Juvenile Policy Board
Minutes
(Unofficial Until Approved)
February 10, 2017

Members Present
Justice Lisa Fair McEvers
Judge Daniel El-Dweek, via phone
Wayne Goter, Unit 3 Judicial Referee, via phone
Judge John Grinsteiner, via phone
Scott Hopwood, Unit 4 Juvenile Court Director, via phone
Judge Steven McCullough, via phone
Judge Daniel Narum, via phone

Members Absent
Brad Saville, Juvenile Court Officers Association

Staff Present
Cathy Ferderer, Office of the State Court Administrator
Lana Zimmerman, scribe

Guests
Karen Kringlie, Unit 2 Juvenile Court Director
Cory Pedersen, Unit 3 Juvenile Court Director
Heather Traynor, Court Improvement Project (CIP) Research Analyst

Justice McEvers welcomed the members of the Board. She asked if there were any additions or corrections to the September 23, 2016, and November 18, 2016, meeting minutes. Hearing none, **Judge Narum moved to approve the September 23, 2016, and November 18, 2016, meeting minutes. The motion was seconded by Scott Hopwood, motion carried.**

RFK National Resource Meeting
Justice McEvers updated the Board on the Robert F. Kennedy National Resource Center for Juvenile Justice request for further study on dual status youth. On February 1, 2017, Justice McEvers and Cathy Ferderer met with Shari Doe, Department of Human Services; Lisa Bjergaard, Department of Juvenile Services; Lisa Jahner and Terry Traynor, Association of Counties. An agreement was discussed to share in the expense of the onsite visit. Each entity will be contributing $10,000 to defray the expense of the study. Proposed time frames have not been set, but the study will begin May 31-June 1, 2017.

Lisa Jahner and Cathy Ferderer have volunteered to be the liaison's for the study. Any questions or concerns may be directed to them. The focus of the study will be a narrow population of youth that are affected by both Juvenile Court and Children and Family Services.

Juvenile Director's Report

Scott Hopwood updated the Board on the juvenile court annual report. Heather Traynor has contributed the data for the report, which will be finalized soon.

Currently, the Juvenile Director's are working on a victim impact statement form. This was an issue addressed with Marsy's Law. Once the victim impact statement is developed, it will be utilized consistently throughout all offices in the state.

The Juvenile Court Director's are updating the Best Practices Manual to be user friendly and searchable online. The majority of the recommendations from the Council of State Governments will be implemented.

Cathy Ferderer will research to determine a way to receive the recidivism report and data. She indicated there is a possibility with the CMS Oracle. She will discuss the maintenance costs with Larry Zubke.

Legislative Update

Cathy Ferderer updated the Board on tracking of legislative bills. The Court System budget has passed out of the Senate sub-committee appropriations. They are working out of SB2002, which is the previous budget. The 1% pay increase was removed and the 5% recommended healthcare costs to be paid by each employee, has been removed. This will now move to the full appropriations committee.

HB1060 has passed which allows Youthworks easier access to background checks through the Attorney General's office.

A restraining order for sexual assault on victim's passed the House of Representatives.

The hiring freeze has passed the House of Representatives. No hiring will take place until the end of legislative session.

SB 2038 A task force on children's behavioral health has passed the Senate.

SB 2046 has passed which is a pilot project to allow more access to programming for tribal courts with the Department of Juvenile Services.

SB 2098 has passed which allows the release of information to the human trafficking navigators.

SB 2048 has passed with notification of termination of parental rights. This is a bill with no specific guidance on how to notify a father, when no information such as address or phone number is revealed regarding the whereabouts of the father. An option is notification through the county newspaper of where conception took place.

SB 2249 was written if a juvenile has pled guilty or convicted of a Class AA Felony offense, they would have the same removal from sports, which is in place for alcohol violations. The Senate

Judiciary will expand it to all felonies will be noticed to the schools for activities. Currently, the notices for substance abuse and tobacco is an automatic 6 week suspension. The committee has more work on this bill.

The Court System study resolution passed the Senate with slight changes made to include the Department of Public Instruction and Indigent Defense.

Court Improvement Project Update

Heather Traynor updated the Board regarding concerns of the Court Improvement Project Committee and the communication and collaboration between child welfare and the courts once the program has ended.

Current membership and restructuring were discussed with suggestions to move the Court Improvement sub-committee under the Juvenile Policy Board. Those sub-committee's are; ICWA, chair is Scott Davis, Director of Indian Affairs Commission; Guardian ad Litem, chair is Shawn Peterson, Unit 1 Juvenile Court Director; and Data, chair is Karen Kringlie, Unit 2 Juvenile Court Director.

Scott Davis met with Chief Justice VandeWalle and Heather Traynor to keep the ICWA collaboration. It was discussed to shift the ICWA sub-committee under the Juvenile Policy Board to keep the collaboration and communication open with UND in regards to the partnership grant. Heather Traynor has accepted the contract with UND under the partnership grant to work on the court collaboration piece and will be the liaison between UND and the court system. She will continue to coordinate the ICWA sub-committee without added work.

Justice McEvers asked if any members of the Juvenile Policy Board would like to serve on the ICWA sub-committee if it is moved under the Juvenile Policy Board. Heather Traynor will contact Scott Hopwood who is currently serving on the sub-committee. It was suggested since moving it under the Juvenile Policy Board, a new chair should be named from the court system. Referee Wayne Goter volunteered to serve as a chair of a newly constructed ICWA sub-committee.

A motion was made by Judge Grinsteiner to transfer the Court Improvement Project ICWA sub-committee to serve in the same capacity under the Juvenile Policy Board. The motion was seconded by Judge Narum. Motion carried.

Marsy's Law Update

The Attorney General's opinion on Marsy's Law explains that the victim is to be notified of their rights, and to be a part of the hearing and the processes.

The Joint Procedure Committee recommended and forwarded to the Supreme Court for consideration modification to North Dakota Rules of Juvenile Procedure #4. The recommended revisions to Juvenile Rule 4 is to add in the persons who may participate in a juvenile matter would include the victim in a delinquency case if requested by the victim.
The victim will then be able to participate in the juvenile court matter.

The other modification was to Juvenile Rule 12.1, which is the rule on depositions. The modification was to add under the area of consent, to change to "participation" and add a section that says; "A victim may refuse to participate in a deposition requested by respondent or respondent's attorney." These two modifications have been forwarded to the Supreme Court for consideration and will be sent out for comments. Depending on the comments, they maybe scheduled for hearing. These are intended to move forward faster than the regular rules package that the court considers from the Joint Procedure Committee.

Judge McCullough asked what the intent by adding a victim in as a participant or a person who may participate in the juvenile matter. Is it intended that they participate in all stages of the proceedings required by Marsy's Law?

Justice McEvers shared the intent was to follow what is required by the addition. Marsy's Law in Article 1, Section 25 (g) states, "The right to reasonable, accurate, and timely notice of, and to be present at all proceedings involving the criminal or delinquent conduct, including release, plea, sentencing, adjudication, and disposition, and any proceeding during which a right of the victim is implicated."

Judge McCullough said in Marsy's Law they have the right to be "present at" and the change of the Rule would give them the right to "participate." Judge McCullough asked the Board what their thoughts are on the change.

Wayne Goter asked if they each show up do they have a right to an attorney? Are they a named a party? Are they a respondent or a co-petitioner with the state?

Judge McCullough would like the Board to make a particular change to advocate that the language is too broad. A change needs to be made to Rule 4, but the language that is proposed by the Joint Procedure Committee is too broad.

Justice McEvers asked if the Board would propose a language change in Rule 4? Right now, the Rule states "Persons who may participate in a juvenile matter include; the victim in a delinquency case if requested by the victim."

Judge McCullough would like to include language so there is limitation. **A motion was made by Judge McCullough to amend the proposed Juvenile Court Rule sub-section 3 to "the victim to the extent required by Marsy's Law in a delinquency case if requested by the victim." The motion was seconded by Wayne Goter.**

The motion was opened for discussion. Judge Narum suggested for the Board to take some time and think about the language, and if there is a suggested change.

Judge El-Dweek agreed that there is a lot of concern with respect of who is a participant. There will be a comment period on the proposed Rule change. Once the comment period opens, the Board can make a comment on the Rule as proposed.

Justice McEvers said right now is the time to comment as a Board, this will be submitted to the Supreme Court next week and will be submitted for comment within the next 30 days. When it is distributed for comment, anyone can comment individually.

Due to time constraints, Judge McCullough asked that the Board take a vote on the motion. Justice McEvers asked for any further discussion. **Hearing none, motion carried**.

The language will be forwarded to the Supreme Court from the Juvenile Policy Board. Justice McEvers suggested if there are other proposed language changes they can be sent during the comment period.

For the Good of the Order

Cathy Ferderer said a Professor at UND is interested in submitting a proposal to study the YASI tool. This will be discussed in what type of data he requires and what he is asking of the court in order to complete his project.

Meeting adjourned at 10:15am