



Judicial Council Minutes

October 17, 2019

The Judicial Council met on Thursday, October 17, 2019, in St. Paul, Minnesota. Third Judicial District Assistant Chief Judge Joseph Buelteel attended for Chief Judge Jodi Williamson. Tenth Judicial District Assistant Chief Judge Stoney Hiljus attended for Chief Judge Douglas Meslow. Judge John Hoffman, President, Minnesota District Judges Association, began his service on the Judicial Council.

1. Approval of Draft September 19, 2019, Meeting Minutes

A motion was made and seconded to approve the minute of the September 19, 2019, Judicial Council Meeting, as submitted. The motion prevailed.

Council Action

The Judicial Council approved the September 19, 2019, Meeting Minutes, as submitted.

2. Decision Item: Judicial Weighted Caseload Recommendations

Judge Tracy Warner, Weighted Caseload Committee Chair; Judge Charles Glasrud, Weighted Caseload Committee member; Deb Dailey, Court Services Division, State Court Administration; Sarah Welter, Court Services Division, State Court Administration presented the remaining Judicial Weighted Caseload Committee recommendations and the additional research requested on adjunct judicial officers.

It was noted that the remaining decision items include:

- Case Weights
- Mass Tort Adjustment
 - Continue the .5 FTE mass tort adjustment for 2nd District
 - Refer the issue to the standing committee for further discussion
- Judicial Complement

A discussion ensued on how the Judicial Weighted Caseload Analysis accounts for adjunct judicial officers, including referees, hearing officers, conciliation court referees, and senior judges. Sarah Welter, State Court Administration, explained that adjunct judicial officer time is not fully accounted for in the Judicial Weighted Caseload Analysis. It was noted that currently only employee referees and minor criminal hearing officers are included in the complement.

Options for counting referees were discussed. At present employee referees are counted at .9 FTE in the judicial complement. One option is to count actual FTEs. A second option is to count based on referee workloads.

A discussion ensued on the differences between referees and district court judges. It was noted that referees cannot provide full coverage for all judicial duties, that referee orders on many cases must be reviewed and counter-signed by a judge and that referees are paid 90% of a judge's salary.

Options for counting hearing officers were discussed. At present the work of hearing officers is calculated through a workload estimate. Three options to count differently include a) count a proportional FTE; b) reduce the need "off the top" – adjusted filings based on the proportion of hearing officer dispositions/total dispositions; or c) establish separate case weights for hearing officers.

A discussion ensued. Concern was expressed that hearing officers are not judicial officers. They are fulltime non-lawyer employees who have been delegated the authority to handle payable offenses, under specific guidelines on how specific situations may be disposed of, for example, reduced fines, dismissal of citations, referral to community service.

Options for counting conciliation court referees were discussed next. At present the work of conciliation court referees is included in the case weight but not in the complement. Options to count differently include a) using a workload estimate; b) reducing need "off the top" – adjusting filings based on the proportion of conciliation court referee dispositions/total dispositions; or c) establishing separate case weights for conciliation court referees.

A discussion ensued. It was noted that the Judicial Weighted Caseload Committee recommended that a workload estimate be used to count conciliation court referees in the judicial complement.

Options for counting senior judges was discussed last. At present senior judges are not included in calculating the judicial complement. A discussion ensued on whether "equalization judge time" should be included.

A motion was made and seconded to:

- a. Maintain the status quo for counting referees in the judicial complement – proportional FTE (.9 FTE).
- b. Maintain the status quo for counting hearing officers in the judicial complement – workload estimate;
- c. Add conciliation court referees to the judicial complement using a workload estimate; and
- d. Add senior judges to the judicial complement using an equalization FTE – Add the FTE equivalent of the equalization funding to each district's complement.

A motion was made and seconded to divide the original motion to consider each question separately. The motion prevailed.

A motion was made and seconded to maintain the status quo for counting referees in the judicial complement – proportional FTE (.9 FTE). The motion prevailed.

Council Action

The Judicial Council voted to maintain the status quo for counting referees in the judicial complement – proportional FTE (.9 FTE).

A motion was made and seconded to maintain the status quo for counting hearing officers in the judicial complement – workload estimate. The motion prevailed.

Council Action

The Judicial Council voted to maintain the status quo for counting hearing officers in the judicial complement – workload estimate.

A motion was made and seconded to add conciliation court referees to the judicial complement using a workload estimate. The motion prevailed.

Council Action

The Judicial Council voted to add conciliation court referees to the judicial complement using a workload estimate.

A motion was made and seconded to add senior judges to the judicial complement using an equalization FTE – Add the FTE equivalent of the equalization funding to each district's complement. The motion did not prevail.

A motion was made and seconded to refer the issue of how to count senior judge time in the judicial complement to the Weighted Caseload Committee. The motion prevailed.

Council Action

The Judicial Council referred the issue of how to count senior judge time in the judicial complement to the Weighted Caseload Committee.

The remaining decision items were discussed.

A discussion ensued on the murder case weight and whether it undercounts the time needed. It was noted that the relationship between Judicial Council Policy 501; Determination of Judicial Resources and the Performance Measures requirements should be discussed.

A motion was made and seconded to approve the recommended Criminal Case Weights. The motion prevailed.

Council Action

The Judicial Council approve the recommended Criminal Case Weights.

A motion was made and seconded to approve the recommended Civil Case Weights. The motion prevailed.

Council Action

The Judicial Council approve the recommended Civil Case Weights.

A motion was made and seconded to approve the Probate and Mental Health Case Weights. The motion prevailed.

Council Action

The Judicial Council approve the recommended Probate and Mental Health Case Weights.

A motion was made and seconded to approve the Family Case Weights. The motion prevailed.

Council Action

The Judicial Council approve the recommended Family Case Weights.

A motion was made and seconded to approve the Juvenile Case Weights. The motion prevailed.

Council Action

The Judicial Council approve the recommended Juvenile Case Weights.

A motion was made and seconded to approve the Minor Civil and Criminal Case Weights. The motion prevailed.

Council Action

The Judicial Council approve the recommended Minor Civil and Criminal Case Weights.

A motion was made and seconded to continue the Mass Tort Adjustment and to send the issue to the Standing Weighted Caseload Committee for further analysis. The motion prevailed.

Council Action

The Judicial Council approved continuation of the Mass Tort Adjustment and sent the issue to the Weighted Caseload Committee for further analysis.

A discussion ensued on the issues to be referred to the Weighted Caseload Committee. It was agreed that the following issues, in order of priority, will be reviewed by the Committee and recommendations will be brought back to the Judicial Council:

- a. Priority 1: Weighted Caseload Study
 - i. When should the next Weighted Caseload Study be conducted?
 - ii. Should there be more than one sample period?
 - iii. Is 30 days the optimal time period for collecting data?
 - iv. Is October the optimal month for collecting data?

- b. Priority 2: Counting
 - i. Should senior judges be counted in the judicial complement and, if so, how?
 - ii. Does the Weighted Caseload Analysis count adjunct judicial officers in the correct manner?
 - iii. Should there be a mass tort adjustment?
 - iv. What impact does the use of interpreters have on case processing and judge need?
 - v. What impact do ICWA cases have on judge need?
 - vi. Should the murder case weight be adjusted?

- c. Priority 3: Travel
 - i. Eighth Judicial District Travel Adjustment

It was also agreed that the District Implementation Committee will discuss the relationship between weighted caseload and performance measures and will report back to the Judicial Council.

A motion was made and seconded to conduct a new Weighted Caseload Study at least every five years. The motion prevailed. It was noted that the issue will also be discussed by the Weighted Caseload Committee.

Council Action

The Judicial Council voted to conduct a new Weighted Caseload Study at least every five years.

The Weighted Caseload Committee will report back to the Judicial Council in January, 2020.

3. Discussion Item: Court Interpreter Services Workgroup Report and Recommendations

Chief Judge John Guthmann, Second Judicial District, and Tim Ostby Seventh/Eighth Judicial District Administrator, Court Interpreter Services Workgroup Co-Chairs, presented the Workgroup recommendations.

It was noted that the Workgroup was formed in 2018 and was charged with reporting on the current state of interpreter services in the state and making recommendations to ensure that courts continue to provide high quality, efficient, and cost effective court interpreter services in the future.

The Workgroup has developed seven recommendations:

1. Expand the use of remote interpreting statewide through organic growth.
2. Increase the Branch's technological capacity to support the growth of high-quality remote interpreting by installing equipment to permit simultaneous interpreting in every courthouse where interpreters are used with some regularity.
3. Increase the Branch's capacity for high-quality remote interpreting by providing training for all appropriate personnel.
4. Fully utilize current staff interpreter resources.
5. Prior to creating any new staff interpreter positions, all judicial districts must consult with the SCAO Court Interpreter Program Coordinator and JAD to demonstrate the need for an additional interpreter and the efficient utilization of existing staff interpreters within the state.
6. Measure the frequency of remote interpreting events and any resulting efficiencies and report to the Judicial Council annually.
7. Solicit feedback from judges, justice partners, and court customers on the level of satisfaction with our interpretation models, including remote interpretation, and suggestions for any improvements.

A discussion ensued on next steps. It was noted that JAD is working on an implementation plan to address the recommendations.

A motion was made and seconded to accept the Workgroup recommendations. The motion prevailed.

Council Action

The Judicial Council accepted the recommendations of the Court Interpreter Services Workgroup.

4. Discussion Item: Judicial District Court Records Management Plans

The Chief Judges from the ten judicial districts gave a brief overview of their Court Record Management Plans, including the development process, the content of each plan, and plans for use and maintenance of the Plan.

A motion was made and seconded to approve the Plans. The motion prevailed.

Council Action

The Judicial Council approved the Judicial District Court Record Management Plans.

5. Decision Item: Treatment Court Initiative (TCI) Advisory Committee Proposed Plan to Address Treatment Courts with Low Census Numbers

Chief Judge Kathryn Messerich, First Judicial District, TCI Member, reviewed the process to address low census treatment courts. The process has been incorporated into Judicial Council Policy 511.5; Treatment Court Funding.

A motion was made and seconded to approve the amendments to Judicial Council Policy 511.5; Treatment Court funding, which incorporate the process to be used to address low census treatment courts. The motion prevailed.

Council Action

The Judicial Council approved amendments to Judicial Council Policy 511.5; Treatment Court Funding, which incorporate the process to be used to address low census treatment courts.

6. Discussion Item: Fourth Judicial District Justice for Families Grant Data Collection Request

Chief Judge Ivy Bernhardson, Fourth Judicial District, requested permission for the Fourth Judicial District to continue to collect race data in family court cases as part of the Family Court Enhancement Project, until September 30, 2021, or the end of the project.

A motion was made and seconded to grant permission to the Fourth Judicial District to continue to collect race data in family court cases as part of the Family Court Enhancement Project, until September 30, 2021, or the end of the project. The motion prevailed.

Council Action

The Judicial Council granted permission to the Fourth Judicial District to continue to collect race data in family court cases as part of the Family Court Enhancement Project, until September 30, 2021, or the end of the project.

7. Discussion Item: Proposed Judicial Council Policy 605; Emergency Management

AnnMarie O'Neill, Clerk of the Appellate Courts, reviewed proposed Judicial Council Policy 605; Emergency Management. The Policy establishes an emergency management program. Staff was instructed to amend the proposal, based on suggestions made by Judicial Council members.

8. Discussion Item: Approval of Treatment Courts

a. Beltrami County Drug Court

Judge Shari Schluchter, Ninth Judicial presented the request to establish a Drug Court in Beltrami County.

A motion was made and seconded to approve the request. The motion prevailed.

Council Action

The Judicial Council approved the establishment of a Drug Court in Beltrami County.

b. Carver County Drug Court

Chief Judge Kathryn Messerich, First Judicial District, presented the request to establish a Drug Court in Carver County.

A motion was made and seconded to approve the request. The motion prevailed.

Council Action

The Judicial Council approved the establishment of a Drug Court in Carver County.

c. Mille Lacs County Drug Court

Chief Judge Jay Carlson, Seventh Judicial District, presented the request to establish a Drug Court in Mille Lacs County.

A motion was made and seconded to approve the request. The motion prevailed.

Council Action

The Judicial Council approved the establishment of a Drug Court in Mille Lacs County.

9. Executive Session: Personnel and Audit Matters

A motion was made and seconded to go into Executive Session to discuss personnel and audit matters. The motion prevailed.

Following discussion, a motion was made and seconded to exit Executive Session. The motion prevailed.

There being no further business the meeting adjourned.