JUDICIAL COUNCIL MEETING

Minutes
Friday, March 14, 2014
Lexington Hotel
St George, UT

Chief Justice Matthew B. Durrant, Presiding

ATTENDEES:
Chief Justice Matthew B. Durrant
Hon. Kimberly K. Hornak, Vice Chair
Hon. Glen Dawson
Hon. George Harmond
Hon. Thomas Higbee
Hon. David Marx
Hon. Paul Maughan
Hon. David Mortensen
Hon. Reed Parkin
Hon. John Pearce for Hon. James Davis
Hon. John Sandberg
Hon. Randall Skanchy
John Lund

EXCUSED:
Justice Jill Parrish
Hon. James Davis

STAFF PRESENT:
Daniel J. Becker
Ray Wahl
Alison Adams-Perlac
Dawn Marie Rubio
Debra Moore
Jody Gonzales
Rick Schwermer
Tim Shea

GUESTS:
Curtis Jensen, State Bar
Tom Seiler, State Bar
Angelina Tsu, State Bar
Gabe White, State Bar
Sean Toomey, State Bar
John Baldwin, State Bar
Judge John Walton
Rick Davis, 5th Dist TCE
Shane Bahr, 4th Dist TCE
Terri Yelonek, 7th Dist TCE
Travis Erickson, 2nd Juv TCE
Judge Kevin Allen
Judge Noel Hyde
Judge Kate Toomey
Comm Joshua Faulkner

1. WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant welcomed everyone to the meeting. A special welcome was extended to Judge John Pearce who was sitting in for Judge James Davis, to members of the Utah State Bar, as well as, members of the Board of District Court Judges attending the meeting.

Motion: Mr. Lund moved to approve the minutes from the February 24, 2014 Judicial Council meeting. The motion was seconded, and it passed unanimously.

2. CHAIR'S REPORT: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant reported on the following items:

He expressed his gratitude to Mr. Becker, Mr. Wahl, and Mr. Schwermer for all the work they accomplished during the 2014 Legislative Session, on behalf of the courts.

3. ADMINISTRATOR'S REPORT: (Daniel J. Becker)

Mr. Becker reported on the following items:

Mr. Richard Peay. Mr. Becker mentioned that an email had been sent out last week regarding the passing of Mr. Richard Peay, first State Court Administrator for the state of Utah. Mr. Becker noted the work he accomplished in his role as Utah's state court administrator.

Mandatory E-Filing of Criminal Cases. The effective date for filing all documents in district court criminal cases electronically, except for the information is March 31, 2014. Court staff is working with prosecutors and defense attorneys to prepare them for the effective date. AOC staff is prepared to provide additional help to those needing assistance during the first few days of e-filing the documents.

Legislative Update. A legislative update will be held on April 4 at the Radisson Hotel in downtown Salt Lake City. Representative Brian King is scheduled to speak during lunch at the update.

Judicial Appointments. The following are the Governor's judicial appointments: 1) Judge Joseph Bean, 2nd District; 2) Judge Keith Barnes, 5th District; and 3) Judge Tupakk Renteria, 3rd District Juvenile. All three were confirmed.

4. COMMITTEE REPORTS:

Management Committee Report:

Chief Justice Durrant reported that the Management Committee meeting minutes accurately reflect the issues discussed. The items needing to be addressed by the Council have been placed on today's agenda.

Liaison Committee Report:

A report will be deferred to the legislative report to be provided later in the meeting.

Policy and Planning Report:

Judge Maughan reported on the following:

The March Policy and Planning Committee meeting minutes are included in the Council material. He highlighted the following items being addressed by Policy and Planning in his report: 1) Rule 4-403 will be considered for final action later on the agenda, 2) several rules are listed on the consent calendar to be published for comment, 3) senior judge education, and 4) remote hearings.

Bar Commission Report:

Mr. Lund deferred his report to Mr. Curtis Jensen, Utah State Bar president, who will be providing an update later in the meeting.

5. REMARKS FROM UTAH STATE BAR PRESIDENT/PRESIDENT ELECT: (Curtis Jensen, John Baldwin, Thomas Seiler, and Angelina Tsu)

Ms. Angelina Tsu and Mr. Seiler were welcomed to the meeting.

The Judicial Council heard from Ms. Angelina Tsu and Mr. Thomas Seiler, candidates for president-elect of the Utah State Bar.

Chief Justice Durrant welcomed Mr. Jensen and Mr. Baldwin to the meeting.

Mr. Jensen provided an update, on behalf of the Utah State Bar, to members of the Judicial Council to include the following highlights: 1) expressed appreciation to the Council for their commitment in support of the Bar's Summer conference in Snowmass, Colorado this coming July; 2) expressed his appreciation to Mr. John Baldwin, executive director of the Utah State Bar, for all he does in support of the Utah State Bar; 3) continued focus and promotion of the mentoring, pro bono and modest means programs; 4) looking at future issues that will need to be addressed for practicing attorneys, 5) recognized the efforts of Mr. Sean Toomey, Communications Director for the Utah State Bar; and 6) thanked members of the Council, on behalf of the Utah State Courts, for their courtesy, leadership and guidance.

Chief Justice Durrant thanked Mr. Jensen for the Utah State Bar's support of the judiciary.

6. FIFTH DISTRICT UPDATE: (Judge John Walton, Judge Thomas Higbee, and Rick Davis)

Chief Justice Durrant welcomed Judge Walton to the meeting.

Judge Walton highlighted the following in his Fifth District Update: 1) Judge Shumate's Retirement, effective March 31, 2) Judge Westfall will fill the district court judge vacancy in St. George, 3) Judge Keith Barnes, confirmed last week, will fill the district court judge vacancy in Cedar City, 4) reviewed the future need for an additional judgeship in the Fifth District Court.

Mr. Rick Davis reviewed the following statistical information relative to the Fifth District and Juvenile Courts: 1) five district court judges in the Fifth District; 2) district court age of pending cases data; 3) 154 days of senior judge and visiting judge assistance provided between March 1, 2013 and March 1, 2014 in the Fifth District by 14 visiting judges and 4 senior judges; 4) moved from a clerk of court supporting juvenile court and a clerk of court supporting district court to one clerk of court supporting both courts; 5) total Fifth District Juvenile Court referrals increased from 3269 in FY 2012 to 3312 in FY 2013; 6) delinquency referrals in Fifth District Juvenile Court increased from 1380 in FY 2012 to 1439 in FY 2013; 7) felony referrals in Fifth District Juvenile court increased from 158 in FY 2012 to 240 in FY 2013; 8) child welfare referrals decreased from 598 in FY 2012 to 586 in FY 2013; 9) three juvenile court judges in the Fifth District; and 10) reviewed a delinquency and child welfare timeline report.

Mr. Davis noted that Judge Karla Staheli, Fifth District Juvenile Court Judge, retired February 1, 2014 and Judge Hans Chamberlain is scheduled to retire, effective May 1, 2014. Both vacancies are being considered at the same time by the Fifth District Nominating Commission. Judicial assistance is being provided by senior judges and visiting judges in the interim.

Judge Walton and Mr. Davis were thanked for their update.

7. TCE UPDATE: (Shane Bahr and Terri Yelonek)

Chief Justice Durrant welcomed Ms. Yelonek and Mr. Bahr to the meeting.

Ms. Yelonek provided an update on the activities in juvenile court. She highlighted the following in her update: 1) personnel changes have taken place in the administration of the juvenile court; 2) the probation workload has decreased from 102% in 2012 to 92% in 2013; 3) juvenile court judges are working with probation staff to identify the needs and necessary changes in probation practices; 4) child welfare proceedings have increased slightly and termination of parental rights have shown a decline; 5) a new juvenile judgeship was added in the Eighth District; 6) a DPO III career track has been established; 7) truancy issues are being addressed by collaborating with schools; 8) transparency has improved with the creation of internal and public websites on CARE, e-records and evidence-based practice in Utah; 9) a statewide holding cell policy was created; 10) the two year e-records plan for juvenile court is on schedule to be completed by June 2014.

Mr. Bahr provided an update on the activities in district court. He highlighted the following in his update: 1) observations and the impact of mandatory e-filing of civil cases in April 2013 were noted; 2) ability of court staff to work remotely and job share from various district court locations as a result of e-filing is taking place; 3) district courts, statewide, reduced clerical staff by 4 percent in FY 2013; 4) districts facing staffing challenges due to an increase in court staff and judicial officers being eligible for retirement; 5) all contract sites in the Sixth District have access to the courts intranet and high speed internet; 6) the Juab County Courthouse opened for court on February 18; 7) several front counters serving district court patrons in the Fourth, Sixth and Seventh Districts have been remodeled to provided a better secured separation between court staff and the public; 8) all judicial districts are preparing for the March 31 effective date for all documents to be filed electronically for criminal cases, except for the information which would have an effective date of January 1, 2015 to be filed electronically; 9) statewide, drug and mental health courts continue to be an important part of the court structure, with a veteran's court being developed in the Fourth District; 10) Early Case Resolution (ECR) Courts are being held in the Third District with evaluation of their success being completed; 11) cross training of staff to provide front counter assistance to juvenile court and district court patrons is taking place in the Sixth District; 12) the use of e-commuting is being implemented in the Seventh District; and 13) remote interpretation is being utilized at all three district court sites in the Eighth District.

Chief Justice Durrant thanked Ms. Yelonek and Mr. Bahr for their updates.

8. PROPOSED RULES FOR FINAL ACTION: (Alison Adams-Perlac)

The Policy and Planning Committee recommended an amendment to Rule 4-403 – Signature Stamp Use. The amendment would allow a clerk to use a judge's signature stamp on orders resulting from unopposed motions for the Department of Workforce Services (DWS) to release debtor information.

Judge Mortensen provided background information. Discussion took place.

Motion: Judge Harmond moved to approve the amendment to Rule 4-403 (subject to public comment), on an expedited basis and effective today. Judge Dawson seconded the motion, and it passed unanimously.

9. SENIOR JUDGE CERTIFICATION: (Alison Adams-Perlac)

Judge Hans Chamberlain has applied to be appointed as an active senior judge. He is in compliance with the minimum performance standards.

Motion: Judge Maughan moved to forward the recommendation, on behalf of the Council, to the Supreme Court to certify Judge Hans Chamberlain as an active senior judge—effective May 2. Judge Higbee seconded the motion, and it passed unanimously.

10. BOARD OF DISTRICT COURT JUDGES UPDATE: (Judge Kevin Allen and Debra Moore)

Chief Justice Durrant welcomed Judge Allen to the meeting.

Judge Allen highlighted the following in his update to the Council: 1) current members of the Board of District Court Judges, 2) 2013-2014 board goals, and 3) recent activities of the board.

The 2013-2014 goals include: 1) support mental health courts, 2) increase judicial outreach activities, and 3) develop best practices for case management.

Recent activities of the board include: 1) monitoring e-filing improvements and transition to mandatory e-filing, 2) enhanced ABA representative position, 3) monitor Judicial Performance Evaluation Commission (JPEC) concerns, 4) updates from the presiding judge and trial court executive in each judicial district, and 5) proposed rule on limited investigation of domestic issues.

Judge Allen mentioned the Mental Health Court Conference to be held in Logan in mid-July, sponsored by Utah State University and the Utah State Courts. All drug court judges and their teams are encouraged to attend.

Judge Allen was thanked for his update.

11. LEGISLATIVE AND BUDGET UPDATE/INTERIM HIGHLIGHTS: (Rick Schwermer and Daniel J. Becker)

Mr. Becker expressed his appreciation to the AOC staff that provided support during the Legislative Session to include: 1) Mr. Rick Schwermer, who spends the entire 45 days of the session in an office at the Capitol; 2) Mr. Ray Wahl; 2) Mr. Derek Byrne; 3) Mr. Alyn Lunceford; and 4) Ms. Elizabeth Knight.

He highlighted the appropriation requests for the courts approved during the 2014 Legislative Session to include: 1) contracts and lease increase, 2) juror, witness, interpreter supplemental, 3) Duchesne County Courthouse expansion, 4) Utah County land banking (no land banking approved this session), 5) courtroom technology, 6) mental health court funding (First District), 7) court security funding, 8) compensation and benefit increases, and 9) legal aid for families.

Funding for the following requests was deferred by the Judicial Council for further action when the FY 2015 spending plan is considered in April: 1) district court law clerks, 2) juvenile court law clerk, and 3) computer equipment replacement.

The courts budget increased 6.5% from 136,582,800 in FY 2014 to 145,400,000 in FY 2015.

Mr. Schwermer highlighted the following bills considered during the 2014 Legislative Session: 1) HB 70 – Enforceable Entry Amendments, passed; 2) HB 128 – Electronic Device

Location Amendments, amended and passed; 3) HB 120 – Continuing Education on Federalism, passed; 4) HB 137 – Amendments to Driver License Sanctions for Alcohol Related Offenses, passed; 5) HB 185 – Juvenile Detention Facilities, passed; 6) HB 188 – Court Security Revisions, failed; 7) HB 201 – Visitation Amendments, passed; 8) HB 251 – Unsworn Declaration Amendments, failed; 9) HB 318 – Rights of Parents and Children Amendments, failed; 10) HB 319 – Court System Modification Amendments, failed; 11) HB 323 – Divorce Orientation Course Timing, passed; 12) HB 325 – Judicial Performance Evaluation Commission Amendments, passed); 13) HB 336 – Court System Task Force, failed; 14) HB 366 – Jury Duty Amendments, failed; 15) HB 404, Court Security Fee Amendments, passed; 16) HB 411 – Victim Restitution Amendments, passed; 17) HB 414 – Legislative Subpoena Amendments, passed; 18) HB 418 – Rights of Relatives to Child Visitation, failed; 19) HB 424 – Justice Court Amendments, failed; 20) SB 110 – Guardian Costs for Parents of Disable Adult Child, passed; 21) SB 132 – Human Services Amendments, passed; 22) SB 221 – Indigent Counsel in Juvenile Court, passed; and SB 248 – Judicial Retention Election Amendments, passed.

Mr. Becker reported that the Management Committee would address ideas for studying the Commissioner process at their April meeting.

12. EXECUTIVE SESSION:

An executive session was not needed at this time.

13. ADJOURN

The meeting was adjourned.