



## Judicial Council Minutes

### January 14, 2021

The Judicial Council met on Thursday, January 14, 2021, via WebEx. Tenth Judicial District Assistant Chief Judge Elizabeth Strand attended for Chief Judge Stoney Hiljus.

#### 1. Approval of Draft December 17, 2020 Meeting Minutes

A motion was made and seconded to approve the draft December 17, 2020 Meeting Minutes, as submitted. The motion carried.

**Council Action**

The Judicial Council approved the December 17, 2020 Meeting Minutes, as submitted.

#### 2. Discussion Item: Minnesota Court Records Online (MCRO) Quarterly Report

Ann Peterson, Strategic Planning and Projects Office and Sarah Novak, Legal Counsel Division, State Court Administration, presented the Minnesota Court Records Online (MCRO) Quarterly Report.

It was noted that the Phase 1 Pilot, with participation by attorneys, support staff, a nonprofit organization, the State Services for the Blind, and county law libraries, is currently underway. Participants are able to search for district court documents by case number. Feedback received to-date has been positive. The MCRO Steering Committee will determine when the new tool will be released for public use.

Phase 2 of the project will expand the search capability of MCRO to include searching by party (person, business, and attorney) and display the case Register of Actions. It is anticipated that the Phase 2 Pilot will commence later in 2021.

Dan Ostdiek, Finance Director, State Court Administration, reviewed the project budget. He noted that the approved FY21 budget is \$581,000 (rounded to \$600,000). A condition of the budget approval requires the project team to report to the Judicial Council on a quarterly basis, and to seek approval for budget funds in \$150,000 increments for Phase 1. The \$150,000 fourth quarter allocation and an additional budget amount of \$156,000, which would fund the project through the end of FY21, is being requested. This budget allocation would fund the remainder of Phase 1 and the development work for Phase 2. It was noted that the project budget is on track.

A discussion ensued on public release dates after Phases 1 and 2. It was noted that the MCRO Steering Committee will consider whether Phase 1 (search by case numbers) can be released in spring 2021 or will be released when Phase 2 had been completed, late 2021.

There being no objection to acting on the budget request at the present meeting, a motion was made and seconded to approve the release of \$150,000 for the project's 4<sup>th</sup> quarter operations and \$156,000 to fund the project through June 2021. The motion prevailed.

**Council Action**

The Judicial Council approved the release of \$150,000 for the project's 4<sup>th</sup> quarter operations and \$156,000 to fund the project through June 2021.

**3. Discussion Item: Other Side Workgroup Report**

Judge Krista Martin, Other Side Workgroup Chair, Rick Larkin, Emergency Management Analyst; and Grant Hoheisel, Court Services Division, State Court Administration, presented the monthly Other Side Workgroup report.

Rick Larkin presented the most up-to-date pandemic data.

Grant Hoheisel reviewed current criminal clearance rates, noting that most districts were able to continue processing criminal cases with no significant declines in overall clearance rates. In addition, there are increases in the number of cases being held remotely. Gross misdemeanor and felony in-custody cases are the primary case types being handled in courthouses.

Judge Martin presented the Workgroup recommendations for the next 30 days, commencing February 1:

1. Keep the current jury trial exception process, with a slight expansion of the exception criteria, and consider whether the Chief Judge, rather than the Chief Justice, should make exception determinations on jury trials and/or in-person hearings.
2. Maintain the criteria that if a case can heard remotely, judges must hear them remotely.
3. Make no changes to the public services counter approach as provided in the November 20, 2020 Chief Justice Order.
4. No new goals for criminal clearance rates for the next 30 days.

A discussion ensued on the exception criteria recommendation:

There should be a standing exception to proceed with criminal jury trials for cases that meet all of the following criteria:

- Speedy trial demands; and
- In-custody defendants; and
- Felony crime OR Non-felony person crime

The intent of the exception criteria was discussed. It was noted that the recommendation assumes that cases with speedy trial demands should only be scheduled as long as the jury trial protocol and the Pandemic Preparedness Plan are followed. It was also noted that the exception also applies to in-person speedy trial demand cases that are non-felony person crimes. There was agreement that all criteria must be met to go forward with criminal jury trials.

A discussion ensued on whether the timeline for the new criteria should be lengthened past 30 days.

A discussion ensued on whether remote civil jury trials can be held. It was noted that the current Chief Justice Order does not preclude remote civil jury trials. Interest was expressed in holding remote civil jury trials, as long as the judge and parties agree. State Court Administration was asked to prepare background materials on remote civil jury trials.

A motion was made and seconded to provide that there will be no new criminal jury trials held before March 15, unless an exception is granted by the chief judge of a district. A chief judge shall grant an exception in cases in which there has been a speedy trial demand, the defendant is in custody, and the case involves either a felony crime or a non-felony person crime, unless the chief judge determines that a trial cannot be conducted safely due to local conditions. The motion prevailed. Chief Judges shall track the exceptions granted and report them to State Court Administration.

**Council Action**

The Judicial Council voted to provide that there will be no new criminal jury trials held before March 15, unless an exception is granted by the chief judge of a district. A chief judge shall grant an exception in cases in which there has been a speedy trial demand, the defendant is in custody, and the case involves either a felony crime or a non-felony person crime, unless the chief judge determines that a trial cannot be conducted safely due to local conditions. .

A motion was made and seconded to permit virtual civil jury trials if there is agreement of the parties and the judge.

**Council Action**

The Judicial Council authorized virtual civil jury trials if there is agreement of the parties and the judge.

A motion was made and seconded to task the Other Side Workgroup with researching whether virtual civil jury trials can be required and with developing a pilot project for virtual civil jury trials. The motion prevailed.

**Council Action**

The Judicial Council tasked the Other Side Workgroup with researching whether virtual civil jury trials can be required and with developing a pilot project for virtual civil jury trials.

A motion was made and seconded to provide that no in-person civil jury trials will be held before March 15, unless the chief judge grants exception after consultation with chief justice. The motion prevailed.

**Council Action**

The Judicial Council voted to provide that no in-person civil jury trials will be held before March 15, unless the chief judge grants exception after consultation with chief justice.

It was agreed that all other restrictions on in-person proceedings already in place will continue through March 15, with chief judges having authority to grant exceptions. Courthouse counter service will continue in accordance with the Chief Justice November 20, 2020 Order.

It was announced that Judge Michelle Lawson will assume the position of Other Side Workgroup Chair, effective March 1.

**4. Decision Item: FY22-23 Strategic Planning Committee Recommendations**

Chief Judge Jay Carlson, Strategic Planning Committee Chair, reviewed the draft FY22-23 Strategic Plan. It was noted that edits were made to the draft plan, as suggested by Judicial Council members.

It was also noted that each judicial district and the appellate courts are being asked to identify 1-2 local projects that address a Strategic Plan Goal. Districts will be asked to document their projects via a statewide template currently in the development stage, and will be asked to periodically report on progress made.

A motion was made and seconded to approve the draft FY22-23 Strategic Plan for purposes of trial and appellate strategic planning development purposes. The motion prevailed.

**Council Action**

The Judicial Council approved the draft FY22-23 Strategic Plan for purposes of trial and appellate strategic planning development purposes

It was noted that the FY22-23 Strategic Plan will be reviewed and formally adopted after the 2021 Legislative Session.

**5. Discussion Item: Other Business**

**a. Legislative Update**

Jeff Shorba, State Court Administrator, reported that he presented an overview of the Judicial Branch and information on the Branch's pandemic response to the House Judiciary Finance and Civil Law Committee and the Senate Judiciary and Public Safety Finance and Policy Committee.

**b. Executive Session**

A motion was made and seconded to go into Executive Session to discuss personnel and safety 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.