

July 18, 2013 Forum Conference Call notes

Agenda

1. Cochair Report: Discussed proposed rule of court to govern forum (two drafts distributed: first document shows highlighted changes since forum's last review and second document is a clean version incorporating revisions)

Discussed revisions (below) since last viewing, and forum adopted by consensus:

- Increased member terms to three years for all members;
- Added a procedure for selection and appointment of tribal court judges that relies on cochairs to make the decision when we receive more names than vacancies;
- Added state court appellate justice member; and
- Other stylistic (clarifications/not content) changes.

Next steps: Forum adopts revised proposed rule. CA Judicial Council will hear the proposal on July 25th, and if adopted, it will be circulated for public comment from 7/26 – 8/30.

2. Status Report on Pending Forum Proposals: (Jenny presented and facilitated discussion)

Child Support: Forum recommended new rule for title IV-D case transfers from state court to tribal court.

Described proposal: a consistent procedure for the discretionary transfer of title IV-D child support cases from state court to tribal court

Proposal was initiated by the Yurok Tribe, developed in collaboration with the Yurok Tribal Court, Federal Office of Child Support, and the CA Department of Child Support Services.

Supported by CJA, Orange Co. BAR, and the following courts: LA, San Diego, San Francisco, Yurok

Thanked Judge Abinanti for leading the way on this proposal and Anna Maves for her legal analysis and shepherding the proposal through the Family and Juvenile Law Advisory Committee, which approved the proposal on July 18, 2013.

Anna Maves shared more details about the comments.

No discussion other than supportive comments from forum members.

Next steps: Forum adopts proposal and recommends that the proposal go to the CA Judicial Council at its Oct. 25th business meeting.

Psychotropic Medication: Forum recommended revised rules and forms relating to notice of Indian Tribes

Family and Juvenile Law Advisory Committee (committee) will consider the proposal on August 1st. Assigned to committee member Judge Kathleen Kelly to review and present. One commentator raised the issue of whether to limit notice to tribes that have intervened. The forum discussed this issue, and expressed concern that such a limitation would exclude notice where children were ICWA eligible, belonged to a given tribe, and the tribe was monitoring rather than intervening in the case. The forum acknowledged that this frequently occurred because tribes lack the resources to intervene in every case.

The forum discussed alternative language and decided to recommend to the committee that notice would be triggered upon a judicial determination that ICWA applied. The committee will consider the proposal and new language on August 1st. If it is adopted, the revised proposal will be placed on the CA Judicial Council's October 25th business meeting agenda.

Next steps: Forum directed staff to work with the committee and seek language to clarify the scope for notice as follows:

(D)When an Indian child's tribe has been identified and confirmed by his or her tribe, notice must be sent to that tribe. Notice to an Indian child's tribe must include: ...

Tribal Access to Confidential Juvenile Court Files: Forum recommended amendments to Section 827 of the Welfare and Institutions Code

Described proposal, which ensures tribal access to juvenile court files involving tribal children consistent with the mandates of existing federal and state law. This proposal builds on the local successful models of collaboration, which we have seen. In Kings and Humboldt, the courts have enacted standing orders to give tribal access to these records, and in others (Mendocino and Sonoma) they have worked out local protocols to give access.

Supported by Orange County Bar, Smith River Rancheria, CILS, Humboldt County and Yurok Tribe's social services, and the following courts: LA and San Diego

Thanked Judge Abinanti and Judge Wilson for leading the way on this proposal and Judge Stout and Judge Nystrom-Geist for paving the way for this joint proposal with the Family and Juvenile Law Advisory Committee

Forum members described that this proposal goes to the heart of the collaborative work that they do locally and statewide. They described the benefits of sharing this information to help divert cases from state court, if cases are heard in state court then to assist with resources for active efforts, options for placement (Indian custodians and tribal families), and generally supporting the best interests of Indian children and families through the provision of culturally competent/appropriate services.

Since the proposed legislative language has not changed since the forum last viewed it, forum members adopted the proposal and recommended that it go to the Policy Coordination and Liaison Committee (PCLC) of the CA Judicial Council. Alan Herzfeld, Office of Governmental Affairs and our legislative contact for this proposal gave an overview of the

timeline: October meeting of PCLC, December meeting of CA Judicial Council, if adopted, seek sponsor for the 2014 legislative cycle.

Next step: Forum directed staff to keep the committee informed on the status of the legislative proposal.

Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA) proposed for California: Forum recommended legislative changes as part of public comment period.

The forum discussed the most recent version of the proposed comment as submitted by the joint working group of the forum and the Probate and Mental Health Advisory Committee (committee). The forum approved the proposal as drafted by the joint working group.

The recommendation being circulated is linked as follows: <http://www.clrc.ca.gov/pub/Misc-Report/TR-L750.pdf>. See also the Commission's home page, at: <http://www.clrc.ca.gov/L750.html>

Next steps: Staff will prepare a joint memo from both forum and committee to support the proposal, which will be on the August 1st meeting agenda of Policy Coordination and Liaison Committee of the CA Judicial Council, and if approved then it will be submitted to California Law Review Commission as part of its public comment period, which ends September 15, 2013.

3. Cross-Cultural Court Exchange (Judge Blake and Judge Wilson)(draft agenda attached distributed)

Judge Blake and Judge Wilson described the upcoming cross-court cultural exchange at Hoopa, and extended an invitation to forum members. Jenny informed members that there was grant funding to pay for member's travel and lodging expenses for the event, and they if a member were interested to please contact her by July 31st.

Judge Nelson, Judge Marston, and Judge Williams indicated they would like to attend. Jenny informed them that she would follow up with each of them to provide information on travel-related reimbursement process.

Jenny reported that the funder has agreed to continue funding these exchanges next year, and that if judges were interested in cohosting an exchange to please contact her so that she could begin planning with them.

4. Tribal-State Court Collaboration Based on Native Justice Traditions, July 25, 2013 (Judge Wiseman)
This webinar will highlight three programs that blend native and state justice on innovative ways to improve state and tribal justice. Staff of the Center for Court Innovation's

peacemaking pilot program at the [Red Hook Community Justice Center](#), will discuss how traditional Native American practices are used to resolve disputes that originate in either the justice system or in the community. Peacemaking is a traditional Native American approach to justice that strives to resolve the immediate dispute, but also to heal the relationships among those involved and restore balance to the community. In the second program, justice officials from the Saint Regis Mohawk Tribe in Akwesasne, New York will discuss how the Healing to Wellness/Drug Court, housed under the Tribal Court, uses cultural traditions to restore and heal justice involved tribal members in collaboration with neighboring state courts. Lastly, representatives from the New Mexico Tribal–State Judicial Consortium (Consortium) and Cross Cultural Exchanges will discuss how the Consortium contributes to collaboration among state and tribal courts.