

Montana Supreme Court Access to Justice Commission
September 18, 2020
Zoom Video Conference
10:00 AM – 12:00 PM
Meeting Minutes

Commissioners Present: Justice Beth Baker, Ed Bartlett, Georgette Boggio, Rep. Kimberly Dudik, Rick Cook, Hon. Stacie FourStar, Sen. Terry Gauthier, Aimee Grmoljez, Hon. Leslie Halligan, Dean Paul Kirgis, Dan McLean, Kyle Nelson, Alison Paul, Melissa Schlichting, Katy Lovell, Hon. John Kutzman, Hon. David Carter.

Commissioners Absent: Melanie Reynolds

Others Present: Katie Sullivan, Angie Wagenhals, Lindsay Lorang, Bill Bronson, Patty Fain, Kay Lynn Lee, Ann Goldes-Sheahan, Carin McClain, Niki Zupanic, Harry St. Cloud, Anna Boyes, Nolan Harris, Sarah McClain, Kaylan Minor, Charley Nuesse, Abigail St. Lawrence, Derrek Shepherd, Tara Veazey, Daisy Ward, and Krista Partridge.

Call to Order & Introductions

Justice Baker called the meeting to order at 10:02 a.m. Justice Baker asked for a motion to approve the minutes from the June meeting. Judge Halligan so moved and Alison Paul seconded the motion. The meeting minutes were approved without objection. Justice Baker then recognized Rep. Kim Dudik who is ending her service on the Commission after this meeting and thanked her for contributions. She then welcomed Katie Sullivan who will join the Commission in October, replacing Rep. Dudik. Justice Baker also recognized the Justice for Montanans AmeriCorps members in attendance and thanked them for their service. Finally, Justice Baker welcomed members of the Justice Initiatives Committee (JIC) and thanked them for participating in this joint meeting of the Commission and the JIC.

Montana Legal Services Association Update

Alison Paul reported on MLSA's COVID-19 response and on CARES Act funding received through the Court Administrator's office, Department of Commerce, and Department of Health & Human Resources. The primary focus for MLSA with CARES Act funds will be to provide advice and counsel to tenants who are facing eviction due to the economic impacts of COVID-19. This emergency funding must be spent by December 31, 2020. MLSA is contracting with Rural Incubator Fellows and other pro bono attorneys to provide Modest Means limited scope services in housing cases in a "Lawyer for a Day" program. Alison asked for input to help MLSA coordinate the program most effectively with the courts. Judge Carter and Judge Minor offered to help. Patty Fain asked if mediation was considered as an option. Alison responded that mediation was included in the plan when we thought we would have 12 months to spend down the funds, but the 4-month spending timeline didn't allow adequate time to build in the mediation component. Alison added that MLSA will also use the funds to bolster self-help resources for clients and to support legal services for clients with public benefits issues related to COVID-19.

Pro Bono Reporting Update

Patty Fain directed members to the Statewide Pro Bono Program report in the meeting packet and noted that in-state pro bono reporting for 2019 was down 17% after consistent increases over the past decade. She added that IOLTA reporting is also down, although reports are still trickling in. Patty said that the impacts of the pandemic are a likely factor in the decreased reporting, but the data is still being analyzed for trends. She said that we've seen great leadership from the courts and judges. She noted that she'd like to initiate leadership training for the Justice Initiatives Committee. Patty added that we are still struggling to get volunteers for clinics in some areas.

Justice Initiatives Committee Update

Lindsay Lorang reported that the Justice Initiatives Committee (JIC) is working on how they can best coordinate with the broader access to justice community without duplicating efforts. They are reviewing the strategic plan to bring focus to their efforts with the goal of addressing the areas of need in pro bono and ensuring that they are adjusting as the needs change over time. Justice Baker added, for anyone who doesn't know, that the JIC is a committee of the State Bar of Montana with pro bono as its primary focus.

Self-Represented Litigants Committee

Nolan Harris reported that the committee has been very active over the past year and that the Forms Subcommittee has made great progress on the family law forms packet. The dissolution decrees are the only forms that remain to be finalized. The complexity of these forms makes it particularly challenging, and the priority is to ensure that the forms are usable for the long term. He said that the guidance of the Strategic Planning Committee has been very helpful to increase engagement and membership in the SRL Committee. He added that the committee still intends to participate in as many conferences and meetings as possible to educate court personnel about the forms and to solicit input. Nolan also reported that Sarah McClain has revived the Education and Outreach Subcommittee and the group is working on a flow chart for referrals based on those used by other states and will focus on water law first. The subcommittee is also organizing and updating the resources and links on the court self-help web page. In addition, 27 different explainer videos have been developed and are being posted. Justice Baker reminded the members that this is Nolan's last meeting as he leaves to take another position in state government. She thanked Nolan for all of his hard work over the years and many others echoed her thoughts and wished Nolan well.

Remote Services and eLawyering

Patty Fain directed members to Tab 3 of the meeting materials for a draft curriculum on providing remote/virtual legal services. She pointed out that the pandemic gives us an opportunity to increase pro bono services and that in a frontier state such as Montana, remote lawyering has always been and will continue to be needed. The curriculum was developed with help from Justice Shea, Stuart Segrest, and Angie Wagenhals, and has broader applications for the practice of law in general and not just pro bono. Patty said that suggestions and input are welcome, and asked members to review the curriculum and to follow up with any comments.

Policy and Resources Committee

Abby St. Lawrence provided an update on the bill draft for civil legal aid funding and the educational effort that will begin in earnest after the November election. She said the committee will focus on building support with current and incoming legislators, allied groups, and new

stakeholder groups. They've changed their approach to outreach due to the pandemic. She pointed to the most recent bill draft at Tab 4 in the meeting materials and noted that concerns about frivolous lawsuits were addressed in the most recent draft. An updated infographic for use in education and outreach is also included in Tab 4. Abby said the committee will meet again in mid-November after the election results are final and will start the process of following up with individual legislators.

Communications and Outreach Committee

Niki Zupanic said that the committee had a very productive quarter with help from Tara Veazey and the Justice for All project. The committee now has a work plan and has set a schedule for monthly meetings going forward. The work plan includes creating a library of outreach materials to be available online, and they have developed milestones and activities for the priority items. They have also secured an interview spot on the Aging Horizons television show. The committee also helped design the Justice for All infographic in Tab 4 and Niki asked for input on which of the two versions people preferred.

Strategic Planning Committee

Niki Zupanic stated that the committee had not met since the last full commission meeting, but they continue to work on the Justice for All project and the Informal Domestic Relations Trial pilot program. The next meeting of the committee will take place in two weeks.

Justice for All Update

Niki Zupanic reported that we received an additional \$25,000 from the National Center for State Courts and that funding, along with the \$17,000 that remained from the first grant, will support work on the priority activities that were targeted to pursue if funding was available.

Informal Domestic Relations Trial Update

Niki Zupanic gave a presentation on the Informal Domestic Relations Trial (IDRT) and the slides are in Tab 5 of the meeting materials. This is the furthest along of the ideas that were identified and developed using the Justice for All grant funds. Input on the concept is being solicited from a variety of stakeholders and a working group of eight judges has been formed to study the idea. Niki summarized the status of IDRT in several states, including Idaho, Oregon, Iowa and Alaska. Although there are differences in how each state has approached IDRT, some of the common features are that both parties must opt in, either party may be represented, and the normal rules of evidence are waived. Judges in IDRT proceedings play a much more active role. As envisioned, an IDRT pilot in Montana would need to be very flexible and individual jurisdictions and judges could choose not to participate. Niki added that our working group of judges thinks that IDRT should be a very high priority. Kaylan Minor asked if there is anything similar to IDRT that could be implemented in courts of limited jurisdiction. Niki referred Kaylan to Tara Veazey who is very immersed in this research, but noted that the basic premise of IDRT should be applicable and that there may be specific examples in other states.

Public Comment and Next Meeting Dates

Justice Baker asked for public comment. There was no public comment. She reviewed the meeting schedule through 2021, which is noted on the agenda. The meeting was adjourned at 11:40 a.m.