

COMMITTEE FOR PUBLIC COUNSEL SERVICES

MINUTES OF MEETING

March 18, 2015

The monthly meeting of the Committee for Public Counsel Services was held in the Committee's conference room at 40B Bromfield Street, 1st Floor, Boston, MA on Wednesday, March 18, 2015, beginning at 5:37 p.m., Joseph L. Kociubes, Secretary, presiding.

MEMBERS PRESENT: Messrs. Gosselin, Hernando, McGuire, and Stern
Ms. Tewksbury and Mr. White

MEMBERS TELECONFERENCING: Messrs. Kennedy and Rosenfeld

1. Approval of February 17, 2015 Minutes

The minutes of the February 17, 2015 meeting were approved as submitted.

2. Amicus Request

Josh Dohan, Director of the Youth Advocacy Department, sought Committee approval to submit an amicus brief in the matter of Commonwealth v. Louis Costa, Supreme Judicial Court No. SJC-11828. The amicus will argue that the mitigating factors of youth establish, in effect, a presumption against imposing consecutive, rather than concurrent, terms for charges arising out of a single incident absent proof that this is the "rare," "extraordinary" case warranting such extreme punishment. The case has been fast-tracked with briefs due by mid-April and oral argument in May.

Anthony Benedetti, Chief Counsel, notified the members that the majority of the Amicus Subcommittee approved the request.

MOTION: Mr. Stern. That the Committee approve the amicus request in the case of Commonwealth v. Louis Costa, Supreme Judicial Court No. SJC-11828.

SECOND: Mr. Hernando.

VOTE: Motion carried with Mr. Kennedy abstaining.

3. Election of Officers

Mr. White informed the members that Chairman Cinquegrana appointed him as the nominating committee. He notified all that he heard from the three existing officers that indicated their

desire to continue to serve and did not hear from any other interested parties. He recommended the re-election of the existing officers. The Chairman, R.J. Cinquegrana, Vice-Chairman, Arnold Rosenfeld and Secretary, Joseph Kociubes.

MOTION: Mr. White. That the Committee re-elect the current officers, Mr. Cinquegrana as Chairman, Mr. Rosenfeld as Vice-Chairman, and Mr. Kociubes as Secretary.

SECOND: Mr. Hernando.

VOTE: Unanimous.

4. Commitments \$10,000 and Over Report

Mr. Kevin Lucchetti, Acting Chief Financial Officer, submitted the commitments of \$10,000 and over report to the Committee for review. He indicated that there was one new addition to report from the previous month, for PeopleServe PRS, Inc., an information technology consulting service.

5. Budget Update and Monthly Financial Overview Report

Mr. Benedetti presented the monthly financial overview report to the Committee. There is no change to the forecast; however, there are two items to report. 1) There is a pending supplemental appropriation in the both the House and Senate. Both branches included a proposal for \$34.7M for line item 0321-1510. The Senate will debate their bill on Thursday, March 19, 2015, and there will be Conference Committee shortly thereafter. 2) The House included a provision which allows the Chief Counsel to waive the 1,650 hours-based billing restriction for Children and Family Law Division (CAFL) attorneys for this fiscal year due to an attorney shortage. The Senate did not include this particular language in their Bill. An amendment has been filed on behalf of CPCS by Senator Brownsberger and Senator Creem to include the language in the Senate version.

Mr. Benedetti reminded the members that last month the forecast for the 0321-1510 line item was increased and that analysis showed four areas driving the current increase in billing: 1) approximately 4,400 cases handled by CPCS staff last year are now being handled by the private bar (3,300 in District Court); 2) an increase in billing on CAFL cases due to the increase in Department of Children and Families (DCF) filings; 3) increase in Youth Advocacy Division (YAD) cases based upon the change in the raise the age statute; and 4) increase in probation surrenders in district court.

Mr. Benedetti proceeded to give a recap of the Governor's FY 2016 budget proposal. He indicated that the overall funding is higher than what has been proposed in recent years by the Governor; however, line items 0321-1500 and 0321-1504, combined, fall short by approximately \$7M of what is needed. The private counsel line-item is close to being fully funded, however it does not provide funding to increase the hourly rates to private assigned counsel.

Mr. Lucchetti explained that the Governor's budget does not provide funding to annualize positions that have been filled in the current fiscal year. In addition, there is not enough funding to cover any cost-of-living increase for staff, and does not provide funding to staff at a level to handle the 25% case mandate. Also, the Governor did not include funding for the expansion request that was submitted.

Mr. Benedetti informed the members that the House budget will be released in mid-April and the Senate version will be released in mid-May. Discussions with both branches of government are on-going. The Joint Committee on Ways and Means budget hearing is scheduled for March 25, 2015.

6. Mental Health Overview and Update

Mark Larsen, Director of the Mental Health Litigation Division (MHLN), presented an overview of the MHLN. He provided an organizational chart and explained the operational workings of the department and the various types of cases that the MHLN is involved in.

He went on to discuss some of the highlights and most recent decisions that affect the cases that the department handles.

There being no further business to come before the meeting, the Committee adjourned into executive session at 6:30 p.m.

Respectfully submitted,

Joseph L. Kociubes, Secretary