

THE SUPREME COURT OF MINNESOTA

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MEMORANDUM

TO: Representative Steve Smith, Chair House Civil Law Committee
Representative Phil Carruthers, Lead DFL, Civil Law Committee
Senator Jane Ranum, Chair, Senate Judiciary Committee
Senator Thomas Neuville, Ranking Minority, Judiciary Committee
Legislative Reference Library

CC: Judge Sharon Hall, Chair Parental Cooperation Task Force

FROM: Tori Jo Wible, Staff Attorney

DATE: 12 January 1999

RE: Task Force Progress Report

On behalf of the Parental Cooperation Task Force, I respectfully submit this Progress Report.

If you have any questions or comments, please do not hesitate to contact me at:

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SUPREME COURT OF MINNESOTA

TASK FORCE

PARENTAL COOPERATION

PROGRESS REPORT TO THE MINNESOTA LEGISLATURE

PREPARED PURSUANT TO Minnesota Laws, 1998, Chapter 367, Article 1, section 17

I. Introduction and Background

Minnesota Laws, 1998 Chapter 367, Article 1, section 17 requested that the Supreme Court establish a Task Force to:

Evaluate ways to reduce conflict between parents in proceedings for marriage dissolution, annulment, or legal separation. The task force should include representative of communities of color and representatives of other groups affected by the family law system, . . .

(b) the task force shall:

- (1) research ways to reduce conflict between parents in family law proceedings, including the use of parenting plans that would govern parental obligations, decision-making authority, and schedules for the upbringing of children;
- (2) study the programs and experiences in other states that have implemented parenting plans; and
- (3) evaluate the fiscal implications of parenting plans.

The Legislation also requested that the Supreme Court file a progress report to the Chairs and Ranking minority members of the House of Representatives and Senate Judiciary Committee on or before January 15, 1999.

The Supreme Court Task Force was established by Order on August 10, 1998, to evaluate ways to reduce conflict between parents in proceedings for marriage dissolution, annulment, or legal separation and to study the concept of parenting plans. The Court Order also provides that the Task Force file a progress report with the Supreme Court on or before December 15, 1998. This report is filed in compliance with the Court's Order. (See Supreme Court Order, attached as Appendix A.)

The Task Force, chaired by Judge Sharon Hall, Tenth Judicial District, is comprised of 31 members, representing the various stakeholders in the family law arena, including judges, legislators, attorneys, battered women interest groups,

guardians ad litem, parents' groups, psychologists, and service providers. (See Task Force Roster, attached as Appendix B.)

II. Deliberations

The Task Force meets on a monthly basis. A summary of efforts to-date is as follows:

A. Thursday, September 3, 1998

Chief Justice Blatz personally welcomed the group and introduced the Chair Judge Sharon Hall. Various speakers provided the Task Force Members with background information regarding,

1. The history of House File 2784 which introduced parenting plans;
2. The recommendations of the Supreme Court Task Force on Visitation and Child Support Enforcement;
3. The status of Mandatory Parent Education; and
4. Other states with Parenting Plans.(See Table of Other States with Parenting Plans, attached as Appendix C)

B. Thursday, October 8, 1998

The group discussed subcommittee topics and broke into the following subcommittees:

- Parenting Plan Review – Chaired by Judge Bill Howard (Fourth District) (See Workplan, attached as Appendix D.)
- Fiscal Review – Chaired by Christa Anders, Child Support Enforcement, DHS (See Workplan, attached as Appendix E.)
- Other Conflict Reduction – Chaired by Judge Don Rysavy (Third District) (See Workplan, attached as Appendix F.)

C. Thursday, November 12, 1998

The subcommittees met to refine their workplans and to began to gather information and define the scope of their inquiry.

Proposed, preliminary recommendations include:

- Additional education for all participants in the legal system with respect to child development issues.
- Potential pilot project or elective test area for parenting plans.

These are proposed recommendations from subcommittees only and have not yet been discussed by the full Task Force.

III. Future Efforts

The Subcommittees will meet throughout the winter and spring to gather information and make recommendations relating to the subjects within their respective subject matter jurisdiction. In addition, efforts are being made to bring in state and national experts on the topic of conflict resolution between parents, and on the use of parenting plans. An empirical research effort is also being planned. This project will entail the examination of dissolution files in an urban, suburban, medium outstate and small outstate county to document the types of disputes that are brought before the court. It is anticipated that this information will assist the Task Force in making recommendations on current gaps in services.

The tentative time table for the Task Force is as follows:

| | |
|----------------------------|--|
| December 1998 – June 1999 | Deliberations and formulation of tentative recommendations |
| | Make tentative recommendations in April |
| July 1999 – September 1999 | Final Deliberations |
| October 1999 | Public Comment |
| November 1999 | Finalize Recommendations and Report |
| December 15, 1999 | Final Report Due to Supreme Court |
| January 15, 2000 | Final Report Due to Chairs and Ranking minority members of the House of Representatives and Senate Judiciary Committee |

For additional information or to receive periodic updates on the Task Force's deliberations, please contact:

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Appendices to Parental Cooperation Task Force Progress Report December 15, 1998

- A. Supreme Court Order Establishing Parental Cooperation Task Force
- B. Parental Cooperation Task Force Roster
- C. Table of Other States with Parenting Plans
- D. Parenting Plan Subcommittee Workplan
- E. Fiscal Review Subcommittee Workplan
- F. Conflict Reduction Subcommittee Workplan

Appendix A

Supreme Court Order Establishing Parental Cooperation Task Force

**STATE OF MINNESOTA
IN SUPREME COURT
C8-98-1335**

**OFFICE OF
APPELLATE COURTS**

AUG 10 1998

FILED

**ORDER ESTABLISHING PARENTAL
COOPERATION TASK FORCE**

WHEREAS, the Legislature at 1998 Minnesota Laws, Chapter 367, Article 1, Section 17, requests that the Minnesota Supreme Court establish a task force to evaluate ways to reduce conflict between parents in proceedings for marriage dissolution, annulment, or legal separation and to study the concept of parenting plans; and

WHEREAS, the Supreme Court wishes to honor the Legislature's request for establishment of an advisory task force to carry out such an evaluation;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT the Parental Cooperation Task Force is established.

IT IS FURTHER ORDERED THAT the Task Force shall:

1. Research, evaluate, and make recommendations regarding ways to reduce conflict between parents in marriage dissolution, annulment, legal separation, and paternity proceedings;
2. Research, evaluate, and make recommendations regarding the use of parenting plans as a tool for encouraging cooperation between parents relating to their parental obligations, decision-making authority, and schedules for the upbringing of children; as part of its deliberations the Task Force may consider the unofficial engrossment of 1998 H.F. No. 2784, Article 3;
3. Research, evaluate, and make recommendations regarding the programs and experiences in other states that have implemented parenting plans; and
4. Research, evaluate, and make recommendations regarding the fiscal impact of parenting plans upon parties and the judicial system.

IT IS FURTHER ORDERED THAT the following persons are appointed as members of the Parental Cooperation Task Force:

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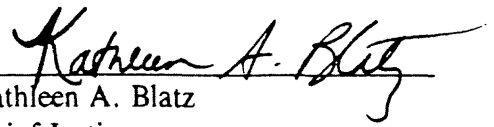
IT IS FURTHER ORDERED THAT the Honorable Sharon Hall is designated as Chair of the Task Force.

IT IS FURTHER ORDERED THAT the Task Force shall submit the following reports:

1. A Progress Report shall be submitted to the Court by December 15, 1998, and to the chairs and ranking minority members of the House of Representatives and Senate Judiciary Committees by January 15, 1999.
2. A Final Report shall be submitted to the Court by December 15, 1999, and to the chairs and ranking minority members of the House of Representatives and Senate Judiciary Committees by January 15, 2000.

DATED: August 10, 1998

BY THE COURT:


Kathleen A. Blatz
Chief Justice

Appendix B

Parental Cooperation Task Force Roster

TASK FORCE ROSTER

November 30, 1998

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Appendix C

Table of Other States with Parenting Plans

Survey of "Parenting Plans" in Other States

| State | Authority | Brief Description | Parenting Terminology | Domestic Violence Protections | Mediation |
|------------|-------------------------------------|---|---|---|---|
| Alabama | Code of Ala., 1975, 30-3-153 | In order to implement joint custody, parents must submit as part of their agreement, provisions regarding: (1) care and education (2) medical and dental care (3) holidays and vacation (4) child support (5) other factors affecting physical or emotional well-being of child If parents cannot agree, court sets plan. AL. ST. 30-3-153 | AL. ST. 30-3-151 (1) Joint custody (2) Joint legal custody (3) Joint physical custody (4) Sole legal custody (5) Sole physical custody | 30-3-131 Determination that domestic or family violence has occurred raises rebuttable presumption that custody with perpetrator is detrimental to the child. <hr/> 30-5-1 Protection from Abuse Act. | Available – Alabama Civil Court Mediation Rules |
| Arizona | A.R.S. 25-403 F and I | Before award of joint custody, parents shall submit proposed parenting plan that includes at least the following: 1. Rights and responsibilities; 2. Schedule of physical residence; 3. Procedure to resolve disputes; 4. Procedure for periodic review; 5. Statement that parties understand that joint custody does not necessarily mean equal parenting time. 25-403 I <hr/> Court shall not deviate from relocation provisions of parenting plan unless Court finds no longer in child's best interests. Rebuttable presumption that provisions from parenting plan are in child's best interests. 25-408 I | Joint legal custody Joint physical custody Sole custody Visitation 25-402 | Evidence of domestic violence contrary to best interests. 25-403 B <hr/> No award of joint custody if significant domestic violence or court finds by preponderance of the evidence that there has been a significant history of domestic violence. 25-403 H | Presiding judge of superior court shall establish, maintain and enhance programs for mediation of visitation or custody disputes. 25-413 |
| California | Cal. Fam. Code 3040 | This section establishes neither a preference nor a presumption for or against joint legal, joint physical, or sole custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child. 3040 (b) | Joint legal custody 3003 Joint physical custody 3004 Visitation | Visitation may be supervised, suspended or denied 3100 <hr/> Domestic violence is detrimental to child 3020(a) | |
| Colorado | C.R.S. 14-10-124(7) and 14-10-131.7 | To implement joint custody, both parties may submit a plan or plans for the court's approval. The parenting plan shall identify the responsibilities of each of the parties. | 1. Parental Responsibility 2. Parental Decision-making Responsibility | 14-10-129(3)(a) in a modification proceeding, where a parent has been convicted of certain crimes, the other parent may file an objection to | Court may order mediation in formulating or modifying plan. <hr/> 14-10-124(8) |

| State | Authority | Brief Description | Parenting Terminology | Domestic Violence Protections | Mediation |
|----------------------|--|--|---|---|--|
| Colorado (Cont.) | | | 3. Parenting time | parenting time with the court. 14-10-123.6 When filing a proceeding concerning the allocation of parental responsibilities relating to a child, the filing party has a duty to disclose any prior restraining orders to prevent domestic abuse entered against either party within 90 days prior to the filing of the proceeding. | In disputes concerning parenting time, the court may order mediation. |
| District of Columbia | D.C. Code 16-911 (a-2) (2)(A) | D.C. Code 16-911 (a-2) (2)(A) Court may order each parent to submit detailed parenting plan which shall delineate each parent's position with regard to scheduling and allocation of rights and responsibilities that will best serve the interests of the child. | 16-911 (a-2) (1) (A) Sole legal; (B) Sole physical; (C) Joint legal; (D) Joint physical; or (E) Any other in best interest of child. | D.C. Code 16-911 (a) (5) Rebuttable presumption that joint custody not in child's best interests if finding of abuse. | 16-911 (a-2)(2)(A)(xi) Parenting plan must include method of resolving conflict such as a recognized family counseling or mediation service before application to court to resolve a conflict. |
| Illinois | 750 ILCS 5/602.1 If joint custody, then Joint Parenting Agreement or Joint Parenting Order | Agreement shall specify each parent's powers, rights and responsibilities for the personal care of the child and for major decisions. Must further specify a procedure by which proposed changes, disputes and alleged breaches may be mediated or otherwise resolved and shall provide for a periodic review of its terms by the parents. | Joint custody Visitation Parenting time | 5/404 court upon good cause shown may prohibit conciliation, mediation or other process that requires parties to meet and confer without counsel. | 750 ILCS 5/404 Conciliation; mediation Either party or court may order conciliation conference if there is prospect of reconciliation. |
| Kansas | K.S.A. 60-1610 (a) (4) | K.S.A. 60-1610 (a)(4)(A) Court in its discretion may require the parents to submit a plan for implementation of a joint custody order upon finding that both parents are suitable parents or the parents acting individually or in concert may submit a custody implementation plan to the court prior to issuance of a custody decree. | 60-1610 (a)(4) (A) Joint custody (B) Sole custody (C) Divided custody (D) Nonparental custody Visitation | | |
| Massachusetts | ALM GL c 208 Sec. 31 | If custody is contested and either party seeks shared legal or physical custody, parties may jointly or individually submit to the court "shared custody implementation plan" including: education, health care, dispute | Sole legal custody Shared legal custody Sole physical custody Shared physical custody | Chapter 209A Sec. 3 Court may order nondisclosure of information to ensure health, safety and welfare of child or party. | Mediation available, but not required in Domestic Abuse cases. |

| State | Authority | Brief Description | Parenting Terminology | Domestic Violence Protections | Mediation |
|------------------------------|---|--|---|---|--|
| Massachusetts (cont.) | | resolution process, and a residential and visitation schedule | Visitation | | |
| Mississippi | Mississippi Code of 1972 Sec. 93-5-24 (1) | In making an order for custody to either parent or to both parents jointly, the court, in its discretion, may require the parents to submit to the court a plan for the implementation of the custody order. | Physical custody Legal custody Visitation | 93-5-23 in custody cases is a party alleges that the child has been abused by the other party, the court may, on its own motion, grant a continuance in the custody proceeding until the allegation has been investigated by DHS. | |
| Missouri | R.S.Mo. Title 30 Sec. 452.310 Subd. 7 | A party shall submit a proposed parenting plan at the time of filing of a motion to modify or a petition involving custody or visitation issues. Must include a specific written schedule detailing the custody, visitation and residential time for each child with each party. How the expenses of the child will be paid, including child support, health insurance, extraordinary expenses, child care expenses, transportation expenses. Guidelines for a parenting plan form to be developed by Missouri Supreme court within 120 days of effective date of this section. | Custody Visitation Residential time | Domestic violence considered in setting visitation. 452.400 452.372.2 finding of domestic violence, no ADR required. | 452.372.2 Plan setting forth terms of custody may include a provision for mediation. In cases involving custody or visitation issues, the court may, except for good cause shown, or as otherwise provided, order parties to participate in an alternative dispute resolution program. |
| Nebraska | 43-2912 | (1) Assist in developing a satisfactorily restructured family; (2) Provide for child's physical care; (3) Maintain child's emotional stability; (4) Provide for child's changing needs so as to minimize modifications to plan; (5) Set forth authority and responsibilities of each parent; (6) Minimize child's exposure to parental conflict; (7) Encourage parties to fulfill parenting responsibilities through agreements in parenting plan rather than by relying on judicial intervention; (8) Encourage participation by both parties in child's activities; | Visitation Parenting functions Parenting plan Remediation process Custody | Mediators shall be trained to recognize domestic violence 43-2904(2) | Materials distributed upon filing action. 43-2904(1) |

| State | Authority | Brief Description | Parenting Terminology | Domestic Violence Protections | Mediation |
|------------------|---|--|---|---|--|
| Nebraska (cont.) | | (9) Both parties to have equal access to records; (10) Encourage remediation prior to litigation; and (11) Assist both parties to articulate a visitation schedule. 43-2912 through 43-2917 | | | |
| New Mexico | NMSA (1990 Repl.) 40-4-9.1 | A document submitted for approval of the court setting forth the responsibilities of each parent individually and the parents jointly in a joint custody arrangement. Shall include division of child's time and care. May include: religion, education, child care, recreational activities, medical and dental care; designation of specific decisionmaking responsibilities; methods of communication, transportation, exchange, telephone and mail contact; procedures for future decisionmaking, including dispute resolution; other statements regarding welfare of the child or designed to clarify and facilitate parenting under joint parenting arrangements. | Custody 40-4-9.1, L(2) joint custody (3) sole custody (7) parenting plan (5) visitation (8) period of responsibility (6) presumption of joint custody 40-4-9.1, A | 40-4-8B(1) no mediation in domestic abuse cases. Guardian ad litem appointed in contested custody cases. | When custody is contested, the court shall refer to mediation unless domestic violence or child abuse has occurred. 40-4-8B(1) |
| Oregon | O.R.S. 107.101 - Policy. 107.102 - Contents. | May include a general outline of how parental responsibilities and parenting time will be shared and may allow parents to develop a more detailed agreement on an informal basis. 107.102 (2) Must set forth the minimum amount of parenting time and access a noncustodial parent is entitled to have. | Custody Parenting time Visitation (for grandparents and others) | Safety of parties to be considered in developing parenting plan. 107.101(5) | 107.179 Contested Custody – goes to mediation unless (3) a party objects on grounds that to participate in mediation would subject the party to severe emotional distress. |
| Pennsylvania | 23 Pa.C.S.A. Sec. 5306 | Plan for implementation of custody order. Court may require parents to submit a plan for implementation of any custody order. Upon request of either parent or the court, the domestic relations section of the court or other party or agency approved by the court shall assist in the formulation and implementation of the plan. | 5302 legal custody partial custody physical custody shared custody visitation | 23 Pa.C.S.A. Sec. 5303 (a)(3) the court shall consider present and past violent or abusive conduct in making an order for custody, or partial custody. | Counseling 23 Pa.C.S.A. 5305 |

| State | Authority | Brief Description | Parenting Terminology | Domestic Violence Protections | Mediation |
|------------|---|---|--|---|---|
| Tennessee | Pilot Project T.C.A. 36-6-401 (statistical data due to General Assembly 2/1/99) | Plan for parenting the child, including allocation of parenting responsibilities and establishment of schedules incident to those allocations, as well as an award of child support. 36-6-402(4) | Custodial parent (1) Parenting responsibilities (2) Parenting schedule (3) Permanent parenting plan (4) Primary residential parent (5) Residential provisions (6) Temporary parenting plan (7) 36-6-402 | 36-6-412(a) No mutual decisionmaking or mediation if (2) physical, sexual or pattern of emotional abuse of child or another person living with that child, or (3) act defined in 36-6-601(1) 36-6-411 No mediation if OFP in effect, unless agreed to by victim, AND certified mediator trained in domestic violence to protect the safety of the victim, AND victim permitted to have supporting person in attendance. | If parties cannot agree upon allocation of parenting responsibilities, parties shall request court to order mediation or ADR. |
| Texas | Texas Family Code 153.007 And 153.133 | To promote amicable settlement, the parties may enter into a written agreement containing provisions for conservatorship and possession of the child and for modification of the agreement, including variations from the standard possession order. Agreement must: 1. establish county of residence of child; 2. specify rights and duties of each parent regarding child's physical care, support and education; 3. provisions to minimize disruption of child's education, daily routine, and association with friends 4. allocate between parents all remaining rights and duties of parent provided by Chapter 151 5. voluntarily and knowingly made by each parent and has not been repudiated by either parent at the time the order is rendered; 6. Is in the best interest of the child. | 1. Joint or sole managing conservators 2. Possessory conservator(s) 3. access | 153.004 a. In determining sole or joint managing conservator, court shall consider evidence of abuse committed within a two-year period preceding filing or during the pendency. b. court may not appoint joint managing conservators if credible evidence presented of history or pattern of child neglect or physical or sexual abuse c. Court shall consider commission of family violence in determining whether to deny, restrict, or limit the possession of a child. | 153.0071 Alternate Dispute Resolution Procedures a. Written agreement to submit to binding or non-binding arbitration. b. Written agreement to submit to mediation, which may be binding if certain conditions are met. |
| Washington | RCW 26.09.184(2) | 26.09.184 Objectives (a) provide for the child's physical care; (b) maintain child's emotional stability; (c) provide for child's changing needs in a way that minimizes the need for modifications | 26.09.004 (1) Temporary parenting plan (2) Permanent parenting plan | 26.09.191(1) no mutual decisionmaking or designation of a dispute resolution process other than court action if it is found that a parent has | 26.09.015 Purpose of mediation proceeding shall be to reduce acrimony that may exist between the parties |

| State | Authority | Brief Description | Parenting Terminology | Domestic Violence Protections | Mediation |
|-----------------------|-----------|---|---|--|---|
| Washington (cont.) | | <p>to permanent parenting plan;</p> <p>(d) set forth authority and responsibilities for each parent;</p> <p>(e) minimize child's exposure to parental conflict;</p> <p>(f) Encourage parents, where appropriate to meet responsibilities to child through agreements in permanent parenting plan rather than by relying on judicial intervention; to otherwise protect the best interests of the child.</p> | (3) Parenting functions Residential schedule 26.09.184(5) | <p>engaged in (c) domestic violence.</p> <p>Residential time shall be limited if (iii) history of domestic violence.</p> | and to develop an agreement assuring the child's close and continued contact with both parents after the marriage is dissolved. |

| State | Education | Does Plan Become Part of Final Order | Sanctions for Non-compliance | Provisions for Expedited Hearings | Other/Comments Child Support: 1. Included in P.P. 2. Tied to visitation/custody |
|------------|---|--|--|---|---|
| Alabama | | Yes – either part of MTA or court order. | | | 1. Must be included in P.P. 30-3-153(a)(4) 2. Extraordinary visitation may be basis of downward deviation of child support guidelines. |
| Arizona | Presiding judge of superior court shall establish, maintain, and enhance programs designed to educate persons about impacts on children of dissolution of marriage, legal separation and restructuring of families. 25-412 | Yes | Attorney fees and court costs if a parent unreasonably denies, restricts or interferes with court-ordered visitation. 25-408 K <hr/> 25-414 Upon petition, notice and hearing, if court finds parent has without good cause, refused to comply with visitation order, court shall do at least one of the following: 1. contempt finding; 2. compensatory visitation; 3. parent education at violating parent's expense; 4. family counseling at violating parent's expense; 5. civil fine not to exceed \$100; 6. mediation or other ADR at violating parent's expense; 7. Any other order in child's best interests. | 25-326 Historical and Statutory Notes – Presiding superior court judge to submit to the supreme court a plan to expedite hearings. <hr/> Presiding superior court judge to establish, maintain and enhance programs designed to expedite temporary hearings and to establish, enforce and modify orders involving children. 25-412 <hr/> Custody hearings shall receive priority in being set for hearing. 25-407 | 1. Not part of P.P. – set by court pursuant to 25-403Q 2. Deviation from guidelines based on all relevant factors including (7) duration of visitation and related expenses. |
| California | Family Law Rules Rule 1200 Judicial Education (1) within 3 months of beginning a family law assignment, or within 1 year of beginning a | N/A | | 3089 – In counties with conciliation court, the court or parties may consult with the conciliation court to assist the parties in formulating a plan for implementation of the | 1. Statute doesn't specifically authorize P.P., term used generically. 2. Statewide uniform guidelines include |

| State | Education | Does Plan Become Part of Final Order | Sanctions for Non-compliance | Provisions for Expedited Hearings | Other/Comments Child Support: 1. Included in P.P. 2. Tied to visitation/custody |
|--------------------|--|--------------------------------------|--|---|---|
| California (cont.) | family law assignment in courts with 5 or fewer judges, the judicial officer shall attend a basic education program on Calif. Family law and procedure. (2) Shall attend a periodic update on new developments. <hr/> Court may order parental education in cases of violation of parenting time order. | | | custody order or to resolve disputes arising from implementation of plan for custody. | a factor for percentage of time spent with higher earner. |
| Colorado | 14-10-123.7 Parental education Court may order in cases of dissolution, legal separation, proceeding concerning the allocation of parental responsibilities, parenting time proceedings or post decree proceedings involving the allocation of parental responsibilities or parenting time or proceedings in which parent is subject of a restraining order. <hr/> In disputes | Yes | 14-10-129.5 Court may order: (a) Additional terms and conditions consistent with previous order; (b) Modification of previous order; (b.3)parental education; (b.7)family counseling; (c) violator to post bond to insure future compliance; (d) makeup parenting time; (e) contempt – fine or jail; (e.5)civil fine not to exceed \$100; (f) hearing to modify allocation of parental responsibilities; (g) Any other order in the child's best interests. Appropriate State Agency to develop Parenting Time Enforcement Program I. Mediation | 14-10-129.5 In disputes concerning parenting time, court shall schedule hearing as expeditiously as possible. | 1. Parenting Plan legislation does not address specific requirements of agreement. 2. No |

| State | Education | Does Plan Become Part of Final Order | Sanctions for Non-compliance | Provisions for Expedited Hearings | Other/Comments Child Support: 1. Included in P.P. 2. Tied to visitation/custody |
|----------------------|---|--|--|-----------------------------------|--|
| Colorado (cont.) | concerning parenting time, court may order parental education. 14-10-129.5 | | II. Family Counseling III. Parental Education IV. Development of Parenting Plans V. Parenting Time Enforcement Procedures VI. Parenting Time Guidelines VII. Alternative custody Arrangements | | |
| District of Columbia | Court may order either or both parents to attend parenting classes. 16-911(a-2)(2)(D) | Court shall enter an order for any custody arrangement, which is agreed to by both parties unless clear and convincing evidence indicates that such arrangement is not in the best interest of the child. 16-911 (a-2)(6)(A) Court shall consider the Parenting plan submitted by the parents in evaluating the factors set forth in subsection (a) of this section [best interests] | | | 1. Yes 2. No |

| State | Education | Does Plan Become Part of Final Order | Sanctions for Non-compliance | Provisions for Expedited Hearings | Other/Comments Child Support: 1. Included in P.P. 2. Tied to visitation/custody |
|------------------------------|---|---|--|---|--|
| District of Columbia (cont.) | | and in fashioning a custody order. 16-911 (a-2)(2)(B) | | | |
| Illinois | 750 ILCS 5/404.1 Court may order the parties, excluding minor children, to attend an educational program concerning the effects of dissolution of marriage on the children. | | Court's authority to enforce its orders not limited. | 5/606(a) custody proceedings shall receive priority in being set for hearing. | 1. Parenting plan language does not address child support. 2. No, unless split custody. |
| Kansas | | | Repeated unreasonable denial of or interference with visitation rights may be considered a material change of circumstances. K.S.A. 60-1616(e) | | 1. Plan concerns custody only. 2. Child support and visitation specifically separated 60-1612. |
| Massachusetts | | Yes | | | 1. Not included as part of shared custody implementation plan. 2. Specifically separated. Court may modify child support notwithstanding an agreement of the parents. |
| Mississippi | | | | | |
| Missouri | R.S.Mo 452.372 court shall order all parties to attend | 452.375.8. decree includes specific written | 452.375 Upon court finding that parent has refused to exchange information, court shall order parent | Final disposition of a motion for a family access order shall take place not more | 1. Included as part of Parenting Plan. 2. Not tied, but in |

| State | Education | Does Plan Become Part of Final Order | Sanctions for Non-compliance | Provisions for Expedited Hearings | Other/Comments Child Support: 1. Included in P.P. 2. Tied to visitation/custody |
|------------------|--|---|--|---|--|
| Missouri (cont.) | educational sessions when custody or visitation is involved. Parties to modification proceeding who previously attended educational sessions may also be required to attend. | plan | to comply immediately and to pay the prevailing party's expenses. 452.400 Family Access Motion could result in : 1. compensatory custody, or visitation; 2. counseling; 3. fine of up to \$500.00, payable to the aggrieved party; 4. bond or security; 5. costs of counseling; 6. reasonable expenses incurred; 7. Contempt | than sixty days after the service of such motion. | determining child support, court may consider child's physical and legal custody arrangements including the amount of time child spends with each parent and reasonable expenses associated with the custody or visitation arrangements. 452.340(5) |
| Nebraska | | Yes, decree includes the parenting plan 42-364 | 42-364.15 The court shall enter such orders as are reasonably necessary to enforce rights of either parent. Including: modification of previous visitation orders; contempt; file bond or other security; tax costs, including reasonable attorneys' fees. | Re-mediation encouraged | 1. Specifically excluded 43-2914 2. Because child support is excluded from the parenting plan, it can't be tied to custody or visitation. |
| New Mexico | | 40-14-9.1 F. A plan adopted by the court shall be entered as an order of the court. | 40-4-9.1(5) decisions regarding major changes in a child's life may be decided by: (a) agreement between the joint custodial parents; (b) a requirement that the parents seek family counseling, conciliation or mediation service to assist in resolving their differences; (c) agreement by the parents to | | |

| State | Education | Does Plan Become Part of Final Order | Sanctions for Non-compliance | Provisions for Expedited Hearings | Other/Comments Child Support: 1. Included in P.P. 2. Tied to visitation/custody |
|--------------------|--|--|---|--|---|
| New Mexico (cont.) | | | <p>submit the dispute to binding arbitration;</p> <p>(d) allocating ultimate responsibility for a particular major decision area to one legal custodian;</p> <p>(e) terminating joint custody and awarding sole custody to one person;</p> <p>(f) reference to a master pursuant to Rule 53 of the Rules of Civil Procedure for the District Courts [Rule 1-053 SCRA 1986]; or</p> <p>(g) the district court.</p> | | |
| Oregon | May be ordered in Expedited Parenting Time Enforcement Hearing 107-437(c) | Becomes part of judgment 107.102(1) | <p>Upon notice and hearing, court may modify parenting time upon showing that parent has interfered with or denied without good cause, the exercise of parenting time rights.</p> <p>107.431</p> | <p>107.434 Expedited parenting time enforcement procedure, which may or may not include a requirement for mediation.</p> <p>No later than 45 days.</p> | <p>1. Not included as part of Parenting Plan</p> <p>2. Upon notice, motion and hearing, Court may modify child support in cases of denial of parenting time without good cause. Section does not apply when child is in another state that has enacted the UCCJA and a court in that state would have jurisdiction.</p> |
| Pennsylvania | 5305 The court may require the parents to attend counseling and may consider the recommendations of the counselors prior | 3323 (b) contents of the decree – includes enforcement of agreements voluntarily | 3323 (b) contempt | | <p>1. not included – plan is to be for implementation of custody order.</p> <p>2. Only in cases of split custody. Pa. Rules of</p> |

| State | Education | Does Plan Become Part of Final Order | Sanctions for Non-compliance | Provisions for Expedited Hearings | Other/Comments Child Support: 1. Included in P.P. 2. Tied to visitation/custody |
|-----------------------------|---|--|--|--|---|
| Pennsylvania (cont.) | to awarding sole or shared custody. | entered into between the parties. | | | Civil Procedure Rule 1910.16-5(h) |
| Tennessee | 36-6-101(e)(1) if in best interests of child, court may order parents to attend educational seminar concerning the effects of the dissolution of marriage on the children. 36-6-405 Parent Educational Seminal | Any final decree shall incorporate the permanent parenting plan. 36-6-402(4) | Contempt 36-6-406(b)(1) additional time with child 36-6-406(b)(2)(A) costs, fees 36-6-406(b)(2)(B) incarceration, costs, fees and other reasonable expenses 36-6-406(b)(2) | If mediation or ADR not available within 24 hours, court shall order expedited hearing. 36-6-407(2) | Permanent parenting plan due 90 days after commencement of action otherwise must submit scheduling order with referral to mediation or request for waiver. 36-6-408(b)(1) |
| Texas | 153.010 If court finds history of conflict, may order counseling. | 153.007 (b) if court finds that the agreement is in the child's best interest, the court shall render an order in accordance with the agreement. | 153.011 Security Bond, if court finds person with possessory interest in a child may violate the court order. 157.109 If party has on 2 or more occasions denied possession of or access to a child. 157.001 contempt 157.168 additional periods of possession or access. | | 153.001 (b) A court may not render an order that conditions the right of a conservator to possession of or access to a child on the payment of child support. |
| Washington | | Plan incorporated in any final decree 26.09.004(2) | An attempt by a parent in either the negotiation or performance of a parenting plan, to condition one aspect of parenting plan upon another . . . shall be deemed bad faith and shall be punished by contempt and reasonable fees and costs. 26.09.160(1) 26.09.160(2)(b)(i) additional time; (ii) costs and fees; (iii) civil penalty of not less than \$100 | Trial dates for actions involving minor children brought under this chapter shall receive priority. 26.09.161 (6) | 1. Child support is part of the parenting plan. 2. The performance of parental functions and the duty to provide child support are distinct responsibilities in the care of a child. An attempt by a |

| State | Education | Does Plan Become Part of Final Order | Sanctions for Non-compliance | Provisions for Expedited Hearings | Other/Comments Child Support: 1. Included in P.P. 2. Tied to visitation/custody |
|--------------------|-----------|--------------------------------------|--|-----------------------------------|--|
| Washington (cont.) | | | <p>May be imprisoned for not more than 180 days.</p> <p>26.09.160(3) Second failure within 3 years (i) twice the additional time; (ii) costs and fees; and (iii) civil penalty of not less than \$250. May be imprisoned for not more than 180 days.</p> | | <p>parent, in either the negotiation or the performance of a parenting plan, to condition on aspect of the parenting plan upon another . . . shall be deemed bad faith and shall be punished by contempt.</p> <p>26.09.160</p> |

Appendix D

Parenting Plan Subcommittee Workplan

DRAFT WORK PLAN

PARENTING PLAN SUBCOMMITTEE

| Topic | Action to Be Taken/ | Responsible Authority |
|---|--|---|
| 1. Examine parenting plans | <p>A. Define components</p> <p>B. Review paternities as part of parenting plans *</p> <p>1. Review other states' for inclusion of paternity actions in parenting plans</p> <p>C. Modification of child custody</p> <p>1. define components of custody</p> <p>2. define ages at which change may be appropriate</p> <p>D. Removal or relocation of children</p> <p>1. gather data on what other states are doing</p> <p>2. review literature on effects on children</p> <p>E. Study plans currently in operation in Minnesota and in Other States *</p> <p>1. Gather data in Minnesota</p> <p>2. Gather data in other states</p> <p>3. Contact Washington State for information</p> <p>a. John Kydd</p> <p>4. Contact Oregon for information</p> <p>5. Contact Tennessee for information on their pilot project. Report due in February.</p> <p>6. Review literature on effects on children</p> | <p>A. _____</p> <p>B. _____</p> <p>1. _____</p> <p>C. _____</p> <p>1. _____</p> <p>2. _____</p> <p>D. _____</p> <p>1. _____</p> <p>2. _____</p> <p>E. _____</p> <p>1. _____</p> <p>2. _____</p> <p>3. _____</p> <p>a. _____</p> <p>4. _____</p> <p>5. _____</p> <p>6. _____</p> |
| 2. Examine interrelationship of child support and parenting plans | <p>F. Define "de-stranding"</p> <p>1. review literature from Washington State</p> <p>G. Review income shares approach</p> <p>1. review DHS studies on income shares</p> | <p>F. _____</p> <p>1. _____</p> <p>G. _____</p> <p>1. _____</p> |

* Action also being taken by another subcommittee

| Topic | Action to Be Taken/ | Responsible Authority |
|---|---|--|
| 3. Examine current custody and visitation labels | H. Review other states' changes in definition I. What has been done in those states with existing case law 1. Contact ABA, 2. Contact family court judges, 3. Contact mediation providers J. Examine Full faith and credit interpretation – UCCJA 1. Review other states * a. Check Tennessee, b. Washington, and c. Other states for experience with interpretation of different terminology. | H. _____ I. _____ 1. _____ 2. _____ 3. _____ J. _____ 1. _____ a. _____ b. _____ c. _____ |
| 4. Examine whether changes in parenting rules lower post-divorce conflict | K. Review other states' experience 1. Filter for increased litigation initially as a result of change, versus increased litigation due to failure of process to reduce conflict and/or litigation | K. _____ 1. _____ |

* Action also being taken by another subcommittee

Appendix E

Fiscal Review Subcommittee Workplan

DRAFT WORK PLAN

FISCAL REVIEW SUBCOMMITTEE

| Topic | Action to Be Taken | Responsible Authority |
|---|---|---|
| 1. Examine other jurisdictions' experience with parenting plans and child support | <p>A. Check with National Council of Juvenile and Family Court Judges</p> <ol style="list-style-type: none"> 1. Review how child support fits structurally within a parenting plan 2. Review parenting plan's financial impact on support orders <ol style="list-style-type: none"> a. review other states' experience* 3. on what basis is support decided, i.e., where the child lives, designated primary custodial parent, who had the most money <p>B. Ability/wisdom of adopting financial plans to reflect changes in co-parenting plans.</p> <p>C. Define financial co-parenting (for what kind of expenditures should parents be responsible) I.e., post-secondary education, driving expenses, in-kind support</p> <p>D. Review ? for post-secondary education, driving expenses, in-kind support</p> <p>E. Review Paternity cases – can they/should they be included in parenting plans from a fiscal viewpoint *</p> <p>Would parenting plans be appropriate in some paternity cases</p> | <p>A. _____</p> <ol style="list-style-type: none"> 1. _____ 2. _____ <ol style="list-style-type: none"> a. _____ 3. _____ <p>B. _____</p> <p>C. _____</p> <p>D. _____</p> <p>E. _____</p> <ol style="list-style-type: none"> 1. _____ |
| 2. Examine child support | <p>F. Review what/when is flexibility/discretion with regard to child support orders is in the best interests of children</p> <ol style="list-style-type: none"> 1. Concerns regarding "two-track" or disparate treatment of children | <p>F. _____</p> <ol style="list-style-type: none"> 1. _____ |

* Action also being taken by another subcommittee

* Action also being taken by another subcommittee

| Topic | Action to Be Taken | Responsible Authority |
|--|---|---|
| | 2. Should control of the money follow the child | 2. _____ |
| 3. Basic philosophical question – can money buy love | G. How does money motivate. The bottom line is that we need to be cognizant of the method and manner to which finances influence behavior. | G. _____ |
| 4. Examine Fiscal impact of Parenting Plans | <p>H. Systems impacted</p> <ol style="list-style-type: none"> 1. District court 2. County social services 3. state agencies – DHS/OAH 4. parties <ol style="list-style-type: none"> a. Impact of co-parenting/parenting plans on settled cases - do we risk “unsettling” those parents who have managed to reach some kind of resolution with which they are comfortable. <p>I. Professionals Involved</p> <ol style="list-style-type: none"> 1. Certification and training individuals 2. Monitoring 3. “systems” cost – infrastructure 4. individual participants | <p>H. _____</p> <ol style="list-style-type: none"> 1. _____ 2. _____ 3. _____ 4. _____ <ol style="list-style-type: none"> a. _____ <p>I. _____</p> <ol style="list-style-type: none"> 1. _____ 2. _____ 3. _____ 4. _____ |
| 5. Will co-parenting and parenting plans increase overall costs and/or individual systems’ costs | <p>J. Review other states’ experiences **</p> <ol style="list-style-type: none"> 1. Overall system costs 2. Parties’ costs 3. Litigation increase <ol style="list-style-type: none"> a. increase in case law attempting to clarify the new legislative intent (test cases) b. individual litigiousness c. who bears the cost | <p>K. _____</p> <ol style="list-style-type: none"> 1. _____ 2. _____ 3. _____ <ol style="list-style-type: none"> a. _____ b. _____ c. _____ |

* Action also being taken by another subcommittee

Appendix F

Conflict Reduction Subcommittee Workplan

PARENTAL COOPERATION TASK FORCE

Conflict Reduction subcommittee

Mission Statement:

To allow /enable divorcing parents and/or parents living separately to resolve dissolution/parenting issues without decision making imposed by the Court system.

Subcommittee statutory charge:

“Research ways to reduce conflict between parents in family law proceedings.... “

Procedural Framework:

1.) Identify sources of parental conflict within the dissolution/paternity processes

E.g. custody of minor children

parental visitation

residence location

attorneys (lack of education, self interest, etc.)

other _____

2.) Study those processes currently in operation by statute or practice which are designed to reduce parental conflict

E.g. ADR (mediation)

visitation expediter

parental education classes

3.) Determine which processes are working

- a. Well**
- b. Marginally (could be better) (if so, what can we do to make it so?)**
- c. Not well at all (if so, why?) e.g. domestic violence , voluntary child support**

4.) Determine what tools we need resolve conflicts which

- a. are subject to incomplete or unsatisfactory resolution because our framework isn't doing the job**
- b. are not being resolved or addressed at all**

5.) Propose those steps to be taken to implement our recommendations

Specific Areas of research:

- 1.) ADR review studies e.g. McAdoo Report**
- 2.) Other states experiences e.g. procedures, (empirical and anecdotal studies)**
- 3.) Pilot Projects e.g. Ramsey and Stearns counties**
- 4.) Financial information (what are the present costs, and will additional funding help?)**

5.) Other _____

