



**Hon. Mary Ellen Barbera, Chair**  
Chief Judge  
Court of Appeals

**Hon. Keith A. Baynes**  
Chair, Conference of Circuit Judges

**Hon. Pamela J. Brown**  
District Court in Howard County

**Hon. Audrey J. S. Carrión**  
Vice-Chair, Conference of Circuit Judges

**Hon. Karen Christy Holt Chesser**  
District Court in St. Mary's County

**Hon. Angela M. Eaves**  
Circuit Court for Harford County

**Hon. Matthew J. Fader, Chief Judge**  
Court of Special Appeals

**Marina Fevola**  
Chair, Conference of Circuit Court Administrators

**Hon. Jeffrey S. Getty**  
Circuit Court for Allegany County

**Markisha Gross, Administrative Clerk**  
District Court in Montgomery County

**Hon. Katherine Hager**  
Chair, Conference of Circuit Court Clerks

**Pamela Harris**  
State Court Administrator

**Hon. James A. Kenney III**  
Chair, Senior Judges Committee

**Hon. Donine Carrington Martin**  
Circuit Court for Charles County

**Hon. John P. Morrissey, Chief Judge**  
District Court of Maryland

**Hon. Bonnie G. Schneider**  
District Court in Cecil County

**Hon. Kathy P. Smith**  
Vice-Chair, Conference of Circuit Court Clerks

**Mary K. Smith, Administrative Clerk**  
District Court in Howard County

**Roberta Warnken, Chief Clerk**  
District Court of Maryland

**Hon. Alan M. Wilner**  
Chair, Standing Committee on Rules of  
Practice and Procedure

**Hon. Dorothy J. Wilson**  
District Court in Baltimore County

**Burgess Wood**  
Vice-Chair, Conference of Circuit Court  
Administrators

**Faye Gaskin, Secretary**  
(410) 260-1257

# MARYLAND JUDICIAL COUNCIL

## MARYLAND JUDICIAL COUNCIL

Minutes  
January 27, 2021

### Judicial Council Members Present:

Hon. Mary Ellen Barbera, Chair	Hon. Bonnie G. Schneider
Hon. Keith Baynes	Hon. Alan M. Wilner
Hon. Pamela J. Brown	Hon. Dorothy J. Wilson
Hon. Audrey J.S. Carrión	Marina Fevola
Hon. Karen Holt Chesser	Markisha Gross
Hon. Angela M. Eaves	Hon. Katherine Hager
Hon. Matthew J. Fader	Pamela Harris
Hon. Jeffrey Getty	Hon. Kathy Smith
Hon. James Kenney, III	Mary Kay Smith
Hon. Donine Carrington Martin	Roberta L. Warnken
Hon. John P. Morrissey	Burgess Wood

### Others Present:

Hon. Deborah Eyler	Melinda Jensen
Hon. Susan Hazlett	Kelley O'Connor
Hon. Cathy Serrette	Eliana Pangelinan
Faye Gaskin	Stacey Saunders
Richard Abbott	Suzanne Schneider
Keith Bageant	Nisa Subasinghe
Robert Bruchalski	Jason Thomas
Carole Burkhart	Gillian Tonkin
Lou Gieszl	

A meeting of the Judicial Council was held Wednesday, January 27, 2021, via Zoom for Government. The meeting began at 9:30 a.m. Chief Judge Barbera welcomed everyone, thanking them for the consistent way in which everyone has handled the challenges over the past year and acknowledging the work of the Council and its committees. She then welcomed the new members of the Council, as well as those continuing members who are serving in new capacities. Judge Eaves moved for approval of the minutes of the November 18, 2020 meeting. Following a second by Judge Baynes, the motion passed.

## **1. JIS Update on Zoom for Government**

Jason Thomas provided an update on Zoom for Government, noting that its usage both for meetings and court proceedings has continued to increase since its implementation. From June through October 2020, there was a 50 percent increase in usage. While usage tapered off in November, seemingly due to the holidays, JIS has noticed a 20 percent increase each month and projects approximately 10,500 meetings/court proceedings to be conducted during the month of January. There also has been a significant increase in the number of Zoom meeting participants over the last two months, with nearly 63,000 meetings during the month of December. The number of Zoom minutes approximated 2.7 million during December and is expected to eclipse 3.3 million for January. The aforementioned statistics do not include Montgomery or Prince George's counties who host their own Zoom platforms. The numbers are expected to be substantially higher with the inclusion of those two jurisdictions.

Chief Judge Barbera thanked Mr. Thomas and his team for their hard work.

## **2. Committee/ Strategic Initiative Updates**

- a. ***Domestic Law Committee.*** Judge Cathy Serrette updated the Council on the activities of the Domestic Law Committee, its subcommittee, and its work groups, acknowledging the work of Judge Cynthia Callahan who served as Chair of the Committee until the end of 2020.

The Domestic Violence/Peace Order Subcommittee, along with the Committee, assisted in revising Rule 3-326 which addresses the dismissal or transfer of protective order matters from the District Court to the circuit court. The subcommittee also updated the Maryland Judge's Domestic Violence Resource Manual to reflect legislative changes; developed best practices and processes in response to the COVID-19 pandemic; and, collaborated with other Judicial Council committees and departments within the Administrative Office of the Courts to develop a six-part video series on domestic violence.

The Court Process Work Group supported the training of judges and magistrates on the new Parenting Plan Rule. Judge Serrette remarked that several tools were developed to assist in the implementation of the Rule; however, COVID-19 has curtailed their usage. The work group also helped Juvenile and Family Services develop the Parenting Plan webpage and seven-part video series on the Plan.

The Domestic Forms Work Group has been heavily involved with updating domestic law court forms which are an important tool to help self-represented litigants navigate the court system. The work group reviewed the forms for legal sufficiency, consistency, and clarity.

The Family Mediation & Abuse Screening Work Group has been active in developing best practices for screening family cases for abuse and determining when mediation is and isn't appropriate. The work group also worked on updating the screening tool for optimal suitability.

The Guardianship & Vulnerable Adults Work Group, which is a multi-disciplinary group

of individuals, addressed issues that arose regarding certificates of incapacity based on remote evaluations conducted during the COVID-19 pandemic. A group was convened to examine assessments and provide advice regarding best practices in this area. The work group has assisted courts, attorneys, and other stakeholders in navigating the guardianship Rules. The members also have examined and tried to address the challenges faced by the elderly population as a result of the pandemic. The members are reviewing the Rules to determine if they provide sufficient guidance to attorneys in their advocacy role. Finally, the work group is exploring ways to enhance the circuit courts' ability to manage and monitor guardianships through its Guardianship Monitoring Pilot Project. Judge Serrette noted that Maryland is considered a nationwide leader in this area.

The Special Status Work Group was created in response to a Court of Special Appeals' Special Immigrant Juvenile Status (SIJS) case and is examining issues in SIJS cases and U- and T-Visas. Two Rules were promulgated to provide for expedited appeals in SIJS cases. Rule 16-302 requires courts' differentiated case management plans to include expedited procedures for when there is an emergency. The work group is developing protocols for U- and T-Visa cases.

Judge Deborah Eyler discussed the report and recommendations of the Custody Evaluator Standards & Training Work Group, explaining the process since the work group's inception in 2019. She noted that the Conference of Circuit Judges approved the report. The eight recommendations are:

1. *Make custody evaluators more widely available to the circuit courts by sharing in-house custody evaluators among smaller jurisdictions, initially in a pilot project, and by encouraging outreach to additional qualified professionals to perform custody evaluations.* The work group's concern is that only the six largest jurisdictions have in-house evaluators whose services are provided at no cost to the parties. The other jurisdictions rely on private evaluators who charge the parties for their services, which, in many instances, the parties cannot afford.
2. *Re-purpose the specific issue evaluation to be a useful assessment tool.* An assessment determined that these evaluations aren't being used and that there is confusion around what is entailed. Judge Eyler noted that specific issue evaluations have proven to be valuable, particularly during the pandemic.
3. *Adopt standard form orders for custody evaluations and specific issue evaluations.* The work group included form order templates with the report. Using the form orders will result in consistency across the courts.
4. *Require data gathering from high neutrality/low affiliation collateral sources.* Literature favors collateral source contact being a mandatory part of custody evaluations. It would be the evaluator's discretion as to who fits into the category of a collateral source, which is someone who is not wedded to either party.
5. *Without encroaching on the professional standards of care of custody evaluators, encourage best practices that will better inform the litigants about the nature of the evaluation and its use and inspire confidence that these evaluation tools are reliable.* It is the work group's opinion that some best practices can be adopted by incorporating them into standard court orders, such as who would access requirements for release of information. Other best practices might not lend themselves to be incorporated into the orders and instead could be posted on the website.

6. *Require screening for intimate partner violence by custody evaluators as a mandatory element in a custody evaluation and encourage the courts to screen contested custody/access cases for intimate partner violence soon after filing, to the extent feasible.* The work group felt that the screening requirements, as they currently exist, are too narrow and recommended that screening be done in all cases, at the beginning and, if possible, by the court.
7. *Require and offer regular training for custody evaluators.* The work group recommends mandatory nuts and bolts training, some done by outside trainers.
8. *Conduct regular training and education about custody evaluations for judges and magistrates.* The work group recommends non-mandatory advance training for custody evaluators and inclusion of the custody Rule in judicial education.

It was noted that if the number of in-house evaluators was increased, they would be funded through grants from Juvenile and Family Services. Each evaluator proposed in the recommendations would serve several jurisdictions. Chief Judge Barbera remarked that some of the recommendations may require Rules changes.

Judge Eaves moved that the Judicial Council recommend to Chief Judge Barbera approval of the Custody Evaluator Standards and Training Work Group Report and Recommendations. Following a second by Ms. Fevola, the motion passed. Chief Judge Barbera accepted the Council's recommendation.

- b. ***Education Committee.*** Judge Hazlett and Stacey Saunders updated the Council on the work of the Education Committee, stating that the Committee is working hard in collaboration with the Judicial College to meet the education and training needs of the Judiciary. Judge Hazlett provided statistics on the activity of the College from October 2019 through November 2020, remarking about how the COVID-19 pandemic caused the College to have to pivot and accelerate the development of virtual learning modules. In addition to face-to-face coursework moving to the virtual platform, the College also had to transition its certificate programs, the Institute for Court Management and Court Professional Certificate Program, to that platform.

Just-in-time learning videos – micro-learning – were offered to judges and Judiciary staff on a variety of focused topics. The plan is to develop additional topics for these short three to five-minute videos. An online orientation program was created for new law clerks to replace the traditional onsite orientation. The online platform enables law clerks who come on board at varying times during the year to access the orientation course and materials immediately rather than having to wait for the annual onsite program. Other accomplishments included the first-ever instructor-led distance learning course, which was a three-day Family Law University program; implementation of the Judicial Assistant Proficiency Based Education and Training CORE Program; and, development of an online new employee technology orientation program.

The College was instrumental in the successful implementation of Zoom for Government through its efforts to provide online training to judges and Judiciary staff and collaborated with other subject matter experts to develop the Remote Hearings Bench Book.

Future plans include developing a webinar series for specialized and related coursework

for commissioners in furtherance of the Commissioner Proficiency Based Education and Training and converting the new law clerk orientation to the Judiciary's learning management system for better tracking and additional program development. The first module of the mandatory judicial ethics education for all judges and magistrates will be rolled out in the summer of 2021.

The Education Committee, in collaboration with the Judicial College, continues to advance the Judiciary's strategic plans and the goals directly attributable to the education and training.

Chief Judge Barbera thanked both committees, subcommittees, work groups, and staff for their work, collaboration, and innovation.

The Council then went into executive session to discuss a confidential operations matter.

Following the executive session, the meeting adjourned at 11:01 a.m. The next meeting is scheduled for March 24, 2021, beginning 9:30 a.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Faye Gaskin". The signature is written in black ink and is positioned above the printed name.

Faye Gaskin