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

**Meeting Minutes**

**December 13, 2019**

**Introduction:**

The regular meeting of the Nebraska Supreme Court Commission on Children in the Courts was called to order at 9 am at the Judicial Branch Education Building, 5001 Central Park Dr., Suite 200, Lincoln, NE, with Honorable Francie Riedmann and Honorable Roger Heideman presiding.

MEMBERS PRESENT:

Mandi Amy, Marcie Bergquist, Matthew Blomstedt, Jeanne Brandner, Sen. Patty Pansing Brooks, Christine Costantakos, Hon. Vernon Daniels, Tana Fye, Hon. Lawrence Gendler, Katie Bass (for Kim Hawekotte), Hon. Roger Heideman, Sarah Helvey, Karen Hicks, Corrie Kielty, Monica Kruger, J. Leef, Carole McMahon-Boies, Deb Minardi, Milo Mumgaard, Dr. Kirk Newring, Kathy Olson, Hon. Anne Paine, Mary Jo Pankoke, Hon. Linda Porter, Hon. Francie Riedmann, Julie Rogers, Hon. Randin Roland, Hon. Patrick Runge, Corey Steel, Juliet Summers, Ivy Svoboda, Azar Webb

MEMBERS NOT PRESENT:

Hon. Michael Burns, Hon. Rachel Daugherty, Misty Frazier, Hon. Tom Harmon, Hon. Michael Heavican, Martin Klein, Hon. Stefanie Martinez, Liz Neeley, Hon. Michael Piccolo, Hon. Gary Randall, Hon. Linda Caster Senff, Dannette Smith, Hon. Ross Stoffer, Chris Turner, Sen. Tony Vargas, Elizabeth Waterman

OTHERS IN ATTENDANCE:

Stephanie Volkmer, Mary Ann Harvey, Mary Pat Coe, Hazel Delgado, Traci Webber, Dr. Miles Antonoli, Kari Rumbaugh, Christine Christopherson, Kelly Riley, Alisha Jimenez

Minutes from the June 2019 meeting were reviewed. Copies of the minutes were disseminated, reviewed, and approved unanimously during the meeting.

**Subcommittee and Agency Updates**

**Legislative Update** – Senator Pansing Brooks

Senator Pansing Brooks indicated that the YRTC is an immediate concern. The Senator described a surprise visit to the YRTC raised several concerns to the Senators present. The group was taken to see solitary where they saw two youth in solitary, one was sleeping on a wooden pallet and no lights and another on a mattress. Utilizing Lancaster detention center for the YRTC suggests that the rehabilitation piece is shifting to security like juvenile detention. We understand the demographics are changing but the state need to make a decision of how to move forward with rehabilitation. She expressed gratitude to the judges who wrote a letter of concern. She reminded the group about the December 18th joint judiciary and DHHS hearing on YRTC. This will be streamed and open for anyone to observe.

Some of the juvenile issues to be discussed in the legislature are the following: right to council, ban on mandatory minimums, truancy, juvenile life without parole, education and DHHS, YRTC, among others.

**CIP Update** – Deb VanDyke-Ries

Deb VanDyke-Ries described projects updates over the last 6 months.

Data is included in many CIP projects. The CIP Data dashboard is live and has been for a year and a half. CIP continue to update and will be adding AFCARS and child welfare data. Ensuring quality data is important to CIP staff and Linda Leatherman developed the missing data report that goes out quarterly have done outreach to the clerks and trying to understand what they need. A webinar based on the educational needs is currently available. The Court Observation Project continues to conduct observation on judicial engagements, presently there are 194 observations.

The TEOC teams have exciting new updates such as new CASA program, increasing education to attorneys, and specialized projects like Come to the Table Nebraska. Judge Paine described their Come to the Table Nebraska project which encourages families to eat together at the table. January 12th is the kickoff, you can post on their Facebook, she encourages everyone to like, share, and post pictures!

CIP continues to work with DHHS and the Program Improvement Plan to improve permanency outcome. The Joint project, *Permanency in 12* in collaboration with ODR has 3 location and data collection focuses on the PHPR at about 8-10 months. CIP will be assisting the Children’s Bureau in conducting mini focus groups together to understand the current practices in Nebraska for concurrent planning and the termination of parental rights. CIP will be developing a project on high quality legal representation and would like suggestions from the group. Please contact CIP if you have ideas for this project.

This year, the Children’s Summit was held September 11th through 12th. The theme was *Progress through Prevention* with keynotes from Dr. Milner, Judge Teske, and Dr. Tammy Flemming. The Summit consisted of 10 tracks with 60 breakouts. To date, this is the largest summit ever hosted, the next Summit is to be hosted in September 2022 in Kearney. This year CIP Regional Conferences will be at 3 or 4 locations across the state with a focus on Strategies For Youth.

The Capacity Building Center for the Courts conducted a pilot training in southeast part of country and Nebraska was selected to send a cohort of judges to that soon.

**IV-E funding Update** – Deb VanDyke-Ries and Steven Greene

Federal funds are now available to reimburse for quality legal representation for representation of children and parents. The funding may also be available for families at risk of entering the system. There is also a training component that allows IV-E funding to be used to train judges, GALs, and CASA. There is a formula to figure out how much funding would be provided based on our IV-E penetration rate. Nebraska will be starting with training for CASA, judges, GALs.

Proposing that the Commission consider:

* 1. Reactivation of the attorney standards subcommittee to discuss a model for parents attorneys and attorneys representing children and youth.
  2. Title IV-E funding structure for state and tribal courts regarding attorneys.

Discussion: Legal Aid is looking at creating an MOU for drawdown, critically in Lancaster.

Juliet Summers motions to reactivate the attorney standards subcommittee and Mandi Amy seconds. Motion carries.

Juliet Summers motions to establish a IV-E funding structure subcommittee and Monica Kruger seconds. Motion carries.

**Unified Family Court Subcommittee** – Hon. Matt Kahler, Monica Kruger

The Subcommittee submitted a memo summarizing progress and current status. Judge Kahler replaced Judge Johnson in June when he retired. They have established a mission statement and split into six workgroups.

Since bridge orders have started, the Court has taken 10 cases where custody has been transferred to juvenile court. Here, would be looking at 60 cases a year most likely.

Also looking at barriers and cost. Trying to determine whether a UFC is necessary. This workgroup is helping bring to light that there are issues in these cases, like communication between different courts. Discussion ensued.

**Case Progression Standards Subcommittee** – Hon. Linda Porter

Judge Porter provided her September case progression reports to the Commission. Recently have discovered some glitches, for example, supplemental petitions are messing up the time reported. Some of this is working with the clerks to enter the correct dates.

The nice thing about the data is you can look into the case and find out what is going on with it and see why it was delayed. Allows for a secondary look at the data that was input. Has helped clean up the input and helping to accurately code ICWA cases also.

The report went out to judges in November and a survey will be sent out in January to gather feedback from judges.

**Guardian ad Litem Subcommittee** – Chris Costantakos

This Subcommittee will be meeting in January after the new bills are introduced. GALs are routinely being denied the ability to obtain home study reports – something that needs to be looked into further.

**Services Subcommittee** – Hon. Randin Roland

The report was handed out to everyone present. They are still focused on the four main areas, namely, local foster care, in-home services, detention and detention alternatives and timely access to therapists and evaluations. Probation is working with KVC to increase the number of professional foster care homes/beds available. North Platte currently has one family available for a probation youth. Seward has a ten bed unit as part of Family First that qualifies as a QRTP residential care facility. Kinship home payments are being reviewed and an RFP for help with home studies has gone out. Both IFP and IFR have expanded into the Panhandle as well as family centered treatment. Probation continues to work with York and other areas regarding detention alternatives. Optimal family is now open in the Scottsbluff area so they don’t have to travel to Lincoln anymore. The committee is open to new members, they meet on the third Thursday of the month.

**Guardianship Subcommittee** – Hon. Thomas Harmon

The Judiciary Committee voted LB 388 out of committee and on to general file, this would place the subcommittees’ recommendations (proposed rules) into statute. Judge Harmon is working with Ms. Chaffee on the recommendations.

**Education Subcommittee** – Hon. Larry Gendler

A packet of information provided to the commission described the October Education Subcommittee meeting minutes and the next steps. The group hope to better inform Education and process with the education court report. Over the last year the group has worked to figure out the next steps and found that the form is available but not being used. Previously, the Education Court Report was completed by the case worker and probation officer, this proved problematic. We are currently transitioning this process so that the education court report is completed by education affiliates who will then provide the education court report to the probation officer or case worker.

Judge Gendler would like to establish Supreme Court rule that makes this a confidential record. Discussion indicated that the education court report is handled differently across the state. Some jurisdictions maintain an exhibit file and not a separate confidential file or “social file”. This discussion lead to a broader discussion on which documents are confidential and which are public. Judge Porter requested clarification and the group did not come to a consensus for the education court report because schools have concerns with what they can share with the court. If schools are completing education court report, does that make the report private or public? The schools would like rationale to keep them comfortable with sharing so that schools can have the proper guidance. A small work group will be developed to begin modeling a rule after Sarpy’s rule 43-2108. Additionally, the group requested permission to examine re-entry to ensure that credits are transferring when the youth come back from other jurisdictions. Once in school, the need for threat assessments may be necessary. In Sarpy, there is a team that identifies students with threats; the group meets monthly to identify if they need court involvement. Dr. Nuring mentioned that there are others doing threat assessment for k through 12 and suggests a survey to assess the need for threat management focus for this subcommittee.

Judge Gendler Motion to expand subcommittee to look at re-entry and threat assessment, second by Judge Roland. Unanimous vote to pass motion A sign-up sheet was passed around for volunteers to become a part of the new work-group.

**Department of Education Update**

Commissioner Matt Blomstedt remains committed and hopes to improve data and system reforms across the state so that they can ultimately improve services. Project AWARE grant is moving alone, Hastings community engagement is making a big difference, Chadron is working with ESUs and exploration or possibilities, and South Sioux City is really focusing on what is happening in the classroom with diverse populations to meet their needs.

Currently, NDE is working to develop cross system data sharing piece. This is critical to know how students are doing. The state ward snapshots has become an important part of the cross system data sharing.

Commissioner Matt Blomstadt will be testifying about the YRTC and how we will move forward to improve educational outcomes for the students. He indicated that if we want rehabilitation, we must invest in the proper system so that we have a more hands on approach.

**DHHS Update,** CEO Smith

CEO Smith has met with the judges about the situation at the YRTCs. Right now, DHHS is taking an immediate, interim step, but there needs to be more planning as a state. Currently the plan is for Kearney to be an assessment center and long term for the appropriate youth, Lincoln will be for higher needs youth, and Geneva will be for girls who are soon to transition home. She is working with NDE to adjust an education for the girls immediately so that they can graduate. This tiered program will begin mid to end of January.

The transition is going well. Promiseship has been professional and St. Francis is ready for cases.

DHHS is doing an internal review of the drug testing policy and then will open it up for other stakeholders. Corey will help to get judges to help with this review.

There are two candidates for the CFS Director position, both who are out of state. Interviews will take place December 17-19. Will hope to have the individual start in February.

**Temporary Hearing Subcommittee** –Hon. Gary Randall

At the last meeting, this subcommittee asked for approval for the single order for temporary hearings and it was approved. It turned out that District judges did not think it would work. The subcommittee is going back to the education process for judges. The National Center for State Courts study showed there was not consistency across the state. They are now putting together training programs for the District Courts and hope to have a better report next time.

**State-Tribal Relations Subcommittee**

The public engagement tour visited three sites in eastern Nebraska in November 2019. All three sovereigns were present as well as members of the Supreme Court and tribal members, it was a great turnout. They are currently working on a five year strategic plan and will use the input received from the tour to help develop it. Many great ideas were discussed like the importance of training on historical trauma and trust issues that exist with tribal courts and the parties involved. The top five recommendations will come out soon and the subgroups will begin their work. Per Milo Mum gaard, Legal Aid will be using information from this group for a grant for their Native American work. The engagement tour provided a meal at all locations as well as $50.00 gift cards to all the Native American who attended. It was very important to the success of the tour that Judge Thorne, who is Native American, lead the discussions. In the spring the engagement tour plans to go out to western Nebraska.

A power point from the public engagement tour was shown.

Probation Update

Two years ago the law regarding incentives and sanctions changed how probation did things. In light of that Probation applied for grant monies from Sherwood so they could provide tangible incentives to their court involved youth. Probation appreciates the opportunity to connect with others in the court system to provide these youth with incentives, for instance the Come to the Table initiative with a gift card for a meal and pillows for youth for sleep study. Probation also worked with Judge Porter and a national organization on a pilot project which involved looking at the status youth population differently; should they even be involved in the court system. Roughly about 500 youth across the state are status offenders.

Probation has worked to stream line their pre-disposition court reports. The reports will look at youth strengths, mental health concerns, and other areas to increase the value of the recommendations section. Training has already begun on this throughout the state. In six months a survey will go out to judges for feedback.

Probation has also been working on service development; home based initiatives, MST, and FFT. These services have grown throughout the state. Emergency professional foster care (higher rate than prof) is also available as a detention alternative. Probation currently has one bed available in Omaha and one in Lincoln. They will be tracking how often emergency professional foster care is used to see if they need to increase the number of beds. Probation pays the higher fee whether the bed is used or not.

Probation is pleased with the use of ART. This is a cognitive restructuring tool that helps build skills. It is used with high risk youth as well as aggressive youth. They received a grant that paid for trainers to come in and train high risk probation officers. This has been used throughout the state and they have received positive responses from the judiciary, who have seen the changes in the youth. This is an intensive program, three meetings a week, so lots of work for staff but they like it because they also see the positive impact it has had on the youth involved. More staff will be trained in this in the spring with additional grant funding.

New Business:

Legal aid inquired what, if anything, people are doing regarding the substance abuse/opioid activity (legal issues, medical, etc) SAHSA funding aside. They are interested in children, family and economic issues and wanted to know about any potential planning being done. Judge Gendler stated this had come up at his drug court recently too. Deb Menardi stated that juvenile probation is currently doing different types of drug testing (oral swabs) in order to get youth into treatment as quickly as possible. Probation has also raised their rates in the hopes of attracting more providers into Nebraska. They are also trying to get creative in the use of tela-services in areas no treatment providers are located.

Judge Paine asked for input regarding the timeframe used at initial removal for a juvenile, who is detained. The issue revolves around whether a hearing is held within 24 hours or 48 hours as both timeframes are in statute. This poses a huge problem in the more rural areas of the state due to travel time. Judge Roland stated that he uses either video or telephone. Judge Gendler stated he makes use of probable cause forms if he is contacted over the weekend and sends those out to all the legal parties. The defense attorney for the youth is also contacted if the youth had been represented in the past. The question was raised on whether we want to be more uniform across the state taking in account the difficulties in the rural areas (travel time, no parent and/or attorney present due to distance). Not to mention the fact that a children should not be traveling these long distances. There was some discussion on whether this issue should be handled in statute or Supreme Court rule. Judge Reidman will reach out to Corey Steele and Senator Vargas regarding this issue.

Dr. Newring requested some assistance with some finished reports that due to the transition in the eastern service area he does not know who to send them too. St. Francis is not asking for them and Promiseship is gone. There is also the issue of payment. Both Judge Gendler and Marcie Bergquist offered their assistance.

The meeting was adjourned at 1:35pm.

The next meeting is June 12, 2020 at Judicial Branch Education in Lincoln.