

Juvenile Justice Improvement Committee

Judicial Conference of Indiana

Meeting via Teams
Minutes
February 2, 2024

The Juvenile Justice Improvement Committee met on Friday, February 2, 2024, from 12:00 p.m. – 2:00 p.m. remote via Teams.

1. JJIC members: Bridget Foust, Kelsey Hanlon, Holly Harvey, Daniel Kelly, Ryan J. King, Kaarin Lueck, Lori K. Morgan, Aaron Negangard, Dan Pappas, Graham Polando, and Andrea Trevino, Chair.
2. Staff: Jeffrey Bercovitz, Mindy Pickett, Leslie Dunn, Colleen Saylor, Lindsey Petitt, and Nancy Wever, Indiana Office of Court Services.
3. Guests: Joel McGormley, General Counsel and Kimberly Nightingale, Deputy General Counsel, Department of Child Services; Nancy Gettinger, Jurist in Residence, Judge Dana Kenworthy and Judge Kenton Kiracofe.
4. Minutes approved: The minutes of the meeting on December 8, 2023, were approved.
5. Presentation by DCS.
 - Joel McGormley, DCS General Counsel, reported DCS is contracting with local attorneys in five (5) locations in Indiana. Some were in rural counties and some in counties with turnover or high pressure challenges. He said his agency was looking at the state of DCS attorney practice via a practice model review process and leveraging data to improve practice, consistency, and work on troublesome cases. He noted this was not a pilot program and stated there would be better messaging in the future on this issue.
 - Kimberly Nightingale, DCS Deputy General Counsel, indicated DCS is looking at publication with unknown fathers. Committee members explained concern about publication in a narrow instance to an alleged unknown father in a termination of parental rights case where consent is not required and there is no one in the putative father registry. They also noted the practice of publication to an unknown father by the use of initials, which is not enough information to indicate if it is applicable to a particular person. DCS knows they have a strict view of notice by publication and are examining their position on this issue.
 - Kimberly Nightingale noted use of Title IV-E findings have not been reviewed in a number of years at DCS. The use of “removal” and its definition and the federal and state definitions of “relatives” also need to be examined. Reasonable efforts

language needs to be used in appropriate cases. DCS has considered the use of scenarios to indicate when and where reasonable efforts language should be used. Juvenile Benchbook forms were created as the “safe harbor” to assure the correct language was used consistently and to make sure federal dollars were not lost.

- Joel McGormley reported class action litigation is being challenged in the 7th Circuit, which is just a rehash of the earlier dismissed Ashley W. case. DCS is pursuing a motion to dismiss.

6. CFSR review. Lindsey Petitt, Court Improvement Program Administrator, gave an overview of the Child and Family Services Review (CFSR) and Indiana’s scores to members of the committee. She asked for ideas on how Indiana could work on barriers to permanency.

Committee members discussed:

- Publication to parents and use of the DCS Affidavit of Diligent Inquiry when needed should be improved and noted in the record correctly when completed
- All parties should agree on timelines for the case.
- Entering the entire CHINS case file into the record for a TPR often contains hearsay; the portions relevant to elements in the TPR case should be indicated
- DCS should consider calling parents as witnesses in TPR cases to solicit relevant evidence. This can oftentimes occur in a nonadversarial manner.
- DCS attorneys need to focus on what is alleged in the petition, and really use it to prove what is needed in the TPR case. Much of the information can be admitted by the parents – it is not a criminal case.
- The lack of available time to try a TPR case is an issue in a general jurisdiction court
- A chart for use by the judge of the elements of a TPR case and which witness would provide testimony on the element could be useful
- Resources locally are an issue. Some counties would benefit from an ADR program which Marion County had in which ADR was used in TPR cases.
- Availability of counsel is complicated issue in rural counties. May not be able to have an ADR program as noted above if attorneys are lost to it.
- Allen County does permanency mediations and is willing to share the techniques and procedures used. Jurists in Residence can assist in training about this program.
- DCS must really know the elements which must be used in TPR cases
- Senior Judges may take more TPR cases if they are given two (2) extra senior judge days to write their order
- A back to basics or fundamentals overview or training, beginning with making sure the elements of TPR are proven and starting with the parents, having them tell their story, without being too aggressive
- Legal case management improvements, including the update of the DCS dashboard.
- The Juvenile Benchbook Committee is working on a benchcard with many of the procedural issues of notice, publication, and other areas.
- Lack of service providers are an issue in some counties; in others, some service providers will not take referrals; in other counties, there is a high turnover rate with service providers.

- Placement of extremely high needs, substantial risk children is an issue, especially when DCS cannot find a placement and a psychological evaluation indicates a secure placement is needed.

7. Recent legislation. Committee members discussed Senate Bills 16 and 171 and House Bills 1051, 1064, 1101, 1310 and 1369.

8. Youth Justice Oversight Committee. Judge Dana Kenworthy gave a report on the Youth Justice Oversight Committee (YJOC). She stated the Indiana Criminal Justice Institute agreed to a rolling grant process, beginning in March 2024. She reported House Bill 1194 removes barriers to reimbursements and will permit better funding. The bill has passed the House. The grants themselves were clarified, the timeline for the grant process improved, and the technology for grant applications is being reviewed.

Judge Kenworthy noted some grant applications were declined, notably for detention staff and treatment services performed by the courts. In addition there will be 6 webinars starting in March on grant applications. There was some confusion about whether a county could apply for all three (3) grants, which can be done. Counties may apply together for a grant. There is work being done to provide prospective grantees with vignettes of successful grant programs. Committee members discussed a session at the joint juvenile and family law conference about the grant program.

9. Other. Members of the committee discussed:

- The value of having a session at a conference about counties who collaborate well with DCS and ideas to improve relationships in counties which are not as successful. Ideas in use by various counties could be highlighted, for example, requiring the local DCS to provide local 311's to the courts, requiring birth certificates at the start of a case, and cooperation between DCS and Title IV-D at the local level.
- After the legislative session, distilling what each legislator was concerned about, and doing some training on these issues and letting the legislator know what courts are doing about the issue.
- Jurists in residence and other judicial officers can provide training to DCS and other attorneys. This training should include all stakeholders.

10. Future meeting dates. The committee agreed to hold their next meeting via Teams on Friday, March 1, 2024, from 12:00 noon – 2:00 p.m. The committee agreed to add a meeting on December 6, 2024 from 12:00 noon – 2:00 p.m. via Teams. Judge Trevino stated, since her term on the committee and as chair ends on June 30, she would leave to the next chair scheduling of an in person meeting.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law