

**Family Law  
Reform- Past,  
Present and  
Future**

**Oregon  
Family Law  
Conference**

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# What is the SFLAC Prouddest Of?

*“The primary thing to be most proud of is the creation of the SFLAC itself. This statutory committee has been the breeding ground for family law reforms throughout the years, along with providing education and training for judges and staff. It has been a think tank of family law experts whose goal is to do their best to help Oregon’s families through this stressful time in their life while going through a system (the judicial system) that might seem foreign to them. “*





UNIVERSITY of  
DENVER

RESOURCE CENTER FOR  
SEPARATING AND  
DIVORCING FAMILIES



the center for  
out-of-court  
divorce

# What is the Center?

- Coordinated services
- Problem-solving oriented- facilitate self-determined solutions
- Interdisciplinary: law, psychology, social work, financial planning
- Mediation – also education, therapy, financial planning
- Two settings- campus based and community based
- Empirical evaluation built into process.
- Builds on Australian Family Relationship Centre model

*If We Build It, They Might Come: Bridging the Implementation Gap Between ADR Services and Separating Parents*

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(Fall 2018)

# Self-Representation- The Committee's Prediction

The Committee “estimated that in at least 42% of the family law filings in Oregon neither side had a lawyer, although many could afford to employ counsel.”

“Assistance must be made available to those who either choose self-representation or have no alternative to make their way without a lawyer.”



# IAALS Self Represented Litigant Study 2016

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## Annual Income

43.4 % of participants- under \$20,000;  
27 % between \$20,000 and \$40,000;  
15.6% between \$40,000 and \$60,000.

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## Financial Factors Key

Over 90% indicated that financial issues influenced—if they did not determine entirely—their decision to self- represent

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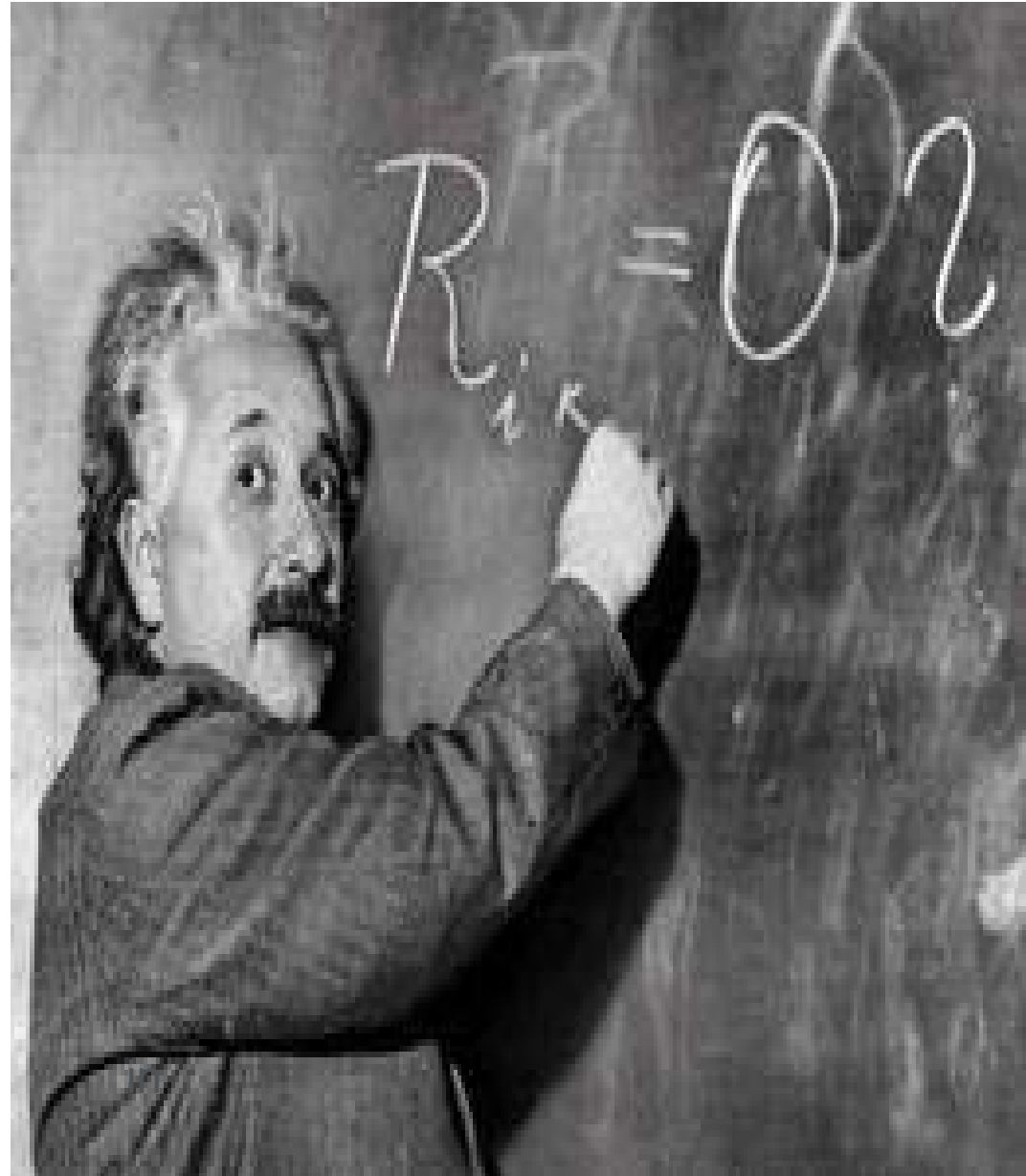
## Desire to self- represent

Under 25% expressed a desire to represent themselves, regardless of whether they believed they could do so adequately and regardless of financial considerations.

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# Plain Language

*“Everything Should  
Be Made as Simple  
as Possible, But  
Not Simpler”-*  
Albert Einstein



# Technology- The Committee's Prediction

"Those without proficiency in technology in the new technologies will fall further and further behind. In the twenty-first century, technology will be fundamental."







# “Privatizing” Family Law- The Committee’s Predications

- "Many families will be defined by more by their private agreements and common living arrangements more than traditional marriage."
- "We recognize the tension between letting individuals determine their family forms and mores and the need for the state to insist on certain conduct and define the legal effects of marriage, cohabitation and the like."
- "The growing division between rich and poor is troubling."



## “Coming Together”- The Committee’s Prediction

"The Subcommittee envisions the community coming together through its institutions, governmental and private, to reestablish a sense of community , and address the concerns facing all of its members, especially the needs of adolescents, minorities and the elderly"



## Effective Interventions— The Committee's Prediction

"We predict that in 20 years much more will be known about what interventions are most effective with particular families and children."

# AFCC Interdisciplinary Think Tank Assessments of ADR

*“ADR processes are markedly better than litigation for separating parents and their children.... “*

- Mediation is desirable for families who have not attempted ADR.
- These dispute resolution options are preferred to litigation, with the exception of some situations involving family violence or when a family member has been harmed or when one parent contends that the other is substantially interfering with his or her access to their child,

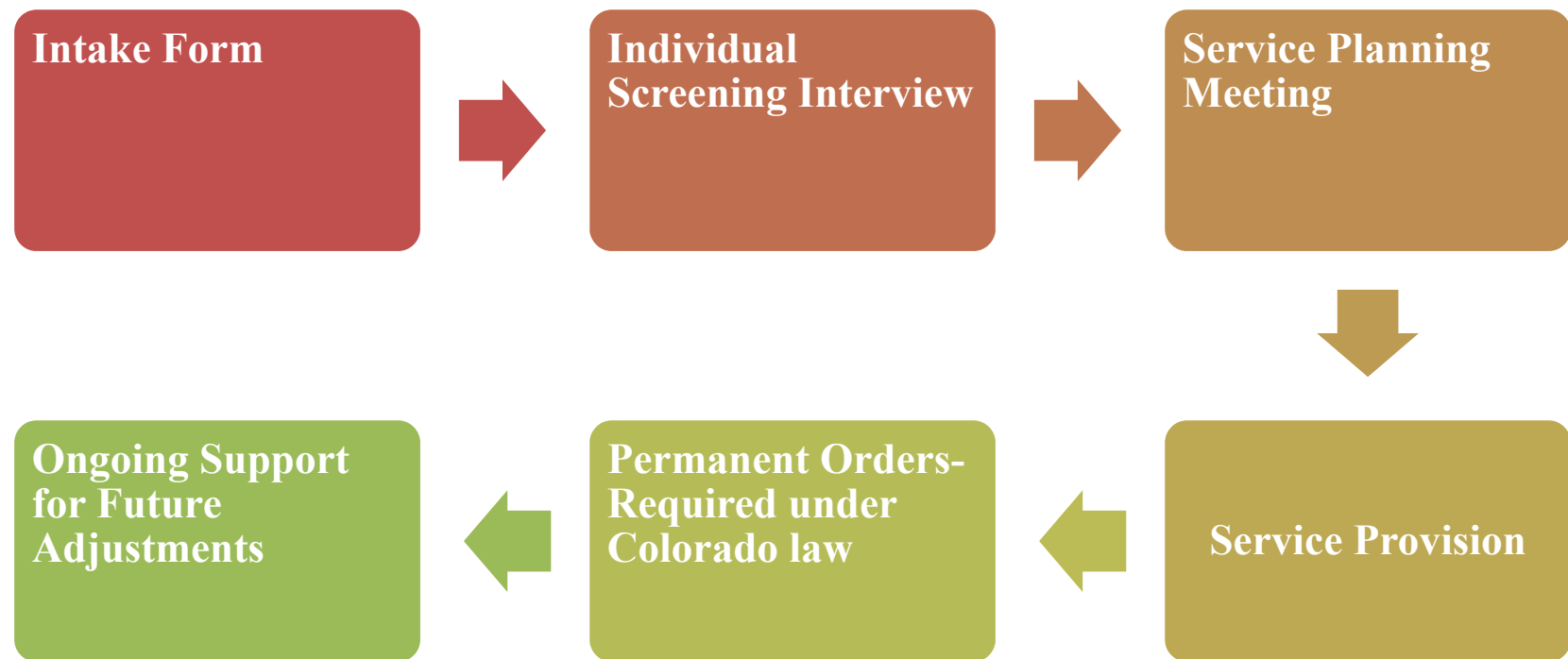


## Canadian Task Force Evaluation of ADR

*Parents respond positively to ADR interventions:*

- they are “widely experienced as ‘user friendly’ and
- participants tend to report high rates of satisfaction.”
- evaluations of ADR processes convincingly establish that “with the appropriate support and protections, they are a safe, fair and efficient way to resolve many family disputes.  
...
- [T]hey are more affordable and better adapted to the needs of most separating families.”.

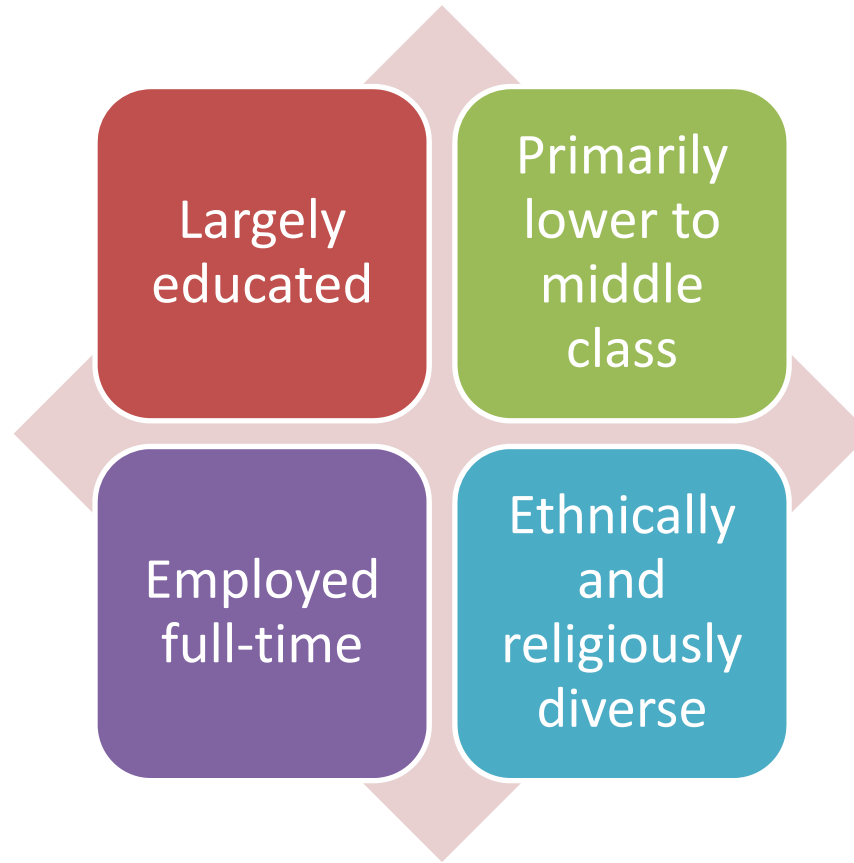




## Center Process

# Eligibility

<i>Both Parents Must Have...</i>	An interest in participating in the program and cooperating with the other parent on services.
	A case or potential case with Colorado court jurisdiction.
	No history of lengthy parental litigation.
<i>Neither Parent Can Have...</i>	An extensive history of mental health issues.
	A history of serious substance abuse.
	A history of domestic violence or child abuse and neglect.



## Characteristics of Center client families



# Comprehensive evaluation

- Multiple data sources
  - Parents
  - Students
  - Center leadership
  - Community partners
- Evaluation was over time- before, after and during service delivery
- Includes information from focus groups
- Brief summary can only hint at what rich data shows



# Statistically significant improvements in family well-being

Negative Emotional States	<i>Decreases</i> in depression, anxiety, and stress levels.
Acrimony	<i>Decrease</i> in levels of acrimony between the parents.
Shared Decision-making	<i>Increased</i> ability to co-parent
Couple Communication	Improved communication skills, especially with respect to violent conflict style and collaborative conflict style.
Confidence in Co-parenting	<i>Increased</i> degree of confidence in the co-parenting relationship.
Parenting Stress	<i>Decreased</i> levels of parenting stress in terms of parental distress, parent-child dysfunction, and difficulties with children.
Appropriate Emotional Expectations	<i>Positive changes</i> in attitudes regarding appropriate emotional expectations of children.
Internalized Anxiety and Depression in Children	<i>Improved adaptive behaviors</i> in children with respect to internalizing anxiety and depression.

# Parents' report of overall impact of Center interventions

	Good	Neutral	Bad
Child(ren)	81.7%	16.7%	1.7%
Self	85.2%	11.5%	3.3%
Family	86.7%	10.0%	3.3%



## Judicial Leadership for Problem Solving Family Lawyers- the Committee's Prediction

"The court will lead the Bar and law schools in developing family court lawyers who create child-centered practices. At present, lawyers representing parents may cause harm to children by focusing on advocacy- not education, winning- not reduction of conflict- rights- not responsibilities, parents' needs, not child's needs and law, not other disciplines."

## Law student learning at the Center

- A key component of Campus based model
- How do law students involved in the Center learn?
- What do law students learn?
  - Knowledge
  - Skills
  - Values
- Empirically validated



## *How do law students learn at the Center?- process*

- Interdisciplinary education
- Intensive simulation based training program -includes mediation training
- Introduction to Denver divorce courts and community- speakers, tours
- Careful supervision of work
- Workshops during semester on cases in program and selected topics



# *What do law students learn at the Center? - knowledge*



**Law of divorce and parentage**



**Law and ethics rules of mediation**



**Basic mental health concepts**



**Basic financial planning**

# *What do law students learn at the Center?- skills*



**COUNSELING**



**MEDIATION**



**DRAFTING**



**COLLABORATION**



## *What do law students learn at the Center?- values*

- Lawyer as problem solver and counselor
- Satisfaction of service to others
- Importance of collaboration- family law disputes require holistic solutions
- Diversity of service delivery models
- Belief that positive change in the legal system is possible



# Oregon and the the Uniform Collaborative Law Act

- Earliest comment in support of a state adapting the UCLA was:

Patrick Fornan, *Adoption of the Uniform Collaborative Law Act in Oregon: The Right Time and The Right Reasons*, 13 LEWIS & CLARK L. REV. 787 (Fall 2009)

- Has been adapted by 19 states
- But not Oregon

# Oregon State Bar “Futures” Task Force Report (2017)

“The legal services market has entered a period of intense disruption. Technological advances are transforming how we deliver legal services, resolve legal disputes, and engage in legal learning. Consumers of legal services... are demanding more for less and are apt to employ self-help rather than hire a professional.” (at 2)

“It will not do for Bar members to stand still or rage against the tide as the world around us evolves.” (at 2 quoting 27 2009 *OSB Task Force Report on Lawyer Advertising*)

# IAALS On Line Survey of Family Lawyers (2014)

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**73%**  
***disagree***

**Current system adequately meets  
needs of majority of litigants**

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**88% agree**

**Less adversarial system would be  
better**

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**95% agree**

**Would support comprehensive  
change even if had to change  
practice**

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# Most important lesson learned

“[J]udicial reform is no sport for the short-winded or for lawyers who are afraid of temporary defeat... When enlisted in a good cause, never surrender, for you can never tell what morning reinforcements in flashing armor will come marching over the hilltop.” - Chief Justice Arthur T. Vanderbilt of New Jersey and noted expert on judicial administration.

Source: *Introduction* in MINIMUM STANDARDS OF JUDICIAL ADMINISTRATION at xix (Arthur T. Vanderbilt ed., 1949)

