



FAMILY COURT ADVISORY COMMISSION

MEETING MINUTES

March 11, 2022

The Family Court Advisory Commission (FCAC) met at the North Carolina Judicial Center and via Webex on Friday, March 11, 2022. 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 in person or via Webex:

FCAC Members

Judge G. Galen Braddy, Chair
Julie Boyer
Stephanie Gibbs
Justice Robin Hudson
Judge Beth Keever
Sonynia Leonard
Gerald Mack
TeAndra Miller
Judge Bill Southern
Judge Donna Stroud
Lori Wainright
Shirley Webb-Owens
Judge Amanda Wilson

NCAOC Staff

Amy Auth
Ryan Boyce
Lori Cole
DeShield Greene
Joseph Kyzer
Kari Marvin
Tara Minter
Asia Prince
Mike Silver
Faith Taylor

Guest

Judge Beth Dixon

Welcome & Introductions

Judge Braddy welcomed everyone to the meeting. DeShield Greene called roll of the FCAC members in attendance. Judge Braddy confirmed a quorum was present.

Approval of Minutes

Shirley Webb-Owens made a motion to approve the draft minutes for the December 10 meeting; Teandra Miller seconded the motion. The minutes were unanimously approved.

ICMS Update

Faith Taylor, BAPM manager, provided an update about the implementation of eCourts and the Odyssey application. eWarrants will replace NCAWARE and must be implemented before Odyssey can go live in the pilot counties. It had to be developed specifically for NC which caused a delay in the implementation of Odyssey.

BAPM is now in the process of correcting defects in eWarrants. Once those are addressed, eWarrants solution validation will begin (likely in April) which involves using test scripts to test the application. If





any scripts fail, they must fix them. Depending on the resolution of any issues identified during solution validation, end user training for the magistrates and clerks will begin. While the magistrates received training a year ago, additional training is needed to ensure the material is “fresh” and timely as it relates to implementation. Training will take place in a hybrid format (both in person and via Webex) at NCJC and at the Forsyth Judicial Training Center. They hope to secure training locations at the Crowne Plaza in Asheville also.

Odyssey cannot go live until eWarrants is live statewide so there is no implementation date set for the pilot counties. eWarrants will be implemented statewide simultaneously, as opposed to tracks. Odyssey will then go live in the pilot counties 60-75 days after eWarrants is implemented. Mecklenburg remains on track 2 and will go live 60-90 days after the track 1 pilot counties of Wake, Harnett, Johnston, and Lee. Implementation of tracks 3-12 will take place in 2023 and 2024.

The BAPM team continues to work with the pilot counties on business processes and on “data pushes” (i.e., where information is pulled from the legacy systems into Odyssey). Staff is reviewing the data to ensure it is pulling over correctly and identifying where the data will be housed in Odyssey. Stephanie Gibbs inquired if filings could still be printed after implementation. Ms. Taylor confirmed that documents could be printed but the electronic record would be the official court record.

Court Programs Updates

Access and Visitation (A&V)

Lori Cole provided an update on the A&V program. To assist parents who have been recently released from prison and want to reestablish a relationship with their children, the local Reentry Councils in Buncombe and Orange Counties have heard presentations about the A&V Program. Brochures about the program have also been provided to the local facilities.

Custody Mediation

Kari Marvin reported that the domestic violence screening protocol continues to be piloted in Durham. An educational video for parties who have waived mediation was premiered at the Custody Mediation Advisory Committee meeting last week. The video is also posted on nccourts.gov.

There is still a mixture of districts conducting mediations in person and districts conducting mediations remotely. Many orientations are held online (live or self-directed). Whether to hold mediations and / or orientations online is the decision of the chief district court judge.

An in-service training for the custody mediators will be held March 22. The training will address parenting agreements, an Odyssey update, and the statewide parenting plan template. Kari has been working with Bert Barber (Training and Services Team) to create a “Turbo Tax” version of the parenting agreement to assist mediators in completing agreements. They will both be presenting at the Association of Family and Conciliation Courts Conference in Chicago, IL in May.





Six new mediators have been hired and a new mediator position was created in District 19D (Moore and Hoke). Previously, mediators from other districts had been mediating cases in this district after redistricting occurred.

Judge Wilson inquired about the use of custody mediation when a case is initiated in juvenile court but is then converted to a Chapter 50 case. She stated that once the case is converted, the parties may seek a modification to the existing order which would typically be ordered to the custody mediation program. However, the custody mediators are concerned about hearing a former DSS matter. Judge Dixon referenced G.S. 7B-911 and stated that a civil district case file (CVD) is established with an order that is accessible by the mediators and the public. Judge Keever added that, if the order was done correctly, the custody mediator should have the information they need. Judge Dixon agreed to share an order she uses in these cases.

Human Trafficking

Tara Minter reported that Judge Braddy was appointed to the NC Human Trafficking Commission. Plans are underway for the annual Human Trafficking Conference in Raleigh in September. There is no registration fee and is it open to anyone interested.

Lindsay Lane, who was previously a human trafficking prosecutor, is now working nationally for the Human Trafficking Institute. She has agreed to assist the NC Human Trafficking Commission with presenting on human trafficking to prosecutors. Tara reported that the NC Demand Reduction Task Force recently met and created new work groups: the curriculum work group and the legislation workgroup. Anyone interested in serving on those work groups can contact Tara. Tara will be conducting a training on human trafficking for superior court clerks.

UPA Subcommittee Update

Stephanie Gibbs provided an update on the work of the Uniform Parentage Act (UPA) Subcommittee. Subcommittee member Judge Beth Dixon was also in attendance to answer questions. Ms. Gibbs referenced the Subcommittee's recommendations that the FCAC previously received by email.

The underlying premises of the UPA are: (i) that all children should be treated equally, regardless of how they are conceived, and regardless of the marital status or gender of their parents – and that legal parentage determinations should be based on the best interests of the child and (ii) the passage of *Obergefell* in 2015 legalized same-sex marriage, and with legalized same-sex marriage came the reality that many of the current laws regarding child custody in North Carolina and other states are likely unconstitutional and are therefore not offering equal remedies to same-sex parents as to heterogenous couples.

Currently, there is one very broad NC statute relating to children conceived through Assisted Reproductive Technology (ART), Chapter 49A. The UPA is intended to serve **all** children and their parents with the fundamental idea being that no child is "illegitimate," and all children and their parents deserve equal treatment under the law. Approximately 2.5 % of children are born via ART with both same sex





and heterosexual couples. California, Vermont, and Washington have adopted state versions of the 2017 UPA, and as of January 2020, the legislation is pending in Maine, Massachusetts, and Pennsylvania.

The FCAC was previously asked to support adoption of the UPA in NC and had anticipated supporting proposed legislation drafted by the NCBA for the 2023 legislative session. However, the date for possible presentation of proposed legislation has been pushed back to 2025. The NCBA Family Law Council's Modern Family Committee has been studying the UPA for more than five years. The Family Law Section has formed teams of three attorneys each to review different articles within the UPA that have not already been studied – Articles 3-6 (Articles 1, 2, 7, 8 and 9 have been reviewed). Articles 3-6 will likely require that existing statutes be replaced or repealed. These articles cover determination of parentage, a putative father registry, and procedural requirements.

Because the FCAC has not yet reviewed the proposed legislation being drafted by the NCBA, the Subcommittee did not wish to recommend endorsement of the legislation until it has been fully drafted and reviewed. The Subcommittee has instead drafted recommendations for the FCAC to consider supporting the UPA progressing toward the General Assembly in 2025. Judge Dixon would like to ensure the UPA stays on the State's agenda before it appears in the courts although Ms. Gibbs and Judge Wilson stated that related cases are already appearing in NC Courts.

The Subcommittee recommends the FCAC adopt the following recommendations:

- The law of North Carolina regarding the determination of the legal parentage of children should be updated and revised through legislation as soon as possible to:
 - Address the parentage of children born using ART;
 - Address the constitutional issues relating to children born to same-sex married couples;
 - Ensure that all children are treated the same under the law, regardless of how they are conceived and regardless of the marital status or gender of their parents, and
 - Promote and protect the best interests and welfare of individual children.
- The Chief Justice of the Supreme Court of North Carolina should appoint a study committee to determine whether adoption of the UPA is appropriate for North Carolina.
- The Chief Justice of the Supreme Court of North Carolina and the FCAC should support and assist the efforts of the North Carolina Bar Association to study the UPA and to determine whether adoption of the model act is appropriate for North Carolina.

Lori Wainwright made a motion to adopt the recommendations. Teandra Miller seconded the motion. There was unanimous approval to adopt the recommendations made by the Subcommittee. (Note: Stephanie Gibbs was given proxy to vote for Cheryl Howell and Rose Stout.)





Divorce from Bed & Board (DIVB) Subcommittee Update

Stephanie Gibbs, Rose Stout, Cheryl Howell, and Lori Wainright comprise the Subcommittee to review the Divorce by Bed and Board (DIVB) statute (G.S. 50-7) to consider potential options for modifying / clarifying the statute. Since the December FCAC meeting, they have met twice to discuss the statute, which contains a lot of “gray area” and does not offer much guidance for the Court.

North Carolina is one of a handful of states that still have this statute. The prior intent of the statute was to allow courts to remove an abusive spouse from the marital residence and to order that the removed party provide support to the family. Subcommittee members agreed that that elimination of the statute would likely trigger an increase in the number of domestic violence cases brought by spouses who want the other spouse to move out of the house. The Subcommittee concluded that the statute still has a purpose but could use an update.

Currently, the statute allows for “legal separation” of the parties in certain conditions. While a Court granting a DIVB may declare the parties “legally separated,” the statute does not say the Court may evict a party from the marital residence. One unpublished case says the Court has the power to evict a spouse where fault is shown and that is primarily where the confusion exists.

The Subcommittee was not prepared to make any recommendations although they have formulated a first draft of a possible addition to G.S. 50-7 for the FCAC’s input. The addition may clarify the authority of the Courts when faced with a DIVB claim. The potential language would—upon finding marital fault under a DIVB claim—allow the Court to:

- Grant temporary possession and use of the marital residence to a spouse – clearing up the ambiguity of whether the Court may order one spouse out of the house.
- Issue orders for Temporary Custody, Temporary Child Support, and Postseparation Support if fault is proven. These temporary orders could be superseded and vacated by any subsequent order entered in an action brought under Chapter 50 by one or both parties.
- Grant temporary injunctions to protect the injured party, the children of the parties, or the property of the parties.

Judge Stroud suggested the statute should address what happens if both parties are “at fault. It should enable a judge to weigh the fault, which is not currently permitted. Teandra Miller added that judges should be able to order treatment for alcohol and/or drugs, similar to the provision in Chapter 50B. Judge Keever was concerned about creating statutory remedies that the parties could get elsewhere because it could be a solution in search of a problem. She thought the statute should just address if someone can be placed out of the home. The Subcommittee will continue meeting and consider the FCAC feedback.

Legislative Update

Amy Auth and Joseph Kyzer provided an update on the short and long legislative sessions. The Generally Assembly informally adjourned the long session March 10th and will return May 18th for the short





session. NCAOC Director Judge Andrew Heath will present Judicial Branch updates to the Joint Legislative Oversight Committee on Justice and Public Safety the week of March 14th. This presentation will focus on Judicial Branch efforts to reduce the backlog and provide swifter justice.

Joseph discussed the preparations being made for the short session which includes soliciting requests for budget and policy recommendations from conference leaders and Judicial Branch staff. The legislative team will present these requests to Judge Heath and Deputy Director Ryan Boyce to prepare the NCAOC legislative agenda. Joseph noted that the short session is intended to focus on budget alignment since a budget is already in place. S746, the adjournment resolution, includes new filing deadlines; he encouraged the group to review the adjournment resolution for more details. The short session generally does not include any major policy overhauls. Asia Prince added that part of the Court Programs budget requests was expansion to Cabarrus County and potentially statewide.

The Judicial Branch received significant federal funds, of which only \$9.4 million was certified and has been spent on bonuses. There is roughly \$35 million of American Rescue Plan Act and state fiscal recovery funds that the NC Office of State Budget and Management is still certifying for NCAOC.

Task Force on ACEs Informed Courts Update

The Task Force on ACEs Informed Courts continues its work to educate Judicial Branch staff on the effects of adverse childhood experiences on children and identify programs to further the mission of the Task Force. Mike Silver shared several partnerships created through the Task Force which includes partnering with the:

- School of Government on an advanced juvenile certification for district court judges that should be announced at the District Court Judges' Conference in June with hopes to schedule courses in August.
- UNC Injury and Research Prevention Center to develop role specific trauma informed training for Judicial Branch employees. This effort is supported by a grant from the Governor's Crime Commission.
- Bolch Institute at the Duke University School of Law who is applying for a grant to study trauma informed courts. Staff is helping them understand data that is available to assist in their research.

Mike shared that the Task Force is hopeful that Judge J.H. Corpening and Judge Angelica McIntyre will be speaking to the chief district court judges at the June conference about family court and community engagement.

The Task Force has also prepared a draft of a NC specific ACEs bench card to be used by judges. The next Task Force meeting is April 29th with the goal of finalizing the bench card and rolling it out by the fall. The Task Force and NCAOC staff is also working with the Department of Public Safety to prepare training on the Youth Assessment Screening Instrument (YASI).





Family Court Updates

Family Court Conference

Funding has been allocated for a Family Court Conference which will be held in Asheville May 2-3. The draft agenda was shared with the FCAC. All FCAC members, all family court district judges and staff, and all district court staff that work with domestic or juvenile cases have been invited. Additionally, judges and attorneys from five districts that are not family court districts have been invited to learn more about family courts: Forsyth, Guilford, Rowan, Cabarrus, and Gaston.

Family Court Annual Report

The Family Court Annual Report was circulated prior to the FCAC meeting. The report is based on information from the family court districts, NCAOC statistical reports, and staff observations. The report focused on the work of the FCAC, the current state of family courts, the trauma informed practices and ACEs trends, and the challenges / obstacles / barriers that family courts face. FCAC members were asked to provide any feedback on the annual report by Friday, March 18.

Family Court Statistics

DeShield Greene compared the domestic data shared at the December 10th FCAC meeting and data as of February 28, 2022. She highlighted the differences between the pending median case age data and percentage of cases pending more than one year that also included comparisons between family court districts and non-family court districts, and overall statewide.

Statewide, there was an increase in the median pending case age and the percentage of pending cases more than a year old. Of the family court districts, District 20A (Montgomery and Stanly Counties) has the lowest numbers in both categories; the pending median case age is 55 days and the percentage of pending cases more than one year old is 9.6%. The best practice is that no more than 15% of the total pending cases are older than one year old; six of the 15 family court districts currently meet that standard.

The meeting adjourned at 12:14 p.m.

2022 Meeting Dates: June 17, September 16, December 9

Submitted by DeShield Greene

