

LAURA S. RIPKEN
CIRCUIT ADMINISTRATIVE JUDGE
FIFTH JUDICIAL CIRCUIT
CHAIR
(410) 222-1290

KEITH A. BAYNES
CIRCUIT ADMINISTRATIVE JUDGE
SECOND JUDICIAL CIRCUIT
VICE CHAIR
(410) 996-5317

FAYE D. GASKIN
SECRETARY
(410) 260-1257



Conference of Circuit Judges

MARYLAND JUDICIAL CENTER
187 HARRY S. TRUMAN PARKWAY
ANNAPOLIS, MD 21401

MINUTES OF THE MEETING OF THE CONFERENCE OF CIRCUIT JUDGES

A meeting of the Conference of Circuit Judges was held Monday, November 16, 2020, via Zoom for Government, beginning at 9:30 a.m.

Members Present

Hon. Laura S. Ripken, Chair

Hon. Brian D. Shockley
Hon. Brett W. Wilson
Hon. Keith A. Baynes, Vice Chair
Hon. Stephen H. Kehoe
Hon. Yolanda L. Curtin
Hon. Kathleen Gallogly Cox
Hon. Jeffrey S. Getty
Hon. Viki M. Pauler
Hon. William V. Tucker

Hon. Robert A. Greenberg
Hon. Julie S. Solt
Hon. Donine Carrington Martin
Hon. Audrey J. S. Carrion
Hon. Barry G. Williams
Hon. Charlene Notarcola
Melissa Batie
Pamela Harris

Also, Present Were:

Hon. Deborah Eyler
Hon. John Morrissey
Hon. Mimi Cooper
Faye Gaskin
Justin Bernstein
Lou Gieszl
Melinda Jensen
Dominique Johnigan
Carla Jones

Cynthia Jurrius
Kelley O'Connor
Eliana Pangelinan
Suzanne Pelz
Lisa Preston
Marti Robinson
Nisa Subasinghe
Christine Uslin
Jamie Walter

1. Approval of Minutes

Judge Ripken called for approval of the minutes of the September 21, 2020 joint meeting of the Conference and District Administrative Judges, as well as the September 21, 2020

Conference meeting. Judge Kehoe moved for approval of the minutes of both meetings, which was seconded by Judge Martin. The motion passed.

2. Report of the Conference of Circuit Judges Nominating Committee

The Nominating Committee, comprising Judges Adams, Cox, and Wilson, reported that Chief Judge Barbera reached out to ask if the Conference would consider extending Judge Ripken's term as Chair and Judge Bayne's term as Vice Chair for one additional year given all that has and continues to happen during the pandemic. The committee met with the circuit administrative judges to get their input and the consensus was to recommend to the Conference a one-year extension to allow for continuity of leadership during the ongoing pandemic.

Judge Cox moved for a one-year extension of the terms of Judge Ripken and Judge Baynes. Following a second by Judge Martin, the motion passed.

3. Custody Evaluator Standards and Training Work Group Report and Recommendations

Judge Deborah Eyler briefed the Conference on the recommendations of the Custody Evaluator Standards and Training Work Group, noting that the Domestic Law Committee formed the work group in 2019 to review the custody evaluation rule, national model standards and guidelines, and to determine if training for custody evaluators and judicial officers should be provided. The work group was charged with reporting on best practices and to formulate recommendations regarding any Rule changes as well as the development of training and training materials. In addition to reviewing the rule and national standards, the work group also solicited feedback from the stakeholder groups. The preliminary report was presented to the Domestic Law Committee and its feedback was then incorporated into the report.

Judge Eyler discussed the work group's recommended changes, including:

1. Make custody evaluators more widely available to the circuit courts by sharing in-house custody evaluators among smaller jurisdictions, initially in a pilot project, and by encouraging outreach to additional qualified professionals to perform custody evaluations.
2. Re-purpose the specific issue evaluation to be a useful assessment tool.
3. Adopt standard form orders for custody evaluations and specific issue evaluations.
4. Require data gathering from high neutrality/low affiliation collateral sources.
5. Without encroaching on the professional standards of care of custody evaluators, encourage best practices that will better inform the litigants about the nature of the evaluation and its use and inspire confidence that these evaluation tools are reliable.
6. Require screening for intimate partner violence by custody evaluators as a mandatory element in a custody evaluation and encourage courts to screen contested custody/access cases for intimate partner violence soon after filing, to the extent feasible.
7. Require and offer regular training for custody evaluators.
8. Conduct regular training and education about custody evaluations for judges and

magistrates.

The aforementioned changes are embedded in the five broader recommendations, which include:

1. Expanded access to custody evaluators,
2. Specific issue evaluations, Rule 9-205.3(b)(7),
3. Collateral source contacts, Rule 9-205.3(f)(2)(A),
4. Standard court orders for custody evaluations with SIEs, and
5. Best practices

Judge Eyler discussed a concern that small jurisdictions rely on private evaluators that the parties can't necessarily afford although there are fee standards. It was suggested that a pilot program be established for regional in-house evaluators. The work group also recommended an increase in funding for fee waivers and more outreach to get evaluators involved. With respect to recommendation 2, the suggestion was to revamp specific issue evaluations to targeted investigations. Evaluators aren't required to meet qualification criteria. The recommendation is to change to refocused assessments and qualifications for evaluators for specific issues that are the target of the dispute. Regarding collateral source contacts, the Rule has certain mandatory and optional provisions, making contacts with certain types of collateral sources mandatory. It was noted that most organizations with their own standards strongly recommend that the evaluator's discretion to decide who is important to contact should not be infringed upon. The work group recommended mandatory domestic violence screening during the evaluator's initial session to determine if protective measures should be taken. Also recommended was mandatory basic nuts and bolts training for all evaluators, judges, and magistrates and non-mandatory advanced training. It was suggested that training for judges and magistrates be incorporated in the Family Law University and that relevant portions of the Rule be included in the bench book.

A question was raised as to whether the work group considered how evaluators are supervised to ensure quality and timeliness of the reports. It also was noted that there is a legislative work group set to propose legislation regarding custody evaluations. It has been intimated that the training provisions are so onerous that it is cost-prohibitive. Judge Eyler stated that there may be some misunderstanding of how the Rule works, adding that it is beneficial for the Judiciary to have its own track.

Other information was provided, including COVID safety protocols, initial screening standards, and informed consent standards. The documents were drafted by the work group as helpful information, not as part of its recommendations.

Judge Cox moved that Conference approve the report and recommendations to be sent to the Judicial Council for its consideration. Following a second by Judge Wilson, the motion passed.

4. Guardianship Monitoring Pilot Project

Nisa Subasinghe briefed the Conference on the Guardianship Monitoring Pilot project, which was established to enhance the circuit courts' ability to manage and monitor guardianships

of adults and minors. She noted that funding and staff limitations inhibit the courts' ability to verify or investigate the status of guardianship cases. The project provides a tool to assist courts and eliminate barriers.

The Administrative Office of the Courts is in the process of procuring contract guardianship monitors and auditors. The monitors, who will be available to each circuit court, will investigate guardianship matters in accordance with the program protocol and Rule 10-106.2. The monitors will address complaints from the investigations or obtain additional information as needed by the courts, track guardians for reports, and perform status checks. The auditors will review audit issues and perform status checks.

The Department of Juvenile and Family Services (DFS) will train and coordinate monitors with auditors and evaluate the program. DFS has developed a process for courts regarding the use of monitors and auditors. The fee is paid out of the guardianship estate, an interested person, or pilot project funds. Ms. Subasinghe stated that there are report templates to track the quality and effectiveness of the program, adding that feedback from the courts is necessary to ensure the program operates efficiently and effectively.

5. Court-Appointed ADR Practitioners List

Cynthia Jurrius and Lisa Preston discussed the formation of a statewide ADR practitioner roster and new ADR functionality in MDEC. Currently, each circuit court maintains its own roster while there is a statewide roster for the District Court. Functionality is being added to MDEC to support implementation of proposed Rule 20-109(e), which would provide ADR practitioners access to MDEC. A consolidated roster will improve efficiency and will facilitate optimal utilization of the new functionality, which will require that each practitioner be assigned an identification number. MACRO will consolidate the rosters to create a centralized roster. In addition, the statewide ADR practitioner application process will be modified, pursuant to a Conference decision at a previous meeting, so that MACRO will vet all applications to determine whether the applicant meets the qualification requirements. The centralized roster will be provided to the courts. The individual courts will not be precluded from having additional requirements for practitioners. Title 17 Rules will have to be modified to provide for the statewide roster application process.

Ms. Preston provided an overview of the functionality in the MDEC ADR tab and provided a demonstration. The new functionality will result in more efficient statewide reporting on different types of ADR.

6. Fiscal Year 2019 Caseflow Assessment

Judge Wilson, Justin Bernstein, and Dominique Johnigan briefed the Conference on the Fiscal Year 2019 Caseflow Assessment. They discussed the methodology used and the performance of the circuit courts against the established time standards. The goal was met only for juvenile cases, with 99 percent of the cases disposed within the 90-day time standard. The circuit courts experienced the greatest increase in performance in Foreclosure cases over the two-year period, from 90 percent to 95 percent. There was a four percent increase in performance against the time standards for CINA Shelter cases, while the remaining case types remained

relatively consistent. The only decrease was reported in TPR cases, where a 9 percent decrease was noted.

There were 13 requests for modifications to the time standards submitted by the circuit courts. The Case Management Subcommittee reviewed the requests and recommended that two be forwarded to the Judicial Council for consideration – a good cause extension case time suspension for CINA Shelter cases and measuring TPR Rape Survivor Protection Act cases based on the time standard for family law cases. The good cause suspension for CINA Shelter cases will be 30 days. The Council approved both modifications.

7. CONNECT and Law Clerks

Marti Robinson briefed the Conference on changes to the payroll requirements for law clerks, remarking that the change is necessitated by technology changes between Payroll and the state's Central Payroll Bureau. Law clerks will be required to record their hours worked each day to ensure they are paid properly. In addition, they will have to record all absences. The timesheets will have to be approved in CONNECT by the judge or whomever has been designated to approve timesheets, which are submitted every Tuesday unless advised otherwise. Ms. Robinson will work on a process for including judicial assistants on the timesheet approval emails. She explained the new process, which will be effective early December. Ms. Robinson stated that the information will be sent to each law clerk and judicial assistant.

It was noted that judges frequently send law clerks home and ask that they be available by telephone and that most work more than 8 hours a day, so the process for completing the timesheet may be problematic. As such, flexibility in the process was requested. Ms. Robinson will seek guidance and update the instructions, if necessary. It was suggested that Payroll review the various categories for which a law clerk might be granted administrative leave and include them.

8. Resolutions

Judge Ripken recognized Judge Cox, Judge Curtin, Judge Solt, Judge Tucker, Ms. Batie, and Clerk Notarcola for their service as members of the Conference as their terms come to an end. She thanked them for their commitment to ensuring the efficient administration of justice. Judge Ripken expressed her appreciation to Judge Cox for her service as a judge on the circuit court as she prepares for retirement.

There being no further discussion, the meeting ended at 10:55 a.m. The next meeting is scheduled for Monday, January 25, 2021, via Zoom for Government, beginning 9:30 a.m.

Respectfully submitted,



Faye D. Gaskin
Conference Secretary