

IN THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR THE STATE OF FLORIDA

IN RE: IMPLEMENTATION OF)
MODEL FAMILY COURT) ADMINISTRATIVE ORDER
RECOMMENDATIONS AND) NO. 12.2
ESTABLISHMENT OF)
UNIFIED FAMILY COURT)
_____)

Pursuant to the opinion of the Florida Supreme Court in In Re: Report of the Family Court Steering Committee, 794 So. 2d 518 (Fla. 2001), which directs that each circuit court submit a revised local rule or administrative order consistent with the Model Family Court recommendations of the Family Court Steering Committee, including a provision for the establishment of a Unified Family Court in each judicial circuit, and in accordance with what has been the practice within the Twentieth Judicial Circuit as it has evolved over the nearly two decades since the Family Law Division was first established in Lee County, and during that period of time through the adoption of Administrative Order 2.12 and other related administrative and parochial orders, and in accordance with this Court's inherent authority to administer and regulate the courts of the Twentieth Judicial Circuit, it is

ORDERED AND ADJUDGED as follows:

1. *General Provisions.* There shall be a circuit-wide Unified Family Court ("Family Court") in the Twentieth Judicial Circuit based upon the "Coordinated Management" model as approved by the Florida Supreme Court in the opinion referenced above.

In a "Coordinated Management" system, all pending family court cases are coordinated and managed by a staff member or team of staff members to facilitate the delivery of social services as may be appropriate to any particular case through various community organizations, and to maximize judicial

resources throughout the circuit, avoid conflicting court orders, and prevent multiple court appearances by litigants on the same or similar issues.

2. *Scope of Cases.* Family Court will preside over family law cases involving family issues germane to a single family or extended family. These family law cases may include but shall not be limited to: dissolution of marriage, division and distribution of property arising out of a dissolution of marriage proceeding, annulment, support unconnected with dissolution of marriage, paternity, child support, URESA/UNIFSA, custodial care of and access to children, adoption, name change, declaratory judgment actions related to premarital, marital, or postmarital agreements, and civil domestic and repeat violence injunctions.

Also included within the defined family law cases are juvenile dependency, termination of parental rights, juvenile delinquency, emancipation of a minor, CINS/FINS, and truancy. All of these cases will be heard within the juvenile division and monitored by a case management team.

The court will also hear modification and enforcement of orders entered in all of the cases mentioned above.

3. *Judicial Assignment.* The assignment of cases and the applicability of this order to the various counties within the Twentieth Judicial Circuit shall be determined and governed by Administrative Orders 2.5 and 2.12, and such other administrative assignment orders as are necessary to effectuate the purpose of this order.

All family law cases shall be coordinated in a manner that will conserve judicial labor, ensure that no conflicting orders are entered involving the same family, and to the extent possible, either the same judge will hear multiple cases involving the same family, or all relevant admissible evidence or

other background information will be provided by case managers, lawyers or litigants to each judge handling a case involving the same family.

4. *Administrative Family Law Judge.* The court hereby formally establishes the office of the Administrative Family Law Division Judge for the Twentieth Circuit Court. In accordance with an administrative assignment order entered by this court on April 25, 2000, that judge is presently Circuit Judge Hugh E. Starnes. Judge Starnes will continue in that capacity until further order of this court. The duties of the Administrative Family Law Division Judge are as prescribed in the administrative assignment order and as further expanded by this administrative order.

5. *General Master and Hearing Officers.* General masters, special masters and hearing officers are approved for use in the Family Law Division. Each general master, special master and hearing officer shall be appointed by separate order of the Chief Judge and shall perform those duties as specified in the order of appointment. All presently appointed general masters, special masters and hearing officers shall continue to perform those functions as specified in their orders of appointment until further order of this court.

6. *Case Management.* A Family Court Services Plan for Lee County was established by parochial order dated October 26, 2001. It is the court's goal that the Model Plan will eventually be implemented in all of the counties within the Twentieth Circuit Court. During the trial phase of this Plan, case management in counties other than Lee County shall remain as currently established until such time as the Model Plan is adopted circuit-wide by order of this court.

7. *Self-Help Program.* The circuit has a Pro Se Litigant Program which is also known as the Family Court Services Program. This was established by order of the court entered September

11, 1997. The Pro Se Litigant Program provides services for self-represented litigants throughout the circuit and shall continue to do so in accordance with the order.

8. *Alternative Dispute Resolution.* It is the general practice within the Twentieth Judicial Circuit that mediation is mandatory prior to trial in all contested family law matters. This will continue to be the case. Mediation may be provided through a private mediator selected by the parties or through the Twentieth Judicial Circuit's Court Mediation Program as the parties may be advised.

9. *Guardian ad Litem.* The circuit has established and will maintain a Guardian ad Litem Program to represent the best interests of children involved in dependency cases and dissolution or custody matters. The program will be made available throughout the circuit with staff members located in each county as the Administrative Family Law Division Judge may deem appropriate.

10. *Supervised Visitation.* Supervised visitation services are available in Lee and Collier counties through various social service organizations. This program will expand to the other counties within the circuit as may be needed or required and as resources become available in the sound discretion of the Administrative Family Law Division Judge.

11. *Parenting Classes.* The requirement of parent education and family stabilization courses for divorcing parents or those involved in custody or dependency actions was established for all dissolution of marriage cases involving minor children in the Twentieth Judicial Circuit. There are presently programs that provide such services for all counties within the circuit.

12. *Drug Court.* Pursuant to Administrative Order 3.15, Drug Court was established throughout the Twentieth Judicial Circuit Court. Juvenile Drug Court shall be operated by separate

administrative order and contained within the Administrative Code of the Twentieth Circuit Court.

13. *Domestic Violence Court.* A separate Domestic Violence Court was established throughout the Twentieth Judicial Circuit pursuant to Local Rule IX adopted October 26, 1994. That court shall continue to operate as provided therein and through any orders entered in connection with Local Rule IX.

14. *Citizen Review Panels.* Citizen Review Panels are authorized to operate within the Twentieth Judicial Circuit Court pursuant to Administrative Order 12.1. Such panels may operate within the parameters established by Administrative Order 12.1 and may be expanded as provided therein within the sound discretion of the Administrative Family Law Division Judge.

15. *Disposition.* All cases in Family Court shall have a final hearing date for dispositions established at the earliest possible time, and all cases filed after July 1, 2001 in Lee County shall be reviewed by the Case Management staff for inclusion in the case management process. This requirement may be extended to other counties within the circuit within the sound discretion of the Administrative Family Law Division Judge.

16. *Security.* Security for each courthouse is provided by an amalgam of assistance from the respective Sheriffs' Departments, contract service employees or others hired by the Office of the Court Administrator.

17. *Technology.* The Court Technology Officer for the Twentieth Judicial Circuit shall develop a search mechanism to allow case managers to determine related parties in cases and report this information to the case management staff and to each judge who is assigned any one of the related cases.

The Administrative Family Law Division Judge is hereby authorized to execute whatever additional orders may be necessary to effectuate the intent and purpose of this administrative order. The Model Family Court for Florida recommendations are attached to this administrative order and made a part hereof.

This administrative order shall take effect on January 1, 2002 and shall remain in effect unless or until otherwise modified, revised or supplemented by further order of the court.

DONE AND ORDERED in Chambers, at Punta Gorda, Charlotte County, Florida this 2d day of Jan., 2001.


William L. Blackwell
Chief Judge

History. - New.

STATE OF FLORIDA, COUNTY OF LEE
FILED FOR RECORD
This 7 Day of JAN 2002 Record in Circuit Court
Book 46 Page and Record Verified.
CHARLIE GREEN By [Signature]
Clerk Circuit Court Deputy Clerk

I certify this document to be a true and correct copy of the original on file in my office, Charlie Green, Clerk Circuit Court, Lee County, Florida
Dated: 1-7-02
By [Signature]
Deputy Clerk

A Model Family Court for Florida



*RECOMMENDATIONS of the
FLORIDA SUPREME COURT'S
FAMILY COURT STEERING COMMITTEE*

June, 2000

The Honorable Karen Cole, Chair

Ms. Carol Lee Ortman (1998-99)
The Honorable Raymond T. McNeal (2000)
Chairs, Model Court Subcommittee



Staff support for the Family Court Steering Committee is provided by the Office of the State Courts Administrator

Copies of this report are available upon request to:

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A Model Family Court for Florida

Recommendations of the Family Court Steering Committee

Introduction and Mission

In 1994 the Supreme Court of Florida directed the Family Court Steering Committee (FCSC) to develop recommendations on the characteristics of a model family court, including organization, policy, procedures, staffing, resources, and linkages to community services to assist children and families involved in litigation. *In re Report of the Commission on Family Courts*, 633 So.2d 14,19 (Fla. 1994) (hereinafter referred to as *Family Courts II*). In response, the Model Courts Subcommittee developed a court structure and policy that incorporates current trends in family law and the Committee's idea of an ideal family court. The FCSC used the following mission statement to define the overall purpose of the Florida Family Court Initiative and as a standard to measure the work of the Model Courts Subcommittee.

The mission of the *Family Initiative* is to provide families and children with an accessible and coordinated means of resolving legal matters in a fair, efficient, and effective manner. In addition to adjudicating disputes and providing alternative methods of dispute resolution, the *Family Initiative* will assist in meeting the needs of families and children involved in the court system by offering appropriate court-related services and linkages to community service providers.

Based on its investigation and analysis, the Family Court Steering Committee makes the following recommendations to the Florida Supreme Court:



Recommendation #1 – Family Court Guiding Principles

The Florida Supreme Court should adopt the following guiding principles as a foundation for defining and implementing a model family court:

- Children should live in safe and permanent homes.
- The needs and best interests of children should be the primary consideration of any family court.
- C All persons, whether children or adults, should be treated with objectivity, sensitivity, dignity and respect.
- Cases involving inter-related family law issues should be consolidated or coordinated to maximize use of court resources to avoid conflicting decisions and to minimize inconvenience to the families.
- C Therapeutic justice should be a key part of the family court process. Therapeutic justice is a process that attempts to address the family's interrelated legal and nonlegal problems to produce a result that improves the family's functioning. The process should empower families through skills development, assist them to resolve their own disputes, provide access to appropriate services, and offer a variety of dispute resolution forums where the family can resolve problems without additional emotional trauma.
- C Whenever possible, parties and their attorneys should be empowered to select processes for addressing issues in their cases that are compatible with the family's needs, financial circumstances, and legal requirements.
- C The court is responsible for managing its cases with due consideration of the needs of the family, the litigants, and the issues presented by the case.
- C There should be a means of differentiating among cases so that judicial resources are conserved and cases are diverted to non-judicial and quasi-judicial personnel for resolution, when appropriate and consistent with the ends of justice.
- C Trial courts must coordinate and maximize court resources and establish linkages with community resources.
- C The court's role in family restructuring is to identify services and craft solutions that are appropriate for long-term stability and that minimize the need for subsequent court action.
- C Court services should be available to litigants at a reasonable cost and accessible without economic discrimination.
- C Courts should have well trained and highly motivated judicial and non-judicial personnel.

Commentary:

The Committee's list of guiding principles is more extensive than those adopted by other states, but they embody similar concepts. The welfare of children and families, non-adversarial dispute resolution, and providing related social services is at the heart of all of the family reform initiatives we studied, *e.g.*, H.B. 3196, Oregon House of Representatives (1995). The emotional trauma of divorce and separation on parents and their children is well documented. In most cases, children need both parents. There is a general feeling, in the Committee and around the country, that the traditional adversarial process is detrimental to children because it drives parents farther apart at the time their children need them to work together to restructure their system of parenting. There is also a feeling that the fragmented legal system is damaging to families. The legal system should focus on the needs of children who are involved in the litigation, refer families to resources that will make their relationships stronger, coordinate their cases to provide consistent results, and strive to leave families in better condition than when they entered the system. The Committee envisions a new and more important problem solving role for lawyers as they adapt their practices to these ideals.

These guiding principles do not rule out adversary litigation. The Committee recognizes that the adversary system is sometimes essential to resolve sincere differences of opinion, to balance power in relationships, and to enforce orders on recalcitrant parties. The adversary system is essential to protect due process rights of children who are charged with delinquent acts. Furthermore, the goal of therapeutic jurisprudence does not rule out retribution for criminal acts such as domestic violence and delinquent behavior. Frequently, retribution is used together with education and counseling to accomplish therapeutic results. Drug courts and domestic violence courts are examples of this process.

Although the guiding principles may appear more directed to domestic relations cases, they are applicable to all cases included in the model family division.

Recommendation #2 – Family Division Structure & Jurisdiction



#2(a) Structure. A model family court or division should include the following types of cases:

- C dissolution of marriage
- C division and distribution of property arising out of a dissolution of marriage
- C annulment
- C support unconnected with dissolution of marriage
- C paternity
- C child support
- C URESA/UIFSA
- C custodial care of and access to children

- C adoption
- C name change
- C declaratory judgment actions related to premarital, marital, or postmarital agreements
- C civil domestic and repeat violence injunctions
- C juvenile dependency
- C termination of parental rights
- C juvenile delinquency
- C emancipation of a minor
- C CINS/FINS
- C truancy
- C modification and enforcement of orders entered in these cases

Commentary:

The structure of a family court is important only when it is essential to allow or expedite the process of case management and coordination. In Florida, the court has comprehensive jurisdiction at the highest state trial court level. *See Ross, The Promise of a System of Unified Family Courts*, 32 Fam.L.Q. 3, 15 (1998). The circuit court has subject matter jurisdiction to adjudicate, manage and coordinate all cases involving children and families except misdemeanor intra-family violence, misdemeanor violations of injunctions for protection, and juvenile traffic offenses. Whether or not these cases are part of the family division, they can be coordinated with existing family cases to achieve legitimate case management goals. The Committee has proposed pilot projects to develop models of best practice in monitoring, tracking, and coordinating cases in the family division and other litigation involving the same family members. The Committee believes that the pilot projects will result in recommendations on the best solution to this "administrative Frankenstein." *In re Report of the Commission of Family Courts*, 646 So.2d 178, 180 (Fla. 1994) (*Family Courts III*).

Every type of litigation could involve children and families. If the Committee had included "all cases involving children and families" in the model, our existing court structure would be sufficient and the need for a family division questionable. The Committee limited the model to juvenile matters and traditional domestic relations cases. *See Fla. Fam. L. R. P. 12.010(a)(1)* (types of cases covered by Family Rules); *See also Ankenbrandt v. Richards*, 504 U.S. 689 (1992) for a discussion on the types of cases that fall under the "domestic relations exception" to federal diversity jurisdiction. There are three primary reasons for this decision. First, there is a great deal of overlapping issues that can be addressed more efficiently if all of these cases are in the same division. Most of the cases involve the welfare of children who are not parties to the proceedings. As a result, the legal system, the parties, and the attorneys have a responsibility to protect the best interests of the children involved. *See e.g., Standards 2.23, 2.26, Bounds of Advocacy: Standards of Conduct (AAML 1991)*. Finally, the objectives of therapeutic justice apply to all cases included in the model.

The FCSC voted to include juvenile delinquency in the model family court. This follows recommendations by the Florida Supreme Court, The Florida Bar Commission for

Children, and the Governor's Constituency for Children. *In re Report of the Commission on Family Courts*, 588 So.2d 586, 590 (Fla. 1991) (hereinafter referred to as *Family Courts I*); *Family Courts II*, 633 So.2d at 17 (proposed structure included juvenile delinquency and dependency, along with termination of parental rights, and children or families in need of services). It is also consistent with recommendations on unified family courts by other authorities. See Ross, *The Promise of a System of Unified Family Courts*, 32 Fam. L. Q. at 15-16 (describing the need for comprehensive jurisdiction). Supporters of this structure believe that integration of juvenile delinquency with other family civil proceedings is essential to the welfare of children. Delinquency cases are adversary proceedings in which the best interests of the child and the welfare of the family are secondary to the child's constitutional rights. Nevertheless, a lot of dependent children are subject to prosecution in these courts, sometimes inappropriately, and it makes sense to coordinate services to the children and their families. It will be a challenge for the family court to coordinate services provided by the two agencies who are responsible for these children, the Department of Children and Families and the Department of Juvenile Justice.

The Committee does not recommend including criminal cases involving family members in the family division at this time. There are good arguments for and against including misdemeanor and felony domestic violence in a family division. Likewise, there are good arguments for dedicated domestic violence courts with jurisdiction over both civil and criminal domestic violence cases. Consequently, at this time, there is more than one acceptable way for the court system to address domestic violence in a comprehensive manner. Failure to include criminal cases involving family members will not preclude a circuit or county from establishing a domestic violence court with criminal jurisdiction as part of a family division or separate from, but coordinated with, the family division.

Even though some cases involving children and families are not included in the model, the court system has a duty to coordinate those cases with pending family cases to avoid inconsistent court orders. For example, an order in the dissolution case or civil domestic violence case may allow contact between the parties even though a bond condition or a sentence in the criminal case prohibits contact. A probate court could appoint a parent as guardian of the property to conclude a child's personal injury suit at the same time the juvenile court is removing the child from the parent's home and restricting contact because of alleged abuse. Results like these do not meet the needs of the family, the community, or the legal system and are unacceptable.

#2(b) Jurisdiction. The Florida Supreme Court should adopt a rule of judicial administration that requires judges who are assigned to different cases involving the same family to confer, and to coordinate pending litigation to maximize judicial efforts, avoid inconsistent court orders, and avoid multiple court appearances by the parties on the same issues. This rule should clarify what happens when the judges disagree after conferring.

Commentary:

In *Family Courts II* the Florida Supreme Court directed family divisions to administratively coordinate and monitor a family's interaction with the court, to assign all cases involving the family to one judge when appropriate, and to keep judges handling different aspects of a family's litigation fully informed. *Family Courts II*, 633 So.2d at 17. The Committee's proposed model requires case coordination of all litigation involving a single family. Trial courts will need a procedure to resolve disagreements over how this should be accomplished when comity fails. See *Abuchaibe v. Abuchaibe*, 751 So.2d 1257 (Fla. 3d DCA 2000) (dissolution judge and domestic violence judge entered contrary orders).

The Supreme Court should direct judges to coordinate related litigation even though they disagree on how a case should be resolved. Disagreements could be resolved by the chief judge and different cases assigned to the same judge to avoid inconsistent rulings. A better solution is a system establishing case priority and automatic referral. For example, Utah has a statute that provides for automatic transfer of cases involving custody, support, or visitation to the juvenile court when a child has a pending juvenile case. §78-3a-105, U.C.A. Automatic transfer avoids any complaint about ex parte communication between the judges. See *Chaddick v. Monopoli*, 714 So.2d 1007 (Fla. 1998) (judges must allow parties to be present during conference on interstate jurisdiction). It also avoids any dispute over the chief judges' authority to resolve these issues. See *Norris v. State*, 737 So.2d 1240 (Fla. 5th DCA 1999) (appellate court voided effect of administrative order designed to keep county judge from routinely changing circuit judges' bond orders).



Recommendation #3 – Essential Elements

The following twelve elements are essential or fundamental to a model family court:

Case Management –Supervising, coordinating, directing, and overseeing the process and progress of a case.

Self-Help Programs –Providing intake, screening, and procedural guidance to self represented litigants in family law cases.

Domestic Violence –Ensuring that cases involving domestic violence are identified and managed in a manner that is organized, timely, and sensitive to the special dynamics involved in these cases.

Alternative Dispute Resolution (ADR) –Offering alternatives to reduce the trauma of traditional adversarial litigation process.

Guardian ad Litem –Utilizing guardians ad litem in all family cases involving abused, abandoned or neglected children, and children at risk of harm.

General Masters/Hearing Officers —Using quasi-judicial officers to expedite hearings and expand judicial resources.

Custody Evaluation —Providing the court with evaluative information in proceedings involving custody disputes.

Supervised Visitation —Promoting the utilization of qualified programs for supervised visitation and/or monitored exchange.

Education Programs for Parents —Utilizing education programs for parents involved in family law proceedings.

Counseling Services/Treatment Programs —Assuring the availability of crisis intervention and long-term counseling/treatment programs and ensuring that compliance is monitored when such services are court ordered.

Security —Providing adequate and sufficient security personnel and equipment to ensure that family divisions are safe environments for judges, non-judicial staff, and the public.

Technology —Providing computer hardware, systems, and training to access information essential to case management and coordination, to print forms and notices immediately, and to generate statistical reports, to provide public and inter-agency access to records, and to allow teleconferencing and appearance of witnesses by electronic means.

Recommendation #4 —The "Coordinated Management" Model



#4(a) Management Model. The Florida Supreme Court should adopt a family court model based on "coordinated management."

Commentary:

In a coordinated management system, all pending family cases are coordinated and managed by a staff member or team of staff members to facilitate the delivery of appropriate social services, maximize judicial resources, avoid conflicting court orders, and prevent multiple court appearances by the parties on the same issues. As a court grows to more than seven judges, it becomes inefficient to divide all cases equally among judges. It is more practical to assign judges to divisions. Because judges rotate in and out of divisions, it is impossible to keep one judge with the same family. In the coordinated management model, this is unnecessary. A staff member or team of staff provides continuity for the family instead of the judge.

This model does not exclude entirely the concept of "one family, one-judge." In many cases, appropriate coordination will require assignment of cases with overlapping

issues to one judge. In others, the goals of case coordination and service delivery may be accomplished by the exchange of relevant information and judicial cooperation. Also, in counties or circuits with only a few judges, all cases may be split evenly, causing one family to be assigned to one judge.

#4(b) Intake and Referral (including Self-help Program). The Florida Supreme Court should require each circuit to establish an intake process to provide information, make referrals to legal or social services, and assist self-represented litigants. Services should be available whether or not the person files a lawsuit and without regard to income.

Commentary:

Intake is the initial step in “coordinated management” for self-represented litigants and persons seeking information about the family court. See *Family Courts II*, 633 So.2d at 17 (case management staff must be available to help and direct families at the initial point of contact with the judicial system to the appropriate judge and/or appropriate services), American Bar Association Policy on Unified Family Courts (August, 1994). Although it will be used primarily by self-represented litigants, attorneys may refer clients to the intake office for information about court processes and programs, and for referral to appropriate resources. Assistance should be available whether or not the prospective litigant actually files a lawsuit. For example, a prospective litigant may want a list of attorneys who practice collaborative law, a list of certified family law mediators who provide pre-filing mediation, or parents may want to attend a class for divorcing or separating parents before deciding to file for dissolution of their marriage. The process will help fulfill the court’s responsibility to make the family court accessible and to provide information at the initial point of entry that will empower families to select processes that are suitable for resolving their legal and social problems.

The intake process provides citizens with more than one point of entry into the legal system. The idea of a "multi-door courthouse" was first advanced by Frank E. Sander in a Pound Conference lecture in 1979. Sander, *Varieties of Dispute Processing*, The Pound Conference: Perspectives on Justice in the Future, (A. Leo Levin et. al. eds 1979). A multi-door courthouse consists of a process by which an individual can locate the most appropriate method of resolving a dispute. There is one building, or courthouse, where individuals can go to obtain a multitude of services. The individual seeking assistance would first see an interviewer, called an Intake Specialist, who would help assess the problem. Thereafter the party would be directed to the most appropriate door for resolution of the problem. Behind these doors an individual could find a number of processes including mediation, arbitration, litigation and social services." Kimberly A. Kovach, *Mediation: Principles and Practice* (1994).

Intake staff will encourage prospective litigants to seek legal advice and will furnish information on legal services available in the community, including any low-cost or free

services provided by the bar. If the litigant does not want legal advice, intake staff may provide approved forms, instructions, definitions, procedural information, and education to allow the litigant to proceed with their case in a more uniform and educated manner.

Intake staff will begin the process of case management on cases filed by litigants who enter the court system through the intake program. Staff will also inform litigants about case coordination procedures and elicit information on any other previous or pending litigation involving the same family members.

#4(c) Case management. Family division judges must have sufficient case management staff to perform differentiated case management, to coordinate all cases involving a single family, to coordinate and monitor services provided to each family, and to collect aggregate data to measure performance of the family division.

Commentary:

Case management and coordination is a defining characteristic of a model family court. Case managers inform the family of voluntary services, refer the family to mandatory court programs, and coordinate all cases involving the family to maximize judicial resources, avoid inconsistent court orders, prevent multiple court appearances by the parties on the same issues, and monitor compliance with court-ordered services. Case management staff provides continuity within the system by ensuring that all cases involving a single family are assigned to the same judge or by active oversight by the case management team.

The initial step in case management is screening. All cases, whether they involve litigants representing themselves or litigants with attorneys, will be screened, managed, and monitored. Initial and continual screening should be performed by a case management team that includes not only staff trained in the operation of the family court, but also staff trained in the behavioral sciences who understand the dynamics of families in crisis. Screening and subsequent service referrals will ensure that all presenting issues are clearly focused and that families are provided with an opportunity to resolve their disputes before engaging in destructive adversarial litigation. *See* §61.21(1)(d), Fla. Stat. (1999) (parents receive maximum benefit from parenting programs if they attend “at the earliest stages of their dispute before extensive litigation occurs and adversarial positions are assumed or intensified”). Screening will alert the court of the family’s special circumstances, such as a history of domestic violence or the need to address emotional issues before the parties are expected to negotiate appropriate parenting plans and resolve other legal issues. Although the model stresses the importance of nonadversarial processes, in many cases, the adversarial process and resulting authoritative judicial decision are needed to address power imbalances and to ensure appropriate conduct by uncooperative parties.

As part of the screening process, staff may differentiate various time tracks for case disposition based on the level of complexity, need for discovery, need for services, or unusual emotional factors. Some families will have needs that require immediate judicial

attention such as issuing a domestic violence injunction, conducting an emergency shelter hearing, or scheduling a temporary hearing to establish support. Judges must be available to meet these critical needs on an expedited basis. Other cases may be appropriate for a “fast track.” A “fast track” may include cases such as simplified dissolutions, dissolutions with a marital settlement agreement, or dependency actions sheltering a child. Some cases may be resolved more quickly and more economically by referring them to a quasi-judicial officer.

Case management staff is also responsible for collecting and reviewing aggregate data to evaluate the progress of all cases in the division. The Committee describes this responsibility as the caseflow monitoring function. This data will be used to make reports, determine compliance with time standards, and to evaluate how well the family division is operating.

In this case management model the judge is a coordinator and facilitator as well as an adjudicator. The “gatekeeper” function historically assumed by judges is shifted to court staff, thereby allowing judges to focus their efforts on making legal decisions. The simple technique of reviewing court files to determine if a case is ready for judicial action before scheduling it on a judge’s calendar will maximize the use of judicial time, a scarce commodity in family court.

#4(d) Technology. The court needs an integrated management information system to monitor and coordinate cases in the family division. The system should be integrated with the clerk of court and be able to provide information on all pending and closed cases involving the members of a family.

Specifically, the system should have the capacity to:

- C provide automatic calendar management
- C monitor significant case events and generate automatically an appropriate order or notice
- C maintain a complete history of the family's involvement in the court system
- C allow retrieval of documents contained in the court file
- C capture statistical data needed for reports
- C search for records involving the same parties in all counties of the state
- C allow courtroom data entry as proceedings are conducted
- C allow for teleconferencing and appearance of witnesses by electronic means
- C allow interagency and public access to appropriate information

Commentary:

The Chair of the Family Court Steering Committee should appoint a Technology Subcommittee to work with the Trial Court Technology Subcommittee of the Technology Commission to establish a technology plan that meets the case management and coordination needs of the model family court. The family court's need for technology is a priority. Without appropriate technology, the court cannot obtain the information necessary to manage and coordinate cases effectively. Currently, clerical staff, employed by clerks of court, track and cross-reference cases manually. This is a time consuming process. It is difficult for them to keep up with the files and to determine when cases involving the same family members are pending in different divisions. Technology is available to automate these tasks. Ideally, the system should be integrated statewide with law enforcement agencies, the Department of Children and Families, the Department of Juvenile Justice, and any other agencies that interact with the family court on a regular basis.

#4(e) Model Court Diagram. The following diagram is a visual representation of how the model court will process public requests for information and assistance and manage and coordinate litigation.

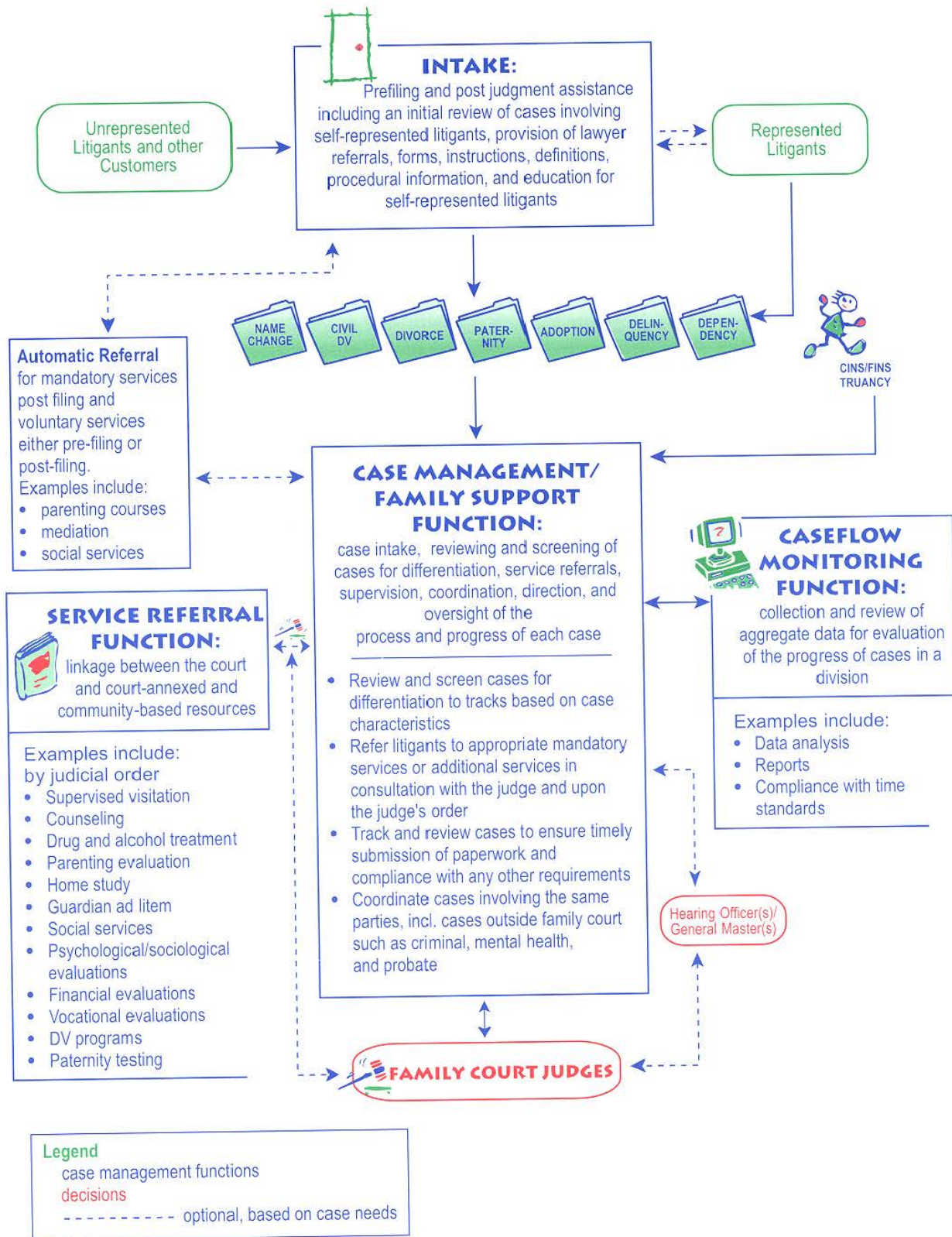
Commentary:

Intake – This is the intake process described in recommendation 4(b). An intake specialist helps potential litigants and self-represented litigants assess their problem(s) and directs them to the most appropriate “door” (e.g., mediation, arbitration, litigation, and social services) for resolution. Attorneys may refer their clients to the intake office for information and service referral, but most represented litigants will enter the family court when their attorney files legal proceedings. Those cases will be screened by case management staff for service referral.

Service Referral – This is the referral process described in recommendation 4(b) and 4(c). It includes both automatic referrals and referrals based on a judicial order. The process includes monitoring compliance and ensuring that reports are filed, when appropriate. All cases will be screened and monitored as part of the service referral function. Initial screening will begin during intake for self-represented litigants and during case management for litigants represented by attorneys.

Case Management/Family Support Function – This represents the coordinated team approach to addressing each family's litigation (micro case management) through processes designed to facilitate the delivery of appropriate social services, maximize judicial resources, avoid conflicting orders, and prevent multiple court appearances on the same issues. See recommendation 4(a). Appropriate technology is essential to perform this function. See recommendation 4 (d).

Caseflow Monitoring - This represents management of all family division cases in the aggregate (macro case management). Successful performance of this function is impossible without technology.



Recommendation #5 – Administrative Structure



#5(a) Local Rule. The Florida Supreme Court should require each circuit to implement a unified family division consistent with this model by a new local rule or administrative order approved by the Florida Supreme Court.

Commentary:

The Florida Supreme Court approved local rules and administrative orders in 1994. *Family Courts II*. These rules and orders were drafted after a statewide family courts workshop in April, 1993, where the Florida Supreme Court explained its mandate to establish family divisions in each circuit. The Court did not tell the circuits how to implement family divisions, but gave the circuits some specific directions in *Family Courts I* and *Family Courts II*. Many of the proposals in the FCSC recommendations are reaffirmations of the Court's original directions to the circuits, including the role of family administrative judges, specialized education, case management, early service referral, and the need to assign related cases to the same judge whenever possible. Although the circuits were required to make annual reports on progress of their individual family initiatives, none of the circuits complied and the Florida Supreme Court did not follow up until 2000. Since 1993, the circuits have not received any direction or recommendations on implementing family divisions. At that time the circuits did not have the benefit of the FCSC's proposed model or continuing national research into how family courts should meet the needs of children and families. The local rules and administrative orders that were adopted previously should be revisited and redrafted to conform to these developments.

#5(b) Administrative Judge. The Florida Supreme Court should require the chief judge of each circuit to appoint an administrative family law judge for the circuit and give the administrative judge authority to oversee and coordinate the circuit's family initiative. The chief judge may appoint associate administrative judges for individual counties or specialized divisions, such as domestic relations, domestic violence, juvenile dependency, or juvenile delinquency, but these associate judges shall report to the administrative judge of the family division.

Commentary:

The Florida Supreme Court directed appointment of an administrative judge who would be responsible to the chief judge and outlined the administrative judge's extensive

responsibilities. The Supreme Court made family division administrative judges responsible for coordinating and implementing the family court concept in the circuit; developing policy, procedures and administrative orders to implement the circuit's plan; monitoring and reporting on the circuit's progress; developing resources to meet the court's need for services; developing and facilitating communications with court-related entities on policy; and developing a means to orient new judges to the family court concept. *Family Courts II*, 633 So.2d at 17-18. However, the Supreme Court did not direct chief judges to give the administrative judges any authority to carry out these directives or make it clear that judges in specialized divisions would report to the family division administrative judge. In some circuits, the chief judge appointed a family law administrative judge to comply with *Family Courts II*, but did not give the administrative judge any authority over how the family court was developed and operated in the circuit. Furthermore, the Supreme Court did not insist on one family law administrative judge for the circuit, so circuits with multiple counties may have several administrative judges who are responsible for family cases. Consequently, implementation of the family initiative has been inconsistent and disorganized within many circuits and among circuits in the state.

Justice Barbara Pariente, in her remarks to The Florida Bar Commission on Legal Needs of Children, reported that "most circuits operate a juvenile division separate from the family division" and that an experienced court administrator observed that family divisions continue to operate "in a status quo fashion." The court administrator's most astute observation was, "there is no shared vision by members of the Judiciary and communication does not take place to share relevant case information and coordinate case events." Reaffirming the leadership role of administrative judges in the family initiative will help address these problems.

Most model family courts have a separate administration. See Hardin, *Child Protection Cases in a Unified Family Court*, 32 Fam. L. Q. 131, 149 (1998) (explaining the need for administrative control over judicial assignments and calendar). The Committee does not recommend a separate administration, but chief judges must grant family division administrative judges authority to fulfill the directives of the Florida Supreme Court. The Florida Supreme Court must ensure that chief judges do this.

#5(c) Family Court Administrator. Each circuit should employ at least one family court administrator or coordinator to assist the chief judge, trial court administrator, and administrative family law judge in the management responsibilities of the family division and in establishing linkages with appropriate community services and programs.

Commentary:

The family court administrator will assist the chief judge and family law administrative judge to establish administrative unification in circuit family divisions and to mobilize

community resources. The family court administrator will oversee the day-to-day implementation of the approved model family court in the circuit. The family court administrator will supervise all family division staff and assist in implementing programs or accessing resources that are essential to the family court. Duties may involve visiting a club or organization to obtain support for a family visitation center, traveling to another county in the circuit to help establish a procedure for assisting pro se litigants, or in coordinating case management processes with the clerk's office.

The legislature has funded many of our requests for family court personnel, but they are not sufficient to fully staff a family division. As a result, some positions have been used to fulfill a variety of circuit needs. The Florida Supreme Court should require a job description for each position that explains the employee's role in the family initiative. Then the family court administrator will be able to coordinate staff efforts to advance implementation of a model family court.

Recommendation #6 – Family Law Judges



#6(a) Judicial Commitment. The Florida Supreme Court should require chief judges to assign to the family division only those judges who are committed to children and families, and, to the extent possible, who volunteer to serve in the division.

Commentary:

Judges assigned to the family division must have expertise in all matters involving children and families. They must be motivated to learn multi-disciplinary skills in the areas of domestic violence, family dynamics, child development, psychology, and mediation. Chief judges should give special consideration to the aptitude, demonstrated interest, and experience of each judge assigned to family court. Chief judges should be encouraged to refrain from assigning new judges to dependency or delinquency unless the judge volunteers.

#6(b) Term in the Division. The Florida Supreme Court should encourage chief judges to assign judges to the family division for at least a three-year term, give them the opportunity to rotate out at the end of their term, and stagger rotation to ensure that a significant portion of the family division judges are experienced in family law.

Commentary:

The Committee selected this time because it gives judges time to learn the multi-disciplinary skills of domestic and juvenile law and to establish working relationships with the agencies involved in family cases.

#6(c) Preliminary Education. Judges who are assigned to the family division for the first time, or who have not served in the family division for two years, should receive mandatory training in the fundamentals of family law, domestic violence, juvenile dependency, and juvenile delinquency before assuming the assignment or within 60 days after assuming the assignment.

Commentary:

The FCSC requests the Florida Courts Educational Council to address the need for this education. Excellent courses in the fundamentals of family law, juvenile dependency, and juvenile delinquency are presented each year in May at the College of Advanced Judicial Studies. These classes are not sufficient. Class size is limited to twenty-five to thirty judges and because AJS lasts only one week, judges cannot attend classes in both domestic relations law and juvenile law.

Dependency cases are challenging and complex. They require judges with a deep understanding of child protection law, juvenile procedure and available treatment options. Judges must establish working relationships with the Department of Children and Families and a host of public and private agencies that work with the Department, the courts, and law enforcement. *See Hardin, Child Protection Cases in a Unified Family Court*, 32 Fam. L. Q. 131 (1998) for a good discussion on the needs of child protection cases in a unified family court. Because cases involving the same family will be coordinated within the family division, a judge could be assigned to hear a dissolution case, domestic violence case, and a dependency case involving the same family. For this reason, we must provide family judges with a broad range of judicial education.

#6(d) Continuing Education. Judges serving in the family division should be provided with continuing education in technical legal requirements of domestic relations and juvenile law, training in non-legal subjects such as child development, family systems, mental health, behavioral sciences, social work, mediation, and information on

public benefits and programs that are available for children and families.

Commentary:

Judges serving in the family division should be provided with abundant opportunities for training. Family law involves many disciplines besides law, so judges should be trained in the nonlegal aspects of their work. The Florida Supreme Court recognized that family division judges would need specialized training in subjects such as family mediation, child custody law, child sexual abuse, psychological testing, and taxation. *Family Courts I*, 588 So.2d at 589. In 1991 much of the research on the needs of children and families was just beginning. Only recently, have studies provided empirical evidence on the importance of fathers to children's physical and psychological development. Studies involving attachment and alienation of children and parents are continuing. Florida judges should have the benefit of the most up-to-date information on these issues. Judges need to understand child development and attachment theory before deciding primary physical residence in a domestic relations case, or placement in a dependency proceeding. Judges need to understand the characteristics of alcohol and drug dependency and treatment for addiction before deciding whether a child should be reunited with a parent suffering from these problems. Judges need comprehensive education in the dynamics of domestic violence, power and control theory, and information on why anger management classes may endanger victims and their children before judges can make the best decision in a domestic violence case. Judges should have training in basic psychology before ruling on the credibility of psychiatric and psychological testimony. These are just a few examples of the educational needs of family judges.

Florida can provide most of this education in state, but family judges should be given preference in attending out-of-state family law education. Attendance at these conferences infuses the court with fresh ideas, provides the family law judge with a sense of importance and identity with other family court judges, helps avoid burnout, and offers an incentive for serving in the family division.

Recommendation #7 – Additional Family Court Staff



#7(a) Staff Attorneys. Family division judges should have access to staff attorneys.

Commentary:

Staff attorneys review motions and pro se correspondence, research legal issues, and prepare written orders under the direction of the judge. One of the most precious resources in the family court is docket time. Staff attorneys can be used to manage a motion calendar, so that judges can rule on issues without a hearing when it is unnecessary to take testimony.

#7(b) Education and Training.

(1) Quasi-judicial officers should receive mandatory training in the fundamentals of family law, domestic violence, juvenile dependency and juvenile delinquency before assuming the assignment or within 60 days after assuming the assignment. They should be provided with continuing education in the area of assignment.

(2) All court staff should be well trained in both the family court operations as well as child development, family systems, mental health, behavioral sciences, social work, mediation, and information on public benefits and programs that are available for children and families.

Commentary:

The family division has a unique need for staff that is not shared by other divisions. Many family cases do not end when the judge enters a final judgment. Unlike other circuit divisions, family courts have a significant domestic relations post-judgment caseload, averaging one-fourth to one-third of a family court's entire caseload. Many of these cases involve self-represented litigants who return to court repeatedly on enforcement and modification issues. Dependency cases must be monitored closely to ensure that all time standards are followed. In domestic violence cases judges must fill out injunction forms that include findings used to calculate child support and specific visitation arrangements to protect the family. Having clerical staff to handle these matters extends judicial resources and allows judges to concentrate on making judicial decisions.



Recommendation #8 – Family Law Advisory Group

The Florida Supreme Court should require each circuit (county) to create a family law advisory group that is open to court staff, judges, members of the bar, social service providers, local community leaders and any other interested persons or organizations to support and advise the family court.

Commentary:

A family law advisory group provides an open forum for resolving complaints about the judicial system, interagency conflicts, and family court policies. It can be used to provide public education to participating agencies and the clients they serve as a foundation for marshaling public support for court programs and policies, and for facilitating transition into a unified family court. A family law advisory group fulfills the Florida Supreme Court's

direction to develop and facilitate “communications with court-related entities on policy with respect to family cases, *e.g.*, state attorneys, public defenders, Health and Rehabilitative Services, community social services entities, clerks of court,” and others. *Family Courts II*.

Recommendation #9 –Public Education



The Florida Supreme Court should require each circuit to provide regular public information through the Internet and any other media that is easily accessible to the community about how to access the court, what services are available, what the public can expect from the legal system, and any limitations on the court's authority and resources.

Commentary:

Information about our legal system should be easily available to all citizens. The public has a poor perception of the legal system, which many view as expensive, time consuming, and inaccessible. We can address some of their concerns by providing information about the legal system and explaining any limitations on the court’s authority and resources. Family judges and staff should be encouraged to accept speaking engagements to talk with citizens about these issues. These efforts will help restore trust and confidence in the legal system and the judiciary.

Recommendation #10 –Family Court Summit



The Family Court Steering Committee should sponsor a Family Court Summit to develop plans to implement the Court’s goals for the family court initiative.

Commentary:

The Florida Supreme Court should convene the summit to emphasize its importance and to illustrate their commitment to the family initiative. The Court required family divisions in 1991, but it was not until the Family Courts Workshop in 1993 that most circuits began a local initiative. These local efforts were the direct result of leadership from the Florida Supreme Court, especially Justice Ben Overton and Justice Rosemary Barkett. Following the workshop, circuits drafted local rules and administrative orders that were approved by the Court in 1994 without much study. Since then there has been no formal follow-up or reevaluation of circuit initiatives. See comments on local rules in recommendation #4(a). The summit will allow the Florida Supreme Court to revitalize the family initiative and reaffirm the importance of implementing a model family court in each circuit.

At the summit, FCSC can disseminate the results of the Family Court Assessment Project and inform the circuits that \$500,000 in pilot money will be available for the purpose of establishing models of best practices in case management and coordination and in developing community services to support the family court.

Respectfully submitted this 29th day of June, 2000.

Family Court Steering Committee

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Circuit Judge, Fourth Judicial Circuit

The Honorable Robert P. Cates
Chief Judge, Eighth Judicial Circuit

The Honorable Daniel Dawson
Circuit Judge, Ninth Judicial Circuit

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