

**Court Improvement Program**  
**Joint Data, Statutes, and Rules & Federal Review Committee Meeting**  
**July 17, 2015**  
**Draft Minutes**

**Attendance:**

Laura Barno, Barb Baxter, Ashley Connolly, Andrea Darr, Tamerra Gilmore, Kandi Greter, Sue Hage, Mike Johnson, Evan Lynch, Catherine Munster, Tina Payne, Angie Saunders, Cortney Simmons (by phone), Nikki Tennis, Laura Walsh, Susan Wilmerink, and Joyce Yedlosky.

**1. Review of minutes and database update**

Judge Swope was unable to attend the meeting. Nikki Tennis acted in his stead and called the meeting to order. The minutes for the joint Data and Federal Review meeting on April 17, 2015, were reviewed and approved after amendments to add members' names in the attendance section of the minutes. (Tina Payne, Barb Baxter, Catherine Munster, Angie Saunders, and Brenda McPhail were added.)

**2. Updates on Title IV-E Secondary Review, next round of CFSRs**

Title IV-E Secondary Review – Sue Hage reported that the criminal background check (CRB) documentation of providers is the last item for the follow-up that Evan Steel of the Administration for Children and Families (ACF) requested.

Child and Family Services Review (CFSR) – Sue Hage said the Bureau for Children and Families (BCF) is continuing to pull data and analyze what districts to review. Kanawha is always one of the districts due to having the largest population, she said. BCF is still determining other districts at this time. A letter will be sent to ACF with their decision to do their own review in the early part of 2016, she said.

Mike Johnson said he is working on modified state policy for applicable children of Fostering Connections policy from two years ago. An applicable child is eligible for IV-E foster care/adoption (prior adoption); subsidized adoption doesn't require the same AFDC-level income as IV-E foster care eligibility. He explained that adoptions are delinked from AFDC under the Fostering Connections to Success and Increasing Adoptions Act of 2008, so DHHR will make the modifications in FACTS to delink them. He reported they are delayed getting the information into the FACTS system. He is currently working alongside them on a methodology to address the hefty bill. As a result of the information not entered, the state is not receiving reimbursement for 200 out of 9,000 eligible children for IV-E reimbursement. Next year, every child who is adopted will be eligible for IV-E adoption subsidy. By 2017-2018, they will include all the way to newborns, he said. Catherine Munster questioned whether this scenario would be true for legal guardianship. Mike said a few more requirements would be needed: time in care and kinship, which would require a full-blown home adoption study. Additionally, legal

guardianship will be delinked to AFDC, he said. Lastly, he said they need a concrete plan in order to remove old eligibility requirements from their provisions.

Mike also reported that the Title IV-E unit is still having trouble with the reasonable efforts to achieve permanency/finalize the permanency plan (REAP or REFPP) reporting. He said 34 to 35 percent of cases did not have an order with the REAP/REFPP findings. He said the numbers are currently reduced to 20 percent. Nikki mentioned that the collaboration between the Court with the IV-E unit has improved, and the reduction of the numbers is likely due to receiving the orders every quarter instead of once a year. She said Janie Moore, Director of Magistrate Court Services, sent out a memorandum to all the magistrates outlining the importance of providing all children's names and making "contrary to the welfare" (CTW) and "reasonable efforts to prevent removal" (RE) findings in Orders with Respect to Application for Emergency Custody. Mike said the current penetration rate (P-rate, or the number of children eligible for Title IV-E funding who are actually receiving funding) is up to 55.7 percent, which is the highest in years.

Mike Johnson said Title XIX (19) eligibility for kinship relative care was implemented on May 16, 2015. Traditionally, it was not considered as foster care, but as of May 16, it is. He reported that 700 children are now eligible to receive this benefit.

Nikki Tennis asked Mike Johnson and Sue Hage about the Title IV-E reimbursement funds for court training and New View case management. They both reported the process has been a slow one and that they are waiting on the budget staff from ACF, as the application is currently with the Office of Budgets in Washington, D.C.

### **3. Legislative Update**

The committee discussed legislative priorities for 2016. First, the group would like to make some technical amendments to the new Chapter 49, including corrections to some cross-references and unintended omissions. Catherine Munster suggested a few tweaks:

- For reasonable efforts – crime list, sexual assault needs to be added.
- For 49-4-7-01 (f) (1), Judge Matish asked Catherine to submit his issues with this section. Catherine gave them to Tina Payne to work on.

Sue Hage would like to clarify out-of-home placement. John Hedges noted that magistrates' status as juvenile referees needs reaffirmed, as something was lost with the removal of the juvenile referee article of Chapter 49. Nikki requested that the committee set a deadline of two weeks prior to the next committee meeting for members to propose amendments, including the code section and proposed language.

Joyce Yedlosky mentioned human trafficking as a current hot button. Cortney Simmons said the State Police has a clearinghouse to track children who runaway. The committee discussed H.B. 2161 (Uniform Human Trafficking Act), which passed but was vetoed in 2015, due to its title not reflecting all of the content in the bill. Joyce Yedlosky said H.B. 2161 was based on American Bar Association (ABA) standards. Delegate Fleischauer shepherded it. The bill had a fiscal note of \$72,000 at one point, Joyce said. Sue Hage

mentioned there is a cost for commissions, including infrastructure and staffing. Rick Staton said the proposed commission needed to meet more than two times a year, Joyce added. Joyce a meeting is scheduled with the Governor's office to reboot the efforts of the bill. Tina Payne introduced a motion to create a workgroup to review the bill and make proposals to the CIP oversight board, and the committee agreed. The goal is to help modify the bill with language complementing the ABA recommendations and recent federal legislation, including the Preventing Sex Trafficking and Strengthening Families Act of 2014 and the Justice for Victims of Trafficking Act of 2015. The members nominated for the workgroup are as follows:

1. Stephanie Drake and/or Carla Harper – WVDHHR
2. Tina Payne – Supreme Court of Appeals of WV, Legislative Analysis
3. Courtney Simmons – WV State Police
4. Rick Staton – Division of Justice and Community Services
5. Nikki Tennis – Supreme Court of Appeals of WV, Children Services
6. Joyce Yedlosky – WVCADV

A meeting doodle will be sent to the workgroup to plan a time to meet in the coming weeks, Nikki said.

Barb Baxter asked the committee to consider the BCSE insurance bill, which she handed out to the group. She said Judge Swope has supported the idea in the past. Joyce suggested having Our Future Our Children to help promote the bill. The committee also agreed to wait to make a decision on whether to propose action to the CIP oversight board until conferring with Judge Swope.

#### **4. Proposed procedural rule changes**

Nikki Tennis reported the Rules of Procedure for Child Abuse and Neglect Proceedings have recently finished the public comment process. She said the Rules of Juvenile Procedure will be out soon for public comment. Angie Saunders asked if details from S.B. 393 would be included in the rules; the group said that the code sections had been updated.

#### **5. Interstate Compact on the Placement of Children (ICPC) discussion**

Nikki Tennis said Bob Wilkinson is still working on negotiating the border agreement details with neighboring counties in Ohio. A longer discussion of several ICPC scenarios between Catherine Munster and Laura Barno took place. Catherine recommended a judicial training on ICPC and co-petitioner custody, including safety checks on biological parents out of state that are independent of the Department home studies, possibly not invoking ICPC. In other words, Catherine suggested that an ICPC alternative is to have GALs do the safety checks on out-of-state co-petitioners or biological parents.

Mike Johnson mentioned two webinars to date that develop a quasi-tracking interface called NEICE (National Electronic Interstate Compact Enterprise). He said you have to pay to play, and it is very expensive. Currently, the federal government is not financial backing the program.

**6. New/other business**

Mike Johnson was asked by Secretary Bowling's office to help the executive branch examine how to do an enterprise-wide data-sharing plan. Virginia has done something similar in the past where a new Cabinet was created and changed their legislation, he said. Nikki Tennis suggested the Department of Education could be a co-leader on the project with its data governance manager. Nikki will send Mike the old Mark Harden report on data-sharing and informing on FERPA amendments in the Uninterrupted Scholars Act of 2013.

Catherine Munster mentioned that using co-petitioning as a measure to keep kids safe in their own homes is a natural alliance for Safe at Home WV. Nikki suggested that BCF may want to include Catherine in its Safe at Home stakeholder discussions.

**7. Next Committee Meeting**

The next combined CIP Federal Review and Data, Statutes, and Rules committee meeting will be on **Thursday, October 1, 2015**, from **10:00 a.m. to 1:00 p.m.**, at the City Center East Building in Kanawha City in the 2nd Floor Conference Room. Lunch will be served between 12:00 p.m. and 12:30 p.m.

Adjournment