

Juvenile Policy Board
Minutes
(Unofficial Until Approved)
March 11, 2016

Members Present:

Justice Lisa Fair McEvers, Chair
Referee Wayne Goter via phone
Judge John Grinsteiner via phone
Scott Hopwood, Juvenile Court Director, Unit 4 via phone
Brad Saville, Juvenile Court Officers Association via phone

Members Not Present:

Judge Steven McCullough
Judge Daniel Narum
Judge David Reich

Staff Present:

Sally Holewa, State Court Administrator
Scott Johnson, Asst. State Court Administrator for Trial Courts
Lana Zimmerman, scribe

Guests:

Mike Hagburg, Staff Attorney
Karen Kringlie, Juvenile Court Director, Unit 2 via phone
Cory Pedersen, Juvenile Court Director, Unit 3 via phone
Shawn Peterson, Juvenile Court Director, Unit 1 via phone
Heather Traynor, Court Improvement Project (CIP) Research Analyst
Kathryne Korom, CIP Quality Assurance Research Specialist

Scott Johnson welcomed and introduced members of the Board. He asked for nominations for the new Chair of the Juvenile Policy Board. **Judge Grinsteiner nominated Justice Lisa Fair McEvers. Scott Hopwood seconded the nomination. There were no other nominations for Chair. The nomination was approved with Justice Lisa Fair McEvers as the new Chair of the Juvenile Policy Board.**

Justice McEvers asked if there were any additions or corrections to the September 11, 2015, meeting minutes. Hearing none, **a motion was made by Judge Grinsteiner to approve the September 11, 2015, meeting minutes. The motion was seconded by Scott Hopwood, motion carried.**

Rule 20, N.D.R.Juv.P., Use of Restraints in Courtroom

Mike Hagburg updated the Board on Rule 20, N.D.R.Juv.P. It was approved by the Joint Procedure Committee at their September meeting and will be forwarded to the Supreme Court in the rules package for consideration in late July.

Private Petitions for Termination of Parental Rights

Mr. Hopwood updated the Board on conducting private guardianships for the juvenile court. The Juvenile Court Officers are receiving requests for private termination proceedings. During the Juvenile Court Directors' meeting, it was decided to bring the issue to the Juvenile Policy Board.

Justice McEvers questioned whether the guardians are seeking to adopt the child when they file the petition to terminate parental rights. Mr. Hopwood said that usually an adoption is not identified at that point. A Board member asked why are they saying it would be in the best interest of the child to terminate parental rights if there is no adoption pending or being considered? Ms. Kringlie said that judges have denied these routinely and now they are being requested by private family law attorneys.

Judge Grinsteiner foresees this becoming an issue much like the guardianships. There are two areas of the century code under which parental rights can be terminated: chapter 27-20 and chapter 14-15. Terminations are often being denied when they are not brought with an adoption. It is concerning from a judicial perspective, because the attorneys are blending two different areas of law. It may be helpful to have a directive without having to appeal.

Justice McEvers asked if the petition is coming to the juvenile court to terminate without a deprivation action?

Ms. Kringlie said they are alleging deprivation and filing under chapter 27-20, but requesting a termination without an adoption.

Judge Grinsteiner asked if they are using chapter 27-20 as a way to get around adoption because, if deprivation is alleged, a dispositional alternative is to issue an order terminating parental rights.

Mr. Pedersen agreed that is the issue. The three cases presented in Unit 3 were not signed by the Juvenile Director because in the petition there wasn't a finding where the termination would be in the best interest of the child. Mr. Pedersen forwarded the cases to the judicial officer for review.

Ms. Kringlie suggested any matter where deprivation is alleged, the proper place to have that hearing is in juvenile court. The case should be filed in juvenile court instead of district court.

If the Juvenile Court Director is uncertain with making a decision, it could be referred to the Judicial Referee or District Court Judge. They would have the ability to decide whether or not the petition should move forward.

The Juvenile Policy Board asked the Juvenile Court Directors to draft a procedural guidance through the Best Practices Manual to help when navigating these unusual rare circumstances.

Judge Grinsteiner shared that the statutory process provides that the Juvenile Court Director needs to review the petition before it is filed. If the director does not believe filing of the petition is in the best interest of the public and the child, then a judicial officer needs to review it.

A motion was made by Wayne Goter for the Juvenile Court Directors to review, and if not comfortable with signing the petition, send to a District Court Judge or a Judicial Referee for further review. Motion was seconded by Brad Saville. Motion carried.

It was also suggested to add termination of parental rights training to the June or November Judicial Conference.

Private Guardianships

Judge Grinsteiner visited with Pam Nesvig regarding guardianships. In their discussion, further questions arose necessitating this Board's consideration of whether the new Supreme Court Administrative Order 22, which became effective March 1, 2016, includes juvenile guardianships.

Under Administrative Order 22, each unit Trial Court Administrator, when consulting with the Presiding Judges in the administrative units, is to establish a process for case assignment and review of guardianships in existence on August 1, 2015.

Administrative Order 22 was enacted to implement provisions of N.D.C.C. § 30.1-28-04(5) relating to guardians of incapacitated persons under N.D.C.C. ch. 30.1-28, not guardians under N.D.C.C. ch. 27-20, the Uniform Juvenile Court Act.

Mr. Pedersen added, in checking with the district court clerk of court's office, the understanding is the cases are flagged for an annual review. Annually, the clerk sends out a letter to the guardian and a document to be completed and returned. Odyssey provides a time standard that reminds the clerk to mail the annual report.

It was suggested to have the Juvenile Court Directors propose a form for consideration at the June meeting, which would then be forwarded onto the Guardianship Workgroup.

A motion was made by Wayne Goter to adjourn the meeting. Motion was seconded by Judge Grinsteiner. Motion carried.

Meeting adjourned at 1:50 p.m.