

**MINUTES**  
**Family Court Advisory Committee**  
**NCJC Magnolia Room**  
**September 6, 2019**

The Family Court Advisory Committee (FCAC) met at the NCJC in Raleigh on Friday, September 6, 2019. Chair Galen Braddy was unable to attend due to challenges presented by Hurricane Dorian which passed through the state on Thursday. Judge Beth Keever called the meeting to order at 10:10 AM. The following were present:

*FCAC Members*

Stephanie Gibbs  
Twyla Hollingsworth-Richardson  
Judge Beth Keever  
Sonynia Leonard  
Judge Wayne Michael  
TeAndra Miller  
Evelyn Smith  
Judge Donna Stroud  
Lori Wainright  
Shirley Webb-Owens  
Judge Amanda Wilson

*NCAOC Staff*

Cindy Bizzell, GAL Services Administrator  
Lori Cole, Court Management Specialist  
Brad Fowler, Chief Business Officer  
Stephanie Smith, Court Management Specialist

*Guests*

Lindsay Harrison, DHHS  
Jennifer Simmons, Equal Access to Justice Commission

**Approval of Minutes**

The June 2019 meeting minutes were approved unanimously.

**Legislative Updates**

Judge Keever reviewed a list of bills relevant to family court and their key components:

**Ratified** HB 198 SL 2019 - 158 Human Trafficking Commission Recommendations

- Creates a civil cause of action by victims against trafficker. Provides for attorney fee awards/ 10-year statute of limitations from date of occurrence or 18<sup>th</sup> birthday whichever is later. Effective July 1, 2019 and applies to causes of action arising on or after that date.
- Adds provisions related to expunction of criminal convictions committed as a result of being trafficked. Effective December 1, 2019 and applies to motions filed on or after that date

#### 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 ejectment, 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.

#### **Ratified** HB 301 SL 2019 - 33 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.
- Responsible Individual List - changes the requirement to notify alleged responsible person of finding within 5 days of determination to in an expeditious manner.
- Provides that when a prospective guardian has provided a stable placement for a child for at least 6 months, it is evidence that the person has adequate resources.
- Provides that the finding that reunification efforts clearly would be unsuccessful or inconsistent with the juvenile's health or safety may be made at any permanency planning hearing.
- Provides that when counsel has been appointed for a respondent, that counsel should be notified that DSS has made arrangements for a parent to execute a relinquishment at a specific time, date, and location. Provides that a parent should be advised of right to consult with counsel prior to executing a relinquishment.
- Provides that when a juvenile is placed in DSS custody in delinquency court, the parents are entitled to court appointed counsel, if indigent, at any review hearing. Parent may waive counsel.
- This act is effective October 1, 2019.

#### 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.

#### **Ratified** HB 469 SL 2019 – 172 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.
- Also provides changes to Parenting Coordinator statute.
- These provisions become effective October 1, 2019 and apply to distributions on or after that date.

**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.

**Ratified HB 617 SL 2019 – 41 Allow Repeat Referral to Teen Court**

- Provides as indicated in title.
- Effective when it became law - June 21, 2019.

**Ratified SB 413 SL 2019 - 186 Raise the Age Modifications**

- Delinquent juvenile is defined to exclude violations of motor vehicle laws under Chapter 20. But provides that a conviction for a misdemeanor under Chapter 20 (except for DWI) does not make the juvenile an adult for future criminal offenses. Those juveniles 16 or 17 convicted of felonies or non-motor vehicle misdemeanors in district or superior court prior to December 1, 2019 will continue to be treated as adults for all future offenses.
- For juveniles 16 or 17 charged with Class A, B1, B2, C, D, E, F, or G felonies, detention hearings will be held every 30 days after the initial secure hearing unless the juvenile requests 10-day hearings. Probable cause hearings for these juveniles shall be conducted within 90 days of the first appearance.
- When a juvenile's case has been transferred to superior court, upon joint motion of the prosecutor and the juvenile's attorney, the court shall remand to juvenile court and all records of the superior court shall be expunged.
- This act is effective December 1, 2019 and applies to offenses committed on or after that date.

**Ratified SB 420 SL 2019 – 161 NC Servicemembers Civil Relief Act**

- Incorporates the benefits of the federal Servicemembers Civil Relief Act to North Carolina National Guardsmen on active duty
- This act becomes effective October 1, 2019 and applies to contracts entered into, renewed, or modified on or after that date.

**Ratified SB 493 SL 2019 – 168 DVPO Time of Expiration**

- Provides that when a defendant is ordered to participate in an abuser treatment program in a civil DVPO, a review hearing must be scheduled 60 days from the entry of the order. Upon receipt of notice from a program that the defendant has enrolled and begun regular attendance, the hearing shall be removed from the calendar.
- Provides that protective orders expire at 11:59pm on the indicated date unless it specifically states otherwise in the order.

- Provides that any subsequent court order entered supersedes similar provisions in protective orders issued pursuant to Chapter 50B.
- This act becomes effective December 1, 2019 and applies to orders in effect on or after that date.

### **Status of Reclassification of Family Court Professionals**

Beginning in November of 2014, upon vacancy, Family Court Case Coordinator (FCCC) Positions were reclassified to Family Court Judicial Assistant (FCJA). Employees hired into these positions were brought in on the Deputy Clerk pay scale. Lori Cole reported that these positions will now be reclassified back to Family Court Case Coordinator as of 9/1/19.

Anyone hired as a Family Court Judicial Assistant with a salary lower than the minimum will receive an increase up to the minimum. FCCCs are currently grade 17 but will be changed to grade 16 (minimum of \$41,418 after 2.5% Legislative Increase) to be equivalent to Trial Court Coordinators. FCJAs under the grade 16 minimum will be brought up to that amount when possible. Per McKinley's 9/4/19 budget update memo, " While House Bill 226 provides some financial relief in the salary and leave areas, the State continues to operate under continuing budget authority specified in G.S. 143C-5-4. These temporary restrictions currently include prohibitions on salary adjustments." Current FCCC positions will be dropped to grade 16 upon vacancy.

FCCCs and FCAs will no longer be brought in on the deputy clerk or assistant clerk pay scales. Looking at equity for all positions (not just those below the minimum) has been discussed, but no final decisions have been made yet.

### **Permanency Values Roundtables**

Lindsay Harrison is the Permanency Strategy Coordinator for the Child Welfare Division of Social Services at DHHS. This is a new position that focuses on partnering with county and state partners to improve permanency rates for youth in foster care. Lindsay reported that Wake, Catawba and Guilford county DSS' are piloting a new targeted meeting plan called a "roundtable" to help build relational and legal permanency for youth in foster care. Pitt County and New Hanover County DSS' have been implementing the Roundtable Process for two and five years respectively. Social workers, supervisors and other internal partners and stakeholders participate in roundtables outside of court so they are coordinated to streamline efforts.

District Permanency Collaborative meetings are ongoing. These are quarterly gatherings of all juvenile court partners, county DSS and other stakeholders for data review and procedural improvement discussion. The goal is to improve permanency outcomes for youth in foster care.

Wake County is promoting fatherhood engagement support groups that include fathers working on DSS reunification and fathers who are members of the public. Wake County DSS also has a reunification support group and a visitation house that offers a home setting for children to visit with their parents and family.

On November 20<sup>th</sup>, DHHS-Division of Social Services in partnership with the Administrative Office of the Courts, will have a Permanency Leadership Summit titled “Partnership for Permanency: Working Together, Family Forever.” The conference will be at the McKimmon Center and will give DSS directors, juvenile court judges, and others an opportunity to learn about national and local-North Carolina models that improve permanency outcomes for youth in foster care.

### **Statewide Domestic Forms from the NC Equal Access to Justice Commission**

The North Carolina Equal Access to Justice Commission was established in November 2005 by Chief Justice I. Beverly Lake to expand access to the civil justice system for people of low income and modest means in North Carolina. Jennifer Simmons is the Senior Project Manager who develops and implements special projects to broaden the impact of North Carolina’s legal aid programs and the work of the Commission and Pro Bono Resource Center.

Jennifer introduced the new Divorce Packet that is now available for use by self-represented litigants (SRLs) statewide. The 51-page packet contains instructions and sample forms. It was created with support from the NC Bar Association and was vetted by attorneys. The Commission is working on a simplified packet that will be shorter in length and at the fifth-grade reading level. It will then be translated into Spanish and possibly other languages. The packet is available on the [nccourts.gov](http://nccourts.gov) website and will be accepted by clerk offices in all 100 counties. The Commission will keep this statewide packet updated with statutory and other changes as needed.

Districts that have local divorce packets may continue providing those also.

Stephanie Gibbs noted that she recently heard that 60% of NC filings are made by SRLs so it is good to see this new resource.

### **eCourts: ICMS Update**

Brad Fowler outlined the history and steps taken to date by the Judicial Branch towards an integrated case management system (ICMS). In June, Interim Director McKinley Wooten signed the contract with vendor Tyler Technologies – it includes case management and eFiling for all case types. The NCAOC mainframe will be retired and software hosting will be in the cloud (it will be backed up in two locations in the continental US). Configuration of the Tyler system to meet North Carolina’s specific needs will take approximately 21 months. Pilot counties (Wake,

Harnett, Johnston, and Lee) will go live after configuration is complete. Mecklenburg will follow the pilots. The order for rollouts after that has not yet been finalized. There will be a total of twelve tracks for the statewide rollout. Each track will roll out all case types at the same time (“big bang” approach).

Configuration and statewide rollout will take approximately five years – the term of the contract is for ten years. After that time, a new contract will be negotiated with Tyler or another vendor.

The eCourts Advisory Committee includes clerks, district and superior court judges, judicial staff, district attorneys, a public defender, magistrate, and a representative from Wake and Mecklenburg counties. This committee will be responsible for advising on configuration conflicts among working groups, recruiting subject matter experts for working groups, and helping to keep their constituent groups informed.

To prepare for ICMS, AOC is overseeing network projects, identity and access, Office 365, and court facility infrastructure upgrades.

Judge Stroud commented that she is chairing the Rules Advisory Commission. They are considering changes to the NC Rules of Civil Procedure so that the rules are brought current and will be compatible with the evolving court process.

### **Expansion Strategy**

Family Court is now operating in 15 judicial districts covering 27 counties that serve 47% of North Carolina’s population. The committee reviewed data and discussed how to expand family court best practices across the state.

- The pending median case age from the District Domestic Aging Analysis Report shows that at the end of FY18-19 non-family courts had a pending age of 347 days while family courts were only 118 days. Domestic matters are resolved faster in family court districts. This outcome reflects adherence to FCAC timelines for domestic cases.
- According to the Civil Issue Filings/Order Results report, the percent of new domestic cases filed as modifications is about the same in family and non-family court districts according to VCAP data. However, it was noted that clerks’ offices throughout the state do not record modification data consistently. Different codes are frequently used from county to county and sometimes even from clerk to clerk within a county. Therefore, the modification issues report is not a reliable source of information.

Proper staffing of current family court programs is a top priority. A family court administrator is key for building community relationships, managing daily office operations, promoting a court-driven culture, as well as providing leadership and support to staff and judges. Legislative

redistricting has resulted in Districts 16A and 19D having only one case coordinator position each. Districts 8 and 25 lost their FCA positions in the 2009 reduction in force.

The committee recognized that the list of districts ready to implement family court has not been used or updated since 2008 due to fluctuating economic conditions and leadership priorities. New chief district court judges do not always share the same views as previous chiefs, so it would be helpful to talk with non-family court chiefs about the benefits of family court to gauge current interest.

It was suggested that having a fact sheet or simple infographic like the Communications Office has created for GAL would be a helpful educational tool. Lori Wainright volunteered to work with Lori Cole to create one.

## **NCAOC Updates**

### ***Family Court Training***

- All family court staff are invited to attend the NC Association of Court Managers conference at Wrightsville Beach this December 10-13 at the Blockade Runner Hotel.
- Interim Director Wooten has approved for two family court managers to attend the National Association of Court Managers conference in Charlotte February 9-11. Attendees will be asked to report back and share what is learned with all staff.
- The Judicial Branch is collaborating with DHHS to offer an 8-hour adult Mental Health First Aid training for all court staff by trainers from the managed care organizations across the state. Opportunities will be scheduled throughout 2020. This is a national curriculum. Details are at [www.mentalhealthfirstaid.org](http://www.mentalhealthfirstaid.org)
- A one-hour training on the issue of stigma will be included at most conferences over the next year to introduce key concepts from the mental health first aid training. Discussion will focus on how the brain, like all organs, is vulnerable to disease; the labels, hostility and discrimination often experienced by individuals with a mental illness, substance use disorder or an intellectual or developmental disability. Often, people experiencing these issues may label and stigmatize themselves. They may put up barriers that prevent proper treatment. This training explores ways to overcome the stigma and the resulting barriers to getting help.

### ***Access & Visitation***

Lori Cole reported that the A&V grant award amount for federal fiscal year (FFY) 19-20 was not increased from FFY18-19. Because health insurance and other fringes increased as they do every year, that resulted in the need to cut expenses from salary. The floating A&V coordinator position held by Norma Boyd has been reduced by 10% to 36 hours/week and her salary will be

reduced proportionately, leaving her to bear the brunt of the effective cut. All other positions will remain at 40 hours/week at the same pay rates. The floating position was added a few years ago when plans were underway to expand the program statewide. While it is still our desire to expand services, we are and always will be restricted to the grant amount awarded by DHHS.

***Custody Mediation***

Stephanie Smith reported that a new form was just posted on the forms page. AOC-J-135 is the Order and Notice to Mediation in Juvenile Proceeding (Abuse/Neglect/Dependency). General Statute 7B-905.1(d) governing juvenile court cases changed six years ago to allow judges to refer specific juvenile cases to custody mediation with limitations for any resulting agreement clarified by the presiding judge in advance. In short, when the court has entered an order of custody in a juvenile case and retained jurisdiction, and then subsequently a party (a family member) files a motion for review, the court may refer to custody mediation.

**Meeting Dates**

The last 2019 meeting date is December 6.

.....  
Submitted by Lori Cole