



FAMILY COURT ADVISORY COMMISSION

MEETING MINUTES

September 17, 2021

The Family Court Advisory Commission (FCAC) met via WebEx on Friday, September 17, 2021. The meeting came to order at 10:07 AM. The following FCAC members and North Carolina Administrative Office of the Courts (NCAOC) staff were present via Webex:

FCAC Members

Judge G. Galen Braddy, Chair
CSC Regina Billings
Julie Boyer
Stephanie Gibbs
Judge John Greenlee
Cheryl Howell
Justice Robin Hudson
Beth Keever
Gerald Mack
TeAndra Miller
CSC Justin Minshew
Suzanne Padgett
Hannah Rowland
Evelyn "Nikki" Smith
Judge Bill Southern
Rose Stout
Judge Donna Stroud
Lori Wainright
Shirley Webb-Owens

NCAOC Staff

Amy Auth, Legislative Director
Ryan Boyce, Deputy Director
Lori Cole, Court Management Specialist
Brad Fowler, Chief Business Officer
DeShield Greene, Court Management Specialist
Christina Harrison, GAL Assistant to the Administrator
Joseph Kyzer, Legislative Liaison
Tara Minter, Court Management Specialist
Mike Silver, Training and Service Director
Stephanie Smith, Court Management Specialist
Abby Ware, Court Programs Intern

Welcome & Introductions

Judge Braddy welcomed everyone to the meeting and introduced two new members. Hannah Rowland is the DPS DACJJ Juvenile Justice representative, and Chief District Court Judge Bill Southern from District 17B (Surry & Stokes Counties). DeShield Greene called role of the members and NCAOC staff were noted.

Approval of Minutes

Justice Hudson moved to approve the June 11 minutes with the addition of noting that she did attend that meeting. Shirley Webb-Owens seconded the motion, and the Commission voted to approve the minutes.





ICMS Update

Brad Fowler provided an update on the eCourts and Odyssey implementation. The next phase of the implementation process, which is currently delayed, is the statewide launch of eWarrants (the replacement for NCAWARE). eWarrants will write cases into Odyssey but NCAWARE will not be reprogrammed to write cases into Odyssey; therefore, it is both impractical and impossible to go live with Odyssey before eWarrants is launched.

The pilot counties (Wake, Harnett, Johnston, and Lee) have received training on Odyssey although refresher training will be necessary prior to implementation. Case management meetings continue with the pilot counties. Some of the possible case management benefits of Odyssey are judicial assignment and the potential for parties to schedule hearings on their own.

Staff are working with Tyler Technologies to resolve defects, address unresolved issues, and improve the product. No go-live dates are being announced at this time. Approximately 3 to 4 weeks' notice will be provided before eWarrants goes live. Roughly 45-60 days later, the pilot counties will go-live with Odyssey. Tracks 2-12 will begin after go-live with the pilot counties.

Legislative Update

Amy Auth explained that the primary objective for any legislative long session is to pass a 2-year (biennial) budget by the start of a new fiscal year, July 1. This year the Senate and House both passed their own individual spending plans, and both met the bulk of the NCAOC's funding requests. The Senate met nearly 100% of NCAOC requests for implementation of eCourts but not much in recurring state funding for additional court staff, as recommended by NCAOC workload formulas except for 2 new Human Trafficking Commission staff positions. The House budget provided roughly \$17 million less in one time funding for eCourts than the Senate, but it did offer more recurring state funds for new ADAs, magistrates, GALs, and the Human Trafficking Commission plus additional positions for other commissions. They also included different strategies for retaining positions, such as victim services coordinators, deputy clerks for domestic violence, and GAL VOCA grant positions. Neither budget fulfills workload formula driven request for several new positions for custody mediators, magistrates, clerks, DA investigators, and DA legal assistants.

The NCAOC legislative strategy for the conference committee process is to highlight the best of both budgets in terms of NCAOC priority of eCourts and personnel to receive the robust funding needed for both of those key needs. The legislative team has been working closely with the Office of General Counsel, Research, and Budget offices to track and monitor all sorts of legislation. They are looking for any operational concerns that could affect the work being done in the courts.

Joseph Kyzer explained that there is also a lot of policy in both budgets that affects the court system. Nothing is directly pertinent to family court but there are provisions about judicial support staff and allocation of judges. The Appropriations Act is Senate Bill 105. Other bills of interest to family court include SB113 to modify termination of parental rights appeals; SB255 is the agency bill that allows





declarations through eCourts and remote video conferencing changes; SB693 expedites child safety and permanency – sections 2 and 5 contain landmark changes; HB769 addresses foster parents bill of rights; SB207 raises the age for the definition of an undisciplined child to age 10 and modifying the definition of a delinquent juvenile.

Judge Braddy noted that a House Bill included renaming judicial support staff, but he has heard that most judges were not supportive of those changes and would rather have a research assistant, like the Judicial Fellows, who could help them locally. Mr. Kyzer reported that NCAOC has done internal studies and analysis and provided the legislature with other proposals that could alleviate the concerns of judges and still accomplish the large-scale intent. However, the addition of local research assistants was not part of the NCAOC proposals.

Judge Braddy is also concerned about the workload formula recommendation that takes a judge position away from District 2 which is the largest territorial district in the state. He already spoke with Judge Heath because the NCAOC workload formulas do not include show cause hearings or motions to modify custody which are very time consuming. Motions to modify can often take several days. Mr. Kyzer explained that the proposal to move a judge from District 2 to District 29B was in the House Budget to be effective January 1, 2023. AOC has asked the legislature to either (1) add a judge to District 29B and not take one from District 2 or (2) leave it as is.

Task Force on ACEs Informed Courts Update

NCAOC Training & Service Director Mike Silver shared that emerging science has shown that childhood trauma, such as Adverse Childhood Experiences and Adverse Community Environments (ACEs), can have a profoundly negative impact on children, increasing the likelihood that they could end up in the courtroom as an adult, either as a defendant or victim. The study for ACEs was originally done by Kaiser Permanente in California.

The mission of the Chief Justice’s Task Force on ACEs-Informed Courts is to enable Judicial Branch stakeholders to understand the impact of exposure to ACEs on children and to develop strategies for addressing adverse consequences within our system. Trauma-informed courts can span a wide variety of trauma and people, but the focus of this Task Force is on children. The Task Force strives to provide everyone under the Judicial Branch umbrella – all employees and elected officials – with training and education to be familiar with ACEs and equip them to be able to recognize victims and young offenders impacted by ACEs. There will also be identification of existing programs and potentially design of new programs that can intervene in the lives of young offenders. Finally, the Task Force will provide a platform where court officials can offer feedback to educators regarding their experiences with hope to create further avenues for research on this topic.

Task Force members represent a wide range of stakeholder groups within the court system including judges, district attorneys, public defenders, clerks, court managers, law enforcement, GAL, and





academic leaders. Co-chairs are the Director of the NC Administrative Office of the Courts - Judge Andrew Heath, and the District Attorney for New Hanover and Pender County – Ben David.

The Task Force met for the first time on August 20. Speakers and topics included

- Dr. Tripp Ake (Duke University) – the science of trauma and resilience
- Robert Lee (Head of Statistical Services at NC DHHS) – existing ACEs data in NC
- Stephanie Smith (NCAOC Custody Mediation Manager) – Custody Mediation program purpose, new Domestic Violence screening protocol
- Reggie O’Rourke and Liz Kachris-Jones (GAL) – overview of NC GAL program
- Judge Andrew Heath (co-chair) – explanation of the success sequence
- District Attorney Ben David (co-chair) – promote the mission and emphasize the need to rely on each community and science to facilitate the work of the ACEs Task Force

Members formed two subcommittees, Education and Program Development, to explore possibilities in more depth. The Education group plans to develop benchcards, role specific training, and other educational resources such as on-demand modules in the LearningCenter. The Program Development group will be compiling a list of existing programs to determine where there may be gaps in current resources. An Advisory Group is also being identified and those members will serve as subject matter experts to help the Task Force meet its mission. The Duke Bolch Judicial Institute piloted training about ACEs for judges on August 27 and based on feedback from the pilot training, will be presenting similar training to the District Court Judges’ Conference in October.

Judge Greenlee shared that he got to participate in the August 27 judges pilot training and the Bolch Judicial Institute put a lot of work into this. He appreciated being able to give feedback and suggestions and they have been very responsive. He is hoping that this training can be rolled out even more, for new judges and their continuing training.

Voice of the Child, June 2021 AFCC Highlights

FCAC member and Custody Mediator, Lori Wainright, reported that the 58th Association of Family & Conciliation Courts Annual Conference in June provided an excellent opportunity for custody mediators and family court judges to hear from professionals around the world about the topic: “When a Child Rejects a Parent: Are we Part of the Problem or the Solution?” The program spanned seven days and included full day institutes and 26 different workshops presented by judges, attorneys, and therapists.

Brain science and trauma was highlighted throughout the conference. Most presentations began with a mini lesson on neurobiology and trauma. This is a clear indicator that the profession values the importance of understanding brain science and the impact of negative experiences of conflict and domestic violence in working effectively with families involved in a court process.

Another major theme was the issue of alienation. Whether in a courtroom or mediation office, court officials and staff are dealing with parents who accuse the other of alienating the children, which





contributes to the resist-refuse dynamics. It is important to note that experts disagree about the definition of parental alienation and what causes it. There were several workshops on how domestic violence and substance abuse—and having a new partner prematurely—play a role. In cases where there is no domestic violence or substance abuse, are children resisting or do they, like most children, have a preferred parent? Reframing was emphasized.

Statistics are alarming for sexual abuse in child custody matters. Everyone should be paying attention to the needs of LGBTQ litigants who face a host of discrimination/mental health issues. Ms. Wainwright anticipates that in the coming years the field will increase focus on the topic of how does the “best interest of the child,” honor the “voice of the child.” Specifically, how to give children voice, not choice.

The following presentations are worth watching:

1. Bill Eddy and Matthew Tower’s: Anger and Anxiety Are Contagious: Science and Case Management was particularly powerful in providing case management recommendations for judges, lawyers and therapists to work more positively with high conflict parents
2. Trauma as a Potential Distractor or Illuminator in Exploring Resist-Refuse Dynamics
3. Fostering Healthy Outcomes for Families: How Professionals Can Become Part of the Solution
4. The Wise Practitioner: Integrating Self-Care, Ethics and Purpose; and
5. The Cents and Nonsense in Financial Decision Making

Custody mediators appreciated the diversity of topics and presentations by international and national trainers and overall feedback was very positive from attendees. FCAC members who are interested in viewing recordings of this training conference can reach out to Stephanie Smith.

Family Court Updates

Because statistics are often how Family Courts are evaluated and the effectiveness of case management practices determined, DeShield Greene and Lori Cole have been highlighting and sharing domestic statistics from the aging analysis reports with the Family Court judges and administrators each quarter over the last year. The primary focus is the pending median case age and the percentage of cases that have been pending for more than 1 year (the best practice goal is 15% or less). Six of the 15 Family Court districts (12 of the 28 Family Court counties) meet the 15% standard.

DeShield explained that Family Court district statistics are often compared to non-Family Court districts to show the impact of active case management and having additional staff to implement these case management practices. The comparison based on the most recent aging analysis report shows that Family Court districts have a pending median case age of 165 days compared to 465 days in non-Family Court districts. The percentage of pending cases over one year is 33.5% in Family Court districts compared to 55.3% in non-Family Court districts. These numbers are included in fact sheets posted on





<https://www.nccourts.gov> as well as the [Annual Report](#) that is provided to the Chief Justice and available to the General Assembly.

To assist districts and share success strategies, case management strategies were solicited from counties that are meeting the 15% standard as well as counties that have shown great improvement recently. Consistently, those districts shared the following success strategies:

- Active involvement by the Chief District Court Judges or the lead family court judge.
- Judges holding attorneys accountable regarding entering orders and limiting continuances.
- District awareness of backlog is key.
- Regular review of the pending case list.
- Conduct clean-up calendars, administrative closures, and status conferences.
- Coordinate with the clerk's office regarding data entry issues.
- Implement court-driven scheduling and continuous calendaring to ensure that no case is left behind.
- Use Webex technology to ensure there are minimal disruptions to court scheduling.

DeShield and Lori are available to assist districts with reviewing pending cases, discuss case management practices, or assist in any way that may be useful. In early 2020, they visited Districts 16A and 19D to provide technical assistance to these districts that were redistricted in 2019 and only have one family court staff person to serve multiple counties. Since then, those districts have shown the most significant improvements in their pending median case age despite the pandemic. Moore and Hoke (19D) dropped from 571 to just 176 days. Scotland, Anson, and Richmond went from 217 to a median pending case age of just 96 days. Judge Heath recognized the efforts of both districts with a letter to the Chief District Court Judge and family court staff in those districts.

Lori reviewed the 2019 and 2020 calendar year JWise data for Adjudication Hearings, Disposition Hearings, and Permanency Planning Hearings in Family Court counties. The report contained the total hearings held and not held, both within and outside the time standards. Overall, the percentage of hearings held within the time standards was lower in 2020 than 2019 (which was a trend for all case types due to COVID-19) despite guidance from the federal government issued in April 2020 that juvenile hearings should not be delayed. However, District 25 showed improvement in timeliness of permanency planning hearings overall. According to the FCA for that district (which includes Catawba, Burke, and Caldwell counties), Chief District Court Judge Cherry implemented pre-trial conferences for all juvenile hearings in early 2020 which contributed to their success. In addition, they implemented date/time specific scheduling for hearings, and there were few objections to holding meetings in person if the issues could not be resolved at pretrials. A District Permanency Collaborative (DPC) quarterly report is being compiled by DHHS to synthesize and share the progress and approaches by DPCs statewide to actively focus on improvements to permanency achievement for children. It will be shared with the FCAC as soon as it becomes available. DeShield noted that the time standard report data is available to all districts, not just family courts, through JWise.





Judge Braddy commented that he cannot imagine going back to the way his district was before family court. It changed everything in a positive way in Pitt County. It can be a tough transition for lawyers to start with, having court-driven scheduling and time standard goals, but once they see the results, they will use it.

Best Practice FCAC Recommendations

At the June FCAC meeting, all proposed changes to the Family Court Best Practices were adopted except the recommendation related to the (1) minimum staffing level in a family court district and (6) the recommendation regarding assistance to self-represented litigants.

The group reviewed the minimum staffing levels and decided not to make any changes to the original recommendation to have at least one family court administrator and one family court case coordinator per district as it is currently listed with a note that it was reviewed in 2021.

Under number six, language was adjusted to reflect the suggestions from the FCAC discussion in June to expand direction to develop community resource lists to be more inclusive of self-represented litigants who may not use the internet to locate community resources. Members agreed that the proposed changes do summarize comments made in June and made a few additional changes to the final paragraph to encourage continuous sharing of ideas and strategies between family court districts.

DeShield noted that the changes recommended for Appendix B (adding a trauma-informed judicial training component) by the FCAC during the June 11 meeting have been adopted by the Chief Justice.

Court Programs Updates

Access and Visitation (A&V)

Lori Cole shared that the A&V grant has been renewed by DHHS at the same funding amount as the last federal fiscal year. Six coordinators provide direct services to 14 counties and one of those coordinators also responds to calls and emails from all remaining counties. The grant will continue to fund all six coordinators, with some adjustment to salary and hours to reflect the current workload.

Custody Mediation

Stephanie Smith reported that because of the pandemic, all custody mediators were able to attend the AFCC conference virtually. To celebrate conflict resolution day on October 21, custody mediation is partnering with the Dispute Resolution Commission to provide remote training from an expert on online dispute resolution. The pilot project for the domestic violence screening protocol is ongoing in Durham. Search different databases is cumbersome but it is working well. Filming with UNCTV to have training for the protected party to better understand





the process prior to opting into mediation is complete. A three-year statistical report was recently distributed to chief district court judges. The Custody Mediation staff is working with the ICMS team to be sure custody mediation protocols are incorporated into the new system.

Human Trafficking

Tara Minter reported that Senate Bill 35 passed. It raises the minimum age a person can marry in North Carolina to 16 years old. It also adds a clause that says a minor may not marry someone more than four years older than they are. The Human Trafficking Commission held their annual conference on September 17-18 with around 290 people in attendance at the live event in Raleigh. Tara is a part of a new *Demand Reduction Task Force* which has begun to work on a strategy to address the people who are buying sex in North Carolina.

Other Business

Judge Braddy proposed that it may be helpful to have a subcommittee explore with the legislature how to clarify a specific area of the law. He recently had a case for divorce from bed and board (DVBB) that included a request that the offending party be removed from the marital home. He found only one published case on this issue that seemed to say unless there is a custody or alimony claim, the removal cannot be done. There was an unpublished case that said the opposite. Cheryl Howell confirmed that there is not a clear answer. She shared that this question comes up across the state all the time. It boils down to, do our judges have the authority to force physical separation and if so, under what circumstances? It can be done in situations with domestic violence, but beyond that what can be done? A subcommittee could talk about this issue with judges and family law practitioners from around the state to get some clarity on the question first and then the FCAC could consider what other steps to take. The group decided to further discuss this issue at the next meeting in December.

The meeting adjourned at 12:09 pm.

Submitted by Lori Cole

