

Board of Judicial Policy and Administration
Minutes
March 12, 2014

The Board of Judicial Policy and Administration met in Cheyenne, Wyoming on March 12, 2014. In attendance in person were Chief Justice Marilyn Kite, Justice Jim Burke, Justice Michael Davis, Joann Odendahl, Ronda Munger, Carol Thompson, Steven Dreher, Diane Bauersfeld, and Becky Craig. Those in attendance by video conference were Judge Jeffrey Donnell, Judge Curt Haws, Judge Wes Roberts, and Judge Robert Castor. Judge John Perry participated by phone.

Old Business

Committee Reports

Court Security Commission – Chief Justice Kite reported that in this past legislative session six million dollars in funds were earmarked for security upgrades in Fremont and Sweetwater counties. She advised, however, that the Court Security Assistance Fund Bill failed and the corresponding appropriated funds were lost. She reported that the judiciary is in the process of applying for two grants (one for \$30,000 for security training and one for \$50,000 for security assessments), and that these funds will go a long way towards helping to protect citizens and court personnel. Chief Justice Kite urged the district court and circuit court judges to step up and take an official stand on courtroom security. She stressed that the judges need to take the leadership in their counties on this issue, and advised that in many counties, the judge is the chairman of the Court Security Committee. Lengthy discussion was held on this topic. It was agreed that both the District Court Conference and Circuit Court Conference will take an official position on this matter at their upcoming meetings. The conferences will also discuss signing resolutions supporting courthouse assessments and the court security grant applications. It was also agreed that research will be conducted and a court rule drafted for review at the June meeting that orders counties to provide security for their courtrooms. Assistance will be given to the county commissioners to secure funding from the Legislature for this purpose. Chief Justice Kite also suggested that in order to identify the court security problems around the state, it would be beneficial to develop a standard reporting system through which a designated person would document incidents as they occur. Discussion was also held on how to structure court security training. Chief Justice Kite advised that training will be conducted at the Judicial Conference at the State Bar Meeting in September, with 2 or 3 additional training sessions being conducted at different sites around the state.

CTAC – Joann Odendahl reported that all of the district courts are now on the WyUser system. She also indicated that the Circuit Court Clerk Design Committee has been working on the development of their new system, and that LT Court Tech will meet with the clerks in April to showcase its design and to address the clerks' concerns. Steven Dreher reported that the Sweetwater County District Court will be the pilot court for the efilings system. He also advised that the appellate court's attorney efilings registration

system is being studied in the hopes of developing one electronic filing system that will work for all three jurisdictions of courts.

Legislative Update

Chief Justice Kite and Joann reviewed several pieces of legislation from the 2014 session:

Budget Items – Chief Justice Kite reported that the Legislature did not approve the funds that were requested for salary increases for court reporters who are certified in real-time reporting. She suggested that a court rule be drafted that states that if a court reporter is certified in real-time reporting, the reporter will receive increased compensation. Joann Odendahl reported that the Legislature also approved a sum of money for salary increases for judicial staff, but that the amount is presently unclear since the judiciary's increase and the executive branch's increase were combined. Joann advised that the Legislature approved four full-time positions for the Wyoming Center for Legal Aid. She explained that these existing positions are currently considered at-will employee contractors that are paid out of 0104 "Salaries Other," but because of the permanent nature of the program, they will now be considered at-will employees like other judicial branch employees, and the funding will shift to 0103 "Salaries Classified." Chief Justice Kite reported that the one-time request for \$280,000 (matching funds) for support of the Supreme Court Learning Center was approved. She noted that the Learning Center will provide information about the circuit courts and district courts in an interactive format.

Court Reporter Fee Elimination – HB0008 passed. This act repeals W.S. 5-3-410 (a) through (d), thereby eliminating the \$45.00 court reporter fee that is required in civil proceedings.

Jury Pool Selection—archaic language – HB0033 passed. This act updates, amends, conforms and repeals provisions relating to the selection of jurors. Specifically, it provides that the individuals on the base jury list will be tagged for one year so that they cannot be selected for a jury list for the following year. It also updates the language that refers to the clerks pulling names out of a box.

Children in Need of Supervision—Age – HB0043 passed. This act increases the age limit from 17 to 18 for the exercise of jurisdiction over children in need of supervision.

24/7 Sobriety Program – SF0031 passed. This act creates a 24/7 sobriety program. Each county, through its sheriff, may take part in the program.

Child Support Payment – SF0084 passed. This act clarifies the definition of "daily support obligation" in computing a reduction in child support when the noncustodial parent has physical custody of a child for fifteen or more consecutive days. It also clarifies that the notice to payor may be delivered electronically, and it amends provisions relating to driver's license suspension.

Electronic Citation Fees – HB0155 failed. This act would have provided for collection of electronic citation fees in municipal courts and the establishment and maintenance of municipal electronic citation systems. Joann reported that 1.5 million dollars did remain in

the budget for grants for up-front costs of purchasing computer systems and hardware/software for eCitation programs for sheriffs' departments and local law enforcement agencies. She pointed out that each agency has to meet certain IT requirements that ensure that the information that comes into the main data warehouse can be used statewide and can be provided to DCI.

Sexual Assault Protection Orders – SF0063 failed. This act would have created the Sexual Assault Protection Order Act.

Rule 1 Initiative

Chief Justice Kite reported that there will be a meeting on March 10th of the Rule 1 Committee to discuss rules that will facilitate an expedited process for domestic relations cases. She advised that revisions are being considered that will allow a judge, at his or her discretion, to use an informal method in handling cases where both parties in the action are pro se litigants. She is hopeful that the committee will have the rules drafted and ready for review in June.

Full-Time Magistrates

Judge Haws informed the Board that the committee found that the magistrate system in the circuit courts is working very well, and that judicial services are being delivered by very accomplished people. He reported that the committee's recommendation is that at the point when there is a vacancy in one of the full-time magistrate positions due to a magistrate's retirement, death, or non-retention, then the Supreme Court, in conjunction with the circuit court judges in the district and the county commissioners in the county, would determine whether the need for that full-time magistrate position still exists. There were no objections made by the BJPA members to this recommendation.

Judge Haws explained the committee's process in reviewing the formula that determines the full-time circuit court magistrates' pay. Lengthy discussion was held on this matter. The committee will draft a policy for consideration at the June meeting that states that if a court's caseload decreases by a certain percentage, there will be an evaluation done before the end of the full-time magistrate's term to determine if the magistrate's salary should be reduced. This determination would be made far enough in advance of the end of the term that the affected magistrate would have sufficient time to decide whether or not he or she wanted to stand for retention. The Circuit Court Judges will discuss this matter at their meeting in April.

Pro Se Packets

Ronda Munger reminded the members that the three new pro se packets were brought before the Board at their September, 2013, meeting: packets 11 and 12 deal with establishing custody, visitation and child support in situations where the parties are not married, and packet 13 deals with abatement proceedings for non-custodial parents. She noted that at the meeting the Board voted that the three new packets be recommended to the Supreme Court for approval and adoption, subject to review and comment of the district judges, and also that the proposed changes to W.R.C.P. Rule 26(a)(1.1) be adopted by the Court. She further related that after the September meeting, the packets were sent to the district courts for review, and many of the suggestions that were subsequently received

were incorporated into the packets. Ronda also reminded the members that at the December, 2013, meeting the Board discussed the Initial Disclosures form and whether or not schedules A-G are necessary in packets 11 and 12. Judge Campbell reported that he surveyed the district judges, and the consensus was that the only schedule that is pertinent to this type of action is the schedule that deals with custody, and that all other schedules should be removed from the Initial Disclosure form in these packets. Further discussion was held on W.R.C.P. Rule 26. The Board agreed that instead of amending Rule 26(a)(1.1), which deals with “domestic relations,” a new section 26(a)(1.2) should be added that relates to parties who have never been married. Judge Perry moved and Judge Haws seconded a motion recommending to the Supreme Court that the proposed amendment to W.R.C.P. Rule 26, as amended, be adopted. Motion passed unanimously.

New Business

Rule 905 of the Uniform Rules of District Court

Ronda Munger explained that since the Legislature repealed W.S. 5-3-410 (a) through (d) that required a \$45.00 court reporter fee in civil proceedings, it is necessary to repeal the corresponding court rule. Judge Donnell moved and Justice Davis seconded a motion recommending to the Supreme Court that the Order Repealing Rule 905 of the Uniform Rules for District Courts be adopted. Motion passed unanimously.

Public Access Presentation

Steven Dreher gave a presentation to the Board on public access capabilities in the courts. He explained that the circuit courts have a public terminal in every court that allows limited public access viewing to statewide information, but that this information is not currently available on the internet. He commented that as we move into electronic filing and an electronic court record, accessing the information via the internet will become a distinct possibility. Steven advised that the appellate court’s public access interface is currently available over the internet. He demonstrated the district courts’ public access capabilities and explained that there are approximately ten district courts that have public access terminals at this time. Discussion was held on this matter. Justice Burke moved and Justice Davis seconded a motion recommending that the Supreme Court adopt a rule requiring all circuit courts and district courts to have public access terminals. Motion passed unanimously. A court rule reflecting this decision will be drafted for review at the June meeting.

Uniform Citation Order

Ronda explained that because of the advent of the statewide use of eCitations, and to allow for uniformity of the electronic citation process, it is necessary to repeal the 1986 Order regarding Uniform Citation Form and to adopt a new Order regarding Uniform Citation Form. She reviewed the history of the uniform citation form and explained the importance of only allowing there to be one charge per citation—the practice which has been in use for over 20 years. Ronda indicated that the new Order largely mirrors the 1986 Order, except that it specifies that there shall be only one charge per citation, and it attaches the Wyoming eCitation Repository Gateway Requirements that require any law enforcement agencies that come on board with eCitations to capture the same data and to use the same

NCIC data codes. She explained that this will ensure that the data will come across cleanly and that it can be put into one repository. Ronda also pointed out additional language that directs that citations written under Title 31, with the exception of “driving under the influence,” may be dismissed by the court and the file destroyed if not paid in full within ten years of issuance. She explained that this is a clarification of a policy that has been in use for many years. Ronda also presented an Order Adopting Amendment to Rule 3 of the Wyoming Rules of Criminal Procedure which also now reflects that there is to be only one charge per citation. Discussion was held on the orders. Judge Castor moved and Judge Haws seconded a motion recommending that the Order Repealing The Existing Order Regarding Uniform Citation Form And Order Adopting New Uniform Citation Form For Use In Wyoming Courts Of Limited Jurisdiction, and the Order Adopting Amendment To Rule 3 Of The Wyoming Rules of Criminal Procedure be adopted by the Supreme Court. Motion passed unanimously.

Updating Employee Handbooks

Joann explained that the employee handbooks that are used in the circuit courts and the Supreme Court are being updated and will include information about social media and possible causes for termination if an employee misuses social media. She advised that a draft will be ready for review at the June meeting.

Code of Judicial Conduct Provisions on Self-Represented Litigants

Chief Justice Kite reviewed the ABA recommended Model Code of Judicial Conduct Provisions on Self-Represented Litigation. She explained that some judges feel that they are ethically prohibited from doing what they feel should be done in cases involving self-represented litigants. The ABA’s Model Code illustrates the language that various states have adopted that allows judges to utilize informal procedures with self-represented litigants without violating the code of conduct. Chief Justice Kite urged the judges to discuss this at their upcoming meetings. This will be a topic on the Board’s June agenda.

House Bill 33 and Base Jury List

Joann reported that a question recently arose about the practice of splitting a base jury list between courts in counties where there are more than one circuit court. Discussion was held on this matter. The Board noted that neither Article 1 of the Statutes, nor the recent legislative updates that go into effect on July 1st, provide for this procedure. Judge Donnell moved and Judge Castor seconded a motion that a policy be drafted and adopted by the Supreme Court that states that the base jury list that is provided to each county by the Supreme Court shall not be split. Motion passed unanimously.

Update to Accounting Rules for Circuit Courts

Joann reported that the updates to the accounting system rules for circuit courts reflect the move towards a paperless system. She explained that a hard copy of a cash receipt will now only be given to a payer who makes payment in person, otherwise, the receipt will be stored electronically within the case management system. She also pointed out that the requirement that each circuit court have four bank accounts has been reduced to only requiring one civil account and one criminal account. She noted that this has made the process much easier and faster for the clerks. Joann also pointed out the revisions that were made to Section 9(d) that deals with stale-dated checks and the unclaimed property

procedures. She explained that this change will encourage the clerks to handle the process in a more timely fashion. Judge Castor suggested that the wording “except for citations” be added to Section 2(b) of the rules. Judge Castor moved and Justice Burke seconded a motion recommending that the Supreme Court adopt the Accounting System Rules for Circuit Courts, as amended. Motion passed unanimously.

Miscellaneous

You Be the Judge

Justice Burke reported that there were 56 students (ages 8-80+) in attendance at the You Be the Judge program in March, and that he is hopeful that future programs will be expanded to include other courts.

“American Inns of Court”

Chief Justice Kite spoke about expanding the use of the “American Inns of Court” programs across the state. These programs are designed to improve the ethics, skills and professionalism of the bench and bar. This topic will be put on the June agenda.

Ronda pointed out that the September BJPA meeting has been changed to Monday, September 8th at 2:30 p.m., due to a change in the State Bar Meeting schedule.

Meeting was adjourned.

Schedule of Future Meetings:

June 13, 2014 (videoconference) – new date

September 8, 2014 (State Bar/Judicial Council Meeting) – new date

December 3, 2014 (videoconference)

Approved by email on May 12, 2014.

The Board of Judicial Policy and Administration’s meetings are not open to the public unless the Board, in its discretion, determines that a particular meeting or agenda item should be open to the public. The Board will disclose what is discussed at the meetings at its discretion.