Coos-Curry Family Law Plan

ORS 3.434(1) requires that "the presiding judge of each judicial district adopt a plan to coordinate the provision of services to families involved in domestic relations or other family court proceedings." Subsection 2 allows the presiding judge to "establish one or more committees to serve multiple counties." Coos County established a Family Law Advisory Committee in the summer of 1998. The Curry County judges requested that the presiding judge of Coos and Curry Counties make the Coos County Family Law Advisory Committee the Family Law Advisory Committee for Coos and Curry Counties. The presiding judge and the Coos County Family Law Advisory Committee have agreed to do so and this plan will be the plan for Coos and Curry Counties.

The plan is required to address three matters. First, it must discuss "mandates for mediation of child custody and parenting time disputes, requiring each party to attend either a group or private mediation orientation session." Second, it must describe "the methods of coordinating cases when the same child or family is involved in multiple cases." Finally, it must state the "need for, and provision of, conciliation services, mediation services, child custody evaluation, parent education, and visitation services."

The plan must also include a list of mediators qualified to mediate "spousal support and division of property issues." To the Committee's knowledge there are no mediators in Coos and Curry Counties who meet the qualifications to mediate spousal support and property issues. There are mediators in other areas of the state, but the Committee does not believe the requirement of the statute imposes an obligation to list every mediator in the state with such qualifications. Under ORS 3.434(3)(b) the Committee may include other elements in the plan, but the Committee has decided to only address the mandatory minimum requirements as set forth above.

Each county will add $75.00 to the filing fee for dissolutions, paternity, and modification cases for both the petitioner and respondent. The amount of money generated by the $75.00 should be sufficient to pay for group mediation orientation sessions for child custody and parenting disputes, for parent education, and for a mandatory mediation session for parties with minor children. The group sessions will be paid at $80.00 per hour for one hour and shall be held a minimum of once per month. The Parent Education Class shall be paid at $80.00 per hour for the four hour class and shall be held a minium of once per month. The mandatory Mediation Session for parties with minor children shall be scheduled with the court approved mediators and will be paid at $80.00 per hour for the one hour session. Parties without minor children are only required to attend the group mediation session. If a party does not initially appear in a case, but appears at a later time in a modification proceeding relating to children that party will be required to attend the group mediation and parent education class. The Committee believes the funds generated will also be sufficient to pay for some individual mediation sessions. The Committee feels it is important to provide both types of mediation sessions for those who wish to attempt to mediate custody and parenting disputes, but recognizes that payment of the group orientation sessions and parent education is the first priority.

As long as funds are available to cover the cost of private mediation sessions, the counties will pay for up to eight hours of mediation time at $80.00 an hour. If good cause is shown to a judge, the counties will pay for private mediation sessions beyond eight hours, but not exceeding ten hours.

If the parties to a dispute wish to continue mediation sessions beyond ten hours, the sessions will be at their expense. In determining good cause the judge shall consider at a minimum, the progress the parties have made, the likelihood that the dispute will be resolved in not more than four additional hours, and whether the mediation fund established by the county from the money generated by the $75.00 filing fees has sufficient funds to pay for the additional hours and still pay for group mediation orientation and parent education sessions, and for individual orientation sessions of four hours or less.

Each county will establish a separate mediation fund and the funds from one county shall not be used to cover the costs and expenses in the other county. A subcommittee of the Committee will be appointed to recommend to the presiding judge a list of qualified mediators. A qualified mediator must meet the minimum qualifications required by the Dispute Resolution Commission for mediators in custody and parenting disputes and must be approved by the subcommittee and the presiding judge. The mediators recommended by the subcommittee and approved by the presiding judge shall constitute the list of mediators authorized to conduct the group orientation session and private individual mediation sessions. Only those mediators on the list recommended by the subcommittee and approved by the presiding judge shall be entitled to be paid from the mediation fund established by the counties. Parties to custody and parenting disputes after attending the group mediation orientation session may at their own expense choose any person to mediate their dispute. Parties may also choose to ask a judge to hold a settlement conference to help the parties resolve their disputes.

In Coos County one of the four judges whose principal office is located in Coos County will be designated as the family court judge. The family court judge will be responsible for juvenile cases, dissolution cases, including modifications, in which there are children, support, including contempt, paternity cases, restraining order, including contempt, matters, guardianships of minors other than guardians ad litem, criminal cases involving domestic violence or in relation to a case in any of the proceeding category of cases, and any other case which is related to the proceeding category of cases and is designated by the presiding judge as a family court case.

In Curry County each of the two judges will follow the concept of one child or one family to one judge in order to best coordinate family law matters.

At the present time the Committee is not aware of what the need, if any, exists for conciliation and mediation services, child custody evaluations, and parenting or visitation services. For many years those services have not been provided by the counties. Throughout the 1970s and in the early 1980s such services were available on a limited basis through Coos County, but were very rarely used. The additional filing fee generated to pay for the services were not used and it was decided to eliminate the services and decrease the fees litigants must pay. Since that time the local bar association has expressed satisfaction with the manner in which the court has resolved the domestic matters before it. Further, the statistics reported by the State Court Administrators Office do not show a significant difference between the percentage of cases tried in Coos and Curry Counties and the statewide average which includes counties providing the aforementioned services. For example, in 1997 the Coos County court tried 1.6% of the domestic cases before it, the Curry County court tried 2.4% of the cases before it, the district average being 1.8% of the cases and the

statewide average being 2.1% of the cases. In the statewide average counties with the highest average of domestic cases tried, like Grant at 5.1%, and Deschutes and Wallowa at 4.3%, are included as are the counties with the lowest average of domestic cases tried like Crook at 0%, Tillamook at .2% Jefferson at .4%, Klamath and Wasco at 1.0%, Washington at 1.2%, and Lane at 1.4%. Some of these counties provide some of the aforementioned services and some of the counties do not.

The aforementioned services have been and are presently available through private and public providers in Coos and Curry Counties. The Department of Human Services/Child Protective Services provides parenting classes as does the Coos County Health Department and one private provider. DHS/CPS has some mediation for disputes in cases in which the agency is involved. The Coos County Commission on Children and Families has been and presently is funding programs relating to parenting and helping children and parents resolve disputes. A private agency is offering all services with the possible exception of conciliation services and there are local psychologists who have performed child custody evaluations. Despite the array of services available, the parties to domestic cases filed in court have not often used these services.

There may be many reasons for the lack of use of the services. Cost is an obvious factor as is the ability of the local attorneys in working to resolve the cases in which they are involved. Some services have not been offered until recently and in many cases the parties are co-petitioners or the respondent does not appear in the case which is resolved by default. The default cases often are cases resolved before filing or resolved shortly after filing without the need for the respondent to appear in the case.

The Committee will continue to study, discuss, and evaluate the need for and provision of the services mentioned in ORS 3.434(3)(a)(C) and (b), and the filing fee structure as time passes so as to provide those services that actually help in amicably resolving custody and parenting disputes short of the matter being tried in court.