



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

**Hon. Susan Braniecki, Chair**  
Conference of Circuit Court Clerks

**Hon. Pamila J. Brown**  
Howard County District Court

**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

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

**Hon. Patricia L. Mitchell**  
Montgomery County District Court

**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. Patrick L. Woodward, Chief Judge**  
Court of Special Appeals

**Faye Gaskin, Secretary**  
(410) 260-1257

# MARYLAND JUDICIAL COUNCIL

Meeting Location:

Judiciary College Education and Conference Center

Upper Level 4 & 5

## MARYLAND JUDICIAL COUNCIL

Minutes

September 26, 2017

### Judicial Council Members Present:

Hon. Mary Ellen Barbera, Chair	Hon. Alan M. Wilner
Hon. Pamila J. Brown	Hon. Brett W. Wilson
Hon. Kathleen Gallogly Cox	Hon. Susan Braniecki
Hon. Susan H. Hazlett	Tamera Chester
Hon. Laura S. Kiessling	Hon. Amy J. Craig
Hon. Karen H. Mason	Douglas Hofstedt
Hon. Patricia L. Mitchell	Robert Prender
Hon. John P. Morrissey	Timothy Sheridan
Hon. W. Michel Pierson	Roberta L. Warnken
Hon. Gerald V. Purnell	

### Others Present:

Hon. Cynthia Callahan	Dominique Johnigan
Hon. Karen Murphy Jensen	Sarah Kaplan
Hon. Larnzell Martin	Pamela Ortiz
Hon. Michael J. Stamm	Eliana Pangelinan
Faye Gaskin	Suzanne Pelz
Heather Akehurst-Krause	Jonathan Rosenthal
Mark Bittner	Stacey Saunders
Robert Bruchalski	Suzanne Schneider
Liz Clarke	Nisa Subasinghe
Hope Gary	Andrew Tress
Lou Gieszl	Jamie Walter
Abigail Hill	Benjamin Wilhelm
Melinda Jensen	

A meeting of the Judicial Council was held Tuesday, September 26, 2017, at the Judiciary College Education and Conference Center, beginning 9:30 a.m. Chief Judge Barbera began the meeting by welcoming everyone; recognizing the new members, Judge Pamila Brown and Judge Patricia Mitchell; and acknowledging the Judiciary's budget analyst, Benjamin Wilhelm. She then called for approval of the minutes of the previous meeting. Judge Wilson moved for approval of the minutes, which was seconded by Judge Cox. The motion carried.

## **1. Data Center Renovation**

Mark Bittner and Liz Clarke briefed the Council on the Data Center Renovation project. Mr. Bittner stated that in 2012, Judicial Information Systems (JIS) contracted with a vendor to perform an assessment of the data center and its power plant. The assessment disclosed a number of short comings that needed to be addressed for optimal efficiency. It was determined that a complete renovation of the data center was needed. Ms. Clarke stated that JIS established a five-year renovation plan that included provisions regarding how JIS would continue to operate at full capacity during the renovation period.

The renovation included replacing the generator and UPS power into the building and increasing the size of the fuel tank to enable the data center to run on generator power for up to 72 hours, an increase over the previous 24 hours. In addition, the floor plan was redesigned, and the ceiling and floors replaced. There were a number of challenges encountered with an unforeseen zinc whisker abatement and maintaining the proper cooling level during the renovation. Data and electrical wires were separated and the network and server equipment partitioned off in a separate section of the data center. Additional badge-accessible security levels were established to limit the number of staff with access to the new network and server section. JIS was able to repurpose some of the space for staff, providing a staging area to prepare equipment.

Mr. Bittner stated that the decision was made to maintain operations and not relocate the data center to the Judiciary's redundant site during the renovation because moving the center potentially could leave JIS without backup operations if the redundant site was somehow rendered inoperable. He added that, in spite of the challenges, the project was completed on time and very close to budget.

Chief Judge Barbera expressed her appreciation for the efforts of everyone involved with the project specifically and for JIS generally.

## **2. Caseflow Assessment Report**

Dominique Johnigan and Jamie Walter presented the results of the Fiscal Year 2016 Case Assessment. Ms. Walter provided an overview of the methodology and noted that the trial courts on the Eastern Shore were exempted from the Assessment because of the MDEC implementation. She also stated that the Case Management Subcommittee was not recommending any changes to the time standards although 44 requested modifications were considered.

In presenting the results of the analysis of the performance of the Court of Appeals, Ms. Johnigan stated that the Court reached its goal of disposing 100 percent of the cases argued during the term. With respect to the Court of Special Appeals, the Court met the standard of disposing 80 percent of its cases within 90 days in the aggregate; however, the percent within standard for reported opinions in criminal cases was below the standard at 70 percent. The Court also met the standard for state appeals from the pretrial suppression of evidence cases. In the

child access/guardianship/CINA/TPR standard 1, which is filing of the record to argument, the Court met the standard in 22 percent of the cases, a marked increase over the nine percent reported the previous year. In the child access/guardianship/CINA/TPR standard 2, which is argument or submission on brief to disposition, the Court disposed 94 percent of its cases within standard, a decrease from the previous year when 97 percent of the cases were within standard. Ms. Johnigan commented that a number of factors that impact the Court's ability to reach the prescribed goal are outside the Court's control; however, the Court continues to explore ways to improve in that area.

Ms. Walter then discussed the assessment results from the Circuit Courts, noting that performance against the time standards improved in a number of case types over the last two fiscal years, with the greatest improvement (five percent) occurring in limited divorce and CINA Shelter cases. A four percent improvement was noted in civil-general cases during the same time period. Performance against the time standards improved in criminal cases (three percent), TPR cases (two percent), and family law cases (one percent) during the two-year period. Decreases were noted in CINA Non-shelter cases (five percent) and juvenile cases (one percent). Foreclosure cases, which now have a separate time standard (98 percent of the cases disposed within two years), were disposed within standard 95 percent of the time. Ms. Walter commented that a lot of cases close fairly quickly, within one month, after the time standard.

Ms. Johnigan reported similar fluctuations in performance against the case time standards in the District Court. Over the last two years, the District Court experienced improvement in Traffic 21-902 cases (three percent) and in Traffic Must Appear cases (two percent), while decreases occurred in criminal and traffic payable case performance, two percent and three percent, respectively. During the same time period, civil large cases remained consistent at 96 percent of the cases disposed within the established time standard as did civil small cases at 95 percent.

Chief Judge Barbera thanked Ms. Walter and Ms. Johnigan for their presentation.

### **3. Committee Updates**

***Alternative Dispute Resolution Committee.*** Jonathan Rosenthal briefed the Council on the work of the Alternative Dispute Resolution Committee in Judge Ross' absence. Mr. Rosenthal reported that the committee continues to support the Public Policy Conflict Resolution Fellows program, which is a collaborative effort of the University of Maryland, Baltimore, the University of Maryland's Francis King Carey School of Law, and the Judiciary. The program is a two-day program designed to bring Maryland's government, religious, private industry, business, and community leaders together to expand their negotiation, conflict resolution, and consensus building skills. The seventh class will be held November 30-December 1, 2017.

Mr. Rosenthal then reported that a number of grants were awarded through the Judiciary's Mediation and Conflict Resolution Office (MACRO) to maintain and improve mediation programs. Grants were awarded to circuit courts, community mediation programs, and community conferencing programs.

Grant funds also were awarded to the Baltimore City Rent Court ADR Pilot program, which has since transitioned to a permanent ADR program. Mr. Rosenthal commented that during the first six months approximately 81 percent of the failure to pay rent cases that were mediated reached agreement, the highest settlement rate of all District Court civil case types that are provided services through the Day of Trial ADR programs. A survey completed by program participants yielded positive results as well with 92 percent of the participants indicating that they had sufficient time to articulate their position and concerns, 89 percent were satisfied with the mediation, 83 percent felt they were heard by the other side, and 81 percent noted that they did not feel pressured to reach an agreement. Mr. Rosenthal stated that the goal is to publish the report on Mediate.com which is viewed nationally.

Mr. Rosenthal commented that tenants requested the services more frequently than landlords, so the inference is that the positive survey results were more heavily weighted toward the tenants. He also stated that about 83 percent of the failure to pay rent cases were referred to the program during the pilot and that they represented a mix of agents and individuals although the majority were individuals. Chief Judge Morrissey noted that a two-page executive summary of the report is being developed.

Another initiative on which the committee is working is centralized screening of applications within MACRO for mediators to avoid duplication of court and practitioner efforts and to promote consistency. Currently, applicants have to submit their applications to every location in which they serve. The goal is for MACRO to review all applications for adherence to the rules and then forward the applications to all courts in which the mediators have indicated an interest to serve. The courts will then make the final decision. MACRO will maintain all changes in contact information and qualifications. Mr. Rosenthal stated that the process change will require a rules change.

Mr. Rosenthal concluded his presentation by stating that Maryland has a stellar reputation, not only nationally but internationally, in the field of ADR and courts. The ABA invited Maryland to conduct four presentations at its conference in April. Amongst the areas presented were the Baltimore City rent program and turning the ADR research findings into implementable curriculum.

***Court Access and Community Relations Committee.*** Judge Martin appeared before the Council to seek approval to establish the Accessibility and Accommodations Subcommittee. The purpose of the subcommittee is to develop initiatives to enhance access to the courts and the justice system for persons with disabilities. The subcommittee's objectives include identifying existing facilities, resources, and practices in Maryland courts that impact the ability of persons with disabilities to interact with the courts; identifying and supporting best practices in a number of areas such as disability etiquette and jury service; supporting the education of judges and staff to ensure alignment with policies and priorities established by the Judiciary for serving persons with disabilities; and supporting the Fair Practices department and ADA coordinators in responding to requests for accommodation.

Chief Judge Barbera expressed her appreciation to the committee for its insight in establishing the subcommittee. Judge Cox moved to approve the Accessibility and Accommodations Subcommittee as a subcommittee of the Court Access and Community Relations Committee. Following a second by Chief Judge Morrissey, the motion carried.

***Domestic Law Committee.*** Judge Callahan briefed the Council on the work of the Domestic Law Committee. She discussed the Parenting Plan Report and its resultant recommendations. Judge Callahan noted that Maryland is one of 10 states without a parenting plan statute or rule, or resource for parents. She added that in 38 states, courts are given the discretion to require parents to submit a parenting plan, while three states provide non-mandatory resources to parents to assist in developing parenting plans that can be submitted to the court for consideration.

Judge Callahan noted that parenting plans are beneficial to the courts and parents in a number of ways in that they result in more productive mediation, help parents think about the issues, foster collaborative co-parenting relationships, and provide the court with information about the parents' positions regarding the family dynamic. The committee proposed the following recommendations:

- The Maryland Parenting Plan and Form should be available on the Judiciary's website as a resource for parents to develop a parenting plan that works best for their family.
- The Maryland Parenting Plan Instructions and Form, and 9.207.1 Form should be given to both parents at the initial or scheduling conference.
- Amend Title 9 of the Maryland Rules of Procedure to include a new parenting plan rule.
- The Maryland Judiciary should provide training and resources on the Maryland Parenting Plan.

Judge Callahan noted that the Rule is needed for consistency and structure throughout the state.

Judge Wilson moved for approval of the committee's recommendations, as well as the requisite training and resources to implement the same. Following a second by Judge Hazlett, the motion carried.

Judge Callahan thanked Judge Richard Sandy, Nisa Subasinghe, and Heather Akehurst-Krause for their work on this initiative.

Judge Jensen then reported on the work of the Guardianship Workgroup, stating that more than half of the 26 recommendations approved by the Council are nearing implementation. The Rules Committee will present changes to the Title 10 Rules to the Court of Appeals on October 10, focused on a number of areas including training of and orientation for court-appointed attorneys and guardians of the person and property, setting out disqualifying offenses, applying uniform fees, clarifying bond requirements, and issuing certificates. A number of subgroups have been formed to help facilitate implementation of the recommendations. The workgroup submitted a number of requests for judicial education programs for 2019 and is working on a bench book to assist judges in handling guardianship cases. Judge Jensen thanked Judge Cox and

Ms. Subasinghe for their efforts in this area. Judge Callahan thanked Judge Jensen for her leadership that drove this initiative.

Judge Callahan briefed the Council on the work being done by the Domestic Violence Subcommittee, noting the challenges with incorporating gun surrender and fingerprinting information on the forms, as well as the challenges with consistent data collection because of the multiple case management systems still operational until MDEC is fully-implemented. She stated that CourtWatch Montgomery issued a report expressing concern regarding how infrequently emergency family maintenance is awarded in domestic violence cases. Judge Callahan stated that the subcommittee will continue to discuss that issue, as well as the advocates' concern with the data and its impact on their funding.

The Hospitalized Adult Workgroup is exploring concerns regarding persons who are hospitalized because of emergent circumstances and are not able to be discharged due to cognitive issues. The issue is how to get those persons to a less intensive hospital that also is less expensive.

Judge Callahan briefed the Council on a matter before the committee to determine how services in three areas – custody evaluation, mediation, and parenting education – are provided in different jurisdictions and how they are funded. The committee is looking at the use of examiners in domestic cases and the consequence of no longer using examiners. Judge Callahan noted that the use of examiners may be an access issue because not everyone has the means to pay to have their cases expedited through the use of examiners. Judge Kiessling asked if the courts would be notified to provide information on their use of examiners. Judge Cox stated that the use of examiners is not limited to domestic cases and inquired as to whether the intent is to look more broadly at the Rule on standing examiners. Judge Callahan responded that the committee is looking at it more narrowly, within the domestic cases, adding that the committee is seeking approval to move forward with assessing the cost of not using examiners.

Judge Mitchell moved that the Domestic Law Committee be permitted to move forward with a feasibility study to determine the impact, economic and otherwise, of discontinuing the use of standing examiners in domestic cases. The motion, which was seconded by Judge Hazlett, passed.

***Juvenile Law Committee.*** Judge Stamm briefed the Council on the work of the Juvenile Law Committee. He noted the Juvenile Record Expungement Manual approved by the Council will be available in hard copy as well as online. In addition, informational sessions will be held for each circuit court. The Juvenile Standards and Training Workgroup completed its research regarding national and state qualifications and standards and is developing recommendations for the Juvenile Law Committee's consideration. The committee is developing initiatives to assist with implementing the Resolution Regarding Imposition of Court Costs, Fines, and Fees on Juveniles in Juvenile Justice Proceedings. Judge Stamm reported that courts are being surveyed about practices and procedures for sealing juvenile records and that recommendations will be formulated to address uniformity, as well as any other issues gleaned from the survey. The Juvenile Justice subcommittee also is working on best practices as it makes recommendations for

bench cards. The bench cards will be presented to the Conference of Circuit Judges for comment and the Council for approval.

The Foster Care Court Improvement Program Subcommittee is preparing for the upcoming Child Abuse, Neglect, and Delinquency Options (C.A.N.D.O.) Conference. The theme is Life Experiences: The Good, the Bad, and the Hopeful – As They Affect Childhood Development in the Context of Child Welfare and Juvenile Justice. Grants were awarded to child welfare programs to assist courts and other child welfare agencies in improving outcomes for children in the child welfare system.

Judge Stamm noted that other initiatives include reviewing of best practices regarding waiver of counsel for juveniles in juvenile court and working with the Department of Juvenile Services on crossover children to create a multi-agency approach to issues.

Chief Judge Barbera thanked the committees for their work.

### **Action Items**

- The ADR Committee will produce and distribute an executive summary of the report on the Baltimore City Rent Court ADR Pilot Program.

There being no further business, the meeting adjourned at 11:45 a.m. The next meeting is scheduled for November 21, 2017, beginning 9:30 a.m.

Respectfully submitted,



Faye Gaskin