

## Children & Families in the Courts

### Report to Governor Butch Otter and the 1st Regular Session of the 60th Idaho Legislature



#### IDAHO SUPREME COURT

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Idaho courts continue to lead the way in innovative efforts that protect children and families by reducing the adversarial process in divorce and child custody matters. This is due to the extraordinary support of the legislature as well as the leadership and dedication of Magistrate Judges, family court services, and court assistance offices. These combined efforts have strengthened the court's capacity to effectively respond to the increasing challenges presented by court cases involving children and families. Key areas of success that impact families in the courts include:

- There have been significant reductions in domestic violence filings and in violations of criminal and civil orders of protection as a result of domestic violence courts. Bonneville County's integrated domestic violence court has seen a 37.5% decrease in violations of criminal no contact orders and a 49% decrease in civil protection order violations since the court was implemented in 2006, which is evidence that the court is protecting victims and children and holding offenders accountable.
- Integrated Domestic Violence Courts continue to improve upon services being offered to victims and children and enhanced monitoring of offender's participation in court ordered treatment and probation. Domestic Violence Courts assisted more than 1,350 victims in 2008.
- In 2008, over 53,160 families and children benefited from Idaho courts' innovation and improvement efforts in family law cases. This is a 15% increase over 2007 and a 52% increase since 2005.
- The 3rd and 4th Judicial Districts have expanded services for parents that cannot afford attorneys and need information and parenting plan assistance. In the 3rd Judicial District, over 50% of all dissolution cases involving children are filed by parents without attorneys. In Caldwell, Boise and Valley Counties, families that cannot afford attorneys are given the opportunity to work with professional mediators who help parents incorporate the child development information gleaned from the parent education class into a workable parenting plan agreement that is based on their children's best interest. A recent evaluation of Ada County cases shows parents accessing this program have longer term resolutions and do not come back to court as often as parents in litigated cases.
- In 2008 there were 8,122 parents that attended a parent education class, an 11% increase over last year and a 27% increase since 2006. There was a 24% increase in the number of parents who received early case screenings, which help families that are in need of domestic violence and substance abuse interventions.

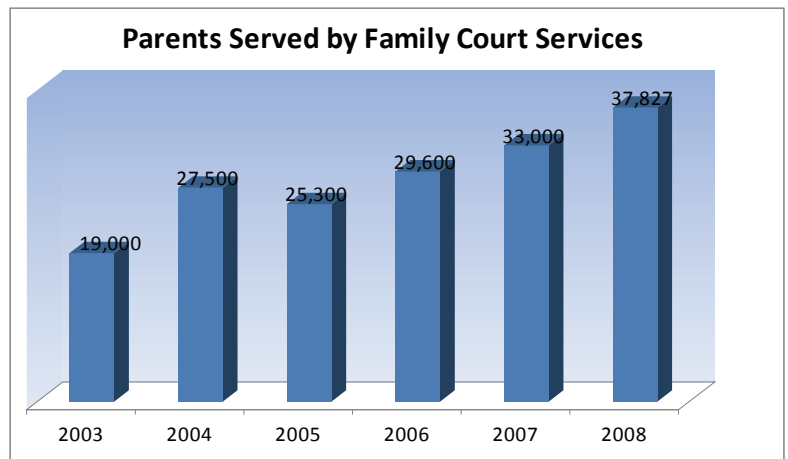
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- In 2008, there were 2,216 parents that participated in mediation services. An outcome evaluation of cases ordered to mediation showed that up to 70% of families reach full or partial agreements. In 2008, over 398 parents utilized supervised access services that protect children when substance abuse, domestic violence, mental health concerns or other factors put children at risk. Further, over 600 children benefited from seeing parents in a safe environment through supervised access services.<sup>1</sup>

## Family Court Services Keep the Focus on Children Through New and Innovative Projects

In 2008, Family Court Services helped almost 12,500 families access court-connected services such as classes for children experiencing divorce, parent education, mediation, guardians ad litem, family assessments and supervised access and exchange services, impacting more than 15,340 children statewide. Additionally, Family Court Service Coordinators provided resource information and referrals to an estimated 25,340 parents in 2008.

Idaho's seven judicial districts offer a broad range of specialized services that promote long-term stability for children and families and minimize the need for subsequent court action. Successful projects include:



## Parent Education Programs

Judges across Idaho devote their time to each parent education class to introduce families to the court process and explain the variety of tools available to families to assist in the resolution of their child custody matters. Parents give judges high marks and report that they find the judge's information to be helpful and reassuring that they are being served as individuals and not just cases.

Positive evaluations and feedback around the state of Idaho reflect the value of education to divorcing parents and their children. An exit survey from parents who attended the classes statewide indicates that over 90% of parents plan to make a stronger effort to work with the other parent to reduce parental conflict for the sake of their children's long term best interests. Parents often share their personal experiences of how the classes have improved their relationship with the other parent and their children. Comments from parents statewide show appreciation for Idaho's parent education programs.

- ✎ *"You see, hear and realize what has and is still going on. It makes you realize what is in our children's minds and hearts.... It makes your heart melt. This class should be required before filing for divorce. I really appreciate it."*  
— Parent in 4<sup>th</sup> District
- ✎ *"I have been divorced 7 years and I think this was by far the best thing I have done. I am so glad a class like this is given."*  
— Parent in 1<sup>st</sup> District
- ✎ *"I thought the class was uplifting. It helped me realize I don't have to be angry anymore. I have to be strong for my daughter. Forgiveness and being agreeable is the most important thing for my daughter."* — Parent in 4<sup>th</sup> District
- ✎ *"I think all parents should take this class - I learned a lot!"* — Parent in 7<sup>th</sup> District

<sup>1</sup> Professional supervised access services are utilized when risk factors are present and the court orders a parent to see their child in the presence of a trained neutral professional to protect the child.

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✂ “To remember my child only has one childhood. Thank you for the class.” “I learned reassuring the kids that they are not to blame and they are loved unconditionally.” “...To talk nicely about my ex-spouse in front of the children.” “I was reminded to love your children fully.” — Parents in 5<sup>th</sup> District

✂ “This was a really GOOD class. It gave me great points and will help me do this right for my girls. It is about the children not the parents.” — Parent in 4<sup>th</sup> District

## Challenging Cases Receive Early Case Screenings and ADR Assessments

Research shows that parental conflict and adversarial court processes can be damaging to children. An ADR assessment examines the issues being raised in a domestic relations case to determine whether non-adversarial options to resolve those issues are appropriate for the court and the parties to consider, which might include recommendations for mediation, parent education, and both mental health and drug evaluations. Early case screening identifies problem-solving approaches and provides recommendations that meet specific families’ circumstances to help them reach long-term resolutions. Early screening of cases is important because studies reveal a significant overlap between domestic violence and child abuse, with most finding that both forms of abuse occur in 30-60% of violent families. (*Journal of Family Psychology*, 1998).

In 2008 there were 428 early case screenings and ADR Assessments.

Research of cases participating in the ADR Assessment in the 4th Judicial District found that 78% of families who participated in the assessment had a criminal history. Another 69% of parents reported concerns about substance abuse while 38% of these families reported allegations of domestic violence. Another 44% had mental health concerns and 11% involved allegations that the child had been injured by a parent and 2% had concerns that the child had been sexually abused. Early case assessments allowed the court and parents to identify and address these serious concerns early in the process, which helps to minimize conflict and protect children.

ADR Assessments are very helpful in my assessment of cases for two primary reasons:

- First, they let me know at an early stage in the process whether the parties have the ability to reason and compromise with each other such that mediation may have a reasonable chance of success.
- Second, they let me know whether there is a possibility that factors such as domestic violence, drug abuse, alcohol abuse or criminal activity may affect the best interests of the children. When these issues exist, an early assessment gives the opportunity for referrals to appropriate agencies prior to the final custody award. This allows a parent with such problems to address them in a timely fashion so that they can share in custody of the children.

— Honorable David E. Day

**Mediation.** Research shows that early mediation in cases prevents some cases from developing into high conflict cases by lessening the conflict and tension between parents and empowering parents to make their own decisions regarding custody. Mediation in Idaho has a high success rate with an estimated 70% of parents reaching a full or partial agreement.

**Interim Parenting Time Consultations (IPTC)** continues to be extraordinarily successful. Parents, attorneys and Judges describe an increase in resolution of complicated and conflicted custody cases. When the IPT consultants have completed their reports

### Benefits of the ICT Process to Children

- Parents are able to lessen their conflict.
- Effective process for parents that cannot afford attorneys.
- Case is resolved in hours as opposed to several days of trial, resulting in reduced costs to families.
- Wishes of children are more easily introduced.
- Parents often leave the process with an improved capacity to co-parent in the interests of their children.

and meet with both parents to discuss the outcome, participants have often shifted to a more amenable position. In 2008, there were 148 parents that participated in the IPTC project in the 5th and 6th Judicial Districts.

**Informal Custody Trial (ICT)** is an innovative option for families, developed by the Children and Families in the Courts Committee Chairman, Honorable Benjamin R. Simpson, as a response to the destructive nature of litigation on children and families. There is unanimity among researchers that parental conflict is a major source of reduced well-being among children of divorce. The key factor to reducing the adversarial process is that the rules of evidence and cross examination are waived. The parties speak directly to the court and each party is given an

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extensive opportunity to tell the judge about the family's custody and parenting concerns. The parties experience "being heard" by the court in this process. If parties are represented by counsel, parties are allowed to consult with their counsel throughout the process, and counsel is allowed to make a brief closing statement. The judge often uses mediation techniques and engages the parties by asking questions that are designed to keep the testimony child focused.

## **Integrated Domestic Violence Courts Reduce the Number of Protective Order Violations and Serve Over 1,350 Victims<sup>2</sup>**

There have been significant reductions in both civil and criminal domestic violence filings over the last several years as Idaho's courts continue to improve upon the services provided to victims and the monitoring of participation of offenders in court ordered treatment and probation. Domestic Violence Court Coordinators assisted over 1,350 victims in 2008. Integrated domestic violence courts are especially designed to address the strong correlation between domestic violence and child abuse; therefore, families involved in divorce or child custody disputes may also be involved with these courts. It takes considerable case management and coordination to ensure that decisions are not made in one case that conflict with existing orders, or have the potential to harm family members involved in other pending court cases. Since the inception of integrated domestic violence courts, there has been enhanced judicial monitoring of cases leading to increased victim safety and offender accountability. In Bonneville County, violations of criminal no contact orders and civil protection orders have decreased by 37.5% and 49% respectively since the integrated domestic violence court was established there in 2006. Over 82% of victims surveyed in 6th and 7th Judicial Districts said they agreed that, "having one judge handle all of my legal issues was helpful." For more information on integrated domestic violence courts, read the full Domestic Violence Court Report to the Legislature.