

MINUTES
Family Court Advisory Committee
NCJC Magnolia Room
June 7, 2019

The Family Court Advisory Committee (FCAC) met at the NCJC in Raleigh on Friday, June 7, 2019. Judge Regan Miller called the meeting to order at 10:10 AM. The following were present:

FCAC Members

Jeff Barger
Galen Braddy
Stephanie Gibbs
Cheryl Howell
Justice Robin Hudson
Judge Beth Keever
Sonynia Leonard
Judge Wayne Michael
TeAndra Miller
Judge Regan Miller
Clerk Justin Minshew (via phone)
Rose Stout
Judge Donna Stroud

NCAOC Staff

Lori Cole, Court Management Specialist
Tarsila Machado, Court Programs Intern
Stephanie Nesbitt, Court Management Specialist
Stephanie Satkowiak, Court Management Specialist
Stephanie Smith, Court Management Specialist

Approval of Minutes

The March 2019 meeting minutes were approved unanimously.

Status of Chapter 50 Domestic Violence Form Updates

Cheryl Howell reported that she received an email stating that AOC has decided the requested changes cannot be made at this point in time.

Legislative Updates

Judge Keever reported that the AOC Budget memo indicated that the legislature plans to eliminate a district court judge position in both Durham and Wake, but four other districts would receive a new district court judge position. The Senate Budget eliminates the Executive Director position and a vacancy at the Judicial Standards Commission.

Judge Keever then reviewed a list of bills which are pending after the crossover deadline:

Passed House, Pending in Senate

HB 198 Human Trafficking Commission Recommendations: Creates a civil cause of action by victims against trafficker. Adds provisions related to expunction of criminal convictions committed as a result of being trafficked.

HB 226 AOC Legislative Changes: Adds medical leave absence, disaster declarations and conflicts as a basis for use of an emergency judge. Various other changes related to estates, summary ejection, notice of waiver of court costs, post-appeal criminal judgment enforcement, etc.

HB 274 Child Abuse and Neglect/Military Affiliation: Requires DSS to determine the military affiliation of parent or guardian of child alleged to be abused or neglected. Requires DSS to notify military authorities when there is evidence of abuse or neglect of a child by a parent or guardian with that military affiliation.

HB 301 CIP Revisions/Juvenile Code: When a civil action is automatically stayed by the filing of a juvenile petition, requires that notice be filed in the stayed action if case number and county are known to the court. Requires AOC to develop a form.

HB 393 Modernizing Sexual Assault Laws: Clarifies definition of “caretaker” in juvenile code to include an adult member of the juvenile’s household or an adult entrusted with the juvenile’s care.

HB 469 Amend Equitable Distribution Laws: Clarifies definition of retirement, pension, deferred compensation benefits. Provides that if the court divides a defined benefit pension equally between the parties, the court will not be required to find the total value of the marital benefits before classifying and distributing the benefits. Provides for 2 methods of valuing the marital portion of a defined contribution plan. Provides for awarding the survivor annuity and allows the court to allocate the cost of the survivor annuity. Provides for an action to effectuate the distribution of pension benefits contained in a separation or other property agreement whether or not a claim for ED is filed.

HB 470 Amend Parenting Coordinator Laws/Family Law: Makes various changes to the provisions of the parenting coordinator law.

HB 593 Superseding Domestic Orders: Provides that subsequent orders under Chapter 50 related to custody, child support, possession of property and subsequent Chapter 110 child support order supersede similar provisions in Domestic Violence Protective Orders under Chapter 50B.

HB 609 Raise the Age Modifications: Clarifies portions of the 2018 raise the age statutes. Clarifies that a misdemeanor conviction under the motor vehicle laws in Chapter 20 (except DWI) does not mean the juvenile will be an adult for all criminal purposes. Requires the

probable cause hearing for a 16 or 17- year- old charged with Class A – G felonies be held within 90 days of the first appearance. Allows the prosecutor and defense attorney to agree to remand a case back to juvenile court which has been transferred and provides that upon remand, the superior court record shall be expunged.

HB 617 Allow Repeat Referral to Teen Court: Provides as indicated in title.

Passed Senate, Pending in House

SB 413 Raise the Age Modifications: Generally, the same as HB 609.

SB 420 NC Servicemembers Civil Relief Act: Incorporates the benefits of the federal Servicemembers Civil Relief Act to North Carolina National Guardsmen on active duty.

SB 493 DVPO Time of Expiration: Provides that protective orders expire at 11:59pm on the indicated date unless specifically states otherwise in the order. Provides that any subsequent court order entered supersedes similar provisions in protective orders issued pursuant to Chapter 50B.

Status of Family Court

Judge Miller opened discussion of expanding family court (FC) best practices to more districts. Restoration of staff salary levels and full staffing was identified as a priority for existing FC districts. The waiting list of districts that gauged readiness and interest was not maintained after the recession. There are currently no funds budgeted by or being requested from the legislature for expansion.

Judge Michael said that his district (22B-Davie and Davidson counties) was doing many of the pre-implementation steps to get a FC, but several of those practices have not being sustained because the district despaired of ever getting a FC program.

Judge Braddy pointed out that the impact of FC on involuntary commitments and motions to modify have never been measured. Clerk support is needed to launch a new FC program in any district. Domestic practitioners who have worked across both FC and non-FC districts can have a strong voice in supporting expansion. It would be best for FC to be everywhere, much like the Raise the Age efforts. Show the legislature and the public how people are treated differently (e.g. longer time to resolution of family matters) when family court best practices are not followed.

Judge Keever noted that benefits to litigants have always included attorneys with lower retainers in FC (because of faster resolution), the time factor, and less trauma to children when there is less time to wait for an outcome.

Rose Stout, Cheryl Howell, Stephanie Gibbs, and Justice Hudson volunteered to assist with re-education efforts. Lunch and learns with interested counties were suggested. Lori Cole will work with Stephanie Satkowiak's domestic violence data and Stephanie Smith's custody mediation data to explore ways to track case volume for motions to modify.

Judge Miller agreed to check in with other Chiefs in the near future and consider long-term strategies as well as a FCAC plan for legislative education.

NCAOC Updates

Family Court Training: Lori Cole reported that planning for case management training workshops was on hold until the impact of the survey was clarified. These will include all districts (not just those with Family Court) to emphasize the importance of coordinated efforts in domestic case management. Due to considerable turnover, leadership will need to find alternate speakers before dates, locations, and space can be identified.

The Family Court Orientation video and transcript are available on the public site at <https://www.nccourts.gov/courts/family-court>. It is highly recommended that Chiefs require all new family court staff and judges to watch this 10-minute video (within their first week on the job) to gain an understanding of the history, best practices and purpose of the family court program.

Access & Visitation: Stephanie Nesbitt reported that the A&V Coordinators are continuing to attend the Custody Mediation Orientation to present the statewide Parent Education training. The Parent Education video and booklet are also available on the state website. The floater position that was serving Wake and Mecklenburg is running out of funds and not able to expand.

Custody Mediation: Stephanie Smith reported that the custody mediation program is compiling year end statistics and will be sending a three-year comparison to all Chiefs shortly. Durham County Family Court and Custody Mediation has begun piloting the uniform DV screening protocol that has been approved by the NCAOC director.

Domestic Violence: Stephanie Satkowiak shared that eFiling will expand to its eleventh district on Monday, June 10, when Brunswick County goes live. The eFiling grant was supposed to end on September 30, 2019 but they are asking for a no cost expansion after June 30. Enhancements have been big. The SCRA affidavit is now fully automated in the system. Judge Michael commented that the ability to make amendments is a big help.

Meeting Dates

The remaining 2019 meeting dates will be September 6 and December 6.