will be decommissioned, the consolidation of core information for Maryland attorneys will be completed, and attorneys will be able manage and update personal information. In June 2017, the Client Protection Fund's (CPF) legacy accounting system will be retired and attorneys will be able to pay their CPF assessments online, as well as view their billing and payment history.

Amongst the many features that will be available with the implementation of Phase II are the ability to track Bar admissions and related activity; the ability to track information on special authorization attorneys, including terms, attorney supervisors, and pro bono or CPF assessment designation; the ability to track information on law students, including terms, program type, and employer; and the ability to track the life cycle of an attorney, including whether the attorney was a law clerk or a special authorization attorney. Registered attorneys will be able to access the Attorney Portal where they will have access to their profile records, which includes personal information, attorney status, disciplinary actions, administrative actions, and CPF payment history.

Ms. Ortiz stated that all Maryland attorneys will receive information regarding the AIS and the registration process. They will be asked to review and update select information, such as their addresses. Because of the number of attorneys, there will be a staggered rollout, beginning April 3, with Maryland Judiciary-employed attorneys, judges, and magistrates included in the first rollout. Attorneys will be required to self-identify as federal or administrative law judges.

Ms. Smith noted that the AIS infrastructure allows for varying access levels, determined by the user's role. The Judicial College is producing three webinars to assist users in navigating the system. Ms. Smith stated that attorneys will be required to have an address and email address on file.

Chief Judge Barbera thanked Ms. Smith, Ms. Ortiz, JIS, and everyone who helped to bring this project to fruition, adding that it was an enormous undertaking.

2. Data Dashboard

Judge Thurman Rhodes and Jamie Walter briefed the Council on the Judiciary's Data Dashboard project. Judge Rhodes stated that a joint subcommittee of the Court Technology, Court Operations, and Court Access and Community Relations Committees was formed to create a data dashboard to display case-related statistical information on the Judiciary's Internet site. Ms. Walter added that all of the information in the current version of the data dashboard already is available in the statistical abstract and case assessment reports that are published annually. The data dashboard displays the information in a graphical format that is interactive. In addition, the information can be downloaded into an Excel spreadsheet for further manipulation and analysis. Ms. Walter stated that plans for the next iteration is to include a direct interface to the source

systems, which will permit the information to be refreshed more frequently.

Judge Hazlett moved that the Data Dashboard be approved for posting to the Judiciary's Internet site. Following a second by Pamela Harris, the motion carried.

Chief Judge Barbera thanked the subcommittee for its work.

3. Committee Updates

Domestic Law Committee. Judge Callahan briefed the Council on the work of the Domestic Law Committee, acknowledging the hard work and support of the staff. She highlighted a few of the committee's initiatives, including the Parenting Plan Project and implementation of the recommendations from the Guardianship Workgroup. The Parenting Plan Project, an initiative of the Court Process Workgroup, will result in the development of a process by which parents will work together to develop a plan that includes parental responsibility and decision-making authority, parenting time, information sharing, transportation and exchange of children, child care, communication, and other issues. The process is being designed to ensure the parents have a voice and that courts do more facilitation as opposed to directing with respect to custody and visitation discussions. The workgroup's goal is to make the process mandatory for parents through the promulgation of a Rule. Approximately two-thirds of the states currently require parenting plans either by Rule or statute.

Judge Callahan reported that implementation of the Guardianship Workgroup's Phase I recommendations, which include training of guardians of persons and property, as well as court-appointed counsel is in process. Phase II will include updating the forms to comport with the Rules, addressing judicial training and resources, incorporating alternative dispute resolution in guardianship cases, and enhancing court monitoring of guardians and guardianship cases. Judge Callahan noted that guardianship cases are becoming increasingly more contested and that the introduction of alternative dispute resolution in the process will help family members work together toward more productive outcomes.

Chief Judge Barbera thanked the committee for its work and Judge Callahan for taking on the responsibility as chair of the committee.

Juvenile Law Committee. Judge Stamm briefed the Council on the work of the Juvenile Law Committee, commenting that the committee continues to strive to make juvenile law more effective and efficient. The committee is working with the Joint Workgroup on Human Trafficking on a multi-faceted approach to address human trafficking. Judge Stamm noted that 7 out of 10 young people found to be associated with human trafficking are in the foster care system. A curriculum and accompanying materials are being developed for the upcoming Judicial Conference. In addition, the committee is working on bench cards to help judges identify when a young person may be involved in sex trafficking.

Judge Stamm noted that the Maryland Three Branches Institute is working on multi-branch response to issues in the juvenile justice system, including pre-natal drug and alcohol

addiction, and sex trafficking. The aforementioned topics and the Judiciary's approach to the same will be presented at the C.A.N.D.O. conference later in the year. Other committee initiatives include the establishment of the Juvenile Standards and Training Workgroup, which will formulate recommended standards for assigning State's Attorneys and Public Defenders to juvenile cases, as well as appropriate training standards; the review of all juvenile forms for completeness and accuracy; and plans to work with the Rules Committee to update the juvenile rules.

Judge Stamm thanked the committee staff for their hard work and support of the committee initiatives.

Chief Judge Barbera thanked Judge Stamm and the committee for their active thinking and for working collaboratively with justice partners and other committees.

Legislative Committee. Judge Finan updated the Council on the 2017 legislative session and the work of the Legislative Committee. He noted that the committee meets every Wednesday via conference call to address legislative matters, to review feedback from other committees on relevant legislation, to determine whether the Judiciary should take a position on certain legislation, and to discuss any planned testimony. Judge Finan thanked the staff for their hard work. While noting that things are still dynamic at this point, Judge Finan highlighted the following bills:

- **HB 476/SB 746 – *District Court Commissioners – Residency in Contiguous County.*** These bills were included in the Judiciary's package. They would authorize District Court commissioners to serve in counties contiguous to the counties in which they reside. HB 476 passed the House and the SB 746 received a favorable vote from the Senate Judicial Proceedings Committee.
- **HB 1219/SB 912 – *Children in Need of Assistance – Sex Trafficking.*** These bills were included in the Judiciary's package. They would alter the definition of sexual abuse in various provisions of law that relate to a child in need of assistance to include sex trafficking of a child regardless of the victim's relationship with the alleged abuser. HB 1219 passed the House and SB 912 received a favorable vote from the Senate Judicial Proceedings Committee.
- **SB 714 – *Criminal Procedure – Indigent Individual – Bail Review and Indigency Determination.*** This bill would require a District Court commissioner to determine whether an individual qualifies as indigent for purposes of eligibility for representation by the Office of the Public Defender. Additionally, if a commissioner sets bail for an indigent individual as defined under § 16-101 of the Criminal Procedure Article, a bail review hearing would have to be held before a judge within in 24 hours to determine if the individual is indigent without resources for bail and whether bail is necessary to ensure the individual returns to court or for public safety reasons. The 24 hour requirement had been removed, but the indigency provision remained at the time of the Council meeting. The Judiciary testified in opposition to this bill.
- **SB 250 – *Civil Proceedings – Continuances Agreed to by All Parties.*** This bill would require a court to continue any part of a civil action or civil appellate proceeding if all

parties agree, on motion of any party. The Judiciary testified in opposition to the bill, which would give litigants control over court scheduling. There has not been a vote on this bill.

- **HB 840 – *Criminal Procedure – Partial Expungement*.** This bill would require the Administrative Office of the Courts, in collaboration with the Central Repository Information Technology Team, to submit annual reports, for a specified time period, to the General Assembly on the estimated cost for implementation of partial expungements. Effective October 2021, the bill would repeal the prohibition on expungement of a charge within a unit unless all other charges in the unit are eligible, would authorize an individual to file a petition for a partial expungement, and would require the court to order that a police or court record regarding the charges eligible for partial expungement be removed from the Judiciary’s public website. The Judiciary testified in opposition to the bill as drafted. There has not been a vote on this bill.
- **HB 508/SB 368 – *Child Custody – Legal Decision-Making and Parenting Time*.** These bills would establish factors for courts to consider in custody cases involving legal decision-making and parental responsibility. The court also would have to articulate the consideration and weight given to each factor in the record. There has not been a vote on these bills.
- **HB 1082/SB 1060 – *Heroin and Opioid Education and Community Action Act of 2017 (Start Talking Maryland Act)*.** These bills would require the State Court Administrator to assess drug court programs and determine how to increase the programs to meet each county’s needs. They also would require the Governor to include a general fund appropriation of at least \$2 million in Fiscal Year 2019 for the Administrative Office of the Courts for the purpose of awarding grants to expand the scope of drug court programs. There has not been a vote on these bills.
- **HB 1191/ SB 378 – *Clerk of Court – Prohibition Against Ruling*.** These bills would prohibit a Clerk of Court from ruling on any motion or application. The Judiciary testified in opposition to these bills. It was noted that Clerks of Court do not make rulings on motions. There has not been a vote on these bills.
- **HB 1424/SB 727 – *Criminal Procedure – Firearms – Transfer*.** These bills would require the court to inform individuals convicted of disqualifying crimes of the prohibition against the possession of firearms, as well as the requirement to provide proof of transfer of the firearms to the Department of Public Safety and Correctional Services. The notice to the defendants can be verbal or written. The Judiciary testified in opposition to the bills. The bills put the responsibility to supervise firearms surrender on the Judiciary. The District Court and the Conference of Circuit Judges are developing language to include on post-trial summaries that will advise defendants of the prohibition and reporting requirement.
- **HB 1487 – *Landlord and Tenant – Repossession for Failure to Pay Rent – Procedures*.** This bill would require an action for repossession for failure to pay rent to contain a statement indicating whether the property to be repossessed is an affected property as defined in the Environmental Article § 6-801. The bill also sets out other procedures for the District Court to follow in failure to pay rent cases. The bill was opposed, as drafted, by the Legislative Committee. There has not been a vote on this bill.

In addition to the aforementioned bills, Judge Finan also discussed a number of bills related to pretrial release, all of which except one was opposed by the Legislative Committee. The sentiment is that the Rules process already is working. There have not been any votes on the pretrial release bills.

Chief Judge Barbera thanked the committee for its work and Judge Finan for taking on the responsibility as chair of the committee.

Retired and Recalled Judges Committee. Judge Kenney briefed the Council on the work of the Retired and Recalled Judges Committee, stating that the committee's mission is to represent the interests of the senior judges and integrate them into the system as seamlessly as possible. He added that the committee fields a lot of calls from senior judges, as well as judges who are considering retirement. Judge Kenney discussed *Hot Topics*, the newsletter for senior and retired judges, as well as the committee planning for the Senior Judges Reception at the upcoming Judicial Conference. He also noted that the Maryland State Bar Association approached Chief Judge Barbera regarding a senior judge award. A workgroup of the committee is working on the criteria for the award. Judge Kenney stated that among the concerns addressed by the committee are issues regarding adequate and timely notice about possible gaps in the pay checks for regular service and senior status, gaps in health insurance and Medicaid, and questions about how MDEC impacts senior judges.

Chief Judge Barbera thanked Judge Kenney and the committee for their hard work.

Specialty Courts and Dockets Committee. Judge Rattal briefed the Council on the work of the Specialty Courts and Dockets Committee. He acknowledged the staff for their hard work and support. The committee has three subcommittees and one workgroup. The Business and Technology Case Management Subcommittee continues to evaluate existing business and technology case management programs, following which recommendations for improvement will be established. Members of the subcommittee, along with other judges, participated in a symposium, *Taking Stock of Maryland's Business and Technology Case Management Program and Business Courts around the Country*, sponsored by the Business Law Section of the Maryland State Bar Association and its *ad hoc* task force. During the symposium, a number of issues regarding managing complex business and technology cases were addressed, such as centralization and administration, resources for courts, and selection and assignment of cases. The subcommittee is drafting recommendations based on the issues discussed, which it will present to the committee for consideration to help guide the future direction of the management of business and technology cases. The committee will present its final recommendations to the Conference of Circuit Judges and then to the Council. Judge Rattal noted that of the 110 business and technology cases filed in Fiscal Year 2016, 104 were filed in Baltimore City and Montgomery County. He added that some courts do not have any judges trained in and assigned to business and technology cases.

The Mental Health Subcommittee focused on three areas: competency hospital admission delays, residential treatment, and education. The subcommittee is working to determine where the most serious competency delays exist. In addition, the subcommittee is working to ensure

that defendants who have regained competency, are not dangerous, and have a workable community release plan are promptly returned to court. Judge Rattal stated that 120 new beds have opened up, but delays still exist at Perkins, while regional hospitals are complying with the courts' admissions orders. There is a 90-day delay in residential treatment. In July 2017, the funding model will switch from block grants to fee for service, which is anticipated to present problems with individuals obtaining service. Members of the subcommittee, along with representatives from several state agencies, the Office of the Public Defender, and treatment providers are attempting to get answers to a number of outstanding questions.

Judge Rattal stated that there are fifty-five operational problem-solving courts that served more than 3,900 people in Fiscal Year 2016. Three courts have drafted applications for new problem-solving courts. He noted that while juvenile drug court numbers have decreased, the numbers are up in the other areas. The Problem-Solving Courts Subcommittee provided training to several hundred individuals during the year, addressing topics such as the basics of problem-solving courts and best practices in DUI court, as well as symposiums for the various problem-solving court areas. The attendees included judiciary personnel, justice partners, and practitioners.

Chief Judge Barbera thanked Judge Rattal and the committee for its hard work.

4. For the Good of the Order

Chief Judge Barbera welcomed Judge Pierson to the Council. She then acknowledged Chief Judge Krauser, on the occasion of his impending retirement, for his commitment and dedication to the Council and the Judiciary. She commented that he has done remarkable work as the Chief Judge of the Court of Special Appeals and will be missed. Chief Judge Krauser expressed his gratitude for being able to serve under Chief Judge Barbera's leadership.

There being no further business, the meeting adjourned at noon. The next meeting is scheduled for May 31, 2017, beginning 9:30 a.m.

Respectfully submitted,



Faye Matthews