REPORT OF THE GOVERNOR'S COMMISSION ON DIVORCE, CUSTODY AND CHILDREN

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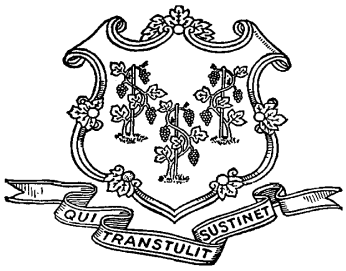

STATE OF CONNECTICUT
Governor John G. Rowland

Co-Chairpersons:
The Honorable Anne C. Dranginis
Mr. Thomas C. Foley

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INTRODUCTION

Governor John G. Rowland established the Commission on Custody, Divorce, and Children by Executive Order No. 22 on December 5, 2001 to examine ways that the divorce and custody determination process might be improved for children, their parents, and other significant caregivers. In the order, the Governor noted that two out of every five American children experience the consequences of divorce and nearly 14,000 marriages end in divorce in Connecticut each year, half of which involve children and custody issues. Other cases involve custody determinations in families where parents have never been married. Sixty-nine (69%) percent of children affected by divorce are under ten years of age. The process of divorce and parental conflict related to divorce can last for many months, if not years. The process is presumed to have long-term detrimental effects on children in many cases. The Governor recognizes that the divorce and custody determination process as it currently exists in Connecticut can be improved to reduce as much as possible the detrimental effects of divorce on children.

The Governor in his executive order asked the Commission to emphasize five things: 1) how the judicial, family services and other state agencies can work together more effectively; 2) how the state can maximize the collaboration of state agencies and the academic and private communities with expertise in the areas of divorce, custody, and children; 3) the approaches that need to be emphasized and more effectively used as the state interfaces with children of divorce; 4) the major successes and challenges of the family court system from both the national and Connecticut perspectives, and; 5) the perspective of the advocacy community as to what is in the best interests of children of divorce.

The Commission interpreted the Governor's charge to emphasize the effect of parental conflict and the divorce process on children and undertook that as its primary focus. The Commission members know from testimony at public hearings and from other information reviewed by the Commission that there are other concerns important to divorcing families. Among these are concerns about the economic impact of divorce on

parents and children, the enforcement of orders for alimony and support, and the question of economic security. The fact that the Commission does not address these concerns should not be interpreted to mean that it does not believe these issues are important. In fact, the Commission views these issues as vital, but simply beyond the scope of its charge.

The Commission was co-chaired by Mr. Thomas C. Foley and Judge Anne C. Dranginis. They were joined by members Judge C. Ian McLachlan, Judge Herbert Gruendel, Judge Lynda Munro, Marsha Kline-Pruett, Ph.D., Jerry Brodlie, Ph.D., Kenneth Robson, M.D., Stephen Grant, M.A., Eugene Falco, Esq., Christine Whitehead, Esq., Sidney Horowitz, Ph.D., Nancy A. Humphreys, Ph.D., Pat D'Angelo, Phyllis Cummings-Texeira MSW, Robert Tompkins, M.A., Jill Davies, Esq, and Rebecca Calabrese, CISW. The members represented mental health providers, both public and private, attorneys, parents, and judges.

The Executive Order suggested involvement of other interested parties to serve on working groups, including the following or their designees: the Chief State's Attorney, Chief Public Defender, Probate Court Administrator, Commissioners from the Insurance Department, Department of Mental Retardation, Department of Children and Families, Office of the Child Advocate, the Office of Health Care Access, Department of Social Services, and legislators with expertise in the areas of children, divorce, and custody.

The Commission held eleven (11) full Commission meetings at various locations in Connecticut from January through November 2002. Each meeting lasted from four to eight hours and included presentations and discussions on issues relating to divorce and its impact on children. In addition to the full Commission meetings, there were meetings of various Commission sub-committees. The Commission also conducted four (4) public hearings around the state in April, one each in Norwich, Waterbury, Stamford, and Hartford. A final hearing was held on November 13 after draft recommendations were made public. The public hearings were well attended and the Commission received a

large amount of verbal and written testimony, which was informative and helpful to the Commission in formulating its recommendations.

THE DIVORCE AND CUSTODY DETERMINATION PROCESS IN CONNECTICUT

The custody determination process in Connecticut decides for children the roles and responsibilities of their parents or other caregivers after separation and divorce. This process is a legal process based on Connecticut statutory and case law and overseen by the Judicial Branch of the State of Connecticut. The Judicial Branch is supported in this process by a number of institutions, organizations, and individuals who also play important roles. The Commission considered that the divorce and custody determination process involves and depends on: the court system; the Family Services Unit of the Judicial Branch of the State of Connecticut; the family bar, and; a large group of private service providers including mediators, evaluators, and mental health therapists.

Many factors affect the divorce and custody determination process and influence its results. Primary among these factors are: Connecticut statutory and case law; the Connecticut rules of practice; the methods developed and adopted by the Family Services Unit; the skills and experience of all service providers; developing research in the field, and; the norms and beliefs of the population at large as well as the beliefs of the professionals in the field.

Connecticut has played a leadership role among states in developing a system that is responsive to the needs of families and has evolved toward a more child-focused approach to resolving parenting issues. Connecticut's system has been innovative and continues to evolve in response to the many and continuing challenges presented by divorcing and separating families. Even so, the Commission was formed in the belief that an already very effective system still warrants regular review and improvement in response to the expanding demands placed on it by complicated family issues.

THE HISTORY OF DIVORCE AND CUSTODY IN CONNECTICUT

The history of divorce and child custody in the State of Connecticut follows the development of social norms and law relating to those norms as described in Connecticut statutory and case law, as well as case law from the United States Supreme Court. In colonial times, divorce was allowed in Connecticut, but only for specific grounds and was not common. Custody issues were determined primarily as a property issue with children normally remaining with their fathers who retained formal legal power over them.

In the 19th century, the law evolved from viewing children as property of their fathers to determining what was best for children. The notion of mothers being the natural primary parent led to the "tender years doctrine". Under the "tender years doctrine" mothers were believed to play a more nurturing and, therefore, more important parenting role, particularly with younger children. Eventually, the notion of what is best for children led to the "best interests of the child" standard. Together these two notions produced social norms, which resulted in children remaining with their mothers following divorce unless the mother was demonstrated to be unfit. These views and custody determination criteria remained dominant until the 1960's.

In the latter half of the 20th century, both men and women began to question the roles attributed to each by the culture and by the courts. Increasingly, men developed the interest and flexibility to play a more active parenting role post divorce and women became more involved in the work force and needed more support with their parenting roles. Coincidentally, the emotional and developmental needs of children within the separating family was becoming a subject of broad research resulting in changing views of parenting roles and child development. Recognizing an evolving view toward the importance of both parents' roles in raising children, the Connecticut legislature adopted in 1981 a joint custody presumption in cases where both parents agree to joint custody and such joint custody is determined to be in the best interests of the child. Today, the trend in custody determination cases has continued away from the "winner take all"

mindset of forty years ago toward more of a cooperative co-parenting arrangement based as much on responsibilities as rights of parents and formulated according to the needs of the child and the parents' availability, skills, and willingness to parent.

Since the 1950's, courts recognized that custody determination issues were complex and the process and its outcome presented many risks to children. In response, the Judicial Branch began to engage mental health practitioners to assist the courts in helping families understand their responsibilities to their children and to help families formulate agreements regarding child custody issues. In 1958, the Judicial Branch began using court staff to conduct fact-gathering investigations for the court in contested custody and visitation cases as well as family violence cases. Increased demand for these services by the court resulted in the Family Services Unit of the Judicial Branch being formed and evolving into an agency today of approximately 115 mental health professionals providing dispute resolution and assessment services to the courts, clients, and attorneys in divorce related and criminal family violence cases.

The Family Services Unit currently offers an array of innovative programs and is considered a model of court-connected services by national and international leaders in the field. Highlights include: 1) an emphasis on promoting lasting solutions to parenting conflicts through self-determination; 2) professional assessment of parental capacity and the needs of children and using this assessment as the basis of an agreement and form of alternative dispute resolution; 3) pretrial settlement conferences conducted in court when hearings are scheduled regarding contested custody matters of all types, and; 4) administration of the mandated statewide parent education program.

CHALLENGES FACING THE SYSTEM IN CONNECTICUT TODAY

Conflict between parents during and after separation presents a major risk to children and a major challenge to the system. The majority of divorcing and separating parents recognize their personal responsibility to meet the financial, emotional, and developmental needs of their children. These parents, with some assistance from the Family Services Unit, private mediators or therapists, do their best to work out arrangements for the future life of their children within the changed family.

However, a small minority of parents engages in persistent conflict because of anger, characterological or mental health problems, or the force of personality. These families over consume system resources pursuing their conflict and frequently harm their children in the process. The ability of this population to use the constitutional right of access to the courts as a means for revenge or punishment against the other parent is an unintended negative consequence of the legal process. The court has the responsibility to manage these high conflict cases in ways that pass constitutional muster, and protect and respect the interests of children, without rewarding high conflict parents with inappropriate availability of the court. The system's role is to help these families establish parenting plans and otherwise make arrangements that work well for their children. The system also has a responsibility to help keep both parents involved in parenting, where that is consistent with the children's best interest, and at the same time help these families reduce conflict for the benefit of the children. These are all very difficult tasks. Even in a perfectly designed system with unlimited resources it is recognized that some families will end-up taking their conflict all the way through to a trial.

Another challenge is the growing prevalence of self-represented parties, or Pro Se's. Pro Se's attempt to navigate a legal process without the assistance of an attorney. Not only do Pro Se's risk being overwhelmed by the complexity of the legal and factual issues, but they also enter the process without the counseling that lawyers give to clients

before, during, and after the divorce and custody determination process. Their sense of confidence in the process is many times adversely affected by their lack of knowledge and help through the process.

Taking these and other factors into account, the Commission identified five broad challenges facing the system, which, if addressed, would improve how the process works for children. They are:

1. **CHILDREN NEED THE INVOLVEMENT OF BOTH OF THEIR PARENTS.** Too many divorces end-up with an uninvolved or under-involved parent which research shows to produce less favorable outcomes for children. There are families in which one or both parents engage in physical, emotional, or substance abuse and other behavior harmful to children. These cases warrant limiting the involvement of one parent, but in cases where these harmful factors are not present, the system should promote and protect children's need for the balanced and meaningful involvement of both parents during and after divorce.

2. **THE DIVORCE AND CUSTODY DETERMINATION PROCESS OFTEN TAKES TOO LONG AND COSTS TOO MUCH**. Children are particularly vulnerable to harm during the divorce and custody determination process and often suffer afterwards from its economic and emotional costs. Assuring that divorces do not last too long, particularly in high conflict cases, will reduce the length of time children remain in this vulnerable period and should reduce the overall economic and emotional costs of divorce.

3. **THE DIVORCE AND CUSTODY DETERMINATION PROCESS IS TOO STRESSFUL FOR PARENTS AND CHILDREN.** Divorce is stressful for parents and for children. Uncertainty and conflict during divorce pose direct and indirect harm to children. The stress of divorce can distract parents and make them emotionally unavailable for fulfilling their parenting roles. If stress and

conflict can be reduced during and after divorce, all parties, but particularly children, will benefit.

4. **SOME PARENTS AND THEIR ADVOCATES ABUSE THE DIVORCE AND CUSTODY DETERMINATION PROCESS**. Some parties abuse the system wasting valuable system resources, prolonging the conflict and cost of divorce, or undermining parenting arrangements. More resources would be available to families who need them if families and/or their representatives who inappropriately over-consume system resources could be discouraged. Children would also benefit if compliance with agreements and court orders was improved and if opportunities for parents to inappropriately prolong their dispute were diminished.

5. **CONNECTICUT'S ALREADY EXCELLENT JUDICIAL BRANCH AND PRIVATE SECTOR SERVICES REQUIRE EXPANSION AND ENHANCEMENT IN ORDER TO CONTINUE TO PROTECT CHILDREN AND FAMILIES.** Opportunities exist to improve the system, principally in the areas of more education of parents and children about the divorce process, more continuing education and skill development for professionals in the system, and continued enhancement of systems and coordination within the Judicial Branch.

These identified challenges set the framework for the Commission's developing its recommendations. There are other important challenges facing divorcing families that deserve attention, including financial issues and family violence and abuse, but the Commission didn't view these challenges as within the scope of its charge. However, the Commission feels it is important to state that when family violence and/or abuse are present in a family going through divorce, special considerations and protections are called for, many of which present exceptions to the general recommendations of the Commission. For example, when family violence and/or abuse are present, they warrant an exception to the Commission's recommendation that children need the balanced and meaningful involvement of both parents. Obviously, if the presence of family violence

and/or abuse poses direct or indirect harm to a child or if the involvement of a parent poses harm to the other parent, the Commission's recommendation regarding parental involvement would be different. As family violence and abuse relate to divorce and custody determination, the Commission believes that children and parents should be able to count on at least the following during and after the divorce and custody determination process:

- Identification and accurate assessment of past or current family violence or abuse and any related physical, emotional, or psychological harm.
- Court orders, other protections, and interventions that provide for prevention of future harm and healing of past harm.

Having established these varied challenges facing the system, the Commission set out to find ways to change or add to the system to improve it for the benefit of children.

RECOMMENDATIONS

The Commission unanimously endorses the following recommendations as they relate to the five major challenges set forth above that the Commission seeks to address:

CHALLENGE #1: CHILDREN NEED THE INVOLVEMENT OF BOTH OF THEIR PARENTS.

The commission believes that children need and have a right to balanced, responsible, and meaningful relationships with both parents that meet the needs of the child during and after the divorce and custody determination process. Toward this end the commission recommends the following:

- **Amend the statutes to supplement custody and visitation provisions with language requiring parenting plans and parental responsibility. Articulate in this statutory change the important role and responsibilities of both parents in the lives of their children during and after the divorce and custody determination process, so that the balanced and meaningful involvement of each parent is both promoted and protected.**

Children benefit when it is recognized that parents normally serve different, but equally important, roles in their child's development. When children have responsible and actively involved parents they do better during and after divorce. Current visitation language implies a 'primary' parent and a 'visiting' parent. It is believed that parental involvement and compliance with parental responsibilities improves when the importance of both parents' roles and responsibilities are recognized in a parenting plan. Despite this recommendation, the Commission realizes that certain aspects of custody language must be retained for those cases in which sole custody is in the best interests of the child and for enforcement of a number state, federal and international laws, including Connecticut's criminal statutes, designed to protect children. (Recommended statutory

language is provided in the Appendix, Item I, "Parental Responsibility and Best Interest of the Child.")

- **Require parties to submit a Parenting Plan to the court within 90 days of the filing of a divorce or custody action which will encourage mutual involvement, discourage power imbalances between the parties, and promote the court's stated philosophy that each family has the autonomy to construct a customized parental responsibility plan that matches the needs of their family. The Plan should at least include the following:**
  - **A parenting schedule,**
  - **A plan for making decisions regarding the child's health, education, and upbringing, including an alternate dispute resolution mechanism, and**
  - **Remedies if a parent fails to comply with the plan or carry out agreed to parental responsibilities.**

Early submission of parenting plans frequently highlights unresolved parenting issues including the parenting schedule. Identifying unresolved issues early provides the opportunity for fast tracking cases likely to require an evaluation and trial and for making early referrals for needed services. Most children benefit from early resolution of their schedules, the fast tracking of high conflict cases, and the early availability of needed services. Parenting plans can also reduce the level of conflict to which children are exposed by setting forth dispute resolution mechanisms and remedies for non-compliance that help parents learn how to resolve differences in the new family configuration. (Recommended statutory language is provided in the Appendix, Item I, "Parental Responsibility and Best Interest of the Child" and Item II, "Parental Responsibility Plans.")

- **Adopt statutory criteria for the factors that should be considered in determining the best interest of the child. The Commission has agreed upon criteria that reflect the current decisional law and the Commissioners' beliefs about the factors that serve the best interests of the child. The Commission's recommendation for statutory adoption represents a list of criteria, which fairly balance legitimate competing interests. Because it is necessary to ensure that the various competing factors are represented, the Commission urges that adoption be considered as proposed. The Commission believes that whether or not these criteria are legislatively adopted, they should be widely disseminated.**

Current Connecticut statutes require that custody decisions be made in accordance with the best interests of the child and, when appropriate, the child's preference. Many states have statutorily adopted specific factors that should be considered when determining the best interests of the child. Articulating these factors is helpful in formulating parenting plans and in informing parents of some of the factors that will be considered in determining the best interests of their child. Knowing these factors may make the process seem less risky and may positively affect parental behavior during and after the divorce process. Having articulated factors also can improve the consensus among service providers and decision-makers and, as a result, improve decisions on custody matters. Nothing in this recommendation, however, is intended to change the requirement that all custody determinations shall be in the best interests of the child. (Recommended statutory language is provided in the Appendix, Item I, "Parental Responsibility and Best Interest of the Child.")

- **Establish and implement a set of effective sanctions for parents who defy court orders, particularly with respect to inappropriately obstructing a child's access to and/or relationship with the other parent or violating orders designed to protect the child or other parent.**

A child's active and meaningful involvement with each parent depends largely on a reliable schedule. The Commission heard repeated testimony from the public that access orders are not enforced to the same degree as other court orders, including child support orders. A reliable schedule is necessary for meeting a child's needs for planned activities and other important arrangements. A reliable schedule is also critical for parents who need to coordinate their parenting activities with work and other responsibilities. Children are harmed when parents willfully and inappropriately fail to comply with a parenting schedule. Sanctions and remedies for inappropriate non-compliance should be quick, sufficiently coercive to act as a future deterrent, and easily and inexpensively obtained by the compliant parent. (Recommended Connecticut Practice Book language is provided in the Appendix, Item III, "Remedial Measures for Inappropriate Non-Compliance.")

CHALLENGE #2: THE DIVORCE AND CUSTODY DETERMINATION PROCESS OFTEN TAKES TOO LONG AND COSTS TOO MUCH.

The Commission believes that the divorce process lasts too long for some families and costs too much for many families. The Commission believes that the Judicial Branch standard of 12 months is a timely benchmark for the resolution of divorce and custody cases. The Commission urges that additional resources and case management tools be employed to ensure the maximum feasible number of cases are resolved within 12 months, particularly those identified as high conflict. Toward this end the Commission recommends the following:

- **Enforce, for case management purposes, filing of the parental responsibility plan within ninety (90) days of filing for divorce to help identify unresolved parenting issues early and provide the opportunity for early referral for additional services.**

Requiring parenting plans within 90 days of the filing date will help parents identify and resolve parenting issues early and help the Family Services Unit identify early and fast track cases likely to require a trial and/or other services prior to resolution. By fast tracking these cases early, the total time from filing to final orders can be significantly reduced.

- **When a case has been identified as high conflict, conduct a case management conference with all parties and counsel present which sets a schedule for discovery, deposition, mediation and evaluations pretrial and trial, all on dates certain, with the objective of completing the trial within twelve (12) months of the return date. The timeline for the completing financial discovery and dispositions shall not exceed the time necessary for completion of custody evaluations conducted by private service providers or the Family Services Division of the Judicial Branch.**

High conflict cases frequently go to trial. Cases that are tried require significant pre-trial preparation including financial discovery and a custody or access evaluation, both of which can take several months. In order for these cases to be completed within the 12-month benchmark for completion, the pre-trial preparation must be completed on a timely schedule. Conducting a case management conference, which also sets a firm trial date, will help assure that all pre-trial work is appropriately scheduled with report back dates to confirm that the work is completed on the expected date. The Rules (P.B. Secs. 25-5 and 25-50(d)) mandate a case management conference on the case management date (approximately 90 days from the return date) if custody or access issues are disputed between the parties. By using the rule, the court will help focus all parties on their schedule for trial, so that they know when their case must be settled if it can be settled.

- **Establish a judicial assignment system, which will, when feasible, assign one judge to handle all pre-trial matters for those cases identified as high conflict. Furthermore, the trial judge, when possible, should handle all post-judgment motions involving interpretation, enforcement, or modification of court orders.**

Keeping a single judge on a case for all matters during the divorce up to the time of a trial or other disposition and another judge for trial and post trial matters will enable the court to be better informed about the dynamics of high conflict couples and the special circumstances of each case. For example, it will eliminate instances where a chronic litigator tells his or her story over and over to a new judge hoping for a different outcome. With one judge on each case up to the time of trial and one for trial and post-trial, it is believed the court can manage the case better, reduce abuse of the process, and make better and more consistent decisions.

- **Continue to develop and implement early identification and tracking of disputed custody cases. To accomplish this the Judicial Branch, Family Services Unit must be provided sufficient resources to fully implement and monitor its early assessment capability and screening tool.**

An early screening process should be implemented to identify the special circumstances of each family entering the divorce process. An early screening process would enable the Family Services Unit to determine the need for services, the level of conflict, and the complexity of the issues involved. Currently, this occurs at the case management date, typically 90 days from the date of filing for divorce, or when a case is identified at the motion calendar as a high conflict case. The system should be revised to provide an earlier screening process for the identification of special needs. After a family's needs are identified, services to meet those needs should be made available. In addition to the mandatory Parenting Education Program for all parents, currently available court-sponsored services include mediation, the ability to order drug testing

and/or evaluation, and the appointment of a Guardian Ad Litem and/or an Attorney for the Minor Child.

As part of this early assessment capability, a screening tool should be developed which would be used by trained and experienced Family Service professionals in a mandatory screening process. The mandatory screening would occur when a motion related to custody, visitation, and/or access is filed with the court. The parties would participate in the screening before their matter would be permitted to have a short calendar hearing. Through this screening, preliminary determination could be made of needed family services. Cases in which family violence exists also will be identified early and verified for the protection of all. The early screening process also would identify situations where a full custody evaluation might not be necessary, thereby reducing the time and cost involved in managing and resolving the case.

The Commission recognizes that the Family Services Unit does not have sufficient personnel or resources at this time to fully implement this recommendation.

- **Recommend the Judges of the Superior Court amend automatic order, Practice Book 25-5, to permit referral to the Family Services Unit and hearing before the court, prior to the return date on parenting and access issues.**

Currently, referrals to the Family Services Unit cannot occur until the return date, which is frequently a month or more after the service of a divorce action on a defendant. When parents first separate there is usually no parenting schedule. An earlier referral to the Family Services Unit and access to the court would help with early identification and provision of needed services and would ensure appropriate child access by both parents early in the process. (Recommended Connecticut Practice Book language is included in the Appendix, Item IV, "Early Access to Family Services.")

- **Assign four more judges to hear Family Matters in the Superior Court, particularly in areas of greatest need.**

The Judicial Branch has set a twelve-month benchmark for the completion of family cases. This standard is designed to provide divorcing families and their children with the opportunity to resolve their matters in a relatively short time frame. It is based on the premise that these families – and their children – will benefit from a shortening of the process and will be permitted more quickly to adjust to the new circumstances of their family structure.

Many of the state's judicial districts have been able to assist families in meeting the standard. In one district, fewer than two percent of the cases filed remain pending after a year, and in most districts fewer than ten percent of the cases cannot be completed. However, in some districts, more than twenty percent of the family cases remain unresolved after a year, and some cases may take more than two years. Although some of these delays can be attributed to the complexity of the case, most result from the fact that in some districts there are too few judges to hear or otherwise resolve the high volume of cases presented.

Many of the cases that are not resolved in the twelve month time standard are characterized by high conflict, stress, and considerable cost, and these factors contribute to both economic and personal disadvantage to children. If more judges were available to handle these cases, the percentage of family matters that remain unresolved for more than a year would be greatly reduced.

- **Enhance and expand the case management system for Family Division cases. Family Case Flow Coordinators should be employed in all Judicial District court locations. In addition, the Family Services Unit should provide a case management function to keep cases moving through the assessment, mediation, and evaluation process toward resolution.**

Not all Superior Court locations currently have a Family Case Flow Coordinator to assist the presiding judge in keeping cases on track for resolution within reasonable time frames. All Superior Court locations should have a family case flow coordinator.

In addition, the Family Services Unit has an effective case management function to provide delivery of needed services and a tool for keeping cases moving toward disposition. The Family Services Unit should provide a case management function to coordinate with the parties, the child, their counsel and guardian, and private service providers to the family to keep cases moving efficiently.

CHALLENGE #3: THE DIVORCE AND CUSTODY DETERMINATION PROCESS IS TOO STRESSFUL FOR PARENTS AND CHILDREN.

A. The Commission believes that children's interests need to be better protected by parents, the court, and attorneys during and after the divorce and custody determination process to help reduce the level of conflict and stress to which they are exposed. Toward this end, the Commission recommends the following actions:

- **Eliminate disincentives for a parent who voluntarily leaves the marital residence when it is appropriate and in the best interest of the child, including a statutory change.**

Parents report that the common guidance offered to them from friends, family, and legal professionals is to remain in the marital residence so as not to jeopardize the

financial and custodial outcomes of their case. Both parents remaining in the marital household during the divorce process can exacerbate conflict and significantly increase stress on children. Where possible, disincentives for either parent to leave the marital residence when it is appropriate for the children should be removed.

One option is to amend the existing statutes so that if one parent voluntarily leaves the marital residence and if the court finds the parent's departure was motivated by and served the best interests of the child, the court would not consider leaving the marital residence unfavorably with respect to determination of custody matters or the formulating of a parenting plan. Other options may be available for removing disincentives to voluntarily leave the marital residence relating to financial matters, but these were not addressed by the Commission. (Recommended statutory language is provided in the Appendix, Item V, "Marital Residence.")

- **Create and implement a conflict management service in the Judicial Branch, Family Services Unit, specifically designed to contain and minimize the impact of severe and frequent parental conflict on children. Families that are entrenched in adversarial positions typically associated with excessive litigation would be identified through a screening/triage process and referred to these services.**

While the majority of families amicably resolve parenting issues, there is a segment of the pre and post divorce population that become and remain chronically conflicted. Chronic conflict is known to have harmful effects on children and to impede the ability of children and parents to adjust to their new life circumstances. These high conflict families are plagued by discord and often bring their conflict to the court repeatedly. Traditional services provided to families in dispute such as mediation, evaluation, and negotiation often prove ineffective in addressing the needs of high conflict families.

The triage/screening project currently underway, which is also a component of the Commission's overall recommendations, will assist and facilitate the identification of the needs of families that access the court system and correspondingly match the appropriate intervention (e.g. mediation, evaluation). Conflict Management Services would become an additional option among these interventions.

The goals of this recommendation are to expeditiously and conclusively address parental impasses with innovative strategies geared toward both crisis intervention and referral to longer-term services. It is anticipated the creation of a Conflict Management Service will foster further development of services and enhance collaboration between the court and community agencies in an effort to meet the needs of children.

The Commission recognizes that the Family Services Unit does not have sufficient personnel or resources at this time to fully implement this recommendation.

B. The Commission believes that if parents were better informed about the divorce and custody determination process and relieved of unwarranted concerns and fears about possible outcomes, their sense of risk and level of stress would diminish. Better informed parents would be more equipped to address important parenting issues and the needs of children, including the parents' responsibility to resolve differences on behalf of their children. Toward this end the Commission recommends the following actions:

- **Enhance the Parent Education Program to include the availability of developmentally appropriate education programs for children.**

Recent passage of Public Act 02-132 (81(b)) requires the Parent Education Advisory Committee to make recommendations to the Judicial Branch for expansion of the Parenting Education Program to provide education for the children of divorce. The Commission agrees that this is an appropriate goal and recommends that the Family Services Unit continue to expand the availability of these programs over time.

- **Establish a taskforce convened by the Judicial Branch to formulate and implement a broad-based, multi-faceted public education program about divorce.**

Education and training are powerful, cost-effective tools to further the objectives recommended by the Commission. A new statewide initiative should be undertaken to offer information and training to divorcing families and professionals serving their needs. Particular attention should be paid to informing parties about the divorce process, typical outcomes of divorce, and the availability of public and private services.

- **Promote the establishment of a website and other easily accessible sources of information about divorce and the custody determination process. Types of information would include:**
  - **Alternative dispute resolution options,**
  - **What people going through divorce can expect**
  - **Information on parenting arrangements and other issues of concern to parents, and**
  - **Information about service providers and support groups.**

Most parties to a divorce obtain their knowledge of the process informally from friends, family, support groups, and in many cases, their attorneys. If accurate and easily accessible information about the process were available to people earlier it is believed the experience of divorce will be less stressful and more likely to be resolved in a less adversarial way.

CHALLENGE #4: SOME PARENTS AND THEIR ADVOCATES ABUSE THE DIVORCE AND CUSTODY DETERMINATION PROCESS.

The Commission believes that steps should be taken to discourage abuse of the divorce and custody determination process to eliminate unnecessary consumption of

services and to encourage alternatives to litigation. Toward this end the Commission recommends the following actions:

- **Implement changes to improve compliance with court orders, especially parenting schedules:**
  - **Continue to educate judges on the best methods for obtaining compliance.**
  - **Integrate conflict managers into early resolution of compliance issues.**
  - **Facilitate easier access to the court and reduce the cost of hearings on compliance with parental responsibility plans and access orders.**
  - **And, as previously recommended, increase sanctions for violating court orders, especially inappropriately denying access to another parent or violating orders designed to protect the child or other parent.**

In a small, but important minority of cases, one or both parents willfully, regularly, and inappropriately fail to comply with agreements and/or court orders. In addition to failure to pay support, non-compliance with access orders and protection orders can be particularly harmful to children. After the court invests its resources to determine orders that best serve a child's interests, it is important the court also ensures that those orders are followed. The court should impose sanctions for non-compliance and fashion remedies to prevent further non-compliance. The court should also make it easy and inexpensive for a parent to obtain enforcement of court orders.

- **Recommend that the Judges of the Superior Court amend the automatic orders to require disclosure of all payments made for attorney's fees.**

Divorce proceedings can be very expensive for families. Most parents seek the assistance of attorneys as they go through the divorce and custody determination process

to obtain quality legal counsel and the best possible representation before the court. Such representation can be expensive. Although it is in the interests of parents to obtain quality legal representation, such representation is sometimes used to overwhelm another party or unfairly gain an advantage in a case. To discourage an unreasonable imbalance between the legal fees being spent by either party in a divorce case, it is recommended that attorneys fees associated with the divorce and custody determination process be more completely disclosed. Such disclosure will also alert judges and others when inappropriate amounts of family resources are being diverted to legal expenses in ways that may compromise a child's future care. (Recommended Connecticut Practice Book language is provided in the Appendix, Item VI, "Disclosure of Attorney Fees.")

- **Amend Section 46b-62 of the General Statutes to allow the court to consider unnecessary tactics, delays, and obstructionist tactics by one or both parents in determining whether to award counsel fees, and in what amount, to a parent, Attorney for the Minor Child, or Guardian Ad Litem.**

Some parties and their attorneys will unnecessarily cause delays in case processing by filing frivolous motions or employing other negative tactics. While negative tactics can be considered now by a judge in awarding counsel fees, articulating them in a statute strengthens the position of the beleaguered party and may take away some of the incentive for a party to use these tactics. (Recommended statutory language is provided in the Appendix, Item VII, "Orders for payment of Attorney's fees in certain actions, ").

- **Recommend that the Judges of the Superior Court amend the Practice Book to establish a significant threshold for modification of any custody, visitation, or parenting plan, so that chronic litigators are deprived, when appropriate, of this forum for conflict.**

In a significant number of cases, parties continue to litigate custody after judgment has entered. Some of these matters involve legitimate needs for a modification of orders. Others, however, have no bona fide basis and the continued conflict between the parents does not serve the best interests of the child. One way of restricting the parents' use of the courts for these purposes is to impose a threshold that must be met before these cases can proceed to a hearing, an evaluation can be commenced, and/or the other party can be compelled to appear in court or enter into discovery.

It is proposed that approval from the presiding judge be required prior to the filing of any motion, which seeks modification of orders within one year of the last order. It is also proposed that after one year, any motion for modification be handled on a bifurcated basis with the party seeking to modify the orders first having to show that there has been a substantial change in circumstances or that the current orders are not in the best interests of the child. It is important, however, that any method used to discourage overly litigious parties does not have the effect of reducing access to the court for those with legitimate needs. (Recommended Connecticut Practice Book language is provided in the Appendix, Item VIII, "Modification of Custody, Alimony or Support.")

CHALLENGE #5: CONNECTICUT'S ALREADY EXCELLENT JUDICIAL BRANCH AND PRIVATE SECTOR SERVICES REQUIRE EXPANSION AND ENHANCEMENT IN ORDER TO CONTINUE TO PROTECT CHILDREN AND FAMILIES.

The Commission believes that the Judicial Branch's ongoing efforts to expand and improve the availability of Judicial Branch and private sector services to children and

their parents should be supported and promoted. Toward this end the Commission recommends the following actions:

A. Family matters require special skills and education for those practicing in this area.

- **Ensure better compensation and urge continuing education for Attorneys for the Minor Child and Guardians Ad Litem.**

Attorneys for the Minor Child and Guardians Ad Litem provide valuable and often critical help to divorcing families and the courts. Providing better education and compensation for these service providers will encourage the availability of highly competent professionals in these important roles.

- **Recommend that the Judges of the Superior Court amend the Practice Book as follows:**

  - **Revise the Rules of Professional Conduct to require that attorneys inform their clients of the potential adverse effects of certain parental and attorney behavior on children during the divorce or custody determination process.**

  - **Require family lawyers to inform clients of the factors which the court considers in making decisions concerning parenting plans.**

  - **Require family lawyers to describe alternative dispute resolution options to their clients.**

Some of the elements of the adversarial process are inconsistent with what is in the best interests of children during and after the divorce process. Attorneys and parents need to know when advocacy and representing one's own interests conflict with a child's

interests and they need to make responsible decisions in favor of the child's interests when these conflicts arise. This goes hand-in-hand with promoting the concept that, in a family case, the proper role of an attorney includes that of counselor/advisor in addition to competent and "zealous" advocate. The model of the warrior needs to be replaced with a model of reasonable professional logically resolving parenting issues and financial issues within predictable parameters. As part of this counselor/advisor role, it is recommended that family lawyers advise and encourage their clients to consider alternate dispute resolution options, including the collaborative divorce approach to reduce the level of stress and conflict they, and more importantly, their children experience.

The Commission also recommends that the Rules of Professional Conduct be revised to require family lawyers to inform their clients of the factors which the court considers in making decisions concerning parenting plans. By sharing this information with their client, family lawyers will encourage parents to take into account this consensus view of children's best interests during their negotiations and decision-making

Many parents are not well informed early on about the options they have for resolving their disputes through mediation and other non-adversarial means. Often the alternative dispute resolution options conflict with an attorney's interest in the case and some attorneys do not to inform their clients of these options. The Commission recommends attorneys be required to inform their clients of these options.

(Recommended Connecticut Practice Book language is provided in the Appendix, Item IX, "Rule of Professional Conduct.")

- **Continue to provide opportunities for continuing education and professional development for judges, attorneys, family services personnel, and court related mental health professionals on issues affecting parents and children in the divorce and custody determination process.**

Better informed and better skilled professionals should result in better services being provided to children and parents as well as better and more consistent decisions from the courts.

- **Explore further standards and certification for private mediators.**

Testimony at the public hearings revealed that the quality of mediation services varies. Developing publicized standards and a certification requirement will improve the overall quality and consistency of these services. Professional associations could be helpful in developing standards for and credentialing of mediators.

B. Foster the efficiency and cost effectiveness of Judicial Branch's information processing and service delivery to children and parents in Family Matters.

- **Implement the recommendations of the Judicial Branch Committee on Pro Se Litigants.**

The Judicial Branch has expended resources to fully explore its needs in assisting self-represented parties before the court. This is a major concern in family matters and the recommendations for improvement in bringing services to those litigants should be implemented**.** In addition to the specific proposals for education initiatives and dissemination of information for Pro-Se's, the Commission urges the expansion of the court information centers as a means for providing appropriate assistance to Pro-Se's at

the courthouse**.** (The Final Report of the Committee on Pro Se Litigants is provided in Appendix, Item X.)

- **Provide supplemental resources to the Judicial Branch for the purposes of augmenting and accelerating the technology initiatives currently underway.**

The Judicial Branch is currently involved in several technology initiatives throughout its various divisions. These initiatives have already resulted in significant improvements in the efficiency, cost, and quality of services being provided by Family Services and the courts. Funding for these projects should be maintained, or, where possible, increased to accelerate their implementation. (See Appendix Item XI, "Recommendations for Enhanced Services" for detailed description of projects).

C. Have courts share information with each other relating to custody cases.

- **Recommend to the Judicial Branch that they investigate the establishment of a "one family/one file" policy on issues of paternity and custody determination in multiple courts.**

Custody orders may be entered in multiple courts, often resulting in conflicting custody orders. There are also situations where different paternity is established by different courts. A one family/one file policy on issues of paternity and custody would eliminate these conflicts. Judicial Branch information sharing has improved, but not eliminated, the problem of families having difficult issues decided by different judicial authorities in different courts or by the Department of Social Services.

- **Recommend to the Judicial Branch that they find a way, when possible, to appoint the same Attorney for the Minor Child or Guardian Ad Litem in multiple courts.**

Children should not have to share their confidences with more than one legal professional**.** Providing an opportunity for the child's attorney or guardian to represent the child in multiple courts is also beneficial because there will be more consistent advocacy or representation. In addition, a deeper understanding of the child's needs will most likely develop due to the increased contact between the Attorney for the Minor Child or Guardian Ad Litem and the child. Such understanding will improve the quality of representation and advocacy provided by the adult.

- **Provide services to the Probate Courts in the custody determination process.**

Some custody decisions are made in the Probate Courts. A full range of services similar to those provided by the Family Services Unit for custody determination in the Superior Court should also be available to the Probate Courts for custody related matters handled there.

RESOURCE AND FISCAL IMPACT OF RECOMMENDATIONS

Most of the Commission's recommendations represent statutory and rule changes, which will have no resource or fiscal implications for the State of Connecticut. Other recommendations will require additional resources and personnel in the Family Services Unit and possibly other areas within the Judicial Branch. The recommendations requiring additional resources include those involving early assessment and tracking, piloting a conflict management project, and case management and more case flow managers. The Family Services Unit estimates additional resource requirements if all the recommendations are implemented of 26 additional personnel (professional and para-professionals) and related resources. If the two Family Caseflow Coordinators recommended earlier in this report are not available from existing personnel, there will be an additional cost for them as well. (See Appendix, Item XI, "Recommendations for Enhanced Services").

However, the Commission believes that other recommendations, including the ones involving high conflict cases being fast tracked toward a 12-month completion, higher thresholds for reopening custody matters post-judgment, discouraging tactics by parties and their attorneys designed to delay or obstruct resolution, efforts at improving compliance, and anticipated benefits from conflict management services, together should result in significant long term cost savings. Members of the Commission and Judicial Branch operations are confident that the long term savings, although difficult to estimate accurately, will at least equal and may exceed the additional costs outlined above. Therefore, the Commission believes that its recommendations, if fully implemented, will result in no additional long-term costs to the State of Connecticut.

CONCLUSION

The Commission on Custody, Divorce and Children in the course of the last year has developed recommendations to Governor Rowland that are balanced, will likely be effective, and represent the best interests of children. The Commission believes that these recommendations, if implemented, will result in significant improvements in the system not only for children, but also for parents as well as other caregivers. The Commission hopes and further recommends that the necessary resources and follow-up steps be put in place to ensure that the recommended changes are successfully implemented.

APPENDIX

(Please note formatting for statutory changes: deletions are bracketed, new text is underlined)

Appendix Item I. Parental Responsibility and Best Interest of the Child

Section 46b-56 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) In any controversy before the Superior Court between parents as to the custody or care of minor children, and at any time after the return day of any complaint under §46b-45, the court may [at any time] make or modify any proper order regarding the [education and support of the children and of care, custody, and visitation] care, custody, education and support of the children if it has jurisdiction under the provisions of Chapter 815o. Subject to the provisions of §46b-56a, the court may assign [the custody of any child to the parents jointly] parental responsibility for raising the child to the parents jointly, or may award custody to either parent or to a third party, according to its best judgment upon the facts of the case and subject to such conditions and limitations as it deems equitable. The court may also make any order granting the right of visitation of any child to a third party to the action, including but not limited to grandparents.

(b) In making or modifying any order [with respect to custody or visitation, the court shall (1) be guided by the best interests of the child, giving consideration to the wishes of the child if the child is of sufficient age and capable of forming an intelligent preference, provided in making the initial order the court may take into consideration the causes for dissolution of the marriage or legal separation if such causes are relevant in a determination of the best interests of the child, and (2) consider whether the party satisfactorily completed participation in a parenting education program established pursuant to section 46b-69b] provided in subparagraph (a), the rights and responsibilities of both parents shall be shared and the court shall enter orders which serve the best interests of the child and

which provides the child with the active and consistent involvement of both parents commensurate with their abilities and interests. Such orders may include:

i. Approval of a parental responsibility plan agreed to by the parents pursuant to 46b-56a.

ii. Joint parental responsibility of a minor child to both parents, which shall include: (1) provisions for residential arrangements with each parent in accordance with the needs of the child and the parents; and (2) provisions for consultation between the parents and making major decisions regarding the child's health, education and religious upbringing.

iii. Sole custody to one parent with appropriate parenting time for the noncustodial parent where sole custody is in the best interests of the child, or

iv. Any other custody arrangements as the court may determine to be in the best interest of the child.

In making or modifying its award, the court shall consider the best interest of the child including but not limited to the following factors: (1) the temperament and developmental needs of the child, (2) the capacity and the disposition of the parents to understand and meet the needs of the child, (3) relevant and material information from the child, (4) the wishes of the child's parent or parents as to custody, (5) the past and current interaction and relationship of the child with each parent or parents, the child's sibling(s) and any other person who may significantly affect the child's best interests, (6) the willingness and ability of each of the parents to facilitate and encourage such continuing parent-child relationship between the child and the other parent as is appropriate which shall include compliance with any court orders, (7) manipulation and coercive behavior in efforts of parents to involve the child in the parent's dispute, (8) ability of each

parent to be actively involved in the life of the child, (9) the child's adjustment to home, school and community environments, (10) the length of time the child has lived in a stable satisfactory environment and the desirability of maintaining continuity provided that the court shall consider favorably a parent who voluntarily leaves a child's household pendente lite, to alleviate stress in the household (11) the stability of the existing and/or proposed residences, (12) the mental and physical health of all individuals involved (except the disability of a proposed custodian in and of itself shall not be determinative of custody unless the proposed custodial arrangement is not in the best interest of the child), (13) the child's cultural background, (14) the effect on the child of the actions of an abuser if any domestic violence has occurred between the parents or between the parent and another individual or the child, (15) any child abused or neglected as defined in section 46b-120, (16) whether the party satisfactorily completed participation in a parenting education program established pursuant to section 46b-69b. The court is to consider all of the foregoing factors but is not required to assign or ascribe any particular weight to any of the foregoing factors.

(c) In determining whether a child is in need of support and, if in need, the respective abilities of the parents to provide support, the court shall take into consideration all the factors enumerated in section 46b-84.

(d) When the court is not sitting, any judge of the court may make any order in the cause which the court might make under subsection (a) of this section, including orders of injunction, prior to any action in any cause by the court.

(e) A parent not granted custody of a minor child shall not be denied the right of access to the academic, medical, hospital or other health records of such minor child unless otherwise ordered by the court for good cause shown.

(f) Notwithstanding the provisions of subsection (b) of this section, when a motion for modification of custody or visitation is pending before the court or has been decided by

the court and the investigation ordered by the court pursuant to section 46b-6 recommends psychiatric or psychological therapy for a child, and such therapy would, in the court's opinion, be in the best interests of the child and aid the child's response to a modification, the court may order such therapy and reserve judgment on the motion for modification.

Appendix Item II. Parental Responsibility Plans

Section 46b-56a of the general statutes is repealed and the following is substituted in lieu thereof:

[Joint custody. Definition. Presumption. Conciliation. (a) For the purposes of this section, "joint custody" means an order awarding legal custody of the minor child to both parents, providing for joint decision-making by the parents and providing that physical custody shall be shared by the parents in such a way as to assure the child of continuing contact with both parents. The court may award joint legal custody without awarding joint physical custody where parents have agreed to merely joint legal custody.

(b) There shall be a presumption, affecting the burden of proof, that joint custody is in the best interests of a minor child where the parents have agreed to an award of joint custody or so agree in open court at a hearing for the purpose of determining the custody of the minor child or children of the marriage. If the court declines to enter an order awarding joint custody pursuant to this subsection, the court shall state in its decision the reasons for denial of an award of joint custody.

(c) If only one parent seeks an order of joint custody upon a motion duly made, the court may order both parties to submit to conciliation at their own expense with the costs of such conciliation to be borne by the parties as the court directs according to each party's ability to pay.]

Parental Responsibility Plans. In any dispute between parents before the Superior Court concerning custody, care, education and upbringing of a minor child, the parent shall file with the court at such time and in such form as shall be designated by rule of the court a proposed parenting plan which shall include at least the following items: (1) a schedule of the physical residence of the child during the year, (2) the plan shall allocate decision making authority to one or both parents regarding the children's education, healthcare and religious upbringing, (3) the plan shall contain provisions for the resolution of future

disputes between the parents including, where appropriate, the involvement of mental health professionals or other parties to assist the parents in reaching a developmentally appropriate resolution to disputes, (4) provisions for dealing with parents' failure to honor responsibilities as set; (5) provisions to deal with the child's changing needs as the child grows and matures; and (6) provisions to minimize the child's exposure to harmful parental conflict and to encourage the parents in appropriate circumstances to meet the responsibilities of their minor children through agreements and to protect the best interests of the child. Parties not filing a timely plan shall automatically be referred to Family Services Unit for mediation and/or assistance in preparing a plan.

The objective of a parenting plan is to provide for the child's physical care and emotional stability; to provide for the child's changing needs as the child grows and to set forth the authority and responsibility of each parent with respect to the child.

If both parents consent to a parenting plan, it shall be approved by the court as the custodial and access orders of the court unless the court shall find after hearing that the plan as submitted and agreed to is not in the best interest of the child.

Appendix Item III. Remedial Measures for Inappropriate Non-Compliance

The Connecticut Practice Book is revised to include the following:

Sec. 25-27a Among the remedies available to address contempt of court orders granting custody, parenting responsibility and parenting access times, the court may consider orders that include: (a) remedial times of additional parental access which may include more time than the time missed where a parent has been deprived of his/her time by the other parent; (b) fees and costs incurred for the enforcement of these court orders; (c) monetary fines; (d) modification to the custody/parenting orders (in accordance with the best interests of the minor children) which shall be entitled to expedited hearing; (e) reimbursement for child care costs to the other parent incurred as a result of a parent not caring for the child at his/her assigned times; (f) coercive incarceration until the condemnor satisfies the court of a present intent to obey the court order he/she has violated.

Appendix Item IV. Early Access to Family Services

The Connecticut Practice Book is revised to include the following:

Sec. 25-5. Automatic Orders upon Service of Complaint or Application
(Amended June 28, 1999, to take effect Jan. 1, 2000.)

(a) The following automatic orders shall apply to both parties, with service of the automatic orders to be made with service of process of a complaint for dissolution of marriage, legal separation, or annulment, or of an application for custody or visitation. An automatic order shall not apply if there is a prior, contradictory order of a judicial authority. The automatic orders shall be effective with regard to the plaintiff or the applicant upon the signing of the complaint or the application and with regard to the defendant or the respondent upon service and shall remain in place during the pendency of the action, unless terminated, modified, or amended by further order of a judicial authority upon motion of either of the parties:

* * *

(11) If the parents of minor children live apart during this dissolution proceeding, they shall assist their children in having contact with both parties, which is consistent with the habits of the family, personally, by telephone, and in writing unless there is a prior order of a judicial authority. Prior to the return date, the parents may contact the family services unit for assistance in arranging contact and resolving parenting issues. The court may hold a hearing and enter orders prior to the return date on notice upon application of either party, if the family services unit cannot resolve the access and parenting issues.

Appendix Item V. Marital Residence

Section 46b-83 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) At any time after the return day of a complaint under section 46b-45 or 46b-56 or after filing an application under section 46b-61, and after hearing, alimony and support pendente lite may be awarded to either of the parties from the date of the filing of an application therefore with the Superior Court. Full credit shall be given for all sums paid to one party by the other from the date of the filing of such a motion to the date of rendition of such order. In making an order for alimony pendente lite the court shall consider all factors enumerated in section 46b-82, except the grounds for the complaint or cross complaint, to be considered with respect to a permanent award of alimony. In making an order for support pendente lite the court shall consider all factors enumerated in section 46b-84.

(b) The court may also award exclusive use of the family home or any other dwelling unit which is available for use as a residence pendente lite to either of the parties as is just and equitable without regard to the respective interests of the parties in the property.

(c) <u>In actions pursuant to sections 46b, 46b-45 and 46b-61, where there are minor children, if one of the two parents residing in the family home has vacated as a resident without court order and if the court finds the parent's leaving of the household served the best interests of minor children, the court may consider it as a factor when making orders pursuant to section 46b-56.</u>

Appendix Item VI. Disclosure of Attorney Fees

The Connecticut Practice Book is revised to include the following:

Sec. 25-5. Automatic Orders upon Service of Complaint or Application
(Amended June 28, 1999, to take effect Jan. 1, 2000.)

(a) The following automatic orders shall apply to both parties, with service of the automatic orders to be made with service of process of a complaint for dissolution of marriage, legal separation, or annulment, or of an application for custody or visitation. An automatic order shall not apply if there is a prior, contradictory order of a judicial authority. The automatic orders shall be effective with regard to the plaintiff or the applicant upon the signing of the complaint or the application and with regard to the defendant or the respondent upon service and shall remain in place during the pendency of the action, unless terminated, modified, or amended by further order of a judicial authority upon motion of either of the parties:

(1) Neither party shall sell, transfer, encumber (except for the filing of a lis pendens), conceal, assign, remove, or in any way dispose of, without the consent of the other party in writing, or an order of a judicial authority, any property, individually or jointly held by the parties, except in the usual course of business or for customary and usual household expenses or for reasonable attorney's fees in connection with this action. <u>The amounts of all payments made for attorney's fees and the balance billed on all statements rendered for attorney's fees and disbursements shall be disclosed by counsel to all counsel and pro se parties who have appeared within 15 days of the mailing of a statement or receipt of a payment. The amounts of all attorney's fees and disbursements billed and paid shall also be disclosed on each financial statement filed in accordance with §25-30 the amounts of which shall be certified as true by counsel.</u>

Sec. 25-30. Statements to Be Filed

(a) At least five days before the hearing date of a motion or order to show cause concerning alimony, support, or counsel fees, or at the time of a dissolution of marriage, legal separation or annulment action or action for custody or visitation is scheduled for a hearing, each party shall file, where applicable, a sworn statement substantially in accordance with a form prescribed by the chief court administrator, of current income, expenses, assets and liabilities and all attorney's fees paid and incurred in the pending action as provided in Section 25-5.

Appendix Item VII Orders for Payment of Attorney's Fees in Certain Actions

Sec. 46b-62. (Formerly Sec. 46-59). Orders for payment of attorney's fees in certain actions.

In any proceeding seeking relief under the provisions of this chapter and sections 17b-743, 17b-744, 45a-257, 46b-1, 46b-6, 46b-212 to 46b-213v, inclusive, 47-14g, 51-348a and 52-362, the court may order either spouse or, if such proceeding concerns the custody, care, education, visitation or support of a minor child, either parent to pay the reasonable attorney's fees of the other in accordance with their respective financial abilities and the criteria set forth in section 46b-82. If, in any proceeding under this chapter and said sections, the court appoints an attorney for a minor child, the court may order the father, mother or an intervening party, individually or in any combination, to pay the reasonable fees of the attorney or may order the payment of the attorney's fees in whole or in part from the estate of the child. If the child is receiving or has received state aid or care, the reasonable compensation of the attorney shall be established by, and paid from funds appropriated to, the Judicial Department. In determining whether to order the payment of attorney's fees, the court may consider unnecessary tactics, delays, or obstructionist tactics by one or both parents.

Appendix Item VIII. Modification of Custody, Alimony or Support

The Connecticut Practice Book is revised to include the following:

Sec. 25-26

(b) Either parent or both parents of minor children may be cited or summoned by any party to the action to appear and show cause, if any they have, why orders of custody, visitation, support or alimony should be entered or modified.

(e) Each motion for modification shall state the specific factual and legal basis for the claimed modification and shall include the outstanding order and date thereof to which the motion for modification is addressed.

(f) NEW No motion for modification of any custody or visitation order or parental responsibility plan (including orders entered pendente lite) shall be filed within one year of the entry of the order without prior permission of the presiding judge. An application to file such a motion shall be filed with the proposed motion and shall comply with subsection (e) hereof. The court may decide such application without hearing. After one year, the court may bifurcate the issue of whether a substantial change in circumstance has occurred (or the case of an order entered that was not contested, that the existing order is not in the best interest of the child) on motion of either party or the child or the court's own motion before hearing the merits of any motion for modification. The court may determine whether discovery or study or evaluation pursuant to Section 25-60 shall be commenced prior to determining that movant is entitled to a hearing on the merits.

Appendix Item IX. Rule of Professional Conduct

Special Responsibilities of a Lawyer in a Child Custody Case

In a family matter, where the custody of a minor child is to be determined by the court, a lawyer representing a parent shall: (a) inform the client of the availability of mediation for custody related issues; (b) inform the client that s/he should consider the effects of the conduct of the litigation on the parties' child/ren; and (c) inform the client of criteria used by the court to determine the best interest of the child.

Appendix Item X. Final Report of the Committee on Pro Se Litigants

THE FINAL REPORT OF THE COMMITTEE ON PRO SE LITIGANTS

INTRODUCTION

In March 2001 Chief Justice William Sullivan and the then CBA President Donat Marchand agreed to form a committee of judges and lawyers to study the issue of pro se or self-represented litigants in civil cases including family cases in the Connecticut Superior Court. The Chief Justice appointed the Honorable C. Ian McLachlan to be co-chair of the committee and President Marchand appointed Attorney Frederic S. Ury the other co-chair. The other members of the committee are Judge Sandra Vilardi Leheny, Judge Patty J. Pittman, Attorney William T. Fitzmaurice, Attorney Geoffrey Milne, Attorney Barry Pinkus, and Attorney Norman Janes. The Committee has met 8 times since April 2001. In the fall of 2001 the Committee issued a Preliminary Report which was presented for comment to various constituencies in the legal community including the House of Delegates of the CBA, Chief Justice Sullivan, various sections of the CBA, all local bar associations and The Judicial Branch. The Committee would like to thank all of the members of the bar and judiciary who commented on the interim report.

THE EXTENT OF PRO SE REPRESENTATION

One of the earliest studies of self-represented litigants in the United States was conducted in two family courts in Connecticut from 1974-1976. The study found that only 2.7% of cases involved a self-represented litigant.

Since 1976 the number of pro se litigants in the Connecticut Courts has grown at an alarming pace.

In April 1996 The Family Services Division of the courts sampled the status of all parties involved in court negotiation with their staff statewide. They documented that forty four percent (44%) of all cases involved at least one pro se party and in twenty-three percent (23%) of the cases, both parties were representing themselves.

In February 1998 in the Judicial District of Bridgeport 93% of all applicants for relief from domestic abuse were pro se litigants. Eighty percent of the uncontested divorces that month involved pro se litigants. Forty-six percent (46%) of the family cases on the short calendar in February 1998 involved a pro se party.

In September of 1999 two-thirds of the uncontested divorces on the court calendars in six judicial districts involved at least one pro se litigant and in twenty percent of the cases both parties were self-represented.

In June 2001 a study by the Judicial Branch found that on average from 20% to 33% percent of divorces statewide had at least one pro se party. The percentages were even larger in relief from abuse cases in every Judicial District Courthouse.

Nor is the increase in pro se litigants limited to family law. Fifteen percent of defendants in contract collection cases were self-represented. The study also showed that there are increasing numbers of pro se litigants throughout the entire state in both large and small jurisdictions. The report also highlights that although there are more pro se litigants in the family area than in any other, there is a growing number of pro se litigants in collection, and foreclosure cases. The entire study can be found in the Appendix to this report.

WHY THE NUMBER OF PRO SE LITIGANTS HAS INCREASED

The rise in pro se litigants is not a Connecticut phenomenon, but is a trend seen in every state and federal court. The subject has been studied by numerous organizations including the American Bar Association, The American Judicature Society, and most state bar associations.

Most of the commentators agree that there are a number of common factors, which contribute to the increase in pro se litigants. They are:

- Cost of litigation;
- The increase in legal self-help publications;
- Cutbacks in federal and state legal services appropriations; and
- Negative perceptions about lawyers.

WHO ARE PRO SE LITIGANTS?

One of the most detailed studies of pro se litigants was conducted by the American Bar Association in 1990 in the Superior Court in Maricopa County Arizona. The survey included 1,900 domestic relations cases in the Superior Court and found that pro se litigants tended to be:

- Lower-income;
- Younger persons;
- Less educated;
- Less job skills;
- People with no children;
- People with no real estate or personal property; and
- Litigants with new marriages.

A 1996 New York State Bar Association study found that middle-income persons increasingly were representing themselves. The survey found that 26 percent of the respondents were found to be "better educated and were on the more highly compensated end of the middle-income spectrum."

From their own observations in a variety of court locations in Connecticut, members of the Committee noted that there is no one particular type of pro se litigant. There is clearly an increase in the number of better educated pro se litigants who are not poor and who have chosen to represent themselves for a variety of reasons.

Each pro se litigant may need a different level of assistance. Some are going to need extensive help in getting through the system while others may need to be directed to the Judicial website.

RIGHT OF ACCESS TO THE COURTS

Litigants who represent themselves are a challenge to the clerk's office, the judges before whom they appear, and the lawyers who represent opposing parties.

But as much as members of the legal profession might like the numbers of pro se litigants to decrease so that the jobs of court administrators, judges and lawyers could be easier, the numbers of self-represented will continue to increase in the foreseeable future unless the economy improves, the cost of litigation is reduced, the amount of money allocated by the Federal and State government to legal aid organizations is increased or the number of private attorneys willing to represent people who cannot afford an attorney dramatically increases. None of the above seems likely to occur in the near future.

Pro se litigants are here to stay. They have the right to be in the courts and to represent themselves. As the Federal Court said in *National Association for the Advancement of Colored People v. Meese,* "One of the basic principles, one of the glories, of the American system of justice is that the courthouse door is open to everyone—the humblest citizen, the indigent, the convicted felon, the illegal alien."

Our own Appellate Court has stated that "Great latitude is normally given to a litigant who … represents himself in legal proceedings…. such a litigant shall have the opportunity to have his case fully and fairly heard so far as such latitude is consistent with the just rights of the adverse party….". *Mantell v. Greene*, 15 Conn App 1, 5 (1988).

CONNECTICUT'S RESPONSE TO THE INCREASE IN PRO SE LITIGANATS

In 1998, Hon Anne C. Dranginis, Chief Administrative Judge, Family Division, appointed the Hon. Lloyd Cutsumpas to convene a cross-disciplinary committee to study the then current approach to pro se family litigants in Connecticut Superior Courts and to

recommend policy changes and a uniform protocol for responding to self-represented litigants in family cases.

The Cutsumpas Committee met a number of times and produced a comprehensive report in November 1999 that accurately identified the problems and challenges facing pro se litigants, the Bar, and the judiciary. Although the Committee feels that we have made some progress within the court system in dealing with pro se litigants, many of the "Points of Consensus" and "Areas of Concern" raised in the Cutsumpas report remain valid and important enough that they be included in this report. These challenges remind us that much work remains to meet the challenges of pro se litigants.

Points of Consensus

- The volume of pro se litigants in the court system has grown exponentially over the past 12 years.
- Local procedures for handling pro se litigants vary widely among judicial districts and G.A.'s.
- The lack of uniform practice confuses pro se litigants and makes it more difficult to develop educational or informational materials for pro se litigants.
- The volume of pro se litigants is straining court resources, including clerks, Family Services staff and judges.
- Pro se litigants may lack meaningful access to court due to lack of legal training and lack of familiarity with legal terminology and procedure.

Areas of Concern

- Judges worry about the proper amount of latitude to give pro se litigants with respect to court rules.
- Judges are concerned about the representations of pro se litigants at pretrial conferences; should they be made under oath, on or off the record, in chambers or in the courtroom.
- Judges are unclear about whether to handle ex-parte applications for relief from abuse on the papers or after hearing testimony.
- Clerks worry about giving legal advice and where the line between advice and information is drawn.
- Clerks worry about personal liability if incorrect advice or information is given; they would feel more comfortable if immunity were granted.
- Family Services staff worries about personal safety while dealing with emotionally charged litigants.
- Family Services staff worries about the emotional impact of the court process on pro se litigants.
- Attorneys worry that too much pro se assistance will undermine their market.
- Attorneys are concerned that inadequate court resources will end up causing delays and costing them and their clients while they wait for judges to deal with pro se litigants.

- Attorneys are concerned that pro se assistance from the bench results in partiality or at the appearance of it.

The Judicial Branch has implemented the following initiatives to meet the needs of pro se litigants:

Statewide

- Court Service Center located in New Britain. (See detailed description in Appendix) New Court Services Centers are planned for Bridgeport Superior Court, Middletown Superior Court, Waterbury Superior Court, Stamford Superior Court, 90 Washington Street Family Court, and Waterbury Superior Court.
- Public Information Desks: Information desks in courthouse lobbies staffed during peak hours; Give directions, docket and calendar information, and court forms; Currently available in ten Superior Court locations.
- Judicial Branch Website: Internet site with court directions, court forms, answers to frequently asked questions, etc.
- Creation of "Court Buddy" software program to provide easy electronic access to family case information, common legal words, frequently asked questions, and general courthouse information.
- Toll free 1-800-help line for child support cases available 8:30 a.m.-4:30 p.m.
- Proposed 1-800 help line for court/case information for JD and GA cases.
- Court forms available at most clerk's offices and law libraries, and on line.
- There are numerous self-help legal publications in the courthouse libraries. An extensive Bibliography of these publications is included in the Appendix. This Bibliography should be available on the Judicial website.

Housing Court

- Clerks authorized by statute to advise/assist pro se litigants.
- Housing specialists available to mediate landlord/tenant disputes
- Judicial Branch informational publications: "Rights and Responsibilities of Landlords and Tenants", "A Tenant's Guide to Summary Process", A Landlord's Guide to Summary Process".
- Most court forms available in simple, check-off format (including complaints and answers/special defenses).
- Statutorily authorized Housing Court Advisory Committee.
- Designated children's area at New Haven Clerk's office.

Small Claims Court

- Judicial Branch informational publication: "A Guide to Small Claims Court"
- Court Forms available in simple check-off format.
- Relaxed procedure and rules of evidence.

Family Court/Family Support Magistrate Court

- Court staff assistance with financial affidavits and child support guidelines worksheets provided by family relations counselors and support enforcement officers.
- Forms assistance and completed form review by court services and clerks;
- Judicial Branch informational publications: Do It Yourself Divorce Guide (English and Spanish edition), Do It Yourself Divorce Guide Supplement (English and Spanish edition), Do It Yourself Custody Guide and Supplement.
- Creation of pro se friendly court forms with fill in the blanks and check-offs in most family areas.
- Designated children's area at Waterbury JD courthouse, outside courtroom.

New Haven JD

- Yale Law School TRO project: Law students (sworn in as Temporary Assistant Clerks) available daily in New Haven JD to assist applicants for relief from abuse with affidavit and application paperwork
- Quinnipiac College School of Law Pro Se Project: Paid legal interns (sworn in as Temporary Assistant Clerks) available daily in New Haven JD to assist pro se litigants with court forms for TRO applications and pro se divorces. Two students were available full time throughout the summer as well.

PROBLEMS THAT STILL EXIST FOR THE SELF REPRESENTED IN CONNECTICUT

The initiatives started by the Judicial Branch are only a beginning in solving the problems faced by pro se litigants.

Getting in the Door: Access to Information

Although there has been an improvement over the years in some court forms, notably in family and housing, many others such as Pre Judgment Remedy applications, property executions and wage garnishments are complex and difficult for many attorneys to understand let alone litigants who have never been involved in the legal system. Many of the forms are only in English. Some forms are too complicated to expect non-lawyers to fill out without assistance especially if English is not a first language. Many forms use terms that are not defined and make no logical sense to the self-represented. Terms such

as service of process, return day, pre-judgment remedy, unsigned writ summons and complaint, are not terms used in their everyday life.

Lack of uniformity in the courts.

Procedures for handling cases vary from courthouse to courthouse, and even from judge to judge within a court location. This can be confusing for lawyers and pro se litigants alike. For example in some courts divorces are granted on case management dates and in other courts are continued on this date. In some courts hearings are conducted on the first day you appear for a pre judgment remedy in others it is continued. Short calendar procedures are different in the courts throughout the state. Adapting to these unwritten local rules can be especially challenging for individuals who may be in court for the first time. The failure to understand these procedures, or even to be able to find them written down anywhere, can result in postponements and continuance requests, to the inconvenience of the pro se litigant, the opposing lawyers or parties and the court.

RECOMMENDATIONS

The following are the recommendations of the Committee on Pro Se Litigants:

1. Information for pro se litigants

    a. The Judicial Department should review all forms to insure that they are as user-friendly as possible. This process is already underway and should result in less confusion among pro se litigants and attorneys.
    b. Develop forms that define terms and explain rights. These forms should include terms that a pro se will encounter before, during and after a trial. Examples of terms that should be defined are contained in the Appendix.
    c. Develop the Judicial Web site so that it is the primary place for pro se litigants to go to obtain forms, and information about the legal system.
    d. Develop as much uniformity in court procedures as is possible throughout the state. The Committee is aware that the Chief Justice's Civil Commission is working on developing and implementing uniform procedures throughout the state for such matters as prejudgment remedy hearings, trial calendars and short calendar.
    e. As the Judicial Branch develops the website to enable litigants to e-file we will need to insure that the necessary equipment and information are available to pro se litigants to enable them to use the system.

2. Information Desks and Court Service Centers

    a. The efforts to increase the number of information desks in courthouses should be continued. There should be an information desk in each courthouse staffed at least between 9:00AM and 11:30AM. At a

minimum, the information desk should have the ability to produce forms on line and access the Cater computer system. Where possible and appropriate the person staffing the information desk should be bilingual. The information desk should be in a prominent public place in each courthouse so that pro se litigants do not end up seeking advice from four or five different court employees.

b. Court Service Center eventually should be expanded to every major Judicial District. A detailed description of The Court service Center located in the New Britain Superior Court is included in the Appendix. It was the consensus of the committee that the addition of Court Service Centers in the major Judicial Districts will be the single most effective way to help pro se litigants effectively navigate the legal system. The Court Service Centers provides the forms, information and assistance, which pro se litigants need to proceed smoothly through the courthouse. With a place to go pro se litigants will not be in the clerks office asking questions; they will reduce the number of pro se litigants requesting help from courthouse librarians; and they will appear before the court with the correct form properly and fully filled out which will save time and resources. In addition the computers in the Court Services Center will enable pro se litigants to access all of the services on the Judicial website. As the Judicial Branch moves towards e-filing the importance of the Court Services Center will increase because for many pro se litigants this will be the only way they can access the computerized pleading system. It is noteworthy that over 40% of the users of the New Britain Court Services Center are attorneys.

c. In those Judicial Districts where there is no Court Services Center then one person in the clerk's office should be designated to work with pro se litigants. This person should receive the same training as the Court Services personnel. At our meeting with the Chief Justice the Judicial Branch agreed to continue to expand this program. New Court service centers will be implemented in Stamford, Waterbury and Bridgeport. This Committee will monitor the implementation of the Centers and will try to gauge whether the addition of the Center in Bridgeport has improved the courts ability to meet the needs of self-represented litigants.

3. Procedures for Judges and Attorneys to deal with abusive pro se litigants.

The Superior Court Rules Committee should explore the idea of adopting rules and procedures for Judges and attorneys to follow when faced with the pro se litigant who is abusing the court system which includes filing multiple frivolous motions.

4. Unbundling Legal Services

Unbundling legal services occur when an attorney is permitted to provide limited legal services for a client during a particular case. Although this topic is beyond the scope of this Committee's charge, the Committee believes because of information received by the Committee that the topic may be studied by the Connecticut Bar Association and proposals may be made to the Superior Court Rules Committee.

5. Recommendations for the Connecticut Bar Association

The Connecticut Bar Association and local bar associations have done much to encourage their members to perform pro bono legal services for persons who cannot afford an attorney. Many attorneys routinely accept pro bono cases, without receiving any recognition. Attorneys should also be encouraged to consider representing individuals on a reduced fee basis or a sliding scale. Connecticut lawyers contribute countless hours of their time to improve the administration of justice in other ways, such as providing service to charitable organizations or serving as Special Masters, Fact Finders or Attorney Trial Referees. The Bar should continue to foster these activities. The Judicial Branch and the Connecticut Bar Association should support the efforts of law schools in Connecticut to develop law school clinics in conjunction with the Judicial Branch to assist in providing legal services to litigants who cannot afford lawyers. Encourage The Young Lawyer's Section `to start a mentoring program to train law school students to assist pr se litigants in foreclosure and collection cases.

6. Service of Process

Service of Process is a complicated part of starting a lawsuit. The concept of service in a Prejudgment Remedy (PJR) where one must serve the PJR application first, have a PJR hearing, and then actually commence the lawsuit with an additional service of process is a cumbersome outdated and expensive procedure for attorneys and pro se litigants alike. The double service of process system needs to be simplified. Also in ordinary Civil and Family cases The Superior Court Rules Committee should study whether permitting the plaintiff to serve the complaint by mail and allow the defendant to acknowledge receipt of the summons and complaint and file an appearance in lieu of service of process would be a good alternative to Marshall service. The Committee suggests that Connecticut should adopt the type of service of process used by the Federal courts in Connecticut and elsewhere. This type of service will result in significant savings to The State of Connecticut as well as all litigants using the court system.

7. Mediation Services

The use of Housing Specialists should be expanded so that they are available to perform mediation services in foreclosure cases. Consideration should be given in some Judicial Districts to moving the foreclosure docket to the Housing Session. The mediation services performed by Family Services should be implemented in the child support magistrate's court. The mediation service could assist pro se litigants in the preparation of financial statements and child support guidelines worksheets and also facilitate mediation of support issues including payment of arrearages. Many issues in the magistrate's court involve child access and residence. The mediators will be able to assist in the resolution of such disputes and to insure that any issues affecting the safety of children are appropriately addressed.

8. Training

Court staff and Judges should continue to receive special training on how to deal effectively with pro se litigants.

9. Increased Funding for Legal Services.

Both the State and Federal Governments should increase funding for legal services for the poor.

10. Standing Committee on Pro Se Litigation

A standing Committee should be established by the bar to work with the Judicial Branch to identify new strategies for assisting pro se litigants. This Committee would report annually to the CBA and the Judicial Branch. The committee would also be responsible for measuring and evaluating the implementation of the recommendations contained in this report.

11. Examination of Rule 4.3—Dealing with the Unrepresented person

At a minimum Connecticut should adopt the proposed ABA changes to Rule 4.3. The proposed changes to Rule 4.3 are contained in the Appendix.

CONCLUSION

The committee would like to thank Joseph D. D'Alesio, Joseph John DelCiampo, David Iaccarino and Nancy L. Kierstead and Judy Stanulis all of the Judicial Branch for their invaluable assistance. We were grateful to have meetings with Chief Justice William Sullivan, Chief Court Administrator Joseph Pellegrino, The House of Delegates of the

Connecticut Bar Association, and CBA President Barbara Collins. We appreciated their input to the Preliminary report.

As with any report the proof is in the implementation. We hope that the Judicial Branch and the Connecticut Bar Association review our recommendations and act on them as expeditiously as is possible. We know that many of the proposals will take time and funding to implement but we are confident that together the Bar and the Judicial Department can work together to meet the challenges of pro se litigants, and to insure that our courts in Connecticut are available to every citizen no matter whether they appear with an attorney or by themselves.

FOOTNOTES

1. Meeting the Challenge of Pro Se Litigation: A Report and Guidebook for Judges and Court Managers (1998) p. 8 citing "The Unauthorized Practice of Law and Pro Se Divorce" 86 Yale L.J. 104,160 (1976).

2. Report of the Committee on Pro Se Litigants: A Road Map to the Future Committee Chair Honorable Lloyd Cutsumpas p. 6 (1999).

3. Id. at 6.

4. A Report and Guidebook for Judges and Court Managers, American Judicature Society (1998) p. 10-11.

5. Id. at 12.

6. Spencer, Middle Income Consumers Seen Handling Legal Matters Pro Se, New York Law Journal May 29,1996 at 1.

7. Cutsumpas Report at 3-4.

8. Cutsumpas Report at 13.

Appendix Item XI Recommendations for Enhanced Services

The following recommendations have been developed to enhance the scope of services offered by Family Services to better meet the changing needs of the divorcing population. The proposed initiatives are reflective and responsive to the feedback received by the Commission. These recommendations also parallel those put forth by two National Consultants that reviewed Connecticut's models of practice, case loads, and time standards 18 months ago experts (AFCC and Jeff Daniels - - these reports have been presented to the commission).

With the increase of 17 Family Relations Counselors and 9 paraprofessionals over a two-year period, Connecticut will be able to provide to this population a dynamic menu of dispute resolution and educational options in concert with collaborative partnerships with the private sector. This would decrease the number of contested cases and case backlog/timeframes. In addition, these resources will enable Family Services staff to separate the Civil and Criminal job functions; thus allowing for a change in the Civil job description to require advanced educational degrees and credentials. This specialized civil unit will then be highly trained in the intricacies and strategies of how best to intervene on behalf of children in divorcing matters.

With the balance of added resources requested in the attached table, Connecticut would be able to develop cutting tools, programs and information systems that would be considered major advancements in this field.

Programmatic Initiatives

- Create a standardized triage/assessment model for Family Services, which would facilitate the earlier and more in-depth identification of parenting conflicts; and correspondingly match the level of interventions/services necessary to assist the family in resolving the dispute. This would be a two stage process as follows:
  Court Intake: At this point in the process the FRC would administer an

abbreviated (first cut), triage tool to determine the following: appropriate for mediation (solo, or joint therapeutic model), parenting workshops, parent education, and other less intensive interventions. Should the families' assessment score place them in the more conflicted range, and this would require the instrument to be tested, evaluated and normed to Connecticut's population, a second a more **In-Depth Triage Assessment** would be conducted by the FRC. The FRC would request a continuance/report back date, in the 3 week range, and the parents and their attorneys would set an appointment at that time for this more intensive assessment. The FRC would review the case and determine if a model of evaluation was appropriate, are guardians or attorneys for children necessary, and are the families in need of a referral to the High Conflict Management Services or psychiatric or psychological evaluations.

- Expand services to conduct Early Intervention Programs during initial filing period and prior to short calendar
- Delineate and formally utilize on a statewide basis a spectrum of ADR models: specifically design models of mediation and evaluation based on the needs displayed by the families.
- Create a High Conflict Management Service in which the FRC serves as a Case Manager while the family was engaging in an intensive clinical endeavor similar to the PEACE Program. Designate 4 pilot locations to flied test and evaluate the results if the intervention.
- Formalize statewide a Special Master Program in which an FRC in collaboration with the private sector and family bar conduct intensive pretrial settlement conferences with contested cases before trial.
- Enhance FRC job performance by first creating civil specialists, delineate the civil and criminal functions, changing the job description and qualifications for the civil function, and supplement the existing staff development and clinical supervisions programs.
- Review the type of demographic information that should be collected as public policy on this divorcing population; and the most effective mechanism to gather and analysis the data.

- Institute a statewide case management process in which the age and level of conflict of cases are monitored.

Public Education Initiatives

- Establish Parenting Workshops to be offered in the five regions on a regular basis determined by utilization. These workshops would augment the existing Parent Education Program, and focus on proactively providing parents with an intensive divorce education forum; with particular emphasis on the impact of divorce upon children and successful strategies parents can practice to minimize the stress on children. These workshops would be conducted within a collaborative partnership between the Family Services Unit and the Family Bar.
- Establish a similar yet developmentally appropriate workshop (s), for children of divorcing or divorced families. These would be offered in the 5 regions based on utilization, and would be a collaborative partnership between Family Services, private clinicians and the Family Bar.

Programmatic Recommendations

Objective	Activity	Timeline
Parental Responsibility Plans	• Form work group • Research guidelines and developmental standards • Draft guidelines • Legislative approval • Implement	• January 2003 • February 2003- June 2003 • Summer 2003 • Fall 2003 • January 2004
Triage Process	• Preliminary Design • RFP Development • Implement • Evaluation	• Completed • August 2002 • January 2003 • January 2003- August 2004
High Conflict Management Services	• Design • RFP Clinical Services Training • Implement (4 pilot sites) • Evaluate effectiveness	• Spring 2003 • Summer 2003 • Summer 2003 • Fall 2003 • Fall 2003- Winter 2004
Formalize Special Masters Program/Specialization	• Job function enhancement/ Specialization • Intensive Subject Matter (Expertise) Training • Augment Clinical Supervision	• July 2003-July 2004 • January 2003 • July 2003
Technology/Information	• Refine CSSD's Case Management Information System • Review Health Form • Enhance Family Services Efficiency	• July 2003- June 2004 • Fall 2003 • Summer 2003

Appendix Item XII. Executive Order No. 22

STATE OF CONNECTICUT
BY HIS EXCELLENCY

JOHN G. ROWLAND
GOVERNOR

EXECUTIVE ORDER NO. 22

WHEREAS, two out of every five American children experience the consequences of divorce and over 11,000 marriages in Connecticut each year end in divorce; and

WHEREAS, half of all divorces in Connecticut involve children and custody issues; and

WHEREAS, of the nearly 9,000 children in Connecticut that are affected annually by divorce, 69% are under ten years of age; and

WHEREAS, the process of divorce and parental conflict may last for many months, if not years, frequently giving inadequate consideration to the best interests of the children; and

WHEREAS, parental conflict and divorce may have detrimental long-term effects on the children that can permanently shape children's attitudes, lifestyles, and mental health; and

WHEREAS, an effective strategy for addressing the issues of divorce and custody and their effect on children requires a comprehensive approach including research, education and communication;

NOW, THEREFORE, I, John G. Rowland, Governor of the State of Connecticut, acting by virtue of the authority vested in me by the Constitution and by the statutes of this state, so hereby ORDER and DIRECT:

1. That there be created a Commission on Custody, Divorce, and Children (hereinafter Commission) to study the issues of divorce, custody and children in Connecticut and make recommendations on how the State can improve the system.

   Emphasis shall be placed on the following:

   How the judicial, family services and other state agencies can work together more effectively;

   How the state can maximize the collaboration of state agencies and the academic and private communities with expertise in the areas of divorce, custody and children;

The approaches that need to be emphasized and more effectively used as the state interfaces with children of divorce;

The major successes and challenges of the family court system from both the national and Connecticut perspectives; and

The perspective of the advocacy community as to what is in the best interest of children of divorce.

2. That Mr. Thomas C. Foley and Judge Anne C. Dranginis shall serve as the co-Chairpersons of the Commission.

3. That the Commission shall be comprised of not more than 20 people including judges, lawyers, family service personnel, child psychologists, psychiatrists, and parents including:

    a. Judge Ian McLachlan

    b. Judge Herbert Gruendel

    c. Judge Lynda B. Munro

    d. Marsha Kline-Pruett, Ph.D.

    e. Jerry Brodlie, Ph.D.

    f. Ken Robson, M.D.

    g. Stephen Grant

    h. Eugene Falco, Esq.

    i. Christine Whitehead, Esq.

    j. Sidney Horowitz, Ph.D.

    k. Nancy A. Humphreys, Ph.D.

    l. Pat D'Angelo

    m. Phyllis Cummings-Texeria

    n. Robert Tompkins

    o. Jill Davies, Esq.

4. That the following persons, or their designees, may also be invited by the Chairperson to serve on the Commission's working groups: the Chief State's Attorney, Chief Public Defender, Probate Court Administrator, Commissioners from the Insurance Department, Department of Mental Retardation, Department of

Children and Families, Office of the Child Advocate, the Office of Health Care Access, Department of Social Services, and legislators with expertise in the areas children, divorce, and custody.

5. That the Commission shall be staffed by the Office of Policy and Management.
6. That the Commission shall report back to the Governor on its conclusions and recommendations within one year of the date of the issuance of this order.

Dated in Hartford, Connecticut this 5th day of December 2001.

By His Excellency's Command

_____
SUSAN BYSIEWICZ, Secretary of the State

Appendix Item XIII. Commission Members

Honorable Anne C. Dranginis, Co-Chair
Thomas C. Foley, Co-Chair
Jerry Brodlie, Ph.D.
Rebecca Calabrese, CISW
Phyllis Cummings-Texeria, MSW
Pat D'Angelo
Jill Davies, Esq.
Eugene Falco, Esq.
Stephen Grant, M.A.
Honorable Herbert Gruendel
Sidney Horowitz, Ph.D.
Nancy Humphreys, Ph.D.
Marsha Kline-Pruett, Ph.D., M.S.L.
Honorable C. Ian McLachlan
Honorable Lynda B. Munro
Kenneth S. Robson, M.D.
Robert Tompkins, M.A.
Christine M. Whitehead, Esq.

Staff to the Commission:
Elizabeth K. Graham, staff
Jeffery Daniels, facilitator

Appendix Item XIV. Subcommittee Members

Alternatives Subcommittee:
Judge Ian McLachlan (Chair)
Jerry Brodlie, Ph.D.
Robert Tompkins, M.A.
Kenneth S. Robson, M.D.

Lawyering Subcommittee:
Christine M. Whitehead, Esq. (Chair)
Robert Tompkins, M.A.
Eugene Falco, Esq.
Rebecca Calabrese, CISW

Technology Subcommittee:
Stephen Grant, M.A.

High Conflict Subcommittee:
Judge Lynda B. Munro (Chair)
Sidney Horowitz, Ph.D.
Pat D'Angelo
Robert Tompkins, M.A.
Marsha Kline-Pruett, Ph.D.
Phyllis Cummings-Texeira, MSW
Stephen Grant, M.A.
Judge Herbert Gruendel

Honorable Jim Abrams
Deborah Grover, Esq.
Sheila Horvitz, Esq.
Tom Collin, Esq.
Don Hiebel, Ph.D.
Professor Carolyn Kaas
Dr. Kyle D. Pruett
Barbara Tinney
Barry Armata, Esq.
Debra Ruel, Esq.
Shirley Pripstein, Esq.

Other Courts Subcommittee:
Judge Anne C. Dranginis (Chair)
Jill Davies, Esq.
Judge Herbert Gruendel
Judge Lynda B. Munro
Eugene Falco, Esq.

Justine Rakich-Kelly, Esq.
Judge Susan S. Reynolds
Ms. Marilou T. Giovannucci
Judge John W. Pickard
Bridget Jenkins, Esq.
Carol Forzani, Esq.
Magistrate Katherine Y. Hutchinson
Magistrate Harris T. Lifshitz
Judge James L. Lawlor
John Bailey, Esq.
Dr. Leslie Brett
Commissioner Patricia Wilson-Coker
Elaine Zimmerman
Jeanne Milstein
Gerard A. Smyth, Esq.
Commissioner Kristine Ragaglia
Judge Christine E. Keller