

# Supreme Court Commission on Children in the Courts

## Summary of December 16, 2005 Meeting

Attending: Chief Judge Everett Inbody, Judge Douglas Johnson, Lynette Boyle, Michaela Kubat (for Senator Patrick Bourne), Judge Glenn Camerer, Judge Vernon Daniels, Marsha Fangmeyer, Judge Lawrence Gendler, Rebecca Harling, Senator Gwen Howard, Judge Paul Korslund, Judge Patrick McDermott, Nancy Montanez, Kathy Moore, Elizabeth Neeley, Jodi Nelson, Mary Jo Pankoke, Judge Linda Porter, Amy Prenda, Senator Ron Raikes, Judge Gerald Rouse, James Ruby, Judge Patrick Runge, Jane Schoenike, Dick Stafford, Roberta Stick, Judge Kenneth Vampola, Janice Walker, Elizabeth Waterman, Vicky Weisz, Kirs Wertz, Muirne Heaney, Todd Reckling, Kim Hawekotte, Tom Harmon, JoAnn Emerson.

Expedited Appeal Subcommittee: Judge McDermott and Tom Harmon presented the work of the subcommittee. The subcommittee reported on the internal rule changes that have recently occurred within Nebraska's appellate courts to expedite appeals for TPR and other abuse/neglect cases. These changes appear to have cut the average time for appeals down to about 7 months (from about 11). A formal assessment of the time frame will occur in early 2006. These changes are:

- The rules for brief extension requests are now being strictly enforced. Extensions are only given for cause, and the informal practice of automatically allowing extensions has ended.
- By Supreme Court Rule, cases are now scheduled for oral argument when the appellant brief is filed, not when the appellee brief is filed.

The subcommittee is recommending two further changes.

- A requirement that a parent who is appealing a TPR or other order sign the appeal after the final order has been issued.
- Reducing the record preparation time to 30 days (from 7 weeks). As an interim measure, it is recommended that records should be submitted by disk rather than in a paper version, so that the record can be distributed more quickly to all parties.

Tom Harmon described the expedited appeal process that was implemented in Iowa that has cut the average appeal time frame to three months. Iowa has significantly shortened the time frame for when the notice of appeal, transcripts, and briefs are due, requires the appellant's signature, has modified the format of the brief to make them significantly less time consuming to prepare, has eliminated oral arguments in virtually all cases, and does not publish opinions.

The Commission discussed and approved the following recommendation to be forwarded to the Supreme Court:

**All juvenile abuse/neglect and termination of parental rights appeals shall be signed, dated, and notarized by the appellant after the judgment has been entered. The notice of appeal shall also be signed by the attorney processing the appeal.**

Children's Attorney Subcommittee – Judge Kenneth Vampola provided a brief report. Vicky Weisz reported that 195 completed surveys regarding current practice of juvenile defense attorneys have been returned reflecting a good response rate of 81% for judges, 50% for defense attorneys, and 61% for prosecuting attorneys. The data will be analyzed over the next several months.

Children's Summit Subcommittee – Judge Gerald Rouse reported that planning for the summit is continuing.

GAL Subcommittee – Chair Jim Ruby presented a summary of the work of the subcommittee. Three different recommendations for GAL standards were presented to the Commission reflecting a lack of consensus on the subcommittee. The Commission in the August, 2005 meeting approved keeping a dual role for GALS, but the subcommittee did not agree on what those combined roles would be. One group favored the current Nebraska statutory framework of GAL and counsel for the child. The other group favored the dual role of GAL and counsel for the best interests of the child. Drafts of the proposed guardian ad litem standards include, the following and can be reviewed on the Commission website:

- PROPOSED RULES OF PRACTICE FOR GUARDIANS AD LITEM FOR JUVENILES
- PROPOSED RULE FOR STANDARDS OF PRACTICE FOR GUARDIANS AD LITEM FOR CHILDREN IN DEPENDENCY, NEGLECT/ABUSE, AND OTHER JUVENILE CASES
- MINORITY OPINION REGARDING THE PROPOSED RULE OF PRACTICE FOR GUARDIANS AD LITEM FOR CHILDREN IN DEPENDENCY, NEGLECT/ABUSE AND OTHER JUVENILE CASES

The Commission vigorously discussed and debated various aspects of the draft guidelines.

The Commission discussed and approved the following by acclamation:

**The Supreme Court should develop and make available mandatory guardian ad litem training.**

The Commission discussed and approved the following by unanimous acclamation:

**Guardian ad litem appointments shall be made by the judge appointing an individual attorney rather than a firm or coalition.**

The Commission discussed and tabled proposals regarding statewide uniform compensation for guardians ad litem, case load limits for guardians ad litem, and whether guardians ad litem should testify.