

Supreme Court Commission on Children in the Courts

Summary of August 25, 2006 Meeting

Present: Chief Justice John Hendry, Chief Judge Everett Inbody, Judge Douglas Johnson, Lynette Boyle, Judge Vernon Daniels, Marsha Fangmeyer, Judge Lawrence Gendler, Robert Goodwin, Alicia Henderson, Judge Paul Korslund, Judge Patrick McDermott, Kathy Moore, Chris Peterson, Judge Linda Porter, Amy Prenda, Judge Gerald Rouse, James Ruby, Judge Patrick Runge, Jane Schoenike, Dick Stafford, Roberta Stick, Carolyn Stitt, Judge Kenneth Vampola, Janice Walker, Judge Gary Washburn, Vicky Weisz, Kirs Wertz, Todd Reckling, JoAnn Emerson, Ellen Brokofsky.

The minutes of the May 5, 2006 meeting were approved.

Chief Justice John V. Hendry remarks

Outgoing Chief Justice Hendry thanked the members of the Commission for their work and he recounted some of the accomplishments of the past two years: 1) The new Rules regarding expediting appeals of child abuse and termination of parental rights cases and the reduction in appellate time that has followed those Rules; 2) The new Rule requiring training for guardians ad litem; 3) A recommendation that parent's signatures be required on Termination of Rights appeals that will be shortly reviewed by the Supreme Court; 4) Monthly meetings between the Court Administrator and HHS Director; 5) The implementation of Family Drug Courts in Douglas and Lancaster Counties; 6) Changes in juvenile court practices that have brought interested parties together right at the start when children enter the system, 7) The upcoming Children's Summit. Chief Justice Hendry observed that the Commission as served as a catalyst for statewide concern for children, the most precious asset of the state of Nebraska.

Report and Discussion of Guardian Ad Litem Proposed Rules of Practice

Two issues were discussed and decided regarding the GAL proposed Rules of Practice. The Commission decided to insert a phrase excepting clerical and administrative functions to the section that limited the GALs ability to delegate duties. The Commission decided to remove the prohibition against Guardians ad Litem active participation as legal counsel at the same hearings that they testify (in the proposed changes to ethics rules).

The Commission voted to approve the Guardian ad Litem Proposed Rules of Practice as amended by a vote of 14 (approve) and 7 (dissent).

Report on the Expedited Appeals Subcommittee

Judge McDermott reported that the subcommittee reviewed the recommendation that judges be required to report to the Supreme Court all cases that are not adjudicated within 90 days, and the reason for the delay. The subcommittee decided that more study is required to determine:

- 1) The proper time frame: 90 days, 180 days, or another period of time.
- 2) Whether the reports should be limited to all cases or when the children are out of home.
- 3) Whether the requirement should apply only at the 3a adjudication phase or also for termination cases.
- 4) What the administrative and automation burdens would be.
- 5) What the additional burden would be on the Supreme Court's responsibility for reviewing under advisement reports.

The subcommittee is exploring issues that delay proceedings in the trial courts.

The subcommittee discussed the 3-judge panels and the general impression was that in the limited role they serve under the statute, they do often provide a timely and relatively inexpensive appeal.

Report on Children in District Court Subcommittee

Judge Korslund reported that this committee has been working on *Proposed Standards for Attorneys and Court Appointed Investigators for Children in District Court*. An all day meeting is scheduled for September 15 when those standards will be finalized and when the subcommittee will meet with representatives of the Child-centered Family Justice working group to review that group's recommendations regarding the Parenting Act and mediation.

Report on Children's Summit

Final plans for the Children's Summit in Nebraska City on September 25-27 were described and the agenda was circulated.

Report on Children's Attorney Subcommittee

The draft of the *Standards for Counsel of Juveniles in Law Violation and Status Offense Cases in Juvenile Court* incorporating comments and suggestions from the last Commission meeting, was reviewed and discussed. It was decided to insert the word "appointed" before counsel in the title of the standards as well as in other relevant places

throughout the document. Other clarifications and editorial suggestions were made and will be incorporated into the final draft.

There was significant discussion regarding the system recommendation of the subcommittee regarding whether children fifteen years of age or under should be prohibited from waiving their right to an attorney without prior consultation with an attorney. Because of time constraints, the resolution of this issue was postponed to a brief meeting scheduled for September 26 during the Children's Summit, with capacity for telephonic participation by Commission members not attending the Summit.

Summary of September 26, 2006 brief meeting

Present in person:

Present on the telephone:

After considerable discussion of amendments to the subcommittee's original proposal, the Commission narrowly defeated the following system recommendation (vote 10 nos, 9 yeses).

The Commission recommends that juveniles, in whose interest a law violation or status offense proceeding has been filed in juvenile court, are not permitted to waive their right to an attorney without prior consultation with an attorney.