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Family Law Update

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Dramatic Change in Custody Procedures

Beginning January 1, 1997, Allegheny County will be embarking upon an alternative method for the resolution of custody disputes — mandatory custody mediation orientation. Although still in the planning process, several general points have already been determined.

This system will be unique among existing mediation programs because both parents and children will be required to simultaneously participate. Parents will obtain information on their continuing joint responsibilities to their children, as well as how to deal with their children's feelings. Children ages six and older

will participate in the "Sandcastles" program developed by Florida psychologist Gary Neuman. The children will be grouped by age, and will be helped to cope with their feelings and emotions in a group setting.

The new procedures will apply to all custody cases filed after January 1, 1997, as well as cases already in progress where the court feels mediation would be more beneficial than traditional litigation. The filing of a divorce complaint containing a claim for custody, or a custody petition, will trigger the mediation process.

Under existing procedure, claims for partial custody are scheduled before a partial custody Domestic Relations Officer. If the parties can come to an agreement a consent order is prepared. If the parties can not agree, the case is referred to a Hearing Officer who takes testimony and enters a recommendation, from which exceptions may be taken. Claims for primary custody are scheduled for a conciliation with a Judge, who meets with counsel and enters an interim order. Psychological and home study evaluations are usually ordered, which are reviewed at a second conciliation with the Judge. At this point the parties either settle or go to trial.

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If an agreement can be reached, it will ultimately be reviewed by a lawyer, reduced to writing and entered as a consent order. If an agreement is not reached, a second phase of voluntary mediation will be available.

Under the new procedure as it is currently proposed, the parents and their children will first attend an educational program. Following completion of this education stage, the parents will be directed to a mediator who will attempt to facilitate an agreement. If an agreement can be reached, it will ultimately be reviewed by a lawyer, reduced to writing and entered as a consent order. If an agreement is not reached, a second phase of voluntary mediation will be available. If none of this results in an agreement, the case will proceed along the traditional litigation path.

While the fine points of this new system remain to be worked out, one thing is clear — traditional litigation will be available only for the most extreme custody situations. Both lawyers and litigants will need to refocus their approach to custody cases, and this will hopefully result in a better means of resolving these often bitter and emotional disputes.

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The information contained in Family Law Update is not meant to provide opinions or advice on specific legal matters. If you would like to consult with me on a specific issue, please call.

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