

Approved: April 27, 1994
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Michael O'Neal at 3:30 p.m. on January 24, 1994 in Room 313-S of the Capitol.

All members were present except:
Representative Tom Bradley - Excused

Committee staff present:
Jerry Ann Donaldson, Legislative Research Department
Jill Wolters, Revisor of Statutes
Cindy Wulfschle, Committee Secretary

Conferees appearing before the committee:
Judge Tom Graber, District Judge, Wellington
Jerry Sloan, Office of Judicial Administration
Cathy Leonhart, Court Service Officer of Shawnee County
Melissa Ness, Kansas Children's Service League
Jolene Grabill, Corporation for Change
Paul Shelby, Office of Judicial Administration
Orville Johnson, Topeka

Others attending: See attached list

Hearings on **HB 2582** - Enacting the families in the court partnership act, were continued.

Judge Tom Graber appeared before the Committee as a proponent of the bill. He stated that the most important concept of the bill is that there will be at least two pilot projects to determine if the proposed family court system will work. He commented that if this piece of legislation passed it would be a long term solution in regard to juvenile matters and domestic problems. There is a unique opportunity with this bill to focus on specific problems and goals and to find approaches to resolving the problems and to assess them to see if they are working. He suggested that there should be some language changes that the Committee might want to consider. On page 2, Section 3(b), line 17, change the word "shall" to "may" so that the pilot program is not mandatory. Likewise, in Section 4, line 26 change the word "shall" to "may". The intent of this legislation is to do trial projects to see if they are effective and if this is the way the courts should move. It doesn't seem quite right mandating something that at the time being would be a pilot program.

Chairman O'Neal stated that this bill would establish a family & court partnership fund. He questioned why the fund can't be established under the Supreme Court fund or Judicial budget and let them do it by themselves. Judge Graber responded that if it was done in a manner that the money would be dedicated to the family court system, this could be accomplished. Currently there is so much lacking in the courts, if the money was included within their budget, the court system would tend to use the money elsewhere.

The Chairman responded that if the family court system is such a high priority in the judicial budget, shouldn't the \$2.3 million fiscal note state that the money must go toward the purpose of the family court system and not some of the other priorities that the judicial branch has. Judge Graber stated that it's important that the funding be done in a way that it is evaluated and assessed for a period of time.

Representative Rock commented that the Kansas Bar Association appeared before the Committee and stated that the family court system may be attainable in metropolitan areas, but it is not a goal that can be attained in other judicial districts without deluding the effectiveness of judicial resources. Judge Graber stated that he feels that there are problems with the family court concept but that doesn't have anything to do with educating the judiciary and making them sensitive to what the issues are with regard to families and children.

Chairman O'Neal stated that he was concerned that the judicial branch was going to end up frustrated because the legislature is putting \$2.3 million into a project that we like and won't put \$2.3 million into their budget to do things that they think are critical. The Chairman questioned if the judicial branch is behind this concept. Judge Graber responded that many judges are opposed to the concept of a separate court, but some have overcome this opinion and realized that this is a move toward a more effective system.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY, Room 313-S Statehouse, at 3:30 p.m. on January 24, 1994.

The Chairman asked if the 'one judge, one family' was working in his district and what does it add to the cases. Judge Graber responded that from his standpoint it is advantageous because there are no activities going on with a family or juvenile that he doesn't know about.

The Chairman then questioned if a judge would be biased because of information he had in other cases that the family was involved in. Judge Graber responded that he would have to treat it like any other repeat appearance before his court.

Paul Shelby, Office of Judicial Administration, appeared before the Committee in support of the concept of the family court. However, the Chief Justice does have several concerns with the proposed bill. The first is that Section 3 (a) outlines the jurisdiction that the family court would have and the Chief would like to see it limited to just juvenile and domestic cases. If funding is appropriated it should be new and additional funding added to the budget and be enough to fund the advisory committee for one year. The Chief also has some concerns with Section 3 (b) in regards to the intake service. He doesn't feel that the courts should have the responsibility to develop, operate and be responsible for intake.

Chairman O'Neal questioned what the courts not being responsible for intake means. Mr. Shelby responded that many years ago the courts were responsible for intake and it was taken away and given to SRS. The Chief's thoughts are that the courts should not be involved in intake until they are presented with the case. Chairman O'Neal stated that he felt the same as the Chief.

Representative Wagon questioned that if the courts don't take the responsibility of running the intake, who should. Mr. Shelby responded that SRS, District Attorneys or a combination of both. Representative Wagon then stated that maybe there are many different views of what the definition of intake is.

The Chairman stated that if there a family court department is developed it would need to be clarified as to what the intake responsibilities of agency would be. The problem being that the development and operation of a centralized intake system may mean different things to each agency. Judge Buchele stated that the solution may be to take the words "and operate" out of the bill and just have the agency develop an intake system. He stated that if he had the services he wouldn't be signing the exparte order until someone in SRS had talked to the people.

Chairman O'Neal stated that one concept of the family court system could be that no exparte orders would be issued until there has been pre-screening. Judge Buchele stated that his personal view is that if children are involved in divorce cases that the family would be sent for an intake interview before the courts address the issue of temporary custody.

Representative Macy stated that she had a letter that the Chief Justice wrote to the Family Advisory Committee. In that letter he refers to current law K.S.A. 21-38 which provides for the establishment of specialized departments of the district courts. Then he states that the courts currently have the power to establish the family courts but don't have the money to do so.

Paul Shelby stated that the Chief also is concerned that the bill contains a separation of powers issue. He doesn't feel that the court should be telling other branches, such as SRS and Law Enforcement Officials, what their responsibilities are. The Chairman questioned if anyone knew what the separation of powers implications would be. There was no response.

Jerry Sloan, Office of Judicial Administration, appeared before the Committee as a proponent of the bill. He stated that there are three judicial districts that have come up with different concepts on what would be required if they set-up a family court. He came up with a cost for each proposed concept and then averaged the three to determine what it would cost to have a pilot program, ie: staff, additional judges & staff, onetime & ongoing expenses, systems development and advisory committee. One item not included in the summary of cost is the requirement of an independent evaluation, because that would come after the first year, (see attachment 1).

Cathy Leonhart, Court Service Officer of Shawnee County, appeared before the Committee as a proponent of the bill. She stated that she served in the intake program that Shawnee County had from 1976-1983. The most important aspect of intake is that there be a point where everything, the courts, law enforcement and SRS can come together and decide what should happen to the juvenile, (see attachment 2).

Chairman O'Neal questioned if she was suggesting an interagency compact. Ms. Leonhart stated yes. It is very important that it be available 24 hours a day. The Chairman questioned how intake would change from the way it is now. Ms. Leonhart responded that currently there is a limited amount of information that's shared between agencies. With this proposed legislation the agencies would be working together and sharing all information.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY, Room 313-S Statehouse, at 3:30 p.m. on January 24, 1994.

Jolene Grabill, Executive Director, The Corporation for Change, appeared before the Committee in support of the bill. This is a proposed pilot program and is not mandatory. It needs to be evaluated as the program moves along to see what works and what doesn't. There should also be enough flexibility in the program so that courts can adapt it to individual needs, (see attachment 3). The ability to have the appropriate systems and services in place at the first contact the family has with the courts is a critical part in getting more appropriate services to children and families. This should be funded by additional new resources to the courts. There possibly might be some savings from implementing a family court system in the State.

Melissa Ness, Kansas Children's Service League, appeared before the Committee as a proponent of the bill. There are children and family needs that are not being met, not just by the court system but by a variety of agencies throughout the State. The problems that children and families have in today's society are more complex and the courts can no longer be an outside observer, (see attachment 4). The Kansas Children's Service League currently has a 24 hour juvenile assessment and intake service. All contacts are brought in through law enforcement and the goal is to prevent the displacement of children when it is an unnecessary removal.

Orville Johnson, Topeka, appeared before the Committee as an opponent to the bill. He stated that he believes that there should be open records when dealing with divorces and child custody cases, (see attachment 5).

Ron Smith, Kansas Bar Association, and Kay Farley, Office of Judicial Administration, could not appear before the Committee but requested that their testimony be included in the minutes, (see attachment 6 & 7).

Hearings on **HB 2582 & HB 2583** were closed.

Chairman O'Neal announced the following Committee members would serve on the Sub-Committee for **HB 2582 & HB 2583**:

Representative David Heinemann - Chairman
Representative Judith Macy
Representative Denise Everhart
Representative Alex Scott
Representative Carlos Mayans

The Committee meeting adjourned at 5:30 p.m. The next meeting is scheduled for January 25, 1994.

GUEST LIST

HOUSE JUDICIARY COMMITTEE

DATE January 24, 1994

NAME	ADDRESS	ORGANIZATION
Donna Whitten Leinweber	Wassers KS	for Rep. Sebelius
James C. Chance	Topeka	KC DAA
Sharon H. Drake	Wellington	Dist. Court
James P. Buchele	Topeka	Dist. Court
Cathy Lionhart	Topeka	CC Services
Mary Ruth	Topeka	KHS
Melissa Ness	Topeka	KCSL
Jerry Sloan	"	OJA
Paul Shelby	Topeka	OJA
JEFFREY R. LADDIS	Topeka	CHRISTIAN SCIENCE COMM ON PUBLICATION FOR KS
Leigh W. BARRETT	Topeka	MSW Student with SRS
Suzanne Southard	Ottawa	Corporation for change
Donna McDaniel	Topeka	Sen. Burke's office
Marjorie Van Buren	Topeka	self
SUSAN HAMILTON	LAWRENCE	Kansas Trial Lawyers
Orville E. Johnson	Topeka	SELF
Riep Ellen Samuels	Hesston	Reg.
Marian Heidner	Newton	Legislative Intern
Douglas Haring	Lawrence	Legisl. - Nathan, Gribbort



State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 West 10th
Topeka, Kansas 66612-1507

(913) 296-2256

JANUARY 14, 1994

TO: GLORIA TIMMER
DIRECTOR OF THE BUDGET

FROM: JERRY SLOAN
BUDGET AND FISCAL OFFICER

RE: FISCAL NOTE: HOUSE BILL 2582
ACT CONCERNING ENACTMENT OF THE FAMILY IN THE COURT
PARTNERSHIP ACT

PREPARED AND INTRODUCED BY THE JOINT COMMITTEE ON CHILDREN
& FAMILIES

As drafted, HB 2582:

- Would create a mechanism to establish and operate family departments of district courts on a pilot basis
- Delineates the goals and responsibilities for those departments
- Requires an independent evaluation of the pilot project's effectiveness

The bill authorizes the Supreme Court to establish no more than three pilot programs. Of these, at least one would be in a single county judicial district and at least one in a multiple county judicial district. HB 2582 does establish the families in the court partnership fund for expenses of these pilot projects, however, except for any money that might be received in the form of grants, provides no funding mechanism.

While HB 2582 sets out the responsibilities and goals of a family department, a broad range of ideas and methods exist for meeting the responsibilities and goals. Consequently, pilot

projects would most appropriately assess the best organization for the State of Kansas. Three judicial districts previously involved in the family court study suggested concepts on how to implement family courts in their districts. No two models were similar other than the costs; costs were similar, excluding any need for additional judgeships. Proposals from the three districts (one urban one county district and two mid-sized multicounty districts) averaged \$521,706, including an average of \$57,856 in onetime expenditures. Personnel costs ranged from \$199,976 to \$444,527. Ongoing operational expenditures ranged from \$25,600 to \$176,650 with the latter figure including a proposal to contract for many services with a mental health center. The majority of the personnel costs are for intake officers, mediators and related staff.

Additional judicial positions also may be needed to effectively establish family departments. Even though the cases which would be assigned to a family department already come through the court system and greater emphasis will be placed on alternative dispute resolution, the intent is a greater emphasis on these issues and specialization. This will require more judge time. In addition, increased specialization in multicounty districts requires greater travel time which will impact judicial resources. Most of the judicial districts which are logical candidates for the pilot projects are those that either already need additional judges or those which do not have the judicial resources to take on additional responsibilities.

To insure these pilot programs are not destined to failure, an additional judgeship should be added to each of the pilot districts. Without predetermining the location of the pilot projects, it is impossible to say for certain, but it is likely an additional judge would be needed. The cost of a district judge, including fringe benefits, is \$91,831 using the Governor's recommendations on salaries and fringe benefits for FY 1995. Staff support for a judge includes an administrative assistant at a cost of \$25,125 and a court reporter at a cost of \$32,591.

The independent evaluation of the effectiveness of the pilot projects as mandated by section 2 is not a cost which would be incurred the first year, except for the possible development of evaluation criteria. Until the scope and methodology of the evaluation are further defined, it is difficult to estimate a cost, but I anticipate it would be approximately \$50,000.

The other major cost identified in the bill that has not been addressed above is the development of a management information system. Development costs estimates for such a system range from \$250,000 to \$350,000. Although these estimates are very preliminary and as the system is further defined, may need to be modified, system development would need to be started during the first year. The above estimate does not include hardware costs since specific hardware would be identified during the system design.

The remaining cost, albeit minor, would be the cost of an advisory committee on family departments. With the diverse ideas and proposals that likely would emerge, the Supreme Court will want to establish such a committee as described in Sec. 5. Costs for the meetings of this committee are estimated to be \$7,500.

Summary

The amount of money needed in the families in the court partnership fund for the first year with these pilot programs are estimated below:

Staff Personnel	\$1,037,548
Onetime expenses	173,569
Ongoing expenses	354,000
Additional Judges (3) and Staff	448,641
System Development	300,000
Advisory Committee	<u>7,500</u>
Total	\$2,321,258

Should only two pilot projects be approved, the costs, other than system development and the advisory committee could be reduced to two-thirds the itemized amounts.

District Court of Kansas
Third Judicial District

Shawnee County, Kansas

Court Services
200 E. 7th St., Suite 104
Topeka, Kas. 66603-3961
[913] 233-8200
Ext. 4004

Gene Obley, Asst. Director
[Adult Services]
Harry Moore, Asst. Director
[Special Services]
Cathy Leonhart, Asst. Director
[Juvenile Services]

TESTIMONY

TO: House Judiciary Committee
FROM: Cathy Leonhart
RE: HB 2582

Intake is one of the most crucial case processing points in the juvenile justice system and the key to successful functioning of a family court. The study done by the Corporation for Change suggests that the court do more than resolve legal disputes. I strongly agree that families should have access to services necessary to enable them to resolve subsequent disputes constructively and with minimal need for court intervention. These services need to be made available at the very beginning of a family contact with the court system. Intake should be the central receiving point for screening of all cases coming into court. Juvenile and domestic cases are often extremely complex. If you ask families who have had involvement with the court about the experience, many of them would describe it as frustrating, time consuming, confusing, and expensive. I cannot believe this is the best way to guide people toward resolution of family conflict.

Intake programs across the country have shown that through consistent detention screening they can assure the best use of shelter and detention beds. They often provide case management services for young people who are sent home that give the family support needed to insure both personal and community safety. They are the link that ties associated cases together, gathers information, and connects schools, social service agencies and law enforcement agencies with the court system. Cases are often kept from a formal hearing through dispute resolution and diversion programs. Because they explain the system and offer alternatives to families, there is more cooperation and less frustration and anger.

Intake as a court function came to an end in Kansas in 1983 for delinquency and most status offenses. In the last few years, programs have been springing up around the state. Most are as a result of the jail removal mandate and started for the purpose of detention screening and crisis intervention to prevent the need for detention. These programs are funded by a variety of sources

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including city, county, United Way and Federal (OJJDP) dollars. Some programs are run out of shelters, some detention centers, some by non profit providers, others through partnerships with mental health providers. Most deal with a very limited population certainly not all cases headed for the court system. Domestic cases are dealt with separately. SRS continues to do some form of Child Protective Services intake for the purpose of their investigation.

My personal experience comes from working with the Shawnee County court administered intake program from 1976-1983. Referrals came to us from law enforcement, District Attorney, SRS, mental health agencies, schools, and self referral. The program was staffed 24 hours a day. Our responsibilities included:

1. Detention and shelter screening
2. Crisis intervention and follow up work with status offenders, abuse neglect, and offender cases.
3. Child abuse investigations with SRS and law enforcement.
4. Recommended diversions on first time misdemeanors to DA.
5. Interviewed all referrals after DA determined they had probable cause for filing. The purpose was to investigate other alternatives for resolution of the case, to put together referral history and to explain the process to the family.

When intake ended in 1983 we were left with a big gap in services. In 1982 there were 2960 intakes and 1166 filings (39%). Filings in 1983 dropped to 992 and in 1984 there were 909. This drop was almost exclusively because there were almost no referrals on truants and very few for status offenses. The numbers started going up again in 1985 (1100) and by 1992, there were 1664 filings. However, the early intervention with runaway, ungovernable and truant youth has not been recreated. There is currently a great deal of discussion regarding inappropriate placement of misdemeanors in Youth Centers. If we checked their referral history, I can almost guarantee we would find a long list of school problems and other ungovernable type behavior before they managed to reach the court. I am convinced that with a stronger focus on the front end of the system and by making resources available earlier we will eventually impact the number of young people committing serious offenses. Intake should provide a partnership between law enforcement, SRS, schools, DA, and courts. This requires sharing information and reaching agreement on criteria for dealing with families in conflict and young people who have committed offenses. The service must be available twenty four hours a day. The people staffing it must be well trained and in most cases, it can't be done with existing staff. There is great concern over how it will be funded and whether or not that funding will be ongoing. This is much too large a project to take on for short term change. I support the concept of HB 2582 but urge you to give careful consideration to the need for ongoing funding.

THE CORPORATION FOR CHANGE

A Partnership for Investing in The Future of Kansas Children and Families

Testimony Before the House Judiciary Committee

House Bill 2582
January 19, 1994

by Jolene M. Grabill, Executive Director

The Corporation for Change is a non-profit corporation organized by the State of Kansas to coordinate and implement reform of children's services in Kansas. To accomplish this mission, the Corporation builds partnerships between government, business, parents, children's advocacy and service groups to develop a comprehensive and coordinated strategy for investing in the future of Kansas children and families. Our major role is to see connections, test out what works and what doesn't work, experiment with new strategies, and to develop the consensus to reinvest our resources in more comprehensive strategies that do achieve the outcomes we all desire for children and families.

I appear today to support HB 2582, which is the culmination of over two years of work to develop a strategy for family courts in Kansas. The Corporation for Change has been pleased to serve at the 1992 Legislature's request as the research and planning arm of the study process on this issue. In that role the Corporation contracted with E. Hunter Hurst and Jeff Kuhn of the National Council of Juvenile and Family Court Judges to conduct the study of what a family court system would look like in Kansas. This committee heard from Mr. Kuhn and Mr. Hurst last year about the general principles of successful family courts and some of the experiences of other states' family court strategies. Their report, "Family Department for the District Courts of Kansas," was accepted by our Board of Directors in May of this year.

However, the real work began with the convening of the Family Court Advisory Committee to the Corporation in the fall of 1992. Chaired by Larry Rute of Kansas Legal Services and the Kansas Bar Association's Family Law section, that group of guided the consultants' work and refined their finished product from a Kansas perspective. The result of that process and multiple presentations and discussions with our Judicial partners and the Joint Committee on Children and Families is the bill before you today.

As introduced by the Joint Committee on Children and Families, HB 2582 is one of the Corporation for Change's highest priorities this legislative session. It is a new strategy for providing services to Kansas children and families that our Board believes is worth testing through pilot projects. As embodied in this legislation the bill addresses several key components of the Corporation's thinking on this issue. They are:

EXECUTIVE DIRECTOR
Jolene M. Grabill

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on Children and Families
Hesston
Eva Tucker
USD 500
Kansas City, Kansas
Sec. Donna Whiteman
Dept. of Social &
Rehab. Services
Topeka

1. Any strategy for the development of family departments in the district courts of Kansas must be voluntary rather than mandatory. Financial incentives should be used to encourage participation.
2. A successful family department in the courts must have a comprehensive intake system.
3. A coordinated case management information system is critical to success and must be able to be integrated into a larger management information system that supports work for children and families between and among agencies and branches of government.
4. New resources must be made available to the courts to support these new court functions.
5. The bill itself should contain language which is flexible enough for individual judicial districts who are selected as pilots to test the family department structure that best suits the individual judicial district. That is the purpose of having pilots in at least three different judicial districts.

What we believe will result from the implementation of family departments in the district courts of Kansas, is more appropriate use of the courts by the children and families, and more appropriate decisions for children and families in the cases considered. The committee will, I'm certain, agree those are desirable outcomes.

I did want to make a quick point on the financial aspect of the bill. You will hear others testify in detail about the fiscal note. What we haven't been able to prepare is a note of any potential savings which might result. It is possible that the redirection of some matters out of the court system and to an appropriate service provider might result in significant savings to the courts, no estimate of that savings can be made at this time. However, if and when savings do result, they should be redeployed into support for the expansion of family departments to other judicial districts.

In summary, I do encourage the committee to support the bill and begin the pilots as soon as possible. The Corporation for Change stands ready to assist the committee in working out the details of this bill and several of our local planning councils stand ready to assist their judicial districts in making this strategy work in their home communities.

Thank you, Mr. Chairman. I would be happy to answer any questions from the committee.

Recent History

Family Court Discussion in Kansas

- Dec. 1991 Special Committee on Children's Initiatives includes recommendations on the need for "Family-Centered Court Services" in the *Blueprint for Investing in the Future of Kansas Children and Families*. (Page 36)
- Jan. 1992 HB 2691 was introduced by the Special Committee on Children's Initiatives. The bill established a three year grant program to fund a family court system in two pilot sites. One pilot was to be in an urban area, the second pilot was to be in a rural area consisting of one or more judicial districts. The bill stalled in conference after Senate Judiciary committee amendments to the bill.
- May 1992 The 1992 Legislature appropriated \$30,000 out of the Judicial Education Fund to the Corporation for Change for the purpose of studying the family court concept in Kansas.
- Nov. 1992 The Corporation for Change created the Family Court Advisory Committee to involve key stakeholders in guiding the study. Upon the recommendation of the Family Court Advisory Committee The Corporation for Change Board of Directors contracted with the National Council of Juvenile and Family Court Judges to conduct the study.
- May 1993 The Corporation for Change Board of Directors received "Recommendations for Implementation of a Family Department for the District Courts of Kansas" in the form of a final report of the same name from study authors E. Hunter Hurst and Jeffrey A. Kuhn.
- June 1993 "Recommendations for Implementation of a Family Department for the District Courts of Kansas" presented to the Kansas Supreme Court and released to the Kansas Judiciary.
- Sept. 1993 Study presentation to the Joint Committee on Children and Families.
Study presentation to the Kansas Judicial Council.
Joint Committee request presentation of legislative bill draft at November meeting.

Kansas Communities Supporting Families and Children

Universal Services for all Children and Families

Community Resources for Families:
Schools, Churches, School-Linked Family Centers
Parent Education, Community Education

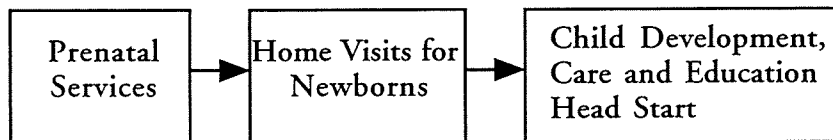
Universal Health Care for All Children and Families
Public Awareness/Education
Transportation

Family Friendly Employment Practices

Services and Support for the First Years of Life Ages 0 to 5

Milestone:
Healthy Births

Milestone:
Children Prepared to Succeed in School



Supports to Assure that All Children Succeed in School Ages 6 to 18

Milestone:
Children Ready for Adulthood

School-Linked Services

Education and Life Skills
Special Education
Career Development
School to Work Transition
Child Care including
Before and After School Care

Support Services
Counseling
Nutrition
Wellness etc.
Community Services

Student Assistance Teams

Supports to Preserve Families at Risk

Milestone: Safe Child and Stable Family

Family Courts Child Welfare Juvenile Justice Mental Health Developmental Disabilities Substance Abuse Services
Interagency Gatekeeping and Coordination

In-home Care
Respite Care
Preservation of Family
Wrap Around Services
Day Programs (Year Round)
Mental Health
Probation

Array of Community Based Supports

Out of Home
Services

Family Foster Care
Therapeutic Foster Care
Group Homes
Independent Living
Institutional Care

Income Support Programs: Public Assistance / Medicaid / Housing / Child Support / Employment and Training

TESTIMONY BEFORE HOUSE JUDICIARY
RE: HB 2582 Families in the Court Partnership Act

Submitted by: Kansas Children's Service League
January 19, 1994

KANSAS CHILDREN'S SERVICE LEAGUE is a statewide agency whose mission is to "promote the well-being of children by strengthening the quality of their family life through the provision of prevention, early intervention, treatment, advocacy and placement services".¹

Through Kansas Children's Service League, we provide a variety of services. (See attachment) Our services continued to be delivered based on community need. Many of the children we see have contact at some point with the court or child welfare system. Those children and families we serve through our programs, represent the reasons why we **support the passage of HB 2582 with the following comments and recommendations.**

Problems faced by children and families who have contact with the court system are growing more complex.

Today, families are experiencing problems and are waiting longer to seek assistance. As the need for community based services increases, access to critical services such as mental health services for children decreases or services are not developed. The majority of families we see lack social supports and financial resources. Youth coming through our programs seem much more impulsive, less concerned with societal values and less invested in what the future holds for them. Many are seriously depressed and suicidal. In addition to resolution of legal issues, the court can no longer be an outside observer of the difficulties experienced by the families and children who come through their doors.

Courts are increasingly overwhelmed with their responsibilities to children.

In addition to increasing reports of family and community violence, statutory changes have expanded both the nature of the court's involvement in cases involving children as well as the number of cases involving children that the court handles. Take for example the federal **Adoption Assistance and Child Welfare Act of 1980**. That legislation created the "reasonable efforts" standard and expanded the role of state courts in cases involving child abuse and neglect and the placement of children in out-of-home care. The federal law requires judicial review of every foster care placement. Unfortunately, there was a failure to provide any additional funding to support that expanded caseload.² Similarly, the **Child Abuse Prevention and Treatment Act** requires courts to appoint a guardian ad litem "in every case involving an abused or neglected child" and again does not provide any direct federal support

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OTHER LOCATIONS

EMPORIA
GARDEN CITY
GOODLAND
JUNCTION CITY
KANSAS CITY
LEOTI
MANHATTAN
SCOTT CITY
ULYSSES

¹ The League is a Charter member of the Child Welfare League of America, is accredited by the Council on Accreditation of Service for Children and Families, a member of the Ks. Association of Licensed Private Child Care Agencies, the Coalition for America's Children and a founding member of the Children's Coalition.

100 YEARS
OF SERVICE
TO CHILDREN

² See **America's Children at Risk: A National Agenda for Legal Action**, A Report of the American Bar Association, July 1993.



help states achieve that goal.³ Finally, Federal child support legislation contains detailed updates many of which this committee is familiar.

This is not just a matter of lack of adequate funds. Juvenile and family courts are simply too overextended to serve children effectively. With this bill we can refocus the way courts work with families and children so that judges, court personnel, and social workers can give each child the attention he or she demands, so families and children receive quick, personal attention.

Close coordination with local family support services must be addressed.

Too often, service providers are left out of the dialogue in developing systems which address the needs of many of the families and children we see. We have a direct line to consumers and people needing access to the court and often see the problems they experience. As a non-profit organization used to working in community partnership, we can provide sound information as pilot projects are developed. For example, our Juvenile Assessment and Intake Service is a program designed to work with families who have a child that is being screened for removal from the home. The child is brought to our service through law enforcement. The program goal is to prevent the unnecessary removal of children from their home and community. Steady growth in the use of the program indicates the confidence in which law enforcement officers and our community has in the program. Intakes and referrals increased from 925 in 1990 to 1,537 in 1993. With the support from city, county and United Way Funding, this program was recently awarded the National Gould-Wysinger Award for exceptional achievement in advancing juvenile justice.

Training is crucial for those associated with implementation of this system.

A comprehensive approach can only work if all court personnel--including judges, mediators, administrative hearing officers, attorneys, intake unit workers and those providing services--receive extensive and continuing training. Training should cover a wide range of topics including child development, the appropriate use of non-adversarial techniques, and issues raised by a growing diverse population.

Closely coordinate this effort with the Alternative Dispute Resolution initiative.

This bill is clearly compatible with the principles outlined in HB 2574. The committee should earnestly, engage in coordinating efforts around the passage of these two initiatives.

The families in court partnership act provides the vehicle to address the comprehensive reform of the juvenile and family court systems. The title of this act was no accident. It will take all of us to successfully protect the rights of children and meet their needs. We believe this bill represents a serious and bold attempt to address the many concerns about the lack of coordination and the failure to recognize the needs of children and families in the court system. We urge your serious consideration.

Submitted by: Melissa L. Ness JD, MSW, Director of Advocacy General Counsel

³ See, 42 U.S.C.A. §5106a(b)(6).



"Sending a Message to the Future"

KANSAS CHILDREN'S SERVICE LEAGUE

1994 LEGISLATIVE PRIORITIES AND POLICY AREAS

INTRODUCTION

"Two men were fishing by a stream when an infant floated past. The first fisherman jumped in, rescued the child and handed him up to safety in the second fisherman's arms. No sooner had they settled the child down on the grass, when a second infant floated along. Again, the fishermen jumped in and rescued the baby. A third baby floated along, a fourth, and so on. The fisherman saved in each in turn. Finally, a whole group of babies came floating downstream. The first fisherman grabbed as many as he could and looked up to see his friend walking away. "Hey," he shouted, "what's wrong with you? Aren't you going to help me save these babies?" To which the second fisherman replied, "You save these babies, I'm going upstream to see who's throwing all those babies into the river!" ---Folk parable

KANSAS CHILDREN'S SERVICE LEAGUE is a state wide-not-for profit agency, serving the needs of Kansas children and families. Our mission is to "protect and promote the well-being of all Kansas children by strengthening the quality of their family life through the provision of prevention, early intervention, treatment, advocacy and placement services.

Our 1994 legislative priorities and our accompanying policy areas, reflect our commitment as an organization, to focus not only on the "babies in the river" but also what we can do up stream. We believe our society still does not do enough to prevent the crisis facing our state's children and families. Nor does it adequately address their needs once they are in crisis. To that end we will continue to support policies and initiatives that strengthen and support families and that put **CHILDREN FIRST**.

1994 MAJOR LEGISLATIVE PRIORITIES

PREVENTION AND INTERVENTION: HEALTHY START PLUS

Child abuse and neglect is an enormous problem in our country and state. The damage to children and families is well documented, along with the cost to society. Recent studies confirm that child abuse is linked to increases in dropout rates, juvenile delinquency, running away, substance abuse, suicide, criminal behavior, emotional disturbances promiscuity and teenage pregnancy.¹ Home visitation programs have been proven effective in preventing abuse and neglect. Among the reported outcomes produced by Home Visiting Programs are: Prevention of poor birth outcomes, promotion of child development and increased use of preventive health services, and perhaps most importantly the prevention of child abuse.² Research tells us certain characteristics make parents at risk for abuse and neglect of their children.

over

¹ See, e.g., The National Institute of Justice, *The Cycle of Violence* (Oct. 1992.)

² The Future of Children: Home Visiting Vol. #3 - Winter 1993, The David and Lucille Packard Foundation.

Kansas Children's Service League will work to implement the **Healthy Start Plus** home visitation program, aimed at families at risk. Modeled after the highly successful Haw program, Healthy Start Plus provides a prevention and intervention approach aimed at reducing the incidence of abuse and neglect of children as well as supporting parents in successful parenting.

FAMILY SUPPORT: ACCESS TO MENTAL HEALTH SERVICES FOR CHILDREN

Tragically, an alarming number of children are forced daily, to cope with unparalleled anxiety and stress. Among the causes are teen pregnancies, drug and alcohol dependencies, teen suicides, violence, homelessness, divorce and AIDS.³ These conditions are further complicated by limited access to the services they need, particularly mental health services.

Here in Kansas, the need for community based services continues to grow as efforts to keep children in their own communities increase. In addition, children who were once served in a hospital setting are now showing up in greater numbers in our care, particularly through our emergency shelter services. This is placing greater responsibility with us to ensure children receive a broad array of services to address what, sometimes, are very immediate needs. We are observing an disturbing trend in our inability to access timely mental health services for children in our care. We believe children deserve the same access to those critical services as their adult counterparts. When services are not available, this places the child's safety in jeopardy.

KANSAS CHILDREN'S SERVICE LEAGUE is committed to ensuring children receive timely mental health services as part of a sound continuum of care and will work to guarantee fair access to those services. In addition, we will work to develop state policies which target children's mental health as a priority.

SUSTAINING CURRENT INVESTMENT LEVELS IN STATE FUNDING FOR CHILDREN

For too long, the investments made to support strategies and programs aimed at strengthening children and families have not kept pace with their needs. Through such state initiatives as the **Blueprint for Kansas Children and Families** and the **Family Agenda** developed by our state department of Social and Rehabilitation Services, critical investments have been made. In addition, with the passage of the **Family Preservation and Support Services Program** through the **Omnibus Reconciliation Act of 1993**, Kansas can expect to receive limited additional funds to further the goals of strengthening and reforming the child welfare system. To get funding, states must develop a five-year plan for expanding community-based family support programs, including family resource centers, parent education programs, and home-visiting programs, as well as more intensive family preservation services for families in crisis. The federal law carries a mandated input requirement from private organizations providing services to children and families.

next page

³ See America's Children at Risk: A National Agenda for Legal Action A Report of the American Bar Association Presidential Working Group on the Unmet Legal Needs of Children and Their Families, July 1993

KANSAS CHILDREN'S SERVICE LEAGUE will monitor the investments made for children and families in this state. We will work against arbitrary cuts that unfairly impact children and families. We will continue to focus on accountability in those investments and encourage movement to a long range planning approach to budgeting in the state. In addition, if the potential of the new Family Preservation and Support Service Program through OBRA is to be realized, planning must begin immediately. We will continue to encourage and work with our state agency in developing our state plan, outlining how the state will use the money to strengthen families, prevent child abuse and neglect, and reduce the unnecessary separation of children from their families.

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"I start seeing 14- and 15-year-olds come through the system [who] have committed horrible crimes, and I start looking at why they did it...I suddenly see a child born to a crack-addicted mother, a child who has tried to help raise his four younger siblings, a child who has never known his father, a child who has bounced from one family member to another, a child who is on the verge of dropping out of school if he hasn't dropped out of school, and it breaks your heart. And you know that if society had intervened at an earlier date and given that child a constructive chance at a safe...and positive environment, the crime he committed and the tragedies that he has felt probably could have been prevented at far less cost than it is going to cost to rehabilitate him or to imprison him...There has got to be a balance between punishment that means what it says, that is carried out, that is expected, with a real opportunity for the children of America to grow in a world free from violence."

Testimony of the Honorable Janet Reno before the Senate Judiciary Committee, March 9, 1993

For More Information Contact: Kansas Children's Service League, Advocacy Program 5500 W. 7th, Lower Level, Topeka, Kansas 66606 Ph. 913-272-8447 FAX 913-272-8572.

SENDING A MESSAGE TO THE FUTURE

1994 POLICY AREAS OF KANSAS CHILDREN'S SERVICE LEAGUE

PREVENTION OF CHILD ABUSE AND NEGLECT

Background: Preventing child maltreatment is critical to helping children grow into strong, healthy, productive adults. Children who have been abused and neglected--and their parents--need high quality, intensive and comprehensive services.

KCSL Position: We will work to maintain and increase funding for preventive programs designed to reach vulnerable families before children are hurt.

EARLY INTERVENTION

Background: The playing field for all children and families is not level. Research has clearly identified risk factors such as poverty, a disrupted or unstable family, lack of social supports, and biological problems and conditions as those which jeopardize a family's success. When those families are identified, sound investments in strategies to strengthen families and level the playing field are needed.

KCSL Position: We will continue our work in the development of proven early intervention programs such as **Healthy Start Plus, Parents As Teachers, Head Start and Respite Care.**

SPECIAL NEEDS ADOPTION

Background: At the end of 1994 there were over 500 children in the custody of SRS whose parental rights had been severed or who would not be returning home. Aggressive recruitment efforts are needed to find parents for children, many with special needs, who deserve a permanent home. Minority children are over represented in the number of children waiting for a permanent home.

KCSL Position: We will work to change the adoption system from the child's point of view. We will support efforts to recruit foster and adoptive parents through culturally appropriate outreach programs. In addition, we will insist Kansas make special efforts to recruit judges, foster parents, case workers, lawyers, and adoptive parents who are representative of the community they serve.

OUT OF HOME CARE

Background: Public policy must not only focus efforts to support families but must also maintain a safe out of home care system for those children who cannot remain safely in their homes. As the numbers of children entering the foster care system continues to escalate nationwide, resources must be devoted to providing services to reunify the child with his or her family.

KCSL Position: We will work to ensure adequate services are available to children who are in the foster care system. This includes medical, mental health and family support services. In addition, we will support recruitment and training of individuals willing to be foster parents as well as adequate service reimbursement for contracted services.

FAMILY SUPPORT

Background: Family support services are rooted in the principles that parents most often want to do a better job of raising their children, that all families need support in doing so, and that most families can be helped to better nurture, protect, and support their children. Because of the recent passage of the **Family Preservation and Support Services Program**, Kansas has a unique opportunity to strengthen its Family Support and Family Preservation delivery systems to be more responsive to families.

KCSL Position: We will work to strengthen family support and preservation services. We will work with our state agency in developing the state plan for expenditure of new federal monies. Funds should be used to strengthen families, prevent child abuse and neglect, and reduce the unnecessary separation of children from their families.

WELFARE REFORM*

Background: Working no longer ensures a family a livable income. Forty percent of two-parent households with children that fall beneath the poverty line include at least one full-time worker. Despite improvements over the last twenty years, AFDC rules and regulations still hinder people who want to work, and discourage the formation of stable families, as noted by the **National Commission on Children.**

KCSL Position: We will monitor developments in Kansas, particularly the initiative out of the Department of Social and Rehabilitation Service called **Actively Creating Tomorrow.** This initiative is aimed at reforming our welfare system.

We will work to ensure that a child's safety and security are not inadvertently placed in jeopardy through policies aimed at supporting families with children.

PREVENTION OF VIOLENCE

Background: Many children in this state and around the country, experience terrible violence, where children themselves, their friends or families are victims. Stories of killings and shootings are all too common in some neighborhoods, and many children who have not yet witnessed violence live in perpetual fear. According to the National Education Association, 40 children are

killed or injured by guns each and every day.

KCSL Position: We will support initiatives aimed at protecting children from guns in their homes, at school and in the streets. We will work hard to support and develop violence prevention programs such as KCSL's **conflict resolution program and parent/adolescent mediation program**, as a vital component of any package focused on curbing juvenile crime.

(*For background information and source documents, contact: **KCSL Advocacy Program** 5500 W. 7th, Lower Level, Topeka, Kansas 66606; Phone: 913-272-8447 FAX 913-272-8572)

(Prepared by M.Ness, KCSL 1/94; file: policy.cf)

KANSAS CHILDREN'S SERVICE LEAGUE

PROGRAMS AND SERVICES

ADOPTION: In Manhattan and Kansas City the Adoption Program seeks African-American families for African-American and biracial children. In Wichita we conduct informational background searches at the request of adults who were adopted through KCSL as children.

ADVOCACY: Staff and volunteers throughout the state work at all levels of government to create a strong voice for children

BLACK FAMILY PRESERVATION: This program is located in two Kansas City middle schools help young men and women focus on positive goals and avoid early pregnancy.

BLACK HOMES FOR BLACK CHILDREN: A program to recruit African-American adoptive families for the placement of African-American children in SRS custody.

COUNSELING AND CASE MANAGEMENT: Counseling and Case Management services throughout several of our area offices helps individuals and families with a variety of problems including family communication, teen runaways and parenting issues.

CROSSROADS FOR RUNAWAYS: In Wichita KCSL counselors work with runaways and their families toward the goal of reunifying the family.

EMERGENCY CASE MANAGER: Children and youth in Topeka who have been placed in the Emergency Shelters or are at risk of placement are provided with comprehensive services to either reunite the family or prevent placement.

EMERGENCY SHELTERS: Two shelters in Topeka provide a safe and caring place for children and youth.

FOSTER CARE: KCSL foster families throughout the state provide emergency, short-term and extended foster care while parents are unable to care for their children. Counselors help parents work on their problems with the goal of reuniting the family or arriving at a permanency plan for the child.

HEAD START: Both center-based and home-based versions of this preschool program are offered in our Western Kansas locations.

INTENSIVE FAMILY BASED SERVICES: Families who are at imminent risk of having a child removed from their home receive intensive in-home counseling and case management services. In Wichita a program has been established specifically for drug affected children.

JUVENILE ASSESSMENT AND INTAKE: Crisis intervention services are available in Topeka 24-hours a day for children and youth who are considered children in need of care.

KEYS FOR SAFE KIDS: An education program which teaches children how to be safe when left home alone.

PARENT-ADOLESCENT MEDIATION: Trained volunteers assist parents and adolescents resolve their conflicts.

PARENT HELPLINE AND YOUTH AND FAMILY CRISIS LINE: These 24-hour telephone lines are answered by trained staff and volunteers who provide support, information and referrals.

PARENT EDUCATION: A variety of parenting classes are offered in several communities.

PREGNANCY COUNSELING: KCSL counselors provide support and decision making counseling to individuals who are experiencing an unplanned pregnancy in order to determine the best plan for the child.

RESPIRE CARE: Trained caregivers provide care for children with disabilities or special health or emotional needs. Care is given either in the home of the child or the provider.

SUNFLOWER PARTNERS: This program provides counseling, parent education and emotional support to mothers and their children in addiction treatment centers in six communities.

PROGRAMS AND SERVICES BY LOCATION

GIRARD:

> Sunflower Partners

LAWRENCE:

> Sunflower Partners

NEWTON:

> Sunflower Partners

KANSAS CITY:

- > Sunflower Partners
- > Pregnancy Counseling
- > Foster Care Services
- > Adoption Recruitment and Services
- > Black Family Preservation Program

TOPEKA:

- > Sunflower Partners
- > Respite Care Program
- > Parent Education Services
- > Pregnancy Counseling
- > Family Preservation Program
- > Youth and Family Counseling Services
- > Parent-Adolescent Mediation Program
- > Juvenile Assessment and Intake Program
- > Emergency Case Management
- > Foster Care Services
- > Emergency Shelter Programs

MANHATTAN:

- > Respite Care Program
- > Pregnancy Counseling
- > Family Counseling
- > Foster Care Services
- > Minority Adoption Recruitment

WICHITA:

- > Parent Helpline
- > Parent Education Services
- > Keys for Safe Kids Program
- > Youth and Family Crisis Center
- > Family Preservation Program
- > Respite Care Program
- > Foster Care Services
- > Crossroads Program

EMPORIA:

- > Pregnancy Counseling
- > Youth and Family Counseling
- > Foster Care Services
- > Parent Education Services

GARDEN CITY:

- > Respite Care Program
- > Pregnancy Counseling
- > Foster Care Services
- > Head Start Center Based and Home Based Program

GOODLAND, LEOTI, SCOTT CITY, ULYSSES:

- > Home Based Head Start Program

January 19, 1994

I thank the Lord for Democracy! Thank you Chairman O'Neal for the opportunity to testify before this committee today!

I am sure that the hearts of the proponents of HB 2582 are in the right place in trying to "help families and children", but we must be very careful with any laws that we make as they always stay around for quite some time to haunt us. As an ex-husband of a dysfunctional alcohol abuser, and one of the men making up the 90% who do not have residential custody of their children because of the liberal views of agencies such as Court Services, and District Court Judges that ex-wives, such as mine, are better parents than men who have more education, are functional, and use no tobacco, alcohol or drugs, I have some problems with some of the shifting of power from various branches of our government to the liberal judicial branch, some of the wording and how some of the wording may be construed:

Page 1
Line 32

"The supreme court shall provide for an independent evaluation"----LET THE LEGISLATORS, THE ELECTED REPRESENTATIVES, DO THE PROVIDING FOR AN EVALUATION

Page 1
Line 40

"accept money from any source"----ACCEPTING MONEY CAN LEAD TO BEING BEHOLDEN, AND CORRUPTION.

Page 2
Line 19

"the family department shall clarify intake responsibilities for individual agencies and officials such as law enforcement"----LAW ENFORCEMENT IS PART OF THE ADMINISTRATOR PART OF GOVERNMENT AND THE JUDICIARY SHOULD NOT HAVE POWER OVER THEM.

Page 2
Line 32

"one judge, one staff, one family"----CAN THIS BE CONSTRUED TO MEAN THAT A CHANGE OF VENUE IS NOT PERMITTED BY LAW?

Thank you for your attention to this matter.

P.S.

Let's get back to being a democracy with more legislated laws, and fewer adjudicated laws and rules. The balance of power has slipped to the judicial branch, thus giving it "minority rules" power. As a legislator, please quit "delegating" your power and responsibilities to the liberal court system.

Memorandum

TO: Hon. Mike O'Neal
Members, House Judiciary Committee

FROM: Ron Smith, KBA General Counsel

SUBJ: Family Court legislation

DATE: January 24, 1994

The KBA gave its testimony on this topic last Wednesday in the form of a position paper by John Tillotson, a member of the KBA Board of Governors.

At our January 21st board meeting Friday, we discussed this issue again. Larry Rute asked the Board to change its position on family courts to one of either support or neutrality on the issue. After an hour's thorough discussion the Board voted a restated position which:

1. reaffirmed the Board's opposition to HB 2582 but implores the Kansas Supreme Court to take the initiative to implement a family court project;
2. expressed concern for the crisis that exists in addressing the needs of families in the judicial system; and
3. urged the legislature provide adequate funding for the pilot program.

I thought I would relay this information to you as an addendum to our policy paper. Thank you.

House Judiciary Committee
January 19, 1994

Testimony of Kay Farley
Coordinator of Children and Family Programs
Office of Judicial Administration

Representative O'Neal and members of the committee:

Thank you for the opportunity to appear before you today to support passage of HB 2582 which would enact the families in the court partnership act.

I believe that passage of this bill, with appropriate new Judicial Branch funding, would allow Kansas families the opportunity to resolve their disputes in a less adversarial forum and allow the courts to better meet the needs of families.

I want to focus my testimony on the alternative dispute resolution component of the bill. It is my belief that family disputes are more amicably and permanently resolved, if alternative dispute resolution techniques, such as mediation, are used.

I am sure that many of you are familiar with the mediation process, but there may be some that are not. I would like to offer the following definition of mediation from Ann Milne and Jay Folberg:

"Mediation is first and foremost a process that emphasizes the participants' responsibility for making decisions that affect their lives. It is, thus, a self-empowering process. The process minimally consists of systematically isolating points of agreement and disagreement, developing options, and considering accommodations through the use of a neutral third-party mediator whose role is described as that of a facilitator of communications, a guide toward the definition of issues, and a settlement agent who works toward the definition of issues by assisting the disputants in their negotiations."¹

In mediation, the parties work with an impartial third party to develop their own solutions to their problem. Because the parties themselves resolve the problem and develop the agreement they have more ownership and satisfaction over the end decision. This is particularly important in family disputes as family members continue to have a relationship with each other after the dispute and need to be able to communicate.

¹Milne and Folberg, "The Theory and Practice of Divorce Mediation," Divorce Mediation 3, 7 (Folberg and Milne eds. 1988).

Testimony of Kay Farley
January 19, 1994
Page 2

Twenty-three judicial districts currently use some form of alternative dispute resolution techniques, mainly in custody and visitation disputes. These districts and others would like to expand the usage of alternative dispute resolution techniques to cover more cases and other types of cases.

I believe that passage of HB 2582 would be beneficial toward achieving this goal. Thank you for the opportunity to address you today and for your consideration of my comments. I would be glad to answer any questions.

The Recommended Agenda for Families in the Courts

Not only is there seemingly no end to family-related cases coming to the courts, but these cases often seem to have no ending.

National Center for State Courts/State Justice Institute¹

America's courts are overwhelmed by their responsibilities to children. Increasing reports of family and community violence coupled with numerous statutory changes have dramatically expanded both the nature of the court's involvement in cases involving children and the number of children's cases that reach the courts. Most cases involving children and families are heard in state court, even where federal law sets applicable standards. Courts with full dockets have been forced to handle even more cases, without any significant additional resources.

The federal Adoption Assistance and Child Welfare Act of 1980, for example, expanded the role of state courts in cases involving child abuse and neglect and the placement of children in out-of-home care. This federal statute requires, among other things, judicial review of every foster care placement and oversight of child welfare agency performance.² The federal government failed to provide *any* funding to support that expanded workload, with the result that judges are handling larger caseloads and are unable to fully enforce the reforms Congress intended to promote.

Similarly, the Child Abuse Prevention and Treatment Act, which requires courts to appoint a guardian ad litem "in every case involving an abused or neglected child" does not provide any direct federal support to help the states achieve that goal.³ Federal child support legislation enacted in 1975, 1984 and 1988 imposed additional burdens on the courts.⁴ The limited federal financial assistance that that statute provides for state court systems does not fund the many detailed mandates it imposes on courts, such as holding periodic review and adjustment hearings related to support orders, providing "expedited processes" for obtaining and enforcing support orders, and upgrading the court's automated case-tracking systems.

Create a Unified Family Court System

The problem in family courts is broader than lack of adequate funds—a major reorganization of courts that handle children's cases is overdue. In communities all over the country, especially in urban areas, family and juvenile court personnel are too overextended to serve children effectively. As a result, everyone is frustrated and many children are ill-served.

In Cook County, Illinois, for example, the seven juvenile delinquency court judges receive 13,000 new cases a year.⁵ The results of such a system are predictably poor. As one Cook County judge explained, "[w]hen you force a judge to make 1,700 decisions a month, you leave little time for [the judge] to be fair and just You build in a high degree of mistakes."⁶ Similarly, the presiding judge of the Los Angeles County Juvenile Court estimated that most judges can only devote about ten minutes to each case, and that at the rate caseloads are growing, in five years each judge will have only five minutes "to determine each child's fate and each family's future."⁷ Five minutes is usually not enough for even a simple case. When a judge must decide a sensitive issue such as whether to remove a child from his or her home in five or ten minutes, the system is simply not functioning. Children suffer.

Families and children are also hurt by the bewildering array of courts and social service agencies that are typically involved in complex cases. Services are fragmented: the same family may have different case workers from a child welfare agency, a school, a community health center, a juvenile delinquency program and a substance abuse treatment program. In virtually all cases, in virtually all communities, the myriad courts and social service agencies do not communicate adequately with each other, resulting in unnecessary delay, duplication and contradictory rulings and recommendations. Moreover, the same family may have to appear in a family court, a juvenile court and a probate court, all of which are located in

ifferent parts of the community. This system wastes money and does not serve children well.

Comprehensive reform of the juvenile and family court systems is critical to protect the rights of children and to meet their needs. The reforms we propose rest on three principles:

- Jurisdiction over all matters involving families and children should be consolidated into one court system of the highest court of the general trial division.⁸
- Courts responsible for cases involving children should coordinate or monitor all of the services and assistance those children and their families need. Courts should have adequate resources—both financial and staff—to perform this function.
- Judges in family courts should hear only those cases that require judicial expertise, most often those best adjudicated through the adversarial process.

We need to reorganize the way courts work with families and children so that judges and court personnel can give each child's case the attention it demands, and so that families and children receive quick, personal attention to their needs. Although many recent studies of families and the courts have recommended a unified family court,⁹ few jurisdictions have attempted to create such courts. We know of no existing court that achieves all of the goals we outline below, although states such as Hawaii, New Jersey and Vermont, among others, have made admirable strides.¹⁰

We hope that every jurisdiction will eventually establish a unified and comprehensive family court that consolidates all judicial functions and court-related social services addressing the legal needs of families into one division, together with an administrative support system that expedites family court matters. But states will need encouragement and assistance from the federal government to create the new courts we propose.

RECOMMENDATION: Congress and/or the State Justice Institute should fund comprehensive Family Court demonstration projects. The Department of Justice should oversee the development of those projects, and should evaluate them and disseminate the results to the states. Every state should ultimately create a unified Family Court and provide it with appropriate resources.

Although the Family Court system in each jurisdiction will eventually take its own form, we believe that each should incorporate the following basic building blocks.

Family Courts should have jurisdiction over cases involving children and relating to family. This would ensure that all facets of such cases and the domestic and social problems they reflect would be centralized and resolved in a single court system.¹¹ Ideally, the goal of a unified Family Court will be met by a single judge who would resolve all of the legal issues facing a particular family.

The new Family Court should streamline the issues that reach judges by dividing the tasks currently performed solely by judges among judges and other court personnel. This will relieve the current backlog of cases, and ensure that judges are able to focus on those cases that they do hear. Employing a range of professionals—including magistrate-hearing officers, special masters, referees, mediators, court clerks and social workers—to work with families in the courts will better meet families' needs and allow judges to reach better decisions on the matters that require their attention.

In the new system we envision, the duties of judges—the highest paid and scarcest court personnel—should be limited to the resolution of issues that are best served by the adversarial process. Currently, judges are called upon to perform many tasks that could be handled by other (lower-paid) personnel without compromising the rights of the parties involved.

Cases that are not contested, do not require adversarial fact-finding, or that could benefit from negotiation or other interventions that judges do not have time to carry out, should be referred to court personnel with appropriate training and skills to meet families' and children's needs. For example, if magistrates handled uncontested paternity cases—and other cases like them, such as uncontested divorces—judges would have more time to devote to more complicated and often contested cases, such as terminations of parental rights. An attorney-magistrate could also screen the evidence in contested paternity hearings, where genetic testing has such a high degree of accuracy that it is virtually unassailable, thus reducing the number of paternity cases that require the attention of a judge.

In addition, many Family Court cases could be resolved by mediation with a trained professional—a process which is often considered to be quicker, cheaper and less traumatic than traditional adversarial procedures. Mediation is the use of a skilled third party who helps people resolve disputes. Many Family Court cases can benefit from an alternative to the traditional adversarial processes of adjudication or lawyer-assisted negotiation. Resulting agreements between the parties can become an enforceable order of the court after review by a judge.

Custody and visitation matters often prove particularly ripe for mediation, which provides an opportunity for parents to explore their children's needs and to cooperate in tailoring plans for their children, in contrast to adjudication, which imposes a decision on parents through a process that fosters hostility between the parties. Judges often do not have the time or the expertise to help families reach an amicable agreement. Mediated visitation and custody agreements are usually regarded as having higher compliance rates than arrangements imposed by a court, in large part because the parties have crafted the agreement. Although mediation of custody and visitation arrangements is the most well-known form of family mediation, most family issues are potentially resolvable through mediation. For example, courts in Maine use mediation for the division of marital property and support issues, as well as custody, and permit attorneys to be present in mediation sessions.¹²

Effective mediation programs—such as those based on the ABA Section of Dispute Resolution's "multi-door" courthouse concept—are often administered through a sophisticated court intake unit.¹³ That unit screens cases and refers those that are not appropriate for alternative dispute resolution to the court for adjudication. When mediation appears to pose a risk to a family member, for example, in cases involving domestic abuse, the cases may be deemed to require judicial fact-finding and determination because family counseling involving a battered spouse and an abuser can result in an escalation of violence.

Mediators in Family Courts should be sensitive to families of different races and cultures, and knowledgeable about child development and family dynamics. Families should never be coerced into using mediation and the results of mediation efforts should be confidential. If mediation or negotiation fails, the family's case should receive a high priority on the court's docket.

Delegating responsibility for some cases from judges to others does not mean that those cases are unimportant. No alternative process should be used until sufficient trained staff and resources are available to provide a high quality resolution of the legal issues before the court in every case.

The new Family Court must include an effective case management unit, staffed by trained professionals, including attorneys, social workers and other experts as needed, who are familiar with the resources of the community and the court. That unit would identify the multiple needs of families as soon as they entered the Family Court and link those families as soon as possible with needed services inside and outside the court. It would also keep track of families in the court system to ensure that their needs are con-

sistently met. These tasks would be simplified by use of up-to-date computer systems.

The case management unit would thus assume some of the administrative burden that now falls on judges, ensure that families get the services they need and make sure that children don't fall through the cracks. For example, the case management unit would refer a family to parent education, to mediation, or to a judge for a protective order. The unit would consolidate and coordinate all pending cases involving one family and insure that services ordered by the court are provided. It would be a primary resource for informing families about available community resources that the family might wish to use. Finally, the unit could assist those who do not have legal counsel.

For the system to work efficiently, the unit would also be responsible for eliminating duplication and inconsistent approaches, and ensuring that children actually receive the services ordered by the court.

The new Family Court should coordinate and help procure social services for families that need them. For example, the case management unit should make sure that families with special needs, such as those with a family member who is a substance abuser or a child with a disability, are linked with the services they need, both inside and outside the court.

A comprehensive approach can only work if all court personnel—including judges, mediators, administrative hearing officers, attorneys (including prosecutors and appointed counsel), intake unit workers and those providing services—receive extensive and continuing training. Training should cover a wide range of topics, including child development, the appropriate use of non-adversarial techniques, and the issues raised by working with diverse populations. The court should also arrange for ongoing training and education about new and existing community programs, as states like New York are doing, so that judges and other court personnel are familiar with resources designed for family preservation, treatment of substance abuse, family support, parenting education, special education and so forth.¹⁴

In addition, an interdisciplinary panel of experts should be available to Family Court judges for regular consultation about particularly complex cases. Such a panel should include mental health professionals who specialize in children, pediatricians, and attorneys with expertise in children's matters.

Family Courts should be sensitive to the needs of children and families from all cultural, racial and linguistic backgrounds. For example, any forms provided to the public should be translated into languages spoken by families in communities served by

court. The court should train, supervise and provide translators to children and their families.

Resolve Cases Involving Children Quickly

Cases involving children, whether they are criminal or civil, should immediately be given priority in all court systems—trial and appellate, civil and criminal. Children cannot wait for years for a determination that they should be returned to their natural parents, placed permanently in an adoptive home, or are entitled to special education services. The delays that are annoying and frustrating to adults—parodied since Charles Dickens wrote *Bleak House*—can permanently damage children and their families.

Children's cases should be heard promptly when scheduled. As Judge Ernestine Gray of the Orleans Parish Juvenile Court in New Orleans testified before a Congressional Committee on behalf of the ABA earlier this year:

The fact that parties face excessive waits for court hearings is far more than an inconvenience. It is very costly, since attorneys and social workers are drawing salaries while they are waiting and are prevented from taking care of ordinary casework. It is highly upsetting and unnerving to children . . .¹⁵

In the new Family Court we envision, most cases will, of course, involve children. We hope and expect that by directing cases to a variety of decision makers, all cases will be handled relatively quickly. Nonetheless, the court should give highest priority to, and set rapid hearing schedules for, cases where delays will harm children irreparably (such as cases involving child abuse or the need for court-ordered special education services). Moreover, all courts should make special efforts to hear cases in which children are appearing in court promptly.

Provide Adequate Financial Support for Family Courts

Efficient resolution of legal matters involving children will benefit the entire society by strengthening families, directing them to the resources they need and minimizing trauma to children. Therefore, it is essential that state and local governments provide sufficient resources to courts handling children's problems. States should recognize that the proportion of civil cases that involve children and families is usually far higher than the proportion of judicial resources provided to the courts that serve them. In Florida, for example, cases involving families and children account for over 60% of all civil litigation, but a much smaller proportion of the civil judges are assigned to courts that hear those cases.¹⁶

- Dramatic increases have occurred in child abuse cases in the courts. In New York City, for example, child abuse cases rose by 471% between 1984 and 1989. In New York State the number of such cases increased by over 300% from 1984 to 1989; in Michigan the number of cases increased nearly 300% in the same period.¹⁷
- Juvenile caseloads rose by over one-third from 1984 to 1991.¹⁸
- Domestic relations cases (divorces) made up roughly one-third of all civil cases filed in courts of general jurisdiction in 27 states surveyed in 1990.¹⁹

Funds are essential for: additional personnel, including judges and other staff for Family Courts; increased in-service education about families and children for judges and personnel in Family Courts; the development of computerized tracking systems; and appropriate mediation programs for cases involving children.

RECOMMENDATION: State and local governments should provide adequate funds to family and juvenile court systems. Congress should support programs that will help the states to improve their family and juvenile courts, and assist state courts to fulfill federal requirements.

The federal government has failed to recognize the importance of providing adequate support to state court systems when expanded workloads result from federal law.²⁰ When legislatures—whether federal or state—enact laws that impose burdens on state courts, they should study the fiscal impact of such legislation. When federal legislation is likely to impose substantial new burdens on courts, Congress should help the states to assess the resulting burdens and develop plans for handling the expanded workload. State legislatures should provide the funding necessary for courts to perform mandated functions.

Congress should enact legislation that would provide incentives to help state courts implement the reforms mandated by the Adoption Assistance and Child Welfare Act and other federal laws that affect judicial intervention in children's lives. The federal government could assist each state to assess the need for reforms within its own courts and to implement a plan for improvement, without assuming a major role in paying for reforms. As a general principle, when Congress enacts legislation that is likely to impose substantial new burdens upon state courts in the future, the federal government should assist the courts in planning for and assuring adequate implementation of that legislation.



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Finally, in too many jurisdictions, judges, attorneys who represent children at the request of the court or state, and other legal and support personnel involved with families and children are not compensated at a rate comparable to their counterparts who handle other kinds of cases and that lower pay reflects the diminished respect their work is frequently accorded. Society must recognize the importance of this work and should compensate professionals in these fields fairly.

Provide a Comfortable Courthouse Environment for Children

For almost all children, going to court is a frightening experience which occurs at a time of family crisis already fraught with anxiety. Courthouse corridors and even courtrooms are full of children: they accompany adults who need to be there and have no other place to leave their children, or they are there because they themselves need to appear in court.

Courts should provide friendly environments, including trained staff, for children who are waiting to testify in court cases, child victims who are attending hearings and other court proceedings and children who have merely accompanied their parents to court because there was no one to look after them. Friendly environments and trained staff can provide

a safe, nurturing alternative to the tension, conflict and verbal violence that often characterize courtrooms. Any federal family court demonstration program should allocate funds to support such facilities in Family Courts, and states should work independently to develop them.

Several models exist. For example, Massachusetts law mandates that child care centers be included in all new or renovated courthouses, and several court-based facilities now exist in Roxbury (part of Boston) and other communities.²¹ In New York State, several pilot projects now exist—including one in Rochester that won an ABA award. New York is attempting to develop more child care through judicial rules.²² These projects and others demonstrate that the cost of providing such care is very low.²³

Courts should use creative approaches to making families comfortable. We applaud one judge in Ohio who visits a shelter for homeless families where he conducts all hearings involving the residents.²⁴ While we recognize that this approach may be impracticable in most communities, the spirit of responsiveness to children and families it reflects should be a commonplace, not a rarity.

Courts should develop and distribute clear educational materials (including leaflets, videotapes and coloring books) to inform families about the Family

port so that they can better understand the judicial process. Availability of such materials would help minimize the trauma involved with court experiences and enable families to proceed on a pro se basis where appropriate.

Further training for judges and court personnel about the impact of court appearances on child witnesses will help to reduce the trauma associated with children's participation in court proceedings. Judges and attorneys should consider procedural reforms, including those suggested by ABA policy regarding

child witnesses in abuse cases.²⁵ Procedures sent to child witnesses might include using alternative live courtroom testimony, loosening restrictions on the use of leading questions and hearsay, and seating child witnesses in a way that makes them more comfortable. Courts should also monitor questioning of child witnesses to avoid intimidation or confusion, and allow the presence of a person on whom the child can rely for moral support during testimony.

(See Chapters 1 and 7)

WHAT ATTORNEYS AND THE ORGANIZED BAR SHOULD DO:

The organized bar should give top priority to efforts to educate state and local lawmakers about the need for comprehensive Family Courts, and should seek funding for new court systems.

The organized bar should participate in the development of Family Courts. For example, members of the organized bar could help the new court develop and evaluate rules and procedures.

The organized bar should assist Family Court demonstration projects by arranging for and/or

providing training, continuing legal education, and oversight of attorneys practicing in such courts.

The organized bar should encourage court programs that provide mediation of custody, visitation and related issues involving children, and attorneys should recommend mediation and other forms of alternative dispute resolution to their clients where appropriate.

The organized bar should help sponsor child drop-in centers in courts in their communities.