

MONTANA SUPREME COURT PUBLIC MEETING MINUTES

Tuesday, November 14, 2023. 1:00 pm.

Joseph P. Mazurek Justice Building

215 North Sanders, Helena

Attorney's Lounge, 4th Floor | Available via Zoom Conference

Chief Justice McGrath called the meeting to order at 1:00 p.m. In attendance were Chief Justice McGrath, and Justices Baker and Shea. Justices Sandefur and Gustafson appeared via Zoom. Judicial staff also in attendance were Jeanine Blaner, Supreme Court Staff Attorney; Kevin Cook, Electronic Services Coordinator; Beth McLaughlin, Court Administrator; Franklin Runge, State Law Library Director. Supreme Court Law Clerks present included Shane Cashin, Elizabeth Webster, James Brien, Brooke Chmura, and Blake Koemans. Others in attendance were Jennifer Rickman, CLE commissioner; Shelley Smith, Commission on Practice; John Mudd, Executive Director for the State Bar of Montana; Bowen Greenwood, Clerk of Supreme Court.

Item 1: Approval of Revised Minutes from the August 29, 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 relayed that the District Court Council recommend the repeal of two policies, specifically Youth Court Drug Testing under Policy 1260 and Youth Court Fees, Restitution, and Fines under Policy 1270.
- McLaughlin stated Policies no longer applicable due to statutory changes, which prohibits the Youth Court from charging fees or collecting any parental contributions, and also limit what the court can do with restitution.
- McLaughlin relayed that the District Court Council recommended the court repeal the policies.
- McLaughlin outlined that the court would put new fiscal procedures in place that would conform to legal standards.

- Justice Baker asked about the other items in the drug testing policy, such as training and chain of custody procedures.
- Justice Baker moved to repeal both policies and the court voted unanimously to repeal the policies.
- McLaughlin then moved on to Policy 1010, District Court Travel Expenses, which would be one change reflected on page three of the policy. The change would move the evaluation costs for psycho-sexual evaluations from \$1350 to \$1500 to stay equal with OPD on evaluation costs.
- Justice Baker moved to adopt the amendment.
- No questions or comments.
- All justices voted unanimously to adopt the amendment.

Item 3: Law Library Policies

- Franklin Runge went over the proposed policies for the State Law Library. Runge passed a snapshot of service relating to patron interactions with the law library.
- The snapshot was a document that indicated how many patrons interacted with the law library, when those patrons accessed the law library, and the types of patrons who interacted with the library.
- Runge discussed the Law Library's Circulation policy, Policy 1310. Runge indicated that the law library was limited in who it was allowed to serve. However, the law library has found a way for any person in Montana to access the Law Library's digital collection. The circulation policy also outlined how to handle damaged and lost books.
- Beth Baker noted that there was no statute of limitations regarding damaged or lost library books.
- Chief Justice McGrath asked if the policies were new. McLaughlin indicated that these policies were started by former Law Librarian Christine Mandiloff, but that Runge completed the policies.
- Runge moved on to the Law Library Appropriate Use policy, Policy 1320. Runge indicated that a policy was necessary to handle members of the public, including those in crisis.
- The Computer Use policy was then introduced, Policy 1330. Runge indicated that no specific incident led to the implementation of the policy. The policy generally prohibits the use of law library computers for viewing pornography and illegal activities.
- Justice Baker asked if there was a way the public could be informed on the policies, and Runge outlined a plan to conspicuously post the policies for public review, specifically at the law library's computer terminals. Runge also suggested using the State Newsroom to announce the policies.
- Justice Baker moved for the adoption of all three policies. Justices Sandefur and Gustafson seconded the motion.

- Chief Justice McGrath called for a vote on the policies, all justices voted unanimously to adopt the policies.
- Runge then discussed the Law Library's strategic plan and announced that it had been submitted to the court. The strategic plan outlines what the law library hopes to accomplish in the coming years.

Item 4: Update to Court's Internal Operating Rules

- Justice Baker introduced the amendment to the Court's Internal Operating Rules, specifically Section V of the rules. The changes concerned when a single justice could sign an order (anything that could be done in chambers). The current rule needed clarity as it was unclear. Jeanine worked on the rework of the rule, clarifying the rule and outlining when an order may be signed solely by the Chief or acting Chief. Beyond the clarifications, the new subsection (2)(f) allows the Chief or acting Chief to sign an order reinstating an attorney to active status provided the attorney was on voluntary inactive status, emeritus, or senior status. Justice Baker relayed a comment from Justice Rice, specifically that previously, if an attorney went on inactive status five or more years ago, the full court would determine readmission. Justice Baker suggested an amendment to the rule change to reflect Justice Rice's comment, specifically inserting a comma at the end of the sentence and adding "within the previous five years, voluntarily chosen inactive, emeritus, or senior status." After some deliberation, Justice Baker proposed an alternative amendment, specifically inserting a comma and adding "except when the attorney has been on inactive status for five or more years."
- Justice Baker moved to adopt the change reflecting the language in the alternative amendment. Justice Shea seconded the motion. All justices voted unanimously to adopt the change.

Item 5: Commission on Continuing Legal Education.

- The terms of three members of the Commission on Continuing Legal Education have ended, and two members indicated that they would want to continue serving on the commission.
- John Mudd suggested three alternate recommendations to the court.
- Justice Shea moved to reappoint Chairman K. Paul Stahl and member Casey Heitz, and to appoint member Dr. Marsha Goetting.
- Justice Baker seconded the motion and indicated that she hoped that the Bar's other recommendations would remain interested in further opportunities that may arise.
- All Justices voted in favor of the motion unanimously. The motion was adopted, and the Chief stamped the names for the remote Justices.

Item 6: Ratification of District Court Council

- Judge Amy Eddy was reelected for a second term on the District Court Council.
- Chief Justice McGrath certified the reappointment.

Item 7: Judicial Education Committee

- Justice Gustafson indicated that Judge Luke Berger was willing to be reappointed. Additionally, Justice Gustafson indicated that the Judicial Education Committee agreed with the reappointment, as did Judges at the MJA conference.
- Justice Gustafson motioned the court to reappoint Judge Berger, Justice Sandefur seconded the motion.
- All Justices voted in favor of the motion unanimously.

Item 8: Sentence Review Appointment

- Chief Justice McGrath indicated that the term for Judge Dan Wilson, member of the Sentence Review Division of the Montana Supreme Court expires on December 31, 2023. Pursuant to MCA 46-18-901, Judge Wilson is unable to serve another term. Chief Justice McGrath announced that he had spoken with Judge Matthew Cuffe, and that Judge Cuffe would accept the appointment.
- Chief Justice McGrath appointed Judge Cuffe.

Public Comment

- No comment.

Chief Justice motioned to adjourn at 1:30 p.m.