

Utah Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)

February 20, 2020 - 12:00 to 2:00 p.m.

Administrative Office of the Courts, Matheson Courthouse

1st floor Conference Room A

Attended			Excused	
Judge Keith Kelly	Nels Holmgren	Nancy Sylvester	Shane Bahr	TantaLisa Clayton
Judge David Connors	Michelle Miranda	Shonna Thomas	Jeff Daybell	Xia Erickson
Judge Robert Faust	Alan Ormsby	Norma Valavala-Ballard	Cora Gant	Nan Mendenhall
Kent Alderman	(phone)	Todd Weiler	Daniel Musto	James Toledo
Rob Denton	Andrew Riggle	Michelle Wilkes		
Rob Ence	Joanne Sayre	Kaye Lynn Wootton		<u>Not Present</u>
Wendy Fayles				Judge James Brady

Agenda

AGENDA

	Topic	Presenter	Materials
11:45	Lunch available		
12:00	Meeting begins		
	Welcome, Minutes, Housekeeping	Judge Kelly	
12:10	Updates:		
	Judicial Council report	Judge Kelly	<ul style="list-style-type: none"> Report to the Judicial Council (2020)
	Clerical Education Subcommittee	Subcommittee Chair	
	GRAMP	Shonna Thomas	<ul style="list-style-type: none"> GRAMP Marketing Materials (GSP Flyer, GSP Brochure, CVP Flyer, CVP Brochure)
	Probate Rules Subcommittee	Nancy Sylvester	<ul style="list-style-type: none"> Draft Probate Legislation Utah Rule of Probate Procedures Title 75 Chapter 5 Amendments Outline
12:40	Review Process – Annual Reports & Court Visitor Reports:		
	Code of Judicial Administration rule	Nancy Sylvester	
	Checklist / cover sheet	Judge Kelly Shonna Thomas Michelle Wilkes	<ul style="list-style-type: none"> Draft Checklists (Status Report, Accounting Reports)
1:05	Guardianship Test & Resources	Kent Alderman	
1:20	New website – UtahLegalHelp.org	Jeff Daybell	
1:30	WINGS Membership:		
	Elder Law Section – official liaison	Kent Alderman Rob Denton TantaLisa Clayton	
	Other	Group discussion	
	Feedback – making the meetings effective for you & your organization	Group discussion	

Next meeting: April 16, 2020

1. Housekeeping

- Meeting brought to order at 12:15pm
- A Motion was made to approve the minutes from the previous meeting (December 19, 2019). The motion was seconded and approved.
- Judge Faust (Probate Judge for 3rd District) was introduced to the group.

2. Updates

Judicial Council Report (Judge Kelly):

The report to the Judicial Council was made in January. The discussion went well and the Council seemed interested in the issues WINGS handles. This report to the Council resulted in some action taken, regarding the review of Court Visitor Reports (discussed below in “Review Process”).

Clerical Education Subcommittee:

The subcommittee met recently and went through parts of the clerk manual to discuss needed updates.

- Joanne and Shonna are working on updating some parts of the manual.
- The subcommittee will wait until after the legislative session to finalize the draft of the manual.

Discussion -

- The goal is to make the manual applicable statewide.
- The plan is to send to the other districts, particularly the rural areas, to make sure it works for them, allow them the opportunity to comment and provide feedback.
- Training on the manual will need to occur with the Clerks around the state once it is fully up-to-date.

GRAMP (Shonna Thomas):

- Court Visitor Program (CVP)
 - No recruitment for the CVP in several years, so the number of volunteers is decreasing.
 - GRAMP is holding appreciation events across the state to help retain current Court Visitors.
 - Events will include a brainstorm session to get their input on revising the Court Visitor reports.
- Guardianship Signature Program (GSP)
 - A new GSP marketing flyer will go out to the list of inactive attorneys next week.
 - Need to set up monthly CLE opportunities to try and garner more participants in the GSP. The Bar will assist in getting the trainings going if GRAMP can provide presenters.
 - If anyone on WINGS has suggestions for who might be able to present, let Shonna know.
- Marketing & Recruitment
 - New GRAMP marketing materials have been created – flyers and brochures for the GSP and the CVP.
 - GRAMP plans to have an exhibitor table at the Bar Convention in St. George this March, and at the District Court Judges conference in Moab this April.
 - The current websites have been revised and are in the process of being updated.

Questions asked –

- Can the marketing flyer be shared, placed on a website, etc.?
 - Yes! It has been approved and can now be shared.
- Do the CLEs have to be face-to-face, or can they be virtual or remote?
 - We are looking at all options. Possibly in-person, with a remote attendance option, as well as recording for future viewing online.
- Is the malpractice coverage offered by the Bar for all attorneys (pro bono or low fee)?
 - It will cover any attorney under a Signature Program.
 - Active attorneys can accept cases with the pro bono or modest means fee limits, while inactive attorneys would be limited to pro bono only.

Discussion –

- Kent Alderman and Rob Denton have presented for a CLE in the past and may be able to do so again.
- The goal would be to have 6 months or more scheduled in advance and then to send to attorneys to sign up (free if they accept a case via the GSP or for a fee if not).
- The Bar has suggested tapping into the Estate Planning Section, so there might be an option for a presenter related to that area. The Court Visitor Program could also present.
- Brant Christensen might be a possibility for presenting at a CLE.
- Judicial participation might also be helpful. If attorneys know a judge will be present, they may be more interested in coming.
- Everyone should get the word out that malpractice insurance is covered by the Bar.
- May need to revisit the concept of the GSP in the future, because it is currently an unfunded mandate. Further review is warranted on whether there is a real need or if the GSP is being used as a way to get a free attorney.
- The original intent was to separate and create an opportunity for independent counsel, rather than a “buddy” system. Because rights are being removed, it is very important to have independent counsel.

Probate Rules Subcommittee (Nancy Sylvester):

Senator Hillyard was looking at running an amended Uniform Act with a limited fiscal impact. However, the lowest amount it was able to be adjusted was \$1 million dollars. Plan B was to look for items in the Uniform Act that would be helpful to include in the current probate code, with the promise of no fiscal impact.

The work done by the Probate Subcommittee was shared with Senator Hillyard. Nancy also met with the legislative Bar sections to help explain what is happening with this. There are plans to go back and discuss with them further what is going on, respond to their concerns, and reiterate that the rules are in draft form and subject to change.

Discussion –

- There are aspects of the bill that do not have a fiscal impact, such as background check for guardians.
- One example of how this would provide a positive impact is in the definition of a Court Visitor. Currently, the definition is narrow and restrictive. The new definition is much broader and better suited to the function of the Court Visitor Program.
- This is more of an Access to Justice issue, rather than the courts trying to take over the probate code.
- More people will eventually need to access the probate courts, often without lawyers, and the code isn't straightforward about how to do this. The Probate Rules would provide a road map for individuals accessing the probate courts.
- The Utah Supreme Court was interested in having the rules separate (civil and probate). The long-term hope is to clarify when to use the civil rules and when to use the probate rules.

Question asked –

- Do you want input on any other sections in the Uniform Act that wouldn't have a fiscal impact?
 - The ones that have been pulled out already are ones that have been discussed so many times it is clear that there is a gap that needs to be fixed. But there are others that would be helpful.
 - It is much easier to get a set of rules if the rules deal with consensus issues.
 - Have to be careful to not try and pull too much out, with the risk of diluting the intent and purpose of the Uniform Act.

Decisions made –

- Probate Rules Subcommittee will be meeting in March and the legislative session ends mid-March. After that point, there may be more clarity on how to move forward.

3. Review Process

Code of Judicial Administration rule (Nancy Sylvester, Judge Kelly):

There was concern that there was no definitive timeline on when the Rules of Probate Procedure would be approved – specifically Rule 13, which deals with the Court Visitors Program and review process for Court Visitor reports. Placing this in the Code of Judicial Administration (CJA) Rule was an option. The Judicial Council approved this to send to Policy and Planning for more action.

Discussion –

- The Probate Subcommittee took Rule 13 and unanimously recommended it be adopted via the CJA.
- It was anticipated that getting this rule into the CJA would get it into effect more quickly than waiting, and decrease the possibility of submitted reports not getting reviewed in the interim.
- There is precedent for this. There is a rule that deals with statements of discovery issues and disputes that originally started as a 3rd district rule, it was put into the CJA, and it eventually became part of Rule 37 of the Rules of Civil Procedure. This may follow the same course.
- If it looks like in the next week or so there isn't much movement with the proposed legislation of the Probate Rules, Nancy plans to advance the proposed CJA rule to Policy and Planning.

Checklist / cover sheet (Judge Kelly, Shonna Thomas, Michelle Wilkes):

Some WINGS member provided input and feedback on what to include on a checklist for Status and Accounting reports. This checklist would be used by clerical staff to assist as they review annual reports, to highlight “red flags” that need to be forwarded to the judge for further review.

Questions asked –

- Can you gain all the information from the reports that are on this checklist?
 - Each of the items on the checklist takes a piece from the report and turns it into a yes or no question.
- One issue seems to be related to expertise in finance. Could we create a volunteer network of financial experts, such as retired accountants or financial planners, for the Accounting reports?
 - We do have an Audit case type for cases that are flagged, but the program wouldn't be capable of handling a review of all Accounting reports.
 - It probably wouldn't be a good use of time having volunteers looking over all reports, but their work would be more meaningful if they're are looking at reports that could be problematic or concerning.

Discussion –

- 3rd District - This checklist could be valuable to Clerks they look at reports when they first come in. Distributing all reports to judges would be overwhelming for most judges, as there as hundreds of reports waiting for review.
- 4th District – The checklist mockup was sent to Judge Howell to give feedback. Waiting to hear back from him. When they get reports, they send them to Judge Howell with a coversheet to review and he determines the course of action. Judge Howell handles all the reports; he is currently up-to-date.
- 2nd District – Uses the same coversheet as 4th. They send the reports out to each of the judges to review.
- The Accounting report (adult) needs to be revised to plain language. The Accounting report for minors is okay, and it includes instruction for completion, whereas the adult version does not.
- AARP had a group of hundreds of volunteers with special training to help people with their tax returns. These are the kind of people who might be interested in doing volunteer work related to finance.
- If the reports require a CPA or someone with training in finances to understand, this is a sign the Accounting report is too confusing and needs to be simplified.
- This project may fit best under the Clerical Education subcommittee, to go along with updating the manual and guidelines.
- One possibility is to work with Shane Bahr and the TCEs to come up with a standard process for handling the reports.

Decisions made –

- Identify professional organizations in financial planning who may be looking to have a pro bono project for their members - organizations who could promote this for their members like the Bar does for attorneys.
- Judge Kelly will follow up with Judge Connors and the Board of District Court Judges, as they regularly deal with updating forms.
- The Clerical Education subcommittee will look further into the possibility of using the checklist, including getting input from Shane, TCEs, and other districts.
- Add to the agenda for the April meeting.

4. Guardianship Test & Resources

Kent updated the existing manual for guardians. The legislative session may impact the revision. Once it is known what is happening with the legislature, it can receive a final update and approval.

The intent of this manual is for the proposed guardian/conservator to understand what their responsibilities would be and the reports that are required. The manual could provide a resource for taking the guardianship test.

Discussion –

- There are resources to make sure education occurs in other case types, such as divorce proceedings. Should be a way to access similar resources to ensure that prospective guardians receive the education they need. Perhaps go online, watch videos, and take a more meaningful test (online).
- The test should have a passing score required. It could be retaken if needed, but there should be a threshold.
- There are some good instructions on the website. If they watch the video that is currently on the website, they could pass the test.
- Aside from sending people to jail or civil commitments, guardianships are the most severe restrictions we place on personal liberty through court orders. If we require an online test for less “severe” things, guardianship should be able to incorporate this as well.
- It may save time and work for clerical staff and Court Visitors in terms of follow up and explanations to guardians after the fact.

Suggestions offered –

- There is an internal resource, Libby Wadley (Online Training Program Support); she does the online trainings. Talking to Tom Langhorne (Judicial Education Director) could be a good step.
- Put into place something similar to the reminder postcard received for car registration. Sending a reminder 30-days in advance instead of waiting until the reports are late to reach out to guardians/conservators.
- 4th District – At the hearing, the judge reminds the guardian of their responsibilities and they are given a packet with the reports and instructions. They have also started doing something similar to the car registration reminder. They run a report, and send out an email notice 30 days before the report due date (one email with each recipient bcc'd). It has been working well so far.
- Text, email, and phone might all be options for reaching out to guardians for reminders.
- Connecting with Court Services might be the best way to work on this.
- Could be something to talk with Shane Bahr about, to make a proposal for the Judicial Council to approve – to have a meaningful online training and test.

Decisions made –

- Create a new subcommittee (“Test & Resources” subcommittee) consisting of Judge Kelly, Shonna Thomas, and Michelle Wilkes, to follow up and identify what options there are for: (a) training, (b) having an online test, and (c) providing automatic notification.
- The new subcommittee will reach out to Shane – what options are there and how difficult would it be to implement?
- Add to the Executive Committee meeting agenda and April meeting as well.

5. New Website

This item will be discussed at the next meeting.

6. WINGS Membership

Elder Law Section (Kent Alderman, Rob Denton):

WINGS is looking at having someone appointed by the Elder Section of the Bar, so that there is a formal liaison to help with communication between the groups. Kent spoke with Brant Christensen and he may be willing to step in and do that but it has not been confirmed.

There was also some discussion about the Elder Law Section making it a part of their policy, where someone holding a particular position would have to be a member of WINGS for a specific time period. It was decided against as it might be too much for that person to take on.

Decisions made –

- Add to the Executive Committee agenda to follow up.

WINGS Meetings (Group Discussion):

It is important to make sure that WINGS meetings are being effective for all members.

Discussion –

- Recent items have been court-oriented. Need to make sure that the other agencies and organization represented in WINGS are included.
- WINGS is effective through participation of key stakeholders who understand and are in a position to improve the court's guardianship procedures, so input from WINGS members is appreciated and helpful in improving the court's process and protecting people.

Suggestions offered –

- It might be helpful to send an email prior to the meeting (Executive Committee or full) to give members an opportunity to add items to the agenda in advance.

7. Other business

Update on Legislative Session (Senator Weiler):

Shared the revised budget numbers. There is a billion dollar surplus - \$842 million is income tax, which can only be spent on education; \$80 million is general fund sales tax, which has to fund everything else in the state, including the courts.

Senator Weiler is running two bills for the Judicial Council - both have a good chance of passing:

1. When the next 3rd District Juvenile Court judge retires or resigns, monies for that position will be moved to fund a new 5th District Court judge.
2. Add two new members to the Judicial Council - one that is voted on by the District Court judges, the other by the Appellate Court judges.

Update on Division of Indian Affairs (James Toledo, by proxy):

The Utah Division of Indian Affairs has a new director – Dustin Jansen (appointed by Governor Herbert).

Mr. Jansen is a licensed attorney and professor at Utah Valley University and the division looks forward to his leadership and expertise in improving state-tribal relations.

Other:

- A motion was made to adjourn the meeting. The motion was seconded, and approved.
- Meeting adjourned at 1:47pm

Action Items	
– Reach out to Shonna for possible CLE presenters for the Guardianship Signature Program	All WIINGS stakeholders
– Identify professional organizations in financial planning who may be looking to have a pro bono project for their members.	Shonna Thomas Rob Ence
– Follow up with the Board of District Court Judges, re: updating the Accounting report template.	Judge Kelly Judge Connors
– Identify options for training, online tests for guardians, and reminder notices and make a plan of action for moving this item forward.	Test & Resources subcommittee (Judge Kelly, Shonna Thomas, Michelle Wilkes)
– Send a group email in advance of the Executive Committee meeting, for agenda item suggestions.	Shonna Thomas
– Discuss the report checklists and make a plan of action for moving this item forward.	Clerical Education subcommittee

Deferred / Continuing Items	
<ul style="list-style-type: none"> – Reports Checklists – Updating the Accounting report template – Test & Resources subcommittee – guardianship test and reminder notice – Elder Law Section liaison 	Executive Committee
<ul style="list-style-type: none"> – Probate Rules subcommittee – Clerical Education subcommittee – checklists and manual – Test & Resources subcommittee – guardianship test and reminder notice – New website from the Utah State Bar – Update on GRAMP recruitment efforts 	WINGS

Next Meeting(s):	April 16, 2020 June 18, 2020 August 20, 2020 October 15, 2020 December 17, 2020
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