Coordinating Judicial Resources for the New Millennium

Project 2001

~Board for Judicial Administration~

Final Recommendations *as reported to the Legislature*

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Project 2001

Preface

"For the first time, under the auspices of the Board for Judicial Administration, as reconstituted, we were asked to take some initiative for self-examination…to achieve efficiencies, availability of justice, cost-savings if possible, and to otherwise modernize the judiciary"

Paul Steere, Co-chair Project 2001

There is no shortage of perceptions and opinions about Washington's judicial system. Judges, court professionals, lawyers, legislators, community and business leaders and citizens all have views that are based on a wide variety of experiences with the courts. Some believe the courts' inadequacies result directly from insufficient funding – too few resources to handle growing caseloads; too many unfunded legislative mandates; and for the trial courts nearly complete reliance on already stretched local government dollars. Others charge the system, with its two-tiered trial court (superior court and courts of limited jurisdiction), is overly complex and unwieldy, resulting in inefficiencies and wasted resources. Jurors report dissatisfaction with long waits and unclear procedures at the courthouse and many courts have seen the response rate from potential jurors reach an all-time low. Some courts are unable to meet minimum time standards, especially for domestic relations and civil cases, because criminal trials take priority over civil calendars. Polls indicate that the public believes their cases take too long and cost too much money.

Just as there are different perceptions about the problems courts face, there are many different ideas for addressing them. In both the 1999 and the 2000 legislative sessions, major court reforms initiatives were introduced offering a wide range of solutions. The 1999 bill, initiated by the Board for Judicial Administration, proposed to increase state funding for operating the trial courts, including jury reforms. The proposals were to be financed by the state general fund in combination with an increase in fines and fees, and would have shifted some of the cost of operating trial courts from local government to the state. Because of its price tag and the lack of support from local government and other stakeholders, the bill was not successful. The 2000 bill which proposed trial court unification, at local option with state funding, and a variety of other operational reforms was initiated by State Supreme Court Justice Phil Talmadge. The bill was not supported by members of the judiciary, and also failed to win passage from the legislature.

These recent efforts, and ongoing concerns in general, led the Board for Judicial Administration (BJA) to undertake a thorough review of the judicial system, implement short-term solutions, and establish a continuing process for improving the courts. In the spring of 2000, the BJA launched Project 2001. From May through October 2000, over 140 people including judges and court managers, county and city officials, state legislators, attorneys, citizens, and others contributed their time and expertise on five workgroups to reach the solutions recommended in this report. A list of the participating individuals is found on page iii of this report.

As described in the following pages, Project 2001 began by analyzing the benefits often associated with a complete reorganization of the structure and funding of the trial courts and concluded that there are tangible ways to improve the trial courts' success without dismantling and rebuilding the judicial system. Through its analysis, the Project committee found that successful trial courts share common characteristics, regardless of their

jurisdiction or configuration. The centerpiece of the Project 2001 recommendations is a series of proposals focusing on these essential elements of effectively managed trial courts:

- *Clear authority of the presiding judge*
- *Flexible assignment of judges to cases*
- *Trial court coordination and collaboration*

Presiding judges should be given greater authority and responsibility to lead the courts. Barriers that restrict the ability of judges to sit in any court that needs assistance must be removed. And, the Board for Judicial Administration can play a crucial role in encouraging courts to pool their resources to find new ways of solving common problems. By accepting the recommendations of the Project 2001 committee, the BJA intends for this report to be "a worthwhile step, one that is conducive to breaking with traditional approaches and devising new ones." (David Rottman and Bill Hewitt, *Trial Court Structure and Performance,* National Center for State Courts, 1996, p.93.)

Study Approach and Background

Project 2001 assigned the analysis of a wide range of issues and problems to five workgroups.

Jurisdiction and Portability Workgroup

While it is generally accepted that the structure of an organization should be determined first and foremost by its business functions, most serious evaluations of court reform begin with the questions of how the courts are organized. Project 2001 charged its Jurisdiction and Portability Workgroup with responsibility for evaluating whether Washington's trial courts should be merged into a single level court. Some of the fundamental issues raised by this Workgroup's analysis are presented below in order to provide context for the Project's ultimate recommendations.

Unification (Merger) of the trial courts

In Washington, unification of all courts in the system under the Supreme Court was considered, and rejected, in 1966 and again in 1973. In the past decade though, other states *have* restructured their trial court systems, typically by reducing multiple levels of court. So, as a fundamental step in its review of court reform, Project 2001 began with an analysis of the experience in other states and the national research describing the effects of unification of the trial courts, sometimes referred to as merger or consolidation of the trial courts. While the term unification covers a diverse set of court reforms, the single core element of court unification is the consolidation and simplification of trial court structure, resulting in a single trial court bench and administration. (Larry Berkson and Susan Carbon, *Court Unification: History, Politics and Implementation,* National Institute of Law Enforcement and Criminal Justice, 1978.) In Washington, complete unification of the trial courts would mean that the courts of limited jurisdiction (municipal and district courts) would merge or consolidate with the superior court in a given judicial district. Throughout this report, the terms unification, merger, or consolidation of the trial courts are used synonymously.

Advocates of court unification believe it results in a simpler court system for citizens to understand, and a more efficient organization for judges and administrators to manage. Unification offers the opportunity for more flexibility in the assignment of judges to various dockets, which helps meet fluctuating caseload demands. A unified system is thought to be more efficient administratively by combining routine functions performed by multiple courts in a jurisdiction, and allowing better communication due to "delayering" the trial courts.

Others, while conceding certain operational efficiencies and some increased effectiveness, view unification as a costly endeavor, the benefits of which do not outweigh the expenses. Many believe there are insufficient judicial resources for significant cross assignment of judges, and therefore the extra productivity associated with a unified trial bench is for the most part unachievable without more trial judges. A unified system is considered by some to lead to an overly centralized authority that is at odds with the philosophy that courts operate best when they are locally managed. Others believe that the benefits gained from unification can be obtained by a system that formalizes cooperation among the trial courts without restructuring them.

Court performance of unified trial courts

Project 2001 reviewed the court unification approach taken in Maine, Michigan, Or-

egon, Minnesota, and California, and most importantly relied upon research conducted in 1996 by the National Center for State Courts and published in the book *Trial Court Structure and Performance, A Contemporary Reprisal.* The thrust of the National Center's effort was to determine the extent to which the unification of trial courts results in improved levels of trial court performance. The report's general conclusion is that while unification of the courts remains a tool for court reform, "*its potential contribution appears to be less than what can be gained from changing other aspects of how trial courts organize their work."* (David Rottman and Bill Hewitt, *Trial Court Structure and Performance,* National Center for State Courts, 1996, p.81) Features such as the leadership structure and methods for flexible assignment of judges appear to contribute more to high performance than does unification. Experience in some of the states analyzed also suggests that a one-tier trial court system sometimes informally recreates a limited jurisdiction court by establishing an unofficial "lower level of judges and staff who process routine, high volume cases."

Centralized control

Many local government leaders strongly believe that oversight of the operation, management, and sometimes even judicial decision-making should remain strictly within the domain of each local jurisdiction. Washington's populist tradition has long supported the notion that judges should remain primarily accountable to the local electorate and has reinforced the position that courts are but one part of a legal and social culture that is unique in each jurisdiction. Court reform that suggests a "one-size fits all" approach is soundly rejected by many.

Against this populist backdrop, unifying the courts, with its potential of greater uniformity in practices, and more centralized control over the functions and operation of trial courts, is viewed with skepticism. Throughout the Project 2001 effort, the commitment to local vs. state control of the courts was expressed by many county and city officials, including judges. For many local leaders, not even the possibility of greater state funding for trial court costs, as desirable as that may be when viewed within Washington's current economic constraints, outweighs the strongly held belief that the management and operation of trial courts should be controlled "at home."

Funding of trial courts

The Project found that in all states that have initiated trial court unification efforts, a crucial component of the effort has been a transition to increased state funding of the trial courts. While the mechanics of moving to greater state funding differ among states, the reality is that unification, even when it is viewed as efficient and desirable, comes at a significant cost. Reassignment of staff, reconfiguration of facilities and organizational procedures, cross-training of personnel, merger of retirement systems, and negotiation of union contracts are examples of the transition work required in a unification effort. Without a significant commitment of funds from the state on an ongoing basis, local governments are not positioned, nor do they have the incentive, to assume the cost associated with such a change. (See Appendix A for current trial court costs)

Trial Court Administration Workgroup

The mission of the Trial Court Administration (TCA) Workgroup was to analyze the administrative services currently provided by courts in a each jurisdiction – for efficiency, duplication, and improvement. In contrast to the Jurisdiction and Portability Workgroup, the TCA was charged with evaluating the effectiveness of courts within the *current* structure. The Workgroup evaluated and recommended specific ways to rein-

force the role of Washington presiding judges in the management of the trial courts. The Workgroup also devised an approach for greater collaboration among trial courts to achieve the most efficient use of resources.

Domestic Relations Workgroup
The role of the Domestic Relations Workgroup was to evaluate the essential components for a successful unified family court, identify improvements in the parenting laws and procedures, and identify a strategy for extending courthouse facilitator programs statewide.

Case Management Workgroup
Project 2001 charged the Case Management Workgroup with the responsibility to review the time in process goals for resolving cases in both superior and district court, and to evaluate the tools and information available to judges to help them measure their performance against the goals.

Warrants Resolution Workgroup
This Workgroup was charged with identifying specific steps the judicial system can take to reduce the numbers of unserved and outstanding warrants, *and* to identify the contributing factors which lie outside the authority of the courts. The workgroup also reviewed options for a more coordinated, statewide approach to handling warrant cases and collecting fines and fees.

While the workgroups identified significant court reform measures that will improve the efficiency and accessibility of trial courts, the Project also concluded that a fundamental limitation to further progress results from the lack of adequate funding overall for the trial courts. Washington trial courts have historically been funded almost exclusively by local government dollars, both municipal and county, however *both* local and state government have an active interest in the operation of the courts. State statutes, as well as local ordinances, are enforced in the trials courts. The state is routinely a litigant, as well as private parties, in civil disputes which require resolution by the trial courts.

While the state has provided funding assistance to local governments for criminal justice costs, most of this support is used for programs outside the court system such as law enforcement and prosecution. In recent years, costs for the justice system have grown steadily until local governments can no longer adequately support the courts. As the Legislature enacts new causes of action, and with the added complexity of domestic relations cases and serious crimes such as driving-under-the-influence (DUI) and domestic violence, the tension between local and state government over adequate funding of the trial courts has grown. How can state and local government balance their interests and funding responsibility for the judicial system? And, what agreements about the oversight and *control* of courts must be in place if the financial responsibility for trial courts is shared between state and local governments? It is doubtful that assertions of unfunded mandates made by local government officials, or demands for reform by state legislators, will be productive in the absence of a long term, shared solution for adequately funding the courts as an independent and equal branch of government. To this end, the Board for Judicial Administration's long-range planning committee will continue to study and initiate proposals to ensure that the Washington judicial system is properly funded.

Project 2001 Highlights

Project 2001 concluded that court reform should focus on how to improve performance and efficiencies within the *current* trial court structure. Through its research on court performance, the committee found there are essential characteristics among successful trial courts, regardless of their jurisdiction or configuration. These keys to success are the framework for the core recommendations of Project 2001.

- *Clear authority of the presiding judge*
- *Flexible assignment of judges to cases*
- *Trial court coordination and collaboration*

- ***Authority of presiding judges.***
  Strong leadership is required for effective implementation of policy in the court system, and to improve the way courts operate. Presiding judges should supervise all court personnel and ensure the effective management of cases by all judicial officers. Presiding judges should be properly qualified and trained and given adequate tools to perform their role.
  (Recommendation 1.3)

- ***Flexible assignment of judges to cases***
  Current law creates a barrier to the most effective use of judges. Presiding judges should be able to appoint a duly qualified judge who has available time to sit in another court that is overburdened with cases. This approach will help balance the workload and resolve cases more quickly. *(Recommendation 2.1)*

- ***Trial court coordination and collaboration***
  A one-size-fits-all approach to effective court management will not work. Trial court jurisdictions must be empowered to bring together judicial leaders, local government officials, court managers, lawyers, and others to work toward maximum utilization of court resources by appointing trial court coordination councils in a jurisdiction, and developing a comprehensive trial court coordination plan. Strong judicial leadership along with funding from the state and technical assistance from the Office of the Administrator for the Courts is crucial to the success of coordination councils. By authorizing and then expecting judges to function in a more collaborative way, the administrative benefits of a unified bench can be achieved without actually consolidating the courts. *(Recommendations 1.1, 1.2)*

- ***Reduce duplication of effort.***
  Constrained resources demand that duplication of administrative effort in the courts be minimized to the greatest extent possible. While there are clear examples of administrative coordination among trial courts in some counties, often such collaboration is informal and dependent upon local circumstances or personalities rather than reflective of overall directed planning. In promoting trial court coordination councils, the Board for Judicial Administration expects courts to combine their administrative efforts wherever possible. Coordination of juror

recruitment, purchasing, probation services, and specialty calendars are examples of areas where multiple trial courts can combine their programs for greater efficiency and better service to the public**.** *(Recommendations 1.1, 1.2, 1.4)*

- ***Promote innovative practices***
  The Board for Judicial Administration would oversee a limited-use fund to encourage trial court coordination councils to employ innovative ideas and best practices. An example of such a program is the community license reinstatement program operated in Spokane and some other counties that reduces the number of outstanding warrants and enables drivers to regain their drivers license. *(Recommendation 3.1)*
- ***Improve case-processing***
  Changes in how cases are heard and who hears them can result in quicker and/or less expensive resolution of cases. Several options are recommended for the courts: the use of mandatory arbitration in district courts, restrictions on "de novo" appeals of small claims cases in Superior Court, streamlining the appeals process in Superior Court ("motion on the merits"), and the option of holding emancipation hearings in juvenile court before a "judicial officer" (as opposed to a judge). *(Recommendations 4.2, 7.2, 7.3, 8.2)*
- ***Increase access to justice***
  In some jurisdictions, over half the parties in domestic relations cases are not represented by an attorney. Courthouse facilitators play an important role for both the court *and* the litigants in these cases. By ensuring that information needed by the judge to make a decision is available, and that forms are properly completed, courthouse facilitators help litigants successfully navigate through the process and keep their case on track. *(Recommendations 9.3, 10.1)* In order for self -represented litigants to better understand what information the court requires, "legal" forms should be produced in a user-friendly format. *(Recommendation 11.1)*
- ***Modernize case management***
  Customers expect to access courts in more convenient ways – for instance electronically from their home computers. "Digital justice" makes sense for courts too because it frees up staff resources for other court tasks. And, universal cashiering, or the capability of any court in the state to receive court ordered payments for any other court, will promote more revenue collection and better customer service. These improvements depend on a judicial information system that uses 21st century technology. The 2001-03 budget request for the Administrator for the Courts includes several improvements to the Judicial Information System to implement this modernization**.** (*Recommendation 6.1)*
- ***Collect performance information***
  Pending caseload reports tell courts whether they are meeting speedy trial standards. Currently only superior courts have this capability. Individual judges in both superior and limited jurisdiction courts need to rely on reports from the judicial information system, which they can run themselves, to help them manage their caseloads. *(Recommendations 13.1, 13.2, 13.3)* A complete list of Project 2001 recommendations begins on page 1 of this report.

Next Steps – Implementation of Recommendations

The Board for Judicial Administration has initiated an action plan that calls for selected legislation to be introduced during the 2001 legislative session. Other recommendations call for court rule amendments which will also be prepared in 2001

Project 2001
RECOMMENDATIONS WITH COMMENTARY

1 COOPERATION, COORDINATION AND COLLABORATION AMONG THE TRIAL COURTS

1.1 **All trial courts in each jurisdiction should develop a comprehensive system of cooperation, coordination and collaboration. The BJA should, by resolution and other appropriate action, promote the establishment of a broadly based trial court coordination council in each jurisdiction, composed of trial court judges, clerks, court administrators, lawyers, citizens, and local officials in other branches of government, to work toward maximum utilization of judicial and other court resources by first developing and then implementing a comprehensive trial court coordination plan. Presiding judges and court managers working with trial court coordination councils and others should actively collaborate to minimize duplication of services and maximize court resources – both judicial and administrative. The BJA should establish criteria for the award of funding to trial court jurisdictions.**

COMMENTARY:

Trial court judges, clerks, court administrators, lawyers, citizens, and other local officials in other branches of government including cities and counties (all busy people) must "come to the table" to discuss trial court coordination in a meaningful way and thereafter be willing to work together to develop and implement a plan of coordination.

In addition to finding ways for courts to be more efficient in their use of resources, the committee also considered the importance of strengthening access to justice as central to this recommendation.

The workgroups and committees of the Project 2001 committee debated among different alternatives in bringing people together. Representatives from city and county government voiced their concern that embodying a trial court coordination initiative in a court rule has a "non-inclusive" effect on the rest of local government outside the court system. Judges suggested that changes in the way courts conduct their business should be led and managed by the judicial system in the form of a BJA resolution. See draft of resolution at Appendix B of this report. Others viewed a "partnership" of cities, counties and the judicial system as the most effective way to promote voluntary coordination of services, particularly if a funding request is to be made to the legislature. After considerable discussion these points of consensus emerged:

- The leadership and initiative for court collaboration of business practices should come primarily from the judiciary.
- The executive and legislative branches of local government should have a meaningful collaborative role as courts plan, coordinate and reorganize activities.
- A combination of "authorities" should be devised to promote coordination activities, including a joint legislative initiative to

1 COOPERATION, COORDINATION AND COLLABORATION AMONG THE TRIAL COURTS (Continued)

request funding for coordination planning and projects, coupled with a BJA resolution to express the clear intent of the judiciary to pursue collaborative efforts.

The project recommends that each jurisdiction should establish a management committee to formalize and allow for cooperation and coordination among the trial courts in a given jurisdiction. This management committee for purposes of this committee report will be termed a "Trial Court Coordination Council."

The Trial Court Coordination Council should consist of the leadership in a given jurisdiction of the superior court, the district court and the municipal courts. In addition to the judges, a council should include senior court administrators, county clerks, lawyers and others including local officials in other branches of government that have a stake in the current system. The lawyer representatives should include not only those that practice civil law but those in the prosecutor's office as well as the criminal defense bar. For an increased sense of cooperation to work, all stakeholders in the system must be represented at the table. While each jurisdiction should decide what specific forum will work best, e.g., a law and justice committee or another specially created group, a definitive body whose purpose is to improve the local court system is fundamental to these recommendations.

Each Trial Court Coordination Council should be charged with the responsibility in a given jurisdiction of developing a coordination plan to submit to the BJA and, thereafter, implementing such plan. This plan would set forth in some detail how a jurisdiction intends to increase cooperation and coordination, and to specify those areas where cooperation would improve the system. Under this scenario, trial courts and the Trial Court Coordination Council in a jurisdiction would receive funds from the Legislature, under the administration of BJA and the Office of the Administrator for the Courts, for each of the following activities: (i) organizing a Trial Court Coordination Council, (ii) developing a coordination plan, and (iii) implementing the coordination plan. The BJA should determine timelines that jurisdictions must follow in order to use the funding effectively.

The project emphasizes the importance of maintaining local options so that courts may develop efficient and innovative approaches that are consistent with their local legal culture. It is a responsibility of presiding judges and court managers to coordinate services and functions with other courts in their jurisdiction to achieve reduction in duplication and the maximum use of limited court resources. There are a variety of examples of collaborative efforts currently in place in Washington courts (see Appendix C). Yakima, King, Snohomish, Jefferson, Clark and Whatcom Counties all have programs involving some level of cooperation between the superior courts and district courts. Often coordination between the district and superior courts is informal and more dependent upon circumstances and personalities than planning. Successful efforts such as these would benefit from a more formal structure to ensure their continuation. These efforts were designed locally to meet the unique needs and characteristics of each location. The Project concluded that activities such as these that demonstrate best

1 COOPERATION, COORDINATION AND COLLABORATION AMONG THE TRIAL COURTS (Continued)

practices should be promoted to other jurisdictions for consideration, and that the Board for Judicial Administration and the Court Management Council should play a role in encouraging trial courts to coordinate their services and activities. Trial court jurisdictions should develop a plan to achieve the goals of coordination. Improvements and implementation successes should be tracked and communicated to all courts in the state.

The enormous productivity gains offered by technology, management, and customer service innovations of the past few decades have greatly expanded the opportunities for administrative cooperation, coordination, collaboration, and even consolidation in the nation's trial courts. For example, dramatic advances in computer and telecommunications technology now allow courts of all types and at all levels to rapidly, i.e., electronically, exchange information for case processing, as well as allow for new vehicles for public access to all of the courts, such as case filing using the internet. While these developments offer the potential for significant gains in the operation of Washington courts, without adequate funding of the JIS system and local data systems, these benefits will not be realized.

Moreover, court management approaches that focus on the functions of courts and the way work can be done more efficiently, rather than on the formal organization of courts, have provided numerous innovations – such as unified family courts, shared juror and interpreter recruitment, and liberal cross assignment between district and superior court judges – that effectively cut across the traditional distinctions between limited and general jurisdiction trial courts. Perhaps most importantly, public expectations for one-stop service counters, pro se assistance, and streamlined court bureaucracy as well as procedures, have all focused attention on court cooperation, coordination, and consolidation.

In addition, experience in trial courts across the nation has suggested that many of the desirable goals and outcomes of court unification can be achieved by implementing collaborative efforts rather than by fundamentally altering the structure and organization of the courts. In particular, a variety of administrative approaches short of complete trial court unification can support the goals of trial courts to:

- reduce functional redundancies among multiple trial courts within a single jurisdiction;
- increase access to the courts and public convenience when using the courts;
- better utilize judge and staff time;
- simplify case processing;
- re-deploy staff and administrators to task and activities not now being completed by the courts; and
- increase flexibility to distribute work more efficiently among trial courts within a jurisdiction.

Finally, court innovations tried across the nation have suggested that the formal structure and organization of a state's trial courts likely has become much less of a determinant of the possibilities for working across different types and levels of courts than was once

1 COOPERATION, COORDINATION AND COLLABORATION AMONG THE TRIAL COURTS (Continued)

thought possible. The project concluded that significant strides can be made by Washington courts by functional coordination of operations; that total consolidation is neither possible or warranted given the funding history and local orientation of Washington trial courts.

The project used a framework for classifying court work process and administrative innovations and explored the numerous opportunities for cooperation and coordination within the existing multi-tiered, largely locally funded, Washington State court system. The project also identified additional innovations that can not be fully implemented without alteration of the Washington Court's current structure, funding, and organization. The types of incentives the Board for Judicial Administration and Office of the Administrator for the Courts might initiate to encourage administrative innovation in courts across the state are noted in this discussion.

A matrix framework (see Appendix D) classifies innovations along a six-point continuum that ranges from "inter-agency cooperation" at one end to an "administratively consolidated single-tiered trial court" at the other. The framework divides administrative innovations by whether they are directed to core court functions or the infrastructure of courts. Specifically, the inventory of core court functions looks at innovations for:

- case filing and management, including calendaring, case assignment, use of judges, and caseflow management;
- record keeping;
- adjudication and making court sessions meaningful, such as the use of interpreters; and
- holding people accountable post-adjudication, such as probation, fee and fine collection.

In addition, the cataloguing of infrastructure-oriented innovations looks at examples of coordination, cooperation, and for purposes of this matrix includes consolidation among courts for:

- policy-making;
- planning, including strategic, long-range, operational, and project planning;
- finance and budgeting;
- staffing and training;
- management;
- communications;
- technology;
- equipment;
- facilities; and
- performance measurement.

A Framework for Court Administrative Cooperation, Coordination and Consolidation

There are six distinct types of court administrative collaboration:

1 COOPERATION, COORDINATION AND COLLABORATION AMONG THE TRIAL COURTS (Continued)

- inter-agency cooperation;
- functional coordination among courts within an existing jurisdiction;
- a joint across-tier administrative structure within or across jurisdictions;
- functional and organizational administrative integration;
- a unified trial court bench; and
- an administratively consolidated, single-tiered trial court.

Within each of the six types of court administrative collaboration there might be a variety of administrative innovations directed at performing the core functions of courts – functions such as record keeping, and caseflow management – as well as innovations focused on the infrastructure needed to support courts. Each of the six types is examined in greater detail below.

Inter-agency Cooperation and Collaboration

Characteristics of an *inter-agency* cooperative approach to court and justice system management include:

- a court works collectively with another court or justice agencies to perform tasks related to case processing or providing the infrastructure needed to support case processing;
- each court or justice agency is administratively independent;
- all personnel are clearly assigned to one court or agency and supervised by one court or agency; and
- an agency or court can alter their agreement with other agencies.

Examples of an *inter-agency* cooperative approach to court and justice system management include:

- prisoners are transported to a variety of court locations by a single source;
- facilities are shared by a variety of courts and agencies, e.g., use of the King County Courthouse and Regional Justice Center
- shared juror/interpreter recruitment; and
- video arraignment equipment linking defendants and courts is used by a number of courts within a jurisdiction or across jurisdictions.

Functional Coordination

Characteristics of *functional coordination* among courts within or across jurisdictions are:

- two or more courts work together to perform functions common to both courts;
- each court is responsible for supervision of its own staff;
- each court has a separate budget and the costs of shared services among courts can be assigned to each court; and
- each court remains administratively independent.

1 COOPERATION, COORDINATION AND COLLABORATION AMONG THE TRIAL COURTS (Continued)

Examples of *functional coordination* among courts include:

- shared juror recruitment;
- shared interpreter recruitment;
- use of judge cross-assignments;
- shared payment and information windows;
- shared courtrooms;
- shared drug courts;
- consolidated court maintenance;
- consolidated PC support and repair; and
- consolidated mail distribution.

Joint Across-Tier Administrative Structure

Characteristics of a *joint across-tier administrative structure* within or across jurisdictions include:

- a capacity to distinguish between limited and general jurisdiction trial court activities;
- each court retains a separate budget and shared activities can be assigned to a particular budget;
- there is a single management structure for all courts within a jurisdiction, except the superior court clerk might continue to be an independent office;
- management staff might have authority over both district/ municipal and superior court operations;
- infrastructure support staff – e.g., accounting, planning, and management staff – are cross-trained and capable of performing a variety of either superior or municipal/district court activities; and
- the court governance structure includes a capacity to identify and resolve issues common to both court levels as well as issues directed solely at one court level.

Examples of *joint-across tier administrative* innovations include:

- all court personnel (excluding judges) are classified and evaluated under a single classification and evaluation system;
- all strategic and long-range planning occurs across court levels; and
- all technology planning, acquisition, and management occurs across courts.

Functional and Organizational Administrative Integration

Administrative *organizational and functional integration* encompasses:

- one court executive officer responsible for all court operations including all court clerk operations;
- a single unified court budget that is divided between state and local funding sources;
- a single unified management structure; and

- two tiers of judges.

Examples of functional and organizational administrative integration. *Note that all of these examples are from states other than Washington State.*

Examples from other states include:

- a combined chief executive officer and chief court clerk designation (e.g., as in the Los Angeles Unified Trial Courts); and
- a single unified court budget that acknowledges two tiers of judges and multiple funding sources (e.g., as in the recently consolidated Florida Courts).

Unified Trial Court Bench

The characteristics of a *unified trial court bench* include:

- one level of trial court judge;
- a single presiding judge within a jurisdiction with other subordinate administrative judges as needed; and
- all of the administrative features of the functional and organizational integrated model described above.

An Administratively Consolidated, Single-Tiered Trial Court

Finally, the characteristics of an *administratively consolidated, single-tiered trial court* include:

- a single court funding source, as well as one level of trial court judge;
- a single presiding judge within a jurisdiction with other subordinate administrative judges as needed; and
- all of the administrative features of the functional and organizational integrated model described previously.

Appendix D provides additional examples of administrative collaboration for both core court services and court infrastructure support sources along each of the six points in the collaboration continuum. The examples presented include items drawn from recommendations of the Washington State Commission on Justice Efficiency and Accountability (JEA) and the Wilson Report of the Courts of Limited Jurisdiction Assessment Survey.

Observations that are pertinent for Washington:

- There is a great deal of opportunity for administrative collaboration within the Washington courts, particular opportunities for combining efforts among courts to provide essential court infrastructure.
- Innovations located at the left hand-side of the continuum – i.e., interagency cooperation, and functional coordination – would require few changes in the structure and organization of the state's multi-tiered trial courts. Also it is likely that innovations on this side of the continuum are far more politically feasible.
- There are limits to innovation given the current structure and

1 COOPERATION, COORDINATION AND COLLABORATION AMONG THE TRIAL COURTS (Continued)

organization of the Washington courts. In particular, innovations directed at record-keeping, case monitoring, the use of court clerks, and court staffing and classification may be limited by the exclusion of the superior court clerk from the administrative structure of the district and superior courts in jurisdictions other than King County.

- There is considerable need to strengthen the role of presiding judges to increase their authority to effectively provide administrative management of cases and resources. Also, presiding judges having greater authority will be especially important in jurisdictions attempting to work across the traditional divisions between limited and general jurisdiction trial courts.
- There are a variety of things that need to be done to enhance the use of specialty courts within the state including, increasing public support, coordinating service delivery with other agencies, assuring access to information, offering specialized skills training, and fostering willingness to rotate judges and court staff into specialty courts.
- The BJA should play a critical leadership role in establishing a long-term program for trial court administrative innovation.
- Recent calls for court reform provide an opportunity for the courts to receive favorable public and policy-maker attention as they innovate.

Ways to Promote Collaborative Administrative Innovation

- develop across-court best practice templates;
- sponsor facilitated across-court planning efforts in pilot jurisdictions;
- document and distribute descriptions of innovations;
- maintain an innovations web page;
- restructure operations of the Office of the Administrator for the Courts to better support cooperation;
- establish a state fund for trial court administrative innovation;
- establish a list of priority innovations that stress the most cost -effective business improvements; and
- establish financial and technical assistance incentives to encourage trial court experimentation with priority innovations, particularly innovations directed towards joint across-tier administration, and administrative integration.

Priority Innovations

The Project identified the following business areas that should be prioritized for Washington's court collaboration efforts:

- establish specialty courts;
- establish infrastructure support projects focused on across court juror, interpreter, recruitment, payroll and accounting, and other consolidated services;
- experiment with a single court administrator for both superior and district courts within a jurisdiction;
- merge court administrative structures in pilot jurisdictions;
- experiment with consolidated court records management procedures;

1 COOPERATION, COORDINATION AND COLLABORATION AMONG THE TRIAL COURTS (Continued)

- establish jurisdiction-wide community outreach and education programs; and
- establish jurisdiction-wide staff training programs.

COMMENTARY:

For the trial courts to operate more efficiently and effectively, they will need additional funding and specifically funding from the state to assist in carrying out and covering the expenses to cooperate, plan and implement the recommendations provided in this report.

The Project supports the concept of additional state funding to pay for a true statewide effort aimed at greater coordination among the trial courts in a jurisdiction. Such funds would cover the initial costs of such an effort and provide the incentive for the counties, the cities, the judges and other officials to cooperate. Without this incentive, cooperation as envisioned in this report becomes problematic. The Project noted a finding from the 1999 Justice, Efficiency, and Accountability Report, which indicated that one of the obstacles to innovation is…"Obtaining initial seed money to implement innovative procedures and subsequently evaluating the procedure to determine if it is indeed a best practice."

1.2 **BJA, working in collaboration with the other branches of government, both state and local, and with trial court judges, clerks, court administrators, lawyers, citizens, and other state and local officials, should initiate a request to the Legislature to establish a funding mechanism to support trial court coordination activities. Funds should be administered by the Office of the Administrator for the Courts at the direction of the Board for Judicial Administration, to cover expenses associated with action by the trial courts in a jurisdiction to coordinate judicial and other court resources and services. The BJA should establish criteria for the award for funding to trial court jurisdictions for developing and implementing a trial court coordination plan. See draft legislation at Appendix E of this report.**

1 COOPERATION, COORDINATION AND COLLABORATION AMONG THE TRIAL COURTS (Continued)

1.3 **The Supreme Court should modify provisions of Superior Court Administrative Rule 4 and Administrative Rule for Courts of Limited Jurisdiction 5 to increase the authority of presiding judges.**

COMMENTARY:

The Project concluded that strong judicial leadership is a critical component of effective courts. Toward this good, the Project drafted a new general rule for trial court presiding judges (Appendix F).

The draft rule includes presiding judge selection criteria, such as management and administrative ability, interest in administrative matters, experience with trial court assignments, and ability to motivate and educate other judicial officers and court personnel. It also specifies a term of office for presiding judges of not less than one year; provides presiding judge supervisory authority over all court personnel and personnel assigned to court functions, including the supervision of judicial officers to the extent necessary to ensure expeditious and efficient case processing; specifies the qualifications, training and assignment of pro tem judges and commissioners; allows, in counties that have multiple court districts, the election of a single presiding judge, by a vote of all judges; and allows multiple court levels in a jurisdiction to elect a single presiding judge.

1.4 **Courts should coordinate, where possible, the scheduling and management of cases that need an integrated disposition, e.g. family/domestic, drug, mental health cases. The BJA should adopt the resolution from the Conference of Chief Justices and Conference of State Court Administrators in support of problem-solving courts.**

COMMENTARY:

The Project recognized that specialty courts may not be suitable or possible for all jurisdictions particularly smaller ones. For example, in small jurisdictions the caseload volume may not warrant such treatment, and there may be only one judge, which creates a "defacto" integration of cases under one judicial officer or department. Still, considerable improvement in case resolution can be made among all trial courts by coordinating calendars in order to group cases with common elements and overlapping issues, thereby increasing the likelihood of resolving the fundamental problems associated with multiple cases e.g. domestic violence.

To better coordinate calendars, courts must develop mechanisms to:

- generate public support for the mission and operations of specialty courts;
- coordinate court, justice and human and social service agency efforts;
- assure access to essential case information;
- train judges and court personnel;

1 COOPERATION, COORDINATION AND COLLABORATION AMONG THE TRIAL COURTS (Continued)

- encourage rotation of judges and staff to serve in specialty courts;
- develop strategies to enhance funding for specialty courts from local and state resources; and
- establish means of measuring successful approaches for specialty courts.

The Project recommends that the BJA adopt the resolution from the Conference of Chief Justices and Conference of State Court Administrators, dated August 2000, in support of problem-solving courts found at Appendix G of this report.

1.5 **The statutory "freeze-out" period for cities that elect to contract with a district court, which effectively requires a municipality to contract for a ten-year period, should be amended. The amended statute should include a two year notice requirement and prohibit cities from terminating contracts within a four-year term of a district court judge.**

COMMENTARY:

In discussing reasons that have led to an increase in the number of municipal courts, the Project reviewed RCW 3.46.155 and 3.50.810, which effectively places a ten-year requirement on cities that opt to contract for district court services. Anecdotal evidence suggests that some cities might be more inclined to consider contracting with the county if they were not "locked in" for a decade. Additionally, a representative from the Association of Cities reported that, in his view, the success of cities in Benton/ Franklin Counties to coordinate for regionally provided services was in large part due to the ability of each city to withdraw from the joint agreement within a reasonable period of time if the contractual arrangement did not prove to be satisfactory. The Project concluded that statutory provisions should be repealed to eliminate the "chilling effect" on those cities that view contracting for court services as a viable alternative to establishing an independent court. The Office of the Administrator for the Courts should develop a model contract for judicial services that includes provisions for notice, and emphasizes the importance of planning to reduce the impact on jurisdictions when a change in the contractual relationship is considered. The provisions of RCW 3.50.805, which prescribe the steps a municipality must follow in order to withdraw from the county court system, should remain intact so that when a municipality decides to abolish its court or criminal ordinances, it must plan for the impact that decision will have on the county. See draft of legislation at Appendix H of report.

1.6 **The Board for Judicial Administration should study the current statutory provisions allowing multiple districts for district court within a single county. The study should determine for district courts which structure is more effective and efficient; multiple districts within a county or a single district.**

COMMENTARY:

In the discussion of developing and promoting a more coordinated approach to court business, the Project considered the current statutory provision that allows for multiple district court districts within a single county. Project 2001 generally supported the position that the district court is most effectively managed as a single court in the county rather than as a set of distinct, individual courts. In many locations, jurisdictions that have moved to a single countywide district have retained the former district court locations to accommodate citizens' access, but have combined functions such as budgeting and management responsibilities for greater efficiency. Typically, counties that comprise a single district establish separate electoral districts to

1 COOPERATION, COORDINATION AND COLLABORATION AMONG THE TRIAL COURTS (Continued)

1.7 **The Project 2001 Committee supports the concept of minimum certification standards for courts of limited jurisdiction and recommends the Board for Judicial Administration continue to study the issue.**

provide for the election of district court judges by subcounty. While the Project viewed this as a potential area where some efficiency might be gained, it recommends further study by the District and Municipal Court Judges Association and the Board for Judicial Administration.

COMMENTARY:

The Project took no action on ARLJ 7, the proposed court rule setting forth minimum certification standards for courts of limited jurisdiction, however, the Project supports the concept of minimum certification standards for courts of limited jurisdiction and recommends the Board for Judicial Administration continue to study the issue.

2 PORTABILITY OF JUDGES AND CASES

2.1 **Statutory, constitutional and court rule changes should be made to allow a previously elected judge, active or retired, to sit in any trial court (superior, district or municipal court) at the request of the presiding judge, pursuant to supreme court rule.**

COMMENTARY:

Several counties currently are engaged in some limited examples of judicial portability. For example, in many smaller counties, the district court judge also serves as a superior court commissioner. The proposal in Appendix I takes a big step toward increasing the use of limited jurisdiction court judges, appellate court judges and retired judges (as defined in the proposed statute) in superior court.

The present constitutional and statutory framework allows attorneys and litigants to hamper local efforts to enlarge the pool of available resources to hear both civil and criminal cases. The ultimate goal of this recommendation is to give local courts the flexibility to meet trial needs based on local conditions, resources and talents.

Under this proposal, the superior court presiding judge would play a key role in the assignment of judge pro tems from other courts. He or she would obtain the consent of the judge pro tempore, (so the judge pro tem would not be compelled to take a case he or she is not comfortable in hearing). The realities of political responsibility are such that a presiding judge would ultimately have to "answer" for such assignments, and thus assignments would have to be made with regard to the ability and experience of the assigned judge.

Under this proposal, it is anticipated that judges from other courts would most likely be used for routine calendars that involve non-dispositive proceedings (arraignments, motions, etc.). Less often, judges might also be given emergency assignments in circumstances where the court has experienced a highly unusual fluctuation in case filings. A presiding judge might also make a "court congestion assignment" in those circumstances where significant backlogs have developed in a court. Related decisions about facilities, court reporters, sharing of personnel, etc. can be negotiated on a local basis, and do not need to be addressed in statute or court rule. Several examples already exist (e.g. King County and Yakima County) where creative local arrangements have taken place.

The action would be neutral in terms of judicial salaries compared to the present statute. That is, the existing law already prescribes how pro tem judges are paid, (i.e. no extra pay for active judge) and leaves intact the present compensation for retired judges.

The judges who would be used as judges pro tempore under this proposal are all ones who have been elected by, and remain accountable to, the public. Litigants would still retain the power to prevent an assignment by the single statutory affidavit of prejudice, but could not continue to veto the usage of pro tem judges, except when the pro tem is an attorney and not an elected judge.

The Project considered whether any specific changes are needed to allow superior court judges to sit in courts of limited jurisdiction. Since true cross-assignability would recognize that instances may occur where the district or municipal court has a need that can be

2 PORTABILITY OF JUDGES AND CASES (Continued)

filled by a superior court judge (or an appellate judge or retired judge). The laws that exist for assignment of pro tem judges in district and municipal courts are more flexible than is the case in superior court. The specific statutes (RCW 3.34.130, 3.50.090 and 35.20.200) simply allow appointment of any judge or lawyer as pro tem without the consent of the parties (although subject to an affidavit of prejudice). Recent statutory changes now put the power to assign municipal court pro tem judges to the presiding judge, rather than the mayor. Thus, where it is contemplated that superior court judges might be used in limited jurisdiction courts (for example, in certain specialty courts such as DV, mental health) on a regular basis, the local courts should create "working agreements" to spell out the details. It should be noted that district and municipal court judges only get 30 days of pro tem time per year before their salaries are docked; a statutory exception might be wise in these matters.

The Project looked at ways to move some civil cases from superior court to the district court. Even though the civil jurisdiction of the district courts has continually been expanded over the last 20 years, and was most recently increased to $50,000, the fact remains that in most medium to large counties, there has been a historic reticence on the part of many attorneys to file cases in the district courts. Even though these cases, when filed in superior court, do not often proceed to trial, they still require some time and resources in pretrial management.

The reasons for the failure of civil practitioners to file these cases in district court vary from some that are questionable (i.e., the particular personality of the local bench) to practical (the prospect of an extra level of appeal, limited discovery, lack of mandatory arbitration, enforcement of judgments and need to certify judgments in superior court in order to establish liens).

Serious consideration was given to creating a mechanism which would put strong power in the hands of the local presiding judge of the superior court to involuntarily transfer cases to district court. The presiding judge would have the power to take a look at the status of dockets, complexity of the case and discovery issues, etc., and transfer the case without the permission of the parties. This transfer could be made either at the early stages of the case, or after a party filed for trial de novo after mandatory arbitration.

Ultimately it was decided not to pursue this idea for several reasons. First, the arbitrary power to move cases from superior court to district court would not foster a cooperative working relationship between the trial courts in some counties, given the real possibility that the power could simply be used in a heavy handed fashion by a superior court presiding judge. Secondly, there are legitimate objections that attorneys might raise about the fairness of moving a case to a forum where there are smaller juries, less formal discovery available, and the prospect of a costly and time-consuming RALJ appeal following a judgment, all of which would be imposed without their consent. In the final analysis, the goal of trying to achieve a more efficient use of trial court resources, and fostering a closer working relationship between the trial court benches, staffs, and clerical departments can be best

2 PORTABILITY OF JUDGES AND CASES (Continued)

achieved by reforming the way pro tems judges can be assigned in superior court.

The Project also looked at the possibility of creating exclusive original jurisdiction in the district court of some smaller civil cases (e.g. $10,000 or less in issue), but concluded against recommending this particular concept as well. There are several reasons why. The necessity of amending the State constitution to allow this was considered as a hurdle, but not an impossible obstacle. The main reasons actually were practical: creating exclusive jurisdiction in the district court of some "small" civil suits would seriously undercut mandatory arbitration programs in superior courts. Although criticized in some counties, by and large mandatory arbitration is still seen as a faster way of disposing of the majority of small civil suits as opposed to a trial track in district court. Although a mechanism could be devised to identify what a "$10,000" case is, and would be easily done in debt cases for a sum certain, this would be much harder in tort claims. Experience in counties ranging from large to small is that most of these "small" civil cases are debt collection cases. Although they require some pre-trial management, usually it is minimal. Many, if not most, of these cases are resolved by default judgment, summary judgment, or some non-trial resolution.

The "solution" of creating exclusive jurisdiction of certain small civil cases in district court is not necessarily even helpful in all 39 counties, as it was observed that in most smaller counties the distribution of civil cases is acceptable as is. The ultimate recommendation here is that it makes sense to move judges where needed by allowing for flexible pro tem assignment, rather than to move cases.

COMMENTARY:

Many citizens complain that small claims judgments are worthless because they are difficult to enforce. The holders of judgments should be permitted to obtain discretionary attorney fees of up to

3 COURT IMPROVEMENT FUND

3.1 **The BJA, working in collaboration with the other branches of state and local government, should seek funds from the Washington State Legislature to be placed in an account administered by the Board for Judicial Administration and the Office of the Administrator for the Courts. The fund should be used to initiate innovative court programs. The funds appropriated should be sufficient to provide evaluation components and to study integration and institutionalization of valuable approaches and best practices developed in these projects into all the courts of the state.**

COMMENTARY:

Stable funding on a basic level for all courts is a desirable long-term goal; however, a limited approach compatible with the Project's overall approach is appropriate at present. The BJA, working in collaboration with the other branches of state and local government, should seek funds from the Washington Legislature to be placed in an account administered by the Board for Judicial Administration and the Office of the Administrator for the Courts. See draft of resolution at Appendix B of report. The fund should be used to initiate innovative court projects. The funds appropriated should be sufficient to provide evaluation components and to study integration and institutionalization of valuable approaches and best practices developed in these projects into all the courts of the state. Counties could then provide additional funds for family law centers and other local projects that are deemed desirable or necessary to address local issues and support best practices developed in the projects. The funds to be used for court improvement serve a different purpose than the funds used for forming trial court coordination councils and developing coordination plans, although the funds may be placed in the same OAC account.

The Board for Judicial Administration should direct the Office of the Administrator for the Courts to promote pilot projects using the state fund for court administrative innovation.

The role of the OAC would include:

- administering the state fund for court administrative innovation;
- inventorying potential administrative innovations;
- providing staff and consultant expertise for facilitating trial court collaboration;
- documenting experimentation within jurisdictions; and
- reporting the results of innovative projects to the BJA and other court support organizations.

3.2 The Board for Judicial Administration's newly created Best Practices Committee should act as a clearinghouse to promote best practices and innovative ideas among all trial courts.

COMMENTARY:

A key to effective trial court collaboration is the ability of trial courts to share information and experiences that are successful. The BJA's Best Practices Committee has been formed to promote best practices and innovative ideas.

4 CIVIL LAW IMPROVEMENTS

4.1 **Holders of judgments from small claims court should be allowed to obtain discretionary collection fees including attorney fees of up to $300.**

$300 added to a small claims judgment turned over for collection. By doing this, litigants will not be as likely to file civil cases on the regular district or superior court docket, where they take up additional judicial resources.
See draft of legislation at Appendix K of report.

COMMENTARY:

One factor that may lead parties to file their civil cases in superior court instead of district court is that superior court offers mandatory arbitration, which many feel is a good way to expedite "small" civil cases through the system. The Project concluded that district courts should be allowed to adopt mandatory arbitration as a local option. Counties in which both trial courts have adopted mandatory arbitration may find it beneficial to coordinate their arbitration programs. See draft legislation at Appendix L.

4.2 **The Board for Judicial Administration should draft legislation to allow mandatory arbitration under RCW Chapter 7.06 in the district courts as a local option.**

5 CRIMINAL LAW IMPROVEMENTS – REDEFINING CERTAIN FELONIES

5.1 **The Board for Judicial Administration should study the monetary levels that define certain property offense felonies in order to redefine them as misdemeanors.**

COMMENTARY:

The Project concluded that certain lower-level felonies might more appropriately be handled by courts of limited jurisdiction. Some common property offenses, such as Theft, Possession of Stolen Property, Malicious Mischief and Unlawful Issuance of Bank Check (UIOBC), should be reviewed with the possibility of raising the level of what constitutes a felony. The amounts defining the crime have not been changed since 1975. The issue requires further study including an analysis of the fiscal and workload impact to both the superior court and the courts of limited jurisdiction. This study should be completed prior to the 2002 legislative session.

6 ENFORCEMENT AND PAYMENT OF JUDGMENTS AND WARRANTS

6.1 **Electronic access for payment of court-ordered fines and penalties should be pursued as a priority of Judicial Information System. "One-stop shopping", or universal cashiering, as it is often called, should include the ability of a court to receipt a payment ordered by another court using the Judicial Information System Committee (JIS).**

COMMENTARY:

In Washington State there are approximately 370,000 outstanding warrants, issued by courts, which have not been served on defendants. The inability of the criminal justice system to enforce judgments of the court results in a system that lacks credibility with the public. After undertaking an in-depth review of this problem, Project 2001 determined that most of the impediments to solving it lie outside the judicial system's authority. While the recommendations presented below will have a positive effect on the problem by resolving a portion of warrants or reducing the number issued, none address the fundamental reason for the magnitude of the problem. For example, significant proportions of outstanding warrants are issued for Driving While Suspended 3rd degree (DWLS 3rd). The majority of these warrants are the result of economic factors that impede those owing the court money from satisfying their obligations. Issuing a warrant in these cases often does little to solve the problem, but the court has few alternatives short of completely ignoring the outstanding fines. One result of using warrants to enforce debt repayment is a system that disproportionately uses scant resources for some of the least serious crimes. As long as legislative enactments create new crimes and increase penalties, economic pressure will continue to push a large group of defendants into non-compliance. This, coupled with jail space shortage and the lack of enforcement resources, severely limits the potential for solving this problem within the judicial branch.

6 ENFORCEMENT AND PAYMENT OF JUDGMENTS AND WARRANTS (Continued)

6.2 **The OAC should establish a statewide protocol for collection of delinquent court-ordered financial obligations. A committee including court managers and judges should provide oversight.**

COMMENTARY:

The original intent behind this discussion was to propose removing all collection activities from the courts, and to place responsibility for collecting court obligations in a central entity. As discussion progressed, a much less aggressive first step, involving turning over delinquent collections to a single collection agency was perceived to be more politically and practically realistic in Project 2001's time frame. The Project recommends that OAC contract with a single collection agency for collection of delinquent court ordered financial obligations. With that preliminary step in place, the Project recommends continued effort be put into the goal of eventually removing all collection activity from the courts. The Workgroup, recommending this concept, found during its discussions that there is a great deal of support for this concept, but that practical and philosophic difficulties exist.

6 ENFORCEMENT AND PAYMENT OF JUDGMENTS AND WARRANTS (Continued)

6.3 **Courts of limited jurisdiction are encouraged to establish community license reinstatement programs, with voluntary participation by individual jurisdictions. The Office of the Administrator for the Courts should serve as a repository for information, and provide guidance and assistance to jurisdictions in developing programs.**

COMMENTARY:

Community license reinstatement programs establish payment plans for defendants who have lost their drivers license as a result of multiple violations and outstanding financial obligations. This proposal includes the statewide use of a single collecting agency, or another method, for all courts to provide a more coordinated approach to collections. Recognizing that DWLS 3rd degree charges contribute significantly to the volume of outstanding warrants, Spokane and King Counties, and the city of Seattle have implemented some form of license reinstatement program. They are viewed as successful attempts to curb the number of people driving without a license, and therefore, affect the warrant problem. These programs are tailored to local needs and availability of resources.

In Spokane, potential program participants are pre-screened and upon acceptance into the program are required to make monthly payments on outstanding court ordered financial obligations. The program recognizes that many of these charges result from financial hardship. Efforts are made, in cooperation with community organizations, to get participant licenses reinstated and address issues underlying the suspension. Spokane has been successful in reinstating licenses for a number of drivers. Similar results are expected in other jurisdictions. Recognizing that one size does not fit all, the Project emphasizes that participation should be voluntary and geared to the unique needs of each jurisdiction participating.

The Project recognizes that license reinstatement is only one issue susceptible to resolution by a restorative justice model. The Project encourages that this program be expanded to provide assistance in developing other creative approaches to criminal justice issues.

6.4 **The Board for Judicial Administration should study whether all legal financial obligations (LFO) in criminal cases, except those related to restitution should be decriminalized.**

COMMENTARY:

Currently courts appear to be inconsistent in approaches used for collection and issuance of warrants when clients fail to respond to show cause summons for failure to comply. Civil processes might be as effective or more effective than criminal process for collection of these financial obligations. The BJA should convene a group to study the issue.

7 APPEALS FROM COURTS OF LIMITED JURISDICTION

7.1 **Procedures for small claims appeals should be governed by the Rules on Appeal for Courts of Limited Jurisdiction (RALJ). They should not be heard de novo.**

COMMENTARY:

Small claims courts offer a simple forum for citizens to handle small civil disputes in an inexpensive manner. It is important to keep small claims court as a vital and meaningful means of providing citizens with a way to deal with smaller civil disputes without utilizing the standard civil trial track. The present $2,500 jurisdictional level for small claims court is consistent with this objective, and should not be raised.

However, when small claims cases are taken up on appeal, they take a disproportionate amount of superior court resources. Various changes made in the small claims appeals process in 1997 actually made the appeals process more cumbersome. Appeals to superior court should not be de novo trials. The 1997 "reforms" created an illogical process by which appeals are supposedly de novo, but no new evidence can be taken. The appeals should be on the basis of errors of law, just as any other appeal. Appellants should be asked to verbalize "why" a trial court was legally wrong, and not just argue that somebody is more believable than an opponent. This would require that all small claims cases be on the taped record, as with other district court matters. This is practically no burden, since the taping equipment is in place, and most district court judges routinely tape small claims cases anyway, for a record, in the event of a complaint to the Commission on Judicial Conduct. Another "reform" that was adopted in 1997 was to subject small claims cases to mandatory arbitration in superior court. That makes no practical sense and makes what is supposed to be a simple process lengthy and complicated. See legislation at Appendix J of this report.

7.2 **The Rules For Appeal of Decisions of Courts of Limited Jurisdiction (RALJ) should be amended to allow a procedure that parallels a "motion on the merits" as authorized in RAP 18.14 for appeals to the appellate courts.**

COMMENTARY:

One of the impediments that tends to discourage litigants from filing civil cases in district court is that any judgment is subject to a first round of appeals in the superior court, under the Rules for Appeal from Decisions of Courts of Limited Jurisdiction (RALJ) before the case can go to the Court of Appeals or Supreme Court. This extra round of appeals adds 6 to 12 months to the process.

There should be a method by which the RALJ process can be shortened, especially when the issues are substantially "cut and dried." A model for such a vehicle is currently found in the Rules on Appeal (RAP) which govern appeals to the Court of Appeals and Supreme Court. RAP Title 18.14 sets forth a procedure called a "Motion on the Merits." Under this procedure, a respondent on appeal can move for summary disposition of a case where the issues are clear. Such a model has merit for both civil and criminal appeals to superior court. Some appeals, such as traffic infractions, are a prime candidate for summary treatment. The

7 APPEALS FROM COURTS OF LIMITED JURISDICTION (Continued)

7.3 **The RALJ should be amended to require all matters in courts of limited jurisdiction to be recorded and appealed under RALJ provisions.**

Superior Court Judges' Association and the Supreme Court should prepare changes to RALJ similar to RAP 18.14.

COMMENTARY:

The Project considered whether all matters in courts of limited jurisdiction should be recorded. All courts of limited jurisdiction are required by RALJ 1.1 to record all proceedings with some exceptions. Small claims cases are excepted from the rule as are all proceedings heard by a nonlawyer judge. (There are currently four nonlawyer district court judges and six nonlawyer municipal court judges in the state.) The other exception to the rule is for municipal courts operating in jurisdictions with less than 5,000 in population. There are currently 65 municipalities that have a municipal court in jurisdictions with less than 5,000 in population. Some of these may be voluntarily recording proceedings, but it is not currently a requirement.

Many courts record proceedings such as small claims as a means of providing a record of the hearing in the event a complaint is made against the judge. The Project recommends all courts of limited jurisdiction record all proceedings. This would eliminate the de novo appeals process in superior court as well as providing a record for litigants in courts of limited jurisdiction. See draft of court rule at Appendix M of report.

8 FAMILY AND JUVENILE LAW IMPROVEMENTS

8.1 **The Board for Judicial Administration should recommend a plan for the development of training curricula and continuing education for all professionals who work with parents and children in dissolution, legal separation and parentage cases. These include, but are not limited to, judges, attorneys, courthouse facilitators, guardians ad litem, parenting evaluators, parenting class instructors, mediators, and arbitrators.**

8.2 **Emancipation of minor petitions should be filed and heard as juvenile court actions. RCW 13.64.040 should be amended to clarify that any judicial officer, including commissioners, may hear these matters.**

8.3 **The Washington State Supreme Court should adopt a court rule providing "unbundled legal services" as an approved, ethical means of delivering legal services in the State of Washington.**

COMMENTARY:

Juvenile court personnel are likely to be in the best position to evaluate the social circumstances of a juvenile who wishes to become emancipated. However, the current statute simply states that the petitions are heard "before a judge sitting without a jury". While it appears that some jurisdictions are hearing these cases in juvenile court, the statute should be amended to clearly allow for this practice. Specifically, the word "judge" should be replaced with "judicial officer". See draft of legislation at Appendix N of this report.

COMMENTARY:

"Unbundled legal services" means providing limited and specific legal services, sometimes referred to as 'discrete task representation' as contrasted with full representation throughout the life of a case. For example, an attorney may draft a qualified domestic relation order or appear at a specific court hearing but not represent the client in all other phases of the case. The importance of unbundling lies in the increased access it gives pro se parties to affordable, competent legal assistance, and hence, more meaningful access to the courts. By choice or economic necessity, more than 70 percent of family law parties represent themselves. Unbundling provides them the means to get help on critical issues. The resources of the court can be better used to adjudicate the complex issues presented in family and juvenile cases instead of spinning its wheels resolving the dilemmas posed by the ill-prepared pro se litigant.

COMMENTARY:

Property inventory, valuation, characterization, even division can be

8 FAMILY AND JUVENILE LAW IMPROVEMENTS (Continued)

8.4 **The Superior Court Judges' Association should encourage each county to provide parents with information about agencies and individuals who are available for supervising alternate residential time and exchanges of the children. The Association should also seek a county to pilot a program using masters or referees to work with parties seeking a dissolution to facilitate early verification of issues in dispute and early stipulations to matters not in dispute. The Association should request that each superior court distribute an information packet for domestic violence victims explaining their right not to participate in programs that may be dangerous to them, such as parenting class and mediation with their abuser, suggesting alternative programs. The Association should recommend that each superior court provide parenting classes.**

8.5 **The Domestic Relations Committee of the Board for Judicial Administration should monitor the King County Early Mediation Pilot Project.**

facilitated using a master or referee to work with the parties, thereby narrowing the need for discovery and trial preparation. Early intervention regarding parenting issues should also be piloted to obtain early interventions of high conflict families, early parenting evaluations, early education about parenting during and after dissolution, and options for the development of parenting plans. Goals would be increased safety, reduced discovery and expert reliance, mediated parenting plans, and better educated post-decree parents.

Parenting classes should be offered in a variety of formats, including: classes at the courthouse and in alternate locations (e.g., community centers); at times (e.g., evenings and weekends) that are more easily accessible to parents; and in formats such as videotapes, DVD, Internet, and on public-access television. These classes should address the effects of divorce on the children and the role of the divorced parent.

COMMENTARY:

The Early Mediation pilot project is a project of the King County Bar Association. The project includes assignment of a mediator from the KCBA Lawyer Referral Service. Participation in the program is voluntary. The goal of the program is early intervention to capture agreement on temporary order issues when possible.

9 COURTHOUSE FACILITATORS AND ACCESS TO JUSTICE

9.1 **The Washington State Legislature should amend RCW 2.56.030, which generally sets forth the powers and duties of the Office of the Administrator for the Courts, to add a new section that would generally provide that the Office of the Administrator for the Courts, in consultation with the Washington State Bar Association and the Access to Justice Board, shall periodically undertake an assessment of the unmet civil legal needs of low income people in the state, including the needs of persons who experience disparate access barriers to the courts, and develop a funding plan to meet the civil legal needs of such persons.**

COMMENTARY:

The need for family law courthouse facilitators is clearly documented by the growing demand for these services in the counties that offer this type of assistance to self represented litigants. The need for such services in other areas of the law is less documented. This recommendation provides a mechanism to canvas the unmet needs of the poor, vulnerable and others who experience disparate access barriers to the courts in order to develop a long term funding plan to increase access for these citizens. The plan should address unmet needs in all trial courts, including the courts of limited jurisdiction. It should also include barriers that hinder access for persons with disabilities.

9.2 **The Supreme Court should adopt a court rule that allows for the expansion of courthouse facilitator services throughout the state, establishes qualification and training requirements for family law courthouse facilitators to be administered by the Office of the Administrator for the Courts, defines the basic services provided by courthouse facilitators, authorizes facilitators to provide those services, and provides that no attorney-client relationship is created between a facilitator and the user of the facilitator services.**

COMMENTARY:

Adoption of proposed court rule GR 24 and establishment of basic qualifications and training are determined on balance to be an effective compromise to adequately provide 1) consumer protection against unauthorized practice of law issues for the public, 2) limited immunity from prosecution and civil suits against facilitators and 3) consistent and adequate levels of service and benefits to the courts in ensuring access to justice. GR 24 should specify that no attorney-client relationship is created outright or should be implied or inferred from use of the facilitator's services and no confidentiality exists between the facilitator and the user of the facilitator's services. It is believed that all individuals currently performing facilitator services would meet or exceed basic qualifications. See draft court rule at Appendix O.

In order to obtain buy-in from the stakeholders, prior to the implementation of courthouse facilitator programs in counties where they do not currently exist, the OAC should sponsor informational sessions involving judges, legal service providers, members of the public, clerks and court administrators.

The OAC should promote and support courthouse facilitator programs as follows:

- conduct a cost-benefit analysis of facilitator programs;
- analyze options and recommend a method of funding facilitator programs, including drafting necessary statutory amendments;

9 COURTHOUSE FACILITATORS AND ACCESS TO JUSTICE (Continued)

- conduct an assessment of staffing levels needs especially in smaller and rural jurisdictions;
- provide training opportunities including support for annual meetings of facilitators;
- analyze the extent of language barriers faced by users of courthouse facilitator services; and
- assist jurisdictions in the development of pro se instruction packets.

COMMENTARY:

Courthouse facilitator programs in family law could serve as a model for programs in other areas of the law. The Office of the Administrator for the Courts should promote and support programs in other areas of law as recommended by the BJA.

9.3 **The Board for Judicial Administration should study and determine if courthouse facilitator programs should be implemented in other areas of law that have a significant pro se presence, such as stepparent adoptions, landlord/tenant, and probate/guardianship.**

COMMENTARY:

This recommendation arose out of discussions relating to the qualifications of part-time judges; specifically, how best to make sure

10 EDUCATION

10.1 **Mandatory continuing judicial education requirements for all judicial officers including part-time judicial officers should be established and tracked.**

that those lawyers in the state that also sit as part-time judges (as opposed to those who serve only as the occasional judge pro tempore) are adequately trained and educated to assume the position of a judicial officer, even on a part-time basis. The Project recommends that those persons serving as either full-time or part-time judicial officers should be required to maintain a minimum of continuing judicial education hours annually to maintain and improve their skills as judicial officers. OAC should be charged with the responsibility to monitor compliance with these requirements. The Board for Court Education (BCE) should develop a curriculum, subject to BJA approval, of subjects and classes that judges should be required to take on a cyclical basis. For example, ethics education, which assists part time judges to minimize conflicts of interest, should be offered. Education opportunities that help judges meet the requirements as conveniently as possible should be developed, e.g. computer-based training that can be accessed from the judge's office or home.

COMMENTARY:

Judges depend upon accurate and comprehensive information to make good decisions. However, legitimate concerns about identity theft and personal safety have heightened the need to ensure the protection of information contained in court records. While personal information contained in family law cases is considered to be potentially the most vulnerable to misuse,

11 PATTERN FORMS

11.1 **Pattern forms should be produced in a user-friendly format. Forms should be available in the most common software programs, and should incorporate clear, simple instructions.**

COMMENTARY:

The Pattern Forms Committee should revise the Washington Pattern Forms from a statutory-based legal language format to a "user-friendly" format. Forms with side-by-side translations into specified foreign languages should be created. The format should be applied to all forms created by the committee. Making the forms easier to understand and use is particularly important for the mandatory forms in family law cases, given the high percentage of pro se litigants. The Office of the Administrator for the Courts should contract with a professional writer/graphic designer who would work with the Pattern Forms Committee. The Pattern Forms Committee should collaborate with the Judicial Information Systems Committee to create easy to use computerized forms. The Office of the Administrator for the Courts should make the forms available in both Word and WordPerfect versions to assist pro-se litigants and attorneys in accessing and preparing the forms more easily.

11.2 **The Pattern Forms Committee should work with the Domestic Relations Commission, the Superior Court Judges' Association and other interested groups to provide additional information and clarification on parenting plan forms.**

COMMENTARY:

Additional information should be provided regarding child developmental stages with the parenting plan forms and during parenting classes. Once this information is developed, family law courthouse facilitators could disseminate the information. The groups should provide sample creative residential schedules to give parents some ideas for alternatives. The BJA should discourage the use of versions of parenting plan forms that list only one or two possible residential schedules.

The instructions on the parenting plan forms regarding the circumstances under which *as agreed* and 50/50 residential schedules are permitted should be clarified. RCW 26.09.187 sets forth factors that must be found if a court is to order shared residential schedules for minor children. However, these schedules should never be allowed in families with high conflict or a history of domestic violence. This information should be provided in both the parenting plan instructions and on the parenting plan form itself. The restrictions imposed by RCW 26.09.191 regarding temporary and permanent parenting plans should be provided with the parenting plan forms.

Additional information regarding alternative dispute resolution should be developed and provided to parents. This information should clearly define counseling, mediation, and arbitration and provide step by step information on when and how to invoke the dispute resolution mechanism in a parenting plan dispute.

12 RECORDS MANAGEMENT

12.1 **The Board for Judicial Administration, in conjunction with the Judicial Information System Committee (JIS), should work with interested groups to implement methods for protecting personal and confidential information contained in physical and electronic court records.**

confidential information contained in civil protection cases and even traffic and criminal files must be held in such a manner that it is available for the court to adjudicate cases effectively, but is protected from misuse by the public. The Legislature and various interest groups are currently discussing methods to balance privacy needs with the right of the public to access court information. The Judicial Information System Committee's Data Dissemination Committee also plays a leadership role in the search for solutions. Because this issue is one in which the judiciary must have a coordinated and unified position, the Board for Judicial Administration should also play a central role.

COMMENTARY:

There are currently no case management reports for the courts of limited jurisdiction comparable to those available for superior courts. The proposed case management project for the courts of limited jurisdiction provides these reports. The committee adopted the following recommendations in this area.

- The Courts of Limited Jurisdiction Case Management project should be given a high priority by JIS.

13 CASE MANAGEMENT

13.1 **Reports similar to those available to the superior courts for caseflow management should be prepared and made available to district court and municipal court judges and administrators and Project 2001 should give its support to the Courts of Limited Jurisdiction Case Management project.**

13.2 **The OAC should establish an ongoing committee to address improvement of caseflow management reports for the superior court, creation of an effective set of caseflow management reports for the district and municipal courts, and the development and dissemination of approaches to individual case management including using existing SCOMIS (Superior Court Management Information System) data to create reports appropriate to effectively manage a judge's assigned caseload and individual cases themselves. That committee should also develop a training curriculum and work with the Superior Court Judges' Association and the District and Municipal Court Judges' Association to provide judicial education on the effective and efficient management of cases and caseloads.**

- Changes should be made in JIS to move information from a keystroke-oriented technology to a point-and-click technology.
- Case numbers for civil cases should have a standard format like case numbers used for superior court cases.

COMMENTARY:

The best tool of a court manager or individual case manager is information sorted and reported in a way that makes it possible to identify problem areas. A court manager, presiding judge, court administrator, or clerk performing court administration duties requires one kind of reports, generally called caseflow management reports.

Some courts have adopted individual case management systems, which places the responsibility for a particular caseload with a particular assigned judge. Individual case managers, a judge or judge's staff with those individual caseload responsibilities, requires a different set of reports, since their focus is on the management of individual cases. While currently available reports, for the most part, are adequate to address the Caseflow Management needs of court managers, they are woefully inadequate to meet the individual case management needs of judges.

The current SCOMIS system supports data by which clerks, court managers can assess caseload management issues. There are some additions that would allow court managers to identify problem areas within their caseload.

To meet the needs of judges with individual case management responsibilities, case management and case statistics reports along the lines of what King and Spokane counties provide for their judges should be available statewide for any judges requiring them. The workgroup adopted the following recommended approaches and principles.

1. Case management reports should show change from previously measured periods. Reports should be created which would compare the current period to, for example, the previous month, the previous year, this time last year, the last quarter. These comparison charts should include the raw number changes and the percentage changes and a column showing the statewide averages on the item being measured.
2. Since delay in domestic relations cases involving the custody of children impacts those children, the system needs tools to identify those cases and give that portion of the caseload special handling. Time standards performance in the area of domestic relations should be reported in two separate categories, one for cases involving children and the other for all other domestic relations cases.
3. Reports sorted by judicial officer containing:
    a. Pending cases assigned to that judicial officer, sorted by:
        i. Title

13 CASE MANAGEMENT (Continued)

ii. Case type
iii. Case number
iv. Days pending since filing
v. Days from filing to scheduled trial date
b. Suspended cases, e.g. cases stayed by bankruptcy, diverted to mandatory arbitration, on appeal, etc.
c. Upcoming pretrial and trial dates
d. Cases resolved and completed
e. Cases resolved and not completed
f. Case status conference
g. Scheduled motion calendar
h. Scheduled pretrial conference calendar
i. Scheduled post-trial hearing calendar
j. Trial calendar
k. Case statistics showing the age of that judge's caseload using the Case Resolution Guidelines mile stones.

4. Case management data should be provided on the web with an inquiry tool similar to the caseload data inquiry tool currently under construction.
5. BRIO is the data query tool provided by the OAC and used by courts around the state. More education regarding the use of that tool is needed. OAC should make more stock reports available to court users to meet the needs of caseflow and case managers.
6. JIS is building a data warehouse, to be available by the end of the biennium, which would permit court users to use a greater variety of query tools and standard reports. It should be noted that some counties are already downloading specific data elements from SCOMIS to use with PC based systems such as ACCESS. This provides far greater flexibility than the mainframe system query and report process.
7. Some counties meet their needs for data by creating BRIO queries and reports. Other counties do not have the resources to do so, even though the need exists. A committee should be formed to develop case management reports and created a mechanism to share BRIO queries used by courts.
8. Backlog and delay anywhere in the state is a problem of the entire judicial system. Delay reduction should not be solely dependent upon a county's resources. An analysis should be conducted of every court in the state to report on the cases pending. If a backlog exists, OAC should assist in developing a plan to reduce the backlog.

COMMENTARY:

Washington state has adopted Advisory Case Processing Standards: filing-to-resolution and filing-to-completion guidelines for certain types of superior court cases. These are a measure by which judges can compare their performance in resolving and disposing of cases within their caseload. The Supreme Court should consider extending these case processing standards to other types of cases, to consider appropriate subsets of cases (for example, "Domestic – Custody" and "Domestic – Property and Financial Only") and to consider the national standards where available. To promote and enhance efficiency and accountability, the OAC should provide and publish reports by which judges measure their efficien-

13 CASE MANAGEMENT (Continued)

13.3 **To promote and enhance efficiency and accountability, The OAC should provide and publish reports by which judges measure their efficiency in management of cases across the entire spectrum of cases for which that court has responsibility.**

13.4 **The Board for Judicial Administration should establish a workgroup to study the discovery rules in the trial courts, with the goal of achieving effective and efficient case management.**

cy in management of cases across the entire spectrum of cases for which that court has responsibility.

COMMENTARY:

One of the identified causes of delay in the handling of cases is the discovery process. Discovery allowed by the court rules is different between superior courts and courts of limited jurisdiction. With the increase in civil jurisdiction in the courts of limited jurisdiction, the discovery process at this court level should be examined. In many superior courts, local rules provide discovery cut-off deadlines and sanctions. This type of rule may be beneficial statewide.

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APPENDIX A

Consolidation of Trial Courts
Assumptions and Cost Estimates for Major Components

There are many models and approaches to trial court consolidation. Current costs associated with major segments of the court system are itemized below to allow for a "what-if" discussion. General assumptions are:

- Implementation of consolidation would occur through a multi-year, phased approach.
- Some benefits associated with consolidation, e.g. cross assignment of judges, may be accomplished without full consolidation of trial courts.
- Savings derived from elimination of duplicate court operations are not included in consolidation examples attached.

Approximate Local Government Costs of Current Operations*:

Superior Court – $97M
Salary/benefits of judges –($10M) (state currently pays an additional $12M)
Salary/benefits staff and commissioners ($31M) (49 commissioners = $5.7M of this amount)
Operational costs –($26M)
County Clerk- salary/benefits of staff; operations – ($30M)

Juvenile operations – $90M
Salary/benefits of staff –($70M) (detention staff/benefits = $30M of this amount)
Operational costs – ($20M) (detention costs = $5M of this amount)

District Court - $76M
Salary/benefits of (104) judges –($12M)
Salary/benefits of staff and commissioners –($40M)
Operational costs –($24M)

Municipal Court - $52M
Salary/benefits – ($29M)
Operational costs – ($23M)

TOTAL current cost to local government for trial court operations: $315M

* 1998 Washington State Auditor's data

Example 1
Joint Assignment -Superior and District Court – Limited State Funding

Assumptions:

- Unrestricted assignment of judges to any case type.
- All full time judges paid by the state at the superior court salary level, plus related retirement benefits. Current part-time district court judges would be converted to ten full time judicial officers. Superior Court Commissioners would be paid by state.
- Establishment of presiding judge and coordinated executive committee.
- Standard courtroom audio/video-recording equipment placed in all courtrooms not served by a court reporter. (150 courtrooms @ 10k each) (104 DC + 50 SC Comm)
- Training costs assumed by the state.
- Facilities, personnel, and operational costs remain local responsibility.

Salary/benefits of superior court judges ($10M) (state currently pays an additional $12M)
Salary/benefits of 49 commissioners ($5.7M)
Salary/benefits of (104) district court judges ($12M)
Training (2% of 70% of $39M = $. 5M)
Courtroom Recording ($1.5M)

Total new state cost: $30M

Example 2
Complete Merger of Superior and District Court Operations- Complete State Funding

Assumptions:
Same as Example 1 with additions:

- Superior and District Court consolidated into a unified general jurisdiction court.
- Establishment of single court executive administrative officer.
- Operational costs for the consolidated courts (juries, pro tems, interpreters, guardianship, GAL, witness costs, probation) would be responsibility of state.
- Court employees, including court commissioners, would be state employees.
- Court support functions of County Clerk's offices would be combined with trial court administration.
- Training and transition costs assumed by the state.
- Misdemeanant probation services would 1) continue to be provided by locally funded probation staff OR 2) DOC would contract with counties to provide probation services for misdemeanor cases (additional state cost unidentified).
- Administrative costs for expanded OAC services (2% of new state money -$267M- routed to courts = $5M).

Superior Court – $97M

Salary/benefits of judges –($10M) (state currently pays an additional $12M)
Salary/benefits staff and commissioners ($31M) (49 commissioners = $5.7M of this amount)
Operational costs –($26M)

County Clerk- salary/benefits of staff; operations – ($30M)

Juvenile operations – $90M

Salary/benefits of staff –($70M) (detention staff/benefits = $30M of this amount)
Operational costs – ($20M) (detention costs = $5M of this amount)

District Court - $76M

Salary/benefits of (104) judges –($12M)
Salary/benefits of staff and commissioners –($40M)
Operational costs –($24M)

Training – (2% of 70% of 205M =$3M)
Transition of personnel, accounting, organizational structures - undetermined

Courtroom Recording –($1.5M)

Administrative cost for expanded OAC services – ($5M)

Total new state cost: $272M

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APPENDIX B

DRAFT

Board for Judicial Administration
Trial Court Coordination
RESOLUTION

FINDINGS

The Board for Judicial Administration (BJA) recognizes the variety of innovative and collaborative methods employed by Washington trial courts to improve the delivery of judicial services in their communities. The current structure of Washington courts allows considerable opportunities for the efficient and effective distribution of work and services among trial courts within a jurisdiction including the superior, district and municipal courts. The citizens of Washington expect all courts to strive for maximum utilization of judicial and other court resources as a means of providing access and service to the public, thereby increasing their confidence in the courts. The Board for Judicial Administration recognizes that each trial court jurisdiction has a unique history and character which places local leaders in the best position to define problems and identify solutions. Accordingly, a statewide merger or unification of the trial courts is not the intent of this resolution or the BJA.

It *is* the intent of the Board for Judicial Administration to promote the efforts of local trial court jurisdictions to engage in activities that support the following trial court coordination goals:

- reduce functional redundancies among multiple trial courts within a single jurisdiction including the superior, district and municipals courts;
- increase flexibility to distribute work more efficiently among trial courts within a jurisdiction, including judicial officers and staff;
- increase access to the courts and public convenience when using the courts;
- better utilize judge and staff time;
- simplify case processing; and
- employ court performance standards.

Potential areas for coordination include, but are not limited to:

- specialty calendars;
- jury services;
- interpreter services;
- personnel services;
- purchasing;
- probation services;
- facilities management;
- security;
- information services;
- budget planning; and
- legal research.

CALL TO ACTION

The Board for Judicial Administration:

1. Calls upon the Legislature to provide funding of $500,000 to support initial trial court coordination planning activities that address the goals stated above;

2. Declares its willingness to administer the funds according to objective criteria and timelines established by BJA, which promote the maximum utilization of judicial and other court resources to accomplish (i) increased efficiency and effectiveness in court operations, while preserving the courts' basic purpose of administering justice, and (ii) increased service to the public;

3. Commits to work in collaboration with other branches of government, with trial courts judges, court administrators, county clerks, lawyers, local officials, and others as necessary to remove impediments to achieving trial court efficiencies in rules, court procedures or otherwise, and to provide technical assistance and guidance as trial courts develop and implement plans to cooperate, coordinate, and collaborate;

4. Calls upon the presiding superior court judge, presiding district court judge, and a representative presiding judge from the municipal courts in a jurisdiction (i) to institute a broadly based Court Coordination Council, (ii) for the council to develop a comprehensive court coordination plan to further the goals described above, and (iii) to implement the plan;

5. Suggests that members of a Court Coordination Council should be broadly based to include representatives of stakeholders in the current system to participate in, support and provide important guidance in effectively developing and implementing a court coordination plan; and

6. Directs OAC to provide technical assistance to the local Court Coordination Councils in the areas of organization, development of business plans, potential areas of coordination, development of performance measures, and funding requests.

(For Discussion Purposes Only)

BJA FUNDING CRITERIA GUIDELINES

To administer the funds provided by the Legislature for promoting the maximum utilization of judicial and court resources, the Board for Judicial Administration adopts the following criteria:

- Jurisdictions must have in place a Court Coordination Council;
- The project must include a definition of the problem to be solved or objectives to be attained;
- The project must fit into a BJA priority area; and
- An evaluation component detailing how the success of the program will be measured must be included.

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APPENDIX C

EXAMPLES OF COORDINATED COURT RESOURCES AMONG WASHINGTON TRIAL COURTS

King/Jefferson County – exchange of judicial resources between superior and district court

Currently **King County** District Court judges sit as pro tem commissioners at the Regional Justice Center for two days per week. They hear the *Ex Parte Calendar* and *Anti-Harassments/Ex Parte Special Sets Calendar*. A King County District Court commissioner sits as a Special Master one morning per week on the *Status Conference Calendar.*

In **Jefferson County**, the district court judge also sits as a superior court commissioner, and the superior court commissioner sits as a district court pro tem judge, as needed

Yakima County Superior and District Courts – combined administration.

In 1996, the judges of the **Yakima** superior and district courts decided to consolidate the positions of superior court administrator and district court administrator. This decision was made because the courts needed unity of leadership and were significantly underfunded. The consolidation refers to cooperative sharing efforts to provide services to the bench, bar and litigants in the most efficient and effective way. The current organizational structure provides a court administrator who is responsible to both the presiding judges of the superior and district courts. Futhermore, administrative staff perform functions for both levels of trial court such as, budget, personnel, accounting, purchasing, etc. By consolidating administrative services, the courts provide a single point of contact for services, efficiency improves, and duplicative duties between courts have been reduced or eliminated. Yakima County has created a five member senior management team consisting of the court administrator, assistant administrator, operations manager, administrative manager, and office supervisor for district court.

Whatcom and Jefferson County Superior Court and County Clerk – combined administration

Under **Whatcom County** charter, the office of county clerk is an appointed position. When the incumbent Clerk retired,. the Presiding Judge suggested that the jurisdiction appoint, on an interim basis, the Court Administrator as Acting Clerk, while the bench and Executive decided what to do about the vacancy. In 1987, the superior court administrator was appointed by the county executive, with the consent of the superior court, to serve simultaneously as the acting county clerk.

In 1988, a memorandum of understanding was entered into between the county executive and the superior court confirming the superior court administrator as the county clerk. Pursuant to the memorandum of understanding, personnel, budgeting, purchasing, property control, and records management for the clerk's office remained under the administration of the county executive. Independent budgets are maintained for each function, i.e., superior court and county clerk. In late 1988, the Office of the Administrator for the Courts conducted an evaluation of the combined office of superior court administrator and county clerk. Results of the evaluation reveal the change had a positive impact on staff morale and functioning. Interviews

with representatives of the county executive, superior court bench, county department heads, and bar association indicate that better communication has been the hallmark of the combined position. These outside observers noted the improvement in morale in the clerk's office and felt productivity was also enhanced.

The Whatcom County Superior Court is perceived to be a local model of efficiency and effectiveness. Vestiges of the separation of responsibilities have all but disappeared in the 13 years the combination has been in place. Leadership models are various and this one can perhaps be best described as a "Board of Directors/Chief Executive Officer" model. The direction for the operation of the administrator/clerk's office comes from the bench. The few times that the incumbent has had to assert the separate nature of his Clerk role have been the area of personnel assignments of Clerk staff and in the preservation of court files. The former area, personnel assignment, is not an area that necessarily needs preservation, but was a local contretemps dealing with the historical role of the Clerk. The latter area, dealing with the court records, is one that should, in Whatcom's experience, remain a formal charge to any Clerk and not be subject to the control of the Court. None of the instances of these near-controversies has been a serious issue. There have been instances when the Executive has directed the Clerk and the Court to cut services due to fiscal restraints. While the Court was better able to resist those mandates based on an assertion of constitutional and statutory duties, the Clerk was less able to do so. A few of those instances provoked statements from the Court that the Court would either cease providing affected judicial services until the Clerk was enabled to perform his duties vis-à-vis those services or that the Court would compel the Executive to provide the Clerk with the means to provide those services. All such instances resulted in amicable resolutions short of acrimony.

According to the judges, "In this county we have been very fortunate to have a highly competent clerk/administrator, a county executive who has an excellent understanding of the need for and existence of a proper separation of powers. We have a collegial bench that has almost always acted with unanimity after full evaluation and discussion of important issues that touch upon the clerk/administrator functions. This combination makes for a very effective and efficient operation."

Jefferson County also uses a model in which the elected county clerk serves as the superior court administrator and is appointed as a superior court commissioner. The model is seen as efficient and effective by both the bench and the executive branch. The Clerk/Administrator coordinates jury management and indigent defense rotation and tracking for both the superior and district court. Additionally, the two trial courts coordinate the use of facilities, recording equipment, administrative personnel, jury bailiffs and court security.

UNIFIED FAMILY COURTS (UFC)

King County Superior Court

In 1993, King County Superior Court formed a task force to plan the implementation of a unified family court in King County. The task force was created because the judges and the bar felt that families involved in the justice system might be better served through a comprehensive approach in which family and juvenile law proceedings were integrated into one system. In 1997, the King County UFC project instituted a case management system to enhance the effectiveness of the court in handling high conflict cases involving children and their families. The system includes special screening procedures to identify and target case management services to families whose cases involve the health and welfare of children and whose members frequently have multiple pending causes of action in separate courts. These cases are then assigned to a single judge and court commissioner. A full time legal case manger provides informational services to all involved parties and is responsible for coordinating and tracking these cases. As part of the legislatively funded UFC project, the King County UFC will add

another case manager.

Thurston County Unified Family Court

In April 1996, the Thurston County Superior Court began plans for a unified family court. The decision to move toward a UFC grew out of several circumstances: 1) a new juvenile center was being designed and would include adequate space to house the UFC; 2) the current superior court facility was overcrowded; and 3) great benefits to litigants and the community could be gained from locating juvenile and family law courts in a single facility. The key components of the UFC in Thurston County are as follows. All family and juvenile proceedings are held in on facility separate from the main courthouse. One judge or judicial team is assigned to all hearings for one family and all contemporaneous cases involving family members. Use of alternative dispute resolution (mediation and settlement conferences) is expanded. Training is provided on a monthly basis for everyone involved in the family and juvenile court system. As part of the legislatively funded UFC project, the Thurston County UFC will add a case manager. The case manager will identify, schedule and manage cases for families with either multiple hearings or multiple cases. The case manager will also track compliance with court -ordered services where children are affected and play a central role in coordinating all court-house services for unrepresented parties in the family court services unit.

Snohomish County Unified Family Court

As part of the legislatively funded UFC project, Snohomish County will UFC will add a case manager to coordinate information and services related to families who come into contact with the superior court as a result of dissolution of marriage, domestic violence, dependency, CHINS/At –risk youth, truancy, or offender proceedings. These matters will be coordinated so as to be heard by the same judge. In the first year of the project, 100 families will be identified who are involved in two or more different judicial tracks.

OAC will conduct an evaluation of the three pilot UFC projects. The evaluation report will be submitted to the Supreme Court, the Legislature, and the Governor on December 1, 2004.

CLARK COUNTY DOMESTIC VIOLENCE COURT; OTHER DV COORDINATION

In 1997, a task force in **Clark County** determined that domestic violence cases were not being handled in an effective fashion. This was a relatively new area for courts that presented multifaceted problems. The problem was compounded by a significant increase in filings. The task force found that the court did not readily adapt to the changed situation and that victims were being shuffled from one court to another and given conflicting information.

The court also recognized that traditional approaches to assault cases were not effective where the parties were family members or involved in other intimate relationships. Because the relationships frequently were ongoing, there existed a need to fast track cases to minimize danger to the victim. There was also a perceived need for the court to monitor the situation more closely than was the case in other types of assault cases.

Clark County consolidated services in district court, creating a court with jurisdiction over criminal domestic violence allegations and civil protection orders. To implement this, district court staff were deputized by the county clerk to perform clerk duties. Two district court judges act as superior court commissioners to preside over the consolidated calendar. Staff from both the superior and district court "triage" potential cases that are candidates for calendar. By prioritizing domestic violence cases, the court has been able to resolve domestic violence cases in a more timely fashion and with greater emphasis on treating the problem. This one-stop

shopping approach has centralized the process for victims, led to greater expertise on the part of court staff, helped to eliminate conflicting orders, and allowed for greater communication between the court and treatment providers. By involving the community, in the form of treatment provider and victim's advocates, the court was able to place a long-term emphasis on healing.

With the same judge handling the criminal matter as is responding to requests for protection orders, the judge is in a better position to assess the potential danger and fashion an order that realistically addresses the problem. Because the judge has developed expertise in dealing with domestic violence matters, the judge is better able to fashion a sanction that takes into consideration the party's relationship and interdependence.

Other counties have also unified and coordinated procedures for handling protection order cases, including **Whatcom, Pierce**, and **Snohomish**.

KING COUNTY MENTAL HEALTH COURT

In the aftermath of an incident in **King County** wherein a person with mental problems killed a retired Seattle Fire Captain, King County put together a task force to look at the ways in which the mentally ill were treated by King County courts. In researching the issue, it became clear that the mentally ill were disproportionately represented in jail populations and that much of the behavior for which mentally ill persons were arrested could be better dealt with through the mental health system.

Seattle developed a court model that utilizes a team approach. The team, comprised of judge, prosecutor, defense counsel, treatment community liaison and probation officer, handle all of the misdemeanor cases involving mentally ill defendants. The goal of the team is to be familiar with individuals treatment needs and specifics of their cases. The court is given the time to ensure that the intricacies of the cases are fully addressed. This approach ensures expertise in complex legal and mental health issues.

Recognizing that mental health is a complex issue which may require long term supervision and support has led the court to form linkages with the treatment community that help to ensure defendants, and treatment providers, are in compliance with treatment objectives. It has also meant that courts are allotted the time necessary to hold frequent review hearings and provide probation personnel with expertise in mental health issues and who have reduced caseloads.

With the exception of cases in which competency is an issue, participation in the mental health court is voluntary. The program is an alternative for those committed to seeking treatment of conditions that lead to their criminal behavior.

COUNTY-WIDE JURY OPERATIONS

In many counties the superior court oversees all jury operations for both court levels. The superior court works with the county information services department or a service provider like Jury Plus or Puget Postings to create a master source list (from the merged list provided by the Department of Information Services). Juror names are drawn randomly from the master source list and those citizens are summoned (and qualified) for jury duty by the superior court. Citizens report to a central location for juror orientation, and then the appropriate number of jurors are sent to voir dire in superior, district and municipal courtrooms depending upon the number of jury trials scheduled. Jurors not chosen to sit on a panel may return to the central location

and could be sent out to voir dire again. Fee and mileage payment is also processed centrally by the superior court jury administrator.

WEEKEND PROBABLE CAUSE HEARINGS

In **Kitsap County** all district and municipal court judges are placed on a list to share the work associated with weekend probably causes determinations. Each judge serves for one month of weekends. In **Whatcom County**, the superior court coordinates the schedules of all superior, district, and municipal court judges to rotate responsibility for weekend probably cause hearings. The three trial courts in Whatcom County also share the use of in-jail interactive video equipment for first appearances.

OTHER

Washington courts have combined or reconfigured many other court services in an attempt to provide more effective and efficient services. Some counties have combined interpreter recruitment services; others have a centralized resource to screen cases for the assignment of indigent defense services. Two limited jurisdiction courts in **King County** have coordinated their jury calendars to achieve the maximum use of both recruited jurors and courtroom space.

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APPENDIX D

An Inventory of Collaborative Court Administrative Innovations

The matrix lists examples of collaboration among trial courts that may result in effective and innovative court administration. Innovations on the left side of the matrix represent collaborative efforts that may take place within the current structure of Washington courts, while those on the right side of the matrix require a consolidated organization of the trial courts.

Administrative Units for collaboration should include Municipal, District, Juvenile and Superior Courts, probation services, and the Clerk's Office	**Inter-agency cooperation** [examples below include JEA recs. 1 – 7]	**Functional coordination within an existing jurisdiction** [examples below include JEA recs. 8.1 – 8.3 and 9.1 and 9.2]	**Joint across tier administration with-in or across juris-dictions** [JEA 10.1 – 10.3]	**Functional and organizational administrative integration** [JEA 10.4]	**Unified trial court bench**	**An administratively consolidated, single-tiered trial court**
Innovation Directed at Core Court Functions: [Case filing and management, record keeping, and adjudication]	▪ Shared storage & retrieval of case files ▪ Coordinated records retention efforts ▪ Probable Cause hearings held jointly between court(s) ▪ Domestic Violence and Anti-Harassment filings at multiple locations			▪ Centralized calendaring ▪ Centralized case initiation and docketing ▪ One filing system	▪ One policy making board (court governance structure) ▪ Integrated case management system & standardized docketing	▪ Systematic assignment of cases & judicial rotation ▪ Maximized use of court facilities ▪ Coordination of all case types

Administrative Units for collaboration should include Municipal, District, Juvenile and Superior Courts, probation services, and the Clerk's Office	**Inter-agency cooperation** [examples below include JEA recs. 1 – 7]	**Functional coordination within an existing jurisdiction** [examples below include JEA recs. 8.1 – 8.3 and 9.1 and 9.2]	**Joint across tier administration within or across jurisdictions** [JEA 10.1 – 10.3]	**Functional and organizational administrative integration** [JEA 10.4]	**Unified trial court bench**	**An administratively consolidated, single-tiered trial court**
<u>Innovation Directed at Court Infrastructure</u>: **Policy-making, planning, finance and budgeting, staffing and training, management, communications, technology, equipment, facilities, and performance measurement]**	▪ Transport prisoners ▪ Security ▪ Indigent defense screening ▪ Cross jurisdictional courtroom sharing ▪ Centralized handling of DV petitions ▪ Sharing video in custody links to jail ▪ Cross commissioning judicial officers ▪ Sharing judicial officers between jurisdictions ▪ Sharing facilities and other employee services	▪ Shared juror, and interpreter recruitment ▪ Consolidated DV civil filings ▪ Use of Dist. Ct. judges as pro tems in Superior ▪ Unified family court ▪ Mental Health Court ▪ Consolidated payroll & accounting functions ▪ Joint development of governance policies ▪ Consolidated purchasing & accounts receivable ▪ Consolidated PC support & repair ▪ Combined Web page design & maintenance ▪ Consolidated mail distribution & facilities repairs ▪ Consolidated grants & contract management ▪ Shared court-	▪ Consolidated management structure with multi-jurisdictional responsibilities & authorities ▪ Shared staffing between jurisdictions ▪ Standardized employee evaluations & performance standards ▪ Consolidated employee orientations, training & staff events ▪ Shared strategic & long range planning efforts & documentation ▪ One pay plan & classification for all staff ▪ Centralized public & media relations ▪ Statistical compilations & projection development ▪ Universal cashiering – "E-commerce"	▪ One court executive officer ▪ Unified personnel structure ▪ Centralized accountability for all revenue ▪ Single, unified budget ▪ Integration of all court support services ▪ Common management information system ▪ Centralized probation monitoring	▪ Cross-assignment capability of any judge to any case ▪ Unified judicial resource management ▪ Unified facilities management	▪ Single presiding judge ▪ Cross-assignment capability of any judge to any case ▪ Coordination of calendars among all court locations ▪ Cross assignment of court staff ▪ Filing of court documents at any location ▪ Unification of local court rules ▪ Common standards for recording proceedings

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APPENDIX E

RCW 2.56.010
Office created -- Appointment, term, age qualification, salary.
There shall be a state office to be known as the Office of the Administrator for the Courts who shall be appointed by the Supreme Court of this state from a list of five persons submitted by the governor of the state of Washington, and shall hold office at the pleasure of the appointing power. He shall not be over the age of sixty years at the time of his appointment. He shall receive a The salary of the administrator to shall be fixed by the Supreme Court.
[1984 c 20 § 1; 1979 ex.s. c 255 § 7; 1974 ex.s. c 156 § 1; 1969 c 93 § 1; 1957 c 259 § 1.]
NOTES:
Effective date -- 1979 ex.s. c 255: See note following RCW 43.03.010.

RCW 2.56.020
Appointment, compensation of assistants -- Administrator, assistants not to practice law.
The Administrator for the Courts, with the approval of the Chief Justice of the Supreme Court of this state, shall appoint and fix the compensation of such assistants as are necessary to enable him to performance of the power and duties vested in this office.him During his term of office or employment, neither the Administrator nor any assistant shall engage directly or indirectly in the practice of law in this state.
[1957 c 259 § 2.]

RCW 2.56.030
Powers and duties.
The administrator for the courts shall, under the supervision and direction of the chief justice:
(1) Examine the administrative methods and systems employed in the offices of the judges, clerks, stenographers, and employees of the courts and make recommendations, through the chief justice, for the improvement of the same;
(2) Examine the state of the dockets of the courts and determine the need for assistance by any court;
(3) Make recommendations to the chief justice relating to the assignment of judges where courts are in need of assistance and carry out the direction of the chief justice as to the assignments of judges to counties and districts where the courts are in need of assistance;
(4) Collect and compile statistical and other data and make reports of the business transacted by the courts and transmit the same to the chief justice to the end that proper action may be taken in respect thereto;
(5) Prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system and make recommendations in respect thereto;
(6) Collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith;
(7) Obtain reports from clerks of courts in accordance with law or rules adopted by the supreme court of this state on cases and other judicial business in which action has been delayed beyond periods of time specified by law or rules of court and make report thereof to supreme court of this state;
(8) Act as secretary of the judicial conference referred to in RCW 2.56.060;
(9) Submit annually, as of February 1st, to the chief justice, a report of the activities of the administrator's office for the preceding calendar year including activities related to courthouse security;
(10) Administer programs and standards for the training and education of judicial personnel;
(11) Examine the need for new superior court and district judge positions under a weighted caseload analysis that takes into account the time required to hear all the cases in a particular court and the amount of time existing judges have available to hear cases in that court. The re-

sults of the weighted caseload analysis shall be reviewed by the board for judicial administration which shall make recommendations to the legislature. It is the intent of the legislature that weighted caseload analysis become the basis for creating additional district court positions, and recommendations should address that objective;
(12) Provide staff to the judicial retirement account plan under chapter 2.14 RCW;
(13) Attend to such other matters as may be assigned by the supreme court of this state;
(14) Within available funds, develop a curriculum for a general understanding of child development, placement, and treatment resources, as well as specific legal skills and knowledge of relevant statutes including chapters 13.32A, 13.34, and 13.40 RCW, cases, court rules, interviewing skills, and special needs of the abused or neglected child. This curriculum shall be completed and made available to all juvenile court judges, court personnel, and service providers and be updated yearly to reflect changes in statutes, court rules, or case law;
(15) Develop, in consultation with the entities set forth in RCW 2.56.150(3), a comprehensive state-wide curriculum for persons who act as guardians ad litem under Title 13 or 26 RCW. The curriculum shall be made available July 1, 1997, and include specialty sections on child development, child sexual abuse, child physical abuse, child neglect, clinical and forensic investigative and interviewing techniques, family reconciliation and mediation services, and relevant statutory and legal requirements. The curriculum shall be made available to all superior court judges, court personnel, and all persons who act as guardians ad litem;
(16) Develop a curriculum for a general understanding of crimes of malicious harassment, as well as specific legal skills and knowledge of RCW 9A.36.080, relevant cases, court rules, and the special needs of malicious harassment victims. This curriculum shall be made available to all superior court and court of appeals judges and to all justices of the supreme court;
(17) Develop, in consultation with the criminal justice training commission and the commissions established under chapters 43.113, 43.115, and 43.117 RCW, a curriculum for a general understanding of ethnic and cultural diversity and its implications for working with youth of color and their families. The curriculum shall be available to all superior court judges and court commissioners assigned to juvenile court, and other court personnel. Ethnic and cultural diversity training shall be provided annually so as to incorporate cultural sensitivity and awareness into the daily operation of juvenile courts state-wide;
(18) Authorize the use of closed circuit television and other electronic equipment in judicial proceedings. The administrator shall promulgate necessary standards and procedures and shall provide technical assistance to courts as required.
[1997 c 41 § 2; 1996 c 249 § 2; 1994 c 240 § 1; 1993 c 415 § 3; 1992 c 205 § 115; 1989 c 95 § 2. Prior: 1988 c 234 § 2; 1988 c 109 § 23; 1987 c 363 § 6; 1981 c 132 § 1; 1957 c 259 § 3.]
(19) Periodically undertake an assessment of the unmet civil legal needs of low income people in the state, including the needs of persons who suffer disparate access barriers, and develop a funding plan to meet the civil legal needs of such persons. The assessment should be conducted in consultation with the Washington State Bar Association and the Access to Justice Board.
(20) Administer State funds as may be appropriated for improving the operation of the courts and provide support for court coordinating councils, under the direction of the Board for Judicial Administration.

New Section
$500,000 is appropriated from the public safety and education account for the 2001-03 biennium to the office of the administrator for the courts, under the direction of the board of judicial administration, solely for the support of court coordinating council planning activities.

NOTES:
Intent -- 1996 c 249: "It is the intent of this act to make improvements to the guardian and

guardian ad litem systems currently in place for the protection of minors and incapacitated persons." [1996 c 249 § 1.]
Intent -- 1993 c 415: See note following **RCW** 2.56.031.
Part headings not law -- Severability -- 1992 c 205: See notes following **RCW** 13.40.010.
Construction -- Severability -- 1989 c 95: See notes following **RCW** 9A.36.080.
Legislative findings -- 1988 c 234: "The legislature recognizes the need for appropriate training of juvenile court judges, attorneys, court personnel, and service providers in the dependency system and at-risk youth systems." [1988 c 234 § 1.]
Effective date -- 1988 c 109: See note following **RCW** 2.10.030.
Ethnic and cultural diversity -- Development of curriculum for understanding -- Training: **RCW** 43.101.280.

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APPENDIX F

PRESIDING JUDGE IN SUPERIOR COURT DISTRICT AND LIMITED JURISDICTION COURT DISTRICT

(a) Selection and Term –Multiple Judge Courts. A superior court district or a limited jurisdiction court district or a municipal court having more than one judge shall establish a procedure for the selection of a judge who shall be known as the Presiding Judge. The judicial business of the district shall be supervised by the Presiding Judge who shall be elected by the judges of the district. A presiding judge in a district with three or fewer judges shall serve for a term of not less than one year, subject to reelection. A presiding judge in a district with four or more judges shall serve for a term of not less than two years, subject to reelection. In the same manner, the judges shall elect another judge of the district to serve as Acting Presiding Judge during the absence or inability of the Presiding Judge to act. Interim vacancies of the office of Presiding Judge and Acting Presiding Judge shall be filled as in the original election described above. The presiding judge may be removed by a majority vote of the judges of the district unless otherwise provided by local court rule.

Commentary
It is the view of the committee that the selection and duties of a presiding judge should be enumerated in a court rule rather than in a statute. It is also our view that one rule should apply to all levels of court and include single judge courts. Therefore, the rule should be a GR (General Rule). The proposed rule addresses the process of selection/removal of a presiding judge and an executive committee. It was the intent of the committee to provide some flexibility to local courts wherein they could establish, by local rule, a removal process.

Subsection (a), (b) and (c) relate to the selection process and currently do not require the term of the presiding judge to commence on a particular date. However, it has been suggested that if all presiding judges started their terms on the same date, i.e. term commencing January 1, then the OAC could put together a presiding judges' conference which would provide training and materials to incoming presiding judges. The committee is supportive of this effort.

(b) Selection and Term – Single Judge Courts. In court districts or municipalities having only one judge, that judge shall be known as the "Presiding Judge". The judge shall serve as the Presiding Judge for the judge's term of office.

(c) Notification of Chief Justice. The Presiding Judge so elected shall send notice of the election of the Presiding Judge and Acting Presiding Judge to the Chief Justice of the Supreme Court within 30 days of election.

(d) Requisite Experience and waiver. A presiding judge must have at least four years of experience as a judge, unless this requirement is waived by a majority vote of the judges of the court. Selection of a presiding judge should be based on the judge's 1) management and administrative ability, 2) interest in serving in the position, 3) experience and familiarity with a variety of trial court assignments, and 4) ability to motivate and educate other judicial officers and court personnel. The rotation of the position of presiding judge should not be a criterion for the selection of the presiding judge.

(e) Caseload Adjustment. To the extent possible, the judicial caseload should be adjusted to provide the presiding judge with sufficient time and resources to devote to the management and administrative duties of the office.

(f) General Responsibilities. The presiding judge is responsible for leading the management and administration of the court's business, recommending policies and procedures that improve the court's effectiveness, and allocating resources in a way that maximizes the court's ability to resolve disputes fairly and expeditiously.

(g) Duties and Authority. The duties and authority of the Presiding Judge, in addition to exercising general administrative supervision over the court, shall include:

(1) Supervision of the business of the judicial district and judicial officers in such manner as to ensure the expeditious and efficient processing of all cases and equal distribution of the workload among the judges;

(2) Assignment of cases for trial and assignment of judges to departments and motion calendars;

(3) Coordination of judicial vacations, attendance at education programs, and similar matters;

(4) Responsibility for developing and coordinating statistical and management information;

(5) Supervision over all court personnel, or personnel assigned to perform court functions. The court administrator, or equivalent employee, is an employee of the court and shall report directly to the Presiding Judge;

Commentary
The courts feel strongly about maintaining control of the working conditions for their employees. For some courts this includes control over some wage-related benefits such as vacation time. While the executive branch maintains control of wage issues, the courts must assert their control in all other areas of employee relations.

(6) Responsibility for accounts and auditing as well as procurement and disbursement of appropriations and the preparation of the judicial district's annual budget request;

(7) Appointment of the standing and special committees of the judges necessary for the proper performance of the duties of the judicial district;

(8) Promulgate local rules as a majority of the judges may approve or as the Supreme Court shall direct;

(9) Supervision of the preparation and filing of reports required by statute and court rule;

(10) Act as the sole spokesperson for the court in all matters with the executive or legislative branches of state and local government and the community unless the Presiding Judge shall designate another judge to serve in this capacity;

(11) Preside at meetings of the judges of the district;

(12) Determine qualifications and training of pro tem judges and pro tem court commissioners; and

(13) Other duties as may be assigned by statute or court rule.

Commentary
The proposed rule also addresses the duties and general responsibilities of the presiding judge. The language in subsection (e), (f), (g) and (i) was intended to be broad in order that the presiding judge may carry out his/her responsibilities. There has been some comment that individual courts should have the ability to change the "duties and general responsibilities" subsections by local rule. While our committee has not had an opportunity to discuss this fully, this approach has a number of difficulties:

- *It would create many "Presiding Judge Rules" all of which are different*
- *It could subject some municipal and district court judges to pressure from their executive and/or legislative authority to relinquish authority over areas such as budget and personnel*
- *It would impede the ability of the BJA through OAC to offer consistent training to incoming presiding judges*

The Unified Family Court subgroup of the Domestic Relations Committee suggested the presiding judge is given specific authority to appoint judges to the family court for long periods of time. Again the committee has not addressed the proposal; however, subsections (f) and (g) do give the presiding judge broad powers to manage the judicial resources of the court, including the assignment of judges to various departments.

(h) Executive Committee. The judges of a court may elect an executive committee to advise the presiding judge.

Commentary
Subsection (h) provides an option for an executive committee if the presiding judge and/or other members of the bench want an executive committee.

(i) Oversight of judicial officers. It shall be the duty of the presiding judge to supervise judicial officers to the extent necessary to ensure the expeditious and efficient processing of cases. The presiding

judge shall have the authority to address a judicial officer's failure to perform judicial duties and to take remedial action. If remedial action is not successful, the presiding judge shall notify the Commission on Judicial Conduct of a judge's substantial failure to perform judicial duties, which includes habitual neglect of duty or persistent refusal to carry out assignments or directives made by the presiding judge, as authorized by this rule.

(j) Multiple Court Districts. In counties which have multiple court districts, the judges may, by majority vote of each court, elect to conduct the judicial business collectively under the provisions of this rule.

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APPENDIX G

CONFERENCE OF CHIEF JUSTICES
CONFERENCE OF STATE COURT ADMINISTRATORS

CCJ Resolution 22
COSCA Resolution 4

In Support of Problem-Solving Courts

WHEREAS, the Conference of Chief Justices and the Conference of State Court Administrators appointed a Joint Task Force to consider the policy and administrative implications of the courts and special calendars that utilize the principles of therapeutic jurisprudence and to advance strategies, policies and recommendations on the future of these courts; and

WHEREAS, these courts and special calendars have been referred to by various names, including problem-solving, accountability, behavioral justice, therapeutic, problem oriented, collaborative justice, outcome oriented and constructive intervention courts; and

WHEREAS, the findings of the Joint Task Force include the following:

- The public and other branches of government are looking to courts to address certain complex social issues and problems, such as recidivism, that they feel are not most effectively addressed by the traditional legal process;
- A set of procedures and processes are required to address these issues and problems that are distinct from traditional civil and criminal adjudication;
- A focus on remedies is required to address these issues and problems in addition to the determination of fact and issues of law;
- The unique nature of the procedures and processes encourages the establishment of dedicated court calendars;
- There has been a rapid proliferation of drug courts and calendars throughout most of the various states;
- There is now evidence of broad community and political support and increasing state and local government funding for these initiatives;
- There are principles and methods grounded in therapeutic jurisprudence, including integration of treatment services with judicial case processing, ongoing judicial intervention, close monitoring of and immediate response to behavior, multidisciplinary involvement, and collaboration with community-based and government organizations. These principles and methods are now being employed in these newly arising courts and calendars, and they advance the application of the trial court performance standards and the public trust and confidence initiative; and
- Well-functioning drug courts represent the best practice of these principles and methods;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators hereby agree to:

1. Call these new courts and calendars "Problem-Solving Courts," recognizing that courts have always been involved in attempting to resolve disputes and problems in society, but understanding that the collaborative nature of these new efforts deserves recognition.

2. Take steps, nationally and locally, to expand and better integrate the principles and methods of well-functioning drug courts into ongoing court operations.

3. Advance the careful study and evaluation of the principles and methods employed in problem-solving courts and their application to other significant issues facing state courts.

4. Encourage, where appropriate, the broad integration over the next decade of the principles and methods employed in the problem-solving courts into the administration of justice to improve court processes and outcomes while preserving the rule of law, enhancing judicial effectiveness, and meeting the needs and

expectations of litigants, victims and the community.

5. Support national and local education and training on the principles and methods employed in problem-solving courts and on collaboration with other community and government agencies and organizations.

6. Advocate for the resources necessary to advance and apply the principles and methods of problem-solving courts in the general court systems of the various states.

7. Establish a National Agenda consistent with this resolution that includes the following actions:

   a. Request that the CCJ/COSCA Government Affairs Committee work with the Department of Health and Human Services to direct treatment funds to the state courts.

   b. Request that the National Center for State Courts initiate with other organizations and associations a collaborative process to develop principles and methods for other types of courts and calendars similar to the *10 Key Drug Court Components*, published by the Drug Courts Program Office, which define effective drug courts.

   c. Encourage the National Center for State Courts Best Practices Institute to examine the principles and methods of these problem-solving courts.

   d. Convene a national conference or regional conferences to educate the Conference of Chief Justices and Conference of State Court Administrators and, if appropriate, other policy leaders on the issues raised by the growing problem-solving court movement.

   e. Continue a Task Force to oversee and advise on the implementation of this resolution, suggest action steps, and model the collaborative process by including other associations and interested groups.

Adopted as Proposed by the Task Force on Therapeutic Justice of the Conference of Chief Justices in Rapid City, South Dakota at the 52nd Annual Meeting on August 3, 2000.

January 2001

APPENDIX H

RCW 3.50.810
Termination of municipal court--Waiting period for establishing another contracting agreement.
(1) Any city having entered into an agreement for court services with the county must provide written notice of the intent to terminate such agreement to the county legislative authority not less than one year prior to February 1st of the year in which all district court judges are subject to election.
(2) Any city that terminates an municipal court under this chapter may not establish another municipal court under this chapter until at least ten years have elapsed from the date of termination agreement for court services to be provided by a district court may not terminate such agreement within a four-year district court judicial term.

RCW 3.46.150
Termination of municipal department -- Agreement covering costs of handling resulting criminal cases -- Arbitration.
Any city, having established a municipal department as provided in this chapter may, by written notice to the county legislative authority not less than one year prior to February 1st of any the year in which all district court judges are subject to election, require the termination of the municipal department created pursuant to this chapter. Any city that terminates an agreement for court services to be provided by a district court may not terminate such agreement within a four-year district court judicial term. However, the city may not give the written notice required by this section unless the city has reached an agreement with the county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the termination. The agreement shall provide for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW.

RCW 3.46.155 (Repeal)
Termination of municipal department- Waiting period for establishing another.
Any city that terminates a municipal department under this chapter may not establish another municipal department under this chapter until at least ten years have elapsed from the date of termination.

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APPENDIX I

Revised Constitutional Article 4, Section 7-
Exchange of Judges – Judge Pro Tempore

The judge of any superior court may hold a superior court in any county at the request of the judge of the superior court thereof, and upon request of the governor it shall be his or her duty to do so. A case in superior court may be tried by a) a judge, pro tempore, who must be a member of the bar, agreed upon in writing by the parties litigant, or their attorneys of record, approved by the court and sworn to try the case, or b) any elected judge or retired judge pursuant to supreme court rule. However, if a previously elected judge of the superior court retires leaving a pending case in which the judge has made discretionary rulings, the judge is entitled to hear the pending case as a judge pro tempore without any written agreement.

Revised RCW 2.08.180
Judge pro tempore -- Appointment -- Oath -- Compensation.

A case in the superior court of any county may be tried by a judge pro tempore, who must be a member of the bar, agreed upon in writing by the parties litigant, or their attorneys of record, approved by the court, and sworn to try the case, or any elected judge or retired judge pursuant to supreme court rule; and his any action in the trial of such cause shall have the same effect as if he it was made by were a judge of such court. However, if a previously elected judge of the superior court retires leaving a pending case in which the judge has made discretionary rulings, the judge is entitled to hear the pending case as a judge pro tempore without any written agreement.

A judge pro tempore shall, before entering upon his duties in any cause, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be,) that I will support the Constitution of the United States and the Constitution of the State of Washington, and that I will faithfully discharge the duties of the office of judge pro tempore in the cause wherein . . . . . is plaintiff and . . . . . defendant, according to the best of my ability."

A judge pro tempore who is a practicing attorney and who is not a retired justice of the supreme court or judge of a superior court of the state of Washington, or who is not an active judge of an inferior court of the state of Washington, shall receive a compensation of one-two hundred and fiftieth of the annual salary of a superior court judge for each day engaged in said trial, to be paid in the same manner as the salary of the superior judge. A judge who is an active judge of an inferior court of the state of Washington shall receive no compensation as judge pro tempore. A justice or judge who has retired from the supreme court, court of appeals, or superior court of the state of Washington shall receive compensation as judge pro tempore in the amount of sixty percent of the amount payable to a judge pro tempore under this section.

[1987 c 73 § 1; 1971 c 81 § 6; 1967 c 149 § 1; 1890 p 343 § 11; RRS § 40.]

NOTES:

Contingent effective date -- 1987 c 73: "This act shall take effect January 1, 1988, if the proposed amendment to Article IV, section 7 of the state Constitution, allowing retiring judges to hear pending cases, is validly submitted to and is approved and ratified by the voters at a general election held in November, 1987. If the proposed amendment is not so approved and ratified, this act shall be null and void in its entirety." [1987 c 73 § 2.] Amendment 80 of the state Constitution, amending Article IV, section 7, was approved by the voters November 3, 1987.

Judges pro tempore: State Constitution Art. 4 § 7.

appointments

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APPENDIX J

Revisions in Small Claims Trials and Appeals

RCW 12.36.050
Certification of record by district court -- Transmittal to superior court -- Powers of superior court upon transmittal.
(1) Within fourteen days after a small claims appeal has been filed in superior court by the clerk of the district court pursuant to RCW 12.36.020(3), the complete record as defined in subsection (2) of this section shall be made and certified by the clerk of the district court to be correct. The clerk shall then immediately transmit the complete record to superior court. The superior court shall then become possessed of the cause. All further proceedings shall be in the superior court, including enforcement of any judgment rendered. Any mandatory superior court procedures such as arbitration or other dispute resolution will apply as if the cause was originally filed in superior court may be utilized by the superior court in its discretion. The statute governing the trial de novo shall only apply to those cases set for trial after compliance with superior court procedures.
(2) The complete record shall consist of a transcript of all entries made in the district court docket relating to the case, together with all the process and other papers relating to the case filed with the district court and any contemporaneous recording made of the proceeding.

RCW 12.36.055
Trial in Superior Court Appeal Hearing.
(1) The appeal from a small claims judgment or decision shall be upon the records of the case, and the findings of fact and conclusions of law entered by the district court. A trial de novo pursuant to this chapter shall be tried as nearly as possible in the manner of the original small claims trial. No jury may be allowed, or attorney or legal paraprofessional involved, without written order of the superior court, unless allowed in the original trial. No new pleadings other than the notice of appeal may be allowed without written permission of the superior court. Each party shall be allowed equal time, but no more than thirty minutes each without permission of the superior court. No new or other evidence, nor new or other testimony may be presented other than at the trial in small claims court, without permission of the superior.
(2) Any cases heard in superior court pursuant to this section may be heard by a duly appointed commissioner. As used in this chapter "judge" includes any duly appointed commissioner.

January 2001

APPENDIX K

Small Claims Collection Cost Recovery

RCW 12.40.105
Increase of judgment upon failure to pay.
If the losing party fails to pay the judgment within thirty days or within the period otherwise ordered by the court, the judgment shall be increased by: (1) An amount sufficient to cover costs of certification of the judgment under RCW 12.40.110; and (2) the amount specified in RCW 36.18.012(2), and (3) the court may award reasonable collection fees for work performed to enforce the judgment of up to three hundred dollars, all of which are without regard to the jurisdictional limits on the small claims department.

January 2001

APPENDIX L

Optional Authorization of Mandatory Arbitration for District Court

RCW 7.06.010
Authorization.
In counties with a population of seventy thousand or more, The superior court of the county, by majority vote of the judges thereof, or the county legislative authority may authorize mandatory arbitration of civil actions under this chapter. In all other counties, the superior court of the county, by a majority vote of the judges thereof, may authorize mandatory arbitration of civil actions under this chapter. The district court of the county, by a majority vote of the judges thereof, may authorize mandatory arbitration of civil actions under this chapter.

RCW 7.06.020
Actions subject to mandatory arbitration -- Court may authorize mandatory arbitration of maintenance and child support.
(1) All civil actions, except for appeals from municipal or district courts, which are at issue in the superior court in counties which have authorized arbitration, where the sole relief sought is a money judgment, and where no party asserts a claim in excess of fifteen thousand dollars, or if approved by the superior court of a county by two-thirds or greater vote of the judges thereof, up to thirty-five fifty thousand dollars, exclusive of interest and costs, are subject to mandatory arbitration.
(2) If approved by majority vote of the superior court judges of a county which has authorized arbitration, all civil actions which are at issue in the superior court in which the sole relief sought is the establishment, termination or modification of maintenance or child support payments are subject to mandatory arbitration. The arbitrability of any such action shall not be affected by the amount or number of payments involved.
(3) All civil actions which are at issue in the district court in counties which have authorized arbitration, where the sole relief sought is a money judgment, and where no party asserts a claim in excess of fifteen thousand dollars, or if approved by the district court of a county by two-thirds or greater vote of the judges thereof, up to fifty thousand dollars, exclusive of interest and costs, are subject to mandatory arbitration.

RCW 7.06.040
Qualifications, appointment and compensation of arbitrators.
The appointment of arbitrators shall be prescribed by rules adopted by the supreme court. An arbitrator must be a member of the state bar association who has been admitted to the bar for a minimum of five years or who is a retired judge. The parties may stipulate to a nonlawyer arbitrator. The supreme court may prescribe by rule additional qualifications of arbitrators.
Arbitrators of cases originating in the superior court shall be compensated in the same amount and manner as judges pro tempore of the superior court. Arbitrators of cases originating in the district court shall be compensated in the same amount and manner as judges pro tempore of the superior court.

RCW 7.06.050
Decision and award -- Appeals -- Trial -- Judgment.
Following a hearing as prescribed by court rule, the arbitrator shall file his decision and award with the clerk of the superior court, together with proof of service thereof on the parties. Within twenty days after such filing, any aggrieved party may file with the clerk a written notice of appeal and request for a trial de novo in the superior court on all issues of law and fact. Such trial de novo shall thereupon be held, including a right to jury, if demanded.
If no appeal has been filed at the expiration of twenty days following filing of the arbitrator's decision and award, a judgment shall be entered and may be presented to the court by any party, on notice, which judgment when entered shall have the same force and effect as judgments in civil actions.

RCW 3.62.060
Filing fees in civil cases -- Fees allowed as court costs.
Clerks of the district courts shall collect the following fees for their official services:
(1) In any civil action commenced before or transferred to a district court, the plaintiff shall, at the time of

such commencement or transfer, pay to such court a filing fee of thirty-one dollars plus any surcharge authorized by RCW 7.75.035. No party shall be compelled to pay to the court any other fees or charges up to and including the rendition of judgment in the action other than those listed.
(2) For issuing a writ of garnishment or other writ a fee of six dollars.
(3) For filing a supplemental proceeding a fee of twelve dollars.
(4) For demanding a jury in a civil case a fee of fifty dollars to be paid by the person demanding a jury.
(5) For preparing a transcript of a judgment a fee of six dollars.
(6) For certifying any document on file or of record in the clerk's office a fee of five dollars.
(7) For preparing the record of a case for appeal to superior court a fee of forty dollars including any costs of tape duplication as governed by the rules of appeal for courts of limited jurisdiction (RALJ).
(8) For duplication of part or all of the electronic tape or tapes of a proceeding ten dollars per tape.
(9) For filing a request for mandatory arbitration, a fee may be assessed against the party filing a statement of arbitrability not to exceed thirty-one dollars as established by authority of local ordinance. This charge shall be used solely to offset the cost of the mandatory arbitration program.
The fees or charges imposed under this section shall be allowed as court costs whenever a judgment for costs is awarded.

January 2001

APPENDIX M

RALJ RULE 1.1
SCOPE OF RULES

(a) Proceedings Subject to Rules. These rules establish the procedure, called appeal, for review by the superior court of a final decision of a court of limited jurisdiction, subject to the restrictions defined in this rule. These rules apply to review of all courts of limited jurisdiction.
(b) Statutory Writs Retained. These rules do not supersede and do not govern the procedure for seeking review of a decision of a court of limited jurisdiction by statutory writ.
(c) Application to Civil and Criminal Proceedings. Each rule applies to both civil and criminal proceedings, unless a different application is intended.
(d) Superseding Effect of Rules. These rules supersede all statutes and rules covering the procedure for review in the superior court of a decision of a court of limited jurisdiction to which these rules apply, unless one of these rules specifically indicates to the contrary.
(e) Effect of Subsequent Legislation. If a statute in conflict with a rule is enacted after these rules become effective and that statute does not supersede the conflicting rule by direct reference to the rule by number, the rule applies unless the rule specifically indicates that statutes control. If a statute in conflict with a rule is enacted after these rules become effective and that statute does supersede the conflicting rule by direct reference to the rule by number, the statute applies until such time as the rule may be amended or changed by the Supreme Court through exercise of its rulemaking power.

CRLJ RULE 72
APPEAL TO SUPERIOR COURT

An appeal from a court of limited jurisdiction is governed by the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. Under RALJ 1.1, the appeal is an appeal for error on the record. The procedures for an appeal for error on the record are defined by RALJ.

January 2001

APPENDIX N

An ACT Relating to emancipation of minors; amending RCW 13.64.040

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1 The hearing on the petition shall be before a ^judge^ judicial officer, sitting without a jury. Prior to the presentation of proof the ^judge^ judicial officer shall determine whether: (1) The petitioning minor understands the consequences of the petition regarding his or her legal rights and responsibilities; (2) a guardian ad litem should be appointed to investigate the allegations of the petition and file a report with the court.

January 2001

APPENDIX O

GR 24 **(Proposed Rule)**
FAMILY LAW COURTHOUSE FACILITATORS
With recommendations of Project 2001 Courthouse Facilitator Task Group noted in boldface.

(a) Generally. RCW 26.12.240 provides a county may create a courthouse facilitator program to provide basic services to pro se litigants in family law cases.

(b) The Washington State Supreme Court shall establish, and the Office of the Administrator for the Courts shall administer, minimum qualifications and a curriculum of initial and ongoing training requirements for family law courthouse facilitators, and the Office of the Administrator for the Courts shall assist counties in administering family law courthouse facilitator programs.

(**c**) Definitions. For the purpose of this rule the following definitions apply:

(1) A **Family Law** Courthouse Facilitator is an individual or individuals **who has or have met or exceeded the minimum qualifications and completed the curriculum developed by the Office of the Administrator for the Courts and who is or are** providing basic services in family law cases in a Superior Court.

(2) Family Law Cases include dissolution of marriage, modification of dissolution matters such as child support, parenting plans, non-parental custody or visitation, and parentage by unmarried persons to establish paternity, child support, child custody and visitation.

(3) "Basic Service" includes but is not limited to:

a) referral to legal and social service resources, including lawyer referral and alternate dispute referral programs and resources on obtaining family law forms and instructions;
b) assistance in calculating child support using standardized computer based program based on financial information provided by the pro se litigant;
c) processing interpreter requests **for facilitator assistance and court hearings** ;
d) assistance in selection as well as distribution of forms and standardized instructions that have been approved of by the court, clerk's office, or by the Office of the Administrator for the Courts;
e) assistance in completing forms that have been approved by the court, clerk's office, or the Office of the Administrator for the Courts;
f) explanation of common legal terms;
g) information on basic court procedures and logistics including requirements for service, filing**,** and scheduling hearings **and complying with local procedures**;
h) review of completed forms to determine whether forms have been completely filled out but not as to **substantive** content with respect to the parties' legal rights and obligations;
i) **p**reviewing pro se documents **prior to hearings** for uncontested matters such as a final dissolution of marriage **and show cause and temporary relief motions calendars** under the direction of the Clerk or Court to determine whether procedural requirements have been complied with prior to appearance in court.
j) attendance at *pro se* hearings to assist the Court with *pro se* matters.
k) assistance with preparation of court orders under the direction of the Court.
l) preparation of *pro se* instruction packets under the direction of the Office of the Administrator for the Courts.

(d) Family Law Courthouse Facilitators shall obtain a written and signed disclaimer of attorney-client relationship, attorney-client confidentiality and representation from each person utilizing the services of the Family Law Courthouse Facilitator. The prescribed disclaimer shall be in the format developed by the Office of the Administrator for the Courts.

(e) No attorney-client relationship or privilege is created outright, by implication or by inference, between a Family Law Courthouse Facilitator providing basic services under this rule and the users of

Family Law Courthouse Facilitator Program services.

(**f**) The provision of basic services in family law cases by non-lawyers other than courthouse facilitators shall be considered the unauthorized practice of law. **Family law courthouse facilitators providing basic services under this rule are not engaged in the unauthorized practice of law.**