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

**Meeting Minutes**

**June 10, 2022**

**Introduction:** The regular meeting of the Nebraska Supreme Court Commission on Children in the Courts was called to order at 9 am, with Honorable Francie Riedmann and Honorable Roger Heideman presiding.

**MEMBERS PRESENT**:

Hon. Roger Heideman, Hon. Francie Riedmann, Mandi Amy, Hon. Linda Bauer, Stephanie Beasley, Matthew Blomstedt, Jeanne Brandner, Jennifer Carter, Christine Costantakos, Misty Flowers, Monika Gross, Hon. Tom Harmon, Sarah Helvey, Hon. Matthew Kahler, Corrie Kielty, Dr. Kirk Newring, Kathy Olson, Hon. Anne Paine, Mary Jo Pankoke, Hon. Randin Roland, Hon. Patrick Runge, Michaela Skogerboe, Corey Steel, Hon. Mary Stevens, Ivy Swoboda, Chris Turner, Elizabeth Waterman

**MEMBERS NOT PRESENT**:

Hon. Rachel Daugherty, Tana Fye, Hon. Michael G. Heavican, Karen Hicks, Martin Klein, J. Leef, Aubrey Mancuso, Hon. Stefanie Martinez, Hon. James Mastellar, Deborah Minardi, Milo Mumgaard, Liz Neeley, Sen. Patty Pansing Brooks, Hon. Michael Piccolo, Dannette Smith, Hon. Ross Stoffer, Sen. Tony Vargas, Azar Webb

**OTHERS IN ATTENDANCE**:

Patrick Carraher, Stephanie Volkmer, Deb VanDyke-Ries, Traci Webber, Mary Pat Coe, Theresa Cusic

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

**Subcommittee and Agency Updates:**

Legislative Session Overview:

Sarah Helvey reported that LB 1173 passed this session. LB 1173 creates a work group to find ways to improve the state’s child welfare system and ends privatization of child welfare services in Nebraska. The group will include the directors of relevant divisions of the state Department of Health and Human Services, the state court administrator, the commissioner of education and representatives of the state’s federally recognized Indian tribes. It will seek input from individuals with experience within the child welfare system, providers, law enforcement, county attorneys and others. The group will submit its model framework to the Health and Human Services Committee by December 1, 2023, and will terminate December 31, 2023.

LB1173 also includes provisions of four other bills:
• LB491 - which removes DHHS authority to contract with a lead agency for case management in the department’s eastern service area of Douglas and Sarpy counties;
• LB541 – which requires the Division of Children and Family Services to implement statewide tiers for a specialized level of care for foster care reimbursement and to partner with the Division of Medicaid and Long-Term Care to develop a plan for treatment family care services by Oct. 1, 2022;
• LB854 - which requires the Division of Children and Family Services to immediately notify the Division of Public Health of any reports DHHS receives of alleged out-of-home child abuse or neglect by a child care provider or staff member; and
• LB932 - which requires DHHS to notify youth in foster care and their guardians ad litem that the state is collecting Social Security benefits on their behalf, beginning Jan. 1, 2023. It also requires DHHS to provide documentation of the receipt, use and conservation of any Social Security benefits received upon request from the child beneficiary or their representative and upon termination of the department’s role as payee.

There are a few interim studies of note: juvenile code review and an interim study to examine the racial and ethnic disproportionality within Nebraska's child welfare system

CIP Update:

Deb VanDyke-Reis reported that CIP is focused on their strategic plan and self-assessment. The Through the Eyes of the Child teams are meeting again most in person. The teams are connecting with the community collaboratives if they have one. CIP is also working with HHS on obtaining more IV-E funding for educational pursuits.

Deb also stated that CIP was working with the Strategic Transformation Workgroup, Child and Family Service Review (round 4), partnering with Education Right’s Counsel and planning the Children’s Summit that takes place in Kearney, NE. CIP is also working with the Data & Research team on a case sealing project and finishing up the project regarding pre-hearing conferences.

Other projects CIP has in the works include the following: Stakeholder Collaboration and Connection with the National Center for Courts, ICWA grant with the Robert Wood Johnson institute, partnering with ODR and the grant they have with OJJDP, a Babies from the Bench series, ICWA series and partnering with probation on JJSEN.

Guardian ad Litem Subcommittee:

The GAL subcommittee developed the current GAL report form available on the Supreme Court website. In February 2022, Chris Costantakos was approached by Theresa Cusic, from CIP, who inquired whether the GAL subcommittee would consider adding a youth engagement section to the GAL report form. Theresa Cusic provided a proposed GAL report form that the Lancaster County Through the Eyes of the Child team modified.

The GAL subcommittee met and agreed to revise the GAL report form to add a section addressing youth engagement. The subcommittee also made changes to the report form in an effort to streamline the form. For example, documents, reports, and information now can be checked rather than having to type in each document. The subcommittee also broke down the section of the report that addresses barriers relating to permanency. There was discussion that it is helpful and holds weight if the commission approves the form. There were two motions to amend the contents of the proposed GAL report form. The first was to add ICWA specialist to section 2 on page 2 as another point of contact (Hon. Tom Harmon motioned, Chris Costantakos seconded, and motion was carried). The second was to correct the abbreviation of the Nebraska Strengthening Families Act in section 2 on page 3 from “NFSA” to “NSFA” (Hon. Tom Harmon motioned, Hon. Linda Bauer seconded, and motion was carried). The commission unanimously approved the revised GAL report form. The revised GAL report will go to the Supreme Court for approval and then will be posted on the Supreme Court website.

Equity Subcommittee:

Hon. Patrick Runge provided an update on the subcommittee’s efforts to obtain data. CIP is currently working with the Capacity Building Center for Courts to see what Nebraska specific data is available. Assistance from federal partners will help us to see if Nebraska is looking different than other states. Initial discussion has focused on whether there are specific points in time in the child welfare process where disparity can be identified and root causes acknowledged. Using data allows the system to be more objective, efficient, and effective. Once data is gathered, it will be presented to the subcommittee to decide next steps.

Matthew Blomstedt noted it can be difficult to navigate waters of equity in education. Mr. Blomstedt has been meeting with HHS and other entities to determine how to serve children’s needs from a culturally responsive point. It is a priority to take on this work. The reality is the focus should not be on addressing equity, but rather addressing inequity.

State Tribal Relations Subcommittee:

Hon. Patrick Runge discussed there is some overlap in the work of the State tribal relations subcommittee and consortium for state and tribal courts. Hon. Runge inquired whether it may make sense for the subcommittee to be folded into the consortium. Corey Steel indicated he spoke with Justice Stacy who would like to keep the subcommittee and the consortium separate. The state tribal relations subcommittee focuses on child welfare matters while the consortium has a high-level focus. Structurally the consortium should hand things down to the subcommittee to work on logistics. Hon. Patrick Runge, Misty Flowers, Deb VanDyke-Ries, and Cory Steel are involved with both the subcommittee and the consortium, which helps with information flow.

Corey Steel provided upcoming dates for listening sessions, which were rescheduled twice. Listening session will take place in western Nebraska August 15-16, 2022.

A broader conversation was opened up regarding ways to reinvigorate subcommittees. Corey Steel indicated subcommittees are not often sunset, but that may be appropriate once a task is complete. The trend is to create more and more subcommittees when sometimes it would be better to sunset a subcommittee.

DHHS Update:

Stephanie Beasley reported that LB 1173 includes the expanded tiers for foster care rates to help place youth with extreme needs. An RFP will be going out in June/July to analyze policy, statutes, what is working what is not, look to other states to compare, with the report being due to the legislature next year.

She also reported on the strategic transformation partnership that has been meeting for the last year or so that will be instrumental in LB1173 workgroup. Some of the key priorities are accountability measures and where data comes from. The last portion of LB 1173 relates to the reporting of social security payments to children who are state wards and HHS’s accountability to report the information to the courts, parents/custodians and guardian ad litems.

Access to Services Subcommittee:

Judge Roland reported that lack of foster care placements continues to be an issue in the western areas of the state. He stated that probation and HHS have done some work in the western area and hopes this will make an impact. In home services also continue to an issue as there are a lack of providers.

Chapin Hall did a presentation, but he was not sure when that program starts.

Receiving evaluations from therapist within the 21-30 days is a challenge, many other judges in the room agreed. There was also discussion regarding foster homes not accepting certain kids and how difficult that makes placements. There have also been many disruptions in foster placements and Judge Bauer wondered if this was a case of some foster parents not understanding their responsibilities to the children in their care.

Education Subcommittee:

Commissioner Blomstedt reported that the committee has discussed how we describe the system to stakeholders who have little knowledge of child welfare. Due to the complexity of the system, it is a challenge to portray. Creating an infographic was discussed and NDE is still interested is doing this as it would be nice to show new policy makers a window into the system and how it effects youth.

The committee is also interested in following up on issues of school stability (part of a 2018 survey). There is interest is doing a new survey to see if the changes made (i.e., new superintendent letter) were helpful. Other concerns shared: credits lost when switching school and YRTC youth transition plans.

Questions the committee are still discussing are - the truancy bill, the possibility of standard language for education surrogates in court orders.

Department of Education Update:

The Commissioner discussed pandemic protocols and how federal funds were used to addressed some of the issues: 1. Immediate impacts of safety and maintaining services, 2. Academic and social emotional impact on students, and 3. More funds coming in March (NDE is partnering with the Nebraska Children and Families Foundation). There will be a big investment around mental health services for youth and families. He stated that as he goes around the state, he is seeing more license mental health people in the school or at least available to students (but done on grant funds so will need to watch this when the money runs out).

He also discussed a possible partnership with Bring up NE and community engagement – shocked that he was only education person, needs to look at this and get more education people at the table in communities. Mary Jo Panko says they are being intentional at trying to get more education people at the table, and she stressed the importance of community engagement. The Commissioner said they are trying to be cognizant that rural communities may have capacity issues so trying to watch that and be thoughtful about it.

Pre-pandemic the department had started to build a health and wellness focus, they built relationships with the HHS on how to get things done. He is interested in providing services to system involved youth – not interested in the political aspect. For the education system to make a difference for youth someone needs to be responsible for their education. Of great concern is when youth get moved there is no overarching look on how kids do in school, we need to be more thoughtful on what education things we want to impact.

The financial piece is a mess – we don’t track funding on where kids are placed. For example: a small rural school who has budgeted for currently enrolled kids at the beginning of the year but now gets a student who has high needs - this comes with money needs – school says we don’t have the resource, but they are responsible for that child’s education needs - this happens a lot. It’s a very complicated system that needs to work better for the children impacted. The Commissioner would like to engage the education subcommittee in this work with NDE.

There was discussion regarding truancy, homeschooling, and online school – how does this fit. How do counties handle this when there is no real overarching policy. There has been some attempt in the legislation to address some of these issues. But different schools have different controls – very inconsistent over jurisdictions (school jurisdictions). In communities that have extreme poverty this can also be difficult to get a handle on. The subject of IEPs came up, many voiced frustrations with outdated IEPs because of pandemic or other reasons. The need for better relationships with parents was discussed and what approach would be successful. The issue of needed evaluations for IEP was also brought up, timeliness and thoroughness can be issues. Grade level assessments were also brought up and the Commissioner agreed that this should be done when a youth starts a new school.

Other tangible things like food, shower, clean clothes, someone home to get them to/get them up for school were all brought up. Misty shared that they are using a wraparound approach at Santee: they look at all the issues in the home (mom leaves early for work, or maybe party at the house last night). Maybe diversion a better fit because that is a good collaboration between courts/county attorney/family. Misty also shared that the OJJDP grant funded a tribal attorney to work with these cases and families. Judge Runge has been using truancy cases to really look at the family issues.

School safety was another issue discussed. The commissioner has been approached by Senator Walz to form a task force on where we are on school safety. He shared that this had been done after the Parkland shooting years ago and school safety, vision prevention, preparedness, response and recovery were all looked at. However, there is no standard response protocol across the state. Sometimes the biggest threat is people not taking the threat seriously, also places don’t have the same capacity everywhere you go. The task force will start in July 2022, and will have key themes to be discussed. They are trying to figure out how to include youth and parent voice in the discussion.

Title IV-E Funding Subcommittee:

Patrick Carraher provided an update on Legal Aid of Nebraska’s pre-petition civil legal demonstration project in Lancaster County. The demonstration project provides legal assistance to identified families to prevent the need for a juvenile court filing. For example, Legal Aid has helped with 10-12 guardianships in which a child is living with their parent’s partner, who has no authority to consent for medical care, receive public benefits, etc. Referral sources include the County Attorney’s office and DHHS caseworkers. Chris Turner from the Lancaster County Attorney’s Office shared that he has referred cases to Mr. Carraher when there are no safety risks to address and reports the project has been a great asset. Mr. Turner recalled at least three cases that would have resulted in a 3(a) filing if not for the demonstration project.

Mr. Carraher joined a nationwide pre-petition civil legal provider group, which shows this movement is happening all over the country. When/if Nebraska applies for IV-E funding for pre-petition representation, there will be successes to talk about. Kathy Olson provided a reminder that even if federal partners give the OK, there will still need to be changes made at the state level. Data will need to be presented to county boards because those boards would get reimbursed from the state.

Sarah Helvey shared that when the Subcommittee on Attorney Standards made draft additions to the current standards for attorneys practicing in juvenile court, the addition of high quality legal representation was intentionally added to help facilitate drawing down of Title IV-E funds when/if Nebraska gets the approval to utilize those funds for legal representation. Corey Steel provided information on the proposed changes to the attorney standards, which were submitted to the Supreme Court for approval. The Supreme Court did approve the changes and added a few changes as well. The Supreme Court will approve these as guidelines, not standards. The final version should be in front of the Court in the coming weeks, adopted, and placed on the Supreme Court website.

Case Progression Subcommittee:

Hon. Matthew Kahler stated that case progression reports go out monthly to provide each judge with a snapshot of his/her juvenile caseload. These reports provide judges the opportunity to see how their docket stands in comparison to the case progress guidelines. The reports are to be used as a tool and judges do not see each other’s’ reports. For example, the report might show a neglect case where there has not been a review for over 6 months, the judge can look at the report and then set a review hearing if needed. Reports are supposed to be helpful and serve as a refresher of goals.

Currently looking at detention data because all judges handle things differently. There is a current concern about long waiting times for IDIs. Discussion that youth should have revocation hearing within 14 days of being detained.

Work is being done to develop a permanency report to remind Judges of timelines. Exception hearing will show after 30 days of 15 months in care. Independence hearings will show within 30 days of aging out.

Probation Update and Juvenile Justice System Enhancement Nebraska:

Jeanne Brandner met with Senator Walz and Senator Arch to discuss educational data and the creation of a statewide system to monitor and track a portfolio of information for youth. Youth who experience facility and out of home placements can struggle with credit transfer. Data based system (learning management system) would help with credit transfer. There have been “big idea” discussions such as funding to follow youth so receiving school can receive funding. Education court report, which is a product of this commission, is a very labor-intensive process and only shows a point in time. Reminder that there are state and federal parameters around sharing student information. LR438- educational data resolution.

At the end of the legislative session, dollars were allocated for provider rate increases, which will start July 1, 2022. Most of the providers rate increases are around the 15% mark – first year seen increases that large. Travel to detention will have extra reimbursement and there will be compensation for no shows. Probation pays for detention and there will be a 2% rate increase there. Discussion of 21/30 days evaluation and ways probation is delving into what the barriers are for timely completion. Nebraska statute does require for post adjudicated youth, that evaluations be completed in 10 days. Probation has requested proposals from providers in an effort to identify providers that will really focus on evaluations when needed. Probation has already received quite a few responses. Looking at trauma screenings and assessing who is trained in trauma techniques (provider wise).

Probation is putting an additional emphasis on juvenile who sexually harm. Arranging an independent evaluation to see how probation is responding and services being provided. Considering systemic changes to service this special population.

JDAI update: Hall County is in the implementation stages. Hall County has seen an increase in juvenile filings

Juvenile Justice System Enhancement – probation was awarded a 3-year tech assistance grant to look at juvenile justice system holistically. Last site visit specific to evaluation part is July 2022. Anticipate getting evaluation report in August/Sept. 2022. Once recommendations are received will decide which to take on and in what order. RFK partners with Gault Center to talk about court order process, which is mirrored after what already has happened in Lancaster County.

Probation is partnering with the Nation Center for Juvenile Justice (NCJJ) to determine what data to collect. NCJJ has a set of fundamental measures they recommend states use as baseline – they are measuring Nebraska against that.

Looking at trauma screenings – when youth are screened and referred to services – assessing who is trained in trauma techniques (provider wise)

Supreme Court Update:

Corey Steel shared that May 19, 2022, the Nebraska Supreme Court adopted 6-1708, waiver of right to counsel in juvenile cases.

Other:

Jeanne Brandner shared probation will host a Justice and Behavioral Health Conference in La Vista, September 28-30, 2022.