**Nebraska Supreme Court Commission on Children in the Courts**

**Meeting Minutes**

**December 11, 2021**

**Introduction:**

The regular meeting of the Nebraska Supreme Court Commission on Children in the Courts was called to order at 9 am, some participants were also attending via WebEx, with Honorable Francie Riedmann and Honorable Roger Heideman presiding.

Members leaving due to term ending: Judge Mike Burns, Judge Vernon Daniels and Monica Kruger were all thanked for their service of the commission.

**MEMBERS PRESENT**: Mandi Amy, Matthew Blomstedt, Jeanne Brandner, Hon. Michael Burns, Jennifer Carter, Chris Costantakos, Misty Flowers, Tana Fye, Monika Gross, Hon. Tom Harmon, Hon. Roger Heideman, Sarah Helvey, Karen Hicks, Corrie Kielty, Martin Klein, Monica Kruger, Aubrey Mancuso, Hon. James Mastellar, Carole McMahon-Boies, Deb Minardi, Milo Mumgaard, Liz Neeley, Dr. Kirk Newring, Kathy Olson, Hon. Anne Paine, Mary Jo Pankoke, Hon. Francie Reidmann, Hon. Randin Roland, Hon. Patrick Runge, Michaela Skogerboe, Corey Steel, Hon. Mary Stevens, Hon. Ross Stoffer, Ivy Svoboda

**MEMBERS NOT PRESENT**: Stephanie Beasley, Hon. Linda Bauer, Hon. Vernon Daniels, Hon. Rachel Daughtery, Hon. Michael Heavican, Hon. Matthew Kahler, J. Leef, Hon. Stefanie Martinez, Sen. Patty Pansing Brooks, Hon. Michael Piccolo, Dannette Smith, Chris Turner, Sen. Tony Vargas, Elizabeth Waterman, Azar Webb

**OTHERS IN ATTENDANCE**: Stephanie Volkmer, Deb VanDyke-Ries, Traci Webber, Mary Pat Coe

Minutes from the June 2021 meeting were reviewed. Copies of the minutes were previously disseminated, reviewed, and approved unanimously during the meeting.

**Subcommittee and Agency Updates:**

Legislative Session preview:

Sarah Helvey gave a brief update of possible bills that may be introduce this session. Senator Hansen has been talking to some free range parenting groups and local partners regarding what the definition of neglect should be in statute. The idea is to narrow the definition to take into consideration the age and maturity of a child when leaving them home or in a car alone, letting then walk to school alone. There also bill regarding social security benefits and state wards, extension of B2i. Also LB 537 is still a concern as it walks back a lot of JDAI best practices. Senator Pansing Brooks is still working hard on amendments to her status offense bill.

CIP Update:

CIP has partnered with HHS to provide the Redbook training. The National Council for Children will be working with CIP to offer a Nebraska specific session in the fall as well as their national training. Our Regional conference was done in person with a virtual option. Though there were challenges it was received well. Panels of youth and parents were a highlight. CIP will start planning the Children’s Summit in January, the theme is youth and family engagement. We are also working with probation to add a JDAI conference at the end of the Summit, similar to the South Dakota conference last year.

Other things in the works at CIP: working with JBE to bring a poverty simulation to the branch; legislative webinar to discuss new bills dropped planned for February 2022; partnership with Education Rights Council to provide legal education; county clerk education; critical codes manual.

Our Through the Eyes of the Child teams were active this past year. Many teams used the CIP funds to provide for youth in care (duffle bags, toiletries, coats, etc…). The team in Grand Island is completing a JDAI assessment will implement soon. Judge Paine is starting a mentoring program with probation for system involved youth.

CIP is working with JBE and tribal connections (Nebraska ICWA) to develop modules for training. Bench books are also being updated.

Guardian ad Litem Subcommittee

Chris Costantakos stated the committee is planning to meet in the spring to discuss any bills that may impact gals.

Waiver of Right to Counsel

Corey Steele provided the draft language to the commission. Supreme Court is would like feedback from members regarding the language. After the pre-comment period the language will be placed out for comment as usual. The group discussed the language and what specifically would be looked for competency. Some concern was shared regarding progression standards due to the 30 days given before coming back to court so may need an exception. Other concerns/issues raised: may create better diversion programs, concern of kids who say they understand but you know they don’t.

Title IV-E funding Subcommittee update:

The subcommittee received guidance from the Children’s Bureau regarding the question of claiming Title IV-E administrative costs for independent legal representation by an attorney for a child who is a candidate for title IV-E foster care for legal issues outside the scope of the foster care proceedings, such as housing, employment, health care, etc. The Children’s Bureau advised that no, Title IV-E cannot be used in such circumstance, except those legal services provided in the month that a petition is filed. Originally the subcommittee thought that Title IV-E funds could be used for pre-petition civil legal representation.

After receiving this guidance, the subcommittee identified a small group to discuss next steps for Title IV-E funds for legal representation in child welfare proceedings. The Capacity Building Center for the Courts has provided information on what states are currently or in the process of drawing down funds for legal representation. A meeting with CIP and Department of Health and Human Services leadership in states with a county based representation system will be scheduled prior to the February meeting.

Meetings have continued between the Administrative Office of Courts and Probation and DHHS to identify ways to draw down Title IV-E funds for judicial education, specifically the Child Abuse and Neglect Institute.

Legal Aid of Nebraska, in partnership with Nebraska Children and Families Foundation and Casey Foundation, started accepting clients for the pre-petition civil legal representation demonstration project in Lancaster County in November, 2021. Legal Aid is partnering with Lancaster County United Way and other agencies to identify families for the project. The project will demonstrate the validity of engaging in a multi-disciplinary provision of high quality legal representation to families at risk of involvement in the child welfare system. The Title IV-E subcommittee will act as a steering committee for the project.

Unified Family Court update:

The current subcommittee, co-chaired by the Hon. Matt Kahler, and Monica Kruger, was created in February 2016 and tasked with studying the creation of a unified family court in Douglas County. The specific task was what elements would be necessary for its creation and the potential benefits its creation would manifest. The subcommittee completed a review of Nebraska law regarding various jurisdictional rules of Nebraska courts and defining the role, scope, and participants of this family court pilot project.

A grant was secured from a local foundation to contract with a Unified Family Court expert, Professor Barbara Babb, from the University of Baltimore to undergo a systemic assessment of the current court structure, state statute and court rule, identifying changes needed to implement UFC. The assessment was completed in April 2019. The study identified both short-term and long-term recommendations for implementing a Unified Family Court in Douglas County.

The UFC subcommittee in Douglas County identified the following items of focus: study and data, funding sources, review of existing rules/policy/procedure/statute, case management/case coordination, new building, and strategic planning. The work groups that were formed with these focuses in mind found the following challenges/barriers: communication, bridge orders, courtroom protocols, financial issues, docket time and new building.

After considering the challenges listed above and the lack of ‘buy in’ for a unified court by the majority of all Douglas County Juvenile, District and County judges the subcommittee felt the need to narrow the focus to what the members felt was the most pressing issue – the lack of communication between all the Douglas County Courts, which results in overlapping dockets and conflicting orders. The subcommittee would like to continue meeting with that focus as their number one charge. With the new focus the subcommittee would also propose a name change for the subcommittee going forward.

Judge Harmon stated that probate would like to be involved due to the number of guardianships filed that he finds out later have a juvenile case tied to it. Corey agreed that all three courts (district, juvenile and county) need to meet on this issue and establish protocols.

Probation update:

Probation has a 3 year grant, working with the RFK national resource center. An in depth system assessment will be done throughout the state. Many stakeholders are involved in the assessment, implementation science will be utilized to learn what it takes to implement changes successfully and a data capacity assessment will be done to check for flaws. Keith Cruse will be helping with a youth trauma/behavioral health screening tool. This is very similar to what happened in Lancaster County.

ACE, advanced coaching for excellence was also highlighted: core competencies of staff, helping youth will life skills all with a focus on youth and family engagement.

Access to Service subcommittee:

Chapin Hall presented to the subcommittee. The subcommittee is optimistic about the probation assessment and is hoping it will have some recommendations regarding the lack of services especially in western Nebraska.

DHHS update:

Currently the focus is on strategic transformation with the Department of Education and other partners to assist families navigate the system. The Stephens Center has a report out regarding assessment tools needed to help in the decision of best placement. There will be required trainings for staff as well as Medicaid involvement.

Questions were asked regarding the ESA, the HHS is still assisting St. Francis with case management and there will be a re assessment in January. Another question was raise regarding new worker training, 6-8 week training with on board training happening too.

Education subcommittee update:

A historical time line was shared. The committee is interested in tracking and understanding educational outcomes throughout the state. Looking at how to best do this, i.e., school letter. It is such a complex issue when a youth is involved with the system, there is interest in working on an infographic to help show this. Educational funding and responsibility is also a topic that gets complex and the department wants to improve the data side on their part and share the information.

Department of Education update:

An update was given regarding where we are with COVID and social emotional learning and social impact. There are federal funds to help restore educational outcomes for system involved youth. The department wants to find better ways to engage youth and families with regards to: absenteeism, mental health supports, family supports, education supports. There may be some legislation coming that might help with this, the Commissioner has worked with Sens Vargas and Pansing Brooks.

There was a question regarding ARPA funds and how will the monies be used for educational needs. There will a place on the department’s website that will share that information.

Equity subcommittee:

This is such a broad topic the group wanted help in narrowing the focus so a facilitator was brought in for that purpose. After receiving feedback from the whole group hopefully a roadmap will be established to move forward.

Several questions for the subcommittee to look at – how will you measure equal access to the courts? and will you explore intellectual disability when looking at access to courts?

State Tribal Relations subcommittee update:

The Consortium is very committed and active, there is lots of movement with education and access to justice. They are watching the B2i legislation closely. As to public engagement the group still wants to get to western Nebraska and hear from those communities; looking to additional insight once they get out to those communities.

Judge Sabata in Lancaster is interested in doing an ICWA track in her court room, Judge Runge will reach out to her.

New Business:

Milo would like to explore the lessons learned in the court system due to the pandemic:

* Did it limit access to courts
* What, if any, impact did it have to people involved in the system
* Even if we agree that the court system responded strongly and appropriately, to what degree are we going to be able to judge what type of justice different people were able to receive during the pandemic
* - were there things in our system that we saw during the pandemic that we can work on

{Per Judge Heideman should there be a committee looking at this?}

There is a presiding judges committee that may be looking at the above issues per Deb Minardi. Judge Harmon shared that all judges had meetings with the Chief, who asked each district to come up with rules to demonstrate what worked and what didn’t work.

Presentation by Children’s Justice Attorney Education program – Michelle Paxton, Laurel Johnson