



# Unified Family Courts

## Recent Developments in Twelve States

There is great interest throughout the United States in enhancing the ability of state courts to serve families.<sup>1</sup> A quarter to a third of all case filings in a typical general jurisdiction trial court involve domestic relations matters—paternity, divorce, custody, and child support. Domestic violence cases may or may not be included within this category in a particular court; the number of these proceedings has exploded over the past ten years as communities have resolved to end the evil of family abuse. Juvenile court matters—both delinquency and dependency cases—evidence problems within the family, affect the family, and usually bring the family into court and into court-sponsored services designed to improve family and individual social functioning. Juvenile matters may make up an additional 10 to 20 percent of court filings. Guardianships and conservatorships and criminal cases involving domestic violence also involve and affect families.

Concerns with the way in which state trial courts traditionally handle these cases focus on:

- Fragmented efforts. Because multiple judges and lawyers are involved in multiple court cases involving the same family, they may issue conflicting

orders and do not develop a consistent approach to dealing with the overall problems of the family.

- Insufficient resources. Due to legislatively mandated case-processing deadlines, criminal and juvenile court cases often receive the lion's share of trial court resources.

- Ineffective services. When court services are available, they are often not effective in improving the functioning of families.

- Lack of a therapeutic approach. Courts understandably focus on the resolution of pending legal issues rather than underlying family dysfunction.

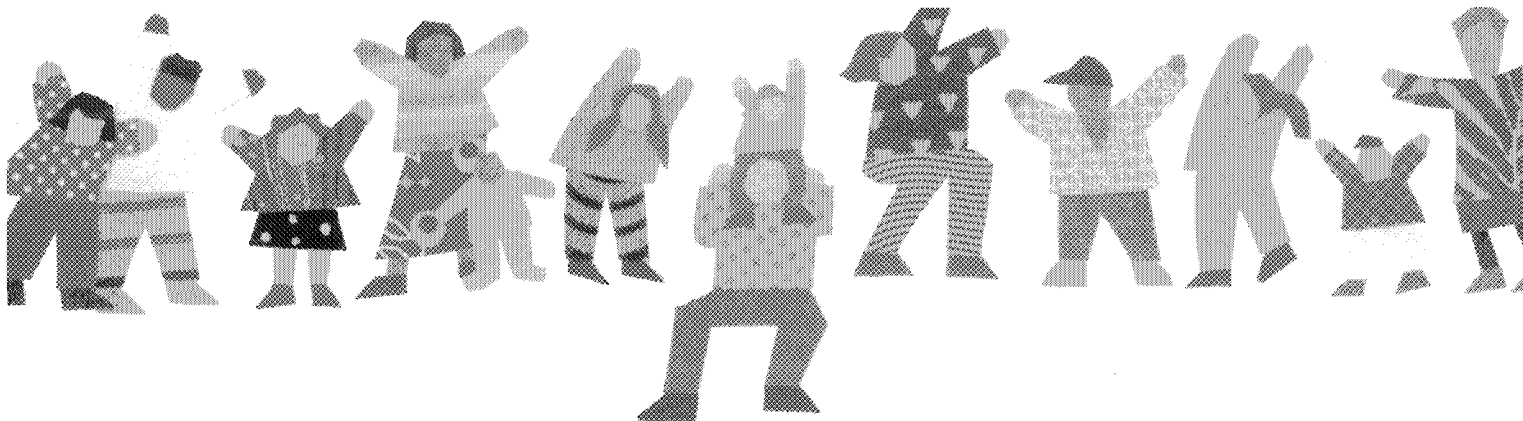
- Growing caseloads and increasing numbers of self-represented litigants in family matters.

In 1990 the National Council of Juvenile and Family Court Judges convened a national conference on unified family courts.<sup>2</sup> The *Family Law Quarterly* devoted its Spring 1998 issue to the topic; these articles provide a rich source of background on the issues and possible solutions.<sup>3</sup> That same year the American Bar Association endorsed the unified family court concept.<sup>4</sup> The U.S. Congress signaled the growing public concern with the courts' handling of family matters when it enacted the American Safe Families Act (ASFA),

imposing federal case-processing standards on dependency cases to end long-term placement of children in temporary foster care arrangements. ASFA requires state court judges to restore children to their families, to make them available for adoption, or to establish other long-term, stable family settings for them.

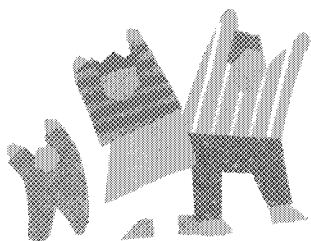
In summer 2002 the Conference of State Court Administrators developed a white paper on improving the nation's family courts.<sup>5</sup> Recognizing the national interest in improving how state courts handle cases involving families, the white paper identifies the weaknesses of traditional trial court approaches to these matters. It advocates for transformation of family court proceedings from adversarial to non-adversarial dispute resolution, use of alternative dispute resolution (ADR) rather than litigation, faster resolution of family court matters, and consolidation of all matters involving the same family before a single judicial officer. It also calls for rigorous evaluation of family court innovations.

At least twenty-four states have implemented significant efforts to improve the way trial courts handle cases involving families.<sup>6</sup> Here is a brief summary of the activities in twelve states:



## Arizona

In 1997 Chief Justice Zlaket created a committee to study family issues in the Maricopa County Superior Court. That committee's efforts led to the creation of a pilot Integrated Family Court (IFC) Project in the court. The project was planned and directed by an IFC task force involving all stakeholders affected by the project. The pilot involved four judges in the court's southeast facility who were empowered to hear all matters affecting families. Cases involving the same family were identified by staff, judges, or lawyers and, at the discretion of one of the judges, were reassigned to one of these judges to be administered jointly. The project commenced in March 2001 and



continues to the present. It is the subject of a recent outside evaluation.

Concurrent with the operation of the Maricopa County IFC pilot project, the Domestic Relations Committee and the subsequent IFC Subcommittee (IFCS) have been developing a statewide proposal for an integrated family court that incorporates current trends in family law to produce an ideal family court. The IFCS has issued a series of recommendations in its report, "Recommendations of the Integrated Family Court Subcommittee to the Domestic Relations Committee: An Integrated Family Court Plan for Arizona." The state's current

plan is to continue, refine, and expand the Maricopa County pilot project and to begin a second pilot in one of the state's smaller, multi-judge counties to develop further understanding of the issues presented and the ways to address them successfully.

## California

California is presently working on a large statewide initiative to improve court assistance to families.<sup>7</sup> The underlying premises of the unified or coordinated family court systems in this extensive pilot effort include the following:

- A unified or coordinated family court is more efficient and effective in addressing the needs of those it serves and the California public.
- Consolidation of related cases before a single judge or judicial team, or a coordinated case management model, will result in more informed and effective decisions, greater consistency and continuity, and improved delivery of services to children and families.

- The risk of conflicting orders and multiple court appearances by the parties will be reduced.

- The safety and accountability of all participants will be enhanced.

The pilot project has two phases. Phase I, which is virtually complete, provided grant money to thirty-one counties in California that volunteered to create plans for unified or coordinated family court systems. The plans are individual in nature but incorporate the underlying premises set forth above. In Phase II, which began in December 2002, six to twelve "mentor courts" will be chosen through a competitive process to implement plans for larger

unified or coordinated family court systems. An evaluator will work closely with the chosen courts to ensure that an evaluation model is in place from the beginning of the projects.

Each mentor court must include all or most of the following features:

- Broad jurisdiction over cases affecting children and families;
- Review of cases to ensure that cases involving one "family" are coordinated;
- Reliance on a model for coordination, such as one judge/one family, one family/one case management team, one family/one file, or a comparable approach;
- A case management system to allow key information to be shared among mentor court judges and staff;
- Plans for making the court experience more user friendly for litigants and more efficient for court staff;
- Collaboration between the court and community services;
- An effective program for assisting unrepresented litigants;

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# New ABA Effort on Unified Family Courts

**Editor's Note:** In June 2002, after reviewing the following report, the Board of Governors approved the creation of a Unified Family Courts Coordinating Council. The effort promotes coordination among ABA entities with interests relating to unified family courts, such as the Family Law Section, the Judicial Division, the Standing Committee on Substance Abuse, and others. The Coordinating Council recently determined the need for a comprehensive evaluation of unified family courts and implemented a survey of approximately twenty unified family courts. The council will release its findings at the National Council of Juvenile and Family Court Judges conference.

The unified family court concept has been successful in moving toward a model of resolving family disputes in a way that is productive for society and beneficial to those affected. The ABA's work to develop and implement unified family courts has been strong and is in many ways responsible for the acceptance of the concept. While the ABA's work in this area is exemplary, it lacks coordination among the many ABA entities active in furthering the unified family court concept. It is timely for the ABA to consider how to ensure that those seeking legal and judicial intervention in family matters are provided services in a highly focused, coordinated, and collaborative manner.

Although many ABA entities address unified family courts issues to varying degrees, a few have concentrated on this work. Prominent among these are the Family Law Section, the Judicial Division, the Center on Children and the Law, the Steering Committee on Unmet Legal Needs of Children, Section of Criminal Justice, the Juvenile Justice Committee, and the Standing Committee on Substance Abuse. Other entities that have interests in the

unified family court concept are the Commission on Domestic Violence, the Section of Litigation Children's Law Committee, the Coalition for Justice, the Commission on Legal Problems of the Elderly, the Section of Dispute Resolution, the Standing Committee on Pro Bono and Public Service, and Special Committee on Government Affairs. Other non-ABA entities are also active in this area.

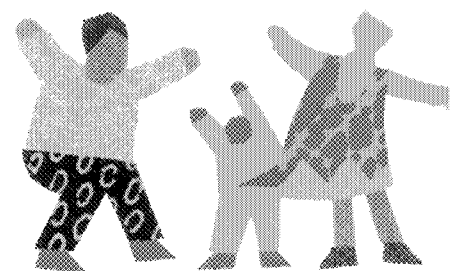
An informal group representing entities interested in unified family courts has been meeting for the past several years and concluded that a coordinating entity would be useful to further develop unified family courts projects in the ABA, both in terms of facilitating collaboration and disseminating information about individual entity efforts. In January 2002 President-Elect A. P. Carlton appointed a planning subcommittee and requested the committee to address the creation of an association entity to provide a home and a focus for all aspects of the unified family court initiative, to assure thereby that within the ABA there is one responsible central, collaborative, and coordinated approach to unified family courts. This resolution is the result of that planning process.

Collaboration by ABA entities doing complementary work on unified family courts will be encouraged and facilitated by a formal Coordinating Council and internalized process. The Coordinating Council will provide institutional coordination to the shared activities of the participating entities. There is no intention to affect the internal governance or budgetary allocations of the represented entities. It is expected, however, that increased activity and more effective and efficient programmatic endeavors will be created by synergies resulting from sharing resources and collaborating in a more systematic way. It also is expected that the Coordinating Council will establish liaison relationships with appropriate non-ABA organizations. No additional general revenue support is being requested to support the Coordinating Council.

Prior to the implementation of the family mentor project in California, programs in three districts (Yolo County, a San Francisco district court, and Butte County) provided examples of the state's early efforts. All three models have expanded the jurisdiction of the court to include family and juvenile matters. One includes criminal, traffic, and family support cases and one is seeking to expand to probate matters. The Butte County district accepts cases only upon "nomination" to enter the program.

One of the largest challenges in the districts is to adequately define a "family." These jurisdictions are finding that traditional family patterns are rare and families need to be defined through the matrilineal line, even if, for example, that means that one family is a mother with four children by four fathers, none of whom has ever been married to the mother.

The California courts have struggled with data entry changes. Logistical difficulties have arisen as well, such as cases where juvenile cases were heard in a



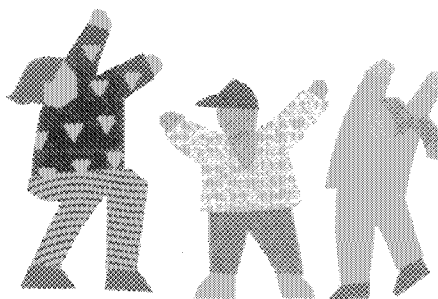
court several miles away and juvenile and family files were housed in different courthouses. In Yolo County, all county judges agreed that an assignment to the

unified family court required a minimum three-year commitment.

### Colorado

Colorado is making large strides toward improving the court's response to children.<sup>8</sup> In August 2002 the Commission on Families in the Colorado Courts issued a final report that outlined a variety of actions for courts to take throughout the state. The report contains extensive information on current Colorado practices and reviews other state initiatives. It focused on common themes or problem areas that appeared most in need of attention. The major focus areas are:

- Providing nonadversarial alternatives. The commission recommends amending the statutes and rules to provide nonadversarial alternatives to the current procedures for family cases.
- Improving the status of judges. The commission found that judges and



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- Developing a central case management process. The commission recommends implementing, at a minimum, a central case management system in each district that provides complete information concerning all past and current involvements by family members and related parties with the courts. Cases will be assigned, where possible, to one judge. Courts should use family court facilitators to achieve coordination of cases and to monitor issues concerning the family.

staff in family cases are less respected than other judges. It recommends taking action to improve the respect accorded professionals in the family court system.

- Selecting qualified judicial officers. As a result of complaints about less than acceptable judicial behavior, the commission recommended appointing judges with appropriate skills for hearing these cases.

- Training judicial officers. The commission found a need for special training

in family issues for judges and staff.

- Promoting community involvement. The commission discovered that judicial officers could assist in identifying resource gaps and work with community groups to develop services to assist families in the community.

- Adjusting compensation for public sector attorneys. The commission recommended that public sector attorneys working with families be paid the same as public defenders.

- Providing training for private attorneys. The commission recommends implementing a program requiring a certain level of continuing legal education (CLE) credits for lawyers practicing in the family law area. They considered creating a certification requirement but ultimately rejected this idea.

- Promoting ethics and professionalism. The commission heard reports about many ethical violations by private attorneys and made recommendations to address this.

- Improving accessibility to legal services. The commission acknowledged a lack of accessibility to legal services for families and a lack of information about the judicial process.

- Providing information about roles and responsibilities. The commission recommended improving information about the variety of roles, responsibilities, and accountability of the various professionals involved in family cases.

- Providing additional support. The commission recommended improving services in domestic violence issues, strengthening restraining orders, providing services for pro se litigants, and recognizing the need for family-friendly facilities.

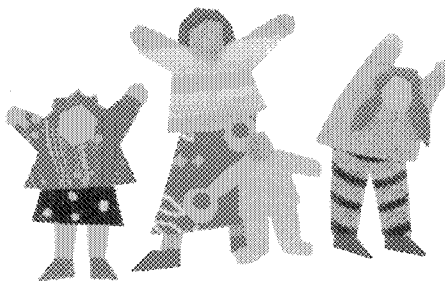
The Seventeenth Judicial District in Adams County created a family court pilot project that takes a multidisciplinary approach to screening and providing services to families with multiple cases in the courts. Cases are bundled together, and a comprehensive family treatment plan is developed to deal with all pending legal matters in a coordinated manner.

## Florida

Florida courts have been working to reform the family court system for over a decade.<sup>9</sup> Fundamentally, Florida is seeking a single court system with comprehensive jurisdiction over all cases involving children and relating to a family. One judge would coordinate the legal services and resources provided to the family. Florida is currently piloting a statewide effort consisting of three unified family court model programs.

Florida courts are facing the reality that a fully integrated and comprehensive approach in lieu of a piecemeal approach to resolving legal and non-legal issues of a family is a huge change in the court system. The key goals of the Florida efforts are to:

- Clarify or redefine the roles and responsibilities of judicial staff and interrelated court personnel;



- Provide comprehensive training for all groups involved;
- Improve technology so that the judicial system knows all of the related cases involving the family and still ensures that confidentiality, when appropriate, is maintained;
- Provide assistance to families so that they can resolve their disputes and appropriately deal with future conflicts so that court involvement is not needed; and
- Address "therapeutic justice goals"

for the family's interrelated legal and non-legal problems to produce a result that improves the family's functioning.

## Kentucky

Kentucky voters approved an amendment to the state constitution in November 2002 to authorize statewide family courts.<sup>10</sup> Since 1991 Kentucky has been piloting family courts; presently twenty six counties have family courts. The family courts provide for one judge to hear all of a family's issues. The program also improves access to social service resources to help families recover from difficult situations.

## Maryland

Maryland has improved services to families through extensive use of family support services coordinators.<sup>11</sup> Each

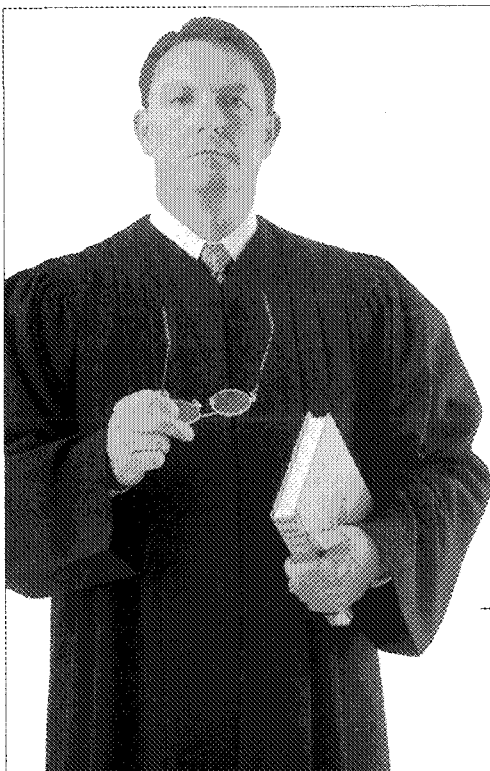


court has a coordinator assigned to work with families and help make the court experience effective. These coordinators create programs to assist families, act as a liaison between the court and the community resources, and draft annual reports on the efforts of the district to improve the court experience for families. Maryland also has a supreme court rule encouraging the use of integrated family courts with the one judge/one family model, but it has not been widely used.

## Minnesota

Three jurisdictions in Minnesota<sup>12</sup> piloted the one judge/one family concept from July 1997 through the end of 1998.<sup>13</sup> The National Center for State Courts (NCSC) evaluated the program in November 2000. These counties encountered many of the procedural dif-

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difficulties that Maricopa County encountered, such as difficulties with combining resources housed in two separate buildings and with combining family and juvenile delinquency matters. In addition, a limited number of cases were referred to the program, which made the evaluation of data difficult.

The NCSC released a variety of findings and recommendations. The lack of a sound strategic plan for the implementation of the project created obstacles for the participating courts. The NCSC recommended that, before beginning a one judge/one family project, the court implement a system for coordination with collateral agencies, create an advisory group, establish an evaluation plan, and ensure that a functional automation system is in place to identify and coordinate files involving one family. (The Maricopa IFC did the suggested strategic planning and collaboration but does not yet have an integrated automation system.)

The NCSC also advised that the court needs to improve its understanding of how separate legal processes, with separate legal standards and time lines, might be best coordinated. This is of particular concern in situations where criminal actions and civil actions are combined. The evaluators suggested raising issues regarding the potential for misfeasance whereby litigants would be unfairly prejudiced or revictimized. (The Maricopa IFC judges have encountered some, but not many, problems in coordinating the various legal proceedings.) Similarly, it recommended that all judicial officers, court managers, court personnel, and court programs associated with the one judge/one family program be physically located in the same building. (The Maricopa IFC has not solved this problem.) A centralized office is needed to handle the administrative filing and processing issue and to limit the confusion for litigants and other court users

involved in the program. The NCSC recommended that the court designate a case coordinator or a centralized assignment staff. (The Maricopa IFC has a staff for purposes of program coordination and case screening; it relies on the staffs of the different court departments to handle all filing and other administrative matters.)

The NCSC also found that strong judicial leadership can significantly help a project. Lack of judicial leadership impedes the development of a fully functioning program. (The Maricopa IFC has strong judicial leadership.) Commitment by court staff is essential as well. If court staff is not committed to the project, then administrative protocol can undermine the purposes of the project. For example, staff in one court that did not fully support the project would schedule hearings with an available judge, rather than the assigned judge, defeating the purpose of one judge/one family. Staff apparently assumed that the court would likely revert to its pre-implementation systems and did not fully buy into the pilot program. (We observed no such lack of commitment by Maricopa court staff.) Finally, the NCSC recommended that the court can improve its education of judges and staff to ensure that the philosophy behind the project is clearly understood. (The Maricopa IFC's training effort was successful in ensuring that the project's philosophy is clearly understood.)

### New Jersey

New Jersey has a long history of working to unify family court matters that began with a constitutional amendment in 1985.<sup>14</sup> In the late 1990s the supreme court developed a strategic plan for the state and has been implementing the goals in that plan to date.

New Jersey has taken what it describes as a "middle ground" toward family court integration. Full integration of all family matters was very difficult to implement, and they opted for a modified integration system. There are statewide models for the courts to follow, the courts have implemented

plans, and the state staff assists the jurisdictions in implementing the plans. New Jersey chose not to work toward the one judge/one family model when cases cross the boundary between juvenile and family court matters. Cases are more often coordinated when there are two family court matters or two juvenile court matters.

New Jersey developed a statewide computer system that allows judicial employees to see all matters involving members of a family and to coordinate these cases. They encourage all employees in the family division to get exposure to different family law issues, and the state has developed best practices and standards for family cases.

Family court jurisdictions are divided into four teams: divorce issues, family issues outside of divorce, delinquency issues, and juvenile dependency issues. Judges and staff are assigned to a team, and cases assigned to the team are coordinated by the members. Management members meet regularly to discuss issues of common concern, but cases filed in more than one team are not necessarily assigned to one judge. The family team and divorce team work closely together, as do the juvenile delinquency and dependency teams.

### North Carolina

In 1999 North Carolina started a project to establish family courts and to improve case management of family cases.<sup>15</sup> The initiative was intended to improve services to all families, not just services to families with multiple cases in the court. The pilot project included a broad list of case types, including divorce, dependency, and juvenile delinquency, with the ultimate goal of making comprehensive improvements for all cases involving the family.

The North Carolina pilot project implemented case management strategies and the one judge/one family model to coordinate efforts for families in distress and to provide consistent, efficient use of trial court time.<sup>16</sup> The pilot court established time standards

for family matters, used case managers to improve management of family cases, cleaned up the backlog in family cases, decreased the use of continuances, improved resources for families, and increased the types of resources available to families.

The evaluation report does not focus in great detail on the unified family court portion of the case management project. However, North Carolina expanded the family court concept from three to six pilot sites and received funding from the General Assembly for the expansions. North Carolina continues to struggle with automation issues in linking the juvenile and civil records, unreliable data in the computer system, and the lack of a uniform definition as to who is a part of a "family." In addition, the pilot projects have been hindered by a severe space shortage in county-maintained courthouses.<sup>17</sup>

## Ohio

Like North Carolina, Ohio is working to establish a better system for managing family cases in general.<sup>18</sup> The Ohio method utilizes the intake process to determine the need for unified court services. One of the state's three pilot projects implemented a screening system at intake to determine the existence of a prior or current matter related to the family. On dependency matters, 57 percent to 73 percent of families appearing before the court had a prior or current matter pending; in delinquency matters, 43 percent of families had a second case. The levels were comparable to findings from an NCSC study conducted in 1992.

If a prior or current matter exists, court staff summarize the intake information for the judge to consider in handling new filings. The judicial officers then choose to consolidate cases across court divisions when they agree that it serves the best interest of a child or a vulnerable family member.

In the Ohio pilot project, the intake process serves as the departure point for the other objectives commonly associated with family courts:

- to collect information to provide

the appropriate resources at the earliest possible point in a case;

- to aggressively manage cases to early resolution;
- to provide alternatives to the adversarial model where appropriate, with opportunities for mediation, conciliation, arbitration, and diversion; and
- to increase the public's ability to access the courts in family matters.

## Oregon

The Portland court system includes a family court division that partially adheres to the one judge/one family unified family court concept. The judge assigned to the divorce case for the parents does not necessarily hear the juvenile delinquency trial of their child. The court combines cases when it makes sense to do so, typically where there are common issues of fact or law.

## Vermont

Vermont is currently working to improve the disposition of family law cases, making them more family-focused rather than court-focused.<sup>19</sup> One of the goals for the pilot project in Barre, Vermont, was for the court to take a "team approach to work with the community to treat the family as a complex unit that cannot change by short-term means." Vermont's pilot did not, however, adopt the goal of one judge/one family. The pilot used case managers to assist in early case screening for referral to outside services and suggested lengthening the time for a judicial assignment to family court to increase continuity and consistency of operation.

## Notes

1. The material for this article is drawn from a recent report prepared for the Maricopa County Superior Court, evaluating its pilot integrated family court.

2. Jeffrey Kuhn, *A Seven-Year Lesson on Unified Family Courts: What We Have Learned Since the 1990 National Family Court Symposium*, 32 FAM. L. Q. No. 1, 67 (1998).

3. Articles in the Spring 1998 FAMILY LAW QUARTERLY include: Catherine Ross, *The Failure of Fragmentation: The Promise of a System of Unified Family Courts*; Barbara Babb, *Where We Stand: An Analysis of America's Family Law Adjudicatory Systems and the Mandate to Establish Unified Family Courts*; Jeffrey Kuhn, *A*

*Seven-Year Lesson on Unified Family Courts: What We Have Learned Since the 1990 National Family Court Symposium*; Andrew Schepard, *Parental Conflict Prevention Programs and the Unified Family Court: A Public Health Perspective*; Billie Lee Dunford-Jackson et al., *Unified Family Courts: How Will They Serve Victims of Domestic Violence?*; and Mark Hardin, *Child Protection Cases in a Unified Family Court*.

4. American Bar Association, *Policy on Unified Family Courts* (1994).

5. Position Paper on Effective Management of Family Law Cases, available at <http://cosca.ncsc.dni.us/PositionPapers/EffectiveMgmtFamilyLaw.pdf>.

6. *Final Report on the Commission on Families in the Colorado Courts*, available at [www.courts.state.co.us/supct/committees/commfamiliesdocs/famreport.pdf](http://www.courts.state.co.us/supct/committees/commfamiliesdocs/famreport.pdf), at 45.

7. Judicial Council, Unified Courts for Families—Mentor Courts Program, Planning Grants, Application Guidelines, available at [www.courtinfo.ca.gov/programs/cfcc/resources/grants/other.htm](http://www.courtinfo.ca.gov/programs/cfcc/resources/grants/other.htm); Judge Donna Petre, *Unified Family Court, A California Proposal Revisited*, available at [www.courtinfo.ca.gov/programs/cfcc/pdffiles/161-168.pdf](http://www.courtinfo.ca.gov/programs/cfcc/pdffiles/161-168.pdf).

8. Details available at [www.courts.state.co.us/supct/committees/commfamiliesdocs/famreport.pdf](http://www.courts.state.co.us/supct/committees/commfamiliesdocs/famreport.pdf); [www.17thjudicialdistrict.com/adamsreport.pdf](http://www.17thjudicialdistrict.com/adamsreport.pdf); [www.17thjudicialdistrict.com/pilot\\_projects.htm](http://www.17thjudicialdistrict.com/pilot_projects.htm).

9. *Review of Family Courts Division and Unified Family Court Model Program—Legislative Interim Project 2001*, available at [www.flcerks.com/Pubinfo/2000\\_2001%20pub%20info/Family%20Courts.pdf](http://www.flcerks.com/Pubinfo/2000_2001%20pub%20info/Family%20Courts.pdf).

10. Details available at [www.kycourts.net/AOC/FamilyCourt/AOC-FamilyCourt.shm](http://www.kycourts.net/AOC/FamilyCourt/AOC-FamilyCourt.shm).

11. Details available at [www.courts.state.md.us/family/index.html](http://www.courts.state.md.us/family/index.html).

12. The three jurisdictions are Ramsey County, Anoka County, and Virginia-St. Louis County. Ramsey County has embraced most successfully the one judge/one family philosophy. Anoka County ended the pilot in December 1998, finding that the administrative difficulties of the pilot outweighed its benefits.

13. National Center for State Courts, *Evaluation of the One Judge/One Family Pilot Programs, Final Report* (Nov. 2000), presented to the Minnesota Supreme Court Office of the State Court Administrator.

14. New Jersey Judiciary Strategic Planning Committee, *Report to the Supreme Court* (Mar. 31, 1998), available at [www.state.nj.us/judiciary/strat.htm](http://www.state.nj.us/judiciary/strat.htm).

15. Administrative Office of the Courts of North Carolina, *Report on the Pilot Family Court Program* (Apr. 1, 2000).

16. *Id.* at 4.

17. *Id.* at 2.

18. Gregory Halemba, Hunter Hurst IV, and Imogene Montgomery, NCJJ, *Screening at Intake for Related Family Cases*, OHIO FAM. CT. BULLETIN Vol 1, No. 3, (Summer 2000); Gregory Halemba and Hunter Hurst Jr., NCJJ, *Features of a Full Service Family Court*, OHIO FAM. CT. BULLETIN, Vol. 2, No. 3 (Fall 2001).

19. Maureen Solomon, *Barre Family Court Project: Developing a Model for a Family-Oriented Court*, Washington County Family Court (Sept. 1997); Maureen Solomon, *Second Assessment of the Vermont Family Court Project* (Oct. 1999).