

REVISED MONTANA SUPREME COURT PUBLIC MEETING MINUTES

Tuesday, August 29, 2023, 1:15 p.m.

Joseph P. Mazurek Justice Building

215 North Sanders, Helena

Attorneys Lounge, 4th Floor | Available via Zoom Conference

Chief Justice McGrath called the meeting to order at 1:15 p.m. In attendance were Chief Justice McGrath, and Justices McKinnon, Rice, and Baker. Justices Shea and Sandefur attended by Zoom. Justice Gustafson was unable to attend the meeting. Judicial staff also in attendance were Jeanine Blaner, Supreme Court Staff Attorney; Kevin Cook, Electronic Services Coordinator; Beth McLaughlin, Court Administrator; and Emma Schmelzer, Office of Court Administrator. Supreme Court Law Clerks present included Gina Antonioli-Schmit, Jackson Maynard, James Brien, Brooke Chmura, Valan Anthos, Eric Monroe, Ellen Boland Monroe, Victoria Hill, and Blake Koemans. Others in attendance included: Franklin Runge, State Law Librarian; Shelly Smith, Commission on Practice; and Mick Taleff, Commission on Practice.

Item 1: Approval of the Revised Minutes from the July 5, 2023, Public Meeting

- All present Justices approved the Minutes from the previous public meeting.

Item 2: Judicial Branch Administrative Policies

- Chief Justice McGrath introduced the matter and turned discussion over to Court Administrator Beth McLaughlin (McLaughlin).
- McLaughlin introduced Drug Court Treatment Funding Policy No. 880.
- McLaughlin reviewed the new adjustments and changes based on the needs in the individual district courts, noting:
 - The First Judicial District Court is transitioning its Family Treatment Court to a Mental Health/Behavioral Health Treatment Court.
 - The addition of the Thirteenth Judicial District's SOAR Court.
 - The addition of the Fourth Judicial District's Veterans Court, and Adult Felony Court.
 - The addition of the Sixth Judicial District's Adult Felony Court.
 - The addition of the Nineteenth Judicial District's Adult Felony Court.
- Additionally, this year opioid settlement dollars will be directed to treatment courts instead of general funds appropriated by the Montana Legislature.
- Justice Baker inquired about continued funding throughout the year and McLaughlin clarified that these courts would receive 6 months funding in this fiscal year and then will be fully funded for fiscal year 2025.

- Justice Baker inquired about revision date, which McLaughlin explained will be added.
- Justice Baker moved to adopt the policy as revised, Justice Rice seconded the motion, and the Court voted unanimously to adopt Administrative Policy No. 880.

Item 3: State Law Library Policies - Postponed

- Chief Justice McGrath explained that this matter will be postponed for a subsequent formal meeting of the Library Board of Trustees.

Item 4: AF 06-0090 Appointments to the Commission on Practice

- Chief Justice McGrath introduced the matter and recognized Mick Taleff, of the Commission on Practice, who was in attendance.
- Taleff discussed the value of Lois Menzies, Troy McGee, and Rich Ochsner's service on the Commission, their willingness to continue serving on the Commission, and his hope they were reappointed.
- Justice Baker nominated Elinor Nault to replace departing member Lori Maloney.
 - Justice Baker explained Nault's educational background and work experience with tribal courts and the Montana Board of Crime Control.
 - Nault is currently the Court Administrator for the Chippewa Cree Tribal Court on the Rocky Boy's Reservation and has extensive work experience and education.
- Justice McKinnon commented that Justice Baker had circulated Nault's credentials.
- Justice Baker moved to reappoint the three members, as well as Nault, and the Court voted unanimously for both the reappointment of Menzies, Ochsner and McGee and the appointment of Nault to the Commission on Practice.

Item 5: AF 117-0393 Appointments to the Pretrial Supervision Advisory Committee

- Chief Justice McGrath introduced the proposals and recommendations regarding Committee membership, including:
 - Retirements of Hon. Michael Moses, Yellowstone County District Court Judge, and Rhonda Schaffer, Office of the State Public Defender.
 - Appointments of Hon. Colette Davies, Yellowstone County District Court Judge, and Brian Smith, Office of the State Public Defender.
- The Chief Justice also noted the appointment of Sen. Barry Usher and Rep. Laura Smith to the Committee.
- Justice McKinnon moved to appoint the new members, Justice Rice seconded the motion, and the members of the Court voted unanimously to appoint the new members of the Committee.

- The Chief Justice also commented on the Committee and its work, noting:
 - Courts across the state have extensive experience with defendants failing to appear due to the complicated nature of traditional pretrial release procedures.
 - Empirical data indicating the issues criminal defendants face in their own lives when they are mired in the procedural thicket of traditional pretrial release programs, which can lead to loss of income, employment, and housing.
 - The growth and success of pretrial supervision pilot programs across the state in addressing these issues.
 - The increasing support of stakeholders in Montana's criminal justice system for these programs.

Item 6: AF 06-0216 Appointments to the Commission on Technology

- Chief Justice McGrath introduced the matter and noted the current members with expiring terms seeking reappointment:
 - Justice Shea, Montana Supreme Court
 - Beth McLaughlin, Court Administrator
 - Bowen Greenwood, Clerk of the Montana Supreme Court
- Justice Shea gave a brief update on the Commission.
- McLaughlin added that they are done deploying Full Court Enterprise in all the large district courts and gave the current status of the transition to e-filing.
- McLaughlin also noted that they received funding in the last legislative session that will allow for new technology upgrades in all the district court courtrooms to make remote appearances easier.
- Upon motion, the members were nominated for reappointment and the Court voted unanimously to reappoint the members of the Commission on Technology.

Item 7: Appointments to the Criminal Justice Oversight Council

- Chief Justice McGrath introduced the matter and explained the composition and utility of the Council, including the Council's successes in increasing communication and efficiency in the administration of the Department of Corrections.
- The Chief Justice noted the current vacancy on the Council.
- The Chief Justice introduced City Court Judge Jerome McCarthy, of Butte, as his appointment to the Council, highlighting Judge McCarthy's extensive background in both law enforcement and administration.

Item 8: AF 11-0765 Appointments to the Access to Justice Commission

- Chief Justice McGrath introduced the matter.
- Justice Baker, Chair of the Commission, introduced the commission, highlighting the structure and function of the Commission.
 - Justice Baker noted the bipartisan composition of the Commission.
 - Justice Baker further explained the 18-member Commission is structured so that six members are appointed or reappointed annually to three-year terms.
 - Justice Baker also highlighted the contributions of the Commission's non-lawyer members.
- Justice Baker thanked the outgoing legislator-members of the Commission, Senator Terry Gauthier and Representative Katie Sullivan, and introduced the two legislators nominated to succeed them, Representative Laura Smith and Senator Wendy McKamey.
- Justice Baker noted the willingness of four current members to remain on the Commission:
 - Amy Grmoljez of Helena; Hon. David Carter, Yellowstone County Justice of the Peace; and Rick Cook, Choteau County Clerk of District Court were nominated for reappointment to the Commission for three-year terms.
 - Justice Baker highlighted the fact that all three members have been on the Commission since its inception.
 - Hon. Leslie Halligan, Missoula County District Court Judge, was also nominated for reappointment for another three-year term.
- The Justices unanimously approved the appointment of the new members.

Item 9: AF 11-0765 Guidelines for Informal Domestic Relations Trials

- Chief Justice McGrath introduced the guidelines for informal domestic relations trials (IDRT).
- Justice Baker noted her previously circulated proposal to adopt the program as a permanent rule in the Uniform District Court Rules.
- Justice Baker discussed the background of the IDRT pilot program and its success.
- Justice Baker noted that the new rule adopts IDRT as a default anytime there is at least one self-represented party.
 - Parties can opt out or into the program.
- Justice Baker explained the evidentiary procedures have benefited from the feedback of judges implementing the IDRT pilot program.
- Justice Baker highlighted that the only comment they received after the 45-day period was from Montana Legal Services Association expressing their support of the program.
- Justice Baker noted that this new rule will become Rule 17 of the Montana Uniform District Court Rules to take effect October 1 when approved.

- Emma Schmelzer spoke to how dedicated the judges are to the new process and how little concerns have been raised through the pilot program.
- The Justices and participants discussed the benefits to pro se litigants.
- Chief Justice McGrath asked how many judges are using the program.
 - Schmelzer and Justice Baker explained that there were three participating districts and a half dozen judges involved in the pilot.
- The Justices and participants discussed how best to present this program to other Judges statewide including the availability of funding to help with the bench guide.
- Chief Justice McGrath asked a footnote could be added that clarifies that standing masters are included.
 - Justice Baker agreed that that footnote should be added to the Proposed Order.
- The Justices voted unanimously to approve the adoption of the guidelines for IDRT.
- Justice Baker mentioned that Schmelzer's mediation project has been very successful and is now expanding and receiving referrals from MLSA, self-help law centers, and other community organizations.
- Schmelzer discussed how well the mediation process can flow into IDRT process for people who are going on to trial.
- Chief Justice McGrath discussed Montana's access to the courts issues and explained the Court's programs that were set up to try to address this issue.
- Chief Justice McGrath thanked all those who have worked for years to ensure the court system work for everyone.
- Justice Baker moved to adopt the proposed rule as Rule 17 of the Uniform District Court Rules, Justice Sandefur seconded the motion, and the Court unanimously voted to adopt the proposed rule.

Public Comment

- None.

Chief Justice McGrath adjourned the meeting at 1:53 PM

Submitted by Gina Antonioli-Schmit and Jackson Maynard, Law Clerks, on August 31, 2023. Revised minutes submitted by Jackson Maynard on November 13, 2023.