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Conference of Circuit Judges
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**MINUTES OF THE MEETING OF THE
CONFERENCE OF CIRCUIT JUDGES**

A meeting of the Conference of Circuit Judges was held Monday, March 18, 2019, at the Judicial College Education and Conference Center in Annapolis, Maryland, beginning at 9:35 a.m.

Members Present

Hon. Laura S. Ripken, Chair

Hon. Brian D. Shockley
Hon. Brett W. Wilson
Hon. Keith A. Baynes, Vice Chair
Hon. Stephen H. Kehoe
Hon. Yolanda L. Curtin
Hon. Kathleen Gallogly Cox
Hon. W. Timothy Finan
Hon. Viki M. Pauler
Hon. William V. Tucker

Hon. Robert A. Greenberg
Hon. Julie S. Solt
Hon. Sheila R. Tillerson Adams
Hon. Donine M. Carrington
Hon. W. Michel Pierson
Hon. Timothy W. Miller
Matthew Barrett
Pamela Harris

Also, Present Were:

Hon. John P. Morrissey
Hon. Michael J. Stamm
Faye Gaskin
Lou Gieszl
Abigail Hill
Sarah Kaplan
Michelle Karczeski

Kelley O'Connor
Pamela Cardullo Ortiz
Eliana Pangelinan
Nisa Subasinghe
Becky Feldman, OPD
Nena Villamar, OPD

1. Approval of Minutes

Judge Ripken called for approval of the minutes of the November 19, 2018, meeting. Judge Wilson moved for approval of the minutes, which was seconded by Judge Kehoe. The motion passed.

2. Scheduling of CINA and TPR Cases by the Office of the Public Defender

The Office of the Public Defender (OPD) was invited to the meeting to address concerns regarding the utilization of attorneys in CINA and TPR matters. Specifically, they addressed shuffling attorneys from jurisdiction to jurisdiction, timeliness in case processing and adjudication, the need for clear processes, and a plan for addressing ongoing issues. Becky Feldman and Nena Villamar, representing the OPD, addressed the concerns. Ms. Feldman stated that the Parental Defense Division is undergoing a reorganization, developing a strategic plan, reviewing caseload in every jurisdiction to determine how best to utilize resources, and instituting new leadership. Ms. Villamar currently serves as the Acting Director of the Division.

Ms. Villamar noted that OPD is shifting attorneys to where they are most needed, has added a few positions, and has redistributed approximately 40 attorney positions from Baltimore City to other jurisdictions. The shift in attorneys netted two additional attorneys in the Parental Defense Division. Ms. Villamar stated there now are dedicated staff in each district with back-up coverage, adding that Baltimore County has four dedicated attorneys; Carroll has two that also handle Frederick and Washington counties and are backed-up by the attorneys dedicated to Baltimore County; Harford has one dedicated attorney that is backed-up by the attorney assigned to the Upper Eastern Shore; Anne Arundel and Howard counties share a dedicated attorney; and Prince George's County has one dedicated attorney. She stated that the reorganization hopefully will result in an increased number of days hearings can be held. Ms. Villamar advised that some of the reorganization already has been implemented, but the OPD is still recruiting an attorney for Anne Arundel and Howard counties, and that the fourth attorney for Baltimore County is scheduled to begin working in July. She added that the attorney dedicated to Prince George's County also will handle the Anne Arundel and Howard counties' cases until the attorney for those jurisdictions is hired, which the OPD hopes will be within the next two months. Judge Adams and Judge Ripken both expressed concern with that arrangement with Judge Adams commenting that two months in the life of a CINA child unacceptable. Judge Ripken added that the arrangement has not worked and that an attorney is never available. Ms. Villamar stated that she will look into the matter and will have a resolution soon.

Ms. Feldman advised that the OPD is exploring grant opportunities for training, noting that the Title IV grant permits federal funding for parent representation. Ms. Feldman requested that courts recommend attorneys to serve as panel attorneys, as well as those who are willing to provide representation on a pro bono basis. Judge Ripken stated that the Parent Resource Work Group is considering ways to help recruit panel attorneys.

Judge Adams inquired whether the OPD has explored partnering with the law schools to establish a clinical program to assist in this area to which Ms. Villamar responded that such a program is in their long-term plans. The OPD is developing written standards of representation and is continuing to develop a training program with an ethics component.

Judge Shockley commented that the hourly salary for panel attorneys, \$50, is one of the lowest in the country. Ms. Villamar responded that they are considering a higher rate for the more complicated cases. If successful, the OPD will start with CINA cases.

3. Report Concerning the Juvenile Justice Standards and Training

Judge Tucker and Judge Stamm briefed the Conference on the Report Concerning Juvenile Justice Standards and Training prepared by the Juvenile Justice Subcommittee. Prompted by a question raised by a legislator regarding the existence of standards and established qualifications for attorneys who represent children coming into the system, Judge Stamm stated that the Juvenile Law Committee formed a work group, which included justice partners, to study the matter. He added that while there are standards established for attorneys working with children in child welfare cases, there are no comparable standards in place for attorneys in juvenile justice cases.

Judge Tucker provided an overview of the work of the work group, including its final recommendations. He noted that the main issues addressed by the work group included whether standards of practice should be established and whether qualifications and training should be required. Through its research, the work group found that the Court of Appeals generally has not adopted practice standards for attorneys in any area except in limited circumstances. The work group also determined that there are no Rules that require training for attorneys. Judge Tucker stated that the Office of the Public Defender provides mandatory training for staff and panel attorneys who handle juvenile matters. OPD staff will be required to complete the training and pass an exam prior to receiving juvenile case assignments. The training was made possible through federal grant funding. There is no other statewide training for attorneys who handle juvenile cases.

The work group surveyed the states to determine if they have developed standards in this area. It was determined that 16 states have standards, 14 have detailed standards, seven have relevant statutes, 24 contain qualifications, including two states that have qualifications for juvenile judges and prosecutors; 11 have mandatory standards, and six require evidence of compliance with the qualifications.

Judge Tucker commented that the purpose of the juvenile court is treatment and rehabilitation and, as such, attorneys are needed who understand the long-term ramifications of the process and the decisions. He stated that the Juvenile Law Committee was seeking the Conference's adoption of the recommendations, which will then be presented to the Judicial Council.

Judge Ripken asked who would develop the training to which Judge Tucker responded that the Juvenile Law Committee would work in collaboration with the Education Committee. Judge Curtin expressed concern with making the training statutorily-mandated, but agrees that there should be a mandatory requirement for attorneys in juvenile court. Judge Cox noted her concern with the Judiciary telling attorneys what and how to represent when they are appearing in front of the judges, adding that it is a Bar function. Judge Stamm stated that it would be a collaborative effort, including the Maryland State Bar Association, the Office of the Public Defender, and the State's Attorneys. He added that it could be a best practice and the Bar could be asked to develop the program. Judge Cox reiterated her position that Judiciary ownership of attorney training is concerning.

Judge Cox moved to adopt the recommendations with an amendment to Recommendation No. 2 to indicate that it is a best practice and the Maryland State Bar Association would assume responsibility for the training. Following a second by Judge Curtin, the motion passed.

4. AIS – Judges Updating

Pamela Cardullo Ortiz and Michelle Karczeski appeared before the Conference to discuss the Attorney Information System (AIS) and the requirement for judges to register. They stated that AIS brings together information from the seven entities within the Judiciary that play a role in administering the profession of law in Maryland, serving as a single portal of communication for attorneys. The system provides for electronic notification to attorneys, a single annual compliance process, as well as tracking of pro hac vice, special authorizations, and pro bono. AIS registration is mandatory for judges and magistrates, as well as attorneys.

It was suggested that judges and magistrates, as well as senior and federal judges, be reminded to register through several channels, including the Judges' Gazette, expanding the notification that generally is sent to attorneys regarding registration, and setting up a table at the Judicial Conference where judges can register. Judge Cox agreed to reach out to the federal bench to determine how best to notify those judges.

5. Title 10 Amendments

Nisa Subasinghe briefed the Conference on amendments to Title 10 of the Maryland Rules, which were effective January 2019. The amendments to the guardianship rules focused on expedited hearings regarding hospitalized adults, hearings on petitions for guardianship of the property, guardianships of veterans, requirements for exhibits, and standby guardianships.

With respect to expedited hearings related to medical treatment, courts are required to hear and rule on petitions for appointment of guardians of the person of a disabled person for medical treatment on an expedited basis (Estates and Trusts Article § 13-705(f)). The amendments to the Rules focus on the decision-making structure, including verification of the statement filed with the petition; factors to consider (e.g., available alternatives, urgency and risks); and considerations for scheduling the hearing, such as service and time for investigations.

Other amendments include requiring hearings on all petitions for guardianship of the property; requiring certificates of competency with respect to guardianship of veterans; and requiring exhibits to be filed when the petition for guardianship of the property is being filed as a result of imprisonment, disappearance, or detention in a foreign country.

Ms. Subasinghe also discussed changes regarding standby guardianship. She stated that following enactment of legislation by the General Assembly during the 2018 Session, the Rules Committee made several conforming changes to the contents of the petition by the parent and the petition after parental designation (Maryland Rules 10-402 and 10-403), as well as the processes regarding the hearing, court order, and the report (Maryland Rules 10-404, 10-405, and 10-405.1).

There are several proposals pending before the Rules Committee to clarify instructions on the petition, to remove the requirement for a certified death certificate, to remove the guardianship forms from the Rules, to limit public access to certain information, and to clarify the role of counsel.

6. Courthouse Equity Subcommittee

Judge Wilson and Lou Gieszl provided an overview of the final report of the Courthouse Equity Subcommittee, noting that the subcommittee was created to address concerns expressed by court leaders regarding the equitable distribution of resources across the Judiciary. The subcommittee's research, which included surveys regarding the perception of inequity, an analysis of the level of grant funding, and a review of grant funding over the last five years, did not depict any patterns of inequity in funding from the Administrative Office of the Courts. It was determined that any differences reflected a lack of knowledge of the availability of or the process for obtaining grant funding. It also was determined that smaller jurisdictions, proportionally, receive more funding when factors such as population and caseload are considered. Finally, it was determined that courts want more funding for programs, services, and security.

The subcommittee identified what all courts should have in terms of access, security, and services and developed Tier I and Tier II components. Tier I components represent the baseline of what all courts should have, while Tier II represent those programs, services, and security components that courts should strive to achieve beyond what is considered baseline needs. The courts were encouraged to request both Tier I and Tier II items in their annual grant applications.

The subcommittee also recommended court leadership retreats, which were held in the fall of 2017. Another recommendation from the subcommittee was to address inequities in the salaries of magistrates by fixing the salary at 90 percent of a District Court judge's salary. The Judicial Council approved the recommendation and it was implemented at the beginning of Fiscal Year 2017.

Other efforts included exploring the development of a sliding scale funding model, but the subcommittee determined after several iterations that there is no replacement for the human element; a review of grant-funded positions with respect to salary and duties/responsibilities; a discussion of pay equity and disparity among grant-funded positions and possible conversion of the positions to State-funded positions; and a customer satisfaction survey of all AOC grantees.

The subcommittee, after much discussion and consideration, concluded that it should be sunset and that the Court Operations Committee, under which the subcommittee falls, should assume responsibility for equity issues. With the transition, at least one member of the Court Operations Committee will be designated as the point person for equity issues; the Committee will have equity issues on its agenda for at least two meetings per year; and the Committee will create work groups as necessary to address any issues that arise. The Judicial Council approved the recommendation.

Judge Wilson asked the Conference to advise the Committee of any equity concerns, to use the Tier I and Tier II report when preparing grant requests, and to advise of any Tier I and Tier II updates.

7. Emergency Evaluation Petitions – After-Hours

Judge Ripken stated that she conducted an informal poll to determine how after-hours petitions for emergency evaluations are handled from jurisdiction-to-jurisdiction. She found that most courts do not handle the petitions, but rather defer to law enforcement. The larger jurisdictions have duty judges who handle the petitions in some way, which varies from court to court. Judge Ripken expressed concern about what is permitted in the Rules with respect to how the petitions are handled, and whether more formality is needed or required.

Judge Pierson commented that there has to be agreement between the District and Circuit Courts because how one court handles the petitions impacts the other. Chief Judge Morrissey noted that the procedure is handled at the local level and determined by the administrative judge. He added that it varies with law enforcement handling the after-hour petitions in some locations. Discussion ensued with the Conference concluding that the disparities are concerning. Judge Pierson noted that Baltimore City's problem is peculiar because law enforcement refuses to do anything and tells everyone to contact the duty judge. Because of the number of petitions filed each night, Baltimore City handles them remotely.

Concerned about the degree of variation and the lack of a clearly-defined process, the Conference agreed to form a work group to review the various procedures and to formulate recommendations, remaining mindful that not all jurisdictions function in the same manner and that the processes in place may be working. It was suggested that it be a joint work group with the District Court. Chief Judge Morrissey will provide the names of two judges and a commissioner. Judge Greenberg will chair the work group and Judges Carrington, Cox, and Pierson will serve as members.

8. Circuit Court Session at the Judicial Conference

Judge Ripken stated that the circuit court session at the Judicial Conference will be held on Friday, May 24 from 8:30 a.m. – 10:30 a.m. The discussion topics will include self-represented litigants, jury instructions, and voir dire. The panelists are still being finalized. Judge Ripken also will give an overview of the Conference and its work.

9. For the Good of the Order

Judge Pierson inquired what other courts are doing with respect to judges providing letters of support for grant applications. The sentiment was that only administrative judges provide the letters.

Judge Adams advised the Conference to check the public restrooms from time-to-time for graffiti and gang signs. The court and the Sheriff's Office in Prince George's County started a check of the restrooms, which are now cleansed monthly to get rid of the gang messages and graffiti.

Action Items

- The work group to formulate recommendations regarding the handling of after-hours petitions for emergency evaluations will meet and report to the Conference.

There being no further business, the meeting was adjourned at 11:45 a.m. The next meeting will be held on Monday, May 20, 2019, at the Judicial College Education and Conference Center in Annapolis, Maryland. The meeting will begin at 9:30 a.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Faye Gaskin". The signature is written in black ink and is positioned directly below the typed name.

Faye D. Gaskin
Conference Secretary