

MISDEMEANOR SENTENCING COMMITTEE

CONFERENCE CALL

September 1, 2017
12:00 p.m. - 1:00 p.m.
Conference Call

Minutes

Members:

Chair Judge James Cawthon
Judge Jennifer Haemmerle
Judge Michelle Evans
Judge James Stow
Sara Thomas
Christina Iverson

Next Meeting:

November 13, 2017

Location: Gem County

Guests:

Michael Henderson

Welcome and Introductions

Chair Judge Cawthon welcomed the Committee members. He reviewed the aspects of the issues regarding pretrial fee legislation that included a review of the amount of fees charged and addressing dual fees of pretrial and probation. Christina Iverson reviewed the materials for the meeting and asked that Committee members provide feedback on elements of drafting pretrial fee legislation.

Oral Conference Update

Sara Thomas asked the Committee members to review current lawsuits stemming from pretrial fees associated with posting bond. The lawsuit, filed in July 2017, by the ACLU of Louisiana and the Southern Poverty Law Center alleges that defendants' release from jail was contingent on payment of pretrial fees in conjunction of court-ordered bail.

Michael Henderson provided an overview and analysis of several state statutes regarding payment of fees and questions the Committee members should consider for drafting legislation in four broad areas. The analysis is attached to the minutes.

- What is the fee payment utilized for?
 - Will the fee pay for resources that include officers and other related program requirements
- What should the fee amount be?
 - How will it be determined and by whom?
- Where would the funds be deposited?
 - Should there be delineation between probation and pretrial fees?
 - Should the fees be paid directly to the clerk
- Ability to pay
 - How will indigence be evaluated and by whom?
 - What criteria will be used to determine indigence?

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Michael Henderson indicated that the Committee members should consider ability to pay, failure to pay requirements and process, and assessing a cap on the amount of fees charged. Sara Thomas would like to address the process of collecting outstanding fees and how that factors into Priority of Payments. There should be consideration of determine the process of outstanding fees once a defendant is acquitted.

The Committee members discussed the ability of a cap of fees. All members agreed that a cap of pretrial supervision fees needs to be addressed in legislation. Christina Iverson reviewed the recent survey conducted on pretrial fees. The range is from \$30 per month to \$150 per month. She informed the Committee members that a request to the National Association of Pretrial Service Agencies (NAPSA) was provided to acquire information on state statutes/rules governing pretrial supervision fees. The NAPSA Board has circulated the survey request among the 600 members.

Michael Henderson asked if legislation language should include the structure of Pretrial in Idaho. Sara Thomas suggested that the legislation for the 2018 session should be narrow in scope regarding the fees. However, there should be a strategy for constructing further legislation for the 2019 session to address the structure.

Sara Thomas suggested that the Committee members review the Federal system for Pretrial on how it is structured and the aspect of information security.

Action: Christina Iverson will forward the information on the Federal system that includes the District of Columbia to Committee members.

Next Steps

Jude Cawthon asked the Committee members to consider next steps of completing the legislation.

Action: Michael Henderson will draft language to the Committee members with the aforementioned areas. He will input several alternatives within the draft to consider. The Committee members will be asked for their feedback on the language. This will need to be accomplished prior to September 30, 2017.

Action: Christina Iverson will attend the NAPSA conference from September 10 – 13, 2017 in Pittsburgh, Pennsylvania and will provide updates regarding national standards and the survey.

Judge Cawthon asked the Committee members to review the minutes from July 17 and August 4, 2017.

Motion: Judge Haemmerle moved to accept both the July 17 and August 4, 2017 minutes as written. Judge Evans seconded. Motion carried.

Judge Cawthon asked the Committee to adjourn.

Motion: Judge Haemmerle moved to Adjourn. Judge Stow seconded. Motion carried.

Adjourn at 12:59 p.m.