

Washington State Supreme Court
Dissolution Task Force
Interim Report
September 1, 2008

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I. INTRODUCTION

I. INTRODUCTION

A. THE SUPREME COURT DISSOLUTION TASK FORCE

Under section 306(1) of Second Substitute Senate Bill (2SSB) 5470, Laws of 2007, Chapter 496, the Supreme Court Dissolution Task Force (Task Force) is to develop statewide protocols for dissolution cases. The legislation directs the Task Force to do the following:

Develop

1. Clear and concise dispute resolution procedures.
2. Sexual assault training curriculum.
3. Consistent standards for parenting evaluators.
4. Domestic violence training curriculum for individuals making evaluations in dissolution cases.

Study issues related to

1. Venue for filing and modifying petitions.
2. The program established under Section 201 of the Act.

In addition, the Task Force is to make recommendations concerning specialized evaluators for dissolution cases, dissolution forms and procedures, and fees. The legislation requires the Task Force to present its preliminary findings and conclusions in September 2008, with a final report and recommendations due on December 1, 2008.

The Task Force first convened on October 30, 2007, and between then and September 1, 2008, the Task Force met nine times. Its members were appointed by the governor, chief justice of the Washington State Supreme Court, the president of the Senate, and speaker of the House of Representatives. Membership consists of parents (two custodial and two non-custodial), judicial officers, attorneys, representatives from various human services organizations involved in family law, and elected officials. A complete membership list with biographies appears as Appendix C to this report.

The Task Force began its work by creating four subcommittees: dispute resolution, parenting evaluators, training, and point of first contact. These subcommittees met regularly when the entire Task Force convened, and in addition met in person or by telephone conference call, when necessary. Many members participated in more than one subcommittee. The subcommittees reported on a regular basis to the entire Task Force and the full membership reviewed the reports and voted on whether it agreed with the general ideas presented by each subcommittee. The Task Force then integrated the full discussion and work of each subcommittee into this preliminary report.

Members of the public attended each Task Force meeting, and most subcommittee meetings. The public was also encouraged to submit comments about this report. The Task Force considered those comments for this preliminary report, and will continue to

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consider public comments before issuing its final report on December 1, 2008. Future meetings are currently scheduled for October 22, 2008 and November 17, 2008.

Public comments about the report can be sent to:

Administrative Office of the Courts
Attn: Michael Santana
1112 Quince Street, SE
P.O. Box 41170
Olympia, WA 98504-1170

Comments can also be submitted from September 1, 2008 through October 15, 2008 at the Task Force's website. That website is located on the Washington Courts homepage at <http://www.courts.wa.gov/>. At that homepage in the left hand column, select the "Boards & Commissions" link, and then select the "Supreme Court Dissolution Task Force" link.

B. SUMMARY OF FINDINGS AND CONCLUSIONS

1. Dispute Resolution Procedures

1. In considering any reforms or changes regarding dispute resolution or any other aspect of dissolution, the legislature and courts should measure success from how well the process promotes the safety and well-being of children affected by dissolution, not its effectiveness in easing courts' administrative burdens.
2. The legislature should consider ensuring attorney representation of indigent and low-income parents in the dissolution processes with systems similar to those in place for criminal defendants.
3. The legislature should provide state funding to support courthouse facilitator programs. Each superior court should have a courthouse facilitator program.
4. The Task Force supports the legislature in:
 - Encouraging jurisdictions to create Unified Family Courts or otherwise organize themselves to allow one judicial officer or team to hear all matters in a particular dissolution.
 - Ensuring that Unified Family Courts have adequate resources to do their work well.
 - Ensuring that judicial officers retain responsibility for all dissolution cases in which they have issued a decree after trial for 18 months from the date of the decree, whether or not they continue to sit on family court.
 - Requiring that all judges, commissioners, and pro tem judges hearing family court matters receive training on domestic violence, identifying and ending

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abusive use of court systems, and other types of training, such as that offered by the National Council of Juvenile and Family Court Judges.

5. The legislature should increase statewide funding for nonprofit dispute resolution and mediation centers in order to create strong and viable alternatives to private providers.
6. All alternative dispute resolution providers should be required to demonstrate that they have received training on recognizing and responding to domestic violence, and to demonstrate they have a protocol in place for responding to domestic violence in ways that protect the victim's safety. Courts should give referrals for only those providers who meet these criteria.
7. Courts should provide litigants with basic information about the various forms of dispute resolution and their advantages and disadvantages so that litigants can make informed choices. Litigants should be informed that voluntary mediation, when appropriate, should begin as soon as possible.
8. Statutes and court rules must set forth consistent standards and procedures for obtaining relief from courts when alternative dispute resolution processes are abused, fail, or need to be changed. Pattern forms should indicate that court relief is available in these circumstances.

2. Training Curricula

1. The intent of the legislation is to create curricula for both evaluators and guardians ad litem.
2. It is critical that evaluators have the training necessary to produce evaluations which place the best interests and well-being of children at the center of consideration and are:
 - Well informed by research and current best practices.
 - Informed by a highly developed set of ethics.
 - Useful and relevant to the dissolution proceedings.
 - Accurately reflective of the impact of domestic violence and sexual assault.
3. The Task Force realized that the creation of two fully realized curricula was unrealistic. A full curriculum would include specific learning objectives, training exercises, handouts, resource materials for participants, and specific instructions to trainers regarding key teaching points and how to facilitate the training.
4. Effective curricula require collaboration with subject matter experts, testing, and regular updates.
5. The Task Force reviewed multiple curricula and found that no one curriculum

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addressed all the elements the Task Force identified as necessary. In particular, no curriculum existed that specifically addressed the evaluator's role, evaluator ethics, and appropriate use of information about domestic violence and sexual assault. The Task Force recommends that an entirely new curriculum be created.

6. The Task Force decided to focus on creating recommendations about administrative oversight of a curriculum, and content to be covered in the curricula, including substantive knowledge, analysis and practice skills.
7. While the Task Force did not have the capacity to develop a complete curriculum, the expertise did exist to define the knowledge, analysis, and practice skills that a curriculum should address. The Task Force recommends that the curriculum author incorporate those elements to create an effective learning process.
8. The Task Force recommends that the curriculum author collaborate with an advisory group comprised of subject matter, including representatives from the Washington State Coalition Against Domestic Violence, Washington Coalition of Sexual Assault Programs, practitioners from the field, and judicial officers.
9. Although the legislation uses the term sexual "assault" the Task Force prefers the term sexual "abuse." It has organized the discussion of sexual abuse in the following manner. The domestic violence curriculum addresses the sexual abuse of adult victims as a potential part of a pattern of abuse. The curriculum on sexual abuse focuses on child victimization.

3. Standards for Parenting Evaluators

1. The intent of 2SSB 5470 was to develop consistent standards for individuals who are court appointed or ordered to evaluate and make recommendations for the parenting abilities of each parent in RCW Title 26 actions only. The legislature did not intend the Task Force to develop standards and make recommendations for guardians ad litem or family court evaluators.
2. The Task Force proposes a court rule that will apply to all mental health professionals who are appointed or ordered to evaluate the parenting abilities of both parents and make recommendations. The rule sets forth minimum standards for parenting evaluators only; it does not apply to family court evaluators or to guardians ad litem.
3. The Task Force recommends that the Washington State Supreme Court adopt rules setting forth consistent standards for guardians ad litem and family court

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evaluators. These standards should include a review of the criteria for becoming a guardian ad litem or family court evaluator, clarification of their roles, standards for fees, funding for counties to provide guardians ad litem or family court evaluators for low-income litigants, continuing education requirements, standards for grievance procedures, and guidelines for conflicts of interest. The legislature should provide stable and adequate funding for guardians ad litem and family court evaluators for low-income parties.

4. Study of the Point of First Contact Program (PFCP)

1. The Task Force members recommend a Point of First Contact Program that:
 - Must be accessed prior to or no later than thirty days after filing the petition.
 - Takes into account the safety of all parties.
 - Is an information and referral service.
 - Allows for self-screening for referral to services for domestic violence, child abuse, substance abuse, and mental health, with access to program staff for limited assistance.
 - Has sufficient staffing.
 - Has adequate and stable funding.
2. The PFCP, if adopted, should be allowed to proceed by allowing a self-evaluation process rather than a person-to-person screening.
3. Attorneys may provide PFCP services to their clients.

5. Study of Venue.

The Task Force does not recommend changing the venue rules for filing petitions and modifications.

II. DISPUTE RESOLUTION PROCEDURES

A. SYSTEMIC PROBLEMS

In Task Force discussions aimed at articulating clear and concise dispute resolution procedures, it became evident that some systemic problems cause confusion and delay in dispute resolution. Thus, this report includes the discussion of systemic problems that, if addressed, will facilitate clear and concise dispute resolution.

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1. Rethinking Success

Court personnel may assume that cases settled outside of court represent a success because they ease the burden on courts. This perspective is understandable and reflective of available but often insufficient resources. However, it is court-centered and not family-centered. In many cases, settling out of court and resolving disputes prior to a trial may represent a success. However, it may not represent a success in cases involving significant imbalance of financial resources between the two parties, domestic violence, or sexual abuse.

Many individuals suffer from unenforceable or inappropriate court orders and parenting arrangements because they do not wish to reenter a court system that they perceive to be insensitive to their needs or those of their children. The Washington State Bar Association, county clerks, and judges must balance the need of the court system to minimize trials (and thus urge parties to settle on their own) with the family's need to create a settlement that protects the best interests of the children and is enforceable, workable, and safe for the children and any adult victims of domestic violence. Ideally, in each case all participants should err on the side of safety and the best interests of the children rather than quick settlement.

When reforms or changes regarding dispute resolution, or any other aspect of dissolutions, are considered the legislature and courts need to measure success by how well the process promotes the safety and well-being of children affected by dissolution, not its effectiveness in easing courts' administrative burdens.

2. Assuring Representation

It is virtually impossible for individuals without representation to master all the information necessary to protect and advocate for their children's best interests and ensure that court orders are enforceable and fair.

Representation of the parties at the start of the court process is the most effective means to minimize disputes before, as well as after the decree. Litigants may avoid many disputes if they have better access to high quality representation at the beginning of the process.

The Washington State Supreme Court addressed whether an indigent parent has the right in a dissolution proceeding to an attorney at public expense under the Washington and U.S. Constitutions. The Court ruled that indigent parents did not have such a right, but acknowledged that more than the minimum constitutional standards might be good public policy for the complexity in dissolution proceedings and that "the decision to publicly fund actions other than those that are constitutionally mandated falls to the legislature. Outside of that scenario, it is not for the judiciary to weigh competing claims to public resources." *King v. King*, 162 Wn.2d 378, 398, 174 P.3d 659, 669 (2007). The Task Force encourages the legislature to consider ensuring attorney representation for indigent and low-income parties in dissolution with systems similar to those in place for criminal defendants.

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B. THE NEED FOR INFORMATION

Currently, most courts have local rules that require or encourage dispute resolution and settlement conferences at various stages of dissolution and other family law proceedings. In addition, state law either provides for or requires the use of alternative dispute resolution. Except as set forth herein, the Task Force does not believe there is a need for major changes in the law regarding dispute resolution. Rather, the Task Force encourages providing additional resources to the courts, contingent on that court's local adoption of dispute resolution procedures that meet best practices standards.

Information is critical to good decision making. Parties require information about court processes, parties' rights, services, dispute resolution, and the impact of conflict on children. A dissolution action may be an individual's first contact with the judicial system. Litigants have questions and need to understand the process that will have a significant impact on their lives for years to come. The information should be provided at an early stage in the process and be available throughout the process. Litigants cannot always absorb all the information at one time. Increased coordination and funding can enhance the ability of current programs to provide the necessary information. This report discusses various methods of providing the information in the Point of First Contact Informational Services in section VIII. C on page 57.

C. INCREASING ACCESS TO INFORMATION AND RESOURCES BY STRENGTHENING AND EXPANDING EXISTING SERVICES

The Task Force considered several models for handling dispute resolution, but is hesitant to recommend additional procedures. Parties need basic information about the various forms of dispute resolution and their relative merits so that they can make informed choices. Each jurisdiction must provide this critical information. Further, the Task Force recommends strengthening and expanding existing services so the parties can receive necessary information at an early stage of the proceeding. Existing services should be strengthened with increased funding, improved staff training, and better coordination. Existing services and resources include:

- Courthouse Facilitators.
- Court Orientation Classes.
- Family Law Handbook.
- Parenting Seminars.
- Dispute Resolution Centers.
- Unified Family Courts.

1. Courthouse Facilitators

Most counties have courthouse facilitator programs that provide services to family law

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litigants who are self-represented. Facilitators provide information and assist in completing family law forms. They also explain legal terms and basic court procedures. The parties may require the assistance of the facilitator a number of times during the dissolution process. Some jurisdictions require these parties to meet with facilitators prior to specific hearings or prior to finalizing their paperwork. Unfortunately, this contact is often too late to avoid escalating conflict or to provide meaningful referrals and resources to use during the process.

A strong and adequately funded courthouse facilitator program can be effective in avoiding future disputes by providing education about dispute resolution methods and by calling attention to possible inconsistencies and deficiencies in the dissolution paperwork. Currently, no state funding is provided to support courthouse facilitator programs and there is a strong need to provide such funding. All superior courts should have a facilitator program. Appropriate training and consistency in the programs are needed.

2. Court Orientation Classes

Some courts use an orientation class to educate litigants about the dissolution process and the ways of resolving disputes. This gets critical information to litigants early in the process. In addition to providing information about court procedures, the classes can provide information about a variety of dispute resolution processes, both in and out of court. All superior courts should provide orientation classes.

The orientation classes should provide guidance as to when some types of dispute procedures are not appropriate. For example, there are circumstances when alternative dispute resolution is not appropriate, or must include safeguards because of the presence of domestic violence or other limiting factors that create a power imbalance between the parties.

3. Family Law Handbook

Section 202 of 2SSB 5470 directs the Administrative Office of the Courts (AOC) to provide the Family Law Handbook to the petitioner and respondent at the time of dissolution. AOC must revise the handbook on an annual basis and it must contain information about an extensive list of topics. These topics include property and spousal maintenance considerations at the time of dissolution, and information about issues involving children, including residential schedules, parental relocation, child support and the effects of dissolution on children. Finally, it must give information about the court process for dissolutions and information on domestic violence, child abuse, and neglect.

The handbook should be a key tool in delivering much of the information that the PFCP is to provide. Each judicial district should supplement the handbook's information with details about local services and procedures.

4. Parenting Seminars

Court rules in most counties require the parties to attend a parenting seminar prior to

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finalizing a parenting plan. Courts should be encouraged to devise ways to compel the completion of a parenting class as early as possible to educate the parents on focusing on the best interests of the children and safeguarding them against adverse effects of the marriage dissolution. The legislature should provide the resources needed in order to accomplish this.

5. Unified Family Courts and Judicial Expertise

The Task Force agreed that some individuals (and particularly domestic violence abusers) exploit legal processes to continue a pattern of abuse, harassment, and control, potentially leading to many post-decree disputes. Courts, mediators, arbitrators, evaluators, and guardians ad litem can unwittingly become tools for an abuser if individuals involved do not have the training to identify abusive use of legal conflict, or if institutional structures do not facilitate courts' identification of abusive use of conflict.

Research points to Unified Family Courts as one of the most effective ways to avert this problem. The following principles characterize Unified Family Courts:

- One judicial officer or team per family.
- Longer rotations for judicial officers hearing family matters.
- Specialized training for judicial officers.
- Mandatory mediation (except in cases with limiting factors).
- Case management.

The legislature should provide adequate funding and encourage jurisdictions to create Unified Family courts or otherwise organize themselves to allow one judicial officer or team to hear all actions in a particular dissolution. Specialized training should include training on identifying and ending abusive use of court systems, and training on domestic violence, such as that offered by the National Council of Juvenile and Family Court Judges. Judicial officers should retain responsibility for all dissolution cases in which they have issued a decree after trial for 18 months from the date of the decree, whether or not they continue to sit on family court.

6. Dispute Resolution Centers

Existing nonprofit dispute resolution centers often work well with the courts in their regions. Effective centers have processes that are consistently transparent, closely supervised, and aligned with best practices. The same type of supervision and control may not exist if a private provider offers the service. Individuals are free to choose a private dispute resolution provider, but should not have to choose one because no nonprofit alternative exists. Current funding for the nonprofit centers does not allow them to meet demand throughout the state and should be increased.

Providers of Alternate Dispute Resolution (ADR) should be required to demonstrate that they have received training on recognizing and responding to domestic violence, and

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demonstrate they have a protocol in place for responding to domestic violence in ways that promote victim safety. Courts should give referrals for only those providers who meet these criteria.

D. PROVIDING POST-DECREE DISPUTE RESOLUTION

If children are part of the dissolution action, it is probable that modifications and clarifications of parenting plans and child support orders will occur after the decree. The parties in dissolutions need to understand what to do when their chosen dispute resolution process fails or the other party refuses to participate in the process. Currently, no consistent or clearly understood procedure exists for these common situations.

1. Relief When the Chosen Dispute Resolution Process Fails

The parties and court can consider a variety of factors, including the financial situation of the parties when choosing the dispute resolution process. RCW 26.09.187. However, it is not clear as to what should happen under current law if the chosen dispute resolution process does not work. The statutes and mandatory forms give incomplete, confusing, and conflicting information. It became evident to the Task Force that there was no consistency as to the appropriate procedure when the chosen dispute resolution process fails. For example, a statute provides a “right of review” from the dispute resolution process, RCW 26.09.184(4), but it is not clear what this means. Arbitration decisions might be subject to review, but if mediation or counseling fails, there is no decision to review.

Parties need access to court if the process fails and the procedure for gaining access needs to be clear. The law allows sanctions if a party uses or abuses the process without good reason, but it does not describe a procedure for seeking those sanctions. Some Task Force members believe a motion for contempt or a motion for modification is appropriate. On the other hand, the parenting plan form notifies parties they must use dispute resolution before filing a motion for contempt or modification in some instances. The procedure for gaining access to the court varies from county to county.

Statutes, court rules, and mandatory forms must set forth consistent standards and procedures for obtaining relief from the court when the dispute resolution method fails, or the process is abused.

We recommend that the parenting plan form include language explaining that if non-arbitration forms of ADR fail to provide a resolution to a specific issue because of non-response by one party or failure to agree by both parties, then either party may ask the court for a decision on that specific issue by appropriately filing, noting and serving a motion along with an affidavit or declaration.

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2. Standard for Changing the Parenting Plan regarding the Dispute Resolution Choice

A parenting plan must contain provisions for the resolution of future disputes between the parents. Individuals filing for dissolutions may not know any dispute resolution providers or how to evaluate them. Consequently, they may choose a process inappropriate for their situations, or they may specify a dispute resolution provider who proves to be inadequate or otherwise unsuited to the task of facilitating dispute resolution in their particular case.

Under current law, a court action to adjust or modify the parenting plan may be required before a party can change the provider or the chosen dispute resolution process. It can be difficult to change a parenting plan. In addition to a hearing on adequate cause, the statutory standard may require a change of circumstances of the parents or child. The primary goal of the current statute is to deal with changes involving the child. There is a need for a different standard for changes in the narrower issue of changing the dispute resolution process or provider.

The Task Force recognizes the need for people to change the provider or process of ADR when ADR has failed or does not support the best interests of the children while at the same time protecting families from the instability that may be caused by continual or excessive changes in ADR provider. At present, no clear and simple pathway out of an inappropriate ADR provider or process exists. Thus, legislation should clarify the process for requesting a change of dispute resolution provider or process such that:

- A party may request a change to court, or of provider or process for ADR after the one-year anniversary of the first contact with the ADR process by filing a motion along with an affidavit or declaration on the other party and noting this motion on the court's motions calendar in accordance with court rules.
- When the party makes this request, the party will be guaranteed a right to a change in the ADR process or provider, with the judge as the final decision maker about provider or process.
- Judicial officers should be directed by legislation to consider the best interests of the child, any potential for abuse of process by a party, the cost of the ADR process and ability of each party to pay when deciding whether the process should be court or a new provider or process.
- Parties may also, while waiting for the motion to be heard, mutually agree on a different mechanism or provider, but the court shall make the final decision.

Because requesting a change of ADR process can be abused, and overly frequent changes may bring instability to children's lives as well as consume time and resources, the ability to make changes in ADR processes should be clearly limited. For example,

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legislation may specify that a request for change to court or of process or provider may be made no more frequently than every 36 months, and that in these subsequent requests, unlike the first request, change will not be guaranteed.

III. TRAINING CURRICULA, IN GENERAL

A. SCOPE

1. Determining Who Is to Be Trained

Section 306 of 2SSB 5470 instructed the Task Force to develop two training curricula. First, it is to develop a sexual assault training curriculum, in conjunction with the Office of Crime Victims (OCVA). The Task Force's work has been a collaborative effort with full participation by OCVA. Secondly, the Task Force is to develop a domestic violence training curriculum for individuals making evaluations in dissolution cases. Additionally, section 305(1) of the same legislation provides:

In cases involving allegations of limiting factors under RCW 26.09.191, the guardians ad litem and investigators appointed under this title must have additional relevant training under RCW 2.56.030 (15) and as recommended under section 306 of this act, when it is available.

The Task Force determined the training curricula is to apply to both guardians ad litem and investigators when there are limiting factors, as well as other individuals making evaluations in dissolution cases.

2. Characteristics of Effective Evaluations and Curricula

Individuals performing evaluations in dissolution cases have profound impact upon the lives of the children and adults involved in the dissolution process. The evaluation process may protect or compromise the safety and well-being of the children and adults. Thus, evaluators must have the necessary training to conduct evaluations based on current research, best practices, and a highly developed set of ethics. The evaluations must be useful and relevant to the dissolution proceedings; place the best interests and well-being of children at the center of consideration; and accurately reflect the impact of domestic violence, and sexual abuse. Training in these areas is critical for anyone with decision-making power regarding children's lives. The Task Force recommends a thoughtful, deliberate approach to the curriculum development, in order to ensure the excellence of the resultant product.

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A curriculum must include specific learning objectives, training exercises, handouts, and resources materials for participants, as well as fully developed content. It must provide instructions on the key content, and instructions on how to facilitate the training. The writers and developers must be experts in both the subject matter and adult learning styles. The developers must have the time and resources to collaborate with potential participants and subject matter experts regarding content and delivery. Finally, the curriculum must provide for testing, revisions and updates, and specify the funding source and entities that have the responsibility for the updates

B. THE TASK FORCE'S APPROACH TO THE CURRICULA

The enabling legislation did not specify the time or resources that would be available for the training; what agency or entity would have administrative responsibility for the curricula; whether the training would be mandatory or elective; and whether tracking would exist to document who had completed the training. After due consideration, the Task Force realized that the creation of two fully realized curricula was unrealistic given the time, staffing, and funding constraints of the Task Force.

Initially, the Task Force hoped to identify existing curricula and adapt them for evaluators. Members reviewed multiple curricula. Some curricula provided excellent models and guidance. These included *Enhancing Judicial Skills in Domestic Violence Cases* from the National Council of Juvenile and Family Court Judges; *Domestic Violence: a National Curriculum for Child Protective Services*, by Anne Ganley and Susan Schecter; and *Navigating Custody and Visitation Evaluations in Cases with Domestic Violence: A Judge's Guide* from the State Justice Institute. However, no one curriculum addressed all the elements the Task Force identified as necessary. In particular, no existing curriculum specifically addressed the role of evaluators, their ethics, and the appropriate use of information about domestic violence and sexual assault in an evaluation. The Task Force could not escape the realization that new curricula are necessary.

Even an excellent curriculum will be functionally meaningless without regular updates and checks on the quality of its delivery. The Task Force determined that AOC or another appropriate entity should be charged with the creation, maintenance, and delivery of the curricula in collaboration with an advisory group comprised of subject matter experts, including representatives from the Washington State Coalition Against Domestic Violence, Washington Coalition of Sexual Assault Programs, practitioners from the field, and judicial officers.

The Task Force members agreed that the need exists for curricula focusing on domestic violence and sexual assault. Because of the seriousness of domestic violence and sexual assault, excellent training is critical for anyone with decision-making power regarding children's lives. Even a minimal curriculum requires a thoughtful and deliberate approach, and the Task Force's time is limited. Realizing that, the Task Force decided to focus on creating recommendations about administrative oversight,

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guidelines, learning objectives, and content of curricula for domestic violence and sexual assault training. Some of the considerations are similar, but there are differences so the recommendations for each curriculum are presented separately. The context in which an evaluator does his or her work is as important as a particular degree or training. Ideally, evaluators need to work in a context that requires regular review of written reports for quality and allows for consultation with peers, peer supervision, and access to subject matter experts in multiple disciplines, including domestic violence, sexual assault or abuse, substance abuse, and mental health. This premise is assumed in our recommendations regarding curricula content.

Although the legislation uses the term sexual “assault” the Task Force prefers the term sexual “abuse.” It has organized the discussion of sexual abuse in the following manner. The domestic violence curriculum addresses the sexual abuse of adult victims as a potential part of a pattern of abuse. The curriculum on sexual abuse focuses on child victimization.

In defining elements of the two curricula, we have divided them into three major sections:

- Understanding and Recognizing Domestic Violence or Sexual Abuse.
- Evaluations in Dissolution Proceedings.
- How Domestic Violence or Sexual Abuse impacts evaluation recommendations in dissolution proceedings.

Under each of these headings are numerous subheadings that identify critical topic areas. For each topic area, the Task Force has set forth the necessary knowledge, analysis, and practical skills that a training curriculum should address.

IV. SEXUAL ABUSE TRAINING CURRICULUM

A. GUIDING PRINCIPLES FOR THE LEARNING OBJECTIVES OF THE SEXUAL ABUSE TRAINING CURRICULUM

1. The best interests of the children should be the central consideration in any professional's mind when providing advice and information.
2. When a person makes the choice to sexually abuse a child, it is harmful to the child and the rest of the family.
3. Considerations regarding child safety and victim safety should take precedence in any evaluation and in any recommendations regarding residential time, exchanges, decision making, and parenting plans.

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4. Evaluators must always be alert to the possibility of sexual abuse of children throughout the evaluation process. Evaluators should consistently utilize processes reflective of best practices to assist in identifying sexual abuse.
5. When sexual abuse is identified in the course of an evaluation, it must be responded to appropriately. This includes satisfying any mandatory reporting requirements. It also includes assessing the impact of the sexual abuse on the child, the non-perpetrating parent(s), and any other children in the home, as well as gauging the perpetrator's parenting and caretaking capacity in light of the abuse.
6. Evaluators must have a full understanding of the depth and breadth of sexual abuse and its ongoing impact on child victims and secondary victims in the family.
7. Because evaluators in dissolution and parenting plan proceedings have such a profound impact upon the lives of children and their parents, they must operate with the highest possible standards of professionalism, fairness, and ethical responsibility.

B. OUTLINE OF TOPICS FOR CURRICULUM

1. Understanding and Recognizing Sexual Abuse in Children

(a) Definition of sexual abuse

Knowledge:

- Definition of sexual abuse, including the many types of victimization which occur anytime a person is coerced or manipulated into any unwanted sexual activity.
- Difference between criminal and civil legal and behavioral definition; why attending to the broader behavioral definition is critical to addressing best interest of the children.
- Understanding that sexual violence is a learned and chosen behavior motivated by the need to control, humiliate, and harm, and violates a person's trust and feeling of safety.

Analysis:

- Ability to distinguish between behavioral and legally actionable sexual abuse.
- Ability to understand the difficulty in proving sexual abuse claims in the legal system.
- Ability to understand relationship of past sexual abuse to future parenting arrangements.

IV. SEXUAL ABUSE TRAINING CURRICULUM

Skill:

- Ability to assess prior knowledge about sexual abuse and articulate any differences between prior understanding and definition presented in training.
- Ability to discuss sexual abuse in hypothetical interviews and practice conversations.
- Ability to comfortably speak and interview using words, phrases and terms often used in describing sexual abuse.
- Ability to convey a full understanding of behavioral definition of sexual abuse including the broad spectrum of ways that a person may be violated.

(b) Incidence and prevalence

Knowledge:

- Overview of research on sexual abuse on children as it relates to incidence and prevalence of victims and perpetrators.
- Understanding of the dynamics of child sexual abuse, who the victims are, who the perpetrators are, stranger v. known assailant rates.
- Understanding of same sex sexual abuse.

Analysis:

- Ability to use general knowledge about sexual abuse dynamics and apply it to make informed assessments about behavior that may indicate sexual abuse.
- Recognition of high prevalence of child sexual abuse and low reporting and disclosure rates.

Skill:

- Ability to understand and synthesize the research on sexual victimization of children.
- Ability to recognize dynamics and common patterns of child sexual abuse.

(c) Identification and assessment

Knowledge:

- Understanding of the importance of routine screening for sexual abuse and why this is critical to children's best interest regarding parenting arrangements.
- Understanding of wide range of behaviors that constitute sexual abuse used by abusers.
- Understanding of assessment techniques to identify sexual abuse of children.
- Understanding of grooming and other tactics used to manipulate and coerce children into sexual activity.

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Analysis:

- Ability to use sensitively screen for sexual abuse.
- Identification of instances when sexual abuse may be present even though it has not yet been reported or disclosed.
- Recognition of the difficulty victims have in disclosing sexual abuse.

Skill:

- Ability to practice identifying sexual abuse in realistic hypothetical situations.
- Ability to practice interviewing techniques that allow for disclosure of sexual abuse, particularly when abuse is not a presenting issue or initially disclosed.
- Ability to apply the research and information about child sexual abuse dynamics to hypothetical practice assessments and incorporate this knowledge into evaluations.

(d) Child development information

Knowledge:

- Understanding child development and how children of different ages may behave in response to sexual abuse victimization.
- Understanding how developmental ability impacts how different children may behave in response to sexual abuse victimization.
- Understanding how family dynamics and conflict impact a child's response to sexual victimization.
- Understanding of risk factors for child sexual abuse.

Analysis:

- Identifying when collaboration with other professionals is appropriate.
- Recognition that obtaining sensitive information from young children may require a mental health clinician with a background in child development and child psychology and up-to-date training on appropriate interviewing techniques.
- Ability to factor children's age and developmental ability when interviewing, seeking information and making recommendations.
- Ability to factor family dynamics and the impact of family conflict when interviewing, seeking information and making recommendations.

Skill:

- Ability to seek consultation or collaborate with other professionals when appropriate.
- Ability to accurately convey an understanding of child development.
- Ability to sensitively interview children and the ability to adjust information-gathering techniques based on a child's age and developmental level.

IV. SEXUAL ABUSE TRAINING CURRICULUM

- Ability to incorporate the age and developmental ability of a child's when assessing sexual abuse and making recommendations.
- Incorporate understanding of the impact of family conflict on children of various ages when assessing abuse and making recommendations.

(e) Recognizing sexual abuse in children

Knowledge:

- Understanding behavioral indicators of sexual abuse in children.
- Understanding how these behaviors exhibit at various ages.
- Full knowledge of tactics that perpetrators use to coerce and manipulate child victims of sexual abuse.
- Understanding how sexual victimization impacts children.
- Understanding trauma stages and how behavior indicators of sexual abuse may change over time.

Analysis:

- Recognition of certain behaviors as indicators of possible sexual abuse.
- Assess how behavioral indicators of sexual abuse exhibit at different ages and developmental levels.
- Ability to recognize possible behavioral indicators of child victims of sexual abuse from information gathered from collateral sources.
- Assess parents' understanding of children's behavior that may be the result of sexual abuse.

Skill:

- Ability to recognize behavioral indicators of possible sexual abuse in children at various ages and developmental abilities.
- Ability to interview parents and collateral sources.
- Ability to sensitively interview children in a developmentally appropriate manner.
- Ability to recognize behavioral indicators of sexual abuse from information gathered from collateral sources, parents and children.
- Ability to appropriately incorporate and explain behavioral indicators in evaluations and recommendations.

(f) Counter-intuitive responses of child sexual abuse victims

Knowledge:

- Understanding child sexual abuse accommodation syndrome, a pattern that commonly occurs as children attempt to cope with sexual abuse.
- Full knowledge of responses that child sexual abuse victims may exhibit, including those that may appear counter-intuitive to those who are not trained.
- Understanding of non-reporting of sexual abuse by child victims.

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- Understanding of delayed, conflicted and unconvincing disclosure and retraction by child sexual abuse victims.
- Understanding of substance abuse and running away as coping mechanisms by child sexual abuse victims.
- Understanding of sexualized behavior by child sexual abuse victims.

Analysis:

- Assess behavioral responses which may be the result of sexual abuse.
- Ability to identify responses, including counter-intuitive responses, of child sexual abuse victims.

Skill:

- Ability to convey full understanding of child sexual abuse accommodation syndrome.
- Ability to interview children in a developmentally-appropriate manner that overcomes tendency for victims to cope through secrecy or avoidance and leads to information being provided.
- Ability to incorporate knowledge of counter-intuitive responses of child sexual abuse victims when faced with non-reporting; delayed, conflicting or unconvincing disclosure; or retraction.
- Ability to incorporate knowledge of counter-intuitive responses of child sexual abuse victims when faced with substance abuse issues, running away and truancy, sexualized behavior, running away, truancy, or sexualized behavior.
- Ability to accurately explain counter-intuitive responses of child sexual abuse victims verbally and in writing.
- Ability to incorporate knowledge of counter-intuitive responses to sexual victimization when applicable into evaluation and recommendations.

(g) Impacts of sexual abuse in children

Knowledge:

- Understanding of the immediate impacts of trauma experienced by a child sexual abuse victim.
- Understanding of the longer-term consequences when sexually abused children do not receive intervention, support and treatment.
- Understanding how sexual abuse interferes with developmental stages of children.

Analysis:

- Assess behavior that may be the result of recent sexual abuse or abuse.
- Recognize longer-term impacts when sexually abused children do not receive intervention, support, and treatment.
- Assess information from parents or other sources that may identify immediate and long-term impacts of sexual victimization of children.

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Skill:

- Ability in hypothetical situations to demonstrate recognition of behavior that may indicate recent sexual abuse.
- Ability in hypothetical situations to demonstrate recognition of long-term consequences when sexually abused children have not received intervention, support and treatment.
- Ability to effectively interview children in a developmentally and age-appropriate manner to identify both short and long-term impacts of sexual victimization.
- Ability to effectively interview parents and collateral sources to identify both short and long-term impacts of sexual victimization of children.

2. Evaluations in Dissolution Proceedings

(a) Role of evaluators and other professionals in dissolution and parenting plan proceedings

Knowledge:

- Definitions of evaluators and professionals involved in dissolution and parenting plan proceedings.
- Definition of parenting plan and the required or recommended elements.
- Understanding the purpose of the parenting plan.

Analysis:

- Ability to distinguish own role from others involved.
- Ability to recognize when parties are acting outside their role.

Skill:

- Ability to negotiate with others to act or return to role.
- Ability to perform duties within boundaries of the role.

(b) Ethics for evaluators: dual relationships with attorneys, self-referrals, child abuse reporting, limits of confidentiality, referrals to supplemental evaluators

Knowledge:

- Confidentiality requirements and limits to confidentiality.
- Disclosure requirements.
- Procedures for above.
- Policy regarding referrals for services.
- Mandatory reporting laws.
- Policies and procedures regarding reporting.
- Definition of supplemental evaluators.
- Resource list of supplemental evaluators.

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- Policies and procedures regarding making referrals to supplemental evaluators.

Analysis:

- Recognition of ethical issues in referrals.
- Ability to discern ethical questions.
- Identification of ethical implications for actions proposed.
- Recognition of when others may be approaching an ethical dilemma.

Skill:

- Ability to work within appropriate role boundaries.
- Ability to seek consultation when faced with ethical questions.
- Ability to address ethical issues when others are acting outside that standard.

(c) What information should be given to parties at the start of the process regarding scope, confidentiality and child abuse reporting

Knowledge:

- Full working knowledge of dissolution process.
- Full working knowledge of legislative requirements of parenting plan.
- Full working knowledge of applicable confidentiality statutes.
- Full working knowledge of child abuse reporting statutes.
- Full working knowledge of policy and procedures regarding dissolution process.
- Full working knowledge of policy and procedure requirements for parenting plan.
- Full working knowledge of applicable confidentiality policy and procedures.
- Full working knowledge of child abuse reporting policies and procedures.

Analysis:

- Recognition of situations when statutes, policies and procedures should guide a particular action.
- Applicability of which statute, policy, and proceeding is relevant.

Skill:

- Ability to present clear, accurate, and timely information to the parties involved.
- Ability to explain legal and ethical boundaries, requirements, and processes to people without knowledge of such things.
- Ability to act in compliance with statutes, policies, and procedures involving confidentiality, and child abuse reporting.

(d) Information gathering

Knowledge:

- Sources of available and applicable information.
- What information is relevant, valuable, and appropriate.
- Importance of collateral interviews, even though not admissible in court.
- Confidentiality statutes, policies, and guidelines.
- Policies and procedures for release of information.

Analysis:

- Judgment regarding appropriate and useful information.
- Judgment regarding appropriate and useful sources of information.
- What information may fall within child abuse reporting requirements.
- When to require release of information.
- What information may be guarded by confidentiality statutes, policies, or procedures.

Skill:

- Ability to read.
- Ability to search official documents, data bases, etc.
- Ability to establish rapport quickly.
- Clear communication skills.
- Ability to be non-judgmental in interviewing and seeking information.
- Ability to comply with legal document requirements.
- Ability to convey the complexity, fullness, and depth of information and the impact of the experience.
- Ability to respond to interviewee's distress and responses to the trauma experienced.
- Ability to keep information confidential.

(e) Access to information and the need for waivers or releases

Knowledge:

- Policies and procedures regarding waivers and releases.
- Statutes which govern confidentiality of information.

Analysis:

- Identification of instances where requests for information may fall under the need for a waiver or release.
- Judgment about when a waiver or release is appropriate.

Skill:

- Ability to clearly explain the purpose and need for a waiver or release.
- Ability to complete appropriate waiver or release forms.

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- Ability to keep accurate records of releases or waivers.

(f) Cultural competency and interpretation of language and need for certified interpreter

Knowledge:

- Definition of cultural competency and relevance.
- Theoretical framework of purpose of cultural competence.
- Research regarding the cultural needs of children and racial and cultural identify formation.
- Differing family and societal frameworks within various cultural groups relative to family, children, divorce.
- Resources for cultural competency learning, guidance, consultation.
- Definition of certified language interpretation.
- Mechanics of interpretation.
- Cultural aspects of using American Sign Language interpreters.
- Resources for obtaining certified interpreters.

Analysis:

- Ability to determine when cultural factors may be part of people's responses, questions, actions.
- Ability to consider cultural context when interviewing, seeking information, and making recommendations.
- Ability to consider social and legal context (i.e., parties' or collateral contacts' fears regarding immigration status and deportation, lack of information about the U.S. legal system and racial bias) when interviewing, seeking information, and making recommendations.
- Ability to identify instances when obtaining information may be compromised without efforts to increase safety regarding immigration status and language access for informants.
- Ability to think reflectively about one's own biases.
- Ability to recognize when others may be acting from cultural or racial bias.

Skill:

- Ability to recognize preexisting beliefs about a culture.
- Ability to recognize and generate processes to obtain information while decreasing and minimizing the impact of power imbalances, given societal norms, including use of immigration system, fear of deportation, unfamiliarity with U.S. legal system and racial bias.
- Ability to determine what language parties and witnesses are most comfortable speaking and providing interpreters when appropriate.
- Ability to forego classifying, labeling persons with cultural misinformation, or assuming the evaluator's worldview is the norm.

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- Ability to accurately and respectfully convey an understanding of and commitment to cultural competency.
- Ability to match cultural needs with resources available.
- Ability to act in a culturally competent, respectful and supportive manner.

3. How Sexual Abuse Impacts Evaluation Recommendations in Dissolution Proceedings

(a) Documentation of information regarding sexual abuse

Knowledge:

- Full understanding of laws relevant to child sexual abuse, residential time, and parenting evaluations.
- What courts need to make a determination of sexual abuse.
- Expectations of court regarding documentation.
- Forms to be submitted to the court.
- The policies and procedures regarding writing and reviewing of reports.
- Full working knowledge of how to document information regarding sexual abuse.
- Disclosure of information, confidentiality and mandatory reporting policies, procedures and forms.

Analysis:

- Assessment of adequacy of information to include in the report.
- Judgment of what information is applicable.

Skill:

- Ability to write clearly and accurately describe the experience of children.
- Ability to maintain accurate records of reports, interviews, and other materials used in development of reports.
- Ability to organize.

(b) Assess sexual abuse's impact on the parties

Knowledge:

- Full knowledge of sexual abuse dynamics.
- Impacts of sexual abuse on adults.
- Impacts of sexual abuse on adults abused as children.
- Impacts of sexual abuse on children.
- Depth of understanding of children's developmental stages.
- Depth of understanding of how sexual abuse interferes with developmental stages of children.
- Full working knowledge of how to work with victims of sexual abuse.
- Confidentiality.

IV. SEXUAL ABUSE TRAINING CURRICULUM

- Mandatory reporting.
- Trauma stages.

Analysis:

- Assess behavior that may be the result of sexual abuse.
- Assess parents' understanding of children's behavior, which may be the result of sexual abuse.
- Assess parents' support for children who have disclosed sexual abuse.
- Assessment of parental skill in helping children cope and recover from sexual abuse.
- Assessment of parental knowledge and understanding of sexual abuse.
- Assessment of parent's belief of children who have disclosed sexual abuse.
- Disclosure requirements.

Skill:

- Ability to recognize behavior that may indicate sexual abuse.
- Ability to build rapport with children quickly and naturally.
- Ability to interview children in an age appropriate manner.
- Ability to interview parents.
- Ability to determine appropriate questions.
- Ability to respond to trauma of victims.

(c) Making proper use of information identified in evaluation

Knowledge:

- Courts' expectations regarding reports.
- How information is used in court.

Analysis:

- Ability to exercise judgment.
- Ability to identify pertinent information.

Skill:

- Ability to recognize useful and appropriate information.
- Ability to synthesize information while maintaining best interest of children.

(d) Creating safety for victims and children in responses and recommendations

Knowledge:

- Definition of safety for victims and children.
- Resources available to ensure safety of victims and children.
- Knowledge of different safety needs for adults and children.

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- Understand purpose of responses and recommendations.
- Knowledge of services available.

Analysis:

- Recognition of safety concerns based on responses and recommendations.
- Appropriate planning to ensure viable safety plans.

Skill:

- Ability to explain responses and recommendations.
- Ability to explain safety plan to parents and children.
- Ability to provide clear and concise recommendations and responses.
- Ability to support parties based on recommendations and responses.
- Ability to identify safe and unsafe responses and recommendations and how to handle conflict.
- Ability to refer victims to services.

(e) Making use of information and assessment to craft good recommendations for safe contact with children (supervised, unsupervised, residential time, decision-making)

Knowledge:

- Definition of good recommendation.
- Policies and procedures for crafting recommendations.
- Definition of safe contact with children (supervised, residential time, decision-making).
- Understanding of safe types of contact with children (supervised, unsupervised, residential time, decision-making).
-

Analysis:

- Ability to synthesize information.
- Ability to make appropriate judgments regarding safe contact with children.
- Ability to explain recommendations to divorcing parties.

Skill:

- Ability to synthesize information and assessment in recommendations.
- Ability to recommend exchanges that ensure safety.
- Ability to write clear and concise recommendations.
- Ability to explain in the best interest of the child.

(f) Parenting plan provision for safe exchange of children

Knowledge:

- Full working knowledge of safe exchange requirements and protocols.
- Full working knowledge of parenting plans.
- Full working knowledge of developmental stages of children and appropriate contact with children.
- Full working knowledge of patterns of behavior and manipulation.

Analysis:

- Ability to effectively assess parents' situations.
- Ability to recommend safe exchange plan.
- Ability to recognize patterns of behavior and manipulation.

Skill:

- Ability to write safe exchange recommendations.
- Ability to coordinate safe exchange.
- Ability to explain recommendations and obtain agreement regarding the best interest of the child.

(g) Appropriateness of recommendations for services to alleviate issues

Knowledge:

- Definition of appropriate recommendations given age and issues presented.
- Awareness of issues associated with recommendations.
- Working knowledge of services available.
- Policies and procedures for referring parents, children and individuals to services.

Analysis:

- Ability to communicate recommendations to parties.
- Ability to identify issues related to recommendations.
- Ability to match services with need.

Skill:

- Ability to connect parties with appropriate services.
- Ability to support parents, children, and individuals seeking services.

V. DOMESTIC VIOLENCE TRAINING CURRICULUM

V. DOMESTIC VIOLENCE TRAINING CURRICULUM

A. CURRICULUM ELEMENTS AND TEACHING GOALS

1. The best interests of the children should be the central consideration in any professional's mind when providing advice and information.
2. When a person makes the choice to abuse a child's parent or other adult, it is harmful to the child and the rest of the family.
3. Child safety and adult domestic violence victim safety should take precedence in any evaluation and in any recommendations regarding residential time, exchanges, decision making, and parenting plans.
4. Evaluators must always be alert to the possibility of sexual assault and domestic violence throughout the evaluation process. Evaluators should consistently utilize processes reflective of best practices to assist in identifying domestic violence and sexual assault perpetrated by one adult intimate partner against the other.
5. When domestic violence or sexual abuse is identified in the course of an evaluation, it must be responded to appropriately within the context of the evaluator's duties. To gauge appropriate response, evaluators must assess the impact of the abuse or sexual assault on the adult victim and the children. Evaluators should also have an understanding of domestic violence or sexual abuse against one's intimate partner bears upon parenting, judgment and capacity.
6. Evaluators must have an understanding of the depth and breadth of domestic violence and sexual abuse and the ongoing impact it has on children and adult victims.
7. Because evaluators in dissolution and parenting plan proceedings have such a profound impact upon the lives of children and their parents, they must operate with the highest possible standards of professionalism, fairness and ethical responsibility.

B. OUTLINE OF TOPICS FOR CURRICULUM

1. *Understanding and Recognizing Domestic Violence*

(a) Definition of domestic violence

Knowledge:

- Behavioral definition is a pattern of abusive and coercive behavior including physical, psychological, and sexual attacks as well as economic control perpetrated against an intimate partner. Domestic violence is learned and is a chosen behavior.
- Difference between legal definitions (criminal and civil) and the behavioral definition.
- Why the behavioral definition is critical to understanding the impact of abusive behavior on the family and addressing the best interest of the children.
- Information regarding separation violence, escalation and continued control efforts.
- Research regarding post separation violence, and particularly its impact on children.
- How to tell if the abuse has ended.

Analysis:

- Understanding that domestic violence perpetrators are responsible for domestic violence.
- Distinguishing between particular incidents of physical violence (i.e., a slap), inappropriate verbal behavior (name-calling) and a pattern of abusive actions that aim to increase coercive control.
- Understanding of relevance of past domestic violence to future parenting arrangements.
- Understanding of how child safety and well-being are connected to adult domestic violence victim safety.

Skill:

- Ability to assess one's own prior knowledge about domestic violence.
- Ability to recognize a pattern of abuse in realistic hypothetical situations.
- Ability to distinguish between behavioral and legally actionable abuse.
- Ability to sensitively discuss domestic violence in hypothetical interviews and practice conversations.
- Ability to identify and distinguish between coercive controlling behavior and other dysfunctional behavior or violence that does not result in control.

(b) Definition of sexual abuse of adults

Knowledge:

- Range of types of victimization with common thread of coercion or manipulation into any unwanted sexual activity.
- Sexual abuse is not about sex; it is about exerting power and control over another person.

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- Research regarding planned nature of crime and lack of victim provocation.
- Difference between criminal and civil legal and behavioral definition; why attending to the broader behavioral definition is critical to addressing best interest of the children.
- Motivations of perpetrators of sexual abuse.
- Impact on victims.

Analysis:

- How to consider prior sexual abuse in future parenting arrangements.
- Understanding the full impact of sexual abuse on victims and secondary victims in the family.
- How to tell when or if the sexual abuse has ended.
-

Skill:

- Ability to assess prior knowledge about sexual abuse.
- Ability to identify and assess sexual abuse in hypothetical interviews or conversations.
- Ability to interview effectively regarding sexual abuse.
- Ability to distinguish between behavioral and legally actionable abuse.
- Ability to assess claims of sexual abuse that are not documented through criminal justice reports or convictions.
- Ability to sensitively discuss sexual abuse in hypothetical interviews.

(c) Incidence and prevalence of sexual abuse

Knowledge:

- Overview of research on sexual abuse as it relates to incidence and prevalence.
- Recognition of high prevalence of sexual abuse and sexual coercion in the context of intimate relationships.
- Research regarding false allegations of rape.
- Gender and sexual abuse victimization.
- Research regarding victim relationship to attacker in both adult and juvenile populations.
- Victim demographics.
- Recognition of same-sex sexual assault.

Analysis:

- Judgment of sexual abuse in the context of intimate relationships.

Skill:

- Ability to synthesize and critically assess the value of research regarding adult sexual abuse.
- Ability to recognize common patterns of sexual abuse perpetration and victimization.

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- Ability to discern whether configuration of victim and abuser in a case is atypical or typical.

(d) Incidence and prevalence of domestic violence

Knowledge:

- Overview of research regarding incidence and prevalence of domestic violence.
- Demographics regarding victims and perpetrators.
- Debates within research field about how to measure and identify domestic violence and how this shapes research findings.
- Research regarding tools for identification of same-sex domestic violence.
- Research findings regarding the high correlation of domestic violence with child abuse and neglect.
- Research regarding domestic violence perpetrators' parenting, especially regarding physical and sexual abuse, as well as ability to co-parent.

Analysis:

- Judgment regarding debates on gender symmetry and asymmetry including understanding of the strengths and limitations of studies relying exclusively on the Conflict Tactics Scale.

Skill:

- Ability to synthesize and critically assess the value of research regarding domestic violence.
- Ability to recognize common patterns of domestic violence perpetration and victimization.
- Ability to discern whether the configuration of the victim and abuser in a case is atypical or typical.

(e) Identification and assessment

Knowledge:

- Importance of a consistent, sensitive, and deliberate process in identifying domestic violence and sexual abuse throughout the evaluation.
- Connection between identifying domestic violence and identifying children's best interests.
- The range of tactics used by domestic violence abusers.
- Using best practice and evidence based tools for identification and assessment of abusive tactics and their impact on perpetrator, adult victim, and children.
- Safety considerations in domestic violence screening and assessment.
- Examination of the variety of ways abuse may manifest in the context of an evaluation.
- Overview of why victims may be afraid to disclose abuse.

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- Potential impact of abusive behavior by domestic violence perpetrator on children.
- Research post separation abuse and risks posed to children and adult victims by domestic violence abusers post separation.
- Community and institutional responses to domestic violence perpetration or victimization impact domestic violence perpetrators, victims and children.

Analysis:

- Discern impact of abuse on children as well as each parent and implications for parenting arrangements.
- Judgment regarding children's normal responses to domestic violence abusers, especially in context of allegations of estrangement.
- Judgment regarding what constitutes domestic violence.

Skill:

- Ability to use the domestic violence assessment tool.
- Ability to anticipate safety issues and plan for safety around the evaluation process with domestic violence victims, and their children.
- Ability to apply research and information about domestic violence to hypothetical practice assessments.
- Ability to recognize contextual factors that may reduce or increase the abuser's ability and choice to exercise coercive controls.
- Ability to recognize domestic abuse in varied situations.

(f) Distinguishing domestic violence from other forms of physical violence or dysfunction

Knowledge:

- The difference between domestic violence and other forms of physical violence in relationships that do not have controlling, coercive function in relationship.
- Models and conceptual tools for evaluating domestic violence, self-defense and non-coercive physical violence.
- Approaches to accurately identifying the domestic violence perpetrator and domestic violence victim.
- Obligation to make accurate assessments based on best available information.

Analysis:

- Insight regarding negative consequences of misidentification of domestic violence.
- Judgment to distinguish between pattern of domestic violence and other dysfunctional behaviors.

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Skill:

- Ability to distinguish between dysfunctional relationships, individual incidents of physical violence, and patterned behavior of domestic violence as defined in the behavioral definition.

(g) Victim Behavior

Knowledge:

- How victims cope with domestic violence.
- Barriers to leaving and escape for domestic violence victims.
- Barriers to revealing abuse.
- What evaluators can do to build victim's confidence in the process of evaluation, and to protect victim's safety.
- How victims seek to protect their children from domestic violence and abuse.
- Effects of abuser's behavior on victim's parenting.

Analysis:

- Distinguish between behaviors caused by response to battering versus behaviors independent of abuse.
- Recognition of barriers faced by domestic violence victims to leaving, including institutional failures to interrupt abuse as well as abuser's tactics.
- Judgment regarding the ways in which domestic violence victim's parenting is complicated and undermined by domestic violence abuse.
- Recognition of domestic violence victim's survival focused behavior.

Skill:

- Ability to discern and articulate strategies victim has used to protect children from domestic violence.
- Ability to discern and articulate victim's coping strategies.
- Ability to recognize own biases about domestic violence victims and make decisions independent of these.
- Ability to describe a history of domestic violence within the relationship, and its impact on victim and children without being pejorative about the domestic violence victim's choices and coping mechanisms.

(h) Perpetrator behavior

Knowledge:

- Research regarding identification of domestic violence perpetrators and domestic violence perpetrators' and their ability to function outside their families.
- Domestic violence perpetrator goals.
- Common strategies used by abusers to control their partners.
- Common elements of domestic violence perpetrator behavior.
- Risk of abuse after a physical separation or change in legal status.

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- Research regarding domestic violence perpetrators as fathers.

Analysis:

- Judgment regarding accusations of estrangement.

Skill:

- Ability to interview abusers regarding their behavior.
- Ability to identify abusive tactics and their connection to coercive control in hypothetical cases and to articulate these in writing.
- Ability to identify the impact of perpetrating abuse on parenting abilities and discern abuser's ability to set own needs aside to meet needs of children.
- Ability to write recommendations that incorporate understanding of perpetrator behavior and need for victim safety.

2. *Evaluations in Dissolution Proceedings*

(a) Role of evaluators and other professionals in dissolution and parenting plan proceedings

Knowledge:

- Definitions of evaluators and professionals involved in dissolution and parenting plan proceedings.
- Definition of parenting plan and the required or recommended elements.
- Understanding the purpose of the parenting plan.

Analysis:

- Ability to distinguish own role from others involved.
- Ability to recognize when parties are acting outside their roles.

Skill:

- Ability to negotiate with others to act or return to role.
- Ability to perform duties within boundaries of the role.

(b) Ethics for evaluators: dual relationships with attorneys, self-referrals, child abuse reporting, limits of confidentiality, referrals to supplemental evaluators

Knowledge:

- Confidentiality requirements and limits of confidentiality.
- Disclosure requirements.
- Confidentiality and disclosure procedures.
- Policies regarding referrals for services.
- Mandatory reporting laws.
- Policies and procedures regarding reporting.

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- Definition of supplemental evaluators.
- Resource list of supplemental evaluators.
- Policies and procedures regarding making referrals to supplemental evaluators.

Analysis:

- Recognition of ethical issues in referrals.
- Ability to discern ethical questions.
- Identification of ethical implications for actions proposed.
- Recognition when others are involved in ethical dilemmas.

Skill:

- Ability to work within appropriate role boundaries.
- Ability to seek consultation when faced with ethical questions.
- Ability to address ethical issues when others are acting outside that standard.

(c) Information that should be given to parties at the start of the process regarding scope, confidentiality and child abuse reporting

Knowledge:

- Full working knowledge of dissolution process.
- Full working knowledge of parenting plan requirements.
- Full working knowledge of applicable confidentiality statutes.
- Full working knowledge of child abuse reporting statutes.
- Full working knowledge of policies and procedures regarding dissolution process.
- Full working knowledge of parenting plan policies and procedures.
- Full working knowledge of applicable confidentiality policies and procedures.
- Full working knowledge of child abuse reporting policies and procedures.

Analysis:

- Recognition of situations when statutes, policies, or procedures should guide a particular action.
- Applicability of which statute, policy, or procedure is relevant.

Skill:

- Ability to present clear, accurate, and timely information to the parties involved.
- Ability to explain legal and ethical boundaries, requirements, and processes.
- Ability to act in compliance with statutes, policies, or procedures involving confidentiality, and child abuse reporting.

(d) Information gathering:

Knowledge:

- Sources of available and applicable information.
- What information is relevant, valuable, and appropriate.
- Importance of collateral interviews, even if not admissible.
- Confidentiality statutes, policies, and guidelines.
- Release of information policies and procedures.

Analysis:

- Judgment regarding appropriate and useful information.
- Judgment regarding appropriate and useful sources of information.
- What information may fall within child abuse reporting requirements.
- When to seek release of information.
- What information may be guarded by confidentiality statutes, policies, or procedures.

Skill:

- Ability to search official documents, databases, etc.
- Ability to establish rapport quickly.
- Ability to communicate clearly.
- Ability to be non-judgmental in interviewing and seeking information.
- Ability to process information and comply with legal requirements.
- Ability to convey the impact of the experience and the complexity, fullness, and depth of information in legal documents.
- Ability to respond to interviewee's distress and responses to the trauma experienced.
- Ability to keep information confidential.

(e) Access to information and the need for waivers and releases

Knowledge:

- Policies and procedures regarding waivers and releases.
- Statutes, which govern confidentiality of information.

Analysis:

- Identification of instances where requests for information may fall under the need for a waiver or release.
- Judgment about when a waiver or release is appropriate.

Skill:

- Ability to clearly explain the purpose and need for a waiver or release.
- Ability to accurately fill out or complete appropriate waiver or release forms.
- Ability to keep accurate records of releases or waivers.

(f) Assessing for lethality:

Knowledge:

- Statistics and research on the correlation between child fatalities and domestic violence.
- Importance of assessing for lethality with domestic violence victim and perpetrator.
- Assessment tools such as Jacqueline Campbell's research.
- Research and information regarding identifying risk of actions that lead to the death of a child not preceded by child abuse in custody cases.
- What can minimize lethality risks by creating safe contact with potentially lethal abusers: is it possible and under what circumstances?

Analysis:

- Judgment regarding risk of lethality to domestic violence victims and to children.
- Ethical obligations and duty to warn of potentially lethal behavior.

Skill:

- Ability to recognize lethality indicators.
- Ability to recognize when an ethical duty exists to warn a domestic violence victim of homicidal danger from the perpetrator.
- Ability to sensitively and effectively discuss lethality issues with domestic violence victims.
- Ability to provide safety planning with domestic violence victims and children when high lethality is indicated

3. How Domestic Violence Impacts Evaluation Recommendations in Dissolution Proceedings

(a) Assess impacts of domestic violence on the victims and perpetrators parenting abilities

Knowledge:

- Risks of harm to children by domestic violence perpetrators.
- Assessing impact of perpetrator's choice to abuse on perpetrator's parenting abilities.
- Assessing impact of perpetrator's abuse on domestic violence victim's parenting abilities.
- Familiarity with research regarding post separation violence, and ability to assess domestic violence perpetrator's likelihood to continue with abusive behavior post separation.

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Analysis:

- Recognize when a perpetrator is unable to set aside own needs and choice to abuse in order to act as a nurturing parent.
- Recognize impacts of perpetrator behavior on victims and perpetrator's parenting.
- Distinguish between deficits in parenting likely to be healed or rectified post separation versus those, which are unlikely to change.

Skill:

- Ability to use assessment tools.
- Ability to accurately and clearly describe impact of abuse on all parties.
- Ability to clearly relate information regarding abuse to parenting capacities.
- Ability to integrate information regarding abusive tactics and impacts of abuse into recommendations.

(b) Assess impacts of domestic violence on children

Knowledge:

- Assessment tools for impact.
- Research regarding the range of impacts on children.
- Tactics abusers may use to involve children in the process of abuse.
- Domestic violence abusers as parents.
- Effect of domestic violence abuser actions on domestic violence victim's parenting.
- Understanding of the immediate impacts of trauma experienced by children affected by domestic violence.
- Understanding of the longer-term consequences when children do not receive intervention, support and treatment.
- Understanding how exposure to a parent's abusive behavior can interfere with developmental stages of children.
- Signs of trauma in children.
- Resiliency factors for children affected by domestic violence.

Analysis:

- Ability to identify impact on children.
- Assess behavior, which may be the result of exposure to perpetrator's abuse.
- Assess domestic violence perpetrator's understanding of the effects of perpetrator's own actions upon children.
- Assess parent's support for children in recovering from trauma or other impacts of perpetrator's behavior.
- Assess parent's ability and willingness to help children cope and recover from trauma caused by perpetrator's abusive behavior.

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- Identify current and potential sources of resiliency and strength for children.

Skill:

- Ability to effectively interview children in a developmentally and age-appropriate manner to identify both short and long-term impacts of exposure to domestic violence perpetrator's abusive behavior.
- Ability to effectively interview parents and collateral sources to identify both short and long-term impacts of children's exposure or involvement in domestic violence perpetrator's abusive behavior.
- Ability to recognize behavior that may be caused by abuse, exposure to abusive actions.
- Ability to write recommendations that incorporate knowledge and create conditions for building children's resiliency.
- Ability to write clearly about impact on children.

(c) Documentation of findings of information regarding domestic violence

Knowledge:

- Full understanding of laws relevant to domestic violence, residential time, and parenting plans.
- Court requirements for a determination of domestic violence.
- Court expectations regarding documentation.
- Forms expected to be used to submit to the court.
- The policies and procedures regarding writing and reviewing of reports.
- Full working knowledge of how to document information regarding domestic and sexual violence.
- Forms and procedures regarding disclosure of information, confidentiality and mandatory reporting.

Analysis:

- Assessment of adequacy of information to include in the report.
- Judgment of what information is applicable.

Skill:

- Ability to clearly and accurately describe the experiences of adult domestic violence victims and children.
- Ability to document information regarding domestic violence and sexual assault while at the same time optimizing the safety of adult victim, children and collateral contacts.
- Ability to maintain accurate records of reports, interviews, and other materials used in development of reports.
- Ability to organize skills.

(d) Creating good recommendations for parenting time and exchanges

Knowledge:

- Strategies used with children to continue abuse or control of domestic violence victims and the impact on children.
- Definition of safety for domestic violence victims and children.
- Definition of children's best interests.
- Knowledge of different safety needs of adults and children.
- Resources available to adult domestic violence victims and children.
- How to relate recommendations to specific information and make recommendations based on specific information.
- Resources to support safe parenting time and low conflict exchanges.
- Strategies to increase safe parenting time and reduce likelihood of continuing abuse.
- Research about facilitating children's healing after exposure to domestic violence.
- Research about increasing children's resilience to exposure to domestic violence.

Analysis:

- Prioritizing children's and victims' safety.
- Recognition of safety concerns based on information available.
- Appropriate planning to ensure viable safety plan for children and adult victim.
- Judgment to identify when to recommend no parental time, limited parental time, supervised, or unsupervised parental time.

Skill:

- Ability to explain recommendations.
- Ability to relate recommendations to specific information.
- Ability to explain concerns about safety and any safety plans to adults and children.
- Incorporate understanding of a perpetrator's tactics and the impact on the victim and children into recommendations to minimize the abuser's ability to use coercive and abusive tactics in the exchange arrangements, parenting time, and decision making.
- Articulate a clear and reasoned set of recommendations based on the case materials.

(e) Making use of information and assessments to create good recommendations about contact with child

Knowledge:

- Definition of a good recommendation.
- Policies and procedures for creating recommendations.

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- Definition of safe contact with the child, supervision, and decision-making.
- Understanding safe contact with the child, supervision, and decision-making.
- Research on parenting decision making in domestic violence cases.

Analysis:

- Incorporate information and assessments into parenting plan.
- Determine appropriateness of judgments regarding safe contact.
- Incorporate best interest of child into all recommendations.

Skill:

- Ability to synthesize information and assessments.
- Ability to ensure safe exchanges and contact when making recommendations.
- Ability to write clear and concise recommendations.
- Ability to explain in the best interest of the child.

(f) Safe exchange of children

Knowledge:

- Full working knowledge of safe exchange requirements and protocols.
- Full working knowledge of parenting plans.
- Full working knowledge of developmental stages of children and appropriate visitation.
- Full working knowledge of perpetrator patterns of behavior and manipulation.

Analysis:

- Ability to effectively assess parents' situations.
- Ability to recommend a safe exchange plan.
- Ability to recognize patterns of behavior and manipulation.

Skill:

- Ability to create safe exchange recommendations.
- Ability to coordinate safe exchange with parenting plan.
- Ability to explain recommendations.

(g) Appropriateness of recommendations for services

Knowledge:

- Definition of appropriate recommendations given the child's age and issues presented.
- Awareness of issues associated with recommendations.
- Working knowledge of services available.
- Policies and procedures for service referrals.

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Analysis:

- Ability to identify issues related to recommendations.
- Ability to match services with need.

Skill:

- Ability to communicate recommendations to parties.
- Ability to connect parties with appropriate services.
- Ability to support parents, children and individuals in seeking services.

(h) Cultural competency and interpretation of language and need for certified interpreters

Knowledge:

- Definition and relevance of cultural competency.
- Theoretical framework of purpose of cultural competence.
- Research regarding the cultural needs of children and racial or cultural identity formation.
- Ability to consider the social and legal context (i.e., parties' or collateral contacts' fears regarding immigration status and deportation, lack of information about the U.S. legal system and racial bias) when interviewing, seeking information, and making recommendations.
- Identification of instances when obtaining information may be compromised without efforts to increase safety regarding immigration status and language access for informants.
- Ability to think reflectively about one's own biases.
- Ability to recognize when others may be acting from cultural or racial bias.
- Differing family and societal frameworks within various cultural groups relative to family, children and divorce.
- Resources for cultural competency learning, guidance, consultation.
- Definition of certified language interpreters, and mechanics of interpretation.
- Cultural aspects of using American Sign Language interpreters.
- Resources for obtaining certified interpreters.

Analysis:

- Ability to recognize preexisting beliefs about a culture.
- Ability to recognize and generate processes to obtain information while decreasing and minimizing the impact of power imbalances, given societal norms, including use of immigration system, fear of deportation, unfamiliarity with the U.S. legal system and racial bias.
- Ability to determine what language parties and witnesses are most comfortable speaking and providing interpreters when appropriate.
- Ability to avoid classifying or labeling persons with cultural stereotypes, or assuming the evaluators' facilities and practices are culturally neutral.

VI. PARENTING EVALUATOR STANDARDS

- Ability to determine when cultural factors may be part of people's responses, questions, actions.
- Ability to consider cultural context when interviewing, seeking information and making recommendations.

Skill:

- Ability to convey an understanding of and commitment to cultural competency.
- Ability to match cultural needs with available resources.
- Ability to act in a culturally competent, respectful and supportive manner.

VI. PARENTING EVALUATOR STANDARDS

A. DEFINING PARENTING EVALUATOR

The legislation directed the Task Force to develop statewide protocols for dissolution cases, including developing “consistent standards for parenting evaluators.” RCW 2.43.040 1(b). The terms “parenting evaluator,” “guardian ad litem,” and “family court evaluator” are used synonymously by the public, attorneys, judges and court personnel. The Task Force decided it was important to define the scope of this directive in the legislation. It determined that the intent of 2SSB 5470 was to develop consistent standards for individuals who are licensed mental health professionals and are hired by one or both parties to evaluate the parenting abilities of each parent in a dissolution action. The members agreed that the legislation did not intend the Task Force to develop standards for individuals who are functioning as guardians ad litem or family court evaluators.

The Task Force made this decision based on several rationales. First, the plain language of the legislation uses the term parenting evaluator rather than guardian ad litem or family court evaluator. Second, there are systems in place to oversee both guardians ad litem and family court evaluators. These systems may be inadequate but they do exist.

The Washington State Supreme Court Rule GALR 1-7 governs guardians ad litem. These rules define the role and authority of a guardian ad litem appointed pursuant to Titles 11, 13 and 26 RCW. These rules also establish minimum standards for guardians ad litem. Finally, the rules require each county in the state to have a grievance procedure for complaints regarding guardians ad litem. All counties in the state appear to use guardians ad litem in family law cases. Each county superior court has a local rule describing the criteria for becoming a guardian ad litem and for filing grievances. While the rules differ from county to county, there is a system in place for the selection, training, and payment of guardians ad litem.

VI. PARENTING EVALUATOR STANDARDS

Similarly, family court evaluators are a part of a court structure that hires, trains, and supervises the individuals who conduct these assessments. Family court evaluators are available only in a few counties that have family court services: King, Snohomish, Clark, and Cowlitz counties. Judges appoint family court evaluators to evaluate the needs of children and the ability of each parent to meet the children's needs. In many of these counties family court evaluators serve a similar function to a guardian ad litem; however, they are not parties to the case and do not have the powers of a guardian ad litem.

There was consensus on the Task Force that there is a great need for increased statewide standards and consistency with respect to guardians ad litem and family court evaluators. To that end, it recommends that either the Washington State Legislature or the Board for Judicial Administration develop consistent standards for guardians ad litem and family court evaluators. These standards should include a review of the criteria for becoming a guardian ad litem or family court evaluator, clarification of their roles, standards for fees, funding for counties to provide guardians ad litem or family court evaluators for low-income litigants, continuing education requirements, standards for grievance procedures, and guidelines for conflicts of interest.

Parties in the Puget Sound Region, most notably in King County, are increasingly hiring mental health professionals to evaluate the parenting abilities of the parties in family law cases. Since these individuals are not guardians ad litem they are not governed by any established standards or rules, with the exception of psychologists. The Washington State Department of Health (DOH) licenses psychologists. DOH regulations provide standards for psychologists who conduct parenting evaluations (see WAC 246-924-445). WAC 246-924-445 was adopted in 2007, approximately one month after the legislature passed 2SSB 5470. These standards apply only to psychologists and not to other mental health professionals. Furthermore, the DOH regulations are licensing standards and are generally unknown to the courts, attorneys and the public. The Task Force concluded that these regulations provided a significant place to start in developing standards for court-ordered parenting evaluations.

B. PROPOSED COURT RULES FOR PARENTING EVALUATORS

In the process of discussing how to develop standards for the use of parenting evaluations in court, the Task Force considered and rejected the development of a certification system similar to the one established for professional guardians. The cost of establishing this type of public enforcement mechanism did not appear justified for the limited number of professionals that operate throughout the state as parenting evaluators.

The Task Force reviewed model standards for custody and parenting evaluations from the American Psychological Association, the Association of Family and Conciliation Courts, the Oregon Chapter of the National Association of Social Work, as well as

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custody evaluation standards from several states including Hawaii, New Jersey, Louisiana and Florida. The Task Force determined that a court rule modeled after the DOH regulation for psychologists provided the best model for establishing standards for courts in Washington.

The Task Force proposes the following court rules to provide minimum standards for the parenting evaluators in family court matters. It should apply when a judge appoints or orders a mental health professional to evaluate the parenting abilities of both parents. It should not apply to family court evaluators or guardians ad litem

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RULE 1. SCOPE AND PURPOSE OF RULES

These rules apply to parenting evaluators as defined in PER 2 (a) (1). These rules do not apply to guardians ad litem or individuals employed by Family Court Services to conduct an evaluation ordered by the court. Family Court Services means a unit or division of a superior court that offers services such as parent seminars, mediation, parenting plan evaluations, domestic violence assessments, and adoption services. The purpose of these rules is to establish a minimum set of standards applicable to all Title 26 RCW superior court cases where the court appoints or orders a parenting evaluator to perform a parenting evaluation.

RULE 2. GENERAL PROVISIONS

(a) Definitions

1. Parenting evaluators shall mean qualified mental health professionals who are appointed or ordered by the court to conduct a parenting evaluation.
2. A parenting evaluation shall mean an impartial evaluation to assess the parent's capacity to meet the psychological and developmental needs of the children. The parenting evaluation process involves a compilation of information and the formulation of opinions and recommendations pertaining to the residential placement or parenting of a child and the dissemination of that information, those opinions and recommendations to the court, to the litigants, to court appointed guardians ad litem, and to the litigants' attorneys.
3. Residential time shall mean the time the child spends with a parent, as provided in the residential schedule of a parenting plan, nonparental custody decree, or other court order under Title 26 RCW.
4. Parenting plan shall mean a plan for parenting the child, including allocation of parenting functions, which plan is incorporated in any final decree or decree of

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modification in an action for dissolution of marriage, declaration of invalidity, or legal separation. In Chapter 26.26 RCW proceedings, a residential schedule (WPF PS 01.0450) may be entered in lieu of a parenting plan and in those cases the term “residential schedule” shall have the same meaning as parenting plan.

5. Access shall mean in-person contact between a parent and a child, or by means of telephone, texting, e-mail, web-based technology, or standard mail.

6. Advanced knowledge shall mean employing specialized knowledge, with depth in more than one area of the subject matter, to analyze, reformat, and evaluate a wide range of information.

7. Court shall mean any superior court in the state of Washington and all divisions thereof.

8. Judge shall mean a judicial officer of the superior court, including commissioners and judges pro tempore.

(b) Minimum qualifications. Parenting evaluators shall have the minimum of a master’s degree in a mental health or social work field that includes formal education and training in the legal, social, familial, and cultural issues involved in residential time decisions and shall be duly licensed. Parenting evaluators shall have a minimum of five years experience working with families and children. Individuals who, as of the effective date of this rule, are employees of a Washington superior court and perform parenting evaluations as a regular part of their job duties are exempt from the minimum qualification requirements.

(c) Education and training. Parenting evaluators’ formal education and training shall include child development, child and adult psychopathology, interviewing techniques, and family systems. By formal education or supervised work experience, evaluators shall possess advanced knowledge of the complexities of divorce or separation process, a working knowledge of the legal issues in divorce or separation in their jurisdictions of practice, knowledge of the sources of evaluator bias, and methods for maintaining neutrality. Because research and laws pertaining to the fields of dissolution of marriage, legal separation, and residential placement are continually changing and advancing, parenting evaluators shall secure ongoing specialized training.

(1) Areas of expected substantive training for all parenting evaluators include:

- i. The psychological and developmental needs of children, especially as those needs relate to decisions about parenting responsibilities, including allocation of residential time.
- ii. Family dynamics, including, but not limited to, parent-child relationships, blended families, domestic partnerships, and extended family relationships.

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- iii. The effects of abandonment; separation; divorce; domestic violence; substance abuse; and child maltreatment, including child neglect and child sexual abuse; the effects of relocation; sexual orientation issues; and inter-parental conflict on the psychological and developmental needs of children, adolescents, and adults.
- iv. The significance of culture and religion.

(2) With regard to the evaluation process, parenting evaluators shall have training in these areas:

- i. How to screen parties to determine whether domestic violence and limiting factors under RCW 26.09.191 exist.
- ii. When and how to interview or assess adults, infants, and children.
- iii. How to gather information from collateral sources.
- iv. How to collect and assess relevant data and recognize the limits of the reliability and validity of different sources of data.
- v. How to address issues such as general mental health, medication use, and learning or physical disabilities.
- vi. How to apply to all parties comparable interview, assessment, and testing procedures that meet generally accepted forensic standards.
- vii. When to consult with or involve additional experts or other appropriate persons.
- viii. How to inform litigants, children, other participants, and collateral sources of the purpose, nature, and method of the evaluation and limits of confidentiality.
- ix. How to assess parenting capacity and co-parenting capacity and to construct effective parenting plans.
- x. How to maintain professional neutrality and objectivity when conducting parenting evaluations.

(3) With regard to the court process, parenting evaluators shall have training in these areas:

- i. The legal context within which residential placement and residential time issues are decided and additional legal and ethical standards to consider when serving as a parenting evaluator.
- ii. How to write reports for the courts to which they will be presented.
- iii. How to prepare for and give testimony at deposition and trial.

(4) With regard to statutes and legal precedents, parenting evaluators shall have knowledge in these areas:

- i. The legal and professional standards, laws, and rules applicable to the jurisdiction in which the evaluation is requested.
- ii. The criteria for original determination of residential placement and for modification of parenting plans.

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- iii. The use of parenting evaluations, qualifications for parenting evaluators, and the legal requirements of the parenting evaluation process of the jurisdictions in which the evaluators will be performing their evaluations.

Comment

To identify and assess domestic violence or sexual assault as a limiting factor, the evaluator must have expertise in: screening for domestic violence and sexual assault; determining the perpetrator and adult victim; assessing impact of domestic violence on the adult victim, including but not limited to parenting; assessing impact on children; assessing the impact of the domestic violence or sexual assault on the parenting of the domestic violence or sexual assault perpetrator; and for assessing risk posed to children by domestic violence, which includes but is not limited to detailed descriptions of the pattern of domestic violence, impact on the adult victim, impact on the children, lethality of domestic violence, and protective factors or by sexual assault. If screening for domestic violence or sexual assault and other RCW 26.09.191 limiting factors is beyond the scope of the parenting evaluator's expertise, the evaluator should seek an evaluation of the parties by, or should consult with, an expert before conducting the interviews with the parties.

RULE 3. GENERAL RESPONSIBILITIES

Individuals appointed or ordered by the court to conduct a parenting evaluation shall secure from the court reasonably detailed information concerning their role and purpose and the scope of the evaluation. Parenting evaluators shall perform the responsibilities set forth below.

(a) Child's best interests. A parenting evaluator must perform the evaluation focusing on the best interest of the child. In the event that there is more than one child in the family, these rules apply to each child in the family.

(b) Limiting factors. The parenting evaluator shall screen and determine whether limiting factors under RCW 26.09.191 exist.

(c) Parenting plan factors. The parenting evaluator shall assess the parents based on the criteria factors identified RCW 26.09.184 and RCW 26.09.187(3).

(d) Discrimination prohibited. In conducting parenting evaluations, the parenting evaluator shall not discriminate based on age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, socioeconomic status, or any basis prohibited by law.

(e) Recommendations. The parenting evaluator may make recommendations regarding the primary residential parent, shared residential time, decision-making authority, or other variable involving more than one of the parties. If recommendations are made, the parenting evaluation must include an assessment of each of the relevant parties being considered and their ability to function as a parent.

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(f) Limiting factors to be considered in recommendations. In reaching a conclusion or making a recommendation, the parenting evaluator must consider the existence of limiting factors outlined in RCW 26.09.191. The parenting evaluator shall be familiar with or obtain consultation regarding the psychological aspects of child abuse, domestic violence, substance abuse, sexual assault and family conflict.

(g) Multiple sources of information. Recommendations and conclusions, if any, reached in an evaluation shall be based on information from more than one source and must be supported by the data collected. The parenting evaluator shall observe the children with each parent in the parent's home. Before a written report is submitted to the court, the parenting evaluator must have conducted a direct observation of the children with each parent. This requirement may be waived by the court if either parent resides more than 60 miles from the court hearing the case. The parenting evaluator shall make observations of the children and each parent. Comparable evaluation techniques shall be used with all parties taking into consideration location, duration, activities, cultural competency, and the presence of other persons.

Sources of information may include:

1. Face-to-face interviews with the parties and or their children.
2. Collateral contact interviews.
3. Written submissions from each party.
4. A review of pleadings.
5. Written input from collateral sources.
6. Written documentation from the parties.
7. Psychological testing of the parties and or their children.
8. A review of relevant records (e.g., school or counseling records, child protective services records, substance abuse evaluations).
9. Prior criminal convictions.
10. Current involvement of law enforcement.

If the parenting evaluator reviews records 8, 9, or 10 above, the evaluator must request the records of both parties. If no records exist for a party, the parenting evaluator shall state in the report that a search was performed and no records were found.

Information from appropriate outside sources, such as pediatricians, therapists, teachers, health care providers, and day-care personnel, shall be obtained where such information is deemed necessary and related to the issues at hand. Prior to the seeking or gathering of such information releases signed by the parents shall be obtained; these releases shall specifically indicate the areas in which the information is sought and limit the use of this information to use by the parenting evaluator in the preparation of the evaluation report.

(h) Psychological testing. The parenting evaluator shall obtain the court's approval of psychological testing of the parents or children. Any psychological testing is to be

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conducted by a licensed or certified psychologist who adheres to the ethical standards of the jurisdiction in which he or she is licensed. If the parenting evaluator uses psychological testing as a part of the evaluation, the parenting evaluator must interpret the test(s) consistent with current research or standards of practice.

(i) Restrictions on parenting evaluator activities.

1. A parenting evaluator shall immediately disclose any previous relationship with either parent or the children upon appointment.
2. A parenting evaluator who has provided therapeutic services to a party shall not perform a parenting evaluation involving that party without court authorization.
3. If the parenting evaluator has a previous or current relationship with either party and this relationship is substantially likely to impair objectivity the parenting evaluator shall decline the appointment or withdraw. The parenting evaluator shall disclose multiple relationships to the parties or their legal representatives and document the disclosure in the client records.
4. Even if they are qualified to do so, parenting evaluators shall not provide legal advice to those whom they are evaluating or to others with whom they may interact in the course of an evaluation.
5. Even if they are qualified to do so, a parenting evaluator shall not serve as a guardian ad litem in any case involving a party or child for whom the individual has served as a parenting evaluator.

(j) Persons not evaluated. Relevant comments about a person not personally evaluated may be included in the evaluation report if the report clearly identifies the source of the comment and states that the person to which the comment relates was not evaluated by the parenting evaluator.

(k) Written records. Parenting evaluators shall maintain a written record of the valuation. At a minimum, the written record shall include the following:

1. Court order or signed consent from all parties to conduct the evaluation.
2. Written retainer agreement.
3. Appropriate court order or signed authorizations for release of information.
4. Documentation of dates of service, nature of service, and fee charged.
5. A copy of the evaluation report.
6. The information and sources used for the evaluation.

(l) Disclosure of Information. The parenting evaluator shall disclose the following specific information to the parties in writing at the outset of the evaluation assignment. All requests for records must be processed in accordance with chapter 70.02 RCW.

1. The entity or individual that has requested the evaluation if it is done at the request of a third party.

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2. The entity or individual who is responsible for payment of fees for parenting evaluator services and costs.
3. The fee structure.
4. The entity, agency, or individual who will receive the evaluation report.
5. Limits on confidentiality.
6. General procedures to be followed to conduct the evaluation.

(m) Requests for documents. The parenting evaluator shall make available upon request to the parties or their counsel the following:

1. The documents relied upon during the evaluation process.
2. The identity of all collateral contacts.
3. Notes taken during all interviews with the parties or collaterals. However, if the parenting evaluator believes that the release of information provided by the child or either parent may result in emotional or physical harm to the child, the parenting evaluator may withhold those notes unless directed to do otherwise by the court. The parenting evaluator shall document the reasons for withholding the information in the file.
4. Dates of evaluation procedures.
5. All fees and charges.
6. All correspondence associated with the case.

(n) Raw data. The parenting evaluator shall not provide raw test data including test questions, answer sheets, profile scores, computer generated interpretations, or copyrighted materials to non-parenting evaluators. The parenting evaluator may provide this information to another parenting evaluator or another individual who is qualified to interpret it with the proper authorization from a party or the party's counsel. Protected test materials and raw data may be provided as directed by the court.

(o) Filing report. If a parenting evaluator has been appointed or ordered by the court to conduct a parenting evaluation, the parenting evaluator shall file a written report with the court and the parties as required by court order or no later than ten (10) days prior to a hearing for which a report is required. The report shall be accompanied by a written list of documents considered or brought to the attention of the parenting evaluator and the person(s) interviewed during the course of the evaluation.

(p) Limiting factors in report. Any written report must contain an assessment regarding the existence or nonexistence of RCW 26.09.191 limiting factors and the relevance of these factors on the parenting evaluator's recommendations.

Comment

In Washington State, the standard for determining and allocating parenting responsibilities is in the best interest of the child. RCW 26.09.002. Balancing the rights and interests of the parents, or considering what either parent may construe as fair or unfair are not appropriate standards for parenting evaluators to use when

VII. § 201 POINT OF FIRST CONTACT PROGRAM (PFCP)

recommending parenting responsibility allocations to the court for inclusion in a parenting plan.

VII. § 201 POINT OF FIRST CONTACT PROGRAM (PFCP)

A. INTRODUCTION

Section 201 of the 2SSB 5470 (codified as RCW 26.12.260) establishes a program for providing services for parties in RCW 26.09 cases. The Point of First Contact Program (PFCP) is required if the legislature provides funding, and it must provide services to all parties involved in proceedings under RCW 26.09. Those proceedings include:

- Dissolutions of marriage, or domestic partnerships.
- Legal separations.
- Declarations regarding validity of marriage or domestic partnerships.
- A separate parenting or child support action when there has been no prior Washington action regarding the status of the parties or support for the minor child.

1. Description of the Program

The legislation requires a petitioner to contact the PFCP prior to filing a petition unless there is a need for emergency orders. Although the program is required to assist all parties, a respondent is not required to use the PFCP unless a victim of domestic violence or child abuse requests mediation under RCW 26.12.016. Minimum components of this program must include an individual to serve as an initial point of contact for parties filing petitions for dissolutions or legal separations and screening for referral to services in the areas of domestic violence, child abuse, substance abuse, and mental health.

In general, the program or individual must inform the parties of the following: courthouse facilitator programs and orientations, alternatives to litigation, and family services available in the community. The program is to provide assistance to the superior court in these cases, but it is not to provide legal advice and participation in the PFCP creates no attorney client relationship or privilege between the individuals providing information and the participants.

2. Tasks Assigned to the Task Force

Section 201 of the legislation requires the Task Force to study issues related to the PFCP, including, but not limited to

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- Minimum components and extent of the program.
- Selection of appropriate short screen tools for administering the program.
- Administration of the program and the handling of confidential information.

B. MINIMUM COMPONENTS AND EXTENT OF THE PROGRAM

1. In-Person Contact

B. MINIMUM COMPONENTS AND EXTENT OF THE PROGRAM

1. In-Person Contact

The legislation requires a petitioner to have an in-person contact with the PFCP prior to filing a petition unless there is a need for emergency orders. The Task Force discussed what this contact would entail. Petitioners could meet on a walk-in or appointment basis with the staff, and receive referrals and information about alternatives to dissolution, local resources, courthouse facilitators, orientations, and dispute resolution. The PFCP would also screen for referrals in the areas of domestic violence, child abuse, substance abuse, and mental health.

The PFCP should complement existing court programs and services. PFCP staff should be able to answer questions about legal and human service resources, court procedures and courthouse facilities. Extensive resource materials, including the Family Law Handbook, should be available. Ideally the PFCP would have the ability to provide the most pertinent and necessary information to assist families navigating this very difficult experience. The ability to coordinate with other programs and local service providers is critical.

The Task Force considered how the PFCP would work in different sized counties. The basic level of services must reflect the demographics of the county. Counties with larger populations may have a more diverse population; PFCP programs in those counties would likely require more multi-lingual materials and interpreters. The number of employees needed for PFCP programs in the larger counties would increase significantly if the PFCP services are to be provided in a timely and effective manner.

In smaller counties or judicial districts, the number of dissolution filings may not support a full-time employee for the PFCP position. For example, the Superior Court 2007 Annual Caseload Report indicates that 29 counties had fewer than an average of ten dissolution petitions filed per week. In those counties, the tasks of providing the PFCP services would likely default to the court administrator or county clerk. Financial and staffing resources do not exist in the smaller jurisdictions to afford the same types of programs that larger jurisdictions are able to provide. The current statute requires “an individual” serve as the PFCP. Counties cannot predict when parties will file for a dissolution action, and it would not be financially prudent to hire a PFCP individual to sit and wait for a filing to occur, unless that person could perform other functions.

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Requiring personnel to be present at all times and in sufficient capacities to handle the limited number of petitioners in small counties and the significantly large numbers in larger counties would be difficult to accomplish. In addition, the practical aspects of a comprehensive screening and referral process prior to filing a petition would likewise be difficult.

It is essential that an individual providing the PFCP services be well trained and supervised. This individual will face many difficult cases with conflicting facts and allegations, as well as confidential information. Through the information and advice they provide, the PFCP staff will wield a great deal of influence over people at a vulnerable time. In the worst case scenario, they could potentially thwart people's efforts to exercise their rights by imposing barriers or making it seem as if additional steps are required before a dissolution may be filed (e.g., counseling).

Professionals such as social workers, psychologists, attorneys who have access to confidential information and who exert power over the individuals coming to them have strict ethical guidelines for their profession. Best practices for advocates, social workers, and counselors include frequent supervision and training to help individuals separate their personal investments from their professional roles, become aware of and overcome biases, and build their cultural competence. The Task Force recommends that the PFCP include extensive training, supervision, technical assistance, and appropriate infrastructure to ensure high quality, ethical services. For example, a state agency or organization may contract to provide quarterly training to help build professional identity and ethics, set a high standard of practice, and ensure a training context for people to build the skills necessary to serve the public well in this capacity.

2. Pre-Filing Requirement

Access to the courts is an important right and the Task Force is concerned about the impact of the requirement that a petitioner must contact the PFCP before filing a petition. It is the understanding of the Task Force that attorneys can substitute for the PFCP, but if the petitioner does not have an attorney, the petitioner must contact the PFCP before the action can start. Contacting the PFCP may not appear to be a significant barrier, but it can be. The courthouse facilitator program provides an example of how long it may take to contact the PFCP. Family law parties already have difficulty getting timely contacts and consultations with courthouse facilitators. Appointments are sometimes scheduled days and weeks in advance. It also is the reality that people do not file for dissolutions of marriage in a scheduled and uniform fashion. The number of filings can vary significantly and the scheduling in this regard could be a difficult logistical issue for court personnel to make certain that there were sufficient staff at peak times and yet not have persons without work to do at other times. It would be prudent to study other alternatives to accomplishing the legislative intent before funding an expensive program that would have significant limitations and exceptions based on both structure and venue considerations.

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The legislation does not identify a method for assuring that the petitioner has met with the PFCP, the consequences of such failure, or who is responsible for determining the failure or consequences. The Task Force agrees with the intent that litigants get information about court procedures, local family services, and dispute resolution early in the process. However, requiring the PFCP contact prior to filing an action can create numerous access and logistical problems. The exception for emergencies does not provide enough protection because legal and financial issues may be dependent on date of filing whether or not there is an emergency. The requirement to meet with the PFCP prior to filing should be relaxed to allow the contact before or within thirty days after filing the petition.

The legislation currently requires the petitioner to certify in the petition that the PFCP requirement has been satisfied. A form similar to that used in King County regarding Certificate Regarding Mediation might also accomplish the certification. If the process is required prior to filing, the certified petition can include the statement that the PFCP requirement has been satisfied. If there are emergency or temporary orders, the certificate could be completed in a reasonable time after filing but prior to a hearing on those orders.

There may be limited exceptional circumstances in which a PFCP may be unavailable to a petitioner prior to filing. For example, the petitioner may be in the military service, or may live in a location that does not provide such a program. The legislation does not appear to provide for an exception under such facts. If the out-of-state petitioner is represented, the attorney can provide the PFCP services, but if no attorney is involved, there must be some type of exception or alternative so the person can file a petition for dissolution. However, if the legislature creates an exception, it must not be so broad that it swallows the rule.

The legislation does not require the county of filing to deliver the PFCP services. Thus a county where the parties live could provide the services and the parties could then file in a distant county. One county would bear the costs of the program and another county would be receiving the filing fees. Requiring that the county of filing provide the PFCP services creates other concerns. A county that provides the services has no power to control where the parties file the action. It would be difficult for a county to refuse services or to know where the parties will file the action

If the county provides services and the parties then file in a different county, requiring a second round of services creates an economically unsound situation because the first county would still have provided the services without financial remuneration, and two counties would have provided similar services. The legislation could require the county of filing to provide the services, but it would also need to require PFCP contact to be made after the petition has been filed. The legislation could address this issue by requiring contact with the PFCP after the filing, rather than before the filing.

3. *Screening Tools*

The PFCP must screen for referrals in the areas of domestic violence, child abuse, substance abuse, and mental health. Although the attempt to identify areas of concern at the beginning of the dissolution process is laudable, designing a process that is both effective and respectful of the rights of the litigant is difficult. Screening questions must be appropriate to the context in which they are administered, taking into account their method of delivery, the local resources, the training of the person administering the screen, and the destination for the information unearthed in the screening. The Task Force reviewed a variety of approaches but ultimately determined that a person-to-person screening would so significantly affect the PFCP that the Task Force is unable to recommend it.

Instead, the Task Force considered whether a self-executing screening process could satisfy the intent of the legislation. A self-executing screening process should be minimally intrusive and yet accomplish the intent of the legislation in so far as possible. A series of questions might allow the petitioner to evaluate the need for services in the various areas: domestic violence, mental health, substance abuse, options to dissolution, and mediation. It is important that the screening questions be developed or reviewed by an expert in each area of concern.

The Task Force reviewed several examples of questions used in a variety of contexts across the country, including protection order advocacy offices and model mediation protocols. The questions were administered by various professionals, including social workers, advocates, psychologists, and mediators. The Task Force did not find any tools administered in programs similar to the PFCP and is not comfortable with any of the examples. Generally, the screening tools were too detailed and invasive for the PFCP as envisioned. Some examples of the type of questions used in these screenings are included in Appendix A at page 64, but they are not recommended for the PFCP.

Any screening questionnaire should be available at the courthouse, libraries and similar locations. Attorneys should have them to assist their clients. The questionnaire should be available in both paper and electronic forms. The electronic approach has the advantage of eliminating a written document that someone may leave, or show to the PFCP staff, which would create concerns about confidentiality. One of several reasons to proceed with the self-evaluation is to avoid confidentiality issues potentially arising if the screening is with a third party who would not have a privileged relationship with the petitioner.

There must be access for those who have language, cognitive or other communication issues. Since contact with the PFCP is mandatory, full and appropriate accommodations will be required in even the most remote areas of the state. The information and screening must be provided to all, regardless of cost or convenience to those administering the PFCP. The Task Force has no specific suggestions as to how this might be accomplished, but notes that it could be a significant burden.

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Not all communities have services available for mental health concerns, domestic violence, and substance abuse problems. When this is the case, the utility of screening for problems in these areas may be questionable. Asking invasive questions when no actual assistance is available may yield a higher cost than any potential benefit.

The Task Force recognizes that some individuals might not seek the relief afforded by a dissolution action if they must first undergo an in-person screening about highly sensitive issues. In addition, some Task Force members have expressed concern about the possible re-victimization of domestic violence victims by the PFCP requirements.

A self-executing screening process might accomplish some of the goals of the legislation. However, there is even concern about a self-executing screening process. Preliminary questions to the Washington State Human Rights Commission and research of both state and federal disability and privacy laws have raised concerns that need further investigation.

C. INFORMATIONAL SERVICES

The PFCP is to provide information regarding courthouse facilitator and orientation programs; alternatives to litigation; and supportive family services. Access to information about the court process and dispute resolution needs to be available early in the process and continue to be available throughout the process. Some counties already provide extensive information. The PFCP could be the entity primarily responsible for distributing this information, but it is not the only method of providing the information. As discussed at section II.C at page seven of this report, other programs may be providing much of the same information. Coordination of the delivery of the information may be the most important and efficient way to reach the goals of the legislation. Regardless of which program provides the information, it should be easily available at a variety of times and in a variety of methods. This section of the report discusses possible methods of providing the information.

1. Printed Information

The AOC Family Law Handbook or other brochures can provide information that applies statewide. In addition, each county would need brochures that describe local procedures and referrals. The preparation and updating of such information is a significant undertaking in even smaller counties, as it is not readily available at one source. King County has some materials, but apparently they are very expensive to prepare and to keep current. There is a need for additional funding for printing and re-printing, particularly where translations into other languages is necessary.

2. Telephonic and Electronic Information

Information should also be available on DVD, video, audio, on-line, or some other type of electronic form. Information should be available on court Web sites and locations

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such as www.washingtonlawhelp.org. The 211 Information System, which allows access to an integrated statewide information and referral system, is another possible method of delivering information.

It is easier to find properly trained and qualified personnel in larger cities. Low population counties could pool resources to employ staff who would be available during business hours via web cam or web conferencing. This approach would allow a real time conversation between the petitioner and the PFCP personnel in which each could see each other and have a dialogue, satisfying the requirement for human interaction, but providing it in a more affordable and cost effective manner.

The courthouse would need to set aside a small private, internet enabled room and computer with a web cam to allow this, and designate staff to facilitate the process of getting people connected to the PFCP personnel. This technology increasingly helps deliver health care in remote and rural areas. It also facilitates contact between children and their parents or grandparents. It is efficient and brings people face to face without the expense of transportation.

Another alternative is to deliver the bulk of the information via a DVD or video, which would be adapted to be available in multiple languages and sign language. This approach has several advantages. For many people, obtaining information this way is easier, more comfortable, and more familiar than digesting a large amount of reading material. It also provides quality control over the delivery of delicate information. Standardizing the information allows a more efficient use of time by the PFCP staff. Everyone gets the same information, and the same brochure, and avoids the stigma of asking for a particular kind of service (i.e., substance abuse or mental health). It provides privacy and gives the litigant the opportunity to absorb the information without having to respond to an individual. Resources required to ensure language accessibility are more efficient, rather than having each of 39 counties figure out how to create language accessibility for the basic required information.

The DVD or video could deliver the basic information required by statute, and a locally produced brochure listing local resources could augment this information. PFCP staff could be available either via remote connection (see above) or in person to answer any further questions or talk more about local resources.

D. ADMINISTRATION OF THE PROGRAM AND PROTECTING CONFIDENTIAL INFORMATION

1. Location of the Program

The Task Force carefully examined potential sites for the administration of the PFCP, including the courthouse facilitator, superior courts, county clerks, AOC, or contracts with outside sources such as a social service agency, or law firm. The discussions included comparing the advantages and disadvantages of each when considering the following issues:

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- Immunity and confidentiality.
- Cost.
- Physical capacity to house the program.
- The entity's level of interest in accepting the responsibility.
- Accountability.
- Ability to provide training and adequate service.
- Relationship of the PFCP to the dissolution process and post-decree modifications.
- A litigant's need for a convenient, secure setting that is readily available.

The Task Force could not evaluate an appropriate administrator for the PFCP without a full consideration of the minimal components of the program. For example, whether it is necessary for a person to contact the PFCP before filing and whether an individual is required to be on-site to do person-to-person screening significantly affected the decision of where to place the responsibility for the program. Task Force is still in the process of balancing the advantages and disadvantages of the various possible administrators for the PFCP and cannot make any finding at this point.

2. Confidential Information and Immunity

The minimum components of the PFCP also affect the need to provide confidentiality for the litigants and immunity for PFCP staff. Most of the information in dissolution files is accessible by the public. This raises issues of safety, and puts before the public allegations or admissions of mental health and substance abuse concerns that could deter many petitioners from utilizing a PFCP or being candid when they do. Self-executing screening would alleviate this concern because the petitioner would not have to disclose information.

Unless there is additional legislation, the superior courts provide the most protection for confidentiality and immunity. Having the county clerk function as a PFCP raises the issues of the clerk's duties and daily functions. The clerks should not deny a person's right to file an action because the person did not meet with the PFCP. The clerk acts as a system processor rather than handling the merits of a case or a party's needs.

GR 27 and RCW 26.12.240 define the role of the courthouse facilitator. There are conflicts in the current role of the courthouse facilitator and the legislation's description of the PFCP. Further, since the facilitator programs are significantly diverse around the state and not all counties have such a program, it would be problematic to house this program with the courthouse facilitator program.

E. COSTS

As stated above, the Task Force is concerned about the location and costs of the PFCP. The Task Force heard from several parties that most courthouses lack any additional space that might be required to meet the PFCP needs. The lack of space

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could require off-site rental, with accompanying costs. The Task Force members unanimously agreed that regardless of the county's size, an appropriate private location would be required for the screening process, as opposed to an open office space. Staff would need to be available during normal business hours, and work with the court administrator and the clerk to ensure compliance with the PFCP.

The fiscal note prepared for 2SSB 5470 during the 2007 session contains questionable assumptions and leaves many areas of costs and revenues without data for the Task Force to analyze. The extract from the fiscal note provided:

The requirements in the following sections are only mandated if state funding is provided. In addition, data is not available to determine what percentage of those seeking dissolutions will avail themselves of the various services that might be provided under the following sections of this bill. There is not a high level of confidence, therefore, that the assumptions used will prove accurate. Notwithstanding, the assumptions used below are intended to provide an estimation of the total cost of fully implementing these sections.

Section 202

A county may, and to the extent funding is provided shall, create a family court liaison program. Because of the complexity of the duties required to be performed by the family court liaisons under section 202, 301 and 303, it is assumed that a liaison will need a masters in social work (MSW). The creation of 39 new MSW liaison FTEs (one in each county) would result in state expenditures of a minimum of \$3,703,986 in the first year including capital expense, and \$2,299,986 in subsequent years. If funding is not made available, it is not possible to project how many counties might create a family liaison program or what costs the counties might incur.

Family court liaisons shall be the initial point of contact for parties in family law matters under chapter 26.09 RCW. There were approximately 29,000 dissolution filings (both with and without children) under 26.09 in 2005. (If modifications, legal separations, and annulments are included, this brings the total to 31,561.) It is assumed that each case has two parties. It is assumed that a liaison would be required to spend a minimum of 45 minutes with each party to a dissolution in order to provide the information required under this section. This will result in the need for 25.3 liaison FTEs. It is assumed, therefore, that these functions would be covered by the 39 liaisons referenced above.

As it is expected that the liaisons will be MSWs, it is assumed that the training would be in the form of continuing education rather than for the initial education necessary to qualify a liaison to perform the functions required by this bill. The average cost of a three-hour continuing legal education credit (CLE) is \$100. It is assumed that each of the liaisons will

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require the equivalent of 15 CLEs each year. If there are 39 liaisons, this will result in state costs of approximately \$19,500 annually.

Local information is particularly difficult to decipher, even when it exists. In King County, for example, it is likely that at least five PFCP staff would be required on a full time basis. On the other hand, less populated counties would likely need less than a full time employee. If an in-person program is used, PFCP staff needs a graduate level education. The salaries, assuming such persons are available in every area—which is not a valid assumption at this moment—will have to reflect this educational level.

A PFCP must provide a basic level of service and reflect the demographics of the county in which it is located. At a minimum, this is likely to drive costs to include multi-lingual printed material and the availability of interpreters. Costs will also have to include administrative and overhead expenditures associated with the program, including rent, travel, and training. With a self-screening program, the costs will likely be significantly reduced and the assumptions in the fiscal note need to be reconsidered. The cost of preparing materials, multilingual DVD's, and an appropriate web site will need to be factored into the fiscal considerations also.

F. CONFLICT BETWEEN TASK FORCE RECOMMENDATIONS AND RCW 26.12.260

The Task Force's recommendations in Sections A-E above, which do not have the force of law, conflict significantly with the 2SSB 5470, Section 201, codified as RCW 26.12.260. The recommendations were made after extensive discussion and deliberation. The Task Force unanimously concluded that it would be virtually impossible for counties to implement the minimum components of the PFCP if the statute were strictly construed. Yet if funding were provided, counties would be required to implement those requirements. To resolve both the problems presented by the statute as written, and relieve counties of the burden of implementing an unworkable program, the Task Force urges the legislature to amend RCW 26.12.260, incorporating the recommendations of the Task Force.

VIII. VENUE ISSUES

A. THE CURRENT APPROACH TO VENUE

Washington State has a long tradition of respecting a litigant's choice of venue. Family law actions are transitory because a party can file in any county in the state. The various venue statutes, applicable court rules, and case law permit the filing in the petitioner's or respondent's county, but clearly allow the action to proceed in any county so long as one of the litigants does not object. If there is agreement of the parties, the court must allow a change to any county. Thus under current law, the agreement of the

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parties controls and a change in approach would unsettle longstanding protection of a litigant's choice of venue.

1. *Venue for Petitions*

The statutes address where the petition for dissolution *may* be filed, which is either the defendant's county, RCW 4.12.025 (general venue statute), or the petitioner's county, RCW 26.09.010. Under the Civil Rule for Superior Court (CR) 82(b) an action filed in the wrong county can proceed, unless the defendant requests a change and files an affidavit on the merits. A respondent in a dissolution case has an absolute right to have the venue moved to a county where one of one of the parties is domiciled. *In re Marriage of Strohmaier*, 34 Wash. App. 14, 18, 659 P.2d 534, 537 (1983). However, if the parties agree in writing or in court, to any other county in the state, the court must order the agreed change (RCW 4.12.080).

2. *Venue for Modifications*

Various statutes govern actions to modify prior orders. If no children were involved in the original action, only an award of maintenance is modifiable. There is no venue statute that specifically addresses modification of a maintenance award, but an action for *enforcement* of a duty to pay maintenance can be commenced in the decree county or where either the obligor or obligee resides (RCW 26.28.040).

If children are involved, RCW 26.09.280 provides alternative venues for actions to modify parenting plans or child support:

1. The county where the children reside.
2. The county where the person with the care, custody and control of the children resides.
3. The county that entered the order, judgment, or decree.

The venue rules are again permissive because Court Rule 82(b) and RCW 4.12.080 allow an agreement of the parties to control.

B. POSSIBLE LEGISLATIVE CHANGES TO VENUE RULES

The legislation does not provide an explanation for the impetus for the study of venue issues. It has been suggested that there is concern that Lincoln County, allows dissolution actions to proceed in a mail-order fashion, without requiring a personal appearance by anyone. The Superior Court Annual Caseload Report illustrates the impact of this approach. Lincoln County, which had a population of 10,376 in 2007, had 4,331 domestic relations actions filed in 2007. In contrast, Skamania County, which has a population of 10,883, had 66 domestic cases filed. The Caseload Report is Appendix B of this report.

IX. DISSOLUTION FORMS, PROCEDURES AND FEES

The divorce-by-mail approach occurs when the parties agree as to all the issues, or respondent does not file a response and the matter goes by default. According to a 2002 CBS News report, family law filing fees were about one-ninth of Lincoln County's budget. <http://www.cbsnews.com/stories/2003/05/06/national/main552448.shtml>. The mail order approach may have some short-term appeal to the litigants, but it can create logistical difficulties, additional costs, and adds to the chance of abuse of process in the long-term. If the parties obtain their decree from Lincoln County by mail, a subsequent contested modification of the parenting plan requires either that the parties travel to Lincoln County for the hearings, or that the moving party pay a new, full filing fee in the county residence. Despite these concerns, the Task Force makes no recommendation of changes to the venue rules. The traditional respect for a litigant's choice of venue is important and it is not clear that a change in venue is the only way to assure workable decrees or to avoid an increased cost for filing a modification action.

IX. DISSOLUTION FORMS, PROCEDURES AND FEES

The Task Force elected to reserve making recommendations about dissolution forms, procedures and fees until the final report.

APPENDIX A. EXAMPLES OF SCREENING QUESTIONS

The Task Force reviewed several screening questionnaires but none of them was designed for a program that is substantially equivalent to the PFCP. The following is provided as illustrative of the questionnaires reviewed. The Task Force does not recommend any of them for use by the PFCP.

DOMESTIC VIOLENCE

- Have you felt threatened or intimidated by your partner?
- Has your partner hit, pushed, choked, or otherwise assaulted you?
- Is there a protection order in place or have the police been called because of domestic violence between you and your partner?
- If you answered yes to any of these questions, you may benefit from contacting your local domestic violence advocacy program. Information on how to get in touch with that program is available in the brochure.

MENTAL HEALTH

When people feel their marriage is no longer workable, that can be stressful, and bring up many feelings, including anger and sadness. You may want to seek support from a mental health provider if you have:

- Considered hurting yourself or another person, or ending your life.
- Felt so down you have not been able to get things done.
- Found yourself distracted from day-to-day life by distressing thoughts.
- Local resources for counseling are available in the brochure provided.

SUBSTANCE ABUSE

When one or both persons in a relationship abuse alcohol or drugs, it can make co-parenting very difficult, and create a great deal of stress or even destroy relationships.

- Does the use of drugs or alcohol interfere with accomplishing important tasks or goals for you or your partner?
- If you or your partner would like assistance with figuring out whether or not alcohol or drugs are a problem for either one of you, or with working to overcome difficulties with controlling substance use, you can get help from community resources listed in the brochure available.”
- If you want to talk about any of the issues discussed in this video, you can ask or call 211 for more information about resources in Washington State.

Regardless of your answers to any of the questions asked here, you have a right to file for dissolution.

APPENDICES

APPENDIX B. CENSUS FIGURES AND THE SUPERIOR COURT ANNUAL CASELOAD REPORT FAMILY LAW CASES FILED IN 2007

The information below provides the 2006 population estimates for Washington's counties. The information is from the U.S. Census Bureau's website at http://quickfacts.census.gov/qfd/maps/washington_map.html.

Adams	16,887		
Judicial District		Judicial District	
Asotin	21,247	Klickitat	20,335
Columbia	4,087	Skamania	10,883
Garfield	2,223	Lewis	73,585
Judicial District		Lincoln	10,376
Benton	159,463	Mason	55,951
Franklin	66,570	Okanogan	40,400
Chelan	71,034	Judicial District	
Clallam	70,400	Pacific	21,735
Clark	412,938	Wahkiakum	4,026
Cowlitz	99,905	Pierce	766,878
Douglas	35,772	Skagit	115,700
Judicial District		Snohomish	669,887
Ferry	7,560	Spokane	446,706
Pend Oreille	12,951	Thurston	234,670
Stevens	42,632	Walla Walla	57,721
Grant	82,612	Whatcom	185,953
Grays Harbor	71,587	Whitman	39,838
Judicial District		Yakima	233,205
Island	81,489		
San Juan	15,298		
Jefferson	29,279		
King	1,826,732		
Kitsap	240,604		
Kittitas	37,189		

APPENDICES

The Superior Courts
Domestic Cases Filed by Type of Case, 2007

County/Court	Child Custody	--Dissolution-- With Children	With No Children	Annul- ment/ Inval- idity	Modifica- tion	Out-of- State Child Custody	Legal Separa- tion	Man- datory Wage Assign- ment	Foreign Judg- ment	Miscel- laneous Dom- estic	UIFSA	Total Domestic
Adams	3	30	15	0	3	0	2	0	1	18	0	72
Asotin	8	48	47	0	18	1	3	0	0	32	0	157
Columbia	1	8	10	0	4	0	0	0	0	3	1	27
Garfield	1	2	5	0	0	0	0	0	0	0	0	8
..Judicial District	10	58	62	0	22	1	3	0	0	35	1	192
Benton	66	427	364	7	144	0	51	0	1	144	0	1,204
Franklin	11	114	93	1	12	0	12	0	2	38	0	283
..Judicial District	77	541	457	8	156	0	63	0	3	182	0	1,487
Chelan	33	216	191	2	12	0	12	0	0	163	6	635
Clallam	24	165	179	2	7	0	9	0	0	1	3	390
Clark	137	907	842	10	163	1	93	0	15	454	1	2,623
Cowlitz	30	202	191	0	25	0	16	0	2	247	0	713
Douglas	9	21	15	0	3	0	1	0	0	14	19	82
Ferry	9	12	12	0	1	0	6	0	0	1	3	44
Pend Oreille	5	28	30	0	3	0	0	0	0	24	0	90
Stevens	15	73	82	3	29	0	8	0	0	90	0	300
..Judicial District	29	113	124	3	33	0	14	0	0	115	3	434
Grant	19	172	142	1	20	0	18	0	0	43	2	417
Grays Harbor	76	164	153	0	49	0	21	0	1	77	0	541
Island	15	151	194	0	15	1	23	0	1	16	7	423
San Juan	3	29	34	0	1	0	4	0	0	0	0	71
..Judicial District	18	180	228	0	16	1	27	0	1	16	7	494
Jefferson	10	38	74	1	6	0	8	0	1	31	3	172
King	181	2,599	3,436	63	185	6	372	0	13	818	47	7,720
Kitsap	43	518	577	4	49	1	76	0	2	456	0	1,726
Kittitas	13	76	84	1	12	0	12	0	0	14	0	212
Klickitat	8	48	37	0	2	0	2	0	0	5	6	108
Skamania	8	20	22	1	7	0	2	0	0	2	4	66
..Judicial District	16	68	59	1	9	0	4	0	0	7	10	174
Lewis	42	155	199	3	20	2	16	0	0	48	0	485
Lincoln	11	1,474	2,707	31	7	0	90	0	0	11	0	4,331
Mason	24	116	105	3	20	1	14	0	0	50	3	336
Okanogan	7	70	70	1	2	0	4	0	1	21	3	179
Pacific	8	36	39	1	4	0	6	0	0	12	0	106
Wahkiakum	2	11	11	1	1	0	1	0	0	1	1	29
..Judicial District	10	47	50	2	5	0	7	0	0	13	1	135
Pierce	214	1,526	1,623	39	262	0	183	0	5	311	181	4,344
Skagit	43	254	264	7	33	0	27	0	0	80	1	709
Snohomish	144	1,258	1,296	14	159	6	161	0	2	215	5	3,260
Spokane	145	980	934	18	115	5	104	0	0	682	0	2,983
Thurston	122	532	538	9	81	1	79	0	0	121	30	1,513
Walla Walla	21	119	144	2	28	0	3	0	0	43	1	361
Whatcom	19	323	302	6	15	0	42	0	0	59	8	774
Whitman	7	45	47	0	4	0	3	0	10	10	0	126
Yakima	129	469	385	6	42	1	31	0	0	85	0	1,148
State	1,666	13,436	15,493	237	1,563	26	1,515	0	57	4,440	335	38,768

APPENDIX C. TASK FORCE MEMBERS

Governor's Appointments

1. Crime Victims Advocacy Representative: Beverly Emery

Bev Emery, M.A., has been the Director of the Office of Crime Victims Advocacy (OCVA) since its creation in 1990. OCVA serves as a voice within state government for the needs and issues affecting victims of crime. In addition to direct services and advocacy, OCVA administers twelve victim-service programs, with a total annual budget of approximately \$15 million. Prior to going to OCVA, Bev was the Executive Director of the Washington Coalition of Sexual Assault Programs for nearly eight years.

2. Family Law Professor: Helen Donigan

Helen Donigan is a professor of law at Gonzaga University School of Law, where she has taught Family Law, Professional Responsibility, and Commercial Law. She is a former chair of the Washington State Bar Association (WSBA) Family Law Executive Committee; the Washington State Child Support Schedule Commission; and the WSBA Access to Justice Education Committee. She has also served as a member of the Gender and Justice Commission; the Washington State Human Rights Commission; and the Public Legal Education Council. She is a frequent speaker for the WSBA and other organizations and serves as an editor for the Washington Family Law Deskbook. Her publications include two chapters for the Deskbook.

3. Domestic Violence Group Representative: Margaret Hobart

Margaret Hobart has worked in organizations focused on ending violence against women since 1982. Margaret served as project director for the Washington State Domestic Violence Fatality Review Project from its inception in 1997 until February 2002. Then she focused on providing technical assistance to other state coalitions creating effective domestic violence fatality reviews from 2003 to 2005. Margaret's current responsibilities include providing leadership for Washington State Coalition Against Domestic Violence (WSCADV) Children's Justice Initiative, which is focused on improving the policy and practice of institutions responding to children affected by domestic violence, and supporting the coalition's member programs in their advocacy for children and their mothers. Margaret received her Ph.D. in Political Science from the University of Washington in 2003.

4. Community Sexual Assault Program Representative: Kelly O'Connell

Ms. O'Connell is the Deputy Director and a co-founder of the Sexual Violence Law Center. Ms. O'Connell provides legal consultation, training and resources on sexual

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assault issues to civil litigators, prosecutors, judges, legal advocates and service organizations in Washington. She also provides sexual assault survivors with brief legal services, consultation, resources and referrals on a broad range of issues including protection orders, housing, employment, Title IX, domestic relations, privacy, and civil liability of assailants. She co-taught Sexual Violence and the Law at the University of Washington School of Law in 2007, and is an invited guest speaker to several symposiums and conferences on domestic and sexual violence, including those sponsored by McGeorge School of Law, the Washington Association of Prosecuting Attorneys, King County Family Law Task Force, the University of Washington School of Law and the Office of Crime Victim's Advocacy. She is appointed by the Governor to the Supreme Court Dissolution Task Force and in 2006 had the privilege of serving on Washington's Pattern Forms Subcommittee to develop the statewide protection order court forms, court staff handbook, and related materials on the recently enacted sexual assault protection order.

From 2005-2007, Ms. O'Connell was a staff attorney for the Washington Coalition of Sexual Assault Programs. Prior to this, Ms. O'Connell has advocated for survivors of domestic violence and sexual assault in numerous capacities, including direct representation as a pro bono attorney with the Eastside Legal Assistance Program and legal advocacy with the Eastside Domestic Violence Project. She has been actively involved in public interest law for over 10 years, including volunteering for the Public Defender Association, the Immigrant Families Advocacy Project, and the Free Legal Advice Centre in Dublin, Ireland. Ms. O'Connell was formerly the Director of Legal Affairs for Expo Management, LLC, and practice privately at the law firm of Montgomery, Purdue, Blankinship & Austin, PLLC. Ms. O'Connell graduated with honors from the University of Washington School of Law in Seattle, and also received her Bachelor of Arts, magna cum laude, in Society & Justice and Sociology from the University of Washington. Ms. O'Connell was admitted to the Washington State Bar in 2000.

5. Custodial Parent:

Shamra Coy

Shamra Coy has been a Stevens County resident for over 15 years. She graduated with a paralegal degree from Watterson College, San Marcos California. Her passion has been working with low income, pro-se family law clients for the last eight years. After leaving a 13-year marriage with five children due to domestic violence, she returned to college and graduated in 2006 with her Bachelor of Arts in Criminal Justice. In 2007, she became a courthouse facilitator for Ferry and Pend Oreille Counties, and secured a position as the Resource Development Coordinator at Family Support Center & Children First Children's Advocacy Center. She believes that everyone should have equal access to justice, especially those who face severe barriers that make it almost impossible to attain this equality.

6. Custodial Parent:

Joyce Shui

Joyce Nadolny Shui (Harvard University, 1987; NYU School of Law, 1993, Clerk to Honorable Robert F. Utter, 1993-1994) started her legal career at Preston Gates & Ellis (Kirkpatrick & Lockhart) and later served as General Counsel and Chief Administrative Officer of Avanade before opening her own practice. Her public policy successes have included *Cipollone v. Liggett* (in which a lung cancer victim's family first successfully sued a tobacco company), serving on a Task Force to improve availability of information about judicial candidates, and testifying on behalf of the Cambridge City and King County Clean Indoor Acts.

The daughter of immigrants and mother of multi-cultural children, Ms. Nadolny Shui has worked tirelessly to increase institutional understanding of cultural issues. She was instrumental in the passage of legislation urging courts to consider children's culture in dissolution cases. She also founded The Purple School in 2001—a children's enrichment program supporting bilingualism and multi-culturalism. With the support of the Northwest Women's Law Center, she has proudly served this important Task Force, continuously keeping cultural and children's issues on the table. Ms. Nadolny Shui thanks husband, Dr. Raymond A. Nadolny, for his unwavering support.

7. Non-custodial Parent:

Brenda Morbauch

8. Non-custodial Parent:

Kevin Turner

Mr. Turner holds a Bachelor of Arts in Urban Planning with a concentration in Urban Economics from the University of Washington. He also holds a Master of Science in Public Policy with a concentration in Finance from the State University of New York at Stony Brook.

Mr. Turner is a proud father and vice president of The Other Parent. The Other Parent was founded on the belief that children need both parents. The Other Parent believes that in the absence of abuse or neglect, both parents have an equal right to legal and physical joint custody of their child. It also believes that both men and women should be held to the same financial obligation for care of their child. The Other Parent is dedicated to serving the best interests of all children by advocating equality and accountability in the family court system. The Other Parent works toward this goal by providing information, referrals and support services to non-custodial parents. The Other Parent recognizes and works against bias in the system, but supports all parents who put their children first and want to protect their rights and relationship with their children, regardless of gender.

Chief Justice's Appointments

9. Court Commissioner Representative: Lonna Malone

Lonna Malone was raised in Eastern Washington and graduated from Washington State University with a B.A. degree in 1973, and she attended the Northwestern School of Law of Lewis and Clark College, graduating with a Juris Doctorate degree in 1986. She was admitted to the Washington State Bar in 1986, and practiced law in the Tri-Cities with an emphasis on domestic relations and criminal defense. She became a partner in the firm of Critchlow, Williams, Schuster, Malone and Skalbania in 1990, and was appointed Superior Court Commissioner to the Benton-Franklin Superior Court in November 1994. Her primary responsibilities in Juvenile Court are handling criminal proceedings, including the Juvenile Drug Court, dependency cases, and Superior Court DVP, and paternity dockets.

She has served as a board member and board president of the Benton-Franklin Sexual Assault Program, secretary-treasurer of the Benton-Franklin County Bar Association, and was a trustee at Columbia Basin Community College from 1993-2004. She has been a member of the Washington State Superior Court Judges' Association Juvenile and Family Law Committee from 1995 to present, served as a committee member of the Washington State Dependency and Termination Equal Justice Committee, and was a Region 2 judicial team leader for the annual CPS/Domestic Violence Summit.

10. Superior Court Judge Representative: Hon. Kathryn Nelson

Judge Nelson is a member of the Washington Superior Court Judges Association. She serves as a member of the Juvenile Court Executive Committee, and was recently elected as Presiding Judge of the Pierce County Juvenile Court. She chairs the Civil Plus Administrative Committee and serves as a Unified Family Court Judge.

She received her bachelors degree from the University of Washington, and her Juris Doctor degree from UCLA School of Law.

11. Administrative Office of the Courts: Janet L. Skreen

Janet L. Skreen is a Senior Court Program Analyst with the Washington State Administrative Office of the Courts (AOC). Ms. Skreen works closely with family law and juvenile court judges and commissioners throughout the state. She is involved in formulating policy, drafting and analyzing legislation and court rules, responding to research inquiries, and staffs the Superior Court Judges' Association Family and Juvenile Law Committee. Prior to joining AOC, Ms. Skreen served as Kitsap County's courthouse facilitator and as a juvenile court commissioner. She has also maintained a private guardian ad litem practice and was a general practice attorney.

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12. Civil Legal Aid Representative:

Leslie Owen

Leslie Owen is the Senior Attorney for the Olympia office of Northwest Justice Project. She received her Juris Doctorate from Seattle University School of Law in 1994. Her current practice involves representing of low-income clients in housing, family law, and termination of public benefits cases. She previously worked for Columbia Legal Services, and served as the Regional Director of the Olympia office for almost four years. Prior to her legal career, Ms. Owen was the director of the Northwest Women's Law Center and the Washington Coalition of Sexual Assault Programs. Ms. Owen is a volunteer mediator with the Olympia Dispute Resolution Center and volunteer clinic attorney for the Thurston County Volunteer Legal Services. She has participated in a number of Access to Justice Board workgroups and subcommittees established to increase representation for survivors of domestic violence.

13. WSBA State Bar Assoc. Family Law Exec Committee Member:

Julie McKay

Julie M. McKay is an attorney and principal in the small law firm of Hatch & McKay, PS of Spokane WA. The focus of the firm is family law, concentrating mainly on mediated settlements of cases; criminal law, both defense and prosecution; and various other areas including personal injury cases, small estate planning, and limited business practice. Julie has been a member of the Family Law Executive Committee (FLEC) of the Washington State Bar Association for the last three years. Her term ends this August 2008. She was appointed to the Dissolution Task Force because she is a member of FLEC. The experience she brings to the Task Force is that of a practicing attorney for the last 18 years in multiple areas of the law that overlap and concern family matters.

14. County Clerk Representative:

Hon. Patricia Chester

Patty Chester was elected the Stevens County Superior Court Clerk in November of 1986. A member of the Washington State Association of County Clerks (WSACC), Clerk Chester for the last four years has served as editor of the monthly newsletter, co-chair of the education committee, and treasurer of the association. Within WSACC, she has also chaired the Records Management Committee, been responsible for the latest re-write of the State Records Retention Manual for Superior Court Clerks in 2001, and has co-chaired the Judgment Committee for the past eight years.

She is a past member of the Board for Court Education, the Minority and Justice Committee, and currently represents County Clerks on the Dissolution Task Force and Washington State Association of County Officials. Clerk Chester has also served on the Court Managers Education Committee, where she helped to plan education events for all levels of state court managers.

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15. Guardian Ad Litem Representative:

Jean Cotton

Jean Cotton is a solo practitioner doing business as Cotton Law Offices, in Elma, Washington, since 1994. She is a graduate of Saint Martin's College and Seattle University School of Law. A substantial portion of her practice consists of a full range of Family, Juvenile, and Elder Law issues, where she serves in her capacity as an attorney as well as a guardian ad litem in Title 11, 13, and 26 RCW cases. She has been an elected member of the Executive Committee of the Washington State Bar Association Family Law Practice Section of the WSBA's FLCE for seven years, and was Chair of that Committee in 2007-2008. She was selected as the 2008 WSBA Family Law Section Attorney of the Year. She has been active in several community and professional organizations including, but not limited to, the WSBA Local Court Rules Task Force, the Supreme Court Dissolution Task Force, and the Attorney General's Vulnerable Adult Task Force. She has been a Municipal Court Judge and District Court Judge, Pro tem, since 1995. Since 1997, she has served as a Judge, Pro Tempore, and/or Commissioner, Pro Tempore, for Grays Harbor Superior Court. Jean was the chair of the 2003 and 2005 Family Law Mid-Year Conferences. She enjoys traveling and playing golf with her husband, Tony, and their daughter, Geneva.

16. Additional Appointment: Hon. Paul Bastine, (Retired Superior Court Judge)

Effective July 20, 1995, Paul A. Bastine was appointed by Governor Mike Lowry to the Superior Court of Spokane County. He had previously been in private practice since 1966, having received his Juris Doctorate from Gonzaga University Law School in 1964. Following law school, he served as a Peace Corps Volunteer and Volunteer Leader in Brazil in 1964 and 1965. After returning to Spokane, he served as a Deputy Prosecuting Attorney in Spokane.

Judge Bastine served as Presiding Judge for Spokane County Superior Court in 1998. In 1999, he became the first Family Law Judge dedicating his full judicial time to the administration of justice in family law. He also served in that capacity in 1999-2000 and returned to that position in 2002 until he retired from full time judicial activity in January 2005. He continues as a pro-tem judge at the present time.

Judge Bastine has been involved in various bar association activities, but most particularly in access to justice efforts. He served as an initial member of the Access to Justice Board, and he was appointed by the Washington State Supreme Court to the Legal Foundation of Washington serving as President of that board. Judge Bastine served as a trustee and President of the Spokane County Bar Association, and was appointed to the Practice of Law Board at its inception and serves as vice-chairman.

In 1995, Judge Bastine received the first annual Gonzaga Law School Distinguished Service Award. In 1998, he was awarded the Goldmark Award from the Legal Foundation of Washington, and received the Washington State Chapter of Trial Advocates, Washington Chapter, Judge of the Year 2004 award. Gonzaga University

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School of Law presented Judge Bastine with the Distinguished Judicial Service Award on September 13, 2005.

President of the Senate Appointments

17. Washington State Senate

Senator James Hargrove

Senator Hargrove was born and raised in Pacific Northwest. He has lived and worked on the Olympic Peninsula for 31 years. He is married to Laurie Hargrove. They are the proud parents of three children: Jimmy, Jewel, and Daniel. All three of their children graduated from Grays Harbor College. He is a member of Grays Harbor Economic Development Council, actively involved in the local Christian community, and a former youth baseball coach.

Senator Hargrove was elected to the House of Representatives from 1985-1992, and to the State Senate from 1993 to present. He has been a member of the following legislative committees: Family Policy Council, Executive Committee; Children's Oversight Committee; Western Legislative Forestry Task Force, former chair.

He received a Bachelor of Science in Forest Management from Oregon State University, and in his professional career he is a forester. His awards and recognitions are as follows:

- 2008 - "Legislative Champion" Washington Coalition of Sexual Assault Programs.
- 2008 - "Champion for Children" Children's Alliance.
- 2008 - Washington State Coalition for the Homeless Award.
- 2007 - "Legislator of the Year" Washington State Medical Association.
- 2007 - Washington State Coalition Against Domestic Violence Award.
- 2006 - "Environmental Champion" Washington Conservation Voters.
- 2005 - "Legislator of the Year" Washington Arms Collectors.

Speaker of the House Appointments

18. Washington State House of Representatives

Representative Patricia Lantz

A 12-year veteran of the legislature, Pat Lantz has been at the forefront of justice issues throughout her tenure and particularly in her role as chair of the House Judiciary Committee. With a B.A. from Stanford, a Juris Doctorate from the University of Puget Sound (Seattle University), and many years as a community activist committed to fairness and equity, she picked up the challenge of "justice in jeopardy" laid down by the justice community.

Her efforts in response to civil legal needs, the failure of the justice system in many instances to meet the constitutional mandates of "*Gideon*", and the growing awareness of weaknesses in dependency proceedings that call for legal representation of parents

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and children, resulted in her receiving the WSBA's Outstanding Official in 2005. Her advocacy on behalf of increased funding for all aspects of the justice system has brought unprecedented new state investments in the third branch of government.

19. Washington State House of Representatives Representative Jay Rodne

Rep. Jay Rodne serves the 5th Legislative District, comprising eastern King County, including Issaquah, Maple Valley, Sammamish and Snoqualmie Valley. He and his wife, Heidi, have two children and live in North Bend. Representative Rodne's legislative priorities include enhancing Washington's education system, making health care more affordable and accessible, creating and preserving jobs, easing traffic congestion and assisting senior citizens. He serves on the following legislative committees: Insurance, Financial Services and Consumer Protection, Judiciary (Ranking Minority Member) and Transportation. Representative Rodne also works as the in-house general counsel for Snoqualmie Valley Hospital, and he obtained his Juris Doctorate, cum laude, from Gonzaga University School of Law. In addition to his role as a lawyer, husband, father, and state representative, Representative Rodne is a Lt. Colonel in the U.S. Marine Corps Reserve and second in command of a 1,200-Marine reserve battalion. He and his unit were activated in February 2003 and deployed to Kuwait and Iraq in support of Operation Iraqi Freedom.

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