

2nd JUDICIAL CIRCUIT OF ILLINOIS
JUDICIAL MEDIATION PROGRAM
Annual Report
December 2004 – March 2006

Major Findings and Recommendations

PROGRAM FUNCTIONING:

Finding # 1: Referrals and Settlement

Ten of the nineteen cases that were mediated were either fully (8) or partially (2) settled. Nine were not settled at mediation. This is a 53% settlement rate. This falls in the middle of the range of other custody and visitation mediation programs, which have reported rates of settlement of 35% to 75%.

Recommendations:

- ✓ Continue to encourage the judges to refer appropriate cases to mediation.
- ✓ Expand the program to include all counties.

Finding # 2: Issues in Mediation

Visitation was at issue in all cases mediated; custody was at issue in all but two. Other issues mediated include removal, the net income to use to calculate child support, and who would take the tax exemption for dependents. The latter two were resolved in all but one case. Removal was resolved in only one of three cases in which it was at issue. Results indicate that: (1) including certain financial issues in mediation may not decrease the possibility of settlement, and (2) removal is difficult to settle.

Recommendations:

- ✓ Continue to mediate issues of child support and tax exemption.
- ✓ Take care when deciding whether to send removal cases to mediation. Work with mediators to determine what factors make some cases more amenable to settlement than others, and communicate that information to referring judges.

Finding # 3: Time in Mediation

According to the mediator, all mediations consisted of one session lasting between two and nine hours, with an average length of 3.5 hours. The parents reported mediation lengths of between one and nine hours, with an average length of 4.1 hours. This length of time is on par with the mediation times reported by other programs.

Finding # 4: Mediator Views on Mediation Impact

The mediator believed that the mediation narrowed and clarified the issues in most cases, helped in bringing resolution in more than half the cases, and believed as well that in most cases it either led to quicker resolution and lower costs or had no impact on these factors.

PARENT EXPERIENCE

The following is based upon sixteen responses in eleven cases. Eight mothers, five fathers, and one person of unknown gender responded. In five of the cases, both parents responded. In six, one of them did.



Finding # 5: Self-Determination

Most of the parents felt prepared for the mediation and felt they understood the process. Five parents felt pressured to reach an agreement. Mothers were more likely than fathers to say they were pressured. Only one of seven fathers said he was pressured to settle (citing the mediator), but four of eight mothers (50%) said they had felt pressured. They cited the source of the pressure to be either the father or time constraints. However, despite feeling pressured, two of the four mothers did not agree to any settlement. Interestingly, only one of the three parents who reached an agreement they felt pressured into was dissatisfied with the agreement. These outcomes indicate that although they felt pressured, they did not lose self-determination.

Recommendations:

- ✓ Continue to monitor the feelings of pressure on the part of mothers.

Finding # 6: Satisfaction

The parents were by and large satisfied with the program. Eight parents (50%) said they were satisfied, while five (31.25%) were neutral, and three (18.75%) indicated they were dissatisfied. Eleven of the sixteen parents (68.8%) said they would consider using mediation again, and all but one would use that particular mediator again. Those who commented on the mediator had almost universally good things to say, such as “fantastic judge and mediator”, “very personable and seemed good at what he does”. That one person who did not want to use that particular mediator attributed her response to the fact that she did not ever want to mediate again.

Finding # 7: Fairness

Parents tended to agree that the mediation process was fair. When asked whether the process was fair to them, ten of the parents (62.5%) agreed. The other six neither agreed nor disagreed. No parent thought it was not fair.

Finding # 8: Impact of Mediation

In response to the question of what impact the mediation would have on their children, ten (62.5%) said it would have none and (37.5%) said it would improve things for their children. None said it would be detrimental. The parents were mixed on their views of what impact participating in mediation would have on their future interactions. Eight (50%) said it would have no impact, while five (31.3%) said tensions between them would decrease, and three (18.8%) said tensions would increase.

Twelve (75%) of the parents believed that the mediation had no impact on their costs of litigating the case, while the others (4, or 20%) thought it reduced their costs. None thought it would increase their costs. The parents' views on the impact of mediation on the time it would take to resolve the case were more mixed, with a number of positive responses and two negative ones. Six (38%) believed it would reduce time to resolution, while eight (50%) thought it would have no impact and two (12.5%) thought it would increase time to resolution.