

Family Courts



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SUMMARY OF RECOMMENDATIONS

FAMILY COURTS (A.C.R. 32)

The Legislative Commission's Subcommittee to Study Family Courts recommends the following:

Assignment of Judges in the District Court

1. Amend NRS to allow the Chief Judges of the Second and Eighth Judicial District Courts to rotate judges to and from the family court by assigning and reassigning a certain number of judges to be judges of the family court, if they consent to being rotated. Also allow the Chief Judges to assign and reassign, as needed, judges who are not assigned to be judges of the family court to be temporary judges of the family court. Change the alphabetical designations of the departments of the family court to numerical designations. Provide that the sections of the act concerning the rotation of judges expire by limitation on July 1, 2001, and require the Chief Judge of each judicial district to submit to the Director of the Legislative Counsel Bureau for distribution at the next regular session of the Legislature a report that includes the court's recommendation as to whether rotation of judges should be continued after July 1, 2001. (BDR 1-373)

Role of the Chief Judge

2. Amend NRS to require the Chief Judge of the Second Judicial District Court and the Chief Judge of the Eighth Judicial District Court to ensure that procedures in the family court are applied as uniformly as practicable, to ensure that cases and other proceedings in the family court are considered and decided in a timely manner and to establish procedures for addressing grievances which are submitted to the Chief Judge by a party in a case or other proceeding in the family court and which concern matters other than substantive issues of law or challenges to a decision of the court, such as the administration of the case or the temperament of the judge. (BDR 1-374)

3. Include a statement in the Subcommittee's report indicating that the Subcommittee recognizes it may be appropriate for the Legislature to consider whether the duties of the Chief Judge with respect to the family court proposed in Recommendation Number 2 of the Subcommittee's report should be expanded to apply to the other divisions of the court.

Additional Family Court Judges for the Eighth Judicial District Court

4. Include a statement in the Subcommittee's report indicating that the Subcommittee supports the addition of five judges to the family division of the Eighth Judicial District Court.

Access to Family Courts by Litigants Not Represented by an Attorney

5. Include a statement in the Subcommittee's report urging the Board of County Commissioners of Clark County to provide funding for a pro per self-help clinic for family court litigants or a separate pro per office staffed with individuals who are trained to assist pro per litigants in family law matters.

6. Include a statement in the Subcommittee's report commending the Second Judicial District Court and the Board of County Commissioners of Washoe County for their efforts in establishing the position of "Family Law Facilitator" to assist pro per litigants in the family court.

7. Include a statement in the Subcommittee's report urging the Second Judicial District Court and the Eighth Judicial District Court to coordinate their efforts in ensuring that pro per litigants have access to justice in the family courts.

Legislative Monitoring of the Family Court Caseload

8. Amend NRS 3.025 to require the Chief Judge of the Second Judicial District Court and the Chief Judge of the Eighth Judicial District Court to submit to the Director of the Legislative Counsel Bureau the written report that each Chief Judge must currently submit to the Clerk of the Supreme Court each month concerning the number and type of cases assigned to, considered, submitted to and decided by each district judge in the preceding month and the number of full judicial days in the preceding month each district judge appeared in court or in chambers to perform his judicial duties. (BDR 1-377)

Coordination of Cases

9. Adopt a resolution urging the family courts to coordinate and integrate as fully as possible all case files in the family court which pertain to the same parties or children but which are reviewed by multiple persons or agencies because they involve multiple issues, such as domestic violence, child support, and abused or neglected children, and to ensure that the parties or children in such cases are directed to the appropriate agencies and services of the court in a timely manner. Include in the

resolution a statement that it was the original intent of the founders of the family court system for such coordination and integration to be implemented in the family court and for the parties and children involved in such cases to be directed to appropriate services in a timely manner. Include in the resolution a statement that the Chief Judge of the Second Judicial District Court and the Chief Judge of the Eighth Judicial District Court should submit to the Director of the Legislative Counsel Bureau for distribution at the next regular session of the Legislature a report that includes a summary of any actions that have been or will be taken by the court to coordinate and integrate as fully as possible such case files and any suggestions for necessary legislation to assist the court in coordinating and integrating as fully as possible such case files. (BDR R-376)

Case Management and Tracking

10. Include a statement in the Subcommittee's report urging the Board of County Commissioners of Clark County to continue to provide funding to the Eighth Judicial District Court for integrated computer software and for training of employees in the use of that software to assist in case management, including the coordination of cases, and tracking of the timeliness of cases.

11. Include a statement in the Subcommittee's report commending the Board of County Commissioners of Washoe County for providing funding to the Second Judicial District Court for integrated computer software and for training of employees in the use of that software to assist in case management, including the coordination of cases, and tracking of the timeliness of cases.

12. Include a statement in the Subcommittee's report indicating that the Subcommittee is concerned about the coordination of efforts between the Eighth Judicial District Court and the County Clerk with respect to the exchange of information, data and records between those bodies and urges that efforts be made to promote cooperation and coordination in order to ensure that requested information is accessible and that the court system is accountable for its actions.

Assessments

13. Include a statement in the Subcommittee's report requesting that the Eighth Judicial District Court determine whether there exists a need for the Family Mediation Center to perform assessments for litigants and their families who are indigent or otherwise financially unable to pay for an outsourced, private assessment and, if there is such a need, what priority should be given to the funding of such a program in light of the need for funding of programs for the use of guardians ad litem and court appointed special advocates.

Mediation

14. Include a statement in the Subcommittee's report urging the family courts to make reasonable efforts to inform litigants, whether through posting or personal delivery of a notice or other means, that they may seek private mediation of unresolved issues in their cases if they desire.

15. Include a statement in the Subcommittee's report indicating that the Subcommittee believes it is beneficial to have mediation, which is already mandatory under current law for most cases involving the custody of children, begin as quickly as practicable to aid in the timely resolution of cases in family court and recommends that the court appoint a mediator within 30 days after the filing of an answer.

Settlement Conferences

16. Include a statement in the Subcommittee's report urging the Eighth Judicial District Court to adopt, and the Supreme Court of Nevada to approve, the following changes to the Eighth Judicial District Court Rules ("EDCR"):

(a) Amend the EDCR to require that a judge of the family court, in every case, set a date for a mandatory settlement conference when the parties appear in court to set a date for trial, and require that the settlement conference be scheduled to be held as soon as practicable.

(b) Amend the EDCR to require that the mandatory settlement conference be presided over by the judge of the family court who is assigned to the case or by a settlement judge.

Family Court Procedures

Adherence to Established Procedures

17. Include a statement in the Subcommittee's report urging the family courts to be vigilant about ensuring and enforcing strict adherence with the rules of procedure established for the courts.

Standardization of Procedures

18. Include a statement in the Subcommittee's report urging the Eighth Judicial District Court to establish for judges of the family court a bench book of standardized court procedures.

Setting a Date for Trial

19. Include a statement in the Subcommittee's report urging the Eighth Judicial District Court to adopt, and the Supreme Court of Nevada to approve, the following changes to the Eighth Judicial District Court Rules ("EDCR"):

(a) Amend the EDCR to require, in cases filed in family court, that after the answer is filed by the defendant, the case file be immediately sent to the family court judge assigned to the case and that an order be automatically generated to bring the parties into court, not later than 10 days after the answer is filed, to set a date for trial.

(b) Amend the EDCR to require, in cases filed in family court, that the date for trial be set to occur not later than 6 months after the date of service of the complaint, unless good cause is shown to set the trial for a later date.

Other procedures

20. Include a statement in the Subcommittee's report noting that the Subcommittee has received the following suggested changes to the procedures in family court from a wide variety of persons, including judges, attorneys, litigants and other interested persons, and wishes to forward them, without expressing an opinion as to their merit, to the family courts and to the Supreme Court of Nevada for their examination and consideration:

A. Filing and Service of the Complaint

Amend N.R.C.P. 4 to require, in cases filed in family court, that the plaintiff serve the complaint upon the defendant not later than 90 days after filing the complaint.

B. Early Case Conference

Adopt the following changes to the Nevada Rules of Civil Procedure:

(1) Amend N.R.C.P. 16.1 to require, in cases filed in family court, that the parties hold the early case conference sooner than is currently set forth in the rule.

(2) Amend N.R.C.P. 16.1 to require, in cases filed in family court, that the parties produce all documents requested at the early case conference not later than 30 days after the early case conference.

(3) Amend N.R.C.P. 16.1 to require, in cases filed in family court, that the parties file the mandatory early case conference report or reports sooner than is currently set forth in the rule.

(4) Amend N.R.C.P. 16.1 to require, in cases filed in family court, that the parties file the mandatory early case conference report or reports before the court is permitted to consider any substantive motions other than motions for extraordinary or emergency relief.

(5) Amend N.R.C.P. 16.1 to require, in cases filed in family court, that the parties attend a mandatory conference with the discovery commissioner if the early case conference report or reports are not filed within 60 days of filing the answer.

(6) Amend N.R.C.P. 16.1 to require, in cases filed in family court, that the court enter an automatic show cause order after 45 days if the early case conference has not been conducted or the early case conference report or reports have not been filed.

(7) Amend N.R.C.P. 16.1 to require, in cases filed in family court, that the discovery commissioner issue a summons for and impose fines upon the parties if the early case conference report or reports are not filed timely.

(8) Amend N.R.C.P. 16.1 to provide for stricter requirements, in cases filed in family court, for the disclosure of financial information at the early case conference.

(9) Amend N.R.C.P. 16.1 to require, in cases filed in family court, automatic sanctions against parties who do not comply with N.R.C.P. 16.1.

(10) Amend N.R.C.P. 16.1 to allow the parties, in cases filed in family court, to conduct the early case conference telephonically.

(11) Adopt standardized forms to address the requirements of N.R.C.P. 16.1 and the conduct of the early case conference in cases filed in family court.

C. Discovery

Adopt the following changes to the Nevada Rules of Civil Procedure:

(1) Amend the N.R.C.P. to require, in cases filed in family court, that the parties report to the discovery commissioner after the early case conference to set the time period that is needed for discovery.

(2) Amend the N.R.C.P. to reduce the time period during which discovery is permitted to be conducted in cases filed in family court.

D. Deciding Motions

Adopt the following changes to the Eighth Judicial District Court Rules (“EDCR”):

(1) Amend the EDCR to require that motions in the family court be heard not later than 15 days after the last response to the motion is filed.

(2) Amend the EDCR to establish a uniform procedure in the family court for obtaining orders shortening time.

(3) Amend the EDCR to require that all motions in the family court be decided without oral argument, unless the court determines that oral argument is necessary.

(4) Amend the EDCR to limit oral argument on motions in the family court to 5 minutes per side, unless unusual circumstances are present or the court determines that the motion warrants a longer period of oral argument.

(5) Amend the EDCR to require that judges of the family court render decisions on the bench, whenever possible, rather than taking matters under advisement or submission. If a judge takes a matter under advisement or submission, place a limitation on the time that the matter may be held by the judge and require the judge to produce a written decision on the matter.

E. Submission and Signing of the Decree or Order After Trial

Adopt the following changes to the Eighth Judicial District Court Rules (“EDCR”):

(1) Amend the EDCR to require, in cases filed in family court, that a proposed final decree or order be prepared by a party and be submitted to the judge of the family court not later than 30 days after the trial is completed.

(2) Amend the EDCR to require that a judge of the family court sign a proposed final decree or order not later than 30 days after it is submitted, unless the judge returns the proposed decree or order to a party for modifications.

(3) Amend the EDCR to require that a judge of the family court be notified when the time for filing a notice of appeal from a final decree or order has expired without action by either party.

Ex Parte Communications

21. Include a statement in the Subcommittee's report urging judges in the family court to be cognizant of and strictly adhere to the prohibition against improper ex parte communication contained within the Code of Judicial Conduct.

Guardians Ad Litem and Court Appointed Special Advocates

22. Include a statement in the Subcommittee's report urging increased funding for the use of guardians ad litem and court appointed special advocates in cases filed in family court to ensure that the voices of children are heard.

Temporary Protective Orders

23. Amend NRS to provide that if the court finds by clear and convincing evidence that a person has submitted a false affidavit to obtain a temporary protective order, the court shall award reasonable attorney's fees and costs to the party against whom the order was sought. If the parties have a child and any visitation was missed by the party against whom the order was sought as the result of the order, the court shall order make-up visitation. The fact that a party submitted a false affidavit to obtain a temporary protective order must be considered as a factor in determining the custody of a child. (BDR 3-378)

**REPORT TO THE 70TH SESSION OF THE NEVADA LEGISLATURE
BY THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE
TO STUDY FAMILY COURTS**

I. INTRODUCTION

The 69th Session of the Nevada Legislature adopted Assembly Concurrent Resolution No. 32, (File No. 140, *Statutes of Nevada 1997*, page 3716), which directed the Legislative Commission to conduct an interim study of the family courts in Nevada.

The Legislative Commission appointed a subcommittee consisting of the following eight members to complete the study:

- Assemblywoman Barbara E. Buckley, Chairman
- Senator Ernest E. Adler
- Assemblywoman Ellen M. Koivisto
- Assemblywoman Genie Ohrenschall
- Senator Jon C. Porter
- Assemblywoman Sandra Tiffany
- Senator Dina Titus
- Senator Maurice Washington

A six-member advisory committee, consisting of the following persons, also assisted the Subcommittee with its work:

- Dr. Philip Bushard, Director, Family Mediation Program, Second Judicial District Court
- Robert P. Dickerson, Family Law Section, State Bar of Nevada
- Elena Hatch, Chief Deputy District Attorney, Office of the Clark County District Attorney
- Anna Peterson, Former Court Administrator, Eighth Judicial District Court
- Dr. Steve Riddell, National Council of Juvenile and Family Court Judges
- Madelyn Shipman, Assistant District Attorney, Office of the Washoe County District Attorney

Legislative Counsel Bureau staff services for the study were provided by: Bradley A. Wilkinson, Principal Deputy Legislative Counsel; Kevin C. Powers, Deputy Legislative Counsel; Allison Combs, Principal Research Analyst; Patti Adams, Secretary; and Emiko Mitchell, Secretary.

The Subcommittee held five meetings in Las Vegas. All of the meetings were simultaneously video conferenced between Las Vegas and Carson City.

The Subcommittee reviewed a multitude of issues involving the family courts, including the history regarding the creation of the family courts, the current operation and organization of the family courts, the timeliness of decision-making, the standardization of court procedures, the issue of rotation or reassignment of judges in and out of the family courts, the caseload of the family courts and their personnel needs, the role of a chief judge, the resolution of litigants' grievances and the need for legal help for users of the family courts. Judges and staff of the family courts, litigants and their families, attorneys specializing in family law, nationally recognized experts on family courts, members of the Advisory Committee and other interested parties offered their insight and suggestions on ways to improve the family court.

At the work session held on June 3, 1998, the Subcommittee approved 23 recommendations, including proposals relating to:

- The rotation and reassignment of judges in and out of the family courts
- Expansion of the responsibility of the chief judge to ensure uniformity of procedures, timeliness of decision-making and effective resolution of litigants' grievances
- The addition of five family court judges to the Eighth Judicial District Court in Clark County
- The need for funding by the Clark County Board of County Commissioners of a self-help clinic for pro se family court litigants
- Monitoring of the family court caseload by the Legislature
- Adoption of various court procedures designed to improve the timely processing and resolution of cases
- The need to prevent the making of false allegations to receive an unwarranted temporary protective order

The information in this document is designed to provide an overview of the background leading to the formation of the Subcommittee and a summary of the issues and information considered by the Subcommittee in adopting its final recommendations. The minutes from the meetings and any supporting documents considered by the Subcommittee that are not contained in the Appendix are available from the Legislative Counsel Bureau's Research Library. The minutes from the meetings are also available on the Legislature's web site at <http://www.leg.state.nv.us>.

II. BACKGROUND

A. History of the Creation of Family Courts

In 1987, the Nevada Legislature enacted Senate Joint Resolution No. 24, proposing to amend section 6 of article 6 of the Nevada Constitution to allow the Legislature to create a family court as a division of a district court and prescribe its jurisdiction. (File No. 132, *Statutes of Nevada 1987*, at page 2444.) In 1989, the Legislature again approved Senate Joint Resolution No. 24, sending the measure to the voters. (File No. 26, *Statutes of Nevada 1987*, at page 2222.) In the 1990 general election, voters ratified the proposed constitutional amendment.

In 1991, the Legislature enacted Senate Bill No. 395, creating family courts in the Second and Eighth Judicial Districts and prescribing their jurisdiction. (Chapter 659, *Statutes of Nevada 1991*, at page 2174.) Senate Bill No. 395 also added one judge to the Second Judicial District Court to serve as a family court judge. Six judges were added to the Eighth Judicial District Court and designated as family court judges. The family courts became operational in January 1993.

As the fourteenth state in the nation to create family courts, Nevada sought advice from the thirteen states that had previously implemented a family court system. Many of the concepts embodied in Senate Bill No. 395 resulted from input from all of the different jurisdictions involved, as well as from the National Council of Juvenile and Family Court Judges. As set forth by the Honorable Nancy Becker, a member of the Clark County Family Court Implementation Committee, in her testimony before the Subcommittee, some of the goals sought to be achieved by creating family courts included: the establishment of non-adversarial programs to resolve family disputes; adoption of an integrated case management system to allow tracking of cases and case dispositions involving a particular family; creation of a friendly environment to lessen the sometimes traumatic impact of the judicial process; increased accessibility to court services for litigants who are without legal representation; and establishment of a process whereby decisions are made fairly, firmly and in a timely fashion.

B. Formation of the Subcommittee to Study Family Courts

After the family courts had been operating for several years, it became clear that all of the goals envisioned for the family courts had not been achieved. Following a series of newspaper articles exposing some of the flaws of the family court system and hearings concerning the family court by the Assembly Standing Committee on Judiciary, the Legislature enacted Assembly Concurrent Resolution No. 32. Assembly Concurrent Resolution No. 32, which directed the Legislative Commission to create the

Subcommittee, stated that “[c]ontrary to the intended result, the families who have used the family courts have experienced needless delays and court orders that are not enforced, resulting in considerable stress and financial problems for the families” and “certain family court judges have taken approximately 2 years to decide cases involving child custody.” The resolution also noted that the following areas needed to be studied to assist the family courts in becoming more effective and efficient: the organization and operation of family courts; the jurisdiction of family courts; the time required to render decisions in family courts, particularly for cases concerning divorce and child custody; the role of mediation and other alternative methods used in the resolution of disputes in family law matters; whether more programs and services should be made available to parents obtaining divorces to ease the transition for the affected children and methods to improve the access to existing programs and services; reports produced by the courts; the standardization of procedures and the consistency in decisions and judgments among the departments of the family court; the involvement of the Family Mediation and Assessment Center; the effectiveness of the administrators and staff of the family court; and the referral of disputes to alternative methods of resolving disputes.

C. Meetings of the Subcommittee

During its first meeting on November 14, 1997, the Subcommittee heard testimony from some of the people who were instrumental in the creation of the family court system. The Honorable Nancy Becker of the Eighth Judicial District Court and Commissioner Myrna Williams of the Clark County Board of County Commissioners, both members of the Clark County Family Court Implementation Committee, joined by the Honorable Scott Jordan of the Second Judicial District Court, testified at length about the issues and challenges that arose in creating the family court system and developing its organization and operations. Dan L. Wiley, an independent consultant who had recently completed a report containing an operational and organizational analysis of the Family Division of the Eighth Judicial District Court, presented his report to the Subcommittee for its review and consideration. Charles J. Short, Court Administrator, Eighth Judicial District Court, and Christina M. Chandler, Assistant Court Administrator, Eighth Judicial District Court, provided the Subcommittee with current information concerning the organization and operation of the Family Division of the Eighth Judicial District Court. The Subcommittee also discussed the topics and schedule for future meetings before hearing public testimony from 17 members of the public regarding their experiences with the family court in Clark County.

The Subcommittee’s second meeting was held on January 21, 1998, and focused on the timely processing of divorce cases, recordkeeping and standardization of procedures in the family courts. The Honorable Robert E. Gaston of the Eighth Judicial District

Court and Jennifer Henry, Master, Eighth Judicial District Court, offered information and statistics concerning the processing of cases and presented a litigation model designed to expedite the processing of cases. The Honorable Dianne Steel and the Honorable Frances-Ann Fine of the Eighth Judicial District Court also commented on the proposed litigation model presented by Judge Gaston and Master Henry. The Honorable Scott Jordan and Cathy Krolak, Court Administrator, Second Judicial District Court, presented current statistics concerning the processing of cases in the Second Judicial District Court. Thomas L. Leeds, Master, Eighth Judicial District Court, testified about the need to ensure that coordination exists with respect to multiple cases and issues involving the same parties. Dan L. Wiley offered his suggestions regarding the principles and practices required to achieve timely processing of cases. Shawn B. Meador, Esquire, Kathryn Stryker-Wirth, Esquire, and Robert P. Dickerson, Esquire, Advisory Committee Member, provided the Subcommittee with testimony regarding the issues surrounding standardization of court procedures and contrasted the differences in procedures in the Second and Eighth Judicial Districts. Bradley A. Wilkinson, Principal Deputy Legislative Counsel, summarized the results of informal questionnaires regarding procedures in family court that were sent to attorneys practicing in the area of family law. Dennis Hetherington, Executive Director, Clark County Pro Bono Project, provided the Subcommittee with testimony concerning the pro bono services that are currently available to litigants in Clark County. Ten members of the public also testified about their experiences with the family court in Clark County.

The third meeting of the Subcommittee was held on March 11, 1998. At this meeting, the Subcommittee heard extensive testimony regarding rotation and assignment of judges to the family court, the caseload of the family court and the need for additional judges and personnel in the Eighth Judicial District Court, the "strong chief judge model" and the various types of cases that must be coordinated by the family court. The Honorable Myron E. Leavitt, Chief Judge of the Eighth Judicial District Court, testified regarding the judges' desire to allow rotation in and out of the family court. Hunter Hurst III, Director of the National Center for Juvenile Justice, provided the Subcommittee with an analysis of the advantages and disadvantages of rotating judges and suggested that the disadvantages of rotating judges outnumbered the advantages. The Honorable Scott Jordan addressed the issue of rotation of judges and indicated that he concurred with Mr. Hurst's opinion that rotation of judges would be detrimental to the family court system. Charles J. Short and Christina M. Chandler provided statistics regarding the current caseload of judges and testified regarding the need for additional judges. The Honorable Myron E. Leavitt and the Honorable Jeremiah S. Jeremiah, Chief Judge of the Rhode Island Family Court and Member of the Board of Trustees of the National Council of Juvenile and Family Court Judges, testified concerning the role of a chief judge and the "strong chief judge model." Thomas Leeds, Master, Eighth

Judicial District Court, provided the Subcommittee with information concerning the various types of cases that come before the family court and the need to coordinate cases involving the same parties to ensure that the parties are directed to available resources in a timely manner. The Subcommittee heard testimony from 16 members of the public regarding their experiences in the family court in Clark County.

During the fourth meeting of the Subcommittee on April 16, 1998, the Subcommittee reviewed the topics of mediation, assessment, grievances against judges, court appointed special advocates ("C.A.S.A."), legal assistance for unrepresented litigants in the family court and citizen recommendations for reform. Dr. Philip Bushard, Director of the Family Mediation Program in the Second Judicial District Court and Advisory Committee Member, provided the Subcommittee with a presentation on the mediation program in Washoe County. LaDeana Gamble, Family Mediation Manager for the Eighth Judicial District Court, testified regarding the mediation program in Clark County. Charlotte Kiffer, a private mediator, gave the Subcommittee information concerning the role of a private mediator in the family court system and offered suggestions on improving the process of mediation. Kitty Hardy, also a private mediator, testified about the advantages of private mediation and the difficulties encountered by private mediators in accessing important information. The Honorable Michael A. Towne of the Hawaii Superior Court testified via telephone and provided the subcommittee with his insight on how a chief judge may help resolve litigants' grievances against judges and when a child should be allowed to testify or otherwise contribute to decisions affecting his welfare in family court. Ruth Pearson Urban, Manager of the Clark County Neighborhood Justice Center, testified about the need to provide mediation and counseling services to people who have not yet entered the family court. Linda Ley, Manager of C.A.S.A. Services for the Eighth Judicial District Court, made a presentation to the Subcommittee on the history and development of the C.A.S.A. program and the services it provides in Clark County. Mary Herzik, Executive Director of C.A.S.A. Services for the Second Judicial District Court, testified regarding the services provided by the C.A.S.A. program in Washoe County. Bonnie Mann, Chairwoman of the C.A.S.A. Foundation, also testified regarding the importance of the C.A.S.A. program. Leonard I. Gang, General Counsel and Executive Director of the Nevada Commission on Judicial Discipline discussed the operations of the Commission and the processing of complaints made against judges. The Honorable Myron E. Leavitt and Christina M. Chandler testified and provided information regarding the efforts in Clark County to establish a pro se center for unrepresented litigants modeled after the Self-Service Center in Maricopa County, Arizona. The Honorable Barry C. Schneider of the Superior Court of Arizona in Maricopa County and Bob James, Self-Service Center Administrator, made a presentation to the Subcommittee on the award-winning Self-Service Center in Maricopa County, Arizona, upon which the proposed Clark County pro se center is to

be modeled. Al DiCicco, Director of the Coalition for Family Court Reform, and Shirlee LaSpina, Founder of P.O.W.E.R. Justice, I.N.C., presented an extensive compilation of suggested reforms to the family courts based upon their personal experiences in family court, the experiences of other litigants who have contacted their organizations, and their attendance at all of the Subcommittee's previous meetings. Eighteen members of the public testified regarding their experiences in the family court in Clark County, while five members of the public testified about their experiences in the family court in Washoe County.

The final meeting of the Subcommittee on June 3, 1998, was a work session. At this work session, the Subcommittee reviewed the recommendations presented and discussed during the course of the study, then voted on its final recommendations. Following the voting on recommendations, the Subcommittee heard testimony from 12 members of the public from Clark County and one member of the public from Washoe County.

D. General Information Concerning the Family Courts in Nevada

Section 6 of article 6 of the Constitution of the State of Nevada states that the Legislature "may provide by law for [t]he establishment of a family court as a division of any district court and may prescribe its jurisdiction." Pursuant to this section of the Nevada Constitution, the Legislature enacted NRS 3.0105, which provides: "[t]here is hereby established, in each judicial district that includes a county whose population is 100,000 or more, a family court as a division of the district court." Thus, the Second Judicial District, which includes Washoe County,¹ and the Eighth Judicial District Court, which includes Clark County,² are the only judicial districts in which the Legislature has established family courts.

The Legislature also established the jurisdiction of the family courts in Nevada. Pursuant to NRS 3.223, the family courts have "original, exclusive jurisdiction" in a wide variety of cases, including cases involving:

- Dissolution or annulment of a marriage
- Custody or visitation of a child
- Establishment and enforcement of child support, including interjurisdictional enforcement pursuant to the Uniform Interstate Family Support Act
- Determinations of parentage
- Adoption of children and adults
- Termination of parental rights

¹ NRS 3.010.

² *Id.*

- Disabilities and emancipation of minors
- Guardianships
- Abuse or neglect of children
- Juvenile matters
- Judicial approval of the marriage of a minor
- Judicial approval of the withholding or withdrawal of life-sustaining procedures from a person as authorized by law
- Involuntary court-ordered admission to a mental health facility

Additionally, family courts have concurrent jurisdiction with the justices' courts over actions for the issuance of a temporary or extended order for protection against domestic violence. Family courts also have concurrent jurisdiction with the district courts over any action to recover damages brought pursuant to NRS 41.134 by a person who suffered injury as the proximate result of an act that constitutes domestic violence.

The Second Judicial District Court is comprised of 11 district court judges, three of whom are currently assigned to the family division.³ The Eighth Judicial District Court is comprised of 24 district court judges, eight of whom are judges of the family court.⁴

III. DISCUSSION OF RECOMMENDATIONS

Following is an overview of the recommendations approved by the Subcommittee, which are contained in bordered text. Pertinent background information regarding the family court system is also provided.

A. Assignment of Judges in the District Court

One of the most important issues facing the founders of the family court system was whether the family court would have judges elected specifically to the family court who would serve their entire term of office in the family court. A proposed alternative was to staff the family court with judges not elected specifically to the family court who would serve in the family court only for a portion of their terms as part of a temporary assignment or rotation through the various divisions of the court. After considering these alternatives, the Legislature chose to require that judges who wish to serve in the

³ NRS 3.012. The Honorable Charles McGee has been temporarily assigned to serve as a judge of the family division. On January 6, 2003, Department 2 of the Second Judicial District Court, the department in which Judge McGee serves, will be designated as a family court. Chapter 5, *Statutes of Nevada 1997*, at page 3.

⁴ NRS 3.018. Pursuant to Assembly Bill No. 104 of the 1997 legislative session (Chapter 468, *Statutes of Nevada 1997*, at page 1753), the number of district court judges in the Eighth Judicial District Court will be increased to 27 as of January 1, 1999. None of the three additional district court judges will be judges of the family court.

family court must seek election to the family court and must remain in the family court for their entire term.⁵ The Legislature also set forth the conditions under which general jurisdiction judges may be assigned to serve in the family court on a temporary basis.

Under the system established by the Legislature, which remains in place today, judges in the family court must remain in the family court and may not be reassigned, either permanently or temporarily, to other divisions of the district. The chief judge of the district may assign general jurisdiction judges to serve temporarily in the family court if the caseload of the family court so requires or if for any reason a judge of the family court is unable to act.⁶ However, general jurisdiction judges temporarily assigned to the family court must not be assigned to the family court on a rotating basis.⁷ General jurisdiction judges who are temporarily assigned to the family court are also required to attend instruction in family law if the assignment is for 90 or more days.⁸

The question of whether the current system should be maintained has been hotly contested among the members of the judiciary, national experts and attorneys practicing in the family court. Likewise, when this issue was reviewed by the Subcommittee, proponents and opponents of changing the system offered disparate viewpoints and suggestions regarding what course the Subcommittee should follow in making its recommendations.

People testifying before the Subcommittee in opposition to implementing a new system of assignment of judges within the district argued that negative consequences would occur, including the following:

- Decreased development of judicial expertise in family law, especially with respect to complex issues
- Loss of empathy for families
- Reduction in the timeliness of processing of cases
- Disadvantage for judges dealing with other court personnel who remain constant in the family court
- Diminishment of the ideal of one judge for one family
- Diminishment in the court's ability to obtain funding and resources from appropriating authorities or the community
- Increased friction among the judiciary if assignments are made based on seniority
- Decreased status and importance of the family division

⁵ See subsection 2 of NRS 293.197, requiring that in judicial districts which include a county whose population is 100,000 or more, the departments of the family division must be distinguished on all ballots from the remaining departments in the district.

⁶ Subsections 2 and 3 of NRS 3.0105.

⁷ Subsection 4 of NRS 3.0105.

⁸ *Id.*

In contrast, the Subcommittee heard testimony in favor of adopting a new system for determining which judges would serve in the family court indicating that the following positive consequences would occur:

- Reduction in judicial “burn-out” that results in lack of empathy for families, the rendering of bad decisions and inefficiency
- Improved efficiency in managing the caseload of the court and judicial resources
- Addition of a “freshness” to the entire court
- An increase in the pool of attorneys who may seek to serve as judges
- Development of more well-rounded judges
- Assurance that family court has the same status and importance as the other divisions of the court

In considering all of the arguments listed above in support of and in opposition to creating a new system for determining which judges will serve in the family court, the Subcommittee realized that service in the family court can be stressful and emotionally taxing for judges. However, the Subcommittee recognized that families involved in cases pending in the family court deserve the empathy, understanding and compassion of knowledgeable, committed judges when their most cherished and personal relationships are hanging in the balance. For this reason, the Subcommittee felt that it was particularly important to prevent judicial “burnout” that may result in a loss of empathy for the families involved, the rendering of bad decisions, or decreased efficiency in processing cases. The Subcommittee also was persuaded by the fact that serious problems exist in the family court in Clark County and limited experimentation with a new system for determining service of judges in the family court might improve justice for families in Clark County.

In light of these factors, the Subcommittee considered whether the best course of action was to adopt a new system providing for voluntary reassignment of judges. The Subcommittee noted the advantages of voluntary reassignment. Voluntary reassignment would allow family court judges with the desire and commitment to remain in the family court to keep that assignment, while also giving general jurisdiction judges who want to serve in the family court on a long-term basis the opportunity to do so. Simultaneously, voluntary reassignment would also ensure that judges assigned to the family court who do not wish to remain in the family court and judges assigned to the other divisions who have no interest in being assigned to the family court are not forced to serve in the family court. Thus, the problem of judicial “burn-out” would be addressed without sacrificing the empathy or expertise of judges wishing to continue their service in the family court and without forcing judges not assigned to the family court to serve in the family court for prolonged periods against their will. To ensure that the new system would function as envisioned, the Subcommittee also considered

whether a trial period for evaluation of the new system would be appropriate, with input from the courts as to the advisability of continuing the new system after the expiration of the trial period.

Additionally, the Subcommittee reviewed whether it would be prudent to expand the authority of the chief judge to assign judges on a temporary basis to the family court. Testimony supported the belief that the existing grounds for making temporary assignments may be too restrictive to allow the best management of judicial resources by the chief judge. Finally, to ensure that the family division is accorded the same status and respect as the other divisions of the court, the Subcommittee looked at whether the different denotations of the departments of the court, i.e., the numbering of departments in the civil and criminal divisions as opposed to the lettering of the departments of the family division, suggested that the family court is somehow inferior.

After careful analysis of the issues discussed above, the Subcommittee recommended the following action:

Amend NRS to allow the Chief Judges of the Second and Eighth Judicial District Courts to rotate judges to and from the family court by assigning and reassigning a certain number of judges to be judges of the family court, if they consent to being rotated. Also allow the Chief Judges to assign and reassign, as needed, judges who are not assigned to be judges of the family court to be temporary judges of the family court. Change the alphabetical designations of the departments of the family court to numerical designations. Provide that the sections of the act concerning the rotation of judges expire by limitation on July 1, 2001, and require the Chief Judge of each judicial district to submit to the Director of the Legislative Counsel Bureau for distribution at the next regular session of the Legislature a report that includes the court's recommendation as to whether rotation of judges should be continued after July 1, 2001. (BDR 1-373)

B. Role of the Chief Judge

Because testimony from a wide variety of persons indicated that a strong chief judge providing firm judicial leadership is a necessary element for the success of a judicial district, the Subcommittee was deeply concerned with reviewing the appropriate role and responsibilities of a chief judge. With assistance from the National Council of

Juvenile and Family Court Judges, the Subcommittee arranged to hear testimony regarding this issue from one former chief judge and one current chief judge who are nationally renowned for their contributions to the judiciary, the Honorable Michael A. Towne from Hawaii and the Honorable Jeremiah S. Jeremiah from Rhode Island. Additionally, the Chief Judge of the Eighth Judicial District Court, the Honorable Myron E. Leavitt, provided the Subcommittee with insight on his role and responsibilities.

Three issues of importance to the Subcommittee were the uniform applicability of procedures in family court, the timely processing of cases and the speedy resolution of litigants' grievances about matters not involving substantive legal issues. Testimony revealed that a strong chief judge, who has the power and responsibility to ensure the proper management of the administrative aspects of cases in family court, would aid greatly in standardization of procedures, timely disposition of cases, expedited resolution of complaints and prevention of future complaints.

As to the issue of standardization of procedures, the Subcommittee learned through testimony that procedures are apparently well standardized in the Second Judicial District Court, but vary more widely in the Eighth Judicial District Court. In light of this information, the Subcommittee also considered and recommended the adoption of a formal compilation of administrative orders, guidelines and procedures, commonly referred to as a "bench book."⁹ However, the Subcommittee felt that even with the adoption of a bench book, the potential may still exist for unequal application or interpretation of the procedures contained therein without the assurance that a strong chief judge is charged with the duty to ensure understanding and consistent compliance with established procedures in family court.

With respect to timely processing of cases, the Subcommittee heard about a variety of approaches employed by certain courts and administered by the chief judge that would assist the courts in properly managing the caseload of the court. The Honorable Jeremiah S. Jeremiah stated in his testimony before the Subcommittee that, in his opinion, a chief judge should be responsible for ensuring that decisions from the court are made in a timely, efficient matter. One approach employed by Judge Jeremiah is to have contact with each judge on a daily basis to determine if the judge needs assistance in handling the cases on his calendar. If a judge does not require help, the judge may assist another judge who does need assistance. Judge Jeremiah also occasionally issues administrative orders requiring a judge to decide a case within a certain period. If the judge has difficulty meeting the ordered deadline, Judge Jeremiah may take that judge off the calendar to clear his time to hear the case.

⁹ See the recommendation of the Subcommittee regarding standardization of procedures under the heading of "Family Court Procedures."

Finally, the Subcommittee heard testimony about methods of quickly resolving grievances of litigants that do not involve substantive issues of law. For example, the Honorable Michael E. Towne shared his experiences as a chief judge with the Subcommittee and described how he would resolve complaints from litigants. If a complaint involved the merits of a judicial decision, Judge Towne informed the litigant about his right to appellate review of the decision or to file a complaint with the commission charged with reviewing judicial conduct. If the complaint involved judicial attitude, perceived bias or some other similar grievance that did not concern an issue of substantive law, Judge Towne and his staff would review a video tape of the proceeding and discuss the allegations with the judge in question. Reviewing the tape and talking to the judge would often clarify the points of complaint, particularly in cases where the complaint was filed by a pro se litigant. Judge Jeremiah also indicated to the Subcommittee that he makes every effort to increase the awareness of litigants that they may communicate with the chief judge if they are experiencing difficulties in the family court.

Based upon the testimony heard and considered by the Subcommittee, the Subcommittee recommended the following action:

Amend NRS to require the Chief Judge of the Second Judicial District Court and the Chief Judge of the Eighth Judicial District Court to ensure that procedures in the family court are applied as uniformly as practicable, to ensure that cases and other proceedings in the family court are considered and decided in a timely manner and to establish procedures for addressing grievances which are submitted to the Chief Judge by a party in a case or other proceeding in the family court and which concern matters other than substantive issues of law or challenges to a decision of the court, such as the administration of the case or the temperament of the judge. (BDR 1-374)

The Subcommittee also noted that the preceding recommendation may be helpful if applied in divisions of a judicial district other than the family division. Because the Subcommittee felt that the study of divisions of a judicial district other than the family division was not within its charter, the Subcommittee recommended the following action:

Include a statement in the Subcommittee's report indicating that the Subcommittee recognizes it may be appropriate for the Legislature to consider whether the duties of the Chief Judge with respect to the family court proposed in Recommendation Number 2 of the Subcommittee's report should be expanded to apply to the other divisions of the court.

C. Additional Family Court Judges for the Eighth Judicial District Court

During the 1997 legislative session, Assembly Bill No. 293, introduced by the Assembly Standing Committee on Judiciary, would have provided for the addition of three new judges for the family court in Clark County. After being amended to require the court to report certain statistical information regarding the disposition of cases, no further action was taken on the measure. Assembly Bill No. 104,¹⁰ as introduced on behalf of the Administrative Office of the Courts, also provided for the addition of three new judges to the family court in Clark County. Although Assembly Bill No. 104 was enacted by the Legislature, the bill was amended before passage to provide that the three new judges would not be judges of the family court. Testimony and comments to the Subcommittee indicated that the failure of Assembly Bill No. 293 and the amendment of Assembly Bill No. 104 were directly attributable to the problems voiced about the family court which the Subcommittee was assigned to study.

Aware of this history, the Subcommittee delved into the issue of whether some of the problems experienced by litigants in the family court in Clark County were the result of the tremendous increase in the population of Clark County without a concomitant increase in the number of judges serving in the family court. Charles J. Short, Court Administrator, and Christina M. Chandler, Assistant Court Administrator, Eighth Judicial District Court, provided the Subcommittee with statistics on the caseload of the family division of the Eighth Judicial District Court. These statistics are provided in the report entitled "Caseload of the Family Division and the Need for Additional Judges and Personnel," Appendix A.

Using population figures from 1997, in the Second Judicial District Court, there is one family court judge for every 102,900 persons, while in the Eighth Judicial District Court, each family court judge serves 149,025 persons. To establish the same ratio of judges per capita in Clark County as in Washoe County, five additional judges would need to be added to the family division in Clark County. Additionally, based upon case filings in 1997, each family court judge in Washoe County was responsible for 2,088

¹⁰ Chapter 468, *Statutes of Nevada 1997*, at page 1753.

cases, while each family court judge in Clark County was responsible for 4,274 cases, more than double the caseload for a judge in Washoe County.

Moreover, as the population of Clark County continues to grow, each judge will shoulder an increasingly heavy caseload, making it more difficult for judges to render well-considered decisions in a timely manner. Because the quality and timeliness of judicial decisions in the family court are impacted greatly by the ability of the court to devote appropriate attention to each litigant, the Subcommittee felt strongly that the need for additional judges in the family court was clearly established. For this reason, the Subcommittee recommended the following action:

Include a statement in the Subcommittee's report indicating that the Subcommittee supports the addition of five judges to the family division of the Eighth Judicial District Court.

D. Access to Family Courts by Litigants Not Represented by an Attorney

The adequacy of current resources to assist litigants in the family court who are not represented by an attorney was an issue of utmost concern to the Subcommittee. As noted by Dan L. Wiley in his report following an organizational and operations analysis of the family court in Clark County, “[o]ne of the most significant trends in Family Court operations in Clark County and across the country is the growth in the percentage of people who choose to represent themselves in the litigation process.” Referring to litigants who are without legal representation, Mr. Wiley commented on the impact this trend has produced in the family court:¹¹

These persons negotiate their way through the system by hit and miss, relying on their own research, buying some standardized form packages available on the open market or by getting cheap advice from entrepreneurial para-legals. They frequently end up in Court without having complied with legal and procedural requirements. The Court is in an awkward position because of these deficiencies and precluded by its neutral status from either providing legal advice or arbitrarily correcting the problems. As a result, litigants go away frustrated and angry and blame the Court.

¹¹ D. Wiley, *Eighth Judicial District Court of Nevada Family Division: Organizational and Operations Analysis*, at page 55 (1997).

Testimony heard by the Subcommittee indicated that in Clark County, 44 percent of the cases in the family court involve at least one party who is without legal representation. Data presented to the Subcommittee by the Eighth Judicial District Court regarding the impact of pro se litigation on the processing of cases suggests the following:

- Sixty-six percent of the court's staff time is devoted to self-represented litigants.
- Each personal contact with a self-represented litigant requires approximately 20-30 minutes.
- Each telephone contact with a self-represented litigant requires approximately 10-12 minutes.
- Assuming conservatively that two-thirds of the self-represented litigants involved in cases in the family court make two court visits and three phone calls per case, approximately 30,000 staff hours each year are devoted to meeting the legal needs of these litigants. This dramatically reduces the time court employees have to dedicate to other duties.
- Court proceedings are often protracted and delayed because of the inability of self-represented litigants to comply with procedures, prepare properly for court or supply necessary information to the court.
- Judges are required to maintain neutrality and impartiality and may not coach a self-represented litigant. Judicial assistance intended to expedite or facilitate may result in an appearance of favoritism. Failure of the judge to assist may be interpreted as uncaring, disinterested or uncooperative.
- Self-represented litigants may seek legal advice from unlicensed sources. A desire by litigants to help themselves often leads to the purchase of "do-it-yourself" legal kits which do not conform to state law or court rules and which are consequently rejected by reviewing court personnel.

The Subcommittee also listened to testimony from members of the public regarding their difficulties in representing themselves in cases in the family court. In light of this testimony, the Subcommittee explored possible solutions being sought for this problem both in Clark County and Washoe County.

Self-Service Center in the Superior Court of Arizona in Maricopa County

The Subcommittee arranged for a presentation by a program that has been nationally recognized and acclaimed for its innovative and effective methods of providing assistance to self-represented litigants, the Self-Service Center in Maricopa County, Arizona. The Honorable Barry C. Schneider, Domestic Relations Presiding Judge, Superior Court of Arizona in Maricopa County, and Bob James, Self-Service Center

Administrator, testified regarding the history, mission, organization and operation of the Center. Judge Schneider and Mr. James informed the Subcommittee that there are three fundamental tools which must be provided to pro se litigants: knowledge of the fundamental elements of the legal process; the ability to communicate effectively and efficiently with the court; and necessary advice and counsel.

To provide litigants with these tools, the Center makes available more than 420 court forms to assist effective and efficient communication between the litigants and the court. The forms, specifically prepared for self-represented litigants, often list the available options with blanks to fill in or boxes to check. In addition to supplying a range of court forms, the Center also provides detailed instructions on completing the forms. The forms are available in a series of informational packets with step-by-step instructions on completing a given court procedure. If litigants are willing to read thoroughly the instructions included with the informational packets, litigants will have the knowledge necessary to guide themselves through the process.

While the Center does not directly advise or counsel litigants, the Center does strongly recommend such services for self-represented litigants. To encourage litigants to seek advice and counsel, the Center has adopted the concept of “unbundled legal services,” originating from an American Bar Association standing committee, wherein the attorney-client relationship is limited to the attorney providing specific, limited services. The Center aggressively markets this concept to empower litigants to resolve their case. Pro bono legal services are also provided through the “Family Lawyer Assistance Project,” a joint effort between the Maricopa County Bar Association and a local legal aid organization. Attorneys participating in the project work half-days and schedule half-hour appointments for parties seeking legal advice. A \$25 service fee is charged unless the litigant meets federal poverty guidelines. The Center also provides a roster of attorneys who have indicated their willingness to provide unbundled legal services that includes such information as the attorneys’ hours, educational background, languages spoken, fees and length of experience.

The Self-Service Center also maintains an Internet website that was launched in September 1995, to provide 24 hour access to general information on the Center, free downloadable court forms and access to the roster of lawyers providing unbundled legal services. The Center also has a menu-driven telephone system that provides general information and is accessible 24 hours per day. The website serves approximately 120 users daily, while the telephone system serves 3,000 to 4,000 users per week.

In studies conducted before and after the implementation of the Center, the Domestic Relations Department of the Superior Court of Maricopa County realized a reduction of approximately 50 percent in the number of inquiries from self-represented litigants.

The reduction in time devoted to these litigants gave the judges and their staff more time to devote to processing their case loads.

Clark County Self-Help Center

The Subcommittee learned that, based upon the need to provide assistance to self-represented litigants, the Eighth Judicial District Court, together with numerous interested parties, such as the Eighth Judicial District Court Pro Bono Committee, Clark County Legal Services, Nevada Legal Services, the Clark County Pro Bono Project and the Boyd School of Law at the University of Nevada-Las Vegas, began exploring vigorously the concept of establishing a self-help center for self-represented litigants. Aware of the success of the Self-Service Center in Maricopa County, these parties in Clark County chose to model the proposed program after the Self-Service Center. Representatives from the court have also visited the Colorado Springs Pro Se Center and contacted numerous similar centers throughout the United States to determine the best method of providing assistance to litigants.

Testimony to the Subcommittee indicated that the services provided by the Self-Help Center would include court information, forms, instructions, checklists, educational materials and courses. Cooperative partnerships among the Center and community resources such as Clark County Legal Services, the Clark County Bar Association, Nevada Legal Services, the Clark County Pro Bono Project, the Boyd School of Law and other similar organizations are being explored and confirmed. The Chair of the Subcommittee, who is also the Executive Director of Clark County Legal Services, informed the Subcommittee that in conjunction with the Boyd School of Law, Clark County Legal Services will provide one full-time attorney to oversee and work with the law students providing community service. Other projects, such as divorce clinics staffed by law students under the supervision of a Clark County Legal Services attorney, are also being considered. In addition to utilizing law students to provide legal services, Clark County Legal Services is also developing an Internet site, with features such as downloadable legal forms, legal information and links to the court's site. More information concerning the proposed Self-Help Center in Clark County may be found in Appendix B, while information regarding the Self-Service Center in Maricopa County is contained in Appendix C.

The Subcommittee was informed that presentations have been made regarding the proposed center to the Board of County Commissioners of Clark County.¹² After

¹² As of the date of completion of this report, the Board of County Commissioners of Clark County approved funding for the hiring of one attorney and two legal office specialists. A committee of interested parties is currently drawing up guidelines for the Center.

hearing the testimony and considering the information described above, the Subcommittee recommended the following action:

Include a statement in the Subcommittee's report urging the Board of County Commissioners of Clark County to provide funding for a pro per self-help clinic for family court litigants or a separate pro per office staffed with individuals who are trained to assist pro per litigants in family law matters.

The Subcommittee learned that in Washoe County, the Second Judicial District Court and the Board of County Commissioners have approved and funded the creation of the position of "Family Law Facilitator" to assist litigants in the family court who are without legal representation. The Family Law Facilitator, who is a licensed attorney, assists litigants by assembling informational packets and forms, providing information regarding the completion of forms and giving information about the procedures in family court. To acknowledge the efforts made to help self-represented litigants in Washoe County, the Subcommittee recommended the following action:

Include a statement in the Subcommittee's report commending the Second Judicial District Court and the Board of County Commissioners of Washoe County for their efforts in establishing the position of "Family Law Facilitator" to assist pro per litigants in the family court.

To ensure that assistance to self-represented litigants is provided in the most effective and efficient manner, the sharing of experiences by the two judicial districts which have family courts is vital. In recognition of the necessity of coordination between the Second and Eighth Judicial District Courts, the Subcommittee recommended the following action:

Include a statement in the Subcommittee's report urging the Second Judicial District Court and the Eighth Judicial District Court to coordinate their efforts in ensuring that pro per litigants have access to justice in the family courts.

E. Legislative Monitoring of the Family Court Caseload

NRS 3.025 currently requires the Chief Judges of the Second and Eighth Judicial District Courts each to submit a written report to the Clerk of the Supreme Court containing certain information regarding the caseload of the district and the activity of the judges in the previous month. The report must indicate:

- Those cases which are pending and undecided and to which judge the cases have been assigned;
- The type and number of cases each judge considered during the preceding month;
- The number of cases submitted to each judge during the preceding month;
- The number of cases decided by each judge during the preceding month; and
- The number of full judicial days in which each judge appeared in court or in chambers in performance of his duties during the preceding month.

Because the caseload of each judge in the family court and the caseload of the judicial district as a whole are key factors in determining whether cases are processed and disposed of in a timely manner, current statistics regarding caseload and the activity of each judge are valuable tools in assessing the resources and needs of the court. In reviewing the need for additional judges, the Subcommittee examined whether the accountability of the family court and its judges would be enhanced by ensuring that the Legislature receives current statistics for its consideration and review. The Subcommittee noted that because the courts are already required to produce the report provided to the Clerk of the Supreme Court pursuant to NRS 3.025, at almost no cost, the Legislature would have the opportunity to monitor the activities of the family court more closely. For these reasons, the Subcommittee recommended the following action:

Amend NRS 3.025 to require the Chief Judge of the Second Judicial District Court and the Chief Judge of the Eighth Judicial District Court to submit to the Director of the Legislative Counsel Bureau the written report that each Chief Judge must currently submit to the Clerk of the Supreme Court each month concerning the number and type of cases assigned to, considered, submitted to and decided by each district judge in the preceding month and the number of full judicial days in the preceding month each district judge appeared in court or in chambers to perform his judicial duties. (BDR 1-377)

F. Coordination of Cases

Thomas L. Leeds, Esquire, a master for the Eighth Judicial District Court, provided the Subcommittee with extensive testimony regarding the need for the family court to coordinate and integrate cases involving the same parties or children. Mr. Leeds indicated that families entering the family court may require assistance from each of the various agencies or support services in the family court. For example, a parent may be involved in a pending divorce case and may need to file separate cases to enforce an order for child support and to obtain an order for protection against domestic violence. Another parent may need to file a case to establish paternity of a child before proceeding to collect child support, while also being the subject of a separate case involving allegations of abuse or neglect. Thus, the same parties and children may become involved in multiple cases concerning multiple issues. If these parties and children do not receive adequate direction and assistance in determining what services they require and where those services are available, too much time may pass before necessary child support or protection against domestic violence is obtained. The Subcommittee also heard testimony indicating that the founders of the family court system intended that appropriate coordination and integration of multiple cases involving the same persons would be established. For these reasons, the Subcommittee recommended the following action:

Adopt a resolution urging the family courts to coordinate and integrate as fully as possible all case files in the family court which pertain to the same parties or children but which are reviewed by multiple persons or agencies because they involve multiple issues, such as domestic violence, child support, and abused or neglected children, and to ensure that the parties or children in such cases are directed to the appropriate agencies and services of the court in a timely manner. Include in the resolution a statement that it was the original intent of the founders of the family court system for such coordination and integration to be implemented in the family court and for the parties and children involved in such cases to be directed to appropriate services in a timely manner. Include in the resolution a statement that the Chief Judge of the Second Judicial District Court and the Chief Judge of the Eighth Judicial District Court should submit to the Director of the Legislative Counsel Bureau for distribution at the next regular session of the Legislature a report that includes a summary of any actions that have been or will be taken by the court to coordinate and integrate as fully as possible such case files and any suggestions for necessary legislation to assist the court in coordinating and integrating as fully as possible such case files. (BDR R-376)

G. Case Management and Tracking

As noted in testimony to the Subcommittee regarding the creation of the family court, one goal of the founders of the court was to establish an integrated case management system that would allow tracking of cases and case dispositions. The case management system envisioned by the founders of the court would also allow the court to employ a “team approach” and unify the various professionals working on a case under the leadership of a judge.

Unfortunately, the Subcommittee learned that the family courts in both Washoe County and Clark County have struggled with achieving the original ideal of producing a system that can adequately assign cases, track cases and produce reliable statistics, especially in the context of a “one family-one judge” model. Testimony from the judges and court administrators in both counties identified the weaknesses in the case management systems that have been in use over the past years. Particularly notable was each system’s inability to produce reliable data about how well the court was operating with regard to the timeliness of processing and disposition of cases. Comments to the Subcommittee echoed the remarks made by Dan L. Wiley in his report following an organizational and operations analysis of the family court in Clark County, wherein he noted: “In general, the existing case management information is incomplete, inaccurate and not timely. Neither is it available in a form that can be used by the Court to effectively understand its situation and properly manage its cases.”¹³

Fortunately, the courts have recognized the important role that an adequate case management system plays in ensuring that cases are disposed of in a timely fashion and have taken steps to remedy the situation. The Subcommittee learned that in September 1997, \$75,000 of the money received from administrative assessments was reserved for improvements to the case management system. New software has been acquired, and the system is expected to become operational before the 1999 legislative session. The new software will allow better tracking of cases and improved compilation of statistics on judicial performance.

Because the Subcommittee felt that the existence of an effective case management system is a crucial element in ensuring that cases are properly coordinated and timely processed, the Subcommittee recommended the following action:

¹³ D. Wiley, *Eighth Judicial District Court of Nevada Family Division: Organizational and Operations Analysis*, at page 34 (1997).

Include a statement in the Subcommittee's report urging the Board of County Commissioners of Clark County to continue to provide funding to the Eighth Judicial District Court for integrated computer software and for training of employees in the use of that software to assist in case management, including the coordination of cases, and tracking of the timeliness of cases.

In Washoe County, the Subcommittee learned, the Board of County Commissioners has already approved and funded the acquisition of integrated software programs and the provision of training for employees in use of the new system. In recognition of the efforts made by Washoe County to improve its case management system, the Subcommittee recommended the following action:

Include a statement in the Subcommittee's report commending the Board of County Commissioners of Washoe County for providing funding to the Second Judicial District Court for integrated computer software and for training of employees in the use of that software to assist in case management, including the coordination of cases, and tracking of the timeliness of cases.

The Subcommittee heard testimony indicating that in Clark County, problems have arisen with respect to the exchange of information between the Eighth Judicial District Court, including the family division, and the County Clerk. Because the County Clerk is the *ex officio* clerk of the district court,¹⁴ cases are filed with the County Clerk, who maintains the files. Comments to the Subcommittee revealed that lack of cooperation and coordination between the court and the County Clerk have occasionally resulted in the court's inability to respond effectively to requests for information. To encourage cooperation and coordination between the County Clerk and the court, the Subcommittee recommended the following action:

Include a statement in the Subcommittee's report indicating that the Subcommittee is concerned about the coordination of efforts between the Eighth Judicial District Court and the County Clerk with respect to the exchange of information, data and records between those bodies and urges that efforts be made to promote cooperation and coordination in order to ensure that requested information is accessible and that the court system is accountable for its actions.

¹⁴ Section 32 of article 4 of the Constitution of the State of Nevada.

H. Assessments

Testimony before the Subcommittee revealed that the former Family Mediation and Assessment Center (now the Family Mediation Center) of the Eighth Judicial District Court had become overwhelmed with the growing caseload, increased referrals and the demand for a wider variety of services, coupled with inadequate increases in staff and resources. As a result, the Center had admittedly not been effective in meeting the needs or expectations of its clients or the court with respect to the quality of its assessments. Many members of the public testified about their negative experiences with the Center and the need for changes to be made.

With the passage of Senate Bill No. 419 in the 1997 legislative session, mediation became mandatory in Clark County in most cases in which the custody or visitation of a child is contested. In light of the increased number of referrals resulting from the implementation of mandatory mediation, the Center chose to outsource assessments to the private sector to enable the Center to focus its efforts on mediation, as many courts have done in other states. Testimony from LaDeana Gamble, Manager of the Center, indicated that the private evaluators who are on the Center's list of approved providers charge \$45 per hour for their services. Although the approved providers have sharply reduced their fees from the normal \$80 to \$120 per hour, indigent families may still experience difficulty in paying the cost for outsourced assessments.

After hearing the testimony discussed above, the Subcommittee considered the advisability of having the Center determine whether there exists a need to have it perform assessments for litigants and their families who are indigent or otherwise financially unable to pay for a private assessment. The Subcommittee also was cognizant of the limited staff and resources of the Center and expressed its concern over what effect the expenditure of resources to address this problem might have on funding for other worthy programs, such as programs for the use of guardians ad litem and court appointed special advocates. Therefore, the Subcommittee recommended the following action:

<p>Include a statement in the Subcommittee's report requesting that the Eighth Judicial District Court determine whether there exists a need for the Family Mediation Center to perform assessments for litigants and their families who are indigent or otherwise financially unable to pay for an outsourced, private assessment and, if there is such a need, what priority should be given to the funding of such a program in light of the need for funding of programs for the use of guardians ad litem and court appointed special advocates.</p>

I. Mediation

As mentioned previously, Senate Bill No. 419 in the 1997 legislative session made mediation mandatory in Clark County in most cases in which custody or visitation of a child is contested. Mediation has been mandatory in contested custody or visitation cases in Washoe County since 1991.¹⁵ However, parties involved in such cases may still opt to participate in private mediation instead of mandatory court-connected mediation. Additionally, if the parties are not required to attend mediation because they do not have children, they still have the option to participate in private mediation to assist in resolving financial issues.

Testimony before the Subcommittee indicated that some litigants are not aware that private mediation is available as an alternative to attending the court-connected program or as a means of resolving financial issues. To help ensure that litigants are aware of the availability of private mediation, the Subcommittee recommended the following action:

Include a statement in the Subcommittee's report urging the family courts to make reasonable efforts to inform litigants, whether through posting or personal delivery of a notice or other means, that they may seek private mediation of unresolved issues in their cases if they desire.

In its review of mediation, the Subcommittee heard testimony extolling the value of early mediation in resolving contested issues between parties. The Subcommittee learned that early mediation may serve to accelerate the process of resolving cases through settlement, and, if settlement is not achieved, by defining and clarifying the issues for litigation. While recognizing the value of early mediation, the Subcommittee was hesitant to recommend that the courts establish guidelines which may ultimately prove to be unrealistic in light of the growing caseload and available resources. To encourage that mediation begins as quickly as practicable, the Subcommittee recommended the following action:

Include a statement in the Subcommittee's report indicating that the Subcommittee believes it is beneficial to have mediation, which is already mandatory under current law for most cases involving the custody of children, begin as quickly as practicable to aid in the timely resolution of cases in family court and recommends that the court appoint a mediator within 30 days after the filing of an answer.

¹⁵ NRS 3.500.

J. Settlement Conferences

The Subcommittee heard testimony praising the practice established by the judges of the family court in the Second Judicial District Court wherein the judge sets a date for a mandatory settlement conference at the time the parties appear in court to set a date for trial. Experience has shown that holding a settlement conference as early as possible can aid in resolving the case before litigants expend a large amount of money for attorney's fees and costs and become entrenched in their respective positions after protracted proceedings. Testimony further indicated that the likelihood of settling a case is greatly increased when the judge presiding over the case conducts the settlement conference. In light of these considerations, the Subcommittee recommended the following action:

Include a statement in the Subcommittee's report urging the Eighth Judicial District Court to adopt, and the Supreme Court of Nevada to approve, the following changes to the Eighth Judicial District Court Rules ("EDCR"):

(a) Amend the EDCR to require that a judge of the family court, in every case, set a date for a mandatory settlement conference when the parties appear in court to set a date for trial, and require that the settlement conference be scheduled to be held as soon as practicable.

(b) Amend the EDCR to require that the mandatory settlement conference be presided over by the judge of the family court who is assigned to the case or by a settlement judge.

K. Family Court Procedures

1. Adherence to Established Procedures

In their testimony and comments to the Subcommittee, attorneys and litigants agreed that some problems with procedures in the family court do not require that new procedures be created, but instead require only that judges, attorneys and litigants consistently comply with and follow the existing rules of procedure. Beginning with this fundamental premise, the Subcommittee recommended the following action:

Include a statement in the Subcommittee's report urging the family courts to be vigilant about ensuring and enforcing strict adherence with the rules of procedure established for the courts.

2. Standardization of Procedures

The Subcommittee learned through the testimony and comments of judges, attorneys and litigants that practices and procedures are fairly consistent among the judges of the family court in the Second Judicial District Court. However, in the Eighth Judicial District Court, practices and procedures appear to vary widely among the judges in the family court. Such variations lead to confusion among attorneys, litigants and staff who have contact with multiple departments of the court. Additionally, practices that may promote efficiency and improved service are not being utilized by certain departments because of personal preference, and statutes and court rules are often interpreted or applied differently by different judges, resulting in disparate treatment under similar circumstances. To address this situation, ongoing efforts have been made in the Eighth Judicial District Court to produce and adopt a formal compilation of administrative orders, guidelines and procedures, commonly referred to as a “bench book.” After considering the testimony and comments offered regarding this issue, the Subcommittee recommended the following action:

Include a statement in the Subcommittee’s report urging the Eighth Judicial District Court to establish for judges of the family court a bench book of standardized court procedures.

3. Setting a Date for Trial

The Subcommittee heard testimony embracing the practice established by the judges of the family court in the Second Judicial District Court of requiring that after the answer is filed by a defendant, the case file is immediately sent to the family court judge assigned to the case and an order is automatically generated to bring the parties into court, not later than 10 days after the answer is filed, to set a date for trial. The date set for the trial must also be not later than 6 months after the date of service of the complaint, unless good cause is shown to set a later date. Testimony indicated that this practice is very helpful in disposing of cases in a timely fashion. Under this approach, attorneys know that settlement negotiations and discovery need to be conducted expeditiously, as the trial date is rapidly approaching, and the chance that cases will “fall between the cracks” is reduced because cases are not allowed to sit idle for extended periods. Because this practice has been proven to be an effective means of promoting the timely processing and resolution of cases in the family court, the Subcommittee recommended the following action:

Include a statement in the Subcommittee's report urging the Eighth Judicial District Court to adopt, and the Supreme Court of Nevada to approve, the following changes to the Eighth Judicial District Court Rules ("EDCR"):

(a) Amend the EDCR to require, in cases filed in family court, that after the answer is filed by the defendant, the case file be immediately sent to the family court judge assigned to the case and that an order be automatically generated to bring the parties into court, not later than 10 days after the answer is filed, to set a date for trial.

(b) Amend the EDCR to require, in cases filed in family court, that the date for trial be set to occur not later than 6 months after the date of service of the complaint, unless good cause is shown to set the trial for a later date.

4. Other procedures

The Subcommittee solicited and received numerous comments from judges, attorneys, litigants and other interested persons regarding the issue of procedures in the family court. Because of the already broad scope of the Subcommittee's study, the technical nature of many recommended changes in procedure and the inherent authority of the judicial branch to adopt rules governing most procedures, the Subcommittee felt that some of the suggested changes would be more appropriately considered by the judicial branch. In light of this consideration, the Subcommittee recommended the following action:

Include a statement in the Subcommittee's report noting that the Subcommittee has received the following suggested changes to the procedures in family court from a wide variety of persons, including judges, attorneys, litigants and other interested persons, and wishes to forward them, without expressing an opinion as to their merit, to the family courts and to the Supreme Court of Nevada for their examination and consideration:

(a) Filing and Service of the Complaint

Amend N.R.C.P. 4 to require, in cases filed in family court, that the plaintiff serve the complaint upon the defendant not later than 90 days after filing the complaint.

(b) Early Case Conference

Adopt the following changes to the Nevada Rules of Civil Procedure:

(1) Amend N.R.C.P. 16.1 to require, in cases filed in family court, that the parties hold the early case conference sooner than is currently set forth in the rule.

(2) Amend N.R.C.P. 16.1 to require, in cases filed in family court, that the parties produce all documents requested at the early case conference not later than 30 days after the early case conference.

(3) Amend N.R.C.P. 16.1 to require, in cases filed in family court, that the parties file the mandatory early case conference report or reports sooner than is currently set forth in the rule.

(4) Amend N.R.C.P. 16.1 to require, in cases filed in family court, that the parties file the mandatory early case conference report or reports before the court is permitted to consider any substantive motions other than motions for extraordinary or emergency relief.

(5) Amend N.R.C.P. 16.1 to require, in cases filed in family court, that the parties attend a mandatory conference with the discovery commissioner if the early case conference report or reports are not filed within 60 days of filing the answer.

(6) Amend N.R.C.P. 16.1 to require, in cases filed in family court, that the court enter an automatic show cause order after 45 days if the early case conference has not been conducted or the early case conference report or reports have not been filed.

(7) Amend N.R.C.P. 16.1 to require, in cases filed in family court, that the discovery commissioner issue a summons for and impose fines upon the parties if the early case conference report or reports are not filed timely.

(8) Amend N.R.C.P. 16.1 to provide for stricter requirements, in cases filed in family court, for the disclosure of financial information at the early case conference.

(9) Amend N.R.C.P. 16.1 to require, in cases filed in family court, automatic sanctions against parties who do not comply with N.R.C.P. 16.1.

(10) Amend N.R.C.P. 16.1 to allow the parties, in cases filed in family court, to conduct the early case conference telephonically.

(11) Adopt standardized forms to address the requirements of N.R.C.P. 16.1 and the conduct of the early case conference in cases filed in family court.

(c) Discovery

Adopt the following changes to the Nevada Rules of Civil Procedure:

(1) Amend the N.R.C.P. to require, in cases filed in family court, that the parties report to the discovery commissioner after the early case conference to set the time period that is needed for discovery.

(2) Amend the N.R.C.P. to reduce the time period during which discovery is permitted to be conducted in cases filed in family court.

(d) Deciding Motions

Adopt the following changes to the Eighth Judicial District Court Rules (“EDCR”):

(1) Amend the EDCR to require that motions in the family court be heard not later than 15 days after the last response to the motion is filed.

(2) Amend the EDCR to establish a uniform procedure in the family court for obtaining orders shortening time.

(3) Amend the EDCR to require that all motions in the family court be decided without oral argument, unless the court determines that oral argument is necessary.

(4) Amend the EDCR to limit oral argument on motions in the family court to 5 minutes per side, unless unusual circumstances are present or the court determines that the motion warrants a longer period of oral argument.

(5) Amend the EDCR to require that judges of the family court render decisions on the bench, whenever possible, rather than taking matters under advisement or submission. If a judge takes a matter under advisement or submission, place a

limitation on the time that the matter may be held by the judge and require the judge to produce a written decision on the matter.

(e) Submission and Signing of the Decree or Order After Trial

Adopt the following changes to the Eighth Judicial District Court Rules (“EDCR”):

(1) Amend the EDCR to require, in cases filed in family court, that a proposed final decree or order be prepared by a party and be submitted to the judge of the family court not later than 30 days after the trial is completed.

(2) Amend the EDCR to require that a judge of the family court sign a proposed final decree or order not later than 30 days after it is submitted, unless the judge returns the proposed decree or order to a party for modifications.

(3) Amend the EDCR to require that a judge of the family court be notified when the time for filing a notice of appeal from a final decree or order has expired without action by either party.

L. Ex Parte Communications

In response to testimony from members of the public and at the behest of members of the Subcommittee, the Subcommittee examined the need to prevent improper ex parte communications in cases in family court. The applicable standards that judges must adhere to with respect to ex parte communications are set forth in the Code of Judicial Conduct. Section 3(B)(7) of the Code of Judicial Conduct provides:

(7) A judge shall accord to every person who has a legal interest in a proceeding, or that person’s lawyer, the right to be heard according to law. A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except that:

(a) Where circumstances require, ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized; provided:

(i) the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication, and

(ii) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to respond.

(b) A judge may obtain the advice of a disinterested expert on the law applicable to a proceeding before the judge if the judge gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond.

(c) A judge may consult with court personnel whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges.

(d) A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to mediate or settle matters pending before the judge.

(e) A judge may initiate or consider any ex parte communications when expressly authorized by law to do so.

The commentary for this section, which is intended to provide guidance with respect to the purpose and meaning of the section, states:

The proscription against communications concerning a proceeding includes communications from lawyers, law teachers, and other persons who are not participants in the proceeding, except to the limited extent permitted.

To the extent reasonably possible, all parties or their lawyers shall be included in communications with a judge.

Whenever presence of a party or notice to a party is required by Section 3B(7), it is the party's lawyer, or if the party is unrepresented the party, who is to be present or to whom notice is to be given.

An appropriate and often desirable procedure for a court to obtain the advice of a disinterested expert on legal issues is to invite the expert to file a brief *amicus curiae*.

Certain ex parte communication is approved by Section 3B(7) to facilitate scheduling and other administrative purposes and to accommodate emergencies. In general, however, a judge must discourage ex parte communication and allow it only if all the criteria stated in

Section 3B(7) are clearly met. A judge must disclose to all parties all ex parte communications described in Sections 3B(7)(a) and 3(B)(7)(b) regarding a proceeding pending or impending before the judge.

A judge must not independently investigate facts in a case and must consider only the evidence presented.

A judge may request a party to submit proposed findings of fact and conclusions of law, so long as the other parties are apprised of the request and are given an opportunity to respond to the proposed findings and conclusions.

A judge must make reasonable efforts, including the provision of appropriate supervision, to ensure that Section 3B(7) is not violated through law clerks or other personnel on the judge's staff.

If communication between the trial judge and the appellate court with respect to a proceeding is permitted, a copy of any written communication or the substance of any oral communication should be provided to all parties.

One recurring theme that echoed through the public testimony heard by the Subcommittee was the complaint by some litigants that improper ex parte communications had adversely affected their cases in the family court. The Subcommittee recognized that investigation into possible improprieties does not fall within its charter and the proper avenues for addressing such allegations of impropriety are the appellate processes of the judicial branch, the Commission on Judicial Discipline and the State Bar of Nevada. However, based upon the testimony presented, the Subcommittee felt that it would be prudent to indicate the Subcommittee's concern about the occurrence of improper ex parte contacts in the family court and the need for vigilance in preventing improper contacts from occurring. Therefore, the Subcommittee recommended the following action:

<p>Include a statement in the Subcommittee's report urging judges in the family court to be cognizant of and strictly adhere to the prohibition against improper ex parte communication contained within the Code of Judicial Conduct.</p>
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M. Guardians Ad Litem and Court Appointed Special Advocates

Historically, guardians ad litem have been used in legal proceedings to represent and protect the interests of minors who, under the basic common law rule, do not have the legal capacity to act as a party in legal proceedings without the assistance of an adult.¹⁶ The general rule is that courts have the inherent power to appoint guardians ad litem for minors involved in legal proceedings, and that courts have the duty to ensure that the interests of those minors are adequately represented in the legal proceedings.¹⁷

In Nevada, guardians ad litem serve as the voice of children in several different types of proceedings, including cases involving the determination of custody or visitation of children, the establishment of paternity and the termination of parental rights. Primarily, though, court appointed special advocates, acting as guardians ad litem, act on behalf of children who may be victims of abuse and neglect. Pursuant to NRS 432B.500, the family court must appoint a guardian ad litem for a minor if a petition is filed pursuant to NRS 432B.490 alleging that the minor is an abused or neglected child in need of protection.

The Subcommittee heard testimony about the history, mission and services provided to the family courts by the Court Appointed Special Advocate programs in Washoe County and Clark County. Since being developed in 1977 in Seattle, Washington, the C.A.S.A. program has grown throughout the nation, expanding to 710 local programs with 44,000 volunteers across the country. In 1997, C.A.S.A. programs provided services to 156,000 children. The mission of the National C.A.S.A. program is to speak for the best interests of abused and neglected children, to promote and support quality volunteer representation and to provide a child with a safe, permanent, nurturing home.

In 1980, the first C.A.S.A. program in Nevada was established under the direction of the Honorable John Mendoza. The Washoe County C.A.S.A. program has been existence since 1982, under the direction of the Honorable Charles McGee.

Volunteers who wish to work for the C.A.S.A. program must be 21 years old, possess a driver's license and proof of insurance. Additionally, a volunteer must complete an application packet, submit to a background check and be fingerprinted and checked against the NCIC child abuse registry. Once the application is submitted and the background of the volunteer is checked, the volunteer is screened by an interview panel. In addition to the mandatory 40-hour training curriculum, adopted and localized for the local C.A.S.A. program, a volunteer must also participate in ongoing in-service

¹⁶ 1 LEGAL RIGHTS OF CHILDREN § 12.01 (Donald T. Kramer ed., 2d ed. 1994 & Supp. 1997); *see, also, Hogle v. Hall*, 112 Nev. 599 (1996).

¹⁷ 1 LEGAL RIGHTS OF CHILDREN, *supra*.

training and receive annual evaluations. Volunteers must make a two-year commitment to participate in the program.

The primary responsibility of a C.A.S.A. volunteer is to provide advocacy to abused and neglected juveniles for whom permanency has not yet been established. The responsibilities of the C.A.S.A. volunteer in juvenile cases include conducting independent evaluations, advocating for the children's needs, monitoring compliance with court orders and facilitating sibling contact. The C.A.S.A. program also provides domestic relations services such as conducting interviews with a child and observing separately a child's relationship with each parent, then submitting a report to the court and advocating the best interests of the child.

The Subcommittee learned that the C.A.S.A. programs contribute to the welfare of children in four areas:

- C.A.S.A. volunteers are able to commit more time to children than social workers in the child welfare system, giving them real insight into a child's wishes, hopes and dreams
- C.A.S.A. volunteers are able to provide the family courts with a comprehensive picture of the overall needs of a child
- C.A.S.A. volunteers ensure that cases involving the children are not allowed to languish in the court system
- C.A.S.A. volunteers maintain a single-minded focus on the importance of establishing permanency in the children's lives

The Subcommittee also learned that the C.A.S.A. programs are strongly supported by the judiciary, with judges of the family court actively participating in the programs by attending introductory sessions and the swearing-in ceremonies for new volunteers and providing training. Despite the successes of the programs in both counties, the Clark County C.A.S.A. program is only able to serve about half of the children requiring its services because of a shortfall in the number of professional staff. Instead of the nationally recommended ratio of one supervisory, professional staff person for every 35 volunteers, the program currently is working at a ratio of roughly one professional staff person for every 60 to 65 volunteers. Additionally, the C.A.S.A. program is financially unable to provide expanded services in domestic relations cases in family court.

Because the Subcommittee felt that the C.A.S.A. programs in both counties provide an invaluable service to the community and to the family courts, but are not able to provide services to all children in need as the result of financial constraints, the Subcommittee recommended the following action:

Include a statement in the Subcommittee's report urging increased funding for the use of guardians ad litem and court appointed special advocates in cases filed in family court to ensure that the voices of children are heard.

N. Temporary Protective Orders

In the Second and Eighth Judicial Districts, the family courts have concurrent jurisdiction with the justices' courts over actions involving the issuance of a temporary order for protection against domestic violence.¹⁸ In the remaining counties, which are not authorized by law to create a family court, the justices' courts have jurisdiction to issue temporary protective orders.¹⁹ By statute, the Eighth Judicial District Court in Clark County must be available 24 hours per day, 7 days per week, including nonjudicial days and holidays, for the issuance of temporary protective orders.²⁰ In other counties, the court has the discretion to determine its hours of operation for issuing temporary protective orders.²¹ NRS 33.017 to 33.100, inclusive, contains the applicable provisions regarding the issuance of a temporary protective order, the contents of an order, the method of challenging an order, the expiration of an order and the penalties for violation of an order.

The court may grant a temporary order for protection against domestic violence if the court is satisfied that the facts in the application indicate either that an act of domestic violence has occurred or that there exists a threat of domestic violence. Although the court may require the applicant, the adverse party, or both, to appear before it prior to determining whether to issue the order, the court also may grant a temporary protective order with or without notice to the adverse party.

The court must rule on the application for a temporary order for protection against domestic violence within one judicial day after it is filed. In most situations, a verified application describing the specific facts of domestic violence must be filed before the court may issue the order. However, if the alleged perpetrator of domestic violence has been arrested and is in custody and the court is satisfied that the facts communicated by telephone support the allegations of domestic violence, the court may issue the order.

¹⁸ Subsection 2 of NRS 3.223.

¹⁹ Paragraph (m) of subsection 1 of NRS 4.370.

²⁰ Subsection 6 of NRS 33.020.

²¹ Subsection 7 of NRS 33.020.

The temporary protective order must specify, as applicable, the county and city in which the residence, school, child care facility, and place of employment of the applicant or minor child are located. A copy of the order must be transmitted by the court to the law enforcement agency with jurisdiction over these locations by the end of the next business day after the order is issued. The court may order the law enforcement agency to serve the adverse party personally with the order if it finds such service is necessary to avoid an act of violence. The order must include a provision ordering any law enforcement officer to arrest an adverse party if the officer has probable cause to believe the adverse party has violated any provision of the order.

If the officer cannot verify that the adverse party was served with a copy of the application and order, he must inform the person of the terms of the order and the fact that he is subject to arrest for a violation, and of the location and hours of the court that issued the order. Finally, an officer is required to enforce a temporary protective order regardless of the county in which the order was issued.

The court may order any of the following actions to protect the applicant or minor child:

- Enjoin the adverse party from threatening, physically injuring or harassing the applicant or minor child, either directly or through an agent;
- Exclude the adverse party from the applicant's place of residence;
- Prohibit the adverse party from entering the residence, school or place of employment of the applicant or minor child and order him to stay away from any specified place frequented regularly by them;
- Grant temporary custody of the minor child to the applicant if the court has the jurisdiction to do so; and
- Order such other relief as it deems necessary in an emergency situation.

Temporary orders for protection against domestic violence expire within the time fixed by the court, which must not exceed 30 days unless an application for an extended order is filed. If such an application is filed while the temporary protective order is still valid, the temporary protective order remains in effect until the hearing on the extended order. The adverse party may appear and move for the dissolution or modification of a temporary protective order with 2 days' notice to the party who obtained the order, and the court is required to hear and act on the motion "as expeditiously as the ends of justice require."

A person who violates a temporary order for protection against domestic violence is guilty of a misdemeanor unless the person's actions constitute another crime for which

a more severe penalty is required. If the person commits a violent physical act in violation of the temporary protective order, the court must order the following:

- A fine of \$1,000 upon the adverse party or 200 hours of community service;
- A sentence of imprisonment for five days to six months;
- Reimbursement to the applicant for all costs and attorney's fees associated with the temporary protective order and for all medical expenses incurred by the applicant or minor child as a result of the violent act; and
- Participation in and completion of a program of professional counseling, at the perpetrator's expense.

As the result of testimony presented to the Subcommittee and at the urging of some members of the Subcommittee, the Subcommittee reviewed the need to prevent the improper use of unwarranted temporary orders of protection against domestic violence. Because a temporary protective order may be issued based solely on facts alleged by the applicant and because such orders may be issued without a hearing and without notice to the adverse party, some people have suggested that a temporary protective order may be sought for the purpose of securing an advantage against the adverse party in subsequent proceedings in the family court. To ensure that improper use of temporary protective orders is not employed to gain an unwarranted advantage in a case in family court, the Subcommittee recommended the following action:

Amend NRS to provide that if the court finds by clear and convincing evidence that a person has submitted a false affidavit to obtain a temporary protective order, the court shall award reasonable attorney's fees and costs to the party against whom the order was sought. If the parties have a child and any visitation was missed by the party against whom the order was sought as the result of the order, the court shall order make-up visitation. The fact that a party submitted a false affidavit to obtain a temporary protective order must be considered as a factor in determining the custody of a child. (BDR 3-378)

IV. CONCLUSION

The Legislative Commission's Subcommittee to Study Family Courts was formed to examine the state of the family court system in Nevada and to recommend changes to improve that system. The Subcommittee's examination revealed that there are areas in which the family courts are performing well, but also areas in which improvement is needed. The Subcommittee sincerely hopes that the recommendations contained in this report will help to improve the family courts and ensure that all cases which come before the family courts are processed as efficiently, professionally and compassionately as possible and that the families involved in those cases are treated justly and fairly.

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Appendix A

**Assembly Concurrent Resolution 32
(File No. 140, Statutes of Nevada 1997)**

Assembly Concurrent Resolution No. 32-Committee on
Elections, Procedures, and Ethics

FILE NUMBER 140

ASSEMBLY CONCURRENT RESOLUTION—Directing the Legislative Commission to
conduct an interim study of family court systems.

WHEREAS, In 1991, the Nevada Legislature created family courts as a division of the district court in Clark and Washoe counties; and

WHEREAS, The family courts were established to handle legal problems encountered by families in a timely and efficient manner; and

WHEREAS, Contrary to the intended result, the families who have used the family courts have experienced needless delays and court orders that are not enforced, resulting in considerable stress and financial problems for the families; and

WHEREAS, Testimony has indicated that certain family court judges have taken approximately 2 years to decide cases involving child custody; and

WHEREAS, The caseload in the family courts has increased as much as 30 percent during the past 4 years; and

WHEREAS, In 1996, the family courts had approximately one and one-half times as many cases as the district courts, while the family courts had only half as many judges to carry this increased caseload; and

WHEREAS, There has been an apparent reluctance by the staff and judges of family courts to collect and provide information concerning the performance and efficiency of the family courts; and

WHEREAS, It appears that the family courts lack the resources required to adjudicate in a timely manner all of the cases involving divorce, child custody and support disputes, guardianship disputes, juvenile delinquency, adoption, paternity issues and domestic violence; and

WHEREAS, Additional information is required to help resolve these concerns and to assist the family court system to become more efficient and effective; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Legislative Commission is hereby directed to appoint a subcommittee composed of four members of the Senate and four members of the Assembly to conduct an interim study of the family courts in this state; and be it further

RESOLVED, That at least one of the legislators appointed to the subcommittee must be a resident of a county whose population is less than 100,000; and be it further

RESOLVED, That the Legislative Commission shall designate a chairman from among the members of the subcommittee; and be it further

RESOLVED, That the subcommittee make a concerted effort to hear testimony from persons and on behalf of governmental agencies involved in or affected by the family court system, such as:

1. The former members of the Clark County Family Court Implementation Committee;
2. County family services agency;
3. Family Courts and Services Center;

4. Court Appointed Special Advocate (CASA);
5. Family Mediation and Assessment Center (FMAC);
6. Child protective services agency;
7. Child Haven;
8. Family Violence Center;
9. Persons familiar with probate and guardianship programs;
10. Persons familiar with the Uniform Reciprocal Enforcement of Support Act (URESAs) relating to paternity and family support;
11. Court interpreters;
12. Persons who operate drug court programs;
13. Administrators of the Family Courts; and
14. Neighborhood Justice Centers; and be it further

RESOLVED, That the study must include, but is not limited to, an evaluation of:

1. The organization and operation of family courts, including a review of the structure and administration of the family courts with consideration given to such factors as caseloads, facilities, staff resources, information technology and public access to court records;
2. The jurisdiction of family courts;
3. The time required to render decisions in family courts, particularly for cases concerning divorce and child custody, and possible actions that would expedite those proceedings;
4. The role of mediation and other alternative methods used in the resolution of disputes in family law matters, including an analysis and evaluation of laws in the State of California that require mediation before parties are allowed access to family courts;
5. Whether more programs and services should be made available to parents obtaining divorces to ease the transition for the affected children and methods to improve the access to existing programs and services;
6. Reports produced by the courts, including the preparation of task-oriented statistics;
7. The standardization of procedures and the consistency in decisions and judgments among the departments of the family court;
8. The involvement of the Family Mediation and Assessment Center;
9. The effectiveness of the administrators and staff of the family court; and
10. The referral of disputes to alternative methods of resolving disputes; and be it further

RESOLVED, That the subcommittee shall consult with the members of the advisory committee that is hereby created to assist the subcommittee to study the family courts in this state; and be it further

RESOLVED, That the advisory committee, consisting of six members, must be appointed as follows:

1. One member appointed by the presiding judge of the Second Judicial District to represent the Family Court of the Second Judicial District and one member appointed by the presiding judge of the Eighth Judicial District to represent the Family Court of the Eighth Judicial District, both of whom have knowledge and experience in the administration of a family court;

2. One member of the Family Law Section of the State Bar of Nevada appointed by the State Bar of Nevada;

3. One member who is a deputy district attorney appointed by the District Attorney of Washoe County and one member who is a deputy district attorney appointed by the District Attorney of Clark County, both of whom have knowledge and experience in family court matters; and

4. One member who has knowledge and experience in the collection of data and the processing of information appointed by the National Council of Juvenile and Family Court Judges, and be it further

RESOLVED, That the members of the advisory committee serve without salary and are not entitled to receive a per diem allowance or reimbursement for travel expenses; and be it further

RESOLVED, That the appointment of the members to the advisory committee must be made as soon as practicable after July 1, 1997; and be it further

RESOLVED, That except for the initial members, the term of office of each member of the advisory committee is 2 years and begins on July 1 of each odd-numbered year; and be it further

RESOLVED, That any recommended legislation proposed by the subcommittee must be approved by a majority of the members of the Senate and a majority of the members of the Assembly appointed to the subcommittee; and be it further

RESOLVED, That the Legislative Commission shall submit a report of its findings and any recommendations for legislation to the 70th session of the Nevada Legislature.

Appendix B

Caseload of the Family Division and the Need for Additional Judges and Personnel

**LEGISLATIVE COMMISSION'S
SUBCOMMITTEE ON FAMILY COURTS
ACR 32**

**CASELOAD OF THE FAMILY DIVISION
AND THE NEED FOR ADDITIONAL
JUDGES AND PERSONNEL**

PRESENTATION BY:

**Charles J. Short
Court Administrator**

And

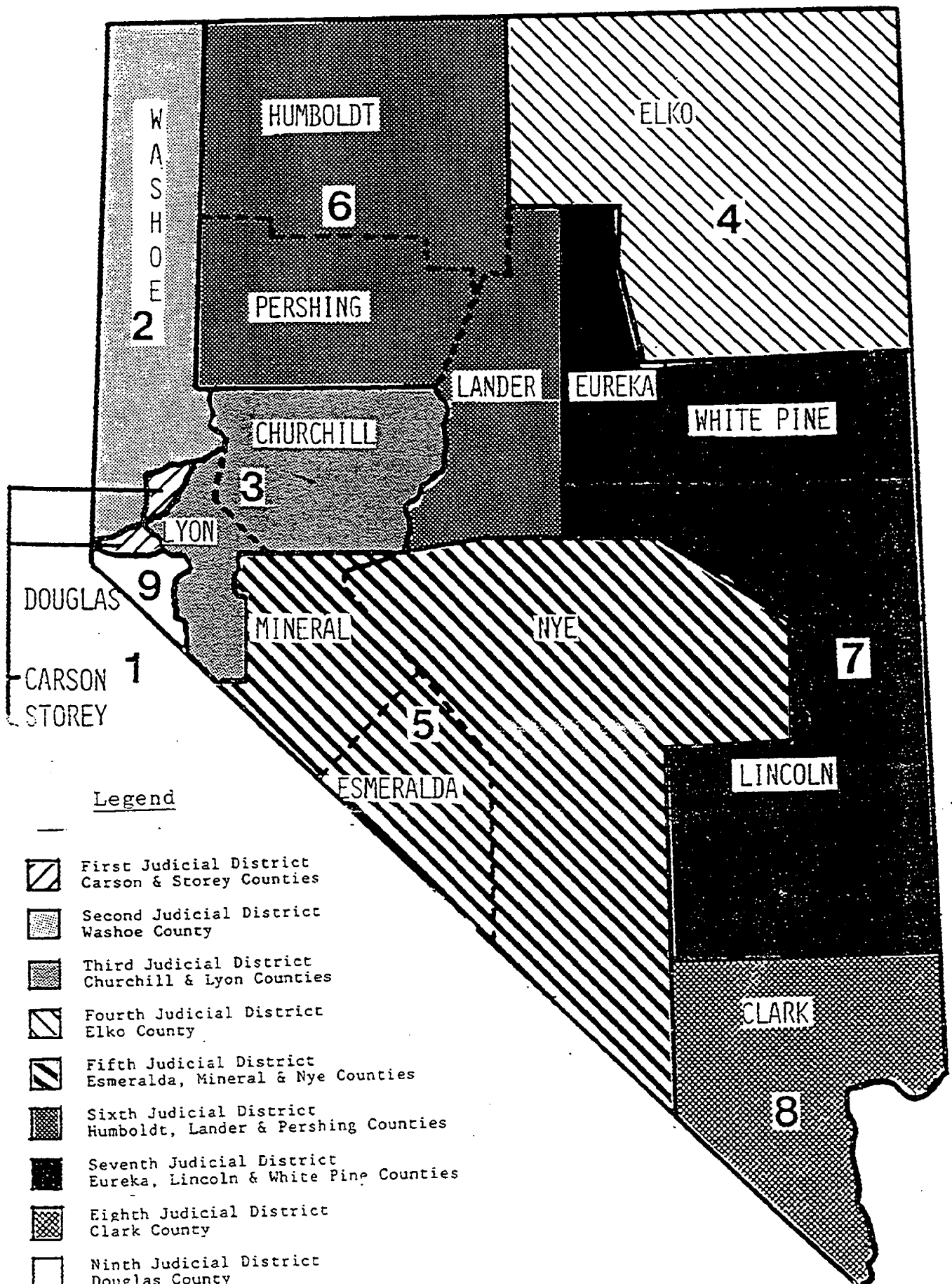
**Christina M. Chandler
Assistant Court Administrator**

EIGHTH JUDICIAL DISTRICT COURT

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NEVADA JUDICIAL DISTRICTS



NEVADA DISTRICT COURTS
CASE FILINGS
(AS REPORTED TO NEVADA SUPREME COURT)
1995 - 1997

JUDICIAL DISTRICT	NUMBER OF JUDGES	CASE FILINGS	AVERAGE / JUDGE
FIRST 1995 1996 1997	2	2004 1846 1671	1002 923 836
THIRD 1995 1996 1997	2	1167 1246 1227	584 623 614
FOURTH 1995 1996 1997	2	1160 1155 1175	580 578 588
FIFTH 1995 1996 1997	1	777 809 852	777 809 852
SIXTH 1995 1996 1997	2	779 818 796	390 409 398
SEVENTH 1995 1996 1997	2	463 543 515	232 272 258
NINTH 1995 1996 1997	2	1543 1532 1630	772 766 815
SECOND 1995 1996 1997	3	(Domestic Only) 5437 5538 6265	1812 1846 2088
EIGHTH 1995 1996 1997	5* 6.5**	(Domestic Only) 25,278 25,560 27,780	5056 5112 4274

* 1 of 6 Family Court Judges Assigned Juvenile Caseload.

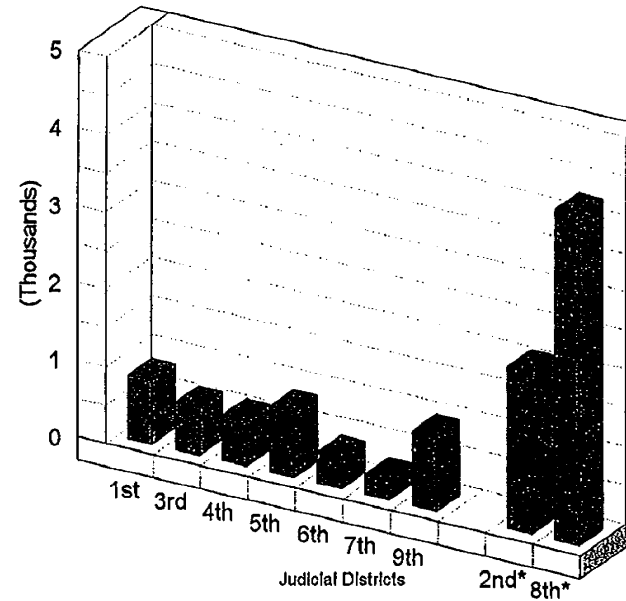
** 1 of 8 Family Court Judges Assigned Juvenile Caseload; ½ of 1 Family Court Judge's Caseload is Abuse/Neglect.

NEVADA DISTRICT COURTS - Case Filings

Nevada District	1997 Case Filings	Number of Judges	Average per Judge
1st	1,671	2	836
3rd	1,227	2	614
4th	1,175	2	588
5th	852	1	852
6th	796	2	398
7th	515	2	258
9th	1,934	2	967
2nd*	6,265	3	2,088
8th*	27,780	6.5	4,274

* Represents Family Division Judges

NEVADA DISTRICT COURTS - 1997
Average Case Filings / Judge

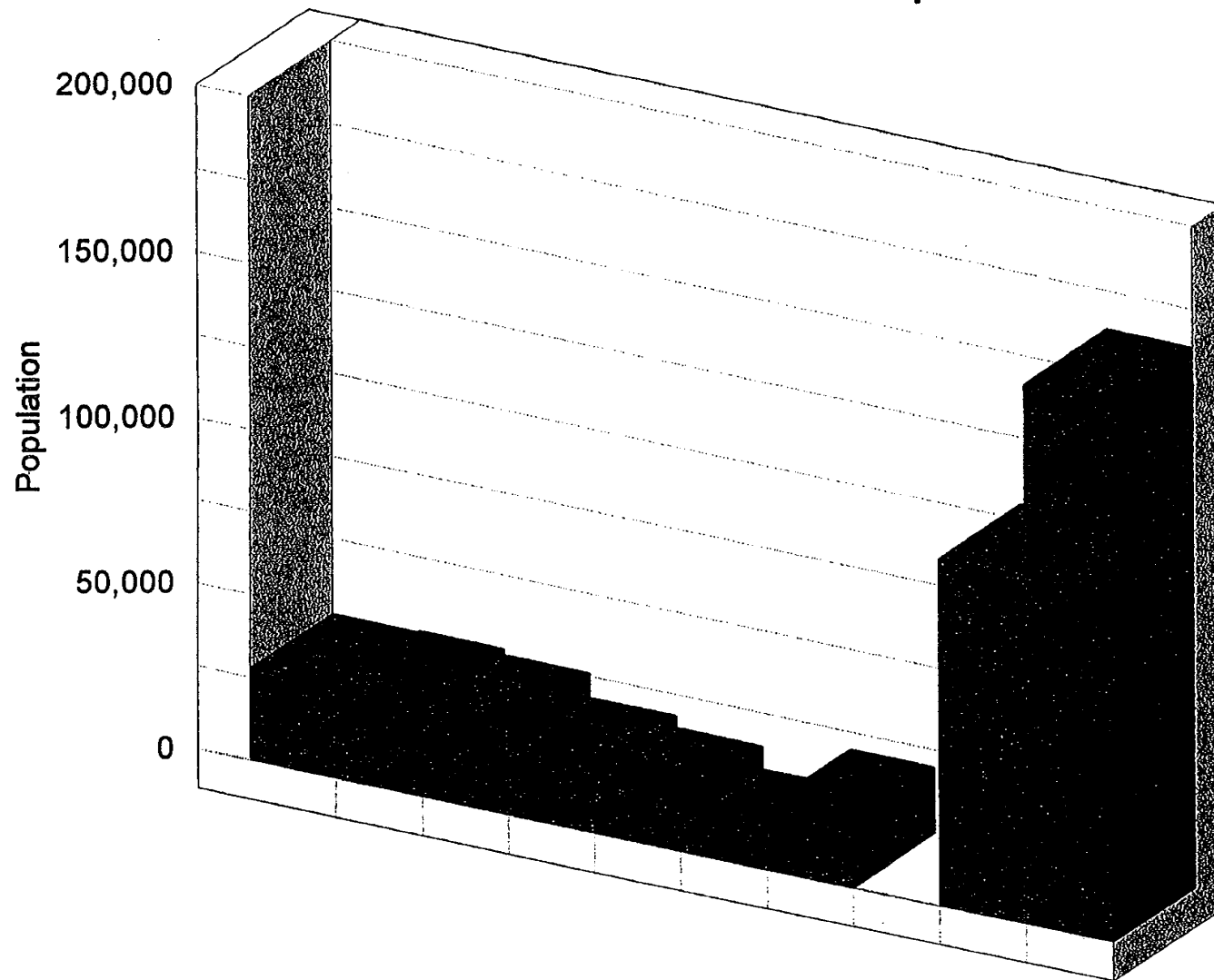


NEVADA JUDICIAL DISTRICTS - PER CAPITA *

Nevada District	1997 Population	Dist. Court Judges	Per Capita	Nevada District	Dist. Court Judges	Proj. 1999 Population	Per Capita
1st	53,930	2	26,965	1st	2	54,867	27,434
3rd	54,230	2	27,115	3rd	2	55,732	27,866
4th	47,710	2	23,855	4th	2	51,855	25,928
5th	35,930	2	17,965	5th	2	37,119	18,560
6th	31,150	2	15,575	6th	2	30,320	15,160
7th	16,410	2	8,205	7th	2	16,387	8,194
9th	39,590	2	19,795	9th	2	39,633	19,817
2nd	308,700	3	102,900	2nd	3	314,860	104,953
8th	1,192,200	8	149,025	8th	8	1,307,042	163,380

* Population figures provided by Nevada State Demographer.

1999 Projected Population Judicial District Per Capita



Nevada Judicial Districts

NEVADA DISTRICT COURTS
CIVIL & DOMESTIC CASE FILINGS
1995 - 1997

JUDICIAL DISTRICT	NUMBER OF JUDGES	CIVIL FILINGS	DOMESTIC FILINGS	TOTAL FILINGS	AVERAGE / JUDGE
FIRST					
1995	2	888	1116	2004	1002
1996		750	1096	1846	923
1997		641	1030	1671	836
THIRD					
1995	2	341	826	1167	584
1996		378	868	1246	623
1997		397	830	1227	614
FOURTH					
1995	2	342	818	1160	580
1996		338	817	1155	578
1997		329	846	1175	588
FIFTH					
1995	1	269	508	777	777
1996		294	515	809	809
1997		284	568	852	852
SIXTH					
1995	2	180	599	779	390
1996		202	616	818	409
1997		210	586	796	398
SEVENTH					
1995	2	134	329	463	232
1996		129	324	543	272
1997		159	356	515	258
NINTH					
1995	2	276	1543	1819	910
1996		302	1532	1834	917
1997		304	1630	1934	967
SECOND					
1995	11	5375	5437	10,812	983
1996		5258	5538	10,796	981
1997		5078	6265	11,343	1031
EIGHTH					
1995	22	14,216	25,278	39,494	1795
1996		15,450	25,560	41,010	1864
1997	24	16,166	27,780	43,946	1831

EIGHTH JUDICIAL DISTRICT COURT FILINGS ACTUAL AND PROJECTED

1983 - 1997 Actual
1998 - 2000 Projected

TYPE OF PROCEEDING		1992	1993	1994	1995	1996	1997	1992 - 1997	Projected 1998	Projected 1999	Projected 2000
FAMILY											
	Divorces	8610	8956	9073	9386	9617	10362	3.8%	10,755	11,164	11,588
	Domestic (Excluding Divorces)	2720	2733	2695	3077	3284	3069	2.7%	3,152	3,236	3,323
	Guardianship	538	637	688	772	762	984	13.3%	1,115	1,263	1,431
	Domestic Violence	1852	3327	4189	5382	6162	6953	32.3%	7,996	9,195	10,575
	Juvenile	2998	3226	3874	7578	7457	7532	24.5%	9,381	11,683	14,550
	U.R.E.S.A.	6486	6211	6467	5916	5191	5914	-1.4%	5,832	5,750	5,670
Total Family Filings		23,204	25,090	26,986	32,111	32,473	34814	8.6%	38,230	42,291	47,137

Fiscal Year 1997 Caseload and Staffing

	Case Filings	Judges	Judicial Officers	Support Staff*	Total
Domestic	13,431	6.5	0	44	50.5
Guardian.	984	0.5	1	1	2.5
Dom. Viol.	6,953	0	1	7	8
Juvenile	7,532	1	3	1	5
URES A	5,914		2	1	3
Totals	34,814	8	7	54	69

* Includes Executive Judicial Assistants, Judicial Bailiffs, Law Clerks, Family Mediation, and CASA Staff.

Appendix C

Footprints for a Family Division Resource Center to Assist Self-Represented (Pro Se) Litigants

**LEGISLATIVE COMMISSION'S SUBCOMMITTEE
ON FAMILY COURTS
ACR 32**

**FOOTPRINTS FOR A FAMILY DIVISION RESOURCE CENTER TO
ASSIST SELF-REPRESENTED (PRO SE) LITIGANTS**

PRESENTED BY

**JUDGE MYRON E. LEAVITT
CHIEF JUDGE**

**CHRISTINA CHANDLER
ASSISTANT COURT ADMINISTRATOR**

APRIL 16, 1997

Historical Perspective

Courts, particularly those dealing with domestic/family matters, across the nation, are challenged by an increasing number of *pro se* litigants. *Pro se* litigants are those who navigate their court affairs without the benefit of an attorney. Many choose to represent themselves due to diminished trust in court institutions and the legal profession. Many represent themselves out of financial necessity. Some believe they are able to exercise greater control over and are more satisfied with the outcome. All citizens are guaranteed the right to represent themselves under the United States Constitution. Clark County citizens are no exception. Resources to meet the needs of these citizens do not exist or are stretched beyond reasonable effectiveness.

More significantly, passage to court access is narrowing for the poor, working poor and moderate income families. The average hourly cost for a domestic law attorney is \$100 - \$300 per hour. An initial hearing may cost \$1500 and a contested hearing may exceed \$5000. Persons not able to retain an attorney are barred from free legal services. In effect, they are denied access.

Many courts throughout the United States have recognized the need for providing some level of service and resources to *pro se* litigants and have developed and supported a variety of programs designed to connect litigants to free or low cost legal services. Court connected programs, clinics, resource centers, self-help centers and legal assistance offices have emerged during the last twenty years. Many focus on training and educational initiatives, and others are the outcome of professional and community collaboration. Clark County families and the Courts are able to clearly document an urgent need for such a program.

A 1989 American bar Association study concluded that existing legal services only satisfied the legal needs of 20.5% of impoverished Americans. Equal and informed access is truly at risk if poor to moderate income citizens are unable to obtain needed but unaffordable representation. Unlike criminals who are afforded publicly subsidized legal representation, *pro se* litigants in the Family Court arena are not constitutionally afforded counsel as family matters are considered civil in nature.

There have been many studies, pilot programs and social policies developed by the American Bar Association, American Judicature Society, State Justice Institute, Conference of Chief Judges and the National Association of Court Managers. All efforts validate the fact that *pro se* litigation is dramatically increasing. California reports that 80% of their Family Court cases involve one or both parties who are *pro se*. Arizona reports that in 60% of all domestic filings, both parties were without counsel during all or part of their court actions. In Clark County, 44% of the domestic caseload reflects at least one party who is *pro se*. Protection orders against domestic violence and child support cases are almost exclusively characterized by *pro per* litigation which represent 47% of all domestic filings.

A court system which is wrapped around a long history of legal traditions is not accustomed to the needs of the self-represented person and may become burdened and inefficient. Nationally, the shift from a very traditional court system has been slow to change and subject to spirited debate between traditional jurists who would suggest that the Court is prohibited from providing legal advice and “how to” information and those advocating the benefits of extending resources and services to those requiring them to effectively proceed. In many jurisdictions, including the Eighth Judicial District Court, the benefits are recognized as vitally important to families and the public. In addition, the Court embraces the concept as a fundamental case management tool.

Cause and Effects

What effect does *pro se* litigation have on the pace and efficiency of litigation?
National data suggests the following:

- 66% of Court staff time is devoted to self-represented litigants (clerks, receptionists, judicial support personnel)
- Each personal contact with a self-represented litigant requires 20 -30 minutes
- Each telephone contact requires 10 -12 minutes

- Assuming that two-thirds (15,000) of self-represented litigants make an average of two court visits and a minimum of three phone calls per case, 30,000 court staff hours are devoted to meeting the legal needs of each party. This dramatically reduces the time court employees have to dedicate to their primary duties.
- Court proceedings are protracted and delayed due to the *pro se* parties' inability to comply with procedures, lack of preparation or missing information.
- Judges are required to maintain neutrality and impartiality and may not coach an unrepresented litigant. Judicial assistance intended to expedite or facilitate may result in an appearance of favoritism. Failure of the judge to assist may be interpreted as uncaring, disinterested or uncooperative.
- Self-represented litigants may seek legal advice from unlicensed sources. A desire by the litigant to help himself often leads to the purchase of "do-it-yourself" legal kits which do not conform to state law or court rules and are rejected by reviewing court personnel.
- Those who are self-represented do not have an objective advocate able to see the "forest from the trees".

The Solution

The Eighth Judicial District Court proposes to develop a Resource Center to meet the educational/legal process needs of all self-represented litigants. This program would be largely modeled after the nationally recognized self service center in Maricopa County (Phoenix), Arizona. Services provided would include court information, forms, instructions, checklists, educational materials and courses. In addition, cooperative partnerships are being explored with the Clark County Bar, Nevada Legal Services, The Clark County Law Library and the University of Nevada Law School to provide linkages and referral sources for legal services. The Resource Center/Court staff **will not** provide direct legal services.

The Eighth Judicial District Court Pro Bono Committee, under the leadership of Judge Leavitt, has committed to support this effort and there is a groundswell of support from those agencies and organizations who have recognized the need and generously applied resources in their own way but under separate organizational and functional guidelines. Agencies currently committed to this effort include but are not limited to the following: The Clark County Pro Bono Project, Nevada Legal Services, the Clark County Bar, the Clark County Law Library, Safe Nest (formerly TADC), Equal Rights for Divorced Fathers, and the Department of Family and Youth Services.

Like other courts and communities throughout the country, this effort will succeed if built on active partnerships with the community, policy makers and funding sources, the bar, the judiciary, executive boards, grassroots self-help organizations and experienced *pro se* litigants.

Based on available resources, supplemented by creative funding, the program may provide a full range of services to include ready-made and standardized form packets, legal aid referral services, educational and training opportunities, video tapes, legal research training, referrals to discounted or “bundled” legal services, informational Internet websites, interpreters, etc.

Now Where?

- Space in the existing Family Court building has been identified, on the first floor and adjacent to the Clerk’s Office.
- An architect has been contracted to draft design documents (overhead).
- A budget has been developed for staffing and is pending County Commission approval.
- Site visits have been made to the Maricopa County Self Help Center and the Colorado Springs Pro Se Center. Contacts have been made with a number of Centers throughout the United States to include the Ventura County Superior Family Law Pro Per Clinic, Harriet Buhai Center for Family Law in Los Angeles, the Los Angeles Superior Court’s Domestic Violence Clinic, the

Orange County Modest Means Program, the California State Bar Pro Per Clearinghouse project, the Maryland Legal Information Center and many others.

- Dialogue has been initiated with University of Nevada Law School leadership.
- Program objectives and performance measures need to be developed. Effective programs exhibit five central elements:
 1. Recognizing the challenge
 2. Coordinating resources
 3. Reducing complexity
 4. Providing procedural assistance
 5. Reducing economic barriers

The Court has adopted this effort as a number one priority based on the value to Clark County families and the Court. It supports the vision of improving access and enhancing public trust and confidence. It is believed the implementation of such a program will relieve overburdened Courts and staff and will empower low and modest income families to approach their legal dilemmas with greater confidence and effectiveness.

While addressing the California Judicial Administration Conference in 1995, U.S. Supreme Court Associate Justice Stephen B. Breyer told his audience “One challenge for the judicial system is to become more human than bureaucratic. We have to remember that the judiciary is an institution that is dealing with the problems that people have and where people deal with them in a human way. We as judges, have to want to continue to face them directly and spend as much time and attention with their problems as the law requires.”

**FAMILY DIVISION
SUPPLEMENTAL BUDGET - NEW POSITIONS
FY 98/99**

SELF HELP CENTER

ATTORNEY IV: (C37) This position is required to provide the legal background and knowledge to support a Self Help Center for Pro Se litigants in the Family Division. It is conservatively estimated that 40% of the litigants accessing the Family Division are without the benefit of legal counsel at one time or throughout the course of their action. The effects of this unrepresented population are multiple and include inefficiencies, significant demands on Court personnel, delays and a potential appearance of "unequal treatment" by those having retained counsel. The Attorney IV level is supported by need for trained and experienced personnel to establish materials, courses, and resources to implement a learning vs. counsel driven program. This position is also required to insure that other staff members assisting the public do not cross the line of providing services and information which may be construed as legal advice. The Maricopa County Self Service Center, a nationally recognized program in operation for over five years, recommends the staffing of such a program with a highly qualified legal professional and a professional customer service advocate.

Salary/Benefits: \$114,397
Services/Supplies/Capital: \$14,485

PROGRAM COORDINATOR: (C29) As mentioned above, the success of the Maricopa County program is largely linked to the partnering of a legal professional to a customer service professional. Under the direction of the Attorney IV, the program coordinator position would fulfill not only that element but also provide the business/office management backbone required to implement and sustain a new program. This person will be tasked with the developing the budget, grant applications, office staff management, procurement, and business functions. The position will work at the direction of the Attorney IV in developing community partners in the legal community, Clerk's Office, law school, law library, etc. In addition, the position will be tasked with developing the technology and information systems components of a new program.

Salary/Benefits: \$57,508
Services/Supplies/Capital: \$12,693

LAW CLERK: (C29) Under the direction of the Attorney IV, this position is requested to provide legal expertise to insure that forms, processes and procedures conform with the Nevada Rules of Civil Procedure, Nevada Revised Statutes and District Court Rules.

Accurate legal information is vital to the success of litigants processing their own cases without the benefit of licensed legal representation. In addition, the position may be tasked with developing lesson plans for bar presenters and instructional manuals and materials for parties accessing the Center. Procurement, organization and maintenance of legal publications will be assigned to this position. In the absence of the Attorney IV, legal issues will be forwarded to the law clerk for guidance by subordinate staff.

Salary/Benefits: \$57,508

Services/Supplies/Capital: \$12,693

PARALEGAL: (C26) This position is requested to handle the IV-D (Paternity/Child support) inquiries made of the center. Salaries and Benefits are anticipated to be 100% reimbursable via federal pass through funds for this function. Approximately 25% of Family Division filings are driven by child support issues. 95% of this population is Pro Se. This person may act as a gatekeeper and resource for persons unfamiliar with practices and procedures relating to child support acquisition and enforcement and he/she may allow for the on-site application for relief either through the District Attorney or Nevada State Welfare Avenues. This person will need to be skilled and knowledgeable regarding the procedures associated with the District Attorney's Family Support Division and Nevada State Welfare. This area has become increasingly more complex as a result of welfare reform and the implementation of SB356 and AB401.

Salary/Benefits: \$46,503

Services/Supplies/Capital: \$14,910

LEGAL OFFICE ASSISTANT II: (C22) This position is requested to support the many clerical functions related to an office tasked with serving the public. Advanced computer, word processing, forms development, records management and data entry skills will be required to implement and effectively operate this new program.

Salary/Benefits: \$35,271

Services/Supplies/Capital: \$12,693

SENIOR OFFICE SPECIALISTS (2 PART-TIME HOURLY POSITIONS): (\$10 per hour)
These positions are requested to support the duplicating, filing, telephone, scheduling, front counter and stocking functions associated with the implementation and operation of the program. It is anticipated that the program will initially be paper intensive given the needs of the target population for printed information.

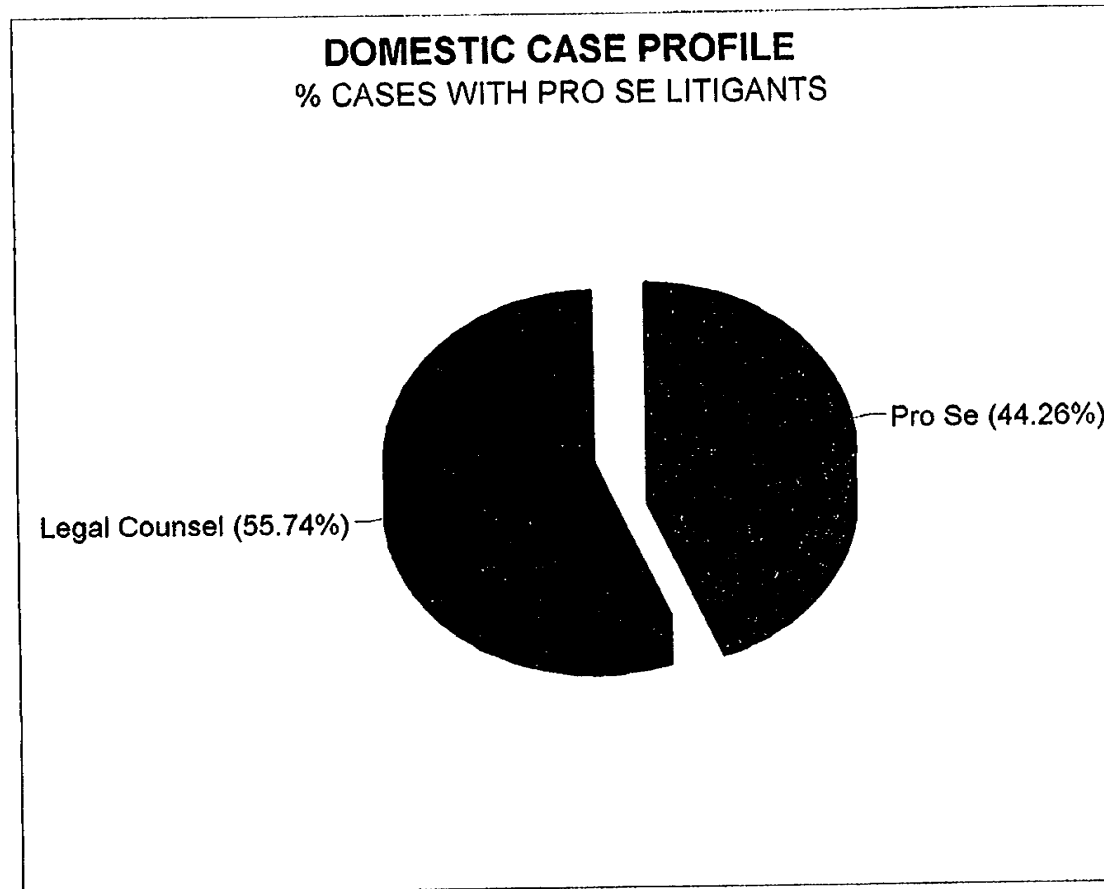
Salary/Benefits: \$23,037

Services/Supplies/Capital: N/A

TOTAL PROGRAM COST: \$401,698

DOMESTIC CASE PROFILE

Total Cases	Pro Se	Legal Counsel
11,747	5,199	6,548



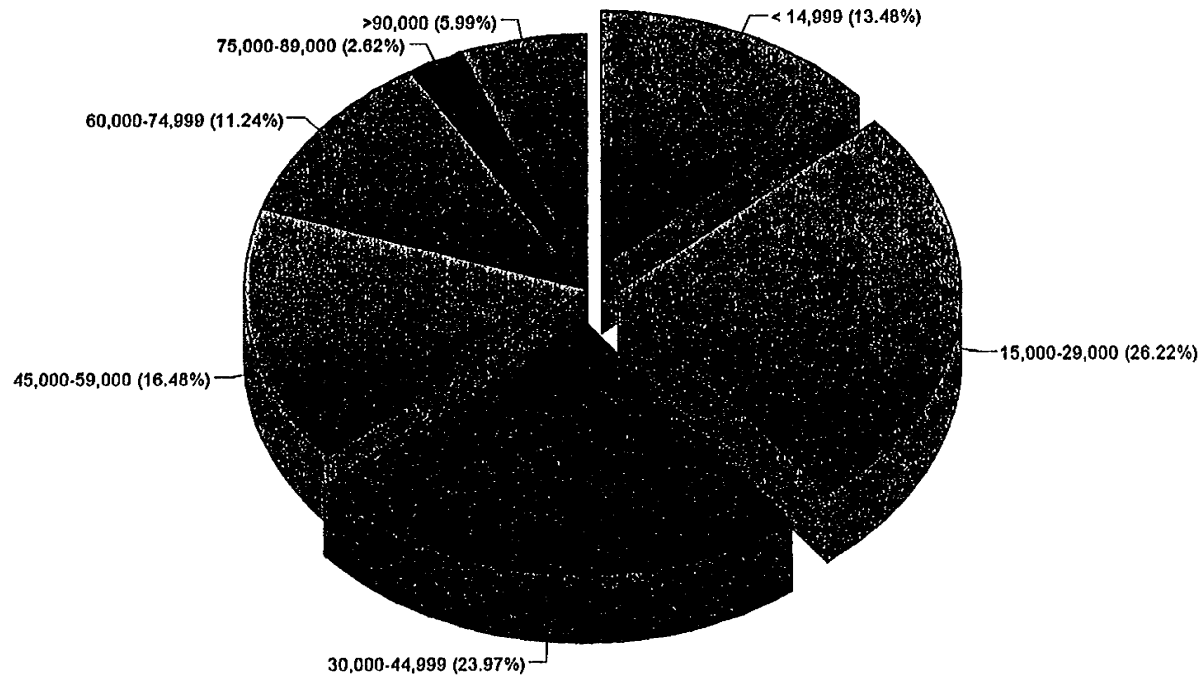
CHILDREN COPE WITH DIVORCE EVALUATION SUMMARY

Income Level	Participants
< 14,999	36
15,000-29,000	70
30,000-44,999	64
45,000-59,000	44
60,000-74,999	30
75,000-89,000	7
>90,000	16

Total Participants 267

INCOME OF PARTICIPANTS

Children Cope With Divorce



Appendix D

Superior Court of Arizona, Maricopa County, Self-Service Center

**SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY**

Self-Service Center
Presentation to the:

***Nevada Legislative Commission
Sub-Committee on Family Courts***



Thursday, April 16, 1998

Presented by:

**Honorable Barry C. Schneider, Domestic Relations Presiding Judge
Superior Court of Arizona in Maricopa County
201 W. Jefferson, 4th Floor
Phoenix, AZ 85003
(602) 506-3351
Fax: (602) 506-7867
e-mail: bschneid@smtpgw.maricopa.gov**

**Bob James, Self-Service Center Administrator
Superior Court of Arizona in Maricopa County
201 W. Jefferson, 4th Floor
Phoenix, AZ 85003
(602) 506-6314
Fax: (602) 506-6050
e-mail: bjames@smtpgw.maricopa.gov**

The Genesis: Why create the Self-Service Center?

Revised January 7, 1998

1. Experiences in this Court before the Self-Service Center:
 - More than 80,000 self-represented litigants in 1995, up from 45,000 in 1991
 - 6 out of 10 divorce related cases involve no lawyer on either side
 - It takes 20-30 minutes to help just one self-represented litigant file Domestic Relations (Divorce, Paternity, Child Custody, Child Support) papers, due to unfamiliarity, confusion, and improper paperwork
 - More than 250 people each day asked judges' staff for help
 - Hearings postponed due to lack of preparation or missing information from self-represented litigants
 - More than 5,000 calls per month from self-represented litigants asked for procedural information, each call taking at least 10 - 12 minutes
 - Administrative staff estimated that assistance for self-represented litigants took more than 80% of their time
 - Self-represented litigants brought incomplete, inaccurate, and in some situations, completely wrong "do-it yourself" kits to court only to be told they can't be used due to legal constraints

2. In 1991, the American Bar Association commissioned a study of self-represented litigants. The study was conducted in this Court, and here are some of the findings:
 - Persons with incomes less than \$50,000 are more likely to represent themselves,
 - About 20% of the self-represented litigants say they can afford a lawyer but they do not want one,
 - Self-represented litigants are reasonably well educated, with most having some college background,
 - Persons who represented themselves in court are more likely to do so again,
 - Cases in which litigants represent themselves are likely to be completed in less time than cases involving attorneys,
 - Self-represented persons are more likely to be satisfied with the judicial process than those who are represented by lawyers,
 - Almost 75% of those who represented themselves in court said that they would do the same thing again,
 - Self-represented litigants are less likely to receive marital counseling or dispute resolution services,
 - Self-represented litigants are less likely to receive advice about the tax consequences of their divorce

The Services:

What is available through the Self-Service Center?

Revised October 9, 1997

1. **Court Information:**
 - Locations and hours of operation for all Superior Court locations in the County
 - Explanation of different courts (Justice of the Peace, Municipal, Federal)
 - Tips on how to represent yourself in Court
 - Explanation of most Court processes in Domestic Relations (Divorce, Paternity, Child Custody, Child Support) cases
 - Explanation of most Court processes in Probate (Guardianship, Conservatorship, Transfer of Property When a Person Dies) cases
2. **Court Forms & Instructions:**
 - Domestic Relations (Divorce, Paternity, Child Custody, Child Support, Enforcements, Modifications, Domestic Violence)
 - Probate (Guardianship, Conservatorship, Transfer of Property When a Person Dies)
 - More than 400 forms & instructions packaged in packets by process
(Eg. Packets needed to get a divorce when children are part of the marriage)
3. **Professional Service Provider Rosters:**
 - Lists of lawyers and mediators who are willing to help people who represent themselves in Court
 - Lawyers on the roster are willing to provide "unbundled legal services," which means charging for a specific process or advice, not full representation
 - Fees of professionals on the rosters are determined by each professional, the Court is not involved in the setting of fees
 - Customers can find out specific information about each roster participant:
 - ◆ Where he or she is located
 - ◆ Hours of operation
 - ◆ Languages spoken
 - ◆ Fees charged
 - ◆ How payment is accepted
 - ◆ Years of experience
 - ◆ Training
 - ◆ Areas of law in which the provider has experience

The Delivery Systems: How do you access the Self-Service Center?

January 7, 1998

1. Physical Facilities

- 101 W. Jefferson, 4th fl, Phoenix; 8:00 am - 5:00 pm, Monday - Friday (Opened Oct. 5, 1995)

Serves more than 290 citizens per day

- 222 E. Javelina, Law Library 1st fl, Mesa; 8:00 am - 5:00 pm, Monday - Friday (Opened May 1, 1996)

Serves more than 115 citizens per day

Provides:

- Forms and instructions needed for most court processes in Domestic Relations and Probate cases
- Lists of professionals in the community that can help you represent yourself, including lawyers and mediators
- Volunteer attorneys on-site provide a half-hour of advice by appointment through the Family Lawyers Assistance Project (Phoenix facility only)

2. Automated Telephone System (602-506-SELF) (Opened October 9, 1995)

- Accessible 24 hours a day, 7 days a week (Need a Touch-Tone phone)

- Serves more than 120 calls simultaneously

- Contains more than 6 hours of information

- *Currently serving more than 3000 citizen inquiries per week*

Provides information about:

- Hours and locations of all Superior Court locations
- Other courts in Maricopa County
- How to represent yourself in Court
- Professionals in the community that can help you represent yourself
- Services in the community that are available to you
- Court processes in Domestic Relations (Divorce, Paternity, Child Custody, Child Support) cases including Domestic Violence
- Court processes in Probate (Guardianship, Conservatorship, Transfer of Property When a Person Dies) cases
- Forms you need for court processes in Domestic Relations and Probate cases (What forms are needed, Where to get them, and Where to File them)

3. Internet (<http://www.maricopa.gov/supcrt/ssc/sschome.html>) (Opened September 14, 1995)

- Accessible 24 hours a day, 7 days a week (Need a Computer with Internet & Web access)

- Serves Internet users around the world

- Contains more than 10 megabytes of documents and information

- *Currently serving more than 120 users per day*

Provides:

- Forms and instructions in WordPerfect 6.1 for Windows format that can be downloaded
- Forms and instructions in PDF (Portable Document Format) that can be downloaded
- Professional Roster Sort Program
 - Allows user to narrow search of professional rosters by;
 - What area of the Valley is help needed in,
 - Which type of professional - lawyer, mediator, etc., and
 - What area of law is the issue involving
- Information about Court processes in most Domestic Relations and Probate cases

The Collaborative Partners: Who made the Self-Service Center possible?

Revised April 5, 1996

Access to court services is dependent upon the development of a judicial system integrated within the community it serves, with linkages for litigants not only to court services, but to individuals and community-based agencies that can meet litigants' related social, financial, and other needs. The litigant who recognizes that these services exist in the community today, and that he or she can choose to access these services, is the litigant who will have the best opportunity to resolve any particular judicial matter in the most integrated manner possible.

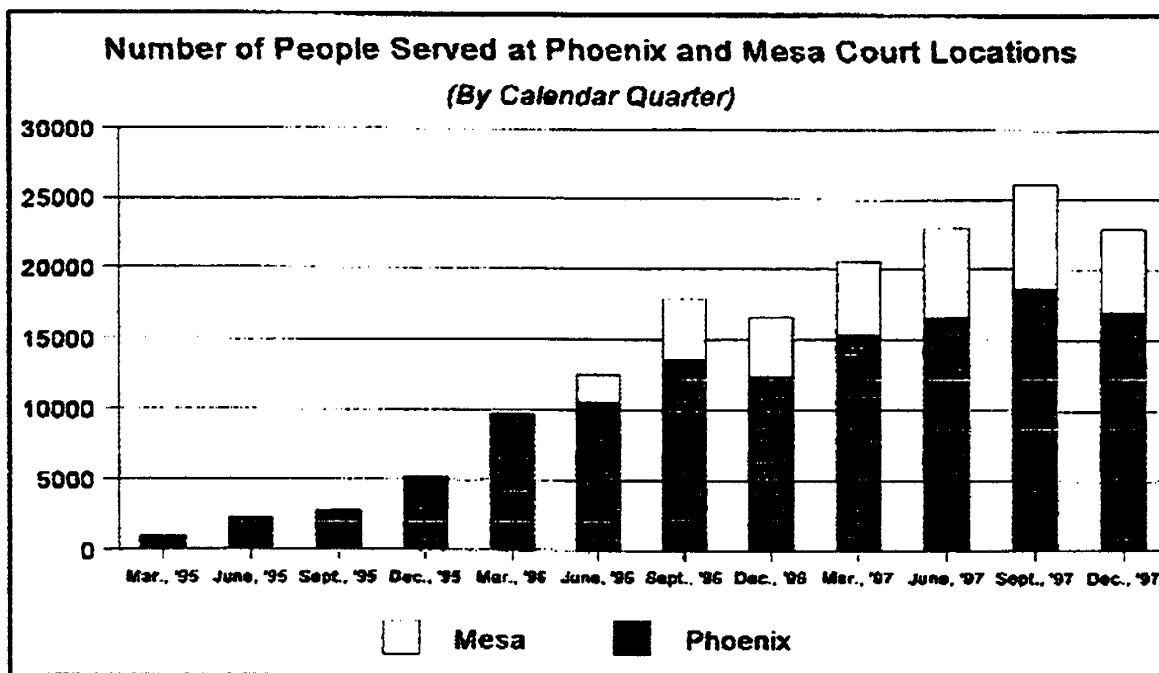
In order to create a program that was truly integrated with the community, the Court enlisted the help of more than 200 people, from various organizations. Here are some of the organizations that were, and continue to be, involved in the Self-Service Center program:

- ◆ Clerk of Court for the Superior Court of Arizona, Maricopa County
- ◆ Administrative Office of the Courts, Arizona Supreme Court
- ◆ Arizona Department of Economic Security, Division of Child Support
Enforcement
- ◆ State Bar of Arizona
- ◆ Maricopa County Bar Association
- ◆ Community Legal Services
- ◆ Community Information & Referral Services
- ◆ Business Communication Technology, Maricopa County
- ◆ Domestic Violence community

Self-Service Center

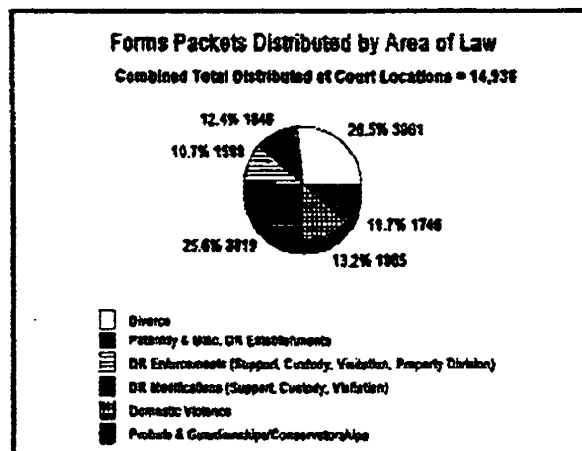
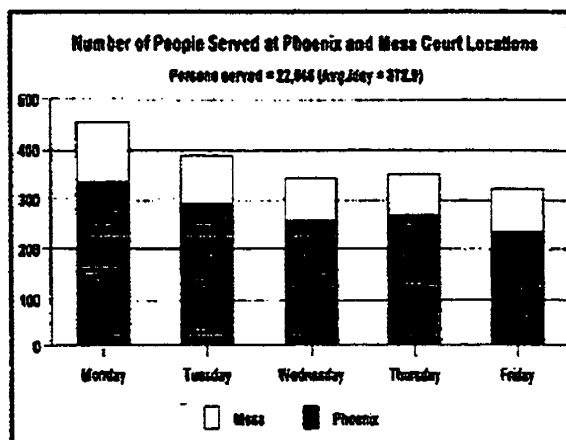
Statistical Report for October - December, 1997

January 26, 1998



IMPORTANT QUARTERLY FACTS:

- ✓ Since opening in February, 1995, 160,515 people have been served at the court locations.
- ✓ More than 22,000 customers were served at both the downtown Phoenix and Southeast court complex in Mesa combined. That represents a decline of 12.4% from July - September of this year, and a growth of 38% compared to October - December of 1996.
- ✓ On average, more than 370 customers were served each day.
- ✓ The downtown Phoenix location accounted for nearly 70% of the total number of packets distributed at both facilities (Phx. = 10,261 Mesa = 4,675).
- ✓ The Self-Service Center distributed more than 1,000,000 pieces of paper during this period.



Self-Service Center Customers -- Exit Survey

Executive Summary

February 5, 1997

From November 4 through November 22 of 1996, Court staff administered a 3 minute exit survey at both Court locations of the Self-Service Center. 977 customers were asked to participate, and 60% (586) agreed. This summary will address three specific areas of the survey; information about the customers, customer satisfaction, and the Professional Service Provider Rosters.

Customer Profile and Other Information

Who are the people who use the Self-Service Center? Sixty-five percent of those surveyed said they were first time users. Not only were we interested in who the customers were, but also how they found out about the Center. When asked, 40% said they found out from their judge or other court staff. More than 20% were told by a family member, friend, or neighbor.

The graphs to the right illustrate household income, level of education, and residence of the customers.

Customer Satisfaction

What did the customers think about the Self-Service Center? The survey found the answer by focusing on ease of use, whether needs were met, and satisfaction with staff. More than 70% of those surveyed said the SSC was "Very easy" to use, while less than 10% thought it was "Not very easy," or "Difficult." When asked whether they received what they needed, more than 80% of the customers said yes.

The graph in the corner below shows the level of satisfaction customers had with staff.

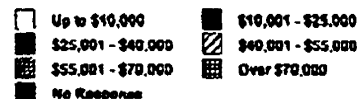
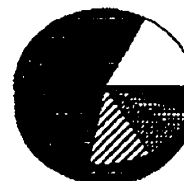
Professional Service Provider Rosters

Did you know that the SSC has lists of attorneys and mediators? Only half of the survey respondents could answer yes. We also asked if they knew about the volunteer lawyers available through the Family Lawyer Assistance Project. More than half did not know about that service. The survey illustrates the need to develop better techniques to inform customers about the availability of lawyers and mediators who will help self-represented litigants.

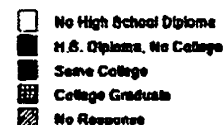
Conclusion

Overall, the information from this survey confirms the data from the 1991 ABA study concerning the demographic profile of self-represented litigants in this jurisdiction. It also illustrates the many positive experiences people are having with the Self-Service Center. Based on the survey results, it seems clear that the Self-Service Center is indeed having a positive impact on improving access for self-represented litigants to the Superior Court of Arizona in Maricopa County.

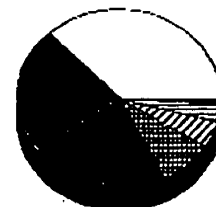
Annual Household Income



Formal Educational Level

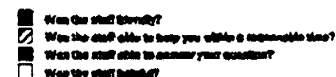
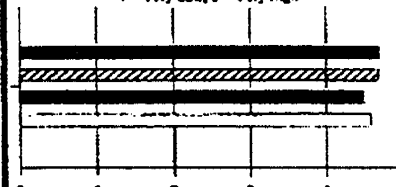


Location of Residence



Satisfaction With Staff

1 = Very Low, 5 = Very High





The Superior Court of Arizona in Maricopa County



Self-Service Center

A program to help you help yourself in Court

At the Courthouse:

Phoenix

101 W. Jefferson, 4th floor

Monday - Friday

8:00am - 5:00pm

Mesa

222 E. Javelina, 1st floor

(in the Law Library)

Monday - Friday

8:00am - 5:00pm

On the Internet:

<http://www.maricopa.gov/supcrt/ssc/sschome.html>

24 hours a day, 7 days a week

On the Telephone:

(602) 506-SELF (7353)

24 hours a day, 7 days a week

See reverse side for available
Court forms/instructions



Forms/Instructions that are currently available (10/31/97):

Domestic Relations

Divorce:

- Divorce - With Children
- Divorce - Without Children
- Divorce - Temporary Orders
- Divorce - Emergency Temporary Orders

Establishments (To Get the First Court Order):

- Voluntary Paternity
- Paternity - With Custody, Visitation, & Support
- Child Custody, Visitation, & Support
- Visitation
- Child Support
- Grandparent Visitation

Enforcements (To Make Someone Obey an Existing Court Order):

- Support (Expedited Support Enforcement)
- Custody/Visitation (Expedited Visitation Services)
- Property Division
- Wage Assignment Without Notice
- Habeas Corpus

Modifications (To Change or Stop an Existing Court Order):

- Custody - By Agreement
- Custody - By Petition
- Custody - Emergency Modification
- Visitation - By Agreement
- Visitation - By Petition
- Child Support - Simplified Modification, Request
- Child Support - Simplified Modification, Objection
- Child Support - Standard Modification, Request
- Wage Assignment - Stop/Modification, Petition
- Wage Assignment - Stop/Modification, Objection
- Wage Assignment - Stop/Modification by Agreement

Miscellaneous:

- Request for Voluntary Mediation
- Request for Mediation
- Request for Waiver/Deferral - Filing Fees
- Request for Waiver/Deferral - Service of Process
- Request for Waiver/Deferral - Miscellaneous Court Fees

Probate/Mental Health:

- Guardianship/Conservatorship for Adults - Permanent Appointment
- Guardianship/Conservatorship for Minors - Permanent Appointment
- Guardianship/Conservatorship for Adults - Temporary Appointment
- Guardianship/Conservatorship for Minors - Temporary Appointment
- Guardianship/Conservatorship - Objection
- Guardianship/Conservatorship - Petition for Approval of Annual Accounting
- Guardianship/Conservatorship for Minors - Release of Restricted Funds
- Guardianship/Conservatorship for Minors - Discharge & Release of Restricted Funds
- Waiver/Deferral of Fees - Service or Notice
- Waiver/Deferral of Fees - Court Filing Fees
- Informal Probate - Appointment of a Personal Representative
- Informal Probate - Transfer of Property When a Person Died

Domestic Violence:

- Order of Protection
- Injunction Against Harassment

Civil:

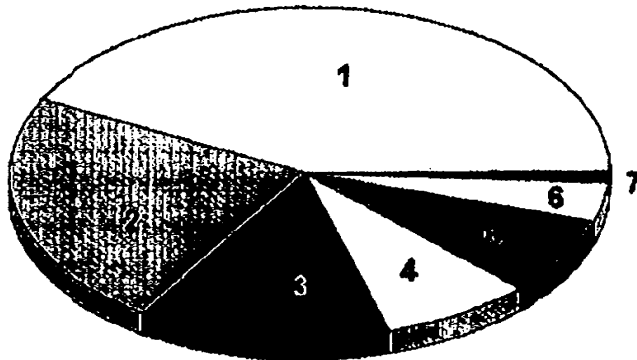
- Trial Preparation (Motion to Set & Certificate of Readiness)

Self-Service Center

Design, Operations, and Development Costs

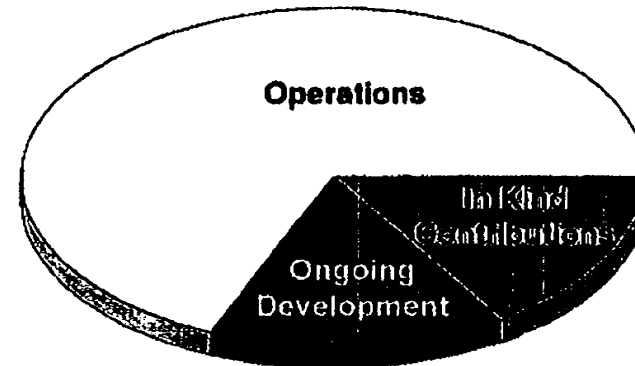
November 4, 1996

Design and Initial Development



1. Bond: Construction	\$345,000
2. Grant: Arizona Supreme Court	\$191,000
3. In Kind: Phone/Internet	\$110,000
4. Staff Salary	\$ 65,000
5. Grant: State Justice Institute	\$ 62,000
6. Convert: Staff	\$ 30,000
7. In Kind: Services	\$ 10,000
TOTAL	\$813,000

Projected Annual Costs



Operations

Convert Use: Space	\$200,000
Supplies: Paper	\$110,000
Convert Use: Staff	\$100,000
Convert Use: Supervision	\$ 40,000
TOTAL	\$450,000

Ongoing Development

Legal Development	\$ 50,000
Technological Development	\$ 50,000
TOTAL	\$100,000

In-Kind Contributions

Maricopa County Bar Assoc.	\$ 30,000
Clerk of Superior Court	\$ 30,000
County Bar/Legal Aid	\$ 25,000
AZ Child Support Agency	\$ 10,000
Maricopa County Sheriff	\$ 5,000
Mediator	\$ 5,000
TOTAL	\$105,000

Appendix E

Clark County CASA Program



We Speak . . .

We speak for a child
who wears shoes that are too large
whose nightmares are reality
who never heard of Mickey Mouse
whose parents run away.

We are the voice of an child
who feels at fault
who lives in fear of daddy coming home
who wonders what its like to have a friend sleep over
who eats only when food could be found.

We stand for a child
who has never been to the doctor
who wonders what the tooth fairy does
who is unable to stand without help
who knows too well what an attorney looks like.

We listen to a child
who doesn't know what the truth is
who are in constant need of a bear hug
who finds freedom in only a swing
who believes they are the parent.

We are the heart of a child
who wants mommy and daddy to stop fighting
who has never had a bandage or a kiss on an "owie"
who thinks we are the bestest friend they ever had.

We are the people
who often read these children their very first fairy tale
who wipe away their tears with our selves
who want them to believe life is worth it.



The Advocate

**This is not about rescue,
so as to feel good
when the child lights up with a smile.**

**This is not about
the comfort of compassion.**

**This is hard work,
struggling with ripped families
and children in clouds of pain,
anger dancing round their hearts
in the turmoil of a world made crazy.**

**This is caring, yes,
but also what is just,
what should be demanded.**

**It takes love
and a certain measure of
courage.**

**And in the simple act
of person helping person
it becomes extraordinary.**


- Mercedes Lawry

CASA
A child's voice in court™

KIDS ON LIFE

Kids can teach us a lot about LIFE, if we are willing to observe.


... It's more fun to color outside the lines  If you're gonna

draw on the wall, do it behind the couch  Ask WHY until you

understand  Hang on tight  Even if you've been fishing for
three hours and haven't gotten anything except poison ivy and

a sunburn, you're still better off than the worm  Make up the

rules as you go along  It doesn't matter who started it 

Ask for sprinkles  If the horse you're drawing looks more like

a dog, make it a dog.  Save a place in line for your friends 

Sometimes you have to take the test before you've finished

studying  If you want a kitten, start out asking for a horse 

Picking your nose when no one else is looking is still picking your

nose  Just keep banging until someone opens the door 

There is no good reason why clothes have to match  Even

Popeye didn't eat his spinach until he absolutely had to  You

work so hard peddling up the hill that you hate

to brake on the way down  You can't

ask to start over just because you're

losing the game. 

- author unknown



National CASA Association Mission

The mission of the National CASA Association is to speak for the best interests of abused/neglected children in Court; promote and support quality volunteer representation for children to provide each child with a safe, permanent, nurturing home.



History of National CASA Movement

Court Appointed Special Advocate

Precipitating Factors:

- ◆ **Staggering Numbers of Abused/Neglected Children in Foster Care**
- ◆ **Massive Social Worker Caseloads**
- ◆ **Insufficient Information on the Child's Best Interests Available for Judges**
- ◆ **National Focus on Permanency Planning**



History of National CASA Movement

Court Appointed Special Advocate

Early Development:

1977 - Judge David Soukup, Presiding Judge of King County Superior Court, Seattle, Washington, developed & implemented first CASA Program

1977 - Children in Placement Committee of the National Council of Juvenile & Family Court Judges developed guidelines to protect a child's right to a safe, permanent home and incorporated CASA concept as a model



History of National CASA Movement

Court Appointed Special Advocate

Early Development:

- 1978 - Office of Juvenile Justice & Delinquency
Prevention study evaluated volunteer advocacy
programs and rated CASA as one of the most
successful and innovative**
- 1980 - Clark County CASA Program began under the
direction of Judge John Mendoza**



History of National CASA Movement

Court Appointed Special Advocate

Early Development:

- 1982 - National CASA Association began in Seattle, Washington, to support the growing number of CASA Programs throughout the country**

- 1998 - 710 CASA Programs function in all 50 states, Guam, and the Virgin Islands, with over 44,000 CASA volunteers serving 166,000 abused/neglected children**



P.L. 93-247

**Child Abuse Prevention and Treatment
Act of 1974**

P.L. 96-272

**Adoption Assistance and Child Welfare
Act of 1980**

P.L. 101-647

Victims of Child Abuse Act of 1990

P.L. 105-89

Adoption and Safe Families Act of 1997

NRS 432B.500

Nevada Child Protection Act

Court Rule 5.41

Eighth Judicial District Court Rule



Selection of CASA Volunteer

Knowledge of - child development, family dynamics & confidentiality

Skill to - creatively problem-solve, employ tenacity, deal with hostile and emotionally charged feelings, and identify success and failures

Ability to - communicate, organize facts, establish positive working relationships, maintain objectivity, meet deadlines and . . .

NEVER GIVE UP !!!



Requirements of CASA Volunteer

- ◆ **Twenty-One Years of Age**
- ◆ **Valid Driver's License & Proof
of Automobile Insurance or Identification**
- ◆ **Submit a Completed Application Packet**
- ◆ **Submit to an NCIC Background Check and
Child Abuse Registry Check**
- ◆ **Submit to a Personal Screening Interview**
- ◆ **Complete 40 Hours of Training Curriculum**
- ◆ **Participate in In-service Training Sessions**
- ◆ **Participate in Annual Evaluation**
- ◆ **Make a Two Year Commitment**



Training of CASA Volunteer

National CASA Association 40 Hour Training Curriculum Includes:

**Juvenile Court Procedures
Review Hearings
Foster Care Review Board
Permanency Planning
Wardship
Caseplans
Adoption
Termination of Parental Rights
Child Abuse/Neglect Dynamics
Child Development & Family Dynamics
Cultural Awareness
Mandatory Reporting
Advocacy Skills
Court Report Writing
Roles & Responsibilities
Interviewing Skills
Supervision Issues**



Role of CASA Volunteer

Investigate - make an independent evaluation of the facts of the case through personal interviews and records reviews

Advocate - present an accurate portrait of the child and his/her needs before the court

Monitor - ensure compliance with court orders by all parties and ensure child moves towards permanency in a timely fashion



Clark County CASA Program

The mission of the Clark County CASA Program is to provide expressly trained volunteer advocates to preserve and protect the rights and interests of abused/neglected children and children involved in custody litigation in a sensitive, respectful and confidential manner



Clark County CASA Program

1980 - Clark County Juvenile CASA Program became operational in the Juvenile Court arena

1987- Clark County Domestic Relations CASA Program became operational in the domestic relations arena

1991 - Juvenile & Domestic Relations CASA Programs were consolidated in preparation for the Family Court



Clark County CASA Program

Scope of Services Domestic Relations Cases

Cases In Which:

- Child's Concerns May be Significant to Final Case Resolution**
- Observations of Parent/Child Interactions May Assist the Court**
- Child's Concerns Over Time May be Significant to Final Case Resolution**



Clark County CASA Program

Domestic Relations Cases

Duties

- Conduct Private Interviews with Child**
- Conduct Observation of Parent/Child Interactions**
- Advocate for Child's Best Interests**
- Report Findings to Court**
- Maintain Strict Confidentiality**



Clark County CASA Program

Scope of Services

Mandated Primary Responsibility Juvenile Court Cases

Abused/Neglected Children for Whom Permanency Has NOT Yet Been Established



Clark County CASA Program

Juvenile Court Cases

Duties

Conduct Independent Evaluation
Advocate for Child's Needs & Best Interests
Monitor Court Orders & Facilitate Case Progress
Facilitate Sibling Contacts
Report Findings and Recommendations to Court
Maintain Strict Confidentiality



Clark County CASA Program

Average Volunteer Hours Contributed Annually

Juvenile Court Cases 120 Hours per case

Domestic Relations Cases 10 Hours per case

Training & Supervision Hours . . . 25 Hours per Volunteer



Clark County CASA Program

CHILDREN SERVED

JUVENILE COURT:	1200 Children in Care in Clark County
1995	525
1996	607
1997	466
1998 (January, February, March)	473



Clark County CASA Program

CHILDREN SERVED

DOMESTIC RELATIONS:

1995	201
1996	154
1997	172
1998 (January, February, March)	62



Clark County CASA Program

1997 Estimated Volunteer Hours Contributed

187 CASA Volunteers

Juvenile Court Cases 55,920 Hours

Domestic Relations Cases 1,720 Hours

Training & Supervision Hours 4,675 Hours

Total 62,315 Hours



Clark County CASA Program

How the CASA Program Helps

Time - Individual attention focused on each child

Comprehensive Picture - Thorough research of each child's needs and situation

Safety Net - Prevention of foster care drift

Focus - Permanency for each child

CASA VOLUNTEER JOB DESCRIPTION

CASA MISSION STATEMENT

The mission of the CASA Program is to provide expressly trained volunteer advocates to preserve and protect the rights and interests of abused/neglected children and children involved in custody litigation in a sensitive, respectful and confidential manner.

CASA PROGRAM GOALS AND OBJECTIVES

1. To conduct independent evaluations and provide independent, factual information to the Family Court regarding abused/neglected children and children involved in custody litigation.
2. To provide advocacy for abused/neglected children and for children involved in custody disputes and to insure representation of the children's best interests.
3. To promote a safe, permanent and nurturing home for all children.

CASA VOLUNTEER POSITION

By direction of the Family Court Judiciary and under supervision of the District Court Administration, Family Division, and CASA Program staff, the CASA Volunteer performs advocacy duties for abused/neglected children and children involved in custody disputes.

POSITION RESPONSIBILITIES

The CASA Volunteer responsibilities and duties for abused/neglected children include:

1. Conduct an independent evaluation of the case.
 - Read and review all pertinent documents
 - Interview all parties to the case as directed.
 - Observe the child with significant others and promote child/sibling and child/parent visitation as directed.
 - Attend all case staffings and conferences.
2. Maintain strict confidentiality of all case information.
 - Maintain accurate and current case notes and contact log.
 - Share case information only as directed through approved procedures.

3. Monitor and facilitate the progress of the case.
 - Monitor compliance with the case plan and court orders.
 - Maintain regular contact with the child and all parties as directed.
 - Promote the permanency planning and case plan goals throughout all case contacts.
 - Monitor child's special needs and delivery of appropriate services to meet the needs.
 - Develop a working relationship with other case professionals, i.e. DCFS caseworker, counselors, foster parents, parents, and caretakers.
4. Report findings to the Court.
 - Provide a written, formatted report with factual information and an assessment to the Court.
 - Attend Court hearings as directed.
 - Testify or make verbal presentations at the Court hearings as required.
5. Attend required training.
 - Attend and complete the initial 40 hour training sessions.
 - Participate in initial training feedback session.
 - Attend regular in-service training seminars.
 - Attend two special training seminars annually.
6. Participate in supervision and development process.
 - Seek staff direction.
 - Direct questions and concerns to staff.
 - Consult regularly with staff.
 - Review reports with staff.
 - Participate in annual evaluation and feedback session.
 - Set development and performance goals.

CASA Volunteer responsibilities and duties for children involved in custody litigation include:

1. Conduct an independent, private interview with the child.
 - Read and review all pertinent documents
 - Interview the child as directed.
2. Conduct an observation of the parent/child.
 - Read and review all pertinent documents.
 - Observe each parent separately with the child as directed.
3. Conduct independent, private interviews with the child over a period of four months.
 - Read and review all pertinent documents.
 - Interview the child privately over a period of four months as directed.
4. Maintain strict confidentiality of all case information.
 - Maintain accurate and current case notes and contact log.
 - Share case information only as directed through approved procedures.

5. Report findings to the Court.
 - Provide a written, formatted report with factual information to the Court.
 - Testify at the Court hearings as required.
5. Attend required training.
 - Attend and complete the initial 40 hour training sessions.
 - Participate in initial training feedback session.
 - Attend regular in-service training seminars.
 - Attend two special training seminars annually.
6. Participate in supervision and development process.
 - Seek staff direction.
 - Direct questions and concerns to staff.
 - Consult regularly with staff.
 - Review reports with staff.
 - Participate in annual evaluation and feedback session.
 - Set development and performance goals.

SELECTION FACTORS

The CASA Volunteer position requires the following knowledge, skills and abilities.

1. Knowledge of:
 - Basic child development principles
 - Basic family dynamics
 - Concept of confidentiality
2. Skill to:
 - Implement creative problem solving.
 - Utilize active listening.
 - Deal with hostility, anger, obstructive behaviors and other emotionally charged feelings and attitudes.
 - Employ tenacity and perseverance.
 - Identify successes and failures.
3. Ability to:
 - Communicate effectively in both oral and written form.
 - Maintain essential confidentiality of information.
 - Analyze and organize facts and information in a logical manner.
 - Establish and maintain effective working relationships.
 - Relate effectively to people from various backgrounds in a variety of settings.
 - Maintain objectivity.
 - Utilize effective interviewing techniques with children and other involved parties.
 - Meet deadlines and timeframes.
 - Gather and record factual information.
 - Transport self to a variety of locations throughout the County.
 - Attend required training and development sessions.

REQUIREMENTS

The CASA Volunteer must be twenty one years of age; possess a valid Nevada Driver's License and Declaration of Automobile Insurance; submit a completed application packet; submit to a background check, FBI fingerprint check and a personal screening interview; attend and complete the initial 40 hour CASA Orientation Training; participate in in-service training sessions; participate in annual evaluation and feedback sessions; and make a two year commitment to the program.

Appendix F

Washoe County CASA Program



Court Appointed Special Advocates Washoe County

A CASA is a Court Appointed Special Advocate. The CASA program utilizes trained volunteers to speak up for abused and neglected children in court. The Washoe County CASA program is one of four Nevada CASA programs and is a member of the national CASA network. This innovative program has received national and local recognition for its successful advocacy efforts for children. In 1997 Washoe County CASA was named "Organization of the Year" by the Child Assault Prevention Project.

In Washoe County CASA volunteers are an important member of the court family ensuring that Nevada's children receive the support and assistance they need. At a time when social worker and court caseloads are growing, CASA volunteers serve as the court's eyes and ears, gathering relevant information about a child under the court's jurisdiction. CASA volunteers interview anyone who may be able to shed light on the case. They then appear in court to recommend to the judge what decision is in the child's best interests. Because of the CASA volunteer's commitment to no other interest than the child's welfare, the CASA has a special status in Court and a high value is placed on any recommendations.

Washoe County's CASA program started in 1982 under the leadership of Judge Charles M McGee. The Reno Junior League provided initial support of the project and a half dozen members became Washoe County's first CASA volunteers. Now the program has 170 volunteers who handle over 200 new cases referred from Family Court a year. A professional staff of five oversee the program and funding from the Nevada Law Foundation provides monies to contract services of a program attorney. In 1995 CASA received a \$78,000 grant from the National CASA Association to expand services. This year the CASA program expects to have

180 volunteers to meet the representational needs of children coming before the court. As Family Court Judge Scott Jordan notes, "At a time when family problems are increasing in both number and severity, and when available resources to address the problems are shrinking, the CASA program is more important than ever. It is not an exaggeration to say that the juvenile and domestic violence programs of the court would be devastated if CASA volunteers were not available."

Community volunteers are the heart of CASA's organization. A profile of volunteers completed in November 1996 shows 80% of the volunteer pool is female, 40% are between the ages of 35-50, 57% have college or post-graduate degrees and an additional 27% have some college. At least 60% have full time jobs. A

recent CASA study found volunteers who remain active after their initial program commitment tend to come from the helping professions - teachers, psychologists, child care providers, etc.

Receiving specialized training, these volunteers are used in any case where the

judge feels more information about the child is needed. Typically CASA's are requested in abuse and neglect cases in Juvenile Court, divorce/custody cases where the needs of the child may be overshadowed by the conflict between parents, cases involving domestic or family violence and related Family Court matters.

The goal of CASA is to ensure that all children grow up in safe, permanent homes by keeping the legal system focused on the needs of the child. Each individual child deserves a voice. As Marian Wright Edelman in the *Measure of Our Success* observes, "Remember the children behind the statistics. All over America, they are the small human tragedies who will determine the quality and safety and economic security of America's future as much as your and my children will."

At a time when family problems are increasing in both number and severity, and when available resources to address the problems are shrinking, the CASA program is more important than ever. It is not an exaggeration to say the juvenile and domestic violence programs of the court would be devastated if CASA volunteers were not available.

Scott T. Jordan, Family Court Judge

CASA PROGRAM STATISTICS

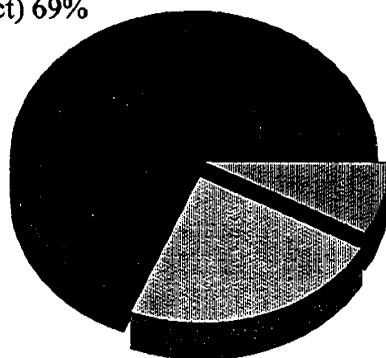
The CASA client population has grown significantly as evidenced by the increasing number of children served since 1990. In 1997 CASA volunteers together with the CASA program attorney attended over 400 hearings to speak for the child's interests. Since the program's inception in 1982, Washoe County CASA volunteers have "spoken up" for 2860 children.

	1990	1995	1997
TOT CHILDREN SERVED	103	337	506
ACTIVE CASES (Year End)	80	188	194
CASA VOLUNTEERS	70	132	158

Today we have 170 CASA's actively advocating for children under the jurisdiction of the Washoe County Family Court. The challenge is to match our volunteer pool with the needs of the court and the families and children we serve. Each year we train between 40 and 60 new CASA's to keep up with the growing demand for CASA services. In the last three years, we have averaged 201 new case assignments per year involving just over 300 children. In the first three months of 1998 we have appointed CASA's in 49 new cases. The graph below shows the type of legal actions in which CASA's are appointed.

Types of Cases with CASA's Appointed

Juvenile (Abuse and Neglect) 69%



Supervised Visitation 8%

Custody 23%

FAMILY PEACE CENTER

VISITATION and EXCHANGE SERVICES

CASA
P.O. Box 11130
Reno, Nevada 89520

Families Visiting Project

Goal Statements

- Assist to reunify families
- Teach parents how to enjoy their children
- Help prevent re-entering system

Population Served

- Targets Juvenile cases
- Families involved with Social Services
- Current: four families - six parents and twelve children
- Future: 20 families

Funding

- Nevada Supreme Court - Court Improvement Project

Families Visiting Project

- Structured activities at the YWCA in Reno
- Saturdays 10:30 to 12:30 and 1:00 to 3:00
- One Coordinator
- Two Therapeutic Supervisors - Master's Degree Interns
- Free service uses CASA's and Foster Grandparents
- Uses family strengths approach
- Activities: swimming
basketball
puppet shows
stories
board games

Professional Affiliation

- Supervised Visitation Network (SVN) *
1213 S.E. 2nd Avenue
Grand Rapids, Minnesota 55744
(218) 327-6735 phone, and (218) 327-6733 fax.

While we follow the Supervised Visitation Network Guidelines, the SVN does not endorse any program.

Visitation Coordinator

(702) 856-1300 PH & FAX

E-Mail: linda@visitationexchange.reno.nv.us

FAMILY PEACE CENTER

VISITATION and EXCHANGE SERVICES

CASA

P.O. Box 11130

Reno, Nevada 89520

Visitation Exchange Program

Goal Statements

- Provide a safe place to exchange children for 20 high conflict families
- Provide a safe, impartial service for the children's best interest
- Provide child access to non-custodial parent

Population Served

- Family Violence - TPO
- High conflict divorce
- Court ordered
- Statistics: Current: 20 families; 25 children

November 96-97: 31 families; 340 peaceful exchanges;
47 children

Nov. 97-Mar. 98: 24 families; 317 peaceful exchanges;
35 children (15 new families;
30 new children)

Nov.96-Mar.98: 45 families; 657 peaceful exchanges;
77 children

Funding

- Bretzlaff Foundation, CASA and Tru-Vista

Visitation Exchange Program

- Began service in November 1996 for Washoe County Family Courts
- Supervised exchanges at the YWCA in Reno
- Fridays, Saturdays, Sundays and Holidays
- Impartial, free service uses CASA's and Foster Grandparents
- Professional security

Professional Affiliation

- Supervised Visitation Network (SVN) *
1213 S.E. 2nd Avenue
Grand Rapids, Minnesota 5574
(218) 327-6735 phone, and (218) 327-6733 fax.

While we follow the Supervised Visitation Network Guidelines, the SVN does not endorse any program.

Visitation Coordinator

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E-mail: linda@visitationexchange.reno.nv.us

Appendix G

Family Mediation Center

Family Mediation Center

Presented To

Legislative Commission's Subcommittee on Family Courts
Thursday, April 16, 1998

By
LaDeana Gamble, FMC Manager



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FAMILY MEDIATION CENTER (FMC)

PROGRAM INFORMATION

FAMILY MEDIATION CENTER (FMC) EIGHTH JUDICIAL DISTRICT COURT - FAMILY DIVISION

Functioning under local Court Rule 5.70, the Family Mediation Center is under the administrative direction of District Court Administrator Chuck Short and Assistant Court Administrator Christina Chandler. Over the past ten years the program has developed programmatically as demands for services has increased along with the ever expanding population of our community. FMC's mission and methods have emerged from a variety of influences including legislative mandate and experiences of other established family courts.

Mission Statement

Preserving family integrity and protecting children's rights during the restructuring of families as the result of separation, divorce or other family matters.

Historical Program Information

The **Family Mediation Center**, formally known as the Child Custody Division, was established in 1968 when a full-time protective services position through the Department of Family and Youth Services was designated to provide "child custody investigations" for the District Court Judges.

In 1975, the Family Mediation Center was officially transferred from the Department of Family and Youth Services budget to the District Court. Due to staffing constraints, FMC established a contract program to conduct "child custody investigations" through the private sector. These practices continued until 1984, when Clark County funded additional staff for FMC.

In 1985, with the approval of the District Court Judges, the Family Mediation Center radically changed its philosophy and approach to families. This was not only to keep up with the societal and legal changes, but also to more effectively handle the rapidly growing caseload. These changes included the **implementation of the mediation program** and the modification of the adversarial approach to evaluations. Although mediation was promoted as our primary service, the community at large did not embrace the concept.

In 1991, the legislature created the Family Court.

In 1992, in order to meet the increasing demands for FMC services a major program development occurred. All families ordered to FMC for services would attempt mediation. If parties were unable to resolve their issues during the mediation process, an impasse was declared and the family proceeded with evaluative services.

The evaluation format was restructured and focused on the quality of relationship each party had with their children. The investigative component was removed and the evaluations

became more child-focused. Due to staffing constraints, FMC ceased conducting home visits for each evaluation conducted by our Center. Additionally, some collateral references were eliminated as part of the evaluative process.

The components of the FMC evaluation included the following:

1. Review of the court minutes.
2. Child Protective Services records check and local police records check of the parents/stepparents/significant others.
3. Conjoint interview with the parents/stepparents/significant others.
4. Individual interview with the parents/stepparents/significant others.
5. Observation of parents/stepparents/significant others with the children.
6. Individual interview with the children if they were over the age of 4.
7. Gathering of collateral information to support or refute issues/concerns made by one parent against the other.
8. Review of collateral information received.
9. Writing of evaluation including an assessment of the parental situation and custodial recommendations if so directed by the Court.

October 1, 1997, mandatory mediation was implemented due to Senate Bill 419 that was passed by the legislature in July of 1997. In light of the new law, N.R.S. 3.475, FMC staff and resources are now devoted exclusively to mediation services. Some cases will require additional services and assessment of parental competency. As of November 1, 1997, these cases are referred to community resources for services. Private practitioners from the community provide evaluation of family functioning, family dynamics, parenting skills/or deficiencies. The Court has established a preferred provider list which consists of private evaluators who meet the criteria established by the Court. Parents are given a chance to select from the list or the judge decides in cases of no agreement to a private provider.

Mandatory Mediation Service Delivery Process

The mediation process focuses on the strengths within a family and assumes that parents are the ones best able to make decisions about their children. Through mediation, the parents sit down with a mediator who helps them sort out their differences and assists them in refocusing themselves on their children's needs. Mediation provides alternatives to traditional conflict resolution methods and empowers parents.

FMC has a **Domestic Violence Protocol** which is used when there are allegations of domestic violence. The protocol addresses each parent's fear of the other parent and assesses their willingness and ability to participate in the mediation process. This protocol requires the family specialist to meet with each parent individually to complete a domestic violence risk assessment as it relates to the level, specific type and frequency of violence that occurred during the relationship or marriage. The mediation process only begins at the direction of the alleged victim. Shuttle mediation and telephone mediation are also options offered by the Family Mediation Center.

The Eighth Judicial District Court child custody mediation process is:

- Upon the filing of an answer to a contested child custody motion, parents are mandated to attempt to resolve their dispute through mediation, prior to their trial date. Parties may obtain mediation services through the private sector of FMC. Parties may access the services or FMC by:
 1. Stipulation to Mediation Order
 2. Request & Order for Mediation
 3. Court order for Mediation

Goals of FMC Mediation Program

- To decrease the number of litigated custody disputes.
- To expedite resolution of child custody, access, and visitation issues.
- To reduce post-divorce conflict by utilization of alternative dispute resolution.

Objectives of FMC Mediation Program

- Reduce post-divorce conflict.
- Increase access to Alternative Dispute Resolution services.
- Decrease post dispositional motions.
- Decrease protracted litigation.

FMC Mediation Program Content

The FMC Mediator assists the parents to:

1. Focus on the needs of the child;
2. Identify areas of stability for the child;
3. Identity the strengths of the family; and
4. Develop and promote continuity in the child's relationship with each parent.

The FMC Mediator and the parents carefully draft a comprehensive parenting plan which includes but is not limited to the following:

1. Designation of legal and physical custody and how this is related to parental authority and decision making.
2. A weekly schedule for the child and each parent;

3. A holiday schedule for the child and each parent;
4. A summer schedule for the child with each parent;
5. Vacation time, i.e. time that the child may spend each year without regular scheduled physical contact with the other parent;
6. Provision for protecting the child, such as supervised visitation if high risk factors are present, (e.g., a history of substance abuse, debilitating illness, acts of domestic violence by one or both parents, child abuse, or neglect); and
7. Special day arrangements, e.g., birthdays of the child, siblings, and parents.

FMC Mediation Sessions

Each family referred for mediation is seen for:

1. A minimum of two sessions, approximately six hours. Extended mediation services are provided as needed.

Fees for Mediation

FMC provides mediation services on a sliding scale based upon each parent's individual income. A flat rate is charged for one or multiple sessions.

Less than \$12,000	\$50.00	per person
\$12,001 - \$25,000	\$100.00	per person
\$25,001 - \$50,000	\$150.00	per person
More than \$50,000	\$200.00	per person

If a parent is receiving public assistance (i.e. TANIF, WIC, unemployment compensation and/or social security disability), FMC waives the mediation fees.

Other FMC Services

◆ Program Coordinator for Cope (Children Cope With Divorce) Seminar

As the Program Coordinator for COPE, our Center monitors the program and provides quarterly in-service trainings for the private providers. Additionally, our Center coordinates the monthly statistical reports for the Court regarding COPE. Any program issues or concerns are addressed to FMC.

◆ FMC Coordination of Outsource Services

Our Center provides 16 hours of training and quarterly in-service training for private providers on child custody evaluations and the domestic relations process. Additionally, our Center conducts background checks on the private providers and prepares and maintains an outsource manual for the Court.

Evaluation services that are outsourced to the private sector are coordinated by a family specialist to ensure that:

1. Outsource provider receives referral & information on the family.
2. Court is informed who will be conducting the evaluation in the private sector.
3. Family specialist receives acknowledgment form from the private provider indicating they will complete evaluation by date indicated by the Court.

◆ ***Criminal History/Juvenile Records Check***

At the order of the Court, our Center obtains criminal history/juvenile records for families involved in contested custody disputes. Upon receipt of the records, the information is forwarded to the Court.

FMC Funding

Clark County General Fund

FMC Fees Collection for Services in 1997

\$142,819.00

FMC Staff resources

FMC has a program manager, office manger, three support clerical positions, nine full time family specialists, one part time family specialist and one graduate intern.

FMC Family Specialist Training

Staff building and providing appropriate training has played an important role in light of the diverse and multi-faceted demands placed on the Center. Family Court referrals require not only a basic knowledge of the law, but a working knowledge of family dynamics, developmental needs of children, domestic violence issues, and dealing with emotionally charged cases. Based on the underlying principle of the child's best interests, a strong background in the social sciences with direct experience in human services field is a prerequisite for family specialists. In addition to the basic educational requirements, the Family Mediation Center has provided specialized mediation training. Since 1993, each year, the Family Mediation center staff has received 40 hours training in mediation by national known mediators. The Family Mediation Center has also encouraged staff attendance at in-service training provided locally. In short, multiple efforts and steps to ensure staff readiness and viability have been taken.

Questions

If you have any questions about our program, please feel free to contact LaDeana Gamble, FMC Manager at 455-4186.

FAMILY MEDIATION CENTER (FMC)

HISTORICAL STATISTICS

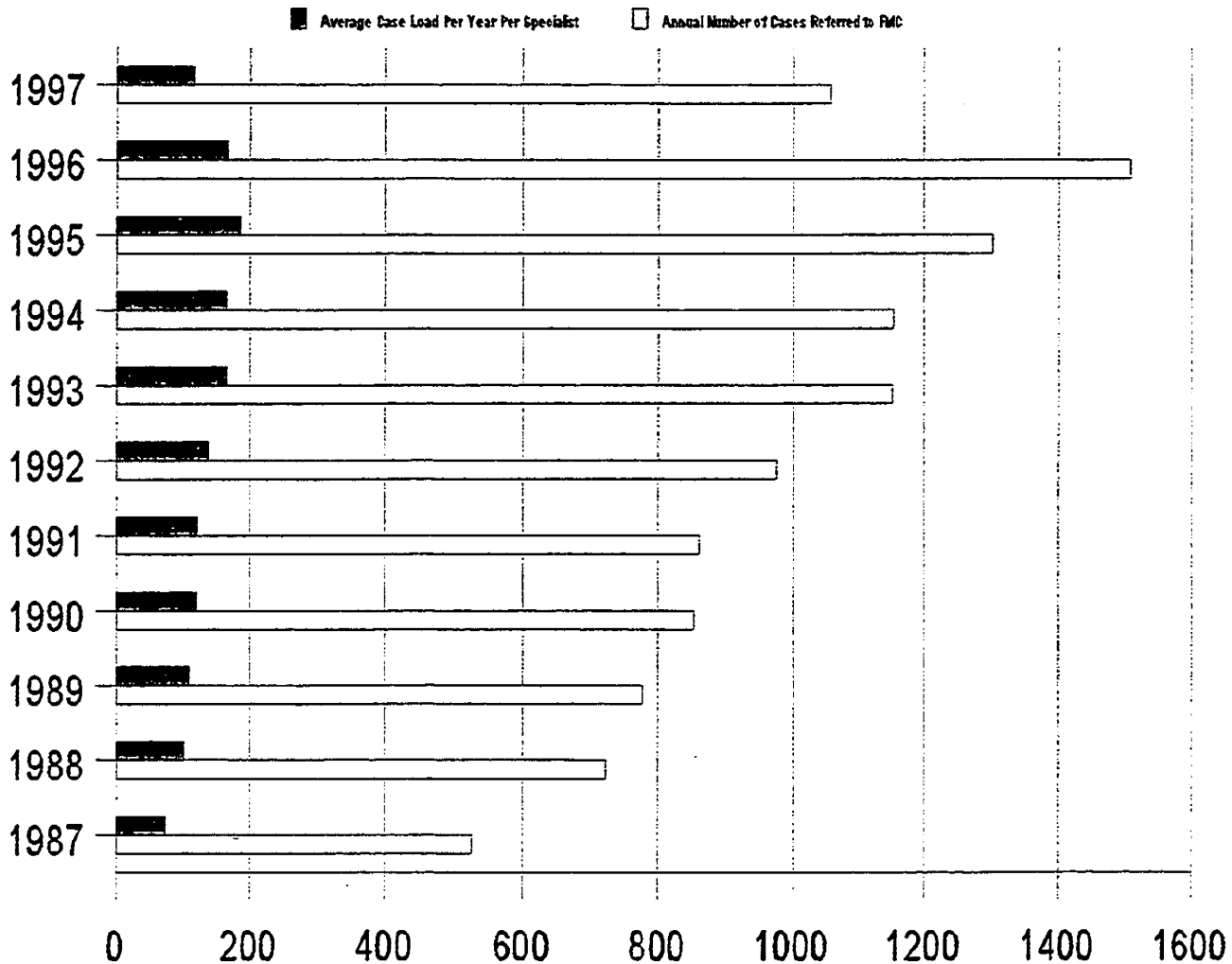
1987 - 1997

ANNUAL CASES ORDERED -VS- CASELOAD PER SPECIALIST

	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Annual Number of Cases Referred to FMC	526	723	777	854	861	975	1152	1154	1303	1509	1057
Average Case Load Per Year Per Specialist	75	103	111	122	123	139	165	165	186	167	117

Number of Staff	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
	7	7	7	7	7	7	7	7	7	9	9

Comparison of Cases Ordered -vs- Staff Caseload



COMPARISON OF STAFF -VS- REFERRING DEPARTMENTS

Ten-Year Range: 1987 through 1997

	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Number of Referring Depts*	1 (+16)	2 (+16)	2 (+16)	3 (+16)	4 (+16)	4 (+16)	7	8	8	9	11
Number of FMC Staff Members**	7	7	7	7	7	7	7	7	7	9	9

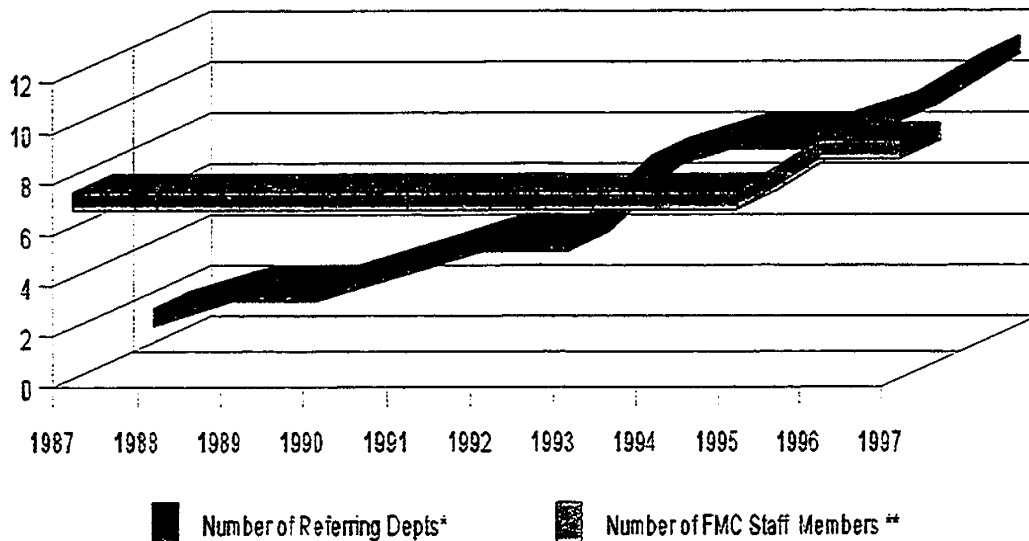
* The "+16" reflects additional referrals FMC received from District Court Judges, from 1987 through 1992, prior to the inception of the Family Court. Referring Departments Include: 1 Domestic Relations Referee in 1986, 2 DRR in 1988, 3 DRR in 1990, Add referrals from Paternity Master(s) beginning 1991, Total of 6 District/Family Court Judges and Paternity Master(s) in 1993; Add 1 Domestic Violence Commissioner and Full Time Paternity Master in 1994; Add Special Hearing Master (Guardianship) in 1996, and Add 2 District Court/Family Court Judges.

** This figure does not include intermittent part-time staff beginning in 1994.

*** While the growth in the number of Referring Departments has significantly increased over a ten/eleven year period, the staff of FMC has remained constant with only one increase in ten years.

Comparison of Staffing Increases

Referring Departments -vs- FMC Staff



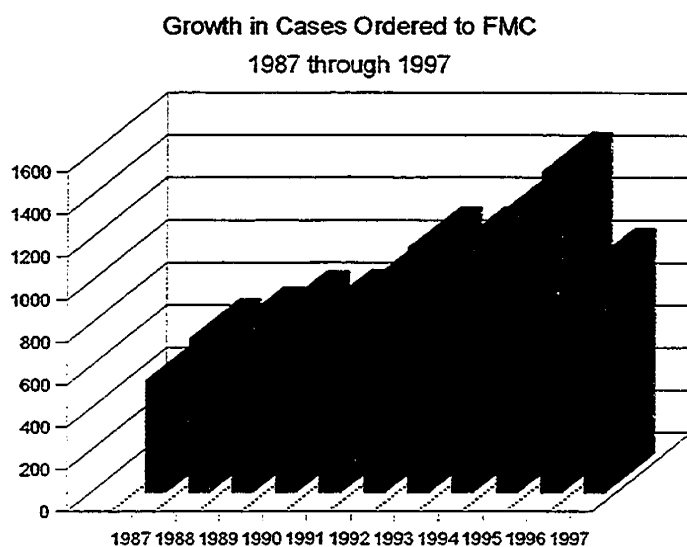
COMPARISON OF GROWTH IN CASES ORDERED

Ten-Year Range: 1986 through 1996

	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Annual Number of Cases Referred to FMC	526	723	777	854	861	975	1152	1154	1303	1509	1057

Between 1987 and 1997, FMC's Caseload Has Experienced an Overall

Increase of Over 100%



FAMILY MEDIATION CENTER (FMC)

Eighth Judicial District Court Rules

EDCR 5.07 Seminar for Separating Parents

EDCR 5.70 Mandatory Mediation

EDCR 5.07 Seminar for Separating Parents

(a) All parties in all domestic relations actions under Chapter 125, 125A and 126 of the Nevada Revised Statutes, where the interests of a child under the age of 18 years are involved, shall successfully complete the seminar for separating parents approved by the family division of the court.

(b) The seminar shall be successfully completed within 45 days of service of the initial complaint or petition upon the defendant.

(c) No action shall proceed to final hearing or order until there has been compliance with this rule; provided, however, that the non-compliance by a parent who enters no appearance shall not delay the final hearing. The trial judge hearing the matter may take other appropriate action to compel attendance, including but not limited to action for contempt.

(d) For good cause shown, the assigned trial judge may waive the requirement of completion of this program in individual cases.

EDCR 5.70 Mandatory Mediation Program

(a) Pursuant to NRS 3.475 the Eighth Judicial District Court, Family Division, has established a court-connected mandatory mediation program through the Family Mediation Center (FMC). All parties filing an answer for domestic contested child custody, access or visitation disputes must attend mediation prior to the hearing of their matter. The mediation process will function independent of any other court proceedings. In the event there are issues of child abuse or domestic violence involved, or if one party is living out of state, a waiver excluding mandatory mediation may be filed. For good cause shown, the assigned trial judge may waive the requirement of mandatory mediation in individual cases. Parties may participate in mediation through the private sector by submitting a "Private Mediator Form" available in the County Clerk's Office.

(b) Parties can access mediation through the court-connected program by:

(1) Stipulation and Order for mediation. If both parties mutually agree to attend mediation, the attorneys or the parties may request mediation by Stipulation and Order.

(A) The moving party completes an "Order for Family Mediation Center Services" available at the County Clerk's Office. The completed order for Family Mediation Services must include address information and telephone numbers for both parties.

(B) The completed order is routed to the court assigned to the case for judicial signature by the moving party or their attorney.

(C) The signed order is filed in the Clerk's office by the party or their attorney, and a copy is forwarded to FMC for appointment scheduling.

(2) Request and Order for Mediation. Where a stipulation between parties cannot be obtained, either party, or an attorney may initiate the mediation process. This process also includes post-divorce issues in which the parties have a valid, Eighth Judicial District Court Divorce Decree and both parties wish to access mediation prior to motioning the Court.

(A) Either party or attorney completes a "FMC Request and Order for Mediation," available at the County Clerk's Office. The completed order must include address information and telephone numbers for both parties.

(B) The completed order is routed to the court assigned to the case for judicial signature by the moving party or their attorney.

(C) The signed order is filed in the Clerk's office and a copy is forwarded to FMC for appointment scheduling by the party or their attorney.

(3) Court Order for Mediation. Where either party has not initiated mediation services prior to a court appearance, regarding contested custody issues, the Court signs an order in open court directing the parties to FMC to begin the mediation process.

(A) Parties present order for services to FMC and appointments are scheduled.

(c) Parties or counsel, by agreement, may select a private mediator.

(1) If a private mediator is selected, a "Private Mediation Form" must be filed with the Court. The notice shall include the name of the mediator and the date set for the first mediation conference.

(2) The parties shall contract directly with the private mediator and be responsible for payment of fees and scheduling for mediation service.

(3) The mediator has a right to withdraw from any case.

(4) Private mediators shall provide written proof to the Court that the parties have attended mediation. This report shall indicate that the parties successfully mediated a full or partial parenting plan, or that they reached an impasse.

(d) Mediation shall be held in private, and all communications, verbal or written, shall be confidential and shall not be disclosed, even upon waiver of the privilege by either or both parties, except where the mediator is required to report any information which falls within the scope of the child abuse reporting requirements.

(e) The Family Mediation Center shall establish procedures to assure that cases which are inappropriate for mediation or which may require special protocols for the protection of parties are screened prior to any contact between the parties in the mediation process.

(f) A party who believes a case is inappropriate for referral to mediation may seek an exemption from mediation.

(1) The party seeking an exemption must file a motion with the Court.

(2) The motion should be filed with the initial pleading of the moving party.

(3) The motion may be filed at a later time if new information is obtained supporting a motion.

(g) A party may have a third person present for support before and after

meetings with the mediator, however, the support person may not be present during mediation sessions.

(h) Upon order to the Family Mediation Center, a mediation appointment, which includes both parties, shall be scheduled, unless exempted by NRS 3.475.

(1) Counsel for the parties shall be provided an opportunity to confer with the mediator prior to the mediation conference and shall be excluded thereafter, where, in the discretion of the mediator, exclusion of counsel is deemed appropriate or necessary, by the mediator.

(2) If an interpreter is required to conduct the mediation process, it is the responsibility of the party needing the interpreter to pay for and/or provide one. A family member should not be used as the interpreter without the consent of the other party and opposing counsel. The interpreter's role shall be strictly limited to that of interpreting, not offering opinions or suggestions.

(i) Outcome of mediation services shall be reported to the court as follows:

(1) If the mediation is successful in resolving any of the custody, access or visitation issues, a written agreement shall be submitted to the Court.

(2) In the event that agreement is not reached, the mediator shall notify the Court in writing that mediation has been concluded and an agreement was not reached.

(3) If one or both parties fail to appear at any mediation conference, the mediator shall report the identity of each person who failed to appear to the Court. The Court may, thereafter, take whatever action it deems necessary or appropriate, including imposing sanctions.

(4) A partial plan outlining any unresolved issues may be submitted. The partial parenting plan may include options A and B, which will describe each parent's desired outcome, to be determined by the Court.

(j) If both parties agree to remediate after initially mediating through FMC, mediation can again be offered by FMC. The previous Parenting Plan must have been signed by a Judge. Any outstanding fees must be paid in full before services are initiated.

(k) The Family Mediation Center mediator or private mediator shall not conduct an evaluation of the parties after mediation or as part of the mediation process. Additionally, the FMC mediator or private mediator shall not provide recommendations as part of the mediation process.

(l) The Family Division may adopt and approve forms which private practitioners are required to use. Upon notification, the Court has the discretion to modify, amend, or supplement the existing forms or add new forms.

(m) FMC Fees may be assessed to parties referred to mediation based upon a sliding fee scale. The minimum fee for each party shall be \$50.00 and the maximum fee for each party shall be \$200.00. Parties who are receiving public assistance shall receive a fee waiver for mediation services upon verification of benefits. Non-payment of these fees may subject the party to the issuance of an order to show cause why the party should not be held in contempt.

(n) Family Mediators shall have the following minimum qualifications:

(1) Law Degree or Masters Degree in psychology, social work, marriage and family therapy, counseling or related behavioral science.

(2) 60 hours child custody and divorce mediation training including a minimum of 4 hours of domestic violence training, sponsored by the Association of Family and Conciliation Courts or approved by the Academy of Family Mediators.

(3) Three years experience in the domestic relations arena conducting child custody mediation.

(o) Family Mediators must complete 15 hours continuing education each calendar year. The areas of training may include, but not limited to the following: mediation models, theory, and techniques; the nature of conflict and its resolution; family law; the legal process, and case law relevant to the performance of mediation; substance abuse; recent research applicable to the profession, family life cycles: divorce, family reorganization, and remarriage; child development; crisis intervention; interviewing skills; domestic violence, including child abuse, spousal abuse, and child neglect, and the possibility of danger in the mediation session; parent education; sensitivity to individual, gender, racial, and cultural diversity and socioeconomic status; family systems theory; the development of parenting plans, parental alienation syndrome and the role of parenting plans in the family's transition.

(p) Family Mediators shall adhere to the Model Standards of Conduct for Mediators as jointly developed by the American Arbitration Association, American Bar Association and Society of Professionals in Dispute Resolution.

FAMILY MEDIATION CENTER (FMC)

COURT AGENCY SURVEYS

1997 Fees/Services Survey

1998 Program Services

Surveys of Other Court Connected Programs

In preparation for the anticipated structural changes brought about by the passage of Nevada's mandatory mediation law, the Family Mediation Center began studying court-connected programs in other jurisdictions. Our intent was to replicate program components which successfully served the community, and avoid the problem areas plaguing other programs. Learning from others and not reinventing the wheel was our goal.

In all, via both telephone contacts and questionnaires mailed to 35 court-connected programs, information relative to the services provided was obtained. It appeared evident that many programs were undergoing radical changes based on shrinking resources and increased demand for services.

Survey results indicated partnership with the private sector was increasingly common, with many jurisdictions choosing to downsize their evaluative component and concentrate strictly on providing mediation services. This approach is considered proactive in that couples involved in custodial disputes could seek alternatives and attempt resolution instead of resorting to expensive and time-consuming litigation. The hope is that most parents can resolve their disputes in a non-adversarial setting and the need for evaluative services could be reduced. While it is evident that some cases are not appropriate for mediation, the vast majority before the Court benefit from alternative dispute resolution techniques. In the long run, this saves both the family and the Court both time and money. It also has important ramifications for the post-divorce relationship and relitigation rates.

Nevada's efforts to legislate and promote alternative dispute resolution is consistent with national trends toward greater reliance on non-adversarial methods. Our efforts to incorporate and emulate those programs which have successfully served their communities has been enhanced by survey results.

Court Agency Fee/Services Survey - 1997

City	State	Geographic Area Served	Population	Agency	Court Connected / Private Agency	Mediation	Fee	Eval /Assess	Fee
Flagstaff	AZ	Coernino County	100,000	Gestalt Institute for Family Therapy	Court Connected by contract for Assessment Private Mediation	Yes	\$70/hr	Yes	\$350
Phoenix	AZ	Maricopa County	2,500,000	Maricopa County Conciliation Court	Court Connected	Yes	No Fee**	Yes	No Fee **
Scottsdale	AZ	Arizona	4,500,000	Joel Glassman, Ph.D.	Private - *Court order required for services	No		Yes	\$150/hr
Aptos	CA	Santa Cruz County	200,000	Family Mediation Services	Court Connected	Yes	\$100/hr	Yes	\$125/hr
Bakersfield	CA	Kern County	600,000	Kern County Probation Dept.	Court Connect for Evaluations; Private contract for Mediation	Yes	No Fee	Yes	No Fee ¹⁵³
Beverly Hills	CA	Los Angeles	2,000,000	Divorce & Child Custody Mediation	Private	Yes	\$150/hr	No	
LaJolla	CA	San Diego County		Stephen Doyne, Ph.D.	Private Agency	Yes	\$125/hr	Yes	\$1,500 *****
Los Angeles	CA	Los Angeles	9,369,800	LA County Superior Court	Court Connected	Yes	No Fee	Yes	\$59.60/ hour
Napa	CA	Napa County	125,000	Napa County Family Court Services	Court Connected	Yes	No Fee	Yes	No Fee
Orange	CA	Orange County	2,200,000	Family Court Admin.	Court Connected	Yes	No Fee	Yes	\$1,000 *****

City	State	Geographic Area Served	Population	Agency	Court Connected / Private Agency	Mediation	Fee	Eval /Assess	Fee
Redding	CA	Shasta County		Shasta County Family Court	Court Connected	Yes	\$50/per person	Yes	\$50/per person
San Bernardino	CA	San Bernardino County	1,500,000	Family Court Services	Court Connected	Yes	No Fee	Yes	\$150 per person
San Francisco	CA	Bay Area; Alameda County	3,000,000	Charles Roth, Ph.D.	Private	Yes	\$90-120/hr	Yes	\$125/hr
San Jose	CA	Santa Clara County	1,500,000	Family Court Services	Court Connected	Yes	No Fee	Yes	\$100/hr
San Diego	CA	San Diego County	2,000,000	Family Court Services	Court Connected	Yes	No Fee	Yes	\$45/hr
San Francisco	CA	San Francisco City & County	735,000	Family Court Services	Court Connected	Yes	No Fee	Yes	No Fee
Indianapolis	IN	Central Indiana	2,000,000	Family Counseling Center	Private	Yes	\$120* \$85/hr	Yes	\$120* \$85/hr
Indianapolis	IN	Marion & Hamilton		Ehrmann & Associates	Private	Yes	\$125/hr	Yes	\$125/hr
Kansas City	KS	Wyandotte County	160,000	29th Judicial District Court	Court Connected	Yes	No Fee	Yes	No Fee
Wichita	KS	Sedgwick County	400,000	District Court Admin.	Court Connected	No		Yes	No Fee
Wichita	KS	South/Central Kansas	500,000	Jeanne Erickson, Ph.D.	Court Connected and Private	Yes	\$100	Yes	\$500 adult - \$250 child
Framingham	MA	Eastern Massachusetts	1,000,000	Divorce Mediation Services	Private	Yes	\$240 owner - \$160 staff	No	
Detroit	MI	Wayne County	3,500,000	Family Counseling & Mediation	Court Connected	Yes	No Fee	Yes	No Fee

City	State	Geographic Area Served	Population	Agency	Court Connected / Private Agency	Mediation	Fee	Eval /Assess	Fee
Minneapolis	MN	Hennepin County	1,000,000	Hennepin County Family Court Services	Court Connected	Yes	No Fee	Yes	\$500 split parents
Kansas City	MO	Jackson County	633,000	Jackson County Family Court	Court Connected - Uses private mediators for mediation service	Yes	Sliding Fee \$15 - \$65	Yes	No Fee
Kalispell	MT	Flathead County		Family Court Services	Court Connected	Yes	No Fee	Yes	No Fee
Albuquerque	NM	Bernalillo County	650,000	Family Court Clinic	Court Connected	Yes	No Fee**	Yes	\$750
Cincinnati	OH	Hamilton County	500,000	The Center for Mediation of Disputes	Private	Yes	\$100 - \$200	No	
Bend	OR	Veschutes County	60,000	Deschutes County Human Services	Court Connected	Yes	\$100/per person	No	N/A
Eugene	OR	Lane County	120,000	The Mediation Center	Court Connected and some private	Yes	No Fee	Yes	Sliding Fee \$60 - \$120
Portland	OR	Multnomah County	625,000	Family Services Multnomah County	Court Connected	Yes	No Fee	Yes	\$150
Portland	OR	Multnomah		Patricia Cox, MSW	Private	Yes	\$80/hr	Yes	\$1,200 flat fee
Pittsburgh	PA	Allegheny County		Family Court Admin.	Court Connected	Yes	\$100/ per person	Yes	\$750 - \$3000 ****
Dallas	TX	Dallas County	1,500,000	Family Court Services	Court Connected	Yes	No Fee	Yes	\$200

City	State	Geographic Area Served	Population	Agency	Court Connected / Private Agency	Mediation	Fee	Eval /Assess	Fee
Fort Worth	TX	Tarrant County	1,170,103	Tarrant County Family Court Services	Court Connected	Yes	No Fee	Yes	\$200
Salt Lake City	UT	State of Utah		Admin. Office of the Courts	Court Connected	Yes - contract with private providers	Fees Vary ***	No	
Seattle	WA	King County		King County Superior Court	Court Connected	Yes	\$275	Yes	\$875 max - \$55/hr

- * \$120 initial fee; \$85 per hour thereafter.
** Fee paid via court filing fees.
*** Fee for mediation determined by individual mediators.
**** Based on sliding scale.
***** Deposit toward fee paid in advance.

Court Agency Survey - 1998

Program Services

PROVIDER NAME	PROGRAM STRUCTURE (Services Provided)	FEES	STAFF RESOURCES	SERVICE DELIVERY	CASE ASSIGNMENT & CLOSURE	MISC. INFORMATION
FAMILY COURT CLINIC Albuquerque, New Mexico	Priority Consultations (141 in 1997) Mediation (382 in 1997) Evaluation* (112 in 1997) (*waiting list for evaluations - currently booked to May/June)	Mediation No Fee; Evaluation Slide Scale \$20 - \$750	11 full time 2 part-time		Assigned: 2/week per specialist Closed: 1-2/week	Also available: Status Conf. (Similar to pre- hearing conf.) 30 - 40% of cases (10% go on to full hearing) Program in process of restructure to reduce case load.
CONCILIATION COURT Maricopa County, Arizona	Conciliation Counseling Mediation Evaluations: a) Dispute Assessments b) Full Evaluation	Mediation: None Evaluation: None (Funded by filing fees)	8 full time 1 part-time	Reports are submitted to judge, attorneys and DR file	Dispute Assessment: 4 assigned/4 closed per week/specialist Full Evaluation: 1 assigned/1 closed per week/specialist	

PROVIDER NAME	PROGRAM STRUCTURE (Services Provided)	FEES	STAFF RESOURCES	SERVICE DELIVERY	CASE ASSIGNMENT & CLOSURE	MISC. INFORMATION
FAMILY COURT SERVICES San Diego, California	Mediation Recommendation This office averages only one full evaluation per year.	Mediation: None Recommend: None Evals: \$50/hr.	27 specialists located in four separate offices	5 business days from appointment date to submit case to court	Each counselor sees two (2) families a day.	40% of cases are modification requests
CUSTODY EVALUATIONS UNIT Los Angeles, California	Evaluations: a) Fast Track (400/year) b) Full Evaluation (800/year)	Evaluations: \$59.60/hr (\$1,200 - \$1,700 per family) Minimum deposit to begin services: \$950	10 full time 11 part-time evaluators.		Rotation of cases so that each evaluator receives 3 fast track cases and 4 full evaluations per month.	
DISTRICT COURT Denver, Colorado	None. No Court-connected program. Mediation is handled via private sector. Individual litigants are free to hire their own evaluator for evaluations.					

PROVIDER NAME	PROGRAM STRUCTURE (Services Provided)	FEES	STAFF RESOURCES	SERVICE DELIVERY	CASE ASSIGNMENT & CLOSURE	MISC. INFORMATION
FAMILY COURT SERVICES Boston, Massachusetts	Mediation - no court-connected program. Court officers act as dispute resolution specialists on the day of court. Evaluations - private sector - need based on judicial decision.	Dispute resolution: None Evaluations: \$50/hr				Court is considering mandatory mediation program.
FAMILY COURT SERVICES Dallas, Texas	Mediation (330/year 96/97) Evaluation (673/year 96/97) Adoption (256/year 96/97)	Mediation: None Evaluation: \$200/family Adoption: \$200/study	13 counselors 2 interns		1 adoption 1 mediation 1 evaluation per counselor/week	
KINGS COUNTY FAMILY COURT Seattle, Washington	Mediation Full Evaluations Abbreviated Family Evals Independent Adoptions Parent Seminar	Mediation: \$55/hr (usually 5hrs/case) Evaluation: Slide Scale - Max \$825/split	7 full time 2 part-time 2 3/4 time 10 volunteer mediators	Mediation: completed 60 - 80 days from assignment. Evaluations: completed 90 - 120 days from assignment.	2 full time employees only handle evals - 7 cases per month. 100 hours of case assignment time per month. Staff works 35/hrs per week.	

PROVIDER NAME	PROGRAM STRUCTURE (Services Provided)	FEEs	STAFF RESOURCES	SERVICE DELIVERY	CASE ASSIGNMENT & CLOSURE	MISC. INFORMATION
MEDIATION UNIT Los Angeles, California	Confidential Mediation 12,000 cases/1997	Mediation: None	19 full time 7 part-time	70% agreement rate with Partial Plans	4 new mediations scheduled per mediator/per day.	

FAMILY MEDIATION CENTER (FMC)

COMMUNITY OUTREACH EFFORTS

FMC Community Outreach Efforts

The Family Mediation Center has provided both written and verbal presentations to the Court, the Bar and the community at large in order to facilitate transition to the mandatory mediation model implemented by the 1997 Legislature. The following list details efforts by the Family Mediation Center:

- January, 1998, weekly in-service trainings for Family Court Attorneys
- December, 1997 and January, 1998, Meetings with Family Court Judges and Judicial Staff
- December, 1998, In-service trainings for Family Court Clerks
- April, 1998, Proposed training with the Law Library Staff
- Provision of information to the ProBono Project
- November, 1997, Development of the Family Mediation Center Brochure
- December, 1997, Creation of the Information Check List for Attorneys and Proper Person
- January, 1998, Training provided for COPE instructors on the orientation to mediation
- November 18, 1997, FMC Bench/Bar Presentation
- Provided information to Family Court Bench/Bar quarterly meetings
- Provided the January 1998 Communique article ***The New Wave for the Family Mediation Center***.

MANDATORY MEDIATION:

The New Wave for the Family Mediation Center

By Joyce Gallina

The use of mediation as a historic dispute resolution technique has been well-documented since ancient times. Its widespread use to address many types of conflict has been noted in various countries and cultures. The use of mediation to settle differences seems to characterize more highly advanced civilizations. Dispute resolution among the more evolved cultures contrasts sharply with the more barbaric methods utilized by primitive peoples.

Mediation has been available in our community for some time, in the form of the court-annexed program, as well as private mediator services. Mediation has not, however, enjoyed a preferred status in the community as a viable means of conflict resolution. Litigation and "all out" conflict in disputes involving custody and access matters seemed to be the only "legitimate" way to resolve these serious matters. Custodial battles, which vested ultimate decision-making powers with the Court and encouraged adversarial parental relationships, seemed to be the preferred technique. "Open warfare" between family members and destructive repercussions for the children at issue seemed to be the undesirable, yet unavoidable, by-products of this type of resolution. Additionally, parents who failed to accept adequate responsibility for decision making often became very critical for and resistant to court decisions made on their children's behalf. This frequently resulted in repeat litigation, additional conflict, and refusal to abide by the Court's directives. Escalating tensions and depletion of financial resources directly and negatively affected the children involved. Litigants became combatants, and lost sight of their role as parents. In the "all or nothing," "win at all costs" mentality, the children's needs were often forgotten. Courtroom battles often resulted in dissatisfaction with one's attorney or placing blame on the Court or the evaluator. When the outcome was not favorable, displaced blame and anger typically resulted in raucous criticism of "the system."

The adversarial nature of legal proceedings often aggravates an already conflicted situation. The readiness to resort to the adversary concept before exhausting all ef-

forts for conciliation and agreement, frequently results in detrimental outcomes for family members. The possibility of a cooperative post divorce relationship between the parents is also severely diminished when conflict is the resolution method. This has long-range repercussions and serious ramifications for everyone. The Court's backlogged calendars resulting from repeat litigation, community distrust, dissatisfaction and negative characterizations of both Family Court personnel and attorneys practicing in the domestic arena, have forced scrutiny and change. While it is certainly true that population growth and demand for services have stretched Family Court resources thin, it is also true that a more proactive and positive approach to dispute resolution was needed.

In response to this dilemma, our recent legislature passed S.B. 419 effective October 1, 1997. Now known as N.R.S. 3.475, this bill mandates that all matters involving disputes about custody and access must attend mediation and seek resolution. There are some exceptions. Cases involving domestic violence or active child abuse are exempt. Also, cases in which one parent lives out of the jurisdiction are excluded. The intent is obvious. Parents are encouraged to resolve their dispute themselves with the assistance of an impartial, neutral third party. This mandate places responsibility and opportunity for decision making squarely on the shoulders of the parents. Since these decisions rightfully belong to parents, this mandate also fosters respect for parents' natural authority. ECDR 5.70 incorporates the legislative mandate that requires parents in contested access or custody matters to attend mediation. Mediation can be accessed in the following ways: attorneys can stipulate to mediation, the parties can request it, or the Court can order it. The new mediation model is confidential. Outcomes will be either a full parenting plan, a partial parenting plan or an impasse. The Court will be notified in writing that applicants have either successfully completed mediation, or that an impasse was declared. The new model began implementation as of 10-1-97. We plan to have it entirely operational by 1-2-98. Fees will be on a

MEDIATION continued on page 36

sliding scale according to each parent's income. The fee schedule will range from \$50.00 to \$200.00 per litigant. Parties receiving AFDC benefits, social security disability or unemployment benefits will have the fees waived. Participants will have a minimum of two sessions each lasting three hours, with extended mediation available if needed.

The Court has gone to considerable lengths to insure that mediators are well-qualified. The local court rule requires that mediators have either a law degree or Masters degree in psychology, social work, marriage and family therapy, counseling or related behavioral science. Also required are 60 hours of child custody and divorce mediation training to include a minimum of 4 hours of domestic violence training sponsored by the Association of Family and Conciliation Courts, or the Academy of Family Mediators. Additionally, three years experience in the domestic relations arena conducting child custody mediations will be required. Mediators will also have to complete 24 hours of continuing education each calendar year. Family mediators will be expected to adhere to the Model Standards of Conduct for Mediators as jointly developed by the American Arbitration Association, the American Bar Association and the Society of Professionals in Dispute Resolution.

The objective in mandatory mediation is to restore parental authority, encourage nonadversarial conflict resolution, and focus on a cooperative co-parenting relationship after the divorce. This has major benefits for all concerned, particularly the children. While it is evident that not all cases are appropriate for mediation, by screening cases and attempting resolution in a non-threatening, non-adversarial atmosphere, the hope is that the Court can then dedicate their limited time and resources on cases needing additional attention. Fortunately, these cases do not represent the vast majority before the Family Court.

Provisions for evaluative services through partnership with the private sector has been made. Criteria for private evaluators has been developed and implemented by local court rule. A preferred provider list was made available to the Court on November 6, 1997. Practitioners on the list have completed an extensive 16 hour training and have undergone complete background investigations. All providers possess advanced degrees in either social work, marriage and family therapy/counseling, or they are licensed clinical psychologists. Each has submitted proof of their licensure, liability insurance, and evidence that they are members in good standing with their respective Boards. Specialized categories for specific services and bilingual practitioners have also been implemented. After studying formats from numerous jurisdictions, this trend of

outsourcing evaluations to the private sector was seen as a successful marriage between government and private industry. Provision of complete psycho-social assessments, to include psychological testing when appropriate, should be of significant help to the Court.

In light of the legislative mandate, the major need of the Court will be to provide mediation services. Family Mediation Center will therefore concentrate its staff and resources toward that end. Augmented by professional mediators in the private sector, the demand for mediation services can, therefore, be adequately met. You will note that FMAC has now been changed to FMC, or Family Mediation Center. All our services became devoted strictly to mediation effective 10-1-97.

The Judges' support and positive affirmation of mediation as a viable resolution tool will send a message to the community that parents have both the right and the responsibility to participate in decisions about their children. The encouragement of non-adversarial methods of dispute resolution has multiple benefits for parents, children, the Family Court and practitioners in the field of domestic law. It is imperative that education about our legislative mandate is proactively and positively presented. It will require the combined efforts of domestic attorneys, the Court and mediation practitioners to ensure that public acceptance of mediation occurs. As with most changes, especially mandated ones, initial resistance is to be expected. We must demonstrate the efficacy of alternative dispute resolution if the mandate and the Family Court is to succeed. Ultimately, adoption of mediation as a viable method of conflict resolution will make for more satisfied clients and greater community support for Family Court services. It behooves all of us to work in concert so this goal can be realized. ©

Joyce Gallina, M.S.W. is Program Coordinator for the Family Mediation Center.

CURRAN continued from page 17

role as gaming commissioner is essential. Even though his spare time is extremely limited, Bill is involved in his children's activities, including baseball, softball, basketball, football, and wrestling.

There are many challenges facing Curran and today's gaming industry. Governor Miller has placed his trust in Bill to assist Nevada in meeting those challenges. When Miller reappointed Curran to a second four-year term in 1995, he praised him, saying: "His judgment, knowledge, and integrity have served Nevada extremely well during this challenging period." Bill's skills and unique abilities will lead Nevada into the next century. ©

Greg F. Janson is Associate General Counsel for Southwest Gas.

SUGGESTED READING MATERIAL

I. DIVORCE ISSUES

PRE-SCHOOLERS

- *Dinosaurs Divorce* - by Lawrence Brown, Little Brown, 1986
- *Two Homes To Live In* - by Barbara Hazen, Human Sciences Press, 1978
- *Where Is Daddy* - by Beth Goff, Beacon Press, 1969
- *Mom & Dad Don't Live Here Any More* - by Kathy Stinson, 1984
- *Divorce Is a Grown Up Problem* - by Janet Sinberg, Avon Books, 1978
- *Sometimes a Family Has to Split Up* - by J. Watson, Switzer, & Crown, 1988
- *Daddy Doesn't Live Here Anymore* - by B. Boegehold, Golden Books, 1985

ELEMENTARY AGED CHILDREN

- *Mom is Dating Weird Wayne* - by M.J. Auch, Holiday House, 1988
- *At Daddy's On Saturday* - by L. Gerard, Albert Whitman, 1988
- *I Have Two Families* - by D. Herering Abindgon, 1981
- *Meagan's Book of Divorce* - by E. Jong, New American Library, 1984
- *Why Are We Getting A Divorce* - by P. Mayle, Crown, 1978
- *Break-Up* - by G. Padoan, Child's Play, 1987
- *Please Come Home* - by D. Sanford, Multnomah Press, 1985
- *I Wish I Had My Father* - by N. Simon, Albert Whitman, 1983
- *My Mom and Dad Are Getting a Divorce* - by Florence Bienefeld, EMC Corporation, 1980

PRE-TEENS AND ADOLESCENTS

- *It's Not The End Of The World* - by J. Blume, Dell, 1972
- *The Kid's Guide To Divorce* - by Brogan, Marden, & Fawcett, 1986
- *Dear Mr. Henshaw* - by B. Cleary, Morrow, 1983
- *Divorce Express* - by P. Danziger, Delecorate Press, 1982
- *The Moonlight Man* - by P. Fox, Dell, 1988
- *What's Going To Happen To Me* - by E. LeShan, Four Winds Press, 1978
- *The Kid's Book of Divorce* - by E. Rofes, Random House, 1981
- *How It Feels When Parents Divorce* - by J. Dremontz, 1988

PARENTS

- *Divorce Without Victims* - by S. Berger, New American Library, 1983
- *Helping Your Child Succeed After Divorce* - by F. Bienefeld, Hunter House, 1987
- *Growing Up Divorced* - by L. Frameke, Linden Press, 1983
- *Parents Book About Divorce* - by R. Gardner, Doubleday, 1987
- *Your Child Living With Divorce* - by G. Know, Better Homes and Gardens Books, 1990
- *Vicki Lansky's Divorce Book For Parents* - by V. Lansky, New American Library, 1989
- *My Kids Don't Live Here Anymore* - by Virtue, CompCare, 1988
- *Growing Up With Divorce* - by Neil Kalter, Fawcett Book Group, 1991
- *The Divorce Decisions Workbook* - by Marjorie L. Engle and Diana D. Gould, McGraw Hill, 1992
- *Divorce and New Beginnings* - Genevieve Clapp, Ph.D., John Wiley and Sons, 1992

II. CUSTODY AND VISITATION ISSUES

PARENTS

- *Mom's House, Dad's House* - by Isolina Ricci, MacMillan, 1980
- *Sharing Parenthood After Divorce* - by Ciji Ware, Viking, 1982
- *Weekend Fathers* - by Gerald A. & Myrna Silver, Stratford Press, 1981
- *101 Ways To Be a Long Distance Superdad* - by George Newman, Blossom Valley Press, 1981
- *Joint Custody and Shared Parenting* - by Jay Folberg, Editor, Bureau of National Affairs, 1984
- *Mothers on Trial* - by Phyllis Chesler, McGraw Hill Book Co., 1986

EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION

MANDATORY MEDIATION
PROCEDURES

For
PROPER PERSON

January 1998

The job of the mediator is to help the couple fashion a pattern of connectedness that is different from their marital pattern, but strong enough to carry them past their hurts and into new roles as separate parents of their common children. If the parents can experience connectedness in this new mode, they can feel more whole, more healed and more supportive of each other of their new roles and their differences in those roles.

Zena D. Zumeta
"Spirituality and Mediation", 1993

MANDATORY MEDIATION - NRS 3.475

Why was mandatory mediation adopted as a law?

The mandatory mediation law was developed in an effort to assist parents in working toward a mutually acceptable and effective agreement, regarding custodial and access issues, that are in the best interest of the children.

How will this new law affect me?

NRS 3.475 requires all individuals, whether represented by an attorney or in proper person, filing an answer for contested, child-related issues to attend mediation toward the resolution of custody/access issues.

How do I comply with this new law?

In order to comply with NRS 3.475, you may use the services of the Eighth Judicial District Court's program, Family Mediation Center (FMC), or a private mediator. The Court requires proof of compliance. Written correspondence must be provided to the Court regarding the status/completion of mediation.

If you wish to use the court-connected program, you will complete a "**Request & Order for Mediation**" form. This completed form is then submitted to the assigned department for judicial signature. Once signed by the judge, the order will be filed, along with the answer, in the County Clerk's Office. The Clerk's Office will forward the order to the Family Mediation Center, and the Family Mediation Center will contact both parties to begin the mediation process.

If you wish to use a private mediator, you will complete a "**Private Mediator Exemption**" form. This completed form will be filed in the County Clerk's Office along with your answer/motion. It will be your responsibility to locate a mediator, and provide written proof of compliance to the Court.

What if one, or both, parties do not comply?

If a hearing is set to address these issues and the parties have not attempted mandatory mediation, the Court will order the parties to attend mediation through the Family Mediation Center (FMC). Both parties must attend mediation prior to the resolution or decision of the child-related issues before the Court.

How will the Court know that we have complied?

If you use the court-connect program, Family Mediation Center (FMC), will provide written correspondence to the Court indicating compliance with the mandate.

If you use a private mediator, it will be your responsibility to obtain written proof of compliance to provide to the Court.

What is the cost for mediation?

The court-connected program, Family Mediation Center (FMC), uses a sliding scale, based on each client's individual financial status – with a maximum cost of \$200.00 per person. If a private mediator is selected, the cost for mediation services needs to be discussed with that provider.

Is there anything else I need to do?

YES! ECDR 5.70 requires parties to attend the educational seminar "Children Cope With Divorce" (COPE). You must attend COPE prior to your first mediation appointment. COPE is administered by two providers: Bridge Counseling Associates (474-6450) and Palo Verde Child & Family Services, Inc. (243-4357). You may want to contact each of these providers regarding locations and scheduled class times. These classes are offered many times each week, and they provide attendees with additional information regarding the developmental needs of children of divorce and the mandatory mediation process. Once you have attended a COPE class, you will receive a certificate of completion to bring to your initial mediation appointment.

Checklist for Mandatory Mediation

Proper Person

The mandatory mediation law was developed in an effort to assist parents in working toward a mutually acceptable and effective agreement, regarding custodial and access issues, that are in the best interest of the children. Our EDCR requires all individuals filing an answer for contested, child-related issues in the Eighth Judicial District Court - Family Division to attend mediation toward the resolution of custody/access issues.

I. When filing an answer for contested, child-related issues, one of the following forms must be completed by the party filing the answer:

_____ A. Request & Order for Mediation Use this form if you wish to use the court-connected program (Family Mediation Center-FMC).

- _____ 1) Completed form is submitted to the assigned judge for signature. Once signed, the form is then filed at the Clerk's Office.
- _____ 2) Clerk's Office forwards the form to the Family Mediation Center.
- _____ 3) Family Mediation Center contacts the parties to schedule appointment to begin mediation services.
- _____ 4) Family Mediation Center notifies the Court of mediation outcome.

OR

_____ B. Private Mediator Form Use this form if you wish to use a private mediator.

- _____ 1) File completed form with Clerk's Office.
- _____ 2) It will be your responsibility to locate a mediator and provide written proof of compliance to the Court.

DISTRICT COURT
FAMILY DIVISION
Clark County, Nevada

_____))
 Plaintiff _____))
 _____))
 Defendant _____)

Case Number _____

Department _____

FMC REQUEST AND ORDER FOR MEDIATION - NRS 3.475

In accordance with NRS 3.475, all individuals **filing an answer** to a complaint/motion for contested, child-related divorce or post-divorce child-related issues are mandated to attend mediation toward the resolution of custody/access issues. Upon the filing of this order, the plaintiff and defendant shall attend mediation through FMC the court-connected program. The Family Mediation Center will contact both parties using the information provided below. If this information is incorrect, the Court will be informed.

Additionally, It is required that the parties complete the Children Cope with Divorce seminar **prior** to attending their first mediation appointment through the Family Mediation Center (FMC).

PLAINTIFF INFORMATION:

Name: _____
 Address: _____

Phone Numbers:
 Home: _____
 Work: _____

Attorney's Name: _____

Phone Number: _____

DEFENDANT INFORMATION:

Name: _____
 Address: _____

Phone Numbers:
 Home: _____
 Work: _____

Attorney's Name: _____

Phone Number: _____

CHILD(REN) INFORMATION:

Children's Last Name: _____

 Signature of Individual Completing
 Request and Order for Mediation

 Attorney Signature (If Applicable)

 Attorney for Plaintiff

 Attorney for Defendant

Ordered and Dated this _____ day of _____, 19 ____.

PME

DISTRICT COURT
FAMILY DIVISION
Clark County, Nevada

Plaintiff

-vs-

Defendant

Case Number _____

Department _____

PRIVATE MEDIATION FORM

In accordance with NRS 3.475, the party or parties have elected to use a private mediator.

In accordance with EDCR 5.70, this notice shall include the name of the mediator, and the date set for the first mediation conference.

Name of Mediator: _____

Agency: _____

First Mediation Conference scheduled for:_____

Dated this _____ day of _____, 19____.

Signature of Proper Person

Proper Person Name _____

Address _____

Phone _____

Attorney Signature

Attorney Name _____

Address _____

Phone _____

Counsel for _____ Plaintiff
 _____ Defendant

(Please type or print)

(Please type or print)

FAMILY MEDIATION CENTER (FMC)

Benefits of Mediation

BENEFITS OF MEDIATION

1. Resolution of custody issue - your job made easier.
2. Allows you to concentrate on property division, financial and legal issues.
3. Does not tie up valuable time, therefore, you can accept more clients.
4. Client satisfaction – happier customers – additional referrals.
5. Protracted litigation reduced.
6. Less frequent court appearances.
7. Promotes client self-determination.
8. Less adversarial – better for families.

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Appendix H

Suggested Legislation

BDR 1-373	175
BDR 1-374	193
BDR R-376	199
BDR 1-377	203
BDR 3-378	207

SUMMARY—Revises provisions relating to assignment and election of district judges in judicial districts that include family court. (BDR 1-373)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to the court system; revising the provisions relating to the assignment of district judges in judicial districts that include family court; revising the provisions relating to the authority of chief judges in judicial districts that include family court; revising the provisions relating to the election of district judges in judicial districts that include family court; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 3 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Chief judge” means a district judge who is chosen as the chief judge of a judicial district pursuant to NRS 3.025.*

Sec. 4. *“Department of general jurisdiction” means any department of the district court other than a department of the family court.*

Sec. 5. *“Department of the family court” means any department of the district court that is designated as a department of the family court pursuant to NRS 3.012 or 3.018.*

Sec. 6. *“Family court” and “family division” mean the division of the district court that is established as a family court pursuant to NRS 3.0105.*

Sec. 7. 1. *In each judicial district that includes a county whose population is 100,000 or more, the chief judge may, in accordance with the provisions of this section, assign a district judge of a department of the family court to sit in a department of general jurisdiction if:*

(a) The district judge of the department of the family court agrees to sit in the department of general jurisdiction;

(b) The district judge of the department of general jurisdiction agrees to sit in the department of the family court, and the district judge is not otherwise deemed to be

unavailable to sit in the department of the family court for any of the reasons set forth in subsection 8;

(c) The chief judge sets a definite and coextensive period of assignment for the two district judges in accordance with subsection 6; and

(d) The chief judge enters an order concerning the assignment that:

(1) Sets forth the period of assignment and any conditions concerning the assignment that are established pursuant to subsection 2; and

(2) Is signed by the chief judge and the two district judges who have agreed to the assignment.

2. The chief judge may establish conditions concerning the assignment or the period of assignment if the two district judges agree to the conditions and the conditions are not inconsistent with the provisions of this section. During the period of assignment, the chief judge may add, modify or delete conditions concerning the assignment or the period of assignment or may modify the period of assignment if:

(a) The two district judges agree to any such additions, modifications or deletions;

(b) The additions, modifications or deletions are not inconsistent with the provisions of this section; and

(c) The chief judge enters an order that sets forth the additions, modifications or deletions, and the order is signed by the chief judge and the two district judges who have agreed to the additions, modifications or deletions.

3. *If an assignment is made pursuant to this section:*

(a) *The district judge of the department of the family court who is assigned to the department of general jurisdiction shall be deemed to be a temporary judge of the family court pursuant to section 8 of this act until the district judge decides all matters which were submitted to him before his assignment and which are within the jurisdiction of the family court, as set forth in NRS 3.223.*

(b) *The district judge of the department of general jurisdiction who is assigned to the department of the family court shall:*

(1) *Except as otherwise provided in subparagraph (2) and NRS 3.040, hear and decide only those matters that are within the jurisdiction of the family court, as set forth in NRS 3.223, while he is assigned to the department of the family court.*

(2) *Within 60 days after his assignment, decide all matters which were submitted to him before his assignment and which are not within the jurisdiction of the family court, as set forth in NRS 3.223. If such a matter is not decided by the district judge within 60 days after his assignment, the matter must be submitted to and decided by another district judge who is not assigned to a department of the family court.*

(3) *Within 12 months after his assignment, attend at the National College of Juvenile and Family Law in Reno, Nevada, instruction in a course designed for the training of new judges of juvenile courts and family courts, unless the district judge has previously attended such a course.*

4. *When the period of assignment ends:*

(a) *The district judge of the department of the family court who was assigned to the department of general jurisdiction shall:*

(1) *Except as otherwise provided in subparagraph (2) and NRS 3.040, hear and decide only those matters that are within the jurisdiction of the family court, as set forth in NRS 3.223, while he is assigned to the department of the family court; and*

(2) *Within 60 days after the period of assignment ends, decide all matters which were submitted to him before the period of assignment ended and which are not within the jurisdiction of the family court, as set forth in NRS 3.223. If such a matter is not decided by the district judge within 60 days after the period of assignment ends, the matter must be submitted to and decided by another district judge who is not assigned to a department of the family court.*

(b) *The district judge of the department of general jurisdiction who was assigned to the department of the family court shall be deemed to be a temporary judge of the family court pursuant to section 8 of this act until the district judge decides all matters which were submitted to him before the period of assignment ended and which are within the jurisdiction of the family court, as set forth in NRS 3.223, unless the district judge is deemed to be unavailable to sit in a department of the family court for any of the reasons set forth in subsection 8.*

5. *If, during the period of assignment, the district judge of the department of the family court who is assigned to the department of general jurisdiction vacates his*

judicial office for any reason, including, without limitation, removal, resignation, retirement or death, the district judge of the department of general jurisdiction who is assigned to the department of the family court shall be deemed to be a temporary judge of the family court pursuant to section 8 of this act until the vacant judicial office in the department of the family court is filled by election or appointment. The district judge who is elected or appointed to the vacant judicial office in the department of the family court must be assigned to that department of the family court unless, after taking office, the district judge agrees to be assigned to a department of general jurisdiction pursuant to this section.

6. Except as otherwise provided in subsection 7, the period of assignment that is set by the chief judge pursuant to subsection 1 must not extend beyond:

(a) The end of the current term of office of the district judge of the department of the family court; or

(b) The end of the current term of office of the district judge of the department of general jurisdiction, if that term ends before the current term of office of the district judge of the department of the family court.

7. Regardless of the period of assignment that is set by the chief judge pursuant to subsection 1, the period of assignment shall be deemed to end if, during the period of assignment, the district judge of the department of general jurisdiction who is assigned to the department of the family court is deemed to be unavailable to sit in the department of the family court for any of the reasons set forth in subsection 8.

8. *For the purposes of this section, a district judge of a department of general jurisdiction shall be deemed to be unavailable to sit in a department of the family court if the district judge is:*

(a) Incapacitated because of illness or infirmity; or

(b) Unable to act or exercise the duties of judicial office for any other reason, including, without limitation, suspension, removal, resignation, retirement or death.

9. *On or before the first Monday in February of 2001, the chief judge of each judicial district that includes a county whose population is 100,000 or more shall submit to the director of the legislative counsel bureau for distribution to members of the legislature a recommendation that has been approved by a majority of the active district judges of the judicial district as to whether the provisions of this section should be continued by the legislature beyond June 30, 2001. The recommendation may also include any suggestions for legislation concerning the provisions of this section or the assignment of district judges to departments of the family court and to departments of general jurisdiction.*

10. *As used in this section:*

(a) "District judge of a department of general jurisdiction" means a district judge who was elected or appointed to a department of general jurisdiction.

(b) "District judge of a department of the family court" means a district judge who was elected or appointed to a department of the family court.

Sec. 8. 1. Except as otherwise provided in section 7 of this act, in each judicial district that includes a county whose population is 100,000 or more, the chief judge may, at any time, assign himself, one or more other district judges, or any combination thereof, to be a temporary judge or temporary judges of the family court if the judge or judges so assigned are not currently assigned to a department of the family court.

2. If a district judge is assigned to be a temporary judge of the family court pursuant to this subsection for a period of 90 days or more, the district judge shall attend at the National College of Juvenile and Family Law in Reno, Nevada, instruction in a course designed for the training of new judges of juvenile courts and family courts, unless the district judge has previously attended such a course.

3. Except as otherwise provided in subsection 4, a district judge who is assigned to be a temporary judge of the family court pursuant to this subsection may hear and decide, while he is assigned to be a temporary judge of the family court:

(a) Matters that are within the jurisdiction of the family court, as set forth in NRS 3.223; and

(b) Any other matters that are within the jurisdiction of the district court.

4. A district judge who is assigned to be a temporary judge of the family court pursuant to this subsection shall not act or participate in any matter which has been assigned by law or court rule to a district judge of a department of the family court and which is unrelated to the consideration or disposition of a case or other proceeding

within the jurisdiction of the family court, as set forth in NRS 3.223. Such matters include, without limitation:

(a) The appointment or removal of members of the committee for juvenile services pursuant to NRS 62.103, and all other matters related thereto;

(b) The approval of salaries pursuant to NRS 62.112 or 62.115, and all other matters related thereto;

(c) The appointment, removal or discharge of a director of juvenile services, the approval of his staff and the fixing of his salary pursuant to NRS 62.1225 or 62.123, and all other matters related thereto;

(d) The establishment of a youth services commission and the appointment of its members pursuant to NRS 62.124, and all other matters related thereto;

(e) The establishment of a temporary detention home for children pursuant to NRS 62.180, and all other matters related thereto;

(f) The administration of programs that provide for restitution to victims of crimes pursuant to NRS 62.890, and all other matters related thereto;

(g) Participation on an advisory council for juvenile forestry camps pursuant to NRS 244.298, and all other matters related thereto; or

(h) The appointment of members to an advisory board to review school attendance pursuant to NRS 392.126, and all other matters related thereto.

Sec. 9. NRS 3.0105 is hereby amended to read as follows:

3.0105 ~~{1.}~~ There is hereby established, in each judicial district that includes a county whose population is 100,000 or more, a family court as a division of the district court.

~~{2. If the caseload of the family court so requires, the presiding judge of the district, or the district judges by mutual consent in a district in which there is no presiding judge, may assign one or more judges of the district to act temporarily as judges of the family court.~~

~~3. If for any reason a judge of the family court is unable to act, any other district judge of the judicial district may be assigned as provided in subsection 2 to act temporarily as judge of the family court.~~

~~4. A judge assigned to the family court pursuant to subsection 2 or 3 for a period of 90 or more days must attend the instruction required pursuant to subsection 1 of NRS 3.028. Judges must not be assigned to the family court pursuant to subsections 2 and 3 on a rotating basis.}~~

Sec. 10. NRS 3.012 is hereby amended to read as follows:

3.012 *1. For the second judicial district there must be 11 district judges, 9 of whom must be district judges of departments of general jurisdiction and 2 of whom must be district judges of departments of the family court.*

2. The departments of the second judicial district must be designated as follows:

(a) Departments 1 to 4, inclusive, and 6 to 10, inclusive, must be departments of general jurisdiction; and

(b) Departments 5 and 11 must be departments of the family court.

3. The provisions of this section must not be construed so as to prohibit the chief judge or the district judges of the second judicial district from further classifying a department of general jurisdiction according to any other permissible criteria, including, without limitation, classifying a department of general jurisdiction as a criminal department or civil department of the district court.

Sec. 11. NRS 3.018 is hereby amended to read as follows:

3.018 1. For the eighth judicial district there must be 27 district judges, 19 of whom must be district judges of departments of general jurisdiction and 8 of whom must be district judges of departments of the family court.

2. The departments of the eighth judicial district must be designated as follows:

(a) Departments 1 to 19, inclusive, must be departments of general jurisdiction; and

(b) Departments 20 to 27, inclusive, must be departments of the family court.

3. The provisions of this section must not be construed so as to prohibit the chief judge or the district judges of the eighth judicial district from further classifying a department of general jurisdiction according to any other permissible criteria, including, without limitation, classifying a department of general jurisdiction as a criminal department or civil department of the district court.

Sec. 12. NRS 3.025 is hereby amended to read as follows:

3.025 1. ~~For the second and eighth judicial districts,~~ *In each judicial district that includes a county whose population is 100,000 or more, the district judges of that*

judicial district shall ~~[, on the first judicial day of each year,]~~ choose from among ~~[the judges of each district a]~~ *those district judges a chief judge who is to be the* presiding judge of the *judicial* district.

2. The ~~[presiding judge of the district]~~ *chief judge* shall:

- (a) Assign cases to each judge in the *judicial* district;
- (b) Prescribe the hours of court; ~~[and]~~
- (c) Adopt such other rules or regulations as are necessary for the orderly conduct of court business ~~[.~~

~~3. On or before the 15th day of the month following, the presiding judge of the district] ; and~~

(d) Perform all other duties of the chief judge or of a presiding judge that are set forth in this chapter and any other provision of NRS.

3. *Not later than 15 days after the last day of each month, the chief judge shall submit [a written report] to the clerk of the supreme court [each month, showing:] a written report that shows:*

- (a) Those cases which are pending and undecided and to which judge the cases have been assigned;
- (b) The type and number of cases each judge considered during the preceding month;
- (c) The number of cases submitted to each judge during the preceding month;
- (d) The number of cases decided by each judge during the preceding month; and

(e) The number of full judicial days in which each judge appeared in court or in chambers in performance of his duties during the preceding month.

Sec. 13. NRS 3.027 is hereby amended to read as follows:

3.027 1. The court administrator shall, at the direction of the chief justice of the supreme court, arrange for the giving of instruction, at the National Judicial College in Reno, Nevada, or elsewhere:

(a) In court procedure, recordkeeping and the elements of substantive law appropriate to a district court, to each district judge ~~[, other than a judge of the family court,]~~ who is first elected or appointed to office after October 1, 1995, *other than a district judge who is first elected or appointed to a department of the family court*, within 12 months after taking office, and to other district judges who so desire and who can be accommodated.

(b) In court procedure, recordkeeping and the elements of substantive law appropriate to a district court, to each *district* judge ~~[of the family court]~~ who is first elected or appointed to ~~[office]~~ *a department of the family court* after October 1, 1995, within 24 months after taking office.

(c) In statutory amendments and other developments in the law appropriate to a district court, to all district judges at convenient intervals.

2. The costs of the instruction must be paid from the account for continuing judicial education. The court administrator shall administer the account and claims against the account must be paid as other claims against the state are paid.

Sec. 14. NRS 3.028 is hereby amended to read as follows:

3.028 1. Unless he has previously attended such a course, each *district* judge ~~of the family court~~ who is first elected or appointed *to a department of the family court* on or after October 1, 1995, shall attend instruction at the National College of Juvenile and Family Law in Reno, Nevada, in a course designed for the training of new judges of juvenile courts and family courts, within 12 months after taking office.

2. Unless he has previously attended such a course, each district judge who is first elected or appointed *to office* on or after October 1, 1995, in a judicial district that does not include a county whose population is 100,000 or more, shall attend instruction at the National College of Juvenile and Family Law in Reno, Nevada, in a course designed for the training of new judges of juvenile courts and family courts, within 24 months after taking office.

3. The cost of the instruction must be paid from the account for continuing judicial education.

Sec. 15. NRS 3.220 is hereby amended to read as follows:

3.220 ~~[The district judges shall possess]~~

1. *Except as otherwise provided in this chapter, each district judge:*

(a) *Possesses* equal coextensive and concurrent jurisdiction and power ~~[. They each shall have]~~ ;

(b) *Has the* power to hold court in any county of this state ~~[. They each shall]~~ ; *and*

(c) *Shall* exercise and perform the powers, duties and functions of the court and of judges thereof and of judges at chambers.

2. The decision in an action or proceeding may be written or signed at any place in the state by the *district* judge who acted on the trial and may be forwarded to and filed by the clerk, who shall thereupon enter judgment as directed in the decision, or judgment may be rendered in open court, and, if so rendered, ~~[shall]~~ *must* be entered by the clerk accordingly.

3. If the public business requires, each *district* judge may try causes and transact judicial business in the same county at the same time. Each *district* judge ~~[shall have]~~ *has the* power to transact business which may be done in chambers at any point within the state, and court shall be held in each county at least once in every 6 months and as often and as long as the business of the county requires.

4. All of this section is subject to the provision that each *district* judge may direct and control the business in his own district and shall see that it is properly performed.

Sec. 16. NRS 293.197 is hereby amended to read as follows:

293.197 1. In any judicial district that has more than one district judge, each department is a separate office for the purposes of nominating and electing the district judge of that department.

2. In any judicial district that includes a county whose population is 100,000 or more:

(a) The departments of the family division of the district court , *as designated in NRS 3.012 and 3.018*, must be denoted as such on all ballots and sample ballots, using the words “district court judge, family division, department” Each such department must be ~~[designated with a letter, beginning with “A” and continuing in sequence for each department.]~~ *denoted on all ballots and sample ballots by the numeral that has been assigned to the department pursuant to NRS 3.012 or 3.018.*

(b) The remaining departments of the district court , *as designated in NRS 3.012 or 3.018*, must be denoted as such on all ballots and sample ballots, using the words “district court judge, department” Each such department must be ~~[designated with a numeral, beginning with “1” and continuing in sequence for each department.]~~ *denoted on all ballots and sample ballots by the numeral that has been assigned to the department pursuant to NRS 3.012 or 3.018.*

Sec. 17. Section 2 of chapter 5, Statutes of Nevada 1997, at page 3, is hereby amended to read as follows:

Sec. 2. NRS 3.012 is hereby amended to read as follows:

3.012 1. For the second judicial district there must be 11 district judges, ~~[9]~~ 8 of whom must be district judges of departments of general jurisdiction and ~~[2]~~ 3 of whom must be district judges of departments of the family court.

2. The departments of the second judicial district must be designated as follows:

(a) Departments 1 ~~[to 4, inclusive,]~~ , 3, 4 and 6 to 10, inclusive, must be departments of general jurisdiction; and

(b) Departments 2, 5 and 11 must be departments of the family court.

3. The provisions of this section must not be construed so as to prohibit the chief judge or the district judges of the second judicial district from further classifying a department of general jurisdiction according to any other permissible criteria, including, without limitation, classifying a department of general jurisdiction as a criminal department or civil department of the district court.

Sec. 18. Section 4 of chapter 5, Statutes of Nevada 1997, at page 3, is hereby amended to read as follows:

Sec. 4. The additional family court judge required pursuant to section 2 of this act must be selected at the general election to be held on November 5, 2002. The term of this judge expires on January 5, 2009. On and after January 6, 2003, department 2 of the second judicial district is hereby designated as a *department of the* family court.

Sec. 19. 1. Section 7 of this act expires by limitation on June 30, 2001.

2. On July 1, 2001:

(a) Any district judge of a department of the family court who, on or before June 30, 2001, was assigned to the department of general jurisdiction pursuant to section 7 of this act:

(1) Except as otherwise provided in subparagraph (2) and NRS 3.040, must be assigned to the department of the family court to which he was elected or appointed and shall hear and decide only those matters that are within the jurisdiction of the family court, as set forth in NRS 3.223; and

(2) Shall, within 60 days after June 30, 2001, decide all matters which were submitted to him on or before June 30, 2001, and which are not within the jurisdiction of the family court, as set forth in NRS 3.223. If such a matter is not decided by the district judge within 60 days after June 30, 2001, the matter must be submitted to and decided by another district judge who is not assigned to a department of the family court.

(b) Any district judge of a department of general jurisdiction who, on or before June 30, 2001, was assigned to a department of the family court pursuant to section 7 of this act must be assigned to the department of general jurisdiction to which he was elected or appointed and shall be deemed to be a temporary judge of the family court pursuant to section 8 of this act until the district judge decides all matters which were submitted to him on or before June 30, 2001, and which are within the jurisdiction of the family court, as set forth in NRS 3.223.

Sec. 20. This act becomes effective on July 1, 1999.

SUMMARY—Revises provisions relating to authority of chief judges in judicial districts that include family court. (BDR 1-374)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to the court system; revising the provisions relating to the authority of chief judges in judicial districts that include family court; providing for the establishment of procedures for addressing certain grievances of parties in family court; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 3 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Chief judge” means a district judge who is chosen as the chief judge of a judicial district pursuant to NRS 3.025.*

Sec. 4. *“Family court” and “family division” mean the division of the district court that is established as a family court pursuant to NRS 3.0105.*

Sec. 5. 1. *In each judicial district that includes a county whose population is 100,000 or more, in addition to the other duties set forth in NRS 3.025:*

(a) The chief judge shall ensure that:

(1) The procedures which govern the consideration and disposition of cases and other proceedings within the jurisdiction of the family court are applied as uniformly as practicable; and

(2) Cases and other proceedings within the jurisdiction of the family court are considered and decided in a timely manner.

(b) Except as otherwise provided in subsection 2, the chief judge shall establish procedures for addressing grievances that are:

(1) Submitted to the chief judge by a party in a case or other proceeding within the jurisdiction of the family court; and

(2) Directly related to the administration of the case or other proceeding.

2. *For the purposes of paragraph (b) of subsection 1, a party in a case or other proceeding within the jurisdiction of the family court may not submit to the chief judge a grievance that:*

(a) Addresses, in whole or in part, the merits of the case or other proceeding; or
(b) Challenges, in whole or in part, the merits of any decision or ruling in the case or other proceeding that is made by:

(1) The family court; or

(2) A master or other person who is acting pursuant to an order of the family court or pursuant to any authority that is granted to the master or other person by a specific statute, including, without limitation, NRS 3.405, 3.475 and 3.500.

Sec. 6. NRS 3.0105 is hereby amended to read as follows:

3.0105 1. There is hereby established, in each judicial district that includes a county whose population is 100,000 or more, a family court as a division of the district court.

2. If the caseload of the family court so requires, the ~~[presiding judge of the district, or the district judges by mutual consent in a district in which there is no presiding judge,]~~ *chief judge* may assign one or more *district* judges of the *judicial* district to act temporarily as judges of the family court.

3. If for any reason a judge of the family court is unable to act, any other district judge of the judicial district may be assigned as provided in subsection 2 to act temporarily as judge of the family court.

4. A *district* judge assigned to the family court pursuant to subsection 2 or 3 for a period of 90 or more days must attend the instruction required pursuant to subsection 1 of

NRS 3.028. ~~[Judges]~~ ***District judges*** must not be assigned to the family court pursuant to subsections 2 and 3 on a rotating basis.

Sec. 7. NRS 3.025 is hereby amended to read as follows:

3.025 1. ~~[For the second and eighth judicial districts,]~~ ***In each judicial district that includes a county whose population is 100,000 or more, the district judges of that judicial district shall*** ~~[, on the first judicial day of each year,]~~ choose from among ~~[the judges of each district a]~~ ***those district judges a chief judge who is to be the*** presiding judge of the ***judicial*** district.

2. The ~~[presiding judge of the district]~~ ***chief judge*** shall:

- (a) Assign cases to each judge in the ***judicial*** district;
- (b) Prescribe the hours of court; ~~[and]~~
- (c) Adopt such other rules or regulations as are necessary for the orderly conduct of court business ~~[;~~
- ~~— 3. On or before the 15th day of the month following, the presiding judge of the district] ; and~~

(d) Perform all other duties of the chief judge or of a presiding judge that are set forth in this chapter and any other provision of NRS.

3. ***Not later than 15 days after the last day of each month, the chief judge shall submit*** ~~[a written report]~~ to the clerk of the supreme court ~~[each month, showing:]~~ ***a written report that shows:***

(a) Those cases which are pending and undecided and to which judge the cases have been assigned;

(b) The type and number of cases each judge considered during the preceding month;

(c) The number of cases submitted to each judge during the preceding month;

(d) The number of cases decided by each judge during the preceding month; and

(e) The number of full judicial days in which each judge appeared in court or in chambers in performance of his duties during the preceding month.

Sec. 8. This act becomes effective on July 1, 1999.

SUMMARY—Urges family courts to coordinate and integrate certain cases and to ensure that certain parties and children are directed to appropriate agencies and services in timely manner and directs Chief Judges of Second and Eighth Judicial Districts to submit certain information to Nevada Legislature.
(BDR R-376)

ASSEMBLY CONCURRENT RESOLUTION—Urging the family courts to coordinate and integrate as fully as possible all case files pertaining to the same parties or children and to ensure that such parties or children are directed to the appropriate agencies and services in a timely manner and directing the Chief Judges of the Second and Eighth Judicial Districts each to submit to the next regular session of the Nevada Legislature a report that includes a summary of any actions that have been or will be taken in the judicial district to achieve such results and any suggestions for necessary legislation to assist the judicial district in achieving such results.

WHEREAS, A parent or child may be involved in multiple cases in the family courts concerning members of the same family or members of related or combined families, such as where a parent or child is involved in one case concerning divorce, paternity, guardianship or adoption and the same parent or child is also involved in a separate case concerning child support, custody, visitation, domestic violence, abuse, neglect,

delinquency, truancy or lack of supervision; and

WHEREAS, Such parents or children or whole families may urgently require assistance from more than one of the various agencies or support services that are available to assist parents, children and families; and

WHEREAS, Too much time may pass before necessary support services or protection against neglect, abuse or violence is obtained if such parents, children or families do not receive adequate and timely direction and assistance in determining what services they require and where those services are available; and

WHEREAS, The founders of the family court system originally intended that the family courts would coordinate and integrate as fully as possible all case files in the family courts which pertain to the same parties or children but which are reviewed by multiple persons or agencies; and

WHEREAS, Such coordination and integration is essential to fully addressing and solving the legal problems encountered by families in a timely and efficient manner; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the family courts are hereby urged to coordinate and integrate as fully as possible all case files in the family courts which pertain to the same parties or children but which are reviewed by multiple persons or agencies; and be it further

RESOLVED, That the family courts are hereby urged to ensure that the parties or children in all such cases are directed to the appropriate agencies and services in a timely

manner; and be it further

RESOLVED, That the Chief Judges of the Second and Eighth Judicial District Courts are hereby directed each to submit, on or before the first Monday of February 2001, to the Director of the Legislative Counsel Bureau for distribution at the next regular session of the Nevada Legislature a report that includes:

1. A summary of any actions that have been or will be taken in the judicial district to coordinate and integrate as fully as possible all such case files; and
2. Any suggestions for necessary legislation to assist the judicial district in coordinating and integrating as fully as possible all such case files; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Chief Judges of the Second and Eighth Judicial District Courts and to each district judge who is assigned to a department of the family court in those judicial districts.

SUMMARY—Revises provisions relating to reporting of caseloads by chief judges in judicial districts that include family court. (BDR 1-377)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to the court system; revising the provisions relating to the reporting of caseloads by chief judges in judicial districts that include family court; providing that certain information concerning caseloads be submitted to the director of the legislative counsel bureau; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 3 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Chief judge” means a district judge who is chosen as the chief judge of a judicial district pursuant to NRS 3.025.*

Sec. 4. *“Family court” and “family division” mean the division of the district court that is established as a family court pursuant to NRS 3.0105.*

Sec. 5. NRS 3.0105 is hereby amended to read as follows:

3.0105 1. There is hereby established, in each judicial district that includes a county whose population is 100,000 or more, a family court as a division of the district court.

2. If the caseload of the family court so requires, the ~~the presiding judge of the district, or the district judges by mutual consent in a district in which there is no presiding judge,~~ *chief judge* may assign one or more *district* judges of the *judicial* district to act temporarily as judges of the family court.

3. If for any reason a judge of the family court is unable to act, any other district judge of the judicial district may be assigned as provided in subsection 2 to act temporarily as judge of the family court.

4. A *district* judge assigned to the family court pursuant to subsection 2 or 3 for a period of 90 or more days must attend the instruction required pursuant to subsection 1 of NRS 3.028. ~~Judges~~ *District judges* must not be assigned to the family court pursuant to subsections 2 and 3 on a rotating basis.

Sec. 6. NRS 3.025 is hereby amended to read as follows:

3.025 1. ~~{For the second and eighth judicial districts,}~~ *In each judicial district that includes a county whose population is 100,000 or more, the district judges of that judicial district shall* ~~{, on the first judicial day of each year,}~~ *choose from among {the judges of each district a} those district judges a chief judge who is to be the* presiding judge of the *judicial* district.

2. The ~~{presiding judge of the district}~~ *chief judge* shall:

- (a) Assign cases to each judge in the *judicial* district;
- (b) Prescribe the hours of court; ~~{and}~~
- (c) Adopt such other rules or regulations as are necessary for the orderly conduct of court business ~~{.~~

~~3. On or before the 15th day of the month following, the presiding judge of the district} ; and~~

(d) Perform all other duties of the chief judge or of a presiding judge that are set forth in this chapter and any other provision of NRS.

3. *Not later than 15 days after the last day of each month, the chief judge shall submit {a written report} to the clerk of the supreme court {each month, showing:} and to the director of the legislative counsel bureau a written report that shows:*

- (a) Those cases which are pending and undecided and to which judge the cases have been assigned;
- (b) The type and number of cases each judge considered during the preceding month;

- (c) The number of cases submitted to each judge during the preceding month;
- (d) The number of cases decided by each judge during the preceding month; and
- (e) The number of full judicial days in which each judge appeared in court or in chambers in performance of his duties during the preceding month.

Sec. 7. This act becomes effective on July 1, 1999.

SUMMARY—Revises provisions relating to orders for protection against domestic violence, visitation and custody. (BDR 3-378)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to family law; requiring the court to impose sanctions in certain circumstances against a person who files an application for an order for protection against domestic violence containing a false or intentionally misleading statement concerning the adverse party; requiring the court in certain circumstances to order additional visitation with a child; requiring the court to consider certain factors before awarding custody of a child to a parent or other person; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 33 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, at any hearing that is held concerning a temporary order or an application to convert a temporary order into an extended order, the court shall permit the adverse party to present any relevant evidence which tends to show that the applicant filed an application which the applicant knew or reasonably should have known contained a statement of material fact concerning the adverse party that was false or intentionally misleading.

2. After considering any evidence that is presented pursuant to subsection 1, the court shall impose sanctions against the applicant, as set forth in subsection 3, if the court finds:

(a) By a preponderance of the evidence, that no act of domestic violence has occurred or that no threat of domestic violence exists; and

(b) By clear and convincing evidence, that the applicant filed an application which the applicant knew or reasonably should have known contained a statement of material fact concerning the adverse party that was false or intentionally misleading.

3. If the court makes the findings set forth in subsection 2, the court shall:

(a) Assess against the applicant all costs and official fees related to the temporary order and any application to convert the temporary order into an extended order, including, without limitation, all costs and official fees incurred by the adverse party in defending against the temporary order and any application to convert the temporary order into an extended order;

(b) Order the applicant to reimburse the adverse party, in an amount determined by the court, for all attorney's fees incurred by the adverse party in defending against the temporary order and any application to convert the temporary order into an extended order;

(c) If any rights of the adverse party to visit a child who is in the custody of the applicant were deprived because of the temporary order:

(1) Order the applicant to permit additional visits with the child to compensate the adverse party for any deprived visits with the child in accordance with the provisions of NRS 125A.300, 125A.310 and 125A.320, if the court has jurisdiction concerning visitation with the child; or

(2) Transmit the findings that were made pursuant to subsection 2 to the appropriate court that has jurisdiction concerning visitation with the child; and

(d) If any rights to custody of a child of the applicant or the adverse party are at issue:

(1) Consider the findings that were made pursuant to subsection 2 as a factor in determining custody pursuant to NRS 125.480, if the court has jurisdiction concerning custody of the child; or

(2) Transmit the findings that were made pursuant to subsection 2 to the appropriate court that has jurisdiction concerning custody of the child.

4. In addition to the other requirements set forth in subsection 3, if the court makes the findings set forth in subsection 2:

(a) The court shall transmit, by the end of the next business day after the findings are made, a copy of the findings to each law enforcement agency to which the temporary order was transmitted pursuant to NRS 33.060; and

(b) The clerk of the court shall issue, without fee, a copy of the findings to the adverse party and shall transmit a copy of the findings to the central repository for Nevada records of criminal history in the same manner that other information is transmitted to the central repository pursuant to NRS 33.095.

5. The court may prohibit the adverse party from presenting any evidence that is described in subsection 1 if, at any earlier hearing concerning the temporary order or any application to convert the temporary order into an extended order, the adverse party presented the same or similar evidence to the court or had the opportunity to present such evidence to the court but failed to do so.

6. The sanctions provided for in this section are in addition to and not in lieu of any other criminal or civil sanction, penalty or remedy that is provided by law, and the provisions of this section must not be construed so as to prohibit the adverse party or this state or its political subdivisions from seeking or obtaining any other criminal or civil sanction, penalty or remedy that is provided by law.

7. The provisions of this section do not apply to an order for protection against domestic violence which is issued to a person by a court of another state, territory or Indian tribe within the United States and which is registered in this state pursuant to NRS 33.090.

Sec. 2. NRS 33.017 is hereby amended to read as follows:

33.017 As used in NRS 33.017 to 33.100, inclusive, *and section 1 of this act*, unless the context otherwise requires:

1. “Extended order” means an extended order for protection against domestic violence.

2. “Temporary order” means a temporary order for protection against domestic violence.

Sec. 3. NRS 33.050 is hereby amended to read as follows:

33.050 1. *Except as otherwise provided in section 1 of this act:*

(a) The payment of all costs and official fees must be deferred for any applicant for a temporary or extended order ~~[.]~~; *and*

(b) After any hearing and no later than final disposition of the application or order, the court shall assess the costs and fees against the adverse party, except that the court may reduce them or waive them, as justice may require.

2. The clerk of the court shall provide each party, free of cost, with information about the:

(a) Availability of temporary and extended orders;

(b) Procedure for filing an application for an order; ~~[and]~~

(c) Right to proceed without legal counsel ~~[.]~~; *and*

(d) *Sanctions for filing an application for an order which contains a statement of material fact concerning the adverse party that is false or intentionally misleading.*

3. The clerk of the court or other person designated by the court shall assist any party in completing and filing the application, affidavit and any other paper or pleading necessary to initiate or respond to an application for a temporary or extended order. This assistance does not constitute the practice of law, but the clerk shall not render any advice or service that requires the professional judgment of an attorney.

Sec. 4. Chapter 125 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 13, inclusive, of this act.

Sec. 5. *As used in NRS 125.560 and sections 5 to 13, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6 to 11, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 6. *“Adverse party” means a person against whom a temporary or extended order is sought.*

Sec. 7. *“Applicant” means a person who files an application.*

Sec. 8. *“Application” means an application, motion or other similar document which is filed with the court and which requests that the court issue a temporary or extended order against the adverse party named in the application, motion or other similar document.*

Sec. 9. *“Extended order” means an order or injunction which is in the nature of an order for protection against domestic violence and which is in effect for a period that exceeds 30 days.*

Sec. 10. *“Order or injunction which is in the nature of an order for protection against domestic violence” means a restraining order or injunction that:*

- 1. Is issued in an action or proceeding brought pursuant to this Title; and*
- 2. Grants relief which might be given in an order for protection against domestic violence that is issued pursuant to NRS 33.017 to 33.100, inclusive.*

Sec. 11. *“Temporary order” means an order or injunction which is in the nature of an order for protection against domestic violence and which is in effect for a period not exceeding 30 days.*

Sec. 12. *1. Except as otherwise provided in this section, at any hearing that is held concerning a temporary order or an application to convert a temporary order into an extended order, the court shall permit the adverse party to present any relevant evidence which tends to show that the applicant filed an application which the applicant knew or reasonably should have known contained a statement of material fact concerning the adverse party that was false or intentionally misleading.*

2. After considering any evidence that is presented pursuant to subsection 1, the court shall impose sanctions against the applicant, as set forth in subsection 3, if the court finds:

(a) By a preponderance of the evidence, that no act of domestic violence has occurred or that no threat of domestic violence exists; and

(b) By clear and convincing evidence, that the applicant filed an application which the applicant knew or reasonably should have known contained a statement of material fact concerning the adverse party that was false or intentionally misleading.

3. If the court makes the findings set forth in subsection 2, the court shall:

(a) Assess against the applicant all costs and official fees related to the temporary order and any application to convert the temporary order into an extended order, including, without limitation, all costs and official fees incurred by the adverse party in defending against the temporary order and any application to convert the temporary order into an extended order;

(b) Order the applicant to reimburse the adverse party, in an amount determined by the court, for all attorney's fees incurred by the adverse party in defending against the temporary order and any application to convert the temporary order into an extended order;

(c) If any rights of the adverse party to visit a child who is in the custody of the applicant were deprived because of the temporary order, order the applicant to permit additional visits with the child to compensate the adverse party for any deprived visits with the child in accordance with the provisions of NRS 125A.300, 125A.310 and 125A.320; and

(d) If any rights to custody of a child of the applicant or the adverse party are at issue, consider the findings that were made pursuant to subsection 2 as a factor in determining custody pursuant to NRS 125.480.

4. In addition to the other requirements set forth in subsection 3, if the court makes the findings set forth in subsection 2:

(a) The court shall transmit, by the end of the next business day after the findings are made, a copy of the findings to each law enforcement agency to which the temporary order was transmitted; and

(b) The clerk of the court shall issue, without fee, a copy of the findings to the adverse party and shall transmit a copy of the findings to the central repository for Nevada records of criminal history in the same manner that other information is transmitted to the central repository pursuant to NRS 33.095.

5. The court may prohibit the adverse party from presenting any evidence that is described in subsection 1 if, at any earlier hearing concerning the temporary order or an application to convert the temporary order into an extended order, the adverse party presented the same or similar evidence to the court or had the opportunity to present such evidence to the court but failed to do so.

6. The sanctions provided for in this section are in addition to and not in lieu of any other criminal or civil sanction, penalty or remedy that is provided by law, and the provisions of this section must not be construed so as to prohibit the adverse party or this state or its political subdivisions from seeking or obtaining any other criminal or civil sanction, penalty or remedy that is provided by law.

7. The provisions of this section do not apply to a temporary or extended order which is issued to a person by a court of another state, territory or Indian tribe within the United States and which is registered in this state pursuant to NRS 33.090.

Sec. 13. If a court transmits findings that were made pursuant to subsection 2 of section 1 of this act to a court that has jurisdiction concerning visitation or custody of a child pursuant to this Title, the court that has jurisdiction pursuant to this Title shall, with regard to the applicant and adverse party named in the findings:

1. If any rights of the adverse party to visit a child who is in the custody of the applicant were deprived because of the temporary order, order the applicant to permit additional visits with the child to compensate the adverse party for any deprived visits with the child in accordance with the provisions of NRS 125A.300, 125A.310 and 125A.320; and

2. If any rights to custody of a child of the applicant or the adverse party are at issue, consider the findings that were made pursuant to subsection 2 of section 1 of this act as a factor in determining custody pursuant to NRS 125.480.

Sec. 14. NRS 125.480 is hereby amended to read as follows:

125.480 1. In determining custody of a minor child in an action brought under this chapter, the sole consideration of the court is the best interest of the child. If it appears to the court that joint custody would be in the best interest of the child, the court may grant custody to the parties jointly.

2. Preference must not be given to either parent for the sole reason that the parent is the mother or the father of the child.

3. The court shall award custody in the following order of preference unless in a particular case the best interest of the child requires otherwise:

(a) To both parents jointly pursuant to NRS 125.490 or to either parent. If the court does not enter an order awarding joint custody of a child after either parent has applied for joint custody, the court shall state in its decision the reason for its denial of the parent's application. When awarding custody to either parent, the court shall consider, among other factors, which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent.

(b) To a person or persons in whose home the child has been living and where the child has had a wholesome and stable environment.

(c) To any person related within the third degree of consanguinity to the child whom the court finds suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this state.

(d) To any other person or persons whom the court finds suitable and able to provide proper care and guidance for the child.

4. In determining the best interest of the child, the court shall consider, among other things:

(a) The wishes of the child if the child is of sufficient age and capacity to form an intelligent preference as to his custody;

(b) Any nomination by a parent of a guardian for the child; ~~{and}~~

(c) Whether either parent or any other person seeking custody has engaged in an act of domestic violence against the child, a parent of the child or any other person residing with the child ~~{-}~~ ; *and*

(d) Whether either parent or any other person seeking custody has been sanctioned by a court pursuant to section 1 or 12 of this act for filing a false or intentionally misleading application for an order for protection against domestic violence that named either parent or any other person involved in the custody proceeding as the adverse party.

5. Except as otherwise provided in subsection 6 or NRS 125A.360, a determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking custody has engaged in one or more acts of domestic violence against the child, a parent of the child or any other person residing with the child creates a rebuttable presumption that sole or joint custody of the child by the perpetrator of the domestic violence is not in the best interest of the child. Upon making such a determination, the court shall set forth:

(a) Findings of fact that support the determination that one or more acts of domestic violence occurred; and

(b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other victim of domestic violence who resided with the child.

6. If after an evidentiary hearing held pursuant to subsection 5 the court determines that each party has engaged in acts of domestic violence, it shall, if possible, then determine which person was the primary physical aggressor. In determining which party was the primary physical aggressor for the purposes of this section, the court shall consider:

- (a) All prior acts of domestic violence involving either party;
- (b) The relative severity of the injuries, if any, inflicted upon the persons involved in those prior acts of domestic violence;
- (c) The likelihood of future injury;
- (d) Whether, during the prior acts, one of the parties acted in self-defense; and
- (e) Any other factors which the court deems relevant to the determination.

FLUSH In such a case, if it is not possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies to both parties. If it is possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies only to the party determined by the court to be the primary physical aggressor.

7. As used in this section, “domestic violence” means the commission of any act described in NRS 33.018.

Sec. 15. NRS 125.560 is hereby amended to read as follows:

125.560 1. A person who violates a ~~[restraining order or injunction]~~

~~—(a) That is in the nature of a~~ temporary or extended order ~~for protection against domestic violence; and~~

~~—(b) That~~ *that* is issued in an action or proceeding brought pursuant to this Title ~~[,]~~ is guilty of a misdemeanor, unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order . ~~[or injunction. For the purposes of this subsection, an order or injunction is in the nature of a temporary or extended order for protection against domestic violence if it grants relief that might be given in a temporary or extended order issued pursuant to NRS 33.017 to 33.100, inclusive.]~~

2. If the violation is accompanied by a violent physical act against a person protected by the order , ~~[or injunction,]~~ the court shall:

(a) Impose upon the person committing the act a fine of \$1,000 or require him to perform a minimum of 200 hours of work for the community;

(b) Sentence him to imprisonment for not fewer than 5 days nor more than 6 months;

(c) Order him to reimburse the person obtaining the order , ~~[or injunction,]~~ in an amount determined by the court, for all costs and attorney's fees incurred by that person in seeking to enforce the order , ~~[or injunction,]~~ and for all medical expenses of the person and any minor child incurred as a result of the violent physical act; and

(d) Order him to participate in and complete a program of professional counseling, at his own expense, if such counseling is available.

3. The person committing the violation shall comply with the order for reimbursement of the person obtaining the order ~~[or injunction]~~ before paying any fine imposed pursuant to this section.

Sec. 16. NRS 179A.350 is hereby amended to read as follows:

179A.350 1. The repository for information concerning orders for protection against domestic violence is hereby created within the central repository.

2. Except as otherwise provided in ~~[subsection 4,]~~ *this section*, the repository for information concerning orders for protection against domestic violence must contain a complete and systematic record of all temporary and extended orders for protection against domestic violence issued or registered in the State of Nevada, in accordance with regulations adopted by the director of the department, including, without limitation, any information received pursuant to NRS 33.095. Information received by the central repository pursuant to NRS 33.095 must be entered in the repository for information concerning orders for protection against domestic violence not later than 8 hours after it is received by the central repository.

3. The information in the repository for information concerning orders for protection against domestic violence must be accessible by computer at all times to each agency of criminal justice.

4. The repository for information concerning orders for protection against domestic violence must not contain any information concerning an event that occurred before October 1, 1998.

5. If the central repository receives from a clerk of a court a copy of findings that were made by a court pursuant to section 1 or 12 of this act concerning the invalidity of an order for protection against domestic violence, the central repository shall remove all information concerning that order for protection against domestic violence from the repository for information concerning orders for protection against domestic violence.

Sec. 17. NRS 202.3657 is hereby amended to read as follows:

202.3657 1. Any person may apply to the sheriff of the county in which he resides for a permit on a form prescribed by regulation of the department. Application forms for permits must be furnished by the sheriff of each county upon request.

2. Except as otherwise provided in this section, the sheriff shall issue a permit for no more than two specific firearms to any person who is qualified to possess a firearm under state and federal law, who submits an application in accordance with the provisions of this section and who:

- (a) Is a resident of this state;
- (b) Is 21 years of age or older;
- (c) Is not prohibited from possessing a firearm pursuant to NRS 202.360; and
- (d) Demonstrates competence with a firearm by presenting a certificate or other documentation to the sheriff which shows that he:

(1) Successfully completed a course in firearm safety approved by a sheriff in this state; or

(2) Successfully completed a course in firearm safety offered by a federal, state or local law enforcement agency, community college, university or national organization that certifies instructors in firearm safety.

FLUSH Such a course must include instruction in the use of each firearm to which the application pertains and in the laws of this state relating to the proper use of a firearm. A sheriff may not approve a course in firearm safety pursuant to subparagraph (1) unless he determines that the course meets any standards that are established by the Nevada Sheriffs and Chiefs Association, or if the Nevada Sheriffs and Chiefs Association ceases to exist, its legal successor.

3. The sheriff shall deny an application or revoke a permit if he determines that the applicant or permittee:

- (a) Has an outstanding warrant for his arrest.
- (b) Has been judicially declared incompetent or insane.
- (c) Has been voluntarily or involuntarily admitted to a mental health facility during the immediately preceding 5 years.

(d) Has habitually used intoxicating liquor or a controlled substance to the extent that his normal faculties are impaired. For the purposes of this paragraph, it is presumed that a person has so used intoxicating liquor or a controlled substance if, during the immediately preceding 5 years, he has been:

- (1) Convicted of violating the provisions of NRS 484.379; or

(2) Committed for treatment pursuant to NRS 458.290 to 458.350, inclusive.

(e) Has been convicted of a crime involving the use or threatened use of force or violence punishable as a misdemeanor under the laws of this or any other state, or a territory or possession of the United States at any time during the immediately preceding 3 years.

(f) Has been convicted of a felony in this state or under the laws of any state, territory or possession of the United States.

(g) ~~[Has]~~ *Except as otherwise provided in subsection 5, has* been convicted of a crime involving domestic violence or stalking, or is currently subject to a restraining order, injunction or other order for protection against domestic violence.

(h) Is currently on parole or probation from a conviction obtained in this state or in any other state or territory or possession of the United States.

(i) Has, within the immediately preceding 5 years, been subject to any requirements imposed by a court of this state or of any other state or territory or possession of the United States, as a condition to the court's:

(1) Withholding of the entry of judgment for his conviction of a felony; or

(2) Suspension of his sentence for the conviction of a felony.

(j) Has made a false statement on any application for a permit or for the renewal of a permit.

4. ~~[The]~~ *Except as otherwise provided in subsection 5, the* sheriff may deny an application or revoke a permit if he receives a sworn affidavit stating articulable facts

based upon personal knowledge from any natural person who is 18 years of age or older that the applicant or permittee has or may have committed an offense or engaged in any other activity specified in subsection 3 which would preclude the issuance of a permit to the applicant or require the revocation of a permit pursuant to this section.

5. *If the sheriff denies an application or revokes a permit because an applicant or permittee is currently subject to a restraining order, injunction or other order for protection against domestic violence, the sheriff shall restore the application or permit, without imposing a fee, if the applicant or permittee presents to the sheriff, within 30 days of entry by the court, a certified copy of findings that were made by the court pursuant to section 1 or 12 of this act concerning the invalidity of the order or injunction that was the basis for the sheriff denying the application or revoking the permit, unless the sheriff has other lawful reasons to deny the application or revoke the permit.*

6. If the sheriff receives notification submitted by a court or law enforcement agency of this or any other state, the United States or a territory or possession of the United States that a permittee or an applicant for a permit has been charged with a crime involving the use or threatened use of force or violence, the conviction for which would require the revocation of a permit or preclude the issuance of a permit to the applicant pursuant to this section, the sheriff shall suspend the person's permit or the processing of his application until the final disposition of the charges against him. If a permittee is

acquitted of the charges against him, or if the charges are dropped, the sheriff shall restore his permit without imposing a fee.

~~{6-}~~ 7. An application submitted pursuant to this section must be completed and signed under oath by the applicant. The applicant's signature must be witnessed by an employee of the sheriff or notarized by a notary public. The application must include:

(a) The name, address, place and date of birth, social security number, occupation and employer of the applicant and any other names used by the applicant;

(b) A complete set of the applicant's fingerprints taken by the sheriff or his agent;

(c) A front-view colored photograph of the applicant taken by the sheriff or his agent;

(d) The applicant's driver's license number or identification card number issued by the department;

(e) The make, model and caliber of each firearm to which the application pertains;

(f) A nonrefundable fee in the amount necessary to obtain the report required pursuant to subsection 1 of NRS 202.366; and

(g) A nonrefundable fee set by the sheriff not to exceed \$60.