


Substance Abuse, Families, and Unified Family Courts: The Creation of a Caring Justice System

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Articles

SUBSTANCE ABUSE, FAMILIES, AND UNIFIED FAMILY COURTS: THE CREATION OF A CARING JUSTICE SYSTEM

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TABLE OF CONTENTS

INTRODUCTION	2
I. STATEMENT OF THE PROBLEM: CHARACTERISTICS OF INDIVIDUALS IN FAMILY LEGAL PROCEEDINGS	7
II. UNIFIED FAMILY COURTS: A COURT REFORM PROPOSAL TO ADDRESS FAMILIES' SPECIAL NEEDS	10
A. <i>The Need for Court Reform in Family Law</i>	10
B. <i>Defining a Unified Family Court</i>	13

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C.	<i>An Interdisciplinary Framework for a Unified Family Court</i>	14
1.	<i>The Ecology of Human Development</i>	14
2.	<i>Therapeutic Jurisprudence</i>	16
III.	A CASE STUDY: THE CREATION OF THE FAMILY DIVISION OF THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND	18
A.	<i>Guiding Principles of the Family Division</i>	19
B.	<i>Structure of the Court</i>	20
C.	<i>The Role of Court Personnel</i>	21
D.	<i>Court Services</i>	23
1.	<i>Substance Abuse Services</i>	25
2.	<i>Supervised Visitation Program</i>	26
3.	<i>Medical Services Office</i>	27
4.	<i>Neutral Drop-Off</i>	27
5.	<i>Family Mediation Service</i>	28
6.	<i>Domestic Violence Ex Parte Project</i>	29
7.	<i>Protective Order Advocacy and Representation Project</i>	30
8.	<i>Assisted Pro Se Litigation Project</i>	30
9.	<i>Parenting Seminars</i>	31
10.	<i>Children's Group</i>	32
11.	<i>Volunteer Attorney Settlement Panel</i>	32
E.	<i>Training for Court Personnel</i>	33
	CONCLUSION	34
	APPENDIX A: CIRCUIT COURT FOR BALTIMORE CITY/FAMILY DIVISION/REFERRAL TO SOCIAL SERVICES COORDINATOR FORM	36
	APPENDIX B: CIRCUIT COURT FOR BALTIMORE CITY/FAMILY DIVISION/PSYCHOSOCIAL ASSESSMENT AND SUBSTANCE ABUSE EVALUATION FORM	37

INTRODUCTION

Family law¹ cases comprise approximately thirty-five percent of the total number of civil cases handled by the majority of our nation's

1. Family law in this Article means a comprehensive approach to family law subject matter jurisdiction, including: jurisdiction over cases involving divorce, annulment, and property distribution; child custody and visitation; alimony and child support; paternity, adoption, and termination of parental rights; juvenile causes (juvenile delinquency, child abuse, and child neglect); domestic violence; criminal nonsupport; name change; guardianship of minors and disabled persons; and withholding or withdrawal of life-sustaining medical procedures, involuntary admissions, and emergency evaluations. See DEL. CODE ANN. tit. 10, §§ 921-928 (Supp. 1998). See also D.C. CODE ANN. § 11-1101 (1995), §§ 16-

courts, thereby constituting "the largest and fastest growing part of the state civil caseload."² Nationally, divorce cases constitute over fifty percent of all civil actions filed in trial courts.³ From 1984 until 1994, the number of juvenile cases has increased nationwide fifty-nine percent, and the number of family law cases has increased sixty-five percent.⁴

Courts' inability to handle effectively the overwhelming volume and complex scope of family law cases has triggered an examination of the need for court reform in this area. Organized bar associations at the local, state, and national levels, as well as local and state legislatures and judiciaries, have addressed family law court reform with increasing frequency.⁵ One concept receiving consideration in family law court reform is the notion of a unified family court.⁶

[A unified family court is] a single court system with comprehensive jurisdiction over all cases involving children and relating to the family. One specially trained and interested

2301 to 16-2365 (1997); HAW. REV. STAT. §§ 571-11 to 571-14 (1993 & Supp. 1997); NEV. REV. STAT. ANN. § 3.223 (Michie 1998); N.J. STAT. ANN. § 2A:4A-24 (West 1987 and Supp. 1999); R.I. GEN. LAWS § 8-10-3 (Michie 1997 & Supp. 1998); and S.C. CODE ANN. § 20-7-736 (West Supp. 1998).

2. STATE INST., ST. CT. CASELOAD STAT. ANN. REP. 1992 (Feb. 1994), cited in Amy Stevens, *The Business of Law: Lawyers and Clients; More than Just Torts*, WALL ST. J., July 1, 1994, at B6; see also Gary B. Melton, *Children, Families, and the Courts in the Twenty-First Century*, 66 S. CAL. L. REV. 993, 2006-07 (1993) (predicting that family law cases will increase and are likely to become more difficult).

3. See Jana B. Singer, *The Privatization of Family Law*, 1992 WIS. L. REV. 1443, 1562-63.

4. See Patricia G. Barnes, *It May Take a Village . . . Or a Specialized Court to Address Family Problems*, 82 A.B.A. J., Dec. 1996, at 22.

5. See Barbara A. Babb, *Fashioning an Interdisciplinary Framework for Court Reform in Family Law: A Blueprint to Construct a Unified Family Court*, 71 S. CAL. L. REV. 469, 484, 489-90, app. C (1998) [hereinafter Babb, *Fashioning an Interdisciplinary Framework for Court Reform in Family Law*]. See also Barbara A. Babb, *Where We Stand: An Analysis of America's Family Law Adjudicatory Systems and the Mandate to Establish Unified Family Courts*, 32 FAM. L.Q. 31, 40, 43, 45-46, apps. A, B, C, D (1998) [hereinafter Babb, *Where We Stand*].

6. Professor Babb has written extensively on the topics of family law court reform and the creation of unified family courts. See generally Babb, *Fashioning an Interdisciplinary Framework for Court Reform in Family Law*, *supra* note 5, at 477 (proposing a model structure to create a unified family court system based on an ecological and therapeutic approach to family law adjudication). See also Babb, *Where We Stand*, *supra* note 5, at 34 (presenting a comprehensive overview of a nationwide survey determining how each state's courts handle family law matters, illustrating the inconsistency in how America's courts process family law cases, and suggesting that states consider implementing unified family courts). See generally Barbara A. Babb, *An Interdisciplinary Approach to Family Law Jurisprudence: Application of an Ecological and Therapeutic Perspective*, 72 IND. L.J. 775 (1997) (detailing changes in the structure and function of the American family in the past few decades and proposing a paradigm for family law jurisprudence that utilizes an ecological and therapeutic perspective to family law decisionmaking) [hereinafter Babb, *An Interdisciplinary Approach to Family Law Jurisprudence*].

judge addresses the legal and accompanying emotional and social issues challenging each family. Then under the auspices of the family court judicial action, informal court processes and social service agencies and resources are coordinated to produce a comprehensive resolution tailored to the individual family's legal, personal, emotional, and social needs. The result is a one family-one judge system that is more efficient and more compassionate for families in crisis.⁷

Based on its study of the unmet legal needs of children and their families, the American Bar Association has recommended the establishment of unified family courts in all jurisdictions.⁸ Through a multi-year project funded by the Robert Wood Johnson Foundation in late 1996 entitled "Communities, Families, and the Justice System,"⁹ the American Bar Association's Standing Committee on Substance Abuse is helping to establish model unified family courts in six cities, including Baltimore, Maryland; Seattle, Washington; Atlanta, Georgia; Chicago, Illinois; Washington, D.C.; and San Juan, Puerto Rico.¹⁰ In an effort to bring together states contemplating or operating unified family courts, the American Bar Association convened the first national unified family court summit in May, 1998.¹¹

In addition to court reform in family law, Professor Barbara Babb has urged decisionmakers to adopt an interdisciplinary approach to resolve family legal proceedings.¹² This perspective can help judges make decisions that account for the many influences on human behavior and family life, thereby resulting in more pragmatic and helpful solutions to families' legal problems.¹³ For example, substance abuse¹⁴ is a frequent and substantial issue in family law cases,¹⁵ yet it

7. Paul A. Williams, *A Unified Family Court for Missouri*, 63 UMKC L. REV. 383, 384 (1995) (citations omitted) (detailing Missouri's recent legislative efforts to create a unified family court).

8. See A.B.A. PRESIDENTIAL WORKING GROUP ON THE UNMET LEGAL NEEDS OF CHILDREN AND THEIR FAMILIES, *AMERICA'S CHILDREN AT RISK: A NATIONAL AGENDA FOR LEGAL ACTION* 54 (1993). See also Williams, *supra* note 7, at 384.

9. R. William Ide III, *ABA News Center—From the Chair*, UNIFIED FAM. CHRON., May 1997, at 2.

10. See *Unified Family Site Update*, UNIFIED FAM. CHRON., May 1997, at 1. See also Barnes, *supra* note 4, at 22.

11. See A.B.A. SUMMIT ON UNIFIED FAMILY COURTS: *EXPLORING SOLUTIONS FOR FAMILIES, WOMEN AND CHILDREN IN CRISIS* xxii (May, 1998).

12. See Babb, *An Interdisciplinary Approach to Family Law Jurisprudence*, *supra* note 6, at 807.

13. See *id.* at 776.

14. See AMERICAN PSYCHIATRIC ASSOCIATION, *DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS IV* 182 (1994). The authors provide this definition of substance abuse:

often is ignored in traditional family law decision-making processes.¹⁶

The failure of courts to address substance abuse in family law proceedings arises from both the structure and function of traditional

The essential feature of substance abuse is a maladaptive pattern of substance use manifested by recurrent and significant adverse consequences related to the repeated use of substances. There may be repeated failure to fulfill major role obligations, repeated use in situations in which it is physically hazardous, multiple legal problems, and recurrent social and interpersonal problems. These problems must occur recurrently during the same 12 month period.

Id.

See also PRAKASH L. GROVER, DEPARTMENT OF HEALTH AND HUMAN SERVICES, PREVENTING SUBSTANCE ABUSE AMONG CHILDREN AND ADOLESCENTS: FAMILY CENTERED APPROACHES 57 (1989) (explaining that the term substance abuse broadly refers to the consumption of psychoactive drugs in such a way as to significantly impair an individual's physical, psychological, or emotional health; interpersonal interactions; or functioning in work, school or social settings).

15. Data concerning the number of family law cases that involve substance abuse issues is difficult to obtain. A telephone survey conducted May 26, 1999—June 13, 1999, of sixteen jurisdictions indicates that only two of those jurisdictions, the Family Division of the Circuit Court for Baltimore City and the Family Treatment Court for New York County, New York, have empirical data regarding substance abuse in the family law context. See Telephone Interview with Raye A. Barbieri, Project Director, Family Treatment Court, New York County Family Court (June 4, 1999); Interview with Judith D. Moran, Family Division Coordinator, Circuit Court for Baltimore City, in Baltimore City, Md. (Apr. 1, 1999).

16. Our telephone survey of sixteen jurisdictions demonstrates the dearth of data regarding the incidence of substance abuse among the family law litigant population. See Telephone Interview with Bee Poulson, Family Court Advocate, Deschutes County Family Court, Oregon (June 1, 1999); Telephone Interview with Ruth Miller, Family Court Coordinator, Jackson County, Oregon (May 27, 1999); Telephone Interview with John Buggy, Director of Courts Improvement Project, Family Court of Philadelphia, Pennsylvania (May 28, 1999); Telephone Interview with Carla Kreitman, State Family Court Coordinator, Kentucky Family Court Project (June 2, 1999); Telephone Interview with Joseph Gunn, Family Division Coordinator, Camden Vicinage, New Jersey (June 2, 1999); Telephone Interview with Robert Houtman, Court Administrator, Ninth Judicial Circuit, Kalamazoo, Michigan (May 27, 1999); Telephone Interview with Craig Biggs, Court Administrator, Supreme Court of New Hampshire (June 4, 1999); Telephone Interview with Barbara Diamond, Administrative Assistant, Massachusetts Supreme Judicial Court (June 1, 1999); Telephone Interview with Thomas Zampino, Presiding Judge, Newark Family Court, New Jersey (June 8, 1999); Telephone Interview with Suzanne Keith, Court Improvements Project Director, Administrative Office of the Courts, Tennessee Superior Court (June 7, 1999); Telephone Interview with Belinda Pedroso, Family Court Administrator, Fulton County, Georgia (June 9, 1999); Telephone Interview with George DiMuro, Family Court Administrator, Rhode Island Family Court Division (May 28, 1999); Telephone Interview with Marilou Giovannucci, Manager, Juvenile Matters Judicial Branch, Connecticut Supreme Court (June 8, 1999); Telephone Interview with Patricia Badland, Court Improvements Project Director, Florida Supreme Court; Telephone Interview with Lynn Shreve, Family Court Administrator, Delaware Family Court Division (May 27, 1999); Telephone Interview with Raye A. Barbieri, *supra* note 15; Interview with Judith D. Moran, *supra* note 15.

family law decision-making processes,¹⁷ as well as from a lack of education and training about substance abuse for judges and other court personnel.¹⁸ While a traditional family law decision-making process renders a judgment resolving any legal issues, the non-legal issue of substance abuse may represent a root cause of the family's legal problems. By failing to address substance abuse, the family repeatedly may need to seek court intervention, as substance abuse frequently precludes communication among family members and causes erratic behavior and poor judgment on the part of substance abusers.¹⁹ The court's inability to identify and to assist the family effectively regarding its substance abuse problem thereby sentences the family to repeat court appearances and to the likelihood that the court never may fashion an appropriate resolution for the family's legal problems.

This Article proposes an approach to family law decisionmaking tailored to assist families plagued by substance abuse. Part I discusses characteristics of those using the courts to resolve family legal proceedings, as well as the scope of the problem of substance abuse among these court participants.²⁰ Part II defines a unified family court as the most effective decision-making context within which to resolve family law proceedings.²¹ Professor Babb describes her interdisciplinary ecological and therapeutic approach to family law adjudication²² and to the structure of a unified family court.²³ The ecology of human development,²⁴ a social science research paradigm, provides the framework to construct the court. Incorporation of thera-

17. See Babb, *Fashioning an Interdisciplinary Framework for Court Reform in Family Law*, *supra* note 5, at 475-76, 491-43. See also Babb, *An Interdisciplinary Approach to Family Law Jurisprudence*, *supra* note 6, at 780.

18. See generally NATIONAL CENTER ON ADDICTION AND SUBSTANCE ABUSE AT COLUMBIA UNIVERSITY (CASA), *NO SAFE HAVEN: CHILDREN OF SUBSTANCE-ABUSING PARENTS* 5 (1999) [hereinafter *CASA, NO SAFE HAVEN*].

19. See GROVER, *supra* note 14, at 57 (defining substance abuse to include impaired interpersonal relationships). See also Judy Howard, *Chronic Drug Users as Parents*, 43 *HASTINGS L.J.* 645, 652 (1992) (describing substance abusers as having low self esteem, interfering with the development of healthy social networks, having fewer close friendships and more intense feelings of loneliness than non-drug users).

20. See *infra* notes 27-42 and accompanying text.

21. See *infra* notes 43-85 and accompanying text.

22. See generally Babb, *An Interdisciplinary Approach to Family Law Jurisprudence*, *supra* note 6, at 801-07 (proposing a paradigm for family law jurisprudence that utilizes an interdisciplinary ecological and therapeutic perspective for family law decisionmaking).

23. See Babb, *Fashioning an Interdisciplinary Framework for Court Reform in Family Law*, *supra* note 5, at 507-13 (creating a blueprint for court reform in family law by adopting an interdisciplinary ecological and therapeutic paradigm to structure unified family courts).

24. See generally URIE BRONFENBRENNER, *THE ECOLOGY OF HUMAN DEVELOPMENT* (1979); see also *infra* PART II (explaining the ecology of human development).

peutic jurisprudence²⁵ as the underlying goal of the court's operation provides an organizational philosophy around which to create the court system's components. The proposed model structure equips judges and other court professionals to understand and to address the many influences on human behavior and family life, including specific attention to substance abuse, thereby resulting in more effective resolutions for families. Part III utilizes a case study to illustrate how one court, the Family Division of the Circuit Court for Baltimore City, Maryland, has adopted Professor Babb's proposed model.²⁶ This court has responded to families' substance abuse problems in an effort to facilitate a more permanent and effective resolution of the family's legal matters, as well as to prevent future child abuse and neglect.

I. STATEMENT OF THE PROBLEM: CHARACTERISTICS OF INDIVIDUALS IN FAMILY LEGAL PROCEEDINGS

Substance abuse among family law litigants is an issue that courts are beginning to consider. Qualitative data that describes family law litigants, however, is difficult to obtain.²⁷ While some courts collect data regarding substance abuse among the pool of litigants, this data

25. David Wexler conceptualizes therapeutic jurisprudence as follows:

Therapeutic jurisprudence is the study of the role of the law as a therapeutic agent. It looks at the law as a social force that, like it or not, may produce therapeutic or antitherapeutic consequences. Such consequences may flow from substantive rules, legal procedures, or from the behavior of legal actors (lawyers and judges).

David B. Wexler, *Putting Mental Health Into Mental Health Law: Therapeutic Jurisprudence*, in *ESSAYS IN THERAPEUTIC JURISPRUDENCE* 3, 8 (David B. Wexler & Bruce J. Winick eds., 1991) (citation omitted).

26. See *infra* text accompanying notes 86-217.

27. In a series of telephone interviews with sixteen court personnel around the country, there was little data available to form the basis for demonstrating any evidence as to the characteristics of family court litigants. Our survey yielded data of this type only from the Family Division of the Circuit Court for Baltimore City and from the Family Treatment Court for New York County, New York. See Telephone Interview with Raye A. Barbieri, *supra* note 15; Interview with Judith D. Moran, *supra* note 15; Telephone Interview with Bee Poulson, *supra* note 16; Telephone Interview with Ruth Miller, *supra* note 16; Telephone Interview with John Buggy, *supra* note 16; Telephone Interview with Carla Kreitman, *supra* note 16; Telephone Interview with Joseph Gunn, *supra* note 16; Telephone Interview with Craig Biggs, *supra* note 16; Telephone Interview with Barbara Diamond, *supra* note 16; Telephone Interview with Thomas Zampino, *supra* note 16; Telephone Interview with Suzanne Keith, *supra* note 16; Telephone Interview with Belinda Pedroso, *supra* note 16; Telephone Interview with George DiMuro, *supra* note 16; Telephone Interview with Marilou Giovannuci, *supra* note 16; Telephone Interview with Patricia Badland, *supra* note 16; Telephone Interview with Lynn Shreve, *supra* note 16.

is limited to family treatment courts²⁸ or to data collected from child abuse and neglect proceedings.

The Circuit Court for Baltimore City's Family Division Annual Report provides the most complete litigant profile available.²⁹ Data from that report, collected from contested domestic equity³⁰ case files for a one-year period from January, 1998 to January, 1999, demonstrates that families who use the Family Division of the Circuit Court for Baltimore City have the following characteristics: eighty-two percent of the cases involve one or more children;³¹ of those families with children, fifty-five percent of the cases involve litigation regarding custody and/or visitation with those children;³² seven percent of the cases contain an allegation of substance abuse by one or both parties.³³

Although there is a dearth of data demonstrating the prevalence of substance abuse among family law litigants, there is a large pool of data associated with substance abuse and addiction within families. A study by the University of Michigan Institute for Social Research has found that more than half of the twelfth graders surveyed had used an illicit substance some time in their lives.³⁴ During the 1990s, slightly more than half of high school seniors report drinking during the month prior to their being surveyed.³⁵ A study by the Centers for Disease Control and Prevention has found that more than sixteen percent of the pregnant women they surveyed reported drinking during the preceding month.³⁶ In the foreword to the recent study on child abuse and neglect conducted by the National Center on Addiction and Substance Abuse at Columbia University, the authors estimate that there are twenty-eight million children of alcoholics in the

28. See Raye A. Barbieri, Presentation as Part of a Conference, Substance Abuse, Families, and the Courts: Legal and Public Health Challenges, University of Maryland School of Law (May 14, 1999) (explaining that family treatment courts are derived from the drug court model which is an alternative to incarceration for criminal offenders who are addicted to drugs and/or alcohol and that the Manhattan Family Treatment Court is one such example).

29. See JUDITH D. MORAN, CIRCUIT COURT FOR BALTIMORE CITY, ANNUAL REPORT OF THE FAMILY DIVISION 32 (1999).

30. See *id.* at app. iv (reporting that these case categories include complaints for divorce, custody, visitation, and guardianship).

31. See *id.* at 32.

32. See *id.*

33. See *id.* at app. iv.

34. GROVER, *supra* note 14, at 5.

35. See *id.* at 5 (clarifying that this statement is based upon research conducted by the following: National Institute on Drug Abuse, 1996; University of Michigan Institute for Social Research, 1997; Substance Abuse and Mental Health Services Administration, 1995).

36. See *id.*

United States and “several million children of drug addicts and abusers.”³⁷ Among a national survey of child welfare and family court professionals, “89.3% of all respondents recognize alcohol as a leading substance of abuse among parents.”³⁸

The impact of substance abuse on families is substantial. The National Center on Addiction and Substance Abuse has concluded that “[c]hildren whose parents abuse drugs and alcohol are almost three times . . . likelier to be physically or sexually assaulted and more than four times . . . likelier to be neglected, than children of parents who are not substance abusers.”³⁹ The authors of another study opine that substance abuse places an enormous burden on families to the extent that “[e]vidence is overwhelming that alcoholism and drug abuse are inextricably linked to the most pernicious social, health, and economic problems facing Americans today. These problems include family violence, AIDS transmission, and decreased learning in school, among others.”⁴⁰ In addition to the aforementioned burdens, drug abuse among family members also contributes to an increased risk for addictive illnesses for other members of the family. “When parents use illegal drugs, are heavy users of alcohol, or are tolerant of their children’s use of drugs, the children are more likely than otherwise to become substance abusers in adolescence.”⁴¹ The use of drugs by a sibling also may be a risk factor for the development of substance abuse or drug dependence.⁴²

If substance abuse and addiction are so pervasive among Americans, it is nearly axiomatic, then, that substance abuse must be a factor for a substantial number of family law litigants. Thus, courts must respond to the problem of substance abuse if they are to assist families effectively and to protect children. The authors propose that a unified family court fashioned according to a therapeutic and an ecological perspective is the most effective response to the impact of substance abuse on family legal proceedings.

37. CASA, NO SAFE HAVEN, *supra* note 18, at ii.

38. *Id.* at 2.

39. *Id.* at ii.

40. GROVER, *supra* note 14, at 1.

41. *Id.* at 8.

42. *See id.*

II. UNIFIED FAMILY COURTS: A COURT REFORM PROPOSAL TO ADDRESS FAMILIES' SPECIAL NEEDS

A. *The Need for Court Reform in Family Law*

Court involvement in family law means that the parties often must frame social problems as legal issues and that the court must assign fault or blame, thereby complicating any solution mutually acceptable to the litigants.⁴³ Further, judges and legislators historically have attempted to impose their personal sense of morality in the determination of family legal issues rather than to decide cases based upon the realities of families' lives.⁴⁴ Such processes have contributed to ineffective family justice.

Traditionally, the legal system has separated civil and criminal matters, and it has distinguished among classes of cases within these categories.⁴⁵ When applied to family law decisionmaking, this configuration has resulted in conflicting jurisdiction among courts, unpredictable outcomes, a waste of judicial and litigant resources, successive appeals, and inefficient court administration.⁴⁶ Particularly for litigants experiencing multiple family law problems, this traditional structure has created serious negative consequences:

[T]he judicial system present in most states . . . contributes to the demise of the family unit. Under the current system, it is not uncommon to have a family involved with one judge because of an adult abuse proceeding, a second judge because of the ensuing divorce, with still another judge because of child abuse and neglect allegations, and a fourth judge if the abuse allegation led to criminal charges. The fragmented judicial system is costly to litigants, inefficient in the

43. See Ralph Cavanagh & Austin Sarat, *Thinking About Courts: Toward and Beyond a Jurisprudence of Judicial Competence*, 14 L. & SOC'Y REV. 371, 395 (1980).

44. See Gary B. Melton & Brian L. Wilcox, *Changes in Family Law and Family Life: Challenges for Psychology*, 44 AM. PSYCHOLOGIST 1213, 1214 (1989). See also Frances E. Olsen, *The Myth of State Intervention in the Family*, 18 U. MICH. J.L. REFORM 835, 854-55 (1985) (suggesting that courts decide family law cases based on policy considerations such that the decisions then affect the family roles and relationships). See generally Robert Rubinson, *The Polyphonic Courtroom: Expanding the Possibilities of Judicial Discourse*, 101 DICK. L. REV. 3, 4 (1996) (stating that "[judicial] opinions are typically monologues which reject exploration of complex issues of meaning in favor of the simple exercise of justifying a result") (citation omitted).

45. See Williams, *supra* note 7, at 386.

46. See Roscoe Pound, *The Place of the Family Court in the Judicial System*, NAT'L PROBATION & PAROLE ASS'N J. 99, 162 (1959). See generally MAXINE BOORD VIRTUE, *FAMILY CASES IN COURT* (1956) (discussing an early comprehensive study of family law case handling by court systems in Chicago, Illinois; Indianapolis, Indiana; San Francisco, California; and Toledo, Ohio).

use of judicial resources, and can result in the issuance of diverse or even conflicting orders affecting the family. Also, "too often courthouse resolutions resolve only the legal conflicts, leaving unaddressed the underlying personal relationship and psychological disputes."⁴⁷

A Maryland study has identified impediments to family justice that are typical of those plaguing many court systems nationwide.⁴⁸ The report has listed the following as the most pressing concerns:

- (1) the resolution process is often time-consuming, expensive, and cumbersome, with some aspects of the dispute being adjudicated more than once;
- (2) proper attention is not being given to child-related issues, which are being allowed to fester as part of other aspects of a family law dispute;

47. Williams, *supra* note 7, at 383-84 (citation omitted) (quoting Ann L. Milne, *Family Law From a Family System Perspective—The Binary Equation*, 21 PAC. L.J. 933, 934 (1990) (detailing Missouri's recent legislative efforts to create a unified family court)).

48. See generally STEPHEN P. JOHNSON, *JUST SOLUTIONS: SEEKING INNOVATION AND CHANGE IN THE AMERICAN JUSTICE SYSTEM* (1994) (reporting on the American Bar Association's national conference in 1994 to encourage dialogue among lawyers, judges, and the public regarding needed justice system improvements); CALIFORNIA SENATE TASK FORCE ON FAMILY RELATIONS COURT, *SENATE TASK FORCE ON FAMILY RELATIONS COURT: FINAL REPORT 1-6* (1990) (describing problems for family law litigants within California's court system as multiple hearings, conflicting orders, unrealistic expectations, delay in receiving services, and inadequate allocation of court resources); GOVERNOR'S CONSTITUENCY FOR CHILDREN, *A FAMILY COURT FOR FLORIDA 10-11* (1988) (defining high volume, delay, lack of coordination, and inconsistency as issues in Florida's handling of family law matters); STATE BAR OF GEORGIA COMMISSION ON FAMILY COURTS, *REPORT AND RECOMMENDATIONS 13-14* (1995) (summarizing problems of confusion, inefficiency, unnecessary adversarialism, delay, conflicting rulings, extended appeals, lack of services, and untrained or unqualified court personnel regarding the Georgia court system's handling of family law matters); E. HUNTER HURST & JEFFREY A. KUHN, *A FAMILY DEPARTMENT FOR THE DISTRICT COURTS OF KANSAS 5-6* (1993) (identifying the excessive volume of juvenile and family legal matters, the need for a coordinated approach for the same child or children, and a lack of justice system resources for family law cases as the major problems plaguing Kansas' court system); JEFFERSON FAMILY COURT DEVELOPMENT PROJECT, *INTERIM REPORT TO THE COURT: JEFFERSON FAMILY COURT PILOT PROJECT 10* (1992-93) (describing the Kentucky court system's treatment of family law matters as uncoordinated with overlapping jurisdiction and piecemeal decisionmaking); RHODE ISLAND FAMILY COURT STUDY COMMITTEE, *REPORT OF THE FAMILY COURT STUDY COMMITTEE 2-3, 5* (1957) (documenting Rhode Island's system of overlapping jurisdiction, inadequate court personnel, and lack of coordination in handling family law matters); VIRGINIA FAMILY COURT PILOT PROJECT ADVISORY COMMITTEE, *REPORT ON THE FAMILY COURT PILOT PROJECT 21, 28* (1992) (finding that Virginia's court system is inconvenient, inefficient, uncoordinated, backlogged, and unpredictable for family law litigants); KING COUNTY BENCH/BAR TASK FORCE, *UNIFIED FAMILY COURT 8* (1995) (summarizing problems within the court system of King County, Washington, as barriers to access the system, lack of case finality, lack of specialized family law training for court staff, and ineffective coordination and sharing of information among court agencies and with outside agencies).

- (3) there is inadequate systemic resort to non-judicial resolution techniques (ADR) that might provide better, quicker, cheaper, and less acrimonious solutions to many of these kinds of cases;
- (4) there is inadequate coordination and consolidation of litigation involving the same family—a case, or several cases, involving the same family may be dealt with by different judges or masters, or even by different courts—thus inhibiting a rational, coordinated, stable approach to both the litigation and the problems that spawned it;
- (5) in some instances, judges sitting on family law cases display either a lack of interest, a lack of temperament, or a lack of understanding with respect to these cases; and
- (6) the courts are not giving proper attention to the special needs of poor people, who often cannot afford representation by counsel and need, or desire, to proceed *pro se*.⁴⁹

Professor Babb has conducted a comprehensive nationwide survey determining how each state's courts handle family law matters, including an assessment of the court structure, the subject-matter jurisdiction of the court, the term length of judges, and the case assignment methods.⁵⁰ Her survey results reveal a striking amount of variety and inconsistency in how America's courts process family law cases. As of May, 1998, eleven jurisdictions operate statewide family courts,⁵¹ and fourteen states have established a family court in at least one area of the state, although not for the entire state.⁵² Nine states plan to begin or have begun pilot family court projects.⁵³ Seventeen states do

49. ROBERT C. MURPHY, REPORT OF THE FAMILY DIVISION REVIEW COMMITTEE 6-7 (1993) (reporting results of a legislatively mandated study summarizing two in-depth reports about Maryland's family law adjudicatory system).

50. See Babb, *Fashioning an Interdisciplinary Framework for Court Reform in Family Law*, *supra* note 5, at app. A; see also Babb, *Where We Stand*, *supra* note 5, at 37-46, apps. A, B, C, D.

51. These jurisdictions are Delaware, District of Columbia, Florida, Hawaii, Massachusetts, New Jersey, New York, Rhode Island, South Carolina, Vermont, and Washington. See Babb, *Fashioning an Interdisciplinary Framework for Court Reform in Family Law*, *supra* note 5, at app. A; see also Babb, *Where We Stand*, *supra* note 5, at app. A.

52. These states are Alabama, Colorado, Kansas, Louisiana, Mississippi, Missouri, Nevada, New Mexico, Ohio, Oklahoma, Oregon, Pennsylvania, Texas, and Wisconsin. See Babb, *Fashioning an Interdisciplinary Framework for Court Reform in Family Law*, *supra* note 5, at app. B; see also Babb, *Where We Stand*, *supra* note 5, at app. A.

53. These states are California, Georgia, Illinois, Kentucky, Maine, Maryland, Michigan, New Hampshire, and Virginia. See Babb, *Fashioning an Interdisciplinary Framework for Court Reform in Family Law*, *supra* note 5, at app. C; see also Babb, *Where We Stand*, *supra* note 5, at app. A.

not possess any specialized or separate system to handle family law matters.⁵⁴

This outcome illustrates the dramatic need for "a fundamental rethinking and restructuring of the legal system"⁵⁵ with regard to family law adjudication and suggests that states consider implementing unified family courts.

B. *Defining a Unified Family Court*

"'Family court' is a term with no agreed meaning."⁵⁶ Many courts call themselves "family courts" without fully considering the implications of that term, while others consolidate their treatment of family legal matters without specifically calling themselves "family courts."⁵⁷ The notion of a family court suggests a separate court or a separate division of a state court of general jurisdiction that exercises comprehensive subject-matter jurisdiction⁵⁸ over all legal issues related to children and families.⁵⁹ Defined most simply, a family court is a single forum within which to adjudicate the full range of family law issues,⁶⁰ based on the notion that court effectiveness and efficiency increase when the court resolves a family's legal problems in as few appearances as possible.⁶¹ A unified family court, on the other hand, expands this traditional notion of a family court to encompass a single court that coordinates the work of independent agencies and tribu-

54. These states are Alaska, Arizona, Arkansas, Connecticut, Idaho, Indiana, Iowa, Minnesota, Montana, Nebraska, North Carolina, North Dakota, South Dakota, Tennessee, Utah, West Virginia, and Wyoming. See Babb, *Fashioning an Interdisciplinary Framework for Court Reform in Family Law*, *supra* note 5, at app. D; see also Babb, *Where We Stand*, *supra* note 5, at app. A.

55. Susan L. Brooks, *A Family Systems Paradigm for Legal Decision Making Affecting Child Custody*, 6 CORNELL J.L. & PUB. POL'Y 1, 5 (1996) (advocating a systems approach to child custody decision making based upon a nonjudgmental consideration of the child in the context of the family and the family's interaction). See also Edward P. Mulvey, *Family Courts: The Issue of Reasonable Goals*, 6 LAW & HUM. BEHAV. 49, 50 (1982) ("[T]rue adoption of a family perspective by the legal system will involve more than a mere semantic shift.") *Id.*

56. LINDA SZYMANSKI ET AL., POLICY ALTERNATIVES AND CURRENT COURT PRACTICE IN THE SPECIAL PROBLEM AREAS OF JURISDICTION OVER THE FAMILY 6 (1993). Accord Robert W. Page, *Family Courts: An Effective Judicial Approach to the Resolution of Family Disputes*, 44 JUV. & FAM. CT. J. 1, 7 (1993).

57. See William C. Gordon, *Establishing a Family Court System*, 28 JUV. JUST. 9 (1977). See also Robert E. Shepherd, Jr., *The Unified Family Court: An Idea Whose Time Has Finally Come*, 8 CRIM. JUST. 37, 37-38 (1993) (discussing the variety among family courts regarding their subject-matter jurisdiction and indicating that the meaning of family court is unclear).

58. See generally *supra* note 1 (defining comprehensive jurisdiction).

59. See SANFORD N. KATZ & JEFFREY A. KUHN, RECOMMENDATIONS FOR A MODEL FAMILY COURT 1 (1991).

60. See SZYMANSKI ET AL., *supra* note 56, at 1.

61. See *id.* at 5.

nals, each with some limited role in resolving the problems incident to a family's legal matters.⁶²

C. *An Interdisciplinary Framework for a Unified Family Court*

Professor Babb has created an interdisciplinary framework for a unified family court.⁶³ This section summarizes her research efforts and sets the stage for understanding how one court, the Family Division of the Circuit Court for Baltimore City, has adopted this model. According to Professor Babb's framework, a research paradigm from the social sciences, known as the ecology of human development, provides a comprehensive analytical tool to design a unified family court. To address the special needs of families who present themselves to the court system, Professor Babb employs a concept from mental health law, known as therapeutic jurisprudence, to assist the court in understanding how it must intervene in the lives of families. Application of these two perspectives provides Professor Babb's interdisciplinary ecological and therapeutic framework to create a model unified family court. Professor Babb argues that this interdisciplinary approach helps judges and other court system professionals consider the many influences on human behavior and family life, thereby empowering the system to offer more pragmatic and effective solutions to contemporary family legal issues.

1. *The Ecology of Human Development*

According to Professor Urie Bronfenbrenner, who developed the ecology of human development theory, pursuing strategies designed to establish and to strengthen connections among all the competing influences on children's and families' lives can enhance their functioning.⁶⁴ To account systematically for these competing influences, Bronfenbrenner arranges the settings within which individuals live their lives on a scale from smallest to largest.⁶⁵ The most immediate

62. See Pound, *supra* note 46, at 164. Pound defines the need for integrated handling of child and family legal proceedings:

Treating the family situation as a series of single separate controversies may often not do justice to the whole or to the several separate parts. The several parts are likely to be distorted in considering them apart from the whole, and the whole may be left undetermined in a series of adjudications of the parts.

Id.

63. See Babb, *Fashioning an Interdisciplinary Framework for Court Reform in Family Law*, *supra* note 5, at 469. See also Babb, *An Interdisciplinary Approach to Family Law Jurisprudence*, *supra* note 6, at 775.

64. See BRONFENBRENNER, *supra* note 24, at 7, 22.

65. See *id.*

context within which the individual experiences daily reality, such as the parent-child relationship and the husband-wife relationship, is the "microsystem."⁶⁶ Relationships between the microsystems, such as the amount of interaction between a child's school and his home setting, constitute the "mesosystem."⁶⁷ "Exosystems" are the settings that have power over one's life, yet in which one does not participate, such as the effect of a parent's place of employment on the child's life.⁶⁸ Finally, Bronfenbrenner labels the broad ideological and institutional patterns of a particular culture or subculture as the "macrosystems."⁶⁹ For Bronfenbrenner, the crucial question becomes whether we can alter social institutions so that they can function as positive influences on family life by increasing the number and extent of individuals' and families' connections among the systems of this paradigm.⁷⁰

Professor Babb believes that a unified family court structure must assist decisionmakers in considering an expanded concept of the family by acknowledging the "family ecology,"⁷¹ or the interdependent nature of the family. According to her, courts must view neighborhoods, religious organizations, and other associations or institutions within which family members participate as having the potential to influence the family's legal matters, and unified family courts must adopt a systematic approach to accommodate the complex factors affecting families' lives. As Professor Babb has commented elsewhere:

[A]dvocates, parties, and human services providers must identify for decisionmakers the types and strengths of the microsystem relationships within which people function, or the relationships between and among family members. In addition, decisionmakers need to understand family members' mesosystem relationships, or relationships between individuals and aspects of their immediate environment, such as neighborhoods, schools, and religious organizations.⁷²

66. *See id.*

67. *See id.* at 7-8, 25.

68. *See id.*

69. *See* James Garbarino & Robert H. Abramowitz, *The Ecology of Human Development*, in CHILDREN AND FAMILIES IN THE SOCIAL ENVIRONMENT 11, 27 (James Garbarino ed., 2d ed. 1992).

70. *See American Families: Trends and Pressures, 1973: Hearings on Examination of the Influence that Governmental Policies Have on American Families Before the Subcomm. on Children and Youth of the Senate Comm. on Labor and Public Welfare*, 93rd Cong. 31962, 31964-65 (1973) (statement of Urie Bronfenbrenner, Professor of Human Development and Family Studies and Psychology, College of Human Ecology, Cornell University).

71. *See* MARY ANN GLENDON, *THE TRANSFORMATION OF FAMILY LAW: STATE, LAW, AND FAMILY IN THE UNITED STATES AND WESTERN EUROPE* 308 (1989).

72. Babb, *An Interdisciplinary Approach to Family Law Jurisprudence*, *supra* note 6, at 802-03 (citation omitted).

Likewise, Professor Babb suggests that court professionals must acknowledge the effects of macrosystem influences, such as parental employment, on family legal matters.⁷³ Finally, Professor Babb's ecological framework instructs court professionals "to look beyond the individual litigants involved in any family law matter, to holistically examine the larger social environments in which participants live, and to fashion legal remedies that strengthen a family's supportive relationships."⁷⁴

Professor Babb argues that this structured consideration of the family's ecology by all court professionals facilitates problem-solving and enables family law decisionmakers to understand more completely the comprehensive nature of the family's functioning. Her use of an ecological structure to guide family law court reform leads to the design of a court system that empowers decisionmakers to apply the law in a manner that more effectively resolves the family's legal issues.

2. *Therapeutic Jurisprudence*

The court's focus on achieving an outcome of family law adjudication which helps the individuals and families appearing before it represents the goal of therapeutic jurisprudence, defined by Professor David Wexler as follows:

Therapeutic jurisprudence is the study of the role of the law as a therapeutic agent. It looks at the law as a social force that, like it or not, may produce therapeutic or anti-therapeutic consequences. Such consequences may flow from substantive rules, legal procedures, or from the behavior of legal actors (lawyers or judges).

The task of therapeutic jurisprudence is to identify—and ultimately to examine empirically—relationships between legal arrangements and therapeutic outcomes. The research task is a cooperative and thoroughly interdisciplinary one . . . Such research should then usefully inform policy determinations regarding law reform.⁷⁵

Professor Babb has applied the concept of therapeutic jurisprudence to help the court understand how to intervene effectively in family law cases.⁷⁶ The sense of what constitutes a therapeutic outcome derives

73. *See id.*

74. *Id.* at 803.

75. Wexler, *supra* note 25, at 8 (citation omitted).

76. *See* Babb, *Fashioning an Interdisciplinary Framework for Court Reform in Family Law*, *supra* note 5, at 509-13. *See also* Babb, *An Interdisciplinary Approach to Family Law Jurisprudence*, *supra* note 6, at 798-801.

from the individual's own viewpoint, which courts must attempt to honor.⁷⁷ On the other hand, "what is ultimately regarded as 'therapeutic'—and the law's role in promoting therapeutic aims is a socio-political decision, decided by legal-political decisionmakers, with . . . important input given to consumers or recipients of the law's therapeutic aims."⁷⁸ Therapeutic jurisprudence requires an examination of "the extent to which a legal rule or practice promotes the psychological and physical well-being of the people it affects."⁷⁹

Professor Babb advances the notion that resolving family legal disputes with the aim of improving the lives of families and children requires restructuring the court system to enhance the system's potential to maximize the therapeutic consequences of court intervention. To accomplish this goal, she suggests that the court system must allow for the contemplation of alternative legal outcomes intended to produce more effective functioning on the part of families and children.⁸⁰ As Professor Babb has said before, "[i]n the field of family law, therapeutic justice should strive to protect families and children from present and future harms, to reduce emotional turmoil, to promote family harmony or preservation, and to provide individualized and efficient, effective justice."⁸¹ On the other hand, Professors Wexler and Winick properly caution that "[t]herapeutic jurisprudence in no way suggests that therapeutic considerations should trump other considerations. Therapeutic considerations are but one category of important considerations, as are autonomy, integrity of the fact-finding process, community safety, and many more."⁸²

Professor Babb's proposal to embrace therapeutic jurisprudence as a goal of family law decisionmaking means adopting specific thera-

77. See Bruce J. Winick, *The Jurisprudence of Therapeutic Jurisprudence*, in *LAW IN A THERAPEUTIC KEY: DEVELOPMENTS IN THERAPEUTIC JURISPRUDENCE* 645, 653 (David B. Wexler & Bruce J. Winick eds., 1997).

78. David B. Wexler, *Reflections on the Scope of Therapeutic Jurisprudence*, in *LAW IN A THERAPEUTIC KEY: DEVELOPMENTS IN THERAPEUTIC JURISPRUDENCE*, *supra* note 77, at 811, 812 (citations omitted).

79. Christopher Slobogin, *Therapeutic Jurisprudence: Five Dilemmas to Ponder*, in *LAW IN A THERAPEUTIC KEY: DEVELOPMENTS IN THERAPEUTIC JURISPRUDENCE*, *supra* note 77, at 763, 767 (italics omitted). *But see* Wexler, *supra* note 78, at 827 ("[R]esearch into the therapeutic or antitherapeutic consequences of various arrangements applying or administering existing law has not received very much attention. This is . . . a most promising avenue of microanalytic therapeutic jurisprudence.").

80. See Winick, *supra* note 77, at 655.

81. Babb, *An Interdisciplinary Approach to Family Law Jurisprudence*, *supra* note 6, at 800.

82. Winick, *supra* note 77, at 714; David B. Wexler & Bruce J. Winick, *Patients, Professionals, and the Path of Therapeutic Jurisprudence: A Response to Petrila*, in *LAW IN A THERAPEUTIC KEY: DEVELOPMENTS IN THERAPEUTIC JURISPRUDENCE*, *supra* note 77, at 707, 708 (citation omitted).

peutic roles for court personnel, including judges and mental health professionals involved in the family law decision-making process, such as court consultants, special masters, arbitrators, mediators, divorce counselors, and various types of clinicians.⁸³ Any individual or family interventions suggested by these personnel must exist as part of a comprehensive, thoughtfully conceived plan designed by the court to respond in a holistic manner to families' and children's problems.⁸⁴ In keeping with a therapeutic jurisprudential goal, "[d]efining and expanding the role of the mental health interventionist should be an integral part of the current family law reform movement."⁸⁵

III. A CASE STUDY: THE CREATION OF THE FAMILY DIVISION OF THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

The Family Division of the Circuit Court for Baltimore City began as a pilot project mandated by legislative funding to Baltimore City in July, 1996.⁸⁶ This funding resulted from five years of legislative advocacy by concerned citizens, family law practitioners, bar leaders, mediators, legislators, legal scholars, and the Maryland Attorney General.⁸⁷ Initially, these advocates introduced legislation to establish a unified family court as a separate court.⁸⁸ In light of the monumental costs associated with building and maintaining a separate court, as well as to avoid the possibility of a unified family court becoming a secondary court with inferior status, the proponents acceded to the creation of a Family Division of the Circuit Court, or the trial court of general jurisdiction.⁸⁹ In January, 1998, the Maryland Court of Appeals adopted a court rule mandating the creation of Family Divisions within Maryland's five largest Circuit Courts.⁹⁰

In November, 1996, the Family Division of the Circuit Court for Baltimore City became one of six pilot sites chosen by the American Bar Association Standing Committee on Substance Abuse's model unified family court project, "Communities, Families, and the Justice

83. See Lynne M. Kenney & Diane Vigil, *A Lawyer's Guide to Therapeutic Interventions in Domestic Relations Court*, 28 ARIZ. ST. L.J. 629, 635-38 (1996).

84. See *id.* at 641.

85. *Id.*

86. See S.B. 160, Ch. 13, 410th Leg. (Md. 1996) (restricting \$140,000 to establish a pilot program Family Division in the Circuit Court for Baltimore City).

87. See MORAN, *supra* note 29, at 2.

88. See Interview with Judith D. Moran, *supra* note 15.

89. See H.B. 1172, 408th Leg. (Md. 1994), H.B. 644, 409th Leg. (Md. 1995), S.B. 493, 409th Leg. (Md. 1995), H.B. 18, 410th Leg. (Md. 1996), H.B. 1346, 411th Leg. (Md. 1997), S.B. 571, 411th Leg. (Md. 1997).

90. See MD. RULE 16-204.

System," funded by the Robert Wood Johnson Foundation.⁹¹ The court benefited substantially from the project's technical assistance, which facilitated the development of the Family Division's structure and services.⁹² The creation of substance abuse services became a priority from the Family Division's inception.⁹³

A. *Guiding Principles of the Family Division*

Several core principles guide the Family Division's structure, policies, and procedures. These principles include the following: (1) the court shall protect adults and children from harm; (2) the court shall protect adults and children from the adverse impact of family law litigation; (3) the court shall increase access to the judicial system for unrepresented litigants; (4) the court shall aggressively manage family law cases in order to facilitate early settlement and to identify referrals to appropriate services; (5) the court shall identify family members who exhibit signs and symptoms of substance abuse and addiction and make appropriate referrals for treatment.⁹⁴ The goal of the Family Division is to provide efficient case management of all family legal matters, as well as to offer adjunctive services to litigants due to the numerous non-legal problems family law litigants often face.⁹⁵ These non-legal problems are particularly acute in large urban jurisdictions, such as Baltimore City, where statistics reveal a high incidence of child abuse,⁹⁶ substance abuse,⁹⁷ spousal abuse,⁹⁸ and poverty.⁹⁹ The mis-

91. See *supra* note 9.

92. See Interview with Judith D. Moran, *supra* note 15.

93. See *id.*

94. See MORAN, *supra* note 29, at 21.

95. See *id.* at 2.

96. See ADMINISTRATIVE OFFICE OF THE COURTS, THE ANNUAL REPORT OF THE MARYLAND JUDICIARY 1997-1998 45 (1998) (reporting that there were 3,228 child abuse filings in the Circuit Court for Baltimore City for this period, the highest number in circuit courts throughout Maryland) [hereinafter ADMINISTRATIVE OFFICE OF THE COURTS].

97. See *Substance Abuse Need for Treatment Among Arrestees: Preliminary Results for Baltimore*, CENTER FOR SUBSTANCE ABUSE RESEARCH AT THE UNIVERSITY OF MARYLAND, Oct. 8, 1997 (reporting the results of a 1997 study of random urinalysis of male and female arrestees in Baltimore City, where 69% of male and 46% of female arrestees tested positive for at least one drug, and 40% of males and 46% of females tested positive for heroin, a higher percentage than any other city recently testing its arrestee population).

98. See ADMINISTRATIVE OFFICE OF THE COURTS, *supra* note 96, at 45, 85 (documenting that in 1997-1998, there were 670 domestic violence filings in the Circuit Court for Baltimore City, the highest number of circuit court filings in the state; and in the same period, there were 4,150 domestic violence filings in the District Court for Baltimore City, the highest number of district court filings in Maryland).

99. See MARYLAND OFFICE OF PLANNING, 1990 CENSUS PROFILE SERVICES: SOCIAL AND ECONOMIC CHARACTERISTICS OF POPULATION AND HOUSING FOR BALTIMORE CITY (1992) (finding that in 1990, 21.9% of Baltimore City residents, or 156,284 individuals, were identified as

sion of the Family Division includes assisting families with obtaining appropriate resources in order to address both their legal and non-legal problems.¹⁰⁰ The Family Division currently offers a wide array of services available both in the courthouse itself and in the community, where partnerships are cultivated expressly for the purpose of enhancing the court's ability to help litigants.¹⁰¹

B. Structure of the Court

The Family Division of the Circuit Court for Baltimore City is subdivided into two structural components: (1) the juvenile docket, which includes child abuse and neglect, termination of parental rights, and juvenile delinquency matters; and (2) the domestic docket, which includes equity actions such as marital dissolution, child custody and visitation, adoption, guardianship, marital property, alimony, child support, paternity, and domestic violence proceedings.¹⁰² Each sub-division is administered by a judge-in-charge.¹⁰³

This Article focuses on the domestic docket. The proceedings in both sub-divisions are coordinated, however, to ensure that all matters involving the custody of children are cross-referenced with pending abuse, neglect, and juvenile matters.¹⁰⁴ Judges who hear the equity proceedings are apprised of any related cases involving the family.¹⁰⁵ Three full-time judges (including the judge-in-charge) and three full-time domestic equity masters constitute the domestic docket.¹⁰⁶ One master's docket is devoted to hearing *ex parte* petitions for relief from

living at the poverty threshold which was defined as an income of \$12,674 for a family of four).

100. See MORAN, *supra* note 29, at 2, 4-5.

101. See MORAN, *supra* note 29, at 6, 8, 11, 17, 24 (noting that partnerships with community service providers include: Sheppard Pratt Hospital Community Education Programs, which provide the court's Parenting Seminars, Children's Group and mediation panel; the Legal Aid Bureau, Inc., which provides the court's Assisted Pro Se Project; The Women's Law Center, which provides the Protective Order Advocacy and Representation Project; the University of Maryland School of Social Work, which provides social work interns who assist domestic violence victims; and numerous community agencies providing mental health and substance abuse services).

102. See MD. RULE 16-204 (a)(2) (establishing the jurisdiction of Maryland's Family Division).

103. See Interview with Judith D. Moran, *supra* note 15 (stating that the administrative judge of the Circuit Court for Baltimore City appoints the judges-in-charge of both subdivisions; that each judge-in-charge has administrative responsibilities for his particular docket and is a member of the Circuit Court's management committee; and that the judge-in-charge assists the administrative judge with creating policies and procedures for the Family Division).

104. See Interview with Judith D. Moran, *supra* note 15.

105. See *id.* (stating that the same does not hold true for juvenile judges).

106. See *id.*

domestic violence and to case resolution assistance for pro se litigants.¹⁰⁷

C. *The Role of Court Personnel*

Case management within the Family Division operates according to a team approach.¹⁰⁸ The team approach means that a separate unit within the court clerk's office processes family law cases, which allows these cases to receive prompt attention from the court.¹⁰⁹ It further means that various court personnel, including social services professionals, attend to these cases.¹¹⁰ This concept is a burgeoning movement.¹¹¹ Experts speaking at the American Bar Association's Ninth National Children's Conference on Children and the Law have concluded that the keys to the future in matters relating to children include specialization and teamwork with other disciplines such as social work.¹¹² A Michigan criminal court judge has noted that "[w]hen criminal cases involve mental illness or addiction or both, our usual ways of judging fail us."¹¹³ In attempting to fashion creative solutions for afflicted criminal defendants, he has used a team approach to re-

107. *See id.* (explaining that an additional master's position improves the court's response to ex parte petitioners).

108. *See id.* (noting that the team includes judges, masters, their respective staff, court administrative personnel, such as the Family Division Coordinator and Family Division Manager, court clerks, and social workers).

109. *See id.* (reporting that the Family Division structure includes a separate clerical division for case processing, a unit which enables clerical personnel to develop expertise in a discrete area of case processing, thereby expediting the movement of cases through the court system; also reporting that these clerks participate in training with judges and other court personnel).

110. *See Gordon, supra* note 57, at 9; *Shepherd, supra* note 57, at 38-39.

111. A telephone survey of sixteen respondent jurisdictions across the nation demonstrates that six of the family courts within those jurisdictions employ the team concept. The court systems that utilize this approach include: (1) Family Court of Philadelphia, Pennsylvania, Model Court Project, Court of Common Pleas; (2) Kentucky Family Court Pilot Projects, Frankfort, Kentucky; (3) New Jersey Courts Family Division; (4) Deschutes County Family Court, Bend, Oregon; (5) Jackson County Family Court, Medford, Oregon; (6) Circuit Court for Baltimore City, Family Division. The New Jersey and Baltimore City models include personnel in the Office of the Clerk as members of the team. In all jurisdictions, team members include social service personnel. *See Telephone Interview with John Buggy, supra* note 16; Telephone Interview with Carla Kreitman, *supra* note 16; Telephone Interview with Thomas Zampino, *supra* note 16; Telephone Interview with Bee Poulson, *supra* note 16; Telephone Interview with Ruth Miller, *supra* note 16; Interview with Judith D. Moran, *supra* note 15.

112. *See Terry Carter, Kid Tested Remedies: Strategists Call for Specialization, Teamwork in Addressing Children's Needs*, A.B.A. J., June 1999, at 90.

113. William G. Schma, *Alternatives for the Common Good*, A.B.A. J., June 1999, at 103.

solve cases.¹¹⁴ Court clerks also are experimenting with the team approach. In the United States Bankruptcy Court for Sacramento, California, the clerk has instituted teams of case administrators in order to manage court caseloads more efficiently.¹¹⁵ Team members in the Family Division of the Circuit Court for Baltimore City include: (1) Family Division Judges and their staff; (2) Family Division Masters and their staff; (3) Family Division Coordinator; (4) Family Division Manager (Office of the Clerk of the Court); (5) Social Services Coordinator; (6) Domestic Violence Case Monitor; and (7) Chief Medical Officer and staff.¹¹⁶

Each team member plays a distinct role; however, the roles are very interdependent. The Family Division Coordinator reviews all contested case files and works closely with the judge-in-charge on administrative matters, such as policy and procedural matters, service contracts, staffing issues, training, and community relations.¹¹⁷ The Family Division Manager oversees the clerical operations in the Family Division unit of the court clerk's office.¹¹⁸ The Family Division Social Worker coordinates the evaluation of litigants and the referral to services for such family problems as substance abuse and mental illness.¹¹⁹ She also contributes to staff training initiatives.¹²⁰ The Domestic Violence Case Monitor coordinates referrals and follow-up services for domestic violence victims and works closely with the master assigned to the domestic violence *ex parte* docket.¹²¹ The Chief Medical Officer has administrative and clinical responsibility for all Medical Services Office functions.¹²² For example, the court's Chief Medical Officer and his staff play a significant role in custody decisionmaking, as difficult cases are referred to this office for custody evaluations.¹²³ The judge hearing the matter then receives the written evaluation prior to the court proceeding.¹²⁴

114. *See id.* (explaining that the team includes case managers, drug treatment counselors, and mental health professionals, who assist the judge with the disposition of the case).

115. *See* Peter Geier, *Talking the Talk and Walking the Walk: This Bankruptcy Clerk is All Business*, THE DAILY REC., May 8, 1999, at 1C, 2C.

116. *See* Interview with Judith D. Moran, *supra* note 15.

117. *See id.*

118. *See id.*

119. *See id.*

120. *See id.*

121. *See id.*

122. *See id.*

123. *See id.*

124. *See id.*

In some respects the Family Division has adopted aspects of the medical training model regarding the way the team functions.¹²⁵ First, team conferences occur twice a month for the purpose of case presentations.¹²⁶ The presentation is used as a teaching tool. Judges and masters can use any problem-solving techniques applied in the case presentation for cases with similar issues or facts. In addition, difficult cases are presented to the team to devise a creative solution for the family's problems.¹²⁷ These regular team meetings demonstrate to court personnel how the team approach can improve case management by fostering a group approach to problem-solving and encouraging new case resolution strategies. The meetings also create more uniformity and predictability in case processing, which has improved the court's relationships with both the bar and the litigants.

D. Court Services

Services are an essential component of a unified family court. "A model unified family court . . . must have available an array of social services that it can offer families to assist court professionals' understanding of the context of a family's legal problems and to address effectively social and psychological issues related to the family's functioning."¹²⁸ Further, "[t]he accelerated and coordinated provision of social services is . . . unified under the authority of the family court, as is coordination of collateral and ancillary matters, such as substance abuse evaluations and treatment programs for family members not directly before the court."¹²⁹

The provision and unification of services enhances the court's effectiveness in resolving family matters. The ability to offer these services enables judges to "fashion a creative solution to the family's problem."¹³⁰ Conversely, the absence of services in a court system

125. *See id.* (explaining that this model recognizes that a multidisciplinary approach to managing cases facilitates optimal outcomes for individuals and is a means to improve service delivery).

126. *See id.* (stating that each team meeting is devoted to the presentation of a particularly complex case that could benefit from a multidisciplinary approach to resolving the family's problems, and that a Family Division judge or master is responsible for presenting the case and for facilitating a discussion among team members about how to manage the case).

127. *See id.*

128. Babb, *Fashioning an Interdisciplinary Framework for Court Reform in Family Law*, *supra* note 5, at 522.

129. Stephen Cribari, *Therapeutic Power and Judicial Authority*, UNIFIED FAM. CHRON., Spring 1999, at 1.

130. Babb, *Fashioning an Interdisciplinary Framework for Court Reform in Family Law*, *supra* note 5, at 523.

dealing with problem-ridden people often is a source of frustration for judges.¹³¹ For example, there are instances where court-connected services are the most appropriate remedy a judge has available.¹³² The mandate for courts to offer services to litigants also is implicit in the Trial Court Performance Standards.¹³³

Services specific to the Family Division of the Circuit Court for Baltimore City derive from Maryland Rule 16-204.¹³⁴ Supporting data demonstrate a need for the provision of each service. The need for substance abuse services arises from the fact that seven percent of the cases filed with the Family Division in 1998 have contained an allegation of substance abuse by one or both parties.¹³⁵ In 1998, eighty-two percent of the domestic equity cases filed in the Family Division of the Circuit Court for Baltimore City have involved children.¹³⁶ Accordingly, a Children's Group to support youth whose parents are in the throes of litigating custody now exists.¹³⁷

What follows is a description of the specific programs that exist within the Family Division of the Circuit Court for Baltimore City.

131. See Interview with the Honorable Albert J. Matricianni, Jr., Judge-in-Charge of the Family Division/Domestic Docket, Circuit Court for Baltimore City (April 1999).

132. See Nina Bernstein, *After Stabbing, Earlier Case Questioned*, N.Y. TIMES, June 15, 1999, at B3 (reporting criminal misdemeanors by the mentally ill, including an interview with a judge handling many of these cases, who acknowledged without services for the mentally ill, the court is left without an effective solution for the criminal matter).

133. See Pamela Casey, *Court Populations in Need of Services: Defining the Court's Role*, 16 BEHAV. SCI. & L. 157, 157-58 (1998).

For example, Standard 1.3 Effective Participation requires that a trial court accommodate "all participants in its proceedings—especially those who have language difficulties, mental impairments, or physical handicaps[.]" Standard 1.4 Courtesy, Responsiveness, Respect notes that "a responsive court ensures that judicial officers and other court employees are available to meet both the routine and exceptional needs of those it serves[.]" Standard 2.2 Compliance with Schedules emphasizes the timely provision of information and services to the individuals the court serves. The standard's [sic] commentary includes "mental health evaluation for criminal defendants" and "protective or social services for abused children" as examples of such services. Standard 3.5 Responsibility for Enforcement requires a court to monitor compliance with its court orders. "No court should be unaware or unresponsive to realities that cause its orders to be ignored." The implication of this standard is that a court cannot simply order services that are not available or ignore the fact that ordered services are not obtained.

Id. at 158 (citations omitted).

134. See MD. RULE 16-204(a)(3)(D)(H) (setting forth the structure for creating Family Divisions in Maryland, including designation of the services Family Divisions shall offer, including the provision of substance abuse services).

135. See MORAN, *supra* note 29, at 33.

136. See *id.* at 32.

137. See *id.* at 17.

Court personnel provide some of the services, while others operate pursuant to contracts with community agencies.

1. *Substance Abuse Services*

The policy that informs the court's provision of services for substance abuse derives from the court's interest in protecting children.¹³⁸ Since substance abuse has become an acknowledged problem, the court has determined that it should commit resources to hire a designated staff person to coordinate services for families plagued by the disease.¹³⁹ A clinical social worker evaluates litigants for drug abuse and drug dependence in circumstances where a judge or master is concerned about a parent's drug use.¹⁴⁰ In addition to performing the evaluation and reporting to the court, the social worker also refers individual family members to treatment and monitors compliance with the court's orders in this regard.¹⁴¹

Currently, the Family Division of the Circuit Court for Baltimore City aims to infuse an awareness of substance abuse in all areas of the court system involving families. For example, attorneys who represent victims of domestic violence are alerted to the fact that alcoholic women are more likely to have been beaten by a spouse than are women who are not alcoholics.¹⁴² Armed with this awareness, the attorneys screen their clients for drug and alcohol abuse and refer them to the Family Division Social Worker for assistance. The Family Division's Custody Evaluators¹⁴³ routinely screen parents for substance abuse upon an order from the court. The Pro Se Project¹⁴⁴ staff and the clerk's office personnel also are alert for signs of substance abuse and can refer parties to the social worker. These initiatives are designed to focus a coordinated and comprehensive effort to attack the problem of substance abuse and addiction.¹⁴⁵

138. *See id.* at 14.

139. *See* Interview with Judith D. Moran, *supra* note 15 (noting that the Family Division hired a clinical social worker to coordinate the substance abuse initiative in the court; that she has developed evaluation instruments for screening litigants; and that she has researched appropriate community referrals for those in need of treatment).

140. *See* Moran, *supra* note 29, at 14.

141. *See id.*

142. *See* CASA, NO SAFE HAVEN, *supra* note 18, at 20. *See also* Interview with Judith D. Moran, *supra* note 15 (noting that the attorneys who staff the court's Protective Order Advocacy and Representation Project and the court's Domestic Violence Case Monitor were apprised of these findings via memo from the Family Division Coordinator).

143. *See infra* notes 156-160 and accompanying text.

144. *See infra* notes 186-192 and accompanying text.

145. *See* KEVIN M. SHERIN & BARRY MOHONEY, U.S. DEP'T. OF HEALTH AND HUMAN SERVICES, TREATMENT DRUG COURTS: INTEGRATING SUBSTANCE ABUSE TREATMENT WITH LEGAL

2. *Supervised Visitation Program*

The Supervised Visitation Program provides a place for non-custodial parents, who are in fractious relationships with the child(ren)'s other parent, to visit with their child(ren).¹⁴⁶ In addition to facilitating visitation with the child(ren)'s other parent, the service ensures the safety of children by providing a neutral venue for the visitation.¹⁴⁷

The Family Division's judicial officers refer parents to the service via a court order to participate.¹⁴⁸ Both parents and the child(ren) are scheduled for an intake evaluation with one of the staff social workers.¹⁴⁹ Once the evaluation is complete, visitation is scheduled. Children visit with their parents in a playroom located in the Family Division's Medical Services Office.¹⁵⁰ A member of the court's security staff is on site at all times.¹⁵¹ The visits are observed by a social worker¹⁵² through a one way mirror which provides a view of the playroom or by way of the social worker's presence in the room.

In addition to visiting with the child(ren), both parents work with the staff social workers to develop appropriate interpersonal skills for interacting with each other.¹⁵³ The skills are designed to reduce conflict, promote safety, and maximize the benefits of the child(ren)'s relationship with both parents.¹⁵⁴

As a result of increasing demands from non-custodial parents for access to their child(ren), the Family Division has expanded the avail-

CASE PROCESSING 32 (suggesting that "one of the clear lessons learned from attempts to introduce major innovations in American courts is that a significant amount of time and energy must be invested in education and training both before and during program implementation.").

146. See Interview with Judith D. Moran, *supra* note 15 (explaining that the program was the first court-connected supervised visitation program in the state).

147. See *id.* (stating that a judge or master will order parents to participate in the program when they are unable to agree upon a third party who is acceptable to the court to supervise the visitation).

148. See MORAN, *supra* note 29, at app. (document entitled "Statistics for Evening Supervised Visitation Program") (reporting that during the period from June, 1998, until December 3, 1998, twenty-nine families were ordered to participate in the program).

149. See *id.* at 15.

150. See *id.*

151. See *id.*

152. See Interview with Judith D. Moran, *supra* note 15 (noting that the social worker is a member of the court's Medical Services Office staff).

153. See MORAN, *supra* note 29, at 16.

154. See JUDITH S. WALLERSTEIN & SANDRA BLAKESLEE, *SECOND CHANCES: MEN, WOMEN AND CHILDREN A DECADE AFTER DIVORCE* 232 (1996) (proposing that with access to both parents, children intuitively create their own recipes for growing up based on a rich mixture of what both parents value and respect so that the parents complement one another; when one is unavailable, the other steps in to meet his needs).

able hours for this service to include four weekday evenings and Saturday mornings.¹⁵⁵ The expanded hours of operation allow for the accommodation of working parents' schedules.

3. *Medical Services Office*

The Medical Services Office provides a number of services to the Family Division, including the Supervised Visitation Program,¹⁵⁶ the Domestic Violence Ex Parte Project,¹⁵⁷ and the Neutral Drop-Off Center.¹⁵⁸ In addition to administering these services, the Medical Services Office also provides assistance to the judges with custody and visitation matters. When a family law case involves a custody issue, a judge may order a custody evaluation by a staff member of the Medical Services Office in order to help the judge determine the best interests of the child(ren).¹⁵⁹ The staff of the Medical Services Office includes psychiatrists, psychologists, and licensed clinical social workers.¹⁶⁰ The office is unique in that no other jurisdiction in Maryland has such a service available within the courthouse.

4. *Neutral Drop-Off*

The Neutral Drop-Off Center, an adjunct to the Supervised Visitation Program,¹⁶¹ was implemented based on a needs assessment conducted over a six-month period from March, 1998, to September, 1998.¹⁶² Each domestic violence victim who sought relief from the Family Division was polled as to whether she would use such a service.¹⁶³

155. See Interview with Nicholas P. Conti, Deputy Medical Officer, Circuit Court for Baltimore City, Maryland in Baltimore City, Md. (June 8, 1999) (noting that the funds for the expansion are made possible by a grant from the Maryland Department of Human Resources, Division of Transitional Services).

156. See MORAN, *supra* note 29, at 9.

157. See *id.*

158. See *id.*

159. See *id.* See also Interview with Judith D. Moran, *supra* note 15 (noting that the evaluation consists of separate interviews with each parent and the child[ren]).

160. See MORAN, *supra* note 29, at 9-10.

161. Interview with Judith D. Moran, *supra* note 15 (commenting that there is overlapping staff and that some parents who successfully complete the supervised visitation program use the drop-off center as a segue to unassisted visitation).

162. See MORAN, *supra* note 29, at 16.

163. See *id.* (explaining that social work interns from the court's Domestic Violence Ex Parte Project conducted the interviews with this population and that the interns suspected there would be a significant need to access a safe environment for the exchange of children among this population).

The center is open on Friday evenings and on Sunday afternoons and is staffed by both a social worker and a court security officer.¹⁶⁴ Parents bring their children to the center, and a social worker facilitates the pickup and delivery of the child(ren).¹⁶⁵ The exchange of children is often a volatile event, as parents must confront one another during each scheduled visit.¹⁶⁶ This confrontation places children at risk of physical and emotional abuse.¹⁶⁷

5. *Family Mediation Service*

The Family Mediation Service has operated since March, 1997. The service is comprised of attorneys and mental health professionals¹⁶⁸ who are specially trained for facilitating the resolution of child custody and visitation disputes.¹⁶⁹ The service operates pursuant to a contractual agreement with Sheppard Pratt Hospital Community Education Programs.¹⁷⁰ Sheppard Pratt Hospital personnel provide training for and supervision of the mediators, as well as overall administration of the service.¹⁷¹ All contested family law cases are set for mediation by the Family Division Coordinator.¹⁷²

The number of court ordered mediations is limited because a court rule precludes the court from ordering mediation where parties are unrepresented.¹⁷³ There are more cases that lend themselves to

164. See *id.* See also Interview with Judith D. Moran, *supra* note 15.

165. See MORAN, *supra* note 29, at 16.

166. See Robert B. Straus, *Supervised Visitation and Family Violence*, 29 FAM. L.Q. 229, 232 (1995) (proposing and illustrating through anecdote that there is a high risk of violence at the pick-up and drop-off points, as this is one of the few times that the former partners can have access to each other).

167. See Bonnie S. Newton, *Visitation Centers: A Solution Without Critics*, 71 FLA. BUS. J. 54, 55 (1997) (describing a case where a seven-year-old girl was snatched by her father and thrown in the car, the mother pulling on her other hand, yelling obscenities; the mother then chased the father and child by car, screaming out her open window and running red lights to stay on their back bumper). See also Straus, *supra* note 166, at 232 (determining that children are traumatized by screaming fights at these points, and these times are also when children and parents are killed, demonstrating the need for protected settings for the safe transfers of children between parents).

168. See Interview with Judith D. Moran, *supra* note 15 (noting that the panel of mediators is racially and ethnically diverse so as to mirror the demographics of the court's litigant population).

169. See *id.* (explaining that the mediators selected for the panel receive training specific to divorce mediation, and that Sheppard Pratt Hospital sponsors regular meetings for Family Division judges, masters, court staff, and the mediators to discuss mutual concerns about policy and procedure).

170. See *supra* note 101.

171. See MORAN, *supra* note 29, at 10.

172. See *id.* (reporting that in 1998, fifty-four cases were mediated and of that number, seventy percent were resolved).

173. See MD. R. CIV. P. 9-205 (b)(1)(A).

mediation than the data reflect.¹⁷⁴ The Family Mediation Service is a critical service within the Family Division. Mediation facilitates the resolution of disputes outside the courtroom, thus sparing families and children from the acrimony often spawned by litigation.¹⁷⁵ In addition, since mediation requires parents to participate in decision-making regarding their children, it frequently fosters a spirit of cooperation between parents that continues to permeate their future interactions.¹⁷⁶

Benefits of mediation also accrue to the court. First, the burden on the court's docket is diminished because fewer cases proceed to trial.¹⁷⁷ Second, judges are spared from having to make decisions that are often better if the parties formulate the outcomes themselves.¹⁷⁸ Finally, when families craft decisions themselves, they are less likely to return to court to relitigate custody and visitation disputes.¹⁷⁹

6. *Domestic Violence Ex Parte Project*

The Domestic Violence Ex Parte Project involves a partnership with the University of Maryland School of Social Work.¹⁸⁰ Social work interns from the school commit to a field placement with the Family Division to provide services to victims of domestic violence who seek the court's intervention. The social work interns are supervised by the court's Deputy Medical Services Officer.

Approximately forty-six persons petition the Family Division of the Circuit Court for Baltimore City each month for relief from abusive relationships.¹⁸¹ The social work interns help victims complete petitions seeking court orders of protection and then accompany vic-

174. See MORAN, *supra* note 29, at 32 (finding that from January, 1998, to January, 1999, there were 360 family law matters accounting for 55% of all the contested cases involving a child custody and/or visitation dispute). See also MORAN, *supra* note 29, at 32 (explaining that in 1998, 54% of the contested cases were filed by pro se litigants and that in 1999, the court created an additional domestic equity master position to provide case resolution services for pro se parties).

175. See Babb, *An Interdisciplinary Approach to Family Law Jurisprudence*, *supra* note 6, at 803 (suggesting that the "adversarial nature of traditional methods of family law adjudication can further fragment the relationship between family law litigants. A court system that accommodates a range of dispute resolution techniques including . . . mediation . . . is important to ecological and therapeutic family law jurisprudence.")

176. See generally *id.* at 803.

177. See MORAN, *supra* note 29, at 11.

178. See Babb, *An Interdisciplinary Approach to Family Law Jurisprudence*, *supra* note 6, at 803.

179. See generally *id.* at 803, 807.

180. See MORAN, *supra* note 29, at 8.

181. See *id.*

tims to the courtroom.¹⁸² Upon completion of the court proceeding, the interns follow up by providing appropriate referrals to the victims, such as information about shelters and legal assistance.¹⁸³

7. *Protective Order Advocacy and Representation Project*

The Protective Order Advocacy and Representation Project (POARP) provides free legal representation to victims of domestic violence at the protective order hearing. The service is provided under federal Violence Against Women Act grant funding to the Women's Law Center of Maryland.¹⁸⁴ Victims thus have a skilled attorney who can present their cases to the judge. In addition, the court time for the hearing is diminished, as the project attorneys have negotiated consent orders in fifty percent of these cases.¹⁸⁵

8. *Assisted Pro Se Litigation Project*

As of January, 1999, fifty-four percent of all litigants who have active contested cases in the Family Division of the Circuit Court for Baltimore City do not have an attorney.¹⁸⁶ In order to increase these unrepresented parties' access to the court system, Maryland's Administrative Office of the Courts has developed form pleadings to file family law cases.¹⁸⁷ Although these form documents are user friendly, choosing the proper form and completing it is problematic for many, including those compromised by illiteracy. The Pro Se Project assists litigants with this process.¹⁸⁸

The Family Division of the Circuit Court for Baltimore City has entered into a contractual agreement with the Legal Aid Bureau, Inc. to operate the Pro Se Project on a full time basis.¹⁸⁹ An attorney and two paralegals are available five days per week to provide assistance completing form pleadings.¹⁹⁰ Since January, 1999, the Pro Se Project

182. *See id.*

183. *See id.*

184. *See id.* at 9 (explaining that the project attorneys have represented one 134 petitioners in 1998).

185. *See id.*

186. *See id.* at 32.

187. *See id.* (finding that pro se litigants accounted for 54% of the litigants filing contested family matters in Baltimore City in 1998).

188. *See id.* at 6.

189. *See* Interview with Stacy E. Anderson, Staff Attorney, Legal Aid Bureau, Inc., in Baltimore City, Maryland (July 26, 1999) (noting that the project operates between 9:00 a.m. and 4:00 p.m. on Mondays through Fridays).

190. *See id.* (explaining that the project staff helps to choose the appropriate form pleading, to properly complete it, and to assist with filing the pleading with the clerk's office, and that the project's scope is limited to providing legal information and assistance).

has adopted a tutorial approach to provide assistance to litigants with preparation for court appearances. The staff provides one-on-one assistance for each litigant, sometimes spending as much as three hours with individual clients, and a telephone hotline is available to answer litigants' follow-up questions.¹⁹¹ This training also helps the court manage its docket, as it decreases the amount of time judges must spend explaining these fundamental trial issues to unrepresented parties.¹⁹²

9. Parenting Seminars

The Parenting Seminars were the first services the Family Division provided for families experiencing separation or divorce.¹⁹³ Begun in 1994, they formed the basis for the services offered in the Family Division today.¹⁹⁴

All parents who have children in common are required, by administrative order, to attend the seminars.¹⁹⁵ The seminars provide parents with substantive information and skills relating to parenting children during and after a divorce or separation.¹⁹⁶ In addition, the program attempts to re-focus the adults' attention on their children and on how separation and divorce affect children.¹⁹⁷ The service is provided to the court pursuant to a contract with Sheppard Pratt Hospital Community Education Programs.¹⁹⁸ The narrative evaluations written by the participants reflect that the experience is positive and productive for most parents who attend.¹⁹⁹

191. *See id.*

192. *See* Interview with the Honorable Albert J. Matricianni, Jr., *supra* note 131 (explaining that in conversations with judges and masters who hear family law matters, they note the protracted nature of pro se litigation and its impact on the docket and that pro se litigants who have received training come to court better prepared than litigants who have not had the advantage of this training).

193. *See* MORAN, *supra* note 29, at 11.

194. *See id.*

195. *See* MD. R. CIV. P. 9-204.1 (authorizing court-ordered parent education).

196. *See* Interview with Judith D. Moran, *supra* note 15 (explaining that the information is conveyed via role-playing, lecture and video-taped material and that the curriculum is the result of collaborative efforts between the provider, Sheppard Pratt Hospital Community Educational Program, and the court).

197. *See* Interview with Carolyn Pfarr, Staff Member, Sheppard Pratt Hospital Community Educational Programs, in Baltimore, Md. (June 13, 1999).

198. *See* MORAN, *supra* note 29, at 6, 8, 11, 17, 24.

199. *See* Interview with Judith D. Moran, *supra* note 15 (stating that at the end of the five and one-half hour seminar, all participants are asked to complete an evaluation instrument; that certificates of attendance are contingent upon completion of the evaluation; and that evaluations are sent to the court, along with documentation of attendance for all parents who are ordered to attend the session).

10. *Children's Group*

Children were involved in eighty-two percent of the contested cases filed in the Family Division in 1998.²⁰⁰ Owing to the deleterious effects of separation and divorce on children,²⁰¹ to the empirical data amassed by the court, and to requests from parents who attended the Parenting Seminars, the Family Division launched its newest service for children in December, 1998.²⁰²

The Children's Group aims at reducing the impact of separation and divorce on children between six and eleven years of age.²⁰³ The service is provided under a contractual agreement with Sheppard Pratt Hospital Community Education Programs.²⁰⁴ The group is a companion to the Parenting Seminars and runs concurrently with that program. While parents are exposed to strategies to minimize the effects of separation and divorce on children,²⁰⁵ the children are taught coping mechanisms to reduce their anxiety about the changes occurring in their respective families.²⁰⁶ In addition to didactic and interactive learning, the children join their parents at the end of the session to communicate their concerns about the family break-up.²⁰⁷

11. *The Volunteer Attorney Settlement Panel*

In order to effectuate one of the guiding principles of the Family Division of the Circuit Court for Baltimore City, that of promoting settlement, the court provides parties and their lawyers with several opportunities to resolve the case. One of these is the chance to appear before a settlement panel attorney within three months from the date a responsive pleading is filed.²⁰⁸ Settlement panel attorneys are volunteer attorneys who have demonstrated interest and experience

200. MORAN, *supra* note 29, at 32.

201. See WALLERSTEIN & BLAKESLEE, *supra* note 154, at 203 (citing the derailment of psychological development for children in divorce: "[i]t affects their entire growing up and certainly their attitudes as young adults, toward themselves and toward the adult world.").

202. See MORAN, *supra* note 29, at 17, 32 (explaining that the extent to which children are involved in contested family matters justifies the service and that parents were polled informally as to whether such a service would be of interest).

203. See *id.* at 17.

204. See *supra* note 101.

205. See *supra* text accompanying note 196.

206. See Interview with Judith D. Moran, *supra* note 15 (noting that the goals for the group are achieved via expressive group exercises, play, written exercises and art projects and that the group is subdivided for the purpose of creating age appropriate contexts for learning).

207. See *id.*

208. See *id.* (explaining that the court's case management scheme includes three formal opportunities to settle disputed issues).

in family law. The program is administered by the Bar Association of Baltimore City and is monitored by an oversight committee.²⁰⁹

To further maximize settlement, the court has initiated mandatory disclosure of income and property by way of required filings of income and property statements prior to the volunteer attorney settlement conference.²¹⁰ The service is successful in that a substantial number of cases settle, thereby alleviating some of the burden on the court's docket.²¹¹

E. Training for Court Personnel

Although the Family Division of the Circuit Court for Baltimore City has services available for litigants with substance abuse problems, the services are not helpful unless judges refer families to these resources. In order for judges to refer families, they first must understand how to recognize addiction and substance abuse, and they also must know that these services are effective to help families with substance abuse problems.

Training for judges that focuses on the signs and symptoms of substance abuse and addiction, as well as on effective treatment strategies, is vitally important to maximizing a court's ability to assist families. The recent report issued by the National Center on Addiction and Substance Abuse at Columbia University concludes that training in the area of substance abuse for judges in family courts across the nation was "woefully inadequate."²¹²

One of the precepts underlying the commitment of the Family Division of the Circuit Court for Baltimore City to intervene in the lives of families with substance abuse problems is that training for court personnel is critical to such a commitment. The court provides regular training sessions for judges and other court personnel.²¹³ These sessions are devoted to information about substance abuse, addiction, and treatment.²¹⁴ In addition, there is a statewide commit-

209. *See id.* (stating that the oversight committee is comprised of the Judge-in-Charge/Domestic Docket, the Family Division Coordinator and two members of the panel who are selected by the Judge-in-Charge).

210. *See id.* (stating that litigants must file the document within fifteen days of the appearance before a settlement panel attorney).

211. *See id.* (noting that the data regarding the number of cases that settle is anecdotal and that individual panel members estimate that two-thirds of the cases settle via the settlement discussions).

212. *See* CASA, NO SAFE HAVEN, *supra* note 18, at iii.

213. *See* Interview with Judith D. Moran, *supra* note 15.

214. *See id.* (explaining that the members of the court's Medical Services Office staff and the Family Division Social Worker have made presentations to Family Division judges, mas-

ment in Maryland to train in this area, as demonstrated by the first statewide conference held for judges and court personnel in Maryland focusing on this topic.²¹⁵

By raising the awareness of judicial staff to the issue of substance abuse and addiction, and by providing them with a professional capable of evaluating family members, the Family Division of the Circuit Court for Baltimore City can enhance its ability to protect children from the possibility of future abuse and neglect.²¹⁶ If the court addresses parental substance abuse before a child enters the child welfare system, the court can prevent the abuse and neglect of children²¹⁷ and can increase the likelihood of the parent's recovery due to early intervention.²¹⁸

CONCLUSION

This Article has proposed an approach to court reform in family law and to family law decisionmaking tailored to assist families plagued by substance abuse. The approach helps family law decisionmakers understand the problem of substance abuse from the perspectives of its etiology, symptomatology, and treatment. This comprehensive understanding of substance abuse enables judges and masters to fashion more effective resolutions that address what often is the root cause of a family's problems.

A unified family court that is designed to dispense therapeutic justice pursuant to an interdisciplinary team approach to case management is the court system which the authors believe is the most effective response to the problem of substance abuse in the family law context. The Family Division of the Circuit Court for Baltimore City

ters and court personnel and that professionals from community agencies involved in treating addicts also have made presentations to the court).

215. See Substance Abuse, Families, and the Courts: Legal and Public Health Challenges, Conference at the University of Maryland School of Law (May 14, 1999).

216. See generally *CASA, NO SAFE HAVEN*, *supra* note 18, at v.

217. See Margaret Beyer, *Too Little, Too Late: Designing Family Support to Succeed*, 22 N.Y.U. REV. L. & SOC. CHANGE 311, 329 (1996). Beyer asserts that:

intervention by child welfare workers enables the parents' addiction and family's co-dependency: [Courts and neighborhood-based interagency efforts can help create sober communities supportive of parenting in cases where the constant pressures of drugs and alcohol previously made family preservation impossible. With the proper services, families are able to recognize the degree to which their use of alcohol or drugs impairs the nurturing of their children.

Id. at 329.

218. See *id.* at 329-30 (finding that in an intensive in-home treatment of crack cocaine parents, one program resulted in seventy-five percent of parents maintaining sobriety for a twelve month period after treatment and concluding that, motivated to keep their children, substance abusing parents are more likely to persevere in treatment programs).

exemplifies such a response. The authors have offered a detailed description of the court system's components. The services described, however, are not exhaustive, nor do the authors suggest that all courts contemplating a response to substance abuse within family legal proceedings must provide all of the services available in the Baltimore City model. The authors do advocate that courts make a commitment to address substance abuse by understanding how it manifests itself in family law cases, with the intent to develop policies and procedures to effectively respond to the problem. Finally, by raising the awareness of an entire court system to the issues of substance abuse and addiction, and by providing a court structure that facilitates assisting family members who exhibit the problem, the court can enhance its ability to protect children from the possibility of future abuse and neglect. If courts address parental alcoholism and other drug abuse before a child enters the child welfare system, the justice system can prevent the abuse and neglect of children²¹⁹ and can increase the likelihood of the parent's recovery due to early intervention.²²⁰

219. See generally *CASA, NO SAFE HAVEN*, *supra* note 18, at 14-15. See also *supra* note 98.

220. See *Beyer*, *supra* note 217, at 329-30.

APPENDIX A

Circuit Court for Baltimore City
Family Division

REFERRAL TO SOCIAL SERVICES COORDINATOR

CIRCUIT COURT FILE #: _____ REFERRAL DATE: _____

REFERRED BY: _____

PLEASE SUBMIT EVALUATION BY: _____

PLEASE SUBMIT EVALUATION TO: _____

NEXT SCHEDULED HEARING DATE: _____

PLAINTIFF: _____

ADDRESS: _____

TELEPHONE NUMBERS: (H) _____ (W) _____

ATTORNEY'S NAME, ADDRESS, AND TELEPHONE: _____

DEFENDANT: _____

ADDRESS: _____

TELEPHONE NUMBERS: (H) _____ (W) _____

ATTORNEY'S NAME, ADDRESS, AND TELEPHONE: _____

REASON FOR REFERRAL: (BRIEF DESCRIPTION)

URINALYSIS ORDERED BY COURT FOR PLAINTIFF: _____ YES _____ NO

URINALYSIS ORDERED BY COURT FOR DEFENDANT: _____ YES _____ NO

SOCIAL SERVICE COORDINATOR: _____

DATE REFERRAL RECEIVED: _____

DATE REPORT SUBMITTED TO REFERRAL SOURCE AND CLERK'S OFFICE: _____

APPENDIX B

Circuit Court For Baltimore City
Family Division
Psychosocial Assessment
Substance Abuse Evaluation

File #: _____

Date: _____

Name: _____ Address: _____

Date of Birth: _____ Marital Status: _____ Sex: _____ Race: _____

Employment Status: _____ Veteran: _____ Highest Grade Completed: _____

Monthly Income: _____ Number of Months Employed in Last Two Years: _____

Emergency Contact: _____

Description Case: _____

Current Stressors: _____

Current Symptoms

Suicidal Ideation ___ Yes ___ No If yes, explain: _____

Suicidal Plan ___ Yes ___ No If yes, explain: _____

History of Attempts ___ Yes ___ No If yes, explain: _____

Ability to Contract ___ Yes ___ No If yes, explain: _____

for Safety

Self Mutilation ___ Yes ___ No If yes, explain: _____

Death Wish ___ Yes ___ No If yes, explain: _____

Loss of Interest ___ Yes ___ No If yes, explain: _____

Thoughts of Harm to ___ Yes ___ No If yes, explain: _____

Others

Plan to Harm Others ___ Yes ___ No If yes, explain: _____

Violent Ideation ___ Yes ___ No If yes, explain: _____

History of Harm to ___ Yes ___ No If yes, explain: _____

Others

Average Hours of Sleep _____ Time to Bed _____ Time Arising _____

Restless ___ Yes ___ No If yes, explain: _____

Difficulty Falling Asleep ___ Yes ___ No If yes, explain: _____

Difficulty Staying Asleep ___ Yes ___ No If yes, explain: _____

Early Morning ___ Yes ___ No If yes, explain: _____

Awakening

Difficulty Arising Yes No If yes, explain: _____

Sleep Walking Yes No If yes, explain: _____

Nightmares Yes No If yes, explain: _____

Appetite Yes No If yes, explain: _____

Weight Gain Yes No If yes, explain: _____

Weight Loss Yes No If yes, explain: _____

History of Eating Yes No If yes, explain: _____
Disorder

Decreased Energy Yes No If yes, explain: _____

Decreased Yes No If yes, explain: _____
Concentration

Psychomotor Yes No If yes, explain: _____

Retardation

Psychomotor Yes No If yes, explain: _____

Agitation

Impaired ADL's Yes No If yes, explain: _____

Impaired Parenting Yes No If yes, explain: _____

Job Impairment Yes No If yes, explain: _____

Impaired Homemaking Yes No If yes, explain: _____

Impaired Interactions Yes No If yes, explain: _____

Other Impairment Yes No If yes, explain: _____

Hx of Sexual Abuse Yes No If yes, explain: _____

Hx of Physical Abuse Yes No If yes, explain: _____

Presence of Flashbacks Yes No If yes, explain: _____

Conscious Memories Yes No If yes, explain: _____
of Trauma

History of Self-Injury Yes No If yes, explain: _____

GENOGRAM
(Brief family history)

Vocational / Educational History

Highest Level of Education: _____

Current Occupation: _____

Employer: _____ Years Employed _____

Ever Fired / Suspended / Laid off? ___ Yes ___ No If yes, explain: _____

Are you in danger of losing your job? _____

Past Psychiatric Treatment History

Inpatient: ___ Yes ___ No

If yes:	Where	Dates	Admitting Problem

Psychiatric Medications, dosages, frequency: _____

Family History of Psychiatric or Drug Treatment: ___ Yes ___ No If yes, explain: _____

Past Medical History

Hospitalizations:

<u>Medical:</u> ___ Yes ___ No	Dates	<u>Surgical:</u> ___ Yes ___ No	Dates
If yes, explain: _____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Ever experienced any of the following?

- Head Injury ___ Yes ___ No If yes, explain: _____
- Loss of Consciousness ___ Yes ___ No If yes, explain: _____
- Seizures ___ Yes ___ No If yes, explain: _____
- Black-outs ___ Yes ___ No If yes, explain: _____
- Hypertension ___ Yes ___ No If yes, explain: _____
- Thyroid ___ Yes ___ No If yes, explain: _____
- Heart Disease ___ Yes ___ No If yes, explain: _____
- Diabetes ___ Yes ___ No If yes, explain: _____

Substance Use History

Type	Amount	Frequency	Last Usage

CAGE INVENTORY:

- 1. Do you feel that you should cut down on the amount you drink? Yes No If yes, explain: _____
- 2. Do you become annoyed at yourself for drinking? Yes No If yes, explain: _____
- 3. Do you feel guilty about the amount you drink? Yes No If yes, explain: _____
- 4. Do you ever have an "eye-opener"? Yes No If yes, explain: _____
- Other Drug-related problems: (DUI/PI) Yes No If yes, explain: _____
- Use of Tobacco Products Yes No If yes, explain: _____
- Past Treatment For Substance Abuse: _____

Negative Consequences of Use: _____

History of Seizures with Use or Detox: _____

Drug Screen is Applicable: _____

Legal History

Current Involvement with the Legal System: _____

History of Arrests and Convictions: _____

Arrest or Conviction Drug / Alcohol related: Yes No If yes, explain: _____

CHEMICAL HISTORY

Listing any and all chemicals (alcohol, marijuana, diet pills, sleeping pills, "nerve pills", cough syrup, decongestants, inhalants, antihistamines, no doz, etc., are all chemicals) that you have used.

List the chemical that has caused you problems in order from the most to least problems caused.

CHEMICAL	AGE YOU FIRST USED	DESCRIBE THE PROGRESSION OF THE USE OF THIS CHEMICAL IN YOUR LIFE	AGE OR DATE OF LAST USE	CRITICAL LIFE EVENTS

Check any of the following symptoms that you have experienced while NOT using chemicals:

- watery eyes _____
- runny nose _____
- loss of appetite _____
- irritability _____
- shaking _____
- panic _____
- chills _____
- sweating _____
- interrupted sleep _____
- long periods of sleep _____
- D.T.'s _____
- hallucinations _____
- cramps _____
- paranoid thoughts _____
- anxiety _____
- convulsions _____
- "I don't care" attitude _____
- depression _____
- disorientation _____
- suicide thoughts _____
- hyperactivity _____
- nausea _____

What is the longest period of time outside of a treatment center or jail that you have not used chemicals in the past 5 years? _____

Number of prior treatment experiences (i.e.: counseling, detox, rehab, etc.) for
 alcohol: _____ drugs: _____ both: _____ other: _____

List drug and alcohol and / or mental health treatment received from most recent to earliest:

<u>Date or age</u>	<u>Name of Program</u>	<u>Reason for Treatment</u>	<u>Length of Stay</u>	<u>Outcome</u>
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IN DETAIL: DESCRIBE HOW YOUR OR ANOTHER'S CHEMICAL USE HAS AFFECTED THE FOLLOWING AREAS OF YOUR LIFE. ALSO INCLUDE HOW IT AFFECTS OTHER FAMILY MEMBERS.

FAMILY: (i.e. communication, trust, relationships, arguments, etc.)

SPIRITUAL AND RELIGIOUS:

EMPLOYMENT: (i.e. lost jobs, performance problems, absenteeism unmotivated to job hunt, etc.)

EDUCATION: (i.e. grade, attendance, discipline, learning)

FRIENDS: (i.e. lost relationships, arguments, etc.)

MENTALLY: (i.e. temporary amnesia-blackouts, paranoid thinking, poor decisions, poor memory)

SEXUALLY: (i.e. performance problems, loss of desire, promiscuity, etc.)

LEGALLY: (i.e. charges related to chemical usage, incarceration, fines, etc.)

FINANCIALLY: (i.e. amount spent for chemicals, fines, attorney fees, medical bills, insurance)

PHYSICALLY: (i.e. convulsions, heart liver, nausea, blood pressure, hallucinations, cramping, nosebleeds, accidents, overdose)

DRUG OF CHOICE
(CHECK ONE FOR EACH PATTERN)

PRIMARY	SECONDARY	TERTIARY	
			ALCOHOL
			COCAINE/CRACK
			MARIJUANA/HASHISH
			HEROIN
			NON-PRESCRIPT METHADONE
			OTHER OPIATES / SYNTHETICS
			PCP
			OTHER HALLUCINOGENS
			METHAMPHETAMINES
			OTHER AMPHETAMINES
			OTHER STIMULANTS
			BENZODIAZEPRINE
			OTHER TRANQUILIZERS
			BARBITURATES
			OTHER SEDATIVES / HYPNOTIC
			INHALANTS
			OVER-THE-COUNTER
			OTHER

FREQUENCY OF USE
(CHECK ONE FOR EACH PATTERN)

PRIMARY	SECONDARY	TERTIARY	
			NOT IN PAST MONTH
			1 - 3 TIMES / MONTH
			1 - 2 TIMES / WEEK
			3 - 6 TIMES / WEEK
			DAILY
			UNKNOWN

ROUTE OF ADMINISTRATION
(CHECK ONE FOR EACH PATTERN)

PRIMARY	SECONDARY	TERTIARY	
			SWALLOWED
			SMOKED
			SNORTED
			SMIFFED
			SKIN POPPED
			MAINLINED
			OTHER

AGE OF FIRST USE

PRIMARY	SECONDARY	TERTIARY					