

MINUTES
Family Court Advisory Commission
WebEx
December 18, 2020

The Family Court Advisory Commission (FCAC) met via WebEx on Friday, December 18, 2020. The meeting came to order at 10:00 AM. FCAC Chair Judge Galen Braddy advised everyone that the meeting was subject to North Carolina's open meetings laws and that an attendee link had been made available to the public. DeShield Greene called roll. The following FCAC members were present via WebEx:

FCAC Members

Judge Galen Braddy, Chair
Julie Boyer
Stephanie Gibbs
Judge John Greenlee
Justice Robin Hudson
Judge Beth Keever
Gerald Mack
TeAndra Miller
Justin Minshew
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
Tara Minter, Court Management Specialist

Guests

Tara Kozlowski, Executive Director, NC Dispute Resolution Commission

Welcome

Judge Braddy welcomed everyone to the meeting. Judge Beth Dixon was previously scheduled to present at the meeting but was rescheduled to present at the March meeting, due to a scheduling conflict.

Approval of Minutes

Justice Hudson made a motion to approve the September 18, 2020 meeting minutes. Rose Stout seconded the motion. The meeting minutes were unanimously approved.

FCAC Time Standard Recommendation Discussion

The FCAC time standards were last updated in 2016 with a revision of the domestic and juvenile abuse/neglect/dependency time standards; the delinquency time standards were last updated in 2005. At the September FCAC meeting, a motion was passed that all suggested changes to the time standards be submitted to DeShield Greene and Lori Cole by October 9th. There were some recommendations that the domestic time standards should track from the date the complaint is served rather than the date the complaint is filed since service can be delayed, impeding the court's ability to meet the time standards. For child support matters, Judge Keever noted that G.S. 50-32 requires these issues to be disposed

within 60 days from the date of filing. She added that the current indexing system can only track from the date of filing and not the date of service. The group discussed that, while tracking from the date of service is a good idea, no change should be made at this time. However, the new integrated case management system, Odyssey, may allow for more detailed tracking of the time standards so tracking from the date of service should be revisited after Odyssey is implemented statewide.

From October to December, an ad hoc group of delinquency stakeholders, including both FCAC and non-FCAC members, met virtually to discuss and develop a proposal for the delinquency time standards. As a result, the delinquency time standards were substantially revised and were presented to the full FCAC for adoption. The recommended standards contain several additional court hearings not previously included and incorporate the Raise-the-Age legislation that went into effect December 1, 2019.

DeShield pointed out two recommended changes to the abuse/neglect/dependency time standards: adding a 90% time standard to both the adjudication and disposition hearings, which previously only had 100% time standards.

DeShield inquired if the domestic time standards that reflect a 98% time standard (i.e., 98% of cases should meet X time standard) should be changed to 100% where there is no 100% time standard. There was no opposition to this change. CSC Justin Minshew made a motion to change all instances where the domestic time standards reflected a measure of "98%" to "100%". The motion was seconded by Shirley Webb-Owens. There was a unanimous vote to make this change.

Rose Stout suggested the equitable distribution time standard for first status conference be changed to "Scheduling and Discovery Conference" to mirror the language in G.S. 50-21. Judge Wilson seconded the motion. There was concern expressed that the public may view these time standards as requirements. Justice Hudson pointed out that there is a statement on page 1 that provides: "These time frames represent **maximum** time limits that are 'goals'." The group recognized that the time standards are guidelines and will not be attainable in 100% of cases, especially in difficult and complex cases.

Rose Stout made a motion to adopt the time standards as currently written. Julie Boyer seconded the motion. There was a unanimous vote to adopt the revised time standards and submit them to the appropriate official for final approval and adoption.

Rule 53 Discussion

Prior to the meeting, DeShield Greene sent an email to the FCAC members summarizing this issue for discussion. The Technology and Innovations Group, a working group of the Judicial Branch COVID-19 Task Force, made several recommendations that were designed to improve efficiency in the courts. Two of the recommendations directly affect family court issues and relate to Rule 53 of the Rules of Civil Procedure. These recommendations are:

1. **Intermediate recommendation:** Consider requesting that the legislature expand the scope of N.C.G.S. § 1A-1, Rule 53 to specify that alimony, child custody, child support, and equitable distribution issues may be referred by district court judges.
2. **Long term recommendation:** Make all necessary rule and statutory modifications, such as N.C.G.S. § 1A-1, Rule 53, to authorize trial courts to refer custody, child support, alimony, and equitable distribution cases to referees / arbitrators and to select the referee / arbitrator if the parties do not agree.

The recommendations are before the FCAC for discussion and feedback and to determine if the recommendations should be included in the NCAOC legislative agenda. Rose Stout expressed concern that the recommendations are contrary to the one judge / one family best practice of NC Family Courts. Having a referee who is essentially a stranger make a decision about a family matter and the costs associated with a referee were concerning to the FCAC. While some parties are pro se, others are represented by attorneys, but neither would want to pay the additional costs of a referee.

Tara Kozlowski was concerned that such a change would interfere with court ordered mediation. She requested that, if the FCAC supported the recommendations, the recommendations include a provision that mediation is required prior to the appointment of a referee. With both the requirement of custody mediation and family financial mediation, adding a referee referral is not necessary.

The consensus was that Rule 53 not be expanded because the court already refers matters to mediation. Rose Stout made a motion that Rule 53 remain unchanged. TeAndra Miller seconded the motion. The vote on the motion was unanimous.

NCAOC Court Programs Updates

Access and Visitation (A&V)

Lori Cole provided the following update on the A&V Program:

- All five positions are now filled after the vacancy in Cumberland was filled.
- The rest of the parent education training materials will be translated to Spanish.
- The new A&V Coordinator in Cumberland is fluent in Spanish, and she has volunteered to record the presentation that will be posted online with the English presentation.
- A recent review of the A&V budget indicated that the hours for the A&V Coordinator who serves multiple counties in Districts 20A, 20B, and 16A can be increased from 80% to 90%. This change will help ensure that these counties receive regular support and coverage.

Custody Mediation

DeShield Greene provided the custody mediation update on Stephanie Smith's behalf.

- Stephanie is working with Lori Cole and DeShield Greene on a joint online training venture for Spring 2021. The focus will be on Trauma-Informed Practices and will be offered to all custody mediators and family court staff.
- The Custody Mediation Advisory Committee and NCAOC Director Wooten approved a statewide Parenting Agreement template developed by Kari Marvin and a working group of five mediators: Ingrid Bolick, Dachia Davis, Kristen Hirsch, Bryan Hurley, and Adam Robinson. They are experienced mediators who offer different perspectives, including working in Family Court, non-Family Court, and with military families. The goals for the statewide template were that it be concise, enforceable, easy for parties to comprehend and easy for mediators to use and edit, and that it meets all the legal requirements for a custody consent order. The template covers the required elements of a Parenting Agreement and offers several options that parents frequently choose. The mediators will be able to edit and customize the content to reflect the particulars of each case. It is expected to be ready to share in early 2021 and implemented in Odyssey.
- The Domestic Violence (DV) Screening Protocol pilot project continues to operate in Durham. It was originally planned that the DV Screening Protocol would begin in Harnett

County in 2020, but pandemic-related constraints have prevented that from happening. Stephanie was awarded grants from the State Justice Institute and the NC Bar Endowment Fund for a DV opt-in education video that will allow protected parties to fully understand the parameters of mediation and learn about legal and DV resources.

- Five new mediators have been hired and trained online during 2020. There is currently a vacancy in District 1.

Human Trafficking

Tara Minter provided an update on current Human Trafficking projects:

- The International Center for Research on Women produced a report that showed the number of child marriages occurring in NC. Based on this report, the Human Trafficking Commission will support the Center's efforts to prevent child marriages by changing North Carolina marriage laws.
- The Human Trafficking Commission recently announced they plan to hold a symposium in 2021 that will have a variety of workshops and be open to anyone. Tara will be working on this training. Tara will confirm if CLE credits will be available for the symposium. Since she is on the training committee, she can raise this as an issue with that group.
- The WORTH Court is currently operating in Cumberland County. The goal is to help human trafficking survivors who successfully complete the program get back on their feet by expunging their criminal record.

New Business

There was discussion about the change in leadership at the NC Supreme Court and how that may impact family courts. Justice Hudson offered to speak to Chief Justice-Elect Newby on behalf of the FCAC in order to get his thoughts about the future of family courts and invite him or his staff to attend future FCAC meetings. Judge Braddy stressed the impact that the program has had in his district. Danielle Carman stated that the NCAOC is preparing transition materials for submission to Chief Justice-Elect Newby. She can ask that the family court fact sheets and the 2020 Family Court Annual Report be shared with him as part of those materials. Justice Hudson asked that she receive a copy of the FCAC-related transition materials as well.

Stephanie Gibbs stated, with the implementation of Odyssey in Wake and the three other pilot counties in June 2021, it is important that the FCAC continue to monitor the progress of eCourts and how it will work for NC families. She added family courts will fit well into the uniformity that is needed for Odyssey. A uniform set of rules would allow for attorneys to practice statewide with consistency. Judge Stroud stated that the Rules Advisory Commission has considered the possibility of uniform court rules. Districts will not be allowed to have local rules that conflict with the new electronic filing rules. Odyssey will create more uniformity among the counties.

Meeting Dates

The next meeting of the FCAC will be Friday, March 12. At this time, the meeting will be held via WebEx. Future meeting dates for 2021 are: June 11, September 17, and December 10. The location will be determined as the meeting dates approach.

Justice Hudson motioned to adjourn the meeting and Shirley Webb-Owens seconded the motion. Having no further business to discuss, the meeting adjourned at 11:14 am.

Submitted by DeShield Greene