

South Dakota Commission on Indigent Legal Services

September 22, 2025

Members Present

- Betsy Doyle
- Joe Kippley
- Dean Neil Fulton
- Rep. David Kull
- Heather Lammers Bogard
- Judge Larry Long
- Judge Bobbi Rank
- Dick Travis

Excused

- Senator Jim Mehlhaff

Guests

- Aaron Olson
- Chris Miles

Call to Order

Dean Fulton opened the meeting at 10am and established a quorum.

Approval of Minutes of Prior Meeting

Motion: A motion to approve the minutes was moved by Ms. Lammers Bogard and seconded by Mr. Kippley. The motion carried.

County Reimbursement

Aaron Olson provided an update on the annual process for counties to certify and approve expenditures related to court-appointed attorneys and representatives for abused and neglected children. He reviewed the overall distribution of funds for the past fiscal year, noting that detailed county-level information is available and that the amounts represent a small portion of overall expenses.

He highlighted year-to-year changes, ongoing cost increases, and the role of liquidated cost fees, mentioning that there may be interest in adjusting those fees in the future. Mr. Olson also noted that the legislature provided a one-time appropriation last year to help counties manage rising costs, and additional requests for relief may be considered as expenses continue to grow.

Questions focused on why some counties did not receive funds, with clarification that this generally reflects a lack of qualifying expenses rather than a failure to report.

Open Meeting Law Review

Mr. Kippley provided an overview of how open meeting laws apply to teleconferences, in-person meetings, and other settings. He discussed the mandatory open comment period, the requirements for entering executive session, and the potential consequences of failing to comply. Mr. Kippley also addressed email quorums, noting that a “reply all” chain could unintentionally trigger an open meeting.

The discussion covered best practices for handling sensitive topics, such as personnel issues, emphasizing that substantive conversations should take place in properly convened executive sessions rather than over email. Email may be used for scheduling but should not include policy-related discussion. Mr. Kippley also noted that in the case of true emergencies, the proper protocol is to give the public and media as much notice as possible before entering executive session.

Case Handling and Status update

Mr. Miles provided a case status update, noting that the office is receiving one to two new cases per week and that no major transition issues have arisen. Most cases originate from Minnehaha and Pennington with some from other counties.

Mr. Miles also led a discussion on how to handle conflict representation, outlining two main options: contracting directly with attorneys or allowing courts to appoint attorneys and then reimbursing them or the counties. Participants discussed budget considerations, the importance of prompt payment procedures, and whether limiting contracts to private attorneys might help free up county attorney time.

Additional discussion focused on appellate and co-defendant cases, funding responsibilities between the state and counties, and potential reimbursement from catastrophic case funds. The group acknowledged that this topic may benefit from further consideration, including consultation with the Supreme Court.

The group agreed to revisit the conflict representation process at a future meeting, with possible follow-up discussions involving the Supreme Court to determine the most efficient and cost-effective approach.

Finally, an additional attorney has been hired and will begin October 15.

Rules Discussion

Dean Fulton invited discussion on the general rules for Indigent Defense Services. Mr. Miles reported that, based on feedback from the last meeting, he had made language changes to the appointed attorney section that were not yet incorporated into the working draft and that he is continuing to refine the language. There were no comments on competence and training, minimum standards and caseload limits, procedures to reassign conflicts, county information retention and reporting, or data collection. Mr. Miles noted he will strengthen the language in the compensation section before finalizing.

Dean Fulton reminded the group that the timeline for working with the Legislative Research Council is quickly approaching. The committee took over responsibility from the UJS for changing reimbursement rates and those rules will need to be finalized soon. Members were asked to review the rules over the next couple of weeks and email comments to Dean Fulton or Mr. Miles so they can be shared with staff and posted.

Dean Fulton thanked RyLeigh Christopherson for her contributions to the draft rules.

Public Comment

Mark Kadi asked about reimbursement for transcript fees, which are a significant expense at the start of an appeal. Dean Fulton and Mr. Miles clarified that under current statute, transcript costs remain the responsibility of the counties, both for criminal and abuse and neglect cases. Any change to shift those costs to the state would require legislative action.

Adjourn

The Commission's staffing responsibilities will transition from Sadie Stevens at the UJS to Eileen Henze in the Office of Indigent Legal Services.

Motion: Mr. Kippley made the motion to adjourn, and it was seconded by Mr. Travis. The motion carried.

The meeting adjourned at 11:00am.