

NORTH CAROLINA
ADMINISTRATIVE OFFICE
of the COURTS

Office of the Director

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March 1, 2014

Chairs, House Appropriations Subcommittee on Justice and Public Safety
Chairs, Senate Appropriations Subcommittee on Justice and Public Safety
Chairs, Joint Legislative Oversight Committee on Justice and Public Safety

Dear Representatives and Senators:

Pursuant to S.L. 2013-360, Section 18B.6, please find attached a report from the North Carolina Administrative Office of the Courts on the existing family court programs.

If you have any questions, please contact Brad Fowler, Division of Research and Planning, at (919) 890-1223 or Brad.D.Fowler@nccourts.org.

Respectfully yours,

A handwritten signature in blue ink, appearing to read "John W. Smith".

John W. Smith
Director

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NORTH CAROLINA
ADMINISTRATIVE OFFICE
of the COURTS

Family Court Programs Report

Session Law 2013-360, Section 18B.6

March 1, 2014



FAMILY COURT PROGRAMS
SB 402 / S.L. 2013-360
SECTION 18B.6.

The Administrative Office of the Courts shall provide direction and oversight to the existing family court programs in order to ensure that each district with a family court program is utilizing best practices and is working effectively and efficiently in the disposition of domestic and juvenile cases. The Administrative Office of the Courts shall report on its efforts in this regard and the results of those efforts to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Senate Appropriations Committee on Justice and Public Safety, and the Joint Legislative Oversight Committee on Justice and Public Safety by March 1, 2014.

Report to the Chairs of the House and Senate Appropriations Subcommittees on
Justice and Public Safety on family court programs
(SB 402/S.L. 2013-360)

Introduction

Pursuant to Senate Bill 402, Session Law 2013-360, Section 18B.6, the Administrative Office of the Courts was tasked with reporting on efforts taken to provide oversight and direction to existing family court programs regarding the utilization of best practices.

Overview of Family Court

Family courts handle a variety of district court civil disputes, involving intra-familial rights, relationships, and obligations (e.g., divorce, child custody) and all juvenile matters (e.g., juvenile abuse and neglect). **Family court staff members provide case management with the goal of efficient and timely resolution of cases. The primary tool used is the consolidation of various issues/cases before the court that affect a single family (i.e., “one family, one judge”).** There are currently family courts in thirteen district court districts. Family Court covers twenty-two counties in North Carolina, which include 44.6% of the state’s population.

District Court Civil Domestic Cases

For civil domestic cases, the most significant quantifiable differences between Family Court districts and Non-Family Court Districts on an ongoing basis are *Pending Median Age* and *Percentage of Pending Cases that have been pending for more than 365 days*.

As the data in Table 1 indicates, the *Pending Median Age* for civil domestic cases in Family Court Districts during the analysis period was 116 days; the *Pending Median Age* for civil domestic cases in Non-Family Court Districts during the analysis period was 390 days. As shown in Table 1, the percentage of *Pending Cases > 365 days (1 year)* for civil domestic cases in Family Court Districts during the analysis period was 18.8%; the percentage of *Pending Cases > 365 days (1 year)* for civil domestic cases in Non-Family Court Districts during the analysis period was 51.0%. All differences in Table 1 are statistically significant.

Table 1: District Court Civil Domestic Cases

	July 1, 2012 – June 30, 2013				As of December 31, 2013	
	Case Clearance Rate	Number of Cases Disposed	Disposed <181 Days	Disposed Median Age	Pending >365 Days	Pending Median Age
Family Court Districts	101.2%	45,448	84.7%	54	18.8%	116
Non-Family Court Districts	96.3%	50,091	87.3%	41	51.0%	390

If Family Court funding were to be discontinued, it is foreseeable that the timeliness of civil domestic case disposition in districts currently served by Family Court would move toward that of Non-Family Court districts, most significantly: the pending median age of cases in districts currently served by Family Court would rise dramatically as would the percentage of cases in those districts that have been pending for more than 365 days (1 year).

District Court Juvenile Abuse/Neglect/Dependency Adjudication Hearings

When a local Department of Social Services believes that a juvenile has been abused or neglected or is dependent (i.e., does not have an appropriate adult caretaker), a DSS staff member files a petition with the court alleging that the juvenile is abused, neglected, and/or dependent. As outlined below, an adjudicatory hearing is mandated within 60 days of the filing of a petition.

G.S. 7-B 801(c) provides:

The adjudicatory hearing shall be held in the district at such time and place as the chief district court judge shall designate, but no later than 60 days from the filing of the petition unless the judge pursuant to G.S. 7B-803 orders that it be held at a later time. (1979, c. 815, s. 1; 1998-202, s. 6; 1998-229, ss. 5, 22; 1999-456, s. 60.)

The adjudication hearing data for juvenile abuse/neglect/dependency cases were compiled from the J Wise system, the automated information management system for juvenile courts in all one hundred North Carolina counties. The data was pulled from the *North Carolina Key Time Standard Adjudication Hearing Report*.

There is little difference between Family Court Districts and Non-Family Court Districts in the percentage of adjudications in juvenile abuse/neglect/dependency cases that are completed within the statutory timeframe of 60 days from date of the filing of a petition. Of adjudications that were held or should have been held per statutory timeframes, in FY 2013, Family Court Districts were compliant with the timeframe in 44.1% of cases; Non-Family Court Districts were compliant with the timeframe in 45.8% of cases.

It is possible that the similarity between Family Court Districts and Non-Family Court Districts reflects the relatively small share of Family Court resources devoted to juvenile abuse/neglect/dependency cases (see Table 3) compared to Family Court resources devoted to civil domestic case (see Table 2). It is possible that if full funding were provided for all Family Court civil domestic and juvenile case coordinators needed based on their workload equation, there would be an improved overall performance in Family Court districts compared to Non-Family Court districts.

Statutory Authority

The established Family Courts were created between FY 1999-2000 and FY 2007-08. Although Family Court is not statewide, the only barrier to future implementation is the funding needed for staff members in Non-Family Court districts. Local rules specific to family court must be established in districts implementing a family court program.

From page 6 in Family Court Best Practices and Guidelines (attached):

“To implement Family Court, the chief district court judge and designated Family Court judges assume a proactive and collaborative role within the court community and offer guidance and support to all parties whose roles are affected by Family Court policies and procedures....Judicial leaders must communicate to their employees, practicing attorneys, child welfare agencies, and others that timely dispositions are a top priority....The judges’ ability to enlist the support of the local bar, social service agencies, and other based on shared values is fundamental to the Family Court’s success.”

The Commission for the Future of Justice and the Courts in North Carolina envisioned “a forum that resolves family related issues in a manner that respects the rights of each individual family member, promotes the broad interest of the family, and helps families structure their own solutions.” Individual family courts may have written mission statements that are specific to their local needs.

Family courts should strive to apply best practices in case management principles, such as assignment of one judge to one family for all issues before the court, continuous calendaring, limiting continuances, and opportunities for non-adversarial resolution of family issues, such as mediation and other forms of alternative dispute resolution. Family court services are accessible to all citizens in Family Court districts regardless of economic status.

There are two types of Family Court staff positions: Family Court Administrators and Family Court Coordinators. All local Family Court staff members are hired and supervised by the chief district court judge. Beyond case management, Family Court staff does not provide direct services to the family or perform mediation or dispute resolution.

The North Carolina Administrative Office of the Courts (NCAOC) staff in the Court Programs and Management Services Division compiles an annual report on the activity of the family courts and the number of districts that are requesting funding to establish Family Court programs. This report is submitted to the General Assembly and is made available to the public on the NCAOC website.

Section 25 of S.L. 1998-202 authorized the Administrative Office of the Courts to establish family courts on a pilot basis in 1999. This stemmed from recommendations contained in the Commission for the Future of Justice and the Courts in North Carolina’s 1996 report *Without Favor, Denial or Delay*.

S.L. 1998-202 Section 25

Section 25. (a) The Administrative Office of the Courts shall establish pilot programs for the holding of family court within district court districts to be chosen by the Administrative Office of the Courts. Each pilot program shall be conducted following the guidelines for the establishment of family courts contained in the report of the Commission for the Future of Justice and the Courts in North Carolina and shall be assigned to hear all matters involving intra-family rights, relationships, and obligations, and all juvenile justice matters, including:

- (1) Child abuse, neglect, and dependency;
- (2) Delinquent and undisciplined juvenile matters;
- (3) Emancipation of minors and termination of parental rights;
- (4) Divorce;
- (5) Annulment;

- (6) Equitable distribution;
- (7) Alimony and post-separation support;
- (8) Child custody;
- (9) Child support;
- (10) Paternity;
- (11) Adoption;
- (12) Domestic violence civil restraining orders;
- (13) Abortion consent waivers;
- (14) Adult protective services; and
- (15) Guardianship, involuntary commitment, and voluntary admissions to mental health facilities.

(b) The Administrative Office of the Courts shall report to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety and Senate Bill 1260 S.L. 1998-202 Page 199 to the Fiscal Research Division of the General Assembly by March 1, 2000, on the success of the pilot programs in bringing consistency, efficiency, and fairness to the resolution of family matters and on the impact of the programs on caseloads in the district court division.

(c) If no funds are appropriated in the 1998-99 fiscal year to implement this section, this section shall not become effective.

Section 17.16 of S.L. 1999-237, authorized the NCAOC to establish an education program for parents who are parties to a custody or visitation action and to administer any parent education through family court programs that were established by S.L. 1998-202. This is provided locally through a one-hour parent information session, a four-hour parent education class, and a video specific to divorcing parents living in separate homes.

Family Court Local Activities

Tables 2 and 3 summarize the program activities performed in each Family Court District for each case type listed in the enabling statute. Note that some case types have been subdivided for this report.

Table 2: Civil Domestic Case Categories Listed in Statute

Family Court Districts	Divorce			Child Support					Paternity	DVPO	Abortion Consent Waivers
	Summary Judgment Divorce (Clerk)	All Other Divorces (Non-Clerk)	Annulment	Equitable Distribution	Alimony/ Post-Separation Support	Child Custody	IV-D Child Support	Chapter 50 Child Support			
3A	U	Y	Y	Y	Y	Y	N	Y	Y	P	N
5	U	Y	Y	Y	Y	Y	N	Y	Y	P	N
6A	U	Y	Y	Y	Y	Y	N	Y	Y	N	N
8	U	Y	Y	Y	Y	Y	N	Y	Y	N	Y
10	U	Y	Y	Y	Y	Y	N	Y	Y	Y	N
12	U	Y	Y	Y	Y	Y	P	Y	Y	P	Y
14	Y	Y	Y	Y	Y	Y	N	Y	Y	P	Y
19B	U	Y	Y	Y	Y	Y	P	Y	Y	P	Y
20A	U	Y	Y	Y	Y	Y	P	Y	Y	P	P
20B	U	Y	Y	Y	Y	Y	N	Y	Y	P	N
25	U	Y	Y	Y	Y	Y	N	Y	Y	N	N
26	U	Y	Y	Y	Y	Y	P	Y	Y	P	N
28	U	Y	Y	Y	Y	Y	N	Y	Y	P	N

Summary Judgment Divorce (Clerk)

Y= FC manages cases.

U = The extent of the district's involvement in these proceedings is not known or is not applicable.

Annulment – Annulment is a rare issue seen in FCs but when they arise, they are managed by FC.

IV-D Child Support

Under the authority of Child Support Enforcement (CSE).

Y=FC manages cases & assigns judges.

P= The district performs at least one of the duties listed above.

N= The district performs none of the duties listed above.

Chapter 50 Child Support – Filed as a Chapter 50 action that is not through CSE.

Paternity – Paternity is an issue rarely seen in FCs when not filed with IV-D child support but when they arise with other Chapter 50 matters, they are managed by FC.

DVPO - Domestic Violence Protective Orders

Y= Dedicated case manager and one judge/one family.

P= The district performs at least one of the duties listed above.

N= The district performs none of the duties listed above.

Abortion Consent Waivers

Y= FC staff assists in scheduling before a judge.

N= FC staff is not involved in these cases. The clerk handles them.

Table 3: Juvenile Case Categories Listed in Statute

Family Court Districts	A/N/D	Delinquent/ Undisciplined	Emancipation/ TPR
3A	P	Y	P
5	P	P	P
6A	Y	P	Y
8	Y	Y	Y
10	Y	N	P
12	P	Y	Y
14	P	Y	Y
19B	P	N	Y
20A	Y	Y	Y
20B	P	Y	Y
25	Y	Y	P
26	P	Y	P
28	P	Y	P

A/N/D- Juvenile Abuse/Neglect/Dependency Cases

Y=Holds CPCs, enters JWis data, monitors time standards, manages cases & generates calendar.

P= The district performs at least one of the duties listed above but not all.

N= The district performs none of the duties listed above.

Delinquent/ Undisciplined - Juvenile Cases

Y=Judicial assignment

P= The district performs at least one of the duties listed above but not all.

N= No judicial assignment

Emancipation/TPR - Juvenile Cases

Y= Schedules hearings & monitors time standards.

P= The district performs at least one of the duties listed above but not all.

N= The district performs none of the duties listed above.

Despite being listed in the enabling legislation, Family Court staff members do not manage the following case types because they fall under the jurisdiction of the Clerk of Superior Court: Guardianships, Involuntary Commitments, and Adoptions. Adult Protective Services matters and appeals to Adoptions are heard by District Court Judges but these types of cases are extremely rare.

Each Family Court District operates under local rules promulgated by each Chief District Court Judge. The variations in case types handled reflect local decisions regarding where to target available staff resources. The Family Court Advisory Committee works together with the Director and staff of the NCAOC to develop and encourage the adoption of best practices throughout the state. A copy of the North Carolina's Unified Family Courts: Best Practices and Guidelines (October 2006) follows.

**NORTH CAROLINA'S UNIFIED FAMILY COURTS:
BEST PRACTICES AND GUIDELINES**

October 2006



**N. C. Administrative Office of the Courts
Court Programs and Management Services Division
Raleigh, North Carolina**

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**NORTH CAROLINA'S UNIFIED FAMILY COURT:
BEST PRACTICES & GUIDELINES
October 2006**

SECTION I. INTRODUCTION

In December 1996, the Commission for the Future of Justice and the Courts in North Carolina published its report, *Without Favor, Denial or Delay*, recommending a design for the court system of the future and strategies for how to achieve it. One of their significant recommendations was the implementation of unified family courts across the state. Ten years ago, the Commission members recognized that families were changing and facing new challenges and stressors making their court cases more complex, and that there were growing numbers of juvenile and domestic cases crowding district court dockets. Because of heavy caseloads, judges had little option other than to handle these sensitive matters in much the same as other cases – “that is, as an isolated matter, in which the speed of resolution is largely determined by attorneys and litigants.”¹ Commissioners went on to describe specific problems brought about by such case processing:

- ✚ Numerous judges handling various parts of the same case resulting in lack of communication and inconsistent court orders
- ✚ Delays used by one party to create hardship for the other
- ✚ Children in foster care remaining longer than was necessary
- ✚ Juveniles punished for crimes without having issues (e.g. psychological, personal, family) that brought them into delinquency court addressed; and
- ✚ Family problems resulting in juvenile offenders and ultimately leading to growth in criminal court caseloads.²

The Commission concluded that the courts could improve the most by changing their handling of domestic cases. They recommended that a new way of dealing with family-related cases was necessary, one that “respects the rights of each individual family member, promotes the best interest of the family and helps families structure their own solutions.”³ They further suggested that “this forum should be fully accessible to citizens, regardless of economic status, and should encourage the non-adversarial resolution of disputes whenever possible.”⁴

The Futures Commission made the following specific recommendations:

¹ Without Favor, Denial or Delay: A Court System for the 21st Century, Commission for the Future of the Justice and the Courts in North Carolina, December 1996, page 45.

² Ibid.

³ Ibid.

⁴ Ibid.

- ✚ Establish a specialized “Family Court” with jurisdiction over all disputes involving intra-familial rights, relationships and obligations and all juvenile matters;
- ✚ Make available mediation or other forms of alternative dispute resolution for all family cases;
- ✚ Provide mediators, judges and other decision-makers with specialized training in family and juvenile law and the psychological factors affecting families and children;
- ✚ Make available the full range of the family court’s services on a meaningful level to all citizens, regardless of economic wealth; and
- ✚ Resolve all cases as soon as possible but no later than one year after filing.⁵

The 1998 enabling legislation establishing the Department of Juvenile Justice and Delinquency Prevention authorized the Administrative Office of the Courts (AOC) to establish family courts on a pilot basis, incorporating the above recommendations into the design. Because the report recommended family courts incorporate juvenile as well as domestic cases, North Carolina’s model is called a Unified Family Court.

SECTION II. THE UNIFIED FAMILY COURT CONCEPT

The concept at the heart of Unified Family Courts is the consolidation of all issues before the court that affect a single family. Under North Carolina’s present calendaring system, in a domestic action, one judge may hear the child custody issues, another might hear the child support claims a few weeks later, and a third judge could dispose of the equitable distribution of the marital property months thereafter. And, if there were pending charges of domestic violence or child abuse, those matters would be set on other calendars, likely before other judges, and would not be addressed as part of the entire crisis facing this one family.

A major goal of Family Court is to coordinate all the case management of court events and service agency efforts for a single family in distress, in order to better serve that family and provide more consistent, efficient use of trial court time. Thus, in a Unified Family Court any issue relating to a family - juvenile delinquency charges, neglect and abuse charges, termination of parental rights and adoptions, domestic violence, child custody and visitation rights, divorce and related financial issues like child support, alimony, or equitable distribution of property, and involuntary commitments - will be assigned to one case management team of judges and court staff.⁶

The task of developing this complex model to assist pilot Family Courts in their early growth was given to group of court officials and professionals acting as a steering or advisory committee in the fall of 1998. Their goal was to draft operational guidelines based on the recommendations of the Futures

⁵ Ibid.

⁶ Ibid.

Commission Report. By 2000, the Chief Justice appointed an official Family Court Advisory Committee (FCAC). Their mission is to advise the Chief Justice and the Director of the Administrative Office of the Courts on all aspects of North Carolina's Family Court model. Topics addressed by the FCAC over the seven year history of Family Courts include training (subject matter as well as number of hours), mandatory cases included in Family Courts, appropriate time limits for events and issues, case loads for staff and judges, statutory changes, court rules, pro se services, domestic violence cases, monitoring and evaluation, and pre-implementation of family court activities (see Appendix A, *FCAC Recommendations*; Appendix B, *Family Court Training Guidelines*; and Appendix C, *Pre-Implementation Strategies for Family Court*). The FCAC produced two specific guiding documents: *Family Court Time Standards* (see Appendix D) and *Evaluation of Family Court Pilots* (see Appendix E). Both documents, modified by the Committee over time and with experience, have guided the growth and development of Family Courts in North Carolina. The FCAC continues to advise the Chief Justice and the AOC Director on all aspects of North Carolina's Unified Family Court model.

SECTION III. PURPOSE AND SCOPE OF DOCUMENT

The purpose of this document is to identify specific, essential, and successful practices identified in the seven years of Family Court experience in North Carolina. These best practices are based on recommendations from the Futures Commission report and grounded in the Time Standards and Evaluation documents produced by the FCAC. Time and experience with Family Courts also lend significant insight and information on best practices for implementing and operating Family Courts in North Carolina.

Ten (10) critical elements provide the framework for an efficient and effective Family Court. These elements are central to planning, designing, and implementing Family Court. The practices provide the structure and the process by which families are offered more timely court proceedings, more access to services aimed at underlying issues that have brought them into the court environment, and a more consumer-friendly approach. They are intended to be used from the time Family Courts are conceptualized and planned, through various developmental stages over a multi-year period, and through implementation. They may also be used as measures of success for existing Family Courts.

For many families, the changes brought about by Family Court practices may not be noticeable except that they will feel more confident that they understand what is happening and when events will occur because of staff who assist them. Because of opportunities for alternative dispute resolution, more meaningful court events, and a timelier resolution to all issues before the court, they will likely experience a less adversarial resolution and a court system more attuned to the importance of their time and money. For experienced observers, after the initial turmoil of significant system changes, the new way of doing business is apparent in an orderly, more productive day in court. Such efficiencies belie the volume of work behind the scenes by Family Court staff whose job is to see that cases

remain within the times standards and that available court and community services are made known to families as appropriate.

SECTION V. BEST PRACTICES

The ten best practices for a successful Family Court in North Carolina are :

1. Judicial Leadership
2. One Judge (or Judge Team)/One Family
3. New Local Rules
4. Time Standards for Events in All Cases
5. Active Case Management by the Court
6. Maximum Use of Alternative Dispute Resolution (ADR)
7. Focus on Customer Service
8. Additional Court and Community Services
9. Specially Trained Judges and Staff
10. Collaborative Local Family Court Advisory Committee (FCAC)

1. Judicial leadership is the cornerstone of Family Court. The best practices described in this document are significant changes in the way in which courts have historically operated. Therefore, leading a district through these changes requires courage, vision, and a willingness to shepherd a cultural shift in the district. To implement Family Court, the chief district court judge and designated Family Court judges assume a proactive and collaborative role within the court community and offer guidance and support to all parties whose roles are affected by Family Court policies and procedures. Stepping outside the traditional judicial role is essential to creating a family-focused court.⁷

The Family Court bench must be “specialized, committed, and in place long enough to master the subject matter and mobilize community support.”⁸ Generally speaking, two years are required to incorporate these changes and to stabilize a new Family Court. Judicial leaders must communicate to their employees, practicing attorneys, child welfare agencies, and others that timely dispositions are a top priority. The axiom “prior planning prevents poor performance” holds especially true with respect to the need for collaboration in Family Courts. The judges’ ability to enlist the support of the local bar, social services agencies, and others based on shared values is fundamental to the Family Court’s success.

Judicial leadership includes hiring well-qualified Family Court administrators and case coordinators to manage the daily business of Family Court. Under the supervision of the chief judge, administrators oversee daily operations (case management, personnel administration, and statistical reporting and evaluations); implementation of new court services and programs, which may include seeking and managing grant funds; and, serve on local court and community committees. Case coordinators drive daily processes and customer service in Family Court; they start the time clock when cases are filed, assign judges to cases, communicate with lawyers about calendaring cases, make everyone aware of how that case is progressing in relation to time standards, and

⁷ Carol R. Flango, Victor E. Flange, and H. Ted Rubin, “*How Are Courts Coordinating Family Cases?*” (Williamsburg, Va.: State Justice Institute, 1999), page 111.

⁸ Ibid.

document the work and accomplishments of the court. Committed, organized, people-focused staff who are willing to enforce policies and procedures provide the internal structure for Family Court.

2. One Judge/One Family describes the assigning of a single judge to a family whether that family is in domestic court for a divorce, in juvenile court for abuse, neglect or dependency issues, in domestic violence court for assault charges, or in delinquency court for a truant or criminally-involved youth. The Family Court judge and his/her assigned case coordinator manage all issues of one family's case assigned to that judge for the life of the case. A concern from the legal community may be that the assigned judge will be too familiar with the case and not as impartial. However, having all of the pertinent information about a family allows Family Court judges to better address the family's multiple needs, and judges will continue to recuse themselves from a case when they feel they may be unfairly biased.

A significant benefit of the one judge/one family case assignment is that a judge assumes ownership of each case assigned to him/her. Efficient processing of cases toward resolution becomes a critical part of how judges approach each scheduled event. Working in concert with their case coordinator, the Family Court team becomes responsible for ensuring that every case progresses through each stage to resolution in a timely manner. Continuances are no longer granted so that another judge will hear that difficult case later. For a Family Court judge, that case will remain on his or her calendar until that judge has dealt with the issues before the Court.

In some larger districts, chief judges assign judges and case coordinators to specific content areas, such as domestic cases only. In these cases, it becomes even more important that the case coordinator, immediately after filing of the case, searches any and all court data bases to identify "cross-over" cases, those families with more than one active case in a Family Court arena. For example, a couple involved in a divorce case may also have a child in delinquency court. A Family Court judge handling one part of the family's case pairs with a judge handling the other part of the case. Communication and coordination must occur as to how to proceed with each of the remaining pieces of the case. Should both cases be assigned to only one of the judges? Which part of the case takes precedence? What happens to the other part of the case while the primary issues are dealt with? What issues might this process generate for the family? What services, court or community, are available to support the family while they are in the court system? What procedures might need to be implemented in order to consistently address these kinds of cases? Family Court attempts to answer these difficult questions.

A frequent concern of judges is how long they will be in the Family Court rotation. National standards suggest a minimum of two years is necessary in order to have well trained, seasoned judges on the Family Court bench. Also, Family Court judges would say it takes a minimum of one year to revise their own approach to fit the new model and a second year to begin to feel a level of confidence and expertise that maximizes successful management of their case load.

Attorneys often ask "will I be able to choose my judge?" or "what happens if I'm stuck with a judge for the entire divorce case, for example, who is very good

at child custody issues, but less attuned to the nuances of an equitable distribution case?” The answer to the first question is “no.” Family Court judges are assigned randomly with the expectation that they all will be assigned the same number of cases, thus equalizing the work load for both judges and staff. In response to the second question, Family Court judges indicate that random assignment balances cases out over time. Frequent and required Family Court training also provides a stronger base of knowledge in all matters surrounding family cases than in non-family court districts.

3. New Local Rules are needed specific to Family Court. Local rules generally exist in most districts in North Carolina. When planning for Family Court, it is essential that the chief district court judge appoint committees representative of all stakeholders in Family Court. The judge appoints a chairperson of the rules committee, sets deadlines for products, and provides for a local vetting process that is inclusive. Usually, the existing rules (domestic, juvenile, and domestic violence) are reviewed by a committee and re-drafted to incorporate the Family Court Time Standards, and required Family Court programs (Custody Mediation, Family Financial Mediation, and Parent Education). They develop specific procedures to ensure that upon filing, cases continue through the system in a timely, predictable, and effective manner. No small part of the effectiveness of new rules, and one of the more laudable successes touted by existing Family Court districts, is that everyone is held to the same standard of accountability. That is, everyone plays by the same rules: the rules that are drafted by those involved in that court; the same rules that become the very foundation for accountability. With the addition of case coordinators, funded with Family Court implementation, it is finally possible to more closely manage cases by these rules.

4. Time Standards for events in all cases provide for the pace of the case, as well as the length of time families can anticipate their case will require to resolve, both best and worst case scenarios. Time Standards by definition are the bench mark events in the life of the case that provide for effective and efficient case management and resolution. The Futures Commission recommended that all family cases should be concluded within one year. While this is not possible in 100% of the cases due to the complexity of issues, geographic locations of the parties, and other such factors, the expectation is that most cases will resolve within that time frame. Families need closure and expect the Court to be responsive and timely in its handling of their case(s). Experience confirms that these standards are realistic, predictable and that they:

- a. promote prompt justice;
- b. provide motivation to achieve timely resolution;
- c. serve as a yard stick for measuring effectiveness of case management, programs, and individuals;
- d. serve as a starting point for development of management procedures; and

- e. promote use of information systems to monitor judicial and staff caseloads and provide performance data.⁹

The Family Court Advisory Committee develops specific Time Standards for the resolution of events related to each case issue (see Appendix D, *Family Court Time Standards*). The Committee's goal is to develop time frames that are legally relevant and achievable given the structure and staffing in Family Court. For example, in juvenile abuse/neglect/dependency cases, the time lines reflect North Carolina's Juvenile Court Improvement Program (CIP) efforts, which began in the mid-90's, and federal standards of the Adoption and Safe Families Act. For juvenile delinquency cases, standards are modeled after those promulgated by the National Center for Juvenile Justice (see Appendix F, *Juvenile Court Task Force Report: Case Flow Management Plan*). The Committee recommends time standards to the Chief Justice and the AOC Director. The current Standards, revised and adopted in late 2005 and early 2006, are the third revision since the inception of Family Court.

For many in the legal profession, court-determined Time Standards are a major adjustment from the prior culture of waiting to proceed with court events until the case is "ripe." Many attorneys in Family Court districts indicate that they are now able to answer their clients' questions about how long a case will take in court with more clarity than ever before. With disposition of most cases within a year, attorneys are closing more cases and thus freeing up time to assume new cases. Clients as well are pleased to be able to conclude their court business and move on with their lives.

5. Active case management by the Court rather than attorneys is a new concept for North Carolina's court communities. Application of this principle means that when the case is filed, the case coordinators capture those filings, assign a judge, and schedule a first event in each case before the court and continuously calendar each case. This process may happen in a variety of ways in any given district, but the outcome is the same: cases move through the system and from event to event in a timely, predictable, and continuous manner. Key strategies of case management in Family Court include the following:

- a. *Elimination of backlog* involves identifying the reason cases more than a year old are still "open," and then acting on that information to move the case to disposition. This might mean working with the Clerk's office to close cases that have remained open due to data entry glitches. It might mean producing an administrative calendar to determine from attorneys if there are still pending issues and, if not, requiring an order to close the case. For still others, it may mean setting the case for a hearing of the unresolved issues. Such tasks are labor intensive and best undertaken prior to Family Court opening, either when existing staff can be identified prior to the time Family Court-funded staff is available, or between the time Family Court staff are hired and opening day. It has been suggested that a district

⁹ Without Favor, Denial or Delay: A Court System for the 21st Century, Commission for the Future of Justice and the Courts in North Carolina, December 1996.

identify any other resources available to work through the backlog. For example, a district may seek support and assistance from interns or from paralegals in law firms, either of whom could cover the Family Court office in order to free up court staff to review files.

- b. *Early court intervention*, from the point of filing, ensures that “no case is left behind.” In non-Family Court districts, cases are only scheduled when an attorney determines he/she would like the case to be calendared. Many attorneys suggest the need for a “cooling off period” after filing. Family Court judges insist that attorneys and parties must be ready to proceed with the case upon filing. In Family Court, at the time of filing, the case is assigned to a judge team, and the case coordinator immediately schedules the first court event, per the Time Standards. This requires a dramatic change of local legal culture when Family Court becomes a reality.

A term often associated with early court intervention is “front-end loading.” This means that more events are scheduled earlier in the case than has been the habit prior to Family Court. The success of this strategy is based on the knowledge that parties begin negotiating whenever the case is calendared for a court event, and are thus more likely to settle early without further court intervention.

- c. *Continuous court calendaring* is the process by which Family Court staff schedule the next court event at or immediately following any given court event. Such scheduling continues until that issue is resolved and helps to ensure that no case will be lost in time or in the system. An example is the use of form orders in juvenile court that can be filled in at the court hearing, enabling all parties present to be provided notice of the next court event. In contrast, in many non-Family Court districts, fewer court events are held prior to trial and court event scheduling is at the request of the attorneys.
- d. *Written policies that limit unreasonable interruptions in the case* are the responsibility of the court. Continuances are a good example. Case coordinators and judges are tasked with full and productive calendars in Family Court, with a minimum of “non-events.” When cases are continued as a matter of practice, usually upon request and agreement of both parties and their counsel, valuable court time is lost. In Family Court, the premise of “truth in calendaring” is that when cases are calendared, parties should be prepared, expect the event to occur, and the event will be a real and meaningful event, not a “dress rehearsal.” Adhering to a written continuance policy assures that requests are considered based upon the same objective standards that apply to all parties. Therefore, only specific, valid reasons for continuances, such as illness, are granted by the Court in Family Court districts.
- e. *Date (and/or time) certain on the court calendar* ensures that cases are reached when scheduled. The expectation is that 75% or better of calendared cases will be heard on the day scheduled. Some Family Courts actually give a specific time on a specific date. For example, temporary hearings might be scheduled at 9:00, 10:00, 11:00, and so on. Many Family Court districts limit the time per issue for temporary hearings. Such effective scheduling requires significant dialogue and

coordination between judges and their case coordinators in order to learn how many of which types of events can be managed on any given calendar. The outcome is more efficient use of available court resources, including attorney time and talents, and better use of parties' time and money.

- f. *Frequent monitoring of pending case age, percent of cases over one year, and clearance rates* means that Family Court teams, led by the chief judge and the family court administrator, review statistical reports and problem solve on a regular basis.
 - 1) Since the goal of most cases is resolution within one year, *pending case age* becomes a critical benchmark for success. Moving each case/issue through its particular schedule of events in a timely manner ensures that the composite pending case age will be as low as possible. Family Court districts routinely result in a significantly lower median age of pending case than non-Family Court districts; at the end of FY 2005-2006, 129 days versus 325 days.
 - 2) *Percentage of cases over one year* assesses the overall impact of individual case management. Typically, not more than 15% of cases should be over one year old.
 - 3) *Clearance rates* compare the number of cases filed to the number of cases disposed. The goal is that the number of cases resolved equals or exceeds the number of cases filed in a given year.

6. Maximum use of Alternative Dispute Resolution (ADR) begins with the requirement of implementing two programs, Custody Mediation and Family Financial Mediation, prior to starting Family Court. These two programs mandate that families sit down with a trained mediator and attempt to work out their conflicts. They are required to attend but may choose not to mediate. Should they resolve the conflict in mediation, a court order is usually the final outcome. Especially for Custody Mediation, there are a number of statutorily defined reasons cases may be more appropriately waived from mediation and proceed directly to trial. Domestic violence cases are an example. Resolution rates are promising for each of these programs.

When Family Court is implemented a third required ADR program, Parent Education (PE), is also implemented. The goal in Parent Education is to provide parents in contested custody cases with information about how parental conflict can negatively impact their child(ren), and strategies to prevent such harm.

As ADR's popularity has grown and successes have been documented, it has been creatively used in other arenas. For example, permanency mediation is used in juvenile abuse, neglect and dependency court for permanency planning. Use of the Family Law Arbitration Act and Collaborative Law in divorce cases are also growing in popularity.

7. Emphasizing Customer Service is a hallmark of Family Court. The court system is often viewed as a huge, unwieldy, confusing, and unfriendly system filled with legal jargon and lengthy procedures. Staff focused on the needs of the users has allowed Family Courts to alleviate some of the stress and chaos for

families. Family Court districts produce brochures that cover many aspects of their programs and services, as well as contact information for staff. These districts also develop web sites linked to the www.nccourts.org web site for ease of informational access. Seemingly small responses, such as promptly returning a voice mail message, offering a listening ear at a critical time, providing directions to a courtroom, or helping people understand the process are often remembered positively by litigants when they look back on their Family Court experience. Attorneys often comment, after Family Court has opened, that having the case coordinator to facilitate court business between the attorney and the judge is very helpful.

8. Additional court and community services tailored to the individual needs of each district are designed and implemented from a menu of innovative programs and tailored to the individual needs of each district. The premise is that when families are in crisis and in the court environment, Family Court should provide them with information to assist them in locating services appropriate to their underlying needs. These services are offered via Family Court, either in collaboration with community partners, or through referrals.

Identifying existing community services is the first step, and provides the mechanism for case coordinators to offer information about community resources to litigants through a published directory, should one not already exist. The next step is the targeting of one project, such as supervised visitation, that the community and courts commit to and develop together.

A spirit of collaboration and a team approach are essential to the success of these endeavors. Team work infiltrates all levels of Family Court work and requires almost constant effort to ensure that all critical stakeholders are at the table for planning meetings. Under girding this principle is the concept that all relevant stakeholders will have a voice in planning.

Following is a list of the most frequently offered court services:

- a. *Child Planning Conferences (CPCs) or Day One Conferences (DOCs)* are meetings facilitated by court staff and held either the day following the filing of an abuse/neglect/dependency petition (DOCs), or within a few days after a petition has been filed (CPCs), and children are removed from the home. The purpose of the meeting is to determine if placement can be found with family or friends, what services need to be initiated immediately to expedite resolution of the problems that necessitated the removal of the children, and to establish a visitation schedule appropriate to the developmental needs of the child(ren) and the circumstances of the family.
- b. *Truancy Diversion Programs* focus on prevention. They are informal courts held in ten-week segments each school semester and are offered to children and youth who have a growing pattern of truancy. The students, their families, and school representatives meet with the judge weekly in the school for accountability purposes. Most programs target elementary and middle school children.
- c. *Truancy Court* is a special court that combines the adult criminal case against parents with the undisciplined case of the student so that the problem(s) can be identified and all parties held accountable in a

relevant and cohesive manner. Families meet regularly, as often as bi-weekly, with the judge in order to monitor progress.

- d. *Access & Visitation (A&V)* is a federal IV-D grant-funded service to non-custodial parents who are paying child support but unable to spend time with their children. The A&V Coordinators work predominantly with the non-custodial parent, but also with the custodial parent, to identify and eliminate problems that prevent children from spending time with both parents. The premise of the program is that children are healthier and better adjusted when both parents are involved.
- e. *Family Drug Treatment Courts (FDTC)* supervise chemically dependent parents whose children were removed from the home because of allegations of abuse, neglect, and/or dependency. The Court holds these parents accountable for attending substance abuse treatment by bringing them to court weekly and by using sanctions and rewards. For many substance abusing parents, this behavioral approach is their last, best chance to get their children back.
- f. *Permanency Mediation* brings all relevant parties in an abuse/neglect/dependency case to the table at one time to discuss and negotiate such issues as the allegations in the case, the Department of Social Services' plan of required activities for re-unification, visitation, relinquishment possibilities, and/or other issues in conflict. For many parents, it is a place to be heard. For many professionals, it is a place to clarify perceptions and work toward permanence for the children - both in a less adversarial environment than a contested trial.
- g. *Services to pro se litigants* can take the form of printed Pro se Packets, most often for divorce or visitation, clinics offered by law schools or community lawyers who volunteer to provide information on how to fill out the packets and file the case or a Self Serve Center staffed by court employees or volunteers.
- h. *Combined Civil/Criminal Domestic Violence Court* reduce the number of times families must come to court. Because of the higher burden of proof required in the criminal case, these cases are heard first. Anecdotally, disposition of the criminal case often resolves the civil case. Also, for victims, other civil court issues such as lack of counsel or presence of a victim's advocate are eliminated by handling the criminal case first.
- i. *Parenting Coordinators* can be appointed by statute in any district in North Carolina. Their purpose is to intervene in and reconcile conflict that sometimes arises for families after entry of an order in a custody case. Such resolution may end with the parenting coordinator or should the conflict be serious enough in nature, a stop-gap measure until such time as the family can be scheduled before their assigned judge. In Family Court districts, the administrator and case coordinators provide an essential link between parenting coordinators, the court, and referred families. The Family Court staff maintains a list of approved parenting coordinators and ensures that procedures are incorporated into the local rules. They often work collaboratively with

trainers to provide professionals an opportunity to attend mandatory training locally.

9. Specially trained judges and staff work together in teams to bring an understanding of the impact of child development and family relations to the legal arena. This means that judges study such subjects as substance abuse and domestic violence while staff studies such topics as the unauthorized practice of law and domestic/juvenile legal procedures. The FCAC has established a widely respected policy outlining the expectations of Family Court judicial education and staff continuing education (see Attachment B, *Family Court Training Recommendations*). Policies address number of hours per year, frequency of training, content, and criteria to choose other training provided by sources outside the North Carolina Family Court system.

10. Collaborative Local Family Court Advisory Committees provide an opportunity for community and court partners to work together on visionary planning. They also serve as an all-important venue for stakeholders to bring their concerns to the attention of Family Court as well as to suggest strategies for negotiating these and any other issues the Court may bring to their attention. Most advisory committees meet two to four times a year for at least the first several years of Family Court. Membership often includes representatives from the Clerk of Court, the domestic and juvenile bar, Department of Social Services and their counsel, Juvenile Justice, Guardian ad Litem, health department, schools, law enforcement, service providers, community college and/or college and law school faculty, and the faith community.

SECTION V. CONCLUSION

Family Court is a vibrant, complex, and rewarding process. In addition to the best practices described in this document, the success of the Family Court model in North Carolina can be attributed to the following:

1. the vision of the Futures Commission;
2. the commitment and broad base of knowledge and experience that constitutes the membership of the Advisory Committee;
3. the collaborative nature of Family Courts;
4. the methods tested over seven years of daily trial and error in the real world of local courthouses; and
5. the dedication of the staff and judges.

Despite the huge cultural shift required for both the courts and its stakeholders, Family Court is now accepted as a better way of doing business for families and as the direction courts should take in the future. As of this writing, more than half of the State's forty-one (41) districts either have implemented Family Court (11 districts) or have requested funding for Family Court implementation (12 districts). This active interest in Family Court is a testimonial to the support for and expected growth of family-focused courts in North Carolina.

APPENDIX A

Family Court Advisory Committee Recommendations: 2000-2001

Family Court Advisory Committee Recommendations: 2000-2001

- The minimum staffing level for each Family Court district should be:
1 Family Court Administrator
1 Case Manager for every judge who spends at least 75% of time in
Family Court (September 15, 2000)
- Family Court training should consist of three basic types, in the following proportions:
(1) training on substantive law (20%)
(2) training on social issues, like child development and substance abuse
(40%)
(3) training on more global areas, like leadership, team building & managing
change (40%)
(No consensus was reached on Family Court certification.)
(October 27, 2000)
- Mandatory cases to include in any Family Court =
Abuse/neglect/dependency
Termination of parental rights
Delinquent/undisciplined juveniles
Adoption
Child custody/support
Paternity
Divorce/annulment
Equitable distribution
Post separation support/alimony
Domestic violence civil protective orders
Emancipation
Abortion waivers
Adult protective services
Mental health commitments

The Committee also agreed that child support enforcement should be heard by a Family Court Judge, but individual assignment of these cases would not be required.

The Committee agreed that it is logistically impossible to require the inclusion of criminal domestic violence in all family courts. However, the case managers need to know about existing criminal DV issues to provide the best treatment services to the family.

The Committee agreed that other family-initiated criminal cases should be not be part of Family Court.

A motion was passed to endorse the concept of a child support “hearing officer”, preferably an attorney, to hear child support enforcement cases.

(December 15, 2000)

- Training requirements for Family Court judges and staff:
Offer quarterly trainings of six hours minimum, with staff and judges required to attend two of these. The total of 24 hours would be part of the mandatory 30 hours every two years of CJE.
Use the summer and fall judges' conferences as two of the annual training sessions.
Each year there should be one mandatory session designed just for staff.
(March 16, 2001)
- The Committee has significant concerns about the legality and cost of the child support arbitration experiment in the 20th District, and recommends that this Family Court explore other ADR methods for child support enforcement. The Committee chose not to recommend continuation of this program to AC but referred this decision back to the AOC to determine if the AOC can continue to pay for this program under the circumstances.
- The Committee recommends that the Supreme Court revisit Rule 3 of the General Rules of Practice, and consider revising that rule to place Family Court at a higher priority.
- The Committee asked the Chair to send a letter to Tye Hunter and the members of the Indigent Defense Commission, to share the Family Court Advisory Committee's objections to public defenders determining indigent representation in non-criminal cases including juvenile and civil contempt, areas in which they have no legal expertise or understanding.
- Regarding assistance to litigants without lawyers, the Committee recommends that Family Courts be encouraged
 - 1) to develop community means to assist pro se litigants,
 - 2) to have a (simple) divorce packet available,
 - 3) to provide information to litigants about court processes and procedures, after they access the system,
 - 4) to compile a list of local attorneys, with descriptions of their law practice, and
 - 5) to prepare a legal glossary for pro se litigants.
 Additionally, in training for expansion Family Courts, each district should be given a list of things that current sites are doing to assist litigants who do not hire an attorney.

(June 1, 2001)

APPENDIX B
FAMILY COURT TRAINING GUIDELINES

FAMILY COURT TRAINING GUIDELINES

Rule II (C) of the North Carolina Rules of Continuing Judicial Education was amended effective February 2004 to include the following language:

“For District Court Judges designated as Family Court Judges, at least twenty-four (24) of the thirty (30) hours shall be continuing judicial education courses designed especially for Family Court.”

Of these twenty-four (24) Family Court hours, up to six (6) hours may be from a program not sponsored by the court system. Those six (6) hours may be selected from the many opportunities sponsored by the North Carolina Bar Association, the School of Government, and other entities such as The Judicial College or The National Council of Juvenile and Family Court Judges.

The recommendation of the Family Court Advisory Committee, adopted by the Chief Justice of the North Carolina Supreme Court in October, 2000, is that these Family Court hours be divided as follows: 20% should address substantive law; 40% should address other issues such as leadership, customer service and team building. The Advisory Committee also strongly encourages Family Court judges to frequently attend training sessions with judges and staff from other North Carolina Family Court districts because such interaction is vital to the successful development of the family court program.

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07/06 rev

APPENDIX C

PRE-IMPLEMENTATION STRATEGIES FOR FAMILY COURT PRINCIPLES

PRE-IMPLEMENTATION STRATEGIES FOR FAMILY COURT PRINCIPLES

As Drafted by the Family Court Advisory Committee
(Revised 6/05)

Must have programs

- a. Custody Mediation
- b. Parent Education - can be added to Custody Mediation Orientation
- c. Family Financial Mediation (ED and Alimony)

Other Strategies

- a. Review Local Rules
 - Limited time for temporary hearings
 - Use of affidavits in lieu of live testimony in temporary hearings
 - Exchange of juvenile reports prior to day of hearing
 - Confidentiality and sharing of information
- b. Encourage local bar to utilize mediation where resources are available
 - Including Family Law Arbitration
 - Including Collaborative Law
- c. Involve Bar and other key stakeholders in planning
 - Develop local steering committee for juvenile and domestic courts
 - Round table discussions
 - Develop focus groups including bar, agencies and community to review various topics and areas of courts
- d. Provide CLE opportunities on the local level - Lunch and Learn programs
- e. Provide programs for legal assistants on local rules and procedures
- f. Create a Children's Waiting Room
- g. Develop Children's Group during Custody Mediation Orientation
- h. Case Management without additional staff
 - Review of cases (clean out deadwood)
 - One judge/one family
 - Email court calendars (function of CaseWise)
 - Split general civil and domestic calendars
 - Implement CaseWise/ J Wise
 - Combine Civil and Criminal domestic violence
- i. Juvenile
 - Assign one judge to all cases in 1 county (multi-county districts) or

one judge to juvenile court (single county district) for set period of time

Assign cases to specific judges

j. Technical Assistance - request assistance from AOC to review how courts currently scheduled and how to improve scheduling

k. Use of interns and /or volunteers

Review status of cases

Compile list of programs in county (directory of existing community resources/services)

Relieve judicial assistant of clerical functions

l. Marketing and Funding

Local and state grants, even for small grants such as equipment

Court Improvement Project grants

Partner with other agencies to seek additional community resources

m. Develop Community Awareness

Speaking to civic groups

Legal column in local paper

TV show

Radio interviews

n. Pro Se Services

Rev. 6/05

APPENDIX D
FAMILY COURT TIME STANDARDS

FAMILY COURT TIME STANDARDS

Originally Adopted: September 1999

Amended by the Family Court Advisory Committee: March 2001,
Amended by the Family Court Advisory Committee:
December 2005 Domestic and Juvenile Delinquency/Undisciplined
March 2006 Juvenile Abuse/Neglect/Dependency

1. **Domestic Cases:**

- Unless otherwise specified, “days” are calendar days.
- These time frames represent **maximum** time limits that are “goals.”
- All orders should be filed within 15 days following the conclusion of a hearing. A judge may allow additional time to file an order in complex cases but all orders must be filed within 30 days following the hearing.

For (Permanent) Alimony and Equitable Distribution Matters:

<u>Event:</u>	<u>Time from Filing of Complaint:</u>
a. First Status Conference	120 days
b. Completion of ADR*	210 days
c. Final Pretrial Conference	240 days
d. Start of Trial	270 days
e. Order Entered:	
(1) in 90% of cases	Within 270 days
(2) in 100% of cases	Within 365 days

*Completion of mediation session(s) – not when report is filed

Child Support:

<u>Event:</u>	<u>Time from Filing of Complaint:</u>
a. <u>Temporary</u> orders entered, if requested by one or both parties and do not involve paternity determinations:	
a. in 90% of cases	Within 30 days
b. in 100% of cases	Within 45 days
b. <u>Permanent</u> orders entered:	
a. in 75% of cases	Within 90 days
b. in 90% of cases	Within 180 days
c. in 100% of cases	Within 270 days

Post-Separation Support:

<u>Event:</u>	<u>Time from Filing of Complaint:</u>
Orders entered:	
(1) in 75% of cases	Within 60 days
(2) in 100% of cases	Within 90 days

Child Custody:

<u>Event:</u>	<u>Time from Filing of Complaint:</u>
a. <u>Temporary Orders Entered</u> , if requested by one or both parties:	
(1) in 90% of cases	Within 30 days
(2) in 100% of cases	Within 45 days
b. Mediation Orientation Session Scheduled (in 100% of cases)	Within 45 days
c. Mediation Sessions(s) Completed:	
(1) in 90% of cases	Within 90 days
(2) in 98% of cases	Within 120 days
(3) in 100% of cases	Within 150 days
d. Orders Entered:	
(1) in 90% of cases	Within 150 days
(2) in 100% of cases	Within 180 days

2. Juvenile Delinquency/Undisciplined Cases:

- Unless otherwise specified, “days” are calendar days and are counted from the date the petition is served on the juvenile.
- These time frames represent maximum time limits that are “goals.” All orders should be entered within 15 days following the conclusion of a hearing. A judge may allow additional time to file an order in complex cases but all orders must be filed within 30 days following the hearing.

<u>Event:</u>	<u>Time from Service on Juvenile:</u>
a. Adjudicatory Order Entered for Misdemeanor Charges:	
(1) in 90% of cases	Within 60 days
(2) in 100% of cases	Within 90 days
b. Adjudicatory Order Entered for F - I Felony Charges:	
(1) in 70% of cases	Within 60 days
(2) in 90% of cases	Within 90 days
(3) in 100% of cases	Within 120 days
c. Adjudicatory Order Entered for A - E Felony Charges	
(1) in 70% of cases	Within 120 days
(2) in 90% of cases	Within 150 days
(3) in 100% of cases	Within 180 days
d. Dispositional Order Entered	
(1) in 95% of cases	Within 30 days of adjudication
(2) in 100% of cases	Within 60 days of adjudication

3. **Juvenile Abuse/Neglect/Dependency Cases:**

- Unless otherwise noted, “Days” are calendar days and are counted from the date the petition is filed.
- Not all of the stages listed below will occur in every case; e.g., the child may not be taken into nonsecure custody or the petition may be dismissed.
- These time frames represent **maximum** time limits that are “goals.” In every case, the child’s best interest is the paramount goal.
- These time frames are intended to be consistent with the Federal Adoption and Safe Families Act provisions and North Carolina statutory provisions.
- All orders should be filed within 15 days following the conclusion of a hearing. A judge may allow additional time to file an order in complex cases but all orders must be filed within 30 days following the hearing.

<u>Event:</u>	<u>Time from Filing of Petition:</u>
a. Nonsecure Custody Order Entered	Same day petition is filed
b. First Nonsecure Custody Hearing	7 days(second nonsecure custody hearing no more than 7 business days after first; subsequent nonsecure custody hearings at intervals of no more than 30 days)
c. Adjudication Hearing Completed (1) in 100% of cases	60 days
d. Disposition Hearing Completed (1) in 100% of cases	90 days
e. First Placement Review Hearing Completed	150 days
f. First Permanency Planning Hearing Completed	330 days
g. Reunification (1) in 75% of cases (2) in 100% of cases	330 days 510 days
h. Implementation of Other Permanent Plan (1) in 90% of cases (2) in 100% of cases	330 days 365 days
i. Termination of Parental Rights (TPR)	

(1) in 100% of cases	TPR petition/motion filed within 390 days
j. TPR Hearing Completed	
(1) in 90% of cases	90 days from filing of TPR petition
(2) in 100% of cases	180 days from filing of TPR petition

4. All Family Court Cases:

All orders should be filed within **15 days** following the conclusion of a hearing. A judge may allow additional time to file an order following a hearing concerning equitable distribution, abuse and neglect, or termination of parental rights, but in no event shall an order be entered later than **30 days** following the hearing.

APPENDIX E
EVALUATION OF FAMILY COURT PILOTS

Evaluation of Family Court Pilots (March 2003)

Goals:

1. To assure the assignment of one family to one judge or judge team.

Measure: Development of an individual case assignment system
 (rather than using a master calendaring plan)
 List all exceptions to assignment, by issue type
 (e.g., uncontested divorces, emergency matters)
 Number of “cross-over cases” (i.e., number of cases involving a
 juvenile file and a domestic file for the same family)
 Reduction in number of judges hearing one family’s case(s),
 especially in juvenile matters

2. To increase judicial expertise by providing specialized training and continuing education for family court judges and staff.

Measure: Development of core training topics for all new Family Court
 judges and staff, as adopted and monitored by the Family Court
 Advisory Committee
 Number of training sessions held and attended by family court
 judges and family court staff
 Topics covered
 Number of hours of training and whether judges and staff meet the
 minimum Family Court training hours set by the Family Court
 Advisory Committee

3. To improve case management of the family court cases, in order to provide prompt resolution of issues/conflicts.

Measure: Impact of additional staff/court resources;
 proactive court scheduling and monitoring of interim
 activity in the case
 Frequency with which the time standards are met
 [Note: the Futures Commission goal =
 all cases disposed within one year of filing]
 Percent of cases on a calendar that are resolved, continued, or not
 reached (calendar productivity measure)
 Percent of cases resolved without a court hearing

4. To maximize the use of non-trial intervention, or Alternative Dispute Resolution (ADR) programs.

Measure: Number of issues sent to ADR, by program type
 especially child custody mediation and family financial
 mediation)

Number of issues resolved at ADR stage
Length of time from filing to disposition of custody and equitable distribution issues
Comparison of mediated cases versus non-mediated/tried cases

5. To maximize the use, and availability, of community resources

Measure: Available services now versus services available before Family Court implementation
New programs developed (especially establishment of truancy courts and family or youth drug treatment courts)
Development of community outreach programs that educate the public about Family Court and facilitate the development of prevention programs (like parenting classes, sexual abuse prevention workshops, alcohol/drug addiction programs)

6. To protect those at risk, such as adult or juvenile victims of abuse, and to prevent future harm.

Measure: Qualitative descriptions of protective efforts and services provided for these persons
Development of special domestic violence prevention measures
Use of child planning (or “Day One”) conferences

7. To provide the services from Family Court to everyone, regardless of their ability to pay for such services.

Measure: Description of procedures allowing all families, if needed, to access services for free, or at a reduced fee
Development of rules/procedures/policies that make the system more user-friendly for litigants so all have easier access to the court system (examples = development of pro se forms and explanatory pamphlets)

8. To improve and expand the use of technology

Measure: Developing and improving current case tracking/reporting systems, like CaseWise and J Wise, including conversion of such programs to a browser basis

9. To provide civil, courteous service to all persons using the Family Court

Measure: Surveys of litigants, attorneys, court staff, and service providers
Training provided for judges and court staff

10. To improve the quality of justice provided to families

Measure: Anecdotal information from participants
Survey of attorneys to see if number of contested hearings is reduced

APPENDIX F

JUVENILE COURT CASE FLOW MANAGEMENT PLAN

**Juvenile Court
Case Flow Management Plan
Report to the General Assembly
1997**

Introduction.

Article 41 of Chapter 7A defines the purpose of the juvenile code. In Section 7A-516, the statute says that the subchapter shall be interpreted and construed so as to implement the following purposes and policies:

1. To divert juvenile offenders from the juvenile system through the intake services authorized herein so that juvenile may remain in their own homes and may be treated through community-based services when this approach is consistent with the protection of public safety;
2. To provide procedures for the hearing of juvenile cases that assure fairness and equity and that protect the constitutional rights of juveniles and parents;
3. To develop a disposition in each juvenile case that reflects consideration of the facts, the needs and limitations of the child, the strengths and weaknesses of the family and the protection of the public safety;
4. To provide for services for the protection of juveniles by means that respect the right to family autonomy and juveniles' needs for safety, continuity and permanence; and
5. To provide standards for the removal, when necessary, of juveniles from their homes and for the return of juveniles to their homes consistent with preventing the unnecessary or inappropriate separation of juveniles from their family.

Juvenile Court is different from any other court within our judicial system. Our code puts the burden on judges to be more than mere arbiters of facts, legal conclusions and rules. It demands that the judges protect the best interest of the child. Our judges must seek information, not merely rely on attorneys to bring it forth. Our court must ensure that these cases move smoothly and quickly and that each child's case has the time it needs to ensure that the statutorily mandated task assigned to the court is fulfilled. For an abused and neglected child, our courts are his or her protection. It has the power to order safety as well as services. For our delinquent and undisciplined children, our courts must see that the child is properly afforded the opportunity for rehabilitation for our juvenile courts are not defined as courts of punishment but courts of habilitation and correction.

The numbers of children who enter our juvenile courts are staggering. The Division of Juvenile Services reported 30,347 children went through the juvenile intake process in 1995-96. The Supervision and Probation Services Section's caseload numbered 17,230 children. Of this number, 965 juveniles were sent to training school. In North Carolina there were more than 100,000 children reported as abused, neglected or dependent in 1995. Of those reports over 30,000 children were substantiated as abused, neglected or dependent.

According to the state's Guardian ad Litem program, nearly 10,000 petitions for such hearings were filed in 1995. Of those petitions filed, between 75 and 85 percent were retained by the court. The state's *Guardian ad Litem* (GAL) program represented more than 17,000 children in 1996. GAL program representatives participated in 30,775 hearings and an additional 9,000 scheduled hearings in abuse, neglect or dependency cases that had been continued. Every continuance means that a child's placement remained in limbo.

The juvenile court system in North Carolina is a good system. However, it needs a boost by way of more community resources and increased authority over juveniles and their parents. The goal of a case management plan for juvenile court is to put the courts in the best position to ensure the safety of children in this State, and to give them the best possible chance of living in stable permanent families. We must stop continuances except when it serves the child's best interest. Participants must come to court prepared to meet each statutory obligation. Judges must be trained to understand the special needs and requirements of children. Community resources must be brought within the court network. Parents must be accountable for their children. We must all work together. With these goals in mind, we urge that the court adopt the plan proposed below as one means of strengthening North Carolina's juvenile court.

I. Undisciplined and Delinquent Juvenile Cases

Goal: To better serve undisciplined and delinquent juveniles and their families by (a) providing expedient and effective court processing, (b) accessing available community resources, and (c) requiring parental involvement

Methods to achieve goal

1. A juvenile court system that responds swiftly and fairly to juveniles. Cases too frequently are continued. Judges should develop and adhere to a strict continuance policy.
2. Court officials should establish case processing timeframes to assure cases are being moved diligently and decisively toward completion.
3. Attorneys representing juvenile offenders should have a good working knowledge of juvenile law and juvenile court procedures and should be prepared at the first hearing. They should be organized, able to do the research, and able to gather information needed to defend their client well. Attorneys need to be aware that juvenile cases need to be managed differently from adult cases. Juvenile cases do not need to be handled like criminal matters.
4. Courts should use every appropriate local resource before removing a child from his or her community.
5. A juvenile court system that works for the juvenile even as the juvenile remains in secure custody.

Court Case Process: Optimum timeframes

Appointment of Counsel. To reduce frequency of case continuances, appoint an attorney for the juvenile and issue a subpoena for parents/legal custodians within 48 working hours of the petition being filed. When possible, assure that the juvenile summons has the appointed attorney's name, address, and telephone number so the juvenile is aware of how to contact the attorney.

Secure Custody Hearings. Secure custody hearings should be held as quickly as possible and under no circumstances longer than the current statute (5 or 7 days). Steps should be taken to insure that appropriate consent forms are signed and evaluations begun while the juvenile is in secure custody.

Adjudication Hearings. Schedule the initial adjudication/probable cause hearing no later than 30 days from the date of the filing of the petition. Judges should have discretion to continue this date; however, all hearing should be completed based on the timeframe outlined below.

Disposition Hearings. Hold dispositional hearings on the same day as the adjudication hearings. Exceptions: contested cases or for very good cause shown. Judges may allow continuances based on the timeframe outlined above.

By adhering to the above, cases should flow more efficiently through juvenile court and the following results should be obtained:

<i>Undisciplined</i>	100% within 30 days
<i>Delinquent</i>	
<i>Misdemeanor</i>	95% within 60 days 100% within 90 days
<i>Felonies</i>	90% within 60 days 95% within 90 days 100% within 120 days

Other promising strategies to improve case flow management of juvenile court cases

1. Pass legislation giving the court authority to involve parents in the judicial proceedings of their children.
2. Pass legislation to allow juvenile court judges to use a range of model strategies, including the use of non-training school alternative commitments.
3. Require parents to be more accountable for their children. Example: When a complaint is filed against a juvenile, require the parents and the juvenile to appear for the intake process.
4. Use non-DSS family preservation programs.
5. Use managed care facilities to administer psychological examinations. In many areas it may take months to obtain completed juvenile psychological examinations and this causes a delay in the adjudication and/or disposition of the case.
6. Encourage and facilitate the development of more multi-purpose group homes.

7. Encourage and facilitate the development of effective sexual offender's treatment centers at the regional or local level.

II. Child Protection (abuse, neglect, and dependency) Cases

Goal: Child abuse, neglect, and dependency cases shall be given priority in the court system. There shall be timely and appropriate adjudication and disposition of cases that are in the child's best interests and provide for the child's safety and permanent placement while protecting the rights of all parties.

Methods to achieve goal

1. Always consider time from the child's perspective (including cultural norms).
2. Juvenile court shall be the priority court.
3. Judges should appoint attorneys who are trained in (a) child welfare issues, (b) juvenile law, and (c) and protecting the rights of their clients.
4. Establish timeframes and follow them for processing cases.
5. Develop, implement and disseminate procedures that comply with existing law for sharing information among agencies engaged in providing care and services to the juvenile and his or her family.
6. Identify stages of the case and the time within which they should occur.
7. Have active community support and participation in cases without infringing on the confidentiality of the child.
8. Develop and implement a plan to uniformly carry out state and federal confidentiality regulations.
9. Have orders prepared promptly. Provide parents with orders (minimum standard -- issue hand written orders; ideal -- issue typed/computer generated orders) by the end of the initial non-secure hearing to ensure parents have clear written instructions on corrective actions to be followed/taken to have custody of their child/children returned.
10. Have lists of district court judges' activities similar to lists for federal judges tracking case disposal within specified time frames.

Court Case Process: Optimum time frames

Appointment of counsel. There should be a presumption of indigency of parent(s) or caretaker(s). Counsel should be appointed when the order to assume custody is signed. The determination of indigency should be made at the end of the initial non-secure hearing. If the parent or caretaker is found not to be indigent, then they should be ordered by the court to be responsible for paying for services rendered prior to that point by the temporarily appointed counsel.

Notice of Hearing. The social worker and/or other personnel (i.e., sheriff) will provide notice of the non-secure custody hearing at the time of removal of the child.

Initial Non-Secure Custody (NSC) Hearing. The initial NSC hearing should be conducted within 72 hours of filing of the petition (current state statute allows for 7 days).¹⁰ Parents shall be officially served with a copy of the petition during this hearing.

NSC Review. The first NSC review should be conducted within seven (7) days of the initial NSC hearing (10 days after filing of the petition).

NSC Review. The next NSC review should be conducted within twenty (20) days of the initial NSC hearing (30 days after filing of the petition).

Pre-trial Conference. A pre-trial conference should be conducted ten (10) days prior to adjudication (50 days after filing of the petition).

Adjudication. The adjudication (or trial) should be conducted within two months of filing of the petition (60th day after filing of the petition).

Disposition. The trial or adjudication should proceed to the disposition hearing on the same day.

Periodic Case Reviews.

The *first permanency planning review hearing* should be conducted within ninety (90) days after disposition (150 days after filing of the petition).

A *pre-trial conference* should be held ten (10) days before the permanency planning review hearing (320 days after filing of the petition).

The *second permanency planning review hearing*¹¹ should be conducted by the 330th day after filing of the petition. (The state statute allows for one (1) year from the last review.) This hearing shall determine whether the case will either lead to reunification or the filing of a TPR petition.

Termination of Parental Rights (TPR) Hearings.

TPR petition filed. It is desired to have in place internal regulations requiring the DSS to file all TPRs within sixty (60) days after the permanency planning review hearing that establishes the need for such a petition to be filed.

¹⁰ It is recommended that handwritten court orders should be distributed at the end of the initial non-secure hearing. Afterwards all orders must be prepared within 10 days of any hearing.

¹¹ The Judge hearing the case has the discretion to set the next review date at the end of any hearing. This action is based on information received from any party to the case that the Judge determines necessitates more frequent court time, but will be no later than the time allowed by the state statute. Language of “no later than” should be included in all orders so as to leave no options open by any motions.

TPR adjudication and disposition hearings. Should be held within sixty (60) days from the date of service on all parties. (This includes service in person and service by publication.)

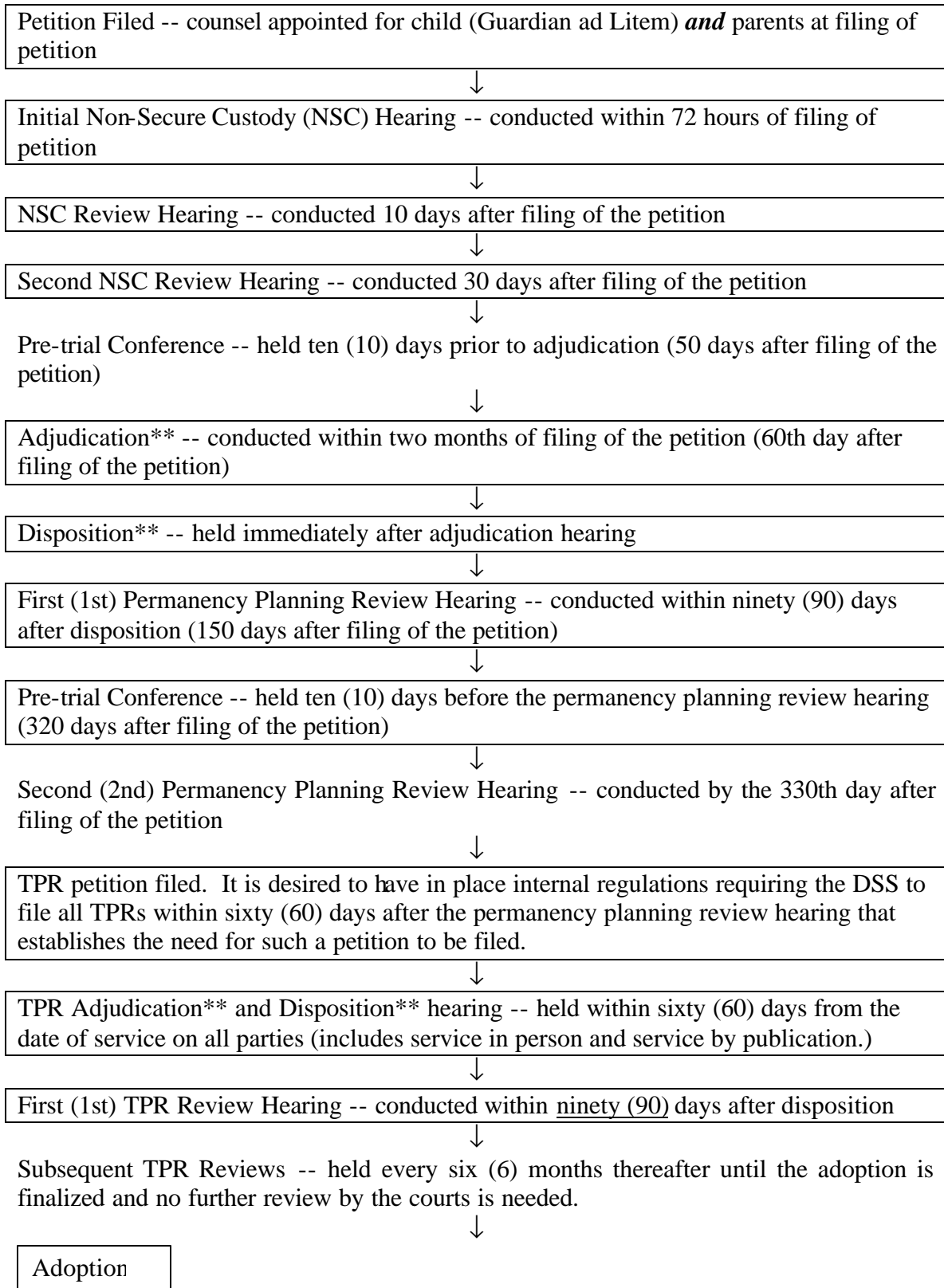
First (1st) TPR review hearing. The first TPR review hearing should be conducted within ninety (90) days after disposition.

Subsequent TPR reviews. Subsequent reviews are to be held every six (6) months thereafter until the adoption is finalized and no further review by the courts is needed.

Ideal percentages for compliance, per the Supreme Court directive for case flow management, are as follows: 75 percent compliance at the ideals listed above, 100 percent compliance by statutory deadline. Exceptions:

Adjudications	60 days (75% compliance)
	90 days (100 % compliance)
TPRs	60 days after service (75% compliance)
	90 days after service (90% compliance)
	120 days after service (100% compliance)

Juvenile Court Case Flowchart – Abuse, Neglect, and Dependency Cases



Note: ** Denotes mandatory pre-trial conference