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Minutes of September 24, 2021 PIE Committee Meeting

Approved by the PIE Committee on 12/3/21.

The Performance Improvement and Efficiencies Committee of the Clerks of Court Operations Corporation (CCOC) held a meeting via WebEx on September 24, 2021. An agenda and materials were distributed in advance of the meeting and posted on the CCOC website. Provided below is a summary of staff notes from the meeting. These staff notes are designed to document committee action, not to be a full record of committee discussions. All motions adopted by the committee are in **bold text**. All action items based on committee direction are in **red** and **bold text**.

1. Agenda Item 1 – Call to Order and Approve Agenda

The meeting was called to order by Clerk Laura Roth. Marleni Bruner, CCOC Senior Budget Manager, called the roll.

Present on the conference call: Chair Roth, Clerk Cooney, Clerk Eaton, Clerk Reynolds, Clerk Rogers, Clerk Rooks, Clerk Spencer, Clerk Timmann, and Clerk Vick (joined after roll call)

Absent from the conference call: Clerk Doggett, Clerk Forman, Clerk Green, and Clerk Moore Russell

Clerk JD Peacock gave a quick pep talk to express how important the work of the PIE Committee is in measuring effectiveness as we look towards budgets and workload weighted cases, and case counting. Validation and normalizing the use of the framework are some of the past projects that were done by the Committee. Clerk Peacock stated that it takes a lot of effort and staff in valuing all that work and using it to help manage the Corporation is a huge undertaking. Clerk Peacock also mentioned that Clerk Timmann will touch upon when she gets the opportunity during the Legislative Committee Meeting recently. A couple of issues that Clerk Cooney brought related how we communicate to the Legislative perspective and the impact on Clerks for Administrative Orders by Chief Judges and County Administrative Judges that are different from how we do business. The Legislative Committee was looking for a way to approach that and one of the suggestions was to work with OSCA. Clerk Peacock stepped in because he felt that the work the Clerks are doing from weighted cases, sub-case counting, and the framework provides insight on how we look at

what we do from a statutory responsibility or a court-ruled responsibility that as we go forward, we are costing out and looking at what an Administrative Order that shows what it costs to do something different than everybody else. Clerk Peacock mentioned that this would come naturally out of the work from both the PIE Committee and the Budget Committee as we move through this year and into the next year.

A motion was made to approve the agenda by Clerk Timmann and seconded by Clerk Cooney. The motion was adopted by consent.

2. Agenda Item 2 – Approve Minutes from 1/19/21 Meeting.

A motion was made to approve the Minutes from 1/19/21 Meeting by Clerk Cooney and seconded by Clerk Timmann. The minutes were adopted by consent.

3. Agenda Item 3 – Payment Plan Form - DRAFT

Clerk Roth stated that Legislation passed to create a uniform payment plan form by October 1, 2021. All clerks will be required to begin using the payment plan form by January 1, 2022. It is section 28.42, F.S., which the language on page 8 of the meeting packet. As far as what kind of form should be used, the legislative language states some of the elements that must be included.

CCOC staff gathered payment plan forms from several clerks and took the plan elements from each one to create a comprehensive document for review today. Clerk Roth reviewed and gave some feedback to Jason Welty, CCOC Deputy Executive Director, prior to inclusion in the packet. The form is broad enough in some of the areas to be accommodating of how Clerks do things right now. Clerk Roth mentioned that there is pending or possible legislation if bill gets taken up that will possibly provide more specifics to help with some of the grey areas in the current legislation. Clerk Roth then turned over the meeting to Mr. Welty to discuss and explain the form.

Mr. Welty thanked the partners that joined today on call from the Governor's office, the Florida Senate, the Florida House of Representative. He also expressed thanks to our friends in the court system who are joining us today. Mr. Welty stated that he would go through the form section by section.

Section 1 – Acknowledgement of Terms and Conditions

This section was placed on the form first as opposed some forms who place this section after the individual fills everything out. There is some research that suggest that if a person signs a form first before filling out, they will be more truthful on the information that they are about to fill out because that is still fresh on their mind that they just signed their name that states that they will be truthful. Mr. Welty compared this scenario to when a person testifies in court, the bailiff doesn't make the person swear or affirm after they've testified but rather, they make that affirmation before

the testimony in court which is akin to placing the section first. The language that is in this section is language copied from statute. The language regarding courts accepting partial payments for each case type and an individual can seek to defer those payments has also been copied. The Clerk gets to establish all terms of the payment plan and the court may review that reasonableness and then the last part is where the person attests/confirms/swears that the information provided is true and accurate.

Clerk Roth asked Committee members if there were any objections to proceeding by section then pausing for comments, and questions. Hearing no objections, Mr. Welty continued. At the conclusion of Section 1, Clerk Roth asked for any comments, questions, or concerns. Clerk Timmann suggested that because this is going to be a multipage document, add a line to initial each page particularly since they are signing it at the beginning. Clerk Roth asked committee members if there were any response or objections to Clerk Timmann's suggestion. Clerk Roth stated that "Silence is Acceptance." Hearing no questions or concerns, Clerk Roth asked Jason Welty to continue with Section 2.

Section 2 – General Information

Mr. Welty stated that this is really more of the elements of a payment plan and not necessarily what it is going to look like because some Clerks have online electronic systems, then afterward if the Committee wants, the CCOC to take the document and put the elements into a file so that it looks more like a form. Clerk Roth stated that having both formats for the Clerks would be great. Mr. Welty went on to explain that in Section 2, all the payment plans the Clerks sent him provided were about the same. The only difference between some payment plans form across the State was the consent to email or text notifications and while some Clerks do not have access to this technology yet, we are hopeful that the ability of the e-notify system will provide the Clerks with that ability to have a e-notification system available for all case types especially as it relates to payment plans. CCOC included a check box which reads as follows "I consent to have text messages or email notifications of my payment plan." This is just the general information that folks will have to fill out for example who they are, where they live and contact information. Clerk Roth asked whether anyone had any comments or concerns. A suggestion was made by Clerk Roth to include the words "if available" or "if applicable" next to check box for text messages. Clerk Roth asked if there were any comments or concerns. A question from Orange County was read by Clerk Roth regarding whether or not this section is where case numbers would be included. Jason Welty stated that CCOC could place case number on Section 2. He suggested that we also place Case numbers in Section 7 so that the Clerk is filling out what case numbers are including them on the payment plan as well. Mr. Welty explained that some Clerks across the State will have one case number per payment plan and other will bundle several case numbers into one payment plan. He suggested that it may be in both sections as an option in Section 2 if the Clerk knows which case number it is and then also require it that the Clerks office also place on Section 7 what the person's case number is for this

payment plan. Clerk Roth noted that there were no further questions, so she proceeded to Section 3.

Section 3 – Financial Information

Mr. Welty included the statutory references in this section. Clerk Roth asked if anyone had any concerns or questions about this section Financial Information. Clerk Cooney stated that he understood Jason's reasoning about making the language easy to understand, however as Clerk Cooney has drafted ordinances throughout his career, he tries not to use language different than the Legislature chose to use in the Statute. Clerk Cooney stated that the phrase "take home pay" is different than "net income." Clerk Cooney explained that a person can have a lot of things coming out of his/her pay which will not demonstrate exactly what your net income really is. Clerk Roth and Clerk Cooney re-read the statute. Clerk Cooney stated that the statute requires Clerks to look at the person's net income and divided by 12. Mr. Welty stated that he can put the elements included in section 27.52(1), F.S., into the payment plan form. Mr. Welty stated that it wouldn't be a bad idea to Net Income and in parenthesis explain what that really means, as well as, put the five categories into this section. This section will resemble similar to the Criminal Form looks like in that regard. Mr. Welty suggested changing from "my take home pay" to "my net annual income" and then in the parenthesis explain what your net annual income pay consists of. Clerk Roth stated that the Clerks are forbidden to dig deeper into a person's financial situation because it is not relevant according to statute. Clerk Kinzel commented on this issue stating she did not agree that the form should read "take home" because according to the statute, it is **all** of your income that is eligible by law to be taxed. Clerk Timmann commented that her interpretation of the statute is basically what Clerk Kinzel stated that it is a composite of all of a person's income minus any required deductions required by law, however, section 27.52(a), F.S., says salary and wages which is different from a composite of a true net income.

Clerk Timmann also stated that this may be an area where we will need some clarification. She would like to have this section/issue flagged to find out what was the real intent or Legislative meaning of "net income." Clerk Timmann also agreed with Clerk Cooney that we should be citing the statutory language wherever and whenever possible. They are the policy makers who made it and we should use their language. Clerk Roth conducted a poll of all the Clerks and Clerks staff present on the call to raise their hands to indicate whether or not they currently have on their payment plan have simple language of net income overall and the second question was who has it like the indigent form, where you also have blanks for social security and all kinds of other income, etc.

Clerk Spencer stated that his payment plan is short and simple and basically just asks how much the individual can afford to pay. Clerk Roth asked Mr. Welty for direction on this section. Mr. Welty stated that having the Financial Information in Section 3 helps the Clerk to assist the person to make an informed decision in making payments on a monthly basis. Clerk Spencer asked how much time it is going to take visiting with each of these consumers. It is time consuming.

Clerk Roth asked if anyone objected to keeping the section as is with the exception of changing “take home pay” to “net annual income.” Clerk Butterfield stated that most people do not provide their expenses just provide their income. Clerk Timmann stated that more detail is helpful. Clerk Spencer state he had concerns that if we have all the requested information on the form and we are working toward a standardized form, it is up to the individual to fill it out completely, but they will put on the form what they do or do not want to. Getting off the subject, Clerk Spencer noted that he has on their form a checkbox that the applicant is giving consent to allow them to have a manual call, by prerecorded or artificial voice messaging to text messaging, emails, or automatic dialing system to remind them that their payment is due. Mr. Welty stated that this is included in Section 2. Mr. Welty asked if a consent was needed for robocall and Clerk Spencer stated that according to what was stated by collection agencies he’s spoken to, consent is needed. Clerk Roth asked Mr. Welty to add in Section 2 consent for auto-calls. Consent to text should also read in parathesis that messaging rates may apply.

A motion was made to change “take home pay” to “net annual income” and include other incomes with individual lines by citing section 27.52(1), F.S., as a definition of other income. Clerk Spencer seconded. Clerk Roth took a vote of all Committee members. Motion unanimously accepted.

Section 4 – Acceptable Payment Methods

Mr. Welty explained that this section is customizable based on each county’s current methods. Clerk Roth commented that you can add payment methods that are applicable to your office or remove if not applicable. Clerk Roth asked if there were any comments, concerns, or questions on Section 4. No questions, comments or concerns voiced by committee members.

Section 5 – Payment Plan Terms

Mr. Welty explained that he compiled the different payment plan terms used across the State. Mr. Welty added that Time Zones should be included in this section. Clerk Roth asked for any comments, concerns, questions. No questions, comments or concerns voiced by committee members.

Section 6 – Failure to Comply

Mr. Welty explained that this section lists the potential consequences that a person faces if they fail to comply with the terms of the payment plan. This is a statutory requirement as it relates to what is required to approve our payment plan. Clerk Roth raised concern about the section that reads as follows; “If I fail to establish a new payment plan, my license will remain suspended, and after 90 days, my case (s) will be referred to a collection agency.” If after 90 days, it remains unpaid on the payment plan my case will be referred to collection agency. Mr. Welty will amend section. Clerk Roth asked for any comments, concerns, questions. No questions, comments or concerns voiced by committee members.

Section 7 – Clerk Office Fills Out This Section

Mr. Welty explained that this section is where the clerk is going to inform the customer how much they currently owe and how much they will pay on a payment plan. Clerk Roth reminded Mr. Welty that this is the section where Orange County requested a Case number be added. Clerk Roth commented that how much a person can pay should be included in Section 3 Financial Information. Clerk Cooney raised a concern regarding “Reasonableness disclosure” paragraph. Slight adjustment to language to mirror the language used in section 28.246(4), F.S. Clerk Moore Russell raised her hand to ask about including a space down payment in the calculation line. Clerk Roth stated that the statute does not require a down payment. Clerk Moore Russell suggested that this item/issue of down payment be tabled for further discussion so that we can have this standardization across the State. Clerk Roth stated that it is a line item in the proposed Legislative Clerk Bill. CCOC was originally going to include that future language in the form, but that is not the case right now. Clerk Roth asked if there were any questions, concerns, comments by Committee members.

Mr. Welty read email received from Sara with the Fines and Fess Justice Center regarding the uniform payment plan form. Her comments are “we do not think there should be a down payment for payment plans, people who cannot afford their court fines and fees likely do not have money saved to be able to do this, especially some amount we have seen in some of the counties in particular.” Section 7 will be revised and amended to reflect the small changes required. Clerk Roth asked if there were any questions comments concerns. Hearing none this section was closed. Clerk Timmann suggested that the revised form should be posted on the website for the public as well.

Gary Cooney made a motion approve the form today but to allow Mr. Welty to complete the work of revising and amending the form as discussed and email all Committee members, Clerk Spencer seconded motion. The motion was adopted without dissent.

4. Agenda Item 4 – Other Business

Jason Welty stated that he would put Sara’s other issues into the records from the Fines and Fees Justice Center as it relates to the data tracking purposes. Mr. Welty explained that the CCOC may collect some more information from the payment plans. She also recommended including ACH debit which could fall under other the Pay Choice Option section. Mr. Welty thought that Citrus may already have this technology.

Mr. Welty discussed the different issues that need to be sent to a workgroup:

1. Collection Standards – Circuit Criminal and Civil Traffic
 2. Timeliness Standards – all Court divisions, both for filing and docketing
 3. Reviewing current measures and considering new measures
 4. Case weights – Case Counting Workgroup could be used to look at the case weights for each of the subcase types.
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Clerk Roth suggested that 1 and 2 could be one workgroup and then a second workgroup could take number 3 and be more forward looking. She also asked whether we need people for these workgroups or are some of these workgroups currently established. Mr. Welty informed Clerk Roth that these workgroups do not currently exist for 1- 3.

Administrative Orders – Mr. Welty explained that the PIE Committee will be important in trying to get a handle on how administrative orders impact our budget. Tying in the work done by the PIE committee and letting it flow into the Budget committee so that we can start to look and see this is what the framework says, this is the administrative order that I am now required to do, and this is the delta between those two things - so that we can start to put a dollar amount on those issues as it relates to the workload that Clerks have that is not connected to what is statutorily based. The PIE Committee also needs to update the framework itself.

Clerk Roth asked Mr. Welty if we are signing up any volunteers today. Mr. Welty stated that today was just to inform committee members of the different workgroups available that need volunteers to staff workgroups. Clerk Cooney volunteered for the Case Weights and Framework.

Clerk Roth mentioned that committee members will be receiving a follow up email on the payment plan form, as well as, volunteering for the workgroups. Clerk Timmann notified Clerk Roth that Palm Beach County via chat stated they will assist where needed.

Clerk Cooney thanked Mr. Welty for the thoroughness and the hard work he did on the payment plan form.

Mr. Welty mentioned that the Association (FCCC) sent draft Civil and Criminal Indigent Forms. That is something that will come through this committee. The forms will be presented at a meeting similar to today's where it's a single subject and we can go through the forms section by section and get those new forms approved before we send them off to the Supreme Court.

Clerk Roth adjourned the meeting at 2:41 PM.
