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A Unified Family Court

by Barbara A. Babb

Family law cases focus on some of the most intimate, emotional, and all-encompassing aspects of parties' personal lives. The volume and scope of family law cases exacerbate the difficulty of their resolution. Family law cases comprise approximately thirty-five percent of the total number of civil cases handled by the majority of our nation's courts, and they constitute the largest and fastest growing part of the civil caseload. The situation is complicated due to the large volume of unrepresented family law litigants, most of whom cannot secure private counsel or free legal services, as well as the duplicative, time-consuming nature of the family court process. These problems have triggered the need for court reform in family law.

I have advocated for the creation of unified family courts, or courts that coordinate the work of independent agencies and tribunals, each with some limited role in resolving the controversies incident to a family's legal matters. I define a unified family court to consist of the following components: a specialized court structure that is either a separate court or a division of an existing court and that is established at the same level and receives the same resources and support as a generalist court; comprehensive subject-matter jurisdiction over the full range of family law cases, including juvenile delinquency and child welfare; a case management and case processing system that includes early and hands-on contact with each family law case and a judicial assignment system that results in the family appearing before one judge for the completion of the case or one case management team; an array of court-supplied or court-connected social services to address litigants' non-legal problems that contribute to the exacerbation of family law problems; and a user-friendly court that is accessible to all family law litigants, including the large volume of pro se litigants. In addition to these components, I have advocated that unified family courts embrace the notions of therapeutic jurisprudence and an ecological, holistic approach to the family's problems. By adopting the goal of therapeutic jurisprudence, I have sought to provide a model version or blueprint for a court which most accurately portrays the concept of and the purpose behind a unified family court.

To address the special needs of families who present themselves to the court system, therapeutic jurisprudence assists the court to understand how it must intervene in the lives of families. I have argued that it is intrinsic to the family law decision-making process that intervention ought to aim to improve the participants' underlying behavior or situation, a therapeutic consequence.

Resolving legal disputes with the aim of improving the lives of families and children requires structuring the court system to enhance the system's poten-

tial to maximize the therapeutic benefits of court intervention. To accomplish this goal, the court system must allow for the contemplation of alternative legal outcomes intended to produce more effective functioning on the part of families and children. As I have said before, in the field of family law, therapeutic jurisprudence should strive to protect families and children from present and future harms, to reduce emotional turmoil, to promote family harmony or preservation, and to provide individualized and efficient, effective family justice. Adopting therapeutic jurisprudence as the goal of a model family law adjudicatory system requires careful consideration of the therapeutic implications resulting from all aspects of the court process and encourages the discovery of creative ways to resolve family conflicts effectively.

I have argued that the field of family law appropriately lends itself to adjudication within a specialized court, either as a separate court or as an autonomous division or department of an existing trial court. In addition, judges assigned to specialized family courts must be informed about relevant social science literature, including child development and family dynamics, and about how that knowledge applies to family law decision-making. In this manner, resolutions should promote more effectively the well-being of families and children and should occur more efficiently, both therapeutic outcomes.

For the family court to coordinate multiple legal issues involving the same family and to monitor and enforce family court orders, a fundamental principle of any model unified family court must be the exercise of comprehensive subject-matter jurisdiction over the full range of family law matters. These often interrelated matters include divorce or dissolution, marital property, separation, annulment, child custody, visitation, child support, paternity, child abuse and neglect, termination of parental rights, adoption, domestic violence, juvenile delinquency, guardianships, mental health matters, legal-medical issues, emancipation, and name change. The potential to resolve completely a family's related legal problems becomes a therapeutic consequence; this outcome enables the participants to experience a sense of completion and to move forward with their lives, rather than remaining anchored to the court system by various unresolved legal issues.

Any delay in processing and resolving family law cases interferes with a therapeutic outcome for individuals and families, particularly in child-related cases, as the delay allows the families' problems to remain unresolved and potentially to escalate. Attempts must occur to decrease delay in case processing by focusing on improving the court's case management functions. Because parties in family law disputes generally seek a resolution of highly-charged, emotional matters, a therapeutic approach to structure court reform requires that these cases receive active, hands-on case management as early as possible. This type of case processing can result in more

therapeutic outcomes for family law litigants by reducing the court's delay in attending to the families' problems and by linking the families as early as possible with appropriate social services.

Further, I have argued that one judge should preside over a family's case from start to finish. Ongoing involvement with a family's legal matters enables a judge to develop a more complete understanding of the comprehensive nature of the family's legal problems and permits judges to fashion more effective outcomes to resolve a family's problems, another therapeutic consequence.

A model unified family court also must have available an array of social services it can offer families to assist court professionals' understanding of the context of a family's legal problems and to address effectively social and psychological issues related to the family's functioning. Unified family courts must allow decision-makers the opportunity to understand the reasons for behavior underlying a particular family's situation, such as substance abuse involvement or mental health issues. This informed decision-making enables a judge to fashion a creative resolution to the family problem and contributes to a court system that is therapeutic in its treatment of the family. The nature of the services courts can offer varies widely and depends upon the needs of the community served by the court. Further, while the court can choose to offer some of the services itself, a more fiscally prudent option is to link the family with needed services that already exist within community agencies and organizations. Finally, the earlier participants in family law cases receive necessary services, the more likely it will be that the particular family experiences fewer problems later—another therapeutic outcome.

The final component critical to a unified family court blueprint is the notion that the court remain accessible to and user-friendly for the participants, including the large proportion of pro se family law litigants. The mechanisms to achieve this result range from new information technologies, such as computerized kiosks that disseminate prepared legal forms, to the creation of a new service paradigm in the justice system. Implementing this new paradigm involves designing court structures for the convenience of the users and training court personnel to treat litigants with courtesy and civility, all therapeutic outcomes.

While there is no one ideal court design adaptable for every jurisdiction engaged in addressing systemic family law adjudication problems, family law court reform must proceed with a specific vision. The application of a therapeutic framework to proposed family law adjudicatory system reform is a blueprint critical to the construction of any court, as this approach empowers courts to render family justice that promotes the participants' well-being. More effective resolution of family legal matters can strengthen individuals' and families' functioning, a benefit to the entire society.

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A Unified Drug Court

by Judge Peggy F. Hora, Judge William G. Schma,
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In most jurisdictions, DTCs do not adjudicate other types of criminal cases, nor do they handle civil cases of any sort. This important feature allows a jurisdiction's DTC to concentrate its efforts on administering the treatment program in a hands-on manner. Those jurisdictions that do not have the caseload to support a full-time DTC have created DTCs that hold court less frequently. In Kalamazoo, Michigan, the DTC holds court every Friday, but reverts to a traditional court setting the rest of the week. This setup allows the court to administer and supervise treatment of addicts without devoting unnecessary assets to this method of adjudication. The common denominator among all of these variations of DTCs is the practice of only adjudicating DTC cases when the DTC is in session.

In accordance with their therapeutic focus, DTCs may operate as a single entity, a "unified drug court." In a unified drug court, "only one" means that only one court with one judge adjudicates and monitors all the cases screened and all the offenders admitted to the treatment program. This important component of the DTC concept provides the court with structural accountability, both to the agencies and personnel administering the court and treatment program, and to the offender in treatment. "In a structurally