

MINUTES
Family Court Advisory Commission
WebEx
September 18, 2020

The Family Court Advisory Commission (FCAC) met via WebEx on Friday, September 18, 2020. The meeting came to order at 10:00 AM. The following individuals were present:

FCAC Members

Judge Galen Braddy, Chair
Maxine Evans-Armwood
Clerk Regina Billings
Julie Boyer
Stephanie Gibbs
Judge John Greenlee
Justice Robin Hudson
Cheryl Howell
Sonynia Leonard
TeAndra Miller
Judge Lisa Menefee
Nikki Smith
Rose Stout
Judge Donna Stroud
Lori Wainright
Shirley Webb-Owens
Judge Amanda Wilson

NCAOC Staff

Danielle Carman, Deputy Director
Lori Cole, Court Management Specialist
DeShield Greene, Court Management Specialist
Melissa Jackson, Business Analysis & Process Manager
Stephanie Smith, Court Management Specialist
Faith Taylor, Business Analysis & Process Manager
Tara Minter, Court Management Specialist

Welcome

Judge Braddy welcomed everyone to the meeting and recognized the new members who were present. Appointments to the FCAC are made by the Chief Justice for three-year terms that begin on July 1. New appointees for the 2020-2023 term include Wilkes County Clerk of Superior Court Regina Billings; Gaston County Chief District Court Judge John Greenlee; and Guardian ad Litem District Administrator Gerald Mack who is also from Gaston County. Mr. Mack was unable to attend

Four members were reappointed for the 2020-2023 term: domestic law attorneys Stephanie Gibbs and Rose Stout; Halifax County Family Court Administrator Shirley Webb-Owens; and Chief District Court Judge Amanda Wilson from District 16A (Richmond, Anson, and Scotland Counties).

Earlier this year, Director of Court Services Maxine Armwood was appointed to fill the NCDPS Division of Adult Correction and Juvenile Justice Staff position vacancy created by Deputy Director Michael Rieder's retirement, so this was her first meeting as well.

Approval of Minutes

Lori Wainright made a motion to approve the February 28, 2020 meeting minutes and Shirley Webb-Owens seconded the motion. The February 2020 meeting minutes were unanimously approved.

eCourts: ICMS Update for Domestic / Juvenile Case Management

Melissa Jackson explained that configuring, data mapping, and conversion are ongoing. Training documentation is also being developed. All Judicial user groups will be impacted by implementation. The pilot counties of Harnett, Johnston, Lee, and Wake Counties are targeting to go live in June 2021.

Site coordination will begin next week with meetings to introduce a forty-week implementation plan to the pilots. It involves a week by week list of tasks and responsibilities to assist the pilot counties in making the transition from legacy systems to ICMS. County implementation teams will involve representatives from every judicial office, including the judges and family court staff. As each county goes live, they will follow the same process.

Guide and Print (a precursor to Guide and File) was launched to the public on August 31. It is a free online service where users are guided through a series of questions which will then populate court paperwork. The paperwork can be printed and filed at the clerk's office. Eventually, when ICMS is launched, it will be possible for the forms to be electronically filed online. Case types in the Guide and Print release include absolute divorces, adult name changes, domestic violence protective orders, and a variety of other specific case types.

Melissa (Melissa.S.Jackson@nccourts.org) welcomes follow-up from FCAC members.

COVID-19 and Family Court Impact

Judge Braddy raised the topic of how COVID-19 has impacted our family courts. Many are dealing with cases where there are already orders in place and now parents are at a crossroads about whether their children should return to school or do virtual school to reduce risk.

DeShield reported that at the recent meeting of Family Court Chief District Court Judges and Administrators it was shared that in general filings have not decreased or slowed. Rather it seems like filings have increased and there are more contested hearings overall. Most family courts are using WebEx for remote hearings. There are some counties that never stopped having in-person hearings but have put safety measures like social distancing in place. Some are doing 100% remote hearings while others are using a hybrid model with a mix of people in the courtroom and remote. There were some concerns about technological issues related to audio feedback. Custody mediators are still using Zoom for their orientations and mediation sessions.

Judge Braddy noted that in Pitt the domestic bar does not appreciate the WebEx technology. They prefer to have hearings in person, especially when testimony is involved. He asked what districts are doing when there is an objection to an online hearing. Pitt usually has the hearings in person when that happens. Since June 1, they have been able to manage capacity and time slots for all kinds of hearings without issue thanks to family court. Lawyers will ask for settlement conferences if they are close to

agreement and often cases get settled so consent orders can be entered, and people can avoid coming to the courthouse.

Judge Greenlee shared that Gaston County has continued to do all in-person hearings throughout COVID with social distancing and masks. They have not had any outbreaks. Uncontested matters like settlement conferences are held on WebEx. From the start, domestic attorneys did not think contested hearings were a good thing to do on WebEx. Judge Greenlee did have to revamp the way temporary hearings were done to add time limits and it's working well. Cases get in front of a judge within ten days for a temporary hearing. Attorneys seem to be working things out before court and settling most of their issues so that court time is only needed when one issue remains for the judge to decide.

Judge Wilson echoed Judge Greenlee's comments except that the Scotland Courthouse did have to shut down briefly when there was an outbreak. The domestic bars do not embrace holding contested hearings by WebEx but family court staff in Richmond, Anson, and Scotland have allowed them to get a lot of stuff done by scheduling hearings to limit the number of people in the courtroom. Together with their Senior Resident Superior Court Judge, she issued a mask order very early on and put good social distancing measures in place.

Judge Menefee mentioned that as a non-family court district, they have three separate court dockets that have proven to be effective. One is just for short matters. They are on a very tight schedule of less than two hours. Then there are matters that will take less than two days which are also tightly scheduled. They are just beginning to move into the possibility of extending hearings more than two days. She has noticed the same thing as the other judges; lawyers are settling. There are some preliminary hearings done by WebEx, but the general feeling of the judges and the bar is that contested hearings must be live. All calendar calls are done once a week via WebEx which helps them do realistic schedules with no crowd issues.

Cheryl Howell has had a lot of judges calling to talk through custody issues. She has heard from attorneys and judges who are using the custody guidelines that the FCAC published soon after COVID. Quite a few cases now are over child support and alimony where people have lost jobs and are trying to figure out whether to modify or enter a temporary order.

Judge Stroud asked what the trial courts are seeing as far as domestic violence filings and abuse/neglect court. Judge Greenlee said that DV filings seem steady or probably a little up. Those dockets continue to be full. There has not been a decrease in abuse/neglect filings except for briefly when schools shut down in the Spring. In the past month, abuse/neglect cases have increased. Judge Menefee said it's the same in Forsyth. Judge Wilson agreed that is what she is seeing also. Most of the visitation has been virtual. Judge Braddy noted that Pitt has had an increase in civil DV filings.

DeShield mentioned that in the recent Chiefs meeting, Judge Corpening from New Hanover mentioned that they are doing 100% of their abuse/neglect cases on WebEx and there is an increase in parent participation since they have gone remote. It's more convenient. Also, a few months into the pandemic Randolph instituted a rule to allow temporary child support hearings by affidavit.

Attorney Stephanie Gibbs reported that she had one full-day live hearing with her mask on. It is challenging to argue with a mask on. For an upcoming WebEx hearing, they are required to provide all notebooks three days ahead of the hearing date to the judge and opposing counsel. WebEx has the

advantage of safety from the virus and no mask required but it does require a lot of preparation days in advance. She has done several remote mediations which have gone well. People are often willing to settle and sometimes settle even without mediation. Lawyers are working it out as inexpensively as possible for the clients, who are now facing financial distress because of the economic impact of the pandemic in addition to family distress and disruption.

Judge Menefee noted that in Forsyth they are now getting a push toward collaborative law since the COVID measures were put in place. No one else has noticed a significant change in their district.

Judge Braddy asked if most judges are requiring people to come in person whenever a party objects to a WebEx hearing and the judges confirmed that is the case. Family Court Administrator Nikki Smith shared that in Durham if a party objects to a remote hearing then the party files an Objection to Remote Hearing form that they created. The judge reviews the form in chambers and decides whether to grant in part or in full. She shared a copy with the group via email.

Director for Court Services from DPS, Maxine Evans-Armwood, checked in to see if juvenile delinquency video hearings have been working. They are trying to keep the children as safe as possible, so whenever possible they participate through videoconferencing from their facility, so they do not need to be transported back and forth and risk exposure and require quarantine. Some attorneys have required that the child be in court and DPS has accommodated them but DPS would prefer to keep the youth in the facilities without moving them around, so they do not contract COVID. Judge Wilson added that she had been told that when a child was brought from a detention center, they would be quarantined for a long period of time which did not seem fair. Her county is doing secure custody hearings remotely, but adjudications are still in person. Maxine clarified that they are tracking everyone the child meets and using PPE as recommended by their nurse who is strictly following CDC guidelines. Judge Braddy added that District 3A will likely continue holding juvenile delinquency matters by WebEx for one child at a time because it allows the family to be present. It's more confidential and private so he has noticed the children are more comfortable speaking to the judge on WebEx.

Custody Mediator Lori Wainright said District 5 is finding a high level of compliance from parents in mediation. They are having huge custody mediation orientation classes also. It seems like people have an easier time being part of the mediation when they can meet from their home or office. A lot of parents are coming back to mediation again because they don't want to have to go to court.

Family Court Fact Sheet Update

DeShield Greene presented the final family court fact sheets. The two-page Family Court fact sheet is pending approval and will be posted at <https://www.nccourts.gov/documents/publications/ncaoc-fact-sheets>. A one-page version will be made available on the Family Court website as soon as it is approved for those interested in condensed content.

Judge Braddy commended everyone for their work on these sheets. He thinks they will be very helpful for conversations with anyone who may be interested in learning more about why family courts are beneficial. If every district followed family court principles and there were statewide rules that applied to domestic cases, then lawyers could practice in any county in North Carolina and know what to expect.

FCAC Time Standard Recommendation Discussion

The FCAC's recommended time standard guidelines were last updated in 2016. A copy was distributed to all members prior to the meeting. DeShield reviewed Judge Keever's suggestions that were sent prior to the meeting. As ICMS is configured, it will be helpful to have updated rules to share with the developers. There are a lot of competing interests when considering domestic court time frames. FCA Evelyn "Nikki" Smith motioned for Commission members to submit any suggestions about the time standards via email to DeShield and Lori by October 9. Chief Judge John Greenlee seconded the motion.

NCAOC Court Programs Updates

Access and Visitation

Lori Cole gave a brief summary of the federal A&V grant and provided the following update on the Access and Visitation Program:

- The FFY20-21 budget was not expanded by DHHS and so the coordinator who serves Union, Stanly, Richmond, and Anson will be reducing her hours to 80% time. The vacancy in Cumberland will be reduced to 32 hours/week also. These changes are necessary to be able to balance the budget with the increasing costs of fringe benefits (health insurance, retirement, etc.).
- Durham and Cumberland continue to require the new online parent education (PE) training and survey tools that were released in April in response to the coronavirus restrictions on in-person meetings. Buncombe and Halifax are providing live online PE using Zoom after the custody mediators give their orientation.

Custody Mediation

Stephanie Smith provided several Custody Mediation program updates:

- All custody mediators have been using Zoom accounts for years with distant clients, so they were able to roll into that when COVID hit. Adjustments have been made for orientation so people are conducting their own sessions live on Zoom, being sent to a designated mediator who is equipped, or using the self-directed link that people can watch on their own time.
- There has been a massive increase in workload to manage their caseload using Zoom and send links. Complicated things come up with parents working multiple jobs in places that are risky and exchanging kids across state lines.
- Mediators are struggling to get intake sheets returned and parenting agreements signed.
- Privacy is also an issue. Mediators sometimes ask parents to attest they are in a room alone or if anyone else is in the room, etc. Some parents have even participated in their car.
- Four new mediators have now been trained on Zoom. There will be another one coming on soon.
- In a few weeks there will be an in-service online training for the mediators on the topic of implicit bias.
- A uniform rule change regarding domestic violence screening has been approved by CMAC and the Director. It is still being piloted in Durham. There were plans to expand the project

into Harnett County so it can be incorporated into Odyssey (ICMS) but when COVID hit that was not able to occur. It is looking for certain threshold markers and they have learned that the protected party is choosing whether to opt in without a lot of information.

- To provide better information for protected parties, she applied for and was approved for grants from the State Bar Endowment and State Justice Institute for the creation of orientation materials for protected parties. They will be researching the script in October and then plan to begin filming.

Human Trafficking

Tara Minter provided an update on current Human Trafficking projects:

- The training on child sex trafficking has been created and tested. Now ZenMation, Inc. is now putting together a final version. It should be completed in the next few weeks.
- The NC Council for Women and Youth Involvement partnered with the International Center for Research on Women to create a report on child marriage in NC. The center pulled local data from 50 NC counties and the information is shocking.
- Because neighboring states have limited opportunities for child marriages, NC has become a destination state for people who wish to marry an underage person. They found that most child marriages are between adults and a minor rather than between two teenagers.
- The Center is going to partner with McGuire Woods in NC to convince the General Assembly to change our marriage laws.

Meeting Dates

The FCAC will meet on Friday, December 11 for the final time in 2020. Location to be determined. Judge Beth Dixon from Rowan County will be making a presentation with the group about parental recognition in the age of assisted reproductive technology at an upcoming meeting. Dates for 2021 meetings will be circulated soon.

Judge Wilson motioned to adjourn the meeting and Judge Menefee seconded the motion. Having no further business to discuss, the meeting adjourned at 11:36 am.

Submitted by Lori Cole