

**COURT EN BANC MINUTES**  
**Tuesday, June 19, at 5:00 p.m.**  
**Boone County Courthouse**  
**2<sup>nd</sup> Floor Law Library**

**FILE COPY**

**Judges Present:** Judges J. Hasbrouck Jacobs, Jeff Harris, Kevin Crane, Jodie Asel, Kimberly Shaw, Carol England, Sue Crane, Michael Bradley, Leslie Schneider, Joshua Devine, Commissioners Sara Miller and Casey Clevenger, and Columbia Municipal Judge Cavanaugh Noce.

**Others Present:** Boone County Circuit Clerk Christy Blakemore, Boone County Circuit Clerk Unit Manager Sherry Seiling, Callaway County Circuit Clerk Megan Morse, Adult Court Services Supervisor Brandon Walker, Court Marshal Sergeant Benjamin Pruett, Attorney Finley Gibbs, Court Administrator Mary Epping, and Deputy Court Administrator Cindy Garrett

**1. Call to Order/Welcome**

The meeting was called to order at 5:00 p.m. by Judge Kevin Crane.

**2. Introduction of All Guests**

Judge Kevin Crane welcomed guests.

**3. Approval of the May 15, 2018 Minutes**

Judge Jodi Asel moved to accept the May 15, 2018, minutes. Second: Judge Leslie Schneider. The motion passed unanimously.

**4. Destruction of Records**

Deputy Court Administrator Cindy Garrett reported the Boone County Circuit Clerk's office has asked to destroy by shredding the documents on pages 6 and 7 of the Court en Banc's packet. Judge Jodie Asel moved to approve the destruction of the records listed. Second: Judge Leslie Schneider. The motion passed unanimously.

**5. Collection of Fees**

*Judge Brouck Jacobs arrived*

Court Services Supervisor Brandon Walker said there have been a couple of cases recently where third party agencies made the court aware that defendants were not paying fees. Brandon said he does not advocate for these agencies, however the court needs to consider if the 13<sup>th</sup> Circuit is not enforcing fee payments then third party agencies may not be willing to serve clients from our circuit in the future. Brandon said payment of fees for cases being supervised by Adult Court Services are also of the utmost importance. He referenced the attachments on page 8 and 9 of the Court en Banc packet which are reports showing the amounts of revenue and expenditures each month. He noted revenue and expenditures for home detention are part of our annual budget. He said the fees are guided by administrative order, as we are not looking to make a profit however we do generally generate revenue above our expenses even when the court waives fees for those who are indigent and unable to pay. He noted there have been some cases where defendants have accumulated a large sum of fees and have been released from the program still owing significant amounts. In the past Adult Court Services staff have sent reports to the court stating the individual owes fees at which time a hearing gets set, often in conjunction with another hearing.

Frequently the costs are not addressed at the hearing. Brandon has instructed his staff to begin including in their report a suggested date of when fees should be submitted. If the judge orders the fees be paid by date certain, Adult Court Services staff will then notify the court if fees are not paid, at which time the court agreed a capias warrant will be issued with a bond. Adult Court Services staff will communicate to the court through a report if they believe there is a real issue with defendants being unable to pay.

**6. Child Support Court**

Judge Kimberly Shaw said she handed this off to Assistant Prosecuting Attorney Steve Gunn. She said he is working to set up a meeting with Clayton VanNurden with Treatment Court to learn about policy and procedures for alternative sentencing court so those procedures can be implemented with this program. She said another hold up of the program is the lack of funding as she believes there has to be funding for the program to be successful.

**7. Jail Bond Form**

Judge Jodie Asel said this discussion started due to concerns with the number of conditions having to be added to the bond form. She said since the form is an OSCA form it cannot be amended, therefore she does not see a need to amend the jail bond form, as it could potentially cause more confusion. She said it would be helpful if the clerk can leave extra space so the judge has room to write in extra conditions. Judge Kevin Crane said he has noticed in the motion to set bond from the state, they have started asking for conditions that are only applicable to the charge.

**8. Rule 24**

Judge Leslie Schneider noted this rule was reviewed last month and a motion was approved with amendments. The new rule goes into effect July 15, 2018. She said page 10 of the Court en Banc packet is the rule with her suggested language. There was discussion about the rule being for all cases. Judge Schneider said the language on page 10 is slightly different than what was initially approved. Judge Schneider moved that the language on page 10 of the Court en Banc's packet be approved. Second: Judge Kimberly Shaw. The motion passed unanimously. Judge Leslie Schneider moved that the rule go into effect July 14, 2018. Second: Judge Kimberly Shaw. The motion passed unanimously.

**9. Treatment Court Entry**

Commissioner Casey Clevenger said based on their most recent audit, the treatment courts are not fully in compliance with the best practice of getting people into treatment court as quickly as possible from date of arrest to date of entry upon treatment court. She said she has very little control during the pre-trial process, however upon final disposition she is going to start bringing the defendants into treatment court the same week of their disposition. Commission Clevenger provided a handout of her schedule for the different treatment court programs. She said all of the probation and parole liaisons will be trained, starting July 9, 2018, to meet with defendants after sentencing, giving them a form letter signed by Commissioner Clevenger, saying the date they are ordered to appear in Division XII. Commissioner Clevenger said the goal is to address the delay, which will also get the defendants into services more quickly. Judge Jodie Asel clarified for DWI cases that they will need to complete their shock detention prior to entering treatment court. Commissioner Clevenger also said over the next year she is rebranding alternative sentencing to treatment court I, II, etc., as it more closely follows legislation changes that occurred this year and an overall national movement, as it is no longer an alternative sentencing program but rather a mainstream form of disposing of criminal cases. She anticipates signage on the building and letterhead will also be updated to reflect the change. It was agreed Veteran's Court would be changed to be Treatment Court III.



**10. Failure to Appear or Pay Traffic Violation Form**

Court Administrator Mary Epping said on pages 11-13 is a new version of the form OSCA has provided. The change reflects the "Options for Reinstating Your Driving Privilege" which were revised by removing the option to take the reinstatement requirements to the local licensing office. This new form is being used in Callaway County and Boone County will begin using the form soon.

**11. Jury Mileage**

Court Administrator Mary Epping said OSCA has indicated the mileage needs to be a flat roundtrip mileage (no decimal), so she has updated the amounts to make the roundtrip a flat number. Page 14 of the Court en Banc's packet is the original and revised amounts. She rounded up or down with a flat amount. Judge Leslie Schneider moved to accept the new proposed rate. Second: Judge Michael Bradley. The motion passed unanimously.

**12. New Callaway, Jury Assistant .5 FTE**

Court Administrator Mary Epping thanked Callaway County Circuit Clerk Megan Morse who is letting the circuit use her allocated .5 position for jury services. The position has been posted, currently has 24 applicants and it is anticipated someone will be hired soon. Mary said this position will be under the supervision of the Jury Supervisor, Gloria Schaefer and Court Administration, but will be a Callaway dedicated employee.

**13. 96 Hour Mental Health Hold, MUPC versus Biggs**

Court Administrator Mary Epping said this issue arose last week about what to do with an individual in the jail's custody when there is a request for a 96 hour hold, but because of the charges MUPC will not accept the defendant. Page 16 of the Court en Banc's packet is a list of charges for which MUPC will not accept a defendant. The judge should indicate on the 96 hour hold that the defendant is to go to Biggs in Fulton and the jail will transport. Mary confirmed this process with Biggs, and they just asked for a phone call prior to so they can prepare doctors and a bed. It was agreed staff from the probate office will call Biggs to give them notification. Judge Carol England said the statutory crime as listed on page 15 was not updated in the statute to match the criminal code changes. Judge England said to address the issue, the prosecutor may have to change the charge.

**14. Juvenile Sight and Sound Separation**

Deputy Court Administrator Cindy Garrett said there have been discussions about space concerns in the Callaway County Courthouse. One of the concerns noted is when in-custody juveniles are present for Court they must not have any contact with in-custody adult inmates. This requirement stems from federal law, 28 CFR 115.14 which states that in areas outside of housing units, agencies shall either maintain sight and sound separation between youthful inmates and adults inmate, or provide direct staff supervision when youthful inmates and adult inmates having sight, sound, or physical contact. There is also state statute 211.151 that provides the definition for juvenile detention facility that states places of detention must prevent haphazard or accidental contact with between juvenile and adult detainees.

## 15. Legislation

Court Administrator Mary Epping sent an email with the truly agreed to and finally passed bills. She said the current governor has until mid-July to take action on the truly agreed bills where no action was taken by Governor Greitens. Judge Jeff Harris said they have to conclude the budget by June 30. Mary reviewed the below bills.

**HB1355** - Department of Public Safety and Department of Corrections – this bill creates the division of probation and parole, a new division within DOC. The director of the division will appoint probation officers and issue warrants for the arrest for persons under the supervision of the division. It also establishes a community behavioral health program where the department must collaborate with department of mental health to provide comprehensive community based services for individuals under their supervision. This bill also includes electronic monitoring, stating the court may place the person on electronic monitoring with victim notification if the person is charged with or been found guilty of violating an order of protection. The person has to pay for the monitoring or DOC could be sent the bill if the defendant is unable to pay. An electronic alert is probable cause to arrest the monitored person for violation of a protection order. Lastly for private probation services, this bill requires entities providing private probation services to misdemeanor offenses to utilize a cutoff concentration utilized by DOC with regard to drug and alcohol screening for clients. Expungement of certain records was also addressed which allows individuals found guilty of the offense of unlawful use of a weapon, due to carrying a concealed weapon prior to January 1, 2017, to apply for an order to expunge.

**HB2562** – Compliance Credits – this bill suspends the application of earned compliance credits upon an offender's entry into treatment court. It states upon successful completion of the treatment court all earned compliance credits accumulated during the suspension period will be retroactively applied.

Deputy Court Administrator Cindy Garrett reviewed the below bills:

**SB 793** – signed by the Governor 6/1/18 - Changes the age of majority to age 18 which shall not be effective until January, 2021. Added 211.435, which creates a Juvenile Justice Preservation Fund, where the funds are distributed to judicial circuits of the state based on increased workload due to the age of majority increasing to 18. It includes adding a \$2.00 surcharge on all traffic violations. Added 488.315, where a \$3.50 charge is assessed to all civil actions filed, which goes to the Juvenile Justice Preservation Fund. 558.003 was added stating the prosecuting attorney shall have discretion to charge an offender convicted of an offense in which the victim was a child a fine up to \$500 for each offense, which goes to the Juvenile Justice Preservation Fund. It changes some language to the charge of prostitution and promoting prostitution.

**SB 800** – signed by the Governor 6/1/18 - Changes the age of majority to age 18. Adds 211.093.2 which grants the juvenile court, if they have jurisdiction under 211.031.1(1), to enter an order regarding custody under 452, enter a child support order, or establish rights of visitation. If they have jurisdiction pursuant to 211.031.1(1) or (2) the court is also given concurrent authority and jurisdiction with the circuit court to enter a final order and judgement establishing paternity. These orders are to remain in effect even after termination of jurisdiction in the juvenile court proceedings. Children's Division is also required to make all reasonable efforts to establish paternity within 60 days of juvenile court obtaining jurisdiction under 211.031.1(1) and (2). 211.435 was added to create the Juvenile Justice Preservation Fund, same as in SB 793. It changes some language under 211.444 regarding termination of parental rights. TPR can be granted against biological father of a child if he is an alleged perpetrator of forcible rape that resulted in the child's birth. This bill gives the prosecuting attorney discretion to charge a fine of up to \$500 to an offender for an offense in which there was a child victim.



**SB 806** – signed by the Governor 6/1/18 - Several changes regarding the probate process. 473.397(6) was added dividing statutory allowances against the estate of a decedent to debts for medical assistance owed to the State of Missouri. It adds the definition of Conservator ad Litem to 475.010, which is a person responsible for management of financial resources on behalf of a minor; adds Interested Persons definition. It also changes the definition of Habilitation under 475.010. Some changes under 475.050, of not appointing an unrelated third party as guardian or conservator unless there are not suitable relatives; requires guardians to pay for background screenings; changes as to co-guardians. Changes to 475.075 changing some requirements. Gives the probate court authority to enter orders of visitation.

**SB 819** – signed by the Governor 6/1/18 - allows obtaining birth certificate without cost to CD, JO, GAL, DYS if youth under jurisdiction of juvenile court under 211.031. Those youth in CD custody can open a checking and saving account with consent of CD or juvenile court. Allows under 453.015, 453.080 for a Post Adoption Contact Agreement between birth parents and adoptive parents describing future contact between the parties and child. 475.602 allows a parent to delegate power of attorney over a child for up to 1 year.

#### **16. Prosecuting Attorney Portal**

Boone County Circuit Clerk Christy Blakemore said OSCA created the Prosecuting Attorney portal for municipalities that had no case management system that would allow the tickets to go from law enforcement to the court. The PA portal has been piloted in several municipalities and a couple of state courts. Christy said Boone County was asked to pilot the program, however the prosecuting attorney did not want to as they felt it would be double the work as they are running the tickets through their Carpel system. She said local municipal prosecutors are private attorneys that do not have their own case management system, therefore we are requesting that they use the PA portal when it becomes available in a couple of months. The problem has been that tickets are sent directly from law enforcement to the court versus first going to the prosecutor and then to the court. Christy believes it would be beneficial to have an administrative order for the municipal prosecutors in our circuit to be required to use the PA portable when it becomes available. The municipal prosecutors have all been notified and are in the process of being assigned ORI numbers. Christy said the new system will decrease workload for the clerk and will also ensure accurate charges are filed as the system will not allow prosecutors to file on invalid charges.

#### **17. Garnishments**

Boone County Circuit Clerk Christy Blakemore said the clerk's office is refusing to accept a garnishment form from a law firm that is not using the OSCA state form. Christy is requesting a local court rule be made requiring parties to use the state form for garnishment filings. There was discussion that some law firms have their own case management system with a built in form. It was noted the correct OSCA form should be available on our website. The judges said they will make an entry notifying parties they must use the correct form, should they file on a non-OSCA approve form. Court Administrator Mary Epping said she will review the Supreme Court rules regarding the need to use the OSCA form.

#### **18. 2018 Dockets**

Deputy Court Administrator Cindy Garrett provided a handout of the proposed docket changes to the 5<sup>th</sup> Monday for circuit judges showing Divisions I, II and IV with a 1:30 criminal docket, Division III with a 9:00 criminal docket, and Divisions I, II and III having video arraignments. Also Division IV will do expungements on the 2nd Tuesday at 10:30 and Division IX is going to Callaway County on the 4th Monday afternoon for a 1:30 Probate docket. Judge Kevin Crane thanked Judge Jodie Asel for assuming the expungement docket. Judge Asel noted the

differences between each circuit judge for the Callaway docket. She noted Division IV should be the same as Division I. There was discussion as to what time the DOC Video docket should be set. There will be further discussion to finalize the changes to the dockets.

**19. Other**

Court Administrator Mary Epping said Beth Hubner from UMSEL is doing research on a project funded by the Arnold Foundation about the perception of fine and fees and potential avenues for reform. Mary asked for volunteers as they are asking to interview judge. Judge Michael Bradley said already volunteered.

Judge Sue Crane said a Callaway County deputy brought to her attention where they were provided several orders of protection from Boone County for service, however the orders did not have case numbers and court dates. It was agreed there will be follow-up to see why this is occurring.

Boone County Circuit Clerk Christy Blakemore said she had six openings, they have hired four, three of those have started and another starts June 25 and interviews are scheduled for tomorrow for the final last two vacancies.

**20. Comments from the Public**

No comments.

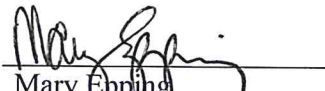
**21. Meeting Date**

The next meeting is scheduled for July 24, 2018, at 5:00 p.m. to convene in the Boone County Courthouse, Law Library. Adjourned at 6:05 p.m.

Prepared by:

  
Cindy Garrett  
Deputy Court Administrator

Submitted by:

  
Mary Epping  
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Distributed on:

