

## **EXECUTIVE SUMMARY**

The Family Division Implementation Committee, pursuant to HB 643-FN, was appointed by the Supreme Court to make recommendations for statewide expansion of the family division and for changes in the family divisions in Grafton and Rockingham Counties. The Committee makes the following findings and recommendations, recognizing the intent of the legislature to implement a statewide system that "expeditiously achieves the goal of providing enhanced services to parties involved in cases relating to divorce, custody, children, domestic violence and other family law matters."

### **1. Reduce the Adversarial Nature of Proceedings Involving Families**

- Development of court process that respects and encourages a reduction of the adversarial process in family related issues.
- Increase use of mediation to encourage party-centered agreements.

### **2. Locate Family Division Sites in Areas Geographically Accessible to Families**

Establish 21 Judicial Branch Family Division (JBFD) sites in addition to the existing eight sites in Grafton and Rockingham Counties. The JBFD should be fully operational in three years, if facilities issues can be solved.

### **3. Draw Upon Experienced Judges and Staff Committed to Family Related Issues**

- The committee recommends that each trial court transfer to the JBFD judicial resources equal to its transferred weighted caseload.
  - a. Superior Court:** all existing marital master positions will be transferred
  - b. District Court:** funds equivalent to those used to adjudicate domestic violence and juvenile matters will be transferred
  - c. Probate Court:** funds equivalent to those used to adjudicate termination of parental rights and guardianship over minor matters and some adoptions will be transferred.
- Once the size of the superior court has been reduced to 22 judges (as provided for in HB 643-FN through judicial retirements), superior court judges will no longer hear marital cases.
- Staff currently performing functions related to the JBFD jurisdiction should, wherever possible, be transferred into similar positions in the JBFD.
- As demonstrated by eight years of experience within the family division pilot project, case managers are the most effective and positive link between the court and self-represented litigants.

- Eleven regional clerks will have administrative responsibility for one or more smaller JBFD locations. Each site without a full-time clerk will have a staff member with authority to make decisions.

#### **4. Increase visibility of the Family Division Within the Judicial Branch Administrative Structure**

- A JBFD administrative judge will be a member of the judicial branch administrative council and report directly to the supreme court. Regional supervisory JBFD judges and masters will assist the administrative judge as needed.

#### **5. Statewide Implementation Plan**

- Coos, Carroll and Sullivan Counties would be added to the JBFD in FY 2006.
- Depending upon facilities, Strafford and either Belknap or Merrimack Counties would be added next.
- Hillsborough County Northern and Southern Districts would be added next.
- Because of facilities limitations in Cheshire County, the Committee recommends that county be added to the JBFD last, although it is possible that the districts served by Jaffrey/Peterborough District Court could be added sooner.

#### **6. Effect of Statewide JBFD on Existing Trial Courts**

- Superior court judges in smaller counties likely will be “grouped” with adjacent counties for judicial assignment purposes and judges will sit in each county only as often as necessary.
- District and probate court judges will be invited to serve as family division judges as the JBFD expands statewide. The Committee recommends that in selecting family division judges, the supreme court include geographic connection between the judges and the sites in which they will serve.
- The supreme court will facilitate use of probate court judges in judicial staffing of the JBFD.
- In JBFD clerical assignments, every attempt will be made to place employees at or near their current court location. Care will be taken not to burden unduly the smaller counties when transfers are made.

#### **7. Recommended Statutory Changes**

- Enact legislation for statewide JBFD implementation
- Governor and Council appointment of fulltime JBFD judges

## **8. Statewide Issues**

The Committee urges recognition of the fact that over time, additional resources such as greatly increased numbers of cases managers, are likely to be necessary, especially for more improved and expeditious handling of JBFD cases. Record taking and security will also be key issues .

### **PROCEDURAL HISTORY OF THE COMMITTEE**

The first meeting of the Committee was held on April 1, 2004. The Committee discussed jurisdictional issues, logistical issues and philosophical issues, in the end deciding not to revisit old debates, but rather to focus upon the implementation of as practical a plan as could be devised to meet the needs of citizens with family issues within the jurisdiction of the New Hampshire Judicial Branch Family Division (JBFD).

The Committee began its work by reviewing the availability of judges and masters to hear cases in the JBFD. HB 643-FN (**See Appendix A**) was introduced and passed in the 2004 Legislative Session, with the strong support of the Governor, legislative leadership and the judicial branch. The effect of that bill on available resources to the JBFD is, that as the next seven judges of the superior court leave office, the number of judges in that court will be reduced and the funds related to those positions will be used for family cases. In combination with the effect of reduced caseloads in the district and probate courts, this will make up to 14 full time equivalent judicial officers available in the JBFD, at no additional budgetary expense.

The Committee recognizes and expresses its gratitude to the Governor, Legislature and trial courts for their support and cooperation in this process. When the Superior Court is reduced to twenty-two judges, the Superior Court judges will no longer handle family cases, unless a particular Superior Court Judge opts to continue a previously assigned case through to conclusion. Judges of the District and Probate Courts will be given the opportunity to seek certification to serve in the JBFD .

At the conclusion of its first meeting, the Committee agreed:

1. That the subject matter jurisdiction of the JBFD, which includes divorces, juvenile delinquency, abuse and neglect cases and other family matters, would remain the same as it is currently in Grafton and Rockingham Counties, with the possible exception of removing some adoptions from JBFD jurisdiction.

2. That, in view of the limited resources available for the reasonably foreseeable future, its final proposal would, of necessity, be constrained by existing court facilities and their suitability as locations for JBFD sites, and that

developing a site proposal would be the first of several discrete tasks to be undertaken.

3. That it would be necessary to determine, based upon the latest-available weighted caseload figures, how many clerical staff and how many full-time judge equivalents would be required to staff a statewide JBFD. The Committee recognizes, however, that part-time judges will be an essential component of the JBFD until such time as a truly full-time judicial staff can be devoted to it. The precise number of marital masters and judges from the district and probate courts (or, the Committee hopes, a new category of full-time judge known as a family division judge), will be determined based upon the objective information available to us through the weighted caseload system, taking into account any new initiatives for the alternative resolution of these disputes outside of the traditional courtroom setting.

4. That a subcommittee ("working group") headed by Judges Lynn and Kelly and Director Goodnow, would immediately begin to develop a proposed site plan, staffing plan and governance plan, subject to review by the Committee. A working group was deemed necessary because the amount of work to be done was so extensive that the full Committee could not convene often enough to accomplish the work before its report to the Legislature would be due.

At the second meeting of the Committee, on May 17, there was additional debate about jurisdiction and other issues, such as staffing and governance.

The working group expanded to include Judge Dalianis, Judge Korbey, Nina Gardner, Gina Apicelli, and Gary L. Fowler, Court Services Representative, AOC. All Committee members were welcome at working group meetings and some were able to attend at times. The working group met regularly between May 13 and December 1.