

## Statewide Civil Domestic Violence Database to be Launched this Summer

By Clifton Files, Esq., Domestic Violence Specialist,  
Administrative Office of the Courts, Department of Family Administration



The Maryland Judiciary will be one of the first states with a comprehensive database of civil orders of protection when it launches the Domestic Violence Central Repository this summer. In September 2006, the Department of Family Administration was awarded a grant by the Office of Violence Against Women from the Grants To Encourage Arrest Policies Program (GTEAP). The focus of the grant was to develop a Statewide Civil Domestic Violence Database. The Administrative Office of the Courts (AOC) and the Maryland Network Against Domestic Violence (MNADV) coordinated with an advisory committee and held six regional focus groups to discuss and consider recommendations on policies, procedures, and uses for the database.

The end result of these efforts is a central database for District and Circuit Court judges and staff that will store all domestic violence orders, produce statistics, and enhance enforcement. The database will improve the courts'

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### Refining Emerging Practices

## Proposed Parenting Coordination Rule Completed

By Pamela Cardullo Ortiz, Esq., Executive Director,  
Department of Family Administration

Innovation always happens on the ground. In their efforts to better serve families, courts have experimented with emerging practice models, especially those with promise for assisting high conflict families who often require a great deal of court intervention. Over the last several years, a number of Maryland Circuit Courts have begun to refer high conflict families with child access issues to "parent coordinators."

As practiced in other states, and defined by the Association of Family and Conciliation Courts (AFCC): Parenting coordination is a child-focused alternative dispute resolution process in which a mental health or legal

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# Happy Anniversary

Maryland's family divisions and family services programs are ten years old this year. It was in 1998 that the Maryland Judiciary made a commitment to family court reform by taking the "vow" articulated in Maryland Rule 16-204 to create positions, programs, and innovations to better serve families and children whose lives intersect with the Maryland courts.

To celebrate this milestone, I think it's appropriate to review the many benefits reaped over those ten years, and I'm going to follow the list of traditional anniversary gifts. Some of these analogies are a bit attenuated, but I know you will grant me this bit of editorial license. Here it goes. . .

## Year 1: Paper

We have produced a lot of paper in ten years! Perhaps most significant to the launch of Maryland's family court reform effort was the creation and adoption by the Judiciary of the *Performance Standards and Measures for Maryland's Family Divisions*. These standards continue to guide us and frame our commitment to Maryland families. Each court reports on its performance in light of these standards in an annual report each year. New investments and program innovations are weighed in light of those standards.

## Year 2: Cotton

Courts have found creative and powerful ways to make connections with their communities. In 2006, Carroll County Circuit Court participated with a network of community providers to create a guide that provides survivors of violence with a roadmap to recovery. They launched its release with performances and an art exhibit featuring victims' tales on items of clothing, called the "Clothesline Project." Baltimore City, Somerset County and other courts have joined with local artists and students to create child-focused works to enhance the court. One outcome of family court reform in Maryland has been an increase for our courts in partnerships and relationships with community-based service providers.

## Year 3: Leather

Over the past decade, the public "purse" that supports the family justice system has been strengthened thanks to the advocacy of Chief Judge Robert M. Bell and State Court Administrator Frank Brocolina and the support of the Maryland General Assembly. Family divisions and family services programs are supported by jurisdictional grants given annually to each Circuit Court. In Fiscal Year 2008, courts received \$11.2 million to support case management innovations and services to families involved in domestic and juvenile case types.

family matters

We welcome your comments and contributions.

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## Reviewing the First Decade of Maryland Family Divisions and Family Services Programs



Pamela Cardullo Ortiz

### Year 4: Fruit

We profoundly hope that the efforts of the last ten years have borne “fruit” in the experiences of Maryland families and children. One measure may be the level of involvement parents have in their children’s lives post-litigation. In a study conducted by the Women’s Law Center of Maryland, the percentage of Maryland parents sharing decision-making about their children was 55 percent for cases initiated in Fiscal Year 2003, compared to 48 percent for cases initiated in Fiscal Year 1999.

### Year 5: Wood

The Maryland “bench” has been innovative in the last ten years, and courts have shown a willingness to try new approaches. Administrative judges have adopted case management strategies to ensure family and juvenile cases are handled effectively, and services to ensure families benefit from these strategies. Individual judges and masters have tailored their approach from the bench to consider the needs of the many self-represented litigants appearing in family cases. Judges in juvenile and dependency drug courts and truancy courts take the time to acknowledge the triumphs of the successful and counsel the struggling. We have a number of extraordinarily committed and dedicated members of the family bench who are too infrequently acknowledged.

### Year 6: Iron

“Decided cases are the ‘anchor’ of the law, as laws are of the state.” *Sir Francis Bacon, 1623.* Statutory and case law reforms have altered the family law landscape over the last ten years. Notable rewrites of the Juvenile Causes Act have consolidated the laws governing CINA, TPR, and adoption cases, and have aligned state law with federal law in these areas. Updates in uniform jurisdictional laws like the Uniform

Child Custody Jurisdiction and Enforcement Act (UCCJEA) and more recently the adoption in Maryland of the UIFSA 2001 amendments have helped improve the applicability of family law across state lines. Changes in court rules have improved the accountability of attorneys appointed to represent children in child welfare matters, and more recently, in custody and visitation cases. Courts gained the authority to transfer real and personal property in granting a divorce, innovations with benefits for economically dependent spouses. Competency of youth alleged delinquent can now be addressed with new laws and evaluations.

### Year 7: Wool

Families entering the justice system are wrapped in the “mantle” of services that enable courts to make more effective decisions and that aid and guide families in transition. All Maryland courts offer co-parenting education, Family Law Self-Help Centers, child access mediation, and custody evaluations. Some courts offer psychoeducational programs for children and specialized parenting courses; others are experimenting with parenting coordination, employment programs for child support payors, and special dispute resolution services for high-conflict families.

### Year 8: Bronze

The Judiciary’s family court reform efforts have brought attention to bear on the special needs of victims of domestic violence. Innovations like the Protective Order Advocacy Representation Projects (POARP) and similar on-site legal services programs for victims now operating in many Maryland Circuit and District Courts provide a protective “shield” for victims and aid them in receiving the protection to which they are





Spotlight on

# The Maryland Juvenile Council

By Reverend Dr. James G. Kirk, Chairman of the Juvenile Justice Council

As a result of a decrease in funding, advocates for juvenile justice are mobilizing for resources that will continue to provide assistance for juveniles. The Maryland Juvenile Grant Planning and Review Council, commonly referred to as the Juvenile Council, is the state advisory group comprised of gubernatorial appointees; its creation is mandated by the Juvenile Justice and Delinquency Prevention (JJDP) Act. The Juvenile Council must include in its membership representatives from the Judiciary, prosecutor's office, attorneys for youth, child-serving agencies, advocacy groups, youth, local elected officials, law enforcement, and private non-profit organizations. The Juvenile Council assists the Governor's Office of Crime Control and Prevention (GOCCP) in the development of Maryland's juvenile justice and delinquency prevention plan. In assisting GOCCP, the Council reviews and comments on grant applications, which are administered through federal and state juvenile justice funds.

The JJDP Act, first enacted by Congress in 1974, was reauthorized in 2002. The JJDP Act was enacted to support state and local programs that prevent juvenile delinquency, assist state and local governments in promoting public safety by encouraging accountability for acts of juvenile delinquency, and assist state and local governments in addressing crime through technical assistance, research, evaluation, and dissemination of information on effective programs.

In order for a state to continue to receive federal juvenile justice funds associated with the JJDP Act, the state must comply with the four core protections of the Act. The four core protections are:

- jail removal (timely removal of youth from adult detention facilities);
- sight and sound separation (keeping youth sight and sound separate from adult detainees or offenders);
- deinstitutionalization of status offenders (keeping status offenders out of detention and committed facilities); and
- reduction of disproportionate minority contact with the juvenile justice system (reducing the representation of minority youth in the juvenile justice system in numbers that are disproportionate to their representation in the general population).

Federal juvenile justice funding has been significantly and consistently reduced since 2002. Legislation is currently being drafted for Congress to consider the reauthorization of the JJDP Act. The Juvenile Council and several Maryland entities have joined more than 300 organizations nationwide in the *Act 4 Juvenile Justice* campaign for reauthorization of the JJDP Act and increased funding of juvenile justice projects.

To learn more about the Juvenile Council and its work visit [www.goccp.org](http://www.goccp.org), or contact Janice Marquez, Maryland's juvenile justice specialist, at [Janice@goccp-state-md.org](mailto:Janice@goccp-state-md.org).



# Federal Act Serves as Catalyst for Maryland's Efforts to Help Foster Children

By Tracy Watkins-Tribbitt, Foster Care Court Improvement Project (FCCIP), Executive Director

On July 3, 2006, President George W. Bush signed the Safe and Timely Interstate Placement of Foster Children Act into law. The law amends Title IV-B and IV-E of the Social Security Act, and “encourages States to improve protections for children and holds them accountable for the safe and timely placement of children across State lines.” This effort follows several other steps the federal government has taken in response to the recent Pew Commission on Children in Foster Care.

While this new law outlines many requirements for Maryland’s child welfare agencies, it also places new requirements on courts. State courts that receive basic court improvement grants must also assess their effectiveness in carrying out state laws around interstate placements that:

- Require courts in different states to cooperate in sharing information;
- Authorize courts to obtain information and testimony from agencies and parties without requiring interstate travel by the agencies and parties, and
- Permit the participation of parents, children, attorneys and other necessary parties in interstate placement cases without requiring interstate travel.

When making reasonable efforts findings (which should be a part of any court’s ruling), state courts must also take into consideration any efforts towards permanency through an interstate placement. Similar considerations should also be given for reasonable efforts findings regarding concurrent planning and permanency hearings held after a finding of aggravated circumstances. In both of these instances, consideration shall be given to both in- and out-of-state placements.

Other provisions of this statute have a more direct impact on the responsibilities of the Maryland child welfare agency, and require a procedure for the orderly and timely interstate placement of children

consistent with an Interstate Compact. Additionally, timely home studies, use of cross-jurisdictional resources, reasonable efforts, increased case worker visits, and case plan and review system amendments are related provision that are included in the new federal statute.

In April 2008, Governor Martin O’Malley signed Maryland’s Permanency Planning and Interstate Placement of Foster Children Amendments. Effective October 1, 2008, Maryland’s amended statute now provides for:

- The consideration of the appropriateness of interstate placements in permanency planning hearings, where reunification is not the plan;
- The specific consideration of the appropriateness of interstate placements in determining reasonable efforts findings in permanency planning hearings;
- The courts ensuring that state agencies are informing foster parents, pre-adoptive parents, or relative providing care for the child of notice of the date, time, and place of hearing and of their right to be heard in any proceeding to be held with respect to the child; and
- At least every 12 months in permanency hearings, the court shall “consult” on the record with the child in an age-appropriate manner.

The FCCIP Legislative Subcommittee conducted a detailed review of Maryland’s statutes and regulations and has determined that, except for the aforementioned provisions, the state is in compliance with the other portions of the federal statute. The FCCIP remains committed to improving the processing of child abuse and neglect cases and is appreciative of the collaborative relationships and work dedicated to completing this task.

For more information regarding the Safe and Timely Interstate Placement of Foster Children Act of 2006: [mdcourts.gov/family/fccip/resources.html](http://mdcourts.gov/family/fccip/resources.html) or call FCCIP at (410) 260-1427.

# Recent Family Law Decisions

by Pamela Cardullo Ortiz, Esq., Executive Director, Family Administration  
and Erin Darner Gable, Esq., Coordinator of Legal Resources

## Court of Appeals

### Adoption

*In Re: Adoption/Guardianship of: Rashawn H. and Tyrese H.*, 402 Md. 477, 937 A.2d. 177 (2007)

The county Department of Social Services filed a petition to terminate the mother's parental rights to two of her four children. The court held that since the trial court failed to relate its findings to the statutory factors to the presumption favoring a continuation of the parental relationship or to any exceptional circumstance that would have rebutted the presumption, the case was vacated and remanded for further proceedings. In cases involving the termination of parental rights, the court must follow the statutory construct in Family Law (FL) Article §5-323 (In this case, former §5-313).

To terminate parental rights, the court must find one of the circumstances set forth in those sections and that termination is in the child's best interest. In deciding what is in the child's best interest, there is an implicit presumption that the child's best interest lies with a continuation of the parental relationship, a presumption that may be rebutted by clear and convincing evidence that the parents are unfit or that exceptional circumstances exist that would make a continuation of that relationship detrimental to the best interest of the child. The statutory factors set forth in FL §5-323 must be considered and appropriate findings made with respect to them in determining whether unfitness or exceptional circumstances exist.

### Child Access

*Volodarsky v. Tarachanskaya*, 396 Md. 291 (2007)

In the context of Family Law Article §9-101, which requires that if the court has "reasonable grounds to believe" that a child has been abused or neglected by a party, the court must in

certain instances deny custody or visitation rights to that party; the term "reasonable grounds to believe" is no different from "preponderance of the evidence." In this case, the trial court properly used the "preponderance of the evidence" standard in finding that the father had not sexually abused the child. The Court of Appeals reversed an earlier determination by the Court of Special Appeals that the trial court should have used the "lower threshold of reasonable grounds to believe." In this context, "reasonable grounds to believe" is equivalent to "preponderance of the evidence." The Court of Appeals found no reason to suggest that the statute created a standard of proof even lower than "preponderance of the evidence."

*Khalifa et. al. v. Shannon*, 404 Md. 107 (2008)

The Court of Appeals held that Maryland law does recognize the tort of interference with child custody and visitation rights, that the father was not required to allege economic loss of a child's services to maintain action, a noncustodial parent with visitation rights can sue for interference with parent-child relations, and punitive damages awards were not excessive. After entering into a consent order in February 2001 regarding the custody and visitation rights of their two minor children, the mother, with the assistance of the maternal grandmother, abducted and absconded with the two minor children to Egypt in August 2001. The father filed a tort action for intentional interference with custody and visitation rights resulting in a jury award of \$3,017,000 against both the mother and grandmother.

The Court of Appeals issued a writ of certiorari prior to any proceedings and upheld the decision of the trial court. The court reasoned that, based on English common law, Maryland has recognized the tort of abduction and harboring of a child; however, the element of "loss of service" was not applicable with young minor children. The court further held that the jury award of more than \$3 million was not excessive due to



testimony of the father as to the defendant's wealth and the defendants' particularly heinous conduct.

## Child Support

*Kevin Wilson-X v. Department of Human Resources, Baltimore City Office of Child Support Enforcement ex rel. Yasmin Patrick*, 403 Md. 667 (2008)

Although the issue of whether the Social Security benefits were properly considered for calculation of child support was not before it, the Court of Appeals held that, based on statutory interpretation, the lower court's denial of the motion for reconsideration did not require a *de novo* review and the trial judge's order setting amount of father's child support obligation was **not manifestly wrong and unjust**. The father was ordered to pay \$50 per month in child support, and he sought appeal of the trial court's denial of his motion for reconsideration. The father asserted that based on federal and state law his monthly payments from Social Security are not to be counted as income for the purposes of child support. The trial court held that based on testimony taken at trial the father had to be receiving income from other sources; and based on that income, calculated his child support at \$50. The Court of Special Appeals, in upholding the lower court's ruling, held that the father did not file an appeal from the trial court's decision as to whether the Social Security income was properly considered, but rather sought an appeal of the court's denial of his motion to reconsider, which, based on the standard of review, was not erroneous.

## Delinquency

*In re: Lakeshia M.*, 398 Md. 551 (2007)

A written motion by the juvenile is not required to raise the issue of the child's competency because the issue can be raised by the court on its own motion. The child's attorney effectively moved for a competency evaluation in open court, where the child's attorney first requested a continuance,



apparently to get an expert opinion on which to base the lack of competence argument; then, when the continuance was denied, raised the issue of competency itself. The court erroneously proceeded to adjudication without making the required findings to determine if a stay was necessary to permit a competency evaluation.

*Smith v. State*, 399 Md. 565 (2007)

Once a Circuit Court, sitting as a criminal court, transfers jurisdiction of a case to the juvenile court for disposition, the juvenile court does not possess the power to return the case to the criminal court. In this case, after disposition in the juvenile court, and commitment to the Department of Juvenile Services, the youth escaped the facility where he was held. Subsequently the juvenile court found he was not amenable to treatment in the juvenile justice system, and remanded him to the criminal court, which then sentenced him as an adult. The Court of Appeals vacated the decision of the criminal court and remanded the case to juvenile court.

*In re Kevin E.*, 402 Md. 624, 938 A.2d. 826 (2008)

In reversing the lower court's ruling, the court held that dismissal of delinquency petition was the equivalent of an acquittal, and thus retrial was barred under common law double jeopardy principles. The State of Maryland sought review of a lower court ruling that double jeopardy had attached, which prevented them from proceeding with a second adjudicatory hearing. At the master's hearing, the state requested a postponement due to a key witness being unable to attend. The master denied the request. Thereafter, without presenting any evidence or any witnesses, the state rested. After the master granted defense counsel motion to dismiss the petition, the state filed timely exceptions. However, when the juvenile judge concurred with the master's recommendation to dismiss the petition, it was tantamount to an acquittal and thereby double jeopardy attached. The court held that even though the juvenile court judge erred by not waiting the statutory five days following the master's hearing, precedent has held that double jeopardy attaches

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# Recent Decisions, cont.

even though the court was in error. Judge Raker filed a dissent.

## Domestic violence

*Suter v. Sutckey*, 402 Md. 211, 935 A.2d 731 (2007)

**Absent fraud or coercion, a party may not appeal a protective order entered by consent pursuant to the Domestic Violence Protective Act.** A girlfriend petitioned for a temporary protective order (TRO) against her boyfriend. The District Court, Prince George's County, granted the TRO and subsequently issued a final protective order by consent. Family Law §4-507 provides for a right of appeal from the entry of a protective order from the District Court to the Circuit Court and the appeal shall be heard de novo. The right to appeal may be lost by acquiescence in or consent to a final judgment. Accordingly, absent fraud or coercion, no appeal lies from a consent judgment.

## Grandparent visitation

*Koshko v. Haining*, 398 Md. 404 (2007)

The state's grandparent visitation statute is not unconstitutional in light of *Troxel v. Granville*, 530 U.S. 57, 120 S. Ct. 2054, 147 L. Ed. 2d 49 (2000), even though it lacks an express presumption that parental decisions are in the best interests of their children. The court read the statute, Family Law §9-102, to include the presumption requiring that grandparents asserting their visitation rights under the statute first overcome the presumption that a parental decision to limit or terminate their visitation rights was not in the child's best interest.

The grandparent visitation statute was unconstitutionally applied to the parents in this case because the statute worked to impede substantially on a fundamental right to parent. While the state has an interest in encouraging grandparents' contributions to their grandchildren's lives, the statute needs to be narrowly tailored to protect that interest without unduly burdening the parents' fundamental right. Thus the statute

requires a finding of parental unfitness or exceptional circumstances before the best interests analysis may be applied. This is the same test applied in third party custody cases as articulated in *McDermott v. Dougherty*, 385 Md. 320, 869 A.2d 751 (2005). In so doing, the Court of Appeals overturned an earlier line of cases beginning with *Fairbanks V. McCarter*, 330 Md. 39, 622 A.2d 121 (1993), in which it previously held such threshold findings unnecessary in third party visitation cases. The case was remanded for application of the new threshold requirement.

*Taylor v. Mandel*, 402 Md. 109 (2007)

In apportioning attorney's fees for the appointment of counsel for a child between a parent and third party, the court held that the grandmother was not a "parent," within meaning of the statute authorizing imposition of guardian ad litem fees against either or both parents, and the statute governing award of counsel fees to party in custody or visitation proceedings did not authorize imposition of guardian ad litem fees against the grandmother. Denise Taylor, petitioner, who had filed a complaint seeking custody or visitation with her grandchildren, requested the appointment of a guardian ad litem; the court appointed Marc E. Mandel, Esq., respondent, as guardian ad litem. Subsequently, Mandel submitted an amended order that was signed by the court, in which the court reserved for future determination the award of guardian ad litem fees and ordered each party to advance to counsel \$1,000 to be held in escrow subject to further order of the court regarding the apportionment between the parties of their respective obligations to pay the reasonable guardian ad litem fees. Taylor compiled and deposited \$1,000 into her attorney's escrow account.

After the parties reached a settlement and Mandel petitioned to recover his fees, the Circuit Court ordered Taylor to pay a portion of Mandel's guardian ad litem fees, a decision which was affirmed by the Court of Special Appeals. The Court of Appeals reversed, holding that under Md. Code §1-202 of



the Family Law Article, the Circuit Court did not possess the authority to assess guardian ad litem fees against Taylor, the maternal grandmother of the children. Moreover, the court also stated that Taylor did not waive her right to object to the guardian ad litem fees or acquiesce in the payment thereof. The court also noted that the amended order—appointing Mandel as guardian ad litem and ordering Taylor to deposit \$1,000 into her attorney’s escrow account—stated that the \$1,000 was “subject to further order of this court regarding apportionment between the parties of their respective obligations to pay the reasonable counsel fees of the attorney for the minor children,” and the court “reserved for further determination” the assessment of guardian ad litem fees. The order, in its ambiguity however, failed to define Taylor’s liability, of any, at all. Therefore, Taylor could not have waived her right to object to the fees or acquiesced in the payment thereof. Moreover, the court stated that when she deposited the money into her attorney’s escrow account, she acted involuntarily in compliance with a court order.



this case, the appellant, an unmarried father, contracted with the appellee to carry two fertilized eggs to term. Under HG §4-208, unless a court order otherwise provides, the hospital will report the gestational carrier as the “mother” of the child to the Maryland Division of Vital Records. In this instance, neither the appellant father nor the appellee gestational carrier wanted the latter to be listed as the children’s mother on the birth certificate. The appellee joined the appellant in a motion to the trial court asking it to issue an “accurate” birth certificate, i.e., one that did not list the gestational carrier as the children’s mother. The trial court declined and the Court of Appeals reversed that decision. Because Maryland’s Equal Rights Amendment forbids the granting of more rights to one sex over the other, the paternity statutes in Maryland must be construed to apply equally to both males and females. Women have the same opportunity to deny parentage as men have.

## Court of Special Appeals

### Alimony

*Ridgeway v. Ridgeway*, 171 Md. App. 373 (2006)

The trial court did not err in denying the husband’s request to terminate indefinite alimony where the husband requested the modification of alimony after retiring at age 55, and where he now had less monthly income than the wife, but where the husband had more assets available to him than the wife and where the trial court did reduce the alimony from \$1,750 per month to \$500 per month. The appellate court will not disturb an alimony determination unless the trial court’s judgment is “clearly wrong or an arbitrary use of discretion.” *Blaine v. Blaine*, 97 Md. App. 689, 698 (1993), *aff’d*, 336 Md. 49 (1994).

The appellant’s appeal from the trial court’s order reducing alimony did not divest the Circuit Court of jurisdiction to act upon the appellee’s petition for attorney’s fees. The court retained the fundamental power to make the attorney’s fee award even after the appeal had been entered. A long line of appellate cases make clear that the trial court may award attorney’s fees while prosecuting the appeal from an alimony award. Here the trial court did not err in awarding attorney’s fees, as well as appellate attorney’s fees. It is already established that a party seeking alimony from his or her

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### Marriage

*Conaway v. Deane*, 401 Md. 219, 932 A.2d. 571 (2007)

Maryland’s statute prohibiting same-sex marriages did not draw an impermissible sex-based distinction in violation of the Maryland Equal Rights Amendment (ERA). Same-sex couples brought action against Circuit Court clerks, seeking declaration that a state statute prohibiting marriage licenses to be issued to same-sex couples was unconstitutional. After motions to intervene by various parties were denied, denial of the motions was affirmed by the Court of Appeals. The court held that FL §2-201 does not discriminate on the basis of gender and that sexual orientation is not a suspect or quasi-suspect classification. Further, there is no fundamental right to marry a person of your own sex, and FL §2-201 is rationally related to a legitimate government objective.

### Paternity

*In re Robert d. B.*, 399 Md. 267 (2007)

The name of a genetically unrelated gestational host of a fetus, with whom the appellant contracted to carry *in vitro* fertilized embryos to term need not necessarily be listed as the mother on the birth certificate when the resultant children are born. In

# Recent Decisions, cont.

spouse may be a privileged suitor, entitled to an award of attorney's fees, if it appears that the party has insufficient funds to pursue the matter. The party seeking alimony is a privileged suitor entitled to advance attorney's fees, regardless of whether she is the appellant or appellee.

## Child access

*Janice M. v. Margaret K.*, 171 Md. App. 528 (2006).

In a visitation dispute between the child's legal (i.e., natural or in this case adoptive) parent and a person who claims to be the child's *de facto* parent, the issue of whether that person is a *de facto* parent is to be decided by the test adopted in *S.F. v. M.D.*, 132 Md. App. 99, 111-12 (2000). Once the court finds the person to be a *de facto* parent, that parent is not also required to provide the existence of "exceptional circumstances" normally required before granting a third party visitation rights. The court will resolve the visitation by applying the "best interests of the child" standard. In this instance, the trial court had found that the person seeking visitation rights was a *de facto* parent where, during a 17-year committed relationship, one of two same-sex partners had adopted a child from India, but where both partners had acted as parents since the child entered their home.

The "fit parent/exceptional circumstances" test applies to a custody dispute between the child's legal (i.e., natural or adoptive) parent and a person found to be the child's *de facto* parent. The child's *de facto* must rebut the presumption that the child's best interest lay in being in the custody of the child's legal parent. In this instance the parties had originally agreed that the legal parent would have primary custody of the child and the *de facto* parent would have liberal visitation after the parties separated. The appellate court affirmed the finding of the trial court that the presumption had not been overcome.

## Child support

*Bornemann v. Bornemann*, 175 Md. App. 716, 931 A.2d 1154, (2007)

In 2002, the General Assembly amended Md. Code Article 1 §24 to provide that, for purposes of child

support, the age of majority is extended to a child's 19<sup>th</sup> birthday or graduation from secondary school, whichever first occurs. The parties' son, a senior in high school, turned 18 on September 9, 2005. Just before that date, his mother, the appellee, moved for modification of the appellant's child support obligation based on the amendment to Article 1 § 24. Appellant opposed the modification, asserting that the extension was a retrospective modification of his support obligation, which violated his vested rights under the contract clause of the U.S. Constitution and Maryland Declaration of Rights. The court held that it is clear from the intent of the legislature that retrospective application is appropriate and such application does not violate appellant's vested rights.

## CHILD In Need of Assistance (CINA)

*In re: Nicole B. and Max B.*, 175 Md. App. 450 (2007)

The trial court erred in closing a CINA case after placing two children, one of which is a registered member of a Native American tribe, and the other of whom is eligible for membership, in the custody and guardianship of a paternal, non-Native American aunt, without properly addressing the requirement of the Indian Child Welfare Act (ICWA) that the Department of Social Services take "active efforts" to prevent the breakup of an Indian family. While there was testimony that neither parent had made sufficient progress in addressing underlying issues, including substance abuse, there was also testimony from a representative of the Yankton Sioux tribe, which had successfully intervened in the case, that the Department of Social Services had not made enough "active efforts" and was not in compliance with the Federal ICWA. Under the ICWA, a preference for placement with extended family members is not triggered until active efforts have been made to prevent the breakup of the children's family. The "active efforts" required are more than just the "reasonable efforts" that are required for compliance with Title



IV(e) of the Social Security Act. Making a referral for treatment or services is a passive, rather than an active effort, and more may be required. In this case, the trial court closed the CINA case finding that reasonable efforts were made by DSS. Further, the trial court did not mention the ICWA in its written order.

*Montgomery County Dept of Health and Human Services v. Tamara A.*, 178 Md. App. 686, 943 A.2d 653 (2008)

The court held that Montgomery County Department of Health and Human Services was entitled to petition for judicial review of the administrative law judge's denial of their motion to dismiss and the neglect findings in both the circuit court and administrative hearings were identical as required to assert the doctrine of collateral estoppel. The circuit court for Montgomery County found that the mother was responsible for indicated neglect of her youngest child. The Mother requested a contested hearing with the Administrative Hearing Office. The Department filed a motion to dismiss her request stating that the issue of neglect was fully litigated in the circuit court hearing. The administrative law judge denied the Department's motion and, subsequently, the Department sought judicial review with the circuit court. The circuit court upheld the administrative law judge's ruling and the Department sought an appeal with this Court. The Court of Special Appeals reversed and remanded the case stating that the administrative law judge's denial of the motion to dismiss was not proper in light of the doctrine of collateral estoppel.

*In re: James G.*, 178 Md. App. 543, 943 A.2d 53 (2008)

Maryland's statutory scheme for child protection derives from federal law. When a child is removed from the home for health or safety reasons, both federal and state law require the local Department of Social Services (DSS), with exceptions not applicable here, to make "reasonable efforts" to accomplish parental reunification. Under the circumstances of this case, the Circuit Court erred in finding reasonable efforts in connection with a permanency plan that had a stated goal of parental reunification. The father's unemployment and lack of housing were his sole impediments to reunification. Yet, DSS made only one referral to the father for vocational assistance, upon which DSS did not follow up. The referral was unsuccessful. The Circuit Court also erred or abused its discretion in terminating the permanency plan of parental reunification

based on its erroneous finding of reasonable efforts, and because, among other things, it did not address the child's best interests in changing the permanency plan. Instead, it focused almost entirely on the length of time the child had been out of the home. Although length of time is an important consideration, it does not compel a change in the permanency plan when, as here, the child was in care of a relative and DSS failed to make reasonable efforts towards reunification.

## Delinquency

*In re: Ondrel, M.*, 173 Md. App. 223 (2007)

The trial court had sufficient evidence to conclude that the appellant was engaged in a "marijuana-focused common enterprise" where he was a passenger in the front seat of a car that was stopped after a chase by police, where there was an odor of marijuana in the car, and marijuana found on a newspaper on the floor behind the driver's seat. In addition, the police officer's testimony that he smelled marijuana was properly admitted as a lay opinion. An expert is not required to identify the odor of marijuana. A witness need have only encountered the smoking of marijuana in daily life to be able to recognize the odor.

*In re: Roneika S.*, 173 Md. App. 577 (2007)

Juveniles are entitled to fair notice under Article 21 of the Maryland Declaration of Rights and the Due Process Clause of the Fourteenth Amendment. The notice that must be provided in delinquency proceedings is identical to that required in criminal cases. In this case, the state's petition alleging delinquency satisfied the requirements of Article 21, Court and Judicial Proceedings §3-8A-13(a) and Rule 11-103a.2.(c), properly setting forth the alleged facts on which the delinquency was based, where the charging documents indicated the juvenile had made false statements to a police officer but did not say which statements made were false, and where additional details about the charge had been provided to the juvenile's attorney in discovery. The petition set forth the date and place of the alleged act, and to whom the false statement was made, the language setting forth the elements of the charge and a list of witnesses. The trial court erred in dismissing the state's petition.

*In re: Shawn P.*, 172 Md. App. 569 (2007)

The trial court abused its discretion in denying a request for a continuance,

cont. on next page

# Recent Decisions, cont.

or in the alternative, by refusing to afford the youth an opportunity to consult with counsel. The youth appeared at an adjudication without counsel, the court did not properly go through each step of Rule 11-106 regarding waiver of counsel, and when a public defender who happened to be present in the courtroom made an effort to represent him, but had never before seen, spoken to or consulted with the youth until a few moments before the hearing began.

*In re: Areal B.*, 177 Md. App. 708, 938 A.2d. 43 (2007)

Juvenile was adjudicated delinquent in the Baltimore City Circuit Court of solicitation for prostitution. The Court of Special Appeals held that amendment of delinquency petition charging juvenile with engaging in prostitution to charge for soliciting prostitution, after the state rested, violated juvenile's due process right to fair notice.

*In re: Marcus J.*, 175 Md. App. 703, 931 A.2d. 1146 (2007)

A juvenile filed exceptions to the juvenile master's recommendation that the juvenile be found delinquent. The Baltimore City Circuit Court denied exceptions. The Court of Special Appeals held that juvenile's exception to the master's recommendation accurately and adequately communicated that the juvenile was seeking a de novo hearing on all issues. The case was vacated and remanded.

## Divorce

*Whittington v. Whittington*, 172 Md. App. 317 (2007)

While Maryland law provides that alimony ceases automatically upon the marriage of the recipient, it does not bar or limit an award of alimony if the recipient lives in a "marriage type relationship" with another party, although that will be a factor in determining the recipient's financial status.

*Aleem v. Aleem*, 175 Md. App. 663, 931 A.2d. 1123 (2007)

Maryland had a sufficient nexus to marriage that took place in Pakistan to effect an equitable distribution of marital property, and Pakistani law that did not give the

wife rights to property titled in the husband's name conflicted with Maryland public policy. The parties, long-time residents of Montgomery County, are Pakistani citizens. While the wife's action for divorce was pending in Montgomery County, the husband divorced his wife under Pakistani law by *tala*, pronounced in the United States and registered in Pakistan. The Montgomery County Circuit Court awarded the wife half of the husband's pension as marital property. This Court upheld the lower court ruling, stating that aspects of Pakistani law under which rights in property follow title, unless altered by the marriage contract, denied comity, as contrary to Maryland public policy.

## Guardianship

*Robert Battley, Personal Representative in the Estate of Dorothy Battley, v. Michael G. Banks*, 177 Md. App. 638, 937 2.d 846 (2007)

A guardian of a disabled person, who is entitled to compensations and reimbursement from his ward's assets for the performance of guardianship services, may not, upon the death of his ward, pay himself court-approved guardianship fees before transferring the assets of the ward's estate to the personal representative of the decedent. Rather, the former guardian's claims must be submitted to the personal representative of the decedent's estate to be paid subject to the hierarchy of claims set forth in the Estate and Trusts Article, §8-205(a).

## Marital property

*Gordon v. Gordon*, 174 Md. App. 583 (2007)

A party who contributes non-marital funds to the acquisition of real property titled as tenants by the entirety is not entitled to an automatic refund. Instead, a monetary award must be made in accordance with Title 8 of the Family Law (FL) Article. The monetary award must comport with the underlying legislative purpose of correcting inequities in regard to the way in which marital property happens to be titled. In this case the wife sought reimbursement of \$30,000 in non-marital funds used to acquire the parties' marital home, titled as tenants by the entirety. The court did not appear to rely on any of the required statutory factors in FL §8-205(b)

to support the wife's request for the "reimbursement." The court erred in awarding the appellee the \$30,000 as a "credit . . . when the house is sold," even though the court appeared to characterize it as a "monetary award." Even if it could be considered a monetary award, the court did not consider all of the statutory factors as it was required to do.

***Chambers v. Cardinal*, 177 Md. App. 418, 936 A.2d 507 (2007)**

The Court of Special Appeals held that a husband's and wife's contract for sale of property that they owned in joint tenancy divested them of equitable title to which a judgment lien could attach. The appellant obtained a judgment against her former husband. At the time, he owned real property in a joint tenancy with his new wife. The former wife sought declaratory judgment on an enforceable lien on the property, but the husband had conveyed the property to third-party purchasers pursuant to contract of sale and deed before execution on judgment. By the doctrine of equitable conversion, the contract of sale transferred equitable ownership to the contract purchasers. Therefore, the judgment debtor no longer held an interest in the property to which a judgment could attach. Nor did appellees acquire property encumbered by a lien.

***Hearn v. Hearn*, 177 Md. App. 525, 936 A.2d. 400 (2007)**

The Court of Special Appeals held that pursuant to federal regulation, a pro-rata formula used in a Civil Service Retirement and Survivor (CSRS) order applied to the gross annuity payments, and the Circuit Court was required to address the former husband's contention that the CSRS order failed to reflect mutual intent and understanding of parties due to mutual mistake as to the legal effect of the agreed language. The former husband filed a motion requesting that the pro rata formula in a CSRS annuity benefits order, which distributed a portion of federal pension benefits to former wife, be applied to his net annuity rather than the gross amount of the retirement benefit. The Frederick County Circuit Court denied the motion without taking any evidence or testimony.

***Marquis v. Marquis*, 175 Md. App. 734, 931 A.2d. 1164 (2007)**

Since the master, during an exceptions hearing, was advised as to the contents of certain evidence, the court was not erroneous and the master's



finding were supported by evidence. The ex-wife filed a petition for contempt, alleging that the ex-husband was in default of the divorce decree because he failed to consent to the ex-wife's proposed constituted pension order (CPO). The master issued a report recommending that the court find the ex-husband in contempt. The ex-husband thereafter filed exceptions to the master's recommendations and petitioned for a hearing on the exceptions. The Circuit Court entered an order finding the ex-husband in contempt and requiring him to sign the ex-wife's proposed CPO and pay \$2,333 in attorney fees to the ex-wife.

The Court of Special Appeals, in upholding the lower court, held that because the master heard evidence on contents of letters from the ex-husband's counsel to the ex-wife's counsel, the master's refusal to admit the letters into evidence did not prejudice the ex-husband or created an error requiring reversal of order of contempt against ex-husband and master's report and recommendations were supported by credible evidence. Thus, the trial court's deference to those findings was not clearly erroneous.

***Allen v. Allen*, 178 Md. App. 145 (2008)**

The court held the lower court's ruling which awarded the former wife a portion of the husband's pension only obligated the Husband to repay the wife, not that the military pay her directly. The appellant husband filed an appeal from the Harford County Circuit Court for alleging that the lower court erred in awarding the appellee wife a portion of his temporary military disability severance pay. Court of Special Appeals upheld the lower court ruling despite a provision in the Uniformed Services Former Spouses' Protection Act, which states that disability pay is not subject to distribution by a state court. Further, the husband received his temporary disability severance pay in lieu of his retirement annuity therefore, if the lower court's ruling was overturned, the husband would have denied the wife her portion of his retirement as stated in their executed consent judgment.

***Mills v. Mills*, 178 Md. App. 728, 943 A.2d. 677 (2008)**

A wife filed in the lower court seeking an order dividing her husband's retirement account with the World Bank pursuant to their judgment of divorce. After the lower court order, the World Bank needed clarification on specific

# Recent Decisions, cont.

terms since the husband intended to retire immediately. The court issued an amended order, on the basis that they reserved jurisdiction, permitting the wife to collect 41 percent of her husband's early pay-out, and the husband appealed. The court held that the lower court had retained jurisdiction, had the authority to amend the original order to effectuate the intent of the parties, and to assist with the enforcement of their settlement agreement.

## Paternity

*Ashley v. Mattingly*, 176 Md. App. 38, 932 A.2d 757 (2007)

The trial court had discretion to order genetic testing to determine paternity under the Estate and Trust Article if court determined that it was in the best interest of the child. After obtaining DNA testing establishing that he was not the child's biological father, the ex-husband filed a complaint for discontinuance of child support and a request for paternity testing. The Wicomico County Circuit Court refused to permit a challenge to paternity with respect to child born during the parties' brief marriage. Under the Maryland Code, paternity may be established pursuant to the Family Law (FL) Article or the Estates and Trust (E&T) Article. Under E&T Article, §1-206(a), a child conceived or born during a marriage is "presumed to be the legitimate child of both spouses" and under FL Article, §5-1027(c), a man is presumed to be the father of a child conceived during the marriage.

E&T Article §1-206 applies here, because the child was born during the marriage, not necessarily conceived during the marriage. The court had discretion to order genetic testing to determine paternity if it first determined that it was in the child's best interest to do so. Because the court did not recognize that it had discretion, it erred.

*Burden v. Burden*, 179 Md. App. 348 (2008)

Under South Dakota law, there was conclusive presumption of paternity that arose after the husband voluntarily filed an acknowledgment of paternity. Applying

Maryland law, the husband's agreement to sign the affidavit did not involve fraud, material mistake of fact, or duress, and thus prevented him from attempting to disestablish paternity. While living in South Dakota, the father voluntarily signed an affidavit of paternity despite knowing that the child at issue was not his biological child. Six years later, after the couple had separated and the mother moved to Baltimore City, she filed for divorce and included a claim for child support. The trial court denied the request for child support based on evidence introduced at trial that the child was not the biological son of the father. After the denial of post-trial motions, including the pertinent South Dakota statute, the mother sought an appeal. The Court of Special Appeals held that South Dakota allows for the rescission of the voluntary acknowledgment of paternity 60 days after execution and up to three years if there are allegations of fraud, duress, or material mistake of fact. Since it had been more than six years and Maryland was bound to give South Dakota's statute full faith and credit, the father was barred from trying to disestablish paternity.



## Termination of Parental Rights (TPR)

*In re: Adoption/Guardianship of Harold H.*, 171 Md. App. 564 (2006)

The Court of Special Appeals affirmed the trial court's decision to terminate the parental rights of the child's mother where the mother had suffered a stroke at age 41, and for the past five years had been confined to a nursing home. The mother suffered severe brain impairment as a result of the stroke. After his mother's illness, the child had resided for approximately one year with relatives and family friends before being placed in foster care by family friends who had been caring for him. Attempts to reunite the child with his biological father had been unsuccessful and the father's rights were terminated. The mother here lacked the skills and accomplishments necessary to provide basic care for her child, even if additional services could be provided by the Department of Social Services.

# Maryland's Commission on Improving Child Welfare Hosts Summit for Jurisdictional Teams

By Tracy Watkins-Tribbitt, Executive Director, Foster Care Court Improvement Project

In September 2005, Chief Judge Robert M. Bell of the Maryland Court of Appeals attended a nationwide summit in Minnesota, *Changing Lives By Changing Systems: National Judicial Leadership Summit for the Protection of Children*. Judge Bell was accompanied by the state court administrator, director of the Child Welfare Agency, and director of the Foster Care Court Improvement Project.

The main objective for the leaders behind the nationwide summit was to encourage other states to improve court oversight of cases and to reduce delays so that children are placed safely and permanently in a timely manner.

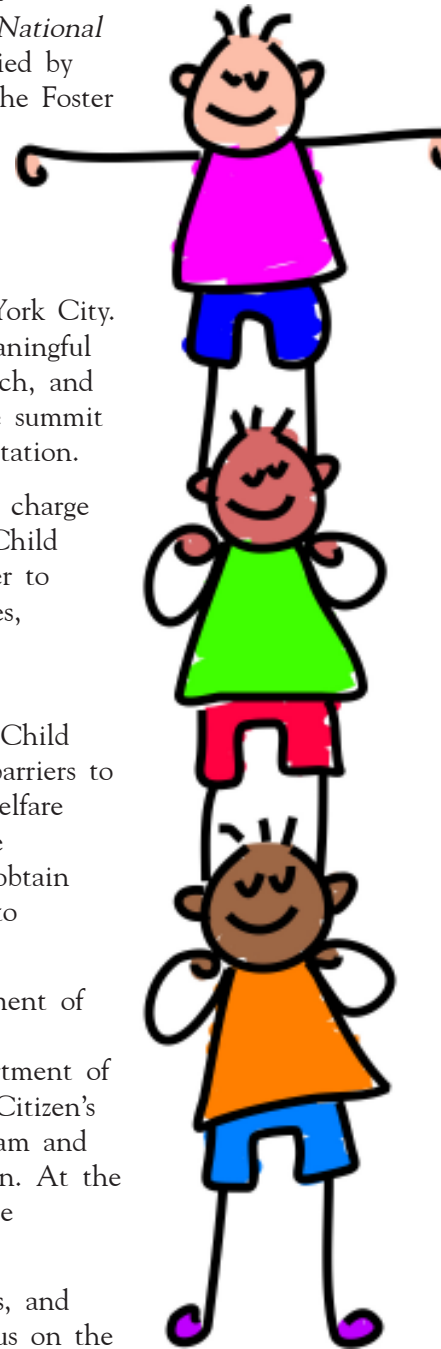
In March 2007, the Maryland team returned to the second summit, held in New York City. The focus remained on the importance of enlarging the table and fostering more meaningful collaborative relationships between the court, Child Welfare Agency, legislative branch, and other key stakeholders. In addition, through both plenary and break-out sessions, the summit highlighted successful initiatives from other states and suggestions for their implementation.

The Judiciary, in conjunction with the Department of Human Resources, took the charge of ensuring meaningful collaboration very seriously. The Commission on Improving Child Welfare was established in June 2007 and serves as a statewide forum for each partner to review its respective contributions to the child welfare system, share agency initiatives, identify solutions to potential barriers to service, and make recommendations for improvement.

This June 5-6, the commission hosted a statewide summit emulating the National Child Welfare Summit. The focus of the state summit was on identifying and overcoming barriers to permanency for children in care. In addition to providing an opportunity for child welfare stakeholders to interact in a statewide collaborative setting, the Maryland event gave jurisdictions a setting where they had the opportunity to learn about best practices, obtain national perspectives, and participate in developing local jurisdictional action plans to improve child welfare.

Two dozen jurisdictional teams consisting of a Juvenile judge/master, local Department of Social Services director, agency attorney, child's attorney, parent's attorney, and representatives from the Department of Juvenile Services, Board of Education, Department of Health and Mental Hygiene, Court Appointed Special Advocate (CASA), and the Citizen's Review Board (CRB) attended the summit. Each group obtained information as a team and developed and implemented a collaborative plan for improvement in their jurisdiction. At the completion of the summit, each team was charged with going back to their respective jurisdictions to enact their developed action plans.

Commission members were pleased to offer this opportunity to jurisdictional teams, and feel that this forum offered a more intense and directed opportunity to learn and focus on the resources that each contributing agency can offer to assist in addressing barriers to permanency. On a state level, the commission will be available to assist the local teams by providing technical assistance, developing resources for local teams, and working on a statewide basis to address concerns within the child welfare system.



# Department of Family Administration Welcomes New Staff Members

The Department of Family Administration (DFA) is pleased to announce the new additions to its staff.

**Connie Kratovil-Lavelle** joined the department as its new deputy director in September 2007. As an experienced litigator with a strong commitment to public service, Kratovil-Lavelle brings a deep knowledge of a broad range of family issues as well as a passionate commitment to promoting positive social change. As a private practitioner, she handled family, juvenile, and civil cases, and was instrumental in securing large *cy pres* awards to benefit Maryland's legal service providers serving the indigent. For several years she represented victims of domestic violence as a staff attorney for the Maryland Volunteer Lawyers Service on the Eastern Shore. Her strong commitment to *pro bono* legal service led her to help launch the Mid-Shore Pro Bono Program through which she herself handled a large volume of *pro bono* matters.

When she was director of development and public relations with the Law Foundation of Prince George's County, Kratovil-Lavelle, a fluent Spanish speaker, started the Latino Legal Access Project in that county. This past fall she received the Arthur W. Machen, Jr., Award from the Maryland Legal Services Corporation (MLSC) for her contributions to legal services in Maryland. She has received numerous other awards including the MLSC Award for Outstanding Support for Access to Justice, the Above and Beyond Award from the Mid-Shore Council on Domestic Violence, and the *Daily Record's* Maryland's Top 100 Women Award. Kratovil-Lavelle, who earned her law degree from the University of Baltimore School of Law, also holds a Master of Law degree from Georgetown University. She completed her undergraduate education at Gettysburg College. She has two children, Sean, 7, and Charlotte, 5, and with them shares a love of the outdoors, including walking, hiking, skiing, and boating.

**Erin Darner Gable** joined the DFA in February 2008 as a coordinator of legal resources, a newly created position in the department. She has been very active in the Maryland State Bar and Anne Arundel County Bar Associations. Since 2005, she has been a council member of the Family and Juvenile Law Section Council of the State Bar Association. In 2007, she was the co-chair of the Legislative Subcommittee and the current chair of the Maryland Institute for Continuing Professional Education of Lawyers (MICPEL) Subcommittee. In her role as MICPEL Subcommittee chair, Gable developed courses and coordinated faculty for the 2008 Family Law University and the Family Law Evening Series, and oversaw the initial development of the QDRO seminar. Gable has been presenting at continuing legal education seminars in the area of family law since 2001, including the annual Maryland State Bar convention.

In the last ten years, Gable has been practicing family law in Anne Arundel County with the firm of Dalnekoff and Mason, P.A. She has handled many third-party custody cases and has a reported appellate decision in that area. She has testified before the Maryland General Assembly twice regarding child custody jurisdiction and adult disability. A 1997 graduate from the University of Baltimore School of Law, Gable is originally from Jacksonville, Fla. and graduated from Florida State University in 1993 with a bachelor's degree.

Gable is married with two young children and lives in Anne Arundel County. She enjoys being with her children and traveling, particularly her annual trip to Islamorada, Fla., where she says she plans to retire, *someday*.

**Mona Wilhelmy** joined the Department of Family Administration in February 2008 as the financial officer. Prior to joining the DFA, Wilhelmy had worked in the Internal Audit Department of the Administrative Office of





photo by Pamela Cardullo Ortiz, Esq.

Bottom (left to right) Blanche Harris, Sonia Holland, Connie Kratovil-Lavelle, Esq. Top (left to right) Mona Whilhelmy, Erin Darner Gable, Esq.

the Courts since October 2006. Whilhelmy brings to her position a strong background in finance, grant administration, and quality management. She holds a master's degree in business administration from Xavier University in Cincinnati, and brings a passionate interest in grant work to her new role with the department.

**Sonia Holland** has been with the Administrative Office of the Courts since 2003, and joined the Family Administration Department in November 2006 as administrative assistant to the Foster Care Court Improvement Project (FCCIP). Having been a foster child herself, Holland has a particular passion for the needs of children in foster care, and wants to be part of the process that improves the lives of children in care. In addition to her work with the FCCIP, she also volunteers as a court-appointed special advocate.

Holland has been married to her husband Steve for eight years and they have five children and six grandchildren. While she says family is the most important thing in her life, she also loves singing in the church choir, teaching Sunday school, playing tennis and listening to jazz. She has only five classes

to complete to achieve her most immediate goal, which is to obtain her bachelor's degree. She is originally from Yonkers, N.Y., and has lived in Maryland since she was 15 years old.

**Blanche M. Harris** joined the Department of Family Administration in May 2008 as the administrative assistant for the executive and deputy directors. Prior to coming to the DFA, Harris had been an engineering assistant with Bell Atlantic, where she worked for more than 31 years. Her experience includes more than 17 years in the management and supervisory field. She attended classes at Anne Arundel Community College and completed classes in grant writing.

In her spare time, Harris and her husband of 42 years love to travel, especially to Nassau, Bahamas, and spend time with their two grandchildren and three sons.

# Model Court Brings Positive Changes to Circuit Court for Charles County

By the Honorable Amy J. Bragunier, Circuit Court for Charles County; Gail Graves; and Hope Gary, Esq., Assistant Director, Foster Care Court Improvement Project

In September 2005, the Circuit Court for Charles County became a part of the National Council for Juvenile and Family Court Judges (NCJFCJ) Model Court Project. The Model Court Project is a national network of juvenile and family courts committed to improving the outcomes for children and families involved in the child welfare system. One of the primary purposes of a model court is to create an environment where permanency becomes reality for children involved in foster care.

Just as other model courts, the Circuit Court for Charles County has created a team, the Community Partnership for Children and Families. The partnership consists of representatives from the county Board of Education, Department of Social Services, Office of State's Attorney, Department of Health, Legal Aid Bureau, and Office of the Public Defender, as well as private organizations such as the Center for Children, Big Brothers/Big Sisters, private foster care providers, private attorneys, CASAs, and mediators. In coordination with the Charles County Department of Social Services, the court holds monthly model court multidisciplinary stakeholder meetings at the courthouse. These meetings are held in a roundtable setting and provide a forum to discuss new ideas and concerns.

The Circuit Court for Charles County created the following mission statement, which reflects not only one of the Model Court Project's purposes, but also the attitude of the court and its stakeholders:

*“The mission of the Charles County CINA/TPR Model Court is to ensure the safety and well-being of our most vulnerable citizens, our children, by developing permanency plans that will encompass all aspects of the child's needs, as well as achieving the optimal outcome for families and children who are within the court's jurisdiction through multidisciplinary planning, coordination, and encouragement of program development and expansion.”*

As part of the model court program, The NCJFCJ provides practical, concrete,

and effective tools to improve how the courts handle child abuse and neglect cases. Model courts have been effective due to their efforts to:

- Collaborate directly with a NCJFCJ liaison to identify specific jurisdictional barriers to permanency.
- Collaborate in a team environment—that is spearheaded by a lead judge and is composed of key stakeholders—agency representative, parent counsel representatives, children's counsel, clerks of courts, school board representatives, community representatives, and services.
- Collaborate with other model courts to learn from their successes, trials and to serve as court mentors/resources to one another.

Key components of the Model Court Project are ongoing training and technical assistance. Judge Amy Bragunier, as the lead judge for the Charles County model court, participated in the NCJFCJ Child Abuse and Neglect Institute for Judges and also attends annual lead judges meetings. Additionally, Judge Bragunier and representatives from the Community Partnership for Children and Families attend the annual Model Courts All-Sites Conference for networking, training, and sharing ideas and accomplishments.

At the 2005 All-Sites Conference in Park City, Utah, the Charles County model court developed their first goals:

- 1) Develop and implement a system whereby orders will be produced and copies will be dispersed to all parties at the CINA shelter care and review hearings. We are pleased to report that we have successfully accomplished that goal.
- 2) Develop and implement a consistent system whereby each parent is identified and, if living, is located; use of the parent litany form (per Maryland guidelines) in a consistent

“The mission of the Charles County CINA/TPR Model Court is to ensure the safety and well-being of our most vulnerable citizens, our children, by developing permanency plans that will encompass all aspects of the child’s needs, as well as achieving the optimal outcome for families and children who are within the court’s jurisdiction through multidisciplinary planning, coordination, and encouragement of program development and expansion.”

manner by the worker for shelter care, adjudication/disposition, and (if necessary) permanency planning purposes. The Court now has a system that addresses undetermined paternity issues beginning at the Shelter Care Hearing until resolved. An order for the ‘alleged father(s)’ to appear for DNA testing is issued early. In cases where paternity is ruled out by testing, the agency attorney will *voir dire* the mother of the child, under oath, as to any other potential father(s). If another alleged father(s) is identified, an order for DNA testing is immediately issued. If no other is named, the agency attorney will publish a Notice to Potential Father of the Minor Child if a Termination of Parent Rights petition is filed. In addition, a grant was awarded to the Charles County Department of Social Services for an absent parent/relative outreach worker to assist with locating parents and relatives.

- 3) **Develop and implement a system whereby each case is scheduled and called at a specific time during the hearing day; each case will be held in a closed setting.** The model court has been successful in accomplishing this goal. In the past, all hearings were set at 9:30 a.m., causing many parties to wait for extended periods of time. Now hearings are set at 9 a.m., 11 a.m. and 2 p.m., substantially reducing waiting time for families and stakeholders.

All hearings are held in a closed courtroom, and notices to that effect are posted. Only parties directly involved in the hearing are permitted in the courtroom. There is a designated CINA waiting room, and parties are informed that is it from here that they will be notified when their case is called. The Kiwanis Club of Southern Maryland donated a children’s activity cart for the waiting room—a mobile cart with a television and VCR-DVD player. Other items donated include videotapes, books, activity and coloring books, and crayons. At the beginning of the hearing, each child, regardless of

age, receives his or her choice of a stuffed animal from our animal basket. This not only softens the courtroom, but also gives the child something to hug during a time that can be very stressful.

These are just a few of the initiatives that the model court accomplished within its first year. Charles County is now well into our second year as a model court and working on the following goals:

- 1) **The Charles County model court will establish a strong, effective, and sustainable collaboration with the Community Partnership for Children and Families stakeholders.** One focus of the partnership will be to hold meetings with a multidisciplinary group representing all aspects of the child welfare system including key decision makers and those who implement change on the ground. An aggressive outreach to the community will be undertaken to bring more stakeholders into the fold of the community partnership.
- 2) **The Charles County model court will create a system in which information about services being provided will be evaluated by the court to ascertain whether or not they are meeting the needs of the children and families; and**
- 3) **The Charles County model court will address issues regarding older youth and their needs as they prepare to age out of the foster care system.**

The Charles County model court continues to be pleased with its ongoing efforts and the support, energy, and excitement of all the stakeholders striving to improve the outcomes for children and families.

For information regarding Charles County’s program, contact Judge Amy Bragunier. For information on the national Model Court Project, contact Hope Gary, (410) 260-1728, or visit the National Council for Juvenile and Family Court Judges Web site, [www.ncjfcj.org](http://www.ncjfcj.org).

# Baltimore City Juvenile Court

By Honorable Bonita Dancy, retired, Circuit Court for Baltimore City; and Hope Gary, Esq., Assistant Director, Foster Care Court Improvement Program

In September 2005, Baltimore City's Juvenile Court became a Model Court under the National Council of Juvenile and Family Court Judges (NCJFCJ) Child Victims Act. That does not mean we can proclaim our court is perfect or that the NCJFCJ has perfected a "model" Juvenile Court for all to follow. Rather, NCJFCJ has developed "best practices" for juvenile courts, and participating courts are expected to implement those practices in ways complementary to each court. Model Court is a process of building a collaborative court to implement system changes designed to serve children and families better. Model Courts are models for positive change.

In October 2005, Judge Edward Hargadon, judge-in-charge of Juvenile Court in Baltimore City; Millicent Edwards Gordon, Baltimore City Department of Social Services (BCDSS) Legal Services; and Judge Bonita Dancy attended the NCJFCJ All Sites Model Court Conference and caught the fever. There are 36 model courts and the program is now more than 10 years old.

At the national conference there was electricity in the air as the teams from each court shared their accomplishments. The teams presented the best practice programs they have implemented giving the methods, impediments, and successes. It was very encouraging to hear that courts in large metropolitan areas like Chicago, New York, and Los Angeles have made system changes resulting in sustained reduction in the caseload by at least fifty percent.

We also learned that each court must set three goals for each Model Court year. Our first year goals were:

1. To develop a mission statement;
2. To develop and implement a One Family, One Master Docketing System; and
3. To reduce the Termination of Parental Rights (TPR) backlog.

The court worked on attaining our goals by collaborating with stakeholders. Fortunately, Baltimore City's Juvenile Court had already developed a collaborative

approach to problem solving and had implemented many of the best practices. The Model Court process provided a context and resources for continuing this work.

## Developing a Mission Statement

In January 2006 our Interdisciplinary Model Court Team met for the first time. The team includes representatives of BCDSS, the Office of the State's Attorney, Office of the Public Defender, Department of Juvenile Services, Foster Care Court Improvement Project, Baltimore City Public Schools, Baltimore Mental Health Systems, Baltimore City Police Department, children's attorneys, and the Juvenile Court bench and administrators. We worked as a committee to develop our mission statement, which is as follows:



The safety of children and public safety are paramount. Utilizing inter-agency and community collaboration, this court serves to:

- Protect children;
- Provide children with stable families;
- Empower families; and
- Ensure appropriate linkages to services and community resources

While respecting diversity and the due process rights of all.

## Working toward Goals 2 and 3

For goals 2 and 3, committees were formed and subcommittees or work groups were assigned specific tasks. After their tasks were completed, the workgroups were dissolved and another task-oriented group was created. Master Yolanda Tanner chaired

# Becomes Model Court

the One Family, One Master Committee, and Master James Casey chaired the TPR Reduction Committee.

Participation on the committees is open to everyone. Many people from different agencies worked on the committees, and interest in the Model Court efforts was and continues to be high.

Initially the TPR Reduction Committee set out to identify and address the backlog of TPR cases. Defined as cases not resolved within 180 days of filing, the Quest system showed there were 345 cases. The court identified the oldest cases and addressed them first. A new postponement policy was issued and the judges' docketing schedule was changed so that all three judges, as well as retired judges, could hear TPR cases.

The TPR Sub-Committees focused on long-term solutions by identifying the most serious impediments to timely completion of TPR cases and developing ways to eliminate or minimize those challenges. Thirty-eight people worked on various sub-committees that focused on:

- **Court Resources:** identifying needs and how to better utilize current resources
- **Incarcerated Parents:** determine how to better serve them and to assure their presence at hearings to avoid serial postponements
- **Service of Process:** address the problems of locating and serving parents
- **Case Processing:** explore ways to expedite completion of each phase of a case

The recommendations of the TPR Reduction Committee, adopted by the Interdisciplinary Team, are exceptional. They include having judicial officers conduct settlement conferences, adding mediation early in CINA cases, using parent identification/contact forms including a sign-in sheet for each court appearance, hiring a parent locator, creating a video explaining the entire court process to be utilized by incarcerated parents, and using video teleconferencing for parents not transported for hearings.

The One Family, One Master Committee had the arduous task of creating a totally new docketing system that would assign a family to a home court to hear all the family's juvenile matters in one court.

This is a drastic change that impacts the work of everyone in this court, and the process was difficult. However, many participated, all were heard, and every position was helpful and considered.

On January 2, 2007, the One Family, One Master docketing system was implemented, the parent locator began working, the sign-in sheet and parent identification/contact forms were distributed for use and the number of cases in the TPR backlog was reduced to 170.

## Going Forward

Although there have been some impediments, the Model Court team met regularly to address these challenges. Some of those challenges will be corrected by the passage of time; however, we try to be vigilant with constant review and modification. Even as we work on implementation of our first year goals, we are hard at work on second year goals,

- **Development of a Comprehensive ADR Program and**
- **Focusing on the Education Needs of Court Involved Children.**

We expect great things. Look for our Model Court update next year.

For information regarding Baltimore City's Program, contact retired Judge Bonita Dancy. For information on the Model Court Program, contact Hope Gary at (410) 260-1728 or visit the National Council for Juvenile and Family Court Judges Web site, [www.ncjfcj.org](http://www.ncjfcj.org)



# CASA Performance-based Funding Model

By Pamela Cardullo Ortiz, Esq., Executive Director, Department of Family Administration

## What are the 10 Points of the Performance Model?

1. Strive to meet the needs of children in the child welfare system.
2. Train high quality volunteers.
3. Meet the court's needs.
4. Collaborate with other organizations inside and outside the jurisdiction to achieve good results for children.
5. Provide a committed, caring presence for each child and ensure children receive needed services.
6. Maintain a high quality program structure.
7. Demonstrate organizational efforts to be culturally competent and sensitive.
8. Advocate for children to reach permanency.
9. Heighten public awareness of the needs of children in the child welfare system.
10. Follow the Standards for Local CASA/GAL Programs established by the National CASA Association.

As grant makers, the Administrative Office of the Courts (AOC) Department of Family Administration is always on the lookout for ways to help grantees improve their capacity as well as their performance. A funding model adopted last year for Court Appointed Special Advocate (CASA) programs is designed to do just that.

Maryland CASA programs provide voluntary advocates for children in foster care. The program is authorized by Maryland statute, which provides that state funding for CASA programs is to be administered by the Administrative Office of the Courts. The Judiciary currently provides grants to 14 CASA programs serving 16 Maryland jurisdictions. The Judiciary also provides funding to support the Maryland CASA Association, a statewide organization that supports the local programs.

While they receive some state funding, the CASA programs are required to provide a 100 percent cash match. They are also subject to the National CASA Standards. Those standards, for example, require programs to have one full-time volunteer supervisor for every 30 volunteers. In the past, programs were unable to expand services without additional funding for another supervisor, and yet they had difficulty justifying or attracting additional funding until they had expanded their capacity. The new funding model was designed, in part, to overcome that catch-22.

The funding model was developed by the Department of Family Administration in conjunction with the Maryland CASA Association and the directors of the 14 local CASA programs. It is a multi-part model, inspired, in part, by the funding model developed by Maryland's Mediation and Conflict Resolution Office (MACRO) to fund the state's community mediation centers. The model includes a *quantitative* as well as a *qualitative* component.

Under the *quantitative* component, programs receive a flat amount of funding based on their program capacity. Capacity is measured by calculating the average number of active volunteers serving children during the last four quarters. Thus, programs receive a base grant tied to their capacity level.

Under the *qualitative* component, programs are scored on their efforts to fulfill a "10-point performance model." The 10 points are hallmarks of an effective CASA program.

In addition to these two measures, programs can apply for a flat amount of funding under two additional categories. *One-time expansion grants* are available to permit a program to hire a volunteer supervisor. This type of award is designed to permit programs to expand and add up to an additional 30 volunteers

# Drives Growth, Effectiveness

and remain within the staffing guidelines required by the national CASA standards. The additional supervisor should permit the program to reach the next capacity level in the following year. Programs serving more than one jurisdiction can also apply for a *multi-jurisdictional bonus*. This permits programs to cover the administrative costs of serving more than one jurisdiction. From the AOC's perspective it promotes administrative efficiencies by creating incentives for existing programs to expand, a less costly option than starting an entirely new program.

The new performance-based funding model was used during Fiscal Year 2007, and CASA directors have reported real benefits for their programs. As the Department of Family Administration reviews grant applications for the next fiscal year, we hope to see the fruits of the new model in increased program performance and capacity as Maryland's CASA programs expand their services to advocate for more children in foster care.

The Performance-Based Funding Model for Maryland CASA Programs is available at: <http://www.courts.state.md.us/family/grants/2009/fagr020.pdf>.

## Statewide database, from 1

ability to respond effectively, promptly, and in a coordinated manner to domestic violence cases. The database will eliminate conflicting or simultaneous orders by improving communication between District and Circuit Courts that share concurrent jurisdiction over domestic violence cases, and will improve Maryland's ability to implement the full faith and credit provisions of the Violence Against Women Act. The database will also enhance the enforceability of protective orders. Law enforcement officers will be able to verify the existence and content of an order at any time, even on site when they respond to domestic violence calls, and make immediate arrests when violations occur.

The database is designed to provide Maryland's law enforcement agencies real-time secure access to imaged copies of District and Circuit Court's peace and protective orders. This real-time access will facilitate faster service of orders by serving agencies, as well as provide law enforcement officers quick access to existing orders, thus increasing safety for officers and victims. This database is a continuation of the Judiciary's efforts to affect victim and officer safety in the domestic violence arena.

The database will permit authorized users to request reports on Peace and Protective Orders, providing valuable information about domestic violence in Maryland. Eventually, the database will interface with the Maryland State Police System, which inputs Maryland data into the FBI's National Crime Information Center. The grant has enabled the Judicial Information Systems (JIS) Department to complete the design and development of the database.

For more information, contact Clifton Files, Domestic Violence Specialist, Department of Family Administration, (410) 260-1580 [clifton.files@mdcourts.gov].



# Parenting Coordination Rule, from 1

professional with mediation training and experience assists high conflict parents to implement their parenting plan by facilitating the resolution of their disputes in a timely manner, educating parents about children's needs, and with prior approval of the parties and/or the court, making decisions within the scope of the court order or appointment contract. (*Guidelines for Parenting Coordination*, Association of Family and Conciliation Courts.)

## A Maryland Version of Parenting Coordination

To ensure that Maryland courts have the requisite authority to order parties to work with a parenting coordinator, and to guide courts and define the practice in light of Maryland law, the Custody Subcommittee of the Judicial Conference Committee on Family Law has developed a proposed parenting coordination rule. The subcommittee, chaired by Judge Deborah S. Eyster of the Court of Special Appeals, worked for two years with judges, court professionals, parenting coordinators, attorneys, and others to devise a draft rule and proposed application for parenting coordinators. Those documents were reviewed and approved by the Committee on Family Law at their meeting this April. The proposed documents have been approved by the Conference of Circuit Judges and will be forwarded to the Rules Committee for consideration.

The proposed rule defines the practice for Maryland courts and addresses issues relating to the appointment of a parenting coordinator, qualifications, selection, term of service, removal and withdrawal of a parenting coordinator, fees, and the powers and scope of appointment.

The proposed rule distinguishes between parenting coordinators being appointed *pendente lite*, and those whom the court appoint to assist the parties for a finite period of time post-judgment.

## Duties

The duties of parenting coordinators permitted by the proposed rule include:

- Working with the parties to develop an agreed-upon, structured plan for abiding by the custody and visitation order;
- Educating the parties about making and implementing decisions that are in the best interest of their child;
- Developing guidelines with the parties for appropriate communication;
- Suggesting resources to assist the parties;
- Assisting the parties in modifying patterns of behavior to manage and reduce opportunities for conflict, when appropriate; and
- Assisting the parties in developing parenting strategies designed to manage the conflict between them and the impact of any conflict upon their child.

For a copy of the proposed rule and application, see [www.courts.state.md.us/family/otherpublications.html](http://www.courts.state.md.us/family/otherpublications.html).



# Attorneys Learn New Child Counsel Guidelines

By *Connie Kratovil-Lavelle, Esq., Deputy Director, Department of Family Administration*

In July 2007, new child counsel guidelines became effective. The Department of Family Administration coordinated a series of sessions throughout the state to train attorneys in the new guidelines. Pursuant to Maryland Rule 9-205.1 and the corresponding committee note, courts should only appoint attorneys who have been trained in accordance with Guideline 4 of the Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access. Since November 2007, 453 attorneys have been trained.

The six regional trainings were held in Allegany, Anne Arundel, Calvert, Prince George's, and Talbot counties and Baltimore City. The Maryland Institute for Continuing Professional Education of Lawyers, Inc. (MICPEL) held three video replays of the trainings. A group of experienced family law practitioners, court personnel, mental health providers, and members of the bench worked with the Department of Family Administration to develop curriculum and training materials as well as to serve

as presenters and panel members. They included: Perry Becker, Esq.; Paul Berman, Ph.D.; Honorable Judge Amy Bragunier; Cindy Callahan, Esq.; Honorable Judge Audrey Carrion; Honorable Judge Edward Dwyer; Bridget Gazelle; Katherine Killeen, Ph.D.; Honorable Judge Diane Leasure; Dorothy Lennig, Esq.; Anne LoPiano, Esq.; Chris Nicolson, Esq.; Master Patrick Palmer; Linda Pecoraro; Mary Sanders, Esq.; Justin Sasser, Esq.; Rebecca Snyder, Esq.; Honorable Judge Ann Sundt; Keith Schiszik, Esq.; Barbara Trader, Esq.; Donna VanScoy; and Honorable Judge Julia Weatherly.

MICPEL will continue to offer the video replays and may offer additional live programs in the future. The guidelines allow for the development of local training programs provided they include the requirements as set forth in Guideline 4, Training and Continuing Education. The Department of Family Administration can provide assistance and materials for developing programs. For further information, please contact Deputy Director Connie Kratovil-Lavelle, (410) 260-1580.

# Creating Standards for Custody Evaluators

By *Connie Kratovil-Lavelle, Esq., Deputy Director, Department of Family Administration*

The Custody Subcommittee of the Committee on Family Law of the Conference of Circuit Judges is investigating the various practices of custody evaluators in Maryland and other states courts in an effort to develop standards of practice. The subcommittee found that while there is consensus that the evaluations are generally helpful to the court in making custody and child access determinations, there is no uniform methodology, protocol, or practice.

The subcommittee hopes to explore "best practices" or a proposed rule for court-ordered custody evaluations, or both. Previous work of the subcommittee ultimately resulted in the new Child Counsel Guidelines under Rule 9-205.1, which became effective in 2007, and a draft rule for parent coordinators, adopted by the Family Law Committee earlier this year and currently under consideration by the Rules Committee.

The subcommittee canvassed the courts and practitioners to identify common objectives of the evaluation process, best practices, recognized standards of practice, length of time spent on evaluations, fees imposed, and whether evaluators provide reports or testimony. On April 22, the subcommittee held a "town hall" meeting in Annapolis, inviting stakeholders, practitioners, child psychologists, social workers, court personnel, and attorneys. Practitioners, judges, and attorneys discussed the various expectations of local custody evaluations. Whether the Judiciary adopts or adapts new standards, or develops new guidelines or best practices, Maryland's courts are committed to ensuring quality in court-appointed custody evaluations.

# Family Bills That Became Law - 2008

The following is a brief summary of family law bills that were passed by the General Assembly and became law—or which, at the time of this writing—were pending the governor's signature. This list is not exhaustive: For detailed information on these and other bills and to verify the status of bills pending signature, visit the General Assembly Web site at <http://mlis.state.md.us/#bill>.

## Child Abuse and Neglect

### HB 768/SB 607 Children - Records - Access by the Baltimore City Health Department

Extending the termination date for specified provisions of law relating to specified records and reports concerning children and access by the Baltimore City Health Department; authorizing access to specified court records and police records by the Baltimore City Health Department under specified circumstances; requiring the State Department of Education to disclose to the Baltimore City Health Department specified records concerning specified children. Effective 10/1/2008.

### HB 790 Department of Health and Mental Hygiene - Child Abuse Medical Providers Initiative

Altering the name of a specified initiative in the Department of Health and Mental Hygiene; altering the duties of the Child Abuse Medical Providers (Maryland CHAMP) faculty; authorizing Maryland CHAMP to receive specified information from and consult with the Department; etc. Effective 10/1/2008.

### HB 910 Health Care Providers - Disclosure of Medical Records - Children in Need of Assistance

Authorizing health care providers to disclose specified medical records without the authorization of persons in interest in accordance with compulsory process in Children in Need of Assistance proceedings under specified circumstances; altering the content of a specified notice; etc. Effective 10/1/2008.

### SB 57 Child Welfare - Permanency Planning and Interstate Placement of Foster Children

Altering the factors a juvenile court is required to consider in making specified findings in permanency planning and

review hearings; increasing, from 7 to 10, the number of days' notice a local department of social services is required to give to specified persons before permanency planning and review hearings; requiring the court to consult with the child on the record in an age appropriate manner at least every 12 months at a permanency planning or review hearing. Effective 10/1/2008.

### SB 531 Courts - Immunity from Liability - Leaving Unharmed Newborn - Time Period

Increasing from 3 days to 10 days the time period within which a person may leave an unharmed newborn with a responsible adult and be immune from civil liability or criminal prosecution for the act. Effective 10/1/2008.

### SB 551 Family Law - CINA, Guardianship, Adoption, and Custody Proceedings - Blindness of Parent

Prohibiting a court, in specified hearings concerning a child in need of assistance (CINA), from considering the blindness of the child's parent, guardian, or custodian in making a specified finding; prohibiting a court, in making a disposition on a CINA petition, from finding that a child is in need of assistance for the sole reason that the parent, guardian, or custodian of the child is blind; prohibiting a court from considering a party's blindness in a custody. Effective 10/1/2008.

### SB 742 Human Services - Residential Child Care Program - Bill of Rights

Providing that a contract awarded or renewed between a specified agency and a residential child care program provider shall require the provider to conspicuously post a "Residents' Bill of Rights" in the facility of the provider that includes specified rights; requiring a provider of a residential child care program to develop and, on placement, provide to residents and their parents or legal guardians a handbook of the policies of the provider and the contracting agency as they relate to specified issues; etc. Effective 10/1/2008.



# Legislative Session

## SB 782 Residential Child Care Programs - Statement of Need

Requiring a Statement of Need for developing, operating, establishing, relocating, or expanding a residential child care program; requiring the Department of Human Resources and the Department of Juvenile Services to issue a Statement of Need for a program in a county; requiring members of the Departments to adopt regulations; etc. Effective 10/1/2008

## Child Counsel Fees

### HB 149 Family Law - Counsel for Minor - Payment of Fees

Authorizing a court to impose against one or more parties specified counsel fees for the representation of a minor child in specified proceedings. Effective 10/1/2008

## Child Support

### HB 786 Maryland Uniform Interstate Family Support Act - Revision

Revising the Maryland Uniform Interstate Family Support Act; clarifying that the remedies provided under the Interstate Family Support Act do not affect the availability of remedies under other specified laws; altering specified provisions concerning the authority of a tribunal of the State to exercise personal jurisdiction over a nonresident individual in a proceeding to establish, modify, or enforce a support order or to determine parentage; etc. Effective 10/1/2008.

### SB 198 Family Law - Child Support Collection Fee - Repeal of Sunset

Repealing the September 30, 2008, termination of a provision that authorizes the Child Support Enforcement Administration to deduct an annual collection fee from child support payments in specified cases. Effective 7/1/2008.

## Domestic Partners

### SB 566 Health Care Facility Visitation and Medical Decisions - Domestic Partners

Requiring specified health care facilities to allow domestic partners and specified relatives of domestic

partners to visit a domestic partner except under specified circumstances; requiring two adults to be treated as domestic partners under specified circumstances related to medical emergencies; providing that a health care agent retains specified authority to make specified decisions notwithstanding specified provisions of law; etc. Effective 7/1/2008.



## Domestic Violence

### HB 182/SB 393 Domestic Violence - Permanent Protective Order After Conviction and Imprisonment

Providing that a protective order is permanent if a respondent is convicted and sentenced to imprisonment for a specified act of abuse. Effective 10/1/2008.

### HB 183/SB 392 Domestic Violence - Enforcement of Protective Order

Authorizing a judge to order a law enforcement officer to use all reasonable and necessary force to enforce a temporary custody provision of a final protective order. Effective 10/1/2008.

## Education and Truancy

### HB 285/SB 96 Education - Truancy Rates - Positive Behavioral Interventions and Support Programs

Requiring a county board of education to require a school that has a truancy rate that exceeds specified standards to implement a positive behavioral interventions and support program or an alternative, research-based, positive, and effective behavior modification program in collaboration with the State Department of Education; etc. Effective 7/1/2008.

### HB 953/SB 264 High School Dropouts - Alternative Education Programs and GED Requirements

Requiring representatives of local boards of education to provide information concerning alternative education programs and GED program requirements and testing locations to specified individuals, etc. Effective 10/1/2008.

cont. on 30

# Family Bills That Became Law, from 25

## Informal Kinship Care

### HB 169/SB 77 Education - Children in Informal Kinship Care Relationships

Requiring a superintendent of schools of a county to allow a child to attend a public school in a school attendance area other than the school in the school attendance area where the child is domiciled with the child's parent or legal guardian if the child lives with a relative in the school attendance area in an informal kinship care relationship due to a serious family hardship, etc. Effective 10/1/2008.

## Juvenile Justice

### HB 75/SB 238 Juveniles - Arrests for Reportable Offenses - Expansion of Notification

Expanding provisions relating to the required notification to a local public school superintendent of the arrest of a public school student for a reportable offense to apply to the notification to a specified nonpublic school official of the arrest of a nonpublic school student for a reportable offense; and providing for the confidentiality of information obtained by the nonpublic school official. Effective 10/1/2008.

### HB 651 Department of Juvenile Services Educational Programs - Private Residential Rehabilitative

Repealing the requirement for private residential rehabilitative institutions to develop and implement a specified educational program; repealing the requirement for a specified educational program to be approved by the State Department of Education before the program is implemented; repealing the operating requirements of a private residential rehabilitative institution; etc. Effective 10/1/2008.

### HB 706 Department of Juvenile Services - Youth Welfare Funds

Establishing youth welfare funds in Department of Juvenile Services facilities; providing for the contents and uses of youth welfare funds under the Act; etc. Effective 6/1/2008.

### HB 882 Juvenile Services - Release of Confidential Information

Authorizing a law enforcement agency to release to the public photographs and identifying information of a child who has escaped from a detention center for juveniles or a secure residential facility for juveniles, for the purposes of facilitating apprehension of the child and ensuring public safety. Effective 10/1/2008.

## Masters

### HB 1038 Prince George's County - Master for Juvenile Causes - Authority PG 303-08

Repealing a specified restriction that limits the authority of judges of the Circuit Court for Prince George's County to appoint or continue the appointment of masters for juvenile causes only to conduct specified hearings; and repealing a provision of law that prohibits a master in Prince George's County from conducting an adjudicatory or disposition hearing or a peace order proceeding in a delinquency case. Effective 10/1/2008.



# Improvements in Interstate Child Support Revised Version of UIFSA Will Take Effect October 1

By Pamela Cardullo Ortiz, Esq., Executive Director,  
Department of Family Administration

In this year's legislative session, the Maryland General Assembly passed a revised version of the Uniform Interstate Family Support Act (UIFSA). Maryland's current version (Md. Code. Fam. L. Ann. §10-301) is based on UIFSA 1996. House Bill 786 revised Maryland law to incorporate the 2001 revisions to the uniform law. The new law, which takes effect October 1, 2008, clarifies key issues and makes improvement in the administration of interstate support cases.

UIFSA 2001 makes a number of improvements in the original law:

## Modification Jurisdiction

A key feature of both the 1996 and 2001 versions of UIFSA is the emphasis on "continuing exclusive jurisdiction" (CEJ). This ensures that the state that issued the controlling child support order retains jurisdiction to modify that order as long as the obligor, obligee or child continue to live in that jurisdiction. The 2001 version clarifies that the residence of the parties at the time the modification request is filed controls whether a court has CEJ (HB 786 – FL §10-308(a)(1)). The 2001 version, however, now permits the parties to consent to the issuing tribunal retaining CEJ to modify child support, even if neither the parties nor child continue to reside there (HB 786 – FL §10-308(a)(2)). For example, if the issuing tribunal retains jurisdiction over custody, the parties may want to consent to permit that tribunal to likewise retain jurisdiction over child support.

## Duration of Support

The new law also clarifies that it is the law of the state issuing the initial controlling order that determines the duration of support and whether or not the duration is modifiable. Once the support obligation has been fulfilled under the initial order, another tribunal cannot then issue a new order.

## Determining the Controlling Order

UIFSA provides that in the event of multiple child support orders, a tribunal may make a "determination of the controlling order." UIFSA 2001 clarifies that in order to make that determination, a tribunal must have personal jurisdiction over the parties and the parties must have received notice of the proceeding (HB 786 – FL §10-310). The older version of the law permitted only a party to request that a determination of controlling be made and the new bill permits the child support agency to also request that determination (HB 786 – FL §10-310(c)).

## UIFSA Not Exclusive Method to Determine Support

UIFSA 2001 further provides that UIFSA is not the exclusive method of establishing or enforcing child support within a state (HB 786 – FL §10-303(b)(1)). For example, a nonresident may voluntarily submit to the jurisdiction of a state and seek an original support order from that tribunal. The new law does clarify, however, that jurisdictional laws governing child support and custody are separate. This means that a party that submits to a court's jurisdiction for child support does not automatically submit to that court's jurisdiction in regards to custody or visitation issues (HB 786 – FL §10-303(b)(2)).

## Consolidation of Arrears

The earlier version of UIFSA did not require courts to consolidate arrears when determining a controlling order, although courts were required to do so in registration proceedings. The new version requires courts to consolidate arrears from all prior orders when making a determination of the controlling order.



# Community Conferencing Delivers Fairness, Accountability, and Healing

By Lauren Abramson, Ph.D., Executive Director, Community Conferencing Center

Imagine victims and offenders resolving crimes themselves, safely and effectively within their own communities—no court costs or lawyer fees, victims actively participating in the process, and offenders learning from their mistakes and making restitution with the victim and their community. This is exactly what Community Conferencing offers, and it has been provided in Maryland since 1998.

And it works. To date, more than 6,000 Baltimore residents have participated in successful community conferences. Anne Arundel, Baltimore, Carroll, Frederick, Montgomery and Prince George's counties also provide community conferencing. The impact is widespread. One recent study showed 60 percent reduction in recidivism in the young offenders who participated in community conferencing.

The Community Conferencing Center (CCC) in Baltimore provides community conferencing to meet a variety of needs, including:

- 1) An alternative to court for misdemeanor and certain felony offenses;
- 2) An alternative to school suspension and arrest;
- 3) A collaborative way to resolve intractable neighborhood conflicts;
- 4) An effective way for ex-offenders to reconnect with family and community members following incarceration; and
- 5) A collaborative way to address complex planning issues.

The community conference is a “structured conversation” among everyone affected by the situation and their respective supporters. A trained and neutral facilitator convenes the community conference and provides an opportunity for everyone to hear what happened, share how they have been affected by the situation, and collectively decide how to repair the harm and prevent it from happening again. More than 600 community conferences have been conducted in

Baltimore City; more than 95 percent have resulted in successful agreements. Most of these cases have involved juvenile offenses, though the process is just as effective with adults.

Community conferencing delivers a “quadruple bottom line:” Offenders are held accountable for their actions; victims are included; community cohesion is strengthened; and all is accomplished at about 1/10th the cost of court. Better social and financial outcomes mean healthier neighborhoods and less of a drain on state resources.

To learn more about community conferencing, please visit [www.communityconferencing.org](http://www.communityconferencing.org) or call (410) 889-7400. The Community Conferencing Center is interested in helping Maryland jurisdictions start local programs.



# Happy Anniversary, from 3

entitled. Expanded services for Spanish-speaking and foreign-born victims attempt to extend that protection to those with language and cultural barriers that keep them from seeking or obtaining protection. A new statewide database of peace and protective orders will aid courts in coordinating cases of domestic violence, provide courts with real-time information about orders issued anywhere in the state, and provide law enforcement with similar real-time access to enhance their ability to serve and enforce those orders.

## Year 9: Pottery

The Maryland Judiciary has identified for itself a number of best practice documents that serve as “vessels” to contain the range of effective strategies that distinguish good programs. These include best practices for family law self-help centers, family court ADR programs, and for CINA, TPR and adoption cases.

## Year Ten: Tin

As Maryland family divisions and family services programs enter a second decade, they bear the “badge” of commitment to ongoing family court reform. Courts continue experimenting with new services and innovative problem-solving court models—truancy courts, juvenile and dependency drug courts. These are characterized by the consistent application of resources, attention and innovation that has marked our family court reform efforts for the last ten years. After four hundred years, Maryland courts have embraced an ongoing cycle of planning, implementation, and evaluation—a process that suggests the next decade will bring more benefits for Maryland families.

## Interstate Child Support, from 27

### Other Issues

Other issues addressed by the new version of UIFSA incorporated in House Bill 786 include revised notice provisions, guidance on redirecting child support payments when an obligee changes their state of residence, expanded duties for the child support agency in managing payments in foreign currencies, and other provisions.

### Status of UIFSA 2001

To date, 22 states in addition to Maryland have adopted the 2001 UIFSA revisions.

The National Conference of Commissioners on Uniform State Laws (NCCUSL) is currently revising UIFSA further to incorporate changes relating to the Hague Convention on International Recovery of Child Support and Other Forms of Family Maintenance that was signed by the United States in November 2007.

### Additional Information

For a copy of House Bill 786, see: <http://mlis.state.md.us/2008rs/bills/hb/hb0786t.pdf>.

This article was based in part on additional information on the 2001 UIFSA changes found at: [www.ericso.org](http://www.ericso.org) and [www.nccusl.org](http://www.nccusl.org).

# Department of Family Administration

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## UPCOMING

**August 27**  
**Child Support Seminar**  
**Judiciary Education and**  
**Conference Center**  
**Annapolis, MD**  
**Connie Kratovil-Lavelle**  
**(410) 260-1580**

**September 8-10**  
**National Center for State Courts**  
**Court Solutions Conference**  
**Baltimore, MD**  
**[www.courtsolution.org](http://www.courtsolution.org)**  
**(888) 609-4023**

**September 18-19**  
**National Children Bench**  
**Book Conference**  
**College Park, MD**

**October 5-8**  
**Mid Atlantic Association**  
**For Court Managers**  
**Atlantic City, N.J.**  
**[www.maacm.org](http://www.maacm.org)**  
**(800) 345-7253**

**October 22-24**  
**CAN DO Conference**  
**Ocean City, MD**  
**FCCIP, (410) 260-1427**