

**COMMISSION ON NEW HAMPSHIRE COURTS
FAMILY COURT RESEARCH COMMITTEE
MINUTES 12-8-05**

Present: Gail Barba, Paul Clements, Ida Dzurra, Judge Ed Kelly, Pixie Lown, Marilyn Mahoney, Judge Jim Michalik, Mike Ostrowski, Marty Sink, and Tricia Lucas

The committee met on December 8th in their second research meeting. The goal of today's efforts was to review previous commission's recommendations to assess their relevance to the family court in its present day functioning.

Mike Ostrowski commented that the steering committee had some ambivalence about developing a family court research committee, because the implementation for family court has really just begun. The other view was that the family courts were the courts where most of the public interfaced about very intensely important family issues such as divorce, custody, adoption, juvenile issues, etc. So the steering committee charged the Family Court Research Committee with looking at the implementation of the family court process and making a recommendation to enhance its implementation.

Judge Kelly began the discussion with overviewing the implementation report of the family court. Judge Kelly reported that the previous implementation report advised reducing the adversarial process and moving the alternative dispute resolution and mediation to the front part of the divorce process. Judge Kelly reported that in fact they had begun doing just that, that based on new rules, mediation was to be ordered in all divorce cases, with the exception of domestic violence, alcoholism, and child abuse, or any other substantive impediments.

Judge Kelly reported that the implementation seems to be going quite well, that the overall goal is to locate 29 sites throughout the state, the next implementation counties will be Coos and Sullivan, followed by Merrimack County.

Staffing is to be cost neutral. Judge Kelly said that staff could opt out of a role in the family division if they feel they have no interest or talent for the work. There has been some training, and more training will follow as the implementation schedule goes forward.

We talked about increasing access for pro se (self representing) citizens. Part of the plan was to have case managers in each court who are court employees and can work with the clients to educate them about the process, and to help them fill out the forms necessary for various stages of the process. Judge Kelly said that there are a couple of case managers in place, that they are current court employees who have several years of experience and who have an interest in being case managers. The group concurred that case managers were quite important to the process.

We made a recommendation that the family court look at a “virtual case manager”. That is, making the forms available on line, and have a case manager who can respond to people’s e-mail questions about the process, take a look at their completed forms on line, and make suggestions. The technology exists to have telephone conversations on line while the case manager is reviewing forms. Along the same lines, there was a suggestion that a 1-800 number, with a case manager available, be another access point to the virtual case manager. The whole notion is that in rural areas this would provide great access, as well as in other areas where younger clients are very familiar and comfortable with the Internet and who have good electronic access. Some clients may be far less comfortable with a face-to-face case management communication.

Tied to this recommendation is an additional recommendation that each court have a computer available for public use with the forms available and internet connection to the court website, and the explanation of the court process.

We talked about the 4-D federal child support match which is a two-thirds match for specific staff people, having to do with child support and divorce proceedings, this federal funding provides much of the support for these case managers.

We talked about an issue that was brought up in a recent continuing legal education workshop. Marilyn Mahoney reported that there was some concern by attorneys about a referral to mediation at the front end of the process, which would precede discovery, and would not lend itself to mediation around financial issues, etc. Judge Kelly said that the referral to mediation during the first two weeks after the first appearance is really for child custody issues, and only where there are children involved. It is designed to deal with developing temporary child custody orders and visitation issues. It is not designed to deal with financial and property settlements.

There was also discussion about placing the child impact seminars at the front end of the process. This was part of the recommendation of the Family Law Task Force. The committee did some creative thinking about how to accomplish this recommendation. We agreed that it might be conceivable that at the first appearance people were scheduled for mediation as well as scheduled for the CIP program. There was also a discussion about making the CIP program available the very day of the first appearance, as a half day session, so that by taking one full day off from work people could go to the first appearance, have their mediation scheduled, and attend the child impact program seminar all in one fell swoop. We also talked about on line education or CDs, or vignettes on videotape that could stand in for the child impact seminars. You may lose some of the interaction, which is a valuable part; however, doing the CIP on line where you can have little quizzes and such, would ensure that people understood the content and again might make it much more accessible, particularly in rural areas.

We continued to review the recommendations of the Family Law Task Force. Judge Kelly reported that there were referrals for trained marital mediator, and attorney neutral evaluators. Marilyn suggested that there be a training for attorney neutral evaluators, as well as some consideration for payment for their work. The last training

was approximately ten years ago, and they currently are volunteers who do not get paid, which is fine in low-income cases, but is somewhat frustrating when there are significant resources and assets.

Another recommendation we discussed was the court's ability to allow a joint petition in other cases besides divorce, such as legal separations, paternity or unwed child custody cases. This would facilitate the movement through the process, and minimize cost. Judge Kelly did not believe that there were any legal impediments in state law to doing that.

We talked about the suggestion of having parent coordinators for high conflict cases, maybe with the standing of a "referee". They would have the authority to settle modest disputes around parenting plan issues, such as, who gets the child for the holidays or school vacation, etc., and would therefore divert many days of work regarding ex parte petitions for changes in parenting plans. The committee realized that this would have to be funded by the legislature, and maybe prove difficult to achieve.

We stopped at the beginning of page 3, guardian ad litem, in the summary report, and will pick up there at our next meeting, which is scheduled for January 4th.