

REPORT OF THE COLORADO COMMISSION ON CHILD SUPPORT



Submitted to:
Hon. Richard D. Lamm
Governor
State of Colorado
November 27, 1985

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COLORADO CHILD SUPPORT COMMISSION

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COLORADO CHILD SUPPORT COMMISSION

Appointment Categories Shown in Parentheses

The Honorable Faye Fleming (Chair)	Honorable George B. Lee, Jr. (District Court Judge)
Dennis L. Casida (Non-custodial parent)	Barbara Lundy (Other)
The Honorable Roger Cisneros (District Court Judge)	The Honorable Betty Neale (State Representative)
James O. Galeotti (State CSE Program Administrator)	Ron Nichol (County Commissioner)
Christine Highnam* (County CSE Administrator)	Jessica Pearson (Other)
Robert T. Hinds, Jr. (Member Colorado Bar Association)	The Honorable Ray Peterson (State Senator)
Cecilia M. Holmes* (Deputy Director, Colorado Department of Social Services)	Jennifer T. Tyler (Custodial Parent)
John C. Inmann (Other)	Ray L. Weaver (Colorado District Attorneys' Council)
James G. Kiley (Director, County Department of Social Services)	Robert G. Williams (Joint Custodial Parent)

*Participated in Commission deliberations but resigned prior to preparation of report.

EXECUTIVE SUMMARY

Introduction

The Colorado Commission on Child Support was appointed by Governor Lamm on November 28, 1984, pursuant to Public Law 98-378. The purpose of the Commission is to determine the extent to which the State's child support system has been successful in securing support and parental involvement for all children. As specified in Public Law 98-378, we were to pay particular attention to problems such as visitation; the establishment of appropriate objective standards of support; the enforcement of interstate obligations; and the availability, cost, and need for additional state or federal legislation.

It quickly became apparent to the Commission that Colorado faces serious problems in securing and enforcing child support, custody, and visitation. The following data illustrate the dimensions of the problem:

- o Nationally, fewer than one-half (46.7%) of custodial parents receive the full amount of child support they are due, while 25.1% receive a partial amount and 28.2% receive no payment at all. The deficient performance of Colorado's child support enforcement program suggests that our state's situation may be even more serious. Colorado ranks 31st nationally in cost-effectiveness for Aid to Families with Dependent Children (AFDC) cases and only 38th nationally in cost-effectiveness for non-AFDC cases.
- o The average court ordered level of child support nationally (\$171 per month) was only 70% of poverty level and less than 25% of the estimated average cost of raising children. A Colorado study has shown that child support awards often vary widely, ranging from 6% to 33% of obligor income to support one child and from 6% to 40% to support two children.
- o Colorado's child support program secures paternity findings for only 15% of out-of-wedlock births, a ratio that ranks 35th among all states. Nationally, only 13% of children born out-of-wedlock have child support paid on their behalf. Given Colorado's inadequate enforcement record, it is likely that our state's collection record for paternity cases is similar or worse.
- o Colorado Domestic Relations filings constitute 28.6% of total civil filings in the state, a large and growing volume of court activity.

This sampling of statistics does not even consider the undocumented problems in our Family Law system in Colorado, particularly those relating to the myriad difficulties in obtaining and enforcing equitable visitation and custody arrangements that secure the rights of both parents to continuing involvement in the upbringing of children. However, even this limited

data shows all too clearly that the inadequacies of children's rights to child support, custody, and visitation are having serious adverse effects upon our children and their parents.

The Commission has a broad-based membership with a wide variety of experience, expertise, involvement, and perspective. Prior to developing its recommendations, the Commission received briefings from its own members and from outside experts. The Commission conducted two public hearings and one hearing with members of the legal community. The Commission also received extensive written material and reviewed alternate systems used in other states.

Findings

Courts

(1) Inadequate Commitment. There is a public perception that the Family Law System is not meeting the needs of the public and that the present judicial system is lacking in commitment to Family Law. This lack of commitment is evidenced by the efforts of judges to rotate through domestic relations assignments, inadequate education and training in family law, and the refusal of the courts to obtain federal matching funding for judicial functions relating to child support.

(2) Restricted Access. Substantial backlogs delay access to the courts for resolution of Family Law issues. According to a recent study by the Judicial Department, average time required to resolve 90% of domestic relations cases is 14 months, compared with an American Bar Association processing standard of 3 months to resolve 90% of the cases. Colorado also has unduly rigid statutes for modification of support, custody, and visitation. In addition, the public is frustrated with the complexity of court procedures and the need to obtain an attorney, which imposes an excessive financial burden on the bulk of the court's clientele.

(3) Lack of Uniformity. The twenty-two Colorado judicial districts jealously guard their own local rules, procedures, and forms, causing great confusion, cost, and frustration for litigants.

(4) Inaccurate Data. A major problem facing the courts and the litigants is establishing the veracity of the signees of financial affidavits. Colorado lacks real preventive measures or sanctions in preventing false or misleading financial affidavits from being considered by the courts.

(5) Too Adversarial. Colorado's system is too adversarial at every level. The system too often reinforces the acrimony, anger, vindictiveness, and other emotional aspects of dissolution and paternity. Non-adversarial interventions like mediation have been shown to assist in mitigating such emotions and promoting the continued contact of both parents following dissolution.

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Enforcement

In Colorado, the Child Support Enforcement program is administered by 63 county departments of social services and supervised by the state Department of Social Services. During the 12 months ending March 30, 1985, the child support enforcement program generated \$9.0 million on behalf of AFDC recipients and \$6.5 million on behalf of families not receiving AFDC. Administrative costs for that period were \$8.8 million.

(1) Inadequate Commitment. The level of commitment varies from county to county, resulting in an inconsistent level of achievement. At the state level, child support enforcement is given a lower budgetary priority than entitlement programs, resulting in insufficient staff resources for effective performance.

(2) Lack of Uniformity. Each child support unit is free to determine the forms and procedures to be used in its enforcement efforts. Different prioritization schemes cause disparities in service for different groups of clients, such as paternity cases or custodial parents not receiving AFDC.

(3) Restricted Access. Since each county administers the child support enforcement program at differing levels of commitment, the services received by the public depends on the county of residence. Moreover, services equivalent to those available for child support enforcement are not available at all for custody and visitation enforcement.

(4) Lack of Cost-effectiveness. Compared to other states, Colorado's collections are too low and costs too high for the results achieved: our state ranks 31st and 38th in the nation, respectively, for its AFDC and non-AFDC cost-effectiveness. High costs and low collections can be attributed to a fragmented county administration system which is inefficient and ineffective in service delivery because of duplication of activity. Another factor is the absence of automation for the program due to long delays in development of a statewide child support enforcement computer system.

(5) Needed Legislation. Although Colorado has many fine statutes for child support enforcement, additional legislation is needed for mediation, custody, and visitation issues.

(6) Multiple Personnel Systems. There are four distinct personnel systems within the child support program. The resulting inconsistent salaries and administration create a perception of inequity and contributes to uneven quality of services.

(7) Deficient Training. No program of continual training exists at any level for child support enforcement staff. Additional personnel

would be required to conduct adequate training, but the expected benefits would outweigh the costs.

(8) Too Adversarial. The current system is highly adversarial and tends to pit the parties against one another rather than assisting them in dealing with the issues on an informal basis. The children suffer from the resulting animosity and the expense to the parties and taxpayers is tremendous.

(9) Inaccurate Data. Inaccurate personal data provided by the parties is a major problem in establishing the amount of the support award. Without additional remedies, attempting to ferret out the truth can be time consuming and costly. Moreover, the county child support enforcement units provide inaccurate program data because of incomplete and sometimes incomprehensible definitions of data to be collected. The lack of sound data on caseload and collection activity undermines efforts to manage the program effectively.

(10) Absence of Objective Standards for Support Awards. Colorado lacks a uniformly applied standard for the determination of support awards. This leads to inequitable variations in the amount of support ordered on behalf of families with similar circumstances and resources. It also leads to support awards which too frequently fail to recognize the costs of raising a child, a circumstance that can result in unnecessary welfare dependence.

Recommendations

Creation of a Family Law Court System. A new, specialized Family Law Court System patterned after other successful systems is recommended in order to correct the problems with the present system. An economy of design is proposed by combining some of the existing judicial districts for Family Law purposes; making use of present personnel; and simplifying access, forms, and procedures, which will also ensure to all litigants and their representatives equality of treatment and services.

Creation of the State Office of Enforcement. The commission is dissatisfied with the results of the present program to enforce child support and recommends that it be relocated in a newly created Office of Enforcement in the judicial branch of government. The Office of Enforcement would be structured and administered similar to the Public Defender program. The Office would have two divisions: one to enforce support orders and one to enforce custody and visitation orders. The success of the office would depend upon the development of a viable state-wide Central Registry for monitoring orders.

Suggested Revision of Public Policy to Guide the Colorado Legislature and Courts. The Commission recommends that Colorado abandon the traditional terms of "custody" and "visitation" in defining the relationship between parents and children when the parents separate. Instead, new terms, based upon the concept of "continued parental involvement" should be developed. Revision of public policy would require modification of our present statutes to assure equality of rights and responsibilities between all parties in this relationship. It would also require the creation of more objective and workable standards to apportion and enforce those rights and duties.

Mediation. The Commission recommends the creation of a statewide, comprehensive system for the mandatory mediation of dissolution-related disputes and paternity establishment. Mediators should handle disputes dealing with child and spousal support, custody and visitation, the temporary use of property, and payment of debts. After a petition is filed, mediators would provide services to couples at both the pre- and post-dissolution phases and would assist both the Family Law Courts and the state Office of Enforcement.

Child Support Guideline. The Commission recommends that the Supreme Court adopt the Colorado Child Support Guideline, developed by the Commission, for general use by the courts in establishing the level of initial and modified child support awards. Judges and referees should also use the Guideline to review the adequacy of child support orders negotiated by the parents.

The Commission recommends that the Colorado Child Support Guideline be used as a rebuttable presumption for the establishment of child support. Judges and referees should be given the discretion to deviate from the Guideline where its application would be inequitable, although any such deviation should be accompanied by written justification.

The Commission recommends that the child support enforcement agency and the courts begin planning the development of an administrative mechanism for periodically updating child support orders. Updating should take into account changes in the income of both parents as well as changes in the needs of the child. The most appropriate updating mechanism is reapplication of the Colorado Child Support Guideline.

Modification of Child Support Awards. The Commission recommends that legislation be enacted to revise Colorado's criterion for modifying child support awards. Colorado has one of the harshest standards in the nation, which has the effect of freezing orders even as conditions change. The current standard, requiring changed circumstances so substantial and continuing as to make the terms of the original agreement "unconscionable" should be amended to require only a "significant change" in circumstances for a modification to be approved.

Honesty and Truthfulness in the Family Law System. The Commission recommends that our courts impress upon the parties that they expect openness and fair-dealing in the sharing of information, and that the courts be given additional statutory tools to ensure this result. Our current system allows the parties to lie to each other and to the courts to improve their bargaining position.

Interstate Issues. The Commission recommends that the federal government sponsor a study to revise the Uniform Reciprocal Enforcement of Support Act to make it more consistent in all states. It should also provide funding for all interstate child support enforcement activity as well as for the enforcement of custody and visitation orders as they affect the support of children. In addition, the federal government should take a more active role in coordinating forms, procedures, and information for interstate cases.

Standardization of Forms and Procedures. The Commission recommends that Colorado follow the lead of its sister states and mandate the development and use of standardized forms and procedures in Family Law. Examples of needed standardized forms and procedures are model clauses for separation agreements, a model dissolution decree, financial statements, worksheets for child support, wage assignments, contempt forms, and judgment forms.

Public Awareness of Family Law. The Commission recommends that the state develop educational efforts and distribute information to clarify the rights and responsibilities of parents vis-a-vis each other and their children. This systematic public information effort would include the development of additional curriculum in the public schools and the distribution of information with marriage licenses and to parties filing for divorce.

Commission Extension. The Commission recommends that its existence be extended until December 31, 1986 in order to address the following issues: 1) development of interstate enforcement mechanisms; 2) innovative funding mechanisms; 3) further development and refinement of the Family Law Court system and State Office of Enforcement; and 4) assist legislative, judicial, and executive branches of Colorado to bring together the energy and expertise to develop and implement these concepts.

I. INTRODUCTION

The Colorado Commission on Child Support was appointed by Governor Lamm on November 28, 1984, pursuant to Public Law 98-378, to report back to the Governor by October 1, 1985. The Commission submitted an interim report in compliance with this requirement. However, in order to complete the final report, the Governor extended the deadline for the Commission to November 30, 1985.

Commission's Charge

The purpose of the Commission is to determine the extent to which the State's child support system has been successful in securing support and parental involvement for all children as specified in Public Law 98-378. It was our charge to examine, investigate, and study the operations of the State's child support system. We were to pay particular attention to specific problems such as visitation; the establishment of appropriate objective standards for support; the enforcement of interstate obligations; and the availability, cost, and need for additional state or federal legislation.

While this charge as set forth in Public Law 98-378 is broad, it accurately reflects the broad spectrum of expectations voiced to the Commission by the public about the relationship between children, their parents, and the State. We were overwhelmed with evidence and documentation that our charge should not be limited to a narrow interpretation of the term child support as covering only the economic concerns of children. We agreed that child support is an expansive term including not only monetary considerations but the extent to which parents and the State contribute to the child's well-being in a number of continuing ways.

Inadequacies of Colorado's Child Support System

As we approached our task, we were confronted with the proposition that the public policy of Colorado, like many states, is out-of-focus. Our judicial and administrative structures relating to child support, custody, and visitation have developed over the years in a fragmented and uncoordinated manner. This lack of coherence, in conjunction with indifferent institutional support, has created major gaps and unresolved conflicts in defining and enforcing rights and obligations relating to child support, custody, and visitation.

The seriousness of problems faced by Colorado in securing and enforcing child support, custody, and visitation is demonstrated by the following types of statistics.

- o Each year over one million American marriages end in divorce, disrupting the lives of more than three million men, women, and children.¹ In Colorado alone, this results in an impact upon the District Courts of 35,599 filings in the areas of dissolution of marriage, paternity establishment and related support matters. While the Colorado Domestic Relations filings constitute 28.6% of total filings, subsequent litigation of Family Law increases the court's burden to over 50% of court activity.²
- o Nationally, fewer than one-half (48.2%) of potentially eligible custodial parents actually have a support award in effect. Of that 48.2%, again fewer than half (46.7%) actually received the full amount of support that was ordered, while 25.1% received a partial amount and 28.2% received no payment at all.³
- o While there are no directly comparable compliance figures for Colorado, the deficient performance of our State's child support enforcement program suggests that our situation may be even more serious. Colorado collects only \$1.02 in child support payments for AFDC cases for every \$1.00 in total administrative costs. On this basis, Colorado ranks 31st nationally in cost-effectiveness for AFDC cases. Our record for non-AFDC cases is even more disturbing. Colorado collects only \$.71 for non-AFDC child support payments for every \$1.00 in total administrative costs. Based on these figures, Colorado ranks 38th nationally in cost-effectiveness for these non-welfare cases.⁴
- o The average court ordered level of child support nationally (\$171.00 per month) was only 70% of poverty level for the average number of children covered and less than 25% of the estimated cost of raising them in a household with average income.⁵ A Colorado study has shown that child support awards often vary widely, ranging from

¹H. Carter and P. Glick, Marriage and Divorce: A Social and Economic Study, 394 (Rev. ed. 1976).

²Annual Report, Colorado Judiciary, July, 1983 to June 30, 1984.

³U.S. Bureau of the Census, Child Support and Alimony: 1981, Current Population Reports, Series P-23, No. 140 (February, 1985).

⁴U.S. Office of Child Support Enforcement, Annual Report to Congress: 1984 (September, 1985).

⁵Robert G. Williams, Development of Guidelines for Establishing and Updating Child Support Orders: Interim Report, Report to the Office of Child Support Enforcement (Denver National Center for State Courts, June, 1985), p. 4.

6% to 33% of income to support one child and from 6% to 40% to support two children.⁶

- o Colorado's child support program secures paternity findings for only 15% of out-of-wedlock births in this state, a ratio that ranks 35th among all states.⁷ Nationally, only 13% of children born out-of-wedlock have child support paid on their behalf.⁸ Given Colorado's inadequate enforcement record, it is likely that our state's collection record for paternity cases is similar or worse.
- o Partially because of insufficient child support orders and the inadequate record of enforcement, relative living standards of children and their custodial parents decline sharply relative to those of non-custodial parents. One study found that custodial parent households experience a 17% decrease in their standard of living, while non-custodial parent households experience a 26% increase, even seven years after marital dissolution. Other studies based on a shorter time span have shown even sharper disparities.⁹
- o Custody awards in Colorado are made predominantly to the mother, with 70% being sole custody awards. Another 20% are joint legal custody awards, but in most of these the mother has primary physical custody. In only 10% of the cases is the father awarded sole custody.¹⁰ Based on this pattern, the burden of inadequate child support orders and poor compliance with those orders falls disproportionately on female-headed households. However, this pattern also raises questions concerning a residual sexual bias in custody awards by the courts. It also raises concerns about whether this pattern

⁶Lucy Marsh Yee, "What Really Happens in Child Support Award Cases: An Empirical Study of Establishment and Enforcement of Child Support Orders in Denver District Court", Denver Law Journal, Vol. 57, No. 1 (1979), pp. 38-42.

⁷Wayne Dixon, The Child Support Enforcement Program: Unequal Protection Under the Law (Washington, D.C.: National Forum Foundation, 1985), Table 5.

⁸U.S. Bureau of the Census, Child Support and Alimony: 1983, Current Population Reports, Series P-23, No. 141.

⁹Hoffman and Holmes, "Husbands, Wives, and Divorce", Five Thousand American Families--Patterns of Economic Progress (1976), p.27. See also, Lenore J. Weitzman, "The Economics of Divorce: Social and Economic Consequences of Property, Alimony, and Child Support Awards", UCLA Law Review, Vol. 28, No. 6 (1981).

¹⁰Jessica Pearson and Nancy Thoennes, Child Custody and Child Support: A Literature Review and Preliminary Data Reanalysis, unpublished report to U.S. Office of Child Support Enforcement (Denver: Center for Policy Research, June, 1984), p. 53.

adequately promotes the continued involvement of both parents in children's upbringing.

These figures show all too clearly that the inadequacies of children's rights to child support, custody, and visitation are having serious adverse effects upon our children and their parents. Moreover, although we know that these problems are serious and far-reaching, their impact is likely to extend to future generations as the full effects of inadequacies in current economic support and parental involvement take their long-term toll.

Nowhere is it more important than in Family Law for all parties, including the children, family, and State to understand from the outset the rights and duties governing the relationship between the parties. Children have the right to economic, emotional, and other tangible forms of support from their family and the State. The family has a right to continued parental involvement with their children even if the family unit fails. The State has a right to set standards to assure compliance with public policy and to assure to all parties a forum for the speedy and efficient resolution of conflicts that arise between them.

What vehicle will carry us toward the resolution of conflicts in Family Law? The present system for addressing these issues is ill-equipped to do the job. Too often our system is too adversarial, too rigid to allow simple access, too costly, and is a contributor to the aggravation of conflict.

Consistent with our charge in Public Law 98-378, we then reviewed all systems of child support and parental involvement, including the issues of access to the present court system, initial and supplemental public contact with the system, and the decision-making process. We then agreed to review the operation and administration of the enforcement system, including the consistency of child support enforcement, the need for a child support schedule, and the necessity for a new look at visitation and custody issues. For comparison, we agreed to examine alternate systems used or contemplated in other jurisdictions.

In sum, instead of attempting to patch up present systems, as has been done in the past, we felt the time was right to recommend the comprehensive review and revision of the entire system.

Process of the Commission's Work

The Commission has a broad-based membership. All members have an interest in Family Law and institutions related to child support enforcement and bring to the Commission a wide variety of experience, expertise, involvement and perspective. To underscore the commitment and dedication to

this task, the Commission members served as enthusiastic volunteers without funding or staff support.

The first major task for the Commission was to educate itself about the systems in Colorado that are associated with Family Law. The Commission received briefings from its members and from outside experts. The Commission conducted two public hearings and one hearing with members of the legal community. The Commission also received extensive written material and reviewed alternate systems used in other states.

After review and extensive discussion of all data received, the Commission concluded that the present Family Law systems in Colorado often fail to protect those they are supposed to serve and that they are therefore in need of drastic revision. Because of the difficulty in enforcing interstate rights and duties in Family Law, the same conclusions can be reached on a national basis. . Based upon these conclusions, the Commission overwhelmingly decided to:

- o Explore the concept of a Family Law Court system to include expedited processing, standardization of forms and procedures, mandatory mediation, and expanded use of referees; and
- o Explore the concept of a centralized Office of Enforcement to direct a statewide responsibility for not only child support enforcement, but enforcement of custody and visitation orders.

II. FINDINGS

Courts

There is a public perception that the Family Law system is not effectively meeting the needs of the public. The public perceives no clearly defined public policy toward the resolution of Family Law matters. There is a widespread belief that our traditional court system cannot respond fairly and efficiently to the volume and complexity of situations presented to it. We evaluated the courts by the criteria most often expressed by the public.

(1) Inadequate Commitment. Our findings reveal more specifically that the community perceives our present judicial system as lacking in commitment and experience in other areas of law. Once appointed, particularly in certain metropolitan areas, they appear to be desirous of making their rotations to the Domestic Relations Bench as short as possible. Education and training in Family Law is generally inadequate. All too often the result is inconsistency in quality of Domestic Relations decisions.

An example of lack of commitment of the present court system is the lack of effort made to secure federal funding for additional referees and staff to process child support enforcement actions. Funding has been available at 70% federal reimbursement under the Title IV-D program for several years. Other states have used these funds to increase availability of services and to materially lower state taxpayer expense.

(2) Restricted Access. The public is generally unhappy with access to the courts. The procedures and laws are too complicated for the public to easily understand, which requires the assistance of attorneys in a majority of the cases. The process then becomes expensive, with the most significant impact upon the lower and middle classes.

The courts are backlogged to the point that litigants cannot have their cases heard in a reasonable time. Federal regulations have adopted the American Bar Association recommendations that 90% of Domestic Relations cases be resolved in three months, 98% in six months, and 100% in 12 months. A recent study by the Colorado Judicial Department reveals that the Colorado average is 90% within 14 months, 98% within 16 months, and 100% within 17 months, with some jurisdictions taking as long as 24 months to complete a case. Long delays can give unfair advantage to one parent and run counter to the best interest of the children.

Theoretically, the addition of referees to the judicial system was to alleviate this problem, but the referees are used only in larger coun-

ties. Additionally, the benefits of the referee system have been limited to a large degree because certain local jurisdictions limit their authority.

In spite of the fact that Colorado has adopted unduly rigid statutes to minimize relitigation of support, custody, and visitation, the results show the contrary. Relitigation of these issues substantially augment the workload of the courts. For example, Colorado is one of only two states that imposes "unconscionability" as a standard to modify support. When the litigants return to court and encounter the rigid tests for modification, injustice and frustration result. There appears to be a need for easier resolution of disputes, rather than a need for the State to adopt statutes which deprive the parties of a forum to resolve their grievances.

(3) Lack of Uniformity. Imagine the poor litigant whose case involves multiple Colorado jurisdictions. While other states have made their procedures and forms uniform, the twenty-two Colorado jurisdictions jealously guard their own local rules, procedures, and forms. Requirements may vary from county to county within jurisdictions. Within counties decisions vary from judge to judge for no apparent reason. As a result, litigants experience great confusion, cost, and frustration.

Another community concern is the lack of uniform qualifications and standards for expert witnesses to assist the courts in custody determination. The result is a lack of public confidence.

(4) Inaccurate Data. A major problem facing the courts and the litigants is establishing the veracity of financial affidavits. Colorado lacks real preventive measures or sanctions in presenting false or misleading financial affidavits from being considered by the courts. The complexity and length of the affidavits may generate too much of an opportunity to use creativity in protecting one's assets.

An attempt has been made to assist the courts in verification of orders and compliance by the creation of automated case processing systems and the alimony and support payment system. However, these systems are not universally used and procedures may vary from county to county. The results are inconsistent and inadequate court records which reduce their utility to the judges and the parties themselves.

(5) Too Adversarial. It is recognized that in a small percentage of Domestic Relations cases, the full panoply of the adversarial system is necessary. There are some issues that must be litigated and there are some parties who must litigate. In most cases, however, our system is too adversarial at every level. While Colorado attempted to remove a large degree of the acrimony, anger, vindictiveness, and other emotional aspects of the breakdown of the family unit in 1972 by becoming a "no-fault" state, what is not evident is that these emotions have been transferred

from the dissolution of marriage to the division of the other rights and duties acquired, such as custody and visitation. Perhaps the parties continue to suffer unnecessarily and there is a better way to divide attendant rights and duties.

A system that relies exclusively or heavily on adversarial confrontations fails to enhance the communication, co-parenting and problem-solving skills needed by ex-spouses following a parental dissolution of marriage or parentage determination. Non-adversarial interventions like dissolution mediation, on the other hand, have been shown to be effective methods of resolving disputes, generating user satisfaction and promoting the continued contact of both parents following dissolution. Although evidence of relitigation is mixed, with some mediation studies concluding that it produces lower relitigation and enhanced compliance and other studies finding no difference in compliance and relitigation patterns associated with litigated and mediated outcomes, there is no evidence that mediation generates excessive relitigation or defers inevitable litigation.

Enforcement

Each state has an agency to administer the Federal Child Support Program. Agreements are made with local prosecuting attorneys or court officials to carry out provisions of the program. Any family receiving AFDC assistance automatically receives child support services. Families not on welfare may also apply to the state agency for help and are entitled to the full complement of services for enforcement.

In Colorado, the Child Support Enforcement (CSE) program is administered by 63 County Departments of Social Services and supervised by the State Department of Social Services. The CSE program is funded by 70% federal and 30% county or state funds, which can be offset by federal incentives paid on collections. The CSE program is responsible for establishing support obligations, establishing parentage, locating non-custodial parents, enforcing support orders, and monitoring, collecting and distributing support payments. During the 12 months ending March 30, 1985, the CSE program generated \$9.0 million on behalf of AFDC recipients, and \$6.5 million on behalf of families not receiving AFDC, and spent \$8.8 million.

In contrast, the State of Michigan, with a population slightly more than three times that of Colorado, collected \$106.8 million on behalf of AFDC recipients (twelve times as much as Colorado) during the period ending September 30, 1984. It collected \$198.7 million on behalf of non-AFDC recipients (thirty times as much). It spent a total of \$44.5 million

on administration (five times as much).¹¹ Michigan has a "Friend of the Court" system for establishing and enforcing child support which is very similar to the new Family Law Court System and State Office of Enforcement recommended by the Commission.

No public funding is available for custody and visitation enforcement except in rare cases where criminal allegations are involved. Moreover, few statutory remedies are available for the enforcement of custody and visitation. Those that are, such as contempt of court, are ineffective.

In developing the criteria to measure the Colorado child support program in light of our charge in Public Law 98-378, we drew from several sources. The public gave us their perceptions of the program's problems and achievements, the expertise of the Commission was extremely helpful, and we drew on the wealth of published studies for comparative purposes.

(1) Inadequate Commitment. The level of commitment varies from county to county. This results in an inconsistent level of achievement. Commitment is reflected in budgeting of resources and personnel. Inadequate budgeting creates a variety of problems. In small counties, a variety of Social Services programs, including child support enforcement, are administered by the same staff. This "one-room schoolhouse" approach to administration dilutes the priority of all programs. In large counties, the problem is seen in inadequate staff for the overwhelming caseloads. At the state level, budgetary considerations result in a lower priority for CSE when compared with entitlement programs. To the children of Colorado, this means an economic shortfall, which is partially absorbed by the taxpayers of Colorado.

The best interests of the children in custody and visitation issues are not being protected because of inadequate statutory provisions. Custodial parents often find difficulty in enforcing their orders for custody, while non-custodial parents have difficulty enforcing their visitation. Contempt powers of the court are seldom effective, leaving both parents with a feeling of helplessness.

(2) Lack of Uniformity. Like the courts, each child support unit is free to determine the forms and procedures to be used in its enforcement efforts. This decentralization of authority contributes to the confusion between jurisdictions. Each unit is free to prioritize its clients and services provided. For example, only welfare recipients in certain counties are served, while other counties may never process a paternity case. The State Department adds to this lack of uniformity by not being able

¹¹U.S. Office of Child Support Enforcement, Ninth Annual Report to Congress for the Period Ending September 30, 1984, U.S. Department of Health and Human Services (CSE 85-001), December 1984, Tables 4, 5, and 10.

to train statewide. The fact that no public funding is available for custody and visitation rights creates a public perception of imbalance of equities in the enforcement program.

(3) Restricted Access. Since each county administers the CSE program at differing levels of commitment, the services received by the public depend upon one's county of residence. Some counties provide only limited services to persons not receiving AFDC while others emphasize such services. In some jurisdictions the public may not be aware these services are available. Many counties do not provide adequate resources for establishing parentage, yet such cases are the most important in terms of emotional and economic impact upon children. The State CSE Agency dedicates more time and resources to large counties than small counties, contributing to the disparity between the quality of services provided. Interstate cases are, in particular, provided unequal services with response time unusually higher than in-state cases.

Services equivalent to the CSE program are not available for custody and visitation enforcement. In some cases, visitation violations may never be adjudicated because the non-custodial parent cannot afford to bring the violation to the court's attention. Where our system provides for compensation for missed support payments, there is no provision for compensation for missed visitation. Of equal importance is the fact that non-custodial parents who cannot afford an attorney are frequently denied visitation with their children. Such denial often relates to the cessation of support payments, thereby adversely affecting the children's economic and emotional needs.

(4) Lack of Cost-Effectiveness. Colorado ranks 31st and 38th in the nation for its respective AFDC and non-AFDC cost effectiveness, producing \$1.02 for every dollar spent for AFDC cases and \$.70 for every dollar spent for non-AFDC cases. Compared to other states, Colorado's collections are too low and costs too high for the results achieved. The national cost-effectiveness averages, for example, are \$1.38 for AFDC cases and \$1.91 for non-AFDC cases. Michigan, which is one of the high performing states (but not the highest performing) has cost-effectiveness ratios of \$2.40 for AFDC cases and \$4.46 for non-AFDC cases.¹²

High costs and low collections can be attributed to the lack of a statewide automated system for child support enforcement, and to a fragmented county administration system which is inefficient and ineffective in service delivery. While the Colorado Department of Social Services is in the advanced stages of developing an automated system, there has been virtually no automation in place for the ten years of the program's

¹²U.S. Office of Child Support Enforcement, Ninth Annual Report to Congress, *ibid*, Tables 17 and 18.

existence. The absence of computer support has severely hampered the effectiveness of line staff in managing their caseloads and has increased costs because of the necessity to sustain an inefficient, labor-intensive manual system.

The county-based administrative structure is inefficient and ineffective to a large degree because of duplication of activity. For example, average monthly collections per staff person vary in the counties from \$19.58 to \$5,360.00. Obviously, the quality of service children receive is affected by their county of residence.

(5) Needed Legislation. The legislature has passed many fine statutes in support of its efforts to establish and enforce support awards which have resulted in millions of dollars in additional support collections. However, the same cannot be said for mediation, custody, and visitation issues. The child support and custody modification statutes are unduly restrictive, almost prohibiting changes in child support and custody arrangements. There exist few remedies for visitation violations. The mediation statute prohibits its mandatory implementation and provides no funding mechanism. These matters need to be addressed in future legislation.

(6) Multiple Personnel Systems. There exists within the CSE program four separate and distinct personnel systems, each administered by different personnel and subject to different orders and procedures. The result is inconsistent administration and salaries of 332 personnel within the system, which creates a perception of inequity among workers from county to county and contributes to a lack of uniformity in quality of services.

(7) Deficient Training. No program of continual training exists at any level for staff. Limited training is provided by the Colorado Family Support Council of the District Attorney's Council and the Regional Office of the Office of Child Support Enforcement to supplement the minimal training provided by the State Office of Child Support Enforcement. Training courses such as those provided to counties for income maintenance and social service programs by the Office of Staff Development of the State Department of Social Services do not exist. For the State Department of Social Services to provide the same degree of training for the CSE program, additional personnel would be required. However, the benefits that would accrue to the counties and state should outweigh any additional costs.

(8) Too Adversarial. No system currently exists that is readily accessible and encourages parties to resolve their differences on such matters as support amounts, paternity, etc. Therefore, attorneys and courts are utilized to resolve the issues for the parties. This current system is highly adversarial in nature and has a tendency to pit the parties against one another instead of assisting them in dealing with the issues on an informal basis. Meanwhile, the children suffer from the animosity

engendered by the adversarial system. The expense to the parties and taxpayers of the adversarial system is tremendous. Matters that should be agreed to instead end up in court at taxpayer expense. The Commission received testimony indicating that stipulated child support matters do not require enforcement as often as child support matters that are ordered by court.

(9) Inaccurate Data. Two categories of inaccurate data emerged from commission testimony. One is inaccurate data received during the development of a case, such as financial statements and testimony. The other category is information provided by County CSE units which is required by the State CSE Office and by the Federal Office of Child Support Enforcement.

Inaccurate data provided by the parties is a major problem in establishing the amount of the support award. Often the parties' financial affidavits overstate expenses and understate income. Testimony of the parties frequently clouds the issue. Attempting to ferret out the truth can be time consuming and costly since only the contempt power of the court and perjury remedies are available, both of which require a hearing before the court. Moreover, when found guilty of perjury or in contempt of court, the courts are not inclined to jail the offender. This situation then causes proliferation of inaccurate information because the offenders are aware that either prosecution will not occur or if it does, no penalty will be imposed.

Inaccurate data provided by the County CSE units has its genesis in the lack of clear and concise definitions and training by the Federal Office of Child Support Enforcement. By law certain data must be collected by the Office of Child Support Enforcement and provided to Congress. Since 1975, states have been required to report quarterly such data as caseload, orders established, paternity established, selected financial data, and location made of absent parents. However, the definitions of the data to be collected are incomplete and sometimes incomprehensible, resulting in state and counties across the nation reporting differently. The Colorado CSE state staff attempted to resolve this problem by designing a form and instructions for accurate data collections. However, even with this form, the data provided by County CSE units continues to be inaccurate, incomplete, and often late. Further complicating this issue are the multiple filing of cases concerning the same parties. Rather than enforcing existing orders, the County CSE units file new actions. This results in a gross overstatement of each county's caseload.

(10) Absence of Objective Standards for Support Awards. The State lacks a uniformly applied standard for the determination of adequate support awards for Colorado's children. This oversight leads to substantial variations in the amount of support ordered on behalf of families with similar circumstances and resources. Inconsistent awards result in a loss of

confidence in the court system and its ancillary support systems. This problem is compounded by support awards which fail to recognize the minimal basic necessities of life for the children involved, thereby encouraging welfare dependence of the custodial family.

Recent studies indicate that child support awards may be established at very low levels, even when the non-custodial parent has the ability to pay a larger amount. Further, the living standard of the non-custodial parent typically improves after dissolution or separation, whereas the custodial parent's financial situation deteriorates substantially, thereby causing irreparable harm to the child.

III. RECOMMENDATIONS

Objectives

Any system of Family Law should have as its primary goal the preservation of the family unit. Colorado can best meet this goal by adopting a system of Family Law in which the existing fragmented system of Domestic Relations, parentage, interstate actions, and enforcement are merged into one. To accomplish this goal, certain objectives must be met. They are:

- (1) A non-political system which would avoid disruption of purpose and public policy.
- (2) A centralized administration to provide for statewide consistency, uniformity, control, and direction.
- (3) A specialization of functions to provide for the selection and maintenance of maximum expertise.
- (4) An elevation of the status of Family Law matters to recognize the importance and esteem the public requires for Family Law matters.
- (5) A greater commitment to a newly defined public policy.
- (6) An easily accessed system, which provides simplicity, affordability, uniformity, fairness, consistency, and a timely resolution of disputes.
- (7) A reduction of the adversarial nature of Family Law in order to enhance the cooperative, communication, and problem-solving skills of the parties while still providing an efficient forum for full adversarial litigation when cases cannot be resolved by mediation.
- (8) Objective standards for support, custody, and visitation awards to provide for uniformity, consistency, and equality of orders, including reasonable standards for modification of these issues.

To accomplish these eight objectives, the Commission offers the following recommendations.

Creation of a Family Law Court System

A new specialized Family Law court system patterned after other successful systems is recommended in order to correct the problems with Colorado's present system. An economy of design is proposed by combining some of the existing judicial districts for Family Law purposes; making use of present personnel; and simplifying access, forms, and procedures

which will also ensure to all litigants and their representatives equality of treatment and services.

Historically, Colorado government has been quick to respond to the needs demanded by its citizens. When systems have been unresponsive, unfair, or inefficient, Colorado has changed, particularly in the area of Family Law. When our traditional diversified court system was not meeting the needs of our children at the turn of this century, Colorado became and continues to be a leader in a specialized juvenile court system. When Colorado's divorce laws became too cumbersome and costly, Colorado was one of the first states in 1972 to adopt the "no-fault" Uniform Dissolution of Marriage Act. Today Colorado must respond to a growing citizens' dissatisfaction with its Family Law system.

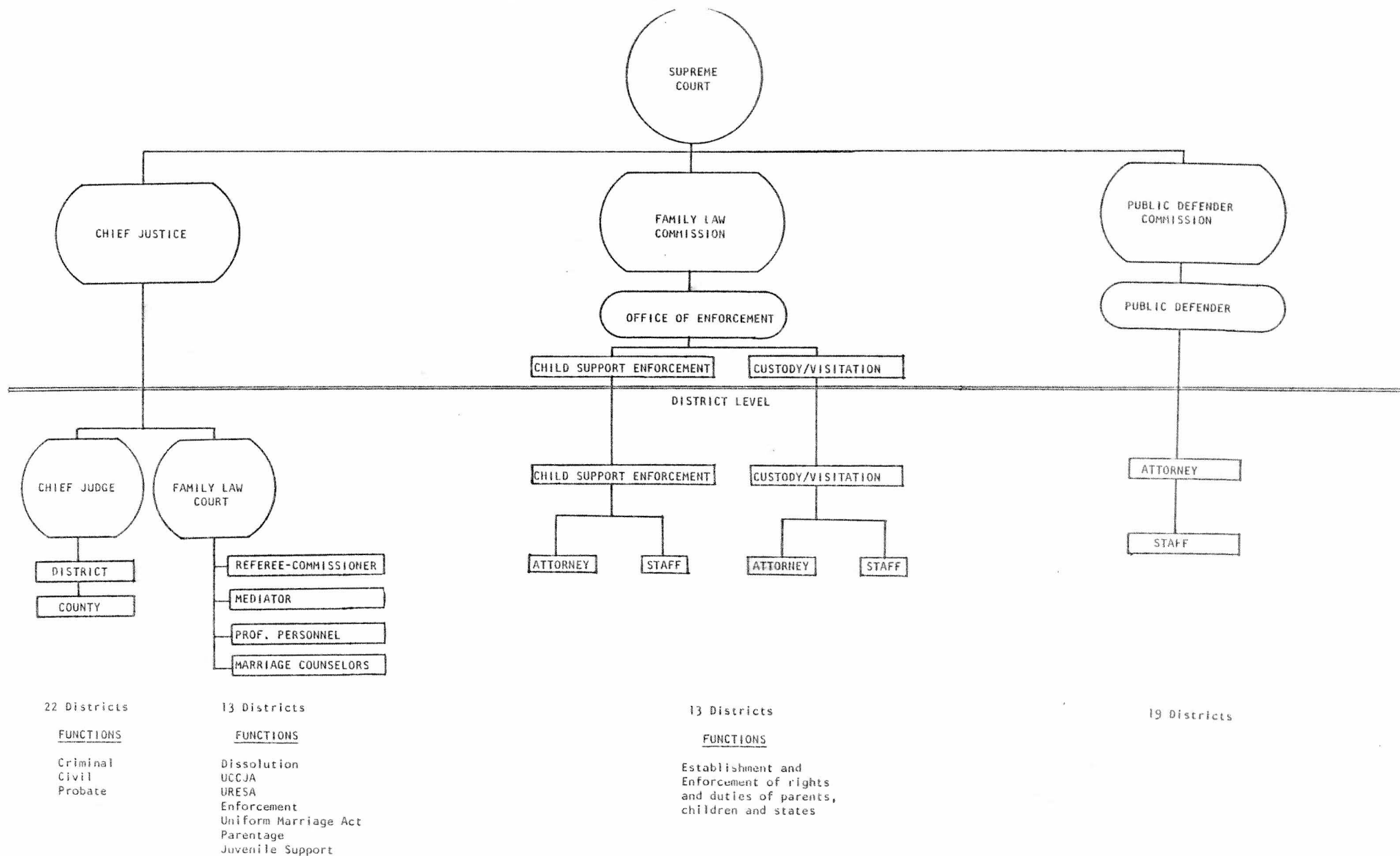
The Commission looked to the experience of our sister states in responding to their citizens' Family Law needs. Because their systems have a track record, the Commission investigated the systems which would produce the best results for Colorado. The Commission has examined other systems and listened to the concerns of our citizens. To meet these concerns, the Commission has selected a specialized system to be located within the regular civil court system.

Structure. The Family Law Court would use as much of the present personnel as possible, but would operate by separate rules and procedures designed specifically for Family Law. The Family Law Courts would be divided into Family Law Districts and would be staffed by judges, referees, mediators, and support staff. The Family Law Courts would decide issues related to the establishment and enforcement of orders concerning matrimony, parentage, and the termination of marriages, both intra- and interstate.

The Supreme Court would administer and guide the Family Law Courts in each Family Law District as they do for the other civil and criminal courts in each Judicial District. However, to overcome consistency problems, as previously noted they could not delegate this responsibility to the Chief Judge in each Judicial District (see Figure One, below).

The Commission examined the existing structure of the 22 Judicial Districts as a workable format for an efficient system to provide timely access, specialization, cost-effectiveness and uniformity. The Commission found that the distribution of caseload, economics and logistics strongly suggests a smaller number of Family Law Districts. The borders of the more populous Judicial Districts should remain consistent with the Family Law Districts. However, Judicial Districts with smaller populations should have their Family Law efforts combined for greater efficiency and economy in serving the public. Preliminary analysis by the Commission suggests that this process could result in as few as 13 Family Law Jurisdictions.

Figure One
STRUCTURE OF PROPOSED FAMILY LAW SYSTEM AND OFFICE OF ENFORCEMENT *



*Structure of Present Public Defender Program Shown for Comparison

Most of the present personnel, particularly the judges and clerks, should be used in their present locations. However, mediators and other support staff may have to ride circuit within a geographically large Family Law District. A judge in each district would administer the provisions as set forth by the Supreme Court. The judge would hear only complex and contested issues upon request by the parties. Otherwise, referees would hear all other legal issues. All parties would submit to mandatory mediation except in default situations. The clerical staff would support this system.

For those few disputes requiring adversarial means of resolution, the Family Law system is designed to allow traditional legal access to all parties and their representatives. It is designed to take care of the needs of Pro Se (self represented) litigants; those represented by the private bar; and any government agency, including the to-be-created Office of Enforcement. The Commission's recommendation for design of the system, as well as other recommendations, are intended to ensure equality of treatment and services regardless of the type of representation.

Process. The initiating party will obtain from the Family Law Court the appropriate documents to complete (see Appendix III, Establishment: Dissolution of Marriage). The documents will be standard and uniform throughout the state and will be designed for ease of completion. Among the forms to be completed will be a summons which will advise the responding party of the requirement for mandatory mediation, the mediation date, and advisement of the parties' rights and duties and the children's interests as set forth in the Children's Bill of Interests (see Appendix II). Other documents will include a petition for the remedy sought, a financial affidavit, and statistical data regarding the parties and children, where appropriate.

If both parties are present on the prescribed mediation date, they will meet with the family law mediator. The mediator will advise the parties of their rights and duties and explain that the mediator is a facilitator to assist the parties to reach an agreement regarding the remedy sought. The mediators will further advise the parties that all communications are confidential and that the mediator is not subject to call for examination during any litigation.

If the parties are willing to enter into marriage counseling, the mediator will stay further proceedings and refer the parties to marriage counselors. However, if the parties do not wish marriage counseling, the mediator will proceed to work with them to develop an agreement. If an agreement is reached, the mediator will enter the agreement on a standard form and refer the agreement to a referee. The referee will review the agreement for legal and equitable sufficiency, and if the agreement is acceptable, it will be made an order of court. If the parties do not reach an agreement, the mediator will set a hearing for the unresolved

issues before a referee, unless the parties specifically request a court hearing before a Family Law Judge. The parties will be provided with a document that indicates the date, time, and location of the hearing.

A hearing before a Family Law Referee will be conducted with relaxed rules of evidence, as is presently the practice. The function of the Family Law Referee will be to obtain sufficient information from the parties upon which an order can be entered. However, information obtained by the mediator will be held in confidence and will not be available to the court from the mediator. An order entered by a Family Law Referee will be subject to review by the Family Law Judge and, if approved, will become an order of court. If either of the parties wish to appeal the order, such appeal will be on the record to the Family Law Judge. A decision based on an appeal heard by a Family Law Judge is subject to the normal appellate process.

A hearing before a Family Law Judge will be conducted pursuant to the normal rules of evidence. Any decision by the Family Law Judge will result in an order of court and will be binding upon the parties. An appeal of such an order is subject to the normal appellate process.

Orders entered by a referee or judge will be provided to the parties and to the Office of Enforcement and will be recorded in the appropriate court registry. These records will be the basis for any future modification of orders. Modification procedures should follow the original order procedure (see Appendix III).

Creation of the State Office of Enforcement

The Commission is dissatisfied with the record of the present program to enforce child support and recommends that it be relocated in an Office of Enforcement to be created in the judicial branch of government. The Office of Enforcement would be structured and administered similarly to the Public Defender Program. The Office would have two divisions: one to enforce support orders and one to enforce custody and visitation orders. The success of the Office would depend upon the development of a viable statewide Central Registry for monitoring orders.

Creation of a State Office of Enforcement is necessary to focus the State's interest in protecting and preserving the "best interests" of our children. This office shall be responsible for administering the child support enforcement program and the newly created custody and visitation enforcement program.

The findings of the Commission indicate that our present efforts to protect these interests suffer from ineffective direction with no real accountability for lack of success. While collection of child support

has improved somewhat over the last decade, this improvement can be attributed to the addition of new statutes as enforcement tools, rather than to administrative improvements. In spite of major infusions of federal funding over the last decade, the Commission found we have progressed little beyond our pre-IV-D posture. Any administrative efforts to improve the program since its inception in 1975 have been more cosmetic than substantive in result. Colorado has done nothing to provide for enforcement of custody and visitation orders. Attempting to patch up the Colorado enforcement system has not worked to overcome the strong and explicit dissatisfaction with the problems that prevail. A radical and thorough reform is necessary.

The Commission, in particular, is concerned with the placement and responsibility for the child support enforcement program. This concern has been expressed on a national level in other studies:

Constitutionally, the power to assess and collect child support lies with the Judicial Branch of government. Why is IV-D, federally administered by the Department of Health and Human Services and funded through the Social Security Act?¹³

The Commission perceives that this misalignment of authority and responsibility for the child support enforcement program is a contributing factor to the lack of success of the Colorado program. In Colorado the authority to produce results is in the Judicial Branch, while the control of the effort is with the Department of Social Services. This dichotomy of roles creates public confusion as well as hinders effective performance. Placement of the program with the Department of Social Services creates within the department a conflict of philosophy between enforcement of support and entitlement programs. The public sees the orientation and emphasis of the Department of Social Services as being with the entitlement programs. The lack of accomplishment of the child support enforcement program in Colorado suggests that this perception is accurate.

Further compounding Colorado's lack of success is the county administered child support enforcement system. As previously noted, this fragmentation of administration is inefficient, ineffective, and duplicative. Therefore, the Commission recommends that the county administration of the program through the State Department of Social Services be abandoned. The program has the greatest chance for improvement and success if it is state administered and placed within the Judicial Branch of our state government.

¹³Wayne Dixon, Child Support Enforcement: Unequal Protection Under the Law, op. cit., p. 4.

It would be inappropriate to have the Supreme Court supervise or be responsible for the administration of the program. Colorado addressed this same type of problem when it created the Public Defender program. We see no reason to depart from this established design for creation of an enforcement office within the Judicial Branch.

A small commission like the Public Defender Commission should serve solely to select or dismiss, when necessary, the Director of the State Enforcement Program. Commission members would be selected in the same manner as the Public Defender Commission.

The Director of the Office of Enforcement should have the responsibility for budgeting and administration of the program. Funding would be sought from the federal government and the Joint Budget Committee of the Colorado Legislature. Accountability for performance of the program should be a funding issue.

It would be the responsibility of the Director of the Office of Enforcement to develop a statewide plan for delivery of enforcement services. The plan should be consistent with the Family Law Court system and provide enforcement services to welfare recipients as well as all other citizens who apply for services.

Presently in Colorado there are experienced support enforcement personnel including attorneys, paralegals, investigators, and secretaries. They are part of District Attorney and Social Services Child Support Enforcement units around the state. These personnel are the foundation for a state administered program and could be called upon in the formation of the new state administered system either by contract or placement of new units, where appropriate. The Director should have the discretion to locate units where most needed to meet the demands for service. Contractual agreements with existing units should be based upon performance in meeting the needs of the public.

The automation of the program should be a major concern of the Director of the Office of Enforcement. The foundation of a successful program is a Central Registry. The Colorado statutes provide for a Central Registry to accept payments for support. Under the statutes virtually all of the family support payments would be made to the Central Registry. The Registry would then distribute the payments to the obligee or as reimbursement to the state in AFDC cases. The Registry would provide the means for monitoring compliance for all orders. This monitoring is necessary because under Public Law 98-378 states are required to impose wage withholding without further intervention by the obligee when payments are late.

The Central Registry must be automated. Without a working computer system to monitor payments, the Office of Enforcement cannot operate on a statewide basis because of inability to gather accurate data, standardize

forms, or process or measure the performance of units. Given the statutory requirement for the development and its critical need, serious planning and development efforts need to be initiated with urgency. Currently the responsibility for the development of a central registry rests with the Department of Social Services. It is imperative that the Department of Social Services, working in cooperation with the Judicial Department, give this developmental effort its highest priority. Ultimately, responsibility for the Central Registry, together with other enforcement functions, should be transferred to the new Office of Enforcement recommended by the Commission.

We also recommend that the Office of Enforcement enforce custody and visitation orders. Presently Colorado provides no assistance for the violation of custody and visitation orders, except where criminal laws are broken. The public perceives this omission of services as an unfair imbalance of the State's interest in the children. If we are to follow the federal mandate to explore and secure the development of continued parental involvement by inclusion of these issues in any recommendations; and if we adhere to traditional Colorado public policy protecting the "best interests" of our children, we must include the enforcement of custody and visitation orders. These orders directly affect the "best" interests of a child as much as a support order. The authority of the Office of Enforcement to enforce all orders affecting the child derives from the State's traditional interest in the child.

The Office of Enforcement on behalf of the State will represent the best interests of the child in visitation and related matters, and the child would be considered the represented party in re the interest of the minor child. Procedures shall be established incorporating the principles of continuing parental involvement to determine if a petition should be filed. Any parent or affected party may request that a child be represented by the Office of Enforcement. This alignment of interests is consistent with present enforcement practices.

Unfortunately, funding for the enforcement of custody and visitation orders is not, at the moment, available from the federal government. However, Colorado could follow the example of other states in the development of innovative funding sources, such as filing fees, marriage license fees, and other types of user fees. In addition, the child support enforcement program, if reconstructed, can be expected to more than cover its expenses through existing federal reimbursement funding and incentives. The remaining funds after expenses would be yet another source of revenue to cover the cost of providing the additional public services. A major objective of the Commission in its second year of work would be to formulate specifics for funding to minimize the impact on general tax revenues.

Process. Parties may elect to use the enforcement system with the aid of private counsel or the Office of Enforcement. If the initiating

party applies for services through the Office of Enforcement's child support enforcement program, or is a recipient of Aid to Families with Dependent Children (AFDC), services to establish an order for support will be provided at no cost or nominal cost to the party, including representation in court. However, the services provided by the Office of Enforcement cannot include obtaining a dissolution of marriage since the child support enforcement program is limited in scope to the establishment of paternity, establishment of orders for support, and the enforcement of orders for support (see Appendix III, Enforcement and Establishment). The services that are provided are intake and advisement, extensive searches for the location of the other parent, preparation of legal documents, service of process upon the other parent, arrangement for any necessary laboratory tests, scheduling the case for mediation or hearing, and representing the party at any legal proceeding. The new division of custody and visitation enforcement will provide services related to these enforcement issues.

Orders for support provided to the Office of Enforcement by the Family Law Court will be entered into an automated system known as the Central Registry. Payments that are made will be received by the Central Registry and credited against the appropriate account. If a payment is missed, the Central Registry will automatically generate delinquency lists on a monthly basis. The Office of Enforcement will use the lists to issue wage withholding orders in local districts where the obligor is employed. Local, state, and federal sources will be used to locate the obligor, if necessary.

If the obligated parent is employed within the state, several remedies may be employed. A wage assignment may be activated which would be served upon the employer of the obligated parent and would require the employer to deduct from all future earnings of the obligated parent amounts sufficient to satisfy the monthly support obligation and payment toward arrears, if any. Additionally, judgment could be requested of the Family Law Court in the amount of any past due support owed. Once such a judgment is obtained, wage garnishment procedures, property liens, and other civil remedies could be employed. Also available would be the civil contempt remedy where the obligated parent is summoned before the referee or judge and a case presented proving that the obligated parent owes past support and has not paid. A finding of contempt can result in a jail sentence. A final remedy, which is used only in extreme cases, is the filing of a criminal non-support action which is a class IV felony and potentially subjects the offender to prison.

Administrative remedies can augment the enforcement system. The present system already makes use of the administrative processes of intercepting State and Federal income tax refunds, as well as unemployment compensation benefits.

All enforcement remedies available to residents of this state would be available to residents of other states when the obligated parent is a resident of this state. It is hoped that other states will provide this state with similar reciprocity.

The Office of Enforcement will also enforce violations of custody or visitation orders (see Appendix III, Visitation Violation). The complaining party would lodge a formal complaint with the local Office of Enforcement's custody/visitation office. The Office would determine the nature of the violation and decide whether to proceed with enforcement based on the concept of the state's interest in continued parental involvement.

If the Office of Enforcement decides that a violation of a visitation has occurred, the issue and parties would be referred to a mediator. The mediator would schedule a meeting with the parties to facilitate an agreement for a more specific order. The agreement would be referred to the referee for approval. However, if no agreement is reached, or if only a partial agreement is reached, the case would be scheduled to be heard before a referee or, if requested, a judge. The Office of Enforcement would present the case at the hearing.

The referee or judge would obtain evidence and modify the order, if necessary. The parties would have the right to appeal any order entered, with the Family Law Referee order appealed on the record to the Family Law Judge, and the Family Law Judge's order appealed to the Court of Appeals. A copy of any modified order would be provided to the parties and to the Office of Enforcement (see Appendix III, Modification of Orders).

Depending upon the severity and repetition of violations as well as the prior record, the court may order: make-up days, much like support arrearages are treated; jail of the violator during the periods when the child visits the non-custodial parent; require posting of bond to insure future compliance; award to the aggrieved party upon violation of custody or visitation orders, actual damages including attorney's fees and costs; or recommend review of the custody order.

The Office of Enforcement may be asked to review situations where one parent conceals a child from the other and where there is violation of any type of custody order.

**Revision of Public Policy to Guide
the Colorado Legislature and the Courts**

The Commission recommends that Colorado abandon the traditional terms of "custody" and "visitation" in defining the relationship between parents and children when the parents separate or fail to marry. Instead, new terms based upon the concept of "continued parental involvement" should be developed. Revision of public policy would require modification of our present statutes to require equality of rights and responsibilities between all parties in this relationship. It would also require the creation of more objective and workable standards to apportion and enforce those rights and duties.

In order to soften the often dramatic disruption of parent-child relationships and to promote the continued involvement of each parent with the child after a marriage is terminated, the Commission recommends the revision of public policy toward the traditional concepts of "child custody" and "visitation." These terms are locked in traditional adversarial concepts that elicit strong emotional responses which can obscure the decision-making process to determine the child's long-term "best interests."

We offer the phrase "continued parental involvement" as terminology for the future to replace "child custody" and "visitation." We define "continued parental involvement" as a guarantee by the State that both parents are guardians of their children through minority; and that both parents can share in the rights and responsibility for guidance in educational, health, and general welfare matters concerning the child. Parental involvement promotes parental caring. Parental caring promotes parental responsibility. If we choose this goal, we must abandon those parts of our present system that too often alienates one of the parents from the child upon termination of the marriage. Instead, we must build upon those parts of our system which promote continued parental involvement.

Placement of the child after separation of the parties, whether it is with one parent or shared by both parents, should continue to be a decision by the court based upon the "best interests" of the child. Presently the parent who becomes the "sole custodian" may dictate educational, health, and other general welfare issues concerning the child; control the definition of "reasonable" visitation; change the domicile of the child with few restrictions; and expect continued economic support for the child from the non-custodial parent. We recommend a system that will encourage continued input into all of these issues by both parents after the parties are separated.

If this new terminology were adopted, statutes would have to be reviewed and modified to strike the traditional terms of custody and visita-

tion. Statutes would have to reflect a new equality between primary and secondary guardians. For example, presently within our statutes only non-custodial parents can be guilty of "intentionally concealing" the whereabouts of a child from the custodial parent. Both parents should be held to the same liability for concealing a child from the other parent. As another example, parental kidnapping should apply equally to primary guardians as well as secondary guardians.

New emphasis would have to be placed upon a primary guardian's ability to encourage contact with the other parent. For example, if a parent could not encourage this contact or deliberately discouraged contact, a basis or grounds would be created for the court to review the placement of primary guardianship with that parent.

Since new emphasis would be placed upon all aspects of responsibility for the development of the child, criteria for placement of a child would include a demonstrated willingness of a parent to properly feed and clothe a child. For example, whether the income of the parent is great or small, a parent must show a willingness to share with the child an appropriate amount of the income needed to meet its economic needs.

Disruption of parental contact can occur when a parent changes the child's domicile by moving out of state. Presently our courts are given little guidance in making the decision to permit removal of the child based upon the best interests of the child. Colorado needs to adopt a more objective standard for permitting removal of the child from the state. The standards should not be so rigid to prevent the removal of a child from the jurisdiction where the child's best interests are served, nor should the seeking of permission to remove a child from the jurisdiction be a sole basis for change of custody.

The parent requesting the move has the burden of demonstrating an advantage to the parent and the child and the court must consider:

- (1) The likely advantages of the move;
- (2) The integrity of the parent's motives for the move;
- (3) Whether substitute parental contact orders for the secondary guardian are likely to be complied with;
- (4) The integrity of the secondary guardian's motives for resisting removal; and
- (5) Whether satisfactory alternate parental contact for the secondary guardian can be arranged.

The term "reasonable visitation" in our statute creates confusion and fosters litigation. Trying to define what is "reasonable" too often invites arbitrariness. If we adopt new terminology to define continued parental involvement, an atmosphere of continued contact with both parents will guarantee frequent bonding between the child and the parents. The parent that becomes the "secondary guardian" should have the right to specific times and places for continued parental contact based upon the best interests of the child. This right should not be conditioned upon any other parental right or duty such as the payment of support.

There should be very real consequences to the deliberate disruption of parental contact with the child by one parent or the other. The most logical and least punitive to all parties is to create "make-up" visitation. The court could award in-kind replacement days, i.e., weekday for weekday, holiday for holiday, etc., within a time framework, when circumstances are appropriate.

When the parents cannot resolve their differences, either parent would seek relief by going into mediation for resolution. If that process fails, or is impossible, the parties could go before a judge who will then have the option of (1) redefining the parental contact to guarantee compliance or (2) impose sanctions against the violator, including:

- (1) Make-up days;
- (2) Jailing of the violator;
- (3) Posting of bond to insure compliance;
- (4) Schedule a review of all criteria for designation of the primary guardianship with the ultimate result of shifting the primary guardianship to the other parent;
- (5) Award, where appropriate, to the aggrieved party upon violation of custody or visitation orders actual damages including attorney's fees and costs.

It is recognized that parents may not always have the best interest of their children in mind as reflected in their actions, and parental contact may need to be avoided or terminated. However, where allegations are made, a review of the allegations and a determination by the court at the earliest moment are preferable to unilateral action on the part of one parent.

Additionally, the current statutes on custody modification are in conflict with the best interests of the children. The requirement of a showing of physical or psychological endangerment may freeze the custody arrangement to the convenience or wishes of the parent and not in the

child's best interests. Instead, a best interest standard should be utilized in change of custody taking into consideration the child's current needs and desires, the changes in circumstances since the entry of the custody decree, and the ability of the parent to meet the needs of the child. Stability in the environment should be only one criterion.

Mediation

The Commission recommends the creation of a statewide, comprehensive system for the mediation of dissolution-related disputes. Mediators should handle disputes dealing with child and spousal support, custody and visitation, the temporary use of property, and payment of debts. After the petition is filed, mediators would provide services to couples at both the pre- and post-dissolution phases and would assist both the Family Law Court and the State Office of Enforcement.

Mission. The goal of the mediation system would be to provide a non-adversarial means of settling pre- and post-dissolution conflicts pertaining to child support, custody, visitation, temporary property division, etc., within the Family Law Court and enforcement agencies. The role of the mediator would be to facilitate communication between disputing parties and promote compromise and problem-solving. The objective of the mediation intervention would be to maximize the participation of the parties involved giving them as much responsibility as possible for their own individual and collective lives. The mediator should also inform the parties of the State's public policy toward children by providing them with a copy of the Children's Bill of Interests (see Appendix II).

Requirement. The mediation intervention would be mandatory whenever a controversy exists between spouses or between parents regardless of their marital status. Upon a filing of an action, the court and/or enforcement agency would notify parties of a time and place for the mediation session and could issue a citation to any respondent requiring him/her to appear at the scheduled mediation session. The mandatory status of the intervention would be restricted to one session lasting approximately one to two hours. At that point, if the parties reject further mediation, the parties and/or the mediator could withdraw from the mediation attempt and the case would be referred without prejudice to a referee or a judge. In cases involving allegations of domestic violence, the mediation intervention would occur along with other remedies, either civil or criminal in nature, that may be available.

Format. The format of the intervention would be an informal conference or a series of conferences to effect an amicable settlement of the issues in controversy.

Confidentiality. Mediation conferences would be held in private. All communications, verbal or written, from parties to the mediator would be deemed privileged information. Mediation files would be closed. Mediators would be immune from subpoena and would not testify on behalf of either party in any subsequent litigation between them. Naturally the exception to this would be in instances of alleged child abuse. In such cases, mediators, like other professionals, would be required to notify an appropriate protective service agency.

Staffing Structure. The State would establish the position of Mediation Director to assist the Family Law Court and enforcement agencies in carrying out its functions. The Mediation Director could appoint supervising mediators and staff to conduct mediations, schedule interventions, and dispose of business. Mediation services may be shared by family law jurisdictions by contract. Alternatively, mediators may be appointed to "ride circuit" or rotate between and among interested Family Law Districts. The Mediation Director would arrange for the assessment and evaluation of the mediation functions of the Family Law Court in order to enhance the quality of mediation services provided to the public. The Mediation Director of the Family Law Court would also arrange for continuing education to be made available to mediators on a periodic basis.

Qualifications. The State would establish minimum qualifications pertaining to education, experience, and dispute resolution training. There should be a minimum standard to prepare a mediator in family law to understand the interpersonal relationship in marriage and dissolution, the legal process of family law, the dynamics of dispute resolution, and issues related to children, including child development and the effects of dissolution on children. Guidelines for qualifications are offered by the Family Law Section of the American Bar Association, the Academy of Family Mediators, and other relevant professional groups. Guidelines also have been developed in Colorado by the State Court Administrator's Office for pilot mediation programs in operation in various judicial districts.

Hearing. Parties would have a right to a hearing or trial before a referee, master, or judge in the event that the mediation effort fails to produce a mutually acceptable agreement.

Judicial Review. All agreements reached in mediation would be reduced to writing by the mediator and signed by the parties. Subsequently it would be reviewed by the parties, their attorneys, and a referee, master or judge. If no one objects within 10 days of the initial signing, the agreement would be promulgated as an order.

Continuing Jurisdiction. The mediation service and its mediators would be available to parties who wish to informally discuss, review or clarify their agreement. Parties who wish to modify their agreement would

also be encouraged to utilize mediation. However, a formal modification would require a review process as outlined under Requirements, above. Parties could also reenter the mediation process in certain enforcement procedures.

Costs and Fees. No fee would be charged for the first three sessions of the mediation service. The state would pursue various cash funding mechanisms to finance the service including, but not limited to, filing fees, marriage license fees, and federal reimbursement by the Office of Child Support Enforcement. If mediation services are desired beyond the initial three sessions, litigants would be charged according to a sliding fee schedule keyed to ability to pay.

Child Support Guideline

The Commission recommends that the Supreme Court adopt the Colorado Child Support Guideline, developed by the Commission, for general use by the courts in establishing the level of initial and modified child support awards.

Under the Child Support Enforcement Amendments of 1984, each state is required to develop a child support guideline and make such guideline available to "all judges and other officials who have the power to determine child support awards, although the guidelines need not be binding upon them." (P.L. 98-378, Section 478). Implementing regulations further require that these guidelines be based on "...specific descriptive and numeric criteria and result in a computation of the support obligation." (45 CFR 302.56(c)). P.L. 98-378 also requires that state commissions "establish objective standards for support." Based on the mandate for states to develop a guideline and the inclusion of that task in the Commission's charge, the Commission developed the Colorado Child Support Guideline, which is incorporated into this report in Appendix I.

The Colorado Child Support Guideline is intended to meet the following objectives:

- (1) Establish as state policy an adequate standard of support for children. This standard is based on the most authoritative economic evidence on normal levels of expenditures by households of a given income level.
- (2) Make awards more equitable by ensuring more consistent treatment of persons in similar circumstances.
- (3) Improve the efficiency of the court process by promoting settlements and giving judges and referees guidance in establishing levels of awards.

Evidence from other states that have implemented guidelines, such as Delaware, Washington, and Wisconsin, demonstrates that guidelines do meet these objectives if they are routinely applied by courts.¹⁴

The Colorado Child Support Guidelines are based on the Income Shares Model for child support developed by the National Center for State Courts under a grant from the U.S. Office of Child Support Enforcement.¹⁵ The Income Shares Model in turn was derived from an intensive review of economic evidence relating to the average levels of expenditures on children in intact households.

The Income Shares Model was selected as the basis for the Colorado Child Support Guideline for several reasons. First, the Income Shares Model ultimately bases the child support obligation on ability to pay, which ensures that the child shares in the parents' standard of living. To the extent that either parent has a higher than subsistence level of income, the child benefits from that higher standard. Specifically, the Income Shares Model bases child support levels on observed proportions of family income allocated to children in intact households.

Second, unlike some approaches to child support guidelines, the Income Shares Model takes into account income of both parents in determining the amount of the award. In Colorado, both parents share legal responsibility for supporting their children. Consequently, the economic responsibility should be divided in proportion to their available income. In this way, the guideline makes provision for each parent's ability to pay. It also avoids a perception by the non-custodial parent that he or she is bearing the entire monetary burden of supporting the child.

Third, the Income Shares Model allows for the subsistence needs of each parent. It is neither realistic nor appropriate to expect that a parent can or should pay substantial amounts of child support until that parent has provided for his or her own subsistence level needs. The Income Shares Model provides that its formula percentages are abated below a one person subsistence level, which is set at a poverty level for one adult (currently \$438 per month). However, a minimum order of \$20-\$50 per month is set based on a case-by-case review of obligor living expenses. The minimum order establishes the principle of a child support

¹⁴R. Williams and S. Campbell, Review of Selected State Practices in Establishing and Updating Child Support Awards, Report to Office of Child Support Enforcement (Rockville, Maryland: June 1984).

¹⁵Robert G. Williams, Development of Guidelines for Establishing and Updating Child Support Orders, Report to U.S. Office of Child Support Enforcement (Rockville, Maryland: June 1985).

obligation and allows for tracking of the obligor so that the order can be re-established at a higher level if income increases in later years.

Fourth, the Income Shares Model encourages the involvement of both parents in the child's upbringing by means of adjustments for joint or extensively shared physical custody. The model provides for an adjustment in the child support obligation when the second parent has physical custody at least twenty percent of the time. However, because child support is most fundamentally based on ability to pay, child support is not obviated under this approach even in fifty-fifty shared physical custody situations, unless both parents have equal incomes.

The Colorado Child Support Guideline starts from the premise that the child should receive the same proportion of parental income that he or she would have received if the parents lived together. In an intact household, the income of both parents is generally pooled and spent for the benefit of all household members, including any children. A child's portion of such expenditures includes spending for goods used only by the child, such as clothing, and also a share of goods used in common by the family, such as housing, food, household furnishings, and recreation.

A substantial body of economic literature provides estimates of the average amount of household expenditures on children. Economic studies have found that expenditures on children amount to a consistent proportion of household consumption. They have also found that the proportion spent on children varies systematically with the level of household income and with the number and ages of children.

The Colorado Child Support Guideline is based on the most authoritative of these estimates.¹⁶ The Guideline calculates child support as the share of each parent's income estimated to have been allocated to the child if the parents and child were living in an intact household. If one parent has custody, the amount calculated for the child support obligation of that parent is presumed to be spent directly on the child. For the non-custodial parent, the calculated amount establishes the level of child support.

The Colorado Child Support Guideline uses gross income as the starting point for the determination of the child support obligation. Gross income is defined as income before taxes or mandatory payroll deductions for wage and salary income and income net of most business expenses for self-employment or business income. In adopting gross income as the base, the Colorado Guideline differs from the use of net income by some formulas. Basing the Guideline on gross income, however, greatly simplifies its

¹⁶See Development of Guidelines for Establishing and Updating Child Support Orders: Interim Report, pp. 8-37 and 64-75.

application by courts, IV-D agencies, attorneys, and parties to the proceedings while not introducing any significant inequities.

The Guideline does permit pre-existing child support obligations (to the extent payment is being made) to be deducted from gross income in determining the income level to be used in calculating child support. This provision recognizes that income devoted to payment on a preceding order is not available for payment of child support under a subsequent obligation.

The Guideline specifies that child care expenses should be added to the base child support amounts and split between the parents in proportion to their available income. Child care expenses are broken out from the base formula for division between the parents as they are incurred. While some states have not provided for separate treatment of child care expenses (instead including an average amount in a base child support guideline), child care expenses vary dramatically from case to case depending on the employment status of the custodial parent and age of the child. Consequently, in the judgment of the Commission, it is more equitable to consider employment-related child care expenses on an individual basis. Moreover, for younger children, child care expenses can represent a large fraction of the total child-related expenditures. Failure to provide for actual expenses in such cases could impose a significant hardship upon the custodial parent.

For similar reasons, the Guideline provides for separate treatment of extraordinary medical expenses, which are also divided between the parents in proportion to their available incomes. Under the Guideline, provision for medical insurance coverage is included in each child support order. The parent providing the coverage is credited by means of a deduction of the family premium from gross income.

The Guideline gives credit for additional direct child-related expenses incurred by a parent involved in a non-traditional custody arrangement, including shared physical custody and split custody. For purposes of the Guideline, shared physical custody is defined as a circumstance in which the parent having custody the least amount of time has the child for a minimum of twenty percent of overnights. Above this threshold, the Guideline presumes that direct expenses on behalf of the child are incurred in approximate proportion to the duration of physical custody. Under the Guideline, separate obligations are computed for each parent. The parent incurring the direct expenses benefits from a calculated child support obligation by the other parent. Thus, a parent with the child thirty percent of the time is owed child support for that period and owes child support for the seventy percent of the time the child is with the other parent. In cases of shared physical custody, these obligations are offset, with the parent owing the larger obligation subject to a child support order for the net amount. Similar logic is applied to computation

of child support obligations under split custody arrangements, in which at least one child is in the custody of each parent.

The Colorado Child Support Guideline should be used as a rebuttable presumption for the establishment of child support. Judges and referees should be given the discretion to deviate from the Guideline where its application would be inequitable, although any such deviation should be accompanied by written justification. Judges and referees should use the Guideline to review the adequacy of child support orders negotiated by the parents.

The Colorado Child Support Guideline is designed to be applicable to a broad range of circumstances. However, its use can pose problems at both the low and high ends of the parental income range. Moreover, there are individual cases in which rigid application of a guideline would lead to inequitable results for one of the parents or a child. Examples might include a seriously ill parent with substantial personal medical expenses, a child with exceptional education requirements, or a divorce agreement in which a property settlement was structured to substitute in part for child support. Since the full range of such possibilities cannot be reasonably anticipated in the design of any guideline, judges and referees must have the flexibility to address exceptional cases. But, to preserve the integrity of the Guideline and to document patterns that might indicate the desirability of its future modification, it is important that written findings be developed to explain each order that deviates.

A benefit of a guideline is that it can be used as a standard against which stipulations can be reviewed. An agreement that significantly departs from the Guideline should be questioned if the reasons are not sufficiently documented or the agreement is contrary to the child's best interests.

The Commission recommends that the child support enforcement agency and the courts begin planning the development of an administrative mechanism for periodically updating child support orders. Updating should take into account changes in the income of both parents as well as changes in the needs of the child. The most appropriate updating mechanism is reapplication of the Colorado Child Support Guideline.

While implementation of child support guidelines can be expected to improve the adequacy of initial awards, the value of initial awards can erode rapidly with the passage of time. The effects of inflation, changes in personal income of the parents, and evolving requirements of children can render an award inequitable even if it is appropriate when established. The Commission recommends that the child support enforcement agency and the courts address this issue when the Colorado Child Support Guideline is implemented. The Guideline specifies that each child support order should include a provision for periodic updating. Under Colorado

case law, courts may not be able to impose an updating process for existing orders in the absence of such a provision, but they can normally enforce an updating provision that is placed in an original or modified order.¹⁷

The updating provision specifies that parties should exchange financial data every two years and re-apply the Guideline to determine an updated child support amount. By re-applying the Guideline, the parties will take into account the same factors that were originally considered in establishing the award. In this respect, use of the Guideline for updating is superior to use of other adjustment factors such as the Consumer Price Index. In most cases, the parties should be able to agree upon a revised order based on the Guideline and spare the Court from unnecessary contested actions. If the parties fail to agree, however, the burden falls upon one of the parties to request a modification.

Ultimately the Office of Enforcement should undertake the development of a systematic updating process to be administered in conjunction with the Family Court. Under this process, the Court would initiate the updating procedure every two years. This procedure would have several components:

- o Information Collection. The Office of Enforcement would notify parents of the updating requirement and would obtain income and other information relevant to re-application of the Guideline. The Court would monitor compliance with the request and take appropriate enforcement action for noncooperative parties. One such enforcement action could be fixed percentage default increases or decreases in orders for parties failing to respond. For example, an obligor that ignored a Court request for information might have an order increased by fifteen percent. This would be considerably more efficient than issuing a citation for contempt of court.
- o Computation of modified support award. The Office of Enforcement would re-calculate the support award based on information submitted by the parents. The Guideline would be used for determining the amount of the modified order. This computation could be automated to a substantial degree.
- o Notice and opportunity for hearing. The Office of Enforcement would send notice to the parties of the new award. Opportunity for hearing would be granted to either party to contest facts or application of the Guideline to the particular situation.

The Commission recognizes that institution of such a procedure would require careful planning and would require additional staff and computer facilities.

¹⁷In re Marriage of Davis, 618 P. 2nd 692, Colo. App. 1980; also In re Marriage of Pratt, 651 P. 2nd 256, Colo. App., 1982.

However, the absence of a systematic updating procedure leaves children vulnerable to changes in circumstances of their parents and potentially denies them the appropriate shares of parental income that the Guideline is intended to provide. Moreover, because of the State's financial interest in child support payments (for AFDC cases and through the incentive provisions of the child support enforcement program), the financial benefits of such an updating procedure can be expected to outweigh the administrative costs considerably. Consequently, once the Guideline is implemented for the establishment of initial awards, its use for systematic updating should be addressed.

The Commission recommends that legislation be enacted to revise Colorado's criterion for modifying child support awards. The current standard, requiring changed circumstances so substantial and continuing as to make the terms of the original agreement unconscionable should be amended to require only a "significant change" in circumstances for a modification to be approved.

As discussed above, a major problem with child support awards is that changing circumstances of the parents and children can quickly render an award inequitable even if it was initially appropriate. Colorado statutes currently make the following provision for modifications:

Except as otherwise provided in section 14-10-112(6), the provisions of any decree respecting maintenance or support may be modified ... only upon a showing of changed circumstances so substantial and continuing as to make the terms unconscionable. (C.R.S. Sec. 14-10-115)

Colorado is one of only two states with such a restrictive standard for modification of child support orders. This standard precludes both child support obligors and obligees from obtaining needed modifications to existing orders when changed circumstances of one of the parties or the child render the original order inequitable. The Commission recommends "significant change in circumstances" as an alternative standard that will bar frivolous requests for modifications but will permit adjustments of orders that have become inequitable.

Honesty and Truthfulness in the Family Law System

The Commission recommends that our courts impress upon the parties that they expect openness and fair-dealing in the exchange of information, and that the courts be given additional statutory tools to ensure this result.

A Family Law system should encourage honesty and truthfulness. It is critical that parties provide reliable information to the court

to establish parentage and to resolve the divisible aspects of the marriage, such as property, custody, support, etc. The parties through testimony and the use of financial affidavits inform the court of their needs, abilities, assets and obligations. Unfortunately, the current system encourages dishonesty and untruthfulness in family law proceedings. Parties often lie to each other and to the court to improve their bargaining position. When this lack of truthfulness is brought to light, the parties are seldom held accountable in spite of serious miscarriages of justice that result.

The Commission recommends that our courts impress upon the parties that they expect openness and fair-dealing in the sharing of information, and that the courts be given the statutory tools to insure this result.

We recommend that the statutes in Family Law be amended:

- (1) To encourage the use of contempt powers of the court for lack of truthfulness by the parties;
- (2) To allow the setting aside of permanent orders for discovery of fraud be extended from the present statutory limitation period of six months to two years;
- (3) To provide for substantial monetary penalties against the wrongdoer for the discovery of fraud; and
- (4) To provide for the imposition of severe sanctions in the case of outrageous conduct.

Interstate Issues

The Commission recommends that the federal government sponsor a study to revise the Uniform Reciprocal Enforcement of Support Act to make it more consistent in all states. It should also provide funding for all interstate child support enforcement activity as well as for the enforcement of custody and visitation orders as they affect the support of children. In addition, the federal government should take a more active role in coordinating forms, procedures, and information for interstate cases.

As previously structured, the IV-D program does not meet the realities of interstate enforcement of support orders. Each state sets up its own enforcement program which may be under the auspices of their judicial, or executive branch of government. The degree of commitment to the program varies from state to state. The federal government through its Office of Child Support Enforcement must become more involved in the coordination of activity between states to provide direction. The following areas require particular attention.

(1) The Uniform Reciprocal Enforcement of Support Act, after having been used and amended for three decades, is still ineffective for enforcing interstate support orders. A study should be sponsored with the states' input to revise the law to make it more consistent in all states.

(2) Funding should be made available for all interstate enforcement activity. Presently some cases can be designated "non-IV-D" and are not federally funded which insures them of different treatment by local authorities. A separate class of cases defeats the intent of the federal program to insure support for all children and creates duplicate systems.

(3) The federal government through the Office of Child Support Enforcement should coordinate efforts to standardize forms and procedures used between states. Presently the multitude of forms and procedures used between states creates confusion and the opportunity for low quality results.

(i) For example, many forms leave out essential information to establish even the simplest of support only actions.

(ii) No supporting documentation provided with pleadings can result in no order on arrears that are owed.

(iii) Location of absent parents is hampered because of a lack of standards for information to be supplied by the requesting state. Some forms are so deficient as to lack information as to who sent it.

(iv) A realistic federal policy should be developed for parentage establishment between states. Many states have decided with impunity not to provide these services. Also, federal regulations have made responding states bear the costs of establishment. Often, initiating states thus abandon their support in proving the case and the responding state loses money on the aborted effort.

(v) The federal government should provide funding for the interstate enforcement of custody and visitation orders. Presently federal policy is contrary to this suggestion. For example, local enforcement units can be penalized by the federal government if a custody and visitation resolution is included.

Funding should include studies and other efforts to improve the effectiveness of the Uniform Child Custody Jurisdiction Act. A variety of state interpretations of parts of the Act, as well as omissions of remedies in the Act, create a lack of public confidence to resolve interstate conflicts.

(vi) The federal government should take a more active role in coordination of locate information sharing as well as other forms of assistance sharing between its agencies. For example, some agencies have an obligation to assist the child support enforcement program but are slow to set up procedures to do so.

Standardization of Forms and Procedures

The Commission recommends that Colorado follow the lead of its sister states and mandate the development and use of standardized forms and procedures in Family Law. Examples of needed standardized forms and procedures are model clauses for separation agreements, a uniform divorce decree, financial statements, worksheets for child support, wage assignments, contempt forms, and judgment forms.

While each person's contact with the Family Law court system is unique, many steps of the legal process are repeated with little variation. Other states have adopted standard forms and procedures to save time and costs for courts and the public. The effect in these states is to generate a greater confidence in equality of service and treatment by the system.

Colorado should follow the lead of these states and develop uniform forms and procedures such as model clauses for separation agreements, a model dissolution decree, financial statements, worksheets for child support, wage assignments, contempt forms, and judgment forms. Presently our procedures and forms vary substantially from jurisdiction to jurisdiction and the forms used in Colorado may vary from attorney to attorney. The suggested Family Law court system would facilitate development of standard forms and procedures. Such forms and procedures should be developed as an integral part of the system and should be used consistently by all of its components, including mediation, courts, and enforcement.

Public Awareness of Family Law

The Commission recommends that the state develop educational efforts and distribute information to clarify the rights and responsibilities of parents vis-a-vis each other and their children. This systematic public information effort would include the development of additional curriculum in the public schools and the distribution of information with marriage licenses and to parties filing for divorce.

Evidence before the Commission reveals that many people in Colorado do not fully understand the legal consequences of entering a family relationship and producing children. Nor do they understand the permanent and lasting effects of these relationships. When marriages are terminated or children are born outside of marriage, the relationship with the child

and the other parent most often continues for a lifetime. A clarification of rights and responsibilities of married parties and the Family Law legal system would enhance understanding and compliance with the law.

We recommend that the state improve this situation by the distribution of information and development of educational efforts at several levels:

- (1) Provide accurate information regarding marriage and dissolution to all state educational institutions. Encourage schools to teach students about the legal issues surrounding the status of property in marriage, parenting responsibilities, and an understanding of Family Law in Colorado covering interfamily relationships. Educational institutions should also teach how Colorado's court systems work when addressing dissolution, child support, custody, and visitation.
- (2) When people apply for a marriage license, they should receive a simple statement of review of primary legal issues that result from entering into a marital relationship. This statement should include information about the status of property and debts; responsibilities that go with becoming a parent, such as food, shelter, education and health care of children; and inheritance. The parties should also receive a copy of the Children's Bill of Interests (see Appendix II).
- (3) Upon filing of a dissolution, the parties should receive a description of the entire legal process for dissolution of marriage so they have an opportunity to select and use appropriately the remedies offered through the legal system. This description could include:
 - (i) A one page chart of courts and enforcement agencies.
 - (ii) A description of typical issues decided by the court system.
 - (iii) A description of court services available, including mediation.
 - (iv) An explanation of court ordered child custody and ramifications of visitation and child support orders.
 - (v) An outline of steps to follow for enforcement of court orders.
 - (vi) A copy of the Children's Bill of Interests (see Appendix II).

Commission Extension

The Commission recommends that its existence be extended until December 31, 1986, in order to address and develop the following issues:

- (1) Development of interstate enforcement mechanisms.**
- (2) Create funding mechanisms to have the system pay its own way to impose no additional burden upon the taxpayers.**
- (3) Further development and refinement of the Family Law Court system and State Office of Enforcement.**

During this period, the Commission would also assist Legislative, Judicial, and Executive Branches of Colorado in bringing together the energy and expertise to develop and implement these concepts.

APPENDIX I

COLORADO CHILD SUPPORT GUIDELINE

COLORADO CHILD SUPPORT GUIDELINE

Prepared by

Colorado Child Support Commission
November 1985

I. PREFACE

The Colorado Child Support Guideline has been developed by the Colorado Child Support Commission. The Guideline is intended to provide for child support awards that are more equitable and also reflect more adequately the true costs of raising children. The Guideline is consistent with Colorado Revised Statutes, Sec. 14-10-115, which place a duty for child support upon either or both parents based on their respective financial resources, the financial resources of the child, the needs of the custodial parent, the physical and emotional condition of the child, and the standard of living the child would have enjoyed had the marriage not been dissolved.

The Colorado Child Support Guideline is based on the Income Shares Model, developed by the Child Support Guidelines Project of the National Center for State Courts, under a grant from the U.S. Office of Child Support Enforcement. The Income Shares Model is predicated on the concept that the child should receive the same proportion of parental income that he or she would have received if the parents lived together.

The Income Shares Model provides an objective basis for determining the average costs of children in households across a wide range of incomes. Because household spending on behalf of children is intertwined with spending on behalf of adults for most expenditure categories, it is difficult to determine the proportion allocated to children in individual cases, even with exhaustive financial affidavits. However, a number of authoritative economic studies provide estimates of the average amount of household expenditures on children in intact households. These studies have found that the proportion of household spending devoted to children is systematically related to the level of household income and to the number and ages of children.

Based on this economic evidence, the Colorado Child Support Guideline calculates child support as the share of each parent's income estimated to have been spent on the child if the parents and child were living in an intact household.¹ If one parent has custody, the amount calculated for that parent is presumed to be spent directly on the child. For the non-custodial parent, the calculated amount establishes the level of child support. For cases with split custody, third party custody, or extensive sharing of physical custody, each parent's calculated share

¹For a detailed explanation of the Income Shares Model and the underlying economic evidence used as the basis for the Colorado Child Support Guidelines, see Robert G. Williams, Development of Guidelines for Establishing and Updating Child Support Orders (National Center for State Courts: Denver, June 1985).

of child support becomes the basis for determining his or her legal child support obligation.

II. USE OF THE GUIDELINE

The Colorado Child Support Guideline is intended for application to all child support orders in Colorado, except as discussed below. The Guideline should be used for temporary and permanent orders, and for separations, dissolutions, and support decrees arising despite non-marriage of the parties. The Guideline should be used by the Court as the basis for reviewing the adequacy of child support levels in non-contested cases as well as contested hearings.

The Guideline is designed for proper application to a broad range of cases and should therefore be used as a rebuttable presumption for the establishment of child support. However, the Court should exercise broad discretion in deviating from the Guideline in cases where application would be inequitable to one of the parties or to the child. In cases where the award deviates from the Guideline, the Court should provide findings of fact to substantiate the deviation.

For obligors with income of less than \$500 per month, the Guideline provides for case-by-case determination of child support, normally within a range of \$20-\$50 monthly. In such cases, the Court should carefully review obligor income and living expenses to determine the maximum amount of child support that can reasonably be ordered without denying the obligor the means for self-support at a minimum subsistence level. A specific amount of child support should always be ordered, however, no matter how minimal, to establish the principle of that parent's obligation to provide monetary support to the child.

The Guideline provides calculated amounts of child support to a combined parental gross income level of \$7,000 per month (\$84,000 per year). For cases with higher combined gross income, child support should be determined on a case-by-case basis.

III. DETERMINATION OF CHILD SUPPORT AMOUNT

(A) Income

(1) Definition. For purposes of this Guideline, "income" is defined as actual gross income of the parent, if employed to full capacity, or potential income if unemployed or underemployed. Gross income of each parent should be determined as specified below and entered on Line 1, Worksheet A.

(2) Gross income. Gross income includes income from any source, except as excluded below, and includes but is not limited to income from salaries, wages, commissions, royalties, bonuses, rents, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, and spousal support actually received from a person not a party to the order.

Specifically excluded are benefits received from means-tested public assistance programs, including but not limited to Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), Food Stamps, and General Assistance.

(3) Income from self-employment or operation of a business. For income from self-employment, proprietorship of a business, or joint ownership of a partnership or closely held corporation, gross income is defined as gross receipts minus ordinary and necessary expenses required for self-employment or business operation. Specifically excluded from ordinary and necessary expenses for purposes of this Guideline are amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses or investment tax credits. In general, income and expenses from self-employment or operation of a business should be carefully reviewed to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. This amount may differ from a determination of business income for tax purposes.

Expense reimbursements or in-kind payments received by a parent from self-employment or operation of a business should be counted as income if they are significant and reduce personal living expenses. Such payments might include a company car, free housing, or reimbursed meals.

(4) Potential income. If a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of potential income, except that a determination of potential income should not be made for a parent that is physically or mentally incapacitated or is caring for a very young child (age two and younger) for whom the parents owe a joint legal responsibility.

Determination of potential income shall be made according to one of two methods, as appropriate:

(a) Determine employment potential and probable earnings level based on the obligor's recent work history, occupational qualifications, and prevailing job opportunities and earnings levels in the community; or

(b) Where a parent is remarried, or living with another person in a relationship akin to husband and wife, up to fifty percent of the gross household income can be deemed as potential income of such non-working parent.

In addition to determination of potential earnings, income should be imputed to any non-income producing assets of either parent, if significant, other than a primary residence or personal property. Examples of such non-income producing assets are vacation homes (if not maintained as rental property) and idle land. The current rate for long-term treasury bills, or another appropriate rate determined by the court, is the rate at which income should be imputed to such non-performing assets.

(5) Income verification. Income statements of the parents should be verified with documentation of both current and past earnings. Suitable documentation of current earnings (at least one full month) includes paystubs, employer statements, or receipts and expenses if self-employed. Documentation of current earnings should be supplemented with copies of the most recent tax return to provide verification of earnings over a longer period.

(B) Pre-existing Child Support Obligations

The amount(s) of any pre-existing court order(s) for child support should be deducted from gross income to the extent payment is actually made under such order(s) (Line 2, Worksheet A).

(C) Health Insurance.

For each child support order, consideration should be given to provision of adequate health insurance coverage for the child. Such health insurance should normally be provided by the parent that can obtain the most comprehensive coverage through an employer at least cost.

If either parent does carry health insurance for the child(ren) due support, the cost of that coverage should be deducted from gross income (Line 3, Worksheet A). If coverage is provided through an employer, only the employee portion should be deducted. Note that the cost of the parent's coverage is included in this deduction if the parent is jointly covered with the children under a family policy.

(D) Basic Child Support Obligation

The basic child support obligation should be determined using the attached Schedule of Basic Child Support Obligations. "Combined gross income" refers to the combined monthly gross incomes of the parents (Line 4, Worksheet A). For combined gross income amounts falling between amounts shown in the table, basic child support amounts should be extrapolated.

The number of children refers to children for whom the parents share joint legal responsibility and for whom support is being sought.

(E) Child Care Costs

Child care costs incurred due to employment or job search of either parent, net of the federal income tax credit, should be added to the basic obligation in Line 6, Worksheet A. Such child care costs must be reasonable; that is, such costs should not exceed the level required to provide high quality care for the child(ren) from a licensed source. The value of the federal income tax credit for child care should be subtracted from actual costs to arrive at a figure for net child care costs. Child care costs required for active job search are allowable on the same basis as costs required in connection with employment.

At the discretion of the Court, or by agreement of the parties, an amount may be determined for child care costs either by adding a monthly average of past costs if future costs are expected to be comparable, or by adding child care costs on a monthly as-incurred basis, with the custodial parent billing the non-custodial parent accordingly.

(F) Extraordinary Medical Expenses

Any extraordinary medical expenses should be entered in Line 7, Worksheet A and added to the basic child support obligation. Extraordinary medical expenses are uninsured expenses in excess of \$100 for a single illness or condition. Extraordinary medical expenses may include such costs as orthodonture, dental treatment, asthma treatments, physical therapy, and any uninsured chronic health problem. At the discretion of the Court, professional therapy for diagnosed mental disorders may also be considered as an extraordinary medical expense.

(G) Computation of Child Support

A total child support obligation is determined in Worksheet A, Line 8 by adding the basic child support obligation (Line 5), work-related net child care costs (Line 6), and extraordinary medical expenses (Line 7).

The total child support obligation is divided between the parents in proportion to their income. In Line 9, each parent's proportionate share of combined adjusted gross income is calculated. In line 10, the obligation of each parent is computed by multiplying each parent's share of income by the total child support obligation.

Although a monetary obligation is computed for each parent, the custodial parent is presumed to spend his or her share directly on the child. In cases of split custody or shared physical custody where both parents have physical custody of a child for a substantial portion of the total time, each parent may retain part of the computed total child support obligation (see section on Adjustments, below).

Any portion of the calculated total child support obligation not retained by either parent is payable as a child support order (Line 12). For cases of shared physical custody or split custody, Worksheet B or Worksheet C, respectively, should be used to determine the net payable child support obligation.

IV. ADJUSTMENTS

(A) Shared Physical Custody

Where each parent exercises extensive physical custody, the Guidelines provide that a child support obligation be computed for each parent based on the amount of time the child spends with the other parent. The respective child support obligations are then offset, with the parent owing more child support paying the difference between the two amounts.

Child support for cases with shared physical custody is calculated using Worksheet B. An adjustment for shared physical custody is made only when each parent has the child for more than twenty percent of the time, defined as more than twenty percent of all overnights during the year. Note that this adjustment is not used when the proportion of overnights exceeds twenty percent for a shorter period, e.g. a month, but does not exceed a cumulative twenty percent for a year.

This adjustment presumes that costs for the child are divided between the parents based on the proportion of time that each parent has physical custody. To the extent that this presumption is not accurate because one parent assumes a disproportionate share of costs (buys all clothes, for example), the adjustment should be modified accordingly.

This adjustment should be applied without regard to legal custody of the child. Legal custody refers to decision-making authority with respect to the child. If the twenty percent threshold is reached, this adjustment should be applied even if one parent has sole legal custody.

(B) Split Custody

Split custody refers to a situation where there is more than one child in which each parent has physical custody of at least one of the children. Under the Guideline, a theoretical support payment is determined for each parent for the child(ren) in the custody of the other. The obligations are then offset, with the parent owing the larger amount paying the net amount.

The split custody adjustment is computed using Worksheet C. Separate computations are made for the child(ren) residing with each parent. In determining child support amounts under a split custody arrangement, the support obligations shown in the Schedule must be pro-rated among all children in the household. For example, if there are three children due support, of which two are with one parent and one with the other, support amounts are calculated using the column for three children, with one-third of that amount being used to determine the basic support obligation for one child and two-thirds for two children.

V. PERIODIC UPDATES

Each support order should have a provision for periodic updates of the child support amount to accomodate changes in circumstances that occur for the parents and the child. The order should provide that parents exchange financial and other relevant information every two years and that the Guideline be used as the basis for a re-computation of the child support amount based on the new information. The order should specify the precise income and other information that must be exchanged for update purposes, such as tax returns, pay stubs, and business income statements.

SCHEDULE OF BASIC CHILD SUPPORT OBLIGATIONS

COMBINED GROSS INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
100	\$20 - \$50 PER MONTH, BASED					
200	ON RESOURCES AND LIVING					
300	EXPENSES OF OBLIGOR AND NUMBER					
400	OF CHILDREN DUE SUPPORT					
500	20	31	39	44	48	51
600	89	109	119	134	138	141
700	157	187	199	224	228	232
800	171	265	279	314	318	323
900	184	286	359	404	408	414
1000	198	307	385	434	473	505
1100	210	327	410	463	504	538
1200	223	346	434	490	534	570
1300	235	366	459	517	563	602
1400	248	385	483	544	593	634
1500	260	404	506	570	622	665
1600	271	422	528	595	649	695
1700	282	440	550	620	676	724
1800	293	457	572	645	704	753
1900	305	475	595	671	731	782
2000	318	494	619	698	761	814
2100	330	513	642	725	790	845
2200	343	531	666	752	819	876
2300	355	550	690	779	849	907
2400	368	569	714	806	878	939
2500	380	588	738	833	908	970
2600	392	606	761	859	936	1001
2700	404	625	784	885	965	1031
2800	415	644	808	911	994	1062
2900	427	662	831	937	1023	1092
3000	439	681	855	964	1052	1123
3100	451	700	878	990	1080	1154
3200	463	718	901	1016	1109	1184
3300	474	737	925	1042	1138	1215
3400	486	756	948	1068	1167	1245
3500	498	775	972	1095	1196	1276
3600	508	790	990	1115	1218	1301
3700	516	802	1005	1132	1237	1320
3800	524	814	1020	1149	1255	1340
3900	532	826	1035	1166	1274	1360
4000	540	838	1050	1183	1292	1380
4100	548	850	1065	1201	1310	1399
4200	556	862	1080	1218	1329	1419
4300	564	875	1096	1235	1347	1439
4400	572	887	1111	1252	1366	1458
4500	580	899	1126	1269	1384	1478
4600	588	911	1141	1286	1402	1498
4700	596	923	1156	1303	1421	1517
4800	604	935	1171	1320	1439	1537
4900	612	947	1186	1337	1458	1557
5000	620	959	1201	1354	1476	1577
5100	628	971	1216	1372	1494	1596
5200	636	983	1231	1389	1513	1616
5300	644	996	1247	1406	1531	1636
5400	652	1008	1262	1423	1550	1655
5500	660	1020	1277	1440	1568	1675
5600	668	1032	1292	1457	1586	1695
5700	676	1044	1307	1474	1605	1714
5800	684	1056	1322	1491	1623	1734
5900	692	1068	1337	1508	1642	1754
6000	700	1080	1352	1525	1660	1774
6100	707	1092	1366	1543	1677	1793
6200	713	1101	1378	1556	1692	1808
6300	719	1110	1389	1569	1706	1824
6400	724	1119	1401	1582	1721	1839
6500	730	1128	1413	1595	1735	1854
6600	735	1137	1424	1608	1750	1869
6700	741	1146	1436	1621	1764	1884
6800	747	1155	1447	1634	1779	1900
6900	752	1164	1459	1647	1793	1915
7000	758	1173	1471	1660	1808	1930

WORKSHEET A
CHILD SUPPORT OBLIGATION

	<u>FATHER</u>	<u>MOTHER</u>	<u>COMBINED</u>
1. Gross Income	_____	_____	
2. Pre-existing Child Support Obligations	_____	_____	
3. Health Insurance Premium (if coverage includes child(ren))	_____	_____	
4. Adjusted Gross Income (Line 1 minus lines 2 and 3)	_____	_____	_____
5. Basic Child Support Obligation (From Schedule, using combined gross income in line 4)			_____
6. Work-Related Child Care Costs (Net of Tax Credit)			_____
7. Extraordinary Medical Expenses			_____
8. Total Child Support Obligation (Line 5 plus line 6 plus line 7)			_____
9. Proportionate Shares of Combined Income (line 4 - each parent's income divided by combined income)	_____ %	_____ %	
10. Parental Child Support Obligation (line 9 times line 8)	_____	_____	
11. Retained by Custodial Parent(s) (_____) (_____)			
12. Child Support Order	\$ _____	\$ _____	

WORKSHEET B

ADJUSTMENT FOR SHARED PHYSICAL CUSTODY

	<u>FATHER</u>	<u>MOTHER</u>	<u>COMBINED</u>
1. Overnights Child(ren) spend(s) in each household per year	_____	_____	
2. Total overnights per year (Overnights with father + overnights with mother)			_____
3. Percent of overnights spent in each household (Line 2 divided by line 1)	_____ %	_____ %	

IF LINE 3 IS LESS THAN 20% FOR
EITHER PARENT, STOP HERE. ADJUST-
MENT DOES NOT APPLY)

4. Parental Child Support Obligation (Line 10, Worksheet A)	_____	_____
5. Obligation Due Other Parent (Line 4 times line 3 per- centage for <u>other</u> parent)	_____	_____
6. Net Child Support Payable (Subtract lesser from greater amount in line 5)	\$ _____	\$ _____

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WORKSHEET C

SPLIT CUSTODY CALCULATION

	<u>FATHER</u>	<u>MOTHER</u>	<u>COMBINED</u>
1. Gross Income	_____	_____	
2. Pre-existing Child Support Obligations	_____	_____	
3. Health Insurance Premium (if coverage includes child(ren))	_____	_____	
4. Adjusted Gross Income (line 1 minus lines 2 and 3)	_____	_____	_____
5. Basic Child Support Obligation (From Schedule, using combined gross income in line 4)			_____
a. Pro-rated Obligation for Child(ren) in Physical Custody of Mother*			_____
b. Pro-rated Obligation for child(ren) in Physical Custody of Father*			_____
6. Work-Related Child Care Costs (Net of Tax Credit)			
a. Children in Mother's Physical Custody			_____
b. Children in Father's Physical Custody			_____
7. Extraordinary Medical Expenses			
a. Children in Mother's Physical Custody			_____
b. Children in Father's Physical Custody			_____
8. Total Child Support Obligation			
a. Children in Mother's Physical Custody (Line 5a plus line 6a plus line 7a)			_____
b. Children in Father's Physical Custody (line 5b plus line 6b plus line 7b)			_____

- | | | | |
|-----|--|---------|---------|
| 9. | Proportionate Shares of Combined Income (line 4 - each parent's income divided by combined income) | _____ % | _____ % |
| 10. | Parental Child Support Obligation | | |
| | a. Children in Mother's Physical Custody (line 9 times line 8a) | _____ | _____ |
| | b. Children in Father's Physical Custody (line 9 times line 8b) | _____ | _____ |
| | c. Total (line 10a plus 10b) | | |
| 11. | Retained by Parents (line 10a, Mother; line 10b, Father) | _____ | _____ |
| 12. | Theoretical Amounts Payable (line 10c minus line 11) | _____ | _____ |
| 13. | Net Child Support Order (line 12, greater amount minus lesser amount) | _____ | _____ |

* From Schedule. Refer to column with total number of children due support. Divide by number of children with parent.

APPENDIX II

CHILDREN'S BILL OF INTERESTS

INTERESTS OF CHILDREN IN DISSOLUTION ACTIONS

Recommended for Use as Fundamental Principles in the Interest of Children and their Families

- (1) The right to be treated as an interested and affected person to the family and not as a pawn, possession or chattel of either or both parents.
- (2) The right to grow to maturity in a home environment which will best guarantee the opportunity for children to become responsible adults.
- (3) The right to love, care, discipline, and the protection of parent or parents legally responsible for the child.
- (4) The right to love, care, discipline, and the protection of parent or parents who have legally sanctioned visitation with the child.
- (5) The right to positive and constructive relationships with both parents, neither parent degrading the other in the child's mind.
- (6) The right to the parental guidance to help the child gain self worth and self control.
- (7) The right to the most adequate level of economic support that can be provided by the best efforts of both parents. If parents cannot provide that support, the right to support from programs such as AFDC.
- (8) The recognition of children's rights to services and support should the family unit change through dissolution of marriage:

The right to the best opportunity for education taking into consideration the needs, age, abilities, and inclinations of the child and the resources of the parents.

The right to periodic review of custodial arrangements and child support orders as circumstances change for children and parents.

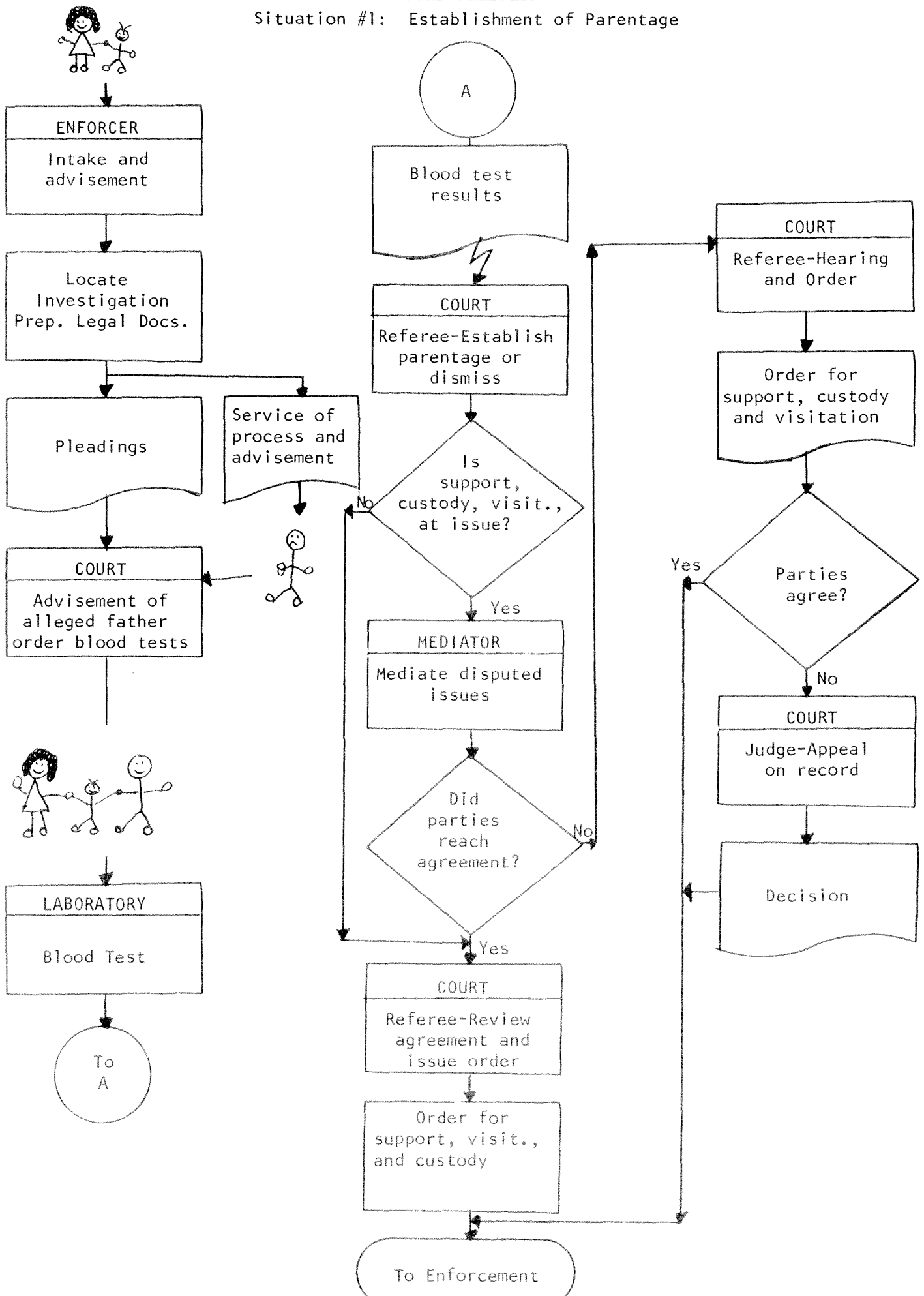
The right to be recognized as disadvantaged parties. The right to the full use of existing laws to protect children's welfare, including the appointment of a Guardian Ad Litem when needed to protect children's interests.

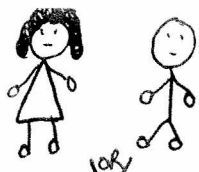
APPENDIX III

PROCEDURES FOR ESTABLISHMENT, ENFORCEMENT, AND MODIFICATION UNDER RECOMMENDED FAMILY COURT SYSTEM AND OFFICE OF ENFORCEMENT

ESTABLISHMENT

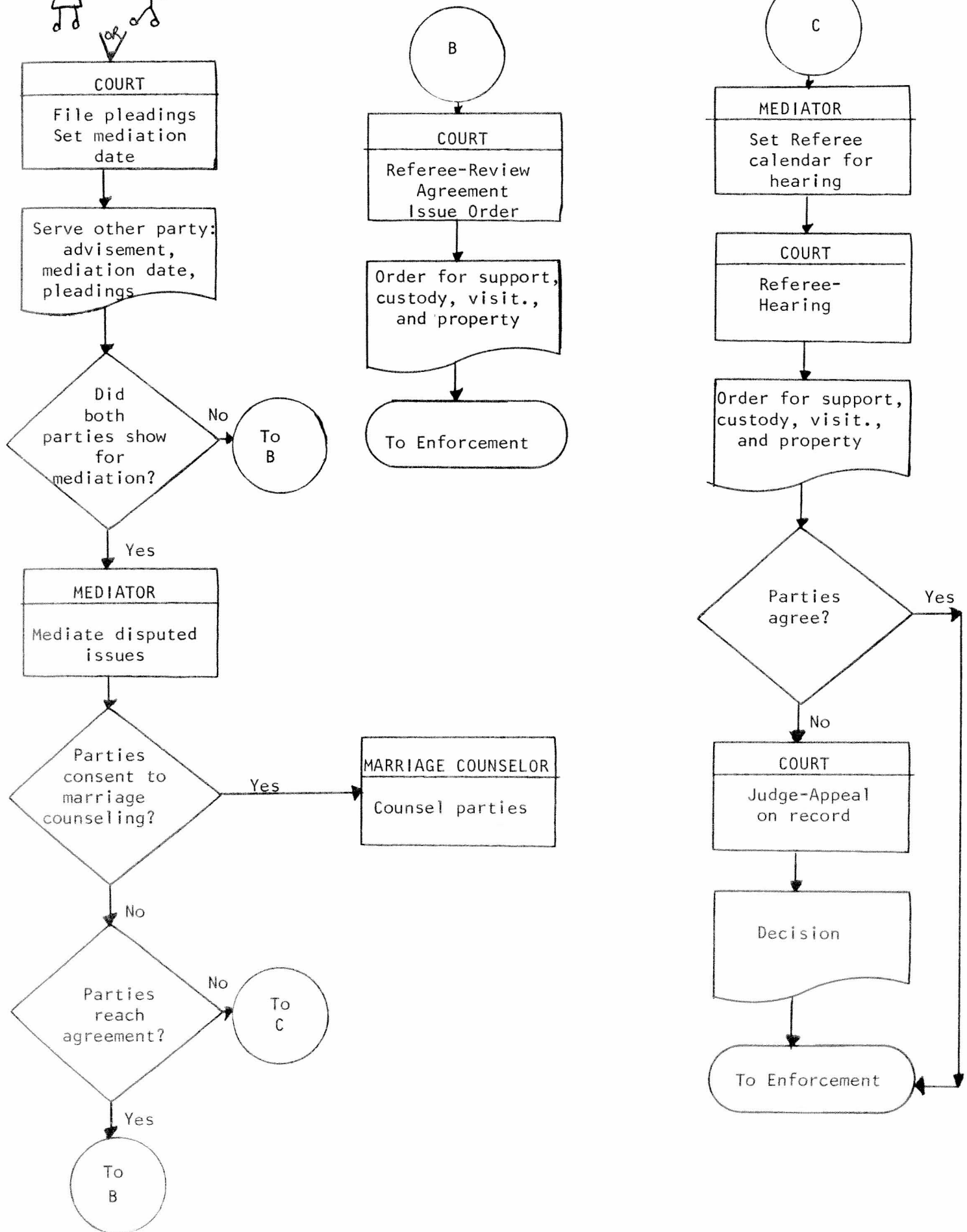
Situation #1: Establishment of Parentage





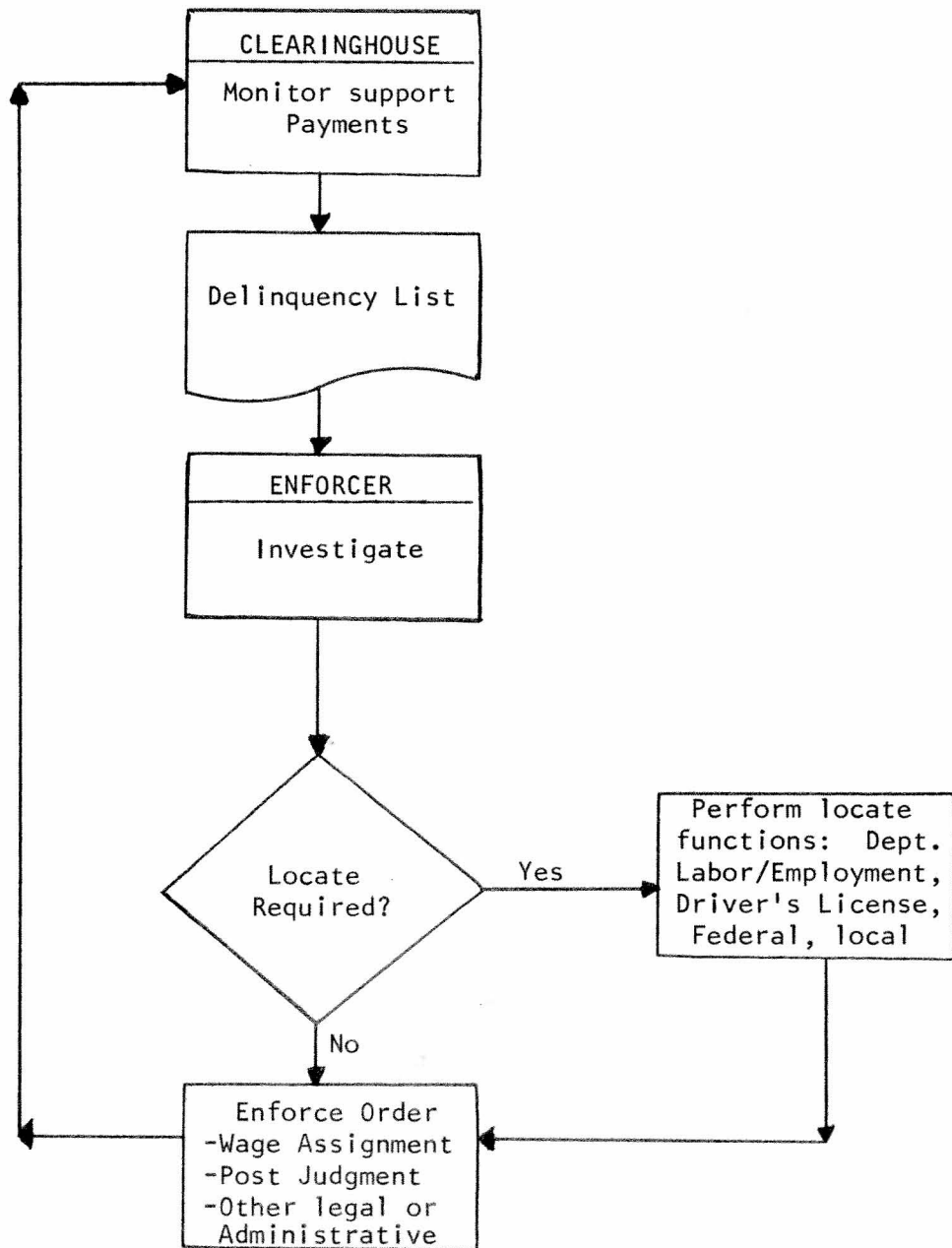
ESTABLISHMENT

Situation #2: Dissolution of Marriage



ENFORCEMENT

Situation #3: Non-Payment of Support -- In State

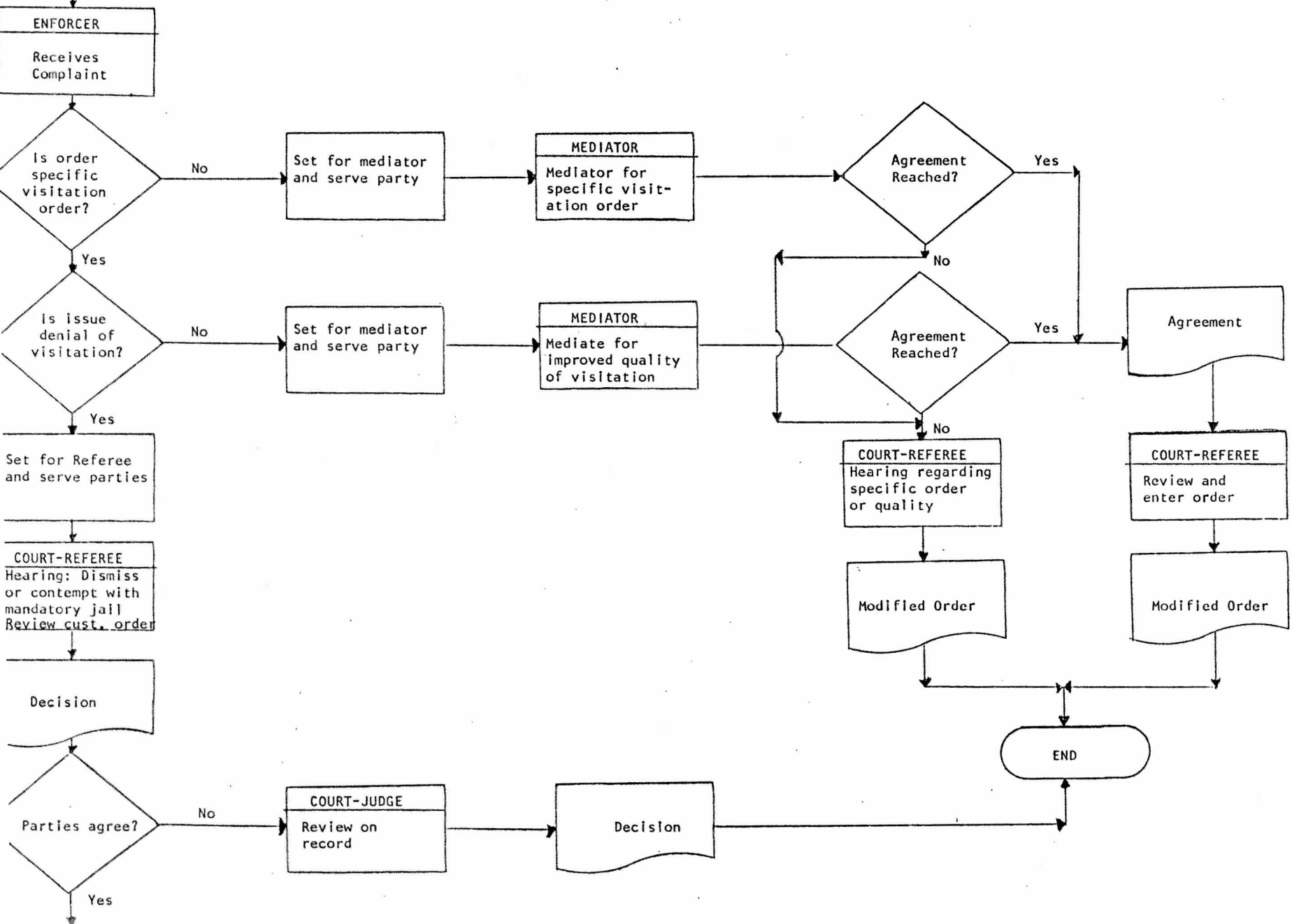


ENFORCEMENT

Situation #4: Visitation Violation - In state



Complaining Witness



MODIFICATION OF ORDERS

Situation #5:

