



Judicial Council Agenda

January 18, 2024

9:00 a.m.

Room 230, MN Judicial Center and via Zoom

The Judicial Council met on Thursday, January 18, 2024, in St. Paul, Minnesota.

1. Decision Item: Approval of Draft December 14, 2023, Meeting Minutes

A motion was made and seconded to approve the draft December 14, 2023, Meeting Minutes, as amended. The motion prevailed.

Council Action

The Judicial Council Approved the December 14, 2023, Meeting Minutes, as amended.

2. Discussion Item: Special Topic – Artificial Intelligence

Presenters: Jason Betz, Director of Information Technology; Professor Fred Lederer, Chancellor Professor of Law and Director of the Center for Legal and Court Technology, William and Mary Law School; Former Chief Justice Bridget McCormack, Michigan Supreme Court and President and CEO of the American Arbitration Association-International Centre for Dispute Resolution

Jason Betz, Professor Fred Lederer, and former Chief Justice Bridget McCormack led a presentation on Artificial Intelligence (AI) with the goal of providing foundation and background information to Judicial Council members, so that members are able to make informed policy decisions regarding AI.

The presentation will continue at the February Judicial Council meeting to discuss next steps in preparing the Minnesota Judicial Branch for AI.

3. Discussion Item: Treatment Court Statewide Performance Measures

Judge Kerry Meyer, Fourth Judicial District, TCI member, and Liz Willey, Treatment Court Research & Evaluation Specialist, Strategic Planning and Projects Office presented the Treatment Court Performance Measures Pilot Request.

The Treatment Court Initiative (TCI) developed proposed performance measures with stakeholder input that would determine the success and overall quality and improvement of treatment courts. The proposed treatment court performance measures include recidivism, retention and graduation, and sobriety. These measures were chosen because they are the best indicators of success, and they align with national recommendations.

TCI requested Judicial Council approval of a pilot year to evaluate whether the proposed treatment court performance measures are the correct indicators of success and improvement.

A discussion ensued. A question was raised whether new charges in border states will be included when evaluating the recidivism performance measure. It was noted that the goal of the pilot year is to identify issues such as whether we should be monitoring new charges in border states.

There being no objection to acting on the proposal at the current meeting, a motion was made and seconded to approve the Treatment Court Performance Measures Pilot Year. The motion prevailed.

Council Action

The Judicial Council approved the Treatment Court Performance Measures Pilot Year.

4. Discussion Item: Revisions to Judicial Council Policy 306, Outside Employment

Dana Bartocci, Humans Resources and Development Director, reviewed proposed revisions to Judicial Council Policy 306, Outside Employment. The proposed revisions included adding criteria for approval of outside employment and adding a new section on approval for volunteer activities for employees that would conflict or appear to conflict with the interests of the court.

An amendment was suggested to add Judicial Council policies 307 (Practice of Law Other Than Court Employment), 308 (Law Clerk Services), 318 (Employee Code of Ethics), and 320 (Employee Political Activity) to the policy statement section of Policy 306 to clarify which policies employees should review when looking at outside employment or volunteer activities.

There being no objection to acting on the proposal at the current meeting, a motion was made and seconded to approve proposed revisions to Judicial Council Policy 306, outside employment with the suggested amendment. The motion prevailed.

Council Action

The Judicial Council approved the proposed revisions to Judicial Council Policy 306, outside employment, as amended.

a. Discussion Item: Proposed Revisions to Judicial Council Policy 221, Court Reporter Transcript Rates

Dawn Torgerson, Deputy State Court Administrator, presented new data to inform the discussion of possible revisions to Judicial Council Policy 221, Court Reporter Transcript Rates. At the December Judicial Council meeting, it was suggested that other state and federal transcript rates be reviewed prior to approving proposed revisions. It was noted that Minnesota's transcript rates are higher than all other states except Utah. Minnesota transcript rates are also higher than the federal courts for non-expedited transcripts; however, the federal courts will raise rates by 10% in October 2024.

A discussion ensued. It was noted that in forma pauperis (IFP) rates are paid out of district budgets. It was agreed that Judicial Council members would discuss transcripts rates with their districts and the Judicial Council will revisit this topic at the February Judicial Council meeting.

5. Decision Item: Proposed Revisions to Judicial Council Policy 523, Storage of Captured Records of Court Proceedings and Judicial Council Policy 523.1, Capturing the Record of Court Proceedings-Back Up of Recordings and Redundant Storage

Liz Halet, Legal Counsel Division, State Court Administration, presented proposed revisions to Judicial Council Policies 523, Storage of Captured Records of Court Proceedings and 523.1, Capturing the Record of Court Proceedings-Back Up of Recordings and Redundant Storage. At the December Judicial Council meeting, members raised questions about removing the word "certified" from the definition of "stenographic court reporter." It was clarified that the Minnesota Judicial Branch does not require that court reporters be "certified" so long as the court reporter meet the minimum requirement under Judicial Council Policy 324, Minimum Qualifications for Court Reporters, Electronic Equipment Operators, and Per Diem Reporters.

A discussion ensued. Concern was expressed regarding the policy requirement that a form be filled out when the record of court proceedings taken in one county includes cases venued in another county, and this could lead to additional or redundant work. It was noted that the form requirement already exists, the requirement just had not been outlined in the policy. Additionally, submitting the form to a central repository ensures that there is a centralized, secure location to find these records. It was suggested that the Council approve the policy and direct JAD to revisit the policy in three to six months regarding the multi-county submission form process.

A motion was made and seconded to approve revisions to Judicial Council Policy 523 and Judicial Council Policy 523.1 and have JAD revisit the multi-county submission form process six months. The motion prevailed.

Council Action

The Judicial Council approved the proposed revisions to Judicial Council Policy 523 and Judicial Council Policy 523.1 with the requirement that JAD review the multi-county

submission form process six months after the effective date of the policy and report back to the Council the impact of the revised process.

6. Other Business

a. Public Access to Judicial Council Materials

Chief Justice Hudson led a discussion about publicly posting Judicial Council materials to the Minnesota Judicial Branch website. When the decision was made to livestream Judicial Council meetings, it was also decided that the Judicial Council agenda would be posted to the public website without Judicial Council materials. Recently, questions have been raised as to why Council materials are not posted to the public website.

A discussion ensued. It was noted that Judicial Council materials are public upon request. Concerns were expressed about the impact of artificial intelligence and the risk of publicly posted documents being manipulated. Judicial Council members requested time to consider the positive and negative consequences of posting Judicial Council materials to the public website. This topic will be revisited at a later date.

7. Executive Session

A motion was made and seconded to go into Executive Session. The motion prevailed.

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

There being no further business the meeting adjourned.