

Supreme Court Commission on Children in the Courts

Summary of December 15, 2008 Meeting

Present: Chief Justice Michael Heavican, Chief Judge Everett Inbody, Judge Douglas Johnson, Judge Vernon Daniels, Judge Larry Gendler, Judge Linda Porter, Judge Linda Senff, Judge Randin Roland (by telephone), Judge Patrick Runge, Ellen Brokofsky, Robert Goodwin (by telephone), Thomas Harmon, Kelli Hauptman, Alicia Henderson, Todd Landry, Kathy Bigsby Moore, Jane Schoenike, Dick Stafford, Janice Walker, Kirs Wertz, Tami Soper (representing Sen. Gwen Howard), Vicky Weisz. Present in afternoon: Lynnette Boyle, Chris Costantakos, Mary Jo Pankoke, Carol Stitt.

Committee reports/discussion:

Case Progression Standards

Judge Porter presented a summary of the work of the subcommittee.

- A) Progression Standard – Temporary Custody Hearing
(Timeline between removal of the child(ren) and the temporary custody hearing)

The consensus of the Subcommittee is for a requirement that the temporary custody hearing be held within 10 days of children's removal from their parents' care. This time period was agreed upon by the Subcommittee to ensure that parents would be represented by counsel at the hearing, to allow the Nebraska Department of Health and Human Services sufficient time to have completed at least an initial investigation, and to maximize the opportunity for issues to be addressed in a meaningful way at the hearing and prehearing conference.

- B) Progression Standard – Adjudication
(Timeline between filing of a Petition and adjudication hearing (i.e., Court finding of abuse/neglect or Petition dismissal))

The Subcommittee discussed this issue at length and ultimately agreed to recommend a timeline or progression standard of within 90 days, with a good cause exception for cases of exceptional complexity or other unusual circumstances (i.e., difficulties in serving summons on parents). This is consistent with the current Supreme Court rule.

A significant number of the Subcommittee favored moving to a 60-day progression standard in this area. This was based upon a belief that most of these cases do not result in a contested adjudication and that an earlier timeframe would get the parties to negotiate the issues in the case earlier

rather than later. Other members expressed concern that we have little information on how courts across the state are doing currently in terms of these timeframes as little available data exists.

C) Progression Standard – Disposition
(Timeline between adjudication and disposition)

Current Supreme Court rules set forth a 60-day period for this timeframe. The Subcommittee recommended we continue with this rule. A 30-day period was discussed, but concerns were raised that evaluations would not be able to be completed in that timeframe and available with enough time for parents' counsel to send the reports to their clients and to meet and discuss the Department's recommendations in advance of the hearing.

D) Progression Standard – Termination of Parental Rights
(Timeline between filing a Petition or Motion for Termination of Parental Rights and hearing)

The consensus of the Subcommittee was that a progression standard of 90 days be used for this requirement. It was felt that this allowed for sufficient time for discovery, possible mediation, and a trial setting which would allow for an uninterrupted hearing if significant trial time were required.

The Commission discussed these recommendations as well as recommendations regarding monitoring and/or enforcement of the standards. Issues regarding appointment of counsel, parents having the right to an earlier hearing if requested, and specific examples of good cause exceptions were also discussed. The subcommittee was asked to provide the Commission specific recommendations for progression standards at the June 2009 meeting.

Immigration Issues

Judge Runge provided a brief report regarding the work of this committee. The committee recommends that national resources be used to provide training to Nebraska lawyers, judges, and other professionals about Special Immigrant Juvenile Status and other significant immigration issues in juvenile court. Court Improvement funding could be used to provide this training. UNL Law Professor Kevin Ruser and Vicky Weisz will work with the Immigrant Legal Resource Center to provide this training. The Commission approved this plan.

Implementing NCJFCJ Delinquency Guidelines

Judge Daniels provided a brief report regarding this committee. The committee has been expanded and divided into three groups to address three major stages of the delinquency

court process. Judge Daniels described some of the major issues he anticipates these groups will address.

Parenting Time- Uniform training, standards, implementation

Judge Senff provided a summary of the work of this committee. She reviewed the task of the committee: *To study and research existing best practices from other states regarding parenting time (e.g. visitation) in abuse/neglect cases and make recommendations regarding training, collaboration, policy formation, and protocols to lead to uniform standards in parenting time that reflect current science and best practices for the parental-child relationship, child development and the best interests of children.*

The committee has reviewed materials from Iowa, Georgia, and Iowa and had a day long training with a national expert, Norma Ginther, and representatives from the Iowa Model court.

Judge Senff presented information about the highlights from the training and the next steps for the committee. The committee will develop proposed specific guidelines regarding parenting time plans, and proposed tools (e.g. recommendations for prehearing conference protocols, model visitation plans and court orders). The committee will also identify barriers to implementation and potential solutions. The upcoming Children's Summit (September 2009) will have a plenary and other presentations by Norma Ginther on this topic and the committee plans to have recommended guidelines ready before the Summit.

Guardian ad Litem follow-up discussion

The Commission discussed impressions of GAL performance one year after implementation of the standards and training requirements. The discussion suggested that there has been improvement in GAL representation but that some GALs are still not meeting with their children or conducting independent investigations. Judge Porter described a GAL reporting tool that has been developed in Lancaster County that complements the GAL guidelines.

Summary of July 18, 2008 meeting was approved.

2009 Commission Meetings: June 12 and December 4.