

Montana Supreme Court Access to Justice Commission
June 9, 2017
Large Conference Room, Office of the Court Administrator
301 S. Park, Third Floor, Helena, MT
1:00–3:15 PM
Meeting Minutes

Commissioners Present: Justice Beth Baker, Matthew Dale, Rep. Kim Dudik (by phone), Hon. Kurt Krueger (by phone), Hon. David Carter (by phone), Kyle Nelson, Randy Snyder (by phone), Dean Paul Kirgis (by phone), Georgette Boggio (by phone).

Commissioners Absent: Hon. Greg Pinski, Rick Cook, Hon. Winona Tanner, Alison Paul, Ed Bartlett, Aimee Grmoljez, Melanie Reynolds, and Charlie Rehbein.

Others Present: Niki Zupanic, April Schmitt, Debra Steigerwalt, Michelle Potts, Sarah McClain, Patty Fain, Nolan Harris, Derrek Shepherd, Brian Coplein, Ann Goldes-Sheahan, and Krista Partridge.

Call to Order: 1:02 p.m.

Justice Baker welcomed new Commissioner Kyle Nelson, and asked for comments or corrections to the March meeting minutes. On the first page of the March minutes, the reference to September minutes should be changed to December.

The March minutes were adopted as corrected with no objections.

Self-Represented Litigants Committee Report

Nolan Harris gave an update on the Pilot Forms Evaluation. He noted that the evaluation results were mixed, but the goal of making the forms easier for litigants to understand and complete was achieved. He added that the judges provided a lot of constructive suggestions and comments and that their feedback is being incorporated into the automated forms. The goal is to complete the revisions before the new class of Justice for Montanans members starts in September. Nolan added that the court clerks will need training on the new forms and that he plans to attend the clerk's conference to get input on the best approach for training.

Law School Partnerships Committee

Debra Steigerwalt reported that a Justice for Montanans member will be placed at the Alexander Blewett III School of Law to assist in implementing the new pro bono initiatives. She thanked Alison Paul, Dean Kirgis, and Professors Jordan Gross and Hillary Wandler for making it possible to secure the AmeriCorps placement. Debra added that the Family Law Section of the State Bar contributed funds for the required cost share, and Dean Kirgis stated that he's thrilled for the opportunity and is confident that the remainder of the needed funds will be found. Justice Baker asked for a motion to send a letter on behalf of the Commission thanking the Family Law Section for their contribution.

Matt Dale moved to approve a thank you letter from the Commission to the Family Law Section and Kyle Nelson seconded the motion. The motion passed without objection.

Debra stated that Angie Wagenhals from MLSA, Professor Gross, Patty Fain, and other representatives from the law school had a meeting to discuss the duties of the position and that applicant interviews are underway. She also reported that the Incubator Project working group will meet next in September. Nolan asked if there was any progress on getting law students to volunteer at the Missoula Self-Help Law Center. Debra replied that the group will be discussing that issue at the next meeting.

Karla Gray Award Selection

Justice Baker stated that there are three strong candidates for the Karla Gray Award, and that the nomination materials for each candidate were included in the meeting packet for Commissioners to review. Justice Baker asked for comments on the candidates and added that she had received proxy votes from Commissioners who were unable to attend the meeting. Ann Goldes-Sheahan said that nominations are valid for two years and that unsuccessful candidates will be put forward next year. She added that the State Bar decided that two people cannot receive the award in the same year and so the Commission will need to decide on one recipient. Matt Dale moved to nominate Judge Karen Townsend for the Karla Gray Award, and said Alison Paul, who could not be present for the meeting, also supports Judge Townsend. Judge Krueger added his support for Judge Townsend, noting her broad experience and her work with the Self-Help Law Centers as both a judge and an attorney. Rep. Dudik also voiced her support for Judge Townsend citing her record of service and leadership. Justice Baker stated that she received proxy votes for Judge Townsend from Judge Pinski, Aimee Grmoljez, and Ed Bartlett. There were no additional comments or nominations.

Judge Karen Townsend was selected for the Karla Gray Award by acclamation.

Justice Baker thanked the Commissioners for their excellent choice and added that all the nominations were very well thought out. Ann Goldes-Sheahan stated that both the Karla Gray and Neil Haight Awards will be presented at the Thursday evening banquet during the State Bar's annual meeting in Fairmont in September.

Communications and Outreach Committee Update

Niki Zupanic reported that the committee plans to reconvene in the Fall and is seeking active members.

Legislative Update

Justice Baker thanked Rep. Dudik and Sen. Swandal for their hard work on HB 46. Even though the legislation ultimately failed on a tie vote in the Senate, Justice Baker applauded the efforts of Rep. Dudik in shepherding the bill through the House. Rep. Dudik said that the legislation is worth pursuing again in the next session, and that significant progress was made in raising awareness of civil legal aid during the 2017 session. She added that we need to keep working between now and 2019 to educate legislators on the issues. Justice Baker stated that the Policy and Resources Committee will focus on the next legislature and that Abby St. Lawrence, who was a great help during the recent session, has agreed to serve on the committee. Justice Baker

stated that a letter from the Commission will be sent to Montana's Congressional delegation in support of federal funding for civil legal aid and asked if any Commissioners had concerns with their name being on the letter. Matt Dale, Kyle Nelson, Georgette Boggio, Dean Kirgis, Judge Krueger, and Judge Carter all stated that they were willing include their names. Justice Baker said that Ed Bartlett, Aimee Grmoljez, and Randy Snyder gave approval for their names to be included, and stated that she will reach out to any other Commissioners who haven't yet given approval. She said that Sen. Daines has expressed an interest in touring the Missoula Self-Help Law Center, and that Sen. Tester has already visited the Billings Self-Help Law Center.

Strategic Planning Committee Update

Randy Snyder stated that the committee was on hold during the legislative session. He said that he will be resigning from the Commission and no longer able to serve on the committee. Randy offered to provide all his materials to the next chair of the committee. Justice Baker said that she was sorry to see Randy go and thanked him for his participation. She asked for volunteers to serve on the committee and for a Commissioner to take over as Chairperson.

Limited License Legal Technician Update

Georgette Boggio reported that the committee had its first meeting on May 22 and the next meeting will take place on July 12. Prior to the July meeting, the group will be studying the Gaps & Barriers report and the State of Washington legislation to get up to speed on the issues. Georgette reported that the group has concerns about the Washington program and requirements and will be looking at other programs for comparison. Patty Fain offered her assistance to the committee and suggested that Judge Carter should also be involved. Justice Baker said that Pat Cotter is the Committee Chair and that members include representatives from the State Bar, Alexander Blewett III School of Law, and the University of Great Falls. The Supreme Court asked for a report in 6 months, but Justice Baker said that the deadline could be extended if necessary. Patty said that she attended a session on limited license legal technicians at the Equal Justice Conference and that a group from Washington reported that their program was struggling because of the training requirements and that there were only 4 technicians licensed in Washington so far. Patty offered to send the Washington group's presentation to the Commission and added that representatives from Washington can attend the July committee meeting.

Update on Order of Protection Checklist

Judge Carter reported that 62 Order of Protection Checklists have been distributed since the start of the pilot program in February in Yellowstone County. Most of the checklists have been provided to petitioners, and most have resulted in contested hearings. He said he has noticed a marked improvement in participation and better understanding of the process. Participants have gathered appropriate evidence such as print-outs of photos and text messages, and the quality of testimony has also improved. Evidence such as 911 calls and other criminal justice information is still lacking and he hopes to develop a way for participants to more easily collect this type of evidence. Other problem areas include litigants who haven't thought about how to deal with living in the same residence and parenting issues when a parenting plan is not in place. Justice Baker asked how the parenting plan issue could be addressed in the checklist, and Judge Carter replied that the checklist could include instructions directing litigants to the District Court to file a request for a parenting plan. Matt Dale asked Judge Carter to send the final version of the checklist to him since the Attorney General's office is responsible for the Order of Protection

template. Judge Carter encouraged use of the checklist in other jurisdictions and he recommended that the next phase should focus on promoting the checklist to courts of limited jurisdiction. Judge Carter and Justice Baker both observed that the Order of Protection process is often the first entry point to the legal system for domestic violence victims and that it's critical to make it as easy as possible for them to take the next step to a parenting plan. Justice Baker noted that the September meeting will be a joint meeting with the Justice Initiatives Committee and that this would be a good joint issue for collaboration. Judge Krueger thanked Judge Carter for his great work on the checklist and added that better coordination between the Justice and District Courts is needed and, since many jurisdictions don't have a Standing Master, pro bono attorney involvement is critical. Debra Steigerwalt asked how the checklists are distributed and whether contact information for domestic violence agencies and advocates is included in the checklist. Judge Carter said that the checklist is distributed when a petition for a Temporary Order of Protection is filed and said that a list of resources was contemplated, but not included so that victims would not be overwhelmed with the volume of paperwork. Nolan Harris asked if the Self-Help Law Centers could distribute checklists and help guide litigants toward a parenting plan.

Update on State Bar of Montana/Law School Mediation Project

Patty Fain reported that the mediator qualifications have been finalized. She explained that the mediators will be trained to do full triage. An online intake form will be used to weed out domestic violence cases where mediation is not appropriate. She thanked Dean Kirgis and Professor Capulong for their assistance in developing the intake form and asked Commission members to test the online form and provide feedback. Patty noted that there is an opt-out provision at the end of the process and that considerable emphasis had been placed on minimizing the impact of coercive control on the domestic violence victim's decision-making process. Justice Baker noted that the introduction section of the intake form should include information about the right to appeal and Patty agreed that this should be included. Patty asked for Commission approval on the intake form, but because Rep. Dudik had to leave the meeting early, a quorum of Commissioners was no longer present. Justice Baker suggested that the Commission could give tentative approval.

Matt Dale moved that the Commission tentatively approve the E-RAMP intake form and Justice Baker seconded the motion. The motion passed without opposition.

National Meeting Reports

Matt Dale attended a meeting of the Committee on Access to Justice Task Forces at the Equal Justice Conference and gave a presentation on the Montana legislative funding effort, including the public forum series and video. Two other states also presented on their funding efforts. He reported that the session got lots of interest and attendance. Patty Fain added that Hawaii is going to use the Montana effort as a template. Patty reported that this was one of the better Equal Justice Conferences that she has attended and she offered provide access to conference materials for Commission members.

Public Comment and Next Meeting Dates

Justice Baker asked for public comment. There was no public comment. Justice Baker asked members to attend the September meeting in person if possible since it will be a joint meeting with the Justice Initiatives Committee. The meeting was adjourned at 2:46 p.m.