



FAMILY COURT ADVISORY COMMISSION

MEETING MINUTES

September 22, 2023

The Family Court Advisory Commission (FCAC) met in person at the NC Judicial Center (NCJC) in Raleigh and via Webex on Friday, September 22, 2023. The meeting came to order at 10:00 AM. The following FCAC members, North Carolina Administrative Office of the Courts (NCAOC) staff and guest participated:

FCAC Members

Lacey Ange
Judge Galen Braddy, Chair
Nancy Butler
Skye David
Erin Enecks
Rachael Hawes
Cheryl Howell
Eason Armstrong Keeney
Judge Beth Keever, ex officio
Sonynia Leonard
Judge Ted McEntire
Marie Mobley
Sydney Smith
Judge William Southern
Brent Tanner
Brandi Tolbert
Lori Wainright
Judge Amanda Wilson

NCAOC Staff

De Maca Adams
Lori Cole
Mike Silver
Stephanie Smith
Faith Taylor

Guests

Marci Ward

Approval of Minutes

Judge Southern made a motion to approve the June minutes; Brandi Tolbert seconded the motion. The meeting minutes were approved by the FCAC members.

Legislative Update

The General Assembly's final budget conference report passed its first votes in the House and Senate Thursday. Because it is a conference report, it is not amendable and was voted on as drafted. During the FCAC meeting, members learned that the budget passed final votes and Governor Cooper indicated that he will allow the budget to become law on October 2 without his signature. Lori Cole shared an update provided by Amy Auth:





Overall, the final budget is positive for the Judicial Branch and fulfilled several of our requests, with the bottom-line appropriations amounts for our Branch significantly higher than what we requested due to generous salary increases for all Judicial Branch personnel as well as a labor market adjustment salary reserve.

In the first fiscal year, the budget provides an across-the-board salary increase of 4% for most Judicial Branch employees or a 5.5% increase for employees paid on an experience-based step plan (such as clerks) or a new, more competitive salary structure for state judges, DAs, and public defenders. The budget did not include targeted salary adjustments sought for clerks and magistrates. However, the raises provided will boost take-home pay for these groups and benefit *all* personnel vs. just a select few at the top. All Judicial Branch employees will receive an additional 3% increase in the second fiscal year. These significant raises follow the raises all Judicial Branch personnel received of 6% to 7% in the previous biennium.

The budget includes over \$15 million recurring in FY 23-24 and close to \$18 million recurring the following year to implement a new judicial pay structure. It also includes over \$3.8 million recurring in FY 23-24 and over \$4.6 million recurring the following year for salary adjustments for assistant district attorneys.

The final budget includes \$5 million nonrecurring in both fiscal years for business process and technology positions to support the implementation of eCourts. One new Court Coordinator position was added to support Family Court in each of the following District Court Districts 5 (Duplin, Jones, Onslow, and Sampson Counties), 25 (Cabarrus County), 27 (Rowan County), and 37 (Randolph County). This expands family court operation to three new districts which includes six more counties.

There are numerous family law bills that have been filed this session, but AOC has monitored the following bills that may be of interest to the Commission:

- **Session Law 2023-103** [H193v6.pdf \(ncleg.gov\)](#) the annual AOC “Agency Bill” contains efforts to improve court processes and make technical corrections to existing laws. It was signed into law on July 21st.
- **Senate Bill 615** [S615v3.pdf \(ncleg.gov\)](#) SB 615 has been ratified and presented to the Governor. It makes changes to adoption and guardianship laws.
- **Senate Bill 625** [S625v4.pdf \(ncleg.gov\)](#) SB 625 is a lengthy bill that would make child welfare, safety and permanency reforms. The House and Senate versions differ substantially and is currently sitting in the House Judiciary 2 Committee.
- **House Bill 647** [H647v2.pdf \(ncleg.gov\)](#) HB 647 would amend various abuse, neglect, and dependency laws to expedite permanency. SB 647 made crossover but has been in the Senate Rules Committee since May.





Integrated Case Management System (ICMS) / Odyssey Update

Implementation began on February 13 for the pilot counties (Wake, Johnson, Lee, and Harnett). Staff is now preparing for Mecklenburg to go live on October 9 with additional training onsite for office walkthroughs of procedures. Faith Taylor explained that AOC is working with Tyler to address defects and is continuously working on issues and concerns, such as latency. The goal is to have all 100 counties shift to ICMS/Odyssey by 2025. After Mecklenburg, they are expecting to move to implement in Districts 1 and 2 after January 2024. Training resources on the eCourts hub and Juno are available for all employees to get familiar with the system and be able to run inquiries on Odyssey.

Chief Justice’s Task Force on ACEs-Informed Courts Update

Training Services Director and member of the task force, Mike Silver, shared that the partnership with UNC to develop online on-demand module training for all Judicial Branch staff, attorneys, and hearing authorities is continuing. Final drafts of the training curriculum and activity books for youth are on track to be completed and made available by December 2023.

District Court judges will be invited to a one-hour webinar in October which will be a two-person discussion with Dr. Tripp Ake and a district court judge from Mecklenburg County talking about trauma informed practices and how to evaluate the youth assessment guide.

The Chief Justice is convening all chief district court judges in Durham on November 30 and December 1 for a two-day session on trauma-informed courts. It will highlight resources that are available to all district court judges.

The Judicial Branch offers an in-person Customer Service training from the OSHR Leading at All Levels individual contributor curriculum. The Judicial Branch facilitators incorporate elements of the trauma-informed court practices and the ACEs benchcard into the customer service training. It is available to all NC Judicial Branch employees.

Juvenile Court Time Standards

Rachael Hawes, Brandi Tolbert, Marie Mobley, and Liz Kachris Jones served on the subcommittee to review whether changes to the juvenile court time standards set out in the appendix of the Family Court Best Practices & Guidelines should be considered to reflect the changes made to the North Carolina General Statutes in recent years, most notably the way permanency planning hearings are held and the separate tracks for cases with children who are or are not in foster care. The subcommittee recommended changes to reflect current time standards while addressing real constraints from lack of resources. Lack of funding from all different partners in juvenile court make the time constraints very challenging to meet and the children of our state are the ultimate ones who suffer, because these





timelines cannot be practically met on a consistent basis. Marie and Racheal emphasized that the problem exists across the state, in all districts. Juvenile resources are frequently exhausted. Rachael provided an example of her upcoming two-day DSS session where there are 35 juvenile cases concerning 56 children. Chances are high that only about half of the cases can be completed in a two-day court session.

The subcommittee presented two versions for consideration by the commission, (1) updates to the existing format, and (2) updates to reflect the juvenile code. Discussion focused on why less than 100% goals were presented when all hearings should be complying with the statutes. Proposed language explains that there are times when the guidelines are not met, often for good reason, and is more realistic of what can be achieved with available resources and the reality of extraordinary circumstances that do occur. Further adjustment was suggested for version 1, bullet five of Appendix D, Number 3 to read: *Time standards noted with an asterisk (*) reflect the North Carolina required timeframes as codified in the North Carolina Juvenile Code. It is the purpose of this Committee to comply with the Federal Adoption and Safe Families Act provisions and North Carolina statutory provisions. However, given the realities of an ever-expanding court system, the Committee has included additional time frame recommendations, if a case cannot strictly meet the timeline requirements of the Juvenile Code, and only as allowed by the presiding District Court. Pursuant to N.C.G.S. 7B-803, the court may grant a continuance of a scheduled hearing in extraordinary circumstances.*

The Commission voted to approve version 1 updates with the language above for bullet 5. The changes will be presented to the Chief Justice. Upon his approval, the Best Practices and Guidelines will be amended accordingly.

Timely Entry of Orders

The FCAs raised the issue of some domestic orders not being ruled on or timely entered for the FCAC to consider during a past meeting. A subcommittee was appointed for the purpose of considering possible recommendations to address the challenge when rulings and/or orders are delayed. Judge Greenlee, Judge Wilson, Rose Stout, Nancy Butler, and Cheryl Howell were asked to examine the matter. Judge Greenlee and Rose Stout completed their term on the Commission in June 2023 but agreed to continue consulting on this issue as needed.

Despite the guidelines which state “All orders should be filed within 30 days following the conclusion of a hearing...” some domestic orders are known to have been outstanding for several months or even years. This may be due to a systematic “falling through the cracks” or something else, but the result is that the fair and speedy administration of justice does not occur. Some districts do have local rules to re-calendar cases after 30 days if no order is entered, however that can place staff in a sensitive position and may not always occur. Sometimes the biggest problem is getting a decision from the judge.





The subcommittee agreed that bringing the issue to the attention of all judges would be a helpful first step. Because complaints about judicial conduct are investigated by the Judicial Standards Commission it would be helpful to involve them in efforts to resolve this potential issue also. Judge Greenlee raised the issue with the chief district court judges at the summer conference and Britney Pinkham from Judicial Standards reminded the full conference of all district court judges of their ethical duty to enter orders on time. The Chiefs discussed the issue again at the School of Government meeting in early September. At that time, the group was evenly split over the suggestion to have a Supreme Court rule for judges about order entry.

The subcommittee discussed how an automated report to inform judges of pending domestic rulings and orders could be a helpful tool. Such a report currently exists for juvenile cases but not for domestic. The Commission agreed such a tool could be widely beneficial and asked Lori Cole to inquire with AOC about the possibility of such a report for domestic case types. An automated list could assist judges, staff, practitioners, and ultimately the families who have brought their business to the court for resolution.

There was discussion about an educational segment for judges during an upcoming conference where they can share methods that are successful and learn about best practices for order entry from the National Center for State Courts. Those methods could also be shared with the court management staff who work directly with the judges through the new course and materials for District Court Management.

Family Court

Statewide statistics for FY22-23 with family court and non-family court data have not yet been released so there are no activity summaries for review at this time. Publication of the 2023 Annual Report was delayed. A draft was shared with the FCAC for review and will be posted soon. The 2024 report will include FY22-23 data and should be ready in March 2024.

The 2024 Family Court Conference is scheduled to take place in Kitty Hawk on March 11-13. Judges and court management staff who work with domestic and juvenile abuse/neglect/dependency cases are encouraged to attend.

Custody Mediation & Permanency Mediation

Stephanie Smith shared that the three-year comparison statistical report was recently shared with Chief District Court Judges. The number of filings was slightly lower overall than the previous year. They are examining whether it could be tied to an increase in Failures to Appear at orientation. Training for the





custody mediators will be held October 19-20 in conjunction with the Dispute Resolution Commission's observance of Conflict Resolution Day.

Updates to the permanency planning mediation rules are currently being reviewed by various stakeholders. Stephanie is gathering input to create a more streamlined, hybrid approach for custody mediators who are trained to take on these cases in a narrow scope in stages. More requests have been received from Durham and Chatham.

Access & Visitation (AV) Program

De Maca Adams shared that the federal grant cycle that funds the AV coordinator positions runs from October 1 to September 30. As of August 30th, AV coordinators provided a total of 5,647 services for FFY22-23. Six A&V Coordinator positions are currently housed in family court districts. The Cumberland County vacancy was filled in July.

Beginning October 1st, the number of AV Coordinators will be reduced to five: Western, Southern, Northern, Northeast, and Southeast regions. They will continue to offer services to parents in every county across North Carolina using a regional approach. Mecklenburg has not yet been successful in finding a suitable candidate for the Southern Region AV coordinator vacancy. There are concerns with the difficulty in filling these positions due to limited grant funds available through DHHS. Positions for AV Coordinators are expected to be increased to 40 hours full-time employees. It is anticipated that the increase in hours and salary in the upcoming fiscal year will help with recruitment efforts and foster retention of AV Coordinators.

Family Financial Settlement (FFS)

After the fourth quarter, FFS has a 71% settlement rate for all counties using VCAP and Odyssey to track case activity. This is consistent with the averages for the past several years.

The Chief Justice had declared the third week of October as Conflict Resolution Week to recognize the importance of dispute resolution to the Judicial Branch and to demonstrate the commitment to ADR programs that promote dispute resolution. The Dispute Resolution Commission (DRC) will celebrate Conflict Resolution Day on Thursday, October 19, 2023, at the NCJC offering 4.25 hours of continuing legal education classes and 2 hours of continuing mediation education to registrants.

50B Domestic Violence Cases – Discovery Issues

Judge Braddy shared an issue that occurred on a recent civil 50B case that was scheduled on the same day as the companion criminal case for the parties. A request for deposition was made by the defendant and the attorney for the plaintiff objected, citing it would be against public policy to potentially traumatize or intimidate a domestic violence victim again in a deposition. The customary practice in a





deposition is for parties to sit across from each other in the same room with their attorneys. He decided to enter a limiting order on the discovery and allowed the defendant to ask 15 interrogatories. Current case law limits allegations to the contours of the complaint. The Commission discussed implications of discovery and agreed to explore further if this practice becomes more frequent statewide.

The meeting adjourned at noon.

Future Meeting Dates

There was consensus during the meeting for the FCAC to meet on March 1, June 7, September 6, and December 6 of 2024. However, following the meeting, some dates were adjusted to align with meeting space availability. In addition, a conflict had arisen for several members for the December 1, 2023, meeting so an alternate date was identified in January. Therefore, the FCAC meeting dates for 2024 will now be January 5, March 8, June 14, September 6, December 6. All meetings are scheduled to take place in the Hickory Room of the NC Judicial Center.

Submitted by Lori Cole

