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Conference of Circuit Judges

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Meeting of the Conference of Circuit Judges

A joint meeting of the Conference of Circuit Judges and District Court Chief Judges Committee was held Monday, September 18, 2023, at the Maryland Judicial Center, beginning at 9:30 a.m.

Conference of Circuit Judges Members Present:

Hon. Audrey J. S. Carrión, Chair
Hon. Fred S. Hecker, Vice Chair

Hon. James Bonifant	Hon. Jeffrey Getty	Hon. Richard Sandy
Hon. Donine Carrington- Martin	Kristin Grossnickle	Hon. S. James Sarbanes
Hon. DaNeeka V. Cotton	Hon. Stephen Kehoe	Hon. Brenda Sexton
Hon. Yolanda Curtin	Hon. Stacy Mayer	Hon. Brian Shockley
Hon. Kathleen Duvall	Hon. Dana Middleton	Hon. Richard Trunnell
	Hon. Vicki Pauler	

District Court Chief Judges Committee Members Present:

Hon. John P. Morrissey, Chair

Hon. LaKeecia Allen	Hon. Geoffrey Hengerer	Hon. Bonnie Schneider
Hon. Pamela Brown	Kim Hurd	Hon. Nancy Shuger
Hon. Christy Holt Chesser	Hon. Melvin Jews	Hon. Shaem Spencer
Hon. L. Robert Cooper	Hon. Sherri Koch	Hon. Nicole Taylor
Hon. Erin Danz	Hon. H. Jack Price, Jr.	Roberta Warnken
Hon. Victor Del Pino	Hon. Gerald Purnell	Hon. Dorothy Wilson
Hon. Lisa Hall Johnson	Hon. Eileen Reilly	
Hon. Susa Hazlett	Hon. Eric Schaffer	

Guests Present:

Melissa Canada

Kevin Cox

Hon. Angela Eaves

Hon. Matthew J. Fader

Nancy Faulkner

Sharon Goldsmith

Lisa Mannisi

Kelley O'Connor

Suzanne Pelz

Matt Pipkin

Sharon Reed

Hon. Ronald Rubin

Hon. Michael Siri

David Soulé

Gillian Tonkin

1. Welcome and Approval of Minutes

Judge Audrey J.S. Carrión welcomed attendees and reminded everyone the meeting was livestreamed for the public to view, as the Conference is subject to the Open Meetings Act. She explained that the Conference of Circuit Judges (CCJ) and the District Court Chief Judge's Committee (DCCJC) have been conducting joint meetings for five years and it serves as a great reminder that we are one judiciary. Judge Carrión is the chair of the CCJ and the Administrative Judge in Baltimore City Circuit Court. She then asked the remaining members to go around the room and introduce themselves.

Judge Carrión moved for approval of the meeting minutes for May 22, 2023. Judge Donine Carrington-Martin seconded and, after hearing no objections, the minutes were unanimously approved.

2. District Court Update

Chief Judge John P. Morrissey added that the original purpose of the joint meetings was to review matters in advance of legislation for members to take back to their respective benches. Regarding updates from the District Court, he explained that everyone is working hard to make the go-live launch of MDEC in Baltimore City a success in May 2024. Current users should expect a new patch of updates to be pushed through around February 2024 that will include over 40 different fixes.

Another project underway is the implementation of veteran's pods, or specialized housing units, for military veterans incarcerated in Maryland. In April, Chief Judge Morrissey attended an event led by the University of Baltimore School of Law's Veterans Advocacy Clinic in Baltimore City. The Secretary of Public Safety & Correctional Services, Carolyn Scruggs, and the Secretary Veterans Affairs, Anthony Woods, were also in attendance. The law students presented on the benefits of the pods, which include mental health support, services to help reintegrate veterans into civilian life, and a sense of comradery. The program has proven to be successful in reducing recidivism in other states and was well-received by those in attendance. Judge Morrissey announced that a new "veteran" flag will also be available in MDEC to help identify individuals for services.

In addition to exploring veteran's pods, the Montgomery County and Allegany County District Courts were approved for DUI court and Mental Health court, respectively. Judge Morrissey stated it can be difficult to initiate problem-solving courts, so these programs are worth celebrating.

3. Sentencing Guidelines Training for Law Clerks

David Soulé, the Executive Director of the Maryland State Commission on Criminal Sentencing Policy (MSCCSP), explained that the MSCCSP is an independent agency that was created in 1999 to support fair and proportional sentencing policy, and to monitor the sentencing guidelines in criminal cases sentenced in the circuit courts. The MSCCSP provides training opportunities for all criminal justice partners including prosecutors, probation agents, public defender's, private attorneys, and others who initiate sentencing guidelines.

Currently, law clerks are being trained on sentencing guidelines using an automated system and the training is not mandatory. Prior year law clerks traditionally train new law clerks, however, Dr. Soulé noted that additional training would be beneficial and is available year-round on their website, www.msccsp.org/training. Law clerks have access to previous webinar recordings, upcoming training sessions, a MAGS user manual, and frequently asked questions. Annual reports that show sentencing trends, research reports such as analyses of sentences for common offenses or assessing racial differences, and the Crimes of Violence Data Dashboard are also located on the site. Dr. Soulé stated a new data extraction tool will be available in early 2024 that will allow individuals to download data from the website. If interested, additional training or a Q&A session with law clerks can be scheduled.

On behalf of the MSCCSP, Dr. Soulé asked the CCJ members to consider recommending to the Judicial Education Subcommittee that the sentencing guidelines online training be mandatory for law clerks working with judges on criminal dockets. Judge Morrissey stated the training is not mandatory in District Court either, but he has found the system to be helpful when sentencing to significant time and when considering whether it aligns with what others are doing. Judge Carrión expressed concern with overstepping the Judicial College but agreed the additional training would be beneficial. Judge Yolanda Curtin moved for approval to refer the recommendation to the Judicial Education Subcommittee. After a second from Judge DaNeeka V. Cotton, the motion carried.

In addition, a few judges recently indicated they were not aware of the April 2021 change regarding ABA pleas. The MSCCSP is working to ensure that updates and changes made to the guidelines are communicated to the bench. As a second request, Dr. Soulé asked that county administrative judges forward the *Guidelines E-News* within their respective jurisdictions to highlight important updates and increase awareness. Chief Justice Matthew J. Fader inquired how often the e-newsletter is sent and whether prior news is easily accessible. Dr. Soulé explained the newsletter is sent two to three times per year and copies are always available on their website.

4. Standing Committee on Pro Bono

Chief Justice Fader opened by stressing the importance of pro bono resources and supporting the work of those who provide legal assistance to those in need. The Standing Committee on Pro Bono was established by Md. Rule 19-501 and is chaired by Judge Michael Siri. The Committee members are working diligently to assess the pro bono needs in each county and to prepare local action plans. Md. Rule 19-306.1 encourages attorneys to render at least 50 hours of pro bono service per year, which speaks to the importance of such services in the eyes of the Supreme Court. Additionally, Md. Rule 19-503 requires attorneys to report pro bono service hours and failing to do so may result in an attorney's inability to practice law in Maryland. As such, the standing committee hopes to provide tools for judges to encourage pro bono work in their jurisdictions.

Justice Angela Eaves stated she has been a member of the committee since its creation in 2002. Unfortunately, participation in pro bono work continues to decline despite its increasing need. Currently less than 50% of the Maryland bar participates in pro bono work. Md. Rule 18-103.7(b) states that, "a judge may encourage but not coerce attorneys to provide pro bono publico legal services" and her hope is to see a rise in participation.

Judge Michael Siri currently presides in Baltimore County District Court and is the chair of the committee. Upcoming goals for the committee include increasing judicial education, expanding opportunities for attorneys, utilizing court resources, and modifying pro bono requirements. There has been pushback regarding conflicts with rules and the hope is to educate the bench on what is ethically permitted. Three ethics opinions are available on the topic of pro bono work. Judge Siri stated there is a meeting planned with Justice Fader to discuss how best to proceed.

Sharon Goldsmith, Director of the Pro Bono Resource Center (PBRC), was also in attendance and encouraged judges to find creative ways for attorneys to render pro bono services. For instance, Baltimore City has a group of volunteers who help with the Failure to Pay rent dockets. Volunteers meet with pro se litigants on their court date and have a system for notifying the clerk to hold their case until the end of the docket. Other courts permit parties to meet remotely, which can make volunteering easier for attorneys. Ms. Goldsmith explained that judges can encourage pro bono work by granting postponements for a litigant to access counsel, sharing local resources, facilitating logistics for staff to serve litigants, and especially by recognizing the volunteers.

Several resources were provided such as best practices for supporting pro bono services, tips for judges to break down barriers between pro se and pro bono litigants, and a committee liaison contact list. Ms. Goldsmith asked that judges distribute the resources within their jurisdictions.

Judge Pamila Brown stated they track volunteer work and recognize them throughout the year. She suggested referring attorneys to the PBRC or Legal Aid if they are struggling to obtain 50 service hours. Judge Morrissey added that the Help Centers recently logged 1,310 pro bono service hours

since most of the assistance is done over the phone and attorneys may remain at their own office. Following a question from Judge Geoffrey Hengerer, Judge Siri stated the committee is working with law clerks to demonstrate how pro bono work could benefit the image of a law firm. Ms. Goldsmith added that she has seen an increase in attorneys moving into government service and recently helped the Attorney General's office revamp their policy to allow 10 hours of administrative leave for pro bono work.

Judge Carrión asked if the committee could provide a draft letter for judges to send that complies with the ethical opinions. Judge Siri replied affirmatively and stated the committee plans to help each jurisdiction develop a customized policy.

5. Soderberg Case Update

Kevin Cox from the Attorney General's office provided an update on the upcoming changes to the broadcast ban. The Supreme Court will be issuing an order adopting the recommendations from the 217th Report for new Rule 16-504.1 and amendments to current Rules 16-502, 16-503, 16-504, and 16-901 of the Maryland Rules. The changes will go into effect on January 1, 2024.

Mr. Cox explained that previously there was a blanket rule that prevented recordings from being shared, but now the filter will be on the front end. Anyone can watch a hearing in person, but certain information can be shielded from the record. The shielding can be initiated by the court or by motion of a party, but a log of redactions must be maintained by the court. If information is ever requested the log will ensure those portions of the audio are redacted. There is a list of persons who would still have access to the unredacted version, but Md. Rule 16-504.1 clarifies the clear and convincing standard to consider when deciding whether to shield otherwise public information.

The rule lists five compelling reasons a judge may consider prior to redacting a portion of a hearing, including the impact of the dissemination of the audio recording on the right of the defendant or the State to a fair trial; the age, mental condition, or medical condition of a witness; the intimate nature of the testimony; the likelihood of harm to a party, victim, or witness; or for other good cause. Mr. Cox suggested that it may take some time for attorneys to catch on to the rule change so initiation of this process may need to come from the bench until everyone is familiar with it. The rule will allow for reasonable time to process redactions in high-profile cases, as well. He added that the Forms Subcommittee is in the process of developing a form for courts to use prior to January 1 and a QRG for staff.

6. Legislative Update

Judge Stacy Mayer is the chair of the Legislative Committee and introduced Kelley O'Connor, Suzanne Pelz, and Matthew Pipkin from AOC Government Relations and Public Affairs as the eyes and ears in and outside of legislative session. During the 2023 session of the Maryland General

Assembly, 2,284 bills were introduced. Of those, 572 bills were analyzed for potential impact on the Judiciary, and the Legislative Committee maintained a position on 198 active bills. Judge Mayer went on to summarize the major issues, many of which go into effect on October 1, 2023.

The Cannabis Reform Act renames the Alcohol and Tobacco Commission to the Alcohol, Tobacco, and Cannabis Commission (ATCC) and brings several changes to the regulation of cannabis in Maryland. For example, the amount of cannabis allowed for personal use will change and the fine will decrease for smoking cannabis in public. Notably, Judge Mayer explained that the bill will prohibit law enforcement from initiating a stop or search based solely on the odor of cannabis. In addition, the synthetic derivative will likely be added to the language in the future. Judge Morrissey added that the ATCC is presenting to the DCCJC following the joint meeting where they will discuss the various types of cannabis that do not qualify as legal. He invited attendees to join the presentation if their schedules allowed and suggested inviting the ATCC to the next CCJ meeting. Judge Mayer also explained that Pete Saquella at the Judicial College is working on a webinar for judges to attend in the next couple of months.

The Child Victims Act of 2023 eliminates the statute of limitations for initiating action arising out of alleged sexual abuse while the victim was a minor. Judge Mayer stated there was a lot of discussion regarding the constitutionality of this bill. A party may appeal from an interlocutory order entered by a circuit court.

The Gun Safety Act of 2023 will prohibit persons from wearing, carrying, or transporting a firearm in specified areas such as museums, sporting events, and areas with an alcohol license. The penalty will increase from 3 to 5 years for transporting a handgun illegally and expand prohibitions for persons who cannot possess a firearm. However, Judge Mayer explained that the bill does not prohibit the administrative head of a Maryland court from adopting individual rules and regulations regarding the possession of weapons on court property. Based on the broad wording of the bill, Judge Mayer anticipates future legislation will be proposed to modify the language.

Senate Bill 290 expands the investigative jurisdiction of the Independent Investigations Division of the Office of the Attorney General (OAG). The bill also expands the prosecutorial authority of the OAG with respect to police-involved incidents or those that may constitute a civil rights violation.

The Reproductive Health Protection Act prohibits a judge from issuing a summons to ensure attendance of a witness if the case relates to the violation of another state's criminal law involving assistance with legally protected health care. The bill took effect on June 1, 2023.

House Bill 14 repeals the authority of a court to grant a limited divorce and alters the grounds for an absolute divorce. Most grounds for divorce will be repealed except mutual consent, and the bill will add a 6-month separation and irreconcilable differences as grounds. In addition, parties who have lived separate lives will be deemed separated even if they reside in the same home. Judge

Mayer added that anyone who filed prior to October 1, 2023, may petition to have their application for divorce amended.

Judge Mayer continued by explaining changes in probation before judgement (PBJ) agreements. Although a PBJ is not considered a conviction in Maryland, a guilty or no contest plea with a PBJ disposition still carries collateral consequences with respect to immigration issues. As a work around, parties may enter into a PBJ agreement where the defendant pleads not guilty, but agrees there is enough evidence to find them guilty. The court then agrees to defer the entry of a conviction with reasonable conditions. Judge Mayer added that if the terms of the agreement are violated, the defendant agrees not to argue the facts of the case and a sentence may be imposed. It is important to note that all parties, including the state and the judge, must consent to a PBJ agreement. A new form and a bench card were developed to assist staff and guide judges. Judge Cotton moved for approval of the bench cards, which was seconded and approved unanimously.

A few other bills worth noting include one additional judgeship for the Circuit Court fo Baltimore County, the Assurance of Child's Safety Act that requires the court to hold an expedited hearing if a party proposes relocation of a child, and the Maryland Child Abduction Prevention Act that authorizes a court to order abduction prevention measures if a credible risk is established. Finally, the REDEEM Act of 2023 shortens the waiting period for filing a petition to expunge certain criminal convictions and expands eligibility to include several hunting offenses.

House Bill 127 also prohibits the District Court in a small claims action from ordering the appearance of an individual to enforce a money judgement. Judge Nicole Taylor asked for clarification on who is required to appear. Judge Morrissey stated that while the statute may not be clear, the rule is not specific to individuals and interrogatories can still be filed. Judge Mayer added that alternative collection measures are allowed but the goal of the bill is to prevent parties from being incarcerated for failing to appear.

Judge Mayer discussed a few bills that did not pass, but will likely appear again in 2024. The Public Disclosure of Personal Information for certain court officials such as judges and magistrates generated a lot of interest. Following several debates, the bill was weighed down by questions and arguments and ultimately did not pass.

Remote Public Access and Participation was another popular topic that would allow the public to view live hearings remotely unless it is deemed confidential. Judge Mayer explained that the bill would require additional equipment and personnel in each courtroom and would have a significant fiscal impact on the Judiciary. The proposal was strongly argued and did not pass.

The Tenant Safety Act addressed a landlord's failure to repair serious and dangerous defects in a rental unit and additional tenant remedies. Judge Mayer stated that the terms established in this bill would be extremely difficult for District Court to enforce.

Senate Bill 88 proposed automatic expungement of records relating to a conviction of possession of cannabis under Criminal Law § 5-601. Judge Mayer stated there was very high interest in this bill, and she expects to see this proposal again.

Finally, the Private Home Detention Monitoring (PHDM) bill would alter existing notification requirements to the court when a monitored defendant has been missing for more than 24 hours. PHDM has proven to be helpful in jurisdictions that do not offer a pre-trial program and Judge Mayer also anticipates seeing this bill, again.

7. Complex Litigation Nomination

Judge Ronald Rubin appeared on behalf of Judge Lawrence Fletcher-Hill, chair of the Complex Litigation Committee (CLC) of the CCJ. Judge Rubin nominated Judge William Snoddy as a member of the CLC. After hearing no objections, Judge Snoddy was unanimously voted in as a member.

8. Case Information Report Forms Update

Judge James Bonifant is the chair of the CCJ's Case Information Report Forms Workgroup, which was established following an ASTAR request by counsel in Montgomery County. He stated that the workgroup met and that reference to limited divorce will be removed from the current form beginning October 1, 2023. More changes may occur following a brief poll of the judges and additional discussion among workgroup members. Judge Bonifant asked that judges respond to the poll as soon as they can once it is received.

9. For the Good of the Order

Judge Morrissey stated the District Court found that many DSS reports were coming in via email or fax and not making it to the clerk's office. A courtesy copy may be given to the judge, but the best practice is for the agency to file the reports through MDEC beforehand. Additionally, the report security should be marked "judge/court personnel" only, and not "confidential".

Judge Hecker reminded attendees that Title 21 regarding remote electronic participation in judicial proceedings went into effect on July 1, 2023.

Having no further items to discuss, the meeting ended at 12:18 pm. The next meeting is scheduled for Monday, November 13, 2023, via Zoom for Government, beginning 9:30 a.m.