

Juvenile Justice Improvement Committee  
Judicial Conference of Indiana

**Meeting**  
January 7, 2011

The Juvenile Justice Improvement Committee of the Judicial Conference of Indiana met on Friday, January 7, 2011 from 12:00 Noon – 3:30 p.m. at the Indiana Judicial Center.

1. Members present. Christopher L. Burnham, Steve H. David, Roger L. Duvall, A. Christopher Lee, Lori K. Morgan, G. George Pancol, Carl H. Taul and Loretta H. Rush, Chair.
2. Staff present. Jeffrey Bercovitz, Anne Jordan, Angela Reid-Brown, and Jane Seigel provided the committee with staff assistance.
3. Guests present. Judge Charles Pratt; James W. Payne, Director, Department of Child Services; John Ryan, Legal Counsel, Department of Child Services; and Leslie Rogers Dunn, Director, GAL/CASA, Division of State Court Administration.
4. Minutes. The minutes of the meeting on November 5, 2010 were approved.
5. New Interstate Compact on Juveniles. Jane Seigel distributed a summary of a new Interstate Compact on Juveniles, explaining that 45 other states have already adopted it. She reported Sen. Zakas will introduce legislation to make it law in Indiana. She said a new \$10.00 travel permit fee will be introduced which will be kept at the county level. The juvenile will have to be accompanied at all times, which will incur more expenses for the compact.
6. DOC and county costs reimbursement. Jeffrey Bercovitz reported working with DOC to prepare a fix in HEA 1001 (2008) to allow the courts to order parental reimbursement to DOC or a county for monies paid on behalf of juveniles. Committee members discussed the need for better procedures to collect monies on the back end, and the need for reimbursement procedures from DCS.
7. Advisement of rights. The Indiana Judicial Center recently received an inquiry from the Civil Rights of Children Committee, Indiana State Bar Association, about the advice of rights judges give juveniles concerning appeals. Jeffrey Bercovitz reported this advisement is given in the CHINS dispositional dialogue. Committee members agreed by consensus the juvenile should be advised of the right to appeal at the beginning of either a CHINS or Delinquency case. They also agreed the Juvenile Justice Benchbook Committee should look at this issue.
8. Presentation by James W. Payne.
  - a. James Payne, Director, Department of Child Services gave a summary of proposed legislation to members of the committee. This included the following: Fees for fingerprinting, adoption petitions technical corrections, foster home licensure technical correction, consolidation of CHINS with paternity or dissolution cases, child protection team technical correction, interviewing children, professional report sources, fatality reports technical correction, legal

guardianships, foster care license capacity, definition of therapeutic foster family home, fingerprint exception if an individual cannot be fingerprinted, alignment of background check statute for adoptions, placement licensing and probation, child fatality team structure, removal of 90 day reporting requirement, technical correction of party to a TPR case, adoption consent, clarification of definition of prospective adoptive parent vs. adoptive parent, timeframe for notice in termination of parental rights cases via closed circuit TV, definition of custodian, requirement of separate accounts for IV-D incentive monies sent to the county, child protection index security requirements, CAPTA hearing changes to permit the use of hearsay in the administrative review order if no objection.

b. John Ryan reported that three proposed rules on rate-setting are pending. They should be out soon and will be submitted for signature.

c. James Payne said the new policy not requiring probation consultants to be consulted before the use of shelter care and placement less than 30 days was implemented at the first of the year. Jeffrey Bercovitz reported Title IV-E findings still need to be made.

d. James Payne indicated DCS implemented the shelter care policy without the changes agreed upon by the Juvenile Justice Improvement Committee at the October meeting. Jane Seigel agreed to get final policy out to all courts.

e. James Payne distributed a powerpoint presentation on length of placements in CHINS cases and reviewed it with the committee.

f. Judge Rush stated DCS should give counties notice, as soon as possible, of non-compliance with all requirements needed to receive state funding for services or placements for delinquents. Courts should not have to find out many months after a placement is made that language was missing from an order or some other requirement for placement funding was not met which would cause the county to have to pay for a placement.

9. State juvenile public defender.

a. Jeffrey Bercovitz distributed draft legislation (PD 3936) which would establish a state juvenile public defender office. It also included a juvenile waiver of counsel provision.

b. Judge Pratt discussed the requirement of an attorney for the child in a CHINS or Termination case and whether the attorney would represent the wishes of the child or the best interests of the child. If the child was very young, the wishes could not be determined. The committee discussed whether adding the requirement of an attorney will help DMC issues. Judge Pancol moved to not support the preliminary draft. Judge Lee seconded the motion. The motion was passed.

10. Recent legislation.

a. Jeffrey Bercovitz distributed House Bills 1016 and 1037; and Senate Bills 7, 172, 143 to the committee.

b. Judge Duvall moved to not support House Bill 1016, which would make violations of underage drinking laws adult criminal acts rather than status delinquent acts. Judge Burnham seconded the motion. The motion was passed.

11. Other. Jeffrey Bercovitz announced the upcoming educational conferences.

12. Next meeting dates. Members of the committee agreed to meet again on Friday, February 4, 2011, March 4, 2011, May 6, 2011, June 3, 2011, October 7, 2011 and November 4, 2011 all from 12:00 noon – 3:00 p.m. at the Indiana Judicial Center.

Respectfully submitted,

Jeffrey Bercovitz, Director  
Juvenile and Family Law

Juvenile Justice Improvement Committee  
Judicial Conference of Indiana

**Meeting**  
March 4, 2011

The Juvenile Justice Improvement Committee of the Judicial Conference of Indiana met on Friday, March 4, 2011 from 12:00 Noon – 3:00 p.m. at the Indiana Judicial Center.

1. Members present. Christopher L. Burnham, Steven H. David, Deborah A. Domine, Roger L. Duvall, James D. Humphrey, Lori K. Morgan, Peter J. Nemeth, G. George Pancol, Carl H. Taul and Loretta H. Rush, Chair.
2. Staff present. Jeffrey Bercovitz, Anne Jordan, and Angela Reid-Brown provided the committee with staff assistance.
3. Guests present. Judge Charles Pratt; Jeff Lozer, Chief Legal Counsel, Department of Child Services; Jesse Hahnel, Attorney, National Center for Youth Law, Tamara Perry, Intern, and Stephanie Yoder, Indiana Youth Institute.
4. Minutes. The minutes of the meeting on January 7, 2011 were approved.
5. Update on Mental Health in Detention Pilot Project. Jeffrey Bercovitz gave an update on the progress of the Mental Health in Detention Pilot Project. He distributed a report entitled “Indiana Juvenile Mental Health Screening, Assessment and Treatment Project” dated 2011 by Matthew C. Aalsma, PhD., and a powerpoint about the project. He reported there are now 14 pilot sites.
6. Presentation by Jesse Hahnel. Mr. Hahnel, National Center for Youth Law, gave a presentation on the educational needs of children in foster care. He said an “educational champion” should be appointed by a court in every CHINS case. This should be an existing adult in the child’s life, including a parent. He reported a pilot program would begin in April or May in Marion County. He stated DCS is also involved in this project and will develop a plan for educational champion implementation statewide. Committee members advised they are using education surrogates. Mr. Hahnel noted an education surrogate can only be used in special education cases.
7. Presentation by Jeff Lozer, Indiana Department of Child Services.
  - a. Mr. Lozer distributed a handout which included materials about Permanency in 24 months, the use of substitute care, and average length of time from the beginning of the case. Committee members indicated concern when reviewing the information distributed, and asked for clearer information. Mr. Lozer reported six (6) new attorney positions had been added.
  - b. Judge Rush requested a warning to a court in advance if an order from a court does not meet Indiana law and the county will be charged for the cost of the placement ordered. She noted two counties have been notified of orders which are deficient.

c. Mr. Bercovitz reported a permanency session would be held at the Probation Officers Annual Meeting in May.

8. Proposed legislation.

a. Mr. Bercovitz distribute the following bills: SB 465 - DCS legislation; SB 34 - Interstate Compact on Juveniles legislation; HB 1107 - Preventative programs for at-risk children; HB 1201- Release of adoption information; HB 1316 - DOC and county parental reimbursement legislation; HB 1422 - Notice to parent, guardian, or custodian and HB 561 – no use of community corrections funds for juveniles. They agreed HB 561 should be corrected to continue to permit use of community correction funds for juveniles.

b. Committee members agreed by consensus to ask judges with legislative ideas to bring them to this committee for review and to make this suggestion via email and make the announcement again at the Juvenile Court Judges Annual Meeting.

c. Members of the committee discussed the need to be proactive with legislators. They could contact legislators to invite them (1) to attend the Annual Meeting, (2) selected meetings of the committee or (2) a briefing in advance of the legislative session.

9. Next meeting dates. Members of the committee agreed to meet again on Friday, April 8, 2011 and not meet on May 6. They agreed to meet on Friday, June 3, 2011, October 7, 2011 and November 4, 2011 all from 12:00 noon – 3:00 p.m. at the Indiana Judicial Center.

Respectfully submitted,

Jeffrey Bercovitz, Director  
Juvenile and Family Law

Juvenile Justice Improvement Committee  
Judicial Conference of Indiana

**Meeting**  
April 8, 2011

The Juvenile Justice Improvement Committee of the Judicial Conference of Indiana met on Friday, April 8, 2011 from 12:00 Noon – 3:30 p.m. at the Indiana Judicial Center.

1. Members present. Mary Beth Bonaventura, Vicki L. Carmichael, Gary K. Chavers, Glenn D. Commons, Steven H. David, Deborah A. Domine, Roger L. Duvall, James D. Humphrey, A. Christopher Lee, Lori K. Morgan, G. George Pancol, and Loretta H. Rush, Chair.
2. Staff present. Jeffrey Bercovitz, Anne Jordan, Angela Reid-Brown and Jane Seigel provided the committee with staff assistance.
3. Guests present. Brady Brookes, Legislative Analyst; Rick Peterson, CEU; John Ryan, Attorney; Jason McManus, Deputy Director, Probation Services and Jeff Lozer, Chief Legal Counsel, all from Department of Child Services; and Cathy Graham, Executive Director, Indiana Association of Residential Child Care Agencies (IARCCA).
4. Minutes. The minutes of the meeting on March 4, 2011 were approved.
5. Presentation by Indiana Department of Child Services.
  - a. John Ryan discussed a draft emergency shelter care policy and reducing the number of days for its use. Judge Rush, Chair did not agree to any reduction and asked DCS to table this for one year. Jeffrey Bercovitz distributed materials from individuals on the committee about the incorrect numbers of juveniles in shelter care in an Excel spreadsheet distributed before the March meeting.
  - b. Jeff Lozer distributed material on the DCS “Safely Home, Families First” policy and reviewed the policy with members of the committee. Committee members asked for home studies on a timely basis, even when DCS policy prevents placement of the child in the home. They also asked for the research on the Safely Home policy. Jason reported an upcoming Director’s note will give citations to research in this area and could be shared with the committee.
  - c. John Ryan distributed the DCS budget, which indicated administrative spending increased mostly because of hiring more family case managers, reducing the vacancy rate for managers, and hiring attorneys rather than paying lawyers as independent contractors.
  - d. John Ryan also discussed various strategic initiatives with the members of the committee, including placement trends, foster care specialists, centralized eligibility unit, Medicaid initiatives, negotiated adoption subsidies, child support IT reorganization, outcome measures, and CFSR ratings.
  - e. John Ryan reported ten (10) letters would be going out to as many counties with court orders which did not use the appropriate Title IV-E language. Jason McManus explained the CEU and legal staff review orders which are believed to be deficient. Courts have 30 days to get their orders to DCS, and probation has 30 days to enter Title IV-E information. It was suggested

DCS should review the orders within 30 days of receipt to see if the order has all the required Title IV-E information. Judge Rush agreed to recommend additional training to all courts on the importance of the use of the correct Title IV-E language in court orders removing a child from the home for the first time and orders of placement. Judge Rush requested a court be notified as soon as possible if an order from a court does not meet Indiana law and the county will be charged for the cost of the placement ordered. Jason McManus agreed to review how long DCS needs to get orders to review and for DCS to review them. John Ryan agreed to look at the system of review of court orders as well. He also noted about 16 ½ % of all Delinquents are Title IV-E eligible and 47-48% of all CHINS are Title IV-E eligible.

f. Brady Brookes distributed a summary of SB 465. She highlighted recent changes to the bill. Committee members discussed the section on consolidation of CHINS and domestic relations cases and when “alleged” fathers would be required to undergo genetic testing in CHINS cases.

6. Presentation by Cathy Graham.

a. Cathy Graham distributed the Settlement Agreement dated February 9, 2011 between IARCCA and DCS. She reported the unbundling of services and that member agencies have to become Medicaid providers.

b. Cathy Graham distributed a summary of IARCCA’s testimony to the House Ways and Means Committee about cuts in the DCS budget and regional budget allocation comparisons. She noted a 25% cut in monies for services and a 19 % increase in administration. She believes some agencies will close when services are unbundled. Judge Bonaventura noted the various quality and capacity issues in her county with so few children in placement and too much reliance on in-home CHINS.

c. Cathy Graham distributed a summary of IARCCA’s testimony on adoption subsidy payments. She disagrees with DCS numbers that adoptions are increasing.

d. A Special Report Brief “Discharge to Permanent Placements” was distributed by Cathy Graham highlighting information of IARCCA’s Outcome Measures Project.

7. Use of Title IV-E language.

a. Committee members believe DCS is not fairly and timely notifying counties of violations of the statute requiring the use of Title IV-E and do not approve the language of the first notification letter. Judge Humphrey moved that the Indiana Juvenile Justice Improvement Committee stay any approval to a joint policy of the requisite Title IV-E language or be a part of the collection efforts of the DCS concerning the collection of funds from a county which fails to use Title IV-E language until such time as an agreement can be achieved with DCS on the process to be used for these collection letters given to the courts. Jane agreed to let Jason McManus at DCS know about this stay. The policy concerning the language of the order in the first collection letter was noted in the April 1, 2010 Friendly Friday Update.

b. The motion was seconded by Judge Duvall. Members of the committee discussed (1) DCS agreement to look at reviewing their process to determine if the order has the correct language, (2) the cooperation the committee has had with the DCS in development of order forms with the correct language, (3) the training conducted by the Judicial Center in the use of the new order forms, (4) the difficulty in getting the first detention order completed and the use of the appropriate IV-E language when multiple detention hearings are held back to back, (5) the need to focus on the correct placement of the child in any removal and/or placement order; (6)

the approval of the placement and/or services by the DCS probation consultant with a later determination by another division by DCS the proper IV-E language was not used; and (7) the lack of timeliness of the letter going to one court in which the proper language was not used when first removing a juvenile from the home.

c. The motion was passed.

8. Proposed legislation. Mr. Bercovitz distributed the following legislation: SB 465 - DCS legislation; HB 1107 - Preventative programs for at-risk children; HB 1201- Release of adoption information; HB 1316 - DOC and county parental reimbursement legislation; HB 1422 - Notice to parent, guardian, or custodian; HB 1427 – Child as a dependant for tax purposes; HB 1558 – Unauthorized adoption facilitation. He reviewed HB 1316 with committee members.

9. Next meeting dates. Members of the committee agreed to meet again on Friday, June 3, 2011, October 7, 2011 and November 4, 2011 all from 12:00 noon – 3:00 p.m. at the Indiana Judicial Center.

Respectfully submitted,

Jeffrey Bercovitz, Director  
Juvenile and Family Law



Juvenile Justice Improvement Committee  
Judicial Conference of Indiana

**Meeting**  
June 3, 2011

The Juvenile Justice Improvement Committee of the Judicial Conference of Indiana met on Friday, June 3, 2011 from 12:00 Noon – 3:00 p.m. at the Indiana Judicial Center.

1. Members present. Mary Beth Bonaventura, Christopher L. Burnham, Gary K. Chavers, Deborah A. Domine, Roger L. Duvall, A. Christopher Lee, Lori K. Morgan, G. George Pancol, Carl H. Taul and Loretta H. Rush, Chair.
2. Staff present. Jeffrey Bercovitz, Anne Jordan, Angela Reid-Brown and Jane Seigel provided the committee with staff assistance.
3. Guests present. Jason McManus, Deputy Director, Probation Services, Department of Child Services; and Leslie Dunn, State Director, GAL/CASA, Division of State Court Administration.
4. Minutes. The minutes of the meeting on April 8, 2011 were approved.
5. Juveniles in detention or shelter care.
  - a. Jeffrey Bercovitz distributed numbers from the Youth Law Team of the juveniles in detention for the first day of each month in 2008, 2009, 2010, and January through April 2011. Committee members discussed (1) what detention numbers the Youth Law Team requests from Indiana's detention centers, (2) should these juveniles be counted the same way DCS counts their use of bed spaces, and (3) should detention centers report their numbers to the Judicial Center or the Division of State Court Administration.
  - b. Members of the committee discussed the use of shelter care by courts. Jane Seigel reported Justice David would assist selected committee members in meeting with DCS to determine shelter care use for delinquents by courts. She reported Justice David agreed others could meet with DCS also on this issue.
6. Jane Seigel report.
  - a. Jane Seigel gave an overview of a recent meeting with Chief Justice Shepard and Justice David about three weeks ago to discuss counties with court orders which did not use the appropriate statutory Title IV-E language. Two (2) letters indicating deficiencies in the orders were sent by DCS, which included an invoice to the counties for the cost of the placements. In addition, Justice David also met with Judge Payne on this issue. There was no resolution of the problem, but communication has improved. Jane reported she requested to see the orders from the thirteen (13) counties which did not include the Title IV-E language. She said DCS is working on a "flash notice" so a court may be notified early if the order does not comply with the statute. She also reported DCS expressed concern about hearings not being held within the statutory time frames.

b. Jane Seigel reported DCS and JTAC are working together on a computer enhancement which would permit a single point of entry for probation information on juveniles.

7. Safely Home – Families First.

a. Jeffrey Bercovitz distributed a DCS Director's note on Safely Home – Families First. Members of the committee discussed implementation of this new policy in their counties. They also discussed their experiences with the DCS call center to report suspected abuse or neglect.

b. They agreed to distribute a survey about the responsiveness of the call center at the Juvenile Court Judicial Officers Annual Meeting. They also agreed to distribute a survey about general challenges with juveniles under the court's jurisdiction at the Annual Meeting.

8. Presentation by Jason McManus, Indiana Department of Child Services.

a. Jason McManus distributed a draft "Internal County Pay Process," which would expedite the review of court orders for the statutory Title IV-E language. It includes training probation consultants for review of orders. DCS is focusing the review on initial removal orders for the Title IV-E language. Any order which may be deficient would be sent to Jane Seigel, which would then be forwarded by her to the local court. Committee members said this draft policy needs time frames for the review and final determination by DCS about whether the order is deficient. Jason McManus confirmed only two (2) letters to counties which have orders not including the correct language have been distributed. He reported that after further review, of the thirteen (13) counties mentioned earlier, orders for four (4) children were still problematic. He distributed redacted copies of those orders and noted deficiencies.

b. Jeffrey Bercovitz distributed a policy prepared by the Juvenile Justice Improvement Committee in 2009 about Termination of the Parent-Child Relationship in Delinquency cases. DCS had a number of suggested changes, but none are substantive in nature. Magistrate Domine, Judge Duvall and Judge Rush agreed to review the suggested changes from DCS to the policy and return any comments to the Judicial Center by June 10, 2011. The committee wants to finalize the revisions in time for the Juvenile Court Judicial Officers Annual Meeting.

9. Presentation by Leslie Dunn. Leslie Dunn distributed a letter explaining the Division of State Court Administration and the Indiana Judicial Center are exploring better coordination and communication among juvenile stakeholders. She reported the National Center for State Courts conducted interviews of various persons in this area. They would prepare a report back to Indiana of recommendations to improve coordination and communication among organizations in child welfare and juvenile justice.

10. Recent legislation. Jeffrey Bercovitz distributed HEA 34, Interstate Compact for Juveniles; SEA 465, DCS legislation; HEA 1001, Kinship guardianship assistance; HEA 1107, Preventative programs for at-risk children; HEA 1201, Release of adoption information; HEA 1316, DOC Youth Transitional Services Fund and Parental reimbursements to counties; HEA 1422, Notice to parent, guardian, or custodian; HEA 1427, Child as a dependant for tax purposes; HEA 1558, Unauthorized adoption facilitation. Committee members discussed this legislation.

11. Next meeting dates. Members of the committee agreed to meet again on Friday, October 7, and November 4, 2011; and January 6, February 3, March 2, May 4 and June 1, 2012 all from 12:00 noon – 3:00 p.m. at the Indiana Judicial Center.

Respectfully submitted,

Jeffrey Bercovitz, Director  
Juvenile and Family Law

Juvenile Justice Improvement Committee  
Judicial Conference of Indiana  
Board of Directors  
Indiana Council of Juvenile and Family Court Judges

**Joint Meeting**  
October 7, 2011

The Juvenile Justice Improvement Committee of the Judicial Conference of Indiana and the Board of Directors of the Indiana Council of Juvenile and Family Court Judges met on Friday, October 7, 2011 from 12:00 Noon – 3:00 p.m. at the Indiana Judicial Center.

1. Members present. Deborah A. Domine, A. Christopher Lee, Bruce A. MacTavish, Marilyn A. Moores, Lori K. Morgan, G. George Pancol, Charles F. Pratt, members of the Juvenile Justice Improvement Committee; Vicki L. Carmichael, Gary K. Chavers, Steven H. David, Peter J. Nemeth, members of the committee and Board; and Roger L. Duvall, Stephen M. Sims, James Humphrey, Brett J. Niemeier members of the Board of Directors and Loretta H. Rush, Chair, Juvenile Justice Improvement Committee were present.
2. Staff present. Jeffrey Bercovitz, Angela Reid-Brown and Jane Seigel provided the committee with staff assistance.
3. Guests present. Leslie Dunn, State Director, GAL/CASA, Division of State Court Administration was present.
4. Minutes. The minutes of the meeting on June 3, 2011 were approved.
5. Survey. Jeffrey Bercovitz distributed a survey of juvenile court judicial officers conducted at the Juvenile Court Judicial Officers Annual Meeting in June, 2011. Committee members discussed the results of the survey, including the need to train judges on how to make reports to the DCS centralized abuse hotline.
6. Emergency Shelter Care.
  - a. Jane Seigel distributed the draft Department of Child Services (DCS) emergency shelter care policy which was not approved by the Juvenile Justice Improvement Committee at the October 2010 meeting. She reported DCS would agree to the use of emergency shelter care for up to 20 days. She explained the function of shelter care may be for the juvenile's transition home and other uses and more costly and longer placements might be avoided with shelter care use for up to 30 days. DCS agreed in January 2011 shelter care placements under 30 days could occur without prior DCS approval. Committee members discussed the need to not have a flat 20 day limit on emergency shelter care. Jane Seigel, Judge Pancol, Justice David, Judge Rush, Magistrate Chavers, and Mag. Domine agreed to negotiate with DCS in order to finalize this policy.
  - b. Jane Seigel reported the Division of State Court Administration is looking at getting data on juveniles in detention. The Division might look to use of quarterly case status reports for this purpose.

7. Legislation.

a. Committee members reviewed talking points with concerns about proposed DCS 2012 legislation and for the repeal of statutes which require a county to pay for the placement of a juvenile if the DCS is not responsible for payment. Judge Sims said there is a lack of knowledge locally about juvenile issues. He noted there is no statute of limitations on when the DCS can ask a county to pay for the placement of a juvenile when DCS is not responsible for payment. It was confirmed that *nunc pro tunc* entries could not be used to correct orders that lacked certain statutory language or findings according to federal Title IV-E regulations. Judge Humphrey and Judge MacTavish formed a subcommittee to look at repeal of the county pay legislation. Committee members agreed to get additional talking points to Jane on the repeal language.

Members of the committee discussed use of a phone tree where members of the committee could contact other juvenile court judges in their district to review the talking points about proposed DCS legislation and repeal of the county pay statute. The juvenile court judges could be urged to educate local county officials of the current county pay statute and the need for their repeal. Jane Seigel and Jeffrey Bercovitz agreed to divide up the state into regions for committee members to contact other juvenile court judges with the talking points on the repeal of the county pay legislation and other proposed DCS legislative concerns. It was suggested the first person listed for each subcommittee would be the chair.

b. Judge Rush distributed a summary of DCS legislation forwarded to her by DCS. Committee members discussed preparation of a letter from the President of the Indiana Council of Juvenile and Family Court Judges, and from the Chair of the Juvenile Justice Improvement Committee, requesting a copy of the legislation being prepared by the DCS. Judge Carmichael moved this letter be prepared and Judge Pratt seconded the motion. The motion was passed.

Committee members discussed a second letter to address concerns DCS has about adherence to the statutory timelines in Termination of Parental Rights cases. Judge Pratt reported he is working on a report analyzing 26 court performance measures in juvenile cases, which may assist with this area. Members of the committee discussed concerns with statutory timeframes in CHINS and Termination of Parental Rights cases. Judge Pratt and Judge Duvall formed subcommittee to develop talking points on concerns with rigid adherence to statutory timelines in termination of parental rights cases.

Judge Pratt expressed concern about a particular provision of the DCS summary legislation which would eliminate the use of an in-home CHINS. Judge Pratt, Magistrate Morgan, Judge Lee and Judge Neimeier formed a subcommittee to examine this issue further

8. Waiver of rights. Jeffrey Bercovitz distributed **D.M. v. State**, 949 N.E.2d 327 (Ind. 2011) to members of the committee. He explained it required the Juvenile Justice Improvement Committee to develop a juvenile waiver of rights form to comply with **D.M.** Magistrate Chavers, Judge Carmichael and Judge Rush agreed to draft a form for review by the committee.

9. TPR for Delinquents. Jeffrey Bercovitz distributed a policy prepared by the Juvenile Justice Improvement Committee on the filing of termination of parental rights in delinquency cases, where the juvenile has been out of the home 15 of the past 22 months. This policy indicated draft DCS edits and Magistrate Domine's comments on those edits. The committee members agreed with both the DCS edits and Magistrate Domine's comments on the edits. They

agreed by consensus to send the policy back to DCS for their review. Jeffrey Bercovitz agreed to compile an index of policies jointly agreed to by the committee and DCS.

10. ISBA. Jeffrey Bercovitz distributed materials from the Civil Rights of Children Committee of the Indiana State Bar Association about their proposed rule on waiver of counsel for juveniles. Members of the committee discussed giving input to the Supreme Court Rules Committee when they review the rule. They agreed to bring comments back to the next meeting of the committee.

11. Hernandez v. Foster. Magistrate Domine gave a summary of **Hernandez v. Foster**, 2011 WL 3802667, 2011 U.S. App. Lexis 17681, a Seventh Circuit Court of Appeals case from Illinois decided August 28, 2011. Summary judgment by the district court was (1) affirmed for immunity for the IDCFS caseworker and others for a child's removal, (2) was denied for the continued withholding of the child from the parents when the evidence suggested no abuse in under 48 hours after removal and (3) denied for the coercion by the IDCFS caseworker for the requirement the parents agreement on a safety plan in order to see their child. Committee members agreed to research removal orders generally which might include placement with a relative and pick-up orders.

12. NCSC report. Jeffrey Bercovitz distributed a report entitled, "Improving Outcomes for Children: An Assessment of Child Welfare Improvement Efforts in Indiana" August, 2011 from the National Center for State Courts. Angela Reid-Brown gave a review of the report. She noted the report indicated there were overlapping committees or commissions in Indiana discussing juvenile issues, no one body charged with juvenile system improvements, and data concerns. Judge Pratt said the recommendations in this report should be looked at before going ahead with any legislation.

13. DCS and Probation Summit. Jane Seigel reported the DCS and the Indiana Judicial Center would hold a joint summit on November 1, 2011 to develop an appreciation on what each portion of the juvenile system faces, and what it takes to work together for children. She gave an overview of the agenda.

14. Next meeting dates. Members of the committee agreed to meet again on Friday, December 2, 2011; and January 6, March 2, May 4, June 1, and October 5, 2012 all from 12:00 noon – 3:00 p.m. at the Indiana Judicial Center. There will be no February meeting because of the Super Bowl in Indianapolis. Committee members agreed to hold telephone conference calls to discuss the progress of proposed repeal of county pay legislation during the three weeks after January meeting at the lunch hour since there will be no February meeting.

Respectfully submitted,

Jeffrey Bercovitz, Director  
Juvenile and Family Law

Juvenile Justice Improvement Committee  
Judicial Conference of Indiana  
Board of Directors  
Indiana Council of Juvenile and Family Court Judges

**Joint Meeting**  
December 2, 2011

The Juvenile Justice Improvement Committee of the Judicial Conference of Indiana and the Board of Directors of the Indiana Council of Juvenile and Family Court Judges met on Friday, December 2, 2011 from 12:00 Noon – 3:00 p.m. at the Indiana Judicial Center.

1. Members present. A. Christopher Lee, Bruce A. MacTavish, Marilyn A. Moores, Lori K. Morgan, G. George Pancol, members of the Juvenile Justice Improvement Committee; Mary Beth Bonaventura, Christopher L. Burnham, Vicki L. Carmichael, Gary K. Chavers, Peter J. Nemeth, members of the committee and Board; and Loretta H. Rush, Chair, Juvenile Justice Improvement Committee and Board member were present.
2. Staff present. Jeffrey Bercovitz, Angela Reid-Brown and Jane Seigel provided the committee with staff assistance.
3. Guests present. Leslie Dunn, State Director, GAL/CASA, and Mike Murphy, Staff Attorney, Trial Court Management, Division of State Court Administration was also present.
4. Minutes. The minutes of the meeting on October 7, 2011 were approved.
5. Waiver of rights form. Judge Carmichael distributed a draft juvenile waiver of rights form based on **D.M. v. State**, 949 N.E.2d 327 (Ind. 2011). Committee members suggested revisions to the form. Judge Carmichael moved the form be adopted as amended. Magistrate Chavers seconded the motion. The motion was passed. Committee members agreed to send the form to the author of the opinion, Justice Sullivan for his information, to all juvenile court judges with a cover memorandum, distribute the form at the Juvenile Court Judicial Officer's Conference in June, the Juvenile Justice Benchbook Committee, the Prosecuting Attorney's Council and the Public Defender's Council.
6. Review of DCS placements and services. Judge Nemeth said the Committee needs to discuss the reduction of rates for placements by DCS, in-state and out-of-state placements and services provided by DCS. Judge Carmichael, Judge Moores and Judge Pancol agreed to be on a subcommittee with Judge Nemeth to review this issue for the next meeting.
7. County pay legislation.
  - a. Judge Rush reported on a meeting with Director James Payne to repeal the statute requiring the county to pay for the placement of a juvenile if the DCS is not responsible for payment. Judge Burnham and Judge Bonaventura also attended the meeting. Judge Burnham reported the Board of Directors of the Judicial Conference of Indiana unanimously approved the efforts of the Indiana Council to repeal county pay legislation. He also said he would go to the

Board of Managers of the Indiana Judges Association to request support for this legislation. Judge Rush stated Director Payne would support repeal of county pay legislation if there is judicial support for the use of the statutorily required Title IV-E language in all court orders and hearing all CHINS and Termination cases in accordance with statutory timelines with penalties for failure to do so. Judge Rush indicated (1) the need for judges to collect data in this area, (2) increase training for courts to meet statutory time limits and required Title IV-E findings, and (3) a speedy trial like rule which might include dismissal of cases without prejudice if statutory time limits are not met. Judge Rush also reported Director Payne wishes to use DCS Placement Teams to review placements with probation officers sixty (60) days after court placement. In addition, if a child was in residential care for six (6) months, the case would be presented to a permanency roundtable to help develop a permanency plan. These sixty (60) day and six (6) month reviews would produce recommendations, subject to court approval. Judge Bonaventura indicated Director Payne wanted to change Indiana's emergency shelter care statute to only be permitted for up to twenty (20) days, rather than up to sixty (60) days. She also reported Director Payne wanted to pay for placements in Title IV-E eligible facilities as they do now, only if the facility is under contract with the state.

b. Judge Pancol moved the Chair of the Juvenile Justice Improvement Committee and the President of the Indiana Council of Juvenile and Family Court Judge seek repeal of county pay legislation and be authorized to (1) Seek enforcement of statutory time frames in CHINS and Termination cases by means of creation of a new rule, or amending an existing rule by the Indiana Supreme Court; and the use of dismissals without prejudice; (2) seek adherence to Title IV-E findings required by statute in court orders; (3) Amend the emergency shelter care statute to not permit stays of more than twenty (20) days, (4) Support the use of Placement Teams and Permanency Roundtables for probation children in placement and protracted out of home placements, subject to court approval. Judge Bonaventura seconded the motion. The motion was passed, 10 yes, 1 no. The issue of paying for placements only if the facility is under contract with the state, was specifically not included in the motion, particularly since it was noted that judges are not part of the contracting process.

8. Juvenile statistics. Mike Murphy, staff attorney, Division of State Court Administration gave a presentation on the requirement of a plan for the Court Improvement Program to collect Court Performance Measures in child abuse and neglect cases. Each state will have to present a plan by January 20, 2012 to gather data on four toolkit measures of timeliness and the time to all subsequent permanency hearings. He distributed the minimum requirements for the plan. He also reported Judge Pratt had completed a pilot of Court Performance Measures in Allen County and distributed a paper from Judge Pratt on lessons learned from this pilot.

9. TPR for Delinquents. Jeffrey Bercovitz distributed a policy prepared by the Committee, edited by Magistrate Domine and reviewed again by DCS. He reported Magistrate Domine agreed with the edits now contained in the policy. Judge Carmichael moved to approve this policy. Judge Burnham seconded the motion. The motion was passed.

10. Court retention of jurisdiction of juveniles sent to DOC. Judge Bonaventura reported legislation was drafted to permit juvenile court judges to retain jurisdiction over juveniles committed to the Indiana Department of Correction. Judge Rush wanted a chance for all juvenile



courts to weigh in on this issue. She has invited JauNae Hanger, Chair, Civil Rights of Children Committee, to discuss this with the committee at the next meeting.

11. Waiver of counsel. Jeffrey Bercovitz distributed a petition and accompanying information from the ISBA Civil Rights of Children Committee to the Supreme Court Rules Committee about their proposal to require attorneys for all delinquents when deciding whether they want or wish to waive counsel. Jeffrey Bercovitz distributed the present Indiana waiver statute, as well as the complete juvenile waiver statutes from Florida and Washington. Judge Rush wanted all juvenile courts to be aware of this proposal in order to consider the fiscal and other potential consequences of a rule of this nature. She invited JauNae Hanger to the next meeting of the committee to give a presentation on their proposal.

12. Other business.

a. Judge Rush gave a report on the Education Summit she attended with Justice David, Director Payne, and David Judkins on November 3-4, 2011.

b. Jeffrey Bercovitz reported representatives from groups mentioned in the report “Improving Outcomes for Children: An Assessment of Child Welfare Improvement Efforts in Indiana” August, 2011 would hold a meeting on Monday, December 12, from 10:00 a.m.-3:00 p.m.

c. Jane Seigel reported on the success of the Court Improvement Program Summit held with the Indiana Department of Child Services on November 1, 2011. Over 600 juvenile probation officers and DCS case managers attended. There were good presentations and panels on DCS and Juvenile Probation working together to improve outcomes for children.

13. Next meeting dates. Members of the committee agreed to meet again on Friday, January 6, March 2, May 4, June 1, October 5, and December 7, 2012 all from 12:00 noon – 3:00 p.m. at the Indiana Judicial Center. There will be no February meeting because of the Super Bowl in Indianapolis. They also agreed to not hold a November meeting and hold a December meeting instead.

Respectfully submitted,

Jeffrey Bercovitz, Director  
Juvenile and Family Law