

DOMESTIC RELATIONS

GENERAL

Gender Recommendation VI-1: Educational programs should train judges and lawyers to recognize the unfairness which can result from gender-based stereotypes in the domestic relations area. These training programs should emphasize the special importance of domestic relations litigation to the parties involved and to society. Such programs should explore fully the economic realities facing women after divorce.

Summary of condition prompting 1989 recommendation:

The 1989 Task Force found that the divorce process is strongly embedded in tradition and stereotypical attitudes. Women are seen as the nurturers and caretakers. A woman's influence is in the home while the man is the breadwinner and protector. Women are seen as naturally qualified to be the custodial parent and men are not. Fundamental attitudes about men and women, divorce and the role of judges and lawyers contribute to gender disparity in domestic relations cases. The resolution of economic issues is often premised on misconceptions about the economic consequences of divorce for women.

Research Methodology in 1997:

Questionnaire to Institute of Continuing Legal Education

Questionnaire to Michigan Judicial Institute

Written commentaries from practitioners in family law

Status of the implementation of the recommendation in 1997:

The Michigan Judicial Institute has incorporated into its courses education regarding stereotypes. It has made this training part of the New Judges Seminars in the segments covering domestic relations and gender bias. In December 1989, an article entitled "The Economic Consequences of Divorce for Women and Children" was published in COLLEAGUE, a Michigan Judicial Institute publication. Dennis Catalan, former director of the Michigan Judicial Institute, said in a 1997 letter that "when the Task Forces' recommendations were issued, the Michigan Judicial Institute decided that the only way to implement the many recommendations related to training and education was to integrate them throughout the Institute's programming. This means that instead of offering one-shot programs on race/ethnic and gender bias, we wanted to institutionalize the inclusion of curriculum addressing these issues in all aspect of our programming." Diversity training has also been instituted for court personnel. In 1991 the Michigan Judicial Institute received a grant for the course "Humanities and the Humane Courts Seminar" for judges and court administrators which addressed race, class, and gender issues. In 1992 and 1994 other courses on diversity were offered to court personnel.

Recommended Action:

This recommendation has been partially implemented. Further implementation requires the continuation and enhancement of the education of both lawyers and judges in the following manner:

- In accordance with the State Bar recommendation on MCLE, a system of mandatory legal education in the area of family law should be developed for judges and attorneys.
- The Michigan Judicial Institute and the Institute of Continuing Legal Education should offer courses in family law for attorneys/judges that include components regarding race, ethnic and gender issues, which are incorporated throughout the materials. Also components of the Michigan Judicial Institute regional seminars should be opened to the attorneys and should be focused on family law (incorporating race, ethnic and gender issues).
- Until a statewide mandatory continuing legal education standard is adopted, each Circuit Court - Family Division should adopt minimum continuing legal education standards for appointment in that jurisdiction. Any attorney appointments out of the family division should be given only to attorneys who have complied with these requirements. Referrals from bar associations regarding family matters should be consistent with these requirements.

DOMESTIC RELATIONS

GENERAL

Gender Recommendation VI-2: Mechanisms should be created within the system which will assist a financially disadvantaged party in bearing the expenses of litigation.

Summary of condition prompting 1989 recommendation:

The financially weaker spouse is frequently not awarded any fees or costs to assist in the preparation of the divorce case. This spouse also frequently knows little of the financial assets of the parties and does not have the money to have the assets evaluated. This gives a strong advantage to the other side. The frequent delay in setting trial dates places an additional burden on the financially weaker spouse. These conditions may force the spouse to accept a settlement that is not in his or her best interest.

Research Methodology in 1997:

Friend of the Court Questionnaires

Circuit Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Focus Group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

Nothing has been done to implement this Recommendation.

Recommended Action:

This recommendation has not been implemented. The 1989 Task Force recommendation should be implemented as written. In addition, the State Bar of Michigan Task Force recommends:

- Judges should be mandated by Court Rule to give priority to motions for attorney fees. A form should be developed to allow pro se litigants to seek attorney fees to allow the retention of a lawyer.

GENERAL

Gender Recommendation VI-3: The Michigan bar examination should include a domestic relations component. Law schools in Michigan should be encouraged to include information concerning not only the substantive law of domestic relations but also its economic and social consequences for men, women and children.

Summary of condition prompting 1989 recommendation:

The 1989 Task Force found that the status and importance of domestic relations cases are not uniformly established in the minds of some judges and attorneys. The resolution of economic issue was often premised on misconceptions about economic consequences of divorce for women. In a 1987 study on the status of women in Michigan, University of Michigan sociologist, Dr. Rosemary Sarri reported that women in Michigan, in unprecedented numbers, were rearing children alone. They did so with inadequate or no child support, earning little more than half what men earn. At that time, women and children constituted seventy percent (70%) of Michigan's poor.

Research Methodology in 1997:

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

The bar examination still does not include a component on family law, though the topic is under discussion. The inclusion would require a court rule change. Currently none of the Michigan law schools have mandatory family law courses.

In commentary to the Task Force, the Board of Law Examiners in the very near future will formally request the Michigan Supreme Court to include domestic relations on the list of topics upon which applicants can expect to be questioned on the essay portion of the Michigan bar examination."

Recommended Action:

This recommendation has been partially implemented. The 1989 Task Force recommendation should be implemented as written. In addition, the State Bar of Michigan Task Force recommends:

- The Board of Law Examiners should request that the Michigan Supreme Court include a family law component on the bar examination.
- Law schools should be encouraged to mandate a family law course.

DOMESTIC RELATIONS

GENERAL

Gender Recommendation VI-4: Domestic relations should be recognized by the judicial system and the practicing bar as a vital area of practice affecting a large number of litigants which requires expertise in substantive law and procedure and awareness of the psychological factors experienced by people in divorce.

Summary of condition prompting 1989 recommendation:

The 1989 Task Force found that the status and importance of domestic relations cases are not uniformly established in the minds of some judges and attorneys. The resolution of economic issue was often premised on misconceptions about economic consequences of divorce for women. In a 1987 study on the status of women in Michigan, University of Michigan sociologist, Dr. Rosemary Sarri reported that women in Michigan, in unprecedented numbers, were rearing children alone. They did so with inadequate or no child support, earning little more than half what men earn. At that time, women and children constituted seventy percent (70%) of Michigan's poor.

In addition, the domestic relations cases in Michigan comprise a major part of the docket. Yet many statements were made to the 1989 Task Force about the inadequate funding and low priority afforded these cases by the system. Finally, members of the 1989 Task Force attending public hearings, were struck by the confusion and misinformation shown by men and women participating in divorce proceedings.

Research Methodology in 1997:

Focus Group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

Current legislation has established a Family Law Division of Circuit Court. This will be effective January 1, 1998. Basically all domestic relations cases will go to the Family Division. The legislators feel this will give greater importance to the family cases. It is hoped that this system will allow more time for domestic disputes and allow the judges to develop expertise in this area.

Recommended Action:

This recommendation has been partially implemented. Further implementation requires:

- Monitor impact of family court creation.
- In accordance with the State Bar recommendation on MCLE, a system of mandatory legal education in the area of family law should be developed for judges and attorneys.

- The Michigan Judicial Institute and the Institute of Continuing Legal Education should offer courses in family law for attorneys/judges that include components regarding race, ethnic and gender issues, which are incorporated throughout the materials. Also components of the Michigan Judicial Institute regional seminars should be opened to the attorneys and should be focused on family law (incorporating race, ethnic and gender issues).
- Until a statewide mandatory continuing legal education standard is adopted, each Circuit Court - Family Division should adopt minimum continuing legal education standards for appointment in that jurisdiction. Any attorney appointments out of the family division should be given only to attorneys who have complied with these requirements. Referrals from bar associations regarding family matters should be consistent with these requirements.

DOMESTIC RELATIONS

ALIMONY

Gender Recommendation VI-5: The Supreme Court should establish a Task Force to develop statewide guidelines for alimony awards.

Summary of condition prompting 1989 recommendation:

The 1989 Task Force concluded that the economic impact of divorce is very different for men than it is for women. Women experience a significant decrease in their standard of living after divorce.

Concerns about alimony include the infrequency of awards and the reluctance of some judges to award permanent alimony. Some judges feel that the Child Support Guidelines impose the upper limits of financial contribution of a supporting spouse. Also, many judges make erroneous assumptions about a woman's ability to survive economically after a divorce. Some assumptions are that women will enter the workforce and be in parity with their male counterparts; alimony creates a negative dependency; and, the woman will be remarried and be supported by someone else.

Research Methodology in 1997:

Friend of the Court Questionnaires

Circuit Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Focus Group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

There are no statewide guidelines for alimony and no apparent plans for them. It was reported in the focus group that some judges use the Washtenaw County guidelines and attorneys use them for the sake of argument. All seemed to agree that there are still glitches in using the alimony guidelines.

Recommended Action:

This recommendation has not been implemented. The 1989 Task Force recommendation should be implemented as written. In addition, the State Bar of Michigan Task Force recommends:

- The Supreme Court should establish a task force to develop alimony guidelines and refer the matter to the Representative Assembly for policy consideration.

ALIMONY

Gender Recommendation VI-6: The Supreme Court should adopt rules and procedures to foster prompt enforcement of alimony awards.

Summary of condition prompting 1989 recommendation:

The U.S. Census Bureau showed that in 1985 only forty-five percent (45%) of the women who were awarded alimony actually received the full payment due and twenty-seven percent (27%) received no payment at all. Women who did not receive the allotted alimony often had to spend large sums on attorney fees to collect it.

Research Methodology in 1997:

Focus Group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

Improvement in this area came about by a change in legislation that provides for automatic wage assignment for payment of spousal support. The actual collection of arrearages remains problematic. Typically women suffer from a double loss. They not only lose the spousal support, they incur attorney fees in collecting it. The Supreme Court has not implemented any rule changes in this area.

Recommended Action:

This recommendation has been partially implemented by legislation. The 1989 Task Force recommendation should be implemented as written.

DOMESTIC RELATIONS

ALIMONY

Gender Recommendation VI-7: Judges should impose meaningful sanctions for failure to comply with alimony orders.

Summary of condition prompting 1989 recommendation:

The U.S. Census Bureau showed that in 1985 only forty-five percent (45%) of the women who were awarded alimony actually received the full payment due and twenty-seven percent (27%) received no payment at all. Women who did not receive the allotted alimony often had to spend large sums on attorney fees to collect it.

Research Methodology in 1997:

Friend of the Court Questionnaires

Circuit Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Focus Group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

The vast majority of the judges surveyed felt that judges are increasingly imposing more meaningful sanctions for failure to pay spousal support. Jail is the most frequent sanction.

Many of the attorneys who responded to this issue felt that the sanctions were not meaningful enough. One attorney suggested that *actual* attorney fees be imposed, not figures like \$250, when \$2,500 in fees have been incurred. A Kalamazoo County Friend of the Court staff attorney also made an interesting note regarding jail time. She said, "with jail overcrowding conditions, a 30 day incarceration order can result in a mere one week of actual jail time or less."

Recommended Action:

This recommendation has been partially implemented. Further implementation is required. The State Bar of Michigan Task Force recommends:

- Actual attorney fees should be awarded in addition to the jail time the judges are now imposing.

ALIMONY

Gender Recommendation VI-8: Judges and attorneys should be trained in the economic consequences of divorce for men and women.**Summary of condition prompting 1989 recommendation:**

The U.S. Census Bureau showed that in 1985 only forty-five percent (45%) of the women who were awarded alimony actually received the full payment due and twenty-seven percent (27%) received no payment at all. Women who did not receive the allotted alimony often had to spend large sums on attorney fees to collect it.

Research Methodology in 1997:

Friend of the Court Questionnaires

Circuit Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Focus Group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

Approximately 1/3 of the judges surveyed indicated that they attended domestic relations training in the last three years which included components about the economic consequences of divorce for men and women, and approximately eighty percent (80%) indicated they always consider these consequences when they distribute an estate. Additionally, the Michigan Judicial Institute committed in 1990 to include this subject in future continuing legal education seminars for judges. The attorneys in the focus group, however, complained that the judges still did not understand the economics of divorce for women. This was seen in both the distribution of the marital estate and in the awarding of alimony.

Recommended Action:

This recommendation has been partially implemented. Further implementation requires:

- The education of judges and attorneys needs to continue in this area and it should be covered in more depth.
- In accordance with the State Bar recommendation on MCLE, a system of mandatory legal education in the area of family law should be developed for judges and attorneys.

- The Michigan Judicial Institute and the Institute of Continuing Legal Education should offer courses in family law for attorneys/judges that include components regarding race, ethnic and gender issues, which are incorporated throughout the materials. Also components of the Michigan Judicial Institute regional seminars should be opened to the attorneys and should be focused on family law (incorporating race, ethnic and gender issues).
- Until a statewide mandatory continuing legal education standard is adopted, each Circuit Court - Family Division should adopt minimum continuing legal education standards for appointment in that jurisdiction. Any attorney appointments out of the family division should be given only to attorneys who have complied with these requirements. Referrals from bar associations regarding family matters should be consistent with these requirements.

PROPERTY

Gender Recommendation VI-9: Judges and lawyers should be educated about the value and relevance of non-monetary contributions to a marriage in dividing the marital estate. Evidence should be introduced to establish the extent and value of such contributions.

Summary of condition prompting 1989 recommendation:

Property division is discretionary with the judge and is to be “fair and equitable” by statute. This exercise of discretion is shaped by the judge’s beliefs and attitudes regarding such things as:

- view of marriage as an economic partnership;
- understanding the economic consequences to the parties resulting from the dissolution of the marriage;
- attitudes about the proper role of men and women and the value of women’s contributions to the marriage;
- recognition of the unequal bargaining position that women may have in the divorce process and its financial and emotional consequences; and
- consideration of the pension and value of the career.

Many women testified at the public hearings that courts did not consider the career of the major wage earner as the most valuable asset of the marriage.

Research Methodology in 1997:

Friend of the Court Questionnaires

Circuit Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Focus Group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

The majority of judges surveyed said they always consider the non-monetary contributions to a marriage when dividing the estate. However, less than one-third of the judges have received training in evaluating the non-monetary contributions. The Michigan Judicial Institute reports that the subject is covered in the New Judges Seminar in segments on domestic relations. Additionally IMPACT, the Michigan Judicial Institute's publication, consistently reports on cases involving the division of marital estates. Attorneys in anecdotal written information and in the focus group did not believe that most judges truly understand the value of the non-monetary contributions to a

marriage. Large marital estates particularly are not equally distributed. The Detroit Free Press on February 3, 1997, reported on the distribution in the *Wendt v Wendt* divorce in Connecticut where the husband is the CEO of GE Capital and worth as much as \$100 million. The wife recently turned down a \$10 million settlement offer arguing that her investment as a corporate wife entitled her to half of the family fortune. The reporter stated, "While a 50-50 settlement is common practice for ordinary people, American courts generally balk at awarding the wife half when an estate is worth more than \$10 million or \$15 million. The wife is awarded what she needs to live in the style to which the pair had become accustomed." She further goes on to talk about how nervous the corporate set are now that the wife has turned down the settlement. So perhaps Connecticut - before Michigan- will determine just what the nature of the marital partnership is. Michigan does have the *Hanaway v Hanaway*, 208 Mich App 278 (1995), decision which recognizes a homemaker's contribution to the marital partnership.

Commentary suggests that Hanaway has been eroded by subsequent decisions and recommends legislative action which presumptively gives parties each fifty percent of the marital estate.

Recommended Action:

This recommendation has been partially implemented. In addition, the State Bar of Michigan Task Force recommends:

- Education of the judges and attorneys in the value of the non-monetary contributions to the marital estate should be continued and enhanced with recognition that "true partnership" of marriage extends to the marital estate.
- In accordance with the State Bar recommendation on MCLE, a system of mandatory legal education in the area of family law should be developed for judges and attorneys.
- The Michigan Judicial Institute and the Institute of Continuing Legal Education should offer courses in family law for attorneys/judges that include components regarding race, ethnic and gender issues, which are incorporated throughout the materials. Also components of the Michigan Judicial Institute regional seminars should be opened to the attorneys and should be focused on family law (incorporating race, ethnic and gender issues).
- Until a statewide mandatory continuing legal education standard is adopted, each Circuit Court - Family Division should adopt minimum continuing legal education standards for appointment in that jurisdiction. Any attorney appointments out of the family division should be given only to attorneys who have complied with these requirements. Referrals from bar associations regarding family matters should be consistent with these requirements.

PROPERTY

Gender Recommendation VI-10: In accordance with appellate decisions, the value of a career to which both parties have made contributions should be included as a marital asset and appropriately distributed.

Summary of condition prompting 1989 recommendation:

Several witnesses advised in the 1989 public hearings that when assets are divided, courts do not regularly take into account the career of the wage-earning spouse as the single most valuable asset of the marriage. College degrees, apprenticeship training, skilled trade status, business acumen and career longevity and success are all contributors to the marketability and long term solvency of the husband. If this asset is factored out of the property decision, the wife is often left in a position where she is required to utilize her property distribution as a source of on-going support. The husband, however, can continue to utilize his career for his further advancement and to live on the wages he generates. To the extent the wife has postponed her own career in order to provide a home and family for her spouse while he develops his career, she is further denied an equitable share of the very asset she has helped create.

Research Methodology in 1997:

Circuit Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Focus Group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

The majority of the judges surveyed indicated that they always consider the value of the career and of a professional degree in determining and distributing the marital estate.

This recommendation has been implemented by virtue of case law. In *Hanaway v Hanaway*, 208 Mich App, 278(1995), the court recognized that the wife administered the household and cared for the children, thus enabling the husband to work long hours and build the business.

Recommended Action:

This recommendation has been implemented in theory, but may have only partial compliance in practice. In addition, the State Bar of Michigan Task Force recommends:

- Further education of judges and attorneys to teach the concept of “partnership” as it relates to marital assets.

- In accordance with the State Bar recommendation on MCLE, a system of mandatory legal education in the area of family law should be developed for judges and attorneys.
- The Michigan Judicial Institute and the Institute of Continuing Legal Education should offer courses in family law for attorneys/judges that include components regarding race, ethnic and gender issues, which are incorporated throughout the materials. Also components of the Michigan Judicial Institute regional seminars should be opened to the attorneys and should be focused on family law (incorporating race, ethnic and gender issues).
- Until a statewide mandatory continuing legal education standard is adopted, each Circuit Court - Family Division should adopt minimum continuing legal education standards for appointment in that jurisdiction. Any attorney appointments out of the family division should be given only to attorneys who have complied with these requirements. Referrals from bar associations regarding family matters should be consistent with these requirements.

PROPERTY

Gender Recommendation VI-11: Both parties should be required to disclose all assets in the early stages of a divorce action. Failure to disclose assets should result in the imposition of meaningful sanctions such as default, an award of actual attorney fees and costs or contempt. If undisclosed assets are later discovered, there should be a rebuttable presumption that they were deliberately concealed, resulting in the award of 100% of such assets to the injured party unless the presumption is overcome by the non-disclosing party.

Summary of condition prompting 1989 recommendation:

Attorneys who spoke to the 1989 Task Force about property issues in domestic relations cases strongly complained about the difficulties inherent in discovery and the absence of any meaningful consequences to the party who hides assets. In many cases, the wage-earning spouse was in a position to have more information about the nature and extent of the assets, more advanced warning about the likely dissolution of the marriage and greater ability to manipulate those assets so that they would not be included in the marital package.

Research Methodology in 1997:

Circuit Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Focus Group

Anecdotal Information

Status of the implementation of the recommendation in 1997:

Many judges have developed procedures to ascertain that both parties have disclosed all of their assets. Most of the time this takes the form of an affidavit or of a question in open court under oath at the divorce hearing. The most frequent sanction reported for hiding an asset is the loss of the asset or a great percentage of it to the other party. In 1993 the case of *Sands v Sands*, 442 Mich 30, was published and addressed the issue of hidden assets. The court held that although automatic award of the hidden assets to the nonculpable party is not required, it should be considered in the overall property distribution. There is now general recognition by the judges that sanctions are mandated for the concealment of assets.

Commentary suggests that too rapid case flow management acts to the disadvantage of homemakers who need time to discover the assets of the other spouse (who, on the other hand, needs no financial information from the homemaker). This concern can be addressed by requiring full disclosure of assets early in the action coupled with a sanction for non-disclosure.

Recommended Action:

This recommendation has been partially implemented. In addition, the State Bar of Michigan Task Force recommends:

- Michigan Court Rules should require that all parties disclose their assets by affidavit within 30 days of filing the divorce.
- Michigan Court Rules should require that hidden, undisclosed assets should be automatically awarded to the non-culpable party.

PROPERTY

Gender Recommendation VI-12: An economically disadvantaged party should be awarded attorney fees and costs early in the proceedings to allow for adequate preparation of the case.

Summary of condition prompting 1989 recommendation:

A number of experienced attorneys expressed their view that representation of male clients is both easier and more lucrative. The unavailability of adequate attorney fees and costs made it impossible for the financially disadvantaged to litigate their claims properly. Where decisions were delayed, the financially weaker party was distinctly disadvantaged. Attorneys may be pressured to settle matters on terms far less desirable than would result if the issue were litigated. Advance costs were needed for the economically disadvantaged party to be on an equal playing field, for instance, to hire experts to evaluate custody or property.

Research Methodology in 1997:

Circuit Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Focus Group

Anecdotal Information

Status of the implementation of the recommendation in 1997:

The survey of judges found that judges frequently give fees and costs to an economically disadvantaged party, though few stated they "always" give them. The attorneys in the Focus Group contrariwise indicated that fees and costs are rarely given, and when they are, they are only a fraction of the amount requested. One attorney said that the judges treat the marital estate as if it were their own money and that the wife is generally put in a position of begging.

Recommended Action:

This recommendation has been partially implemented. In addition, the State Bar of Michigan Task Force recommends:

- Continue the education of judges about the importance of awarding fees and costs to the economically disadvantaged party.
- Judges should be mandated by Court Rule to give priority to motions for attorney fees. A form should be developed to allow pro se litigants to seek attorney fees to allow the retention of a lawyer.

DOMESTIC RELATIONS

PROPERTY

Gender Recommendation VI-13: There should be no presumption that income-producing assets of the parties should be awarded automatically to one or the other of the parties.

Summary of condition prompting 1989 recommendation:

Many women testified before the 1989 Task Force that the courts had totally precluded them from any interest in the family-owned business. These decisions may have several consequences. The women lost their jobs with the divorce, and in many cases, because they have not been paid for their work, they lost any social security benefits arising from the years of work. A further variation of this theme was that not only did they lose their position and interest in the family business, but they were also enjoined from competing against their ex-husbands by pursuing their careers and skills in the geographic area in which they resided.

Research Methodology in 1997:

Friend of the Court Questionnaires

Circuit Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Focus Group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

The vast majority of the judges surveyed state that they do not presume that income-producing assets should be awarded automatically to one or the other of the parties.

Recommended Action:

This recommendation has been partially implemented. Further implementation requires:

- Judicial education should be enhanced.
- In accordance with the State Bar recommendation on MCLE, a system of mandatory legal education in the area of family law should be developed for judges and attorneys.
- The Michigan Judicial Institute and the Institute of Continuing Legal Education should offer courses in family law for attorneys/judges that include components regarding race, ethnic and gender issues, which are incorporated throughout the materials. Also components of the

Michigan Judicial Institute regional seminars should be opened to the attorneys and should be focused on family law (incorporating race, ethnic and gender issues).

- Until a statewide mandatory continuing legal education standard is adopted, each Circuit Court - Family Division should adopt minimum continuing legal education standards for appointment in that jurisdiction. Any attorney appointments out of the family division should be given only to attorneys who have complied with these requirements. Referrals from bar associations regarding family matters should be consistent with these requirements.

DOMESTIC RELATIONS

CHILD SUPPORT

Gender Recommendation VI-14: Training programs for lawyers, judges, and hearing officers should include:

- a. current, accurate information about the costs of child raising, the costs and availability of child care and other data essential to making realistic child support awards;**
- b. identification of all available enforcement mechanisms under new and existing laws and stress on the importance of utilizing them to the fullest extent of the law; and**
- c. the child support guidelines.**

Summary of condition prompting 1989 recommendation:

Extensive testimony demonstrated that child support often falls below the amount necessary for the needs of the child. Experienced domestic relations practitioners testified that the Michigan Child Support Guidelines as originally structured did not take into account the actual cost of raising children. Further the guidelines were frequently seen as the “caps” or not followed and support was set below that suggested in the guidelines. Judges were careful not to award too much child support because it would be considered “hidden alimony.” Enforcement was another big problem. The custodial parent spent too much money in collecting child support. Frequently these hearings were delayed and adjourned causing loss of work and additional attorney fees.

Research Methodology in 1997:

Circuit Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Focus Group

Anecdotal Information

Status of the implementation of the recommendation in 1997:

The Institute of Continuing Legal Education has offered several courses for attorneys and judges on child support and the guidelines. One session, for instance, was entitled “Seeking and Establishing Deviations from the Child Support Guidelines”. Another was “Enforcement and Collection of Child Support: Latest Developments and Techniques.”

The Michigan Judicial Institute regularly covers this topic. IMPACT consistently reports on child support cases and legislation. Beginning in 1990-91 the Friend of the Court Referees seminars incorporated this topic.

Recommended Action:

This recommendation has been partially implemented.

- Judicial education should be enhanced.
- In accordance with the State Bar recommendation on MCLE, a system of mandatory legal education in the area of family law should be developed for judges and attorneys.
- The Michigan Judicial Institute and the Institute of Continuing Legal Education should offer courses in family law for attorneys/judges that include components regarding race, ethnic and gender issues, which are incorporated throughout the materials. Also components of the Michigan Judicial Institute regional seminars should be opened to the attorneys and should be focused on family law (incorporating race, ethnic and gender issues).
- Until a statewide mandatory continuing legal education standard is adopted, each Circuit Court - Family Division should adopt minimum continuing legal education standards for appointment in that jurisdiction. Any attorney appointments out of the family division should be given only to attorneys who have complied with these requirements. Referrals from bar associations regarding family matters should be consistent with these requirements.

DOMESTIC RELATIONS

CHILD SUPPORT

Gender Recommendation VI-15: The determination of child support should be made with special consideration given to:

- a. **alleviation of the disproportionate percentage of income contributed by divorced mothers and fathers to the support of their children, (e.g., husband's wages equal 80% of total family earnings, but he contributes 12% to 20% of his income to child support, while mother's wages equal 20% of total "family" earnings but she contribute 80% of her income to child support); and**
- b. **application of the guidelines as a guide and not as a maximum standard, with the actual needs and prior standard of living of the child as the most important determining factors.**

Summary of condition prompting 1989 recommendation:

Extensive testimony received by the Task force demonstrated that child support often falls below the amount necessary for the needs of the children. Though the child support guidelines sought to address the appropriate support required, practitioners argued that they did not take into account the actual cost of raising a child. The guidelines were also seen as the cap to be awarded regardless of the needs of the children.

Research Methodology in 1997:

Friend of the Court Questionnaires to

Circuit Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Focus Group

Anecdotal Information

Status of the implementation of the recommendation in 1997:

The survey of judges indicated that sixty-four percent (64%) of the judges used the Child Support Guidelines "always" or "almost always" as the maximum amount of support. Attorneys report that judges will allow the parties to agree to a figure less than the guidelines without ascertaining reasons as required.

Recommended Action:

This recommendation has been partially implemented. Further implementation requires:

- Refer to Child Support Guidelines Committee of the State Court Administrative Office to determine whether the current figures consider these factors and if there is a problem with considering the guidelines as maximum or minimum standards.

DOMESTIC RELATIONS

CHILD SUPPORT

Gender Recommendation VI-16: Legislation should permit the courts to impose an obligation on the non-custodial parent to share the cost of post high school education.

Summary of condition prompting 1989 recommendation:

Child support often falls below the amount necessary for the needs of the child or children.

Research Methodology in 1997:

Friend of the Court Questionnaires

Circuit Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Focus Group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

A new statutory provision was added in 1990, MCL 552.45(c), which provides for the payment of support in limited circumstances to complete high school education. However, the Legislature apparently chose not to require the payment of post high school education.

Recommended Action:

This recommendation has not been implemented. The 1989 Task Force recommendation should be implemented as written. In addition, the State Bar of Michigan Task Force recommends:

- Restate the recommendation that legislation should permit courts to impose an obligation to share the cost of post-high school education and refer to State Bar Legislative Committee and/or Representative Assembly.

CHILD SUPPORT

Gender Recommendation VI-17: Greater resources should be allocated to the Friend of the Court system in order to secure prompt and effective enforcement of child support orders.

Summary of condition prompting 1989 recommendation:

Enforcing support payments is too often left to the custodial parent who may have spent much time and money on enforcement and collection. When no support is received children are likely to suffer real deprivation.

Research Methodology in 1997:

Friend of the Court Questionnaires

Focus Group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

Friend of the Court respondents agree resources have not been increased in the last three years. Friends of the Court consistently report that they do not have adequate resources. Reimbursement percentages have remained the same while expenses have increased. Friends of the Court consistently request more personnel. A number request better automation programs and complain about the Child Support Enforcement System (CSES).

The focus group reports significant improvement in support enforcement efforts.

Recommended Action:

This recommendation has not been implemented. The 1989 Task Force recommendation should be implemented as written. In addition, the State Bar of Michigan Task Force recommends:

- Create a task force to develop a concrete model of the costs that the Friend of the Court incurs in processing different orders. Supply this information to the legislature as the basis for increased funding to sufficiently cover the actions of the Friend of the Court required by the Legislature.

DOMESTIC RELATIONS

CHILD SUPPORT

Gender Recommendation VI-18: The Friend of the Court should periodically review child support orders to avoid the need for the custodial parent to raise issues of changed income.

Summary of condition prompting 1989 recommendation:

The 1989 Task Force found that establishing the child support obligation and taking enforcement actions were too often left to a custodial parent who had already spent much time and money on enforcement and collection. The number of appearances relating to support awards jeopardized the woman's job due to absences from work. In addition, the party may have had to pay for a lawyer to appear multiple times.

Research Methodology in 1997:

Friend of the Court Questionnaires

Focus Group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

Friend of the Courts in all four regions of the state report that they periodically review child support orders to avoid the need for the custodial parent to raise issues of changed income.

Interestingly enough, many attorneys reported that this is not done due to lack of funding.

Recommended Action:

This recommendation has been partially implemented. Further implementation requires:

- More funding for the Friend of the Court to perform this service on a more regular basis.
- Create a task force to develop a concrete model of the costs that the Friend of the Court incurs in processing different orders. Supply this information to the legislature as the basis for increased funding to sufficiently cover the actions of the Friend of the Court required by the Legislature.

CHILD SUPPORT

Gender Recommendation VI-19: Opportunities should be given outside of ordinary working hours for parents to confer with the Friend of the Court office personnel.

Summary of condition prompting 1989 recommendation:

Parties and attorneys had to make an unreasonable number of appearances in order to obtain and enforce support awards. Absence from work for appearances threatened parties' jobs.

Research Methodology in 1997:

Friend of the Court Questionnaires

Focus Group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

A statutory change effective January 1997, required the Friend of the Court to open twenty non-traditional hours per month. Friend of the Court offices in all four regions of the State report that they are open non-traditional hours at this time. However, most of the hours reported are either lunch hours or early in the morning. Hours rarely extend beyond 7:00 a.m. to 5:00 p.m. weekdays. Friend of the Courts report practical impediments to extended hours, including labor contracts, security problems and the lack of additional funding for the increased expenses this entails.

Recommended Action:

This recommendation has been implemented in theory, but may have only limited compliance in practice. In addition, the State Bar of Michigan Task Force recommends:

- Continue to advocate more non-traditional hours during times that would benefit people seeking access to the Friend of the Court and funding to support such a program.
- Create a task force to develop a concrete model of the costs that the Friend of the Court incurs in processing different orders. Supply this information to the legislature as the basis for increased funding to sufficiently cover the actions of the Friend of the Court required by the Legislature.

DOMESTIC RELATIONS

CHILD CUSTODY

Gender Recommendation VI-20: Courts should use non-adversarial dispute resolution mechanisms such as conciliation and mediation to resolve custody disputes. Voluntary agreements with parents should be encouraged regarding major decisions concerning: education, enrichment activities, travel, medical problems, notice by the custodial parent of the whereabouts of the child, and unlimited phone contact. However, such mechanisms should not be used in situations of domestic violence where unequal bargaining positions should be assumed.

Summary of condition prompting 1989 recommendation:

The 1989 Task Force found that the adversarial nature of the divorce process made contested decisions involving children difficult and counterproductive. It was determined that the longer a custody battle takes, the more disadvantages would be incurred by the noncustodial parent and the more difficult it was for the family.

Additionally, delay in deciding disputes that involved allegations of sexual abuse might result in unnecessary harm to the child and, in some cases, to the father.

Research Methodology in 1997:

Friend of the Court Questionnaires

Status of the implementation of the recommendation in 1997:

There appears to have been a great deal of change with the establishment of conciliation/mediation programs in this area. Parental education programs such as "SMILE" (Start Making It Livable for Everyone), FOCUS, and Rainbow Kids have started the process of educating the parties and their children as to the consequences of divorce on children and strategies for making the transition to single parenthood. Several courts reported having full-time mediators or conciliators on staff or attached to the Friend of the Court. Others reported relying on other community mental health resources for mediation. Most stated that lack of funds and/or resources prevented them from using mediation and conciliation more frequently, and that they thought it to be extremely useful and helpful. The one area lacking was in prescreening cases for domestic violence prior to referring them to conciliation and mediation programs. While between ninety-two percent (92%) and one hundred percent (100%) of the courts and Friends of the Court reporting said they had programs in place, only Region I courts prescreened for domestic violence at a significant level (seventy-five percent [75%]). Prescreening in other courts ranged from zero percent (0%) to thirty-eight percent (38%).

Recommended Action:

This recommendation has been partially implemented. Further implementation requires:

- Friends of the Court should continue to support and publicize conciliation/mediation programs.
- More courts should prescreen cases for domestic violence before referring them to conciliation and mediation.

DOMESTIC RELATIONS

CHILD CUSTODY

Gender Recommendation VI-21: Educational programs for judges should emphasize that the "best interest" of the child should specifically relate to the individual parenting ability of each party and not the societal role placed upon their gender.

Summary of condition prompting 1989 recommendation:

Stereotypes about the traditional roles of men and women as parents may hinder the application of the "best interests" standard and adversely affect the children, as well as the parents.

Research Methodology in 1997:

Friend of the Court Questionnaires

Circuit Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Focus Group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

The State Court Administrative Office and the Michigan Judicial Institute report that they have provided training and materials on this issue to all new judges at new judge training sessions; they have provided programs for new Friend of the Court employees and mediators which stress this subject; they provide continuing legal education programs which address this topic on a regular basis; the *Colleague* magazine contains articles discussing this subject; and, the *Impact* publication reports cases involving this subject on a regular basis.

The focus group reports increased understanding in this area but agree that judges tend to feel that women are better caretakers than men. One attorney wrote that we ought to advocate parenting classes in schools, even junior high, because people do not know how to parent.

Recommended Action:

This recommendation has been partially implemented. Further implementation requires:

- In accordance with the State Bar recommendation on MCLE, a system of mandatory legal education in the area of family law should be developed for judges and attorneys.

- The Michigan Judicial Institute and the Institute of Continuing Legal Education should offer courses in family law for attorneys/judges that include components regarding race, ethnic and gender issues, which are incorporated throughout the materials. Also components of the Michigan Judicial Institute regional seminars should be opened to the attorneys and should be focused on family law (incorporating race, ethnic and gender issues).
- Until a statewide mandatory continuing legal education standard is adopted, each Circuit Court - Family Division should adopt minimum continuing legal education standards for appointment in that jurisdiction. Any attorney appointments out of the family division should be given only to attorneys who have complied with these requirements. Referrals from bar associations regarding family matters should be consistent with these requirements.

DOMESTIC RELATIONS

CHILD CUSTODY

Gender Recommendation VI-22: Custody decisions should be expedited and should be separated from decisions on economic issues. Michigan Court Rule 3.206(F) directs that custody decisions be expedited. Trial courts should make every effort to comply with this rule. In order to ensure compliance, adequate Friend of the Court funding and staffing should be provided.

Summary of condition prompting 1989 recommendation:

The 1989 Task Force found that the status and importance of domestic relations cases was not uniformly established in the minds of some judges and attorneys. Cases took too long, were unreasonably delayed or were forced into settlement. The financially weaker party was often least able to afford an extended wait and most vulnerable to the increase in costs and fees created by the delay.

Research Methodology in 1997:

Friend of the Court Questionnaires

Circuit Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Focus Group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

The judges' responses on separating custody decision from property questions are mixed. While many judges separate custody decisions, the tendency is not to do so. It is difficult in a divorce proceeding to separate the issues. For instance, the party who is awarded the marital home is generally the party who has physical custody of the children. Judges in all regions of the state agree that they do expedite cases involving custody decisions. Many times cases which include custody disputes are delayed because of the myriad of psychological evaluations that are performed. The court may be available for trial but the parties are not ready to proceed.

The focus group felt that delay in any divorce proceeding generally favors the husband, since they are earning more and can afford protracted proceedings. On the other hand, women may not have the economic wherewithal to survive delay.

Recommended Action:

This recommendation has been partially implemented. Further implementation requires:

- In court reorganization, the family division should systematically expedite custody decisions.
- In accordance with the State Bar recommendation on MCLE, a system of mandatory legal education in the area of family law should be developed for judges and attorneys.
- The Michigan Judicial Institute and the Institute of Continuing Legal Education should offer courses in family law for attorneys/judges that include components regarding race, ethnic and gender issues, which are incorporated throughout the materials. Also components of the Michigan Judicial Institute regional seminars should be opened to the attorneys and should be focused on family law (incorporating race, ethnic and gender issues).
- Until a statewide mandatory continuing legal education standard is adopted, each Circuit Court - Family Division should adopt minimum continuing legal education standards for appointment in that jurisdiction. Any attorney appointments out of the family division should be given only to attorneys who have complied with these requirements. Referrals from bar associations regarding family matters should be consistent with these requirements.

DOMESTIC RELATIONS

CHILD CUSTODY

Gender Recommendation VI-23: Where sexual abuse allegations are made, specific expedited time limits should be established and adhered to. Special training for judges concerning the underlying issues, as well as access to juvenile court resources and expertise, should be provided.

Summary of condition prompting 1989 recommendation:

In cases in which child abuse allegations are made, delay poses a serious threat to a child needlessly exposed to further sexual abuse. Delay may also needlessly deny a right to unsupervised visitation or custody.

Research Methodology in 1997:

Circuit Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Focus Group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

Judges overwhelmingly report that they do expedite cases in which allegations of child sexual abuse are made. The focus group reported that judicial consciousness on this issue has improved greatly. The group felt that retaliatory accusations of abuse are declining because they are being handled appropriately.

Recommended Action:

This recommendation has been substantially implemented. Continued implementation of the recommendation is required. In addition, the State Bar of Michigan Task Force recommends:

- Court reorganization creates of a Family Division Court. Guidelines should be adopted for case control and docketing which will expedite the resolution of custody decisions.
- In accordance with the State Bar recommendation on MCLE, a system of mandatory legal education in the area of family law should be developed for judges and attorneys.
- The Michigan Judicial Institute and the Institute of Continuing Legal Education should offer courses in family law for attorneys/judges that include components regarding race, ethnic and gender issues, which are incorporated throughout the materials. Also components of the

Michigan Judicial Institute regional seminars should be opened to the attorneys and should be focused on family law (incorporating race, ethnic and gender issues).

- Until a statewide mandatory continuing legal education standard is adopted, each Circuit Court - Family Division should adopt minimum continuing legal education standards for appointment in that jurisdiction. Any attorney appointments out of the family division should be given only to attorneys who have complied with these requirements. Referrals from bar associations regarding family matters should be consistent with these requirements.

DOMESTIC RELATIONS

CHILD CUSTODY

Gender Recommendation VI-24: In any divorce proceeding or post-divorce proceeding where an allegation of child sexual abuse is made by one party against the other, the circuit court should refer the matter immediately to the probate court for prompt review and recommendation as to future custody and/or visitation of the minor children.

Summary of condition prompting 1989 recommendation:

Child sexual abuse allegations were of particular concern to mothers, fathers and their advocates.

Research Methodology in 1997:

Circuit Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Focus Group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

A number of the respondents report that they immediately report such allegations to the Probate Court. The majority of respondents do not always report them to Probate Court. It is anticipated that the creation of the Family Division of Circuit Court along with the merger of much of the Probate Courts jurisdiction in Circuit Court will improve reporting and action on accusations.

Recommended Action:

This recommendation is to be fully implemented with court reorganization creating the family division.

VISITATION

Gender Recommendation VI-25: Uniform standards and guidelines for frequency and duration should be established when parents are unable amicably to establish visitation arrangements.

Summary of condition prompting 1989 recommendation:

Visitation is important because it provides continuity with previous family life, maintains, repairs or creates emotional ties, and encourages the continuance of parental responsibility.

Research Methodology in 1997:

Circuit Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Focus Group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

A few judges employ a standard schedule of parenting time when the parents cannot agree. The majority do not, indicating that they address this question on a case by case basis.

Friend of the Court respondents more often employ a standard schedule but still generally retain flexibility. Kalamazoo County has uniform parenting time standards.

Recommended Action:

This recommendation has been partially implemented. Further implementation requires:

- Continue training so that judges and Friend of the Court staff are sensitive to parenting time concerns.
- In accordance with the State Bar recommendation on MCLE, a system of mandatory legal education in the area of family law should be developed for judges and attorneys.
- The Michigan Judicial Institute and the Institute of Continuing Legal Education should offer courses in family law for attorneys/judges that include components regarding race, ethnic and gender issues, which are incorporated throughout the materials. Also components of the Michigan Judicial Institute regional seminars should be opened to the attorneys and should be focused on family law (incorporating race, ethnic and gender issues).

- Until a statewide mandatory continuing legal education standard is adopted, each Circuit Court - Family Division should adopt minimum continuing legal education standards for appointment in that jurisdiction. Any attorney appointments out of the family division should be given only to attorneys who have complied with these requirements. Referrals from bar associations regarding family matters should be consistent with these requirements.

VISITATION

Gender Recommendation VI-26: Visitation and child support should be treated as separate issues.

Summary of condition prompting 1989 recommendation:

Visitation orders are not given the same vigorous enforcement as support orders. Visitation is important to provide continuity with previous family life, to maintain, repair or create emotional ties and to encourage the continuance of parental responsibility.

Research Methodology in 1997:

Circuit Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Focus Group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

The overwhelming majority of judges responding report that they always treat parenting time and child support issues as separate issues.

The focus group felt that not as much emphasis is placed on enforcement of parenting time as on support issues.

Recommended Action:

This recommendation has been substantially implemented by the majority of judges. In addition, the State Bar of Michigan Task Force recommends:

- Continue education on this subject.
- In accordance with the State Bar recommendation on MCLE, a system of mandatory legal education in the area of family law should be developed for judges and attorneys.
- The Michigan Judicial Institute and the Institute of Continuing Legal Education should offer courses in family law for attorneys/judges that include components regarding race, ethnic and gender issues, which are incorporated throughout the materials. Also components of the Michigan Judicial Institute regional seminars should be opened to the attorneys and should be focused on family law (incorporating race, ethnic and gender issues).

- Until a statewide mandatory continuing legal education standard is adopted, each Circuit Court - Family Division should adopt minimum continuing legal education standards for appointment in that jurisdiction. Any attorney appointments out of the family division should be given only to attorneys who have complied with these requirements. Referrals from bar associations regarding family matters should be consistent with these requirements.

VISITATION

Gender Recommendation VI-27: Clear and consistent methods for enforcement of orders consistent with the best interest of the children should be adopted statewide.

Summary of condition prompting 1989 recommendation:

Enforcement of orders was identified as a concern by the 1989 Task Force.

Research Methodology in 1997:

Circuit Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Focus Group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

A number of legislative changes have been made to increase the clear and consistent enforcement of orders. Surveys of judges and Friends of the Court indicate an increased level of awareness of the need to do so.

The focus group reports that enforcement of orders has been improved in the last few years.

Recommended Action:

This recommendation has been substantially implemented. Continued implementation of the recommendation is required. In addition, the State Bar of Michigan Task Force recommends:

- In accordance with the State Bar recommendation on MCLE, a system of mandatory legal education in the area of family law should be developed for judges and attorneys.
- The Michigan Judicial Institute and the Institute of Continuing Legal Education should offer courses in family law for attorneys/judges that include components regarding race, ethnic and gender issues, which are incorporated throughout the materials. Also components of the Michigan Judicial Institute regional seminars should be opened to the attorneys and should be focused on family law (incorporating race, ethnic and gender issues).
- Until a statewide mandatory continuing legal education standard is adopted, each Circuit Court - Family Division should adopt minimum continuing legal education standards for appointment in that jurisdiction. Any attorney appointments out of the family division should be given only to attorneys who have complied with these requirements. Referrals from bar associations regarding family matters should be consistent with these requirements.

DOMESTIC RELATIONS

VISITATION

Gender Recommendation VI-28: Meaningful consequences for violation and/or interference with visitation orders should be imposed on the offending parent.

Summary of condition prompting 1989 recommendation:

The 1989 Task Force found that visitation orders were not given the same vigorous enforcement as support orders. The onus and expense of enforcement was placed on the parent seeking to enforce. Courts were reluctant to apply the sanction of jailing non-complying parents due to the need for the care of the children.

Research Methodology in 1997:

Circuit Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Focus Group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

A number of judges report that they "always" impose sanctions for the violation of parenting time orders. Most judges, consistently in the four regions of the state, respond that they impose sanctions, but not always.

The focus group felt that enforcement of parenting time orders is not given as much emphasis as support order enforcement.

Recommended Action:

This recommendation has been partially implemented. Further implementation requires:

- Continue education on the need to consistently enforce visitation orders. In court reorganization, the family division should systematically expedite custody decisions.
- In accordance with the State Bar recommendation on MCLE, a system of mandatory legal education in the area of family law should be developed for judges and attorneys.
- The Michigan Judicial Institute and the Institute of Continuing Legal Education should offer courses in family law for attorneys/judges that include components regarding race, ethnic and gender issues, which are incorporated throughout the materials. Also components of the

Michigan Judicial Institute regional seminars should be opened to the attorneys and should be focused on family law (incorporating race, ethnic and gender issues).

- Until a statewide mandatory continuing legal education standard is adopted, each Circuit Court - Family Division should adopt minimum continuing legal education standards for appointment in that jurisdiction. Any attorney appointments out of the family division should be given only to attorneys who have complied with these requirements. Referrals from bar associations regarding family matters should be consistent with these requirements.

DOMESTIC RELATIONS

VISITATION

Gender Recommendation VI-29: Judges and prosecutors should encourage the procedures outlined in the Support and Visitation Enforcement Act, which permits the injured party to bring the issue to the attention of the Friend of the Court and/or judge in pro per.

Summary of condition prompting 1989 recommendation:

The 1989 Task Force recommended that mechanisms be created within the system which will assist a financially disadvantaged party in bearing the expenses of litigation.

Research Methodology in 1997:

Circuit Court Chief Judges Questionnaires

Circuit Court Judges Questionnaires

Focus Group

Anecdotal Information

Telephone inquiry to Friends of the Court

Status of the implementation of the recommendation in 1997:

Friends of the Court report that they provide forms, information and procedures that permit parties to bring the issue to the attention of the Friend of the Court. There have not been legislative initiatives to assist disadvantaged individuals in accessing courts and Friends of the Court.

Recommended Action:

This recommendation has been partially implemented. Further implementation requires:

- Continue education efforts on concerns regarding access to courts and recommend assistance for financially disadvantaged individuals.
- Increase funding for the Friend of the Court.
- Create a task force to develop a concrete model of the costs that the Friend of the Court incurs in processing different orders. Supply this information to the legislature as the basis for increased funding to sufficiently cover the actions of the Friend of the Court required by the Legislature.

VISITATION

Gender Recommendation VI-30: Mediation projects such as the Clinton County Mediation/Consultation Project should be studied to determine whether changes in legislation or court rules are needed.

Summary of condition prompting 1989 recommendation:

The adversarial nature of the divorce process makes contested decisions involving children difficult and counterproductive. The longer a custody battle takes the more disadvantage incurred by the noncustodial parent and the more difficult it is for the family. Delay in deciding disputes that involve allegations of sexual abuse may result in unnecessary harm to the child and, in some cases, to the father.

Research Methodology in 1997:

Friend of the Court Questionnaires

Status of the implementation of the recommendation in 1997:

Friend of the Courts should continue to support and publicize conciliation/mediation programs.

More courts should prescreen cases for domestic violence before referring them to conciliation/mediation.

While there is no indication that study of the Clinton County Project caused the boom in conciliation/mediation, the trend and all forms of alternative dispute resolution are growing. No court or Friend of the Court found itself limited by inadequate court rules or legislation in this area.

Recommended action:

This recommendation has been fully implemented. No further action is required.