

Parent vs. Parent: It's a no-win proposition

"Although the need still exists to enforce domestic-relations court orders, over the past 60 years other attendant needs of families have surfaced which could not have been anticipated in 1919."

— From "In the Best Interests of the Child" Michigan Women's Commission

"Kramer vs. Kramer" touched a nerve in filmmakers by depicting so graphically the devastating break-up of a family.

But the film's contemporary plot was betrayed by its win-lose concept following traditional Hollywood — and legal — patterns.

Joint custody, in which parents share equal responsibility and decisions for the welfare of the child, wasn't mentioned or considered by Tod and Joanne Kramer — or their attorneys.

Likewise, when it's parent vs. parent in divorce court in Michigan, combatants soon discover that tradition reigns.

Child custody and support, alimony, visitation and property division is decided by a circuit court judge, with various suggestions from attorneys and

the Friend of the Court, the county agency that oversees the divorces of parents of minors.

Child custody, perhaps the most volatile issue, usually is decided along traditional lines — mothers receive custody, fathers pay child support. Joint custody is seldom granted.

PROPOSED LEGISLATION would change that. One bill in Lansing would make the presumption of custody joint unless one parent proves to be unfit. That proposal has little support from those involved in recommending custody.

Clayton Christenson, Wayne County Friend of the Court, feels that joint custody is feasible if the parents live in the same neighborhood, attend the same

church, and can agree on decisions to be made.

"But, if both parents are that amicable, why are they getting a divorce?" Christenson asked.

"Why did they ever get a divorce if they can agree on these things?" echoed John Houghton, Oakland County Friend of the Court.

He doesn't believe joint custody would solve the problems of fathers who are denied visitation or mothers who aren't receiving child support. And he doubts that many judges would grant joint custody unless the parents' relationship was unusually good.

THE MICHIGAN Women's Commission last year reported in its study, "In the Best Interests of the Child," that only 33 percent of women awarded child support were able to collect on a regular basis.

As one way to improve collections, the Women's Commission recommended that "each order for child support or maintenance payments shall include an order directing a wage assignment of the payer."

The order would not be enforced until arrearage occurs at the level of no support payment within a six-week period or less than 75 percent of the ordered payment within a six-week period.

A committee of the Michigan Legislature is considering a variation on that proposal: automatic wage assignment after 30 days of non-payment. Currently a judge can make a wage assignment in the course of a hearing. The proposed bill would allow the wage assignment to be automatic, at the discretion of the Friend of the Court. That proposal has its fans and its critics.

"A terribly ignorant attempt on the part of Sen. (Kerry) Kammer (sponsor of the bill)," according to Alan Lobow, member of a group pushing equal rights for fathers.

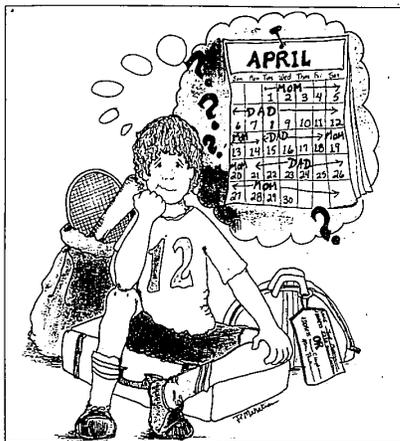
"A very effective tool," according to Christenson. But the Wayne County official believes the legislation should have adequate safeguards.

"The rights of the father should be protected. If he does become delinquent, he should have the opportunity to appear in court and purge himself of that contempt."

The bill "would go a long way to remove a lot of the collection problems Friend of the Court is handling," in Oakland County, according to Houghton.

Currently, the Friend of the Court Association is attempting to come up with a substitute bill that would be simpler, Houghton said.

David Chambers, in his book "Mak-



This is the last installment of Lynn Orr's series on the Wayne and Oakland County Friend of the Court.

'The Best Interests of the Child'

Last year the Michigan Women Commission completed a comprehensive study of the Friend of the Court. The purpose of the study was "to examine the operation of the Friend of the Court system in light of the duties and responsibilities outlined by statute and court rules."

Based on the study that included six public hearings throughout the state, the commission made numerous recommendations for statutory and procedural changes outlined in the 73-page report, "In the Best Interests of the Child."

Those recommendations included:

- Elimination of gender-based bias in statute and court rules.
- State funding and control of the Friend of the Court, including 100 percent reimbursement of federal revenues generated by agency.
- Establishment of a State Administration Office with a toll-free telephone number.
- Responsibilities of the state administrator would include development of uniform standards of conduct, systems and procedures for the Friend of the Court offices, including a uniform child support schedule, handbook, grievance procedure, training and certifying of personnel, staff/caseload ratios and uniform hours of operation.
- Numerous changes in statute to regulate Friend of the Court appointments, including change in statute to require job performance review of all Friends of the Court.

- Responsibility to function in the best interest of the child, rather than either divorcing or separating party.
- Use of a referee system, including training of referees.
- Referral to the Child Protection Agency of any complaints of child abuse or neglect.
- Provision that any information made available to the circuit judge or judges shall be available to the attorney or attorneys of record.
- Provision for a self-starting automatic review and enforcement system, including review of all support orders at least once every two years.
- Enforcement of all visitation rights, medical, dental and hospital and pharmaceutical expenses.
- Elimination of review of the custodial home.
- Review and enforcement of all alimony provisions.
- Thorough investigation in all disputed custody cases, including justification of the Friend of the Court recommendation.
- Uniform enforcement of visitation rights, including jailing as a penalty for non-compliance of court-ordered visitation.
- Determination of sufficient child support based on verified income of both parents and verified expenses.
- Prohibition of the deduction of fees from child support.
- Provision for wage assignment in the order for child support, effective in the case of arrearages.

ing Fathers Pay," also recommends wage assignments on a national basis as one way to enforce child support collections. But he also believes the system has its problems.

"Even if we shifted to a more bloodless, automated system of wage deductions, we are still fixing for men and women the terms of their relationship well after their lives have settled into other patterns."

THE DEMANDS created by a high divorce rate and a changing society are receiving attention elsewhere.

A first step in bringing uniformity to the Friend of the Court system may be proposed legislation for a state court administrator, who would also appoint the Family Advocates, the proposed new name for Friends of the Court, now appointed by the governor.

The administrator also would take complaints via a toll-free phone number and report the complaints to the various county agencies.

If the proposed law is adopted, it would be the first time the individual county Friends of the Court would report to a state agency. Currently, budgets, appointments, with the approval of the governor, and review are determined by county commissioners.

Those proposed laws, however, will scarcely affect judges, who have the fi-

nal say on the crucial matters of divorce. The diverse and conflicting judgments rendered are testimony to the lack of uniformity among judges and the Friends of the Court.

"The judges should be required to put into the record their reasons for granting custody to parent A and not parent B, not in general terms, but very specifically, so that they can be held accountable for their decisions," one father wrote to the Michigan Women's Commission.

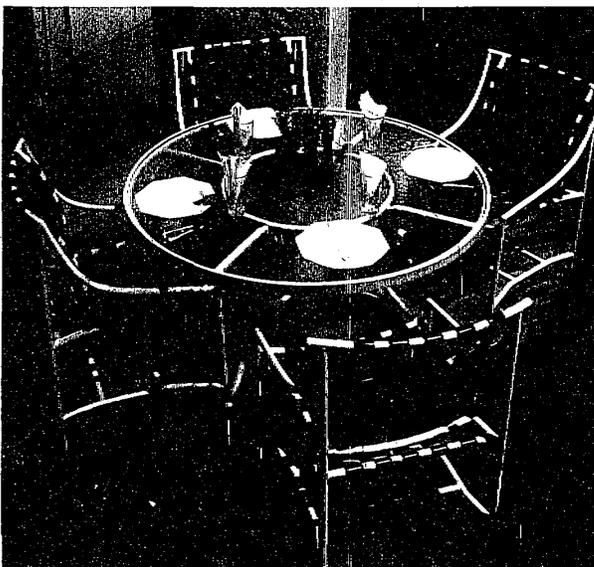
There are no statistics to indicate how often judges deviate from the recommendations of Friend of the Court. But it's a rare divorce where Friend of the Court is not involved.

In Oakland County, some judges will agree, though reluctantly, to allow the parents to set up their own system of support payments and avoid Friend of the Court.

Even if the divorce spiral wanes, one administrator believes the courts will be forced to cope with more of the backwash of separating families.

"Unless there's a reversal of the population movement back into urban areas... I see that we are going to be dealing with problems of poorer people without sufficient funds to engage an attorney, to appeal in court, file petitions on their behalf," predicts Christenson.

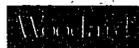
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