Access to Courts Workgroup Report
Preface

To guide our work we have adopted the following definition of Access to Courts: *Access to Courts is the ability to have your legal issue heard no matter who you are, where you live, and how much money you have, with the court making reasonable accommodations to reduce barriers.*

The Access to Courts Workgroup (Access Workgroup) has identified the following as the most pressing case processing concerns impacting access to courts by family law litigants:

1. Lack of consistency in application of existing formal processes, in part as a result of local rules and customs.
2. Lack of transparency regarding existing formal and informal processes, available supports, and sources of information.
3. Unmet needs of litigants with special requirements who need supports to effectively participate in the family law litigation process, including, but not limited to, self- represented litigants.

The most effective means of addressing those concerns have been identified as:

1. Uniformity of process.
2. Simplification of process.
3. Transparency of process.

The most effective measures to accomplish those means have been identified as:

1. Education of the judicial branch, attorneys, and the general public with regard to family law processes, available supports, and appropriate interactions.
2. Simplification of processes, including imposition of uniform practices where appropriate, respecting differing needs of urban and rural litigants.
3. Simplification and expansion of existing supports for litigants.
4. Systematic support, monitoring, and review of cases involving litigants with special requirements, including, but not limited to, self-represented litigants.

Our report contains specific recommendations which have been divided into two categories:

I Process improvements that have been adequately researched which the Workgroup believes merit current consideration and action by the Iowa Supreme Court for implementation in the immediate future.

II. Process improvements that require additional research before making specific recommendation which the Workgroup believes merit future consideration and action by the Iowa Supreme Court, some of which represent a significant departure from existing policies and practices or require significant investment by the legislative or judicial branch.

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Table of Contents and Summary

Access to Courts is the ability to have your legal issue heard no matter who you are, where you live, and how much money you have, with the court making reasonable accommodations to reduce barriers.

DIVISION I

Process improvements that have been adequately researched which the Workgroup believes merit current consideration and action by the Iowa Supreme Court for implementation in the immediate future.

The Access to Courts Workgroup (Access Workgroup) recommends:

IA– Improve Transparency of Process

The Iowa Supreme Court should require districts to provide local rules, standing orders, and mandated forms to a central repository and establish unified means of making information available to the bar and the general public. The districts should be required to provide the information within a set period of time. Districts that fail to comply should be prohibited from using the unreported local rules, standing orders, and mandated forms. The existing Judicial Branch website should be re-tooled to be more user-friendly in order to provide easier access to the information. In addition courthouse handouts and signage should be developed along with other distribution means as seem appropriate (PSA's and the like) be developed and implemented.

IB – Educate the Judicial Branch Regarding Interaction with Self-Represented Litigants

In order to reduce barriers for self-represented litigants, a master plan should be developed for continuing education that addresses interacting with self-represented litigants. That master plan should addresses content, target audience, and efficacy evaluation of the continuing education. The education should be directed toward the judiciary, the bar, and courthouse personnel who work with self-represented litigants including the clerks of court. The master plan would also include internal development and contracting for continuing education programs from third-party vendors and would include online and in-person elements. The educational program should be piloted and modified as necessary to meet the goals and modified before final roll-out. The plan should include on-going education elements.

IC – Take Specific Steps to Create Means to Gather Statistics on Self-Representation and to Alert Court Committees of Self-Representation Concerns

In order to determine the degree to which there are self-represented litigants in the family law system, adjustments should be made to EDMS to generate accurate statistics. In addition the

Child Support Guidelines Review Committee should be requested to consider simplified forms and instructions for preparing child support guideline worksheets in its next review.

DIVISION II

Process improvements that require additional research before recommendation which the Workgroup believes merit consideration and action by the Iowa Supreme Court in the future.

The Access Workgroup Recommends:

IIA – Simplify Forms

Adoption of improvement and systemic maintenance of the forms for self-represented litigants as an intermediate-term goal.

IIB – Simplify and Educate on Use of Unbundled Legal Services

Adoption of investigation into means of support and improving use of unbundled legal services in family law cases by self-represented litigants as an intermediate-term goal.

IIC1 - Standardize Circumstances When Use of EDMS Will Be Waived

Adoption of establishing uniform guidelines for when e-filing will be waived and the manner in which default scenarios will be handled when there are self-represented litigants as an intermediate-term goal.

IIC2 – Create Uniformity in Interactions Between Judicial Branch Personnel and Self-Represented Litigants

Adoption of development and implementation of updated best practices for interaction between the judiciary and self-represented litigants as an intermediate-term goal.

IIC3 – Create Uniformity in Interactions Between Judicial Branch Personnel and Self-Represented Litigants

Adoption of development and implementation of updated guidelines for interaction between court personnel and self-represented litigants as an intermediate-term goal.

IIC4 - Review the Interaction Between Unauthorized Practice of Law Rules and Goals Concerning Support of Self-Represented Litigants

Adoption of review of the rules of unauthorized practice of law to identify possible amendments to facilitate assistance to self-represented litigants by Clerks of Court, Court Administration, and other court employees as an intermediate-term goal.

IID1 – Make Existing Information Readily Available

Adoption of development and implementation of a simple Judicial Branch website page resource consisting of a flow chart of steps in family law case processing linked to internet forms and resources or similar tools (as dictated by further research and review) as an intermediate-term goal.

IID2 – Increase Visibility of Iowa Judicial Branch Website Information

Adoption of methodology improving the ability of search engines to identify the Iowa Judicial Branch website as a source for family law information and forms as an intermediate-term goal.

IIE - Improve Public Awareness

Adoption of development and implementation of a systematic and coordinated campaign to **i**ncrease public awareness of the assistance available to families from the family court system and how to access that assistance as in intermediate-term goal.

IIF - Improve Overview of Settlements and Defaults Involving Self-Represented Litigants

Adoption of development and implementation of a specific process for court review and approval of self-represented litigant family law case settlements and defaults as in intermediate-term goal.

IIG - Evaluate Family Law Case Processes in the Context of Urban and Rural Resources and Needs

Adoption of review of the propriety of variations in processes and procedures (including use of local rules) which support the different needs of urban and rural settings as in intermediate-term goal.

IIH - Expand Supports for Self-Represented Litigants

Adoption of review of the existing supports for litigants with special requirements and options for providing additional support services as an intermediate-term goal.

II_I - Expand Methods and Times of Hearings

Adoption of consideration of **e**stablishing rules which would permit parties to consent to having hearings conducted outside of normal business hours or to conduct hearings, or to provide testimony, by telephonic or electronic means, as an intermediate goal.

IIJ - Train and Publicize About Family Law Forms

Adoption of development and presentation of training sessions for the general public in how to use family law forms in concert with improved training for court staff on the boundaries of assistance and advertisement of available trainings as an intermediate goal. Adoption of use of public service announcements to advertise the training sessions; partnering with the ISBA to provide training videos and on-site trainings; and partnering with public libraries to provide access and information concerning forms and resources for self- represented litigants are further recommended to be adopted as elements of this goal.

IIK - Establish A State-wide Mediation Program

Adoption of the Iowa Supreme Court development of a unified state-wide mediation program as an intermediate-term goal.

IIL - Standardize Processes for Use of Unbundled Legal Services

Adoption of The Iowa Supreme Court establishing standardized forms and processes for providing unbundled legal services and termination of those services, including treatment through the EDMS system, as in intermediate-term goal.

IIM - Develop Software Which Creates Family Law Forms

Adoption of the Iowa Supreme Court developing court-provided family law forms that could be created by answering a series of factual questions for use both by self-represented litigants and law firms as a long-term goal. Revisions to take into account the needs of immigrants, ESL Iowans, same-sex couples, and other litigants with special requirements.

IIN - Develop Self-Help Centers and Helplines for Family Law Litigants

Adoption of the Iowa Supreme Court investigation of development of Self-Help Centers and a Helpline to assist self-represented litigants navigate the legal processes and to provide the hardware and software necessary for e-filing, giving consideration to partnering with libraries or other venues, particularly in rural areas, as a long-term goal. Include consideration of using Masters and/or legal interns at the Centers to provide technical content assistance in filling out forms.

IIO – Update Judicial Branch Website

Adoption of the Iowa Supreme Court review, revision, and upgrade of the existing website to make it more user-friendly, including consideration of a separate webpage or webpages for the general public, attorneys, self-represented litigants, and mobile device users as a long-term goal.

IIP – Educate Concerning Existing Supports Available For Access to the Courts in Family Law Matters

Adoption of the Iowa Supreme Court development and implementation of a campaign to improve bench and bar awareness of the importance of the assistance available to families from the family court system and supporting individual's access to that assistance as a long-term goal. The campaign to include systematic use of internet, continuing education, and personal appearances to support the bench and bar's understanding of the importance of these services to Iowans and the future of Iowa and would include a plan for periodic review.

IIQ – Simplify Case Processing By Developing Multiple Case Processing Tracks

Adoption of evaluation of the potential for development and implementation of simplified procedures and processes for uncontested cases, such as cases resolved by collaborative law agreements; cases where neither custody nor support are at issue and total assets are less than $100,000; cases involving support modifications; and cases involving co-parenting disputes, as a long-term goal.

IIR – Provide Ancillary Court Services as a Judicial Branch Function

Adoption of the Iowa Supreme Court investigating court-provided services, including mediators, guardians ad litem, and special masters, including use of special masters for child support, as a long-term goal.

IIS - Establish On-going Review of Family Law Case Processing

Adoption of the Iowa Supreme Court investigation of mechanisms to create a committee for on-going review of family law case processes as a long-term goal.

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DIVISION I

Process improvements that have been adequately researched which the Workgroup believes merit current consideration and action by the Iowa Supreme Court for implementation in the immediate future.

IA - IMPROVE TRANSPARENCY OF EXISTING RULES, FORMS, AND SERVICES

Proposed Process/Improvement: Make information concerning existing rules, forms and services more accessible to attorneys, the general public, and self-represented litigants by centralizing information and by effectively distributing information using the internet and other media; on-site courthouse signage; and handouts targeted to reach the general public and individuals with special requirements.

Reason for consideration of the process/improvement and its anticipated benefit to Iowa families: There appears to be a lack of information about existing rules (including the rules of civil procedure, child support guidelines, and local rules and standing orders) and existing supports (including the forms for self-represented litigants) which impedes effective access to the family law court. The initial work by this workgroup disclosed supports and information exist, but are difficult to find even if the person making inquiry knows what they are seeking. Improving public information and transparency would improve compliance with rules, reduce wasted time by litigants, bench and bar, and make more efficient use of court resources.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps:

1. Expand review of means for providing information on rules and procedures throughout the state and in other jurisdictions to identify best and most applicable practices. The Workgroup has concluded its review of local rules. Review of processes used in other states is ongoing.

2. Procedure for collaboration with groups listed below needs to be designed and implemented.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

1. The Iowa Supreme Court needs to require districts to provide local rules, standing orders, and mandated forms to a central information repository and establish a unified means of making that information available to the bar and the general public. 60 to 120 days.

2. The district courts need to comply with the requirement to provide information as directed by the Iowa Supreme Court. 60 to 120 days.

3. Development of a more user-friendly website with access to information, handouts, signage, and other distribution means. 60 to 120 days (contemporaneous with district court compliance with information.) Improvements to include:

   A. New single webpage with a flow chart of family law processes linked to pages with information and forms;

   B. Upgrade of the visibility of the website by utilizing technical means to ensure more "hits" and improved number of search words and phrases that will result in discovery of the website;

   C. Uniformity among districts regarding where and how they post district-specific information (i.e. local rules under the same descriptive heading for all districts); and

   D. Prominent notification of the existence of free forms and their required use.

4. Local court rules will be posted at the public access terminal (including PDF posting on the public access terminal) available on-site at courthouses, and such other distribution means as are identified. 60 to 90 days.

5. A process flow chart will be posted at the public access terminal (including PDF posting on the public access terminal) available on-site at courthouses, and such other distribution means as are identified. 60 to 90 days.

6. Make forms available to the general public in alternate formats (to include, but not be limited to paper, USB drive, and CD) in addition to the current download format at a set price from the offices of the Clerk of Court, other judicial offices, public libraries, and online orders. Purchase price would be used specifically for the cost of distributing the materials (such as printing, postage, purchasing, USB drives, and staff time) and not go into the general judiciary fund. We strongly recommend these forms be bundled with other forms (such as Small Claims forms) to enhance privacy. We also recommend there be a pop-up warning to alert users others may be able to see the website they are viewing and to clear their browser history to assure privacy. 60 to 90 days

7. Develop PSA's which inform the general public of the existence of free forms which are required to be used, websites, and related supports. 60 to 90 days.

8. Incorporate a public forum to address access issues in combination with the Court on the Road program. 60 to 90 days.

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

Clerks of Court, ISBA, judges, and other members of the legal community to assure accuracy of information concerning existing issues and to promote buy-in and compliance. Inclusion of groups that work with individuals with special requirements to assure those needs are being met including: State Department of Corrections and Wardens of individual facilities (prisoners); Iowa Legal Aid (elderly and low income population); Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); Iowa Department of Human Rights; National Alliance on Mental Illness - Iowa; Department of Human Services (as a means of getting information to potential users of the court); NAACP; Lutheran Services (the largest Iowa organization that addresses the interests of immigrants); Justice for our Neighbors; Catholic Charities (addresses the interests of many immigrants); Iowa Bureau for Refugee Services; Iowa Coalition Against Domestic Violence; Iowa Commission for the Blind; and Iowa Hearing Association. In addition there should be contact with past and potential future litigants to assure identification of actual, rather than perceived, needs.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

Some districts have their rules and standing orders readily available on the Judicial Branch website or from court administration or Clerks of Court. At least one bar association has gathered the information and made it accessible to members on their own website.

Pro - Making the information available will make it easier to process cases in compliance with local expectations. It will reduce questions to Clerks of Court, the Court and other entities thereby saving time and money.

Taking this step allows better long-term evaluation of whether unified practices or transparent practices would better serve Iowa families.

The availability of local rules may improve the number of attorneys available to provide legal services in low-population areas.

Con - The availability of local rules may encourage national law firms to engage in family law practice to the detriment of Iowa practitioners.

The availability of local rules may encourage unlicensed individuals providing sub-standard legal advice to Iowans.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context)

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

None identified.

Independent research:

Workgroup members have reviewed and examined the Judicial Branch website and other available Iowa websites and resources to gauge the accessibility of local rules, practices and standing orders.

The result of relevant survey results for proposed process/improvement:

No surveys as of this date.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

The Iowa Supreme Court should require districts to provide local rules, standing orders, and mandated forms to a central repository and establish unified means of making information available to the bar and the general public. The districts should be required to provide the information within a set period of time. Districts that fail to comply should be prohibited from using the unreported local rules, standing orders, and mandated forms. The existing Judicial Branch website should be re-tooled to be more user-friendly in order to provide easier access to the information. In addition, courthouse handouts and signage should be developed along with other distribution means as seem appropriate (PSA's and the like) be developed and implemented.

IB - DEVELOP STATE-WIDE TRAININGS FOR INTERACTIONS WITH SELF-REPRESENTED LITIGANTS

Proposed Process/Improvement: Develop and offer state-wide trainings for the Bench, Bar, and Clerks of Court concerning interacting with self-represented litigants.

Reason for consideration of the process/improvement and its anticipated benefit to Iowa families: Ethical, appropriate, and supportive interaction with self-represented litigants is necessary to access the courts by those litigants. Education will assist members of the Bench, the Bar, and Clerks of Court to interact in the best possible fashion, which would improve the efficiency of the operation of the courts and improve the experience by the litigants as well as the Bench, the Bar and Clerks of Court. It is an appropriate and effective means of addressing specific current concerns, including variance across the state in granting waivers for use of the EDMS.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps:

1. Gather information on existing Iowa education. Completed.

2. Contact sources for providing/structuring externally developed educational programs. Current judicial education source contacted and information on process and costs obtained. Completed.
3. Review offerings in this area in other jurisdictions. Offerings requested and not received; evaluation is that most venues use the commercial sources which have been contacted.
4. Procedure for collaboration with groups listed below needs to be designed and implemented.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

1. Constituent groups (judges, IAJ, ISBA, Iowa Legal Aid, Clerks of Court, and potential training partners) develop and submit training objectives. 60 days

2. Design master plan for continuing education content, target audience, and efficacy evaluation. 120 days

3. Contract for/develop continuing education programs. 180 days

4. Schedule and advertise continuing education programs. 180 days - to run concurrent with education design, or overlap education design.

5. Conduct initial stage of trainings. 180 days to 365 days

6. Conduct review and evaluation of trainings. 60 days following completion of training.

7. Supplemental trainings (on-going)

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

The Bench, the Bar, and Clerks of Court to assure accurate information concerning existing programs and to develop buy-in. This could be accomplished in part by presentations at upcoming meetings of these groups as well as involving them in design of master plan.

Inclusion of groups that work with individuals with special requirements to assure those needs are being met in the trainings including: Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); Iowa Department of Human Rights; NAACP; Iowa Commission for the Blind; and Iowa Hearing Association.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

The current training is a mix of local and state-wide education.

Pro: State-wide training efforts can take advantage of existing resources and can provide uniformity in the experience of self-represented litigants. Use of online training may allow training at times and dates that are convenient to individuals and do not require partial training of groups or shutdown of services to the public to accommodate training.

Con: State-wide trainings may be insufficient to address local concerns, customs, and personalities which may require supplemental trainings.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

Work with the national providers has given us the necessary input on this issue.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

Unanimous support.

Independent research: the result of relevant survey results for proposed process/improvement:

None contemplated beyond what is incorporated into development of training objectives.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

In order to reduce barriers for self-represented litigants, a master plan should be developed for continuing education that addresses interacting with self-represented litigants. That master plan should addresses content, target audience, and efficacy evaluation of the continuing education. The education should be directed toward the judiciary, the bar, and courthouse personnel who work with self-represented litigants including the clerks of court. The master plan would also include internal development and contracting for continuing education programs from third-party vendors and would include online and in person elements. The educational program should be piloted and modified as necessary to meet the goals and modified before final roll-out. The plan should include on-going education elements.

IC- TAKE MEASURES TO SUPPORT ON-GOING EFFORTS TO IMPROVE ACCESS TO THE COURTS IN FAMILY LAW MATTERS

Proposed Process/Improvement: Take specific measures to support on-going consideration of improvement of access to the courts in family law matters.

Reason for consideration of the process/improvement and its anticipated benefit to Iowa families: Effective action to support access to the courts requires accurate information and collaboration among entities working with the judicial system. Strong leadership by the Iowa

Supreme Court will support both the efforts and recognition of the importance of efforts to provide access to the courts in family law cases.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps:

1. Gather information on existing statistical information about self-represented litigants in Iowa education. Completed.

2. Determine methods of gathering information which are consistent with current information gathering and procedures. Completed.

3. Gather information on processes and procedures involved in development of the child support guideline worksheets. Completed.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

1. Request inclusion and consistent use of an EDMS litigant field which identifies self-represented litigants to support reliable statistics concerning number of self-represented litigants using the courts. 60 to 90 days

2. Request inclusion and consistent use of an EDMS field which identifies the degree to which attorneys are involved in the case i.e. involved at the beginning, throughout the case, and at the end of the case to support reliable statistics concerning number of self-represented litigants using the courts. 60 to 90 days

3. Suggest to the Child Support Guidelines Review Committee preparation of simplified forms and instructions for preparing child support guideline worksheets. Starting session of next review.

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

The Bench, the Bar, Clerks of Court, and the Child Support Guidelines Review Committee to assure accurate information concerning existing concerns and to develop buy-in. In addition there should be contact with past and potential future litigants to assure identification of actual, rather than perceived, needs.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

The Workgroup was unable to identify a reliable statistical source of information about the number of self-represented litigants in family law cases. There is a systematized wholesale review of the child support guidelines on a regular basis.

Pro: The requested actions would result in accurate statistical information to determine trends in self-represented litigants in family law cases in Iowa. Encouragement of the Child Support Guidelines Committee's consideration of the concerns of this Task Force concerning the impact of complicated guidelines on access to the courts supports needed change and encourages collaboration and cooperation among entities addressing family law concerns.

Con: Cost of modifications to the EDMS system. Additional work for Clerks of Court. Sending competing instructions to the Child Support Guidelines Committee in terms of simplicity in calculation and accuracy of calculating the cost of raising the child.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

Work with the national providers has given us the necessary input on this issue. Evaluation of efficacy of simplified guidelines is beyond the scope of this task force.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

Unanimous support.

Independent research: the result of relevant survey results for proposed process/improvement:

None contemplated beyond what is incorporated into development of training objectives.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

In order to determine the degree to which there are self-represented litigants in the family law system, adjustments should be made to EDMS to generate accurate statistics. In addition the Child Support Guidelines Review Committee should be requested to consider simplified forms and instructions for preparing child support guideline worksheets in its next review.

DIVISION II

Process improvements that require additional research before recommendation which the Workgroup believes merit future consideration and action by the Iowa Supreme Court in the future.

IIA - REVISE FORMS

Proposed Process/Improvement: Revise court-provided family law forms to increase areas where forms are provided and to make the forms more user-friendly, including availability of an

Adobe fill-in-the blank version. Revisions to take into account the needs of immigrants, ESL litigants, same-sex couples, and other individuals with special requirements.

Reason for consideration of the process/improvement and its anticipated benefit to Iowa families: The existing forms and instructions can be overwhelming to self-represented litigants. Revamping the existing forms, creating additional forms, and simplifying the instructions would allow better self-representation.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps (including additional research, funding needs):

1. Careful review of existing forms and instructions. Not completed.

2. Consult with the Iowa Supreme Court concerning status of on-going work for development and maintenance of current forms. Completed.

3. Search for and review forms, instructions, and structures for periodic review and updating of forms and instructions from other venues. Not completed.

4. Procedure for collaboration with groups listed below needs to be designed and implemented.

5. Determine best practices. Not completed.

6. Consult with Judicial IT Branch division concerning cost and feasibility of implementing specific best practices from other jurisdictions.

7. Make specific suggestions for incorporation of specific types of improvements to current forms and instructions. Not completed.

8. Make specific suggestions for a plan for periodic review and improvement of court provided family law forms.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

This step cannot be addressed until completion of evaluation.

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

Clerks of Court, ISBA, judges, and other members of the legal community to assure accuracy of information concerning existing issues and to promote buy-in and compliance. Inclusion of groups that work with individuals with special requirements to assure those needs are being met including: State Department of Corrections and Wardens of individual facilities (prisoners); Iowa Legal Aid (elderly and low income population); Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); Iowa Department of Human Rights;

National Alliance on Mental Illness - Iowa; Department of Human Services (as a means of getting information to potential users of the court); NAACP; Lutheran Services (the largest Iowa organization that addresses the interests of immigrants); Justice for our Neighbors; Archdiocese in Iowa (the archdiocese addresses the interests of many immigrants); Iowa Bureau for Refugee Services; Iowa Coalition Against Domestic Violence; Iowa Commission for the Blind; and Iowa Hearing Association. In addition there should be contact with past and potential future litigants to assure identification of actual, rather than perceived, needs.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

This step cannot be completed until research is finished.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

This step cannot be fully addressed until completion of evaluation stage.

Pro: Where use of forms by self-represented litigants is required it is imperative the forms be made as easy to use as is feasible taking into account the needs of all potential users.

Con: Cost of development and maintenance of forms.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

No lack of unanimity identified at this time.

Independent research: the result of relevant survey results for proposed process/improvement:

No independent research conducted at this time.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

Adoption of improvement and systemic maintenance of the forms for self-represented litigants as an intermediate-term goal.

IIB - SUPPORT UNBUNDLED LEGAL SERVICES

Proposed Process/Improvement: Increase awareness by the public, legal profession, and courts of unbundled legal services as an effective means of processing family law cases.

Reason for consideration of the process/improvement and its anticipated benefit to Iowa families: Although unbundled legal services are permitted, they are not necessarily widely known to be an option by the public or promoted as an option by the legal profession. Given the

complexity of family law and the trend toward self-representation, use of unbundled legal services may support better results in family law cases for Iowa families. Additionally, for low-income litigants who cannot afford representation for the entire family law case, unbundled legal services may allow representation at the most complex part of the case.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps (including additional research, funding needs):

1. Determine the degree to which unbundled legal services are being utilized in Iowa family law cases through anecdotal information gathered from judges, attorneys, and clerks of court or from surveys of judges, attorneys, and clerks of court. Regional differences to be noted if regional trends are discerned.

2. Research whether information is available to the general public about the option of using unbundled legal services in family law cases in Iowa including, but not limited to, review of the instructions for the family law forms, Judicial Branch website information, private attorney websites and other internet resources.

3. Research whether information is available to the bar and the bench about the option of using unbundled legal services in family law cases in Iowa including, but not limited to, review of recent continuing education offerings, availability of standard forms and orders concerning the use of unbundled legal services, private attorney websites and other internet resources. Present at local bar meetings, promotion by the ISBA, and survey of Iowa attorneys.

4. Research means by which other venues provide information to the general public and to the bar about the availability and value of unbundled legal services in providing services in family law cases.

5. Procedure for collaboration with groups listed below needs to be designed and implemented.

6. Research the best practices for providing information to the general public and to the legal profession about unbundled legal services.

7. Obtain information through anecdotal information and/or surveys to determine the current Iowa experience with regard to the benefits and the challenges of use of unbundled legal services in processing family law cases.

8. Obtain information through inquiries and research concerning the experience in other venues with regard to the benefits and the challenges of use of unbundled legal services in processing family law cases.

9. Evaluate and determine best practices in supporting the use of unbundled legal services (such as court-provided forms for unbundled legal service agreements, format for submission of documents prepared through unbundled legal services, standard procedures for handling of limited appearances in EDMS system).

10. Evaluate and determine the most effective methods of providing information to the general public concerning the use and availability of unbundled legal services.

11. Evaluate and determine the most effective methods of providing information to the bench and the bar concerning the use of unbundled legal services.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

This step cannot be addressed until completion of evaluation.

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

Clerks of Court, ISBA, judges, and other members of the legal community to assure accuracy of information concerning existing issues and to promote buy-in and compliance. Inclusion of groups that work with individuals with special requirements to assure those needs are being met including: State Department of Corrections and Wardens of individual facilities (prisoners); Iowa Legal Aid (elderly and low income population); Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); **Iowa** Department of Human Rights; National Alliance on Mental Illness - Iowa; Department of Human Services (as a means of getting information to potential users of the court); NAACP; Lutheran Services (the largest Iowa organization that addresses the interests of immigrants); Justice for our Neighbors; Catholic Charities (addresses the interests of many immigrants); Iowa Bureau for Refugee Services; Iowa Coalition Against Domestic Violence; Iowa Commission for the Blind; And Iowa Hearing Association. In addition there should be contact with past and potential future litigants to assure identification of actual, rather than perceived, needs.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

This step cannot be completed until research and evaluation have been finished.

Pro: Iowa has authorized the use of unbundled legal services. Publicizing and supporting its effective use will assist self-represented litigants to take advantage of this option and to have professional support at critical junctures in the litigation process.

Con: Cost of development.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

This cannot be completed until research and evaluation is finished.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

No lack of unanimity identified at this time.

Independent research: the result of relevant survey results for proposed process/improvement:

No independent research conducted at this time.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup Recommends:

Adoption of investigation into means of support and improving use of unbundled legal services in family law cases by self-represented litigants as an intermediate-term goal.

IIC - SUPPORT FILING NEEDS OF SELF-REPRESENTED LITIGANTS

IIC1 - ESTABLISH UNIFORM GUIDELINES CONCERNING WAIVER OF E-FILING AND DEFAULTS INVOLVING SELF-REPRESENTED LITIGANTS

Proposed Process/Improvement: Establish uniform guidelines for when e-filing will be waived and how default scenarios will be handled.

Reason for consideration of the process/improvement and its anticipated benefit to Iowa families: Lack of uniformity among jurisdictions is reported. Direction from the Court would promote equity to court users.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps (including additional research, funding needs):

1. Through survey or anecdotal information determine what standards are being used for determining whether to allow waiver from the requirement to use the EDMS system.

2. Research the standards used by other jurisdictions for determining whether to allow waiver from the requirement to use the EDMS system.

3. Procedure for collaboration with groups listed below needs to be designed and implemented.

4. Evaluate the standards discovered and determine the best practices.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

1. Recommendation to the Iowa Supreme Court concerning best practices and whether there is a need for uniformity. 180 days

2. The Iowa Supreme Court adoption of appropriate guideline. 180 days

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

Clerks of Court, ISBA, judges, and other members of the legal community to assure accuracy of information concerning existing issues and to promote buy-in and compliance. Inclusion of groups that work with individuals with special requirements to assure those needs are being met including: State Department of Corrections and Wardens of individual facilities (prisoners); Iowa Legal Aid (elderly and low income population); Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); **Iowa** Department of Human Rights; National Alliance on Mental Illness - Iowa; Department of Human Services (as a means of getting information to potential users of the court); NAACP; Lutheran Services (the largest Iowa organization that addresses the interests of immigrants); Justice for our Neighbors; Catholic Charities (addresses the interests of many immigrants); Iowa Bureau for Refugee Services; Iowa Coalition Against Domestic Violence; Iowa Commission for the Blind; And Iowa Hearing Association. In addition there should be contact with past and potential future litigants to assure identification of actual, rather than perceived, needs.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

This step cannot be completed until research and evaluation have been finished.

Pro: Greater clarity of purpose and uniformity of treatment would support a better litigation experience for both court personnel and litigants (whether represented or unrepresented).

Con: Cost of development.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

This cannot be completed until research and evaluation have been finished.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

No lack of unanimity identified at this time.

Independent research: the result of relevant survey results for proposed process/improvement:

No independent research conducted at this time.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

Adoption of establishing uniform guidelines for when e-filing will be waived and the manner in which default scenarios will be handled when there are self-represented litigants as an intermediate-term goal.

IIC2 - ESTABLISH BEST JUDICIAL PRACTICES FOR DEALING WITH SELF-REPRESENTED LITIGANTS

Proposed Process/Improvement: Establish best practices for the assistance which may be provided to self-represented litigants by judges.

Reason for consideration of process/improvement and its anticipated benefit to Iowa families: It is reported that judges are unclear as to where to draw the line in assisting self-represented litigants, which makes it difficult for them to discharge their duties.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps (including additional research, funding needs):

1. Obtain documentation for existing guidance, trainings, and best practices for Iowa judges in dealing with self-represented litigants. Initial work has begun but additional work is necessary.

2. Research other venue's existing guidance, trainings and best practices for judges in dealing with self-represented litigants. Initial work has begun but additional work is necessary.

3. Procedure for collaboration with groups listed below needs to be designed and implemented. Some informal collaboration has taken place through discussions and due to the composition of the Workgroup.

4. Evaluate need for additional guidance, trainings, and best practices from other jurisdictions.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

1. The Iowa Supreme Court needs to develop/refine its underlying goals and policies for what constitutes appropriate interaction with self-represented litigants by the court. 365 days

2. Develop best practices which reflect the espoused goals and policies. 180 days

3. Develop trainings which reflect the best practices and which will effectively allow judges to understand and internalize the espoused goals and policies and to put them into effect in practice. 365 days

4. Develop and implement means of reviewing effectiveness of best practices and trainings and making needed adjustments. 180 days and on-going

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

District Court judges as sources of actual challenges and to support buy-in. Past and potential self-represented litigants to assure identification of actual, rather than perceived, needs and concerns.

The Court may also wish to contact groups that work with individuals with special requirements to assure those needs are being met including: State Department of Corrections and Wardens of individual facilities (prisoners); Iowa Legal Aid (elderly and low income population); Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); Iowa Department of Human Rights; National Alliance on Mental Illness - Iowa; Department of Human Services (as a means of getting information to potential users of the court); NAACP; Lutheran Services (the largest Iowa organization that addresses the interests of immigrants); Justice for our Neighbors; Catholic Charities (addresses the interests of many immigrants); Iowa Bureau for Refugee Services; Iowa Coalition Against Domestic Violence; Iowa Commission for the Blind; And Iowa Hearing Association.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

This step cannot be completed until research and evaluation have been finished.

Pro: Judicial interaction with self-represented litigants has ethical, process, and other practical implications and consequences. Greater clarity of purpose and uniformity of interaction would support a better litigation experience for both the judiciary and litigants (whether represented or unrepresented).

Con: Cost of development.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

This cannot be completed until research and evaluation have been finished.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

No lack of unanimity identified at this time.

Independent research: the result of relevant survey results for proposed process/improvement:

No independent research conducted at this time.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

Adoption of development and implementation of updated best practices for interaction between the judiciary and self-represented litigants as an intermediate-term goal.

IIC3 - ESTABLISH GUIDELINES FOR COURT PERSONNEL FOR DEALING WITH SELF-REPRESENTED LITIGANTS

Proposed Process/Improvement: Establish clear guidelines for the assistance which may be provided to self-represented litigants by Clerks of Court, Court Administration, and other court employees to self-represented litigants.

Reason for consideration of process/improvement and its anticipated benefit to Iowa families: It is reported that personnel are unclear as to where to draw the line in assisting self-represented litigants, which makes it difficult for them to discharge their duties.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps (including additional research, funding needs):

1. Obtain documentation for existing guidelines and trainings for clerks of court, court administration, and other court personnel in dealing with self-represented litigants. Initial work has begun but additional work is necessary.

2. Research other venue's existing guidelines and trainings for clerks of court, court administration, and other court personnel in dealing with self-represented litigants. Initial work has begun but additional work is necessary.

3. Procedure for collaboration with groups listed below needs to be designed and implemented. Some informal collaboration has taken place through discussions and due to the composition of the Workgroup.

4. Evaluate need for additional guidelines and trainings and best practices from other jurisdictions.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

1. The Iowa Supreme Court needs to develop/refine its underlying goals and policies for what constitutes appropriate interaction with self-represented litigants by the clerks of court, court administration, and other court personnel. 365 days

2. Develop formal guidelines which reflect the espoused goals and policies. 180 days

3. Develop trainings which reflect the best practices and which will effectively allow clerks of court, court administration and other court personnel to understand and internalize the espoused goals and policies and to put them into effect in practice. 365 days

4. Develop and implement means of reviewing effectiveness of guidelines and trainings and making needed adjustments. 180 days and on-going

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary. Clerks of Court, Court Administrators, District Court judges as sources of actual challenges and to support buy-in. Past and potential self-represented litigants to assure identification of actual, rather than perceived, needs and concerns.

The Court may also wish to contact groups that work with individuals with special requirements to assure those needs are being met including: State Department of Corrections and Wardens of individual facilities (prisoners); Iowa Legal Aid (elderly and low income population); Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); Iowa Department of Human Rights; National Alliance on Mental Illness - Iowa; Department of Human Services (as a means of getting information to potential users of the court); NAACP; Lutheran Services (the largest Iowa organization that addresses the interests of immigrants); Justice for our Neighbors; Catholic Charities (addresses the interests of many immigrants); Iowa Bureau for Refugee Services; Iowa Coalition Against Domestic Violence; Iowa Commission for the Blind; And Iowa Hearing Association.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

This step cannot be completed until research and evaluation have been finished.

Pro: Court personnel interaction with self-represented litigants has ethical, process, and other practical implications and consequences. Greater clarity of purpose and uniformity of interaction would support a better litigation experience for both court personnel and litigants (whether represented or unrepresented).

Con: Cost of development.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

This cannot be completed until research and evaluation have been finished.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

No lack of unanimity identified at this time.

Independent research: the result of relevant survey results for proposed process/improvement:

No independent research conducted at this time.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

Adoption of development and implementation of updated guidelines for interaction between court personnel and self-represented litigants as an intermediate-term goal.

IIC4 - REVIEW UNAUTHORIZED PRACTICE OF LAW RULES

Proposed Process/Improvements: Review unauthorized practice of law rules to identify possible amendments to facilitate assistance to self-represented litigants by Clerks of Court, Court Administration, and other court employees.

Reason for consideration of process/improvement and its anticipated benefit to Iowa families: It is reported that personnel are unclear as to where to draw the line in assisting self-represented litigants, which makes it difficult for them to discharge their duties. Once the Iowa Supreme Court reviews and clarifies its goals and policies concerning interaction with self-represented litigants it may be necessary and appropriate to make rule changes concerning unauthorized practice so those rules are consistent with implementation of the Court's goals and policies.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps (including additional research, funding needs):

1. Review the current rules and case law concerning the unauthorized practice of law in Iowa in the context of the Iowa Supreme Court's goals and policies concerning appropriate assistance to be provided to self-represented litigants by court personnel.

2. Research other venues' current rules and case law concerning the unauthorized practice of law in those venues in the context of their court and the Iowa Supreme Court's goals and policies concerning appropriate assistance to be provided to self-represented litigants by court personnel.

3. Procedure for collaboration with groups listed below needs to be designed and implemented. Some informal collaboration has taken place through discussions and due to the composition of the Workgroup.

4. Evaluate best practices and the degree to which accomplishing the Iowa Supreme Court's goals and policies concerning appropriate assistance to self-represented litigants by court personnel requires amendment to the existing rules for unauthorized practice.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

1. The Iowa Supreme Court needs to develop/refine its underlying goals and policies for what constitutes appropriate interaction with self-represented litigants by the clerks of court, court administration, and other court personnel. 365 days

2. To the extent necessary, develop any modifications to the unauthorized practice rules which are necessary to permit court personnel to interact with self-represented litigants in a manner which reflects the espoused goals and policies. 180 days

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

Clerks of Court, Court Administrators, District Court judges as sources of actual challenges and to support buy-in, the Unauthorized Practice Commission, and past and potential self-represented litigants to assure identification of actual, rather than perceived, needs and concerns.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

This step cannot be completed until research and evaluation have been finished.

Pro: Court personnel interaction with self-represented litigants has ethical, process, and other practical implications and consequences. Review of the rules of unauthorized practice contemporaneous with development of guidelines and trainings would assure consistency between the rules and action.

Con: Any actual modification of the rules is likely to be controversial.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

This cannot be completed until research and evaluation have been finished.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

No lack of unanimity identified at this time at to the need to review the rules in this context.
It has not been determined whether there is unanimity as to whether it would be appropriate to change the rules.

Independent research: the result of relevant survey results for proposed process/improvement:

No independent research conducted at this time.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

Adoption of review of the rules of unauthorized practice of law to identify possible amendments to facilitate assistance to self-represented litigants by Clerks of Court, Court Administration, and other court employees as an intermediate-term goal.

IID - MAKE MORE EFFECTIVE USE OF WEBSITE

IID1 - SUPPLEMENT THE EXISTING JUDICIAL BRANCH WEBSITE TO EXPAND AVAILABLE LINKS TO INTERNAL AND EXTERNAL WEB INFORMATION TO SUPPORT SELF-REPRESENTATION AND INFORMATION IN FAMILY LAW CASES

Proposed Process/Improvements: Add webpages with internal links to facilitate location of information within the website and external links to court-approved information on other websites such as the ISBA website. Revisions to take into account the needs of immigrants, ESL litigants, same-sex couples, and other individuals with special requirements.

Reason for consideration of process/improvement and its anticipated benefit to Iowa families: The current website has substantial information, but the location of some information is difficult to find. Addition of internal road map pages would be an interim fix while the website is reviewed, revised, and updated. Links to the ISBA website would facilitate use of information which is already located on that site and would support collaboration with the ISBA to develop additional information including brochures and videos.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps (including additional research, funding needs):

1. Review the content and layout of the Iowa Judicial Branch website to locate information necessary to family law litigants and determine the degree of difficulty in locating information. Initial stages completed. Further work required.

2. Obtain external review and professional evaluation of whether having information linked from a central page to improve ease of access is practical and cost-efficient. Initial inquiry of internal IT concerning feasibility of internal links completed. Potential for grant request for evaluation currently under consideration.

3. Procedure for collaboration with groups listed below needs to be designed and implemented.

4. Research other venues to determine whether similar (or better) simple systems are in use in other venues.

5. Evaluate whether the interim step of establishing a "road map" page would be feasible, cost efficient, and useful.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

1. Create flow chart/list of steps in processing family law cases and incorporate into webpage(s). 180 days to 365 days.

2. Determine website/internet or other location of resources necessary to implement each step. 180 days.

3. Incorporate links into flow chart. 60 days

4. Test flow chart.60 days

5. Publish web flow chart. 7 days

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

Clerks of Court, ISBA, judges, and other members of the legal community to assure accuracy of information concerning existing issues and to promote buy-in and compliance. Inclusion of groups that work with individuals with special requirements to assure those needs are being met including: State Department of Corrections and Wardens of individual facilities (prisoners); Iowa Legal Aid (elderly and low income population); Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); **Iowa** Department of Human Rights; National Alliance on Mental Illness - Iowa; Department of Human Services (as a means of getting information to potential users of the court); NAACP; Lutheran Services (the largest Iowa organization that addresses the interests of immigrants); Justice for our Neighbors; Catholic Charities (addresses the interests of many immigrants); Iowa Bureau for Refugee Services; Iowa Coalition Against Domestic Violence; Iowa Commission for the Blind; And Iowa Hearing Association. In addition there should be contact with past and potential future litigants to assure identification of actual, rather than perceived, needs.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

This step cannot be completed until research and evaluation have been finished.

Pro: This would be a low-cost interim step which could improve access to existing information without requiring any significant modification to the existing website. It would permit testing the linked concept for possible incorporation in future versions of the website.

Con: Cost of development. If created at point in time where each district (or county) has different processes due to local rules it might be necessary to have a different linked flow chart for each venue.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

This cannot be completed until research and evaluation have been finished.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

No lack of unanimity identified at this time.

Independent research: the result of relevant survey results for proposed process/improvement:

No independent research conducted at this time.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

Adoption of development and implementation of a simple Judicial Branch website page resource consisting of a flow chart of steps in family law case processing linked to internet forms and resources or similar tool (as dictated by further research and review) as an intermediate-term goal.

IID2 - IMPROVE SEARCH ENGINES LOCATING THE IOWA JUDICIAL BRANCH WEBSITE WHEN FAMILY LAW QUESTIONS ARE BEING RESEARCHED

Proposed Process/Improvements: Take steps to make the Iowa Judicial Branch Website more likely to be a top hit on search engines when individuals are searching for information about family law matters.

Reason for consideration of process/improvement and its anticipated benefit to Iowa families: There is substantial information available on the website, but at this time it is less likely to be discovered with a search engine than less useful (or costly) information. This simple improvement would reduce the number of litigants who get inaccurate information from other sources and/or who pay for forms which are not only available for free on the Iowa Judicial Branch website, but are mandated.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps (including additional research, funding needs):

1. Professional evaluation of what modifications or services would upgrade search engine discovery of the Iowa Judicial Branch website as a resource for family law forms and information. Initial inquiries of potential grants or assistance have been made and need to be pursued further.

2. Inquiry of web masters of other venues to determine how they facilitate search engine discovery of their website and the results of those efforts. No action taken at this time.

3. Procedure for collaboration with groups listed below needs to be designed and implemented. No action taken to date. Some informal collaboration has taken place due to composition of the Workgroup.

4. Evaluate the cost effectiveness of options to upgrade searchability of the Iowa Judicial Branch website for family law matters.

5. Develop requests for proposal to existing vendors and other potential service providers for necessary changes.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

1. Determine whether to use internal or external resources to make modifications. 180 days

2. Design and implement upgrades. 60 days.

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

Court Services IT Department.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

This cannot be completed until research and evaluation are finished.

Pro: The Iowa Judicial Branch website has many excellent free resources. Improved search engine recognition for family law information could reasonably be expected to increase the number of individuals who access that information. It could reasonably be expected to reduce the number of litigants who get inaccurate information from other sources and/or who pay for forms which are not only available for free on the Iowa Judicial Branch website but are mandated.

Con: Costs of development. Potential resistance or negative publicity/reaction from groups trying to characterize the judicial system as anti-marriage and pro-divorce.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

N/A

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

No lack of unanimity identified at this time.

Independent research: the result of relevant survey results for proposed process/improvement:

No independent research conducted at this time.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

Adoption of methodology improving the ability of search engines to identify the Iowa Judicial Branch website as a source for family law information and forms as an intermediate-term goal.

IIE - IMPROVE PROCESS AWARENESS

Proposed Process/Improvements: Develop and implement a campaign to **i**ncrease public awareness of the assistance available to families from the family court system and how to access that assistance. The campaign would include systematic use of internet, broadcast and print media public service information, as well as personal appearances to disseminate information, keeping in mind the needs of litigants with special requirements including those who are disabled, the elderly, incarcerated individuals, immigrants, ESL individuals, same-sex couples, and other individuals with special requirements.

Reason for consideration of process/improvement and its anticipated benefit to Iowa families: Individuals are often not aware of the assistance available through the court system or how to access that assistance. A systematic campaign to disseminate information would be a more effective way to address public perceptions, awareness, and ability to effectively use the legal system.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps (including additional research, funding needs):

1. Research and catalogue current state-wide and local means, methods, and resources for dissemination of information concerning the assistance available to families from the family court system and how to access that assistance. Not commenced except on an informal basis.

2. Research and catalogue state-wide and local means, methods, and resources for dissemination of information concerning the assistance available to families from the family court system and how to access that assistance which are used in other venues. Not commenced except on an informal basis.

3. Procedure for collaboration with groups listed below needs to be designed and implemented. No action taken to date. Some informal collaboration has taken place due to composition of the Workgroup.

4. Consult with internal judicial branch sources and, if necessary and appropriate, external branch sources, concerning the process and procedure for developing a comprehensive plan for improving public awareness.

5. Determine best practices and procedures.

6. Develop requests for proposal to existing vendors and other potential service providers for necessary changes.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

1. The Iowa Supreme Court commit to developing a comprehensive plan for improved dissemination of information concerning assistance available to family law litigants. 90 days

2. The Iowa Supreme Court reach out to other stakeholders (ISBA, Judicial Districts, Counties, and other entities as identified) to develop interest in a collaborative effort. 180 days

3. Development of a comprehensive plan for improved dissemination of information concerning assistance available to family law litigants. 365 days

4. Implementation of each stage of comprehensive plan. 180 to 365 days

5. Continued testing and oversight. Ongoing

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

Clerks of Court, ISBA, judges, and other members of the legal community (including local bar associations) to assure accuracy of information concerning existing programs, to coordinate activities and resources, and to promote buy-in and compliance. Law libraries, public libraries, and library associations to coordinate activities and resources. Groups that work with individuals with special requirements to assure those needs are being met including: State Department of Corrections and Wardens of individual facilities (prisoners); Iowa Legal Aid (elderly and low income population); Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); Iowa Department of Human Rights; National Alliance on Mental Illness - Iowa (NAMI Iowa) . Department of Human Services (as a means of getting information to potential users of the court); NAACP; Lutheran Services (Lutheran Services in Iowa is the largest organization that addresses the interests of immigrants); Justice for our Neighbors; Catholic Charities (addresses the interests of many immigrants); Iowa Bureau for Refugee Services; Iowa Coalition Against Domestic Violence; Iowa Commission for the Blind; And Iowa Hearing Association. In addition there should be contact with past and potential future litigants to assure identification of actual, rather than perceived, needs.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

This step cannot be completed until research and evaluation are finished.

Pro: Better utilization of existing resources and potential for improved public awareness and perception of the judicial branch. Potential for coalition-building which would have a synergistic effect for this project and in other areas of mutual interest.

Con: Time consuming and costly.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

This cannot be completed until research and evaluation have been finished.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

No lack of unanimity identified at this time.

Independent research: the result of relevant survey results for proposed process/improvement:

No independent research conducted at this time.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

Adoption of development and implementation of a systematic and coordinated campaign to **i**ncrease public awareness of the assistance available to families from the family court system and how to access that assistance as in intermediate-term goal.

IIF - PROVIDE TARGETED REVIEW OF SELF-REPRESENTED SETTLEMENTS AND DEFAULTS

Proposed Process/Improvements: Develop a specific process for court review and approval of self-represented litigant family law case settlements and defaults.

Reason for consideration of process/improvement and its anticipated benefit to Iowa families: Judicial review is appropriate in all cases to assure that all processes have been followed and that any proposed order is complete and consistent with the law.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps (including additional research, funding needs):

1. Collect and catalogue information concerning process used throughout Iowa for court review and approval of self-represented litigant family law case settlements and defaults. Initial anecdotal information collected, additional work required.
2. Collect and catalogue information concerning process used in other venues for court review and approval of self-represented litigant family law case settlements and defaults. Initial anecdotal information collected, additional work required.

3. Procedure for collaboration with groups listed below needs to be designed and implemented. No action taken to date. Some informal collaboration has taken place due to composition of the Workgroup.

4. Review Iowa and external options to determine best practices.

5. Evaluate what actions would be necessary (rule making or legislative) to support or implement best practices.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

1. The Iowa Supreme Court adopt a position on best practices for review of court review and approval of self-represented litigant family law case settlements and defaults. 180 days

Additional steps cannot be determined until best practices are evaluated and it is determined whether they could be implemented by rule-making or whether they would require legislative action.

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

Clerks of Court, ISBA, judges, and other members of the legal community to assure accuracy of information concerning existing issues and to promote buy-in and compliance. Inclusion of groups that work with individuals with special requirements to assure those needs are being met including: State Department of Corrections and Wardens of individual facilities (prisoners); Iowa Legal Aid (elderly and low income population); Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); **Iowa** Department of Human Rights; National Alliance on Mental Illness - Iowa; Department of Human Services (as a means of getting information to potential users of the court); NAACP; Lutheran Services (the largest Iowa organization that addresses the interests of immigrants); Catholic Charities (addresses the interests of many immigrants); Justice for our Neighbors; Iowa Bureau for Refugee Services; Iowa Coalition Against Domestic Violence; Iowa Commission for the Blind; And Iowa Hearing Association. In addition there should be contact with past and potential future litigants to assure identification of actual, rather than perceived, needs.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

This step cannot be completed until research and evaluation are finished.

Pro: Assurance results for self-represented litigants are consistent with acceptable standards of justice.

Con: Time consuming and costly.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

This cannot be completed until research and evaluation have been finished.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

No lack of unanimity identified at this time.

Independent research: the result of relevant survey results for proposed process/improvement:

No independent research conducted at this time.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

Adoption of development and implementation of a specific process for court review and approval of self-represented litigant family law case settlements and defaults as in intermediate-term goal.

IIG - EVALUATE THE VIABILITY OF DIFFERENT PROCESSES AND PROCEDURES FOR URBAN AND RURAL SETTINGS

Proposed Process/Improvement: Review and make recommendations for the support of variations in processes and procedures (including use of local rules) which support the different needs of urban and rural settings.

Reason for consideration of process/improvement and its anticipated benefit to Iowa families: Processes and procedures which are effective in venues where judges are available on a daily basis are sometimes not practical or appropriate for venues where judges are available on a more limited basis. Review and recommendation of changes in recommended processes and procedures which take into account the availability of the court and other resources (such as mediators without conflicts) will better serve the differing needs of urban and rural communities.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps (including additional research, funding needs):

1. Collect and design effective method for utilizing existing information on availability of judges for handling family law matters in the different counties in Iowa. Work to be commenced in the future.

2. Collect and catalogue information concerning satisfaction/concerns with practical implications of existing (and proposed) processes and procedures in family law cases in Iowa identifying urban/rural differences. Work to be commenced in the future.

3. Collect and catalogue information concerning satisfaction/concerns with practical implications of existing (and proposed) processes and procedures in family law cases in other venues identifying urban/rural differences. Work to be commenced in the future

4. Procedure for collaboration with groups listed below needs to be designed and implemented. No action taken to date. Some informal collaboration has taken place due to composition of the Workgroup

5. Evaluate specific existing and proposed processes and procedures in family law cases to determine best practices. Work to be commenced in the future.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

Steps cannot be determined with any certainty at this time. It is anticipated there may be recommendations for use of varying practices and procedures in urban and rural areas. For example, length of time between filing and hearing for temporary matters may be different for venues with judges available daily than venues with judges available weekly or bi-weekly.

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

Clerks of Court, ISBA, judges, and other members of the legal community to assure accuracy of information concerning existing issues and to promote buy-in and compliance. Inclusion of groups that work with individuals with special requirements to assure those needs are being met including: State Department of Corrections and Wardens of individual facilities (prisoners); Iowa Legal Aid (elderly and low income population); Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); **Iowa** Department of Human Rights; National Alliance on Mental Illness - Iowa; Department of Human Services (as a means of getting information to potential users of the court); NAACP; Lutheran Services (the largest Iowa organization that addresses the interests of immigrants); Justice for our Neighbors; Catholic Charities (addresses the interests of many immigrants); Iowa Bureau for Refugee Services; Iowa Coalition Against Domestic Violence; Iowa Commission for the Blind; And Iowa Hearing Association. In addition there should be contact with past and potential future litigants to assure identification of actual, rather than perceived, needs.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

This step cannot be completed until research and evaluation are finished.

Pro: Processes and procedures which reflect the needs of the constituency.

Con: Possible perception of disparate treatment of litigants.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

This cannot be completed until research and evaluation have been finished.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

No lack of unanimity identified at this time.

Independent research: the result of relevant survey results for proposed process/improvement:
No independent research conducted at this time.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

Adoption of review of the propriety of variations in processes and procedures (including use of local rules) which support the different needs of urban and rural settings as in intermediate-term goal.

IIH - BUTTRESS SUPPORT SERVICES

Proposed Process/Improvements: Expand awareness of, and availability of, readers, interpreters, and other support services for litigants with special requirements. This would include the requirements of the illiterate, hearing-impaired, visually impaired, other-than-English speakers, and disabled (including learning disabled). This would include persons who could provide support services for documents received and documents which need to be generated.

Reason for consideration of process/improvement and its anticipated benefit to Iowa families: Interpreters and other supportive services are necessary for access to courts beyond merely participating in court hearings. Providing those supportive services, and making it easy to access those supportive services, is necessary for access to courts by those individuals with special requirements.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps (including additional research, funding needs):

1. Research and catalogue the degree to which interpreters and other supportive services are available by county and by district. Work to commence.

2. Research and catalogue what supportive services are identified as being necessary by litigants with special requirements. Work to commence.

3. Research and catalogue the statistical information concerning the number of potential litigants with special requirements by district/county/state.

4. Research and catalogue what supportive services are available in other venues.

5. Procedure for collaboration with groups listed below needs to be designed and implemented. No action taken to date. Some informal collaboration has taken place due to composition of the Workgroup.

6. Evaluate best practices and highest needs for supportive services.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

This step cannot be completed until the research and evaluation process is finished.

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

Clerks of Court, ISBA, judges, and other members of the legal community to assure accuracy of information concerning existing issues and to promote buy-in and compliance. Inclusion of groups that work with individuals with special requirements to assure those needs are being met including: State Department of Corrections and Wardens of individual facilities (prisoners); Iowa Legal Aid (elderly and low income population); Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); **Iowa** Department of Human Rights; National Alliance on Mental Illness - Iowa; Department of Human Services (as a means of getting information to potential users of the court); NAACP; Lutheran Services (the largest Iowa organization that addresses the interests of immigrants); Justice for our Neighbors; Catholic Charities (addresses the interests of many immigrants); Iowa Bureau for Refugee Services; Iowa Coalition Against Domestic Violence; Iowa Commission for the Blind; And Iowa Hearing Association. In addition there should be contact with past and potential future litigants to assure identification of actual, rather than perceived, needs.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

This step cannot be completed until the research and evaluation process is finished.

Pro: The ability of litigants to more effectively participate in family law cases resulting in better results and better satisfaction with the courts. Reduce perception of disparate treatment of litigants.

Con: Costs. Possible perception of disparate treatment of litigants.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

This cannot be completed until research and evaluation have been finished.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

No lack of unanimity identified at this time.

Independent research: the result of relevant survey results for proposed process/improvement:

No independent research conducted at this time.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

Adoption of review of the existing supports for litigants with special requirements and options for providing additional support services as an intermediate-term goal.

II I - INVESTIGATE EXPANSIONS IN TIME AND MEANS OF CONDUCTING HEARINGS

Proposed Process/Improvements: Investigate internal changes that may enable the Iowa courts to conduct hearings other outside normal business hours and have testimony provided by telephone or by electronic means

Reason for consideration of process/improvement and its anticipated benefit to Iowa families: Where the parties are willing, removing some of the process impediments created by time which would allow more efficient access to the courts and could reduce costs.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps (including additional research, funding needs):

1. Investigate and catalogue instances where Iowa courts hold hearings conducted outside normal business hours, or have hearings conducted, or testimony provided, by telephonic or electronic means. Work not commenced.

2. Investigate and catalogue other venues where courts hold hearings conducted outside normal business hours, or have hearings conducted, or testimony provided, by telephonic or electronic means.. Work not commenced.

3. Obtain anecdotal or survey information concerning the perceived need and reaction to hearings conducted outside of normal business hours or having hearings conducted, or testimony provided, by telephonic or electronic means. Work not commenced.

4. Procedure for collaboration with groups listed below needs to be designed and implemented. No action taken to date. Some informal collaboration has taken place due to composition of the Workgroup.

5. Evaluate best practices concerning hearings conducted outside normal business hours, and hearings conducted, or testimony provided, by telephonic or electronic means. Work not commenced.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

This step cannot be completed until the research and evaluation process is finished.

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

Clerks of Court, ISBA, judges, and other members of the legal community to assure accuracy of information concerning existing issues and to promote buy-in and compliance. Inclusion of groups that work with individuals with special requirements to assure those needs are being met including: State Department of Corrections and Wardens of individual facilities (prisoners); Iowa Legal Aid (elderly and low income population); Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); **Iowa** Department of Human Rights; National Alliance on Mental Illness - Iowa; Department of Human Services (as a means of getting information to potential users of the court); NAACP; Lutheran Services (the largest Iowa organization that addresses the interests of immigrants); Justice for our Neighbors; Catholic Charities (addresses the interests of many immigrants); Iowa Bureau for Refugee Services; Iowa Coalition Against Domestic Violence; Iowa Commission for the Blind; And Iowa Hearing Association. In addition there should be contact with past and potential future litigants to assure identification of actual, rather than perceived, needs.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

This step cannot be completed until the research and evaluation process is finished.

Pro: The ability of litigants to more effectively participate in family law cases resulting in better results and better satisfaction with the courts. Reduce perception of disparate treatment of litigants. Potential for altered perceptions of the judicial system.

Con: Costs. Potential for safety issues. Potential for altered perceptions of the judicial system.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

This cannot be completed until research and evaluation have been finished.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

Initial lack of unanimity at this time, possibly as a function of differences of perspective of the bench and bar.

Independent research: the result of relevant survey results for proposed process/improvement:

No independent research conducted at this time.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

Adoption of consideration of **e**stablishing rules which would permit parties to consent to having hearings conducted outside of normal business hours or to conduct hearings, or to provide testimony, telephonic or electronic means as an intermediate goal.

IIJ - PROVIDE INCREASED TECHNICAL SUPPORT FOR SELF-REPRESENTED LITIGANTS

Proposed Process/Improvements: Develop and present training sessions for the general public in how to use the forms in concert with improved training for court staff on the boundaries of assistance, and publicize available trainings. Use public service announcements to advertise the training sessions. Partner with the ISBA to provide training videos and on-site trainings. Partner with public libraries to provide access and information concerning forms and resources for self-represented litigants.

Reason for consideration of process/improvement and its anticipated benefit to Iowa families: Many litigants need technical assistance, beyond process assistance, to correctly utilize the existing forms. This would allow more litigants to take advantage of the forms. Filling them out correctly would assist the judicial processing of the case. Developing a standardized format for public trainings and presentations would assure accurate, consistent information and would assist in recruiting volunteers from the bar to provide trainings. Partnering with public libraries would be a natural extension of their existing services, would take advantage of Iowa's extensive public library system, and would make information more convenient to access by the public.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps (including additional research, funding needs):

1. Seek out and catalogue existing Iowa trainings. Initial stages of work completed, additional work needs to be done.

2. Seek out and catalogue training methods, materials, and partnerships used in other venues. Initial stages of work completed, additional work needs to be done.

3. Determine interest of potential project partners. Work needs to be commenced.

4. Procedure for collaboration with groups listed below needs to be designed and implemented. No action taken to date. Some informal collaboration has taken place due to composition of the Workgroup.

5. Determine best practices.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

1. The Iowa Supreme Court to determine training goals. 180 days

2. Develop partnerships and collaborations to accomplish training goals. 365 days

3. Develop trainings, including evaluation elements, working in conjunction with judicial court administration to assure design of effective and accurate trainings. 365 days

4. Implement trainings. 365 days

5. Evaluate and upgrade/maintain trainings. On-going

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

Clerks of Court, ISBA, judges, and other members of the legal community to assure accuracy of information concerning existing issues and to promote buy-in and compliance. Law libraries, public libraries, and library associations. Inclusion of groups that work with individuals with special requirements to assure those needs are being met including: State Department of Corrections and Wardens of individual facilities (prisoners); Iowa Legal Aid (elderly and low income population); Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); **Iowa** Department of Human Rights; National Alliance on Mental Illness - Iowa; Department of Human Services (as a means of getting information to potential users of the court); NAACP; Lutheran Services (the largest Iowa organization that addresses the interests of immigrants); Justice for our Neighbors; Catholic Charities (addresses the interests of many immigrants); Iowa Bureau for Refugee Services; Iowa Coalition Against Domestic Violence; Iowa Commission for the Blind; And Iowa Hearing Association. In addition there should be contact with past and potential future litigants to assure identification of actual, rather than perceived, needs.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

This step cannot be completed until the research and evaluation process is finished.

Pro: The ability of litigants to more effectively participate in family law cases resulting in better results and better satisfaction with the courts. Establishment of partnerships which could potentially improve relations with, and perceptions of, the judicial system.

Con: Cost.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

This cannot be completed until research and evaluation have been finished.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

No lack of unanimity at this time.

Independent research: the result of relevant survey results for proposed process/improvement:

No independent research conducted at this time.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

Adoption of development and presentation of training sessions for the general public in how to use family law forms in concert with improved training for court staff on the boundaries of assistance and advertisement of available trainings as an intermediate goal. Adoption of use of public service announcements to advertise the training sessions; partnering with the ISBA to provide training videos and on-site trainings, and partnering with public libraries to provide access and information concerning forms and resources for self- represented litigants are further recommended to be adopted as elements of this goal.

IIK - CREATE A UNIFIED STATE-WIDE MEDIATION PROGRAM

Proposed Process/Improvement: Develop a unified state-wide mediation program.

Reason for consideration of the process/improvement and its anticipated benefit to Iowa families: Mediation supports access to the courts and supports self-represented litigants having an opportunity to engage in settlement negotiations in a controlled setting. A state-wide program would simplify transparency and uniformity of process.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps:

1. Collaboration with the Mediation Workgroup to avoid duplication of effort. Work to commence.

2. Review and catalogue existing mediation programs in Iowa, including perceived strengths and weaknesses of the programs from an access (including urban/rural and litigants with special requirements) perspective. Work to commence.

3. Review and catalogue existing mediation programs in other venues, including perceived strengths and weaknesses of the programs from an access (including urban/rural and litigants with special requirements) perspective. Work to commence.

4. Procedure for collaboration with groups listed below needs to be designed and implemented. No action taken to date. Some informal collaboration has taken place due to composition of the Workgroup.

5. Evaluate best practices.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

This cannot be completed until research and evaluation have been finished.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

This cannot be completed until research and evaluation have been finished.

Pro: A state-wide program would fulfill an unfunded legislative mandate and make the opportunity to utilize mediation available to all litigants in family law cases.

Con: Costs. Because diverse programs are currently in place in certain geographic areas, there could be substantial resistance to imposing uniformity.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

This cannot be completed until research and evaluation have been finished.

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

Clerks of Court, ISBA, judges, and other members of the legal community to assure accuracy of information concerning existing issues and to promote buy-in and compliance. Mediation groups including the Iowa Association of Mediators, INADR, and district mediation programs. Inclusion of groups that work with individuals with special requirements to assure those needs are being met including: State Department of Corrections and Wardens of individual facilities (prisoners); Iowa Legal Aid (elderly and low income population); Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); **Iowa** Department of Human Rights; National Alliance on Mental Illness - Iowa; Department of Human Services (as a means of getting information to potential users of the court); NAACP; Lutheran Services (the largest Iowa organization that addresses the interests of immigrants); Justice for our Neighbors; Catholic Charities (addresses the interests of many immigrants); Iowa Bureau for Refugee Services; Iowa Coalition Against Domestic Violence; Iowa Commission for the Blind; And Iowa Hearing Association. In addition there should be contact with past and potential future litigants to assure identification of actual, rather than perceived, needs.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

There is no identified lack of unanimity in the Workgroup.

Independent research: the result of relevant survey results for proposed process/improvement:

None at this point in time.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

Adoption of the Iowa Supreme Court development of a unified state-wide mediation program as an intermediate-term goal.

IIL - SUPPORT UNBUNDLED LEGAL SERVICES

Proposed Process/Improvement: Review rules for necessary changes and establish standardized forms and processes for providing unbundled legal services and termination of those services, including treatment through the EDMS system.

Reason for consideration of the process/improvement and its anticipated benefit to Iowa families: Although unbundled legal services are permitted, current processes (including EDMS) do not effectively or uniformly support the limited involvement of the attorneys providing the services. Creating procedures for providing unbundled legal services and termination of those services more routine will support cost-efficient and effective use of those processes.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps:

1. Research and catalogue the degree to which unbundled legal services are being utilized across the state, how they are handled within each jurisdiction, problems which have arisen, and perceived value to the process. Anecdotal information only. Systematic review needs to be commenced.

2. Research and catalogue the degree to which unbundled legal services are being utilized in other venues, how they are handled within each jurisdiction, problems which have arisen, and perceived value to the process. Anecdotal information only. Systematic review needs to be commenced.

3. Procedure for collaboration with groups listed below needs to be designed and implemented. No action taken to date. Some informal collaboration has taken place due to composition of the Workgroup.

4. Evaluate best processes including need for education of the bench, bar, and public concerning use of unbundled legal services.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

This step cannot be completed until evaluation is finished.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

This step cannot be completed until the research and evaluation process is finished.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

This step cannot be completed until evaluation is finished.

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

Clerks of Court, ISBA, judges, and other members of the legal community to assure accuracy of information concerning existing issues and to promote buy-in and compliance. Inclusion of groups that work with individuals with special requirements to assure those needs are being met including: State Department of Corrections and Wardens of individual facilities (prisoners); Iowa Legal Aid (elderly and low income population); Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); **Iowa** Department of Human Rights; National Alliance on Mental Illness - Iowa; Department of Human Services (as a means of getting information to potential users of the court); NAACP; Lutheran Services (the largest Iowa organization that addresses the interests of immigrants); Justice for our Neighbors; Catholic Charities (addresses the interests of many immigrants); Iowa Bureau for Refugee Services; Iowa Coalition Against Domestic Violence; Iowa Commission for the Blind; And Iowa Hearing Association. In addition there should be contact with past and potential future litigants to assure identification of actual, rather than perceived, needs.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

No lack of unanimity has been identified.

Independent research: the result of relevant survey results for proposed process/improvement:

None to date.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

Adoption of The Iowa Supreme Court establishing standardized forms and processes for providing unbundled legal services and termination of those services, including treatment through the EDMS system, as in intermediate-term goal.

IIM - REVISE FORM SYSTEM

Proposed Process/Improvement: Develop court-provided family law forms for Iowa Code Chapter 598 and 600B cases that could be created by answering a series of factual questions for use both by self-represented litigants and law firms. Revisions to take into account the needs of immigrants, ESL Iowans, same-sex couples, and other litigants with special requirements.

Reason for consideration of the process/improvement and its anticipated benefit to Iowa families: The system of family law forms is too complicated for many persons to use effectively due to lack of familiarity with terms and processes. In addition, the sheer volume of forms is overwhelming to most people. Truly supporting self-representation would allow persons to provide information and have the court-supported form process create the documents needed by the court system.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps:

1. Send out a Request For Information to potential vendors to determine the feasibility of the project, including cost and potential time frame. No action taken.

2. Determine which other venues have used this method and their satisfaction with it. Preliminary research completed.

3. Procedure for collaboration with groups listed below needs to be designed and implemented. No action taken to date. Some informal collaboration has taken place due to composition of the Workgroup.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

This cannot be completed until research and evaluation have been finished.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

This cannot be completed until research and evaluation have been finished.

Pro: A fill-in the form would simplify creation of basic forms assisting self-represented litigants creation of the forms necessary to proceed in family law cases even though the litigant may have little or no understanding of the underlying legal principals.

Con: A fill-in the form might encourage litigants to choose to be self-represented even though they have complex fact situations which would benefit by hiring legal counsel. The existence of forms, particularly for Stipulations and Parenting Agreements, tends to result in default assumptions concerning an appropriate means of resolution of a particular situation which may not be an appropriate or best result.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

This cannot be completed until research and evaluation have been finished.

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

Clerks of Court, ISBA, judges, and other members of the legal community to assure accuracy of information concerning existing issues and to promote buy-in and compliance. Inclusion of groups that work with individuals with special requirements to assure those needs are being met including: State Department of Corrections and Wardens of individual facilities (prisoners); Iowa Legal Aid (elderly and low income population); Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); **Iowa** Department of Human Rights; National Alliance on Mental Illness - Iowa; Department of Human Services (as a means of getting information to potential users of the court); NAACP; Lutheran Services (the largest Iowa organization that addresses the interests of immigrants); Justice for our Neighbors; Catholic Charities (addresses the interests of many immigrants); Iowa Bureau for Refugee Services; Iowa Coalition Against Domestic Violence; Iowa Commission for the Blind; And Iowa Hearing Association. In addition there should be contact with past and potential future litigants to assure identification of actual, rather than perceived, needs.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

There is a lack of unanimity in the Workgroup. There is a difference of opinion as to the importance of the elements listed in the pro and con section above.

Independent research: the result of relevant survey results for proposed process/improvement:

None at this point in time.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

Adoption of the Iowa Supreme Court developing court-provided family law forms that could be created by answering a series of factual questions for use both by self-represented litigant and law firms as a long-term goal. Revisions to take into account the needs of immigrants, ESL Iowans, same-sex couples, and other litigants with special requirements.

IIN - SUPPORT THE FILING NEEDS OF SELF-REPRESENTED LITIGANTS

Proposed Process/Improvement: Investigate development of Self-Help Centers and Helplines to assist self-represented litigants navigate the legal processes involved in their litigation and to provide the hardware and software necessary for e-filing, giving consideration to partnering with libraries or other venues, particularly in rural areas. Include consideration of using Masters and/or legal interns at the Centers to provide technical content assistance in filling out forms.

Reason for consideration of the process/improvement and its anticipated benefit to Iowa families: It is reported that self-represented litigants often feel overwhelmed by the process and that they do not have access to printers and scanners. Self-help centers can centralize available personnel and physical resources. Partnering with libraries can be a cost-efficient means of utilizing existing resources.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps:

1. Gather and catalogue information concerning self-help centers and helplines in other venues, including training, oversight, and support services.

2. Visit self-help centers in other venues and establish dialogues with them concerning their development, maintenance, challenges and successes including training, oversight and support services. Initial conversations with the Clark County Nevada center have been established. Centers in Nebraska and Minnesota have been identified as potential sources.

3. Procedure for collaboration with groups listed below needs to be designed and implemented. No action taken to date. Some informal collaboration has taken place due to composition of the Workgroup.

4. Evaluate best processes, including urban and rural issues.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

This step cannot be completed until evaluation is finished.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

This step cannot be completed until evaluation is finished.

Pro: Ethical and effective assistance provided to self-represented litigants will support individual and systematic satisfaction with the process and with results in family law cases.

Con: Cost. Emphasis on self-help centers to the exclusion of assistance more suitable to rural areas could result in a variance of access to justice on an urban/rural basis.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

This step cannot be completed until evaluation is finished.

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

Clerks of Court, ISBA, judges, and other members of the legal community to assure accuracy of information concerning existing issues and to promote buy-in and compliance. Inclusion of groups that work with individuals with special requirements to assure those needs are being met including: State Department of Corrections and Wardens of individual facilities (prisoners); Iowa Legal Aid (elderly and low income population); Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); **Iowa** Department of Human Rights; National Alliance on Mental Illness - Iowa; Department of Human Services (as a means of getting information to potential users of the court); NAACP; Lutheran Services (the largest Iowa organization that addresses the interests of immigrants); Justice for our Neighbors; Catholic Charities (addresses the interests of many immigrants); Iowa Bureau for Refugee Services; Iowa Coalition Against Domestic Violence; Iowa Commission for the Blind; And Iowa Hearing Association. In addition there should be contact with past and potential future litigants to assure identification of actual, rather than perceived, needs.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

No lack of unanimity has been identified.

Independent research: the result of relevant survey results for proposed process/improvement:

None has been completed to date.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

Adoption of the Iowa Supreme Court investigation of development of Self-Help Centers and a Helpline to assist self-represented litigants navigate the legal processes and to provide the hardware and software necessary for e-filing, giving consideration to partnering with libraries or other venues, particularly in rural areas, as a long-term goal. Include consideration of using Masters and/or legal interns at the Centers to provide technical content assistance in filling out forms.

IIO - MAKE MORE EFFECTIVE USE OF WEBSITE

Proposed Process/Improvements: Review, revise, and upgrade existing website to make it more user-friendly, including consideration of a separate webpage or webpages for the general public, attorneys, and self-represented litigants, including mobile device users.

Reason for consideration of process/improvement and its anticipated benefit to Iowa families: The existing website was state-of-the-art when designed. It is an excellent site. Modification of certain elements to make it more consistent with layout and interactivity found on other sites frequently used by the public would be beneficial.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps:

1. Careful review of the Iowa Judicial Branch website elements and how they are accessed and utilized. This should include professional review as well as Workgroup review. Catalogue positive and challenging elements.

2. Careful review of the web elements of other jurisdictions and how they are accessed and utilized. This should include professional review as well as Workgroup review. Catalogue positive and challenging elements.

3. Procedure for collaboration with groups listed below needs to be designed and implemented. No action taken to date. Some informal collaboration has taken place due to composition of the Workgroup.

4. Evaluate best processes. This step may include requests for proposals if outside sources will be used.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

This step cannot be completed until the research and evaluation process is finished.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

This step cannot be completed until the research and evaluation process is finished.

Pro: Easier and more complete access of information necessary to process family law matters. Improved results and experience with the legal process. Enhanced public perception of the judicial system.

Con: Cost.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

This cannot be completed until the research and evaluation process is finished.

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

Clerks of Court, ISBA, judges, and other members of the legal community to assure accuracy of information concerning existing issues and to promote buy-in and compliance. Inclusion of groups that work with individuals with special requirements to assure those needs are being met including: State Department of Corrections and Wardens of individual facilities (prisoners); Iowa Legal Aid (elderly and low income population); Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); **Iowa** Department of Human Rights; National Alliance on Mental Illness - Iowa; Department of Human Services (as a means of getting information to potential users of the court); NAACP; Lutheran Services (the largest Iowa organization that addresses the interests of immigrants); Justice for our Neighbors; Catholic Charities (addresses the interests of many immigrants); Iowa Bureau for Refugee Services; Iowa Coalition Against Domestic Violence; Iowa Commission for the Blind; And Iowa Hearing Association. In addition there should be contact with past and potential future litigants to assure identification of actual, rather than perceived, needs.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

No lack of unanimity has been identified.

Independent research: the result of relevant survey results for proposed process/improvement:

None completed to date.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

Adoption of the Iowa Supreme Court review, revision, and upgrade of the existing website to make it more user-friendly, including consideration of a separate webpage or webpages for the general public, attorneys, self-represented litigants, and mobile device users, as a long-term goal.

IIP - IMPROVE PROCESS AWARENESS

Proposed Process/Improvements: Develop and implement a campaign to improve bench and bar awareness of the importance of the assistance available to families from the family court system and supporting access to that assistance. The campaign would include systematic use of internet, continuing education, and personal appearances to support the bench and bar's understanding of the importance of these services to Iowans and the future of Iowa.

Reason for consideration of process/improvement and its anticipated benefit to Iowa families: In some sectors family law is perceived as a less important branch of practice and jurisprudence even though it deals with significant amounts of money and touches the lives of most Iowa residents directly or indirectly. This attitude, where it exists, impairs effective access to the courts. Changing those attitudes would benefit Iowans by assuring the thorough and careful handling and consideration of their family law legal matters.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps:

1. Investigate and catalogue current attitudes of the Iowa bench and bar toward the importance of assistance available to families from the family court system and supporting access to that assistance.

2. Investigate and catalogue current attitudes the bench and bar in other venues toward the importance of assistance available to families from the family court system and supporting access to that assistance.

3. Research and catalogue initiatives in other venues to improve the attitude of the bench and bar toward the importance of assistance available to families from the family court system and supporting access to that assistance.

4. Procedure for collaboration with groups listed below needs to be designed and implemented. Some informal collaboration has taken place through discussions and due to the composition of the Workgroup.

5. Develop requests for proposal to current court administration staff, and if appropriate, to existing vendors and other potential service providers for development of a comprehensive plan to address needed education and modification of attitudes.

6. Determine best practices and evaluate available options.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

This step cannot be completed until research and evaluation is finished.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

Evaluation cannot be completed until research is finished.

Pro: Supporting a positive attitude toward the importance of the legal system providing support in family law areas and providing support to the individuals seeking that assistance would provide a solid foundation for suggested reforms in processing family law cases.

Con: Costs.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

Comparisons cannot be completed until research is finished.

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

Clerks of Court, ISBA, judges, and other members of the legal community to assure accuracy of information concerning existing issues and to promote buy-in and compliance. Inclusion of groups that work with individuals with special requirements to assure those needs are being met, particularly with regard to public appearance efforts, including: State Department of Corrections and Wardens of individual facilities (prisoners); Iowa Legal Aid (elderly and low income population); Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); **Iowa** Department of Human Rights; National Alliance on Mental Illness - Iowa; Department of Human Services (as a means of getting information to potential users of the court); NAACP; Lutheran Services (the largest Iowa organization that addresses the interests of immigrants); Justice for our Neighbors; Catholic Charities (addresses the interests of many immigrants); Iowa Bureau for Refugee Services; Iowa Coalition Against Domestic Violence; Iowa Commission for the Blind; And Iowa Hearing Association. In addition there should be contact with past and potential future litigants to assure identification of actual, rather than perceived, needs.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

No lack of unanimity has been identified to date.

Independent research: the result of relevant survey results for proposed process/improvement:

No independent research has been conducted to date.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

Adoption of the Iowa Supreme Court development and implementation of a campaign to improve bench and bar awareness of the importance of the assistance available to families from the family court system and supporting access to that assistance as a long-term goal. The campaign to include systematic use of internet, continuing education, and personal appearances to support the bench and bar's understanding of the importance of these services to Iowans and the future of Iowa and would include a plan for periodic review.

IIQ - ESTABLISH A SIMPLIFIED PROCESS FOR APPROPRIATE FAMILY LAW CASES

Proposed Process/Improvement: Develop and implement simplified procedures and processes for uncontested cases, such as cases resolved by collaborative law agreements; cases where neither custody nor support are at issue and total assets are less than $100,000; cases involving support modifications; and cases involving co-parenting disputes.

Reason for consideration of process/improvement and its anticipated benefit to Iowa families: The cost of processing a family law case has skyrocketed in the last decade, in part because of mandated processes and procedures that are appropriate for some, but not all, cases. The length of time required to process a case has also increased, despite the intent to have cases more streamlined. Family law is the only area where all cases are on the same track. Probate, criminal, and general civil cases track based on amount at issue or seriousness of the situation. Providing a simplified process and procedure for simple cases would allow Iowans faster and more cost-efficient access to the courts.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps:

1. Investigate, review and catalogue the length of time (average, median, and mean) for processing family law cases in Iowa, including a comparison over the last decade.

2. Investigate, review and catalogue the cost (average, median, and mean) for processing family law cases in Iowa, including a comparison over the last decade.

3. Investigate, review and catalogue the length of time (average, median, and mean) for processing family law cases in other venues, including a comparison over the last decade.

4. Investigate, review and catalogue the cost (average, median, and mean) for processing family law cases in other venues, including a comparison over the last decade.

5. Investigate, review and catalogue efforts taken to decrease cost and the length of time in case processing in Iowa and the results of those efforts, with a particular emphasis on use of simplified case processing.

6. Investigate, review and catalogue efforts taken to decrease cost and the length of time in case processing in other venues and the results of those efforts, with a particular emphasis on use of simplified case processing.

7. Procedure for collaboration with groups listed below needs to be designed and implemented.

8. Evaluate and make recommendations concerning the adoption of a simplified process and procedure for simple family law cases.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

This cannot be determined until steps necessary for evaluation are completed.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

This cannot be determined until steps necessary for evaluation are completed.

Pro: Decreased cost, length of time for processing, and use of court resources.

Con: Potential for inequitable results as a function of less detailed inquiry into applicable facts.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

This cannot be determined until steps necessary for evaluation are completed.

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

Clerks of Court, ISBA, judges, and other members of the legal community to assure accuracy of information concerning existing issues and to promote buy-in and compliance. Inclusion of groups that work with individuals with special requirements to assure those needs are being met including: State Department of Corrections and Wardens of individual facilities (prisoners); Iowa Legal Aid (elderly and low income population); Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); Iowa Department of Human Rights; National Alliance on Mental Illness - Iowa; Department of Human Services (as a means of getting information to potential users of the court); NAACP; Lutheran Services (the largest Iowa organization that addresses the interests of immigrants); Justice for our Neighbors; Catholic Charities (addresses the interests of many immigrants); Iowa Bureau for Refugee Services; Iowa Coalition Against Domestic Violence; Iowa Commission for the Blind; And Iowa Hearing Association. In addition there should be contact with past and potential future litigants to assure identification of actual, rather than perceived, needs.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

No lack of unanimity has been identified.

Independent research: the result of relevant survey results for proposed process/improvement:

No independent research has been undertaken at this point in time.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

Adoption of evaluation of the potential for development and implementation of simplified procedures and processes for uncontested cases, such as cases resolved by collaborative law

agreements; cases where neither custody nor support are at issue and total assets are less than $100,000; cases involving support modifications; and cases involving co-parenting disputes, as a long-term goal.

IIR - EXPAND COURT PROVIDED SERVICES

Proposed Process/Improvement: The Court investigating court-provided services, including mediators, guardians ad litem, and special masters, including use of special masters for child support.

Reason for consideration of process/improvement and its anticipated benefit to Iowa families: Privatizing the supplemental services provided by mediators, guardians ad litem, and special masters impairs access to the courts by increasing out-of-pocket costs for litigants and can result in both confusion to the litigants (especially self-represented litigants) in securing the services of these professionals as well as the potential for lesser services due to limited resources. Having the persons providing these services be employed by the court system would assure consistency in credentials, quality, and services. Other venues have made good use of special masters to handle matters determining appropriate levels of support and interim matters which could enhance the services provided by the court and could do so in a manner that is more cost efficient than having them handled by the District Court.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps:

1. Research and catalogue the degree to which mediators, guardians ad litem, and special masters are currently used in family law matters in the state of Iowa and the average cost for those services.

2. Research and catalogue the degree to which mediators, guardians ad litem, and special masters are currently provided at no cost to litigants in Iowa and the manner in which those services are funded (such as provision of pro-bono services, funding through county funds, or other sources).

3. Research and catalogue venues where mediators, guardians ad litem, and special masters are currently provided at no cost to litigants and the manner in which those services are funded (such as being taxed as court costs, provision of pro-bono services, funding through court budgets, funding through county funds, or other sources). Research to indicate whether there is a parallel system of private providers who are paid by the litigants directly.

4. Procedure for collaboration with groups listed below needs to be designed and implemented.

5. Evaluate best practices for provision of the services of mediators, guardians ad litem, and special masters.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

This cannot be completed until research is finished.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

This cannot be completed until research is finished.

Pro: Court provided services would lower barriers based on cost and familiarity with vendors of needed services. Court provided services would assure minimum and on-going training of vendors and oversight of performance.

Con: Cost. Competition with private vendors. Would not necessarily eliminate the ability to purchase private services giving an advantage to litigants with greater financial resources.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

This cannot be completed until research is finished.

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

Clerks of Court, ISBA, judges, and other members of the legal community to assure accuracy of information concerning existing issues and to promote buy-in and compliance. Inclusion of groups that work with individuals with special requirements to assure those needs are being met including: State Department of Corrections and Wardens of individual facilities (prisoners); Iowa Legal Aid (elderly and low income population); Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); **Iowa** Department of Human Rights; National Alliance on Mental Illness - Iowa; Department of Human Services (as a means of getting information to potential users of the court); NAACP; Lutheran Services (the largest Iowa organization that addresses the interests of immigrants); Justice for our Neighbors; Catholic Charities (addresses the interests of many immigrants); Iowa Bureau for Refugee Services; Iowa Coalition Against Domestic Violence; Iowa Commission for the Blind; And Iowa Hearing Association. In addition there should be contact with past and potential future litigants to assure identification of actual, rather than perceived, needs.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

No lack of unanimity has been identified.

Independent research: the result of relevant survey results for proposed process/improvement:

No independent research has been completed at this point in time.

Final Recommendation of the Workgroup on the process/improvement:

Adoption of the Court investigating court-provided services, including mediators, guardians ad litem, and special masters, including use of special masters for child support, as a long-term goal.

IIS - INVESTIGATE MECHANISMS FOR ON-GOING REVIEW OF FAMILY LAW CASE PROCESSES

Proposed process/improvement: Investigate mechanisms to create a committee for on-going review of family law case processes.

Reason for consideration of the process/improvement and its anticipated benefit to Iowa families: Systemic change to incorporate routine review of family law case processes would encourage and allow the courts to be responsive to the needs of Iowa litigants on an on-going basis.

Steps necessary to evaluate this process/improvement and status of Workgroup on those steps:

1. Gather and catalogue information concerning mechanisms for periodic review of family law case processing mechanisms in other venues.

2. Procedure for collaboration with groups listed below needs to be designed and implemented. No action taken to date.

3. Evaluate best processes.

Steps necessary to implement this process/improvement and anticipated time frame for implementation:

This step cannot be completed until evaluation is finished.

Evaluation: existing related Iowa systems, pros and cons of undertaking proposed reform:

This step cannot be completed until evaluation is finished.

Pro: On-going awareness and improvement of how family law case processing functions in Iowa.

Con: Cost.

Comparisons: identify other jurisdictions experience with the reform, assessment of perceived efficacy of the reform, assessment of relevant similarities and differences of judicial environment (demographics, population density, judicial structures and legal context):

This step cannot be completed until evaluation is finished.

Identify which other constituencies that the Court should contact regarding each process/improvement, including why input from that particular group is necessary.

Clerks of Court, ISBA, judges, and other members of the legal community to assure accuracy of information concerning existing issues and to promote buy-in and compliance. The Court may also wish to consult with groups that work with individuals with special requirements to assure those needs would be met by the proposed periodic reviews including: State Department of Corrections and Wardens of individual facilities (prisoners); Iowa Legal Aid (elderly and low income population); Iowa Department on Aging and Area Agencies on Aging (elderly and physically handicapped populations); Iowa Department of Human Rights; National Alliance on Mental Illness - Iowa (NAMI Iowa) . Department of Human Services (as a means of getting information to potential users of the court); NAACP; Lutheran Services (Lutheran Services in Iowa is the largest organization that addresses the interests of immigrants); Justice for our Neighbors; Catholic Charities (addresses the interests of many immigrants); Iowa Bureau for Refugee ; Iowa Coalition Against Domestic Violence; Iowa Commission for the Blind; And Iowa Hearing Association. In addition there should be contact with past and potential future litigants to assure identification of actual, rather than perceived, needs.

Degree of Workgroup support: if lack of unanimity, summarize reasons for divergence:

No lack of unanimity has been identified.

Independent research: the result of relevant survey results for proposed process/improvement:

None has been completed to date.

Final Recommendation of the Workgroup on the process/improvement:

The Access Workgroup recommends:

Adoption of the Iowa Supreme Court investigation of mechanisms to create a committee for on-going review of family law case processes as a long-term goal.

Access to Courts Appendix One: Listing of State Court Websites and Available Rules and Resources

Prepared by: Laura Parrish and Melissa Larson

Alabama: https://judicial.alabama.gov/index.cfm

- Quick links at top of first page to "rules of court" but no indication of local rules.
- 38 judicial circuits with individual websites but no indication of local rules.

Alaska: https://courts.alaska.gov https:// courts.alaska.gov/

- Link in menu across top of page to "court rules," then "administrative orders," then "selected standing orders" leads to orders for court of appeals, statewide trial court orders, and orders for 4 judicial districts
  - http://courts.alaska.gov/jord/index.htm
- Family law self help center offers a layout similar to a flow chart based on the viewer's scenario

Arizona: https://www.azcourts.gov

- "Arizona Supreme Court" link in menu across top of page, then "Rules," then "Current Arizona Rules," then list of 35 links for various rules
  - https://govt.westlaw.com/azrules/Index?__lrTS=20151022150221009&transitionType=Default&contextData=%28sc.Default%29
- Listing includes local rules for several different courts and jurisdictions, but no uniformity or complete list of cities/districts
- Pretty good child support calculator:http://www.azcourts.gov/familylaw/2015-Child-Support-Calculator

Arkansas: https://courts.arkansas.gov

- Link in menu bar across top of page to "court rules and administrative orders" but no indication of local rules.
- Under "courts," then "circuit courts" each of 23 circuits have "administrative plans" regarding caseload management but no indication of local rules.

California: https://www.courts.ca.gov

- Link in menu bar across top of page to "Forms & Rules," then "Rules of Court."
  - Sidebar option to "Local Rules" containing 58 counties' pdf or link to website with effective dates
  - http://www.courts.ca.gov/3027.htm

Colorado: https://www.courts.state.co.us

- Had to search for any local rules and only one judicial district out of twenty-two had any published, along with the water court.
- Advertising of special event in 5th District where for an afternoon there is a free parenting class, mediation services, and Legal aid assistance to complete forms.

Connecticut: https://www.jud.ct.gov

- Had to search for local rules, and only found local rules for federal court.

Delaware: https://www.courts.delaware.gov
- No local rules found.

Florida: https://www.flcourts.org
- No local rules found.
- Florida commission on access to civil justice is set up to respond "to the unmet needs of low and moderate-income Floridians."
- Map of self-help centers for each judicial circuit.

Georgia: https://www.georgiacourts.org
- No local rules found.

Hawaii: https://www.courts.state.hi.us
- No local rules found.
- Access to Justice Commission set up "to substantially increase access to justice in civil legal matters for low and moderate-income residents of Hawaii."
- Self-help centers.
- Self-help interactive forms utilizing "interviews" (turbo-tax style) found at http://www.lawhelp.org/hi/resource/hawaii-self-help-interactive-forms.

Idaho: https://www.isc.idaho.gov
- Menu bar to "Locate a Court" to "District Court" leads to listing of 7 judicial districts with counties, and a link to each district's local rules.
- Coordinated Family Court Services program promotes "respectful, collaborative, timely problem solving of all family court cases."

Illinois: https://www.illinoiscourts.gov
- District appellate court rules found under "Documents" then "Rules" and "Appellate Local Rules." No other local rules found.

Indiana: https://www.in.gov/judiciary/
- Menu bar to "Court Rules and Forms" then "Local court rules by county" leads to 92 links for Indiana counties which lead to each county's website and to links for the judicial district's rules and that specific county's rules.
- Best and easiest navigation with the path to all the rules easily discernible with two simple clicks.
- Easy to use child support estimator that ultimately allows you to input information like a turbo-tax style and then generate a form that may be submitted to the Court: http://www.in.gov/judiciary/2625.htm.

Kansas: https://www.kscourts.org

- Menu bar to "Kansas Courts" and then "District Courts" and then "Local Court Rules – Judicial Districts" leads to list of 31 judicial districts with a pdf link to rules OR a note indicated "no local rules."

Kentucky:https://www.courts.ky.gov/Pages/default.aspx

- "Helpful Links" to "Local Rules of Practice" leads to very long list of local rules by district/circuit (57 circuits and 60 districts) – confusing to navigate if lay person.

Louisiana: https://www.Louisiana.gov/Government/Judicial_Branch/

- No local rules found.

Maine: https://www.courts.maine.gov

- No local rules found.
- 60 pages of rules for Guardians Ad Litem.

Maryland: https://www.courts.state.md.us

- No local rules found.

Massachusetts: https://www.mass.gov/courts/

- Menu bar to "Case & Legal Resources," then "Special rules" leads you to several standing orders for municipal court in Boston, probate/family court, housing court, juvenile court, and land court.

Michigan: https:// courts.mi.gov/Pages/default.aspx

- Difficult to find, but when searched using the search bar, I found local rules for circuit courts, district courts, probate and small claims.

Minnesota: www.mncourts.gov

- No local rules found.

Mississippi: https://courts.ms.gov

- Menu bar to "Rules" provides pdfs for 4 counties, several chancery court districts and several circuit courts' local rules.

Missouri: https://www.courts.mo.gov

- Menu bar to "Legal resources" to "Court Rules" which provides Court of Appeals local rules and states that circuit courts may issue local rules.
- Link to circuit courts provides list of 45 circuits with link to PDF of local rules where they exist.

Montana: http://courts.mt.gov/

- http://courts.mt.gov/dcourt/dc_rules (links to 22 judicial districts)
- Very user friendly website; section for self-represented litigants front and center.

Nebraska: https://supremecourt.nebraska.gov

- https://supremecourt.nebraska.gov/rules/external/district-local-rules

- § 6-1501. Local rules.
  Each district court by action of a majority of its judges may from time to time recommend local rules concerning matters not covered by these rules and which are not inconsistent with any directive of the Nebraska Supreme Court or statutes of the State of Nebraska. Such recommended rules shall be submitted in writing and on a disk in a Microsoft Word compatible format. Any language that creates a rule or is to be added to a rule shall be underscored, and any language to be deleted from a rule shall be overstruck. Such recommended rules shall become effective upon the approval of the Supreme Court, at which time they shall be filed with the Clerk of the Supreme Court and Court of Appeals and be published in the Nebraska Advance Sheets. Once approved and published, copies thereof shall be made available to the bar and public through the office of the Clerk of the District Court recommending the rules.
- Links to 12 district's local rules located in "Information for Attorneys" section of website.

Nevada: http://nvcourts.gov/

- District courts all appears to have different websites (or no website at all?). General rules apply "unless preempted by a local rule."
- Rural Justice Court Rules: http://www.leg.state.nv.us/courtrules/JCR_Rural.html.

New Hampshire: http://www.courts.state.nh.us

- 32 district divisions; Superior Court and 3 circuit courts (district, probate & family) in each district.
- No local rules found.
- General rules: http://www.courts.state.nh.us/rules/index.htm

New Jersey: http://www.judiciary.state.nj.us/

- No local rules found.
- Courts are divided by topic. Many "packets" of forms for multiple causes of action, including custody (not divorce), with general forms related to the packet linked: www.judiciary.state.nj.us/prose/index.htm.

New Mexico: https://www.nmcourts.gov/index.php

- 13 judicial districts. Court divided by subject matter. Local rules are all accessible, but somewhat difficult to find (website has similar search feature to our Iowa Legislature page).
- Self-help area for litigants but difficult to navigate.
- http://www.nmonesource.com/nmnxtadmin/

New York: www.nycourts.gov

- Unified court system. Some division of courts by subject matter. Only able to locate "uniform rules" for various divisions of court.
- http://www.courts.state.ny.us/rules/trialcourts/205.shtml#13

North Carolina: http://nccourts.org

- Local rules organized by County. Very easily located on the website. Also have links to local forms.
- http://nccourts.org/Courts/CRS/Policies/LocalRules/Default.asp

North Dakota: http://www.ndcourts.gov

- Local rules easily located by geographical district. Local rules appear to primarily deal only with reassignment of cases in the event of a recusal
- http://www.ndcourts.gov/rules/Local/frameset.htm

Ohio: http://www.supremecourt.ohio.gov/

- Local rules by county. Easily located, although unclear if some counties have not provided their local rules or if they simply do not have any.
- http://www.supremecourt.ohio.gov/JudSystem/trialCourts/

Oklahoma: http://www.ok.gov/section.php?sec_id=67#skipcontent

- Rules found under "legal research". Appear to be some local rules at the district level and some at the county level
- http://www.oscn.net/applications/oscn/Index.asp?ftdb=STOKRULR&level=1
- http://www.oscn.net/forms/aoc_form/adobe/dom.-standard-visit-sch.-advis.%20gdelns.pdf
    - Only reference custodial and non-custodial. No standard schedule for shared care.
- Links to Legal Aid for self-help forms – very limited topics available.

Oregon: http://courts.oregon.gov/

- Information that some circuit (county) courts have local rules, published on their own website. No reference to district local rules.
    - http://courts.oregon.gov/OJD/rules/pages/index.aspx
- State Family Law Advisory Committee: http://courts.oregon.gov/OJD/OSCA/cpsd/courtimprovement/familylaw/sflac/Pages/index.aspx (NB: requires passcode)
- Access to Justice Committee: http://courts.oregon.gov/OJD/OSCA/cpsd/courtimprovement/access/pages/index.aspx

Pennsylvania: http://www.pacourts.us/

- Local rules easily located, although appear to adopt general rules of district.
- http://www.pacourts.us/courts/supreme-court/committees/rules-committees/local-rules-for-common-pleas-and-magisterial-district-courts/

Rhode Island: https://www.courts.ri.gov/

- No local rules found.

- Self-help center easily located on website; multiple forms but doesn't appear to be much direction on how to use
    - https://www.courts.ri.gov/PublicResources/forms/Pages/default.aspx

South Carolina: http://www.judicial.state.sc.us/

- Did not find central list of local rules, but found ADR rule that required any local ADR rules to be approved by the South Carolina Supreme Court http://www.judicial.state.sc.us/courtReg/displayRule.cfm?ruleID=23.0&subRuleID=&ruleType=ADR

South Dakota: http://ujs.sd.gov/

- Very detailed "self-help" center with many forms
    - http://ujs.sd.gov/Self_Help_Center/
- Parenting guidelines to be applied in all cases unless the parents agree to do something differently
    - http://ujs.sd.gov/uploads/forms/parenting/UJS%20302%20-%20South%20Dakota%20Visitation%20Guidelines.pdf

Tennessee: https://www.tncourts.gov/courts

- Local rules easily located through Court Rules section of front page of website.
- http://www.tsc.state.tn.us/courts/court-rules2/local-rules-practice

Texas: http://www.txcourts.gov/

- 6 out of 9 administrative regions have local rules published in Rules section of website.
- http://www.txcourts.gov/rules-forms/rules-standards.aspx

Utah: http://www.utcourts.gov/

- No local rules found.
- "Self Help" tab on main page of website provides links to multiple resources.
    - **Online Court Assistance Program** that leads you through preparation of documents.
    - Option to choose an "informal" trial to decide custody, visitation and support. Not parentage of child, actual divorce or debt/property division.

Vermont: https://www.vermontjudiciary.org/

- "Legal Information" tab takes you to option for Rules link – kicks over to a Lexis Nexis page.
- No local rules found.
- "Self-Help" section for divorce. Interview style document preparation through "**CourtFormPrep**". Lengthy section on rules with links to individual forms. Requirement of a Pro Se Litigants Education Course (90 min in person, some counties offer monthly, others quarterly). 6 months to finalize a divorce in VT! Prep program has step by step "fill-in-the-blank" and direction offered in text and audio

Virginia: https://www.courts.state.va.us

- individual circuits and counties all have separate pages. Some note approval of local rules, but unable to locate the actual content of the rules online
- Rule 1:15. Local Rules of Court.
  (a) Whenever a local rule is prescribed by a circuit court it shall be spread upon the order book and a copy with the date of entry shall be forthwith posted in the clerk's office, filed with the Executive Secretary of the Supreme Court, and furnished to attorneys regularly practicing before that circuit court; and whenever an attorney becomes counsel of record in any proceedings in a circuit court in which he does not regularly practice, it shall be his responsibility to ascertain the rules of that court and abide thereby. The clerk shall, upon request, promptly furnish a copy of all rules then in force and effect.

Washington: http://www.courts.wa.gov/

- Some local courts maintain local rules on their own websites; appears to be wide variety between usability of websites and information provided.
- http://www.courts.wa.gov/court_rules/
- Supreme Court prescribes forms for divorce, custody but says to check with specific county to learn local rules. Forms are available to print, similar to Iowa. Not fillable or "turbo tax". Information about divorce in general is provided by separate site.

West Virginia: http://www.courtswv.gov/

- Standardized Family Court Rules – e.g. Testimony of a Child.
- http://www.courtswv.gov/legal-community/court-rules/Family-Court/contents.html
- No local rules found.

Wisconsin: https://www.wicourts.gov/

- State Bar Association webpage provides links to rules of each county's circuit court rules
  - http://www.wisbar.org/Directories/CourtRules/Pages/Circuit-Court-Rules.aspx
- Family Law Forms available through circuit court portion of webpage. Simple directions in boxes along lefthand margin of form. Forms are to be printed and filled in. "Summary" document available that provides information about corresponding forms, where to file, etc.
  - http://www.wicourts.gov/services/public/selfhelp/divorce.htm
- However … Services – For the Public – Self-Help – will get you to an interactive website with turbo tax type form preparation. Appears to be county specific. Flow chart that describes process with directions about which specific forms you need depending on the route your case takes
  - https://myforms.wicourts.gov

Wyoming:http:/www.courts.state.wy.us/

- Notes that online information regarding rules should not be relied on and you should contact the Clerk for certainty on rules. Only able to locate "uniform" district and circuit rules.

Access to Courts Appendix Two: Clark County Nevada Family Law Self Help Center Memo

Memo to: Access Work Group

From: Terry Parsons

Concerning: Clark County Nevada Self-Help Center and Web Site Clark County Family Law Self Help Center Website

Information about the Clark County Self-Help Center was provided by Stephanie McDonald, managing attorney in the Family Law Self- Help Center in telephone conversation 6 August 2015. Background information was obtained from the Clark County Court Judicial Web Site family law page

The Clark County Family Law Self-Help Center in Las Vegas, Nevada has been in existence for about 15 years. Their family court is housed in a building separate from other court services. Following the success of the Legal Aid Center of Southern Nevada in establishing a second Self-Help Center recently for other civil litigants when a new court house was built for those services, Clark County recently partnered with Legal Aid Center of Southern Nevada for the management and operation of the Family Law Self-Help Center as well. The County provides the space and supplies and Legal Aid provides the staff and services. Stephanie McDonald is the managing attorney. The program is funded from the County Court budget.

The Family Law Self-Help Center is currently operated by the Legal Aid Center of Southern Nevada at the family law court building using the services of four, soon to be five, customer service representatives and oversight by a Legal Aid managing attorney. It is open to the public from 8:00 a.m. to 4:00 p.m., with the half hour from 4:00 p.m. to 4:30 p.m. available for staff meetings and related review. They provide no legal advice, but provide process and procedure information. Most of the staff have been with the Center for seven to thirteen years. The current managing attorney has set up a training plan and makes extensive use of Legal Aid's very extensive training programs for pro-bono attorneys to provide appropriate substantive information training to the staff. She personally provides additional training. They also have a weekly Ask-a-Lawyer session where six to seven attorneys volunteer a couple of hours of their time to provide answers in fifteen minute sessions with individuals. The attorneys sign up for the program and are covered under Legal Aid's malpractice insurance regarding the assistance they provide.

There is an advisory committee composed of judges and attorneys who meet quarterly to review information and statistics on the program. This is a recent program change and has provided a sense of accountability as well as providing a sense of connection with the bench and bar to the Center and its goals. The bar was initially quite hostile to the concept of the self-

help center and appeared to be concerned about the loss of business. Stephanie felt that much of that feeling has died down.

Last November the Center launched a re-designed web site as part of the re-vamping of the Center. The content and design has been developed by Legal Aid, but is always required to be approved by the Court. They utilized the services of a the same web designer who designed the Legal Aid web site and who performed services at a discount rate because of the nature of the services provided.

Stephanie McDonald estimates 60-65% of the persons using the family court system in Clark County are unrepresented at this point in time. Reno Nevada also has a Self Help Center. The statewide Access to Justice Commission is currently actively looking at means of providing similar services in the rural areas.

To put this in context, Nevada is a community property state. They have had a Family Court system since 1993. They use a one-case-one-judge system, but also use Hearing Masters for routine matters like support and protective orders, subject to the oversight of the assigned Judge. Clark County has twenty family law judges. The Hearing Masters are experienced licensed attorneys who are appointed by a committee of judges and serve until they quit, retire, or are removed due to ethics or performance issues. In Nevada judges are elected.

Mediation is mandatory in custody cases (except in the event of severe domestic violence) and the mediators are provided by the court system itself on a sliding fee scale. The Mediation Center also houses a program for safe exchanges and for supervised visitation per court orders. The family court uses an electronic data management system.

Nevada has sixteen counties and one independent city, Carson City. There are nine judicial districts.

OTHER LINKS ABOUT SELF-REPRESENTED INDIVIDUALS:
Web Site for and about the Family Law Self Help Center located in Las Vegas Nevada on the first floor of the Family Courts and Service Center in a collaboration between Clark County and Legal Aid
http://www.familylawselfhelpcenter.org/ This center is for family law matters. This and their related web site seem very simple and top drawer, which makes some sense inasmuch as Las Vegas has a service-based economy.

Link to Information concerning the State of Minnesota's Self-help centers
http://www.mncourts.gov/selfhelp These are general, not family law centered.

Link to the Nebraska on-line self help center https://supremecourt.nebraska.gov/self-help/welcome

There appear to be self help centers in a few courthouses in collaboration between the Bar and Legal Aid, but they appear to only provide assistance to individuals preparing guardianship and conservatorship reports. This is general, not family law centered

The following is a link to the ABA survey and summary of self-help centers: ABA Self Help Center Census

The following link is to the San Juan County New Mexico legal fair that gives people an opportunity to speak to an attorney on a variety of legal issues: San Juan County Legal Fair link

Access to Courts Appendix Three: Omaha Access to Justice Center Report by Shelley Whitcher

Self-Help Center Report

The Access to Justice Project was created by Legal Aid of Nebraska to help address the legal needs of people trying to navigate the legal system on their own. Legal Aid of Nebraska ("LAN") has self-help centers in both the Omaha and Lincoln LAN offices. These centers are called "Access to Justice," or A2J, centers. A2J Centers are store-front offices designed to provide assistance to walk-in clients. A person must be eligible for Legal Aid services to get assistance through the walk-in center. A2J was created to help people who are trying to handle legal problems on their own and need guidance, advice, or forms not otherwise available to the public. If it appears that the individual needs more than just guidance, they will be diverted to the LAN intake process for consideration for limited or full representation.

The Omaha A2J Center started in 2010. It is located on the same floor as the LAN offices in Omaha. It consists of a medium-sized conference room and three smaller consultation rooms. The conference room contains six computers, a printer, various office equipment and supplies, and a projector for presentations. The walk-in center is open three mornings and four afternoons each week.

One attorney and one paralegal staff the Center each shift and there are usually back up attorneys to handle overflow. After a brief consultation, the attorney will provide legal advice and answer legal questions, and then direct the client to the forms they may need to address their legal issues. The attorneys can explain a particular process, what a client should expect as part of that process, answer simple legal questions, or help a client complete legal forms. A client can return to A2J for advice or assistance at each stage of the process. Services are also available for clients for whom English is a second language.

The attorneys have a form bank of standard pleadings available for client use, including pro se forms approved by the Nebraska Supreme Court and LAN forms that are not otherwise available to the public. Court-approved forms have been published with the A2J Author, an avatar that asks simple questions of the pro se litigant, then uses the answers to complete the legal forms. [**NOTE: This software is the "Turbo Tax" model we have discussed and recommended.**

The software can be easily adjusted to produce other forms. To see an example of this approach, please view Iowa Legal Aid's online intake process at http://www.iowalegalaid.org/resource/introduction-to-online-intake?lang=EN (but don't actually hit "submit" at the end).] The A2J Author makes completing the forms easy for pro se litigants. At the end of the interview, a finished document is produced, ready to be filed with the court, along with instructions. Several of the forms have been completed in partnership with the Nebraska Supreme Court's Committee on Implementation of Pro Se Assistance Forms. The A2J Author is powered through Probono.net and uses HotDocs. The program does not allow incomplete documents to print. All documents are reviewed by the attorney before they are sent with the client. Judges like the A2J center because the documents they see are complete, uniform, and not handwritten.

In addition to pro se form assistance, the A2J Center holds regular legal clinics on the following topics: bankruptcy, child support modification, and paternity/custody. LAN has recently started providing some self-help services to clients in rural areas via GoToMeeting, where they can watch a training at the courthouse.

Types of Cases:
Approximately 50% of the cases the A2J Centers helps with are family law issues. After family law, the largest legal issues are consumer issues, housing issues, and public benefit issues.

Funding:
The A2J Centers are funded through LAN's normal federal, state, and private funding sources. There is some funding through the Nebraska Public Service Commission, which is funded through court filing fees. Staff members did not have an estimated operational cost, as the A2J Centers' budget is part of the general office budget.

Statistics:
A 2015 report showed that these centers help over 1500 clients a year (in 2014, the centers closed 1,885 cases, serving 1,691 clients). The A2J Center in Omaha sees an average of 45-50 individuals per week. One measure of success for the A2J Center is how many clients are filing the pro se forms with which LAN assisted. They have found that 85% of clients receiving assistance with their pro se bankruptcy forms went on to file those forms. Approximately 50% of pro se bankruptcy filers have utilized the A2J Center services.

Training:
Attorneys and paralegals are trained through the normal LAN training process. New attorneys do not staff the A2J Center, as experience is needed to address the myriad of legal issues brought by clients of the A2J and the difficulty of handling several clients at once. For this same reason, volunteer attorneys are not used, given the extensive training required for both the LAN system and the multitude of poverty law issues handled.

Collaborations:
LAN has a relationship with other legal service groups and refers out to them on a case-by-case basis. The Volunteer Lawyers Project and Omaha Bar provide services to low-income individuals for a reduced fee. Creighton Law School's clinic provides free legal services to low income clients. Additionally, LAN can refer cases to their Collaborative Divorce Partners, which provide pro bono services for divorces that are worked out before filing.

Some courthouses throughout Nebraska have self-help desks, but they have limited hours and provide limited advice. Approximately 5 county courthouses provide the help desk for family law issues only. They are staffed by volunteer attorneys and are usually only open for about two hours, twice a week.

Nebraska Law:
Regarding Nebraska law in general, it is an equitable distribution (not community property) state. The child support guidelines appear to be very similar to Iowa's. The pro se forms are

available for free online, but the courthouse may charge for printing. For family law cases, they utilize a one case/one judge platform, but they do not have a family court system. Sixty-eight percent of the court's docket is family law. The judges are state employees appointed by the Governor. Nebraska has pro se divorce forms for very simple (uncontested, no property at all) divorces. There are no custody pro se forms.

FAMILY LAW CASE PROCESSING REFORM TASK FORCE

February 15, 2016 — ADR Work Group Report

I. Process improvements that the Court can immediately implement without significant additional research (a/k/a "low-hanging fruit").

A. Implement statewide mandatory mediation for all cases involving custody of children.

1. Currently, family law mediation in cases involving minor children is piecemeal by Judicial District and does not exist in some parts of the state. The current rules vary from strict mandatory mediation in every case in family law to no mediation at all or mediation only when ordered by a specific judge. The citizens of Iowa deserve processes and procedures that are consistent, fair and uniform throughout the state. If this task is left to individual Judicial Districts, the current patchwork approach will not be changed. There should not be a different set of procedures in one corner of the state versus the other corners or in rural versus urban areas, as the matters at stake are the same for the children and families involved, regardless of location.

2. The ADR Work Group recommends adoption by the Supreme Court of rules and forms implementing a statewide, uniform process including uniform orders for mediation, requirements, timelines, standards for mediated agreements, and training in and screening for domestic violence by mediators.

3. The statewide mandatory mediation process for cases involving custody of children can be implemented within 180 days of a Supreme Court order requiring implementation of the process. This time frame would be necessary for development and distribution of forms and an outline of the process.

4. The ADR Work Group strongly believes that by its nature, the implementation of mandatory mediation creates a market for mediators, and begets additional mediators to meet the need created. Members of the ADR Work Group that practice in judicial districts that require mediation can attest to this principle, as the number of trained mediators in their districts increased dramatically following mandates for mediation. Additional concerns regarding access to mediation are addressed below.

5. Other jurisdictions with experience with the proposed process improvements include the following:

   a) Michigan: nationally recognized attorney, mediator, and trainer Zena Zumeta states that attorneys have told her that when their clients mediate they are usually more satisfied with the outcome of their cases, rarely call with disputes on a holiday, and usually pay their attorney fees in full.

   b) 6th Judicial District of Iowa: mandatory mediation in the 6th Judicial District has resulted in the following improvements:

- Reduction in temporary hearings: The number of hearings on temporary custody and visitation dropped 60% in the first year, a considerable savings of time for court staff and the judges.

- Shorter trials: In Linn County, the number of days per trial dropped significantly since the program started. Before the program was implemented in 1996, at least 25% of the trials lasted 3-5 days. After the first five years, more than 85% last from 1 hr to 2 days, due to the parties reaching agreement on some of their issues in mediation.

- Fewer modifications in cases with mediated agreements: Research on 150 Linn County cases (50 cases which had mediated an agreement, 50 where the parties stipulated/reached agreement without mediation, and 50 where the parties went to court for a decision) showed that divorced parents who had mediated their divorce decisions were 7-8 times less likely to return to the court for further decisions on custody and visitation issues. In other words, mediation seems to reduce the number of modification trials.

- According to Carroll Edmondson, District Court Administrator in the Sixth Judicial District, "Mediation saves court time in two ways. First, it settles the case and avoids a trial all together. Second, it narrows the issues in a case so that even when the case goes to trial the trial is shorter because some of the issues were resolved influence of mediation."

c) 5th Judicial District of Iowa: In the Polk County Family Mediation Program, a comparison of civil dissolution case activity for the years 1999 and 2000 reveals that filings were up 12% but the number of contested trials to the Court were down 17%. They attribute the reduction to the implementation of a mandatory mediation requirement.

6. There is unanimity within the ADR Work Group regarding recommendation of this improvement.

B. Implement statewide uniform orders, forms, standards for participation, waivers, and requirements for mediated agreements for all cases involving custody of children.

1. Uniform orders for mediation

a) The Court should implement uniform notice because throughout the Judicial Districts, there are currently many different methods by which parties may receive notice that they have been ordered to mediation. Statewide uniformity among Districts is important so that parties, attorneys, and mediators may rely on consistent practices from District to District. Some Judicial Districts have a mediation education component that is sent to the parties along with the mediation notice. Uniformity in the method of informing parties about the mediation requirements

provides a valuable opportunity for pre-mediation education. More education about mediation will benefit Iowa families and increase the likelihood of successful mediations.

b) An order for mediation setting out all requirements, timelines, and other relevant information regarding mediation shall be provided by the clerk to the parties upon the filing of the Petition for Dissolution of Marriage and subsequent modification actions. The Order for Mediation shall include mediation education information.

c) A uniform order can be distributed to the Judicial Districts for use immediately; a proposed order is attached. See Attachment A, "Order for Mediation".

2. Standardized forms

a) A standard Agreement to Mediate form shall be recommended for mediators to use for all family law mediations that includes a provision regarding mediator confidentiality. Standardized forms shall also be created for: request for waiver of mediation; screening for domestic violence; waiver of conflict of interest; request for reduced mediation fee; certificate of compliance; parenting plan; and mediation participant evaluation form.

b) These forms can be distributed for the Judicial Districts for use immediately; proposed forms are attached. See Attachment B, "Agreement to Mediate"; Attachment C, "Application for Waiver of Mediation"; Attachment D, "Waiver of Mediator's Potential Conflict of Interest"; Attachment E, "Application for Reduced Fee Mediation"; Attachment F, "Mediator's Certification of Compliance With Order for Mediation"; Attachment G, "Participant Evaluation Form"; and Attachment H, "Domestic Violence Screening for Referral to Mediation". The ADR Work Group will explore drafting a standardized parenting plan form.

3. Uniform standards for meeting good faith requirement

a) In order to satisfy the requirement of mediation, a party must attend mediation with the mediator and the other party; and parties must demonstrate a good faith effort to participate in the mediation process. The manner in which the mediation is conducted shall be at the discretion of the mediator, taking into account the wishes of the parties and attorneys, within the parameters of Iowa law governing mediators, including but not limited to Chapter 11 of the Iowa Rules of Court and Iowa Code sections 598.7 and 679(C).

b) The ADR Work Group recommends that no single mediation style should be imposed on all of the Judicial Districts. For example, caucus mediation is common

practice in the 2nd and 5th Judicial Districts while joint session mediation is common in the 4th Judicial District. Each mediator should be given the discretion to choose the best style of mediation while taking into consideration the preferences of the parties and/or attorneys.

c) Best practice requires a mediator to screen participants separately for domestic violence prior to commencing mediation.

d) Uniform standards can be created and distributed to the Judicial Districts and mediators for use immediately.

4. Waivers of mediation

a) Mediation shall be required unless a party or his or her attorney has filed an application for waiver of mediation that is approved by the Court.

b) Currently most Judicial Districts allow Waivers of Mediation. Waivers may be necessary in some cases, including cases involving domestic abuse. However, some victims of domestic abuse may want participate in mediation. Therefore, the ADR Work Group does not agree with any general rule prohibiting mediation in cases with a current valid Domestic Abuse Protective of No Contact Order. In the spirit of self-determination, victims of domestic abuse should be able to decide whether they want to participate in mediation. However, the Court should retain the ability to waive mediation on a case-by-case basis upon application by a party or parties.

c) This requirement can be implemented immediately via an Order of the Supreme Court.

5. Uniform requirements for mediated agreements

a) Agreements reached in mediation may be in written form, signed by the parties, and filed with the Court as an attachment to a Certificate of Compliance. Parties may agree in writing that they are legally bound by written agreements made in mediation that are signed by both parties and filed with the Court; and, that the terms of the agreement shall be incorporated into the final Order in the case unless good cause is shown for setting aside all or part of the mediation agreement.

b) If a party has signed a mediation agreement in which he or she agrees that he or she is legally bound by the agreement and subsequently changes his or her position, the other party may file an application with the Court for a hearing to enforce the mediation agreement. The Court shall determine whether the mediation agreement should be enforced, or whether there is good cause to set aside the mediation

agreement. The party resisting enforcement of the signed mediation agreement shall have the burden of showing good cause to set aside the term or terms of the mediation agreement at issue.

c) The ADR Work Group recommends that the Supreme Court adopt a rule under Chapter 37, Commission on the Unauthorized Practice of Law, that allows for mediators to draft written agreements reached in mediation and to file such written agreements as attachments to Certificates of Compliance within their permitted scope of practice.

d) These requirements benefit Iowa families by giving them confidence that the time, effort, and resources that they have been required to contribute in mediation will allow them to avoid trial and further conflict and expense. Furthermore, these requirements help alleviate concerns that a party will change their mind in the days or weeks ahead, thereby rendering mediation fruitless. If parties are attending mediation without their lawyers present they may not desire to have the agreement be legally binding and they would not have to sign agreement in that circumstance.

e) These requirements can be implemented immediately via an Order of the Supreme Court.

f) There is a split of opinion within the ADR Work Group regarding recommendation of these improvements. These divergent opinions include:

- potential unauthorized practice of law if mediators draft binding mediation agreements that can be filed with the court;
- competency of mediators to draft binding mediation agreements that may substantially affect parties' legal rights;
- concern that the neutrality of mediators may be compromised by drafting mediation agreements; and
- domestic violence and other power imbalances between parties contributing to coerced execution of enforceable agreements.

C. Implement statewide uniform timelines for mediation in cases involving custody of children.

1. Prior to temporary custody/visitation hearings or temporary spousal or child support actions

a) Mediation shall be required prior to temporary custody/visitation hearings or

temporary spousal or child support actions. After an Application is filed for an Order on Temporary Matters, the Court will enter an Order requiring the parties to participate in mediation prior to the date set for the hearing on temporary matters. The Order for mediation will set a date and time for hearing, but will provide that said hearing shall only be held if the parties have engaged in mediation and were not able to resolve the temporary issues. See Attachment A, "Order for Mediation".

b) The Order for mediation shall direct that the parties make an appointment with a mediator of their choice from the roster of mediators within forty-five days of the Order; and the Order shall also designate a court-assigned default mediator for the parties in the event that the parties are not able to agree upon a mediator or do not select a mediator. See Attachment A, "Order for Mediation".

c) Mediation is more successful the sooner the parties attend mediation after an action has been filed. Moreover, in temporary matters it is important that some issues are resolved quickly. Mediation can assist parties with resolving their temporary issues quickly, and more amicably, than waiting for an adversarial temporary hearing as well as setting a standard for possible Mediation for the remaining issues in their case.

d) These timelines can be implemented immediately via an Order of the Supreme Court.

2. In initial divorce and modification cases with minor children

a) Parties are required to designate a mediator within 45 days from the date of service of the Original Notice. If the parties have not designated a mediator in 45 days the Court shall assign a default mediator. The default mediator will be assigned on a rotating basis by court staff. Parties who cannot agree on a mediator are required to use the default mediator so that the disagreement cannot not used by one party as a way to delay mediation, thereby thwarting progress in the case. Parties are required to participate in mediation within 90 days from the date of service of the Original Notice. Upon completion of the mediation the mediator will file a Certificate of Compliance in which the mediator notes whether there are unresolved issues. The trial setting conference will not be held until a Certificate of Compliance is on file.

b) In Iowa there are many different timing requirements among the Judicial Districts regarding when parties with children must mediate. Uniformity among the Judicial Districts is important so that parties, attorneys, and mediators may rely on consistent practices from District to District. In matters involving children it is important that the parties find a less adversarial way of resolving conflict than the Court system, which can foster continuing animosity, competitiveness, and strain family financial resources. Mediation can empower parents to learn to communicate and resolve important matters involving their children in a more cooperative atmosphere. Timelines suggested are suggested based upon current practices in the various

Districts and are consistent with other court timelines and common practice.

c) These timelines can be implemented immediately via an Order of the Supreme Court.

d) There is unanimity within the ADR Work Group regarding recommendation of this improvement.

D. Create uniform sanctions for failure to cooperate with mediation requirements in cases involving custody of children.

1. The Court shall dismiss the case if neither party has made a good faith effort to mediate within 120 days from the date that the case is filed. The Court shall enter a default judgement granting the relief requested by the opposing party in cases where one party has intentionally failed to comply with the mediation requirement. No trial date will be assigned until mediation is completed. Attorney fees may be awarded where appropriate. Other sanctions may be issued within the discretion of the Court.

2. Remedies should be available to parties or the Court when a party or parties fails to participate in mediation as ordered. Consequences currently vary from District to District. Uniformity is important so that the parties, attorneys, and mediators may rely on consistent practices throughout the state.

3. The ability of the Courts to impose these sanctions can be implemented immediately via an Order of the Supreme Court.

4. There is unanimity within the ADR Work Group regarding recommendation of this improvement.

E. Provide equal access to mediation for all Iowa families, regardless of ability to pay or geographic proximity to mediators.

1. There is widespread consensus that mediation is beneficial to children and families. It is the consensus of the ADR Work Group that the citizens of Iowa deserve processes and procedures that are consistent, fair, and uniform throughout the state. Mediation should be accessible to all parties. Participation in mediation should not create an undue burden for low income parties or parties in rural counties. All parties should have access to face-to-face mediation, regardless of their county or income.

2. Allowance shall be made for roster mediators to opt-in to provide mediation in lesser served counties as well as provide for technology upgrades in courthouses in order to provide access to mediation for parties with limited geographic proximity to mediators.

3. Roster mediators may place themselves on the roster for counties where they do not have an office. If mediation is Court-ordered and <u>if a mediator is the Court-appointed default mediator</u>, the mediator must be willing to travel to the parties' county and the mediator

cannot charge the parties for his/her travel time and/or transportation costs. If a mediator is not the Court-appointed default mediator, s/he can charge travel time or mileage to parties who select him/her, or charge a fee for mediating out of his/her county.

4. Each courthouse will provide access to a computer for mediation via online conferencing or a telephone landline to enable conference call mediation.

5. The aforementioned actions would provide additional means to provide equal access to mediation, thereby preventing mandatory mediation from creating an undue burden for parties unable to travel to a mediator.

6. These acts can be completed within 180 days of a Supreme Court order implementing statewide mandatory mediation.

7. There is a split of opinion within the ADR Work Group regarding recommendation of these improvements. This divergent opinion is as follows:

   a) Allowing additional time to implement the requirement that each courthouse provide access to a computer or telephone landline for mediation. Lack of phone access or lack of computer access is not a valid reason people could not mediate if ordered to mediate.

F. Streamline the process to apply for reduced fee mediation to increase access to mediation for low income/indigent parties.

1. Parties will apply individually and qualify individually for reduced fee mediation. Parties may apply in one of two ways:

   a) A party completes an Application for Reduced Fee Mediation. See Attachment Eligibility criteria using this method will be the same as for eligibility for a court-appointed attorney.

   b) Parties receiving FIP, WIC, SSDI, and those represented by Legal Aid or by a Volunteer Lawyers Project lawyer can show proof of same in order to qualify. Parties who meet the Iowa Legal Aid eligibility guidelines may also qualify. Parties who receive food stamps may qualify unless that person has another source of income, then they may have to pay a higher reduced fee.

2. The court staff receive the application and the Court or designated member of the court staff will determine eligibility.

3. The Court or staff will appoint a reduced fee mediator from the roster on a rotating basis. All roster mediators are required to provide reduced fee mediations *as assigned on a rotating basis by court staff* in the county or counties where they are registered as roster mediator. Indigence for purposes of this provision has the same meaning as in Iowa Code Section 815.9.

4. Qualifying parties pay the mediator $20 an hour per person.

5. This process can be implemented within 180 days of a Supreme Court order implementing statewide mandatory mediation.

6. There is a split of opinion within the ADR Work Group regarding recommendation of this improvement. This divergent opinions is as follows:

   a) Implement the sliding fee scale currently in use by the 4th Judicial District and establish a minimum fee of $30 per hour per person.

G. Create a statewide roster of certified family law mediators complied from the current District and/or county rosters.

1. The ADR Work Group believes that a statewide standardized, approved roster will provide the public access to qualified mediators across the state.

2. With uniform credentialing requirements and ongoing continuing education programs for mediators, we can insure that Iowans have access to a quality, professional service that can assist them as they work through a family law case.

3. Minimum training requirements including:

   a) a 40 hour mediation training program approved by the Office of Professional Regulation and/or the Association of Conflict Resolution, which includes 25 hours of general mediation training and 15 hours of family law specific mediation training; and

   b) a 4 hour domestic violence screening training program approved by the Office of Professional Regulation and/or the Association of Conflict Resolution.

4. This roster can be initially created within 180 days of a Supreme Court order implementing statewide mandatory mediation.

II. Process improvements that each WG believes the Court could research and develop within 2-5 years.

A. Implement statewide mandatory mediation for all dissolution and modification actions, regardless of whether minor children are involved.

1. The ADR Work Group recommends further adoption by the Supreme Court of rules and forms implementing a statewide, uniform process including uniform orders for mediation, requirements, timelines, standards for mediated agreements, and training in and screening for domestic violence by mediators that would apply to all dissolution and modification actions, regardless of whether minor children are involved.

2. The statewide mandatory mediation process for cases involving custody of children can

be implemented within one year of a Supreme Court order requiring implementation of the process. This time frame would be necessary for development and distribution of forms, an outline of the process, recruitment and certification of additional mediators, and any for any necessary adjustments in court administration to be made in order to adapt to the additional number of cases requiring mediation.

3. The benefits of undertaking the proposed process would result in more efficient processing of cases, and more efficient use of court time for cases that are truly contested. There is a substantial amount of time and resources wasted when cases are settled "on the courthouse steps," or when a day set aside for trial becomes a day set aside for negotiation.

4. The long standing pilot projects in the Sixth Judicial District and the Fifth Judicial District in Iowa have amassed substantial experience with proposed process improvements. It is the consensus of the ADR Work Group that the process as implemented in the Sixth District and other districts that modeled processes on that program are efficient and workable.

5. The ADR Work Group strongly believes that additional input from other constituencies is unnecessary, as this issue has been repeatedly studied in the state of Iowa over the last 25 years. The ADR Work Group believes that it is time to implement a program and then input can be received from the various constituencies to refine the program once implemented.

6. There is unanimity within the ADR Work Group regarding recommendation of this improvement.

B. Implement statewide uniform timelines for dissolution and modification actions, regardless of whether minor children are involved.

1. Parties are required to designate a mediator within 45 days from the date of service of the Original Notice. If the parties have not designated a mediator after 45 days the Court shall assign a default mediator. Parties are required to participate in mediation no less than 120 days from the date of service of the Original Notice. Upon completion the mediator will file a Certificate of Compliance in which the mediator notes whether a trial date will need to be set for unresolved issues. The trial setting conference will not be held until a Certificate of Compliance is on file.

2. There is a growing demand in family law matters to resolve issues more efficiently and more cooperatively. Parties desire a way of resolving their case out of the Court system, which can foster continuing animosity, competitiveness and strain family financial resources.

3. The statewide mandatory mediation process for cases involving custody of children can be implemented within one year of a Supreme Court order requiring implementation of

the process. As most Judicial Districts already order mediation for some family law cases and the 5th Judicial District orders in all cases, including cases without minor children. A period of one year following a Supreme Court order implementing statewide mandatory mediation in all family law cases will allow for all Districts to implement mediation programs and increase the use and understanding of mediation.

4. There is unanimity within the ADR Work Group regarding recommendation of this improvement.

C. Apply for the use of IOLTA funds to supplement payment to reduced fee mediators.

1. The ADR Work Group recommends that IOLTA funds be applied for to supplement payment to reduced fee roster mediators who mediate for low income/indigent parties. The ability to utilize IOLTA funds for mandatory mediation will insure that indigent/low income individuals will have the ability to participate in mediation to develop meaningful parenting plans for their children.

2. The IOLTA program is managed by a seven-member commission that reviews grant applications and then makes award recommendations to the Supreme Court. In the 30-year history of the IOLTA program, the Supreme Court has awarded most of the grants to organizations that assist low-income Iowans with civil legal problems such as divorce, domestic abuse, unsafe housing and illegal evictions. A well-written proposal would need to be developed and submitted in a timely manner to the IOLTA commission.

3. There is unanimity within the ADR Work Group regarding recommendation of this improvement.

D. Create an administrative oversight position or positions within the Iowa Judicial Branch to maintain the statewide roster of mediators and to approve continuing education hours for Iowa mediators.

1. Creation of an administrative oversight position will require additional time due to any administrative, judicial, or legislative requirements, including financial support and maintenance of the position or positions once approved and created. In the interim, there are other viable options to provide oversight of the statewide roster and credential requirements, such as the Iowa Association of Mediators (IAM), who currently have an active certification program for family law mediators in Iowa.

2. There is unanimity within the ADR Work Group regarding recommendation of this improvement.

E. **Require that family law roster mediators meet uniform statewide requirements pertaining to training, education, experience, and standards.**

1. The ADR Work Group will further study the feasibility of implementing additional statewide requirements, including:

   a) a 6 hour training program addressing basic laws, rules and guidelines governing Iowa family law actions approved by the Office of Professional Regulation if not an Iowa licensed lawyer.

   b) If training was more than two years prior to the application, complete 8 hours of advanced mediator training in the two years prior to application to serve on the roster.

   c) In addition, roster mediators will complete 6 hours of continuing education approved by the Office of Professional Regulation each year, including 1 hour of ethics and 1 hour in domestic violence and/or power imbalance issues. Up to 12 continuing education hours may be accumulated and applied to requirements in the following two years.

   d) Minimum education requirements including: a licensed attorney; a licensed or limited licensed psychologist; a licensed professional counselor or a licensed marriage and family therapist; or have a master's degree in conflict resolution/dispute resolution, counseling, social work, or marriage and family therapy; or have a graduate degree in a behavioral science. The education requirements shall be waived for applicants that have completed 80 hours or 20 cases in family law mediation and have not been the subject of a founded complaint from the judiciary, the bar, or the public in relation to their work as a mediator.

   e) Minimum experience requirements including: observe two domestic relations mediations and conduct one mediation under the supervision of an approved roster mediator or have completed 80 hours or 20 cases in family law mediation and have not been the subject of a founded complaint from the judiciary, the bar, or the public in relation to their work as a mediator.

   f) Minimum standards including: compliance with all Iowa statues and Supreme Court rules pertaining to mediators, including but not limited to Iowa Code Chapter 679C. and Iowa Court Rules Chapters 11 and 32, and compliance with the ACR Model Standards of Conduct for Mediators.

2. Uniform statewide requirements for roster mediators can be established within 1 to 2 years of a Supreme Court order implementing statewide mandatory mediation. Annual review will be conducted to make changes as needed to the roster and to roster requirements, such as: liability insurance; redress and sanctions for roster mediators; continuing education requirements; and any other issues, concerns, and limitations.

3. There is unanimity within the ADR Work Group regarding recommendation of this improvement.

F. **Recognize collaborative law as an alternative dispute resolution option for Iowa families.**

1. Collaborative law is a cost-effective, problem-solving approach that can minimize the impact of conflict for families in the process of divorce. The parties commit to resolve the issues in their case without going to Court, to honestly and openly exchange information, and to problem solve in a manner that addresses goals and issues of both spouses and their children. Lawyers trained in collaborative practice, along with any necessary neutral financial, psychological and child specialists help the parties reach decisions in their case with privacy and respect.

2. There are already attorneys in Iowa trained and practicing in collaborative law, and more will be joining this group. The steps that need to be taken by the Court to implement establishment of collaborative law as a Court recognized and assisted process are:

   a) Establish minimum standards for practicing as a collaborative law attorney;

   b) Establish timelines and procedural rules for filing and proceeding with collaborative cases that may be different than timelines for non-collaborative practice. For example, the parties in collaborative cases sign a participation agreement at the beginning of the process, and a settlement agreement upon resolution of all issues in the case. At that time, the Petition would be filed and the Court would be asked to waive the ninety-day waiting period in light of the fact that all issues are resolved and the parties have been participating in the collaborative process for no less than ninety days.

   c) Establish standard, recommended forms for use in collaborative law cases.

3. Implementation of the suggested steps could occur within the next one to two years of a Supreme Court order recognizing collaborative law as an alternative dispute resolution option for families in Iowa going through divorce.

4. Recognizing collaborative law practice as a recognized alternative dispute resolution option will allow it to become more widely offered and utilized as a means to avoid court involvement in cases. This will lessen the number of cases coming before the Court. Uniform forms, standards, and procedural rules will make the process more accepted and attainable as an option.

5. If collaborative law practice is not recognized, it will remain available to only a small number of Iowa families, as many judges and attorneys are unaware of the existence of this option. If procedural rules and timelines are not established, attorneys and families using this option have to decide in each case as to when to file the Petition and other procedural matters. Judges are operating under the current procedural rules and are

uncertain as to whether to waive waiting periods, etc. Uniformity will help this very valuable method of dispute resolution grow and operate smoothly.

6. There is unanimity within the ADR Work Group regarding recommendation of this improvement.

G. Extend mediation services to extended family custody, guardianship, and conservatorship disputes.

1. The Court should consider implementing mediation services for extended family custody, guardianship, and conservatorship disputes in the State of Iowa as it would help many high conflict extended families, children, and dependent adults. Practitioners are seeing more and more cases involving biological parents and adult children who cannot or will not care for their children or aging parent(s). This may be due to drugs, alcohol, mental illness, low functioning parents, abandonment, death of a parent, caregiver fatigue, changes in family systems, economic struggles, etc. In situations such as these, grandparents, aunts and uncles, adult children, and step parents often step in to help stabilize the child or provide a care giver role and supports to the aging parent(s). Many of these cases settle out of court. Others end up in protracted litigation, such as contested guardianship/conservatorship cases.

2. The steps that need to be taken to implement this process would be few. Mediation has been researched and implemented in Iowa for many years. The Iowa Department of Health and Human Services and the Iowa Department on Aging are state agencies that have been using mediation to assist families in juvenile and district court custody actions, dependent adult care actions to include contested guardianship and conservatorship cases. The primary goal would be identifying these cases early on and providing the courts with the authority to recommend (voluntary) or order (mandatory) routing of these cases through the mediation process.

3. Extension of mediation to extended family custody, guardianship, and conservatorship disputes can be easily accomplished within 2 – 4 years.

4. Children and dependent adults would achieve stabilization much faster than if they had to wait for a trial to obtain some permanency. This program could potentially keep many children out of the juvenile court system and provide dependent adults, their caregivers, and family members a less invasive and intrusive means to address family disputes related to caregiver roles, financial concerns, and long term stability of aging parents that would support an ongoing family relationship. This would be a much cheaper alternative than protracted litigation. Parties would still have the right to a trial if they were not able to reach resolution via mediation. Mediation versus litigation is always in the best interest of the child, dependent adult, and the family members.

5. Some will not like this "extra layer" before they could proceed to court. There may be objection to the additional cost of mediation. Currently, there are concerns regarding dependent adult cases, as there are no current court allowances for mediation in guardianship and conservatorship cases. District Court Judges have voiced support for

this option, and would support it if it becomes an allowed option for them to utilize in these cases. Families have concerns about the validity of agreements post mediation, as to enforceability.

6. Other constituencies that the Court should consult should include: Probate Section, Iowa Bar Association; Iowa Department of Aging; Iowa Association of Mediators; regional Area Agencies on Aging; Iowa Department of Health and Human Services; and Iowa Long Term Care Ombudsman Office.

7. There is unanimity within the ADR Work Group regarding recommendation of this improvement.

H. **Implement parenting coordination for post-decree high conflict families.**

1. The Court should consider implementing the parenting coordination process in the State of Iowa as it would help many high conflict, post-decree families. Parenting coordinators can quickly address issues for post decree families, versus extended and continuous litigation. Cases with assigned parenting coordinators have fewer contempt of court hearings and modifications; thus lifting a heavy burden off of the Court. Costs are significantly reduced because of less attorney and Court involvement. Children are served better with rapid results by a professionals trained in mediation, child development, and conflict resolution. At this time, parenting coordinators in Iowa may only be appointed via agreement of the parties.

2. The use of parenting coordinators in child custody and visitation cases is a relatively new practice, dating back to the early 1990s. Parenting coordinators help parents manage ongoing issues, usually in the aftermath of high conflict divorces/custody battles. The AFCC describes parenting coordinators as "a child-focused alternative dispute resolution process in which a mental health or legal professional with mediation training and experience assists high-conflict parents to implement their parenting plan by facilitating the resolution of their disputes in a timely manner, educating parents about how their children's needs can best be met, and with prior approval of the parties and/or the court, making decisions within the scope of the court order or appointment contract." The AFCC further describes the goal of the parenting coordination process "is to assist parents in implementing their parenting plan, monitoring compliance with the details of the plan, and resolving conflicts quickly, particularly those that are time-sensitive and involve day-to-day issues."

3. The steps that need to be taken to implement this process would be few. Many neighboring states already have parenting coordinators authorized by statute, such as South Dakota. Research needed would be minimal, if any. Iowa already has an organized group of parenting coordinators who meet monthly and are highly qualified, utilizing AFCC standards. They could act as consultants and already have developed forms that work well. A statute would need to be passed, authorizing the court to appoint a parenting coordinator and it would also have to define the scope of the parenting coordinator's duties. A state wide roster of qualified parenting coordinators would need to be developed.

4. Implementing the parenting coordination process can be easily accomplished within 2 years.

ATTACHMENT A

IN THE IOWA DISTRICT COURT IN AND FOR _____COUNTY

Upon the Petition of _____, Petitioner, And Concerning _____, Respondent.	EQUITY NO. _____ ORDER FOR MEDIATION

Iowa Code Section 598.7 provides the Court may order parties to participate in mediation in a family law matter. The Court concludes mediation is appropriate in this matter. You are therefore **ORDERED** to participate in mediation in an attempt to resolve the issues in this matter.

Both parties **SHALL**:

Read "Introduction to Family Law Mediation," which is attached to this Order and can also be obtained from the Clerk of Court or at http://_____ **and/or complete the "Introduction to Family Law Mediation" course**, information about which can also be obtained from the Clerk of Court or at http://_____

Choose a mutually-agreed upon mediator. If you do not select a mediator and file a Designation of Mediator informing the Court of your selection within forty-five (45) days of receipt or service of this Order, the Court will designate a mediator and you shall be required to use the Court designated mediator. A list of mediators can be obtained from the Clerk of Court or at http://_____The mediator will help you discuss your concerns and possible settlement options in your case, but the mediator will NOT give you legal advice or make any decisions for you.

Attend AND participate in good faith in at least one (1) mediation session within 90 days of receipt or service of this Order. One mediation session is required, but you may find that attending additional sessions will help you resolve your case. Mediation may not be appropriate when there has been physical or emotional abuse. If mediation is not appropriate, you can request a waiver from the Court. An Application for Waiver of Mediation can be obtained from the Clerk of Court or at http://_____

Each person shall pay one-half the cost of mediation. If you believe you cannot afford to pay a mediator, you can request the Court allow you to pay on a reduced fee basis by filing an

Application for Reduced Fee Mediation. This form can be obtained from the Clerk of Court or at http://__

IT IS FURTHER ORDERED that hearing on temporary matters is scheduled for _____ at _____ at the _____ County Courthouse, _____.

This hearing **WILL NOT BE HELD** if the requirements of this Order have not been met and mediation has not been completed **OR** if an agreement on temporary matters is reached prior to this date.

If neither party has made a good faith effort to mediate within 120 days from the date that this matter was filed, the Court shall dismiss the case. The Court shall enter a default judgment granting the relief requested by the opposing party in cases where one party has intentionally failed to comply with the mediation requirement.

No trial date will be assigned until the requirements of this order have been met and mediation has been completed.

Introduction to Family Law Mediation

What is mediation?

Mediation is an opportunity for people to talk together and make their own decisions on what to do next, with the help of a neutral mediator. Mediation is private and confidential. In mediation, you can tell the other person what is important to you about the situation and how it has affected you. You can tell them what you want them to understand. You can ask questions. You can hear what they have to say. Sometimes mediation is the only chance people have to talk directly to each other, to talk things through, to be heard. Most of the time, people hear new information in mediation. Often, people feel heard for the first time. There is no agreement in mediation unless you both agree to it.

Most people are sure that mediation won't work for them, yet over 70% of the people who mediate reach an agreement. When people do reach agreement, they save money and time and they make their own decisions. Even when people do not reach an agreement in mediation, they often find that they are clearer on what to do next and better able to move on.

What are the advantages of mediation?

- Decision-making remains with the parents. When the parents have created the agreement, they are more likely to cooperate with its terms.
- The parents work together to solve disputes regarding their children.
- It is informal, quicker, private and less costly.
- The children's emotional well-being is greatly improved when parents cooperate and maintain a relationship with their children.

What does the mediator do?

The mediator provides a safe and impartial setting for parents to discuss issues and facilitates the discussion on co-parenting your children.

What does mediation cost?

Each mediator has a set hourly rate for mediation. The cost of mediation is typically split equally between the parents and paid at the time of each session.

What issues may be mediated?

Practically any issue disputed between parents can be mediated including: how much time the child(ren) spend(s) in each home; vacations; out-of-state travel, church attendance; activity participation; medical/ dental issues; education; etc. The confidentiality of mediation is protected by a contract between the parties and the mediator. The mediator can be made to

testify only under extraordinary circumstances. A mediator is prohibited from communicating information to any third party about the parents' behavior or statements unless child abuse is involved or there is a credible threat of harm to a party or third party. The mediator may report whether the parent appeared for the scheduled mediation session and whether the mediation was successful or not.

How long does mediation last?

In most cases, the mediation sessions last one to two hours and continue so long as the parents agree and progress is made. When a parent lives elsewhere, sometimes longer mediation sessions are held for the convenience of the parties. The number of sessions needed to complete an agreement is influenced by the parents' cooperation and the difficulty of the issues.

What role do attorneys play in the mediation process?

Your attorney can prepare you for the mediation process and answer questions during the process. Your attorney may be present during mediation or you may consult with your attorney by phone during the mediation session. Parties can decide what issues beyond the parenting agreement they want to mediate, including property settlement and spousal support. Parties may also request the mediator to prepare what is called a “Memorandum of Understanding,” which is a written document which includes the terms of any agreements that you reach.

What are the chances of mediation being successful?

Mediation succeeds when the parents cooperate on behalf of their children, rather than compete for them. Parenting plans work best when both parents participate and agree to the co-parenting arrangement. Mediation is very successful in minimizing the trauma of divorce on the parents and the children. In addition, mediation can help settle many other property division issues and identify options that may be available to resolve property disputes.

What happens after the Memorandum of Understanding is signed?

Each parent will receive a signed copy of the Memorandum of Understanding. Parties are encouraged to consult with their attorney and agree on having one of the attorneys submit it to the court for approval.

What if we can't agree on everything (or anything) in mediation?

The court will make decisions about what will happen after mediation does not result in agreement on all the issues.

How should I prepare for mediation?

If you are afraid to be with your partner or won't be able to speak up or disagree with him/her in mediation, tell your attorney and your mediator. Mediation may not be appropriate in your

case.

Make a list of all the issues you would like to discuss or decide in mediation. Include any concerns, large and small. Leave an inch between each item, where you will answer the following questions:

- What is important about this (from your point of view)?
- What do you want the other person to understand about this (from your point of view)?
- What are your concerns about this?
- What are you worried about?

This list can help you clarify what's important to you and why. In mediation, it is helpful to start by focusing on what's important to you — not the final decision you think you want. Answering these questions will help you do that. Also, if you tell the other party your answers to these questions, it is easier for them to listen to you than if you say, “I want this because you are so irresponsible, such a jerk, etc.”

Consult with your attorney about your list.

Ask your attorney what additional issues you need to discuss and add those to your list. (Your attorney can tell you if there are additional issues you need to consider based on what the law says needs to be decided in cases like yours.)

Then, for each issue on your list, ask your attorney:

- Are there any legal, financial, tax or other long-term ramifications of this issue? For example, the parenting schedule affects how the child support is calculated. Legally, some issues are related to others, and you need to know about them.
- What is the range of what the court might decide and why? If you can't decide on the issues, the court will. It is useful to know the range of what might happen if you two can't make the decisions.
- If we need to go to court, how soon will we be able to go to court and about how much will it cost? This helps you understand your options.
- Can you suggest a range of possible solutions? Then, add these to your own list.
- Make a record of your monthly budget (your income and expenses.) Gather information on your assets, debts, personal property, etc. Bring this to mediation.

Be sure you understand and have copies of any other information you may want to discuss in mediation. You can bring your notes and any work sheets, correspondence, or any documents you think might be useful.

You already understand the personal aspects of your situation. It can be very useful to understand the legal aspects of your case as well. To use your time and money effectively in mediation, it's best to talk with your attorney before and in between mediation sessions, so you are fully informed as you talk and make decisions in mediation. Your attorney can be an important resource.

What are possible issues we can discuss in mediation?

A. Parenting Issues

1. Time Sharing

    a. Day-to-day schedule (school year and summer)

    b. Vacations

    c. Holidays

    d. Birthdays

    e. Transportation between parents

    f. Time with extended family members

    g. Making changes in the time sharing schedule

    h. How specific does a schedule need to be

2. Parental Decision Making

    a. Health

        1. Who provides insurance coverage

        2. Payment of non-covered medical expenses

        3. Notification of major medical emergences

        4. Decision making during emergences

    b. Education

        1. Extra-curricular activities

        2. Parent/teacher conferences

3. School related expenses

4. Paying for college

c. Religion

B. Child Support

1. Child Support Guidelines: who pays and how much

2. How long will child support last

3. Specific plan for child support payment

4. When to review and modify child support

C. Communication Between Parents

1. Decision making process between parents

2. What to do when parents disagree

3. Updating the parenting agreement

D. Financial Issues

1. Real Estate: family home and other real property

a. To sell or not to sell

b. How to value

c. When to sell

d. Sharing selling expenses

e. Division of equity

f. Tax implications

2. Division of Other Assets

a. Furniture, household, and personal property

b. Motor vehicles

c. Checking and savings accounts

d. Stocks and bonds

e. Retirement accounts

f. Profit sharing plans

g. Life insurance

h. Business and other miscellaneous property

3. Division of Liabilities and Debts

a. Credit cards

b. Personal loans

4. Spousal support (alimony)

a. On-going or time limited

b. Method of payment

c. Tax implications

5. Taxes

6. Current year filing and refunds

7. Who will take deductions

a. Dependent

b. Child care

8. Overall tax implications of your agreement

E. Any other issues you wish to resolve

ATTACHMENT B

Agreement to Mediate

The undersigned parties have agreed to pursue mediation to try to reach an agreement on some or all of the issues of their family law matter. We understand that mediation services will be provided by on an impartial basis, and that the role of the mediator is to facilitate our discussions, and that the mediator does not provide counseling or legal advice or representation. Each of us agrees to put his/her anger aside and deal with the issues in a fair way, to focus on present issues rather than the past, to take responsibility for the success of mediation, and to abide by the guidelines which the mediator may set for the conduct of the mediation sessions.

Mediation Process We understand the mechanics of the process and the differences between mediation and other means of conflict resolution. We understand mediation is distinguished from therapy and marriage counseling. We understand the issues to be resolved in the mediation process are defined by the participants. We understand the mediator's task is to facilitate the ability of the participants to negotiate their own agreement, while raising questions as to the fairness, equity, and feasibility of proposed options for settlement.

The mediator has the authority to expel individuals from the session who are being disruptive or counterproductive to the process, and can recess the session to enable any individual, who is not present but necessary to achieving a settlement, to be contacted or brought to the mediation. We further understand that if the mediator or one of the parties is not able or willing to participate in good faith, then either participant, or the mediator, has the right to suspend or terminate the process.

Fees We agree to pay for mediation services at the rate of _____ per hour. We are each responsible for one half of the total cost of mediation unless agreed otherwise. Either party or the mediator may terminate mediation at any time, and we will be financially responsible for the time accrued to that point. We understand the fee is not a contingency fee or based on the outcome of the mediation process.

Disclosure of Information We agree to fully disclose all information and documents such as financial statements, income tax returns, etc., which are requested by the mediator, and all information requested by the other party if the mediator concurs that the requested information is relevant to the mediation process in discussing the issues.

Confidentiality We understand that the mediation is confidential, except as provided by law. Iowa Code Chapter 679(C) governs mediator confidentiality. Statements made in mediation are made for purposes of compromise and are not admissible in court. Except to the extent required by law or the court, all information given to the mediator is confidential and the mediator will not be compelled to testify. The mediator will inform you immediately if the mediator is notified that the mediator may be ordered to testify so you will have an opportunity to attempt to stop the process. By signing this agreement, we agree we will not require the

mediator to disclose to any third party any statements made in the course of mediation, unless such disclosure is required by law, without our consent.

Communication with Your Lawyer There is no limitation on your right to seek legal advice. You are encouraged to retain your own lawyers and have your lawyers present at the mediation if you so choose. If legal counsel is not present, and you wish to have the mediator speak to your lawyer, you should advise the mediator. The lawyers should review any agreement reached in mediation. Without review and advice by your own lawyer, you may be giving up legal rights to which you are entitled, or running certain risks of which you are not aware, with respect to the following types of issues:

1) real and personal property division;

2) income tax consequences resulting from an agreement regarding division of property, alimony, or child support;

3) accurate documenting and recording of conveyances and proper title to real estate or personal property;

4) alimony;

5) child custody, visitation and support;

6) court costs and attorney fees;

7) subsequent modifications and substantial changes in circumstances;

8) court disapproval of any submitted agreement which is contrary to the parties', or af fected child's, legal rights.

The above is not a complete list of legal rights and is not meant to be. There may be other considerations unique to the circumstances of your individual case. You should consult a lawyer for advice.

Dated this _____ day of _____, 20___

_____ _____
Petitioner Respondent

_____ _____
Attorney for Petitioner Attorney for Respondent

_____
Mediator

ATTACHMENT C

IN THE IOWA DISTRICT COURT IN AND FOR _____COUNTY

Upon the Petition of _____, Petitioner, And Concerning _____, Respondent.	EQUITY NO. _____ APPLICATION FOR WAIVER OF MEDIATION

The parties in this case have been ordered to participate in mediation by Court order dated _____, 20___. I, _____, request that the Court waive the order for mediation in this case for the following reasons (check all that apply):

____ I am a protected party in a currently valid domestic abuse protective order or no-contact order issued in a civil or criminal case. A copy of the order is attached to this application. (If an order is not attached, provide the name of the case, case number, county in which the order is issued, the date of issuance):

_____ There is a history of domestic abuse, as defined in Iowa Code Section 598.41(3)(j) (for example, previous filings for protective orders by me, violations of protective orders or no-contact orders by the other party, police response to domestic abuse calls, or domestic abuse assault convictions or arrests of the other party.) Because of that history I believe I am in danger of physical or emotional abuse in connection with a mediation session. Describe history of domestic abuse:

_____ I seek a waiver of mediation for other reasons (set forth reasons):

I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct. I further certify that I have mailed a copy of this Application to the other party's attorney or to the other party if he/she is unrepresented by an attorney to the address listed below.

Dated this _____ day of _____, 20___.

_____
Signature of Applicant

_____
Other Party's Name/Attorney's Name

_____
Other Party's/Attorney's Mailing Address

_____
City, State, Zip Code

ATTACHMENT D

IN THE IOWA DISTRICT COURT IN AND FOR _____COUNTY

Upon the Petition of _____, Petitioner, And Concerning _____, Respondent.	EQUITY NO. _____ WAIVER OF MEDIATOR'S POTENTIAL CONFLICT OF INTEREST

We, the undersigned, state that we have been notified of and consent to the following:

_____ has been designated as mediator in this matter;

That it is possible that a conflict or conflicts of interest may exist for _____ to serve as mediator in this matter;

That we have had the opportunity to discuss any and all potential conflicts of interest with legal counsel;

and That we waive any and all potential conflicts of interest and consent to _____ serving as mediator in this matter.

Dated this _____ day of _____, 20___.

_____ _____
Petitioner Respondent

_____ _____
Attorney for Petitioner Attorney for Respondent

ATTACHMENT E

IN THE IOWA DISTRICT COURT IN AND FOR _____COUNTY

Upon the Petition of _____, Petitioner, And Concerning _____, Respondent.	EQUITY NO. _____ APPLICATION FOR REDUCED FEE MEDIATION

The parties in this case have been ordered to participate in mediation by Court order dated _____, 20___. I, _____, request that the Court approve this Application for Reduced Fee Mediation.

I have submitted the required proof to qualify for reduced fee mediation by filing with the Court ONE of the following:

- Financial affidavit form provided by the Clerk of Court and available at http://__ _____ **OR**
- **Proof** of being a current recipient of (please check one):
  - FIP
  - WIC
  - Food Stamps
  - Supplemental Security Income (SSI) from the Social Security Administration **OR**
- Proof of being represented by a Legal Aid Society or by a Volunteer Lawyers Project lawyer

I cannot afford the cost of mediation and request that the Court appoint a mediator on a reduced fee basis. Those fees will not exceed $20.00 per hour, and I will pay those fees.

The other party will pay at the mediator's regular rate, unless s/he has also applied and qualified for reduced mediation fees independently.

I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

Dated this _____ day of _____, 20___.

Signature of Applicant

ATTACHMENT F

IN THE IOWA DISTRICT COURT IN AND FOR _____COUNTY

Upon the Petition of _____, Petitioner, And Concerning _____, Respondent.	EQUITY NO. _____ MEDIATOR'S CERTIFICATION OF COMPLIANCE WITH ORDER FOR MEDIATION

The mediator listed below hereby certifies that on _____, 20___, the mediator met with the parties to mediate pursuant to an Order of the Court, and states as follows:

____ The parties executed a Memorandum of Understanding that memorializes their proposed Temporary / Permanent resolution of all issues in this matter. The Memorandum of Understanding is / is not attached.

____ The parties were unable to reach agreement on all issues in this matter, but executed an attached Memorandum of Understanding that memorializes their proposed resolution of issues related to the following:

____	Property	Temporary / Permanent
____	Child Custody and Parenting Time	Temporary / Permanent
____	Child Support	Temporary / Permanent
____	Spousal Support	Temporary / Permanent

The Memorandum of Understanding is / is not attached.

____ Although the parties participated in good faith, they were unable to reach any agreements this matter. The parties have agreed / have not agreed to participate in additional mediation sessions.

Dated this _____ day of _____, 20___.

_____
Mediator — Roster Number

_____

Address

_____

Telephone / E-mail

ATTACHMENT G

MEDIATION PARTICIPATION EVALUATION

Please take a few minutes to complete this survey. The results will be used to document the effectiveness of family law mediation in Iowa. Participating in this study may provide you with a sense that you have contributed to increasing the understanding of and improving the process of divorce and family mediation services. Your participation is strictly voluntary and you are free to decline. Your identity will remain confidential.

Your mediation was:
Court ordered _____
Suggested by your attorney _____
Your preference _____
Other referral _____

What types of issues did you mediate?
Issues pertaining to a temporary order before the final decree _____
Issues pertaining to the final decree _____
Issues involving modification of an existing order or decree _____
Issues involving a contempt of court action _____

How many mediation sessions did you attend? _____ How many total hours? _____

Considering the number of issues to be discussed in mediation, how many were addressed?
None_____ Some_____ All_____

Of the issues discussed, on how many were you able to reach an agreement?
None_____ Some_____ All_____

Which issues did you mediate?
Parenting schedule: custody/visitation _____
Child support _____
Alimony/spousal support _____
Financial issues, i.e., assets/debts _____
Non-compliance with a previous decree _____
Other:

_____

If you do have a lawyer, did you talk with him/her (please check all that apply):
Before the first session _____
During the session _____
After the agreement was drafted _____
Not at all _____

If you didn't talk with your attorney, why not?

_____

Would you recommend mediation to others? Yes_____ No_____
Why or why not?

_____

Did you feel pressure, coercion, or concern for your physical safety or threats from the other party
_____ before the mediation session?
_____ during the mediation session?
_____ after the mediation session?
_____ never, not a problem.
If yes, please explain.

_____

_____

If you reached agreements in mediation, do you feel they are generally fair?
Yes_____ No_____ Uncertain_____

Did your lawyer, mediator, or mediation staff person speak with you before the mediation session regarding domestic violence or other matters that may have prevented you from felling safe in mediation?
Yes_____ No_____ Uncertain_____

Please agree or disagree with the following statements (circle SA for strongly agree, A for agree, D for Disagree, and DK for don't know):

	Strongly Agree	Agree	Disagree	Strongly Disagree	Don't Know
I was willing to come to the mediation session.	SA	A	D	SD	DK
Before we went to mediation, I was optimistic that mediation would result in a satisfactory solution.	SA	A	D	SD	DK
The mediation process was adequately explained to me.	SA	A	D	SD	DK
My attorney adequately prepared me for mediation.	SA	A	D	SD	DK
The mediator did not take sides.	SA	A	D	SD	DK
The mediator allowed both sides to express their views.	SA	A	D	SD	DK
The mediator did not allow one person to control the discussion.	SA	A	D	SD	DK
The mediator asked questions to make sure we both thought the agreement was realistic and fair.	SA	A	D	SD	DK

I was able to express my opinions in mediation.	SA	A	D	SD	DK
I am satisfied with our mediator.	SA	A	D	SD	DK
I am satisfied with mediation.	SA	A	D	SD	DK

Did the mediator recommend a particular outcome?
Yes_____ No_____ Uncertain_____

What was your share of the total fee? $_____

In your opinion, this amount was:
Too Much_____ About Right_____ Less Than Expected_____

Did you benefit from mediation?
Yes_____ No_____ Uncertain_____

Length of marriage/relationship_____

Number and age(s) of children

_____

Your age_____

Ethnicity_____

Education (highest grade level achieved)_____

Your Income ___$0-$10,000 ___$10,001-$25,000 ___$25,001-$50,000 ___$50,000+

Name of your mediator_____

Mediators learn from feedback. Would you be willing for your mediator to receive a copy of this evaluation?
Yes_____ No_____

ATTACHMENT H

IN THE IOWA DISTRICT COURT IN AND FOR _____COUNTY

Upon the Petition of _____, Petitioner, And Concerning _____, Respondent.	EQUITY NO. _____ DOMESTIC VIOLENCE SCREENING FOR REFERRAL TO MEDIATION

Note: If you have an attorney, this form should be completed with your attorney.

Instructions: If there are any actions involving you or the other party, specify the names of the persons involved, the case number, the name of the court where the action was filed, including the county and state. If there are no actions, write “NONE.”

I am aware of the following personal protection actions involving myself and/or the other party:

I am aware of the following domestic violence criminal actions involving myself and/or the other party:

I am aware of the following domestic violence criminal actions involving myself and/or the other party:

I am aware of the following pending child protective (abuse/neglect) actions involving myself and/or the other party:

I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

Dated this _____ day of _____, 20___.

_____
Signature of Applicant

_____
Other Party's Name/Attorney's Name

_____
Other Party's/Attorney's Mailing Address

_____
City, State, Zip Code

IOWA SUPREME COURT
FAMILY LAW CASE PROCESSING TASK FORCE
Family Law Case Processing Work Group

Co-Chair David Boyd
Co-Chair Andrew Howie 5th
Carrie O'Connor 1st (Recorder)
Tara Van Brederode 2nd
Leesa McNeil 3rd
Christopher Polking 4th
Chad Eichorn 5th
J. Chad Kepros 6th
J. Gary McKenrick 7th
Janietta Criswell 8th

Preliminary Report

I. Process improvements the Court can immediately implement without significant additional research.

A. Temporary Matters Procedure

With eight judicial districts, each district has established significantly varying methods to conduct temporary matters hearings, as well as differing requirements for what the parties must submit prior to or at the hearing and how the court conducts the hearing. For example, in the Second Judicial District the court does not require the parties attend mediation prior to the hearing, holds a hearing with live-testimony, but limits the number of affidavits and the total page length of the affidavits. In contrast, the Fifth Judicial District, requires the parties to attend mediation prior to the temporary matters hearing, but places no limits on the number or page-length of the affidavits.

The uniformity needs to focus on these areas:

1. Initial Discovery Disclosures
    a. When?
    b. What?
        i. Financial
            1. tax returns
            2. pay stubs
        ii. Affidavit of Financial Status
2. Mediation ***mandatory*** before obtaining Hearing Date (or Hearing)
3. At Hearing
    a. Live testimony?
        i. only in child-custody cases
        ii. other cases, then which ones?

b. How to conduct live testimony
    i. limited in time
        1. how long?
        2. 15 minutes per party
    ii. limited in witnesses
        1. only parties
        2. direct & cross exam or direct-only
c. Affidavits
    i. limited in number
    ii. limited in length
    iii. due before or at hearing
    iv. rebuttal affidavits?
        1. due before or at hearing
        2. limited in number/length

1. Why the Court should consider implementing these recommended changes:

a) Need for Reform

A hearing on temporary matters of newly-filed divorce or 600B custody case is often the first (and sometimes only) direct contact a person may have with the judicial system. Further, with the statutorily-required 90-day mandatory waiting period between the beginning of the case and entry of the decree, the Iowa Code almost necessitates a temporary order. *See* Iowa Code § 598.19 (2015). Virtually every issue that will impact the parties and the parties' children can be decided in the temporary matters hearing, including but not limited to child custody/visitation, child and spousal support, attorney fees, suit money (for investigation and/or expert witnesses), and court costs. *See* § 598.10. It may also cover property issues such as who will receive exclusive possession of a previously shared home and who pays which family bills during the case's pendency. *See also State v. Hagedorn*, 679 N.W.2d 666, 672 (Iowa 2004) (rejecting defendant's claim he "cannot be convicted of burglary for entering his own house" because defendant was estranged from his spouse and no longer resided in the marital home at the time of the offense, therefore had he no possessory or occupancy interest in the premises).

First, the varying rules are traps for the unwary. When applying for a temporary matters order, a litigant cannot assume that filing the application will result in an automatic hearing date. Obtaining a hearing date/time varies from district to district. For example, in the Fifth District, pursuant to Iowa Code section 598.7(1), the court sets the temporary matters hearing, but requires the parties to attend mediation prior to the hearing. In the Second District, the court will set the hearing and has no requirement for the parties to attend mediation prior to the hearing.

Second, varying rules lead to venue and/or judge-shopping. The *type* of evidence the court will consider for a temporary matters ruling varies from district to district. Although Iowa Code section 598.11(1) states that "[t]he hearing on the application shall be limited to matters set forth in the application, the affidavits of the parties, and the required statements of income", suggesting that

testimony be limited to *written* statements under oath, i.e., affidavits, the Second District encourages live-testimony at the hearing, in contrast to the Fifth District which is by affidavit only.[1] These varying rules lead to venue shopping because, if an attorney recognizes that her client looks great on paper but undesirable if the judge saw the person testifying live, that attorney would strategically advise the party to establish residence in Polk County, rather than Story County, in order to take advantage of the affidavit-only temporary matters procedure in Polk (5th Dist.) rather than the live-testimony requirement in the Story (2nd Dist.). *See* Iowa Code § 598.2 ("Venue shall be in the county where either party resides."); *Swanson v. Iowa Dep't of Revenue*, 414 N.W.2d 670, 672 (Iowa Ct. App. 1987) ("The requisite element of intent to change one's domicile necessarily includes an intention to abandon the former domicile, and to do so permanently."); *Messenger v. Messenger*, 188 Iowa 367, 372-73, 176 N.W. 260, 262 (1920) ("[T]he question of acquiring a residence is to a large extent a question of intention on the part of the alleged resident. But such intention must be bona fide. Only the plaintiff himself can testify directly to such intention.").

Third, temporary matters hearings should be held in open court. A common consequence of permitting only affidavits and documents as the evidence considered in a temporary matters order, i.e., prohibiting live testimony, is the court often meets only with the attorneys off-the-record and in chambers. In other words, the parties feel excluded in this extremely important event in their case. Thus, leaving to the court's discretion whether to have live testimony at the temporary hearing, the hearing should be conducted in open court with the parties present and listening to the arguments raised by the attorneys and/or questions raised by the judge.

A key function of justice is predictability and fairness. Considering the importance of meeting those objectives in the first hearing of a difficult case — ending a marriage or establishing a child's custody between unmarried persons — adopting a uniform temporary matters procedure statewide will improve judicial system, the attorneys, and the citizenry.

b) Governing statutory and rules

There are a few statutory considerations and no court rules that directly address temporary matters orders:

Iowa Code § 598.10:

Temporary orders.

1. a. The court may order either party to pay the clerk a sum of money for the separate support and maintenance of the other party and the children and to enable such party to prosecute or defend the action. The court may on its own motion and shall upon application of either party or an attorney or guardian ad litem appointed under section 598.12 determine the temporary custody of any minor child whose welfare may be affected by the filing of the petition for dissolution.

b. In order to encourage compliance with a visitation order, a temporary order for custody shall provide for a minimum visitation schedule with the noncustodial

[1] Depending upon the interpretation of the statute, both methods appear to be permissible. § 598.11(1) ("In making temporary orders, the court shall take into consideration the age of the applicant, the physical and pecuniary condition of the parties, and other matters as are pertinent, which *may* be shown by affidavits, as the court may direct." (emphasis added)).

parent, unless the court determines that such visitation is not in the best interest of the child.
2. The court may make such an order when a claim for temporary support is made by the petitioner in the petition, or upon application of either party, after service of the original notice and when no application is made in the petition; however, no such order shall be entered until at least five days' notice of hearing, and opportunity to be heard, is given the other party. Appearance by an attorney or the respondent for such hearing shall be deemed a special appearance for the purpose of such hearing only and not a general appearance. An order entered pursuant to this section shall contain the names, birth dates, addresses, and counties of residence of the petitioner and respondent.

Iowa Code § 598.11:

How temporary order made — changes — retroactive modification.
1. In making temporary orders, the court shall take into consideration the age of the applicant, the physical and pecuniary condition of the parties, and other matters as are pertinent, which may be shown by affidavits, as the court may direct. The hearing on the application shall be limited to matters set forth in the application, the affidavits of the parties, and the required statements of income. The court shall not hear any other matter relating to the petition, respondent's answer, or any pleadings connected with the petition or answer.
2. Subject to 28 U.S.C. §1738B, after notice and hearing, subsequent changes in temporary orders may be made by the court on application of either party demonstrating a substantial change in the circumstances occurring subsequent to the issuance of such order. If the order is not so modified, it shall continue in force and effect until the action is dismissed or a decree is entered dissolving the marriage.
3. An order for temporary support may be retroactively modified only from three months after notice of hearing for temporary support pursuant to section 598.10 or from three months after notice of hearing for modification of a temporary order for support pursuant to this section. The three-month limitation applies to modification actions pending on or after July 1, 1997.

Iowa Code § 598.21C(4):

Temporary modification of child support orders. While an application for modification of a child support or child custody order is pending, the court may, on its own motion or upon application by either party, enter a temporary order modifying an order of child support. The court may enter such temporary order only after service of the original notice, and an order shall not be entered until at least five days' notice of hearing and opportunity to be heard, is provided to all parties. In entering temporary orders under this subsection, the court shall consider all pertinent matters, which may be demonstrated by affidavits, as the court may direct. The hearing on application shall be limited to matters set forth in the application, the affidavits of the parties, and any required statements of income. The court shall not hear any other matter relating to the application for modification, respondent's answer, or any pleadings connected with the application for modification or the answer.

Iowa Code § 600B.40A:

> *Temporary orders — support, custody, or visitation of a child.* Upon petition of either parent in a proceeding involving support, custody, or visitation of a child for whom paternity has been established and whose mother and father have not been and are not married to each other at the time of filing of the petition, the court may issue a temporary order for support, custody, or visitation of the child. The temporary orders shall be made in accordance with the provisions relating to issuance of and changes in temporary orders for support, custody, or visitation of a child by the court in a dissolution of marriage proceeding pursuant to chapter 598.

Other important statutes to consider:

Iowa Code § 598.19: *Waiting period before decree.* Unless a party shows "emergency or necessity and facts which satisfy the court that immediate action is warranted or required to protect the substantive rights or interests of any party or person who might be affected by the decree", the court does not have the authority to enter a dissolution decree until 90 days after the "original notice is served, or from the last day of publication of notice, or from the date that waiver or acceptance of original notice is filed or until after conciliation is completed, whichever period shall be longer."

2. Steps needed to implement this process/improvement and how the WG has taken action on each step.

Implementing these changes will require a Supreme Court order amending the Rules of Civil Procedure adopting a temporary matters order delineating: date/time of hearing; deadline to complete mediation prior to the hearing; and the disclosures each party must accomplish prior to mediation and then post-mediation but pre-hearing. The Work Group submits a proposed order establishing all those objectives.

3. State the time frame that the WG believes is necessary to implement the process/improvement.

The timing is based upon the standard rules pertaining to amending the Rules of Civil Procedure.

B. Uniform Case Processing Order

1. Why the Court should consider implementing these recommended changes:

With the adoption of new discovery rules, as well as statutory requirements for all dissolution cases, a uniform standard case processing should be implemented statewide. The differing rules between the judicial districts are unjustified and create confusion.

a) Standard Case Processing Order.

Upon filing the petition, the Court should enter a standard order that sets various deadlines for the processing of the case. The order should at minimum lay out (1) the initial disclosures (i.e. automatic exchanges of information) and a deadline for that exchange of information, no additional discovery allowed until mandatory disclosures have been made; (2) the requirement for completing the Children in the Middle Course and any other course that may be required in that specific district; (3) time when to complete mediation; and (4) a trial setting conference to select a pretrial conference and trial date.

b) Initial Disclosures (included in Standard Case Processing Order).

The initial disclosures should probably just be those that are required under the recent rules adopted by the Supreme Court. Those initial disclosures should require exchanging paystubs, tax returns, and any immediate financial concerns, e.g., bills to pay. In addition, when the case involves children, the initial disclosures should require the filing of child support guideline worksheets (for each possible physical care determination if physical care is in dispute). Require that exchange of information within 60 days of service on Respondent, unless the timeline is extended because of unusual circumstances on motion to the Court.

c) Children in the Middle (included in Standard Case Processing Order).

All parties to dissolution of marriage actions, as well as modification actions of a dissolution decree, that involve issues of child custody or visitation must participate in a court-approved course to educate and sensitize the litigants to the needs of children. Iowa Code § 598.15 (2015). Notably, no Iowa Code provision expressly obligates unwed parents, e.g., Iowa Code chapter 600B actions, to attend this course[2]; however, several judicial districts still impose the requirement.

The course requires approximately four hours and the parties must complete it within forty-five days of the service of Original Notice. Each judicial district is required to certify a list of approved courses. § 598.15(1). Each party must pay the cost of attending the course. § 598.15(2). Each party must submit a certification of completion of the course to the Court prior to the granting of a final decree or the entry of a final order. § 598.15(3). Participation may be waived or delayed by the court for good cause. § 598.15(3) & (4).

Some districts do not specifically enter an order for Children in the Middle, apparently on the basis that it is required by the Code so no order is needed. However, many parties are pro se and have no idea of the requirement, and many attorneys do not have processes in place for making their clients aware of the requirement. So, Children in the Middle often is not completed in a timely manner. Therefore, the Standard Case Processing Order entered at the beginning of the case should tell parties specifically of the requirement, when the parties must complete the course, and include information of when and where the classes are available.

[2] The WG recommends amending chapter 600B to expressly require actions brought under that chapter also complete the Children in the Middle course.

d) Mediation (included in Standard Case Processing Order).

There is a separate workgroup for ADR. However, any mediation requirement imposed by the Court upon the parties should be detailed early, and the best place would be in the Standard Case Processing Order.

e) Trial Setting Conference (included in Standard Case Processing Order).

Regardless of when the trial setting conference is held, it is useful and beneficial to set that date in the first order received from the Court. Parties often will use that date as something to avoid by getting the case settled before the trial setting conference. Maybe we don't need to provide for a specific time for the trial setting conference at this time and instead leave some local control. In the Sixth District the trial setting conference is at 120 days, but other timelines might make more sense in other districts. One benefit of ordering the Trial Setting Conference at the very beginning of the case is that the Trial Setting Conference can be used as a "meaningful court event" to either: (1) set the trial if the requirements of the Standard Case Processing have been met; or (2) to require a status or compliance conference with the Court if the requirements of the Standard Case Requirements Order have not been met.

f) Status or Compliance Conferences.

A court-supervised status conference is a good tool to ensure that cases keep moving toward settlement or trial, and that cases are ready for trial when the trial date comes up. If a Standard Case Processing Order is entered at the beginning of every case, then there needs to be a mechanism to enforce those requirements (which would include initial disclosures, any mediation requirement, and any required classes). A good way for court administration to monitor the completion of requirements is at the time of the trial setting conference since they will be looking at the case at that time anyway and will have the attorneys or pro se parties on the phone for the conference. If the attorneys or pro se parties report that the initial disclosures have not been made by that time or if the financial affidavits have not been filed, or if mediation has not been completed, a good option would be to require the parties and attorneys to appear for a status or compliance conference -- for the parties to report on the case and explain why they are not doing what was ordered at the beginning of the case. This is a meaningful court event because it is directed at making sure that parties get informed by exchanging information early, and that the other requirements (for example, mediation) are being completed. At the same time, we should be careful about piling on unnecessary procedure. So, a status or compliance conference should only be ordered when parties are not succeeding on their own. If parties have done what is required they should get a trial date and not have the additional expense of a status conference. on the other hand, if parties have not done what is ordered, a status or compliance conference is a good way to nudge the case along and uncover where the problem lies. In addition, a status conference is a particularly good way to address pro se cases where parties may be stuck not knowing what to do next.

A status conference will only be necessary for non-compliant parties, e.g., failing to make initial disclosures, finish Children in the Middle, etc. The parties can certify to the court that all of the requirements have been met, then the status conference would be cancelled.

g) Stipulation of Assets and Liabilities and Pretrial Statement.

There should be a standard set of forms which (1) identify the issues for trial and any agreements reached (i.e. a Pretrial Statement), and (2) which list all assets and liabilities with each side's statement of value and with any agreements on distribution (i.e. a Stipulation of Assets and Liabilities). Many districts have this requirement but may call it different things. With the recent changes in the 6th, parties are now required to complete both forms before the Trial Setting Conference, and then are required to update both forms to bring them current by the time of the Pretrial Conference. This helps people to start talking and focusing the issues and the discovery early in the case, and also focuses the issues for the trial judge with current information at the end of the case.

h) Pretrial Conference.

Hold a judicially-supervised pretrial conference approximately 30 days before trial. This is an optimum time to get cases resolved that have not previously settled, and if settlement is not possible the optimum time to focus the issues for trial. In order for the pretrial conference to be useful: (1) parties must have discovery completed and the information necessary to settle or try the case updated, (2) parties and attorneys must personally appear, and (3) it must be judicially supervised. If, in addition, the pretrial is conducted by a judge who will not hear the case at trial, it allows the judge to be more evaluative of the merits of the disputes in the case during the pretrial.

Most cases obviously settle well before any trial date. However, for those cases who are on track to go to trial the most critical stage of the case is that period about a month out from trial. This is when parties and attorneys are both getting realistic and serious. Its when attorneys are asking for additional retainers, identifying witnesses and exhibits, etc. It is when some of the bravado of clients dissipates in the face of the costs and uncertainty that come with trial. Without a meaningful required event like a court-supervised PTC a great many of those cases will not settle until the very last minute, if at all. Those last minute settlements are bad for a lot of reasons. It is more financially costly and emotionally destructive for the party. The settlement product is often not as well done when thrown together at the last minute and important details tend to get missed when cases are settled "on the courthouse steps". For the Court, settlements on the eve of trial means more dead time for judges that could have been used for other trials or hearings. The Pretrial Conference should be about the trial, not a mechanism for differentiated case management. Having a judge who is not going to decide the case confirm what a lawyer has been telling a client has an extraordinarily positive impact in moving cases to settlement.

i) Order parties to file a statement of requested relief before trial.

Good case processing should require that parties file a written requested relief with the Court no later than 14 days *before* trial. Doing so highlights areas of agreement, and informs the Court exactly what each party wants, thereby reducing the chance that the Court will get it wrong. One additional idea that is just now being implemented in the 6th is that parties submit a signed partial stipulation on areas that are agreed to, which again takes away some of the risk of trial and makes judges more efficient in their work and less likely to misstate partial agreements in their decrees. By requiring this filing at least 14 days prior to trial also gives the judge the opportunity to schedule a pre-trial conference if requested or needed.

j) Informal trial process (a.k.a. small-claims divorce)

Adopt procedures for an Informal Domestic Relations Trial process. The primary goal would be to permit cases that involve no children, no spousal support, and little property can be ushered through the system quickly. Offered early in the case and much earlier than a regular trial, i.e., a rocket docket.

k) Visitation referees.

Implement a process for "visitation referees" -- individuals empowered to resolve immediate visitation issues and set the stage for further clarification regarding the issues if necessary.

2. Steps needed to implement this process/improvement and how the WG has taken action on each step.

Implementing these changes will require a Supreme Court order amending the Rules of Civil Procedure adopting a case processing order delineating: date/time of hearing; deadline to complete mediation prior to the hearing; and the disclosures each party must accomplish prior to mediation and then post-mediation but pre-hearing. The Work Group submits a proposed orders establishing all those objectives, except "j" and "k" above.

3. State the time frame that the WG believes is necessary to implement the process/improvement.

The timing is based upon the standard rules pertaining to amending the Rules of Civil Procedure.

C. One Family / One Judge (Individual Case Assignment)

Traditionally in cases, any time a hearing or trial was needed, it was heard by whatever judge was assigned to that county that month (or whatever judge was in fact available due to scheduling changes). District 1, District 3 , District 4, and District 2A now do some variation of individual case assignment, or assigning a single judge to the case, which judge will hear the trial in the case (which other matters they will handle varies by district). However, this case assignment rarely applies to temporary hearings, and each district varies on what point in the matter it assigns the judge. Any recommended change in this area should be quickly and easily established as the change would be entirely administrative and internal to the judicial branch. These variations make Individual Case Assignment more descriptive than the true One Family/One Judge system used in Juvenile Court where one judge will stay with every proceeding related to the family.

We received input from various administrators, judges and attorneys in the districts that have an individual case assignment system for family law matters. While there were some criticisms and concerns with the system, on balance, there was near unanimity that it is a better system than random case assignment of every matter in a case. Those who have used individual case assignment for family law cases do not wish to go back to the way it used to be.

Positive attributes that were mentioned:

a. There is more continuity in the rulings in the case. Judges get to know the parties and have a more thorough understanding of the case.
b. This familiarity with the case leads to more thorough orders.
c. The judges are better able to address the case, both in a timeliness sense, and in an understanding of the overall case sense.
d. Knowing which judge will have the case can help lead to settlement, particularly when certain preferences of the judge as to certain matters and situations are known.
e. You are more likely to get a variety of judges from your district.
f. The trial date is more likely to happen when needed, removes a certain amount of scheduling uncertainty.
g. Avoids judge shopping.

Negative attributes mentioned:
a. An early ruling adverse to your client, or an assignment of a judge who you know has preferences not sympathetic to your client, is frustrating for the attorney and for that party.
b. If the temporary hearing is included in the scheduling, there can be a delay in getting the temporary hearing.
c. Concern about difficulties of assignment, particularly in the more rural areas, was heard from several judges. Some attorneys have seen pressure from judges to have their rural county case heard in the most urban county of the district if they want it heard faster, as that is where many of the judges are based out of. Most districts have handled this by having more telephone hearings, and both judges and attorneys expressed general satisfaction with this. While this allows pretrial motion hearings to happen in a timely manner, it is a valid area of discussion as to the pros and cons of having more telephone hearings.
d. In districts where the assigned judge does hear the temporary hearing, it places great importance on the temporary hearing, and creates a feeling that the temporary order decides the case, as the judge may be less likely to overturn his own ruling (albeit one based on very little time or evidence).
e. Settlement based on judge reputation/preferences is only more likely if there are experienced lawyers on the case who regularly practice in that district.

Open issues (if a consensus was reached that individual case assignment should be recommended, which way the following matters should be done seems to be an open issue):
a. Most of the districts currently doing individual case assignment don't tie temporary hearings into this system. The Fourth district is having the same judge also do the temporary hearings.
b. Not all districts include contempts filed on the orders in the system either (particularly post decree).
c. Not all districts have the original judge assigned to any modifications that come up later.
d. There is a difference as to at what point in time after filing that the case gets assigned to a particular judge.

2. Steps needed to implement this process/improvement and how the WG has taken action on each step.

Implementing these changes will require a Supreme Court order amending the Rules of Civil Procedure adopting a temporary matters order delineating: date/time of hearing; deadline to complete mediation prior to the hearing; and the disclosures each party must accomplish prior to mediation and then post-mediation but pre-hearing. The Work Group submits a proposed order establishing all those objectives. Specifically, recommend domestic relations cases be assigned to a specific judge as soon as possible in a case. (Note -- the size of districts/number of district judges available and certain court rules relative to case assignments make assigning the same judge to the temporary hearing as to the case disposition. We may be able to overcome this if we permit temporary matter orders on the record only or promote more use of telephonic hearings.)

> **Court Rule 22.8 Judicial district scheduling.**
> 22.8(1) The chief judge of each judicial district shall by annual written order set the times and places of holding court within the judicial district and designate the respective presiding judges. The order shall provide for a court session at least once a week in each county of the judicial district, unless otherwise approved by the supreme court. The order shall provide for a scheduled trial session in each county of the judicial district at least four times each year, to be presided over by a different judge. In determining the schedule ordered, the chief judge shall rotate trial judges without regard to judicial election district lines to facilitate the administration of justice, integrate the district bench and promote the ideal of district administration.
> 22.8(2) An order of the chief judge demonstrating compliance with this rule for the next calendar year shall be filed by October 15 of the preceding calendar year with the clerk of the supreme court. Following supreme court approval, the chief judge shall file a copy of the order with the clerk of the district court in each county of the respective judicial district.

2) Report on the pros/cons of an individual assignment system as outlined above.

3) If a differentiated case management system is employed, cases that utilize collaborative law need not necessarily be individually assigned.

4) Committee needs to decide if we recommend that the decision to mediate be left to the assigned judge or be a matter of policy on cases with identified indicators for such, i.e. minor children. This will really depend on what the mediation work group recommends.

5) The committee should make a specific recommendation regarding whether modifications, contempts and temporary hearings should be assigned to the same judge as is/was assigned to the original dissolution/custody case.

DRAFT: Recommend the judge individually assigned to the case continue to handle any post decree matters filed, including formal modification actions.

6) We need to report that our committee is not making specific recommendations as to how mediation should be factored into a case processing system for family law cases until we learn what

the subcommittee working on that topic proposes. Once that information is available specific recommendations regarding how case processing should be managed will be proposed.

3. State the time frame that the WG believes is necessary to implement the process/improvement.

The timing is based upon the standard rules pertaining to amending the Rules of Civil Procedure.

D. Chapter 236 hearings affecting child-custody and other issues usually tried in 598 or 600B proceedings.

The Work Group investigated whether there is a need to create a uniform process, in addition to those already in place, regarding how domestic abuse cases brought under Iowa Code chapter 236 and how those cases impact decisions that are typically left to divorce proceedings per Iowa Code chapter 598 or custody cases per Iowa Code chapter 600B. The Work Group does not recommend any changes for the following reasons.

Iowa Code 236.5(1)(b)(4) (2015) indicates that the court may grant a protective order or approve a consent agreement which may contain the awarding of temporary custody of or establishing temporary visitation rights with regard to children under 18. When awarding temporary custody the courts give primary consideration to the safety of the victim and the children. Additionally, the court shall also investigate whether any other existing orders awarding custody or visitation rights should be modified.

"Any adjudication of domestic abuse may have a potentially negative effect on past, present, or future custody or visitation disputes." *Wilker v. Wilker*, 630 N.W.2d 590, 596 (Iowa 2001) (citing Iowa Code § 236.5(2)(d)); *In re Marriage of Forbes*, 570 N.W.2d 757, 759-60 (Iowa 1997) (both parties acknowledged physical altercations against each other; in interpreting what is sufficient to constitute a "history of domestic abuse", "the court [must] weigh the evidence of domestic abuse, its nature, severity, repetition, and to whom directed, not just to be a counter of numbers"); *cf. In re Marriage of Barry*, 588 N.W.2d 711, 713 (Iowa Ct. App. 1998) ("a claim of domestic violence must not be used by either party to gain an advantage at trial, but should be reserved for the intended purpose – to protect victims from their aggressors").

In *Bartsch v. Bartsch*, the Supreme Court stated "the State's interest in protecting victims of domestic abuse is equal to, if not greater than, its interest in actions determining child custody or terminating parental rights because it involves the safety of the protected parties." 636 N.W.2d 3, 9 (Iowa 2001); *see also Crouch v. K.K.*, No. 11-0055, 2011 WL 4578527 at *5 (Iowa Ct. App. 2011). Because of *Bartsch*, it is likely that any case processing recommendations made in an attempt to streamline the process will be trumped if there are 236 Relief from Domestic Abuse filings. A finding of domestic abuse assault is a prerequisite to the entry of an order of protection and related temporary custody and visitation orders. *Reed v. Reed*, No. 13-0170, 2014 WL 69809 at *2 (Iowa Ct. App. 2014) (citing § 236.5). So, while there is a risk of parties attempting to affect custody determinations by filing borderline or frivolous 236 petitions, there must be an actual finding of domestic abuse in order for custody to be affected under 236.5. *See Barry*, 588 N.W.2d at 713.

Because of both the statutory language in place (the amending of which I believe to be outside the prevue of this task force) and that custody isn't affected unless there is an actual finding of domestic abuse, custody determinations made under Iowa Code 236 should continue to function as is. Additionally the legitimate safety concerns that are inherent in Relief from Domestic Abuse Filings under Chapter 236, outweigh the potential impact on case process efficiency.

AMENDMENT TO

IOWA SUPREME COURT FAMILY LAW TASK FORCE FINAL TASK REPORT

SUBMITTED BY FAMILY LAW CASE PROCESSING WORK GROUP

Purpose:

The Case Processing WG advises the following be added to Final Report in order to address recommendations for amendments to the Iowa Rules of Civil Procedure and other formal case-processing rules to provide a means for expedited case procedures.

Proposed Amendment:

The Case Processing WG recommends that the Court amend the Court Rules to permit parties to elect a more informal trial process for court resolution of all or part of dissolution of marriage or unmarried-custody cases. In recent years, the Court has excelled in providing greater access to justice by promulgating divorce forms for use by self-represented parties. Such forms make it easier for people to file matters with the Court. However, access to those forms to not permit self-represented parties to be any more capable of presenting cases at trial than they were without such forms. To alleviate the family law docket for those with and without legal representation, the WG believes that the Court should consider a more informal trial process if the parties so choose in appropriate cases and with court approval.

The WG studied the Informal Domestic Relations Trial procedure utilized by Deschutes County, Oregon, and finds that the procedure offered there is a good model for Iowa. The task force consultant, William Howe, reports that the Oregon rule has been met with great enthusiasm where utilized in Oregon, and it has been successful in providing greater access to justice while helping in meeting the demands of an ever-increasing court docket. The procedure being utilized in Oregon is provided in Deschutes County Local Rules 7.045(4) and 8.015. Rule 7.045(4) requires a party to elect to either utilize the informal procedure or to proceed to trial in the normal manner. Importantly, *both parties and the Court* must consent to the informal procedure before it applies. Without unanimous consent to use the informal process, the trial will proceed under the normal trial procedures. Rule 7.045(4) states:

The parties must declare, in writing on a form provided by the Court, whether they elect to proceed to trial under SLR 8.015 (Informal Domestic Relations Trial) or under the traditional manner of trial in domestic relations proceedings. If both parties elect to proceed under SLR 8.015, the trial will be scheduled for an Informal Domestic Relations Trial.

The Court may refuse to allow the parties to utilize the Informal Domestic Relations Trial procedure at any time and may also direct that a case proceed in the traditional manner of trial even after an Informal Domestic Relations Trial has been commenced but before a judgment has been signed. A party who has previously agreed to proceed with an Informal Domestic Relations Trial may file a motion to opt out of the Informal Domestic Relations Trial provided that this motion is filed not less than ten calendar days before trial. This time period may be modified or waived by the Court upon a showing of good cause. A change in the type of trial to be held may result in a change in the trial date.

The WG is cognizant of concerns that certain parties may opt into the Informal Domestic Relations Process when a more formal process should rightfully be used for the type of case or issues involved and/or concerns that the Court may hear cases using the informal process when a traditional trial would better serve the parties and the case. Therefore, the WG recommends that the Court consider restricting, by rule, the types of issues which may be addressed in an Informal Domestic Relations Trial. For example, it may be appropriate to provide guidance in the rules to the effect:

The Informal Domestic Relations Trial process will normally not be appropriate or accepted as a method to resolve child custody, physical care, spousal support, or complex property issues. The Informal Domestic Relations Trial may be appropriate to determine certain routine child visitation issues, but will normally not be appropriate or accepted as a method to determine the quality or extent of visitation to be awarded.

The Oregon rule provides a procedure and standards for how Informal Domestic Relations Trials will be conducted. Rule 8.015 states:

Informal Domestic Relations Trial

(1) Informal Domestic Relations Trials may be held to resolve all issues in original actions or modifications for dissolution of marriage, separate maintenance, annulment, child support, and child custody filed under ORS Chapter 107, ORS Chapter 108, ORS 109.103 and ORS 109.701 through 109.834.

(2) The Informal Domestic Relations Trial will be conducted as follows:

(a) At the beginning of an Informal Domestic Relations Trial the parties will be asked to affirm that they understand the rules and procedures of the Informal Domestic Relations Trial process, they are consenting to this process freely and voluntarily and that they have not been threatened or promised anything for agreeing to the Informal Domestic Relations Trial process.

(b) The Court may ask the parties or their lawyers for a brief summary of the issues to be decided.

(c) The moving party will be allowed to speak to the Court under oath concerning all issues in dispute. The party is not questioned by counsel, but may be questioned by the Court to develop evidence required by any statute or rule, for example, the applicable requirements of the Oregon Child Support Guidelines if child support is at issue.

(d) The Court will ask the moving party (or the moving party's attorney if the party is represented) whether there are any other areas the party wishes the Court to inquire about. The Court will inquire into these areas if requested.

(e) The process in subsections (c) and (d) is then repeated for the other party.

(f) Expert reports will be entered into evidence as the Court's exhibit. If either party requests, the expert will be sworn and subjected to questioning by counsel, the parties, or the Court.

(g) The parties may offer any documents they wish for the Court to consider. The Court will determine what weight, if any, to give each document. The Court may order the record to be supplemented. Letters or other submissions by the parties' children that are intended to suggest custody or parenting preferences are discouraged.

(h) The parties will then be offered the opportunity to respond briefly to the comments of the other party.

(i) The parties (or a party's attorney if the party is represented) will be offered the opportunity to make a brief legal argument.

(j) At the conclusion of the case, the Court shall render judgment. The Court may take the matter under advisement but best efforts will be made to issue prompt judgments.

(k) The Court retains jurisdiction to modify these procedures as justice and fundamental fairness requires.

While the rule to be adopted in Iowa should be fashioned with somewhat more formality and greater detail than the Oregon rule, the core components should include:

(1) That the Court reiterate the rules and procedures applicable to the process and confirm agreement of the parties to proceed using the informal process.

(2) That the basic process be stated as to how and in what order information will be presented to the Court.

(3) That the Court will receive such information without strict adherence to the Rules of Evidence, and that the Court will determine what weight, if any, to give to the information submitted [while this part of the procedure may lead to concern, it is not a substantial departure from the normal trial process in equity cases which normally require the Court to receive evidence subject to objections in order to preserve the record for the reviewing court].

(4) Judgment by the Court will be made at or on an expedited basis following trial. In order for the Court to fulfill its obligation for prompt rulings under the rule, Decrees would be more summarily stated, without detailed findings of fact or conclusions of law.

The Informal Domestic Relations Trial process may be used by parties with or without attorneys, but its greatest benefit and highest level of use will likely be by self-represented parties. A tremendous amount of time and judicial resource is spent on family law cases with self-represented parties who quite often do not have the information or ability to successfully navigate the legal process. Such cases often do not involve particularly difficult legal or factual issues, but nonetheless consume a disproportionately significant part of the daily court docket and the time of court staff at every level. In addition to judicial-officer resources, clerk and court administration staff time is consumed helping self-represented parties navigate more formal court procedures, while at the same time respecting the prohibition against giving legal advice. While much of those judicial resources are appropriately spent is assisting self-represented parties in order to provide access to the Courts, a lessening of formal procedure in appropriate cases will increase access to the Courts while simultaneously lessening the burden on the Court. Moreover, the Informal Domestic Relations Process proposed may not represent a significant departure from the reality of how such cases are already processed. Judges are already using a variety of more informal processes in dealing with the reality of the increase in the number of self-represented litigants in family law cases. As it stands, when unrepresented parties appear for a regularly set trial, they quite often each testify and present exhibits with little limitation or adherence to the rules of procedure or evidence and rarely present witnesses other than the parties themselves. So, this informal process is not significantly different in many aspects from current practice. However, development of a rule creates greater transparency, better uniformity, and clearer expectations for parties utilizing the process.

Innovative ADR processes have increasingly been demanded by litigants and accepted by the Court to resolve disputes, such as mediation, arbitration, parenting coordination, and collaborative law. These processes focus on increased self-determination of parties, less court oversight, and often less formality. However, little has been done to provide court processes in appropriate cases to assist in meeting those same goals. Implementation of an Informal Domestic Relations Trial would enable parties to similarly exercise rights of self-determination by opting into a less formal process when the type of issue(s) are appropriate for an informal process.

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

IN RE THE MARRIAGE OF _____ AND _____

Upon the Petition of

_____,

Petitioner,

and Concerning

_____,

Respondent.

CASE NO. _____

FAMILY LAW CASE REQUIREMENTS ORDER (with minor children) *used in either 598 or 600B original or modification actions

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EXPLANATION OF THIS ORDER:

This Order tells each person in this case what each party ("Petitioner" and "Respondent") must do to obtain a final order from the Court. These requirements apply to both parties, regardless of whether a party is represented by a lawyer. In general, each party is required to:

1. Attend a "Children in the Middle" course within 45 days after the date on which the Petition and Original Notice are served on the person named as "Respondent" above. In _____ County a list of approved programs is available in Room _____.

2. Exchange with the other party certain financial information no later than 60 days after the date on which the Respondent was served or accepted service of the Original Notice and Petition in this case.

3. Prepare and file with the Clerk of Court a Child Support Guideline Worksheet no later than 10 days before the Case Status Conference set forth in part IV of this Order.

4. Participate in a Case Status Conference, set forth in part IV of this Order (approximately 90 days after this case is filed), or have your attorney submit a signed certificate stating that all pretrial requirements have been met. The pretrial certification option is available only when ***both parties*** are represented by attorneys.

5. Attend together a mediation session with a mediator no later than 60 days after the Case Status Conference, set forth in part IV of this Order, if the parties have not settled the case prior to that deadline.

If either party to this case does not have an attorney, then that party must use the forms adopted by the Iowa Supreme Court in Chapter 17 of the Iowa Court Rules. Those forms may be found on the Iowa Judicial Branch website. At the time of the Case Status Conference, both parties shall submit EITHER Forms 227 ("Request for Relief in a Dissolution of Marriage with Children") and 230 ("Proposed Parenting Plan") OR Forms 228 ("Settlement Agreement for a Dissolution of Marriage with Children") and 229 ("Agreed Parenting Plan"). If a party is represented by an attorney, the attorney must submit a proposed final stipulation resolving all of the issues of the pending case.

These requirements are designed to encourage you and the other person in the case to exchange information and to discuss possible settlement of your case before going to trial before a judge. These requirements are also intended to make trials available more quickly for people who cannot settle their cases.

If you want a court order for temporary support, visitation/custody, or assigning responsibility to pay bills after the case is filed and before you receive a final Decree, you should also use the order titled "Order re: Mediation of Temporary Matters and Setting Hearing." This will give you a fairly prompt court date to have a judge make a decision on these matters.

IT IS THEREFORE ORDERED AS FOLLOWS:

I. "Children in the Middle" Course Requirement. Pursuant to Iowa Code section 598.15, the parties to any action which involve the issues of child custody, physical care, or visitation must participate in a court-approved class called "Children in the Middle" to educate and sensitize the parties to the needs of their children. Therefore, unless waived by the court for good cause, each party shall participate at his or her own expense in one of the court-approved classes which provide information about how children are affected by a divorce or a custody dispute and how to best deal with the needs of the children. The parties must attend this course even if the parties agree on how to resolve any issue concerning child custody, physical care, or visitation. In _____ County, a list of these programs is available in Room _____. A list on the Iowa Judicial Branch web site (www.iowacourts.gov) also provides information of where and when these classes are available. Each party is responsible for making his or her own arrangements to attend a class by contacting one of the court-approved programs. At the conclusion of the class, the attending party will receive a Certificate of Completion which that person shall file with the Clerk of Court as proof of attendance. Any person requesting a waiver or delay of attending shall do so in writing and shall file the request filed promptly in this case.

Each party shall complete the class and file the certificate with the Clerk of Court no later than 45 days of the date on which the Petition was served on the named-Respondent in this case. Iowa law requires that the Court cannot file a final order until both parties have attended the class and filed a certificate with the clerk of court.

II. Financial Information Exchange. No later than 60 days after the date of service of the Petition and Original Notice in this case, each party shall give to the other party the following information:

A. Paystubs or other documentation showing income from all sources, including all deductions for federal and state taxes, health insurance premiums, union dues, and mandatory pension withholdings for the past six (6) months. If possible provide a breakdown on the cost of single health insurance and the cost of a family plan covering any children affected by this case.

B. Documentation regarding:

1) childcare expenses;
2) the legal description and all appraisal and/or market analyses for all real estate owned, whether owned jointly or separately;*******
3) current values of any and all investments, retirement accounts, stocks, bonds, life insurance policies, bank accounts, mutual funds, deferred compensation accounts, IRA Accounts, 401K and any and all similar accounts or plans;*******
4) current statements of all debts;*******
5) any documentation establishing a claim that assets were gifted, inherited or premarital property;*******
6) any prenuptial agreements.*******

C. Federal and State income tax returns, including all schedules and W-2's, for the last three (3) years, if not already in the other party's possession;

D. A current Affidavit of Financial Status prepared by an attorney or or Form 7 ("Dissolution of Marriage — Affidavit of Financial Status")******* or Form 224 ("Financial Affidavit for a Dissolution of Marriage with Children")*******;

E. Statements of account(s) or other documentation to support the assets or liabilities listed in "Affidavit of Financial Status" Form 7 ("Dissolution of Marriage — Affidavit of Financial Status")******* or Form 224 ("Financial Affidavit for a Dissolution of Marriage with Children")*******.

*******If this is a dissolution of marriage (divorce) case, each party shall provide all the information listed. If this is a modification case or an unmarried custody case, each party does not have to provide the information in paragraphs marked with ***.. Under the Iowa Rules of Civil Procedure, each party has the right to request additional information from the other.

III. Child Support Guideline Worksheets. Iowa law requires each party to file Child Support Guideline Worksheets. These show his or her income and provide deductions for taxes and several other matters such as union dues, child care for the child(ren) involved in this case, and mandatory pension withholdings. In _____ County these forms are available in _____. They are also on the Iowa Judicial Branch website (www.iowacourts.gov). If a party does not have an attorney and preparing the Child Support Guideline Worksheet without an attorney's assistance, each party must make his or her best effort to supply the information requested on the form.

No later than 10 days before the Case Status Conference set in this Order, each party shall file with the Clerk his or her own Child Support Guideline Worksheets, and shall also exchange those Worksheets with the other party or that party's attorney.

IV. Case Status Conference. A Case Status Conference with a judge is set for the ____ day of _____, 20____ (approximately 90 days after filing the petition in this case) at _____ ___.m. in Room _____ at the _____ County Courthouse. Each party or his or her lawyer(s) (if a party is represented by a lawyer), shall appear before the Court and must report on the following:

A. Whether each party has attended a "Children in the Middle" course and filed the Certificate of Completion;

B. Whether each party has prepared and filed a Child Support Guideline Worksheet;

C. Whether each party has provided each other with the court-ordered financial information and filed affidavits of financial status;

D. Whether there are any issues that have been agreed to and which issues each party and the other person do not agree to. If the parties are in agreement about all issues involved in this case, each party must present a proposed Decree or Order approved by all parties and attorneys within thirty (30) days after the date of the Case Status Conference.

Optional Case Status Conference Certification Procedure

If both parties are represented by an attorney and his or her attorney submits a signed certificate stating all pretrial requirements have been met, each party and his or her attorney need not attend the Case Status Conference. That Form can be found at Forms _____ ("Pretrial Compliance Form"). If both sides file a certification that all pretrial requirements have been met, counsel must promptly notify the case coordinator so the Case Status Conference can be removed from the Court's calendar. The case coordinator may be reached at (____) ___-_____. *If either party does not have a lawyer, both parties* ***shall*** *attend the Case Status Conference.*

V. Discovery disputes. In addition to the initial disclosures required by part I of this Order, at any time during the progress of this case, the parties may pursue other discovery permitted by the Iowa Rules of Civil Procedure. If necessary, parties shall file motions to compel within a reasonable time after noncompliance, but in any event no later than 30 days before trial.

VI. Mediation Requirement. Iowa Code section 598.7 provides that the Court may require the parties to participate in mediation in a marriage dissolution or related proceeding. This Court finds that mediation may help the parties to resolve their differences without court intervention and is in the best interest of the parties. Each party must meet with a mediator no later than the ____ day of _____, 20____ (approximately 60 days after the Case Status Conference). The mediator will help each party discuss his or her concerns and possible settlement

options in his or her case, but the mediator will NOT give each party legal advice or make any decisions for each party. Each party may bring his or her attorney may attend mediation.

A. ***Setting Mediation.*** To arrange for his or her mediation session, each party shall [Insert district-specific mediation scheduling procedure]" to arrange a mediation session. If the parties cannot agree on a mediator, each party may request the judge to appoint the mediator.

B. ***Mediation Costs.*** Unless otherwise ordered or agreed to, each person shall pay one-half the cost of the mediation. Payment shall be due and payable to the mediator on the day of mediation. Reduced rates are available for indigent people. If either party believes that he or she cannot afford to pay a mediator, that party may apply to the District Court (or the District Court Mediation Program where available) for a reduced rate.

C. ***Waiving Mediation.*** Mediation may not be appropriate if domestic abuse has occurred. If either party seeks to waive this mediation requirement due to abuse by the other party, the party seeking the waiver shall notify the mediation program coordinator immediately of his or her desire to waive mediation. Any request to waive mediation must be filed in writing with the Clerk in this matter, and the Court must expressly grant such waiver. Until a waiver is expressly granted by the Court, the mediation requirement and its deadlines remain in force and effect. An application for the court to waive mediation can be obtained from the District Court Mediation Program or the Clerk of Court, and should be filed no later than ten days before the Case Status Conference unless good cause otherwise exists to avoid that deadline.

D. ***Obtaining a Trial Date.*** **No trial date shall be assigned until mediation has been completed and the certificate of compliance with mediation has been filed in this case.**

E. ***After Mediation.*** **At the conclusion of mediation, the parties shall:**

1) No later than 30 days after the completion of mediation, one or both of the parties shall present a final Decree or Order signed and approved by all parties and counsel to the judge; *or*

2) No later than 14 days after the completion of mediation, both parties shall confirm that the case should be set for trial and a Uniform Trial Scheduling Order will be entered in this matter.

a) In _____ County these forms may be obtained in Room _____.

b) The parties shall coordinate to obtain a trial date from _____ [Court Administration Case Coordinator's contact information].

c) The Uniform Trial Scheduling Order need not be signed by a judge.

VII. Requests for Waiver. If a party seeks to avoid any requirement listed in this Order, that party may file a written motion seeking a waiver of the requirement(s). No requirement set by this Order shall be deemed waived until expressly granted by a judge in a written order filed in this matter.

VIII. Penalties for failing to comply with this Order. If any party fails to meet any requirement of this Order, that party may be penalized and/or fined by the Court under Iowa Rule of Civil Procedure 1.602(5). The penalties may include, but are not limited to, a dismissal of the case, entry of default against the violating-party which grants the other person his or her requested relief, an award of attorney fees to the other party, or a fine. In addition, the judge could limit the evidence you can present at trial. For failure to complete Children in the Middle, the court can deny or restrict your parenting time, or may impose a financial penalty for noncompliance.

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

IN RE THE MARRIAGE OF _____ AND _____		
Upon the Petition of	)	
_____,	)	**CASE NO.**
	)	**_____**
Petitioner,	)	
	)	
and Concerning	)	
	)	**FAMILY LAW CASE**
_____,	)	**REQUIREMENTS ORDER**
	)	**(without minor children) *used**
Respondent.	)	**in chapter 598 original or modification**
	)	**actions**

EXPLANATION OF THIS ORDER:

This Order tells each person in this case what each party ("Petitioner" and "Respondent") must do to get a final order from the Court. These requirements apply to both parties, regardless of whether a party is represented by a lawyer. In general, each party is required to:

6. Exchange with the other party certain financial information no later than 60 days after the date the Respondent was served or accepted service of the Original Notice and Petition in this case.

7. Participate in a Case Status Conference, set forth in part II of this Order (approximately 90 days after this case is filed), or have your attorney submit a signed certificate stating all pretrial requirements have been met. The pretrial certification option is available only when ***both parties*** are represented by attorneys.

8. Attend together a mediation session with a mediator no later than 60 days after the Case Status Conference, set forth in part II of this Order, if the parties have not settled the case prior to that deadline.

These requirements are designed to encourage you and the other person in the case to exchange information and to discuss possible settlement of your case before going to trial before a judge. These requirements are also intended to make trials available more quickly for people who cannot settle their cases.

If you want a court order for temporary support or assigning responsibility to pay bills after the case is filed and before you receive a final Decree, you should also use the order titled "Order re: Mediation of Temporary Matters and Setting Hearing." This will give you a fairly prompt court date to have a judge make a decision on these matters.

IT IS THEREFORE ORDERED AS FOLLOWS:

I. Financial Information Exchange. No later than 60 days after the date of service of the Petition and Original Notice in this case, each party shall give to the other party the following information:

A. Paystubs or other documentation showing income from all sources, including all deductions for federal and state taxes, health insurance premiums, union dues, and mandatory pension withholdings for the past six (6) months.

B. Documentation regarding:

1) the legal description and all appraisal and/or market analyses for all real estate owned, whether owned jointly or separately;***
2) current values of any and all investments, retirement accounts, stocks, bonds, life insurance policies, bank accounts, mutual funds, deferred compensation accounts, IRA Accounts, 401K and any and all similar accounts or plans;***
3) current statements of all debts;***
4) any documentation establishing a claim that assets were gifted, inherited or premarital property;***
5) any prenuptial agreements.***

C. Federal and State income tax returns, including all schedules and W-2's, for the last three (3) years, if not already in the other party's possession;

D. A current Affidavit of Financial Status prepared by an attorney or Form 7 ("Dissolution of Marriage — Affidavit of Financial Status")******* or Form 124 ("Financial Affidavit for a Dissolution of Marriage with no Minor or Dependent Adult Children")*******;

E. Statements of account(s) or other documentation to support the assets or liabilities listed in "Affidavit of Financial Status" or Form 7 ("Dissolution of Marriage — Affidavit of Financial Status")******* or Form 124 ("Financial Affidavit for a Dissolution of Marriage with no Minor or Dependent Adult Children")*******,

*******If this is a dissolution of marriage (divorce) case, each party shall provide all the information listed. If this is a modification case, each party must only provide the information contained in paragraphs A and C. Under the Iowa Rules of Civil Procedure, each party has the right to request additional information from the other.

II. Case Status Conference. A Case Status Conference with a judge is set for the ____ day of _____, 20____ (approximately 90 days after filing the petition in this case) at

9:00 a.m. in Room _____ at the _____ County Courthouse. Each party or his or her lawyer(s) (if a party is represented by a lawyer), shall appear before the Court and must report on the following:

A. Whether each party has provided each other with the court-ordered financial information and filed affidavits of financial status;

B. Whether there are any issues that have been agreed to and which issues each party and the other person do not agree to. If the parties are in agreement about all issues involved in this case, each party must present a proposed Decree or Order approved by all parties and attorneys within thirty (30) days after the date of the Case Status Conference.

Optional Case Status Conference Certification Procedure

If both parties are represented by an attorney and his or her attorney submits a signed certificate stating all pretrial requirements have been met, each party and his or her attorney need not attend the Case Status Conference. That Form can be found at Forms _____ ("Pretrial Compliance Form"). If both sides file a certification that all pretrial requirements have been met, counsel must promptly notify the case coordinator so the Case Status Conference can be removed from the Court's calendar. The case coordinator may be reached at (____) ___-_____. *If either party does not have a lawyer, both parties* ***shall*** *attend the Case Status Conference.*

III. Discovery disputes. In addition to the initial disclosures required by part I of this Order, at any time during the progress of this case, the parties may pursue other discovery permitted by the Iowa Rules of Civil Procedure. If necessary, parties shall file motions to compel within a reasonable time after noncompliance, but in any event no later than 30 days before trial.

IV. Mediation Requirement. Iowa Code section 598.7 provides that the Court may require the parties to participate in mediation in a marriage dissolution or related proceeding. This Court finds that mediation may help the parties to resolve their differences without court intervention and is in the best interest of the parties. Each party must meet with a mediator no later than the ____ day of _____, 20____ (approximately 60 days after the Case Status Conference). The mediator will help each party discuss his or her concerns and possible settlement options in his or her case, but the mediator will NOT give each party legal advice or make any decisions for each party. Each party may bring his or her attorney may attend mediation.

A. ***Setting Mediation.*** To arrange for his or her mediation session, each party shall contact the Coordinator of the District Court Mediation Program, (if available in your Judicial District) _____, a similarly qualified mediation service, or a qualified family law mediator to arrange a mediation session. If the parties cannot agree on a mediator, each party may request the judge to appoint one for each party.

B. ***Mediation Costs.*** Unless otherwise ordered or agreed to, each person shall pay one-half the cost of the mediation. Payment shall be due and payable to the mediator on the day of mediation. Reduced rates are available for indigent people. If either party believes that he or she cannot afford to pay a mediator, that party may apply to the District Court (or the District Court Mediation Program where available) for a reduced rate.

C. ***Waiving Mediation.*** Mediation may not be appropriate if domestic abuse has occurred. If either party seeks to waive this mediation requirement due to abuse by the other party, the party seeking the waiver shall notify the mediation program coordinator immediately of his or her desire to waive mediation. Any request to waive mediation must be filed in writing with the Clerk in this matter, and the Court must expressly grant such waiver. Until a waiver is expressly granted by the Court, the mediation requirement and its deadlines remain in force and effect. An application for the court to waive mediation can be obtained from the District Court Mediation Program or the Clerk of Court, and should be filed no later than ten days before the Case Status Conference unless good cause otherwise exists to avoid that deadline.

D. ***Obtaining a Trial Date.*** **No trial date shall be assigned until mediation has been completed and the certificate of compliance with mediation has been filed in this case.**

E. ***After Mediation.*** **At the conclusion of mediation, the parties shall:**

1) No later than 30 days after the completion of mediation, one or both of the parties shall present a final Decree or Order signed and approved by all parties and counsel to the judge; *or*

2) No later than 14 days after the completion of mediation, both parties shall confirm that the case should be set for trial and a Uniform Trial Scheduling Order will be entered in this matter.

a) In _____ County these forms may be obtained in Room _____.

b) The parties shall coordinate to obtain a trial date from _____ [Court Administration Case Coordinator's contact information].

c) The Uniform Trial Scheduling Order need not be signed by a judge.

IV. Requests for Waiver. If a party seeks to avoid any requirement listed in this Order, that party may file a written motion seeking a waiver of the requirement(s). No requirement set by this Order shall be deemed waived until expressly granted by a judge in a written order filed in this matter.

V. Penalties for failing to comply with this Order. If any party fails to meet any requirement of this Order, that party may be penalized and/or fined by the Court under Iowa Rule of Civil Procedure 1.602(5). The penalties may include, but are not limited to, a dismissal of the case, entry of default against the violating-party which grants the other person his or her requested relief, an award of attorney fees to the other party, or a fine. In addition, the judge could limit the evidence you can present at trial, or may impose a financial penalty for noncompliance.

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

IN RE THE MARRIAGE OF _____ AND _____		
Upon the Petition of	)	
_____,	)	**CASE NO. _____**
Petitioner,	)	
and Concerning	)	
_____,	)	**ORDER RE: MEDIATION OF TEMPORARY MATTERS AND SETTING HEARING**
Respondent.	)	

An application has been filed in this matter seeking a ***temporary*** order concerning:

- ☐ Child Custody/Physical Care/Visitation
- ☐ Child Support/Medical Support
- ☐ Spousal Support
- ☐ Possession of Marital Home
- ☐ Responsibility for Financial Obligations
- ☐ Attorney Fees
- ☐ Suit Money and/or Expert Witness Fees
- ☐ Other _____

Iowa Code section 598.7 gives the Court authority to order the parties to attend mediation if the Court believes mediation may help the parties to the case resolve their differences without a hearing in front of a Judge. Mediation helps those who are disputing issues while the case is pending for the following reasons:

(a) Mediation gives both parties an opportunity to communicate peacefully;
(b) Mediation encourages the parties to make their own decisions about their lives and permits the parties to control what the arrangements will be concerning the issues checked above;
(c) If a parties are a the parent of a minor child, mediation can help them develop a working relationship so that the parties can parent their child(ren) effectively while the case is pending (and afterwards);
(d) If the parties are the parent of a minor child, mediation reduces the trauma experienced by the parties' child(ren), the ones most hurt by parental conflict.
(e) At the mediation session, each party will have the opportunity to discuss how each wants to set up arrangements for all the issues checked above while the case is pending. If the parties cannot agree, then the hearing will be held at the date, time,

and place set by this Order. Further, if the hearing occurs, the parties will have given up control of how those arrangements will be and the Court will make the decision(s) for the parties on temporary arrangements for every issue checked above that the parties have not been able to resolve.

IT IS THEREFORE ORDERED that both parties shall attend a mediation session *at least* ***seven (7) days*** *before* the date set for this hearing on temporary matters.

IT IS FURTHER ORDERED THAT each party to this case shall:

(a)To arrange for his or her mediation session, each party shall [Insert district-specific mediation scheduling procedure] to arrange a mediation session. Information about mediation and mediators can be obtained from the mediateiowa.org website. If the parties cannot agree on a mediator, each party may request the judge to appoint the mediator.
(b) At least one (1) day prior to the scheduled mediation, exchange with the other party financial documents including but not limited to paystubs, federal and state tax returns, and other information that relate to the issues needing resolution in the temporary matters ruling.
(c) Attend a mediation session with the other party, each party's attorney (if you have one), and a mediator.
(d) Share the costs of mediation with the other person. If a party cannot pay for his or her share of the mediation cost, that party may ask the Court to allow you to pay on a reduced-fee basis.
(e) A party's failure to participate in mediation may result in adoption of the other party's requested relief without input from the party who does not participate.

IT IS FURTHER ORDERED THAT, if mediation results in a stipulated agreement or the parties reach an agreement without mediation, either party shall file the stipulation and agreement no later than the time set for hearing in this Order.

IT IS FURTHER ORDERED THAT before the hearing set herein each party shall:

(a) no *later* than ***Noon*** *three business days before* the date set for hearing:
   1) file Child Support Guideline Worksheets for each physical care determination at issue;
   2) file an Affidavit of Financial Status;
   3) file affidavits in support of that party's position regarding the issues on temporary matters remaining to be decided by the Court

(b) regarding the affidavits referenced in (a)(3), above:
   1) Each party may file his or her own affidavit plus affidavits from other persons;
   2) Each party is limited to 25 pages ***total*** for ***all*** affidavits submitted, including attachments, unless a greater amount is allowed only after granted permission by the court.

3) Each and every affidavit submitted to the Court shall clearly identify its author, and shall be typewritten, signed, and sworn by including the following language:

I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

_____ [Date] _____ [Signature of author].

(c) No *later* than ***Noon*** *one business day before* the hearing, a party may supplement his or her own affidavit with a rebuttal affidavit in response to the other party's affidavits; ***however***, this rebuttal affidavit is part of the 25 page limit, therefore, if a party has already submitted 25 pages of affidavits referenced in (a)(3) above, that party has met the maximum number of pages and rebuttal affidavit(s) will not be permitted.

(d) Failure to comply with either the page limitation for affidavits or the time for filing documents set out in this order, may result in sanctions, including but not limited to the Court not considering the offending documents.

(d) When a party files a document with the Court, that party shall fax, email, or hand-deliver a copy to the lawyer for the other person in the case, or directly to the other party if he or she does not have a lawyer. Each party shall do this on the same day that party files a document with the Court.

IT IS FURTHER ORDERED THAT the hearing on temporary matters shall occur in room _____ of the _____ County courthouse at _____ ___M. on the _____ day of _____ 20____. Each party shall be present. At the hearing, the judge will decide in open court whether either party will testify, or if the case will be decided only on the documents filed with the Court. If testimony is taken by the Court, the hearing shall be reported by a Court Reporter.

- ☐ Clerk shall mail notice to counsel or unrepresented parties.
- ☐ Applicant shall personally serve a copy of this order (and application) on the other party at least 14 days prior to the hearing.

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

IN RE THE MARRIAGE OF _____ AND _____

Upon the Petition of

_____,

Petitioner,

and Concerning

_____,

Respondent.

CASE NO. _____

UNIFORM TRIAL SCHEDULING ORDER IN FAMILY LAW CASE

The above entitled matter is set for trial. A Non-Jury Trial is scheduled on _____ at _____ __M at the _____ County Courthouse, _____. Trial is anticipated to take _____ day(s).

IN IS FURTHER ODERED:

1. **Pretrial Conference.** A judicially supervised Pretrial Conference is scheduled on ____ day of _____ 20___ at __ ___M at the _____ County Courthouse, _____, Iowa (no later than 30 days before trial). Both parties and counsel-of-record, shall appear personally one hour prior to the scheduled pretrial conference for the purpose of conducting good faith settlement negotiations and considering other matters that may aid, expedite, or simplify the trial. By the time of the pretrial conference, the parties shall have the following completed:
    a. updated and current pretrial statement, which includes any agreements reached and all issues remaining for trial,
    b. updated and current financial affidavits;
    c. dated Child Support Guidelines, if applicable. The parties shall file work sheets for each physical care determination when physical care continues to be an issue for trial as shown on the updated Pretrial Statement.
2. No later than three days before trial, a partial stipulation on all agreed-upon issues shall be signed by counsel and their clients and filed with the clerk.
3. If the parties or counsel fail to comply with this order, the Court may impose any sanction contemplated by the Iowa Rule of Civil Procedure 1.602 (5).
4. Clerk to notify.
5. **Pretrial disclosures.** The attorneys and self-represented parties shall comply with the Iowa Rule of Civil Procedure 1.500(3) which requires, among other things, the exchange of a witness and exhibit list no later than 14 days before trial. The lists shall be filed with the court as well.
6. **Exhibits.** The parties shall pre-mark exhibits. The party who started this immediate case shall

use numbers beginning with 100. The responding party shall use numbers beginning with 500. Each party shall submit an exhibit checklist for use by the court and court reporter. Each party shall provide a copy of all exhibits to the other party no later than 7 days before trial.

7. **Personal property division.** If the parties dispute the division of personal property, they shall jointly prepare and submit a single list of the property and each party's valuation of every item on the list.
8. **Statement of requested relief.** No later than Noon 2 days prior to trial, each party shall file with the Court a statement detailing the relief requested by the court. This statement shall include:
    a. stipulations the parties have reached an agreement; and
    b. that party's position on any issue to be decided by the court and recommendations on how the court should decide the issue.
9. **Presentation of Evidence.** Unless otherwise directed by the trial judge, the order of testimony shall be as follows: (a) direct examination then cross examination of initiating party; (b) direct examination then cross examination of responding party; (c) initiating party's additional witnesses; and (d) responding party's additional witnesses.
10. **No closing arguments.** The court will not hear closing arguments. Each party may submit a legal brief outlining her or his position and citing relevant and helpful authority at the time of trial. The presiding judge may authorize post-trial briefs.
11. **Noncompliance.** Failure to comply with any provision in this or subsequent pretrial order(s) may result in the court's refusal to proceed with trial and/or imposition of sanctions pursuant to I.R.C.P. 1.602(5). Enforcement is at the discretion of the presiding judge. Parties failing to comply do so at their peril.

Spousal Support Work Group Report
March 22, 2016

I. **Overview**

A. Task Force and Spousal Support Work Group Assignments. Among its charges, the Supreme Court Order, filed January 14, 2015, establishing the Iowa Family Law Case Processing Task Force directed the Task Force to "(e)xamine innovative procedures and programs used in other jurisdictions, including spousal support calculation guidelines and from these procedures and programs, identify those that hold the most promise for Iowa litigants and the public at large." In particular, the Spousal Support Work Group (WG) has been asked to "investigate the pros and cons of alimony guidelines and develop recommendation(s) regarding their use in Iowa."

B. WG Membership. The members of this WG are: Andrea Charlow , Associate Dean, Drake University Law School (Co-Chair); Steven Lytle, attorney, Des Moines (Co-Chair); Anjela Shutts, attorney, Des Moines (Recorder); retired Chief Justice of the Iowa Supreme Court; Louis A. Lavorato; the Honorable David Danilson, Chief Judge of the Iowa Court of Appeals; the Honorable Duane Hoffmeyer, Chief Judge of the Third Judicial District; Justin Teitle, attorney, Davenport; and Lori Klockau, attorney, Iowa City.

C. WG Meetings and Outside Input. The WG has met on a semi-monthly basis since May 2015. The WG has reviewed the following sources: Recent case law from the Iowa Supreme Court and Iowa Court of Appeals, the factors cited in Iowa Code Chapter 598, Supreme Court Administrative Internship Spousal Support Guidelines Report, articles published in the American Academy of Matrimonial Lawyers, ALI guidelines, guidelines from various states which have adopted spousal support guidelines, Canadian national spousal support guideline model, Supreme Court rule-making authority, and numerous other resources.

II. **WG Task Priorities**. The WG initially identified the following priorities:

A. Survey Bench and Bar regarding attitudes toward adoption of Iowa Uniform Spousal Support guidelines.

B. Survey and analyze existing spousal support guidelines in the U.S. and Canada.

C. Articulate reasons for and against adoption of spousal support guidelines.

D. If the Spousal Support Work Group is to recommend adoption of Iowa Uniform Alimony Guidelines, determine whether the guidelines should be promulgated by the Legislature or if by Court Rule and whether legislative authorization or approval is required.

E. If the Spousal Support Work Group is to recommend adoption of Iowa Uniform Spousal Support Guidelines, consider the parameters of the recommendation, to include:

1. Threshold considerations.

2. Methodology for determining amount of alimony.

3. Methodology for determining duration of alimony.

4. How other factors outlined in Iowa Code Chapter 598, such as age, are to be considered.

5. How child support payments should interrelate with alimony awards.

6. Consideration of rural/urban differences, if any.

7. The standards for judicial deviation from the guidelines, if any.

III. Processes Undertaken

A. Materials reviewed. The WG reviewed and discussed spousal support guidelines information from a large number of surveys including those materials identified in I(C) above.

B. Survey of Bench and Bar. The WG drafted and submitted a survey to the Bench and Bar. Approximately 400 members of the Bar and 52 Judges of the Iowa District Courts responded. The survey results are detailed and analyzed in Section V.E. of this report. The WG also accumulated anecdotal information from the participants in this year's ISBA Family Law Seminar held in October.

C. Consultation with Economist. The WG consulted with Jane Venohr, PhD., Center for Policy Research, the economist who assists with the quadrennial Iowa Child Support Guideline reviews, to determine whether there is economic data available to serve as a basis for the establishment of spousal support guidelines.

D. Internship Report. The WG reviewed in depth the information and recommendations contained in the Supreme Court Administrative Internship, Spousal Support Guideline Report.

E. Consideration of various guideline models and theories of support. The WG has studied a variety of spousal support guideline models (American and Canadian) as well as various theories upon which spousal support is based, including:

1. Compensatory.
2. Need based.

a. Basic
b. Average standard of living (needs and means approach)
c. Income sharing (close the gap approach)

F. Articulate Pros and Cons of Adopting Spousal Support Guidelines. The WG discussed and detailed the pros and cons of adopting uniform guidelines.

G. Develop Conclusions and Recommendations. The WG developed final conclusions and recommendations to the Supreme Court to be contained in the Task Force Report. Those conclusions and recommendations are detailed in the final section or this WG report.

IV. Future Action

This WG sees its role as limited to making recommendations to the Supreme Court on the advisability of adopting spousal support guidelines and the factors that should be considered or accounted for by the guidelines. The work of developing those guidelines, should the Supreme Court determine to move in that direction, will be at the further direction of the Court. The length of time necessary to formulate guidelines and successfully implement them will in large part depend on the role of legislature, if any, in the process. While specific authority has been granted to the court to develop, implement, and maintain child support guidelines, no similar authority presently exists with respect to spousal support guidelines. The court may choose to: (a) proceed under its general rule-making authority without legislative pre-approval; (b) seek a prior general grant of authority from the legislature to develop spousal support guidelines; or (c) seek specific statutory adoption of guidelines by the legislature. The path chosen will impact the time-frame for implementation. No matter the procedural process selected, if the guidelines are to be mandatory or presumptive it will be important to involve a broad base of constituencies in the development of guidelines (bench, bar, public, economic and technical expertise, legislature). The WG estimates, at a minimum, a two to three-year process should the Supreme Court determine to move forward with developing and adopting mandatory or prescriptive spousal support guidelines. Alternatively, should the Supreme Court determine to adopt by court rule guidelines that are discretionary only, the process can be substantially shortened.

V. The Report

Before summarizing the WG's conclusions and recommendations it is important to share the relevant background information, research and external input considered by the WG.

A. Current Status of Law Regarding Spousal Support

Under the current version of Iowa Code § 598.21A(1) (2015), a court may grant an order requiring support payments . . . for a limited or indefinite length of time after considering *all* of the following factors set out in Iowa Code Section 598.21A:

> 1. *Criteria for determining support.* Upon every judgment of annulment, dissolution, or separate maintenance, the court may grant an order requiring

support payments to either party for a limited or indefinite length of time after considering all of the following:

a. The length of the marriage.

b. The age and physical and emotional health of the parties.

c. The distribution of property made pursuant to section 598.21.

d. The educational level of each party at the time of marriage and at the time the action is commenced.

e. The earning capacity of the party seeking maintenance, including educational background, training, employment skills, work experience, length of absence from the job market, responsibilities for children under either an award of custody or physical care, and the time and expense necessary to acquire sufficient education or training to enable the party to find appropriate employment.

f. The feasibility of the party seeking maintenance becoming self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage, and the length of time necessary to achieve this goal.

g. The tax consequences to each party.

h. Any mutual agreement made by the parties concerning financial or service contributions by one party with the expectation of future reciprocation or compensation by the other party.

i. The provisions of an antenuptial agreement.

j. Other factors the court may determine to be relevant in an individual case.[1]

Much case law has been developed regarding the topic. In *In re Marriage of Francis*, set out the three types of spousal support.[2] "The amount of alimony awarded and its duration will differ according to the purpose it is designed to serve."[3] "There are three types of spousal support—traditional, rehabilitative, and reimbursement—and the purpose of each is different."[4] "Traditional spousal support is payable for life or for as long as a spouse is incapable of self-support. The goal of rehabilitative spousal support is to support an economically-dependent spouse through a limited period of reeducation or retraining, to allow the spouse to become self-supporting. Finally, reimbursement spousal support is awarded to compensate a spouse for contributions to the other spouse's earning capacity."[5] "'[P]rior cases are of little value in determining the appropriate alimony award.' The amount of spousal support is always calculated equitably based upon all the factors contained in Iowa Code section 598.21A(1)."[6] The categories may overlap in some cases.[7]

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[1] IOWA CODE § 598.21A(1) (2015).

[2] 442 N.W.2d 59, 63–64 (Iowa 1989).

[3] *In re* Marriage of O'Rourke, 547 N.W.2d 864, 866-67 (Iowa App. 1996) (citing *Francis*, 442 N.W.2d at 63–64).

[4] *In re* Marriage of Klemme, 858 N.W.2d 37 (table), 2014 Iowa App. LEXIS 1011, at *12 (Oct. 15, 2014) (citing *In re* Marriage of Becker, 756 N.W.2d 822, 826 (Iowa 2008)).

[5] *Id.* at *12–13 (citing *Becker*, 756 N.W.2d at 826) (internal citations omitted).

[6] *In re* Marriage of Bonnichsen, 844 N.W.2d 469 (table), 2014 Iowa App. LEXIS 87, at *5 (Jan. 23, 2014) (quoting *Becker*, 756 N.W.2d at 825) (internal citations omitted).

[7] *See, e.g.*, *Becker*, 756 N.W.2d at 827–28 (noting "the support award [could not be characterized] as purely rehabilitative or traditional," but comported with the factors found in the Iowa Code).

1. Traditional Spousal Support

In a landmark decision, *In re Marriage of Gust*, the Iowa Supreme Court discussed traditional spousal support at length.[8] "'The purpose of a traditional or permanent alimony award is to provide the receiving spouse with support comparable to what he or she would receive if the marriage continued.'"[9] "Traditional support is ordinarily of unlimited or indefinite duration."[10] In *Gust*, the Iowa Supreme Court determined that it should consider specifically the duration of the marriage (with an award of traditional spousal support more likely if the marriage was 20 or more years).[11] The imposition and length of the award depends on need and ability and the parties' relative earning capacities.[12] The length of imposition is "payable until the death of either party, the payee's remarriage, or until the dependent is capable of self-support at the lifestyle to which the party was accustomed during the marriage."[13] "Traditional spousal support is often used in long-term marriages where life patterns have been largely set and 'the earning potential of both spouses can be predicted with some reliability.'"[14] In marriages of long duration, spousal support can be used to compensate a spouse who leaves the marriage at a financial disadvantage, especially where the disparity in earning capacities is great.[15] In order to limit or end traditional support, the evidence must establish that the payee spouse has the capacity to close the gap between income and need or show that it is fair to require him or her alone to bear the remaining gap between income and reasonable needs.[16]

2. Reimbursement Spousal Support

In re Marriage of Francis, was landmark for creating and defining the three types of spousal support, however, also was landmark for establishing the concept of reimbursement spousal support – i.e. based upon economic sacrifices by one spouse during the marriage that directly enhanced the future earning capacity of the other.[17] "Where divorce occurs shortly after [an advanced] decree is obtained [by one spouse], traditional alimony analysis would often work hardship because, while [they may have few tangible assets and] both spouses have modest incomes at the time of divorce, the one is on the threshold of a significant increase of earnings."[18] Reimbursement spousal support is not subject to modification or termination until full compensation is achieved, though because of the personal nature of the award and the current tax laws, the payments must terminate on the recipient's death.

"Reimbursement spousal support, in particular, is based upon economic sacrifices made by one spouse during the marriage that directly enhance the future earning capacity of the

[8] 858 N.W.2d 402 (Iowa 2015).
[9] *Id.* at 408 (quoting *In re* Marriage of Hettinga, 574 N.W.2d 920, 922 (Iowa Ct. App. 1997)).
[10] *Id.* (citing *In re* Marriage of Francis, 442 N.W.2d 59, 64 (Iowa 1989)).
[11] *Id.* at 410–11.
[12] *Id.* at 411.
[13] *Id.* at 412.
[14] *Id.* at 410 (quoting *Francis*, 442 N.W.2d at 62–63)); *see also In re* Marriage of Kurtt, 561 N.W.2d 385, 388 (Iowa Ct. App. 1997).
[15] *Id.* at 411; *see also, e.g.*, *In re* Marriage of Clinton, 579 N.W.2d 835, 838–39 (Iowa Ct. App. 1998).
[16] *Gust*, 858 N.W.2d at 412.
[17] 442 N.W.2d 59, 64 (Iowa 1989).
[18] *Id.* at 63 (quoting Petersen v. Petersen, 737 P.2d 237, 242 n.4 (Utah Ct. App. 1987)).

other."[19] "Reimbursement support is appropriate following 'marriages of short duration which are devoted almost entirely to the educational advancement of one spouse and yield the accumulation of few tangible assets.' An award of reimbursement support should be based upon the future earning capacities of the parties. In determining future earning capacity, a court may consider the education, skill or talent of the parties."[20]

3. Rehabilitative Spousal Support

Rehabilitative spousal support is designed to "rehabilitate" the lower wage earning spouse to an ability to support him or herself post-divorce. "We recognize this marriage was of relatively short duration. But [the party's] inferior earning capacity and her physical limitations militate in favor of rehabilitative spousal support . . . The rehabilitative alimony awarded here reflects the disparity in the parties' relative needs and earning capacities upon dissolution of their marriage."[21] The court also took into account the temporariness of the payee spouse's job at the time of dissolution.[22] Rehabilitative spousal support is not appropriate where the party seeking support was able to complete her degree during the parties' marriage.[23]

The dependent spouse's premarriage standard of living is irrelevant. Nowhere does the Code direct the Court to restore an ex-spouse to his or her premarital standard of living. Rather, Iowa Code § 598.21(3)(f) directs the Court to consider, among other factors, "'[t]he feasibility of the party seeking maintenance becoming self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage . . . .'"[24]

B. *Gust* and Subsequent Cases

The Supreme Court in *Gust*[25] reaffirmed that the standard for review of spousal support orders is de novo, but the court "will disturb the trial court's order '"only when there has been a failure to do equity."'"[26] The opinion begins with a review of the statutory factors for spousal support in Iowa and prior decisions based on those factors. The court then explains the importance of the duration of the marriage as a factor in determining whether support will be granted. It does not set a 20-year marriage as absolutely warranting spousal support, but it opines that a 20-year marriage would generally "merit serious consideration for traditional spousal support."[27]

According to *Gust*, traditional support is predicated on need and ability to pay.[28] The spousal support award is aimed at helping the spouse "become self-sufficient at 'a standard of

[19] *In re* Williams, 825 N.W.2d 327 (table), 2012 Iowa App. LEXIS 967, at *6 (Nov. 15, 2012) (citing *Francis*, 442 N.W.2d at 64; *In re* Marriage of Farrell, 481 N.W.2d 528, 530 (Iowa Ct. App. 1991)).
[20] *Id.* (citing *Francis*, 442 N.W.2d at 62, 64) (internal citations omitted).
[21] *In re* Marriage of Nurre, 832 N.W.2d 384 (table), 2013 Iowa App. LEXIS 382, at *9 (Apr. 10, 2013).
[22] *Id.* at *8.
[23] *See, e.g.*, *In re* Marriage of Stephens, 843 N.W.2d 478 (table), 2014 Iowa App. LEXIS 25, at *19 (Jan. 9. 2014).
[24] *In re* Marriage of Grauer, 478 N.W.2d 83, 85 (Iowa Ct. App. 1991) (quoting IOWA CODE § 598.21(3)(f) (1991)).
[25] *In re Marriage of Gust*, 858 N.W.2d 402 (Iowa 2015)
[26] *Id.* at 406 (quoting *In re* Marriage of Olson, 705 N.W.2d 312, 315 (Iowa 2005)).
[27] *Id.* at 410–11.
[28] *Id.* at 411.

living reasonably comparable'" to the marital standard.[29] The court rejected a theory of alimony based on subsistence or externally imposed "adequacy," and stated that earning capacity is used to determine need.[30]

The opinion briefly reviewed spousal support guidelines in other states and those previously recommended by the American Association of Matrimonial Lawyers and the American Law Institute.[31] The court specifically noted,

> Where there is a substantial disparity, **we do not employ a mathematical formula to determine the amount of spousal support**. We have, however, approved spousal support where it amounts to approximately thirty-one percent of the difference in annual income between spouses.[32]

The Working Group believes the *Gust* case has been misconstrued by some judges and attorneys as setting alimony guidelines for Iowa at approximately 31% of the difference in annual income of the spouses. Although the opinion mentioned guidelines, and approved an award of 31% in the *Gust* case, the above quotes regarding standard of review and the denial of a formula for spousal support indicate that the award in *Gust* was upheld because the trial court did not fail to do equity.

Because many guideline models set the duration as well as the amount of support, the court's statements regarding duration should be mentioned here as well. The court notes that the duration of traditional support is normally until death, remarriage, or when the recipient becomes capable of self-support at the marital standard.[33] It decided that retirement does not automatically terminate the support obligation. A petition for modification is more appropriate at the time of retirement so that the court can consider the facts as they exist at the time of retirement pursuant to the dictates of Iowa Code Section 598.21C(1).[34]

The dissent argued that the burden of proof was on the payee spouse to show that the payor would have sufficient funds at the time of retirement.[35] The dissent also opined that the payor would not be able to prevail in a modification action because he would not be able to show that the circumstances at the time of his retirement were not contemplated at the time of the dissolution.[36] The dissenters contend that the award should terminate at retirement and the burden of proof should be on the payee to bring a modification action to prove that the payor had sufficient funds to continue to pay support.

1. Subsequent Interpretation of *Gust* by Court of Appeals

[29] *Id.* (quoting Iowa Code § 598.21A(1)(f) (2015)).
[30] *Id.*
[31] *Id.* at 408–10. The committee has received information which suggests that the AAML now rejects the use of alimony guidelines.
[32] *Id.* at 411–12 (emphasis added) (internal citations omitted).
[33] *Id.* at 412.
[34] *Id.* at 412–13.
[35] *Id.* at 419.
[36] *Id.* at 420.

A number of cases have been decided by the Court of Appeals following *Gust*. Subsequent cases cite *Gust* with respect to the scope of review. A footnote in *Mauer*, cites to *Gust* and the former AAML guidelines, but clarifies that the formulas used are merely a "reality check" on an award.[37] In other words, an award consistent with the guidelines probably does equity, but awards that are not consistent are not necessarily improper.

The *In re Marriage of Larson* case likewise reaffirms that there is no mathematical formula for spousal support.[38]

> **We do not believe the court intended *Gust* to set a fixed percentage**. It remains our duty imposed by our legislature to apply statutory factors set forth in Iowa Code Section 598.21A. Yet at times the factors leave the trial court with little guidance in fixing the specific amount. The percentage applied in *Gust* is useful to allow a court to "be in the ball park" but the percentage amount may still be "out in left field" because of the factors set forth in section 598.21A. If the statutory factors do not weigh heavily to either side, the thirty-one percent of the parties' net income provides a reasonable guide, as approved in *Gust*.[39]

The District court in that case awarded $2500/month permanent support. The Court of Appeals awarded $5000/month rehabilitative support and $3000 thereafter, explaining the higher amount was based on the large disparity in income, the wife's inability to achieve the marital standard of living, the husband's ability to maintain his standard of living, a 32-year marriage, use of the husband's lowest earnings for the computation and the husband's generous company benefits.

In the *In re Marriage of Fitzgerald* case, the Court of Appeals again noted that there is no mathematical formula for spousal support and referred to the fact that *Gust* had approved 31% of the income differential as generally reasonable.[40] The Court of Appeals awarded $1200 instead of the $400 awarded by the district court and expounded on the facts of the case that justified the higher award.

In two other cases, the Court of Appeals upheld district court awards of less than 31%.[41] The Court of Appeals has cited *Gust* in a similar manner in several additional cases.[42]

Thus, it appears that neither the Supreme Court nor the Court of Appeals has established spousal support guidelines. *Gust* sets out the traditional scope of review and notes that 31% of the income differential has been held to be generally appropriate for permanent alimony. The study of appellate cases performed by the Drake Supreme Court Administrative interns supports

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[37] *In re* Marriage of Mauer, 863 N.W.2d 35 (table), 2015 Iowa App. LEXIS 172, at *21 n.7 (Feb. 25, 2015).
[38] *In re* Marriage of Larson, No. 14-1333, 2015 Iowa App. LEXIS 918 (Oct. 14, 2015).
[39] *Id.* at *20–21 (emphasis added).
[40] 868 N.W.2d 202 (table), 2015 Iowa App. LEXIS 521, at *8–9 (June 10, 2015).
[41] *See In re* Marriage of Johnson, No. 14-1217, 2015 Iowa App. LEXIS 378, at *3–4 (Apr. 22, 2015); *In re* Marriage of Wilson, 864 N.W.2d 553 (table), 2015 Iowa App. LEXIS 307, at *5–7 (Apr. 8, 2015).
[42] *See In re* Marriage of Petesich, No. 14-2148, 2015 Iowa App. LEXIS 1003, at *7–9 (Oct. 28, 2015); *In re* Marriage of Martin and Davis-Martin, No. 14-0568, 2015 Iowa App. LEXIS 110, at *15–19 (Feb. 11, 2015).

the statement of the Supreme Court regarding prior approval of awards of thirty-one percent of the income differential.[43]

2. **Mauer**

In January of 2016, the Iowa Supreme Court issued an opinion in the *Mauer*[44] case that clarified the prior holding in *Gust*. The court in *Mauer* reiterated that there is no mathematical formula for determining spousal support in Iowa and that courts must employ the "multifactor statutory framework" in Iowa Code §598.12A.[45] It explained that its opinions "establish the comparative weight or importance of certain statutory criteria relative to others."[46] The Court acknowledged that this approach may lead to a degree of inconsistency because of the variation in circumstances of each divorcing couple. The opinion also reiterates that although the AAML guidelines might provide a "reality check," they are not binding in Iowa.[47]

The Court in *Mauer* further clarified the *Gust* holding by cautioning that the AAML guidelines are "neither a starting point for a trial court nor …the decisive factor…on appeal."[48] Guidelines based spousal support calculations must yield to determinations based on the statutory factors. The Supreme Court verified that, although it found the amount of support in that case to be consistent with the AAML guidelines, it applied the statutory factors to arrive at the appropriate award.[49]

The Supreme Court, in its opinion in *Mauer,* noted that the entire analysis of the Court of Appeals applying the statutory factors was contained in two sentences.[50] Instead of providing a detailed analysis justifying the higher award, the Court of Appeals acknowledged that their decision was consistent with the AAML guidelines, and stated that the higher amount they awarded would "do equity."[51] The Supreme Court noted that the guidelines would not apply to the high income in the *Mauer* case, and that factors justifying adjustment of the initial guideline calculation were present in that case. The Supreme Court further found incompatible with Iowa law the fact that the Court of Appeals recognized that the wife could have maintained the marital standard of living with a lesser amount of spousal support.[52]

Despite the above analysis, it should be noted that, although the Supreme Court did not adopt a spousal support guideline or formula, prior to the Supreme Court decision in *Mauer*, the Court of Appeals repeatedly used 31% as a basis for determining whether an award is equitable

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[43] Although the internship study was limited in scope to appellate cases from a specified time period that contained sufficient information for analysis, those cases supported the Supreme Court's statement in *Gust* that they had generally affirmed permanent spousal support awards of 31% of the difference in income of the spouses. *See generally* CLARISSA BIERSTEDT, EMILY COHEN & PEGGY MICHELOTTI, SUPREME COURT ADMINISTRATIVE INTERNSHIP SPOUSAL SUPPORT GUIDELINES REPORT (2015) [hereinafter *Report*].

[44] *In re* Marriage of Mauer, 2016 WL 359001 (IA 2016).

[45] *Id.*. at *3.

[46] *Id.* at *4.

[47] *Id.* at *5.

[48] *Id.*

[49] *Mauer*, 2016 WL 359001 at *6.

[50] *Id.* at *8.

[51] *In re* Marriage of Mauer, 863 N.W.2d 35 (table), 2015 Iowa App. LEXIS 172, at *21 n.7 (Feb. 25, 2015).

[52] *Mauer*, 2016 WL 359001 at *7.

possibly establishing a de facto spousal support guideline in Iowa. Members of the WG reported, anecdotally, 31% was being adopted as a starting point for spousal support computation by many members of the Bar and some judges. The clarification in *Mauer* should end that practice, but, although the Court stated that guidelines may not be a starting point or a decisive factor, they did not clearly reject the idea that guidelines might be used as a reality check. At the time of this report, there have been no appellate cases subsequent to *Mauer* that would shed light on whether the practice of using guidelines as a starting point has now been abandoned.

C. **Discussion of Various Models for Spousal Support Guidelines**

The concept of spousal support historically arose in the English common law system and over time the law of spousal support has evolved into its modern forms. With the advent of "no fault divorce" spousal support became somewhat disfavored in the court system and equitable distribution of property was often a preferred method to settle parties' financial disparities.[53]

The search for a meaningful rationale on which to base spousal support guidelines has taken many divergent paths in the United States and Canada. Formula based approaches for determining spousal support all share common goals of consistency, predictability, and adequacy. The theoretical basis for each type of spousal support drives both the methodology of the formula and its application.

The "compensatory theory" of spousal support seeks to compensate a spouse for financial losses they may have experienced during the marriage due to absence from the job market for child rearing, multiple moves to support the other party's career, etc. The "need based" approach attempts to take into account the difference in the parties' incomes to determine spousal support awards. Some methods look at "expendable income" to calculate the marital standard of living when setting spousal support amounts.

There is no cohesive approach or theory of spousal support in the United States. While most state statutes have goals of fairness and equity there is no overall theoretical or formula framework for spousal support in the American court system. In contract, the Canadian Supreme Court has developed a cohesive rationale for their "Spousal Support Advisory Guidelines" over a period of several years. The Canadian Supreme Court's decisions on the implementation of these guidelines have been channeled into a comprehensive manual for practitioners which is used throughout the country. It should be noted that the original user manual contains 182 pages and has spawned the development of a substantial body of case law to interpret it. A new and improved user's guide now contains 64 pages.

1. Theoretical Basis

a. Compensatory Approach

The American Law Institute (ALI) and the American Academy of Matrimonial Lawyers (AAML) recommend that spousal support is "compensation for economic losses that one of the

[53] *See* CYNTHIA LEE STARNES, THE MARRIAGE BUYOUT: THE TROUBLED TRAJECTORY OF U.S. ALIMONY LAW 44–45 (2014.)

spouses incurred as a result of the marriage."[54] If economic losses are reflected by a difference in parties' incomes at the time of the divorce then a compensatory formula sets spousal support based on a specific percentage of the difference in the parties' incomes for a specific period of time based on the length of their marriage.[55]

b. Need based Approaches.

(1) *Basic.* Some states, such as Nevada and New Mexico, have devised a simple one page worksheet that attempts to reach equitable results using income percentages and marriage duration factors. Other basic approaches in methodology, such as one used in Florida, use a range of percentages rather than a set amount. The difference of the parties' incomes is multiplied by a percent that is determined by the numbers of years of the parties' marriage.[56]

(2) *Average Standard of Living.* Other guideline approaches use a set percentage of a payor's income minus a percentage of the payee's income to calculate the spousal support award amount. This method attempts to take into account the marital standard of living by calculating the parties' expendable income prior to calculating spousal support.[57] For example, the Massachusetts spousal support statute defines spousal support as a payment to a spouse "in need." Like Iowa, Massachusetts law also recognizes different types of spousal support (rehabilitative, reimbursement, transitional, and spousal support for an economically dependent spouse). Reimbursement and transitional spousal support awards are made only in marriages of 5 years or less. Rehabilitative and general spousal support awards are not modifiable unless a substantial change of circumstances is proven. The Massachusetts statute also caps duration and value of spousal support award unless a marriage is greater than twenty years in duration.

This method attempts to take into account the marital standard of living by calculating the parties' expendable income prior to calculating spousal support.[58]

(3) *Income Sharing.* The income-sharing approach takes the difference in the parties' incomes and applies a percentage of that difference to compute the spousal support award. The Johnson County, Kansas Bar Association developed income sharing guidelines that are used in several Kansas counties. These guidelines calculate 25 percent of the difference in the parties' gross incomes up to a difference of $50,000 per year. For a difference in excess of $50,000, 22% is applied to the excess and added to the award. These guidelines also apply a durational factor for the support award.

2. American Guidelines

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[54] Mary Kay Kisthardt, *Re-Thinking Alimony: The AAML's Considerations for Calculating Alimony, Spousal Support, or Maintenance*, 21 J. AM ACAD. MATRIM. LAWS. 61, 72 (2008).
[55] PRINCIPLES OF THE LAW OF FAMILY DISSOLUTION: ANALYSIS AND RECOMMENDATIONS § 5.02 (AM. LAW INST. 2002).
[56] *Report*, *supra* note 43, at 6.
[57] *Id.*
[58] *Id.*

Almost one-half of U.S. states have some sort of spousal support guidelines but there is no consistent approach used across the country. Some spousal support guidelines are statutory and others are adopted as court rules. In Colorado, a guideline formula is part of the text of the spousal support statute. Some states use their spousal support guidelines in temporary support situations only. Other states, such as Illinois, use their guidelines for temporary and permanent support. In the United States there are differing methods, formulas, and applications of support guidelines.

3. Canadian Guidelines

The Canadian approach to spousal support is the result of a long term, careful development of a cohesive rationale for "Spousal Support Advisory Guidelines." These "non-mandatory" guidelines are used throughout the country as a tool in spousal support determinations. These guidelines are much more than a software program which provide a range of possible support results. These "Advisory Guidelines" are accompanied by a User's Guide that incorporates the underlying theory and Canadian case law into a practitioner's manual that is the result of years of exhaustive effort on the part of its creators and the Department of Justice Canada.[59]

Canadian family law assumes a very expansive basis for entitlement to spousal support. In general, if there is a significant income disparity between the parties, an entitlement to some spousal support is assumed. The Advisory Guidelines assist in determining the amount and duration of spousal support. Because Canadian courts rarely find that there is no spousal support award if there is an income disparity between the parties, the need for fair and consistent results in spousal support awards is very compelling.

4. Internship Report

The Supreme Court Administrative Internship Spousal Support Guidelines Report prepared by the Drake Law School students of Andrea Charlow recommend using a hybrid of guideline methods used in Pennsylvania, Kansas, and Massachusetts. This method would compute the net income of each party, compute the difference, and apply a percentage on that difference to compute the spousal support award. The interns recommend adopting a percentage range of 25% to 35% of the income differential. This report recommends the percent range in order to be consistent and predictable while allowing the court to use its discretion in applying Iowa Code §598.21A factors.

The formula is summarized as follows:

Recommended Formula for Calculating Amount of Spousal Support Award:

1. Payor's Net Income minus Payee's Net Income = Difference in Income
2. Difference in Income times 25%-35% = Spousal Support Award

[59] *See* CAROL ROGERSON AND ROLLIE THOMPSON, THE SPOUSAL SUPPORT ADVISORY GUIDELINES: A NEW AND IMPROVED USER'S GUIDE TO THE FINAL VERSION (2010).

The interns also recommend capping spousal support awards to prevent unfair results as they view Iowa's theory of spousal support is to preserve the marital standard of living, not equalizing the parties' incomes.

Additionally, the interns recommend a formula for duration of spousal support awards, summarized as follows:

Recommended Formula for Calculating Duration of Spousal Support Award:

Years Married	Duration of Award
0 < 5 years	Rebuttable presumption against spousal support
5 < 10 years	40% mos. married
10 < 15 years	60% mos. married
15 < 20 years	80% mos. married
20+ years	Permanent or 100%

D. **Supreme Court administrative internship spousal support guidelines report**

1. Introduction

During the 2014 - 2015 academic year at Drake Law School, the Iowa Supreme Court tasked a group of its administrative interns with a research project concerning spousal support in Iowa. The group included Drake Law students Clarissa Bierstedt, Emily Cohen, and Peggy Michelotti. The Court requested the students to research spousal support guidelines currently in place in other states throughout the United States, and report its findings. Based on the research, the interns were to determine whether spousal support guidelines should be adopted in Iowa, and if so, to recommend guidelines which complied with existing Iowa spousal support laws.

The group examined various matters in its research, including the current state of Iowa law, guidelines in other states, historical perspectives, contemporary practical considerations and proposed guidelines from legal organizations. The authors found spousal support guidelines would greatly promote consistency and predictability in spousal support awards in Iowa, and that such guidelines could be drafted to comply with Iowa's theory of spousal support and the Iowa Code. The group went on the recommend that Iowa adopt spousal support guidelines, and provided recommended guidelines which included a formula for calculating the amount and duration of spousal support in certain dissolution of marriage situations.

2. Summary of report

The Spousal Support Guidelines Report (hereinafter cited as "Report") begins with an examination of Iowa spousal support law and theory. The authors note the statutory factors to be considered when determining whether to award spousal support as set forth at Iowa Code § 598.21(a)-(j), along with supporting case law. The report indicates "Iowa case law has not enumerated a specific theory of alimony."[60] It references the history of focusing on need and ability to pay as touchstones for spousal support awards, and examines reasons historically sited

[60] *Report*, *supra* note 43, at 13.

as appropriate considerations in awarding permanent spousal support. This section concludes by providing the critiques of multiple legal commentators and the observations of the Iowa Supreme Court regarding the use of a multi-factor statute in an effort to make spousal support awards more predictable, consistent and fair.

The authors next review the different types of spousal support in Iowa, beginning with a distinction between permanent and temporary spousal support. Caveats are provided regarding the differing understandings of these terms. The report describes traditional spousal support as generally not considered for marriages of less than twenty years or for recipients who are capable of rehabilitation. The Court has stated in the past that categories of spousal support sometimes meld together, and the purpose of traditional alimony is to provide a dependent spouse with support comparable to what he or she would receive if the marriage would have continued. Accordingly, the authors conclude that "traditional or general spousal support is the appropriate foundation for Iowa spousal support guidelines."[61] Discussion continues regarding the topics of rehabilitative and reimbursement spousal support, providing definitions for each. The report concludes that these types of support are based on fact specific findings, and accordingly are not suitable for the use of uniform guidelines.

The benefits and criticisms of spousal support guidelines are reviewed from both a theoretical and practical perspective. In addressing potential benefits, the authors note limited feedback from jurisdictions which have adopted spousal support guidelines, but indicate that such feedback seems to be generally favorable.[62] Discussion of case law includes references to guidelines in cases from California, Kansas, Florida, and Virginia, relating to positive aspects of the guidelines. The authors suggest guidelines provide consistency in awards, address potential judicial biases and also provide help to judges who have limited family law experience. The report further posits that guidelines would also assist in pretrial and settlement negotiations by allowing more accurate predictions of awards, resulting in less litigation by parties and a reduction in "judge shopping" by lawyers.

In relating criticisms of spousal support guidelines, the report questions whether the law concerning the basis for spousal support can be as absolute or uniform as the law concerning the establishment of a child support obligation. It describes the hesitancy of critics to adopt guidelines which may have an initial presumption of spousal support based simply on the spouses' relative incomes. The report additionally points out the concern of some people that formulaic guidelines will also be too rigid, and lack flexibility. "What guidelines create in predictability and consistency may be at the cost of fairness."[63] Given the ambiguity about the purpose of spousal support and the varied approaches of different jurisdictions, critics consider the formulas to be arbitrary.

The report briefly visits the recommendations of the AAML (American Academy of Matrimonial Lawyers) and ALI (American Law Institute), first reminding the reader that the ALI recommendations for a formula based on a difference in the parties incomes is premised on a theory that spousal support is based on compensation for economic losses during the marriage. It

[61] *Id.* at 17.
[62] *Id.* at 18.
[63] *Id.* at 21 (citing Cynthia Lee Starnes, *Alimony Theory*, 45 Fam. L.Q. 271, 272 (2011)).

then restates a recommendation of the AAML conceived in 2007, which involves a formula amount of thirty percent of the payor's gross income minus twenty percent of the payee's gross income, with an award cap of forty percent of the combined gross income of the parties. The report also discusses "deviation factors" recognized by the AAML, along with guidelines for the duration of spousal support awards.[64] It should be noted that subsequent to the AAML's original recommendation, the group withdrew its support for formula based spousal support guidelines and resolved that it had "no policy on alimony guidelines, and does not support any particular guidelines."[65]

Following the AAML and ALI information, the authors discuss guidelines currently in use in various states. Observing that nearly half the states in the US currently employ some formulation of spousal support, the authors select seven formulas which are then reduced to three classifications. These classifications relate to formulas which (1) focus on the difference between specified portions of the parties' income, (2) focus on a set percentage of the entire income difference of the parties, or (3) vary the percentage to be applied to the entire income difference depending on the length of the marriage. The report then provides a detailed discussion of possible adjustments to be built into spousal support guidelines, the most common of which will arise when child support is awarded in a spousal support case. Different ways to factor child support into a spousal support formula are analyzed from the standpoint of practical application and theory. The report also considers circumstances in which incomes could be considered too high for spousal support guidelines to provide a fair result consistent with the theory behind the award. Finally, the report touches on adjustment through use of a cap on the award, giving one example of that solution.

Historical theories of spousal support are considered both prior to and after the adoption of modern "no fault divorce" laws, and the authors find as follows:

> Nearly every state has adopted some type of spousal support reform and several have even adopted specific statutory guidelines. However, the theories under which spousal support is or can now be granted under these new laws are not uniform; nor are the orders stemming from these theories consistent among the jurisdictions, or even more problematically, among orders rendered within the same jurisdiction.[66]

Comment is made upon the difficulty of identifying an articulated theory of spousal support. Following these considerations, the report engages in extended discussion regarding what constitutes "need" for purposes of spousal support. A Massachusetts appellate court decision from 2014 is compared to specifics from Iowa case law concerning need. Additionally, the authors identify two major issues relating to need, the first of which is parties who live beyond their means, and second, the inherent doubling of expenses during divorce.

The report makes extensive reference to charts in its appendix depicting guidelines from other states. Utilizing the American Community Five Year Survey Estimates (and noting the

[64] *Id.* at 23.
[65] Minutes of November 7, 2014, American Academy of Matrimonial Lawyers Board of Governor's Meeting, p. 3.
[66] *Report*, *supra* note 43, at 26.

limitations of this data), the authors selected income levels at the 80th, 50th, and 20th percentiles for both males and females in Iowa to demonstrate a range of spousal support awards based on exemplar formulas from different states. Each of the three classifications of formulas previously referenced in the report is discussed, further broken down by state. Varying degrees of detail are provided to describe each guideline formula.

In its final section, the authors provide details concerning their recommendations to the Iowa Supreme Court. These recommendations call for the use of a "hybrid guideline incorporating portions of the guidelines used in Pennsylvania, Kansas, and Massachusetts".[67] The formula calls for an amount of spousal support equal to twenty-five percent to thirty-five percent of the difference of the net incomes of the parties, calculating net income using the same methodology as the Iowa Child Support Guidelines.[68] If child support is also ordered, the report recommends an adjustment be made by either subtracting the amount of the child support payment from the net income of the payor spouse prior to calculating the difference in the net incomes, or alternatively by lowering the percentage to be applied to the difference in net incomes. Additionally, the proposal recommends capping the award of spousal support by either specifying that the total income of the payee after the award should not exceed 40% of the combined incomes of the parties, or by limiting the application of the guidelines to situations where either the higher earning party earns under $150,000.00, or where the difference in incomes is less than $100,000.00.

Regarding the duration of spousal support, the recommendations depend on the length of the marriage, with a rebuttable presumption against spousal support existing for a marriage of less than five years. For a marriage of five to ten years, the duration would be up to forty percent of the number of months married. At ten to fifteen years, the duration would up to sixty percent, and fifteen to twenty years, it would be up to eighty percent. For marriage of twenty or more years, spousal support would be presumed to be "permanent or traditional". Under the recommendation of the report, the spousal support guidelines would permit the court to use discretion in deciding whether or not to use the formula.

3. Analysis

The Supreme Court Administrative Internship Report provides a useful survey of the landscape regarding the use of spousal support guidelines in other jurisdictions within the United States, along with a thought provoking recommended formula for addressing the amount and duration of spousal support awards in Iowa. This framework includes relevant historical and theoretical perspectives, as well as succinct discussion regarding the legitimate benefits and criticisms of adopting spousal support guidelines.

Inherent in such a task are the usual constraints of time and space, and accordingly certain topics of the report perhaps warranted additional research and/or discussion. According to the authors "there is limited feedback from jurisdictions that have adopted spousal support guidelines, but the feedback seems to be generally favorable".[69] It is unclear from this statement

[67] *Id.* at 34.
[68] *Id.* at 35.
[69] *Id.* at 18.

whether additional feedback was identified beyond comments regarding the guidelines contained in case law or legal journals. Although Iowa has a history of leading the way in legal procedural reforms and the establishment of substantive rights for its citizens, in this instance we have the opportunity to take advantage of the hindsight of other states which have experience with the topic in question. Accordingly, information of interest regarding these states may have included whether or not modifications were made to guidelines subsequent to their original adoption, or whether any states or other jurisdictions are known to have revoked guidelines previously adopted.

Also, part of the analysis by the report indicated that "most states that have adopted spousal support guidelines specify they are for temporary support use only".[70] The report indicated a lack of clarity as to the meaning of "temporary" in this context. In determining whether to adopt spousal support guidelines, and under what circumstances they would be useful to judges, attorneys, and litigants, it would be important to understand whether the majority of states which have adopted guidelines are applying them to long-term decisions in final orders, or only on a *pendente lite* basis. An expanded discussion on the question of whether guidelines are indeed appropriate for temporary awards pending final judgment, including a detailed discussion of the rationales for and against such a proposition, would have been a useful component to add to the report.

The report draws heavily on *In re Marriage of Gust*.[71] In analyzing the concept of need for spousal support under Iowa law, the authors quote the *Gust* Court as saying "'[Need is] objectively and measurably based upon the predivorce experience and private decisions of the parties, not on some externally discovered and imposed approach to need, such as subsistence or adequate living standards or amorphous notions of self-sufficiency.'"[72] It is of interest to note that this approach appears to reject a purely economic theory of spousal support based on identifiable statistical factors such as cost of living, even if adjusted for regional differences, and instead embraces the concept of case specific review of the parties' situation. If this is indeed the Iowa Supreme Court's theory of need which serves as the underpinning for its interpretation of Iowa Code Section 598.21, then the remaining question is whether adoption of spousal support guidelines can serve as a useful tool to either guide District Court judges in making the measurement in question or act as a check upon their independent assessment of the circumstances.

Also related to the question of need, the report makes a very important point in addressing two major issues concerning spousal support generally, which include parties living beyond their means and the doubling of expenses related to divorce. The authors fairly point out the lack of congruence between the concept of maintaining the standard of living enjoyed during the marriage and the practicality of operating an entire additional household with the same amount of money. In contemplating the impact of the adoption of spousal support guidelines, the Court should remain mindful not only of this economic reality but also of available data concerning the post-divorce economic circumstances of parties over time, both by gender and custodial status.

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[70] *Id.* at 16.
[71] 858 N.W.2d 402 (Iowa 2015).
[72] *Report*, *supra* note 43, at 28 (quoting *Gust*, 858 N.W.2d at 411).

The data contained in the report has certain limitations. Because the income brackets utilized did not go over $100,000.00 per year, the calculated percentile rankings were likely skewed downward, with the skewing effect being greater for men than woman according to the authors. While these figures may not be perfectly accurate as to Iowa incomes, it does not render them useless for the purposes of comparing the results of various formulas at any given income level. Having made this observation, the committee found charts nine and ten of the appendix to be of little value to the extent that they represented income comparisons for which an award of spousal support would be highly unlikely, whether or not guidelines were in place. Additionally, the "post-alimony income" amounts shown in each chart do not account for child support awards, and therefore provide an incomplete picture of the true post-divorce income of the parties in those cases. Understanding it is impossible to create a chart which would cover all possible scenarios, it will nevertheless be important for the Court to consider the interplay between spousal support and child support in the event it determines that guidelines should be adopted.

As a final observation, the data reflected in chart three, and upon which the authors relied in establishing their recommendations, was based on information compiled for the time period 1995–2012 by the publishers of the widely used software program Iowa Support Master. This data is by its nature a limited subset of the total number of spousal support cases in Iowa overall, as it consists of only those cases which were appealed and for which income information could be determined based on the ruling. It does not include cases decided by Iowa's District Courts and not appealed, nor cases which were settled by agreement of the parties. The committee found no existing research studies which covered this comparatively larger data set, and additional resources would be necessary for such an undertaking.

As for the report's specific recommendations concerning a formula for the amount and duration of spousal support, it should first be noted that a recommendation concerning any guideline formula is currently outside the scope and purview of the task with which this committee is charged. Accordingly, the following observations should not be taken as an endorsement nor a rejection of any particular approach or solution.

The hybrid guideline recommendation of the authors is based on a difference in net incomes of the parties, utilizing a percentage range to calculate the award. The concept of utilizing a range, rather than a fixed percentage formula allows for flexibility, and was the preferred approach as indicated by the survey results for both the bench and bar (discussed elsewhere in this report). The authors suggest that use of this range will permit judges to adjust an award within the guidelines based on statutory factors, without the need to write an additional opinion regarding why the case called for a deviation. However, given that the authors specifically recommend that the court may use discretion in deciding whether to use the formula, it does not appear that a "deviation" would exist in the first place under this model.

The report suggests alternative methods for addressing the issue of child support as it relates to a guideline formula. The first such method subtracts child support from net income before calculating the income differential of the parties. It would appear that using this approach would mean spousal support would not be considered when calculating child support, which is

not necessarily consistent with existing Iowa law.[73] The second suggested method involves lowering the percentage by which the income difference is multiplied to arrive at the spousal support figure. The authors do not specify a particular reduction to be used, but cite an example of how the concept would work. (i.e. reduce percentage from thirty to twenty where children are involved). It is difficult to assess the impact of this proposal without more particulars, but the committee presumed the reduction in percentage may relate to how many children are being supported by the payor spouse. It is worthy of note that both suggested approaches to addressing the child support issue would potentially impact the amount of spousal support over a period of years based on the amount of child support currently ordered to paid. This raises the question of whether the District Court would provide in advance for such adjustments, or if spousal support would be subject to modification when child support is modified in the future. This approach also ignores the fact that spousal support payments are deductible by the payor and taxable to the payee.

Further recommendations of the report include methods to cap an award of spousal support. The first suggested method is to limit the total income of the payee after the award to forty percent of the combined incomes of the parties. The report does not specify whether "total income" means gross income or net income. This makes an analysis of the proposal somewhat difficult to assess. However, the committee notes that if the standard were based on gross income, virtually all of the results of the authors' recommended formula awards in Charts 5 through 8 would be in excess of such a proposed cap. The second alternative for a limitation was based on situations where the high income party earned less than $150,000.00, or the income differential was less than $100,000.00. Again, these figures were not specified as being gross or net, and the committee is therefore unable to comment with particularity upon their application to specific circumstances. Regardless, however, it would appear that in a percentage of income differential model, these approaches have potential to capture the majority of spousal support cases being decided.

Concerning the duration of spousal support, the report provides "for a marriage of 20 or more years, the spousal support would be presumed to be permanent or traditional".[74] The committee notes, however, that in its embedded chart showing the duration formula, marriages of twenty or more years are shown as having a "permanent or 100%" duration.[75] Based on this, we are not certain as to whether the authors intended marriages of twenty or more years to result in automatic lifetime awards, or whether it was intended that "traditional" was equivalent to "100%", which would presumably mean an award equal in duration to the number of months of marriage. Any durational formula adopted should be clear and readily applicable by the District Court without the need for interpretation. Finally, another key question related to duration is whether or not the recommended guideline would apply to modification of spousal support cases. In the event the Court adopts guidelines in the future, this issue should be addressed up front to avoid confusion if at all possible.

[73] *In re* Marriage of Lalone, 469 N.W.2d 695, 696–97 (Iowa 1991) (considering amount of spousal support paid as one factor in child support determination).
[74] *Report*, *supra* note 43, at 37.
[75] *Id*. at 38.

Finally, the authors propose that the recommended guideline not be applicable to rehabilitative and reimbursement spousal awards. The recent history of spousal support awards reflected in Chart 3 of the appendix appears to show that half of Iowa's alimony awards are being made based on marriages of less than twenty years. In the experience of the committee, (though not supported by specific data), a large number of spousal support awards in such cases are in fact rehabilitative in nature. It therefore appears that a substantial portion of spousal support cases would not be impacted by the adoption of the recommended guidelines. This consideration raises the issue of whether district court judges would be any more inclined to begin awarding uncategorized spousal support in marriages of less than twenty years based on the adoption of guidelines such as those recommended here.

The Supreme Court Administrative Internship Spousal Support Guidelines Report represented a significant step forward in the Iowa Supreme Court's consideration of whether or not to adopt spousal support guidelines in the future. Its authors made an enduring contribution to the jurisprudence of the State of Iowa, and should be commended for their hard work and commitment to this task.

E. **Analysis of Bench and Bar Survey Results**

As a part of its inquiry into the propriety of Iowa adopting uniform spousal support guidelines, the work group believed it essentially important to survey the attitudes of the Bench and Bar towards such a fundamental change. While the survey was not professionally designed nor necessarily of scientific significance, the large number of responses gives a fair sampling of the thought processes of Iowa lawyers and judges on the subject.

The survey was submitted through the Iowa Bar Association to all Iowa Bar member lawyers and to all of the state's District Court Judges. Fifty-two (52) judges and 410 lawyers responded.[*]

1. Lawyers' Responses

Of lawyer respondents, ninety percent practice some family law. Seventy percent of the respondents report family law case loads comprising a significant part of their practices. The respondents were roughly evenly split between predominantly rural and predominantly urban practices with approximately 1/3 of the respondents engaging in a mix of urban and rural representations. Approximately ten percent of the respondents believe spousal support awards tend to be too high and a similar percentage too low. Twenty-five percent of respondents believe spousal awards are about right. However, a solid majority of respondents believe there is a variance of spousal support awards depending on the judge. When asked a follow-up question, seventy-nine percent of respondents thought alimony awards tend to be inconsistent in the jurisdiction where they practice. With respect to duration of spousal support awards, twenty-six percent thought alimony awards tended to be too long, seventeen percent too short, and fifty-eight percent about right.

[*] See attached Appendix.

When asked whether Iowa should adopt spousal support guidelines in some form, a little more than half (fifty-four percent) answered in the affirmative; the other half were evenly split between "No" and "Undecided." Eighty-five percent of respondents believe that spousal support guidelines will lead to more consistency and predictability of awards, but only forty-seven percent believe guidelines will promote fairness of awards. The remaining respondents were split between "No" and "Undecided" on the question of fairness. Fifty-eight percent of responding attorneys believe guidelines will reduce litigation while twenty-five percent responded "No" and eighteen percent were "Undecided."

Lawyers were also asked to provide open-ended feedback. Comments ranged from "spousal support should be eliminated" to "the current system of no clear guidelines is unacceptable." A consistent theme expressed in the comments was that if guidelines were to be adopted, they either should be flexible or advisory only, with judges retaining discretion. Another theme was that guidelines are unnecessary and unworkable in that they can never take into account all of the factors a judge should consider. Similar comments included "there are too many variables." "The current system works and judges generally get it right." As expressed by one commentator, "Family law is no place for a one-size fits all solution." Others expressed the fear that guidelines will create an expectation that spousal support is the rule rather than the exception, and guidelines will encourage spousal support in all cases where there is a difference in income.

Comments in favor of guidelines include that such guidelines are necessary to better advise clients, add predictability to the process, and reduce litigation. One respondent espoused the thought that guidelines will aid case resolution through mediation. Another respondent suggested that, "[We] need a comprehensive family court system (like Probate) that incorporates juvenile, domestic abuse, divorce, and custody cases under the same set of experienced family court judges."

2. Judges' Responses

Fifty-two (52) judges responded: approximately 1/3 from rural areas, 1/3 from urban, and 1/3 from a mix of rural and urban. Seventy-one percent of judges responding have been on the bench for more than 11 years. Sixty-three percent of judges believe that the amount of spousal support awards tend to be about right in their jurisdiction. However, thirty percent believe that awards tend to be "too high, too low, or about right" depending on the judge. An overwhelming ninety-percent of judges believe that the duration of spousal support awards in their jurisdiction tend to be about right. Judges tend to be less enthusiastic than lawyers about the need for guidelines. Thirty-eight percent favor the adoption of guidelines in some form while the remaining sixty-two percent are evenly divided between "No" and "Undecided." While judges generally agree with lawyers that guidelines would promote consistency and predictability (eighty percent) only thirty-seven percent believe guidelines would promote fairness. As one comment notes, guidelines may be "[s]imple and easy for everyone, [b]ut doesn't necessarily correlate into fairness and justice between the parties." Two comments addressed the need for guidelines as to duration of support awards even if not as to amount. Another judge thought "[s]pousal support awards are inconsistent both as to amount and duration. Guidelines would help achieve greater consistency in both respects." Other comments emphasized the difficulty of

promulgating guidelines in the spousal support context due to the number of variables that ought to be considered. As expressed by one judge, "The solution to having fairness and equity is having good and fair judges."

3. Conclusions

While the Bar appears to be more favorably disposed toward the establishment of spousal support guidelines than does the Bench, there are deep divides in both sectors concerning the advisability of adopting guidelines. While most judges and lawyers believe guidelines promote consistency and predictability and reduce litigation, a majority have concerns about whether or not guidelines can achieve fairness and whether they can be adapted to account for the many variables judges typically consider.

F. Child Support Guidelines and Spousal Support Guidelines Compared

Iowa began using child support guidelines in 1987 and has reviewed and revised the guidelines six times since then.[76] Most would agree that the guidelines have been successful in reducing litigation in what had been a contentious area of family law. The child support guidelines are relatively easy to use, and the calculations yield consistent results in similarly situated cases. Litigation concerning the correct calculation of the amount of child support has been nearly eliminated. While there may be some who would argue that child support amounts calculated under the guidelines are too high or too low, most everyone has accepted the inevitability of the guideline calculation being the amount ordered by the Court. Deviations are relatively few.[77] The guideline amounts have become the accepted norms.

Given the success of the child support guidelines in providing consistent and predictable child support orders without the need for litigating the issue in most cases, it would seem that the same benefits would flow by applying a formulaic approach to calculating spousal support. It is important to understand, however, basic differences between devising and adopting spousal support guidelines vis-à-vis child support guidelines.

1. Child support, as a concept, is universally accepted. Everyone agrees that both parents owe a duty to support their children financially. Not so with spousal support. There are many who are opposed to the concept of spousal support in any form.

2. Child support guidelines are federally mandated. In order to receive federal funds under the Federal Family Support Act of 1988 each state is required to adopt and consistently use child support guidelines reflective of the cost of child rearing. No such mandate exists with respect to spousal support.

3. Child support guidelines are based on economic data that quantifies the actual cost of child rearing over the spectrum of varying income levels. There are any number of economic studies that are continually being updated reflecting the actual cost of child rearing

[76] IOWA CHILD SUPPORT GUIDELINES REVIEW COMMITTEE, FINAL REPORT DECEMBER 2012, at 4-5.
[77] *Id.* at 7-8.

based on family size and income levels. The 2013 iteration of the child support guidelines utilizes the Betson-Rothbarth measurements updated through 2012 price levels.[78] There is no similar economic study that has been compiled to quantify the typical costs of maintaining marital standard of living based on various income levels.[79] In fact, none of the spousal support guidelines adopted throughout the country – to date – uses cost of living data as the basis for its formula.

4. The Iowa General Assembly has entrusted the Iowa Supreme Court with the responsibility to adopt, maintain, and periodically review and revise Iowa's child support guidelines.[80] No similar authority presently exists with respect to the adoption of uniform spousal support guidelines.[81]

5. Child support has a natural terminus, that being in nearly all cases when the child reaches the age of 18 years and graduates from high school. The duration of alimony payments, on the other hand, varies greatly depending on the length of the marriage and/or the recipient's ability or inability to become self-supporting. While general rules of thumb may certainly help to reduce litigation surrounding the duration issue, durational guidelines tend to focus on one size fits all based on the length of the marriage, with length of marriage being the sole determinative factor.

G. Spousal Support Guidelines Advantages and Disadvantages

The preliminary question that many will be asking: Are spousal support guidelines that utilize mathematical formulas a good idea? What type of guideline is being considered? Nearly half of the states in the United States have spousal support guidelines in some form and for some purpose. The methodologies used to determine spousal support in these states vary. Some states consider only income. Others consider expenses and whether children are involved. The advantages and disadvantages of any particular methodology may likewise vary. Guidelines could be mandatory, rebuttable presumption or advisory. We review the advantages and disadvantages of spousal support guidelines in general terms since no specific proposal is under consideration at the present time.

1. The Advantages of Guidelines

If you mention "guidelines", most people think of the Child Support Guidelines. They are not guidelines at all—they are really rules. This topic is being addressed elsewhere in this report, but is a misnomer to some types of spousal support guidelines that are in place. Most spousal support guidelines' first step is for the judge to make a determination of whether the facts support an award of spousal support. In Iowa, that would involve the judge reviewing Iowa Code § 598.21A and determining whether an individual is eligible or qualified to receive spousal support. Guidelines, if utilized, then look at the amount and duration of spousal support. Some guidelines look at income only; others differentiate between spouses with or without children,

[78] *Id.* at 8-9.
[79] Interview with Jane Venohr, PH.D., Research Associate, Economist, who has served as technical consultant for the Iowa Child Support Guideline reviews each year since inception.
[80] *See* IOWA CODE § 598.21 B(1) (2015).
[81] Compare IOWA CODE § 598.21 B(1) *with* IOWA CODE § 598.21 A. *See also* Section V.H. of this report.

and others look at an individual's needs and expenses. Most have exceptions where attorneys can argue some outcome is inappropriate and should not be ordered.

After a judge has found a spouse to be eligible to receive spousal support, the more difficult questions of amount and duration arise. Most of the advantages of guidelines are the usual arguments in favor of less discretion with judges. Judges are unable to give parties advance guidance about what their spousal support decision may be. Different judges equal different analyses and different results. If rules are found at one end of the decision-making spectrum and discretion at the other, the current law of spousal support would be located very close to the discretion end. Guidelines would move the law back towards the middle ground between these two extremes.

We turn first to the advantages of spousal support guidelines:

a. To provide a starting point for negotiations and decisions. At their best, the guidelines will be a starting point from which separating spouses will have to give reasons for an award of spousal support or any departure. At present, the starting point for spousal support is zero for many spouses. To justify support, spouses must then construct individual budgets demonstrating need. Experts may need to be retained to show present and future earning capability. As has been the case with child support guidelines, spousal support guidelines will establish a starting point other than zero, assuming entitlement has been established. Guidelines will be most helpful in the typical or common cases that are usually resolved in negotiations.

b. To reduce conflict and to encourage settlement. All other financial matters on family dissolution are now governed by rules or a well-developed case law—property division, pensions, child support. Spousal support is the last remaining pool of unfettered discretion. It is also typically the last financial issue to be resolved. Spousal support thus becomes the flashpoint for unhappiness with all the other financial rules, as well as for any remaining bitterness between spouses. Guidelines can limit the range of results and constrain the issues and information required, thereby encouraging settlement and damping down some of the conflict between the parties. Any reduction in conflict in family law, especially where children are involved, must be treated as an advantage.

c. To reduce the costs and improve the efficiency of the process. Guidelines can provide a starting point from which the parties can each decide whether further negotiation or litigation to push to the limits of the ranges or beyond is warranted. Parties can make a more informed decision of whether to incur additional attorney fees and expenses in pursuing an amount of spousal support different than the guidelines. Published guidelines are even more important where one or both parties are unrepresented. Attorneys, exercising the same methodology, can better predict outcomes and settle cases, saving attorney fees for the parties and court time for the judicial district schedulers.

d. To avoid budgets and to simplify the process. Under the current discretionary regime, expense budgets are often required. Much time and trouble is taken, in disclosure and discovery, to particularize expenses—past, present and proposed—with the

process often of dubious value in the end. Many guidelines are based on income sharing. If used, individual budgets decrease in importance, except in the unusual case. Less information is required and the process is simplified considerably. If expenses are a part of any guideline calculation, a significant amount of trial preparation and trial time will be needed to determine if the expenses claimed are reasonable and necessary. On the flip side, cases have been modified on appeal when appellate courts have believed expenses claimed are excessive, even when those expenses were not disputed at the trial.[82]

e. To provide a basic structure for further judicial elaboration. Guidelines may prove to speed up or perhaps, more accurately, to kick start the normal process of legal development in an area of judicial discretion. Under the current discretionary law, that process had nearly ground to a halt until *In re Marriage of Gust*,[83] and the later progeny of cases was decided and prompted a discussion of income comparisons using a percentage of income methodology. Guidelines can give basic structure, shape and methodology to the law with room left for lawyers and judges to adjust, modify, and identify exceptions. By their very existence, guidelines create pressure to give reasons for any departures in negotiations or decisions. Guidelines allow negotiation to take place prior to knowing who will be your trial judge. Less judge shopping will occur. Guidelines will provide judges with a methodology to follow, rather than basing awards entirely on their own discretion in analyzing the statutory factors of Iowa Code § 598.21A.

f. To create consistency and legitimacy. Advisory guidelines should create greater consistency in outcomes as well as more open explanations of how those outcomes were reached. At present, spousal support awards can vary widely by judge within a district and/or statewide. Guidelines avoid any "informal" district or sub district spousal support policies and allow judges to be more consistent individually and with their colleagues and following a similar methodology. Over time, the amounts and duration of spousal support under the advisory guidelines can develop a legitimacy of their own. Eventually, the outcomes generated by the advisory guidelines will come to be seen as appropriate for many payors and recipients.

g. To help new judges. Some judges go on the bench with no family law experience. Others join the bench with limited or dated past experiences with spousal support awards. Guidelines are a tool for new judges to use. Guidelines allow new judges to be "in the ballpark" when they have no past experiences to rely upon. Attorneys will be able to more accurately advise their clients in an area of the law that has a high degree of judicial discretion.

2. The Disadvantages of Guidelines

Next, we turn to the disadvantages of guidelines, as compared to the current discretionary regime. In assessing these disadvantages, we stress again that it is important to remember the nature of guidelines that can vary depending upon the model under consideration.

[82] *In re* Marriage of Burke, 841 N.W.2d 355 (table), 2013 Iowa App. LEXIS 1182, at *6–7 (Nov. 6, 2013).
[83] 858 N.W2d 402 (Iowa 2015).

a. Too rigid. Guidelines may be seen to deny individual justice, as their starting premise is average justice, generating reasonable results across a range of typical cases. An individual spouse may be denied a meaningful opportunity to argue why his or her case is unique or exceptional. Judicial discretion will be lost by judges trending toward spousal support guidelines as a default and unwilling to go too far away from the amount or duration dictated by the guidelines. Guidelines make it difficult for a judge to address all of the relevant and necessary statutory factors that must be considered when determining whether to award spousal support or not. A client may be "short shifted" by a judge using the guidelines. Limitations on amount or duration of spousal support may be set where such limitations should not be set. This disadvantage may depend upon the type of guideline approved or adopted.

b. Spousal support is too complicated. Many think spousal support is just too complicated for any formulaic approach. There are too many legal factors to balance, too many marital facts to be proved, and too many exceptions—marital fact situations that are just too diverse. Implicit in this view is the assumption that there are very few typical or standard fact patterns in spousal support, so few that it is not worth even developing guidelines for those typical fact patterns. Also implicit in this criticism is often an assumption that guidelines will be built around one big formula for all marriages. Every case has unique factors, making it difficult to fit into a guideline amount or duration.

c. Discretion allows intuitive reasoning. Some argue that spousal support is a residual remedy, the last financial remedy that can be used flexibly to accomplish global justice in family matters. On this view, there are many factors at work, often intuitively, in reaching a just result, a result that is sometimes hard to explain.

d. Regional variations too great. There are clearly local and regional variations in the amount and duration of spousal support. Some suggest that such variations are so great that any statewide guidelines would be of limited usefulness. Will spousal support guidelines look at the parties' expenses and, if so, how will urban and rural differences be considered?[84]

e. Litigation will be foreclosed. For those who wish to settle, there is no question that guidelines will assist the negotiation process. But what if a spouse doesn't want to settle but wants to litigate? What if judges turn the guidelines into rules foreclosing arguments in court? That is a risk with any guidelines.

Many of these disadvantages depend upon the structure and operation of the specific set of guidelines involved. A specific guideline proposal may have other disadvantages. For example, will there be a presumption of traditional alimony after a set number of years and, if so, how many years? Where will the marriage duration breaks occur? less than 5 years? less than 10 years? less than 15 years? 20 years or more? some other range? What will be the income percentage involved in the spousal support calculations, etc.

[84] *See* Peter S. Fisher and Lily French, *The Cost of Living in Iowa—2014 Edition, Part 1: Basic Family Budgets* (Feb. 2014), http://www.iowapolicyproject.org/2014docs/140226-COL.pdf.

H. Can The Iowa Supreme Court Adopt Spousal Support Guidelines Without Legislative Action?

Before answering this question, the WG thinks it would be helpful to discuss generally the powers the Iowa Supreme Court possesses. Two Iowa constitutional provisions govern this question: Article 5, section 1 and Article 5, section 4 of the Iowa Constitution.

Article 5, section 1 provides: "The Judicial power shall be vested in the Supreme Court, District Courts and such other Courts, inferior to the Supreme Court, as the General Assembly may, from time to time, establish."[85]

Article 5, section 4 provides:

> The Supreme Court shall have appellate jurisdiction only in cases in chancery, and shall constitute a Court for the correction of errors at law, under such restrictions as the General Assembly may, by law, prescribe; and shall have power to issue all writs and process necessary to secure justice to parties, *and shall exercise a supervisory and administrative control over all inferior Judicial tribunals throughout the State.*[86]

The italicized portion of this provision—the supervisory power of the Iowa Supreme Court—is, in part, what the WG will be addressing here.

So Article V, section 1 establishes judicial power in the Iowa Supreme Court. And Article V, section 4 specifies this judicial power mentioned in section 1 extends to supervisory control over all lower courts. This supervisory control allows the Iowa Supreme Court to issue supervisory orders from time to time.[87] In *Root*, the court, referring to the supervisory language in Article V, section 4, held that this language "obviously includes the power to set the hours of operation of the clerks of court."[88]

However, when it comes to rulemaking, the legislature has limited the Iowa Supreme Court's power. The legislature's role in rulemaking is set out in Iowa Code §§ 602.4201 and 602.4202.

Section 602.4201(1) gives the Iowa Supreme Court authority to prescribe rules governing actions and proceedings. This section provides in relevant part: "The supreme court may prescribe all rules of pleading, practice, evidence, and procedure…for all proceedings in all courts of this state, for the purposes of simplifying the proceedings and promoting the speedy determination of litigation upon its merits. Rules are subject to section 602.4202."

Section 602.4202(1) sets out the procedure for rulemaking contemplated in section 602.4201(1). Section 602.4202(1) provides in relevant part: "The supreme court shall submit a

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[85] IOWA CONST. art. 5, § 1.
[86] *Id.* at art. 5, § 4 (emphasis added).
[87] *See, e.g.*, Root v. Toney, 841 N.W.2d 83, 87 (Iowa 2013) (citing Iowa Supreme Court Supervisory Order, *In the Matter of Court Closure Days and Public Hours of Clerk of Court Offices* ¶ 2 (Dec. 2, 2009)).
[88] *Id.*

rule…under section 602.4201…to the legislative council and shall at the same time report the rule…to the chairpersons and ranking members of the senate and house committees on judiciary…."

Iowa Code section 602.4202(2) specifies when such a rule takes effect. It provides in relevant part: "A rule…submitted as required under subsection 1 takes effect sixty days after submission to the legislative council, or at a later date specified by the supreme court, unless the legislative council, within sixty days after submission and by a majority vote of its members, delays the effective date of the rule…to a date as provided in subsection 3."

Subsection 3 of Iowa Code section 602.4202 provides in relevant part: "The effective date of a rule…submitted during the period of time beginning February 15 and ending February 14 of the next calendar year may be delayed by the legislative council until May 1 of that next calendar year."

If the general assembly enacts a bill changing the rule, this action supersedes a conflicting provision in the rule as submitted by the Iowa Supreme Court.[89]

At issue in *Root* was Iowa Supreme Ct. Supervisory Order regarding closure days and public hours of clerk of court offices. The court noted that in promulgating this supervisory order it was not employing rulemaking procedures. The order reduced the normal hours the clerks' offices were open to the public and effectively reduced the time allowed to file a notice of appeal as provided in Iowa Code § 4.1(34). The court held that although it had the power to set office hours of clerks of courts, it could not reduce the time allowed to file a notice of appeal without legislative authorization.[90]

That brings the WG to the question whether the Iowa Supreme Court can promulgate spousal support guidelines by supervisory order or whether the court must follow the rulemaking procedures outlined above. The WG thinks the answer to that question depends on whether the guidelines are mandatory or discretionary. By mandatory guidelines the WG means those that litigants and courts are obliged to follow. In contrast, by discretionary guidelines, the WG means those that litigants and courts are not obliged to strictly follow.

Because mandatory guidelines impose an obligation on litigants and the courts to follow them, adverse consequences are likely to follow if the guidelines are not strictly adhered to. For example, failure to follow the guidelines will likely result in a reversal of a spousal support order on appeal. Under these circumstances, the WG believes the Iowa Supreme Court must follow the rulemaking procedures outlined above and seek legislative approval.

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[89] Iowa Code sec. 602.4202(4); *see also Root*, 841 N.W.2d at 90 (discussing overlapping roles of the Iowa Supreme Court and legislature in promulgating rules of practice for Iowa courts); *cf.* Iowa Court Rule 23.1 (2015) ("The time standards contained in this chapter are subject to statutes and rules affecting the same proceedings."); Iowa Court Rule 33.1(7) (2009) ("Nothing in these standards supersedes or detracts from existing disciplinary codes or alters existing standards of conduct against which lawyer negligence may be determined.").

[90] *Root*, 841 N.W.2d at 83, 90.

Unlike mandatory guidelines, the litigants and the courts are not obligated to strictly follow discretionary guidelines. In those circumstances, the guidelines are simply there to aid the litigants and the courts. No adverse consequences are likely to follow if the guidelines are not strictly adhered to.[91]

These key differences between mandatory and discretionary spousal support guidelines lead the WG to conclude that the Iowa Supreme Court may use its supervisory authority in promulgating discretionary spousal support guidelines. Of course this is so only so long as the guidelines do not conflict with existing statutory provisions.[92]

VI. **Conclusions**

A. There remains a degree of skepticism about spousal support guidelines and there is not unanimous agreement on the issue of whether the WG should recommend adoption of guidelines. The skepticism arises principally from the fact that there are no economic studies providing usable data to provide a scientific basis for the establishment of a guideline. The principle concern, therefore, is whether the numbers provided by any formulaic approach can have a logical basis if not tied to actual standard of living data and whether fairness is determinable or can thereby be assured. None of the spousal support guidelines adopted to date uses cost-of-living data as the basis for its formula. It should be noted that the recommendation of the Intern Report calling for a guideline range of 25–35% of the difference in incomes is simply a reflection of average case law results of certain reported cases.

B. A secondary discomfort with recommending guideline adoption is the concern that over time the guidelines will become fixed and parties will be reticent to deviate from them, thereby contributing to a decline in critical thinking and analysis by lawyers and judges.

C. Despite these shortcomings, there is substantial support for the adoption of guidelines based principally on the notion that guidelines provide predictability and consistency to spousal support awards, thereby reducing litigation in this highly contentious area. This support is borne out by the Bench and Bar survey results previously discussed in this report and, anecdotally, by the speed and pervasiveness by which the Bar has seized upon the 31% of income differential referred to in the *Gust* case and by the Court of Appeals in later cases. It is clear, primarily amongst the younger members of the Bar and less senior judges, that something concrete, at least as a starting point, is highly desired.

D. While the WG remains divided over the central question of whether to recommend the adoption of guidelines, that division cannot be considered hard-line on either side of the question. Everyone in the WG agrees with the articulated pros and cons of guidelines. It is simply a matter of degree by which each member either comes down on the side of being for or against spousal support guidelines.

E. While the WG makes no recommendation whether to adopt or not adopt guidelines, there is unanimity amongst the WG in the recommendations to be made to the Supreme Court in the event the Supreme Court deems adoption of guidelines to be appropriate.

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[91] *Cf.* Iowa Court Rule 23.1 ("The standards are to be utilized as guidelines and, while not mandatory, are urged upon both counsel and the court as an aid to their actions and deliberations."); Iowa Court Rule 33.1(7) ("These standards shall not be used as a basis for litigation or for sanctions or penalties….").

[92] *See Root*, 841 N.W.2d at 90 (holding that because rulemaking procedures were not used in promulgating a rule pursuant to a supervisory order, the order could not trump a statutory provision contrary to the order).

VII. Recommendations

If the Supreme Court deems it appropriate to adopt guidelines the WG unanimously recommends the guidelines comport with the following principles:

A. Determine if spousal support is appropriate and what type

The first step in any case should be to determine whether spousal support is appropriate given the factors listed in the statute, the facts of the case, and prior case law, and if so, whether the support called for is traditional, rehabilitative, or reimbursement.

B. Rehabilitative and reimbursement awards

Because rehabilitative and reimbursement support is fact-dependent as to amount and duration, guidelines should not apply to these types of spousal support, but to traditional spousal support only.

C. Discretionary

Guidelines should be discretionary, not mandatory. There should be no rebuttable presumption that the guidelines provide the "proper" amount of spousal support. Instead, the guidelines should provide a starting point or "rule of thumb" to guide decision-making. There should be no penalty, however, for deviating from the guidelines where the facts of the case or economic data justify a different result.

D. Range

The guidelines should utilize a range of potential results rather than a set figure.

E. Temporary Support

The guidelines may be applicable to pendente lite support, at least in those situations where the parties are living apart and each is paying his or her own expenses. In fact, guidelines may serve their most useful purpose in the temporary support setting.

F. Gross income

Support should be based on gross income before child support is calculated so that the tax effects of shifting income are included in the calculations. This is contrary to the recommendation of the Intern Report that (1) the parties' respective net incomes be first determined according to the child support method of calculation, (2) that the child support next be calculated and, (3) that the guideline spousal support guideline then be applied as the third and final step. The WG believes that the spousal support guideline calculation should be made first using the parties' relative gross incomes for the reason that any spousal support paid by the payor should be subtracted from the payor's gross income and added to the payee spouse's income before the calculation of the parties' respective income taxes. Income taxes are then calculated per the child support guideline method to arrive at the relative net incomes of the parties. Because Iowa uses the income shares method of computing child support, this method

of first adjusting the parties' relative gross incomes for the amount of spousal support being paid will result in ascertaining each party's relative after tax true income for purposes of computing child support. Each party then contributes to child support according to his or her respective net income adjusted for any alimony payments. By using this method, no changes need to be made to the child support guidelines and no adjustment needs to be made to spousal support as the children age out and child support reduces or is eliminated. Each party's financial circumstances will therefore improve in relative proportion as child support decreases.

G. **Duration**

Guidelines should provide for duration of awards and should apply to traditional spousal support only. The WG discussed the potential problems with a "stepped" duration as utilized by some states. In that scheme, the duration of the award is based on a different percentage of the actual duration of the marriage, which changes in five-year increments. See also the Intern Report recommendation on durational guidelines. The problem is that by delaying the filing of divorce by as little as one day, one can significantly impact the duration of the award. Durational guidelines should be crafted in such a way so as to avoid gamesmanship by avoiding large incremental increases in duration based on small changes in the length of the marriage.

H. **Adoption by Supreme Court supervisory order**

If guidelines are adopted, they should be adopted by supervisory order and should be for guidance only, not prescriptive nor create a rebuttable presumption. The WG believes that an attempt to adopt guidelines by any other method would be difficult, if not impossible, to achieve with any degree of consensus.

I. **Modification and applicability**

It should be clear that the adoption of guidelines provides no basis, standing alone, for a substantial change in circumstances justifying a modification of pre-existing spousal support. However, if an independent substantial change of circumstances has occurred, the guidelines could then be used to aid in determining an appropriate support level, if modification is otherwise justified.

J. **Alternative consideration**

Predictability and consistency of awards, at least within a judicial district, may be enhanced by having experienced Judges in a dedicated family court system.

The Spousal Support Work Group thanks the Supreme Court for considering this report in the ongoing process of improving the Iowa Court's impact on the citizens of Iowa.

Respectfully submitted,

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Steven H. Lytle, Co-Chair,
Anjela A. Shutts, Recorder
Louis A. Lavorato, retired Chief Justice of
The Iowa Supreme Court
The Honorable David Danilson,
Chief Judge of the Iowa Court of Appeals
The Honorable Duane Hoffmeyer, Chief
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FAMILY LAW CASE PROCESSING REFORM TASK FORCE

Standards for Court-Appointed Professionals
Preliminary Work Group Report

I. Process improvements that the Court can immediately implement without significant additional research (a/k/a "low-hanging fruit").

Custody determinations are among the most important decisions made by judges. These recommendations recognize that the court is limited in its role and must make decisions based on the evidence presented. These recommendations seek to make a wide variety of tools available to the court. The flexibility to appoint various professionals provides the court with the best and most accurate information available. Proper training and consistent, quality performance of court-appointed professionals will strengthen the court's ability to make the best possible determinations for children.

Court-appointed professionals can spend more time with a family and have direct contact with the children outside the courtroom; this exposure to the family helps professionals obtain a fuller picture of the family circumstances. This knowledge can inform the court in valuable and important ways and enables judges to make more fully-informed custody determinations.

Statewide standards that reflect best practices for court-appointed professionals will ensure quality, uniformity, professionalism, and predictability. Clarity and separation of roles are also critical to ensure that court-appointed professionals do not exceed their authority or wield undue influence or power.

All of the recommended improvements will promote the best outcomes for children and protect them from the harmful fallout of their parents' litigation.

The Work Group has reached consensus on each recommendation in this report.

A. The Court should adopt statewide best-practices standards for lawyers representing children as Child's Attorneys and as Guardians ad Litem.

The Supreme Court should adopt the attached *Iowa Standards for Lawyers Representing Children in Custody Cases* as a court rule. The Iowa Standards are a modified version, tailored to Iowa, of the similarly titled standards published by the American Bar Association. The Court should direct child representatives to follow the standards where they are consistent with current Iowa law.

Standards will help dispel confusion and uncertainty about the child representative's role—for children, their parents, parents' attorneys, judges, and even children's representatives. In particular, the role of guardian ad litem has become muddled as various judges and districts hold differing expectations. Clarity about the child representative's responsibilities helps everyone know what to expect, which makes the court system more transparent.

These standards preserve the child representative's role as that of an attorney who can file motions to protect children or obtain needed resources for a family, present evidence, and examine witnesses, but who does not become a witness by taking the stand or filing a report. The standards also clarify that a lawyer may not serve as both a guardian ad litem and a child's attorney in the same case.

B. The Court should adopt a rule that incorporates standards of practice for a new role called the Child and Family Reporter (CFR).

The role of Child and Family Reporter gives the court an important new tool to make fully informed custody decisions. A CFR gathers and reports factual information that will assist the court in making custody, visitation, or other decisions related to the welfare of a child. A CFR provides a comprehensive family history that offers a context for understanding the issues in dispute, which in turn improves custody, parenting time, and other outcomes for children. The attached standards will help provide accountability and boundaries for CFRs and promote uniformity and consistency in investigations.

These standards incorporate and modify provisions from Massachusetts' standards for guardian ad litem investigators and Colorado's statute for child and family investigators.

C. The Supreme Court should adopt guidelines to ensure child-centered best practices when children participate in court in custody cases.

Children in Court: Child-Centered Best Practices in Child Custody Cases were developed to offer guidance to judges and attorneys regarding how and when children's testimony should be received. The guidelines are designed to promote consistency and best practices across Iowa but not to create a presumption in favor of or against allowing a child to testify in custody cases. Pursuant to Iowa Code § 598.41(3)(F), the court is to consider children's wishes in making a custody determination. Children sometimes ask to speak directly with a judge or parents ask the court to interview their child.

Guidelines will help ensure that proceedings are conducted in the manner least harmful to the children. The attached guidelines will help maximize children's ability to provide valuable and credible information to the court while minimizing intimidation or pressure on children.

D. The Court should adopt a rule adopting best practices guidelines for parenting coordinators.

A parenting coordinator protects children in cases where the fighting continues even after the litigation ends. Because a parenting coordinator's authority is substantial and a delegation of judicial authority is involved, the court must ensure that professionals are qualified and adhere to clear guidelines. The attached rule proposed by the work group clarifies the parenting coordinator's scope and promotes the highest ethical standards. Clear guidelines also help parents accept and develop a working relationship with the parenting coordinator.

II. Process improvements that each WG believes the Court could research and develop within the next one to two years.

A. Amendments to Iowa Code § 598.12 and § 600B are needed to support the appointment of outside professionals in custody cases.

Changes to Section 598.12 of the Iowa Code are needed to make the existing statute consistent with standards of practice for lawyers representing children in custody cases, the appointment of Child and Family Reporters, and existing case law. Once Section 598.12 is amended, it should be incorporated into Section 600B of the Code so that the same provisions clearly apply to custody cases between never-married parents.

The Iowa Code must be consistent with the standards proposed by the Work Group to be adopted by court rule to avoid confusion caused by inconsistencies. An amendment to Iowa Code § 598.12 will recognize the duties of court-appointed professionals performing 3 distinct roles: Child's Attorney (under 598.12(1)), Guardian ad Litem (under 598.12(2)), and Child and Family Reporter (CFR) (under 598.12(4)). Section 598.12(3) should be modified as it is not consistent with best practices for a lawyer to serve as both a child's attorney and guardian ad litem.

The work group will shepherd a proposal through the Iowa State Bar Association Family and Juvenile Law Section council, ISBA board of governors, and the ISBA legislative service agency to have an amendment to Iowa Code § 598.12 introduced as a bill. Proposed legislation will be more likely to succeed in the 2017 legislative session.

B. Additional evaluation and uniformity is needed for parent education programs.

Current parent education programs in Iowa should be evaluated and compared with parent education programs in other states. Iowa should set forth specific statewide curriculum requirements and standards. A centralized statewide registry of approved programs should be managed by state court administration rather than district by district. A mechanism should be put in place to provide feedback to the court about existing parent education programs. Excellent programs should be recognized. More investigation is needed into whether an online course should be an option for parents.

State guidelines for parent education programs will help ensure consistency and quality. For parent education programs to offer the maximum benefit to divorcing parents, they must meet program quality requirements and be regularly evaluated.

The Work Group will consider possibilities for how to regularly evaluate approved parent education programs. The work group will collect information from each district as to specific parent education curriculum and provider requirements and will study quality programs in other states to ensure quality practices in Iowa. One idea is for mediators to visit parent education classes to provide feedback as part of their certification process.

County bar associations should be consulted for input about parent education programs.

C. Legislation or a court rule is needed to authorize parenting coordination.

Legislation or a court rule that specifically authorizes the court to appoint a parenting coordinator would expand the use of parenting coordinators. Parenting coordinators help parents resolve conflict in a timely manner. Parenting coordinators increase parental cooperation, teach effective communication and conflict-resolution skills, and reduce future litigation.

Twenty states have statutes authorizing parenting coordination. Currently in Iowa, parenting coordinators may be appointed only by agreement of the parties. The option of parenting coordination should be expanded and made available to all families. For example, it would be a valuable tool for a district court judge to be able to require a certain number of sessions with a parenting coordinator prior to a hearing on a post-decree contempt. This requirement may be more easily accomplished through court order rather than through legislation.

D. Best practices guidelines for child custody evaluators should be considered.

Research is needed to determine whether to recommend that the Court adopt child custody evaluation standards through a court rule. Although child custody evaluations are expensive and therefore used sparingly, statewide standards could ensure uniformity, predictability, professionalism, and quality. Guidelines would also help ensure that custody evaluators receive sufficient training and education.

The APA has guidelines for mental health professionals who serve as custody evaluators. The APA guidelines should be compared with AAML guidelines to determine whether to recommend implementation of custody evaluator standards by court rule. Custody evaluation changes should have input from professionals in the mental health field.

Iowa Standards of Practice for Lawyers Representing Children in Custody Cases

I. INTRODUCTION

Children deserve to have custody proceedings conducted in the manner least harmful to them and most likely to provide judges with the facts needed to decide the case. By adopting these Standards, Iowa sets a standard for good practice and consistency in the appointment and performance of lawyers for children in custody cases.

These Standards distinguish two distinct types of lawyers for children: (1) The Child's Attorney, who provides independent legal representation in a traditional attorney-client relationship, giving the child a strong voice in the proceedings; and (2) The Guardian ad Litem, who independently investigates, assesses and advocates the child's best interests as a lawyer. While some courts in the past have appointed a lawyer, often called a guardian ad litem, to report or testify on the child's best interests and/or related information, this is not a lawyer's role under these Standards.

These Standards seek to keep the best interests of children at the center of the court's attention, and to build public confidence in a just and fair court system that works to promote the best interests of children. These Standards promote quality control, professionalism, clarity, uniformity and predictability. They require that: (1) all participants in a case know the duties, powers and limitations of the appointed role; and (2) lawyers have sufficient training, qualifications, compensation, time, and authority to do their jobs properly with the support and cooperation of the courts and other institutions.

II. SCOPE AND DEFINITIONS

A. Scope

These Standards apply to the appointment and performance of lawyers serving as advocates for children or their interests in any case where temporary or permanent legal custody, physical custody, parenting plans, parenting time, access, or visitation are adjudicated, including but not limited to divorce, custody, domestic violence, contested adoptions, and contested private guardianship cases.

B. Definitions

1. **"Child's Attorney": A lawyer who provides independent legal counsel for a child and who owes the same duties of undivided loyalty, confidentiality, and competent representation as are due an adult client.**

2. **"Guardian ad Litem": A lawyer who provides independent legal services for the purpose of protecting a child's best interests, without being bound by the child's directives or objectives.**

Commentary

A lawyer should be either a Child's Attorney or a Guardian ad Litem. The duties common to both roles are found in Part III of these Standards. The unique duties of each are described separately in Parts IV and V. The essential distinction between the two lawyer roles is that the Guardian ad Litem investigates and advocates the best interests of the child as a lawyer in the litigation, while the Child's Attorney is a lawyer who represents the child as a client. Neither kind of lawyer is a witness. Form should follow function in deciding which kind of lawyer to appoint. The role and duties of the lawyer should be tailored to the reasons for the appointment and the needs of the child.

The role of "guardian ad litem" has become muddled through different usages in different states, with varying connotations. It is a venerable legal concept that has often been stretched beyond recognition to serve fundamentally new functions, such as parenting coordinator, referee, facilitator, arbitrator, evaluator, mediator and advocate. Asking one guardian ad litem to perform several roles at once, to be all things to all people, is a messy, ineffective expedient. A court seeking expert or lay opinion testimony, written reports, or other non-traditional services should appoint an individual for that purpose, such as a Child and Family Reporter (CFR), and make clear that that person is not serving as a lawyer, and is not a party. This person can be either a non-lawyer, or a lawyer who chooses to serve in a volunteer non-lawyer capacity.

III. DUTIES OF ALL LAWYERS FOR CHILDREN

In addition to their general ethical duties as lawyers, and the specific duties set out in Parts IV and V, Child's Attorneys and Guardians ad Litem also have the duties outlined in this section.

A. Accepting Appointment

The lawyer should accept an appointment only with a full understanding of the issues and the functions to be performed. If the appointed lawyer considers parts of the appointment order confusing or incompatible with his or her ethical duties, the lawyer should (1) decline the appointment, or (2) inform the court of the conflict and ask the court to clarify or change the terms of the order, or (3) both.

B. Lawyer's Roles

A lawyer appointed as a Child's Attorney or Guardian ad Litem should not play any other role in the case, and should not testify, file a report, or make recommendations.

Commentary

Neither kind of lawyer should be a witness, which means that the lawyer should not be cross-examined, and more importantly should neither testify nor make a written or oral report or recommendation to the court, but instead should offer traditional evidence-based legal

arguments such as other lawyers make. However, explaining what result a client wants, or proffering what one hopes to prove, is not testifying; those are things all lawyers do.

If these Standards are properly applied, it will not be possible for courts to make a dual appointment, but there may be cases in which such an appointment was made before these Standards were adopted. The Child's Attorney role involves a confidential relationship with privileged communications. Because the child has a right to confidentiality and advocacy of his or her position, the Child's Attorney can never abandon this role while remaining involved in the case in any way. Once a lawyer has a lawyer-client relationship with a minor, he or she cannot and should not assume any other role for the child, especially as Guardian ad Litem or as a witness or Child and Family Reporter who investigates and makes a report.

C. Independence

The lawyer should be independent from the court and other participants in the litigation, and unprejudiced and uncompromised in his or her independent action. The lawyer has the right and the responsibility to exercise independent professional judgment in carrying out the duties assigned by the court, and to participate in the case as fully and freely as a lawyer for a party.

Commentary

The lawyer should not prejudge the case. A lawyer may receive payment from a court, a government entity, or even from a parent, relative, or other adult so long as the lawyer retains the full authority for independent action.

D. Limited Appointments

The court may limit a lawyer's appointment to a specific issue and direct the lawyer accordingly.

E. Initial Tasks

Immediately after being appointed, the lawyer should review the file. The lawyer should inform other parties or counsel of the appointment, and that as counsel of record he or she should receive copies of pleadings and discovery exchanges, and reasonable notification of hearings and of major changes of circumstances affecting the child.

F. Meeting with the Child

The lawyer should meet with the child, adapting all communications to the child's age, level of education, cognitive development, cultural background and degree of language acquisition, using an interpreter if necessary. The lawyer should inform the child about the court system, the proceedings, and the lawyer's responsibilities. The lawyer should elicit and assess the child's views.

Commentary

Establishing and maintaining a relationship with a child is the foundation of representation. Competent representation requires a child-centered approach and developmentally appropriate communication. All appointed lawyers should meet with the child and focus on the needs and circumstances of the individual child. Even nonverbal children can reveal much about their needs and interests through their behaviors and developmental levels. Meeting with the child also allows the lawyer to assess the child's circumstances, often leading to a greater understanding of the case, which may lead to creative solutions in the child's interest.

The nature of the legal proceeding or issue should be explained to the child in a developmentally appropriate manner. The lawyer must speak clearly, precisely, and in terms the child can understand. A child may not understand legal terminology. Also, because of a particular child's developmental limitations, the lawyer may not completely understand what the child says. Therefore, the lawyer must learn how to ask developmentally appropriate, non-suggestive questions and how to interpret the child's responses. The lawyer may work with social workers or other professionals to assess a child's developmental abilities and to facilitate communication.

While the lawyer should always take the child's point of view into account, caution should be used because the child's stated views and desires may vary over time or may be the result of fear, intimidation and manipulation. Lawyers may need to collaborate with other professionals to gain a full understanding of the child's needs and wishes.

G. Pretrial Responsibilities

The lawyer should:

1. **Conduct thorough, continuing, and independent discovery and investigations.**

2. **Develop a theory and strategy of the case to implement at hearings, including presentation of factual and legal issues.**

3. **Stay apprised of other court proceedings affecting the child, the parties and other household members.**

4. **Attend meetings involving issues within the scope of the appointment.**

5. **Take any necessary and appropriate action to expedite the proceedings.**

6. **Participate in, and, when appropriate, initiate, negotiations and mediation. The lawyer should clarify, when necessary, that she or he is not acting as a mediator; and a lawyer who participates in a mediation should be bound by the confidentiality and privilege rules governing the mediation.**

7. **Participate in depositions, pretrial conferences, and hearings.**

8. **File or make petitions, motions, responses or objections when necessary.**

9. **Where appropriate, within a lawyer's area of competency, and not prohibited by law, request authority from the court to pursue issues on behalf of the child, administratively or judicially, even if those issues do not specifically arise from the court appointment.**

Commentary

The lawyer should investigate the facts of the case to get a sense of the people involved and the real issues in the case, just as any other lawyer would. This is necessary even for a Child's Attorney, whose ultimate task is to seek the client's objectives. Guardians ad Litem have additional investigation duties described in Standard V-D.

By attending relevant meetings, the lawyer can present the child's perspective, gather information, and sometimes help negotiate a full or partial settlement. The lawyer may not need to attend if another person involved in the case, such as a social worker, can obtain information or present the child's perspective, or when the meeting will not be materially relevant to any issues in the case.

The lawyer is in a pivotal position in negotiations. The lawyer should attempt to resolve the case in the least adversarial manner possible, considering whether therapeutic intervention, parenting or co-parenting education, mediation, or other dispute resolution methods are appropriate. The lawyer may effectively assist negotiations of the parties and their lawyers by focusing on the needs of the child, including where appropriate the impact of domestic violence. Settlement frequently obtains at least short-term relief for all parties involved and is often the best way to resolve a case. The lawyer's role is to advocate the child's interests and point of view in the negotiation process. If a party is legally represented, it is unethical for a lawyer to negotiate with the party directly without the consent of the party's lawyer.

The lawyer should file any appropriate pleadings on behalf of the child, including responses to the pleadings of other parties, to ensure that appropriate issues are properly before the court and expedite the court's consideration of issues important to the child's interests. Where available under state law or court rules or by permission of the court, relief requested may include, but is not limited to: (1) A mental or physical examination of a party or the child; (2) A parenting, custody or visitation evaluation; (3) An increase, decrease, or termination of parenting time; (4) Services for the child or family; (5) Contempt for non-compliance with a court order; (6) A protective order concerning the child's privileged communications; (7) Dismissal of petitions or motions.

The child's interests may be served through proceedings not connected with the case in which the lawyer is participating. For example, issues to be addressed may include: (1) Child support; (2) Delinquency or status offender matters; (3) SSI and other public benefits access; (4) Mental health proceedings; (5) Visitation, access or parenting time with parents, siblings, or third parties, (6) Paternity; (7) Personal injury actions; (8) School/education issues, especially for a

child with disabilities; (9) Guardianship; (10) Termination of parental rights; (11) Adoption; or (12) A protective order concerning the child's tangible or intangible property.

H. Hearings

The lawyer should participate actively in all hearings and conferences with the court on issues within the scope of the appointment. Specifically, the lawyer should:

1. **Introduce herself or himself to the court as the Child's Attorney or Guardian ad Litem at the beginning of any hearing.**

2. **Make appropriate motions, including motions in limine and evidentiary objections, file briefs and preserve issues for appeal, as appropriate.**

3. **Present and cross-examine witnesses and offer exhibits as necessary.**

4. **If a child is to meet with the judge or testify, prepare the child, familiarizing the child with the places, people, procedures, and questioning that the child will be exposed to; and seek to minimize any harm to the child from the process.**

5. **Seek to ensure that questions to the child are phrased in a syntactically and linguistically appropriate manner and that testimony is presented in a manner that is admissible.**

6. **Where appropriate, introduce evidence and make arguments on the child's competency to testify, or the reliability of the child's testimony or out-of-court statements. The lawyer should be familiar with the current law and empirical knowledge about children's competency, memory, and suggestibility.**

7. **Make a closing argument, proposing specific findings of fact and conclusions of law.**

8. **Ensure that a written order is made, and that it conforms to the court's oral rulings and statutorily required findings and notices.**

Commentary

Although the lawyer's position may overlap with the position of one or more parties, the lawyer should be prepared to participate fully in any proceedings and not merely defer to the other parties. The lawyer should address the child's interests, describe the issues from the child's perspective, keep the case focused on the child's needs, discuss the effect of various dispositions on the child, and, when appropriate, present creative alternative solutions to the court.

A brief formal introduction should not be omitted, because in order to make an informed decision on the merits, the court must be mindful of the lawyer's exact role, with its specific duties and constraints. Even though the appointment order states the nature of the appointment, judges should be reminded, at each hearing, which role the lawyer is playing.

The lawyer's preparation of the child should include attention to the child's developmental needs and abilities. The lawyer should also prepare the child for the possibility that the judge may render a decision against the child's wishes, explaining that such a result would not be the child's fault.

If the child does not wish to testify or would be harmed by testifying, the lawyer should seek a stipulation of the parties not to call the child as a witness, or seek a protective order from the court. The lawyer should seek to minimize the adverse consequences by seeking any appropriate accommodations permitted by law so that the child's views are presented to the court in the manner least harmful to the child, such as having the testimony taken informally, in chambers, without the parents present. The lawyer should seek any necessary assistance from the court, including location of the testimony, determination of who will be present, and restrictions on the manner and phrasing of questions posed to the child. The child should be told beforehand whether in-chambers testimony will be shared with others, such as parents who might be excluded from chambers.

Questions to the child should be phrased consistently with the law and research regarding children's testimony, memory, and suggestibility. The information a child gives is often misleading, especially if adults have not understood how to ask children developmentally appropriate questions and how to interpret their answers properly. The lawyer must become skilled at recognizing the child's developmental limitations. It may be appropriate to present expert testimony on the issue, or have an expert present when a young child is directly involved in the litigation, to point out any developmentally inappropriate phrasing of questions.

The competency issue may arise in the unusual circumstance of the child being called as a live witness, as well as when the child's input is sought by other means such as in-chambers meetings, closed-circuit television testimony, etc. Iowa has no presumptive ages of competency; rather, courts engage in more flexible, case-by-case analyses. Competency to testify involves the abilities to perceive and relate. If necessary and appropriate, the lawyer should present expert testimony to establish competency or reliability or to rehabilitate any impeachment of the child on those bases.

I. Appeals

1. If an appeal on behalf of the child is permitted by state law, and if it has been decided pursuant to Standard IV-D or V-F that such an appeal is necessary, the lawyer should take all steps necessary to perfect the appeal and seek appropriate temporary orders or extraordinary writs necessary to protect the interests of the child during the pendency of the appeal. See Iowa Rule of Appellate Procedure 6.109(4).

2. **The lawyer should participate in any appeal filed by another party, concerning issues relevant to the child and within the scope of the appointment, unless discharged.**

3. **When the appeals court's decision is received, the lawyer should explain it to the child.**

Commentary

The lawyer should take a position in any appeal filed by a party, consistent with the other provisions in these standards. If the child's interests are affected by the issues raised in the appeal, the lawyer should seek an appointment on appeal or seek appointment of appellate counsel.

As with other court decisions, the lawyer should explain in terms the child can understand the nature and consequences of the appeals court's decision, whether there are further appellate remedies, and what more, if anything, will be done in the trial court following the decision.

J. Enforcement

The lawyer should monitor the implementation of the court's orders and address any non-compliance.

K. End of Representation

When the representation ends, the lawyer should inform the child in a developmentally appropriate manner.

IV. CHILD'S ATTORNEYS

A. Ethics and Confidentiality

1. **Child's Attorneys are bound by Iowa's ethics rules in all matters.**

2. **A Child's Attorney appointed to represent two or more children should remain alert to the possibility of a conflict that could require the lawyer to decline representation or withdraw from representing all of the children.**

Commentary

The child is an individual with independent views. To ensure that the child's independent voice is heard, the Child's Attorney should advocate the child's articulated position, and owes traditional duties to the child as client, subject to Iowa Rules 32:1.2(a) and 32:1.14.

Iowa Rules of Professional Conduct impose a broad duty of confidentiality concerning all "information relating to the representation of a client," but they also modify the traditional exceptions to confidentiality. Under Rule 32:1.6, a lawyer may reveal information without the client's informed consent "to the extent the lawyer reasonably believes necessary … to prevent

reasonably certain death or substantial bodily harm," or "to comply with other law or a court order," or when "the disclosure is impliedly authorized in order to carry out the representation." Also, according to Rule 32:1.14(c), "the lawyer is impliedly authorized under rule 32:1.6 to reveal information about the client, but only to the extent reasonably necessary to protect the client's interests" when acting under Rule 32:1.14 to protect a client with "diminished capacity" who "is at risk of substantial physical, financial or other harm."

Rule 32:1.7 provides that "a lawyer shall not represent a client if ... the representation of one client will be directly adverse to another client ...." Some diversity between siblings' views and priorities does not pose a direct conflict. But when two siblings aim to achieve fundamentally incompatible outcomes in the case as a whole, they are "directly adverse." Comment [8] to Rule 32:1.7 states that "a conflict of interest exists if there is a significant risk that a lawyer's ability to consider, recommend, or carry out an appropriate course of action for the client will be materially limited .... [A] lawyer asked to represent several individuals ... is likely to be materially limited in the lawyer's ability to recommend or advocate all possible positions that each might take because of the lawyer's duty of loyalty to the others.... The critical questions are the likelihood that a difference in interests will eventuate and, if it does, whether it will materially interfere with the lawyer's independent professional judgment in considering alternatives or foreclose courses of action that reasonably should be pursued on behalf of the client."

B. Informing and Counseling the Client

In a developmentally appropriate manner, the Child's Attorney should:

1. **Meet with the child upon appointment, before court hearings, when apprised of emergencies or significant events affecting the child, and at other times as needed to gain the child's trust and establish a rapport with the child.**

2. **Explain to the child what is expected to happen before, during and after each hearing.**

3. **Advise the child and provide guidance, communicating in a way that maximizes the child's ability to direct the representation.**

4. **Discuss each substantive order, and its consequences, with the child.**

Commentary

Meeting with the child is important before court hearings and case reviews. Such in-person meetings allow the lawyer to explain to the child what is happening, what alternatives might be available, and what will happen next.

The Child's Attorney has an obligation to explain clearly, precisely, and in terms the client can understand, the meaning and consequences of the client's choices. A child may not understand the implications of a particular course of action. The lawyer has a duty to explain in a developmentally appropriate way such information as will assist the child in having maximum

input in decision-making. The lawyer should inform the child of the relevant facts and applicable laws and the ramifications of taking various positions, which may include the impact of such decisions on other family members or on future legal proceedings. The lawyer may express an opinion concerning the likelihood of the court or other parties accepting particular positions. The lawyer may inform the child of an expert's recommendations germane to the issue.

As in any other lawyer/client relationship, the lawyer may express his or her assessment of the case, and of the best position for the child to take, and the reasons underlying such recommendation, and may counsel against the pursuit of particular goals sought by the client. However, a child may agree with the lawyer for inappropriate reasons. A lawyer must remain aware of the power dynamics inherent in adult/child relationships, recognize that the child may be more susceptible to intimidation and manipulation than some adult clients, and strive to detect and neutralize those factors. The lawyer should carefully choose the best time to express his or her assessment of the case. The lawyer needs to understand what the child knows, and what factors are influencing the child's decision. The lawyer should attempt to determine from the child's opinion and reasoning what factors have been most influential or have been confusing or glided over by the child.

The lawyer for the child has dual fiduciary duties to the child which must be balanced. On the one hand, the lawyer has a duty to ensure that the client is given the information necessary to make an informed decision, including advice and guidance. On the other hand, the lawyer has a duty not to overbear the will of the client. While the lawyer may attempt to persuade the child to accept a particular position, the lawyer may not advocate a position contrary to the child's expressed position except as provided by the applicable ethical standards.

Consistent with the rules of confidentiality and with sensitivity to the child's privacy, the lawyer should consult with the child's therapist and other experts and obtain appropriate records. For example, a child's therapist may help the child to understand why an expressed position is dangerous, foolish, or not in the child's best interests. The therapist might also assist the lawyer in understanding the child's perspective, priorities, and individual needs. Similarly, significant persons in the child's life may educate the lawyer about the child's needs, priorities, and previous experiences.

As developmentally appropriate, the Child's Attorney should consult the child prior to any settlement becoming binding.

The child is entitled to understand what the court has done and what that means to the child, at least with respect to those portions of the order that directly affect the child. Children sometimes assume that orders are final and not subject to change. Therefore, the lawyer should explain whether the order may be modified at another hearing, or whether the actions of the parties may affect how the order is carried out.

C. Client Decisions

The Child's Attorney should abide by the client's decisions about the objectives of the representation with respect to each issue on which the child is competent to direct the

lawyer, and does so. The Child's Attorney should pursue the child's expressed objectives, unless the child requests otherwise, and follow the child's direction, throughout the case.

Commentary

The child is entitled to determine the overall objectives to be pursued. The Child's Attorney may make certain decisions about the manner of achieving those objectives, particularly on procedural matters, as any adult's lawyer would. These Standards do not require the lawyer to consult with the child on matters which would not require consultation with an adult client, nor to discuss with the child issues for which the child's developmental limitations make it not feasible to obtain the child's direction, as with an infant or preverbal child.

1. **The Child's Attorney should make a separate determination whether the child has "diminished capacity" pursuant to Rule 32:1.14 with respect to each issue in which the child is called upon to direct the representation.**

Commentary

These Standards do not presume that children of certain ages are "impaired," "disabled," "incompetent," or lack capacity to determine their position in litigation. Disability is contextual, incremental, and may be intermittent. The child's ability to contribute to a determination of his or her position is functional, depending upon the particular position and the circumstances prevailing at the time the position must be determined. Therefore, a child may be able to determine some positions in the case but not others. Similarly, a child may be able to direct the lawyer with respect to a particular issue at one time but not at another.

2. **If the child does not express objectives of representation, the Child's Attorney should make a good faith effort to determine the child's wishes, and advocate according to those wishes if they are expressed. If a child does not or will not express objectives regarding a particular issue or issues, the Child's Attorney should determine and advocate the child's legal interests or request the appointment of a Guardian ad Litem.**

Commentary

There are circumstances in which a child is unable to express any positions, as in the case of a preverbal child. Under such circumstances, the Child's Attorney should represent the child's legal interests or request appointment of a Guardian ad Litem. "Legal interests" are distinct from "best interests" and from the child's objectives. Legal interests are interests of the child that are specifically recognized in law and that can be protected through the courts. A child's legal interests could include, for example, depending on the nature of the case, a special needs child's right to appropriate educational, medical, or mental health services; helping assure that children needing residential placement are placed in the least restrictive setting consistent with their needs; a child's child support, governmental and other financial benefits; visitation with siblings, family members, or others the child wishes to maintain contact with; and a child's due process or other procedural rights.

The child's failure to express a position is different from being unable to do so, and from directing the lawyer not to take a position on certain issues. The child may have no opinion with respect to a particular issue, or may delegate the decision-making authority. The child may not want to assume the responsibility of expressing a position because of loyalty conflicts or the desire not to hurt one of the parties. In that case, the lawyer is free to pursue the objective that appears to be in the client's legal interests based on information the lawyer has, and positions the child has already expressed. A position chosen by the lawyer should not contradict or undermine other issues about which the child has expressed a viewpoint. However, before reaching that point the lawyer should clarify with the child whether the child wants the lawyer to take a position, or to remain silent with respect to that issue, or wants the point of view expressed only if the party is out of the room. The lawyer is then bound by the child's directive.

3. If the Child's Attorney determines that pursuing the child's expressed objective would put the child at risk of substantial physical, financial or other harm, and is not merely contrary to the lawyer's opinion of the child's interests, the lawyer may request appointment of a separate Guardian ad Litem and continue to represent the child's expressed position, unless the child's position is prohibited by law or without any factual foundation. The Child's Attorney should not reveal the reason for the request for a Guardian ad Litem, which would compromise the child's position, unless such disclosure is authorized by the ethics rule on confidentiality that is in force.

Commentary

One of the most difficult ethical issues for lawyers representing children occurs when the child is able to express a position and does so, but the lawyer believes that the position chosen is wholly inappropriate or could result in serious injury to the child. This is particularly likely to happen with respect to an abused child whose home is unsafe, but who desires to remain or return home. A child may desire to live in a dangerous situation because it is all he or she knows, because of a feeling of blame or of responsibility to take care of a parent, or because of threats or other reasons to fear the parent. The child may choose to deal with a known situation rather than risk the unknown.

It should be remembered in this context that the lawyer is bound to pursue the client's objectives only through means permitted by law and ethical rules. The lawyer may be subject personally to sanctions for taking positions that are not well grounded in fact and warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

In most cases the ethical conflict involved in asserting a position which would seriously endanger the child, especially by disclosure of privileged information, can be resolved through the lawyer's counseling function, if the lawyer has taken the time to establish rapport with the child and gain that child's trust. While the lawyer should be careful not to apply undue pressure to a child, the lawyer's advice and guidance can often persuade the child to change a dangerous or imprudent position or at least identify alternative choices in case the court denies the child's first choice.

If the child cannot be persuaded, the lawyer has a duty to safeguard the child's interests by requesting appointment of a Guardian ad Litem. As a practical matter, this may not adequately protect the child if the danger to the child was revealed only in a confidential disclosure to the lawyer, because the Guardian ad Litem may never learn of the disclosed danger.

Rule 32:1.14 provides that "when the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial, or other harm unless action is taken, and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action ..." and "the lawyer is impliedly authorized under rule 32:1.6 to reveal information about the client, but only to the extent reasonably necessary to protect the client's interests."

If there is a substantial danger of serious injury or death, the lawyer must take the minimum steps which would be necessary to ensure the child's safety, respecting and following the child's direction to the greatest extent possible consistent with the child's safety and ethical rules.

4. **The Child's Attorney should discuss with the child whether to ask the judge to meet with the child, and whether to call the child as a witness. The decision should include consideration of the child's needs and desires to do either of these, any potential repercussions of such a decision or harm to the child from testifying or being involved in case, the necessity of the child's direct testimony, the availability of other evidence or hearsay exceptions which may substitute for direct testimony by the child, and the child's developmental ability to provide direct testimony and withstand cross-examination. Ultimately, the Child's Attorney is bound by the child's direction concerning testifying.**

Commentary

Decisions about the child's testifying should be made individually, based on the circumstances. If the child has a therapist, the attorney should consult the therapist about the decision and for help in preparing the child. In the absence of compelling reasons, a child who has a strong desire to testify should be called to do so.

D. Appeals

If an appeal on behalf of the child is permitted, the Child's Attorney should consider and discuss with the child, as developmentally appropriate, the possibility of an appeal. If the child, after consultation, wishes to appeal the order, and the appeal has merit, the Child's Attorney should appeal. If the Child's Attorney determines that an appeal would be frivolous or that he or she lacks the expertise necessary to handle the appeal, he or she should notify the court and seek to be discharged or replaced.

Commentary

The lawyer should explain not only any legal possibility of an appeal, but also the ramifications

of filing an appeal, including delaying conclusion of the case, and what will happen pending a final decision.

E. Obligations after Initial Disposition

The Child's Attorney should perform, or when discharged, seek to ensure, continued representation of the child at all further hearings, including at administrative or judicial actions that result in changes to the child's placement or services, so long as the court maintains its jurisdiction.

Commentary

Representing a child continually presents new tasks and challenges due to the passage of time and the changing needs of the child. The Child's Attorney should stay in touch with the child, with the parties or their counsel, and any other caretakers, case workers, and service providers throughout the term of appointment to attempt to ensure that the child's needs are met and that the case moves quickly to an appropriate resolution.

F. End of Representation

The Child's Attorney should discuss the end of the legal representation with the child, what contacts, if any, the Child's Attorney and the child will continue to have, and how the child can obtain assistance in the future, if necessary.

V. GUARDIANS AD LITEM

A. Ethics

Guardians ad Litem are bound by Iowa's ethics rules in all matters except as dictated by the absence of a traditional attorney-client relationship with the child and the particular requirements of their appointed tasks. Even outside of an attorney-client relationship, all lawyers have certain ethical duties toward the court, parties in a case, the justice system, and the public.

Commentary

Siblings with conflicting views do not pose a conflict of interest for a Guardian ad Litem, because such a lawyer is not bound to advocate a client's objective. A Guardian ad Litem in such a case should report the relevant views of all the children in accordance with Standard V-E-3, and advocate the children's best interests in accordance with Standard V-E-1.

B. Confidentiality

A child's communications with the Guardian ad Litem are subject to Iowa's ethics rules on lawyer-client confidentiality, except that the lawyer may also use the child's confidences for the purposes of the representation without disclosing them.

Commentary

Iowa Rule 32:1.6(a) bars any release of information except for disclosures that are "impliedly authorized in order to carry out the representation." Under Rule 32:1.6, a lawyer may reveal confidences "to prevent reasonably certain death or substantial bodily harm," "to comply with other law or a court order," or for other named reasons. As for communications that are not subject to disclosure under these or other applicable ethics rules, a Guardian ad Litem may use them to further the child's best interests, without disclosing them. An example of this distinction is if a child tells the lawyer that a parent takes drugs; the lawyer may seek and present other evidence of the drug use, but may not reveal the initial information came from the child. For more discussion of exceptions to confidentiality, see the Commentary to Standard IV-A.

C. Explaining Role to the Child

In a developmentally appropriate manner, the Guardian ad Litem should explain to the child that the Guardian ad Litem will (1) investigate and advocate the child's best interests, (2) will investigate the child's views relating to the case and will report them to the court unless the child requests that they not be reported, and (3) will use information from the child for those purposes, but (4) will not necessarily advocate what the child wants as a lawyer for a client would.

D. Investigations

The Guardian ad Litem should conduct thorough, continuing, and independent investigations, including:

1. **Reviewing any court files of the child, and of siblings who are minors or are still in the home, potentially relevant court files of parties and other household members, and case-related records of any social service agency and other service providers;**

2. **Reviewing child's social services records, if any, mental health records (except as otherwise provided in Standard VI-A-3), drug and alcohol-related records, medical records, law enforcement records, school records, and other records relevant to the case;**

3. **Contacting lawyers for the parties, and non-lawyer representatives or court- appointed special advocates (CASAs);**

4. **Contacting and meeting with the parties, with permission of their lawyers;**

5. **Interviewing individuals significantly involved with the child, who may in the Guardian ad Litem's discretion include, if appropriate, case workers, caretakers, neighbors, relatives, school personnel, coaches, clergy, mental health professionals, physicians, law enforcement officers, and other potential witnesses;**

6. **Reviewing the relevant evidence personally, rather than relying on other parties' or counsel's descriptions and characterizations of it;**

7. **Staying apprised of other court proceedings affecting the child, the parties and other household members.**

Commentary

Relevant files to review include those concerning child protective services, developmental disabilities, juvenile delinquency, mental health, and educational agencies. These records can provide a more complete context for the current problems of the child and family. Information in the files may suggest additional professionals and lay witnesses who should be contacted.

Though courts should order automatic access to records, the Guardian ad Litem may still need to use subpoenas or other discovery or motion procedures to obtain the relevant records, especially those which pertain to the parties.

Meetings with the children and all parties are among the most important elements of a competent investigation. However, there may be a few cases where a party's lawyer will not allow the Guardian ad Litem to communicate with the party. Rule 32:4.2 prohibits such contact without consent of the party's lawyer. In some such cases, the Guardian ad Litem may be able to obtain permission for a meeting with the party's lawyer present. When the party has no lawyer, Rule 32:4.3 allows contact but requires reasonable efforts to correct any apparent misunderstanding of the Guardian ad Litem's role.

The parties' lawyers may have information not included in any of the available records. They can provide information on their clients' perspectives.

E. Advocating the Child's Best Interests

1. **Any assessment of, or argument on, the child's best interests should be based on objective criteria as set forth in the law related to the purposes of the proceedings.**

2. **Guardians ad Litem should bring to the attention of the court any facts which, when considered in context, seriously call into question the advisability of any agreed settlement.**

3. **At hearings on custody or parenting time, Guardians ad Litem should present the child's expressed desires (if any) to the court, except for those that the child expressly does not want presented.**

Commentary

Determining a child's best interests is a matter of gathering and weighing evidence, reaching factual conclusions and then applying legal standards to them. Factors in determining a child's

interests are generally stated in Iowa's statute and case law, and Guardians ad Litem must be familiar with them and how courts apply them. A child's desires are usually one of many factors in deciding custody and parenting time, and the weight given them varies with age and circumstances.

A Guardian ad Litem is functioning in a nontraditional role by determining the position to be advocated independently of the client. The Guardian ad Litem should base this determination on objective criteria concerning the child's needs and interests, and not merely on the lawyer's personal values, philosophies, and experiences. A best-interests case should be based on Iowa's governing statute and case law, or a good faith argument for modification of case law. The Guardian ad Litem should not use any other theory, doctrine, model, technique, ideology, or personal rule without explicitly arguing for it in terms of governing law on the best interests of the child. The trier of fact needs to understand any such theory in order to make an informed decision in the case.

The Guardian ad Litem must consider the child's individual needs. The child's various needs and interests may be in conflict and must be weighed against each other. The child's developmental level, including his or her sense of time, is relevant to an assessment of needs. The lawyer may seek the advice and consultation of experts and other knowledgeable people in determining and weighing such needs and interests.

As a general rule Guardians ad Litem should encourage, not undermine, settlements. However, in unusual cases where the Guardian ad Litem reasonably believes the settlement would endanger the child and the court would not approve the settlement were it aware of certain facts, the Guardian ad Litem should bring those facts to the court's attention. This should not be done by ex parte communication. The Guardian ad Litem should ordinarily discuss her or his concerns with the parties and counsel in an attempt to change the settlement before involving the judge.

F. Appeals

If an appeal on behalf of the child is permitted, the Guardian ad Litem should appeal when he or she believes that (1) the trial court's decision is significantly detrimental to the child's welfare, (2) an appeal could be successful considering the law, the standard of review, and the evidence that can be presented to the appellate court, and (3) the probability and degree of benefit to the child outweighs the probability and degree of detriment to the child from extending the litigation and expense that the parties will undergo. See Rule 6.109(4).

VI. COURTS

A. Appointment of Lawyers

1. Discretionary Appointment

If necessary for the court to decide the case, a court should appoint a Child's Attorney or Guardian ad Litem as soon as practicable.

In deciding whether to appoint a lawyer, the court should consider the nature and adequacy of the evidence to be presented by the parties; other available methods of obtaining information, including social service investigations, and evaluations by mental health professionals; and available resources for payment. Appointment may be most appropriate in cases involving the following factors, allegations or concerns:

a. Consideration of extraordinary remedies such as supervised visitation, terminating or suspending parenting time, or awarding custody or visitation to a non-parent;
b. Relocation that could substantially reduce the child's time with a parent or sibling;
c. The child's concerns or views;
d. Harm to the child from illegal or excessive drug or alcohol abuse by a child or a party;
e. Disputed paternity;
f. Past or present child abduction or risk of future abduction;
g. Past or present family violence;
h. Past or present mental health problems of the child or a party;
i. Special physical, educational, or mental health needs of a child that require investigation or advocacy;
j. A high level of acrimony;
k. Inappropriate adult influence or manipulation;
l. Interference with custody or parenting time;
m. A need for more evidence relevant to the best interests of the child;
n. A need to minimize the harm to the child from the processes of family separation and litigation; or
o. Specific issues that would best be addressed by a lawyer appointed to address only those issues, which the court should specify in its appointment order.

Commentary

In some cases the court's capacity to decide the case properly will be jeopardized without framing the issues in a more child-focused manner. Often, courts are deprived of important information, to the detriment of the children. A lawyer building and arguing the child's case, or a case for the child's best interests, places additional perspectives, concerns, and relevant, material information before the court allowing for a more informed decision.

Appointing a lawyer for the child ensures the court is made aware of any views the child wishes to express concerning various aspects of the case, and that those views will be given the proper weight that substantive law attaches to them. This must be done in the least harmful manner — that which is least likely to make the child think that he or she is deciding the case and passing judgment on the parents. Courts and lawyers should strive to implement procedures that give children meaningful opportunities to be heard when they have something they want to say, rather than simply giving the parents another vehicle with which to make their case.

The purpose of child representation is twofold: to advocate a particular outcome, and to protect children from collateral damage from litigation. While the case is pending, conditions that deny the children a minimum level of security and stability may need to be remedied or prevented.

Appointing a lawyer protects the child and provides information to assist courts in deciding a case in accordance with the child's best interests. A decision not to appoint should not be regarded as denying a child's procedural or substantive rights under these Standards. Likewise, these Standards are not intended to diminish Iowa law or practices which afford children standing or the right to broader representation than provided by these Standards. Similarly, these Standards do not limit any right or opportunity of a child to engage a lawyer or to initiate an action, where such actions or rights are recognized by law or practice.

2. Appointment Orders

Courts should make written appointment orders on standardized forms, in plain language understandable to non-lawyers, and send copies to the parties as well as to counsel. Orders should specify the lawyer's role as either Child's Attorney or Guardian ad Litem, and the reasons for and duration of the appointment.

Commentary

Appointment orders should precisely state the reasons for the appointment and outline the tasks to be performed. Appointment orders should inform all parties of the role and authority of the lawyer to help the court make an informed decision and exercise effective oversight and to facilitate understanding, acceptance and compliance. A Model Appointment Order is at the end of these Standards.

When the lawyer is appointed for a narrow, specific purpose with limited duties under Standard VI-A-1(o), the lawyer may need to ask the court to clarify or change the role or tasks as needed to serve the child's interests. This should be done with notice to the parties, who should also receive copies of any new order.

3. Information Access Orders

The appointment order should authorize the lawyer's reasonable access to the child, and to all otherwise privileged or confidential information about the child, without the necessity of any further order or release, including, but not limited to, social services, drug and alcohol treatment, medical, evaluation, law enforcement, school, probate and court records, records of trusts and accounts of which the child is a beneficiary, and other records relevant to the case; except that health and mental health records that would otherwise be privileged or confidential under state or federal laws should be released to the lawyer only in accordance with those laws.

Commentary

The court may separate the information access order from the appointment order so that the facts or allegations cited as reasons for the appointment are not revealed to everyone from whom information is sought. Use of the term "privileged" in this Standard does not include the attorney-client privilege.

4. Independence

The court must assure that the lawyer is independent of the court, court services, the parties, and the state.

5. Duration of Appointments

Appointments should last, and require active representation, as long as the issues for which the lawyer was appointed are pending.

Commentary

The Child's Attorney or Guardian ad Litem may be the only source of continuity in the court system for the family, providing a stable point of contact for the child and institutional memory for the court and agencies. Courts should maintain continuity of representation whenever possible, re-appointing the lawyer when one is needed again, unless inconsistent with the child's needs. The lawyer should ordinarily accept reappointment. If replaced, the lawyer should inform and cooperate with the successor.

6. Whom to Appoint

Courts should appoint only lawyers who have agreed to serve in child custody cases in the assigned role, and have been trained as provided in Standard VI- B or are qualified by appropriate experience in custody cases.

Commentary

Courts should appoint from the ranks of qualified lawyers. Appointments should be made with regard to prior training or practice. Competence requires relevant training and experience. Lawyers should be allowed to specify if they are only willing to serve as Child's Attorney or as Guardian ad Litem.

7. Privately-Retained Attorneys

An attorney privately retained by or for a child, whether paid or not, (a) is subject to these Standards, (b) should have all the rights and responsibilities of a lawyer appointed by a court pursuant to these Standards, (c) should be expressly retained as either a Child's Attorney or a Guardian ad Litem, and (d) should vigilantly guard the client-lawyer relationship from interference as provided in Rule 32:1.8(f).

B. Training

Training for lawyers representing children in custody cases should cover:

1. **Relevant state and federal laws, agency regulations, court decisions and court rules;**

2. **The legal standards applicable in each kind of case in which the lawyer may be appointed, including child custody and visitation law;**

3. **Applicable representation guidelines and standards;**

4. **The court process and key personnel in child-related litigation, including custody evaluations and mediation;**

5. **Children's development, needs and abilities at different ages;**

6. **Communicating with children;**

7. **Preparing and presenting a child's viewpoints, including child testimony and alternatives to direct testimony;**

8. **Recognizing, evaluating and understanding evidence of child abuse and neglect;**

9. **Family dynamics and dysfunction, domestic violence and substance abuse;**

10. **The multidisciplinary input required in child-related cases, including information on local experts who can provide evaluation, consultation and testimony;**

11. **Available services for child welfare, family preservation, medical, mental health, educational, and special needs, including placement, evaluation/ diagnostic, and treatment services, and provisions and constraints related to agency payment for services;**

12. **Basic information about state and federal laws and treaties on child custody jurisdiction, enforcement, and child abduction.**

Commentary

Courts, bar associations, and other organizations should sponsor, fund and participate in training. They should also offer advanced and new-developments training, and provide mentors for lawyers who are new to child representation. Training in custody law is especially important because not everyone seeking to represent children will have a family law background. Lawyers must be trained to distinguish between the different kinds of cases in which they may be appointed, and the different legal standards to be applied.

Training should address the impact of spousal or domestic partner violence on custody and parenting time, and any statutes or case law regarding how allegations or findings of domestic violence should affect custody or parenting time determinations. Training should also sensitize lawyers to the dangers that domestic violence victims and their children face in attempting to flee abusive situations, and how that may affect custody awards to victims.

C. Compensation

Lawyers for children are entitled to and should receive adequate and predictable compensation that is based on legal standards generally used for determining the reasonableness of privately-retained lawyers' hourly fees in family law cases.

1. Compensation Aspects of Appointment Orders

The court should make clear to all parties, orally and in writing, how fees will be determined, including the hourly rate or other computation system used, and the fact that both in-court and out-of-court work will be paid for; and how and by whom the fees and expenses are to be paid, in what shares. If the parties are to pay for the lawyer's services, then at the time of appointment the court should order the parties to deposit specific amounts of money for fees and costs.

2. Sources of Payment

Courts should look to the following sources, in the following order, to pay for the lawyer's services: (a) The incomes and assets of the parties; (b) Targeted filing fees assessed against litigants in similar cases, and reserved in a fund for child representation; (c) Government funding; (d) Voluntary pro bono service. Courts should not make involuntary "pro bono" appointments, although the Court encourages voluntary pro bono service.

3. Timeliness of Claims and Payment

Lawyers should regularly bill for their time and receive adequate and timely compensation. Appointment orders should provide for retainers and payment of invoices in the normal course of business for lawyers.

4. Costs

Attorneys should have reasonable and necessary access to, or reimbursement for, experts, investigative services, paralegals, research, and other services, such as copying medical records, long distance phone calls, service of process, and transcripts of hearings.

5. Enforcement

Courts should vigorously enforce orders for payment by all available means.

Commentary

These Standards call for paying lawyers in accordance with prevailing legal standards of reasonableness for lawyers' fees in general.

The Court should include the lawyer's fee or hourly rate in the appointment order. It is not meant to set a uniform rate, nor to pre-empt a court's determination of the overall reasonableness of fees. The court should keep information on eligible lawyers' hourly rates and pro bono availability on file, or ascertain it when making the appointment order. Judges should not arbitrarily reduce properly requested compensation, except in accordance with legal standards of reasonableness.

Many children go unrepresented because of a lack of resources. As much as possible, those whose decisions impose costs on others and on society should bear such costs at the time that they make the decisions, so that the decisions will be more fully informed and socially conscious. Thus direct payment of lawyer's fees by litigants is best, where possible.

Courts are encouraged to seek high-quality child representation through contracting with special children's law offices, law firms, and other programs. Courts should assure that payment is commensurate with the fees paid to equivalently experienced individual lawyers who have similar qualifications and responsibilities.

Courts and bar associations should establish or cooperate with voluntary pro bono and/or legal services programs to adequately train and support pro bono and legal services lawyers in representing children in custody cases.

D. Physical Accommodations

Courts should provide lawyers representing children with seating and work space comparable to that of other lawyers, sufficient to facilitate the work of in-court representation, and consistent with the dignity, importance, independence, and impartiality that they ought to have.

E. Immunity

Courts should take steps to protect all lawyers representing children from frivolous lawsuits and harassment by adult litigants. Guardians ad Litem and Child's Attorneys should have qualified, quasi-judicial immunity as provided by law.

Standards of Practice for Child and Family Reporters in Child Custody Cases

I. Introduction

A Child and Family Reporter (CFR) is appointed by the court to gather and report factual information in cases involving the care and custody of minor children and other matters bearing on the interests or rights of children under Iowa Code chapters 598 and 600B. A CFR report is intended to provide a brief assessment of the home conditions, parenting capabilities, and other matters pertinent to the best interests of the child. The court may appoint an attorney, a mental health professional, or another individual whom the court believes is able to carry out the CFR role.

The purpose of these standards is to provide guidance for Child and Family Reporters, to promote uniformity, consistency and accountability in CFR reports, to promote respect for the rights of parties and their children, and to improve custody, visitation and other outcomes for children.

II. Role of a Child and Family Reporter

A. The CFR gathers and reports factual data to the court.

The role of the CFR is to gather and report factual information that will assist the court in making custody, visitation, or other decisions related to the welfare of a child. Unless the appointing judge specifies otherwise, the CFR role is limited to gathering and reporting information to the court. The CFR may include recommendations in the report only if the court's appointment order authorizes inclusion of such recommendations. The CFR shall not make a recommendation concerning which parent should have custody of the child.

B. The CFR shall remain impartial and avoid conflicts of interest.

The CFR shall approach all family members and parties with an attitude of respect and openness to hear their account of the relevant facts, regardless of any allegations that have been made. The CFR shall not engage in conduct manifesting bias or prejudice based on race, religion, ethnicity, disability, age, socioeconomic status, marital status, or sexual orientation against a party, witness, counsel or
other person involved in a case.

The CFR shall decline or withdraw from an appointment if he or she has information or personal relationships that could influence the process or outcome of the investigation or a conflict of interests. If the CFR has any prior or existing direct or indirect relationships with parties, their families, their attorneys, material witnesses or someone else connected with the family, the CFR must consider whether his or her impartiality is compromised as a result of these relationships. The CFR shall decline the appointment if:

- the CFR (or the CFR's law firm) previously advised or acted as counsel for a party, child, or other person closely aligned to a party (such as a spouse or non-marital partner), or a material witness;
- the CFR has provided counseling or other services to a child, a party, other members of the family, or a material witness; or
- the CFR has or had a family relationship or other close personal relationship (including an intimate or dating relationship) with a party, a member of the party's family, a material witness, or counsel of record.

C. The CFR does not act as an attorney or advocate.

The CFR serves as an objective and even-handed reporter. The CFR shall not give legal advice or act as an advocate or attorney for the child. The CFR does not conduct depositions or engage in direct or cross examination of witnesses, and does not file motions except as related to performance of the CFR's responsibilities. For example, a CFR might file a motion seeking access to individuals, regarding fees, or seeking an additional evaluation, but should not file motions related to the substance of the proceedings. If called as a witness, the CFR may be subject to direct or cross examination by both parties. The CFR refers the parties to their attorneys for legal advice.

D. The CFR shall not serve dual or multiple roles.

A CFR shall not provide legal, mental health, mediation or other professional services to any party or the child during the investigation and pendency of the case.

A CFR may not later accept an appointment as an attorney for a child or guardian ad litem in the same case or the same family. A CFR may accept the separate role of parenting coordinator or arbitrator after all of his or her duties as CFR are completed, and after the CFR appointment has been terminated by the court, but only with the written, informed consent of all parties.

E. Payment of the CFR's fees is governed by the court's order of appointment.

The court's appointment order allocates responsibility for payment of the CFR's fees, based on a fixed fee or stated hourly rates. If the appointment order specifies a presumptive maximum, the CFR may not exceed this fee cap without securing permission from the court.

III. Duties of the Child and Family Reporter

A. The CFR acts pursuant to the court's order of appointment.

Upon appointment, the CFR shall review the court's order of appointment and ask for clarification or modification of the order when necessary. If the order would require the CFR to act beyond the scope of his or her competence or perform multiple contradictory roles, the court should be informed. Any issues regarding time needed to complete a report or arrangements for payment of fees should be addressed immediately upon notice of appointment, before beginning any work on the case.

If any conflicts or other issues cannot be resolved, the CFR should decline the appointment or request removal from the case.

The CFR appointment terminates at the time specified in the court's order, but in no event later than entry of permanent orders or the post-decree order resolving the issue for which the appointment was made.

B. The CFR includes all parties in communications with the court or another party.

If the CFR needs to communicate with the court during the course of the appointment, communication should be carried out in writing, with copies to the parties and their counsel, or by conference call, or at a status conference or court hearing. If the children are represented by an attorney or guardian ad litem, that individual should be treated as counsel for purposes of these communications.

If the CFR sends a substantive written communication to one party or counsel, the CFR shall send a copy of the communication to the opposing party or counsel and any representative of the child. The CFR shall send copies of any documents the CFR files with the court to counsel of record and self- represented parties.

C. The CFR conducts an appropriate investigation.

The CFR shall investigate only those areas specified by the court's order of appointment, and may not broaden the scope of investigation without obtaining authority from the court in advance. The CFR shall not perform a clinical assessment, conduct psychological testing, or conduct drug and alcohol or other evaluations unless specifically ordered by the court. If the CFR believes other evaluations would benefit the parties or the children and assist the court, the CFR should provide this information to the court as soon as possible.

At the outset of the investigation, the CFR invites all counsel and parties to provide relevant information and documents and a list of witnesses and professionals who can provide relevant information. When possible, the CFR accesses original sources of information and uses multiple sources to investigate any disputed events or facts. The CFR should spend sufficient time interviewing parties and investigating their concerns to gather relevant information to respond to the court's inquiry. The CFR decides whether to conduct home visits, and if no home visits are conducted the CFR should explain this decision in his or her report.

As part of the investigation, the CFR shall meet with the child or children, and provide them with an opportunity to provide information about themselves and their family. The CFR should communicate with children in an age-appropriate manner, and consider the child's views and wishes. When appropriate, the CFR should observe the child with each parent or party.

In meeting with the parties and the child, the CFR should explain the CFR role, the purpose of the investigation, and how the information the CFR collects will be reported to the court. A party may request to have counsel present during an interview, but the CFR controls the interview and conducts the questioning. The CFR should arrange for a qualified interpreter if a party or the child is not completely comfortable or fluent in using the English language.

D. The CFR preserves confidentiality.

Information gathered by the CFR is confidential, and the CFR shall not disclose information about the parties, their children, or the services rendered by the CFR to a person who is not a party or counsel in the case except as necessary to gather information and complete the investigation and report, or to perform responsibilities related to the court's order of appointment. This prohibition is permanent and includes any writing, lectures, or other media communication by the CFR.

Before obtaining privileged or confidential information about the parties and their children, the CFR must obtain appropriate release forms or court orders. Some third parties or providers may be unaware of the protections that apply to confidential information relating to the parties or their children, but the CFR shall only review information after appropriate releases or orders have been provided. If a privilege is not properly waived, a judge may allow a motion to strike reference to the information from the CFR report.

E. The CFR seeks to preserve the safety of all participants in the process.

The CFR inquires at the outset of the investigation about any safety risks related to the investigation for the parties, the child, or others because of any party's mental illness, substance abuse, domestic violence, child abuse, or history of violence against others. The CFR should attempt to conduct the investigation in such a manner as to avoid likely harm to the child, a party, the CFR, or others.

In cases in which the CFR suspects or knows that the children are being neglected or abused, the CFR may take appropriate steps to inform law enforcement or the department of social services, and shall comply with all mandatory professional reporting requirements.

F. The CFR may include recommendations for services only in the final report.

If authorized by the court's order of appointment, the CFR may recommend services for the child or immediate family members, but only in the final report. Providing recommendations or referrals prior to the final report is inconsistent with the CFR's role as an impartial reporter. At no time shall the CFR make recommendations concerning custody.

IV. CFR Reports and Records

A. The CFR prepares a clear, concise and timely report for the court, the parties, and their counsel.

The CFR presents the results of his or her investigation in a written report to the court, with copies delivered to the parties and their counsel. The report sets forth the information obtained by the CFR in the course of the investigation. Any recommendations requested by the court, based on the facts collected, should be confined to a separate section at the conclusion of the CFR report.

The CFR report should include information about the CFR's investigation process, identifying the persons interviewed and the records reviewed. The report should be as factual and detailed as possible, as well as accurate, objective, and unbiased. The report should clearly identify the sources of all information included. If a party has failed or refused to participate or provide information, the report should disclose this fact.

The CFR retains any notes, records, documents, recordings or other material gathered or created during the investigation so that these materials are available for trial, discovery, appeal and remand of the case.

B. The CFR and the court maintain the confidentiality of the CFR report and files.

The CFR report and underlying materials are considered to be sealed and are not open to inspection except with the consent of the court. The CFR shall maintain the confidentiality of his or her file and report, and disclose these only to the parties and their counsel or by court order.

After the CFR's report has been filed, and prior to any scheduled hearing in the case, upon request the parties or their counsel in the case for which the CFR was appointed, the CFR shall make copies of his or her file and any information underlying the report available to the parties and their counsel. This includes disclosure the names and addresses of all persons the CFR has consulted, CFR notes, and witness statements. However, if a CFR believes that release of any particular information would endanger any person's welfare, he or she should inform counsel and the court and await further order

from the court before releasing the information in question.

C. CFR as a witness

Pursuant to Iowa Code Section 598.12(4), the CFR's report shall be submitted to the court and available to all parties. The CFR's report shall be a part of the record unless otherwise ordered by the court. Any party may call the CFR as a witness. If called as a witness, the CFR may be cross-examined concerning the report.

Children in Court: Child-Centered Best Practices in Child Custody Cases

Judicial custody determinations impact the child more than anyone else in the family. Whether a child testifies is solely within the discretion of the court. If the court determines that the child should testify, the court should ensure that the child's testimony is handled with extraordinary thoughtfulness and care. A child should never be asked to choose between parents or take sides. A child should not bear the weight of the court's custody decision.

The Iowa Code requires the court to consider the children's wishes as one factor in any custody determination, taking into consideration the child's age and maturity. Often the most reliable way for the court to know a child's wishes is to hear from the child directly. The opportunity to have their voice heard should be made available in the right circumstances and under the right conditions. Children can provide valuable insights and credible information to help the court make fully informed decisions if they are provided a safe environment.

This outline of best practices was developed to offer guidance to judges and attorneys regarding how and when children's testimony should be received. These guidelines are not intended to create a presumption or default rule either in favor of or against allowing children's testimony. These guidelines are designed to promote consistency and best practices across Iowa.

Determining Whether to Receive a Child's Testimony

The court must first determine whether the child's testimony is relevant.

The following factors should be considered prior to any child appearing in court:

1. There is no set age that a child must attain in order to testify in Iowa. The judge must determine competency on a case-by-case basis, taking in to consideration the child's age and maturity. A child may be competent to testify on some issues while not on others.
2. Children should not be forced to participate if they do not wish to testify in a civil case between parents.
3. Courts and parties should avoid seeking a child's testimony when jail time may result for a parent, such as in contempt or domestic abuse proceedings.
4. If a child wishes to speak to the judge, the Court should consider appointing an attorney/guardian ad litem to represent the child. The appointment may be limited in nature, such as to ascertain if the child wants to be heard and if so, preparing the child for court and conducting the child's direct examination.
5. The child's attorney/guardian ad litem should seek input from the child's mental health professional to ensure that the child's view is presented to the court in the manner least harmful to the child.

6. Consideration should be given to alternative ways of receiving evidence of a child's wishes so that the child's testimony may be unnecessary. Examples include an affidavit prepared by the child with the assistance of her attorney, accepting oral arguments or opening/closing statements from the child's attorney/guardian ad litem (as well as from other counsel) expressing the child's wishes to the court.

Prior to the Date of the Hearing or Trial

The child's attorney/guardian ad litem should prepare the child for what to expect and provide a context for the child's testimony.

1. The child's attorney/guardian ad litem should give the child a tour of the courthouse, courtroom and judge's chambers to help him become familiar and comfortable in the environment. Introduce the child to a judge and/or court reporter if one is available.
2. The child's attorney/guardian ad litem should attempt to establish a plan in advance with opposing counsel and/or with the court for how testimony will be received so that the child knows what to expect.
3. The child's attorney/guardian ad litem should familiarize the child with the people, places, procedures and questioning that the child will be exposed to, taking into consideration the child's age and maturity, including:
   - who will be in the room when the child talks to the judge;
   - how the room will be arranged and where each person will be seated;
   - when the testimony will take place, accommodating the child's school schedule and extracurricular activities when possible;
   - the procedure for testifying, including who conducts the direct examination;
   - whether cross examination will occur and if so, by whom;
   - whether testimony will be shared with others and under what circumstances (including whether the child's statements will appear in the court's final decree);
   - the role that the child's wishes play in a custody decision.
4. The child's attorney/guardian ad litem should prepare the child by giving an idea of the questions that may be asked. The attorney/guardian ad litem should allow the child to identify what facts or feelings are the most important for her to share with the court and help her focus on relevant issues. The child's attorney/guardian ad litem should also help the child understand that although the judge will listen to the child's thoughts, feelings, and experiences, the judge will make an independent decision that includes input from both parents and others.

5. Counsel for the parties should prepare parents by helping them understand that the child's testimony is just one factor for the court to consider and that the child's wishes will not control the outcome of the case. Parents' attorneys should also advise parents not to discuss the child's testimony with the child before or after court. Parents who discuss the court case with their children in advance often do more harm to their own case than good (a child feels more pressure and is more apt to use parents' own language, which comes across as being unduly influenced). Parents should be told that the judge will likely try to ascertain if anyone has told the child what to say. Parents who discuss the child's testimony with the child before or after a hearing can inadvertently burden them with feeling guilty or responsible for the case outcome. Care and guidance should be used to assist a child in processing these issues.

At Court: Set Up

1. The best practice is for a child's testimony to be taken in chambers or in a less formal room than a courtroom (such as a jury room). This allows child to feel comfortable and avoid being exposed to the adversarial nature of the courtroom.
2. Arranging chairs in a close circle helps the child feel like the judge is not an adversary.
3. All of the chairs should be on the same level to make the environment less intimidating. If the courtroom is the only room available, arrange the chairs in a circle in the well rather than having the judge take the bench.
4. The child's attorney/guardian ad litem should be seated next to the child.
5. Judges may consider whether to refrain from wearing a robe to avoid intimidation. A child can appreciate the judge's importance without formal attire.

At Court: Who is Present

1. Best practice: The judge, court reporter, and child's attorney/guardian ad litem are present with the child. Parents and their attorneys are not present.
2. Next best practice: The judge, court reporter, child's attorney/guardian ad litem, and attorneys for the parties are present.
3. Under no circumstance should a child have to testify in front of either parent. If a parent is self-represented, the court should follow the best practice outlined in (1) above.
4. If a child has an attorney or guardian ad litem, the court must allow the child's attorney/guardian ad litem to be present if the court meets with the child.
5. The court may ask parents/attorneys to waive their presence while children testify in the interest of creating the most child-friendly environment possible. Parents and attorneys need not be personally present to have their due process rights protected. See "At Court: Direct & Cross Examination" below.

At Court: Direct & Cross Examination

1. Direct Examination. The child's attorney/guardian ad litem should conduct the direct examination. The judge may pose any clarifying questions afterwards. If the child is not represented, the judge should conduct the direct examination.
2. Cross Examination. Any cross examination of the child should be conducted by the judge. This avoids argumentative and intimidating questioning by parents' attorneys and avoids making the child's attorney/guardian ad litem cross-examine a client. The judge may ask parents/attorneys to waive any cross-examination of the child in the interest of creating a child-friendly environment. The judge may also elect to screen all of the cross-examination questions to determine which, if any, are appropriate to ask the child, given her age and development. Cross examination may take place as follows:
    a. Parents and their attorneys may submit cross-examination questions to the judge prior to the direct examination. OR
    b. *Provided the child is told of this procedure prior to testifying*: The judge may have the child wait in a separate room after the direct examination while conveying the child's testimony to the parties and their attorneys either by oral summary or by directing the court reporter to read the transcript aloud. Then the parties may submit cross-examination questions to the judge, who then meets again privately with the child to conduct any cross-examination. OR
    c. If parents' attorneys are present for the direct examination, they may submit written questions to the judge for the court to ask the child after the direct examination or may conference with the judge outside the child's presence to convey follow-up questions they would like the court to pose.

At Court: Judge's Interactions with the Child

1. A smiling, welcoming judge helps a child feel at ease. Nonverbal cues are important:
    - relaxed facial muscles
    - "open" (not squinty) eyes
    - leaning forward
    - uncrossed arms
    - friendly tone

2. The judge should confirm that the child wants to talk to the judge. If the child does not have an attorney/guardian ad litem, the judge should seek this confirmation from the child privately and off the record before beginning: "You can tell me whatever you think is important for me to know as I make the decision about when you will spend time with each parent."
3. The judge should inform the child in advance that their parents may have access to the transcript (a paper with the exact words they spoke in writing) of

their testimony. Children should also be told whether any of their statements may be included in the court's decision.

4. The judge should explain that he/she makes the decision, not the child (e.g., the child has a voice (vote) but not the choice, like voting in an election). The judge will listen to and consider what the child wants but also has to consider other factors including what each parent wants to determine what the judge thinks is best. (e.g., "I appreciate your input but it is my decision.")
5. The judge should prepare the child for the possibility that the judge may render a decision that is not in line with the child's wishes. The child should be assured that the outcome is not his/her responsibility and that it is the judge's decision.(e.g. "If things don't turn out the way you want them to, it isn't your fault. If things do turn out the way you want them to, it might not be because of anything you said.")
6. Children should be instructed: "If you don't know the answer to a question, don't guess. It's okay to say, 'I don't know,' if you don't know. And it's okay to say 'I don't remember' if you don't remember. But it's not okay to guess or to make something up. I need you to only say things that are true."
7. Tell the child that lawyers and judges sometimes ask confusing or wordy questions: "People tell me I talk like a lawyer. It's okay for you to tell me that too. It is okay to say, 'I don't understand the question' or to ask 'what do you mean?'"
8. Tell the child why they might be asked the same question more than once by more than one person. It doesn't mean they gave the wrong answer; everyone may just want to make sure they understood correctly.
9. Let the child know he can ask to take a break anytime.
10. Ask "What questions do you have?" before beginning.
11. At the end of the child's testimony, the judge may wish to conclude by affirming the child's feelings, such as by saying, "I have listened closely to what you told me today. I also must listen to what your parents and the other witnesses say. I will work hard to make a good decision. I have heard what you said and now making the decision is my job. Thank you for talking with me. Do you have some questions for me?"

At Court: Veracity Inquiry

1. There is a presumption children are competent to testify. *State v. Andrews*, 447 N.W.2d 119, 120 (Iowa 1989). Once a child's competency is challenged, the court must consider three factors: (1) whether the child is mentally capable of understanding the questions; (2) whether the child is able to formulate intelligent answers and communicate impressions and recollections regarding the incident; and (3) whether the child can understand the responsibility to tell the truth. *Id. See also* State v. Lusch, 755 N.W.2d 144 (Iowa Ct. App. 2008) (holding that the trial court has broad discretion in determining competency of a child witness).

2. Generally, for children ages eight and above, asking, “Do you promise to tell the truth here today?’ or “Will you talk only about things that are real and true?” rather than a sworn oath is appropriate and leads to more accurate testimony.

3. In certain cases, a judge may wish to ensure that a child can understand the distinction between truth telling and lying and that the child understands the importance of telling the truth. The court should use an effective test:
    a. Truth/Lies Distinction:
        i. Good test: “If someone said your shirt was green, would that be the truth or a lie?” Or “If someone said it was snowing today, would that be the truth or a lie?”
        ii. Bad test: “What’s the difference between the truth and a lie?” is ineffective. It’s an abstract concept that weeds out competent children. Children as young as four know a lie when they see it, but it’s hard to define it. Children do much better *demonstrating* truth/lies.
        iii. Bad test: Avoid having the child call adults “liars.” For example, a child may answer incorrectly if a judge says, “If I said my robe was red, would that be the truth?” because the child is reluctant to call an authority figure a liar.
    b. Importance of Truth Telling:
        i. Ask, “What happens if someone says things that aren’t true?”
        ii. For younger children, use the veracity inquiry tool from Assessment and Resource Center, Qualifying Children to Take the Oath: Materials for Interviewing Professionals (2002), available for purchase by calling (803) 898-1477 or by e-mail to Dr. Allison Foster at afd68@scdmh.org. The questions cover both prongs of the veracity test.

Important Considerations: Children’s Linguistic Skills

1. Open-ended, easy questions at the beginning (“What are things you like to do?” or “Tell me about your school/pet/football team/dance class”) help a child to open up and get accustomed to answering non-leading questions.
2. Let the child tell the story. The goal is to help the child focus on the main topics they wish to discuss without asking leading questions. Fill in the gaps if need be. If you need to ask more specific follow-up questions to clarify, first allow the child to tell their full story. Avoid interrupting as much as possible.
3. Ask age-appropriate questions.
4. Prepare questions in advance. Use simple language and keep sentences short with a simple sentence structure. If you need help asking child-friendly questions, consult the Handbook on Questioning Children by Anne Graffam Walker or consult an experienced child’s attorney/guardian ad litem or child’s therapist. Follow these tips from the Handbook:

a. Use common, simple words. Avoid words like “attorney,” “court,” “subsequent,” and “at that point in time.”
b. Use names instead of pronouns to avoid confusion.
c. Stay away from negatives: “Did he…” instead of “Didn’t he….”
d. Ask about one thing at a time; avoid compound questions.
e. Start questions with the main idea: “Did the bell ring when you were eating?” instead of “When you were eating, did the bell ring?”
f. Avoid leading questions.

5. Children are still developing verbal skills; they need more time to process words than adults do. Give a child time to think about a question and respond rather than rephrasing it if they do not answer immediately.
6. Children rely more on how things are said than exactly what is said. Voice tone and inflection are much more significant when communicating with children than with adults. Use an interested, curious tone.
7. If you don’t need to ask the question, don’t ask it.

After Court: The Ruling and Attorneys’ Communication to Parents

1. Judges and attorneys should be cautious about whether and how much to share of the child’s testimony with parents. Consideration should be given as to whether there will be a negative impact on the relationship between the child and one or both parents as a result of reporting the testimony.
2. It is important to keep the child out of the spotlight. The court and parties should refrain from quoting or referencing the child’s testimony in the court’s ruling, filings and pleadings as parents could make a child feel guilty for what was said.
3. If a child’s testimony was not instrumental to the court’s ruling, the ruling should say that the child’s testimony did not influence the court’s decision. Parents’ attorneys should stress to their clients the other factors that appeared to sway the court’s decision.
4. Best practice: Parents should not have access to the transcript on appeal. If both parents are represented, parents’ attorneys may be given access to the child’s transcript, but only if (1) the court cited the child’s testimony as relevant to the court’s determination in its written ruling, (2) the attorneys do not share the transcript with the parents, and (3) all references to the child’s testimony are redacted in appellate briefs and parents are only provided with a redacted copy.
5. If either parent appeals the court’s ruling, the district court should appoint the child’s attorney or guardian ad litem as the child’s representative on appeal pursuant to Iowa Court Rule 6.109(4).

PROPOSED RULE OF COURT RE: PARENTING COORDINATORS

A. Definitions.

(1) *Parenting Coordination* is a child-focused dispute resolution process that combines parent education, dispute assessment, collaborative problem solving, conflict and communication management, and, when parents are unable to resolve their parenting disputes with the Parenting Coordinator's assistance, recommendations or decision-making on issues that are specified in this Stipulation and Order. The ultimate goal is to help parents resolve disputed or difficult issues amicably and efficiently on their own, without having to involve the Parenting Coordinator or the adversarial process.

(2) *Parenting Coordinator.* A Parenting Coordinator ("PC") shall be an attorney licensed to practice law in Iowa, a Licensed Independent Social Worker, or a psychologist licensed to practice in the State of Iowa. A PC shall have the following minimum training:

(a) 40 hours of family law mediation training, as approved by the Iowa Supreme Court; and

(b) 16 hours of Parenting Coordinator training provided by the American Family & Conciliation Courts.

(c) Eight hours of continuing education dedicated to parenting coordination and associated matters every two years.

B. *Appointment of Parenting Coordinator.* At the request of either party, or on the court's own motion, a PC may be appointed as part of a final decree in any custody or visitation proceeding. The parties may agree to use a PC, subject to approval of the court, or the court may designate a PC. The appointment of a PC does not divest the court of its exclusive jurisdiction to

determine fundamental issues of custody, visitation, and child support, nor does it divest the court of its authority to exercise management and control of the case.

C. *Term of Parenting Coordinator*. The term of the PC will be designated in the Order Appointing Parenting Coordinator. The PC may resign upon thirty days notice to the parties and the court. Absent order of the court, one or both parties cannot discharge a PC. The court may terminate the service of the PC at any time.

D. *Parenting Coordinator Fees*. Any Order Appointing Parenting Coordinator shall:

(a) Set forth the PC's hourly rate;

(b) Set forth the PC's required retainer;

(c) Set forth the PC's billing practice (monthly, quarterly, etc.);

(d) Set forth the allocation of the PC's fees between the parents;

(e) Identify the expenses for which the parties will be require to reimburse the PC; and

(f) State that non-payment of fees by a parent shall be grounds for the PC to suspend performance of his or her duties and/or resign as PC.

The court shall retain jurisdiction to re-allocate the PC's fees, including those previously paid, based upon the individual circumstances of each case, including but not limited to recommendations by the PC and motions filed by the parties.

E. *Order Appointing Parenting Coordinator*. The court order appointing a parenting coordinator shall specify the scope of the appointment and authority of the PC.

(1) Additionally, a PC may be ordered to do one or more of the following:

(a) Inform the parties of the role of the PC;

(b) Monitor the implementation of a voluntary or court-ordered parenting plan, the schedule, or other parenting schedule issues, provided such resolution does not involve substantive change to the court's order;

(c) Recommend strategies for implementing the parenting plan or resolving other parenting issues that may be impacting the parenting plan;

(d) Assist the parties in developing communication and cooperation for the purpose of effective co-parenting of their child(ren);

(e) Assist with implementation of court orders and make recommendations to the court regarding implementation, clarification, modification, and enforcement of any temporary or permanent parenting time orders;

(f) Document the services provided and record agreements reached;

(g) Recommend appropriate community resources to one or both parents and the child(ren);

(h) Educate the parties to effectively parent in a manner that minimizes conflict, develops appropriate parenting skills, identifies sources of conflict, and works to lessen the effect of conflict on the children;

(i) Facilitate the ability of both parents to maintain ongoing relationships with the child(ren);

(j) Make recommendations on the day-to-day issues experienced by the parents;

(k) Interview law enforcement, social workers, health care providers, child care providers, teachers, and family members as necessary to fulfill the terms of the court order; and

(l) With prior consent of the court as specified in the Order Appointing Parenting Coordinator, make limited decisions subject to review of the court upon motion of the parties as specified in the order of appointment.

(2) An Order Appointing Parenting Coordinator shall require the parents to sign the relevant and necessary releases to allow the PC to perform the duties under subparagraph (1)(k) above.

(3) A PC shall not have the authority to make any decision affecting child support, a change of custody, or a substantial change in parenting time. A "substantial" change in parenting time shall mean a change of more than four nights per calendar month.

(4) The Order Appointing Parenting Coordinator shall provide direction to the PC regarding information or records, if any, which the PC is to file with the Court. The PC shall not engage in ex-parte communication with the court and all documents sent to, or filed with, the court shall also be sent to the parties in the case.

F. *Standards of Conduct*. PCs are expected to conduct themselves by the highest ethical standards. PCs should conduct themselves according to the following general principles:

(1) A PC should recognize that success is based upon participate and self-determination by the parties. A PC shall conduct any session fairly, diligently, impartially, and in a manner consistent with assisting the parties under the direction of the court's order and in the best interest of the child(ren).

(2) A PC shall fully disclose to all parties involved any actual or potential conflict of interest. A PC shall not accept, or shall withdraw from, any manner in which the PC has reason to believe he or she cannot proceed in an impartial manner. After

full disclosure of an actual or potential conduct of interest to the parties, the PC shall withdraw from the case if requested by any party to do so within ten days of disclosure.

(3) A PC shall maintain impartiality in the process of parenting coordination. Impartiality means freedom from favoritism or bias in word, action, or appearance, and includes a commitment to assist all parties, as opposed to any one individual. A PC shall withdraw of the PC determinate he or she cannot act in an impartial or objective manner.

(4) A PC shall not provide any other professional services to either party or the minor child while serving as a PC. A PC shall also ensure that any prior history of involvement with the parties does not conflict with the role of PC, and shall not assume a role subsequent to acting as PC which conflicts with the prior role of PC.

(5) A PC should make a conscious effort to recognize violence or abuse by or against the parties or children. A PC shall consider the safety of all involved when structuring the PC process and may recommend that parenting coordination is not appropriate for the parties.

G. *Confidentiality*. Parenting coordination is not a confidential process. The appointment of a PC does not create an attorney/client or therapist/client privilege between the PC and any party. There is no evidentiary privilege for communications made as part of the parenting coordination process. The PC may be called to testify if ordered by the court in any case in which he or she is appointed.

THE IOWA STATE BAR ASSOCIATION

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Joseph M. Feller
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September 19, 2014

Chief Justice Mark S. Cady
The Supreme Court of Iowa
Iowa Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

RE: Request for Establishment of a Domestic Case Civil Justice Reform Task Force

Dear Chief Justice Cady:

On September 15, 2014, the Iowa State Bar Association Board of Governors unanimously approved a resolution authorizing this request to the Court. On behalf of the ISBA, I respectfully request the Court to constitute a Civil Justice Reform Task Force to examine domestic case processing in the Iowa District Courts. This resolution was initiated by the ISBA Family and Juvenile Law Section, and the full rationale for the request and its timing is set forth in the Section's whitepaper, a copy of which is enclosed.

The ISBA believes the model employed by the Court in the creation of the Civil Justice Reform Task Force for nondomestic cases is appropriate and should be utilized for this study. As envisioned by the ISBA, the Civil Justice Reform Task Force for domestic cases would have an identical directive to that established for the prior task force. After adjustment for context, the directive would be to:

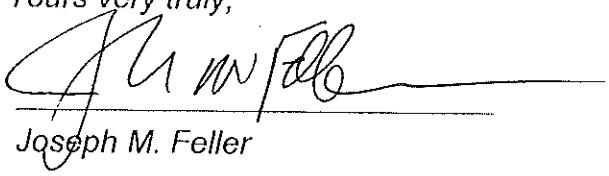
> *Identify the strengths and weaknesses of the present processes of resolving domestic civil cases.*
>
> *Develop a plan for a multi-option civil justice system that includes proposals for new Court processes and improvements in current processes that will foster prompt, affordable, and high quality resolution of domestic civil cases.*

Examine innovative civil litigation procedures and programs used in other jurisdictions or recommended by other civil justice reform groups, and from these procedures and programs identify those that hold the most promise for Iowa litigants and the public at large; and

Develop a collection of proposals for new procedures and improvements to current procedures that will best serve the interests of the public and the mission of the judicial branch.

Following prior task force protocol, the ISBA urges the Court to move forward with the appointment of a task force steering committee to begin this work as soon as possible. Please let the full court know that the leadership and members of this association are fully prepared to assist the Court in advancing this important work. Thank you Mr. Chief Justice.

Yours very truly,



Joseph M. Feller
President, Iowa State Bar Association

JMF/dmh
Enclosure

On August 22, 2014, the ISBA Family and Juvenile Law Section approved the following resolution which is now submitted for consideration and approval by the ISBA.

The Iowa Supreme Court should appoint a Civil Justice Reform Task Force to address issues associated with Domestic Case Processing in the Iowa State Courts as soon as possible.

The rationale in support of the Section's request is set forth below:

I. The Review of Domestic Case Processing is Critical to the Future of the Iowa Courts

In 1970, Iowa enacted "no fault" dissolution of marriage legislation. Iowa Code Ch. 598 (1971). This action occurred at the beginning of a decades-long process of social change with profound implications for our democracy and the judicial branch in particular. The processing of domestic cases in the Iowa Courts is a legal task which engages a large portion of the judicial resources. In 2013, litigants filed in Iowa Courts 11,252 Dissolution of Marriages with children; 6,127 Dissolutions of Marriages without children; 5,638 Administrative support cases involving child support recovery; 1,720 adoption cases; 6,414 paternity cases; 6,521 civil domestic abuse cases; 5,808 Child in Need of Assistance cases; and 1,913 Termination of Parental Rights cases (total of 45,393 domestic cases across these categories)("Iowa Courts Work for Iowans", Iowa Judicial Branch, January 2014). A large number of Iowans are engaged in a domestic case of some type and this number does not count the non-party family members who are affected by the process. As these statistics demonstrate, a domestic case is a likely area in which an Iowa citizen will encounter the judicial system and form opinions regarding its operation.

At the time of the adoption of no fault marriage dissolution, legal regulation of the family as a civil legal entity was a nascent area concerned primarily with dependent support and neglect issues. Since its enactment and the later adoption of civil domestic violence laws, the Iowa district courts have become increasingly engaged in management of family relationships. Deciding the legal issues presented by unwed parenthood; families affected by domestic violence; dissolution of marital partnerships; and management of ongoing family support and parenting issues after initial court decisions has become a primary task of the state judiciary as a whole.

The increase in domestic cases has naturally raised expectations of the judicial system as more citizens are required to use it. In 1994, the Iowa Supreme Court undertook the first and only comprehensive look at the Iowa Judicial Branch since the enactment of no fault marriage dissolution and domestic violence laws. In its 1996 report, Charting the Future of Iowa's Courts, the Iowa Supreme Court Commission On Planning for the 21st Century identified "A desire for less adversarial methods to resolve disputes; Need for comprehensive approach to family law issues; and Need for standardized procedures and practices" among the primary concerns of Iowa citizens for the judicial branch. Id at p. 30. Interestingly, the high cost of litigation does not appear as a citizen concern although this

was identified as a key weakness of the state court system in other parts of the Report. Id. at p. 24.

The Family and Juvenile Law Section believes these concerns are the direct result of the public's increasing contact with the judicial branch in the context of family problems. Since the preparation of the 1996 study, judges and domestic law practitioners across the state have seen the following developments in the domestic case docket: growing backlogs in the state's most populous districts; substantial increases in the number of pro se litigants; large numbers of citizens needing pro bono assistance and lack of public and private resources to fill the need; increasing lack of uniformity in procedures and practices for domestic case processing state wide; and growth in private, nonpublic dispute resolution services. A failure to address the needs/wishes of citizens in domestic cases creates a fertile ground for dissatisfaction and reduced public confidence with the judicial branch. This has negative implications for our democracy which the Section submits is evidenced by continuing budget problems for the court, courthouse violence; efforts to politicize the judicial selection process; the growth of ADR as an alternative to a public judicial system; and increasing dissatisfaction of lawyers and judges with work in the judicial branch.

II. Now is the Time to Devote Resources to this Task

It has been eighteen years since the Iowa Supreme Court Commission on Planning for the 21st Century identified concerns arising from domestic case processing as primary concerns for the public with the Iowa judicial branch. In that time the Court has advanced many of the goals the Commission identified, particularly in the areas of technology, public education, and civil justice reform for non-domestic cases. Civil justice reform for non-domestic cases was given priority by the Court in 2009 when it established the Civil Justice Reform Task Force. At the time the Task Force was created, ".. the supreme court considered whether family law procedures should be included in the Task Force's study. The court concluded family law procedures warrant a separate, specialized study. For this reason, family law procedures are not within the scope of the Task Force study." See Reforming the Iowa Civil Justice System, Report of the Iowa Civil Justice Reform Task Force, p. 2 (January 2012)

Great work has been accomplished by the Task Force. In December 2012, the Supreme Court acted on one of its recommendations in creating the Iowa Business Court Specialty Pilot Project. In August 2014, the Court adopted additional Task Force recommendations in approving expedited procedures for lawsuits with less than $75,000 at stake and changes to discovery rules in all civil cases. As the five year period between Task Force appointment and final action by the Court on its recommendations demonstrates, changes in court practice and procedure require significant investigation, careful deliberation, and much consensus building. In short, the process requires substantial time and effort.

It is the considered opinion of the Family and Juvenile Law Section that now is the time to make civil justice reform in domestic cases a priority. Many members of the Section are ready to participate if the Supreme Court decides to move forward with the initiative. The Section has already assembled state wide information on local rules and procedures for

domestic case processing. The work can be expedited by following the protocol and reviewing recommendations made by the non-domestic Civil Justice Reform Task Force. In fact, the Family and Juvenile Law Section believe that an evaluation of civil justice reform in domestic case processing is needed to give the non-domestic reforms their best chance of success. It is therefore important that the work start soon and the ISBA take the lead in requesting the Supreme Court to start the project before other matters intervene.

As recognized in the three part Constituent's Oath of the ISBA president, the ISBA has great responsibility to the Court, the Bar, and the public. By urging the court to begin a comprehensive review of civil justice reform of domestic case processing now, the ISBA will best serve all its constituencies. A great deal of work is needed in this area if the Iowa Judicial Branch is to fulfill its mission to "administer justice according to law equally to all people providing independent and accessible forums for the fair and prompt resolution of disputes". In the interest of the Court, the Bar and the public, it is time to start.

Oregon Judicial Department
11th Judicial District
Deschutes County Circuit Court

Proposed Supplemental Local Rule Amendments: Informal Domestic Relations Trial

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7.045 SETTING MOTION AND TRIAL DATE IN DISSOLUTION CASES

(1) Dissolution motions are set by telephone and the Court customarily does not provide written confirmation of the date. A dissolution motion may be set in Court or in chambers during a pre-trial conference with the parties (or the party's attorney if represented) being required to appear either in person or by conference call with their calendars, and the Court may provide written confirmation of the date.

(2) Dissolution motions are reset by telephone, and it is not customary for the Court to provide written confirmation. Dissolution motions may also be reset in Court or in chambers during a pre-trial conference with the parties (or the party's attorney if represented) being required to appear either in person or by conference call with their calendars, and the Court may provide written confirmation of the date.

(3) Dissolution trials are set in chambers during the pre-trial conference, with the parties (or the party's attorney if represented) being required to appear either in person or by conference call with their calendars. The Court may provide written confirmation of the date.

(4) The parties must declare, in writing on a form provided by the Court, whether they elect to proceed to trial under SLR 8.015 (Informal Domestic Relations Trial) or under the traditional manner of trial in domestic relations proceedings. If both parties elect to proceed under SLR 8.015, the trial will be scheduled for an Informal Domestic Relations Trial.

The Court may refuse to allow the parties to utilize the Informal Domestic Relations Trial procedure at any time and may also direct that a case proceed in the traditional manner of trial even after an Informal Domestic Relations Trial has been commenced but before a judgment has been signed. A party who has previously agreed to proceed with an Informal Domestic Relations Trial may file a motion to opt out of the Informal Domestic Relations Trial provided that this motion is filed not less than ten calendar days before trial. This time period may be modified or waived by the Court upon a showing of good cause. A change in the type of trial to be held may result in a change in the trial date.

(5) When cases are continued under UTCR 6.030, dissolution trials are reset in Court or in chambers during reset conferences with the parties (or the party's attorney if represented) being required to appear either in person or by conference call with their calendars. The Court may provide written confirmation of the new date.

8.012 TIME FOR FILING CERTAIN DOCUMENTS IN DOMESTIC RELATIONS PROCEEDINGS

(1) The following documents must be filed with the Court and a courtesy copy must be provided to the judge not less than one full business day prior to the beginning of the trial in actions for dissolution of marriage, separate maintenance, annulment, child custody, and child support:

(a) The statement listing all marital and other assets and liabilities, the claimed value for each asset and liability, and the proposed distribution of the assets and liabilities required under UTCR 8.010(3). Parties are encouraged to prepare joint statements where feasible.

(b) The Uniform Support Declaration required under UTCR 8.010(4).

(c) The alternate affidavit in lieu of the Uniform Support Declaration under UTCR 8.010(5).

(d) The parties' proposed Parenting Schedule as required under SLR 8.075.

8.015 INFORMAL DOMESTIC RELATIONS TRIAL

(1) Informal Domestic Relations Trials may be held to resolve all issues in original actions or modifications for dissolution of marriage, separate maintenance, annulment, child support, and child custody filed under ORS Chapter 107, ORS Chapter 108, ORS 109.103 and ORS 109.701 through 109.834.

(2) The Informal Domestic Relations Trial will be conducted as follows:

(a) At the beginning of an Informal Domestic Relations Trial the parties will be asked to affirm that:

(i) they understand the rules and procedures of the Informal Domestic Relations Trial process; and,

(ii) they are consenting to this process freely and voluntarily and that they have not been threatened or promised anything for agreeing to the Informal Domestic Relations Trial process.

(b) The Court may ask the parties or their lawyers for a brief summary of the issues to be decided.

(c) The moving party will be allowed to speak to the Court under oath concerning all issues in dispute. The party is not questioned by counsel, but may be questioned by the Court to develop evidence required by any statute or rule, for example, the applicable requirements of the Oregon Child Support Guidelines if child support is at issue.

(d) The Court will ask the moving party (or the moving party's attorney if the party is represented) whether there are any other areas the party wishes the Court to inquire about. The Court will inquire into these areas if requested.

(e) The process in subsections (c) and (d) is then repeated for the other party.

(f) Expert's reports will be entered into evidence as the Court's exhibit. If either party requests, the expert will be sworn and subjected to questioning by counsel, the parties, or the Court.

(g) The parties may offer any documents they wish for the Court to consider. The Court will determine what weight, if any, to give each document. The Court may order the record to be supplemented. Letters or other submissions by the parties' children that are intended to suggest custody or parenting preferences are discouraged.

(h) The parties will then be offered the opportunity to respond briefly to the comments of the other party.

(i) The parties (or a party's attorney if the party is represented) will be offered the opportunity to make a brief legal argument.

(j) At the conclusion of the case, the Court shall render judgment. The Court may take the matter under advisement but best efforts will be made to issue prompt judgments.

(k) The Court retains jurisdiction to modify these procedures as justice and fundamental fairness requires.

2013 Commentary:

Additional information about the Informal Domestic Relations Trial process is available on the Court's website at http://courts.oregon.gov/Deschutes/.

In the Supreme Court of Iowa

In the Matter of Establishment of and Appointments to the Iowa Family Law Case Processing Reform Task Force	))))	**Order**

In 2009, the Iowa Supreme Court created a task force to study the strengths and weaknesses of the processes for resolving nondomestic civil cases and to propose reforms that would foster prompt, affordable, and high-quality resolution of such cases. Work of the Iowa Civil Justice Reform Task Force culminated with its January 2012 report, *Reforming the Iowa Civil Justice System.* Since then, the Iowa Judicial Branch has acted on a number of recommendations from the report, including establishment of expedited civil actions, adoption of discovery rule amendments, and establishment of a business court pilot project.

At the time of creation of the Iowa Civil Justice Reform Task Force, the court concluded that family law procedures warranted a separate, specialized study. The Iowa Civil Justice Reform Task Force conducted an extensive survey of more than 9,000 licensed Iowa attorneys and judges, and even though the survey specifically excluded family law matters, 65% of respondents volunteered that family law was an area in need of reform. Recent and successful implementation of civil justice reforms in the court system confirms the need and value of studying current family law practices and procedures to ensure that litigants and family members affected by family law cases are all receiving the best services and processes the Iowa court system can deliver.

In 2013, Iowa's trial courts handled approximately 45,393 family law cases, including: 11,252 dissolutions of marriage with children; 6,127 dissolutions of marriage without children; 5,638 administrative

support cases involving child support recovery; 1,720 adoption cases; 6,414 paternity cases; 6,521 civil domestic abuse cases; 5,808 child in need of assistance cases; and 1,913 termination of parental rights cases. Family law cases constitute nearly 22% of the caseload of all full-time judges. A family law case often is an Iowa citizen's first or only, and likely life changing, encounter with the court system. It is time to evaluate family law case processing in the Iowa court system to determine whether innovations or revised practices will better serve the people of Iowa.

To this end, the court establishes the Iowa Family Law Case Processing Reform Task Force (Task Force) to identify best practices for accessible, transparent, and consistent family law processes and to propose recommendations for new court processes and improvements to current processes for statewide adoption. The Task Force is encouraged to explore and recommend innovative solutions tailored to the Iowa court system that will foster just, prompt, and cost effective resolution of dissolutions of marriage and child custody cases, including the financial matters related to each. To accomplish this mission, the court directs the Task Force to:

- Identify the strengths and weaknesses of the present processes for resolving dissolutions of marriage and child custody cases in both original proceedings and modifications.
- Examine innovative procedures and programs used in other jurisdictions, including spousal support calculation guidelines, and from these procedures and programs, identify those that hold the most promise for Iowa litigants and the public at large.
- Propose case processing recommendations for just, efficient, and consistent procedures for citizens across the state.

To organize and oversee this effort, the court appoints the following persons to serve as the Task Force Steering Committee:

Honorable Thomas D. Waterman, Justice, Iowa Supreme Court, Davenport, chair.
Matthew J. Brandes, attorney, Cedar Rapids, co-chair and reporter.
Lora L. McCollom, attorney, West Des Moines, co-chair.
Dan Bechtol, Southwest Iowa Mediation Services, Atlantic.
Honorable Thomas N. Bower, Iowa Court of Appeals, Waterloo.
David Boyd, State Court Administrator, Des Moines.
Andrea Charlow, Drake University Law School, Des Moines.
Honorable Randy S. DeGeest, District Judge, Oskaloosa.
Ann Estin, University of Iowa College of Law, Iowa City.
Andrew B. Howie, attorney, West Des Moines.
Chad Kepros, attorney, Iowa City.
Steven Lytle, attorney, Des Moines.
Amy Moore, Mid Iowa Mediation, Ames.
Carrie O'Connor, Iowa Legal Aid, Dubuque.
Laura Parrish, attorney, Decorah.
Terry Parsons, attorney, Cedar Falls.
Elizabeth Rosenbaum, attorney, Sioux City.
Jenny L. Schulz, Kids First Law Center, Cedar Rapids.
Anjela A. Shutts, attorney, Des Moines.

The Task Force Steering Committee will provide the supreme court with recommendations for appointment of additional members of Task Force workgroups by May 1, 2015. The Steering Committee will consider gender, geographic, and racial diversity in making its recommendations.

The Task Force will report its findings, conclusions, and recommendations to the court by May 31, 2016.

Dated this 14th day of January, 2015.

The Supreme Court of Iowa

By Mark S. Cady
Mark S. Cady, Chief Justice

In the Supreme Court of Iowa

In the Matter of the Appointments of Members To Serve on the Iowa Family Law Case Processing Reform Task Force	)))))	**Supervisory Order**

In January of this year, the court announced the creation of the Iowa Family Law Case Processing Reform Task Force (Task Force) to identify best practices for accessible, transparent, and consistent family law processes and to propose recommendations for new court processes and improvements to current process for statewide adoption. At the same time, the court appointed a nineteen-member Task Force Steering Committee (Steering Committee) to oversee this effort.

The Steering Committee has compiled a list of twenty-eight nominees to serve on the task force. The Steering Committee recommends the appointment of these nominees. After thorough consideration, the court hereby appoints all of the nominees recommended by the Steering Committee as shown by the appendix attached to this order.

Dated this 31st day of March, 2015.

The Supreme Court of Iowa

By _____
Mark S. Cady, Chief Justice

APPENDIX

Steve Belay, Decorah
Janietta Criswell, Montezuma
Honorable David Danilson, Chief Judge, Iowa Court of Appeals, Boone
Debra DeJong, Orange City
Diane Dornburg, Des Moines
Chad Eichorn, West Des Moines
Dani Eisentrager, Eagle Grove
Sam Erhardt, Ottumwa
Melissa Gross, Davenport
Janelle Groteluschen, Fort Dodge
Honorable Mary Pat Gunderson, District Judge, Fifth District, Des Moines
Honorable John Haney, District Judge, Second District, Marshalltown
Honorable Duane Hoffmeyer, Chief Judge, Third Judicial District, Sioux City
Lori Klockau, Iowa City
Melissa Larson, Greenfield
Louis Lavorato, West Des Moines
Gary McKenrick, Davenport
Leesa McNeil, Sioux City
Christopher Polking, Carroll
Honorable Artis Reis, Senior Judge, Fifth District, Des Moines
Margaret Rhodes, Ames
Mio Santiago, Fort Madison
Laurie Stewart, Panora
Justin Teitle, Davenport
Annie Tucker, Iowa City
Tara Van Brederode, Nevada
Barb Wallace, Davenport
Shelly Whitcher, Council Bluffs

FAMILY LAW CASE PROCESSING REFORM TASK FORCE
WORK GROUP AREAS, TASKS AND RESOURCES

<table>
<tr><th colspan="2">WORK GROUP</th><th>WORK GROUP DESCRIPTION AND TASKS</th><th>RESOURCES</th></tr>
<tr><td>I.</td><td>FUNDRAISING</td><td>This group will work with the EC and the Committee on Justice for the 21st Century to raise and administer the funds needed to carry out the work of the TF.</td><td rowspan="3">Iowa Judicial Branch http://www.iowacourts.gov/ Particularly: http://www.iowacourts.gov/Administration/Reports/ for:
Charting the Future of Iowa's Courts (June 1996) Report of the Iowa Supreme Court Commission on Planning for the 21st Century
Iowa District Court Judicial Workload Assessment Study (April 2009)
Limited Jurisdiction Task Force Final Report (December 15, 2008);
Final Report of the Iowa Judicial Council's Committee on Case Processing Time Standards (2005)
Iowa Supreme Court's Mediation Study Group Final Report (March 14, 2000)
Iowa Supreme Court Mediation and Domestic Violence Work Group Final Report (December, 1999)
The Final Report of the Supreme Court Task Force on Courts' and Communities' Response to Domestic Abuse (1994)
Association of Family and Conciliation Courts http://www.afccnet.org/
National Council of Juvenile and Family Court Judges http://www.ncjfcj.org/</td></tr>
<tr><td>II.</td><td>FAMILY LAW CASE PROCESSING
Family Law Trial setting and case processing time frames
One Family/One Judge
Family Law Pre-Trial and Trial Orders/Procedures including discovery orders, discovery conferences and trial setting orders
Temporary orders and hearing procedures
Concurrent Domestic Abuse and Dissolution/Custody proceedings</td><td>This group will investigate best practices around Iowa and the nation for family law case processing. It will identify strengths and weaknesses in current family law case processing (I.R.Civ.P., local rules and orders) around the state. It will develop recommendations for best practices in Iowa and increased uniformity in family law case processing time and procedures.</td></tr>
<tr><td>III.</td><td>STANDARDS
Children in the Middle/Family Law</td><td>This group will investigate strengths and weaknesses in the current programs for family law education</td></tr>
</table>

	Education • Attorneys for Children • Guardians Ad Litem • Custody Evaluations • Standards for use of other court-appointed experts/special masters/receivers etc.	and processes for the appointment and use of court appointed attorneys for children, Guardians Ad Litem, custody evaluators, court-appointed experts (forensic accountants, etc.) and other court appointed functions (special masters, receivers, etc.) This work group will develop recommendations to improve the quality of family law education across Iowa. It will also develop recommendations to increase uniformity in the standards for appointment and use of attorneys for children, GALs, and other court appointed service providers.	• Institute for Advancement of the American Legal System Honoring Families Initiative http://iaals.du.edu/ • American Bar Association http://www.americanbar.org/aba.html Section of Dispute Resolution Section of Family Law • National Center for State Courts http://www.ncsc.org • Battered Women's Justice Project http://www.bwjp.org
IV.	ALIMONY GUIDELINES	This work group will investigate the pros and cons of alimony guidelines and develop recommendation(s) regarding their use in Iowa.	
V.	ALTERNATE DISPUTE RESOLUTION • Court Annexed Mediation Programs and Unauthorized Practice of Law • Collaborative Law • Family Law Arbitration • Parenting coordination	This work group will examine ADR programs across the state and the nation. It will investigate best practices and develop recommendations to increase public access to high quality Family Law ADR in Iowa when used as an adjunct to the judicial system.	
VI.	ACCESS TO COURTS • Technology • Unbundled legal service/limited scope representation	This work group will investigate the needs of the public and self-represented litigants in particularly. It will develop recommendations to increase public access to legal	

	• Judicial Branch training for judges and court personnel re: self-represented litigants • Rural/Urban practice considerations.	information on family law matters, the courts, and court procedures.	